



KENAI PENINSULA BOROUGH

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**MIKE NAVARRE
BOROUGH MAYOR**

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Mike Navarre, Kenai Peninsula Borough Mayor

DATE: Feb. 13, 2017

RE: Proposed change in state statute for highway corridor emergency services area

I offer the following information to supplement the material before the Assembly in its consideration of Ordinance 2017-01 (Amending Chapter 16.04 to set forth the procedures for establishing a service area where the power is authorized pursuant to AS 29.35.490).

While in Juneau next week for Alaska Conference of Mayors and Alaska Municipal League meetings, I plan to offer and discuss with Kenai Peninsula legislators a proposed change in state statute (AS 29.35.40) that would expand the local-option authority for second-class boroughs to create a non-taxable service area for emergency response along state highway corridors not covered by existing emergency services areas. In particular, this legislation would enable the Kenai Peninsula Borough to establish a service area for coordinated, cost-efficient coverage along the heavily traveled Seward and Sterling highways not fully covered by established emergency services areas.

A short informational hand-out, a map of the proposed highway corridor service area, and a copy of the draft legislation are attached to this memo.

The need for a more coordinated focus on emergency services in remote areas of our roadways — covering the gap in our EMS services — arose out of community-feedback sessions held by members of the Health Care Task Force during 2015 and 2016. The resulting highway corridor services area concept is supported by borough emergency services personnel, who endorse finding a better way of providing coordinated response services along the Seward and Sterling highways.

This state legislation would allow — not require — boroughs to establish such a highway service area, and would not obligate the Kenai Peninsula Borough to proceed with creation of such a service area along highway rights-of-way. But if the Assembly wanted to consider a service area, this change in state statute and the change to Borough Code in Ordinance 2017-01 would enable such action.

Highway corridor emergency services legislation

Overview

This legislation would expand the authority for second-class boroughs to exercise the local option of creating a non-taxable service area to provide emergency response along state highway corridors not covered by existing emergency services areas. In particular, this legislation would enable the Kenai Peninsula Borough to establish a service area for coordinated coverage for the almost 90 miles of the heavily traveled Seward and Sterling highways that are not within the boundaries of any established emergency services area.

Alaska Department of Transportation statistics for 2015 show the average traffic count on those unprotected stretches of the Seward and Sterling highways at between 3,000 and 4,000 vehicles a day — with summer peaks at three times that level. In addition, several miles of the Hope Highway would be included in the proposed corridor service area. There were 126 traffic accidents (injuring almost 180 people) on those sections of the highways in 2015-2016. This legislation would allow for consistent and coordinated response to roadway accidents, rather than the current practice of “borrowing” emergency services personnel from neighboring areas to fill the gap. The legislation’s intent is improved year-round public safety, covering the heavy traffic of summer recreational and fishing travelers to the dark and icy roadways of winter.

The bill proposes additional language in AS 29.35.490(a) Establishment of a Service Area, allowing second-class boroughs to create service areas along state highway corridors by ordinance, provided that no voters reside within the service area boundaries and no new taxes are levied for the service area. Under the current statute, approval by a majority of voters is required to create a new service area with residents — this legislation would not change that provision. The intent is to deal only with unpopulated highway right-of-way corridors.

In the case of the Kenai Peninsula, subject to borough assembly approval, the municipal government could use a portion of its federal payment-in-lieu-of-taxes (PILT) allocation to cover the costs of providing highway corridor travelers with life-and-safety response services.

Background

Over the past year, the Kenai Peninsula Borough has been working to identify ways to address inconsistent emergency services coverage along the highway corridor that serves as the sole road connection between the peninsula and the rest of the state. Like many other highway corridors in Alaska, this route is bordered predominately by non-taxable federal property and passes through miles of terrain far from established emergency response services. Due to the length of the highway segments, and the lack of taxable property in the area, it is not feasible to create a traditional service area to provide emergency personnel response along the corridor. The minimal tax base is just not sufficient to provide services for the large volume of traffic — much of which is visitor travel — that relies on the highway to and from the Kenai Peninsula. As such, a borough working group explored alternative structures to address this coverage gap.

Pursuant to AS 29.35.490(a)(2), a second-class borough can form a service area by municipal ordinance — without a vote of the public — if the service area has no resident voters and if all of the owners of real property in the service area give their consent. The Kenai’s proposed highway service area is unpopulated, but obtaining that required consent for the highway corridor emergency services area would confront the legal complexity and uncertainty of determining the correct parties to provide the consent for rights-of-way held by the state for a highway across federal land. The ensuing bureaucratic untangling would complicate the process, perhaps blocking it entirely if a single federal agency was unable or unwilling to consent to creation of the service area. In this way, it seems consent based on “ownership” may be lacking practicality and relevance when the service area is effectively highway right-of-way.

The Kenai Peninsula Borough does not intend to create a new taxation district for providing highway corridor emergency services. In fact, the legislation would prohibit any new taxation specifically for such service areas. However, the borough administration believes that federal payment-in-lieu-of-taxes (PILT) is well suited to address this funding. The federal law establishing such payments recognizes that the inability of local governments to collect property taxes on federally owned land can impose a financial burden on municipalities. The need for emergency response services along the highway corridor through federal lands is an appropriate example for using such funds to meet local needs. The Kenai Borough in Fiscal Year 2017 anticipates receiving \$2.6 million in federal PILT dollars, which will go into the borough’s general fund. This legislation would give the elected borough assembly the option of creating a highway corridor service area, the expenses of which could be covered by appropriating a portion of the federal PILT dollars.

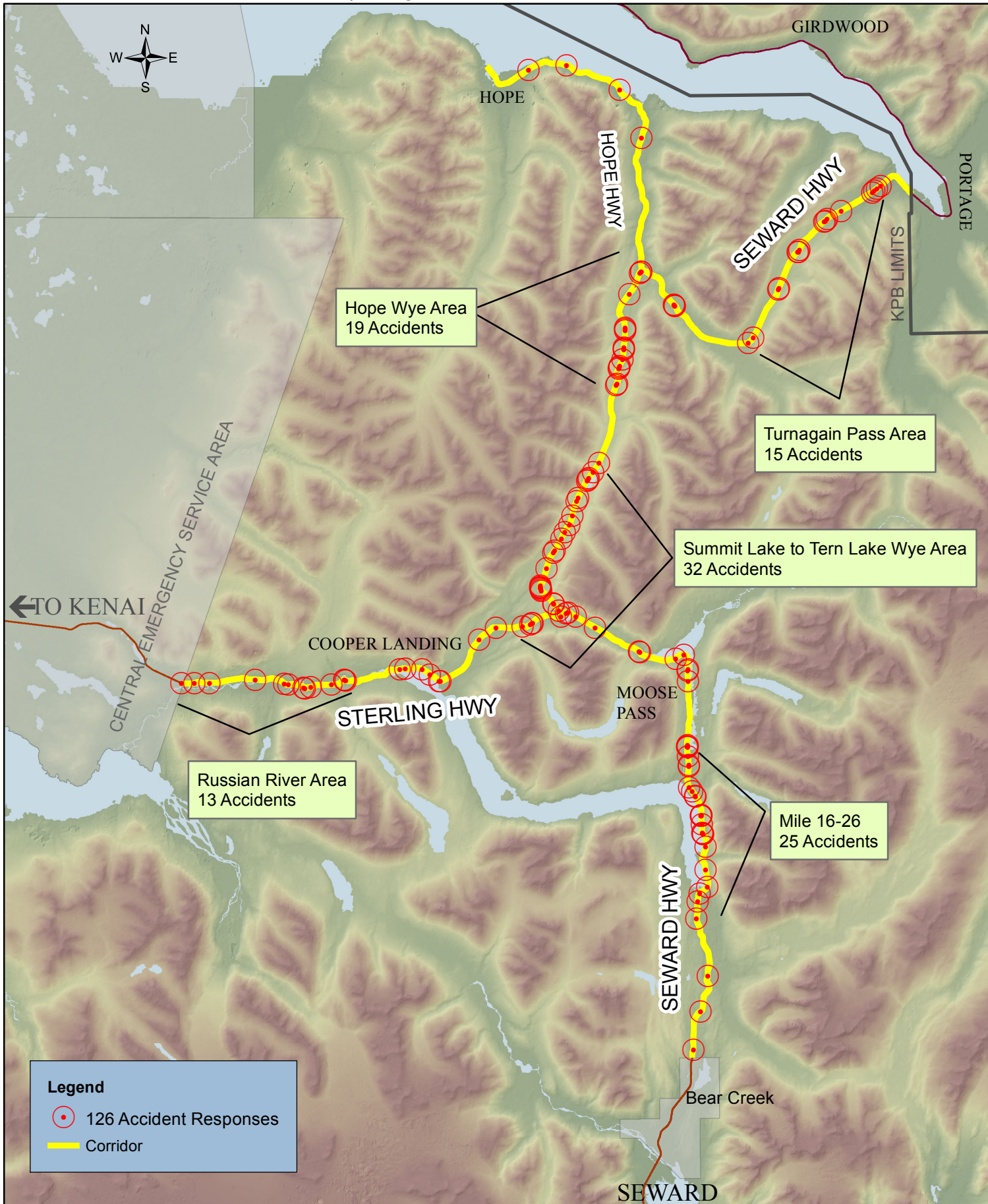
Conclusion

This highway corridor is a crucial connection between the Kenai Peninsula and the rest of the state. Timely emergency response is critical for peninsula residents traveling to and from the rest of the state, and for the tens of thousands of Alaskans (and visitors) who drive the highway each year for work and recreation. This legislation would provide a solution for the Kenai Borough — and other boroughs throughout the state in similar situations — to decide by local option whether to create response corridors along state highways. This statutory change would give municipalities the flexibility to provide needed services to their communities and visitors, without imposing any additional burden on the state.

The proposed legislation is intended to specifically enable creation of a service area where the measures of voters, ownership and property taxation are generally not applicable because the service area is not designed around tax-supported services but rather around serving people on a state highway and funded through federal PILT. We believe this is a practical and fair way to provide for the essential services along the highway corridor, primarily across federal lands.

EMS HIGHWAY RESPONSES

Reporting Period JAN 2015 - DEC 2016



SENATE/HOUSE BILL NO. X

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY _____

Introduced: x/xx/17

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to forming service areas in second class boroughs."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 * Section 1. AS 29.35.490(a) is amended to read:

4 (a) a second class borough may exercise in a service area any power granted a first class
5 city by law or a nonareawide power that may be exercised by a first class borough if

6 (1) the exercise of the power is approved by a majority of the voters residing in
7 the service area; or

8 (2) all owners of real property in the service area consent in writing to the
9 exercise of the power if no voters reside in the service area; or

10 (3) the power granted is for provision of emergency services in a state
11 highway corridor, no voters reside in the service area, and property
12 in the service area is not subject to a borough tax for the service area. The
13 service area boundary may include publicly owned property adjacent to the
14 highway corridor as may be needed to house emergency response vehicles
15 and personnel for the service area.

16 * Section 2. This act takes effect immediately.