

A Letter about the Kake Access Project Resolution
Casey Knight
23 February 2020

To Whom It May Concern:

The purpose of this letter is to try to arrive at a more tenable version of the draft Kake Access Project resolution from the 18 February 2020 Assembly meeting. After the conclusion, I attach a version of what I would like to see the Assembly pass at the next meeting.

The focus of discussion about the Kake Access Project, especially in the communications from last Assembly meeting minutes, is something of a moving target. Sometimes, it seems that we are talking about a road from Kake to Twelvemile Creek, which is to be used primarily for recreation and subsistence. Sometimes, we seem to be discussing whether a road to Fivemile Creek should be built, so that the residents of Kake can drive most of the way to Petersburg and visit our grocery stores or the hospital. Sometimes, we seem to be discussing the virtues of connecting the Kake grid to the hydroelectricity provided by SEAPA.

We apparently cannot even agree on what we're talking about. I think that this has resulted in a lot of confusion (in any case, I am confused). Let's step back and ask another question: Is there anything that we all (or, at least, most of us) can agree about? Yes. All relevant parties who have thoroughly considered the project have accepted in one way or another that

1. A road merely from Kake to Twelvemile would be of little value.

Clearly, anyone who accepts the reasoning contained in the draft resolution that was under discussion in the last Assembly meeting is committed to (1). What about those who reject the draft resolution? Senator Stedman asserts (1) in the following quote from his "Project History", which is attached to his letter to the Assembly in "Communications" from the last Assembly meeting:

"[In 2019] DOT arbitrarily and unlawfully [decided] to spend only part of the appropriated funds and build about 1/2 the road from Kake to a point called "12 mile" on Frederick Sound.

Ending the road here has little value." [emphasis my own]

Lloyd Davis, mayor of the City of Kake, accepts (1) when, in his letter to Governor Dunleavy (which in included in "Communications" in the last Assembly meeting), he writes:

"We [the City of Kake] recommend that the road needs to go several miles closer to Petersburg in order to reach waters that are safe to use for traveling the rest of the way. [...] **Once the road is closer to Petersburg and useable, it can serve several purposes...**" [emphasis my own]

I suppose this doesn't cover everyone who has thoroughly considered this project, but if you need any more reason to accept (1), consider this: in your chart plotting software, you can plot a straight, 24 nautical mile route from Grassy Island at the mouth of the Stikine River to the exact point on the beach where the boat launch is supposed to be. The boat launch would be totally exposed to a fetch of 24 miles in one of our most notorious wind directions. In addition, it would be on a steep shoreline that wouldn't make sense to anchor at, and probably cannot be protected by any reliable breakwater (ADOT&PF hasn't included plans for any kind of a breakwater). How would you plan to access the road by boat?

(When I first heard about this incarnation of the Kake Access Project, I thought that the road was supposed to end in the flats just west of Twelvemile Creek. I assumed this because there's an old logging road that gets pretty close to that spot. In addition, a SEAPA alternative for the hydroelectric

inter-tie project takes that route, and I thought it made sense for this project to share a route with a possible inter-tie project. I also thought that this project was supposed to involve a dock to tie your boat up to. I thought to myself, "Sounds like a glorious waste of money, but, hey, I'll go use it on a nice day — maybe take the kids over for a bike ride or something." It wasn't until a couple of days ago, when I downloaded the ADOT&PF draft plans, that I found out the truth of the matter.)

Something else that I think we should all be able to agree about is the following:

2. Even if the Petersburg Borough Assembly did pass the draft resolution from the last Assembly meeting, it is very unlikely that the legislature would re-appropriate the balance of project funds to the Alaska Marine Highway System or to other road projects in Kake or Petersburg.

Clearly, Senator Stedman and Mayor Davis accept (2). And Senator Stedman, in his letter to the Assembly, gives reasons for (2) that I do not have any particular reason to discount (I am notably ignorant about the laws involved in project appropriation.). In any case, even if you would like the legislature to re-appropriate the balance to the AMHS, don't you have a feeling deep down in your gut that, short of a magical miracle, it's probably not going to happen?

Because (1) is true, I would like to see the Assembly pass some variant of the draft resolution. Unfortunately, because I also think (2) is true, there are parts of the draft resolution that are unnecessary for what I see as its primary goal, viz., to express opposition to the current incarnation of the Kake Access Project. In addition, in order to avoid the sort of confusion that I mentioned above, the resolution should state in more exact detail what is now being opposed: a road that begins in Kake and ends at a totally unprotected boat launch roughly one half of a mile southeast of Twelvemile Creek.

Finally, I think that the resolution could contain another point among its premises. It should echo Senator Stedman's contention that using the funds to design and build a road merely to Twelvemile Creek is unlawful. In his "Project History", Stedman states,

"The Legislature did not grant DOT authority to choose to build a road that ends at 12 mile and spend only part of the available funding. By law, all the funds must be spent by DOT **on a Kake-Petersburg road**. See, *State of Alaska v. Fairbanks North Star Borough* 736 P.2d 1140 (Alaska 1987)" [emphasis my own]

This, it seems to me, is a very strong point against the current version of the project. (Again, I am not qualified to argue about whether it is true, but I am willing to accept it if Senator Stedman is.) Indeed, this might be the only thing that ADOT&PF might acknowledge as a legitimate reason to step back and take an objective look at what they have (apparently unlawfully) designed.

With these conclusions in mind, I have attached an example of my preferred resolution. There is the question of to whom to send such a resolution if it were to pass the Assembly. I would suggest some combination of the Legislature, the Governor, and ADOT&PF. (Maybe all three.) I would hope that this resolution would have a good chance of making a positive difference. Thanks for reading to the end.

Sincerely,

Casey Knight
caseyaknight@gmail.com
907-650-7345

Note: underlined text represents changes from or additions to the original draft resolution. Notice that the paragraphs that primarily mention the AMHS have been removed.

A RESOLUTION OPPOSING THE DESIGN AND CONSTRUCTION OF A ROAD FROM KAKE TO AN UNPROTECTED BOAT LAUNCH ON THE KUPREANOF SHORELINE ROUGHLY HALF OF A MILE SOUTHEAST OF TWELVEMILE CREEK IN FREDERICK SOUND

WHEREAS, in 2012, Senator Stedman secured [...this paragraph unchanged from original]

WHEREAS, the 40 million dollar appropriation [...this paragraph unchanged from original]

WHEREAS, in 2015 Governor Walker and the [...this paragraph unchanged from original]

WHEREAS, in 2016, citing the fiscal crisis [...this paragraph unchanged from original]

WHEREAS, the State of Alaska is currently [...this paragraph unchanged from original]

WHEREAS, under Governor Dunleavy's [...this paragraph unchanged from original]

WHEREAS, the proposed unpaved road [...this paragraph unchanged from original]

WHEREAS, the State has already failed [...this paragraph unchanged from original]

WHEREAS, the idea that the road will provide [...this paragraph unchanged from original]

WHEREAS, ADOT&PF's stated purpose of the [...this paragraph unchanged from original]

WHEREAS, Joel Jackson [...this paragraph unchanged from original]

WHEREAS, Robert Mills [...this paragraph unchanged from original]

WHEREAS, it may already have been unlawful for ADOT&PF to design, and it would be unlawful for ADOT&PF to build, a road that begins in Kake and ends at a boat launch half a mile southeast of Twelvemile creek on the Kupreanof shoreline using the appropriated funds, due to legal precedent upheld in *State of Alaska v. Fairbanks North Star Borough*, 736 P.2d 1140 (Alaska 1987).

THEREFORE BE IT RESOLVED, the Petersburg Borough Assembly opposes the expenditure of millions of state dollars to design and construct a road from Kake to a new unprotected boat launch on the Kupreanof shoreline roughly half of a mile southeast of Twelvemile creek in Frederick Sound.

BE IT FURTHER RESOLVED, the Petersburg Borough assembly urges ADOT&PF to cancel any intent to move past a design phase of the Kake Access Project, if not until the State has passed through its current fiscal crisis, at least until ADOT&PF has designed a project that satisfies the conditions of the funds appropriated by the Legislature for this project.