

SJR

30

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1 CORRECTED
 Bill Version: SJR 30
 (S) Publish Date: 4/30/01

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title: Highway Rights-of-Way in Federal Areas BRU: _____
 Sponsor: Transportation Committee Component: _____
 Requester: Rules Committee Component Number: _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
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						
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CHANGE IN REVENUES ()						
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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 (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: SENATE RULES Phone 465-4993

Senator: /s/ SENATOR PEARCE Date 4/27/01
Committee Chair

Alaska State Legislature

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House Resources Committee

Bill Summary

SJR 30 sends a message to the United States Forest Service and copies the message to other appropriate federal officials relating to the State's authority on state highways passing through Forest Service Lands.

The need for this action arises out of the Forest Service's current actions against citizens of the State in the Yakutat region. The Forest Service has attempted to assert authority over Forest Highway 10 in Yakutat. This highway was deeded to the State many years ago and the State has managed and maintained the roadbed for decades. Furthermore, the Forest Service is claiming that the boat launch at the Situk River is under their jurisdiction, when in fact it is plainly within the State right-of-way.

This resolution, along with a letter from the Senate President and the Speaker's office sends a clear message to state and federal officials that Alaska intends to preserve its sovereign rights, and its obligation to protect the rights and privileges of its citizens.

Alaska State Legislature



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President of the Senate

Representative Brian Porter
Speaker of the House

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April 28, 2001

Mr. Dale Bosworth
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Washington, DC 20250

Mr. Paul Forward
Acting Regional Forester
USDA Forest Service
P.O. Box 21628
Juneau, AK 99802

APR 30 2001

Dear Mr. Bosworth and Mr. Forward:

On behalf of the Senate and House majorities, we would like to address a growing conflict between your agency and the State of Alaska. We would also like to offer some suggestions and solutions that could benefit us all.

This correspondence is directed to a matter of considerable concern to the Alaska State Legislature. We are especially concerned about a growing number of attempts by federal agencies to preempt state management of its navigable waters. A case that clearly illustrates this problem involves the Yakutat District. Specifically, the Forest Service is attempting to indirectly control use of the Situk River, a navigable stream, by unilaterally, and in our opinion illegally, requiring commercial use permits for a highway and associated right-of-way facilities managed and maintained by the state. We are respectfully asking you to intercede in this issue and provide the policy guidance desperately needed to establish a more cooperative relationship with the State of Alaska over the management and use of its navigable waters and associated state resources.

Alaska is blessed with many unique areas that require special and innovative considerations by the various resource managing agencies. The Situk River is certainly one of them. It is obvious that the Forest Service agreed with state jurisdiction and

authority over the river when it entered into the Situk River Cooperative Agreement and the Situk River Interim Management Plan between the State, Forest Service, local municipality and local Native organization. To our knowledge, this Agreement and Plan are still in effect.

Although the Situk River drainage has its management peculiarities, it seems clear that the Forest Service has greatly over-extended its authorities in an attempt to usurp state navigable waters management responsibilities. The Forest Service is specifically trying to require permits or otherwise regulate the use of Highway 10, including the 9-mile boat launch. This highway was, however, transferred to the state via the 1967 and 1978 Highway Easements granted by the United States through the Department of Agriculture. These Easements cover the entirety of Highway 10, except that portion retained by the Native Corporation in Yakutat. The Forest Service has been officially notified by the State Department of Transportation and Public Facilities that the Forest Service does not have jurisdiction over the highway or right-of-way.

The Forest Service apparently relies on their manual to clarify their authority to prohibit or regulate commercial hauling. A close examination of the manual, however, specifically states the following:

"The Forest Service can no longer exercise control nor regulate the use of roads when under the jurisdiction of a public authority."

In this particular instance, the Forest Service contends that the state does not regulate the boat launching facility and, thus, the Forest Service can require a commercial permit for use of the highway and boat launch. What the Service refuses to recognize, however, is that the boat launch lies exclusively within the boundaries of the right-of-way granted to the state. We question whether the Service has the legal authority to require a commercial permit for a facility operated and maintained by the state within a legal right-of-way granted by the federal government for these purposes.

Despite the particular nuances of this conflict, we are most concerned about the escalating conflicts between the federal and state governments over these types of issues. Here is an instance where the agencies had established an acceptable mechanism for developing a cooperative planning and management scheme for a very valuable river basin and its resources. The federal government, on the other hand, decides to exercise questionable jurisdiction over a facility located within a state right-of-way so that the Forest Service could unilaterally implement its own scheme for how a state river and state fish and wildlife resources should be managed.

It is not the purpose of this correspondence to attempt to tell the federal and state agencies what are the best uses for this area. We assume that many, if not most, of the management prescriptions that the Forest Service would propose for this river basin would be endorsed by the state agencies and the local people. However, the process for how we get there is probably as important as the final product. As stated previously, we respectfully request that the Forest Service reexamine its position in this case and use it

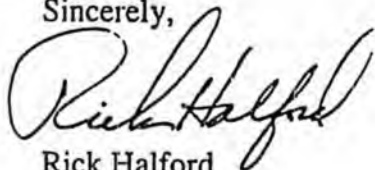
as a model for developing a cooperative approach with the state rather than one of confrontation.

We want to assure you that this is not just a Yakutat problem. The State of Alaska is already in court over the issue of pre-statehood withdrawals of navigable waters and submerged lands in southeast Alaska and similar battles lines are being drawn over navigable water jurisdiction and ownership of submerged lands on federal refuges and National Park lands elsewhere. In every case, the Alaska State Legislature is fully committed to using whatever means at our disposal to assure that our statehood entitlement and the State's sovereignty over its lands and waters are protected to the maximum extent possible.

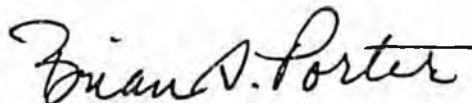
Although there will always be cases where we agree to disagree and a court decision is absolutely necessary, it is our honest opinion that much of this legal conflict can be avoided if we agree to respect the roles and basic jurisdictions of the federal and state governments and, where possible, develop cooperative planning and management systems that bypass the need for court intervention. From our standpoint, this case begs for that kind of effort and the application of a little common sense.

We appreciate the consideration of our recommendations and offer our offices in any way possible to facilitate a satisfactory resolution of this one issue and to develop a more cooperative process for resolving these kinds of jurisdictional and ownership disputes.

Sincerely,



Rick Halford
Senate President



Brian Porter
Speaker of the House