

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION STANDING COMMITTEE

March 9, 2004

1:39 p.m.

TAPE(S) 04-10

MEMBERS PRESENT

Senator John Cowdery, Co-Chair
Senator Thomas Wagoner, Co-Chair
Senator Georgianna Lincoln
Senator Donny Olson
Senator Gene Therriault

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 298

"An Act repealing the ban on the use of off-road vehicles within five miles of the right- of-way of the James Dalton Highway."

MOVED CSSB 298(TRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 298

SHORT TITLE: OFF-ROAD VEHICLE USE ON DALTON HIGHWAY

SPONSOR(s): SENATOR(s) SEEKINS

02/06/04	(S)	READ THE FIRST TIME - REFERRALS
02/06/04	(S)	TRA, FIN
02/24/04	(S)	TRA AT 1:30 PM CAPITOL 17
02/24/04	(S)	Heard & Held
02/24/04	(S)	MINUTE(TRA)
03/04/04	(S)	TRA AT 1:30 PM CAPITOL 17
03/04/04	(S)	-- Meeting Canceled --
03/09/04	(S)	TRA AT 1:30 PM BUTROVICH 205
03/09/04	(S)	Moved CSSB 298(TRA) Out of Committee
03/09/04	(S)	MINUTE(TRA)
03/10/04	(S)	TRA RPT CS 2DP 2DNP 1NR NEW TITLE
03/10/04	(S)	DP: COWDERY, THERRIAULT; NR: WAGONER;
03/10/04	(S)	DNP: LINCOLN, OLSON
03/25/04	(S)	FIN AT 9:00 AM SENATE FINANCE 532

03/25/04 (S) Scheduled But Not Heard
03/30/04 (S) FIN AT 9:00 AM SENATE FINANCE 532
03/30/04 (S) Heard & Held
03/30/04 (S) MINUTE(FIN)

WITNESS REGISTER

Ms. Tara Sweeney
Barrow AK

POSITION STATEMENT: Opposes SB 298.

Mr. Ethan Schmitt
Tanana Chiefs Conference (TCC)
Fairbanks AK

POSITION STATEMENT: Opposes SB 298.

Senator Ralph Seekins
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of SB 298.

Captain Starboard
Alaska State Troopers
Department of Public Safety
PO Box 111200
Juneau, AK 99811-1200

POSITION STATEMENT: No position on SB 298.

Mr. Randy Mayo
Stevens Village Tribal Council
Stevens Village AK

POSITION STATEMENT: Opposes SB 298.

Mr. Raymond Paneak
Anaktuvik Pass AK

POSITION STATEMENT: Opposes SB 298.

Mr. Andrew Balsar
Toolik Field Station
University of Alaska Fairbanks North Star Borough
PO Box 71267
Fairbanks, AK 99707

POSITION STATEMENT: Opposes SB 298.

Mr. David Steller
Fairbanks AK

POSITION STATEMENT: Supports SB 298.

ACTION NARRATIVE

TAPE 04-10, SIDE A

^#SB298

SB 298-OFF-ROAD VEHICLE USE ON DALTON HIGHWAY

CO-CHAIR THOMAS WAGONER called the Senate Transportation Standing Committee meeting to order at 1:39 p.m. Present were Senators Lincoln, Olson, Co-Chair Cowdery and Co-Chair Wagoner. The first order of business to come before the committee was SB 298.

MS. TARA SWEENEY, Barrow resident, opposed SB 298 saying it is not her intent to displace Alaskan hunters, but to point out the threat this bill poses to homeland security.

Allowing individuals to use off road vehicles within five miles of the Dalton Highway right-of-way increases the vulnerability of the Trans Alaska Pipeline System (TAPS) to domestic terrorism. SB 298 offers no insurance against those traveling beyond five miles and does not legislate additional funding for enforcement of criminally negligent behavior, nor does it address the need for additional security along TAPS as a result of increased traffic flow.

She reminded the committee that 285,000 gallons of crude oil was sprayed onto the Alaskan wilds by a crazy drunk on a four-wheeler from Livengood on October 4, 2001. However, "SB 298 provides no assurance that even the most minor of threats will prevented...."

MR. ETHAN SCHMITT, Tanana Chiefs Conference (TCC), said he represents the villages along the Dalton Highway and the TAPS corridor that all oppose SB 298.

This bill is in direct conflict with the intent of the Dalton Highway and its construction with regard to impacts on wildlife resources and subsistence users in the affected corridor.

He also echoed concerns about adequate law enforcement throughout the Interior especially if this law were enacted.

SENATOR LINCOLN noted in 1988 the Tanana Chiefs Conference opposed a similar bill for most of the same reasons. She asked what effects opening the corridor would have on law enforcement

in Arctic Village, Saxman, Wiseman and other villages along the way.

MR. SCHMITT said that TCC represents 42 communities throughout the Interior of Alaska, including 37 federally recognized Indian tribes. He thought the wildlife impacts were relatively obvious, but the primary impact would come from a great increase in hunting competition along the corridor. Big game animals are relatively scarce in many areas of the Interior; most of the communities along the corridor are not connected by roads and depend heavily upon subsistence resources to meet their nutritional and economic needs to make it through the winter. "So, increasing hunting competition for those same scarce resources will have a predictable detrimental effect on individuals residing in those communities."

SENATOR OLSON asked if an overwhelming number of people in the TCC communities are in favor of opening the corridor or against it.

MR. SCHMITT replied that the five or six directly affected communities are unanimously opposed to SB 298 and the remaining communities go along with that.

SENATOR THERRIAULT arrived at 1:50. He moved to adopt CSSB 298(TRA), version \D, for discussion purposes.

SENATOR LINCOLN objected for purposes of an explanation.

SENATOR SEEKINS, sponsor of SB 298, said the highway crosses the Yukon River at mile 57 and at mile 235 [Atigan Pass]. He explained that the CS prohibits off road vehicles north of Milepost 235 and that he has agreed to travel that area this summer before deciding whether to extend the effects of SB 298 to the northern part of the highway.

SENATOR LINCOLN said she opposed the bill totally.

SENATOR OLSON asked how anyone could be certain that there would be no infractions north of Mile 235.

SENATOR SEEKINS replied, "The same way we are now from north of the bridge."

SENATOR LINCOLN said there is no trooper currently in Coldfoot and when Senator Seekins says the same way she assumed that means there is no enforcement.

SENATOR SEEKINS said he didn't think it was the intent of the Department of Public Safety to leave that post open forever.

CO-CHAIR WAGONER asked for the roll on adoption of CSSB 298(TRA), version \D. Senators Therriault, Co-Chair Wagoner and Co-Chair Cowdery voted yea; Senators Lincoln and Olson voted nay; and CSSB 298(TRA) was adopted.

CO-CHAIR WAGONER asked Captain Starboard if a new trooper would be posted at Coldfoot.

CAPTAIN STARBOARD, Alaska State Troopers, replied that the post is currently vacant, but it has just been awarded to the same person who had it before who would be back there within 50 days.

SENATOR OLSON asked how long he would be posted there.

CAPTAIN STARBOARD replied that the general requirement is for someone to stay for two years. He anticipates that this particular trooper will stay for a while since he recently took a demotion to go back there.

SENATOR OLSON assumed that he would be on call for twenty-four seven since he was the only trooper stationed there.

CAPTAIN STARBOARD replied that essentially all the one-man posts are on call unless the trooper is sick or out of town.

SENATOR OLSON asked how many weeks per year the trooper would be absent and what were the department's plan for backup while he was gone.

CAPTAIN STARBOARD answered that he didn't anticipate the trooper being gone any length of time other than to take occasional training sessions or vacation. Generally those are restricted to times when he is not critically needed.

SENATOR OLSON reiterated that he is looking for a quantifiable number as to how long he would be anticipated to be gone and how could his position be covered in that time.

CAPTAIN STARBOARD replied that none of the troopers at one-man posts spend 52 weeks, 24-hours a day on the job. People live in the areas and respond to emergencies. He doesn't have a quantitative number. Training and vacation would add up to about one month.

SENATOR LINCOLN asked him to explain the department's neutral position on the bill.

CAPTAIN STARBOARD said, "We're not taking a stand endorsing it or opposing it from an enforcement standpoint for Public Safety."

SENATOR LINCOLN replied, "I understand that. Why are you being neutral?"

CAPTAIN STARBOARD answered, "I don't have a real solid answer for you on that."

SENATOR OLSON asked what his feelings were as a captain on opening a 178-mile corridor that will have one trooper for enforcement.

CAPTAIN STARBOARD replied:

We don't cite people under this bill, under Title 19. If we fine somebody from an enforcement standpoint - hunting within the corridor - we cite them under 5AAC. There is no penalty statute for this particular law.

SENATOR LINCOLN asked him if he didn't find that a little troublesome.

CAPTAIN STARBOARD replied:

Senator, you're putting me in a tough spot. If the law passed that does not have a penalty statute and the public and others expect us to enforce it, it is troublesome, yes - for us not to have a means to enforce it. Quite frankly, at this point, if somebody is found inside the corridor, we are generally only concerned with whether or not they are violating 5AAC and not whether they are violating Title 19.

MR. RANDY MAYO, Chief, Stevens Village Tribal Council, said the tribal chief of police was sitting with him and they both opposed SB 298 for all the reasons already stated. "I don't see how opening the corridor up to unregulated use is going to help the community out here...."

SENATOR LINCOLN said she knows Chief Mayo very well and he doesn't often make presentations on legislation. He is well

respected. She noted in 1980, Stevens Village opposed similar legislation when Chief Mayo and others at that time got this phrase stated in law:

The construction of the highway will not impair the natural wilderness adjacent to the highway and will not interfere with subsistence hunting, fishing, trapping and gathering.

Additionally, in response to the sponsor's statement that there aren't very many people out there, she asked Chief Mayo to explain what would happen to those few people if the animals weren't there to use for a subsistence lifestyle.

CHIEF MAYO replied that with today's technology and motorized transportation a person could get up to the river in a couple of hours. There are very few moose in that end of the Yukon flats. If people didn't have access to these limited resources, it would definitely cause a hardship on them, especially those with very limited incomes. He mentioned that few westerners understand the spiritual aspects of the activity.

SENATOR OLSON asked if he knew of any calving grounds for herd animals within five miles of the road.

CHIEF MAYO replied that his area didn't have many caribou, but moose and other animals frequent the corridor.

CO-CHAIR COWDERY asked if muskoxen were native to Alaska.

SENATOR OLSON replied that the muskoxen population was decimated before the pipeline, but they were native to the area. They were reintroduced later on. Western Canada has a native population of muskoxen that know no boundaries.

2:24 p.m.

MR. RAYMOND PANEAK, Anaktuvik Pass, opposed SB 298 for all the reasons stated.

TAPE 03-11, SIDE B

SENATOR OLSON related that Mr. Paneak is a skilled hunter and asked how many miles it was from Anaktuvik to the Haul Road.

MR. PANEAK replied that it is about 50 miles and it would take him about one long day to make the trip.

MR. ANDREW BALSAR, Toolik Field Station, University of Alaska Fairbanks, said the station is located on the North Slope and he was concerned about the impacts of off road transportation in the Haul Road corridor. He referenced his body of research that contradicts the statement that off road vehicles don't damage the landscape. A lot of this research was conducted on the North Slope. Off road vehicles cause thermal [indisc.], erosion, which tends to change hydrology and drainage patterns and the compaction and breakage of vegetation reduces the insulation and leads to the melting of the permafrost. Often the damage is self-perpetuating in the sense that it changes the thermal regime and increases the melting around the impacted area.

He explained that Toolik Field Station is a multi-million dollar research station on the North Slope. The National Science Foundation has stated that the research emanating from it has contributed more to the understanding of the biological, physical and ecological processes in the Arctic than anywhere else on the planet. It does \$36 million of primarily federally funded research and receives \$1.7 million annually for station funding. Last summer there were 317 researchers representing 76 institutions from all 50 states.

Many of the researchers working there are highly concerned about the damage to their science investment. The fact that this science has been conducted over a 30-year period requires the continued integrity of the landscape as it currently exists.

CO-CHAIR WAGONER asked if Toolik Station was receiving \$36 million per year or altogether.

MR. BALSAR replied that the research grants are spread over a three to five-year period and average \$8.6 million per year.

SENATOR OLSON asked if Mr. Balsar opposed SB 298.

MR. BALSAR replied that is correct.

SENATOR OLSON asked the exact location of his research facility.

MR. BALSAR answered that it is at mile 274 of the Dalton Highway. The access road is just under a mile off the highway. He added that within the five-mile corridor, there are more than 13,000 research plots of varying descriptions.

SENATOR OLSON asked what effect opening the right-of-way would have on the funding for his station and the data that is being gathered there.

MR. BALSAR replied that the researchers feel the integrity of the [indisc.] herd landscape would be compromised. This would influence the grants they write to do their studies in Toolik. It would also affect monies that are allocated to upgrades to the station's facilities.

MR. DAVID STELLER, Fairbanks resident, said he has talked to several hundred snow machiners and ice fishermen about this issue and wanted to underscore Mr. Starboard's testimony regarding hunting.

This bill in itself doesn't change hunting north of the Yukon River at all. Hunting with a firearm in the corridor is still covered under a separate statute. Using off road vehicles to transport hunters or game within the corridor is still prohibited in 5AAC.... None of those laws would change with the passage of this bill....

SENATOR LINCOLN said she appreciated his wanting to have other areas for snow machining. But when he says the hunting regulations wouldn't be changed, she asked him if he didn't think people were more likely to hunt an area if they knew they wouldn't have to carry their game five-miles out.

MR. STELLER replied that he was sure they would, but that would still be prohibited if this bill passes under 5AAC 92.530(7).

SENATOR LINCOLN said she didn't think that was the case. She reminded him that Captain Starboard was neutral on the bill and said enforcement would be troublesome without the means to enforce.

SENATOR OLSON asked the sponsor to comment on the statement that Mr. Steller made that access by off road vehicles would have little or no harmful effect on the right-of-way corridor.

MR. STELLER clarified his statement saying that more people would go up there during the summer. His point was that there wouldn't be more hunters, but rather that the public would have more access to its public lands.

SENATOR SEEKINS agreed and added:

It's not my intent to try to change the present bow hunting restriction within the five-mile corridor or any of the other access provisions. I do believe for recreational reasons you'll see more people use it....

CO-CHAIR COWDERY moved to pass CSSB 298(TRA) from committee with individual recommendations and zero fiscal notes.

SENATOR LINCOLN objected. She said the fiscal notes are zero and she didn't think the Transportation Committee had answered the numerous questions on impacts and enforcement.

We're affecting people's lives. I don't care how many it is; we're affecting people's lives when we really don't thoroughly investigate the total impacts of a bill such as this, especially...going back to when the Dalton Highway was being proposed to be opened.... Representative Don Bennett, a Republican from Fairbanks, talked about the need to keep that corridor.... A commitment was made. The villages were a part of that....

SENATOR OLSON added that homeland security, deficits, and the shortage of troopers throughout the state is another major concern. "Professional and local people have voiced strong opposition in overwhelming numbers from that area...." He wholeheartedly opposed SB 298.

CO-CHAIR WAGONER asked where the person who shot the pipeline live.

SENATOR LINCOLN answered he lived in Livengood.

CO-CHAIR WAGONER pointed out that it's not always someone from outside an area that does malicious damage.

SENATOR OLSON responded that's a valid comment, but it would be much worse if it happened in the area that's suggested to be opened.

CO-CHAIR COWDERY asked for a roll call. Senators Therriault, Co-Chair Wagoner and Co-Chair Cowdery voted yea; Senators Lincoln and Olson voted nay; and CSSB 298(TRA) moved from committee.

SENATOR OLSON introduced some people in the audience who are visiting from his district.

SENATOR LINCOLN reminded the committee that it hadn't heard from Alyeska Pipeline Company and the producers, and urged the Finance Committee to get testimony from them.

SENATOR SEEKINS closed saying that there is risk, but people of the state of Alaska deserve access to their lands and to not be treated as if they are terrorists.

#

There being no further business to come before the committee, Co-Chair Wagoner adjourned the meeting at 2:55 p.m.