



Governor Mike Dunleavy
STATE OF ALASKA

August 2, 2021

Ms. Judy Petry
Vice Chair
Alaska Railroad Corporation Board of Directors
327 West Ship Creek Avenue
Anchorage, AK 99510

Dear Alaska Railroad Corporation Board of Directors,

The Alaska Railroad Corporation (ARRC) has filed a “quiet title action” lawsuit against dozens of private-property owners in Anchorage. While the lawsuit is filed against the Flying Crown Subdivision and its homeowners, it will affect hundreds of Alaskan landowners, possibly more, who own the land beneath the ARRC easement.

As the Board is aware, and as Congressman Young stated in his 2018 letter, the property owners have a strong argument that Congress did not intend to take their fee interest in the land underlying the easement when it passed the Alaska Railroad Transfer Act. (ARTA)

When Congress passed ARTA it limited ARRC’s easement to the purpose stated in federal law, construction and operation of a railroad. Congress did not provide for ARRC to act as a general landlord, charging the owners of the land the easement runs across, nor did it provide exclusive use of the land the easement crosses to ARRC that is not needed for operation of the railroad. Unfortunately, Congress has not acted to clarify this.

ARRC’s exploitation of the unsolved ambiguity in federal law, and its approach to litigation, has caused the private landowners to incur significant legal costs. Litigation costs on both sides could be stopped quickly if the private landowners and ARRC had taken up my offer to pay for a mediator. Lawsuits are expensive endeavors, and we are talking about individual homeowners, who likely do not have the financial resources to continue in a prolonged lawsuit with the ARRC. Such action is not aligned with my policies and goals that state agencies, even the ARRC which is governed by the Board, must treat private landowners with respect.

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I am requesting the Board of Directors consider approving payment to the private landowners for their litigation costs. This seems only fair since the ARRC started the litigation and now claims its' only interest is in a resolution of the legal dispute over its ownership rights in the easement, whatever that outcome may be.

In order to get quick resolution on this issue, I urge the ARRC's Board of Directors to take the following actions:

1. Reconsider your position that the Right-of-Way (ROW) ARRC received from the federal government includes exclusive use rights and the right to act as a general landlord and charge the property owners or utilities rent.
2. Settle the lawsuit with the private homeowners of the Flying Crown Subdivision by agreeing that this easement is for maintenance and operation of a railroad only (as stated in the original Alaska Railroad Act of 1914) and does not include the underlying property rights of the owners, or the right to charge utilities for use of the ROW.
3. Consider an ARRC Board resolution in support of legislation next session adding the ARRC to the Executive Budget Act, and other statutory changes that bring accountability to the ARRC Board and senior management, how it uses its funds for litigation against Alaska small residential property owners, and how it manages and controls its lands.

My administration stands ready to help facilitate resolution on these issues immediately. We have previously offered to pay for a mediator to work with both sides to resolve the issues in question – that offer still stands. I look forward to the ARRC Board taking the necessary actions to resolve these issues once and for all.

Sincerely,



Mike Dunleavy
Governor