

ACTION PAPER

THE TRANSFER OF



**THE
ALASKA RAILROAD**

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THE TRANSFER OF THE ALASKA RAILROAD

A Commonwealth North Report

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**THE TRANSFER
OF THE
ALASKA RAILROAD**

AN INTERIM REPORT
BY THE
COMMONWEALTH NORTH
TRANSPORTATION COMMITTEE

January 1982

CONCLUSIONS

1. An efficient, improved and expanded Alaska Railroad is vitally important to the future of Alaska.
2. The federal government wants to dispose of the railroad; the state should and must accept it.
3. All 38,000 acres now controlled by the railroad should transfer to the state.
4. Disputes over some of that acreage by native corporations and others should not be resolved in the transfer legislation (S.1500) but should be handled through normal judicial means.
5. The most important issue in the transfer of the Alaska Railroad is whether or not the state, once it owns the line, is able to extend it. This issue includes two major questions:

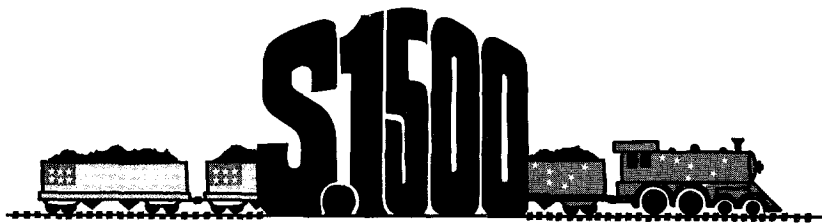
A. Access across private lands

The original Alaska Railroad Act of 1914 granted rights-of-way across private lands patented by the federal government. These so-called "floating easements" were successfully challenged in court by Alaska's native corporations in 1977. To attempt to resurrect them in S.1500 would be divisive and probably futile. The time has passed for the exercise of this sort of authority. When the state decides to extend the railroad, land acquisition should be implemented utilizing normal judicial due process, with fair compensation paid to the land owners.

B. Access across federal lands

Congress must include in S.1500 a "fast track" mechanism so that the state can move quickly through federal procedures to allow access across federal lands within the state. Current law, notably the Alaska National Interest Lands Conservation Act of 1980, makes such access a difficult, and perhaps impossible, undertaking (See Appendix, page 15).

6. The water-borne railroad car link that exists between the south 48 and Alaska provides an efficient means of transporting bulk materials. No amendment to S.1500 should be allowed that would disrupt or impair this type of service.
7. Alaska's legislature should set up a Railroad Authority independent of the Department of Transportation to receive the railroad from the federal government. Legislation establishing this authority should be moved to the top of the priority list for prompt attention in the coming legislative session.
8. The Alaska Railroad showed an operating profit for fiscal year 1981 of \$3.3 million. The Federal Railroad Administration must use the period prior to the transfer to approve the investment of on-going profits in deferred maintenance and capital investments and not leave the railroad management in limbo at a time when it could be improving the economic picture of the line.



BACKGROUND

The Reagan Administration has announced its intention to dispose of the Alaska Railroad, preferably through a no-cost transfer to the State of Alaska. The idea of relinquishing federal ownership in favor of state or private operation of the railroad is not new. For many years, such a transfer has been discussed in Washington. Several presidents have endorsed the concept.

Now, however, the matter has proceeded beyond the talking stage. The Reagan Administration, through the Department of Transportation and the Federal Railroad Administration, has drafted transfer legislation - introduced in the Senate as S.1500 (co-sponsored by Alaska Senators Ted Stevens and Frank Murkowski) and in the House as HR.4278 (sponsored by Alaska Representative Don Young).

The Alaska Railroad Act of 1914 was, in a very real sense, visionary.

To emphasize its commitment to disposal of the railroad, the administration has firmly asserted that no appropriations for operating expenses will be sought beyond October 1, 1982.

The Alaska Railroad was created by a 1914 enabling act that was, in a very real sense, visionary. Among other things, that 67-year-old legislative act saw the railroad as an instrument that would play a vital role in opening up the vastness of Alaska's wilderness and permitting pioneers of a

future day to tap the enormous mineral resources of the land.

In those intervening years, the railroad has played a vital role in the development of Alaska from a raw territory into a state with great, yet mostly unrealized, potential. Its presence, in years of peace and war, in years of depression and prosperity, has been a commanding one in Southcentral and Interior Alaska. Yet in only a few of those years--principally during that period known in Alaska as "the pipeline era"--has the railroad operated in a profit position.

Many factors are involved in attempting to assess the railroad's economic successes and difficulties. One thing stands out, however. The railroad, for all of the impact it has had, never became what many had said it would. After the track was laid from Seward to Fairbanks, its expansion essentially stopped. The Enabling Act of 1914 held out the prospect of rights-of-way extending for 1,000 miles. The construction of the railroad began in 1915 and ended with 534 miles in place.

For all its successes, the railroad has never become what many had said it would.

FINDINGS

The Transportation Committee of Commonwealth North has met a minimum of once a week since its formation on July 21, 1981. Various subcommittees of the group have addressed in depth specific inquiries into the railroad transfer proposal. The committee's assignment covers the broad spectrum of the state's future transportation needs, but because of the introduction of S.1500 and the

apparent intention in Washington to press for passage of the measure, the major emphasis of the committee thus far has been on the railroad transfer proposal.

These studies have led the committee to the following conclusions:

The government wants to dispose of the railroad; the state should and must accept it.

First, and foremost, it is the committee's conviction that the railroad and the opportunity it presents to provide services needed by the people of Alaska is too important a matter to be left in the hands of the federal government and under the control of the bureaucrats in distant Washington. The government wants to dispose of the railroad; the state should and must accept it.

The terms and conditions of the transfer which are of particular concern to the state should be spelled out in amendments to S.1500, including a provision that all 38,000 acres now controlled by the railroad should transfer to the state. Disputes over some of that acreage, including certain gravel deposits and leased lands, should be resolved through normal judicial means.

Disputes over railroad acreage should be resolved through normal judicial means.

The problems relating to employees involve such questions as preservation of existing salaries and protection of retirement benefits. The legislation proposes a one-year period in which employees can elect to remain with the railroad under state ownership or choose to shift to other federal programs. The potential liabilities for state assumption of employee retirement and benefit programs have not been determined. However, the basic rule of thumb should be that liabilities stemming from events prior to the transfer should remain with the federal

government. The state should assume responsibility for all such liabilities after the date of transfer. The answers to these matters are technical in nature, involving actuarial studies and analysis of the applicable employment records, and should be worked out by those who are experts in this field.

With respect to access over private land and to land which already has been patented with provisions for railroad easements under the 1914 Enabling Act, further consideration of so-called "floating easements" should be set aside. The time has passed for exercise of this sort of authority.

For future access across private land to meet extension needs of the railroad, such acquisitions should be made subject to normal judicial due process, with an understanding there will be fair compensation paid to the owners.

To enable the railroad to have reasonable future access over federal lands, the most appealing approach is the so-called "fast track" concept being advanced by leaders of the state legislature. Rather than seek specific corridors now -- a procedure which might produce unwarranted conflicts over issues which were part of the D-2 battle -- S.1500 should provide the mechanism to allow the state to move quickly through federal regulations when the time comes to extend the railroad into a certain, specific area, based on demonstrated need.

When the transfer is effected, the railroad should be allowed to function under state ownership with the same freedoms now enjoyed by federal administrators. Grandfather rights should extend to tariffs, operating regulations and so on.

It is time to set aside any further consideration of so-called "floating easements."

It is essential to have a "fast track" amendment to S.1500 to expedite access across federal lands.

**No amendment to S.1500
should block the water-borne
link to the south 48.**

The water-borne railroad car link that exists between the lower 48 states and Alaska provides an efficient means of transporting bulk materials. No amendment to S.1500 should be allowed that would disrupt or impair this type of service. Special interest amendments could cause inefficient transshipments and handling of materials and machinery, and thereby affect the viability of major development projects.

THE LAND IN QUESTION

A great era of mineral exploration is dawning in Alaska. National considerations have made the search for these minerals a matter of great imperative, and the effort is spurred by the fact that Alaska is blessed by deposits the experts describe as immense.

To make it possible to meet national mineral production needs from Alaska deposits will require the development of surface transportation capabilities into the vast remote sections of the 49th State.

And that means extension of the Alaska Railroad.

Except for certain water links, the railroad is the most cost-effective means available to provide for the bulk transportation requirements that will come with mineral resource development.

Additionally, however, the railroad offers the best means to accomplish what is essential to national security while at the same time responding to true social concerns by various Alaska native

**The railroad is the best way to
move resources out of the In-
terior while causing the least
disruption of villages and
wildlife.**

groups. These groups have expressed understandable opposition to free-wheeling development that will open traditional wildlife and hunting regions to uncontrolled public access.

Railroad extensions would be self-limiting from a public access standpoint, but nonetheless would allow access to and egress from resource areas.

The extension of the railroad also in time would serve a variety of human needs as well as economic development requirements of rural areas of the state, and almost surely would provide links with major water transportation systems utilizing the great Interior and Western rivers of Alaska.

Based on known mineral deposits and on current geological exploration activity, and utilizing previous transportation studies which have been matters of public record for many years, it is not difficult to identify the general areas which one day might be considered for railroad extensions.

These generalized routes, the result of several previous studies, are remarkably free of extensive conflicts with the so-called "national interest lands" that were specified in the Alaska Lands Act.

The following maps provide a visual, generalized presentation of the route studies which previously have been made, with the national interest lands marked to identify potential problem areas. These extensions are not being recommended by this committee of Commonwealth North but are presented to add to the information base of those planning the future of the railroad and the state.

**Proposed railroad extensions
are remarkably free of conflict
with national interest lands.**

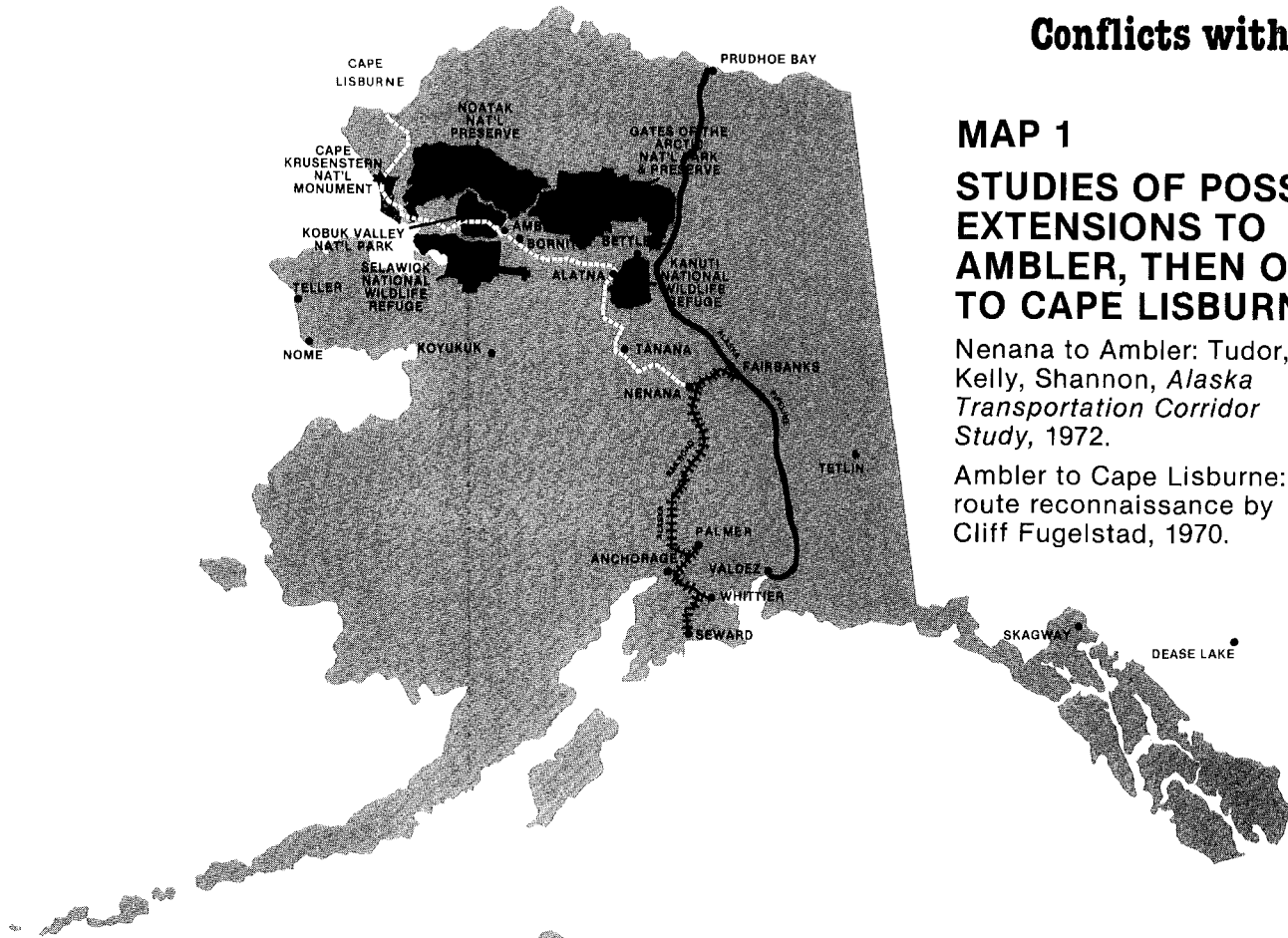
**EARLIER STUDIES OF
OF THE ALAS
Conflicts with national int**

MAP 1

**STUDIES OF POSSIBLE
EXTENSIONS TO
AMBLER, THEN ON
TO CAPE LISBURNE**

Nenana to Ambler: Tudor, Kelly, Shannon, *Alaska Transportation Corridor Study*, 1972.

Ambler to Cape Lisburne: route reconnaissance by Cliff Fugelstad, 1970.



MAP 2

**STUDY OF POSSIBLE
EXTENSION WEST TO
NOME AND/OR TELLER**

Lt. Col. B.B. Talley, *Reconnaissance for Railroad or Highway West of Fairbanks*, 1942.

