

S B

233

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Alaska Railroad Corporation
 Title: Relating to Standardized
Crossing Permit Agreements BRU: _____
 Sponsor: Sen. Coghill Components: _____
 Requester: DCED

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	\$10.0	\$110.0				
TRAVEL						
CONTRACTUAL						
SUPPLIES		1				
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	\$10.0	\$111.0				

*ARRC operates on a calendar fiscal year.

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER ARRC	\$10.0	\$111.0				
TOTAL						

POSITIONS:

FULLTIME		1				
PARTTIME		1				
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This fiscal note is for informational purposes only, as the Alaska Railroad is not subject to the Executive Budget Act.

(CONTINUED - NEXT PAGE)

Prepared by: Larry D. Wood Phone: 265-2461
 Division: Alaska Railroad Corporation Date: 4-10-89
 Approved by Commissioner: Larry Mercurieff Phone: 465-2500
 Agency: Department of Commerce & Economic Development Date: 4/11/89

Distribution (by preparer):

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

STATE OF ALASKA LEGISLATIVE SESSION

FISCAL NOTE

ANALYSIS:

The legislation requires the Alaska Railroad Corporation (ARRC) to develop a new railroad crossing permit form by January 20, 1990. Development of a new form will cost approximately \$8,000 to \$10,000. The existing form will be revised by real estate staff and reviewed by attorneys. Revision costs will vary sharply if public comments are to be solicited as a result of an extensive hearing process. Once the form is authorized by legislative action or inaction, the bill next requires renegotiation of all railroad crossing permit agreements. There are approximately 273 crossings under permit to federal, state, university and private entities which would be affected by this requirement. Existing agreements have been negotiated over the course of many years and involve many different permittees. Consequently, a real estate leasing specialist position would be added to commit full-time personnel resources to the enormous task of renegotiating all of these agreements within a 12-month period. The engineering department will commit the equivalent of one-half man year of time to various levels of internal review, comment, and analysis. The estimate includes the expenses associated to an additional leasing specialist position and associated benefits, legal and engineering review, and printing, word processing, and supply costs.

The estimate does not include any other expenses which may be assessed against the ARRC after a new form is prepared. For example, if, as a result of legislative review, ARRC is required to pay for signal maintenance costs under revised permit terms, such costs will accrue at the rate of approximately \$3,700 per signalized crossing. Sight triangle, sign, and road surface maintenance costs are additional expenses associated with grade crossing which also have previously been the financial responsibility of requesting agencies. Finally, the shifting of grade crossing liabilities to ARRC will add less ascertainable, but certainly significant, costs to the other burdens imposed by this legislation.

1 IN THE SENATE

BY COGHILL

2 SENATE BILL NO. 233

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to standardized railroad crossing
7 permit agreements of the Alaska Railroad Corporation;
8 and providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 42.40.350 is amended by adding a new subsection to
11 read:

12 (e) The corporation may not utilize a standardized railroad
13 crossing permit agreement to grant access across railroad land unless
14 the agreement has been submitted to the legislature for its review and
15 has not been disapproved by the legislature by law within 60 legisla-
16 tive days from the day the agreement was submitted.

17 * Sec. 2. The Alaska Railroad Corporation shall submit a standardized
18 railroad crossing permit agreement to the legislature for review under
19 AS 42.40.350(e), as enacted by sec. 1 of this Act, by January 20, 1990.

20 * Sec. 3. Section 1 of this Act applies to railroad crossing permit
21 agreements entered into by the Alaska Railroad Corporation after the effec-
22 tive date of this Act.

23 * Sec. 4. Within one year from the date that a standardized railroad
24 crossing permit agreement may be utilized by the corporation under AS 42.-
25 40.350(e), as enacted by sec. 1 of this Act, the Alaska Railroad Corpo-
26 ration shall renegotiate all railroad crossing permit agreements entered
27 into under a standardized railroad crossing permit agreement on or before
28 the effective date of this Act.

29 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

6-1080E
Utermohle
3/13/90

MAR 13 1990

Original sponsor(s): SEN. COGHILL

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE

2 CS FOR SENATE BILL NO. 233 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to standardized railroad crossing
7 permit agreements of the Alaska Railroad Corporation;
8 and providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 42.40.350 is amended by adding a new subsection to
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28 the effective date of this Act.

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SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 4-6-89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

JUD

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 3-14-90

3/21/89

Mr. President:

TRSP Committee considered SB 233

standardized railroad crossing permit agreements of the Alaska Railroad Corporation; efd

and recommended:

- replace with CS SB 233 (Trsp) same title
- attached amendment(s), and new title
- _____ letter of intent adopted
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

FISCAL NOTE(S) attached zero
 appropriation no FN attached

fiscal impact SB e
 Gov. FN introduced w/ bill CS

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]
[Signature]

Pat Lauridsen no rec
Paul Gil no rec

[Signature]
Chairman signature and recommendation

Committee backup attached

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Relating to Standardized
Crossing Permit Agreements
 Sponsor: Sen. Coghill
 Requestor: Sen. Transportation

Agency Affected: Alaska Railroad Corporation
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	110.0					
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	111.0					

*ARRC operates on a calendar fiscal year.

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER ARRC	111.0					
TOTAL						

POSITIONS:

FULL-TIME	1					
PART-TIME	1					
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

This fiscal note is for informational purposes only, as the Alaska Railroad is not subject to the Executive Budget Act. FY 90 costs are anticipated to be \$10.0.

(CONTINUED - NEXT PAGE)

Prepared by: Larry D. Wood Phone: 265-2461
 Division: Alaska Railroad Corporation Date: 3/13/90

Approved by Commissioner: Larry Merculieff Date: 3-13-90
 Agency: Department of Commerce & Economic Development

Distribution (by preparer):

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

ANALYSIS:

The legislation requires the Alaska Railroad Corporation (ARRC) to develop a new railroad crossing permit form by January 20, 1990. This fiscal note assumes that the date will be amended to January 20, 1991. Development of a new form will cost approximately \$8,000 to \$10,000 which is the FY 90 cost. The existing form will be revised by real estate staff and reviewed by attorneys. Revision costs will vary sharply if public comments are to be solicited as a result of an extensive hearing process. Once the form is authorized by legislative action or inaction, the bill next requires renegotiation of all railroad crossing permit agreements. There are approximately 273 crossings under permit to federal, state, university and private entities which would be affected by this requirement. Existing agreements have been negotiated over the course of many years and involve many different permittees. Consequently, a real estate leasing specialist position would be added to commit full-time personnel resources to the enormous task of renegotiating all of these agreements within a 12-month period. The engineering department will commit the equivalent of one-half man year of time to various levels of internal review, comment, and analysis. The estimate includes the expenses associated to an additional leasing specialist position and associated benefits, legal and engineering review, and printing, word processing, and supply costs.

The estimate does not include any other expenses which may be assessed against the ARRC after a new form is prepared. For example, if, as a result of legislative review, ARRC is required to pay for signal maintenance costs under revised permit terms, such costs will accrue at the rate of approximately \$3,700 per signalized crossing. Sight triangle, sign, and road surface maintenance costs are additional expenses associated with grade crossing which also have previously been the financial responsibility of requesting agencies. Finally, the shifting of grade crossing liabilities to ARRC will add less ascertainable, but certainly significant, costs to the other burdens imposed by this legislation.

ALASKA RAILROAD CORPORATION



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

APR 11 1989

FACSIMILE COVER SHEET

TO: Terry w/ the office of Senator Lloyd Jones
Wendy w/ the office of Representative Bette Cato

FROM: Larry D Wood
General Counsel

General Counsel's Office
Alaska Railroad Corporation

DATE: April 12, 1989

NUMBER OF PAGES (including cover sheet): 13

If you have any questions/problems with transmittal, please call (907) 265-2461.

4796L

Terry and/or Wendy

Please distribute copies to the committee members.
Thanks.

ALASKA RAILROAD CORPORATION



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

April 12, 1989

SENATE BILL 233/HOUSE BILL 234

An Act Relating to Standardized Railroad Crossing
Permit Agreements of the Alaska Railroad Corporation;
and Providing for an Effective Date

I. Introduction.

Identical proposals, Senate Bill 233 and House Bill 234, have been introduced to regulate the use of standard crossing permit agreements by the Alaska Railroad Corporation ("ARRC"). A proposed revision of the railroad's enabling legislation will prohibit ARRC from using a crossing agreement form unless the form has been reviewed by the Legislature. In addition, ARRC will be required to submit a crossing permit form to legislative review before January 20, 1990. Unless the proposed agreement is disapproved during the 60 days which follow, ARRC must use it to renegotiate all existing crossing agreements within 12 months. Legislative disapproval will presumably delay the beginning of this renegotiation period.

ARRC strongly opposes this legislation. The bills may have been filed at the request of several municipalities, Wasilla and North Pole in particular, which have publicly and privately expressed dissatisfaction with their preexisting obligations to handle all costs and liabilities associated with railroad/highway crossings in their respective communities. Importantly, these crossings were installed over existing rail lines for the sake of community convenience and growth. In the past, community leaders have recognized that certain costs associated with crossing safety and maintenance would be regularly incurred, and they accepted those responsibilities as part of the price to be paid for economic expansion and an enlarged tax base.

Despite the historical development of community/railroad crossing relations and in the wake of a state-wide fiscal crisis, some public leaders have suggested that crossing maintenance expenses be shifted to ARRC, a previously self-sufficient, state-owned business. By fettering ARRC

operations with unnecessary government regulation of its railroad/highway crossing program and permits, a few municipal leaders may be assuming that the railroad's standard crossing permit will be amended to their satisfaction, a result which would otherwise depend upon good faith negotiations. This political solution also represents an effort to hogtie ARRC's administrative and operational autonomy, despite the previously expressed spirit and philosophy of its unique enabling legislation.

The following discussion underscores ARRC's efforts to responsibly manage railroad affairs by continuing to insist that municipal authorities be accountable for the maintenance of crossings which have been installed at their request and for their convenience. However, ARRC has also been sensitive to municipal financial concerns and sponsored the development of the Alaska Railroad/Highway Crossing Policy which sets forth clear standards relating to the development and maintenance of grade crossings. It has also standardized signal maintenance costs and waived permit fees. In hopes that his observations will help resolve ongoing controversy, ARRC has recently invited a neutral third party, the state Ombudsman, to review and comment upon crossing liability and maintenance costs issues.

II. Present Procedures.

An overview of ARRC's railroad/highway crossing statistics and permitting process is a prerequisite to a clearer understanding of the potential impact of these bills on railroad operations.

a. Crossing Statistics. Few members of the public realize that ARRC has 359 road crossings. All but 40 are covered by written permits and agreements which in most cases were negotiated and issued by the federal Alaska Railroad. The Department of Transportation and Public Facilities ("DOT/PF") owns 106 of the crossings and local governments own a total of 108. The remaining crossings are permitted to various other entities, both private (commercial and residential) and public (university, military, etc.). Only 76 of the 359 crossings are signalized.

b. Permit Process. To better preserve and protect its resources, ARRC insists that entry onto its lands will be governed by written permits, whatever the proposed use (road crossings, water and sewer lines, bike paths, etc.). ARRC retains approval authority for development activities within its right-of-way to insure compatibility with railroad operations. ARRC has also retained the prerogative to permit other consistent uses within the right-of-way to allow

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utilities, roadways, and rail lines to safely co-exist within the same "permit area." In order to provide for its long-term needs on railroad lands, ARRC retains the right to terminate such permits on reasonable notice.

Railroad, state, and municipal representatives agreed many years ago that the entity which benefits from a crossing facility will bear all attendant costs. The railroad predated roads in most locations, and both the federal and state-owned railroads have insisted that state and local governments accept all responsibility for crossings which have been developed to access government and private lands. Similarly, where the railroad has been the latecomer and developed rail extensions over existing highways, it bears those responsibilities and costs.

Liability is addressed in two ways in ARRC's present permit form. The permit holder must have general liability insurance or, in the case of public entities, self-insurance is accepted. In addition, the road owner must agree to indemnify ARRC for all claims arising out of the operation of its railroad crossing. As noted, a permit holder pays for all construction and maintenance costs related to its crossing. Maintenance costs are primarily composed of three categories, sight triangle clearance, roadway and crossing surface maintenance, and signal maintenance.

Sight triangles are established to provide an area clear of vegetation and other obstructions so that an oncoming motorist and an approaching train crew can see each other. While the permit holder must perform clearing work, ARRC does provide flag protection without cost if it is arranged in advance.

State and local governments also install and maintain highway signs and roadway surfaces in accord with state regulations.

Signal maintenance is performed by ARRC employees, but railroad costs are reimbursed by permittees. Signal maintainers have at least four years of classroom and on-the-job training. Their work is based on industry standards and includes a weekly visit to signalized crossings for inspection, testing, and servicing. "Trouble calls" are sometimes necessary to perform repairs after accidents or vandalism. ARRC has standardized the routine maintenance charges for signalized crossings. These charges are also audited by DOT/PF personnel under Federal Highway Administration guidelines. ARRC is simply reimbursed for its personnel, materials, and overhead costs: it does not reap profits from performing signal maintenance work. For the current year, these charges amount to \$3,192 per crossing. Trouble calls average an additional \$500 per crossing.

ARRC waives annual administrative fees related to the handling of federal, state, and municipal crossing permits.

c. Alaska Railroad/Highway Crossing Policy. The Alaska Railroad/Highway Crossing Policy has been developed and implemented with extensive local government participation. It was drafted by a joint DOT/PF, ARRC, and Federal Highway Administration Task Force, and was formally adopted by the DOT/PF Commissioner and ARRC's Board of Directors. The policy defines "public" and "private" crossings and establishes a diagnostic team to evaluate proposed crossings and major improvements of existing crossing facilities. Made up of DOT/PF, ARRC and local government representatives, the team recommends the level of safety protection needed at evaluated crossings and prioritizes them for improvements based on relative hazard rankings.

III. Impact of SB 233/HB 234.

a. Management Functions. Negotiation of railroad/highway crossing agreement terms has historically been conducted between railroad management and state and local government authorities. The Alaska Railroad Corporation Act vested exclusive responsibility for management of railroad affairs in a Board of Directors and its management team. Both have been charged to operate a self-sustaining, successful railroad in a responsible and business-like manner. The formula has worked well in the four years since transfer. Subjecting corporate contracts to unnecessary legislative review will fly in the face of an effective railroad management plan and hamstring ARRC's efforts to balance the need for community access with adequate protection of railroad assets and financial resources.

-All railroads and most commercial property owners use standard form permits and leases to more effectively manage corporate properties. Governmental agencies employ the same approach to avoid administrative nightmares. Similarly, ARRC's crossing agreement form clearly sets forth and assigns construction and maintenance responsibilities which have been negotiated over many years. The form has been previously reviewed and approved by railroad management. In light of preexisting legislation which has already directed that such railroad affairs be handled by responsible managers who are subject to ARRC board oversight, the devotion of substantive legislative time to further examine railroad right-of-way agreements appears to be duplicitous and perhaps wasteful in light of more pressing issues currently faced by state government.

b. Public Stalemate. The public cannot afford further delays in gaining access across railroad rights-of-way. The bills do not differentiate between permits for road crossings,

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and other public facilities which also require "access" to or across ARRC lands. In addition to the 359 road crossing permits mentioned above, ARRC issues scores of utility permits affecting its right-of-way and terminal yards.

Until the legislative review process is completed, ARRC will be effectively prevented from issuing any permits. There is insufficient time to comply with the bills' legislative review period this year, and, hence, no form permit could be issued until March 20, 1990, at the very earliest. While the bills refer to "standardized" agreements, it is impossible to devise a "non-standardized" contract for interim use. Over the years, crossing agreement terms and conditions have become quite clear and generally uniform. Simply changing a few words in each paragraph will not comply with the spirit, or indeed the letter, of this legislation. The public may be seriously inconvenienced depending upon the extent of community development plans. Important state highway projects could also be seriously delayed.

d. Public vs. Private Crossings. The bills also make no distinction between public and private crossings. Of a total 359 crossings, forty-eight are private residential and commercial crossings. There is no prudent reason to offer concessions to private individuals and businesses which may be impressed upon ARRC in new local government crossing permits. Conferring unsupportable benefits on private interests may also contravene the railroad's enabling legislation. See AS 42.40.300. To the extent they impair private contract rights, SB 223 and HB 224 may also violate constitutional guarantees.

e. One-Year Renegotiation Deadline. The legislation requires all preexisting permits to be renegotiated within a year of completion of legislative review of a new standard crossing agreement form. Since all federal ARR and state ARRC permits are based on a standard form, all existing crossing permits must be renegotiated within a narrow time frame. Additional real estate personnel must be hired and trained as ARRC attempts to meet the one-year deadline. Costs also include engineering and legal reviews and administrative expenses. Some permit holders may refuse to renegotiate or will delay in hopes of gaining more favorable terms as the deadline approaches. The scheme underestimates the time and resources which must be committed to a good faith attempt to satisfy its requirements.

f. Federal Constraints. The state's legislature has previously agreed with federal authorities that all revenues generated by the railroad shall be retained and managed by the railroad for railroad and related purposes. 45 U.S.C. §1207(a)(5). Accordingly, ARRC has been chartered as a

quasi-private business directed to expend its revenues on a self-sustaining basis under the watchful eye of a group of experienced business leaders selected by the governor. SB 233 and HB 234 hope to frustrate and possibly violate those constraints by usurping the rail board's oversight responsibilities. If the legislature requires ARRC to assume crossing maintenance costs and liabilities as a part of a new crossing agreement form, it will have effectively managed significant railroad revenues and committed them to municipal, as opposed to, railroad purposes in contravention of its earlier promise and federal law.

IV. Conclusion.

This legislation will create serious and unwarranted administrative difficulties for the railroad corporation. It also unjustifiably, and perhaps illegally, interferes with the sound management of ARRC operations and resources by an appointed Board of Directors. The heart of the dispute concerns municipal unhappiness with preexisting commitments to accept crossing maintenance costs and liabilities. In response, ARRC has already helped develop a statewide policy to more effectively administer crossing development and maintenance needs, standardized annual signal maintenance fees, waived annual permit fees, and recently invited the state Ombudsman to review its railroad/highway crossing permit process with an eye toward further solutions. Hence, legislative intervention is unnecessary, inconsistent with ARRC's original mission, and usurps the good faith negotiations which have previously led to the execution of valid and reasonable grade crossing agreements.

8161L

ALASKA RAILROAD CORPORATION



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

April 12, 1989

The Honorable Lloyd Jones, Chairman
Senate Transportation Committee
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

The Honorable Bette Cato, Chairman
House Transportation Committee
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Re: SB 233/HB 234 An Act Relating to Standardized Railroad
Crossing Permit Agreements of the Alaska Railroad
Corporation

Dear Senator Jones and Representative Cato,

Thank you for providing this opportunity for the Alaska Railroad Corporation ("ARRC") to respond to SB 233 and HB 234 which, as you know, relate to railroad/highway crossing permit agreements. I understand that your committees will consider this legislation during the course of a joint hearing on April 13.- We are hopeful that the attached analysis, fiscal note, and press release provide helpful information concerning these bills and ARRC's responses to recent crossing issues.

ARRC strongly opposes SB 233 and HB 234. We believe that the legislation will create serious and unwarranted administrative difficulties for the railroad corporation. It also unjustifiably interferes with the sound management of ARRC operations by a previously appointed Board of Directors.

The heart of the dispute concerns municipal dissatisfaction with preexisting commitments to accept crossing maintenance costs and liabilities. In response, ARRC has already helped develop a statewide Alaska Railroad/Highway Crossing Policy to more effectively administer crossing development and maintenance needs. It has also standardized annual signal maintenance fees and waived annual permit fees in an effort to mitigate municipal financial concerns. Finally, ARRC recently invited the state Ombudsman to review its railroad/highway

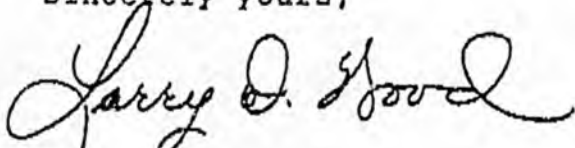
Page 2

Letter to Senator Jones and Representative Cato

crossing permit process in an attempt to resolve differences between the railroad and local communities regarding crossing liability and crossing maintenance costs. Hence, we believe that legislative intervention is unnecessary, inconsistent with ARRC's original mission, and usurps the good faith negotiations which have previously led to the execution of valid and reasonable grade crossing agreements.

Thank you very much.

Sincerely yours,



Larry D. Wood
General Counsel

cc: ARRC Board of Directors
F. G. Turpin, President & CEO

8165L

RESOLUTION 90-3

A RESOLUTION OF THE CITY OF NORTH POLE SUPPORTING
THE ELIMINATION OF THE ALASKA RAILROAD CORPORATION'S
PROPERTY TAX LIABILITY EXEMPTION

WHEREAS, Alaska State Statute 42.40.910 grants the real and personal property of the Alaska Railroad an exemption from all taxes and special assessments by the State and municipalities; and

WHEREAS, the Alaska Railroad directly and indirectly competes with private carriers in the transportation of goods along the railbelt; and

WHEREAS, the private carriers are liable for the payment of taxes to the State and municipalities; and

WHEREAS, these tax payments place the other carriers at a relative disadvantage in comparison to the Alaska Railroad; and

WHEREAS, this tax disadvantage distorts the allocation of society's resources from the most efficient mix possible; and

WHEREAS, the Alaska Railroad's property interests benefit from services provided by local governments; and

WHEREAS, the Alaska Railroad does not reimburse local governments for any of these benefits and, in fact, the Alaska Railroad is increasing fees charged to local governments for use of its right-of-ways and leasehold interests; and

WHEREAS, this disparity places an unfair burden on the local taxpayers; and

WHEREAS, a private railroad would not enjoy tax exempt status;

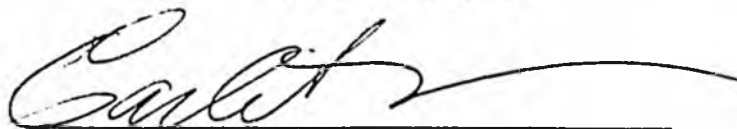
NOW, THEREFORE BE IT RESOLVED by the City Council of the City of North Pole that:

Section 1. Alaska Statute 42.40.910 be amended to read as follows:

A.S. 42.40.910. "Exemptions from taxation. (a) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions. (Subject to (b) of this section the) The real and personal property of the corporation shall be liable for property taxes levied by a Municipality. (And its assets) Its income and receipts are exempt from all taxes (and special assessments) of the State or a political subdivision of the State."

RESOLUTION 90-3
PAGE TWO

PASSED AND APPROVED by a duly constituted quorum of the
City Council of the City of North Pole this 5th day of March,
1990.



MAYOR CARLETA LEWIS

ATTEST:



SHELLEY DUGAN, CMC
CITY CLERK

INTRODUCED: March 5, 1990

SB 233
FNSB

By: Hank Hove
Introduced: 03/08/90
Adopted: 03/08/90

RESOLUTION NO. 90-028

A RESOLUTION URGING PASSAGE OF SB 233 RELATING TO STANDARDIZED RAILROAD CROSSING PERMIT AGREEMENTS OF THE ALASKA RAILROAD CORPORATION

WHEREAS, there are numerous railroad crossings within the boundaries of the Fairbanks North Star Borough; and

WHEREAS, recently, there has been a problem with municipalities and private citizens throughout the railroad system relating to maintenance and charges for maintenance of crossings; and

WHEREAS, many communities and private citizens cannot afford the costs demanded by the Alaska Railroad Corporation for railroad crossings; and

WHEREAS, the Alaska Railroad Corporation is not only requiring the municipalities and/or citizens to pay for crossing maintenance but also requiring municipalities and citizens to accept liability; and

WHEREAS, the Alaska Railroad is owned by the people of Alaska and should be providing transportation for the people of the state and ACCESS to Alaska lands; and

WHEREAS, Senate Bill 233 provides that standardized railroad crossing permit agreements must be submitted to the Alaska State Legislature for review and will be approved after sixty days unless disapproved by a joint resolution passed by the legislature.

NOW, THEREFORE, BE IT RESOLVED that the Fairbanks North Star Borough Assembly urges the passage of Senate Bill 233.

BE IT FURTHER RESOLVED, that copies of this resolution shall be sent to the Honorable Steve Cooper, Governor, State of Alaska, Frank G. Turpin, President and CEO of the Alaska Railroad Corporation, the Honorable Lloyd Jones, Chairperson, Senate Transportation Committee, the Honorable Jan Parks, Chairperson, Senate Judiciary Committee, and all members of the Interior Delegation.

PASSED AND APPROVED THIS 2TH DAY OF MARCH, 1990.

Presiding Officer

ATTEST:

Clerk of the Assembly

P.O. BOX 55109
NORTH POLE, ALASKA
99705



TOP OF THE WORLD
PHONE: 907-488-2281
AT YOUR SERVICE

January 18, 1990

John C. Stein
Mayor, City of Wasilla
290 E. Herning Avenue
Wasilla, AK 99687

Re: Alaska Railroad

Dear Mayor Stein:

Thank you for your letter of December 12, 1989. After reviewing Wasilla's Resolution WR89-51 requesting the legislature to place the Alaska Railroad under the regulatory control of the Alaska Public Utilities Commission, I decided to present a similar resolution to our city council.

Please find enclosed a copy of Resolution 90-1 supporting placing the Alaska Railroad under the authority of the Alaska Public Utilities Commission. The North Pole city council adopted Resolution 90-1 at its meeting on January 15, 1990.

A copy of Resolution 90-1 is being sent to Senator Jack Coghill and Representative Mike Miller. We'll see what happens!

Sincerely,

A handwritten signature in cursive script, appearing to read "Carleta Lewis".

Carleta Lewis
Mayor, North Pole

Encl. Resolution 90-1
xc: Senator Jack Coghill
Representative Mike Miller

CITY OF NORTH POLE

RESOLUTION 90-1

A RESOLUTION OF THE CITY COUNCIL OF NORTH POLE,
ALASKA, REQUESTING THE LEGISLATURE OF THE STATE OF ALASKA
PLACE THE ALASKA RAILROAD UNDER THE REGULATORY CONTROL
OF THE ALASKA PUBLIC UTILITIES COMMISSION

WHEREAS, the Alaska Railroad Corporation is a quasi-public/private business entity providing rail transportation within the State of Alaska; and

WHEREAS, the Alaska Railroad is a publicly capitalized business entity competing with private sector trucking and other forms of regulated transportation business; and

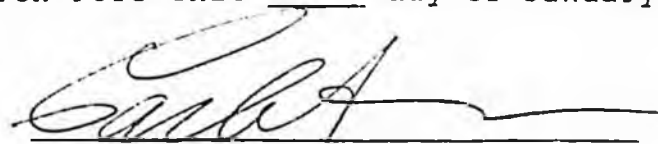
WHEREAS, public overview and input in most all other states is through their public utility commission; and

WHEREAS, the Alaska Railroad, a partially public business entity, is currently unilaterally setting it's own administrative policies, rates, tariffs and maintenance charges without adequate public review and comment; and

WHEREAS, a more structured forum for public concern and comment would be through the State of Alaska, Public Utilities Commission;

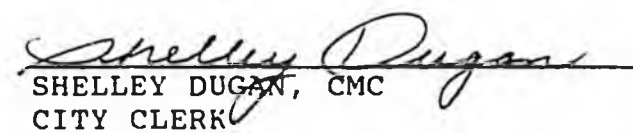
NOW, THEREFORE BE IT RESOLVED, that the City of North Pole, through its City Council, urge legislative action in the upcoming session to place the Alaska Railroad under the control of the Alaska Public Utilities Commission and further mandate that the Alaska Railroad be responsible for all public liability and fiscal aspects of maintaining railroad crossings without undue hardship on the communities or people it seeks to serve.

PASSED AND APPROVED by a duly constituted quorum of the City Council of the City of North Pole this ____ day of January, 1990.



CARLETA LEWIS, MAYOR

ATTEST:



SHELLEY DUGAN, CMC
CITY CLERK

Linda L. Anderson
Government Relations

FACSIMILE TRANSMITTAL FORM

DATE: 3/17/90

TO: Sen. James Chesebrough

FROM: L. Anderson

PHONE: _____ EXTENSION: _____

NUMBER OF PAGES TO FOLLOW: 2

REMARKS: See Dept. of Health
Vol. SR 033

L. Anderson Fax # 907-586-6000

Confirmation: (907) 586-1977

by: Hank Howe
Introduced: 03/08/90
Adopted: 03/08/90

RESOLUTION NO. 10-018

A RESOLUTION URGING PASSAGE OF SB 233 RELATIVE TO STANDARDIZED RAILROAD CROSSING PERMIT AGREEMENTS OF THE ALASKA RAILROAD CORPORATION

WHEREAS, there are numerous railroad crossings within the boundaries of the Fairbanks North Star Borough; and

WHEREAS, recently, there has been a problem with municipalities and private citizens throughout the railroad system relating to maintenance and charges for maintenance of crossings; and

WHEREAS, many communities and private citizens do not afford the costs demanded by the Alaska Railroad Corporation for railroad crossings; and

WHEREAS, the Alaska Railroad Corporation is actively requiring the municipalities and/or citizens to pay for crossing maintenance but also requiring municipalities and citizens to accept liability; and

WHEREAS, the Alaska Railroad is owned by the people of Alaska and should be providing transportation for the people of the state and ACCESS to Alaska lands; and


WHEREAS, Senate Bill 233 provides that standardized railroad crossing permit agreements shall be submitted to the Alaska State Legislature for review and will be approved after sixty days unless disapproved by a joint resolution passed by the legislature.

NOW, THEREFORE, BE IT RESOLVED that the Fairbanks North Star Borough Assembly urges the passage of Senate Bill 233.

Handwritten:
Fairbanks
North Star
Borough

BE IT FURTHER RESOLVED, that copies of this resolution shall be sent to the honorable Steve Cooper, Governor, State of Alaska, Frank G. Murphy, President and CEO of the Alaska Railroad Corporation, the Honorable Lloyd Jones, Chairperson, Senate Transportation Committee, the Honorable Jay Parks, Chairperson, Senate Judiciary Committee, and all members of the Interior Delegation.

PASSED AND APPROVED THIS 8TH DAY OF MARCH, 1990.


Presiding Officer

ATTEST:


Clerk of the Assembly

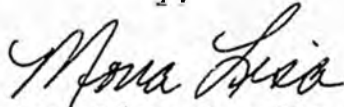
March 19, 1990

Honorable Lloyd Jones, Chairperson
Senate Transportation Committee
P.O.Box V (3100)
Juneau, Alaska 99811

Dear Senator Jones,

Enclosed for your information is a copy of Resolution No. 90-028, recently adopted by the Fairbanks North Star Borough Assembly.

Sincerely,



Mona Lisa Drexler, CMC
Municipal Borough Clerk

By: Hank Hove •
Introduced: 03/08/90
Adopted: 03/08/90

RESOLUTION NO. 90-028

A RESOLUTION URGING PASSAGE OF SB 233 RELATING TO STANDARDIZED
RAILROAD CROSSING PERMIT AGREEMENTS OF THE ALASKA RAILROAD
CORPORATION

WHEREAS, there are numerous railroad crossings within
the boundaries of the Fairbanks North Star Borough; and

WHEREAS, recently, there has been a problem with
municipalities and private citizens throughout the railroad
system relating to maintenance and charges for maintenance of
crossings; and

WHEREAS, many communities and private citizens cannot
afford the costs demanded by the Alaska Railroad Corporation for
railroad crossings; and

WHEREAS, the Alaska Railroad Corporation is not only
requiring the municipalities and/or citizens to pay for crossing
maintenance but also requiring municipalities and citizens to
accept liability; and

WHEREAS, the Alaska Railroad is owned by the people of
Alaska and should be providing transportation for the people of
the state and ACCESS to Alaska lands; and

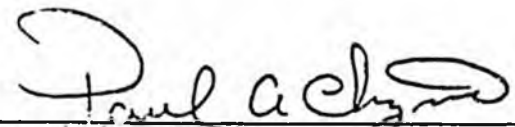
WHEREAS, Senate Bill 233 provides that standardized
railroad crossing permit agreements must be submitted to the
Alaska State Legislature for review and will be approved after
sixty days unless disapproved by a joint resolution passed by the
legislature.

NOW, THEREFORE, BE IT RESOLVED that the Fairbanks North
Star Borough Assembly urges the passage of Senate Bill 233.

MAR 22 1990

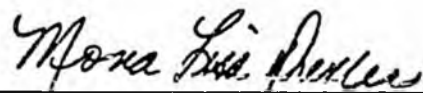
BE IT FURTHER RESOLVED, that copies of this resolution shall be sent to the Honorable Steve Cowper, Governor, State of Alaska, Frank G. Turpin, President and CEO of the Alaska Railroad Corporation, the Honorable Lloyd Jones, Chairperson, Senate Transportation Committee, the Honorable Jan Faiks, Chairperson, Senate Judiciary Committee, and all members of the Interior Delegation.

PASSED AND APPROVED THIS 8TH DAY OF MARCH, 1990.



Presiding Officer

ATTEST:



Clerk of the Assembly

ALASKA RAILROAD CORPORATION
INCOME STATEMENT
(In Thousands)

	5-YEAR <u>TOTAL</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>
<u>OPERATING REVENUE</u>						
FREIGHT	226,239	51,978	41,676	39,371	44,871	48,343
PASSENGER	25,978	4,344	4,574	5,434	5,601	6,025
OTHER	<u>22,592</u>	<u>5,937</u>	<u>6,395</u>	<u>3,494</u>	<u>3,683</u>	<u>3,083</u>
	274,809	62,259	52,645	48,299	54,155	57,451
<u>OPERATING EXPENSE</u>						
TRANSPORTATION	74,100	17,556	15,532	12,568	13,656	14,788
ENGINEERING	56,735	12,310	11,795	10,119	11,263	11,248
EQUIPMENT	58,613	12,571	12,329	10,592	11,077	12,044
OPERATIONS STAFF	3,846	1,100	694	637	558	857
GEN. & ADMIN.	53,658	12,648	12,560	9,397	8,964	10,089
RISK MANAGEMENT	12,295	1,673	2,818	1,906	2,010	3,888
DEPRECIATION	<u>15,686</u>	<u>1,455</u>	<u>2,437</u>	<u>3,421</u>	<u>3,878</u>	<u>4,495</u>
	274,933	59,313	58,165	48,640	51,406	57,409
INCOME FROM OPERATIONS	-124	2,946	-5,520	-341	2,749	42
<u>OTHER INCOME (EXPENSE)</u>						
REAL ESTATE INCOME	23,773	4,322	5,274	5,206	4,753	4,218
REAL ESTATE EXPENSE	<u>-1,553</u>	<u>-227</u>	<u>-340</u>	<u>-385</u>	<u>-315</u>	<u>-286</u>
	22,220	4,095	4,934	4,821	4,438	3,932
INTEREST INCOME	1,417	653	214	198	145	207
INTEREST EXPENSE	<u>-5,565</u>	<u>-561</u>	<u>-613</u>	<u>-1,661</u>	<u>-1,526</u>	<u>-1,204</u>
	-4,148	92	-399	-1,463	-1,381	-997
NET INCOME (LOSS)	<u>17,948</u>	<u>7,133</u>	<u>-985</u>	<u>3,017</u>	<u>5,806</u>	<u>2,977</u>
CASH CAPITAL PURCHASES	50,538	7,902	9,279	6,130	7,939	19,288
BORROWED (NET)	<u>19,932</u>	<u>9,054</u>	<u>12,624</u>	<u>-3,969</u>	<u>-1,850</u>	<u>4,073</u>
CAPITAL INVESTMENT	<u>70,470</u>	<u>16,956</u>	<u>21,903</u>	<u>2,161</u>	<u>6,089</u>	<u>- 23,361</u>

ALASKA RAILROAD CORP.
 1989 YTD. BUDGETED INC./EXP. COMP.
 THROUGH DECEMBER, 1989
 (Thousands of Dollars)

	<u>ACTUAL</u>	<u>BUDGET</u>	<u>VARIANCE AMOUNT</u>	<u>VARIANCE PERCENT</u>
REVENUE	61,876	60,690	1,186	2.0%
EXPENSE	<u>53,201</u>	<u>48,640</u>	<u>-4,561</u>	<u>-9.4%</u>
OPERATING SURPLUS	8,675	12,050	-3,375	-28.0%
INTEREST EXPENSE	-1,204	-1,650	446	-27.0%
DEPRECIATION	<u>-4,495</u>	<u>-4,350</u>	<u>-145</u>	<u>3.3%</u>
NET INCOME (LOSS)	<u>2,976</u>	<u>6,050</u>	<u>-3,074</u>	<u>-50.8%</u>

1/30/90

ALASKA RAILROAD CORP.
 1989-1985 YTD. INC./EXP. COMP.
 THROUGH DECEMBER
 (Thousands of Dollars)

	<u>1989</u>	<u>1988</u>	<u>1987</u>	<u>1986</u>	<u>1985</u>
REVENUE	61,876	59,053	53,701	60,299	67,234
EXPENSE	<u>53,201</u>	<u>47,843</u>	<u>45,602</u>	<u>58,234</u>	<u>58,087</u>
OPERATING SURPLUS	8,675	11,210	8,099	2,065	9,147
INTEREST EXPENSE	-1,204	-1,526	-1,661	-613	-561
DEPRECIATION	<u>-4,495</u>	<u>-3,878</u>	<u>-3,421</u>	<u>-2,437</u>	<u>-1,453</u>
NET INCOME (LOSS)	<u>2,976</u>	<u>5,806</u>	<u>3,017</u>	<u>-985</u>	<u>7,133</u>

1/30/90

ALASKA RAILROAD CORP.
REVENUES BY COMMODITY
(Thousands Of Dollars)

<u>COMMODITY</u>	THROUGH DECEMBER				
	<u>1989</u>	<u>1988</u>	<u>1987</u>	<u>1986</u>	<u>1985</u>
PIPE	1,592	1,440	718	2,190	3,253
COAL	11,418	12,198	11,238	10,098	9,434
PETROLEUM	14,900	13,184	11,582	10,224	11,833
GRAVEL	3,176	2,649	2,738	4,054	7,819
TOFC/COFC	6,766	6,327	5,787	7,601	7,008
INTERLINE	8,982	8,039	6,148	6,677	10,530
MISC. LOCAL	1,508	1,035	1,158	832	2,101
TOTAL FREIGHT	48,342	44,872	39,369	41,676	51,978
PASSENGER	6,026	5,600	5,434	4,574	4,344
REAL ESTATE	4,217	4,751	5,205	5,274	4,322
ALL OTHER	3,289	3,828	3,693	8,775	6,590
TOTAL OTHER	13,532	14,179	14,332	18,623	15,256
TOTAL REVENUE	61,874	59,051	53,701	60,299	67,234

1/30/90

ALASKA RAILROAD CORPORATION
1989 - 1986 YTD. DEPARTMENTAL EXPENSES
(Thousands of Dollars)

DEPARTMENT	THROUGH DECEMBER				VARIANCE PERCENT		
	1989	1988	1987	1986*	89 Vs 88	89 Vs 87	89 Vs 86
RAILROAD:							
TRANSPORTATION	14,788	13,656	12,568	15,532	8%	18%	-5%
ENGINEERING	11,248	11,263	10,119	11,795	0%	11%	-5%
MOTIVE POWER & EQUIPMENT	12,044	11,077	10,592	12,329	9%	14%	-2%
OPERATIONS STAFF	857	558	637	669	54%	35%	28%
TOTAL OPERATIONS	38,937	36,554	33,916	40,325	7%	15%	-3%
GENERAL & ADMINISTRATIVE:							
FINANCE	3,168	3,058	3,768	5,464	4%	-16%	-42%
MARKETING	2,506	2,278	2,171	3,044	10%	15%	-10%
PERSONNEL	1,138	1,075	1,232	1,469	6%	-8%	-23%
LEGAL	816	338	914	957	141%	-11%	-15%
ADMINISTRATION	505	486	573	752	4%	-12%	-33%
COMMUNICATIONS	209	211	175	245	-1%	19%	-15%
CORPORATE OFFICE	1,720	1,779	261	450	-3%	559%	282%
TOT. GEN. & ADMIN.	10,062	9,225	9,094	12,381	9%	11%	-19%
OTHER:							
CONTINGENT ACCRUAL	315	51	686	482	518%	-54%	-35%
RISK MANAGEMENT	3,888	2,013	1,907	2,880	93%	104%	35%
INTEREST EXPENSE	1,204	1,526	1,661	613	-21%	-28%	96%
DEPRECIATION	4,495	3,878	3,421	2,437	16%	31%	84%
TOTAL OTHER	9,902	7,468	7,675	6,412	33%	29%	54%
TOTAL EXPENSES	58,901	53,247	50,685	59,118	11%	16%	0%

*Excludes Flood

1/30/90

ALASKA RAILROAD CORP.
REVENUE / EXPENSE HISTORY
(Thousands of Dollars)

CATEGORY	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	TOTAL
1985 REVENUE	4,083	4,354	4,953	5,721	6,391	6,903	7,204	7,235	6,203	6,139	4,317	3,731	67,234
1985 EXPENSE	3,709	3,936	4,677	4,700	5,200	6,181	6,792	6,644	6,201	5,182	3,998	2,399	60,121
NET PROFIT (LOSS)	383	418	276	1,021	691	722	412	591	2	957	319	1,341	7,113
1986 REVENUE	4,895	4,816	4,021	4,120	4,745	5,549	5,900	5,987	5,153	3,219	3,810	5,918	58,133
1986 EXPENSE	5,028	4,693	4,809	5,478	5,093	5,527	5,118	5,236	4,624	3,797	3,762	6,353	52,110
NET PROFIT (LOSS)	-133	123	-788	-1,358	-348	22	782	751	529	-578	448	-435	-977
1987 REVENUE	3,029	3,104	4,072	3,956	4,485	5,347	5,195	6,402	5,415	4,363	4,146	4,189	53,703
1987 EXPENSE	4,031	3,655	3,855	3,834	4,003	4,664	4,699	5,053	4,915	4,022	3,943	4,012	50,606
NET PROFIT (LOSS)	-1,002	-551	217	122	482	683	496	1,349	500	341	203	177	3,097
1988 REVENUE	3,339	4,108	4,183	4,804	4,934	5,969	5,912	6,187	5,521	5,414	4,667	4,010	59,048
1988 EXPENSE	3,946	4,204	4,336	4,468	4,597	5,050	4,648	4,903	4,211	4,471	4,201	4,237	52,242
NET PROFIT (LOSS)	-607	-96	-153	336	387	919	1,264	1,284	1,310	943	466	-227	6,806
1989 REVENUE	4,113	3,701	4,435	4,305	4,809	5,692	6,066	6,609	6,105	5,743	4,255	4,083	61,876
1989 EXPENSE	4,310	4,333	4,738	4,537	4,743	4,908	5,454	5,214	4,969	5,123	4,083	5,581	58,927
NET PROFIT (LOSS)	-197	-632	-303	-152	240	784	1,412	1,395	1,136	620	-728	-598	2,949

Railroad settlement on track

A major feud between the Alaska Railroad and several Railbelt communities may be coming to a close.

Ombudsman Duncan Fowler this winter issued a special report recommending the Alaska Railroad Corporation change how it bills towns for railroad crossing maintenance. Fowler also recommended a formal appeal process be instituted to independently review railroad crossing decisions. Railroad managers have agreed to many of the proposed changes, though some specifics have yet to be worked out.

Initially, railroad officials approached the ombudsman's office to help resolve railroad crossing cost and liability issues. A stalemate existed between the railroad and several Railbelt cities over the cost of crossing maintenance. After reviewing similar complaints received in the past, along with the issues the railroad presented, the ombudsman decided to initiate an investigation.

The City of North Pole had refused to pay maintenance costs for automatic signals because city leaders said railroad crossing were not their responsibility. Last summer the City of Wasilla suspended payments to the railroad claiming the corporation charged too much for administrative costs. During the past year the railroad levied a charge of 175 percent for supervisory and other overhead costs, while next year's rate was expected to rise to 193 percent.

In addition, other municipalities have been involved in the crossing dispute. The Kenai Peninsula Borough suspended new subdivision regulations and the City of Palmer declined to renew its crossing contracts with the railroad pending the outcome of the ombudsman report. The Fairbanks North Star and Matanuska-Susitna boroughs also are concerned about the impact of crossing costs on community development.

The ombudsman investigation revealed that although the railroad's billing method was legal, the municipalities were partially justified in their objections.

Fowler noted, "The sheer size of the cost increase over the past five years does not appear reasonably linked to administrative support increases for crossing maintenance." He added, "The effect of this rate could pose an unreasonable impact on small communities and service areas which lack a broad tax base."

The railroad responded by stating the majority of crossing protective devices are owned by the communities, which are free to maintain crossings themselves. The railroad also said the towns are the primary beneficiaries of the crossings, not the railroad.

But some small communities said they can't afford to hire in-house expertise just to inspect a few crossings once a week. Other towns said crossings should not be solely a municipal responsibility, because the railroad also benefits from crossing safety. These communities emphasized that they provide services to a railroad corporation that is exempt from local property taxes.

The ombudsman surveyed the crossing policies of 30 states and found most require the railroads to foot either all or part of the bill for crossing maintenance. However, the Alaska Railroad Corporation reports there is a recent trend toward the concept of "user fees" to recover maintenance and administrative costs from cities with crossings.

The ombudsman recommended, and the railroad accepted, a suggestion to eliminate the present method of calculating overhead costs and that the railroad charge only for those supervisory services and employee benefits directly related to signal maintenance. The railroad agreed to restructure the rate after meeting with Rail-



Photo courtesy of the Palmer Frontiersman
Railroad crossing maintenance and liability cost apportionment disputes prompted an ombudsman review. Communities along the Alaska Railroad believed railroad authorities were charging municipalities too much for crossing maintenance while railroad managers believed their billing process was appropriate.

belt municipal leaders to discuss the matter in the near future.

The railroad also concurred with Fowler's recommendation to set up a formal appeal process to review crossing decisions. Under the proposal, the board of directors would serve as the appellate body though the municipalities could request appointment of an independent hearing officer to make findings and recommendations to the board.

The ombudsman also recommended several other changes accepted by the railroad, including discussion with municipalities of criteria to apportion crossing costs based upon the benefits received by all involved parties. The railroad agreed to expand its Community Briefing Council, an advisory group on railroad issues, to include representatives from all the Railbelt municipalities. Previously, several commu-

nities, including North Pole and Wasilla, had not been represented on the council.

Railroad President Frank Turpin also has agreed to ask the board to review the ombudsman's suggestion that the railroad voluntarily publish its rules in the Alaska Administrative Code. The ombudsman said publishing the railroad rules as part of the code would give Alaskans statewide access to railroad regulations.

Fowler said he was pleased that the railroad board took the initiative in approaching the Office of the Ombudsman to help resolve these divisive issues between the state and local governments. "It was clear after we got into this problem that both sides wanted to resolve the problem of equitable crossing fees. My report hopefully offered guidelines for resolving disputes between the railroad and the communities it serves in the years to come."

Phone pals

Public notice convoluted

By: The Railbelt
Coalition
Introduced: April 8, 1989
Approved: April 8, 1989

A JOINT RESOLUTION OF THE FOUR BOROUGHES OF THE RAILBELT AREA
RELATING TO THE ALASKA RAILROAD CORPORATION

WHEREAS, AS 42.40.910 provides that the Alaska Railroad Corporation "exists for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions."; and

WHEREAS, according to AS 42.40.010, the Alaska Railroad Corporation has a legal existence independent and separate from the state; and

WHEREAS, the Alaska Railroad Corporation has complete and absolute control over its property; and

WHEREAS, while the Alaska Railroad would not hesitate to request funds from the State, if needed, but does not deposit any of its profits into the General Fund; and

WHEREAS, the State Legislature is considering reducing funds for municipal assistance, revenue sharing and education; and

WHEREAS, the Alaska Railroad Corporation has previously maintained its crossings and is now taking an antagonistic attitude with municipalities and property owners along its route in relation to railroad crossings and adjacent property; and

WHEREAS, the Alaska Railroad Corporation provides subsidies to certain shippers and not others and competes unfairly with private transportation modes because it does not have to pay taxes; and

WHEREAS, the Alaska Railroad corporation has increased easement and permit costs, maintenance costs, in some cases, blocked railroad crossings in communities, threatened to close roads unless crossing maintenance fees are paid, and generally is assessing unfair charges to communities and local citizens.

RESOLUTION FROM THE
RAILBELT COALITION

Page 2

NOW, THEREFORE, BE IT RESOLVED that if the legislature does not wish to allow municipalities to tax the Alaska Railroad Corporation, the Governor or the Alaska Railroad Corporation Board of Directors are requested to:

- (1) reduce or eliminate the costs of maintaining railroad crossing to municipalities and private land owners;
- (2) use Alaska Railroad Corporation profits to maintain railroad crossings.

BE IT FURTHER RESOLVED that copies of this resolution shall be sent to Steve Cowper, Governor, State of Alaska, David G. Hoffman, Commission of the Department of Community and Regional Affairs and all legislators representing the Railbelt Coalition.

PASSED AND APPROVED THIS 8TH DAY OF APRIL, 1989

MUNICIPALITY OF ANCHORAGE

FAIRBANKS NORTH STAR BOROUGH

By *Heather Meyer*

By *Juanita Skene*

KENAI PENINSULA BOROUGH

MATANUSKA-SUSITNA BOROUGH

By *James V. Skogstad*

By *Dorothy A. Jones*

P.O. BOX 55109
NORTH POLE, ALASKA
99705



TOP OF THE WORLD
PHONE: 907-488-2281
AT YOUR SERVICE

February 23, 1990

Senator Jack Coghill
P. O. Box V
Juneau, Alaska 99811

Re: Your correspondence dated February 18, 1990

Dear Jack:

I tend to agree with your analysis of the railroad situation and the ARRC. The City Council shares your concerns and much discussion ensued on the resolution prior to passage. Basically, it is a resolution of frustration. It seems that nothing has the power to grasp the railroad's attention. All we have received is patronization and a promise of "compromise". I am to attend a meeting with the railroad on March 2nd. Perhaps there will be a significant development but I'm not holding my breath.

Also, there is a fundamental element here which tends to flaw your line of thinking. Indeed, it is the crux of all the problems and has been from the day the State took over the railroad. The stated motive of ARRC is to tender a profit as a State owned "private" corporation. If a private corporation would be subject to a regulatory agency then so should the ARRC. They can't play by two sets of rules. When the notion suits them they are a "private corporation". When a set of laws emerge that they don't want to follow they are suddenly "state owned". Wouldn't you like to play by these standards in some of the businesses you've owned? I know I would.

Letter-Senator Coghill
February 23, 1990
Page Two

Keep up the good work, Jack. Things are going well in North Pole. The Senior's Center is nearing completion. I hope you have had a chance to look at some of our other Capital Projects and feel that you can support them. I'll keep you advised as to progress with the railroad after the March 2nd meeting.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carleta Lewis", written in dark ink.

Carleta Lewis
Mayor, City of North Pole

CL/kl



Alaska State Legislature

SENATE

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

To: Senator Lloyd Jones
Senate Transportation

From: Senator Jack Coghill

Re: SB 233

Date: April 6, 1989

I would like to request a joint hearing with the Senate and House Transportation Committees on SB 233 and the companion bill HB 234, "an Act relating to standardized railroad crossing permit agreements of the Alaska Railroad Corporation; and providing for an effective date."

Both Representative Miller and myself have been in contact with the Alaska Railroad Corporation (ARRC) since 1987 regarding their railroad crossing permit policy. Many railbelt communities are frustrated with the attitude ARRC takes when it comes to maintenance of crossings they have permits for. ARRC makes decisions involving maintenance, upgrading and closing of railroad crossings with minimal or no input from railbelt communities. Many communities feel they are continually given "take it or leave it" proposals from ARRC.

Railroad crossing permit holders have to bear 100% of the cost of maintaining crossings while ARRC makes 100% of the decisions on what maintenance work needs to be done and when it will be done. It is impossible for permit holders to budget for maintenance of the crossings when they have no control or input into the decision making process.

With the introduction of SB 233 and HB 234, it is my hope to provide a mechanism for legislative oversight of the standardized railroad crossing permit agreements of the Alaska Railroad Corporation.

Attached are copies of correspondence relating to the railroad crossing issue dated back to 1986. A fiscal note will be coming shortly from the Department of Commerce and Economic Development.

ALASKA RAILROAD CORPORATION



P.O. Box 107500 • Anchorage, Alaska 99510-7500

News Release

No. 79

April 4, 1989

For Immediate Release

Contact: Vivian Hamilton (907) 265-2675

or: Ombudsman 's Office (800) 478-4970

Ombudsman To Review Railroad/Highway Crossing Issues

The Alaska Railroad Corporation has asked the state ombudsman to review its railroad/highway crossing permit process in an attempt to resolve differences between the railroad and local communities regarding crossing liability and crossing maintenance costs.

"The ombudsman is an impartial third party who can review both sides of the issue objectively and suggest solutions that might be acceptable to all of us," explained Frank Turpin, railroad president and CEO.

Recently several Railbelt communities have expressed concerns about accepting liability for railroad/highway crossings in their communities and about what they consider high maintenance costs for crossings and automatic crossing signals.

It is the railroad's position that all costs relating to highway crossings on the railroad right-of-way should be the responsibility of the road owner.

There are 359 crossings along the Alaska Railroad, the majority of which are public crossings permitted to local, state or federal

(more)

ADD ONE--Railroad Seeks Ombudsman Review

governmental agencies. The railroad's crossing permits require road owners to have liability insurance or be self-insured to cover crossings. Some communities have argued that crossing liability should be the responsibility of the railroad.

Of the 359 crossings, 76 have signals which are inspected weekly by a specialized maintenance team. The cost for signal maintenance is billed to the signal owners. In addition, any maintenance required for crossing upkeep is charged to the road owner. Some communities have argued that the cost of maintenance for crossings and automatic signals should be borne by the railroad.

The Alaska Railroad is a state-owned corporation which is operated as a for-profit business without state funding. In 1988 the railroad reported \$58 million in revenue and a net income of \$5.8 million, which is being reinvested in capital improvements during 1989.

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RAILROAD/HIGHWAY CROSSING PERMITS IN ALASKA

	Number of <u>Crossings</u>	Number with <u>Signals</u>
DOT/PF	106	48
Anchorage	55	16
Fairbanks	20	0
Other Local Gov't	33	3
Alaska Railroad	27	2
Military	19	5
University of Alaska Fairbanks	2	0
Other State/Federal Agencies	9	1
Private/Commercial	48	1
Unpermitted	<u>40</u>	<u>0</u>
TOTAL	359	76

ALASKA RAILROAD CORPORATION



P.O. Box 107500 • Anchorage, Alaska 99510-7500

April 4, 1989

The Honorable Carleta Lewis
Mayor
City of North Pole
P.O. Box 55109
North Pole, Alaska 99705

Dear Carleta,

Over the past few months the Alaska Railroad and the City of North Pole have been unable to agree on the specifics of our railroad/highway crossings permits, especially regarding 8th Avenue. We would like to resolve this issue, and I'm sure you would, too.

Therefore, we have asked that a representative from the State Ombudsman's Office review the matter and act as an impartial third party to evaluate both our positions. We have asked specifically that your concerns about crossing liability and maintenance fees be reviewed. I hope the City of North Pole will accept this idea as a starting point for resolving our differences regarding railroad/highway crossings and that you will participate in the process. I'm sure you will receive an inquiry from the Ombudsman's Office soon.

Attached is a copy of a news release we are issuing today to announce the pending review by the State Ombudsman. If you have any questions or comments, I would welcome an opportunity to discuss them with you.

Sincerely,

F. G. Turpin
President and Chief Executive Officer

cc: Sen. Jack B. Coghill
Rep. Mike Miller

RELATED CORRESPONDENCE

ALASKA RAILROAD CORPORATION



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

September 29, 1988

The Honorable John B. (Jack) Coghill
Senator
Alaska State Legislature
P. O. Box 55028
North Pole, Alaska 99705

SEP 4 1988

Dear Jack,

Thank you very much for sending me a copy of your letter to the Chairman of our Board of Directors, George Sullivan. Your letter was discussed at the Board of Directors meeting on September 15, 1988, and George asked me to comment on some of the points you raised.

I am not aware of any correspondence you've had with the railroad regarding unilateral decisions the railroad has made on the responsibility of the permit holders. The railroad has simply been trying to enforce the contract the permit holder has signed in regard to maintenance and thus make road crossings more safe. As for closing of crossings, this is done only after a Diagnostic Team review has been made in accordance with the Alaska Policy on Railroad/Highway Crossings. As the policy states in revised Section 4.3.2., the local governments and the boroughs are full members of the team.

The question you raised about crossing maintenance and the frustration of the railbelt communities was also mentioned by Representative Mike Miller in a similar letter to George Sullivan. I previously sent you a copy of my answer to his letter which I think addresses the problem, but for your ready reference, I have enclosed another copy. I have also included a copy of a letter that I recently sent to Mayor Lewis that also discusses crossing maintenance. I am not aware of any bills submitted to any of your constituents where the permittee was not involved in the work. Please let me know if there are cases where this has happened.

The Community Briefing Council is definitely a good method for the railbelt communities to bring up their concerns. Crossings were discussed at the March meeting of the Community Briefing Council but were not mentioned at the last two meetings. By the way, we have always respected the concerns expressed by council members and have found our meetings to be very useful.

If you have any questions, please do not hesitate to contact me at 265-2403 or Obie Weeks at 265-2456.

Sincerely,

F. G. Turpin
President and CEO

cc: George Sullivan, Chairman of the Board, ARRC

ALASKA RAILROAD CORPORATION



P.O. Box 107500 • Anchorage, Alaska 99510-7500

September 28, 1988

Representative Mike W. Miller
P. O. Box 55094
North Pole, Alaska 99705

Dear Mike,

Thank you for the copy of your letter to ARRC Board Chairman George Sullivan. Your letter was discussed at the board meeting on September 15, 1988, and George has asked me to comment on some of the points you raised.

The Department of Transportation and Public Facilities, by letter dated February 11, 1988, offered to have a Diagnostic Team review of the 8th Avenue crossing and include the City of North Pole in the decision-making process. The City refused their offer. A copy of this correspondence is attached.

Nevertheless, we have again offered to convene a Diagnostic Team to review the 8th Avenue crossing in my letter to Mayor Lewis of September 27, 1988. A copy of this letter is attached for your information.

Your comment about small communities being frustrated with the railroad attitude on road crossings is disturbing but, I suspect, very true. Two things have happened since the State purchased the railroad. One, in an attempt to reduce crossing accidents, we have been much more demanding that brush and other obstructions in the sight triangle be removed. Second, with the help of DOT&PF, we have been successful in obtaining more Federal funding for upgrading crossings with signalization. Both of these steps have contributed to a significant reduction in accidents for which we and the municipalities are both very thankful, but both have also contributed to much higher maintenance costs. Communities, eager to gain a crossing as a convenience to a subdivision or whatever, are quick to agree to provide all maintenance when they obtain the permit. Later, as budgets have grown tighter, they look on the maintenance costs as something the railroad should be paying even though their citizens benefit from the crossing and they have signed a contract with the railroad to permit the crossing which clearly states that they pay for all maintenance.

I hope this letter and my letter to Mayor Lewis will help clear some of the confusion on maintenance charges and liability for the 8th Avenue crossing. Please do not hesitate to give me a call if you would like to discuss any of these points.

Regards,

A handwritten signature in cursive script, appearing to read 'Frank'.

F. G. Turpin
President & CEO

Attachments (2)

cc: Senator John B. Coghill

ALASKA RAILROAD CORPORATION



P.O. Box 107500 • Anchorage, Alaska 99510-7500

September 26, 1988

The Honorable Carleta Lewis
Mayor
City of North Pole
P. O. Box 55109
North Pole, AK 99705

Dear Carleta,

George Sullivan asked that I answer your letter of September 12, 1988, in which you requested that your protest to the Alaska Railroad Crossing Policy be officially entered into the record.

Judging from the objections expressed in your letter, I believe you have confused the crossing policy with the contract the Alaska Railroad has with the City of North Pole that permits your road crossings. The Alaska Policy on Railroad/Highway Crossings does not state that governmental entities bear the responsibility and liability for the crossings. The maintenance and liability responsibilities are set by the contract between the Alaska Railroad Corporation (ARRC) and the owner of the road (Permittee). In the case of the City of North Pole, this is Contract No. 5719. None of your comments indicated any problem with the Alaska Policy on Railroad/Highway Crossings, and the Board of Directors accordingly approved the policy as presented. However, considerable time was spent discussing your questions about maintenance.

There are five types of crossing maintenance:

1. Ongoing routine maintenance for signals. This is inspection of the signal once per week for deteriorated wiring, burned out lights, corrosion, or other indications of potential malfunction, plus lubrication of any moving parts. We follow industry standards recommended by the Association of American Railroads for this inspection plus some additional precautions dictated by the extreme Alaska weather. Technicians performing this very important work must be trained in electronic circuitry and possess detailed knowledge of Alaska Railroad signal equipment. Training and qualification for these technicians requires a minimum of four years of classroom and on-the-job experience. The average cost today to the railroad for this inspection, including labor, vehicle, travel time and normal maintenance parts, is \$62, or about \$3200 per crossing per year. We would be happy to bill the City a fixed annual fee for this service if it would help you with your budgeting.

2. Trouble calls. Frequently, calls are made to the railroad to report an inoperative signal. Although many of these are false alarms and no malfunction is found, they all must be investigated immediately, and when necessary, repaired, whether it be after hours, a holiday, etc. As you can see, it is very difficult to estimate the frequency or cost of these repairs, but the entire railroad averages about \$10 per week or \$500 per year per crossing for these types of repairs. Again, we would be happy to bill you our average cost as a fixed annual fee.
3. Sight triangle maintenance. Sight triangle requirements are set by Appendix A of the revised crossing policy. This requires removal of any obstructions or control of brush in the sight triangle to afford the motorist a clear view of the track. The cost of this maintenance varies considerably with the location, but in every case it is much more cost effective for the Permittee to perform this work at the time it is performing routine road maintenance. When work is within 20 feet of the track centerline, the railroad requires a flagman to protect workers from train movements. We provide this service at no cost to the Permittee.
4. Periodic major repairs, such as replacing the crossing. This work is frequently initiated by the Permittee, but in any event, it is a joint decision. In most cases it can be projected at least two years in advance to allow time for budgeting.
5. Vandalism and accident damage. If local authorities are able to apprehend the party responsible for either vandalism or accident damage, the cost can usually be collected from them. Otherwise, this becomes the responsibility of the Permittee, which in the case of a municipality is also the party responsible for controlling vandalism and vehicles.

By signing its crossing permit (Contract No. 5719), the City of North Pole has accepted responsibility for all maintenance. Section 5 reads as follows: "During the term of this permit, the Permittee shall maintain the facility to industry standards, or to those standards or levels of maintenance prescribed by federal, state or municipal laws and regulations."

Your contract also is very clear and specific on crossing liability. As stated in Section 7, "Permittee shall assume complete liability for any and all claims resulting from the construction, reconstruction, maintenance, use and existence of the facility located on or over the permit area. This provision shall not be interpreted to mean that the Permittee shall assume liability for the negligence of railroad employees while acting within the scope of their employment." Since you have agreed to assume liability on the present crossing, I should think your liability risk would be considerably less with crossing signals. This may even be reflected in lower insurance premiums.

Regarding automatic crossing signals, Section 12 of your permit reads "If automatic crossing signal devices are required by either party, such signals shall be furnished, installed and maintained by Railroad at the expense of the Permittee."

Mayor Carleta Lewis
September 26, 1988
Page 3

Unfortunately, the signalization of the 8th Avenue crossing was being decided at the same time the Alaska Policy on Railroad/Highway Crossings was being developed. Consequently, the City of North Pole was not involved in the decision to proceed. To conform with the Policy, we believe a Diagnostic Team evaluation should be conducted. Obie Weeks will be in Fairbanks on Monday, October 17, 1988, and will be available to conduct the Diagnostic Team evaluation that afternoon. The Diagnostic Team members will include you, City of North Pole; Obie Weeks, ARRC; Ron Tanner, DOT/PF - Northern Region; and Todd Boyce, FNSB Transportation. Other participants to be included are Martin Gutoski, FNSB Planning; Bob Shefchik, FNSB School District; and Captain Shover, Alaska State Troopers. Correspondence will be mailed this week to the team members and other participants detailing the exact time and location.

I hope I have been able to clarify some of the confusion between our crossing policy and your contract to permit the crossing. I am very anxious to have full participation by the affected community in selecting crossings for signalizing. The Diagnostic Team meeting on October 17, 1988, should meet that need.

Sincerely,



F. G. Turpin
President and Chief Executive Officer

cc: Steve Cowper, Governor, State of Alaska
George Sullivan, Chairman of the Board, ARRC
Juanita Helms, Mayor, Fairbanks North Star Borough
Harry Gieseler, Mayor, City of Seward
Obie Weeks, Chief Engineer, ARRC

Senator John B. (Jack) Coghill
Alaska State Legislature

Pouch V
Juneau, Alaska 99811
(907) 465-4921

Box 55028
North Pole, Alaska 99705
(907) 488-0862



September 13, 1988

Mr. George Sullivan
Chairman
Alaska Railroad Board of Directors
P.O. Box 107500
Anchorage, AK 99510-7500

Dear George:

I have been informed that the Alaska Railroad Corporation (ARRC) Board of Directors will be meeting on September 15, 1988 to discuss the railroad crossing policy. I would like to take this opportunity to briefly comment on concerns I have with the Alaska Railroad's treatment of crossings.

Over the past year I have corresponded with the ARRC and past Board Chairman regarding crossing permit contracts and the unilateral decisions ARRC makes on the responsibilities of crossing permit holders. ARRC makes decisions involving maintenance, upgrading and closing of crossings with minimal or no input from railbelt communities. Many communities feel they are continually given "take it or leave it" proposals from ARRC.

Many railbelt communities are frustrated with the attitude ARRC takes when it comes to maintenance of crossings they have a permit for. ARRC does the maintenance on the crossing and sends the bill to the proper community. It is very difficult to budget for maintenance expenses when the community has no idea how much the maintenance will cost or any decision in what maintenance work will be performed. Railbelt communities are having a hard enough time trying to provide basic services to their residents without adding the burden of unknown railroad maintenance costs.

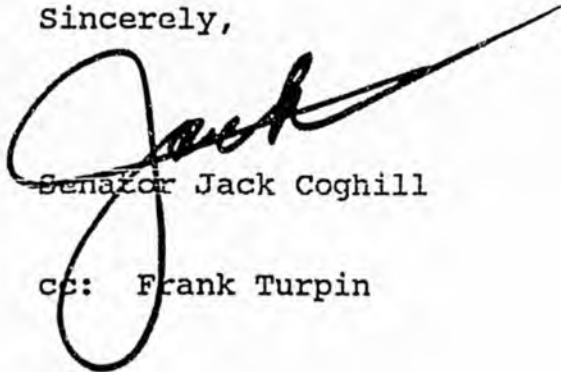
It is imperative that the ARRC have better communication with railbelt communities and involve them in decisions which directly affect them. ARRC has established a Community

Mr. George Sullivan
Page 2
September 13, 1988

Briefing Council which meets with ARRC officials every three months. Concerns relayed by this council should be taken seriously by ARRC officials and the Board of Directors.

As the new Chairman of the Alaska Board of Directors, I hope you will make every effort to help achieve a more positive relationship between ARRC and railbelt communities. Unless this is accomplished, some communities might feel they can no longer afford the Alaska Railroad in their town.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack", with a long, sweeping horizontal stroke extending to the right.

Senator Jack Coghill

cc: Frank Turpin



Official Business

Alaska State Legislature

P.O. Box V
State Capitol
Juneau, Alaska 99811

September 14, 1988

Frank Turpin
President & CEO
Alaska Railroad Corporation
P.O. Box 107500
Anchorage, AK 99510-7500

Dear Frank:

Enclosed is a copy of a letter I sent to the Chairman of the Alaska Railroad Board of Directors, George Sullivan, regarding my concerns on railroad crossings.

As you know, the crossing issue has been a concern of mine for the past year. Every time I meet with community leaders along the railbelt the first issue brought up is the railroad. It is imperative that we improve the relationship between ARRC and railbelt communities. We have taken a step in the right direction by forming the Community Briefing Council, however, I feel recommendations made by the Council should be taken more seriously.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Coghill", with a long horizontal flourish extending to the right.

Senator Jack Coghill

P.O. BOX 55109
NORTH POLE, ALASKA
99705



TOP OF THE WORLD
PHONE: 907-488-2281
AT YOUR SERVICE

September 12, 1988

STATE OF ALASKA
Alaska Railroad Corporation
PO Box 7-2111
Anchorage, Alaska 99510-7019

ATTN: George Sullivan, Chairman

RE: Railroad Crossing Policy

Dear Mr. Sullivan and Alaska Railroad Boardmembers:

The City of North Pole protests the Alaska Railroad Crossing Policy as written and desires that this objection be officially entered into the record. The Railroad is stating that municipalities and other governmental entities must bear the cost of maintaining these crossings while the railroad retains the right to decide what work is to be done and to contract it at our expense. Therefore, it is impossible to budget for these costs since the community has no control or input into the decision making process.

The City of North Pole does not question the need for safety at these crossings. However, the municipality cannot accept responsibility for two reasons: availability of funds and potential liability. As you are aware, most governmental agencies are suffering severe cutbacks in funding. Secondly, the city insurance broker is extremely hesitant to accept crossing maintenance and the accompanying liability problem.

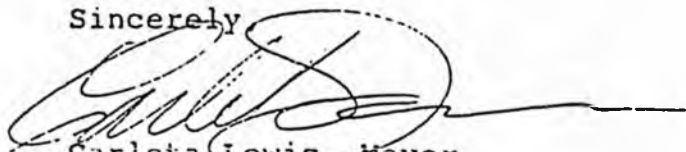
Regarding this issue of safety, federal and state dollars were appropriated for crossing signalization at 8th Avenue in North Pole. The state D.O.T. and the Alaska Railroad have "shelved" this project because the City will not accept the accompanying crossing maintenance agreement. It appears that the

Page 2, Alaska Railroad Crossing Policy

issue of safety is not as important as coercing the City of North Pole to accept an unworkable crossing policy arrangement. At the present time it appears the project will not be constructed. Voluminous correspondence to Railroad officials has thus far failed to rectify the situation.

It is my sincere wish that the City and the Railroad can come to some sort of workable agreement regarding this problem. The City of North Pole is more than willing to work with the Alaska Railroad towards that end.

Sincerely

A handwritten signature in cursive script, appearing to read "Carleta Lewis", with a long horizontal line extending to the right.

Carleta Lewis, Mayor
The City of North Pole

cc.

The Honorable Governor Steve Cowper
The Honorable Mayor Juanita Helms, Fairbanks North Star Borough
The Honorable Mayor Harry E. Gieseler, City of Seward

★ Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 1267

Fairbanks, Alaska 99707

907 452-4761

May 4, 1988

Francis C. (Obie) Weeks
Chief Engineer
Alaska Railroad Corporation
P.O. Box 7-2111
Anchorage, AK 99510-7069

Dear Mr. Weeks:

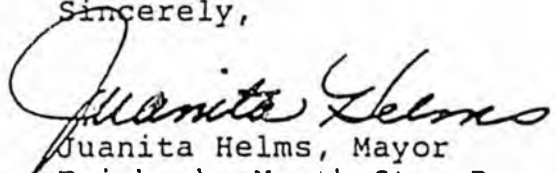
We appreciated the opportunity to participate in the workshop last week on proposed changes to the Alaska Policy on Railroad/Highway Crossings. Since revisions are being entertained at this time, it seems appropriate to address several ongoing concerns.

In September of 1986 the Borough reviewed the draft Alaska Policy on Railroad/Highway Crossings. The comments we made at that time are included as Attachment 1. A review of the policy that the railroad subsequently adopted shows that none of our comments were addressed. The organization of the policy was changed, but the working of the body of the policy remains nearly identical to the previous version.

The comments contained in the previous letter are still of concern to the Borough. Attachment 2 details some of the prior issues and raises new concerns that have surfaced in subsequent months.

We hope that these comments will be considered in making changes to the Alaska Policy on Railroad/Highway Crossings.

Sincerely,


Juanita Helms, Mayor

Fairbanks North Star Borough

Attachments

JH/TB/bjs

T. J. ...
B...

ATTACHMENT 2

GENERAL COMMENTS

Authority

The policy makes no reference to the source of authority by which the ARR and DOT&PF developed the "Alaska Policy on Railroad/Highway Crossings".

Procedures

There is no reference to a policy of appeal rights nor is there any specified avenue for relief from the administrative decisions of the task force.

Liability

Although the railroad would physically do all of the maintenance of crossings, the policy implies that liabilities due to improper maintenance are the responsibility of the permittee. Expecting the permittee to incur a liability for something that they have no control over, is unreasonable.

Costs

Permittees are supposed to agree to pay all construction and maintenance costs for crossings, yet there are no cost figures included with the permit. This is essentially asking the permittee to sign a blank check, and it makes it impossible to budget for the expense.

In locations where a road right-of-way supercedes the railroad right-of-way, all crossing expenses should be the responsibility of the railroad.

Jurisdiction

The policy does nothing to address how a government entity such as FNSB, with no road powers, can comply with the recommendations. In areas outside of the cities of North Pole and Fairbanks, that are not in service areas, we have no road authority. This power can only be designated by a vote of residents in the area. Until this occurs, we could not expend money for a crossing improvement.

Makeup of Diagnostic Team

The only required members of the diagnostic team are ARRC and DOT&PF. Policy 4.3.2 states,

Diagnostic teams should include as a minimum representative of the ARRC and the DOT&PF Region. Where appropriate representatives of the following should be informed and invited to participate in any on-site evaluation leading to an improvement decision:

- a. The FHWA;
- b. The Agency maintaining the road, if not DOT&PF;
- c. The Borough;
- d. Municipality or other local

This wording provides nothing to ensure that the permitting agency will have any say in the recommendations of the diagnostic team. Policy 4.5.4. requires diagnostic team evaluation before any new crossing is approved. This could result in all future crossing locations being determined by the ARR and DOT&PF. As the land use regulatory agency for the Borough, we find this unacceptable.

So far the ARR and DOT&PF have been very cooperative in having the Borough participate in this process. However, we request that the permitting agency be made a regular member of the diagnostic team.

SPECIFIC COMMENTS

4.5.4.6 This policy states that the dedicated road right-of-way for public crossings must include dedicated clear sight triangles for maximum design highway and train speeds. In some cases this would require right-of-way acquisition. Would the permittee be responsible for this process and the associated costs?

New crossings

4.6 The heading for 4.6 should be changed to accurately reflect the content of the recommendations "Public vs. Private Crossing Criteria". We recommend deleting 4.6.1.1 with regard to the number of parcels as defining the reclassification of "truly 'private' crossings" since three or more parcel owners may indeed wish to have a restricted crossing.

ARR to get Review by

4.6.1 With regard to 4.6.1(3), we strongly urge the insertion of the word "public" and recommend the sentence to read: "The roadway is designated as a public road by the governmental authority responsible for planning and/or zoning..."

Special education buses in the FNSB presently use private roads to transport students. In some instances, regular school buses are also allowed to travel on private easements. This does not make them public roads, according to FNSB definition.

3

4.7.1(4) It seems unreasonable that the permittee should be required to post a sign stating "ARRC Property - Proceed at Your Own Risk". This should be the ARR's responsibility.

ARR is responsible

*Sight Triangles
Train Speed & Traffic Speed
P.L.O.
private land owner*

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
NORTHERN REGION, REGIONAL DIRECTOR

STEVE COWPER, GOVERNOR

2301 PEGER ROAD
FAIRBANKS, ALASKA 99709-53
PHONE: (907) 451-2210

February 11, 1988

Re: 8th Avenue Grade Crossing
Signalization
ARRC Contract No. 23-87-018

Carletta Lewis, Mayor
City of North Pole
P.O. Box 55109
North Pole, AK 99705

Dear Mayor Lewis:

Enclosed are two copies of the Automatic Crossing Signal Construction Agreement. The agreement makes reference to the maintenance permit issued to the City of North Pole. Please execute both originals and return the originals to Ron Tanner at:

Department of Transportation & PF
Traffic-Safety Section
2301 Peger Road
Fairbanks, AK 99709-5316

A copy of the agreement will be returned for your records when the agreement is fully executed.

The project is part of the Annual Highway Safety Improvement Program. This crossing was selected for improvement prior to the existence of the Diagnostic Team Review approach of the Alaska Railroad, and as such has never been subjected to this review. The reasons the crossing was selected for improvement are:

1. Approximately 60 school buses use the crossing each school day.
2. The crossing is an active pedestrian and bicycle path.
3. The trains using the crossing are generally hauling hazardous materials to and from the refinery, and Eielson Air Force Base at least once a day (two crossings of the intersection).
4. The railroad has no set train movement schedule, and school buses using the crossing at the same time as the train is a real possibility.

Mayor Lewis

-2-

February 11, 1988

5. The crossing ranks high in priority for improvement in the Northern Region.

For the above reasons it is felt that the crossing should be protected by both crossing signals and gates.

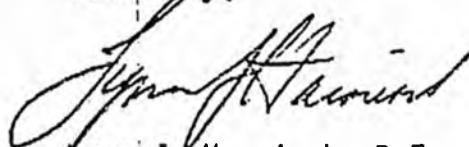
The railroad has furnished us with information representing monthly signal maintenance costs of two crossings which are similar to 8th Avenue, this will give you some idea of the monthly and annual maintenance costs involved.

Since the crossing has not been subjected to a Diagnostic Team Review, we would have no problems if you want to go through this process before we continue through the agreement process.

The project will not be advertised for construction until the agreement is signed and fully executed.

If you have any questions, please contact Ron Tanner at 451-2276.

Sincerely,



Lynn J. Harnisch, P.E.
Regional Director

RT/djh

Enclosures as stated

ALASKA RAILROAD CORPORATION



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

January 5, 1988

JAN - 8 1988

Senator John B. "Jack" Coghill
Representative Mike Miller
Alaska State Legislature
P.O. Box V (MS-3100)
Juneau, Alaska 99811

Gentlemen:

Thank you for your recent letter regarding Alaska Railroad correspondence pertaining to the maintenance of crossings and sight distances. First, I wish to apologize for not being able to respond sooner.

You are correct that the old permits issued prior to the transfer of the Railroad to the State are vague when it comes to required maintenance. Without knowing the specific permit that your letter refers to it is hard for me to address language that may be in that contract. However, typical Road Crossing Permits require the permittee to be responsible for operation and maintenance of crossings including the costs. Additionally, the permittee is required to comply with the Standard Specifications for Work on Railroad Property and any revisions to those standards.

The goal of any transportation agency, which includes providers of roads and related railroad crossings, is to provide for the safe, efficient, and economical movement of people, goods, and services. In order to accomplish the SAFE portion of this goal, it is necessary for permittees to periodically inspect and maintain their crossings according to established standards. I think that we all understand that standards for safety change over time.

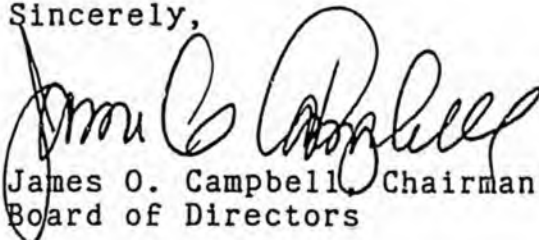
Given the vagueness of the language in the permits, the introduction of concepts such as sight triangles is an attempt to better communicate with our permittees by providing quantifiable guidelines. The ARRC first notified permittees of sight triangle clearances in a letter dated August 12, 1986 which more fully explained the concept. The letter sent on July 13, 1987 was intended to be a reminder of the need to keep adequate sight distances cleared and quite frankly an effort towards better communications.

As you noted, the Alaska Policy on Railroad/Highway Crossings is not specific with regard to existing crossings and sight triangle maintenance. However, it was the understanding of the ARRC Engineering staff who participated in the development of the policy that the sight triangle requirements were to apply as a guideline for existing as well as new crossings. Therefore, our engineering staff is preparing an amendment to the policy to make the language specific. That language should come before the board for approval soon.

Even though it is the ARRC's position that the Corporation does have the unilateral right to establish maintenance standards and requirements for road crossings that will insure safety, I believe as you have suggested that we should get public input on this as well as other subjects and that the recently established Community Briefing Council can provide a forum for this.

Additionally, one of the basic concepts of the Crossing Policy is that community input is needed regarding the upgrading or closing of crossings. I have been informed that at least twelve crossings were looked at in 1987 by diagnostic teams. At each of these reviews the local governments and boroughs have been represented.

Sincerely,


James O. Campbell, Chairman
Board of Directors

cc: ARRC Board of Directors
F. G. Turpin, President and CEO

Thanks for your Christmas
card. See you in December
JOC



Official Business

Alaska State Legislature

P.O. BOX V
State Capitol
Juneau, Alaska 99811

December 2, 1987

James Campbell
Chairman
Alaska Railroad Board of Directors
P.O. Box 107500
Anchorage, AK 99501

Dear Mr. Campbell:

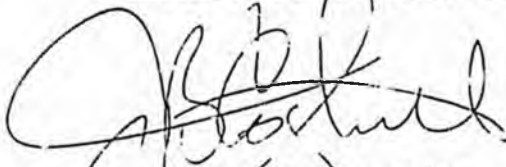
On July 13, 1987 the Alaska Railroad Corporation, (ARRC), sent out a letter to crossing permit holders regarding their responsibility to maintain adequate site distances on their crossings. This letter was signed by Larry Houle.

We have seen a crossing permit contract that does not mention the requirement of the permit holder to keep sight distances clear of obstruction, such as brush and trees. Therefore, the permit holder did not know they would be responsible for brush cutting near the crossing. We have also reviewed the "Alaska Policy on Railroad/Highway Crossings" which was adopted by the ARRC Board of Directors on November 20, 1986. The only reference to sight triangles in this policy is under the new crossing section, it does not mention existing crossings.

We have been informed that ARRC will be sending out new contracts that includes sight triangle responsibilities for permit holders. In essence, ARRC has unilaterally decided that this responsibility will be held by the permit holder without any input from the permit holder. Likewise, ARRC also makes decisions involving maintenance, upgrading and the closing of railroad crossings with minimal or no input from railbelt communities. Many railbelt communities feel they are continually given "take it or leave it" proposals by ARRC.

We strongly believe ARRC should make every effort to have better communication with railbelt communities and involve them in decisions which directly effect them. ARRC has taken a step in this direction by forming a Community Briefing Council. It is our hope that this council not only disseminates information to the communities for ARRC, but will also provide railbelt community input to the ARRC Board of Directors.

We would greatly appreciate the Board taking the time to discuss better communications with railbelt communities.


Senator Jack Coghill

Sincerely,

Representative Mike Miller

SEN. JACK COGHELL

EX BOX 58109
NORTH POLE ALASKA
99705



TOP OF THE WORLD
PHONE 907 488 2281
AT YOUR SERVICE

December 14, 1987

Honorable Juanita Helms
Mayor
Fairbanks North Star Borough
P.O. Box 1267
Fairbanks, Alaska 99707

Dear Juanita:

I am writing to you as a member of the Alaska Railroad Community Briefing Council, so that the City of North Pole's concerns can be formally considered by the Council. I believe that there are several communities that have or will have the problems North Pole is experiencing.

The Alaska Railroad has North Pole "between a rock and a hard place." The City of North Pole has within its boundaries several street crossings of the Eielson Spur Line. The Alaska Railroad has required the City to execute a Contract with them and pay an annual fee in order to keep them open.

The Railroad is stating that the City of North Pole must bear the cost of maintaining these crossings, while the railroad keeps the right to decide what work is to be done and to contract it out at our expense, without our approval. It is virtually impossible to budget for these costs since the community has no control over the decision making process, or indeed any input into it. This situation is made even more offensive by the Railroad's broad interpretation of the Contract. They now insist that brush removal along sight distances which they establish is included in the Contract. However, before we commence with our brush cutting we are to notify the Railroad so they can send out their Flagmen (at \$45.00 per hour?). As you can see, the costs are escalating, and we do not have a choice in the matter, as the Railroad can close our crossings if we do not comply!

Mavor Helms,
ARR
12/14/87

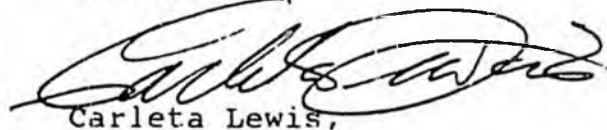
The City received a letter from DOT a few days ago advising us that they are going to install lights and a gate at one of our crossings. We have been told that we will be responsible for all maintenance costs, and electricity. The annual inspection costs for the railroad representatives to check out this one facility are supposed to be in the neighborhood of \$3,000.00.

Juanita, as you know, Revenue Sharing and other sources of municipal revenue have been declining and will most likely continue to decline in the coming years. Communities are having enough economic problems providing basic services without adding expenses at this time. These unknown costs are a real factor in our budget. Meanwhile, the Alaska Railroad is making a profit, and I can see why! The communities through which the Railroad passes are being forced to shoulder the Railroad's financial responsibilities.

In all fairness, there should be a common ground where we can work out a compromise. We will pay our fair share, but we would also like to have input and a choice in the issue. Perhaps the yearly fee can be adjusted to cover the City's cost, or the Railroad could be responsible for some portion of them. Shared, the burden would be less damaging economically and more tolerable philosophically.

I am requesting a 10 year maintenance cost projection from Obbie Weeks in an effort to get a handle on the budgetary impact of Railroad on our community, but the fact remains that we may not be able to afford the Alaska Railroad in our town.

Sincerely,



Carleta Lewis,
Mavor



**Fairbanks
North
Star
Borough**

ATTACHMENT 1

COPY

Mayor: Juanita Helms

September 19, 1986

Mr. John Simpson, Director
Standards and Technical Services
Alaska Dept. of Transportation and
Public Facilities
3132 Channel Drive
Juneau, Alaska 99801

Dear Mr. Simpson:

The Fairbanks North Star Borough has reviewed the Draft Executive Summary describing Alaska Railroad Crossing (ARRC) Policy. We have the following comments:

Section 2.2. Current permits make the road agency responsible for construction and maintenance costs associated with crossings, and makes the road agency responsible for all claims concerning the crossing. Concerning this policy; 1) who actually does the construction and maintenance of the crossing?, and 2) if it is the Railroad, how do they bill the road agency?

Page 2. When the APV was applied to the state's crossings, the Task Force found that the crossings could be upgraded with available state and federal funds. Were local crossings considered?

Section 2.3.5. The program "Operation Lifesaver" is not familiar to all readers and therefore, a short description should be included within this section of text.

Section 2.4.1. The railroad's policy of not permitting new crossings without the concurrence of the diagnostic team is concerning. While the Borough recognizes the need for maintaining safe lines, we are concerned that the diagnostic team consists of ARRC and ADOT/PF officials with the local agency being "invited to attend". Currently, much of the land use planning in

Mr. John Simpson
September 19, 1986
Page 3

realities in our Borough which the ARRC and Task Force must recognize and deal with accordingly before such a policy can be implemented.

Thank you for the opportunity to review and comment on this matter.

Sincerely,

Juanita Helms, Mayor
Fairbanks North Star Borough

JH:pe