

**HB**

**8**

# STATE OF ALASKA

## DEPARTMENT OF LAW

### OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

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JUNEAU, ALASKA 99811-0300  
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FAX: (907) 485-6735

January 18, 2000

The Honorable Andrew Halcro  
 Chair, House Transportation Committee  
 Alaska House of Representatives  
 State Capitol  
 Juneau, Alaska 99801-1182

Re: HB 8: Naming Shelby's Way  
 Pedestrian Underpass

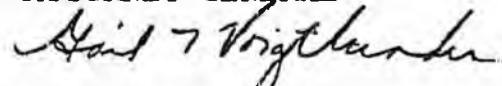
Dear Representative Halcro:

You have asked for further information regarding the facts, claims, and defenses concerning the lawsuit filed by Shelby Larsen's family. I am enclosing a brief statement with the facts of the case and a copy of the complaint filed by the plaintiffs and the answer to the complaint filed by the State of Alaska.

I hope that this will provide you the additional information that you are seeking.

Sincerely,

BRUCE M. BOTELHO  
 ATTORNEY GENERAL



By: Gail T. Voigtlander  
 Assistant Attorney General

GTV/pla

cc: Representative Vic Kohring

THE HONORABLE ANDREW HALCRO AND TURKIS 10 1 907 465 2075 P.03

The Honorable Andrew Halcro, Alaska House of Representatives  
Letter 1/18/00

p. 2

Members, House Transportation Committee  
Dennis Poshard, Department of Transportation  
Chrystal Smith, Department of Law  
Deborah Behr, Department of Law

ROBERT POTTER, ET AL. V. WALTER MAGLIC & SOB  
Case No.: 3PA-98-321 CI

### Facts of the Case

Shelby Lee Ann Larsen was five years old and unaccompanied by any other person when she was struck and killed by an automobile on the Parks Highway near the Montana Creek bridge on August 17, 1996. The southbound car was a rental driven by Pennsylvania tourist Walter Maglic. It was around 7:00 p.m.; the day was clear and sunny, the pavement was clean and dry. The speed limit was 65 m.p.h.; traffic was very light.

Shelby's mother, Brenda Potter, had arrived at the Montana Creek campground earlier that afternoon with Shelby and her three brothers, ages 9, 11, and 13.

They had stopped at several other campgrounds as they drove north from their home in the Big Lake area, but kept going when they could not find a campsite with the right combination of near the water and away from the road. They found a site at the Montana Creek campground several hundred yards back from the road, but near the water. The boys wanted to fish; Brenda wanted to rest a while before fixing supper, so she sent Shelby with the boys and told them to watch her.

The children fished a little on a bend near the camper, but then decided to go downstream to the "bridge hole," where they had never been before. Two boys passed under the bridge, and began fishing on the downstream side of the bridge. One took Shelby up and over the guardrail, across the highway, under the guardrail, and down the bank to join the others. At their depositions, the boys testified that Shelby went back up to the road, and across the bridge to the north side of the river, and back down to the other bank by herself, unknown to any of them. She then came back across the bridge with one of the brothers, and was left to play downstream near the other two fishing, while the one brother returned to the camp. Unknown to the remaining two, she later left to follow him back to the camp, and was killed when she darted across the road.

All witnesses agree that traffic on the road was light that evening. Maglic testified that he had an unobstructed view as he approached the bridge, which he easily identified by the railings. He saw no pedestrians in the area before he saw Shelby.

Mary Grogan was driving northbound on the highway and saw the events unfold. She has stated that Shelby came up under the

guardrail and darted across so quickly that Maglic had no chance to avoid the accident. He left 153 feet of skidmarks on the pavement. Reconstructionists for both sides have put his likely speed at about 60 m.p.h. when he began the braking skid. No alcohol or drugs were involved, per AST blood tests. When Brenda Potter arrived she was heard to say to her boys, "It's all your fault - you were supposed to be watching her."

Plaintiffs were the estate of Shelby, her mother Brenda, and three brothers. Prior to the date for trial the State obtained partial summary judgment on plaintiffs' claim that the state should have installed a pedestrian underpass prior to this accident. Maglic's insurer for the rental car also settled.

**RECEIVED**

APR 13 1998

Clerk of the Trial Courts  
3rd Judicial District  
at Palmer

Dennis M. Mestas, Esq.  
Alaska Bar No. 7505028  
Douglas G. Johnson, Esq.  
Alaska Bar No. 9511061  
Law Offices of Dennis M. Mestas, P.C.  
745 W. 4th Ave., Suite 306  
Anchorage, Alaska 99501  
(907) 277-8496

Eric Jensen, Esq.  
Jensen & Jensen  
Alaska Bar No. 7610108  
167 E. Park Avenue  
Wasilla, Alaska 99654

Attorneys for Plaintiff

**IN THE SUPERIOR COURT FOR THE STATE OF ALASKA**

**THIRD JUDICIAL DISTRICT AT PALMER**

ROBERT T. POTTER, Personal )  
Representative of the Estate of )  
Shelby Lee Ann Larsen, Deceased, )  
ROBERT T. POTTER, as next friend )  
of THOMAS POTTER and JOSEPH )  
POTTER, minor children, BRENDA )  
POTTER, individually and as next )  
friend of DUSTIN HAYES, a minor )  
child, )

Plaintiffs,

vs.

WALTER W. MAGLIC, and the  
STATE OF ALASKA,

Defendants.

Case No. SPA-98-321 GIV

**COMPLAINT**

LAW OFFICES OF  
**DENNIS M. MESTAS**  
A PROFESSIONAL CORPORATION  
745 WEST 4TH AVENUE, SUITE 306  
ANCHORAGE ALASKA 99501  
TELEPHONE (907) 277-8496  
FAX (907) 277-4356

COME NOW the plaintiffs ROBERT T. POTTER, Personal Representative of the Estate of SHELBY LEE ANN LARSEN, by counsel, the Law Offices of Dennis M. Mestas, P.C., and ROBERT T. POTTER, as next friend of THOMAS POTTER and JOSEPH POTTER, both minor children, and BRENDA POTTER, individually, and as the next friend of DUSTIN HAYES, a minor child, by counsel, Jensen & Jensen, and hereby allege and aver as follows:

1. Robert T. Potter is an Alaskan resident and the Personal Representative of the Estate of Shelby Lee Ann Larsen, deceased.

2. Plaintiff Brenda Potter is a resident of the State of Alaska and the mother of Shelby Lee Anri Larsen, deceased.

3. Plaintiff Dustin Hayes, a minor child, is a resident of the State of Alaska and the brother of Shelby Lee Ann Larsen.

4. Plaintiffs Thomas Potter and Joseph Potter, both minor children, are residents of the State of Alaska and stepbrothers of Shelby Lee Ann Larsen.

5. Defendant Walter W. Maglic is a resident of the State of Pennsylvania.

6. Defendant State of Alaska owns, operates, and maintains the Parks Highway.

7. On August 17, 1996, Shelby Lee Ann Larsen, a minor, was killed at Mile 96.5 of the Parks Highway. Said location is within the Third Judicial District, State of Alaska.

LAW OFFICES OF  
DENNIS M. MESTAS  
A PROFESSIONAL CORPORATION  
745 WEST 4TH AVENUE, SUITE 306  
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FAX (907) 272-4354

8. On August 17, 1996, defendant Walter Maglic was operating an automobile at an excessive and unsafe speed, without proper and prudent look-out for the safety of pedestrians as said automobile approached the Montana Creek Bridge, traveling south.

9. The decedent, Shelby Lee Ann Larsen, age 5, was standing on the west side of the highway on the Montana Creek Bridge as the automobile operated by defendant Maglic approached. The decedent, a small child, was in full view of said defendant as the automobile approached, but the defendant negligently and recklessly failed to reduce speed and/or proceed with caution, and/or sound the horn, considering the proximity of a small child within the confines of the Montana Creek Bridge. No other traffic was present.

10. Defendant Maglic's automobile was traveling at or above 65 miles per hour and stayed in its lane of travel, without reducing speed, until it was very near the decedent. Decedent, frightened by the sound of the approaching automobile, turned and stepped into the southbound lane, where she was struck by defendant's automobile.

11. Decedent was severely injured, and after great pain and suffering, she died at the scene. Decedent's injuries, suffering, and death were a direct result of the negligent and/or reckless conduct of defendant Maglic.

12. The damages for the pain and suffering and wrongful death of Shelby Lee Ann Larsen are in excess of \$500,000.00, the exact amount to be proved at trial.

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DENNIS M. MBSTAS  
A PROFESSIONAL CORPORATION  
740 WEST 4TH AVENUE, SUITE 300  
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FAX (907) 272-4304

13. Brenda Potter, Dustin Hayes, Thomas Potter, and Joseph Potter were all in the immediate vicinity at the time of Shelby Lee Ann Larsen's death. As a direct and proximate result of defendant's negligence, each suffered severe emotional distress at the time, has continued to suffer emotional distress to the present, and is reasonably likely to continue such suffering into the future. These losses are in excess of \$100,000.00 each; the specific amount to be proved at trial.

14. Brenda Potter, as a direct and proximate result of defendant's negligent conduct, has suffered a loss of consortium with her daughter in the past and is reasonably likely to continue suffering from the loss of consortium into the future. These damages are in excess of \$100,000.00; the specific amount to be proved at trial.

15. It is further alleged that the State of Alaska designed and maintained the Parks Highway in a defective and negligent manner in the location at and near the Montana Creek Bridge.

16. Said negligence includes, but is not limited to, failure to post a lower speed limit and sufficient warning to drivers approaching a known pedestrian crossing where the State of Alaska leases a campground and where numerous members of the public are encouraged to be in the proximity of the highway.

17. The negligent conduct of the State of Alaska is a direct and proximate cause of the injuries, suffering, and death of Shelby Lee Ann Larsen.

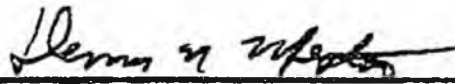
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745 WEST 4TH AVENUE, SUITE 304  
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WHEREFORE, plaintiff prays for relief as follows:

- (1) a judgment for the monetary damages, against both defendants, in excess of \$500,000.00, the exact amount to be proved at trial;
- (2) a judgment inclusive of costs, interest, and attorney's fees; and
- (3) for such other and further relief as the Court may deem equitable and just.

DATED this 2 day of April, 1998.

**LAW OFFICES OF DENNIS M. MESTAS, P.C.**  
Attorneys for Plaintiff, Robert T. Potter,  
Personal Representative of the Estate of  
Shelby Lee Ann Larsen, Deceased

By:   
Dennis M. Mestas

**JENSEN & JENSEN**  
Attorneys for Robert T. Potter, as next friend  
of Thomas Potter and Joseph Potter, minors,  
and Brenda Potter, individually, and as next  
friend of Dustin Hayes

By:   
Eric Jensen

LAW OFFICES OF  
**DENNIS M. MESTAS**  
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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT PALMER

ROBERT T. POTTER, Personal )  
Representative of the Estate )  
of Shelby Lee Ann Larsen, )  
Deceased, ROBERT T. POTTER, )  
as next friend of THOMAS )  
POTTER and JOSEPH POTTER, )  
minor children, BRENDA POTTER, )  
individually and as next )  
friend of DUSTIN HAYES, )  
a minor child, )

Plaintiffs, )

v. )

WALTER W. MAGLIC, and the )  
STATE OF ALASKA, )

Defendants. )

Case No. 3PA-98-321 CIV

ANSWER OF DEFENDANT STATE OF ALASKA

By way of answer to plaintiffs' complaint, the defendant  
State of Alaska hereby admits, denies, and alleges as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.

DEPARTMENT OF LAW  
OFFICE OF THE ATTORNEY GENERAL  
ANCHORAGE BRANCH  
1031 W. FOURTH AVENUE, SUITE 200  
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1 8. Admitted as to the date, and the operation of the  
2 vehicle near the Montana Creek bridge by co-defendant Maglic. The  
3 remainder of the paragraph is denied.

4 9. The first sentence is admitted. The first clause of the  
5 second sentence is admitted, however it is alleged that the  
6 decedent was difficult to see due to her small size. The  
7 remainder of the second sentence is denied. The third sentence is  
8 admitted.

9 10. Denied.

10 11. The State admits that Shelby Lee Ann Larsen was severely  
11 injured and died at the scene. The remainder of the paragraph is  
12 denied.

13 12. Denied.

14 13. Denied. The child was alone on the bridge.

15 14. Denied.

16 15. Denied.

17 16. Denied.

18 17. Denied.

19 **Affirmative Defenses**

20 The State relies upon the following affirmative  
21 defenses:

22 ANSWER OF DEFENDANT STATE OF ALASKA  
23 POTTER, ET AL. V. MAGLIC/37A 98 021 CIV

25 DEPARTMENT OF LAW  
26 OFFICE OF THE ATTORNEY GENERAL  
ANCHORAGE BRANCH  
1031 W. FOURTH AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 899-3100

1 1. Plaintiffs' damages, if any, are the direct result of  
2 the negligence of another for whom the State is not responsible.  
3 Specifically, the negligence of Brenda Potter in failing to  
4 supervise her five-year old child, who was alone on a highway  
5 bridge, was the legal cause of any damages suffered by plaintiffs,  
6 if any. Any judgment against the State of Alaska must be reduced  
7 accordingly.  
8

9 2. AS 09.50.250 provides discretionary function immunity  
10 for the State for such activities as setting or reducing speed  
11 limits. Discretionary function immunity may also be relied on for  
12 other claims, depending upon the exact nature of plaintiff's  
13 allegations.  
14

15 3. The State reserves the right to assert such other and  
16 further affirmative defenses as may be revealed through  
17 investigation or ongoing discovery.  
18

19  
20 The State seeks the following relief:

- 21 1. Dismissal of this lawsuit with prejudice.  
22 2. An award of costs and fees for defense of this lawsuit.  
23 3. Such other and further relief as the court may deem  
24 appropriate.  
25  
26

ANSWER OF DEFENDANT STATE OF ALASKA  
POTTER, ET AL. V. MAGISTRIC/79A-98-321 CIV

DEPARTMENT OF LAW  
OFFICE OF THE ATTORNEY GENERAL  
ANCHORAGE BRANCH  
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ANCHORAGE, ALASKA 99501  
PHONE: (907) 268-9100

DATED this 12th day of October, 1998, at Anchorage,  
Alaska.

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By: *Venable Vermont*  
Venable Vermont, Jr.  
Assistant Attorney General  
Alaska Bar No. 8306067

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This is to certify that on this date, a  
copy of the foregoing is being mailed to:

Douglas G. Johnson  
Law Offices of Dennis M. Mestas, PC  
745 W. Fourth Avenue, Suite 306  
Anchorage, AK 99501

Eric Jensen  
Jensen & Jensen  
167 E. Park Avenue  
Wasilla, AK 99654

Patrick J. McKay  
705 Christensen Drive  
Anchorage, AK 99501

*Janet Lesko*      *October 12, 1998*  
Janet Lesko      Date

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ANSWER OF DEFENDANT STATE OF ALASKA  
POTTER, ET AL. V. MAGLIC/3PA-98-321 CIV



Official Business

# TWENTY-FIRST ALASKA LEGISLATURE

Second Session

## HOUSE CALENDAR

Nineteenth Legislative Day

Friday - January 28, 2000 - 10:30 a.m.

**Invocation:** Chaplain Nancy Campbell, Prayer Minister

### SECOND READING OF HOUSE BILLS

#### HB 8

"An Act naming the pedestrian underpass at Montana Creek on the Parks Highway as Shelby's Way."

TRA RPT 3DP 2NR

P. 1950

ZERO FISCAL NOTE (DOT)

P. 1950

### LEGISLATIVE CITATIONS

Honoring - Vincent Nusunginya - Eagle Scout

By Representatives Phillips, Davis, Smalley, Porter, Austerman, Berkowitz, Brice, Bunde, Cissna, Coghill, Croft, Davies, Dyson, Foster, Green, Grussendorf, Halcro, Harris, Hudson, James, Joule, Kemplen, Kerttula, Kohring, Kott, Masek, Mulder, Murkowski, Ogan, Rokeberg, Sanders, Therriault, Williams

In Memoriam - Len Mackler

By Representatives James, Davies, Porter, Austerman, Berkowitz, Brice, Cissna, Croft, Davis, Dyson, Foster, Grussendorf, Halcro, Harris, Hudson, Joule, Kemplen, Kerttula, Kott, Masek, Mulder, Murkowski, Ogan, Phillips, Rokeberg, Sanders, Smalley, Therriault, Williams

**Joint Session - 11:00 a.m.**

**The Honorable Frank Murkowski, U.S. Senator**

**HOUSE BILL NO. 8**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - FIRST SESSION**

**BY REPRESENTATIVES KOHRING, Masek**

**Introduced: 1/19/99**

**Referred: Transportation**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act naming the pedestrian underpass at Montana Creek on the Parks  
2 Highway as Shelby's Way."

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

4 \* **Section 1.** AS 35.40 is amended by adding a new section to read:

5           **Sec. 35.40.120. Shelby's Way.** The pedestrian underpass (Department of  
6           Transportation and Public Facilities project number 53865) at Montana Creek at mile  
7           96.5 of the George Parks Highway is named Shelby's Way.

# FISCAL NOTE

**STATE OF ALASKA  
1999 LEGISLATIVE SESSION**

**BILL NO. HB 8**

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected DOT&PF  
 Title Naming Shelby's Way Pedestrian Underpass BRU Commissioners Office  
 Component \_\_\_\_\_  
 Sponsor Representatives Kohring  
 Requester Transportation Component Serial No. \_\_\_\_\_

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY99) cost: 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

**ANALYSIS:** (Attach a separate page if necessary)

Prepared by Dennis Poshard, Legislative Liaison Phone 465-3904  
 Division Office of the Commissioner Date/Time 1/22/99 7:56 AM  
 Approved by Commissioner *Dennis Poshard* Date 1/22/99  
 Agency Department of Transportation and Public Facilities

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# Bill History/Action Display



BILL: HB 8                      SHORT TITLE: NAMING SHELBY'S WAY PEDESTRIAN UNDERPASS  
 BILL VERSION:  
 SPONSOR(S): REPRESENTATIVES(S) KOHRING, Masek

CURRENT STATUS: (H) RLS                      STATUS DATE: 1/21/00

TITLE: "An Act naming the pedestrian underpass at Montana Creek on the Parks Highway as Shelby's Way."

Full Text Bill/Resolution has Zero Fiscal Note(s).

## Committee Action With Bill History

Jrn-Date	Jrn-Page	Action
1/19/99	<u>19</u>	(H) PREFILE RELEASED 1/8/99
1/19/99	<u>19</u>	(H) READ THE FIRST TIME - REFERRAL(S)
1/19/99	<u>19</u>	(H) TRA
1/21/00	<u>1950</u>	(H) TRA RPT 3DP 2NR
1/21/00	<u>1950</u>	(H) DP: KOOKESH, KOHRING, COWDERY;
1/21/00	<u>1950</u>	(H) NR: HUDSON, HALCRO
1/21/00	<u>1950</u>	(H) ZERO FISCAL NOTE (DOT)
1/21/00	<u>1950</u>	(H) REFERRED TO RULES

Similar Subject Match or Exact Subject Match

HIGHWAYS

PLACE NAMES

Bill Root:

Return to BASIS Main Menu(21st Legislature)  
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# ALASKA STATE LEGISLATURE



*Interim:*

600 East Railroad Avenue  
Wasilla, Alaska 99654  
(907) 373-1842  
Fax -(907) 373-4729

*Session:*

State Capitol Building, Room 421  
Juneau, Alaska 99801-1182  
(907) 465-2186  
Fax - (907) 465-3818

REPRESENTATIVE VIC KOHRING  
DISTRICT 26

## SPONSOR STATEMENT HOUSE BILL 8

Five-year-old Shelby Larsen was killed August 17, 1996, while on a camping trip with her family at Montana Creek near Mile 95 of the Parks Highway. While attempting to cross the Montana Creek Bridge Shelby was struck by a vehicle driven by a Pennsylvania man.

According to her mother, Brenda Potter, "Shelby was a gift from God who touched everyone's heart and life that she came in contact with." Brenda has channeled her grief into a successful campaign to get a pedestrian tunnel under the Parks Highway, at Montana Creek bridge (Department of Transportation Project 53865).

House Bill 8 will name the new pedestrian tunnel at the Montana Creek Bridge "Shelby's Way." It is both fitting and proper that the pedestrian tunnel be named in honor of Shelby Larson.

# ALASKA STATE LEGISLATURE



*Interim:*

600 East Railroad Avenue  
Wasilla, Alaska 99654  
(907) 373-1842  
Fax -(907) 373-4729

*Session:*

State Capitol Building, Room 421  
Juneau, Alaska 99801-1182  
(907) 465-2186  
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REPRESENTATIVE VIC KOHRING  
DISTRICT 26

## SECTIONAL ANALYSIS HOUSE BILL 8

**Title:** An act naming the pedestrian underpass at Montana Creek on the Parks Highway as Shelby's Way.

**Section 1.** AS 35.40 would be amended by adding a new section to read:

Section 35.40.120. Shelby's Way. The pedestrian underpass (Department of Transportation and Public Facilities project number 53865) at Montana Creek at mile 96.5 of the George Parks Highway is named "Shelby's Way".

# STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

1034 WEST 4<sup>TH</sup> AVENUE, SUITE 200  
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PHONE: (907) 269-5190  
FAX: (907) 258-0760

January 18, 2000

The Honorable Andrew Halcro  
Chair, House Transportation Committee  
Alaska House of Representatives  
State Capitol  
Juneau, Alaska 99801-1182

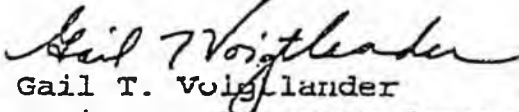
Re: HB 8: Naming Shelby's Way  
Pedestrian Underpass

Dear Representative Halcro:

On behalf of the Department of Law, I have been asked to provide to you the status of the lawsuit against the State of Alaska, concerning Shelby Larsen's death, Case No. 3PA-98-321 Civil. Although the State continues to dispute liability, the case was resolved through settlement and no issues are pending.

Sincerely,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

  
By: Gail T. Voigtlander  
Assistant Attorney General

GTV/pla

cc: Representative Vic Kohring  
Members, House Transportation Committee  
Dennis Poshard, Department of Transportation  
Chrystal Smith, Department of Law  
Deborah Behr, Department of Law

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

January 25, 1999

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

- 1031 WEST 4TH AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
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JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) 465-6735

The Honorable Vic Kohring  
Alaska House of Representatives  
State Capitol  
Juneau, Alaska 99801-1182

Re: HB 8: Naming Shelby's  
Way Pedestrian Underpass

Dear Representative Kohring:

On behalf of the Department of Law, I have been asked to provide comments to you on HB 8, Naming Shelby's Way Pedestrian Underpass. A lawsuit against the State of Alaska concerning Shelby Larsen's death is pending in the Palmer Superior Court, Case No. 3PA-98-321 Civil. The State is being defended in the lawsuit by the Department of Law.

The case is set for trial in Palmer in June of this year. This lawsuit will address the circumstances surrounding Shelby's death and leave to the judge and jury issues relating to the cause of the accident. In fairness to all parties to this lawsuit, it is important that facts about the accident be introduced to the jury through that forum, rather than in public statements introduced through the media.

We are concerned about the accuracy of certain statements made in your press release concerning this bill issued on January 21, 1999, and wish to take this opportunity to clarify the record. Specifically the press release refers to the Montana Creek Bridge as a dangerous spot where others have been hurt or killed. The Department of Transportation researched the safety and accident history of the bridge in its Highway Bridge Pedestrian Facilities Report dated January 1997, through the use of the State's Highway Safety Improvement Program. This program collects and analyzes all reported accidents on state highways in the last twenty years. The program results demonstrate that no other injuries or fatalities have occurred involving pedestrians crossing the Parks Highway at or near the Montana Creek Bridge.

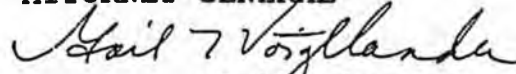
The Honorable Vic Kohring, Alaska House of Representatives  
January 25, 1999  
Page 2

Further validating the results of this program and report, discovery from all parties in this lawsuit has also failed to reveal a single allegation of a pedestrian injury or fatality, other than that of Shelby L. Larsen, at or near the Montana Creek Bridge within or before the last twenty years.

Thank you for this opportunity to address the issues raised by HB 8. In light of these issues and the fact that the lawsuit against the State of Alaska is ongoing, it is our suggestion that the question of naming the pedestrian underpass would better be addressed after this matter is concluded in court. If you have questions or need further information please let me know.

Very truly yours,

BRUCE M. BOTELHO  
ATTORNEY GENERAL



By: Gail T. Voigtlander  
Assistant Attorney General

BMB:GTV:

cc: Representative Beverly Masek, Chair, House Transportation  
Committee  
Members, House Transportation Committee  
Pat Pourchot, Legislative Director, Office of the Governor

# METRO

SUNDAY, June 1, 1997 ☆

ANCHORAGE DAILY NEWS



STEPHEN NOWERS / Anchorage Daily News

Brenda Potter stands next to the memorial she built for her daughter to make the area safer by lowering speed limits, but transportation of-

# Victim's mom wants safer highway

Woman asks for lower speed limit near Montana Creek; state questions need

By STEPHANIE KOMARNITSKY  
Daily News reporter

**MONTANA CREEK** — The campgrounds surrounding this popular fishing stream 60 miles north of Wasilla are quiet — for now. The picnic tables are empty. The parking spots barren. The only sounds are the bubbling creek and the rustle of wind stirred up by passing cars.

But in the coming weeks, these campgrounds will be filled. Cars and campers will converge here in an annual ritual synchronized with the arrival of chinook salmon. Many relish the opportunity to get away from the city and try their hand at catching what is for some their first fish of the year.

But Brenda Potter is dreading it.

Since her 5-year-old daughter, Shelby, was struck and killed by a car on the Parks Highway bridge over Montana Creek last August, Potter has waged a campaign to make the area safer.



*Don McNellis, who runs a tackle shop at a nearby campground, says if the state won't lower the speed limit, he'll put up his own 45 mph signs.*

She has petitioned state transportation officials to drop the 65 mph speed limit to 45 mph across the bridge and build an underpass for pedestrians. Some local residents have joined her crusade, worried that the highway traffic is a hazard to children getting on and off school buses at the side of the road.

For Potter, the campaign is a way to make sense of her daughter's death and to prevent another tragedy.

"I held her," she said. "I watched the blood drain from her. It's a terrible walk ... and I don't want to see it happen

again."

State Department of Transportation officials agree an underpass makes sense and plan to ask for funding next year. But they don't think lowering the speed limit will make Montana Creek or other places like it, such as Bird Creek on the Seward Highway along Turnagain Arm, safer.

Instead, they say, it could make an area they describe as relatively safe more dangerous. Before Shelby's death, only two accidents had occurred at the Montana Creek bridge since 1977. In one, a car hit a moose and in the other a vehicle went

into the ditch, according to department records.

The 65 mph speed limit in the sparsely populated area is based, in part, on studies of how fast most motorists drive through the area.

If the state lowered the speed limit as Potter asks, it could lead to motorists driving widely varying speeds, said John Horn, regional transportation director. Some drivers will obey the law, but others will not, he said.

"You can post it 45 and it will give you a warm fuzzy feeling," he said. "But people are not going to drive 45 out there. It could actually lead to more collisions."

This spring, however, the state posted yellow caution signs recommending drivers go 45 mph near the creek. The signs, which show a picture of a pedestrian, were also posted at five other bridges just south of

Please see Page B-3, HIGHWAY

## HIGHWAY: Mother wants state to make road safer

Continued from Page B-1

Montana Creek where summer brings the same mix of anglers and high-speed traffic. The signs at least will let people know they may need to slow down, Horn said.

Potter said she's pleased to see the caution signs, but it's not enough.

If the man who hit her daughter had been going slower, he might have had more time to react, she said. She noted the same day Shelby was killed, a car crossed onto the shoulder of the road and killed a woman walking along the Parks Highway

near Sheep Creek, a few miles to the south.

Alaska State Troopers estimated the driver who hit Shelby was going 55 mph, 10 mph less than the speed limit but not slow enough to avoid her. The driver was not cited.

The accident happened an hour after the family had arrived for a day of fishing and camping, Potter said.

A shiny-eyed girl with her mother's blonde hair, Shelby was told not to go near the highway. But she and her two older brothers went anyway, Potter said.

Somehow, Shelby ended

up alone on the bridge and when she turned to go back, she stepped in front of the car. A medic on the scene told troopers that he knew when he looked at the girl, she would not survive.

Potter says her daughter never should have been on bridge, but other children also will disobey their parents.

Don McNellis, whose runs a tackle shop at one of the campgrounds and whose 4-year-old daughter witnessed the accident, agrees. He says if the state won't lower the speed limit, he plans to put up his own 45 mph speed limit

signs.

"I'm giving them another week," he said Saturday. "I don't want to cause trouble, but then they're going up."

At the bridge, Potter has set up a memorial to her daughter. A wooden cross surrounded by stuffed animals and other belongings, including Shelby's shoes, marks the spot where she died.

Nearby, a pink dress is pinned on a metal framework and topped with a pink and purple hat.

"People need to slow down," she said. "Just slow down."

## Pedestrians die in 2 accidents

By **CASEY RESSLER**  
Frontiersman reporter

Two people died Saturday after they were struck by vehicles on the Parks Highway in separate accidents. Troopers are investigating both of the incidents, and charges could follow.

Shelby Larson, 5, of Big Lake, was killed on the Montana Creek bridge Saturday afternoon. Shelby was coming across the bridge after she and her relatives were fishing when she was struck by a 1995 Chevy driven by Walter W. Maglic, 41, of Pennsylvania.



Shelby Larson

Shelby died at the scene. Maglic and another passenger in the vehicle were uninjured in the accident.

Shelby's mother, Brenda Potter, remembered her as her "best little buddy," Tuesday morning.

Potter wrote: "Things will come and things will pass, but Shelby's memories will always last. For she was loved by everyone, including Jesus, the Holy Son. We love you Shelby."

Services for Shelby will take place on Saturday, Aug. 24 at Valley Funeral Home on Her-

Early Saturday afternoon, 39-year-old Dianna Metza of Healy was killed when a 1992 Ford, driven by William Kuper, 54, of Anchorage, left the roadway and struck her.

Kuper was northbound on the Parks near Sheep Creek when he apparently left the road and traveled down an embankment where Metza and four other people were walking.

"Kuper told the trooper interviewing him that he had glanced down at something and when he looked up, he was on the shoulder and out of control," Talkeetna AST Sgt. Chuck Feller said.

"The family was well off the road, at least eight to 10 feet from the shoulder. They were not contributing factors at all. It was a freak accident," Feller added.

Feller said it appeared Kuper was traveling around 65 mph, and there were no skid marks leading down the embankment where the Metza was walking.

Three juveniles, a male and Metza were all struck by the vehicle.

Kuper and three of the pedestrians were transported to Val-

## FATALITIES

Continued from Front Page

ley Hospital where they were treated for minor injuries and released.

Metza had just moved to Healy in the last month, coming to Alaska from Minnesota.

"Alcohol does not appear to be a factor in either of the accidents," Bachman said.



Dianna Metza

No charges have been filed in either accident. Investigations into both accidents are continuing.

"There is a possibility that charges could stem from the accidents after the investigators complete their cases," Bachman said.

HOUSE TRANSPORTATION STANDING COMMITTEE

January 18, 2000

1:04 p.m.

**DRAFT**

#hb8

HB 8 - NAMING SHELBY'S WAY PEDESTRIAN UNDERPASS

CHAIRMAN HALCRO announced the next order of business would be HOUSE BILL NO. 8, "An Act naming the pedestrian underpass at Montana Creek on the Parks Highway as Shelby's Way."

Number 1498

CHAIRMAN HALCRO called for a brief at-ease at 1:25 p.m. and called the meeting back to order at 1:30 p.m.

Number 1520

REPRESENTATIVE KOHRING, sponsor of HB 8, noted the bill was drafted last year and tabled by the Chair of the House Transportation Committee because of a pending lawsuit. At this point, however, the lawsuit has been resolved.

REPRESENTATIVE KOHRING explained the bill would name an underpass that will be constructed on the Parks Highway as "Shelby's Way."

He explained Shelby passed away in an accident while camping and fishing with her family at Montana Creek, the site of the underpass. It is sad that an accident such as Shelby's was needed to get an underpass. Nevertheless, he credited DOT/PF for its immediate recognition of the need for the underpass and announced that construction will begin this summer. Representative Kohring further stated that, at the conclusion of the construction, there will be a community-wide picnic to celebrate Shelby's life and to dedicate the underpass in her honor. The bill is the official vehicle for this to happen.

Number 1675

BOYD J. BROWNFIELD, Deputy Commissioner, Department of Transportation & Public Facilities [DOT/PF], came before the committee to present the department's position. He stated that the department supports HB 8 and noted that his comments on HB 266 apply to this bill as well.

Number 1700

BRENDA POTTER, Mother of Shelby Larsen, testified via

teleconference from Mat-Su. She stated the following:

Shelby was a beautiful, little five year old who touched the lives of everyone she met. Truly God's little gift. Because of the potential danger in these bridge areas and in memory of my little girl, I launched a small crusade to get safety in these areas enhanced for us and our loved ones. This bridge work has been started and will continue this year. This all started with the death of one little girl, Shelby. I believe it is only right since she took her last breath on that bridge and the work that we're getting done that it bears her name - Shelby's Way. Thank you.

Number 1742

CHAIRMAN HALCRO closed the meeting to public testimony.

Number 1747

REPRESENTATIVE HUDSON stated the ultimate tribute to Shelby is the fact that there will be a tunnel [underpass] constructed. However, despite what he said earlier on policy in response to the department's concern, he wonders what the policy should be in these types of incidents. He knows of two very fine individuals who were killed on a highway in Juneau. He can understand designating a stretch of a highway to a state trooper to credit all other troopers or all veterans who have served the state, but he is hesitant to move quickly towards this kind of a designation. He doesn't mean any disrespect; he just doesn't want to establish a new pattern whereby anybody could come before the legislature to designate a stretch of a highway to someone who has lost his/her life.

Number 1852

REPRESENTATIVE COWDERY stated it seems that DOT/PF chose to construct an underpass for future safety reasons. There is a lot of activity at that bridge, especially when the salmon are running in the summer. The bill simply names the underpass.

Number 1900

CHAIRMAN HALCRO stated he finds himself agreeing with Representative Hudson but for a different reason. Last year, DOT/PF and the Department of Law took issue with the danger as this was the first time for a fatality or pedestrian accident.

But, it goes a step beyond that. In this case, a five-year-old girl was left unsupervised and she ran into the middle of the street; yet with all the activity on the bridge it was the first time in 20 years somebody was killed, and unfortunately, very unfortunately, it was a five-year-old little girl. He will support the bill, but he is concerned about the future implications for the state. He reiterated that this is different than naming a corridor of a highway after a slain officer in the line of duty, this is surrounded by litigation in which the state had to settle on who was liable.

Number 2042

REPRESENTATIVE COWDERY made a motion to move HB 8 out of the committee with individual recommendations and the attached zero fisc .1 note(s); he asked unanimous consent. There being no objection, HB 8 so moved from the House Transportation Standing Committee.

#

**\*HONORING\***

**\*VINCENT NUSUNGINYA – EAGLE SCOUT\***

It is with great pleasure that the members of the Twenty-first Alaska State Legislature salute Vincent Nusunginya for attaining the rank of Eagle Scout through Soldotna Troop 672. Vincent will receive this award on February 12, 2000 in Kenai, Alaska.

Vincent was born in Williamsburg, Virginia and came to Soldotna in 1984 when he was just 3 years old. Since being in Troop 672, which is sponsored by the Soldotna Elks Lodge 2706, Vincent has held numerous elected leadership positions. Most recently he has served as Troop Guide and Senior Patrol Leader.

For his Eagle Scout project, Vincent developed and implemented a computerized record keeping system for the Kenai Peninsula Food Bank. Using the Access 97 system, he was able to create a computer tracking method that enables the food bank staff to inventory and keep quantitative records of all incoming and outgoing food. Prior to completion of this system, the food bank staff spent a great deal of time tracking this information by hand.

Vincent's interests include working with computers, electronics, teaching younger scouts and playing the guitar. Now at the age of 18, he remains active in scouting as an Assistant Scout Master with Troop 672, and he is currently finishing high school and will receive his home schooling high school diploma soon.

Vincent comes from a well-established Alaskan family. His great grandfather, Ned Nusunginya, lived in Barrow where he was a Whaling Captain and an Assembly of God Minister. His great uncle, John Nusunginya, served in the first two Alaska State Legislatures as a member of the House of Representatives from 1959 through 1962.

The members of the Twenty-first Alaska State Legislature applaud the accomplishments of this fine young Alaskan. We are certain that Vincent is among those young Alaskans who will shape the future of our great state.

\_\_\_\_\_  
 BRIAN PORTER  
 SPEAKER OF THE HOUSE

\_\_\_\_\_  
 DRUE PEARCE  
 PRESIDENT OF THE SENATE

Date:

\_\_\_\_\_  
 GAIL PHILLIPS  
 PRIME SPONSOR

Cosponsors:

*Rep. Davis, Rep. Smalley*



DRAFT



*Handwritten signature or initials in the top right corner.*

# In Memoriam

## \*LEN MACKLER\*

The members of the Twenty-first Alaska State Legislature join together with the family and friends of Len Mackler to honor his life, his service to the community and his many accomplishments.

Len was born in New Plymouth, New Zealand, in 1947, and graduated from high school in Florissant, Missouri in June 1964. From 1964 to 1968 he attended the University of Missouri, in Columbia, Missouri and graduated with a bachelor of science in forestry. Besides forestry, Len studied land management and utilization as well as speaking and technical writing.

Len Mackler's military service tells only in part what an extraordinary man he was in life. He served his country in the U.S. Army from 1968 to 1978 with great valor, earning some of the most prestigious honors the military can give. He earned a Silver Star, a Bronze Star for Valor, and a Bronze Star for Service, the Army commendation Medal (three awards), the Purple Heart (four awards), Air Medal, and the Combat Infantry Badge, Expert Infantry Badge, Ranger tab, parachutist Badge, Vietnam Service Medal and Vietnam Campaign Ribbon. Other awards include the Distinguished Military Student (ROTC), the Distinguished Military Graduate (ROTC), Commands List Graduate (Infantry Officer Advanced Course). Len was particular proud of his record with Pope and Young Club Record for his 11<sup>th</sup> place Dall Sheep.

Len was a respected citizen in the community and a respected employee of the Fairbanks North Star Borough School District. He will be long remembered for his enthusiasm for life, and his commitment to ensuring the health, safety, and well being of both students and staff. He will forever be revered, loved and respected by all those who had the honor and privilege of knowing him. He touched many lives in good and positive ways, and his presence will be sorely missed.

The Alaska State Legislature would like to extend its deepest condolences to his wife, Carol, and his parents, Val and Ray Mackler.



\_\_\_\_\_  
BRIAN PORTER  
SPEAKER OF THE HOUSE

\_\_\_\_\_  
DRUE PEARCE  
PRESIDENT OF THE SENATE

Date:

\_\_\_\_\_  
JEANNETTE JAMES  
PRIME SPONSOR

Cosponsors: *Rep. Davies*

# STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

1031 WEST 4<sup>TH</sup> AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501-5903  
PHONE: (907) 269-5190  
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January 18, 2000

The Honorable Andrew Halcro  
Chair, House Transportation Committee  
Alaska House of Representatives  
State Capitol  
Juneau, Alaska 99801-1182

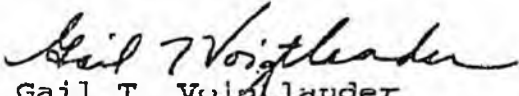
Re: HB 8: Naming Shelby's Way  
Pedestrian Underpass

Dear Representative Halcro:

On behalf of the Department of Law, I have been asked to provide to you the status of the lawsuit against the State of Alaska, concerning Shelby Larsen's death, Case No. 3PA-98-321 Civil. Although the State continues to dispute liability, the case was resolved through settlement and no issues are pending.

Sincerely,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

  
By: Gail T. Voigtlander  
Assistant Attorney General

GTV/pla

cc: Representative Vic Kohring  
Members, House Transportation Committee  
Dennis Poshard, Department of Transportation  
Chrystal Smith, Department of Law  
Deborah Behr, Department of Law

# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. HB 8

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected DOT&PF  
 Title Naming Shelby's Way Pedestrian Underpass BRU Commissioners Office  
 Component \_\_\_\_\_  
 Sponsor Representatives Kohring  
 Requester Transportation Component Serial No. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY99) cost: 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

**ANALYSIS:** (Attach a separate page if necessary)

Prepared by Dennis Poshard, Legislative Liaison Phone 465-3904  
 Division Office of the Commissioner Date/Time 1/22/99 7:56 AM  
 Approved by Commissioner *Dennis Poshard* Date 1/22/99  
 Agency Department of Transportation and Public Facilities

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# STATE OF ALASKA

## DEPARTMENT OF LAW

### OFFICE OF THE ATTORNEY GENERAL

1158

TONY KNOWLES, GOVERNOR

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January 25, 1999

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Alaska House of Representatives  
State Capitol  
Juneau, Alaska 99801-1182

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The case is set for trial in Palmer in June of this year. This lawsuit will address the circumstances surrounding Shelby's death and leave to the judge and jury issues relating to the cause of the accident. In fairness to all parties to this lawsuit, it is important that facts about the accident be introduced to the jury through that forum, rather than in public statements introduced through the media.

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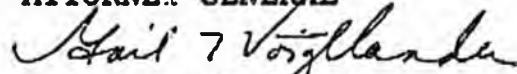
The Honorable Vic Kohring, Alaska House of Representatives  
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Very truly yours,

BRUCE M. BOTELHO  
ATTORNEY GENERAL



By: Gail T. Voigtlander  
Assistant Attorney General

BMB:GTV:

cc: Representative Beverly Masek, Chair, House Transportation  
Committee  
Members, House Transportation Committee  
Pat Pourchot, Legislative Director, Office of the Governor



FACSIMILE TRANSMISSION  
COVER SHEET

Office of the Attorney General  
Dimond Courthouse, 123 Fourth Street, 4th Floor  
P.O. Box 110300  
Juneau, AK 99811-0300  
PHONE: (907) 465-2133 FAX: (907) 465-2075

DATE: 1/12/00

TO: Kevin Hand

FAX: ( ) 2418

Rep Halcro

FROM: Crystal Smith

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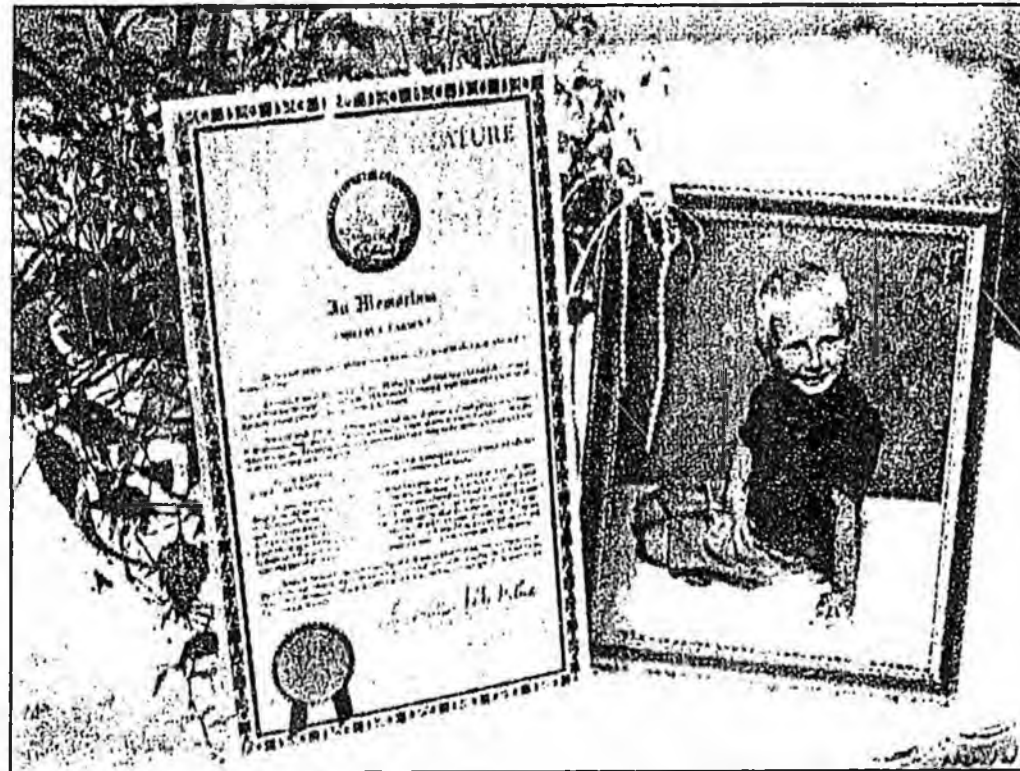
## Memory paves way for visitors

By **MELANIE BRUBAKER MAZUR**  
Frontiersman reporter

**MEADOW LAKES** — A mother's grief over the death of her 5-year-old daughter has been channeled into a project to benefit pedestrians on the Parks Highway.

Shelby Larsen was killed during the first hours of an Aug. 17, 1996, camping trip with her family. After fishing with her brothers on Montana Creek near Mile 95 Parks Hwy. that Saturday two years ago, she dashed across the road and was struck by a vehicle driven by a Pennsylvania man.

Now, a planned pedestrian tunnel un-



MELANIE BRUBAKER MAZUR/Frontiersman

Last week, Rep. Vic Kohring presented Brenda Potter with a citation from the Alaska Legislature honoring the life of her daughter, Shelby Larsen. "She was very adored," her mother said. "People just loved her."

der the creek is being named Shelby's Way. Construction is set to begin next summer.

"Now her name lives on in the Valley forever, long after I'm gone," said Shelby's mother, Brenda Potter. "That really pleases me."

Last week, Potter received a legislative

citation posthumously awarded to her daughter.

The pedestrian project "is the only good thing that will come from her death," Potter said.

John Horn, area manager for the Alas-

See **LARSEN**, Page 16

# LARSEN

Continued from Front Page

ka Department of Transportation, and Rep. Vic Kohring, R-Wasilla, have been instrumental in fast-tracking the pedestrian project, she said.

"Two years seems like a long time, but when you look at the list of state projects, that's pretty quick," Potter said.

After the accident, Potter started making phone calls to DOT and legislative offices, trying to spur the creation of a safer pedestrian crossing. Then she started lobbying them directly, carrying her daughter's photograph.

"She was not a statistic here," Potter said. "All of these statistics — these are human beings."

The Legislature unanimously passed a resolution to create a walkway by 2001 or 2002, " ... but I said 'No way, that's too long,'" Potter said.

The funding is in place for construction to start next year.

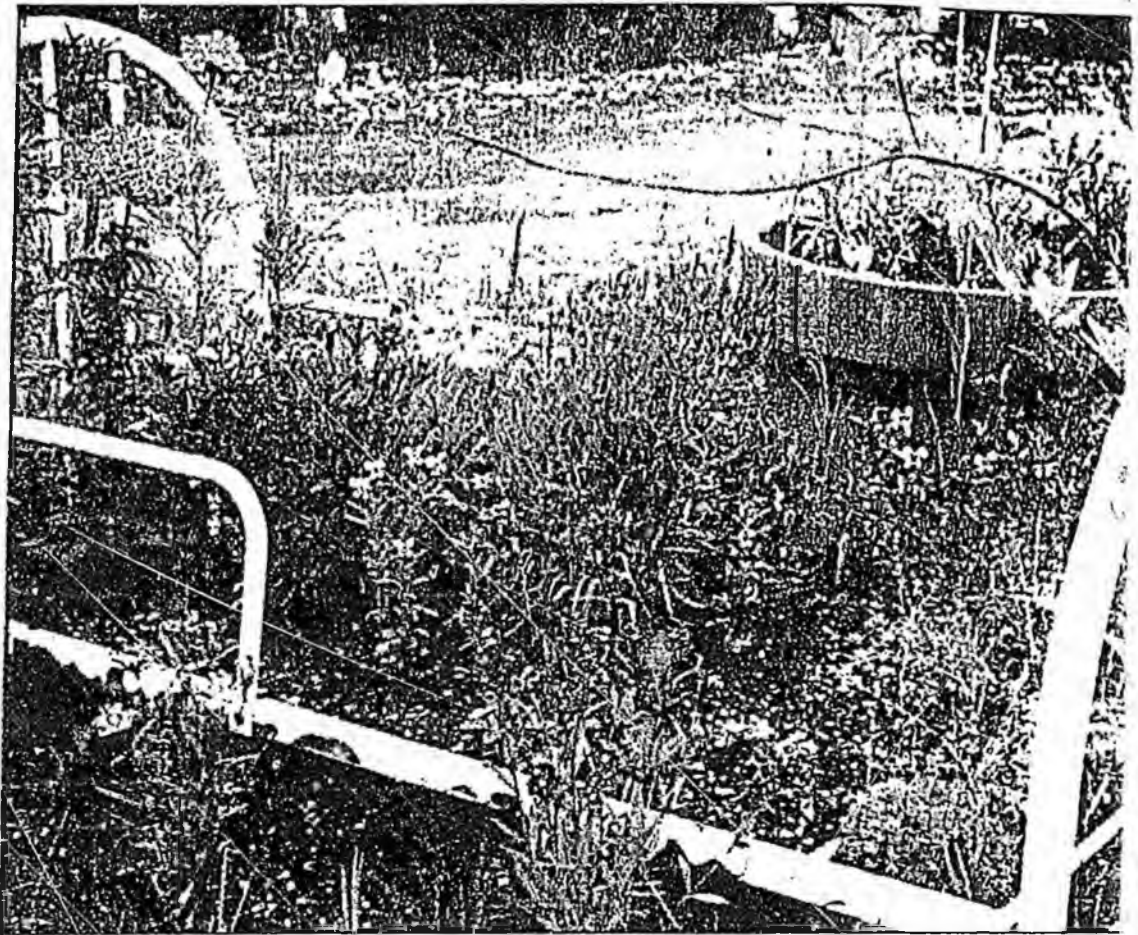
"Those pedestrian walkways will save lives," she said. "I'm absolutely sure of it."

Horn said the \$1.5 million project will include a pedestrian bridge upstream from the existing highway bridge, along with pedestrian tubes underneath the roadway. Pathways will hook up with campgrounds located on both sides of the road.

Potter says there isn't a day she doesn't think of her daughter, even though she takes solace in her sons and a daughter, Breeana, who was born a few months after Shelby's death. Shelby was looking forward to having a younger sister and was excited about entering kindergarten in the fall.

"She was a very special child," her mother remembered. "She was loving, open and very bright." Her funeral was filled with flowers and memories from friends. In a way, Potter said, her advocacy helped her get through the grief of losing a child.

"You need to do something," Potter said. "Otherwise you stay in bed and cry."



MELANIE BRUBAKER MAZUR/Frontiersman

Above, Shelby's bed is used as a planter in the front of the home of Potter's husband and surviving children. Several trees and plants have been planted in the area. Shelby's name is in area markers and parks.



MELANIE BRUBAKER MAZUR/Frontiersman

Brenda Potter plans to have a celebration of her daughter's life when a pedestrian bridge and tunnel under the Parks Highway are completed.

# METRO

SUNDAY, June 1, 1997 ☆

ANCHORAGE DAILY NEWS



■ **STEPHEN NOWERS / Anchorage Daily News**

Brenda Potter stands next to the memorial she built for her daughter.

make the area safer by lowering speed limits, but transportation officials say doing so could make the area more dangerous. They plan

# Victim's mom wants safer highway

Woman asks for lower speed limit near Montana Creek; state questions need

By STEPHANIE KOMARNITSKY  
Daily News reporter

MONTANA CREEK — The campgrounds surrounding this popular fishing stream 60 miles north of Wasilla are quiet — for now. The picnic tables are empty. The parking spots barren. The only sounds are the bubbling creek and the rustle of wind stirred up by passing cars.

But in the coming weeks, these campgrounds will be filled. Cars and campers will converge here in an annual ritual synchronized with the arrival of chinook salmon. Many relish the opportunity to get away from the city and try their hand at catching what is for some their first fish of the year.

But Brenda Potter is dreading it.

Since her 5-year-old daughter, Shelby, was struck and killed by a car on the Parks Highway bridge over Montana Creek last August, Potter has waged a campaign to make the area safer.



*Don McNellis, who runs a tackle shop at a nearby campground, says if the state won't lower the speed limit, he'll put up his own 45 mph signs.*

She has petitioned state transportation officials to drop the 65 mph speed limit to 45 mph across the bridge and build an underpass for pedestrians. Some local residents have joined her crusade, worried that the highway traffic is a hazard to children getting on and off school buses at the side of the road.

For Potter, the campaign is a way to make sense of her daughter's death and to prevent another tragedy.

"I held her," she said. "I watched the blood drain from her. It's a terrible walk ... and I don't want to see it happen

again."

State Department of Transportation officials agree an underpass makes sense and plan to ask for funding next year. But they don't think lowering the speed limit will make Montana Creek or other places like it, such as Bird Creek on the Seward Highway along Turnagain Arm, safer.

Instead, they say, it could make an area they describe as relatively safe more dangerous. Before Shelby's death, only two accidents had occurred at the Montana Creek bridge since 1977. In one, a car hit a moose and in the other a vehicle went

into the ditch, according to department records.

The 65 mph speed limit in the sparsely populated area is based, in part, on studies of how fast most motorists drive through the area.

If the state lowered the speed limit as Potter asks, it could lead to motorists driving widely varying speeds, said John Horn, regional transportation director. Some drivers will obey the law, but others will not, he said.

"You can post it 45 and it will give you a warm fuzzy feeling," he said. "But people are not going to drive 45 out there. It could actually lead to more collisions."

This spring, however, the state posted yellow caution signs recommending drivers go 45 mph near the creek. The signs, which show a picture of a pedestrian, were also posted at five other bridges just south of

Please see Page B-3, HIGHWAY

## HIGHWAY: Mother wants state to make road safer

Continued from Page B-1

Montana Creek where summer brings the same mix of anglers and high-speed traffic. The signs at least will let people know they may need to slow down, Horn said.

Potter said she's pleased to see the caution signs, but it's not enough.

If the man who hit her daughter had been going slower, he might have had more time to react, she said. She noted the same day Shelby was killed, a car crossed onto the shoulder of the road and killed a woman walking along the Parks Highway

near Sheep Creek, a few miles to the south.

Alaska State Troopers estimated the driver who hit Shelby was going 55 mph, 10 mph less than the speed limit but not slow enough to avoid her. The driver was not cited.

The accident happened an hour after the family had arrived for a day of fishing and camping, Potter said.

A shiny-eyed girl with her mother's blonde hair, Shelby was told not to go near the highway. But she and her two older brothers went anyway, Potter said.

Somehow, Shelby ended

up alone on the bridge and when she turned to go back, she stepped in front of the car. A medic on the scene told troopers that he knew when he looked at the girl, she would not survive.

Potter says her daughter never should have been on bridge, but other children also will disobey their parents.

Don McNellis, whose runs a tackle shop at one of the campgrounds and whose 4-year-old daughter witnessed the accident, agrees. He says if the state won't lower the speed limit, he plans to put up his own 45 mph speed limit

signs.

"I'm giving them another week," he said Saturday. "I don't want to cause trouble, but then they're going up."

At the bridge, Potter has set up a memorial to her daughter. A wooden cross surrounded by stuffed animals and other belongings, including Shelby's shoes, marks the spot where she died.

Nearby, a pink dress is pinned on a metal framework and topped with a pink and purple hat.

"People need to slow down," she said. "Just slow down."

# Frontiersman

Growing with Alaska's Mat-Su Valley since 1947

996

## Pedestrians die in 2 accidents

By CASEY RESSLER  
Frontiersman reporter

Two people died Saturday after they were struck by vehicles on the Parks Highway in separate accidents. Troopers are investigating both of the incidents, and charges could follow.

Shelby Larson, 5, of Big Lake, was killed on the Montana Creek bridge Saturday afternoon. Shelby was coming across the bridge after she and her relatives were fishing when she was struck by a 1995 Chevy driven by Walter W. Maglic, 41, of Pennsylvania



Shelby Larson

Shelby died at the scene. Maglic and another passenger in the vehicle were uninjured in the accident.

Shelby's mother, Brenda Potter, remembered her as her "best little buddy," Tuesday morning.

Potter wrote: "Things will come and things will pass, but Shelby's memories will always last. For she was loved by everyone, including Jesus, the Holy Son. We love you Shelby."

Services for Shelby will take place on Saturday, Aug. 24 at Valley Funeral Home on Hern-

Early Saturday afternoon, 39-year-old Dianna Metza of Healy was killed when a 1992 Ford, driven by William Kuper, 54, of Anchorage, left the roadway and struck her.

Kuper was on his way home on the Parks near Sheep Creek when he apparently left the road and traveled down an embankment where Metza and four other people were walking.

"Kuper told the trooper interviewing him that he had glanced down at something and when he looked up, he was on the shoulder and out of control," Talkeetna AST Sgt. Chuck Feller said.

"The family was well off the road, at least eight to 10 feet from the shoulder. They were not contributing factors at all. It was a freak accident," Feller added.

Feller said it appeared Kuper was traveling around 65 mph, and there were no skid marks leading down the embankment where the Metza was walking.

Three juveniles, a male and Metza were all struck by the vehicle.

Kuper and three of the pedestrians were transported to Val-

## FATALITIES

Continued from Front Page

ley Hospital where they were treated for minor injuries and released.

Metza had just moved to Healy in the last month, coming to Alaska from Minnesota.



Dianna Metza

"Alcohol does not appear to be a factor in either of the accidents," Bachman said.

No charges have been filed in either accident. Investigations into both accidents are continuing.

"There is a possibility that charges could stem from the accidents after the investigators complete their cases," Bachman said.

# ALASKA STATE LEGISLATURE



*Interim:*

600 East Railroad Avenue  
Wasilla, Alaska 99654  
(907) 373-1842  
Fax -(907) 373-4729

*Session:*

State Capitol Building, Room 421  
Juneau, Alaska 99801-118  
(907) 465-2186  
Fax - (907) 465-3818

REPRESENTATIVE VIC KOHRING  
DISTRICT 26

## SECTIONAL ANALYSIS HOUSE BILL 8

**Title:** An act naming the pedestrian underpass at Montana Creek on the Parks Highway as Shelby's Way.

**Section 1.** AS 35.40 would be amended by adding a new section to read:

Section 35.40.120. Shelby's Way. The pedestrian underpass (Department of Transportation and Public Facilities project number 53865) at Montana Creek at mile 96.5 of the George Parks Highway is named "Shelby's Way".

# ALASKA STATE LEGISLATURE



*Interim:*

600 East Railroad Avenue  
Wasilla, Alaska 99654  
(907) 373-1842  
Fax -(907) 373-4729

*Session:*

State Capitol Building, Room 421  
Juneau, Alaska 99801-1182  
(907) 465-2186  
Fax - (907) 465-3818

REPRESENTATIVE VIC KOHRING  
DISTRICT 26

## SPONSOR STATEMENT HOUSE BILL 8

Five-year-old Shelby Larsen was killed August 17, 1996, while on a camping trip with her family at Montana Creek near Mile 95 of the Parks Highway. While attempting to cross the Montana Creek Bridge Shelby was struck by a vehicle driven by a Pennsylvania man.

According to her mother, Brenda Potter, "Shelby was a gift from God who touched everyone's heart and life that she came in contact with." Brenda has channeled her grief into a successful campaign to get a pedestrian tunnel under the Parks Highway, at Montana Creek bridge (Department of Transportation Project 53865).

House Bill 8 will name the new pedestrian tunnel at the Montana Creek Bridge "Shelby's Way." It is both fitting and proper that the pedestrian tunnel be named in honor of Shelby Larson.

# ALASKA STATE LEGISLATURE



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State Capitol Building, Room 421  
Juneau, Alaska 99801-1182  
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Fax - (907) 465-3818

REPRESENTATIVE VIC KOHRING  
DISTRICT 26

## Memorandum

Date: January 10, 2000

To: Representative Andrew Halcro  
Chair, Transportation Committee

From: Representative Vic Kohring 

Subject: Committee hearing request

I wish to request a Committee hearing on HB 8, naming the Montana Creek underpass "Shelby's Way".



# Teleconference Participants

TCN: 100/9

## Participant Lists

View List for

ALL ▼

Testifiers ▼

Go >>>

Close Window

## Participants

Unidentified Testifiers: 0

Unidentified Observers: 0

### MATSU (MAT)

1 Name:Ms. Stephanie Dennis Brown  
 Address: POB 1536  
 City /St /Zip:Palmer AK 99645  
 Bill: HB 266 NAMING ROWLAND MEMORIAL HIGHWAY

Phone:  
 Affiliation:  
 Type: Testifier ✓

2 Name:Ms. Brenda Potter  
 Address: Pob 872263  
 City /St /Zip:Wasilla AK 99687  
 Bill: HB 8: NAMING SHELBY'S WAY PEDESTRIAN UNDERPASS

Phone:  
 Affiliation:  
 Type: Testifier ✓

3 Name:Mrs. Wanda Rowland  
 Address:  
 City /St /Zip:Palmer  
 Bill: HB 266 NAMING ROWLAND MEMORIAL HIGHWAY

Phone:  
 Affiliation: parent  
 Type: Testifier ✓

4 Name:Mr. James Rowland, Srt  
 Address:  
 City /St /Zip:Palmer  
 Bill: HB 266 NAMING ROWLAND MEMORIAL HIGHWAY

Phone:  
 Affiliation: parent  
 Type: Testifier ✓



# Teleconference Participants

TCN: 10079

## Participant Lists

View List for

ALL



Testifiers



Go >>>

Close Window

## Participants

Unidentified Testifiers: 0

Unidentified Observers: 0

### MATSU (MAT)

1

Name: Ms. Stephanie Dennis Brown

Phone:

Address: POB 1536

Affiliation:

City /St /Zip: Palmer AK 99645

Type: Testifier

Bill: HB 286: NAMING ROWLAND MEMORIAL HIGHWAY

2

Name: Ms. Brenda Potter

Phone:

Address: Pob 872263

Affiliation:

City /St /Zip: Wasilla AK 99687

Type: Testifier

Bill: HB 8: NAMING SHELBY'S WAY PEDESTRIAN UNDERPASS

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

January 25, 1999

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

- 1031 WEST 4TH AVENUE, SUITE 200  
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- KEY BANK BUILDING  
100 CUSHMAN ST., SUITE 400  
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FAX: (907) 451-2846
- P.O. BOX 110300-DIMOND COURT HOL  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) 465-6735

The Honorable Vic Kohring  
Alaska House of Representatives  
State Capitol  
Juneau, Alaska 99801-1182

Re: HB 8: Naming Shelby's  
Way Pedestrian Underpass

Dear Representative Kohring:

On behalf of the Department of Law, I have been asked to provide comments to you on HB 8, Naming Shelby's Way Pedestrian Underpass. A lawsuit against the State of Alaska concerning Shelby Larsen's death is pending in the Palmer Superior Court, Case No. 3PA-98-321 Civil. The State is being defended in the lawsuit by the Department of Law.

The case is set for trial in Palmer in June of this year. This lawsuit will address the circumstances surrounding Shelby's death and leave to the judge and jury issues relating to the cause of the accident. In fairness to all parties to this lawsuit, it is important that facts about the accident be introduced to the jury through that forum, rather than in public statements introduced through the media.

We are concerned about the accuracy of certain statements made in your press release concerning this bill issued on January 21, 1999, and wish to take this opportunity to clarify the record. Specifically the press release refers to the Montana Creek Bridge as a dangerous spot where others have been hurt or killed. The Department of Transportation researched the safety and accident history of the bridge in its Highway Bridge Pedestrian Facilities Report dated January 1997, through the use of the State's Highway Safety Improvement Program. This program collects and analyzes all reported accidents on state highways in the last twenty years. The program results demonstrate that no other injuries or fatalities have occurred involving pedestrians crossing the Parks Highway at or near the Montana Creek Bridge.

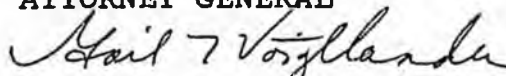
The Honorable Vic Kohring, Alaska House of Representatives  
January 25, 1999  
Page 2

Further validating the results of this program and report, discovery from all parties in this lawsuit has also failed to reveal a single allegation of a pedestrian injury or fatality, other than that of Shelby L. Larsen, at or near the Montana Creek Bridge within or before the last twenty years.

Thank you for this opportunity to address the issues raised by HB 8. In light of these issues and the fact that the lawsuit against the State of Alaska is ongoing, it is our suggestion that the question of naming the pedestrian underpass would better be addressed after this matter is concluded in court. If you have questions or need further information please let me know.

Very truly yours,

BRUCE M. BOTELHO  
ATTORNEY GENERAL



By: Gail T. Voigtlander  
Assistant Attorney General

BMB:GTV:

cc: Representative Beverly Masek, Chair, House Transportation  
Committee  
Members, House Transportation Committee  
Pat Pourchot, Legislative Director, Office of the Governor