

ACTION PAPER

THE TRANSFER OF



THE
ALASKA RAILROAD

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THE TRANSFER OF THE ALASKA RAILROAD

A Commonwealth North Report

First printing.....January 1982

935 West Third Avenue
Anchorage, AK 99501

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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:

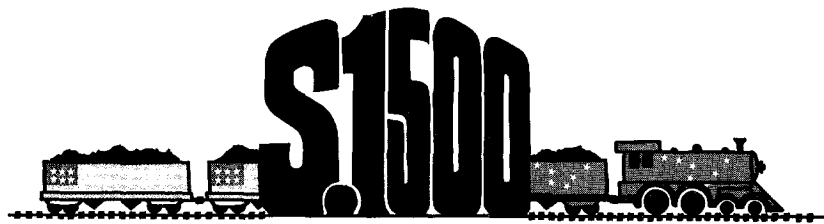
A. Access across private lands

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.

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

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).

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.

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

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.

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.

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

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

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.

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

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.

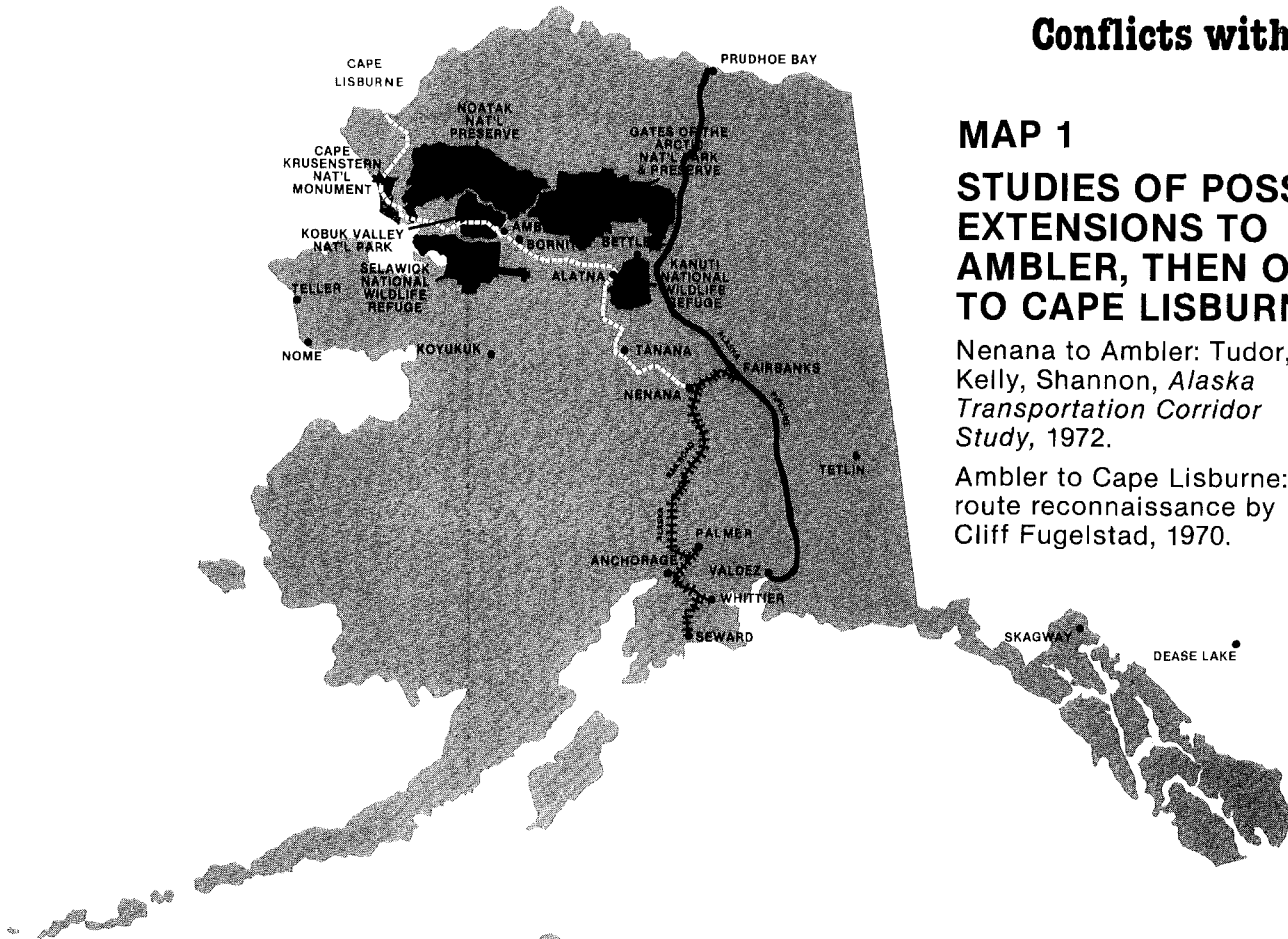
EARLIER STUDIES OF OF THE ALAS Conflicts with national int

MAP 1

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

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

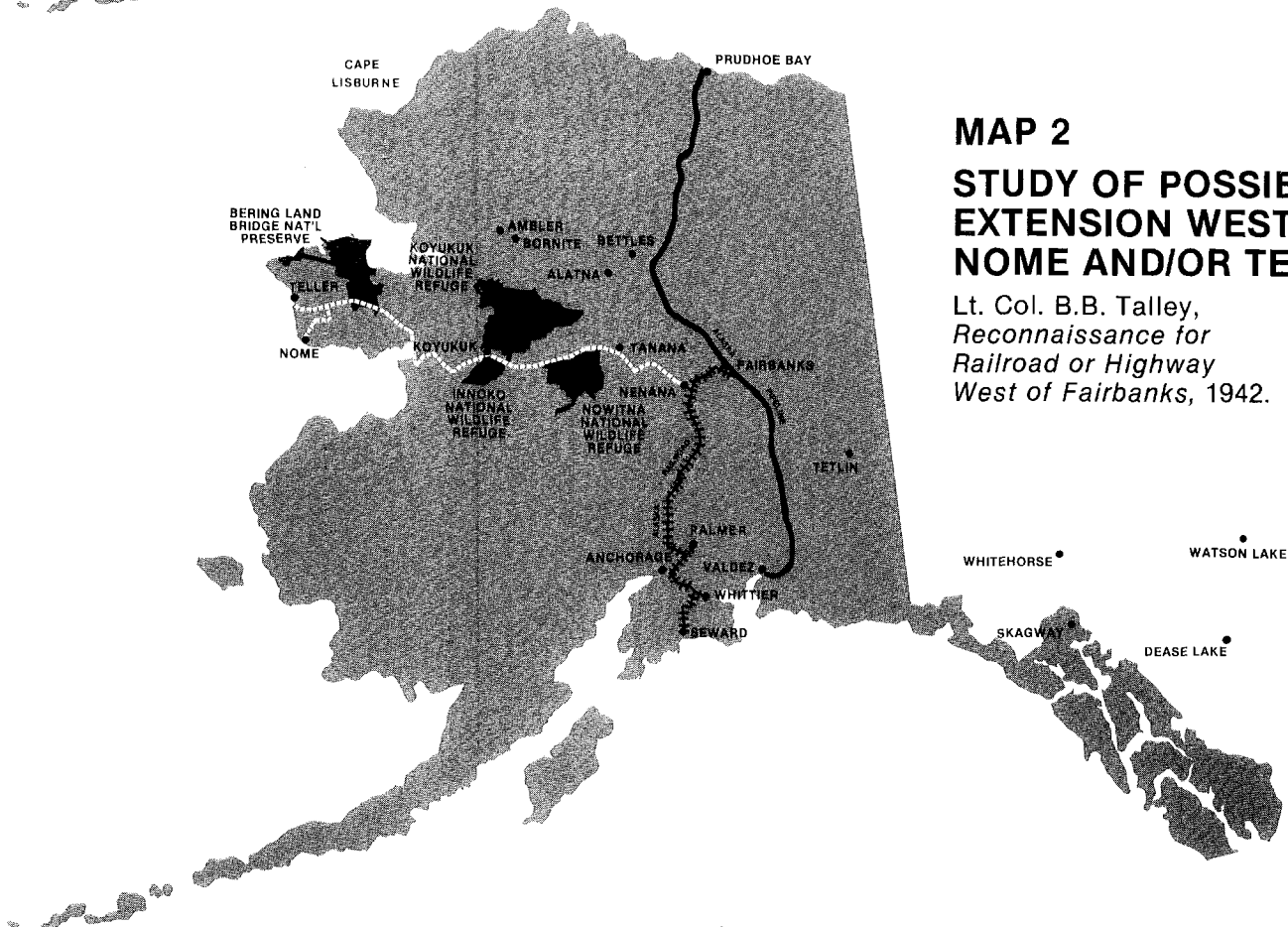
Ambler to Cape Lisburne:
route reconnaissance by
Cliff Fugelstad, 1970.



MAP 2

STUDY OF POSSIBLE EXTENSION WEST TO NOME AND/OR TELLER

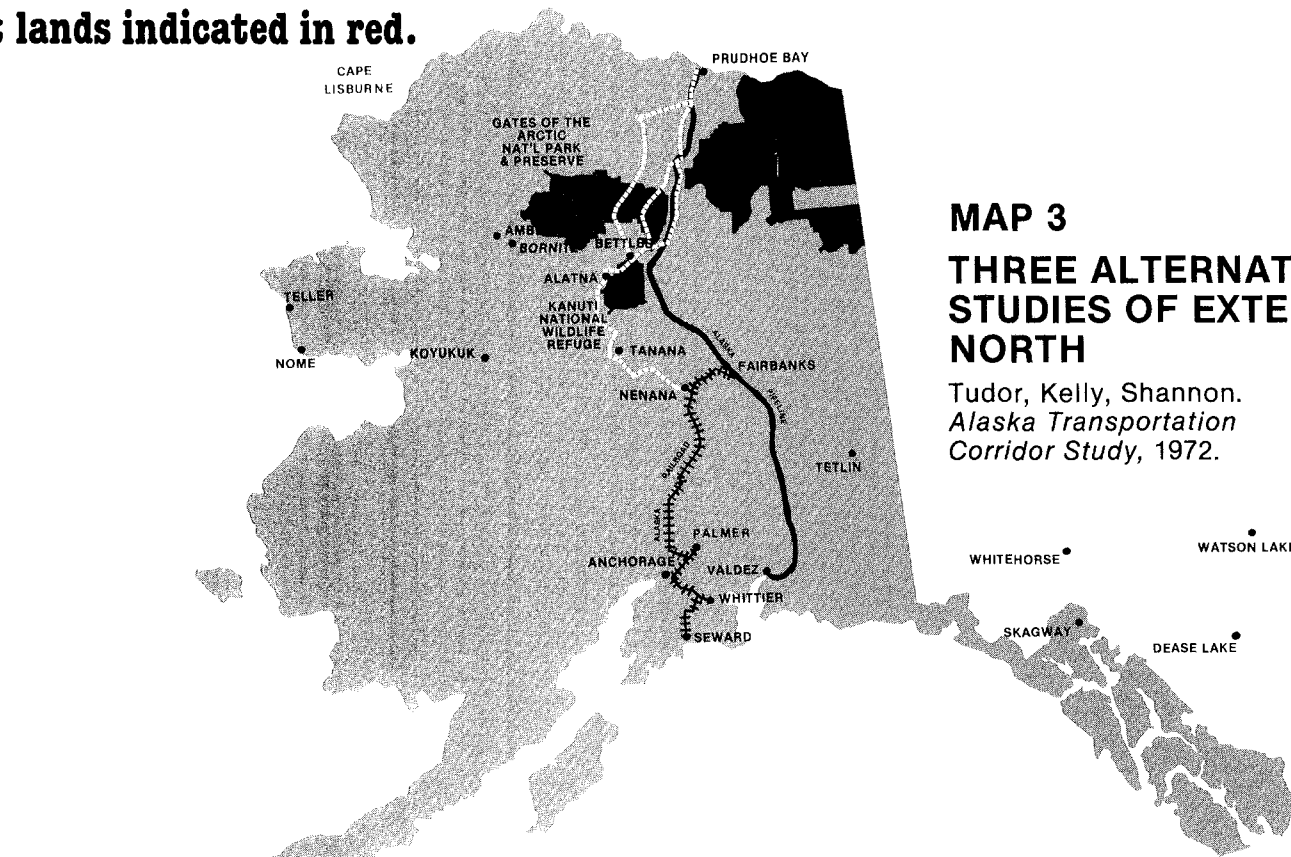
Lt. Col. B.B. Talley,
*Reconnaissance for
Railroad or Highway
West of Fairbanks*, 1942.



POSSIBLE EXTENSIONS

KA RAILROAD

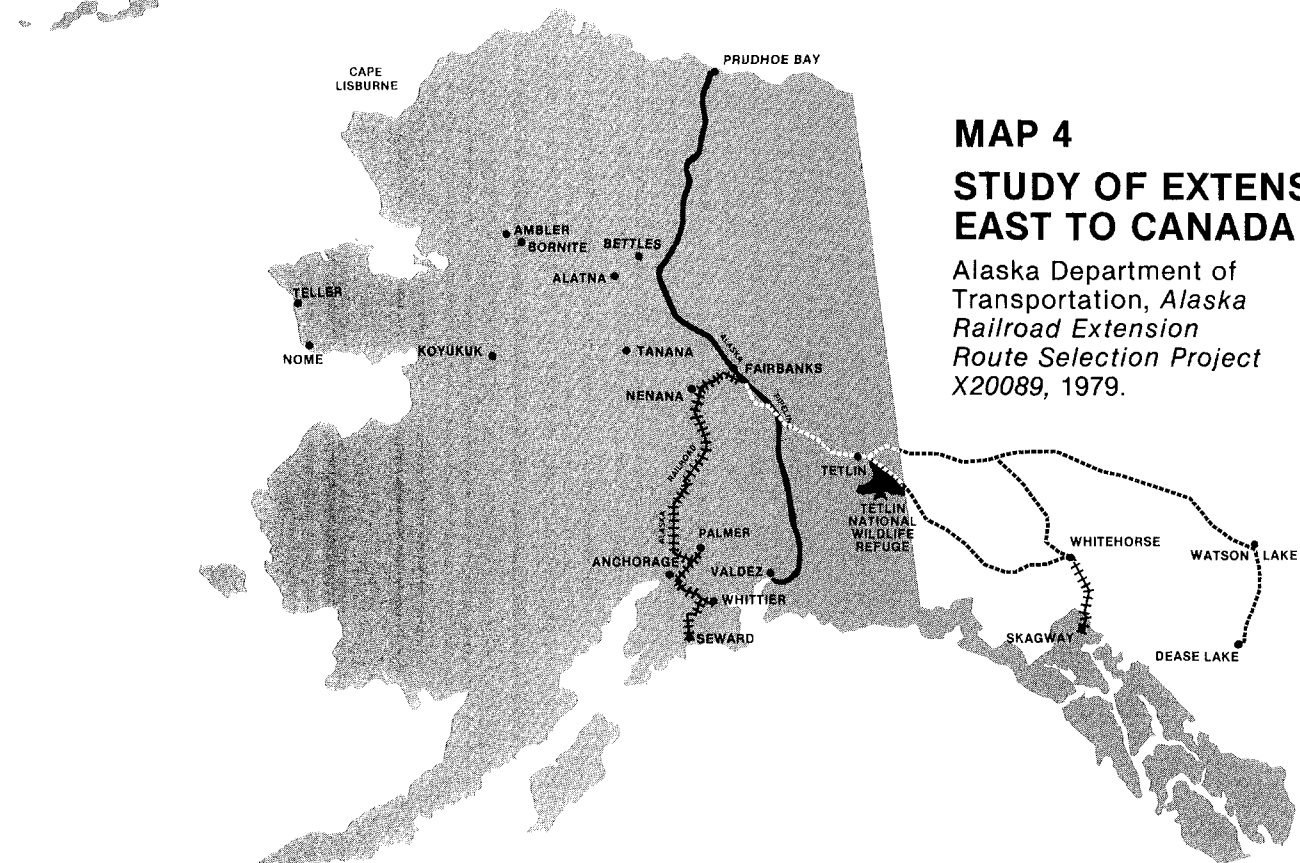
Forest lands indicated in red.



MAP 3

THREE ALTERNATIVE STUDIES OF EXTENSION NORTH

Tudor, Kelly, Shannon.
Alaska Transportation Corridor Study, 1972.



MAP 4

STUDY OF EXTENSION EAST TO CANADA

Alaska Department of Transportation, *Alaska Railroad Extension Route Selection Project X20089, 1979.*

MAPS BY
COMMONWEALTH NORTH

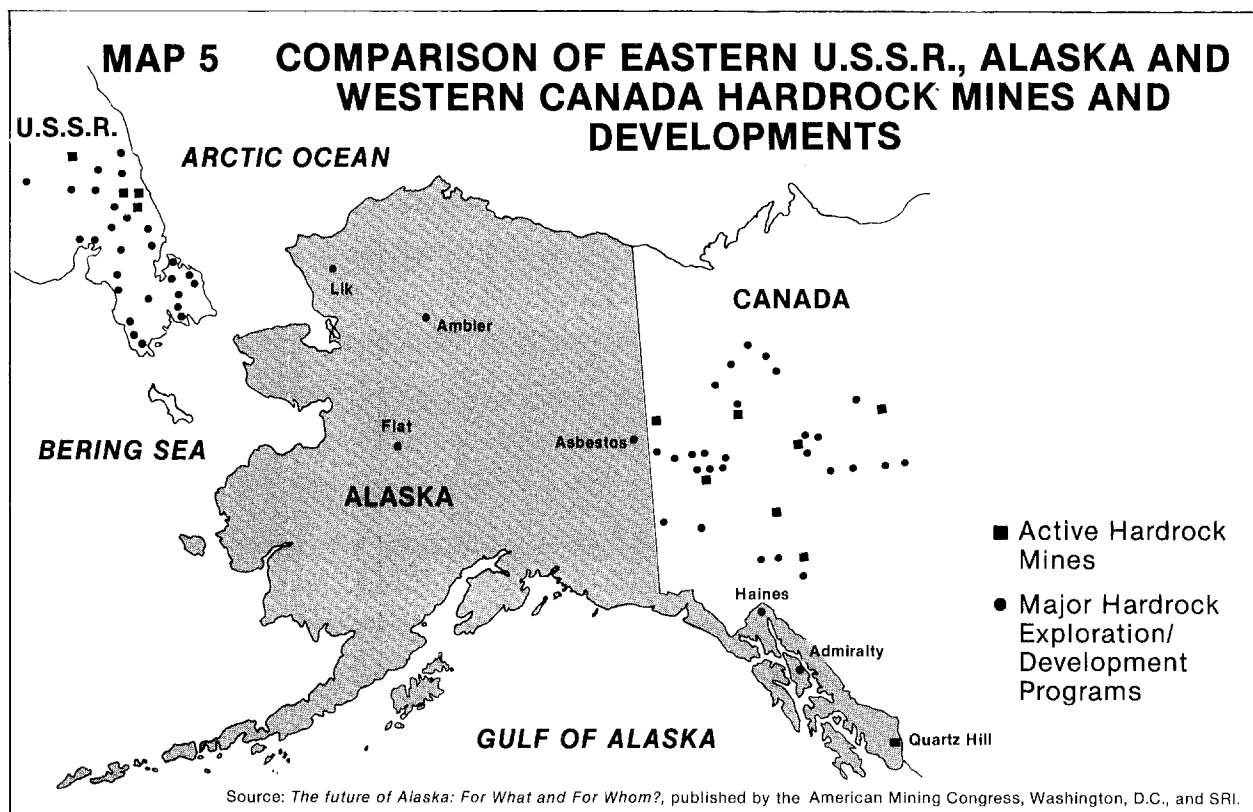
MINERAL RESOURCES

What lies out there in Alaska's heartland to be tapped? What mineral resources exist that contribute to making the transfer of the railroad a compelling concept, provided that the mechanism for extending the line is assured?

Alaska could provide the nation with minerals worth \$900 million to \$1 billion annually.

These questions were addressed in part by SRI International in a 1978 study of the impact of the withdrawal of Alaskan federal lands. Based on an analysis of only seven specific mineral deposits considered to be commercially attractive, the study indicates:

"In the absence of extensive legislation or regulatory impediments to the development of mineral resources, a mining industry could develop by the 1990's that would:



"Provide the nation with substantial quantities of nonfuel minerals, including gold, silver, copper, nickel, lead, zinc, molybdenum and asbestos, valued at between \$900 million and \$1 billion annually (1977 dollars).

"Provide the nation with 20,000 to 40,000 additional jobs.

"Reduce the nation's balance of payments deficit by between \$700 million and \$1 billion annually (1977 dollars)."

The study goes on to recognize that the "very rich deposits discovered" were the result of the "relatively low level of exploration activity in Alaska to date."

This level of activity is illustrated by Map #5 comparing Alaskan mining activity to that in the U.S.S.R. and Canada immediately east and west of Alaska.

Compared to Canada and the U.S.S.R., Alaska's current mining activity is very low.

ECONOMICS

The actual financial status of the Alaska Railroad is now being reviewed by many authorities, with an effort made to measure operating costs, maintenance costs, deferred maintenance obligations, capital construction requirements, the value of federal subsidies, and so on. The state needs to know what it might be accepting in terms of future budgetary needs.

At the same time, pro forma economic projections need to be developed--including consideration

of the actual cost of extending the railroad. Some estimates place the expense as high as \$1.5 million to \$2 million a mile. Whether that is too low, too high, or simply an educated guess has not been determined. Obviously, however, an answer must be obtained, if only--at this stage--to try to measure the financial impact on the state government, whether that be negative or positive.

HOW TO RUN A RAILROAD

The legislature must set up a mechanism to provide for an orderly transfer.

Finally, it is essential that the state government--early in the 1982 legislative session--enact legislation to provide for a mechanism through which Alaska can accept the railroad from the federal government and provide for an orderly transfer of administration and an on-going operation.

The generally accepted means to do this, from those who have been reviewing the matter on several fronts statewide, is through the creation of some kind of a Railroad Authority. Such an authority would be patterned on various others throughout the nation which have posted fine records over the years--the Seattle Port Authority and the New York Port Authority being two well known examples.

Legislation to accomplish this was introduced in the 1981 legislature, but never received further study. Clearly this legislation, SB.212, needs to be moved to the top of the legislative priority list for quick attention in January.

There have been suggestions that state ownership of the railroad should be simply a

temporary, transitory thing--a waypoint toward the time when the railroad is either placed under an operating contract by a private company or actually sold to a private concern which would guarantee its operation in future years.

A decision on such matters, however, is not one that needs to be instantly made. Political and major public policy considerations are involved in making a determination on the future operation of the railroad, and those will take time to develop and mature.

In the meantime, however, it is the conclusion of this committee that the Alaska Railroad's future is vitally important to the future of the state.

As such, it is imperative that the state take now the opportunity to gain control over this enormously crucial transportation system, remove it from federal control, and exercise the responsibilities and provide the leadership required to allow it to realize its full potential.

The legislation effectuating the transfer must reflect state needs and concerns. Likewise, the state must have proper machinery in place to accept the railroad.

But the evidence at hand suggests this is the time to merge the desire of the federal administration to rid itself of the railroad with the realization that the future transportation needs of Alaska demand state ownership of the Alaska Railroad -- pending a future determination of whether it should be placed in private hands, operated privately under contract with the state, or remain indefinitely under state control as a public utility enterprise.

**The Alaska Railroad's future
is vitally important to the
future of the state.**

APPENDIX

WHY S.1500 NEEDS A "FAST TRACK" AMENDMENT.

S.1500 needs a "fast track" amendment because of the current procedure required for access across federal lands in Alaska, especially the wilderness areas established by the Alaska National Interest Lands Conservation Act (ANILCA) of 1980.

The following is a summary of the steps required under ANILCA if the state of Alaska, or a private enterprise managing the railroad, wants to extend the Alaska Railroad across one of these restricted areas:

1. Applicant must file for access approval on the same day with "all appropriate federal agencies."
2. Within 60 days all such agencies must respond to the applicant saying that the application does or does not contain the information required.
3. Within nine months, the federal agency assigned lead responsibility for preparing an Environmental Impact Statement shall have a draft EIS completed. All federal agencies involved shall participate in the preparation of the EIS. The final EIS will be completed within one year of the original filing. (Note: these nine and twelve month deadlines can be extended by the lead agency if the applicant is notified in writing.)
4. Public hearings must be held in both Washington, D.C. and Alaska on the EIS before it is finalized.
5. Within four months after the final EIS is complete, each federal agency is required to approve or disapprove the application. These decisions shall be based on the agencies' views of:
 - A. The need for and the economic feasibility of the transportation system.
 - B. Whether or not there are alternate routes or modes of transportation which would result in fewer or less severe adverse impacts upon the conservation system.

- C. The short and long term social, economic and environmental impacts on fish, wildlife, habitat and rural, traditional lifestyles.
 - D. Any impacts that would affect the purposes for which the federal unit was established.
 - E. The short and long term "public values" which may be adversely affected.
- 6. If, because of the above, any one of the federal agencies involved decides to disapprove the application, it is denied.
 - 7. The applicant may appeal a negative decision to the President of the United States.
 - 8. If there is an appeal, within four months the President shall decide to approve or deny the application. To approve the application, the President must find that the proposed transportation system is
 - A. "compatible with the purposes for which the unit was established", and
 - B. there is no economically feasible alternative route.
 - 9. If the President denies the application, the parties involved may appeal the decision to federal court.
 - 10. If the President approves the application, but the conservation unit is part of the National Wilderness Preservation System, both the U.S. Senate and the House of Representatives must approve a joint resolution endorsing his decision within 120 calendar days of continuous session.

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