

**S B**

**3 1**

# SENATE COMMITTEE REPORT

DATE: 3/31/03

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: 4-24-03

Resources Committee considered      SENATE BILL NO. 31

## SB 31 RAILROAD UTILITY CORRIDOR TO & IN CANADA

"An Act relating to a railroad utility corridor for extension of the Alaska Railroad to Canada and to extension of the Alaska Railroad to connect with the North American railroad system."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 31 ( RES )
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( \_\_\_\_\_ )
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DCED	2/7/03		✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Joseph DeBruin</i>	✓			
<i>Ben Stevens</i>	✓			
<i>Tommy H. Johnson</i>	✓			
<i>Paul Johnson</i>	✓			
<i> </i>				
<i> </i>				
CHAIR: <i>Scott Olsen</i>				



**SENATOR SCOTT OGAN** Alaska State Legislature

Senate District H Lazy Mountain \* Butte \* Chugiak \* Peters Creek  
Knik-Goose Bay \* Big Lake \* Houston \* Willow \* Talkeetna \* Trapper Creek

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FACSIMILE TRANSMITTAL SHEET

TO: <u>Leglegal</u>	FROM: <u>Linda Hay - Senate Res</u>
COMPANY:	DATE: <u>4-23-03</u>
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER: <u>1</u>
PHONE NUMBER:	RE: <u>final</u>

URGENT     FOR REVIEW     PLEASE COMMENT     PLEASE REPLY     PLEASE RECYCLE

NOTES/COMMENTS:

Please send over a final of SB 31 which moved out of Senate Resources late this afternoon

The correct version is:

23 LS0336 \ S  
Uttermohle 4/23/03

Please deliver to Room 103

Thank you

23-LS0336S  
Utermohle  
4/23/03

CS FOR SENATE BILL NO. 31( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATORS COWDERY, Wilken

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to a transportation corridor for extension of the Alaska Railroad to  
2 Canada and to extension of the Alaska Railroad to connect with the North American  
3 railroad system."

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

5 \* Section 1. AS 42.40 is amended by adding new sections to article 5 to read:

6 Sec. 42.40.460. Extension of the Alaska Railroad. (a) The corporation may  
7 delineate a proposed transportation corridor between the existing railroad utility  
8 corridor of the Alaska Railroad and the border of Alaska and Canada. The  
9 transportation corridor shall be 500 feet wide except where, in the corporation's  
10 discretion, physical obstacles or private land ownership patterns make a narrower  
11 transportation corridor appropriate. The transportation corridor may be designated for  
12 a use identified under AS 38.35.020(a) or AS 42.40.350(b), and, subject to this  
13 section, other transportation and utility uses. The corporation may also identify land  
14 for use as rail land that can be developed for terminal, station, and maintenance

1 facilities, switching yards, and other purposes associated with the transportation  
2 corridor. The corporation shall prepare a complete legal description of the proposed  
3 transportation corridor and the rail land identified under this subsection.

4 (b) In performing the work authorized by (a) of this section, the corporation in  
5 consultation with interested parties shall consider the following factors:

- 6 (1) safety;
- 7 (2) grade and alignment standards that are commensurate with rail and  
8 utility construction standards and that minimize the prospect of at-grade railroad and  
9 highway crossings;
- 10 (3) availability of construction materials;
- 11 (4) effects on and service to adjacent communities and potential  
12 intermodal transportation connections;
- 13 (5) environmental concerns;
- 14 (6) use of public land to the maximum degree possible;
- 15 (7) minimization of probable construction costs;
- 16 (8) the location of and the opportunity to obtain access to identified  
17 natural resources that could contribute significantly to the economic development of  
18 the state and Canada;
- 19 (9) avoidance of possibly unstable ground due to thawing of frozen  
20 soils; and
- 21 (10) prior and established traditional uses.

22 (c) If the corporation identifies all or a portion of the proposed transportation  
23 corridor or associated rail land and if the Department of Natural Resources, after  
24 consultation with the corporation and potentially affected parties, finds that the  
25 location of the proposed transportation corridor and associated rail land minimizes  
26 adverse effects on existing and potential rights-of-way and land uses associated with  
27 the location, construction, and operation of a gas pipeline in a manner that is in the  
28 best interest of the state,

29 (1) the Department of Natural Resources shall reserve the  
30 transportation corridor and associated rail land across state land identified by the  
31 corporation, subject to valid existing rights and provisions of this section;

1 (2) the department shall continue to manage the land reserved under  
2 (1) of this subsection; the department shall consult with the corporation before  
3 disposing of an interest in land within the transportation corridor and associated rail  
4 land; the department shall condition authorizations for activities on the reserved land  
5 to protect the right of the corporation to construct the railroad or other uses identified  
6 for the land;

7 (3) the department and the corporation shall cooperate to identify, on a  
8 continuing basis and to the extent practicable, the potential crossings for economic  
9 development and public access along the land reserved for the transportation corridor  
10 and associated rail land; and

11 (4) while the land is reserved for the transportation corridor and  
12 associated rail land under this subsection, the department may retain moncy received  
13 from disposal or third-party use of the land.

14 (d) If the corporation notifies the Department of Natural Resources that the  
15 corporation will begin construction of a railroad improvement on a segment of the  
16 transportation corridor or associated rail land and the corporation has identified a  
17 source of funding for the construction, then, as of the beginning of construction of that  
18 segment, the department shall delegate authority to manage land within that segment  
19 of the transportation corridor and associated rail land to the corporation, including the  
20 authority to authorize or permit use of the land by third parties under the provisions of  
21 this chapter, subject to

22 (1) valid existing rights; and

23 (2) the authority of the department to

24 (A) identify and reserve rights-of-way for potential future  
25 crossings under (g) of this section; and

26 (B) after consultation with the corporation, identify, reserve,  
27 authorize, and manage land within the transportation corridor and associated  
28 rail land for future right-of-way leases and uses under AS 38.35.

29 (e) Upon completion of construction of the railroad improvement on all or a  
30 portion of the reserved transportation corridor or associated rail land,

31 (1) the corporation shall, without cost to the Department of Natural

1 Resources, provide the department with a survey of the state land within a 200-foot  
2 corridor, 100 feet on each side of the as-built centerline of track, and the associated  
3 rail land;

4 (2) the Department of Natural Resources shall convey the state's entire  
5 interest in the land within the boundaries of the survey to the corporation, subject to  
6 valid existing rights, and reserving to the state (A) the interests required by  
7 AS 38.05.125; (B) the right of the department to identify and reserve rights-of-way for  
8 potential future crossings under (g) of this section; and (C) the authority of the  
9 department to identify, reserve, authorize, and manage land within the transportation  
10 corridor and associated rail land for future right-of-way leases and uses under  
11 AS 38.35; the conveyance of land under this paragraph shall be without cost to the  
12 corporation except for the direct administrative costs of the department;

13 (3) the Department of Natural Resources shall assign any existing  
14 contracts within that segment of the transportation corridor and associated rail land to  
15 the corporation; the corporation may thereafter retain the revenue from the conveyed  
16 land; the department shall prorate revenue from contracts affecting both conveyed and  
17 unconveyed land;

18 (4) the remaining state land in a segment of the transportation corridor  
19 in which the corporation has received a conveyance under this section shall be  
20 managed by the Department of Natural Resources as a transportation corridor unless  
21 the department determines the land is no longer needed for that purpose; and

22 (5) the remaining segments of the transportation corridor in which the  
23 corporation has not completed construction and any associated state land designated as  
24 rail land shall continue to be managed by the Department of Natural Resources as a  
25 transportation corridor and associated rail land under (c) and (d) of this section.

26 (f) Notwithstanding other provisions of this section, before the Department of  
27 Natural Resources grants a gas pipeline right-of-way lease under AS 38.35.020(a)  
28 across a transportation corridor or associated rail land delineated, identified, reserved,  
29 or conveyed under this section, the department shall consult with the corporation; if a  
30 railroad improvement has not been constructed on a segment of the transportation  
31 corridor or associated rail land that is crossed by the proposed gas pipeline right-of-

1 way, the department may adjust the location of the transportation corridor or  
2 associated rail land if the department finds that relocation of the transportation  
3 corridor or associated rail land to accommodate the proposed gas pipeline right-of-way  
4 is in the best interest of the state.

5 (g) In delegating management authority over or conveying all or a portion of  
6 state land to the corporation, the Department of Natural Resources shall reserve the  
7 right to authorize, by lease, permit, or other method, a person to cross or construct  
8 access across the transportation corridor and associated rail land; however, before  
9 authorizing a crossing or construction of access, the department shall obtain  
10 concurrence from the corporation that the proposed crossing or construction is  
11 consistent with applicable safety standards and, to the extent practical, minimizes  
12 effects on railroad operating efficiency. Neither the corporation nor the state is liable  
13 for claims arising from public use of the transportation corridor and associated rail  
14 land, except to the extent the claims arise from the gross negligence of the state, the  
15 corporation, their employees, or their contractors, respectively. The department shall  
16 indemnify the corporation consistent with AS 42.40.420(1) - (3) for claims or related  
17 litigation arising from an authorization issued by the department under this section,  
18 except to the extent the claims arise from the gross negligence of the corporation, its  
19 employees, or its contractors.

20 (h) The corporation shall,

21 (1) as the corporation considers appropriate, exercise its authority  
22 under this chapter to acquire rights-of-way across land within the transportation  
23 corridor and associated rail land that is subject to the corporation's power of eminent  
24 domain;

25 (2) upon delineation of the transportation corridor and identification of  
26 associated rail land, expeditiously work with federal officials to secure reclassification  
27 and withdrawal of federal land for reservations and rights-of-way across the federal  
28 land for use as transportation corridor and rail land; and

29 (3) before undertaking acquisition of federal land or expending federal  
30 funds, prepare a report evaluating the effects of construction of an extension of the  
31 Alaska Railroad across federal land; the statement must satisfy the requirements for an

1 environmental impact statement under 42 U.S.C. 4332.

2 (i) The requirements of AS 38.04.065 and 38.05.300, relating to classification  
3 and reclassification of land, are inapplicable to actions taken by the Department of  
4 Natural Resources under this section.

5 (j) The Department of Natural Resources shall retain the classifications and  
6 reservations of land identified for use as a proposed utility corridor and railroad right-  
7 of-way under former AS 19.05.122 until the corporation informs the department in  
8 writing that the land is not needed by the corporation for a utility corridor. If, under  
9 (a) of this section, the corporation includes land identified under former AS 19.05.122  
10 as part of the proposed transportation corridor, the department shall manage that land  
11 under provisions of this section.

12 (k) To complete the work authorized by this section, the corporation may enter  
13 into agreements relating to the work with the federal government, an agency or  
14 instrumentality of the state, a municipality, or a private organization.

15 **Sec. 42.40.465. Extension of the Alaska Railroad to connect with the**  
16 **North American railroad system.** (a) The corporation may investigate extension of  
17 the Alaska Railroad from the border of Alaska and Canada to connect with the North  
18 American railroad system. The corporation may acquire land or interests in land in  
19 Canada as the corporation considers appropriate for the development, construction,  
20 and operation of an extension of the Alaska Railroad to connect with the North  
21 American railroad system.

22 (b) In performing the work authorized by (a) of this section, the corporation  
23 shall consider the following factors:


- 24 (1) safety;
- 25 (2) grade and alignment standards that are commensurate with rail and  
26 utility construction standards and that minimize the prospect of at-grade railroad and  
27 highway crossings;
- 28 (3) availability of construction materials;
- 29 (4) effects on and service to adjacent communities and potential  
30 intermodal transportation connections;
- 31 (5) environmental concerns;

- 1 (6) use of public land to the maximum degree possible;
- 2 (7) minimization of probable construction costs;
- 3 (8) the location of and the opportunity to obtain access to identified
- 4 natural resources that could contribute significantly to the economic development of
- 5 the state and Canada;
- 6 (9) avoidance of possibly unstable ground due to thawing of frozen
- 7 soils; and
- 8 (10) prior and established traditional uses.

9 \* Sec. 2. AS 19.05.122 is repealed.

From the office of . . . Senator John J. Cowdery  
State Capitol Building, Rm # 101  
Juneau, AK 99801  
907-465-3879 phone  
907-465-2069 fax

## MEMORANDUM

DATE: April 3, 2003  
TO: Senator Scott Ogan, chair, Senate Resources Committee  
FROM: Senator John J. Cowdery   
RE: REQUEST FOR HEARING, SB 31

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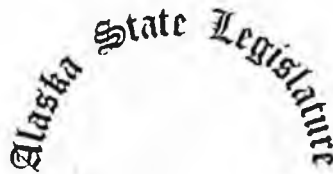
At your earliest possible convenience, please schedule SB 31 for a hearing in the Senate Resources Committee.

SB 31 authorizes the Alaska Railroad to delineate a transportation and utility corridor to the Alaska-Canada border.

Attached is a copy of the bill, previous version, a sponsor statement, sectional analysis and fiscal notes.

Thank your for your consideration to this matter.

SENATOR  
JOHN J. COWDERY  
Anchorage



Committees  
Chair: Rules  
Chair: Transportation  
Chair: World Trade &  
State/Federal Relations  
Legislative Council

Senate

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Senator\_John\_Cowdery@legis.state.ak.us

## **SPONSOR STATEMENT FOR SB 31**

*"An Act relating to a railroad utility corridor for extension of the Alaska Railroad to Canada and for the extension of the Alaska Railroad to connect with the North American Railroad system."*

**G**rowing Alaska's economy and ending a history of boom-and-bust cycles depends on improving our state's transportation infrastructure. The purpose of SB 31 is to advance the inclusion of Alaska in the contiguous North American rail system.

Without appropriating funds, SB 31 authorizes the Alaska Railroad Corp. to delineate a transportation and utility corridor from its terminus at Eielson AFB to the Alaska-Canada border. After survey and full delineation is achieved, state land would be transferred to the railroad fee simple title.

SB 31 also authorizes and encourages the railroad to obtain ownership or a right of way through any other lands, whether federal or private. A separate section authorizes the railroad to investigate further extension in order to make a connection with the North American rail system, logically in British Columbia.

This legislation mandates a 500-foot wide corridor that could allow for other uses such as fiber optic cable or power transmission lines. In addition, the corridor allows for specific railroad-related uses such as sidings, depots and materials storage.

Completing this last transcontinental railroad will benefit the mining, agriculture, tourism, food processing and oil and gas sectors of Alaska's economy. For example, the corridor between Eielson AFB and the border with Canada bisects a proven range of rich mineral potential, including the Pogo Project near Delta Junction.

SB 31 allows the Alaska Railroad to use funds it can obtain – such as from federal appropriations or sale of bonds – to survey and obtain a right of way to the Canadian border.

As world trade grows, this rail connection can only increase Alaska's economic ties with the rest of the nation and North America as a whole.

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: SB 31  
 (S) Publish Date: 3/31/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title Railroad Utility Corridor to & in Canada BRU Alaska Railroad Corporation  
 Sponsor Senator Cowdery Component \_\_\_\_\_  
 Requester Senate Transportation Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<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>CHANGE IN REVENUES ( )</b>						
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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--Do not abbreviate)						
<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 (FY2003) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Please see Analysis Continuation.

Prepared by: Wendy Lindskoog, Director of External Affairs Phone 907-265-2498  
 Division Alaska Railroad Corporation Date/Time 2/7/03 10:20 AM  
 Approved by: Edgar Blatchford, Commissioner Date 2/7/2003  
 Agency Department of Community & Economic Development

FISCAL NOTE #1

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

BILL NO. SB 31

ANALYSIS CONTINUATION

The Alaska Railroad Corporation (ARRC) is a public corporation supported by revenues generated through freight, passenger and real estate services. ARRC does not receive state subsidies for operations or capital improvements, but does receive federal grants used primarily for capital projects. At this point, ARRC matches all federal grant appropriations with its internal funds. Should this be the case regarding federal funding appropriated for corridor delineation to the Canadian border and beyond, there will not be a fiscal impact to the State's general fund. There would be a fiscal impact if the State helps ARRC match federal dollars. There have been previous estimates that it would take approximately \$5 million to delineate and survey the corridor from the Alaska Railroad near Fairbanks to the Canadian border.

Additionally, this bill would allow ARRC to investigate extending from the Alaskan border to connect to the North American rail system. At this time, ARRC has not estimated the cost to determine the route and conduct surveys for this corridor section. This bill would also allow ARRC to acquire the right of way in this corridor. We assume that State land would be acquired at no cost to ARRC. Military land could be transferred through working with the state's congressional delegation. However, Native lands would require purchase or granting of easements; at this juncture, we do not have any estimates for such associated costs.

## **DRAFT Sectional Analysis for CSSB 31(TRA)**

**Section 1:** Revises the Alaska Railroad Corporation Act, adding two new sections. The first one is AS 42.40.460, addressing the extension of the Alaska Railroad to Canada. The second is AS 42.40.465, which authorizes the ARRC to investigate a rail connection between the Canadian border and Northern American railroad system, including the acquisition of land in Canada for this purpose. The first section is organized into eleven subsections, beginning with Section 1(a).

**Section 1(a):** Broadly authorizes ARRC to designate a 500-foot-wide transportation corridor from its current northern terminus at Eielson AFB to the Canadian border and to identify rail land for associated uses. Directs ARRC to prepare a legal description of these lands.

**Section 1(b):** Lists the factors ARRC must consider when determining the route to be designated as this transportation corridor.

**Section 1(c):** Establishes the steps that will occur once ARRC designates the transportation corridor or rail land. It retains DNR as the interim manager with procedural safeguards to protect the future railroad use of the corridor. Specifically, the land will be reserved by DNR, subject to valid existing rights, and managed by DNR under consultation with ARRC so as to allow other uses but not obstruct the future railroad or other transportation uses. DNR and ARRC will begin to identify potential crossing locations. DNR will retain any revenues arising from use of the land.

**Section 1(d):** Establishes the steps that will occur once ARRC is ready to actually begin construction on a part of the designated corridor. DNR transfers management authority for that segment of the corridor to ARRC, again subject to valid existing rights, and ARRC will from that time forward receive any revenues associated with that land. DNR will retain the ability to identify and reserve the right to establish future crossings subject to section (g) of the bill.

**Section 1(e):** Establishes the steps that will occur once ARRC completes construction of a segment of the rail line. ARRC will provide a survey of a 200-foot corridor, 100 feet on each side of the as-built centerline of track. DNR will use that survey to convey the state's entire interest in that land to ARRC, subject again to valid existing rights and reserving the right to establish future crossings and the oil and gas and other mineral rights required to be reserved in all state land conveyances under AS 38.05.125. ARRC will pay DNR's administrative costs in making the conveyance. DNR will continue to manage the remaining 300 feet within the original 500-foot reserved corridor as a transportation corridor until no longer needed as such. DNR will continue to manage any remaining

500-foot corridor (in which ARRC has not begun construction) as a transportation corridor under this section.

**Section 1(f):** This section recognizes the possibility that a natural gas pipeline may be proposed for construction before the railroad extension reaches that level of certainty. The philosophy of the section is that a potential railroad should not be an impediment to a gasline proposed for construction. However, construction of a gasline, even if first, should try to accommodate the more limited topographic options of a railroad. Specifically, if a gasline is proposed for construction, ARRC will have an opportunity to establish its exact routing within the 500-foot transportation corridor by providing DNR a survey of the proposed centerline. DNR will not authorize a gas pipeline route within the 200-foot corridor defined by this survey unless there is no feasible and prudent alternative. In any event, DNR will consult with ARRC to minimize the effect of the gas pipeline on the potential rail route.

**Section 1(g):** This section balances the ARRC's needs for a safe, efficient, route unhampered by numerous crossings against the need for development of nearby resources and public access across the route. There are existing rights in this area that will be potential crossings, depending on the final rail alignment, and more are likely to be granted by DNR both before and after railroad construction. Both the state and ARRC are protected against liability arising from public uses except to the extent arising from the gross negligence of either of them. DNR, as the agency with a mission to protect public access to public resources, will reserve the right to authorize specific crossings, but only with the concurrence of ARRC that any particular crossing is consistent with safety standards and minimizes its impact on railroad operating efficiency. If DNR authorizes a crossing, it will indemnify ARRC for related liability on that crossing under AS 42.40.420(1)-(3), which applies to public uses of ARRC land in general, however excepting liability arising from ARRC's gross negligence

**Section 1(h):** Addresses the other related activities ARRC must or may undertake as part of the rail extension. Where any portion of the designated route crosses private land, the corporation can consider whether to exercise its statutory power of eminent domain. Where any portion of the designated route crosses federal land, the corporation must work with federal officials to reclassify and withdraw the land for this purpose. Finally, before federal land is acquired or federal funds are spent, the corporation has to comply with federal law requirements for an EIS.

**Section 1(i):** Relieves the process of delineating, reserving and conveying the lands affected by this section from the requirements of being classified and reclassified under DNR's governing statutes.

**Section 1(j):** Directs DNR to retain any land previously identified and classified for use as a utility corridor and railroad right-of-way under AS 19.05.122 and

manage them as if designated under this section until ARRC notifies DNR those lands are not needed for this transportation corridor.

**Section 1(k):** Allows ARRC to enter into contracts with all manner of entities to perform the work authorized under this section.

**Section 42.40.465:** Authorizes the Alaska Railroad to investigate extending its tracks from the border to complete a connection with the North American rail system, and to acquire a right of way or land for a corridor. Section (b) applies the same parameters for the railroad to consider as in Section 1 (b).

**Section 2:** Repeals former AS 19.05.122, which was originally enacted in 1977 and amended in 1981 and 1999 to authorize the Department of Transportation and Public Facilities to delineate a proposed utility corridor (including a railroad right-of-way) to Canada.

**REFERENCE TO STATUTES:**

Page 1, line 12:

**TITLE 48: PUBLIC LAND  
RIGHT OF WAY LEASING ACT**

Sec. 38.35.020. Grant of right-of-way lease.

- (a) Rights-of-way on state land including rights-of-way over, under, along, across, or upon the right-of-way of a public road or highway or the right-of-way of a railroad or other public utility, or across, upon, over, or under a river or other body of water or land belonging to or administered by the state may be granted by noncompetitive lease by the commissioner for pipeline purposes for the transportation of oil, products, or natural gas under those conditions prescribed by law or by administrative regulation. Except to the extent authorized by an oil and gas lease or unit agreement approved by the state, no person may engage in any construction or operation of any part of an oil, products, or natural gas pipeline, which in whole or in part is or is proposed to be on state land unless that person has obtained from the commissioner a right-of-way lease of the land under this chapter.

**TITLE 42: PUBLIC UTILITIES AND CARRIERS  
LAND**

Sec. 42.40.350.

- (b) Railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, unless the corporation does not own or control sufficient land to allow a corridor of that width. Railroad utility corridors may be surveyed by the metes and bounds method. The corporation may not convey its entire interest in land within a utility corridor except as provided in AS 42.40.285, 42.40.370(d) and 42.40.400. However, the corporation may lease, subject to AS 42.40.285 and (d) of this section, grant easements in or permits for, or otherwise authorize use of portions of a utility corridor for transportation, communication, and transmission purposes and support functions associated with those purposes, and for commercial and other uses authorized under this chapter if the use does not restrict other parallel uses of the utility corridor.

## **CHANGES REFLECTED IN NEW CS for SB 31:**

(Page and line references are to LS0336\Q)

### **CHANGE No. 1:**

Page 1, Line 9:                   remove "at least"  
Page 1, line 12:                 add reference to AS 38:35.020(a)

*(Technical in nature)*

The purpose of change No. 1 is to clarify language, and to add reference to an additional statute which addresses leasing of rights of way. The railroad can specify land within a transportation corridor for rail yards, hotels, and other facilities associated with the railroad.

### **CHANGE No. 2:**

Page 2, line 5:                 adds "in consultation with other interested parties."

*(Technical in nature)*

Clarifies language to reflect that fact that the railroad must coordinate with potential gasline developers and others to ensure that the transportation is in the optimal location for those uses as well.

### **CHANGE No. 3:**

Page 2, lines 22 and 23:     adds new language as follows: "and the Department of Natural Resources, after consulting with the corporation and potentially affected parties, makes a finding that the location minimizes adverse impacts on existing and potential rights-of-way and land uses associated with the best location, construction and operation of a gas pipeline project in a manner that is in the best interests of the state,"

*(more substantive in nature)*

This language recognizes that DNR should consult with the railroad and other parties, such as a gas pipeline developer, and make a "finding" that the right of way is in the best interest of the state. It allows DNR to ensure that the railroad location minimizes adverse impacts on potential gasline routes. Without the language, there is no oversight to ensure that the route works for both economic development projects.

**CHANGE No. 4:**

Page 2, line 24: adds "and other provisions of this act."

*(Technical in nature)*

Because the funding source is the likely prompt for actual construction; it uses the identified funding source as the method of triggering conveyance of management authority.

**CHANGE No. 5:**

Page 3, line 11: adds: "and has identified a funding source for that construction."

*(Technical in nature)*

Strengthens language.

**CHANGE No. 6:**

Page 3, line 19: adds the word "and" in order to add a new section,  
(d)(3)

Page 3, line 20: adds section (d)(3) which reads: "the authority of the department after consultation with the corporation to identify, reserve, authorize, and manage land within the transportation corridor for potential future rights-of-way leases and uses under 38.35."

*(technical in nature)*

This change ensure that the gasline developer must negotiate only with one government entity to build the gasline. It ensure that this bill does not unduly complicate gasline leasing.

**CHANGE No. 7:**

Page 3, line 29: adding section, substitutes ";" for "and"

Page 3, line 30: adds: "and (c) the authority of the department to identify, reserve, authorize, and manage lands within the transportation corridor for potential future rights of way leases and uses under 38.35"

*(Technical in nature)*

Strengthens existing language.

**CHANGE No. 8:**

Page 4. lines 15-26

Changes language to the following:

(f) Notwithstanding other provisions of this section, before the Department of Natural Resources grants a gas pipeline right of way lease under AS 38.35.020(a), it shall consult with the corporation; if a railroad has not yet been constructed on a segment of the transportation corridor, the department may change the boundaries of the transportation corridor if it determines that it is in the best interest of the state to make a change in the boundaries in order to accommodate the proposed gas pipeline.

*(Technical in nature)*

Clarifies existing language to express intent that a gasline may use the rail corridor if the railroad has not been constructed.

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June 6, 2001

Dear State Legislator:

As a consequence of your being in session, even for such a short time, I did want to take the opportunity to communicate some preliminary thoughts on a project we are working on to expand the scope of the natural gas pipeline feasibility study.

I will be asking the producers to expand the scope of their study to consider the conjunctive building of a rail corridor to be part of the proposed pipeline route. In my view, such a corridor could offer an ideal route for complementary rail and telecommunications services. I hope you will consider what appropriate role the State might take regarding this proposal. Perhaps a Resolution encouraging the producers to evaluate the multiple use concept of a pipeline, rail and telecommunications corridor would be appropriate.

For the first time in many years, there is a concerted effort to construct a natural gas pipeline carrying Alaska North Slope natural gas to markets in the lower 48 states. Factors such as the current energy crisis and the worldwide concern over air quality and climate change have combined to change the landscape, making an Alaska gas pipeline a matter of "when," not "if."

The consortium of gas producers has put together an excellent team to analyze and assess the economic feasibility of constructing the pipeline. And the consortium has been willing to commit substantial resources to that assessment. As the consortium continues its analysis, we urge them to consider a cost/benefit assessment that is truly comprehensive and encompasses all potential uses of the projected pipeline corridor.

Pipeline construction would occur in a yet-to-be-designated corridor. It is my well-known view that the preferred route is from the North Slope to Fairbanks, thence southeastward along the Alaska Highway through Canada. Such a corridor could, if carefully chosen, offer an ideal route for complementary services such as rail and communications, in addition to serving Fairbanks, the Pogo mine and other markets in Alaska - Yukon Territory (Whitehorse to British Columbia.)

Just as conditions now warrant serious consideration of a pipeline, there is growing interest, both in the United States and Canada, in the construction of a rail connection to Alaska from the existing Canadian system. There is the possibility of a petro-chemical industry developing from the conditioned gas in Alaska. These and other products would require rail transportation to markets east and south. Further, the right-of-way could support fiber optic for both pipeline monitoring as well as commercial uses of the advanced land line technology.

In my view, there are enormous potential long term economic benefits to the State of multiple utilization of the corridor route containing pipelines, railroad and fiber optic communications.

The economics of the railroad, of course, are based on long term cost-benefit metrics that

deserve considerable evaluation. For the interim I ask that the gas owners only concern themselves with the multiple use right-of-way concept. As an example, it may be possible to use materials excavated for a pipeline to form part of the roadbed for a rail line, building both simultaneously. Conversely, if a rail platform were built with the pipeline, it might be significantly less costly to transport pipe, excavate materials and lay pipe. In fact, the Canadians have already developed a method to lay pipe directly from a railroad.

In the same way, it seems clear that fiber optic cable would provide an ideal basis for broad-band communications for pipeline monitoring and rail communication needs, and for continuous monitoring and control of both utilities' operations. There would also be significant benefits to communications within Alaska, Canada and the lower 48 from such a telecommunications network.


In addition, should a National Missile Defense (NMD) facility be sited in Alaska at Delta along the Alaska Highway route, it seems clear that such a facility would require secure broad-band communications with other defense command sites.

Both an NMD facility and a gas pipeline would require the movement of very significant quantities of construction materials, equipment and manpower -- and rail is far and away the most efficient and environmentally sound method of moving material overland. Unlike the road that parallels the TAPS pipeline, a railroad would eliminate any need for an access road.

All this presents a unique one-time opportunity to combine several efforts, each of which would be complementary to the others, and any of which might later either be incorporated or spun off as individual ventures with their own long-term potential.

I urge the State to evaluate this unique opportunity, and to take the appropriate steps to ensure that a route analysis is comprehensive. This is a once in a lifetime opportunity to combine all these projects into an undertaking that is truly greater than the sum of its parts.

Sincerely,



Frank H. Murkowski  
United States Senator

cc: The Honorable Tony Knowles



Office of the Premier  
Box 2703, Whitehorse, Yukon Y1A 2C6

4254-01  
4126-02

April 2, 2003

The Right Honourable Jean Chrétien, P.C., M.P.  
Prime Minister of Canada  
House of Commons  
Ottawa, Ontario K1A 0A6

Dear Prime Minister:

On behalf of all Yukoners, I would like to express my government's strong support for the establishment of a US-Canada Joint Commission on the Canada-Alaska Rail Link.

The Yukon has more than 80 identified mineral deposits with defined reserves, many of which are of world-class size, that could be developed if a rail link provided efficient transportation of supplies and minerals. In addition, there are eight virtually unexplored oil and gas basins and vast forestry resources that could also benefit from a railroad.

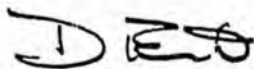
The large mining, forestry and oil and gas development opportunities that a rail link might make feasible need to be further explored and detailed, as do the potential benefits of identifying new transportation corridors in Canada's northwest.

I believe the proposed Commission should be established as soon as possible in order to fully consider the enormous opportunities a rail link could create for Alaska, Yukon, British Columbia and western Canada. Given that the Commission will offer so many excellent opportunities for collaboration and cooperation among policy makers, First Nation leaders, industry and high level technical professionals, both in Canada and the United States, I can't imagine a better time for Canada to announce its decision to participate.

I understand that Alaska Governor Murkowski recently wrote you to express his government's support for the Commission and to suggest locating the offices of the Commission in Whitehorse and Juneau. I fully support the governor's suggestions and look forward to working with our Alaska neighbours and various Canadian and American partners in the months to come.

As you make your formal decision regarding the Bilateral Commission, I want to assure you that my government, and all Yukoners, are ready and eager to participate.

Yours sincerely,



Dennis Fentie  
Premier

cc Honourable Bill Graham, Minister of Foreign Affairs  
Honourable David Collenette, Minister of Transport  
Honourable Pierre Pettigrew, Minister, International Trade  
Honourable Herb Dhaliwal, Minister of Natural Resources  
Honourable Ione Christensen, Senator, Yukon  
Mr. Larry Bagnell, MP, Yukon  
Honourable Stephen Kakfwi, Premier, Northwest Territories  
Honourable Ralph Klein, Premier, Alberta  
Honourable Gordon Campbell, Premier, British Columbia  
Honourable Roger Simmons, P.C  
Honourable Frank Murkowski, Governor  
Honourable Ted Stevens, United States Senate  
Honourable Doug Young, United States House of Representatives  
Honourable Lisa Murkowski, United States Senate  
Honourable Fred Dyson, United States Senate  
Honourable John Cowdery, United States Senate

**Subject: SB 31 consultation with Assistant AG**

**Date:** Tue, 15 Apr 2003 15:16:41 -0800

**From:** Bob Loeffler <bob\_loeffler@dnr.state.ak.us>

**Organization:** Department of Natural Resources

**To:** Richard F Schmitz <richard\_schmitz@legis.state.ak.us>,

Kim S Elton <senator\_kim\_elton@legis.state.ak.us>,

Scott Ogan <senator\_scott\_ogan@legis.state.ak.us>,

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**CC:** johnsonp@akrr.com, lindskoogw@akrr.com

Richard,

At yesterday's Sen. Resource Hearing, Senator Elton asked me to have an Assistant AG to review section (f) of SB 31 -- it's effect with respect to the gas line. Our AG took a quick look at it and gave us an informal opinion. He gave it to us verbally. Our summary is below:

His read is that section (f) does appear to give a small bias or preference with regard to the spatial location of the ARR Transportation corridor but on careful reading did not give an overall preference or priority to the RR. The bill, however, also gives DNR the authority to make the decision (on balance for the greater good) as to where to locate the RR and the gas line.

I hope this information is useful, and please let me know if you need additional information.

-- Bob Loeffler

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Bob Loeffler <bobl@dnr.state.ak.us>

Director

Division of Mining, Land and Water

Department of Natural Resources