

11.26.14 IRWA Chapter 71 Meeting

Seward Highway Land Exchange

Background

1. Location: MP 90 at Alyeska Highway /Seward Highway intersection (Girdwood) to MP 117 near Potter Station.
2. Process commenced with 1990 DNR/DOT MOA (Almost a quarter of a century ago!)
3. Improvements to highway corridor included realignments
 - a. As a result, the railroad corridor would also have to be realigned
 - b. Both the highway and railroad corridor are substantially within CSP
4. 2000 Legislation – why?
 - a. Corridor realignments will require exchange of land interests between
 - i. Vacations of old ROW
 - ii. CSP disposal of CSP lands
 - iii. ARRC disposal of ARRC ROW
 - b. CSP is an LDA – cannot dispose of lands without legislative approval
 - i. Bill requires boundary change report by 1.8.01 – (14 years late)
 - c. ARRC Statutes require legislative authority to divest full interest in real property
5. 2001 ARRC/DOT/DNR MOA
 - a. We will all play nice to accomplish land exchange goal
 - b. DOT will survey & monument corridors
 - c. DOT will end up with new 300' ROW corridor
 - d. ARRC will end up with new 200' wide corridor
 - e. Where the exchange is imbalanced, appraisals may be required to establish payments
 - f. Fluff: Parks and railroads are special....DOT&PF, not so much
 - g. Ten year term, now expired.
6. Post MOA
 - a. Construction from MP 90 to MP 105 completed based on ROE
 - b. DOT always has difficulty addressing post construction obligations
 - c. May 2013 – R&M hired to survey & map the pre-construction existing ARRC and Seward highway ROW corridors as well as the post-construction as-built alignments
 - i. My role was added as an amendment to the R&M contract as “Land Exchange Facilitator” Bring DOT/ARRC/Parks together to accomplish MOA objectives
7. Title Issues
 - a. MOA presumed an exchange on the basis that any 1 square foot of land was the same as any other 1 square foot of land in the corridor, this is not the case:
 - i. Existing DOT ROW is a highway easement primarily based on PLOs
 - ii. ARRC title issues
 1. ARRC asserts that its existing ROW is held in fee

- a. Initially an easement, if no longer needed, reversion would go to federal government or underlying land owner
 - b. ARRC recognized in earlier Seward Hwy realignments that they would have no trading stock in a land exchange due to reversion
 - c. Federal law in 2003 eliminated ARTA reversions
 2. ARRC asserts that it owns the tidelands within the 200' existing corridor
 3. ARRC asserts that its existing ROW is not subject to SLEs, federal or state
 4. ARRC will not accept exchange lands subject to SLE (Pt. McKenzie)
 5. DNR may be prohibited from conveying tidelands to ARRC (Izembek)
 - iii. CSP Title Issues
 1. CSP has no authority to convey title – only release (de-park) lands with a boundary adjustment, once adjusted, lands become DNR public domain requiring action by DNR MLW
 2. All CSP lands are subject to LWCF 6(f) provisions
 - a. Use of 6(f) lands constitutes a “conversion”
 - b. Cannot be resolved with \$\$\$ cash
 - c. Cannot be resolved with value of improvements
 - d. Lands lost must be replaced with new park lands
 - e. This was not understood at the time of the MOA
 3. Old highway ROW released to CSP has existing permitting utilities
 - a. CSP cannot permit above ground utilities (underground ok)
 - iv. Initial balance sheet for exchange
 1. ARRC – Net loss of 1.7 acres
 2. DNR Parks – Net gain of 31.5 acres
 3. DOT – Net loss of 29.8 acres
8. Current Status
- a. ARRC proposing a new corridor based on an unbalanced offset (not 200' each side)
 - b. Parks discussing LWCF 6(f) conversion process and appraisal requirements
 - c. Difficult to hold everyone's attention.