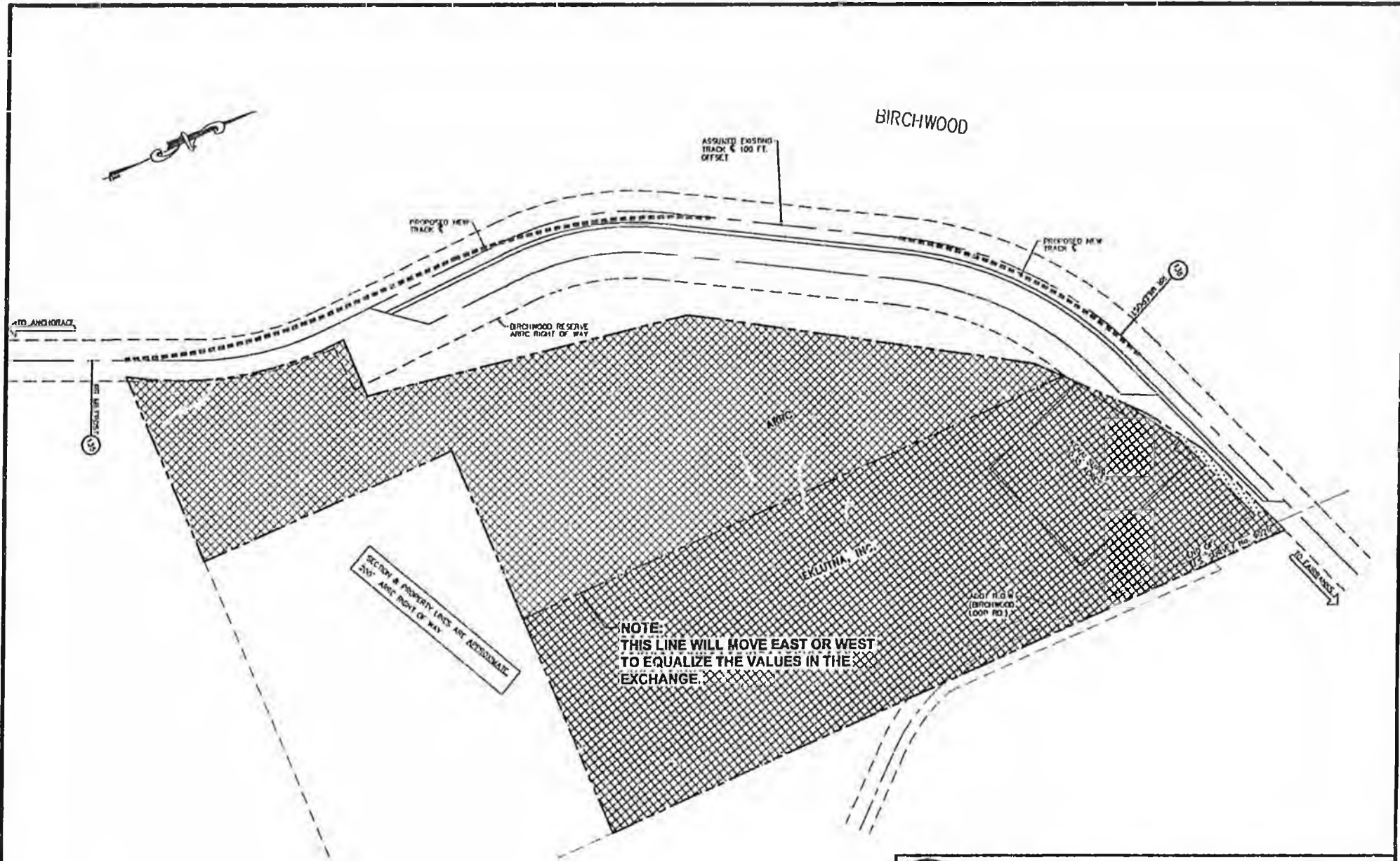






ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672


10131 SENATE RESOURCES



NOTE:  
THIS LINE WILL MOVE EAST OR WEST  
TO EQUALIZE THE VALUES IN THE  
EXCHANGE.

**KEY**

-  LAND EXCHANGED TO EKLUTNA FROM ARRC
-  LAND RETAINED BY EKLUTNA
-  LAND EXCHANGED TO ARRC FROM EKLUTNA
-  LAND RETAINED BY ARRC

 <b>ALASKA RAILROAD CORPORATION</b> OFFICE OF THE CHIEF ENGINEER P.O. BOX 107500, ANCHORAGE, ALASKA 99510-7500 (907) 265-2456		
PROJECT : <b>EAGLE RIVER TO WASILLA MP 128.8 TO MP 158.5</b>		
TITLE : <b>MILEPOST 135 TO 136 ARRC &amp; EKLUTNA, INC. PARCELS</b>		
DESIGNED BY: K.R.H.	SCALE : NOT TO SCALE	FILE: 131-135COMB0.DWG
DRAWN BY: P.C.L.	DATE : SEPT. 1999	DWG NO.
APPROVED BY: I.B.		<b>2</b> OF <b>2</b>

### **Chugach Alaska Corporation:**

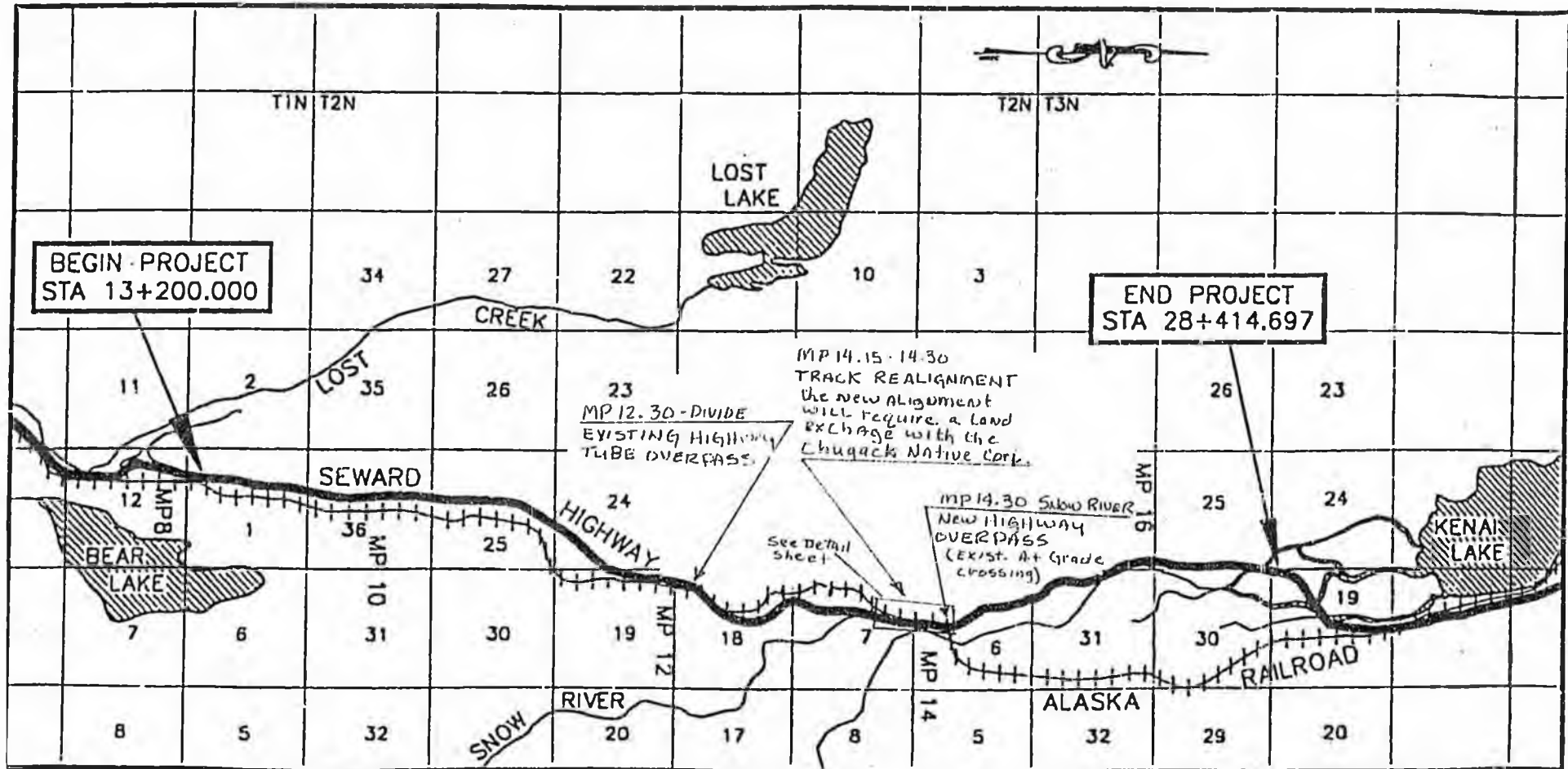
The Department of Transportation and Public Facilities (DOT) has bid reconstruction of the Seward Highway from mile post 8 to 18. At approximately mile post 14, the Seward Highway crosses the Alaska Railroad. As part of the DOT's highway relocation project, DOT will grade separate this crossing by building a highway overpass. The grade separation involves a realignment of the Alaska Railroad onto Chugach Alaska Corporation land.

To realign its track for DOT's highway project and retain a 200 foot right-of-way, the ARRC will exchange land with Chugach Alaska Corporation. The ARRC will convey to Chugach Alaska Corporation 6.4 acres of railroad right-of-way (utility corridor) between railroad mile posts 14 and 15. Chugach Alaska Corporation will convey an equivalent interest in real property onto which the railroad utility corridor may be relocated.

Chugach Alaska Corporation will then grant DOT an easement in perpetuity so that DOT can reconstruct the Seward Highway. This will satisfy Chugach Alaska Corporation policy for a "no net loss" land exchange.

A memorandum of understanding between DOT, ARRC and Chugach Alaska Corporation has been drafted. Once finalized, copies will be available.

Seward Highway ~ ARRC Realignment  
 LOCATION MAP



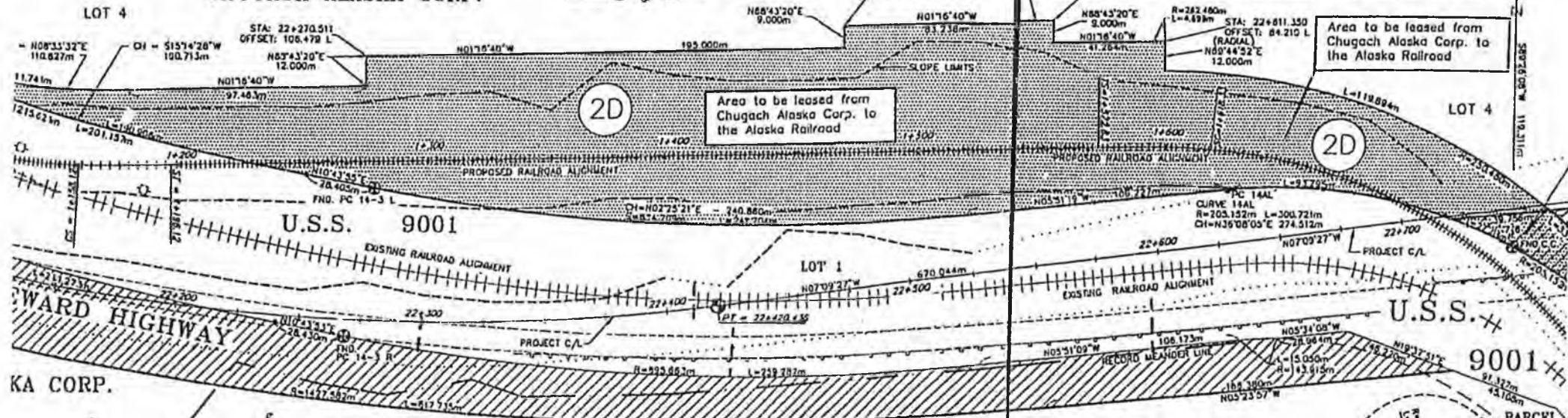
W.1/2 SEC. 7  
T.2N., R.1E. S.M. UNSURVEYED

STATE OF ALASKA (TENTATIVE APPROVAL)

W1/2 SEC. 7, T.2N., R.1E., S.M. UNSURVEYED

CHUGACH ALASKA CORP.

CHUGACH ALASKA CORP.



STATE OF ALASKA  
DEPARTMENT OF TRANSPORTATION  
& PUBLIC FACILITIES

RIGHT OF WAY REQUIRED FOR:  
SEWARD HIGHWAY MP 8-18 REHABILITATION  
STP-031-1(25) 52419

GROSS TAKE 3.2899 ha  
NET TAKE 3.1577 ha

DRAWN BY: SE ROW REMAIN LARGE  
SCALE 1:1500 DATE 11/98 PARCEL NO. 2D

SNOW RIVER

SEC. 7  
T. 2 N.  
R. 1 E.  
S.M.



EXISTING RIGHT OF WAY  
RIGHT OF WAY REQUIRED  
From Chugach to ARCC

EXISTING RIGHT OF WAY  
RIGHT OF WAY REQUIRED

ATED

1/2 SEC. 7  
N., R.1E. S.M. UNSURVEYED

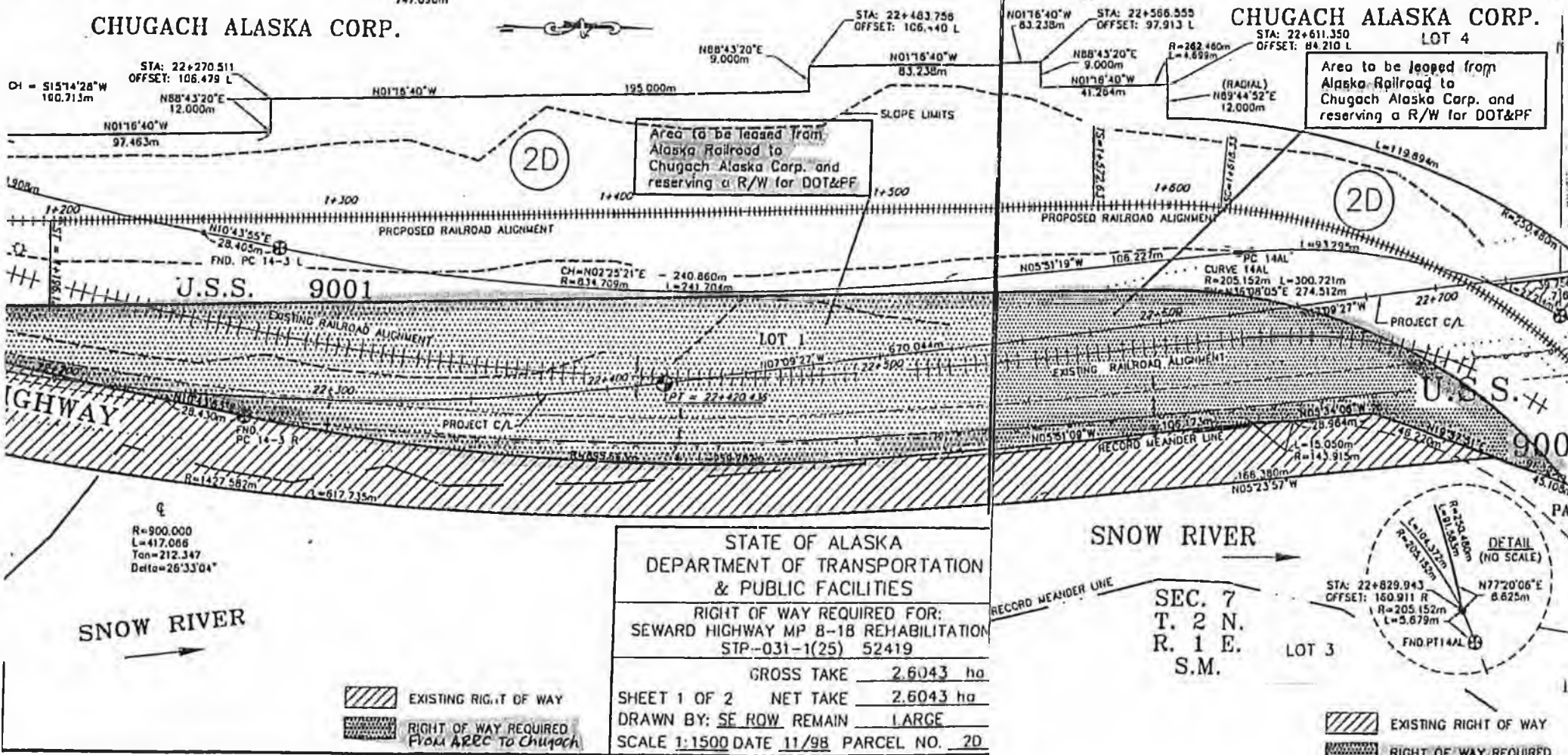
STATE OF ALASKA (TENTATIVE APPROVAL)

500°43'05"E  
747.090m

500°43'05"E W1/2 SEC. 7, T.2N., R.1E., S.M. UNSURVEYED

CHUGACH ALASKA CORP.

CHUGACH ALASKA CORP.  
LOT 4



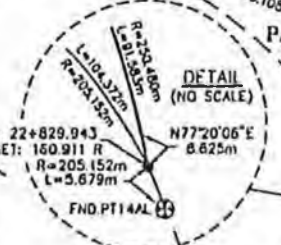
STATE OF ALASKA  
DEPARTMENT OF TRANSPORTATION  
& PUBLIC FACILITIES

RIGHT OF WAY REQUIRED FOR:  
SEWARD HIGHWAY MP 8-18 REHABILITATION  
STP--031-1(25) 52419

GROSS TAKE 2.6043 ha  
SHEET 1 OF 2 NET TAKE 2.6043 ha  
DRAWN BY: SE ROW REMAIN LARGE  
SCALE 1:1500 DATE 11/98 PARCEL NO. 2D

EXISTING RIGHT OF WAY  
 RIGHT OF WAY REQUIRED FROM AREC TO CHUGACH

EXISTING RIGHT OF WAY  
 RIGHT OF WAY REQUIRED



SEC. 7  
T. 2 N.  
R. 1 E.  
S.M.

LOT 3

### **Mile Post 133 -- Beach Lake Park:**

Of predominant interest to the residents of the Greater Eagle River area is the railroad curvature located near the mile post 133 vicinity -- better known as Beach Lake Park. To straighten these curves, the ARRC will need to gain fee simple title or an easement from the Municipality of Anchorage (MOA) for the proposed new right-of-way before construction can begin. The MOA and ARRC are currently researching the options.

Depending on what option is chosen, the ARRC may need to obtain legislative approval for a land exchange with the MOA. Should a decision be made prior to the 2000 legislative session, an amendment may be added to the track realignment legislation.

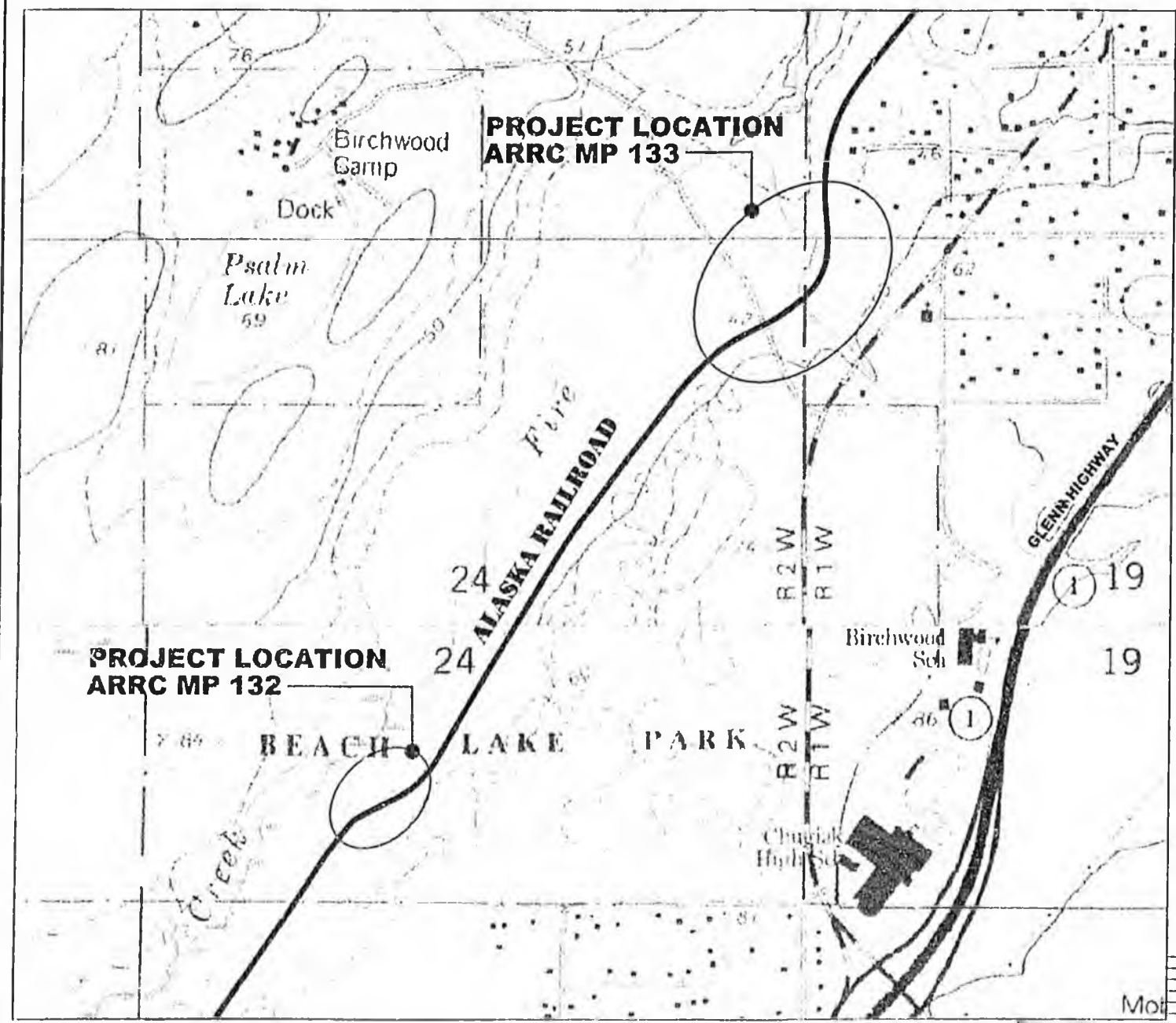
Reconstructing track in this area will mean ARRC can work with the MOA to ensure safer access across its tracks.

The ARRC's plan includes building a new grade-separated crossing at Beach Lake Road that will greatly enhance traffic safety. The new crossing will be an underpass with a 14.6-foot high clearance to accommodate larger vehicles and trucks loaded with dog sleds. By moving the crossing 380 feet north of the current crossing, vehicles will no longer have to approach the crossing from a steep section of road -- a situation that becomes potentially hazardous during icy conditions.

In addition to the road underpass, the ARRC will enhance pedestrian safety by building a pedestrian underpass. The underpass will connect the Beach Lake Trail system on either side of the tracks. With a ten-foot clearance, this underpass will accommodate dog mushers, skiers and other user groups.


Part of the overall project will include working with the adjacent property owners at mile post 133 to define use and ownership of the old railroad right-of-way. Once the Municipality of Anchorage determines the proper course of action for making the proposed new right-of-way available to ARRC, the ARRC will negotiate a reciprocal agreement with the adjacent private property owners.

Finally, the proposed project at this vicinity also includes obtaining enough land in the new right-of-way to allow Eklutna, Inc access to its nearby property. Eklutna is proposing to build a gravel road from Beach Lake Road to their property. This road will run adjacent to the proposed new track alignment on the north side.



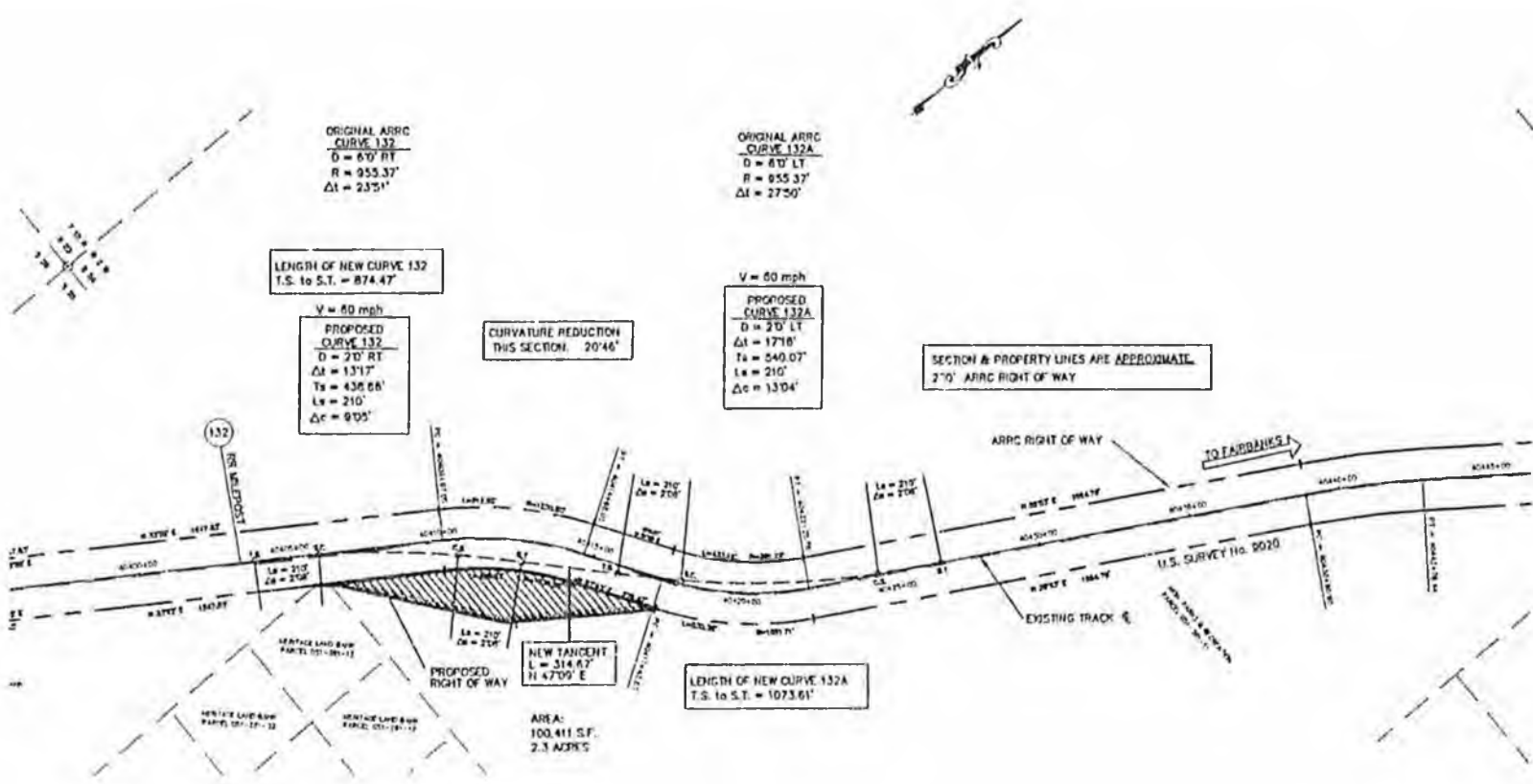
# VICINITY MAP

NO SCALE

 <b>ALASKA RAILROAD CORPORATION</b> OFFICE OF THE CHIEF ENGINEER P.O. BOX 107570, ANCHORAGE, ALASKA 99510-7570 (907) 265-2458			
<b>EAGLE RIVER TO WASILLA          CURVE REALIGNMENTS</b>			
<b>VICINITY MAP</b>			
DESIGNED BY	P.B.H.	SCALE	NONE
DRAWN BY	J.M.E.	DWG. NO.	1 OF 3
APPROVED BY	P.J.L.	DATE	DEC. 1995

Mot

REV. DATE (R) REVISION



ORIGINAL ARRC  
CURVE 132  
D = 6°0' RT  
R = 953.37'  
Δt = 23°51'

ORIGINAL ARRC  
CURVE 132A  
D = 4°0' LT  
R = 953.37'  
Δt = 27°50'

LENGTH OF NEW CURVE 132  
T.S. to S.T. = 874.47'

V = 60 mph  
PROPOSED  
CURVE 132  
D = 20' RT  
Δt = 13°17'  
Ts = 436.66'  
Ls = 210'  
Δc = 9°05'

CURVATURE REDUCTION  
THIS SECTION: 20'48"

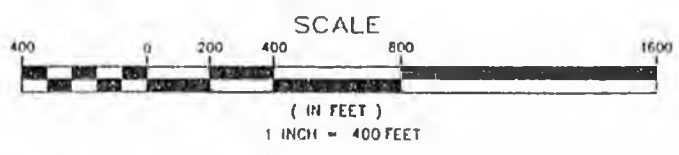
V = 60 mph  
PROPOSED  
CURVE 132A  
D = 20' LT  
Δt = 17°18'  
Ts = 540.07'  
Ls = 210'  
Δc = 13°04'

SECTION & PROPERTY LINES ARE APPROXIMATE.  
270' ARRC RIGHT OF WAY

NEW TANGENT  
L = 314.67'  
H = 4709' E

LENGTH OF NEW CURVE 132A  
T.S. to S.T. = 1073.61'

AREA:  
100,411 S.F.  
2.3 ACRES

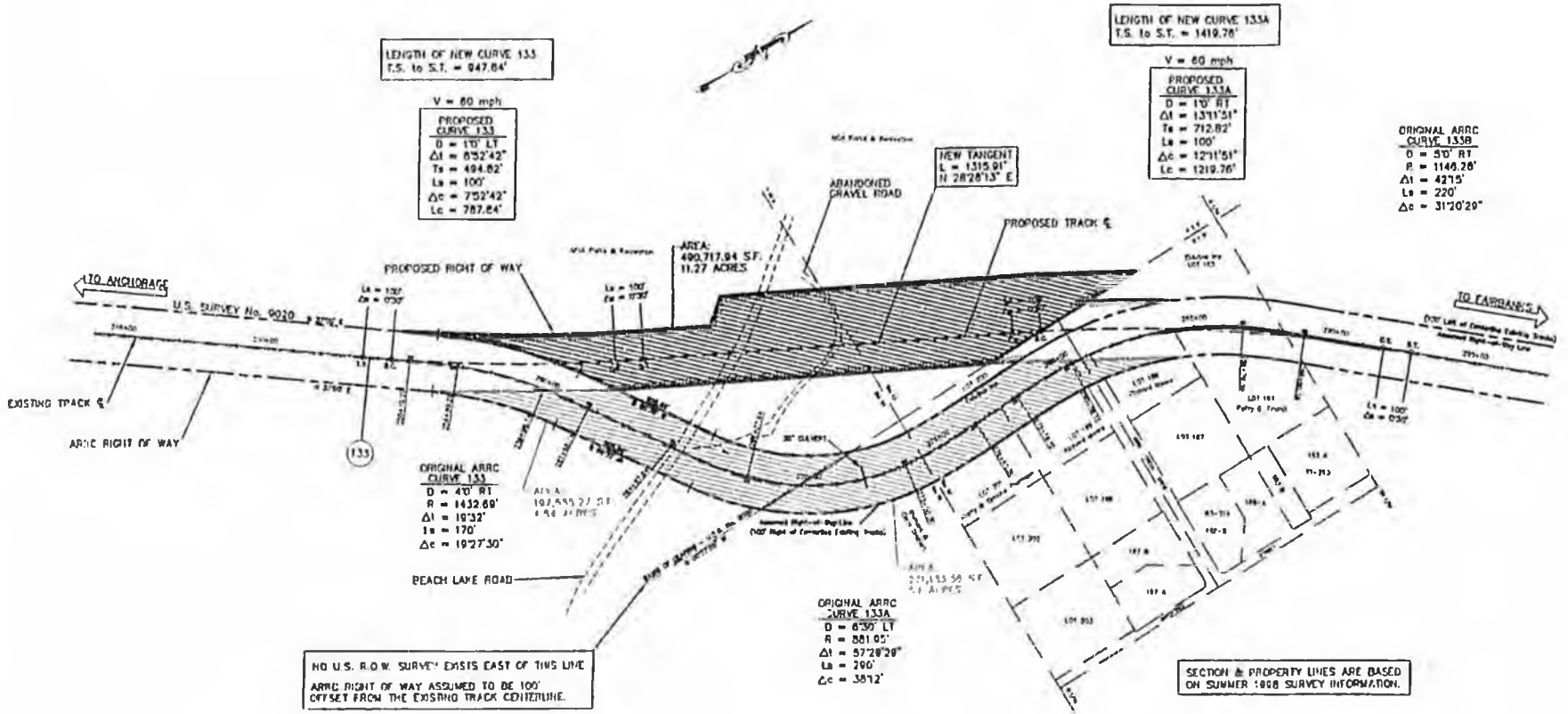


**ALASKA RAILROAD CORPORATION**  
DIVISION OF THE CHIEF ENGINEER  
P.O. BOX 107500, ANCHORAGE, ALASKA 99510-1500 (907) 245-2450

**EAGLE RIVER TO WASILLA**

**PROPOSED REALIGNMENTS TO  
CURVE 132**

DESIGNED BY	E.R.H.	SCALE	1"=100'	FILE NO.	EW-110
DRAWN BY	J.M.S.	DATE	DEC. 1958	2	OF 3
APPROVED BY	E.J.L.				



LENGTH OF NEW CURVE 133  
T.S. to S.T. = 947.84'

V = 80 mph  
**PROPOSED CURVE 133**  
 D = 110' LT  
 $\Delta I = 652'42''$   
 Tc = 494.82'  
 Lc = 100'  
 $\Delta c = 752'42''$   
 Lc = 787.84'

LENGTH OF NEW CURVE 133A  
T.S. to S.T. = 1419.76'

V = 80 mph  
**PROPOSED CURVE 133A**  
 D = 110' RT  
 $\Delta I = 1311'51''$   
 Tc = 712.82'  
 Lc = 100'  
 $\Delta c = 1211'51''$   
 Lc = 1219.76'

**ORIGINAL ARCC CURVE 133B**  
 D = 50' RT  
 R = 1146.28'  
 $\Delta I = 421'5''$   
 Lc = 220'  
 $\Delta c = 3170'29''$

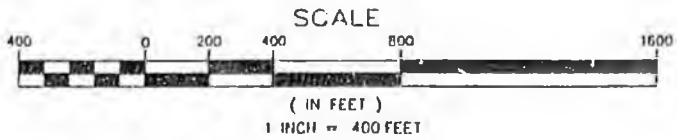
**ORIGINAL ARCC CURVE 133**  
 D = 40' RT  
 R = 1432.69'  
 $\Delta I = 10'32''$   
 Lc = 170'  
 $\Delta c = 1927'30''$

**ORIGINAL ARCC CURVE 133A**  
 D = 650' LT  
 R = 281.85'  
 $\Delta I = 6720'29''$   
 Lc = 280'  
 $\Delta c = 3512'$

NO U.S. R.O.W. SURVEY EXISTS EAST OF THIS LINE  
 ARCC RIGHT OF WAY ASSUMED TO BE 100'  
 OFFSET FROM THE EXISTING TRACK CENTERLINE.

SECTION & PROPERTY LINES ARE BASED  
 ON SUMMER 1988 SURVEY INFORMATION.

CURVATURE REDUCTION  
 THIS SHEET: 92712



REV	DATE	BY	REVISION

**ALASKA RAILROAD CORPORATION**  
 OFFICE OF THE CHIEF ENGINEER  
 P. O. BOX 103500, ANCHORAGE, ALASKA 99510-3500 (907) 245-2424

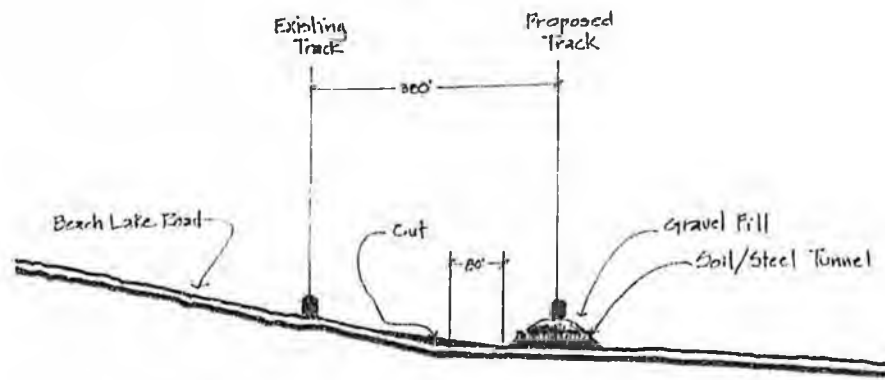
**EAGLE RIVER TO WASILLA**

**PROPOSED REALIGNMENTS TO CURVES 133 & 133B**

DESIGNED BY: C.J.  
 DRAWN BY: D.J.S.  
 APPROVED BY: F.J.H.

SCALE: 1" = 400'  
 DATE: Jan 1999

FILE NO: E-133P03  
 DRAWING NO: 3 OF 3



Section Through  $\phi$  Beach Lake Road Realignment

Scale Horiz: 1"=100'-0"  
Vert: 1"=50'-0"



Section Through  $\phi$  Beach Lake Road Realignment

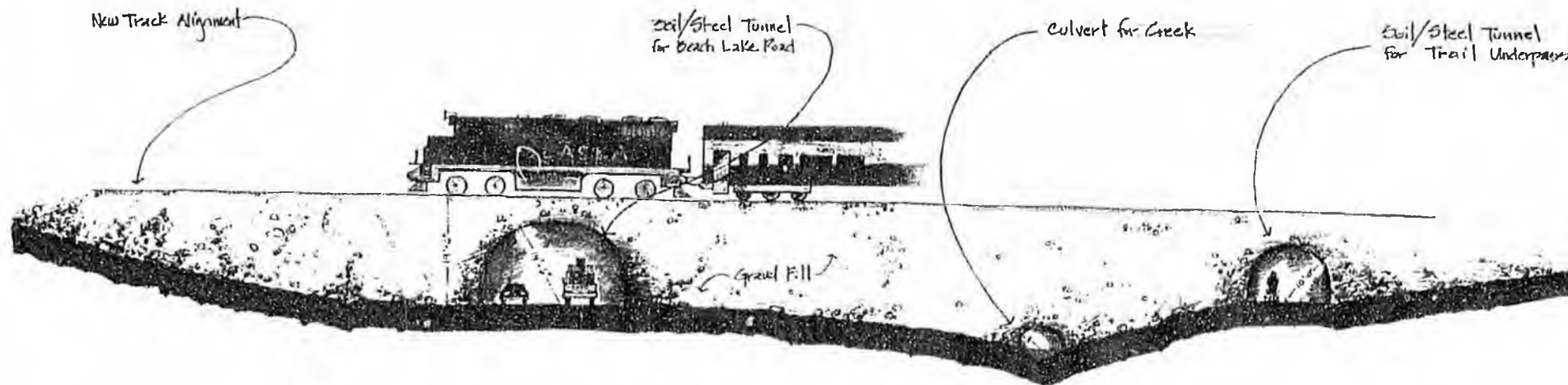
Scale 1"=20'-0"

**Alaska Railroad Corporation**  
**Realignment MP 133**

**Typical Section / Elevation**  
Proposed  $\phi$  Beach Lake Road Alignment



**Sheet**  
**1 of 2**



Section / Elevation Looking at Proposed Track Realignment

Scale 1"=10'-0"



Section / Elevation Looking at Proposed Track Realignment

Scale Horiz 1"=100'-0"  
Vert 1"=50'-0"

**Alaska Railroad Corporation**  
**Realignment MP 133**

**Typical Section / Elevation**  
Proposed  $\text{C}$  Beach Lake Road Alignment



**Sheet**  
**2 of 2**

## Project Benefits:

- 1) Improves public safety.
  - a) includes upgrades to vehicle crossings.
  - b) adds pedestrian safety amenities including a pedestrian underpass at Beach Lake Park.
  - c) adds fencing to discourage trespassing, where necessary.
  - d) utilizes longer rail segments to reduce noise and vibration.
- 2) Improves safety of operations.
  - a) adds consistency in train handling.
  - b) increases engineer's line of sight.
  - c) reduces potential derailment at sharp curves.
- 3) Reduces running time by approximately 40 minutes between Anchorage to Wasilla. (from 95 minutes to about 55 minutes)
  - a) railroad passengers spend more time at their destinations, increasing income to these communities and enjoyment for visitors to our state.
  - b) railroad would be in a better position to offer rail commuter service, which would in turn play an important role in reducing Glenn Highway congestion.
  - c) faster trains will lead to more trains, leading to more jobs for Alaskans.
  - d) railroad will provide more competitive and efficient freight service.
  - e) increased train efficiency from Anchorage to Fairbanks will help ARRC better meet its schedules and deadlines.
- 4) Reduces track and equipment wear and tear.
  - a) decreasing curvature increases rail life. (for example, rail on a ten degree curve has 90% less rail life than rail on tangent track.)
- 5) Reduced impact on the Glenn and Park Highways = long-term state savings.
  - a) heavy freight loads damage roads but not rails. Freight on roads contributes approximately 80% of road degradation nationally.
  - b) increased railroad passenger traffic may lessen some demand for future road maintenance and capital improvement needs due to increased visitors and residents use. Alaska Railroad shares in the cost of this growth because it maintains its own tracks.
- 7) Improves asset base of the Alaska Railroad, which enhances the State's ownership of the railroad for all Alaska shareholders.
- 8) Military benefits include:
  - a) Elmendorf Air Force Base gains additional operating space between the railroad tracks and its airfield allowing for an adequate clear zone as an increased safety buffer.
  - b) safer railroad crossings including a new grade separated crossing at Vandenberg Avenue on Elmendorf Air Force Base.
  - c) potential commuter stop near the Base.

## Project Impacts and Mitigation:

- 1) Increased potential conflicts at railroad crossings

Mitigation: Improve crossings

- a) a Diagnostic Team is studying each crossing. The team includes railroad employees, a traffic safety engineer from ADOT, and a representative from the local governing body involved. Other stakeholders are invited to participate.
- b) a formal engineering evaluation will be produced for each crossing that will recommend the acceptable level of warning devices needed.

- 2) Noise & vibration

Residential areas impacted along the alignment section:

Mile post 133-137 \* Birchwood residential area near the airport

Mile post 141-142 \* Eklutna Village

*Note: noise disturbance not an issue for military bases*

Mitigation:

- a) noise study at Birchwood has been conducted as part of the right-of-way acquisition. Study includes specific local data at area of impacts.
- b) track improvements will be made.
  - better ballast (track foundation).
  - longer rails -- 80 feet (average is 39 feet). This eliminates half of the rail joints responsible for clickity-clack noise. Longer rail also reduces vibration.

- 3) Trespass incidents may increase

Mitigation:

- a) fencing: selected areas
- b) additional pedestrian underpasses being considered
- c) public relations safety campaign: Operation Lifesaver includes school education efforts and public service announcements

*Note: Track realignment will give the train engineers a greater line of sight giving them more time to react.*

**MEMORANDUM OF UNDERSTANDING**

**ALASKA RAILROAD CORPORATION**

**AND**

**EKLUTNA, INCORPORATED**

WHEREAS, the Alaska Railroad Corporation (referred to hereafter as "ARRC") and Eklutna, Incorporated (referred to hereafter as "Eklutna") entered into the "Agreement of the Alaska Railroad Corporation and Eklutna, Inc. Settling Claims of Valid Existing Rights to Rail Properties of the Alaska Railroad and Providing for Conveyances Pursuant to the Alaska Native Claims Settlement Act and the Alaska Railroad Transfer Act of 1982" on January 8, 1987, and as subsequently amended (referred to hereafter as "the 1987 Agreement"); and

WHEREAS, ARRC and Eklutna affirm and acknowledge that the 1987 Agreement remains in full force and effect, except as may be supplemented or modified as set forth herein; and

WHEREAS, ARRC has decided to realign its route to improve service and efficiency and is no longer in need of the property formerly identified as Parcel C of the Powder Reserve in the 1987 Agreement, currently identified as Tract 39, Township 15 North, Range 2 West, Seward Meridian; and

WHEREAS, Eklutna has initiated development of the area known in the 1987 Agreement as Parcel A of the Powder Reserve, and desires to develop the rest of the Powder Reserve in an efficient and orderly manner; and

WHEREAS, ARRC wishes to preserve its option to locate a switching yard in the area near the Birchwood Airport and has found that all or portions of Tract 38, Township 15 North, Range 1 West, Seward Meridian, owned by Eklutna, meet its needs; and

WHEREAS, Eklutna considers the possible location of a switching yard to the property described above and currently owned by Eklutna as compatible with its corporate goals for other land it owns near Birchwood Airport; and

WHEREAS, ARRC wishes to realign trackage through Eklutna lands in Anchorage and the Matanuska Susitna Borough; and

WHEREAS, ARRC and Eklutna have met periodically for several months, have considered numerous alternatives, and have each appraised their respective interests;

THEREFORE, be it resolved, that ARRC and Eklutna do hereby enter into this Memorandum of Understanding, and state their intentions as follows:

**1. Land Exchange.** ARRC agrees to exchange title to Tract 39, Township 15 North, Range 2 West, Seward Meridian, to which ARRC currently has an exclusive license (BLM File AA 55129), for a portion of Tract 38, Township 15 North, Range 1 West, Seward Meridian, to which Eklutna has title via United States Patent 50-93-601, excepting approximately 17.99 acres located at the north end of ARRC's parcel which are being reserved for ARRC operational needs.

a. For the purposes of this exchange, the parties agree that the value of Tract 39, Township 15 North, Range 2 West, Seward Meridian is \$2,500 per acre or \$0.06 per square foot and the value of Tract 38, Township 15 North, Range 1 West, Seward Meridian is \$9,333 per acre or \$0.21 per square foot.

b. The parties agree that the exchange shall be for equal value, and that the amount of Tract 38, Township 15 North, Range 1 West, Seward Meridian to be conveyed from Eklutna to ARRC will be adjusted to equal values. The general configuration of the land to be conveyed to ARRC is shown on Exhibit 1, attached hereto and incorporated by reference herein. The proposed north-south line between the land to be exchanged with the ARRC and to be retained by the Eklutna shall be moved east or west to equalize values.

c. The parties agree that costs will be shared as follows: ARRC will bear all its costs in acquiring title from the United States and securing the approval of the Alaska Legislature, if required. Each party shall convey title to its interest by warranty deed and shall bear the cost of preparing its own conveying documents and title reports and insurance. The parties will equally divide the cost of surveying and replatting both Tract 38, Township 15 North, Range 1 West, Seward Meridian and the northern portion of Tract 39, Township 15 North, Range 2 West, Seward Meridian. Each shall bear the cost of recording the conveyances they receive.

d. Because it does not yet have patent from the United States to Tract 39, Township 15 North, Range 2 West, Seward Meridian, ARRC agrees to: (1) immediately identify this tract as its highest conveyance priority to the Bureau of Land Management and to do everything in its power to ensure its prompt conveyance; (2) consult with Eklutna regarding the creation of any third party interests in said Tract 39; (3) issue a no-fee permit to Eklutna or its agents to enter on the land for planning, managing, and surveying in advance of conveyance; and, (4) forebear from withholding approvals as requested by Eklutna as may be required by the Municipality of Anchorage, the Bureau of Land Management, and other public or private institutions and agencies for activities involving that tract.

e. Eklutna agrees that it will: (1) consult with ARRC regarding the creation of any third party interests in Tract 38, Township 15 North, Range 1 West, Seward Meridian in advance of conveyance; (2) issue a no-fee permit to ARRC or its agents to enter on its portion of the tract as show in Exhibit 1 for planning, managing, and surveying in advance of conveyance; and, (3) forebear from withholding approvals as requested by ARRC as maybe required by the Municipality of Anchorage, the Bureau of Land Management, and other public or private institutions and agencies for activities involving that tract.

f. The parties agree and acknowledge that this specific land exchange is occurring totally outside the provisions of the 1987 Agreement, and further outside the provisions of ANCSA and/or ANILCA, is not made in partial satisfaction of any outstanding selection rights or any claims to entitlement that Eklutna may yet have under those acts. Any interest in properties acquired by Eklutna pursuant to this exchange shall be acquired subject to the land exchange provisions of those acts. The provisions of P.L. 105-333 regarding land bank protections are intended to apply to this exchange.

g. Eklutna acknowledges and understands that ARRC cannot transfer its entire interest in land without prior legislative approval under AS 42.40.285, and that final consummation of the land exchanges contemplated by this agreement cannot occur until ARRC receives such approval. ARRC shall exercise its best efforts to obtain the necessary approval at the earliest possible opportunity and continue such efforts until the legislative authorization is obtained. Eklutna will in good faith support ARRC's request before the legislature.

## ***2. Realignment of ARRC Track.***

a. The parties agree to facilitate the realignment of ARRC track as reflected on the plans shown on **Exhibit 2**, attached hereto and incorporated by reference herein. The proposed realignment at the curve at Mile 129, Drawing 1 dated Feb. 1999 in Exhibit 2, satisfies the realignment envisioned in Paragraph 12 of the 1987 Agreement. Eklutna agrees to convey the lands needed by ARRC in exchange for other consideration as set forth below. ARRC will pay for any surveys and replatting needed to effect the realignment. The cost of appraisal will be split equally. ARRC will propose three appraisers and Eklutna will select one from that proposed group. ARRC will also be responsible for obtaining an archaeological study at the site of the proposed Eklutna Village area realignment. ARRC will be responsible for negotiating directly with Cook Inlet Region, Inc., any necessary or desired permits for the work planned by ARRC and will negotiate a non-development covenant directly with CIRI in the area of the curve at Mile 146, Drawing 13A dated Feb. 1999 in Exhibit 2, if necessary.

b. ARRC will convene and Eklutna will join and participate in a diagnostic team review conducted under the "Alaska Railroad/Highway Crossing Policy" (a jointly adopted ARRC/Department of Transportation and Public Facilities policy) regarding all existing and proposed or potential crossings in the area between Anchorage and Wasilla. The parties recognize that other entities beside themselves, such as adjacent municipalities and the State of Alaska, may have legitimate concerns regarding such crossings and will be participants in the diagnostic team review pursuant to the Policy. The exact location and configuration of each crossing in **Exhibit 3** shall be decided and/or negotiated on a case-by-case basis, and it is recognized that other parties, such as the developer, the Municipality of Anchorage, the Department of Transportation and Public Facilities, etc., may be required participants in the funding plan.

c. Notwithstanding the above paragraph, the parties agree that, upon notice by Eklutna, ARRC will provide and build a minimum of one (1) grade-separated roadway crossing in the Powder Reserve in accordance with the requirements of Paragraph 8 of the 1987 Agreement and

will allow other roadway crossings between Anchorage and Wasilla as generally shown in Exhibit 3. Construction of the grade-separated crossing in the Powder Reserve will be completed within 5 years of notice by Eklutna. The exact locations and configurations of all crossings will be identified as required to provide adequate access to Eklutna lands.

**3. Further Actions.**

ARRC and Eklutna shall work diligently to fulfill the requirements of the above paragraphs, which complement some aspects of, and the intentions underlying, the 1987 Agreement. The parties further commit to review, consider, and identify the parties' remaining outstanding obligations under the 1987 Agreement such that they may be implemented in a more expeditious manner.

**4. Miscellaneous.**

a. The parties understand that each must secure the approval of their respective Boards of Directors and that this agreement is not binding upon the parties until both Boards have approved this agreement.

b. The parties agree that time is of the essence, and that both parties will bring this agreement to their Boards at the earliest opportunity, but in no case more than 60 days from the date of last signature.

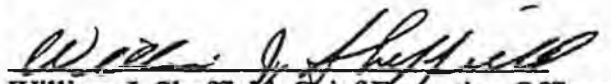
c. If ARRC fails to obtain patent to Tract 39, Township 15 North, Range 2 West, Seward Meridian within two years of the date of the last signature, this agreement is null and void. No transfers will occur until patent to tract 39 has been received by the ARRC.

d. Neither party has an obligation to replat or survey until ARRC has acquired patent to Tract 39, Township 15 North, Range 2 West, Seward Meridian.


e. This agreement expires automatically and without further action of any kind upon the fifth anniversary of the date it was last signed if the exchanges anticipated herein have not been completed.

Agreed this 4 day of August, 1999.

For the Alaska Railroad Corporation:

  
William J. Sheffield, Chief Executive Officer

For Eklutna, Incorporated:

  
George W. Easley, Chief Executive Officer



16518 CENTERFIELD DRIVE, SUITE 201  
EAGLE RIVER, ALASKA 99577  
(907) 696-2828 FAX: (907) 696-2845

William J. Sheffield  
Chief Executive Officer  
Alaska Railroad Corporation  
P.O. Box 107500  
Anchorage  
AK 99510

September 10, 1999

Re: Memorandum of Understanding

Dear Bill:

It gives me great pleasure to send you this copy of resolution 99-17 passed today by the Board of Directors of Eklutna, Inc. I look forward to bringing this agreement to completion for the benefit of both the Alaska Railroad Corporation and Eklutna, Inc.

Very Truly Yours,

George W. Easley  
Chief Executive Officer  
Eklutna, Inc.



16515 CENTERFIELD DRIVE, SUITE 201  
 EAGLE RIVER, ALASKA 99577  
 (907) 696-2828 FAX: (907) 696-2845

INC.

Resolution 99-17

WHEREAS, Eklutna, Incorporated owns Parcels A and B of the Powder Reserve (S.M. T15N, R2W, Tracts 37, 38 and 40) under Patent Number 50-93-0601; and

WHEREAS, Eklutna, Incorporated wished to acquire Parcel C of the Powder Reserve (S.M. T15N, R2W, Tract 39) to consolidate its holdings, facilitate development, and reach efficiencies of scale; and

WHEREAS, the Alaska Railroad Corporation wants to acquire land needed for realignments and for other industrial purposes in the Birchwood area; and

WHEREAS, the Board of Directors has reviewed the Memorandum of Understanding dated August 4, 1999 and signed by the Chief Executive Officers of both the Alaska Railroad Corporation and Eklutna, Incorporated;

NOW THEREFORE BE IT RESOLVED by the Board of Directors of Eklutna, Incorporated that they find that the land exchange outlined in the Memorandum of Understanding is in the best interest of the Corporation and the Chief Executive Officer, George W. Easley, is authorized to negotiate details of the exchange, to require such conditions as he finds in the best interest of the Corporation, to sign required plats, and to execute conveyances.

Brought to a meeting at which a quorum was present and passed by a majority vote of 4 yea and 0 nay and 0 abstention votes on September 10, 1999.

*Kim L. Zello*  
 \_\_\_\_\_  
 Kim L. Zello, President

*Daniel Alex*  
 \_\_\_\_\_  
 Daniel Alex, Secretary



**SB**

**241**

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 2/2/00

FURTHER: Finance

Date of 5-Day Notice: 3/30/00  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 4/3/00

Resources Committee considered

SENATE BILL NO. 241

"An Act relating to the accounting for and appropriations of the dive fishery management assessment; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical title
  - new: SCR" \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>	✓		
<i>[Signature]</i>	✓	<i>[Signature]</i>	✓		
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<b>CHAIR:</b>		<b>CHAIR:</b> <i>[Signature]</i>	✓		

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal
DF + G	2/1/00		✓

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

SB 241 HB 333

TONY KNOWLES, GOVERNOR

P.O. BOX 25526  
JUNEAU, ALASKA 99802-5526  
PHONE: (907) 465-4100  
FACSIMILE: (907) 465-2332

February 15, 2000

FEB 16 2000

Honorable Rick Halford  
Chair, Senate Resources Committee  
Capitol Building, Room 121  
Juneau, AK 99801

Dear Senator Halford:

Senate Bill 241, relating to the accounting for and appropriations of the dive fishery management assessment, was recently introduced and referred to the Senate Resources Committee. I am requesting you schedule a hearing on this bill as soon as possible.

During the 1997 legislative session, the legislature passed House Bill 198, sponsored by Representative Bill Williams. This bill provided a means for participants in dive fisheries to form associations and approve special assessments on their catches to fund management and research in the dive fisheries. By 1999 one such association had organized, conducted an election, and approved an assessment.

It is anticipated that the legislature will appropriate the assessments being collected during FY 2000 in the FY 2001 budget. However, the assessments are currently classified as general funds. Since the legislature is indicating it plans to reduce general funds rather than increase them, it is likely that any appropriation of the dive fishery assessments will come at the cost of an equivalent reduction in other general funds available to the department.

This was not the intent of the proponents of HB 198, nor is it necessary. Senate Bill 241 appropriately reclassifies these funds as non-general fund program receipts, since they are recurring revenues generated by the fishing industry. Industry has clearly indicated they desire to have a higher level of government services in the form of enhanced fishery management and research and have shown they are willing to pay for it.

These questions are fundamentally financial ones, and really have little to do with resource or fisheries management issues. This bill has a finance committee referral, and one course of action available to the Resources Committee is to waive the bill from its jurisdiction. Whichever course of the action you decide, we request you give this bill your immediate attention.

Senator Halford

2

February 15, 2000

Thank you very much for your consideration. If you have any questions, please give me a call.

Sincerely,

A handwritten signature in cursive script that reads "Frank Rue for".

Frank Rue  
Commissioner

cc: Pat Pourchot

# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

No. 1  
Bill Version: SB 241  
(S) Publish Date: 2-2-00

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Fish and Game  
Title Classification of Dive Fishery Assessments BRU Commercial Fisheries  
Component Special Projects  
Sponsor Rules Committee  
Requester Governor Component No. 1943

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	60.0	60.0	60.0	60.0	60.0	60.0
Travel	20.0	20.0	20.0	20.0	20.0	20.0
Contractual	140.0	140.0	140.0	140.0	140.0	140.0
Supplies	48.0	48.0	48.0	48.0	48.0	48.0
Equipment						
Land & Structures						
Grants & Claims	60.0	60.0	60.0	60.0	60.0	60.0
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>328.0</b>	<b>328.0</b>	<b>328.0</b>	<b>328.0</b>	<b>328.0</b>	<b>328.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1108 Stat/Des Program Receipts						
1037 GF/Mental Health						
Other (Non-GF Program Receipts)	328.0	328.0	328.0	328.0	328.0	328.0
<b>TOTAL</b>	<b>328.0</b>	<b>328.0</b>	<b>328.0</b>	<b>328.0</b>	<b>328.0</b>	<b>328.0</b>

Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill does not appropriate any funds. It specifies that dive fishery assessments, as authorized by Chapter 90, SLA 1997, are to be accounted for separately and specifies that the appropriation of the dive fishery assessments is not from the unrestricted general fund. Dive fishery assessments are a self-imposed tax in addition to the fisheries business tax. This tax was approved by the affected divers in 1999 and collections began that year. The department estimates that \$328.0 will be collected in FY 2000 for expenditures in the following year. The expenditure of the expected revenue generated by the dive fishery assessments is included in the governor's FY 2001 budget. The funding source for dive fishery assessments in the Governor's proposed FY 2001 budget is statutory designated program receipts. This bill will change that source designation to non-general fund program receipts since this is a self-assessed tax rather than a contractual agreement.

Prepared by: Robert D. Mecum Phone 465-4210  
Division: Division of Commercial Fisheries Date/Time 2/1/00 11:43 AM  
Approved by: Commissioner Frank Rue *Frank Rue for* Date 02/01/2000  
Agency: Department of Fish and Game

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February 1, 2000

AK 241

The Honorable Drue Pearce  
President of the Senate  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

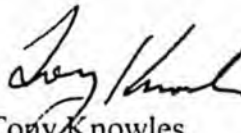
Dear President Pearce:

I signed into law in 1997 a bill allowing fishermen to establish regional dive fishery associations with the ability to assess themselves to support management and development of their fisheries. By 1999, one association had organized and begun paying its self-assessed tax to the state. This bill I transmit today fulfills the bargain made with dive fishermen in the 1997 law --that the state ensure the association's self-assessments are used to support the dive fisheries.

This bill requires dive fishery assessments be accounted for separately and classified as non-general fund revenues. The assessment is levied on the value of fishery resources taken by dive gear within specified areas. Current law states the assessment receipts may be appropriated to the Department of Fish and Game and qualified development associations to fund research, stock assessment and management activities. By accounting for these funds separately and allowing them to be appropriated back to the program, the state will honor the commitment made by the dive fishermen who voted to tax themselves to pay for more research and management in their fishery.

This is an excellent example of the fishing industry being willing to contribute to paying the cost of commercial fisheries management and research and worthy of your support.

Sincerely,

  
Tony Knowles  
Governor

# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

SB 241

TONY KNOWLES, GOVERNOR

P.O. BOX 25526  
JUNEAU, ALASKA 99802-5526  
PHONE: (907) 465-4100  
FACSIMILE: (907) 465-2332

February 15, 2000

FEB 16 2000

Honorable Rick Halford  
Chair, Senate Resources Committee  
Capitol Building, Room 121  
Juneau, AK 99801

Dear Senator Halford:

Senate Bill 241, relating to the accounting for and appropriations of the dive fishery management assessment, was recently introduced and referred to the Senate Resources Committee. I am requesting you schedule a hearing on this bill as soon as possible.

During the 1997 legislative session, the legislature passed House Bill 198, sponsored by Representative Bill Williams. This bill provided a means for participants in dive fisheries to form associations and approve special assessments on their catches to fund management and research in the dive fisheries. By 1999 one such association had organized, conducted an election, and approved an assessment.

It is anticipated that the legislature will appropriate the assessments being collected during FY 2000 in the FY 2001 budget. However, the assessments are currently classified as general funds. Since the legislature is indicating it plans to reduce general funds rather than increase them, it is likely that any appropriation of the dive fishery assessments will come at the cost of an equivalent reduction in other general funds available to the department.

This was not the intent of the proponents of HB 198, nor is it necessary. Senate Bill 241 appropriately reclassifies these funds as non-general fund program receipts, since they are recurring revenues generated by the fishing industry. Industry has clearly indicated they desire to have a higher level of government services in the form of enhanced fishery management and research and have shown they are willing to pay for it.

These questions are fundamentally financial ones, and really have little to do with resource or fisheries management issues. This bill has a finance committee referral, and one course of action available to the Resources Committee is to waive the bill from its jurisdiction. Whichever course of the action you decide, we request you give this bill your immediate attention.

Senator Halford

2

February 15, 2000

Thank you very much for your consideration. If you have any questions, please give me a call.

Sincerely,

A handwritten signature in cursive script that reads "Frank Rue for".

Frank Rue  
Commissioner

cc: Pat Pourchot

**SB**

**249**

# FISCAL NOT

**STATE OF ALASKA**  
**2000 LEGISLATIVE SESSION**

No. 1  
 Bill Version: SB 249  
 (S) Publish Date: 2-8-00

Revision Date/Time: \_\_\_\_\_ Dept Affected: Natural Resources  
 Title: Independence Mine Land Exchange between BRU: Parks & Recreation Management  
DNR and Alaska Hard Rock, Inc. Component: Parks Management  
 Sponsor: Rules  
 Requestor: Governor Component No #452

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

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES (fund code)</b>	0.0	0.0	0.0	0.0	0.0	0.0

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: \$ n/a

**POSITIONS**

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

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

This land exchange will have no immediate fiscal impact on the Division's budget. It will provide an opportunity to seek a viable concession contract for a private operator to manage and maintain all of the historic buildings at Independence Mine State Historical Park. This exchange would allow for the concessionaire to operate underground mine tours.

A concession contract would eventually generate some revenue to the state. A revenue stream is at a minimum four years away. The land exchange is just the first step in the process.

Prepared by: Jim Stratton Phone: 269-8701  
 Division: Parks & Outdoor Recreation Date: 19-Jan-00  
 Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
John Shively  
 Agency: Natural Resources

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JUNEAU

February 3, 2000

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FAX 907-465-3542  
WWW.GOV.STATE.AK.US

W 249

The Honorable Drue Pearce  
President of the Senate  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear President Pearce:

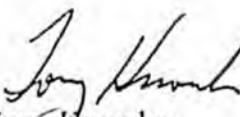
This bill I transmit today would provide legislative approval of a land exchange agreement between the state Department of Natural Resources, and Alaska Hard Rock, Inc. The purpose of the land exchange is for the state to acquire private land located within and adjacent to Independence Mine State Historical Park, near Hatcher Pass. The land to be acquired would be developed to enhance the interpretive and recreational uses of the park. The land the state is exchanging is also located in the Hatcher Pass area and is presently under permit to Alaska Hard Rock, Inc., which is interested in receiving title.

State law requires legislative approval of land exchanges involving lands of unequal appraised value. In this proposed exchange, the state will receive land appraised at \$87,000 while conveying land appraised at \$66,500. Alaska Hard Rock, Inc. is agreeable to this unequal exchange and will be receiving a federal tax credit for the difference.

Adding this land to the Independence Mine State Historical Park, particularly the underground mine tunnels, will greatly add to the tourism potential of the park. The DNR expects to contract with a private concession to run tours and maintain the historic buildings in the park, saving a part of Alaska's history while increasing economic activity in the area.

A copy of the land exchange agreement between the DNR and Hard Rock, Inc., is being provided to the legislature. The DNR has available a report that explains the proposed exchange in more detail.

Sincerely,

  
Tony Knowles  
Governor



FEB 25 2000

415 E. Railroad Avenue \* Wasilla, AK 99654  
Email: chamber@wasilla.net

Telephone (907) 376-1299 \* Fax (907) 373-2560  
Home Page: www.chamber.wasilla.net

Voted "Alaska's Outstanding Local Chamber of Commerce ~ 1998"

## RESOLUTION 00-02

### A RESOLUTION OF THE GREATER WASILLA CHAMBER OF COMMERCE IN SUPPORT OF INDEPENDENCE MINE LAND EXCHANGE.

**Whereas**, Independence Mine State Historical Park is one of the premier visitor destinations in Southcentral Alaska, with over 51,000 summer and winter visitors; and

**Whereas**, Independence Mine State Historical Park is nearly adjacent to the proposed Hatcher Pass Development Project & ski area on Government Peak; and

**Whereas**, while the buildings at Independence Mine State Historical Park are in relatively good shape and are opened to public tours during the summer, they are deteriorating from lack of maintenance and require renewed attention and support to maintain their structural integrity; and

**Whereas**, the Alaska Division of Parks and Outdoor Recreation held a community meeting in March 1997 to discuss options for protecting the historical buildings at Independence Mine State Historical Park and the group felt that adaptive reuse of the buildings for commercial purposes was desirable; and

**Whereas**, the Director of the Alaska Division of Parks and Outdoor Recreation has determined that adaptive reuse of the historical buildings is compatible with the purpose for which the park was established; and

**Whereas**, underground mine tours are necessary to make an adaptive reuse project at Independence Mine Historical Park economically viable; and

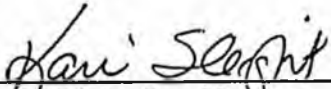
**Whereas**, Alaska Hard Rock, Inc. has agreed to trade the underground tunnel at Independence Mine State Historical Park to the State of Alaska in exchange for general state land in the Willow Creek basin and a final exchange agreement has been signed between the State and Alaska Hard Rock, Inc.; and

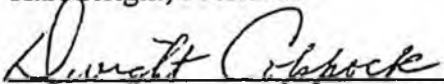
**Whereas**, this exchange requires approval of the Alaska Legislature.

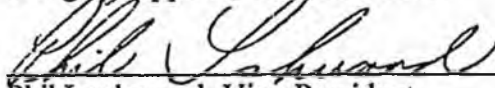
SUPPORT

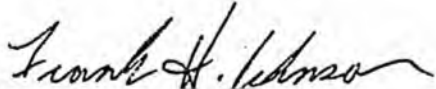
Now Therefore Be it Resolved, that the Board of Directors of the Greater Wasilla Chamber of Commerce does hereby endorse and respectfully request passage of HB 344 and SB 249, acts authorizing "a land exchange between the Department of Natural Resources and Alaska Hard Rock, Inc.; and providing for an effective date."

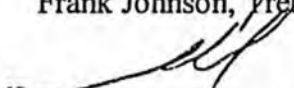
Hereby, adopted by the Greater Wasilla Chamber of Commerce this 16<sup>th</sup> day of February, 2000.

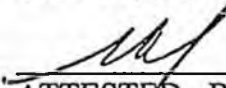
  
\_\_\_\_\_  
Kari Sleight, President

  
\_\_\_\_\_  
Dwight Coppock, President-Elect

  
\_\_\_\_\_  
Phil Lockwood, Vice-President

  
\_\_\_\_\_  
Frank Johnson, Treasurer

  
\_\_\_\_\_  
Bill Moll, Secretary

  
\_\_\_\_\_  
ATTESTED: Bill Moll, Secretary

10 21 97

**Final Exchange Agreement  
Independence Mine SHP Exchange  
with Alaska Hardrock, Inc.**

This Final Exchange Agreement for the unequal value exchange of land ("Agreement") is made and entered into this 26<sup>th</sup> day of January, 2000, by and between the State of Alaska, Department of Natural Resources, Division of Land and Division of Parks and Outdoor Recreation ("State"), 550 W 7<sup>th</sup> Ave, Suite 1380, Anchorage, AK 99501-3561, and Alaska Hardrock, Inc., ("AHI"), PO Box 2407, Palmer, AK 99645, pursuant to AS 38.50 and 11 AAC 67.200-.280.

WITNESS:

WHEREAS, AHI owns the mineral/subsurface estate to eight patented federal mining claims listed below and consisting of approximately 118 acres in T20N R1E SM, Sec 28, 29 and 33, shown in Exhibit A. These lands are adjacent to, or within, Independence Mine State Historic Park. AHI purchased this estate from Enserch Processing Partners, Ltd. as stated in a statutory warranty deed recorded in the Palmer Recording District on Book 0505 page 772. Chain of title has been shown in the Commitment to Insure Report AF99-8419 by Alaska First Title Insurance Agency, Inc.

Independence Lode, Granite Mountain and Granite Mountain #1, within USMS 958-A  
Granite Mountain #2 and Granite Mountain #3, within USMS 961/2046  
Lois Fraction and Snowbird, within USMS 2041  
Homestake 4, within USMS 980

WHEREAS, the State owns land in Willow Creek Valley, consisting of approximately 107 acres, in five different parcels described below and shown in Exhibit B. Transfer to AHI will be for land estate and the land will be closed to new mineral entry. The State received tentative approval to these lands as general grant lands under the Statehood Entitlement Act on September 26, 1984, and July 15, 1994. The applicable case file is GS 1224.

Parcel One named Lucky Shot Mill Site: Tract B of ASLS 98-45, within the NE1/4, Sec. 2, T19N R1W SM, excluding R/W for Willow Creek Road, also known as Hatcher Pass Road. Approximate acreage: 29

Parcel Two named Willow Creek Decline: ASLS 98-44 and federal mining claim Brightness 2, USMS 2047, within the SE1/4, Sec 29 and NE1/4, Sec 32; T20N R1E SM. Approximate acreage for entire parcel: 41

Parcel Three named Lucky Shot Tunnel: Tract A of ASLS 98-45, within the SW1/4, Sec 35, T20N R1W SM, excluding R/W for Willow Creek Road, also known as Hatcher Pass Road. Approximate acreage: 27

Parcel Four: Tract B of US Rectangular Survey dated September 28, 1978, in section 35, T20N R1W, SM. Approximate acreage: 8

Parcel Five: Tract C of US Rectangular Survey dated September 28, 1978, in sections 34 and 35, T20N R1W, SM. Approximate acreage: 2

WHEREAS, the parties intend that the State will acquire the mineral estate described in Exhibit A in exchange for the state owned land estate described in Exhibit B, and that AHI will acquire the state owned land estate described in Exhibit B in exchange for mineral estate described in Exhibit A. Both parties understand that the value of the exchanged lands is unequal.

WHEREAS, the benefits to be achieved by this exchange are:

- a. Land to be acquired by the State includes a major portion of the old water tunnel and an important part of the old Independence Mine tunnels. The Division of Parks and Outdoor Recreation intends to open the water tunnel for public tours. This supports the division's goal of preserving and interpreting Alaska's cultural heritage. Should the park be offered for private concession, the option of including underground tours will make a concession contract more viable. This supports the division's goal of providing support to the state's tourism industry.
- b. AHI has existing leases, mining claims, and facilities on the parcels to be acquired by them. This will solidify ownership for the company and facilitate the business goals in gold mining and tourism.

WHEREAS, the State has followed the specific procedures that are required to protect the public interest.

WHEREAS, the legislature has approved the exchange.

NOW THEREFORE, in consideration of their mutual covenants and promises and other good and valuable consideration, the receipt and sufficiency of which are acknowledged and confessed, the parties covenant and agree as follows:

1. Ownership. AHI has sole ownership to the mineral estate described in Exhibit A, and the State owns the lands described in Exhibit B. It is the parties' understanding that AHI holds mineral interest in the lands to be conveyed to the State and that conveyance of this interest is sufficient to achieve the State's goals of public recreation, presentation and interpretation within the old Independence Mine tunnels.

2. Legal Descriptions: The parties agree that the legal descriptions of the lands and interests in lands which are the subject of this Agreement, as set forth in Exhibits A and B hereto, are subject to further review and changes, as necessary after formal title review, and subsequent negotiations have been done.


3. Taxes and Third Party Interests: There are no outstanding taxes or third party interests in the lands to be exchanged.
4. Authority. Each signatory to this Agreement has the authority to negotiate this exchange on behalf of its principals, subject to any necessary Board of Directors or legislative approval.
5. Conveyance. The State and AHI will exchange their respective rights, titles and interests in the lands identified in Exhibits A and B on an unequal value basis, subject to valid existing rights and other reservations as mutually agreed upon. The State will receive a warranty deed from AHI, and AHI will receive a quit claim deed for the land estate from the State. Land estate is the fee simple estate less the mineral rights reserved under AS 38,05.125(a). The right-of-way for Willow Creek Road, also known as Hatcher Pass Road is excluded as well. The mineral estate under the land estate going to AHI will be closed to mineral entry and the creation of third party interests. The warranty deed to the State, from AHI, will include language specifying that lands conveyed by AHI are to be owned and managed by the Division of Parks and Outdoor Recreation as part of Independence Mine State Historical Park.
6. Value of Land. The land to be exchanged by the parties is of unequal appraised fair market value. According to the *Appraisal of Hatcher Pass Properties for a Land Exchange, Palmer, Alaska, Valuation Date of September 21, 1999, Appraiser: Eric G Follett, MAI*, the value of the 107 acres of state land going to AHI is \$66,500 and the value of the 118 acres of AHI land going to the State is \$87,000. AHI agrees to receive land of less value, is donating to the State, and does not expect compensation from the State for the \$20,500 difference in value.
7. Mineral Closing Order. The State will, as necessary, classify or reclassify the land identified in Exhibit A and B, and concurrently complete a mineral closing order on the same lands pursuant to AS 38.05.185(a) and 11 AAC 67.230(b).
8. ACMP. The property involved in this land exchange is outside the boundaries of the Alaska Coastal Management Program.
9. Third Party Interests. There are no known third party interests in the parcels belonging to each party.
10. Binding Effect. This Agreement shall be binding on and inure to the benefit of the respective parties hereto, their successors and assigns. This agreement shall be executed by an exchange of deeds thirty days after signature, or thirty days after any appeals are resolved.
11. Construction: This Agreement shall be construed and enforced in accordance with the laws of the State of Alaska.

12. Appeals: This is a final administrative order and decision of the department for purposes of an appeal to Superior Court. A person adversely affected by this final order and decision may (1) appeal to Superior Court within 30 days in accordance with the rules of the court, and to the extent permitted by applicable law, or (2) first request reconsideration of this decision, in accordance with AS 44.62.540 and 11 AAC 02.020, to John Shively, Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501-3561. Please include the appeal code number provided below. Any such request for reconsideration must be received at that address, or received by being faxed to 1-907-269-8918, within 15 calendar days after the date of "delivery" of this decision, as defined by 11 AAC 02.040(c) and (d). Failure of the commissioner to act on a request for reconsideration within 30 days after delivery of this decision is a denial of reconsideration and is also a final administrative order and decision for purposes of an appeal to Superior Court. It may then be appealed to Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources. If no request for reconsideration is filed before the end of the period specified, this decision then goes into effect.


13. Legislative Approval: This final land exchange agreement is subject to approval by the Alaska Legislature under AS 38.50.140. Without legislative approval by the end of the legislative session in the year 2001, this agreement is null and void.

IN WITNESS WHEREOF, the parties have set their hands and seals as of the date first above written.

ALASKA HARDROCK, INC.

By:   
Scott Eubanks, President

STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES

By:   
John Shively, Commissioner

STATE OF ALASKA . )  
 ) ss:  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on the 26<sup>th</sup> day of January, 2000, before me, the undersigned, a notary public in and for the State of Alaska, duly commissioned and sworn, personally appeared Scott Eubanks, President of Alaska Hardrock, Inc., to me known and known to me to be the identical individual described in and who executed the within and foregoing document as President of Alaska Hardrock, Inc., and acknowledged to me that he signed the same in the name of and for and on behalf of Alaska Hardrock, Inc., freely and voluntarily for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND and official seal the day and year last above written.



Anna M. Solorzano  
Notary Public in and for Alaska  
My Commission Expires: 11-15-03

STATE OF ALASKA )  
 ) ss:  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on the 26<sup>th</sup> day of January, 2000, before me, the undersigned, a notary public in and for the State of Alaska, duly commissioned and sworn, personally appeared John Shively, Commissioner of the State Department of Natural Resources, to me known and known to me to be the identical individual described in and who executed the within and foregoing document as Commissioner of the Department of Natural Resources for the State of Alaska and acknowledged to me that he signed the same in the name of and for and on behalf of said Department of Natural Resources, freely and voluntarily for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND and official seal the day and year last above written.



Anna M. Solorzano  
Notary Public in and for Alaska  
My Commission Expires: 11-15-03

**Exhibit A**  
**Page 1 of 5**

Final Exchange Agreement  
with Alaska Hardrock, Inc.

**Legal Description of AHI lands going to the State:**

Mineral/Subsurface Estate of the Following Eight Patented Federal Mining Claims:

T20N R1E SM

Section 28:

Independence Lode, USMS 958-A  
Granite Mountain, USMS 958-A  
Granite Mountain #1, USMS 958-A  
Granite Mountain #2, USMS 961/2046  
Granite Mountain #3, USMS 961/2046  
Lois Fraction, USMS 2041  
Snowbird, USMS 2041  
Homestake 4, USMS 980

Section 29:

Independence Lode, USMS 958-A  
Granite Mountain, USMS 958-A

Section 33:

Homestake 4, USMS 980









**Exhibit B**  
**Page 1 of 9**

Final Exchange Agreement  
with Alaska Hardrock, Inc.

**Legal Description of State lands going to AHI:**

**Five Parcels of Land Estate with Mineral Closure:**

Parcel One named Lucky Shot Mill Site: Tract B of ASLS 98-45, within the NE1/4, Sec. 2, T19N R1W SM, excluding R/W for Willow Creek Road, also known as Hatcher Pass Road. Approximate acreage: 29

Parcel Two named Willow Creek Decline: ASLS 98-44 and federal mining claim Brightness 2, USMS 2047, within the SE1/4, Sec 29 and NE1/4, Sec 32; T20N R1E SM. Approximate acreage for entire parcel: 41

Parcel Three named Lucky Shot Tunnel: Tract A of ASLS 98-45, within the SW1/4, Sec 35, T20N R1W SM, excluding R/W for Willow Creek Road, also known as Hatcher Pass Road. Approximate acreage: 27

Parcel Four: Tract B of US Rectangular Survey dated September 28, 1978, in section 35, T20N R1W, SM. Approximate acreage: 8

Parcel Five: Tract C of US Rectangular Survey dated September 28, 1978, in sections 34 and 35, T20N R1W, SM. Approximate acreage: 2

TOWNSHIP 19N RANGE 1W OF THE SEWARD MERIDIAN, ALASKA

EGEND

INFORMATION

- INTERURBANITY
- RAILWAY LINE
- SURVEY LOT LINE
- TURNED EMISSION GRID
- 1/4 SECTION LINE
- 1/2 SECTION LINE
- ROAD
- TRAIL
- RAILROAD
- ELECTRICAL POWER LINE
- TELEPHONE LINE
- PIPELINE
- AIRPORT/LANDING STRIP
- HORIZONTAL CONTROL
- CONTROL MONUMENT

S INFORMATION

- TITLE
- INTERURBANITY
- CLASSIFICATION
- DISPOSAL
- MUNICIPAL
- RESTRICTION
- FEDERAL ACTION
- MENTAL HEALTH TRUST
- LIMITS OF ACTION
- NAVIGATIONAL AID
- CADRE PERMIT
- TRAPPING CABIN PERMIT
- TRAPLINE LOCATION

SPACE WATER PERMIT

- APPLICATION
- PERMIT
- CERTIFICATE

1/2-SPACE WATER PERMIT

- APPLICATION
- PERMIT
- CERTIFICATE

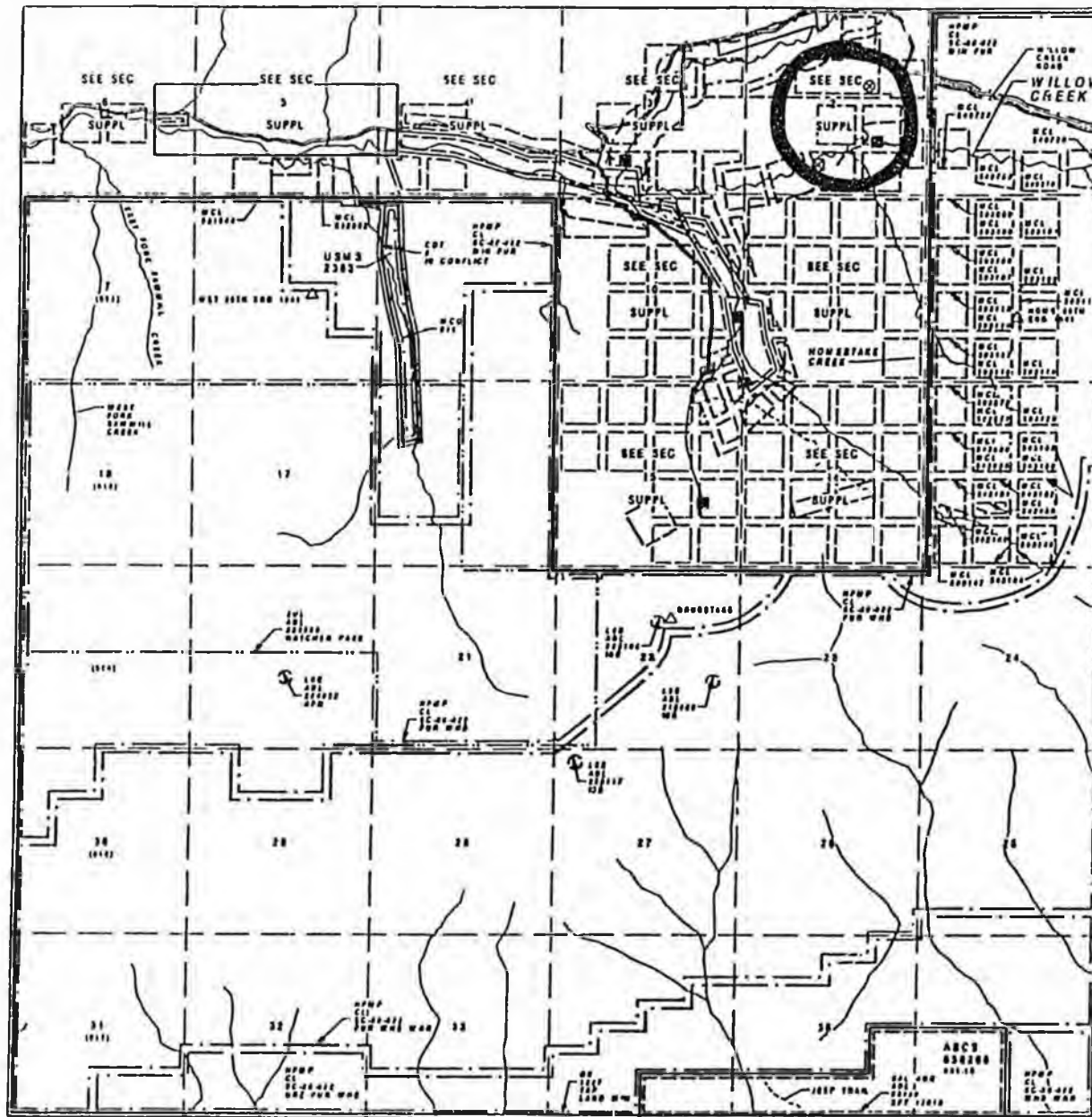
STREAM FLOW RESERVATION

- APPLICATION
- CERTIFICATE

WATER BARRIER

- APPLICATION
- PERMIT
- CERTIFICATE

6	5	4	3	2	1
7	8	9	10	11	12
13	14	15	16	17	18
19	20	21	22	23	24
25	26	27	28	29	30
31	32	33	34	35	36



STATUS PLAT

THIS STATUS PLAT SHOWS ALL LAND UNDER RECORDS THAT ARE SUBJECT TO THE 1916 AND 1917 ACTS AND IS SUBJECT TO THE 1916 AND 1917 ACTS AND IS SUBJECT TO THE 1916 AND 1917 ACTS.

ADMINISTRATIVE

ALASKA STATUS PLAT, 1916 AND 1917 ACTS  
 SECTION 18, 17, 21, 22, 23, 24, 27, 28, 29, 30, 31, 32, 33  
 T. 19N. R. 1W.  
 LAT. 61 41 11.363 N  
 LONG. 149 31 30.000 W

NEIGHBORHOOD

USM 3 (1917 AND 1918) REVISED BY N.M. 1918 ALASKA  
 FROM ALASKA PHOTOGRAPHY 1916-1918

LAND USE

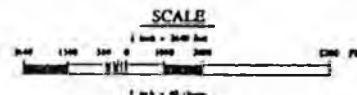
APR. PHOTOGRAPHIC DIAGRAM 12-17 APPROVED 04/19/17  
 USM TRACT A 234991 ACCEL. ACCEPTED 04/19/17  
 US 1546 ACCEPTED 04/19/17  
 US 1546 ACCEPTED 04/19/17  
 US 1546 ACCEPTED 04/19/17  
 USM 2181 A & B APPROVED 04/19/17  
 USM 2181 A & B APPROVED 04/19/17  
 USM 2181 APPROVED 04/19/17  
 USM 2181 APPROVED 04/19/17  
 USM 2181 APPROVED 04/19/17  
 ABC 83288 ACCEPTED 04/19/17  
 ABC 83288 ACCEPTED 04/19/17

OTHER ACTIONS AFFECTING DISPOSAL OR USE BY STATE LANDS  
 SEE THE LATEST STATUS PLAT OR ORIGINAL SOURCE DOCUMENTS FOR  
 ADDITIONAL INFORMATION

ENTIRELY WITH PALMIS RECORDING SYSTEM  
 ENTIRELY WITH PALMIS RECORDING SYSTEM  
 SUBJECT TO NATURAL PASS MANAGEMENT PLAN

Exhibit B  
 page 2 of 9

GRAPHIC ILLUSTRATION ONLY.  
 SINCE DOCUMENTS REMAIN THE OFFICIAL RECORD,  
 CONSULT LAND ADMINISTRATION SYSTEM (LAS)  
 CASEFILE FOR ADDITIONAL INFORMATION.



ATTENTION STATUS PLAT USERS: ON THIS PLAT, ALL STATUS  
 LINES CLOSE FOR ACTIONS THAT EXTEND INTO ADJACENT TOWNSHIPS.  
 THIS INCLUDES STATUS LINES SUCH AS DISPOSAL, MUNICIPAL, TITLE,  
 CLASSIFICATION, ETC. PLEASE REFER TO ADJACENT TOWNSHIPS OR LAS  
 TO DETERMINE IF ACTIONS EXTEND BEYOND THE BOUNDARIES SHOWN ON  
 THIS PLAT. REMEMBER TITLE CLASSIFICATION AND RESTRICTIONS.

A PROJECT OF THE  
 STATE OF ALASKA  
 DEPARTMENT OF NATURAL RESOURCES  
 LAND RECORDS INFORMATION SECTION

PLAT NUMBER TO VIEW FILE TO THE LAS

TWP

SEC 2 TOWNSHIP 19N RANGE 1W OF THE SEWARD MERIDIAN, ALASKA

EGEND

INFORMATION

- INFORMATION
- SURVEY LINE
- SURVEY LOT LINE
- TRANSFER SECTION LINE
- 1/4 SECTION LINE
- HIGHWAY
- ROAD
- TRAIL
- RAILROAD
- ELECTRICAL POWER LINE
- TELEPHONE LINE
- PIPELINE
- AIRPORT/LANDING STRIP
- HORIZONTAL COVER
- CONTROL MONUMENT

S INFORMATION

- TITLE
- BOUNDARY
- CLASSIFICATION
- DISPOSAL
- MUNICIPAL
- RESTRICTION
- FEDERAL ACTION
- MENTAL HEALTH TRUST
- LIMITS OF ACTION
- NAVIGATIONAL AID
- CANNON PERMIT
- TRAPPING CANNON PERMIT
- TRESPASS LOCATION

SPACE WATER RIGHTS

- APPLICATION
- PERMIT
- CERTIFICATE

WATER RESERVE RIGHTS

- APPLICATION
- PERMIT
- CERTIFICATE

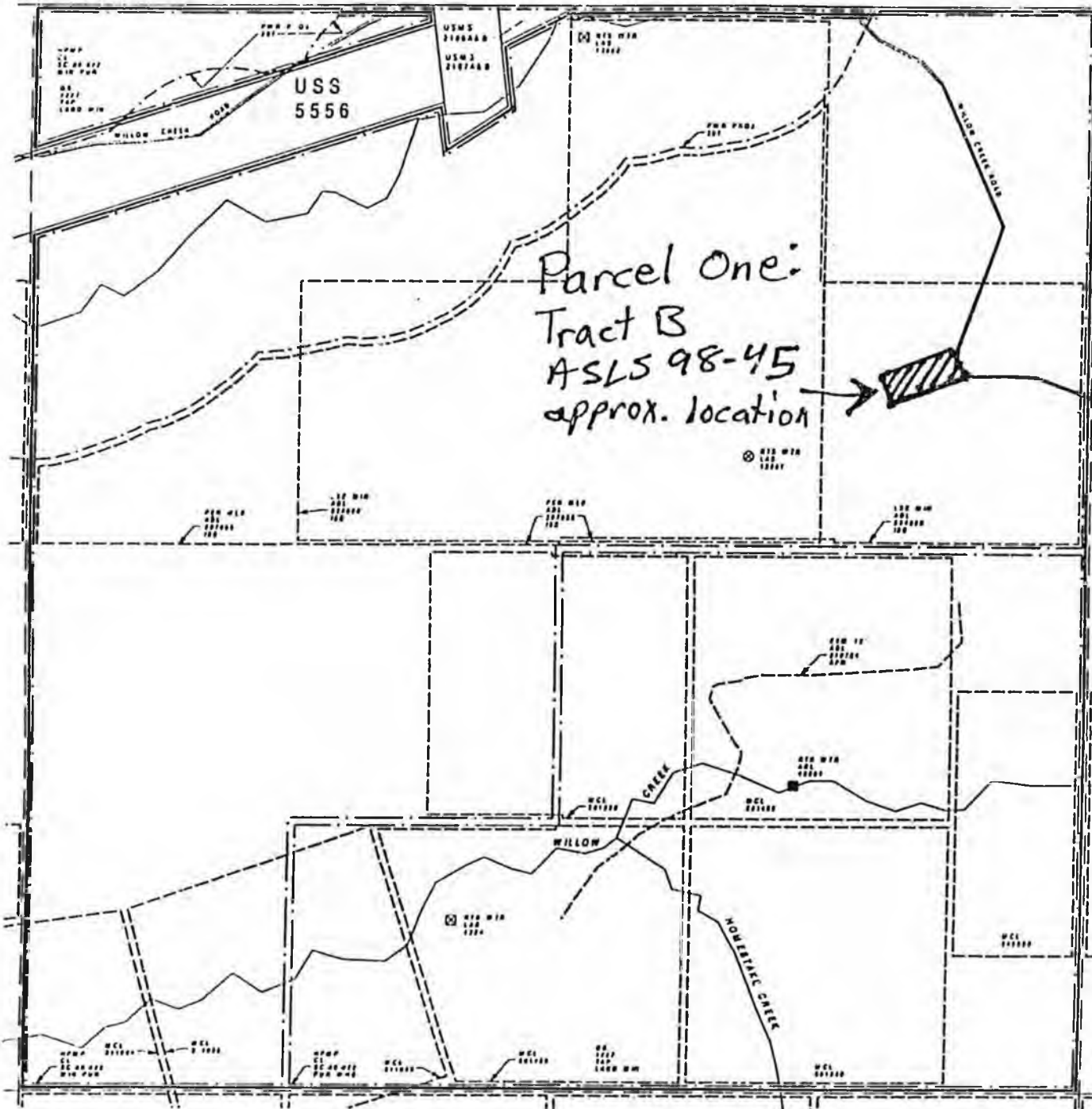
STREAM FLOW RESERVATION

- APPLICATION
- CERTIFICATE

WATER BARRELS

- APPLICATION
- PERMIT
- CERTIFICATE

6	5	4	3	2	1
7	8	9	10	11	12
13	14	15	16	17	18
19	20	21	22	23	24
25	26	27	28	29	30
31	32	33	34	35	36



STATUS PLAT

THE STATE HAS THE LAND UNDER SURVEY THAT ARE NOT CLASSIFIED OR PART OF THE STATE LAND SYSTEM IN THE STATE AND ARE BEING PLACED IN THE STATUS PLAT BY THE STATE.

PLAT INFORMATION

COMMISSIONER  
ALASKA STATE PLAT SYSTEM  
12 CHANCELLER ST. FORT WYOMING  
Z. 99501-1111  
Y. 99501-1111  
LAT. 41 41 11 N  
LONG. 149 31 30 W

HYDROGRAPHY

USGS (7) AND (8) DATA BY BLM FROM ALASKA  
FROM ALASKA HYDROGRAPHY 1978-1983

LAND USE

SEE HYDROGRAPHY DIAGRAM 12-17 APPROVED 05/19/81  
USDA TRACT A 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT B 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT C 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT D 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT E 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT F 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT G 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT H 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT I 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT J 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT K 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT L 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT M 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT N 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT O 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT P 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT Q 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT R 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT S 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT T 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT U 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT V 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT W 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT X 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT Y 11 98 41 ASLS ACCEPTED 05/19/81  
USDA TRACT Z 11 98 41 ASLS ACCEPTED 05/19/81

OTHER ACTIONS AFFECTING INDIVIDUAL OR USE OF STATE LANDS  
SEE THE LAS CASE FILE OR ORIGINAL SURVEY DOCUMENTS FOR  
ADDITIONAL INFORMATION.

ENTRIES WITH PALMER RECORDING CONTRACT  
ENTIRELY WITH PALMER RECORDING CONTRACT  
SUBJECT TO PALMER MANAGEMENT PLAN

Exhibit B  
page 3 of 9

GRAPHIC ILLUSTRATION ONLY.  
SOURCE DOCUMENTS THROUGH THE OFFICIAL RECORD  
SYSTEM (LAND ADMINISTRATION SYSTEM (LAS))  
CONTACT FOR ADDITIONAL INFORMATION

SCALE  
1 inch = 400 feet

ATTENTION STATUS PLAT USERS: ON THIS PLAT, ALL STATUS  
LINES CLOSE FOR ACTIONS THAT EXTEND INTO ADJACENT TOWNSHIPS.  
THIS INCLUDES STATUS LINES SUCH AS DISPOSAL, MUNICIPAL, TITLE,  
CLASSIFICATION, ETC. PLEASE REFER TO ADJACENT TOWNSHIPS OR LAS  
TO DETERMINE IF ACTIONS EXTEND BEYOND THE BOUNDARIES SHOWN ON  
THIS PLAT. REMEMBER TITLE, CLASSIFICATION, AND RESTRICTION LINES



A PRODUCT OF THE  
STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES  
LAND RECORDS OPERATIONS SECTION

PLAT CURRENT TO THIS DATE REFER TO THE LAS

SEC 2  
SP  
TWP







TOWNSHIP 20N RANGE 1W OF THE SEWARD MERIDIAN, ALASKA

LEGEND

- INFORMATION**
- HYDROGRAPHY
  - SURVEY LINE
  - SURVEY LEFT LINE
  - TOWNSHIP/SECTION GRID
  - 1/4 SECTION LINE
  - HIGHWAY
  - ROAD
  - TRAIL
  - RAILROAD
  - ELECTRICAL POWER LINE
  - TELEPHONE LINE
  - PIPELINE
  - AIRPORT/LANDING STRIP
  - HORIZONTAL CONTROL
  - CONTROL MONUMENT

- INFORMATION**
- TITLE
  - BOUNDARY
  - CLASSIFICATION
  - DISPOSAL
  - MUNICIPAL
  - RESTRICTION
  - FEDERAL ACTION
  - MENTAL HEALTH TRUST
  - LIMITS OF ACTION
  - NAVIGATIONAL AID
  - CABIN PERMIT
  - TRAPPING CABIN PERMIT
  - TRUSSE LOCATION

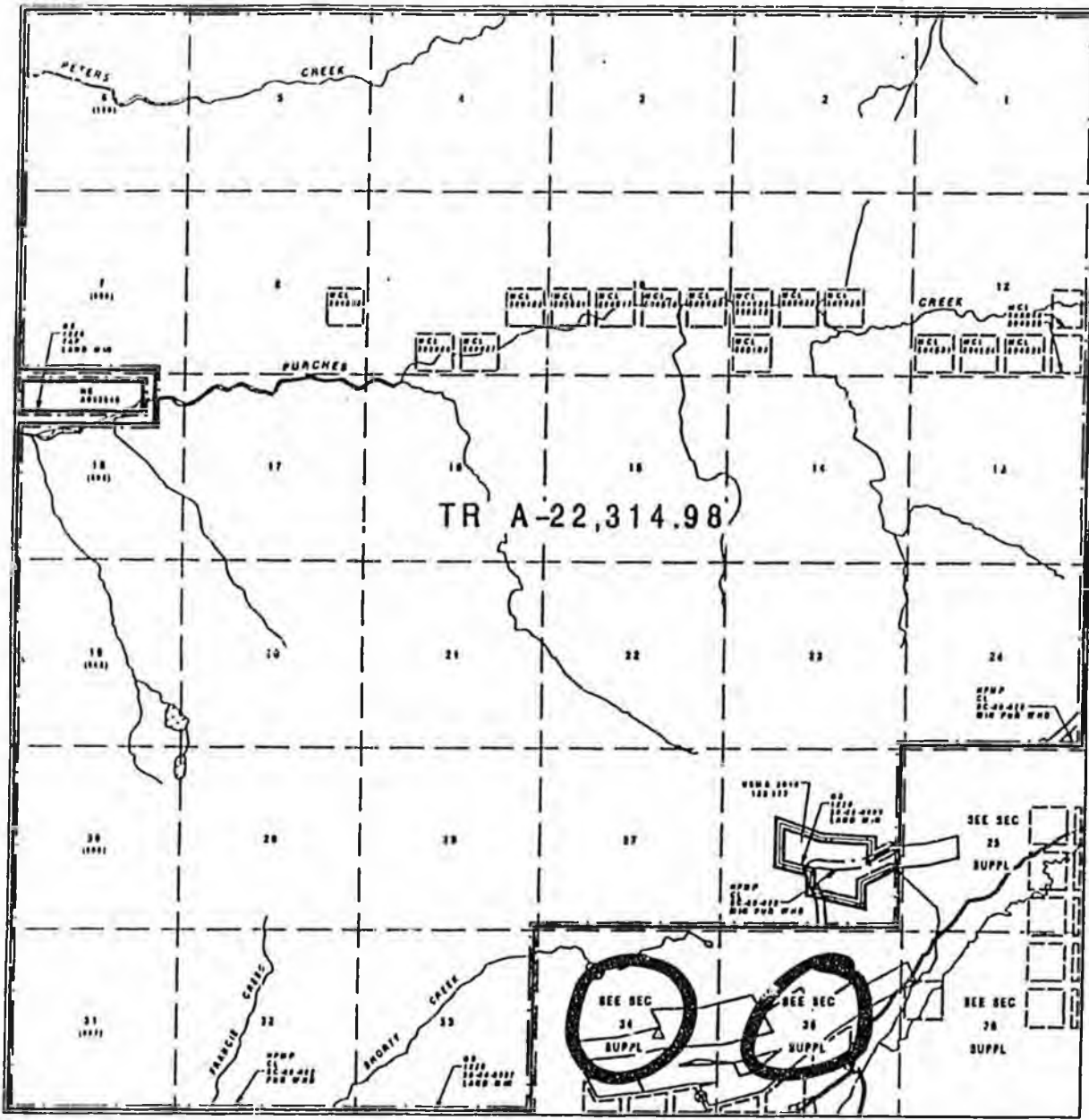
- SPACE WATER RESERVATION**
- APPLICATION
  - PERMIT
  - CERTIFICATE

- WATER RESERVATION**
- APPLICATION
  - PERMIT
  - CERTIFICATE

- STREAM FLOW RESERVATION**
- APPLICATION
  - CERTIFICATE

- WATER CAPTURE**
- APPLICATION
  - PERMIT
  - CERTIFICATE

6	5	4	3	2	1
7	8	9	10	11	12
13	14	15	16	17	18
19	20	21	22	23	24
25	26	27	28	29	30
31	32	33	34	35	36



STATUS PLAT

THIS STATUS PLAT IS A LEGAL INSTRUMENT AND THE STATE OF ALASKA IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.

**BASED ON:**  
 COORDINATES  
 ALASKA STATE PLANE ZONE 4  
 24 CORNER OF TOWNSHIP  
 N 4111100  
 E 4011100  
 LAT 61 06 10.00 N  
 LONG 149 21 10.00 W

**HYDROGRAPHY:**  
 USGS ANCHORAGE (01) 815612 1:25,000 AERIAL PHOTO  
 ALTITUDE PHOTOGRAPHY 1978-1980

**LAND NET:**  
 AIR PHOTOGRAPHY DIAGRAM 82-17 APPROVED 10/10/81  
 USAL CREATING TRACTS A, B & C 10/10/81  
 ACCEPTED 08/11/87  
 USAL 10/10/87 APPROVED 08/11/87  
 USMS 10/10/87 APPROVED 08/11/87  
 USMS 10/10/87 APPROVED 08/11/87

OTHER ACTIONS AFFECTING INTEREST IN USE OF STATE  
 SEE THE 141 CASE FILE OR ORIGINAL SOURCE DOCUMENT  
 ADDITIONAL INFORMATION

ENTIRELY WITH PALMER ACCORDING TO INTEREST  
 ENTIRELY WITH PALMER ACCORDING TO INTEREST  
 SUBJECT TO PALMER PAST MANAGEMENT PLAN

Exhibit B  
 page 7 of 9

GRAPHIC ILLUSTRATION ONLY.  
 SURVEY INSTRUMENTS REMAIN THE OFFICIAL RECORD.  
 CONSULT LAND ADMINISTRATION SYSTEM (LAS)  
 CASE FILE FOR ADDITIONAL INFORMATION.



ATTENTION STATUS PLAT USERS: ON THIS PLAT, ALL STATUS  
 LINES CLOSE FOR ACTIONS THAT EXTEND INTO ADJACENT TOWNSHIPS,  
 THIS INCLUDES STATUS LINES SUCH AS DISPOSAL, MUNICIPAL, TITLE,  
 CLASSIFICATION, ETC. PLEASE REFER TO ADJACENT TOWNSHIPS OR LAS  
 TO DETERMINE IF ACTIONS EXTEND BEYOND THE BOUNDARIES SHOWN ON  
 THIS PLAT. REMEMBER TITLE, CLASSIFICATION, AND RESTRICTION LINES

A PROJECT OF THE  
 STATE OF ALASKA  
 DEPARTMENT OF NATURAL RESOURCES  
 LAND RECORDS INFORMATION SECTION

PLAT CURRENT TO DRAWING REFER TO THE LAS

SP  
 TWP

SEC 34 TOWNSHIP 20N RANGE 1W OF THE SEWARD MERIDIAN, ALASKA

EGEND

INFORMATION

- HYDROGRAPHY
- SURVEY LINE
- SURVEY LOT LINE
- TOWNSHIP/RANGE LINE
- 1/4 SECTION LINE
- FREEWAY
- ROAD
- TRAIL
- RAILROAD
- ELECTRICAL POWER LINE
- TELEPHONE LINE
- PIPELINE
- AIRPORT LANDING STRIP
- HORIZONTAL CONTROL
- CONTROL MONUMENT

S INFORMATION

- TITLE
- BOUNDARY
- CLASSIFICATION
- DISPOSAL
- MUNICIPAL
- RESTRICTION
- FEDERAL ACTION
- MENTAL HEALTH TRUST
- LIMITS OF ACTION
- NAVIGATIONAL AID
- CABIN PERMIT
- TRAPPING CABIN PERMIT
- TRESPASS LOCATION

SURFACE WATER RIGHTS

- APPLICATION
- PERMIT
- CERTIFICATE

SUBSURFACE WATER RIGHTS

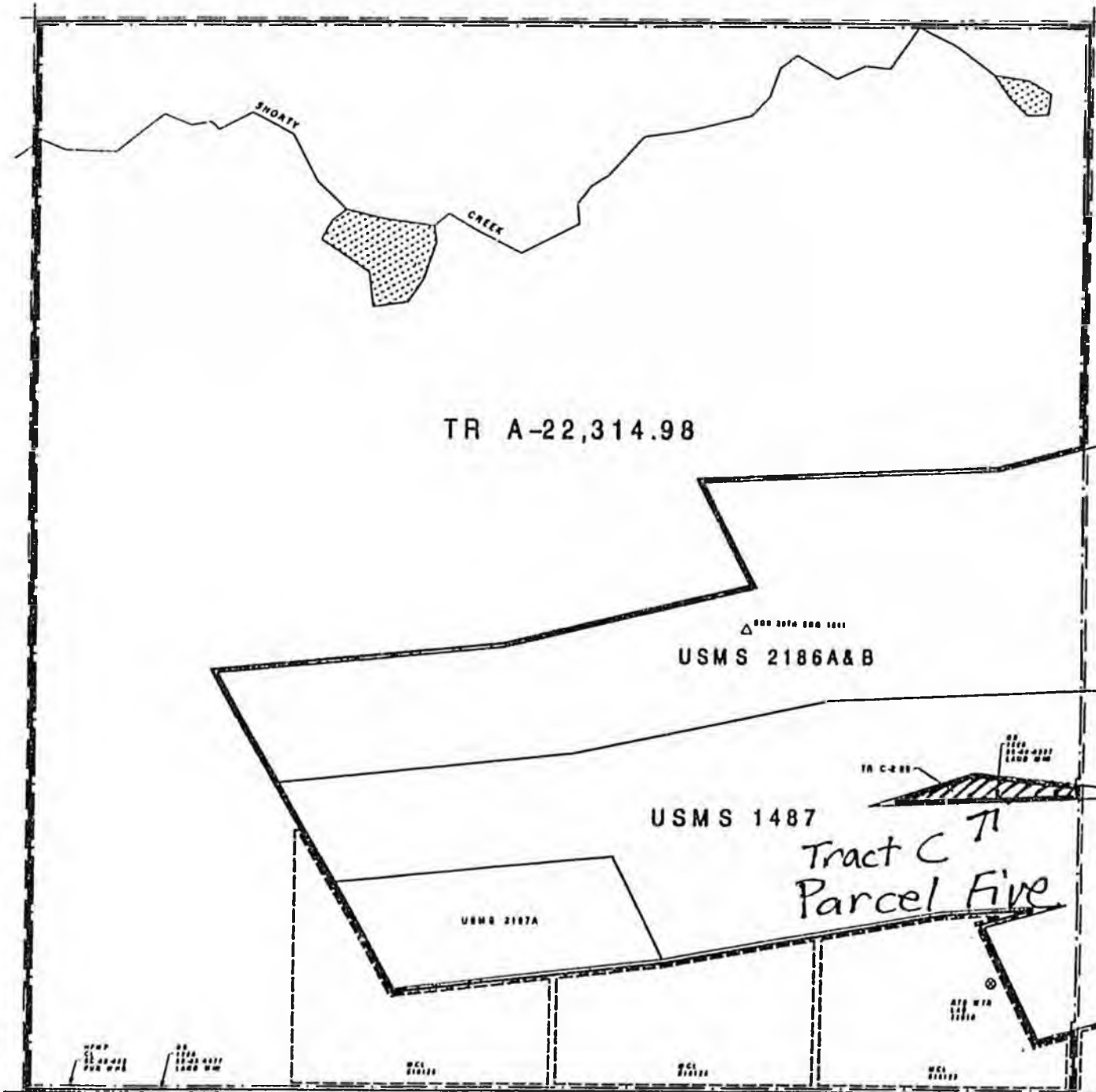
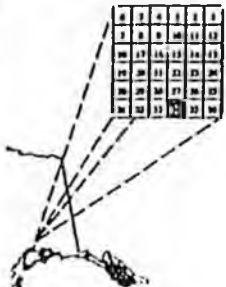
- APPLICATION
- PERMIT
- CERTIFICATE

STREAM FLOW RESTRICTIONS

- APPLICATION
- CERTIFICATE

DAM, TIDE BARRIER

- APPLICATION
- PERMIT
- CERTIFICATE



STATUS PLAT

(GRAPH REPRESENTATION OF THE SURVEY MONUMENTS SHOWN ON THE STATUS PLAT)

THIS STATUS PLAT SHOWS ALL LAND UNDER WATER RIGHTS AND INTERESTS - IN-FACT, AND SHALL BE THE BASIS FOR ALL RIGHTS IN THE LANDS AND ARE SUBJECT TO ALL RIGHTS TO UPDATES ISSUED BY THE STATE.

BASED ON:  
 COORDINATES  
 ALASKA STATE PLANS 2004 4  
 SA CONTROL IN TOWNSHIP  
 T 2111100 N  
 R 2007130 W  
 LAT 61 04 24.00 N  
 LONG 149 31 30.00 W

HYDROGRAPHY  
 USGS ANCHORAGE (191) DERIVED BY NAV FROM AERIAL PHOTO  
 ALTITUDE PHOTOGRAPHY 1978-1983

LAND INFO  
 ALC PERMITTING PROGRAM 51-1P APPROVED 09/15/1994  
 1776 CALATING TRACTS A, B & C 2111100 ACTS  
 ACCEPTED 10/21/1978  
 USMS 1487 APPROVED 09/15/1994  
 USMS 2004 APPROVED 09/15/1994  
 USMS 2186A&B APPROVED 09/15/1994  
 USMS 2187A&B APPROVED 10/21/1978

OTHER ACTIONS AFFECTING DISPOSAL OR USE OF STATE LANDS  
 SEE THE L&L CASES OR ORIGINAL SOURCE DOCUMENTS FOR  
 ADDITIONAL INFORMATION

ENTIRELY OWN PALMIRA RECREATION DISTRICT  
 INTEREST WITH PALMIRA RECREATION DISTRICT  
 SUBJECT TO PALMIRA PASS MANAGEMENT PLAN

Exhibit B  
 page 8 of 9

ATTENTION STATUS PLAT USERS: ON THIS PLAT, ALL STATUS  
 LINES CLOSE FOR ACTIONS THAT EXTEND INTO ADJACENT TOWNSHIPS.  
 THIS INCLUDES STATUS LINES SUCH AS DISPOSAL, MUNICIPAL, TITLE,  
 CLASSIFICATION, ETC. PLEASE REFER TO ADJACENT TOWNSHIPS OR L&L  
 TO DETERMINE IF ACTIONS EXTENDING BEYOND THE BOUNDARIES SHOWN ON  
 THIS PLAT, REGARDLESS TITLE, CLASSIFICATION, AND RESTRICTION LINES  
 ALWAYS CLOSE ON ALL PLATS.

A PRODUCT OF THE  
 STATE OF ALASKA  
 DEPARTMENT OF NATURAL RESOURCES  
 LAND RECORDS INFORMATION SECTION

SEC 34  
 SP

AN ENTRY ON STATUS PLAT ABBREVIATIONS  
 IS INCLUDED WITH EACH ABBREVIATION CARD  
 IN THE STATE STATUS PLATS

SCALE  
 1 inch = 400 feet



**SB**

**252**

# FISCAL NOTE No. 1

**STATE OF ALASKA**  
**2000 LEGISLATIVE SESSION**

BIL Bill Version: SB 252  
 (S) Publish Date: 2-8-00

Revision Date/Time: \_\_\_\_\_ Dept Affected: Natural Resources  
 Title: Relating to certain state rights-of-way BRU: Statehood Defense  
 Component: RS 2477/Navigability  
 Sponsor: Rules Committee  
 Requestor: Governor Component No: 2226

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

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
-----------------------------	------------	------------	------------	------------	------------	------------

<b>CHANGE IN REVENUES (fund code)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
---------------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2000) cost: \$ n/a

**POSITIONS**

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

**ANALYSIS:**

*(Attach a separate page if necessary)*

Sec. 1 of this bill updates the list of state rights-of-way that qualify under RS 2477, removing from AS 19.30.400 those that are no longer thought to qualify. Instead of adding newly identified routes to the statutory list, it requires DNR to maintain a master data base of routes that are either listed in the statute or reported to the legislature in the annual report DNR must submit each January. As DNR is already maintaining the data base of RS 2477 routes, no extra fiscal impact is envisioned.

Sec. 2 addresses recording. It would replace a temporary recording requirement that applied only to the statutory list of routes, and whose deadline expired in January 1999, with a permanent requirement applying only to routes that are surveyed, shown on a supplemental plat, or otherwise sufficiently known to identify the parcels it encumbers. Because the bill allows but does not require surveying, this recording requirement is expected to apply to only a few routes each year, creating no extra fiscal impact.

Prepared by: Bob Loeffler Phone: 269-8600  
 Division: Mining, Land and Water Date: 19-Jan-00  
 Approved by Commissioner: John Shively Date: 1-10-2000  
 Agency: Natural Resources

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**

TONY KNOWLES

GOVERNOR

STATE OF ALASKA

OFFICE OF THE GOVERNOR

JUNEAU

February 4, 2000

The Honorable Drue Pearce  
President of the Senate  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear President Pearce:

I am transmitting a bill amending the list and recording requirements as prescribed by a 1998 state law for state rights-of-way, commonly known as RS 2477. The need to correct the list and recording requirements results from further Department of Natural Resources (DNR) land research and recent experience in trying to record the routes.

The state was required to have had every listed right-of-way recorded by January 1, 1999. Most of the 602 routes listed in the 1998 law are unsurveyed. Experience has shown recording unsurveyed routes clouds the title of landowners whose property is not necessarily subject to the historical RS2477 trail or route. Many affected private landowners objected when DNR notified them that it was required to record all the routes, particularly unsurveyed trails, noting they often reflect inaccurate routings.

This proposed bill requires that most RS2477 routes be recorded only if surveyed, and within one year of the survey. Those unsurveyed trails still subject to recording would be limited to routes crossing larger privately owned parcels (at least 160 acres), or that cross public lands. Those routes would be recorded within two years of listing.

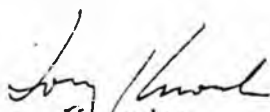
In addition, this bill deletes 12 routes from the current list. Examination of early land records indicates these 12 trails were constructed after the land was reserved or appropriated, making RS 2477 inapplicable. Based on what is now known, they do not qualify as valid RS 2477 rights-of-way.

Ab 252

The Honorable Drue Pearce  
February 4, 2000  
Page 2

This bill simplifies the recording process for RS2477 trails and removes the concern many private landowners may have with the current law. I urge your support of this measure.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tony Knowles".

Tony Knowles  
Governor

# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME

*Tony Knowles, GOVERNOR*

*State-Federal Issues;  
ANILCA Program  
Navigable Waters Program  
333 Raspberry Road  
Anchorage, AK 99518-1599  
PHONE: (907) 267-2248  
FAX: (907) 267-2472*

November 16, 1999

Department of Natural Resources  
Division of Mining, Land, and Water  
3700 Airport Way  
Fairbanks, AK 99709

To Whom it May Concern:

The Department of Natural Resources (DNR) RS2477 trail notice proposes to report to the Legislature numerous RS2477 trails for addition to Alaska Statute 19.30.400(d). At the same time, DNR recommends 12 trails be removed from the statute due to lack of historical use evidence or due to status of withdrawals of the public land, rendering it "reserved". Staff conducted a preliminary review of these twelve trails and provided the attached additional information for consideration.

While we understand the need to delete trails which do not have documentation of sufficient use prior to reservation of the public lands, additional research would be appropriate prior to making a final determination, as noted. It would be our hope that funding could become available for you to do further research on these trails prior to deleting them. As we complete research in these areas for navigability or easements, we will continue to provide you any relevant information we find regarding historic public use of trails.

If you have any questions regarding the attached, please feel free to call me at 267-2248 or Kamie Simmons at 267-2242.

Sincerely,

Tina Cuning  
Program Manager

Attachment

**Historical information for the following 6 trails recommended for deletion indicates that use may have occurred prior to the federal withdrawal order, warranting additional research.**

(The DNR quotes are from the April 16, 1999 summary memo from Nancy Welch to Commissioner Shively, indicating the "reason for removal".)

**RST 738 Gambell—Boxer Bay Trail**

DNR: *"A 1903 hisotric withdrawal (EO Withdrawal St. Lawrence Island) pulled all of St. Lawrence Island from the public domain on 1/7/03. The earliest documentation in the file is 1949. Documentation prior to 1903 would have to be uncovered to change the file's RS 2477 status.*

RST 738, located on St. Lawrence Island, is identified as beginning at the village of Gambell and running south for .35 miles to Boxer Bay. It is identified on the 1949 USGS St. Lawrence Island map as a "spring trail to Boxer Bay". In addition, it is included in the 1973 DOT Trails Inventory on Map 93 as Trail #2. All of St. Lawrence Island was withdrawn by Executive Order on January 7, 1903 (Reference 44) *"for a reindeer station, subject to any legal existing rights to any land in the limits of the reservation hereby established."*

In January 1977, the Bureau of Indian Affairs (BIA), Department of the Interior, published a paper titled Gambell: It's History, Population and Economy. The report states, "It was probably the fear of encroachment by whites into the reindeer herding on the island that explains the actions of [William] Harris and [Sheldon] Jackson in requesting the withdrawal of St. Lawrence Island."

Robert Ackerman, an anthropologist from the University of Pennsylvania, conducted studies on St. Lawrence Island in the 1950s and 1960s. He noted a number of whalebone drying racks, boat supports, and house pits in the Boxer Bay region of St. Lawrence Island. He also remarked that, "Geist noted in 1926 that the water of the Bay and stream erosion from the land side were rapidly wearing away the [archeological] site". Ackerman also noted that Geist reported that, "burials and several 'lookouts' were located on the tops of several high mountains in the vicinity of Boxer Bay". A mention of how these lookouts were accessed was not mentioned but likely via trails. Additional research into historic records is warranted.

- Question: Does a reservation for establishing a station completely close the island to other entrances upon the land once the station was established? The people living in the area at the time of the withdrawal appear to have continued to use this trail.
- Another question concerning the Gambell—Boxer Bay Trail: On the 1949 USGS topographic map in the DNR file for RST 738 located in Fairbanks there is another trail listed as the "Regular Trail" from Boxer Bay to Gambell, by way of Niyghak-puk (Big) Lake. Is this trail an RS2477? It may have additional use information relevant to RST 738.

**RST 881 Alexander Village—Veh/Tenjerlow Lakes**

DNR: "This route is affected by F030632, Application Withdrawal Power Project (Power Site 445), which withdraws the entire T23N, R11E, FM township, and affects Metes and Bounds within T23N, R10E, FM. This withdrawal was in effect from 1/9/63 until revoked by PLO 6795, 9/19/90. Additionally, T23N, R9E, FM; T24N, R9E, FM; and T25E, R8E, FM are affected by a Secretarial Order withdrawing land for an Indian Reservation, effective 5/20/43. These townships are also affected by Power Site Withdrawal #445. Documentation prior to 1943 would be necessary to change the file status."

RST 881, located in northeast Alaska, begins at the historical site of Alexander Village, near the Christian River, northwest through Tsukon and continues to a cabin at Veh/Tenjerlow Lakes for a total of 25 miles. It was identified on the 1956 USGS Ft. Yukon 1:63,360 map as a winter trail. In addition, it is included in the 1973 DOT Trails Inventory on Map 122 as Trail #34A. Secretarial Order of May 20, 1943 (Reference 697), withdrew the land from public land laws.

John Mertie, a geologist with the United States Geological Survey, made a scientific exploration of the Chandalar—Sheenjek District in 1926. He noted the geologic resources of the region and made notations of the settlements, roads, trails, and waterways. His writings remarked "a number of winter trails are used by the natives and trappers, however, one of the more frequented of which is the trail from Ft. Yukon to Arctic Village by way of Christian Village".

According to the USGS Fort Yukon map, the Native village of Tsukon is located on Marten Creek. Robert McKennan, an anthropologist, wrote of making an overland trip across the Yukon Flats to the fishing settlement of 'Suko', where he spent three days in August 1933. He described the village as "an outlying camp for freshwater fishing . . . where a small stream called Suko River [Marten Creek] emerges from a small lake of the same name; a few cabins and tent frames [were located there]". RST 881 passes through the village of Tsukon, and McKennan could have possibly used it.

- Based on the above, we suggest additional research is warranted to identify historic use of this trail.

**RST 457 Beeson Slough – Second Creek**

**RST 635 Beeson Slough – Shaktoolik – Unagalik**

**RST 752 Shaktoolik River – Junction Creek**

These three trails are located on the coast of Norton Sound, north of the village of Unalakleet. They are referenced on the 1973 DOT Trails Inventory, the 1950 and 1980 USGS Norton Bay Quadrangle, and the 1923 Alaska Road Commission map. These routes were affected by the Withdrawal for Military Purposes St. Michael dated October 20, 1897. DNR: "Information documenting the route's existence prior to 1897 would be necessary to change the route's RS 2477 status."

In "The Iditarod Trail (Seward-Nome Route) and other Alaskan Trails" (Department of Interior, September 1977), all three trails are listed and shown on a map as routes used during the Nome Gold Rush Era. The book documents the start of the Nome Gold Rush around 1897 but speculates that people were moving into Nome by way of St. Michael earlier than 1897. There is an extensive bibliography that accompanies the book, many citations directly related to Alaskan trails.

- Based on the above information, additional research appears warranted.
- A particular note of concern for RST 457 and 752: In the RST file for the Shaktoolik River -- Junction Creek route there is a notation that states "*justification for vacation of RST #558 is due to alternative routes including RST 457 and RST 752*".

#### **RST 1345 Long Lake - Chitina River Trail**

DNR: "*EO 645. Withdrawal Power Site Reservaticn (amended 8/17/22, partially restored by BLM department order #791, 6/19/34 and partially revoked by PLO 3362) withdrew land throughwhich this route passes 4/27/18. This withdrawal affects Metes and Bounds within T6S, R11E, Copper River Meridian (CRM). See historical index for T6S, R11E, CRM. The earliest documentation of use of this route is from 1959. Unless other documents are discovered to prove the route's existence prior to 4/27/18, this route will remain ineligible for RS 2477 status.*"

RST 1345 is a 2-mile-long trail situated in the Wrangell Mountains, along the McCarthy Road. From the southwest end of Long Lake, the trail heads southwest until it reaches a small creek that flows into the Chitina River. The route is mapped on the 1959 USGS McCarthy and DOT Trails Inventory. The route is located in an area that has been heavily used for hundreds of years. The Ahtna Indians inhabited this area and used the Chitina River Valley as hunting and fishing grounds. Allen, Abercrombie, Hayes, and Schwatka are just some of the explorers that documented and mapped their expeditions in this area in the 1800s. The Russian American Company, Chitina Exploration Company, and the Kennicott Copper Corporation became commonplace in the Chitina River Valley during the copper boom and construction of the Kennicott Copper Mine and railroad in the late 1800s. The old railroad right-of-way (now McCarthy Road) crosses the Long Lake trail. During the construction of the railroad, barges sent supplies up the Chitina River to the workers.

- The trail may have been used during any of the above eras of extensive use in this area. Additional research is warranted into the railroad and mining records, any of which may reveal the existence and use of this trail.

We have not done research in the areas of the following 6 trails, thus have insufficient information to make a recommendation at this time.

RST 912 North Tractor Trail from Gordon—US Border

RST 913 Nuvagapak Point Landing Strip—Kogatpak River

RST 914 Poker (Pokok) Lagoon Southeast

RST 916 Tamayariak River North—Camden Bay

RST 1042 Anderson Point East

These trails are located on the North Slope of Alaska and are noted on the 1955 USGS Demarcation Point and Flaxman Island maps and the 1956 USGS Mt. Michelson map. In addition, these trails are included in the 1973 DOT Trails Inventory. Portions of the North Slope were withdrawn by Public Land Order 82 on January 22, 1943 (Reference 685) for defense purposes.

- The above 5 trails appear to have documented use so close in time to the public land withdrawal that additional research might be appropriate.

RST 507 Stuyahok – Cabin

The Stuyahok-Cabin trail begins at Stuyahok and ends at a cabin. It is approximately 3.5 miles long. The trail appears on both the 1952 USGS Holy Cross Quadrangle. It also appears in the 1994 and 1995 Historic Trails Database and Map Atlas. This trail was affected by the Withdrawal for Military Purposes St. Michael dated October 20, 1897.

- We have insufficient information to make a recommendation.

# FISCAL NOTE

**STATE OF ALASKA**  
**2000 LEGISLATIVE SESSION**

**BILL NO. CSSB252(RES)**

Revision Date/Tim 11-Apr-00 Dept Affected: Natural Resources  
 Title: Relating to certain state rights-of-way BRU: Statehood Defense  
 Component: RS 2477/Navigability  
 Sponsor: Rules Committee  
 Requestor: (S) RES Component No 2226

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

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES (fund code)</b>	0.0	0.0	0.0	0.0	0.0	0.0

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: \$ n/a

**POSITIONS**

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

**ANALYSIS:**

*(Attach a separate page if necessary)*

Sec. 1 of this bill updates the list of state rights-of-way that qualify under RS 2477, removing from AS 19.30.400 those that are no longer thought to qualify. Instead of adding newly identified routes to the statutory list, it requires DNR to maintain a master data base of routes that are either listed in the statute or reported to the legislature in the annual report DNR must submit each January. As DNR is already maintaining the data base of RS 2477 routes, no extra fiscal impact is envisioned.

Sec. 2 addresses recording. It would replace a temporary recording requirement that applied only to the statutory list of routes, and whose deadline expired in January 1999, with a permanent requirement applying only to routes that are surveyed, shown on a supplemental plat, or otherwise sufficiently known to identify the parcels it encumbers. Because the bill allows but does not require surveying, this recording requirement is expected to apply to only a few routes each year, creating no extra fiscal impact.

Prepared by: Bob Loeffler *[Signature]* Phone: 269-8600  
 Division: Mining, Land and Water Date: 11-Apr-00  
 Approved by Commissioner: John Shively *[Signature]* Date: 11-Apr-00  
 Agency: Natural Resources

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# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 2/8/00

FURTHER: Finance

Date of 5-Day Notice: 3/10/00  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 4/12/00

Resources Committee considered

SENATE BILL NO. 252

"An Act relating to certain state rights-of-way."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 252 (RES)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:  
 same title  
 new title
- House Bill:  
 same title  
 technical title  
 new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
CHAIR: <i>[Signature]</i>	✓	CHAIR:			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
DNR	4/11/00	✓	

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

**SB**

**255**

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 2/8/00

FURTHER: Finance

Date of 5-Day Notice: 2/10/00  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 3/01/00

Resources Committee considered

SENATE BILL NO. 255

"An Act regarding best interest findings and land use permits issued by the Department of Natural Resources; and providing for an effective date."

and recommends:

be replaced with \_\_\_\_\_ CS SB 255 (RES)

adopt previous \_\_\_\_\_ CS \_\_\_\_\_

attached amendment(s)

adopt Letter of Intent by \_\_\_\_\_ Committee

further referral to the \_\_\_\_\_ Committee

**Senate Bill:**

same title

new title

**House Bill:**

same title

technical title

new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
CHAIR: <i>[Signature]</i>	✓	CHAIR:			

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal

DNR	2/17	✓	

**PREVIOUS FISCAL NOTE(S):\***

Department                      Date      Zero      Fiscal


APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

Thank you for the opportunity to express my opinion regarding SB255.

You know and understand the processes you have to follow each day to create bills, change constitutions, and establish process with the end result in a sense, providing a best interest finding for the State of Alaska. We are here today because the process allows for public notice and input. As individual land owners and residents, we create special interest groups to watch dog our concerns at the government level because it is impossible to do so as individuals. These special interest groups then retain lobbyist to assist them due to the location of our government and the bulk of issues you cover. Bottom line we are here today to provide you with feedback at the residents/individual level because of a process that was created to allow us to do so. Senator Kelly's SB255 is asking you to do away with the public process called BIF, as safe guard put in place for irrevocable land use permits. Driven by a decision passed down by the Supreme Court, this process was found to be necessary in the case of the Rex/South Intertie. The Supreme Court viewed it as an irrevocable project. I strongly agree: Prior to statehood access lines were brush cut throughout Alaska. They are still there today due to our type of foliage. A very permanent scar. The rex/south permit will prove to be the same if it's land use permit is revoked in the future. Will the state provide grant money to disassemble the line? Will it require GVEA to recreate the natural foliage which will have to be removed? Is this part of a revocable permit agreement? I believe it is not and that D&R has incorrectly labeled this permit. A project of this magnitude will permanently impact the Fairbanks community. Thus, a BIF is necessary in this case. Since February 12<sup>th</sup> over approximately 319 inches of public concerns, comments, and objection to D&R's route selection were printed in the local paper. Only 57 & 1/2 were printed response for the proposed route (32 inches were from Mike Kelley). It is obvious from the massive community response that the Supreme court was correct in allowing for the BIF in this situation. Obviously, a strong community outcry against the D&R route selection is apparent and needs to be taken into consideration.

I believe that without the process to allow public input on important decisions, especially those which are irrevocable, we will be placing impacting decisions on the few. Our constitution states in article 8 section 10 that "There will be no disposal of State land or interest there in or lease without prior public notice" By removing the ability to ask for a BIF you will be omitting a step currently in place that allows us, the public, to make sure our voice is being counted. The best example of this is the Rx/South case. Here a community voice of opposition was not taken seriously during the process and a BIF is necessary to guarantee public interest.

City, Borough and State planning and development departments all rely on and use the public input process to achieve the best interest for each project that comes before them. Without our constitutional right to public notice the future development of the State of Alaska will be left to those elected officials and to the City, Borough and State employees.

Margaret A. Hanson  
456-7056

1-LS1245H  
Kurtz  
2/29/00

**CS FOR SENATE BILL NO. 255( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): SENATOR PETE KELLY**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to best interest findings and land use permits, rights-of-way, and**  
2 **easements issued by the Department of Natural Resources; and providing for an**  
3 **effective date."**

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

5 **\* Section 1.** The uncodified law of the State of Alaska is amended by adding a new  
6 section to read:

7 **FINDINGS.** The legislature finds that

8 (1) AS 38.05.035(e) provides that the director of the division of lands in the  
9 Department of Natural Resources, with the consent of the commissioner, may approve  
10 contracts for the sale, lease, or other disposal of available state land upon a written finding  
11 that the interests of the state will be best served; paragraph (e)(6), however, specifically  
12 exempts certain land uses, including a permit or other authorization revocable by the  
13 commissioner, from the best interest finding requirement;

14 (2) AS 38.05.850 specifically authorizes the director of the division of lands

1 in the Department of Natural Resources, without the commissioner's consent, to grant land  
2 use permits for specified purposes, including electric transmission and distribution lines;

3 (3) in 1999, the Department of Natural Resources, in accordance with the  
4 direction given to it by the legislature in AS 38.05.850, issued a conditional, revocable right-  
5 of-way permit to Golden Valley Electric Association for construction of an electric  
6 transmission intertie between Healy and Fairbanks;

7 (4) in accordance with AS 38.05.035(e)(6)(C), the Department of Natural  
8 Resources did not issue a written best interest finding, since the conditional right-of-way  
9 permit granted to Golden Valley Electric Association was a permit and was revocable by its  
10 terms;

11 (5) in December 1999, the Alaska Supreme Court held that the conditional  
12 right-of-way permit that the Department of Natural Resources had granted to Golden Valley  
13 Electric Association was not "functionally revocable" and that the Department of Natural  
14 Resources should have issued a best interest finding under AS 38.05.035(e);

15 (6) the Alaska Supreme Court's recent decision jeopardizes the status of  
16 permits previously issued by the Department of Natural Resources under AS 38.05.850, as  
17 each of those permits may constitute a disposal of state land for which a best interest finding  
18 is required;

19 (7) in order to comply in the future with the Alaska Supreme Court's recent  
20 ruling and to avoid challenge to its permits, the Department of Natural Resources will likely  
21 have to issue a best interest finding for every permit issued under AS 38.05.850;

22 (8) issuing a best interest finding for each permit issued under AS 38.05.850  
23 will necessitate substantial additional expenditures for which the Department of Natural  
24 Resources is inadequately funded;

25 (9) the consequences of the Department of Natural Resources' having to issue  
26 best interest findings for permits issued under AS 38.05.850 without additional funding include

27 (A) the creation of uncertainty on the part of prospective permittees;

28 (B) the rapid depletion of the Department of Natural Resources' funds;

29 (C) substantial delays in the permitting process;

30 (D) a negative effect on the development and use of state land

31 resources; and

1 (E) potential impairment of the safety of Alaskans; and  
2 (10) in passing ch. 113, SLA 1981, the legislature's intention in enacting  
3 AS 38.05.035(a)(14)(C), now AS 38.05.035(e)(6)(C), was to create an exception to the best  
4 interest finding requirement that would apply to all permits issued by the Department of  
5 Natural Resources under AS 38.05.850, including the permit issued to Golden Valley Electric  
6 Association.

7 \* Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section  
8 to read:

9 INTENT. It is the intent of the legislature to confirm by clarification that all permits  
10 issued by the Department of Natural Resources under AS 38.05.850 are exempt from the best  
11 interest finding requirements of AS 38.05.035(e).

12 \* Sec. 3. AS 38.05.035(e)(6) is amended to read:

13 (6) before a public hearing, if held, or in any case not less than 21 days  
14 before the sale, lease, or other disposal of available land, property, resources, or  
15 interests in them other than a sale, lease, or other disposal of available land or an  
16 interest in land for oil and gas under (5) of this subsection, the director shall make  
17 available to the public a written finding that, in accordance with (1) of this subsection,  
18 sets out the material facts and applicable statutes and regulations and any other  
19 information required by statute or regulation to be considered upon which the  
20 determination that the sale, lease, or other disposal will best serve the interests of the  
21 state was based; however, a written finding is not required before the approval of

22 (A) a contract for a negotiated sale authorized under  
23 AS 38.05.115;

24 (B) a lease of land for a shore fishery site under AS 38.05.082;

25 (C) a permit or other authorization revocable by the  
26 commissioner;

27 (D) a mineral claim located under AS 38.05.195;

28 (E) a mineral lease issued under AS 38.05.205;

29 (F) an exempt oil and gas lease sale under AS 38.05.180(d) of  
30 acreage subject to a best interest finding issued within the previous 10 years or  
31 a reoffer oil and gas lease sale under AS 38.05.180(w) of acreage subject to a

1 best interest finding issued within the previous 10 years, unless the  
2 commissioner determines that substantial new information has become available  
3 that justifies a supplement to the most recent best interest finding for the  
4 exempt oil and gas lease sale acreage and for the reoffer oil and gas lease sale  
5 acreage; however, for each oil and gas lease sale described in this  
6 subparagraph, the director shall call for comments from the public; the  
7 director's call for public comments must provide opportunity for public  
8 comment for a period of not less than 30 days; if the director determines that  
9 a supplement to the most recent best interest finding for the acreage is required  
10 under this subparagraph,

11 (i) the director shall issue the supplement to the best  
12 interest finding not later than 90 days before the sale;

13 (ii) not later than 45 days before the sale, the director  
14 shall issue a notice describing the interests to be offered, the location  
15 and time of the sale, and the terms and conditions of the sale; and

16 (iii) the supplement has the status of a final written best  
17 interest finding for purposes of (i) and (l) of this section;

18 (G) a shallow gas lease authorized under AS 38.05.177 in an  
19 area for which leasing is authorized under AS 38.05.177;

20 (H) a surface use lease under AS 38.05.255;

21 (I) a permit, right-of-way, or easement under AS 38.05.850;

22 \* Sec. 4. AS 38.05.850 is amended by adding a new subsection to read:

23 (c) If the director determines, by evaluation of the nature and duration of the  
24 intended use, that an easement or right-of-way issued under this section will not be  
25 functionally revocable, the director shall provide public notice before issuing the  
26 easement or right-of-way.

27 \* Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section  
28 to read:

29 **RETROACTIVITY.** Section 3 of this Act is retroactive to, and applies to permits  
30 issued under AS 38.05.850 on or after, July 27, 1981.

31 \* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

# Alaska State Legislature

SENATOR  
PETER KELLY

Mailing Address:

119 N. Cushman, Suite 201

Fairbanks, Alaska 99701

Senator\_Pete\_Kelly@legis.state.ak.us

(907) 456-8161



Senate

While in Juneau

State Capitol

Juneau, Alaska

99801-1182

(907) 465-2327

Senate District P

## Sponsor Statement

### Senate Bill 255

#### **“An Act regarding best interest findings and land use permits issued by the Department of Natural Resources”**

Senate Bill 255 is intended to clarify the fact that permits issued by the Department of Natural Resources (DNR) pursuant to AS 38.05.850 are exempt from the best interest finding requirement imposed by AS 38.05.035 (e) which applies to disposals of State land.

AS 38.05.850 authorizes the director of the Division of Lands, without the DNR Commissioner’s consent and without the necessity of a best interest finding, to issue permits, rights-of-way, and easements on State land for such purposes as roads, field gathering lines, or transmission and distribution pipelines, telephone or electric transmission and distribution lines, log storage, oil well drilling sites and production facilities. All permits issued by DNR are issued pursuant to AS 38.05.850

Recently the Alaska Supreme Court ruled that a conditional right-of-way permit issued by DNR for construction of an electric transmission line required a best interest finding. The Court’s decision jeopardizes the status of permits previously issued by DNR under AS 38.05.850 as each of those permits may, under the Court’s logic, constitute a disposal of State land for which a best interest finding was required. The court’s decision has potentially dramatic implications for the oil, gas, mining, timber, utility and transportation industries. In order for DNR to comply with the Court’s ruling and to survive legal challenges to the permits which it issues, DNR will likely have to issue best interest findings for almost every permit issued under AS 38.95.850.

Sponsor Statement SB 255  
Page two.

The consequences of such an approach would (1) strain DNR's budget, (2) substantially delay the permitting process and, (3) negatively impact development and use of State land resources.

SB 255 confirms by clarification and amendment that permits, right-of-way and easements issued under AS 38.05.850 are exempt from the best interest finding requirement of AS 38.05.035(e). SB 255 allows DNR to continue managing State lands cost effectively. There are no negative monetary implications to this Bill.

The request that SB 255 be applied retroactively to all DNR permits issued since July 27, 1981 coincides with the effective date of the permit exception in AS 38.05.035 (e)(6)(C). Retroactive application will eliminate challenges to DNR permits that were issued without a best interest finding and that may still be subject to challenge.

**SENATE BILL NO. 255**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY SENATOR PETE KELLY

Introduced: 2/8/00

Referred: Resources, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act regarding best interest findings and land use permits issued by the  
2 Department of Natural Resources; and providing for an effective date."

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

4 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new  
5 section to read:

6 **FINDINGS.** The legislature finds that

7 (1) AS 38.05.035(e) provides that the director of the division of lands in the  
8 Department of Natural Resources, with the consent of the commissioner, may approve  
9 contracts for the sale, lease, or other disposal of available state land upon a written finding  
10 that the interests of the state will be best served; paragraph (e)(6), however, specifically  
11 exempts certain land uses, including a permit or other authorization revocable by the  
12 commissioner, from the best interest finding requirement;

13 (2) AS 38.05.850 specifically authorizes the director of the division of lands  
14 in the Department of Natural Resources, without the commissioner's consent, to grant land

1 use permits for specified purposes, including electric transmission and distribution lines;

2 (3) in 1999, the Department of Natural Resources, in accordance with the  
3 direction given to it by the legislature in AS 38.05.850, issued a conditional, revocable right-  
4 of-way permit to Golden Valley Electric Association for construction of an electric  
5 transmission intertie between Healy and Fairbanks;

6 (4) in accordance with AS 38.05.035(e)(6)(C), the Department of Natural  
7 Resources did not issue a written best interest finding, since the conditional right-of-way  
8 permit granted to Golden Valley Electric Association was a permit and was revocable by its  
9 terms;

10 (5) in December 1999, the Alaska Supreme Court held that the conditional  
11 right-of-way permit that the Department of Natural Resources had granted to Golden Valley  
12 Electric Association was not "functionally revocable" and that the Department of Natural  
13 Resources should have issued a best interest finding under AS 38.05.035(e);

14 (6) the Alaska Supreme Court's recent decision jeopardizes the status of  
15 permits previously issued by the Department of Natural Resources under AS 38.05.850, as  
16 each of those permits may constitute a disposal of state land for which a best interest finding  
17 is required;

18 (7) in order to comply in the future with the Alaska Supreme Court's recent  
19 ruling and to avoid challenge to its permits, the Department of Natural Resources will likely  
20 have to issue a best interest finding for every permit issued under AS 38.05.850;

21 (8) issuing a best interest finding for each permit issued under AS 38.05.850  
22 will necessitate substantial additional expenditures for which the Department of Natural  
23 Resources is inadequately funded;

24 (9) the consequences of the Department of Natural Resources' having to issue  
25 best interest findings for permits issued under AS 38.05.850 without additional funding include

- 26 (A) the creation of uncertainty on the part of prospective permittees;  
27 (B) the rapid depletion of the Department of Natural Resources' funds;  
28 (C) substantial delays in the permitting process;  
29 (D) a negative effect on the development and use of state land  
30 resources; and  
31 (E) potential impairment of the safety of Alaskans; and

1 (10) in passing ch. 113, SLA 1981, the legislature's intention in enacting  
 2 AS 38.05.035(a)(14)(C), now AS 38.05.035(e)(6)(C), was to create an exception to the best  
 3 interest finding requirement that would apply to all permits issued by the Department of  
 4 Natural Resources under AS 38.05.850, including the permit issued to Golden Valley Electric  
 5 Association.

6 \* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section  
 7 to read:

8 INTENT. It is the intent of the legislature to confirm by clarification that all permits  
 9 issued by the Department of Natural Resources under AS 38.05.850 are exempt from the best  
 10 interest finding requirements of AS 38.05.035(e).

11 \* **Sec. 3.** AS 38.05.035(e)(6) is amended to read:

12 (6) before a public hearing, if held, or in any case not less than 21 days  
 13 before the sale, lease, or other disposal of available land, property, resources, or  
 14 interests in them other than a sale, lease, or other disposal of available land or an  
 15 interest in land for oil and gas under (5) of this subsection, the director shall make  
 16 available to the public a written finding that, in accordance with (1) of this subsection,  
 17 sets out the material facts and applicable statutes and regulations and any other  
 18 information required by statute or regulation to be considered upon which the  
 19 determination that the sale, lease, or other disposal will best serve the interests of the  
 20 state was based; however, a written finding is not required before the approval of

21 (A) a contract for a negotiated sale authorized under  
 22 AS 38.05.115;

23 (B) a lease of land for a shore fishery site under AS 38.05.082;

24 (C) a permit issued under AS 38.05.850 or an [OR OTHER]  
 25 authorization revocable by the commissioner;

26 (D) a mineral claim located under AS 38.05.195;

27 (E) a mineral lease issued under AS 38.05.205;

28 (F) an exempt oil and gas lease sale under AS 38.05.180(d) of  
 29 acreage subject to a best interest finding issued within the previous 10 years or  
 30 a reoffer oil and gas lease sale under AS 38.05.180(w) of acreage subject to a  
 31 best interest finding issued within the previous 10 years, unless the

1 commissioner determines that substantial new information has become available  
2 that justifies a supplement to the most recent best interest finding for the  
3 exempt oil and gas lease sale acreage and for the reoffer oil and gas lease sale  
4 acreage; however, for each oil and gas lease sale described in this  
5 subparagraph, the director shall call for comments from the public; the  
6 director's call for public comments must provide opportunity for public  
7 comment for a period of not less than 30 days; if the director determines that  
8 a supplement to the most recent best interest finding for the acreage is required  
9 under this subparagraph,

10 (i) the director shall issue the supplement to the best  
11 interest finding not later than 90 days before the sale;

12 (ii) not later than 45 days before the sale, the director  
13 shall issue a notice describing the interests to be offered, the location  
14 and time of the sale, and the terms and conditions of the sale; and

15 (iii) the supplement has the status of a final written best  
16 interest finding for purposes of (i) and (l) of this section;

17 (G) a shallow gas lease authorized under AS 38.05.177 in an  
18 area for which leasing is authorized under AS 38.05.177;

19 (H) a surface use lease under AS 38.05.255;

20 \* Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section  
21 to read:

22 RETROACTIVITY. Section 3 of this Act is retroactive to, and applies to permits  
23 issued under AS 38.05.850 on or after, July 27, 1981.

24 \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).