

SB

82

Alaska State Legislature

STEVE FRANK

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Senate

While in Juneau
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Juneau, Alaska 99811
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MEMORANDUM

TO: Senator Bert Sharp, Chairman
Senate Transportation Committee

FROM: Senator Steve Frank

DATE: February 15, 1996

SUBJECT: **SB 82 - Opening the Dalton Highway**

SB 82 would open the James Dalton Highway (North Slope Haul Road) for public travel all the way to Prudhoe Bay.

The Dalton Highway is maintained by the Department of Transportation and Public Facilities (DOT/PF) with state general fund dollars. Currently, access past Disaster Creek is limited to those with a "commercial purpose." The Dalton is the only public road in Alaska closed to public travel. Once opened to the public, federal highway monies can be expected to upgrade the road.

Thank you for your consideration.

*New fiscal notes
from DPS, DOT, FIG
and DEC still to come.*

2/15



*Department of Transportation
and Public Facilities*

POSITION PAPER

BILL NO: SB 82

APPROVED:

A handwritten signature in black ink, appearing to read "K. J. ...".

TITLE: Opening the Dalton Highway

DATE: February 16, 1993

The Department of Transportation and Public Facilities (DOT&PF) supports opening the entire Dalton Highway to public use. The existing policy of allowing only commercial, industrial, and residential use is expensive to administer, inhibits capital improvement of the facility, limits growth of Alaska's tourist industry, and has not been effective at preventing renegade public traffic from travelling the route. Opening the road to public use would save DOT&PF money by eliminating the need to process requests and issue permits. It would also allow DOT&PF to move forward with much needed improvements by making Federal Aid Highway Program funding available to the northern half of the route. Federal funding is currently not available to the northern half of the highway specifically because it is closed to public use.

The inability to use federal funding for improvements on the route has made it necessary to devote General Fund and operating monies to needed improvements. This has detracted from the state's ability to perform routine maintenance work. Resources that should have been devoted to such work as grading and plowing have had to be diverted to the most critical resurfacing, settlement and drainage repair needs. Bridges which are in need of repair and strengthening had to be deleted from a previous Federal Aid project. Those bridges currently limit the gross weight of truck traffic serving Prudhoe Bay.

The lack of Federal Aid improvement funding on the northern half of the route, coupled with the need to spread an inadequate maintenance budget thinly across a long list of needed improvement and maintenance, has led to a progressive deterioration of much of the 416-mile route. Approximately 50 miles of the closed section of the route were recently rehabilitated with General Fund money. Prospects for similar funding for needed rehabilitation work on another 157 miles are not encouraging. Without opening the route to public traffic, making it eligible for

BILL NO: SB 82

TITLE: Opening the Dalton Highway

DATE: February 12, 1993

Federal Aid funding, there is no apparent means to accomplish the needed rehab work. The northern half of the route would continue to deteriorate to where service would become less reliable, equipment wear would increase, and eventual highway repair would become prohibitively expensive and difficult. The ability to dedicate Federal Aid funding to the entire route would help efforts to bring the route up to an adequate and efficient level of service. It would also allow maintenance funding to be spent on maintaining the everyday drivability of the route.

Additional traffic resulting from opening the Dalton Highway to public use is not expected to add significantly to the amount of maintenance needed. This is because additional traffic would be light, as evidenced by public use of the portion of the highway that is now open, and because the additional traffic would likely consist of standard passenger vehicles which cause comparatively little wear on the road.

The Bureau of Land Management (BLM) has planned for, and is developing, traveler facilities along the route. In responding to existing needs (including traffic that ignores the existing road closure), BLM has made traveler oriented improvements as far north as Galbraith Lake, approximately 67 miles into the closed section. Their planning efforts recognize the recreational potential of the route and are geared to providing services as recreational growth occurs. The tourism that would be drawn to the Dalton Highway would visit other areas of the state as well, and would profit the tourist industry statewide.

DEPARTMENT OF FISH AND GAME
POSITION PAPER

Bill No: CSSB 82(TRA)

Sponsor: Senator Frank

Division: Wildlife Conservation

Bill Title: An Act relating to the Dalton Highway.

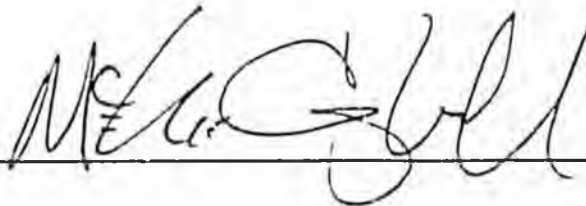
Department Position: Support

Background/Legislative Intent: Except for commercial use, the Dalton Highway is nominally closed to traffic at Disaster Creek. The closure is not strictly enforced. This bill would open the highway to unrestricted public use, allowing access to individuals who may be presently inhibited by the "legal" closure.

Analysis of Bill/Program Effects: There is no check station at Disaster Creek to determine whether travelers have commercial use permits, and there is little enforcement of existing permit requirements. Many people ignore the closure. For all practical purposes, the Dalton Highway is already open, and the department and board manage wildlife species along the highway as though it were open to public use.

Most wildlife species near the highway are abundant and can withstand increased harvest. Most hunters using the highway target the Central and Western Arctic Caribou Herds and hunt in August/September. The Division of Wildlife Conservation has maintained a hunter check station on the highway during those two months to monitor harvest of caribou and other species. We intend to continue operating that check station.

Deputy
Commissioner's Signature

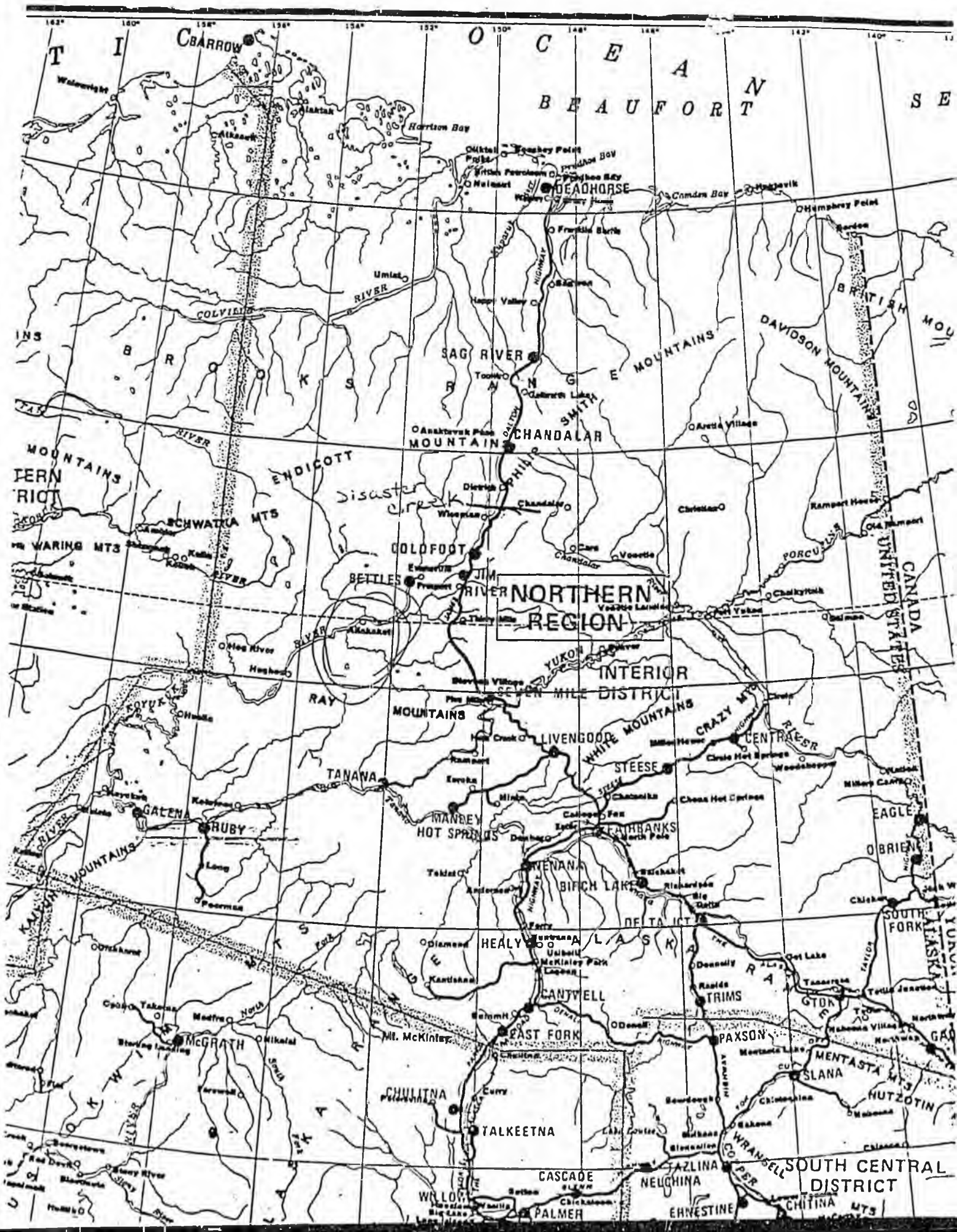


Date 4/19/93

RECEIVED
APR 21 1993

Ans'd.....

Up. 113 and public traffic



MILEAGE FOR ELLIOTT & DALTON HIGHWAYS

LOCATION	FROM FAIRBANKS	FROM MP 0 DALTON	FROM YUKON RIVER	BETWEEN POINTS
TOX	11.5	73.5	130.7	
LIVENGOOD	80.8	4.2	61.4	69.3
0 MILE TAPS	85.0	0.0	57.2	4.2
PUMP STATION 6	140.0	55.0	2.2	55.0
YUKON RIVER	142.2	57.2	0.0	2.2
5 MILE AIRPORT	146.4	61.4	4.2	4.2
7 MILE CAMP	148.0	63.0	5.8	1.6
FINGER MOUNTAIN	185.3	100.3	43.1	37.3
OLD MAN	194.5	109.5	52.3	9.2
BEAVER SLIDE	196.4	111.4	54.2	1.9
ARCTIC CIRCLE	202.0	116.0	60.0	5.8
GOBBLERS KNOW	220.1	135.1	77.9	17.9
PUMP STATION 6	225.4	140.4	83.2	5.3
JIM RIVER MAINTENANCE	226.4	141.4	84.2	1.0
KOYUKUK	245.0	160.0	102.8	18.6
COLDFOOT	264.3	179.3	122.1	19.3
WISEMAN TURNOFF	278.2	193.2	136.0	13.9
ETRICH	300.4	215.4	158.2	22.2
HANDALAR	333.0	248.0	190.8	32.6
ATIGUN SUMMIT	337.6	252.6	195.4	4.6
ATIGUN CAMP	342.5	257.5	200.3	4.9
PUMP STATION 4	361.9	276.9	219.7	19.4
GALBRAITH TURNOFF	367.9	282.9	225.7	6.0
TOOLIK	377.7	292.7	235.5	9.8
MS 117-1	384.0	299.0	241.8	6.3
SAG RIVER MAINTENANCE	399.6	314.6	257.4	15.6
PUMP STATION 3	406.0	321.0	263.8	6.4
ICE CUT	419.8	334.8	277.6	13.8
HAPPY VALLEY	429.8	344.4	287.6	10.0
PUMP STATION 2	455.4	370.4	313.2	25.6
FRANKLIN BLUFFS	474.7	389.7	332.5	19.3
END OF DALTON HIGHWAY	511.9	426.9	369.7	37.2
DEADHORSE AIRPORT	515.9	430.9	373.7	4.0



U.S. Department of the Interior
Bureau of Land Management

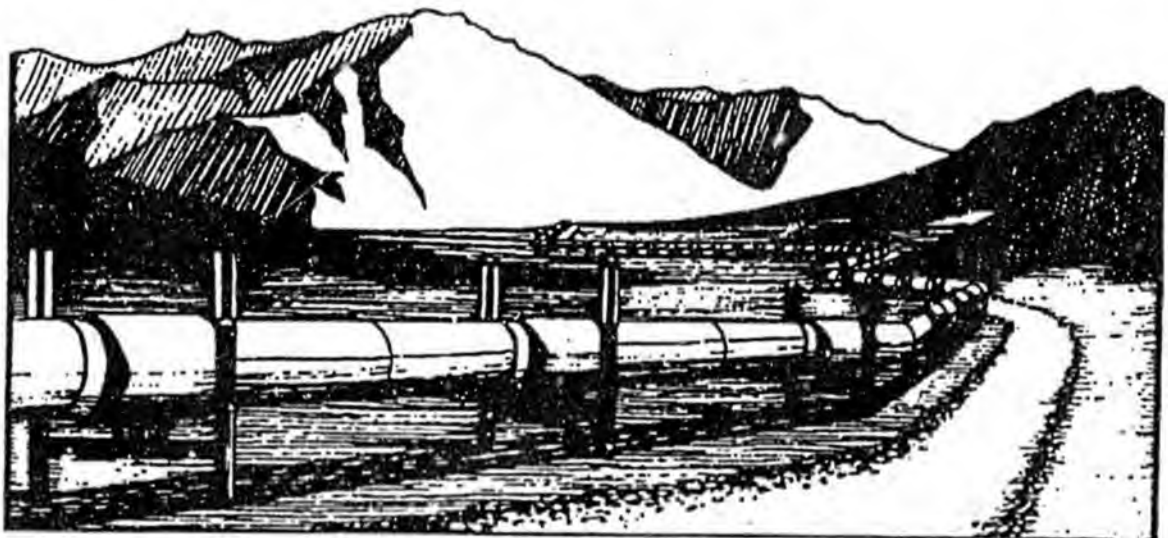


Arctic District
Fairbanks, Alaska

November 1991

Dalton Highway Recreation Area Management Plan

Summary



576 22 1991

The Bureau Mission

The Bureau of Land Management is responsible for the stewardship of our public lands. It is committed to manage, protect, and improve these lands in a manner to serve the needs of the American people for all times.

Management is based on the principles of multiple use and sustained yield of our nation's resources within a framework of environmental responsibility and scientific technology.

These resources include recreation, range, timber, minerals, watershed, fish and wildlife, wilderness, air, scenic, scientific and cultural values.

Dalton Highway Recreation Area Management Plan

Summary

prepared by:

The Bureau of Land Management
Arctic District
1150 University Avenue
Fairbanks, Alaska 99709-3844
Telephone: (907) 474-2202

November 1991

Contents

Background.....	1
Location Map.....	2
Recreation Planning Area	3
A Need to Plan.....	3
Management Objectives	4
Facilities Map	6 & 7
Recreation Opportunity Spectrum Classifications	9
Proposed Facilities and Construction Schedule	10
Construction Phase 1	11
Construction Phase 2 & 3	12
Project Planning.....	13
Facility Development Table	14

Dalton Highway Recreation Area Management Plan

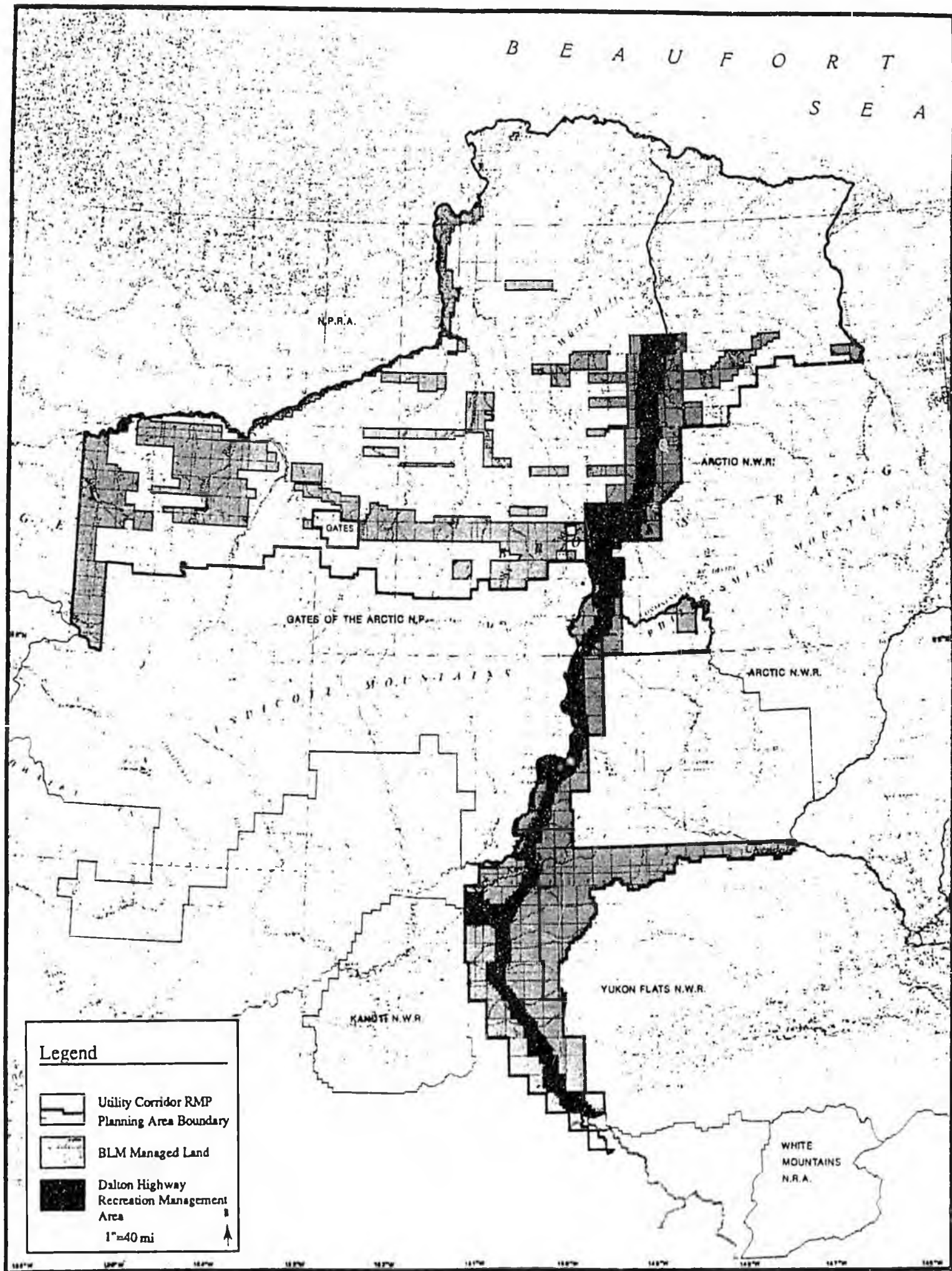
Background

The Dalton Highway Recreation Area Management Plan is a direct descendant of the Utility Corridor Resource Management Plan (RMP), completed in January 1991. The Utility Corridor RMP, a *general* land use plan, recognized a need for more detailed and specific planning for recreation along the Dalton Highway. To facilitate this recreation-specific planning, or *activity planning*, the RMP established five recreation management areas, one of which is the Dalton Highway Recreation Management Area (see page 3). The RMP placed a very high priority on completion of a recreation activity management plan for this area.






** Note: The Utility Corridor RMP addressed many issues, including recreation, mineral development and state selection of lands. The RMP planning area included not only the Utility Corridor, but many other lands north of the Yukon River, including the Central Arctic Management Area and the Venetie Block. The total RMP planning area included 6.1 million acres of BLM-managed land.*

B E A U F O R T
S E A



Legend

-  Utility Corridor RMP Planning Area Boundary
-  BLM Managed Land
-  Dalton Highway Recreation Management Area
- 1"=40 mi



Dalton Highway Recreation Management Area

Recreation Planning Area

The Dalton Highway Recreation Area Management Plan (RAMP) addresses approximately 1.1 million acres of public land within the Utility Corridor. It does not cover all Utility Corridor lands—only those corridor lands closest to existing roads, including the Dalton Highway, the Bettles winter road, the Tramway Bar (mining) road and the Wiseman-Nolan-Hammond roads.

A Need to Plan

Since 1981, much of this area has been accessible to anyone with a car or motorhome. While recreational activity along the Dalton Highway is still relatively light, it is significant and it is increasing. Although there is little data on visitor use, BLM recreation planners in the corridor area estimate that approximately 11,000 visitors arrive by privately owned vehicle and approximately 5,400 visitors travel through as part of commercial tour groups between June and September each year. These figures are expected to triple in the next 10 years if the road north of Disaster Creek (mile 211 Dalton Highway) is opened to public travel.

Existing tourist facilities are few and far between along the Dalton Highway. To accommodate current and future recreational demands, ensure visitor safety, manage the resources and protect the integrity of the energy transportation corridor, BLM needs to identify not only appropriate management objectives, policies and actions, but future staffing and funding requirements.



Management Objectives





Using BLM's Recreation Opportunity Spectrum classifications, the Dalton Highway Recreation Management Area has been divided into four management zones, each with a different management objective or strategy. The zones are defined on page 9.




- Arctic Coastal Plain Overlook
- Sagwon Bluffs Overlook
- Happy Valley MRS*
- Ice Cut Interpretive Site
- Slope Mountain Overlook
- Toolik Lake Overlook
- Galbraith Lake MRS*
- Atigun Valley Overlook
- Spike Camp Creek Wayside
- Chandalar Shelf Overlook
- Upper Dietrich River Wayside
- Nutirwik Creek Trailhead
- Arctic Loon Ponds Overlook
- Disster Creek Wayside/RV Overflow
- Bettles River Trailhead
- Sukakpak Mountain Wayside/Interpretive Site
- Gold Creek Trail Trailhead, Corral
- Bob Marshall Overlook/Interpretive Site
- Coldfoot Node MRS*
- Rosie Creek Corral
- Cathedral Lake Overlook
- Tramway Bar Recreation Site
- Chapman Lake Interpretive Site
- Casper Lake Trailhead
- South Fork Koyukuk River Recreation Site
- Grayling Lake Recreation Site
- Prospect Creek/Jim River MRS*
- Solstice Point Wayside
- Little Nasty Creek RV Overflow
- Bonanza Creek Corral, Trailhead
- Arctic Circle MRS*
- Old Man RV Overflow
- Olsons Lake Overlook
- Finger Mountain Wayside/Overlook
- Whimbrel Hill RV Overflow
- Yukon Flats Overlook
- Sand Hill Interpretive Site
- Ray River Access
- Yukon Crossing MRS*

**Recreation Area Management Plan
Facilities**

Legend

-  Dalton Highway Recreation Management Area
-  Utility Corridor Boundary
-  State Selection Area: sites located here will be developed only with the concurrence of the state.
-  Multiple Recreation Site


Map Location

Scale in Miles
0 5 10

Recreation Opportunity Spectrum Classifications

Rural: This classification includes the four areas identified by the Utility Corridor RMP as development nodes. The nodes are located at Yukon Crossing, Coldfoot, Chandalar Shelf and Happy Valley. A high degree of recreational development will be allowed in these areas. Development will include visitor centers, campgrounds, dump stations and commercial operations providing lodging, RV hookups, food, auto repair, etc.

Roaded Modified: These areas are characterized by a significant modification of the landscape and include former construction camps, existing pump stations and areas of extensive mining activity. In some of these areas, recreation activity and new development is considered inappropriate. In others, such as within the *roaded modified* area near Prospect Creek, a campground is proposed. Large-scale recreational development, such as campgrounds, will be limited to as *roaded modified* and *rural areas*.

Roaded Natural: This area generally includes lands within a half-mile either side of the Dalton Highway, the Bettles winter road, the Tramway Bar (mining) road and the Wiseman-Nolan-Hammond roads. The area's boundaries vary from the half-mile standard where necessary according to terrain and resultant viewshed. Within this zone, limited recreational facilities will be provided, including overlooks, waysides, small picnic areas and horse corrals. BLM will strive to maintain a generally natural environment while protecting the corridor's primary function of being a transportation corridor for energy materials.

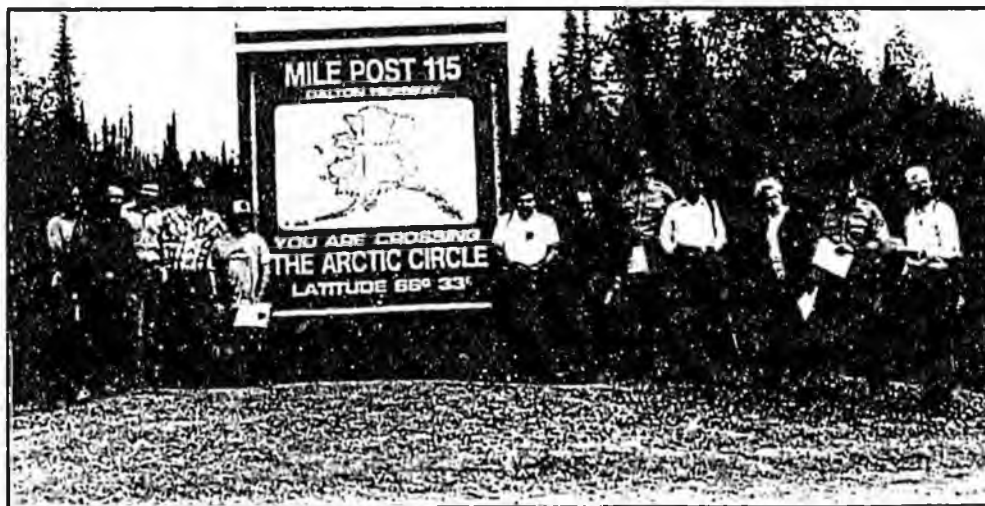
Semi-Primitive Motorized: These lands are generally more than a half-mile from improved roads and are characterized by an essentially unmodified environment. Facility development will be limited to marking and occasional clearing (or other minor improvement) of existing trails, and possible rehabilitation of existing cabins that are in trespass on public lands.

Proposed Facilities and Construction Schedule

Several factors were considered in developing an implementation schedule for facility construction. Among the considerations were: the issue(s) to be addressed by the proposal (safety was considered a high priority), current and projected user demand, project cost, available staffing and site location. Another factor that would be considered prior to construction would be the status of the Dalton Highway for public travel. Construction of certain facilities will not occur if the northern part of the road remains closed. Construction of facilities north of Toolik Lake, on lands to be opened to state selection under the Utility Corridor RMP, will occur only if the state concurs and appropriate agreements are reached. Lands that will be opened to state selection at Coldfoot will not include lands identified by the BLM as necessary for facility development.

BLM's Arctic District has proposed the following facility construction schedule for the Dalton Highway Recreation Management Area, however, implementation could be affected by any of several factors discussed above.

Note: Facility construction and implementation of all aspects of the proposed plan are dependent on adequate funding. If such funding is not available, implementation schedules will be adjusted accordingly.



Construction Phase 1

Phase 1 Construction (first 3 years):

Yukon Crossing:

- Temporary Visitor Contact Station *
- Dump station
- RV Overflow *

Yukon Flats Overlook

Whimbrel Hill RV Overflow *

Finger Mountain:

- Wayside
- Interpretive Site

Old Man Camp RV Overflow *

Arctic Circle:

- Wayside/Interpretive Site *
- Campground
- RV Overflow *

Little Nasty Creek RV Overflow *

Solstice Point Wayside/Interpretive Site *

Prospect Creek/Jim River RV Overflow *

South Fork Koyukuk Recreation Site (sanitation and litter only) *

Cathedral Lake Overlook

Rosie Creek Corral

Coldfoot:

- Marion Creek Campground
- Dump Station *
- Administrative Site
- Trailhead
- RV Overflow *

Sukakpak Mountain Wayside/Interpretive Site *

Disaster Creek RV Overflow *

Upper Dietrich River Wayside

Spike Camp Creek Wayside

Atigun Valley Overlook

Galbraith Lake:

- Visitor Contact Station
- Wayside *
- RV Overflow *

Toolik Lake Overlook

Happy Valley RV Overflow **

* Denotes projects to be completed for Rendezvous '92, the year-long celebration of the 50th anniversary of the completion of the Alaska Highway in 1942.

** Denotes sites on land available for state selection (no development without state concurrence)

Construction Phases 2 and 3

Phase 2 Construction (years 4 - 6):

Yukon Crossing:

- Permanent Visitor Center
- Campground
- River Parking
- Administrative Site

Ray River Access

Bonanza Creek:

- Trailhead and Corral
- Cabin

Prospect Creek Campground

Grayling Lake Recreation Site

South Fork Koyukuk Recreation Site

Chapman Lake Interpretive Site

Tramway Bar Recreation Site

Coldfoot:

- Visitor Center
- River Access

Bob Marshall Interpretive Site

Gold Creek Trailhead

Disaster Creek Wayside

Arctic Loon Ponds Overlook

Chandalar Shelf Overlook

Galbraith Lake Campground

Slope Mountain Overlook**

Happy Valley:**

- Administrative Site**
- Wayside**

Phase 3 Construction (years 7 - 10):

Sand Hill Interpretive Site

Olsons Lake Interpretive Site

Casper Lake Trailhead

Bettles River Trailhead

Nutirwik Creek Trailhead

Galbraith Lake:

- Corral
- Trailhead

Ice Cut Interpretive Site**

Sagwon Bluffs Overlook**

Arctic Coastal Plain Overlook**

Project Planning

All facility development will require a project plan. Project planning involves a site-specific analysis and evaluation of the proposed development. This will result in a last refinement of the proposal, including a final determination of use areas, facilities and services required. It is during project planning that design parameters will be established, site limitations and project-specific mitigation identified, and an environmental assessment completed. State, borough, other federal agency, and industry involvement is critical at this stage. Through various agreements with each of these parties, BLM hopes to establish appropriate contact points and procedures to facilitate this phase of planning.

Project planning is followed by project survey, design and construction.

Facility Development

Site Name or Location	Mile post	Primary Issues ¹ Addressed	Type of Development	R/T ²	Primary Activities ³ Possible	Phase ⁴
Yukon Crossing Node (includes 60 Mile site)	56 to 60	All	visitor contact station, dump station, campground, river access, administrative site, RV overflow area	R/T	camping, fishing, boating, hiking, picnicking, hunting, interpretive sightseeing	1 & 2
Ray River	70	RO	river access	-	floatboating, fishing, hiking, hunting	2
Sand Hill	73	I	interpretive site	-	interpretive sightseeing	3
Yukon Flats	86	I	overlook	-	interpretive sightseeing	1
Whimbrel Hill	94	RP	RV overflow	-	overflow camping	1
Finger Mountain	98	H&S, I	wayside, overlook	R/T	interpretive sightseeing, hiking	1
Olsons Lake	103	I	overlook	T	interpretive sightseeing, hiking	3
Old Man Camp	107	RP	RV overflow	-	overflow camping	1
Arctic Circle	115	All	campground, wayside, RV overflow, interpretive site	R/T	camping, hiking, interpretive sightseeing, picnicking	1
Bonanza Creek	124	RP, RO	corral, trailhead, cabin	R/T	hunting, hiking, fishing, floatboating, camping	2
Little Nasty Creek	129	RP	RV overflow	-	overflow camping	1
Solstice Point	132	H&S, I	wayside	R/T	interpretive sightseeing, off-road vehicles	1
Prospect Creek/ Jim River	135	RP, RO	campground, RV overflow	R/T	camping, fishing, hunting, hiking, floatboating, interpretive sightseeing, picnicking	1 & 2
Grayling Lake	150	RO	lake access, dock	T	floatplane access, picnicking	2
South Fork Koyukuk River	156	RP	recreation site	R/T	fishing, hunting, hiking, floatboating, recreational mining	1 & 2
Casper Lake	158	RO	trailhead, cabin	T	fishing, hiking, hunting	3
Chapman lake	161	RP, I	interpretive site	T	fishing, hiking, picnicking	2
Tramway Bar	161	RO	river access, recreation site	T	floatboating, fishing, hunting, picnicking	2
Cathedral Lake	165	I	overlook	-	interpretive sightseeing	1
Rosie Creek	173	RP	corral	T	horseback riding, hunting	1
Bob Marshall	187	I	overlook	T	interpretive sightseeing	2
Coldfoot Node (includes Marion Creek)	175 to 180	All	visitor contact facility, administrative site, campground, river access, trailhead, RV overflow, dump station	R/T	camping, interpretive sightseeing, floatboating, fishing, hiking, hunting, picnicking, dog mushing	1 & 2

Site Name or Location	Mile post	Primary Issues ¹ Addressed	Type of Development	R/T ²	Primary Activities ³ Possible	Phase ⁴
Gold Creek Trail	197	RP, RO	trailhead, corral	T	off-road vehicles, hiking, horseback riding, hunting, recreational mining	2
Sukakpak Mountain	204	H&S, I	wayside, interpretive site	R/T	interpretive sightseeing	1
Bettles River	207	RO	trailhead, river access	-	fishing, hiking, hunting, floatboating, recreational mining	3
Disaster Creek	211	RP	wayside, RV overflow	R/T	rest area, turnaround	1 & 2
Arctic Loons Ponds	215	I	overlook	T	interpretive sightseeing	2
Nutirwik Creek	227	RO	trailhead	T	hiking	3
Upper Dietrich River	235	H&S	wayside	R/T	rest area	1
Chandalar Shelf	237	I	overlook	-	interpretive sightseeing	2
Spike Camp Creek	250	H&S	wayside	R/T	interpretive sightseeing, rest area	1
Atigun Valley	261	I	overlook	-	interpretive sightseeing	1
Galbraith Lake	275	All	campground, wayside, corral, trailhead, RV overflow	R/T	camping, hiking, interpretive sightseeing, picnicking	1 & 2
Toolik Lake	286	I	overlook	-	interpretive sightseeing	1
<i>Slope Mountain</i>	301	I	overlook	T	interpretive sightseeing	2
<i>Ice Cut</i>	325	I	interpretive site	-	interpretive sightseeing	3
<i>Happy Valley Node</i>	334	H&S, RP	wayside, RV overflow, administrative site	R/T	rest area, overflow camping	1 & 2
<i>Sagwon Bluffs</i>	344	I	overlook	-	interpretive sightseeing	3
<i>Coastal Plain</i>	354	I	overlook	T	interpretive sightseeing	3

NOTE: Sites indicated in italics are on lands to be available to state selection; further planning and development will not proceed without state concurrence.

¹ Issues:

H&S: Visitor Health, Safety and Basic Services

RP: Resource Protection

RO: Developed Recreation Opportunity

I: Information and Interpretation

² R/T: Indicates presence of restrooms (R) and/or trash (T) receptacles

³ Primary activities best suited for this area. (At present, snowmachining opportunities are restricted by State law, thus it is not listed. Snowmachining will be an opportunity at many locations if restrictions are lifted.)

⁴ Phase indicates when construction is to begin (assuming funding is available). At sites where many facilities are proposed with different development schedules, more than one phase may be indicated. Phases indicated are:

1: First phase construction, to begin in first 3 years;

2: Second phase construction, to begin in years 4 through 6;

3: Third phase construction, to begin in year 7 or later.

**TANANA CHIEFS CONFERENCE, INC.**

122 FIRST AVENUE
FAIRBANKS, ALASKA 99701-4897
PHONE (907) 452-8251 FAX (907) 451-8938

February 22, 1993

Mr. Edward Kussy
Deputy Chief Counsel
Office of Chief Counsel
Federal Highway Administration
400 Seventh St.
Washington, D.C. 20590

Re: North Slope Haul Road (Dalton Highway)

Dear Mr. Kussy:

The Alaska State Legislature is currently considering legislation to open the Dalton Highway (North Slope Haul Road) to the general public. The road runs from the Yukon River to the North Slope and is currently partially closed to the general public. It is open principally for industrial and commercial traffic in support of the North Slope oil development. The opening of the road is a controversial matter, and administrative attempts to open the road to the general public has been the subject of ongoing litigation against the State. Tanana Chiefs Conference (the regional Native non-profit corporation for Interior Alaska) is a party to that litigation and is opposed to the opening of the road to the general public without restrictions. The federal government is not a party to any litigation on the issue at this time, however, the controversy gives rise to several questions, which we hope you may be able to clarify.

The highway is seriously under-maintained, and some proponents of the opening have argued that opening the road to the general public will make available federal highway construction funding for reconstruction efforts. While we understand that as a general matter, FHWA funding may only be used on public highways, we believe that the Dalton Highway is exempt from this requirement under 16 USC §3172(a). We are therefore requesting a clarification on this issue. Specifically, can Federal highway construction funds be used on the Dalton Highway if it remains partially closed to general public use?

There are two sub-issues relating to the obligation of the Governor and the Secretary of Transportation to enter into an agreement relating to the number of vehicles and seasonality of use of the road under this section. The statute clearly uses mandatory language respecting this agreement. We understand that this has not been executed, however, we believe that this could be done easily. It could be that the absence of this agreement is the reason why federal funds have not be used on the haul road. If this is the case, we would appreciate clarification on this matter. On the other hand, given that this section of ANILCA uses mandatory language respecting this agreement and regulation, there is a question whether the state may unilaterally open the haul road without a federal-state agreement respecting the number of vehicles and seasonality of use of the road under this section. Considering this language, may the State unilaterally open the road to public use in the absence of such an agreement between the Governor and the Secretary?

It also appears that 16 USC §3172(b) relieves the State of Alaska from any obligation to repay funds to the Federal Highway Administration because of its failure to comply with federal statutes relating to standards of maintenance and public use. The statute seems to suggest that the State's obligation to repay these funds is released only so long as the road remains closed in accordance with the provisions of 16 USC §3172(a). If the road is open to the general

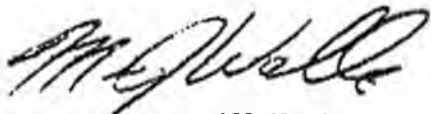
public, would the state be liable to the FHWA for prior federal construction expenditures?

Finally, we believe the Dalton Highway is classified as a secondary highway. There is no dispute that the roadbed has seriously deteriorated and that the road does not comply with federal highway standards. Consequently, it is very questionable as to whether the State has fulfilled its obligations to maintain the road to these federal standards. We understand that these standards have been waived by §3172, and that if the road is opened to the public, this waiver would no longer apply. If the State had an obligation to maintain the road in compliance with these standards, we believe that it would require virtual reconstruction of the road. Our final question is, if the road is open to the general public, would the state be obligated to maintain the road according to federal standards?

Thank you for your consideration of these matters. We hope to hear from you soon.

Sincerely,

TANANA CHIEFS CONFERENCE, INC.



Michael J. Walleri
General Counsel

cc: Congressman G Miller
Sen. G. Lincoln
Rep. E. McLean
Rep. I. Nikolai

Draft 12/10/92

**AGREEMENT RESPECTING THE MANAGEMENT OF THE DALTON
HIGHWAY AND THE TRANS-ALASKA UTILITY CORRIDOR**

Pursuant to §§ 1201 and 809 of the Alaska National Interest Lands Conservation Act the US Dept. of the Interior, Bureau of Land Management, the State of Alaska, the North Slope Borough, the Tanana Chiefs Conference, Inc, and the Northern Alaska Environmental Center, hereby enter into this agreement in settlement of certain litigation respecting the management of Dalton Highway and the Trans Alaska Utility Corridor.

Introduction

WHEREAS, the North Slope Borough and the Tanana Chiefs Conference, Inc. have obtained an injunction against the State of Alaska to challenge certain changes in State administrative regulations and management policies which would open the Dalton Highway to non-commercial/non-industrial traffic north of the Yukon River, the matter having been appealed by the State and currently pending before the State Supreme Court, and

WHEREAS, the parties to that litigation seek to settle their claims by providing mitigation for impacts upon subsistence and provide for governmental service impact assistance to local governments,

WHEREAS, Efforts to mitigate the impacts on subsistence and demand for governmental services in the vicinity of the Dalton Highway require coordination between the Bureau of Land Management, which manages the land within the Trans Alaska Utility Corridor, and the State of Alaska

WHEREAS, the Northern Alaska Environmental Center has brought suit against the Bureau of Land Management challenging the RMP and RAMP

adopted by the BLM for the Trans-Alaska Utility Corridor, and

WHEREAS, the State and the BLM are desirous of protection of subsistence resources in the area and to promote economic development which will benefit the residents of the area,

WHEREAS, the parties mutually agree that the identification of mutual goals commonly and coordination of planning between the relevant agencies will avoid conflicts in management of the Dalton Highway and the Trans Alaska Utility Corridor

WHEREAS, the BLM RMP and RAMP for calls for the establishment of cooperative agreements under §1201 of ANILCA for the coordination and cooperation between resource management agencies, adjacent landowners and resources users,

NOW THEREFORE THE PARTIES NAMED ABOVE, IN MUTUAL CONSIDERATION FOR THE PROMISES STATED HEREIN, HEREBY AGREE AS FOLLOWS:

I. OPENING OF DALTON HIGHWAY

(a) The State may open the Dalton Highway to non-industrial, non-commercial traffic at all times, except as follows:

- 1) that the portion of the Dalton Highway north of the Yukon River, will be closed to non-industrial and noncommercial traffic at any time in which a GMU or portion of a GMU transected by the Highway is open for the harvest of moose, caribou, or bear;
- 2) that the portion of the Dalton Highway north of the Yukon River will be closed to non-industrial and noncommercial traffic for any fiscal year that the State or the Federal government fails to fund the operations and

capital budget items necessary to comply with Sections II and III of this agreement.

(b) The State and the BLM shall prohibit use of the Dalton Highway by any individual or group of individuals, for aiding or facilitating the transportation of such individual into or out of the GMU's transected by the Dalton Highway for the harvest of moose, bear or caribou, or for the purpose of trapping, or for the purpose of removing any wild game or game parts from such GMU's. The State and the BLM shall make best efforts to adopt the prohibitions of this subsection in regulations of the Alaska Department of Fish & Game or Alaska Department of Transportation, and the regulations of the United States Department of the Interior.

(c) Closures under subsection (a) and prohibitions under subsection (b) of this agreement shall not restrict access or the use of the Dalton Highway by hunters otherwise qualified to harvest moose, caribou or bear for subsistence uses or for such other harvest of moose, caribou or bear by bow and arrow, as may be otherwise provided for by applicable regulation. For the purposes of this subsection, access for non-industrial or noncommercial traffic for permitted uses may only be accommodated by the establishment of a permit system.

II STATE MANDATED SERVICES.

(a) With respect to the Dalton Highway and the GMU's transected by the Dalton Highway, the State shall

(1) operate and maintain search and rescue and emergency medical services for the Dalton Highway, and shall assume all costs associated with such program,

(2) reconstruct that portion of the Dalton Highway necessary to return the road surface, base and shoulders, to original design construction specifications.

(3) maintain a minimum of two state troopers for patrol of the Dalton Highway north of the Yukon River,

(4) maintain a minimum of two fish and wildlife enforcement officers for patrol of the Utility Corridor,

(5) cooperate in the review and study required under Sec. III(c) of this agreement, which shall include, but not be limited to providing all available data on fish and game populations and subsistence use in the study area at no cost to the BLM or other cooperating agencies.

III. BLM MANDATED SERVICES.

(a) The BLM shall maintain the following personal and support services, within the Trans-Alaska Utility Corridor:

- (1) three BLM Rangers, two of whom must be stationed at the visitor center to be constructed at the Dalton Highway Crossing of the Yukon River,
- (2) one paramedic, whose services are to be coordinated with the

The rangers under this section shall have the authority to enforce the terms of this agreement respecting access and use of the Dalton Highway, and state and federal hunting and fishing regulations in the Utility Corridor and adjacent federal lands, as well as State and federal regulations which currently exist or may be adopted to implement compliance with this agreement.

(b) The BLM shall construct operate and maintain a visitor center serving the Utility Corridor to be located on the Dalton Highway in the vicinity of the Dalton Highway Crossing of the Yukon River. The visitor center shall include a gate, which shall be supervised by BLM, across the Dalton Highway to control access in accordance with this agreement. The visitor center shall also contain space available to tour concessionaires, which shall include, but not be limited to, Dinyee Corporation. Concessionaire operations of the visitor center shall be operated in accordance with Section IV of this agreement. The Construction of the Yukon River Crossing visitor center shall have a priority over the construction of other BLM support facilities.

(c) The BLM, or other appropriate Interior Department agency, shall undertake, within one year, to conduct a review of the fish and wildlife resources of the Utility Corridor to determine the optimum healthy population levels of bear, caribou, and moose within the Utility Corridor and adjacent federal lands within the GMU's transected by the Utility Corridor. The review will also include a baseline study of subsistence use of such resources which shall assess the customary and traditional level of subsistence harvest of such resources by the rural residents having a customary and traditional subsistence use of such resources. This study shall be completed by January 1, 1996. In conducting baseline study of subsistence use, the BLM will seek to develop a cooperative agreement under Section 809 of ANILCA with Tanana Chiefs Conference and the North Slope Borough.

IV. LOCAL ENTERPRISE DEVELOPMENT OPPORTUNITY PROGRAM.

(a) There shall be established a local economic development task force composed of one person appointed by each of the following: the Commissioner of the Alaska Department of Community and Regional Affairs, the Mayor of the North Slope Borough, the Yukon Tanana Sub-regional Board of Tanana Chiefs Conference, Inc., and the Alaska State Director of BLM. The task force shall meet on at least a quarterly basis and identify local enterprise opportunities arising out of the management of the Dalton Highway and the Utility Corridor, including but not limited to concessions, licences, and maintenance or construction contracts. The task force shall also seek to identify businesses owned and operated by residents of communities within the Utility Corridor, the North Slope Borough and the communities of Allakaket, Alatna, Hughs, Huslia, Tanana, Rampart, Minto, Evansville, and Stevens Village, including but not limited to the the ANCSA corporations of the two regions, to participate in such local enterprise opportunities. The costs for the operations of the Taskforce shall be born by the State and the BLM in equal shares.

(b) There shall be established a local development opportunity program by the Alaska Department of Community and Regional Affairs. The program will assign staff to assist the local economic development task force organized pursuant to this section, and to

assist local enterprises in participating in local enterprise opportunities identified by the taskforce, which shall include such assistance as the development of business plans, contract proposals and finance packaging.

V. LAND USE ADVISOR COMMITTEE

(a) There shall be established a land use advisor committee composed of one person appointed by each of the following: the Commissioner of the Alaska Department of Community and Regional Affairs, the Mayor of the North Slope Borough, the Yukon Tanana Sub-regional Board of Tanana Chiefs Conference, Inc., the Northern Alaska Environmental Center, and the Alaska State Director of BLM, The task force shall meet on at least a quarterly basis. The State and BLM shall advise and give notice of planned development activity for the Dalton Highway and the Utility Corridor at such meetings prior to submission of any budget requests to fund such activity or the application for required permits or licences, or proposal of regulation whichever is prior in time, provided that hunting and fishing regulations establishing seasons and bag limits shall not be subject to these provisions. Upon the request of any advisor committee member and the identification of concerns by such advisor that the proposed activity is inconsistent with the principles stated in sub-section (b) of this section, such development shall be referred to mediation as provided in this section, and such development activities shall abate pending resolution of the mediation process.

(b) Proposed activities within the Utility Corridor and the Dalton Highway shall be evaluated based upon the following principles:

(1) The primary purpose of the Utility Corridor is to facilitate transportation in support of industrial development of the North Slope oil and gas fields.

(2) The wild renewable resources of the Corridor and adjacent federal lands shall be managed in a manner consistent with the provisions of Title VIII of ANILCA, which provide for the maintenance of healthy fish and wildlife populations and priority in use for rural subsistence residents having a customary and traditional use of the subject populations.

(3) The environmental integrity of the corridor shall be maintained for the purpose of protecting healthy populations of fish and wildlife, scenic opportunities and recreational values. Mitigation of environmental impacts shall be contingent upon data, and shall employ the highest operationally intensive and least capital intensive responses. Prior to such responses, the proposing agency shall first monitor and collect data respecting anticipated impacts and develop alternative responses for agency consideration.

(4) Recreational development alternatives shall be selected to maximize highest multiplier economic effect within the local economies of the area and to mitigate the cumulative environmental impacts in the area in a manner consistent with paragraph (3) of this subsection.

(5) Trails and trailhead development within the corridor which provide access to lands not within the corridor and managed by agencies other than the BLM shall be consistent with land management plans for such management units.

(c) Upon referral to mediation, the committee shall request the services of the US Department of Justice Community Mediation Services, or other mediator identified by the Committee. The advisor having such concerns shall submit written statements of concern respecting the proposed activity. Other advisors may submit responses. Upon submission of these statements the mediator shall undertake mediation efforts to resolve the respective articulated concerns. The parties may undertake litigation in a court of competent jurisdiction respecting a proposed activity only in the event an impasse is declared by the mediator.

VI. RAMP MODIFICATION AND/OR REVIEW.

(a) The following proposed projects identified in the Utility Corridor RAMP shall be deleted from such plan:

- * Ray River Access
- * Finger Mountain

- * Bonanza Creek
- * Prospect/ Jim River
- * Gold Creek,
- * Bettles River Parking, and
- * all proposed corrals.

(b) The following proposed projects identified in the Utility Corridor RAMP shall not be subject to further review under section V of this agreement:

- * Yukon Crossing
- * Arctic Circle
- * Bob Marshall Overlook
- * Coldfoot, except for Boat Ramp development.

(c) All remaining proposed projects identified in the Utility Corridor RAMP shall be subject to further review under section V of this agreement.

VII. STATE INDEMNITY OF LOCAL GOVERNMENTS AND SERVICE PROVIDERS

The State shall indemnify, hold harmless and otherwise reimburse local governments and service providers in the area for any costs, claims or liabilities incurred in providing or failure to provide emergency, medical, search and rescue services to the public.

IX. ENFORCEMENT.

Any party may seek to enforce the terms of this agreement in a court of competent jurisdiction, provided that with respect to matters addressed Sec. V, such parties shall exhaust the mediation process.

X. SETTLEMENT OF LITIGATION.

This agreement shall become effective upon execution of this document by all the named parties indicated above. Within thirty days of the execution, the parties to this agreement shall dismiss all pending litigation. Notwithstanding such dismissals, the State agrees to pay the award of attorney fees to plaintiffs in the case of North

Slope Borough, et al. v Turpin, et al., Case No. _____
(Ak. Superior Court).

TESTIMONY
OF
MICHAEL J. WALLERI

General Counsel
TANANA CHIEFS CONFERENCE

before the
Senate Transportation Committee
Alaska State Legislature

regarding

S. B. 82
OPENING OF THE DALTON HIGHWAY

Feb. 23, 1993

The removal of use restrictions on the Dalton Highway is a controversial issue that has plagued the Alaskan political scene since the construction of the road and the pipeline. Tanana Chiefs Conference has always opposed unrestricted use of the road because of the likely negative impacts upon subsistence uses and resources in the area. Generally, TCC's policy is to protect subsistence uses and resources in the area, and to assure that economic development in the area benefits the local communities. TCC is more concerned about the impacts of general access into the Corridor, than the mere fact of access. This legislation fails to address the impact issues.

Our biggest problem has been with illegal hunting in the corridor. While it is illegal to hunt in the corridor, hunting occurs on a regular basis because the road is open now during hunting season and there is no law enforcement in the area. The lack of state law enforcement in the area has seriously depleted game populations in the area. TCC would like to see some controlled tourism development in the area, however, unregulated access into the area will destroy the subsistence economy in the area. The easiest and most effective way to control illegal hunting is to control access on the Dalton Highway. With proper controls- which are not in place at the current time- access for other uses can occur. In the absence of such controls, TCC must oppose any further lessening of restrictions.

The wider policy considerations of the issue include concerns about national defense issues, protection of wilderness values, conflicts with commercial and industrial users, safety, maintenance, liability issues and the cost/benefit of general public use of a road which does not serve a community and is primarily serves the oil fields of the North Slope. Additionally, the lands in the Utility Corridor south of the Brooks Range are owned and managed by the BLM, and are inextricably tied to the BLM management plans for the Trans-Alaska Utility Corridor.

In 1991, the Administration sought to remove use restrictions by a change in the State regulations. TCC and the North Slope Borough, brought suit and obtained an injunction under state law to prevent the opening. The Court held that the administration had violated the Administrative Procedure Act by failing to properly produce the required administrative fiscal notes. Additionally, the

Court held that the road could not be opened unless the legislature changed the Dalton Highway Act. The matter continues in litigation.

In anticipation of these efforts by the State, the BLM adopted land use plans for the Corridor. In particular, the BLM adopted a Recreation Area Management Plan (RAMP) for the corridor, which it felt was consistent with the State Administration's efforts to open the highway to the general public. Last minute efforts in the last Congress sought to withdraw those plans, and it is uncertain whether a similar concern might arise in the current Congress and new Federal Administration. Currently, environmental organizations and TCC are preparing litigation to challenge those plans, as an alternative to possible federal legislation.

Given this complex and conflicting milieu, the Hickel Administration, through the offices of Commissioner Blatchford, has undertaken discussions toward a comprehensive settlement of the controversies surrounding the haul road and the management of the utility corridor with the TCC, the North Slope Borough, BLM, and some environmental groups. These are the first discussions between these various interests which sought to settle the matter, and the parties produced a draft memorandum of agreement, which could pave the way to a rational management regime for the area. If successful, these discussions would produce a consensus agreement between these traditionally hostile interests. Unfortunately, passage of SB 82, in its present form, will only re-spark the conflict which has raged in Juneau and Washington DC over the last decade. However, one problem which the parties have encountered in our efforts to come up with a comprehensive settlement is that such an agreement would require changes in state legislation. In this context, SB 82 suggests a vehicle to accomplish the needed changes.

TCC would like to continue with these discussions and would propose drafting a bill substitute, which would either authorize the governor to enter into a memorandum of agreement with the BLM (and possibly the Secretary of Transportation) and other interested parties to implement this agreement, or to redraft the legislation to incorporate the proposed management provisions contained in the agreement into the statute.

THE DRAFT AGREEMENT

The draft proposed agreement is attached. It is important to understand that this agreement is a draft for discussion purposes only, and no party has endorsed the draft in its current form. It merely seeks to incorporate certain concepts discussed by the parties to date. In its current form, the agreement would:

- *open the road to the general public, except during hunting season or for hunting uses.
- * obligate the state to maintain a minimum level of services on the road, including highway maintenance, search and rescue, EMT, trooper and fish and wildlife enforcement services.
- * provide BLM financial support for some of these services.
- * establish a local enterprise development program
- * establish a coordinated land use planning process and dispute resolution process.
- *indemnify and hold harmless the local governments in the area for any failure to provide emergency services to the area.

In addition to settling the underlying controversies in the area, the proposed settlement would provide federal assistance to support needed services in the area. Additionally, it would establish an economic enterprise program to assure local involvement, and a long term planning process with articulated standards to resolve future conflicts in the area.

PROBLEMS WITH SB 81

In the absence of a long-term comprehensive settlement to the proposed legislation does not address several policy and legal issues raised by the federal in the area. In particular, the legislation fails to address the unique treatment of the Dalton Highway under Federal law, new federal highway planning standards and processes, and the relationship between the highway management and management of adjacent federal lands.

1) Opening The Haul Road Will Not Increase Federal Funds To Alaska And May Create A Claim By The Federal Government To Recover Past Federal Highway Funds Used to Build the Road.

Proponents of this bill argue that opening the road to the general public will make additional federal highway funding available to the State to upgrade the Dalton Highway. There are several problems with this argument. The two most important facts about this argument are that:

- 1) Alaska currently receives its full allocation of federal highway funding, and adding additional roads would not increase the funding available to the State, and
- 2) it totally ignores the provisions of ANILCA relating to the North Slope Haul Road. 16 USC §3172 (attached) which makes the road eligible for federal funding notwithstanding the fact that the road is closed to the public.

Most importantly, as you all know, Alaska participates in the federal aid highway program, and receives an allocation of federal assistance under the this program. Each state receives a maximum allocation for federal assistance, and Alaska currently receives its maximum allocation. As a result, the addition of new roads will not make new federal money available to Alaska.

It is equally important to note that federal funds were used in the construction of portions of the Dalton Highway. While it is true that federal highway funds are normally only available for public highways, ANILCA provides an exemption for the haul road which allowed and continues to allow the use of federal funds despite the fact that part of the road is limited to commercial and industrial traffic only. 16 USC §3172 (see attachments). This totally refutes the claims of the proponents of this legislation.

Unfortunately, however, this provision of ANILCA could actually trigger an obligation of the state to repay prior federal funds used to construct the road because of the state's past record of deferred maintenance. There are few people who would argue with the observation that the State has failed to fully maintain the road in compliance with federal standards relating to secondary roads. The .

provisions of § 3172 provide a blanket exemption to all federal requirements, including the maintenance obligations of the State under the federal statutes.

Normally, the failure of a State to maintain a road in accordance with federal standards and meet other federal regulations, would give rise to an obligation to repay the federal share of the project. The ANILCA exemption expires if the use restrictions are removed. Consequently, the State's exemption from its obligation to repay funds to the FHWA would also expire, and the State may be required to pay back construction funds. The alternative would be for the State to totally reconstruct the road to comply with its maintenance obligations.

Additionally, ANILCA requires the State and the FHWA to enter into an agreement respecting the number of vehicles and seasonality of use of the road. This has not been done, and raises real questions about the ability of the state to unilaterally open the road without federal concurrence.

These issues have raised serious questions which this Committee should seek to resolve before preceding with this bill. If we have learned anything from the subsistence debate, it is that the federal government will enforce the provisions of ANILCA. TCC has raised these issues to the FHWA (see attached letter to Kussy). Specifically we have made inquiry on the following matters:

- 1) May Federal highway construction funds be used on the Dalton Highway if it remains partially closed to general public use?
- 2) May the State unilaterally open the road to public use in the absence of such an agreement between the Governor and the Secretary?
- 3) If the road is open to the general public, would the state be liable to the FHWA for prior federal construction expenditures?
- 4) If the road is open to the general public, would the state be obligated to maintain the road according to federal standards?

We believe that these questions should be resolved before the restrictions upon the road are lifted. At a minimum, the resolution of these issues are necessary in order to properly prepare a fiscal note for this legislation.

2) Legislative Removal Of Restrictions On The Dalton Highway May Violate New Federal Planning Requirements.

For some time the federal government has required a statewide planning process in order for a State to qualify for federal highway aid. In 1991, Congress adopted the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). ISTEA now requires a more elaborate statewide planning process which is set out in 23 USC §135. In particular, the new planning requirements require consideration of a number of matters, which are at issue with regard to the management of the Dalton. These include new requirements to consider

- * the overall social , economic, energy and environmental effects of transportation decisions,
- * the effect of transportation decisions on land use and land development,
- * efficiency of transportation facilities,
- * concerns of tribal governments
- * strategies to improve rural economic growth.

Additionally, the new planning requirements require a hearing and coordination process, which would be short circuited by the proposed legislation. Interestingly, the Hickel Administration has been several criticized for failing, in the past, to consider local concerns in setting highway policy. In this case, however, Governor Hickel has undertaken an effort to consider these matters, and to consult with the local areas in managing the Dalton Highway. Enactment of this bill would moot that effort, and raise a serious question as to the State's compliance with the ISTEA planning process in the Utility Corridor.

3) Lack Of Coordination With The BLM RMP and RAMP Development Will Frustrate Tourist Industry Development In The Corridor.

The primary benefit of expanded access to the Dalton is the economic benefit of tourism in the area. TCC supports tourism development, and some of the villages in the area are actively promoting tourism. For example, the Hickel Administration, Stevens Village and the BLM are working on the development of a visitor center at the Yukon Crossing. This project is part of the discussions currently underway. But arbitrary unregulated access on the Dalton could destroy the cooperative efforts to date. Unregulated use of the highway will require TCC to seek changes in the BLM RMP and RAMP, including a fundamental challenge to the plans. Our efforts in this regard will seek to restrict access in the area under BLM management to compensate for the unregulated access under State law. In effect, if limited regulations to protect subsistence hunting apply with regard to the use of the road, BLM land use management can be more relaxed. Frankly, it is easier to control illegal hunting by regulating use of the road than by increasing federal restrictions and enforcement activity in the area.

CONCLUSION

We would very much like to conclude our discussions with the State and BLM respecting settlement of the current litigation and other outstanding controversies. This legislation could, with substantial modification, could provide a vehicle to facilitate that effort. We would urge the committee to amend the bill to either authorize the governor to enter into a memorandum of agreement with the BLM (and possibly the Secretary of Transportation) and other interested parties to implement this agreement, or to redraft the legislation to incorporate management provisions similar to those proposed in the draft agreement.

Alaska State Legislature

SENATOR
BERT SHARP
CHAIRMAN



FAIRBANKS

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Senate Transportation Committee

MEMORANDUM

TO : Commissioner Edgar Blatchford
Department of Community and Regional Affairs

FROM: Senator Bert Sharp *BMS*

DATE: February 25, 1993

RE : SB 82 Dalton Highway

We have been considering SB 82 relating to the Dalton Highway in the Transportation Committee. I am transmitting to you this backup file of information provided to committee per your request.

We would like to request a status update on discussions or negotiations regarding this issue that may be pertinent to this bill, and its consideration by the legislature. Perhaps a better question might be, would SB 82 impact any current negotiations that you may be involved with, concerning the Dalton Highway?

The committee would appreciate your comments on this issue. Thank you for your consideration.

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

P.O. BOX 25526
JUNEAU, ALASKA 99802-5526
PHONE: (907) 465-4100

February 26, 1993

FEB 26 1993

The Honorable Bert Sharp
Chairman, Senate Transportation
Committee
State Capitol, Room 514
Juneau, AK 99801-1182

Dear Senator Sharp:

Members of the Senate Transportation Committee requested information on the potential impact of opening the Dalton Highway north of Disaster Creek to the public. Opening this portion of the Dalton Highway to the public will increase use of the Dalton Highway corridor and areas accessible from the road by non-local residents and nonresidents for hunting, fishing, and possibly trapping. Increased competition with local residents for fish and wildlife resources might lead to more restrictive regulations being promulgated by the Federal Subsistence Board for lands under its jurisdiction. Closure of federal public lands currently open to non-subsistence uses near or readily accessible from the Dalton Highway corridor could result. We could only speculate as to how or if the state boards would respond if harvest pressures subsequently increased in areas under their jurisdiction.

We see no immediate nor long-term need to alter hunting seasons or bag limits on game species in areas adjacent to the Dalton Highway if the road is opened to the public. The areas near the road are already managed as a road accessible area because many hunters ignore the road closure. Most hunters using areas near to the road target caribou in the Central Arctic herd. This herd numbers about 22,000; annual harvest is 450 to 480 caribou. Bow hunters take about a hundred each year in the five-mile road corridor. The harvest of the Central Arctic herd could more than double before restrictions would be necessary.

Most hunters using the Dalton Highway hunt caribou in the Western Arctic herd. This herd numbers about 480,000; annual harvest is only 10,000. An increase in harvest would be beneficial to the long-term health of the herd. Few hunters use the Dalton Highway to access the Porcupine caribou herd because it usually migrates to Canada or eastern interior Alaska by August.

February 26, 1993

Residents of the Dalton Highway area have experienced increasing competition in recent years, in part because the permit requirement for travel north of Disaster Creek has not been strictly enforced. More hunters have used the road as an affordable (compared to air charters) jumping off point to access airstrips, river crossings, and transporters' bases north of the Yukon River and especially north of Coldfoot. This practice would continue and potentially generate additional conflict between local residents and nonlocal/nonresident hunters, fishers, and trappers.

The fall 1992 hunting season confirms that the public will travel from long distances to use the Dalton Highway Corridor--if the regulations offer sufficient incentive. Hunters drove from as far away as Haines to hunt under the federal subsistence regulations in the corridor. The conflicts and problems experienced last fall have been well-documented and are primarily a result of actions taken by the Federal Subsistence Board.

Increasing public use will require or encourage development of new and expansion of existing facilities to serve highway travelers. Further information is needed to measure what impacts such development might have on resource habitat and subsistence harvest areas used by local residents.

Finally, some residents and communities in northern Alaska are concerned that facilitating public use of the Dalton Highway will promote plans to construct new roads and make currently remote areas even more accessible. They envision this as leading to even more conflicts with local subsistence activities.

Sincerely,



Ron Somerville
Deputy Commissioner

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: SB 82

Revision Date: _____ Dept. Affected: Public Safety

Title: "An Act relating to the Dalton Highway." BRU: Alaska State Troopers and Fish & Wildlife Protection

Component: Detachments (AST) and Enforcement (SI) (FWP)

Sponsor: Senator Frank

Requestor: Senate Transportation Committee COMPONENT SERIAL NO. 799 and 490

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	315.3	315.3	315.3	315.3	315.3	315.3
TRAVEL	34.0	16.0	16.0	16.0	16.0	16.0
CONTRACTUAL	117.7	117.7	117.7	117.7	117.7	117.7
SUPPLIES	28.3	28.3	28.3	28.3	28.3	28.3
EQUIPMENT	291.4	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	786.7	477.3	477.3	477.3	477.3	477.3

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE:	0.0					
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	786.7	477.3	477.3	477.3	477.3	477.3
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	786.7	477.3	477.3	477.3	477.3	477.3

POSITIONS:

FULL-TIME	4	4	4	4	4	4
PART-TIME	1	1	1	1	1	1
TEMPORARY						

Estimate of current year (FY 93) impact: \$ 786.7

ANALYSIS: (Attach a separate page if necessary.)

See attached analysis.

Prepared By: Francis C. Allan Phone: 269-5691

Division: Alaska State Troopers Date: 02/12/93

Approved by Commissioner:  Date: 2/16/93

Agency: Richard I. Burton, Dept. of Public Safety

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information call the Governor's Legislative Office

The legislation effectively opens the Dalton Highway throughout the entire year for public travel. A full range of law enforcement services must be provided to assure the safety of the public and enforcement of fish and game laws.

Increased activity is projected for both Alaska State Trooper (AST) enforcement patrol unit and Fish and Wildlife Protection (FWP) enforcement units. AST will be assigned to cover the area to provide for accident response, highway patrol, criminal investigation, and most importantly search and rescue services. FWP is projecting an increase in fish and game violations which will require additional enforcement. The majority of enforcement will require off-highway activity.

Four additional State Trooper positions (3 AST and 1 FWP) will be needed to provide adequate enforcement. One AST Trooper will be assigned to Seven Mile (where housing is available at virtually no increased cost) and two others which will rotate from Fairbanks to pipeline camps to provide coverage of the road system. Communications is anticipated to rely on the Alyeska security system. Non-personal services costs include seventy-five flying hours for the Fairbanks based AST helicopter, vehicles and operating costs.

The FWP Trooper will occupy the Coldfoot housing unit that was slated for closure in the FY94 budget (thus incurring only minimal housing costs). Additionally, a seasonal (five months) Fish and Wildlife Enforcement Officer will be stationed in Coldfoot (using transit living accommodations in the existing hangar). Other costs include a vehicle purchase and operating costs plus seventy-five additional hours of helicopter time to reach remote sites.

Summarized on the following page are the personal services and related operating costs for each location for the first year only:

Department of Public Safety
 Fiscal Note Analysis
 SB 82, Dalton Highway
 Page 3

	AST Trooper <u>1x7Mile</u>	AST Trooper <u>2xRoving</u>	FWP Trooper <u>1xColdfoot</u>	FWP FWEO <u>1xColdfoot</u>	Total
Pers. Serv.	\$68.6	\$137.2	\$84.5	\$25.0	\$ 315.3
Travel	11.0	12.0	11.0	-	34.0
Contractual	21.9	43.8	52.0	-	117.7
Supplies	2.5	5.0	20.8	-	28.3
Equipment	27.7	55.4	208.3	-	291.4
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
Totals	\$131.6	\$253.3	\$376.6	\$25.0	\$ 786.7

Personal Services

Four full-time trooper positions and one seasonal FWEO.

Travel

Required per mandatory training needs. Transfer costs for the Troopers to be stationed at Seven Mile and Coldfoot are included in the first year only.

Contractual

Expenses related to utilities, vehicle and aircraft operation and maintenance, personnel training, and personnel support costs.

Supplies

Office supplies and miscellaneous enforcement needs, personnel uniforms, consumable vehicle accessories.

Equipment

Four heavy duty 4 X 4 vehicles with necessary communications, one single engine aircraft with wheels & skis (FWP use and Search & Rescue missions), one snow machine & one ATV and trailer, minimal office furniture, and standard trooper firearms. Equipment is needed in the first year only.

Position Title AST State Trooper		Number of Positions 2	Range/Step 76/A	Bargaining Unit PSEA
Time Status PFT	Staff Months 24.0	Location Fairbanks	Election District 29-34	
Type of Expenditure		Justification		
1	2	3	Two fully trained and experienced law enforcement officers are needed to provide accident response, patrol, investigation, and search and rescue along the Dalton Highway. These Trooper positions must have 4 X 4 vehicles (class 152) in order to be able to travel the rough road during winter conditions. 4.0 is included for training costs for the new Troopers to fill these positions. All other costs are average Trooper costs and are based upon experience.	
Salary*	95,130			
Benefits*	42,080			
Premium Pay (Included in Above)				
Other				
Total Personal Services		137.2		
Travel		12.0		
Contractual		43.8		
Commodities		4.9		
Equipment		55.4		
Other				
Total Cost		253.3		
Funding Source For Total Cost				
Federal Receipts	1002			
G.F. Mutch	1003			
General Fund	1004	253.3		
Program Receipts/GF	1005			
I-A Receipts	1007			
CIP Receipts	1061			
Other				
* Personal Services Salary and Benefits Costs are from PACS calculations.				

REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety

BRU Alaska State Troopers

COMPONENT Detachments

FY 94

Page 4 of 6

Revised Date

Position Title FWP State Trooper			Number of Positions 1	Range/Step 73/A	Bargaining Unit PSEA
Time Status PFT	Staff Months 12.0		Location Coldfoot	Election District 36	
Type of Expenditure			Justification		
Amount			<p>A fully trained and experienced law enforcement officer is needed to provide accident response, patrol, investigation, and search and rescue along the Dalton Highway. This Trooper position must have a 4 X 4 vehicle (class 056) in order to be able to travel the rough road during winter conditions. All other costs are average Trooper cost and are based upon experience. Other items of equipment needed by this FWP Troopers are a snow machine and a four-wheel all-terrain vehicle to allow for off-road patrol to enforce game regulations.</p> <p>One single-engine aircraft and its operation of approximately 300 hours is included with this position. The aircraft will be used for highway patrol, off-highway enforcement of game laws, search and rescue missions, and emergency evacuations.</p>		
1	2	3			
Salary*	59,428				
Benefits*	25,075				
Premium Pay (Included in Above)					
Other					
Total Personal Services		84.5			
Travel		11.0			
Contractual		52.0			
Commodities		20.8			
Equipment		208.3			
Other					
Total Cost		376.6			
Funding Source For Total Cost					
Federal Receipts	1002				
G F. Match	1003				
General Fund	1004	376.6			
Program Receipts/GF	1005				
I-A Receipts	1007				
CIP Receipts	1061				
Other					
* Personal Services Salary and Benefits Costs are from PACS calculations.					

REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety

BRU Fish & Wildlife Protection

COMPONENT Enforcement & ISU

FY 94

Page 5 of 6

Revised Date

(1792) POSITION.NEW

Position Title AST State Trooper		Number of Positions 1	Range/Step 76/A	Bargaining Unit PSEA	
Time Status PFT	Staff Months 12.0	Location Seven Mile	Election District 36		
Type of Expenditure		Justification			
Amount		<p>A fully trained and experienced law enforcement officer is needed to provide accident response, patrol, investigation, and search and rescue along the Dalton Highway. This Trooper position must have a 4 X 4 vehicle (class 158) in order to be able to travel the rough road during winter conditions. All other costs are average Trooper cost and are based upon experience.</p>			
1	2				3
Salary*	47,565				
Benefits*	21,040				
Premium PLY (Included in Above)					
Other					
Total Personal Services					68.6
Travel					11.0
Contractual					21.9
Commodities					2.5
Equipment					27.7
Other					
Total Cost					131.7
Funding Source For Total Cost					
Federal Receipts	1002				
G.F. Match	1003				
General Fund	1004	131.7			
Program Receipts/GF	1005				
I-A Receipts	1007				
CIP Receipts	1061				
Other					
* Personal Services Salary and Benefits Costs are from PACS calculations.					

REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety

BRU Alaska State Troopers

COMPONENT Detachments

FY 94

Page 6 of 6

Revised Date

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 82

Revision Date: _____

Department Affected: Fish and Game

Title: An Act relating to the Dalton Highway

BRU: Wildlife Conservation

Sponsor: Senator Frank

Component: Wildlife Conservation

Requestor: Senate Transportation

COMPONENT SERIAL NO. 0473

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	10.6	10.9	11.2	11.5	11.8	12.1
TRAVEL	2.5	2.5	2.5	2.5	2.5	2.5
CONTRACTUAL						
SUPPLIES	3.0	3.0	3.0	3.0	3.0	3.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	16.1	16.4	16.7	17.0	17.3	17.6

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

(Thousands of Dollars)

1003 Federal Receipts						
1003 GF Match						
1004 GF	16.1	16.4	16.7	17.0	17.3	17.6
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	16.1	16.4	16.7	17.0	17.3	17.6

POSITIONS:

FULL-TIME						
PART-TIME	1	1	1	1	1	1
TEMPORARY						

Estimate of current year (FY93) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary.)

Fish and Wildlife Tech III will be hired for 3 months to monitor hunting activities and help enforce regulations relating to off-road vehicles.

Prepared By: Wayne L. Regelin

Phone: 465-4190

Division: Wildlife Conservation

Date: 2/11/93

Approved by Commissioner: *[Signature]*

Agency: Department of Fish and Game

Date: 2/12/93

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

FISCAL NOTE

Revision Date:
Title: Opening the Dalton Highway

Department Affected: DOT&PF
BRU: Northern M&O

Sponsor: Frank
Requestor:

Component: Interior M&O
Component Serial Number: 586

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING:	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS	0	0	0	0	0	0
1003 GF MATCH	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/PROGRAM RECEIPTS	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL FUNDING:	0	0	0	0	0	0

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: \$0

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Norm Piispanen

Phone: 451-2381

Division: Northern Region Planning

Date: February 11, 1993

Approved by Commissioner: 
Frank G. Turpin

Phone: 465-3900

Agency: Department of Transportation and Public Facilities

Date: February 11, 1993

8-LS0400E
Luckhaupt
2/10/93

CS FOR SENATE BILL NO. 82(TRA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS FRANK, Sharp, Miller, Pearce, Phillips

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Dalton Highway."

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

3 * Section 1. AS 19.40.110 is amended to read:

4 Sec. 19.40.110. PUBLIC USE OF [A PORTION OF] THE HIGHWAY. The
5 department shall maintain the [SECTION OF THE] highway [BETWEEN THE
6 YUKON RIVER AND DIETRICH CAMP] and shall keep [THAT SECTION OF] the
7 highway open to use by the public [BETWEEN JUNE 1 AND SEPTEMBER 1 EACH
8 YEAR].

9 * Sec. 2. AS 19.40.290(2) is amended to read:

10 (2) "highway" means the ~~SECONDARY~~ highway from the Yukon
11 River to a terminus near the Arctic Ocean.