

HB

47

(FILE 2)

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY
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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 Labor & Commerce

1/28/87

Alaska State Legislature
House of Representatives



Labor and Commerce Committee

January 26, 1987

To: Members, House Labor and Commerce Committee

From: Representative Dave Donley, Chair
House Labor and Commerce Committee

Re: Proposed Committee Substitute - HB 47

On the prime sponsor's request, I have instructed my staff to prepare a committee substitute for HB 47, an act relating to the Alaska Railroad Corporation, for your review on Wednesday, January 28, at our 4:30 p.m. meeting.

The CS makes minor technical changes to language on Page 2, line 29, Page 3, line 22, Page 4, line 7, and on Page 6, line 4, to make the language consistent throughout the bill and with existing statute.

Further, the CS changes Page 3, line 22 to reinsert the phrase "in a major way", so that the language is consistent with current law.

Finally, there are two substantive changes in the CS. The first is Page 2, line 9 where the placement of a comma has been changed, thus changing the meaning of the sentence. The second is on Page 6, line 8, where language has been added to require that a public hearing be held at least 30 days before taking final action.

The bill's prime sponsor, Representative Kay Brown, will be present at the Wednesday meeting to explain both the intent of HB 47, and the changes presented in the CS.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : CS HB 47 (L & C)

Publish Date : _____

Revision Date: 2-18-87

Agency Affected: Alaska Railroad Corporation

Title: An Act relating to the
Alaska Railroad Corporation

BRU: _____

Sponsor: Rep. Kay Brown

Components: _____

Requestor: Labor & Commerce Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		50.0	50.0	50.0	50.0	50.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	50.0	50.0	50.0	50.0	50.0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		50.0	50.0	50.0	50.0	50.0
TOTAL	0	50.0	50.0	50.0	50.0	50.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached.

and ally

Prepared by: Rep. Kay Brown / House Labor & Commerce Phone: 465-4998

Division: _____ Date: 2-18-87

Approved by Commissioner: _____ Date: _____

Agency: _____

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agencies
- Senate Secretary

Analysis of fiscal impact of CSHB 47 (L&C)

New administrative requirements for public notice, hearing and written findings prior to significant land use actions could increase the railroad's costs of operation. The bill's requirement to salvage the meat of big game animals for human consumption also could require additional expenditures by the railroad. However, there would be no increase in costs borne by the state or the General Fund. Based on information provided by the railroad, I estimate that the increased costs to the railroad resulting from CSHB47 (L&C) should be no more than about \$50,000 a year.

ALASKA RAILROAD CORPORATION



P.O. Box 7-2111 • Anchorage, Alaska 99510-7069

February 26, 1987

MAR 02 1987

Honorable Dave Donley, Chairman
Labor & Commerce Committee
House of Representatives
P.O. Box V
Juneau, Alaska 99811

Re: Committee Substitute for HB 47, An Act Relating to the
Alaska Railroad Corporation

Dear Dave,

Thank you again for the opportunity to express our comments on House Bill 47 and a committee substitute at the Juneau hearing last week.

We've carefully reviewed the substitute and enclose our position paper and amended fiscal information. I understand that the bill has been passed to Bette's committee and will send her a courtesy copy of all of our written comments.

Despite the changes in the committee substitute which mitigate the impact of earlier proposals, we do remain adamantly opposed to the legislation. CSHB 47 recommends significant detrimental changes to the legislature's earlier vision of a financially independent, but publicly accountable, Alaska Railroad Corporation. We are especially hopeful that House leaders will not support the bill.

If you have questions about our additional statements, please feel free to contact me or our general counsel, Larry Wood.

Sincerely,

F.G. Turpin
President & CEO

cc: ~~Honorable Bette Cato, Chairman~~
House Transportation Committee

James O. Campbell
Chairman, ARRC

3859L

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL 47**

**An Act Relating to the
Alaska Railroad Corporation**

I. Introduction. As the Committee is aware, the Alaska Railroad Corporation ("ARRC") voiced strong objections to the provisions of House Bill 47 as originally introduced. The revisions contained in the Labor and Commerce Committee Substitute for House Bill 47 have alleviated several of the concerns previously expressed by ARRC. The Corporation applauds the committee's response to its concerns but remains opposed to enactment of the bill for the reasons set forth in the following discussion and in its previous position paper.

II. Provisions of Bill/Impact on ARRC.

A. Operations. The original provisions of HB 47 imposed unrealistic requirements on the ARRC Board to maintain passenger and freight service at 1985 levels. The Committee Substitute acknowledges economic reality and directs the Board to maintain (as well as expand) those service levels only when practicable in light of financial resources. In addition, unlike original HB 47, the Committee Substitute retains the present language of the Alaska Railroad Corporation Act ("ARCA") requiring Board approval only when management reduces or expands service "in a major way." ARRC agrees with the thrust of these changes in the bill. However, we continue to believe that there is no magic in the level of service provided by the federal government at the time of transfer and that this provision is superfluous. Board responsibility for adequate service to the people of Alaska is already sufficiently assured by the mandate in AS 42.40.100(5) that it "provide for safe, efficient, and economical transportation to meet the overall needs of the state". As previously noted, a legislative oversight report is presently required before a significant reduction or increase in service occurs. AS 42.40.280(a).

B. Moose Kills. The Committee Substitute retains the previous bill's language regarding salvage of big game meat and compulsory consultation with the Alaska Department of Fish & Game to minimize adverse effects of railroad operations on wildlife. As pointed out in ARRC's previous position paper and in other information and testimony furnished to the Labor and Commerce Committee, the Corporation already works closely with Game representatives and salvages moose meat. This portion of the bill continues to be duplicative and unnecessary.

C. Confidentiality. ARRC appreciates the Committee's efforts to accomodate the confidentiality requirements of federal law in this area. The original bill proposed to allow public disclosure of ARRC's contract rate agreements and freight divisions; the Committee Substitute restores these two items to the list of matters which may be considered at ARRC's executive Board sessions and designated as confidential by Board rule.

However, the Committee Substitute continues to limit the items which may be made confidential by Board rule to only those listed in the legislation. This unreasonably restricts the Board's ability to preserve confidentiality as to other matters, including those which it may consider at executive session. Creating such an inconsistency between the two statutes is unwarranted and unwise. The present law lists examples of confidential items in recognition of the fact that the Legislature cannot reasonably anticipate all those instances where privacy is warranted. The ARRC Board needs the flexibility to identify and protect proprietary and competition sensitive information furnished to it or generated within the Corporation.

Finally, the Committee injected a new requirement into the revised bill requiring ARRC to furnish to the Attorney General upon request any information withheld under the Board confidentiality rule. ARRC believes that this requirement would destroy the confidentiality of the material, inasmuch as Department of Law records are public documents unless some privilege attaches to them. The Department of Law does not represent ARRC. The Corporation retains independent legal counsel. No attorney-client privilege would protect the information furnished which could include commercial information protected by federal law. The State already has access to the targeted information through two State commissioner/ARRC Board members and through a legislative audit process where confidentiality requirements are preserved.

The Committee Substitute continues to require public Board discussions of proposed land acquisitions or disposals. ARRC strongly believes that such an approach will have a chilling effect on market opportunities. The public interest is sufficiently protected by current law which requires all disposals of land to be acted upon and approved by the Board and Legislature in public session.

D. Land Issues. In apparent response to the administrative burdens implicit in HB 47, the Committee Substitute now requires Board hearings and written findings only with regard to agreements involving "resource development, resource exploration, capital improvements, or other significant change in the use of rail land." Although this provision eases the financial and logistic burden presented by

the original language, such limitations do remain inappropriate if ARRC is to meaningfully compete in a commercial setting. The opportunity for public review of significant changes in land use is guaranteed by the legislative oversight and approval provisions which already exist in ARCA.

In addition, the new provision is vague and ambiguous. Rail land, to the extent it is the subject of third-party agreements, is commercially leased land. ARRC is ground lessor or permittor. It is unclear whether the hearing and written finding provision would apply to a lease which contemplates substantial capital improvements to the property--not an uncommon feature of a long-term ground lease. It is also unclear whether the provision would apply when property is to be leased or assigned to a new lessee who would use rail land for a different purpose than predecessor lessees. Would this amount to a "significant change in the use of rail land?" To the extent that the 60-day notice/written "best interest" determination and 30-day hearing process is triggered by ordinary commercial leasing practices, it will significantly inhibit the Corporation's ability to effectively compete in the real estate market environment. ARRC must have the flexibility to quickly, but responsibly, adjust to market needs.

In addition, to require the Board's written "best interest" determination to be made at least 60 days before taking action, yet requiring a public hearing at least 30 days in advance, appears illogical. Information of use to the Board's finding will likely be presented at the public hearing.

The Committee Substitute still requires the ARRC Board to determine that the people's best interest is served by any lease, permit or other land use authorization. While this determination is no longer expected to be made in writing or 60 days prior to action, it still injects inappropriate delays to commercial transactions. CSHB 47 lists various matters which must be considered by the Board as it formulates its "best interest" finding. However, the economic best interests of a self-sustaining railroad are not always identical with standards which are pertinent to the "best interest" determinations applied to State-owned land. The primary focus of State land decisions may not be projected financial benefits. Since ARRC depends heavily upon sensible and profitable development of its land resources to honor the Legislature's mandate for railroad economic viability, its focus fixes on careful, but decisive and aggressive, marketing of its leased lands. The ARCA requirement that leases be made at fair market value is a sufficient assurance that transactions will promote the State's ownership interest and achieve a fair return to ARRC. Substitution of a best interests standard is not consistent with ARRC's mission of economic independence.

The revised bill also requires Board approval of leases of more than one year's duration and legislative approval of leases with terms of greater than 35 years. As noted above, CSHB 47 also rejects confidential Board discussions of land acquisitions or disposals and requires an extensive and expensive inventory of natural resources and land uses on an annual basis. ARRC reiterates its objections to these provisions for the reasons expressed in its earlier submissions to this Committee.

III. Conclusion. Despite some improvements to the bill, the Committee Substitute for House Bill 47 threatens to seriously hamper the Corporation's ability to survive in present freight and real estate markets. For these reasons, we oppose CSHB 47 and request that the proposed amendments to ARCA be rejected.

3827L

Anchorage, Alaska
February 26, 1987

ALASKA RAILROAD CORPORATION 1987 LEGISLATIVE SESSION
SUPPLEMENTAL FISCAL INFORMATION

Committee Substitute for House
Bill 47 (Labor & Commerce): An Act Relating
to the Alaska Railroad Corporation
Publish date: 2/17/87

Like its predecessor, the Committee Substitute for House Bill 47 proposes substantial changes to the Alaska Railroad Corporation Act ("ARCA"). As a result of its revisions, however, several of the adverse financial impacts of the original version of HB 47 have been reduced. The differences are outlined below; otherwise, the position expressed in the Alaska Railroad Corporation's previous fiscal information (attached) is still valid and applicable to this proposed legislation.

Passenger Services Losses. The changes in CSHB 47 allow ARRC to maintain levels of passenger service within those financial resources available. Hence, the \$1.5 million loss earlier projected would not be required by law.

Real Estate Costs and Losses. The additional costs arising from real estate transactions have been lessened but not eliminated by the changes in CSHB 47. ARRC now estimates that an additional \$30,000.00 will be expended to satisfy procedural requirements relating to land use agreements. While less commercial leasing will be affected, ARRC continues to project a \$150,000.00 annual loss in real estate business. In addition, the detailed inventory of land, resources, actual and projected uses and plans, and development potential is estimated to cost \$150,000.00 the first year and \$35,000.00 to update annually thereafter.

Confidentiality of Marketing and Business Data. Inasmuch as the requirement to furnish confidential/proprietary business information to the Attorney General upon request opens that vital data to potential public scrutiny, ARRC continues to estimate freight losses as a result of CSHB 47 of \$4.6 million annually.

Total Annual Fiscal Impact

Real Estate	\$ 365,000 (first year)
General Freight Revenues	<u>4,600,000</u>
Total	<u>\$4,965,000</u>

3833L

Office of General Counsel
February 25, 1987

CS HB 47
Changes from HB 47

I. Operations.

1. Makes the phrase "to the extent practicable within financial resources" apply to both expansion and maintaining 1985 levels of service. Formerly, because of placement of a comma, it applied only to the expansion of service.
2. Restores the phrase "in a major way" to the level of service change requiring Board approval. This provision now reads as originally enacted in ARTA.
3. Effect is still to specifically impose on the Board the responsibility to maintain or expand service at transfer levels to the extent financially practicable.

II. Wildlife.

1. No change from original HB 47.

III. Land Issues.

1. Still requires Board approval of leases over 1 year in length and Legislative approval of those over 35 years. Adds any options to renew into the computation of years involved.
2. Also still requires annual inventory of land and resources and for any natural resource disposal to be at competitive bid; still authorizes disposals to municipalities at less than fair market.
3. Changes the requirement that all leases, permits, etc. be preceded by Board written "best interest" finding and public hearing. Present proposal still requires Board to make such a finding for all leases, etc. but not in writing and not at any particular time. Best interest is still defined elsewhere in the bill to require consideration of adjacent land uses, municipal land use plans and ordinances, etc.

4. Adds a new section requiring written "best interest" finding by Board and public notice 60 days before final action on any "agreement that involves resource development, resource exploration, capital improvements, or other significant change in the use of rail land." Board must hold public hearing in affected municipality at least 30 days before taking final action.

IV. Confidentiality.

1. Restores "divisions and contract rate agreements" as items which may be considered by the Board in executive session. Continues to remove "land acquisition or disposal" from such status.
2. Restores "divisions and contract rate agreements" to the listing of items which can be made confidential by Board rule but still makes the list all inclusive and thus more limited than present Board rule categories.
3. Adds requirement that any information kept confidential under Board rule must be provided to the Attorney General upon request. Applies to personnel records, attorney communications and work product, and ICC-protected information such as divisions and contract rate agreements.

3834L

PRESIDENT'S OFFICE
FEB 25 '87

RECEIVED
FEB 26 1987

ACTION	INFO	ACTION	INFO
MJY	_____	ATP	_____
JB	_____	DAR	_____
LDW	_____	FCW	_____
VMH	_____	LH	_____
JDW	_____		_____
Circ	_____	Copy	_____
Call Up	_____	File	_____

Dear Legislator:

Office of the
General Counsel

I was distressed to read in the February 19, 1987, Anchorage Times article of Representative Kay Brown's House Bill 47.

The provision requiring board approval for any leasehold conveyances would severely hinder the Alaska Railroad's ability to operate and bargain in the real estate marketplace. The Alaska Railroad has a fiduciary responsibility to all Alaskans to maximize income from it's lands, and enhance it's profitability.

I had the opportunity to serve on an ad-hoc citizen/industry committee last year which advised the Alaska Railroad on revisions to it's leasing policy. This policy review aided the new management in bringing it's real estate management practices into the twentieth century.

The proposed legislation is a step backwards, and is typical of governmental over regulation.

Brown's bill steps backward

Dear Editor:

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The provision requiring board approval for any leasehold conveyances would severely hinder the Alaska Railroad's ability to operate and bargain in the real estate marketplace. The Alaska Railroad has a fiduciary responsibility to all Alaskans to maximize income from its lands, and enhance its profitability.

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The proposed legislation is a step backwards, and is typical of governmental over regulation.

H. Norman Rokeberg
Jack White Company
3201 C St.

Sincerely,

H. Norman Rokeberg
Jack White Company

2-24-87 ADJ

I. ARRC'S ESTIMATED FISCAL IMPACT

ARRC estimated that HB 47 would have a fiscal impact of \$6,400,000 annually. ARRC did not submit any factual data or meaningful analysis to support this estimate. The estimate appears to be based on a misunderstanding of the requirements of HB 47 or on concerns which are largely eliminated by the proposed CSHB 47.

For example, ARRC claims that since CSHB 47 requires maintenance of services to the level existing at the time of transfer, ARRC will be required to provide the precise service which existed at the time of transfer, including using certain types of RR equipment (which are no longer available) at a cost of 1.5 million annually. It is clear that such unreasonable, technical compliance would not be required. ARRC would only be required to provide the LEVEL OF SERVICE (not the precise same service) which existed at the time of transfer. Additionally, as the proposed CSHB 47 makes clear, such service would only required "to the extent PRACTICABLE WITHIN FINANCIAL RESOURCES AVAILABLE".

Next, ARRC simply asserts, without identifying a factual basis, that requiring public notice and competitive bidding in leasing railroad land and natural resources will result in all lease payments being REDUCED BY 50%.

Finally, ARRC states, again without benefit of any factual data, that if it cannot keep its rate documents confidential it will not be able to compete with truckers and shippers and it will lose 4.6 million dollars annually. While the soundness of this claim may be disputed, CSHB 47 allows ARRC to keep its rate documents confidential.

Thus, the fiscal on the ARRC should be greatly reduced under the CSHB 47 (L & C).

1. Explain the basis for ARRC's estimated fiscal impact.

II. THE VALUE OF RAILROAD LAND, INCLUDING RESOURCES

(Reference: questions 5-7, 17, 18))

ARRC stated that it had a total of 40,600 acres, of which 13,800 were utility corridors and 26,800 were non-right-of-way. ARRC identified 1,923 of these acres as being in the heart of Alaska's cities (Anchorage, Seward, Valdez, Fairbanks, Whittier, and Nenana).

1. Where are the other 24,877 acres of rail lands?
2. Describe the location and existing improvements.

3. Estimate the value of these lands outside the municipalities.

4 . Regarding the estimates of fair market value for rail land in Alaskan cities, do ARRC's estimates include improvements? Is ARRC taking the position that the estimates are high? Does ARRC use these values as a basis for its leasing?

5. Describe known or suspected natural resources on rail land.

6. Describe the agreement with Usibelli. What rights were given? How much was paid? What are the terms, particularly regarding future developments?

III. LEASING PRACTICES (Reference: Questions 1-10)

ARRC acknowledges that there should be public involvement in leasing rail lands. See ARRC's letter to Rep. Donley, dated January 28, 1987, pp. 3 and 7. ARRC states that its long-term leasing policy is sufficient to ensure such public input occurs. However, the ARRC leasing policy requires only newspaper publication by legal description after a lease has been executed and is about to go into effect.

1. Under this policy, how is public input on long-term leasing decisions solicited or obtained?

2. ARRC appears to have dramatically increased its revenue from real estate (40% increase from 1985 to 1986) and has stated that it plans to place increasing emphasis on development of real estate. If this is true, it would appear that the clash between the public and the railroad has just begun and will dramatically increase as development continues. Does ARRC intend to pursue further development of rail lands?

3. Regarding question no. 57, what is the difference between "income" and "revenue" (real estate accounts for 57.4% of "income" but only 6.4% of "revenue").

IV. WILDLIFE PROTECTION/MEAT SALVAGE (Reference: questions 36-39)

Testimony from the moose federation will be presented. They have first-hand information on this issue.

Committee members may wish to question the ARRC regarding various devices which could lessen the moose kill, including:

-reducing speed on the Anchorage-Fairbanks freight run to

30 m.p.h. during periods of high snow and between the hours of twilight and 8:00 p.m.;

-installing a third headlight aimed higher than the existing two headlights;

-installing plywood between the rails on bridge areas so that moose are not tripped, trapped and run over.

V. CROWNPOINT (Reference: questions 42-46)

1. ARRC was not clear whether it or the state paid \$650,000 for the Crown Point accident or who will pay the additional necessary monies. Who paid? Who's going to pay the rest? If the state, does ARRC intend to repay the state? Isn't this money a state subsidy?

2. How much did Borden Chemical, Alaska Oilfield Services or Unocal pay for Crown Point damages? Will those companies attempt to recover money from ARRC?

3. ARRC stated damage was the result of the shipper's bad advice. Is this generally agreed upon? Is ARRC seeking to recover money from the shipper?

4. Since Crown Point, ARRC has again improperly heated urea-formaldehyde. When did the subsequent accident(s) take place? What procedures has ARRC implemented since LAST accident?

5. What is status of the lawsuit brought by Crown Point residents? How many of the 18 families are plaintiffs in that lawsuit?

VI. SALARIES (Reference: question 55)

1. Do the salary figures include the value of benefits? If not, describe the benefits, additional compensation and allowances for each salary range, including travel and entertainment allowances.

2. In 1986 the ARRC spent \$450,000 on travel. Who went where and what was the purpose?

3. What is the standard percentage of budget paid by other railroads for administrative expenses, executive salaries and benefits, and overhead?

VII. PROFITS AND LOSS; ACCOUNTING (Reference: questions 52-59)

1. ARRC estimates a \$1,500,000 loss for 1986. What is the reason for this loss? Does this amount include any money paid or reserved for Crown Point damages?

2. What is represented by the \$484,000 item for contractual services to the legal department? Does ARRC have a legal staff? Why is so much spent on outside counsel?

VII. FREIGHT AND PASSENGER SERVICE

1. Does the ARRC plan to haul tour buses to McKinley this summer? What will be the effect on the local economies if the tour buses no longer stop in the smaller communities?

2. May ARRC legally subsidize freight rates by using income earned from real estate to pay railroad expenses or overhead? What percentage of ARRC's overhead is allocated to real estate operations?

IX. MISCELLANEOUS

3. Section 3 of Ch 153 SLA 84 requires a special report on the long term operations of ARRC and alternatives be submitted to the legislature by February 1, 1987. What is the status of that report?

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 18, 1987

SUBJECT: Section by section analysis of draft
CSHB 47(L&C), An Act relating to the
Alaska Railroad Corporation

TO: Representative Kay Brown

FROM: George Utermohle *GU*
Legislative Counsel

The following is the section-by-section analysis of the draft CSHB 47(L&C) which you requested.

Section 1 amends AS 42.40.100 by expanding the duties of the board of the Alaska Railroad Corporation to include:

(1) maintenance or expansion of passenger and freight operations at or above the level that existed when the railroad was transferred from federal to state ownership, if the funding is available;

(2) management of real property interests and natural resources owned by the corporation in the best interest of the people of the state; among the information which the board must consider in making its determination of what is in the best interests of the people of the state are land use ordinances and plans of cities and boroughs affected by railroad land management decisions, adjacent land uses, the development and revenue potential of the land, and public comment on land management decisions proposed by the board;

(3) consultation with the Alaska Department of Fish and Game on ways that the railroad can reduce the adverse effects of railroad operations on wildlife.

Section 2 amends AS 42.40.120(b) to require the board of the Alaska Railroad Corporation to delegate authority to the executive officers of the railroad to grant leases, easements, permits, or other interests in railroad land for a total term of less than one year. The term of a lease,

easement, permit, or other interest in railroad land subject to this section includes the initial term plus any options to renew. A grant of a lease, easement, permit, or other interest in land for a total term of a year or more must be approved by the board of the corporation under Section 8 of the bill. Current law allows the executive officers of the railroad, through delegated authority, to enter into long term leases (up to 35 years under any conditions and exceeding 35 years if the lease is subject to termination by the railroad).

Section 3 amends AS 42.40.120(c) to require specific approval by the board of the Alaska Railroad Corporation before the corporation can lease, grant easements or permits, or allow use of railroad land for a term, including any options to renew the agreement, of one year or more.

Section 4 amends AS 42.40.170(b) to remove the authority of the board of the Alaska Railroad Corporation to discuss land disposal or acquisition issues in executive session.

Section 5 amends AS 42.40.220(b) by limiting the kinds of information which the Alaska Railroad Corporation may withhold from public disclosure to the following items:

- (a) personnel records
- (b) communications with and work product of legal counsel
- (c) information consistent with the standards and practices of the U.S. Interstate Commerce Commission for the protection of proprietary information associated with specific shippers, divisions, and contract rate agreements.

The Alaska Railroad Corporation shall provide any information kept confidential under these provisions to the Department of Law if the Attorney General requests to see the information.

Section 6 amends AS 42.40.260 by requiring that the annual report prepared by the Alaska Railroad Corporation and provided to the governor and legislature include information on the land and natural resources held by the corporation. Pending proposals for the lease or disposal of land or natural resources must also be disclosed in the annual report.

Section 7 amends AS 42.40.285 by requiring that any lease of land by the Alaska Railroad Corporation for a total period, including any options to renew, exceeding 35 years be approved by the legislature. The former exemption is repealed.

Section 8 amends AS 42.40.350(c) by permitting the Alaska Railroad Corporation to lease, grant easements in or permits for rail land for a total term, including options to renew, of one year or more only if the board of the corporation determines that the transaction is in the best interests of the people of the state. Rail land is that land owned by the corporation that is not included in the railroad utility corridor along the main or branch lines of the railroad. If the board does not make a determination that the lease, easement, permit, or other authorization to use rail land is in the best interests of the people of the state, then the transaction is void.

Section 9 amends AS 42.40.350(d) by requiring that any lease or other disposal of land by the Alaska Railroad Corporation be at fair market value as determined by appraisal or by competitive bid unless the lease or disposal is to the state, a city, or a borough.

Section 10 adds new language to AS 42.40.350. The disposal of natural resources from the land of the Alaska Railroad Corporation must be by competitive bid unless the disposal is to the state, a city, or borough.

At least 60 days before taking final action on any agreement that involves resource exploration or development, capital improvements, or other significant change in the use of rail land the board shall prepare a written finding of fact and a determination that the agreement is in the best interest of the people of the state. The board must publish a notice that it has prepared the finding of fact and the determination. At least 30 days before taking final action on the agreement the board must hold a public hearing in a city or borough affected by the agreement. Any agreement that is subject to these requirements is void if the requirements are not satisfied.

Section 11 adds new language to AS 42.40.420 to allow the Alaska Railroad Corporation to issue permits to individuals for temporary, short term, or emergency use of railroad land.

Representative Brown
February 17, 1987
Page 4

Section 12 adds a new section, AS 42.40.460, requiring the Alaska Railroad Corporation to salvage for human consumption the meat of big game animals killed by operations of the railroad.

GU:mkr
m9/025

Kay Brown

Alaska State Legislature House of Representatives

MAR 02 1987

M E M O R A N D U M

TO: Rep. Bette Cato, Chairman
Transportation Committee

DATE: March 2, 1987

FROM: Rep. Kay Brown

RE: CSHB 147; Request for
Transportation Comm.
Assistance in
Obtaining Documents

CSHB 47 has passed from the Labor and Commerce Committee to the Transportation Committee. While CSHB 47 was before the Labor and Commerce Committee, the Railroad stated that it would provide the legislature with a computerized summary of 300 leases if this information would be helpful. (See: Document submitted to L&C Committee, entitled Alaska Railroad Corporation 1987 Legislative Session, Fiscal Information, dated February 6, 1987, p. 3.) In that same document, the Railroad stated it had completed appraisals for some parcels of Railroad land and indicated that the Railroad had begun or completed a "fee-use permit system" for leasing to political subdivisions. (See: Response to 7, p. 3 and Exhibit B, section 3.05.)

Because the primary focus of CSHB 47 involves legislative and public oversight of Railroad management of state lands, I believe this information may be helpful to the Transportation Committee in evaluating CSHB 47. Therefore, I respectfully request that the Transportation Committee request this information from the Railroad.

For your convenience, I have attached a letter which may be used to request this information.

Thank you very much for your consideration. I look forward to working with you on this issue.

P. O. Box 20-2661
Anchorage, AK 99520-2661
(907) 272-0207

During Session:
P. O. Box V
Juneau, AK 99811
(907) 465-4998

March 2, 1987

Mr. F. G Turpin
President and CEO
Alaska Railroad Corporation
P.O. Box 7-2111
Anchorage, Alaska 99510-7069

Dear Mr. Turpin

Re: CSHB 47, an act relating to the Alaska Railroad Corporation

On behalf of the House Transportation Committee, I would like to thank you for the information the Alaska Railroad Corporation submitted to this Committee and to the Labor and Commerce Committee.

In the document submitted to the Labor and Commerce Committee on February 6, 1987, entitled Alaska Railroad Corporation 1987 Legislative Session, Fiscal Information, the Alaska Railroad Corporation indicated that it could submit a computerized summary of 300 leases, certain completed appraisals and information regarding a "fee-use permit system." The Transportation Committee has received a request for this information and would appreciate your providing this information at the earliest convenience.

Thank you for your help and cooperation.

Sincerely,

Representative Bette Cato, Chair
House Transportation Committee

Kay Brown

Alaska State Legislature House of Representatives

M E M O R A N D U M

MAR 15 1987

TO: Rep. Bette Cato, Chair
House Transportation
Committee

DATE: March 16, 1987

FROM: Rep. Kay Brown

RE: Response to ARRC's
Opposition to
CS HB 47

I. Introduction

The Alaska Railroad Corporation (ARRC) acknowledges that the Labor and Commerce Committee Substitute for HB 47 addresses many of ARRC's concerns. However, ARRC still opposes CS HB 47 and submits a fiscal note of \$4,965,000.

For your convenience, this response to ARRC's opposition to CS HB 47 follows the format used in the opposition statement.

II. Provisions of CS HB 47

A. Operations: HB 47 required ARRC to maintain or expand services at the level existing at the time of transfer; CS HB 47 limits this to the extent financially practicable. ARRC acknowledges that the CS eliminates the fiscal impact in this area. ARRC still objects, arguing that current law requiring ARRC to meet the needs of the people provides adequate safeguards in this area.

The new language is justified and needed to strengthen the presumption that the ARRC will meet the needs of the state by maintaining or expanding service levels.

B. Moose Kills: ARRC restates its objection; it feels these provisions are unnecessary because ARRC already complies with the provisions of the bill through administrative practice.

It is well established that the legislature may turn voluntary administrative practice into statutory obligations. Furthermore, there is disagreement as to whether the railroad is currently doing all that it can in this area. (See statement of the Alaska Outdoor Council, attached).

P. O. Box 20-2661
Anchorage, AK 99520-2661
(907) 272-0207

During Session:
P. O. Box V
Juneau, AK 99811
(907) 465-4998

C. Confidentiality: The response of ARRC to this issue does not appear to be based on a good faith analysis of CS HB 47. HB 47 required ARRC to make certain rate-making documents public. ARRC responded that this would destroy ARRC's ability to be competitive, at a cost of 4.6 million dollars annually. ARRC did not provide any back-up for this assertion. Nonetheless, CS HB 47 deleted this provision. However, CS HB 47 would allow the attorney general to have access to the confidential documents, and thereby allow to conduct an in-state investigation of rate-making. ARRC responded by speculating that this would destroy confidentiality as thoroughly as making the records public. Thus, ARRC maintains that the annual fiscal impact will be \$4.6 million. ARRC did not provide any analysis to support this estimated fiscal impact.

Legal Services states it is clear that the Attorney General will be required to keep this information confidential. Thus, there will not be a \$4.6 million impact.

ARRC additionally states this provision is unnecessary because ARRC provides certain financial information to its auditor.

D. Land Issues: HB 47 required public hearings and written findings before ARRC could enter into any land agreements for terms exceeding one year. CS HB 47 requires hearings and findings only for agreements exceeding one year which involve natural resources, capital improvements, or substantial changes in the use of rail land. Both versions require ARRC to manage rail lands in the best interests of the people and to determine fair market value based on competitive bidding or appraisals.

While ARRC agrees that public involvement in the management of public land is necessary, ARRC says CS HB 47 is inappropriate. Land management is the crux of the bill and needs to be addressed. Over 40,000 acres of state land have been transferred to the railroad, and it appears there is nearly a total lack of oversight and public influence or knowledge about management of that land. The Transportation Committee estimated rail assets were worth \$500 million to \$1 billion. The Municipality of Anchorage estimated that the 1,500 acres of land in Anchorage and Portage alone had a value in excess of \$250 million. Yet, under current law, a single person has the authority to lease such assets for up to 99 years without any competitive bidding, public notice, or public input. ARRC continually asserts that current law provides for fair market value transactions, public notice and legislative oversight. These assertions are not correct.

The railroad itself acknowledges the need for public input but states that its the recently implemented procedures of publishing a notice of intent to lease in the classified ads and placing a sign on the property are sufficient. Neither of

these procedures actually creates any appreciable level of public awareness (for example, placing a sign in an undeveloped area to advertise a natural resources agreement would not lead to significant public awareness). Worse, these procedures are followed only when the railroad has decided that it will try to complete a particular transaction. CS HB 47 attempts to include the public at the inception--when the decision is being made to plan an industrial park, develop condominiums, or develop natural resources. Involving the public at this stage will not complicate commercial negotiations. Subject to fair market value considerations, the railroad would be free to negotiate the details of land leases after the public had the opportunity to influence the basic decision of whether to develop public lands. The bill requires competitive bidding to lease or sell natural resources such as oil, gas, coal and gravel.

The provisions of CS HB 47 are not vague. They would apply to all new leases and to extensions, assignments, subleasing, or grants of permission to lessees under existing leases which contemplate natural resource development, capital improvements, or changes in land use patterns. There is nothing illogical about requiring the Board to make written findings regarding development of a particular piece of property available to the public before a public meeting so that the public can investigate the findings and policy premise on which the decision was based.

Thank you for considering my views.

Attachment

cc: Members, House Transportation Committee
Rep. Donley
Rep. Ellis
Rep. Boyer
Sen. Josephson
Sen. Uehling



ALASKA OUTDOOR COUNCIL, INC.

3780 MCGINNIS DR. JUNEAU, AK 99801
(907) 789-3450

March 7, 1987

Representative Kay Brown
Pouch U
Juneau, AK. 99811

Dear Representative Brown:

I would like to submit this letter as the official position of the Alaska Outdoor Council regarding House Bill 47.

For the record, the Alaska Outdoor Council is a federation of 45 Alaskan sportsmen and outdoor organizations with a membership of over 10,000. We would request that this testimony be entered on behalf of our statewide membership.

We have reviewed HB 47 and wish to support a portion of this legislation which is extremely important to our membership. Although the Alaska Outdoor Council would not take a position on much of this legislation, we do support that portion which would require the Alaska Railroad Corporation to salvage wild animals killed by the railroad which are utilized for human consumption. We would also support legislative requirements which would minimize railroad kills through greater safety precautions.

The past record of the Alaska Railroad has been less than satisfactory in dealing with railroad kills of wildlife, especially moose. Lack of salvage means a loss of hundreds of thousands of dollars annually in salvageable meat which could be utilized by many Alaskans.

The Alaska Outdoor Council appreciates the support of the legislature on this issue and we pledge our assistance and support.

Sincerely,

Ron Somerville
Executive Director

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 13, 1987

SUBJECT: Confidentiality of proprietary information associated with specific shippers, divisions and contract rate agreements under CSHB 47(L&C)

TO: Representative Kay Brown

FROM: George Utermohle *GU*
Legislative Counsel

Peg Mentele of your staff has asked whether the release of proprietary information associated with specific shippers, divisions, and contract rate agreements to the Department of Law under AS 42.40.220(b), as amended by sec. 5 of CSHB 47(L&C), would cause this information to be a public record available for public inspection.

The right to inspect public records is contained in AS 09.25.120. A person has the right to inspect records held by state agencies and instrumentalities of the state, including the Department of Law and the Alaska Railroad Corporation, unless the records are required to be kept confidential by a federal law or regulation or by state law. (AS 09.25.120(4)). Since the confidentiality of proprietary information associated with specific shippers, divisions, and contract rate agreements is maintained by the Alaska Railroad in order to conform with the standards and practices of the Interstate Commerce Commission on these matters, this information is exempt from public disclosure under AS 09.25.120. The release of this information to the Department of Law will not cause this information to become public because those provisions of federal law and regulation and state law that allowed the information to be confidential while in the possession of the Alaska Railroad Corporation also apply to the Department of Law.

Thus proprietary information associated with specific shippers, divisions, and contract rate agreements that is confidential under AS 09.25.120 and AS 42.40.220(b) retains its confidential status even when the information is in the possession of the Department of Law.

GU:mkr
m9/140

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

file
STEVE COWPER, GOVERNOR

P.O. BOX 3-2000
JUNEAU, ALASKA 99802-2000
PHONE: (907) 465-4100

February 2, 1987

The Honorable Kay Brown
Alaska State Legislature
P. O. Box V
Juneau, AK 99811

Dear Representative Brown:

You recently requested information about moose mortality on the Alaska Railroad (ARR) and the guiding industry. In your discussion with Regional Game Supervisor Dan Timm he said that the department would provide more information on these subjects. This letter responds to your letter to Dan Timm of January 19 regarding the issue of moose mortality. I will follow-up with a letter on the guiding industry shortly.

With respect to moose mortality on the ARR, I have enclosed several documents which summarize the problem, actions we have suggested that the railroad take to help reduce mortality, and the railroad's response. I have also included information about road kills in the Matanuska/Susitna Valley.

Prior to state ownership of the ARR, moose mortality was notably under reported. As you can see from the enclosures, July 1, 1984 - June 30, 1985, was the worst year on record with 382 moose killed. The great majority of animals were killed between Houston and Chase between late-January and late-March. When the packed snow depth is 30 to 35 inches, the mortality rate increases markedly. At that point, moose are primarily looking for areas of minimal snow depth to conserve energy; because they are plowed, railroad and highway rights-of-way are highly attractive.

Many moose-railroad collisions result in unsalvageable meat. However, moose meat fit for human consumption is taken by ARR personnel to the nearest crossing and the location is reported to Fish and Wildlife Protection (FWP) officers. A list of needy families in the Matanuska/Susitna Valley is maintained by FWP, and when salvageable moose meat becomes available, a family is called. Other animals probably are picked up and used by residents living near the track. When

animals are unfit for salvage, the ARR removes the carcasses from the immediate right-of-way and puts them in heavy brush, ravines, or similar locations. Although we do not have records on the proportion of moose salvaged in prior years, as of January 3, 44 moose had been killed by train this winter and 10 were reported for salvage to FWP.

It is possible that some of the 34 unreported animals were utilized by local residents, but most were unfit for salvage. As of January 3, 60 moose have been killed by cars in the same area, and nearly all of these animals were salvaged.

Our interpretation of current regulations is that the ARR is not required to notify FWP when an animal is killed. You asked whether legislation should be introduced to require salvage. In our view the ARR, under state ownership, is being sufficiently cooperative in the salvage of most moose fit for human consumption, particularly considering the remoteness of the area, winter weather conditions, the relatively few workers on the line during winter months, and the relatively high cost of salvaging meat. With continuing public interest and concern for train-caused moose mortality, the ARR should remain very cooperative.

You also asked if the ARR has been cooperative in trying to reduce moose collisions. As you will see from the enclosed letters, the department has made a number of suggestions to reduce collisions, and we will make additional suggestions to the ARR after we have analyzed currently available data. Unlike the situation which existed when the railroad was federally owned, ARR officials have been very cooperative in letting us see their daily records and in openly discussing the problem.

Some of our suggestions have been adopted and likely reduced moose mortality in the latter part of the 1984-85 winter. Others have not been adopted because of federal regulations governing railroad operations, high monetary cost, or other reasons.

Nothing short of complete fencing on both sides of at least 65 miles of track with over- or underpasses to facilitate moose movements will reduce moose mortality to a bare minimum. However, fencing and maintenance of moose passage structures would cost several million dollars and even then would not eliminate mortality. Sweden, British Columbia, and other areas have problems such as ours, but they too have not found an adequate solution.

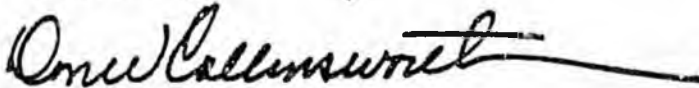
Following the high moose mortality in the winter of 1984-85 on the railroad and highways, the Board of Game acted to reduce hunter harvest in the affected area. The moose population has responded well. It is preferable that

February 2, 1987

hunters take moose during severe winters than for trains to kill them. However, hunting along the ARR right-of-way can also create problems because the ARR has concerns with people being on or near the right-of-way, or using the railroad right-of-way for access.

Thank you for the opportunity to provide you with background information and suggestions regarding moose mortality. If you have any questions on this material, please do not hesitate to contact us. Best wishes for success in your new role as state representative.

Sincerely,



Don W. Collinsworth
Commissioner

Enclosures

cc: William Nix, Acting Commissioner
Department of Public Safety

Lew Pamplin, Director
Game Division, Department of Fish and Game

ALASKA RAILROAD CORPORATION



P.O. Box 7-2111 • Anchorage, Alaska 99510-7069

February 17, 1987

James O. Campbell, Chairman
Board of Directors
Alaska Railroad Corporation
c/o 826 Overlook Place
Anchorage, Alaska 99501

Re: Sale or Lease of the Assets of the Alaska Railroad Corporation

Dear Jim:

You have asked that I point out and discuss the parameters of a sale or lease of the assets of the Alaska Railroad Corporation ("ARRC"). I am pleased to do so.

I.

EXECUTIVE SUMMARY

Sale of the Alaska Railroad

When the State of Alaska purchased the Alaska Railroad in January, 1985, it agreed to many sale terms. These terms include a provision in the federal Alaska Railroad Transfer Act ("ARTA") that requires the State to turn over any profits of a subsequent sale or transfer of the railroad to the United States, if the sale occurs within the first five years of State ownership.

In the face of this restriction the Alaska Railroad Corporation Act ("ARCA") requires the Alaska Railroad Corporation ("ARRC") to include in its annual report an analysis of potential arrangements to sell the railroad every five years, including documentation of at least three offers to sell the railroad. These must be bona fide attempts by the State-owned railroad to sell all or part of its assets and operations.

The combination of ARTA's requirement that the State turn over any sale profits to the federal government if the railroad is sold before January 5, 1990, and the huge cost of researching, preparing, soliciting, and negotiating meaningful sale or transfer alternatives justify repeal of ARCA's direction that sale offers be solicited by ARRC. This is very simply accomodated by repealing the second sentence of AS 42.40.260(b):

James O. Campbell, Chairman
February 17, 1987
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The analysis shall include documentation of at least three offers to sell the corporation initiated by the corporation during the last five years.

Of course, the requirement that ARRC offer to sell the railroad three times every five years could be simply modified to begin in 1990. However, complete repeal of this sentence does not eliminate the legislature's original desire that ARRC pursue a disposal of its assets. The first sentence of AS 42.40.260(b) would remain:

Every five years the annual report shall include an analysis of potential sale arrangements whereby the corporation may be transferred into private ownership.

Total repeal of the "three offers" requirement seems preferable to continuing an artificial stimulus to sales efforts even after 1990. Instead, "potential sale arrangements" would be initiated by market opportunities and railroad and State needs.

Some may suggest that offers to sell the railroad could stipulate that the sale will not be consummated until after 1990, thus avoiding ARTA's requirement that profits from an earlier sale be surrendered to the United States. The private operator could be granted a lease of railroad lands and operations until then. However, there are legal pitfalls to this approach if the lessee does not have a clear option to back out of a sale slated for 1990 and beyond. Otherwise, the "lease" may be determined to be a pre-1990 "sale" and subject to the ARTA restriction. Also, even a well-drafted lease will not be a "sale" which will satisfy ARCA's "three offers to sell" mandate.

For these reasons, we continue to recommend that AS 42.40.260(b) be repealed in part.

Efforts to sell the railroad seem premature until the State has decided whether sale of the railroad lies in the public's best interest. On one hand, profits of a sale after 1990 may help to bolster declining State revenues. However, an early or untimely sale to a private owner operator may endanger continued vitality of the line in a recessing economy.

Finally, at least that portion of the special governor's report required by ARCA to review operational alternatives and the transfer of all or part of the railroad operations to the private sector should be funded and completed. Its conclusions will greatly assist State leaders as they consider sale issues.

James O. Campbell, Chairman
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At a minimum, ARRC should be allowed to delay its solicitation of responsible offers until it receives a clear direction from Juneau that a sale should be pursued before 1990.

II.

DISCUSSION

Legal Constraints: ARTA's Strings

At the beginning of this century, railroading was a financial failure in Alaska. Convinced of a legitimate need for year-around access to Fairbanks and other Interior communities, the federal government wisely purchased the remnants of the Alaska Northern and Tanana Valley railroads to establish The Alaska Railroad. With considerable governmental support, the line ultimately stretched from Seward to Fairbanks' satellite communities. Serving Alaska's transportation and development needs for 70 years, the Alaska Railroad was an established government institution by 1982 when the guidelines for its sale to the State of Alaska were set forth in ARTA. Yet, Congress recognized that continuation of the railroad's services was vitally important to many Alaska communities which substantially or completely depend upon the carrier's operations. Congressional concerns about continued railroad operations, belief that the State was enjoying a bargain, and skepticism about the prospects of an entirely private railroad led to the attachment of some important strings to the sales agreement.

First, if within five years after transfer to the State (January 5, 1990) Alaska sells or transfers all or substantially all of the railroad, the sale or transfer proceeds which exceed the State's costs of Railroad improvements and liabilities must be paid to the United States. In other words, the State's profits from a sale before 1990 automatically inure to the federal government.^{1/}

Second, if within ten years after transfer to the State (January 5, 1995) all or part of the Railroad's property is converted to a use which would prevent railroad operations,

1/ There is no express setoff for the State's original purchase price and start up costs. Presumably, these sums are "net liabilities" incurred by the State for the railroad. Caution dictates that this interpretation be agreed to by the U.S. Attorney General before the line is sold or transferred. The Attorney General is required to enforce this section of the Act.

James O. Campbell, Chairman
February 17, 1987
Page 4

that property and its improvements will revert to the United States. To prevent this reversion, the State may tender the property's fair market value. While this limitation will not prevent sale or transfer to a private owner or operator, it is intended to encourage continued rail service until 1995. It could also impact the line's sale value.

Finally, if use of Railroad right of way is discontinued, ownership in the land will revert to the U.S. The federal government will then convey the land to adjoining landowners.

Although these few limitations do not restrict further railroad transfers, they do represent economic liabilities, especially until 1990. The timing of the State's disposal plan is therefore particularly critical.

ARCA's Marching Orders: Too Little Too Soon?

The State of Alaska agreed to abide by ARTA's sales terms. For instance, it has ensured that the railroad is a rail carrier operating, retaining, and managing its own revenues to better serve Alaska's transportation and development needs. In framing the public corporation's operating characteristics in ARCA to conform to this expectation, State leadership gave ARRC enough independence to conduct its activities as a separate and viable economic entity.

Exemptions from laws which apply to State agencies mean generally that ARRC receives and manages its own revenues, supplies, equipment, facilities and real estate, establishes its own personnel policies, compensation systems, and employment agreements, promulgates its own rules to govern all internal and external affairs, and controls its own purchasing, financing, and budgeting needs. On the other hand, a recognition of ARRC's State ownership and essential governmental functions led to public accountability requirements manifested by open meetings, Governor-appointed board members, procurement and ethical codes substantially equivalent to State models, financial and management audits, annual and oversight reports, legislative approval of land disposals, and long-range capital improvement and program plans. This blend of substantial financial and operations independence subject to State oversight results in a quasi-public, quasi-private railroad armed with the flexibility it needs to quickly react to changing markets and operational and financial needs. However, the ARRC model was not designed to last forever. It was formed only to "operate and manage the Alaska Railroad pending eventual transfer of the Railroad to the private sector."

Budget slashes by the federal government raised a very real State concern that the railroad's drain on a dwindling treasury would be ended by surplusizing the line and its assets with no guarantee of continued rail operations in Alaska. The State's purchase of the railroad was intended to preserve an important link in Alaska's transportation network without creating another Marine Highway System to bleed the State's own treasury. But legislators never intended that the State would long own and operate a railroad. They gave ARRC directions to find a private buyer, if it could, within a reasonably short time frame. However, these disposal directions are sketchy, probably untimely in light of ARTA restrictions, and poorly drafted in contrast to the scholarship generally reflected in ARCA.

ARCA requires ARRC's annual report to contain "an analysis of potential sale arrangements every five years whereby the corporation may be transferred into private ownership." This analysis must include "documentation of at least three offers to sell the corporation initiated by the corporation during the last five years."^{2/}

Unfortunately, the ground rules for these offers are not provided. The spectrum of the meaning of "sale" is broad, extending to such alternatives as public offerings of stock by a business corporation, direct purchase by individuals, partners, or parent corporations, management and/or employee buyouts, leases with options to buy, and separate sales of real property, operating facilities, and equipment. To render some meaning to ARRC sales efforts we must imply an intent that mere technical compliance with the sale offers provision is insufficient. The offers must be good faith overtures to bona fide potential purchasers who have the interest and ability to consummate an acceptable disposal arrangement.

Although the corporation is required to initiate offers to sell its assets, the governor may sell or lease the railroad and dissolve the corporation. The sale must be approved by the

^{2/} The reference to "corporation" is an error: the public corporation is not a business corporation with transferable stock. The clear intent, however, is that ARRC attempt to sell all or substantially all of its assets. Despite the use of "transferred," offers to sell, not offers to lease or transfer, are probably expected.

legislature.^{3/}

ARCA requires that sale or lease terms guarantee continued railroad operations and, at a minimum, reimburse the State for money it has spent in connection with the Alaska Railroad. Therefore, to insure continued rail operations, any offer to sell must include a reversion of the railroad's property to the State should the line cease to operate. Unlike the federal government's ten year cap on a reversion affecting non-right of way lands, an open-ended reversion will virtually guarantee some degree of railroad operations by a private operator. But an open-ended reversion will also have a substantial impact on the railroad's market value. Without it, the private firm will have considerable flexibility in retaining or disposing of railroad assets.

The ARCA sale and lease sections create ambiguities, apparent inconsistencies, and lack definity. However, those problems are substantially overcome by reasonable interpretations of the statute to ascertain the State's probable intentions. ARRC may then consider a very broad spectrum of sale and lease alternatives.

The Next Step: What Are the Available Options?

- A. Option One - Request Repeal of AS 42.40.260 and/or Completion of Special Governor's Report

AS 42.40.260(b) provides simply:

Every five years the annual report shall include an analysis of potential sale arrangements whereby the corporation may be transferred into private ownership. The analysis shall include documentation of at least three offers to sell the corporation initiated by the corporation during the last five years.

Repeal of only the emphasized portion of the statute will eliminate a premature sale without eradicating the legislature's original desire that ARRC pursue a disposal of

^{3/} In searching for consistency between these separate sections, the corporation's offer should be consummated by the governor (he can also initiate his own offers) and then presented to the legislature for approval. Although the corporation's power to consummate its own transaction may be necessarily implied, legislative approval is also either an express or implied requirement and exposes the agreement to the governor's veto in any event. The best course suggests that the governor should become involved early in the sales effort.

James O. Campbell, Chairman
February 17, 1987
Page 7

its assets. However, this amendment will require legislative action. Another alternative which will require State funding but avoids any reopening of ARCA for changes this year is discussed below.

A special governor's report is required by a temporary law enacted with ARCA. A private consultant must research, consider, and comment upon what long term railroad operations will best serve Alaska's needs. The report must contain specific recommendations on operational alternatives and transfer of all or part of the railroad operation to the private sector. Unfortunately, funding for the study was not provided to meet a February 1, 1987, deadline. This information seems critical to a meaningful legislative review of disposal alternatives. The report may also measurably assist any legislative reconsideration of its direction that ARRC attempt to sell the railroad before 1990. The report should also discuss another ingredient to a complete transfer: clear land title. ARRC is not expected to receive patent to all of its lands until 1989 or later.

The report may consider the importance of continued rail operations in Alaska and recommend those specific reversion terms which will require operations by a private buyer for a specified period without greatly depressing the line's sales value.

Some consideration must also be given to the loss of important exemptions from federal and State laws now enjoyed by the State-owned railroad. For example, a private owner will not be shielded from tax and railroad worker's compensation, retirement, and unemployment laws. Tax-exempt financing will not be available to meet operational needs. Clearly, the economic impact to these changes can and should be measured since they will influence the railroad's sales price and, perhaps, its viability as a totally private operation.

A report which also identifies operational alternatives should also significantly defray ARRC's expenses by narrowing its search for viable sale or lease options should ARCA not be amended.

If the legislature funds the Governor's report this year it may later reconsider, if necessary, ARCA's directive that the railroad's assets be sold in the face of a troubling ARTA deterrent.

At a minimum ARRC's sales efforts should be delayed until the State has reaffirmed its instruction that the line be sold, if possible, by 1990. Otherwise, ARRC's time and resources may be wasted if offers are prepared, tentatively accepted, and then rejected by the legislature.

B. Option Two - Proceed With Sale Or Lease Offers

The breakdown of large railroads into much smaller short lines has recently lead to the pooling of a great deal of expertise and experience in these disposals. The success of short lines will depend upon managerial experience in proposing lower operations and labor costs and aggressively pursuing new and expanded markets. The options seem endless and without consultants' assistance ARRC may soon become muddled in an explosion of information. Market opportunities are also difficult to identify and seize without capable assistance from those experienced in a number of marketing, financial, and operations disciplines.

Nonetheless, offers to sell the railroad can be prepared. If they are properly drafted, they may even avoid the requirement that profits of an early sale must be turned over to the United States. For instance, a private operator may lease all or part of the railroad's operations until 1990 when a sale will be consummated. As noted above, however, a lease must grant a prospective lessee the clear right to reject a purchase in 1990 and beyond. Otherwise, it will be declared a "sale" which may be subject to the ARTA restriction upon early sales of the railroad. In addition, a "lease" will not satisfy ARCA's "three offers to sell" requirement.

Within the relm of opportunities for transfer of the railroad, either by sale, lease or lease with a purchase option, there are infinite possibilities. Here is a listing of just some of the sale, lease, or transfer alternatives:

1. Sale of all of ARRC's assets, both real estate and personalty, to an existing corporation such as the Burlington Northern or CSX.

2. Sale of only the right of way, other railroad operating properties, and railroad equipment to an existing corporation.

3. No. 2 with an agreement that the purchaser manage the non-operating properties.

4. Nos. 1, 2 or 3 except that the transfer is by lease or lease with a purchase option instead of by sale.

5. Transfer of only portions of the railroad, such as the Anchorage-Fairbanks, Fairbanks-North Pole, and Whittier-Anchorage portions to those shippers who most use those portions.

James O. Campbell, Chairman
February 17, 1987
Page 9

6. Creation of a business corporation to own the entire railroad:

6.1 Capitalized by a public stock offering..

6.2 Employee purchase with substantial financing through debt securities or state financing terms.

6.3 Management purchase with substantial financing through debt securities or state financing terms.

6.4 Purchase by Alaskans through permanent fund dividend "check-off".

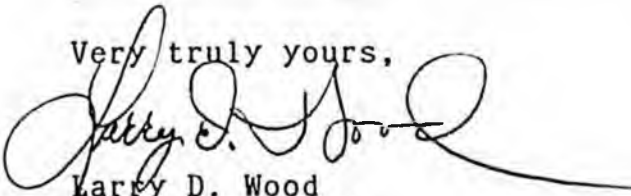
III.

CONCLUSION

The Board and management of ARRC should request direction from Juneau regarding ARCA's mandate to attempt an early sale of the railroad. Should State leaders renew their desire that the railroad be sold before 1990 and profits be turned over to the United States, ARRC can proceed to develop a disposal plan which includes alternatives for consideration. On the other hand, the State may wish to delay or repeal directions that offers be solicited while it considers what long-term railroad operations are in the public's best interest. Funding of the special governor's report seems to be a crucial first step to meaningful discussion of the principal issue involved: private or continued public ownership of the Alaska Railroad? If transfer of the line and its assets to the private sector is truly desired, the timing and general direction of disposal plans should also be considered.

Finally, ARRC may simply proceed to execute ARCA's direction that offers to sell the railroad be put together and implemented. A preliminary first step appears to be to retain consultants well-versed in railroad sales processes. Sound, practical advice seems vital before choices are made amongst a host of sales and transfer alternatives.

Very truly yours,



Larry D. Wood
General Counsel

cc: Members of the Board of Directors
F. G. Turpin, President and Chief Executive Officer

3576L

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

D I V I S I O N O F G A M E

BILL SHEFFIELD, GOVERNOR

333 RASPBERRY ROAD
ANCHORAGE, ALASKA 99502

344-0541

March 7, 1985

Mr. Frank G. Turpin
President & Chief Executive Officer
Alaska Railroad Corporation
Pouch 7-2111
Anchorage, AK 99510-7069

Dear Mr. Turpin:

The recent high rate of moose/train collisions prompted us to investigate the problem and to recommend possible solutions. We appreciate your cooperation in this matter and your concern for the animals has been apparent.

The following discussion and recommendations would result in fewer moose mortalities on the railroad. Some of these actions have already been taken by the railroad and some may not be feasible. Obviously, our expertise is not in running a railroad! The recommendations are based on a graduate student's study of moose on the railroad in the late 1950s, our area biologist's (Jack Didrickson) past experience with this chronic problem, and two recent trips by Jack between Wasilla and Fairbanks in a lead engine's cab. Mr. Didrickson has been the area game biologist at Palmer for nearly 20 years, and his area of responsibility includes the Willow to Talkeetna track which has been the area of greatest moose mortality for many years.

IMMEDIATE ACTIONS

1. Accurate reporting of milepost locations on moose/train encounters should be required daily.

We have had difficulty acquiring accurate information in the past concerning specific collision sites and annual total moose mortality on the railroad. We request that you develop a system to provide us with daily records of moose collisions by milepost location. This will provide a firm basis on which to implement other recommended actions, and it will help us in

management of the moose population. In some winters, such as this one, mortality is significant and accurate mortality reporting will assist in setting annual hunting regulations and evaluating overall population mortality. Expedient reporting by milepost will also aid in the efficient salvage of moose meat. We would appreciate receiving any records you may have regarding moose/train collisions in previous years. It would also be helpful to us if you could supply a "track chart" from Wasilla to Chase. Finally, we should exchange information about moose concentrations this winter and in subsequent winters.

2. Train speed should be reduced in problem areas.

Your orders to reduce train speed to 20 to 30 mph from Willow to Talkeetna were well placed and have already resulted in fewer collisions. Without the benefit of precise locations of collisions, we recommend an expansion of the slow order to include the area between Wasilla and Chase. As information is compiled for the rest of this winter and in subsequent winters, slow orders can undoubtedly be modified to allow increased train speeds between moose concentration areas. There will be some winters (and portions of others) when slow orders are not necessary. As you know, the slower a train is going the more time a moose has to get out of the way (if it is so inclined), and the more time the engineer has to further slow the train. We realize that it may take a mile or more for a train to stop, depending on speed, train weight and track grade. It may not be feasible to stop when moose are encountered, but any extra slowing by the train should help. Moose will quickly disperse from the tracks when temperatures warm and snow settling and thawing occurs. Slow orders should remain in effect until snow depths decrease and moose disperse.

3. Maximum distance of snow removal should be continued in problem areas.

The removal of snow with a spreader or wing blade from up to 20' from the tracks was a positive action on your part. A narrow tunnel or sidewalls of snow leaves the animals no escape route. As specific chronic locations are identified, the wing blade can be used only in those areas. For the remainder of this winter, we recommend continued use of the wing blade where terrain permits between Willow and Talkeetna and expand this to include the area between Wasilla and Chase. New snow should be removed as soon as possible because moose increase their movements from place to place immediately after a snow.

4. Adjust timing of train runs.

During winters of heavy snow when moose are concentrated near the right-of-way, we believe that running trains during daylight hours would substantially reduce collisions. Moose and other wildlife are more easily approached and less wary during the night and increase their activity during early morning and late evening hours. Based on limited observations, it appears that one train closely following another by an hour or less difference would be desirable. Moose are oftentimes scared from the tracks by a train and they may not move back on the tracks until a second train has passed. This behavior was observed the night that Mr. Didrickson was on a train immediately behind another one. Future observations by railroad personnel and our biologists would test the validity of this recommendation.

5. Adjust engine headlight.

An upward adjustment of at least one of the two or four headlights on each engine would allow the crew to see moose at a greater distance. The train could thus be slowed more, giving an animal increased time to clear the tracks. We endorse the engineers' "tactics" of turning off the lights once a moose is seen, and then flashing the lights and using the whistle. Constant bright lights at night disorient and "mesmerize" wildlife, so the animals should not be fixed with a steady beam.

6. Continue experiment with ultrasonic scare device.

The initial test of the effectiveness of an ultrasonic scare device was inconclusive. The devices were attached to the lead engine on one run to Fairbanks and moose behavior was observed. One moose was killed on that run. The devices were removed on the return run, but moose behavior was similar and no moose were killed. We put the devices back on engine #3008 and have asked your personnel to keep track of moose collisions by #3008 versus other lead engines. Even if ultrasonic sound can reach animals over the train noise, placement of such devices on the engine is a problem. The devices are easily plugged with snow, rain or other matter, and the manufacturer says they are not wind-activated until speeds reach 30 mph. In this regard, we were pleased to hear of your efforts to develop an electronically activated ultrasonic scare device. Hopefully, it will prove effective in conjunction with other preventative measures.

LONG-TERM SOLUTIONS

Moose/train collisions are a chronic problem which become acute in winters of deep snow accumulation such as this year. The moose population using the Wasik to Talkeetna right-of-way has been increasing since the severe winters of the early 1970s and this increase undoubtedly has contributed to the present high collision rate. There are, however, actions which can be taken to reduce moose mortality in future years; complete elimination of the problem is not, unfortunately, a realistic goal. In addition to the proposed actions discussed above, the following recommendations may assist in developing long-term solutions to this problem.

1. Replace walkways on bridges.

We understand that metal walkways between rails on bridges were removed sometime ago when electronic sensors on the underside of trains were installed. The metal walkways caused the sensors to be inoperative. If waterproof plywood were placed between rails, the animals would once again have a safe travel lane across bridges. This becomes especially important when a moose is running ahead of a train at night and the animal tries to cross a bridge. Furthermore, without this modification, an animal that drops between the ties and is hit by a train is reportedly more apt to damage the traction motors located on the underside of the engines.

2. Create "artificial" rights-of-way.

Moose frequent the railroad right-of-way for two main reasons: the area is comparatively snow free and it provides a good source of food. Large numbers of moose are driven from the high country by deep snow and they encounter the railroad during their migration to lowlands. Some moose continue westward and winter near the Parks Highway and along the Susitna River. Other moose come from west of the Susitna River and also winter in the river bottom and east to the railroad. In total, moose in the river-highway-railroad corridor from Willow to Talkeetna probably now number at least 3,000.

The growth of moose food or browse (small trees and brush) has been stimulated in the right-of-way from, as we understand, two main factors: tree-clearing by dozers, particularly near crossings to enhance visibility; and the termination of brush control by spraying for environmental reasons.

March 7, 1985

After a system of accurate moose/train collision reporting has been established and the more serious problem sections of track identified, mechanical means of brush control in the right-of-way should be implemented. Depending on terrain, permafrost conditions, and land ownership, dozers or other suitable machinery could create and maintain an "artificial" right-of-way some distance from the track during winters of deep snow accumulation. This would provide areas of lesser snow depth for the animals and would stimulate regrowth of browse.

Another habitat-oriented recommendation is to create large areas of browse at least $\frac{1}{4}$ mile from the tracks. Excellent quality and abundant food sources would attract moose away from the tracks. Large scale habitat enhancement can be accomplished by "chaining" with dozers, fire, or mechanical "tree crusher," depending upon site specific conditions. The department has used all three techniques in Alaska and we own three 40-ton tree crushers for such work on the Kenai Peninsula. We would be pleased to explore the possibilities of large scale habitat enhancement with the railroad, should you feel this is a feasible alternative. We have advanced the possibility and desirability of moose habitat enhancement within the Susitna River Valley north to Talkeetna, but other priorities and funding limitations probably preclude such work in the immediate future.

Your cooperation and sensitivity to the moose/train collision problem are appreciated and the positive actions to date have resulted in reduced moose mortality. Thank you for the opportunity to allow our biologist to make first-hand observations from a locomotive. Should deep snows continue, we would again like to observe from your locomotives. We will continue working with you to reduce the severity of the problem and I am sure that after an accurate collision reporting system is implemented we can make more definitive recommendations.

Sincerely,



W. Lewis Pamplin, Jr.
Director

cc: Don Collinsworth, Commissioner
Bob Hinman, Deputy Director
Regional Supervisors

ALASKA RAILROAD CORPORATION



Pouch 7-2111 • Anchorage, Alaska 99510-7069

March 21, 1985

Mr. W. Lewis Pamplin, Jr.
Director
Division of Game
Department of Fish and Game
State of Alaska
333 Raspberry Road
Anchorage, AK 99502

Dear Mr. Pamplin:

This is in response to your letter of March 7, 1985, pertaining to recommendations and possible solutions to reducing moose/train incidents.

Mr. Jack Didrickson recently met with some of our staff and is aware of our most current efforts to implement the suggestions proposed by Fish and Game.

In adhering to the format of your letter, the following is the current status of the items in the order presented in your letter.

IMMEDIATE ACTIONS

1. Daily reporting of moose/train encounters.

The Chief Train Dispatcher is maintaining mileposts locations on moose/train encounters daily. Our security department verifies the accuracy of the information before distribution to Fish and Game.

2. Reducing train speed in problem areas.

The reduced train speeds may have been partly responsible for reducing collisions; however, it was observed that incidents of moose maiming increased dramatically. Even at reduced train speeds, trains could not stop in time to avoid collisions when the moose displayed their inconsistent behavior patterns that included not getting off the tracks for approaching trains. Some moose weakened by hunger remained bedded down between the rails and either refused or were too weak to remove themselves from the track.

Mr. Didrickson informed us of the maiming problem and inquired about the feasibility of further reducing train speed or resuming normal speeds to prevent maiming. To reduce speeds further would have put the trains in the speed range where harmonics develop within the train that increase the probability of derailments, due to the "rock and roll" of the cars. The alternative was to resume speeds to normal safe track speeds.

Mr. W. Lewis Pamplin, Dept. of Fish & Game
March 21, 1985
Page 2.

3. Maximum distance of snow removal.

The snow fleet will continue to operate as needed and the wing blade will be used to the maximum, as permitted by the terrain.

Additionally, a private individual was given permission to clear the snow by grading a path on the Railroad right-of-way. The areas this was done include Mileposts 210 and 211. Cuts were also made 90 degrees to the cleared area to encourage moose exists. Results of these efforts have not been ascertained.

4. Adjust timing of train runs.

The volume of traffic that the Alaska Railroad is presently committed to prohibits running trains only in daylight hours. Commitment to our customers demands reliable and timely service. To reduce operations to daylight hours would have a serious economic impact on commerce within the State of Alaska.

5. Adjust engine headlights.

The focusing of locomotive headlights is regulated by the Federal Railroad Administration. The headlights on our locomotives are adjusted consistent with these regulations.

At Mr. Didrickson's suggestion, we have installed "ditch" lights on one locomotive to illuminate the right-of-way on either side of the tracks. The rationale was that by turning the headlight off when approaching a moose, these ditch lights would illuminate to the side of the tracks, thus encouraging the moose to migrate off the track. The results of this trial application have proven to be ineffective. There were five moose collisions on the first trip using this procedure.

6. Ultrasonic devices.

It is our hope that future developments in this field may offer feasibility towards application of ultrasonic techniques in deterring moose from the Railroad. We have been advised that technological development in this field will be an extended process.

Mr. W. Lewis Pamplin, Dept. of Fish & Game
March 21, 1985
Page 3.

LONG TERM SOLUTIONS

1. Replace walkways on bridges.

The metal was removed from between the rails on bridges, because it provided an uninterrupted smooth surface, which "fooled" the radar sensing units on our most sophisticated locomotives. In doing so, the locomotive control responded as if it has experienced a control failure, which in turn resulted in erratic pulling power and caused train handling problems. Plywood covering would recreate the smooth surface and the problems associated with it.

We are researching what can be applied to a bridge covering that would allow the radar frequency to respond as required, while allowing moose to cross the bridges without risking injury by falling between the rails.

2. Create artificial rights-of-way.

Our engineering department is in the process of formulating the Alaska Railroad Corporation Vegetation Control Program for the upcoming season. It is anticipated that mechanical brush cutting will be a significant part of this program. The probability of the Railroad participating in habitat enhancement programs outside our own right-of-way would be very low, because available resources will have to be committed to in-house priorities. Large scale programs of moose habitat enhancement areas developed by your Department in the future may prove beneficial.

We will continue to work closely with your Department concerning future recommendations as they develop. Hopefully through our joint efforts, solutions can be found to reduce moose mortality on the Railroad in future winters of deep snow accumulation.

Sincerely,



F. G. Turpin
President and Chief Executive Officer

D I V I S I O N O F G A M E

344-0541

November 13, 1985

Mr. Frank Turpin, President
Alaska Railroad Corporation
Pouch 7-2111
Anchorage, AK 99510-7069

Dear Mr. Turpin:

We in the Department of Fish and Game (ADF&G) thank you and your staff for meeting with us on October 15, 1985 and thoroughly discussing the moose/train collision problem. I believe that both our organizations sincerely want to cooperate in a mutual effort to explore, test, and implement those things which will reduce moose mortality during winter along your right-of-way. Actions should obviously be practical and of real benefit. I am particularly please that you have made available to us your daily train records so that we can extract specific information which will provide an objective basis for our future recommendations and response on your part.

As a summary of possible solutions, in this letter I will summarize those things which we've suggested to you and/or have been suggested to us that may reduce mortality. Then I will ask that a few specific things be done this winter. The broad spectrum of possible solutions is:

Trains or Their Scheduling

- reduce speed to 20-30 mph in moose concentration areas (you responded that prolonged slow speed generates undesirable track harmonics)
- daylight operation (you responded that efficient freight moving requires night hauling so people receive freight during the day)
- time spacing between trains (we recommend minimum spacing)
- number of trains during winter (we recommend the fewer the better)
- modifications to engines

- sound scare devices (you are working with the U. of A., EE Dept.)
 - headlight adjustment (we recommended upward adjustment so that animals can be seen sooner)
 - angled light to illuminate the animal's escape path (the first night used, a moose hit the light)
- track car precede each train to scare moose off tracks

Modifications in or Near the Right-of-Way

- keep the right-of-way browse free (we have supported use of an environmentally safe herbicide)
- remove snow a maximum distance from tracks with spreader plow in problem areas (you mostly plow with engine blades)
- fill in open spaces between rails on trestles (apparently your sensors that electronically control power to drive wheels don't work when those spaces are covered)
- use of scents/odors or recorded wolf howls to discourage moose from using the area
- fixed lighting in problem areas
- maintain snow free areas adjacent to the tracks
- creation of browse/wintering areas some distance from tracks
- moose-proof fencing in problem areas (used in Sweden)

Other and Miscellaneous

- special hunt in problem areas to convert train mortality to hunter mortality (a short term "solution" that could create liability problems for you, and time/manpower problems for us if hunters had to be accompanied -- you and we were going to further explore this possibility)
- public perception (in future contacts with the press, we will put railroad moose kills in numerical and biological context with other mortality sources such as hunter harvest and road kills).
- use of "stun guns" by people on engines to scare moose off tracks when a strike is imminent (would necessitate a very slow train).
- humane dispatch of crippled animals (we've recommended train crews carry rifles, but this is apparently illegal, and sometimes impractical for trains to stop; engineers notify dispatcher of strikes and he notifies Fish and Wildlife Protection).

-- disposition and utilization of dead moose (we would appreciate knowing of your efforts in this regard beyond notification of FWP).

Winter 1985-86

Based on our observations last winter, engine-only plowing in deep snow creates a tunnel which holds moose on the tracks. In our view scare devices, slower trains and other actions probably would have some, but minimum effect in deep tunneled snow. Even when a wing plow was used, where the grade was steep and the plow didn't follow the downward grade contour moose would sometimes leave the tracks ahead of a train, flounder in deep snow and return to the tracks to be hit.

We request that this winter the railroad wing plow a section of track in an experimental way to quantify the effectiveness of wing plowing. Part of the plowed area could be quickly done and part more carefully done to follow grade contours. Another technique which we would like to see experimentally tried is the removal of snow in diagonal lanes away from the track, the theory being that moose running ahead of a train would leave the track at snow-free areas. This experiment could be done in areas with or without wing plowing and if successful, would offer an alternative technique to reduce kills. Based on the compilation of moose kill and snow depth information from last winter which Jack Didrickson analyzed and distributed at our meeting, we'd suggest not wing plowing and/or angular "lane plowing" until the snow reached and settled to a depth of 25" or more in the Willow-Talkeetna area.

Would the railroad also agree to a small experiment of covering a trestle or part of a trestle with plywood or if we can obtain it, military style landing mat? The trestles were formerly covered with metal sheeting and plywood or the porous mat may not affect your electronic sensors like metal did.

Our concept of a permit hunt is to implement it only when moose collisions became an acute problem and no other solution is at hand. It would in part convert one form of mortality to another, but it would also put large numbers of people in the immediate right-of-way area which would frighten animals to some distance from the tracks. We understand and appreciate your very real concerns for public safety and railroad liability, so we likely will not propose such a hunt to the Board of Game in 1986. Should we devise a permit hunt that meets our mutual requirements, opportunities to create such a hunt will occur in January and late May or early June.

We will soon be contacting Marcy Trump about extracting information from the daily train records. We would also again appreciate the opportunity to ride trains this winter and we will be contacting Marcy or Mr. Blackwell about this.

Frank Turpie

4

November 13, 1985

Thank you again for your past cooperation and we are anxious to help design an experiment for this winter.

Sincerely,

Dan Timms
Acting Region II Supervisor

cc: Lew Pamplin, Director - Game Division
Jack Didrickson, Area Game Biologist

ALASKA RAILROAD CORPORATION



P.O. Box 7-2111 • Anchorage, Alaska 99510-7069

December 20, 1985

Mr. Dan Timm
Acting Regional Supervisor
Department of Fish and Game
State of Alaska
333 Raspberry Road
Anchorage, AK 99518-1599

CC to:
Jack D.
Ron
Karl
Greg G.
Lew
Ted
Bob
Jim
Anchorage Staff

Dear Mr. Timm:

As mentioned on your December 17 letter, newspapers have a tendency not to report the total story and oftentimes leave the reader wondering just what the complete facts of the issue may be.

For the upcoming winter season, we plan to experiment with a sound device that we expect to arrive shortly. These devices apparently have been successful on motor vehicles, and hopefully they will work on our trains this winter.

The plowing along the railroad right-of-way will be accomplished by additional wing plowing by our spreaders when they are removing snow. The wing on a spreader has an effective extension of about 20 feet per side so where optimum terrain allows, there will be a trough of approximately 40 feet for the moose to traverse. We are not sure if the increased winging will be successful; because as you know, the snow area from the slope of the subgrade, where the wing plows, will be softer than the track structure itself.

Thank you for the opportunity to provide you with the complete facts; and I appreciate your interest and share your concerns.

Sincerely,

F. G. Turpin
President and Chief Executive Officer

Table 1. Numbers of moose killed by collisions with trains in the Alaska Railroad right-of-way between Seward and Fairbanks during winter (October through April) and summer (May through September) periods, 1963-86.

Year ^a	Period		Total
	Summer	Winter	
1963-64	-	45	45
1964-65	7	37	44
1965-66	4	34	38
1966-67	5	49	54
1967-68	2	30	32
1968-69	2	9	11
1969-70	2	7	9
1970-71	3	149	152
1971-72	2	87	89
1972-73	5	23	28
1973-74	2	16	18
1974-75	1	69	70
1975-76	7	30	37
1976-77	4	23	27
1977-78	9	14	23
1978-79	2	162	164
1979-80	1	52	53
1980-81	4	16	20
1981-82	9	37	46
1982-83	18	130	148
1983-84	8	57	65
1984-85	7	375	382
1985-86	20	15	35

^aData obtained from Alaska Railroad (Department of Transportation) dispatch files. Many moose hit and killed by trains are not reported (Rausch 1956).

Table . Numbers of moose reported killed by collisions with vehicles on highway right-of-ways in Game Management Subunits 14 A and B, 1970-1986.

Year ^a	Game Management Subunit ^b	
	14A	14B
1970-71	99	10
1971-72	109	7
1972-73	36	3
1973-74	33	6
1974-75	40	5
1975-76	34	6
1976-77	80	7
1977-78	79	5
1978-79	108	41
1979-80	29	15
1980-81	13	10
1981-82	72	15
1982-83	182	22
1983-84	94	39
1984-85	51	77
1985-86	24	5

^a Calendar dates for years are from 1 July to 30 June.

^b Numbers of moose listed as killed are numbers actually reported to the Alaska Department of Public Safety. Many moose hit by vehicles and killed may not be reported and others may be hit and injured and die later away from the roadway undetected.

Midweek

Frontiersman

14 JAN 1987

Moose

(Continued from Front Page)
completely enthusiastic about the program.

Dave Walker, Mile 87 Parks Highway, said he believes the program needs to be organized better.

"They have no coordination at all," he said.

Walker said he had to travel about 35 miles to the other side of Trapper Creek to get his moose charity this year while Trapper Creek residents have had to travel to his area to get their moose.

Five moose have been killed at his "front door" in the last

two weeks, but now he's no longer eligible, Walker said.

Walker runs a Salvation Army food bank from his video store, Video 87, and shares his moose charities with other families. He said he has participated in the program for a number of years, but has not

Moose on the move are highway hazard

By ERIC TROYER
Frontiersman staff

Heavy snows have driven moose out of the hills and onto Valley highways where motorists are having to skid and swerve to avoid collisions.

But the drivers don't always succeed; large numbers of moose are being killed in collisions here lately, with about 50 kills reported on the Parks Highway north of Big Lake. Five more have been killed on the Glenn Highway, seven in the Wasilla area and three in the Palmer area, Alaska State Troopers said.

Moose typically become a road hazard in the winter when heavy snows make cleared roadways more attractive to travel in.

When a moose gets caught high and dry on a road staring down two thousand pounds of hurtling steel, its chances of survival are slim. Vehicles don't usually fare much better.

The tamed Alaska Railroad "Moose Gooser" also takes a number of moose lives over the course of a winter when deep snow makes a plowed rail line an attractive trail.

But when these denizens of the north lose their lives on Alaska's transportation lines someone often benefits.

The troopers have a program that allows selected people to salvage the meat from moose killed on the roads and railroads. Attempting such a

salvage without permission from the troopers is illegal.

Anyone can apply to be eligible for a "moose charity," but there are usually only about 40 moose charities a year for about 1,000 applications.

Need is not a prerequisite to apply, but it is used to determine who goes first on the list.

When a moose charity is reported police dispatchers call the next person on the list for the area. That person may then butcher the moose.

Linda Gange on the Parks Highway said the program has worked well for her and her husband, who is disabled.

"I think it's great!" she said. In each of the past three years the Ganges have gotten a moose from the program. Their neighbors help them to butcher and haul the meat, she said.

"We're in a good area," Gange said, adding "I guess it's not a good area for the poor old moose."

The applications are divided into four areas: Palmer, Wasilla, the Parks Highway and the Glenn Highway. The Parks Highway usually has the highest number of moose charities in a winter.

Lloyd Haessler, Mile 63.5 Parks Highway, said he has been participating in the program for 30 years and that the moose meat really helps out during the winter.

However, not everyone is (Please see Moose Backpage)

THE ALASKA RAILROAD LEASEHOLDERS ASSOCIATION
P. O. BOX 4-2479
ANCHORAGE, ALASKA 99509

MAR 12 1987

March 10, 1987

House Transportation Committee
Honorable Bette Cato, Chair
P. O. Box V
Juneau, Alaska 99811

Re: House Bill 47

Dear Representative Cato,

The letterhead name of the group fairly describes the organization from which this letter comes. Our association was organized in 1967 in response to the bureaucratic predations of the Alaska Railroad under federal ownership. Membership is limited to current lessees of the Alaska Railroad and is mostly composed of small, local businesses. Our members directly create well over a thousand local jobs.

I and representatives of our association have been working closely with the staff of the railroad for more than a year to help develop a new leasing policy. The results of this effort have just been approved by the Directors of the railroad and steps are being taken to put it into practice.

Our association believes the new policy to be responsible, flexible, and fair to both lessee and railroad and therefore to ALL Alaskans. It contains both a workable public hearing and appeal process.

As long term tenants, some of whom have been cast in reinforced concrete for 30 or more years on railroad leases, we are vitally concerned with any change in the practices or procedures of the railroad which would affect our abilities to improve, sublease, transfer leases, or finance our operations on these leases. We are all locked into long term commitments so our very livelihoods are at stake along with those of our employees.

The past few years clearly show how imperative it is for business to be able to react quickly and flexibly to changing business conditions. This agility must include the Alaska Railroad which is also a business and which is woven deeply into the economic fabric of most of Alaska.

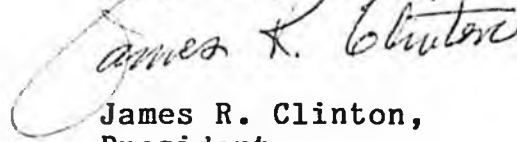
THE ALASKA RAILROAD LEASEHOLDERS ASSOCIATION

Representative Cato
Page 2
March 10, 1987

What happens to the Alaska Railroad has its effect on every Alaskan.

We have been reviewing H. B. 47. This bill appears to us to add a layer of regulation with its inevitable attendant bureaucracy to the administration of railroad land. In the light of the new leasing policy our association does not believe this additional regulation to be necessary or desirable. We urge you to eliminate the provisions of H. B. 47 which would require further additional time and effort in the administration of railroad lands beyond what is presently required.

Very truly yours,

A handwritten signature in cursive script that reads "James R. Clinton". The signature is written in dark ink and is positioned above the typed name and title.

James R. Clinton,
President

Government Hill Community Council
812 Delaney Street
Anchorage, Alaska 99501

APR 10 1987

April 2, 1987

Representative Betty Cato
P.O. Box V
Juneau, Alaska 99811

Re: Committee Substitute to House Bill 47:
An act relating to the Alaska Railroad Corporation

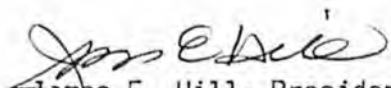
Dear Representative Ellis,

The Government Hill Community Council has been actively following the progress of House Bill 47, especially in regards to land use of the Government Hill Greenbelt. At our March 16th meeting, the Government Hill Community Council passed a resolution endorsing the House bill to the extent that it affects land use management and leasing of railroad properties. The resolution passed unanimously.

We are aware that House Bill 47 has not yet been scheduled for hearing. We request that you schedule this bill for hearing at your earliest convenience.

Very truly yours,

GOVERNMENT HILL COMMUNITY COUNCIL


James E. Hill, President

JH/ah

APR 15 1987



Anchorage • *Star of the North*
Chamber of Commerce

April 13, 1987

Representative Bette Cato
Alaska State Legislature
P.O. Box V (MS3100)
Juneau, AK 99811

Dear Representative Cato:

The Anchorage Chamber of Commerce has been and is a strong supporter of the Alaska Railroad. We are appreciative of earlier legislation passed to provide railroad management with the opportunity to operate in the most business like environment. We are concerned with recent legislative efforts this session to direct unnecessary oversight and layers of bureaucracy at the railroad.

Our Chamber applauds your efforts to study these individual bills. We hope your efforts, and efforts of others in the House and Senate, will prevent unnecessary management interference. The Anchorage Chamber believes, "...if it isn't broken, don't fix it".

Sincerely,

A handwritten signature in cursive script, appearing to read "Wayne K. Beckwith".

Wayne K. Beckwith
Executive Vice President

WKB/sp



• AUTOMOTIVE

• INDUSTRIAL

MAIN OFFICE
5491 MINNESOTA DR.
ANCHORAGE, ALASKA 99518
TELEPHONE (907) 562-2047

BRANCHES IN
FAIRBANKS • KENAI • KODIAK • ANCHORAGE
PALMER • SOLDOTNA • WASILLA • VALDEZ
EAGLE RIVER • HOMER • SITKA

MAR 20 1987,

March 5, 1987

Pouch V
Juneau, AK 99811

Gentlemen:

This letter is to support the passage of House Bill #47, particularly the section that required the Alaska Railroad to open its financial records to the public.

Much more needs to be done to prevent the State from being in direct competition with private enterprise, but this bill is a step in the right direction.

The financial disclosure should be in sufficient detail to allow the reader to determine how the railroad's losses are financed, what kind of taxes are paid and to what extent the State subsidizes its operations.

The State's ownership of the railroad has been a severe economic hardship on the trucking industry, and to businesses supported by the truckers such as parts, fuel and tire dealers.

We urge you to give this bill your support.

Sincerely,

Birdie Matz,
Store Manager,
B&C Auto Supply-Eagle River.

Bli/nm



MAR 15 1987

March 1, 1987

POUCH V
Juneau, AK 99811

This letter is to support House Bill #47, in particular the section requiring the Alaska Railroad to open its' financial records to the public.

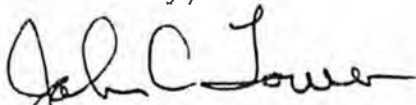
We believe the financial disclosure should be in sufficient detail to allow the reader the option to determine how the railroad's losses are financed, what kind of taxes are paid and to what extent the State subsidizes its operation.

The State's ownership of the railroad has been a severe economic hardship on the trucking industry and to the businesses that industry supports, such as, parts and supplies, fuel and tire dealers.

Much more needs to be done to prevent the State from being in direct competition with private enterprise but this Bill is a step in the right direction.

We urge you to give this Bill your support.

Sincerely,



John C. Tower, President
E & T TRUCKING & LEASING, INC.

JCT/sjt

SERVICE LEASING, INC.
P. O. Box 223
Eagle River, Alaska 99577

FEB 27 1987

February 23, 1987

Betty Cato
Committee Chairman
Pouch V
Juneau, Alaska 99811

This letter is to support the passage of House Bill #47, particularly the section that requires the Alaska Railroad to open its financial records to the public.

Much more needs to be done to prevent the State from being in direct competition with private enterprise, but this bill is a step in the right direction.

The financial disclosure should be in sufficient detail to allow the reader to determine how the railroad's losses are financed, what kind of taxes are paid, and to what extent the State subsidizes its operation.

The State's ownership of the railroad has been a severe economic hardship on the trucking industry, and to businesses supported by the truckers such as parts, fuel, and tire dealers.

We urge you to give this bill your support.

Sincerely,

Curly Doggett
President,
Service Leasing, Inc.



MAR 05 1987

February 25, 1987

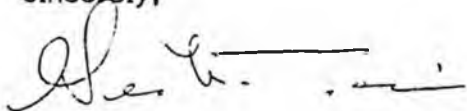
Representative Kay Brown
P.O. Box V
Room #515
Juneau, AK 99811

Dear Representative Brown:

As a commercial tenant occupying railroad land on Government Hill I am concerned to read of House Bill #47. This proposed legislation is a step backwards to a system more antiquated than the Federal Land Mismanagement program that we just got rid of.

Since the State took over the railroad my dealing with Real Estate Representatives has been very fair and reasonable. New railroad policies and lease contracts now have a long overdue "private sector" flavor. For the first time these new contracts actually offer a tenant something to sell in the open market. I feel your bill would hamper management decisions of the railroad to the severe detriment of current tenants, future tenants and the business community at large.

Sincerely,



UNITED STATES POSTAL SERVICE
ANCHORAGE, AK 99501

POSTMARKED
113
ANCHORAGE, AK

POSTMARKED 6 MAR/ANCH.

MAR 10 1987

February 27, 1987

The Honorable Kay Brown
House of Representatives
P.O. Box V
Juneau, AK 99811

Dear Representative Brown:

We have recently become aware of House Bill 47 and its proposed changes to the Alaska Railroad Corporation Act. It is our belief that legislation of this nature may have an adverse and detrimental effect on our position as lessees of railroad land and, ultimately, upon our respective business operations.

As long-time tenants occupying railroad land, we were initially concerned about yet another public bureaucracy administering rail industrial lands. However, since transfer to the State, we believe the management of the Alaska Railroad Corporation (including its Board of Directors) has developed and implemented land use policies in a fair and commercially reasonable manner. The recent development of ARRC's long-term lease policy is an example of a fair and workable public hearing process, with the corporation exhibiting sensitivity to concerns expressed by the affected public.

In sum, House Bill 47 appears to add another layer of procedures and considerations which seem excessive and burdensome in a commercial decision-making process. We see no reason to change the ARRC's current approach to land management and urge that the bill's provisions on this subject be rejected.

Sincerely,

Don Stoneburn

KEYSTONE SERVICES, INC.

W. S. Jensen

Denali Transportation Corp. INC

Ken Berg

CHRIS BERG, INC.

Vernon W. Hichel

Vern Hichel Construction Co.

Jack & Richardson

Craig Taylor Equip Co.

The Honorable Kay Brown
February 27, 1987
Page 2

Lenore M. Clinton

M. F. Kessler

Joseph S. Churchill

Lesse

Enterprise Co.

the E. J. Bartells Co.



Mary E. Schenker
701 Dogwood Street
Anchorage, AK. 99501
(907) 272-9851

April 4, 1987

APR 6 1987

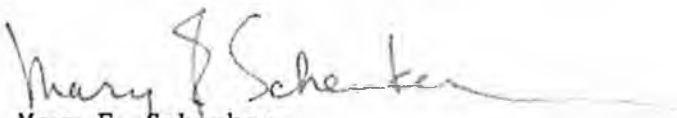
Representative Betty Cato
Alaska State Legislature
House of Representatives
P.O. Box V
Juneau, Alaska 99811

Dear Representative Cato:

Thursday evening Jim Hill, President of Government Hill Community Council, relayed a message from Peg Mantele, aid to Representative Kay Brown. I was asked to forward a copy of a letter to the editor I wrote to The Anchorage Times to Representative Brown and also a copy to you. A copy is enclosed. Unfortunately the Times edited my letter and made some errors in so doing. I had addressed my remarks to Mr. Kuechle, the writer of an earlier letter to the editor. As this is not acceptable policy, the Times changed my letter to third person. In the process they completely garbled the second to the last paragraph. It originally read as follows: "If you have parklands in your neighborhood, Mr. Kuechle, more power to you. But don't be overconfident. You may think the municipality owns them. Maybe they do. Then again you could wake up some morning to see a row of townhouses rising on your former greenbelt! This almost happened to Government Hill last fall. It was averted through Community Council appeal. The large Government Hill contingent was granted a 90-day moratorium by the railroad's board of directors. This has been extended to permit negotiations with the municipality." Also the 27° panorama should read "270°."

I rewrote substantially the same message but in different form to the Anchorage Daily News on March 17. Michael Carey, one of their editors, informs me it will appear in the News within the next few days. I am enclosing a copy of my rough draft of that letter for your information.

Yours truly,


Mary E. Schenker
enclosures (2)

701 Dogwood Street
Anchorage, Alaska 99501

APR 6 1987

March 17, 1987

Letters from the People
Anchorage Daily News
P.O. Box 14-9001
Anchorage, Alaska 99514-9001

Attention: Mr. Michael Carey

In a letter to the News George Kuechle implied that only a "few" Government Hill property owners out for personal gain will benefit by curbing the Alaska Railroad's leasing powers as proposed by H.B. 47. The truth is that all Alaskans stand to profit by requiring our railroad to operate in the public interest and hold public hearings before leases are canceled.

At present the railroad may on 30 days' notice terminate any lease! Brown's Point, Harvard, and Alderwood Parks as well as our greenbelt are jeopardized. A planned town-house development on some of these lands was averted last fall through Community Council appeal to the railroad's board of directors. H.B. 47's requirements are intended to protect all neighborhoods from experiencing similar crises.

If present leasing powers go unchecked and if the railroad and the municipality fail to negotiate to protect parklands, we profit-hungry property owners won't be the only ones who lose. Here are some others:

1. Municipal taxpayers who will lose their considerable investment in park developments
2. Anchorage curlers and square dancers who lease park buildings
3. Tourists and newspaper photographers who will lose access to one of the city's most spectacular views
4. All residents who presently enjoy the parks

Few if any Hill people bear the railroad ill will. Many of us are ex-employees. We are neighbors of long standing and I for one love the sound of train whistles in the night. We should not be expected, however, to forfeit our parks to improve the railroad's balance sheet.

Yours truly,

Mary E. Schenker

Protecting the greenbelts

Dear Editor:

I am one of those "few" contemptible Government Hill property owners referred to in Mr. Kuehle's letter to The Times. He first decried Rep. Brown's HB 47 that would curb the railroad's authority to cancel leases on 30 day's notice without a hearing, and require it to operate in the public interest. "The Alaska Railroad belongs to all Alaskans," he stated, "not just a few property owners on Government Hill who would like to see greenbelts next to their homes for personal gain." Well, I confess. If our parks and greenbelt are retained and designated as public lands, I'll make tremendous profits. Here are some:

1. I'll continue to live across from Alderwood Park, a modest open space adjoining the greenbelt where children frolic, neighbors walk their dogs, and families picnic.

2. I'll continue to traverse the greenbelt's rim or hike its trails marveling at the beauty of the Chugach Range and the reflections in downtown's shimmering towers. When I arrive at Brown's Point, I'll again enjoy a 27-degree panorama so spectacular that in summer busloads of tourists stand in awe.

3. I'll continue to play tennis on Harvard Park's courts as kids shoot baskets nearby. In winter I'll watch youngsters sled while curlers curl and square dancers twirl in their adjacent clubs.

If Mr. Kuehle's park lands in his neighborhood, more power to him. But don't be overconfident. He may think the municipality owns them. Maybe they do. Then again he could wake up some morning to see a row of townhouses rising on his former greenbelt! This almost happened to Government Hill last fall. It was averted through Community Council appeal. The large Government Hill contingent was

granted a 90-day moratorium by the railroad's board of directors. This has been extended to permit negotiations with the municipality.

H.B. 47 was introduced not to hamper the railroad but to temper its exceptional powers. The least any neighborhood should expect is a right to cry out when its assets are imperiled. Public hearings are a must!

Mary E. Schenker
701 Dogwood St.

granted
board
permit
road
least
cry
ings

Sorry, paper
slipped

SUBJECT: FINAL STATS 02/18/87
FROM: LIOCHTM
FOLDER:

SENT 02/18/87 22:06

SECURITY LEVEL: 2 RETENTION PERIOD: PERM

.....2.....3.....4.....5.....6.....7.....8.. 001/01
*** FINAL TELECONFERENCE STATISTICS *** 001/02
001/03
001/04
001/05
DATE: FEBRUARY 18TH, 1987 001/06
SITE: ANCHORAGE, ALASKA 001/07
SPONSOR: HOUSE LABOR AND COMMERCE COMMITTEE 001/08
SUBJECT: HB 47 ALASKA RAILROAD CORP. 001/09
LOCAL MODERATOR: HARRY TRACY MANDREGAN 001/10

001/11
001/12

TESTIFIED:
NAME\REPRESENTING ADDRESS PHONE # 001/13
1. STAN SMITH 4414 EAST 6TH ANCH., AK. 99508 338-1971 001/14
1.(A) INTERNATIONAL MOOSE FOUNDATION 001/15
2. TIM BUEZINSKI 9599 BESYDOM DRIVE #468 349-1682 001/16
3. JOE GOODRICH 7509 OLD HARBOR RD. 99504 333-5656 001/18

MORE...
DELIM \ INBOX

SUBJECT: FINAL STATS 02/18/87
FROM: LIOCHTM
FOLDER:

SENT 02/18/87 22:06

SECURITY LEVEL: 2 RETENTION PERIOD: PERM

.....2.....3.....4.....5.....6.....7.....8.. *****
3. JOE GOODRICH 7509 OLD HARBOR RD. 99504 333-5656 001/18
4. STUART C. HALL BOX 300 ANCHORAGE 99510 279-9759 001/19
5. MARK SPOHN 5321 TUDOR TOP CIRCLE 99507 562-5496 001/20

001/21
001/22

OBSERVED:
NAME\REPRESENTING ADDRESS PHONE # 001/23
1. BUD GREENE 1045 EAST KLATT RD. 344-5247 001/24
2. JOE RULE 5906 SOUTH TAHITI LOOP 563-7002 001/25
3. BEN RULE 1727 BARTLETT ANCHORAGE 563-7002 001/26
4. DENNIS JONES BOX 41650 ANCHORAGE 001/27
5. STEPHEN V. JANIK 1650 THUJA 99507 349-4854 001/28
6. H. PRENT GAZAWAY 1521 WEST 14TH ANC 99501 277-2073 001/29
7. EARLE BEESLEY 5400 COPE STREET ANCHORAGE 563-4421 001/30
8. VIVIAN HAMILTON BOX 107500 265-2675 001/31
9. LARRY HOULE 001/32
001/33
001/34

MORE...
DELIM \ INBOX

SUBJECT: FINAL STATS 02/18/87
FROM: LIOCHTM
FOLDER:

SENT 02/18/87 22:06

SECURITY LEVEL: 2 RETENTION PERIOD: PERM

.....2.....3.....4.....5.....6.....7.....8.. *****
001/34

001/35
001/36

TESTIFIED: 5 START TIME: 4:43 PM 001/37
OBSERVED: 9 END TIME: 6:05 PM 001/38
TOTAL: 14 001/39
001/40
001/41
001/42

HOUSE COMMITTEE REPORT

(7)

Date referred: 1/19/87

FURTHER REFERRALS: Transportation

DATE: WEDNESDAY, 2/18/87

The Labor & Commerce Committee has considered HB 47

"An Act relating to the Alaska Railroad Corporation."

RECOMMENDS:

- replace with CSHB 47 (L+C) 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:

[Signature]

Small enclosed 2 AMB NO BENEFITS - BRIGGS & MASH PROTECTION

[Signature]

[Signature]

SIGNING OTHER OPINIONS:

[Signature] no-rec

[Signature] (no-rec)

[Signature]
Chairman's signature

