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# United States Senate

COMMITTEE ON COMMERCE, SCIENCE,  
AND TRANSPORTATION  
WASHINGTON, D.C. 20510

ber 11, 1979

Honorable Henry M. Jackson  
rman, Committee on Energy and  
ural Resources  
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Mr. Chairman:

I am writing to endorse an amendment to S. 9 which would exempt Alaska Rail-  
road property from the operation of the Alaska Native Claims Settlement Act.  
I understand that the Secretary of Transportation has, or will be making a  
formal request urging the adoption of such an amendment, a copy of which is  
being enclosed, and urge its favorable consideration by the Energy Committee.

The purpose of this amendment is to clarify the Alaska Native Claims Settle-  
ment Act as it applies to the land holdings of the Alaska Railroad. Under  
the Act, lands actually used in connection with the administration of any  
Federal installation are unavailable for selection by native corporations.  
Confusion has developed in the application of this general provision to the  
land holdings of the Alaska Railroad, resulting in claims being filed and  
approved against (a) some existing right-of-way lands used to operate and  
maintain the Railroad, (b) leased lands which generate freight traffic and  
economic income, and (c) the Railroad's numerous gravel reserves used for main-  
tenance and construction needs at an annual savings of thousands of dollars.

These claims are being approved on the grounds that the property is not being  
"actually used" by the Railroad but used by others or held for future use.  
This result is clearly inconsistent with the Railroad's specific grant of  
authority to hold lands for future use and to lease lands, given to it in the  
Alaska Railroad Enabling Act. It is also inconsistent with the Railroad's  
obligation to operate as a business enterprise and will result in both curtail-  
ment of service to the people of Alaska and the need for Federal operating  
subsidies -- a result certainly not contemplated by the Congress upon passage  
of the Alaska Native Claims Act.

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proposed amendment would exempt Alaska Railroad lands from selection in same manner that Federal lands used for national parks and defense installations are exempt from selection. I hope you will consider it as an amendment to S. 9, or other appropriate legislation, in order to clarify this acceptable situation.

With best wishes, I am

Sincerely yours,

*Edward W. Cannon*

EDWARD W. CANNON

Chairman

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Enclosure

LAW OFFICES

PRESTON, THORGRIMSON, ELLIS, HOLMAN & FLETCHER

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February 5, 1979

ROUYELAS  
BLANK  
ORSLUND  
UER  
YHRE  
MILLER

David M. Roderick  
Chief Counsel  
The Alaska Railroad  
Pouch 7-2111  
Anchorage, Alaska 99510

Dear David:

I am sorry it has taken me so long to respond to your letter of January 24th, 1979 but as you are well aware I have been in Seattle and have just now returned to Washington, D.C.

I will try to respond to your letter and the requests of the Department of Transportation with one communication.

I am enclosing herewith for your inspection a copy of the Form SF 171 which I have just completed. In addition to this, let me recite for you those special skills which I feel are especially important to and helpful regarding the proposed representation which I would undertake in the event that this application is approved.

As you probably know I am the author and sponsor of the original Alaska Native Claims Settlement Act. I was a member of the House and served on the Subcommittee and committee which enacted the legislation in the House and was a member of the Conference Committee which worked out the final version with the Senate. Additionally I have been involved in every amendment to the Alaska Native Claims Settlement Act since its original enactment and am conversant with almost every matter affecting the State of Alaska from a legislative perspective in the past ten or twelve years.

I have also maintained good contacts and relationships with the members of the legislative committees involved in both the House and Senate and with those people in the administration who are directly responsible for decision making in the field of concern.

I have maintained constant contact with matters affecting the Alaska Native Claims Settlement Act and all major legislation affecting the State of Alaska since 1965. I think this close association

With all legislative matters affecting Alaska gives me a unique ability to appreciate the problems confronted by the Alaska Railroad with regard to the interpretations of the Alaska Native Claims Settlement Act.

You have asked me to prepare for you and for Mr. Ray James a preliminary scenario regarding my approach to the problem.

While I do not intend this as a definitive treatment of the subject matter let me indicate to you that I feel there has been a clear misunderstanding of the intent and purpose of the original Alaska Native Claims Settlement Act. As a member of the House which passed the bill and the Conference Committee which worked out the differences between the House and Senate versions, it is clearly my recollection that there was no intention to deprive the Alaska Railroad of any of its land either actual or potential.

It would be my intent to attempt to impress that legislative intent on all members of the Department of Interior and others who have either given opinions or have made administrative decisions which might be contrary to that legislative intent. I would start with an effort to convince the Solicitor of the Department of Interior of the Congressional intent and attempt to have decisions or opinions by him or others to the contrary reversed. In the event that this is unsuccessful I would next attempt to bring the Secretary of Transportation and the Secretary of Interior together in an effort to resolve differences which have clearly worked to the detriment of the Alaska Railroad. I would attempt to seek an administrative solution which would provide for the Alaska Railroad the free and uninhibited use of all of the lands which were held by it or claimed by it at the time of the passage of the Alaska Native Claims Settlement Act.

In the event that the above actions were unsuccessful I would attempt to achieve a legislative solution. This would entail legislation which carried forth the intent which I have above ascribed to the Congress. In the event that there was general amendatory legislation affecting the Alaska Native Claims Settlement Act I would attempt to attach this as a part of that amendatory process but in the event that no such general amendatory legislation was being processed by the Congress at an early date, I would attempt to have this legislative intent carried forward by special legislation introduced in the 96th Congress.


I hope the above information and the form which I have submitted will be sufficient to provide the required background and other information necessary for the completion of the contract between us.

Best personal regards.

Sincerely,

PRESTON, THORGRIMSON,  
ELLIS, HOLMAN & FLETCHER

By

  
Lloyd Meeds

LM:mw  
Enclosure

cc: Ray James  
William Bonvillion