

HB

320

1-LS1165VH
Utermohle
3/27/00

CS FOR HOUSE BILL NO. 320()

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE HARRIS

A BILL

FOR AN ACT ENTITLED

1 "An Act approving the application for and acceptance of a grant of certain
2 federal land by the Alaska Railroad Corporation; approving the conveyance of the
3 entire interest in land appurtenant to the Whittier DeLong Dock by the Alaska
4 Railroad Corporation; relating to use and disposition of the Whittier DeLong Dock
5 and associated land; and providing for an effective date."

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

7 * Section 1. The uncodified law of the State of Alaska is amended by adding a new
8 section to read:

9 FINDINGS. The legislature finds that the Whittier DeLong Dock and the associated
10 land are required for essential railroad purposes and that the acquisition of the dock and
11 associated land by the Alaska Railroad Corporation is in the best interests of the state.

12 * Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section
13 to read:

1 APPROVAL. The legislature authorizes the Alaska Railroad Corporation to apply for
2 and to accept a grant of a parcel of real property in Whittier, consisting of approximately 6.13
3 acres and the appurtenant facility known as the DeLong Dock, from the federal government
4 under terms of sec. 2837(b) - (e), Public Law 106-65. This section constitutes approval for
5 the Alaska Railroad Corporation to apply for and to accept a grant of federal land within a
6 municipality in accordance with AS 42.40.035(5).

7 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section
8 to read:

9 USE AND DISPOSITION OF THE WHITTIER DELONG DOCK AND
10 ASSOCIATED LAND. (a) Within three months after the conveyance of the real property
11 described in sec. 2 of this Act from the United States to the Alaska Railroad Corporation, the
12 corporation shall reconvey ownership of the uplands, tidelands, and submerged lands to the
13 City of Whittier. The corporation shall retain ownership of the DeLong Dock and the railroad
14 tracks and rail bed located on the uplands.

15 (b) Notwithstanding (c) - (h) of this section, the corporation and the City of Whittier
16 are directed and authorized to enter into reciprocal leases for the DeLong Dock and
17 appurtenant land and to enter into a management agreement to operate the DeLong Dock and
18 appurtenant land as a single unit consistent with the terms contained in the document entitled
19 "Management Terms for DeLong Dock" and signed by the corporation and the City of
20 Whittier. If the document is not signed by both the corporation and the City of Whittier
21 within six months after the real property described in sec. 2 of this Act is conveyed by the
22 United States to the corporation, then the corporation and the City of Whittier shall comply
23 with (c) - (h) of this section.

24 (c) In exchange for ownership of the land described in (a) of this section, the City of
25 Whittier shall

26 (1) subdivide the land into two parcels that are separated by the centerline of
27 the DeLong Dock;

28 (2) grant a lease to the parcel of land north of the centerline of the DeLong
29 Dock to the corporation.

30 (d) The corporation shall grant a lease to that portion of the DeLong Dock south of
31 the centerline of the dock to the City of Whittier.

1 (e) The leases described in (c) and (d) of this section must include the following
2 provisions:

3 (1) each lease must be for a minimum term of 20 years;

4 (2) the rental rate for each lease is \$1.00 a year;

5 (3) the corporation shall have rail access to the dock, and the City of Whittier
6 shall have a usable road to lands at and beyond the dock;

7 (4) neither the corporation nor the City of Whittier may be required by the
8 lease to indemnify the other party for its own actions or the actions of a contractor,
9 subcontractor, or sublessee; liability of the parties shall be governed by the tort law of the
10 State of Alaska;

11 (5) the corporation and the City of Whittier may assign or sublease its interest
12 in the lease without the approval of the other party;

13 (6) the corporation and the City of Whittier shall agree to diligently work
14 together in good faith to resolve disputes and to collaborate with each other in developing a
15 management agreement for operation of the DeLong Dock facility with the goal of operating
16 the facility as a single entity for economic development purposes;

17 (7) the leases may not be subject to termination for a breach of a lease;

18 (8) the leases may be amended by mutual agreement of the corporation and
19 the City of Whittier.

20 (f) The corporation and the City of Whittier shall expeditiously and in good faith
21 undertake and complete the transactions described in this section under the terms and
22 conditions set out in this section and under such other terms and conditions as are mutually
23 satisfactory.

24 (g) Pending the completion of the transactions described in this section, the
25 corporation and the City of Whittier shall enter into an interim agreement for the use of the
26 Whittier DeLong Dock and associated land consistent with the provisions of this section.

27 (h) During the five-year period beginning on the date that the real property described
28 in sec. 2 of this Act is conveyed from the United States to the corporation, the property shall
29 be used for economic development of the Whittier and Prince William Sound areas, including
30 freight transportation, tourism, boat moorage for day cruiser or large ocean-going cruise ships,
31 fishing and fish processing, and other uses.

1 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section
2 to read:

3 TRANSFER OF CERTAIN STATE LAND AT WHITTIER. In the event that all or
4 a portion of the land described in sec. 2837(b), Public Law 106-65, is transferred to the State
5 of Alaska or an agency of the State of Alaska other than the Alaska Railroad Corporation, the
6 State of Alaska shall expeditiously reconvey all land and improvements received under sec.
7 2837(b) - (e), Public Law 106-65, to the City of Whittier.

8 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

10 APPROVAL. The legislature authorizes the Alaska Railroad Corporation to transfer
11 its entire interest in the land described in sec. 3(a) of this Act in accordance with sec. 3 of this
12 Act. This section constitutes legislative approval for the corporation to convey its entire
13 interest in that land under AS 42.40.285(1).

14 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

1-LS1165V
Utermohle
3/28/00

CS FOR HOUSE BILL NO. 320()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE HARRIS

A BILL

FOR AN ACT ENTITLED

1 "An Act approving the application for and acceptance of a grant of certain
2 federal land by the Alaska Railroad Corporation; approving the conveyance of the
3 entire interest in land appurtenant to the Whittier DeLong Dock by the Alaska
4 Railroad Corporation; relating to use and disposition of the Whittier DeLong Dock
5 and associated land; and providing for an effective date."

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

7 * Section 1. The uncodified law of the State of Alaska is amended by adding a new
8 section to read:

9 FINDINGS. The legislature finds that the Whittier DeLong Dock and the associated
10 land are required for essential railroad purposes and that the acquisition of the dock and
11 associated land by the Alaska Railroad Corporation is in the best interests of the state.

12 * Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section
13 to read:

1 APPROVAL. The legislature authorizes the Alaska Railroad Corporation to apply for
2 and to accept a grant of a parcel of real property in Whittier, consisting of approximately 6.13
3 acres and the appurtenant facility known as the DeLong Dock, from the federal government
4 under terms of sec. 2837(b) - (e), Public Law 106-65. This section constitutes approval for
5 the Alaska Railroad Corporation to apply for and to accept a grant of federal land within a
6 municipality in accordance with AS 42.40.285(5).

7 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section
8 to read:

9 USE AND DISPOSITION OF THE WHITTIER DELONG DOCK AND
10 ASSOCIATED LAND. (a) Within three months after the conveyance of the real property
11 described in sec. 2 of this Act from the United States to the Alaska Railroad Corporation, the
12 corporation shall reconvey ownership of the uplands, tidelands, and submerged lands to the
13 City of Whittier. The corporation shall retain ownership of the DeLong Dock and the railroad
14 tracks and rail bed located on the uplands.

15 (b) Notwithstanding (c) - (h) of this section, the corporation and the City of Whittier
16 are directed and authorized to enter into reciprocal leases for the DeLong Dock and
17 appurtenant land and to enter into a management agreement to operate the DeLong Dock and
18 appurtenant land as a single unit consistent with the terms contained in the document entitled
19 "Management Terms for DeLong Dock" and signed by the corporation and the City of
20 Whittier. If the management agreement is not signed by both the corporation and the City of
21 Whittier within six months after the real property described in sec. 2 of this Act is conveyed
22 by the United States to the corporation, then the corporation and the City of Whittier shall
23 comply with (c) - (h) of this section.

24 (c) In exchange for ownership of the land described in (a) of this section, the City of
25 Whittier shall

26 (1) subdivide the land into two parcels that are separated by the centerline of
27 the DeLong Dock:

28 (2) grant a lease to the parcel of land north of the centerline of the DeLong
29 Dock to the corporation.

30 (d) The corporation shall grant a lease to that portion of the DeLong Dock south of
31 the centerline of the dock to the City of Whittier.

1 (e) The leases described in (c) and (d) of this section must include the following
2 provisions:

3 (1) each lease must be for a minimum term of 20 years;

4 (2) the rental rate for each lease is \$1.00 a year;

5 (3) the corporation shall have rail access to the dock, and the City of Whittier
6 shall have a usable road to lands at and beyond the dock;

7 (4) neither the corporation nor the City of Whittier may be required by the
8 lease to indemnify the other party for its own actions or the actions of a contractor,
9 subcontractor, or sublessee: liability of the parties shall be governed by the tort law of the
10 State of Alaska;

11 (5) the corporation and the City of Whittier may assign or sublease its interest
12 in the lease without the approval of the other party;

13 (6) the corporation and the City of Whittier shall agree to diligently work
14 together in good faith to resolve disputes and to collaborate with each other in developing a
15 management agreement for operation of the DeLong Dock facility with the goal of operating
16 the facility as a single entity for economic development purposes;

17 (7) the leases may not be subject to termination for a breach of a lease;

18 (8) the leases may be amended by mutual agreement of the corporation and
19 the City of Whittier.

20 (f) The corporation and the City of Whittier shall expeditiously and in good faith
21 undertake and complete the transactions described in this section under the terms and
22 conditions set out in this section and under such other terms and conditions as are mutually
23 satisfactory.

24 (g) Pending the completion of the transactions described in this section, the
25 corporation and the City of Whittier shall enter into an interim agreement for the use of the
26 Whittier DeLong Dock and associated land consistent with the provisions of this section.

27 (h) During the five-year period beginning on the date that the real property described
28 in sec. 2 of this Act is conveyed from the United States to the corporation, the property shall
29 be used for economic development of the Whittier and Prince William Sound areas, including
30 freight transportation, tourism, boat moorage for day cruiser or large ocean-going cruise ships,
31 fishing and fish processing, and other uses.

1 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section
2 to read:

3 TRANSFER OF CERTAIN STATE LAND AT WHITTIER. In the event that all or
4 a portion of the land described in sec. 2837(b), Public Law 106-65, is transferred to the State
5 of Alaska or an agency of the State of Alaska other than the Alaska Railroad Corporation, the
6 State of Alaska shall expeditiously reconvey all land and improvements received under sec.
7 2837(b) - (e), Public Law 106-65, to the City of Whittier.

8 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

10 APPROVAL. The legislature authorizes the Alaska Railroad Corporation to transfer
11 its entire interest in the land described in sec. 3(a) of this Act in accordance with sec. 3 of this
12 Act. This section constitutes legislative approval for the corporation to convey its entire
13 interest in that land under AS 42.40.285(1).

14 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).



ALASKA STATE LEGISLATURE
REPRESENTATIVE JOHN HARRIS
STATE CAPITOL 110, JUNEAU, ALASKA 99801-1182 (907) 465-4859

Sponsor Statement

HB 320 – Relating to the DeLong Dock in Whittier

The DeLong dock is a US Army fuel transfer facility nearly 700 feet long located in Whittier. Last year, the Army determined it would surplus the dock and both the Alaska Railroad and the City of Whittier expressed interest in obtaining it, with expectation that it could be valuable in helping to meet the growing demand for public services after the new Whittier tunnel opens this summer.

The US Congress approved the transfer of ownership to the Alaska Railroad last summer. During the 1999 session, in anticipation of Congressional approval, the Legislature included a provision in SB 171 that requires legislative approval of land grants to the railroad.

The purpose of HB 320 is to give approval for the railroad to receive the DeLong dock and the associated submerged lands, uplands and tidelands, which the railroad is to then transfer to the City of Whittier. HB 320 also ratifies a memorandum of understanding between the railroad and the City of Whittier, which transfers ownership of the underlying real estate to the City and which requires the two entities to enter into mutually beneficial leases of portions of the dock and real estate. That is, the City will lease land under the north half of the dock to the railroad, and the railroad will lease the south half of the dock to the City.

HB 320 also directs and authorizes the two entities to enter into a management agreement for the use of the dock.

The Alaska Railroad and the City of Whittier have been working out the details of the transfer, the memorandum of understanding and the operating agreement for nearly a year, with the results reflected in the proposed committee substitute.



ALASKA STATE LEGISLATURE
REPRESENTATIVE JOHN HARRIS
STATE CAPITOL 110, JUNEAU, ALASKA 99801-1182 (907) 465-4859

Sectional analysis

Proposed CS for HB 320 – Relating to the DeLong Dock in Whittier

Sec. 1 states findings that acquisition of the dock and associated real estate would be in the best interest of the state.

Sec. 2 states the Legislature's approval for the railroad to accept the grant of land from the federal government, as required by AS 42.40.285(5), Ch. 59, SLA 1999 (SB 171 from last session).

Sec. 3 describes the use and disposition of the dock and land:

- a). gives the railroad 3 months after receiving the grant from the federal government to transfer the real estate to the City of Whittier.
- b). directs the city and railroad to enter into reciprocal leases and a management agreement within 6 months; if not, the terms of subsections (c) - (h) apply.
- c). directs the city to subdivide the parcel along the centerline of the dock and grant a lease of the land underlying the northern $\frac{1}{2}$ of the dock to the railroad.
- d). directs the railroad to lease the southern $\frac{1}{2}$ of the dock to the city.
- e). describes terms to be included in the leases, including 20 year term; \$1 rent per year; access by each entity to the dock; neither entity is required to indemnify the other for its actions or those of 3rd parties; each entity may assign or sublease its interests; both entities are required to work in good faith to resolve disputes and collaborate on managing the dock as a single entity for economic development; leases may not be terminated for breach of lease; and leases may be amended by mutual agreement.
- f). requires the city and railroad to work in good faith to execute the terms and conditions set out in this section.
- g). requires an interim agreement until the final terms under this section are completed.
- h). requires that during the five years after the property is conveyed by the federal government, it is to be used for economic development of Whittier and PWS.

Sec. 4 provides that if the property transfers to the State of Alaska or an agency of the state other than the Alaska Railroad, it is to be transferred to the City of Whittier.

Sec. 5 states the Legislature's approval for the railroad to transfer the real estate to the City of Whittier.

Sec. 6 provides an immediate effective date.

MANAGEMENT TERMS FOR DELONG DOCK

March 20, 2000

The City of Whittier ("City") and the Alaska Railroad Corporation ("ARRC") agree that the following constitute a basic framework to establish reciprocal property leases and guidelines for developing a management agreement for the joint operation of the DeLong Dock and associated tidelands and uplands (Tract W):

1. **Terms:** The parties will execute reciprocal property leases, each for a term of not less than 20 years and with a rental rate of \$1.00 per year. An interim dock operation agreement will be developed for a term of 2 years or such longer term as may be required for completion of the long term management agreement. This interim agreement is to allow both parties use of the dock facility during the ownership transfer to the ARRC from the US Army and to allow the ARRC to finalize the Whittier Master Development Plan for ARRC properties. A long term agreement for management of the dock facility will be made for a mutually agreed term once the ARRC Master Development Plan, DeLong Dock and Tract W properties are transferred to ARRC and the City of Whittier.
2. **Management:** The dock will be managed as a single facility by a single entity. If the City and ARRC determine to use a third party for management services at the dock, the City and ARRC shall give Chugach Alaska Corporation, or a subsidiary or affiliate, the right of first refusal with respect to providing such services. Any contract for such services shall be subject to public notice and ARRC Board approval. Both the ARRC and the City shall have the right to make commitments for use of the dock, including preferential use commitments. The selected operator shall prepare and submit to each party a proposed plan of operations (either yearly or at other such interval as the parties agree) which plan must be approved by each party before being implemented.
3. **Compensation and Revenue Sharing:** The dock manager will account to the City and ARRC for revenues received from operation of the dock. Total revenues received will be divided between the parties on a prorated basis with the higher portion of the net revenues allocated to the party that initiated the contract. The amount of the proportional split is to be agreed to by both parties in the management agreement.
4. **Repair, Maintenance and Operational Expense:** Costs of maintenance, repairs and operation of the DeLong Dock shall be shared jointly by the parties in a manner to be agreed to by both parties in the management agreement. A reserve for such costs shall be established as soon as possible out of revenues received from operation of the dock. Major capital improvements shall be undertaken only as agreed to by the parties in the management agreement.
5. **Access:** The parties shall execute appropriate documentation granting or assuring adequate track access and public road access to the dock and lands beyond the dock by road.
6. **Commercial Terms:** Standard commercial provisions of the leases such as indemnification, insurance requirements, assignment, and default shall be on equal reciprocal terms.
7. **Dispute Resolution:** Both parties shall diligently work together in a good faith effort to resolve disputes. Both parties shall collaborate with each other in developing the management agreement with the goal of operating the DeLong Dock facility as a single entity for economic development purposes.

CITY OF WHITTIER

By: _____
Its: _____
Date: _____

ALASKA RAILROAD CORPORATION

By: _____
Its: _____
Date: _____

HOUSE BILL NO. 320

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE HARRIS

Introduced: 1/26/00

Referred: Transportation, Community and Regional Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act approving the application for and acceptance of a grant of certain
2 federal land by the Alaska Railroad Corporation; approving the conveyance of the
3 entire interest in the Whittier DeLong Dock and associated uplands, tidelands, and
4 submerged lands by the Alaska Railroad Corporation; relating to use and
5 disposition of the Whittier DeLong Dock and associated land; and providing for
6 an effective date."

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

8 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new
9 section to read:

10 **FINDINGS.** The legislature finds that the Whittier DeLong Dock and the associated
11 land are required for essential railroad purposes and that the acquisition of the dock and
12 associated land by the Alaska Railroad Corporation is in the best interests of the state.

13 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section

1 to read:

2 APPROVAL. The legislature authorizes the Alaska Railroad Corporation to apply for
3 and to accept a grant of a parcel of real property in Whittier, consisting of approximately 6.13
4 acres and the appurtenant facility known as the DeLong Dock, from the federal government
5 under terms of sec. 2837, Public Law 106-65. This section constitutes approval for the Alaska
6 Railroad Corporation to apply for and to accept a grant of federal land within a municipality
7 in accordance with AS 42.40.285(5).

8 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

10 USE AND DISPOSITION OF THE WHITTIER DELONG DOCK AND
11 ASSOCIATED LAND. (a) Within six months after the conveyance of the real property
12 described in sec. 2 of this Act from the United States to the Alaska Railroad Corporation, the
13 corporation shall reconvey ownership of the uplands, tidelands, and submerged lands located
14 on the property to the City of Whittier. The corporation shall retain ownership of the DeLong
15 Dock and railroad-associated facilities.

16 (b) In exchange for ownership of the land described in (a) of this section, the City of
17 Whittier shall

18 (1) subdivide the land into two parcels that are separated by the centerline of
19 the DeLong Dock;

20 (2) grant a lease to the parcel of land north of the centerline of the DeLong
21 Dock to the corporation.

22 (c) The corporation shall grant a lease to that portion of the DeLong Dock south of
23 the centerline of the dock to the City of Whittier.

24 (d) The corporation and the City of Whittier shall expeditiously and in good faith
25 undertake and complete the transactions described in this section under terms and conditions
26 that are mutually satisfactory.

27 (e) Pending the completion of the transactions described in this section, the
28 corporation and the City of Whittier shall enter into an interim agreement for the use of the
29 Whittier DeLong Dock and associated land consistent with the provisions of this section.

30 (f) During the five-year period beginning on the date that the real property described
31 in sec. 2 of this Act is conveyed from the United States to the corporation, the property shall

1 be used for economic development purposes.

2 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section
3 to read:

4 APPROVAL. The legislature authorizes the Alaska Railroad Corporation to transfer
5 its entire interest in the land described in sec. 3(a) of this Act in accordance with sec. 3 of this
6 Act. This section constitutes legislative approval for the corporation to convey its entire
7 interest in that land under AS 42.40.285(1).

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

**Memorandum of Understanding
For
Long Term Use of the DeLong Dock
Between the Alaska Railroad Corporation
and the City of Whittier**

1. General Understanding

The Alaska Railroad Corporation (ARRC) and the City of Whittier are interested in working together to have the U.S. Government transfer ownership of the DeLong Dock and its surrounding tidelands to the ARRC. When the ARRC receives ownership of the DeLong Dock Facility (dock) and the Tract W Tidelands, ARRC will retain ownership of the DeLong Dock facility and transfer ownership of the Tract W Tidelands to the City of Whittier. In the event the Tract W Tidelands are transferred to the State of Alaska, Department of Natural Resources, the ARRC will support the City of Whittier with the Department of Natural Resources in transferring ownership of the tidelands to the City of Whittier. The described properties are more particularly shown as the U.S. Army DeLong Dock on the map attached to this Memorandum of Understanding (MOU) as Attachment A, Long Term Use, DeLong Dock, Tract W.

Both parties agree to work together and support each other with the State Legislative Officials and Departments as necessary for State approval in transferring ownership of the Tract W Tidelands to the City of Whittier and the DeLong Dock Facility to the ARRC.

The intent of this MOU is to allow the ARRC to be the lead agency for processing the request on behalf of both parties. In the interim, the ARRC will actively pursue a permit from the U.S. Army for temporary use of the properties until such time as the property disposal process is finalized as set forth in the short term MOU between the City of Whittier and the ARRC dated June 8, 1999 and attached to this MOU as Attachment B. There is an immediate need to allow the public use of the dock for fishermen loading their catch or use by day cruise operators for day excursions.

It is further understood that the City of Whittier will subdivide the tidelands within U.S. Army Tract W into Parcel 1 and Parcel 2 and execute a long term lease to the ARRC for parcel 1. The ARRC will retain ownership of the DeLong dock facility and execute a long term lease to the City of Whittier for the use of the south ½ of the dock facility. The described lease properties are more particularly shown as the Long Term Use, DeLong Dock, Tract W on the map attached to this MOU as Attachment A.

Both parties agree to work together to develop the dock facility and adjoining ground for Cruise Ship, Day Cruise, Commercial Fishing and Fish processing operations that require public use of the facilities.

2. Collaboration for Long Term Lease Agreements

Both parties agree to work together to develop Long Term Lease agreements that address contractual and operational issues to allow the City of Whittier use of ½ of the Dock Facility and the ARRC use of parcel 1, Tract W tidelands. The major issues to be resolved in the separate agreement are the lease term and rate, operational control, maintenance of the dock facility, capital maintenance reserve and liability protection during the terms of the lease agreement.

The terms of these issues will be resolved in a separate operational lease agreement and do not become part of this MOU.

3. Historical Background

The Alaska Railroad was constructed and operated by the U.S. Government from its inception in 1914. In the 1940's, a railroad spur to Whittier was constructed in support of military logistics during World War II. Other Federal facilities constructed in Whittier for support of the war effort included the DeLong Dock, petroleum tank farm and other buildings for housing and administration.

Then in March 1964, Alaska suffered a severe earthquake that destroyed the military tank farm facilities. After the earthquake the U.S. Army exceded the DeLong Dock and dock ownership was then transferred to the Alaska Railroad to be used in conjunction with its freight and barge operation.

In April 1973, the U.S. Army completed construction of a new fuel facility in Whittier. The Alaska Railroad exceded the DeLong Dock and ownership of the dock facilities was transferred back to the U.S. Army at their request, to support the off loading of fuel for the military bases in Alaska.

Those fuel facilities and the DeLong Dock are no longer needed by the military and are presently in the process of being exceded once again by the U.S. Army.

In May 2000, the Anton Anderson tunnel into Whittier will be opened to both vehicular traffic and rail traffic. Whittier is the gateway to Prince William Sound and will become a popular water recreational location for sightseeing, boating and both recreational and commercial fishing because of its geographical location to Alaska's largest city, Anchorage.

Consequently, there will be an influx of people traveling to Whittier and demands for more public services such as parking and restroom facilities to support the recreational boating, fishing and day cruise operators. The land underlying the Army fuel facilities and the DeLong Dock can play an important role in addressing these critical needs if they can be made available for such uses. The existing fuel facilities' property can be used by the City of Whittier as a parking area in addition to providing access to other ARRC and additional properties owned by the City of Whittier.

4. Collaboration

The ARRC and the City of Whittier agree to collaborate with each other in pursuit of the General Understanding, as described above. During the term of this Memorandum of Understanding (MOU) each party agrees to work together in good faith with the goal of acquiring the U.S. Army properties being excessed by the U.S. Government in Whittier, Alaska, with ARRC to be the lead agency in pursuing this goal.

Nothing in this MOU shall be deemed to establish a joint venture, partnership or formal business entity of any kind. Neither of the parties shall have any liability or obligation to the other or to any other party except as expressly provided for in this MOU. There must be written agreement of both parties regarding any modification of the intent of this MOU.

This MOA shall terminate upon the earliest of the following: (1) signing of formal documents that transfer title of the U.S. Government properties to the respective parties, or the signing of other documents that conclusively mandate the same result once wholly ministerial actions or functions are complete; (2) both parties agree in writing to terminate this MOU.

5. Cost of Participation

Each party shall be solely responsible for its own costs and expenses in performing their respective obligations and/or performance under this MOU.

City of Whittier

By William Coumbe
William Coumbe, Mayor

Dated 7/26/99

By Carrie L. Williams
Carrie L. Williams, City Manager

Dated 7/26/99

Alaska Railroad Corporation

By Bill Sheffeld
Governor Bill Sheffeld
President & CEO

Dated 7/27/99

ATTACHMENT B

**Alaska Railroad Corporation and City of Whittier
Memorandum of Understanding for Interim Use of U.S. Government Property
Delong Dock and Tract "W"
Whittier, Alaska**

1) General Understanding

There is an immediate need to allow the public use of additional docking and tideland facilities in the summer of 1999 and thereafter.

This memorandum of understanding is to govern interim use of the Delong Dock and surrounding tide lands and uplands commonly known as Tract "W" and more particularly shown on attachment "A" hereto. The purpose of this memorandum of understanding is to allow the ARRC to be the lead agency for processing the interim use permit with the US Government, Department of the Army on behalf of the ARRC and the City of Whittier and to set forth the respective rights of use of each party pending conveyance of ownership of the federally owned property by the US Government, Department of the Army.

The parties agree that during interim use Tract "W" and the Delong Dock shall be informally subdivided into Parcel 1 and Parcel 2, along the longitudinal center line of the dock, as shown on attachment "A" hereto. Upon issuance of the use permit by the Department of the Army, ARRC shall have use of parcel 1 and the City of Whittier shall have the use of Parcel 2. Each party shall be entitled to use their parcel in any lawful manner.

2) Collaboration

The ARRC and the City of Whittier agree to collaborate with each other in pursuit of the purposes set forth above. During the term of this Memorandum of Understanding (MOU) each party agrees to work together in good faith toward the goal of the permitted properties for a public purpose.

Nothing in this MOU shall be deemed to establish a joint venture, partnership or formal business entity of any kind. Neither of the parties shall have any liability or obligation to the other or to any other party except as expressly provided for in this MOU. There must be written agreement of both parties regarding any modification of the intent of this MOU.

This MOU shall terminate upon the earliest of the following: (1) signing of a formal document that transfers title of the U.S. Government properties. (2) both parties agree in writing to terminate this MOU.

3) Cost of Participation

Each party shall be solely responsible for its own costs and expenses in performing their respective obligations and/or performance under this MOU.

City of Whittier

Alaska Railroad Corporation

By William Coumbe
William Coumbe, Mayor

By Bill Sheffield
Governor Bill Sheffield
President & CEO

Dated 6-8-99

Dated 6-8-99

By Carrie L. Williams
Carrie L. Williams, City Manager

Dated 6/8/99

