

HB

344

FISCAL NOT

Bill Version: HB 344

BIL (H) Publish Date: 2/7/00

STATE OF ALASKA 2000 LEGISLATIVE SESSION

Revision Date/Time: _____ Dept Affected: Natural Resources
 Title: Independence Mine Land Exchange between BRU: Parks & Recreation Management
DNR and Alaska Hard Rock, Inc. Component: Parks Management
 Sponsor: Rules
 Requestor: Governor Component No #452

Expenditures/Revenues (Thousands of Dollars)
 Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2000) cost: \$ n/a

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)

This land exchange will have no immediate fiscal impact on the Division's budget. It will provide an opportunity to seek a viable concession contract for a private operator to manage and maintain all of the historic buildings at Independence Mine State Historical Park. This exchange would allow for the concessionaire to operate underground mine tours.

A concession contract would eventually generate some revenue to the state. A revenue stream is at a minimum four years away. The land exchange is just the first step in the process.

Prepared by: Jim Stratton Phone: 269-8701
 Division: Parks & Outdoor Recreation Date: 19-Jan-00
 Approved by Commissioner: John Shively Date: 1-19-2000
 Agency: Natural Resources

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

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21FAS14P land exchange.xls

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HB 344

JOSE KNOWLES

Public
Alaska
1997
1998

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 3, 2000

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Porter:

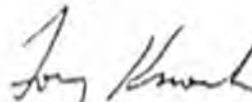
This bill I transmit today would provide legislative approval of a land exchange agreement between the state Department of Natural Resources, and Alaska Hard Rock, Inc. The purpose of the land exchange is for the state to acquire private land located within and adjacent to Independence Mine State Historical Park, near Hatcher Pass. The land to be acquired would be developed to enhance the interpretive and recreational uses of the park. The land the state is exchanging is also located in the Hatcher Pass area and is presently under permit to Alaska Hard Rock, Inc., which is interested in receiving title.

State law requires legislative approval of land exchanges involving lands of unequal appraised value. In this proposed exchange, the state will receive land appraised at \$87,000 while conveying land appraised at \$66,500. Alaska Hard Rock, Inc. is agreeable to this unequal exchange and will be receiving a federal tax credit for the difference.

Adding this land to the Independence Mine State Historical Park, particularly the underground mine tunnels, will greatly add to the tourism potential of the park. The DNR expects to contract with a private concession to run tours and maintain the historic buildings in the park, saving a part of Alaska's history while increasing economic activity in the area.

A copy of the land exchange agreement between the DNR and Hard Rock, Inc., is being provided to the legislature. The DNR has available a report that explains the proposed exchange in more detail.

Sincerely,



Tony Knowles
Governor

Need for Legislative Action Regarding the Tri-Valley Subdivision in Healy, Alaska

On behalf of over 100 Healy, Alaska families, Usibelli Coal Mine, with the full concurrence of the Alaska Railroad Corporation, requests that the Alaska Legislature address a problem that affects the homeowners of the Tri-Valley Subdivision.

History of the Tri-Valley Subdivision

The Tri-Valley Subdivision was created in 1977 when the Alaska Railroad leased about 500 acres of railroad land to Usibelli Coal Mine (UCM) for residential development. At the time, there was little land available for building sites needed by employees of the railroad, Golden Valley Electric Association, the State of Alaska and other area residents.

The problem was especially critical for UCM employees as the mine had been advised by the Federal Mining Enforcement and Safety Administration that employees residing on land leased for coal mining must relocate. As had been the case since the 1920's, most of the miners and their families lived on federal (eventually to become state) coal leases near the mine sites.

The federal act that created the railroad specifically authorized the use of railroad land for townsite purposes as well as railroad operations. A Presidential Act in 1928 withdrew the section of land in which the Tri-Valley subdivision is located for all authorized railroad purposes including use as a townsite. In the 1970's, the railroad recognized the need for additional residential land, but did not have the funds to develop a subdivision. As UCM was willing to fund the development costs, a 55-year lease agreement was signed with UCM in 1977.

Currently there are about 120 residences and 3 churches located in the subdivision. Additionally, the Tri-Valley Volunteer Fire Department, the Tri-Valley Community Center, the offices of the Denali Borough, the community hockey rink and a non-profit day care center are located in the subdivision.

There are two fundamental requirements in the master lease that underline the intent of both the Alaska Railroad and UCM to develop the subdivision for the benefit of the community as opposed to any commercial gain for UCM.

- The residential lots were to be equally available for sublease to all persons, whether they were employees of the Alaska Railroad, UCM or not.
- The rent charged by UCM to sublessees could not exceed UCM's costs to lease and develop the property.

Subdivision Homeowners and Buyers Now Face Financing Problems

Beginning in the early 1990's, problems began to occur when residents applied for mortgages to build or buy homes in the subdivision. Accepted banking policy precludes lenders' from issuing to sublessees a deed of trust with a maturity date that is within 10 years of the termination date of their sublease. The term of the homeowner's subleases are concurrent with the term of the master lease.

Tri-Valley Subdivision Lease Extension
March 9, 2000

In short, as the current expiration date of UCM's master lease is 2032, lenders will not structure mortgages longer than a maximum of 22 years, much shorter than a typical 30-year mortgage. In effect, the longest mortgage most lenders will currently issue is 20 years. This shorter term makes the borrower's monthly payments much higher and reduces the affordability and saleability of subdivision homes.

In recent years, potential home sales have fallen through because some buyers were unable to afford the shorter term mortgages. In other cases, would be buyers who could afford the shorter term loans were not willing to purchase because when the time came for them to sell, the problem would be even worse.

As the available amortization period shrinks with each passing year, the problem grows more acute. When combined with rising interest rates, the ability of new sublessees to afford or to obtain financing for new construction (or for existing sublessees to sell to new buyers) will diminish to the point where only cash transactions are possible. This will greatly reduce the market value of any home located in the subdivision.

The Legislative Solution

The railroad has been willing to address this problem by extending UCM's master lease using a provision in the lease for a 35-year renewal. When added to the remaining 32 years, this would have the effect of extending the master lease by 67 years, well beyond the 40 years needed by lenders.

However, in the 1980's when the Alaska Railroad was transferred from the federal government to the State of Alaska, the legislation establishing the Alaska Railroad Corporation (ARRC) included additional conditions governing long-term leases of railroad land.

Alaska Statute 42.40.285 (4) requires that, unless exempted by action of law, the ARRC must reserve the unilateral right to terminate any lease with a term in excess of 35 years in the event the land is ever needed for railroad use.

Even though all parties recognize there is no chance that the railroad would ever need the subdivision land for railroad use, this unilateral right of the ARRC to terminate the master lease undermines the tenancy of UCM and its sublessees. Any extension of the master lease which contains such a termination clause will preclude lenders from offering long-term financing to homeowners and buyers in the Tri-Valley Subdivision.

The most expedient way to solve the current problem would be for the legislature to take action to exempt the current lease agreement (Contract #65-25-003-4779) between the ARRC and UCM from the provisions of AS 42.40.285 (4). With this done, the master lease could then be extended in a manner that would allow homebuilders and buyers to secure traditional mortgages.

Charlie Green
Vice President Real Estate
Usibelli Coal Mine, Inc.

DENALI BOROUGH

P. O. Box 480 • Healy, Alaska 99743
Phone (907) 683-1330 • FAX (907) 683-1340



March 30, 2000

Senator Rick Halford
Chairman, State Resource Committee
State Capitol, Room 121
Juneau, Alaska 99801

John C. Gonzales, Mayor
P.O. Box 3137
Anderson, AK 99744
(907) 582-2346

Re: CSHB 344

Dear Senator Halford:

APR 03 2000

I would like to join the Alaska Railroad Corporation (ARRC) and Usibelli Coal Mine (UCM) in recognizing the need for a legislative solution that impacts more than 100 families in Healy.

I have read the letters that the National Bank of Alaska and Mt. McKinley Bank, major lenders for our area, have written of their concern to Mr. Charlie Green, Vice-President Real Estate for UCM. Both of these letters strongly emphasize the requirements mortgage companies have for long term home loans. I recognize the lenders concern over the termination clause in the lease terms between ARRC and UCM.

Currently the homes in the Tri-Valley Subdivision can only be purchased on a 20-22 year mortgage loan or cash. The typical mortgage is 30 years. There aren't many families that can qualify for a shorter-term loan. If a seller was lucky enough to find a cash buyer, why would anyone purchase a home in the subdivision when there is no guarantee they will be able to sell it in the future?

Most of the families that reside in Healy are, or intend to be, long term residents. In the Healy area, there continues to be a shortage of fee simple land available for our residents. They invest their money in homes that are built upon lands they have no title to. They have relied on the fact that the State of Alaska, ARRC and Usibelli Coal Mine will protect their interests.

This is a great concern for the families who reside in the subdivision as well as the local employers. It would be difficult to hire new employees if there is a shortage of housing.

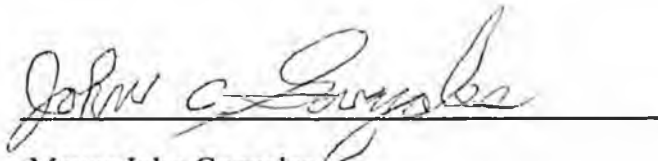
Mayor John Gonzales
Denali Borough
CSHB 344
Page 1 of 2

I support the recommendations of ARRC and UCM to exempt the current lease agreement (contract #69-25-003-4779) from the provision of AS 42.40.285.

Senator, if you feel that you need a Resolution from the Denali Borough Assembly, I would be glad to acquire that for you.

Thank you for your help in this matter. If you need further assistance, please feel free to contact me.

Sincerely:

A handwritten signature in cursive script, reading "John C. Gonzales", written over a horizontal line.

Mayor John Gonzales
Denali Borough

Cc: Mr. Charlie Boddy
Usibelli Coal Mine
Fairbanks, Alaska

ALASKA RAILROAD CORPORATION



Corporate Address: P.O. Box 107500, Anchorage, Alaska 99510
327 W. Ship Creek Avenue, Anchorage, Alaska 99501

March 21, 2000

The Honorable John Torgerson
Alaska State Legislature
Room 516
State Capitol
Juneau, AK 99801

Dear Senator Torgerson:

The Alaska Railroad Corporation (ARRC) recognizes the need for a legislative solution on behalf of more than 100 Healy, Alaska families. We are in support of Usibelli Coal Mine's effort to seek legislative approval to create an exception to the ARRC's real estate policies for the Tri-Valley Subdivision land in Healy.

Alaska Statute 42.40 prohibits the ARRC from selling, exchanging, or otherwise conveying its land unless the legislature approves the action. By law, the ARRC can lease land for up to 35 years, but must reserve the unilateral right to terminate any lease with a term in excess of 35 years in the event the land is ever needed for railroad use.

This termination clause is currently affecting some 120 families in the Tri-Valley Subdivision in Healy, Alaska. The longest mortgage most lenders will issue to these families is 20 years due to the termination language. Accepted banking policy precludes lenders' from issuing to sublessees a deed of trust with a maturity date that is within 10 years of the termination date of their sublease. This shorter term makes the borrower's monthly payments much higher and reduces the affordability and saleability of subdivision homes.

Usibelli Coal Mine, who leases the Healy property from the Alaska Railroad and subleases lots to residents, is currently working on an amendment to legislation in both the Senate and House Finance committees. This amendment would authorize the Railroad to lease Tri-Valley Subdivision land for a period in excess of 35 years without reserving the right to terminate the lease.

Again, the ARRC supports Usibelli's goal to attain an exemption from the 35 year lease limit. However, looking at the big picture, the Alaska Railroad would also like to work with the state legislature toward a more comprehensive solution that would allow us address other real estate concerns which arise on occasion.

We believe many of our real estate issues could be solved if the ARRC were given the authority to issue longer term leases. Residents and businesses along the rail belt would be able to qualify for more affordable mortgage rates and would gain more freedom to plan long term.

Along that line, we would like to work with legislators this summer to study issues relating to the ARRC's real estate policies. The goal would be to create legislation for the 2001 session enabling the Alaska Railroad to better address our customer's needs.

As we begin this process, it is important to note that the ARRC is approached periodically by individual leaseholders who would prefer to purchase the railroad land they currently lease. Approximately 50 percent of the Alaska Railroad's net earnings are derived from real estate leases much like other railroad's in the Lower 48. For that reason, selling Railroad land could jeopardize the ARRC's long term ability to remain a self-sustaining state corporation. We trust that this issue will be taken into account when examining the ARRC's real estate policies.

The ARRC has approximately 218 tenants. Our current policy is adequate for most of our tenants but leaves little room for flexibility. Longer lease options combined with other ideas that may surface from the study group could help the Alaska Railroad better serve Alaskans.

Sincerely,



Governor Bill Sheffield
President and CEO, Alaska Railroad Corporation



MEMBER FDIC

530 Fourth Avenue • P.O. Box 73880 • Fairbanks, Alaska 99707 • (907) 452-1751 • FAX (907) 450-5982
1380 University Avenue • Fairbanks, Alaska 99709 • (907) 474-1770 • FAX (907) 474-1771

February 16, 2000

Mr. Charlie Green
Vice President Real Estate
Usibelli Coal Mine, Inc.
100 Cushman Street, Suite 210
Fairbanks, AK 99701

Dear Charlie,

Mt. McKinley Bank (MMB) was one of the first banks to make mortgages available for residential construction in Healy in the late 1970's. Since then, we have originated hundreds of home loans in the Healy, Clear and McKinley Village areas and probably carry about half of the mortgages in the Tri-Valley Subdivision. I understand that there are currently about 120 residences and 3 churches located in this subdivision.

As you know, mortgages for residences situated on leased land, rather than fee simple land, are subject to a different set of lending policies. Usibelli Coal Mine (UCM) leases the Tri-Valley Subdivision from the Alaska Railroad (ARR), and in turn subleases lots to area residents and organizations. As the term of the sublease can be no longer than the term of the master lease, lenders must be concerned with the length of UCM's master lease when making mortgages to sublessees.

As we have discussed, the problem that MMB, other banks and credit unions currently have with originating mortgage loans in the Tri-Valley Subdivision results from accepted banking policy that precludes lenders from issuing to sublessees a deed of trust with a maturity date that is within ten years of the termination date of the lease. In short, as the current expiration date of the UCM's master lease is 2032, lenders will not structure mortgages longer than a maximum of 22 years which is considerably shorter than a typical 30-year mortgage. In effect, the longest mortgage most lenders will currently issue is 20 years. This shorter term makes the borrower's monthly payments considerably higher and reduces the affordability of homes located in the Tri-Valley Subdivision.

I am not surprised to learn that potential home sales have recently fallen through because the buyers were unable to afford the shorter term mortgages. As the available amortization period continues to shrink, combined with the potential for rising interest rates, the ability of new sublessees to afford or obtain financing for new construction (and for existing sublessees to sell to new buyers) will diminish to the point where only cash transactions are possible. This will greatly reduce the market value of any home located in the subdivision.

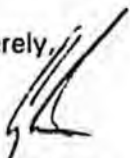
Charlie Green
February 17, 2000
Page Two

I understand that the ARR is willing to extend UCM's master lease to address this problem. However, for any ARR land that is leased for a period longer than 35 years, Alaska law requires that the ARR must reserve the unilateral right to terminate the master lease in the event the land is ever needed for railroad use. Even though all parties recognize there is little chance that the master lease would ever be terminated, this unilateral right to terminate undermines the tenancy of sublessees. Any extension of the master lease containing such a termination clause will preclude lenders from offering long-term financing in the Tri-Valley Subdivision.

I am aware that the parties involved are working to help address this situation, and I would be pleased to offer any support that might be helpful in solving the problem. This would include bringing it to the Alaska Bankers Association to help support any legislative action that might be required to remedy the situation.

Thank you for your help in this matter.

Sincerely,



Craig Ingham
President and
Chief Executive Officer

CI:grs

National Bank of Alaska



February 25, 2000

Mortgage Loan Department
P.O. Box 107025
1500 W. Benson Blvd., 4th Floor
Anchorage, AK 99510-7025
Phone (907) 257-3434 / Fax 257-3412

Mr. Charlie Green
Vice President, Real Estate
Usibelli Coal Mine, Inc.
100 Cushman Street, Suite 210
Fairbanks, Alaska 99701

Dear Charlie:

National Bank of Alaska, as the largest originator and servicer of mortgage loans in the state, expresses our concern over the inability of potential home buyers in the Tri-Valley Subdivision to obtain thirty year mortgages.

The predominant investor in rural Alaska is Alaska Housing Finance Corporation (Alaska Housing). National Bank of Alaska originates loans for sale to Alaska Housing. Alaska Housing requires the remaining term on any leasehold estate to be for a period of not less than ten years from and after the maturity of the mortgage loan. Usibelli Coal Mine leases the Tri-Valley Subdivision land from the Alaska Railroad. The expiration date of this lease is 2032. This date forces us to reduce the term of the mortgage to 22 years to be in compliance with Alaska Housing requirements. The reduced term results in a higher payment for the qualifying borrower which impacts the affordability of properties in the Tri-Valley Subdivision.

I understand from our conversation that the Alaska Railroad is willing to extend the lease with the provision that they may unilaterally terminate the lease if subsequently the Alaska Railroad needs the land. Alaska Housing, other secondary market investors, and National Bank of Alaska cannot lend long-term funds with this termination provision.

National Bank of Alaska, on behalf of our borrowers in Tri-Valley Subdivision, strongly supports any action necessary, including legislation, to enable us to offer thirty year mortgages to the current and future owners in this subdivision. We also advocate a speedy solution to this issue as current property owners may begin to experience a deterioration of the value of their homes if financing is limited.

I appreciate you bringing this to my attention and will be available at any time to provide you with further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Judy Kemplen".

Judy Kemplen
Senior Vice President



SENATE COMMITTEE REPORT

DATE: 3/28/00

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 4/5/00

Resources Committee considered

CS FOR HOUSE BILL NO. 344(FIN)

"An Act authorizing a land exchange between the Department of Natural Resources and Alaska Hardrock, Inc.; approving a long-term lease of certain Alaska Railroad Corporation land at Healy; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

- same title
 - new title
- House Bill:
- same title
 - technical title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>John Taylor</i>	✓				
<i>Heath Samuels</i>	✓				
<i>John Kelly</i>	✓				
<i>Richard Green</i>	✓				
CHAIR: <i>Rich Helford</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

DNR	4/19/00	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill