

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9653 SENATE RESOURCES

- Contractor, to National Audubon Society, as vertebrate expert on international expedition to Russian Arctic, summer 1991.
- Contractor, to National Audubon Society, to prepare environmental education materials on natural history of Beringia, 1991-92.
- Contractor, to U.S. Forest Service, on survey of mammals of the Homeshore area of Juneau Ranger District, 1991-92.
- Teacher, for U. Vermont Field Naturalist Program, graduate field course on Natural History of Glacier Bay, summers 1984-1994.
- Teacher, for Discovery Foundation, Environmental Education training for public school teachers, winters 1989-present.
- Teacher, University of Alaska, Southeast, June 1990-present, Summer Academy course on the Natural history of SE Alaska.
- Contractor, to Southeast Alaska Conservation Council, to assemble information on scientific and management significance of Southeast Alaskan caves, 1993.
- Contractor, to the City & Borough of Juneau, to provide a characterization of the mammal fauna of city watersheds, 1993.
- Contractor, to Gustavus Electric Co., to provide an environmental evaluation of the Kahtaheena River proposed hydro site, 1993-1994.
- Teacher of ecotourism guides and Park employees, Haines and Skagway areas, spring 1994-present.
- Contractor, for Klondike Gold Rush National Historical Park, 1994:
 - to evaluate potentials for impacts of park management actions and visitor use on plant and animal populations;
 - to prepare laypersons' summaries of recent USFS and USGS technical reports.
- Contractor, to University of Alaska American Russian Center, March 1995, to co-instruct an ecotourism workshop for Russian citizens.
- Teacher, Elderhostel, 1993 - present.
- Contractor, to Glacier Bay National Park,
 - May-July 1995, to participate in geological investigations accompanying an archaeological survey of Icy Strait.
 - January - March, 1996, to summarize glacial history for selected park watersheds.
- Contractor, to the USNPS Denver Service Center, July-December 1995, to provide an environmental survey of portions of the Gustavus, Bartlett Cove and Indian Point areas.
- Contractor, to Ch2M Hill, Inc., November 1995 - present, to provide environmental background on birds and mammals for a supplemental EIS on proposed AJ mine, Juneau.



changing lives through service to nature

Since 1957

March 27, 1997

Dear Senator Halford,

I want to express my support for the nomination of Greg Streveler to the Alaska Board of Game. I cannot think of a more qualified person to have in this position. I have known Greg for several years. His decisions and choices are made with the utmost integrity and his extensive knowledge of Alaska's natural history will be an invaluable source of information for the Board. It is my hope that the Alaska Legislature will confirm his nomination.

Sincerely,

Kristin M. Brown
 Kristin M. Brown
 National Marketing Coordinator

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Brad Meiklejohn
9850 Hiland Road
Eagle River, AK 99577
(907) 696-3472

Senator Rick Halford
State Capitol
Juneau, AK 99801

March 14, 1997

RE: GAME BOARD NOMINEE

Dear Senator Halford,

I am writing to ask you to support the nomination of Greg Streveler to the Board of Game. Greg Streveler is a remarkable man with a profound understanding of the natural world. He would be a great asset to the Board of Game.

Greg Streveler has immersed himself in Alaska in a way that is exceedingly rare. He has been living in Gustavus for the past 30 years, and during that time he has been studying the land around him. Greg has been carefully watching and intently thinking about the place he lives in. Greg is a scholar, but Greg's knowledge of his surroundings is not merely book learning. Greg has participated in the life surrounding him as a hunter, fisher, berry-gatherer, scientist, naturalist, guide, professor, and student.

In the summer of 1993 I had the pleasure of spending two months with Greg Streveler traveling through Glacier Bay by sea kayak. I was a botany graduate student in the University of Vermont's Field Naturalist Program, and Greg served as professor to our group of 5 students. The experience remains vivid in my memory. Greg did more than teach us during that two month period. He showed us how to learn from our surroundings. He helped us quiet our clamoring minds to really see, hear, feel, and understand the world around us. He helped us realize that some answers are revealed only through patient and careful observation.

Is Greg Streveler qualified to be on the Board of Game? My opinion is that Greg Streveler is qualified to be the Commissioner of Fish and Game, or the Secretary of Interior. Greg is an exceptional individual. He is thoughtful, he is moral, he is careful, he is kind, he is insightful. Greg is a model citizen and a hero to me. I think my heroes are qualified for anything.

Respectfully,



Brad Meiklejohn

UNIVERSITY OF NEW HAMPSHIRE

Complex Systems Research Center
Institute for the Study of
Earth, Oceans, and Space
Morse Hall
Durham, New Hampshire 03824-3525
(603) 862-1792
Fax: (603) 862-0188

Senator Rick Halford
Chairman, Senate Resources Committee
fax: 907-465-4928

Rep. Bill Hudson
Co-Chair, House Resources Committee
fax: 907-465-2273

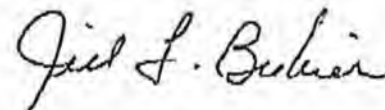
Rep. Scott Ogan
Co-Chair, House Resources Committee
fax: 907-564-3265

March 27, 1997

Dear Committee Chairs,

I am writing in support of the Governor of Alaska's nomination of Greg Strevler to the Board of Game. I worked with Greg as a biologist in Glacier Bay and was immensely impressed with his dedication and concern for Alaska's natural resources. He is an objective thinker and considers all sides of an issue before making a decision. Greg is an excellent teacher and communicates effectively to people of all backgrounds. Greg would be an asset to the Board of Game because of his intelligence, scientific background, knowledge of Alaska's natural resources, concern for people, and ability to communicate clearly. Please do not hesitate to contact me if you have any questions.

Sincerely,



Dr. Jill L. Bubier
Research Associate



ALASKA STATE LEGISLATURE

SENATE RESOURCES COMMITTEE

Official Business

State Capitol
Juneau, AK 99801

Chairman: Senator Rick Halford
Vice Chair: Senator Lyda Green
Senator Loren Lem
Senator Bert Sharp
Senator Robin Taylor
Senator John Torgerson
Senator Georgianna Lincoln

March 12, 1997

The Honorable Mike Miller
President of the Senate
State Capitol
Juneau, Alaska 99801-1182

Dear Mr. President,

In accordance with AS 39.05.080, the Senate Resources Committee reviewed the following with regard to confirmation of the Governor's appointment:

BOARD OF GAME:

Nicole Whittington-Evans - Palmer

Respectfully,

Senator Halford, Chairman

Senator Green

Senator Lemman

Senator Sharp

Senator Taylor

Senator Torgerson

Senator Lincoln

1-2

Nicole Whittington-Evans
HC02 Box 7019A
Palmer, AK 99645
(907) 746-7019

Education: University of Montana, Missoula, MT; Master of Science in Environmental Studies: Wildlife Conservation and Policy emphasis, December 1996;

University of Pennsylvania, Philadelphia, PA; Bachelor of Arts in English, Minor in Music, December 1984;

Honors: University Scholars Student, Bessie Bodek Award in Music (U. of P.);

Committee, Team and Board experiences:

Anchorage Fish and Game Advisory Committee, 1995 to present;

represent conservation and tourism interests on diverse, 17-member committee, which includes sport hunting, trapping, commercial and sport fishing, guiding and lodge-owner interest;

Alaska Wilderness Recreation and Tourism Association (AWRTA), member Board of Directors, 1995 to present, Represent AWRTA on:

Fortymile Caribou Herd Planning Team;
ADF&G Watchable Wildlife Committee;

Work History:

Alaska Center for the Environment, Western Gulf Coordinator, Alaska Rainforest Campaign, Anchorage, AK, September 1995 to present;

supervise and coordinate community organizing and support in southcentral Alaska; outreach to tourism, recreation, fishing, hunting, and other community members and groups;

1994 Anchorage Sea Kayaking Symposium, Coordinator, Alaska Pacific University, Anchorage, AK, 1993 - 1994:

organized and supervised flow of Symposium; coordinated, worked with and answered to a nine member committee;

Alaska Wildland Adventures, Natural History Guide, Cooper Landing, AK, summer 1993:

lead ten-day natural history tours of Kenai Peninsula through Denali National Park; performed as raft guide on Kenai river and day-hiking guide on Kenai Peninsula and through Kantishna hills;

The Alaska Wildlife Alliance, Executive Director, Anchorage, AK, 1992 - 1993:
answered to Board of Directors; carried responsibility for operation of the Alaska Wildlife Alliance; supervised all staff activities; spoke at panels, workshops and symposiums; worked with variety of wildlife-interest groups, including hunting and native organizations;

Wilderness and Civilization Program, Graduate Teaching Assistant, School of Forestry, University of Montana, September 1991 - May 1992:
taught and facilitated two Forestry courses on wilderness, ecosystem and wildlife issues; organized lecture series; lead two ten-day backcountry treks; arranged retreat and weekend field trips; coordinated and ran faculty meetings; acted as student/faculty liaison;

National Outdoor Leadership School (NOLS), Mountaineering and Backpacking Course Leader, Senior Staff: Winter Certified, Wyoming and Alaska, 1987 - 1995;
lead one month expeditions; taught: minimum impact backpacking; natural history; rock, snow and ice climbing; first aid; safety and hazard evaluation; skiing and bear camping skills; coordinated rations, equipment, route and re-supply logistics;

NOLS, Assistant Marketing Director and Admissions Officer, Lander, WY, 1986 - 1987:
wrote, solicited and edited articles; sold advertising; designed copy layout; oversaw printing operations; corresponded NOLS course information to prospective students over phone and in writing; reviewed applications; presented slide shows and spoke publicly about school curriculum and mission; interviewed and awarded scholarship candidates;

Mountaineering Experience:

Denali, AK (el. 20,320') -- participated in three-member NOLS instructor team which lead group to summit of Denali via Muldrow Glacier route, 1995; member of first woman's expedition to traverse and summit via West Buttress to Muldrow route, 1988;

Aconcagua, Argentina (el. 23,000') -- member of successful summit team, 1985;

Resource Use:

My husband and I fish when we can and use fish as a food source throughout the year. While we do not currently hunt, we are not opposed to hunting. We acknowledge that if we lived in a remote area we would hunt to subsist. We eat wild game meat when it is made available to us.

References:

Available upon request.

My name is Bob Churchill and I am the Chair of the Anchorage Fish & Game Advisory Committee. This committee has 15 regular members and two alternates which are elected by public vote, 16 of which are currently filled. Our function is to represent all the users of fish and game in our area of responsibility. Currently the committee has 11 of the 12 user groups as defined by the Alaska Department of Fish & Game sitting on the committee. We meet 12 to 15 times per year and review such things as management plans, proposals, land use plans which effect the resources on our area. Included in our membership are 10 individuals who list hunting as one of their primary user groups and two who list trapping, both of which actively trap each season.

Our committee voted unanimously to endorse Nicole Evans to be on the Board of Game in our advisory meeting of February 18th. As the Chair, I sent each member of the House and Senate Resources committee a letter dated February 23 stating our support for Ms. Evans. I, as well as, many members of the Advisory Committee are deeply disturbed at the things we read in the press and heard from our friends and acquaintances in the hunting and trapping communities. The most disturbing is the allegation that Ms. Evans is anti hunting and trapping. Based on the two years I have worked with her on the AC nothing could be further from the truth. Ms. Evans has been an active and productive participant on our deliberations on all issues, including consumptive use of fish and game, trapping included. She has consistently voted for increased opportunity for hunting and trapping when it supported from a biological perspective. In addition, she has added a depth of knowledge for us on habitat issues, allowing us to make more informed decisions about how we can protect and enhance fish and game populations. Our committee has always tried to keep in mind that without a healthy resource, allocation becomes a very hollow issue.

In addition, Ms. Evans comes to both the game subcommittee and full advisory committee meetings well prepared. She researches the issues and provides good information as it relates to the issue being considered. Her depth of experience has been invaluable to us. She has developed a good knowledge of these issues both by studying available information and talking with people actively involved. She is an individual who does not allow her background to limit her, but instead uses it as a point of strength which she builds on. Our advisory committee has been very active in issues such as predator control and advocating for a moose hunt in the Anchorage Bowl. Ms. Evans has been a part of the deliberations in constructing our proposal for an moose hunt in the Anchorage Bowl and has been an advocate for it.

Another benefit I feel we have had by Ms. Evans being on our AC is that she brings a great deal of credibility with those individuals in the environmental community. This is a time when hunters and trappers are becoming a smaller part of the populations and we need to began building bridges with all major groups who actively use our fish and game resources, not walls.

I ask that you not only consider, but support Ms. Evans for membership on the Board of Game. Not just because she is a good candidate who has demonstrated her ability to be effective in this type of forum, but because I feel it will advance the interests of those of us who hunter and trap throughout Alaska.

Thanks you for your time.

Victor M. Palmer
P.O. Box 542
Haines, Alaska 99827

3/11/97

Senator Rick Halford, Chair
Senate Resources Committee
State Capitol, Juneau, AK 99811
Room 121

Dear Senator Halford;

I am concerned about recommendation of Ms. Nicole Evans for confirmation to the Alaska Game Board.

Due to Ms. Evans' well known radical stance on issues concerning animal rights, it seems that it would not be possible for her to adhere to anything even close to "best management practices" opinions. Such a mentality has no place in resource management at any level.

I protest the appointment and consideration of approval for confirmation of Ms. Evans to the Alaska Game Board.

Trusting in and respecting your wise decisions as always.

Thank you for your time.

Sincerely;


Victor Palmer

3-13-97

TO SENATOR RICK HALFORD CHAIR

DEAR MR. HALFORD

I'M URGING THE SENATE RESOURCE COMMITTEE
NOT TO APPOINT NICOLE EVANS TO THE BOARD
OF GAME. YOU WOULD BE DEFEATING THE PURPOSE
OF THE BOARD TO APPOINT SOMEONE WITH HER BELIEFS.
PLEASE USE COMMON SENSE ON THIS MATTER.

THANK YOU *Fred Folletti*
FRED FOLLETTI
BOX 145
HAIVES AK. 99827
PH 907 766-3535
FAX 907-766-3090

Attn: Resources Committee:
To Honorable Chairman Senator Rick Halford,
Committee Members

Subj: Nomination Nicole Evans:

It has come to my attention that Nicole Evans has been nominated for a position on the Board of Game . I believe to be a member of this board, members should have an understanding of and be willing to manage the game resources through , Hunting and Subsistance use.

It is my understanding that Nicole Evans, has in the past participated with actions of the Alaska Wildlife Alliance, a group which opposes Hunting, Sporting or Subsistance. With a past history such as this,if true; I am OPPOSED to the nomination of Nicole Evans as a member of the Board of Game, and I ask you to consider these idea's when you make your recommendation.

Thank you for your time,
Larry Zehe
Box 217 Haines, Ak.

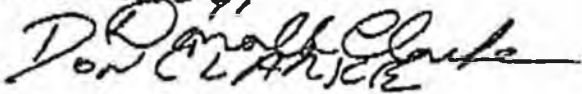
FAX-465-4928
 SENATOR RICK HALFORD - CHAIRMAN
 SENATE RESOURCES COMMITTEE
 BOARD OF GAME APPOINTMENTS

I WOULD LIKE TO ADDRESS THE FOLLOWING
 COMMENTS TO THE ENTIRE COMMITTEE.

NICOLE WHITTINGTON-EVANS IS BEING CONSIDERED
 FOR THE BOARD. IT IS MY BELIEF THAT MS. EVANS
 MAY NOT BE THE PERSON ABLE TO OBJECTIVELY
 DEAL WITH TOPICS ON HUNTING REGULATIONS
 AND PROPER PUBLIC USE OF OUR WILDLIFE
 RESOURCES.

MS. EVANS HAS TO BE COMMENDED FOR HER
 WORK ON THE 40 MILE CARIBOU HERD MANAGEMENT
 PLANNING TEAM. I STRONGLY AND FIRMLY DO
 NOT BELIEVE AURITA AND THE ALASKA WILDLIFE
 ALLIANCE FOR WHOM SHE IS PRESENTLY OR
 A PAST MEMBER IS A QUALIFIED PERSON FOR
 OUR BOARD OF GAME.

I WISH TO THANK YOU FOR THE OPPORTUNITY
 TO EXPRESS MY VIEWS.

SINCERELY,

 DON CLARENCE
 HAINES, AK. 99827
 907-766-2086

Post-It™ brand fax transmittal memo 7671		# of pages • 1
To: <i>SPS</i>	From: <i>YORAL LID</i>	
Co: <i>TESTIMONY ON BOARD OF GAME</i>	Co: <i>GAME</i>	
Dept:	Phone #	
Fax #	Fax #	

TO: Kenai L.I.O.
 FROM: Jerry Brookman
 715 Muir Avenue
 Kenai Alaska 99611
 Telephone 907-283-9329
 FAX 907-283-7180

DATE: March 8th, 1997

IF POSSIBLE, PLEASE FAX THE FOLLOWING MESSAGE TO ALL MEMBERS OF THE STATE SENATE AND HOUSE OF REPRESENTATIVES. THANKS!

I would like to urge the confirmation of Nicole Whittington-Evans to one of the vacant seats on the Board of Game.

I've lived in Alaska since 1957, and have killed four moose, two brown bears, two deer, and two brown bears, as well as numerous ducks, geese, spruce grouse, and ptarmigan. I've never trapped, myself, but my father trapped from around the age of ten until around the age of eighty; during the depression years, he was lucky enough not to lose his job, but his working hours were cut back from 40 to 24, which just kept a roof over our heads and food on the table. Any "luxuries" were paid for with money from the sale of the animals he trapped. (This was in Northern Illinois.) So I'm certainly not a "bunny hugger", one of those wackos who would like to ban all hunting or trapping. However, I do believe that the Board of Game is badly in need of balance, and I believe that the appointment of Nicole Whittington-Evans to that body would be a great improvement over what we have now and have had in the past.

Sincerely,

Jerry Brookman

FEB 26 1

**Anchorage Fish & Game
Advisory Committee**

3415 Wentworth
Anchorage Alaska 99508

February 23, 1997

The Honorable Rick Halford
Chairman, Senate Resources Committee
Alaska State Senate
State Capitol
Juneau Alaska 99801-1182

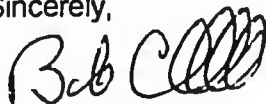
Dear Senator Halford:

As Chair of the Anchorage Fish & Game Advisory Committee, I am writing you to express my support for the appointment of Nicole Whittington-Evans to the Board of Game. Our Advisory Committee has 17 members, mostly composed of hunters, trappers, guides, and fishers (sports and commercial) who as a group are primary users of the resource in 11 of the 12 categories defined by the Alaska Department of Fish and game for representation on local Fish and Game Advisory Committees. We are an active committee who meets regularly on fish, game and related issues, averaging approximately 12 to 15 meetings per year. Each member of the Advisory Committee is elected by the public and Nicole has served for approximately two years. During that time she has become a valued part of the committee and has gained the respect of the committee as a whole. **This was demonstrated at our Advisory Committee meeting on Tuesday night when the members present voted unanimously to support her appointment to the Board of Game.**

I have worked closely with Nicole both in individual and group situations on issues such as predator control, fish & game management, hunting, trapping, sport fishing and commercial fishing. She is able to deal effectively with these and related issues. Nicole thoroughly reviews the materials in preparation for these meetings and often seeks out additional information. She makes a sincere effort to understand the opinion of others and has been supportive of proposals that are biologically sound. In my opinion her high level of credibility with those in the environmental community has been very beneficial to us and gives us more credibility as a committee.

I believe Nicole will be an outstanding member of the Board of Game who will contribute to it as a member, give credibility to it's decisions with those in the environmental community, and help it to deal with the issues we all will be facing in the future as it relates to the management and use of our fish and game resources. I would appreciate it if you would include this letter for the Committee record and the distribution of this letter to the member of the Senate Resources Committee.

Sincerely,



Bob Churchill

Testimony to
Senate Resources Committee
on
Board of Game Appointments

submitted by
Dick Burley
1165 Coppet St.
Fairbanks, Alaska
907-474-0188

I attended the confirmation hearings the House Resources Committee held earlier and would like to make the following written comments on several of the appointees that you are asked to confirm.

I would ask that you DO NOT confirm Nicole Whittington-Evans.

During her opening statement to the House Resources Committee she neglected to say that she had been the executive director of the Alaska Wildlife Alliance.

During the questions the Committee asked, Nicole indicated that the Alliance was "not" anti-hunting, she also indicated that she had been in Alaska in 1989 acting as a wilderness guide and observed "Hunters in the field" which made a lasting impression on her.

Nicole returned to Alaska and became the executive director of the Alaska Wildlife Alliance. I am sure that she passed the litmus test given by the Alliance Board which showed that she would represent their views, which I believe she shares.

I just completed two terms -six years- on the Alaska Board of Game (BOG) and would like to offer my impression of the Wildlife Alliance and the statement that they are not "anti-hunting."

During the past six years the Alliance authored numerous proposals which the BOG considered, they also submitted written comments on hundreds of proposals that members of the public and Department of Fish and Game submitted for consideration, additionally the Alliance provided oral testimony to the BOG at each meeting on proposals being considered for regulatory action.

For six years the Wildlife Alliance was consistent with written and oral testimony...they opposed all proposals that would increase seasons, bag limits and expand opportunities to hunt or trap. The Alliance submitted numerous proposals to close areas for hunting and trapping, reduce bag limits for hunting and trapping and restrict opportunities for consumptive use. The Alliance submitted written and oral testimony to the BOG to support the closing of numerous areas, to reduce seasons and bag limits for hunting and trapping.

During my six years on the BOG the Alaska Wildlife Alliance never wavered, they did everything they could do to restrict hunting and trapping opportunities. As executive director Nicole carried their banner high, her testimony today should leave no doubt in your minds if she supports active resource management.

I wonder if Nicole's experience in 1989 motivated her to move to Alaska and go to work for the Alaska Wildlife Alliance to help try and eliminate hunting.

Nichole was selected to represent an organization which thinks nothing of lying or distorting information. They proved this when they co-sponsored Ballot Initiative 3 and obtained support thru lies and false information. In my opinion, Nichole chose to work for a very dedicated anti-hunting organization. She passed their litmus test and does not have any place on the BOG pushing an anti-hunting agenda.

Please DO NOT confirm Nicole Whitting-Evans to the Board of Game.

The BOG meeting in Sitka November 1996, my last one, was the first meeting Michael Fleagle attended as a member. I feel that Michael has the qualities that will allow him to be an excellent BOG member.

Please CONFIRM Michael Fleagle to the BOG.

Thank you for the opportunity to submit these written comments.

ALBERT W. FRANZMANN, D.V.M., PH.D.
POST OFFICE BOX 666
SOLDOTNA, ALASKA 99669
TELEPHONE (907) 262-4107

25 February 1997

To whom it may concern:

Governor Knowles recent^{ly} appointed Nicole Whittington-Evans to the Board of Game. This appointment bewildered me because of my experience with her and the Alaska Wildlife Alliance that she represented as executive director. I was a member of the Board of Game from 1992 to 1995 and had the opportunity to be exposed to their views on wildlife utilization.

I cannot recall a single instance where the Alliance proposed or supported a proposal that would provide beneficial use for Alaskan hunters or trappers. On the other hand they proposed or supported nearly every proposal that would disenfranchise them. When the executive director of the Alliance would testify before the Board of Game it became predictable which proposals they would support or oppose. I was always amazed by their opening statement which resembled - we aren't opposed to hunting and trapping, but_____.

I once asked Ms. Whittington-Evans if she supported the World Conservation Strategy outlined by the International Union for the Conservation of Nature and she sidestepped the question. I assume because one of the three main principles states: "sustainable utilization of species and ecosystems". This strategy was supported by 600 worldwide conservation groups and 118 countries and essentially represents a blueprint for survival of man and nature on planet earth.

Based on my experience on the Board of Game, it is a slap in the face to those who believe in sound wildlife management principles to appoint someone to the Board of Game that has a philosophy as demonstrated by Nicole Whittington-Evans when she represented and spoke for the Alaska Wildlife Alliance.



Albert W. Franzmann

APR 30 1997



2904 W. 31st Avenue Anchorage, Alaska 99517

(907)248-0400 Toll Free: 1-800-365-7057 Fax (907)248-0409

April 26, 1997

The Honorable Rick Halford
Alaska State House of Representatives
State Capitol
Juneau, AK 99801-1182

Dear Senator Halford,

As the director of Adventure Alaska Tours and a long time Alaskan resident, I write in support of Nicole Whittington-Evans for appointment to the Board of Game. Having had both professional and personal association with Nicole, I am convinced that she would be a most valuable asset to any decision making process, as she is extremely objective in her fact gathering and balanced in her conclusions. Her recent portrayal by opponents of her appointment as a conservation-only candidate, is a gross misrepresentation of her past work. Her approach to contentious issues has always been one of doing her utmost to balance the different interests.

As an organization deriving its sole livelihood from the visitor industry, as do those Alaskans that we employ, we feel that the Board of Game should be representative of the interests of the entire state. We are by no means against the consumptive use of game but believe that there are indeed other "uses" equally valid and that a cross section of voices should be part of any policy or decision making body. Just as hunting both sport and subsistence are a great part of Alaska's uniqueness, so is the opportunity for the local or visitor to experience our wildlife resources in their personally chosen fashion. To mandate a Board of Game that views only one side of the issue is an affront to the public process and the Alaska Statute that created it. We ask that your decision on this issue take into account the many and diverse voices of the voting public. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Bureau".

Todd Bureau
Director

cc: Governor's Office

3/17/97

9:08 a.m.

Phone call expressing a public opinion on a B.O.G. nominee. (No reply necessary, per the caller)

Bob Alvord (Big Lake) called to express his opinions about one of the Board of Game appointees (Ms. W-Evans). He said "We don't need a professional environmentalist on the Board." He further stated that "...we don't need enviro-politics entering the Board of Game."

ALBERT W. FRANZMANN, D.V.M., PH.D.
POST OFFICE BOX 666
SOLDOTNA, ALASKA 99669
TELEPHONE (907) 262-4107

25 February 1997

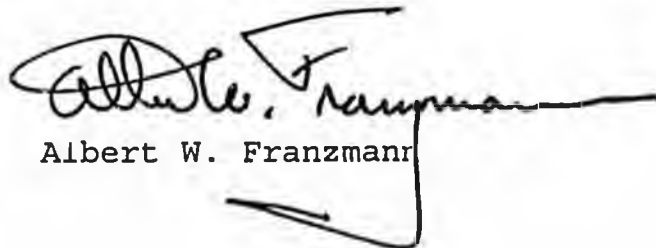
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Albert W. Franzmann



Marine Adventure Sailing Tours FAX

Andrew M. Spear 945 Fritz Cove Road, Juneau Alaska 99801	
Phone 907/789-0919	e-mail mast@alaska.net
Fax 907/789-5505	Web http://alaska.net/~mast

To: Senator Rick Halford

Company: _____

Phone: _____

Fax: 465-4928

Date: 5/5/97

Pages: 1

MESSAGE:

This message is in support of the "Teaming with Wildlife Proposal" and the confirmation of a "Non-Consumptive Use" representative on the board of game: Nicole Whittington Evans.

I will not take your valuable time and repeat all of the arguments that you have already heard, but simply tell you who I am (and who you are representing) and why I support these measures.

I have been offering "Adventure" tours in Southeastern Alaska and other parts of the world for 15 years and have lived in Alaska for nearly 30. Although once an avid hunter, in that time, I have given up hunting anything I won't eat, and I oppose "trophy" hunting altogether. I need those trees, bears and other wildlife in the vertical position in order to show folks what they look like "in the wild".

I used to be a member of a multi-agency (ADF&G, USF&W, Parks, USFS, etc.) and industry group who worked on the development of non-consumptive uses of our wildlife. I support the reinstatement of a similar group and the principals it embodied. Because our state's economic base is becoming more dependent on the repeated use of our wildlife this type of inter-government/private sector cooperation is essential to the future of Alaska.

Thank you for your time and your support of the non-consumptive uses of our valuable wildlife.

Sender :

Rick Halford

I oppose the appointment of "Nicloe Whittington-Evans" to the Board of Game.
I think just being in Alaska since 1992 is to short of a time to know the over all problems
the Fish & Game have in managing the Fish and Game.

Betty Rodfern

Betty Rodfern

4640 Dale Rd.

Fairbanks, Alaska 99709

(907) 479-6732

3-6-1997

CONFIRM.:

**BOARD
OF MARINE
PILOTS**



Official Business

ALASKA STATE LEGISLATURE

SENATE RESOURCES COMMITTEE

State Capitol
Juneau, AK 99801

Chairman: Senator Rick Halford
Vice Chair: Senator Lyda Green
Senator Loren Lemman
Senator Bert Sharp
Senator Robin Taylor
Senator John Torgerson
Senator Georgianna Lincoln

February 25, 1998

The Honorable Mike Miller
President of the Senate
State Capitol
Juneau, Alaska 99801-1182

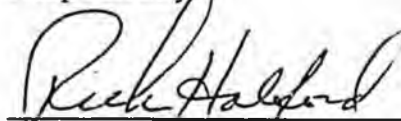
Dear Mr. President,

In accordance with AS 39.05.080, the Senate Resources Committee reviewed the following with regard to confirmation of the Governor's appointment:


BOARD OF MARINE PILOTS:

Peter S. Garay - Homer


Respectfully,



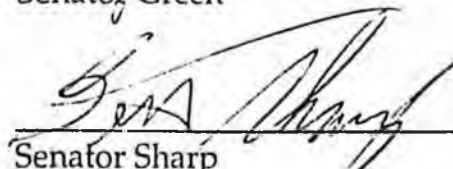
Senator Halford, Chairman



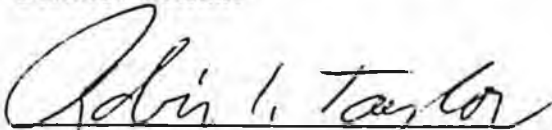
Senator Green



Senator Lemman




Senator Sharp



Senator Taylor

Senator Torgerson



Senator Lincoln



ALASKA STATE LEGISLATURE

SENATE RESOURCES COMMITTEE

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State Capitol
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Chairman: Senator Rick Halford
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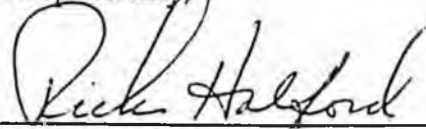
Dear Mr. President,

In accordance with AS 39.05.080, the Senate Resources Committee reviewed the following with regard to confirmation of the Governor's appointment:

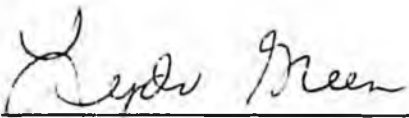
BOARD OF MARINE PILOTS:

Michael N. White - Anchorage

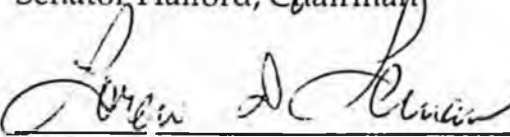
Respectfully,



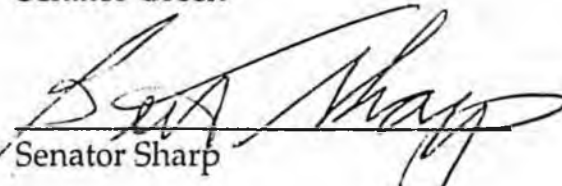
Senator Halford, Chairman



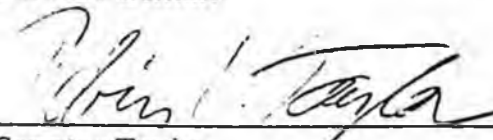
Senator Green



Senator Leman




Senator Sharp



Senator Taylor

Senator Torgerson



Senator Lincoln

Peter S. Garay
P. O. Box 2653
Homer, Alaska 99603

#1
Phone: (907) 235-2150
Fax: (907) 235-5929

Resume of Qualifications

OBJECTIVE

A challenging position that utilizes my experience, education and abilities.

QUALIFICATIONS

Masters Unlimited License.
Federal/State Pilot for Western Alaska.
Federal Pilot Columbia River Sea buoy to Portland, Oregon.
Federal Pilot Port Hueneme and approaches.

PROFESSIONAL EXPERIENCE

- 1991 - Present **PILOT**, Alaska Marine Pilots
Pilot of vessels in 15 major ports in Western Alaska, Region III.
- 1990- 1991 **MASTER**, Profish International
Master of *S/S Ocean Phoenix* (converted C-6 container ship).
Largest at-sea fish process vessel in the United States at 689 ft.
with seven departments and 200 crew. Area of operations Bering
Sea.
- 1989- 1990 **CHIEF MATE**, Liberty Maritime
Chief Mate aboard Panamax-Class bulk carriers providing
worldwide charter service.
- 1988- 1989 **CHIEF MATE**, Interocean Management Corporation
Chief Mate aboard *S/S Curtiss*. *The Curtiss* is part of MARADS
ready reserve fleet.
- 1987 **SECOND MATE**, Keystone Shipping Company
Second Mate aboard VLCC Atigun Pass and Keystone Canyon.
- 1983-1986 **SECOND MATE**, U. S. Army Corps of Engineers
Second Mate aboard ocean-going hopper dredges Yaquina and
Essayons, along the West Coast.
- 1980- 1982 **THIRD MATE**, Master Mates and Pilots
Various temporary dispatch assignments aboard coastal tankers
and container ships along the West Coast.

Peter S. Garay

Resume of Qualifications - Page Two

EDUCATION

CALIFORNIA MARITIME ACADEMY, 1976 - 1980
Graduated with Third Mate, Unlimited License and
B.S. Nautical Industrial Technology.

LINFIELD COLLEGE, Oregon, 1972 -1976
Bachelor of Arts Degree in Political Science.

SPECIAL TRAINING

Marine Safety International Ship Simulator, Newport, Rhode
Island. Manned model ship handling school, South Hampton,
England. Tanker simulator with COW/IGS certifications.
Extensive fire fighting and damage control training.

AFFILIATIONS

Member, American Pilots Association
Member, The Nautical Institute

PERSONAL

Age: 40
Health: Good
Marital Status: Married/3 children

REFERENCES

Full trade and personal references furnished upon request.

#1

MICHAEL N. WHITE
1300 W. 7TH AVE. #201
ANCHORAGE, ALASKA 99501

RESUME'

Education:

- 1976: B.A. University of California, Berkeley, California
1979: J.D. Northeastern University School of Law, Boston,
Massachusetts

Professional:

- 1979: Assistant District Attorney, State of Alaska
Department of Law. Assigned to Kenai and
Anchorage offices.
- 1980-1982: District Attorney, Second Judicial District,
State of Alaska Department of Law. District
Attorney for Nome, Kotzebue and the Norton Sound
region.
- 1982-1984: District Attorney, Palmer, Alaska, State of
Alaska Department of Law. District Attorney for
the Mat-Su Valley to Glenallen and Valdez.
- 1985-1987: Judge of the District Court, State of Alaska
Court System, Anchorage, Alaska.
- 1987-1992: Associate, then partner, Preston, Thorgrimson,
Shidler, Gates and Ellis, Anchorage, Alaska.
- 1993-Present: Partner, Friedman, Rubin & White, Anchorage,
Alaska.

Personal: 43 years old, married to Elizabeth White, two
children, Jennifer (14 years old) and Steven (11 years old).

OVERSIGHT

HEARING:

FIBER OPTIC

RIGHTS-OF-

WAY

FIBER OPTIC RIGHTS-OF-WAY LEGISLATIVE COMMUNICATION

- 2/23/98 Letter to Commissioner John Shively from Senators Sharp and Pearce and Representatives Hanley and Therriault urging prompt processing of pending right-of-way applications under existing standards and in a manner the department has historically priced such usage.
- 3/11/98 Letter to Finance Cochairs from Governor agreeing with the use of existing standards and historically used pricing methods based on fairness and predictability, current land values, fostering of competition and business in Alaska and conformance with the federal Telecommunications Act of 1996.
- The Governor strongly urged the Legislature to hold public hearings to review rights-of-way policies and stated intention to withhold action on pending applications until April 24; thereafter, he would proceed unless the Legislature passed legislation or clearly indicated its desire to alter current policies.
- 3/23/98 Hearing held by House Special Committee on Telecommunications. After review of current rights-of-way laws and policies, committee stated intention not to take any further action and made no recommendations to the Administration.
- 4/6/98 Letter from Speaker Phillips to Governor urging equal treatment for all competing fiber optic proposals and urging Governor to not issue permits under the pricing methodology set forth by the Governor in his 3/11/98 letter to the Finance Cochairs.
- 4/15/98 Letter to Speaker Phillips from Governor clarifying differences in statutes and policies between various state agencies and entities, reiterating the compliance of the Governor's approach with the federal act and encouraging the Legislature to take legislative action if there was a desire for a single rate for state rights-of-way.
- 4/24/98 Letter to Speaker Phillips from Governor regarding "Sense of the House" motion, again urging formal legislative action, and reiterating his public policy objectives: 1) Quality telecommunications service at lowest price, 2) Establish state policy through an open public process, and 3) promote development of telecommunications infrastructure.

TONY KNOWLES
GOVERNOR

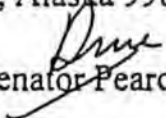


P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3532

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 11, 1998

The Honorable Senators Drue Pearce, Bert Sharp,
The Honorable Representatives Mark Hanley and Gene Therriault
Alaska State Legislature
State Capitol Building
Juneau, Alaska 99801-1182


Dear Senator Pearce:

My administration has been reviewing our approach to granting rights-of-way across state land for fiber-optic projects. This is a rapidly growing issue in today's age of technology and I welcome legislative involvement.

Your letter of February 23 to Commissioner John Shively urges the administration to promptly consider pending requests for rights-of-way across state land for fiber-optic projects under existing standards and historically used pricing methods. I agree. This approach makes sense from several standpoints:

- Several right-of-way applications have been submitted and under consideration for months. Telecommunication companies have assumed rights-of-way would be granted under the state's longstanding policies in this area. Maintaining these current policies would ensure fairness and predictability in state governmental actions.
- The current process accurately reflects present right-of-way land value estimates.
- The current approach recognizes the value of providing state lands for infrastructure development that benefits many Alaskans and Alaska businesses.
- The current process provides for competition through reasonable rates and non-exclusive rights-of-way.
- The current process meets the terms of the federal Telecommunications Act of 1996 that provide that barriers not be created to competitive entry; that rights-of-way actions be competitively neutral and non-discriminatory; and that compensation for rights-of-way be fair and reasonable.

March 11, 1998

Page 2

The procedure we would continue to use for most state lands, including submerged lands, is authorized in AS 38.05.850. It requires the Department of Natural Resources (DNR) to establish a reasonable rate or fee schedule which is contained in regulation (11 AAC 05.010(e)). The fee for a non-exclusive private right-of-way is an annual rent of \$100 per acre, or six cents per linear foot based on an average right-of-way width of 25 feet. For certain high-value lands such as designated state park lands we could require a different fee structure for a special park use permit to reflect the higher land values and mitigation involved in crossing park lands.

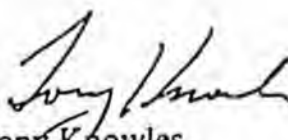
DNR current regulations could also allow the State to value the right-of-way based on its use. DNR estimates that this method would result in a higher fee.

I believe choosing the lower fee is consistent with state policy to encourage development of important infrastructures for Alaska. The expansion of fiber optic capacity will be a vital component in building a 21st century economy.

Balancing maximum revenues with the compelling public interest in making rights-of-way available and promoting infrastructure growth presents a significant public policy issue. For this reason, I strongly urge the legislature to hold public hearings to review the leasing and permitting of rights-of-way across state lands.

I plan to withhold action on the pending applications until after April 24 in order to give the legislature proper time for a review of the right-of-way process. Unless the legislature passes legislation or clearly indicates its desire to alter the current rights-of-way policy, we would take action on the pending applications using the current procedures after that date.

Sincerely,


Tony Knowles
Governor

cc: President Mike Miller
Speaker Gail Phillips
Rep. Brian Porter, Chair Special House Committee on Telecommunications

HOUSE SPECIAL COMMITTEE ON TELECOMMUNICATIONS

March 23, 1998

4:06 p.m.

COMMITTEE CALENDAR

STATE RIGHT-OF-WAY ACCESS FOR FIBER OPTIC PROJECTS

TAPE(S)

98-3, SIDES A & B

98-4, SIDE A

CALL TO ORDER

Representative Porter, Chairman, convened the overview session of the House Special Committee on Telecommunications at 4:06 p.m.

PRESENT

Committee members present at the call to order were Representatives Porter, Berkowitz, Dyson, James and Ivan. Representative Kemplen was also in attendance.

SUMMARY OF INFORMATION

JOHN SHIVELY, Commissioner, Department of Natural Resources (DNR), talked about the state's responsibilities for leasing fiber optic rights-of-way as being divided among six state entities: DNR lands, state parks, DOT/PF, Alaska Railroad, University of Alaska and the Mental Health Trust.

JOHN AYERS, President, e'Net Limited, discussed fair pricing for right-of-way access on state land.

KIM JACOBS, Director, World Net Communications, Inc., addressed concerns regarding the 47-cents-per-linear-foot price his company has been and is paying for access with the egregiously low 6-cents-per-linear-foot price being currently suggested.

MARK FOSTER, President, ATU Long-Distance, Inc., feels access to rights-of-way for fiber optic cable should be fair and consistent.

KEN LANCASTER, President, Alaska Rural Electric Cooperative Association (ARECA), read ARECA's resolution opposing fees for utility use of rights-of-way.

TOM WALDOCK, Administration, Enstar Natural Gas Company, believes it is vitally important for the state's fee schedule to be reasonable, predictable and consistent for all utilities.

JOHN JENSEN, Right-of-Way Agent, Department of Transportation and Public Facilities (DOT/PF), gave an overview of DOT/PF's fee policy structure.

JAMES ROWE, Director, Alaska Telephone Association, hopes for local companies, essentially separate, to be fiber optically connected across Alaska in the future.

DANA TINDALL, SR., Vice President of Legal and Regulatory Affairs, GCI, stressed the telecommunications build-out and infrastructure as a critical factor to the state's economic development.

LAURIE HERMAN, External Affairs Director, AT&T/Alascom, said rights-of-way across state land for fiber optics cable projects should be granted under existing state standards.

SCOTT HAWKINS, Economist, supports the Administration's policy of keeping right-of-way access on public lands consistent and reasonably priced.

BILL SHEFFIELD, President and CEO, Alaska Railroad Corporation, acknowledged that they have an exclusive contract with World Net for 25 feet of right-of-way but offered that they have six more 25-foot tracts yet available for lease.

The remainder of the meeting was open for committee members and legislators present to offer their thoughts and suggestions.

COMMITTEE ACTION

The committee took no action.

ADJOURNMENT

The meeting was adjourned at 6:00 p.m.

NOTES:

A total of 13 hard-copy handouts were made available to this committee. Some documents are the written testimony of testifiers, some are handouts, and the rest are documents provided in the days following this meeting that were requested to be incorporated herein. Attached is a contact list for those testifiers outside of the Administration.

This meeting was recorded and handwritten log notes were taken. A copy of the tapes and log notes may be obtained by contacting the House Records Office at 130 Seward Street, Suite 211, Juneau, Alaska, 99801-1182, (907) 465-2214, or after adjournment of the second session of the Twentieth Alaska State Legislature, in the Legislative Reference Library.

John Ayers
e'Net Limited
510 L Street, Suite 400
Anchorage, AK 99501
(907) 777-2204

Kim Jacobs
World Net Communications, Inc.
Australia

Mark Foster
ATU Long-Distance, Inc.
301 West Northern Lights Blvd.
Anchorage, AK 99503
(907) 276-5303

Ken Lancaster
Alaska Rural Electric Coop. Assn (ARECA)
P.O. Box 104
Soldotna, AK 99669
(907) 262-4591

Tom Waldock
Enstar Natural Gas Company
3000 Spenard Road
Anchorage, AK 99503
(907) 264-3660

Jim Rowe
Alaska Telephone Association
201 East 56th Ave., Suite 1114
Anchorage, AK 99518
(907) 563-4000

Dana Tindall
GCI
2550 Denali Street, Suite 1000
Anchorage, AK 99503
(907) 265-5611

Laurie Herman
AT&T/Alascom
210 East Bluff Drive
Anchorage, AK 99501
(907) 264-7382

Scott Hawkins
130 Shelly Marie Cir
Anchorage, a 99515
(907) 522-0117

Bill Sheffield
Alaska Railroad Corporation
327 West Ship Creek Ave
Anchorage, AK 99501
(907) 265-2403

UNFINISHED BUSINESS

Representative Kott moved and asked unanimous consent that the following be adopted as the Sense of the House:

"The most rational and responsible approach to leasing fiber optic rights-of-way on state lands is by fair market appraisal.

We strongly urge the administration to convene a task force of the state's principle public land managers (DOTPF, University of Alaska, DNR Parks, DNR Lands, Mental Health Trust, Alaska Railroad Corp.) to evaluate and coordinate the basic methodology for determining market value of rights-of-way for these purposes and provide guidelines to insure fairness and consistency. Furthermore, this task force should report back to the Legislature no later than the 1st day of the 1999 legislative session on the state's rights-of-way leasing and pricing policies for fiber optics and any necessary legislation to fulfill the goals outlined.

It is not our intent to delay anyone's entry into the marketplace and we urge the administration to grant early entry permits that include market appraisal pricing methodology (as done for the MFS project), unless specifically prohibited by statute, in the interim until a rational well thought out policy has been established."

Representative Porter objected.

Representative Ryan placed a call of the House.

An amendment was offered by Representative Dyson:

In the first sentence, following "appraisal": Insert "consistent with public policy and public needs"

Representative Dyson moved that the amendment be adopted.

Representative Ryan lifted the call.

Representative Hanley placed a call of the House and lifted the call.

The Speaker stated that, without objection, the House would recess until 5:30 p.m.; and so, the House recessed at 1:42 p.m.

AFTER RECESS

The Speaker called the House back to order at 5:51 p.m.

A second quorum call showed 34 members present. Representative Kelly had been previously excused from a call of the House (page 3204).

**UNFINISHED BUSINESS
(Continued)**

Representative Dyson moved and asked unanimous consent to withdraw the amendment. There being no objection, it was so ordered.

Representative Kott moved and asked unanimous consent to withdraw the Sense of the House. There being no objection, it was so ordered.

Representative Kott moved and asked unanimous consent that the following be adopted as the new Sense of the House:

"Having been asked by the Administration for policy guidance, the most rational and responsible approach to leasing fiber optic and other rights-of-way on state lands is by fair market appraisal consistent with public policy and public need determinations.

We urge the Administration to convene a task force of the state's principle public land managers (DOTPF, University of Alaska, DNR Parks, DNR Lands, Mental Health Trust, Alaska Railroad

Corp.) to evaluate and coordinate the basic methodology for determining market value of rights-of-way for these purposes and provide guidelines to insure fairness and consistency. Furthermore, this task force should report back to the Legislature no later than the 1st day of the 1999 legislative session with recommendations for the leasing and pricing policies for rights-of-way and any necessary legislation to fulfill the goals outlined.

It is not our intent to delay anyone's entry into the marketplace and we urge the Administration to grant early entry permits. In the interim, until a rational well thought out policy has been established, we urge the Administration to include in any right-of-way permit agreement a provision allowing a rate based upon the subsequent establishment of a valuation methodology consistent with public policy and public need determination."

Representative Hanley moved that the new Sense of the House be referred to the House Special Committee on Telecommunications.

The question being: "Shall the new Sense of the House Establishing a Task Force on the Fiber Optic Plan be referred to the House Special Committee on Telecommunications?" The roll was taken with the following result:

Refer to the House Special Committee
on Telecommunications
New Sense of the House
Establishing a Task Force
on the Fiber Optic Plan

YEAS: 10 NAYS: 27 EXCUSED: 3 ABSENT: 0

Yeas: Bunde, Davis, Green, Hanley, Hodgins, Hudson, Mulder, Porter, Rokeberg, Therriault

Nays: Austerman, Barnes, Berkowitz, Brice, Cowdery, Davies, Dyson, Elton, Foster, Grussendorf, Ivan, James, Joule, Kemplen, Kohring, Kookesh, Kott, Kubina, Martin, Masek, Moses, Nicholia, Ogan, Phillips, Ryan, Sanders, Williams

Excused: Croft, Kelly, Vezey

And so, the motion failed.

An amendment was offered by Representative Davies:

In the last sentence, following "methodology":
Insert "based on fair market value"

Representative Davies moved and asked unanimous consent that the amendment be adopted. There being no objection, it was so ordered.

Representative Green moved that the new Sense of the House as amended be deferred to April 24, 1998.

The question being: "Shall the new Sense of the House as amended be deferred to April 24, 1998?" The roll was taken with the following result:

Defer to April 24, 1998
New Sense of the House amended
Establishing a Task Force
on the Fiber Optic Plan

YEAS: 10 NAYS: 27 EXCUSED: 3 ABSENT: 0

Yeas: Bunde, Green, Hanley, Hodgins, Hudson, Moses, Mulder, Porter, Rokeberg, Therriault

Nays: Austerman, Barnes, Berkowitz, Brice, Cowdery, Davies, Davis, Dyson, Elton, Foster, Grussendorf, Ivan, James, Joule, Kemplen, Kohring, Kookesh, Kott, Kubina, Martin, Masek, Nicholia, Ogan, Phillips, Ryan, Sanders, Williams

Excused: Croft, Kelly, Vezey

And so, the motion failed.

The question being: "Shall the new Sense of the House as amended (Establishing a Task Force on the Fiber Optic Plan) be adopted?" The roll was taken with the following result:

New Sense of the House amended
Establishing a Task Force
on the Fiber Optic Plan

YEAS: 28 NAYS: 9 EXCUSED: 3 ABSENT: 0

Yeas: Austerman, Barnes, Berkowitz, Brice, Cowdery, Davies, Davis, Dyson,
Elton, Foster, Grussendorf, Ivan, James, Joule, Kemplen, Kohring, Kookesh,
Kott, Kubina, Martin, Masek, Nicholia, Ogan, Phillips, Porter, Ryan, Sanders,
Williams

Nays: Bunde, Green, Hanley, Hodgins, Hudson, Moses, Mulder, Rokeberg,
Therriault

Excused: Croft, Kelly, Vezey

And so, the new Sense of the House as amended was adopted.

Sec. 38.05.850. Permits.

- (a) The director, without the prior approval of the commissioner, may issue permits, rights-of-way, or easements on state land for roads, trails, ditches, field gathering lines or transmission and distribution pipelines not subject to AS 38.35, telephone or electric transmission and distribution lines, log storage, oil well drilling sites and production facilities for the purposes of recovering minerals from adjacent land under valid lease, and other similar uses or improvements, or revocable, nonexclusive permits for the personal or commercial use or removal of resources that the director has determined to be of limited value. The commissioner, upon recommendation of the director, shall establish a reasonable rate or fee schedule to be charged for these uses, subject to the exception for nonprofit cooperative associations specified in (b) of this section. In the granting, suspension, or revocation of a permit or easement of land, the director shall give preference to that use of the land that will be of greatest economic benefit to the state and the development of its resources. However, first preference shall be granted to the upland owner for the use of a tract of tideland, or tideland and contiguous submerged land, that is seaward of the upland property of the upland owner and that is needed by the upland owner for any of the purposes for which the use may be granted.
- (b) The fee charged for a right-of-way approved under (a) of this section shall be waived by the commissioner if the right-of-way is for a transmission or distribution line established by a nonprofit cooperative association organized under AS 10.25 for the purpose of supplying electric energy and power, or telephone service, to its members, and the waiver is considered by the commissioner to be in the best interests of the state.
-

11 AAC 05.010

- (e) Except as provided in (f) of this section, this subsection is the department's schedule of standard user fees for certain surface land use authorizations and for material sales for public projects under AS 38. It does not apply to authorizations whose rental or use fee is fixed by statute or based on an appraisal of fair market value. If a revocable-at-will authorization is revoked without cause, the unused portion of the annual use fee for the authorization is refundable, prorated on a monthly basis. A fee based on acreage applies to each acre or fractional acre. The fees covered by this subsection are as follows:
- (1) land use permit under AS 38.05.850 for floating caretaker housing for a facility whose operator is a qualified regional association under AS 16.10.830 , an annual fee of \$200;
 - (2) land use permit under AS 38.05.850 for noncommercial use of a structure or facility that is or can be occupied, other than a use described in (1) of this section, such as a family's hunting camp, a tent camp used to support a non-profit scientific research project, a military training camp, a floathouse or mobile home used as the owner's private residence, or a floathouse used to provide caretaker housing for a noncommercial or non-profit operation, including a non-profit mariculture operation, the annual fee is the largest of the following applicable fees:
 - (A) if the facility is removed after a period of less than six months, \$250;
 - (B) if the facility remains in place six months or more, \$500;
 - (C) if the occupied site is five or more acres, a fee based on the director's estimate of the fair market value of the use or, at the applicant's option and expense, based on an appraisal of the fair market value of the use;
 - (3) land use permit under AS 38.05.850 for commercial use of a structure or facility that is or can be occupied, such as a floating logging camp, caretaker's housing adjacent to a log storage site, a floating lodge, or a guide's or outfitter's camp, the annual fee is the largest of the following applicable fees:
 - (A) if the facility is removed after a period of less than six months, \$350;
 - (B) if the facility remains in place six months or more, \$650;
 - (C) if the facility is used for a commercial recreational purpose, such as a floating lodge or a guide's or outfitter's camp, and at the director's discretion, either a variable fee of 2.5 percent of the gross receipts attributable to the use of the permit site or a flat fee as follows:
 - (i) if the facility is removed after a period of less than six months, \$350;
 - (ii) if the facility is removed after a period of six or more months, but less than eight and a half months, \$650;

- (iii) if the facility remains in place for more than eight and a half months, \$1,000;
 - (D) if the occupied site is five or more acres, a fee based on the director's estimate of the fair market value of the use or, at the applicant's option and expense, based on an appraisal of the fair market value of the use;
- (4) land use permit under AS 38.05.850 for noncommercial use of a structure or facility not covered by (1) or (2) of this subsection, such as a private mooring buoy, float, or dock, a weir, a boat ramp, a loading ramp for snowmachines or horses, or an archery target range operated on a nonprofit basis, an annual fee of \$100;
- (5) land use permit under AS 38.05.850 for commercial use of a structure or facility not covered by (3) of this subsection, such as a commercial mooring buoy, fish holding pen, log storage, A-frame logging, or equipment staging area for a construction project, an annual fee of \$250 for the first acre, plus \$100 for each additional acre;
- (6) land use permit under AS 38.05.850 authorizing early entry onto a prospective surface leasehold for
 - (A) site development, an annual fee equal to the director's estimate of the prospective rental; or
 - (B) site analysis that involves alteration to the land (including brushing, clearing, or excavating for percolation tests), an annual fee of \$100 for each acre;
- (7) land use permit under AS 38.05.850 for grazing livestock, a fee per head month that is 70 percent of the head-month grazing fee for the western states determined under Chapter 2238 of the Forest Service Manual (effective March 1, 1991), published by the United States Forest Service, United States Department of Agriculture, with a minimum charge of \$100 per year for each permit;
- (8) other land use permit under AS 38.05.850 for a use not covered by (1) - (7) of this subsection that does not hinder other public use, such as moving heavy equipment across state land, no fee;
- (9) other land use permit under AS 38.05.850 for a use not covered by (1) - (7) of this subsection that may interfere with public use, an annual fee of \$50 per acre with a \$100 minimum;
- (10) personal use cabin permit under 11 AAC 65, an annual rental fee of \$100;
- (11) private right-of-way or easement under AS 38.05.850 for
 - (A) a non-exclusive use, an annual fee of \$100 per acre, but no less than \$200;
 - (B) an exclusive use, an annual fee equal to the director's estimate of the yearly fair market rental value;

- (12) public right-of-way or easement under AS 38.05.850 for a road, trail, or airstrip, a one-time fee of \$50 per acre unless otherwise provided in a reciprocal right-of-way agreement;
- (13) public right-of-way or easement under AS 38.05.850 for a utility, a one-time fee of 10 cents per linear foot;
- (14) aquatic farmsite permit under AS 38.05.856 , an annual fee of \$250 for the first acre, plus \$100 for each additional acre, unless the permit also authorizes housing of personnel, in which case the fee is as provided in (3) of this subsection;
- (15) interagency land management assignment to a state agency, for
 - (A) a site that will be open to public use and where no significant capital investment will be made, no charge;
 - (B) a site not covered by (A) of this paragraph, a one-time fee of \$3,000 or seven percent of the fair market value, whichever is less;
 - (C) amendment of an existing interagency land management assignment, an additional fee determined by the director, but not more than \$3,000 or seven percent of the fair market value added as a result of the amendment;
 - (D) inspection of a site to determine compliance with the terms of the interagency land management assignment, either \$100 or the division's actual expenses, in the director's discretion;
- (16) sale of materials to a federal, state, or municipal agency for use in constructing, reconstructing, or maintaining a public project
 - (A) for the first 5,000 cubic yards of materials to be used on the project, no charge; each year of maintenance on an ongoing basis constitutes a separate project;
 - (B) for each cubic yard of materials beyond 5,000 cubic yards, the base fee listed in the annual base price schedule established under 11 AAC 71.090 .
- (17) commercial-use permit for recreation-related commercial uses within the recreation rivers system
 - (A) a flat rate fee of \$150 if the permit holder is a state resident, or \$450 if the permit holder is not a state resident; "state resident" is determined by applying the definition set out in (C) of this paragraph; plus
 - (B) on or after January 1, 1997, an additional fee, if applicable, as follows:
 - (i) five percent of the total gross revenues from fees charged to drop-off clients who are transported to a recreation river and who remain there unaccompanied by the permit holder or an employee of the permit holder;

- (ii) a fee of \$5 per day per client accompanied during use of a recreation river by the permit holder or an employee of the permit holder;
 - (iii) a fee of \$2 for each day's rental of a non-motorized boat, and \$3 for each day's rental of a motorized boat, on a recreation river; no fee is required under this clause if client fees described in (i) or (ii) of this paragraph include rental of a boat;
- (C) for the purposes of this paragraph, "state resident" means a person who holds a current Alaska business license; submits an application for a permit under AS 41.23 under the name appearing on that license; has maintained a place of business within the state staffed by the applicant or an employee of the applicant; is incorporated or qualified to do business under the laws of the state, is a sole proprietorship and the proprietor is a resident under AS 01.10.055 , or is a partnership and all partners are residents under AS 01.10.055 ; and if a joint venture, is composed entirely of ventures that qualify as state residents under this subparagraph;
- (18) commercial-use permit for a commercial camp within the recreation rivers system, an annual fee determined as in (3)(C) of this subsection, plus 20 percent, in addition to applicable fees under paragraph (17) of this subsection.

Fiber Optic Choices

1. Charge a set fee per foot for rights of way:
 - low - .06/foot (\$100/acre assuming a 20 foot wide row)
 - high - .50/ft
2. Set the fee for use of the right of way based on an appraisal of:
 - value of the land - low
 - value of the use - higher
3. Give access to the right of way for minimal cost in order to encourage infrastructure development and participate in the success by charging a fee based on:
 - profitability - % of gross profits
 - capacity - x per use of and industry standard

A Methodology for evaluating capacity.

Design a "Capacity Surcharge Matrix". Today a common communications element between, copper, fiber optic, microwave, cellular, satellite, etc. is called a T-1 or DS1. Using this bench mark the vendor would pay \$x per every T-1/DS1 that the installed cable(s) are capable of providing.

ONE Strand of Fiber Optic is capable of x simultaneous T1/DS1 connections:

OC48 = 1344, OC36=1008, OC24=672, OC18=504, OC12=336,
OC9=252, OC3=84, OC1=24

ONE Bundle could contain 6, 18,,,48,xxx Fiber Optic strands.

The Pipe or Conduit holds x bundle(s). Bundle equals y fibers, Strand(s) transmit at OCxx rates = number of possible T1-DS1s.

e.g.) One 1.5" pipe(conduit) X 2 (48 Strand Bundles) X OC12 = 32,256 T1/DS1s
One 1.5" pipe(conduit) X 2 (48 Strand Bundles) X OC48 = 129,024 T1/DS1s

Option 1 - Monthly T1-DS1 Surcharge Rate:

Periodically (6 months) survey 3 to 6 communications providers and develop the average commercial cost of a T1/DS1. Multiply that cost by the established rate, giving the per month charge.

e.g. Average T1/LS1 \$30 per month, 1% equals \$.30 per month per T1/DS1.
\$.30 times the OC48 capacity would equal \$403.20 per fiber strand.

Option 2 - Monthly rate vendors charge the state:

Instead of surveying commercial rates, use the rate the occupant vendors charge the State for T1/DS1 service. This would encourage the vendors to keep the State rates as low as possible, thus helping the State O&M Budgets as well as revenue generating.

OVERSIGHT

HEARING:

RS 2477

RIGHTS-OF-

WAY

JOINT SENATE/HOUSE RESOURCES COMMITTEE

February 7, 1997

1:12 P.M.

SENATE MEMBERS PRESENT

Senator Rick Halford, Chairman
Senator Lyda Green, Vice Chairman
Senator Bert Sharp
Senator Robin Taylor
Senator Georgianna Lincoln
Senator John Torgerson

SENATE MEMBERS ABSENT

Senator Loren Leman

HOUSE MEMBERS PRESENT

Representative Scott Ogan, Co-Chairman
Representative Bill Hudson, Co-Chairman
Representative Beverly Masek
Representative Ramona Barnes
Representative Joe Green
Representative Reggie Joule

HOUSE MEMBERS ABSENT

Representative Irene Nicholia
Representative Fred Dyson
Representative Bill Williams

COMMITTEE CALENDAR

RS 2477 Overview

WITNESS REGISTER

Ms. Kathleen Dalton
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P.O. Box 73902
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Anchorage, AK 99501-1994

ACTION NARRATIVE

TAPE 97-9, SIDE A

Number 001

CHAIRMAN OGAN called the Senate Resources Committee meeting to order at 1:12 p.m. He said in light of the recent announcement by the Secretary of Interior, Bruce Babbitt, they asked the Departments to give an overview of the RS 2477 issue.

MS. KATHLEEN (MIKE) DALTON, Alaska Outdoor Council, said she lived in Fairbanks and had been an Alaskan since 1949. She had been involved with RS 2477 research preparing files for possible assertion by the State of Alaska. She represented the Governor's Office and the Lieutenant Governor's Office in a project in Fairbanks which was conducted by the DNR. She worked with them on a consistent basis until the end of the Hickel/Coghill

administration. In that study the State identified about 1,500 possible RS 2477's. By July 1 they should have an additional 35 or 40. It's an on-going thing in DNR.

She said the federal definition of RS 2477 is "the right-of-way for construction of highways over public lands, not reserved for public uses, is hereby granted." The history of it in Alaska is that DOT has used it as a legal tool over the years in acquiring rights-of-way for certain routes and highways. Three examples are the DeBarr Road in Anchorage, The Goldstream Road in Fairbanks, and the May Creek Road in the Wrangell St. Elias.

In the 1970's, Bruce Campbell, then Commissioner of DOT, collected information from his department, ADF&G, and DNR and developed maps showing every route they could find that qualified as an RS 2477. This was in conjunction with the State's effort to identify lands prior to ANILCA. In 1974 Commissioner Campbell sent a list of 1,700 possible RS 2477's, with maps identifying these, to the BLM. In 1985 BLM responded and thanked them for the State of Alaska's Trail Atlas. They claimed that the State's documents did not constitute a request for nomination, that BLM could not accept because they had no authority to accept them; that the "Atlas" did not meet the requirements of the BLM manual, and that they were not the right scale. By 1992 there was absolutely no record of anything in BLM.

In the 1980's the Statehood Commission did a study about statehood issues in which they specifically talked about this issue. Senator Coghill knew about this and when he was chairman of the Transportation Committee he caused another study to happen which identified RS 2477's in conservation units. The State Senate published three volumes of that.

In January 1993 Governor Hickel and Lieutenant Governor Coghill requested a budget of \$720,000 to research RS 2477 rights-of-way. Up to 12 people began the intensive effort. The next year \$300,000 was appropriated to complete it. In the work each RS 2477 right-of-way has a file that contains proof of trail use in such documents as USGS maps, other official government maps, State and BLM land status plats, land ownership data, historical use narratives, US Postal dog team routes, and others. She said this was the end of State involvement.

This summer the Alaska Outdoor Council's Board of Directors authorized the formation of a committee to pursue this issue. It was comprised of Dick Bishop, Lisa Harbo, Byron Haley, and herself. They talked to the director of the Northern Region BLM, Dee Richie, and presented their requests. He said he would instruct his lands people to accept their assertions and they would be recorded as accepted into the office. They went ahead and filed 12 then and after that they filed another eight or nine before July 1.

MS. DALTON noted that there was a question regarding the statute of limitations for certain units being July 1, 1996 so they filed assertions in those units before then. BLM date-stamped each file they presented. Those in the Fairbanks meridian were serialized and placed in BLM's rights-of-way filing system. The other 50% of the files went to the Anchorage area where they are sitting on someone's desk. They did not get processed.

She said that just about every move DNR made was monitored by the Northern Alaska Environmental Center which was there on a daily basis. However, this summer they filed another 240 routes without being monitored. They figured that each case cost them \$3.50 in paperwork and copying and four hours of manual labor. This added up to \$800 and close to 1,000 volunteer hours.

The last item she wanted to mention was Secretary Babbitt's new policy.

SENATOR HALFORD said thank you to "Mike" and the Outdoor Council on behalf of the legislature and the people of Alaska.

REPRESENTATIVE HUDSON said he was concerned with the legal claim we might have for the 1,700 "with maps trail Atlas" process that was done. MS. DALTON replied that BLM did not accept them and a search in 1992 showed that there was absolutely no record of them in BLM offices. She reiterated that everything they filed this time was notarized first and date-stamped by BLM. She said they had established a legal record of action, not assertions. REPRESENTATIVE HUDSON said he hoped an attorney could tell them whether that constitutes a proper action that could be carried forward beyond the cut-off date. MS. DALTON replied that they believe it is.

REPRESENTATIVE GREEN asked her at any time they made the 240 filings were they led to believe that those would not be honored. MS. DALTON answered no, but they assumed they wouldn't be because of the current policy.

SENATOR SHARP asked if they had received any response to inquiries to the Anchorage BLM office as to what is going on there. MS. DALTON replied that they hadn't pursued that, yet. She said the one area that concerns them is the Wrangel/St. Elias area which is very, very rich in minerals, but also very rich in historic trails and access roads. She doubted that the Anchorage office would return their call especially in view of Secretary Babbitt's new policy.

REPRESENTATIVE OGAN again thanked them for their efforts in trying to protect our rights.

Number 260

STAN LEAPHART, Executive Director, Citizen's Advisory Commission on Federal Areas, said he wanted to comment on his analysis of Secretary Babbitt's policy on RS 2477's. He said his knowledge was general and he had been working with the Commission since 1982. He had worked with Senator Coghill identifying potential RS 2477's. His was a major accomplishment because before that you could barely get acknowledgement from the agencies that those routes even potentially existed. They have had the opportunity to work with Secretary of Interior Hodel when he developed the policy that was just repealed by Secretary Babbitt.

He said more recently they reviewed the 1994 draft Department of Interior Regulations that were issued and there were some serious shortcomings with it. The new policy that Secretary Babbitt issued repealed the 1988 Hodel policy and the 1993 moratorium on processing any RS 2477 assertions except in cases where there was "demonstrated compelling and immediate need to make the determination." Secretary Babbitt reasoned that the Hodel policy was not promulgated according to rule making procedures and is not a rule. MR. LEAPHART said, while this is true, that the Hodel policy was developed after extensive consultation with Alaska and the other western states. He said he was surprised by Secretary Babbitt's new policy. Especially since he had met with his special assistant, Debra Williams, in December and she briefed them that because of the moratorium Congress had instituted with respect to adopting any final regulations that the Department was going to pull and review all the comments and then issue final regulations that were going to be considerably different from the ones that were proposed in 1994.

He thought this interim policy was an end-run around congressional intent. There are a number of terms that cause them concern. It recognizes that anyone making a claim on an existing RS 2477 continues to have the option of seeking validation of the claim in court. Their concern is that the content of the policy will color the court's decision particularly in any instance where the Department of Interior would be involved as a party in the action on a claim. The policy does provide for an entity to ask the Department of Interior to make a determination of validity in advance of adoption of final regulations if there is "demonstrated, compelling and immediate need" for such a determination. The policy contains no definition or explanation of what would constitute that. This is left to the discretion of the agencies and the Secretary. If after receiving an application, the agency doesn't believe there is a compelling need, they simply will not process the request. Some of the major problems with the policy reflect problems that were in the draft regulations of 1994. This includes the definition of construction which required that intentional physical acts must have been performed with the achieved purpose of preparing a durable, observable, physical modification of land and that it be suitable for highway traffic. The public users standard would only be recognized if the right-of-

way was subsequently maintained by acts of construction. He said the courts have recognized the validity of rights-of-way created by the passage of vehicles, pack animals, and foot traffic. Many trails in Alaska have been created by this type of use.

The definition of highway in the proposed 1994 regulations would have to constitute a thoroughfare used prior to October 21, 1976 by the public for the passage of vehicles carrying people or goods from place to place. It is unclear whether some of our mail trails and other trails used seasonally or infrequently, but nevertheless used, would meet that definition.

The interim policy requires that any claim for an RS 2477 must comply with State law which must comply with federal law, but doesn't specify which federal law and didn't provide a lot of protection for existing rights.

He hoped that Congress would not approve the final regulations if they are anything like this policy.

DOUG BLANKENSHIP, privately practicing attorney, Fairbanks, said his association with this issue started when he was an attorney with the Alaska DOL for five years. As a private attorney he handles RS 2477 cases, one of which came out of the Alaska Supreme Court reversing a Superior Court decision saying there was no RS 2477 trail. He said he wanted to know what was the policy of the Knowles administration regarding RS 2477s. He has collected information over the years and he has a questionnaire from the Alaska Miners Association to the Knowles administration asking if they would aggressively pursue the rights of the State of Alaska regarding RS 2477s rights-of-way in courts and administratively. The answer was yes. He wanted to know what the terms of the policy were and if there was going to be equal treatment of native corporations and other private lands as compared to state and borough lands. Is DNR allowing Alaskans now the use of RS 2477 rights-of-way, he asked.

MR. BLANKENSHIP noted that there hadn't been much public information released from the State on this issue.

REPRESENTATIVE HUDSON asked him to explain the decision that was overturned. **MR. BLANKENSHIP** said it was concerning the Knik Glacier trail which runs 22 miles from Palmer to Metal Creek. The trail traversed a five acre parcel and the owner sued his clients to keep them from crossing their parcel to get to his clients mining parcel on Metal Creek. The Superior Court ruled that an RS 2477 was not proven. His client filed a pro se and the Alaska Supreme Court reversed the Superior Court with some principles that were cited in the Schultz case.

SENATOR HALFORD asked him who actually owns RS 2477s that crosses different properties. He asked if the State has the authority to

give it away or can the federal government take it away. MR. BLANKENSHIP replied in his analysis the owner is going to be the State, but the State is not the only one who can assert the right. They are the most appropriate one. The existing right should prevail over any other later transfer of the property.

SENATOR HALFORD asked if a private individual had to sue the State as well as the federal government if his right has been bargained away. MR. BLANKENSHIP replied that if the State vacated any of the rights-of-way that would be a disposal, and the Alaska Constitution says there has to be a public process which would bring people with concerns forward, and hopefully it would be preserved for the public to use.

VIRGINIA STONKIS, Legislative Finance, said she had identified for the committee appropriations that were specifically for RS 2477 activity. DNR, DOL, and ADF&G are the agencies that she has figures on, but the DOT report was arriving as she left for this meeting. Two appropriations \$700,000 and \$320,000 totalled about \$1,000,000. Those that are starred are clearly RS 2477 appropriations. Those that are on state's rights that might include RS 2477s were put on the list for their information.

TAPE 97-9, SIDE B

BARBARA HJELLE said she had been representing Garfield County in Utah on RS 2477 issues for the last 11 years. She said current federal regulations provide that the Department of Interior can only regulate rights-of-way in so far as they don't diminish or reduce any right conferred by the grant (RS 2477). Furthermore, she said, if you look at the background materials on those regulations, the Department of Interior made it very clear that it was not the intent to reduce or diminish these rights at all and it was their intent to rely on prior existing regulations that were in effect before the repeal of RS 2477 to interpret the grant. Those regulations made it clear that the grant was based on state law and that there's no roll for the federal government to play in acknowledging or documenting the rights-of-way. She thought it was clear that Department of Interior was seeking to take over a dominance that it had never sought to take before and for which there is no basis in law. These actions, including the Babbit memo are in direct violation of the existing published regulations of the Department of Interior.

Looking at the Babbit memo, what's not said is more significant than what is said. The definitions are in the proposed regulations, but are not covered in the memo. It is also implied that if you don't either go to court or process a right-of-way by persuading the Department of Interior to approve it, you can't exercise your right legally. People in Utah have been exercising their right anyhow, and they are now being sued.

MS. HJELLE said that she believed it was the state's duty to stand up for the rights of its citizen and it didn't mean going to the Department of Interior for acknowledgement of those rights and permission to exercise them.

She said the statute of limitations doesn't defeat their rights. She suggested having a well-thought-out Department of Transportation plan and exercising the right through that plan. Where there is a plan, BLM is required to coordinate its actions. She said Utah is intervening on all the lawsuits to protect the state's interest. Their governor has tried several times to negotiate or find constructive solutions with the Department of Interior and Secretary Babbitt, but those actions have been rebuffed.

SENATOR HALFORD asked if they were currently being sued on specific actions on specific roads. MS. HJELLE answered yes and they were early in the process and were operating under an interim agreement between the parties.

SENATOR HALFORD asked if there was any other kind of restraining order in effect now other than what they had agreed to. MS. HJELLE replied that for several roads there is an agreement in place. Garfield County has been told by a Judge not to touch its roads until he says otherwise. There is no written order, but they are honoring his request.

SENATOR HALFORD asked how long it would be before they got any final decisions at the U.S. District Court level. MS. HJELLE said it is really hard to predict; she thinks the federal government wants to win. If they go to trial, it may be in early 1998.

SENATOR HALFORD asked if they have any private user cases where a user of the RS 2477 road is the person who is in the initial suit or have they joined in the county's existing lawsuits. MS. HJELLE answered that they don't have private users who have joined yet.

SENATOR HALFORD asked her if she could make suggestions to the State of Alaska on this issue. She said she has been impressed with the work the State of Alaska has done to research and document the RS 2477 issue. She thought that was absolutely essential. The historical evidence has to be put together. She thought we also needed to exercise our rights.

REPRESENTATIVE HUDSON asked if she had determined if there was any congressional solution or relief in this matter. She thought it would be very problematic primarily because the environmental groups and the Department of Interior wage a propaganda campaign which is so confusing that it is difficult to come to a constructive conclusion that way. She hoped that congress might sometime say you can't change the status quo of your regulatory provisions and that you have to honor them as they stand today.

SENATOR LINCOLN asked if she knew of other states dealing with this issue and were they taking a different approach. MS. HJELLE replied that the only other state she hears from is Idaho and she hears from individuals, not the state. She thought the DOI was focusing on Alaska and Utah for two reasons. They are both large areas having few access roads now and they want to close them off entirely. They down-play the issue in other states.

SENATOR TAYLOR asked if there are opportunities available for her to bring a writ of mandamus action against the government itself demanding and having the federal courts forcing the federal governments to pass and enforce the laws on its books. MS. HJELLE said she hadn't tried that because her philosophy is that permission is not required of the federal government to allow a local government to exercise vested property rights.

SENATOR TAYLOR asked if she had filed suit directly on behalf of the state against the federal government to enjoin the extra legal action being taken by the Secretary of Interior for which he has no legal authorization. MS. HJELLE replied no, but it is an issue in the case. SENATOR TAYLOR asked if that was what they were asking for from the court. MS. HJELLE replied yes.

REPRESENTATIVE OGAN thanked Ms. Hjelle for her comments.

Number 328

MR. ROBERT BOSWORTH, Deputy Commissioner, ADF&G, stated they are not the lead agency in this matter.

THE FOLLOWING IS A VERBATIM TRANSCRIPT:

MR. BOSWORTH: In the years after ANILCA was passed, ADF&G coordinated the State's involvement in review of federal plans for parks, refuges, wild and scenic rivers, etc. Since that time the Department has been perhaps the most active of the State agencies that has been involved in the review of those plans - specifically in recent years in the Division of Governmental Coordination. This has include monitoring federal land management plans, regulations, and policy documents.

Our emphasis has been to pursue changes in those documents as necessary to assure State management of fish and wildlife and the public's ability to access federal lands as guaranteed by ANILCA and other statutes. As part of this progress, we have also participated with DGC to assure that these federal land plans and other documents recognize the State's RS 2477 rights-of-way. Obviously, the public cannot make use of fish and wildlife if they can't get to them.

This gets us well to the documentation issue which was so appropriately highlighted by the woman from Utah. We have

participated for a number of years in the documentation of rights-of-way. I suspect if there is an individual in the Copper Basin or the Wrangell Mountains area that was contact by a State agency with regard to their personal knowledge of historical, traditional, trails, it was probably someone for ADF&G who made that phone call.

During the early 1990's DNR and DOT participated in the CIP project which documented several hundred RS 2477s for possible assertion. The Department staff assisted DNR's compilation of data on these routes whenever possible by locating historical use information, identifying priority routes, and in many cases interviewing witnesses. Over the last few years the Department has continued to be involved in monitoring federal and state agency actions to assure the rights-of-way are appropriately recognized. This has included participating in policy discussions with the Governor's Office, evaluating litigation options with the Department of Law, assisting in preparing testimony for congressional hearings, and coordinating with other states in responding to actions by the Secretary's office. Again, I think Ms. Cuning can speak to some of the specifics of those activities.

We expect to continue our involvement in RS 2477 issues, including helping to identify traditional access routes, appropriate right-of-way quiet title assertions, and helping to evaluate further litigation options with the direction the Department of Law.

So in brief, our Department's involvement in the State's RS 2477 efforts is a small, but we consider, an important part of our overall effort in the area of access. We believe we've been doing a good job in addressing access issues where they arise around the State. Although, I should point out that our concern is focused on access for the purpose of hunting and fishing rather than general access. That's all I have for this time.

SENATOR TAYLOR: Why are you only focused on access for fishing and hunting purposes, if you're the only agency in the State that's heading this up. Do we have no interests in this State in timbering, mining, basic transportation corridors, or are we only going to focus upon some pathway that may get me back into a nice trout way.

MR. BOSWORTH: First of all I didn't mean to give you the impression we are the only agency that's involved in this area. But we are restricted by our funding source - namely the fish and game funds that are used for this purpose.

SENATOR TAYLOR: Is someone else duplicating your efforts only they're looking at it from a highway perspective at DOT, and someone else from maybe a parks perspective at DNR, and...

SENATOR LINCOLN: Just real quickly, you said that you had documentation and that's been ongoing. How many cases or access

projects have you filed or that you've documented.

MR. BOSWORTH: Mr. Chairman, Senator Lincoln, that sounds like a question I'd like to defer to Tina Cunning, if she's available in the Anchorage office. She's been directing our access project for several years now. Tina, are you there?

MS. Cunning: I'd like to answer the earlier statement first and that is we do not duplicate efforts with other agencies. We have worked very much as a team with DNR, DOT, and DEC. We have not operated independently. To answer Senator Lincoln's question, we do not do anything independently of that group except that we did conduct the Wrangell/St. Elias traditional access study and are about to publish the Kenai Refuge traditional access study. These are not specific to RS 2477. We all see ANILCA access as occurring in those areas.

SENATOR LINCOLN: As follow-up, perhaps I misunderstood. I thought you said you were helping with documentation with individuals that have the access problem with hunting and fishing in regard to RS 2477. Did I misunderstand?

MR. BOSWORTH: Mr. Chairman, Senator Lincoln, I think I'll ask Tina, again, to clarify that. My understanding is that it is part of the larger access project as was indicated recently focused in the Wrangell/St. Elias area. We have been documenting it with local help - the situations where a specific trail or a specific transportation corridor has had use whether or not it's officially recognized. We're doing the documentation in that case. We have done, as I understand, hundreds, we've identified hundreds of trails in that process.

As far as working with people on specific cases or claims, I'm not aware that we've been involved in that part of, say, an individual action.

CHAIRMAN OGAN: Ms. Cunning, did you have a comment on that?

MS. Cunning: We do assist individuals who call our office with problems or questions related to access primarily on federal lands. That's not helping them in litigation cases, but letting an individual know what their rights are.

REPRESENTATIVE GREEN: My question was similar to what Senator Lincoln asked. It seems to me that as far as RS 2477 was concerned, what might have been an access characteristically or historically for fish and game might have already been done. I'm wondering now if there are resources being expended where I would think DOT or DNR might be the lead agencies. Are you still expending funds to look for prior traditional access for fish and game as it deals with RS 2477? What I thought I heard was more of a current nature of accessibility.

MS. Cunning: The access research we've been doing has been not specific to RS 2477s and we make every effort to go through and limit our searches of documents which have already been prepared by other agencies before we ever set foot out of libraries that aid in documentation. What we have is [indisc] on federal lands where there's certain federal access rights such as Title 11 of ANILCA that we believe these restrictions are not based on and so there's documentation of traditional access. This is to protect access for subsistence for commercial fishing.

REPRESENTATIVE HUDSON: Ms. Cunning, I suppose this is for you. Who would we refer as being in charge of this multi-agency effort to pursue the State's interests in the RS 2477 issue? Obviously, you've got a part of it. I suppose DNR, certainly DOT, and other agencies. Does the administration have singular plan that could give us what the goal of that plan is, what the current status is, and what the total funding might be so far - a status report?

MS. Cunning: The Governor is in charge and I would defer to DNR who has taken the lead in all the RS 2477s.

REPRESENTATIVE HUDSON: So then, DNR is the lead agency, is that correct?

MS. Cunning: Yes, that's correct.

CHAIRMAN OGAN: Ms. Cunning, I have a question for you. This is Chairman Ogan here. What should we be doing that we're not - in your opinion. I don't want to get you in trouble with your boss.

MS. Cunning: I'm sorry, sir, you cut out for a minutes there.

CHAIRMAN OGAN: There's static. I think I saw it in a movie somewhere. What should we be doing that we're not.

MS. Cunning: I thought you didn't want to get me in trouble.

CHAIRMAN OGAN: Well, I tell you what, we'll just save that question for your boss or for all the bosses.

SENATOR HALFORD: I think we should be a little more specific. What should we be doing with regard to fish and game and recreational access to better protect State's interests that we may not be doing? Any suggestions?

MR. BOSWORTH: If that's directed at me, Mr. Chairman, I'd be happy to respond. One of the most successful projects we've been involved with recently I've already referred to at least twice now which is the Wrangell/St. Elias access project. It was a focused effort with staff under Ms. Cunning's direction that established precisely the kind of documentation that can help the most - now, or for all I know, indefinitely into the future to identify rights-of-

way and traditional access routes that either the State or an individual may choose to pursue. It was an intensive effort that took a couple of years, as I understand, to accomplish. It involved a computer mapping effort which, again, archived the specific trail sites. In my mind that was a tremendously valuable project that -- and developed a model and a format that could easily be applied elsewhere in the State where we have probably an equal number of traditional access routes that have not been documented.

SENATOR LYDA GREEN: How many routes has Fish and Game actually documented?

MS. Cunning: That's a hard one to answer because a lot of the use areas were not routes per se, but for example, were airplane landing areas or dog team routes, or pack animal routes that were not necessarily consistently over the same route each year. This is an attempt to document traditional access prior to the 1980 Parks and Recreation as opposed to RS 2477 which has a different criteria. We use the RS 2477 information that had been prepared by DNR and DOT extensively before we went out and did additional documentation of these landing areas or routes of access. I'd be happy to mail a copy of these documents to any of the committee members who would like to have copies. The GIS maps are phenomenally detailed.

CHAIRMAN OGAN: Ms. Cunning, maybe you could mail it to the committee chairman at the House and Senate Resources and we can make it available to the members.

MS. Cunning: Will do.

SENATOR TAYLOR: Just to follow-up on Senator Green's question. Did I hear you indicate there was a distinction in that which was selected as a route or a trail depending upon whether or not you were looking at the route or trail under the terms of ANILCA or under the terms of RS 2477 and, I guess, my broader question is how many routes have we identified or were initially identified and then what happened to those? In other words, is someone making an executive decision within the department as to which ones are going to be quote true routes and we are going to log those and work towards making certain that they're protected or is someone making a judgement call about which ones are valid in that person's opinion and which ones are not? I guess it's two questions. Is there a distinction between the two laws and the way you look at these things and is there an administrative override decision made about what's going to show up on the final list of trails and routes?

MS. Cunning: I can't answer your question in relation to the RS 2477 work group that DNR headed up and how they actually made their cuts and what fits the final list of 500 or so. In terms of our

documentation of the traditional access routes and areas, we documented it all. If there was any written or verbal documentation for individuals of use prior to the 1980s, we rarely documented it, we made no phone calls for documentation.

SENATOR TAYLOR: So the other question, was there a distinction between the review process you went through under ANILCA and the review process you went through under RS 2477?

MS. Cunning: The RS 2477 process that DNR headed up has a lot stricter criteria for determining if we want to pursue it or not. The statutory direction under Title 11 and 811 under ANILCA were protecting traditional and subsistence access is much more general. The criteria under the statute is whether or not it simply was generally occurring in the area at the time of designation. That's a very loose criteria compared to RS 2477s.

SENATOR HALFORD: Is there an intertie between RS 2477 accesses and the Section 17 access provisions in the Claims Act?

MR. BOSWORTH: Mr. Chairman, if that's directed at me, I don't know the answer to that. Perhaps Ms. Cunning knows. If not, perhaps Commissioner Shively.

MS. Cunning: I can answer it, but it would be far better to be answered by the Department of Law.

COMMISSIONER SHIVELY: Thank you, Mr. Chairman, for the record my name is John Shively. I'm the Commissioner of Natural Resources and prior to my taking over as Commissioner, DNR was, as has been indicated by [indisc] and others who have been put in charge of the documentation portion of the RS 2477 effort. I'd like to make a couple of comments. I think the lawyer from Utah made one - I guess there's a little bit of confusion about. These rights really exist now. We have these rights-of-way. It's not like a homestead where you have to go out and apply for them and Bruce may want to spend some time on this, but they really do exist now. I think one of the differences between us and Utah and some other states is that in many cases down there, they are actually dealing with roads - real roads. We are, for the most part, dealing with uses that created trails and require much more indepth documentation in terms of past usage because they are not as well identified. I also think it's important as I think others, including Mr. Blankenship have mentioned to talk about - or just to mention that really - RS 2477s are not necessarily a panacea for all our transportation needs. And I would just point out that two of the major development projects in the State, Prudhoe Bay and Red Dog, did not and, I don't think, could have used RS 2477s. If there's some question...

TAPE 97-10, SIDE A [BEGINS MIDSPEECH]

COMMISSIONER SHIVELY: ...when I came on board the capital projects, and I think there was pretty close to a million dollars if not a little over appropriated over two or three years by the Legislature to work on the kind of documentation that Mike Dalton and others have talked about. That project was just coming to an end, I think, at the end of my first partial fiscal year in office. That was centered in Fairbanks, there was specific staff dedicated to it, and that project came to an end. As a result of that project, there were about, I think, 1,200 sort of nominations, or what we thought were serious nominations of trails or rights-of-way, and I think we've now documented around 500 that we think we have enough documentation to say these are legitimate RS 2477 rights-of-way. We are still working on that. It was sort of a crash project.

There were perhaps a number of differing philosophies as to what constitutes a qualifying route, so for the last year we've basically been going back reviewing all the work that was done on these files, updating it, and then seeing on some of the other ones that we thought were maybe close calls as to whether or not there's some documentation that we could get up. I think the attorney general will talk about our litigation strategy, but once we're actively involved in litigation, then it will be the job of the Department of Natural Resources to take these files that we've been working on and provide them as a major part of the litigation.

We are, however, continuing that effort and among other things we're sending a staff member to Anchorage to go further into the federal archives and the archives at the Anchorage Museum of History and Art. If we were able, as the woman from Utah said, to negotiate a reasonable approach on these RS 2477 rights-of-way with the Department of Interior, a lot of this work probably wouldn't be necessary. But I think that the department has clearly thrown down the gauntlet and, most recently, with the secretary's new policy I think we were perplexed about the timing of it, we were perplexed about the lack of consultation, and we were perplexed about the need for doing anything at this time, particularly given the action that had been taken by Senator Stevens in the appropriations language. However, the secretary saw to do what the secretary saw to do.

A couple of other things that we're working on. We're continuing to try to update our GIS information so that the trails appear on our mapping system. We are continuing to work the data base that's the basis of that. We have a volunteer that is a masters student, who is working on developing a WEB page for us so that we will have information available through that media that will talk about the history of the project; will talk about what policy guidelines we might have; frequently asked questions about RS 2477s; list the publications that might be available; how people can nominate a trail; and how they can provide us further information on trails they feel are important.

We do actually, sort of, manage RS 2477s. At least we have regulations, although as I've mentioned, they're unlike in Utah where you actually have a roadway that you might be really managing. I would say that we are managing, sort of, as we do a lot of the state's land given our limited resources, somewhat by default, but there are regulations on the books relating to RS 2477s and how they are to be managed, and access is allowed by the public on RS 2477s. However, for sort of more traditional uses as with other state lands, major activities like bringing heavy equipment on or upgrading the RS 2477 to a road would require a state permit.

Mr. Chairman, the other thing I would like to say because it answers some -- I think this really has been, in terms of the collection of the information, a major team effort. We've certainly gotten some good direction from the Department of Law in some of the criteria we looked at, but the real work has been done by people at Fish & Game, people at the Department of Transportation, people at DNR, and then people like Mike Dalton and other people, people in the mining community and others who have gone out of the way to help us find ways to document the RS 2477s that we have identified. So, Mr. Chairman, I would be happy to answer any questions.

CHAIRMAN OGAN: Senator Taylor.

SENATOR TAYLOR: One -- is the Yunik [ph] River wagon road part of the your 500 you've selected?

COMMISSIONER SHIVELY: Yes, it is on our list.

SENATOR TAYLOR: The only other question I would have would be -- you indicated that before a person would have a right to continue to use or expand the use, I guess, of an RS 2477 trail -- say wanted to walk a piece of heavy equipment into his mining claim that he has been walking to and from for years -- he would have to have some permit from the state to utilize his trail?

COMMISSIONER SHIVELY: I don't know that we've had a lot of experience with that, Mr. Chairman, Senator Taylor. A lot of what we have documented are trails that are not currently in use, and I think Nancy Welch, who is with our Fairbanks office, is on line. Nancy, have we had any experience with people that are currently using the RS 2477s that have had to get permits from us to continue that usage?

NANCY WELCH, Regional Director, Division of Land, Department of Natural Resources: Yes, Commissioner Shively, we have issued some permits for RS 2477s where they've wanted to construct.

SENATOR HALFORD: She said "wanted to construct" and that was a different question.

COMMISSIONER SHIVELY: Yeah, Nancy, the question was whether or not -- lets say that the person had been running a Cat back and forth over an RS 2477 and we identify it as an RS 2477, have we then gone out and asked them to apply for a permit they didn't used to have to get?

NANCY WELCH: That is correct. On the [indisc.] trail in particular, last year we closed it for a portion of the season and we required permits for heavy equipment use on that trail.

SENATOR TAYLOR: I guess that's what I was getting at, and I didn't understand where anybody thought they had the authority to do that since it is a federal law and the right exists from that law to the person who is using it.

COMMISSIONER SHIVELY: Well, Mr. Chairman, and I don't want to try to practice law here, but it's a federal law that gave the state the right. But the state, in order to get that right, had to pass its own legislation, and the first piece of legislation that related to this was passed by the territorial government, I think in 1923. And one of the things that we've argued very strenuously with the department is that the management of rights-of-way are under state law, not under federal law, so we do have the right and, I think, as a government the responsibility to manage these rights-of way.

SENATOR HALFORD: Well, you know, in the real world of applications of how the -- if you look in the Iditarod district, in the Minto Flats district, in the whole area south of Ruby, they may not have used a road for 40 years, but you see it and you see the equipment at the end of it and the mining operation is still there. And it may be once every 10 years that a piece of equipment has to go back and forth across that, but I think they would be violently opposed to not being able to use that and not saying that was clearly an RS 2477. They're more visible on the ground than the dog sled mail routes were.

COMMISSIONER SHIVELY: Well, Mr. Chairman, Senator Halford, that's somewhat true, but they are not their rights-of way, they are public rights-of-way and the state manages public rights-of-way. For instance, I can't drive my snow machine on the highways. That's a management decision that we have made for safety reasons and in order to protect certain resources in ways that perhaps they didn't used to be protected 40 years ago. We may need to regulate -- I mean, I think that in these cases where people ask for the right to do this our inclination is to give the permit, not to not give them it. But that's our current regulations and we operate under those regulations.

SENATOR HALFORD: Okay, let's take one of these that's fairly complex. Again, you leave a community with a piece of heavy equipment and you're trying to go to some place that's 60 miles

further away. It's got a state land segment, it's got a private land segment, it's got a Native selection segment, it's got a federal segment, and it's got a federal segment with added restrictions. Now, it sounded like the best, or at least the Utah advice was use it and let somebody else sue you. Now where is the state going to come down in the five different law suits filed against the guy that used it.

COMMISSIONER SHIVELY: Well, Mr. Chairman, Senator Halford. First of all, under the theory as I understand it, it's a legitimate RS 2477, we currently own it, so the only person that that individual would have to come to is us for a permit because we manage the RS 2477, the Native corporation doesn't, the federal government.... Now I'm not saying that when we did that if part of that was across Denali National Park that the Department of Interior wouldn't attempt to do exactly what they've done in Utah, in fact I suspect they would. They would try to stop it. If we thought it was legitimate, you know, depending on where we were with the litigation and everything else, we might or might not support the person in their attempts to combat the federal government if the federal government took them to court.

SENATOR HALFORD: Okay, lets carry our example to -- and lets say this is one of the routes on the 500, or whatever it is, that have been clearly documented and the data base is there so that the factual questions of prior use have been answered, but that this route includes state land, private non Native, private Native and federal land. Will you treat all of that land the same way in issuing the permit if the trail is of the same use and history in the whole group?

COMMISSIONER SHIVELY: At this point, Senator Halford, we treat the whole trail the same way. I think that as we get into this and get into more management, notification of people who, particularly private land owners, I think it would be appropriate, you know, if people were applying for permits. The other thing that I think is important that -- lets go back to the Fish & Game examples -- that an RS 2477 trail across private lands does not give the person the right to shoot anything on those private lands just to get from one set of public lands to the other set, assuming that the private land owner would want access to those lands restricted.

SENATOR HALFORD: Yeah, and I don't disagree with that. One of the considerations I think that some have heard is that the state would be trying to force people to use section line easements instead of RS 2477s or to buy access instead of using RS 2477s in some cases, and I just wanted to make sure that wasn't the case.

COMMISSIONER SHIVELY: Mr. Chairman, Senator Halford. I have not heard of that. There is a whole legal issue, as you know, about unsurveyed section line easements, and most of the state is unsurveyed. Where we've vacated easements -- it's actually often

section line easements that we vacate in communities once there's an established transportation pattern, but I know nothing in policy that I'm aware of where we're telling people to go use section line easements. And section line easements work very well when I go back to Nebraska to visit my wife's family and drive on all of those roads that are in squares. They are a little more difficult to use up here.

REPRESENTATIVE GREEN: We have 500 and some trails that have been delineated and we say that we have authority over those. Does it make any difference in your estimation, and probably this should be to the attorney general, but in either of your estimation, that if we have exercised, such as the example that the senator has given, some sort of decision making over trail "a", but there is "b", "c", "d" and "e" that we really haven't done much with -- we maybe just only found out about them the last year or so -- but they're there and we're still claiming them, but we haven't done anything. Does that make any difference as to whether the state has or has not exercised prior authority in our claims for, or is it RS 2477 yes or no and it doesn't matter?

COMMISSIONER SHIVELY: Well, Mr. Chairman, Representative Green, the basic underpinning of RS 2477s is usage that occurred prior to 1976 when FLMPA was passed, and so that basically gives you your right. Once we've identified the trail, if we've got a case where on one trail people have come to us for permits because they're running a Cat across and four other trails really aren't currently being used, that really should not affect the basic legal underpinnings. In fact, on the other hand it will be precisely when we start issuing some of those kinds of permits when the RS 2477s cross Native and federal land that some of these issues will come head to head with the federal government.

SENATOR HALFORD: You know, the question of definition of "prior use" -- it seems that the state policy then says that there are an infinite number of different RS 2477s over the same route depending on what degree of use that you decide that there was. What is the previous, not so much the current, what is the previous federal policy with regard to how they viewed RS 2477s prior to the Babbitt letter.

COMMISSIONER SHIVELY: Mr. Chairman, senator, I can't answer that.

SENATOR HALFORD: Okay, maybe the attorney general can. We'll wait until we get to him. Thanks.

CHAIRMAN OGAN: Senator Lincoln, impatiently waiting?

SENATOR LINCOLN: Yes, and this might be for the attorney general, but I'll ask it since DNR was in charge of the RS 2477. Just to clarify for the Administration's effort into identifying the RS 2477s across the state, I noted that in your little "How to

Nominate" of January of '94 you talk about the one-year funding and the documentation up to the 500 rights-of-way that you have eluded to here of the 1,200 that were nominated. So as the general public and I think some of us within this building here don't feel that the Administration has been dragging their feet in identifying and filing these particular parcels, I'd like to hear your response on why from '94 on, -- and I know someone eluded to the funding that was received -- but why 500 cases were sort of stopped in '94 and there haven't been anymore added to the list since then. I would ask that in that question -- we heard, and I don't know if Mike was representing the Outdoor Council, but that the Wrangell-St. Elias had not been filed and they wished they had time to have filed in that area, and whether some of the Wrangell-St. Elias has been in fact documented and is a part of that 500, and why the Outdoor Council would have to scurry around really quickly to get I think it was 240 areas filed under this 2477?

COMMISSIONER SHIVELY: Mr. Chairman, Senator Lincoln. Well, I actually am not clear about the whole legal basis of the notification of the federal government and what that means in terms of the RS 2477 process. I do know that there is some discussion about whether a statute of limitations exists on certain conservation system units. We have identified some rights-of-way within Wrangell-St. Elias and I can't tell you how many right now. We did not stop the process in 1994. We have continued to work the existing files, we've continued to add a few new ones, I think each year. And I think the attorney general may want to talk when he gets his turn about the whole assertion process and then the legal challenges that we may face as we take some of these things to court.

SENATOR GREEN: I didn't understand the last sentence that you said. It was something "unless we go to court it would require..."

COMMISSIONER SHIVELY: What I was saying, I mean, there's the whole process of the official notification of the federal government, and I'm not sure what -- you know, we in notifying them, if we really believe they exist is an important part of the process if we've got the legal basis. I can't answer that, and the attorney general can probably answer that plus some of those issues that will come up as we start to litigate some of these where the federal government clearly objects to our management or private land owners who might object to our management.

REPRESENTATIVE HUDSON: For the lay person, is there a common statement as to what the current is? You know, we heard from Mike Dalton about the action that they've taken up there and what was done back in Bruce Campbell days, and some of us are laboring under just where we are, what do we own, what's our goal, are we going to have to try each one of these, or there is sort of a blanket case? Perhaps the attorney general can answer some of these questions, but just, you know, if there is any help you can give us along

those lines, that would be beneficial.

COMMISSIONER SHIVELY: Well, Mr. Chair and Representative Hudson, we may ultimately have to litigate each and every one if the federal government wants to fight us or private land owners. Obviously, if the RS 2477 is on state land, we can declare it and its ours and we manage it. I think it is our hope as we start to litigate some of these and also look at other litigations such as the litigation that's currently going on in Utah that there will be some principles set, just as there were some principles set in the navigability issue, that will resolve a lot of these issues. But I can't predict, and particularly the RS 2477s that are in conservation system units. I suspect, absent ultimately some kind of negotiation with the Department of Interior, which they seem very unwilling to participate in, we'll probably go one by one because they will just come up and say "Well, you don't have the information to validate that that's an RS 2477" and then we'll have to say "Well, yes we do and here it is."

CHAIRMAN OGAN: Senator Halford.

SENATOR HALFORD: If a group of citizens with very little money can assert 240 or whatever it is of these, if we fund the money, will you assert the remainder of the ones that you have researched, at least file them with BLM, get them stamped in, and take them and record them at the state recorder's offices so they are actually recorded and part of the record in that way?

COMMISSIONER SHIVELY: I don't see any reason why we wouldn't do that, senator, given what I understand is the governor's interest in this issue right now.

SENATOR HALFORD: I would very much like an estimate of those costs if you would get that back to us. I think it only cost, you know, two hours and \$8 apiece for the ones done by volunteers, and if this could be done for 10 times that, it would still be a bargain for the future of the state of Alaska I would think.

COMMISSIONER SHIVELY: Well, Mr. Chairman and Senator Halford, I think that what they filed was largely our work, if I understand it, and which many of them had participated in.

CHAIRMAN OGAN: On that point, commissioner, is there any reason why a citizen's group had to pick up that ball and run with it?

COMMISSIONER SHIVELY: They felt it was necessary to do and we hadn't gotten there, and that's all I can tell you.

CHAIRMAN OGAN: Is that a matter of an internal policy call from the third floor or groups that are influencing the third floor?

COMMISSIONER SHIVELY: No, I think it's more a matter of the fact

of different priorities within the department and where we place our workload.

CHAIRMAN OGAN: Thank you, sir. Any other questions of the commissioner? Hearing none, last, but certainly not least, the attorney general of the state of Alaska, Bruce Botelho.

ATTORNEY GENERAL BOTELHO: Thank you, Mr. Chairman. My name is Bruce Botelho, attorney general. Before I get into my more prepared remarks I would comment that this has been a very impressive hearing in terms of the caliber of people you brought beginning with Mike Dalton, who more than any other person has been associated with the RS 2477 issue in this state, and ending in terms of the private participants with Barbara Hjelle with whom my staff has worked, and, in particular, Elizabeth Barry who is the assistant attorney general who heads our Natural Resources Section in Anchorage and which includes our statehood defense component. Ms. Barry is in the room here today and she is certainly available to elaborate on questions that I'm unable to answer. But I would note that both Ms. Hjelle and Ms. Barry have worked together in Washington, D.C., not only in testifying against efforts by the Department of Interior to unduly restrict the vindication of state rights of RS 2477, but also to work with the respective delegations of Utah and Alaska in fashioning some congressional solution.

I think that as I've heard the testimony today there's probably been three or four questions that are overriding which I will, during the course of comments, try to address, but I think probably the beginning point relates back to Chairman Hudson's comments about the process, whether we have to litigate each and every one of these issues, and where does that take place.

As I think others have amply made clear, the RS 2477 statute was one first enacted in 1866 and it was repealed in 1976, but with the understanding that it did not in any way extinguish rights-of-way, construction of highways that had taken place prior to that date. The Department of Interior did adopt regulations, and in addition, in 1988, most importantly I think in terms of what the current secretary of Interior has done, Secretary Hodel adopted in December of 1988 a policy which was the result of extensive negotiations between Alaska and other western states about how those regulations would be interpreted in Interior and taking into account issues that were of particular concern to Alaska. And I think one most importantly highlighted was the definition of what constituted a highway.

Early on in the Clinton Administration, beginning in about July of 1993, Secretary Babbitt first indicated his intention to move on regulations within the Department of Interior to bring RS 2477 under control by which he meant that regulations would have the effect of restricting the definition of "construction"; the definition of "highway" would attempt to impose a very specific

process for having the RS 2477 adjudicated; and perhaps most importantly, from my perspective, trying to do a cutoff date after which no more RS 2477 rights-of way could be established.

The consequence -- well, the next step elaborated on was his follow-through on that announced intention which was to adopt regulations, which took place in 1994. And that led to actions by Congress in 1995 and 1996 where our staff, the Administration, returned to Washington, D.C. to work with our delegation in ultimately getting language which prohibited the secretary from implementing any such regulations, and we thought obviously a very successful effort until 15 days ago when the secretary announced a policy which in many respects attempts to reimpose by this policy statement what he could not do in the regulatory process that he already initiated and had blocked by Congress.

The reaction of this Administration and this, I think, directly relates to one of Doug Blankenship's concerns: what is the policy, what is the position of the Knowles Administration with respect to the action of the secretary. I think I can make it fairly plain by a statement which the Governor included in his address in Fairbanks the day before at a combined meeting of the Chamber of Commerce and the Fairbanks Rotary, and that is as follows:

"We will fight this ill-advised policy on three fronts: first, I've directed the attorney general to pursue all our legal options in halting implementation of the secretary's new policy; second, we will present test cases that have broad Alaska support to administratively challenge the secretary's new policy to the Department of Interior; and third, we will work with our congressional delegation to resolve the issue legislatively."

The Governor's three-prong approach, I think, brings into focus the fact that there are two fundamental avenues by which we in litigation may achieve a final determination on our RS 2477 rights-of way. The first is in the courts, and those can happen both in federal and state, although, again, if it implicates federal lands currently held by the federal government, those must be done in federal court though we have RS 2477 claims that do not run over current federal lands, but make it a variety of private or quasi governmental instrumentalities. The second avenue, and it's the one to which Secretary Babbitt's latest action most applies, and that's to do it administratively in front of the Department of Interior.

Now some people, including Babbitt, would suggest that we shouldn't be very concerned about this particular policy because it really only applies to the Department of Interior, and, in fact, there's nothing new. We have a moratorium in the department and therefore no one is being blocked in the vindication of their rights that they weren't a day before this new policy. What troubles us most is in the language of the policy itself is the fact that we expect

to see this policy reflected in the advocacy by the federal government trying to persuade federal courts, in particular, that this represents the views of the Department of Interior for which deference should be given. And so, while it has been portrayed by the secretary as rather an innocuous confirmation of previous policy that should not have any adverse effect on any party, our concern again is that it will be used to buy the federal government in arguing its position in cases that are brought in court.

We specifically intend, as the Governor has announced, to try and challenge that policy by bringing cases directly to the secretary of Interior in the administrative process so that we can directly challenge that policy. But we also intend to file, and we expect to be doing that within the month, test cases primarily in federal court as an alternative.

Let me talk next about what we have been doing in an ongoing way. There has reference to the case Schultz versus the United States, which was originally decided in the Ninth Circuit in 1993, which, however, was then on reconsideration and that opinion was withdrawn and a new one was issued which denied a right-of-way to a person trying to cross at Fort Wainwright where a claim of RS 2477 right-of way had been asserted. The state of Alaska had participated as an amicus in supporting Mr. Schultz in his claim, and in speaking with Mr. Schultz's counsel, it is their intent at this point to petition the U.S. Supreme for assert in this latest decision. That will not happen until there is a final technicality in that Ninth Circuit case to bring it to a closure so the time will run, and we have committed to participate as an amicus in that case in seeking the petition for assert and to solicit assistance from other states in joining our amicus effort.

Mr. Blankenship made reference to the Puttycomb and Fitzgerald case. What he did not note was that the state of Alaska had joined as an amicus on Ms. Fitzgerald's behalf before Mr. Blankenship became involved in the case. And again, we think we made a significant contribution in outlining the state's view about RS 2477.

The third case that we have ongoing right now involves a Chickaloon road case in which there has been an assertion that our right-of-way is over Indian country and that we do not have a right of access. We have asserted, among other things, RS 2477 as a basis for access that is nearing briefing on the merits, and I would expect full argument and a decision sometime during the course of this year.

Three years ago in the process that has been discussed here in terms of whittling down the 500 routes where we felt that there was great documentation, we asserted or gave notice, and the federal courts began using the second mechanism, setting the administrative process, the court process, eleven particular routes that we

thought were most promising to establish certain principles of RS 2477 rights in the state. We have gone back -- we've actually prepared complaints in a couple of those, we have not filed. We've gone back through and we've discovered several what I would describe as problematic issues. For example, two of the eleven, actually as it turns out, occur entirely, exclusively on state land, and it makes absolutely no sense to go into federal court to establish that we have a right-of-way. Several others cross significant numbers of mining claims, and I guess to be very candid, we're not interested in engaging in a lot of battles with Alaskans over RS 2477. We're trying to establish some principles in a very measured way that has us focusing on the federal defendants and not looking primarily at private targets.

So though we will invariably be asserting them in many instances where private parties are certainly a part of the litigation -- I think using the example that Senator Halford gave -- it actually is a very frequent one when you're talking about a distance of 20, 30, 50, 60 miles that you are actually covering, many different land patterns, and many different potential defendants.

Another issue that I think is appropriately raised and that is the statute of limitations and do we have a major problem. And I think Mr. Blankenship did a good job in expressing concern, particularly with the conservation system units: is there some statute of limitations running. We've spent a great deal of time looking at this. We were quite confident that, in fact, the management plans are not of that caliber, of that character to have triggered a conclusion that the federal government has asserted a claim adverse to the RS 2477 right-of-way. But it will be one of the issues that we will first be shooting out of the box again to test.

I think Ms. Hjelle's particular remark, and I think reinforced by Commissioner Shively, is, again, recognition. That the 12-year statute of limitations only is a statute with regard to the ability of the state to assert or to obtain quiet title. It does not in any way affect the underlying right-of-way itself. It does not in any way extinguish it. What it does do is put people at peril in exercising the right-of-way against, in most instances, a federal defendant who might well claim that that assertion is not well founded.

Let me take a quick look here to see if I've covered most of the topics here. Let me, Mr. Chairman, at this point maybe take a pause and allow you to direct questions, or, if it might also be appropriate, to ask Ms. Barry at the table if there are more specific or technical legal questions to ask.

CHAIRMAN OGAN: I think Senator Halford has a question to ask.

SENATOR HALFORD: I think initially the question I have is the same question I asked Commissioner Shively. Would the Department of Law

support recording all of those that we now have researched in their respective recording districts so that they are recorded in that fashion and filing all of the ones that are researched adequately, that haven't been filed by the Outdoor Council?

ATTORNEY GENERAL BOTELHO: Mr. Chairman, I would support that. I think my only reservation is to not create the allusion that we have achieved some major legal status by that activity.

SENATOR HALFORD: If they're filed in the recording district, at least there is notification to contrary land owners and to the public that there is something here. You know, it may not be finally determined at the federal level, but if it is the state's position that these are a prior grant and then they are a prior existing right, then there is an obligation that a buyer of property or anyone else be notified of that, and the recording at least does that.

ATTORNEY GENERAL BOTELHO: Mr. Chairman, I do not dispute that. I think that point is well taken. My only point again is not to lull the public into a false sense of security that by having taken that initial step we have somehow adequately asserted the claim, because ultimately that determination will be done case by case. I would expect that we will first have to see a pattern of litigation which will lead the Department of Interior to generalize about whatever principles of law are ultimately established.

SENATOR HALFORD: But isn't this a matter of if we assert and if we use them, they have to sue us? If we don't assert them, if we don't use them, then we have to sue them to quiet title. I mean, it still seems that the first step is record them, treat them as they are ours, as we believe them to be, and go forward and make them sue us.

ATTORNEY GENERAL BOTELHO: Again, Mr. Chairman, I think the two courses of action suggested there are both legally correct answers. Again, I think the concern that has to be out there for a person, whether it's a private individual, a corporation or the state itself by asserting and having it then challenged not only by the Department of Interior but perhaps by other federal agencies, one runs the risk of Corps of Engineers violations. It is a risky business, I think, for an individual to put his or her capital at risk, their livelihood at risk, and it's not, in my view, going to be the case that the state will intervene in every RS 2477 case. There may be situations where we would have a bad actor, and we've had in our state's history situations where people have taken bulldozers straight through streams in trying to assert right-of-way claims, and the state should not in every instance be in the position of having to endorse that activity, even if it believes that the right-of-way is properly asserted in the sense that it belongs to us.

SENATOR HALFORD: Well, we can defend them with regard to RS 2477 while in turn we prosecute them for the abuse of the RS 2477.

ATTORNEY GENERAL BOTELHO: Mr. Chairman, we certainly could. I think that hard issue...

SENATOR HALFORD: At least your defending them from the federal government in the third parties.

ATTORNEY GENERAL BOTELHO: It's a hard issue, I think, to explain to the public, and I think most importantly, obviously we don't want to be in the position of being crosswise with most of our citizens. That's why it strikes me that one would take a more measured approach. There may be circumstances where the kind of aggressive step being taken in Utah would be appropriate. I'm not prepared to say that that should be foreclosed altogether.

SENATOR HALFORD: Mr. Chairman, I have a question for Elizabeth Barry. The question comes out of your testimony in Congress on March 14, 1996, and I understand that we have to tailor our comments a little bit to the audience. One of the questions that I asked Commissioner Shively and I was concerned with is that we treat everything equally. One of the comments was "if access across Native owned and other private land is determined to be necessary through a process involving public review, right-of-way authority other than the application of RS 2477 rights-of-way will be utilized if available." And I wonder what you meant by that, I mean, is there going to be a different standard applied to private lands than there is to federal lands, or is that what that meant?

ELIZABETH BARRY: Mr. Chairman, Senator Halford. My understanding of current policy in the Administration is, no, there will not be a different standard applied, but I would have to...

TAPE 97-10, SIDE B

ELIZABETH BARRY: ...Commissioner of DNR and the Attorney General for further [indisc.]

SENATOR HALFORD: I guess, I would ask what you meant by that statement.

ELIZABETH BARRY: There have certainly been discussions regarding whether or not there, when there is other right-of-way authority available whether that should be used rather than getting into a RS 2477 battle. For instance, there are sometimes 17B easements already reserved across Native Corporation land. It could be much simpler to use an existing 17B easement for access than to get into a protracted court battle about an RS 2477.

SENATOR HALFORD: I guess my concern is that we treat all landowners equally. That's unknown and if there is available,

workable alternative access that is equally economic, you know, that may work and RS 2477 obviously. And Commissioner Shively has got the best example in Red Dog. You know, you try, you work, you go through the process, it doesn't work. You have to go back to Congress and get a whole special provision.

COMMISSIONER SHIVELY: Well, Mr. Chairman. The problem is that not all land is the same, so you can't treat them all the same. State land, we don't have to do anything. Native lands, there are other alternatives which don't exist on federal lands. And federal lands, all that exists is a process. On Native lands there exists actual dedications of rights-of-way. And so, it may be in order particularly when there are disputes, because ultimately if the landowner says its not ours and wants to fight this, we are gonna have to prove every single one of these by litigation. There may be a quicker way to get to the access we need than through the RS 2477. And I think that was the point of discussing a different approach to try to get to the same end.

BRUCE BOTELHO: One other aspect of it as well, Mr. Chairman, is recognizing that not only is not all land the same, not all landowners are either. And again, I would distinguish between the federal government and others, in the sense that there is a mechanism for dealing with this adversely with the federal government in the court or the administrative process to the extent that they contest our assertion. But we also have in mind that we would look to work with all landowners as we're developing rights-of-way to try and resolve short of having to go to court. And I, I think that is also a part of the tenor of this: is to be able to look not only at alternatives in the sense of other legal mechanisms, but to try and resolve short of litigation with landowners the ability to access those routes.

SENATOR HALFORD: Well, as long as the basic premise is that everyone is treated equally. I think that's the concern that I had and it was a concern that was brought to me with regard to different classifications of land. And I realize that when you get into 10 different mining claims and - you got one route, you got 10 different mining claims, three different Native Corporations, two different federal units, and you're gonna fight with all of them. You may not choose to fight that one first.

BRUCE BOTELHO: Exactly, and again that's one of the highest priorities identified of the 11, actually cross 47 mining claims. And its just not in the State's best interest, in my judgement, to be suing 47 holders of claims in order to assert this particular right-of-way as being one of the first out of the chute.

SENATOR HALFORD: From a practical point of view, I absolutely agree. But from an ideologically point of view, the 47 mining claims don't own the right-of-way. The State of Alaska does on behalf of all the people.

BRUCE BOTELHO: I understand Mr. Chairman ...[indisc]

REPRESENTATIVE HUDSON: Bruce, obviously on all State property we pretty much control that and we have property rights there. Are we asserting any property rights on the federal RS 2477 right-of-way lands? I mean, if we have property rights, perhaps if somebody needed to put up a shelter or something like that. Then we would be able to authorize that. Do we have property rights on these trails?

BRUCE BOTELHO: Mr. Chairman, if I might defer to Ms. Barry in terms of uses that aren't directly right-of-way uses.

ELIZABETH BARRY: Mr. Chairman, Representative Hudson, I don't believe there's a clear cut answer to that question. You're going to have to look at what the scope and the width of the right-of-way is. Just within the Alaska context, we've had cases where [indisc.] RS 2477s, but rights-of-way are set aside for road purposes we've not been allowed to [indisc.] transition lines, for instance. So, I think that's going to be an issue that will have to be determined in the courts ultimately on what rights we have besides, if any, besides getting from point A to point B.

REPRESENTATIVE HUDSON: And my second question, if I might? Mr. Attorney General, you mentioned that you had three essential elements and you've described those: the legal challenging Congressional, and the Governor had mentioned this. What if any, I asked Ms. Hjelle, if they had any Congressional solutions or help that they might recommend. Have you identified some specific action that we might ask of our Congressional delegation?

BRUCE BOTELHO: Mr. Chairman, again Ms. Barry has worked closely with the delegation, in particular Senator Murkowski, on this issue. And perhaps, I could ask her again to describe the efforts in the past. Obviously, there's been a new suggestion today which Ms. Hjelle had raised as a possibility of something we have not discussed before.

ELIZABETH BARRY: Mr. Chairman, in the last Congress there were bills introduced in both the House and the Senate that would have put the black letter federal law that state law control RS 2477 grants. And that allowed for the more casual type of use that prevailed over a lot of Alaska's highways, in terms of less restrictive definitions of construction and highway. Neither of those bills passed and instead, there was the moratorium put in place only the federal regulations taking effect. My understanding is that nothing has yet been introduced in this Congress, but they just got started a few weeks ago. Things are moving pretty slowly there, at this point.

BRUCE BOTELHO: Mr. Chairman, if it would be helpful, I think we'd be willing to provide Representative Hudson a copy of the

Legislative proposals that were circulated.

REPRESENTATIVE HUDSON: I would appreciate that, I'm sure both chairman would appreciate a copy.

CHAIRMAN OGAN: Well, I find I'm next on the list so I have a question for you. If a private person uses a 2477 right-of-way where there's no state regulations like on a national wildlife refuge; would the state intervene on behalf of that individual if he got in trouble with the feds?

BRUCE BOTELHO: Mr. Chairman, let me answer it this way. Conceptually, the answer would be - we would do so. Having said that, I would look at the facts of any given situation. It's quite clear from my earlier testimony that we have actually supported private individuals who have asserted RS 2477 rights-of-way in the state, in the courts of both the State of Alaska and the Federal Courts. And so, as a matter of principle, we are not adverse to lending the weight of the State of Alaska. Whether we would do it in every case, I think would depend on the circumstances, what legal principles would be advanced in the case, what are the resources available at that particular time and again, the good faith efforts of the individual. So that again we're not in a situation where we have a black sheep, for lack of a better way of describing it. But in principle, the State of Alaska would, subject to the kind of concerns I've expressed.

CHAIRMAN OGAN: I think I have one other question. At a Joint Senate/House State Affairs Committee meeting during the interim, between the first and second half of the session of the 18th or the 19th Legislature, you stated. There was some, quite a bit of concern on the part of the committee members that there was only a very small amount of these right-of-way assertions being litigated. And you stated that, it wasn't that big of a priority, that you had - your first priority was the protecting children which is a good cause. Do I see that there's, can we from your testimony and testimony of Commissioner Shively - that the Administration has now shifted that position. That is now a much bigger priority with them, now that Secretary Babbit has taken the action he has.

BRUCE BOTELHO: Mr. Chairman, I think it is fair to say that the action of the Secretary of Interior has created an urgency on RS 2477. And not simply from a political sense, but our concern about its possible impact on litigation. That has really propelled it, obviously, to be a major concern of the Governor such that he has put his credibility on the line on this issues. So, I would say that there is a heightened attention statewide of the issue. And the Governor intends to make sure the State of Alaska is a leader on the issue.

CHAIRMAN OGAN: Well, as a comment, I welcome that action. I gotta tell, to be quite honest, I see a bit of a trend of the

Administration to take - not take a proactive stance on this and other issues and then when we get in trouble. But I do welcome the departure from the less proactive stance. And there was a question from Senator Lincoln, the Senator Halford, and then I think we should probably wrap it up.

SENATOR LINCOLN: I think it pulls very nicely to what your last question was and that is if we do start to litigate, and it sounds like we may. And we've got 500 documented parcels and more to come that it seems to me that if we're going to - if Administration is going to have this as a priority, then we are going to have to budget accordingly. I don't think that we can say that this is something that Administration better get on and find that we're gonna cut the budget or that you have to then litigate [indisc.] utilize the budget, your normal budget. I would, I guess I would ask what kind of a plan that you see over time and are you going to then come back to the Finance Committee and ask for funding to litigate the RS 2477s.

BRUCE BOTELHO: Mr. Chairman, Senator Lincoln. We have prepared a five year schedule of alternative scenarios. The Legislature has funded our work in RS 2477. And we've anticipated that in terms of our budget planning. So, I'd be delighted to share that with you and I don't have that information at hand.

CHAIRMAN OGAN: And Senator Halford.

SENATOR HALFORD: Just a question from the opposite direction. With regard to the vacation of RS 2477s, I know that DOT in actual construction projects sometimes vacates pieces of an RS 2477 road in the same sense that they also take access and they sometimes trade with an adjacent landowner to straighten out a curve or something else. But other than those kinds of cases, are there any cases where the state has vacated an RS 2477 and if so, how have they done it?

BRUCE BOTELHO: Mr. Chairman, that question I believe would be most appropriately directed to Commissioner Shively. [indisc.]

COMMISSIONER SHIVELY: Chairman and Senator Halford'. I think largely the RS 2477s that we have vacated are section line easements which people believe are RS 2477s in communities. We have not to my knowledge vacated any of the RS 2477s that we've identified here, but and I don't know; Nancy Welch, if you're still on, whether you have anymore information on that question than that.

An unidentified person via teleconference stated that Ms. Welch had left the Fairbanks office.

SENATOR HALFORD: I would like a follow-up on that question just to know what has been vacated. Again, not the - I mean, I know that

DOT makes, you know adjustments back and forth and when they sometimes get something else they back away from both the PLO easements and the RS 2477 easements when they get the other side and finally build something to specification.

COMMISSIONER SHIVELY: Mr. Chairman and Senator Halford. As I said, the ones that I've been aware of are all section line easements in developed communities where we have alternative transportation.

SENATOR HALFORD: But they're actually RS 2477s and section line easements.

COMMISSIONER SHIVELY: Well, most people believe. I think that there is a theory that a section line easement is an RS 2477 easement, it is a different kind of RS. It's not what you think of. I mean most people think of, when they talk about RS 2477s as the mining trail that people used for years, but it's my understanding that in the territorial legislation that accepted reservation of RS 2477s and because of the way that was written, that section line easements are considered under the same law. Bruce, you may or Elizabeth maybe.

BRUCE BOTELHO: Nodding our heads in agreement.

SENATOR HALFORD: I would like a list of the RS 2477s that are section line easements that have been vacated and the process by which they're vacated.

CHAIRMAN OGAN: And would you provide that to the House Resources Committee as well. Well, if there are no other questions. I'd like to thank everyone that participated today. I think we had a very in-depth and informative discussion of the issue. And thank you for enduring the long meeting and for your time out of your busy schedules, all of you. And with that this meeting is adjourned (3:50 p.m.).

Recent Alaska RS 2477 Investigations

In the 1970's

More than 20 years ago (1973-74) the State of Alaska, through its Department of Transportation, researched and recorded more than 1,500 RS 2477 rights-of-way. These were identified and mapped. The list was forwarded to the Bureau of Land Management for "assertion" by Commissioner Bruce Campbell. Transmittal was dated April 8, 1974.

For 11 years BLM did not acknowledge the State's submission. It was August 12, 1985 that BLM issued a memorandum referring to the State of Alaska's "Trail Atlas". BLM claimed that the State's documents did not constitute a request for notation in its (BLM) records, that BLM (in any case) could not accept because BLM "had no authority to note such claims until we received the new 2800 manual in late 1982," that the maps and other information in the State's "atlas" did not "meet the requirement of BLM Manual 2801.243. The maps are not of a scale and quality which would allow us to accurately transfer the claimed trails to our records."

By 1992, all record of that action was gone! BLM had no record of the filing..

In the mid 1980's

Senator Jack Coghill, chairman of the Senate Transportation Committee, caused to happen a study of RS 2477 rights-of-way that fell within conservation units that ANILCA had established. This study was published in three volumes by the Alaska Senate.

In the 1990's

In January, 1993 Governor Walter J. Hickel and Lieutenant Governor Jack Coghill budgeted \$720,000 to research RS 2477 rights-of-way in Alaska. Their request was approved by the Legislature, and an intensive research program (RS 2477 rights-of-way) began in the Alaska Department of Natural Resources. That funding supported a team of 12 researchers and natural resource officers through fiscal year 1994. Another appropriation for \$300,000 was requested and funded. The team manpower strength was reduced about 60%.

The records comprise an impressive body of legal research. Each RS 2477 right-of-way studied has a file that contains proof of trail use in such documents as U.S.G.S. maps, other official government maps, State and BLM land status plats, land ownership data, historical use narratives, U.S. Postal route (dog team) documentation, and other proof of use.

Establishing a Policy between BLM and Alaska Outdoor Council

In the spring of 1996 the Alaska Outdoor Council board of directors authorized the formation of a committee to begin asserting RS 2477 rights-of-ways with the Bureau of Land Management. That committee is composed of Dick Bishop, Lisa Harbo, Kathleen Dalton and Byron Haley.

This action was taken because of growing concerns about access to state and private lands AND because there was no apparent leadership by the Knowles administration in the State of Alaska.

Until June, 1996, BLM in Alaska had no established public process for assertions of RS 2477. The occasional RS 2477 right-of-way which the State of Alaska sought for a transportation route was handled on an individual, negotiated basis with BLM. There was no public process.

AOC designed a form that identified the route with its legal location, its name, the State's ID number. Attached to that form were the following: an inch-to-mile map with route traced; documented historical proof of use; width statement. These documents were witnessed and notarized before submission to BLM.

At a meeting (requested by AOC) on June 26, BLM Interior and Northern Director Dee Ritchie accepted AOC's assertion form. He instructed his lands agents to accept our assertions. He also instructed his agents to date stamp and sign each assertion and to serialize the assertions in BLM's right-of-way filing system.

In the interim July-September, 1996 AOC asserted 240 RS 2477 rights-of-way. Hundreds of hours of volunteer time went into this work. It is estimated that each assertion took a minimum of four hours to copy, organize, notarize, and submit. We estimate that each file cost AOC \$3.50 in basic material and copy costs. Those hours and dollars were volunteer by AOC members. A copy of each case file we handled was kept in Alaska Outdoor Council records.

In September the AOC committee took a breather. We felt that the 240 rights-of-way asserted had represented most priority routes. We also felt that we had established a legal paper trail that may give us standing in the future.

In December we learned that there was a "hitch" in those ROWs sent to Anchorage (about 50%) for processing into the records of the Kasilof, Seward and Copper River Meridians. The Fairbanks BLM office serialized any route that fell within the Fairbanks Meridian. AOC has set up another meeting with the interior BLM director at which time we will examine our options on those assertions that Anchorage BLM personnel did not (or would not) serialize.

NOTE: The term "serialize" as used by BLM means that the document has been accepted, date stamped and entered into BLM's right-of-way filing system. A legal record has been created.

Kathleen Dalton

240 ROWs (RS 2477) asserted with BLM
State of Alaska RST #, trail name, and date asserted
 (asserted by Alaska Outdoor Council summer 1996)

2	Taylor - Humbolt Trail	7/1/96	
3	Hajdukovich - Macomb Plateau Trail		7/1/96
4	Jualin Mine Road	7/8/96	
5	Marvel Creek Cat Trail	7/8/96	
6	Taylor Creek - Serpentine Hot Springs Trail	7/1/96	
7	Eureka - Rampart Trail	7/8/96	
8	Harrison Creek - Portage Creek Trail		6/26/96
9	Coldfoot - Chandalar Lake Trail		7/1/96
10	Chicken - Franklin Landing Strip Trail		6/26/96
10	Bettles - Wild Lake Trail	7/8/96	
11	Eagle - Alder Creek Trail		
12	Nabesna - Chisana Trail	7/17/96	
14	Unuk River Road	7/17/96	
16	Aurora Trail (Dahl - Deering)		7/17/96
17	Knik Glacier Trail	8/12/96	
21	Akiak - Crooked Creek Trail	8/12/96	
22	Akiakchak/Akalak - Phillips Bros - Russian Mission Trail		8/12/96
24	Aniak - Tuluksak Trail	8/12/96	
27	Beaver - Caro Trail	8/15/96	
28	Bennett's Cutoff Trail	8/7/96	
30	Bethel - Quinhgak Trail	8/12/96	
31	Gethel - Kasigluk	8/7/96	
42	Candle - Kiwalik	8/15/96	
43	Rex Creek Trail	7/24/96	
57	Teiaquana Trail	6/26/96	
59	Crooked Creek - Aniak Trail	8/22/96	
63	Kaltag - Dishkaket	8/15/96	
67	Eagle - Circle Mail Trail	7/17/96	
68	Egegik - Kanatak Trail	8/12/96	
69	Elliot - Kotsina Trail	7/8/96	
78	Fortymile - Franklin	8/28/96	
83	Betzulnetas - Susiota Pass Trail		7/24/96
84	Golovin - Council Trail	8/22/96	
86	Goodnews Bay - Togiak	8/12/96	
92	Holy Cross - Kalskag Trail	8/22/96	
93	Hooper Bay - Scammon Bay	8/15/96	

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97	Iditarod - Dishkaket Trail	8/28/96	
103	Alatna - Shungnek Trail	8/12/96	
109	Snowshoe - Beaver Trail	6/26/96	
114	Kiana - Klery Creek	8/28/96	
115	Kiana - Selawik - Shungnak	8/15/96	
116	Kinak - Kipnuk Trail	8/22/96	
117	Kiwalik - Noorvik	8/15/96	
120	Kotlik - Marxhall	8/22/96	
121	Kotsina Trail	7/17/96	
122	Kotzebue - Noatak Trail	7/24/96	
124	Nimiuk Point - Shungnak Trail		8/22/96
127	Larsen Bay - Karluk River Trail		7/31/96
129	Lewis Landing - Dishkaket	8/12/96	
135	McCarthy - GreenButte Trail	7/24/96	
139	Millard Trail	7/24/96	
155	Nizina - Bremner Sled Road	7/24/96	
156	Nizina - Chitina River Trail	7/24/96	
158	Nome - Teller Trail	8/22/96	
159	Lilliwig Creek Trail	8/28/96	
160	Nuka Bay Trail	6/26/96	
161	Nulato - Dishkaket Trail	8/15/96	
162	Batzulnetas - Nabesna River Trail		7/24/96
164	Ophir - Dishkaket Trail	8/15/96	
165	Ophir - Iditarod Trail	8/12/96	
168	Paimute - Marshall Trail	8/22/96	
173	Quinhagak - Goodnews Bay	8/12/96	
179	Kianga River Trail	7/24/96	
190	St. Michael - Kotlik Trail	8/22/96	
194	Streina - Kuskulana Trail	7/24/96	
209	Bettles - Coldfoot Trail	7/24/96	
213	Teller- Wales Trail	8/22/96	
215	Togiak - Nushagak Trail	8/12/96	
220	Upper Landing - Bear Creek Trail		8/22/96
220	Yentna - Mills Creek Trail	7/17/96	
226	Woodchopper - Coal Creek Trail		7/8/96
229	Yukon - Kuskikwim Portage Trail		8/22/96
230	Bielenberg Trail	6/26/96	
232	Swede Lake Trail	7/8/96	
256	Beaver Lake via Bryan Creek Trail		7/24/96
257	Beaver - Horse Creek - Chandalar Trail		8/15/96
260	Canyon Creek - Walker's Fork Trail		8/15/96
265	Chisana - Horsveldt Trail	7/24/96	