

**ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990**  
**6020 HOUSE RESOURCES**

**8672**

*4/24*

WHITE: "But allowing him to nurture that herd and go for the trophies, I guess I'm still. I know that's economically better for him."

Springer: "It's not economically - that is more important from a wildlife management standpoint because it's those adult rams who have the highest propagation function in that herd."

White: "Okay, that's what I wanted to find out."

QUESTION/comment: from Lew Pamplin: "Just to sum up alot of what Henry is saying is it's selectivity is what it is. It's by..time in an area you can be more selective...and it can be an economic benefit. No question about that. But, the real point is that it is definitely to the benefit of wildlife management because selectivity of the older age class trophies, or whatever you want to call it can only be made either two ways. Either real substantive knowledge of an area is gained over time and experience, or sheer luck. You get a new guide or a hunter come in there and they just happen to walk up this creek and bingo there's a 10 1/2 foot brown bear that they just walk into. Flat lucky and they don't know. But, you take a guide or anyone else, a resident hunter thats gone in the same area 8-10 years and they go back there year after year after year, they get to know that area, get to learn it. It keys back into selectivity, where - another way of looking at it you can be more selective and make just as much money if you want to look at it from an economic term and actually work less. Now, there's going to be some shuddering in the room when I say that, but on some species that's exactly what can happen in some areas. Not just looking at Alaska wildlife. Because people will pay, if they know that a guide is a real conservationist, and has let these older age class get up to like say, 10 foot bear class and all that. And they know it, and they know they're in there. Some of those people will pay more for that than they would to go bouncing around and look for 7 foot bears.

CLOSING REMARKS - Springer: "I would suspect that I would go for 15 to 20 years, if I have to go for that stand and swear a solemn oath I would feel on very thick ice with those figures. I fully appreciate the situation the AG is in. They've got to have something pretty solid to hang their hat onto. That's a tricky situation between the two constitutional clauses. I appreciate you letting the Game Board get in something, because no matter what you do, we're going to be stuck indirect...we're in the picture indirectly with the allocation process.

Final comment from L. Pamplin: "Henry, one of the points that I think are real important, especially with you being the Chairman of the Board of Game. Some of the stuff we're talking about ...selectivity and other things related to wildlife management. You cant even put into regulation. It's

things that are going to occur - Im just seeing if you would agree with this - based on the knowledge and concern of the people who are in those areas. And they can either help benefit it beyond what the law requires and the regulations, or else they can hurt it and be legal while they're doing it."

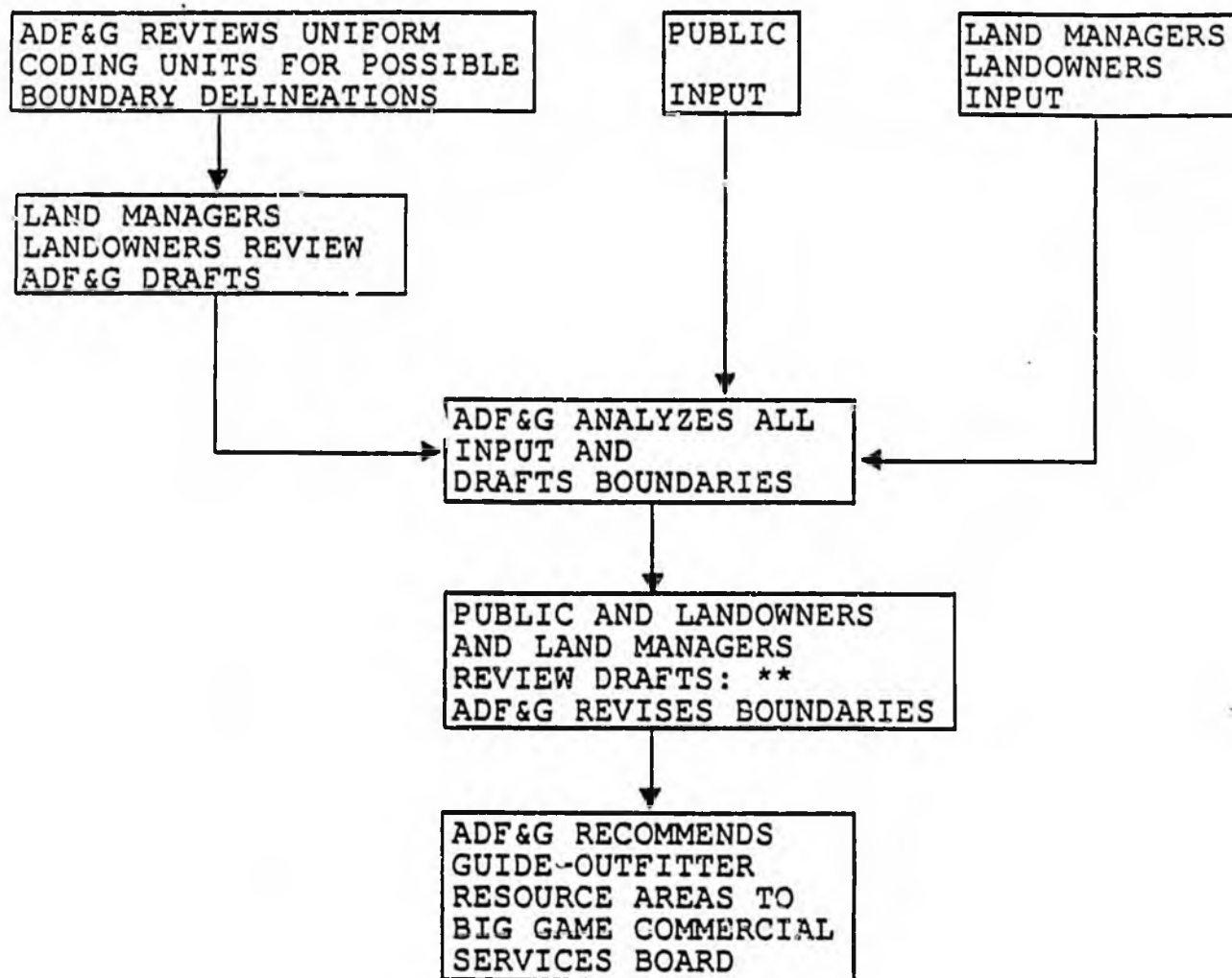
Springer: "My biggest concern for the welfare of Alaska's game resource is the 100% opposite situations between what we are trying to do here through the guiding industry and what the subsistence law allows. The subsistence law specifically says that there can't be any distinction if they want to shoot young ones or females or whatever the preference is, there isn't a damn thing you can do about it, which is like it or not, which is in most cases not very conducive to game management."

end

Review  
FUG  
11/8/89

# PROCESS FOR DEVELOPING BIG GAME GUIDE-OUTFITTER RESOURCE AREA MAPS

ALASKA DEPARTMENT OF FISH AND GAME  
DIVISION OF WILDLIFE CONSERVATION  
NOVEMBER 1989



\*\* Review methods would include sending packets of draft maps out for review; also holding public meetings for comments.

SCHEDULE: For the entire state this process is expected to take two years, within which higher priority areas would be completed first.

PUBLIC PROCESS FOR DEVELOPING BIG GAME GUIDE-OUTFITTER  
RESOURCE MAPS

DIVISION OF WILDLIFE CONSERVATION  
ALASKA DEPARTMENT OF FISH AND GAME

November 7 1989

The Legislative Task Force on Guiding and Game has directed the Alaska Department of Fish and Game to solicit initial public input as part of developing big game guide-outfitter resource maps. The following steps could be used to achieve the goal of obtaining public input regarding the locations of boundaries for new guide-outfitter resource areas.

Step 1: ADF&G OPENS PUBLIC INPUT PERIOD

A. ADF&G conducts a public information campaign to alert people to the process, and how to participate.

B. ADF&G distributes an order packet for the public to submit to ADF&G to get the actual maps and forms for public comment. Includes a statewide index map of GMUs and titles of 1:250,000 scale quads, and a sheet explaining (a) the process, (b) that the public should designate on the index maps which quad maps they want, and (c) that they have to submit the index map as an order form to ADF&G.

C. ADF&G sends map order information to organizations and individuals that could include licensed guide-outfitters, APHA, landowners, as well as all who request map sets.

Step 2: PUBLIC INPUT

A. ADF&G sends out packets of maps and forms to match public orders. Maps are 1:250,000 scale blue-line copies with subunit and UCU boundaries. Forms are for written boundary information, species to be used, ideas and concerns about how boundaries would be determined, and other helpful information. The resource mapping criteria approved by the task force would be clearly presented in the explanatory sheet for the public.

B. Statewide, ADF&G allows 60 days for the public to obtain maps/forms and return them to ADF&G. Sends letter upon receiving each set of comments/maps, explaining the next steps in the process, and upcoming schedule.

C. During the public review period, ADF&G begins evaluations of each GMU based upon wildlife resource criteria, and reviews uniform coding units for possible boundaries for guide-outfitter areas. ADF&G provides these preliminary drafts to landowners/land managers for their initial review and comment. Landowners/land managers include but are not limited to regional Native corporations, village corporations, boroughs, municipalities, DNR, BLM, FWS, FS, and NPS.

*profit & non-profit*

Step 3: ADF&G ANALYZES ALL INPUT AND DRAFTS BOUNDARIES

At the end of the public review period, ADF&G evaluates all submitted comments, by GMU, and revises earlier proposed boundaries as necessary. Areas will be examined in priority order according to the departmental list.

Step 4: PUBLIC REVIEW OF ADF&G DRAFTS

The new maps are then provided for public review, including landowners/land managers. ADF&G considers all final review comments, and makes any necessary revisions to the draft maps resulting from the review.

Step 5: ADF&G RECOMMENDS GUIDE-OUTFITTER AREAS TO BIG GAME COMMERCIAL SERVICES BOARD

A. ADF&G prepares legal descriptions and digitized boundaries for the recommended guide-outfitter resource areas.

B. ADF&G transmits final recommendations to the BGCSB.

# ADMINISTRATION OF BIG GAME GUIDE-OUTFITTING AREAS IN OTHER WESTERN STATES AND CANADA

REPORT TO THE LEGISLATIVE TASK FORCE ON GUIDING AND GAME  
Alaska Department of Fish and Game  
Division of Wildlife Conservation

October 4, 1989

The Alaska Department of Fish and Game has recently obtained information from selected western states and Canadian provinces and territories regarding regulation of guide-outfitters or their equivalents. The areas surveyed included:

Colorado	New Mexico	Alberta
Idaho	Oregon	British Columbia
Montana	Washington	Northwest Territories
Nevada	Wyoming	Yukon Territory

In addition, Oregon provided recent licensing information from Arizona, California, Texas, and Utah.

The following points describe big game guide-outfitting programs in other areas. The term "guide-outfitter" is used throughout, for the reader's convenience. A separate table summarizes the various licensing requirements. Specific legislation and regulations are also available separately.

1. In most western states there is little state land that guide-outfitters can or want to use. Most guide-outfitting takes place on federal or private lands. Thus, federal government agencies are the main managers of guide-outfitting resource areas in western states outside Alaska.

Outside Alaska, the U.S. Forest Service and Bureau of Land Management are the largest land managers. Together they manage most of the lands used for guide-outfitting in the western states.

2. In several western states there are few guide-outfitters because the wildlife resources do not offer attractive commercialized hunting opportunities. In these states there is no real need for a state system for managing guide-outfitter activities on state lands, or for issuing state permits to use state lands for guide-outfitting. Some of these states do not even license guide-outfitters.
3. On federal lands the resource areas used by guide-outfitters are based on federal planning and management units. These units do not necessarily correspond to state wildlife management units. State wildlife agencies are notified about proposed guide-outfitting areas on federally managed lands.

4. The few western states and the provinces that manage guide-outfitter resource areas make the boundaries generally fit within wildlife management units. Areas for guide-outfitters in British Columbia and Idaho do not necessarily correspond to wildlife management units, but their wildlife agencies say that this has not been a problem.
5. None of the other states and provinces surveyed have a constitutional common use clause like Alaska. Thus the existing management of western guide-outfitter areas tends to be characterized by grandfathered operators, who may receive preferential treatment when they apply to renew their land use permits.
6. Some states, provinces, and federal agencies can provide a short (1-5 years) preliminary lease or permit for guide-outfitter resource areas. If the operator complies with laws and regulations, the lease or permit can be extended or re-issued for the full period allowed (5-10 years).
7. Lease or permit fees for guide-outfitter resource areas in this survey varied, including:
  - \* a fixed fee (e.g. Yukon)
  - \* a percentage of the anticipated gross revenue (e.g. 3% for lands managed by U.S. Forest Service and Bureau of Land Management)
  - \* a fee for the base camp plus each spike camp (e.g. Idaho)
  - \* market value (e.g. British Columbia).
8. Management of guide-outfitting in most of the western states outside Alaska allows for joint use of areas rather than restricting guide-outfitters to sole authorization areas.

Both the Forest Service and Bureau of Land Management manage multiple land uses. They also specifically try to offer opportunities for more than one guide-outfitter to use a particular area. A guide-outfitter who wants to use federal lands has to submit an application, including a detailed operational plan. The federal agency reviews this plan, and compares it with their management goals for the area. Their decision to issue a permit depends mostly on whether they consider that another big game guide-outfitter in the area would be compatible with other users.

Wyoming has joint use on federal lands, with a system of sole authorization areas only on state land. Nevada allows for joint use of guide-outfitting resource areas throughout the state, although state officials are currently being asked by their Guide Advisory Board to re-allocate guiding areas for exclusive use. Idaho appears to be the only western state with an exclusive use system on all state and federal lands.

9. The U.S. Forest Service and Bureau of Land Management have not managed Alaskan areas for guide-outfitting the same way that they manage most areas outside Alaska because they relied upon the state's former exclusive guide area system.

10. There are some western states and provinces where there has been a great deal of competition among guide-outfitters. Because these states do not manage much or any of the lands used by guide-outfitters, they regulate by imposing very stringent guide-outfitter licensing requirements. The province of Alberta has established a similar licensing program.

Montana, Wyoming, Idaho, Nevada, Colorado, and Alberta all have newly passed laws to maintain and improve the quality of the guide-outfitting industry through strengthened licensing requirements. These requirements are similar to Alaska's new guide-outfitter licensing program. Some additional requirements in other states include:

- \* landowner permission
- \* higher amount of liability insurance
- \* performance bond
- \* current first aid certification
- \* operational plan
- \* record of no prior felony convictions
- \* equipment inspection

These and other specific licensing requirements are more fully described in a separate summary table.

In contrast to Alaska, Montana does not allow any guide-outfitting on state lands. They have a constitutional clause that prohibits charging a fee to help someone harvest wildlife.

11. Last year the province of Alberta appointed a Fish and Wildlife Outfitter-Guide Task Force to review all outfitting and guiding policies. After examining the policies of British Columbia, Ontario and Montana, and consulting with a natural resource economist, they recommended guidelines to be used in developing new policies. Alberta's concerns were similar to Alaska's, and their final report may be useful to Alaska's task force.

Ann. 1

p. 17, line 28

Add: after "docks"

unless the person providing  
transportation services  
advertises as defined  
in 08.54.590.

Am. 2

p. 18, line 3

Add: after "hunters"

Unless the person providing  
transportation services  
advertises as defined in  
08, 54.590.

Am. 3

Sec. 08.54.590. Definitions

add and renumber

(1) "~~advertising~~<sup>or advertising big game</sup>" means to make hunting and related transportation services<sup>s</sup> publicly and generally known through the use of any media or indirectly through hunt broker services or promotional services.

A M E N D M E N T

CONTAINED IN

DRAFT CSHB 448 (Resources)(dated 3/26/90)

Page 1, line 8, after "transporters":

"and air carriers," was inserted

Page 17, line 10, through page 18, line 4:

Two new bill sections were inserted to read:

"\* Sec. 15. AS 08.54 is amended by adding a new section to read:

Sec. 08.54.560. REPORTS RELATING TO CARRIAGE OF BIG GAME HUNTERS. (a) A person who is subject to AS 42.30.200 shall submit to the department by January 31 of each year an activity report relating to the carriage, to, from, or in the field, during the previous year of big game hunters, their equipment, and big game animals harvested by hunters. The report shall be made on a form provided by the department and must contain information required by the board by regulation.

(b) A person who intentionally violates this section is guilty of a class B misdemeanor.

\* Sec. 16. AS 08.54.590(13) is amended to read:

(13) "transportation services" means carriage of, or advertising to carry for compensation, big game hunters, their equipment, or big game animals harvested by hunters to, from, or in the field; "transportation services" does not include the carriage by aircraft of big game hunters, their equipment, or big game animals harvested by

hunters

(A) on nonstop flights between state, municipally, or federally maintained airports and float plane docks; or

(B) by an air taxi operator or air carrier who does not charge more than the usual tariff or charter rate for [WHICH] the carriage of big game hunters, their equipment, or big game animals harvested by hunters [IS ONLY AN INCIDENTAL, AS DEFINED BY THE BOARD, PORTION OF ITS BUSINESS];"

A M E N D M E N T

CONTAINED IN

DRAFT CSHB 448 (Resources) (dated 3/26/90)

Page 16, line 12, after "at":

"not less than" was inserted

**H B**

**450**

# HOUSE COMMITTEE REPORT

(9)

Date Referred: January 26, 1990

FURTHER REFERRALS:

Date of Committee Action: 4-4-90

The RESOURCES Committee considered:

HB 450

HOUSE BILL NO. 450

EASEMENTS & RIGHTS-OF-WAY IN STATE PARKS

"An Act relating to easements or rights-of-way within a state park or recreational facility."

RECOMMENDATIONS:

- be replaced with CS HB 450 (RES)  the same title
- have 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):  
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- fiscal impact \_\_\_\_\_
- zero fiscal note DNR
- zero with analysis \_\_\_\_\_

- fiscal note(s) \_\_\_\_\_
- zero fiscal note(s) \_\_\_\_\_
- zero fn/analysis \_\_\_\_\_

SIGNING DO PASS:

[Signature]  
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SIGNING:  
(Check approp. column)

	Do Not Pass	No Rec	Amend
<u>[Signature]</u>		<input checked="" type="checkbox"/>	

[Signature]  
Chairman's Signature

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION : HB 450  
PUBLISH DATE : \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: 19-Mar-90  
Title: An Act relating to easements or rights of way within a state park or recreational facility.  
Sponsor: Cotten  
Requestor: House Resources

Agency Affected: Natural Resources  
BRU: Park & Outdoor Recreation  
Components: Parks Mgmt

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Larry Ostrovsky Phone: 465-2400  
Division: Commissioner's Office Date: 19-Mar-90  
Approved by Commissioner: Lennie Gorsuch Date: 19-Mar-90  
Agency: Department of Natural Resources

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

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.  
JUNEAU, ALASKA 99801-1798  
PHONE: (907) 485-2400

March 16, 1990

The Honorable Curt Menard  
Alaska State Representative  
P.O. Box V  
Juneau, AK 99811

Dear Representative Menard:

### Subject

House Bill No. 450, An Act relating to easements or rights-of-way within a state park or recreational facility.

### Background

Access to private lands within state park units has been granted through the vehicle of a revocable park use permit. The grant of an irrevocable right-of-way or easement constitutes a disposal of an interest in land. Under Title 41, the Division of Parks and Outdoor Recreation lacks the legal authority to dispose of land and the provisions of Title 38 authorizing the Department to grant access does not apply to park land administered under Article VIII, Section 7 of the Alaska Constitution.

The Division of Parks and Outdoor Recreation does have the authority to establish public roads within park areas for park purposes. Through reciprocal agreements with private inholders, a park road could access private land if it also served a public purpose, i.e. provided access through private land to adjacent park land thereby improving the public's access; resolved a resource management problem; or provided greater control over public access. In this manner, access across park land would be regulated and a landowner would be guaranteed access although a disposal of interest in park land would not occur.

### Effect of HB 450

As written, HB 450 would constitute a disposal of an interest in park land which is not contemplated under Article VIII, Section 7 of the Alaska Constitution. HB 450 also implies an exclusive

grant of land without any statutory authority for a public interest finding or compensation (although the constitutional provision would apply under Article VIII, Section 2 which refers to maximum benefit (compensation) to the people, and Article VIII, Section 10 which requires public notice).

#### Need for HB 450

HB 450 attempts to provide to a private landowner a dedicated public or private right-of-way to their property through park land rather than utilize a park road under reasonable regulation. This need is in part motivated by financing and title concerns. Communication between the lending institution and the division has in all past cases resolved concerns about the revocability of a park permit and continued use of a park road.

The Division of Parks and Outdoor Recreation has the existing authority to establish public roads for park purposes. If road access to private land does not meet the standard of park purposes then access may be denied or accomplished by a revocable permit in order to regulate the access in the public interest.

#### Department Position

Although there may persist a question of the constitutionality of disposing of an interest in park land through an easement or right-of-way, the legislature may define by statute the limit of what title rights in park land it grants. In order to better define the public interest, the following amendments to HB 450 are suggested.

Section 1. AS 41.21.020 is amended by adding a new subsection to read:

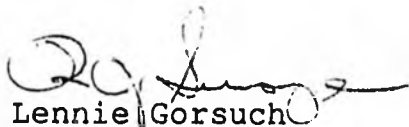
(c) The department may issue a public easement or public right-of-way within a state park [or recreation facility] unit for access to private property when such an action is determined to not unduly impact park resources and serves the public interest. The commissioner may regulate the access and require compensation for the access.

Representative Curt Menard

-3-

March 16, 1990

Sincerely,



Lennie Gorsuch  
Commissioner

cc: Representative Cotten  
House Resources Committee  
Bob Evans, Legislative Liaison  
Office of the Governor

L 1  
*Confidential*

Neil Johannsen, Director  
Division of Parks and Outdoor  
Recreation

March 8, 1990

**DRAFT**

276-3550

Eagle River Visitor  
Center Access Road

Kenneth C. Powers  
Assistant Attorney General

This memorandum responds to the Division of Parks' request for legal assistance to determine what options are available to the division to respond to the Gateway Homeowners' Association's request for a permanent right-of-way or easement for vehicular access across a portion of Chugach State Park land at the Eagle River visitor center.

In our opinion, the Division of Parks does not have the authority to grant a private easement or right-of-way for recurring or permanent motorized access across state park land. Moreover, even if a private right to use state land for access existed<sup>1</sup> or were created, it would still be subject to reasonable regulation by the state, including a permit requirement under the existing park regulations.

#### FACTUAL BACKGROUND

The Gateway Homeowners' Association represents a group of private landowners living in a subdivision in the Eagle River valley beyond the Eagle River visitor center. Both the visitor center and the private homes are located on land that was homesteaded by John Barclay in the 1960's. Barclay received a federal patent to the property in the 1960's. In 1980, the state purchased the visitor center property from Barclay's successor in interest, Alaska's Paradise Haven Lodge, Inc. Under AS 41.21.121, the visitor center property automatically became part of Chugach State Park when it was acquired by the state.

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<sup>1</sup> We have not sought to determine whether the homeowners have an existing right of access across the visitor center parking lot. According to a June 3, 1988 letter in the file from Veronica Gilbert to the Bureau of Land Management, the road was built across federal public lands without authorization. If that is the case, then the homeowners probably do not have an existing right of access. Prescriptive easements (grandfather rights) cannot be created against either the state or the federal government. Thus, the historic use of the road for access would not have created any legally enforceable right to continue to do so.

# DRAFT

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March 8, 1990  
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Our understanding of the situation is that the members of the Gateway Homeowners' Association have been driving through the parking lot at the visitor center for access to their homes. Under 11 AAC 18.019(a)(9), the Division of Parks has issued the homeowners a permit authorizing the use of park land for recurring motorized access to private land. The homeowners want to receive a permanent, irrevocable right-of-way or easement rather than continuing to operate under the park use permit system.

## LEGAL ANALYSIS

Our analysis is based upon the special status of the Eagle River Visitor Center land as part of Chugach State Park and provisions in the Alaska Constitution and statutes governing the creation and administration of state parks. Art. VIII, sec. 7 of the Alaska Constitution authorizes the Alaska legislature to reserve special areas of the state from the public domain and "provide for their administration and preservation for the use, enjoyment, and welfare of the people." Pursuant to that authority, Chugach State Park was established by the legislature in 1970. AS 41.21.121.

The grant of an irrevocable right-of-way or easement constitutes a disposal of an interest in land. 1980 Inf. Op. Atty Gen. \_\_\_\_ (Dec. 22, 1980). As part of an art. VIII state park, the Eagle River visitor center property is not subject to the general state laws concerning management and disposal of state land in Title 38 of the Alaska statutes. 1985 Inf. Op. Att'y Gen. 177, 185-86. (Feb. 21, 1985).<sup>2</sup> Thus, the provisions of Title 38 authorizing the Department of Natural Resources to grant access easements and rights-of-way do not apply. Id.

Even if the grant of an access easement could be construed as something other than a disposal of land (which it cannot), the Division of Parks would still lack the legal authority

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<sup>2</sup> Although state statutes generally applicable to state land do not apply to park land, there are a number of constitutional provisions applicable to the use and disposal of state land or interests which apply regardless of the status of the area as park land. For example, art. VIII, sec. 2 of the Alaska Constitution requires that the natural resources of the state be utilized, developed and conserved for the maximum benefit of its people. Unless the public was adequately compensated, a grant of an interest in state land for the exclusive use of a group of private homeowners could run afoul of that provision. Furthermore, any disposals or leases of interests in state land would need to comply with the public notice requirements of art. VIII, sec. 10 of the Constitution.

# DRAFT

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to grant one. The constitution requires that parks be administered and preserved for the use, enjoyment, and welfare of the people. Based upon that provision, this office has concluded in previous opinions that the Division of Parks does not have the authority to grant a private group the privilege of exclusive use of a state park or a portion of that park. See 1982 Inf. Op. Atty Gen. 55, 56 (Jan. 22 1982). As we understand the situation in Eagle River, the homeowners want the access road into their subdivision to be maintained as a private road, excluding public use. Since a grant of exclusive use of park land for private access is not permitted under art. VIII, sec. 7, the division cannot grant the homeowners' request. <sup>3</sup>

Although a private easement cannot be granted, we believe there is another avenue available to the division to provide the homeowners with the guaranteed access they seek. Under AS 41.21.122, the Division of Parks has specific authority over highway access in Chugach State Park. The division also has the authority to develop alternate and additional routes of public access into the park under its general authority for managing the park. As part of an agreement with the homeowners that would provide guaranteed public access into the park on the portions of the road that cross the homeowners' land, we believe the division could agree to guarantee motorized access to the homeowners on the portions of the road crossing the state park land. The agreement would effectively establish the road through the visitor center parking lot and the subdivision as a public road.

Both public and private use of any road or right-of-way that exists or is created across park land would remain subject to

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<sup>3</sup> We understand that a bill has been introduced in the legislature which would delegate to the Division of Parks the statutory authority to grant private easements. H.B. 450, 16th Leg., 2nd Sess. (Alaska 1990). There is some question whether such a statute, if enacted, would be valid. In art. VIII, sec. 7 of the Alaska Constitution, the people of the state granted the legislature the authority to create state parks by reserving areas of special importance from the public domain. The legislature was also granted the authority to "provide for their administration and preservation for the use, enjoyment and welfare of the people". Based upon that provision, this office has previously opined that "the constitution simply did not authorize disposal of park land or resources." 1985 Inf. Op. at 186 n.6. A statute seeking to grant authority to a state agency to dispose of an interest in constitutionally designated park land could be construed to violate the requirement in art. VIII, sec. 7 that the legislature provide for the "administration and preservation" of park lands. Of course, the legislature could choose to remove the area from the park.

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appropriate park regulation. For example, the division could close the road to motorized vehicle use by the general public while leaving it open to motorized vehicle use by the homeowners. Under the current park regulations in 11 AAC 18.010(a)(8), the homeowners would be required to obtain a permit that would regulate recurring vehicular access even if they had a right of access. Cf. United States v. Vogler, 859 f.2d 638, 642 (9th Cir. 1988) (upholding government's authority to regulate use of public highways within parks); State v. Miller, No. #3AN-88-10139 Civ. (Alaska Super. Ct. Feb. 26, 1990) (decision on summ. judg. upholding right of parks to regulate private use of RS 2477 public right-of-way for access across park lands, citing Vogler).

We hope that this memorandum has provided the guidance you requested regarding the grant of a private right-of-way across state park land. If you have any further questions or need for assistance, please feel free to contact us again.

KCP:bli

**GATEWAY  
HOMEOWNERS ASSOCIATION**  
2410 Eagle River Road  
Eagle River, Alaska 99577

December 17, 1989

The Honorable Sam Cotton  
Alaska House of Representatives  
P.O. Box 770296  
Eagle River, Alaska 99577

Re: Gateway Homeowners Association  
Request for Right-of-Way

Dear Mr. Cotton:

Julie Kraft of your staff has kindly provided me with a copy of Department of Natural Resources Commissioner Lennie Gorsuch's letter of November 21, 1989. This letter responds to your earlier request as to which agency in Department of Natural Resources has legal authority to grant an easement or right-of-way over and across Chugach State Park property to the Gateway Homeowners Association. The easement or right-of-way would provide members of the Gateway Homeowners Association legal access to their homes and properties.

After having reviewed the letter, it is apparent to me that Commissioner Gorsuch and her staff do not fully understand the situation regarding our access problems over Chugach State Park Property and the process we have been engaged in to resolve them. Therefore, I believe that a few comments are warranted for the sake of clarity and to set the record straight as far as the facts of this matter are concerned.

My first concern is that the Commissioner did not answer your basic question regarding the agency within her Department which has the authority to grant an easement or right-of-way over Chugach State Park property to the Gateway Homeowners Association. She responded by indicating that Chugach State Park does not have this authority. She did not however, identify the agency which has this authority.

She is correct in stating that there are a land status issues involving federal, state and private lands relating to our situation. The issues are not overly complicated. She is also correct, up to a point, in saying that the Department has been working with us in an attempt to resolve our access problems. She

is not correct, in a number of her assertions regarding alternatives available to the parties to resolve our access problems.

Please keep the following information in mind during my subsequent response to issues raised in the Commissioners letter:

- The Chugach State Park Property now occupied by the Eagle River Visitor Center was part of the John Barclay Homestead. It was purchased by the Park in 1980.
- The road now used by members of the Gateway Homeowners Association to access their homes and properties was part of the John Barclay homestead and has been used by John Barclay and his successors in title for access to the homestead (and later to residential lots) since 1963. The seventeen years that the road was used as private access for Gateway property owners exceeds the statutory period under which prescriptive rights for access can accrue to the users of the road.
- While our access does indeed cross federal, state and private property, the only issue that is and should be the concern of the Department of Natural Resources and Chugach State Park is that section of the road which crosses the five acre tract of Chugach State Park property occupied by the Eagle River Visitor Center.

Over the past three years, the Gateway Homeowners Association has been working to resolve its legal access problems. To this end, we have accomplished the following:

We have entered into a reciprocal right-of-way agreement with the United States of America, through the Bureau of Land Management, for access across the federal lands involved. This agreement involves the United States granting a right-of-way to the Gateway Homeowners Association for access across the federal lands involved. Four of our private property owners have granted the United States access across the private properties involved.

The four private owners in our area have granted the Gateway Homeowners Association private right-of-way easements across their properties so that members of the Association have legal access to their homes and properties. These easements, which were recorded on October 6, 1989 are private and do not create any rights for the general public to use our access road.

We understand that under 11 AAC 18.010, Parks can only provide the Gateway Homeowners Association a revocable use permit. For this reason, we applied for an access road right-of-way to the Division of Land and Water Management earlier this summer. Our application was rejected on the grounds that since our right-of-way was located in Chugach State Park, Land and Water Management lacked jurisdiction.

The only outstanding access issue to be resolved involves acquisition of permanent access across the Chugach State Park Eagle River Visitor Center property. As an interim solution to our access problem, Chugach State Park Superintendent Pete Panarose has offered the Gateway Homeowners Association a revocable use permit. Gateway will accept this permit with the understanding that it is interim in nature for as long as it takes to permanently resolve our access problem.

- The Gateway Homeowners Association deannexed from the Eagle River Rural Road Service District effective January 1, 1989. This means that as far as the Municipality of Anchorage is concerned, our access road is essentially a private road.

Commissioner Gorsuch makes several statements in her letter which leads me to believe that she does not fully understand or appreciate the access issue.

First, she indicates that in order to establish permanent access, "the existing access route needs to be realigned and platted as a public right-of-way through the Municipality of Anchorage...". This is not correct.

Gateway Homeowners Association needs either a dedicated easement or a right-of-way grant from the State of Alaska. The Municipality of Anchorage is not involved in our area any longer by virtue of Gateway's previously mentioned deannexation from the Eagle River Rural Road Service District. Furthermore, Chugach State Park does not desire that our access road become public access. They have signed our access road as it departs from the Visitor Center parking lot as a private road for authorized vehicles only.

The Municipal cost reimbursement program for developers to construct subdivision roads and establish road service districts is not applicable in this situation since, as previously stated, our area is not in a road service district and the Municipality will not allow a district to be formed because the road is private.

Second, legislative funding for a public road and the creation of a public right-of-way is not appropriate to our situation since the portion of our access road crossing the Visitor Center parking lot is already public and a public right-of-way across the remainder of the Visitor Center property would serve no public purpose. In fact, current Park management involves limiting public vehicular access south of the Visitor Center.

Third, the Commissioner apparently is not aware that the Visitor Center parking lot was redesigned and paved during the summer of 1989. Previously, our access road went through the Visitor Center parking lot which admittedly, was not only unsafe for Park visitors, but also created a hazardous situation for our homeowners as well. The redesign and paving of the parking lot last summer has resulted in a two lane access way along the east edge of the parking lot along which public parking is prohibited. This new alignment, while not perfect, greatly minimizes conflicts with visitor activity. Park Superintendent Pete Panarese and his staff also are now able to be proactive in managing parking during peak use periods and have been very cooperative and effective in keeping the access way available for our use. A road realignment at this point would probably not be cost effective and is really not necessary.

The foregoing discussion should put our situation into the proper perspective. It is our belief that our remaining access problems could be resolved rather easily and conveniently by the Department of Natural Resources, through the Division of Land and Water Management, granting an easement or right-of-way to the Gateway Homeowners Association along the existing alignment which follows the east edge of the Visitor Center parking lot.

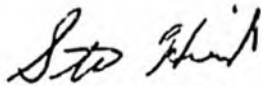
From the foregoing, it seems that the Gateway Homeowners Association is in somewhat of a Catch 22 situation. On one hand, Chugach State Park lacks the statutory authority to grant easements and right-of-way. On the other hand, the Division of Land and Water Management indicates that it lacks authority to act because the lands are located within Chugach State Park. Yet both agencies are under the Department of Natural Resources umbrella and this is the department which manages State land. We are in a quandary as to how to resolve our access problem.

Given the foregoing, we feel we have no other alternative than to respectfully request that you continue to intercede with the Commissioner on our behalf. We very much appreciate your continuing assistance and

Page 5

stand ready to provide any additional information or to provide a representative or spokesman to meet with you and/or Department of Natural Resource staff to resolve this issue.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stu Hirsh".

---

Stu Hirsh, President

**GATEWAY  
HOMEOWNERS ASSOCIATION**  
2410 EAGLE RIVER ROAD  
EAGLE RIVER, AK 99577  
907-694-6946

Resources  
FYH

2/6/90

Representatives Curt Menard and Cliff Davidson, Co-Chairmen  
House Resources Committee  
Alaska State Legislature  
P.O. Box V (MS 3100)  
Juneau, Alaska 99811

Dear Representative Menard and Davidson:

I am writing on behalf of the Gateway Homeowners Association, to request your support of House Bill 450. This bill would authorize the Department of Natural Resources to issue easements or rights-of-way across state parks or recreation facilities for access to private property. At the present time, the Department has no such authority.

Members of the Gateway Homeowners Association own homes and property on an old homestead at the end of Eagle River Road within Chugach State Park. The homestead and many of the homes in our area predate the establishment of the park.

In 1930, the State of Alaska purchased a 5 acre tract of land which was part of the original homestead. The old Paradise Haven Lodge (now the Eagle River Visitor Center) was located on this land as well as the original homestead access road which members of our Association have used for access to their property for over 20 years. Unfortunately, the deed by which Chugach State Park acquired this property did not reserve an easement protecting the legal rights of access that members of our Association previously enjoyed.

We now are faced with a situation where it is nearly impossible to refinance and/or sell our properties because we do not have legal access. In fact, the Alaska Housing Finance Corporation recently refused to finance a home in our area.

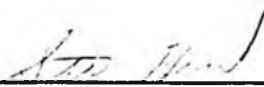
In an attempt to cure our legal access problems, we applied for a right-of-way with the Division of Land and Water Management. Our application was rejected on the grounds that the DNR did not have

authority to convey property rights on park property. Chugach State Park, also lacking this authority, can only issue us a non-compatible use permit. Such a permit is a poor solution to our problem.

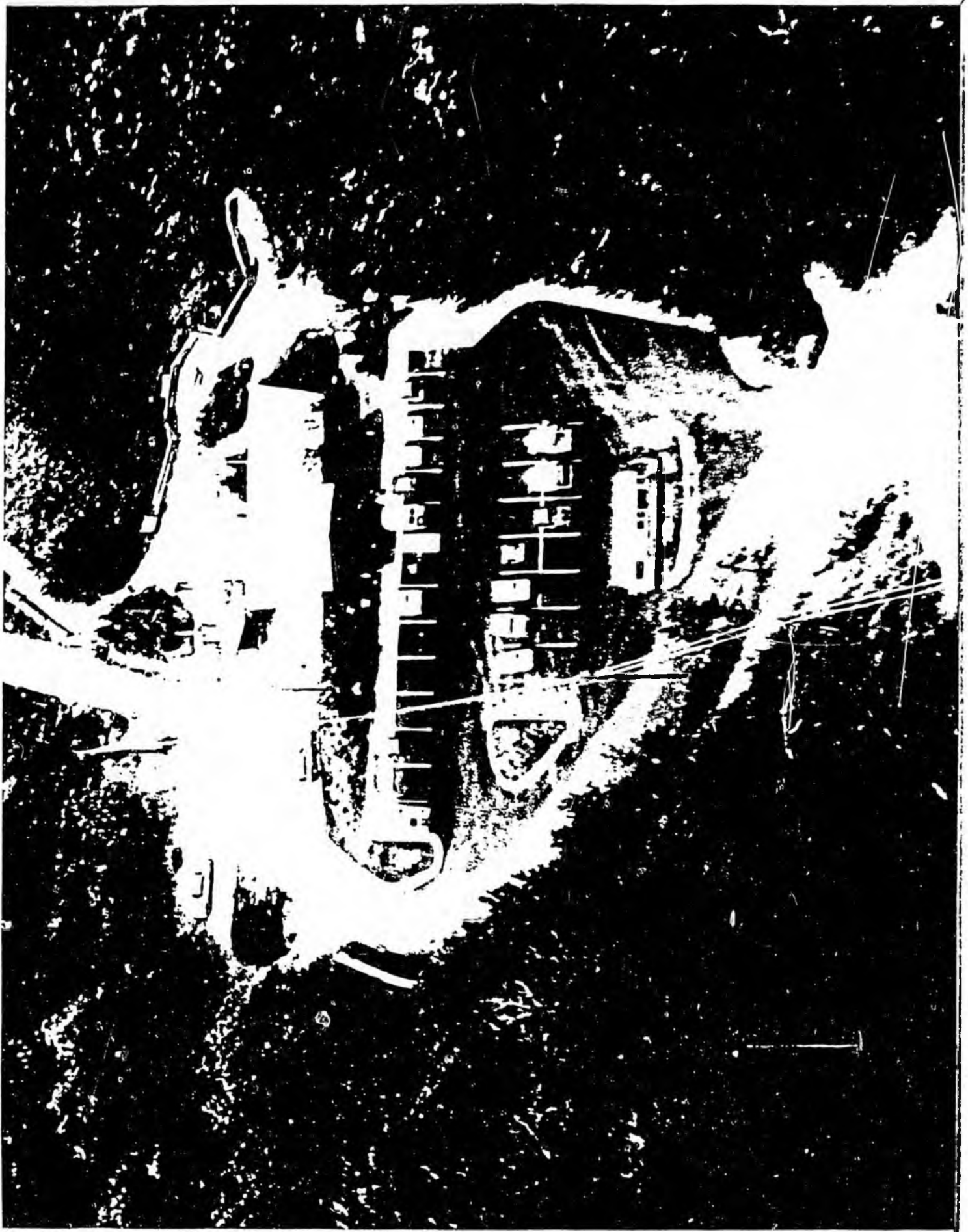
The only alternative we (and others similarly so situated) have to gain legal access to our homes and property is for the legislature to authorize the Department of Natural Resources to grant easements and rights-of-way across state parks or recreational facilities. This can be accomplished by the passage of House Bill 450.

We would very much appreciate your assistance and support. Please feel free to contact me if you would like any additional information regarding this matter.

Sincerely,

  
\_\_\_\_\_  
Stu Hirsh, President

copies: Sam Co  
George B. ... Jr.  
Mike Davis  
Walt Furnace  
Richard Foster  
Bill Hudson  
Mike Navarre  
Bert M. Sharp



# 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

March 16, 1990

The Honorable Curt Menard  
Alaska State Representative  
P.O. Box V  
Juneau, AK 99811

Dear Representative Menard:

## Subject

House Bill No. 450, An Act relating to easements or rights-of-way within a state park or recreational facility.

## Background

Access to private lands within state park units has been granted through the vehicle of a revocable park use permit. The grant of an irrevocable right-of-way or easement constitutes a disposal of an interest in land. Under Title 41, the Division of Parks and Outdoor Recreation lacks the legal authority to dispose of land and the provisions of Title 38 authorizing the Department to grant access does not apply to park land administered under Article VIII, Section 7 of the Alaska Constitution.

The Division of Parks and Outdoor Recreation does have the authority to establish public roads within park areas for park purposes. Through reciprocal agreements with private inholders, a park road could access private land if it also served a public purpose, i.e. provided access through private land to adjacent park land thereby improving the public's access; resolved a resource management problem; or provided greater control over public access. In this manner, access across park land would be regulated and a landowner would be guaranteed access although a disposal of interest in park land would not occur.

## Effect of HB 450

As written, HB 450 would constitute a disposal of an interest in park land which is not contemplated under Article VIII, Section 7 of the Alaska Constitution. HB 450 also implies an exclusive

grant of land without any statutory authority for a public interest finding or compensation (although the constitutional provision would apply under Article VIII, Section 2 which refers to maximum benefit (compensation) to the people, and Article VIII, Section 10 which requires public notice).

#### Need for HB 450

HB 450 attempts to provide to a private landowner a dedicated public or private right-of-way to their property through park land rather than utilize a park road under reasonable regulation. This need is in part motivated by financing and title concerns. Communication between the lending institution and the division has in all past cases resolved concerns about the revocability of a park permit and continued use of a park road.

The Division of Parks and Outdoor Recreation has the existing authority to establish public roads for park purposes. If road access to private land does not meet the standard of park purposes then access may be denied or accomplished by a revocable permit in order to regulate the access in the public interest.

#### Department Position

Although there may persist a question of the constitutionality of disposing of an interest in park land through an easement or right-of-way, the legislature may define by statute the limit of what title rights in park land it grants. In order to better define the public interest, the following amendments to HB 450 are suggested.

Section 1. AS 41.21.020 is amended by adding a new subsection to read:

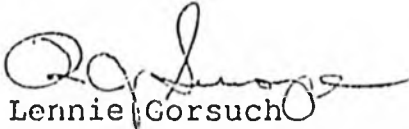
(c) The department may issue a public easement or public right-of-way within a state park [or recreation facility] unit for access to private property when such an action is determined to not unduly impact park resources and serves the public interest. The commissioner may regulate the access and require compensation for the access.

Representative Curt Menard

-3-

March 16, 1990

Sincerely,



Lennie Gorsuch  
Commissioner

cc: Representative Cotten  
House Resources Committee  
Bob Evans, Legislative Liaison  
Office of the Governor

**H B**

**456**

# HOUSE COMMITTEE REPORT

(9)

Date Referred: February 28, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: 3/29/90

The RESOURCES Committee considered:

SSHB 456

SS HOUSE BILL NO. 456

FISHERIES BUSINESS TAX REFUNDS

"An Act relating to the fisheries business tax and to the allocation of fisheries business tax receipts to certain municipalities by the Department of Community and Regional Affairs; and providing for an effective date."

RECOMMENDATIONS:

- [ ] be replaced with \_\_\_\_\_ [ ] the same title
- [ ] have attached amendment(s) [ ] a new title
- [ ] do pass
- [ ] do not pass
- [X] no recommendation
- [ ] individual recommendations
- [ ] additional referral to the \_\_\_\_\_ Committee

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

ATTACHES NEW FISCAL NOTE(s):  
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [ ] fiscal impact \_\_\_\_\_ [X] fiscal note(s) (CRA) + Revenue 2/28/90
- [ ] zero fiscal note \_\_\_\_\_ [ ] zero fiscal note(s) \_\_\_\_\_
- [ ] zero with analysis \_\_\_\_\_ [ ] zero fn/analysis \_\_\_\_\_

SIGNING DO PASS:

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

SIGNING:

(Check appropr. column)

	DO NOT PASS	No Pec	Amend
<i>Bill Huls</i>		✓	
<i>Bob Sharp</i>		✓	
<i>W. ...</i>		✓	
<i>Mike ...</i>		✓	
<i>Richard ...</i>		⊗	

*Chairman's Signature*  
 \_\_\_\_\_  
 Chairman's Signature

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: "An act relating to fisheries  
 business tax refunds."  
 Sponsor: Goll  
 Requestor: \_\_\_\_\_

Agency Affected: Community & Regional Affairs  
 BRU: Local Government Assistance  
 Components: Statewide Assistance

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	22.4	22.4	23.1	23.1	24.0	24.0
TRAVEL	2.0	2.0	2.0	2.0	2.0	2.0
CONTRACTUAL	3.0	3.0	3.0	3.0	3.0	3.0
SUPPLIES						
EQUIPMENT	1.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>28.4</b>	<b>27.4</b>	<b>28.1</b>	<b>28.1</b>	<b>29.0</b>	<b>29.0</b>

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

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

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	28.4	27.4	28.1	28.1	29.0	29.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>28.4</b>	<b>27.4</b>	<b>28.1</b>	<b>28.1</b>	<b>29.0</b>	<b>29.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME	1	1	1	1	1	1
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

No fiscal impact in FY 90.

Prepared by: J/m Plasman, Deputy Director Phone: 465-4750  
 Division: Municipal & Regional Assistance Date: 02-27-90

Approved by Commissioner: David C. Hoffman Date: 2-27-90  
 Agency: Community & Regional Affairs

**Distribution (by preparer):**

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

Position Title Grants Administrator			No. of Positions 1	Range/Step 17 A	Barg. Unit GGU
Time Status Part-time	Staff Months 6 months		Location Juneau		Election District
Type of Expenditure			Justification		
1	2	3	This position will administer the tax sharing program. The amount of work associated with the program does not justify a full-time position.		
Salary	17.4				
Benefits	5.0				
Premium Pay					
Other					
Total Personal Services		22.4			
Travel		2.0			
Contractual		3.0			
Commodities					
Equipment		1.0			
Other					
Total Cost		28.4			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	28.4			
I-A Receipts	1006				
CIP Receipts	1061				
Other					

**Request For  
 New Position**

Agency Community & Regional Affairs  
 BRU Local Government Assistance  
 Component Statewide Assistance

Page 1 of 1  
 Revised Date

**FY 91**

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION: CSSSHB 456(C&RA) No. 2

PUBLISH DATE: HOUSE 2/28/90

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Fisheries Business Tax Refunds  
to Municipalities  
Sponsor: Goll  
Requestor: C & R A

Agency Affected: Revenue  
BRU: Income & Excise Audit  
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
<b>OPERATING</b>						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	<\$4000.>	<\$4000.>	<\$4000.>	<\$4000.>	<\$4000.>	<\$4000.>

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

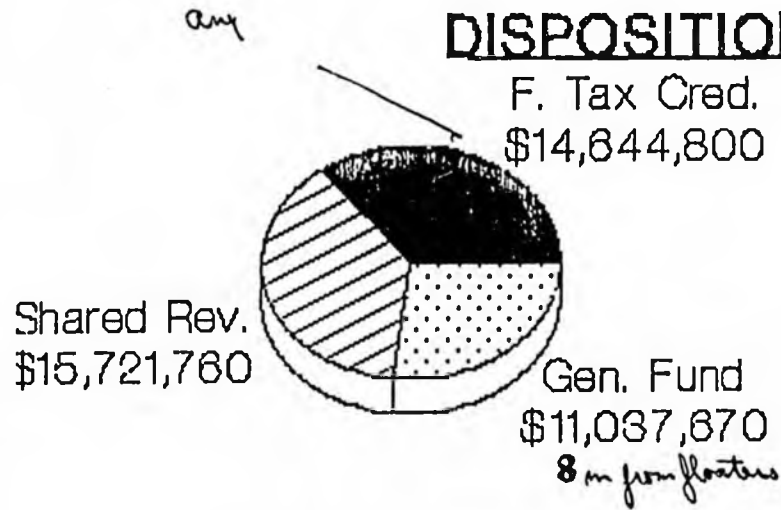
ANALYSIS: (Attach a separate page if necessary)

Prepared By: Steven E. Kettel *Steven E. Kettel* Phone: (907) 465-2320  
Division: Income and Excise Audit Date: February 27, 1990  
Approved by Commissioner: Hugh Malone *Hugh Malone* Date: February 27, 1990  
Agency: Department of Revenue

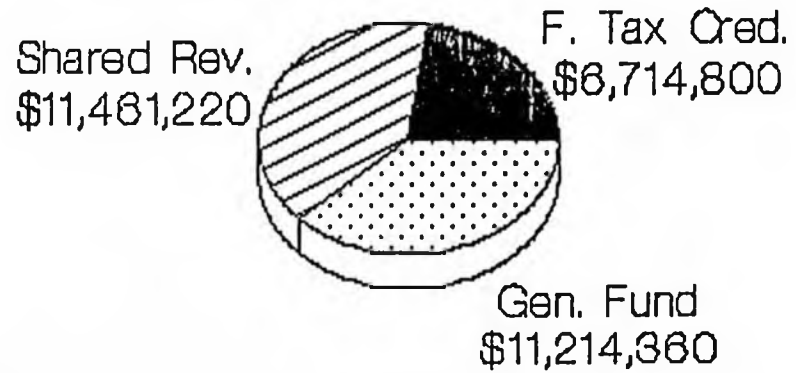
Distribution (by preparer):

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

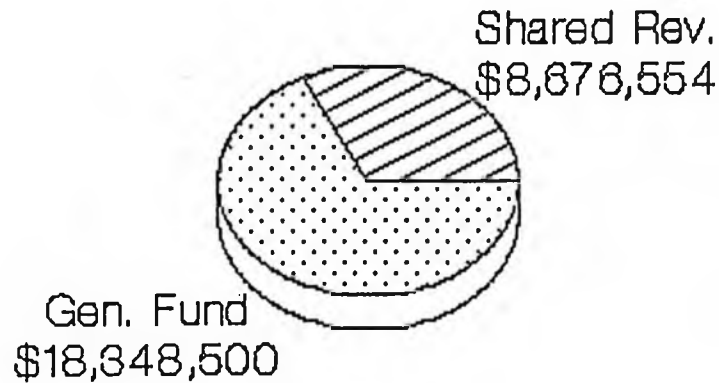
# DISPOSITION OF FISH TAXES



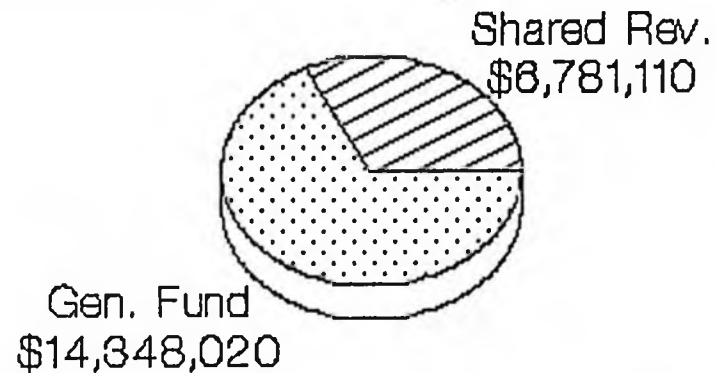
**Fish Taxes  
FY 1989**



**Fish Taxes  
FY 1988**



**Fish Taxes  
FY 1987**



**Fish Taxes  
FY 1986**

**CHART 3**

DOR  
1-31-90

STATE OF ALASKA  
THE LEGISLATURE

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


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 26, 1990

SUBJECT: Draft Community & Regional Affairs Committee  
Substitute for House Bill 456 - sectional  
analysis

TO: Representative Eileen MacLean, Chair  
House Community & Regional Affairs Committee  
ATTN: Rena Bukovich

FROM: Jack Chenoweth  
Legislative Counsel 

The draft committee substitute substantially modifies the sponsor substitute offered ten days ago.

The legislation establishes a mechanism for sharing additional revenue derived from the fisheries business tax. Bill section 2, adds a new section, AS 43.75.137, to the chapter levying and collecting the fisheries business tax. It directs that 50% of the amounts received by the Department of Revenue from the current tax levy on floating fisheries businesses that is not already shared with municipalities under existing AS 43.75.130 is to be transferred to the Department of Community & Regional Affairs to support the new revenue sharing mechanism.

The specifics of the sharing mechanism are set out in bill section 1. AS 29.65.450, added by that bill section, directs the Department of Community & Regional Affairs as follows:

Subsection 450(a) establishes as a threshold requirement for receipt of a revenue sharing entitlement that the recipient shall be a municipality and the municipality shall have "suffered significant effects from fisheries business activities during the base year."

Subsection 450(b) sets out the formula for computation of entitlements:

$$\frac{\text{commercial fishing vessel days}}{.01 \times \text{municipal population in preceding year}} + \frac{\text{commercial fishing vessel days}}{\text{distribution factor}}$$

in which the distribution factor is the larger of:

(1) the receiving municipality's per capita distribution of the fisheries business tax under AS 43.75.130 during the preceding year; or

(2) the average statewide per capita distribution of the fisheries business tax (calculated for all receiving municipalities) under AS 43.75.130 during the preceding year.

Subsection 450(c) authorizes pro rata distribution of the distribution of the tax money available for distribution.

Subsection 450(d) directs a municipality receiving an entitlement to use the entitlement "to help reduce the effect of fisheries business activities on the municipality," but allows the local government to use the money to meet the expenses of any municipal service.

Subsection 450(e), a management provision, directs the Department of Community & Regional Affairs to calculate the factors applicable to determine the distribution, and requires the municipal applicants and recipients to cooperate with the department in carrying out the program responsibilities.

Subsection 450(f) authorizes the department to adopt necessary regulations.

Subsection 450(g) sets out definitions for terms used in the preceding subsections. Note, especially, the definitions of "commercial fishing vessel day" and "fisheries business activity."

Bill section 3 sets the effective date for this measure as July 1, 1990, the start of the next fiscal year.



P.O. Box 23, Craig, Alaska 99921

(907) 826-3275

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January 12, 1990

Rep. Peter Goll  
P.O. Box V  
Juneau, AK 99811

Dear Representative Goll:

The situation with the boat harbors in Craig is getting desperate. Every year the North Cove harbor sustains considerable damage from winter storms because it is not adequately protected. Because Craig receives no raw-fish tax, we are unable to adequately maintain the on-going maintenance required by the State contract let alone do the repairs necessary every year as a result of the winter storms. Moorage fees just do not generate enough revenues as we have spaces for only 129 vessels.

In order to solve the harbor problems, we have tried several approaches:

- First, in order to protect the North Cove harbor, we declared through a City Resolution (see attached) that an emergency existed that required funds to install a temporary log-boom breakwater to prevent further damage to the harbor. We then requested and received support from Emergency Services and DOT/PF to seek a declaration from the Governor for emergency funds (see attached). The Governor on 1/5/90, although agreeing that the need for the breakwater had been demonstrated, did not grant the request as other funding methods were available (see attached letter).
  
- Secondly, the City Council passed a Resolution authorizing the Administrator to seek legislative assistance in mitigating the problem caused by the City not receiving any raw-fish tax while at the same time providing services for one of the largest purse-seine and troll fleets in Alaska (see attached). This problem is further compounded by the fact that although the demand is there resulting in a 2 to 3 year waiting list for moorage, the City does not have enough moorage spaces to meet the demand and generate revenues to support the harbors. Every year other City revenues are used to cover the deficit created by harbor support. In working with both Southeast Conference and AML, we were able to get these organizations to support resolutions calling for a stronger commitment to collect raw-fish tax and to find ways to use raw-fish tax to support fishing harbors located in the unorganized borough (see attached resolutions). The problem remains, however, and Craig has received no raw-fish tax revenues for many years.

page 2.

Try though we have, we have to date been unsuccessful in both of these efforts. Hence the purpose of this correspondence.

(1)The immediate problem of annual damage to North Cove harbor must be addressed first in that the risk of loss of property and the endangerment of life and limb must be prevented or at least reduced significantly. The temporary log-boom breakwater will go a long way to reducing these risks. Although the log-boom will not protect against significant swells from the north, nevertheless it will eliminate damaging chop and the subsequent icing present whenever a northerly winter storm occurs. The City of Craig is therefore asking that you and your fellow legislators assist us in finding at least \$150,000 to construct a temporary log-boom breakwater in accordance to the requirements of DOT. As you will note from the emergency application, the City will contribute some in-kind services to complete the project. The permit application with the Corps of Engineers has already been submitted and they have indicated that the process can be expedited if necessary.

As you will note, I have indicated that this is a temporary breakwater, one that eventually will have to be replaced with a permanent rock breakwater. The Corps of Engineers is in the process of conducting a reconnaissance and feasibility study of the Craig harbor under the provisions of the Safe Harbor Act and a more permanent breakwater will have to wait until the completion and recommendation of this study.

(2)The long range solution to Craig's harbor problems is dependent upon whether or not adequate funds are available for harbor expansion and repair. As we all know, the primary source of these funds is in the distribution of the raw-fish tax back to the municipalities harboring the fishing fleet and providing support to the fishing and fish-processing effort.

In 1989, \$15,721,755 of raw-fish tax was collected and distributed back to the cities and organized boroughs throughout Alaska. Petersburg received \$807,316, Ketchikan City & Borough received \$690,163 and Craig received \$0. All of the fish caught and landed in Craig by the Craig based fleet was transported to and processed in either Petersburg or Ketchikan, hence these communities received the tax collected for these fish. All raw-fish tax revenues collected outside of the city limits of Craig by floating processors buying from the Craig based fleet was kept entirely by the State as the processors were located in the unorganized borough. These, I might add, are processors located within a very short distance from Craig, some within sight of the city limits.

page 3

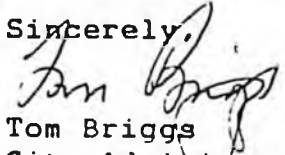
We realize that the obvious solution to this problem is to attract processors within the city limits of Craig. Every effort is being made to do this from upgrading our water supply (estimated completion of water treatment plant is Fall of 1990) to settling the land reconveyance issue with our local native corporation. In the meantime, however, the fact is that a large amount of tax collected in the unorganized boroughs throughout the State is not going to municipalities harboring the fishing fleet but is being collected and held by the State. I can't believe that this was the Legislature's intent when they passed Title 43.75, the statute establishing the fisheries business tax imposed upon shore-based and floating processors, commonly referred to as the "raw-fish tax".

In AS 43.75.130, Refund to local governments, it is very apparent that the Legislature intended that 50 percent of the tax was to go back to the municipalities supporting the fishing and processing activities. The only problem with the statute is that it fails to address the distribution back to the municipalities of the tax collected in the unorganized borough. Realizing that the method for allocation of tax revenues back to municipalities in the unorganized borough may be unclear, it nevertheless is something that can be worked out on a formula based on population, harbor space or other criteria.

May I request that the Legislature please address the inequities in the manner that the raw-fish tax is distributed to the municipalities that are involved in harboring and supporting the fishing fleets throughout Alaska. Without these tax revenues intended for the effected municipalities, adequate care and maintenance of our harbors will fall far short of that necessary to attract and provide for a professional fishing fleet, especially in light of the declining State revenues and the declining logging industry.

Thank you for attention to these problems and I look forward to hearing from you on these or other matters.

Sincerely,

  
Tom Briggs  
City Administrator

# City of Klawock Alaska

P.O. Box 113  
Klawock, Alaska 99925

Phone: (907) 755-2261  
or: (907) 755-2262

"Site of the First Cannery in Alaska"

March 15, 1990

Representative Peter Goll  
P.O.Box V  
Juneau, AK 99811

Dear Rep. Goll,

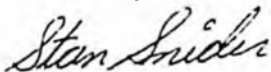
In response to your letter of 2-28-90, on S.S.H.B. 456:

I consider S.S.H.B. to be both workable and highly desireable.

The City of Klawock's moorage fee for small boats is based on the length of the vessel. The fee is currently \$3.00 per foot, per year. We have in excess of twenty commercially licensed vessels in our small boat harbor.

The City of Klawock will be happy to supply any further information you may require.

Sincerely,



Stan Snider  
Harbor Master

SS/lf

*Myra -  
Thank you will*

# MEMORANDUM

State of Alaska  
Community and Regional Affairs

TO: Rena Bukovich  
Legislative Aide to  
Adelheide Herrmann


DATE: March 18, 1988

FILE NO: 0194Q/JP/jp

TELEPHONE NO: 465-4750

THRU:

SUBJECT: Comparative Fish  
Tax Distributions

FROM: Jim Plasman   
Deputy Director  
Municipal and Regional  
Assistance Division

Attached please find a comparison of three different formulas for the proposed offshore fish tax sharing program.

Column A: The first reflects distributions under the formula used by the department as part of the pilot project conducted by the department pursuant to legislative intent in the FY 86 budget bill. This formula allocated funds to municipalities on the basis of their location within specific commercial fisheries management areas and the population increase in each municipality due to off shore fish processing. The distribution reflects the initial appropriation to the pilot project of about \$451,000.

Column B: This shows distributions under 2nd SSHB 314, a formula similar to the pilot project formula except that it utilizes municipal population rather than population increase. The distribution also reflects an appropriation to the program of \$4.5 million, which is the amount estimated for FY 89 under the funding provisions of both HB 314 and SB 454.

Column C: This shows distributions under the formula used for SB 454. It differs from 2nd SSHB 314 in that it uses management regions, rather than management areas. Regions consist of multiple areas. Like 2nd SSHB 314 it uses municipal population rather than the population increase uses in the pilot project. It also distributes \$4.5 million under the formula.

It should be noted that these distributions assume the findings under the pilot project. Actual distributions may be expected to differ because other municipalities may apply and be found eligible and some which applied may be found not to be eligible under the proposed legislation.

Attachment

cc: Marty Rutherford, MRAD  
Dan Backhorst, MRAD

file code: HB 314

- (A) - OFFSHORE FISHERIES TAX REFUND AS ADMINISTERED, 1987. (AREA POP. GROWTH)  
 (B) - OFFSHORE FISHERIES TAX REFUND BASED UPON (NET) AREA POPULATION,  
 (FUNDING @ \$4,500,000)  
 (C) - OFFSHORE FISHERIES TAX REFUND BASED UPON (NET) REGIONAL POPULATION,  
 W/ BRISTOL BAY INCLUDED IN WESTWARD REGION IV. (FUNDING @ \$4,500,000)

COMM. FISH REGIONS & AREA COMMUNITIES	PILOT PROJECT	BY AREA	BY REGION
	(A) TOTAL \$\$ ALLOCATION	(B) TOTAL \$\$ ALLOCATION	(C) TOTAL \$\$ ALLOCATION
REGION I: SOUTHEASTERN			
AREA A - JUNEAU & YAKUTAT			
ANGOON	\$1,458.66	\$27,558.32	\$20,871.96
HAINES	\$0.00	\$0.00	\$0.00
HAINES, BOROUGH OF	\$0.00	\$0.00	\$0.00
JUNEAU, CITY AND BOROUGH	\$0.00	\$0.00	\$0.00
SKAGWAY	\$4,375.97	\$30,632.80	\$21,840.05
YAKUTAT	\$0.00	\$0.00	\$0.00
AREA A - TOTAL.....	\$5,834.63	\$58,191.12	\$42,711.91
AREA B - KETCHIKAN			
CRAIG	\$4,310.54	\$33,088.29	\$24,257.32
JYDABURG	\$0.00	\$0.00	\$0.00
KASAAN	\$0.00	\$0.00	\$0.00
KETCHIKAN	\$10,656.56	\$103,132.95	\$70,724.00
KETCHIKAN, BOROUGH OF	\$2,186.70	\$28,236.30	\$52,405.34
KLAWOCK	\$2,526.51	\$28,506.93	\$21,218.10
METLAKATLA	\$0.00	\$0.00	\$0.00
SAXMAN	\$2,186.70	\$25,124.06	\$18,973.95
THORNE BAY	\$0.00	\$0.00	\$0.00
AREA B - TOTAL.....	\$21,867.01	\$218,088.53	\$187,578.71
AREA C - PETERSBURG/WRANGELL			
KAKE	\$0.00	\$0.00	\$0.00
KUPREANOF	\$0.00	\$0.00	\$0.00
PETERSBURG	\$0.00	\$0.00	\$0.00
WRANGELL	\$0.00	\$0.00	\$0.00
AREA C - TOTAL.....	\$0.00	\$0.00	\$0.00
AREA D - SITKA			
HOONAH	\$0.00	\$0.00	\$0.00
PELICAN	\$1,060.48	\$10,605.81	\$18,140.41
PORT ALEXANDER	\$0.00	\$0.00	\$0.00
SITKA, BOROUGH OF	\$3,229.98	\$38,306.83	\$69,486.51
TENAKEE SPRINGS	\$1,646.73	\$10,301.40	\$17,576.17
AREA D - TOTAL.....	\$5,937.19	\$59,214.05	\$105,203.09
REGION I - TOTAL.....	\$33,638.84	\$335,493.70	\$335,493.70

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REGION II: CENTRAL

AREA E - PRINCE WILLIAM SOUND

CORDOVA	\$16,394.73	\$131,680.08	\$64,097.77
VALDEZ	\$12,751.46	\$159,006.60	\$69,656.37
WHITTIER	\$0.00	\$0.00	\$0.00
AREA E - TOTAL.....	\$29,146.18	\$290,686.68	\$133,754.14

AREA H - COOK INLET

ANCHORAGE, MUNICIPALITY OF	\$0.00	\$0.00	\$0.00
ANDERSON	\$0.00	\$0.00	\$0.00
HOMER	\$0.00	\$0.00	\$0.00
HOUSTON	\$0.00	\$0.00	\$0.00
KACHEMAK	\$0.00	\$0.00	\$0.00
KENAI PENINSULA BOROUGH	\$2,193.94	\$21,881.05	\$178,813.59
KENAI	\$0.00	\$0.00	\$0.00
MATANUSKA-SUSITNA BOROUGH	\$0.00	\$0.00	\$0.00
PALMER	\$0.00	\$0.00	\$0.00
SELDOVIA	\$0.00	\$0.00	\$0.00
SEWARD	\$0.00	\$0.00	\$0.00
SOLDATNA	\$0.00	\$0.00	\$0.00
WASILLA	\$0.00	\$0.00	\$0.00
AREA H - TOTAL.....	\$2,193.94	\$21,881.05	\$178,813.59

AREA T - BRISTOL BAY

ALEKNAGIK	\$0.00	\$0.00	\$0.00
BRISTOL BAY BOROUGH	\$24,329.34	\$448,778.27	\$215,140.90
CLARK'S POINT	\$25,078.40	\$216,666.70	\$118,248.18
DILLINGHAM	\$37,353.32	\$620,669.46	\$286,895.21
EKWOK	\$0.00	\$0.00	\$0.00
MANOKOTAK	\$0.00	\$0.00	\$0.00
NEW STUYAHOK	\$0.00	\$0.00	\$0.00
NEWHALEN	\$0.00	\$0.00	\$0.00
NONDALTON	\$0.00	\$0.00	\$0.00
TOGIAK	\$74,528.43	\$322,490.87	\$162,423.45
AREA T - TOTAL.....	\$161,289.49	\$1,608,605.30	\$782,707.74
REGION II - TOTAL.....	\$192,629.62	\$1,921,173.02	\$312,567.73

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REGION III: A-Y-K

AREA W - KUSKOKWIM

AKIACHUK	\$0.00	\$0.00	\$0.00
AKIAK	\$0.00	\$0.00	\$0.00
ANIAK	\$0.00	\$0.00	\$0.00
ATMAUTLUAK	\$0.00	\$0.00	\$0.00
BETHEL	\$0.00	\$0.00	\$0.00
CHEFORNAK	\$0.00	\$0.00	\$0.00

CHUATHBALUK	\$0.00	\$0.00	\$0.00
EEK	\$0.00	\$0.00	\$0.00
GOODNEWS BAY	\$0.00	\$0.00	\$0.00
KASIGLUK	\$0.00	\$0.00	\$0.00
KWETHLUK	\$0.00	\$0.00	\$0.00
LOWER KALSKAG	\$0.00	\$0.00	\$0.00
MEKORYUK	\$0.00	\$0.00	\$0.00
NAPAKIAK	\$0.00	\$0.00	\$0.00
NAPASKIAK	\$0.00	\$0.00	\$0.00
NEWTOK	\$0.00	\$0.00	\$0.00
NIGHTMUTE	\$0.00	\$0.00	\$0.00
NIKOLAI	\$0.00	\$0.00	\$0.00
NUNAPITCHUK (AKOLMIUT)	\$0.00	\$0.00	\$0.00
PLATINUM	\$0.00	\$0.00	\$0.00
QUINHAGAK	\$2,615.54	\$32,453.50	\$47,438.37
TOKSOOK BAY	\$3,644.96	\$29,985.00	\$43,860.11
TULUKSAK	\$0.00	\$0.00	\$0.00
TUNUNAK	\$0.00	\$0.00	\$0.00
UPPER KALSKAG	\$0.00	\$0.00	\$0.00
AREA W - TOTAL.....	\$6,260.50	\$62,438.49	\$91,298.48

AREA X - KOTZEBUE

AMBLER	\$0.00	\$0.00	\$0.00
ANAKTUVUK PASS	\$0.00	\$0.00	\$0.00
ATQASUK	\$0.00	\$0.00	\$0.00
BARROW	\$0.00	\$0.00	\$0.00
BUCKLAND	\$0.00	\$0.00	\$0.00
DEERING	\$0.00	\$0.00	\$0.00
KAKTOVIK	\$0.00	\$0.00	\$0.00
KIANA	\$0.00	\$0.00	\$0.00
KIVALINA	\$0.00	\$0.00	\$0.00
KOTZEBUE	\$0.00	\$0.00	\$0.00
NOORVIK	\$0.00	\$0.00	\$0.00
NORTH SLOPE BOROUGH	\$0.00	\$0.00	\$0.00
NORTHWEST ARCTIC BOROUGH	\$0.00	\$0.00	\$0.00
NUIQSUT	\$0.00	\$0.00	\$0.00
POINT HOPE	\$0.00	\$0.00	\$0.00
SELAWIK	\$0.00	\$0.00	\$0.00
SHISHMAREF	\$0.00	\$0.00	\$0.00
SHUNGNAK	\$0.00	\$0.00	\$0.00
WAINWRIGHT	\$0.00	\$0.00	\$0.00
AREA X - TOTAL.....	\$0.00	\$0.00	\$0.00

AREA Y - YUKON

ALAKANUK	\$0.00	\$0.00	\$0.00
CHEVAK	\$0.00	\$0.00	\$0.00
EMMONAK	\$8,954.24	\$89,304.25	\$56,752.40
FORTUNA LEDGE (MARSHALL)	\$0.00	\$0.00	\$0.00
HOLY CROSS	\$0.00	\$0.00	\$0.00
KOOPER BAY	\$0.00	\$0.00	\$0.00

KOTLIK	\$0.00	\$0.00	\$0.00
MOUNTAIN VILLAGE	\$0.00	\$0.00	\$0.00
PILOT STATION	\$0.00	\$0.00	\$0.00
RUSSIAN MISSION	\$0.00	\$0.00	\$0.00
SAINT MARY'S	\$0.00	\$0.00	\$0.00
SCAMMON BAY	\$0.00	\$0.00	\$0.00
SHELDON POINT	\$0.00	\$0.00	\$0.00

AREA Y - TOTAL.....	\$8,954.24	\$89,304.25	\$56,752.40
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AREA Z - NORTON SOUND

BREVIG MISSION	\$0.00	\$0.00	\$0.00
ELIM	\$0.00	\$0.00	\$0.00
GOLOVIN	\$2,843.50	\$28,231.33	\$30,125.87
KOYUK	\$2,113.56	\$31,942.58	\$33,651.51
NOME	\$0.00	\$0.00	\$0.00
SAINT MICHAEL	\$0.00	\$0.00	\$0.00
SHAKTOOLIK	\$0.00	\$0.00	\$0.00
STEBBINS	\$0.00	\$0.00	\$0.00
TELLER	\$0.00	\$0.00	\$0.00
UNALAKLEET	\$7,528.20	\$64,346.75	\$64,435.15
WALES	\$0.00	\$0.00	\$0.00
WHITE MOUNTAIN	\$0.00	\$0.00	\$0.00

AREA Z - TOTAL.....	\$12,485.27	\$124,520.66	\$129,212.53
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REGION III - TOTAL.....	\$27,700.01	\$276,263.41	\$276,263.41
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REGION IV: WESTERN

AREA K - KODIAK

AKHIOK	\$0.00	\$0.00	\$0.00
KODIAK	\$3,926.71	\$60,489.97	\$654,208.95
KODIAK ISLAND BOROUGH	\$7,633.62	\$56,574.38	\$604,908.37
LARSEN BAY	\$1,745.20	\$18,794.81	\$129,230.98
OLD HARBOR	\$0.00	\$0.00	\$0.00
OUZINKIE	\$1,745.20	\$18,911.11	\$130,695.35
PORT LIONS	\$2,401.29	\$19,285.87	\$135,413.89

AREA K - TOTAL.....	\$17,452.03	\$174,056.13	\$1,654,457.54
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AREA L - CHIGNIK

CHIGNIK	\$2,277.98	\$22,719.24	\$122,478.59
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AREA L - TOTAL.....	\$2,277.98	\$22,719.24	\$122,478.59
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AREA M - ALASKA PENINSULA

COLD BAY	\$0.00	\$0.00	\$0.00
KING COVE	\$9,730.37	\$90,118.64	\$156,647.31
PORT HEIDEN	\$5,582.25	\$51,326.97	\$119,237.13
SAND POINT	\$10,775.98	\$118,746.56	\$184,144.99

AREA M - TOTAL.....	\$26,088.60	\$260,192.18	\$460,179.44
AREA R&O - ALEUTIANS			
AKUTAN	\$0.00	\$0.00	\$0.00
UNALASKA/DUTCH HARBOR	\$50,166.59	\$500,331.69	\$268,102.42
AREA R&O - TOTAL.....	\$50,166.59	\$500,331.69	\$268,102.42
AREA Q - BERING SEA			
SAINT PAUL	\$25,311.58	\$632,704.37	\$160,145.53
SAINT GEORGE	\$75,934.75	\$377,066.24	\$127,603.90
AREA Q - TOTAL.....	\$101,246.33	\$1,009,770.62	\$287,749.43
REGION IV - TOTAL.....	\$197,231.54	\$1,967,069.86	\$3,575,675.16
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TOTAL FUNDING.. (\$\$).....	\$451,200.00	\$4,500,000.00	\$4,500,000.00

The Alaska Municipal League supports establishment of a program to share fisheries business tax proceeds from offshore processors with affected municipalities to mitigate the impacts of the fisheries on the provision of local services.

Coastal municipalities must provide additional governmental services because of the impact of seafood processors, both within and outside municipal boundaries. It is important that tax receipts from all types of processors be shared with the municipalities affected by their operations.

Under the provisions of AS 43.75, Fisheries Taxes, all processors must pay a fisheries business tax to the State. Only the portion of the tax collected as a result of processing activity that takes place within municipal boundaries is shared with municipalities. This is intended to help offset the demands on local services resulting from the influx of people, demand for utilities, increased use of health facilities, additional call for law enforcement, and other impacts that result from the fish harvesting and processing activities. The formula for distribution of these tax revenues is based on the revenue generated from fisheries business operations occurring within municipal boundaries. The municipalities get 50 percent, and the State retains 50 percent. Shared fisheries tax revenues are a substantial source of revenue for many local governments: in FY 89, for example, 53 municipalities received over \$15.7 million, with shares ranging from as little as \$52.50 to over \$1.7 million (Bristol Bay Borough and Kodiak Island Borough).

Current statutes provide that the revenue generated from fish processing plants located outside municipal boundaries goes entirely to the State and is not shared with local governments, in spite of the fact that the activities of these processors do impact local governments. Many municipalities have to provide additional services as a result of offshore processing operations outside their borders, for instance health services, garbage hauling, and expanded law enforcement activities. These impacts can be significant to municipalities and their taxpayers, especially in proportion to the level of service provided to their permanent municipal population. However, the State, which does not provide services at the local level, receives the tax receipts from the processors operating outside municipal boundaries.

In FY 1989, the total tax liability of processors was \$41.3 million. Of this, \$31.4 million was attributable to processing activity that took place within municipal boundaries (resulting in a \$15.7 million distribution to municipalities). The balance, \$9.9 million, was attributable to processors operating outside municipalities and

was retained by the State. If this had been shared 50/50 with affected municipalities, local governments would have received up to \$4.95 million to help mitigate the additional costs of providing services to processors and their employees.

The League supports a program that would share the fisheries business tax revenues generated from processors located outside municipal boundaries with those communities that can demonstrate an effect on municipal operations resulting from the processors' activities. During FY 86, the Department of Community and Regional Affairs conducted a pilot project to allocate revenues from offshore processing activities to municipalities, and legislation (HB 314/SB 454) was introduced in 1988 that would have made such a program permanent. The impact of offshore processors on local government operation is, if anything, increasing, and municipalities, which must provide services to such processors, should be given a share of the revenue received by the State from them.

NOTE: Senator Zharoff is planning to introduce legislation (copy attached) that would establish a program to share fisheries business tax revenue collected from processors outside municipal boundaries with affected municipalities.

**HB**

**476**

# HOUSE COMMITTEE REPORT

(9)

Date Referred: February 6, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: 3/30/90

The RESOURCES Committee considered:

HB 476

HOUSE BILL NO. 476

COMPENSATION: BOARDS OF FISH/GAME MEMBERS

"An Act relating to compensation of members of the Board of Fisheries and the Board of Game."

RECOMMENDATIONS:

- be replaced with CS HB 476 (RES)  the same title  
 a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

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

ATTACHES NEW FISCAL NOTE(s):  
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact ADF+G
- zero fiscal note \_\_\_\_\_
- zero with analysis \_\_\_\_\_

- fiscal note(s) \_\_\_\_\_
- zero fiscal note(s) \_\_\_\_\_
- zero fn/analysis \_\_\_\_\_

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
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	Do Not Pass	No Rec	Amend
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[Signature]  
Chairman's Signature

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to compensation of members. . ."  
 Sponsor: \_\_\_\_\_  
 Requestor: \_\_\_\_\_

Agency Affected: Fish and Game  
 BRU: Boards of Fish and Game  
 Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL	106.1	106.1	106.1	106.1	106.1	106.1
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>106.1</b>	<b>106.1</b>	<b>106.1</b>	<b>106.1</b>	<b>106.1</b>	<b>106.1</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	106.1	106.1	106.1	106.1	106.1	106.1
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

No FY 90 impact.  
See enclosed.

Prepared by: Beverly Reaume *Denny Rome* Phone: 465-4120  
 Division: Administration/ Date: 03/30/90

Approved by Commissioner: \_\_\_\_\_ Date: 03/30/90  
 Agency: Department of Fish and Game

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

SB 369 BOARDS OF FISHERIES AND GAME

BOARD OF FISHERIES - 7 MEMBERS

CURRENT

83 DAYS AT \$150 PER DAY	\$87,150
22 DAYS AT \$100 PER DAY	\$15,400

TOTAL	\$102,550
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PROPOSED \$89

83 DAYS AT RANGE 22, STEP A - \$177	\$102,837
22 DAYS AT 1/2 RANGE 22, STEP A - \$89	\$13,706
105 DAYS AT \$80 PER DAY PER DIEM	\$58,800

TOTAL	\$175,343
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INCREASED COSTS RESULTING FROM SB 369 FOR BOARD OF FISHERIES	\$72,793
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BOARD OF GAME - 7 MEMBERS

CURRENT

38 DAYS AT \$150 PER DAY	\$39,900
10 DAYS AT \$100 PER DAY	\$7,000

TOTAL	\$46,900
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PROPOSED

38 DAYS AT RANGE 22, STEP A - \$177	\$47,082
10 DAYS AT 1/2 RANGE 22, STEP A - \$89	\$6,230
48 DAYS AT \$80 PER DAY PER DIEM	\$26,880

TOTAL	\$80,192
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INCREASED COSTS RESULTING FROM SB 369 FOR BOARD OF GAME	\$33,292
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GRAND TOTAL	\$106,085
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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
BILL ANALYSIS

DEPARTMENT <b>FISH AND GAME</b>	DIVISION <b>BOARDS</b>	BILL NUMBER <b>HE 476</b>	SPONSOR <b>DAVIDSON</b>
SHORT TITLE OF BILL <b>An act relating to compensation of members of the Board of Fisheries and Board of Game.</b>			
DEPARTMENT POSITION <b>Support the need to increase compensation for board members.</b>			
PREPARED BY <i>Larry Jones</i> <b>Larry Jones, Deputy Director</b>	DATE <b>2/20/90</b>	COMMISSIONER'S SIGNATURE <i>William A. Delaney</i>	DATE <b>2-21-90</b>

**SUMMARY**

OTHER AGENCIES AFFECTED BY BILL  <b>None</b>	CONSTITUENT GROUP(S) AFFECTED BY BILL <b>Those members of the public affected by quality of regulation promulgated by the boards.</b>
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT:       NONE       FISCAL NOTE ATTACHED

**BACKGROUND/LEGISLATIVE INTENT**  
The members of the Board of Fisheries and the Board of Game currently receive \$150/day for per diem, plus travel expenses, for board meetings. The Board of Fisheries meets approximately 80 days per year, and the Board of Game meets approximately 38 days a year. The Joint Board of Fisheries and Game meets approximately 10 days a year. This represents a considerable commitment of time and effort by these board members and time away from normal employment.

**ANALYSIS OF BILL/PROGRAM EFFECTS**  
The increase of compensation for board members would more fully compensate them for the commitment of time to the board's process and would help to cover expenses and other income loss to the board members due to their commitment to the board meetings. It would be easier to solicit qualified board members when vacancies occur annually on each board. This concern was noted by potential candidates for Board of Game and Board of Fisheries appointments earlier this year. The Governor supports the idea of increasing compensation to board members and has also introduced his own legislation to do so in SSSB 369.

**AMENDMENTS PROPOSED**

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

## FISCAL NOTE

**REQUEST:**

Revision Date: 2/6/90  
Title: An Act relating to compensation of members. . .  
Sponsor: \_\_\_\_\_  
Requestor: \_\_\_\_\_

Agency Affected: Fish and Game  
BRU: Boards of Fish and Game  
Components: \_\_\_\_\_

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL	208.1	210.0	210.0	210.0	210.0	210.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>208.1</b>	<b>210.0</b>	<b>210.0</b>	<b>210.0</b>	<b>210.0</b>	<b>210.0</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING:** (Thousands of Dollars)

GENERAL FUND	208.1	210.0	210.0	210.0	210.0	210.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

No FY 90 impact.  
See enclosed.

Prepared by: *Dorey Roman* Phone: 2-21-90  
Division: Administration Date: 02/21/90  
Approved by Commissioner: *Wm. H. P. Kelly* Date: 02/21/90  
Agency: Department of Fish and Game

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

HB 476 BOARDS OF FISHERIES AND GAME

CURRENT (14 BOARD MEMBERS)

65 DAYS AT \$150 PER DAY \$136,500

15 DAYS AT \$100 PER DAY \$21,000

TOTAL \$157,500

PROPOSED (14 BOARD MEMBERS)

50 DAYS AT RANGE 26, STEP A - \$240 \$168,000

30 DAYS AT 1/2 RANGE 26, STEP A - \$12 \$108,000

80 DAYS AT \$80 PER DAY PER DIEM \$89,600

TOTAL \$365,600

INCREASED COSTS RESULTING FROM HB 476 \$208,100

NON-UNION BARGAINING UNIT - (XL) LEGISLATIVE

MONTHLY - HOURLY 07/16/85

RANGE NO.	(LONGEVITY INCREMENTS OF FINAL STEP)											RANGE NO.
	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F	J	K	L	M		
21 MONTHLY 37.5 H/W	3,831.00 23.58	3,974.00 24.46	4,095.00 25.20	4,246.00 26.11	4,379.00 26.95	4,537.00 27.92	4,707.00 28.97	4,884.00 30.06	5,067.00 31.18	5,257.00 32.35		21
22 MONTHLY 37.5 H/W	4,095.00 25.20	4,246.00 26.13	4,379.00 26.95	4,537.00 27.92	4,687.00 28.84	4,859.00 29.90	5,041.00 31.02	5,230.00 32.18	5,426.00 33.39	5,629.00 34.64		22
23 MONTHLY 37.5 H/W	4,379.00 26.95	4,537.00 27.92	4,687.00 28.84	4,859.00 29.90	5,021.00 30.90	5,209.00 32.06	5,404.00 33.26	5,607.00 34.50	5,817.00 35.80	6,035.00 37.14		23
24 MONTHLY 37.5 H/W	4,687.00 28.84	4,859.00 29.90	5,021.00 30.90	5,209.00 32.06	5,385.00 33.14	5,568.00 34.26	5,777.00 35.55	5,994.00 36.89	6,219.00 38.27	6,452.00 39.70		24
25 MONTHLY 37.5 H/W	5,021.00 30.90	5,209.00 32.06	5,385.00 33.14	5,568.00 34.26	5,773.00 35.53	5,990.00 36.86	6,215.00 38.25	6,448.00 39.68	6,690.00 41.17	6,941.00 42.71		25
26 MONTHLY 37.5 H/W	5,209.00 32.06	5,385.00 33.14	5,568.00 34.26	5,773.00 35.53	5,990.00 36.86	6,206.00 38.19	6,439.00 39.62	6,680.00 41.11	6,931.00 42.65	7,191.00 44.25		26
27 MONTHLY 37.5 H/W	5,385.00 33.14	5,568.00 34.26	5,773.00 35.53	5,990.00 36.86	6,206.00 38.19	6,442.00 39.64	6,684.00 41.13	6,935.00 42.68	7,195.00 44.28	7,465.00 45.94		27
28 MONTHLY 37.5 H/W	5,568.00 34.26	5,773.00 35.53	5,990.00 36.86	6,206.00 38.19	6,442.00 39.64	6,666.00 41.02	6,916.00 42.56	7,175.00 44.15	7,444.00 45.81	7,723.00 47.53		28
29 MONTHLY 37.5 H/W	5,773.00 35.53	5,990.00 36.86	6,206.00 38.19	6,442.00 39.64	6,666.00 41.02	6,901.00 42.47	7,160.00 44.06	7,429.00 45.72	7,708.00 47.43	7,997.00 49.21		29
30 MONTHLY 37.5 H/W	5,990.00 36.86	6,206.00 38.19	6,442.00 39.64	6,666.00 41.02	6,901.00 42.47	7,144.00 43.96	7,412.00 45.61	7,690.00 47.32	7,978.00 49.10	8,277.00 50.94		30

**HB**

**485**

# HOUSE COMMITTEE REPORT

(9)

Date Referred: February 7, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: 2/20/90

The RESOURCES Committee considered:

HB 485

HOUSE BILL NO. 485

APPROP: MITIGATE RR-MOOSE COLLISIONS

"An Act making a special appropriation to the Department of Fish and Game for an emergency railroad-moose collision mitigation program; and providing for an effective date."

**RECOMMENDATIONS:**

- [ ] be replaced with \_\_\_\_\_ [ ] the same title
- [ ] \_\_\_\_\_ [ ] a new title
- [ ] have attached amendment(s)
- [ ] do pass
- [ ] do not pass
- [ ] no recommendation
- [ X ] individual recommendations
- [ ] additional referral to the \_\_\_\_\_ Committee

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

ATTACHES NEW FISCAL NOTE(s):  
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- [ ] fiscal impact \_\_\_\_\_ [ ] fiscal note(s) \_\_\_\_\_
- [ ] zero fiscal note \_\_\_\_\_ [ ] zero fiscal note(s) \_\_\_\_\_
- [ ] zero with analysis \_\_\_\_\_ [ ] zero fn/analysis \_\_\_\_\_

**SIGNING DO PASS:**

\_\_\_\_\_  
*George Jacobson*  
 \_\_\_\_\_  
*Mike Puro*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**SIGNING:**  
(Check approp. column)

	Do Not Pass	No Rec	Amend
<i>Cliff Davidson</i>		✓	
<i>Bob Huls</i>		✓	
<i>Ben Sharp</i>		✓	
W Furrowe. - (NO Funding of RTD - spend funds on moose feed)			✓

*Cliff Davidson*  
 \_\_\_\_\_  
 Chairman's Signature

Steve Cowper  
Governor

February 6, 1990

465-4100

Briefing Memorandum:  
Alaska Railroad  
Moose Kills

Don W. Collinsworth *W3 for H*  
Commissioner  
Department of Fish and Game

### Issue

Excessive moose kills by the Alaska Railroad (ARR) and public concern about starving moose.

### Problem

Extremely deep snow accumulation in the Matanuska/Susitna Valley area has resulted in extraordinary moose mortality on the ARR and on highways and secondary roads. Media coverage has intensified public attention on this loss as well as on the plight of starving moose. The public is demanding action by the railroad and the state to reduce the kill of moose by trains and highway vehicles and to feed starving moose.

### Background

#### Cause and Level of Mortality

Lowland areas adjacent to the railroad right-of-way (ROW) in the lower Matanuska-Susitna River Valleys are particularly attractive to moose in winter because moose prefer the plant species found on abandoned homesteads for winter browse. The close proximity of moose concentrations to the railroad and local highways results in vehicular collisions with moose. Mortality is greatest when snow is deep, because moose seek out plowed or packed snow areas for travel and are attracted to forage regrowth along roads.

Since 1985, the average annual kill has been 237 by trains and 153 by highway vehicles on Matanuska/Susitna Valley roads. So far this winter at least 375 to 400 moose have been killed by trains, and with at least two more months of expected heavy mortality remaining, the kill will far exceed

the record of 382 in winter 1984/85. More than 150 moose have died on area roads.

Moose have been stressed this winter by extreme snow depths (in some areas greater than 8 feet) and some starvation has been reported. It is likely that many moose, particularly calves, will starve before spring. Moose are seeking out roads and trails where snow is plowed or packed down. Consequently, many are on local roads, dog mushing/ski trails, and in residential areas where their weakened condition is more visible to the general public.

#### Past and Current Actions

- \* Historical railroad moose kill records were compiled and analyzed by our department to identify sections of track where remedial actions would be most effective and to determine if train schedules or other operating procedures could be modified.
- \* A number of devices (e.g., lights, horns and other sonic devices, a cushion bumper, and a water cannon) have been considered or tested without success.
- \* Wing plowing has not been effective.
- \* A test in which trains were slowed to the lowest economical speed (25 mph) did not reduce the number of moose struck.
- \* Clearing brush from the railroad ROW was initiated by the ARR, but an insufficient area was cleared to determine its effectiveness.
- \* The feasibility of a moose-proof electrical fence has been investigated. Such a fence may have the highest potential for significantly reducing mortality, but construction costs would be high.
- \* A pilot car is being used ahead of some trains to move moose off the tracks; the results have been encouraging.

- \* The ARR has begun plowing an alternate trail parallel to the tracks to reduce numbers of moose on the tracks.
- \* Salvage procedures by the ARR and distribution of meat to qualifying families have been improved. Options have been proposed to modify the front of locomotives, since about 40 percent of struck moose are unsalvageable. The railroad has not pursued this.
- \* Through the cooperation of the Department of Public Safety, a computerized database on road-killed moose has been developed to identify road sections with high kill rates. Problem road areas can be evaluated in terms of remedial actions such as fencing, brush clearing, traffic speed control, and eliminating the use of salt in road sanding.
- \* In the past, the department has discouraged supplemental winter feeding of moose because it is generally cost-prohibitive and ineffective.

#### Recommended short-term solutions

The following "short-term" solutions should be implemented immediately to help moose survive this winter.

#### 1. Alaska Railroad

- a. The ARR should have a pilot car (chase car) precede every train through the high kill zone. Once chased off the tracks, moose would likely stay off for some time, especially in areas with plowed trails adjacent to the tracks.  
Estimated cost: \$42.0
- b. Trails should be plowed parallel to and on both sides of the track in the high kill zone (milepost 175-260). Moose moving to the railroad ROW would encounter plowed trails first and would likely use them instead of the railroad tracks.  
Estimated cost: \$41.0
- c. Trails should also be plowed perpendicular to the tracks in areas where wintering moose density is

high. Preferably, such trails should access feeding areas to encourage moose to move away from the railroad ROW.

Estimated cost: \$6.0

- d. Supplemental feed could be used to attract and hold moose away from tracks, as well as to enhance the effectiveness of trail systems in certain areas. However, since it is expensive, the department should test its effectiveness before full implementation.

Estimated cost to feed 500 moose: \$120.0

- e. The ARR should authorize engineers to slow trains below economical speeds, if necessary, especially where they encounter groups of moose on the tracks.

Estimated cost: Unknown

## 2. Highways

High snow berms should be cut down and perpendicular exit trails cut at regular intervals so that moose "trapped" in the highway corridor will be able to easily leave the highway. Where roads have been plowed only wide enough to allow "one way" traffic, escape trails should be plowed from the road and/or frequent pull-offs constructed to provide temporary resting places for moose. This work could be done by DOT/PF with existing equipment and personnel.

Estimated cost: Unknown

## 3. Other Locations

- a. Where wintering moose density is high, create a network of plowed or packed trails to assist moose in reaching natural feeding areas.

Estimated cost: \$20.0

(Also possible with volunteers)

- b. Identify state, borough, and private lands where "near-term" timber harvests have been planned. Organize volunteers or hire people to periodically

cut trees for moose browse. Cutting should be carefully controlled and confined to areas where numbers of moose are wintering in the vicinity.

Estimated cost: Volunteers

The department does not recommend supplemental feeding at specific locations since doing it on an "affordable" scale will have insignificant effects on moose survival.

Recommended Long-term Solutions:

4. Alaska Railroad Operations

- a. If any short-term solutions prove successful, incorporate them into long-term operating plans.
- b. The ARR should clear all trees and shrubs in its ROW, particularly between mileposts 170-270. Clearing should be repeated every four to seven years to prevent regrowth of attractive winter food.  
Estimated cost: \$195.0
- c. The ARR should design a device for the front of the locomotive that will increase salvage of struck moose and reduce the kill-rate of those "clipped" by the train plow.  
Estimated cost: Unknown
- d. The ARR should have a full-time staff person, preferably a design engineer with a working background in railroad operations, to research devices, substances, and procedures to reduce the kill of moose.  
Estimated annual cost: \$100.0
- e. The department and the ARR should construct and test a five mile moose-proof electrical fence from mileposts 197 to 202. Estimated cost: \$436.4
- f. Alternate winter browsing habitat should be created to attract moose away from the ROW. When forests are cut, winter browse could be most

quickly created by immediately scarifying the area and planting nursery-grown seedlings.

Estimated cost for habitat enhancement  
for 1,000 moose for 15 years: \$4.8  
(\$320/moose/year)

5. Highway Operations

- a. Highway ROWs should be cleared of brush in areas with high kill rates. Warning signs, improved lighting, and other means to help identify moose from a distance at night should be erected. Fences should be used in areas where other methods are ineffective.

Estimated cost: Unknown

- b. Gravel "turnouts" should be constructed every mile or so in high kill areas to provide winter escape routes.

Estimated cost: Unknown

- c. DOT/PF should stop using salt in road sand on sections that pass through areas of moderate to high densities of wintering moose. Moose have been regularly observed kneeling and licking the salted roadbed.

Estimated cost: Unknown

6. Other Locations

- a. The state is developing a Susitna Forest Plan for managing timber harvests in the Matanuska-Susitna Valley. Habitat retention and enhancement are identified as key components. Specific plans on how reforestation is to occur have not been developed. The department should be consulted to identify areas where habitat enhancement for moose would be most beneficial. Such areas should have special treatment methods (tree planting, scarification, fertilization, etc.) to provide moose browse and timber reproduction in as short a time frame as possible, in order to attract wintering moose and reduce densities along railroad and highway corridors.

Estimated cost: Unknown

Funding

The department has no funds to implement any of the suggested solutions. Immediate actions identified under short-term solutions will require a supplemental appropriation, or the ARR could direct its own resources toward these solutions. Long-term solutions can be funded through increased funds to the Division of Wildlife Conservation, capital improvement appropriations, or both. Legislation also could require the ARR to fund such procedures, equipment, and facilities as may be necessary to significantly reduce the number of moose killed and improve the salvage of struck moose.



# Alaska State Legislature

Official Business

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

## MEMORANDUM

TO: House Resource Committee Members

FROM: Representative Curt Menard *Curt*

DATE: February 20, 1990

RE: HB 485, Appropriation: Mitigate Railroad-Moose Collision

An explanation of the expenditures for the appropriation of \$250,000 is enclosed with this memorandum.

The recommendations are listed along with a short discussion, and the approximate cost for each recommendation.

It is my intention that this emergency appropriation will begin the process of decreasing the moose mortality along the Alaska railroad. This has become a problem that needs everyones attention and assistance.



Discussion: Snow in the Susitna Valley averages 5-7 feet on the level and berms from snow plowing are usually higher. High berms are a "barrier" to moose when they access the highway. Local road-service districts have exhausted their winter maintenance funds and have no money for "extra" snow-plowing work. The department would hire equipment to do these jobs. Estimated cost: 20.0 -40.0.

4. Recommendation: Clear all the trees and shrubs in the railroad right-of-way (ROW), particularly between mileposts 170-270.

Discussion: Recommendations listed above are all "short-term" solutions. Long-term permanent solutions need to be addressed. Removing brush and young trees in the ROW will eliminate the food source that, in part, attracts moose to the railroad tracks. This work can be best accomplished in the summer and early fall.

Estimated cost: \$150.0 to 195.0

5. Recommendation: Conduct research to develop devices, substances, and procedures to reduce the kill of moose on the railroad tracks.

Discussion: This recommendation is really the key to reducing the railroad moose kill. The Department, the railroad, and the public, have suggested many ways to reduce the kill, but these ideas need to be developed and tested in the railroad environment. An established research and development program is needed to accomplish this goal, and any money left over from the appropriation will be devoted to this cause.

Estimated annual cost: 50.0 to 100.0

cc Greg Bos

# STATE OF ALASKA

M/W-MO-YER

STEVE COWPER, GOVERNOR

## DEPARTMENT OF FISH AND GAME

333 RASPBERRY ROAD  
ANCHORAGE, ALASKA 99518-1599  
PHONE (907) 344-0541

February 9, 1990

Frank Turpin  
Executive Director  
Alaska Railroad Corporation  
P.O. Box 107500  
Anchorage, Alaska 99510-7500

Dear Mr. *Turpin* Turpin:

Thank you for meeting with us on February 6 to discuss options to reduce moose kills by Alaska Railroad (ARR) trains. Although our staffs have been working on this problem for several years, it is apparent with this winter's extraordinarily high kill that we must initiate more concerted actions to minimize this serious public resource problem.

Moose populations in the Matanuska/Susitna Valley traditionally use winter ranges near the railroad/highway corridor and many moose are struck by trains and vehicles every winter. This year, the problem has been intensified because record snowfall has resulted in higher densities of moose along this corridor. Many moose killed by trains and vehicles are prime reproductive animals that would otherwise survive the winter and help rebuild the population from losses due to natural causes such as winter starvation. Therefore, reducing mortality from trains and vehicles is important to maintaining stable moose populations at current levels.

We have agreed that both ARR and the Alaska Department of Fish and Game (ADF&G) must work together closely to significantly reduce the loss of moose. Summarized below are the potential solutions we discussed and agreed to.

Short-term solutions mutually agreed to by both parties:

1. Pilot cars (chase cars) will precede north and south bound trains. The pilot cars will operate principally between Wasilla and Talkeetna, but extending operations to other areas should be considered, if necessary, over the next two months.

3. A research and development (R&D) program is needed, and it may provide the best means to develop long-term solutions for reducing moose kills. The railroad will evaluate whether it can contribute money (perhaps \$50-100,000.00) to initiate a bonafide R&D effort, but it will also assist in soliciting funds from the state legislature or private groups. An R&D program should be implemented immediately given the existing conditions.

4. The department will work with the Division of Forestry and other agencies to enhance moose habitat in areas away from the ROW. However, implementation of this option is a very long-term solution (10-20 years), and this will not totally solve the problem. If successful, habitat enhancement will increase the number of moose overall and redistribute moose densities to other areas (lower moose densities in the ROW), but it will not eliminate moose from the ROW. Because moose habitually migrate between the mountains and low valleys each year, moose will continue to use and cross the ROW on a continuing basis, even if there is little food available in the immediate vicinity of the railroad ROW.

5. Although the railroad takes a dim view of designing a device for the front of the train engine that will increase moose salvageability (because they see potential problems with meeting their operational criteria and federal railroad regulations), they will help investigate this option if money and/or personnel are available.

6. Sonic devices tested in the past have not been very effective in scaring moose; however, a more exhaustive scientific test should be conducted to determine whether such devices hold any promise.

7. If funding for a 5-mile electric fence can be obtained, the fence should be tested under "natural" conditions to determine its effectiveness.

8. The department will consult with DOT officials about the possibility of reducing highway speed limits along some state roads, and of implementing winter road maintenance procedures that minimize "entrapment" of moose by high snow berms.

Solutions with no concensus or that are unlikely to work:

1. Putting out large numbers of salt blocks.
2. Constructing a "feeding fence" away from the ROW.
3. Use of special hunts to reduce moose numbers in ROW.

# ALASKA RAILROAD CORPORATION

P.O. Box 107500 • Anchorage, Alaska 99510-7500

February 14, 1990

Lewis Pamplin, Director  
Division of Wildlife Conservation  
333 Raspberry Road  
Anchorage, Alaska 99518-1599



Dear Lew,

Thank you for your letter of February 9 which reviewed our recent meeting about reducing moose mortality. I echo your sentiments that we have had a good working relationship in the past and hope this will continue as we work to resolve this issue. We appreciate your offer of personnel to assist us on various projects and will make those contacts directly as the need arises.

For the most part I agree with your synopsis of what we heard and agreed to last week; however, there are several areas where I believe clarification is needed. And, also, at your request, I will respond to your "additional" recommendations. It's probably best if I take each point as listed in your letter.

#### Short-term solutions:

1. Pilot cars: We're continuing this program and have begun to see increasing success when coupled with other methods of rousing moose off the tracks, such as the rubber tires between the tracks and the use of sirens on the pilot car. Right now we are using a hi-rail car primarily on the Wasilla/Talkeetna corridor because it continues to be the area of highest moose concentration. It appears that our hi-rail vehicles are the best vehicles for this program and we're outfitting several with sirens and noise-making shotgun rounds.
2. Schedules: Whenever possible we are running trains in both directions in bunches. The biggest impediments to this type of scheduling are availability of manpower and equipment, plus the constraints placed on us by safe operating practices and severe cold weather.
3. Moose trails: We're cutting these parallel trails now. However, it must be noted that it is not always feasible to plow parallel to the tracks because of streams, rock cuts and other topography.

Lewis Pamplin  
February 14, 1990

4. Perpendicular trails: This is one of those areas where we'll be calling on your department for further assistance in marking areas for perpendicular trails away from the plowed areas.
5. Engineer's authority: Technically, it is our train conductors who have control of our trains. They work in conjunction with the engineers to determine when it is safe and proper to move a train. Together they have the authority to slow or stop for moose and have been doing so as evidenced by our on-time record this winter which has been severely reduced because crews are stopping for moose. There have been no orders prohibiting slowing or stopping for wildlife.
6. Sirens: As I mentioned under pilot cars, we will be using hi-rail vehicles for this operation and are equipping several with sirens. We welcome your staff's input on the effectiveness of sirens on moose.
7. Rubber tires: When we first installed the tires, the moose walked up to the tires, got off the track and walked around the tires, then returned to the track. We have modified this now and have a row of upright tires running at right angles to the tracks on either side of the tires to guide moose away from the track. We're also cutting a path at right angle to the track where we have the tires so they'll have easier walking. This method continues to hold some promise and we'll keep you posted on our success.
8. Wing plowing: Our maintenance department continues to wing plow up to 20 feet on either side of centerline during snow removal. It must be noted, however, that despite the plowing moose continue to use our track because there is firmer footing.

Long-term solutions:

1. We'll continue our program of seeking a solution to reducing moose mortality on our tracks.
2. Later this year we will begin brushing our right of way in selected areas to remove attractive moose browse. This program could mean considerable expense to the railroad if continued on an annual basis. Therefore, wherever possible we're hopeful we can allow the trees and shrubs to mature in forest.
3. We'll continue to research and evaluate methods and ideas submitted to us for reducing the moose kills. We'll also work with your department to seek state funding for such a program.

Lewis Pamplin  
February 14, 1990

4. We have met with several organizations which are willing to work with your department to develop moose habitat away from the railroad right of way. We hope that an inter-agency program can be developed between your department and the Division of Forestry that would promote habitat enhancement. Wherever possible, the railroad would be willing to assist in such a project. With alternative food sources available, we believe there will be fewer moose stopping on our track.

5. Our mechanical engineer is reviewing methods to "soften" the impact of our locomotive coupling device upon moose in an effort to increase moose salvagability.

6. We welcome any input your staff may have on the effects of sonic devices on moose.

7. We support your idea for a test fence and will join forces with you to gain state funding for the project.

8. Any steps which can be taken to minimize moose kills on the highways is welcomed.

Solutions with no concensus or that are unlikely to work:

1. We'll defer to your department on the effectiveness of salt licks because that falls within your expertise.

2. Construction of a "food fence" is much like the loggers' proposal to develop or enhance moose habitat in the Susitna Valley. We continue to support proposals that will attract moose away from our right of way.

3. If it becomes obvious that a huge number of moose will die each year because there is no food for them, we support a special hunt to thin the herd rather than allowing them to starve or be killed by cars or trains as they search for food.

Additional recommendations:

1. Representatives from the three main departments within our operations division will be available to meet with your staff members to discuss recommendations and possible solutions to reduce moose mortality.

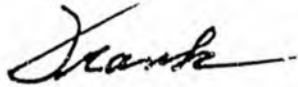
4

Lewis Pamplin  
February 14, 1990

2. Our maintenance department will research the possibility of using a hydro-ax for brush clearing.
3. If moose kills north of Talkeetna are not reduced, we'll consider running our pilot car farther north.

I hope this lengthy letter shows our continued support for reducing the number of moose kills on the Alaska Railroad. We'll continue to work with you and your staff for solutions to this problem.

Sincerely,



F. G. Turpin  
President and CEO

cc: Don Collinsworth, Commissioner, ADF&G  
Arnold T. Polanchek, Vice President, Operations, ARRC

Steve Cowper

4

February 5, 1990

improve the salvageability of struck moose. The railroad has not yet pursued this option.

- \* Through the cooperation of the Department of Public Safety, a computerized database on road-killed moose has been developed to identify road sections with high kill rates. Problem road areas can be evaluated in terms of remedial actions such as fencing, brush clearing, traffic speed control, and eliminating the use of salt in road sanding.
- \* In the past, the department has discouraged supplemental winter feeding of moose. Supplemental feeding as a means of significantly ameliorating the effects of severe winters on large numbers of moose is generally cost-prohibitive and ineffective.

#### Possible Short-term solutions

The following "short-term" solutions could be implemented immediately to help moose survive the winter.

#### 1. Railroad Right-of-Way

- a. A pilot car (chase car) should precede every train through the high kill zone. Pilot cars could chase many vulnerable moose off the tracks before the train arrives, and moose would likely stay off the tracks for some time, especially in areas with plowed trails adjacent to the tracks. Estimated cost: 42.0
- b. Plow trails parallel to and on both sides of the track in the high kill zone (milepost 175-260). Moose moving to the railroad ROW would encounter plowed trails first and would likely use them instead of the railroad tracks. In addition, when a train approaches, moose would be more likely to leave the tracks if they had

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access to a plowed trail, rather than flounder in deep snow.

Estimated cost: 41.0

- c. Trails should also be plowed perpendicular to the tracks in areas where wintering moose density is high. Preferably, such trails should access feeding areas to encourage moose to move away from the railroad ROW.

Estimated cost: 6.0

- d. Use supplemental feed to attract and hold moose away from tracks. Supplemental feeding would enhance the effectiveness of trail systems in certain areas.

Estimated cost to feed 500 moose: 120.0

- e. Train engineers should have the authority to slow trains as conditions warrant, especially where they encounter groups of moose on the tracks.

Estimated cost: Unknown

## 2. Highways

- a. High snow berms should be cut down and perpendicular exit trails should be cut at regular intervals so that moose "trapped" in the highway corridor will be able to easily leave the highway. Where roads have been plowed only wide enough to allow "one way" traffic, escape trails should be plowed from the road and/or frequent pull-offs should be constructed to provide temporary resting places for moose.

Estimated cost: Unknown

## 3. Other Locations

- a. Where wintering moose density is high, create a network of plowed or packed trails to assist moose in reaching natural feeding areas.

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Estimated cost: 20.0

(Also possible with volunteers)

- b. Identify state, borough, and private lands where "near-term" timber harvests have been planned. Organize volunteers or hire people to periodically cut trees for moose browse. Cutting should be carefully controlled and confined to areas where numbers of moose are wintering in the vicinity.

Estimated cost: Volunteers

- c. In combination with a. and b. above, provide supplemental food at specific locations.

Estimated cost: 0.2/moose

- d. Purchase commercially prepared moose feed, and give it to people willing to distribute it to feeding sites. Recipients must comply with the department's criteria/recommendations on how supplemental feeding should be conducted. Estimated cost: 0.2/moose

Possible Long-term Solutions:

4. Alaska Railroad Operations

- a. If any short-term solutions prove highly successful, incorporate them into long-term operating plans.
- b. Clear all trees and shrubs in the railroad ROW, particularly between mileposts 170-270. Clearing should be repeated every 4-7 years to prevent regrowth of attractive winter food. Estimated Cost: 195.0
- c. Design a device for the front of the locomotive that will increase salvageability of moose that are struck