

SB

136

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 4/13/07

FURTHER: Transportation

Date of 5-Day Notice: April 12, 2007
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: April 17, 2007

Community & Regional Affairs Committee considered SPONSOR SUBSTITUTE FOR SENATE BILL NO. 136

SB 136 MUNICIPAL ROAD SERVICE AREAS

"An Act relating to certain municipal service areas that provide road services."

and recommends:

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

SENATE BILL:
<input checked="" type="checkbox"/> Same Title
<input type="checkbox"/> New Title
<hr/>
HOUSE BILL:
<input type="checkbox"/> Same Title
<input type="checkbox"/> Technical Title Change
<input type="checkbox"/> New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Year	Amount	Source	Notes
DCCED COM	4/1/07			✓

PREVIOUS FISCAL NOTE(S):

Department	Year	Amount	Source	Notes

APPROPRIATION - no fiscal note

Signature	Name				
<i>St. J. Thomas</i>	THOMAS	✓			
<i>Wagoner</i>	WAGONER	✓			
<i>Albert Kookesh</i>	KOOKESH		✓		
CHAIR: <i>Donald Olson</i>	OLSON	✓			

ALASKA STATE LEGISLATURE



SENATOR JOE THOMAS

Sponsor Statement

Senate Bill 136 - An Act relating to certain municipal service areas that provide road services.

Senate Bill 136 provides boroughs with a means of altering existing road service area boundaries to ensure taxpayer fairness among residents of service areas.

A service area is a taxing jurisdiction within a borough that has been established to provide special services such as road maintenance or fire protection. These services are requested and approved by voters residing within a specific area.

State law permits borough residents living outside a service area to use service area roads for their sole or legally required access. These residents derive a direct benefit equal to residents within the service area, yet they can refuse to contribute to the costs of construction or maintenance of these roads by voting down any annexation attempt. These state mandated annexation votes typically fail as individuals are reluctant to join a service area when they can instead use these maintained roads for free.

SB 136 amends state law by allowing a service area to annex property that uses its roads for their sole or legally required access without a vote by the owners of property to be annexed.

A second issue arises where residents of a service area are required to pay into a service area even though they do not utilize the service area roads for access to their property. Service areas, however, are often reluctant to vote to remove property from the service area because it effectively raises taxes on the remaining property owners.

SB 136 amends state law by allowing a borough assembly to exercise its judgment to alter, by ordinance, a service area boundary to exclude a property that does not use service area roads as its sole or legally required access.

ALASKA STATE LEGISLATURE



SENATOR JOE THOMAS

Sectional Summary – Senate Bill 136

Section 1 of the bill provides for (i) a service area to annex property that utilizes its roads for their sole or legally required access without a separate vote of the property to be annexed; and (ii) a borough assembly to exercise its judgment to alter, by ordinance, a service area boundary to exclude a property that does not use service area roads as its sole or legally required access.

ALTERATION OF ROAD SERVICE AREA BOUNDARIES TO ENSURE TAXPAYER FAIRNESS

Under existing law the Borough lacks any effective means to alter existing road service area boundaries even when necessary to ensure taxpayer fairness. Because only those properties within the service area boundaries can be required to contribute to the costs of the service area, the Borough's inability to adjust boundaries creates two taxpayer fairness issues that the proposed legislation attempts to resolve. Currently, resolution of both problems depends upon taxpayers' willingness to vote against their own financial interest.

1. Presently, state law permits Borough residents, living outside a road service area to use service area roads for their sole or legally required access. These residents derive a direct benefit equal to residents within the service area, yet they can refuse to contribute to the costs of construction or maintenance of these roads by voting down any annexation attempt. This problem usually arises because of subsequent development near a service area which utilizes existing service area roads for access. While the Borough demands, through its subdivision laws, that owner/subdividers consent to annexation into the service area as part of the subdivision application, state law still requires an election if anyone resides in the area, including the subdivider. These annexation votes typically fail as individuals are reluctant to join a service area when they can instead use these maintained roads for free.

- The proposed change to state law would fix this problem by **allowing a service area to annex property that uses its roads for their sole or legally required access without a separate vote of the property to be annexed.**

2. The second problem is almost the direct opposite. Here, people find themselves, either because of the way the original boundaries were drawn or due to subsequent road development, paying into a road service area even though they do not utilize the service area roads for access onto their property. Service areas, however, are often reluctant to vote to remove property from the service area because that effectively raises taxes on the remaining property owners.

- The proposed change to state law would fix this problem by **allowing the assembly to exercise its judgment to alter, by ordinance, the service area boundary to exclude that property or properties that do not use service area roads.**

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: SB136-COM-DCA-04-11-07
 Bill Version: SB 138
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Municipal Road Service Areas RDU Community Assist & Ec Dev (405)
 Component Community Advocacy
 Sponsor Thomas
 Requester Senate Community & Regional Affairs Component No. 2703

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation amends AS 29.35.450 to add two exceptions to the law which requires a public vote before making certain changes to municipal service areas. The first exception states that a subdivision may be added to a service area without a public vote, if the roads provide the only access or are required by subdivision plat, regulation or ordinance. The second exception states that a subdivision may be excluded from a service area without a public vote, if the roads do not provide the only access or are required by subdivision plat, regulation or ordinance.

This legislation will have no fiscal impact on the operations of the division.

Prepared by: Mike Black, Director Phone 907.269.4535
 Division Community Advocacy Date/Time 4/11/07 9:34 AM
 Approved by: Emil Notti, Commissioner Date 4/11/2007
 Agency Commerce, Community, and Economic Development



Fairbanks North Star Borough

Department of Law

809 Pioneer Road • PO Box 71267 • Fairbanks, AK 99707 • (907) 459-1318 FAX 459-1166

March 23, 2007

VIA FACSIMILE: 907-465-2819

Representative Anna Fairclough
State Capitol, Room 411
Juneau, AK 99801-1182

Representative Fairclough:

Thank you for the opportunity to comment on the questions posed by the Municipality of Anchorage, through Mr. Johnson's e-mail. After receiving a copy of the e-mail, I contacted Rhonda Fehlen Westover, Deputy Municipal Attorney for the Municipality of Anchorage. We agreed, after an extensive discussion of HB 185, including its impacts on our respective municipalities, to provide you with a joint response, and we are authorized on behalf of our respective governmental entities, to support HB 185.

We are both confident the new clause 3, at line 19, page 2, is constitutional. Alaska's Constitution provides that service areas "may be established, altered, or abolished" by the Assembly, subject to the provisions of law or charter. Thus, while state law could certainly add additional requirements, our Constitution only requires assembly approval. HB 185 preserves this constitutional requirement.

With respect to charter provisions, Alaska Statute 29.35.450 is one of the limitations on home rule powers, and supersedes charter provisions. A charter amendment is not necessary to implement HB 185 if approved by the legislature.

If you have any further questions, please feel free to contact either or both of us.

Sincerely,

FAIRBANKS NORTH STAR BOROUGH

MUNICIPALITY OF ANCHORAGE

A. René Broker
Borough Attorney

Rhonda Fehlen Westover
Deputy Municipal Attorney



Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-6650 • Telephone: (907) 563-4431 • Fax: (907) 543-4480 <http://www.muni.org>

Mayor Mark Begich

Office of the Mayor

Memorandum

TO: The Honorable Anna Fairclough, Chair
Community and Regional Affairs Committee

THROUGH: Mayor Mark Begich *[Signature]*

FROM: Michael Johnson *[Signature]*
Mayor's Office

DATE: March 23, 2007

SUBJECT: House Bill 185

With the benefit of additional time to review the matter, I write to clarify Mayor Begich's position on House Bill 185 relating to service areas within a 1st Class Borough. Contrary to my email of Wednesday the 21st, Mayor Begich supports the passage of House Bill 185 with minor amendments.

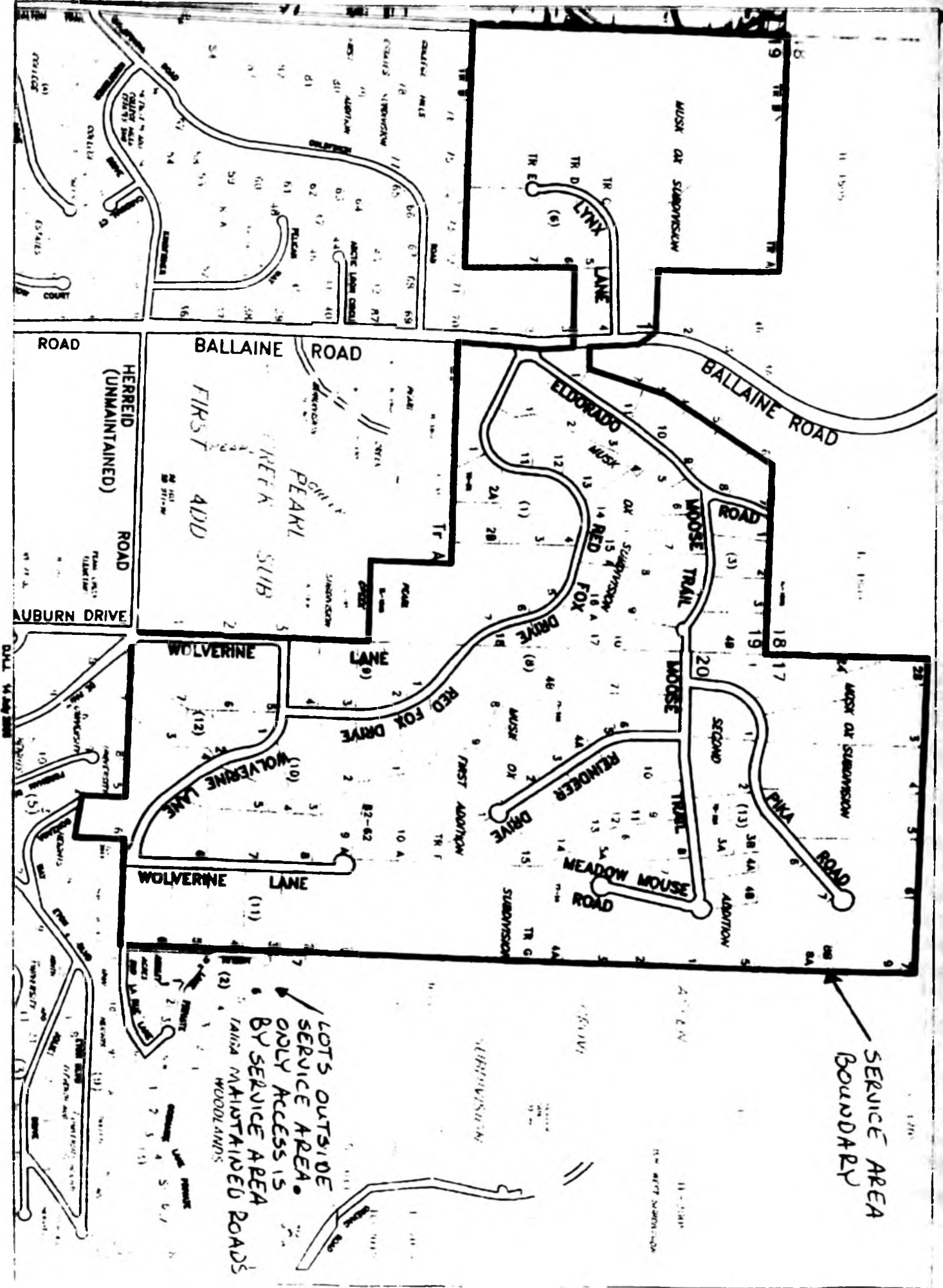
As has been transmitted to you under separate cover, our Municipal Attorney's office, working with their counterparts in the Fairbanks North Star Borough, have resolved both our constitutional and charter concerns with this measure. With those items addressed, we wish only to suggest a minor amendment. In new section 3, beginning on line 19, we suggest the addition of the words "or parcel" immediately following the word "subdivision" at the end of line 19, in the middle of line 21 and at the start of line 22.

Thanks again for the opportunity to comment on this legislation, and I regret any confusion caused by my previous email.

Community, Security, Prosperity

**THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES**

Musk Ox Road Service Area



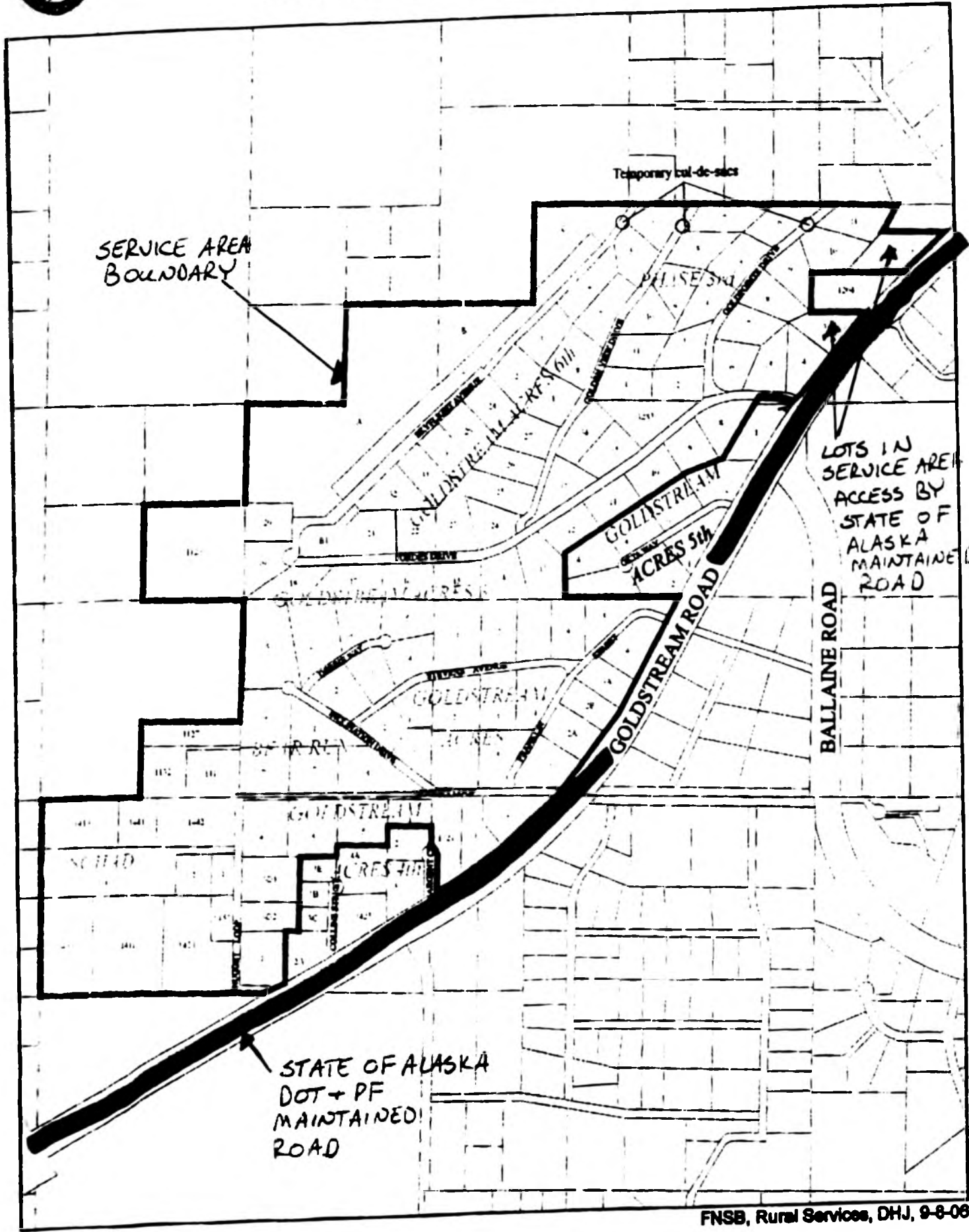
SERVICE AREA BOUNDARY

LOTS OUTSIDE SERVICE AREA. ONLY ACCESS IS BY SERVICE AREA ROADS MAINTAINED BY WOODLANDS

Scale bar and north arrow.



Cordes Drive Road Service Area



SERVICE AREA BOUNDARY

Temporary Cal-de-sacs

LOTS IN SERVICE AREA ACCESS BY STATE OF ALASKA MAINTAINED ROAD

STATE OF ALASKA DOT + PF MAINTAINED ROAD