

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5149 HTRA HB 115 - HB 123 721

concurrence of the FHWA or, in the alternative, an Act of Congress. It is possible that the FHWA would require re-payment of the Federal funds used for surveillance of construction of the road as a condition to its concurrence in removal from the system. However, there is no legal requirement of such a condition.

The FHWA has recently taken the position that it lacks the authority to concur in the removal of a highway from the Federal Aid System even if federal funds spent constructing the highway are repaid. This position is stated in a Memorandum of Law by the Office of the Chief Counsel for FHWA dated September 14, 1976 which is based on a 1958 decision of the Comptroller General, 38 Comp. Gen. 266 (October 3, 1958). In all frankness, we do not believe that this preliminary opinion by the Chief Counsel correctly states the law. FHWA's insistence on Congressional authorization for removal of a highway from the Federal Aid System ignores the precedent set in New York which is discussed in Bozart v. Westchester County, 57 N.Y.S. 2d 506 at 513 (Sup. Ct. 1945); aff'd 59 N.Y.S.2d 77 (App. Div. Second Dept. 1945), the FHWA's own Policy and Procedure Memorandum 10-1, May 28, 1965 and the FHWA's own regulation 23 CFR § 470.111(b). That regulation provides:

Federal Highway Administration approval of a deletion or a route from any Federal-aid system, without reclassification and

redesignation to another Federal-aid system, shall relieve the State of its obligation to the Federal Government to maintain portions thereof constructed as Federal-aid projects with the exception of defense access-road projects constructed under the provisions of Volume 6, Chapter 9, Section 5 of the Federal-Aid Highway Program Manual. Such deletion shall also relieve the State of any other obligations included in project agreements executed for Federal-aid projects on portions of the deleted route. (Emphasis added).

Subsection (c) further provides for reinstatement of a route previously deleted from a Federal Aid system if a State agrees to resume its maintenance obligation.

Requests for reinstatement of routes deleted from any Federal-aid system shall be approved by FHWA only when the State expressly agrees to resume its obligation for the maintenance of any portion of the route previously constructed as a Federal-aid project. Resumption of any other obligations included in project agreements executed for Federal-aid projects on the route being considered for reinstatement shall be mutually agreed to by the State and the FHWA.

These regulations, which are now in effect and the above cited FHWA Policy and Procedure Memorandum in effect when the Haul Road Project Agreement was executed, give rise to serious doubt as to the validity of FHWA's position that it may not approve deletion of a route from the Federal Aid system without congressional approval. However, the FHWA position is significant as an indication of the agency's reluctance to give its approval to removal of the Haul Road from the FAS system. There is nothing which would require

FHWA to give its approval, short of an Act of Congress..

Therefore, the FHWA position may be self-fulfilling.

If removal of the Haul Road is accomplished, with or without Congressional legislation, tolls may be imposed on users of the Road, but the tolls must be authorized by State legislation. Moreover, under paragraph 3 of the June 11, 1971 State-Alyeska Construction Agreement, any tolls imposed must exempt Alyeska and its employees, agents, and sub-constructors who use the Road for the operation and maintenance of the oil pipeline. Such an exemption would be legally valid since it would be a part of the consideration to Alyeska from the State for building the Haul Road.

The discussion of removing the Road from the Federal Aid System has focussed primarily on the Road north of the Yukon River Bridge. However, it is possible, of course, to broaden the outlook toward removing the bridge as well from the federal system. If removal included reimbursement of FHWA funds used by the State for construction, an additional \$25 million would have to be repaid by the State. This is the approximate amount of FHWA funds received by the State for construction of the bridge under a separate Project Agreement. The bridge, though the subject of this separate Agreement, is part of the same FAS Route 681 as the Road, which extends from Livengood to Prudhoe Bay. Removal of both the bridge and the Road from the Federal Aid System

would simply allow the point at which tolls were collected to be moved to the south end of the bridge and tolls could be set at a level which would include the costs related to the bridge.

Removal of the Road north of the bridge from the Federal Aid System would not necessitate removal of the bridge also. Under 23 U.S.C. § 129(c), Federal aid funds may validly be used on a project approaching a toll road as long as the project "will have some use irrespective of its use for such toll road." If the Road north of the bridge were removed from the Federal Aid System and made a toll road the bridge could have some use irrespective of its use as an approach to the toll road. It provides access to both sides of the Yukon River with its enormous recreational potential. The area could be developed and improved and combined with a tourist service and information center as suggested by some and the independent usefulness of the bridge would be augmented.

Removal of the Road and/or bridge from the Federal Aid System may be accomplished by obtaining the approval of FHWA pursuant to 23 C.F.R. § 470.111(b). However, in light of the FHWA position that, despite its own regulation, it lacks the authority to grant such approval, Congressional action may be the most practical, expeditious means to accomplish removal. If FHWA reevaluates its position and

grants removal approval administratively, it is likely that it will require as a condition, reimbursement of Federal funds spent in construction of whatever part of FAS Route 681 is to be removed. If Congressional approval is obtained, it may or may not be conditioned upon reimbursement. Once removal is accomplished, tolls may be imposed if the Alaska legislature provides the authority.\*/ Part of the revenue from the tolls may be used to amortize the cost of reimbursement.\*\*/

Congress has approved removal of roads and bridges from the Federal Aid System in the past to enable states to impose tolls.\*\*\*/ Most of these approvals required repayment of Federal Aid Highway funds used to construct the highway, but the repayment was credited to the balance of Federal Aid Highway funds apportioned to the State and made available to that State for expenditure on other highway projects. (e.g. P.L. 93-87, § 131(a)). Thus, the repayment required by

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\*/ The legislature has granted the authority to levy bills only on bridges to the Alaska Toll Bridge Authority - AS 44.57.180(a).

\*\*/ 23 U.S.C. § 129(a), which delineates the valid uses of revenue from toll facilities constructed as part of the Federal Aid System pursuant to pre-construction agreements, would not apply.

\*\*\*/ E.G.: P.L. 83-350, § 22, May 6, 1954 (Connecticut); P.L. 86-657, § 6, July 14, 1960 (Delaware and Maryland); P.L. 90-495, § 20(a), August 23, 1968 (New Jersey); P.L. 91-605, § 145, December 31, 1970 (Michigan); and P.L. 93-87, § 131, August 13, 1973 (New Hampshire).

Congress is less a reimbursement than a transfer of funds to other highways or routes in the state.

Short of removal of the Haul Road from the Federal Aid System and imposition of tolls on its users, the only other means for funding the cost of maintaining the Road are indirect and statewide. The graduated commercial vehicle tax (AS 28.10.200(b)(4)) could be increased. The motor fuel tax of 8¢/gallon (AS 43.40.010) could be increased. The partial motor fuel tax refund of 6¢/gallon for non-highway use of fuel (AS 43.40.030) could be adjusted, narrowed, or eliminated.\*/ All of these measures would, of course, require legislative action. There may be other statewide revenue generating possibilities involving taxes or fees imposed on the basis of mileage, vehicle weight or type, or other classification with a rational basis.

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\*/ The off highway use motor fuel tax refund is now available only for fuel other than aviation or watercraft fuel not used in conjunction with vehicles licensed to be operated on public highways under AS 28.10. Under AS 28.10.030, all vehicles used on public highways must be licensed (registered). The only exceptions relevant to the Haul Road are vehicles used only cross highways and special mobile equipment which is defined in AS 28.10.650(14) includes most heavy construction equipment (AS 28.10.040(1) and (3)).

Fran Ulmer  
Division of Policy  
Development & Planning

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January 17, 1978

We trust we have adequately responded to your questions concerning the Haul Road in this opinion. If you have any further questions, or if you would like to discuss any portion of this opinion in greater detail, please do not hesitate to contact us.

Yours very truly,

AVRUM M. GROSS  
ATTORNEY GENERAL

By:

Peter B. Froehlich  
Assistant Attorney General

PFB:bvd

cc: Commissioner Harris  
Commissioner LeResche

# Alaska State Legislature

## House of Representatives

### Committee on Transportation



Rep. Bette Cato, Chairman

March 4th, 1987

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4858

TO: Commissioner Mark Hickey  
FROM: Representative Bette Cato  
SUBJECT: House Bill 115 - Representative Steve Frank  
Public Use of the Dalton Highway

During the House Transportation Committee meeting held on Wednesday, March 4, 1987, the committee members asked the department to provide information on the following:

- a. The statute that applies to the opening of the road in 1980 from Dietrich to the Yukon.
- b. How many years the road has actually been open.
- c. How many accidents have occurred on the road since it has been open.
- d. A breakdown on the accidents:
  1. number of accidents on this road in the summer months compared to the winter months
  2. The number of accidents involving commercial vehicles as compared with non commercial.
- e. Since the opening of this road, the enviromental impacts in the summer months compared to the winter months.
- d. The overall total number of accidents that have occurred on the Dalton Highway.

This bill is scheduled for a second public hearing on Wednesday March 11th. I would appreciate a representative from the department being available to answer the above questions and provide any additional information required.

Thank you

A handwritten signature in cursive script that reads "Bette".

Representative Bette Cato  
House Transportation Chairman

# STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P.O. BOX Z  
JUNEAU, ALASKA 99811-2500  
PHONE: (907) 465-3900

March 11, 1987

RE: HB 115 - Public Use  
of the Dalton Highway

The Honorable Bette Cato  
Alaska State House of Representatives  
P. O. Box V  
Juneau, AK 99811

Dear Representative Cato:

The following is the department's response to questions from the March 4 House Transportation Committee meeting concerning the Dalton Highway.

- A. Provide (copy of) the statute that applies to the opening of the road in 1980 from Dietrich to the Yukon.

A copy of the statute, AS 19.40.110, is attached.

- B. How many years has the road actually been open?

The Dalton Highway was completed in 1974 and turned over to the State in 1978. In 1981, it was opened to the public as far as Dietrich from June 1 to September 1. Since January, 1983, it has been open to the public as far as Dietrich year-round.

- C. How many accidents have occurred on the road since it has been open?

The total number of accidents recorded on the Dalton Highway (Livengood to Deadhorse) from 1977 through September 1986, is 245. Of those, 87 were between Livengood and the Yukon River Bridge, and 158 were north of the Yukon River. On the section of road between the Yukon River and Dietrich, there have been 36 accidents during 66 months of restricted use and 40 accidents during 51 months of open, public use. Accident statistics are attached.

- D. Show a breakdown on the number of accidents on this road in the summer months compared to the winter months.

March 11, 1987

The following accident numbers are presented by section of road and by month. Figures are an average from 1977 through September 1987.

	J	F	M	A	M	J	J	A	S	O	N	D
Livengood-Yukon River	9	6	7	1	4	3	8	2	11	18	5	13
Yukon River-Dietrich	6	4	9	6	0	3	5	8	9	5	11	11
Dietrich-Deadhorse	6	9	12	2	2	4	7	8	3	5	8	15
TOTAL	21	19	28	9	6	10	20	18	23	28	24	39

- E. Since opening the road, (what are) the environmental impacts in the summer months compared to the winter months.

There is not quantifiable information available to use which would make it possible to answer this question. Therefore, any response would only be subjective.

- F. The overall total number of accidents that have occurred on the Dalton Highway.

See response to question "C".

- G. Provide a copy of the Attorney General's Opinion that states that the Department of Transportation and Public Facilities currently has the authority to charge tolls.

A copy of the February 20, 1987 Opinion is attached.

- H. Is Alyeska Pipeline Service Company exempt from toll activities?

The Attorney General's office has reviewed the original Construction Agreement between Alyeska and the State of Alaska. Attached is their response.

- I. How many miles of federal route is there south of Deadhorse to Dietrich?

The entire Dalton Highway from Livengood to the Deadhorse Airport is a federal-aid route. It is 416 miles long. The portion from Dietrich to Deadhorse is 205 miles long.

The Honorable Bette Cato

-3-

March 11, 1987

- J. How long has the bridge at Dietrich been open to the public year-round?

The Dalton Highway has been open to Dietrich (Disaster Creek Checkpoint at MP 211) year-round since January, 1983.

- K. What are the accident statistics on the portion of the Dalton Highway currently open to the public?

Compiles accident statistics for the Livengood-Yukon River and Yukon River-Disaster Creek Checkpoint sections are attached. Note that the compilations are for 1977 to present. For the Yukon River-Disaster Creek section the compilation includes information from several years before it was open to the public. We have information on individual accidents on computer and can retrieve and compile it by date or by milepost.

Sincerely,

  
Mark S. Hickey  
Commissioner

Attachment

# ACCIDENT STATISTICS

MORE  
 TWR/ACCIDENTS ALASKA DOT/PF 03/05/87  
 ROUTE 150000 YEARS 1977 - PRESENT 11:50:35.  
 MILES 072.85 - 134.86 DALTON HWY JCT ELLIOTT HWY AT MP66 TO YUKON R BRIDGE

-----ACCIDENT-----			-----LOCATION----		D NBR	-----INJURY----			PROPTY EV C CO			
NUMBER	DATE	TIME	ROUTE	MILEPT	G	VEH	FAT	MAJ	MIN	DAMAGE	TP	H ND

ACCIDENT TYPE	-----INJURIES-----			PROPTY DAMAGE	-----COUNTS-----	
	FATAL	MAJOR	MINOR		VEH.	ACCIDENT
TYPE 1 - FATALITIES	2	0	0	90000	2	2
TYPE 2 - MAJOR INJURIES		15	1	206172	11	10
TYPE 3 - MINOR INJURIES			25	691000	23	22
TYPE 4 - PROP. DAMAGE ONLY				508329	56	40
-- TOTALS ----->	2	15	26	1495501	109	87

MORE  
 TWR/ACCIDENTS ALASKA DCT/PF 03/05/87  
 ROUTE 150000 YEARS 1977 - PRESENT 11:59:05.E  
 MILES 134.86 - 290.58 DALTON HWY YUKON RIVER BRIDGE TO CHECK POINT MP211

-----ACCIDENT-----			-----LOCATION----		D NBR	-----INJURY----			PROPTY EV C CO			
NUMBER	DATE	TIME	ROUTE	MILEPT	G	VEH	FAT	MAJ	MIN	DAMAGE	TP	H ND

ACCIDENT TYPE	-----INJURIES-----			PROPTY DAMAGE	-----COUNTS-----	
	FATAL	MAJOR	MINOR		VEH.	ACCIDENT
TYPE 1 - FATALITIES	1	0	1	24000	2	1
TYPE 2 - MAJOR INJURIES		13	3	279500	17	13
TYPE 3 - MINOR INJURIES			16	134575	15	13
TYPE 4 - PROP. DAMAGE ONLY				408170	59	40
-- TOTALS ----->	1	13	20	846245	107	77

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

P. O. BOX K—STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

February 20, 1987

### M E M O R A N D U M

TO: Honorable Steve Cowper  
Governor

FROM: Grace Berg Schaible  
Attorney General

BY: Arthur H. Peterson  
Assistant Attorney General  
Legislation/Regulations Section

RE: Toll on Dalton Highway  
Our file: 773-87-0129

At our February 7, 1987, meeting on legislation, you asked whether it would be necessary to have a bill to authorize charging a toll for use of the Dalton Highway. The short answer is no. In fact, at least one bill (SB 132, by Coghill) has been introduced to prevent charging such a toll.

AS 19.05.040 lists the powers of the Department of Transportation and Public Facilities (DOTPF). Paragraph (11) of that statute provides that the department may

establish, levy, and collect tolls, fees, charges, and rentals for the use of state roads, highways, bridges, crossings, and causeways.

AS 19.45.001 is the definition section for AS 19.05 -- AS 19.40. Paragraph (9) of that statute defines "highway" as follows:

"highway" includes a highway (whether included in primary or secondary systems), road, street, trail, walk, bridge, tunnel, drainage structure and other similar or related structure or facility, and right-of-way thereof, and further includes a ferry system, whether operated solely inside the state or to connect with a Canadian highway, and any such related facility.

Clearly, the James Dalton Highway, established under AS 19.40, fits that definition. Thus, it is within the power of DOTPF to charge a toll for the use of this highway. AS 19.40.-100(a) provides that "the department shall maintain the highway and keep it open to industrial or commercial traffic throughout

Hon. Steve Cowper, Governor  
File No. 773-87-0129

February 20, 1987  
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the year." Keeping the highway open for this kind of traffic does not mean that the department may not charge a toll for the use of the highway.

AS 37.15.610 -- 37.15.760 provide for toll facilities revenue bonds. AS 37.15.720 authorizes construction, maintenance, etc., of toll bridges, highways, etc. AS 37.15.740 authorizes the DOTPF commissioner to charge fees, tolls, etc., for use of such facilities. However, these two statutes should be read in the context of AS 37.15.610 -- 37.15.760, i.e., as applicable to facilities constructed with money derived from the issuance of bonds under those sections. This does not detract from DOTPF's general authority to charge tolls, as described above.

GBS:AHP:md

cc: Jay Hogan, Director  
Division of Budget Review  
Office of Management & Budget  
Governor's Office

Mary Halloran, Director  
Division of Planning  
Office of Management & Budget  
Governor's Office

John Halterman, Director  
Division of Audit & Management Services  
Office of Management & Budget  
Governor's Office

George Sullivan  
Legislative Liaison  
Governor's Office

Jack McGee  
Assistant Attorney General  
Juneau

MEMORANDUM  
TO: Honorable Mark S. Nickey  
Commissioner  
Department of Transportation  
and Public Facilities

DATE: March 10, 1987

FILE NO.:

THRU:

TELEPHONE NO.: 465-3603

SUBJECT: Dalton Highway (Haul  
Road) Agreement with  
Alyeska

FROM: Grace Berg Schaible  
Attorney General

By:

Jack B. McGee *J.M.*  
Assistant Attorney General  
Transportation Section-Juneau

You recently asked our office two questions concerning the above agreement (copy attached). Your questions and our answers follow:

- 1) Does the agreement preclude DOT/PF from charging tolls on the Dalton Highway?

Answer: Paragraph 3 of the agreement says in effect that except for "such other fees and costs imposed" by law or regulation, no "tolls or costs" shall be charged Alyeska, its employees, agents and subcontractors for Alyeska's use of the highway "for the construction and operation of the trans Alaska pipeline."

Three conclusions follow from a close reading of paragraph 3:

- a) It is clear that paragraph 3 does not operate to prohibit tolls for vehicles other than those operated by Alyeska, its employees, agents, and subcontractors.
- b) It is at least arguable that paragraph 3 does not prohibit user fees for vehicles operated by Alyeska provided they are imposed by regulation.
- c) In any event, paragraph 3 does not prohibit a toll for those vehicles operated by Alyeska that are not used for the construction and operation of the pipeline.

Honorable Mark S. Hickey  
Commissioner

March 10, 1987  
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- 2) Does the agreement require the state to provide maintenance on the Dalton Highway for an indefinite period of time?

Answer: Paragraph 10 of the agreement says that after inspection and upon acceptance of the highway by the state, the "state shall maintain the portions of the highway so accepted in accord with standards established by the commissioner and the contractor shall have no further responsibility or obligation or liability" for the portion of the highway accepted by the state.

- a) This section does not require the state to maintain the highway indefinitely; it operates to relieve Alyeska from the legal obligation of maintaining the highway to the standards referred to in paragraph 1 after state acceptance.
- b) Paragraph 10 specifically leaves the question of the level of maintenance to the discretion of the commissioner. Moreover, AS 19.40.120 specifically authorizes the state to close the highway in accord with the commissioner's discretion under AS 19.10.160.

JBM:ebc

# Alaska State Legislature

**STEVE FRANK**

DISTRICT 20A  
Finance Committee

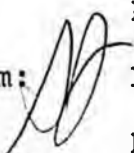
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Fairbanks, Alaska 99701  
(907) 452-3421



White in Juneau  
P. O. Box V  
Juneau, Alaska 99811  
(907) 465-3709

## House of Representatives

To: All Members,  
House Transportation Committee

From:  Rep. Steve Frank

Re: House Bill 115 - "An Act relating to the Dalton Highway, and providing for an effective date."

Date: March 4, 1987

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House Bill 115 would statutorily open the Dalton Highway to the general public and prohibit the imposition of a toll for vehicular traffic.

Currently, the Dalton Highway is open to the public as far as Disaster Creek which lies about half way between the Yukon River bridge and Prudhoe Bay. State statutes allow vehicles with an industrial or commercial purpose to travel beyond this point but those vehicles are required to obtain a permit from the Department of Transportation. There is a checkpoint at Dietrich Camp, 31 miles north of Disaster Creek, open from June 1 through September 1 each year to check permits and keep unauthorized travelers from entering the closed portion of the road.

The term "commercial use" causes some obvious problems with consistency. For example, if a person wants to drive up the highway to sightsee, they would be denied access. However, if that same person buys a business license as a tour operator, he or she could obtain a permit.

Paramount to the logic of this bill is the belief that the road should be open to the public because it is a publicly owned road, and is maintained with millions of public dollars.

Moreover, opening the Dalton Highway would encourage tourism and improve access to our natural resources. Also, residents would have the opportunity to visit a unique area of our state for hiking, sightseeing, camping, photography,

fishing & hunting under certain restrictions, and other types of outdoor recreation.

Certainly, there are legitimate safety, environmental and fish & game protection concerns; however, those concerns can be adequately addressed and they, by themselves, should not deny public use of the road. Other Alaska highways such as the Taylor and the Steese are similar in nature. They are remote and travelers do need to take special precautions and be aware of potential dangers while traveling these roads. In addition, the environment and fish & game must be protected and these needs can be adequately addressed by the Departments of Environmental Conservation and Fish & Game.

As indicated earlier, HB 115 would also prevent the Department of Transportation from charging a toll for use of the Dalton Highway. The reasons to prohibit the imposition of a toll are philosophical, practical and legal.

First of all, the policy of the State should be to encourage commerce and other uses of our public facilities. We don't charge tolls on any other roads in the state, why start here?

Secondly, as a practical matter, the tolls collected from the so called "single user" will be deductible expenses in calculating our oil & gas taxes and neither DOT/PF nor the Office of Management & Budget has done an analysis to show the reduction in those taxes. Therefore, they haven't properly calculated the net revenues of a toll to the General Fund or conversely, the negative fiscal note prepared by DOT/PF for HB 115.

Finally, from the perspective of the Federal Highway Administration and the construction agreement with Alyeska Pipeline Service Company, legal impediments to charging a toll may exist.

The Federal Highway Administration has taken the position that because federal funds were used in part to build the Dalton Highway and it is on the Federal Aid Secondary System, that 23 U.S.C. 301 applies; it provides that "...all highways constructed under this title shall be free from tolls of all kinds." There is some difference of opinion as to whether it would take an act of Congress to remove the Dalton Highway from the Federal System; however, at best the issue must be addressed and resolved.

Also, a construction agreement applicable to the Dalton Highway between the Commissioner of Highways of the State of Alaska and the Alyeska Pipeline Service Company (June 11, 1971) stipulates:

"3. The Highway shall be a State highway and may be used by Contractor, its employees, agents and sub-contractors in a lawful manner for the construction and operation of the trans Alaska pipeline without incurring any State-imposed tolls or costs for such use of the Highway, except for applicable motor vehicle taxes, licenses and fees, such as the Alaska Motor Fuel Oil Tax, and such other fees and costs imposed by law, regulations and customary conditions of its utility permits."

In conclusion, opening the Dalton Highway to the public without a toll will encourage economic development and increase recreational opportunities. Your favorable consideration of this legislation would be appreciated.

Dec. 1

PUBLIC LAW 96 -487 [H.R. 39]; December 2, 1980

**ALASKA NATIONAL INTEREST LANDS  
CONSERVATION ACT**

*For Legislative History of this and other Laws, see Table 1, Public  
Laws and Legislative History, at end of final volume*

An Act to provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled,*

SECTION 1. This Act may be cited as the "Alaska National Interest Lands Conservation Act".

Alaska National  
Interest Lands  
Conservation  
Act.  
16 USC 3101  
note.

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- Sec. 1001. Overall study program.
- Sec. 1002. Arctic National Wildlife Refuge coastal plain resource assessment.
- Sec. 1003. Prohibition on development.
- Sec. 1004. Wilderness portion of study.

- Sec. 1005. Wildlife resou
- Sec. 1006. Transportatio
- Sec. 1007. Arctic researr
- Sec. 1008. Oil and gas le
- Sec. 1009. Oil and gas le
- Sec. 1010. Alaska miner
- Sec. 1011. Presidential t

**TITLE XI—TRANSPOR ACCESS**

- Sec. 1101. Findings.
- Sec. 1102. Definitions.
- Sec. 1103. Effect of title
- Sec. 1104. Procedural re
- Sec. 1105. Standards for
- Sec. 1106. Agency, Presi
- Sec. 1107. Rights-of-way
- Sec. 1108. Expedited jud
- Sec. 1109. Valid existin
- Sec. 1110. Special acces
- Sec. 1111. Temporary a
- Sec. 1112. North Slope
- Sec. 1113. Stikine River

**TITLE**

- Sec. 1201. Alaska Land
- Sec. 1202. Federal Coor
- Sec. 1203. Bristol Bay c

**TITLE**

- Sec. 1301. Management
- Sec. 1302. Land acquisi
- Sec. 1303. Use of cabins
- Sec. 1304. Archeologica
- Sec. 1305. Cooperative
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- Sec. 1308. Local hire.
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- Sec. 1317. General wil
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- Sec. 1323. Access.
- Sec. 1324. Yukon Flats
- Sec. 1325. Terror Lake
- Sec. 1326. Future Exed
- Sec. 1327. Alaska gas
- Sec. 1328. Public land

**TITLE XIV—AMEND**

**PART A—AMEND**

- Sec. 1401. Stock aliena
- Sec. 1402. Selection re
- Sec. 1403. Retained m
- Sec. 1404. Vesting dat

- Sec. 1005. Wildlife resources portion of study.
- Sec. 1006. Transportation alternatives portion of study.
- Sec. 1007. Arctic research study.
- Sec. 1008. Oil and gas leasing program for non-North Slope Federal lands.
- Sec. 1009. Oil and gas lease applications.
- Sec. 1010. Alaska mineral resource assessment program.
- Sec. 1011. Presidential transition.

TITLE XI—TRANSPORTATION AND UTILITY SYSTEMS IN AND ACROSS, AND  
ACCESS INTO, CONSERVATION SYSTEM UNITS

- Sec. 1101. Findings.
- Sec. 1102. Definitions.
- Sec. 1103. Effect of title.
- Sec. 1104. Procedural requirements.
- Sec. 1105. Standards for granting certain authorizations.
- Sec. 1106. Agency, Presidential, and congressional actions.
- Sec. 1107. Rights-of-way terms and conditions.
- Sec. 1108. Expedited judicial review.
- Sec. 1109. Valid existing rights.
- Sec. 1110. Special access and access to inholdings.
- Sec. 1111. Temporary access.
- Sec. 1112. North Slope Haul Road.
- Sec. 1113. Stikine River region.

TITLE XII—FEDERAL-STATE COOPERATION

- Sec. 1201. Alaska Land Use Council.
- Sec. 1202. Federal Coordination Committee.
- Sec. 1203. Bristol Bay cooperative region.

TITLE XIII—ADMINISTRATIVE PROVISIONS

- Sec. 1301. Management plans.
- Sec. 1302. Land acquisition authority.
- Sec. 1303. Use of cabins and other sites of occupancy on conservation system units.
- Sec. 1304. Archeological and paleontological sites.
- Sec. 1305. Cooperative information/education centers.
- Sec. 1306. Administrative sites and visitor facilities.
- Sec. 1307. Revenue-producing visitor services.
- Sec. 1308. Local hire.
- Sec. 1309. Klondike Gold Rush National Historical Park.
- Sec. 1310. Navigation aids and other facilities.
- Sec. 1311. Scenic highway study.
- Sec. 1312. Administration of the White Mountains National Recreation Area.
- Sec. 1313. Administration of national preserves.
- Sec. 1314. Taking of fish and wildlife.
- Sec. 1315. Wilderness management.
- Sec. 1316. Allowed uses.
- Sec. 1317. General wilderness review provision.
- Sec. 1318. Statewide cultural assistance program.
- Sec. 1319. Effect on existing rights.
- Sec. 1320. Bureau of Land Management land reviews.
- Sec. 1321. Authorization for appropriation.
- Sec. 1322. Effect on prior withdrawals.
- Sec. 1323. Access.
- Sec. 1324. Yukon Flats National Wildlife Refuge agricultural use.
- Sec. 1325. Terror Lake Hydroelectric Project in Kodiak National Wildlife Refuge.
- Sec. 1326. Future Executive actions.
- Sec. 1327. Alaska gas pipeline.
- Sec. 1328. Public land entries in Alaska.

TITLE XIV—AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT  
ACT AND RELATED PROVISIONS

PART A—AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

- Sec. 1401. Stock alienation.
- Sec. 1402. Selection requirements.
- Sec. 1403. Retained mineral estate.
- Sec. 1404. Vesting date for reconveyances.

- Sec. 1405. Reconveyance to municipal corporations.
- Sec. 1406. Conveyance of partial estates.
- Sec. 1407. Shareholder homesites.
- Sec. 1408. Basis in the land.
- Sec. 1409. Fire protection.
- Sec. 1410. Interim conveyances and underselections.
- Sec. 1411. Escrow account.
- Sec. 1412. Limitations.

PART B—OTHER RELATED PROVISIONS

- Sec. 1413. Supplemental appropriation for Native Groups.
- Sec. 1414. Fiscal Year Adjustment Act.
- Sec. 1415. Relinquishment of selections partly within conservation units.
- Sec. 1416. Bristol Bay Group Corporation lands.
- Sec. 1417. Pribilof Islands acquisition authority.
- Sec. 1418. NANA/Cook Inlet Regional Corporations lands.
- Sec. 1419. Doyon Regional Corporation lands.
- Sec. 1420. Hodzana River study area.
- Sec. 1421. Conveyance to the State of Alaska.
- Sec. 1422. Doyon and Fortymile River.
- Sec. 1423. Ahtna Regional Corporation lands.
- Sec. 1424. Bering Straits Regional Corporation lands.
- Sec. 1425. Eklutna Village Corporation lands.
- Sec. 1426. Eklutna-State Anchorage agreement.
- Sec. 1427. Koniag Village and Regional Corporation lands.
- Sec. 1428. Chugach Village Corporation lands.
- Sec. 1429. Chugach Regional Corporation lands.
- Sec. 1430. Chugach region study.
- Sec. 1431. Arctic Slope Regional Corporation lands.
- Sec. 1432. Cook Inlet Village settlement.
- Sec. 1433. Bristol Bay Native Corporation lands.
- Sec. 1434. Shee Atika-Charcoal and Alice Island conveyance.
- Sec. 1435. Amendment to Public Law 94-204.
- Sec. 1436. Inalik Native Corporation lands.
- Sec. 1437. Conveyances to Village Corporations.

TITLE XV—NATIONAL NEED MINERAL ACTIVITY RECOMMENDATION PROCESS

- Sec. 1501. Areas subject to the national need recommendation process.
- Sec. 1502. Recommendations of the President to Congress.
- Sec. 1503. Expedited congressional review.

TITLE I—PURPOSES, DEFINITIONS, AND MAPS

PURPOSES

16 USC 3101.

SEC. 101. (a) In order to preserve for the benefit, use, education, and inspiration of present and future generations certain lands and waters in the State of Alaska that contain nationally significant natural, scenic, historic, archeological, geological, scientific, wilderness, cultural, recreational, and wildlife values, the units described in the following titles are hereby established.

(b) It is the intent of Congress in this Act to preserve unrivaled scenic and geological values associated with natural landscapes; to provide for the maintenance of sound populations of, and habitat for, wildlife species of inestimable value to the citizens of Alaska and the Nation, including those species dependent on vast relatively undeveloped areas; to preserve in their natural state extensive unaltered arctic tundra, boreal forest, and coastal rainforest ecosystems; to protect the resources related to subsistence needs; to protect and preserve historic and archeological sites, rivers, and lands, and to preserve wilderness resource values and related recreational opportunities including but not limited to hiking, canoeing, fishing, and sport hunting, within large arctic and subarctic wildlands and on

freeflowing rivers; a research and undistur

(c) It is further the management of fish scientific principles a system unit is establish this Act, to provide th subsistence way of life

(d) This Act provide in the scenic, natura public lands in Alas opportunity for satisf State of Alaska and disposition of the pu found to represent a national conservation and appropriate for Congress believes tha conservation system national recreation a

SEC. 102. As used in following terms shall Alaska Native Claim Act)—

(1) The term therein.

(2) The term "F the United Sta

(3) The term which, after the except—

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(B) land se Alaska Nat, conveyed to is determine

(C) lands Claims Sett

(4) The term Alaska of the N System, Nation Trails System, National Forest lished, designat Act, additions designated, or e

(5) The term "An Act to pro Alaska Natives 1971 (85 Stat. 68

areas, and national conservation areas, and shall not be prohibited unless, after notice and hearing in the vicinity of the affected unit or area, the Secretary finds that such use would be detrimental to the resource values of the unit or area. Nothing in this section shall be construed as prohibiting the use of other methods of transportation for such travel and activities on conservation system lands where such use is permitted by this Act or other law.

(b) Notwithstanding any other provisions of this Act or other law, in any case in which State owned or privately owned land, including subsurface rights of such owners underlying public lands, or a valid mining claim or other valid occupancy is within or is effectively surrounded by one or more conservation system units, national recreation areas, national conservation areas, or those public lands designated as wilderness study, the State or private owner or occupier shall be given by the Secretary such rights as may be necessary to assure adequate and feasible access for economic and other purposes to the concerned land by such State or private owner or occupier and their successors in interest. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the natural and other values of such lands.

#### TEMPORARY ACCESS

SEC. 1111. (a) IN GENERAL.—Notwithstanding any other provision of this Act or other law the Secretary shall authorize and permit temporary access by the State or a private landowner to or across any conservation system unit, national recreation area, national conservation area, the National Petroleum Reserve—Alaska or those public lands designated as wilderness study or managed to maintain the wilderness character or potential thereof, in order to permit the State or private landowner access to its land for purposes of survey, geophysical, exploratory, or other temporary uses thereof whenever he determines such access will not result in permanent harm to the resources of such unit, area, Reserve or lands.

16 USC 3171.

(b) STIPULATIONS AND CONDITIONS.—In providing temporary access pursuant to subsection (a), the Secretary may include such stipulations and conditions he deems necessary to insure that the private use of public lands is accomplished in a manner that is not inconsistent with the purposes for which the public lands are reserved and which insures that no permanent harm will result to the resources of the unit, area, Reserve or lands.

#### NORTH SLOPE HAUL ROAD

SEC. 1112. (a) IN GENERAL.—So long as that section of the North Slope Haul Road referred to in subsection (c) is closed to public use, but not including regulated local traffic north of the Yukon River, regulated industrial traffic and regulated high occupancy buses, such regulation to occur under State law, except that the Secretary, after consultation with the Secretary of Transportation, and the Governor of Alaska shall agree on the number of vehicles and seasonality of use, such section shall be free from any and all restrictions contained in title 23, United States Code, as amended or supplemented, or in any regulations thereunder. Prior to executing an agreement pursuant to this subsection, the Secretary and the Governor of Alaska shall consult with the head of any unit of local government which encompasses lands located adjacent to the route of the North Slope Haul Road. The State of Alaska shall have the authority to limit access,

16 USC 3172.

impose restrictions and impose tolls, notwithstanding any provision of Federal law.

(b) RELEASE.—The removal of restrictions shall not be conditioned upon repayment by the State of Alaska to the Treasurer of the United States of any Federal-aid highway funds paid on account of the section of highway described in subsection (c), and the obligation of the State of Alaska to repay these amounts is hereby released so long as the road remains closed as set forth in subsection (a).

(c) APPLICATION OF SECTION.—The provisions of this section shall apply to that section of the North Slope Haul Road, which extends from the southern terminus of the Yukon River Bridge to the northern terminus of the Road at Prudhoe Bay.

STIKINE RIVER REGION

Consultation with Canadian Government and report to Congress. 16 USC 3173.

SEC. 1113. Congress finds that there is a need to study the effect of this Act upon the ability of the Government of Canada to obtain access in the Stikine River region of southeast Alaska. Accordingly, within five years from the date of enactment of this Act, the President shall consult with the Government of Canada and shall submit a report to the Congress containing his findings and recommendations concerning the need, if any, to provide for such access. Such report shall include, among other things, an analysis of the need for access and the social, environmental and economic impacts which may result from various forms of access including, but not limited to, a road along the Stikine and Iskut Rivers, or other alternative routes, should such access be permitted.

TITLE XII—FEDERAL-STATE COOPERATION

ALASKA LAND USE COUNCIL

16 USC 3181.

SEC. 1201. (a) ESTABLISHMENT.—There is hereby established the Alaska Land Use Council (hereinafter in this title referred to as the "Council").

Presidential appointment.

(b) COCHAIRMEN.—The Council shall have Cochairmen. The Federal Cochairman shall be appointed by the President of the United States with the advice and consent of the Senate. The State Cochairman shall be the Governor of Alaska.

(c) MEMBERS.—In addition to the Cochairmen, the Council shall consist of the following members:

- (1) the head of the Alaska offices of each of the following Federal agencies: National Park Service, United States Fish and Wildlife Service, United States Forest Service, Bureau of Land Management, Heritage Conservation and Recreation Service, National Oceanic and Atmospheric Administration, and Department of Transportation;
- (2) the Commissioners of the Alaska Departments of Natural Resources, Fish and Game, Environmental Conservation, and Transportation; and
- (3) two representatives selected by the Alaska Native Regional Corporations (in consultation with their respective Village Corporations) which represent the twelve geographic regions described in section 7(a) of the Alaska Native Claims Settlement Act.

Any vacancy on the Council shall be filled in the same manner in which the original appointment was made.

(d) STATE DECIS participate on th termination of th Federal Cochairm the representati referred to in sub out the administr recommendation referred to in su make recommen private landowne

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# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

P.O. BOX K—STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

February 20, 1987

### M E M O R A N D U M

TO: Honorable Steve Cowper  
Governor

FROM: Grace Berg Schaible  
Attorney General

BY: Arthur H. Peterson  
Assistant Attorney General  
Legislation/Regulations Section

RE: Toll on Dalton Highway  
Our file: 773-87-0129

At our February 7, 1987, meeting on legislation, you asked whether it would be necessary to have a bill to authorize charging a toll for use of the Dalton Highway. The short answer is no. In fact, at least one bill (SB 132, by Coghill) has been introduced to prevent charging such a toll.

AS 19.05.040 lists the powers of the Department of Transportation and Public Facilities (DOTPF). Paragraph (1) of that statute provides that the department may

establish, levy, and collect tolls, fees, charges, and rentals for the use of state roads, highways, bridges, crossings, and causeways.

AS 19.40. AS 19.45.001 is the definition section for AS 19.05 -- Paragraph (9) of that statute defines "highway" as follows:

"highway" includes a highway (whether included in primary or secondary systems), road, street, trail, walk, bridge, tunnel, drainage structure and other similar or related structure or facility, and right-of-way thereof, and further includes a ferry system, whether operated solely inside the state or to connect with a Canadian highway, and any such related facility.

Clearly, the James Dalton Highway, established under AS 19.40, fits that definition. Thus, it is within the power of DOTPF to charge a toll for the use of this highway. AS 19.40.-100(a) provides that "the department shall maintain the highway and keep it open to industrial or commercial traffic throughout

STATEMENT FROM T.J. THRASHER - EXECUTIVE DIRECTOR

ALASKA TRUCKING ASSOCIATION

T. J. Thrasher had planned to attend this meeting to testify, however, unfortunately she had to remain in Anchorage until tonight.

T. J. wished to express the Trucking Association's position on House Bill 115.

The Trucking Association agree the Dalton Highway should not be a toll road.

They agree this road should be open to the public.

The Association support HB #115, HOWEVER, they do have several concerns they would like to see addressed if the road is opened to the public.

1. They feel that unless the Department of Transportation agree to maintain and upgrade the road there will be definite safety problems. The road is not in a safe condition.
2. There are no provisions or amenities past Hilltop and there are many stretches where you cannot pull off.

While the Trucking Association does support HB #115, they would like to see these concerns addressed.

As per telephone conversation with T.J. Thrasher on Wednesday, March 4th, 1987 at 9.10 a.m.



# Resource Development Council

for Alaska, Inc.

807 "G" Street, Suite 200, Anchorage, Alaska 99501-3440  
 Box 100516, Anchorage, Alaska 99510-0516 - 907/276-0700

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**EX-OFFICIO MEMBERS**  
 Senator Ted Stevens  
 Senator Frank Murkowski  
 Congressman Don Young

March 5, 1987

Representative Steve Frank  
 Alaska State Legislature  
 Pouch V  
 Juneau, AK 99811

re: HB 115 and SB 132

Dear Steve:

The Resource Development Council is pleased to support HB 115 and SB 132, Acts relating to public use of the Dalton Highway. Our Executive Committee's action in this regard was unanimous.

We agree that these bills will allow the state to further develop the industries that rely on access to Northern Alaska. We need to encourage development and use of this key element in the state's road system if we are to foster development of valuable resources.

Please call on RDC if we can be of assistance to your office on this issue.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL  
 for Alaska, Inc.

Paula P. Easley  
 Executive Director

cc: Senator Jack Coghill  
 Mayor Juanita Helms  
 Mayor Bill Walley

FEB 17 1987

Folk R 99707  
Feb. 12 - 1987

House Transportation Commission  
Chairperson - Representative Bettie Cato  
Pouch V June 99811-

Dear Chairperson.

I am vitally interested in our state transportation system. I am having my troubles in getting access (except during 5 winter months) to both patented & unpatented claims - in the Yukon Charley Preserve.

Now, I hear of the continued abuse of our right to use the Dalton Highway. The Governor has even suggested a toll fee -

This is totally unacceptable under our constitution - so let us forget it and open this road to the public.

This road - is access to the major source of Alaska income - Prudhoe Bay.

The initial pattern to Limerick is a disgrace to a civilized society -

It should be the best road in the nation - for the wealth it gives access to and it is not by a long shot.

The entire state of Alaska seems to  
income to a large degree - and  
should be instated in the accen  
it provides -

If they are not - maybe we need  
some changes - North & South Alaska  
maybe?

Thankyou for opening up this  
road to the public - improving it,  
and hopefully expanding the source  
of income - our natural resources.

Alaskan Patriot  
Joseph E. Vogler

J. Vogler  
Box 40  
Ft. Reliance  
99707

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

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PHONE: (907) 465-3600

February 20, 1987

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Attorney General

BY: Archur H. Peterson  
Assistant Attorney General  
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Clearly, the James Dalton Highway, established under AS 19.40, fits that definition. Thus, it is within the power of DOTPF to charge a toll for the use of this highway. AS 19.40.100(a) provides that "the department shall maintain the highway and keep it open to industrial or commercial traffic throughout

the year." Keeping the highway open for this kind of traffic does not mean that the department may not charge a toll for the use of the highway.

AS 37.15.610 -- 37.15.760 provide for toll facilities revenue bonds. AS 37.15.720 authorizes construction, maintenance, etc., of toll bridges, highways, etc. AS 37.15.740 authorizes the DOTPF commissioner to charge fees, tolls, etc., for use of such facilities. However, these two statutes should be read in the context of AS 37.15.610 -- 37.15.760, i.e., as applicable to facilities constructed with money derived from the issuance of bonds under those sections. This does not detract from DOTPF's general authority to charge tolls, as described above.

GBS:AHP:md

cc: Jay Hogan, Director  
Division of Budget Review  
Office of Management & Budget  
Governor's Office

Mary Halloran, Director  
Division of Planning  
Office of Management & Budget  
Governor's Office

John Halterman, Director  
Division of Audit & Management Services  
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George Sullivan  
Legislative Liaison  
Governor's Office

Jack McGee  
Assistant Attorney General  
Juneau

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March 5, 1987

Representative Steve Frank  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

re: HB 115 and SB 132

Dear Steve:

The Resource Development Council is pleased to support HB 115 and SB 132, Acts relating to public use of the Dalton Highway. Our Executive Committee's action in this regard was unanimous.

We agree that these bills will allow the state to further develop the industries that rely on access to Northern Alaska. We need to encourage development and use of this key element in the state's road system if we are to foster development of valuable resources.

Please call on RDC if we can be of assistance to your office on this issue.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL  
for Alaska, Inc.

Paula P. Easley  
Executive Director

cc: Senator Jack Cognill  
Mayor Juanita Helms  
Mayor Bill Walley

FEB 17 1987

Fbl R 99707  
Feb. 12 - 1987

House Transportation Commission  
Chairman - Representative Bettie Cato  
Pouch V June 99811-

Dear Chairman.

I am vitally interested in our state transportation system. I am having my troubles in getting access (except during 5 winter months) to both patented & unpatented claims - in the Yukon Charley Preserve.

Now, I hear of the continued abuse of our right to use the Dalton Highway. The Gov. even has even suggested a toll fee.

This is totally unacceptable under our Constitution - so let us forget it and open this road to the public.

This road - is access to the major source of Alaska income - Prudhoe Bay.

The initial pattern to Limerick is a disgrace to a civilized society.

It should be the best road in the nation - for the wealth it gives access to and it is not by a long shot.

The entire state of Alaska seems to  
income to a large degree - and  
should be intacted in the area  
it provides -

If they are not - maybe we need  
some changes - North & South Alaska  
maybe?

Thankyou for opening up this  
road to the public - improving it,  
and hopefully expanding the source  
of income - our natural resources.

Alaskan Patriot  
Joseph E. Vogler

J. Vogler  
Box 40  
Ft. Reliance  
99707

## PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE CATO

NAME: JOHN HOLLAND

TITLE:

ADDRESS: 503 BULLION DRIVE

CITY: FAIRBANKS

PHONE: 457-1630

ZIP: 99712

BILL NO:

SUBJECT: DALTON HIGHWAY

MESSAGE: THE DALTON HIGHWAY IS A PUBLIC ROAD THAT WAS BOUGHT AND MAINTAINED WITH PUBLIC FUNDS. AS SUCH IT SHOULD BE OPEN TO THE PUBLIC. EOM/AN

POMID: 07095104

DATE: 03/05/87

TIME: 09:51:04

LIONAME: FAIRBANKS LIO

COPIES: REPRESENTATIVES SENATORS

BOYER	BENNETT
DAVIS	COGHILL
FRANK	FAHRENKAMP
KOPONEN	ABOOD
MILLER	JONES
BOUCHER	KELLY
GRUSSENDORF	BINKLEY
HUDSON	DUNCAN
PEARCE	FISCHER
SPRINGER	HENSLEY
ADAMS	UEHLING
BROWN	ZHAROFF
GOLL	
LARSON	
POURCHOT	
RIEGER	
SWACKHAMMER	
WALLIS	

## PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE CATO

NAME: EDNA LYON

TITLE:

ADDRESS: 629 W. 9TH

CITY: ANCHORAGE

PHONE: 272-5715

ZIP: 99501

BILL NO:

SUBJECT: BUDGET

MESSAGE: I FEEL THE LEGISLATORS AND THE STATE EMPLOYEES SHOULD TAKE A 5% SALARY CUT. NO MORE PERMANENT FUND DIVIDEND CHECKS.

POMID: 03100029

DATE: 03/05/87

TIME: 10:08:29

LIONAME: ANCHORAGE LIO

COPIES: REPRESENTATIVES REPRESENTATIVES SENATORS

ADAMS	BARNES	ABOOD
BOUCHER	BOYER	BENNETT
BROWN	COLLINS	BINKLEY
COTTEN	DUNCAN	COGHILL
DAVIS	HANLEY	DUNCAN
ELLIS	FRANK	ELIASON
FURNACE	GOLL	FAHRENKAMP
GRUENBERG	GRUSSENDORF	FAIKS
HANLEY	HERRMANN	FISCHER
HOFFMAN	HUDSON	HALFORD
KOPONEN	LARSON	HENSLEY
MARTIN	MENARD	JONES
MILLER	HAVARRE	JOSEPHSON
PEARCE	PETTYJOHN	KELLY
PHILLIPS	POURCHOT	KERTTULA
RIEGER	SHULTZ	RODEY
SPRINGER	SUND	STURGULENSKI
SWACKHAMMER	TAYLOR	SZYMANSKI
ULNER	WALLIS	UEHLING
ZAWACKI		ZHAROFF

No Dist MSGS

PUBLIC OPINION MESSAGE

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE CATO

DEAR: REPRESENTATIVE CATO

NAME: RALPH ROBERTS  
TITLE:  
ADDRESS: 2718 GORDON ROAD  
CITY: NORTH POLE  
PHONE: 488-1702

MAR 06 1987

ZIP: 99705

BILL NO:  
SUBJECT: DALTON HIGHWAY  
MESSAGE: I WISH TO SAY THAT THE DALTON HWY. IS KEPT OPEN TO THE PUBLIC BECAUSE IT WAS BOUGHT WITH PUBLIC FUNDS AND IS MAINTAINED WITH PUBLIC FUNDS AND SHOULD BE OPEN TO THE PUBLIC.  
EOM/MJO

NAME: DONALD DAVIS  
TITLE:  
ADDRESS: BOX 883  
CITY: FAIRBANKS  
PHONE: 488-0699  
ZIP: 99707

BILL NO:  
SUBJECT: HIGHWAYS  
MESSAGE: I WOULD LIKE TO SAY THAT THE DALTON HIGHWAY WAS PURCHASED WITH PUBLIC FUNDS AND IS MAINTAINED WITH PUBLIC FUNDS AND SHOULD BE OPEN TO THE PUBLIC. THE LEVEL 3 ROADS IN THE FAIRBANKS AREA AND STATE-WIDE FOR THAT MATTER THAT WOULD BE DROPPED FROM PUBLIC MAINTENANCE UNDER GOV. COMPER'S RECONSTRUCTION PLAN SHOULD BE ADVERTISED IN THE PUBLIC NEWSPAPERS TO MAKE THE PUBLIC AWARE.  
EOM/MJO

POMID: 07110520  
DATE: 03/05/87  
TIME: 11:05:20  
LIONAME: FAIRBANKS LIO

POMID: 07133538  
DATE: 03/05/87  
TIME: 13:35:38  
LIONAME: FAIRBANKS LIO

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BOYER	DAVIS	HALFORD
FRANK	KOPONEN	KELLY
MILLER	COLLINS	STURGULEWSKI
HERRMANN	SPRINGER	SZYMAWSKI
ZAWACKI	ADAMS	ZHAROFF
BROWN	GOLL	BENNETT
LARSON	POURCHOT	BINKLEY
RIEGER	SHACKHAMMER	DUNCAN
WALLIS	DONLEY	FISCHER
ELLIS	GRUENBERG	HENSLEY
HANLEY	HUDSON	UEHLING
PHILLIPS	BARNES	JONES
COTTEN	NAVARRE	JOSEPHSON
SUND	TAYLOR	KERTTULA
ULMER	BOUCHER	RODEY
DAVIDSON	FURNACE	ELIASON
MENARD	HOFFMAN	FAHRENKAMP
PEARCE	SHULTZ	
GRUSSENDORF	MARTIN	
PETTYJOHN		

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SPRINGER	ZAWACKI	KELLY
ADAMS	BOYER	STURGULEWSKI
BROWN	DAVIS	SZYMAWSKI
FRANK	GOLL	ZHAROFF
LARSON	POURCHOT	BENNETT
RIEGER	SHACKHAMMER	BINKLEY
WALLIS	DONLEY	DUNCAN
ELLIS	GRUENBERG	FISCHER
HANLEY	HUDSON	HENSLEY
KOPONEN	PHILLIPS	UEHLING
BARNES	COTTEN	JONES
NAVARRE	SUND	JOSEPHSON
TAYLOR	ULMER	KERTTULA
BOUCHER	DAVIDSON	RODEY
FURNACE	MENARD	ELIASON
HOFFMAN	PEARCE	FAHRENKAMP
SHULTZ	GRUSSENDORF	COGHILL
MARTIN	PETTYJOHN	FAIKS
MILLER		ABOOD

23 February, 1987

Dick Mackey, owner and operator of Coldfoot services, called to voice his opinion over the Dalton Highway. He asserts that the Dalton Highway "north of the Yukon should be treated no differently than south of the Yukon."

He explained that in '81 Gov. Hammond opened the highway from the Yukon north to Deitrich camp for 3 months out of the year. By Gubernatorial decree, he asked Mackey to operate a service area 12 months at Coldfoot.

Later, during the Sheffield administration, Mackey pointed out to Gov. Sheffield that it made no sense for him to be there 12 months when the road was only open to the public for 3 months. Sheffield agreed and opened the highway to Dietrich.

Deitrich is not a safety checkpoint, claims Mackey, but a political one. There is no reason for restricting access, according to Mackey, as those who wish to hunt already do so, and there is no corporate land to deny access to that would be effected by such an action. If it is to be a safety check-point, he says, ask folks to demonstrate that they have a 5 gallon can of gas, tools or whatever, and let the folks go.

Westours and Princess tours are taking buses up there this summer, and the business done has doubled. One state agency spends millions to promote tourism while another throws roadblocks in the way.

He claims that the checkpoint is a farce, that privately D.O.T. officials despise the loathsome checkpoint, and that the constitution of Alaska states that any road which is built and maintained with public funds is to be accessible by the public which pays for it.

PLEASE SUPPORT HB115.

I asked that he put some of this in writing so that it could be used as testimony in a hearing at some later date.

# HOUSE COMMITTEE REPORT

7)

Date referred: 2/11/87

FURTHER REFERRALS: Finance

DATE: March 11, 1987

The Transportation Committee has considered HB 115

"An Act relating to public use of the Dalton Highway."

**RECOMMENDS:**

- replace with \_\_\_\_\_  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

*Betty Pat*  
 \_\_\_\_\_  
*Bill Hux*  
 \_\_\_\_\_  
*Kilo Miller*  
 \_\_\_\_\_  
*Whe Kease*  
 \_\_\_\_\_  
*Hermin Springs*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**SIGNING OTHER RECOMMENDATIONS:**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*Betty Pat*  
 \_\_\_\_\_  
 Chairman's signature



Official Business

**COMMITTEE:**

House Transportation Committee

**DATE:** March 4, 1987

**SIGN-IN**

**Subject of meeting:**

\*HB 115: "An Act relating to public use of the Dalton."

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
✓ Jim Vaden	Dep. Comm. Box 11 Juneau, AK	465-4322	Public Safety	yes
✓ Mark Hickey	Commissioner Box 7 Juneau, AK	465-3900	Transportation	Yes
Phil Holdsworth	Lobbyist Juneau	586-1383	AMA	Yes.
STEVE FRANK	Juneau		Sponsor	Yes
BOB LANCE	Volunteer covering HB 115 FBK.S	586-2345	AK Environmental Lobbyist	Yes
ROD SOMORVILLE	Executive Director JUNEAU	784-2399	AK Outdoor Council	Yes
Dan Savage Dan Savage	* Administrative Aid	465-3732	Rep Waller	

\* indicates first public hearing



Official Business

**COMMITTEE:**

House Transportation Committee

**DATE:** March 11, 1987

**SIGN-IN**

**Subject of meeting:**

HB 115: "An Act relating to public use of the Dalton Highway."

HCR 13

**NAME** Please include title **ADDRESS** Please use full address. Please include zip. **PHONE** **REPRESENTING** **DO YOU WANT TO TESTIFY?**

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
William S. Small	Anchor	266-1440	Alaska DT/PT	HCR 13
Bob Somerville	Juneau 3750 Macginnis Juneau 99801	289-2399	AK - Outdoor Council	Yes 115
Bonifance	BKS	536-2345	AEL	✓ 115
Dean Savage	Cap Cm 501	3732	Rep. Kay Waller	yes 115
Mark Healey			NOT/PT	<del>115</del>
Rep. Lyman Hoff	ASL	4453	Sponsor HCR 13	115
Rep Steve Frank	ASL	3709	" HB 115	115

# Alaska State Legislature

REPRESENTATIVE  
PAT POURCHOT

HOUSE FINANCE COMMITTEE  
COMMITTEE ON OIL AND GAS



ANCHORAGE  
P.O. BOX 104836  
ANCHORAGE, AK 99510  
(W) (907) 276-6818  
(H) (907) 338-2425

JUNEAU  
POUCH V  
STATE CAPITOL  
JUNEAU, AK 99811  
(907) 465-3712

## House of Representatives

### MEMORANDUM

DATE: MAR 18 1987  
March 13, 1987

TO: David Teal, Director  
House Research

FROM: Representative Pat Pourchot, Chair  
House Finance Subcommittee - DOT/PF

SUBJECT: Request for information on Dalton Highway trucking

In our review of the current DOT/PF budget, one proposed change receiving considerable scrutiny is the imposition of a toll on the Dalton Highway (the Haul Road) to pay for the operating and maintenance costs of the road. Current plans call for a toll sufficient to cover the costs of the approximate \$5.2 million in Operations and Maintenance. This would be based on the number of axles and is estimated to work out to be about \$500 roundtrip for an "18-wheeler."

The criticism raised is that the cost will make commercial trucking on the road economically prohibitive and force the abandonment of the route in favor of air transportation. Such a switch would not only result in significantly higher operating costs on the North Slope, but would reportedly cause the dislocation of significant economic activity and employment in the Fairbanks area associated with Haul Road trucking.

It is very hard to evaluate the proposal and its reported impacts without more detailed facts. I would greatly appreciate your help in researching some of this needed economic information, as much of it apparently lies outside the expertise or knowledge of DOT/PF. Specifically, we would like to know what the toll costs would mean to shippers or truckers relative to the other transport costs involved in moving goods from Fairbanks to Prudhoe Bay; how existing trucking costs compare to air transport alternatives; some indication as to the elasticity of demand for the Haul Road in light of significant tolls; and the importance of Haul Road trucking as an economic activity in the Fairbanks area.

Thank you for your help in this matter.

HB

118

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

*House Transportation:*

*2/25/87*

*2/27/87*

*3/13/87*

# Alaska State Legislature



## House of Representatives

### Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4858

February 25, 1987

FOR TODAY'S MEETING YOU HAVE:

-----  
A FOLDER ON HB 118 THAT INCLUDES:

- \* a copy of HB 118
- \* a memorandum from Rep. Shultz
- \* a fiscal note from the Dept. of Natural Resources
- \* a position paper from the Dept. of Natural Resources
- \* a current status report on HB 118

# Alaska State Legislature

## House of Representatives

### Committee on Transportation



Rep. Bette Cato, Chairman

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4858

February 27, 1987

FOR TODAY'S MEETING YOU HAVE:

---

A FILE ON HB 74 THAT INCLUDES:

- \* the committee substitute for HB 74
- \* a copy of HB 74
- \* a current status report on HB 74
- \* the committee minutes from February 16th
- \* a summary of HB 74 from Rep. Sund
- \* a fiscal note from the Dept. of Public Safety
- \* a position paper from the Dept. of Public Safety
- \* a House Committee Report from State Affairs
- \* an excerpt from the state statutes

A FILE ON HB 94 THAT INCLUDES:

- \* a copy of HB 94
- \* a current status report on HB 94
- \* the committee minutes from February 11th
- \* a bill analysis from the Dept of Health & Social Services
- \* fatality statistics from the Coast Guard
- \* a report on HB 94 from the Coast Guard
- \* support information from House Research and the U. S. Coast Guard

A FILE ON HB 118 THAT INCLUDES:

- \* a copy of HB 118
- \* a current status report on 118
- \* a memorandum from Rep. Shultz
- \* a fiscal note from the Dept. of Natural Resources
- \* a position paper from the Dept. of Natural Resources

# Alaska State Legislature



## *House of Representatives*

### *Committee on Transportation*

Rep. Bette Cato, Chairman

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4858

March 13, 1987

FOR TODAY'S MEETING YOU HAVE:

---

A BINDER ON HB 118 THAT INCLUDES:

- \* a copy of HB 118
- \* an overview of HB 118 from Rep. Shultz
- \* a fiscal note and position paper from the Dept. of Natural Resources
- \* the minutes from the two previous House Transportation Committee public hearings on HB 118
- \* an excerpt from the state statutes

# Representative Dick Shultz

---

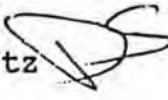
Alaska State House of Representatives  
P.O. Box V • Juneau, Alaska 99811 • (907) 465-4940  
Home: P.O. Box 487 • Tok, Alaska 99780



Member  
House Resources Committee

## M E M O R A N D U M

TO: Members of the House  
Transportation Committee

FROM: Representative Dick Shultz 

DATE: February 24, 1987

RE: HB 118 "Decisions on ROW Lease Applications"

---

Presently under AS 38.35.100(B), the Commissioner of DNR must make the determination that the applicant is "fit, willing and able to perform the transportation" prior to issuing a right-of-way lease.

Past interpretation of this standard has meant that any applicant must have the financial capability to go forth with the project which would utilize the right-of-way.

In today's world a right-of-way permit has a value all its own when negotiating financing. To make financing a condition of the ROW lease application hampers a project's chances of becoming a financial reality.

This bill amends the Right-of-Way Lease Act so that the Commissioner can condition a grant of right-of-way so that the applicant can receive the right-of-way but must demonstrate that it is "fit, willing and able" prior to being allowed to start construction on that right-of-way.

The current standard of "fit, willing and able" is not circumvented but the finding is postponed to a later phase in the process.

I believe it is important in these times to allow modifications in our statutes that assist industry in the real world, without lifting our standards.

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_  
 Revision Date: February 23, 1987  
 Title: ROW Lease Applications  
 Sponsor: Representative Shultz  
 Requestor: House Transportation

Bill Version: HB 118  
 Publish Date: \_\_\_\_\_  
 Agency Affected: Natural Resources  
 BRU: Land & Water Management  
 Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		- 0 -	- 0 -	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Carol Wilson Phone: 465-2400  
 Division: Commissioner's Office Date: 2/23/87

Approved by Commissioner: *Judith M. Burdy* Date: \_\_\_\_\_  
 Agency: Natural Resources

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Impacted Agency(ies)
  - Senate Secretary

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.  
JUNEAU, ALASKA 99801-1796  
PHONE: (907) 465-2400

February 24, 1987

The Honorable Bette Cato  
Chair  
House Transportation Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99801

Dear Representative Cato:

Subject: House Bill 118, relating to decisions on right-of-way lease applications.

Position: The Department of Natural Resources supports the amendment to the oil and gas pipeline right-of-way leasing statute (AS 38.35.100(b)) described in this bill.

Background: House Bill 118 would allow the commissioner to issue a conditional pipeline right-of-way lease even if the applicant is not presently "fit, willing and able."

The existing "fit, willing and able" standard requires the applicant to be nearly ready to begin construction before a right-of-way lease can be issued. In other words, financing has to be reasonably assured, gas sale contracts and markets in place, and construction designs substantially completed.

The commissioner currently has only one alternative to finding an applicant "fit, willing and able," and that is to deny the application. This bill would provide the commissioner with an additional alternative; the ability to issue a conditional right-of-way lease, subject to conditions that ensure the applicant will become "fit, willing and able."

This bill would have a positive effect on the economic development of pipeline projects in Alaska and would not reduce the "fit, willing and able" standards an applicant would be required to meet prior to actual construction of a pipeline.

The Honorable Bette Cato

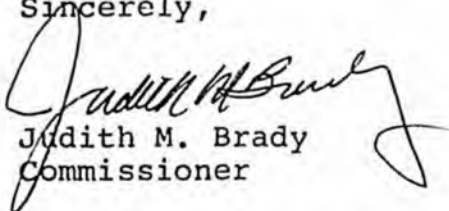
-2-

February 24, 1987

Recommendation: To ensure that the applicant is required to become "fit, willing and able" within a reasonable period of time, add the words "within a prescribed amount of time" to line 15, after the word "able."

Please let me know if you would like additional information.

Sincerely,



Judith M. Brady  
Commissioner

cc: Committee Members  
Sponsor  
Governor's Legislative Liaison

HOUSE TRANSPORTATION COMMITTEE

HB 118

March 13, 1987

Madam Chairman:

My name is Harold Moles, Vice President of Northwest Alaskan Pipeline with offices in Fairbanks, Alaska. Northwest Alaskan Pipeline has reimbursed the State of Alaska over five million dollars on permit activities related to a state ROW lease, and believes AS 38.35.100, as currently written, is a workable statute with definitive criteria for issuing a State ROW lease.

Before amending this statute as proposed in HB 118, leaving the issuance of a ROW lease "subject to conditions established by the Commissioner", the state may want to ask more important questions, such as:

- 1) Does the applicant have the financial and technical capability to construct the project in a responsible manner to protect public lands and the environment along with the residents of Alaska-
- 2) Does the applicant have gas purchases agreements or is gas <sup>or</sup> supply even available for the project?
- 3) Is an export license in place?
- 4) Or is the project even economically feasible?

Madam Chairman, thank you for the opportunity today to provide this testimony for the record.

Yukon 17

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PIPELINE SURVEILLANCE

NWA-82-062

1001 NOBLE STREET, SUITE 450  
FAIRBANKS, ALASKA 99701  
PHONE: (907) 456-4835

June 21, 1982

Edwin A. Kuhn, Director  
Government & Environmental Affairs  
Northwest Alaskan Pipeline Company  
One Lafayette Centre  
1120 20th Street, N. W., Suite S-700  
Washington, D. C. 20036

Re: Further Processing of the Right-of-Way Lease(s) Referenced in the Behlke  
to Kuhn Letter of June 18, 1982 (NWA-82-038)

Dear Mr. Kuhn:

The following project developments:

- 1) NWA's decision to request a separate right-of-way lease for the conditioning plant;
- 2) Multi-year delay in the project schedule; and
- 3) Cancellation of the reimbursement agreement with the State for pre-right-of-way lease work;

have resulted in substantial changes in the status of the Northwest Alaskan Pipeline Company (NWA) Right-of-Way lease application and of its future processing by the State.

The Department of the Interior (DOI) Right-of-Way Grant as issued to Northwest Alaskan Pipeline Company on December 1, 1980, contained a set of Stipulations that had been developed with significant input from representatives of the State of Alaska. The overall objective, as you are aware, was to have a State Right-of-Way Lease with stipulations similar to the DOI Right-of-Way Grant, an objective the State still maintains. Therefore, in the past several years the majority of NWA project-related documents which received a coordinated State agency review have actually been fulfilling requirements of the DOI Right-of-Way Grant as well as the pending State Lease. For example, when NWA filed its pipeline right-of-way lease with the State, it deferred submission of several items pending ongoing work with State and Federal agencies in the preparation of key "1.6.1 Plans" which it indicated would serve two

purposes; 1) be elements of the right-of-way lease application, and, 2) satisfy subsequent lease stipulations. With an adequate level of State agency review, this was an acceptable process. Indeed completed 1.6.1 Plans would, in general, go farther than required for right-of-way lease applications. However, these plans have not been completed, and, by virtue of NWA's cancellation of its pre-lease, reimbursable services agreement with the State, State participation in further reviews of post-lease related items (i.e., 1.6.1 Plans) is not possible. Those key 1.6.1 Plans which were to have been prepared in conjunction with State and Federal agencies and which were to satisfy both the requirements of the lease application and subsequent lease stipulations include the following 1.6 Plans referenced in the application.

- Blasting
- Camps Plan
- Clearing Plan
- Environmental Briefings Plan
- Fire Control Plan
- Pesticides, Herbicides and Chemicals
- Quality Assurance/Quality Control
- Human-Carnivore Interaction Plan
- Restoration Plan
- Visual Resources Plan
- River Training Structures
- Stream, River and Floodplain Crossings
- Wetland Construction
- Erosion and Sedimentation Control
- Oil and Hazardous Substances Control, Cleanup and Disposal

Additional deficiencies in NWA's Right-of-Way Application are identified, as listed below:

- 1) Schedule - the schedule, as filed, is obviously incorrect in light of recent announcements. NWA should at such time as it is prepared to do so, provide realistic estimates of initiation and completion dates to which it intends to adhere;
- 2) It is not possible to determine from the present application NWA's technical capability to:
  - a) protect property interests;
  - b) prevent adverse environmental impact;
  - c) undertake necessary restoration and revegetation;
  - d) properly develop material sites or disposal sites; and
  - e) protect the interests of subsistence resource users along the pipeline right-of-way and in the vicinity of related activities.

- 3) The present application does not demonstrate the applicant's financial capability to fulfill the requirements of A.S. 38.35.100. Extensive rhetoric, submitted in support of NWA's financial capability to perform the proposed transportation, related only to government approvals (President's Decision, Federal Right-of-Way Grant, etc.) which do not prove the sponsor's financial capability to perform the proposed transportation of natural gas. Though the items enumerated by NWA, in support of its application, (plus the later waiver package approval) are some of the conditions necessary for the obtaining of financing, events of the past year certainly prove that they do not provide financing. When the NWA financial plan is ready for submission to the FERC, it also should be submitted to the State as part of an extensively amended application for a State Right-of-Way Lease, so that the Commissioner may reasonably determine if NWA is actually financially capable to perform the transportation proposed;
- 4) No agreement has been obtained with Alaska Department of Transportation and Public Facilities (ADOT/PF) covering highway usage, damage, and encroachments (Yukon River Bridge, Atigun Pass, Ice Cut Hill, proximity, thermal workpads, etc.); and
- 5) As indicated before, a conditioning plant lease application should be filed separately.
- 6) AS 38.35.050 also requires that all persons planning to own an interest in a pipeline must join in the application. The application must be amended to reflect changes in interest in ownership.

It appeared last year when NWA filed its lease application that NWA's financial capability would now be established, and, through work and negotiation with the State, NWA would be able, by now, to satisfy the lease application requirements of A.S. 38.35. Unfortunately, those developments, optimistically anticipated by NWA and this office a year ago, have not happened. At this point, the lease application does not meet the requirements of A.S. 38.35.050 to the extent that the analysis required under A.S. 38.35.080 could be properly accomplished and the Commissioner could make the decision required under A.S. 38.35.100.

When the proper amendments have been provided and when the separate conditioning plant lease application has been received by this office, the pipeline lease application and the conditioning plant application processing will again be resumed through the normal State pipeline leasing process. The recently announced delays provide more than adequate time for NWA to provide the State with the amendments for further processing of the lease(s) as well as providing more than adequate time for the State to process the lease prior to the time it will actually be needed. This is, of course, only true if NWA does not allow the preparation of the application amendment and the plant lease application to drag on.

June 21, 1982

Sincerely,



Charles E. Behlke  
State Pipeline Coordinator  
Office of the Pipeline Coordinator

CEB/de

cc: John Katz, Commissioner, Department of Natural Resources, Juneau  
Wilson Condon, Attorney General, Department of Law, Juneau  
John Rhett, Federal Inspector, Office of the Federal Inspector,  
Washington, D. C.  
Robert Loeffler, Counselor, Morrison and Foerster, Washington, D. C.

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PIPELINE SURVEILLANCE

NWA-82-038

1001 NOBLE STREET, SUITE 450  
FAIRBANKS, ALASKA 99701  
PHONE: (907) 456-4335

June 18, 1982

Edwin A. Kuhn, Director  
Government & Environmental Affairs  
Northwest Alaskan Pipeline Company  
One Lafayette Centre  
1120 10th Street, N.W., Suite S-700  
Washington, D. C. 20036

Re: Major Issues

Dear Mr. Kuhn:

Reference is made to the Northwest Alaskan Pipeline Company (NWA) letters dated November 5, 1981, (GOA-81-1133), January 3, 1982, (GOA-82-1004), February 16, 1982, (GOA-82-1021), and March 29, 1982, (GOA-82-1024) regarding NWA's application for a right-of-way lease for the gas pipeline and the Alaska Gas Conditioning Facility. In these communications, specifically the February 16, 1982, letter, NWA responded to some of the major issues identified by the State in previous letters.

The purpose of this letter is to address and explain, in further detail, the State's position with respect to the pending NWA application for a lease. I will attempt to respond to each point covered in your recent letters, and I also will identify other outstanding concerns which continue to be important but which NWA has not addressed.

State-Selected and Tentatively Approved Lands

Your assessment of my previous verbal statements regarding Tentatively Approved (TA'd) lands is correct, except that I have never thought the State's control of TA'd lands could be in question and have considered any such question to be frivolous.

At the time land becomes TA'd, the Federal government has no further alternative but to patent the land to the State upon survey. Thus, only the State issues the Right-of-Way (ROW) lease on TA'd land. The only exception to this is that TA'd lands which were withdrawn and properly

selected pursuant to Alaska Native Claims Settlement Act (ANCSA), but not yet conveyed, may be leased with the concurrence of the State, the Native corporation(s), and the Federal government.

The topic of selected lands has not, to the best of my memory, been raised before. Pursuant to Federal regulation, land is segregated at the time it is selected by the State. Prior to Alaska National Interest Lands Conservation Act (ANILCA) no procedure was spelled out in the law for conveyance of any interest in selected lands to a third party. Arguably, prior to ANILCA selected lands could not be conveyed to a third party at all, until becoming TA'd, whereupon the State could convey. However, the standard procedure, which was acceptable to the State, was that, following the State's concurrence, the Federal government could convey interests in selected land to third parties. You will note that this procedure was followed on the IAPS project. However, at no time has the Federal government notified the State that it wished to issue a ROW grant to NWA on selected lands; thus, it did not seek the State's concurrence prior to the issuance of the Federal ROW grant as is required, and which was required even prior to ANILCA, for the conveyance to a third party of interests in selected lands.

Since State concurrence to convey rights to selected land was neither sought nor obtained by Department of Interior (DOI) for the NWA ROW grant, the Federal government did not convey a ROW grant across selected lands, because it lacked the authority, without prior State concurrence, to do so. (Again, where State-selected land was opened for Native selection pursuant to ANCSA and selected by a Native corporation, all parties must concur in any grant or lease to third parties.)

At some point, should the project become an imminent reality, NWA would appear to be well advised to seek a Right-of-Way Grant from the Federal government to cover those lands which (1) were validly State-selected on December 1, 1980, and (2) still remain in that category. (Clearly those lands which were State-selected on December 1, 1980, and which have become TA'd or patented since will be covered by the State Right-of-Way Lease.) Such a grant would have to receive the formal concurrence of the State, prior to its issuance. The State's concurrence would probably be conditioned on the Federal lease's lapsing at the time of TA with the State lease becoming effective simultaneously. The State lease must contain a provision for the inclusion of lands which "hereafter" become TA'd, patented, or otherwise acquired. If a Federal Grant covering selected lands is ultimately obtained by NWA, the TA would, of course, be subject to the Federal grant conditions to the extent that the State recognizes prior authorized activities conducted pursuant to that grant prior to TA.

Any actions by Northwest on TA'd lands which do not comply with the above-outlined procedure could place NWA in a trespass posture and would be dealt with accordingly by the State.

Socioeconomic Matters

I was pleased to receive NWA's proposed socioeconomic planning activities attached to your letter of February 16, 1982. However, as indicated by NWA in the initial, and only, negotiating meeting of July 12, 1981, and corroborated by my letter to Kuhn of August 13, 1981, I have been awaiting NWA's written response to the draft Socioeconomic Stipulations given to NWA on March 18, 1981. Thus far, there has been no response by NWA, except for the NWA socioeconomic planning document of February 16, 1982.

It appears that your proposed socioeconomic planning activities of February 16, 1982, constitute a further elaboration of your letter of December 8, 1980, (COA-80-1139), in which you outlined similar plans. As you noted in your December 8, 1980, letter, "the impact plans are presumably a part of the Stipulations, and a complete assessment requires us to review them in their larger context" (emphases added).

While it appears that you have reassessed the plans outlined in your December 8, 1980, letter in light of the initial draft Socioeconomic Stipulations transmitted to your office on March 18, 1981, we are unable to comment upon their adequacy in the absence of knowing how the proposed planning fits into the larger context of the proposed Stipulations which, as you correctly observed, needs to be done.

The State views NWA's obligation to minimize the cost impact to the potential rate-payers as being parallel to, and not in conflict with, sound social impact management. Minimal disruption of services and infrastructure both inside and outside the corridor upon which the project depends for support can only enhance the smooth progress of project construction. NWA estimates (Center Point Justification, Vol. V, July 1, 1980, page 4-12) that each break in project cadence will cost two million dollars, and, given the close and complex interrelationship between project activities and State and local support systems, the possible points of inadvertent conflict and disruption are many. NWA recognizes this, as you point out in your December 8, 1980, letter.

We believe that planning in these areas is important both to the success of the project and for the avoidance of unnecessary disturbance to Alaskan communities. However, the plans which you have set forth fall far short of the extent of those promised by the April 1978, agreement signed by Mr. McMillian and Governor Hammond. Clearly, NWA still has a great deal of work to do.

NWA has expressed cost concerns for its potential rate-payers; however, the State sees little virtue in the concept of its communities and some of its citizens suffering severe, adverse, unmitigated socioeconomic impacts in order to reduce costs to the rate-payers. NWA has equally as important an obligation to mitigate adverse impacts on Alaska as it does

to attempt to mitigate the cost impact to the potential rate-payers. We see no possible reason for the Alaskan communities and adversely impacted citizens to become, essentially, paying partners in the project while not receiving the benefits which the other equity partners and the rate-payers would receive.

Similarity of Federal and State Right-of-Way Grant/Lease

The State has been working to have the technical and environmental segments of the State Right-of-Way Lease be as consistent with the Federal Right-of-Way Grant as is prudent at the time of offering of the lease. Though I anticipate the similarities to be very considerable, differences are deemed necessary to reflect:

- A) NWA's response, to date, to the Federal stipulations;
- B) Movement of the NWA pipeline ROW location, after development of the Federal stipulations, to close proximity to State highways at locations extending over approximately 270 miles of the right-of-way;
- C) Socioeconomic implications (including plans identified in my letter of March 18, 1981) to citizens of Alaska not addressed by the Federal Right-of-Way Grant;
- D) Additional State concerns for the health, safety, and welfare of State citizens;
- E) Additional Stipulation 1.6.1 Plans to cover the Haul Road and the possible choice by contractors to use snow/ice workpads and roads;
- F) The State Lease Stipulations will not contain a preamble; and
- G) The State Lease will contain additional language dealing with Stop Orders and other matters which, in the Federal Grant, are covered by regulations incorporated by reference.

You have expressed concerns regarding the potential inclusion of a field authorization procedure in the State Right-of-Way lease. It is the State's position that field authorizations to proceed are necessary since Notices to Proceed (NTP's) will be issued, generally, many months prior to the beginning of work and prior to contractors' bidding on the work covered by the NTP. It is not the purpose of the proposed field authorizations to change the stipulations of a Right-of-Way Lease. The principal purpose of the field authorization is to provide a check on field conditions, field staking (where necessary), and compliance of the contractor's work plan, submitted immediately prior to the initiation of work, with the lease stipulations. I certainly agree that the contractor must not be exposed to the possibility of having conditions of the

lease, principally the stipulations, subject to unilateral change by the State during the course of the bidding and contract award processes or during the mobilization and construction processes.

It is also important for a high level of government authority to be located in the field to expedite field changes proposed by the contractors through the project sponsors. The field authorization also will allow this to be achieved, and it should be a positive improvement of the State Right-of-Way Lease over the Federal Right-of-Way Grant.

You have mentioned that the field authorization concept may affect "fixed-price contracting." I think your concerns have been addressed above; however, the State is concerned about possible interpretations of what "fixed-price contracting" actually is. Does NWA mean that it will contract on the basis of a fixed-cost for a completed spread of pipeline or a completed foot of pipeline, or does it mean, on the other hand, that NWA will contract, for example, on a fixed-unit basis per cubic yard of excavation for trench, workpad, haul, etc.? The concept of a fixed-unit price bid for each of the separate components of a completed unit of pipeline is not a fixed-price bid, but is, rather, an open-ended bid. Such unit-cost bidding would not meet the concept of fixed-price bidding required by the President's Decision and would certainly leave the possibilities for cost overruns wide-open. Indeed, it would probably promote cost overruns. The State is curious to know what NWA's precise definition of the term "fixed-price contracting" is.

#### Highway Matters

You have expressed concern about the State's position that all highway-related matters must be brought to agreement simultaneously.

On January 26, 1981, (NWA-81-70), the SPCO informed NWA of the key issues which require negotiation between NWA and the Alaska Department of Transportation and Public Facilities (ADOT/PF). Included with that letter was an identification of 13 points requiring resolution in addition to Highway Indemnification. It is the intent of this office to include as a binding part of the lease an agreement between ADOT/PF and NWA which addresses the following:

- Highway Indemnification;
- Alignment;
- Construction scheduling (minimize conflicts between NWA and ADOT/PF highway improvement programs);
- Yukon River Bridge (risk analysis);
- Ice Cut Hill;
- Five-Mile Airport;
- Governor's Haul Road Policy;
- Pipe Haul, corresponding permits, methods, and scheduling;
- Regulatory enforcement (weights, measures, public safety);
- Security within the camps and along the Haul Road;

- The use of various State airports and the need for improvement of existing facilities;
- Atigun Pass; and
- Availability of Mineral Materials.

Thus far, NWA has been quite anxious to reach agreements with the State on these critical areas in which NWA desires to obtain special concessions from the State to allow the pipeline to be constructed within the Dalton Highway and, in some cases, beneath the road surface, while exposing the State and the driving public to the attendant risks, hazards, and traffic delays on this most important of the State's industrial highways, not to mention additional risks to the Yukon River Bridge's integrity and to the transportation (and production) of crude oil from the North Slope. For more than two years, the State has repeatedly, (by letter and verbally), indicated that NWA must develop, for the State's review and approval, thermal analyses and appropriate mitigation designs for thaw settlement for the approximately 270 miles of workpad, which would severely impact the short-and long-term stability of the highway, immediately adjacent to the Prudhoe Bay highway. To date, though NWA has developed preliminary proposed designs and construction plans for the Yukon River Bridge, Ice Cut Hill, and Atigun Pass, no such long-term thermal design or thaw settlement mitigation designs have been presented by NWA to the State for review.

NWA's construction plans call for considerable highway-hauling of pipe and gravel in an overload or over-dimension mode. Such loads are hazardous to the driving public and generally destructive to the highways involved. NWA has stated that it wants to be treated in a "non-discriminatory" fashion with regard to highway usage. It interprets the term "non-discriminatory" to allow NWA to inflict highway damages which the State has estimated to potentially be approximately \$170 M (1980 \$'s). Thus, on the one hand, NWA wishes the State to "sign off" now on the very considerable concessions which NWA desires from the State that will clearly discriminate against the traffic rights of other users of the highway and will certainly create massive additional road maintenance problems; while, on the other hand, NWA wishes to delay, until some undesignated future time, resolution of the important matters of thermal design of 270 miles of work pad and of the highway damages which NWA's work plans clearly indicate will occur to the State's highways. In addition, NWA's risk analysis supporting its desire to locate its pipe on the Yukon River Bridge has ignored the potential losses of revenue to the State and the North Slope oil producers which a possible disastrous gas pipeline-generated accident could cause. That risk analysis has also ignored construction activities risks. Thus, the risk analysis, by virtue of its incompleteness, really does not answer the question, "What is the risk to the State and others of the construction and operation of the NWA pipe on the Yukon River Bridge?"

The State declines to accept hundreds of million of dollars of NWA highway and other damages while simultaneously giving NWA hundreds of millions of dollars of concessions for which the State and travelling public would incur indirect expenditures. It also declines to needlessly endanger the continued, timely production of crude oil from Prudhoe Bay. Thus, the State insists that all highway related matters must be resolved simultaneously in a single agreement. The State Department of Transportation and Public Facilities is prepared, as it has been for the past two years, to discuss any or all highway matters with NWA which would lead to a complete, acceptable agreement.

#### Separate Lease for Pipeline and Conditioning Plant

The State accepts the concept of separate ROW leases for the gas conditioning plant and the pipeline across State lands, when highway related and socioeconomic matters are satisfactorily resolved for inclusion or reference in the two ROW leases and when NWA has satisfied certain other conditions (discussed later).

On April 17, 1981, Commissioner LaRasche waived the requirements for the filing of a separate Form DL10-130 (pursuant to 11 AAC 80.005) for the Conditioning Plant because the Plant was to be included as an addendum to the Pipeline Right-of-Way Lease. Since NWA has recently determined that it desires separate leases for the pipeline and conditioning plant, a Form DL10-130 for the Conditioning Plant lease must be filed.

Certainly, according to the present project schedule, the two leases can be developed and could go to the required public hearings well in advance of initiation of construction unless, of course, NWA continues to ignore the State's important highway and socioeconomic concerns.

#### Subsistence

Not discussed in your letter of February 16, 1982, is the topic of subsistence, addressed in my letter of May 14, 1981. The impacts of the project on various rural subsistence users (subsistence hunting, fishing, trapping, etc.) may be quite important. In my letter I noted that NWA would have to be prepared to identify and set forth the potential subsistence impacts of the project and commit to appropriate impact mitigation plans. I stated that subsistence use of resources requires the continued presence, during construction, of normally usable resources and the timely accessibility to the resource for the users. NWA studies, to date, address the present existence of some subsistence resources. This and information documenting the present subsistence use of such resources must be related by NWA to the presence and accessibility of the resources to subsistence users during the construction process. If the construction process and scheduling cannot reasonably accommodate normal subsistence resource harvests in the area, proper mitigation

procedures must be set forth by NWA for review and discussion among the people affected so that a suitable set of mitigation procedures, where necessary, may be finalized, approved by the State, and implemented by NWA.

#### Applicability of AS 38.35 to Temporary Facilities

NWA requested, in the January 8, 1982, and the March 29, 1982, letters, that the State ROW lease (AS 38.35) cover temporary facilities. Whereas I had initially hoped that temporary facilities, including access roads, camps, disposal sites, could be included under AS 38.35, I have now determined that leases issued pursuant to AS 38.35 can cover only the permanent pipeline facilities (for example, if permanent access roads can be identified, NWA should submit a list of these to the State for inclusion under AS 38.35) including the pipeline. All remaining facilities (temporary-use areas, including disposal sites) will be processed under AS 38.05, and the possibility of issuing 38.05 permits for period in excess of one year is being explored. However, I have not requested a formal Attorney General's (AG's) opinion on the applicability of AS 38.35 to temporary facilities. Should NWA wish to pursue this topic further (AG's opinion) please inform Commissioner Katz.

#### Further Processing of the Right-of-Way Lease

Several deficiencies exist at this time in the NWA Right-of-Way Lease application. The details of the deficiencies are dealt with by a separate letter, however, a summary of the deficiencies are as follows:

- 1) No valid application exists for a separate lease for the conditioning plans (previously discussed, page 7);
- 2) When NWA filed its pipeline Right-of-Way Lease with the State it deferred submission of several items pending then ongoing work with State and Federal agencies in the preparation of key "1.6.1 Plans". These plans have still not been completed, and by virtue of NWA's cancellation of its pre-lease, reimbursable services agreement with the State, State participation in the pre Right-of-Way Lease development of the lease application is no longer possible. Thus, the NWA's statement in several locations of its lease application justifying deferral is no longer valid. Prior to further processing of the Lease, now through normal State operations, these items of the application must be properly completed and submitted for review; and
- 3) In NWA's lease application several very subjective statements are made in support of NWA's financial capability to perform the transportation proposed in its application. It is abundantly clear that though the President's Decision and a Federal Right-of-Way Grant (and later, the "waiver package") are necessary to allow NWA to obtain financial capability to perform the actions outlined in the

Right-of-Way Lease application, they do not provide or guarantee such financial capabilities. Also, a definition of all persons owning or planning to own an interest in the project has not been provided in the application, as is required by statute.

Because of the continuing absence of the items mentioned above, as required by AS 38.35.050 and 11 AAC 80.005, it has not been possible for the State to move to the procedures set forth on AS 38.35.080(a), (b), and (c) which must precede a decision on the application as required by AS 38.35.100.

To summarize: a complete lease application must be filed for the Conditioning Plant, and the lease application for the pipeline Right-of-Way must be amended to properly and completely address the information required by AS 38.35 and 11 AAC 80.005. When the existing lease application have been properly amended, the lease application processing will be carried forth through the normal State processing procedures for such applications. The most recently announced project delays of three years should provide adequate time for processing through the normal channels if NWA provides the necessary information to complete its lease application in a timely manner. However, if NWA continues to ignore important aspects of its Right-of-Way lease application, it will create additional delays which, certainly, the State will have no control over. NWA should be advised that the review of the significant amount of still outstanding information for the lease application will require several months prior to proceeding with the requirements of AS 38.35.080 and AS 38.35.100. Public hearings also require lead time. Thus, processing of a properly amended Right-of-Way Lease application will not be an instantaneous matter. It is thus, extremely important that the numerous remaining deficiencies in the lease application, which I have summarized above and itemize by separate letter, be properly addressed according to a realistic time schedule if NWA is not to create additional, future delays in the issuance of the appropriate leases.

Sincerely,



Charles E. Behlke  
State Pipeline Coordinator  
Office of the Pipeline Coordinator

CEB/de

1

cc: John Katz, Commissioner, Department of Natural Resources, Juneau  
Wilson Condon, Attorney General, Department of Law, Juneau  
John Rhett, Federal Inspector, Office of the Federal Inspector,  
Washington, D. C.  
Robert Loeffler, Counselor, Morrison and Foerster, Washington, D. C.

THE PRECEDING DOCUMENT(S) MAY NOT FILM  
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ORIGINAL.

Are the Japanese and South Koreans finally getting ready to buy Alaskan natural gas?

# Gas for the lamps of Seoul?

By Lawrence Minard

**I**F THE JAPANESE, Koreans and Taiwanese are serious about reducing their trade surpluses—\$81 billion, combined, last year—against the U.S., there is a U.S. product to which they could quickly commit: Alaskan natural gas. So much natural gas comes up with the crude oil on the North Slope that the Prudhoe Bay field's owner-operators, Standard Oil and Arco, are reinjecting the gas at the rate of 2.6 billion cubic feet a day (bcf/d).

Over the years, several schemes have been advanced to create a market for the gas. One was the Alaska Natural Gas Transportation System (Angts) proposal, which was approved by the U.S. and Canadian governments in 1977. Under it, a 4,790-mile pipeline would have been built from the North Slope through Canada, piping the gas into mid-western and California markets (see map). Projected cost in 1980: about \$40 billion, which reflected inflation and interest rates at the time.

The Angts proposal remains the only federally approved gas pipeline project. But falling energy prices have postponed the project, perhaps indefinitely: five of the original ten members of the consortium backing Angts have dropped out. Says a leading North Slope oil executive bluntly: "Angts is dead."

What may have more

life in it is a five-year-old competing proposal by Anchorage's Yukon Pacific Corp. to ship liquefied natural gas across the Pacific. Yukon Pacific has substantial backers, including CSX Corp., with a one-third interest, former Alaska Governor Walter J. Hickel and other investors, with another one-third, and Supra Corp., one-third. Supra's owners include former Arco Chairman Robert O. Anderson and shipping magnate Daniel K. Ludwig.

Yukon Pacific's proposed Trans-Alaska Gas System (Tags) would run a pipeline along most of the existing Trans-Alaska oil pipeline's right-of-way 800 miles south to Valdez. There

the gas would be liquefied and shipped to Asia.

In his modest Anchorage offices, Yukon Pacific Chief Executive Howard Griffith says he would like to market all 14 million metric tons of liquefied natural gas a year (the equivalent of around 2 billion cubic feet daily) of North Slope gas available. But Tags, he adds, could be viable on half that volume.

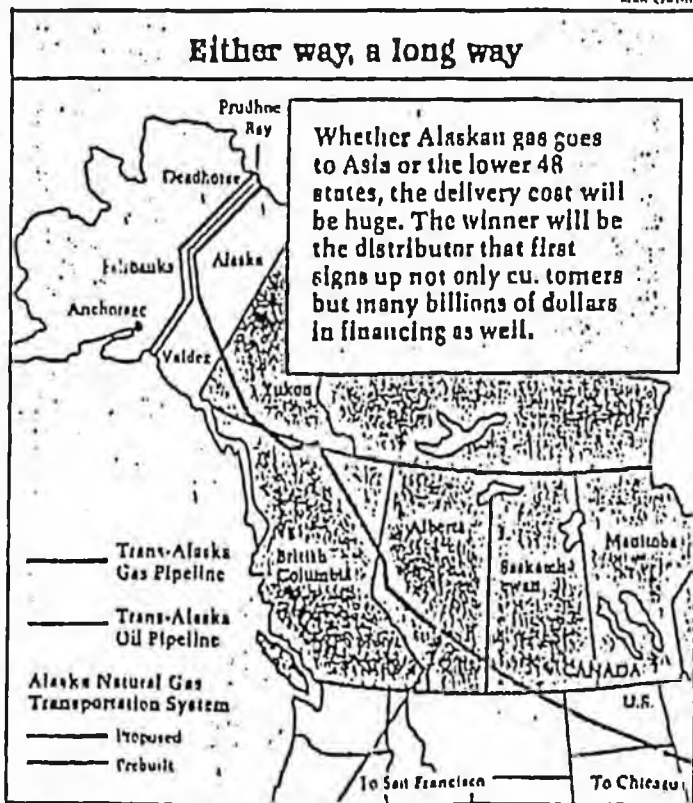
Japan is the most obvious prospect. It currently consumes around 28 million metric tons of gas annually, most of it imported from Indonesia and Brunei. Projecting energy needs is notoriously difficult. But according to the Japan Gas Association's latest forecast, Japanese gas consumption will rise to over 42 million metric tons annually by the year 2000. Yet contracts and commitments have been signed for up to 35 million metric tons. Yukon Pacific wants to supply the additional 7 million or 8 million metric tons.

But so large is Tags' scale, says Yukon Pacific Treasurer Mead Treadwell, that "it's too big for any one country to take on." For Tags to work well, Korea would have to sign on for around 6 million metric tons a year. Or Taiwan would have to.

Why have the Asians so far failed to commit to Alaskan gas? Price, mainly. In 1982 the estimated cost of Tags' pipeline, compressor stations and 15 LNG tankers was \$14 billion (some \$27 billion, factoring in inflation and prevailing interest rates).

That put Alaskan gas at a steep disadvantage against gas from Indonesia and Brunei. Alaskan gas is still at a disadvantage, but somewhat less so. Falling inflation and interest rates, and improved knowledge of arctic and subarctic construction gleaned from the North Slope's 1974-84 building boom, have sharply reduced all North Slope construction cost projections. Says Treadwell: "Once we applied a lot of study to that \$14 billion number, we came up with less than \$10 billion, at least 10% less."

Treadwell expects the U.S.-Japan Energy Working Group, created by President Reagan in 1983 to promote U.S. energy exports to Japan, will conclude this year that Tags is viable. He predicts the



Japanese will sign letters of intent to buy Alaskan gas early next year, with deliveries beginning in 1995 or 1996. Treadwell also notes that the Commerce and State departments have forcefully raised the gas issue in trade talks with the Japanese and Koreans. "Support like that," says Treadwell, "doesn't go unnoticed over there."

If Yukon Pacific can sell gas to the Asians and arrange Tags' financing, it

will still face a fight from its primary competitor, the Alaska Natural Gas Transportation System. Late last month, lawyers for Angas insisted to the Federal Energy Regulatory Commission that Angas has exclusive right to market existing North Slope gas reserves, implying that Yukon Pacific has nothing to sell. On Yukon Pacific's side in this debate is the state of Alaska. It doesn't care who trades

in its gas, so long as someone does.

Standard Oil President Frank Mosler would also like to sell his Prudhoe Bay gas. Mosler doubts that either Angas or Tags will move ahead until oil gets back over \$25 a barrel. But he says: "If someone can make Tags work, we stand ready to make our gas available. We'd feel blessed if something happened to allow us to market our North Slope gas." ■

# HOUSE COMMITTEE REPORT

(7)

Date referred: 2/11/87

FURTHER REFERRALS: Resources

DATE: March 13, 1987

The Transportation Committee has considered HB 118

"An Act relating to decisions on right-of-way lease applications."

**RECOMMENDS:**

- replace with \_\_\_\_\_  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

Mike Miller

Heinrich Spruiell

D. A. Boudin

Bette Cato

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**SIGNING OTHER RECOMMENDATIONS:**

Bill Finken - AD Res

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Bette Cato  
Chairman's signature





Official Business

**COMMITTEE:**

House Transportation Committee

**DATE:** February 27, 1987

**SIGN-IN**

**Subject of meeting:**

- HB 74: "An Act relating to motorcycle license plates."
- HB 94: "An Act relating to boat numbering, accidents, and safety; and providing for an effective date."
- HB 118: "An Act relating to decisions on right-of-way lease applications."

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?	
John Manning	Health & Social Services Manager P.O. BOX 11-060 Juneau, 99811	465-3141	EMS / DPH / DHSS	Yes (HB94)	94*
Elliot Lipson	9001 Long Run Dr. Juneau 99801	989-0989	self	no	
HAROLD MOLES	73KS AK 1001 NOBLE Suite 240 99701	456-876	Pipeline Northwest ALASKAN	HB 118 yes	118 118*
GRETCHEN DEER	Special Assistant to The Commissioner P.O. Box N, Juneau, AK 99811	465-4300	Public Safety	HB 94 yes	94
DM WALSROW	Juneau 612 Willoughby Ave 99801	586-7349	USCG	U HB 94 yes	94*
M.A. CONWAY	P.O. Box 3-5000, Juneau, AK 99802	586-7197	USCG	NO	
G.M. HARTZEN	CCGD 17 (12)	586-7471	USCG	HB 94 IF NEEDED	94
Bill Brown	P.O. Box N	465-4335	DMV	Answers Questions HB 94	74*
Ed Shultz	AK state legislature	465-4940	sponsor of HB 118		



HB

123

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907.465.3800

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May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

*House Transportation:*

*4/22/87*

# Alaska State Legislature



## House of Representatives

### Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4858

April 22, 1987

#### COMMITTEE CALENDAR:

HB 123: "An Act relating to the issuance of international airport revenue bonds; and providing for an effective date."

#### FOR THIS MEETING YOU HAVE:

A folder on HB 123 that includes:

- \* a copy of HB 123
- \* two letters from the Governor
- \* a fiscal note from DOT/PF
- \* a fiscal note from the Department of Revenue
- \* a letter of support
- \* a copy of the statutes impacted by HB 123

February 10, 1987

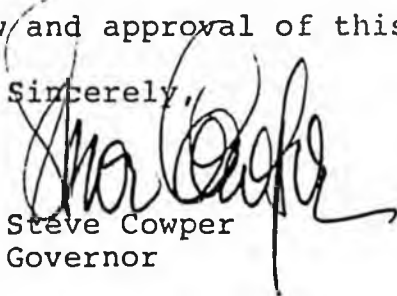
The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that relates to the manner by which international airport revenue bonds may be sold. The principal purpose of this bill is to authorize the sale of international airport revenue bonds by either private or public sale (similar, for example, to the Alaska Industrial Development Authority's authority under AS 44.88.090(d)). Present law requires that airport revenue bonds be sold by public sale. While a public sale is often desirable, it is at times in the best interests of the state to sell bonds by private or negotiated sale. For example, a private sale may enable the state to move quickly to take advantage of favorable market conditions. The bill provides this desirable flexibility.

I urge your prompt review and approval of this legislation.

Sincerely,



Steve Cowper  
Governor

STEVE COWPER  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

APR 21 1987

April 19, 1987

The Honorable Bette Cato  
Chair, House Transportation Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Representative Cato:

As you are aware, HB 123 is in your committee. I feel this legislation is quite important to the proper operation and functioning of my administration.

I would appreciate your committee review and action on this legislation and your personal assistance to move this bill out of your committee. As we both know, this legislative session will soon be drawing to a close.

If you have any questions please contact my legislative office and either George or Bob will see that the appropriate people promptly respond to you.

Thank you for your continued support.

Sincerely

A handwritten signature in black ink, appearing to read "Steve Cowper".

Steve Cowper  
Governor

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: HB 123  
Publish Date: \_\_\_\_\_

REQUEST: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: Issuance of International  
Airport Revenue Bonds  
Sponsor: Rules by Request of Governor  
Requestor: House Transportation

Agency Affected: Department of Revenue  
BRU: Treasury  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
<b>OPERATING</b>						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-	-	-	-	-	-
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<b>TOTAL</b>	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker *MB*  
Division: Treasury

Phone: 465-2350  
Date: April 17, 1987

Approved by Commissioner: *H. Malle*  
Agency: Department of Revenue

Date: *9/19/87*

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)  
Senate Secretary

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill version: HB 123  
Publish date: 2/11/87

REQUEST

Bill/Resolution No.: \_\_\_\_\_  
Title: Relating to International Airport Revenue Bonds

Sponsor: Governor  
Requestor: House Rules Committee  
Date of Request: 12/9/86

FISCAL DETAIL

Agency Affected: DOT&PF  
BRU: Anchorage International Airport

Components: Commissioner's Office

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: There is no identifiable fiscal impact for this bill. A private sale of International Airport Revenue Bonds may enable the State to move quickly to take advantage of favorable market conditions.

Prepared By: William R. Snell  
Division: Central Region Deputy Commissioner  
Approved by Commissioner: Rocky Gutierrez  
Agency: Department of Transportation & Public Facilities

Phone: 266-1440  
Date: 12/9/86  
Date: 12/12/86

Distribution (by Agency preparing fiscal note):

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

**Government Finance Associates, Inc.**

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Corporate Headquarters

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71 Broadway  
New York, New York 10006  
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**Northwest Offices**

Suite 1200  
1211 SW Fifth Avenue  
Portland, Oregon 97204  
(503)222-1405

March 4, 1986

The Honorable Milton B. Barker  
Deputy Commissioner  
Department of Revenue  
State of Alaska  
333 Willoughby Avenue  
Pouch SB  
Juneau, AK 99811

Dear Milt:

This letter has been drafted to set forth the reasons legislation should be enacted by the Alaska legislature to allow the securities issued by the Anchorage International Airport to be sold on a negotiated basis. It should be immediately emphasized, however, that as a matter of public policy, competitive sales should be encouraged and utilized to the maximum extent possible. Nevertheless, as described below, a series of reasons exist to authorize negotiated sales for these securities.

As a matter of practice, negotiated sales are appropriate when they can save interest expense or market cost for the issuer. Under the following conditions, negotiated sales can be cost-effective.

1. New Security. If the borrower sells a security with characteristics unlike those employed for other securities previously sold by the borrower, then the issue is a candidate for being sold on a negotiated basis.
2. Volatile Market. During periods in the recent past, the tax-exempt market has experienced substantial volatility in interest rates. In such periods, the timing flexibility that is available from negotiated sales can result in lower interest expense and a more stable borrowing.
3. Uncertainty In The Market Place. Since January 1, 1986, the tax-exempt market has been particularly unsettled, responding to the Tax Reform Act passed

## Government Finance Associates, Inc.

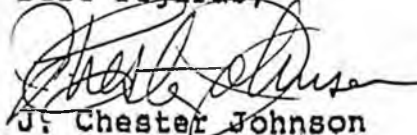
by the House of Representatives at the end of 1985. Frequently, unanticipated events create uncertainty, and in these circumstances, the ability of a borrower to negotiate can prove beneficial. For example, the City of Phoenix, a highly rated city, offered a bond issue in early January on a competitive basis. Because of the unsettled conditions, Phoenix received only one bid, with interest rates which were comparatively very high. The City decided to reject the bid, but it subsequently sold the issue on a negotiated basis with more favorable results.

4. Credit Concerns. If the market needs to be "sold" on the creditworthiness of a particular security issue, a negotiated sale is a much more effective way of doing it. The underwriting group is responsible for educating the market about the credit. It is unlikely that a competitive sale can adequately accomplish this education process.

As you know, as a result of many of the ideas presented above (i.e., the expanded use of new debt instruments, the general volatility in the market, and increased credit problems), an increasing number of negotiated issues have come to market. While Airport securities may continue to be sold competitively, we believe it wise to provide the Airport the additional flexibility to sell debt on a negotiated basis.

If you have further questions, please do not hesitate to contact us.

Best regards,



J. Chester Johnson

jm





Official Business

**COMMITTEE:**

House Transportation Committee

**DATE:**

April 22, 1987

**SIGN-IN**

**Subject of meeting:**

\*HB 123: "An Act relating to the issuance of international airport revenue bonds; and providing for an effective date."

**NAME** Please include title **ADDRESS** Please use full address. Please include zip. **PHONE** **REPRESENTING** **DO YOU WANT TO TESTIFY?**

NAME Please include title	ADDRESS Please use full address. Please include zip.	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
Exec. Dir. Alaska Internat. Airp. System Doyle Reiff	Box 190204 Anchorage 99519-0204 <del>P.O. Box 60307, Tibbets 99706</del>	266-1400 434-2500	DOT/PF	
acting director of Anch Inter Airp. Larry Michau	* Box 190204 Anchorage 99519-0204	266-1422 266-1400	DOT/PF	
Manager of Statewide Aviation Gina Marie Lindsay	Box 196900 Anch 99519	243-1111	DOT/PF	

\* indicates first public hearing