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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT PALMER

MATANUSKA-SUSITNA BOROUGH,)

Plaintiff,)

vs.)

STATE OF ALASKA, DEPARTMENT OF)
NATURAL RESOURCES; 3.6 Acres, more or)
less, as to Parcel 22; 13.6 Acres, more or less,)
as to Parcel 27; 36.7 Acres, more or less, as to)
Parcel 29; 17.8 Acres, more or less, as to)
Parcel 30; 156.1 Acres, more or less, as to)
Parcel 31; 156.1 Acres, more or less, as to)
Parcel 32; 20.3 Acres, more or less, as to)
Parcel 33; 12.1 Acres, more or less, as to)
Parcel 34; 12.1 Acres, more or less, as to)
Parcel 35; 29.7 Acres, more or less, as to)
Parcel 36; and also all other persons or parties)
unknown claiming a right, title, estate, lien, or)
interest in the real estate described in the)
complaint in this action,)

Defendants.)

Case No. 3PA-15-1623 CI

**SUMMONS IN CONDEMNATION
TO UNKNOWN DEFENDANTS**

Port MacKenzie Rail Extension Project
Parcel Nos. 22, 27, 29, 30, 31, 32, 33, 34, 35 and 36
Agricultural Covenants

TO: ALL PERSONS OR PARTIES UNKNOWN CLAIMING A RIGHT,
TITLE, ESTATE, LIEN, OR INTEREST IN THE REAL ESTATE
DESCRIBED IN THE COMPLAINT IN THIS ACTION

Plaintiff Matanuska-Susitna Borough ("Borough") seeks to condemn agricultural covenants created pursuant to AS 38.05.321(a) burdening ten parcels of land located in the Point MacKenzie Agricultural District so that the parcels may be used for the Port MacKenzie Rail Extension ("PMRE") Project. Alternatively, the Borough seeks a declaratory judgment to the effect that agricultural covenants do not apply to a public entity such as the Borough when it acquires land or an interest in land for a necessary public project. The Borough has already acquired the property interests it needs from the owners of the ten parcels by purchasing the land or easements therein. However, the parcels remain subject to the agricultural covenants, which were created "for the benefit of all Alaska residents" and presently limit the use of the land to agricultural purposes as defined in AS 38.05.321(j). The effect of the judgment or decree sought by the Borough will be to remove the use restrictions imposed by the covenants so that the PMRE Project may proceed as planned. The PMRE will establish a railway link connecting Port MacKenzie to the main Alaska Railroad line at Houston. The Project is a joint undertaking by the Borough and the Alaska Railroad Corporation ("ARRC"), with the Borough acquiring the necessary right of way. ARRC is constructing the project and, when complete, will operate the new rail line.

A copy of the Complaint, and Schedules A-D attached thereto, can be obtained at the PMRE Project website at <http://www.portmacrail.com/library.html>. The ten parcels are legally described and depicted in Schedules A and B. Schedule C shows the overall PMRE route. Schedule D is the Decisional Document, explaining Borough's position that the project has been located consistent with sound engineering principles and in a manner that promotes the greatest public good while causing the least private injury.

The ten parcels are all located in the Matanuska-Susitna Borough, Palmer Recording District. In the aggregate, the affected acreage (i.e., acreage where the Borough seeks to condemn the agricultural covenants) totals 458.1 acres more or less. The larger parcels where the affected acreage is located are identified as follows:

<u>Parcel #</u>	<u>Legal Description of Larger Parcel</u>	<u>Street Address</u>	<u>Acreage Affected</u>
Parcel 22	Williams Farm Tract A	23425 W Reddane Avenue	3.6 Acres, more or less
Parcel 27	ASLS 80-111 Tract 3	21317 S Guernsey Road	13.6 Acres, more or less
Parcel 29	ASLS 80-111 Tract 5	20295 S Guernsey Road	36.7 Acres, more or less
Parcel 30	ASLS 80-111 Tract 7	19401 S Guernsey Road	17.8 Acres, more or less
Parcel 31	ASLS 80-111 Tract 10	18455 S Guernsey Road	156.1 Acres, more or less
Parcel 32	ASLS 80-111 Tract 13	24529 W Holstein Avenue 25690 W Holstein Avenue 24240 W Holstein Avenue	156.1 Acres, more or less
Parcel 33	ASLS 2002-024 Tract 19A	16651 S Guernsey Road	20.3 Acres, more or less
Parcel 34	ASLS 80-111 Tract 22B	16201 S Guernsey Road	12.1 Acres, more or less
Parcel 35	ASLS 80-111 Tract 22A	15933 S Guernsey Road	12.1 Acres, more or less
Parcel 36	ASLS 80-111 Tract 26	14999 S Guernsey Road	29.7 Acres, more or less

If you are an Alaska resident and you dispute the authority and necessity for the taking or object to the declaration of taking (if one is attached to the complaint), you must file an answer stating all your objections and defenses. Your answer must be filed with the court at **435 South Denali Street, Palmer, Alaska 99645** within 30 days after the last date of posting of this Notice on the Alaska Court System's legal notice website or the last date of publishing this Notice in the *Alaska Journal of Commerce*, the *Mat-Su Valley Frontiersman* or the *Alaska Dispatch News*, whichever date is latest. In addition, a copy of your answer must be sent to the plaintiff's attorney, Bruce E. Falconer, whose address is: 911 W. 8th Avenue, Suite 302, Anchorage, Alaska 99501, and whose telephone number is: (907) 272-8401.

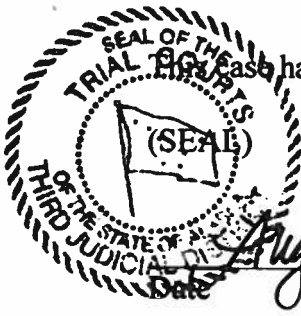
If you fail to file your answer within the required time, you will waive (give up) all your objections and defenses to the authority and necessity for the taking and to the validity of any declaration of taking.

If you object to the taking, you must also file a motion to dismiss within 10 days after your answer is due. If this case is not dismissed, the following matters will be determined by further proceedings in the case: (1) the time when plaintiff may take possession of the property, (2) the amount of compensation to be paid for the taking, and (3) the distribution of compensation.

If you dispute the amount of just compensation or claim any part of the compensation or desire notice of further proceedings, you must file a notice of appearance. Your notice of appearance must state the name and address of the person to whom notice of further proceedings should be sent. Your notice of appearance must be filed with the court at the address stated above by the date an answer would be due as stated above. In addition, a copy of your notice of appearance must be sent to the plaintiff's attorney at the address stated above. If you do not file a notice of appearance, the court will proceed to a final determination of just compensation without further notice to you.

Even if you do not file an answer or a notice of appearance within the time described above, you may still file a notice of appearance at any time before a final determination of just compensation is made and you may present evidence as to the amount of just compensation to be paid or its distribution. However, you will be bound by any orders the court has already entered unless you can show good cause for failing to appear that would justify setting aside a default judgment under Civil Rule 55(e). Under Civil Rule 72(m), a "final determination of just compensation" is made when all issues about the amount to be paid and how it should be distributed have been decided and the court has entered the last judgment or order resolving any part of these issues (in the form of a judgment on a jury verdict, a confirmation of a master's award, or a final order accepting a settlement agreement of the parties).

If you never file a notice of appearance, then 10 days after a final determination of just compensation, the court will enter a default judgment against you for the relief demanded in the complaint.



Case has been assigned to Superior Court Judge Gregory L. Heath.

August 6, 2015
Date

CLERK OF COURT

By: [Signature]
Deputy Clerk