

# Testimony before the U.S. House of Representatives

## Committee on Natural Resources

### Subcommittee on Indian and Alaska Native Affairs

**“H.R. 4668 (Young of AK), *Point Spencer Coast Guard and Public-Private Sector Infrastructure Development Facilitation and Land Conveyance Act.*”**

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Submitted by:

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On Behalf of:

The State of Alaska

#### I. Introduction

Chairman Young, Ranking Member Hanabusa, and members of the House Subcommittee on Indian and Alaska Native Affairs, for the record I am Kip Knudson, Director of State/Federal Relations for the State of Alaska (the State). On behalf of Governor Sean Parnell, I thank the Subcommittee for this opportunity to testify on H.R. 4668, the Point Spencer Coast Guard and Public-Private Sector Infrastructure Development Facilitation and Land Conveyance Act, as well as express the State’s perspectives on the opportunities at the Port Clarence site, which includes Point Spencer. I believe everyone here today is in agreement that opportunities and challenges in the Arctic make infrastructure development in this part of our State a critical focus for regional, state, and national leaders. We appreciate your leadership and engagement on this issue.

In particular, I thank you for the opportunity to bring to your attention some of the work that still needs to be done before the legislation being reviewed by the Subcommittee today moves forward. The State recognizes and appreciates the Subcommittee’s foresight in addressing Arctic infrastructure needs proactively and its willingness to advance development at Port Clarence. I also want to expressly thank Chairman Young for his leadership on Arctic issues. His bill is yet another example of his ability to take decisive action to advance the interests of Alaskans. At this stage the State has become aware of a number of topics that we believe should be further developed in this

legislation before it is advanced. The State stands ready to work with the Subcommittee and relevant stakeholders on this issue to complete this work and advance Arctic infrastructure development.

### Overview of Today's Testimony

My primary intent today is to convey the potential importance of the Port Clarence area to development in the Arctic and the economic and national security interests of the United States. The first steps of this development, some of which the Subcommittee is considering today, must be taken deliberately. With due diligence, we can lay a strong foundation for what may be a critical portion of Alaska and the United States' Arctic infrastructure network. For this reason, solutions to the issues I will raise today need to be cooperatively and comprehensively addressed.

The parties involved in this discussion are in agreement about the importance of development in this area. Federal entities, including the United States Coast Guard (USCG), see Port Clarence as a strategic operations point. Bering Straits Native Corporation (BSNC), with significant adjacent landholdings and a mission to further the economic and social development of the region for the benefit of their shareholders, many of whom live in the region, is naturally eager to advance potential developments. The State has already made a number of significant investments in the site because of its strategic and economic importance to Alaska as a whole.

With cooperation, we believe the legislation being considered today as well as broader issues of the path forward for development in the region can be improved upon in a way that advances these aligned interests and ultimately results in a successful Arctic deep-water port.

The State has undertaken a substantial amount of due diligence on the bill being considered today. The unique context of Port Clarence's remote and Arctic location and the significant number of stakeholders, local, state and federal regulators, and funding participants all add nuances to achieving success on this national priority. In short summary, some of the issues identified to date include State ownership of tide lands, uncertainty about the scope of future development, the most appropriate land ownership structure for future developments, and the role of federal regulatory standards and funding opportunities for any development that does move forward.

The State believes that better alignment between the stakeholders that are working to develop Port Clarence should be achieved before this legislation moves forward. As currently written, the bill is premature and may even be counterproductive to progress. Consistent with the significant effort the State has already expended to better understand future opportunities for Port Clarence, we stand ready to cooperate with the stakeholders and members of the Subcommittee to resolve these issues.

## **II. The State's Interests in Port Clarence**

As summarized above, there are a number of parties with interests and responsibilities related to Port Clarence. The focus of my testimony is on the State interests that Governor Parnell is working to advance, while the other stakeholders are best suited to describe their respective interests. However,

as will be apparent and further elaborated on below, there are many areas of Governor Parnell has focused on learning more about Port Clarence for three primary reasons: its potential to support economic development, national security, and environmental/incident response in the Arctic were it to be the site of a deep-water port. Many nations are investing in the Arctic in earnest, and Alaska will serve as the gateway for U.S. and international allies' interests in the area. On July 23, 2014, a senior representative of the Alaska Department of Natural Resources traveled to Washington to testify before the U.S. House of Representatives' Committee on Transportation and Infrastructure on this emerging topic, and to stress the importance of State and Federal Partnership on Arctic issues. Issues related to Port Clarence must be resolved in a way that advances and supports this role for the State of Alaska as a key part of U.S. Arctic policy.

Port Clarence is of critical interest to the State not because it will be, or is exclusively proposed to be, the site of a deep-draft port in the Arctic, but instead, only because it is a *high-potential* site for such a development. The State has begun to review the possibility of a deep-draft port at Port Clarence, but its selection is not a foregone conclusion. In fact, the United States Army Corps of Engineers (USACE) is currently conducting a Civil Works study, in cooperation with the Alaska Department of Transportation (AKDOT), on this potential – but the study has not made any final recommendation regarding Port Clarence or what developments may be most suitable at the site. We are at the very initial phases of understanding what opportunities at Port Clarence may be realized, making cooperation, foresight, and deliberation even more critical.

The good news here is that the first drafts of the USACE economic benefit analysis indicate that the economic effect of a deep-draft port in the Port Clarence area could be immense. Some of the most significant Arctic developments that are currently being reviewed are off-shore hydrocarbon possibilities in the Chukchi and Beaufort basins – which may result in billions of dollars of federal and state revenue, not to mention significant employment and economic activity in the United States. As this undertaking is being evaluated, the closest proximity deep-draft U.S. port able to accommodate many of the required exploration vessels is located in Dutch Harbor, Alaska – over 800 miles away, or the distance along the entire west coast of the continental United States. This distance results in significant costs. As exploration on these prospects continues to advance, development at Port Clarence could play a major role in driving down these costs and facilitating even more additional work. Depending on demands and development, Port Clarence could also play a role in everything from servicing international shipping to supporting more efficient fuel delivery to numerous Alaska villages, bringing additional economic benefits to the region and Alaska as a whole.

As the Arctic begins to be utilized by countries around the world, it also becomes a venue for both international cooperation and conflict. In a sense, it is a significant new front on which the United States must be prepared to advance our national interests and defend our national security. Development in the Port Clarence area could be critical to this goal. The State stands ready to work with the USCG and the United States Department of Defense to identify and develop ways that the State's work at Port Clarence supports national security objectives.

These two points segue naturally into the third area that the Governor has been focused on with regard to Port Clarence: environmental and incident response. With increased activity in the Arctic there is a growing need to proactively develop infrastructure that can facilitate response to incidents that may occur. Arctic conditions can present challenges to transiting vessels and offshore developments, no matter where they occur. Since these issues do not always follow lines on maps, activity in the Arctic by Russia, China, Northern Europeans, and even our neighbor Canada can all affect the United States. Bottom line, the United States needs to be ready to meet any incident, whether it involves environmental risk, search and rescue to save human life, or other geopolitical concerns. Infrastructure developments, like the potential developments at Port Clarence, are needed to support this response capability, and the State stands ready to do its part.

### **III. Opportunities for Alignment Between all of the Stakeholders**

In addition to the three interests identified above, the State has a significant interest in recognizing and building on the alignment between all of the stakeholders in the Port Clarence area. First and foremost, the State acknowledges that development and protection of the Arctic are a shared State and Federal responsibility, as sovereign governments. This responsibility will require significant State and Federal resources, so now is the time for the State and Federal governments to cooperate on efficient infrastructure planning. As noted above, this cooperation is already occurring on some levels, and the State appreciates the Subcommittee taking these issues up and emphasizing this cooperation.

While BSNC is most qualified to discuss their opportunities and challenges regarding Port Clarence, the State believes that this is another area of significant alignment with a critical stakeholder. BSNC has numerous interests in the Port Clarence site – many of their shareholders live and work in the region, they own many of the surrounding lands, and they are actively engaged in supporting economic development within the region to benefit their shareholders. In short, when BSNC advances these interests, Alaskans are reaping the economic and social benefits. The State supports the success of BSNC, and recognizes the important role BSNC must play in such a significant project within its region. Going forward, the State stands ready to cooperate on aligning the objectives and, importantly, the details of any legislative proposals with BSNC.

### **IV. The State's Work to Advance Development and Perform Due Diligence**

As noted above, the State is urging a deliberative approach to developments at Port Clarence because land ownership issues, remoteness, and Arctic conditions present challenges that are not fully understood. There are few ports in Alaska that are economically self-sustaining, and it is critical that steps taken now lay a foundation that allow Port Clarence, if it is to be developed, to be one of them in the future. The State has not simply been talking about this work, but has already taken concrete steps and committed state resources to get this process underway.

There are a number of recent State expenditures that have promoted a better understanding of the issues related to deep-draft port development at Port Clarence. First and foremost, as noted above, AKDOT has partnered with USACE to prepare the "Alaska Deep-Draft Arctic Port System Study." This multi-million dollar effort, of which the State has contributed more than \$1 million, identifies potential

port locations along the Northwestern coast of Alaska. While this study and the ensuing USACE Civil Works reports are still being completed and prepared, Port Clarence has been one of the primary areas of focus due to a number of its favorable characteristics. Ultimately this cooperative review may place deep-draft port development at Port Clarence in a priority position for Congressional water resources development funding. The State has also put money forward to conduct modern mapping of the Port Clarence area. Thanks to a \$200,000 grant of State funds, digital elevation maps are in the process of being developed for the area to inform future planning efforts. In addition to mapping of the topography, Governor Parnell also secured \$500,000 in state funds to conduct detailed assessments of the environmental status of the site, including review of potential contamination left behind by the USCG and other previous federal users. This work is currently underway and should produce conclusive reports about these issues in the near future. In addition to these information gathering projects, the State has retained an expert port consultant to advise on issues related to the area. This expert, Mr. Ted Falgout, was formerly the Director at Port Fourchon in Louisiana. Over his 31 years as Director, Mr. Falgout oversaw the growth of Port Fourchon from a small regional harbor to one of the premier energy service ports in the world, providing support for developments throughout the Gulf of Mexico, including ultra-deep-water projects. The primary purpose of retaining such a port consultant was to identify steps that could be taken at the earliest planning stages to facilitate the growth of a public facility in the public interest. The State is in the process of developing a white paper based on our expert's recommendations, and some of the preliminary issues that have been identified are detailed below.

#### **V. The Legislation Being Considered is Premature – Unresolved and Unaddressed Issues**

The State envisions a public port potentially being developed at Port Clarence for a variety of reasons. First and foremost, public ports can provide for extensive commercial developments while still allowing for public and local utilization in ways that private enterprises may not always promote. For an area such as Port Clarence, where a deep-draft port might represent one of the primary hubs for an entire region of the State, public access needs may be significant in the future. Furthermore, public port infrastructure projects can also benefit from eligibility for a variety of federal programs that include grants and matching grants, environmental research support, and aid for ancillary required infrastructure – such as roads or airstrips. Major public infrastructure projects in Alaska have a long history of federal support for initial construction, but also, critically, for ongoing operations. Another issue supporting the development of a public port at Port Clarence is “investment smoothing” where the public entity overseeing the port ensures that capital investments are made consistently – both over the entire area of the port and through time. This preserves the port as a long-term public asset, rather than a facility that may be prioritized or neglected at different times due to the business priorities of a private operator.

The State is still working to understand the best way to form and manage such a public entity, and feels that this issue should be reviewed and, if possible, agreed to by all stakeholders before federal legislation advances. Our port consultant has identified that a critical element of forming any public port authority is having a cohesive governing structure for the entity that can transparently manage investments. This structure is, in turn, is best supported by a unified land interest rather than “balkanized” private parcels which may be developed out of sync. Currently, the bill creates a

patchwork of land ownership in the core of the potential development area that the State believes needs to be reconsidered.

Tidelands and submerged lands at Port Clarence are already owned by the State – and thus any port development, public or private, will require utilization of State lands and compliance with the State’s attendant statutory and constitutional responsibilities. The interplay between Federal, State, and private interests in this context should be better understood before land transfers move forward. Creating a unified land interest between these State tide and submerged lands and the uplands of Port Clarence may be a critical step forward for any development, but a process for accomplishing this has yet to be defined.

Turning to specific provisions of the bill, the State believes there may be areas where its technical provisions could be refined. As mentioned above, the State is conducting reviews of environmental contamination to determine what cleanup responsibilities associated with the land should be resolved prior to the federal transfer of the land – but at this stage the extent of this contamination is not definitively known. While the legislation being reviewed today acknowledges the need for federal clean-up of contaminants, it does not provide any timeline, funding, or procedural process for this clean-up to occur. This is an area where all of the affected stakeholders need to cooperatively and deliberately develop a detailed plan to support long-term success for any potential project – because remediation alone may be an expensive, multi-year process. Additionally, unresolved contamination issues may complicate or even prevent the use of federal funds through various federal Water Resources Development Act, Moving Ahead for Progress in the 21<sup>st</sup> Century Act and Airport and Airway Improvement Act programs.

As an example of an even more technical issue that the State has identified as not being addressed in the current legislation – most civilian, non-military airports are subject to numerous design and engineering specifications under existing federal law and regulation. Preliminary application of these standards to the Point Spencer landmass within the Port Clarence area by AKDOT indicates that the existing military runway would need a dramatic increase in footprint to satisfy Federal Aviation Administration (FAA) grant requirements. This draft layout plan, in fact, leaves very little of the Port Clarence land mass for the development of actual port facilities. There may be many more issues of this sort that the State feels should be identified before a bill moves forward – so that federal legislation can take detailed steps to modify these existing legal constraints and advance development at Port Clarence.

## **VI. The State’s Proposed Path Forward**

The State believes there are several steps that Congress, in its oversight capacity, could take today to advance the further delineation of potential Port Clarence developments. For example, the National Oceanic and Atmospheric Administration (NOAA) should focus its seafloor mapping expertise on the Port Clarence area. Detailed, up to date bathymetric data will be critical as any project moves forward, and NOAA has the mandate to collect it. There has been robust cooperation between federal agencies and the State on a number of fronts related to mapping, and this would be a good area for this progress to continue.

Additionally, Congress could direct a multi-agency work group to facilitate the complex and likely conflicting regulatory regimes that could slow the development of this port of national significance. While federal agencies and entities have been cooperative to date, currently USCG, USACE, FAA, NOAA, Environmental Protection Agency, and the Bureau of Land Management are all working on an ad hoc basis with private stakeholders and the State. This cooperation could be more clearly directed by Congress, and potentially even formalized as Port Clarence developments progress.

Regarding federal legislation, the State acknowledges that there may be a need for a comprehensive bill like the one being heard today. However, the State believes this action should not be taken until a shared understanding between all stakeholders regarding port development has been reached, and until all of the technical and legislative issues have been more fully identified. The examples provided today indicate that the current legislation is premature and needs to be further developed before it is advanced.

The State stands ready to engage on these issues and work cooperatively on resolution of all of these areas. I wish to thank the Subcommittee again for devoting its attention to these matters and for taking the time to hear the State's concerns.