

SB

358

SENATOR
JOHN J. COWDERY
Anchorage

Alaska State Legislature

Senate

January - May:
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Juneau, Alaska 99801-1182
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Committees
Chair: Rules
Chair: Transportation
Chair: World Trade &
State/Federal Relations
Legislative Council
State Affairs

SPONSOR STATEMENT FOR SB 358

"An Act relating to performance of railroad track construction work for the Department of Transportation ... by the Alaska Railroad ..."

Senate Bill 358 amends the procurement code so that the Department of Transportation and Public Facilities (ADOT/PF) can work directly with the Alaska Railroad Corporation (ARRC) on track work through a reimbursable service agreement similar to other utilities (i.e. power and water lines).

Prior to 1996, ARRC could conduct track work for DOT projects under utility agreements. After 1996, the procurement code was amended requiring DOT/PF to contract for track work under the competitive bid process. For a time, contractors bid – and won – such work. Recently, however, contractors have shown less interest in bidding such work. They don't have the specialized, expensive equipment to conduct the work, and they experience high costs trying to meet the specifications required.

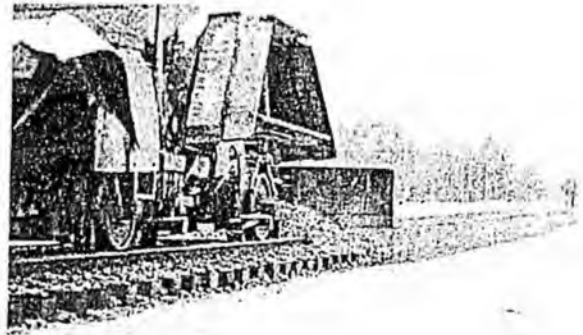
To remedy this situation and ensure DOT/PF projects move forward, SB 358 will allow DOT/PF the flexibility to use either the competitive bid process or to work directly with the Alaska Railroad.

The advantage of this arrangement for DOT/PF is possible lower costs and a savings of time. The advantage for the Alaska Railroad will be enhanced quality and assurance that industry standards met.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES



An ARRC employee at the controls of a \$400,000 track tamper, which automatically adjusts track to tight tolerances.



A ballast regulator spreads ballast over new track construction.



ARRC employees are Alaskans, trained to work safely in the federally regulated railroad environment.

ALASKA RAILROAD CORPORATION
Senate Bill 358, House Bill 529
Allows Railroad to Perform Track Work on ADOT/PF Projects

BACKGROUND: Prior to 1996, the Alaska Railroad Corporation (ARRC) was treated like other utilities performing relocation work required by Alaska Department of Transportation and Public Facilities (ADOT/PF) projects. When utilities such as power lines and waterlines need to be relocated, ADOT/PF issues a separate agreement with the utility for such work rather than using a third party contractor. The advantage of this arrangement for ADOT/PF is possible lower costs, and the utility is responsible for quality and warranty. The advantage for the utility is often enhanced quality, assurance that industry standards are met, and a streamlined project.

After the procurement code was amended in 1996, ADOT/PF was required to contract for track work under the competitive bid process. While ARRC had the option to bid on track work, ARRC does not operate as a contractor and our labor contracts do not currently support payment as defined in the "Prevailing Wage Act".

PROPOSAL: Amend the procurement code allowing ADOT/PF to use either the competitive bid process or work directly with ARRC on track work through a reimbursable service agreement similar to other utilities.

BENEFITS:

- DOT will save money
 - DOT must fully develop bid specifications if it contracts for railroad work. This usually is not required when ARRC performs the work to its own standard specifications.
 - Inspection and other railroad specialty items are inclusive in the ARRC crew. With a railroad contractor, the ARRC must still provide federally required inspection and coordination with railroad operations.
 - DOT can deal directly with the ARRC on a reimbursable or lump sum basis. Expensive contractor mobilization is avoided. Excessive contractor premiums will be avoided for this small specialty market.
 - The ARRC buys railroad materials in quantity and is able to pass along this savings.
- DOT will save time
 - It takes time to develop specifications required for contractor bidding.
 - The ARRC is "on site" 365 days a year and ready to respond.
 - ARRC is responsible for the coordination of work with train operations, with contractor; DOT is interface to ARRC and contractor.
- ARRC's core business is operating and maintaining the railroad.
- ARRC has the specialized equipment required for railroad work. Contractors must mobilize this equipment from the Lower 48. This equipment includes large machines that cost several hundred thousand dollars.
- ARRC has skilled manpower on hand to perform the work. These are Alaskans ready and able to do the work. All funds stay in Alaska, no outside specialized contractor or labor.

SPONSOR STATEMENT FOR SB 358

"An Act relating to performance of railroad track construction work for the Department of Transportation ... by the Alaska Railroad"

This legislation deals with situations where railroad construction work must be done at places where the railroad tracks cross state roadways.

Traditionally, the Department of Transportation (DOT) would treat the railroad as if it were a utility, such as a power company. For example, should a power line have to be moved to accommodate road construction or maintenance, DOT would simply reach an agreement with the utility to accommodate the construction work needed. The same case applied with the Alaska Railroad.

When the procurement code was amended in 1996, the Railroad was instead treated as if it were a contractor, and it was required to bid on any track work that needed to be done. For a time, other Alaska contractors bid – and won – such work. That, however, is no longer the case, leaving the Alaska Railroad as the only qualified bidder.

Trouble is, the railroad, business-wise, does not operate as a contractor for a few different reasons. Mainly, the Railroad does not manage and estimate work because union agreements do not allow payment as defined in the "Prevailing Wage Act."

SB 358 amends the procurement code to allow DOT to work with the Alaska Railroad as it did prior to 1996. With SB 258 in place, DOT will again work with the railroad as if it is a utility.

MEMORANDUM OF UNDERSTANDING

This Memorandum Of Understanding ("MOU"), is entered into this fourteenth day of April, 2004, by and between the Alaska Department of Transportation and Public Facilities, hereinafter referred to as "Department", the Alaska Railroad Corporation, hereinafter referred to as "ARRC", Laborer's International Union of North America, Alaska District Council of Laborers hereinafter referred to as "Alaska District Council of Laborers" and the Associated General Contractors of Alaska, hereinafter referred to as "AGC".

RECITALS

- A. Certain Department highway construction projects necessitate relocation, removal, adjustment, protection or construction of railroad facilities.
- B. Prior to 1998, when it was necessary to relocate railroad facilities because of a proposed Department project, the Department had authority pursuant to 17 AAC 15.511 to enter into a utility relocation agreement with ARRC in accordance with 17 AAC 15.521 authorizing ARRC to perform the relocation work.
- C. In 1998, the State Procurement Code, AS 36.30, was amended to require that the services required to perform railroad facility relocation work, other than signalization and flagging, on a Department project be obtained through the use of a competitive sealed bid or proposal process.
- D. Since 1998 such railroad facility relocation work has been performed by contractors obtained by the Department through a competitive bid process.
- E. Today, there are a minimal number of contractors in Alaska who possess the specialized equipment and skill necessary to construct critical track work in conformance with contract specifications. In order to ensure that track construction conforms to performance specifications and to ensure that service interruptions are minimized for railroad and highway operations, ARRC and the Department are supporting SB 358/HB 529 which proposes to amend the State Procurement Code to give the Department the option to enter into an agreement with ARRC to perform certain railroad facility relocation work as opposed to having to put such work out to bid.
- F. AGC and Alaska District Council of Laborers are willing to support said amendment to the State Procurement Code so long as there are reasonable limitations on the type of work the Department contracts with ARRC to perform and the utility relocation agreement between the parties contains provisions to assure that such railroad facility work is performed in an economical manner and without delay to a contractor's schedule.
- G. It is the purpose of this MOU to establish the type of railroad facility relocation work that the Department may authorize ARRC to perform under a utility relocation

agreement and the terms and conditions under which such work shall be performed in the event that the State Procurement Code is amended to allow the Department to enter into an agreement with ARRC to perform railroad facility relocation work.

THEREFORE, the parties hereby agree as follows:

AGREEMENT

1. When a Department project involves the construction of rail, ties or ballast for railroad tracks used by ARRC, the Department may enter into a utility relocation agreement with ARRC to perform critical relocation work that could impair, endanger or unreasonably delay ARRC's ability to operate its trains in a safe and timely manner if not performed properly. The scope of such critical work shall be limited to performing the following categories of work: (1) cutovers to a new alignment of ARRC's mainline; (2) the installation or removal of switches on ARRC's mainline; and (3) any other construction work involving rail, ties or ballast, in situations where the Department's contractor is unable to perform railroad facility work in accordance with the Department's contract terms and construction schedule (hereinafter collectively referred to as "critical rail work").

2. The agreement between ARRC and the Department to perform critical rail work shall set out the terms of the work along with the terms of the reimbursement for the costs of the work. The agreement may, in the Department's discretion, provide for a lump-sum payment for the work. The agreement must contain a cost estimate, plans, and a scope-of-work statement as provided in 17 AAC 15.351, 17 AAC 15.361, and 17 AAC 15.371 respectively. Billing and audit of the costs of the critical rail work shall be made in accordance with the provisions of 17 AAC 15.431.

3. The agreement between ARRC and the Department to perform critical rail work shall include a provision requiring ARRC and the Department or its contractor to make every possible attempt to insure the smooth operation/coordination of both the rail traffic and construction schedule and not to interfere with the other. The agreement shall require the parties and the contractor to meet and confer at reasonable intervals to coordinate the work schedules of ARRC's personnel with the work schedule of the Department's contractor in a manner that does not unreasonably delay the performance of each party's work. Pursuant to 17 AAC 15.421(b), ARRC will also be responsible for extra costs resulting from delays to the Department contractor's operations if the railroad facilities are not relocated in accordance with the relocation agreement, except when the delays are beyond the control of ARRC.

4. Nothing in this MOU affects ARRC's right to perform signalization and flagging on Department projects as authorized by AS 36.30.015(i).

5. Unless otherwise provided herein, all notices and communications concerning this MOU shall be addressed as follows:

Alaska Department of Transportation and Public Facilities:

Contact Name: Commissioner Mike Barton
Mailing Address: 3132 Channel Drive
Juneau, AK 99801-7898
Telephone: (907) 465-3901
Fax: (907) 586-8365

Alaska Railroad Corporation:

Contact Name: Patrick Gamble
Mailing Address: P.O. Box 107500
Anchorage, AK 99510-7500
Delivery Address: 327 W. Ship Creek Avenue
Anchorage, AK 99501
Telephone: (907) 265-2414
Fax: (907) 265-2312

Associated General Contractors of Alaska:

Contact Name: Richard Cattanach
Mailing Address: 8005 Schoon Street
Anchorage, AK 99518
Telephone: (907) 561-5354
Fax: (907) 562-6118

Laborer's International Union of North America, Alaska District Council of Laborers:

Contact Name: Blake Johnson
Mailing Address: 2501 Commercial Drive
Anchorage, AK 99501
Telephone: (907) 272-4571
Fax: (907) 274-0570

or at such other address as may be designated in writing from time to time to a party by another party.

6. The parties agree to meet and attempt in good faith to resolve any problems or disputes that may arise in the performance of this agreement by negotiation between representatives of the respective parties.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding as of the dates written below.

Alaska Railroad Corporation

By: *PK Gable*
Its: PROSICBO
Date: 4/15/04

Alaska Department of Transportation
and Public Facilities

By: *Mike Bunker*
Its: Commissioner
Date: 4-13-04

Associated General Contractors of Alaska

By: *Kevin Egan*
Its: Executive Director
Date: 4/14/04

Laborer's International Union of North
America, Alaska District Council of
Laborers

By: *Pat B. Jr*
Its: President
Date: 4-14-04

SENATOR
JOHN J. COWDERY

Anchorage

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Prior to 1996, ARRC could conduct track work for DOT projects under utility agreements. After 1996, the procurement code was amended requiring DOT/PF to contract for track work under the competitive bid process. For a time, contractors bid – and won – such work. Recently, however, contractors have shown less interest in bidding such work. They don't have the specialized, expensive equipment to conduct the work, and they experience high costs trying to meet the specifications required.

To remedy this situation and ensure DOT/PF projects move forward, SB 358 will allow DOT/PF the flexibility to use either the competitive bid process or to work directly with the Alaska Railroad.

The advantage of this arrangement for DOT/PF is possible lower costs and a savings of time. The advantage for the Alaska Railroad will be enhanced quality and assurance that industry standards met.

ALASKA STATE LEGISLATURE
SENATE DISTRICT 0

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Juneau, AK 99801
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John J. Cowdery

Senate Rules, Chair
Senate Transportation Committee, Chair
World Trade State & Federal Relations, Chair
State Affairs, Legislative Council

TALKING POINTS FOR SB 358:

- Relates to certain DOT projects that include construction of railroad facilities.
- Applies to construction of rails, ties and ballast.
- Amends state procurement code so DOT can work directly with Alaska Railroad on track construction using contract agreements similar to those made with utilities.
- A 1998 amendment to the state procurement code required DOT to competitively bid most railroad construction work. Today, there are only a few contractors in Alaska who own the specialized equipment and have skilled personnel necessary to construct critical track work that conforms to contract specifications.

- To make sure that track construction conforms to performance specifications, and to minimize service interruptions for railroad and highway operations, Senate Bill 358 allows DOT to use either the competitive bid process, or work directly with the Railroad for critical track work under a utility agreement.
- A Memorandum of Understanding ("MOU") was developed by DOT, the Railroad, the Laborers Union and the AGC to provide reasonable limitations on the type of work DOT contracts with the railroad to perform.
- The MOU allows DOT to use the railroad for construction of critical track work involving railroad switches, cutovers from new track to mainline track, and construction of rail facilities where the Department's contractor is unable to perform in accordance with DOT contract terms and construction schedule.
- In addition, the utility relocation agreement between DOT and the Railroad contains provisions to assure that railroad facility work is performed in an economical manner and without delay to a contractor's schedule.

Subject: draft TP's for SB358

Date: Sun, 18 Apr 2004 18:58:55 -0800

From: "Wendy Lindskoog" <lindskoogw@akrr.com>

To: <richard_schmitz@legis.state.ak.us>, <senator_john_cowdery@legis.state.ak.us>

Richard: attached and pasted below are draft talking points for SB 358.

I developed them from the MOU, which provides more background if you feel it is needed. I will try to get a flight into Juneau on Monday so I can be there Tuesday morning. Thank you for all of your help on this issue.

Wendy

Talking points for SB 358:

Senate Bill 358 pertains to certain Department of Transportation projects that include construction of railroad facilities.

In 1998, the state procurement code was amended to require that railroad facility work on a DOT project, other than signalization and flagging, be obtained through the use of a competitive bid process. Prior to 1998, DOT worked directly with the Railroad under a utility agreement.

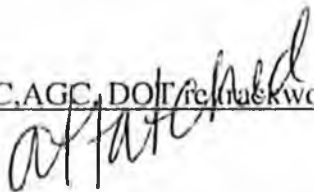
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Wendy Lindskoog
Director External Affairs
907-265-2498
lindskoogw@akrr.com

 <input type="checkbox"/> MOU-ARRC,AGC, DOT re trackwork-A[1].doc	<p>Name: MOU-ARRC,AGC, DOT re trackwork-A[1].doc Type: WINWORD File (application/msword) Encoding: base64 Download Status: Not downloaded with message</p>
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Alaska Railroad Corporation

Legislative Proposal

Allows ARRC to Perform Track Work on ADOT/PF projects

BACKGROUND: Prior to 1996, the Alaska Railroad Corporation (ARRC) was treated like other utilities performing relocation work required by Alaska Department of Transportation and Public Facilities (ADOT/PF) projects. When utilities such as power lines and waterlines need to be relocated, ADOT/PF issues a separate agreement with the utility for such work rather than using a third party contractor. The advantage of this arrangement for ADOT/PF is possible lower costs, and the utility is responsible for quality and warranty. The advantage for the utility is often enhanced quality, assurance that industry standards are met, and a streamlined project.

After the procurement code was amended in 1996, ARRC has been treated like a contractor that can bid on track work. The problem is, ARRC does not operate as a contractor that can estimate and manage work, and our labor contracts do not currently support payment as defined in the "Prevailing Wage Act". If ARRC did bid on such work as a contractor, our additional overhead costs would result in an increase to ADOT/PF project costs as well.

PROPOSAL: Amend the procurement code allowing ADOT/PF to work directly with ARRC on track work through a reimbursable service agreement similar to other utilities.

BENEFITS:

- DOT will save money
 - DOT must fully develop bid specifications if it contracts for railroad work. This usually is not required when ARRC performs the work to its own standard specifications.
 - Inspection and other railroad specialty items are inclusive in the ARRC crew. With a railroad contractor, the ARRC must still provide federally required inspection and coordination with railroad operations.
 - DOT can deal directly with the ARRC on a reimbursable or lump sum basis. Expensive contractor mobilization is avoided. Excessive contractor premiums will be avoided for this small specialty market.
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 - The ARRC is "on site" 365 days a year and ready to respond.
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- ARRC has the specialized equipment required for railroad work. Contractors must mobilize this equipment from the Lower 48. This equipment includes large machines that cost several hundred thousand dollars.
- ARRC has skilled manpower on hand to perform the work. These are Alaskans ready and able to do the work. All funds stay in Alaska, no outside specialized contractor or labor.



Railway Support Services, LLC
8838 Rosewood
Anchorage, Alaska 99518
(505) 225-8889 Cell

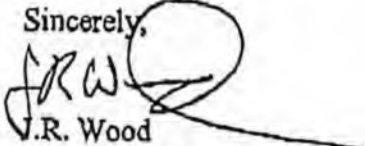
March 18, 2004

Honorable Senator Con Bunde
Chairman of Labor and Commerce Committee

Dear Sir,

Railway Support Services is a small construction company performing railroad construction and professional railroad services within the U.S. We have bid work and plan to continue bidding future work in Alaska. We currently have small equipment used for maintenance and construction purposes in Anchorage where it can be utilized as the need arises. While performing under the contracts offered by the Alaska Railroad we hire personnel within the local Unions and have jointly trained laborers at the Alaska Laborer's Training Center. In the interest of preserving our future position within Alaska we would appreciate your support in rejecting S.B.358, which was presented by the Alaska Railroad Corp..

Sincerely,


J.R. Wood
Pres. RSSLLC

MECHANICAL INSULATION SERVICES, INC.

6130 NELSON
ANCHORAGE, ALASKA 99518
(907) 561-3385 ♦ FAX 561-3396

Honorable Senator Con Bunde
Chairman Labor and Commerce Committee

March 19, 2004

Dear Sir,

Our company is a small construction company that has diversified into various contracting businesses including railroad construction. We have bid work in the past and plan to continue bidding future work in Alaska. At this time we have a contract under performance. While performing under the contracts offered by the Alaska Railroad we hire personnel within the local Unions. In the interest of preserving our future position within this industry we would appreciate your support in rejecting S.B. 358; which was presented by the Alaska Railroad Corp..

Sincerely,

Ed Biescocker

Contract Manager

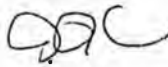
Mechanical Insulation Services, Inc

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: March 5, 2003

TO: SENATOR CON BUNDE,
Chair, Senate Labor and Commerce Committee

FROM: SENATOR JOHN J. COWDERY 
Co-chair Senate Transportation Committee

RE: SB 358

Please schedule, at your earliest convenience, a hearing for **SB 358**, "an act relating to the performance of railroad track construction work for the Department of Transportation and Public Facilities by the Alaska Railroad Corporation."

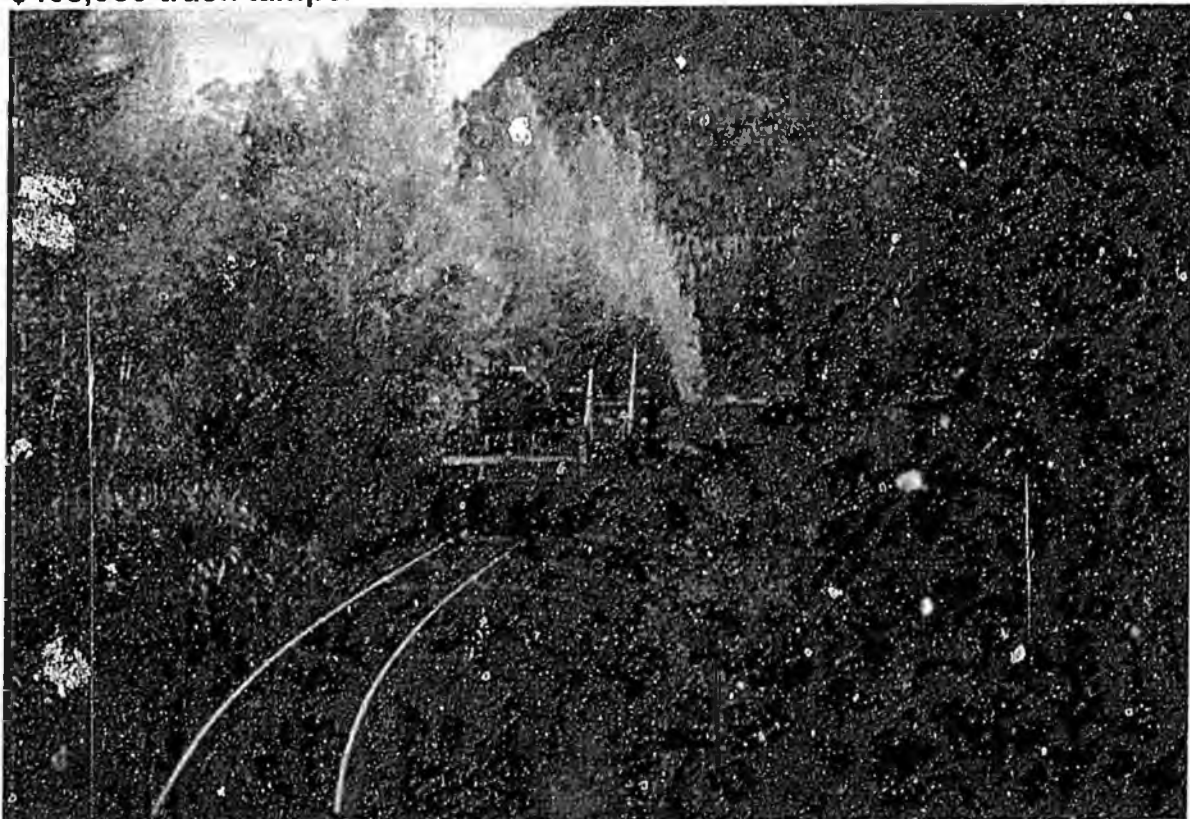
A copy of the bill, a sponsor statement and background information is attached.

Thank you for your kind attention to this matter.

SPECIALIZED EQUIPMENT:



\$400,000 track tamper



... track tamper and ballast regulator follow a work train near Chulitna.



- Ballast regulators (above) perform several functions. First, they can reclaim ballast disturbed by tie renewals prior to track surfacing operations. Secondly, they perform precision ballast dressing and final brooming of the track. The 10-foot wide hydraulically-articulated, directional front plow can plow out, pull in, or transfer material in a single pass while traveling in either direction. Side-mounted ballast boxes reclaim excess material from the shoulder and distribute it uniformly, as needed, for track surfacing. The ballast regulator leaves a properly shaped, smoothly broomed ballast section with tie tops clean and cribs fully filled to assure stability, make inspection easier, and enhance track appearance. The rear-mounted ballast broom features 18" long-life sweeps that give a clean sweep of the ballast across the entire broom width. Rotation of the hydraulically-driven broom can be easily reversed for brooming in either travel direction or to move excess material away from road crossings, switches, etc
- The basic purpose of an electro-graphic tamper is to align the track both in elevation and curvature. Travel speed is a 15 mph on a 2% grade, 28 mph on a 1% grade and a maximum speed of 40 mph.

Sen. Olson + I have
agreed to work on a
CS after Transit
by the time Finance hears
the bill

Ralph



Sen. John J. Cowdery, Chair

Senate Transportation Committee

Call: 465-4921 Fax: 465-2069

What does
a field station
miles & miles from
the place we are
talking about
have to do with
anything here?

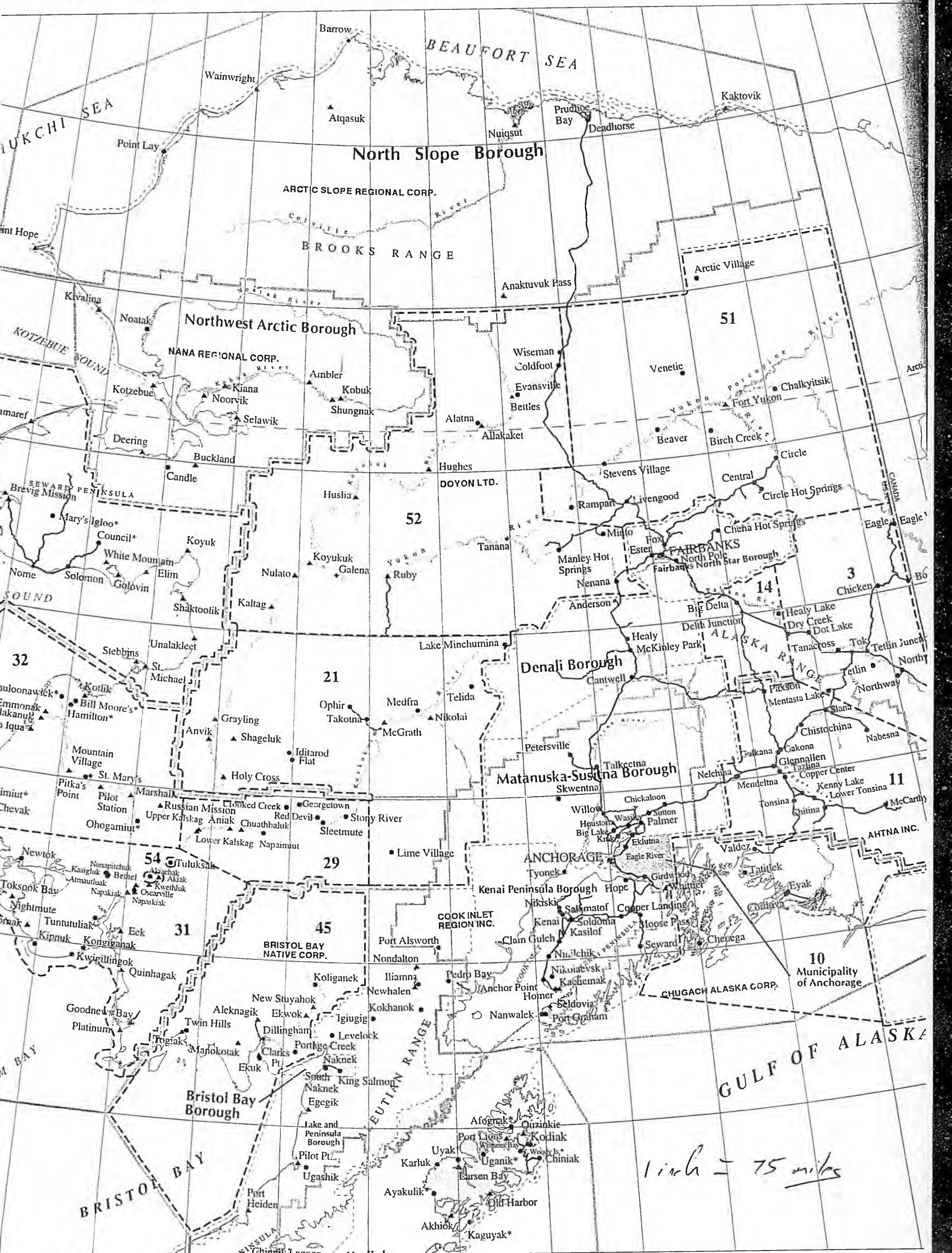
Sen. Pres. THERRIAULT

Sen. WAGONER

Sen. LINCOLN

Sen. OLSON

Y-9	Fort Yukon	R-3	Hydaburg	Y-9	King Salmon	M-7	Livengood	-	Napaimute	L-6	Ohogamiute	A-0	Port Moller	K-8
L-6	Fox	S-5	Hyder	Z-9	Kipnuk	J-7	Lower Kalskag	S-6	Napaskiak	K-6	Old Harbor	O-8	Port Protection	M-5
Q-1	Gakona	M-4	Iditarod	L-5	Kivalina	I-3	Lower Tonsina	L-7	Nelchina	R-5	Ophir	M-5	Portage Creek	Y-8
J-3	Galena	F-5	Igiugig	N-7	Klawock	Y-9	Manokotak	P-4	Nelson Lagoon	K-8	Oscarville	K-6	Prudhoe Bay	M-7
S-4	Gambell	M-6	Iliamna	N-7	Klukwan	X-7	Manley Hot Springs	J-6	Nenana	Q-4	Ouzinkie	O-8	Quinhagak	Q-7
L-7	Georgetown	Q-6	Ivanof Bay	L-9	Knik	O-6	Marshall	I-4	New Stuyahok	M-7	Paimiut	I-6	Rampart	Q-4
G-4	Girdwood	S-5	Juneau	X-7	Kobuk	M-3	Mary's Igloo	T-6	Newhalen	N-7	Palmer	Q-6	Red Devil	M-4
S-5	Glennallen	J-4	Kachemak	P-7	Kodiak	O-8	McCarthy	J-5	Newtok	I-6	Pauloff Harbor	J-9		
U-4	Golovin	K-7	Kaguyak	O-8	Kokhanok	N-7	McGrath							



1 inch = 75 miles