

SB

86

<TARGET><BILL>SB 86</BILL><SUBJECT>SB
86</SUBJECT><COMM>SRES30</COMM></TARGET>

30th Alaska State Legislature

Judiciary Committee
Chairman
Resources Committee
Vice-Chair
Education Committee
Vice-Chair
State Affairs Committee
Select Committee on Legislative
Ethics
Joint Armed Services Committee



Senator John Coghill

Session Address:
State Capitol, Room 119
Juneau, AK 99801-1182
(907) 465-3719
Fax (907) 465-3258

Interim Address:
1292 Sadler Way, Suite 340
Fairbanks, AK 99701
(907) 451-2997
Fax (907) 451-3526
(877) 465-3719
www.alaskasenate.org

Senate Bill 86 Alaska Railroad Corporation Land Sales

SPONSOR STATEMENT

SB 86 repeals the current requirement for legislative approval prior to an Alaska Railroad Corporation (ARRC) land sale or land lease for more than 95 years and enables the ARRC to react much more quickly and efficiently to real estate opportunities and land transactions with state entities such as DOTPF for state road and facility projects.

SB 86 will put ARRC on an even playing field with the Department of Transportation and Public Facilities (DOTPF), the Department of Natural Resources (DNR), the Alaska Mental Health Lands Trust, and the University of Alaska.

The bill would enable ARRC to sell land on which development would not occur with a land lease such as real estate in residential areas that could be subdivided for home construction. Such an incentive could increase private land ownership, encourage private development, and increase the local tax base.

SB 86 will allow ARRC to monetize non-performing land assets, generate cash flow to respond to opportunities in the real estate market, enhance the overall real estate portfolio of ARRC, and enable ARRC to continue to comply with the statutory mandate to remain self-sufficient.

SB 86 has a three-year sunset provision.



ALASKA STATE LEGISLATURE

SENATE RESOURCES COMMITTEE

SEN. CATHY GIESSEL
Chair
State Capitol, Room 427
Juneau, AK 99801-1182
(907) 465-4843 Fax 465-3871

Sen. John Coghill, Vice-Chair
Sen. Kevin Meyer
Sen. Click Bishop

Sen. Bert Stedman
Sen. Natasha Von Imhof
Sen. Bill Wielechowski

CS Senate Bill 86

Explanation of Changes from Version A to Version J

1. **Sunset Provision Added.** The proposed CS adds a sunset provision that takes effect three years after the effective date of the legislation in Section. 17. Conforming sections to the sunset in Section. 17 are:
 - a. Section. 2: Page 2, Lines 4-17
 - b. Section. 4: Page 3, Lines 10-31; Page 4, Line 1
 - c. Section. 5: Page 4, Lines 3-25
 - d. Section. 7: Page 5, Lines 8-20
 - e. Section. 9: Page 5, Lines 27-31; Page 6, Line 1
 - f. Section. 11: Page 6, Lines 7-11
 - g. Section. 13: Page 6, Lines 25-31; Page 7, Lines 1-10
2. **New Conforming Section to Repeals Added.**
 - a. Both the prior version of the bill and the proposed CS propose to repeal AS 42.40.485(1) and (4). However, the proposed CS also has a sunset provision that would, once it's effective, reinsert the repealed language and renumbers the language in AS 42.40.285.
 - b. The proposed CS adds a new, conforming Section. 14 (Page 7, Lines 11-18) that accurately cross-references an existing, unrelated statute that is affected by the renumbering (AS 42.40.285(5) became AS 42.40.285(3) in the repeal and renumbering process).
3. **New Language on First Right of Refusal Added.** Both the prior version of the bill and the proposed CS repeal and rewrite AS 42.40.352. The proposed CS adds language in Section. 12 (Page 6, Lines 19) giving existing leaseholders to railroad land the first right of refusal when the railroad plans a permanent disposal of the land.

30th Alaska State Legislature

Judiciary Committee
Chairman
Resources Committee
Vice-Chair
Education Committee
Vice-Chair
State Affairs Committee
Select Committee on Legislative
Ethics
Joint Armed Services Committee



Senator John Coghill

Session Address:
State Capitol, Room 119
Juneau, AK 99801-1182
(907) 465-3719
Fax (907) 465-3258

Interim Address:
1292 Sadler Way, Suite 340
Fairbanks, AK 99701
(907) 451-2997
Fax (907) 451-3526
(877) 465-3719
www.alaskasenate.org

SB 86 Disposal of Alaska Railroad Corporation land

Sectional – Version J

Section 1. Deletes from AS 42.40.120 (Delegation of powers and duties to the chief executive officer) the requirement for legislative approval of land transaction affecting utility corridors, land leases, or land disposals if it is a land sale or a lease longer than 95 years.

Sec. 2. Sunsets Section 1 in three years and re-establishes in statute the requirement for the Alaska Railroad to get legislative approval for land transfers.

Sec. 3. Deletes from AS 42.40.120(c) (transactions requiring board approval) the requirement for legislative approval.

Sec. 4. Sunsets Section 3 in three years and re-establishes in statute the requirement for legislative approval for land transfers.

Sec. 5. Enacts AS 42.40.285, the **Legislative Approval Required** provision repealed in this legislation three years after the effective date of the bill.

Sec. 6. Deletes from AS 42.40.350(b) (authorization of use of a utility corridor) the requirement for legislative approval of such authorization.

Sec. 7. Sunsets Section 6 three years after the effective date of the legislation to reinstate the statutory requirement for legislative approval.

Sec. 8. Deletes from AS 42.40.350(c) (granting easements on railroad land) the requirement for legislative approval.

Sec. 9. Sunsets Section 8 three years after the effective date of the legislation to reinstate the statutory requirement for legislative approval.

Sec. 10. Deletes from AS 42.40.350(d) (lease or disposal of land at fair market value) the requirement for legislative approval.

Sec. 11. Sunsets Section 10 three years after the effective date of the legislation to reinstate the statutory requirement for legislative approval.

Sec. 12. Deletes from AS 42.40.352 (Sale of land not necessary for railroad purposes) language requiring the board to make findings that land is not necessary for railroad purposes and that the sale is in the best interest of the state;

Under the provisions of AS 42.40.100, Management of by the board, the board is already “responsible for the management of the financial and legal obligations of the Alaska Railroad.”

AS 42.40.100(7) requires the board to “review all state and other land disposal proposals to aid in the planning for the future development or expansion of transportation services.”

Section 6 added language to require the Alaska Railroad to offer the leaseholders the right of first refusal.

Section 12 also deletes from AS 42.40.352 language requiring legislative approval of the sale.

Sec. 13. Sunsets Section 12 three years after the effective date of the legislation to reinstate the statutory requirement for legislative approval.

Sec. 14. This is conforming language renumbering **AS 42.410. Federal land** reference to AS 42.4.0.285 to conform to the repeal language in Section 15.

Sec. 15. Repeals the following:

Sec. 42.40.285. Legislative approval required.

Unless the legislature approves the action by law, the corporation may not

(1) exchange, donate, sell, or otherwise convey its entire interest in land;

(4) lease land for a period in excess of 95 years unless the corporation reserves the right to terminate the lease if the land is needed for railroad purposes;

Sec. 16. Has an immediate effective date for statutes amended in the bill that eliminate the requirement for legislative approval.

Sec. 17. This section sunsets the statutes amended in this bill that eliminate the requirement for legislative approval in three years and reenacts in statute the requirement for legislative approval.

“An Act relating to the sale, other disposal, leasing and encumbrance of Alaska Railroad Corporation land”

Benefits

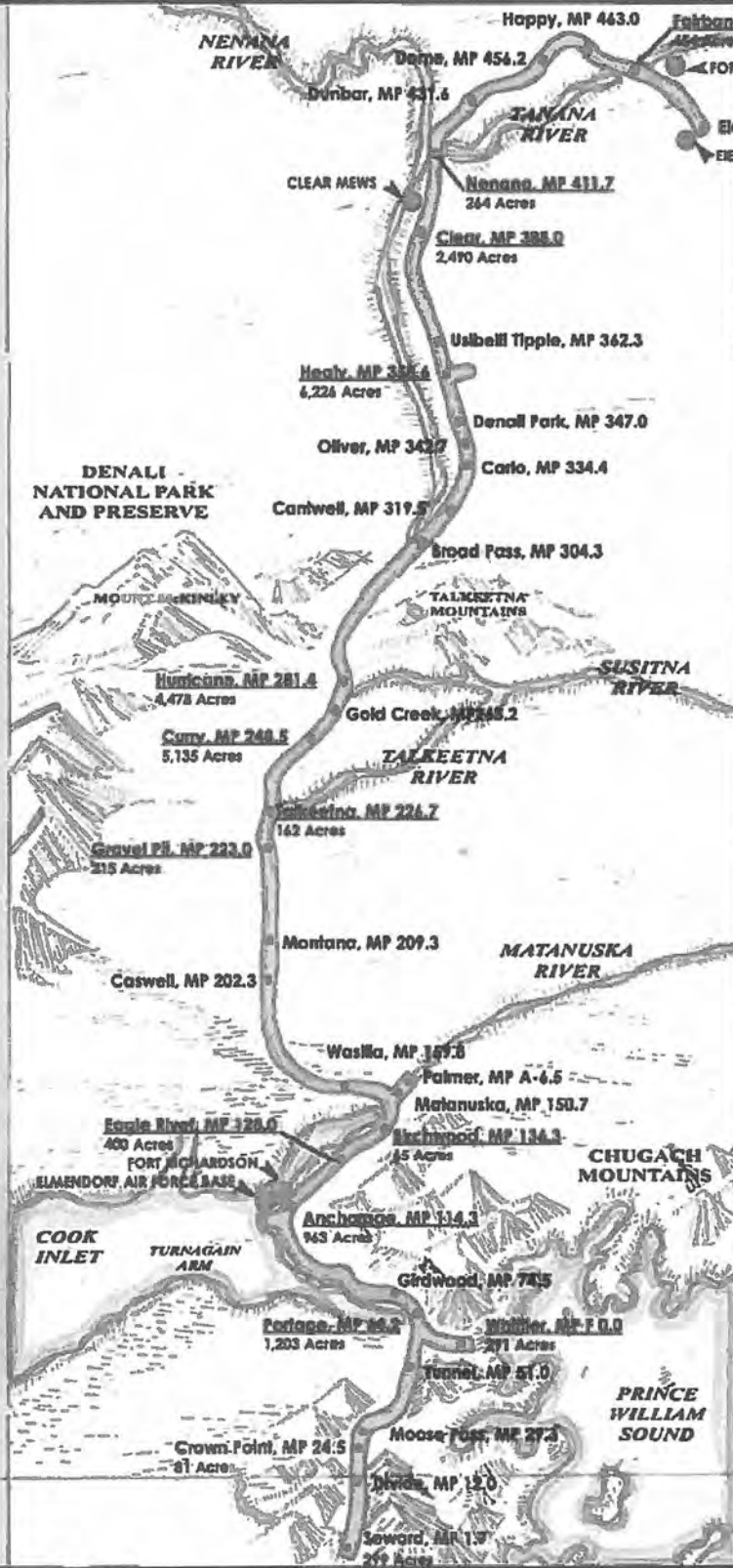
- **ARRC**
 - ARRC will be able to monetize non-performing land assets such as remote areas, unusable small or irregularly shaped parcels or parcels subject to long-term leases that are generating below-market rent due to rent caps.
 - Monetizing non-performing real estate assets will allow investments in real estate infrastructure that will enhance the overall value of the ARRC real estate portfolio.
 - ARRC will be able to react much more quickly with respect to real estate opportunities that could potentially be funded by sale or encumbrance of ARRC land. Under the current situation, delays due to waiting for legislative approval can reduce the benefits of such transactions or completely scuttle or prevent prospective deals.
 - Efficient sales and encumbrances of ARRC land will generate cash flow to respond to opportunities in the real estate market and ensure ARRC complies with its mandate to be self-sufficient.
 - ARRC will be more efficient in engaging with land exchanges with other State entities, such as the DOT-ARRC land exchange currently being discussed.

Additionally potential beneficiaries:

- **LOCAL GOVERNMENT:**
 - Sale of ARRC land could increase private development and will increase local tax base.
- **ARRC CUSTOMERS:**
 - Existing ARRC customers acquiring land would benefit from elimination of rental payments and ARRC lease administration.
- **PUBLIC:**
 - Sale of ARRC land will provide the opportunity for individuals to acquire investment and recreational property promoting economic growth and development.
 - Sale of ARRC land will benefit its shareholder, the State of Alaska.



ALASKA RAILROAD MAJOR LAND RESERVES



LEGEND

- ALASKA RAILROAD
- MILITARY INSTALLATION

VICINITY MAP

DATE: JULY 31, 2001

Land Reserves Map:

ARRC was deeded land reserves along its mainline by the federal government.

The major reserves, shown here, provide the ARRC with the land base to provide transportation services into the future, and income through land leases and permit revenue.

Fiscal Note

State of Alaska
2018 Legislative Session

Bill Version: SB 86
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB086-DCCED-ARRC-02-02-18
Title: ALASKA RAILROAD CORPORATION LAND
Sponsor: COGHILL
Requester: (S) Resources

Department: Department of Commerce, Community and
Economic Development
Appropriation: Alaska Railroad Corporation
Allocation: Alaska Railroad
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	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
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? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version/comments:

Updated to current fiscal year form.

Prepared By:	<u>Tim Sullivan</u>	Phone:	<u>(907)365-2357</u>
Division:	<u>Alaska Railroad Corporation</u>	Date:	<u>02/02/2018</u>
Approved By:	<u>Catherine Reardon, Director</u>	Date:	<u>02/02/18</u>
Agency:	<u>Division of Administrative Services, DCCED</u>		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2018 LEGISLATIVE SESSION

BILL NO. SB 86

Analysis

SB86 adjusts land asset management within the Alaska Railroad Corporation (ARRC). The legislation changes approval, delegation, disposal of and accounting for ARRC land to streamline processes and allow ARRC the similar decision making and management capacities as are granted to other state agencies. These changes will allow ARRC to work more efficiently with the Department of Transportation and Public Facilities and other state agencies on land sales or exchanges needed for state road or facility projects, and will allow ARRC to monetize non-performing land assets. The legislation will allow ARRC to better respond to opportunities in the real estate market and more efficiently manage the overall real estate portfolio.

The Alaska Railroad Corporation is exempt from the Executive Budget Act. The Alaska Railroad Corporation does not require additional financial authorization as a result of this legislation.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: SB 86
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB086-DCCED-ARRC-03-31-17
Title: ALASKA RAILROAD CORPORATION LAND
Sponsor: COGHILL
Requester: (S) Resources

Department: Not Applicable (for Fiscal Notes only)
Appropriation: Alaska Railroad
Allocation: Alaska Railroad
OMB Component Number:

Expenditures/Revenues

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

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates				
			FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
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 (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) 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? **No**
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: <u>Tim Sullivan</u>	Phone: <u>(907)365-2357</u>
Division: <u>Alaska Railroad Corporation</u>	Date: <u>03/31/2017 12:00 PM</u>
Approved By: <u>Catherine Reardon, Director</u>	Date: <u>03/31/17</u>
Agency: <u>Division of Administrative Services, DCCED</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. SB 86

Analysis

SB86 adjusts land asset management within the Alaska Railroad Corporation (ARRC). The legislation changes approval, delegation, disposal of and accounting for ARRC land to streamline processes and allow ARRC the similar decision making and management capacities as are granted to other state agencies. These changes will allow ARRC to work more efficiently with the Department of Transportation and Public Facilities and other state agencies on land sales or exchanges needed for state road or facility projects, and will allow ARRC to monetize non-performing land assets. The legislation will allow ARRC to better respond to opportunities in the real estate market and more efficiently manage the overall real estate portfolio.

The Alaska Railroad Corporation is exempt from the Executive Budget Act. The Alaska Railroad Corporation does not require additional financial authorization as a result of this legislation.

DENALI BOROUGH

P.O. Box 480 • Healy, Alaska 99743
Phone: (907) 683-1330 • Fax: (907) 683-1340
Email: dbgovt@mtaonline.net
Website: www.denaliborough.govoffice.com



Clay Walker, Mayor

April 5, 2017

Senator Cathy Giessel, Senate Resources Committee Chair
Senator John Coghill, Senate Resources Committee Vice-Chair
Members of Senate Resources Committee

Re: Senate Bill Number 86

As I am unable to provide live testimony this Friday on SB 86, please accept this written letter of support. First, I would like to thank Senator Coghill for sponsoring this bill.

In 2009, the Denali Borough Assembly via resolution, supported the 2010 legislation enabling the Alaska Railroad Corporation (ARRC) to sell land. The borough followed the drafting of a land sales policy and encouraged the ARRC to consider lands within the Healy Reserve as suitable for sale, being in the best interest of the state. To this date, as far as I know, no ARRC lands have been sold statewide.

The Healy Reserve is the largest railroad reserve in the entire state, totaling 6,226 acres. Within the reserve, the railroad leases land vital to community functions. The Healy River Airport, leased to the Alaska Department of Transportation and Public Facilities, is important for personal, recreational and commercial aviation, but is essential to public safety, as it is the primary location for life flights. Granting the ARRC Board the ability to sell land, or exchange with other state entities, will help resolve a number of layered land situations across the state, including here in Healy.

The ARRC land leased to Usibelli Coal Mine for the development of a residential subdivision forms the center of the Healy community. I am writing from railroad leased land now, as the Tri-Valley Community Center (which houses the medical clinic, fire hall, borough office, bank, and state trooper station) sits on leased land. These lands are clearly not needed, and never will be, for railroad operations.

It is time for the legislature to allow the ARRC, through its board, the ability to dispose of lands without legislative approval. State agencies will have more options and Alaskan residents will have a brighter future, with increased opportunities for private land ownership. Private land ownership is fundamental to community growth, state growth, and economic expansion.

Thank you for this opportunity to provide comment on Senate Bill 86.

Sincerely,

Clay Walker, Denali Borough Mayor



USIBELLI COAL MINE, INC.

PO Box 1000 Healy, Alaska 99743

Telephone (907) 683-2226 • Facsimile (907) 683-2253

April 5, 2017

The Honorable Senator John Coghill
State Capitol
Juneau, Alaska 99801

Re: Support for SB 86 Alaska Railroad Corporation Land

Dear Senator Coghill:

Usibelli Coal Mine, Inc. (UCM), located in Healy, is a fourth generation, family-owned, business and the only operational coal mine in Alaska. Emil Usibelli founded the company in 1943. His son, Joe Usibelli is the Chairman of the Board of Directors. Joe Usibelli Jr., Emil's grandson, is President of UCM.

Employee Housing

In 1950, UCM built the Usibelli Camp adjacent to its mining operations for employee housing. The following year, the company began building housing for married employees and their families. In 1953, a two-story bunkhouse was built at Usibelli Camp to house seasonal employees. Mine employees and their families lived at Usibelli Camp until 1977 when UCM leased land from the Alaska Railroad Corporation and developed the Tri-Valley subdivision.

The Federal Mine Enforcement and Safety Administration had advised UCM that families of its miners needed to be moved from the Usibelli Camp due to safety concerns of mining trucks sharing the road with residential vehicles. UCM wanted to provide an opportunity for mine personnel and their families to own homes and create a community, however, available land in the surrounding area was predominantly owned by the Alaska Railroad Corporation (ARRC). The ARRC also had employees living in Healy who desired to own their own homes, but were having great difficulty finding available building lots.

As a solution to meet the demand for residential housing and necessary facilities, the ARRC leased UCM approximately 510 acres to develop roads, utilities, and building lots. Today, the Tri-Valley Subdivision encompasses many of the amenities that make up Alaska's only coal mining town, such as the Tri-Valley Community Center, Denali Pre-School and Early Learning Center, a Baptist, Catholic, and Latter Day Saints church, the Denali Chamber of Commerce office, and is also where many residents of Healy reside. While UCM is the lessee of the land, individuals and entities sublease lots to build and own homes and buildings.

Senate Bill 86 Alaska Railroad Corporation Land

Upon passage of SB 86, UCM would be interested in exploring the purchase of the Tri-Valley Subdivision land from the ARRC and then making the lots available for purchase to those who are sub-leasing them.

Thank you for the opportunity to provide support for SB 86. Should you have any questions, please do not hesitate to contact me at (907) 982-6744, or lorali@usibelli.com.

Sincerely,

A handwritten signature in cursive script that reads "Lorali M. Simon".

Lorali M. Simon
Vice President, External Affairs



16515 Centerfield Dr, Suite 201
Eagle River, AK 99577
Phone: (907) 696-2828
Fax: (907) 696-2845
www.eklutnainc.com

April 4, 2017

The Honorable John Coghill
Majority Leader
Alaska State Senate
Capitol Building, Suite 119
Juneau, Alaska 99801

RE: Senate Bill 86, "An Act relating to the sale, other disposal, leasing and encumbrance of Alaska Railroad Corporation land".

Dear Senator Coghill:

I encourage legislators to support SB 86 as a tool for economic development during what looks to be tough economic times for our state.

Our corporation has been involved in real estate development in Alaska for quite some time. We see great potential in this legislation for us to work with the Alaska Railroad, as development opportunities arise, to move quickly to take advantage of those opportunities.

The benefits of SB 86 go beyond just our company and the railroad. Private companies and individuals purchasing Alaska Railroad land will encourage economic growth and development, while at the same time putting the properties on the tax rolls to increase payments to local governments.

Additionally, SB 86 will bring the Alaska Railroad Corporation into alignment with other state entities that we have worked with in the past such as the Department of Transportation and Public Facilities to be able to sell land without legislative approval.

Sincerely,

Best Regards,

Curtis J. McQueen
Chief Executive Officer



1016 W Sixth Ave., Suite 303

Anchorage, AK 99501

April 7, 2017

The Honorable John Coghill
Majority Leader
Alaska State Senate
Capitol Building, Suite 119
Juneau, Alaska 99801

Dear Senator Coghill:

I am reaching out regarding Senate Bill 86, "An Act relating to the sale, other disposal, leasing and encumbrance of Alaska Railroad Corporation land."

The Anchorage Chamber of Commerce supports Senate Bill 86 as an effort to encourage more real estate development on Alaska Railroad land within Anchorage and throughout the entire railbelt.

Anchorage has a shortage of usable land, particularly land zoned for industrial uses. Freeing up land in a timely manner, without the delays that can occur in the legislature, would encourage those looking to bring a business into Anchorage or grow their business to do so by being able to own the property. This has the added advantage of increasing Anchorage's property tax rolls.

We also see this as an advantage to the Municipality of Anchorage to be able to complete land swaps or purchases from the Alaska Railroad in an expedited manner for projects beneficial to the people of Anchorage and the state as a whole.

Thank you for your support of this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bruce Bustamante', is written over a light blue horizontal line.

Bruce Bustamante

Alaska Bankers Association

P.O. Box 241489 • Anchorage, Alaska 99524-1489 • Ph. 907-261-3525 • Fax 907-562-1758

February 1, 2018

Senator Cathy Giessel, Chair
Senate Resources Committee
State Capitol
120 4th Street, RM 3
Juneau, AK 99801

Re: Support for SB86 – Alaska Railroad Corporation Land


Dear Senator Giessel,

The Alaska Bankers Association wishes to inform you of its support for Senate Bill 86 allowing the Alaska Railroad Corporation to more efficiently manage its overall real estate portfolio.

Alaska's banks are committed to Alaska's communities, working every day to provide the credit businesses and families need to grow. Providing the ARRC the decision making and management capacities to streamline processes relating to land sales and exchanges would generate liquidity and promote opportunities for private investment leading to economic growth and development. Monetizing non-performing ARRC land assets could, in turn, lead to new jobs and increased local tax bases.

We urge your support for SB86.

Sincerely,



Joe Schierhorn, President
Alaska Bankers Association

ALASKA RAILROAD

General Questions

- **Has legislature ever approved a sale?**

Yes, many times. Most recently:

In 2000 we did a land exchange with Eklutna, Inc., the Municipality of Anchorage, DOT and DNR to widen the Seward Highway and realign railroad tracks. (SB235)

In 2007 we did a transfer with Eklutna, Inc. (SB103)

In 2009 we did a sale to DOT (SB142) and a sale/swap with the Municipality of Anchorage (SB165)

- **How much land does ARR own?**

Approximately 36,000 acres. Half of which is used for railroad purposes, half is available for lease or sale.

- **Examples of a land that cannot be developed under a lease but could be attractive for a land sale?**

The Tri-Valley land in Healy is under lease currently but is limited in development because it is strictly residential. It could be beneficial to ARRC, the lessee, and the homeowners that sub-lease the property to sell it for their ownership.

We also have remote acreage in Curry and Hurricane that is unleaseable due to its remote nature and the low value of nearby land (why lease when I can buy for \$100?) that it may be worth selling for that price rather than getting no lease income.

Peger Road is partially on ARRC property. There is no developable value in the road. We would get more by doing a swap for other land with DOT.

- **Why was legislature required to approve sales?**

We have anecdotal reasons ranging from: it was a compromise with DNR to; it was done to keep the railroad whole in case some other railroad wanted to buy it to; because prior leaseholders were trying to get a sweetheart deal in buying the land.

ALASKA RAILROAD

Changes in Bill Language

- **Why, in 42.40.352, do we remove the requirement that the board must find that the land is not necessary for railroad purposes and that the sale of land is in the best interest of the state?**

42.40.352(a) was removed because the board is already "responsible for the management of the financial and legal obligations of the Alaska Railroad;" under 42.40.100(i) and to "review all state and other land disposal proposals to aid in the planning for future development or expansion of transportation services" under 42.20.100(7)

- **What is the benefit of the sunset provision?**

Putting in a sunset provision will allow the legislature to examine the results of a few years of selling ARRC land and reinvesting the proceeds. We believe a five-year sunset is appropriate to allow for enough time to complete sales and build a track record.



USIBELLI COAL MINE, INC.

PO Box 1000 Healy, Alaska 99743
Telephone (907) 683-2226 • Facsimile (907) 683-2253

February 8, 2018

The Honorable Senator John Coghill
State Capitol
Juneau, Alaska 99801

Re: Support for SB 86 Alaska Railroad Corporation Land

Dear Senator Coghill:

Usibelli Coal Mine, Inc. (UCM), located in Healy, is a fourth generation, family-owned, business and the only operational coal mine in Alaska. Emil Usibelli founded the company in 1943 and we are proud that this marks our 75th Anniversary. His son, Joe Usibelli is the Chairman of the Board of Directors. Joe Usibelli Jr., Emil's grandson, is President of UCM.

Employee Housing

In 1950, UCM built the Usibelli Camp adjacent to its mining operations for employee housing. The following year, the company began building housing for married employees and their families. In 1953, a two-story bunkhouse was built at Usibelli Camp to house seasonal employees. Mine employees and their families lived at Usibelli Camp until 1977 when UCM leased land from the Alaska Railroad Corporation and developed the Tri-Valley subdivision.

The Federal Mine Enforcement and Safety Administration had advised UCM that families of its miners needed to be moved from the Usibelli Camp due to safety concerns of mining trucks sharing the road with residential vehicles. UCM wanted to provide an opportunity for mine personnel and their families to own homes and create a community, however, available land in the surrounding area was predominantly owned by the Alaska Railroad Corporation (ARRC). The ARRC also had employees living in Healy who desired to own their own homes, and they were also having great difficulty finding available building lots.

As a solution to meet the demand for residential housing and necessary facilities, the ARRC leased UCM approximately 510 acres to develop roads, utilities, and building lots. Today, the Tri-Valley Subdivision encompasses many of the amenities that make up Alaska's only coal mining town, such as the Tri-Valley Community Center, Denali Pre-School and Early Learning Center, a Baptist, Catholic, and Latter Day Saints church, the Denali Chamber of Commerce office, and is also where many residents of Healy reside. While UCM is the lessee of the land, individuals and entities sublease lots to build and own homes and buildings.

Senate Bill 86 Alaska Railroad Corporation Land

Upon passage of SB 86, UCM would be interested in exploring the purchase of the Tri-Valley Subdivision land from the ARRC and then making the lots available for purchase to those who are sub-leasing them.

Thank you for the opportunity to provide support for SB 86. Should you have any questions, please do not hesitate to contact me at (907) 982-6744, or lorali@usibelli.com.

Sincerely,

A handwritten signature in cursive script that reads "Lorali M. Simon".

Lorali M. Simon
Vice President, External Affairs



Phone: 907.452.7743

gfbrae@gci.net

www.gfbr.org

Board of Directors

Evelyn Arnott
President

Traci Schachle
President-Elect

Mike VanSickle
Past President

Russ Sharpton
Treasurer

Heather Lambert
Secretary

Joel Johnson
Director

Lance Cook
Director

Brittnie Welsh
Chief Executive Officer

February 8, 2018

Senator Cathy Giessel, Senate Resources Committee Chair
Senator John Coghill, Senate Resources Committee Vice-Chair
Members of Senate Resources Committee

Re: Support for Senate Bill 86

"An Act relating to the sale other disposal, leasing, or encumbrance of Alaska Railroad Corporation land; and providing for an effective date."

Under all this land. Upon its wise utilization and widely allocated ownership depend the survival and growth of free institutions and of our civilization. The Greater Fairbanks Board of REALTORS® recognizes that the interests of this community and its residents require the highest and best use of the land and the widest distribution of land ownership. They require the creation of housing, positive economic development and the preservation of a healthful environment.

Collectively, we believe that allowing the Alaska Railroad to determine which land resources would be best in private hands would have a positive economic impact on residential development in our community. Housing development will not only create new jobs and provide desired housing options for our existing residents, but it also maintains the ability to attract new people to our community. New people moving into the community could, in turn, attract new businesses. The financial impact of residential construction would be felt by a variety of businesses including local lenders, title companies, insurance agents, cable and internet providers, building retailers and local and state government.

With over 220 REALTOR® members and the support of strong local real estate related businesses in our community, we speak with one voice. On behalf of the Greater Fairbanks Board of REALTORS® and its members, we are unified in urging you to support Senate Bill 86.

Sincerely,

Brittnie Welsh
CEO

Greater Fairbanks Board of REALTORS®

RESOLUTION NO. 4824

**A RESOLUTION IN SUPPORT OF SENATE BILL 86, AN ACT
RELATING TO THE SALE OR OTHER DISPOSAL, LEASING, OR
ENCUMBRANCE OF ALASKA RAILROAD CORPORATION LAND**

WHEREAS, the Alaska Legislature is considering amendment of AS 42.40.120(c) to incorporate the authorization for the Alaska Railroad (ARRC) to dispose or encumber its entire interest in land; and

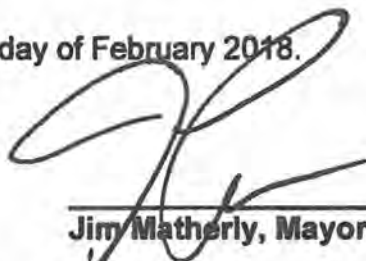
WHEREAS, the ARRC will be able to react much more quickly with respect to real estate opportunities that could potentially be funded by sale or encumbrance of ARRC land; and

WHEREAS, the sale of ARRC land could increase private development and expand the local tax base; and

WHEREAS, sale of ARRC land will provide the opportunity for individuals to acquire investment and recreational property, promoting economic growth and development.

NOW, THEREFORE, BE IT RESOLVED that the Fairbanks City Council supports the passage of Senate Bill 86.

PASSED and APPROVED this 5th day of February 2018.



Jim Matherly, Mayor

AYES: PASSED and APPROVED on the CONSENT AGENDA
NAYS: None
ABSENT: None
APPROVED: February 5, 2018

ATTEST:

APPROVED AS TO FORM:



D. Danyelle Snider, CMC, City Clerk



Paul Ewers, City Attorney

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

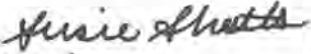
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 10, 2017

SUBJECT: Alaska Railroad Corporation land (Work Order No. 30-LS0487\A)

TO: Senator John Coghill
Attn: Rynnieva Moss

FROM: Susie Shutts 
Legislative Counsel

Attached is the bill draft you requested.

The attached bill draft, in repealing AS 42.40.285(1) and 42.40.285(4), removes the legislative approval currently required for the Alaska Railroad Corporation (ARRC) to "exchange, donate, sell, or otherwise convey its entire interest in land" and "lease land for a period in excess of 95 years unless the corporation reserves the right to terminate the lease if the land is needed for railroad purposes." There is no constitutional requirement that ARRC receive legislative approval before exchanging, donating, selling, or otherwise conveying a land interest, or leasing or encumbering its land interest. The attorney general has opined that such legislative approval requirements are unconstitutional as a violation of the doctrine of the separation of powers.¹

However, note that railroad land is state land, and disposal of this land is therefore subject to constitutional requirements under art. VIII, Constitution of the State of Alaska, related to the state and legislature's natural resources ownership and management responsibilities.² Article VIII, in part, requires that the state's natural resources be made available for maximum use consistent with the public interest³ and that the legislature provide for the utilization, development, and conservation of the state's resources for the

¹ See, e.g., 1987 Inf. Op. Att'y Gen. (663-88-0094; Sept. 17).

² In *Laverty v. Alaska Railroad Corporation*, 13 P.3d 725 (Alaska 2000), a citizen-taxpayer brought suit seeking to block a contract for removal of gravel from railroad land, alleging that the contract violated the Public Notice Clause by disposing of an interest in state lands without prior public notice. The Alaska Supreme Court held that railroad land is state land and that disposal of that land is subject to public notice under art. VIII, sec. 10, Constitution of the State of Alaska.

³ Art. VIII, sec. 1, Constitution of the State of Alaska.

maximum benefit of the state's people.⁴ Article VIII authorizes the legislature to provide for the sale or grant of state lands and the establishment of sale procedures,⁵ and under the Public Notice Clause, "[n]o disposals or leases of state lands, or interests therein, shall be made without prior public notice and other safeguards of the public interest as may be prescribed by law."⁶ Although the ARRC is, for example, exempt from the Alaska Land Act (AS 38.05),⁷ the Alaska Supreme Court has held that this exemption "simply allows ARRC to develop its own procedures for complying with the Public Notice Clause, which need not mirror the rigorous procedural safeguards set out in the Alaska Lands Act."⁸ Therefore, any disposal of railroad land would be subject to the art. VIII constitutional requirements of state land. The attached bill draft does retain the fair market value requirement of AS 42.40.350(d) and requires public notice of the conveyance, disposal, or encumbrance of the ARRC's entire interest in land under new subsection 42.40.352(a). Whether a particular land disposal under the attached bill draft met art. VIII requirements would be fact specific.

A new subsection created by the attached bill draft, 42.40.352(b), requires that the proceeds from an exchange, donation, sale, or other conveyance or disposal of the corporation's entire interest in land be separately accounted for and appropriated in accordance with 45 U.S.C. 1207(a) (Alaska Railroad Transfer Act of 1982). 45 U.S.C. 1207(a)(5) states:

Revenues generated by the State-owned railroad, including any amount appropriated or otherwise made available to the State-owned railroad, shall be retained and managed by the State-owned railroad for railroad and related purposes.

Note that if the governor provided for the sale or lease of the Alaska Railroad and the dissolution of the ARRC, the sale would still require legislative approval under AS 42.40.940. If dissolution of the ARRC occurred other than through such a sale, its assets would revert to the state.⁹

⁴ Art. VIII, sec. 2, Constitution of the State of Alaska.

⁵ Art. VIII, sec. 9, Constitution of the State of Alaska.

⁶ Art. VIII, sec. 10, Constitution of the State of Alaska.

⁷ Under AS 42.40.920(b)(11), AS 38 does not apply to the operations of the corporation.

⁸ *Laverty*, 13 P.3d at 733.

⁹ AS 42.40.950.

Senator John Coghill
February 10, 2017
Page 3

Finally, although the attached bill draft removes the legislative approval requirement for the ARRC's encumbrance of its entire interest in land, legislative approval is still required for the corporation to issue bonds.¹⁰

SLS:mlp
17-046.mlp

Attachment

¹⁰ AS 42.40.285(2).

ALASKA RAILROAD

February 12, 2018

The Honorable Cathy Giessel
Chair, Senate Resources Committee
Alaska State Legislature
Capitol Building
Juneau, Alaska 99801

Dear Senator Giessel:

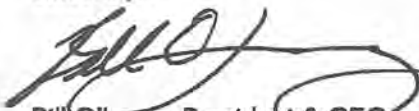
During the Senate Resources Committee meeting on Friday, February 9, 2018, Senator Bill Wielechowski had questions regarding Senate Bill 86. In particular, Senator Wielechowski asked what would keep the Alaska Railroad Corporation (ARRC) Board of Directors from selling the ARRC right-of-way (ROW) corridor, which may be critical for a future natural gas pipeline or for use by other state agencies for utility or transportation purposes compatible with rail operations. It is important to note that the Alaska Railroad Corporation Act (ARCA), AS 42.40, has significant protections for the ARRC ROW and other railroad operating lands that ensure that those lands will remain available and useful as a utility corridor. Those protections, some of which are enumerated below, will remain in place if SB 86 passes.

The legislative findings and purpose section of ARCA requires that ARRC must "preserve the integrity of the railroad utility corridor for transportation, communication, and transmission purposes." §1, ch. 153, SLA 1984. This means that ARRC is required to manage the ROW in a manner that supports transmission utility projects, such as a gas pipeline, and other utility projects as long as such projects are compatible with safe rail operations. ARRC regularly works with other agencies, such as AKDOT&PF and other agencies with needs for transportation and utility corridors, to coordinate planning and projects in the best interest of Alaskans.

The integrity of the ROW for utility corridor use is further protected by AS 42.40.352(a), which prohibits ARRC from selling land unless the ARRC Board of Directors finds that "the land is not necessary for railroad purposes." Because the ROW is an integral part of the ARRC rail system, it is by its very nature necessary for railroad purposes and therefore cannot be sold. Other ARRC rail operating land that supports operations in the ROW, also is by its nature necessary for railroad purposes. This provision will remain unchanged if SB 86 is enacted.

Thank you for your time on this issue

Sincerely,



Bill O'Leary, President & CEO
Alaska Railroad Corporation

cc Senator John Coghill
Senator Bill Wielechowski
Representative Adam Wool

1 By: Karl Kassel, Mayor
2 Kathryn Dodge
3 Introduced: 02/08/2018
4 Adopted: 02/08/2018
5
6

7 FAIRBANKS NORTH STAR BOROUGH
8 RESOLUTION NO. 2018-07
9

10 A RESOLUTION SUPPORTING SB 86 REGARDING ALASKA RAILROAD CORPORATION
11 LAND
12

13 WHEREAS, The Alaska Railroad Corporation (ARRC) plays a significant
14 role in the economic well being of the State of Alaska, through its support to other key
15 industries in the State; and
16

17 WHEREAS, The Federal Government transferred land reserves to the
18 ARRC not only to provide it with a land base on which to build infrastructure for
19 transportation services, but also from which to generate income toward its self-
20 sustenance; and
21

22 WHEREAS, The ARRC is owned by the State of Alaska, but receives no
23 operating funds from the State, generating revenue solely through freight, passenger
24 and real estate services to cover personnel, operations and maintenance expenses; and
25

26 WHEREAS, The ability of any corporation to efficiently monetize non-
27 performing land assets is beneficial to that corporation and to the communities in which
28 those assets are found; and
29

30 WHEREAS, Although nearly half of ARRC's land holdings are available for
31 long-term leasing or short-term permitting, a significant portion of those holdings are in
32 remote areas where it is more cost effective to buy than it is to lease, or, are
33 generating below fair market rental values due to existing rent caps; and
34

35 WHEREAS, Timely sale of ARRC land holdings in Fairbanks, without those
36 delays inherent to the legislative process, may encourage local business growth and
37 expansion, thereby increasing the local tax base.
38

39 NOW, THEREFORE, BE IT RESOLVED that the Assembly of the Fairbanks
40 North Star Borough fully supports Senate Bill 86 as means to strengthen ARRC's
41 economic sustainability, and as an effort to further encourage real estate development
42 in Fairbanks and throughout the railbelt.
43

44 BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to
45 the Alaska Interior Delegation.

46
47 PASSED AND APPROVED THIS 8TH DAY OF FEBRUARY, 2018.
48

49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65



Kathryn Dodge
Presiding Officer

ATTEST:



Nanci Ashford-Bingham, MMC
Borough Clerk

- Yeses: Quist, Tacke, Roberts, Lojewski, Major, Lawrence, Dodge
- Noes: None
- Other: Gray (Excused), Cooper (Excused)

Barbara Blakeley
Soldotna, AK 99669

To Whom It May Concern:

My name is Barbara Blakeley and I live in Soldotna. My husband Norm and I own a condominium in the Whittier Manor in Whittier. I sit on that condominium board. Whittier Manor is a 100 unit condo that sits on the Bay above the railroad yard. The land is owned by the railroad and is leased to Whittier Manor Condominium Association. Our current 40 year lease is due to expire at the end of next year.

Our real desire is to purchase the property from the railroad. We began communicating that to them around 2006, by some accounts, even earlier. They have been pretty adamant that they do not wish to sell us the property.

About six years ago, since our lease was set to expire soon, we began asking for a long term lease if they were not interested in selling.

One complication is that the Railroad is in a Master Lease Agreement with the City of Whittier whereby any railroad leases that expire will then be managed by the City.

So the Railroad says we need to talk to the City of Whittier. The City says we need to talk to the Railroad. Round and round!! A couple years ago the City finally began some communication about a lease. The problem with giving us a long-term lease is that their Master Lease Agreement is set to expire in 15 years or so.

To further complicate things, the City and the Railroad are in big negotiations for a property swap in Whittier. We have not been privy to any of their dealings. The City assures us we will be taken care of, but any time they discuss our lease or the other railroad dealings, the City Council goes in to executive session and we once again know nothing.

We want to make sure with this Senate Bill 86 that we are assured first right of refusal, should the railroad choose to sell or trade our property.

We feel like we are between a rock and a hard place. We have had no seat at the table regarding what is going on between the City of Whittier and the Railroad.

We are looking for our legislators to look out for us. Please consider our circumstances when looking at this bill.

You might also want to look at how the railroad deals with their lessees.

Thank you for your consideration.

Barb Blakeley
Soldotna, AK