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SENATE

TRANSPORTATION

"We wouldn't want to see them used by insurance companies and local police departments to the detriment of the individual consumer. These things are not perfect yet. They could have errors in them and they shouldn't be used as some sort of information to either fine a consumer or cause them to lose their insurance," said R. David Pittle, senior vice president of technical policy for Consumers Union, the publisher of Consumer Reports.

Pittle said the nonprofit organization sees the value in the devices to help manufacturers and the government study accidents to design safer cars, but said the information has to be carefully controlled for the privacy of consumers.

AAA officials said they would support black boxes only if protections were in place to ensure the data are used only for safety research and can't be traced to specific drivers.

Notification of driver

Williams said AAA believes automakers should list the black box on the list of equipment because most people have no idea that their car is equipped with the device. Adler of GM said the manufacturer lists it in the owner's manual in the air bag section.

NHTSA in July proposed standard requirements for the boxes. The proposal would not require the installation of the boxes, but outlines the data that would be collected if the boxes are placed on a voluntary basis.

NHTSA spokesman Tim Hurd said the agency sees good crash information that can come from the devices. The agency is reviewing comments on its proposal.

Hurd said whether insurers and attorneys are going to use the information in the devices needs to be worked out by state legislatures and the industry.

Phil Haseltine, president of the Automotive Coalition for Traffic Safety, a nonprofit educational organization funded by the automakers, said the industry players differ in their opinions about the black boxes.

"Some companies have stronger concerns about consumer reaction and privacy issues," he said.

Haseltine said the devices are providing the same type of information that an accident reconstruction expert would put together at the scene, but he believes the privacy issues are important. Consumers should be notified and educated about the devices, he said.

"The key to the acceptance of anything new like this is an understanding of what the technology is all about," he said.

However, Hurd said the consumers should still own the data in the devices, just as they own the car.

Industry experts said they have not heard of insurers punitively using information in the black boxes in setting insurance premiums.

TripSense

One area insurer, Progressive Insurance in Mayfield Heights, is testing a program it says uses data collected from a vehicle to give discounts to its customers.

TripSense, which is being tested only in Minnesota, is a program that allows people who consider themselves good drivers to prove it with data to get discounts on their premiums.

Here's how it works: A driver agrees to install a matchbox-sized data device into a port under the steering wheel. The device for six months will record what speeds you drove, at what time and how far.

It can't tell whether you were speeding on a particular day, but the aggregate information will give the insurance company an idea of whether for instance, you always drive 45 mph, or 90 mph, said Dave Huber, TripSense product manager.

Huber said the program is completely voluntary and cannot be used in a punitive way. Premiums cannot go up as a result of the data, and you will not be dropped in the future, he said.

Drivers are able to review their data and what type of discount they'd receive on their computer before deciding whether to upload the information to Progressive. If they share the information, they get an automatic 5 percent discount on their premium. You can get further discounts of as much as 25 percent, depending on the data.

For instance, a person who drives at 2 a.m. on a Saturday morning is more risky than driving during the business day.

TripSense voluntary

Huber said that because the program is voluntary, there shouldn't be worries about privacy.

"The only thing I really know is how much you're driving. I don't know where. I don't know -- to use the extreme example -- if you're up going to a strip club," Huber said. "It's not for everybody, but to the safe driver that feels like they're

paying too much (for insurance) -- the better driver than they're given credit for -- those are the folks who we're trying to get the feedback from."

Huber said the company is not using the data for any purpose other than to collect data. The company is also collecting information about rapid acceleration and deceleration, but is not using that to determine discounts, he said.

To me, this program might make sense to someone who is a consistently safe and conscientious driver. But I don't think I'd be willing to try it. At times, I know I have a lead foot, but that doesn't mean I'm an unsafe driver at all times.

Pittler of Consumers Union said he'll be interested to find out how many people choose to share their information with Progressive. He also said insurers should base their rates on whether you're making claims and not what kind of driver you are.

"This really comes down to the choice of the consumer. I think people may be reluctant to believe it would never be used against them," he said.

Huber said it's still early in the program, so there's not enough data to make any conclusions.

Thinking Out of the Black Box

By Jim Harper

Published 12/10/2004 12:05:46 AM

New cars offer a delightful array of information and services: satellite radio, intelligent cruise control, braking and steering assistance, navigation systems, and roadside assistance, to name a few. These all appeal to drivers' desire for safety, convenience, and comfort.

But a troublesome feature of most new cars is the Event Data Recorder ("EDR"), or Black Box. As in commercial airplanes, the automobile Black Box keeps a running record of how a car is being operated, including speed, acceleration, braking, steering, and seat belt use.

When there is an "event" -- usually a crash -- the EDR moves the last several seconds of information into long-term storage for later downloading. Well over half of the 2004 model passenger cars and light vehicles have some recording capability of this type.

The National Highway Traffic Safety Administration has proposed standards for the data collected by EDRs, but the agency emphasized in a recent notice that it is not mandating Black Boxes. It will be under pressure to do so. The National Transportation Safety Board has listed Black Boxes as one of its "most wanted" measures.

There are obvious safety benefits if auto accidents can be dissected in detail, of course. Auto manufacturers, safety groups, and insurers want this information. Police departments want it too.

Already, prosecutors are using information from automobile Black Boxes as evidence against drivers. Last year, one Robert Christmann was convicted in a New York traffic fatality based upon information downloaded from his car's Black Box.

But car manufacturers aren't touting the safety benefits of the Black Box like they do so many other improvements on the modern automobile. That is because the Black Box is not a safety feature; it is a surveillance tool -- and when drivers learn about it, they are none too happy.

After I commented on Black Boxes in a news story earlier this year, letters poured into my e-mail box. "This is 'over the top,' and a definite infringement on my privacy," said one outraged car owner. Another wrote, "[T]his is a personal vehicle, I've paid for it, paid my taxes, enough said." From another, simply: "Not on my car."

Many correspondents wanted to know which cars have Black Boxes so they can determine whether their personal vehicles were, in effect, spying on them.

There are a number of directions in which this technology is likely to go. It could collect and retain more information for longer periods. It could interact with Global

Positioning Systems (GPS) to record where a car has traveled. And it could combine with communications systems to signal authorities in real time

Joan Borucki, Governor Arnold Schwarzenegger's nominee to head California's Department of Motor Vehicles, has proposed a mileage tax that Black Boxes could administer. The Oregon Department of Transportation has also considered a mileage tax.

In 2001, a Connecticut car rental company began charging renters a \$150 fine for speeding in their rental cars, using a GPS-equipped monitoring system. Consumers can shun companies which make this a practice. But they could not refuse an automatically-issued traffic citation if governments were to add Black-Box-citation revenue to what they now get from red-light cameras.

Legislation passed by the state of California is likely a sign where things are headed. The state requires notices in the owner's manuals of cars that have Black Boxes. The new law also allows data to be accessed under court order, for research, and for other reasons. California's EDR law replaced consumer choice with an agreement among politicians, bureaucrats, and industry on a nice low level of protection for consumers.

There is no question that aggregated EDR data can provide important safety benefits. If traffic accidents and deaths can be averted by improving automobile safety, these safety advances should be pursued. But they should be pursued in a way that unites the interests of drivers with the interests of the community.

Insurers should offer car owners discounts if their EDR-equipped cars reveal good driving habits and freedom from blame in accidents. Consumers, not the government, should decide if they want their cars to collect such data, and if they want to share it with others.

Jim Harper is director of information policy studies at the Cato Institute.

SB

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ALASKA

ANCHORAGE DAILY NEWS • www.adn.com

MONDAY, APRIL 18, 2005

Kuskokwim residents wary of agency

■ **PORT AUTHORITY:** Calista Corp. wants government body for gold mine development.

By **JOEL GAY**
Anchorage Daily News

Residents of a 200-mile stretch of the Kuskokwim River are cool toward a proposal by the region's Native corporation and the Alaska Legislature that aims to create jobs, services and revenue in one of the most chronically impoverished regions in Alaska.

Calista Corp. wants the state to form a Kuskokwim Port Authority, which it says would spur development of the proposed

billion-dollar Donlin Creek gold mine and other projects from the tundra around Bethel to the mineral-rich mountains at the edge of the Yukon-Kuskokwim Delta.

The authority could provide services beyond ports. It would control a 20-mile-wide swath of land up the river and could invest money in power plants, tourism, roads and waste removal. The new agency's goal would be to promote "regional economic self-sufficiency."

But the development plan has touched nerves along a river where people hunt and fish to feed their families. Many who tentatively support the mine and its jobs — provided it won't harm their environment and subsistence lifestyles — think

the authority reaches too far. They fear losing fish camps and homesites to power lines or roads, and they distrust plans for its board of directors, which would be appointed by the governor.

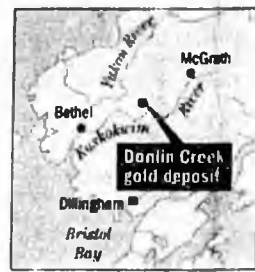
The opposition may have cooled the port authority's chances of passing this session, though Calista officials say they will keep pushing the idea.

But as elsewhere in rural Alaska where new mines and pipelines are beginning to show promise, such as Delta Junction and the Bristol Bay region, the revenue potential posed by Donlin Creek has prompted some Kuskokwim River residents to consider forming a government of their own choosing, in this case

a borough.

Port authorities are a unique form of government. According to Paul Fuhs, a former state commerce commissioner who helped write Alaska's authority law in 1983 and who is now working with one of the groups opposed to the Kuskokwim plan, they usually have narrowly defined powers and physical boundaries.

A city or borough might create a port authority, for example, to manage its harbor, docks and freight business, Fuhs said. In Southeast, seven cities jointly formed an authority to operate the region's fast ferries.



RON ENGSTROM / Anchorage Daily News

See Page B-7, KUSKOKWIM

KUSKOKWIM: *Wide-ranging authority questioned*

Continued from B-1

The state has created several authorities, including one to operate the Kodiak rocket launch facility. An attempt to create an Interior Rivers Port Authority last year died in the Legislature.

The Kuskokwim Port Authority would also be formed by the state, under a bill co-sponsored by Sen. John Cowdery, R-Anchorage, and Sen. Lyman Hoffman, D-Bethel.

Calista, the regional Native corporation on the Yukon-Kuskokwim Delta, specifically wanted it to have a wide range of powers, corporation vice president Bob Charles said.

"We see it as providing a way for new economic development projects in the region," he said. It could pave the way for roads, ports, fuel storage, power plants and transmission lines, Charles said, "those basic elements of making an economy work."

While the port authority could help throughout the region, the Donlin Creek mine is a major target. Calista, one of the least profitable of the 13 Native corporations, could flourish if the mine develops into the world-class operation that many envision. Calista owns the subsurface rights and has proposed providing electricity to the power-hungry mine.

Donlin Creek's developers, a joint venture between Placer Dome U.S. and NovaGold Resources, believe the open-pit mine in the Kuskokwim Mountains 275 miles west of Anchorage will yield 600,000 ounces of gold a year and create hundreds of year-round jobs.

Though Calista says the port authority could smooth the way for Donlin Creek, the proposed

new agency's broad scope and scant detail make area residents nervous, said Stanley "Tundy" Rodgers, the vice mayor of Bethel.

"The sound of it is good," Rodgers said. In a region where unemployment is rampant and per capita income is among the lowest in the state, any plan for economic opportunity is welcome, he said. "But the way they're going about it, we're against it" until the details are fleshed out.

The Kuskokwim authority would extend over nearly 4,500 square miles, some 2.8 million acres. It runs 10 miles inland from both banks of the river and from about 15 miles downstream of Bethel nearly to Crooked Creek, the village directly below the mine site. More than a dozen cities and villages lie within its boundaries.

Some fear the authority would use the power of eminent domain and force property owners to sell their Native allotments or other privately owned lands along the river. Until they can be assured their property isn't threatened, Bethel Native Corp. opposes the plan, chief operating officer Ana Hoffman said.

Similarly, she said, people would feel more comfortable if the authority stuck to ports and harbors.

"The fear is the unknown," Hoffman said.

Another widespread concern is that the board of directors for the state-created agency would be selected by the governor. While the governor could select the majority of board members from the Kuskokwim region,

Williams, a Bethel city councilman.

One of the main reasons for creating any authority is to take advantage of low-interest revenue bonds. Placer Dome's Alaska project manager, Stan Foo, said the company will likely spend \$1 billion to build the necessary roads, docks, power plant and other facilities.

But Placer Dome isn't likely to need financial aid from the port authority, Foo said.

"Typically we finance these projects on our own, and that's our desire for Donlin Creek," he said.

If the developers did want public financing, it would also be available through the existing Alaska Industrial Development and Export Authority.

All the services offered by the port authority, from financing to waste disposal, could be provided by a new borough, according to Mike Black, of the state Department of Commerce, Community and Economic Development. A borough also offers the advantage of local control, and it could fund services by taxing the mine, he said.

No one in the Kuskokwim region has petitioned to start a borough, but talks have begun, Black said. One potential model is the Kuspuk Borough, which the state proposed in 1992 and stretched from Lower Kalskag to Stony River.

But a borough could extend farther, perhaps all the way to Bethel or even across to the Yukon River, where the village of Holy Cross has begun talking about borough formation. If Holy Cross combined with the Kuspuk area, it would encompass an overland link between the two rivers that has been eyed as a route to move liquefied natural gas.

Sen. Charlie Huggins, R-Wasilla and chairman of the Transportation Committee, which is considering the port authority bill, said he would prefer both a borough and a port authority. But borough formation can be a lengthy process, he said. In the meantime, the port authority would help spur economic development.

The bill is still in his committee, and while it is "not on the back burner," it probably won't move until Kuskokwim-area residents can agree on the port authority's scope of work, Huggins said.

"You have to go at the speed the community's prepared for," he said. "It's potentially very, very important for the region, and we want to make sure we're working with the community and not seen as a bunch of guys in Juneau 'doing something to' the people of the Kuskokwim."

■ Daily News reporter Joel Gay can be reached at jgay@adn.com or at 257-4310.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB40-DOT-CO-1-3-05
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
 Title Kuskokwim Port Authority RDU Administration & Support
 Component Commissioner's Office
 Sponsor Sen. Cowdery, Sen. Hoffman
 Requester Senate Transportation Component No. 530

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Nona Wilson Phone 465-3904
 Division: Legislative Liaison, DOT&PF Date/Time 2/7/05 4:11 PM
 Approved by: Mike Barton Date 2/7/2005
 Agency: Commissioner, DOT&PF

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 40
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Kuskokwim Port Authority RDU Kuskokwim Port Authority
 Component Kuskokwim Port Authority
 Sponsor Cowdery, Hoffman
 Requester Senate Transportation Component No. New

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation establishes the Kuskokwim Port Authority as a public corporation of the state and an instrumentality of the department. It establishes a nine member board (including the commissioner of the department) to improve, establish and develop facilities and operations to provide transportation, energy, regional waste disposal, and other infrastructure services and economic development in the operating area of the authority. The authority may receive funding subject to appropriation by the legislature.

Prepared by: Albert H. Clough, Deputy Commissioner Phone 907.465.2500
 Division Office of the Commissioner Date/Time 2/7/05 2:14 PM
 Approved by: Edgar Blatchford, Commissioner Date 2/7/2005
 Agency Commerce, Community & Economic Development

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MEMORANDUM

February 9, 2005

SUBJECT: SB 40: Appointment of members of the Board of directors of the Kuskokwim Port Authority (Work Order No. 24-LS0323\A)

TO: Senator Charlie Huggins
Attn: Deborah Grundmann

FROM: George Utermohle
Legislative Counsel

You have asked whether the legislature may require that the governor appoint persons to the board of directors of the Kuskokwim Port Authority who are members of specific Native corporations, associations, or village councils.

The short answer is that there is not a definite answer as to whether the legislature may or may not require that the members of the board of directors be members of specific Native corporations, associations, or village councils.

"The legislative power of the State is vested in a legislature" Art. II, § 1, Alaska Constitution. "Legislative power" is the power of the legislature "to make laws and such power is reposed exclusively in such body though it may delegate rule making and regulatory powers to departments in the executive branch." Black's Law Dictionary.

As part of its law making power, the legislature may determine that the best way for a particular law to be implemented or enforced is by the establishment of a board or commission to administer the law. In creating the board or commission it seems only reasonable that the legislature may establish qualifications for the members of the board or commission who are going to be implementing the particular law enacted by the legislature. The legislature may want persons with experience in the field or area to be regulated, or with some other qualifications or training, to administer the law. By enacting qualifications for members of boards or commissions, the legislature is not selecting a particular person to be on the board or commission (which power is provided solely to the governor) but only specifying that certain qualifications are necessary for any person selected by the governor to serve on the particular board or commission. The governor may still select the individual he wants to be on the board or commission, provided the person has the qualifications the legislature has specified as being necessary. As such, it appears that the governor's appointment power is not invaded or restricted by the legislature's enactment of reasonable qualifications for membership on boards and commissions.

Senator Charlie Huggins

February 9, 2005

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This view is consistent with the general rule of law concerning the prescription of qualifications for public office by the legislature:

Subject to such limitations as may be imposed by the constitution, the power to fix the qualifications of public officers or employees may be exercised by the legislature. The qualifications for, or conditions of, public employment may not be arbitrary, but must be reasonable and based on substantial grounds which are natural and inherent in the subject matter of the legislation.

67 C.J.S., Officers, § 22, at p. 173 - 74.

It therefore appears that under the common law, the legislature may prescribe reasonable qualifications for boards and commissions, that are reasonably related to the position or to the aim of the legislation and which do not interfere with the governor's appointment power or with qualifications set out in the constitution. Various state courts have reached this same conclusion and have upheld legislative designations of qualifications for public offices, such as, memberships on a board or commission. See, e.g., State v. Matassarini, 114 Kan. 244, 217 P. 930 (1923); State v. Eischen, 76 N.W.2d 385 (Minn. 1956); Humane Society of the United States v. New Jersey Fish and Game Council, 362 A.2d 20 (1976); Hurd v. Freeland, 442 P.2d 344 (Okla. 1966); State v. Wells, 112 N.W.2d 601 (S.D. 1961); State v. Millsap, 605 S.W.2d 366 (Tex. App. 1980).

The power to appoint members of state boards, commissions, and councils, such as members of the board of directors of the Kuskokwim Port Authority, is an executive function to be exercised by the governor. In Bradner v. Hammond, 553 P.2d 1, 5-6 (Alaska 1976), the Alaska Supreme Court recognized that the Alaska constitution envisioned a strong executive and "that the appointment of executive officers is an executive function. . . ." The Department of Law, which has generally taken a position very protective of the governor's prerogatives, has asserted that the legislature cannot restrict the governor's appointment powers, such as requiring the governor to select from a list of names provided by particular groups. The Department of Law has repeatedly argued that such limitations on the governor's appointment power are unconstitutional infringements upon the governor's authority. Letter to Walter J. Hickel, Governor, from Charles E. Cole, Attorney General, June 11, 1991 (file no. 883-91-0071); 1981 Inf. Alaska Atty. Gen. Op. (file no. J-66-698-81), April 23; 1980 Inf. Alaska Atty. Gen. Op. (file no. J-66-164-80), September 17. Nonetheless, at least three Alaska Attorney General opinions or letters of advice have accepted that the legislature may prescribe reasonable qualifications for gubernatorial appointments to boards or commissions. 1981 Inf. Alaska Atty. Gen. Op. (file no. J-66-698-81), April 23; Memorandum to Governor Hammond from R. Pegues, August 13, 1979; 1988 Inf. Alaska Atty. Gen. Op. (file no. 883-88-0079), May 24.

Unfortunately, there is not more specific guidance available on how to reach a balance between the power of the legislature and the power of the governor on this issue. There

Senator Charlie Huggins

February 9, 2005

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is legal support for the position of the legislature that it may impose reasonable qualifications on persons appointed to serve on the board of directors of the Kuskokwim Port Authority as well as the position of the governor that he should have the discretion to appoint the most knowledgeable and competent persons available to serve on the board of directors. As yet, there has not been a decision by the Alaska Supreme Court that provides sufficient guidance to determine the boundary between the legislature's authority to establish qualification for members of boards and commissions and the governor's authority to select the persons who serve in the executive branch.

* * *

In addition to the constitutional issues raised by the qualifications imposed on the members of the board of directors, there are the practical issues that may arise if the members of the board of directors of the Kuskokwim Port Authority consists almost entirely of members of specific Native corporations, associations, or village councils in the region. As an economic development entity for the Kuskokwim River region, the port authority will be significantly involved with Native corporations, associations, and villages in the region. If the members of the board of directors are also members of those Native corporations, associations, or village councils, there may be times when the members of the board may have to recuse themselves from participating in decisions of the board that affect the corporations, associations, and villages of which they are also members in order to avoid a conflict of interest. If too many members of the board of director's have a conflict of interest in regard to a particular issue, the board may not be able to take action on that issue.

If I may be of further assistance, please advise.

GU:jad

05-080.j !

SENATOR
JOHN J. COWDERY

Anchorage

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Chair: Rules
Chair: Transportation
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State/Federal Relations
Legislative Council



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Juneau, Alaska 99801-1182
Tel: 907-465-3879
Toll Free: 888-269-3879
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May - December:
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Tel: 907-269-0222
Fax: 907-269-0223

Senator_John_Cowdery@legis.state.ak.us

**SB 40—An act relating to the establishment of the Kuskokwim Port Authority
Sponsor Statement**

The Kuskowkwim region in southwestern Alaska is documented as having some of the highest unemployment rates, highest dependence on welfare transfers and lowest level of economic development in Alaska. With resource development as the best opportunity to transform the region and revitalize the economy, the lack of energy and transportation infrastructure is a major obstacle that needs to be overcome. Creation of a Kuskowkwim Port Authority would address this issue by assisting in the development of natural resources projects in the Kuskowkwim River area.

The port authority with an operating area extending from Napakiak, on the lower Kuskowkwim, to Crooked and Donlin Creeks would provide revenue-bonding capabilities that could help finance transportation and energy infrastructure for resource development in the region. The region would also benefit from the leverage of bulk fuel purchase agreements, electrical interties, and in the long term, gas provided to the area through a spur line or barge system that delivers North Slope gas from an Alaskan gas pipeline. In addition to providing these benefits the Authority would be able to provide regional landfill solutions and help resolve health and environmental issues associated with uncovered waste dumps.

The Port Authority board of directors would consist of nine voting members with seven members being appointed by the Governor. These appointees would be public or private individuals who represent interests in the Kuskowkwim River area including the Kuskowkwim Corporation, Calista Corporation, the Kuskowkwim Native Association, the Association of Village Council Presidents, Inc., the City of Napakiak, the City of Bethel, the Crooked Creek Traditional Village Council and other entities that have a physical presence within the area of operation of the authority. The Commissioner of Commerce, Community, and Economic Development and the Commissioner of Transportation or their appointees would be the final two voting members of the board.

The establishment of a Kuskowkwim Port Authority would help to address many economic and social concerns for the region by promoting long-term economic development, providing opportunities to improve the quality of life for local communities, assisting in the cultivation of resources that enable social and economic

enhancement opportunities, and developing local capabilities. The Port Authority would provide tangible and measurable results by enhancing the development of resources in the region and is necessary to attain the economic and social progress goals of the Alaska Senate and State.

LEGAL SERVICES

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Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 19, 2005

SUBJECT: Sectional Summary of SB 40; An Act relating to the establishment of the Kuskokwim Port Authority (Work Order No. 24-LS0323\A)

TO: Senator John Cowdery
Attn: Ryan Makinster

FROM: George Utermohle *GU*
Legislative Counsel

You have requested a sectional summary of SB 40; An Act relating to the establishment of the Kuskokwim Port Authority.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill sets out the findings and purpose of the legislature in regard to the establishment of the Kuskokwim Port Authority.

Section 2 of the bill adds a new chapter to AS 30 to provide for the establishment and operation of the Kuskokwim Port Authority.

Article 1. Creation and Organization.

Sec. 30.21.010 establishes the Kuskokwim Port Authority as a public corporation of the state within the Department of Commerce, Community, and Economic Development.

Sec. 30.21.020 establishes the board of directors of the authority, consisting of seven voting members appointed by the governor and two ex-officio voting members. The governor shall solicit nominations for appointments to the board from private persons and public and private entities including certain corporations in the area of operation of the authority. The members are to be persons who are officers, directors, or employees of private entities that have a physical presence in the area of operation of the authority. The commissioners of transportation and public facilities and of commerce, community, and economic development are voting ex-officio members of the board.

Sec. 30.21.030 provides for the removal and replacement of members of the board.

Sec. 30.21.040 provides that the members of the board may receive per diem and travel expenses authorized under AS 39.20.180.

Sec. 30.21.050 provides that the board shall hold at least four regular meetings each year and that the board may also hold special meetings at the call of the chair of the board or of three members of the board.

Sec. 30.21.060 provides for the election of officers of the board and sets the quorum and certain voting procedures for meetings of the board.

Sec. 30.21.070 provides that the board may employ officers and employees of the authority as necessary for operation of the authority. The attorney general is legal counsel for the authority.

Sec. 30.21.080 describes the operating area of the authority to include land within 10 miles of either bank of the Kuskokwim River between Napakiak and the Canoe Village site and within 10 miles of the road from the Canoe Village site to Donlin Creek.

Sec. 30.21.090 provides that the board of the authority may adopt regulations to carry out its functions.

Article 2. Powers and Duties.

Sec. 30.21.100 sets out the powers and duties of the authority.

Sec. 30.21.110 provides that the activities of the authority are public and governmental functions exercised for a public purpose and are matters of public necessity.

Sec. 30.21.120 provides that the authority may acquire by purchase, lease, or gift, upon terms that the authority considers proper land, structures, real or personal property rights, rights-of-way, franchises, easements, and other interests in land.

Sec. 30.21.130 provides that the authority may defend and indemnify a current or former member of the board, employee, or agent of the authority against all costs, expenses, judgments, and liabilities incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the authority. The authority may also purchase insurance to protect and hold personally harmless its board members, employees, and agents from an action, claim, or proceeding arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the authority.

Sec. 30.21.140 provides that the authority shall protect its assets, services, and employees by purchasing insurance or providing for certain self-insurance retentions. The authority shall also maintain casualty, property, and other insurance in amounts reasonably calculated to cover potential claims against the authority or state related to authority operations and activities.

Sec. 30.21.150 provides that the authority shall obtain a fidelity bond in an amount determined by the board for members of the board and for each executive officer responsible for accounts and finances.

Article 3. Revenue Bonds and Notes.

Secs. 30.21.200 - 30.21.320 set out the powers and duties of the authority in regard to the issuance of revenue bonds. Under sec. 30.21.300, the credit of the state is not pledged to the repayment of debts, liabilities, or obligations of the authority. The authority is solely responsible for payment of its debts, liabilities, or obligations from the revenue of the authority.

Article 4. Fiscal Procedures.

Sec. 30.21.350 sets out the requirement of the authority to assure the development of a system of results-based operation designed to increase efficiency and effectiveness of facilities, operations, programs, and services of the authority. The authority shall annually prepare a detailed report of the mission, goals, operations, and performance of the authority.

Sec. 30.21.360 provides that the authority has power to administer its programs and is responsible for the proper management of its facilities and operations.

Sec. 30.21.370 provides that the authority shall prepare an annual report of its operations, income, and expenditures for the preceding fiscal year.

Sec. 30.21.380 provides that the authority shall have a certified audit of its financial records prepared annually by an independent certified public accountant.

Article 5. General Provisions.

Sec. 30.21.400 provides that the employees of the authority are not state employees.

Sec. 30.21.410 provides that the authority is not subject to the State Procurement Code (AS 36.30), except as specifically provided in this bill or to the statutes governing public officers and employees in AS 39. The authority is subject to the open meetings law, public records law, and most provisions of the Executive Budget Act (AS 37.07).

Sec. 30.21.490 sets out the definitions of terms used in the bill.

Sec. 30.21.495 provides that this chapter may be cited as the Kuskokwim Port Authority Act.

Sections 3 - 6 of the bill amend provisions of AS 30.15 to provide that the Kuskokwim Port Authority would be eligible for grants, if any, that are made for port facility construction under that chapter.

Section 7 of the bill amends AS 36.30.015(e) to provide that the board of directors of the Kuskokwim Port Authority is to adopt procedures to govern the procurement of supplies, services, professional services, and construction that are substantially equivalent to the procedures prescribed in the State Procurement Code (AS 36.30).

Section 8 of the bill amends AS 36.30.050 to provide that the board of directors of the Kuskokwim Port Authority may use the lists of contractors prepared by the commissioner of administration when issuing invitations to bid or requests for proposals.

Section 9 of the bill amends AS 36.30.990(1) to exclude the Kuskokwim Port Authority from the agencies that are subject to the State Procurement Code (AS 36.30).

Section 10 of the bill amends AS 37.05 by adding a new sec. 37.05.055 to provide that the commissioner of administration may delegate functions under the Fiscal Procedures Act (AS 37.05) to the board of directors of the Kuskokwim Port Authority.

Section 11 of the bill amends AS 39.50.200(b) to add the board of directors of the Kuskokwim Port Authority to the list of boards and commissions whose members are subject to public official financial disclosure under AS 39.50.

Sections 12 - 14 of the bill amend AS 39.52.960(2), (4), and (12), respectively, to provide that the board of directors of the Kuskokwim Port Authority is subject to the Executive Branch Ethics Act (AS 39.52).

Section 15 of the bill amends AS 44.42.020(a) to provide that the Department of Transportation and Public Facilities is not responsible for management, operation, or maintenance of ports and port related facilities and operations managed, operated, and maintained by the Kuskokwim Port Authority.

Section 16 of the bill provides that the board of directors of the Kuskokwim Port Authority shall, within one year from the first meeting of the board, prepare and publish a development plan for promoting economic self-sufficiency in the region in which the authority operates.

Section 17 of the bill establishes the length of the terms of the persons initially appointed to board of directors of the Kuskokwim Port Authority in order to establish a system of

Senator John Cowdery
January 19, 2005
Page 5

staggered appointments.

Section 18 of the bill provides that the bill takes effect July 1, 2005.

If I may be of further assistance, please advise.

GU:jad
05-031.jad



The Kuskokwim Corporation

SB 40 and SB41

Kuskokwim Port Authority Bills: Taking Away Local Control.

1. The Port Authority's focus is on controlling activities associated with the development of Placer Dome Inc.'s potential mine located at Donlin Creek and doesn't serve a broader public purpose.
2. Private Industry is better able to determine the specific types of facilities, infrastructure, timing and financing needs required to develop Placer Dome's potential mine.
3. The Bills promote a Port Authority entity which assumes the traditional role of a Borough but, without elected officials. By doing so, it discourages the future formation of boroughs throughout the impacted areas.
4. The proposed Port Authority's scope is too broad, allowing it to control not just the areas' river transportation system but also gives it control over transportation, energy, regional waste disposal related facilities and "*other infrastructure services and economic development*".
5. The distance away from the river (20 mile corridor at Napakiak and 40 miles from Canoe Village to the Donlin Mine) covered by the Port Authority is too far away from the river. A quarter mile corridor should be wide enough for port facilities.
6. The geographic areas encompassed by the bill are too broadly defined. Several of the communities encompassed have different local infrastructure needs, better managed by the local communities and land owners.
7. The surface estate of the lands upriver of Lower Kalskag is owned by 10 merged Villages. Of the Villages that own land at Canoe Village and the potential mine site impacted by this legislation, only Crooked Creek is represented on the Board. The villages of Upper Kalskag, Lower Kalskag, Chuathbaluk, Aniak, Napaimute, Georgetown, Sleetmute, Red Devil, and Stony River have little or no representation on the proposed Port Authority. These villages merged all of their lands and resources in 1986 and formed The Kuskokwim Corporation.
8. The proposed land base for a Port Authority swallows up all of The Kuskokwim Corporation's private lands for 120 lineal miles. Approximately half of our private lands are designated for the Port Authority.
9. This bill takes away our ability to privately develop The Kuskokwim Corporation's (TKC) lands. The development of possibly the fourth largest gold mine in the world on our private lands is a once in a lifetime opportunity for the local area residents, which through TKC, owns the lands the mine is situated on.

Anchorage Office:
4300 B Street Ste. 207
Anchorage, Alaska 99503
Phone: (907) 243-2944
Fax: (907) 243-2984

THE KUSKOKWIM CORPORATION

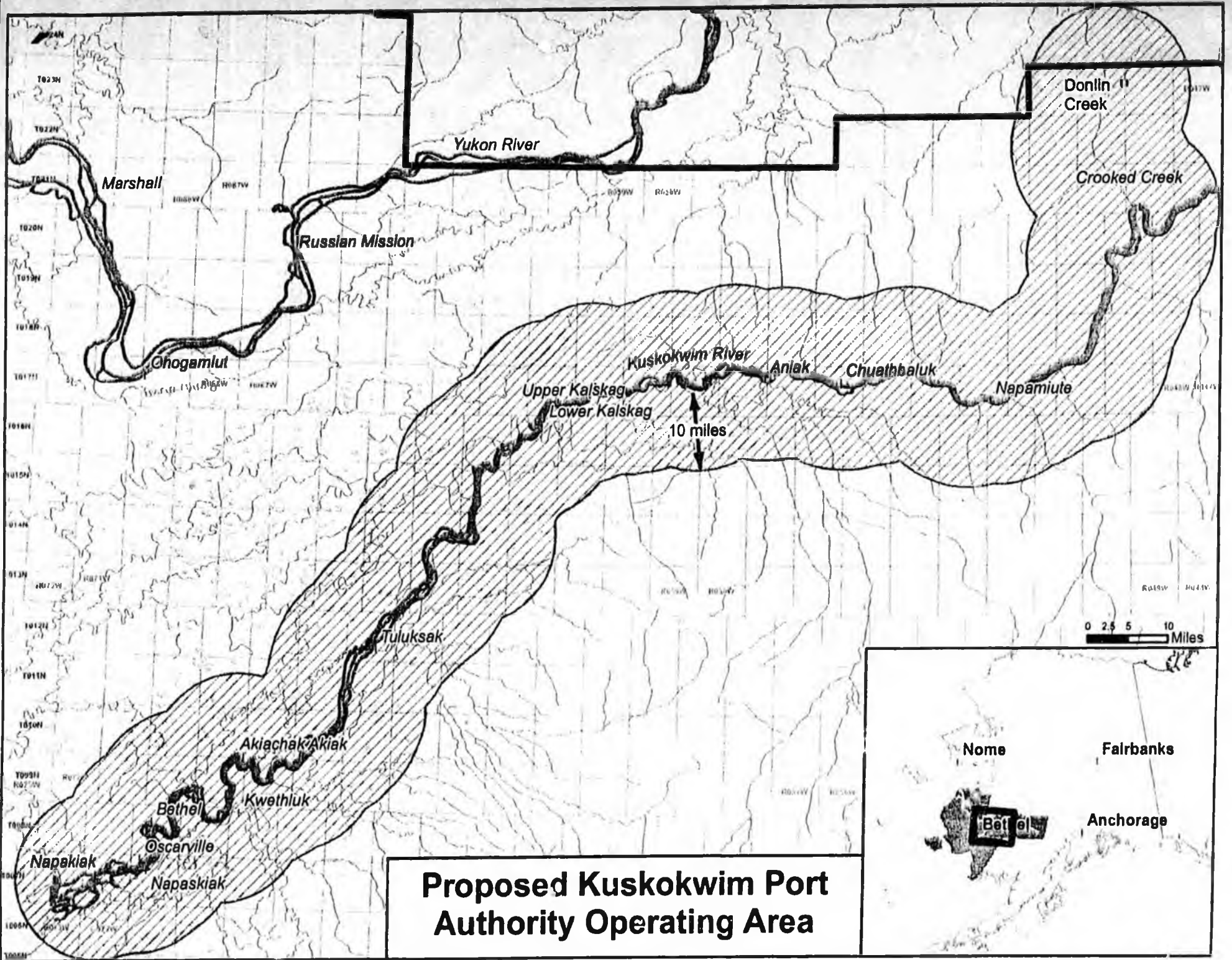
Concerns on SB40

1. Neither The Kuskokwim Corporation or any of our communities were contacted prior to the bill being introduced. Our lands include 10 village corporations that merged in 1977. 120 linear miles of the proposed port authority is on Kuskokwim Corporation land. We are a private corporation that wants to develop our land on our own terms and we support development of the proposed mine.
2. SB 40 does not include the communities east of the proposed authority who are members of the merged corporation including Georgetown, Red Devil, Sleetmute and Stony River.
3. The scope of the authority is too broad and includes activities that would normally be done by a borough with elected representation.
4. The Port Authority board would be appointed by the governor with no assurance that our villages would be adequately represented on the board. It is our understanding that it is not possible to specify who would be appointed to the board.
5. The boundaries of the authority do not match the model borough boundaries identified by the Local Boundary Commission. (see attached map) The port authority could discourage formation of a local government in our area.
6. We have talked to AIDEA and we believe that they can provide the financing for a road and port just as they did for the Red Dog mine without a port authority.

Community synopsis by charter
supports the mine -

What

Kuskokwim - is far profit under ANCSA
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safe -
need for economic develop in the
region -
need to look at how this can be
accomplished.



CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services
Department of Education & Early Development
State of Alaska

THE KUSKOKWIM CORPORATION

Concerns on SB40

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Community synopsis by chairman
supports the mine -

aka

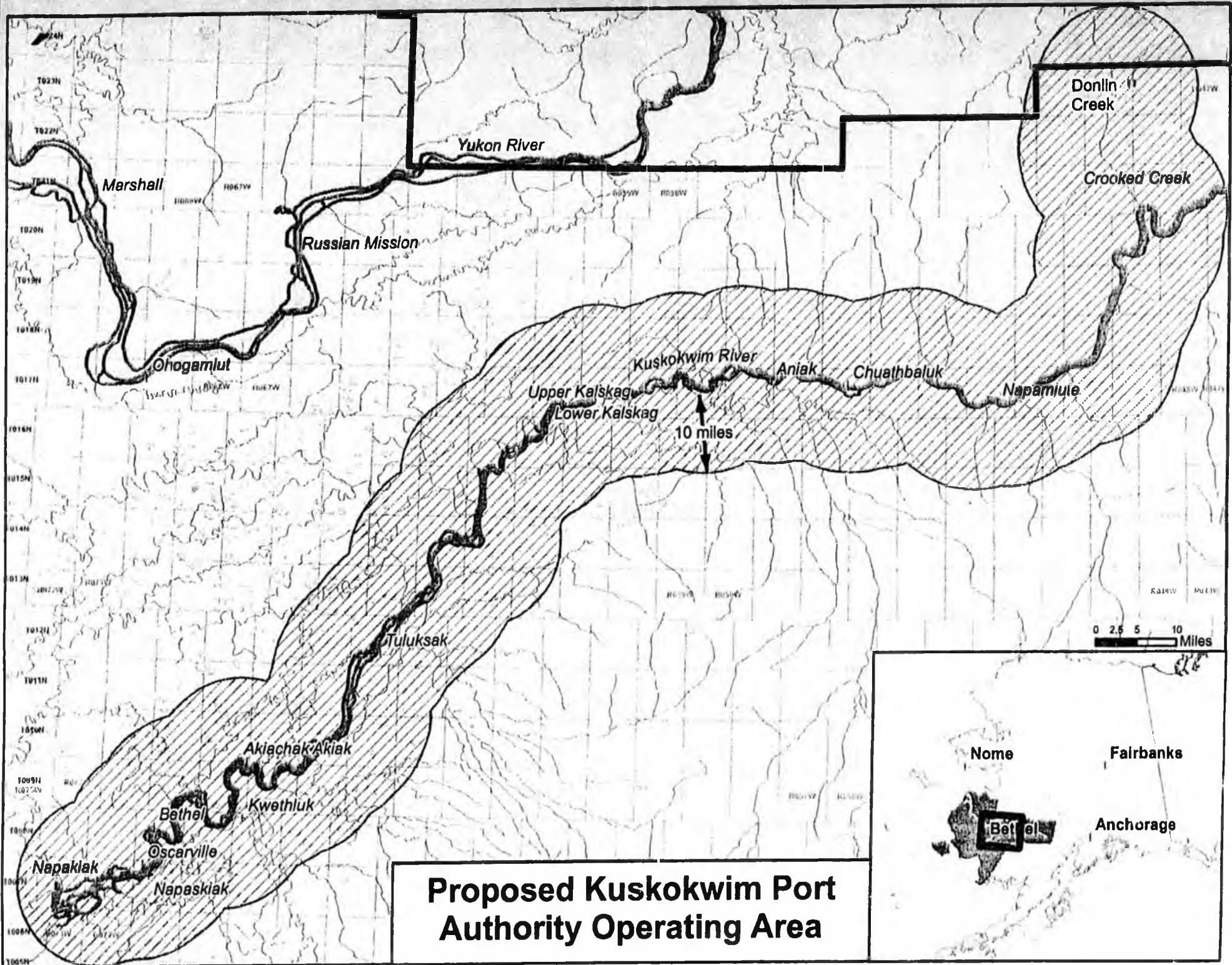
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Part A: where
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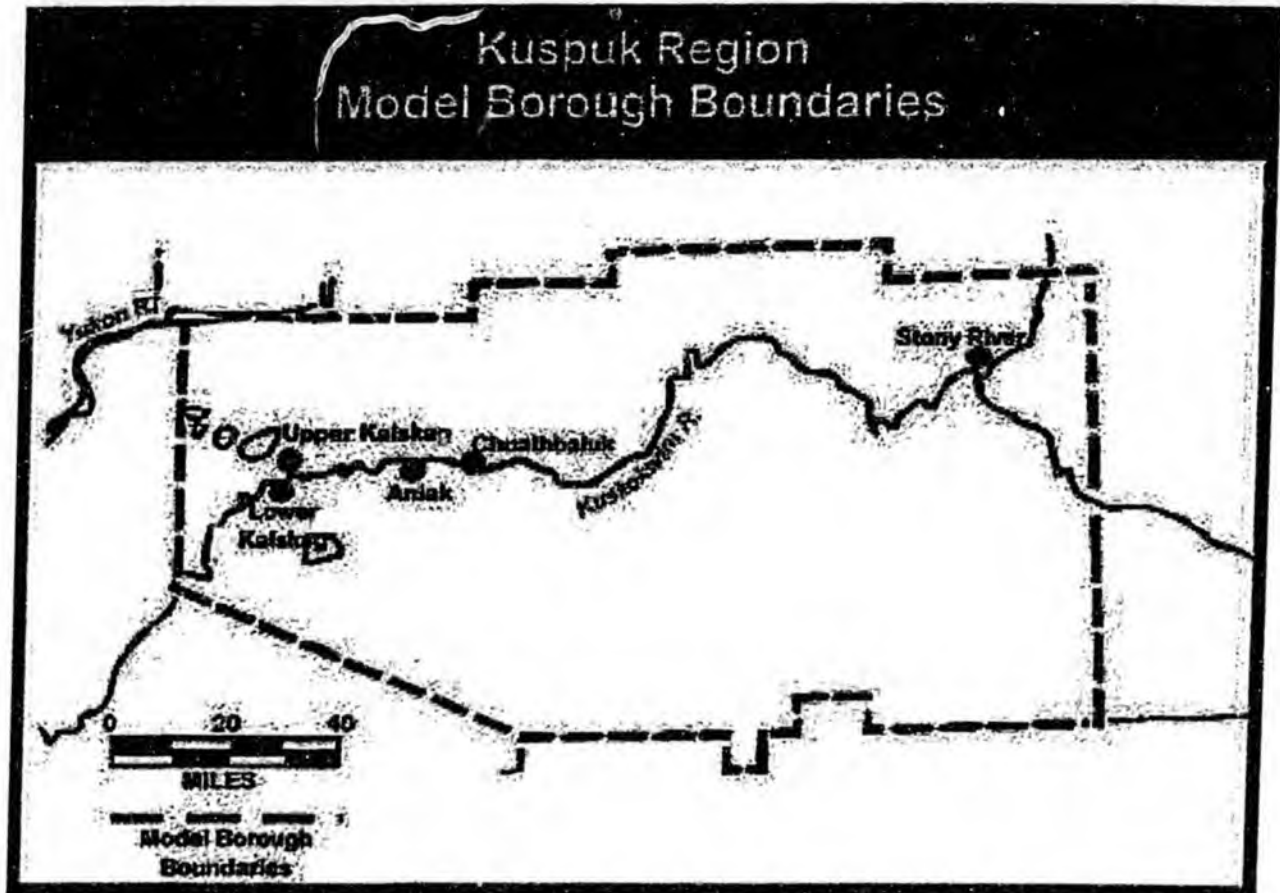
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Proposed Kuskokwim Port Authority Operating Area

Kuspuk Region. The Commission conducted a public hearing on model borough boundaries for the Kuspuk region in Aniak on October 23, 1992. On November 21, 1992, the Local Boundary Commission set the Kuspuk region model boundaries to conform to those of the Kuspuk Regional Educational Attendance Area. The 1990 population for the region was 1,490 residents. Communities in the region consist of Aniak, Chuathbaluk, Crooked Creek, Sleetmute, Stony River, Upper Kalskag and Lower Kalskag.



Donlin Creek Mine Access
Project Closeout Briefing
January 25, 2005

Summary

The DOT&PF Industrial Roads Program goal is to promote resource development in Alaska and to help ensure the economic viability of resource projects by providing transportation infrastructure. One project DOT&PF has been pursuing as part of the Program is the Donlin Creek Mine Access and Yukon-Kuskokwim Ports and Road (Y-K Road), which would provide access to the Donlin Creek Mine and other mineral deposits in the region. Donlin Creek Mine is a major gold deposit near the village of Crooked Creek on the upper Kuskokwim River.

Placer Dome, Incorporated, developer of the Donlin Creek Mine has recently completed a corporate review of scoping studies completed last year. Analyses in the studies show it is most practical for the mine to construct a road to a port at the Jungjuk River mouth on the Kuskokwim River. The mine's current project description does not show a need for a 60-mile road to the Yukon River. Because of these developments, the Industrial Roads Program is closing out the Donlin Creek Mine Access and suspending work on the Y-K Road project.

The original Industrial Roads Program goal to promote and assist the mine has been met by a decision that the private sector will be responsible for transportation infrastructure development.

Background Information

DOT&PF started work on the NEPA/Preliminary Engineering phase of the Y-K Road in August 2004. Almost immediately, DOT&PF shut down work at the request of Placer Dome so that permit strategies between DOT&PF and Placer Dome could be aligned.

In late December 2004, Placer Dome completed their initial reviews and decided to move forward with additional studies aimed at producing a detailed Prefeasibility Study by late 2005. DOT&PF and DNR got word of the decision and set up a January 7, 2005 meeting to restart the DOT&PF project.

On January 5, Mike McKinnon met with James Fueg, Placer Dome's Acting Alaska Manager, to get an update on the plans for Donlin Creek Mine. He also asked Mr. Fueg if a position had emerged on the following questions in anticipation of the upcoming DOT&PF/DNR meeting:

- 1) Was the proposed public-funded road from the Kuskokwim River port to Donlin Creek Mine required?
- 2) Was a road to the Yukon River required for the Donlin Creek Mine?

Mr. Fueg conveyed that Placer Dome was factoring the Kuskokwim River port and road to Donlin Creek Mine into its project costs and found that these costs did not place a significant financial burden on the project.

Mr. Fueg also explained that their plan did not show a need for a road to the Yukon River. If power plant fuel for the mine were delivered on the Yukon River, the company would build a port and buried gas pipeline to transport gas to the mine.

Placer Dome outlined that the concerns below were part of their rationale for incorporating the port/road into the mine development plan:

- 1) Developing the mine and road under two separate EIS processes would invite legal challenges once the EIS processes were complete, resulting in significant delays to both projects. Placer Dome feels strongly that the two projects would have to be developed under one EIS. Placer Dome is concerned that the requirement for coordination between DOT&PF, Placer Dome, and the Federal Agency leading the EIS would result in significant delays to the EIS process.
- 2) Using Federal-Aid Highway funds to construct the road would likely result in design requirements, operational expenses, taxes, and public access requirements that have the potential to elevate long-term costs for road maintenance and operations.
- 3) The public process for acquiring funds for the road, and DOT&PF contracting processes have the potential to delay immediate road construction once the permits have been issued.

Placer Dome stated that even a few months delay could result in the loss of a construction year. Placer Dome reported that the timeframe for construction of the Pogo Mine road, starting immediately after the permits were issued, is a good example of the timeline that could be required for the Donlin Creek Mine road. Placer Dome may preposition equipment on site prior to EIS completion so that construction can begin immediately after permits are issued.

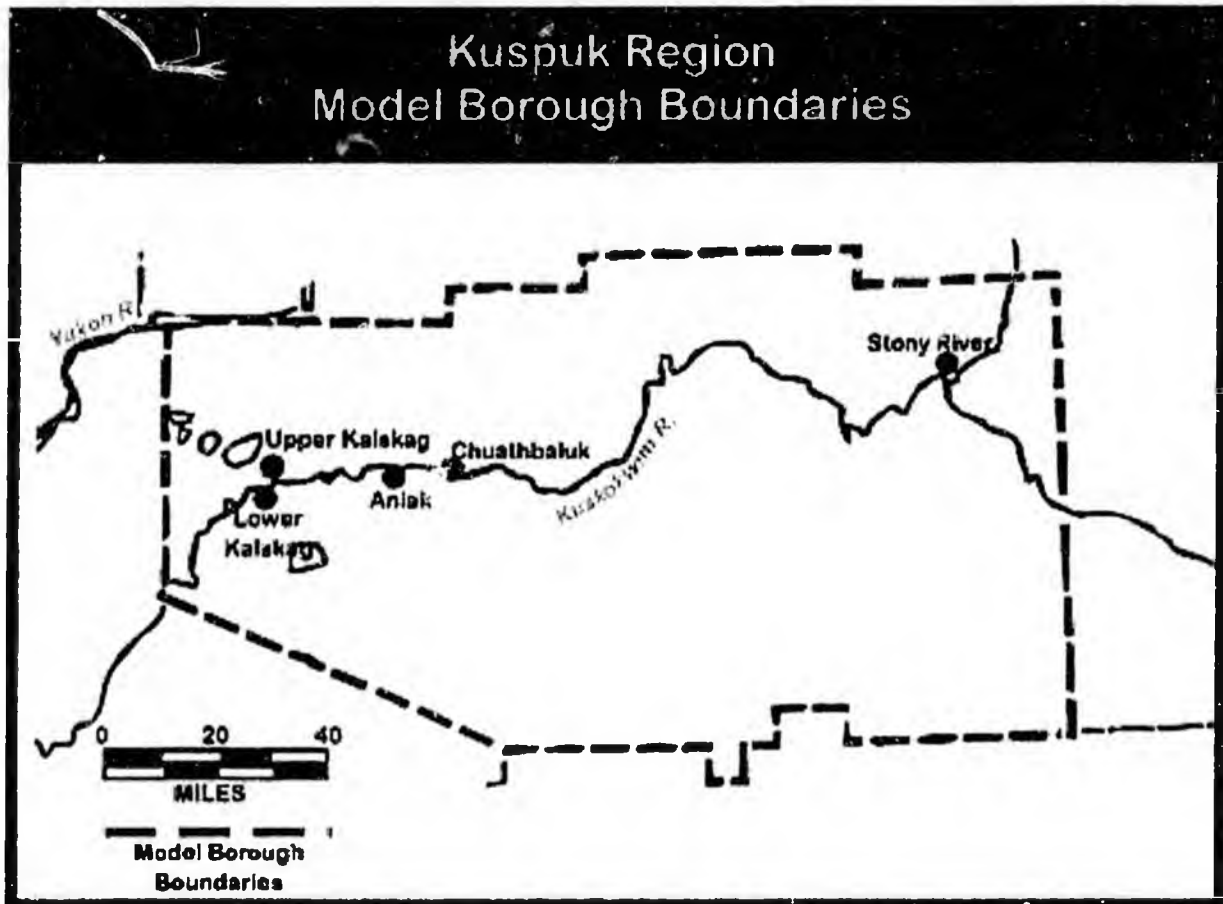
Conclusion

While Placer Dome thinks the project development/coordination to date has been productive, their position is that potential public funding benefits are likely outweighed by project delays, increased operating costs and road management challenges.

DOT&PF and DNR program managers agree with the concerns raised by Placer Dome. The nature of the public process places distinct requirements on the use of public money that do not always meet the needs of private industry.

The State's Donlin Creek Mine Access project will be closed out and further work on the Y-K Ports and Road Project will be suspended. Long term, as the Flat-McGrath mineral area beyond Donlin Creek Mine develops, a road from a port on the Yukon River could improve mine economics. The existing reconnaissance engineering report will be held at DOT&PF. This element of the Y-K Road could be restarted by the State and/or the private sector when developments warrant.

Kuspuk Region. The Commission conducted a public hearing on model borough boundaries for the Kuspuk region in Aniak on October 23, 1992. On November 21, 1992, the Local Boundary Commission set the Kuspuk region model boundaries to conform to those of the Kuspuk Regional Educational Attendance Area. The 1990 population for the region was 1,490 residents. Communities in the region consist of Aniak, Chuathbaluk, Crooked Creek, Sleetmute, Stony River, Upper Kalskag and Lower Kalskag.



Borough and Model Borough Boundaries

MODEL BOROUGH BOUNDARIES FOR UNORGANIZED BOROUGH

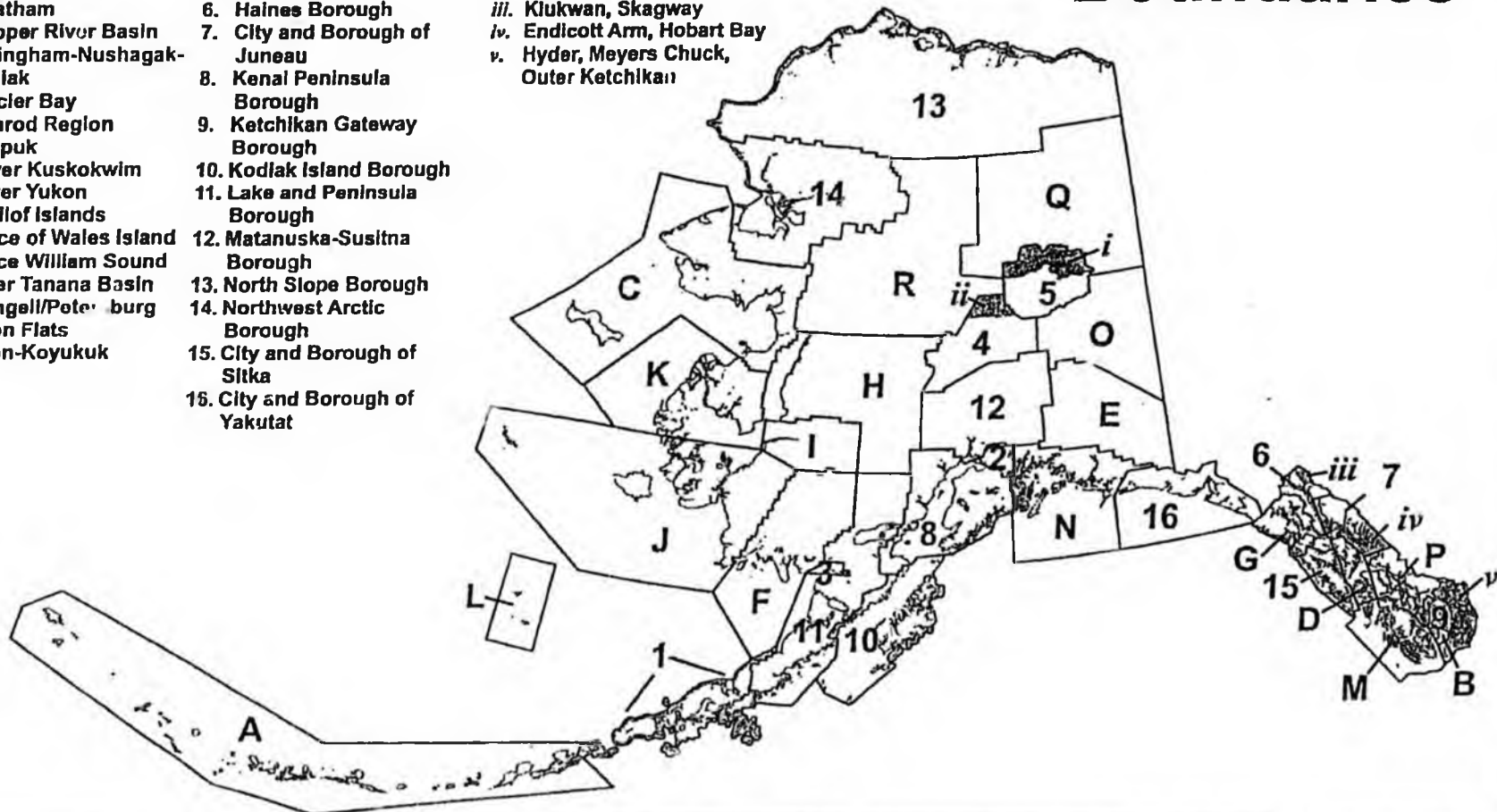
- A. Aleutian West Region
- B. Annette Island Reserve
- C. Bering Strait
- D. Chatham
- E. Copper River Basin
- F. Dillingham-Nushagak-Togiak
- G. Glacier Bay
- H. Iditarod Region
- I. Kuspuk
- J. Lower Kuskokwim
- K. Lower Yukon
- L. Pribilof Islands
- M. Prince of Wales Island
- N. Prince William Sound
- O. Upper Tanana Basin
- P. Wrangell/Petersburg
- Q. Yukon Flats
- R. Yukon-Koyukuk

ORGANIZED BOROUGH

- 1. Aleutians East Borough
- 2. Municipality of Anchorage
- 3. Bristol Bay Borough
- 4. Denali Borough
- 5. Fairbanks North Star Borough
- 6. Haines Borough
- 7. City and Borough of Juneau
- 8. Kenai Peninsula Borough
- 9. Ketchikan Gateway Borough
- 10. Kodiak Island Borough
- 11. Lake and Peninsula Borough
- 12. Matanuska-Susitna Borough
- 13. North Slope Borough
- 14. Northwest Arctic Borough
- 15. City and Borough of Sitka
- 16. City and Borough of Yakutat

PORTIONS OF UNORGANIZED BOROUGH WITHIN MODEL BOUNDARIES OF ORGANIZED BOROUGH

- i. Livengood, Central, Circle Hot Springs
- ii. Nenana
- iii. Klukwan, Skagway
- iv. Endicott Arm, Hobart Bay
- v. Hyder, Meyers Chuck, Outer Ketchikan



Kwethluk Incorporated

P. O. Box 110 Kwethluk, Alaska 99621 Phone: (907) 757-6613; Fax: (907) 757-6212

February 17, 2005

Alaska State 24th Legislature
Senate Transportation Committee
Honorable Senator Huggins
Fax No. (907) 465-3265

The Board of Directors of Kwethluk, Incorporated, an ANCSA village corporation, is in support of Senate Bill 40 that proposes to create a Kuskokwim Port Authority. The wisdom is appreciated.

The Village of Kwethluk is in the Kuskokwim River area where jobs-for-cash are scarce. In addition, the costs for: electricity consumption, unleaded gasoline, heating fuel among other basic family needs continue to increase.

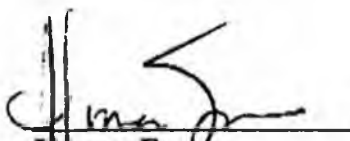
The Board of Directors recognize that transportation costs help with increasing costs of many items that include costs for groceries. The Board of Directors of Kwethluk, Inc. a for profit corporation, continues to be the receiving entity of much needed Power Cost Equalization payments, federal and state transfer payments for welfare, some unemployment compensations check payments which, of course, are welcome but for the obvious (re-read above) reasons the eligible recipients receive them.

The Village of Kwethluk is in the basically subsistence fishing and hunting area, however, do support the proper development of the Donlin Creek Gold Mine Project while opposing desecration and pollution to the environment in the Kuskokwim River Drainage. In this respect, the Federal and State Subsistence Advisory Boards of the Drainage continue their goals for sustainable fishing and hunting policies; protection and improvement of various fish and game habitat areas which we also support.

To close, we do support the passage of Senate Bill 40.

Sincerely,

Kwethluk, Incorporated


Herman Evak, Vice Chairman

TO: Senator Cowdery, Senator Huggins, Transportation Committee Members and the Murkowski Administration
FROM: Maver Carey CEO and President of TKC, Leo Morgan, Paul Fuhs
RE: Kuskokwim Corporation concerns on SB40

Feb 17, 2005

The Kuskokwim Corporation (TKC) had meetings in Anchorage last Friday and Monday with AIDEA and the Local Boundary Commission and discussed SB40 in detail. Here are the concerns we have with the legislation:

TKC continues to question the necessity for this legislation regarding the development of the Donlin Creek mine, since that is the main reason stated for the bill. TKC has not been asked by Placer Dome to support the bill and no meeting has taken place with Calista Corporation to determine what their intentions with the bill are. TKC is the major private land owner in the area of the mine and our land will be needed for rights of way and surface rights for mine development and disposal of mine tailings.

In the DOTPF letter (attached) in which the Department states their reason for pulling out of the road project, it is stated:

"Mr. Fueg conveyed that Placer Dome was factoring the Kuskokwim River port and road to Donlin Creek Mine into its project costs and found that these costs did not place a significant financial burden on the project."

They also cite Placer Dome's position that the mine and the road/port should be permitted as one project under one EIS to save time, rather than breaking them out as separate public projects. They add that "Placer Dome may preposition equipment on site prior to EIS completion so that construction can begin immediately after permits are issued"

They conclude that "While Placer Dome thinks the project development/coordination to date has been productive, their position is that potential public funding benefits are likely outweighed by project delays, increased operating costs and road management challenges."

So it seems clear that Placer Dome is contemplating the road/port as a private project.

If tax exempt financing for the mine is the goal of the authority, we met with AIDEA and while they are not taking a position on the bill, they stated that they could provide tax exempt financing for the project just as they did with the Red Dog mine. So the authority is really not needed to move the mine forward.

If the lower Kuskokwim area continues to desire a port authority for their own development purposes in their own region, then we suggest that the eastern boundary of the authority be drawn below Lower Kalskag.

Even if the lines were redrawn to encompass only the lower Kuskokwim region, we think it would be good public policy to amend SB40 to prohibit the authority from receiving land that was condemned by eminent domain by the State of Alaska. That would preserve the rights of private property owners to negotiate commercial agreements for the use of their land.

In addition, we think that given the administration and legislature's stated commitment to the formation of local governments in unorganized Alaska, that any port authority bill should contain a clause which allows a newly formed local government to automatically take over the operations of a port authority within the jurisdiction of the newly formed borough.

We remain concerned with the appointment of board members to the authority. We concur with the concerns of the Attorney General's office regarding constitutional issues of appointing members specifically identified in the legislation. We are also concerned that the appointments would be made on a political basis which could leave out or overwhelm representation of the local land owners in the area of the proposed mine. It also appears that the AG is saying that the appointments couldn't even be confined to the region but would have to be statewide in scope. This makes us even more nervous about people who don't even live in the region making critical decisions for us, the people who actually live in the area.

Therefore, we feel that the most reasonable approach to this situation is for us to consider the pros and cons of a borough in the middle Kuskokwim region. The Local Boundary Commission has already identified this area as a model borough area for our region.

An elected government which would truly represent the local people and provide for local self determination would have much more potential for supporting economic development and the basic services of government than a state appointed port authority board. TKC is consulting with the Northwest Arctic Borough and the Red Dog mine to better understand the relationship between the mine and the local government and people of that region.

We would be glad to respond to any questions you may have about our position in this matter and we stand ready to meet with anyone who wants to move this mine project forward to the benefit of our local people who so definitely need economic development and jobs.

Deborah Grundmann

From: Matt Gill [mattgill@gci.net]
Sent: Wednesday, March 02, 2005 1:54 PM
To: Ryan Makinster; Deborah Grundmann
Subject: Thoughts on SB40

Ryan & Deb-

Joe Hayes and I have talked with The Calista Corporation (our client) and here are some thoughts we had that you can share with your bosses if you think it is appropriate. I will be over shortly to drop off an advanced copy of Matthew Nicolai's proposed testimony for tomorrow's meeting.

We would still strongly encourage the committee to take testimony from Matthew Nicolai, President & CEO of Calista Corporation and Evelyn Thomas from Crooked Creek in order to counter the testimony in opposition that we heard on Tuesday.

We have great concerns about the prospect of this legislation being stuck in committee until everybody gets a chance to sit down at a face to face meeting held in the region. Attempts have been made, despite testimony to the contrary, to bring all the interested parties together to discuss this concept. Unfortunately, due to numerous different reasons, this has not occurred. We feel that the legislative committee process is the best means of bringing all parties to the table to discuss the issue. All parties with valid concerns can bring them forward and have them addressed if appropriate or relevant.

If the Alaska State Legislature sincerely wants to help bring economic self sufficiency to the Kuskokwim region, it must continue the process and conclude whether or not this legislation is a proper vehicle for that goal. We believe a majority of the concerns that have been raised during committee testimony could be adequately raised and addressed during the development of the Regional Development Plan as required in Section 16 of the bill:

SB40

Section 16

Page 23

Line 5

REGIONAL DEVELOPMENT PLAN. Within one year from the first meeting of the board of directors of the Kuskokwim Port Authority, the board shall prepare and publish a development plan for promoting economic self-sufficiency in the region in which the authority operates. The development plan must include a description of the transportation, energy, regional waste disposal, and tourism infrastructure needs of the region that are necessary to promote regional economic self-sufficiency. The plan must also identify opportunities for private resource development in the region, training programs that are necessary to take advantage of current and future economic opportunities in the region, tourism marketing strategies for the region, and sources of funding for operations and projects of the authority.

Let me know if there is anything else we can do to help this legislation continue to move.

Thanks,
-Mg

Legislative Consultants

3/2/2005

224 4th Street #1
Juneau, Alaska 99801
Lconsultants@alaska.net
907-586-2565
907-586-8977 Fax

Croft Hudson

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Good afternoon Chairman Huggins and members of the committee. I am Kathleen Hoffman from the board of directors of The Kuskokwim Corporation. We are the private surface land owners in the area of the Donlin Creek Mine project. We strongly support development of the mine and our number one goal is to see our shareholders get jobs and benefit from the mine.

The first point I want to make is that although we have made it clear we are ready to meet, the initiators of this legislation still have not met with us to discuss this legislation and make their intentions known to us.

The second point is that we are concerned about the makeup of the board of this proposed authority. There is no guarantee that we will be represented on the board and if we understood the attorney general correctly from your last hearing, the appointments would have to be made statewide.

We would prefer to pursue the possibility of a borough with elected representation from the region. To that end, we have met with the local boundary commission and will be holding an informational summit on borough formation in the middle Kuskokwim area this spring to get local input. We appreciated the testimony of the Department of Commerce and Community Development at your last hearing that this would be their preference also.

We also still do not understand the necessity of this legislation. It is our understanding according to the Alaska Department of Transportation that Placer Dome is intending to put in the port and the road as a private development, not using public financing. We have not been asked by Placer Dome to support this legislation.

We also met with AIDEA and they told us they could provide financing for the mine just as they did with the Red Dog if they

were requested to do so. We would like to hear specifically what then would be financed by the authority that could not be done by AIDEA.

While we do not support the bill at this time, we would like to suggest some specific amendments.

First would be an amendment which would prohibit the authority from receiving land which has been condemned by the State of Alaska. Otherwise, we feel we could lose control of our private land in the area.

We also think that if this legislation moves forward, it should include an amendment which would turn over operations of the authority to an organized borough in the area when it is formed.

The Kuskokwim Corporation is ready to work in a positive way with anyone to help make this mine happen, but we need to be involved from the beginning.

Quyana for the opportunity to testify today.



Bethel Legislative Information Office

301 Willow Street
PO Box 886
Bethel, AK 99559

From: Nelson
Phone: (907) 543-3541
Fax: (907) 543-3542

Email: Bethel_ho@legis.state.ak.us

To: Debra

Ph: _____

Fax: 465-3265

Date: 3/1/05

Subj: SB 40

Pages: 8



STATE of ALASKA

Bethel Legislative Information Office

PO Box 886
Bethel, Alaska 99559
(907) 543-3541
Fax- 543-3542

Written Testimony
for the
Record:

TCN: 7872

Committee: STRA

Date: _____

Bill Number(s): SB 40

Subject(s): Post Authority

Please enter my testimony into the record.

Beverly Hallman, Ann Hallman, Eric Middlebrook
Testifier's name (s): David Natti

Representing (opt.) _____

Address _____

Phone _____



March 1, 2005

**SENATE TRANSPORTATION COMMITTEE HEARING
SENATE BILL 40 "AN ACT RELATING TO THE ESTABLIS. MENT OF THE
KUSKOKWIM PORT AUTHORITY; AND PROVIDING FOR AN EFFECTIVE
DATE"**

Good afternoon, I am Ana Hoffman, Chief Operating Officer for Bethel Native Corporation (BNC). BNC is the sixth largest village corporation in the state and the largest village corporation in the Kuskokwim region. BNC is headquartered in Bethel. There are approximately two thousand DNC shareholders. BNC is substantial private land owner and is financially invested in the region. BNC is very concerned about Senate Bill 40.

First, SB 40 must have language to recognize current private land ownership within the proposed operating area. Private land owners need assurance that their land is not in jeopardy and the port authority will not interfere with independent control and use of private lands. The bill must specify the jurisdiction of the port authority strictly to port related functions.

BNC feels the board of directors for the port authority should consist of individuals to be selected from citizens living within the communities affected by the authority. BNC does not agree with language in the bill naming specific organizations designated to be on the Board since there are many key entities not included. BNC adds meetings of the Board to be held within affected communities.

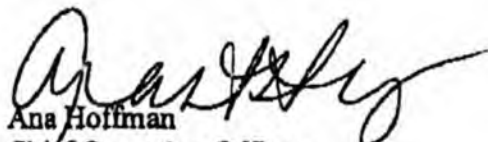
BNC questions the amount of land proposed for the operating area. There is no explanation or justification to impose authority over such a large radius of land. In researching other areas around the state with port-related activities, the governing authorities (advisory boards, enterprise funds, or port authorities) do not manage such substantial areas. BNC does not support the proposed operating area as presented.

BNC opposes the collection of rents, rates, fees or other charges for the execution of the duties since the proposed duties are not limited to port-related activities. The statement that the port authority "is to improve, establish and develop facilities and operations to provide transportation, energy, regional waste disposal and other infrastructure services and economic development in the operating area of the authority," is so general that every entity within the operating area will be assessed a fee whether they are utilizing port specific services or not.

To this, the legislature should be reminded that the majority of the villages located within the proposed operating are severely under budgeted and will not have the means to pay any additional fees, rents or other charges imposed by SB40.

Finally, BNC does not see the need for the port authority as presented and does not support Senate Bill 40.

Thank you for your time,



Ana Hoffman
Chief Operating Officer

From Eric Middlebrook
Bethel, AK

Eric Middlebrook I don't represent any org just a person in Bethel these are my concerns

Too fast ; we really haven't had time to consider what this bill means to us and all its ramifications

page
C20(b)

Unrepresented: the bill says 7 members shall be selected from PRIVATE ENTITIES with a presence here that could quite easily be a Cabal of business people who don't even live here. Developing as THEY see fit. Not ~~the~~ ^{of the area} the people who live here. Like your trying to develop right over the top of us. The board could conceivably all be directors of Placer Dome, ~~Gallatin~~ ^{International} and Crowley. Giving those business that kind of power out here is ridiculous. ^{at a minimum}

There is no section on limitations of powers like other authorities in the state. whether this authority would have the power of eminent domain ^{cadem lands} is a serious concern.

Sec. 100 Allows the authority to enter into agreements concerning waste disposal. Placer Dome should be 100% responsible for handling of their own wastes. I don't want to see any public money going to the handling of their wastes ^{or} any public agency/authority taking any responsibility or liability for the mines wastes. It should totally be the responsibility of the people profiting from the mine.

The area of the Authority clearly is to accomadate the wants of the Donlin Creek mine, I see this bill as ~~written~~ ^{as an end run around local entities, govts and land holders.} as a way to ride rough shod over the people of this area in the unchecked development of whatever the people with an interest in Donlin Creek ~~want~~ ^{As a way to funnel public monies to a private} enterprises, and as a way to relieve the ^{of} enterprises ^{of} liabilities including wastes.

I am not anti-development but I don't want to see it like this

No incentive ^{liabilities} Problem with ~~borough~~ ^{obviously} is we could be taxed for development

Sec 4

15,000 Changes so KPA can receive 100% of state grants

pg 18

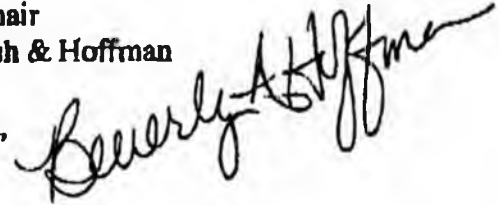
giving them an advantage

~~If companies are going to profit from development~~ ^{truly}
A project should be able to carry its own weight or its not ~~really~~ profitable. I understand the state would receive no royalties from D/C because its on Native lands. But yet alot of public monies ^{seemed to be skated for this project.}
\$20M / 40 promised jobs ~~150,000~~

March 1, 2005

To: Senator Huggins, Transportation Committee Chair
Senators Cowdery, Theriault, French & Kookesh & Hoffman

From: Beverly Hoffman, Y/K Delta Life long Resident,
Calista Shareholder
Bethel Native Corporation Shareholder
Partner of Kuskokwim Wilderness Adventures



Senators, I am very concerned with Senate Bill 40-41 creating a Kuskokwim Port Authority. My concern stems from some of the language in the bill. I agree with Michael Black, who gave testimony last week that it is a very complicated piece of legislation.

Too much authority and power is give to the Port Authority without local considerations. I am concerned that this bill is driven by the need to develop Donlin Creek with out consideration of environmental and social impacts and the impact it would have on our fish and wildlife.

It is my understanding that Calista Lobbyist Joe Hayes asked that this bill be introduced by Senator Cowdery. We are very aware of Calista's desires behind this bill and that has some of us shareholders tuned in and concerned. Kuskokwim ~~Native Association~~ along with others have come forward in opposition to this bill. *Cooperation*

Last week during your hearing, I was extremely taken aback by comments made by a Senator on your committee that we do not understand English very well and that we live in our own little world out here. I was also disappointed that we had to adjust our very busy personal schedules 3 different times in recent weeks when we were told that testimony hearings were scheduled only to be cancelled.

I want to know exactly what power the Port authority would have in land acquisitions, taxation or collection of fee's. I want to also know if they would have the authority to build coal fired power plants or natural gas lines & other infrastructure for Donlin Creek Mine without local input. With all of my concerns and questions, I am in opposition of Senate Bill 40. Qu yana Caknek.

Concerns regarding SB 40

Name: M. Sharon Lindley
Representing Local Bethel Resident

Comment:

- The only foreseeable regional effort towards Development of the Economic Self-Sufficiency has been the Donlin Creek Mine and this port authority will give them added support from the State.
- If the Port Authority Bill is being developed for support of Calista's Donlin Creek Mine, there hasn't been enough Tribal voice represented other than Evelyn Thomas of Crooked Creek
- The implications for this port authority will affect all the villages along the Kuskokwim river yet the presence of Tribal support is virtually non-existent. The culture in our region strives on the natural resources both from land and river. I think the lack of representation of all the Tribal villages undermine States obligation to protect all interest groups in our region.
- I think the bill is premature since Calistas effort for regional support of Donlin Creek Mine hasn't been proven as household knowledge.

I'm in support of building community capacity in our Calista Region but not at the expense of the majority of the population that is silent and not visibly represented. Representatives from Crooked Creek do not speak for all the tribal villages in Calista region.

The alternative proposal would be for the State to spend development of the road or highway on the land between Donlin Creek and the Road system. There is danger of long term and permanent damage including pollution by using the river for export of the mining contents.

LIO Bethel

From: Allen DeSousa [allen_desousa@lksd.org]
Sent: Thursday, February 17, 2005 12:00 PM
To: LIO Bethel
Subject: re: SB 40 hearing today

Please pass along my concern that this is moving way too fast and there are way too many questions that need to be addressed as well as the vagueness of the bill. We need more time to work out the problems and get the answers.

P.S. I am the Vice Chair of the Bethel Port Commission

Thanks.

Allen E. DeSousa
Site Technology Specialist, FCA
Lower Kuskokwim School District
ME/BYP
907.543.2845 x 251voice
907.543.2429 fax
allen_desousa@lksd.org

Software never has bugs. It just develops random features!

SITE: Bethel LIO

COMMITTEE: STRA

DATE: 030105

SUBJECT OF MEETING: SB 40

Final Stats

PLEASE PRINT

NAME	ADDRESS & Phone #	DO YOU WANT	
		REPRESENTING	TO TESTIFY? Y or N
Fred Smith	PO Box 219, Bethel, AK 99559	AVCP	N-SB 40
Jon Grover	PO Box 3431, Bethel, AK 99559	Tundra Drums	N-SB 40
David E. Trantham Jr	PO Box 90, Bethel, AK 99559	Self	N-SB 40
Brandon Leary	PO Box 285, Bethel, AK 99559	Crowley	N-SB 40
Kennythia Steele	PO Box 1743, Bethel, AK 99559	KYUK	N-SB 40
Frank Charles	PO Box 1347-214, Bethel, AK 99559	Calista	N-SB 40
Mark Leary	PO Box 1301, Bethel, AK 99559	Napaimute	N-SB 40
Paul Basile	PO Box 3431, Bethel, AK 99559	Delta Discovery	N-SB 40
Ryan Maroney	PO Box 1869, Bethel, AK 99559	USDA	N-SB 40
Thor Williams	PO Box 1986, Bethel, AK 99559	City of Bethel	N-SB 40
Beverly Hoffman	PO Box 307, Bethel, AK 99559	Self	Y-SB 40
Ana Hoffman	PO Box 719, Bethel, AK 99559	BNC	Y-SB 40
Eric Middlebrook	PO Box 1486, Bethel, AK 99559	Self	Y-SB 40
Dario Notti	PO Box 2175, Bethel, AK 99559	Self	Y-SB 40

P. 09

907 543 3542

B E

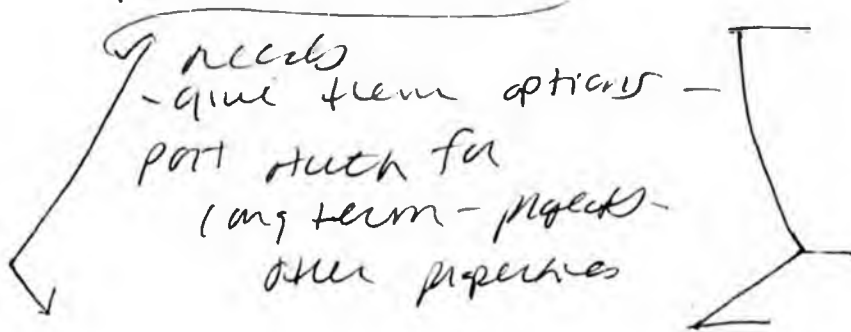
MAR-01-2005 TUE 04:50 PM

1 Village (crooked Creek
(a village of crooked)

Chip out one R ~~past~~ process
moist

No determination
as yet.

Place Done Plans -



What is
population

Bellevue 5500

Upper Kuskokwim 1500

Tulsook - Plater 2200 / 9200

They have not gone to
Calista

Resolution to Kuskokwim in Jan -

Their board did not fall
of their boards

- 1) Business development
- 2) protect subsist
- 3) Sustainability
- 4) land use re mediation
- 5) Road - Neasportak

Jan 20th
Board did
not so far as
MOU

LIO Bethel

From: Allen DeSousa [allen_desousa@lksd.org]
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Thanks.

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Site Technology Specialist, FCA
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ME/BYP
907.543.2845 x 251voice
907.543.2429 fax
allen_desousa@lksd.org

Software never has bugs. It just develops random features!

- 1.) goldenness of great benefit to comm
- 2.) benefit to get people to recognize that.

In your area
 Sen. Kokech - Hollman

Rep May Kasper

Rep Woody Salmer

Rep Foster - ~~with check~~

Rep's
 (Alaska
 region)

asked
 Joe Hayes to pass info to legislators
 ; Stollers

Planning group -----

{ Kuokko Kur -
 A.U.C.P
 Fr. Wilder.

**Honorable Members of the Senate Transportation
Committee:**

My name is Matthew Nicolai, President/CEO of Calista. Calista Corporation is attempting to bring together the stakeholders that are to be affected by the proposed development at Donlin Creek. The proposed port authority envisioned in SB40 will enable the affected stakeholders to come together and finance the development effort with tax exempt revenue bonds. Any type of large scale development, such as that proposed for Donlin Creek, will require financing. We wish to establish an alternative tax exempt financing mechanism so that our stakeholders are taking part in what we consider to be the most monumental economic development project ever undertaken in our region.

We do not wish to see all of the financing come from Canada, London, New York or even through the Alaska Industrial Development and Export Authority. Although the AIDEA has the capacity to provide infrastructure financing, we wish to develop and maintain our own capability for financing within the region, with all of the affected stakeholders, together - not just for Donlin Creek, but other economic development projects that will be needed over the long term. When the

resources at Donlin Creek are depleted and the mining company leaves, we want to have a financing structure that can continue to provide long-lasting benefits to the region.

A port and road are necessary for the project. One reason we seek to have the port authority begin at the Napakiak and Bethel area is because we foresee the need for a port and road system there to receive cargo and fuel for transshipment by smaller barges with low draft to go up the Kuskokwim River. There are many occasions when sea going barges have been stuck for weeks at a time just above Napakiak. When that happens, the cargo has to be lightered onto smaller barges in order to deliver it to the port at Bethel. Donlin Creek would need a transportation infrastructure that could support the movement of about 150,000 tons of construction material and 110,000 tons of supplies in addition to transportation of 450-500 employees per year during operation. We know that Donlin Creek will spur the development of transportation infrastructure throughout the region and will in turn improve conditions for surrounding communities and businesses.

In the immediate vicinity of the mine, a docking facility and a road from a port on the Kuskokwim River to Donlin Creek is necessary to support construction and ongoing mine

operations. By helping to finance the development of the port and road and participating in the construction of these facilities, we will be able to provide jobs for our shareholders. The port and road system in the Napakiak and Bethel areas and near Crooked Creek will provide jobs for many people who have had no alternative source for employment.

Benefits over the long term are immense. Costs for transportation of goods and materials will be significantly reduced. Due to economies of scale, sea-river-land transportation costs will drop. Diesel, heating oil and gasoline transport will become more economical, and passenger and cargo air transport will also be positively effected.

Calista does not oppose increasing the size of the operating area of the authority to go further up the river. It can also be argued that bringing the lower boundary to the Kuskokwim Bay would contribute to the effectiveness of the port authority in addressing the logistical needs of the Donlin Creek project and the lower Kuskokwim river villages over the long term. This will only add to the greater benefit of the port authority. Calista would propose that the lower

boundary extend from Platinum and the Security Cove area on up to Lime Village on the upper area.

Concerning the possible borough formation, we see this as a long term issue that will take some time to plan for and develop. It is a politically sensitive issue that will need to be considered by all the villages in the region that are effected by the development of Donlin Creek. We want to start with the port authority because we see that as a quicker way to bring impacted stakeholders together to address the financing needs of the project and assist with its development. However, if it is eventually determined by the people in the region that the proposed port authority needs to be incorporated into a borough, then a clause in the bill to facilitate this process is appropriate.

We've met with the people in the mid-Kuskokwim area time and time again on this project. As we have moved through the process of exploration, we've hired our shareholders from the region and taken into consideration the concerns of people in the villages, particularly those of Crooked Creek who have since indicated their support of the bill. We also met with the people of Napakiak who need a port of their own in addition to a road to Bethel and they have also indicated their support of the port authority. TKC said that

we never met, well we have met with them on numerous occasions and have taken their concerns into consideration, that is why we asked that they be included in this effort.

We do not believe that the bill for a Kuskokwim Port Authority is premature. We expect that Placer Dome will complete its work to determine feasibility within the next year or so, and that means we need to have our efforts ready to support development when that determination is made. We do not want to wait until the last minute and find out we are too late to support the project. If it passes this year, the proposed port authority will take some time to develop, as many other political issues do in our region and we do not want to wait. The people in the mid-Kuskokwim and the Bethel region have told us not to wait, but hurry. We need you to help us. This has the potential to set us on the road to economic revitalization. The borough issue will simply take more time and work to develop and we can't wait for it to be in place before we move forward with development of the project.

Placer Dome is not the entity to determine public policy on economic development, creating jobs, or solving our energy issue. That needs to be done in a public forum and we plan

to utilize this process to organize the people in the region for this most important economic development project.

We at Calista are trying to take a global approach to the problems faced by our region. Donlin Creek presents the most significant opportunity to address long standing issues such as welfare dependency on state and federal public assistance, joblessness in all our villages, and the general lack of economic development that have characterized our region since statehood. We wish to turn the tide towards a more prosperous and profitable future for all of our people. The proposed port authority is one step towards that eventuality. We seek the passage of SB40 into law as expeditiously as possible by the Alaska Legislature.

DeB



STATE of ALASKA

Bethel Legislative Information Office

PO Box 886
Bethel, Alaska 99559
(907) 543-3541
Fax- 543-3542

Written Testimony
for the
Record:

TCN: 7872

Committee: Sen TRA

Date: 2/15/05

Bill Number(s): SB 40

Subject(s): Post Authority

Please enter my testimony into the record.

Daniel Nelson
Testifier's name (s):

City of N
Representing (opt.):

PO Box 34009
Address

589-2611
Phone



Bethel Legislative Information Office

301 Willow Street
PO Box 886
Bethel, AK 99559

From: Nelson
Phone: (907) 543-3541
Fax: (907) 543-3542

Email: Bethel_li@legis.state.ak.us

To: Transportation Committee

Ph: _____

Fax: 465 3265

Date: 2/15/05

Subj: SB-40 Testimony

Pages: 3

**City of Napakiak
P.O. Box 34009
Napakiak, AK 99634
907-5892611**

February 15, 2005

Subject: Port; LIO, 543-3542

To: Port Authority

Fr: Daniel Nelson, City of Napakiak

The Community Organizations, City of Napakiak, Napakiak Corporation and the IRA Councils has been discussing the Port in Napakiak for many years, Napakiak is located on the channel side of the Kuskokwim river and will be for many years as the river current is always on the village side of the river.

The river channel to Bethel has changed dramatically, the freight barges incoming from lower 48 access to Bethel only on the peak high tides some of the times they would anchor or get stuck above upriver from Napakiak and few upriver areas toward Bethel.

The Donlin Creek Project has been an promising issue with Callista Corporation probably would be the promising project that will benefit the Kuskokwim region along with the road plan from Kuskokwim to Yukon, this is an early stage of the plans hopefully everything goes along fine as we plan we will have more input along with better plans, note: the road plans to Bethel from Napakiak is still an ongoing project.

T

**NAPASKIAK TRIBAL COUNCIL**

P.O. Box 6009

Napaskiak, Alaska 99559

(907) 737-7364 • Fax (907) 737-7039

Reference: Senate Bill No. 40 & 41

Refax 5/4/05

March 1, 2005

To whom it may Concern,


I am writing to you from the Native Village of Napaskiak. We are writing to express our strong opposition to the proposed Kuskokwim Port Authority that is scheduled to be heard in congress this year and a public hearing and testimony heard today 3/1/05.

The people of the Kuskokwim have long since relied on the Kuskokwim for their livelihood including us for a millennia. Although the bill states that the poverty level and unemployment for the region is over 80% and this will provide creation of jobs to fix that, we are not destitute enough to even consider a port authority that will take away the very life that has supported us throughout all these years the control and use of our land and waters. To our understanding this port authority will have control and access to 10 miles of our land which is the traditional bird hunting grounds and fishing livelihood. With that kind of control of the land we are certain that you will take away people's native allotments. We can not take away their native allotments, because they have been in their families for years and years.

Another thing that we don't like is the reason why this is being fast tracked in the state legislature with a starting date of July 1, 2005. Something of this magnitude has to be thought out with studies and the feasibility should suit us, the villages that will be affected. There should be an environmental review and assessment done prior to the execution of such an act. We as a people have stood idly by long enough while bureaucrats decide our fate as Yup'ik Eskimos. We will no longer stand for that. The governor does not live here so will the governing body not live here also, they will be schooled with degrees who live in cities determining our fate, they may be schooled but they are not educated in our way of life which will most certainly vanish with the port authority having control of our land. We have to be represented in a way when this comes about and it should not be anyone from the Calista Corporate offices or any one entity that does not live and breathe 365 days a year from our air and join our day to day affairs.

What about the proposed coal fired generator will encompass a lot of land and occupy the air space and the air with its proposedly clean epa friendly exhaust. There are secondary contaminants to complex for us to comprehend that will pollute the air which is dangerous to our health and the species of animals and fish that we depend on for our livelihood. What about the power line that will engulf the whole delta to the Donlin creek mine? The whole Kuskokwim is home to migratory birds that nest here. Ptarmigans fly here and the proposed power line is directly in their path, think of hundreds and hundreds of birds dead or injured which should be in our drying racks or on our dinner plates and our freezers.

Respectfully Submitted;
Chris G. Larson, Chief


Phillip Nicholai Jr.
Tribal Administrator

Cc: file



Bethel Legislative Information Office

301 Willow Street
PO Box 886
Bethel, AK 99559

From: Nelson
Phone: (907) 543-3541
Fax: (907) 543-3542

Email: Bethel_lis@legis.state.ak.us
To: Sen Transportation Committee
Ph: 3878
Fax: 465-3265
Date: 3/4/05
Subj: SB-40 Post Authority
Pages: 3

Please distribute to Comte members



STATE of ALASKA

Bethel Legislative Information Office

PO Box 886
Bethel, Alaska 99559
(907) 543-3541
Fax- 543-3542

Written Testimony for the Record:

TCN: 7872

Committee: Sen Transportation (STRCA)

Date: 3/4/05

Bill Number(s): SB 46

Subject(s): Post Authority

Please enter my testimony into the record.

Testifier's name (s):

Agpatkuk Tribal Council
Representing (opt.)

Address

Phone

AVCP

The Association of Village Council Presidents
Office of Administration
Pouch 219, Bethel, AK 99559

Mike Williams, Chairperson
Myron P. Naneng, Sr., President
Phone (907)643-3521
Fax (907)643-3569



- Akiachak
- Akiak
- Alakanak
- Andreafsky
- Aniak
- Amautluak
- Bethel
- Bill Moore's Sl.
- Cheformak
- Chevak
- Chuathbaluk
- Chuloonawick
- Crooked Creek
- Eek
- Emmonak
- Georgetown
- Goodnews E.
- Hamilton
- Upper Bay
- Lower Kalakag
- Upper Kalakag
- Kaiglik
- Kipruk
- Koagiganak
- Kotlik
- Kwethluk
- Kwigillingok
- Lime Village
- Marshall
- Mekoryuk
- Mtn. Village
- Napaimute
- Napakiaak
- Napakiaak
- Newtok
- Nightmute
- Nunapitchuk
- Ohoqamiut
- Oscarville
- Paimiut
- Pilot Station
- Pitka's Point
- Platinum
- Quinhagak
- Red Devil
- Russian Mission
- Seaman Bay
- Nunan Iqua
- Sleetmute
- St. Mary's
- Stony River
- Toksook Bay
- Tuluksak
- Tunashilik
- Tununak
- Umiakumiut

August 31, 2005

Honorable Senator Lyman Hoffman
State of Alaska
State Capitol, Rm 514
Juneau, Alaska 99801-1182

Dear Senator Hoffman,

As requested at the AVCP Special Convention held here in Bethel, August 2-3, 2005, the delegation passed a resolution to establish a committee to review the proposed legislation SB-40-, establishment of Kuskokwim Port Authority. The following individuals have been appointed to form this committee.

- Harold Napoleon of Paimuit
- Robert Nick of Nunapitchuk
- Moses Pavilla of Atmauthluak
- Carl Motgun of Napakiak
- Moses Peter of Tuluksak
- Bea Kristovich of Napaimute
- Moses Paukan of St. Mary's
- Joseph Mike of Kotlik
- Wassilie Bavilla of Quinhagak

- KNA Representation
- Calista Representation
- TKC Representation
- Mike Williams of Akiak
- Paul John of Toksook Bay
- Martin B. Moore of Emmonak
- Billy Charles of Emmonak
- George Peter of Akiachak

They have been informed that a teleconference will be held shortly after the moose-hunting season - ~~either the first or second week of September.~~

We hope you will be available to participate. If you need further information, please do not hesitate to contact me.

Sincerely,
Mike Williams, Chairman

Myron P. Naneng, Sr.
President

CROOKED CREEK TRADITIONAL COUNCIL
PHONE 907-432-2200
FAX 907-432-2201
EMAIL COUNCIL@CARRAND.NET

FACSIMILE TRANSMISSION SHEET

TO: Chairman Charlie Higgins FROM: Thomas Vice President
Senate Trans. Committee DATE: 2-8-04
PHONE: 907-465-3265 PAGES: 2

URGENT CORRECTION PLEASE COMMENT PLEASE REPLY PLEASE CALL

Letter of Support for SB 410
Our phone # is 907-432-2200.
Crooked Creek Traditional Council

CROOKED CREEK TRADITIONAL COUNCIL
P.O. BOX 69
CROOKED CREEK,ALASKA 99575
PH: 907-432-2200
FAX:907-432-2201
EMAIL: CCIC@STARBOARD.NET

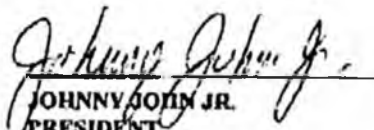
TO WHOM IT MAY CONCERN:

THE CROOKED CREEK TRADITIONAL COUNCIL IS IN SUPPORT OF SENATE BILL 40

WE ARE PLEASED TO JOIN WITH CALISTA CORPORATION IN THEIR EFFORTS TO PROVIDE

EMPLOYMENT AND PROGRESS IN OUR REGION.

**PLEASE FEEL FREE TO CONTACT US AT THE ABOVE PHONE OR EMAIL WITH ANY QUESTIONS
YOU MIGHT HAVE, WE WILL BE GLAD TO HELP.**


JOHNNY JOHN JR.
PRESIDENT



February 8, 2005

Alaska Legislature
Juneau, Alaska 99811

Re: SB40

Dea: Honorable Members of the Alaska Legislature:

Calista Corporation seeks the support of the Alaska Legislature in the formation of a Kuskokwim Port Authority to serve the economic development needs of the Kuskokwim Region of Alaska. As you know, the Kuskokwim region in southwestern Alaska experiences high jobless and unemployment, dependence on welfare transfers and general lack of economic development. We realize that the cultivation and development of our natural resources presents the best opportunity for sustainable long-term economic development to transform the region and revitalize the economy. We are seeking the assistance of the Alaska Legislature to help us form a port authority to advance this effort.

A Kuskokwim Port Authority is proposed to assist initially in the development of the Donlin Creek Gold Mine Project located in the remote Kuskokwim River region. This port authority would also assist in the development of other resources besides Donlin Creek that exist in the region. Besides the natural resources that are available, it could also development and implement other economic development and infrastructure projects that are needed in the Kuskokwim region. Not one organization exists in the region that has the ability to finance large development projects that are dedicated to the region. A Kuskokwim Port Authority with an operating area extending from Napakiak on the lower Kuskokwim to Crooked Creek and Donlin Creek would provide revenue bonding capability to help finance transportation and energy infrastructure for the Donlin Creek Project and other economic development projects in the region. The development of Donlin presents significant public policy issues for the State of Alaska including the need for low cost energy in the Kuskokwim region and providing transportation access to its resources. The establishment of a Kuskokwim Port Authority in the region would promote long-term economic development, provide opportunities to improve quality of life for local communities in the Kuskokwim region, assist in the cultivation of resources that enable social and economic enhancement opportunities, and develop local capabilities. The Port Authority would provide tangible and measurable results by enhancing the impact of development of resources in the region, and is necessary to attain goals for the State of Alaska for economic development and social progress.

The Donlin Creek Gold Mine Project drainage contains one of the largest undeveloped gold deposits in the world, and is regarded by natural resource specialists, economists,

elected leaders, and policy makers as one of the most significant developments in recent Alaska history. Located 280 miles west of Anchorage, and 14 miles north of Crooked Creek, resource estimates at Donlin include a Measured and Indicated Resource (MIR) of 11.1 million ounces of gold, grading an average of 3.0 g/t (grams/tonne); and inferred resources at 14.3 million ounces at 3.1 g/t.

When the Donlin Creek Mine has advanced through the permitting stage and construction begins, this project is expected to be the single largest employer and direct contributor to the cash economy in the Kuskokwim region. In addition, indirect benefits include lower shipping, fuel and energy costs, increased local business opportunities, and increased road and marine facility maintenance.

Approximately 600 to 700 jobs would be created during construction and 400 to 500 during annual operations of the Donlin Creek project and regional electrical power system. Direct jobs at the mine and power system could reduce the regional unemployment rate of 20% (1,800 persons in the summer of 2003) by about one-third. Capital costs range from \$895,000,000 to \$979,000,000 for both the mine and power projects. These projects would generate annual, local expenditures of more than \$80,000,000, with annual salaries accounting for approximately \$30,000,000 of this amount. During construction and throughout the expected 20-year-mine life, \$2.5 billion dollars would likely be expended directly into the regional economy. This would be a much larger economic driver than the \$665 million over twenty years in federal and state transfer payments for welfare in the region, assuming current levels of welfare and unemployment payments. With unemployment reduced by one-third it can be anticipated that the region's current welfare and unemployment payments of \$33 million per year would also be reduced by about one-third. The net present value of these savings to the state and federal governments from 2010 to 2029 exceeds \$150 million.

There are no existing power supply facilities in the region that can provide the energy for the mine's projected load demand of about 70 megawatts. For the mine to be economically feasible, new power facilities must be constructed. Power feasibility studies of several power alternatives have been conducted. Options being considered for power supply include Mine-site generated power using diesel or LPG, supplemented by renewable energy; a Coal-fired power plant at Bethel; and a Railbelt intertie. Nuvista Light & Power Company, a non-profit wholesale electric utility conducted State of Alaska funded energy studies for the region.

Donlin Creek would need transportation infrastructure to support the movement of about 150,000 tons of construction material and 110,000 tons of supplies and transportation of 450-500 employees per year during operation. Hence, Donlin Creek will spur the development of transportation infrastructure that will improve conditions for surrounding communities and businesses. In the immediate vicinity of the mine, a docking facility and a road from a port on the Kuskokwim to Donlin Creek will be needed to support the construction and ongoing mine operations. At the same time, costs for transportation of goods and materials will be significantly reduced. Due to economies of scale, sea-river-

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land transportation costs will drop. Diesel, heating oil and gasoline transport will become more economical, and passenger and cargo air transport will also be positively affected.

Regardless of who develops Donlin Creek, financing of infrastructure is a necessity to advance the project through development, that is a given for any large development project. The Red Dog Mine road for instance has generated a significant amount of revenue. What Calista is proposing is for a port authority to be formed that is composed of the stakeholders from the region and which finances infrastructure necessary for any economic development project over the long term. The benefits of the port authority would extend beyond Donlin Creek and help address other regional infrastructure issues and economic development needs. The formation of the Kuskokwim Port Authority would provide an opportunity for the stakeholders to come together on a project of monumental significance for the Kuskokwim region.

To reiterate, it would enable the region to participate in the long term financing of energy and transportation projects that include not only Donlin Creek but many other economic development projects in the region for the long term. Calista for instance has additional properties in the Kuskokwim region that require infrastructure financing to develop. The proposed Kuskokwim Port Authority would enable the direct participation of stakeholders and expand the development of natural resources to also address some very important public policy issues. These include low cost energy, low cost transportation, and jobs and income. The Kuskokwim Port Authority would provide an important first step towards addressing these issues.

Sincerely,

CALISTA CORPORATION



Bob Charles
Vice-President Corporate/External Affairs



November 18, 2005

The Honorable Senator John J. Cowdery
Vice-Chair, Senate Transportation Committee
Alaska State Legislature
716 W. 4th Avenue
Anchorage, Alaska 99501

Re: SB 40 Kuskokwim Port Authority

Dear Senator Cowdery,

On behalf of the people of the Kuskokwim region we want to thank you for your continued assistance in developing opportunities to help us to secure a sustainable economic future. We applaud your belief that the enactment of SB 40 or a similar bill would increase our ability to create a destiny that we control. It is that ability we seek to achieve in order to extend the benefit of large scale development projects like the Donlin Creek project into communities that are directly affected.

After lengthy deliberations at a special AVCP Convention in August 2005 and the annual AVCP Convention in October a working committee was formed to come up with recommendations on a proposed Kuskokwim Port Authority. Representatives from throughout the region came together today and recommended that an entire new port authority legislation be considered. We all agreed that a port authority is necessary to assist in the development process however it needs to be one that we have an ability to design and manage. Concerns included comments that the bill must expressly ensure the protection of private land interests by limiting the power of eminent domain; includes representation of unincorporated villages in joining with other municipalities in forming the port authority; includes the considerations of tribes into the development process; limits the boundaries along each side of the river to less than ten miles; and provide greater public control over the board of the authority. We hope to work with the legislature in designing new legislation for the Kuskokwim region and seek your cooperation and assistance as we work to further this great effort.

Sincerely,

Matthew Nicolai, President/CEO
Calista Corporation

Myron P. Naneng, Sr., President
Association of Village Council Presidents

Cc: Senator Lyman Hoffman
Representative Kapsner



Handwritten initials

301 Calista Court, Suite A • Anchorage, Alaska 99518-3028 • (907) 279-5516 • Facsimile (907) 272-5060 • Website: www.calistacorp.com

Office of the President

February 23, 2005

Alaska Legislature
Juneau, Alaska 99811

Re: SB40

Dear Honorable Members of the Alaska Legislature:

Calista Corporation is attempting to bring together the stakeholders that are to be affected by the proposed development at Donlin Creek. The proposed port authority envisioned in SB40 will enable the affected stakeholders to come together and finance the development effort with tax exempt revenue bonds. Any kind of large scale development such as that proposed for Donlin Creek will require financing. We wish to establish a financing mechanism so that our stakeholders are managing and directing the financing of what we consider to be the most monumental economic development project ever undertaken in our region.

Placer Dome is the leaseholder of the subsurface property owned by Calista Corporation. Calista Corporation has a preference in its agreement with Placer Dome for every part of the development and operations of the project. We desire to provide a tax exempt financing alternative with the other stakeholders in the region to finance this project. We do not wish to see financing come from Canada, London, New York or even through the Alaska Industrial and Export Authority. Although the AIDEA has the capacity to provide this, we wish to have and maintain the financing within the region, with all of the affected stakeholders together. And not just for Donlin Creek, but also provide a financing capability for other economic development projects over the long term. When the resource at Donlin Creek is depleted and the mining company goes away we want to have a financing structure that continues to provide long lasting benefit to the region.

There is a need for a port and road for the project. One reason we seek to have the port authority begin at the Napakiak and Bethel area is because we see the need for a port and road system there to receive cargo and fuel for transshipment by smaller barges with low draft to go up the Kuskokwim River. There are many occasions when sea going barges got stuck for weeks at a time just above Napakiak. The cargo had to be lightered onto smaller barges there so that they can get to the port at Bethel. Donlin Creek would need transportation infrastructure to support the movement of about 150,000 tons of construction material and 110,000 tons of supplies and transportation of 450-500 employees per year during operation. We know that Donlin Creek will spur the development of transportation infrastructure throughout the region that will improve conditions for surrounding communities and businesses. In the immediate vicinity of the mine, a docking facility and a road from a port on the Kuskokwim to Donlin Creek is necessary to support the construction and ongoing mine operations. Placer Dome needs

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a port and road system and we wish to help finance the development of the port and road and participate in the construction of these facilities and provide jobs for our shareholders. The port and road system at the Napakiak and Bethel area and near Crooked Creek will provide a jobs and income for many people who have had no alternative even to this day. We wish to provide them that opportunity and this port authority is one way to lead us there.

Benefits over the long term are immense. Costs for transportation of goods and materials will be significantly reduced. Due to economies of scale, sea-river-land transportation costs will drop. Diesel, heating oil and gasoline transport will become more economical, and passenger and cargo air transport will also be positively affected.

Calista does not oppose increasing the size of the operating area of the authority to go further up the river. It can be argued also that bringing the lower boundary to the Kuskokwim Bay may also contribute to the effectiveness of the port authority in addressing the logistical needs of the Donlin Creek project and the lower Kuskokwim river villages over the long term. This will only add to the greater benefit of the port authority. Calista would propose that the lower boundary extend to Platinum and the Security Cove area on up to Lime Village on the upper area.

Concerning the issue of the possible borough, we see this as a long term issue that will take some time to plan for and develop. It is a very political issue that will need to be considered by all the villages in the region that are affected by the development of Donlin Creek. We want to start with the port authority because we see that as a quicker way to bring affected stakeholders together and address the financing needs of the project and assist with its development. However once it has been determined by the people in the region that the proposed port authority needs to be incorporated into a possible borough (if it happens) then a clause in the bill to facilitate this process is appropriate.

We at Calista are trying to take a global approach to the problems faced by our region. Donlin Creek presents the most significant opportunity to address some long standing issues. Welfare dependency on state and federal public assistance, joblessness in all our villages, and general lack of economic development is what has characterized our region since statehood. We wish to turn the tide towards a more prosperous and profitable future for all of our people. The proposed port authority is one step towards that eventuality. We seek the passage of SB40 into law as expeditiously as possible by the Alaska Legislature.

Sincerely,



Matthew Nicolai
President/CEO



Alaska State Legislature

Senate Majority Web: <http://www.akrepublicans.org>

Sponsor: Senator John Cowdery, Senator Lyman Hoffman
Current Version: SB 40
Contact: Ryan Makinster, 465-3879

Fact Sheet for: Senate Bill 40

Short Title: KUSKOKWIM PORT AUTHORITY

Summary:

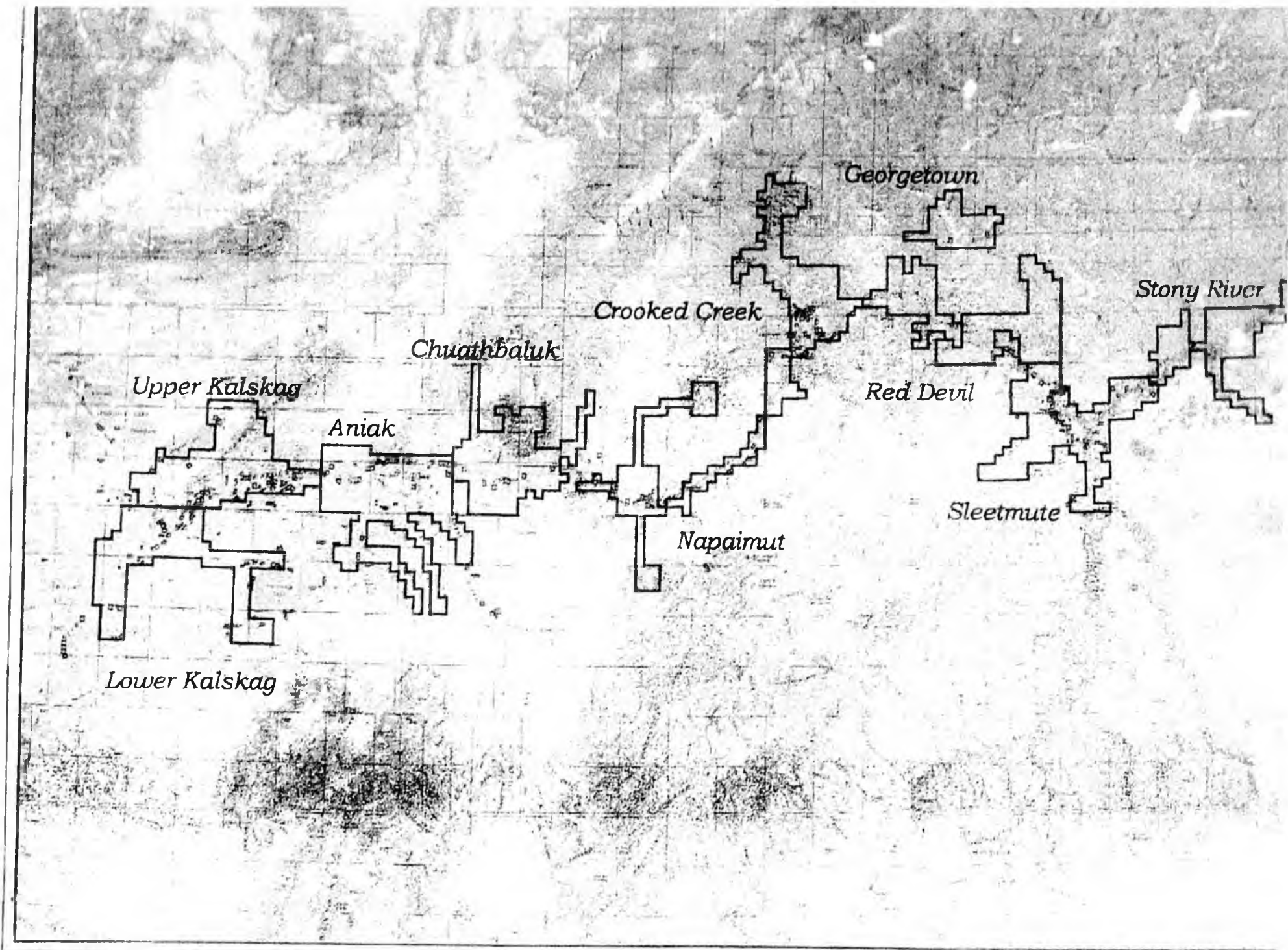
- Establishes the Kuskokwim Port Authority as a public corporation of the state, but with an independent legal existence.
- Establishes a board of directors consisting of nine voting members, including seven members appointed by the governor from the major land owning and economic development organizations in the region.
- Designates boundaries extending from Napakiak to Crooked and Donlin Creeks.
- Allows the Port Authority to:
 - Issue tax exempt revenue bonds to finance economically viable projects. Requires legislative approval of bonds issued in an amount greater than \$10 million. Bond obligations do not constitute a debt, liability or obligation of the state.
 - Accept money, gifts, loans or grants from federal, state, municipal and private entities, among others.
- Gives the board one year to prepare a development plan for promoting self-sufficiency in the region.

Benefits:

- Promotes economic self-sufficiency in the region.
- Empowers local self-determination.
- Creates an organization to improve, establish and develop transportation, energy, regional waste disposal and natural resource marketing infrastructure, which could:
 - provide access to mineral deposits
 - develop river tourism industry
 - encourage private investment
 - leverage regional bulk fuel purchase agreements

Background:

The Kuskokwim region is one of the most economically depressed in the state, but holds tremendous potential. A regional port authority can provide the foundation for economic development until a local government structure becomes sustainable. Because many of the communities in the region are not organized municipalities, those communities cannot form a port authority under the Municipal Port Authority Act.



Proposed Kuskokwim Port Authority Operating Area

Legend

- Proposed Port Authority
- Native Allotments
- Bureau of Land Management
- Fish and Wildlife Service
- Native Patent or IC
- Native Selected
- State Patent or TA
- State Selected

Doyon Region

Calista Region

Donlin
Creek
Project
Area

0 1 2 4 Miles

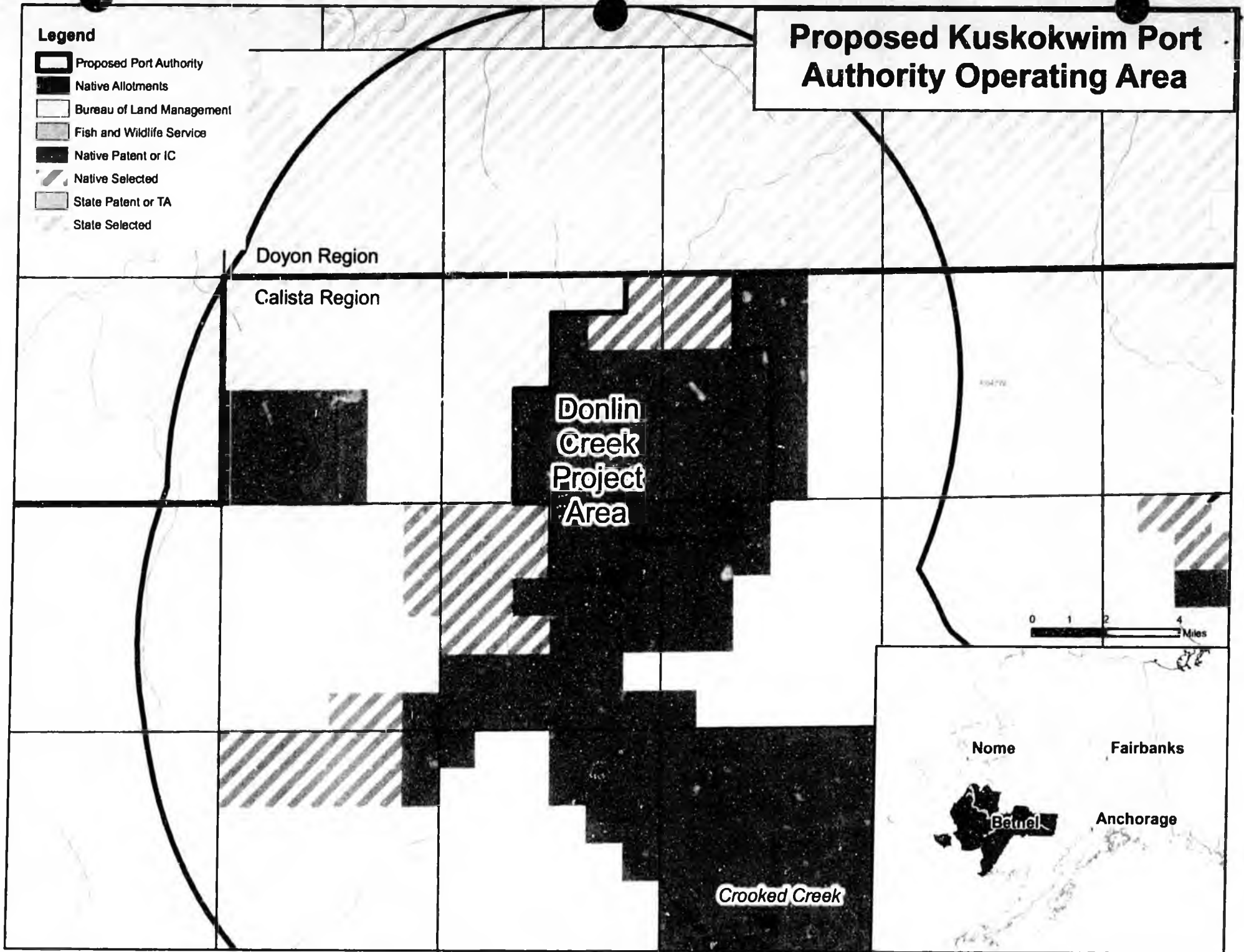
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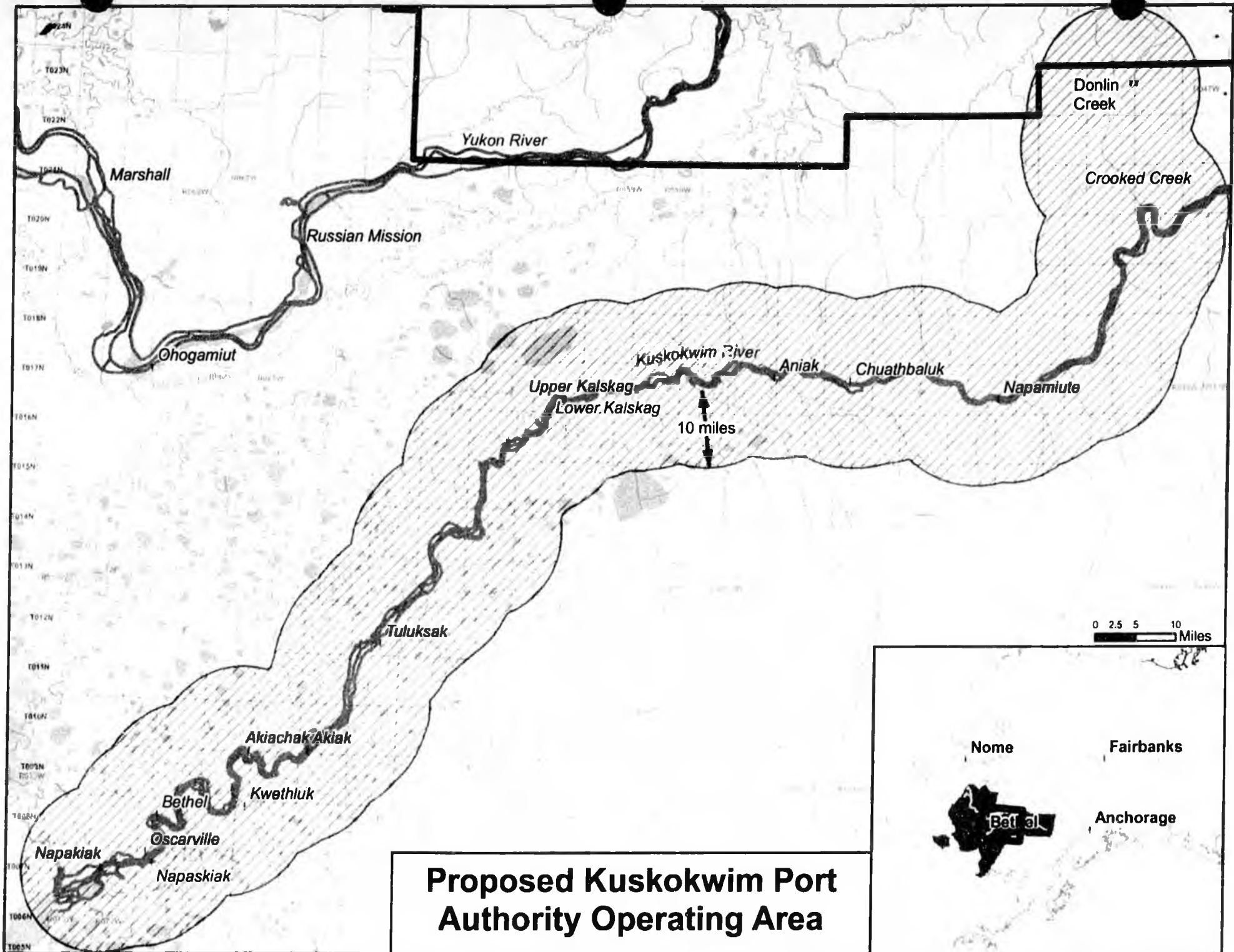
Fairbanks

Bethel

Anchorage

Crooked Creek





Proposed Kuskokwim Port Authority Operating Area