

HJR

38

<TARGET><BILL>HJR 38</BILL><SUBJECT>HJR
38</SUBJECT><COMM>HJUD30</COMM></TARGET>



THE STATE
of **ALASKA**
STATE LEGISLATURE

Rep. Chuck Kopp

Rep.Chuck.Kopp@akleg.gov

Phone: (907) 465-4993

Toll Free: 800-782-4993

House District 24

Bayshore - Klatt Road – Oceanview – Southport

House Joint Resolution 38 – Sponsor Statement

HJR 38 is an important step by the Alaska Legislature to comment on the unconstitutional annexation of private property rights from potentially hundreds of Alaskans, as well as the claim by the Alaska Railroad Corporation (ARC) to “exclusive use” of its entire right-of-way.

Pursuant to the 1914 Alaska Railroad Act, the Alaska Railroad was built and operated by the federal government until 1982, when ownership of the Railroad was transferred to the state under the Alaska Railroad Transfer Act (ARTA).

Under the plain language of ARTA, the state was granted the rights, titles, and interests in “rail properties” which were owned by the United States at the time of transfer. These rail properties primarily consisted of buildings, equipment, lands, and “interests” in lands owned by others, including the railroad right-of-way reserved in hundreds of federal land patents found along the rail belt from Seward to Fairbanks.

Also, under ARTA, an “exclusive-use easement” was granted in the railroad right-of-way through the federally-owned Denali National Park, as well as through federally-owned lands which were subject to unresolved Native land claims at the time of passage. An “exclusive-use easement” could be granted in these two situations because the federal government owned the land outright. Only property owned by the United States at the time of transfer was or could be granted to the state under ARTA.

HJR 38 expresses the strong view of the Alaska Legislature that property interests transferred to the state by the federal government which were, in fact, owned by other parties at the time of transfer, are contrary to law; further, that ARC violated state law by receiving property interests from the U.S. Department of the Interior without the legislative approval required under AS 42.40.285, and without notice to affected landowners, and that such interests in land should be duly disclaimed as a matter of law.

Staff Contact: Erick Cordero Giorgana

(907) 465-6871

Erick.CorderoGiorgana@akleg.gov

COMMITTEES

EDUCATION, JUDICIARY & TRANSPORTATION

Interim

1500 W. Benson Blvd.

Anchorage AK, 99503

Phone: 907-269-0200

Session

Alaska State Capitol Rm 13

Juneau, AK 99801-1182

Phone: (907) 465-4993

Toll Free: 800-782-4993

The Alaska Railroad Opposes House Joint Resolution 38 for the following reasons

The Federal Government Held and Could Transfer Exclusive Rights in the ARRC Right-of-Way.

The contention in HJR 38 that the federal government did not have the right to transfer an exclusive railroad right-of-way to the State is not correct. The federal government created the Alaska Railroad right-of-way (ROW) in the 1910s and 1920s from existing federal land, then owned and operated the ROW for the next 60 years. As Congress determined in the early 1980s, when it passed the Alaska Railroad Transfer Act (ARTA), the federal government owned fee simple title to the vast majority of the ROW. In addition, settled law relating to railroad rights-of-way states that even where a railroad lacks full fee simple title in its ROW, it still has full exclusive rights to use the surface of the ROW due to the inherently hazardous nature of railroad operations. When Congress passed ARTA in 1983, therefore, the federal government held fee simple title in most of the ROW and at least an exclusive use easement in all of it. Consequently, the federal government had the right to transfer all of that interest title to the State of Alaska's newly formed publicly owned railroad corporation (ARRC) in 1985.

Both the State of Alaska and Congress Recognized that an Exclusive ROW was Essential to Operating the Alaska Railroad Safely and Economically.

HJR 38 also incorrectly contends that ARTA does not require that the State receive at least an exclusive use easement in the ROW. The truth is precisely the opposite. Both the State and Congress recognized that the Alaska Railroad's exclusive control of its ROW was critical. ARTA explains: "Congress finds that exclusive control over the right-of-way by the Alaska Railroad has been and continues to be necessary to afford sufficient protection for safe and economic operation of the railroad." 45 U.S.C. §1205(b)(4)(A)(ii). That is why the State insisted on a guarantee from the federal government that ARRC's control of the ROW would be exclusive. As a result, ARTA guaranteed that ARRC would receive at least an exclusive use easement allowing it to exclude all others from and/or to fence its ROW, or to allow other parties to use the ROW for a fee. 45 U.S.C. §1202(6). To underscore this guarantee, Congress mandated that the federal government would defend ARRC against any challenge to ARRC's exclusive title in its ROW. 45 U.S.C. §1205(b)(4)(B). If the State had not received a guarantee of exclusive control of the ROW, it would not have purchased the Alaska Railroad.

Congress Provided a Process for Adjudicating Any Third Party Claims to the ROW.

Recognizing the federal government might not own all portions of the ROW in unencumbered fee simple, ARTA included detailed provisions to resolve third-party claims while ensuring that ARRC could operate a railroad on its ROW without interference. 45 U.S.C. § 1205(b)(2) required the U.S. Department of Interior to resolve any remaining claims of valid existing rights by January 1986. Those provisions were followed and claims were adjudicated. This mechanism provided any adjacent landowners who asserted claims to ownership rights in the ROW a final opportunity to have those claims adjudicated. At the end of this process, ARRC had exclusive control of its entire ROW.

The Interim Conveyances Properly Conveyed to ARRC at Least an Exclusive Use Easement.

HJR 38 incorrectly asserts that interim conveyances and patents given to ARRC by the federal government were improperly granted and accepted. ARTA provided for interim conveyances to the State of Alaska Railroad lands that had not already been surveyed, after which surveys would be conducted and final (cont.)

patents granted. The interim conveyances granted to ARRC in 1985 expressly transferred “not less than an exclusive use easement” and stated that they had the force and effect of a final patent. The final patents also contained ARTA’s guarantee of at least an exclusive use easement. The federal government had an exclusive interest to give and did so, with a guarantee, under ARTA. Neither the federal government nor ARRC did anything improper with respect to granting or accepting the interim conveyances and patents.

Any Federal Taking Would Not Subject the State to Enormous Liability.

HJR 38 asserts that if conveyances under ARTA worked a federal taking, the State could be subjected to “enormous liability.” That simply is not true. First, if an act of Congress works a taking, the remedy lies against the federal government, not against the State. Second, the federal government’s guarantee that it will defend ARRC’s title of at least an exclusive use easement shows that the State and ARRC would have recourse to enforce ARTA’s guarantee of exclusive control of the ROW should a neighboring landowner assert ownership rights in the ROW. Either way, the State would not be subjected to great liability. For the reasons discussed above, ARRC does not believe that any such taking occurred.

ARRC has Not Received Any Federal Land within Municipalities in Violation of AS 42.40.285.

AS 42.40.285(5), added to the Alaska Railroad Corporation Act (ARCA) in 1999, requires the legislature to find that federal land within a municipality is essential for railroad purposes before ARRC may apply for or accept a grant of that federal land. However, transfers of Alaska Railroad land under ARTA are expressly excepted from that statutory requirement. AS 42.40.285(5)(c). The interim conveyances of the ROW and its later final conveyance via patents were the interim and final steps in transferring those parcels to ARRC under ARTA. As explained above, those conveyances properly gave ARRC at least an exclusive use easement in the ROW, and were thus conveyances of “rail properties of the Alaska Railroad.” Contrary to the contentions in HJR 38, those transfers are therefore not subject to AS 42.40.285(5) per AS 42.40.285(5)(c).

HJR 38 Threatens the Safety and Economic Viability of the ROW as a Utility Corridor.

HJR 38 threatens to undermine the critical protections offered by an exclusive ROW. First and foremost, the right to control access to the ROW is critical to the safety of the public, ARRC’s passengers and ARRC employees. The ROW also acts as a buffer to protect adjoining property owners. That buffer enhances ARRC’s economic viability by allowing trains to run safely at faster speeds. Indeed, some aspects of the Alaska Railroad’s commercial operations could be rendered economically infeasible under the slower train speeds that might have to be employed if the ROW was open to unrestricted use by adjoining residents and the public. Exclusive control over access to the ROW is also necessary for ARRC to fulfill its other critical statutory purposes, including its function as a multi-faceted utility corridor to be used for transportation, communication and energy transmission purposes including fiber optic cable, public trails, and pipelines. HJR 38 not only is silent on these critical purposes of the ROW, it threatens to undermine them.



**GENERAL
TEAMSTERS
LOCAL 959
STATE OF ALASKA**

Affiliated with the International Brotherhood of Teamsters

Rick Boyles, Secretary-Treasurer

520 E. 34th Ave., Suite 102, Anchorage, Alaska 99503

Phone (907) 751-8501 • Fax (907) 751-8599

March 8, 2018

Honorable Jonathan Kreiss-Tomkins
Chair House State Affairs
State Capitol
Juneau, AK 99801

RE: HJR 38-Conveyances to the Alaska Railroad Corporation under the Alaska
Railroad Transfer Act

Representative Kreiss-Tomkins and Members of the Committee:

On behalf of the Teamster members that we represent at the Alaska Railroad and our thousands of Teamsters around the State, we want to go on record to oppose HJR 38, a resolution that relates to certain conveyances to the Alaska Railroad under the Alaska Railroad Transfer Act of 1982. While the legal arguments should be left to the attorneys, there should be concern regarding the safety of not only our members who perform various maintenance work, but also the impact on the public. This resolution as written can threaten and or undermine protections offered by the exclusive Right-of-way (ROW). This would create uncertainty and potential financial liability, if the Railroad is not able to fully control access to the ROW. The buffer is very important to the successful operation of the trains at higher speeds when transporting not only passengers, but cargo throughout the state as well. To reduce the effectiveness of the trains by reducing speed would have a huge negative impact on the Railroads ability to meet delivery times, forcing many to look at other means of transportation. To us, this equates to loss of jobs for our members.

Over the last several years the Railroad has seen some hefty cuts in revenue, forcing them to look at overall services including reorganization of the workforce. Additional impacts such as the elimination of the exclusive control of ROW could further reduce revenues for the Railroad and create a very unsafe situation for the public and our members. Safety is important. Control of the ROW's is crucial to the viability and safety of the Railroad operation and the employees. It also assures protection of all of the public.


Additionally, as mentioned above, it seems the issues in the Resolution should be points of debate in the courts, not the legislators. If this resolution passes and one side or the other gets a decision unfavorable to their interest, the matter will ultimately end up in court.

RE: HJR 38-Conveyances to the Alaska Railroad Corporation under the Alaska Railroad Transfer Act

As such, we ask that with further consideration of HJR 38, that you and members of your committee vote NO. Your time and consideration of this matter is greatly appreciated.

Sincerely,

TEAMSTERS LOCAL 959

A handwritten signature in cursive script that reads "Rick Boyles".

Rick Boyles
Secretary-Treasurer

c: Representative LeDoux Vice Chair
Representative(s) Tuck, Wool, Birch, D. Johnson, G. Knopp

ALASKA STATE LEGISLATURE

Education Committee
Judiciary Committee
Transportation Committee



State Capitol Building, Rm 13
Juneau, Alaska 99801-1182
Phone: (907) 465-4993

REPRESENTATIVE CHUCK KOPP

1. Resolution from the Municipality of Anchorage
2. Letter of Support from Fred Rosenberg, Red Robin
3. Letter of Support from Dimond Center
4. Letter of Support from Alaska Realtors
5. Letter of Support from Anchorage Board of Realtors
6. Resolution from the Old Seward Oceanview Community Council
7. Letter of Support from Joan Stolle
8. Letter of Support from Beth Fread
9. Letter of Support from Bonne Woldstad
10. Letter of Support from Patricia Mulligan
11. Letter of Support from Dick Welsh
12. Letter of Support from James Schneider
13. Letter of Support from BriAnna Graves Bierma
14. Letter of Support from Roy Longacre
15. Letter of Support from Damon and Joanne Blackburn
16. Letter of Support from Carter Garrett
17. Letter of Support from Carlton Locke
18. Letter of Support from Dave Hultquist
19. Letter of Support from Flying Crown Homeowners Association
20. Letter of Support from Carolin Wells
21. Letter of Support from John Mahaffey
22. Letter of Support from Peggy and John Pletcher
23. Letter of Support from Ray Wells
24. Letter of Support from Barbara Rosenthal
25. Letter of Support from the Talkeetna Historical Society
26. Letter of Support from Tantikil Unlimited
27. Letter of Support from the Bradley Company
28. Letter of Support from Adventure 60 North
29. Letter of Support from Burke Mees
30. Letter of Support from Andrew Fortt
31. Letter of Support from Don and Karen Glasser
32. Letter of Support from James Armstrong
33. Letter of Support from Michael Christy
34. Letter of Support from Bob Gastrock

Staff Contact: Erick Cordero-Giorgana
(907) 465-6871 – Erick.CorderoGiorgana@akleg.gov

E-Mail: Representative.Chuck.Kopp@akleg.gov

Municipal Clerk's Office
Approved
Date: **March 20, 2018**
Reconsideration Failed 03/20/2018

Submitted by: Assembly Member Dyson and
Assembly Member Weddleton
Prepared by: Assembly Counsel
For reading: March 20, 2018

ANCHORAGE, ALASKA
AR No. 2018-94

1 **A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY RELATING TO**
2 **CERTAIN CONVEYANCES TO THE ALASKA RAILROAD CORPORATION UNDER THE**
3 **ALASKA RAILROAD TRANSFER ACT OF 1982 AND SUPPORTING HOUSE JOINT**
4 **RESOLUTION 38 IN THE THIRTIETH LEGISLATURE OF THE STATE OF ALASKA.**
5

6
7 **WHEREAS**, construction of the Alaska Railroad began shortly after Congress authorized
8 construction in 1915 and was substantially completed in 1923, extending from Seward,
9 Alaska to the Fairbanks vicinity; and

10
11 **WHEREAS**, the Alaska Railroad was operated by the federal government from completion
12 through 1982; and

13
14 **WHEREAS**, the Alaska Railroad was transferred to State of Alaska in 1982 with ongoing
15 asset transfers, including the right-of-way; and

16
17 **WHEREAS**, in its 1914 enabling act, Congress granted the federal Alaska Railroad rights-
18 of-way for the construction of authorized "railroad, telegraph and telephone lines," similar to
19 easements granted under the General Railroad Act of 1875 held by most post-
20 1871 railroads in the United States; and

21
22 **WHEREAS**, this easement is reserved in federal land patents in Alaska where applicable;
23 and

24
25 **WHEREAS**, in certain areas the Municipality of Anchorage is the successor in interest to
26 lands affected by the simple easement, including parks; and

27
28 **WHEREAS**, prior to the Alaska Railroad Transfer Act of 1982 (ARTA, 45 U.S.C. §§ 1201-
29 1214), the municipal governing authority of the Anchorage area and the Alaska Railroad
30 had a commendable working relationship relative to road crossings, use of the right-of-way,
31 parks adjacent to the easement, and related interactions; and

32
33 **WHEREAS**, during the asset transfer referenced above the U.S. Department of the
34 Interior erroneously transferred non-federally owned property to the state-owned railroad
35 through an "Exclusive Use Easement," potentially including municipal property interests;
36 and

37
38 **WHEREAS**, the interim or actual conveyance of any "right, title and interest" in property not
39 held in federal ownership on January 14, 1983, is contrary to the Alaska Railroad Transfer
40 Act of 1982 and to privately held property rights recognized by common law; and

41
42 **WHEREAS**, in its typical legal effect property owners of land burdened by an easement
43 continue to have a substantial common law interest and remaining rights of use in the
44 easement area; and

1 **WHEREAS**, an "Exclusive Use Easement" as defined in ARTA allows the railroad total
2 discretion to arbitrarily fence off the easement and bar other users; and
3

4 **WHEREAS**, the creation and transfer of an exclusive use easement adversely affects the
5 property rights of the MOA in parks, crossings, and utility relationships relative to the track
6 easement; and
7

8 **WHEREAS**, the transfer of an arbitrary right is detrimental to the proper relationship
9 between the MOA and the Alaska Railroad; and
10

11 **WHEREAS**, the Alaska State Ombudsman investigated certain areas of conflict relating to
12 the railroad and municipalities, including the MOA, beginning in 1988 and issued a Special
13 Report dated Nov. 16, 1989 specifying the problems and making recommendations for
14 correction; and
15

16 **WHEREAS**, the situation has not been satisfactorily resolved and restored to a proper
17 relationship; and
18

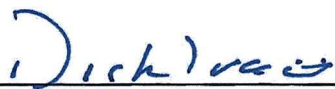
19 **WHEREAS**, the Old Seward/Ocean View Community Council and the Taku Community
20 Council have passed resolutions in general opposition to the exclusive use easement, and
21 the effect thereof, including the Residential Right-of-Way Use Permit program of the
22 railroad; and
23


24 **WHEREAS**, the Alaska Legislature is currently considering House Joint Resolution 38,
25 sponsored by Representative Chuck Kopp and co-sponsored by Representatives Tuck,
26 Drummond, Birch, Wilson, Knopp and Rauscher, that expresses the will of that body that
27 the Alaska Railroad Corporation shall have no authority over any right, title, or interest in
28 land conveyed pursuant to the Alaska Railroad Transfer Act of 1982 which was not vested
29 in the United States at the time of transfer, and
30

31 **WHEREAS**, the Alaska State Legislature believes that any right, title, or interest not
32 conclusively owned by the federal government at the time of the Alaska Railroad Transfer
33 Act of 1982 that was erroneously conveyed to the Alaska Railroad Corporation, and certain
34 interests in land conveyed to the Alaska Railroad Corporation without the legislative
35 approval required under AS 42.40.285, should be disclaimed as a matter of law; now,
36 therefore.
37

38 **BE IT RESOLVED** that the Anchorage Assembly endorses and supports passage of
39 **HJR38** which is incorporated herein by reference.
40

41 **PASSED AND APPROVED** by the Anchorage Assembly this 20th day of March, 2018.
42

43
44 
45 _____
46 Chair

46 **ATTEST:**
47 
48 _____
49 Municipal Clerk



February 25, 2018

The Honorable Charles Kopp
State Capitol Room 13
Juneau, Alaska 99801

Sent by email: Erick.CorderoGiorgana@akleg.gov

Dear Representative Kopp,

I own an Alaska based business, Dimond Capital Company, LLC which owns property abutting the Alaska Railroad right of way in South Anchorage. In addition, I own the Red Robin business that operates on that property.

I want to express my support for HJR 38. It is important to me as a property owner to restore my property rights as a successor to the original Alaska homestead. I purchased this property in 1993. It is subject to the original homestead of Lionel Tietse from 1952.

Following development of this property with the Dimond Red Robin restaurant, the Alaska Railroad charged me to store snow during the winter months on a part of their easement that did not interfere with the safe operation of the railroad. As such, I was paying the Alaska Railroad to store snow on property that was actually owned by me.

I want to assure you and the Alaska Railroad that we will continue to work with the Alaska Railroad in a positive way to insure the safety and transportation opportunities as they occur. However, I believe that the Alaska Railroad has abridged my private property rights and that those rights should be restored.

Thank you very much for your sponsorship of this resolution.

Respectfully,

Fred Rosenberg
President, Red Robin Alaska, Inc.
President, Dimond Capital Company, LLC



Red Robin Alaska, Inc. • Gourmet Ventures, Inc. • Wasilla Robin Alaska, Inc.
4450 Cordova Street, Suite 200 • Anchorage, AK 99503 • 907.561.5555



February 27, 2018

RE: Letter in support of HJR 38

To whom it may concern:

Dimond Center Holdings LLC is in full support of passage of HJR 38.

Dimond Center was developed starting in 1977 by Joe C. Ashlock and today is still Alaskan owned and operated. It is Alaska's largest mixed use retail center with 12 million annual visits and a tax value of well over 80 million dollars.

The land under Dimond Center was purchased directly from the original homesteader, the Tetzze family. It is therefore subject to the Homestead act in which we own the property to the center line of the railroad right of way (along the western border of Dimond Center) subject to the Railroad Act of 1914.

The exclusive use easement that the AK RR surreptitiously received not only clouds our title but the inability to excess and denial of use constitutes an economic taking of millions of dollars! While the ownership of Dimond Center supports the safe operation mission of the Alaska Railroad and has in the past supposed efforts for intermodal use and development. We feel the HJR 38 will correct an egregious wrong done to the property rights of homestead successors throughout Alaska.

Sincerely,

A handwritten signature in blue ink that reads 'H. Ashlock'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Hugh A Ashlock
Managing Member
Dimond Center Holdings LLC

Sent from my iPhone

dimond center 800 E. Dimond Blvd. Suite 3-500 Anchorage, Alaska 99515
Phone (907) 344-2581 Fax (907) 349-2411 www.dimondcenter.com



February 26, 2018

2018 OFFICERS

GWEN PLACE
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MARK MASLEY
President-Elect

ANGIE TALLANT
Treasurer/
Secretary

BOB MANWARING
CEO

Representative Chuck Kopp
Alaska State House of Representatives
Alaska State Capitol Room 13
Juneau, AK 99801-1182

RE: Letter of Support for HJR 38

Dear Representative Kopp:

The Alaska Association of Realtors (AAR) represents over 1,800 of the nearly 3000 licensees across Alaska. AAR would like to thank you for introducing House Joint Resolution 38 and wishes to go on record in support of the Alaska State Legislature's request to the Alaska Congressional Delegation to recognize the views of the Alaska State Legislature expressed in this Resolution.

HJR 38 requests the Delegation to take appropriate action to encourage the recognition of validly held private property rights of Alaskans that were not conveyed under the Alaska Railroad Transfer Act of 1982. AAR supports and urges the adoption of HJR 38.

Sincerely,

Errol D Champion

Errol Champion, Chair
Advocacy Key Work Group
Alaska REALTORS®

4205 Minnesota Drive
Anchorage, AK 99503

907.563.7133 Office
800.478.3763 Toll-Free
907.561.1779 FAX

alaskarealtors.com





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February 27, 2018

Representative Chuck Kopp
Alaska State House of Representatives
Alaska State Capitol Room 13
Juneau, AK 99801-1182

Reference: Letter of Support for HJR 38


Dear Representative Kopp:

The Anchorage Board of REALTORS® represents 900 licensees in the Anchorage area. The Governmental Affairs Committee thanks you for introducing House Joint Resolution 38 and desires to go on record in support of the Alaska State Legislature's request to the Alaska congressional delegation to recognize the views of the Alaska State Legislature expressed in this Resolution.

HJR 38 requests the delegation to take appropriate action to encourage the recognition of validly held private property rights of Alaskans that were not conveyed under the Alaska Railroad Transfer Act of 1982. The Anchorage Board of REALTORS® supports and encourages the adoption of HJR 38.

Thank you for your consideration.

Yours truly,


Kay DuBois, CEO for
Viki Kaas, President



From: Old Seward - Ocean View Community Council
To: [Rep. Chuck Kopp](#); [Erick Cordero Giorgana](#)
Cc: [Gastrock Bob](#); [Pletcher John](#); [Brown Jack](#); [Casey Roselynn](#); [Moll Stan](#); [Fenster Mike](#)
Subject: OSOVCC HBJR38 endorsement testimony
Date: Tuesday, February 27, 2018 8:07:32 AM

Our local Council — Old Seward Oceanview CC endorses HBJR38 in full.

This bill reflects our resolution in 2014 matches our view and stance on the AKRR exclusive use misuse of private property rights and interpretation of ARTA.

Our Railroad Committee has fought on all levels of government agencies and representatives to reach this level.

Our Rep. Chuck Kopp has a full understanding of the issues.

Please submit for testimony on our resolution and commitment to all Alaskan citizens.

Steve Beardsley
OSOVCC President
feb. 27, 2018

Sent from my iPhone

From: mikestolle
To: [Rep. Chuck Kopp](#)
Subject: RE: HJB 38
Date: Monday, February 26, 2018 3:15:03 PM

Rep. Kopp,

The following email was sent by me from my husband's email as he requested on behalf of both of us. The reference is to HJR 38, instead of HJB. Thanks again for your help from both of us.

Mike and Joan Stolle

Sent via the Samsung GALAXY S® 5, an AT&T 4G LTE smartphonejo7

----- Original message -----

From: mikestolle <mikestolle@gci.net>
Date: 2/26/2018 2:59 PM (GMT-09:00)
To: Representative.Chuck.Kopp@akleg.gov
Subject: HJB 38

Rep. Kopp,

Thank you for your assistance in trying to set right a terrible wrong committed by the AKRR in their efforts to take away our property and claiming it as theirs instead of the right-of-way Easement it was meant to be. It is criminal for the AKRR to threaten us and pursue this action.

As 34 year residents of our home on Jarvi Dr. in Anchorage, we support your efforts on HJB38. I wish I could write more but I am limited in time. I have spent day and night in hospital facilities by my husband's side for the last 5 months. I am told he is dying. He is a veteran whose illness and disabilities are directly related to his service of our country. His and my goal is to get him home...to be at peace. We don't need the AKRR robbing us of the peace of mind that we still live in a country where our property rights and homes are secure and protected by his military sacrifice and those of others.

Thank you for your help.

Joan Stolle
907 441-2254

Sent via the Samsung GALAXY S® 5, an AT&T 4G LTE smartphonejo7

From: beth@bethsvalleyviews.com
To: [Rep. Chuck Kopp](#)
Cc: [Rep. David Eastman](#); [Sen. Shelley Hughes](#); [Rep. DeLena Johnson](#); [Rep. Mark Neuman](#); [Rep. George Rauscher](#); [Rep. Colleen Sullivan-Leonard](#); [Rep. Cathy Tilton](#); [Sen. David Wilson](#)
Subject: Restoring Property Rights and Removing Clouds on Titles
Date: Tuesday, February 27, 2018 9:24:43 AM
Importance: High

Representative Kopp,

Thank you for standing up for property owners along the rail line that runs from Seward to Fairbanks. As one friend said, "there are thousands of people who will be affected by the AK RR closing off large portions of their ROW, some of whom have RR tracks running through the center of their property!"

I would put forth that this will impact tens of thousands. Let us not forget that the AK RR also runs through cities and towns which have developments that are almost on top of the tracks, and some of them have roads that run over them.

I understand the RR's need to ensure safety and stop from killing animals by building fences and other barriers to the tracks. But, there are also families and businesses who depend upon the free and clear use of their land to survive.

There are state Right-of-Ways all over this state and we all live in relative harmony while freely using those rights of ways as a part of our property. We understand that if it is needed, the state can come in and take it (while compensating us for the loss of the use of any additional land impacted by their actions).

Actions of this nature by the Railroad will cause immeasurable harm to many Alaskans. The decades the RR has run through us all have been fairly uneventful. Let's keep it that way and not open the courts up for lawsuits from disenfranchised landowners.

Thank you for your on-going efforts and support of our shared values.

Sincerely,
bethf ;-)
Beth Fread
907-354-7759
Beth@BethsValleyViews.com

My family the "Therriault's" are owners of the remaining portion of a US patented homestead located in North Pole, Alaska. For a number of years now we have had issues with the Alaska Railroad regarding reversionary and subsurface rights.

In 1946 Carl Finell submitted his homestead entry #06169 on 6/20/46. In 1947 the Alaska Railroad extended a spur line to Satellite Field (now known as Eielson Air Force Base), this spur line essentially bisected Finell's homestead on the diagonal. Mr Finell was notified by the War Department that the railroad would **traverse** his property.¹ In 1949 Mr. Finell received his final patent US Patent #1127840 file #F06169 for the full 160 acres located in Section 9, Townsite 2, S., R.2 E. Fairbanks Meridian. Within the Patent was the reservation for the railroad right of way.

An there is, also, reserved to the United States a right of way for the construction of railroads, telegraph and telephone lines in accordance with the Act of March 12, 1947 (33 Stat.305) Excepting also, from the conveyance those certain pipeline and telephone lines, and all appurtenances thereto, **constructed by the United States** through, over, or upon the land herein described, and the right of the United States, its officers, agents, or employees to maintain, operate, repair, or improve the same **so long as needed or used for or by the United States.**²

Although under the 1914 law the Alaska Railroad had the ability to receive full title to the property through commendation, the federal government chose to instead use the traverse easement.

...to construct and build a railroad or railroads along such route or routes as he may so designate and locate, with the necessary branch lines, feeders sidings, switches, and spurs; to purchase or otherwise acquire all real ad personal property necessary to carry out the purposes of this Act; to exercise the power of eminent domain in acquiring property for such use, which use is hereby declared to be a public use by condemnation in the courts of Alaska in accordance with the laws ow or hereafter in force; to acquire rights of way, terminal grounds, and all other rights, to purchase or otherwise acquire all necessary equipment...³

Mr. Finell continued to exercise his ownership to the property and issued an easement to GVEA on _____. The GVEA easements parallels the AK RR and is within the easement areas. On September 15 1969 my family purchased the remaining acreage for the Finell homestead including the acreage which the Alaska Railroad traverses.⁴ While we have never objected to the Alaska Railroads ability to operate as a railroad we at no time ever relinquished any of our property rights.

In 2005 the Alaska Railroad moved to close what is known as the Ruby Crossing on our property. Our argument continues to be that the crossing should have remained open since it was

¹ War Department letter 1/28/47 to affected entrymen

² Finell Patent

³Act of March 12, 1947 (33 Stat.305

⁴ Therriault Deed

the Alaska Railroad that crossed the property not that the property crossed the easement.⁵ During our discussion regarding the crossing closure we discovered that the Alaska Railroad had approached Congress to repeal sections 1208 and 1209 the Reversionary Clause of ARTA.⁶ By requesting this repeal the Alaska Railroad has taken away the right for property owners to easements return to them if the Railroad no longer used the corridor.

It was also during this time that we learned that the Railroad is also collecting royalties on the fiber optics within our property. As a US patented homestead predating Alaska's statehood my family has the surface and subsurface for this property. Since the United States did not construct this fiber optic line, nor is the line owned by or needed for the United States, the reservation language should not apply. In fact there have been a number of class action suits regarding fiber optics royalties that have recently been settled in the lower 48 states.⁷ We have continued to request an agreement be negotiate for a reasonable settlement to the use of our property with the Alaska railroad.

I believe that House Joint Resolution 38 is a good start. While we have never objected to the Alaska Railroad having an "exclusive" right to operate as the only railroad using the easement we do not believe that the United States government had the right or interest to transfer an "exclusive easement" which would diminish our property rights. In fact this issue has been known by the railroad for some time. In the Legislative Staff Reports to the Alaska Legislature this issue is raised.⁸ For example, section 611 specifies that an "other disposition" is subject to valid existing rights, which introduces confusion.⁹

Related to this issue is the question of other third-party claims particularly outstanding against railroad holdings. These possible claims consist of other private sector interest which may have been established over the years on portions of the railroads 38,000 acres. Right-of-way lands appear to be the primary area where this type of problem is likely to exits. Indications suggest that in magnitude there are probably not that many problems of this nature. It should also be pointed out that our research suggest here is little to be gained by attempting to address this question in federal transfer legislation versus dealing with it later on a case by case basis.¹⁰

The major area of disagreement was the treatment of the purported claims against railroad properties.¹¹ Since transfer the Alaska Railroad has continued face issue related to prior existing claims.¹²

Related to this issue is the question of other third-party claims particularly outstanding against railroad holdings. These possible claims consist of other private sector interest which may have been established over the years on portions of the railroads 38,000 acres. Right-of-way lands appear to be

⁵ Letter to Phyllis Johnson General Council AKRR

⁶Alaska Railroad Transfer Act sections 1208 and 1209

⁷ Information regarding fiber optic settlements

⁸ March 30, 1982 Staff brief

⁹ Alaska Railroad Transfer Team Office of the commission Dept of Transportation and Public Facilities December 15, 1983

¹⁰ Staff Report

¹¹ Staff report Chronology

¹² Brunner Report April 16, 1998

the primary area where this type of problem is likely to exist. Indications suggest that in magnitude there are probably not that many problems of this nature. It should also be pointed out that our research suggests here is little to be gained by attempting to address this question in federal transfer legislation versus dealing with it later on a case by case basis.¹³

I believe HJR 38 is a good start at recognizing this difficult issue and the preexisting valid claims to property that now falls within the Alaska Railroad easement. I urge the Alaska Legislature to continue to look into this issue and assist my family and other Alaskans in finally receiving the proper adjudication of our claims.

Thank you
Bonne' Woldstad
COGS
Citizen of Our Great State

¹³ Brunner Report pages 3-4

Patricia (Tricia) Mulligan
PO Box 2019
Palmer, AK 99645

2/5/17

Senator Hughes,

My family has owned property along the Alaska Railroad Right of Way Easement in the Bootleggers Cove area of Anchorage since the 1950's, and it is now occupied by my son and his wife. When my parents first bought the property and later built their home in 1958, they were aware of the easement, and considered it not to be an issue based on their understanding of its purpose. The area in the Right of Way is a landscaped yard with a hedge, and a portion of it contains a small overlap of a nice looking storage shed. The next door neighbor also shares a retaining wall with the property that has some footage extending into the Right of Way.

I object strongly to the AK Railroad's new "Exclusive Use" interpretation of the easement along with the current \$775 "Residential Right-of-Way" permit fee. The railroad is charging almost \$65/month to keep the Right of Way in better shape than it would do otherwise; and has changed the original easement drastically, taking away rights from property owners and transferring them to the railroad. If the annual fee is not paid, then the railroad has even threatened to place liens on all affected property. This situation affects **all of the property owners along the railroad easement state wide**, not just property in Anchorage.

Proposed HB 93, introduced by Rep. Chuck Kopp, prohibits the railroad from claiming the new "exclusive use" and trying to collect fees from private property owners. It also affirms that the railroad continue to retain the previous standard right of way, which would still prohibit private property owners from using the easement property in a manner that would interfere with railroad safety.

Please support this legislation and contact Representative Chuck Kopp's office and consult with him if you have any questions, as he is leading the initiative to solve this inequity.

Thank you,

Tricia Mulligan

From: dick welsh
To: [Erick Cordero Giorgana](#)
Subject: Re: Railroad - new resolution
Date: Monday, February 26, 2018 9:56:22 PM

TO: Representative Chuck Kopp
Alaska State Legislature

RE: HJR 38

Representative Kopp, I am still amazed this issue is still ongoing and has not been resolved in the Alaska property owners favor. After the U.S. Supreme Court ruled in *Brandt v. United States* in 2014 that the federal government had no property interest in government grant rights of way that were not still owned by the United States, NARPO finds it hard to believe that the State of Alaska could still claim a property interest in the rights of way along the Alaska Railroad. The federal government had no property interest in these rights of way when the land was transferred in 1983. As early as 1904 the predecessor of the BLM, the Bureau of Land, declared the federal government had no property interest in government grant rights of way that were patented or other wise disposed of--I supplied you last year with a copy of that federal regulation.

Richard Welsh, executive director
National Association of Reversionary Property Owners--NARPO
dick156@earthlink.net
<http://home.earthlink.net/~dick156>

To: Erick Cordero Giorgana <Erick.CorderoGiorgana@akleg.gov>; Rep. Chuck Kopp
<Rep.Chuck.Kopp@akleg.gov>
Subject: HJR 38

Chuck / Eric,
Having reviewed House Joint Resolution 38, being cognizant of the issues surrounding
the Rail Road Right of Way and impact on Property Owners, and their rights therein, I
am in support of the resolutions sought in HJR38.

Regards,

James G. Schneider, Flying Crown Homeowners Association (FCHA); FCHA Board of
Directors, Secretary
Office (907) 249-4133| Cell (907) 227-3359

Hello,

I am an Anchorage resident in the South Turnagain neighborhood and am contacting you in regards to my concern and support of HB93. My neighborhood has been severely impacted by the Railroad's claim over public right-of-way land, a claim they have not right to make. Please consider the rights of Alaskans and the abuse of power by the Railroad and support this bill.

Below is a statement written by constituents that form the Fish Creek Trail to the Ocean group that has worked for the past year to organize a productive fight against this overreach of power:

Since the State acquired the railroad from the federal government in 1983, The Alaska Railroad Corporation (ARRC) has consistently implemented measures which restrict compatible uses of the right-of-way (ROW) by adjacent property owners. Advancing its agenda under the guise of safety, ARRC policies include the Residential ROW Use Policy (RRUP), which extorts adjacent landowners who, contrary to ARRC's claims, hold an ownership interest in the land beneath the tracks. ARRC is demanding payment of annual fees and filing liens against those who do not comply. Rep. Chuck Kopp has introduced House Bill 93 to protect private property rights. This legislation will guarantee that adjacent property owners have reasonable ROW access and compatible use that does not impede safe railroad operations. Please support this important legislation for the benefit of all Alaskans. Thank you.

Sincerely,
BriAnna Bierma

Roy Longacre, Esq.
P.O. Box 191025 Anchorage, AK 99519

Ph: (907) 350-1748
Roy@LongacreLaw.com

March 5, 2018

Re: HJR 38

Dear Representative Kopp:

This letter is in support of House Joint Resolution No. 38.

I am a property owner affected by the Alaska Railroad easement. Alaska Railroad's attempt to re-characterize the railroad easement on my property as an "exclusive-use" easement is an illegal taking of my property rights, a cloud on the title to my property and has a detrimental effect on the value of my property – as well as hundreds of other Alaska property owners adjoining the railbelt.

I am also a lawyer that has extensively researched this issue for a client in the Oceanview area. I have reviewed, and strongly support the legal analysis and statements in your HJR 38 Overview and Backdrop as well as the contents of Resolution 38 itself.

I thank you, Governor Walker, and the others who are working to correct this matter. Please share my input and support with members of the Judiciary and State Affairs.

Appreciatively,


Roy Longacre, Esq.

From: [D&J Blackburn](#)
To: [Erick Cordero Giorgana](#)
Subject: Railroad Guidance Bill
Date: Wednesday, February 15, 2017 10:59:55 PM

Dear Alaskan Legislator:

Thank you for considering this important bill intended to give assistance to Alaskans who encountered a negative response in dealing with the railroad corporation.

Historically, the railroad was intended to be one of the conduits toward development of private lands for the new state. The federal government made homestead properties available to Alaskans toward the development of the private sector to help support the state. The railroad corporation has acted oppositely instead. Abutting properties may have a single access across the railroad tracks. The railroad impolitely labels the owners whose surveys preceed the railroad's own US Survey 9009, the Alaska Railroad Transfer Survey and a dependent survey as CRIMINAL TRESPASSERS while the homeowners are paying taxes to the municipality of Anchorage.

The railroad has gated people out of their properties, changed locks; interferred with a State of Alaska permitting application for a driveway with two agencies thus not allowing agencies to conduct their own regulated permitting systems. The properties are becoming delapidated and construction experts are having to experience the loss of quality of the property. This is a taking of property rights and is actionable at this time.

Please show Alaskans their property rights are important to the state and give this needed guidance to the railroad as contained within HB 73. The railroad does not currently have a permitting system at all for stopped at grade crossings. Their handbook 1986 is still the current one and they do not follow it. The railroad refuses to cooperate with the homeowner so as to schedule to have the homeowner's surveyor measure for sight lines that are required, exist and meet FRA guidelines for stopped at grade crossings. But to impede the homeowner the railroad does not allow the home owner's surveyor come out. A very bad business practice.

Any examples generally of attempts at permitting of stopped at grade crossings for fully qualifying applicants are rendered moot by the real estate department. Phone calls result in the homeowner's calls being forwarded to the railroad corporation police.

The homeowners are ridiculed and labeled and published as criminal trespassers as they go to their homes. There is no excuse for this. The railroad has sent formal trespass warnings to a minority/native homeowner to attempt to intimidate off of their property. The railroad causes people to want to sell their property who otherwise wanted to keep their cherished family properties. When the homeowner caves in and sells the railroad requires that the proceedings be secret. This should be public knowledge when it is a pattern to dislocate adjacent property

owners. The railroad has said its primary goal is to get rid of all private crossings. The railroad did not say their primary goal is to make money. They have a large cadre of attorneys in the corporation and the legal department runs the railroad corporation so the corporation culture is insular and is intransigent about seeing the rights of other Alaskans and their properties continuing to have their full bundles of rights. The railroad appears to be out of compliance with CFR 49 or have no knowledge of it. Federal law of takings means these things occur before taking any of the bundle of rights: appraise, negotiate, pay first before taking is the procedure not just take development rights, accesses (for all Alaskans) and plan for disposal before even noting that is what the corporation is doing. Some properties still have the mineral rights attached so this is a big damage. So willfully harmful to adjacent Alaskan homeowners.

Instead of the railroad being a conduit to development it is merely a stranglehold of any nearby properties.

It has been many years since the railroad transfer act. Direction and clarity delivered to the railroad now will help restore the equities to damaged adjacent property owners all along this offending rail line. Please do all you can as Alaskans to help other Alaskans in Alaska. This is likely the most important bill this session which you can be proud to support.

Sincerely,

Draft

Damon Blackburn

Joanne Blackburn

From: [Carter Garrett](#)
To: [Rep. Chuck Kopp](#)
Subject: Representative Chuck Kopp -House Bill 93 to protect private property rights.
Date: Tuesday, February 07, 2017 6:46:59 AM

Dear your honorable Alaska Representative Kopp,

I support and encourage your relentless fight to take back Alaska for the Alaskans from the corruption set by the Alaska RR Corporation to extract money and its citizens land use set by ownership, while working outside the rule of law as I understand it. My parent called this "strong arming and stealing"

"Since the State acquired the railroad from the federal government in 1983, The Alaska Railroad Corporation (ARRC) has consistently implemented measures which restrict compatible uses of the right-of-way (ROW) by adjacent property owners. Advancing its agenda under the guise of safety, ARRC policies include the Residential ROW Use Policy (RRUP), which extorts adjacent landowners who, contrary to ARRC's claims, hold an ownership interest in the land beneath the tracks. ARRC is demanding payment of annual fees and filing liens against those who do not comply. This legislation will guarantee that adjacent property owners have reasonable ROW access and compatible use that does not impede safe railroad operations. Please support this important legislation for the benefit of all Alaskans.

Thank you."

Mr. C.L. Garrett

Sent from my iPad

From: [Carlton Locke](#)
To: [Rep. Chuck Kopp](#)
Subject: Support for HB93
Date: Sunday, February 12, 2017 11:15:50 AM

February 12, 2017

Alaska Representative Chuck Kopp

Members of the House Resources Committee

Dear Representative Kopp and Members of the House Resources Committee;

I would like to let you and the House Resources Committee know that I support passage of HB93. I think this is a very good action and would have a positive effect on the neighbors of the Alaska Railroad, and very little, if any, negative effect on the Alaska Railroad. Please forward a copy of this email to the Members of the House Resources Committee. Thank you.

Sincerely,

Carlton J. Locke

13587 Seward Highway

PO Box 2296

Seward, AK 99664

(907) 362-3093

From: [Dave Hultquist](#)
To: [Erick Cordero Giorgana](#)
Subject: Ak Railroad
Date: Thursday, February 02, 2017 3:11:59 PM

Representative Bill Kopp

Dear Representative Kopp:

As an Anchorage Alaska Based business with 1,000 feet of property abutting the Alaska Railroad right of way in south Anchorage.

I want to express my support for HB 93. I want to restore my property rights as a successor to the original Alaskan homestead.

Thank you for your efforts,

Dave Hultquist, President & Owner



Hultquist Homes Inc. of Alaska & Washington

12580 Old Seward

Anchorage, AK 99515

907-522-1503 Direct

907-830-4099 Cell & Text

907-522-3211 Fax

www.hultquisthomes.com

Flying Crown Homeowners Association

PO Box 190530
Anchorage, AK 99519

February 7, 2017

Senator Natasha von Imhof
State Capitol Room 514
Juneau AK, 99801

Dear Senator Natasha von Imhof,

For years, the Flying Crown Homeowners Association has been subjected by the Alaska Railroad Corporation to ever increasing fees for transitory use of a portion of the Railroad ROW to access our established residential airport. We have always believed this requirement to be inappropriate, since we join the Railroad in a desire to maintain safe, secure operations.

Recent implementation of the RRUP program highlights the Railroad's quest for unreasonable control of the entire ROW, even though they only need and use a portion of it. Their demand for permits and fees does nothing to ensure safety, as their mantra would suggest.

Most noteworthy is the fact that the "exclusive use" they claim was never intended by those who crafted the transfer to State ownership. In fact, much of the ROW covered by the 2006 Patent issued by the Department of the Interior had previously been patented to other parties in the 1950s, with simply a reservation for a surface easement for continued operation of a "railroad, telegraph, and telephone." Thus the later patent stripped the rightful landowners of their property, without notice or compensation.

House Bill 93 serves to prohibit the Railroad from charging property owners for use of their own land, and bars them from restricting use that does not affect safe railroad operations.

We urge you to act favorably on this legislation, as it goes a long way to properly restore private property rights so important to all Alaskans.

Sincerely,



Jennifer Howard
President
907.301.7771

From: [Carolyn](#)
To: [Rep. Chuck Kopp](#)
Subject: HB 93
Date: Thursday, February 02, 2017 4:11:48 PM

Please act on my behalf for HB 93. Thank you for taking interest on this.
We live on Flying Crown air strip and the Home Owners pay \$45,000 a year to lease a small amount of land, which goes up every 5 years when we renew the lease. This is not the RR land it really belongs to the land owner.
Carolyn Wells

Sent from my iPad

From: [John Mahaffey](#)
To: [Rep. Chuck Kopp](#)
Subject: support HB93
Date: Friday, February 17, 2017 1:14:10 PM

Please support HB93, this helps maintain access to property. There is no need for the railroad to lock up access or charge fees for access. John Mahaffey

In Support of HB93

To the committee members

Please support HB93.....

I am a retired attorney. For 20 years until 2006 I owned an interest in two title insurance agencies in Anchorage, and practiced insurance defense law.

HB93 helps to restore the rights of several thousand Alaskans along the rail belt affected by an "over conveyance" of rights during the implementation of the transfer of the federal railroad assets to the state (1982- present).

My wife Peggy and I bought In Anchorage in 1980...originally a part of land patented in 1951 by Holden. We are next to Ocean View Park.

We succeed to Holden's interest in both the lots and the railroad easement 'adjacent' to them, subject to the surface easement of the railroad for rail and related operations.

The lots and easement are legally part of the conveyance. Legal rights to the area of the easement pass together with the "adjacent' parcel through the common law "centerline presumption" recognized throughout the US. Sponsor Kopp has research material for your study if requested.

The easement was a part of the 1951 patent, and is a "patent reservation" for the railroad. All patents in Alaska concerning the railroad have the same reservation.

The reservation is 200ft. wide but the railroad clears not more than about 35 feet on each side of the track. Photos of the equipment being used has been provided to Rep. Kopp. The cleared width has not changed during the time we have been here.

The cleared width seems adequate for the railroad use. Loads on the railroad are restricted, without special permission, to 10' 8". Tunnels and bridges apparently restrict load widths.

Beyond the cleared area there is a ditch about 4 feet deep and then moose bushes. We have a row of lilac bushes approximately 50 feet from the centerline of the track. Inside the lilacs we have lawn and then our house.

We have left the railroad free to do as it wishes beyond the lilac bushes. We have received no complaints of safety problems caused by Peggy's garden, lilac bushes and grass.

In a 1982 letter to the US house committee considering the transfer Gov. Jay Hammond referred to the 1914 easement for 'railroad, telegraph and telephone' as the "standard" rail easement in Alaska. Actually it is the national standard.

The patent reservation language comes from the 1914 Alaska Railroad Act. That language was borrowed from the nearly identical 1875 General Railroad Act which creates the easement for 70% of all track mileage in the US.

The claimed exclusive use easement created by the DOI and the railroad for privately held property in Alaska is unknown anywhere else in the US.

I do not see why the Alaska Railroad needs easement rights exceeding those of these other well-run railroads.

The transfer act did not contemplate the DOI and ARRC changing property rights during transfer and for that reason no notices of the transfer or actions taken in the transfer were published or sent to property owners affected. No "taking" was announced. No provision for compensation was made for the simple reason that no property changes were contemplated in the transfer.

The "over- conveyance" of rights and the application of exclusive use seems to be based on the assumption that Congress intended to change the terms and conditions of hundreds of decades-old and vested land patents.

This view places the integrity of the 1982 congressional delegation and the Governor at that time in grave doubt, and without justification. Two of them were homesteaders themselves. Surely there was no such intention and a contrary suggestion is plain wrong.

Why are you now hearing about this matter probably for the first time?

In 2012, long after the DOI /ARRC actions were recorded, and specifically based on the new "exclusive use", the railroad notified us and others in Anchorage that they were imposing a "residential right-of-way use permit" (RRUP), requiring us and eventually all private property owners on the 500 miles of track to get a permit to use our own lawn and garden, and requiring all to pay the railroad a fee or a tax.

https://www.alaskarailroad.com/sites/default/files/Real_Estate/Application_RRUP%20das%202016-10-05.pdf.

There is no way for the property owner to have become aware of the many conveyances that the DOI issued for exclusive use since 1982. No actual or constructive notice to the property owner exist because of the way the land title "index" works and the fact that no actual notices were required in the transfer act.

We do recognize the railroads interest in safety. An exclusive rights easement on

private lands is not the solution, with or without the tax.

It is true that people are injured / killed because they walked down the tracks. I know no incident in which any such person accessed the tracks over private property. In South Anchorage the problem is caused in three areas: (1) road crossings such as Ocean View Drive, (2) proximity to parks such as Ocean View Park and Ocean View Bluff Park, (3) anywhere that the track is close to a roadway. This latter situation includes essentially everything from the bottom of Potter Hill to Portage. People stop by the roadside, get out of the car and walk across and down the tracks.

The problem should be solved where the problem exists, and not elsewhere. The railroad already has trespass statutes and a police force to handle this problem.

Another stated concern has been derailment. Charging homeowners for their lawns and gardens is not a solution. If the train comes off the track it is going to be very difficult to coax her back on the track by waving a permit or a canceled check.

The Old Seward Ocean View Community Council formed a committee to review this matter, resulting in a resolution opposing RRUP and asking for elected officials to help. Rep. Kopp has a copy. Rep. Kopp has heeded our call, and we hope that you will join in the effort to restore appropriate and balanced rights.

While HB93 does not directly return the "over-conveyance" to the 1200 or more property owners, it does set common sense operational standards for the railroad to follow and alerts the property owner to their rights relative to the easement.

Please support HB 93.

Peggy and John Pletcher
13608 Jarvi Dr. Anchorage, Ak. 99515
907 345-3981/229-4698

From: [Ray Wells](#)
To: [Rep. Chuck Kopp](#)
Subject: h.b.93
Date: Thursday, February 02, 2017 3:30:05 PM

"Since the State acquired the railroad from the federal government in 1983, The Alaska Railroad Corporation (ARRC) has consistently implemented measures which restrict compatible uses of the right-of-way (ROW) by adjacent property owners. Advancing its agenda under the guise of safety, ARRC policies include the Residential ROW Use Policy (RRUP), which extorts adjacent landowners who, contrary to ARRC's claims, hold an ownership interest in the land beneath the tracks. ARRC is demanding payment of annual fees and filing liens against those who do not comply. Rep. Chuck Kopp has introduced **House Bill 93** to protect private property rights. This legislation will guarantee that adjacent property owners have reasonable ROW access and compatible use that does not impede safe railroad operations. Please support this important legislation for the benefit of all Alaskans. Thank you."

Dear Rep Kopp,

I thank you for introducing HB93 to the Alaska legislature. I am your constituent of AK - District 24, residing at 13650 Jarvi Drive. I do not understand what gives the Alaska Railroad the right or the power to obstruct my use of my land unless I pay a rather steep annual fee. Seems like extortion to me.

Please continue your supportive activities regarding HB93 and urge other members of the Legislature to support you as well. It is a good bill as it provides a fair solution to both the Railroad's claims of public safety and the adjacent landowners' claims for unobstructed use of their (our) private property. This legislation guarantees that adjacent property owners have reasonable ROW access and compatible use that does not impede safe railroad operations.

Let's enact this bill immediately!

Very respectfully,

Barbara Rosenthal



Talkeetna Historical Society PO Box 76 Talkeetna, AK 99676
907-733-2487 www.talkeetnahistoricalsociety.org

Representative Kopp,

This letter is in support of HB 93, the bill addressing landowner property rights and the Alaska Railroad. There are many landowners along the rail belt that deal with, and have dealt with, issues concerning the Alaska Railroad and the rail itself for decades.

In Talkeetna, we get thousands and thousands of visitors each summer. The museum staff talks to between 150 and 200 of those visitors every day. We convey our history and its link to the railroad. One of the main reasons Talkeetna exists is the Alaska Railroad. We are in support of ARR running a safe and secure system for visitors, for local residents and for freight hauled from the north. However, many residents have also been strapped with undue or onerous regulation to access their property. Talkeetna and Chase are places where the railroad and private property owners get entangled. Homeowners have lands that abutt the rail, some even ride the rail to access their homes. Talkeetna itself has quite a bit of land that is owned by the railroad that is not actually in the rail ROW.

As we wade back through history and our past, we believe that HB 93 will help restore landowners rights of access and ownership and at the same time keep the ARR safety regulations in place.

Thanks for your consideration.

On behalf of the Board of Directors of THS,

Sue Deyoe
Executive Director, THS & Museum
Talkeetna AK
907-733-2487
manager@talkeetnahistoricalsociety.org

Tantikil Unlimited
The Land • The Sea • The People
Larry S. Lau

February 8, 2017

Rep. Chuck Kopp

Alaska State Capital

Room 13

Juneau, Alaska 99801

Re: HB 93

Rep. Kopp,

My name is Larry S. Lau. I have been working with Alaska Native land title issues since 1972. The Alaska Native Claims Settlement Act (ANCSA) was passed in 1971. My experience includes that as a Native corporation Regional Planner, Resource Manager for a regional corporation, and village corporation Land Manager. I have taught classes at Alaska Pacific University and given ANCSA and Section 14(C) classes in Anchorage, Fairbanks, and villages since 1992. I've worked as a consultant to ANCSA corporations, tribes, and municipal governments over the last 25 years.

I'm familiar with some of the Alaska Railroad R-O-W issues directly---as a person who deals with the property rights of ANCSA corporations and those who have valid rights protected by village corporation title; and one with family members owning property within the R-O-W.

I support passage of HB 93 as it seems to adequately address the concerns of many title holders along the R-O-W. I've included a requested memo by the Oceanview Community Council (Anchorage) clarifying "ANCSA title property rights" within the R-O-W. You may find this useful.

Please contact me with any questions using the information below.

Thank you very much for what you do!

Respectfully,


Larry S. Lau

Tantikil Unlimited
The Land • The Sea • The People
Larry S. Lau

TO: John Pletcher, Railroad Committee, Oceanview Community Council

FROM: Larry S. Lau *LS*

DATE: February 8, 2017

RE: Alaska Railroad R-O-W Issue, Alaska Railroad Transfer Act (1982)

John,

We have been communicating about this issue for more than a year. You are aware that I have been working with land title issues in Alaska since 1972, when I began working directly with the Alaska Native Claims Settlement Act of 1971. Because of this background, you have asked me to comment on Section 1205. As you know, I am not an attorney.

In particular, you have asked me to comment on this portion: "B) Where lands within the right-of-way, or any interest in such lands, have been conveyed from Federal ownership prior to January 14, 1983, or is subject to a claim of valid existing rights by a party other than a Village Corporation . . ."

Summary:

I have been informed that personnel in the U.S. Department of the Interior and Alaska Railroad believe that this phrase refers to homestead lands under the federal Homestead Act (1862).

1. It doesn't.

2. This phrase refers to interim conveyances (ICs) and patents of village corporations established by the Alaska Native Claims Settlement Act (1971), Section 14(C); and to pending Native allotments under the Native Allotment Act (1906). Village corporation ICs and patents carry with them various types of claims that were not adjudicated as of 1982 (and still aren't); and many of which were within the railroad easement. These ICs and patents constitute a "top filing." And, they "run with the land," meaning that subsequent landowners to village corporations incur their liability if unadjudicated by the village corporation.

The Bradley
Your Building Solution Company Ltd, LLC.
Anchorage, Alaska

February 10, 2017

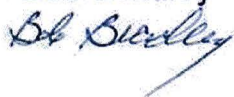
To Alaska State Representatives,

My name is Bob Bradley and I am the President/CEO of The Bradley Company LTD, LLC and O'Malley Square LLC. I would like to let you know why I am in support of HB 93.

In 2005 The Bradley Co was developing 6 acres of prime Real Estate in South Anchorage. During construction, in the permit review stage, the Municipality of Anchorage had us do a site review for Storm Water Management. During this review we found it necessary to move this storm water from the end of South Gamble Rd to O'Malley Road where there is a major collector. In this process the only access to O'Malley is to use the Right of Way behind the South Anchorage Lowe's store to O'Malley Rd. We set up a meeting with the Railroad Board of directors and the Railroad Real Estate division. Our reason for this meeting was to find out what was in the easement and how do we work together to make this happen. After all the talk about what was in the easement the Railroad informed us that they owned the easement and they are not willing to let us into the easement because they have future plans for that area.

In our Recorded Plat it shows an easement for the Railroad of 200' wide plus another 17' of easement onto our property. Though we own the property we cannot use it to move over 1.5 million gallons of storm water per every 2" of rainfall. When we went back to the MOA regarding these findings they thought they could talk with the Railroad and make this happen. The MOA came back with the same response we received. The MOA approved our limited drainage plan for 3 acres of land where our 100,000 sf class A office building sits. We have been unable to develop any more property until all the storm water issues are resolved. If we were to have access to this easement the storm water could flow to O'Malley Rd and we would be able to develop more office/retail and put an extra \$1.5M back into this economy annually.

Thank you
Bob Bradley



From: [Adventure Sixty North](#)
To: [Rep. Chuck Kopp](#)
Subject: Re: Alaska Railroad restrictions blocking public access to public and private lands.
Date: Wednesday, February 15, 2017 10:30:20 AM

Hello Mr. Kopp

Sorry of the Typo on the first email!!!,

As a longtime resident and business owner in the outdoor industry here in Seward, I have become aware of the Alaksa Railroad cutting off access to many of the locally traveled trails from Seward to almost Anchorage in our part of Alaska. I feel that it was not the states intent to restrict, deny or otherwise inhibit activities, hiking, berry picking, hunting by cutting off access to public and private lands that have been traditionally used by many Alaskan residents for years. Right now we have lost our public access at lower Trail Lake because of the Railroad locking a gate and displaying trespassing signs. This is just one small example of what this action by the Alaskan Railroad has done by overreaching its mandate. I do hope that you will look at this issue and we will be following this to see where we go with correcting this unfortunate action by the Alaskan Railroad....I have always believed that the states intention with this is to provide access to Alaska residents and businesses but not restrict access for our traditional ways. Please consider what this recent successful attempt to exclude the public from many of the states trails, lakes and private lands means to us that get out and enjoy our state and promote our state tourism. We and many others believe that is so misguided and unfair to Alaskan residents not to mention our tourists.

Thanks for your time,

Sincerely,

Richard L Brown Co-Owner Adventure Sixty North Outdoor Adventure Center
Seward, Alaska

The Staff at Adventure 60 North
907-224-2600
<http://www.adventure60.com>

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<https://twitter.com/Adventure60N>

<https://www.instagram.com/adventure60north>

On Wed, Feb 15, 2017 at 10:26 AM, Adventure Sixty North <adventure60north@gmail.com> wrote:

Hell Mr. Kopp,

As a longtime resident and business owner in the outdoor industry here in Seward, I have become aware of the Alaksa Railroad cutting off access to many of the locally traveled trails from Seward to almost Anchorage in our part of Alaska. I feel that it was not the states intent to restrict, deny or otherwise inhibit activities, hiking, berry picking, hunting by cutting off access to public and private lands that have been traditionally used by many Alaskan residents for years. Right now we have lost our public access at lower Trail Lake because of the Railroad

locking a gate and displaying trespassing signs. This is just one small example of what this action by the Alaskan Railroad has done by overreaching its mandate. I do hope that you will look at this issue and we will be following this to see where we go with correcting this unfortunate action by the Alaskan Railroad....I have always believed that the states intention with this is to provide access to Alaska residents and businesses but not restrict access for our traditional ways. Please consider what this recent successful attempt to exclude the public from many of the states trails, lakes and private lands means to us that get out and enjoy our state and promote our state tourism. We and many others believe that is so misguided and unfair to Alaskan residents not to mention our tourists.

Thanks for your time,

Sincerely,

Richard L Brown Co-Owner Adventure Sixty North Outdoor Adventure
Center Seward, Alaska

The Staff at Adventure 60 North

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<https://www.instagram.com/adventure60north>

From: BURKE MEES
To: [Rep. Chuck Kopp](#)
Subject: House Joint Resolution 38
Date: Thursday, February 22, 2018 7:52:07 PM

Dear Representative Kopp,

Thank you for your work on House Joint Resolution 38 regarding private property rights and the Alaska Railroad. Many Alaskan who are adversely affected by this issue are aware of your help and greatly appreciate it.

Sincerely,

M. Burke Mees
Eagle River, AK

From: Andrew Fortt
To: [Rep. Chuck Kopp](#)
Cc: [Erick Cordero Giorgana](#)
Subject: House Joint Resolution 38
Date: Wednesday, April 4, 2018 9:37:15 AM

Dear Representative Kopp

My name is Andrew Fortt and I live in the Oceanview neighborhood of Anchorage.

I am sending you this email to let you know that I fully support House Joint Resolution 38. I live along the Flying Crown airstrip in Oceanview, and we are directly affected by this bill. Please let me know how I can be of any further support in helping to get this bill passed.

Regards,

Andrew Fortt

From: Karen Glaser
To: [Rep. Chuck Kopp](#)
Subject: AK RR Property Grab
Date: Wednesday, April 4, 2018 9:33:45 AM

Dear Rep Kopp,

Thanks for standing up for our private property rights. We are still trying to understand how our state-owned RR was able to get a second federal land patent recorded over our Homestead deed.

Isn't this why we have the Constitution and the 5th amendment? What happened? The new patent says the RR can fence us out of our own property at any time for any reason. We were never notified about any of these changes or given any opportunity to defend our rights.

Thanks again for representing us Rep Kopp. I'm sure there will be many more property owners joining the fight soon when they find out what happened.

Sincerely,

Don and Karen Glaser

13820 Jarvi Drive
Anchorage, AK 99515

(907) 317-2000 Karen's Mobile

From: James Armstrong
To: [Rep. Chuck Kopp](#)
Cc: [Erick Cordero Giorgana](#)
Subject: In support of HJR
Date: Wednesday, February 28, 2018 4:09:44 PM

Rep. Kopp and Committee:

Thank you for considering important changes to the rail road use and right-of-way for Alaskan property holders. My wife and I support HJR 38 as a means to allow private property holders full access to their land while still allowing a national standard easement for rail road access.

Alaskans are entitled to use their land, this bill pushes back on unreasonable interpretation of the law - that has only happened in Alaska. Please give Alaskan property owners adjacent to the rail road back their land access and use.

As a public employee, who's duties require me to deal with some of the utilities that interface with the ARRC, I see a strong need for the changes to allow a more harmonious working relationship with the ARRC. I believe as a person who lives adjacent to the ARRC track and who has to permit and receive access to ARRC easements and land for my profession, I find that the proposed changes are sorely needed.

Sincerely,

James Armstrong, PE & Teryl Elam, MD, PHD
13920 Jarvi Drive
Anchorage, Alaska

Testimony Before the Alaska House Judiciary Committee – April 5, 2018

My name is Robert Gastrock. I had hoped to provide these comments regarding HJR 38 in person, but am traveling out of the country and so am unable to be present or call in to provide personally. I respectfully request you accept this written statement as testimony in my absence.

My wife Judy and I have lived in South Anchorage for 45 years. In 1976, we moved to our home on Nora Drive. The Alaska Railroad right-of-way (ROW) passes over the rear portion of our lot, which is part of the original Sperstad Homestead.

We like the railroad. Our kids and grandkids still get excited whenever a train goes by, and we often join them in waving to the tourists as they pass, arriving in Alaska on their once-in-a-lifetime visit.

From the outset, we knew our property was burdened by the railroad ROW, ensuring uninhibited use for “railroad, telegraph, and telephone.” But we could access unused portions of our land in the ROW, as long as it did not impede safe rail operations. We have done so without incident for more than 40 years, including accessing the Flying Crown Airstrip (also a portion of the Sperstad Homestead). We are now told that the Railroad has “exclusive use” (EU) of the ROW (which is OUR PROPERTY), allowing them to fence off the entire 200 ft ROW, whether they are actually using it or not.

Significantly, our property rights were taken without due process. We were never informed that a possessory change was contemplated or implemented. This is a violation of our Constitutional rights under the 5th Amendment.

The Railroad argues that EU is necessary to ensure safe operations. Yet 80% of all railroads in the U.S. function full well under the guidelines of the Railroad Act of 1875, which established that railroads could operate safely with a simple easement over the property of others. How can the railroad begin to justify that charging landowners to use their own property ensures any safer operations? The answer: they can't! And that is why they embarrassingly withdrew the Railroad ROW Use Policy (RRUP) after they were caught with their hand in the cookie jar!

The Railroad has stated that losing EU rights will destroy their financial model. I thought their business was to profitably run a railroad, not make money as a land baron. How dare they argue that they are entitled to complete control of someone else's property in order to generate money for themselves?

With several others, I have spent time virtually every day to resolve this issue since I became aware of it more than 5 years ago. It is consuming my retirement years, and

jeopardizes the value of our home, which we hope to sell within the next several years. We are tired of fighting a bureaucracy that doesn't seem to care about property rights or government overreach.

We have met personally with many public officials to request help restoring of our property rights, including Senator Murkowski, Rep. Young, Governor Walker, numerous State Legislators, and Mayor Berkowitz. All agree that a wrong was done, but none have stepped forward to fix the problem. I guess business alliances, political pressure, and the fear of losing campaign contributions are more important than protecting the rights of their constituents. That is sad.

Rep. Kopp is an exception, and a breath of fresh air. Since we explained the problem to him, two years ago, he has taken the moral high ground and worked tirelessly to correct the problem. As a result of his efforts, some symptoms of the disease, like RRUP, have been stifled – at least temporarily. But the disease persists. Until the EU claim is extinguished from lands previously conveyed to private parties, the problem will fester. Conflicting EU patents create clouds on titles, restrict reasonable enjoyment of our land, and diminish our property values.

HJR38 makes no attempt to deny the Alaska Railroad any property rights the federal government had the lawful right to transfer. What it does is call on appropriate agencies of the State and federal government to take appropriate measures to restore vested property rights and to disclaim any unlawfully acquired property. That simple.

The Judiciary Committee is in a position to recognize an ever growing number of Alaskans who now realize what has happened and are demanding that this wrong be righted. I urge you to endorse passage of HJR 38 as part of the effort to expeditiously restore our property rights.

Thank you,

Robert and Judy Gastrock
13151 Nora Drive
Anchorage



Anchorage Snowmobile Club, Inc.
P0 Box 232196
Anchorage, Alaska 99523-2196
Hotline (907) 689-7777

www.anchoragesnowmobileclub.com

April 5, 2017

To: Representative Chuck Kopp
Juneau, Alaska
Via e-mail

From: Anchorage Snowmobile Club
A 600+ Member strong Community Organization
Anchorage, Alaska

Re: Support for HJR 38, Relating to Certain Conveyance to the Alaska Railroad

Dear Representative Kopp,

The Anchorage Snowmobile Club (ASC) is a 600+ member organization that supports the passage of HJR 38.

HJR 38, is a resolution Relating to Certain Conveyance to the Alaska Railroad (ARR). ASC is opposed to any actions that curtails access to public lands. Our understanding is that the ARR has been attempting to assert greater authority to lands (including claims of fee ownership) than was originally granted. We have seen past efforts by the ARR to prohibit access. ASC supports your efforts to ensure that all Alaskans continue to have access.

Thousands of acres have already been remove from access by the Alaska Claims Settlement Act (ANILICA). Simply drive to Denali National Park, Glennallen, or the Copper River and witness mile after mile of "NO TRESPASSING" signs that are posted on these lands. This is not the model we want to see expanded.

The Alaska Snowmobile Club is a 600+ member organization of affluent, involved, and dedicated people. More than that, we reach out to many, many more snowmobile enthusiasts, lodge proprietors, dog mushers, remote cabin owners and other stakeholders. We are opposed to limits on access.

See you on the trail,

s/s Tim Cook

Tim Cook, President
Anchorage Snowmobile Club



Telephone: 907.339.6600
Fax: 907.339.6652

3900 C Street Suite 802
Anchorage, AK 99503-5963

April 5, 2018

Honorable Chair Matt Claman
Chair House Judiciary
State Capitol
Juneau, Alaska 99801

**RE: House Joint Resolution 38 “Conveyances to the Alaska Railroad Corporation
under the Alaska Railroad Transfer Act”**

Representative Claman and Members of the Committee:

I am contacting you today on behalf of Petro Star Inc. (Petro Star) to oppose House Joint Resolution 38 (HJR 38), a resolution that relates to certain conveyances to the Alaska Railroad Corporation (ARRC) under the Alaska Railroad Transfer Act of 1982. Petro Star believes that HJR 38, as written, will have serious financial impacts to the services offered by ARRC by jeopardizing the exclusive Right-of-Way (ROW). The ROW is vital to the ongoing and continuous operations of rail service between Anchorage and Fairbanks; denying ARRC an exclusive ROW will impede developments to connect Anchorage to the Interior. During this time of economic hardship in Alaska, HJR 38 could seriously impact ARRC's commercial operations by slowing train speeds, and further impact plans for new rail services from Anchorage.

This matter is best resolved by the courts – an avenue already provided for in the Alaska Railroad Transfer Act – rather than by the legislature. The Alaska Railroad Transfer Act includes detailed provisions to resolve third-party claims while ensuring that ARRC can operate a railroad on its ROW without interference. Legislators should defer action to those laws already in place to handle this matter, rather than issuing a decree favoring one party over the other in what will ultimately be resolved by the judiciary.

Thank you for your time and consideration of Petro Star's opposition to HJR 38. Please feel free to contact me or Angela Speight, Petro Star VP/General Counsel, at aspeight@petrostar.com or 907-339-6621.

Best regards,

Petro Star, Inc.

A handwritten signature in blue ink, appearing to read "Doug Chapados". The signature is fluid and cursive, written over a white background.

Doug Chapados
CEO/President

Ownership and Exclusive Control of the Alaska Railroad Right-of-Way.

The proponents of HJR 38 assert that the federal government, when it transferred Alaska Railroad lands to the Alaska Railroad Corporation ("ARRC"), included in that transfer exclusive rights to the Alaska Railroad right-of-way ("ROW") that the federal government did not own. The proponents further assert that despite this supposedly improper transfer, the ARRC ROW is a non-exclusive common law easement that allows adjoining landowners to use the ROW in any manner that does not interfere with railroad operations. These contentions are incorrect for several reasons enumerated below. The ARRC does, in fact, have exclusive control of its ROW.

ARRC holds exclusive rights in its ROW for several important reasons. First, the federal government transferred most of the ARRC ROW in fee simple title, which it acquired as a result of the 1914 congressional act that created the Alaska Railroad and which it retained during its subsequent operation of the Alaska Railroad. In passing the Alaska Railroad Transfer Act, 45 U.S.C. §§ 1200 et seq. ("ARTA") in 1982, Congress expressly found that most of the ARRC ROW was owned fee simple by the federal government. Second, as guaranteed in ARTA, the federal government transferred at least an exclusive use easement in all of the ARRC ROW to ARRC in 1985. This was consistent with Congress' express finding in ARTA that exclusive control of the Alaska Railroad ROW by the Alaska Railroad had been and would remain necessary for the operation of the Alaska Railroad as a safe and economically viable railroad. Third, even if ARRC had not received fee simple title or at least an ARTA exclusive use easement in its ROW—which it did as noted above—railroad easements have been consistently held to provide railroads with exclusive rights to their ROWs for well over 100 years.

This memorandum explores the above issues. The upshot is that the federal government properly conveyed exclusive control of the Alaska Railroad ROW to ARRC, which retains that control today. And just as Congress determined in 1982, exclusive control of the ARRC ROW remains critical for ARRC to operate a safe and economical railroad.

A. The Federal Government Owned Exclusive Rights in the Alaska Railroad ROW at the Time the Alaska Railroad was Transferred to ARRC.

The federal government owned most of the Alaska Railroad ROW in fee simple title, and had at least an exclusive use easement in all of it, when the Alaska Railroad was transferred to ARRC. Congress recognized this fact and drafted ARTA accordingly. The following sections explain how this came about.

1. The Federally-Owned Alaska Railroad

The Alaska Railroad is the only railroad ever constructed, owned and operated by the United States federal government. Accordingly, the history of its establishment, operation and eventual transfer to the State of Alaska is unique.

During the early 1900s, several privately-owned railroads were built and operated in the Territory of Alaska. Each of these railroads ultimately failed or faced dire financial circumstances.¹ Having seen the difficulties faced by private entities constructing and operating

¹ The Alaska Railroad: Probing the Interior, by Charles Michael Brown (ed. Michael S. Kennedy), October 1975 ("Brown"), at 27-28.

railroads in Alaska, and recognizing the importance of rail service to the development of the Territory, Congress took a different approach. It passed legislation authorizing the creation of a federally owned and operated railroad in Alaska.²

The Act of 1914 authorized and directed the President to take a broad range of actions to locate, construct and operate a railroad on a route of up to 1,000 miles in the Territory of Alaska. The purpose of the railroad route was to “provide transportation of coal for the Army and Navy, transportation of troops, arms, munitions of war, the mails, **and for other governmental and public uses.**”³ Among the actions authorized by the Act of 1914 were (i) “to purchase or otherwise acquire all real and personal property necessary to carry out the purposes of this Act”; (ii) “to exercise the power of eminent domain in acquiring property for such use”; and (iii) “to acquire rights of way, terminal grounds, and all other rights”⁴ The 1914 Act went on to provide that:

Terminal and station grounds and **rights of way through the lands of the United States in the Territory of Alaska are hereby granted** for the construction of railroads, telegraph and telephone lines authorized by this Act, and in all patents for lands hereafter taken up, entered or located in the Territory of Alaska there shall be expressed that there is reserved to the United States a right of way for the construction of railroads, telegraph and telephone lines to the extent of one hundred feet on either side of the center line of any such road⁵

The 1914 Act further authorized the federally-owned Alaska Railroad “**to make and establish rules and regulations for the control and operation of said railroad**” and “**to lease the said railroad, or any portions thereof,** including telegraph and telephone lines, after completion, under such terms as he [the Secretary of the Interior] may deem proper.”⁶

The federal government wasted no time in complying with Congress’s directives in the Act of 1914. Rights-of-way were established between the seaport of Seward and the interior mining community of Fairbanks and preliminary construction began on the railroad in 1915.⁷ The Alaska Railroad’s “golden spike” was driven by President Harding in Nenana in July 1923.⁸

The proponents of HJR 38 analogize the Alaska Railroad right-of-way granted in the 1914 Act to the right-of-way grants made pursuant to the General Railroad Right-of-Way Act of March 3, 1875.⁹ But the 1914 Act does not mention, much less incorporate, the 1875 Act, nor is the 1914 Act analogous to the 1875 Act. That is not surprising since the purposes of those two Acts were completely different.

The 1875 Act, which provided for the grant of railroad right-of-way easements to private railroad companies, was designed to provide those private companies with adequate control of

² Act of March 12, 1914, 43 U.S.C. 975 *et seq.*; 38 Stat. 305 (“1914 Act”), repealed by ARTA, Pub.L. 97-468, Title VI, §615(a)(1).

³ 1914 Act, Section 1 (emphasis added).

⁴ 1914 Act, Section 1.

⁵ 1914 Act, Section 1 (emphasis added).

⁶ 1914 Act, Section 1 (emphasis added).

⁷ Brown at 35-41.

⁸ Brown at 49.

⁹ 18 Stat. 482 (43 U.S.C. §§ 934-39) (“1875 Act”).

their ROWs without granting them fee title. This approach deviated from previous land grant railroad acts that arguably did confer fee title on private companies. This change was made in reaction to complaints regarding the amounts of federal public land that had been granted in fee to large private railroads. Although ROWs granted pursuant to the 1875 Act were within the exclusive control of the railroads that held them, as discussed below, the underlying fee title was retained by the federal government.

The very nature of the 1914 Act – authorizing and directing the federal government to designate federal lands for a railroad to be owned and run by the federal government for various “governmental and public uses” – is completely different from the purposes of the 1875 Act and other acts that granted lands to private railroad companies. The 1914 Act did not grant federal land to any private railroad. The land designated for the Alaska Railroad stayed in federal ownership. Nor was the land used by any private railroad; the Alaska Railroad was owned and directly operated by the federal government. For all of these reasons, the public policy considerations that spurred Congress to pass the 1875 Act and subsequent private railroad ROW land grant acts were not implicated by the creation of the federally-owned Alaska Railroad pursuant to the 1914 Act. The 1914 Act and the 1875 Act are two separate laws with different language and different purposes.

For the next several decades, the federal government owned and the U.S. Department of Transportation operated the Alaska Railroad, moving freight and passengers between Seward, Anchorage and Fairbanks. During this time, the Alaska Railroad ROW was also used as a utility corridor. By the early 1980s, however, with the Alaska Railroad having generally been a money-loser with dated infrastructure under federal control, the federal government began discussing the concept of transferring it to another entity.

2. The Alaska Railroad Transfer Act (ARTA)

In 1982, legislation was introduced in Congress authorizing the transfer of the Alaska Railroad, including all of its real and personal property, to the State of Alaska. As the proposed legislation worked its way through Congress, the issue of the appropriate level of title to the Alaska Railroad ROW and other lands to be transferred to the State of Alaska was prominent among the points under discussion.

a. The Legislative History of ARTA Confirms that the Federal Government Owned Exclusive Rights in the Alaska Railroad ROW and Intended to Convey Those Rights to the State.

Congressional committees determined that that most land of the federally-owned Alaska Railroad, including its ROW, was held in fee simple title by the United States. The original intent of Congress in passing ARTA, therefore, was that most federal Alaska Railroad land would be transferred to the State in fee simple. As the Senate Committee on Commerce, Science and Transportation stated a year before ARTA was enacted, under the proposed ARTA, the United States:

[W]ould convey to the State a fee interest in the 200-foot strip comprising the railroad track right-of-way, amounting to roughly 12,000 acres. **This fee estate is recognized by the Committee to be the current interest of the Alaska**

Railroad derived from common practice and authorized under section 1 of the March 12, 1914 Alaska Railroad Act.¹⁰

Therefore, the Committee recognized that the 1914 Act and the operation and use of the ROW by the federal Alaska Railroad from the creation of the Alaska Railroad onward resulted in the federal government owning fee simple title in the ROW. The Committee went on to explain the reason for conveying the ROW in fee: "The reported bill . . . ensures conveyance of the track right-of-way in fee **so that the State can continue to operate the railroad.**"¹¹ The word "continue" in this context indicates that Congress understood that the federal Alaska Railroad operated the ROW subject to a fee simple interest and intended for the State of Alaska to continue to do the same.

These materials demonstrate that from the early discussions that ultimately led to ARTA, Congress determined both that the federal government owned a fee simple interest in the Alaska Railroad ROW and that exclusive control of the ROW was necessary for viable railroad operations. As the proposed ARTA progressed through Congress, however, it was recognized that some Alaska Railroad lands could be subject to third party claims.¹² Congress recognized not only that the proposed transfer legislation must set forth a process for determining any such third-party claims, but also that it was critical that the United States provide the State with exclusive control of the ROW.¹³ As Senator Ted Stevens explained in describing ARTA's third-party claims adjudication process on the floor of Congress just a few weeks before ARTA passed Congress:

On the date of the transfer, **the State would be granted fee title to lands not subject to such claims of valid existing rights pending expedited adjudication, and, with respect to lands so subject, an operating license to insure that operations of the railroad are not affected in any way by the new process.**¹⁴

Senator Stevens made it clear, however, that the claims adjudication process would not interfere with the State-owned railroad receiving exclusive rights in the ROW:

The concept of an exclusive use easement also is introduced in the substitute. **This defined interest represents the minimal interest the State is to receive in the Alaska Railroad right-of-way following completion of the expedited adjudication process.** . . . It is also the interest the State will receive through the Denali National Park and Preserve. **In other areas,** where the right-of-way

¹⁰ See Report No. 97-479, Senate Committee on Commerce, Science and Transportation, 97th Congress, 2d Session, June 22, 1982 ("Report No. 97-479"), at 8; see also Report No. 97-479 at 1 ("provides for the conveyance of the track right-of-way in fee"; Report No. 97-479 at 14 ("The track right-of-way is to be transferred in fee simple"). Notably, the 12,000-acre estimate for the area of the ROW to be transferred in fee simple contained in Report No. 97-479 nearly equals the approximate extent of the entire Alaska Railroad ROW transferred to ARRC in 1985.

¹¹ Report No. 97-479 at 8 (emphasis added).

¹² See Report No. 97-479 at 7.

¹³ See Congressional Record-Senate, Dec. 21, 1982 ("12/21/1982 Congressional Record"), at S 15956 (remarks of Senator Ted Stevens).

¹⁴ 12/21/1982 Congressional Record at S15956.

crosses land owned in fee by the Federal Government, **the full fee title to the right-of-way will be transferred to the State.**¹⁵

Senator Stevens went on to describe the purpose of the defined minimum interest the State would receive in the ROW under ARTA:

Essentially, [the exclusive use easement] is defined **to insure that the State-owned railroad will receive exclusive and complete control over land traversed by the right-of-way.**¹⁶

Senator Stevens' remarks on the floor of the Senate confirmed Congress's intent to provide the State-owned railroad with exclusive control over the entire ROW, including portions of the ROW, if any, where a fee interest could not be obtained before the adjudication process.¹⁷ As discussed below, the plain language of ARTA both reflects and accomplishes that intent.

b. The Plain Language of ARTA Tracks with the Federal Government's Intent to Transfer Exclusive Rights in the ROW to the State.

ARTA's plain language confirms that the State-owned railroad was to receive exclusive control of the entire ROW. That language includes the following Congressional finding that unequivocally establishes the reason for that requirement:

Congress finds that **exclusive control over the right-of-way by the Alaska Railroad has been and continues to be necessary to afford sufficient protection for safe and economic operation of the railroad.**¹⁸

ARTA provided that all of the federal government's interest in Alaska Railroad lands would be transferred to the State-owned railroad. As even the proponents of HJR 38 concede, and the legislative history of ARTA recounted above confirms, where the ROW consisted of or traversed lands that had never left federal ownership, the interest in the ROW that would be transferred would be fee simple. But the intent to provide exclusive control of the ROW even where some portion of it had left federal ownership at some point is equally clear. This exclusive control provision specifically applies to any areas of the ROW that left federal ownership prior to the enactment date of ARTA, which is what the proponents of HJR 38 are claiming with respect to the ROW adjacent to their properties:

Where lands within the right-of-way, or any interest in such lands, have been conveyed from Federal ownership prior to January 14, 1983, or is subject to a claim of valid existing rights by a party other than a Village

¹⁵ 12/21/1982 Congressional Record at S15956. See also Report No. 97-479 at 9 (in adjudicating third party claims, the Secretary of the Interior "is directed to consider the findings and policies of this legislation, including the importance of transferring the right-of-way in fee to the continued operation of the railroad [T]his determination is critical to the future of the railroad and must be made expeditiously.")

¹⁶ 12/21/1982 Congressional Record at S15956.

¹⁷ The proponents of HJR 38 contend that all Senator Stevens said about the ROW was that portions of it that never left federal ownership would be transferred in fee, but that is incorrect as shown by the quotations above. What Senator Stevens actually said confirms that Congress intended to transfer at least an exclusive use easement to the State for the entire ROW.

¹⁸ 45 U.S.C. § 1205(b)(4)(A)(ii) (emphasis added).

Corporation, the conveyance to the State of the Federal interest in such properties pursuant to section 1203(b)(1)(B) or (2) of this title shall grant not less than an exclusive-use easement in such properties.¹⁹

This statement alone undermines the proponents' contention that Congress did not intend to convey at least an exclusive use easement in the entire ROW. Underscoring the mandatory nature of the federal government's obligation to convey to ARRC at least an exclusive use easement is ARTA's requirement that the federal government defend the State-owned railroad's title in the ROW against any actions challenging that title.²⁰

The proponents of HJR 38 argue that ARTA only provided for the transfer of exclusive use rights in the ROW in isolated cases, with the remainder of the ROW being transferred as a non-exclusive easement. Under that view, the exclusive use easement defined in ARTA acts as a ceiling, providing exclusive control of the ROW only in Denali National Park and areas affected by unspecified Native claims. But that interpretation is wrong, undermined by both the language of ARTA and its legislative history. In fact, situation is just the opposite. The exclusive use easement provisions of ARTA function not as a ceiling, but instead as a protective floor that ensures that the State-owned railroad will have the exclusive control of the ROW necessary to operate a safe and economical railroad.

The plain language of ARTA and the legislative history make it clear that the exclusive use easement requirement does not apply only to Denali Park and areas affected by Native claims. ARTA states that exclusive control of the ROW, not just certain parts of the ROW, are necessary to operate a safe and economical railroad.²¹ As described above, Senator Stevens' remarks on the Senate floor demonstrate that an exclusive use easement was to be the "minimal interest the State is to receive in the Alaska Railroad right-of-way" and "also the interest the State will receive through the Denali National Park and Reserve," while other areas of the ROW would be transferred in fee.²² Finally, ARTA's express provision that "not less than an exclusive use easement" was the interest to be transferred in portions of the ROW that left federal ownership before ARTA was passed or that were subject to a valid existing claim by a party other than a Native Village Corporation leaves no doubt that this requirement was broader than applying simply to Denali National Park and areas near Native claims.²³

The argument that the ARTA exclusive use easement provisions operate as a ceiling, rather than as a floor, also defies logic. Congress expressly found that exclusive control of the ROW is necessary for safe and economical railroad operations. The proponents' argument supposes that statement is only true in Denali National Park and in the vicinity of some undefined Native claims. But a chain is only as strong as its weakest link, and a railroad ROW

¹⁹ 45 U.S.C. §1205(b)(4)(B) (emphasis added).

²⁰ 45 U.S.C. §1205(b)(4)(B).

²¹ 45 U.S.C. § 1205(b)(4)(A)(ii).

²² 12/21/1982 Congressional Record at S15956 (emphasis added).

²³ The example of Denali National Park actually shows that the exclusive use easement provision was intended to act as a floor for rights in the ROW. The federal government owned fee simple title to land in Denali National Park and could have transferred fee title to the ROW in the Park to the State-owned railroad. But Congress chose to hold back some of the rights in the ROW to provide the National Park Service with some continuing ownership rights, while still providing the State-owned railroad with exclusive control adequate to allow viable railroad operations.

is akin to a chain. If exclusive control of the ROW is necessary to operate a safe and economical railroad, then such control must apply to the full length of the ROW. Any break in the chain – in the form of non-exclusive ROW – would necessarily undermine the safety and economics of rail operations along the ROW as a whole. The concept of the ARTA exclusive use easement as creating a ceiling instead of a protective floor, therefore, flies in the face of the intent and findings of Congress, the plain language of ARTA and logic. Instead, ARTA provided that ARRC would obtain from the federal government exclusive control of the entire Alaska Railroad ROW.

B. The Initial Conveyances of Alaska Railroad ROW to ARRC Show That Congress Always Intended to Transfer Exclusive Rights in the ROW to the State.

The above analysis is further confirmed by what transpired from day one of the transfer of the Alaska Railroad ROW from the federal government to ARRC. In January 1985, numerous documents conveying Alaska Railroad land from the federal government to ARRC were executed. Where land had been previously surveyed, final patents were issued. Where surveys remained to be conducted, a situation which applied to much of the ROW, property interests were conveyed by means of interim conveyances. A relatively small amount of Alaska Railroad land was conveyed by exclusive licenses, which applied in areas potentially subject to third party claims.

A key feature of all of these forms of conveyance was that they all immediately conveyed to ARRC all of the federal interest in the land in question, with that interest expressly stated to be “not less than an exclusive use easement” as defined in ARTA. Each interim conveyance quoted the terms of an ARTA exclusive use easement, explained that an interim conveyance was being used in order to allow the land to be surveyed as provided in ARTA, and stated that the interest conveyed under the interim conveyance had the force and effect of a United States patent. Below is an excerpt from the interim conveyance, dated January 5, 1985, which transferred, among other land, the ARRC ROW that traverses South Anchorage:

[T]he United States of America has given and granted, and by these presents in conformity with ARTA does give, grant and convey unto the Alaska Railroad Corporation, its assigned and successors the real property described above to have and hold forever. **The right, title, and interest hereby granted and conveyed in and to the real property described above are the full and complete right, title and interest of the United States in and to said real property, subject to the Reservations and Conditions set out below. Pursuant to Sec. 606(b)(4)(B) of ARTA, the right, title and interest granted by the United States in the above-described real property that is located within the right-of-way of the Alaska Railroad shall not be less than an exclusive-use easement as defined in Sec. 603(6) of ARTA.**

The force and effect of this interim conveyance is to vest in the Alaska Railroad Corporation **exactly the same right, title and interest in and to the real property described above as the Alaska Railroad Corporation would have received had it been issued a patent** for said real property.

Upon completion of the survey of the real property hereby granted and conveyed, a patent for said real property will be issued by the United States to the Alaska Railroad Corporation pursuant to Secs. 604(b)(2) and (3) of

ARTA.²⁴

In this manner, exclusive rights in the Alaska Railroad ROW were transferred to ARRC on the first day of land transfers required by ARTA. This confirms the intent of Congress and ARTA to convey exclusive rights in the ROW to the State-owned railroad.

The proponents of HJR 38 assert that the reason the interim conveyances were called “interim” was because there was something regarding the property rights to be conveyed that still needed to be determined. That is incorrect. ARTA plainly required the conveyance of “not less than an exclusive use easement” and the interim conveyances expressly did so. The only reason for the use of interim conveyances, as expressly explained in ARTA, was the need to conduct surveys of much of the land being transferred, including much of the ROW.²⁵ And that reason is further confirmed by the interim conveyances themselves, as shown in the quoted language above. Only the boundaries of unsurveyed portions of the ROW, not the property interests to be held by ARRC in those areas following transfer, remained to be determined by survey. Once the surveys were completed, final U.S. Patents were issued for land, including ROW, which had previously been conveyed by interim conveyances and exclusive licenses, just as ARTA required.²⁶

C. Even if the Alaska Railroad ROW is Analogous to Act of 1875 ROW, Which it is Not, the ROW Would Still be Exclusively Controlled by ARRC.

A final issue requiring exploration is the contention by the proponents of HJR 38 that the ARRC ROW is a non-exclusive common law easement that allows adjoining landowners to use the ROW in any manner that does not interfere with railroad operations. As a preliminary matter, as the preceding analysis shows, the ARRC does, in fact, have exclusive control of its ROW because it has fee simple title to most of it and at least an exclusive use easement as to all of it. Assuming solely for the sake of argument, however, that ARRC’s ROW is a railroad easement analogous to such easements granted under the 1875 Act, ARRC nevertheless would still have exclusive control of the ROW. That is true because, as explained in detail below, railroad easements consistently have been held to provide railroads with exclusive rights to their ROWs for well over 100 years.

1. Railroad ROWs Can be Strips of Land or Easements.

The term “right of way” has a twofold meaning. Black’s Law Dictionary defines the term as follows:

Right of way. Term “right of way” sometimes is used to describe a right belonging to a party to pass over land of another [i.e. an easement], **but it is**

²⁴ Interim Conveyance, executed on January 5, 1985, and recorded on January 8, 1985, at Book 1212, pages 260-78 in the records of the Anchorage Recording District. This excerpt is from pages 271-72 of said Interim Conveyance. See also Interim Conveyance, Book 1212, at pages 275-76 (setting forth ARTA’s definition of “exclusive use easement.”).

²⁵ 45 U.S.C. §1203(b)(2)-(3).

²⁶ This analysis also refutes the contentions of the HJR 38 proponents that ARRC and the federal government improperly began converting non-exclusive easements to exclusive use easements in the mid-2000s. The transfer of exclusive rights in the ROW to the State was always the intent of Congress when it considered and passed ARTA and when the initial conveyances were made in January 1985.

also used to describe that strip of land upon which railroad companies construct their roadbed, and when so used, the term refers to the land itself, not the right of passage over it.²⁷

ARRC asserts that, for the reasons stated above, it primarily owns its ROW in fee simple title, i.e., ARRC owns the strip of land constituting the ROW, and that it owns at least an exclusive use easement in its entire ROW. The proponents of HJR 38, on the other hand, contend that the ARRC ROW is a railroad easement, not a strip of land owned in fee simple, and that this easement is non-exclusive. The following section explains why, even if the proponents of HJR 38 were right in contending that the ARRC ROW is akin to an Act of 1875 ROW, which they are not, ARRC would still have exclusive control of the ROW.

2. The Exclusive Nature of Railroad ROWs.

Courts and other legal authorities and commentators have consistently recognized that railroad easements, including those granted under the Act of 1875, provide railroads with exclusive control over those ROWs.

Railroad easements are by their nature broad and exclusive. As one commentator pointed out:

A railroad under an easement for railroad purposes acquires the right of exclusive possession and most of the qualities of a fee title subject to the limitation that an easement must be used for railroad purposes.

A railroad right-of-way includes **the actual possession or the right to the actual possession of the entire surface for every proper use and purpose in construction and operation of the road.**²⁸

As stated by another commentator:

Generally, after a railroad company's right of way has been located and constructed, **it has the right to the uninterrupted and exclusive possession, use, and control of the surface of the land constituting its right of way and necessary for conducting its business. . . .** As long as the railroad company occupies any portion of its right of way, it has the exclusive use and right of control coextensive with its boundaries.²⁹

The U.S. Supreme Court and other courts have agreed with this interpretation for over 100 years. In *Western Union Telegraph Company v. Pennsylvania Railroad Company*, the Supreme Court stated:

A railroad right-of-way is a very substantial thing. It is more than a mere right of

²⁷ Black's Law Dictionary, 5th Edition 1979 (emphasis added).

²⁸ G. Thompson, Commentaries on the Modern Law of Real Property (1965), §381, at 503, 512 (emphasis added).

²⁹ 74 C.J.S. Railroads § 225 (2002) (emphasis added; footnotes omitted). See also 65 Am.Jur.2d, Railroads, §104, at 403 (Railroad right-of-way easement is essentially different from any other in that it requires exclusive occupancy).

passage. [A right-of-way] is more than an easement [I]f a railroad's right-of-way was an easement it was 'one having the attributes of the fee, perpetuity and exclusive use and possession'”).

A railroad's right of way has, therefore, the substantiality of the fee, and it is private property, even to the public, in all else but an interest and benefit in its uses. It cannot be invaded without guilt of trespass. It cannot be appropriated in whole or part except upon the payment of compensation.³⁰

This rule has been and continues to be well accepted. As one federal Court of Appeals noted about railroad ROW easements:

The decisions of the national courts and of a majority of the state jurisdictions, however, are to the effect that the railroad company is entitled to the exclusive use and possession of its right of way, and that the owner of the servient estate has no right to occupy the surface of the land conveyed for right of way, in any mode, or for any purpose, without the railroad company's consent.³¹

That court went on to explain why such a right of exclusive use was important to the safe and economical operation of railroads:

In order to provide such a system, recognized safety measures must be followed in the maintenance of the roadbed and right of way. The railroad company is engaged in interstate commerce. It serves, not only residents of Kansas, but people generally throughout the country. It is enjoined to exercise a high degree of care by general law. In addition to this, it is subject to certain regulations and requirements by the Interstate Commerce Commission with reference to safety in the maintenance of its right of way and the operation of its trains. The basic reason for the majority rule is that exclusive possession is necessary to enable the railroad company to safely conduct its business and meet the duty of exercising that high degree of care which the general law and administrative rules enjoin upon it. . . . The requirements of the railroad company in this respect are largely determined by the duties imposed upon it by general law. These duties require it to have the exclusive possession of its right of way.³²

The exclusivity of railroad ROW easements includes easements granted under the 1875 Act and subsequent federal land grant statutes. As one court recently explained, “[a]s to rights-of-way granted by Congress in 1875 and beyond, the Railroad has exclusive rights to the surface and, in addition, broad and extensive rights of sub-lateral and subjacent support to prohibit interference with railroad operations and maintenance.”³³ Put another way, federally-granted railroad rights-of-way under the 1875 Act and later ROW land grant acts entitle railroads

³⁰ 195 U.S. 540, 570 (1904) (emphasis added).

³¹ *Midland Valley R. Co. v. Sutter, et al*, 28 F.2d 163, 165 (8th Cir. 1928) (emphasis added).

³² 28 F.2d at 167-68 (emphasis added).

³³ *Union Pacific R.R. v. Santa Fe Pacific Pipelines*, 231 Cal.App. 4th 134, 163 (Cal. Ct. App. 2014); cf. *Vieux v. East Bay Regional Park Dist.*, 906 F.2d 1330, 1333 (1990) (referring to post-1871 federal railroad rights-of-way as “exclusive use easements”).

to the exclusive use and occupancy of those rights-of-way, which is necessary for railroads to function.³⁴

The exclusivity of control of a railroad over its ROW applies whether the railroad ROW in question is described as a “limited fee” or an “easement,” as the latter term has been used to refer to 1875 Act and later federally-granted railroad ROWs. As the Tenth Circuit Court of Appeals has observed, “[w]ith the expansion of the meaning of easement to include, so far as railroads are concerned, a right in perpetuity to exclusive use and possession the need for the ‘limited fee’ label disappeared.”³⁵ In short, railroads have exclusive control over the surface and substantial aspects of the subsurface of the ROWs, regardless of whether those ROWs are standard railroad easements, express exclusive use easements like those guaranteed under ARTA or owned in fee simple by the railroad.

The basis for the exclusivity of a railroad easement, even where a separate underlying fee owner is present, lies in the nature and risk of railroad operations:³⁶

The inherent risk facing trespassers around the operation of railroad tracks precludes any safe uses of the land available to the landowner holding the underlying fee. The danger to a trespasser from a fast-moving train, lacking the ability to stop suddenly, is the basis for the exclusivity of use. An easement for a railroad right-of-way differs in important respects from other easements, [in] that the right of possession of the right-of-way is exclusive in the railroad.³⁷

It was these concerns that Congress recognized in ARTA when it guaranteed transfer to the State of at least an exclusive use easement as to all portions of the Alaska Railroad ROW.

³⁴ *State v. Oregon Shortline Railroad Co.*, 617 F.Supp. 207, 210 (D. Idaho 1985).

³⁵ *Wyoming v. Udall*, 379 F.2d 635, 639 (10th Cir. 1967); see also *State of Wyoming v. Andrus*, 602 F.2d 1379, 1382-83 (10th Cir. 1979) (citing *Wyoming v. Udall*, 379 F.2d at 640).

³⁶ The railroad operating environment is inherently a hazardous one. Trespassing along railroad rights-of-way is the leading cause of rail-related fatalities in America, resulting in approximately 575 deaths in 2017 alone.

³⁷ Jeffery M. Heftman, *Railroad Right-of-Way Easements, Utility Apportionments, and Shifting Technological Realities*, 2002 Univ. of Illinois Law Review, Vol. No. 5 at 1409 (citing cases; emphasis added).

Fiscal Note

State of Alaska
2018 Legislative Session

Bill Version:	HJR 38
Fiscal Note Number:	1
(H) Publish Date:	3/9/2018

Identifier: HJR38-LEG-SESS-02-26-18
 Title: AK RAILROAD TRANSFER ACT; CONVEYANCES
 Sponsor: KOPP
 Requester: HOUSE STATE AFFAIRS

Department:
 Appropriation:
 Allocation:
 OMB Component Number: 0

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2019	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2019 Request	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
OPERATING EXPENDITURES	FY 2019	FY 2019					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2018) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2019) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency?
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version/comments:

N/A INITIAL VERSION. ONE PAGE. ZERO NOTE.

Prepared By: SANTE LESH, BUDGET ANALYST
 Division: LEGISLATIVE AFFAIRS AGENCY
 Approved By: JESSICA GEARY, EXECUTIVE DIRECTOR
 Agency: LEGISLATIVE AFFAIRS AGENCY

Phone: (907)465-4824
 Date: 02/26/2018 01:04 PM
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