

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES OFFICE OF THE COMMISSIONER

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April 12, 2010

Bob Hajdukovich, Chairman
Joint Safety Committee
Alaska Air Carriers Association
2301 Merrill Field Drive A-3
Anchorage, AK 99501

Dear Mr. Hajdukovich:

I appreciate and share your concern regarding the poor condition of Kwigillingok Airport. The department initiated preliminary engineering and environmental work to address the problems associated with this airport over 15 years ago. Our work on this project was shut down in 1999, after years of fruitless negotiation with the Native Village of Kwigillingok (Tribe) over their unwillingness to sign a waiver of sovereign immunity and sell the property necessary for the airport improvements.

On January 6, 2010, the Tribe approved a limited waiver of sovereign immunity and indicated they were willing to sell the property needed to improve the airport. Based on this action, the department is reactivating work to acquire and improve this airport.

Work Scope Definition and Environmental Document Compliance:

Any improvements done using federal funding require environmental document approval by the Federal Aviation Administration (FAA), under the National Environmental Policy Act (NEPA). The timeline for preparation of the environmental document will depend on the improvements proposed.

In order to address the deteriorated surface condition as soon as possible, we are considering interim improvements done under the FAA Airport Improvement Program (AIP) Surface Maintenance project limitations. If approved by FAA, these interim surface maintenance improvements will consist of applying surface course on the existing embankment. These improvements will be minimal with no work expected off the existing airport footprint. This work will not correct airport sub-grade problems nor improve the airport to meet the department's or FAA's current standards. Whether or not this approach will accelerate airport surface improvements is uncertain.

We have requested FAA's review of this concept to determine their willingness to fund such interim surface improvements. These minimal improvements are expected to cost significantly more than FAA generally allows for this type of project. If the department and FAA agree this is acceptable under the NEPA process and under AIP funding guidelines, the preparation of a Categorical Exclusion (CE) environmental document is expected to be sufficient and its preparation time relatively short.

Regardless of whether the interim surface improvements are made or not, it is our desire to improve this airport to meet current FAA and department standards. This will require an updated NEPA Environmental Assessment (EA). Previous environmental analysis has been done for Kwigillingok airport improvements, which should assist in completing the current EA update requirements. Based only on a very preliminary review the environmental work previously done to improve the existing airport, we estimate it may require approximately six months to a year of work to update the EA. The EA update will involve the participation of the community, other affected interests and numerous resource management agencies.

Acquisition of Native Allotments Needed for Airport Improvements:

Once the environmental approval is obtained from FAA, the Native Allotment acquisition process can be initiated through the Bureau of Indian Affairs (BIA). The individual steps in this process are expected to include the following:

1. A right of entry will be required for the department's survey party to enter upon the Native Allotments to conduct and monument the required survey of each entire Native Allotment. The survey scope will also require BIA approval. The BIA will need to approve the allotment subdivision platting. This involves BIA coordination with the Native Allottees regarding the property description to be acquired for airport purposes.
2. Upon completion of item 1 above, the survey work will be conducted.
3. Once the survey is completed, the mapping will be completed for each entire Native Allotment, in addition to the portion of each Native Allotment proposed to be acquired for airport purposes.
4. After the mapping is completed, BIA approval is required.
5. Based on BIA approval of the mapping, the property appraisals needed for the airport purposes will be conducted. BIA approval of the appraisals will be required.
6. Once the appraisals are approved by the BIA, the property acquisition negotiation will be initiated with the BIA, through the Association of Village Council Presidents (AVCP). The BIA property acquisition negotiation minimum timeline is approximately 2 years for completion of the acquisition.

The two Native Allotments impacting the existing airport have a total of 20 affected Native Allottees and heirs that will need to agree to sell all or the applicable portion of their property interests. It is our understanding that one of the heir's estate is currently in probate, which may complicate this acquisition process.

We contacted the BIA AVCP agent and his impression is positive regarding the Native Allottees and heirs being willing to sell their property interests required to improve the airport. If all the Native Allottees and the associated heirs are willing to cooperate and sell their property interests required for improving the airport, this will minimize the timeline for airport improvements. If this is not the case, the project will be substantially more complicated, with a longer project development timeline required for a re-scoping of the project. This project re-scoping may involve an extension of the runway southward or a relocation of the entire airport. In these cases, a significantly revised or new EA will require at least a year and probably longer to complete.

Your letter states that "DOT&PF could immediately secure an interim lease while finalizing the sale." The BIA controls all actions related to Native Allotments and unfortunately their approval timelines are not immediate. Our understanding is the BIA's minimum timeline for either lease or acquisition action is approximately two years, once negotiations are authorized. The department's previous experience in working with BIA on other airport projects with Native Allotment acquisitions is the actual timelines are generally longer than 2 years. The department does not intend to acquire interim leases of these Native Allotments for the following reasons:

1. Short term property leases for capital improvements are not in the state's interest. Any investment made in property under lease would increase the fair market value basis of the property when it is later acquired in fee simple or the lease is renewed.
2. Leasing property for a landing area which is not owned by a public agency is specifically prohibited under Section 711(c) of the FAA's AIP Handbook.
3. Acquiring a leasehold interest in Native Allotments would not meet FAA requirements for adequate property interest to obtain an FAA grant for AIP funded capital improvements.
4. Any funding required to lease Native Allotments would not be eligible for AIP reimbursement under a future FAA grant.
5. It is not clear there would be a difference in the time required through the BIA to lease the Native Allotments versus acquiring fee simple interest. In any case, both leasing the Native Allotments and acquiring them in fee simple would be a duplication of effort and expense.

Acquisition of Tribal Property Needed for Airport Improvements:

The above discussion assumes the Tribe maintains its current waiver of sovereign immunity and willingness to sell property needed for airport improvements.

Minimum Project Timeline:

For only the interim surface maintenance improvements, if the department and the FAA determine these improvements are fundable and should proceed, the most optimistic project development timeline possible is approximately three years. The main components of this effort are the following:

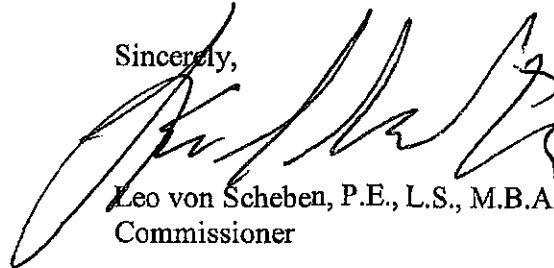
1. Environmental document preparation and FAA approval, followed by acquisition of the Native Allotment interests and the Tribal property. We expect this will require two years minimum and probably longer.
2. a) Acquisition and barging the airport surfacing material to the Kwigillingok village barge site; b) Waiting until winter freeze-up and winter haul of the stockpiled surface course from the barge site to the airport; c) Placement of the surface course on the runway; and d) Compacting and smoothing the surface course the following summer. We expect this will require approximately one year.

For major improvement of the airport to meet department and FAA standards, we expect the minimum project development time would increase by at least one additional year and most likely longer. The cost of this project will be significant and it will need to compete with other high priority projects for funding, when it is ready for construction.

Project Manager Contact:

Tom Schmid, P.E., with the department's Central Region Aviation Design Group, has been assigned as the Design Project Manager for this work and can be contacted at 269-0612, if you want to discuss your concerns in more detail. He is just beginning the project's data collection and scoping effort. As part of the NEPA process, the community and other interested parties will be contacted for comments on developing this project. The Alaska Air Carriers Association will be included on this contact list.

Sincerely,

A handwritten signature in black ink, appearing to read 'Leo von Scheben', is written over the typed name and title.

Leo von Scheben, P.E., L.S., M.B.A.
Commissioner

cc: Mike Coffey, Statewide Maintenance and Operations Chief, DOT&PF
Byron Huffman, Manager, Airports Division, Alaska Region, FAA
C. Joy Journeay, Executive Director, Alaska Air Carriers Association
Roger Maggard, Airport Development Manager, SWA / DOT&PF
Randy Ruaro, Deputy Chief of Staff, Office of the Governor
Lance Wilber, Central Region Director, DOT&PF