

HB

562

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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Juneau, Alaska 99801-1182
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MEMORANDUM

May 1, 2004

SUBJECT: Sectional Summary of HB 562; An Act relating to the establishment of the Interior Rivers Port Authority (Work Order No. 23-LS1951\H)

TO: Representative Carl Morgan
Attn: Lori Nottingham

FROM: George Utermohle 
Legislative Counsel

You have requested a sectional summary of HB 562; An Act relating to the establishment of the Interior Rivers Port Authority.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill sets out the findings and purpose of the legislature in regard to the establishment of the Interior Rivers Port Authority.

Section 2 of the bill adds a new chapter to AS 30 to provide for the establishment and operation of the Interior Rivers Port Authority.

Article 1. Creation and Organization.

Sec. 30.21.010 establishes the Interior Rivers Port Authority as a public corporation of the state within the Department of Community and Economic Development.

Sec. 30.21.020 establishes the board of directors of the authority, consisting of nine voting members appointed by the governor. Seven members are to be appointed from lists of nominees submitted by certain corporations in the area of operation of the authority. One member is to be a person employed by a company that has a physical presence in the operation of the authority. One member is a public member. The commissioners of transportation and public facilities and of community and economic development are non-voting members of the board.

Sec. 30.21.030 provides for the removal and replacement of members of the board.

Sec. 30.21.040 provides that the members of the board may receive compensation, per diem, and travel expenses for participation in board meetings.

Sec. 30.21.050 provides that the board shall hold at least four regular meetings each year and that the board may also hold special meetings at the call of the chair of the board or of three members of the board.

Sec. 30.21.060 provides for the election of officers of the board and sets the quorum and certain voting procedures for meetings of the board.

Sec. 30.21.070 provides that the board may employ officers and employees of the authority as necessary for operation of the authority.

Sec. 30.21.080 describes the operating area of the authority.

Sec. 30.21.090 provides that the board of the authority may adopt regulations to carry out its functions.

Article 2. Powers and Duties.

Sec. 30.21.100 sets out the powers and duties of the authority.

Sec. 30.21.110 provides that the activities of the authority are public and governmental functions exercised for a public purpose and are matters of public necessity.

Sec. 30.21.120 provides that the authority may acquire, by purchase, lease, or gift, upon terms that the authority considers proper, land, structures, real or personal property rights, rights-of-way, franchises, easements, and other interests in land.

Sec. 30.21.130 provides that the authority may acquire land and easements by purchase, gift, grant, exchange, or eminent domain.

Sec. 30.21.140 provides that the authority may acquire publicly or privately owned land, easements, and material for purposes of exchange by purchase, gift, grant, exchange, or eminent domain.

Sec. 30.21.150 provides that the authority has the power of eminent domain.

Sec. 30.21.160 provides that the authority may defend and indemnify a current or former member of the board, employee, or agent of the authority against all costs, expenses, judgments, and liabilities incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the authority. The authority may also purchase insurance to protect and hold

personally harmless its board members, employees, and agents from an action, claim, or proceeding arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the authority.

Sec. 30.21.170 provides that the authority shall protect its assets, services, and employees by purchasing insurance or providing for certain self-insurance retentions. The authority shall also maintain casualty, property, and other insurance in amounts reasonably calculated to cover potential claims against the authority or state related to authority operations and activities.

Sec. 30.21.180 provides that the authority shall obtain a fidelity bond in an amount determined by the board for members of the board and for each executive officer responsible for accounts and finances.

Article 3. Revenue Bonds and Notes.

Secs. 30.21.200 - 30.21.320 set out the powers and duties of the authority in regard to the issuance of revenue bonds. Under sec. 30.21.300, the credit of the state is not pledged to the repayment of debts, liabilities, or obligations of the authority. The authority is solely responsible for payment of its debts, liabilities, or obligations from the revenue of the authority.

Article 4. Fiscal Procedures.

Sec. 30.21.350 sets out the requirement of the authority to assure the development of a system of results-based operation designed to increase efficiency and effectiveness of facilities, operations, programs, and services of the authority. The authority shall annually prepare a detailed report of the mission, goals, operations, and performance of the authority.

Sec. 30.21.360 provides that the authority has power to administer its programs and is responsible for the proper management of its facilities and operations.

Sec. 30.21.370 provides that the authority shall prepare an annual report of its operations, income, and expenditures for the preceding fiscal year.

Sec. 30.21.380 provides that the authority shall have a certified audit of its financial records prepared annually by an independent certified public accountant.

Article 5. General Provisions.

Sec. 30.21.400 provides that the employees of the authority are not state employees.

Sec. 30.21.410 provides that the authority is not subject to the State Procurement

Representative Carl Morgan
May 1, 2004
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Code (AS 36.30) except as specifically provided in this bill or to the statutes governing public officers and employees in AS 39.

Sec. 30.21.490 sets out the definitions of terms used in the bill.

Sec. 30.21.495 provides that this chapter may be cited as the Interior Rivers Port Authority Act.

Sections 3 - 6 of the bill amend provisions of AS 30.15 to provide that the Interior Rivers Port Authority would be eligible for grants, if any, that are made for port facility construction under that chapter.

Section 7 of the bill amends AS 36.30.015(e) to provide that the board of directors of the Interior Rivers Port Authority is to adopt procedures to govern the procurement of supplies, services, professional services, and construction that are substantially equivalent to the procedures prescribed in the State Procurement Code (AS 36.30).

Section 8 of the bill amends AS 36.30.050 to provide that the board of directors of the Interior Rivers Port Authority may use the lists of contractors prepared by the commissioner of administration when issuing invitations to bid or requests for proposals.

Section 9 of the bill amends AS 36.30.990(1) to exclude the Interior Rivers Port Authority from the agencies that are subject to the State Procurement Code (AS 36.30).

Section 10 of the bill amends AS 37.05 by adding a new sec. 37.05.055 to provide that the commissioner of administration may delegate functions under the Fiscal Procedures Act (AS 37.05) to the board of directors of the Interior Rivers Port Authority.

Section 11 of the bill amends AS 39.50.200(b) to add the board of directors of the Interior Rivers Port Authority to the list of boards and commissions whose members are subject to public official financial disclosure under AS 39.50.

Sections 12 - 14 of the bill amend AS 39.52.960(2), (4), and (12), respectively, to provide that the board of directors of the Interior Rivers Port Authority is subject to the Executive Branch Ethics Act (AS 39.52).

Section 15 of the bill amends AS 44.42.020(a) to provide that the Department of Transportation and Public Facilities is not responsible for management, operation, or maintenance of ports and port related facilities and operations managed, operated, and maintained by the Interior Rivers Port Authority.

Section 16 of the bill provides that the board of directors of the Interior Rivers Port Authority shall, within one year from the first meeting of the board, prepare and publish a development plan for promoting economic self-sufficiency in the region in which the authority operates.

Representative Carl Morgan
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Section 17 of the bill establishes the length of the terms of the persons initially appointed to board of directors of the Interior Rivers Port Authority in order to establish a system of staggered appointments.

Section 18 of the bill provides that the bill takes effect July 1, 2004.

If I may be of further assistance, please advise.

GU:med
04-489.med

ALASKA RAILROAD CORPORATION



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

May 1, 2004

Representative Carl Morgan
State Capitol
M/S 3100
Juneau, Alaska
99801-1182

Re: Interior Rivers Port Authority

Honorable Representative Morgan:

The Alaska Railroad Corporation is pleased to support the endeavor of forming an Interior Rivers Port Authority.

This initiative would greatly enhance the interior's opportunity for economic growth by paving the way for infrastructure development. Specifically, it would contribute to the state's overall transportation system and provide an important link, through the City of Nenana, with the Alaska Railroad.

Best regards,

A handwritten signature in cursive script that reads "Wendy Lindskoog". The signature is written in dark ink and is positioned above the typed name.

Wendy Lindskoog
Director, External Affairs
Alaska Railroad Corporation

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HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS Representative Carl Morgan, Chair

INTERIOR RIVERS PORT AUTHORITY ACT

The Interior Rivers region of Alaska is one of the more economically depressed areas of our state, yet it is a region that also has tremendous potential. What has been missing is the regional transportation and energy infrastructure that would lead to self-sufficiency. Currently the region cannot carry the financial burden of establishing a municipal government. A regional port authority can provide the regional focus and development authority that local government normally provides, until the region is prosperous enough to justify formation of a sustainable local government structure.

The region contains mineral deposits that could provide local employment opportunities, similar to the Red Dog Mine, if sufficient transportation and energy infrastructure can be provided through tax-exempt bonding. The area could also benefit from the leverage of regional bulk fuel purchase agreements, electrical interties, and in the long term, providing gas to the region through a spur line or barge system to deliver North Slope gas from an Alaskan gas pipeline.

The region also contains opportunities for developing river tourism experiences that could stimulate local employment and revenues. Development of tourism facilities and experiences along with coordinated marketing programs are necessary for this opportunity to be realized.

Regional landfill solutions can also provide cost efficient solutions to solid waste management and help resolve health issues associated with uncovered landfills.

The Interior Rivers Port Authority is structured to provide representation from the major land owning and economic development organizations in the region. The authority has the power to accept private, municipal, state and federal funds, to issue tax-exempt revenue bonds, to enter into land leases and acquisitions, and to contract for the provision of management services for authority facilities and operations.

The Interior Rivers Port Authority empowers the local people to determine their own development strategy and gives them the tools to implement it. Funding organizations will be more likely to provide funding because they will be able to see a coordinated program that has a strong likelihood of success with a minimum of duplication of services. They will view their contributions in the authority as investments in the self-sufficiency of the region.

Private sector business will also want to invest in the region because the authority will provide a source of stability and access to tax exempt bonding for necessary infrastructure.



Doyon, Limited

1 Doyon Place, Suite 300
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Sent via fax: (907) 465-2197

April 30, 2004

Representative Carl Morgan
Alaska Legislature
State Capitol, Room 408
Juneau, AK 99801-1182

RE: Possible legislation on Interior Rivers Port Authority

Dear Rep. Morgan:

Thank you once again for the opportunity to review draft legislation that would create an Interior Rivers Port Authority. Additional thanks for the prompt response to my inquiry regarding the relationship this new port authority likely would have with the Alaska Industrial Development and Export Authority. An IRPA could be very beneficial, if not critical, to development projects within the operating area of the authority, and for that reason I support your efforts.

I look forward to further discussion with you and your staff.

Very truly yours,

for Oric Williams
President and CEO

Alaska State Legislature

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**Representative Carl M. Morgan, Jr.
District 6**

April 28, 2004

Mr. Orie Williams, President and CEO
Doyon, Limited
1 Doyon Place, Suite 300
Fairbanks, AK 99701-2941

Dear Orie,

Thanks for your letter regarding the relationship of the Interior Rivers Port Authority (IRPA) and Alaska Industrial Development and Export Authority (AIDEA). We foresee IRPA having a cooperative relationship with AIDEA. The IRPA will provide the focus for involvement of the river communities in regional transportation, energy and water and waste disposal issues. Although, this legislation provides IRPA its own bonding authority we assume major bonding would go through AIDEA. AIDEA is established in the bond market with high bond ratings resulting in lower interest rates. Ron Miller, Executive Director of AIDEA does not see any conflict between the two organizations. He expressed optimism in the synergy that could result between IRPA and AIDEA..

The IRPA's value is in examining the economies of scale for large projects, such as the Donlin Creek Mine, and the benefit to the local people within the region. The IRPA will be the focus for electrical interties, group purchase of fuel, and transportation services which lower the cost of bringing in food and other necessary consumer goods.

The IRPA is a real opportunity to bring the interior rivers region together for the good of the people with an emphasis on economic development and self-sufficiency. The most important thing at this point is to provide employment and training opportunities to local people and to help facilitate the resource development projects that will "lift up" our whole region.

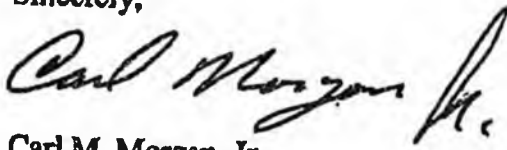
Page Two

Letter to Ori Williams, President & CEO

As a state agency, IRPA will be able to facilitate rights of way and permits necessary for these projects and to inform local people of the benefits of resource development projects.

I hope Doyon will support these efforts. I look forward to working together with you on this important legislation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carl Morgan, Jr.", written in dark ink.

Carl M. Morgan, Jr.
Alaska State Representative

Cc: Ron Miller, Executive Director of AIDEA



Doyon, Limited

1 Doyon Place, Suite 300
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April 28, 2004

Representative Carl Morgan
Alaska Legislature
State Capitol, Room 408
Juneau, AK 99801-1182

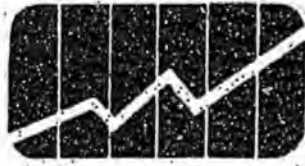
RE: Possible Legislation on Interior Rivers Port Authority

Dear Rep. Morgan:

Thank you for the opportunity to review draft legislation that would create an Interior Rivers Port Authority. The purpose for the authority would be to assist in development of mineral deposits and economic opportunities through tax exempt bonding that could be used to help provide needed transportation and energy infrastructure. This goal is a worthy one that I support. I do have one reservation, however. I would like to have a better understanding of what roles and responsibilities this new entity would have in relation to the Alaska Industrial Development and Export Authority. Frankly, I had assumed that most if not all of the functions the new entity were similar to the AIDEA charter. I look forward to further discussion with you and your staff.

Very truly yours,


Orin Williams
President and CEO



The Kuskokwim Corporation

Representative Carl Morgan

RE: Interior Rivers Port Authority

April 26, 2004

To Whom It May Concern:

The Kuskokwim Corporation (TKC) is in support of the Interior Rivers Port Authority researching strategies that would benefit the local people in implementation of local resources. Mainly Yupik Eskimo and Athabascan Indian descendants populate the Kuskokwim River region of Alaska. TKC is the merger of 10 ANCSA village corporations and has over 2,500 shareholders who either live in, or are descendants from, one of the numerous small villages along the Kuskokwim River. TKC owns over 950,000 acres of surface estate lands surrounding the 10 villages including Crooked Creek and surrounding Donlin Creek.

The Interior Rivers Port Authority an option that would provide a structure which could help represent the major land owners and economic development organizations in the region. It not only shows representation by the majority of parties involved, but also shows a commitment to work together to achieve common goals.

The region has little to no economic base, substantially high unemployment and chronically suffers from poverty and marginal education. The cost of electricity, where it is available, is very high and there are minimal to no municipal infrastructures. A number of village residents are without sewer and water, yet it is a region that has great economic development potential. The regional transportation and energy infrastructure would help lead the region to self-sufficiency. The concept of the regional port authority could be the beginning of providing this regional focus.

It is in the best interest of the state to move forward and research establishing a port authority for the Interior Rivers region so long that it protects the regions interest in development for our area.

Sincerely,

Maver E. Carey
TKC President/CEO

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Office of the President

April 27, 2004

The Honorable Carl Morgan
Alaska State Legislature
State Capital
Juneau, Alaska 99811

Re: Proposed Interior Rivers Port Authority

Dear Carl:

Calista Corporation favors the development of an Interior Rivers Port Authority within the unorganized borough to facilitate economic development. Specifying such a port authority is the first of its kind in Alaska and we applaud your efforts. There is a need to facilitate economic development of our resources, and the Donlin Creek project provides an important impetus to begin the process of sustainable long term development for both river systems. The Donlin Creek project has the potential of transforming the third world conditions of our regions. The project will never happen however, without federal and state support. As you know, Calista Corporation has completed the Donlin Creek Mine Power Supply Feasibility Study which, after more than two years of analysis of all available options, demonstrates that the lowest cost alternative that provides power to Donlin Creek and the villages in the region is for a power plant at Bethel and a transmission line to Donlin Creek. If the proposed bill is approved, the Interior Rivers Port Authority can help finance the infrastructure to make Donlin Creek a reality.

The energy and transportation needs for the Donlin Creek project is massive and will need to include a large part of the Kuskokwim and the Yukon Rivers. The large service area identified in this bill could certainly address both the transportation and energy infrastructure necessary to support the Donlin Creek project and other potential mineralized areas over the long term. We look forward to the formation of the Interior Rivers Port Authority.

Sincerely,

CALISTA CORPORATION

A handwritten signature in black ink, appearing to read "Matthew Nicolai", is written over the printed name.

Matthew Nicolai
President/CEO



G Y L

Gana-A'Yoo, Ltd.-----
3000 A Street, Suite 417, Anchorage, Alaska 99503 • phone: (907) 558-9599 • fax: (907) 569-9699 • www.ganahyoo.com

April 29, 2004

Representative Carl M. Morgan, Jr
State Capitol Building, Suite 408
Juneau, AK 99801-1182

Re: Interior Rivers Port Authority

Dear Representative Morgan,

Gana-A'Yoo, Limited supports an Interior Rivers Port Authority (IRPA). This authority will provide the focus for involvement of the river communities in regional transportation, energy and water and waste disposal issues. It provides a real opportunity to bring the interior rivers region together for the good of the people with an emphasis on economic development and self-sufficiency.

The most important thing at this point is to provide employment and training opportunities to local people and to help facilitate the resource development projects that will "lift up" our whole region.

The IRPA will provide an opportunity for our region to have a voice in directing our own future.

We look forward to working with you on this important piece of legislation.

Sincerely,

Michael Stickman
President
Gana-A'Yoo, Limited



City of Nenana

P.O. Box 70, Nenana, Alaska 99760

907-832-5501, 907-832-5503-fax

<http://www.nenana.org>



Rep. Carl Morgan
State Capitol
M/S 3100
Juneau, Alaska
99801-1182

28-Apr-04

Re: Interior Rivers Port Authority

Honorable Representative Morgan,

It gives me great pleasure to voice the City of Nenana's support for an Interior Rivers Port Authority.

As Nenana is the primary port for the communities in this area, we have first hand experience with the difficulties in transportation and the needs that exist.

There is a tremendous need to provide a vehicle for these issues to be addressed and the Port Authority concept is an excellent way to accomplish this.

The Interior region of Alaska has been studied many times in the past identifying untapped mineral resources and natural gas resources. Unfortunately there was no appropriate mechanism to organize the affected communities.

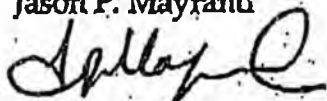
It is clear that the region currently does not have the economic infrastructure to operate as an organized governmental area however the Port Authority will allow the communities to be organized as a whole to pursue the establishment and enhancement of the transportation infrastructure.

Formation of the Port Authority will also allow the entity to bond, enter into leases, and apply for state and federal funding and management of facilities and operations. In addition to the added cooperation between entities along the river, the Port Authority would have the ability to coordinate bulk purchases for products and services thereby lowering the overall costs to communities.

Development of energy infrastructure, expanded tourism opportunity, economic development, and the establishment of a regional landfill to address village health concerns can all be a possibility through the Port Authority.

In short, this is the perfect solution to many problems that plague the Interior river communities and would greatly enhance the economic future of the area as well as provide the means to help them coordinate with each other to pursue economic development projects that enable these areas to be more self-sufficient.

Sincerely,
Jason P. Mayrand



Mayor/Port Director
City of Nenana.
Nenana Port Authority