

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3208 90

FISCAL NOTE

REPORTED OUT
APR 17 2007
 SENATE FINANCE COMMITTEE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: HB 168
 (H) Publish Date: 3/7/07

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
 Title Land Transfers Alaska RR & DOTPF RDU Admin and Support (3330)
 Component Commissioner's Office
 Sponsor House Transportation Committee
 Requester H TRA Component No. 530

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

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

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill has no financial impact on DOT&PF

Prepared by: Mary Siroky Phone 465-4772
 Division: Commissioner's Office Date/Time 3/02/07 3:50pm
 Approved by: John MacKinnon Date 3/2/2007
 Agency: Department of Transportation and Public Facilities

(Revised 9/18/2006 OMI)

COMMITTEE COPY

Alaska State Legislature



HOUSE TRANSPORTATION COMMITTEE

House Bill 168: DOT and RR Land Swap

House Bill 168 would authorize the Alaska Railroad Corporation (ARRC) to exchange approximately ten acres of land with the Department of Transportation and Public Facilities (DOTPF) to accommodate two DOTPF projects. The Parks Highway Improvement project in Wasilla and the Heavy Aircraft Cargo Apron project at the Fairbanks International Airport both require an adjustment to the Alaska Railroad's track and right-of-way lands. This legislation ensures that all the appropriate titles to property can be in place for both of these important DOTPF projects.

The Alaska Railroad Corporation Act, Alaska Statute 42.40.285, requires Legislative approval for the ARRC to "exchange, donate, sell or otherwise convey its entire interest in land".

Section 1: Parks Highway Improvement Project

Section 1 conveys approximately 6.3 acres of ARRC property adjacent to the Parks Highway to DOTPF. The widening and lane improvements to the Parks Highway required relocation of a portion of the Alaska Railroad mainline in the vicinity of Wasilla Lake. DOTPF acquired the necessary property south of the existing 200-foot Alaska Railroad right-of-way. The ARRC was able to relocate its tracks to this property just south of its original alignment. Once the railroad was relocated, DOTPF was able to complete construction of the improvements to the Parks Highway. The project is complete.

Section 2: Fairbanks International Airport Heavy Aircraft Cargo Apron

Section 2 would convey approximately 3.3 acres of ARRC property to DOTPF to accommodate construction of the new Heavy Aircraft Cargo Apron. Fairbanks International Airport is 43rd in the nation for the amount of landed weight, serves nearly a million passengers and has 17 airlines operating at the facility. Replacing the currently inadequate heavy aircraft cargo apron located next to the airport terminal is part of the planned construction upgrade and expansion of the Fairbanks International Airport. Of the four current aircraft parking positions, two interfere with the taxiway and create a potential safety risk. Expansion of the terminal will create additional interference with the third parking position. To eliminate a potential safety hazard and accommodate the airport expansion, the DOTPF is planning to construct a new heavy aircraft cargo apron on ARRC property adjacent to the airport. This proposed land exchange of approximately 3.3 acres will allow for the construction of a heavy aircraft cargo apron that will provide parking for four large cargo planes and be designed to handle the weight and size of the largest cargo planes. DOTPF must have a legally sufficient title interest to property in order to comply with Federal Aviation Administration (FAA) grant assurances and funding participation requirements. Construction of this project will begin this summer.

HEAVY AIRCRAFT CARGO APRON

PROJECT DESCRIPTION:

Work under this project will include the design and construction of a new 26.5 acre cargo apron area at the south end of the west ramp and extension of Taxiway "A" approximately 1,000 feet to provide access. The apron will accommodate four B-747 on concrete hardstands. Ancillary work will include the construction of fencing, access roads, snow storage areas and subsurface drainage systems.

PROJECT JUSTIFICATION:

Transient heavy aircraft parking is provided on the apron south of the terminal building. Recent inspections of the pavement in this area determined that the apron has reached the end of its design life and requires rehabilitation or total reconstruction. In addition, two of the existing four hardstands penetrate the FAR Part 77 transition surface.

Also, three of the four existing four hardstands will be rendered inoperable this summer due to the southern expansion and construction of the passenger terminal resulting from the Terminal Area Development Project. The remaining old hardstand will be operationally conflicted when during passenger operations on the south end of the passenger terminal.

The project site is in an un-developed area of the airport and it is anticipated that these improvements will permit the private development of underutilized land by providing access to the airside from these properties. This development will expand the potential revenue base for airport operations by opening additional lease acreage, affording warehousing opportunities, and assuring short and long-term heavy aircraft parking.

MD
TON A
STW
MD
TON B

PAVED SNOW
STORAGE

FUELING HYDRANT
SYSTEM

FUELING PIT
(TYP)

EXISTING ALSY BUILDING
(TO BE RELOCATED)

PAVED HEAVY
CARGO AIRBORN

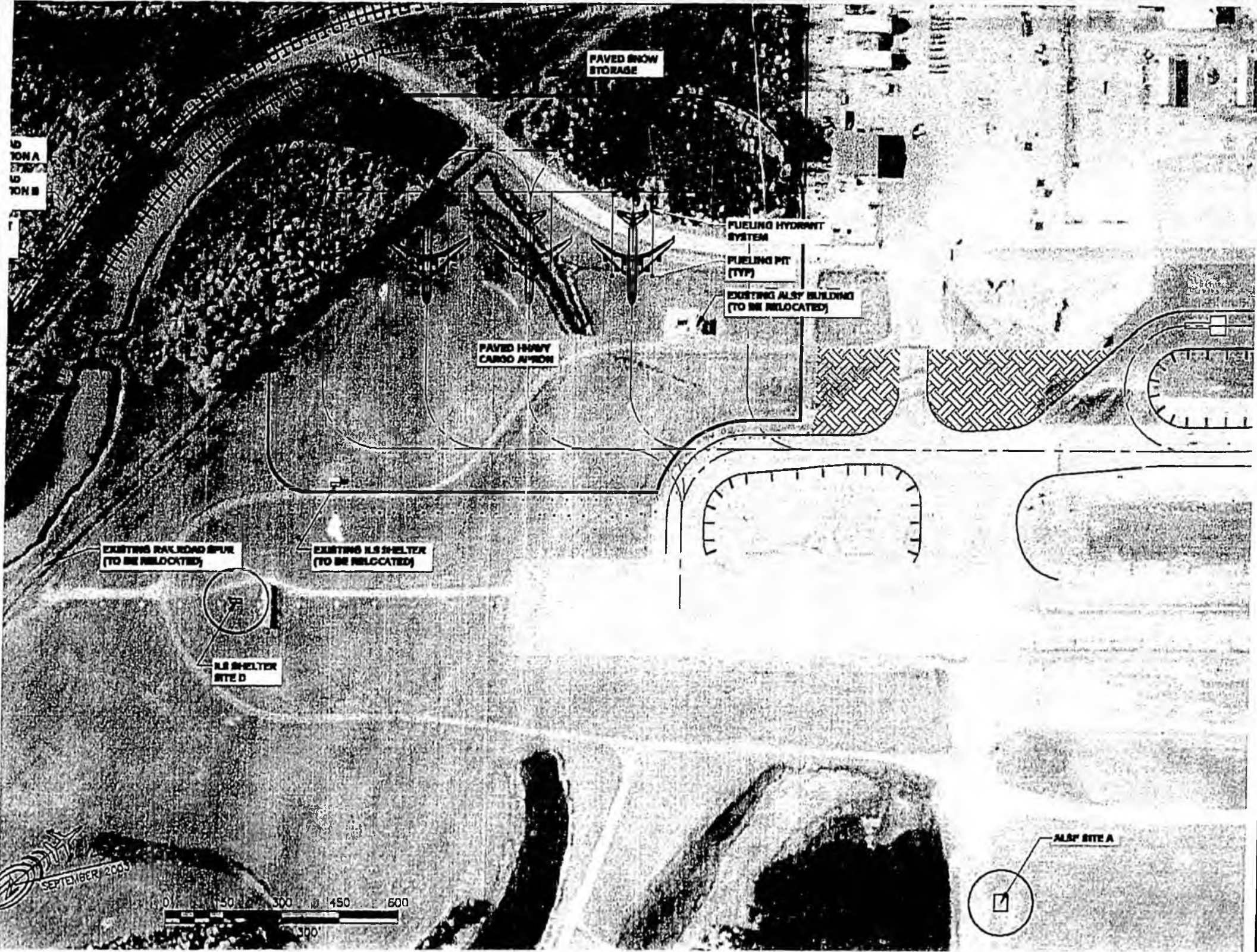
EXISTING RAILROAD SPUR
(TO BE RELOCATED)

EXISTING ILS SHELTER
(TO BE RELOCATED)

ILS SHELTER
SITE D

ALSF SITE A

SEPTEMBER 2003



PARKS HIGHWAY - WASILLA
PROJECT SUMMARY STATEMENT

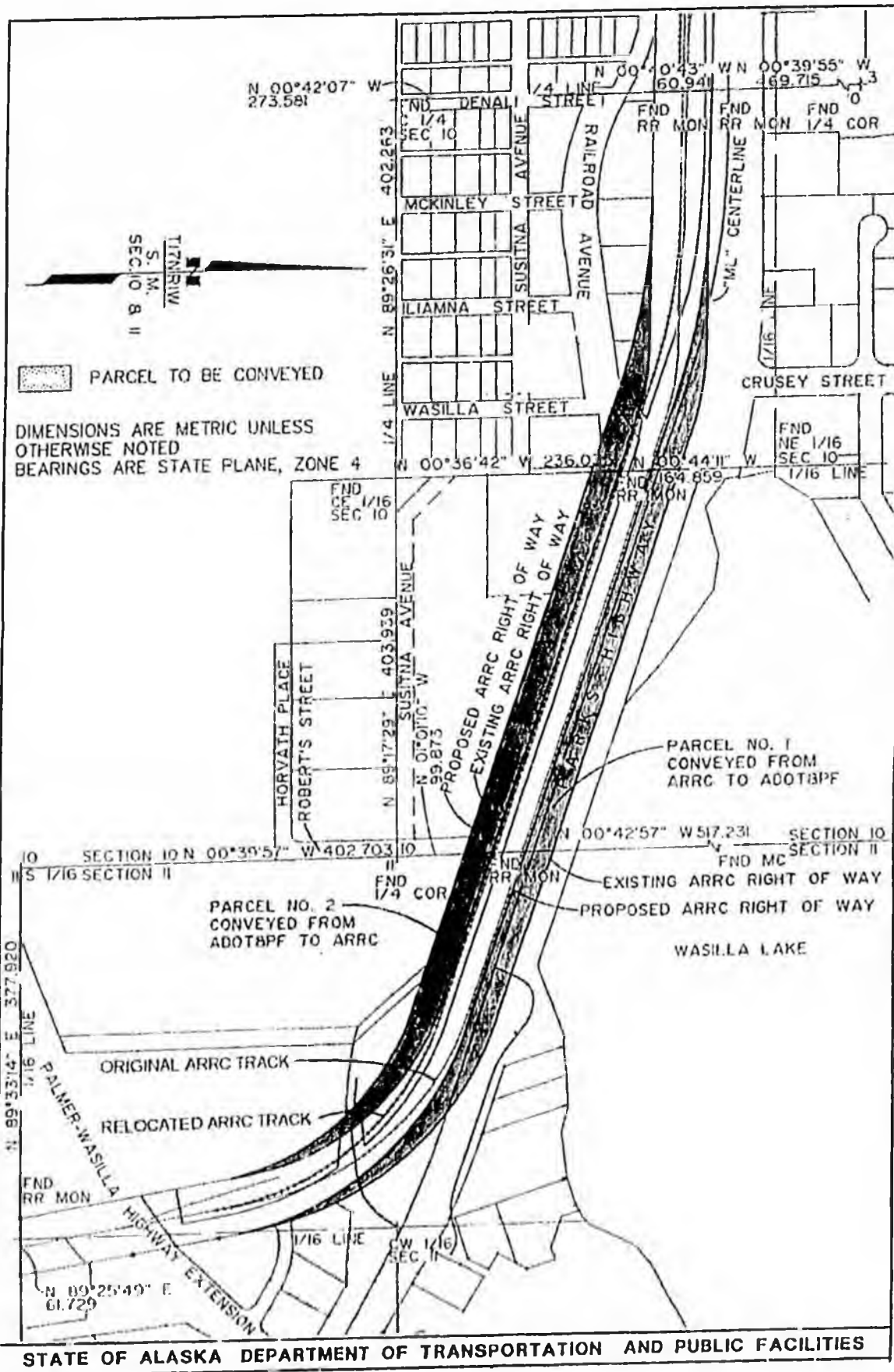
The Parks Highway is a rural interstate highway that provides a connection between the major cities of Anchorage, Wasilla and Fairbanks. This project, located between the intersection with the Glenn Highway and the City of Wasilla, is the primary highway between Anchorage and Wasilla. This portion of the Parks Highway was originally constructed in 1971 and 1972 as a two-lane rural highway. In 1996, the highway was widened between Palmer-Wasilla Highway and Crusey Street to four lanes. This project reconstructed the portion of the Parks Highway between Seward Meridian Parkway and Crusey Street.

The recent project is the third segment of the Parks Highway reconstruction from the Glenn Highway through the City of Wasilla's central business district. This project reconstructed the Parks Highway from Seward Meridian Parkway (Seward Meridian) to Crusey Street. This section of the Parks Highway is located within a commercial district of the City of Wasilla. To be consistent with the adjacent commercial development, the character of the highway changes at Seward Meridian from a high-speed (55 mph) rural highway to an intermediate speed (45 mph) urban highway providing access at specified locations. The project includes frontage roads improved or constructed adjacent to, and parallel with, the Parks Highway, as appropriate for access to adjoining properties.

The Department constructed a five-lane highway: two lanes northbound and two lanes southbound with a median two-way left turn lane. Additional improvements include: reconstructed or new two-lane, two-way, frontage roads; a grade-separated interchange at Seward Meridian Parkway; a continuous pathway on the highway's north side; relocation of approximately $\frac{3}{4}$ of a mile of railroad track; and highway and intersection illumination. This 3.4 mile segment transitions from the four lane divided highway to the east to a lower-speed segment passing through the center of Wasilla. The Department completed construction of the project in 2006.

The total project cost is approximately \$55,697,000.

PRELIMINARY



HB

170

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 170
(H) Publish Date: 4/5/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title Insurance RDU Insurance (116)
Component Insurance
Sponsor Labor & Commerce by Request
Requester House Labor & Commerce Component No. 354

Expenditures/Revenues (Thousands of Dollars)

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

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

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

FUND SOURCE	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation addresses various provisions relating to audit reports filed by insurers, writing workers compensation insurance, defining certain types of insurance, making false or misleading statements on insurance audits and being members of the Alaska Life and Health Insurance Guaranty Association. It does not have a financial impact on the operations of the division.

Prepared by: Linda S. Hall, Director
Division: Insurance
Approved by: Emil R. Notti, Commissioner
Agency: Commerce, Community, and Economic Development

Phone 907.269.7900
Date/Time 3/21/07 11:11 AM
Date 3/21/2007

adopted 4/18/07

CONCEPTUAL AMENDMENT)

OFFERED IN THE HOUSE FINANCE COMMITTEE
TO: CS HB 170 ()

BY MEYER BY REQUEST

1 Page 3, line 11

2 After "Alaska"

3 Delete ";

4

5 Page 3, line 12 - 16

6 Delete

7 (2) an offset reducing the premium tax payable under AS

8 21.55.210(f);

9 (3) a tax credit allowed for gifts to colleges under AS 21.89.070; or

10 (4) a tax credit allowed for prequalified cash contributions to the

11 Alaska Fire Standards Council under AS 21.89.075.

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14 Page 5, line 28 through Page 6, line 1

15 Delete all material

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4/18/07

**Insurance Legislation
HB 170
Sectional Analysis by the
Department of Commerce, Community and Economic Development
Division of Insurance**

Section 1. AS 21.09.200 Insurer annual audited financial report.

These sections require the insurer to engage a certified public accountant to conduct an annual audit and submit reports to the division.

Subsection (g) specifies that the audit report filing is due by June 1 of each year unless the director exempts the insurer based on financial or organizational hardship or extends the due date based on a showing by the insurer that they have met standards for an extension given in regulations. The director may require an insurer to file the audit report before June 1 for good cause and 90 days advance notice to the insurer. The audit report must be prepared by a qualified independent certified public accountant and the insurer must notify the director of the auditor engaged to conduct the audit.

Subsection (h) requires the insurer to file a written report on any unremediated material weaknesses in internal control over financial reporting which are noted during the audit. The filing must be no later than 60 days after the filing of the audit report.

Subsection (i) says that the director may adopt regulations to require the insurer to file a report on internal control over financial reporting. The internal control report shall be filed on the date specified by the director.

Subsection (j) says that any additional information the director requires to supplement the reports required in subsection (h) and (i) must also be filed by the date specified by the director. The filed reports on internal control are confidential documents.

Subsection (k) requires that an audit committee shall be designated in accordance with regulations. The audit committee will hire the qualified independent certified public accountant registered with the division to conduct the annual audit and shall monitor services performed by the certified public accountant. If no audit committee is designated by the insurer, the whole governing board of the insurer is deemed to be the audit committee.

Subsection (l) requires the certified public accountant to notify the audit committee or governing board of the insurer in writing that the insurer has misstated its financial condition as reported to the director or that the insurer does not meet minimum capital and surplus requirements of statute. An insurer receiving such a report shall forward a copy to the director. The certified public accountant shall forward the report to the director unless the insurer provides evidence that the report has been forwarded to the director.

Section 2. AS 21.09.270(f) Retaliatory fee exclusions.

Subsection (f) is amended to include additional references to tax credits or tax exclusions that are not to be included in the retaliatory fee calculation for health insurers. These credits are not to result in increasing the retaliatory fee nor is the retaliatory fee calculation to result in negating the credit granted to an insurer to reduce premium tax due. The additions are for premium tax credits for payments by insurers to the Comprehensive Health Insurance Association, for gifts to colleges, and for contributions to the Alaska Fire Standards Council.

Section 3. AS 21.21.410 Custodian of insurer assets.

This section specifies new requirements for custodians of the assets of an insurance company.

Subsection (a) specifies that a custodian may only be a bank, trust company, securities firm or clearing corporation who is properly authorized by the insurer and approved by the director.

Subsection (b) allows that when securities are deposited with a clearing corporation the certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of the clearing corporation with any other securities deposited by any person, regardless of ownership of such securities. Certificates representing securities of small denominations may be merged into one or more certificates of larger denominations. The records of a custodian must at all times show which securities are held for which insurer accounts including when the securities are in a clearing corporation through the custodian. Securities may be transferred by bookkeeping entry on the books of the clearing corporation without physical delivery.

Subsection (c) requires that a custodial agreement between an insurer and the custodian be in writing and authorized by a resolution of the board of directors of the insurer or an authorized committee of the board. The terms of the agreement must comply with requirements of the director as adopted in regulations.

Section 4. AS 21.34.030(a) Workers' compensation written in the surplus lines market.

The amendment to Subsection (a) changes the written document requirement from a directive by the director to an order of the director when allowing workers compensation insurance to be written by a nonadmitted insurer.

Section 5. AS 21.34.170 Monthly report of surplus lines broker.

The amendment to subsection (a) is to remove the need for the monthly report to be verified with a notarization.

Section 6. AS 21.34.900 (9) Definition of wet marine and transportation insurance.
The amendment to paragraph (9) is to clarify that only one or more of the described coverages may be present to have insurance defined as wet marine and transportation insurance. All of the described coverages need not be present to be wet marine and transportation insurance.

Section 7. AS 21.36.060 Materially false or misleading statements.
The addition of subsection (c) prohibits a person from making or causing to be made materially false or misleading statements or omitting or causing another to omit any material fact necessary to make other statements made not misleading to an accountant in connection with a report required under AS 21.09.200.

The addition of subsection (d) prohibits a person from taking action to coerce, manipulate, mislead or fraudulently influence an accountant performing an audit under AS 21.09.200 if the person knew or should have known that the action would make the financial statement materially misleading.

Section 8. AS 21.42.405 High deductible health plan.
This new section specifies in subsection (a) that a health care insurer may have deductible or copayment requirements on health care insurance plans that qualify as high deductible health plans.

Subsection (b) limits the deductible or copayment requirement to the minimum amount necessary to qualify the plan as a high deductible health plan and not violate another provision of the insurance statutes in Title 21.

Subsection (c) specifies that the meaning of "high deductible health plan" is as is given in the Internal Revenue Code at 26.U.S.C. 223.

Section 9. AS 21.55.220(f) Premium Tax Credit.
The amendment to subsection (f) specifies that the premium tax credit given in this subsection for payments by an insurer to the Comprehensive Health Insurance Association is not to be included in the calculation of retaliatory fee in AS 21.09.270. The calculation of the retaliatory fee is not to negate the effect on an insurer of this premium tax credit to lower taxes owed.

Section 10. AS 21.79.040 Alaska Life and Health Insurance Guaranty Association member insurer.
The amendment to subsection (a) clarifies that a member insurer as defined in AS 21.79.900 is a member as a condition of the insurer's authority to transact insurance in Alaska.

Section 11. AS 21.79.900 Definition of member insurer.

The amendment to paragraph (10) clarifies that a member insurer is one that is licensed to transact in Alaska the kinds of insurance covered by the Alaska Life and Health Insurance Guaranty Association.

Section 12. AS 21.89.070 Premium Tax Credit.

A new subsection is added to clarify that a premium tax credit that is earned by a gift to a college allowed in AS 21.89.070(a) is not to be included in the calculation of retaliatory fee in AS 21.09.270. The calculation of the retaliatory fee is not to negate the effect on an insurer of this premium tax credit to lower taxes owed.

Section 13. AS 21.89.075 Premium Tax Credit.

A new subsection is added to clarify that a premium tax credit that is earned by a gift to the Alaska Fire Standards Council allowed in AS 21.89.075 is not to be included in the calculation of retaliatory fee in AS 21.09.270. The calculation of the retaliatory fee is not to negate the effect on an insurer of this premium tax credit to lower taxes owed.

Section 14. Regulations.

The director may adopt regulations necessary to implement this act but the regulations may not take effect prior to the effective date of the statutory changes.

Section 15. Effective date.

The effective date of Section 1 and 3 regarding the filing of an annual audit report by an insurer and the custodian of insurer assets is January 1, 2008 except that subsection (i) of AS 21.09.200 in Section 1 of the bill regarding the filing of a report from management describing internal control over financial reporting will be effective on December 31, 2010 and subsection (k) of AS 21.09.200 in Section 1 of the bill regarding the designation of an audit committee by an insurer will be effective on January 1, 2010.

Section 16. Effective date.

The authority in Section 14 to adopt regulations to implement this act takes effect immediately.

Section 17. Effective date.

All sections of the act are effective on July 1, 2007, except Sections 15 and 16 that specify different effective dates for Section 1, 3 and 14.

adopted 4/18/07 N/D

25-LS0609E
Bailey
4/17/07

CS FOR HOUSE BILL NO. 170()

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to annual audit reports by insurers, to custodians of insurer assets, to
2 writing workers' compensation insurance by surplus lines insurers, to reports by surplus
3 lines insurers, to the definition of 'wet marine and transportation insurance,' to false or
4 misleading financial statements concerning insurance audits, to high deductible health
5 plans, to retaliation for obligations, prohibitions, or restrictions imposed on Alaska
6 insurers by other states or countries, and to the membership of the Alaska Life and
7 Health Insurance Guaranty Association; and providing for an effective date."

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

9 * Section 1. AS 21.09.200 is amended by adding new subsections to read:

10 (g) An insurer shall file with the director or the director's designee an annual
11 audited financial report for the previous year by June 1 of each year unless, under a
12 regulation adopted by the director, the director grants an exemption based on a finding

1 that filing an annual audited financial report would constitute a financial or
2 organizational hardship on the insurer. The filing date for the annual audited financial
3 report may be extended by the director upon showing that the standards established by
4 regulation have been met. If the director gives the insurer 90 days' advance notice, and
5 for good cause, the director may require an insurer to file an audited financial report
6 earlier than June 1 of each year. The annual audited financial report must be prepared
7 by a qualified independent certified public accountant. An insurer shall notify the
8 director of the certified public accountant engaged to conduct the audit and issue the
9 annual audited financial report.

10 (h) Within 60 days after filing the annual audited financial report under (g) of
11 this section, the insurer shall file a written report on any unremediated material
12 weakness in internal control over financial reporting noted during the audit.

13 (i) The director may adopt regulations that require the insurer to file a report
14 from management describing internal control over financial reporting. An insurer shall
15 file the report on internal control by the date specified by the director.

16 (j) If the director requires the submission of additional information, the insurer
17 shall supplement the reports required by (h) and (i) of this section by the date specified
18 by the director. The reports on internal control filed with the director under (h) and (i)
19 of this section are confidential and subject to the provisions of AS 21.06.060.

20 (k) In accordance with regulations adopted by the director, an insurer shall
21 designate an audit committee to engage a qualified independent certified public
22 accountant to conduct the annual audit. The audit committee shall oversee services
23 performed by the certified public accountant. If an insurer does not designate an audit
24 committee, the entire governing board of the insurer is considered to be the audit
25 committee for purposes of this subsection.

26 (l) The certified public accountant conducting the annual audit required by (g)
27 of this section shall notify the governing board of the insurer or the audit committee in
28 writing of a determination by the certified public accountant that the insurer has
29 materially misstated its financial condition as reported to the director or that the
30 insurer does not meet the minimum capital requirements and surplus requirements of
31 this title as of the date of the balance sheet currently under audit. An insurer that has

1 received a report under this subsection shall forward a copy to the director. The
2 certified public accountant shall also forward the report to the director unless the
3 insurer provides evidence satisfactory to the certified public accountant that the report
4 has been forwarded to the director.

5 * Sec. 2. AS 21.09.270(f) is amended to read:

6 (f) For purposes of the application of (a) of this section, a health care insurer,
7 as defined in AS 21.54.500, may not include

8 (1) taxes, assessments, or other similar obligations on health care
9 insurance premiums received from the state, a municipality, a city or borough school
10 district, a regional educational attendance area, the University of Alaska, or a
11 community college operated by the University of Alaska;

12 (2) an offset reducing the premium tax payable under
13 AS 21.55.220(f);

14 (3) a tax credit allowed for gifts to colleges under AS 21.89.070; or

15 (4) a tax credit allowed for prequalified cash contributions to the
16 Alaska Fire Standards Council under AS 21.89.075. [IN THIS SUBSECTION,
17 "HEALTH CARE INSURER" HAS THE MEANING GIVEN IN AS 21.54.500.]

18 * Sec. 3. AS 21.21.410 is repealed and reenacted to read:

19 Sec. 21.21.410. Custodian of insurer assets. (a) The custodian for assets,
20 securities, or investments of the insurer may be only a bank, trust company, securities
21 firm, or clearing corporation that is properly authorized by the insurer and approved
22 by the director.

23 (b) When securities are deposited with a clearing corporation, certificates
24 representing securities of the same class of the same issuer may be merged and held in
25 bulk in the name of the nominee of the clearing corporation with any other securities
26 deposited with the clearing corporation by any person, regardless of the ownership of
27 the securities, and certificates representing securities of small denominations may be
28 merged into one or more certificates of larger denominations. The records of any
29 custodian through which an insurer holds securities in a clearing corporation must
30 show that the securities are held for the insurer and for which accounts of the insurer.
31 Ownership of, and other interest in, the securities may be transferred by bookkeeping

1 entry on the books of the clearing corporation without physical delivery of certificates
2 representing the securities.

3 (c) A custodial agreement between an insurer and an institution holding the
4 assets, securities, or investments of the insurer must be in writing and must be
5 authorized by a resolution of the board of directors of the insurance company or of an
6 authorized committee of the board. The terms of the custodial agreement must comply
7 with the requirements of the director.

8 * Sec. 4. AS 21.34.030(a) is amended to read:

9 (a) Workers' compensation insurance may be placed in and written by a
10 nonadmitted insurer if

11 (1) the director considers it in the best interest of the public and issues
12 an order [A DIRECTIVE] to that effect;

13 (2) the insurance is written in accordance with this chapter; and

14 (3) all conditions established for writing workers' compensation
15 insurance in a nonadmitted market receive compliance.

16 * Sec. 5. AS 21.34.170(a) is amended to read:

17 (a) A surplus lines broker shall file with the director on or before the end of
18 each month, on forms prescribed by the director, a [VERIFIED] report of all surplus
19 lines insurance, by type of insurance as required to be reported in the annual statement
20 that must be filed with the director by admitted insurers. The report must include all
21 surplus lines insurance transactions during the preceding calendar month showing the
22 aggregate gross premiums written, the aggregate return premiums, the amount of
23 aggregate tax remitted to this state, and the amount of aggregate tax remitted to each
24 other state for which an allocation is made under AS 21.34.180.

25 * Sec. 6. AS 21.34.900(9) is amended to read:

26 (9) "wet marine and transportation insurance" means one or more of
27 the following:

28 (A) insurance upon, of interest in, or relating to vessels, crafts,
29 hulls, except vessels of 50 displacement tons or less;

30 (B) insurance of marine builders risks, marine war risks, and
31 contracts of marine protection and indemnity insurance;

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(C) insurance of freight and disbursements pertaining to a subject of insurance coming within this paragraph; or [AND]

(D) insurance of personal property and interests in personal property, in course of exportation from or importation into a country or in the course of coastal or inland water transportation, including transportation by land, water, or air from point of origin to final destination in connection with any and all risks or perils of navigation, transit, or transportation, and while being repaired for and while awaiting shipment, and during any delays, transshipment, or reshipment incident to them.

* Sec. 7. AS 21.36.060 is amended by adding new subsections to read:

(c) A person may not, directly or indirectly, in connection with an audit, review, or communication required under AS 21.09.200

(1) make or cause to be made a materially false or misleading statement to an accountant; or

(2) omit to state or cause another person to omit to state any material fact necessary in order to make other statements made not misleading to an accountant.

(d) A person may not, directly or indirectly, take any action to coerce, manipulate, mislead, or fraudulently influence any accountant engaged in the performance of an audit under AS 21.09.200 if that person knew or should have known that the action, if successful, could result in rendering the insurer's financial statement materially misleading.

* Sec. 8. AS 21.42 is amended by adding a new section to read:

Sec. 21.42.405. High deductible health plan. (a) A health care insurer that offers, issues, delivers, or renews a health care insurance plan in this state may apply deductible or copayment requirements to health care benefits and services that qualify the health care insurance plan as a high deductible health plan.

(b) A health care insurer may only apply a deductible or copayment requirement to health care benefits or services under (a) of this section to the extent, and in the minimum amount necessary, to qualify the health care insurance plan as a high deductible health plan and to the extent that the deductible or copayment

1 requirements do not violate another provision of this title.

2 (c) In this section, "high deductible health plan" has the meaning given in 26
3 U.S.C. 223 (Internal Revenue Code).

4 * Sec. 9. AS 21.55.220(f) is amended to read:

5 (f) A member may offset 50 percent of the amount of the assessment under
6 this section as a premium tax credit reducing the premium tax payable by the member
7 under AS 21.09.210. The offset shall apply to the tax levied for the calendar year
8 following an annual determination of each member's liability under (d) of this section.
9 The offset may not reduce the premium tax payable by a member to less than zero or
10 create a premium tax credit for the member. An unused offset may be carried over to
11 the immediately following calendar year. An offset made under this subsection is
12 not subject to AS 21.09.270.

13 * Sec. 10. AS 21.79.040(a) is amended to read:

14 (a) There is established as a nonprofit legal entity the Alaska Life and Health
15 Insurance Guaranty Association. Each member insurer [AN INSURER THAT
16 ISSUES AN INSURANCE POLICY DESCRIBED IN AS 21.79.020(b)] shall be a
17 member of the association as a condition of the insurer's authority to transact
18 insurance in this state. The association shall perform its functions under a plan of
19 operation established and approved under AS 21.79.080 and shall exercise its powers
20 through the Board of Governors established under AS 21.79.050. For purposes of
21 administration and assessment, the association shall maintain the following accounts:

22 (1) the health insurance account; and

23 (2) the life insurance and annuity account, including the following
24 subaccounts:

25 (A) life insurance account;

26 (B) annuity account that must include annuity contracts owned
27 by a governmental retirement benefit plan, or its trustee, qualified under 26
28 U.S.C. 401, 26 U.S.C. 403(b), or 26 U.S.C. 457 (Internal Revenue Code), but
29 that otherwise excludes unallocated annuities; and

30 (C) unallocated annuity account that must exclude contracts
31 owned by a governmental retirement benefit plan, or its trustee, qualified under

1 26 U.S.C. 401, 26 U.S.C. 403(b), or 26 U.S.C. 457 (Internal Revenue Code).

2 * Sec. 11. AS 21.79.900(10) is amended to read:

3 (10) "member insurer" means an insurer licensed to transact insurance
4 in the state for which coverage is provided [THAT ISSUES A POLICY
5 DESCRIBED] in AS 21.79.020 [AS 21.79.020(a) AND (b)], or a subscriber contract
6 providing benefits described in AS 21.87.120(a)(2) - (4) or 21.87.130(a)(2) and (3),
7 and includes an insurer whose license or certificate of authority in this state may have
8 been suspended, revoked, not renewed, or voluntarily withdrawn; "member insurer"
9 does not include

10 (A) a health maintenance organization licensed under
11 AS 21.86;

12 (B) a fraternal benefit society licensed under AS 21.84;

13 (C) a mandatory state pooling plan;

14 (D) a mutual assessment company or an entity that operates on
15 an assessment basis;

16 (E) an insurance exchange licensed under AS 21.75;

17 (F) a hospital or medical service organization licensed under
18 AS 21.87;

19 (G) an organization that has a license or certificate limited to
20 the issuance of charitable gift annuities; or

21 (H) an entity similar to one described under (A) - (G) of this
22 paragraph;

23 * Sec. 12. AS 21.89.070 is amended by adding a new subsection to read:

24 (d) A contribution allowed as a tax credit under this section is not subject to
25 AS 21.09.270.

26 * Sec. 13. AS 21.89.075 is amended by adding a new subsection to read:

27 (e) A contribution allowed as a tax credit under this section is not subject to
28 AS 21.09.270.

29 * Sec. 14. The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 TRANSITION: REGULATIONS. The director of insurance may immediately proceed

1 to adopt regulations under AS 21.06.090 necessary to implement this Act. The regulations
2 take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date
3 of the statutory changes.

4 * **Sec. 15.** Sections 1 and 3 of this Act take effect January 1, 2008, except that
5 AS 21.09.200(i), enacted by sec. 1 of this Act, takes effect on December 31, 2010, and
6 AS 21.09.200(k), enacted by sec. 1 of this Act, takes effect on January 1, 2010.

7 * **Sec. 16.** Section 14 of this Act takes effect immediately under AS 01.10.070(c).

8 * **Sec. 17.** Except as provided in secs. 15 and 16 of this Act, this Act takes effect July 1,
9 2007.



ALASKA STATE LEGISLATURE

HOUSE LABOR & COMMERCE COMMITTEE

REP. KURT OLSON
Chairman
State Capitol, Room 17
Juneau, AK 99801-1182
(907) 465-2693 FAX 465-3835

Rep Mark Neuman, V-Chair Rep. Carl Gatto
Rep. Jay Ramras Rep. Berta Gardner
Rep. Gabrielle LeDoux Rep. Bob Buch

Sponsor Statement HB 170 Insurance

HB 170 relates to the accreditation of the Division of Insurance and includes other minor clarifying changes to the insurance code.

The Bill requires that insurers submit an audit report to the Director each year and other internal control reports if required by the Director. The Certified Public Accountant performing audit services for the insurer must be qualified and independent and must register with the Director. The bill also prohibits a person from making false or misleading statements to an auditor. This reporting is an accreditation standard and is required in order to be uniform with other states and maintain accreditation of the Division of Insurance.

HB 170 puts requirements on custodians of insurer assets. It specifies who may act as a custodian and requires they be approved by the Director. The bill specifies how clearing corporations may hold assets. All custodial agreements must be in writing and in compliance with requirements of the Director. These rules are necessary for the secure control of assets of an insurer and will be accreditation requirements.

The bill also clarifies language in several sections by adopting wording that is consistent with similar wording in other sections, removing unnecessary notarization requirements, and clarifying definitions.

Insurance Legislation

Sectional Analysis by the Department of Commerce, Community and Economic Development Division of Insurance

Section 1. AS 21.09.195 Registration for annual preparer of an insurer's audited financial report.

This section has been added to require the director to establish a system of registration of certified public accounts who will be conducting audits on Alaska insurance companies.

Section 2. AS 21.09.200 Insurer annual audited financial report.

These sections require the insurer to engage a certified public accountant to conduct an annual audit and submit reports to the division.

Subsection (g) specifies that the audit report filing is due by June 1 of each year unless the director exempts the insurer based on financial or organizational hardship or extends the due date based on a showing by the insurer that they have met standards for an extension given in regulations. The director may require an insurer to file the audit report before June 1 for good cause and 90 days advance notice to the insurer. The audit report must be prepared by a qualified independent certified public accountant registered with the director.

Subsection (h) requires the insurer to file a written report on any unremediated material weaknesses in internal control over financial reporting which are noted during the audit. The filing must be no later than 60 days after the filing of the audit report.

Subsection (i) says that the director may require for good cause that the insurer file a report on internal control over financial reporting. The internal control report shall be filed on the date specified by the director.

Subsection (j) says that any additional information the director requires to supplement the reports required in subsection (h) and (i) must also be filed by the date specified by the director. The filed reports on internal control are confidential documents.

Subsection (k) requires that an audit committee shall be designated in accordance with regulations. The audit committee will hire the qualified independent certified public accountant registered with the division to conduct the annual audit and shall monitor services performed by the certified public accountant. If no audit committee is designated by the insurer, the whole governing board of the insurer is deemed to be the audit committee.

Subsection (l) requires the certified public accountant to notify the audit committee or governing board of the insurer in writing that the insurer has misstated its financial condition as reported to the director or that the insurer does not meet minimum capital and surplus requirements of statute. An insurer receiving such a report shall forward a copy to the director. The certified public accountant shall forward the report to the director unless the insurer provides evidence that the report has been forwarded to the director.

Section 3. AS 21.21.410 Custodian of Insurer Assets.

This section specifies new requirements for custodians of the assets of an insurance company.

Subsection (a) specifies that a custodian may only be a bank, trust company, securities firm or clearing corporation who is properly authorized by the insurer and approved by the director.

Subsection (b) allows that when securities are deposited with a clearing corporation the certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of the clearing corporation with any other securities deposited by any person, regardless of ownership of such securities.

Certificates representing securities of small denominations may be merged into one or more certificates of larger denominations. The records of a custodian must at all times show which securities are held for which insurer accounts including when the securities are in a clearing corporation through the custodian. Securities may be transferred by bookkeeping entry on the books of the clearing corporation without physical delivery.

Subsection (c) requires that a custodial agreement between an insurer and the custodian be in writing and authorized by a resolution of the board of directors of the insurer or an authorized committee of the board. The terms of the agreement must comply with requirements of the director as adopted in regulations.

Section 4. AS 21.34.030(a) Workers' compensation written in the surplus lines market.

The amendment to Subsection (a) changes the written document requirement from a directive by the director to an order of the director when allowing workers compensation insurance to be written by a nonadmitted insurer.

Section 5. AS 21.34.170 Monthly report of surplus lines broker.

The amendment to subsection (a) is to remove the need for the monthly report to be verified with a notarization.

Section 6. AS 21.34.900 (9) Definition of wet marine and transportation insurance.

The amendment to paragraph (9) is to clarify that only one or more of the described coverages may be present to have insurance defined as wet marine and transportation insurance. All of the described coverages need not be present to have wet marine and transportation insurance.

Section 7. AS 21.36.060 Materially false or misleading statements.

The addition of subsection (c) prohibits a person from making or causing to be made materially false or misleading statements or omitting or causing another to omit any material fact necessary to make other statements made not misleading to an accountant in connection with a report required under AS 21.09.200.

The addition of subsection (d) prohibits a person from taking action to coerce, manipulate, mislead or fraudulently influence an accountant performing an audit under AS 21.09.200 if the person knew or should have known that the action would make the financial statement materially misleading.

Section 8. AS 21.79.040 Alaska Life and Health Insurance Guaranty Association member insurer.

The amendment to subsection (a) clarifies that a member insurer as defined in AS 21.79.900 is a member as a condition of the insurer's authority to transact insurance in Alaska.

Section 9. AS 21.79.900 Definition of member insurer.

The amendment to paragraph (10) clarifies that a member insurer is one that is licensed to transact in Alaska the kinds of insurance covered by the Alaska Life and Health Insurance Guaranty Association.

Section 10. Regulations.

The director may adopt regulations necessary to implement this act but the regulations may not take effect prior to July 1, 2007.

Section 11. Effective date.

The effective date of Section 3 regarding the custodian of insurer assets is January 1, 2008.

Section 12. Effective date.

The authority in Section 10 to adopt regulations to implement this act takes effect immediately.

Section 13. Effective date.

All sections of the act are effective on July 1, 2007, except Section 11 and 12 that specify different effective dates for sections 3 and 10.

HB

175

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 175(JUD)
(H) Publish Date: 3/27/07

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
Title: Eminent Domain; Recreational Structures RDU: Administration and Support
Component: Commissioner's Office
Sponsor: Rep. Johnson
Requester: House JUD Component No.: 530

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact on the Department of Transportation and Public Facilities.

Prepared by: Mary Siroky
Division: Commissioner's Office
Approved by: Nancy Slagle, Director Division of Administrative Support
Agency: Department of Transportation and Public Facilities

Phone: 465-4772
Date/Time: 3/09/07 3:00pm
Date: 3/9/2007

ALASKA STATE LEGISLATURE

Interim:

716 West 4th Avenue, Suite 640
Anchorage, Alaska 99501
Phone (907) 269-0200
Fax (907) 269-0204
Rep_Craig_Johnson@legis.state.ak.us



Session:

State Capitol Building, Room 126
Juneau, Alaska 99801-1182
Phone (907) 465-4993
Fax (907) 465-3872
Toll-free (866) 465-4993

REPRESENTATIVE CRAIG JOHNSON
HOUSE DISTRICT 28

Sponsor Statement

House Bill 175

"An Act further limiting the exercise of eminent domain."

HB 175 strengthens the individual's property rights by protecting privately owned recreational structures from the exercise of eminent domain for recreational purposes.

Eminent domain is an important right of the government. However, it should only be used for the most judicious of purposes, and every effort should be made to minimize its impact to the right of the individual to own private property.

AS 09.55.240 limits the government's authority to exercise eminent domain and seize personal residences by clearly outlining its legitimate use (namely the construction and/or expansion of roads, schools, and public buildings) and by prohibiting its exercise for the purpose of economic development or to generate increased government revenues.

HB 175 affords privately owned recreational structures the same protection from government seizure already granted to personal residences in AS 09.55.240.

The right to own private property is one of the most important rights of Alaskans. By prohibiting government seizure of privately owned recreational structures for recreational purposes, HB 175 strengthens that right and ensures the continued use of land in the greatest of ways – that of private ownership.



ANCHORAGE BOARD
OF REALTORS® INC.

REALTOR® *The Voice for Real Estate™* In Anchorage

1500 W. 33rd Avenue
Suite #220
Anchorage, Alaska 99503
(907) 561-2338
(907) 563-8476 Fax

March 13, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreation^{al} structures

Dear Representative Johnson,

The Anchorage Board of REALTORS® with over 900 members supports House Bill 175, which relates eminent domain and recreational structures.

Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

We favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes which are very common throughout Alaska.

The Anchorage Board encourages the passage of House Bill 175.

Sincerely,

Art Clark
ABR President



March 13, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

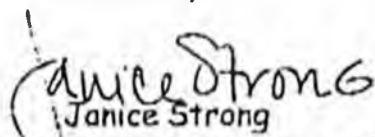
The Alaska Association of REALTORS with over 1,600 members statewide supports House Bill 175, which relates eminent domain and recreational structures.

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We favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes, which are very common throughout Alaska.

The Association encourages the passage of House Bill 175.

Sincerely,


Janice Strong

Alaska Association of Realtors
Secretary for the Board of Directors

ASSOCIATED ISLAND BROKERS INC.

March 13, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, AK 99801

RE: House Bill 175, Relating to the exercise of Eminent Domain and recreational structures

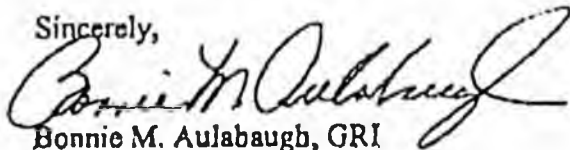
Dear Rep. Johnson:

I would like to express my support for House Bill 175. Since HB 318 passed during the last legislative session and defined whether or not it is appropriate to take a person's private property for economic development and also whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another, it seems that HB 175 is simply a "house-keeping" step to include recreational structures and second homes in the definition of primary residence.

I favor HB 175 since I believe it is something that is needed for consumer protection and would simply change the definition of primary residences in Alaska to include recreational structures and second homes, which as you know, are very common throughout our State.

I encourage the passage of House Bill 175. Thank you for your kind consideration.

Sincerely,



Bonnie M. Aulabaugh, GRI
Associate Broker



202 Center Avenue, Suite 101

Office: (907) 486-2000

E-Mail: aihi@ptialaska.net

Kodiak, Alaska 99615

Fax: (907) 486-4016





*First American
Title Insurance Company*

March 12, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

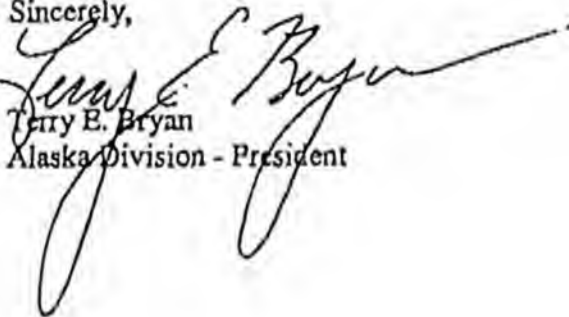
First American Title currently has offices in 10 communities' through-out the State of Alaska. Our offices assist in the facilitation of, in excess of 10,000, real estate transactions, involving Alaskan property owners, each year. Many of those transactions include, what could be considered, recreational properties.

Last session, I supported HB 318, which addressed the issue of 'taking' a property owner's private property for economic development and whether it is appropriate to take all or part of one's primary residence to enhance the recreational opportunities of another.

I favor this consumer protection, legislation because it correctly identifies primary residences to include recreational structures and second homes.

I support the passage of House Bill 175.

Sincerely,



Terry E. Bryan
Alaska Division - President

Marsh:



The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

The Alaska Association of REALTORS® with over 1,600 members statewide supports House Bill 175, which relates eminent domain and recreational structures.

Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

We favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes which are very common throughout Alaska.

The Association encourages the passage of House Bill 175.

Sincerely,

Krystal Rogers
Associate Broker
ReMAX of Wasilla

Krystal Rogers
Associate Broker

RE/MAX of Wasilla

3161 E. Palmer Wasilla Hwy. • Wasilla, AK 99654
Call: (907) 355-8455 • Direct: (907) 352-9345 • Fax: (907) 373-6882
E-mail: krystal@mtmonline.net
Each Office Independently Owned and Operated

March 12, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

As a member of Alaska Association of REALTORS® with over 1,600 members statewide, I support House Bill 175, which relates eminent domain and recreational structures.

The government should not be able to confiscate private property!

Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

I favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes, which are very common throughout Alaska.

Please support the passage of House Bill 175.

Sincerely,

Holly Cirau
RE/MAX of Juneau

March 12, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

As a member of Alaska Association of REALTORS® with over 1,600 members statewide, I support House Bill 175, which relates eminent domain and recreational structures.

The government should not be able to confiscate private property!

Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

I favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes, which are very common throughout Alaska.

Please support the passage of House Bill 175.

Sincerely,

Kickie Gartley
Remax of Juneau

Stacy Risner
PO Box 75188
Fairbanks, AK 99701

March 12, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

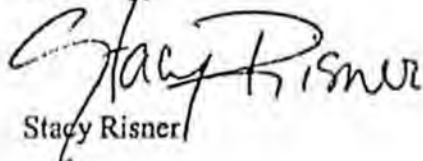
Dear Representative Johnson,

I am writing to you in support of House Bill 175, which relates eminent domain and recreational structures.

I wholeheartedly supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development. HB 175 will protect our citizens by including recreational structures and second homes in this protection. One of the great aspects of this state is the ability to get out and enjoy the beauty of our land and the wildlife that live there. Many people own recreational property to do just that, and it is simply unfair for anyone to be able to take this away for the gain of another.

Thank you for your time and consideration on this subject. I sincerely appreciate your support of House Bill 175.

Sincerely,


Stacy Risner

March 12, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

As a member of the Alaska Association of REALTORS® with over 1,600 members statewide, I support House Bill 175, which relates eminent domain and recreational structures.

The government should not be able to confiscate private property!

Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

I favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes, which are very common throughout Alaska.

Please support the passage of House Bill 175.

Sincerely,



Debbie White
REMAX of Juneau
8800 Glacier Hwy #219
Juneau, A.K. 99801



ALASKA ASSOCIATION OF REALTORS, INC.
4205 Minnesota Drive Anchorage, Alaska 99503
Telephone (907) 563-7133 Fax (907) 561-1779
www.alaskarealtors.com

March 12, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

The Alaska Association of REALTORS® with over 1,600 members statewide supports House Bill 175, which relates eminent domain and recreational structures.

Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

We favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes which are very common throughout Alaska.

The Association encourages the passage of House Bill 175.

Sincerely,

A handwritten signature in cursive script that reads 'Judy Cloud'.

Judy Cloud
AAR President



March 12, 2007

The Honorable Craig Johnson
 Alaska House of Representatives
 State Capitol Building
 Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

As a member of Alaska Association of REALTORS® with over 1,600 members statewide, I support House Bill 175, which relates eminent domain and recreational structures.

The government should not be able to confiscate private property!

Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

I favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes, which are very common throughout Alaska.

Please support the passage of House Bill 175.

Sincerely,

Marybeth Stinchfield
 Associate Broker
 RE/MAX of Juneau

March 12, 2007

The Honorable Craig Johnson
 Alaska House of Representatives
 State Capitol Building
 Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

As a member of Alaska Association of REALTORS® with over 1,600 members statewide, I support House Bill 175, which relates eminent domain and recreational structures.

The government should not be able to confiscate private property!

Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

I favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes, which are very common throughout Alaska.

Please support the passage of House Bill 175.

Sincerely,



Remax of Juneau

March 13, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

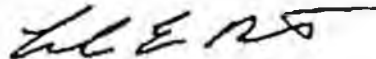
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Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

I favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes which are very common throughout Alaska.

So I encourage the passage of House Bill 175.

Sincerely,



Carl E. Brent
#16675

March 12, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

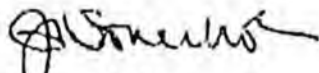
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Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

We favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes which are very common throughout Alaska.

The Association encourages the passage of House Bill 175.

Sincerely,



Jo Sonerholm
Associate Broker
Prudential Jack White Vista

March 12, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

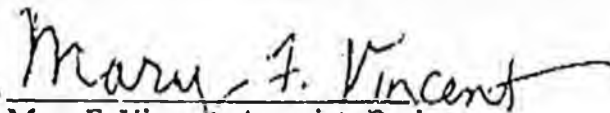
I have been selling real estate in the Mat-Su Borough for 27 years, and myself, along with the Alaska Association of REALTORS® with over 1,600 members statewide supports House Bill 175, which relates to eminent domain and recreational structures.

Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

Our primary focus as Realtors, is to PROTECT THE RIGHTS OF THE PUBLIC. Therefore, we favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes which are extremely common throughout Alaska. Private property rights must be protected in this country – we are NOT a socialistic nation.

The Association encourages the passage of House Bill 175.

Sincerely,



Mary F. Vincent, Associate Broker
Prudential JW/Vista RE
907-352-1863 VM

Judy Cloud

March 13, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

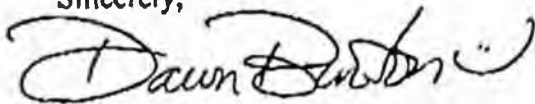
The Alaska Association of REALTORS® with over 1,600 members statewide supports House Bill 175, which relates eminent domain and recreational structures.

Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

I favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes which are very common throughout Alaska.

The Association encourages the passage of House Bill 175.

Sincerely,

A handwritten signature in cursive script that reads "Dawn Burton" with a small smiley face at the end.

Dawn Burton ☺
Realtor

Westlaw.

AK ST § 09.55.240

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P

ALASKA STATUTES

Title 9. Code of Civil Procedure.

Chapter 55. Special Actions and Proceedings.

Article 4. Eminent Domain.

Sec. 09.55.240 Uses for which authorized; rights-of-way.

(a) Except as provided in (d) and (e) of this section, the right of eminent domain may be exercised for the following public uses:

- (1) all public uses authorized by the government of the United States;
- (2) public buildings and grounds for the use of the state and all other public uses authorized by the legislature of the state;
- (3) public buildings and grounds for the use of an organized or unorganized borough, city, town, village, school district, or other municipal division, whether incorporated or unincorporated; canals, aqueducts, flumes, ditches, or pipes conducting water, heat, or gas for the use of the inhabitants of an organized or unorganized borough, city, town, or other municipal division, whether incorporated or unincorporated; raising the banks of streams, removing obstructions from them, and widening, deepening, or straightening their channels; and roads, streets, and alleys, and all other public uses for the benefit of an organized or unorganized borough, city, town, or other municipal division whether incorporated or unincorporated, or its inhabitants, which may be authorized by the legislature;
- (4) wharves, docks, piers, chutes, booms, ferries, bridges of all kinds, private roads, plant and turnpike roads, railroads, canals, ditches, flumes, aqueducts, and pipes for public transportation, supplying mines and farming neighborhoods with water, and draining and reclaiming land, and for floating logs and lumber on streams not navigable, and sites for reservoirs necessary for collecting and storing water;
- (5) roads, tunnels, ditches, flumes, pipes, and dumping places for working mines; also outlets, natural or otherwise, for the flow, deposit, or conduct of tailings or refuse matter from mines; also an occupancy in common by the owners or possessors of different mines of any place for the flow, deposit, or conduct of tailings or refuse matter from their several mines, and sites for reservoirs necessary for collecting and storing water;
- (6) private roads leading from highways to residences, mines, or farms;
- (7) telephone lines;
- (8) fiber-optic lines;
- (9) telegraph lines;
- (10) sewerage of an organized or unorganized borough, city, town, village, or other municipal division, whether incorporated or unincorporated, or a subdivision of it, or of a settlement consisting of not less than 10 families, or of public buildings belonging to the state or to a college or university;
- (11) tramway lines;

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(12) electric power lines;

(13) for the location of pipelines for gathering, transmitting, transporting, storing, or delivering natural or artificial gas or oil or any liquid or gaseous hydrocarbons, including, but not limited to, pumping stations, terminals, storage tanks, or reservoirs, and related installations.

(b) The use of water for mining, power, and municipal purposes and the use of pole and power lines for telephone and telegraph wires, for aerial trams, and for the transmission of electric light and electric power, by whomever utilized, are each declared to be beneficial to the public and to be a public use within the provisions of AS 09.55.240 -- 09.55.460. Rights-of-way across private property when they are necessary for the operation of the mine or other project in connection with which it is intended to be used may be condemned in the manner as for any other condemnation. The right-of-way may extend only to a right-of-way along, upon, and across the surface of the land to be condemned and to a strip of the land of sufficient width to permit the construction on the land of a ditch, flume, pipeline, canal, or other means of conveying water as is adequate for the purposes intended, for the setting of poles or the construction of towers upon which to string wires for telephone and telegraph lines and lines for the transmission of electric light or power for the operation of aerial trams, and to permit maintaining the lines and keeping them in repair.

(c) [Repealed, § 15 ch 59 SLA 1982.]

(d) The power of eminent domain may not be exercised to acquire private property from a private person for the purpose of transferring title to the property to another private person for economic development purposes. This subsection does not apply to transfers of private property to another private person if one or more of the following apply:

(1) the landowner consents, either before or after a condemnation proceeding has been filed, to the use of the property for a private commercial enterprise or other economic development;

(2) the private person has been expressly authorized by statute either to exercise the power of eminent domain or to receive an interest in land acquired by the exercise of eminent domain;

(3) the transferred property is used for a private way of necessity to permit essential access for extraction or use of resources;

(4) the acquisition is used, in part, for leasing property to a private person that occupies a portion of public property or a public facility, including a private business that occupies a portion of an airport, port, or public building;

(5) the property is transferred to a person by oil and gas lease under AS 38.05.180;

(6) the property is transferred to a common carrier.

(e) The power of eminent domain may not be exercised for the purpose of developing a recreational facility or project if the property to be acquired includes an individual landowner's personal residence or that portion of an individual's property attached to and within 250 linear feet of an individual landowner's personal residence unless the landowner consents either before or after a condemnation proceeding has been filed.

(f) Notwithstanding the limitations on the power of eminent domain in (d) and (e) of this section, the legislature may approve the exercise of eminent domain against private property in an Act, the subject of which is limited to the transfer of the property for a purpose otherwise restricted under (d) or (e) of this section.

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(g) The power of eminent domain may only be delegated by statute.

(h) In this section,

(1) "common carrier" has the meaning given in AS 04.16.125;

(2) "economic development" means development of property for a commercial enterprise carried on for profit or to increase tax revenue, tax base, or employment;

(3) "personal residence" means a structure that is the dwelling place of an individual that

(A) must be used by the owner or beneficiary of a trust holding legal title to the structure as a dwelling unit, as opposed to a rental, storage, or other commercial space;

(B) must be inhabited by the owner, prior owner, or beneficiary of a trust holding legal title to the structure for at least 90 days during the 12-month period immediately before the date an action for the exercise of the power of eminent domain is filed;

(C) must constitute an ordinary home for general living purposes, as opposed to a dwelling used only for seasonal recreational or temporary purposes; and

(D) may not have been constructed, placed, or occupied for the purpose of avoiding eminent domain proceedings;

(4) "private person" means a person that is not a public corporation as defined in AS 45.77.020 or a government as defined in AS 11.81.900;

(5) "recreational facility or project"

(A) means a facility or project, the primary purpose of which is recreational;

(B) includes a park, trail or pedestrian pathway, greenbelt, amusement park, fresh water boat harbor, sports facility, playground, infrastructure, or other facility related to or in support of an indoor or outdoor recreational facility or project;

(C) does not include

(i) a highway, sidewalk, or path within the right-of-way of a highway;

(ii) a path, trail, or lane used as a safe route to a school program;

(iii) a wayside or rest stop;

(iv) a development, the primary purpose of which is not recreational, such as a path, trail, or lane developed to reduce congestion, or to encourage use of an alternate, gas-saving mode of transportation;

(v) a path or trail to or between villages or from a village to a facility or resource;

(vi) a stormwater retention or treatment facility or wetland, habitat, or other acquisition required to obtain a permit for a highway, airport, or other public project;

(vii) a taking under AS 19.05.110, 19.05.120, AS 19.22.020, AS 27.21.300, AS 35.20.040, 35.20.050, or AS

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41.35.060;

(viii) a taking not prohibited by law before January 1, 2007, under AS 41.21; and

(ix) a path, trail, road, or site for which no reasonable alternative exists and which is necessary to preserve or establish public access to or along publicly owned land or water, if the use of the path, trail, road, or site itself is for transportation to or to facilitate use of publicly owned land or water.

(§ 13.01 ch 101 SLA 1962; am § 2 ch 72 SLA 1972; am § 1 ch 62 SLA 1973; am § 24 ch 3 FSSLA 1973; am § 15 ch 59 SLA 1982; am §§ 2, 3 ch 84 SLA 2006)

REFERENCES

Cross references. -- For statement of legislative intent and findings for the 2006 amendment of (a) of this section and addition of (d) -- (h) of this section. see § 1, ch. 84, SLA 2006, in the 2006 Temporary and Special Acts.

HISTORICAL NOTES

Effect of amendment. -- The 2006 amendment, effective October 3, 2006, added "Except as provided in (d) and (e) of this section" at the beginning of subsection (a), inserted paragraph (a)(8), renumbering paragraphs (a)(8) -- (12) as (a)(9) -- (13), added subsections (d) through (h), and made a minor stylistic change.

Editor's notes. -- Under § 6, ch. 84, SLA 2006, the 2006 amendment of (a) of this section and addition of (d) -- (h) of this section apply "only to condemnation actions filed on or after October 3, 2006."

Opinions of attorney general. -- The state may use its condemnation powers for a state office complex to be constructed by, and leased from, a private developer. In order to insure that the leasing arrangement clearly qualifies as a public use, however, the department should enter into a long-term lease with the developer, and should not grant the developer any sort of purchase option at the conclusion of the lease term. April 17, 1981, Op. Att'y Gen.

NOTES TO DECISIONS

I. General Consideration.

II. Power to Condemn.

III. Public Uses.

A. Generally.

B. Mines.

C. Tramway Lines.

I. General Consideration.

Eminent domain proceedings are unique, and are governed by comprehensive rules of procedure applicable to condemnation actions alone. *Stewart & Grindle, Inc. v. State*, 524 P.2d 1242 (Alaska 1974).

Strict construction. -- Eminent domain statutes are universally construed strictly, particularly where a different

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construction would render the act of doubtful validity. *Northern Mining & Trading Co. v. Alaska Gold Recovery Co.*, 20 F.2d 5 (9th Cir. 1927).

Public subject matter. -- The subject matter of eminent domain proceedings is one of public rather than of private interest. *Alaska Gold Recovery Co. v. Northern Mining & Trading Co.*, 7 Alaska 386 (1926).

Questions to be considered by court. -- Ordinarily the only questions to be considered by the courts in condemnation proceedings are: First, whether the petitioner has the power to exercise the right of eminent domain; second, whether the property itself is of a nature subject to condemnation; third, whether the property is being taken for a public or a private use; and fourth, whether the power is being used for taking an excessive amount of property. *Town of Seward v. Margules*, 9 Alaska 354 (1938).

Appropriation deemed exercise of power of eminent domain. -- Neither the failure of the state to institute a condemnation action nor the owners' assertion of a claim based on the theory of trespass changed the essential nature of the state's action in appropriating the owners' property from one of the exercise of the power of eminent domain. *State, Dept of Highways v. Crosby*, 410 P.2d 724 (Alaska 1966).

Improvements to right of way reserved in patent. -- While the original reservation of a right-of-way and election provided for in former § 41-1-4 ACLA 1949 was without limitation as to initial choice on the part of either the federal government or Alaska, once the right-of-way has been selected and defined, later improvements necessitating the utilization of land upon which the road is not already located can only be accomplished pursuant to the condemnation and compensation provisions of this article. *Hillstrand v. Alaska*, 181 F. Supp. 219 (D. Alaska 1960), petition for interlocutory review denied, 352 P.2d 633 (1960).

Cited in *Mount Juneau Enters., Inc. v. City of Juneau*, 923 P.2d 768 (Alaska 1996).

II. Power to Condemn.

Inherent power in government. -- The power of eminent domain is inherent in the government and does not depend upon the constitution. *Alaska Gold Recovery Co. v. Northern Mining & Trading Co.*, 7 Alaska 386 (1926).

Constitution only acts as limitation on power. -- See *Alaska Gold Recovery Co. v. Northern Mining & Trading Co.*, 7 Alaska 386 (1926).

The right of a municipality to proceed in eminent domain is conferred, when this section is considered in connection with the express statutory grant of power to municipalities to provide for the location, construction, and maintenance of the necessary streets, alleys, crossings, sidewalks, sewers, and wharves. *Ashby v. City of Juneau*, 174 F. 737 (9th Cir. 1910).

The power to locate and construct a street can only be exercised by a municipality, and can only be made effective by invoking the power of eminent domain. *Ashby v. City of Juneau*, 174 F. 737 (9th Cir. 1910).

Borough. -- A borough's authority to condemn land for a school can be inferred from the eminent domain statutory scheme. *Greater Anchorage Area Borough v. 10 Acres More or Less*, 563 P.2d 269 (Alaska 1977).

The express and exclusive authority to operate a school system, coupled with the statutory permission to condemn land for public buildings for school districts, conferred upon a borough the authority to condemn land for a school. *Greater Anchorage Area Borough v. 10 Acres More or Less*, 563 P.2d 269 (Alaska 1977).

Pipeline company as agent of state. -- Although pipeline company could, upon delegation from state, exercise power of eminent domain through declaration of taking or otherwise, its statutory authority does not extend so far

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as to immunize it from liability for trespass if it has not initiated eminent domain proceedings. *Ostrem v. Alyeska Pipeline Serv. Co.*, 648 P.2d 986 (Alaska 1982).

Right of foreign or domesticated corporations to condemn lands. -- See *Miocene Ditch Co. v. Lyng*, 138 F. 544 (9th Cir. 1905).

III. Public Uses.

A. Generally.

"Public use" extends to use for public welfare. -- The term "public use" has received enlarged scope and meaning, and the test is no longer confined to use by the public, but use for the public welfare. The power of a state to work out from the conditions existing in a mining region the largest welfare of its inhabitants has often been recognized. *Alaska Gold Recovery Co. v. Northern Mining & Trading Co.*, 7 Alaska 386 (1926).

Question of public use is ultimately for jury. -- The question whether the use is in fact public or not, so as to justify the taking without the consent of the owner, is, ultimately, one which the courts alone may determine. *Alaska Gold Recovery Co. v. Northern Mining & Trading Co.*, 7 Alaska 386 (1926).

Mining gold. -- The mining of gold has been held to be a public use on account of its relation to the public currency. *Alaska Gold Recovery Co. v. Northern Mining & Trading Co.*, 7 Alaska 386 (1926).

Roads, streets and alleys. -- The words "roads, streets and alleys" in paragraph (a)(3) of this section are used independently as within the public uses defined by the statute, and relate to properties clearly made the subjects of condemnation. *Ashby v. City of Juneau*, 174 F. 737 (9th Cir. 1910).

B. Mines.

Lode and placer claims are included within "mines". -- The word "mines," as used in this section, e.g., "supplying mines . . . with water," and "roads, tunnels, ditches, flumes, pipes, and dumping places for working mines," is sufficiently broad to include, and was intended to include, placer mining ground, and both lode and placer claims are so included, irrespective of whether they are already opened up or not. *Alaska Gold Recovery Co. v. Northern Mining & Trading Co.*, 7 Alaska 386 (1926).

Land may be condemned for ditch to carry water to mining claims. -- A corporation authorized to own and operate mines and mining claims, to own and appropriate water and water rights for private and public use, and to build canals, ditches, flumes, and aqueducts, and to lay pipes for supplying its mines with water, and for the general use of the public has the right to condemn land for a ditch to carry water to work mining claims owned by it, by others, and by the public generally for mining purposes. *Miocene Ditch Co. v. Jacobsen*, 146 F. 680 (9th Cir. 1906).

Property may not be taken for site for equipment to operate mine. -- Where the main purpose of the taking was to obtain a site for plant and equipment to operate a mine which could not be maintained on the mining claim itself because of the periodical inflow of sea water, this section did not authorize such a taking. *Northern Mining & Trading Co. v. Alaska Gold Recovery Co.*, 20 F.2d 5 (9th Cir. 1927).

"An outlet for a flow" for which a fee simple taking is allowed refers only to the flow of tailings or refuse matter from mines. *Williams v. City of Valdez*, 603 P.2d 483 (Alaska 1979). See paragraph (a)(5) of this section and AS 09.55.250(1). -- Ed. note.

The phrase "an outlet for a flow" does not include a drainage ditch. *Williams v. City of Valdez*, 603 P.2d 483 (Alaska 1979).

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C. Tramway Lines.

The right of way for a "tramway line" or "aerial tram" is intended also for power to operate them. *Alaska Gold Recovery Co. v. Northern Mining & Trading Co.*, 7 Alaska 455 (1927), rev'd on other grounds, 20 F.2d 5 (9th Cir. 1927).

REFERENCES

Collateral references. -- Compensation for, or extent of rights acquired by, taking of land, as affected by, promissory statements as to character of use or undertakings to be performed by condemnor, 7 ALR2d 364.

Municipal power to condemn land for cemetery, 54 ALR2d 1322.

Necessity of condemnation where private rights are affected by regulation of bathing, swimming, boating, fishing, or the like, to protect public water supply, 56 ALR2d 790.

Electric light or power line in street or highway as additional servitude, 58 ALR2d 525.

Amount of property which may be condemned for public school, 71 ALR2d 1071.

Liability of public schools and institutions of higher learning for taking or damaging property for public use, 86 ALR2d 600; 33 ALR3d 703; 34 ALR3d 1166; 35 ALR3d 725; 35 ALR3d 758; 36 ALR3d 361; 37 ALR3d 712; 37 ALR3d 738; 38 ALR3d 830; 23 ALR5th 1.

Condemnation of underground areas for storage of natural gas reduced to possession, 94 ALR2d 548.

Use or improvement of highway as establishing grade necessary to entitle abutting owner to compensation on subsequent change, 2 ALR3d 985.

Right to condemn property in excess of needs for a particular public purpose, 6 ALR3d 297.

Power of eminent domain as between state and subdivision or agency thereof, or as between different subdivisions or agencies themselves, 35 ALR3d 1293.

Right to condemn property owned or used by private educational, charitable, or religious organization, 80 ALR3d 833.

Validity of appropriation of property for anticipated future needs, 80 ALR3d 1085.

Possibility of overcoming specific obstacles as element in determining existence of necessary public use, 22 ALR4th 840.

Industrial park or similar development as public use justifying condemnation of private property, 62 ALR4th 1183.

A. S. 09.55.240, AK ST § 09.55.240

Current through all 2006 Legislation, Annotations current through Opinions
Decided as of July 1, 2006.

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END OF DOCUMENT

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HB

175

SFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 175(JUD)
(H) Publish Date: 3/27/07

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
Title Eminent Domain; Recreational Structures RDU Administration and Support
Component Commissioner's Office
Sponsor Rep. Johnson
Requester House JUD Component No. 530

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact on the Department of Transportation and Public Facilities.

Prepared by: Mary Siokoy
Division: Commissioner's Office
Approved by: Nancy Slagle, Director Division of Administrative Support
Agency: Department of Transportation and Public Facilities

Phone 465-4772
Date/Time 3/09/07 3:00pm
Date 3/9/2007

SENATE COMMITTEE REPORT

DATE: 5/3/07

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 5/8/07

Judiciary Committee considered CS FOR HOUSE BILL NO. 175(JUD) am

HB 175 EMINENT DOMAIN / FISHING WATERWAYS

"An Act relating to the prohibition of the exercise of the power of eminent domain against a recreational structure for the purposes of developing a recreational facility or project; and relating to access to fishing waterways."

and recommends:

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

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

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DOTF	3/9/07			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATION	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	THERRIAULT			✓	
	wielechowski	✓			
	McGuire	✓			
CHAIR:	French	✓			

SENATE COMMITTEE REPORT

DATE: 4/30/07

FURTHER: Judiciary
Finance

DATE TURNED
IN TO OFFICE: _____

State Affairs Committee considered CS FOR HOUSE BILL NO. 175(JUD) am

HB 175 EMINENT DOMAIN / FISHING WATERWAYS

"An Act relating to the prohibition of the exercise of the power of eminent domain against a recreational structure for the purposes of developing a recreational facility or project; and relating to access to fishing waterways."

and recommends:

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

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

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
CHAIR:					

STA referral waived - 5/3/07

HB

176

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 176(RES)
(H) Publish Date: 4/10/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title: Creating Fort Rousseau Causeway State RDU: Parks & Recreation Mgt
Historical Park Component: Parks Management
Sponsor: Rep. Wilson
Requester: H RES Component No. 452

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	13.5	13.5	13.5	13.5	13.5	13.5
Travel						
Contractual	2.0	2.0	2.0	2.0	2.0	2.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment	0.3	0.3	0.3	0.3	0.3	0.3
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	16.8	16.8	16.8	16.8	16.8	16.8

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	16.8	16.8	16.8	16.8	16.8	16.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	16.8	16.8	16.8	16.8	16.8	16.8

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Costs associated with managing the Fort Rousseau Causeway State Historical Park in its initial development of trails and picnic sites includes some Park Ranger presence and maintenance crew; supplies for brochures, trail maintenance, equipment maintenance and fuel; and boat charter costs associated with accessing the site.

Discussion is underway to develop a contractual plan for the area with the intention to generate revenue.

Prepared by: Chris Dugornes, Acting Director
Division: State Parks
Approved by: Tom Irwin, Commissioner
Agency: Natural Resources

Phone 269-8702
Date/Time 3/27/2007
Date 3/27/2007

4/18/07



Sitka Trail Works, Inc

801 Halibut Point Road, Sitka AK 99835
 Phone: 747- 7244 email: trail@aci.net
 Deborah A. Lyons, Executive Director

Wednesday, April 18, 2007

Re: HB 176

Dear Co-Chairs Chenault and Meyer and Members of the Alaska State Legislature House Finance Committee,

My name is Deborah Lyons, I am the Executive Director of Sitka Trail Works, a 501(c)(3) in good standing with the State of Alaska. Thank you for the opportunity to testify in favor of HB 176, an Act creating the Fort Rousseau Causeway Historical State Park. Sitka Trail Works has over 300 member- households and we have a partnership Memorandum of Agreement with the City and Borough of Sitka, the USDA Forest Service, Alaska State Parks, the National Parks Service and the Sitka Tribe of Alaska in support of the projects in the Sitka Trail Plan.

My job description with Sitka Trail Works charges me with the responsibility to work as hard as possible, with very modest resources, but all the good will and support of our partner organizations to make all the trail projects in the Sitka Trail Plan come to life. After hearing today's testimony I hope you will agree that through our organization and partners, the community of Sitka is stepping up to the plate and taking the initiative to find funds to help restore historic Fort Rousseau for the public benefit. We are not coming to you asking for the State to do it all alone with general fund dollars. We do need your help in assure that the capital investment that being made into historic Fort Rousseau is protected and conserved through permanent management of the area which State Park status would provide.

There are fourteen new trail projects in the Trail plan which guides Sitka Trail Works activities, of which the World War II Causeway project is one. I have attached the project map and description from the plan. The general idea of the project is to renovate the 8,000 foot Causeway road as a hiking trail that takes folks to view the historic World War II structures. Visitors to the park will learn about Alaska's role in the Second World War and also enjoy an absolutely spectacular scenic setting. The park would also provide the opportunity to picnic and camp in the area.

It is not our typical hiking trail project but it is certainly one of my favorites. My Father served in the Navy at Okinawa in the Second World War and I think of the pictures in our family album when I view historic photos of Sitka's Navy and Army bases. Establishing a State Park to interpret and share Alaska's role in the World War II is more than just a

Sitka Trail Works Mission Statement: To contribute to the overall health of the community through the development, maintenance and promotion of a comprehensive trail system in the Sitka area.

job to me, it has a lot of personal meaning and is my own way to acknowledge and thank our service men and women.

When we, (myself and the Sitka Trail Works Board of Directors), started on this project we knew that funding for Alaska State Parks was tight and we thought that restoring the area and charging for tours would be a way to create enough revenue to pay for maintenance of the park. Through grant writing, Congressional funding and other funding (possibly the Cruise Ship tax funds) we thought we could raise enough dollars to do the capital improvements necessary to make the area clean, safe and enjoyable once again. Our funding picture is summarized below.

Grant funds secured by Sitka Trail Works for the World War II Causeway Project:

- \$140,700 Alaska Trails Initiative FY 2006
- \$124,500 Alaska Trails Initiative FY 08 (applied for)
- FY 08 SAFETEA-LU \$212,000
- FY 09 SAFETEA-LU \$172,260

As you can see we've made a good start.

Others here today will speak to the cultural, historic and recreational value of this future State Park. Because your interest is primarily financial I will focus on providing that sort of information and stand ready for any further questions you may have.

For the record I would like to reiterate our goals and objectives. They are also included in the Fort Rousseau Development plan. The plan lays out the development objectives and goes on to estimate the approximate revenues that could be earned from tours on the site. This revenue will pay for future maintenance and hopefully generate enough revenue to support other State Parks in the system.

Project Development Goals

- I. Restore local recreational opportunities.
- II. Preserve and interpret state and national history
- III. Provide a quality visitor experience, compatible with community values
- IV. Honor and accommodate Sitka Tribe of Alaska concerns:
 - a. Minimal interference with subsistence harvest of kelp and seaweed
 - b. No disturbance of burial sites
 - c. Acknowledge the role of Alaska natives in WW II

Objectives

- I. Make the area clean, safe and accessible so that it can be enjoyed in its present state.
- II. Perform the necessary environmental, cultural and historic surveys and site mapping to document current conditions.

Sitka Trail Works Mission Statement: To contribute to the overall health of the community through the development, maintenance and promotion of a comprehensive trail system in the Sitka area.

- III. Produce a site plan and an Interpretation plan to guide the capital investment and development of the area.
- IV. Secure the capital investments needed to install the dock, install interpretative signage, complete historic building restoration, construct visitor center/administration building, and repair portions of the causeway road.

In 2004 Sitka Trail Works began corresponding with members of the Alaska's Federal Congressional Delegation to see if there was any Federal funding available for the projects in the Sitka Trail Plan. We wrote and met with all the members of the delegation, carrying 35 letters and resolutions of support for the projects from the Sitka City and Borough Assembly, community organizations and individuals. Our efforts were well received and in response to our requests and requests from other trail organizations in the State Senator Stevens created the Alaska Trails Initiative program, allocating over 4 million dollars in FY 2005 and over 2 million in FY 2006 to the State of Alaska for a competitive grants trail program. Senator Stevens specifically named the World War II Causeway project as eligible to apply for funding. In 2005 STW was awarded a grant of \$140,700 to begin work renovating the Causeway. \$60,000 of those grant funds have been given to the State of Alaska DNR and State Historic Preservation office to pay for the necessary site mapping and cultural resources survey and inventory, which will take place this spring. Another \$14,000 was used for a Phase I Environmental Assessment to determine current levels of hazardous materials. That work was done last summer. I don't know how often private parties come before you with the good news that they took it upon themselves to find funds to give to the State to assist with project costs...but today is one of those days! The remainder of the Alaska Trail Initiative grant funds has paid for a clean up of the Causeway which included quite a bit of brush and garbage removal, all done under the supervision of the SHPO's office. STW has also applied for an FY 08 Alaska Trails Initiative grant of \$124,000 which will complete the historical survey and site planning. These funds will also, finally, allow us to build the gravel trail linking all the historical features. We will find out whether or not we have been awarded those additional funds in early June of 2007.

Once the interpretation plan is completed we will be able to spend the SAFE-TEA LU funds on the interpretive signage, building restoration etc. The interpretation plan will guide the capital expenditures. The SAFE-TEA LU funds were made available through close coordination between Congressman Don Young's office and Senator Lisa Murkowski. As part of Sitka's 4th of July celebration last year. General Sharrow and Congressman Young visited Sitka and we had a special Causeway tour for them and Armed services personnel and their families with Transportation provided free of charge by Allen Marine. It was a great event and it is wonderful to have the support of the delegation for this project. I hope I have given you enough information to understand the level of financial commitment that is being made by our community and I hope you will approve of legislatively designating the Fort Rouseau Causeway Historical State Park.

Thank you once again for hearing this bill.

Sitka Trail Works Mission Statement: To contribute to the overall health of the community through the development, maintenance and promotion of a comprehensive trail system in the Sitka area.



Alaska State Legislature

Representative Peggy Wilson

House District 2

Putting Alaska's Families First

SPONSOR STATEMENT

Committee Substitute House Bill 176 (RES)

"An Act creating the Fort Rousseau Causeway State Historical Park."

In the build up for WWII, the Department of the Army constructed fortifications at several locations encircling Sitka Sound. An 8,000 foot rock and gravel road was built connecting several small islands west of the then Navy's Sea Plane and Operating Base in Sitka. This causeway terminated at the Army's command headquarters named Fort Rousseau on Makhnati Island.

Some of the original concrete structures built by the military are still in fair condition. They include a tri-level command post, anti aircraft gun batteries, three ammo magazines and two bunkers. Construction of the Sitka Airport in the late 1960's, eliminated pedestrian and vehicle access. The Causeway lands, most of which belong to the State of Alaska, remained under management by the Alaska Department of Transportation and Public Facilities as part of the Sitka Airport. This management is being transferred back to the Alaska Department of Natural Resources and would be ultimately managed by the Division of Parks and Outdoor Recreation similarly to Sitka's other two small, urban historic state park units – Old Sitka and Castle Hill.

The proposed Fort Rousseau Causeway State Historical Park is a small, 58 acre upland area with a sliver of tideland's large enough for the footprint of a dock. It is consistent with the purpose behind the establishment of parks. In part, it promotes growth and development and provides opportunities and enjoyment for our citizens and visitors alike.

In FY 2006, an Alaska Trails Initiative grant was awarded to the Sitka Trail Works for Phase 1 of the WWII Causeway development. This included cleanup under the supervision of the State Historic Preservation Office. Phase 1 will continue with site assessment and survey work.

History is a bridge to the past. The Causeway has been added to the National Register of Historic Places and designated a historical landmark by the National Parks Service. Preservation of the unique historical features of the Fort Rousseau area will remind all visitors about Alaska's role in WWII and allow for a glimpse into the life of the soldiers who stood ready to defend their country.

March 28, 2007

25-LS0181NE



Alaska State Legislature

Representative Peggy Wilson

House District 2

Putting Alaska's Families First

SECTIONAL ANALYSIS

Committee Substitute House Bill 176 (RES)

"An Act creating the Fort Rousseau Causeway State Historical Park."

HB 176 amends Title 41.21 under Parks and Recreational Facilities. This legislation establishes the above named park and corresponding language for management and uses within its boundaries.

Section 1. Amends uncodified law by adding legislative findings citing the general purpose of state parks and establishing that the Fort Rousseau Causeway State Historical Park is in the best interest of the state.

Section 2. Amends AS 41.21 by adding new sections to article 2.

Sec. 41.21.190 establishes the purpose of AS 41.21.190 – AS 41.21.194.

Sec. 41.21.191 establishes the boundaries of the Fort Rousseau Causeway State Historical Park by describing the exact land and water parcels by referring to normal cadastral survey information.

Sec. 41.21.192 assigns the control, maintenance, and development to the Department of Natural Resources (DNR).

Sec. 41.21.193 allows the DNR commissioner to designate incompatible uses within the park.

Sec. 41.21.194 clarifies that any land and water outside of the boundaries as established may only be added by an act of the legislature.

March 28, 2007

25-LS0181AE

Sitka Fort Rousseau Historical State Park (World War II Causeway) Development Plan Summary

Provided by Sitka Trail Works, Inc.
Executive Director, Deborah Lyons

Project Development Goals

- I. Restore local recreational opportunities,
- II. Preserve and interpret state and national history
- III. Provide a quality visitor experience, compatible with community values
- IV. Honor and accommodate Sitka Tribe of Alaska concerns:
 - a. Minimal interference with subsistence harvest of kelp and seaweed
 - b. No disturbance of burial sites
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Objectives

- I. Make the area clean, safe and accessible so that it can be enjoyed in its present state.
- II. Perform the necessary environmental, cultural and historic surveys and site mapping to document current conditions.
- III. Produce a site plan and an interpretation plan to guide the capital investment and development of the area.
- IV. Secure the capital investments needed to install the dock, install interpretative signage, complete historic building restoration, construct visitor center/administration building, and repair portions of the causeway road.

Project Narrative

Sitka Trail Works, members of the community, and the Sitka State Parks Advisory Board, are collaborating to restore the abandoned Fort Rousseau site for public recreation and cultural interpretation. The site is located on Alaska State lands with a few small in-holdings under the jurisdiction of the BLM. (See the attached project description from the 2003 Trail Plan). Sitka Trail Works has a full time Executive Director, office staff, a nine member, all-volunteer Board of Directors and over 300 active supporting member households. The organization is guided by the 2003 Sitka Trail Plan and the Memorandum of Understanding with the State of Alaska and City and Borough of Sitka. Extensive successful fundraising has already occurred and preliminary clean up and planning for the area is underway.

Once the area is restored and developed locals and visitors would be able to access historic Fort Rousseau by boat, via a dock in Whiting Harbor, and could walk 5,000 ft of the original 8,000 ft Causeway. Guided tours would be offered and visitors would be able to view the ammo magazines, gun emplacements and enter the old command post, while learning about Alaska's role in the Second World War. One single wooden structure, the old fuse house, is a candidate for reconstruction and could become part of the interpreted features. The area is level, vegetated with alders, spruce and wildflowers. It is exceptionally scenic affording fantastic views of the town of Sitka and Sitka Sound. Revenues from the tours would support maintenance of the area.

Sitka Trail Works has received an Alaska Trails Initiative Grant (ATI) of \$140,000 and will be receiving Federal Transportation funds (approximately \$340,000) in FY 09 and FY 10 to be applied to the project. Total cost to develop the area is expected to be over \$1 million dollars and to take four to five years.

Placement of a dock and interpretive signage by FY 09 would allow the area to begin returning revenue from cruise ship tourists being lightered to Whiting Harbor. Ultimately, restrooms, a small interpretation center and an apartment for the on site personnel could be constructed. It would be most economical to combine these functions in a single simple building, most likely on Sasedni Island. Final recommendations for interpretation and site design will be finalized in Phase One planning documents currently being developed by AK DPOR staff. It may be possible to repair the Causeway and allow a vehicle to be driven to the interpretation center, but special arrangements would need to be made with the FAA to allow traffic through the airport. Preliminary discussions suggest this could be allowed if limited to pre-screened official or approved personnel. Even limited access by a vehicle would allow for less expensive maintenance and upkeep.

In FY 07 ATI grant funds were used to clear brush from the old causeway road, to clean up garbage and debris and correct some unsafe conditions around the old structures. All work was accomplished under the supervision of the State Historic Preservation Office, and with the permission of the landowners. This work accomplished a primary objective; making the area clean and safe so that it can be enjoyed in its present state.

The project is now in Phase One survey and assessment. Sitka Trail Works has transferred \$60,000 in grant funds via Reimbursable Services Agreement (RSA) to the AKDNR DPOR and the SHPO for site mapping, site interpretation and cultural resources work. STW also engaged Carson Dorn Engineering to do a Phase 1 site assessment for hazardous materials (\$14,000). STW has applied for additional Phase One funding of \$130,000 to finish the cultural resources survey and the site and interpretation plans. Further clean up within the buildings is needed and continuing brushing and maintenance. These services will be provided by STW in FY '08 from the ATI grant funds.

When the State personnel have completed their work, and produced a site plan and an interpretation plan STW will use those documents to raise further funds, possibly from private foundations and Federal Historic grant programs. In the meantime, STW is exploring use of cruise ship head tax dollars for construction of the proposed dock in Whiting Harbor and has submitted a Congressional appropriations request for funds to repair a portion of the Causeway. ATI funds for construction of the dock or other capital improvements have also been applied for, but may not be available until FY 09. An FY '08 \$100,000 State Legislative Capital match has also been applied for.

The goal is to improve the area so that local can picnic and camp there and tours can be offered to visitors. Conservative preliminary projections suggest that \$80,000 in revenue from commercial user tour fees could be paid to the State annually. This source of income would allow the State (and/or a contract vendor) to pay for the cost of operations and maintenance.

Historical Background

In the 1940's the Department of the Army constructed fortifications at several locations encircling Sitka Sound, all designed to protect the Sitka Naval Air Station from attack by the Japanese. An 8,000 ft. rock and gravel road was built connecting seven islands west of the Sitka Naval Operating Base. The causeway road joined historic Fort Ray on Charcoal Island with Army command headquarters named Fort Rousseau, on Makhnati Island. Three concrete ammo magazines, wooden troop support structures and gun emplacements were built out along the island chain. In 1945 the post was de-commissioned but still remained accessible to residents and staff at the BIA hospital on Japonski Island. Access to the Causeway and the historic ruins was severely limited when the Sitka airport was built. Over time, no vehicle traffic was allowed to cross the airport runway, and the only way to access the causeway was to go by skiff to Whiting Harbor. The area deteriorated; unmaintained, subject to vandalism, and illegal camping.

Repeated unsuccessful attempts were made by private citizens, the City and Borough of Sitka, the Historical Society and the National Park Service to place the Causeway under management for recreation and historic preservation. Lack of funding, clear management authority and even a lack of appreciation for the unique historic significance of the area contributed to failure of these attempts. Fortunately, the

Causeway was added to the National Register and designated part of the Sitka Naval Operating Base and US Army Coastal Defenses National Historic Landmark by the National Parks Service.

The land, most of which belongs to the State of Alaska, remained under rather passive management by the FAA as part of the Sitka Airport. Today the FAA is in the process of transferring these lands (unnecessary for airport management) back to the State. Portions of the Causeway constructed over submerged lands were recently discovered to belong to the BLM. BLM is developing Recreation and Public Purpose status for these small lots under their jurisdiction.

The World War II Causeway project was included in the 2003 Sitka Trail Plan. This cooperative planning document was signed by all the local land managers and is coordinated and implemented by the non profit Sitka Trail Works. The plan lists major recreational infrastructure objectives for the community for the next twelve years. The World War II Causeway project, on page 46, envisions development of the entire causeway area for recreation and hiking. Access is to be restored via a dock in Whiting Harbor (or in conjunction with the planned airport runway expansion). Management authority is to be placed with AK DNR DPOR. (See attachment).

When the 2003 Sitka Trail Plan was adopted Sitka Trail Works went to work building needed partnerships and finding the necessary funds to renovate the old Causeway. With the support of the City and Borough Assembly, Sitka State Parks Citizen's Advisory Board, Sitka Historical Society and many others, Sitka Trail Works successfully secured funding for the project from several sources. See the outline of funding raised to date, expenditures to date, future funds and future anticipated expenses. STW plans to continue in their fundraising efforts and their goal is to assist with raising the necessary capital funding to develop the area for recreation and tourism.

Project Development and Capital Funding Plan

Funds committed to date: (In hand)

1. \$144,000 FY 2006 Alaska Trails Initiative (ATI) grant to Sitka Trail Works, Phase I WW II Causeway
2. \$340,000 FY 2009-10 Federal Transportation Bill appropriation for the WW II Causeway

Funds currently applied for: (Probable)

3. \$130,000 FY 2007 Alaska Trails Initiative (ATI) Additional Phase I funding
4. \$100,000 FY 08 AK State Legislative Capital Matching grant

Future funding: (Probable with continued work by Sitka Trail Works))

5. \$152,000 FY 2007 ATI Phase II - Interpretation signage and building restoration
6. \$500,000 FY 2008 Cruise ship tax revenue Whiting Harbor dock
7. \$250,000 FY 09 AK Legislature Capital Grant Visitor Center and building restoration
8. \$250,000 FY 09-10 Rasmuson Foundation for Visitor Center
9. \$200,000 FY 2010 Federal Transportation Bill for Causeway repair
10. \$300,000 FY 09 FUDS-EPA-Private Foundation- Clean-up/containment of fuel areas

Allocation of funds

1. \$144,000 \$70,000 to Sitka Trail Works - Causeway has been cleared of brush, garbage removed. Safety problems are being resolved. Initial Environmental assessments completed by contract with Carson Dorn. World War II consulting services and Sitka Tribe of Alaska consulting fees paid.

\$10,000 via RSA (Reimbursable Services Agreement) to AK DPOR for site plan and interpretation
 \$50,000 via RSA to the State Historic Preservation Office - \$25,000 for site mapping by DNR DPOR and \$25,000 to begin cultural resources survey and inventory.

- 3. \$130,000
 \$30,000 via RSA to complete site and interpretation plans
 \$50,000 via RSA to SHPO to complete cultural and historic resources inventory and survey.
 \$20,000 Sitka Trail Works FY 07 brushing, clean up and project development
 \$30,000 Hazmat clean up (batteries, fuel contamination, asbestos)
- 4. \$100,000
 Apply \$100,000 State Capital match for SAFE-TEA-LU funds and ant needed capital projects
- 5. \$152,000
 STW- Site Interpretation signage and features
- 2. \$340,000
 Apply SAFE-TEA-LU appropriation to capital costs of site interpretation and building restoration

World War II Causeway – Fort Rousseau Historical State Park Development Timeline				
	FY 06	FY 07	FY 08	FY 09 First year of tours
Expense projections				
Site maintenance – Clean up and brushing. Project development.	STW – ATI grant funded \$70,000	STW- ATI grant funded. \$20,000	STW – ATI grant funded. \$20,000	AK DPOR or Vendor Contract \$54,670 (see projections)
Outside investments to project – Funds raised by Sitka Trail Works				
AKDPOR Site and Interpretation planning	\$10,000 ATI RSA	\$30,000 ATI RSA		
SHPO	\$50,000 ATI RSA	\$50,000 ATI RSA		
Install dock			\$500,00 Cruise ship tax	
Tour Revenues				\$67,200 (See projections)
Install Interpretation signage, etc.			\$152,000 ATI	
Construct visitor Center				Multiple grant sources

Fort Rousseau Historical State Park - World War II Causeway

Tour Income projections

Capacity	Visitors		Ticket	Revenue
100%	4480	\$	20	<u>\$ 89,600</u>
75%	3360	\$	20	<u>\$ 67,200</u>
50%	2240	\$	20	<u>\$ 44,800</u>

If the WWII Causeway tours are advertised on the Cruise ships, sales of tours can be expected to be equal to or greater than a similar tour business, Bike and Hike.

Bike & Hike tours average 3,500 per year. If the cruise ships advertise the tours they will also add a commission charge to the tour.

The visitor may pay \$50-\$70 for the tour with \$20-\$40 going to the cruise line, \$10/head for vessel transportation and \$20 to AKDPOR.

Income projections could increase significantly if AM and PM tours are offered or higher fees were charged.

Sample Vendor Operated Expense Projections.					
Assuming the area is developed and tours can be offered					
FY 2009 at the earliest					
Salaries and wages					
	Supervisor	8400	\$ 8,400.00	14 wk 40 hrs @ 15/H	
	Tour guides (3)	7280	0	14 wk 40 hrs @ 13/H	
			\$21,840.00		
	Interp Center	6160	\$ 6,160.00	14 wk 40 hrs @ 11/H	
			\$36,400.00		
Payroll taxes (15%)			\$ 5,450.00		
Veh Fuel			\$ 980.00		70 wk 1 fill up x 14 wks
Boat Fuel			\$ 1,960.00		140 wk
			0		
Veh. Maintenance			\$ 700.00		\$50/wk
			0		
Interp materials			\$ 3,500.00		
Advertising			\$ 500.00		
Safety equipment			\$ 250.00		
Maintenance supplies			\$ 2,100.00		\$150 wk
Occupancy expense			\$ 1,000.00		fuel, electricity, water
	Total		\$52,850.00		

Cultural Interest Trails

World War II Causeway	
Total Length	1 mile
Difficulty Level	Easy, ADA accessible
Trail Surface	Varies
Associated facilities	Interpretive signs, Whiting Harbor float & reconstructed WWII emplacements

Project Description

The Sitka World War II causeway has the potential to be the best and most informative World War II historic walk in Southeast Alaska. Users of this trail would be able to explore fascinating underground ammunition bunkers or stand on a gun platform and look out to the open ocean. The Causeway Trail has commercial potential as a destination for independent visitors and cruise ship passengers.

A floating dock facility at Whiting Harbor is proposed and the causeway would be developed to wheelchair accessible standards. The causeway riprap would be repaired where needed. A survey of World War II artifacts would be prepared to guide the development of the trail and its interpretation. Tours could be offered during the summer.

Public Needs Met

This trail would be a monument to one of the significant periods in Sitka's history. It would

World War II Causeway

be available year-round to residents and would provide an historical excursion for visitors. The Sitka Americans with Disabilities Act Committee has placed a high priority on completing this project.

Planning and Design

Planning would include the completion of a cultural resource survey and completion of the necessary permits. Negotiations with the landowner, the Alaska Dept. of Natural Resources, would also be needed. A topographic survey, design of the float, trails, and interpretive materials would follow.

Lead Agency and Project Participants

Lead agency: Sitka Trail Works, Inc.
 Project participants: Alaska Department of Transportation & Public Facilities, City & Borough of Sitka, Sitka Historic Preservation Society, commercial users, State Historic Preservation Officer.

World War II Causeway			
Items	Quantity	Cost/Unit	Total (x 1,000)
Trail Construction	1 mile		\$135.0
Signs, Information & literature			\$40.0
Whiting Harbor Float			\$300.0
Causeway Riprap Repair			\$200.0
Historical Restoration & Improvements			\$150.0
Vault Toilet			\$75.0
Contingency			\$100.0
Planning, Design & Administration			\$150.0
Total Projected Cost			\$1,150.0



Cultural Interest Trails

World War II Causeway	
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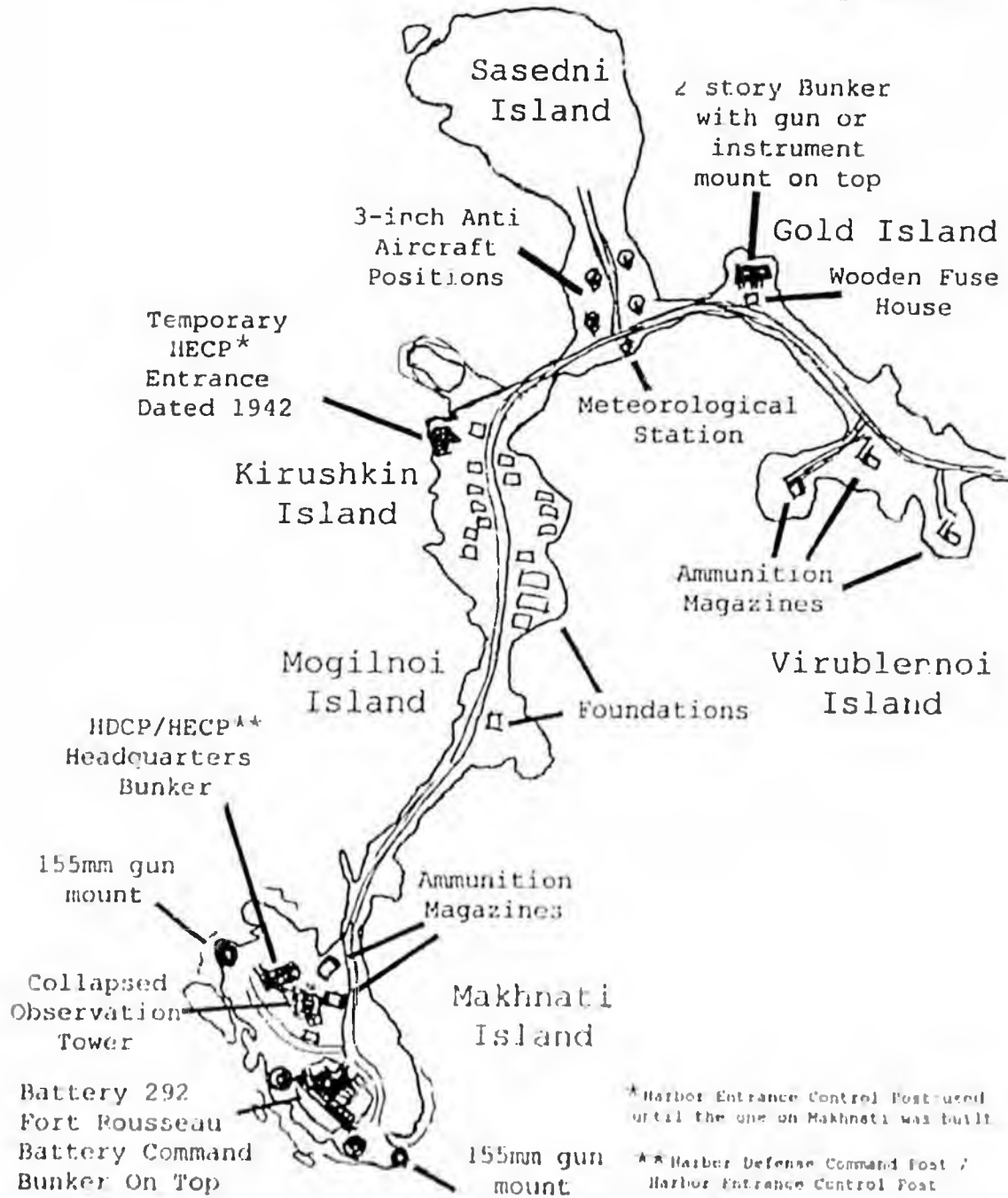
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Historical Restoration & improvements			\$150.0
Vault Toilet			\$75.0
Contingency			\$100.0
Planning, Design & Administration			\$150.0
Total Projected Cost			\$1,150.0

Sitka Causeway WWII Remains Today

Map By
Matthew Hunter
May 2000





Sitka Historical Society

Isabel Miller Museum

330 Harbor Drive Sitka, Alaska 99835
Voice: 907 747 6455 Fax: 907 747 6588

Sitka's history lives on at one of the nation's premier small museums

Karen L. Meizner
Administrator

Sharyn Ferrick
Marketing Manager

27 April 2004

Representative Don Young
2111 Rayburn HOB
Washington, DC 20515

Dear Representative Don Young,

Re: Letter in Support of Sitka Trail Works

Sitka Trail Works addresses a community need that spreads across the spectrum of Sitka's residents. Sitka's trails are an essential part of Sitka's community and have historical significance.

References can be found in early writings after the Alaska purchase, to the Indian River Trail, trails up Mt. Verstovia, Gavin Hill and Harbor Mountain.

Just prior to WWII, when the U.S. government was realizing that war in the Pacific was a possibility, preparations for a possible war with Japan came to Sitka. In 1937, a Navy seaplane base was established on Sitka's Japonski Island, and by 1939, it was a Naval Air Station; Fort Ray was established on nearby Charcoal and Alice Islands in 1941, and a top secret radar installation was built on Harbor Mountain. The trails across Gavin Hill and up Harbor Mountain became an important part of the harbor defense system established here.

As part of the enormous military preparations in Alaska, the trails established behind Sitka and on Japonski Island serve as a visual reminder of a historic time when the United States prepared for a foreign invasion.

The Sitka Historical Society and the Isabel Miller Museum heartily endorse the efforts of Sitka Trail Works in preserving, maintaining and promoting our natural history and historic past.

Sincerely,

Karen Meizner
Administrator

cc. Senator Ted Stevens, Senator Lisa Murkowski and Sitka Trail Works

RESOLUTION No. 2005-28

A RESOLUTION OF THE CITY AND BOROUGH OF SITKA SUPPORTING DESIGNATION OF THE WORLD WAR II CAUSEWAY MARINE PARK BY THE ALASKA LEGISLATURE

WHEREAS, the community of Sitka deeply values the preservation and interpretation of historical sites within the City and Borough in order to further the education and understanding of citizens and visitors of the events that have shaped our local, state and national heritage; and

WHEREAS, the WW II Causeway project involves the design and construction of an ADA accessible walkway that will link refurbished and interpreted features of the military ruins, including gun emplacements, bunkers and an infirmary along a one mile roadbed built by the Army in the 1940's; and

WHEREAS, the Causeway is a contributing property of the Sitka Naval Operating Base and US Army Coastal Defenses National Historic Landmark and Darrell Lewis, the USDI NPS National Historic Landmark historian stated in a letter dated July 19, 2005 that, "Rehabilitation and interpretation of this property would compliment and enhance other preservation efforts... in the landmark"; and

WHEREAS, the World War II Causeway project is listed on page 46 of the 2003 Sitka Trail Plan and the City and Borough of Sitka are partners to the plan and have contributed time and resources to the development of the beneficial projects found there in; and

WHEREAS, the Sitka State Parks Citizens Advisory Board has recommended creation of the World War II Causeway Marine Park in order to clarify management authority and to allow for Federal Transportation funds to be utilized for the project; and


WHEREAS, Sitka Trail Works has applied for and will be receiving an Alaska Trails Initiative Program grant of \$133,000 for Phase I development of the site and a clear and proper designation of the Marine Park property will facilitate the orderly development of the project among the State agencies involved; and

WHEREAS, the project is designed to generate revenues through user fees and will complement and support the other historic State Parks in Sitka at Castle Hill and Old Sitka; and

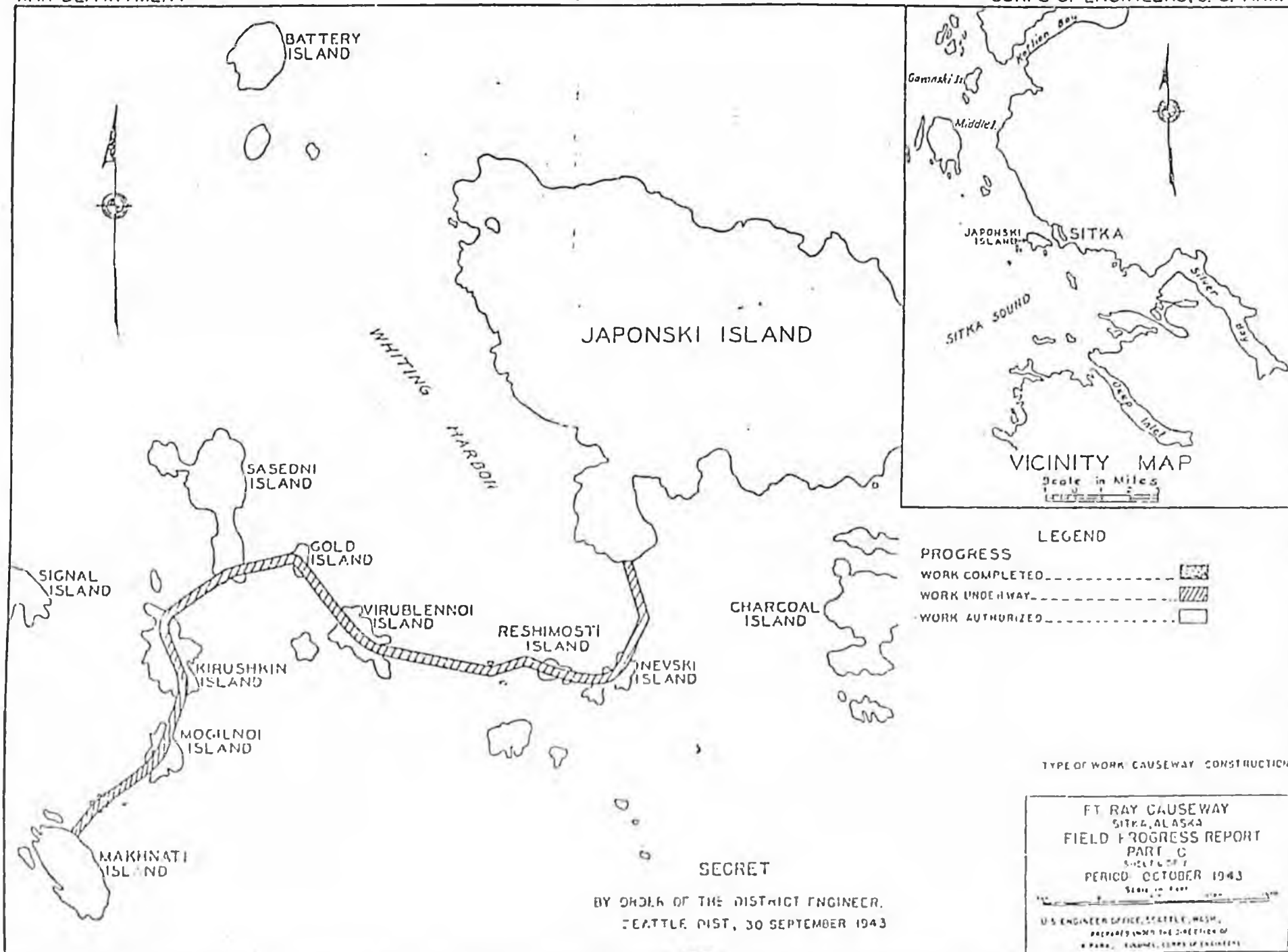
WHEREAS, amendment of AS 41.21 will describe the property and formally include this valuable project within the Alaska State Park system providing for management of the site for the public benefit in perpetuity;

THEREFORE, BE IT RESOLVED, that the Assembly of the City and Borough of Sitka, Alaska by this resolution affirms and supports the designation of the World War II Causeway property as a State Marine Park by an act of the legislature of the Great State of Alaska

PASSED, APPROVED, AND ADOPTED by the assembly of the City and Borough of Sitka, Alaska on this 25th day of October 2005


Marko Dapcevic, Mayor


Colleen Pellet, CMC, Municipal Clerk



SECRET

BY ORDER OF THE DISTRICT ENGINEER,
SEATTLE DIST, 30 SEPTEMBER 1943

SECRET

15