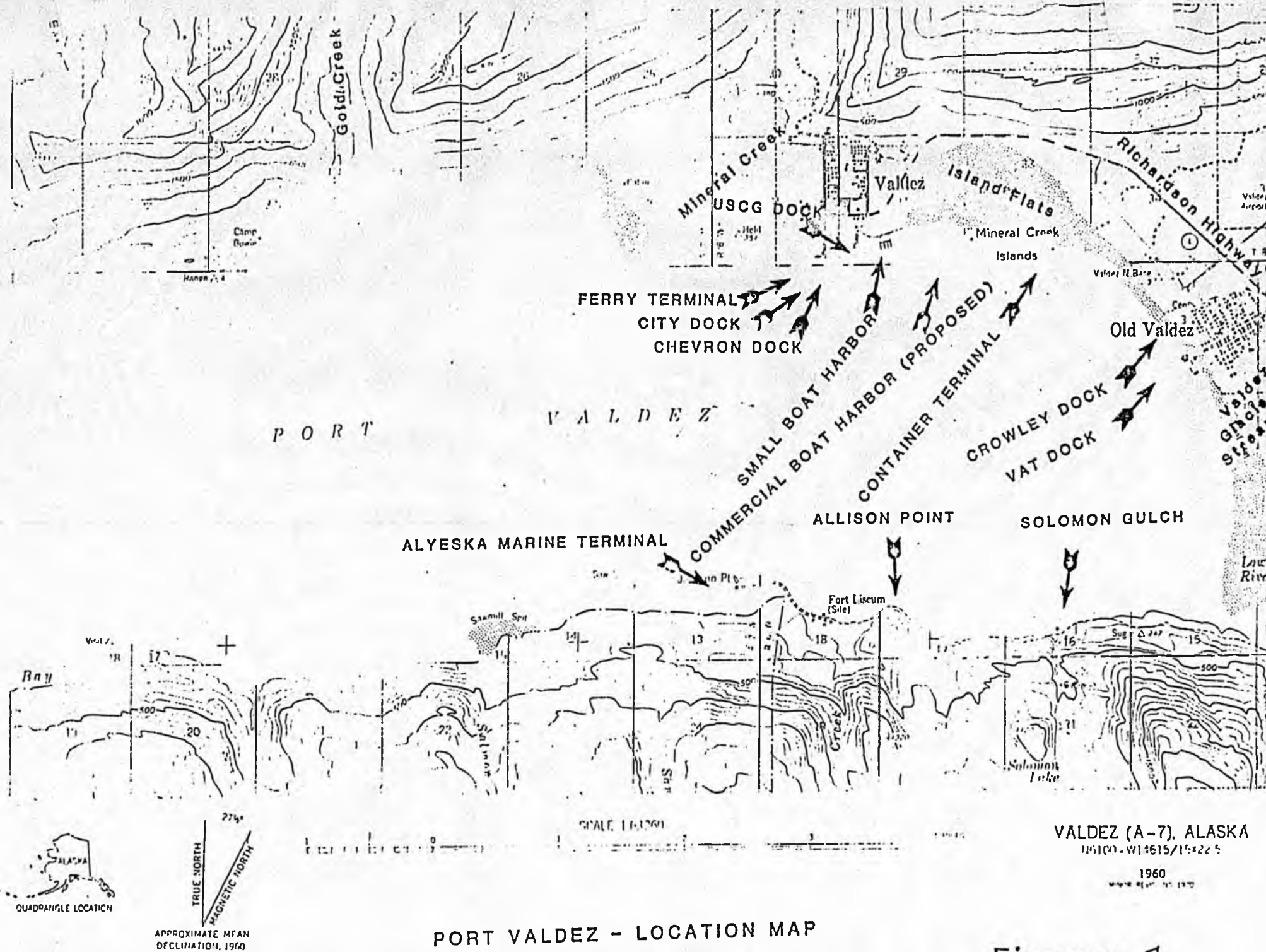


ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/Z

4404 STRA SB 175 - SB 193

1283

FIGURE 1



PORT VALDEZ - LOCATION MAP

Figure 1

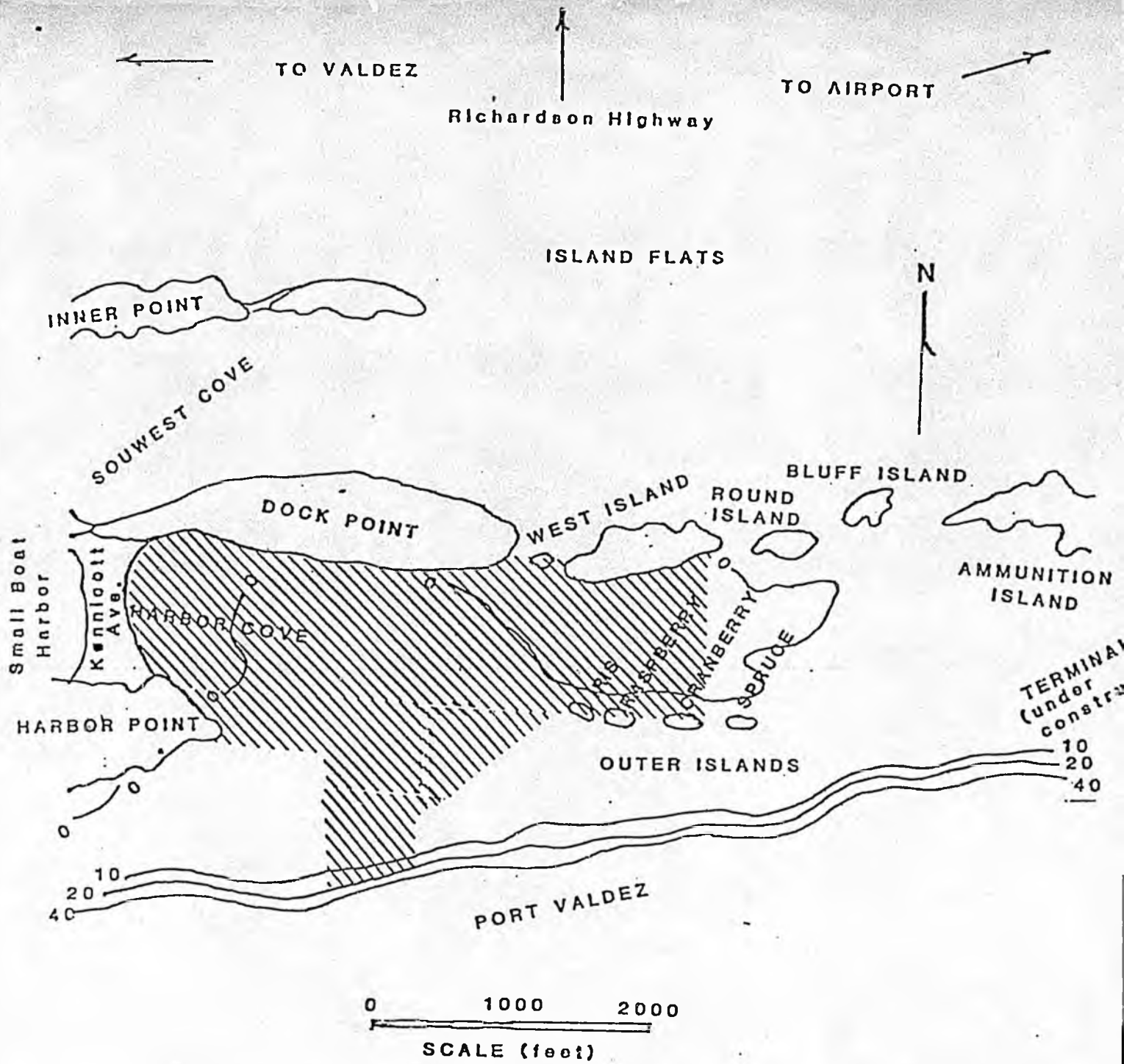


FIGURE 2

Location Map and General Project Area

FIGURE 2

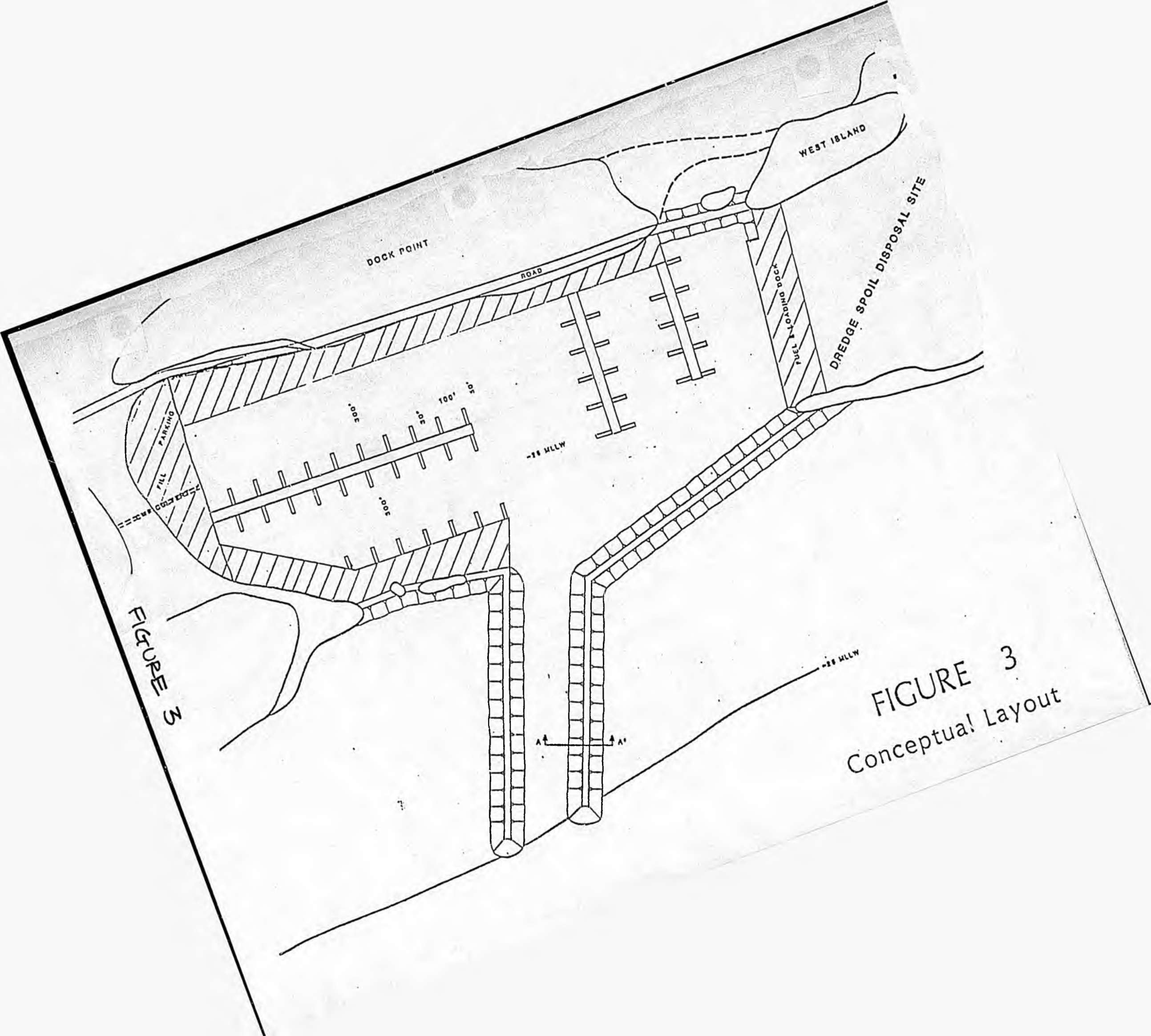


FIGURE 3

FIGURE 3
Conceptual Layout

Valdez Chamber of Commerce

P.O. Box 512 • Valdez, Alaska 99686 • Phone 835-2330

1983 LEGISLATIVE PROGRAM

TRANSPORTATION:

A. Highways;

with the advent of Alaska becoming a member of the interstate program, accelerate existing 5 year capital improvement plan to within 2 years, and accelerate the 5 to 10 year planning phase to within 5 years with emphasis on reconstruction of the following:

Richardson - Mile 129-265
(Gakona Jct. to Delta Jct.)

Tok - Mile 30-75
(Gakona Jct. to Tok)

Alaska - Mile 1314-1221

Copper River - Million Dollar Bridge to
Richardson Highway

Glenn - Mile 50 to 135

B. Marine Highways;

support increase in scheduling to Prince William Sound terminals, and urge the acquisition of a larger vessel to serve Valdez-Cordova-Whittier, and urge the appropriation of the necessary money required for improvements to the state ferry terminal in Valdez.

C. All-Alaska Gas-Line;

urge the state support for construction of an all-Alaskan gas pipeline from the North Slope to tidewater, when deemed feasible

D. Seward Coal Terminal;

support the necessary actions to convert the Seward grain terminal to a coal mineral terminal

E. Valdez Air Terminal;

urge state acquisition and maintenance of the existing terminal building

VALDEZ CHAMBER OF COMMERCE

COMMERCIAL BOAT HARBOR:

urge the appropriation of \$21 million for the construction of a commercial boat harbor in Valdez, and urge the funding associated with the Valdez Fisheries Development Association

ENERGY:

A. Silver Lake Hydroelectric;

urge the appropriation of necessary monies required to construct the Silver Lake hydroelectric plant and transmission inter-ties to Cordova and to the Solomon Gulch hydroelectric plant

B. Susitna Hydroelectric;

support the Phase I construction of the Susitna hydroelectric and inter-tie project

NATURAL RESOURCES:

support the acceleration of the development of Alaska's natural resources

AGRICULTURE:

support the increase of programming and appropriations for the Delta agriculture program, specifically marketing and planting

ADMINISTRATIVE:

A. State Boroughs;

support the freedom of choice by the local residents as to the formation of local government

B. Tax Reform;

favors application of an investment tax credit at 10% of qualified investment in Alaska each year, not limited to 18% of federal tax credits; favors revision of the state corporate income tax rate to 1% of the first \$250,000 and a reduction of the maximum rate of 9.4%

C. Regulation Reform;

Ref. 1982 SB 84, relaxation of stipulations

D. Insurance Reform;

support mandatory bodily injury and property damage liability insurance, and support M.A.D.D.

E. Land Disposal Program;

urge the requirement of access power and communication construction to and within the State Land Disposal Subdivisions, both now in existence and future disposals

JUDICIAL:

- A. support the assignment of a District Attorney and a Superior Court judge, in that order, to the Valdez, Glennallen, Cordova area of the Third Judicial District
- B. urge the appointment and necessary appropriations of and for a Judicial Probation Officer in the Valdez, Glennallen, Cordova area of the Third Judicial District

RECREATION:

- A. support the Prince William Sound Development Legislation, and specifically the necessary funding for land acquisition and development of a harbor camper park in Valdez
- B. support the trails and campsite development legislation

COMMUNICATION:

support the passage of Alaska Public Broadcasting Commission's FY'84 budget, which includes a Terminal Radio, Inc. (Valdez) funding request

EDUCATION:

- A. Prince William Sound Community College;
support the continued programming and urge the necessary appropriations for the upgrading of the existing plant facility

Recreational Vehicle Park

The natural scenic beauty of Valdez, fine recreational boating facilities and excellent fishing attract many tourists world wide. These attractions currently cause an influx of approximately 1500 recreational vehicles from May 23rd through Labor Day. With the opening of the Wrangel - St. Elias National Park and the advertising of Valdez as the 'Gateway' to the park, the number of tourists is expected to show a dramatic increase. Presently, adequate facilities do not exist to handle current levels of the Valdez tourists industry.

The longest single attraction for these recreational vehicles is the Valdez Small Boat Harbor. A site located near the harbor presents the best location as a recreational vehicle park. This would also give users a location that is within walking distance of the City's commercial area. (see attached map).

This property is owned by the University of Alaska with whom the City has entered into a use agreement for the facility location.

Proposed Facilities:

- A. 76 parking spaces, each space to be 30'x50'.
- B. Two picnic shelters.
- C. Six fire pits.
- D. Picnic tables.
- E. Two water faucets.
- F. A dump station to service recreational vehicles.
- G. Two litter receptacles.

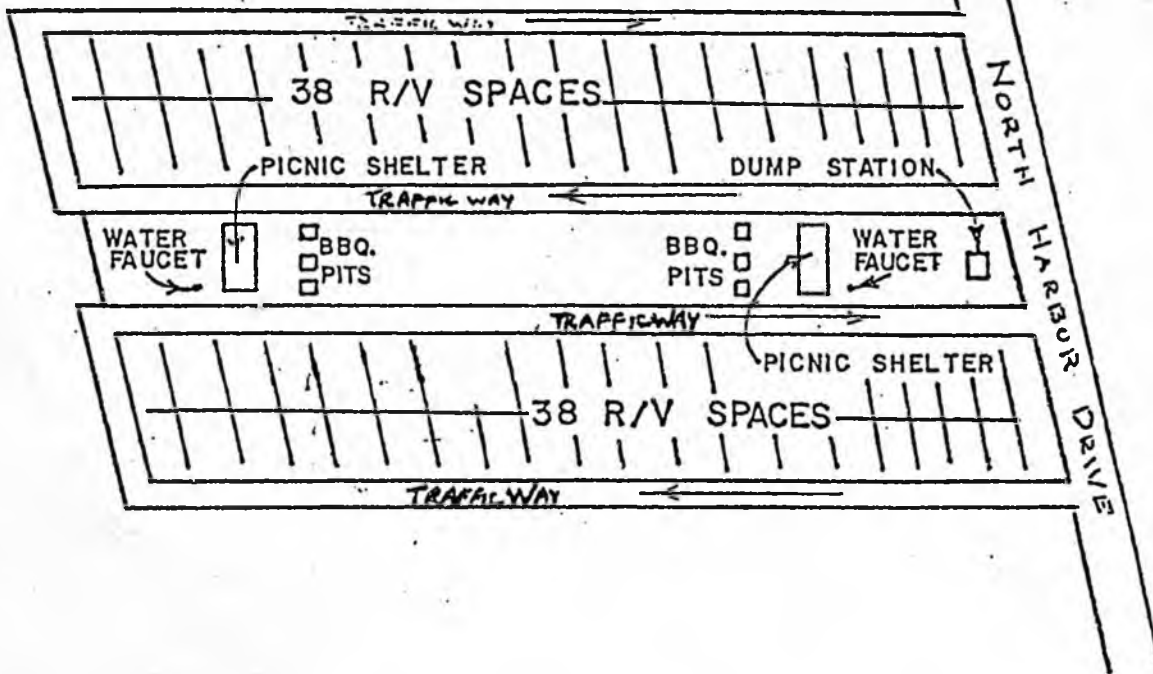
Proposed Budget:

A lump sum grant is proposed for the total project cost:
\$ 250,000.00

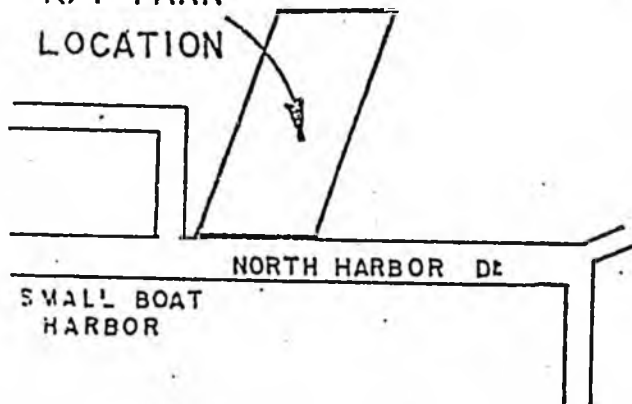
RECREATIONAL VEHICLE PARK

RECREATIONAL VEHICLE PARK

RICHARDSON HWY.



R/V PARK
LOCATION



Capital Project Expenditures (Cash Flow)	Total	Budget Year	Budget Year Plus 1	Budget Year Plus 2	Budget Year Plus 3	Budget Year Plus 4	Remaining Cost
Planning and Engineering							
Land	37.1	37.1	---	---	---	---	---
Construction	159	159	---	---	---	---	---
Equipment	227.9	227.9	42.4	---	---	---	---
Administration and Other							
Total Annual Expenditure (Capital Cost)	424	381.6	42.4	---	---	---	---

Project Justification

DISCUSSION OF THE NEED FOR THE PROJECT

Valdez is currently served by only a repeater of a commercial station in Anchorage. Little or no access is available for the community to generate programs and information of its own. The Valdez area is certainly of sufficient size to justify a public radio station since it compares favorably with the size and characteristics of communities like Petersburg, Wrangel, Haines and Homer, who already are served by public radio stations.

The ability of a public radio station to provide in-depth coverage of governmental activity and encourage citizen participation in that activity is reason enough to establish a station in the Valdez population center. In addition, public safety requirements will certainly be served by having a station which can broadcast local weather and sea conditions in that highly sensitive area.

DOCUMENTATION OF ESTIMATED CAPITAL COST

Construction of a public radio station in Valdez falls at the low end of the capital cost scale due to the relatively mild climate in the Valdez area and the lack of tundra or permafrost conditions for the construction of a tower. The cost is based on APBC engineer estimates and list prices of required equipment.

ANALYSIS OF ESTIMATE OF OPERATIONAL EXPENSE

The operational expense estimates are based on current APBC portions of the operating budgets of existing public stations of a similar size to the Valdez operation.

Project Type

- Building Construction (C)
- Other Improvement (I)
- Equipment (E)
- Land (L)
- Professional Services (P)
- Other (O)

Project Characteristics

- Totally New Facility
- Addition to Existing Facility
- Renovation of Existing Facility
- Major Maintenance or Repair
- Supplement Previously Authorized
- Funds to Enable Completion
- One of Several Phases
- Major External Funding Source
- Other

Site Features

- | | |
|-------------------------------------|---|
| NO | YES |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> Site Currently Owned? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> All Utilities Available? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> Access Already Available? |

PROJECT TITLE TERMINAL RADIO, INC. - New Station

FY 84

PROJECT JUSTIFICATION

35b

PROPOSED CAPITAL
PROJECT

Capital Project Expenditures (Cash Flow)	Total	Budget Year	Budget Year Plus 1	Budget Year Plus 2	Budget Year Plus 3	Budget Year Plus 4	Remaining Cost
Planning and Engineering							
Land							
Construction	50.0	25.0	25.0	---	---	---	---
Equipment	200.0	200.0	---	---	---	---	---
Administration and Other							
Total Annual Expenditure (Capital Cost)	250.0	225.0	25.0	---	---	---	---

Project Justification

IDENTIFICATION OF ALTERNATIVES CONSIDERED

There is no public station near enough to Valdez to provide an acceptable signal for a translator operation. The size of the community and its need for self-sufficiency argue for a full service station capable of generating its own programming, rather than attempting to operate a repeater station, which would repeat the broadcasts of a public radio station from another part of the state.

COST DETAIL

Building	168,000
Control Rooms/Studios	112,000
Tower, Transmitter, STL	56,000
Earth Station	28,000
Land	<u>39,200</u>
TOTAL	403,200

Project Type

- Building Construction (C)
- Other Improvement (I)
- Equipment (E)
- Land (L)
- Professional Services (P)
- Other (O)

Project Characteristics

- Totally New Facility
- Addition to Existing Facility
- Renovation of Existing Facility
- Major Maintenance or Repair
- Supplement Previously Authorized
- Funds to Enable Completion
- One of Several Phases
- Major External Funding Source
- Other

Site Features

NO YES

- Site Currently Owned?
- All Utilities Available?
- Access Already Available?

PROJECT TITLE TERMINAL RADIO, INC. - New Station

FY 84

PROJECT JUSTIFICATION

35b

PROPOSED CAPITAL
PROJECT

Project Title		Location (s)		Election Districts Served	Start Date	Completion Date
TERMINAL RADIO, INC. - New Station		Valdez, Alaska		6	July '83	June 84
STATION REQUEST		Operational Cost & No. Personnel Increase - (Decrease)		First Operating Year	Ultimate Annual Year	
				84	85	
Federal Grant	302.4	Funding Source	CPB Funds			
State			APBC Funds	163.9	295.3	
APBC Funds	100.8		Local Funds	11.1	30	
Local Funds			Other			
Other			Total Annual Operational Cost	175	325.3	
		Position (FTE)		4.5	8	
Total						

PROJECT DESCRIPTION

This Project will provide for a new public radio station to serve the Valdez area. This station has been in the planning stages at the APBC for the last two years. The station will be of the "full service" variety, and will provide 18 hours per day of news, information, cultural enrichment and entertainment programming.

FY84

35a PROJECT DESCRIPTION -
PROPOSED CAPITAL
PROJECT

File C.I.P.

Valdez Chamber of Commerce

P.O. Box 512 • Valdez, Alaska 99686 • Phone 835-2330

1983 LEGISLATIVE PRIORITIES

(Not Listed in Priority)

Draft

TRANSPORTATION:

A. Highways;

accelerate existing 5 year capitol improvement plan to within 2 years, and accelerate the 5 to 10 year planning phase to within 5 years with emphasis on reconstruction of the following:

Richardson - Mile 129-265
(Gakona Jct. to Delta Jct.)

Tok - Mile 30-75
(Gakona Jct. to Tok)

Alaska - Mile 1314-1221

Copper River - Million Dollar Bridge to
Richardson Highway

Glenn - Mile 50 to 135

B. Marine Highway;

support increase in scheduling to Prince William Sound terminals, and urge the acquisition of a larger vessel to serve Valdez-Cordova-Whittier, and urge the appropriation of the necessary money required for improvements to the state ferry terminal in Valdez

C. All-Alaska Gas-Line;

urge the state support for construction of an all-Alaskan gas pipeline from the North Slope to tidewater

D. Seward Coal Terminal;

support the necessary actions to convert the Seward grain terminal to a coal mineral terminal

E. Valdez Air Terminal;

urge state acquisition and maintenance of the existing terminal building

COMMERCIAL BOAT HARBOR:

urge the appropriation of \$21 million for the construction of a commercial boat harbor in Valdez, and urge the funding associated with the Valdez Fisheries Development Association

ENERGY:

- A. Silver Lake Hydroelectric;
urge the appropriation of necessary monies required to construct the Silver Lake hydroelectric plant and transmission inter-ties to Cordova and to the Solomon Gulch hydroelectric plant
- B. Susitna Hydroelectric;
support the Phase I construction of the Susitna hydroelectric and inter-tie project

NATURAL RESOURCES:

support the acceleration of the development of Alaska's natural resources

ADMINISTRATIVE:

- A. State Boroughs;
support the freedom of choice by the local residents as to the formation of local government
- B. Tax Reform;
favors application of an investment tax credit at 10% of qualified investment in Alaska each year, not limited to 18% of federal tax credits; favors revision of the state corporate income tax rate to 1% of the first \$250,000 and a reduction of the maximum rate of 9.4%
- C. Regulation Reform;
Ref. 1982 SB 84
relaxation of stipulations
- D. Insurance Reform;
support mandatory bodily injury and property damage liability insurance, and support the M.A.D.D. movement -

JUDICIAL:

- A. support the assignment of a District Attorney and a Superior Court Judge, in that order, to the Valdez, Glennallen, Cordova area of the Third Judicial District
- B. urge the appointment and necessary appropriations of and for a Judicial Probation Officer in the Valdez, Glennallen, Cordova area of the Third Judicial District

AGRICULTURE:

support the increase of programming and appropriations for the Delta agriculture program, specifically marketing and planting

RECREATION:

- A. support the Prince William Sound Development Legislation, and specifically the necessary funding for land acquisition and development of a harbor camper park in Valdez
- B. support the trails and campsite development legislation

COMMUNICATION:

support the passage of Alaska Public Broadcasting Commission's FY'84 budget, which includes a Terminal Radio, Inc. (Valdez) funding request

North Harbor Dr. & Kennicott Street Construction

This project would upgrade to urban standards both North Harbor Drive and Kennicott Street, including sewer and water utility extensions. Development will be necessary this year due to the proposed hotel construction at the south end of Kennicott Street (see Attachment B). \$ 1,300,000.00

Small Boat Harbor Extension/Float Design

Design of mooring floats for the small boat harbor expansion area. \$ 50,000.00

Subdivision Design - Lands West of Mineral Creek

An extreme shortage of land for residential development encourages the subdivision of this area lying adjacent to the west edge of the City as soon as possible. Access to the area via the new Egan Street bridge over Mineral Creek will be completed in the summer of 1983. \$ 150,000.00

Loop Road Water Distribution System

This project extends municipal water services to those residents in Zook Subdivision and along Mineral Creek Loop Road from a recently completed well and reservoir (see Attachment C). \$ 550,000.00

Pacific and Lowe Streets

This project would upgrade to standard urban design an area now troubled with surface runoff and flooding problems (see Attachment D). \$ 380,000.00

Valdez Baseline Survey Monumentation

This effort would correct errors in the survey baseline used for layout of 'New Town' Valdez and would provide monumentation at critical points. \$ 50,000.00

Marshalling Yard Warehouse

This project provides the necessary enclosed space at the new City Container Terminal facilities to house Stevedore equipment and miscellaneous small amounts of freight requiring weather protection. \$ 240,000.00

Blueberry Hill Access Road Utility Extension

SB-15

This work would provide water and sewer utility extensions from Egan Street south to the property line of the Blueberry Hill Subdivision (see Attachment E) \$ 700,000.00

Library Development

This work would provide needed expansion for library services. The recent consortium with Prince William Sound Community College markedly increases the space needs. \$ 400,000.00

Fire Stations: Plumbing and Roof Repairs

Both outlying City fire stations require interior plumbing development and repairs to the roof. \$ 65,000.00

Valdez Clinic Relocation

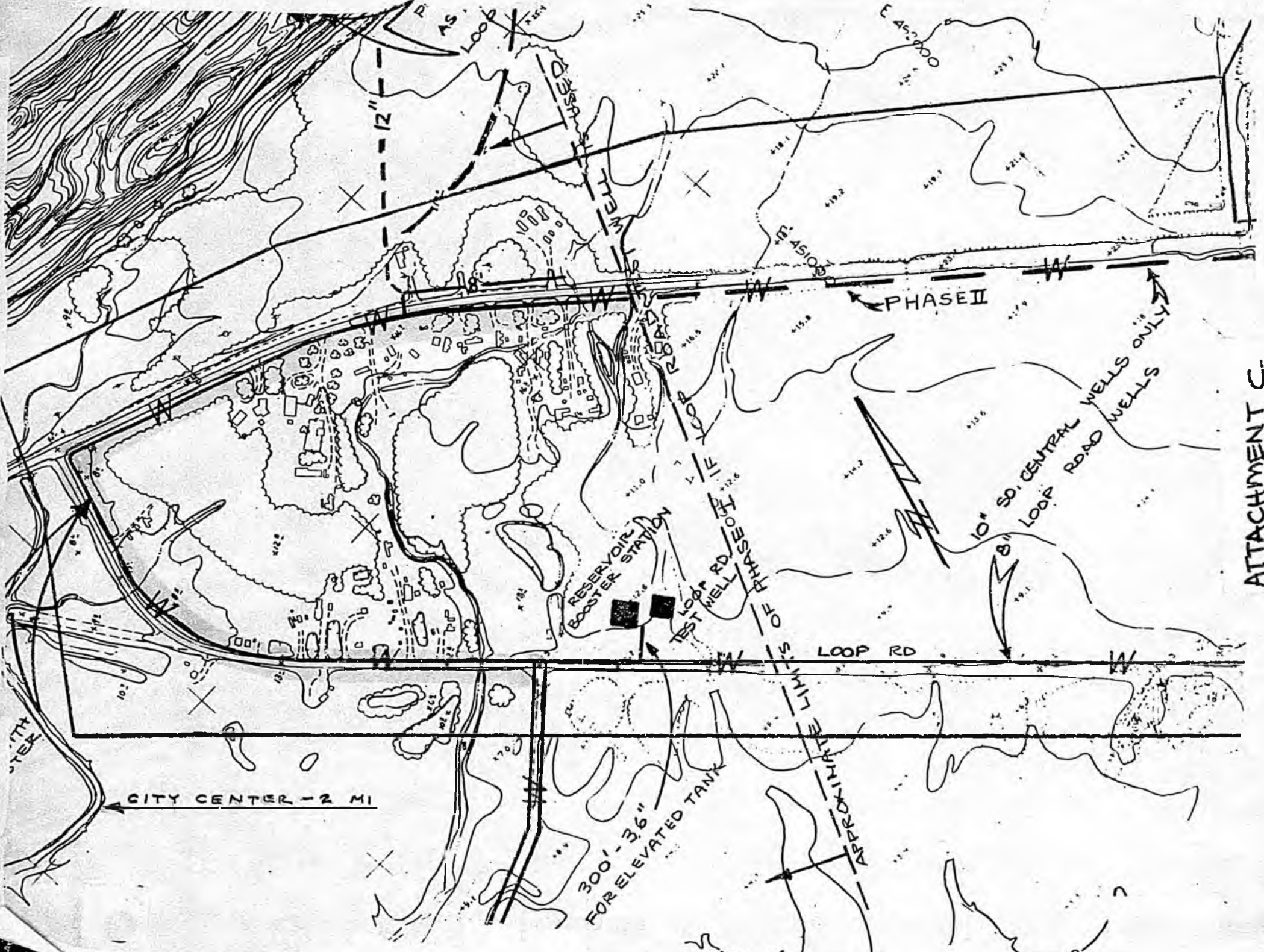
The State of Alaska has asked the City to relocate the medical clinic so the State may use the space for other purposes. \$ 100,000.00

Heritage Center Building

This building would house both the Archives Alive and the Museum facilities under one roof and would eliminate the present separate rental quarters and duplication of services. \$ 1,500,000.00

Commercial Boat Harbor

This project would provide the first phase development of a harbor to serve commercial vessels in the range of 65 to 150 feet in length. This first phase would include; geotechnical and soils investigation, engineering design and dredging. Now that two fish processing plants are successfully operating in Valdez, development of the commercial harbor has become a priority need (see Attachment F) \$ 4,500,000.00



WITH
STER

CITY CENTER - 2 MI

300' - 36"
FOR ELEVATED TANK

RESERVOIR
BOOSTER STATION

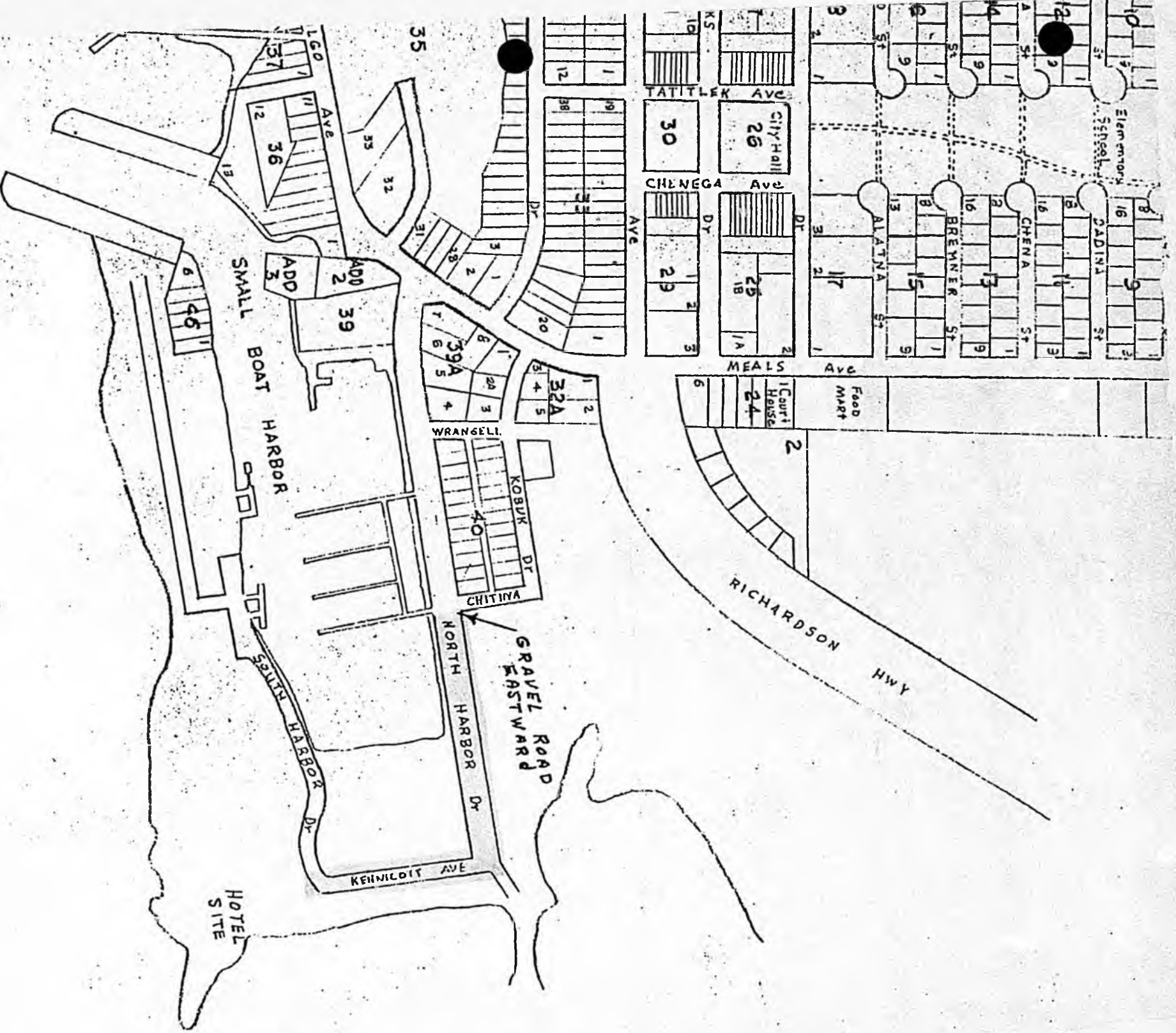
TEST WELL
LOOP RD

LOOP RD

PHASE II

10" SO. CENTRAL WELLS ONLY
8" LOOP RD. WELLS ONLY

ATTACHMENT C



ATTACHMENT B



BLUEBERRY
HILLS

UTILITY
EASEMENT

ATTACHMENT E

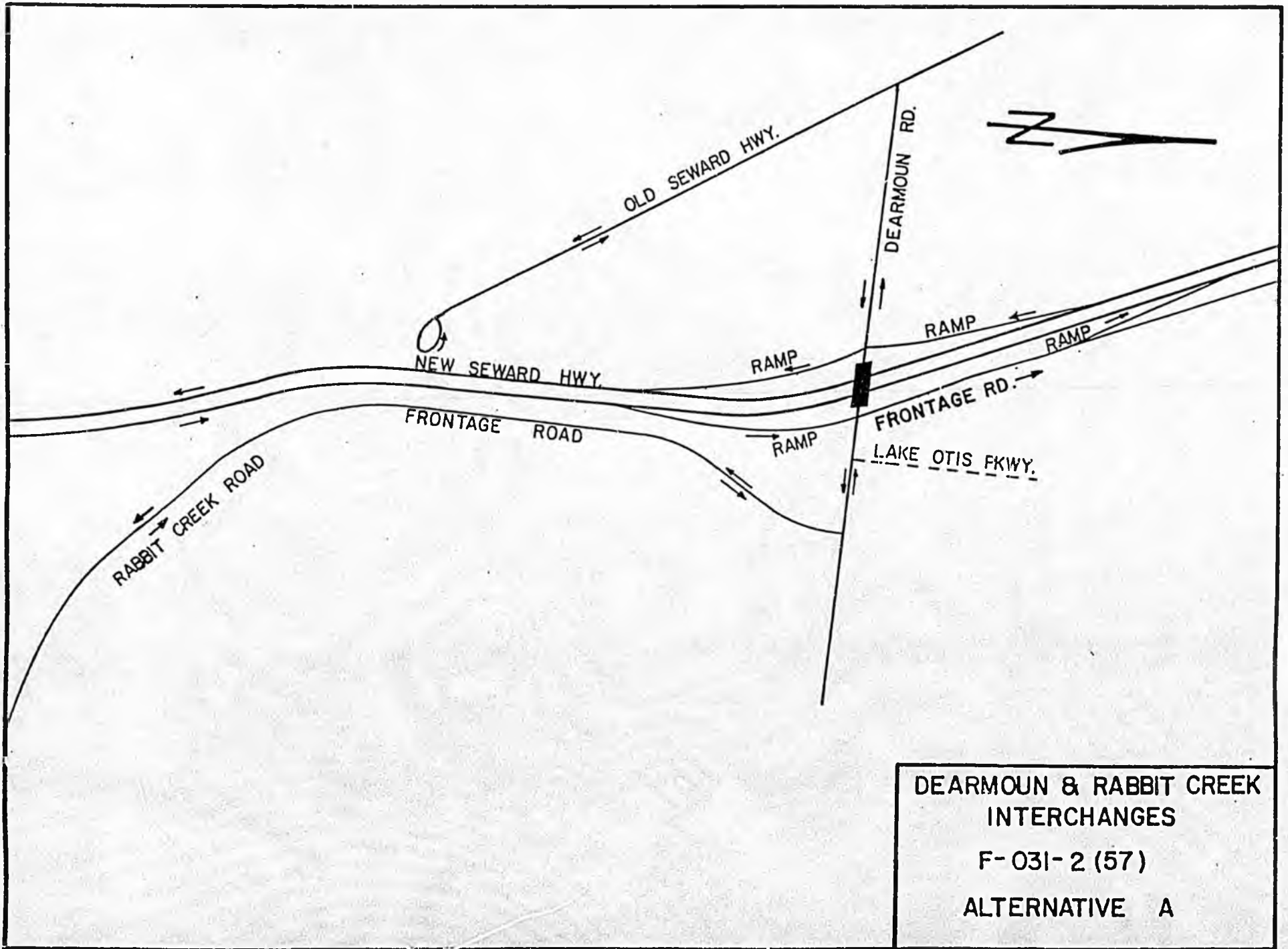
of the existing development.

The five alternatives under consideration present a number of interchange configurations. Traffic projections for each of these configurations have been included in Appendix A.

All of the alternatives would construct an at-grade intersection serving the driveway of the Rabbit Creek Rifle Range and the road which provides access to the property east of the highway. A median opening and left-turn storage lanes would be provided at this location. There is a possibility that an increase in traffic volumes will make it desirable to close this median opening at some time in the future.

ALTERNATIVE A

This proposal calls for the construction of a full diamond interchange at the DeArmoun Road intersection and the elimination of the Old Seward Highway intersection. The Old Seward Highway west of the New Seward Highway would be dead-ended and provided with a cul-de-sac. Rabbit Creek road will be connected with the two-way frontage road east of the New Seward Highway. This frontage road will be realigned so that its proposed intersection with DeArmoun Road will be farther east than its existing intersection. This was done in order to provide better spacing between this intersection and the ramp intersection. This alternative would make it necessary for area residents wishing to travel from the Old Seward Highway to Rabbit Creek Road to do so by way of DeArmoun Road.



DEARMOUN & RABBIT CREEK
INTERCHANGES
F-031-2 (57)
ALTERNATIVE A



DEARMOUN/RABBIT CREEK INTERCHANGE

PROJECT F-031-2157

Photo Date: September, 1981

This aerial photograph depicts Alternative A as was presented at the combined Location/Design Public Hearing held on May 26, 1983.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
CENTRAL REGION

4111 AVIATION AVENUE
POUCH 6900
ANCHORAGE, ALASKA 99502
(TELEX 25-185)

Alternative C

Date: 1-8-82
Prepared By: EGD

PRELIMINARY CONSTRUCTION COST ESTIMATE FOR:

Project: 20 Armond & Rabbit Creek Interchanges
From: _____ (MP _____) TO: _____ (MP _____)

Total Length: _____

Location and Description: Upgrading New Seward Hwy into 4 lanes. A construction of a partial diamond interchange at Armond Rd intersection and a full interchange at Rabbit Cr. Rd - Old Seward Hwy intersection.

Current ADT: _____ Design ADT: _____
Required Width: _____ Actual Width: _____
Assumed Structural Section H.A.P.: 4" in.
C.A.B.: 9" in.
Borrow: Varies in.

Estimated Costs (1981 Dollars) Based Upon Above Assumptions:

1. Construction Estimate:	\$	<u>14,380,264</u>
2. Construction Administration (<u>12%</u> of 1):	\$	<u>1,725,632</u>
3. Subtotal:	\$	<u>16,105,896</u>
4. Preliminary Engineering (<u>6%</u> of 1):	\$	<u>862,816</u>
5. Right of Way (\$ _____ /Acre):	\$	<u>5,365,600</u>
6. Utilities:	\$	<u>762,750</u>
7. Subtotal:	\$	<u>23,103,062</u>
8. Contingencies (<u>5%</u> of 7):	\$	<u>1,155,153</u>
TOTAL:	\$	<u>24,258,215</u>

Sheet 1 of _____

W. H. Hancock
14400 Old Seward Hwy.
Anchorage, Alaska 99515

February 25, 1985

Senator Edna DeVries:
Pouch V
Juneau, Alaska 99811

Dear Senator DeVries:

Ref. Senate Bill 175

I will appreciate it if you will take a hard look at S.B. 175 before letting it out of committee. Many of us who live in the area involved are very much concerned about the impact on our residential neighborhood, and at the cost of the project.

In local public hearing here, property owners favored an alternate which would cost some six million less, and which would do less violence to the area and would require less land. Reference made in data distributed at the meeting indicating that most of the alternate plans would find a saturation traffic condition at an early date, a point of view which I think needs re-examination when viewed in the context of all the other intersections on the New Seward Highway - Tudor, Dowling, Dimond, O'Malley, and Huffman. Most of these seem to already be at saturation traffic levels, a rather general condition in the Anchorage bowl and one which will not be improved until there is construction of more roadways such as a foothill boulevard and a tidewater freeway.

The widening of Old Seward Highway creates steeper driveways for residents on the south side of the road, and will probably sooner or later call for land to create a frontage road there, with need to take land. The whole project is designed to put more traffic through what is now prime residential property.

It has been said that the project will not cost as much as recent newspaper item indicated, as there will be Federal funds to take care of much of the cost. I am even more concerned about the Federal spending than I am about the Alaskan portion, for in the case of the Federal aide, it will be just one more addition to the annual 200 billion deficit. It would seem that weighted consideration should be given to the most economic alternate which has been proposed.

It is difficult to listen and read all that is said about

"quality of life", "pollution control (noise)" "protecting the neighborhoods", "public input" and "impact statements", and then see a project of this magnitude pushed, without regard to the preference of the local residents. One can't help but wonder if it all isn't just window dressing with no substance, when invited to attend the public hearings.

Respectfully,

W. Hancock



MARCH 12, 1985

Dear SENATOR,

I'M NOT ONE TO USE THE LEGISLATIVE PROCESS FOR ROAD ISSUES BUT I FEEL YOU SHOULD BE AWARE.

I LIVE NEXT TO FRED ~~SHUTE~~ CHIEF ON THE OLD SEWARD HIGHWAY IN ANCHORAGE, (DISTRICT 7, HOUSE) AND I AGREE WITH HIM.

IN OUR AREA

I DON'T THINK ANYONE ^ AGREES WITH THE HIGHWAY CONFIGURATION SELECTED BY THE STATE AND IT IS THE MOST EXPENSIVE ALTERNATE SELECTED.

CALL IF I CAN HELP.

MARK KORTING

mark korting
broker/president; phone: 344-6442

RE/MAX properties, Inc.

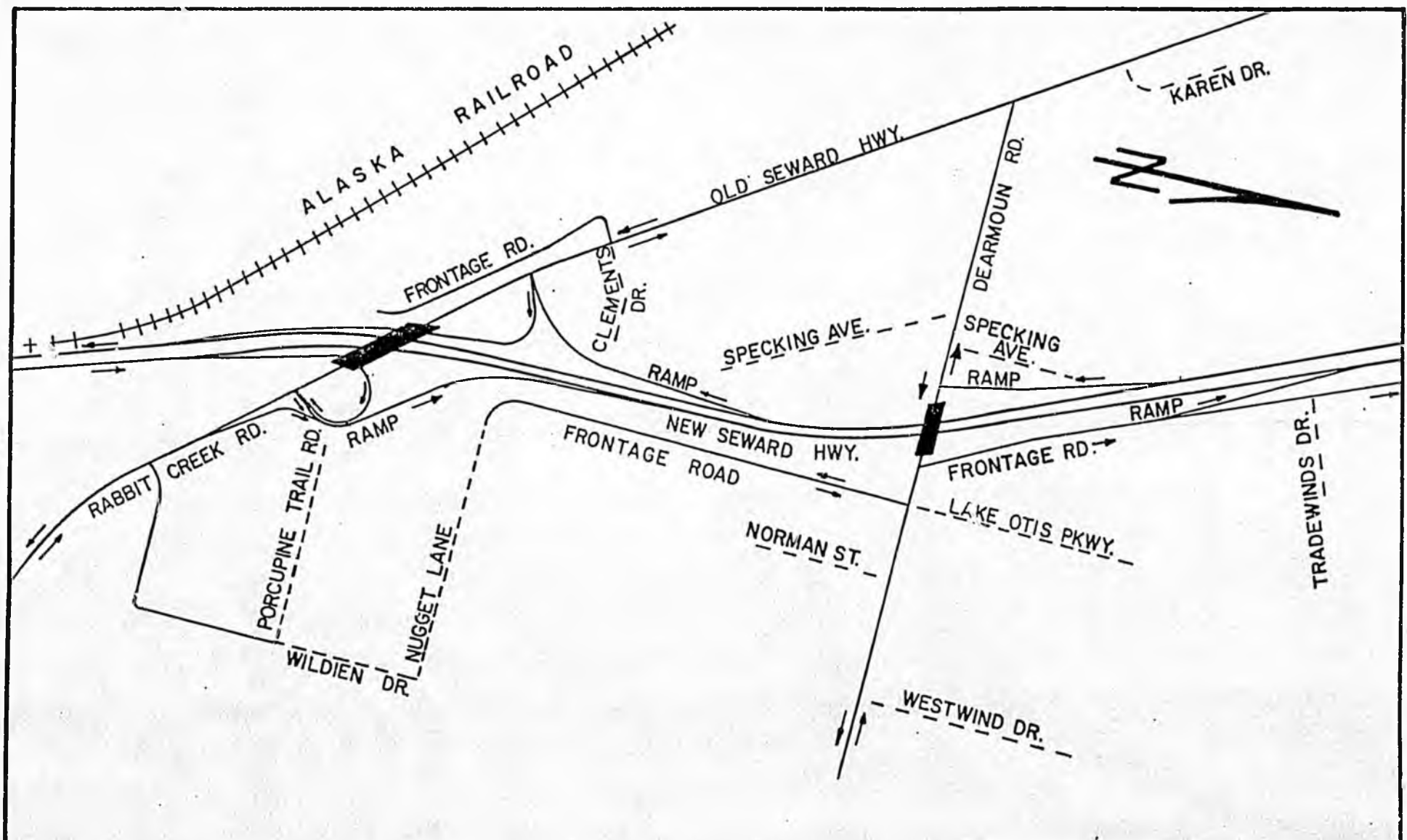
2702 gambell street, suite 201
anchorage, alaska 99503
phone: 276-2761

an independent member broker

ALTERNATIVE C

This proposal would provide a full movement interchange at the Old Seward Highway Intersection that would utilize a combination of direct and loop ramps. A partial diamond interchange having ramps on the north would be constructed at the DeArmoun Road Intersection. The DeArmoun Road Interchange would serve the predominant traffic flow to and from the CBD but would eliminate direct access with the New Seward Highway on the south. Travellers from the south destined for DeArmoun Road and vice versa would use the Old Seward Highway Interchange.

Due to the need to control access at the Old Seward Highway Interchange, it would be necessary to construct several lengths of road to provide access to property in the area. In the southwest and northwest quadrants, additional right-of-way would need to be acquired in order to construct access roads. In the northeast quadrant several lengths of road would be constructed in dedicated easements and purchased right-of-way in order to provide access through the use of the existing subdivision road network. The existing east frontage road would be realigned so that its intersection with DeArmoun Road would be opposite Lake Otis Parkway.



DEARMOUN & RABBIT CREEK
INTERCHANGES
F- 031- 2 (57)
ALTERNATIVE C



DEARMOUN/RABBIT CREEK INTERCHANGE

PROJECT F-031-2(57)

Photo Date: September, 1981

This aerial photograph depicts Alternative C as was presented at the combined Location/Design Public Hearing held on May 26, 1983.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
CENTRAL REGION

4111 AVIATION AVENUE
POUCH 6900
ANCHORAGE, ALASKA 99502
(TELEX 25-185)

Alternative "A"

Date: 1-8-82
Prepared By: EQD

PRELIMINARY CONSTRUCTION COST ESTIMATE FOR:

Project: DeLynnoum & Rabbit Creek Interchange
From: _____ (MP _____) TO: _____ (MP _____)

Total Length: 1.5 miles

Location and Description: Construction of a full diamond interchange at DeLynnoum Rd & New Seward Hwy intersection and elimination of Rabbit Cr Rd. old Seward Hwy intersection with the construction of a two way Frontenac Road to the east bet. DeLynnoum Rd & Rabbit Cr Rd. Upgrading New Seward Hwy into 4 lanes

Current ADT: _____ Design ADT: _____

Required Width: _____ Actual Width: _____

Assumed Structural Section H.A.P.: 4 in.

C.A.B.: 9 in.

Borrow: Varies in.

Estimated Costs (1981 Dollars) Based Upon Above Assumptions:

1.	Construction Estimate:	\$	<u>7,907,294</u>
2.	Construction Administration (<u>12%</u> of 1):	\$	<u>948,875</u>
3.	Subtotal:	\$	<u>8,856,169</u>
4.	Preliminary Engineering (<u>6%</u> of 1):	\$	<u>474,438</u>
5.	Right of Way (\$ _____/Acre):	\$	<u>1,204,060</u>
6.	Utilities:	\$	<u>428,600</u>
7.	Subtotal:	\$	<u>10,963,267</u>
8.	Contingencies (<u>5%</u> of 7):	\$	<u>548,163</u>
	TOTAL:	\$	<u>11,511,430</u>

Sheet 1 of _____

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

CENTRAL REGION — DIVISION OF DESIGN AND CONSTRUCTION
DIRECTOR'S OFFICE

RECEIVED MAR 12 1985
BILL SHEFFIELD, GOVERNOR

4111 AVIATION AVENUE
P.O. BOX 6900
ANCHORAGE, ALASKA 99502
(TELEX 25-185) (907) 266-1500

March 6, 1985

Re: DeArmoun/Rabbit Creek
Interchange

The Honorable Jan Faiks
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Senator Faiks:

Attached for your review are copies of the preliminary design proposals and estimated costs for the five alternatives which were proposed in the 1982 DeArmoun/Rabbit Creek Interchange Design Study Report.

Alternative "C" was selected in 1983 after public hearings and completion of an Environmental Impact Statement. The Federal Highway Administration (FHWA) approved Alternative "C" and the Department is proceeding with the design. Some right of way has been acquired. Additional funding for utilities and right of way purchase is being requested in the Governor's FY 86 Capital Budget.

The current construction estimate is \$25.6 million as opposed to the 1982 estimate of \$14.38 million. Total project costs are estimated at \$44.4 million. The breakdown follows:

	<u>1982</u>	<u>1985</u>	<u>Difference</u>
Construction	14.38	25.6	11.2
Constr. Admin.	1.7	3.8	2.1
Quantity Imprecision	1.15	3.0	2.0
PE/Design	.86	1.3	.5
Right of Way	5.3	6.5	1.1
Utilities	.77	4.2	3.5
TOTAL	24.11	44.4	20.4

Additional legislative authority to receive Federal construction funds will be requested in the FY 87 Capital Budget.

DOT/PF FIGURES ON ALT. "C"

The Honorable Jan Faiks

- 2 -

March 6, 1985

Please call me if you have other questions regarding this project.

Sincerely,

A handwritten signature in cursive script that reads "John B. Olson".

John B. Olson, P.E.
Director, Design & Construction
Central Region

MEH/bgc

cc: Susan Fleischhauer, Legislative Liaison, Commissioner's Office
Ray Gillespie, Director of Legislative Relations, Governor's Office
William R. Snell, Acting Deputy Commissioner, Central Region

RIGHT-OF-WAY

The existing right-of-way width of the New Seward Highway varies. Basically, the average corridor width is 350-feet to the south of DeArmoun Road, narrowing to 300 feet to the north. A "Joint-use" line separates the highway from the Alaska Railroad at the beginning of the project.

The right-of-way for the different alternatives varies depending on the Interchange ramp configurations, the provision of frontage or access roads and the required width for the crossroads. The right-of-way needs for Alternatives A and B are relatively minor, consisting of narrow strips required for the widening of DeArmoun Road and for the construction of frontage roads. Alternatives C, D and E involve more extensive acquisition, particularly in the northeast quadrant of the Old Seward Highway Intersection. Retaining walls were proposed to contain slopes in some areas in order to limit right-of-way acquisitions and to reduce costs.

The total estimated costs of right-of-way acquisition and the areas required for the different alternatives is summarized as follows:

	<u>CCST</u> (1981 Dollars)	<u>AREA</u> (Acres)
Alternative A:	\$1,204,000	5.0±
Alternative B:	1,005,000	4.2±
Alternative C:	5,365,000	9.0±
Alternative D:	3,643,000	6.0±
Alternative E:	5,000,000	8.3±

See Appendix F for copies of preliminary cost estimates.

Acquisition of right-of-way for Alternatives C, D and E will necessitate the relocation of families and businesses. Alternative C would relocate 9 families, with Alternatives D and E relocating 6 families each. Each of these three alternatives would relocate 2 businesses. A copy of the Conceptual Stage Relocation Study has been included in Appendix G.

Alternative E was developed as a result of comments made during a public meeting held on January 19, 1982. This alternative borrows heavily from features found in Alternative C.

RIGHT-OF-WAY

Due to these similarities, a separate right-of-way estimate and conceptual stage relocation study were not prepared. The costs and impacts of right-of-way acquisition required by these alternatives should be identical. For this reason, there is no mention made of Alternative E in the appendices that were mentioned above.

Depending upon whether or not noise abatement barriers are constructed, there may be a need for additional right-of-way acquisition in the northeast quadrant of the DeArmoun Interchange. The different alternative designs for noise barriers, which show the additional right-of-way required, have been included in Appendix Q.

UTILITIES

Most of the utility conflicts on this proposed project are found in the area of the DeArmoun Road and Old Seward Highway intersections. This will involve relocating power poles, telephone cables and gas lines.

A copy of the cost estimate for each of the design alternatives is found in Appendix H. The total estimated costs are summarized below:

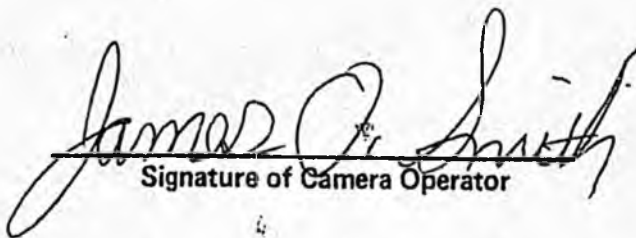
	COST (1983 Dollars)
Alternative A:	429,000
Alternative B:	493,000
Alternative C:	769,000
Alternative D:	696,000
Alternative E:	769,000

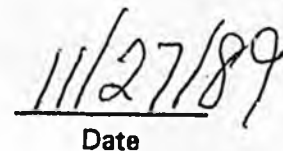
The MOA has contracted a consultant to assist them in their design of a waste water force main and pump house within the project area. The construction of this facility may precede the construction of these interchanges. At the public hearing of this project, a letter was submitted for inclusion in the written record by Louis J. Bonito, of the Anchorage Water and Wastewater Utility (AWWU). In this letter, Mr. Bonito outlined the AWWU's plans of the time and requested co-operation during the final design of both projects. The plans for the AWWU's waste water pipeline have been changed from what was described in this letter. The most current plan, as of October, 1983, would locate the pump



RECORDS CERTIFICATION

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Signature of Camera Operator


Date

S B

180

Introduced: 2/21/85
Referred: Transportation
and Finance

Funding Information
General Fund \$4,500,000
Other Funds -0-
\$4,500,000

1 IN THE SENATE

BY DEVRIES

2

SENATE BILL NO. 180

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act making a special appropriation for payment as
7 a grant to the City of Valdez for phase II con-
8 struction of the commercial boat harbor and for
9 improvements to the small boat harbor; and providing
10 for an effective date."

11

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

12

* Section 1. The sum of \$4,500,000 is appropriated from the general
13 fund for payment as a grant to the City of Valdez for phase II construction
14 of the commercial boat harbor and for improvements to the small boat har-
15 bor.

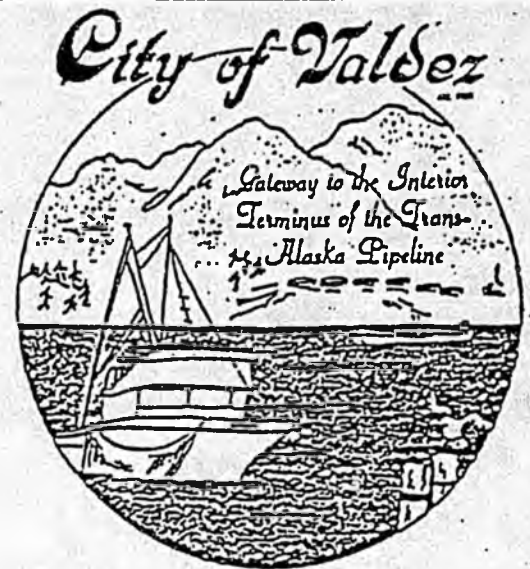
16

* Sec. 2. The appropriation made by this Act shall be disbursed in
17 accordance with AS 37.05.315.

18

* Sec. 3. This Act takes effect immediately in accordance with AS 01.-
19 10.070(c).

**FUNDING REQUEST FOR
VALDEZ COMMERCIAL BOAT
HARBOR IMPROVEMENTS**



Commercial fishing and fish processing are developing into significant renewable industries in the City of Valdez. Advances in aquaculture, fisheries management, bottom fishing and fish processing offer even greater potential for the future.

According to a recent study commissioned by the City, commercial fishing can and should develop at a steady rate consistent with the resource and the ability of fishermen, processors and the market to efficiently utilize resources.

Economics of fish processing, marketing and fisheries related business are sensitive to initial capitalization such as good harbors, adequate uplands, handling facilities and docks. Jointly used facilities which lower annual costs of capitalization are an attraction to business and with availability there is more chance of business growth and success.

The City of Valdez has established general annual capital improvement priorities specifically directed toward improving commercial fishing and other harbor use activities. The City is also reviewing long range harbor expansion goals, which will be consistent and mesh with development as it happens.

The program for 1985 - 1986 is limited to the priority items discussed on the following pages.

FUNDING REQUEST

FOR CAPITAL PROJECTS AND GRANTS

FY 86

<u>CITY PRIORITY</u>	<u>PROPOSED PROJECT</u>	<u>DISTRICT 6 APPROPRIATION</u>	<u>PROJECTS SUPPORTED BY THE CITY OF VALDEZ AND AGENCY REQUESTING FUNDS</u>
1	Commercial Boat Harbor - Phase II/Small Boat Harbor Improvements	4,500,000	--
2	Prince William Sound Community College Classroom/Office Building	2,000,000*	9,834,000 University of Alaska
3	Valdez Heritage Center Expansion	2,500,000	--
4	Ice Skating Arena	2,500,000	--
5	National Guard Armory	--	1,300,000 Department of Military Affairs
6	New Jail Addition	--	675,000 Department of Corrections
7	Richardson Highway Improvements	--	23,100,000 Department of Transportation
8	Subdivision of the Valdez Industrial Park	288,000	--
9	Small Boat Harbor Grid	--	750,000 Department of Transportation
10	Handicap Curbs	-40,000	--
11	Dayville Road Boat Ramp	<u>150,000</u>	
	Total project funding requested by the City of Valdez	\$ 9,978,000	
	Total project funding supported by the City of Valdez		\$ 35,659,000

* Note: First priority is that funding come from University funding. However, if not appropriated from University, then City requests \$2,000,000 as a direct appropriation to funding Phase I of Prince William Sound Community College.

REQUEST FOR FUNDING FOR CAPITAL PROJECTS/GRANTS

FISCAL YEAR 1986

Location Valdez Election District 6

Project Title Commercial Boat Harbor Improvements

Community Priority Number 1 of 11

Agency Responsible _____

State or Local (Responsibility) Local

<u>COST ESTIMATES</u>		<u>REQUESTED FUNDING</u>	
Site Acquisition	\$ <u>-0-</u>	General Fund	\$ <u>4,500.000</u>
Planning and Design	\$ <u>750,000</u>	Federal (source)	\$ _____
Construction and Equip	\$ <u>3,750,000</u>	Other (source; local, etc...)	\$ _____
Other	\$ _____	Total	\$ <u>4,500.000</u>

Previous Appropriations and Years \$3,000,000 FY 85/1984, slope revision, dock

Maintenance/Operating Cost (First Year) \$50,000

(Annual) \$50,000

PROJECT DESCRIPTION AND JUSTIFICATION Estimated Starting Date June 1985

Completion Jan. 1986 (Explain physical product and operational activities, if this project is one phase or multi-phase. Briefly describe the entire project, attach any backup materials, maps, surveys, etc.)

Commercial fishing and fish processing are developing into significant renewable industries in the City of Valdez. According to a recent study commissioned by the City, commercial fishing can and should develop at a steady rate consistent with the resource and the ability of fishermen, processors and the market to efficiently utilize resources.

Economics of fish processing, marketing and fisheries related business are sensitive to initial capitalization such as good harbors, adequate uplands, handling facilities and docks. Jointly used facilities which lower annual costs of capitalization are an attraction to business and with availability there is more chance of business growth and success.

In order to meet the immediate demands of the growing commercial fishing industry in the City of Valdez, we have had to utilize a portion of our small boat harbor which is referred to as Valdez Commercial Boat Harbor, Phase I and approved by the state in 1984.

As a part of the Commercial Boat Harbor, Phase I, it is necessary to provide small vessel slips as identified on the attached drawing and labelled Number 6.

The program for 1985 - 1986 is limited to the priority items discussed on the following pages.

1985 - 1986 PROJECT BUDGET

Harbor Dredging and Land Fill	\$ 1,500,000
Float Modifications	300,000
Drain System	200,000
Bilge and Waste Oil Disposal Systems	100,000
Slip Improvements	<u>2,400,000</u>
Total Project Budget	\$ 4,500,000

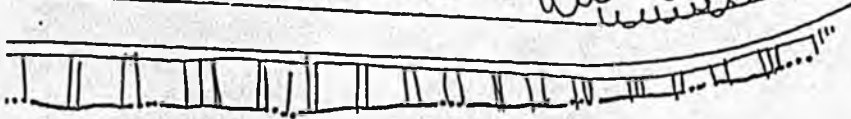
PROJECT SCHEDULE

<u>February 1985</u>	<u>September 1985</u>	<u>September 1986</u>
Design	Contract Award	Construction Completion

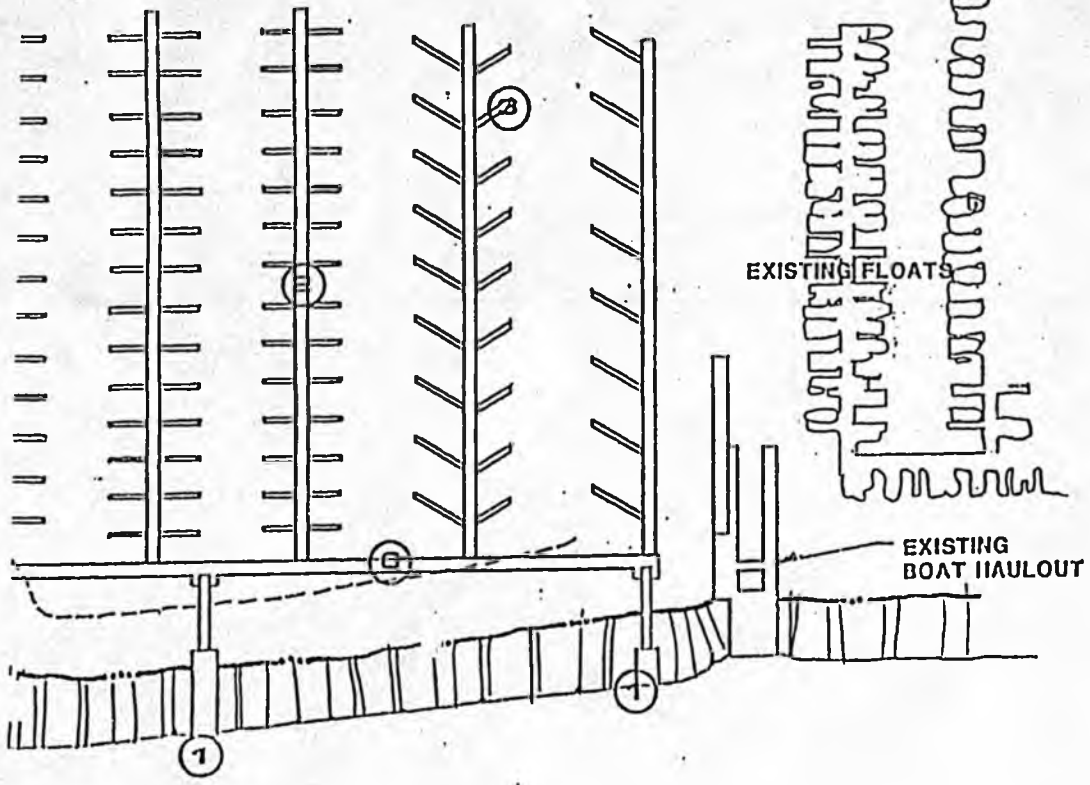
CONTACT:

Jim Watson
City Manager
P. O. Box 307
Valdez, Alaska 99686
(907) 835-4313

Handwritten notes in Arabic script at the top of the page, likely providing project details or dates.



HARBOR EXPANSION



PRIMARY COMPONENTS OF THE PROPOSED DEVELOPMENT INCLUDE

- ① Two approach structures and access gangways
- ② Five main harbor floats with access float
- ③ Finger floats varying in length to 50 feet
- ④ Boat ramp access float
- ⑤ Boat ramp and various imp including wash down and boat apron
- ⑥ Float utilities

Small Boat Harbor Expansion

This project is the development of the final phase of the existing Valdez Small Boat Harbor. At the time of the original Corps of Engineers Valdez boat harbor construction, the general area to the east of the original boat harbor was left undeveloped for future harbor expansion. The area of the proposed expansion site is presently at elevation to a depth of -13 feet (MLLW) which will be consistent with the bottom of the existing small boat harbor area. The excavation consists of the removal of approximately 298,000 cubic yards of soil in the harbor area.

Material removed from the harbor expansion area would be located on the Port of Valdez side of the existing spit that now separates the boat harbor from the port. This area was used as a site for disposing of the dredge material from the original boat harbor.

The widening of the spit area, at a City owned location, would facilitate the creation of a waterfront area for uses compatible with the City's Coastal Zone Management plan. These intended uses include the storage and dry docking of recreational and commercial boats; the storage of commercial fishing gear; and a parking and staging area. The limited amount of land available near the small boat harbor doesn't assure a place for parking boat trailers or pulling boats out of the water for minor repairs. This site is also designated as a potential long range planning site for expanded fin fish and shellfish processing facilities.

The intended use for the expanded boat harbor area would be to provide additional moorage capacity for private and small commercial boats. The facility would be owned and operated by the City of Valdez as it is the final phase of the small boat harbor project. A conceptual drawing of the expanded small boat harbor is shown in 'Figure 1'

The Valdez Small Boat Harbor expansion project is a positive development activity for the continued planned growth of the City of Valdez. The additional facilities support the commercial and recreational fishing populace and are expected to be beneficial to the local economy.

The existing small boat harbor currently has the following number of berths available:

<u>Length (ft)</u>	<u>Number</u>
50	33
42	34
32	84
24	108
20	98

On these berths, the occupancy rate on a year round basis is relatively high particularly in the larger boat lengths:

<u>Length (ft)</u>	<u>Occupancy Percentage</u>
50	100
42	90
32	65
24	40
20	30

In addition, there is over 350 feet of transient dock, however, no individual transient berths exist. Six berths are being utilized for either permanent or scenic-permanent residence. At least seven vessels, making Valdez their home port, are 50 feet or more in length:

<u>Name</u>	<u>Length</u>	<u>Type</u>
Capt. Sonny	80'	Fishing
El Centrol	76'	Fishing
Bering	65'	Pilot
Margaret M.	60'	Tug
Vince Pee Dee	56'	Charter
Libra	55'	Fishing
Lady Fair	50'	Pleasure

During peak fishing periods, it is estimated that over 100 additional boats utilize the harbor. Valdez currently has two growing fish processors and a third processor expressing interest in locating in Valdez. This could lead to a substantial increase in necessary berths.

The secondary benefit to the City of Valdez with the expanded harbor will be increased use of local lodging, food services, marine repairs and fuel sales.

Figure 1

0 100 300 500
scale (feet)



City of Valdez
property

Univ. of Alaska
property

NORTH HARBOR DRIVE

Coast
Guard
Dock

Existing
Docks

Harbor Channel Exist. Harbor bottom
-12.0'

Existing Road

Existing Split Area
OWNER:
City of Valdez

DREDGE AREA
Approx. 8.5 Acres
250,000 c.y.

Existing Tanks

Road Easement

MHHW 12.03'

Exist. Breakwater

ATS 820
ATS 821

MLLW 0.00'

FILL AREA
Approx. 250,000 c.y.

EBB FLOOD

PORT VALDEZ

Valdez Chamber of Commerce

P.O. Box 512 • Valdez, Alaska 99686 • Phone 835-2330

October 26, 1984

Honorable Bill Sheffield
Governor - State of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor Sheffield;

This letter is to express the Valdez Chamber of Commerce's support for the City of Valdez REQUEST FOR FUNDING of the following CAPITAL PROJECTS:

1. Commercial Boat Harbor
2. Prince William Sound Community College
3. Museum Addition
4. Ice Skating Rink
5. National Guard Armory
6. New Jail Addition
7. Upgrading Richardson Highway
8. Small Boat Harbor Slips
9. Valdez Industrial Park
10. Small Boat Harbor Grid
11. Handicap Curbs
12. Dayville Road Boat Ramp

Thank you for your positive considerations to these projects.

Respectfully,



William J. Simpson
President

CHAMBER OF COMMERCE PRIORITIES

S B

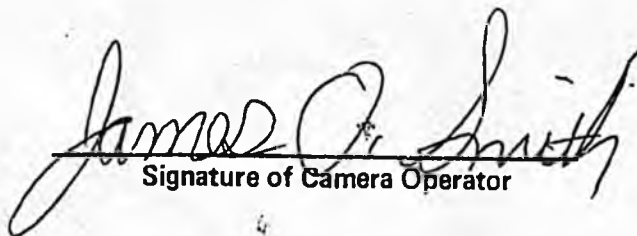
193

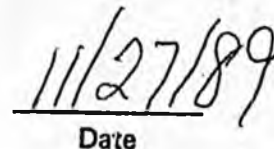


RECORDS CERTIFICATION



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Signature of Camera Operator


Date

S B

193

Alaska State Legislature

SENATOR
JOHN B. "JACK" COGHILL
Chairman

Senator Jan Falks—Vice Chairman
Senator Mitch Abood
Senator Paul Fischer
Senator Joe Josephson



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4921

Senate Committee on Transportation

MEMORANDUM

To: Committee members

From: Committee staff *jr*

Date: March 13, 1985

Re: SB 193 Backup materials

On Friday, March 15, the committee is scheduled to consider SB 193, the Governor's bill making changes in the State's eminent domain procedures. These changes are needed, according to the Governor, to codify recent court rulings on eminent domain takings.

The back-up material explains the intent behind the bill fairly well, and the Governor's transmittal letter, in particular, is detailed in its discussion of the court cases behind the bill. The referenced statutes, rules of court, and subsection of the State constitution should provide sufficient background to the issue. In addition, we are expecting to hear from the Court system, and hope to have that response by our meeting time.

The power of eminent domain is a particularly controversial, and sometimes abused power of government, and the changes proposed in SB 193 may, on the one hand, expedite the public's business, but may not, on the other hand, all be good for property-owners.

The members may want to consider, for example: Is it appropriate to place the onus on the property-owner to prove "by clear and convincing evidence" that the taking is "arbitrary, capricious, or an abuse of discretion" in order to keep his property? (Sec. 7). Is it appropriate to change the law so that, in the Governor's words, "our eminent domain code accurately reflects the law" (letter, p.5), or should the code be induced to change?

STAFF ANALYSIS

Introduced: 2/26/85
Referred: Transportation, Judiciary
and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 193

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the power of eminent domain; and
7 providing for an effective date."

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

9 * Section 1. AS 09.55.270 is amended by adding a new subsection to
10 read:

11 (b) If the property is to be taken by a declaration of taking
12 filed under AS 09.55.440, the state or the municipality shall prepare
13 a decisional document that (1) states that the property is taken in a
14 manner compatible with the greatest public good and least private
15 injury, (2) summarizes the major facts supporting that decision, and
16 (3) identifies any reports, studies, or statements relied upon for the
17 decision.

18 * Sec. 2. AS 09.55.300(a) is amended to read:

19 (a) The court has power

20 (1) to regulate and determine the place and manner of
21 making the connections and crossings or of enjoying the common uses
22 mentioned in AS 09.55.260(5), and of the occupying of canyons, passes,
23 and defiles for railroad purposes, as permitted and regulated by law;

24 (2) to limit the amount of property sought to be condemned
25 if, in its opinion, the quantity sought to be condemned is not neces-
26 sary;

27 (3) to determine whether the property is taken by necessity
28 for a public use or purpose in a manner compatible with the greatest
29 public good and least private injury, based upon the decisional

1 document required by AS 09.55.270 and the evidence allowed by AS 09.-
2 55.460(d), if the taking is accomplished by a declaration of taking
3 filed by the state or a municipality under the provisions of AS 09.-
4 55.440.

5 * Sec. 3. AS 09.55.410 is amended to read:

6 Sec. 09.55.410. WITHDRAWAL OF FUNDS BY PARTY IN INTEREST. The
7 money deposited in the court, or a part of it, may be withdrawn by a
8 party in interest in the manner provided in AS 09.55.440. The [, AND
9 THE] court may [SHALL HAVE THE POWER TO] direct the payment of delin-
10 quent taxes and special assessments out of the amount determined to be
11 just compensation and to make orders with respect to encumbrances,
12 liens, rents, insurance, and other charges as are just and equitable.
13 ~~The withdrawal of any part of the deposit by a party in interest is a~~
14 ~~waiver of all issues concerning the taking of the property, except the~~
15 ~~amount of just compensation.]~~

16 * Sec. 4. AS 09.55.430 is amended to read:

17 Sec. 09.55.430. CONTENTS OF DECLARATION OF TAKING. The declara-
18 tion of taking must [SHALL] contain

19 (1) a statement of the authority under which the property
20 or an interest in it is taken;

21 (2) a statement of the public use for which the property or
22 an interest in it is taken;

23 (3) a description of the property sufficient for the iden-
24 tification of it;

25 (4) a statement of the estate or interest in the property;

26 (5) a map or plat showing the location of the property;

27 (6) a statement of the amount of money estimated by the
28 plaintiff to be just compensation for the property or the interest in
29 it;

1 (7) a statement that the property is taken by necessity for
2 a project located in a manner which is most compatible with the great-
3 est public good and the least private injury;

4 (8) a decisional document as described in AS 09.55.270(b).

5 * Sec. 5. AS 09.55.440(a) is amended to read:

6 (a) Upon the filing of the declaration of taking, and the depos-
7 it with the court of the amount of the estimated compensation stated
8 in the declaration, title to the estate as specified in the declara-
9 tion vests in the plaintiff, and that property is condemned and taken
10 ^{for} ~~from~~ the use of the plaintiff, and the right to just compensation for
11 it vests in the persons entitled to it. The compensation must [SHALL]
12 be ascertained and awarded in the proceeding and established by judg-
13 ment. The judgment must [SHALL] include interest at the lawful inter-
14 est rate set out in AS 45.45.010(a) [THE RATE OF SIX PER CENT PER
15 YEAR] on the amount finally awarded which exceeds the amount paid into
16 court under the declaration of taking. The interest runs from the
17 date title vests to the date of payment of the judgment.

18 * Sec. 6. AS 09.55.450(a) is amended to read:

19 (a) Upon the filing of the declaration of taking and the deposit
20 of the estimated compensation, the court may, upon motion, fix the
21 time during which and the terms upon which the parties in possession
22 are required to surrender possession to the petitioner. However, the
23 right of entry may [SHALL] not be granted the plaintiff until after
24 the running of the time for the defendant to file an objection to the
25 declaration of taking or until after the hearing on any objection to
26 the declaration of taking if the objection is filed [MADE] in the time
27 allowed by Rule 72, Rules of Civil Procedure [LAW]. If an objection
28 to the declaration of taking is filed in the time allowed, a hearing
29 for the review of the taking must be held ~~[within 10 days after the~~

1 as soon as the court calendar allows
2 filing, or as soon after that as possible, to establish the validity
3 of any objections. If no objection to the declaration of taking is
4 filed in the time allowed, the defendant has waived all defenses and
5 objections, and the plaintiff has a right of entry onto the property
6 without further action by the court. If [WHERE] the party in posses-
7 sion withdraws any part of the award and remains in possession, the
8 court may fix a reasonable rental for the premises to be paid by that
9 party to the plaintiff during the [SUCH] possession.

* Sec. 7. AS 09.55.460 is amended by adding new subsections to read:

10 ~~[(e) The taking of property is necessary for a public use or~~
11 ~~purpose in a manner compatible with the greatest public good or least~~
12 ~~private injury unless the defendant establishes by clear and convinc-~~
13 ~~ing evidence that the plaintiff's decision to condemn is arbitrary,~~
14 ~~capricious, or an abuse of discretion.]~~

15 ^c
(d) The court, when making its finding under this section, shall
16 consider the decisional document prepared by the plaintiff; supporting
17 reports, studies, or statements; ^{sworn} affidavits submitted by the parties,
18 their officers, or employees; and depositions taken by the parties.
19 The court, in the exercise of its discretion, may allow the parties to
20 submit additional necessary evidence.

21 * Sec. 8. This Act takes effect ⁴immediately in accordance with AS 01.-
22 10.070(c).

4

5

amend sb 193 xx2

PROPOSED AMENDMENT NUMBER 1

TO

SB 193

On page 2, line 13, delete all material on lines 13, 14, and 15.

Currently, once the condemning authority has filed its declaration of taking, and escrowed the estimated amount of compensation, the right to the property being taken vests with the government, and the property owner no longer has a right to it. But the property owner can have access to the value of the property, by withdrawing from the escrowed funds. The proposed change would have the withdrawal of funds act as a waiver to all of the dispute except the amount of compensation. The question to answer is whether this is fair to the property owner who contests the taking, and would not have either the full use of the property or the value of the property to enjoy while the appeal is in process.

amend sb 193 xx1

PROPOSED AMENDMENT NUMBER 2

TO

SB 193

On pg 3, line 10, delete the word "from", and insert in its place:
the word "for"

This proposed change would clarify a poorly written statute dating from 1962.

amend sb 193 xx3

PROPOSED AMENDMENT NUMBER 3

TO

SB 193

On page 3, line 29, following the phrase "must be held",
delete the remainder of line 29, and

On page 4, line 1, delete everything up to but not including the phrase,
"to establish" and insert in its place:

as soon as the court calendar allows

This amendment would have the effect of diminishing the urgency of calendaring eminent domain appeals for court action. With court schedules as crowded as they now are, eminent domain proceedings, important though they may be, should not necessarily be afforded a statutory 30-day limit.

amend sb 193 xx4

PROPOSED AMENDMENT NUMBER 4

TO

SB 193

On page 4, line 10, delete subsection (c) and renumber remaining subsection accordingly

The effect of this amendment would be to take the burden off the owner of the property being taken, and place it back with the condemning authority to show that the taking was compatible with the greatest public good or least private injury. As the subsection is now written, the property owner (defendant) must show by clear and convincing evidence that the condemning authority's decision was arbitrary, capricious or an abuse of discretion. This is a policy question well within the purview of the Legislature, to determine upon whose shoulders the burden of proof will fall.

amend sb 193 xx5

PROPOSED AMENDMENT NUMBER 5

TO

SB 193

On page 4, line 17, between the words "statements;" and "affidavits",
insert the word "sworn"

The effect of this amendment would be to ensure that the affidavits the
court is considering are authentic, and not hearsay.

Introduced: 2/26/85
Referred: Transportation, Judiciary
and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 193

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the power of eminent domain; and
7 providing for an effective date."

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

9 * Section 1. AS 09.55.270 is amended by adding a new subsection to
10 read:

11 (b) If the property is to be taken by a declaration of taking
12 filed under AS 09.55.440, the state or the municipality shall prepare
13 a decisional document that (1) states that the property is taken in a
14 manner compatible with the greatest public good and least private
15 injury, (2) summarizes the major facts supporting that decision, and
16 (3) identifies any reports, studies, or statements relied upon for the
17 decision.

18 * Sec. 2. AS 09.55.300(a) is amended to read:

19 (a) The court has power

20 (1) to regulate and determine the place and manner of
21 making the connections and crossings or of enjoying the common uses
22 mentioned in AS 09.55.260(5), and of the occupying of canyons, passes,
23 and defiles for railroad purposes, as permitted and regulated by law;

24 (2) to limit the amount of property sought to be condemned
25 if, in its opinion, the quantity sought to be condemned is not neces-
26 sary;

27 (3) to determine whether the property is taken by necessity
28 for a public use or purpose in a manner compatible with the greatest
29 public good and least private injury, based upon the decisional
30

1 document required by AS 09.55.270 and the evidence allowed by AS 09.-
2 55.460(d), if the taking is accomplished by a declaration of taking
3 filed by the state or a municipality under the provisions of AS 09.-
4 55.440.

5 * Sec. 3. AS 09.55.410 is amended to read:

6 Sec. 09.55.410. WITHDRAWAL OF FUNDS BY PARTY IN INTEREST. The
7 money deposited in the court, or a part of it, may be withdrawn by a
8 party in interest in the manner provided in AS 09.55.440. The[, AND
9 THE] court may [SHALL HAVE THE POWER TO] direct the payment of delin-
10 quent taxes and special assessments out of the amount determined to be
11 just compensation and to make orders with respect to encumbrances,
12 liens, rents, insurance, and other charges as are just and equitable.
13 The withdrawal of any part of the deposit by a party in interest is a
14 waiver of all issues concerning the taking of the property, except the
15 amount of just compensation.

16 * Sec. 4. AS 09.55.430 is amended to read:

17 Sec. 09.55.430. CONTENTS OF DECLARATION OF TAKING. The declara-
18 tion of taking must [SHALL] contain

19 (1) a statement of the authority under which the property
20 or an interest in it is taken;

21 (2) a statement of the public use for which the property or
22 an interest in it is taken;

23 (3) a description of the property sufficient for the iden-
24 tification of it;

25 (4) a statement of the estate or interest in the property;

26 (5) a map or plat showing the location of the property;

27 (6) a statement of the amount of money estimated by the
28 plaintiff to be just compensation for the property or the interest in
29 it;

1 (7) a statement that the property is taken by necessity for
2 a project located in a manner which is most compatible with the great-
3 est public good and the least private injury;

4 (8) a decisional document as described in AS 09.55.270(b).

5 * Sec. 5. AS 09.55.440(a) is amended to read:

6 (a) Upon the filing of the declaration of taking, and the depos-
7 it with the court of the amount of the estimated compensation stated
8 in the declaration, title to the estate as specified in the declara-
9 tion vests in the plaintiff, and that property is condemned and taken
10 from the use of the plaintiff, and the right to just compensation for
11 it vests in the persons entitled to it. The compensation must [SHALL]
12 be ascertained and awarded in the proceeding and established by judg-
13 ment. The judgment must [SHALL] include interest at the lawful inter-
14 est rate set out in AS 45.45.010(a) [THE RATE OF SIX PER CENT PER
15 YEAR] on the amount finally awarded which exceeds the amount paid into
16 court under the declaration of taking. The interest runs from the
17 date title vests to the date of payment of the judgment.

18 * Sec. 6. AS 09.55.450(a) is amended to read:

19 (a) Upon the filing of the declaration of taking and the deposit
20 of the estimated compensation, the court may, upon motion, fix the
21 time during which and the terms upon which the parties in possession
22 are required to surrender possession to the petitioner. However, the
23 right of entry may [SHALL] not be granted the plaintiff until after
24 the running of the time for the defendant to file an objection to the
25 declaration of taking or until after the hearing on any objection to
26 the declaration of taking if the objection is filed [MADE] in the time
27 allowed by Rule 72, Rules of Civil Procedure [LAW]. If an objection
28 to the declaration of taking is filed in the time allowed, a hearing
29 for the review of the taking must be held within 30 days after the

1 filing, or as soon after that as possible, to establish the validity
2 of any objections. If no objection to the declaration of taking is
3 filed in the time allowed, the defendant has waived all defenses and
4 objections, and the plaintiff has a right of entry onto the property
5 without further action by the court. If [WHERE] the party in posses-
6 sion withdraws any part of the award and remains in possession, the
7 court may fix a reasonable rental for the premises to be paid by that
8 party to the plaintiff during the [SUCH] possession.

9 * Sec. 7. AS 09.55.460 is amended by adding new subsections to read:

10 (c) The taking of property is necessary for a public use or
11 purpose in a manner compatible with the greatest public good or least
12 private injury unless the defendant establishes by clear and convinc-
13 ing evidence that the plaintiff's decision to condemn is arbitrary,
14 capricious, or an abuse of discretion.

15 (d) The court, when making its finding under this section, shall
16 consider the decisional document prepared by the plaintiff; supporting
17 reports, studies, or statements; affidavits submitted by the parties,
18 their officers, or employees; and depositions taken by the parties.
19 The court, in the exercise of its discretion, may allow the parties to
20 submit additional necessary evidence.

21 * Sec. 8. This Act takes effect immediately in accordance with AS 01.-
22 10.070(c).

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST
Bill/Resolution No.: SB 193
Title: _____

FISCAL DETAIL
Agency Affected: Transportation & Public Facilities
Program Category Affected: Capital Projects

Sponsor: Rules Committee
Requestor: _____
Date of Request: _____

BRU, Program or Subprogram(s) Affected:
Right of Way & Land Acquisition

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Although a dollar amount cannot be identified in this fiscal note, this bill should definitely provide a savings to the State. It will alleviate problems that have developed in regard to eminent domain procedures which have the potential to seriously delay badly needed public work projects. This bill should improve eminent domain procedures without prejudicing property owners' rights.

Prepared By: Milton H. Lentz, Chief, R/W & Land Acq. Phone: 465-2985
Division: Standards & Technical Services/HU Date: 2/13/85

Approved by Commissioner:  Date: 2/14/85
Agency: Dept. of Transportation & Public Facilities

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

ANALYSIS OF FISCAL NOTE

"An Act relating to the power of eminent domain; and providing for an effective date"

This bill recognizes recent development in the law and contains provisions that should streamline eminent domain procedures without prejudicing property owner's rights.

First, this would require the court to schedule a hearing for the review of the taking within 30 days after the filing of any objections to the declaration of taking or as soon after that as possible. This particular amendment does not create a priority over other matters on the court's calendar, but does place a requirement upon the Superior Court to deal expeditiously with hearings on objections to the authority and necessity for the taking.

This bill would amend AS 09-55-410 by clearly stating that, if any money on deposit is withdrawn by a party in interest, the withdrawal operates as a waiver of all issues except the amount of just compensation. This would require the property owner early on to make a choice between attempting to stop the project or only litigating the issue of compensation. This bill would also raise the statutory interest allowed under the declaration of taking procedure to the lawful interest rate.

This bill would clearly state that if a defendant does not make his objections in a timely manner, he has waived his objection and defense to the taking.

It is concluded that legislation that leaves a property owner's substantive rights intact, but that changes the procedural aspects of the litigation to a more effective and timely manner so that capital projects are not delayed is in the best interest of the public.

Although a dollar amount cannot be identified, this bill should provide a savings to the State, since it will alleviate problems that have developed in regard to eminent domain procedure which have the potential to seriously delay badly needed public work project.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

06193

The Honorable Don Bennett
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill making several changes in the exercise of the power of eminent domain under AS 09.55.240 -- 09.55.460. This bill recognizes recent developments in the law and contains provisions that should streamline eminent domain procedures without prejudicing landowners' rights. The result will alleviate delays that public works projects can experience. The public is well served by the amendments because it will get the use of its public works projects sooner and at lower public expense.

Section 1 of the bill amends AS 09.55.270 by requiring the condemning authority, before the taking of real property by a "declaration of taking," to prepare a decisional document summarizing the decision. Section 4 amends AS 09.55.430 by requiring that the decisional document be part of the declaration of taking. These two amendments codify and implement the holding in Ship Creek Hydraulic Syndicate v. State, 685 P.2d 715 (Alaska 1984).

Section 2 amends AS 09.55.300(a) by clearly specifying the power of the superior court when considering the requirement that a taking be made in a manner compatible with the greatest public good and least private injury. The court is to make its analysis based upon a review of the decisional document required by sec. 1 and on appropriate evidence as set out in sec. 7 of the bill.

Section 3 amends AS 09.55.410 by clearly stating the proposition that, if any money on deposit is withdrawn by a party in interest, the withdrawal operates as a waiver of all issues, except the amount of just compensation. This amendment codifies existing practice. We believe that it is reasonable because it requires the property owner early

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on to make a choice between attempting to stop the project or only litigating the issue of compensation.

Section 5 amends AS 09.55.440(a) by raising the statutory interest allowed under the declaration-of-taking procedure to the lawful interest rate. Under AS 45.45.010, that interest rate is currently 10.5 percent. Under the existing language of AS 09.55.440(a), a property owner is entitled to interest at the rate of six percent on the amount finally awarded that is in excess of the initial deposit. This interest rate was found unconstitutional in City of Valdez v. 18.99 Acres, 686 P.2d 682 (Alaska 1984), where the court held that condemning authorities are required to pay lawful interest.

Section 6 provides a number of amendments to AS 09.55.450(a) that will streamline the procedure in the superior court. First, the court is required to schedule a hearing for the review of the taking within 30 days after the filing of any objections to the declaration of taking or as soon after that as possible. This particular amendment does not create a priority over other matters on the court's calendar, but does place a requirement upon the superior court to deal expeditiously with hearings on objections to the authority and necessity for the taking. When combined with the changed nature of that hearing under the amendments contained in sec. 7, the scheduling of a hearing on any objections to the declaration of taking should be greatly expedited.

Section 6 also contains amendments that clearly state that if a defendant does not make his objections in a timely fashion, he has waived his objections and defenses to the taking. This amendment parallels the existing law found in Civil Rule 72(e)(4). We believe that the amendment is necessary to avoid situations such as those that arose in Stewart v. State, Op. No. 2895 (Alaska, December 28, 1984).

In that case, the state filed its declaration of taking, and the property owners filed no objection to the taking. The project went out to bid and the contract was awarded. Six months after the action was filed and two months after the award of the contract, the property owners entered an objection to the taking and the superior court allowed the objections. Rather than litigate the propriety of the taking, the state dismissed its declaration of taking and redesigned its project. This resulted in higher construction costs. Section 6's amendment, absent extraordinary circumstances that the superior court may in the interest

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of justice address, is not prejudicial to a defendant's rights; it places him in no worse position than any other civil litigant; i.e., objections or defenses that are not made are waived.

Section 7 contains amendments that are a departure from the existing law and practice. Existing AS 09.55.460 requires an analysis by the superior court to determine whether the taking was accomplished in a manner compatible with the greatest public good and least private injury. If the court finds that the taking was not made in that manner, the state is divested of the title it has acquired with its declaration of taking. The difficulty with the current statute is that no procedural standards are given for the analysis, and no burden of proof is assigned to the parties. The result, in practice, of this lack of clarity in the statute has been generally to assign to the defendant the burden of proof that the taking was not made in a manner compatible with the greatest public good and least private injury, and a "mini-trial" was necessary for the taking of the parties' evidence.

Court calendars are quite crowded and, when coupled with the "mini-trial" practice, the effect has been to delay the hearing until a significant block of the court's calendar can be set aside. One recent Supreme Court case, Ship Creek Hydraulic Syndicate v. State, cited above, produced a hearing in the trial court which lasted nearly five days, during which expert testimony was presented by both sides. While the trial court did ultimately confirm the taking, time that could have been devoted to the project was lost. It should also be noted that the requirement for a decisional document, which is set out in sec. 1, is a product of this case.

The language proposed in AS 09.55.460(c) assigns the burden to the defendant to prove by clear and convincing evidence that the decision to condemn was arbitrary, capricious, or an abuse of discretion. We believe that this language is a codification of the holdings in State v. 0.644 Acres, 613 P.2d 829 (Alaska 1980) and State v. 2.072 Acres, 652 P.2d 465 (Alaska 1982), and only represents a departure from existing statutory language in that the appropriate review standards are clearly and succinctly stated.

The language proposed in AS 09.55.450(d) is a departure from existing practice, but, when combined with the amendments regarding decisional documents, should streamline the procedure in the superior court without prejudicing

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the property owners' rights. Under this language, the superior court will consider the decisional document, any supporting reports, studies, or statements relied upon in reaching the decision to condemn, and any affidavits the parties might submit, as well as depositions taken by the parties. There is no provision for the taking of evidence by the court except in situations in which the court allows the presentation of additional evidence. This proposed language provides for a review process by the superior court which is analogous to the function it serves when reviewing decisions of the district court and administrative agencies under AS 22.15.240 and Appellate Rule 609.

Under the cited statute and rule, the superior court reviews cases involving significant liberty and property interests that have been adjudicated by the district court and a variety of administrative agencies. These appeals are all upon the record without the taking of additional evidence, except as provided by statute and rule in extraordinary circumstances.

There are significant differences between the record in an appeal from the district court or an administrative agency and the decisional document envisioned in sec. 1 of this bill. The most important is that the aggrieved party will have presented his case before the matter is in the superior court. We believe that allowing the parties to submit affidavits and depositions in response to, or to support objections to, the taking is a reasonable substitute. We reach this conclusion because of the extensive nature of the background analysis that is performed in the course of developing a public works project. Typically, location and design studies and, in many instances, environmental impact studies are prepared. An additional component of the planning and design of a public works project is a public hearing process during which comments are solicited from the public. Furthermore, AS 35.30.010 requires approval by local planning and zoning commissions. An analogous approval is required under AS 09.55.275 for any replatting which is necessary to accommodate the project. By the time an eminent domain action is filed, the project is a well-known entity and well defined, and has been the subject of local political decisions and adjudication procedures under AS 35.30.010 and AS 09.55.275.

With this extensive administrative background, we believe that augmenting the evidence before the court with depositions and affidavits provides the superior court an adequate basis to review the appropriateness of the taking.

Rb 193

Under the amendments in this bill, the superior court has the discretion to allow the presentation of additional evidence as it does in its appellate jurisdiction.

I urge your favorable action on this measure, so that our eminent domain code accurately reflects the law, and so that the public's business is handled in an expeditious and fair manner for all concerned.

Sincerely,



Bill Sheffield
Governor

:
:

amend sb 193 xx7

PROPOSED AMENDMENT N^o 6

TO
SB 193

*moved by Abood
adopted w/o objection*

On page 4, line 12, delete the phrase "clear and convincing", and
insert in its place: "a preponderance of the"

While this amendment would not reverse the intent of the subsection, and the burden would still lie with the property-owner to prove his case, the change would have the net effect of reducing the degree of evidence required of the defendant.

Preponderance of evidence. Evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. *Braud v. Kinchen*, La.App., 310 So.2d 657, 659. With respect to burden of proof in civil actions, means greater weight of evidence, or evidence which is more credible and convincing to the mind. That which best accords with reason and probability. The word "preponderance" means something more than "weight"; it denotes a superiority of weight, or outweighing. The words are not synonymous, but substantially different. There is generally a "weight" of evidence on each side in case of contested facts. But juries cannot properly act upon the weight of evidence, in favor of the one having the *onus*, unless it overbear, in some degree, the weight upon the other side.

That amount of evidence necessary for the plaintiff to win in a civil case. It is that degree of proof which is more probable than not.

Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence, which does not necessarily mean the greater number of witnesses, but opportunity for knowledge, information possessed, and manner of testifying determines the weight of testimony.

Clear and convincing proof. Generally, this phrase and its numerous variations mean proof beyond a reasonable, *i.e.*, a well-founded doubt. Some cases give a less rigorous, but somewhat uncertain, meaning, *viz.*, more than a preponderance but less than is required in a criminal case.

Proof which should leave no reasonable doubt in the mind of the trier of the facts concerning the truth of the matters in issue. In *Interest of Jones*, 34 Ill.App.3d 603, 340 N.E.2d 269, 274.

That measure or degree of proof which will produce in mind of trier of facts a firm belief or conviction as to allegations sought to be established; it is intermediate, being more than mere preponderance, but not to extent of such certainty as is required beyond reasonable doubt as in criminal cases. *Fred C. Walker Agency, Inc. v. Lucas*, 215 Va. 535, 211 S.E.2d 88, 92.

See also *Beyond a reasonable doubt*; *Burden of proof*; *Clear evidence or proof*.

FROM BLACK'S LAW DICTIONARY

Alaska State Legislature

Advisory Council Members
Senator Bennett, Chairman
Senator Kerttula
Senator Abood
Senator Sackett



Pouch V
State Capitol
Juneau, Alaska 99811
Phone: (907) 465-3114

SENATE ADVISORY COUNCIL

MEMORANDUM

TO: Senator Jack Coghill
Attention: John Manley

FROM: Rob Nauheim *Rob Nauheim*

DATE: March 26, 1985

RE: Eminent domain proceedings

There does not appear to be any jurisdiction in which the burden of proof remains with the condemning authority after an initial decision has been made in an eminent domain proceeding. This is consistent with the notion that once a decision has been rendered it is up to those parties which do not agree with the decision to demonstrate how and why the decision was inappropriate. It also seems consistent with certain principles of public policy and the powers of eminent domain. The condemnation of private property is ultimately the result of a legislative decision to carry out public policy.

The alternative to which you alluded in the research request and which would give greater weight to the individual, would also have the effect of rendering any decision in an eminent domain case ineffective until the the condemning authority had proved its case.

If I can be of additional assistance in this matter, please give me a call.

RCN

ADVISORY COUNCIL MEMO



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

303 K Street
Anchorage, Alaska 99501

March 22, 1985

Senator Coghill, Chair
Senate Transportation Committee
Pouch V
Juneau AK 99811

Dear Senator Coghill:

I am writing with regard to SB 193, an act relating to the power of eminent domain. I have discussed this measure with several of the presiding judges, who offer the following comments. First, the measure provides that a hearing for review of a taking must be held within 30 days after the filing, or as soon after that as is possible, to establish the validity of any objections (Section 6, pages 3-4). Calendaring of matters before the court is an inherently procedural task, properly within the purview of the courts. The Court System therefore opposes inclusion of language which appears to require placement on the calendar within a set time period. However, the courts are mindful of the concerns expressed in the governor's transmittal letter. Judge Sardahely in particular is exploring ways to expedite hearings before the superior court in Anchorage.

A second concern relates to section 7, paragraph (d), which limits live testimony at a hearing to object to a taking. Since supporting statements, reports and similar documents generally contain hearsay evidence, due process would be enhanced if these materials were sworn in a manner similar to affidavits.

Although this legislation represents a change in the way in which eminent domain proceedings would be handled, the other provisions of the bill involve substantive policy decisions appropriately addressed to the legislature.

Thank you for the opportunity to comment upon this legislation.

Sincerely,

Karla L. Forsythe
General Counsel

cc: Arthur H. Snowden, II
Presiding Judges
William F. Cummings, Assistant Attorney General

COURT SYSTEM LETTER