

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION STANDING COMMITTEE

February 17, 2005

1:38 p.m.

MEMBERS PRESENT

Senator Charlie Huggins, Chair
Senator John Cowdery, Vice Chair
Senator Gene Therriault
Senator Hollis French

MEMBERS ABSENT

Senator Albert Kookesh

OTHER LEGISLATORS PRESENT

Senator Donny Olson

COMMITTEE CALENDAR

SENATE BILL NO. 85

"An Act repealing the ban on the use of certain off-road vehicles within five miles of the right-of-way of the James Dalton Highway; and providing for an effective date."

MOVED SB 85 OUT OF COMMITTEE

SENATE BILL NO. 40

"An Act relating to the establishment of the Kuskokwim Port Authority; and providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 85

SHORT TITLE: OFF-ROAD VEHICLE USE ON DALTON HIGHWAY

SPONSOR(s): SENATOR(s) SEEKINS

01/31/05	(S)	READ THE FIRST TIME - REFERRALS
01/31/05	(S)	TRA, RES
02/08/05	(H)	TRA AT 1:30 PM CAPITOL 17
02/08/05	(S)	Scheduled But Not Heard
02/15/05	(S)	TRA AT 1:30 PM BUTROVICH 205
02/15/05	(S)	Heard & Held

02/15/05 (S) MINUTE(TRA)

BILL: SB 40

SHORT TITLE: KUSKOKWIM PORT AUTHORITY

SPONSOR(s): SENATOR(s) COWDERY, HOFFMAN

01/11/05 (S) PREFILE RELEASED 1/07/05
01/11/05 (S) READ THE FIRST TIME - REFERRALS
01/11/05 (S) TRA, FIN
02/03/05 (S) TRA AT 1:30 PM BUTROVICH 205
02/03/05 (S) <Bill Hearing Postponed to 02/08/05>
02/08/05 (H) TRA AT 1:30 PM CAPITOL 17
02/08/05 (S) Heard & Held
02/08/05 (S) MINUTE(TRA)
02/15/05 (S) TRA AT 1:30 PM BUTROVICH 205
02/15/05 (S) Scheduled But Not Heard

WITNESS REGISTER

Mr. Jack Reakom
Wiseman Village, AK
POSITION STATEMENT: Testified in opposition to SB 85

Mr. John Stacey
Wiseman Village, AK
POSITION STATEMENT: Testified in opposition to SB 85

Ms. Anna Smith
Wiseman Village, AK
POSITION STATEMENT: Testified in opposition to SB 85

Mr. Larry Burris, Village Liaison
Anaktuvuk, AK
POSITION STATEMENT: Testified in opposition to SB 85

Mr. Raymond
Wiseman Village, AK
POSITION STATEMENT: Testified in opposition to SB 85

Ms. June Raakoff
Wiseman Village, AK
POSITION STATEMENT: Testified in opposition to SB 85

Mr. Bernie Hicker
Wiseman Village, AK
POSITION STATEMENT: Testified in opposition to SB 85

Mr. Gordon Brower
Barrow, AK

POSITION STATEMENT: Testified in opposition to SB 85

Mr. Carl Roland
Fairbanks, AK

POSITION STATEMENT: Testified in opposition to SB 85

Ms. Isla Myers-Smith
Fairbanks, AK

POSITION STATEMENT: Testified in opposition to SB 85

Mr. Fran Mauer
Fairbanks, AK

POSITION STATEMENT: Testified in opposition to SB 85

Mr. Phil Wildfang
Fairbanks, AK

POSITION STATEMENT: Testified in opposition to SB 85

Mr. Jason Tinsley
Fairbanks, AK

POSITION STATEMENT: Testified in opposition to SB 85

Ms. Rosie Ahpauanguak
Wiseman Village, AK

POSITION STATEMENT: Testified in opposition to SB 85

ACTION NARRATIVE

CHAIR CHARLIE HUGGINS called the Senate Transportation Standing Committee meeting to order at [1:38:23 PM](#). Present were Senators Hollis French, John Cowdery, Donnie Olson, and Chair Charlie Huggins.

SB 85-OFF-ROAD VEHICLE USE ON DALTON HIGHWAY

[1:41:04 PM](#)

CHAIR HUGGINS asked all persons slated to testify to limit their testimony to three minutes.

[1:42:16 PM](#)

MR. JACK REAKOM testified he has lived in the territory his entire life. They see thousands of tourists and hunters annually. He makes his living by air and guide hunting. He has extensive knowledge of the region. The access efforts in the area already provide utilization of the resources.

There is currently a low-density moose population, which is not enough to sustain general hunting. They have seen dramatic declines of Dahl sheep populations as well. SB 85 would alter traditional access. ATVs would wander aimlessly looking for game and the impact would egregiously affect current users. He cited additional enforcement and maintenance costs.

[1:46:07 PM](#)

CHAIR HUGGINS asked Mr. Reakom whether management of game in the corridor by the Alaska Department of Fish and Game (ADF&G) would make him feel better.

MR. REAKOM stated his belief that the resources are utilized to a maximum. Unit 24 is harvesting at 4.5 percent, which is right at sustainability. He maintained there are no additional resources for use.

[1:49:09 PM](#)

MR. JOHN STACEY testified the issue is of vital importance to his livelihood. He is a lifelong Alaskan resident supported by resources in the James Dalton Highway corridor. He holds a registered guide license, which is his main income.

Passage of SB 85 would incur three main affects

1. Decrease in game
2. Severe surface disturbance
3. Security of public and private property

Alyeska Pipeline Service Company would also be burdened by increased vandalism and public safety issues. There is currently only one Alaska State Trooper with a vast area of responsibility. The bill would cost the state much money.

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MR. STACEY summarized his opposition to SB 85.

[1:52:45 PM](#)

SENATOR COWDERY asked Mr. Stacey how the area has changed since 1978.

MR. STACEY said once the road was opened there was an increase in hunters and visitors. Issues of traffic popped up along with a need to manage parameters of resources.

[1:55:21 PM](#)

MS. ANNA SMITH testified she is a third generation Alaskan from the Kenai Peninsula. He has seen damage to the lands from ATV trails. ATV usage would damage the ecosystem.

[1:57:19 PM](#)

MR. LARRY BURRIS, village liaison facilitator, Anaktuvuk introduced the next witness.

MR. RAYMOND (indisc) testified he is a lifelong resident of Anaktuvuk and a subsistent hunter. He expressed concern passage of SB 85 would negatively impact the area. He addressed the need to protect the wildlife. He expressed concern regarding lack of law enforcement. He urged the committee to protect the Arctic National Park and the University of Alaska Fairbanks research station.

[2:02:05 PM](#)

CHAIR HUGGINS asked Mr. Raymond to expound on his concern about wildlife and congestion.

MR. RAYMOND informed he had wildlife migration concerns, which were already affected due to the pipeline.

CHAIR HUGGINS asked whether he would support banning snow machines and ATVs north of the Yukon River.

MR. RAYMOND felt there was not enough law enforcement to do that.

MR. BURRIS advised another concern is the level of search and rescue services. Emergency search and rescue operations ignore the environment and cause great damage.

CHAIR HUGGINS asked whether he had a problem with search and rescue by helicopter.

[2:06:01 PM](#)

MR. BURRIS admitted it was the best and fastest way, however dire situations create havoc for the environment.

MS. JUNE RAAKOFF, pastor, Wiseman Village, testified her opposition to the bill. Over the years professionals and scientists have performed intense studies to determine the best use of the land while considering the land and the wildlife. She views SB 85 with grave concern and sees it as an invasion of high-powered machinery.

[2:13:31 PM](#)

MR. BERNIE HICKER testified in opposition to SB 85. He is a twenty plus year resident from Germany. He stated his belief the area is one of the last great places on earth. All the visitors come to experience the wilderness and fragile country yet leave the wildlife impacted and garbage on the highway.

[2:16:17 PM](#)

MR. GORDON BROWER testified he worked for the North Slope Borough land-planning department and is a long-term member of the North Slope Federal Subsistence Advisory Council. The North Slope Borough has seen tundra damage issues occurring on lands and know that permafrost damage is hard to recover from. Terrorists would have more accessibility to the pipeline because of SB 85. The impacts would prove negative for subsistence, wildlife migration, and wildlife numbers. The high-powered rifle incident at Livengood caused over 390,000 gallons of oil to be spilled onto the tundra.

[2:21:05 PM](#)

MR. BROWER summarized with law enforcement concerns and asserted the corridor should be highly protected.

[2:22:14 PM](#)

MR. CARL ROLAND testified in strong disagreement with SB 85. He predicted widespread degradation of wildlife and ecosystem and increased need for maintenance and services on the James Dalton Highway as well as an increased need for security of the pipeline.

[2:24:04 PM](#)

MS. ISLA MYERS-SMITH testified in opposition. Her personal experience with area law enforcement is there is limited jurisdiction, which basically gives people no access to law enforcement. She is a scientist who has studied disturbance impacts in the Arctic and suggested damage from increase usage would be long lasting. She stated there would also be an increase of incidences of humans starting wildfires.

[2:26:40 PM](#)

MR. FRAN MAUER, retired wildlife biologist, expressed concern with SB 85 including sensitivity of the tundra and permafrost. There are currently little funds to enforce fish and game regulations. SB 85 would add to the competition for existing game and impact local subsistence users. The productivity of the wildlife is already low. The moose hunt was closed in the mid 1990s due to low populations. This illustrates the vulnerability

of wildlife. He said the decline of wildlife coincides with an increase of traffic and aircraft.

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MR. PHIL WILDFANG agreed with all the previous testimony in opposition to the bill. SB 85 does not deserve to go beyond the Senate Transportation Standing Committee. During the past 12 years he has had an opportunity to work with the military people who utilize the James Dalton Highway for hunting and fishing. They enjoy the current regulations. The population of the area prefers the stringent regulations that keep out the crowds. If the area is opened up hundreds of motorized vehicles will descend upon the lands. He urged the committee to defeat the bill.

[2:33:30 PM](#)

MR. JASON TINSLEY testified he has lived and hunted in the area for 28 years. He asserted passage of SB 85 would ensure that people would ravage the lands while hunting illegally. He strongly opposes SB 85.

[2:35:40 PM](#)

MS. ROSEMARY AHPAUNGANGUAK testified opening the James Dalton Highway to ATVs and snow machines would negatively alter the subsistence lifestyle. The cost of living is already high and people depend on the local resources to live. The area would suffer a loss of sustainability if SB 85 passes.

[2:38:14 PM](#)

CHAIR HUGGINS held SB 85 in committee.

SB 40-KUSKOKWIM PORT AUTHORITY

[2:39:08 PM](#)

CHAIR HUGGINS called Mr. Michael Black to testify in regards to SB 40.

[2:39:48 PM](#)

MR. MICHAEL BLACK, director of the division of community advocacy, Department of Community and Economic Development (DCED), began testimony.

Senator Therriault rejoined the committee.

MR BLACK said the CDEC has studied SB 40 and finds it to be a complicated piece of legislation. On behalf of the DCED he offered the following comment:

Article 10 of the Alaska constitution encourages as a matter of fundamental public policy the formation of boroughs. We believe that SB 40 may discourage formation of governments in the region proposed by the Port Authority. As a matter of constitutional policy we would prefer to see the residents of the area exercise the opportunity to form a borough, which is the general form of government that can serve a broad range of needs. A borough can provide for development and services defined by all members of the area through a duly elected representative government.

Alaska Industrial Development and Export Authority (AIDEA) supports infrastructure. Creation of a port authority is a policy call for the committee but CDEC prefers borough formation.

[2:42:40 PM](#)

SENATOR COWDERY asked Mr. Black his position on the concept of a port authority.

MR BLACK voiced no objection to development under a regional government.

SENATOR COWDERY asked whether the DCED was suggesting all the communities should form a borough.

MR BLACK replied that would be one option or they could form more than one.

[2:45:33 PM](#)

MR BLACK continued if a borough formed that relied upon a tax base, revenue would be available for economic development. The port authority would operate through revenue bonds.

SENATOR COWDERY asked whether he was in support of the Donlin Creek mine.

MR BLACK said yes.

SENATOR GENE THERRIAULT said he is not aware of any steps to form a borough.

MR BLACK advised there are discussions to that affect in the area.

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SENATOR THERRIAULT stated the Legislature has a duty to sensibly utilize states resources to the benefit of the people.

MR BLACK said it was the policy of DCED to encourage borough formation.

SENATOR THERRIAULT asked Mr. Black whether the DCED was concerned that taxes would be diverted to the port authority and no longer available for a borough government.

MR BLACK said yes. They are also concerned with competing organizations if no direct relationship is established.

[2:50:34 PM](#)

CHAIR HUGGINS noted formation of a borough is a long process. Most Alaskans support resource development and the committee is urged to go forward on the bill.

SENATOR COWDERY asked Mr. Black whether the DCED considers the mine a major resource.

MR BLACK indicated it would be a significant economic development opportunity.

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SENATOR COWDERY asked how this legislation differed from the Red Dog Mine.

MR BLACK said the Red Dog owners sought creation of a borough. The mining operation has been very supportive of a borough government through tax payments. The difference is there was no port authority established initially before the borough.

SENATOR COWDERY asked his view on the appointment process of the port authority.

MR BLACK said that was up to the governor. There is concern that some communities would have less ability to impact board appointments.

SENATOR COWDERY said some of the local residents don't speak English and live in their own world.

[2:55:31 PM](#)

CHAIR HUGGINS advised Mr. Black to stay on the line.

SENATOR THERRIAULT noted the governor's administration would have an opportunity to look over SB 40 and offer advice.

[2:57:33 PM](#)

MR. PETER PUTZIER, senior assistant attorney general, Department of Law (DOL), identified himself and offered to answer questions.

SENATOR THERRIAULT asked Mr. Putzier whether he had a chance to look through SB 40.

MR. PUTZIER said he has identified a few issues. There is a potential violation of Article 2 Section 19. Some of the communities may feel they are not adequately represented. Mr. Black has already covered Article 10 in regards to formation of a local government and the question of the role of the port authority to that government. The powers of the port authority are unclear in the bill. Finally, if the board members had any financial holdings in the area it would raise a conflict of interest issue. Ethics attorneys have verified that as a legitimate concern.

[3:00:21 PM](#)

SENATOR THERRIAULT asked Mr. Putzier whether the issue of the local or special act could be dealt with by the Legislature playing the role of an unorganized assembly.

MR. PUTZIER did not know.

SENATOR COWDERY said the governor had the right to appoint board members from any place in Alaska.

MR. PUTZIER noted AS 30.21.020(b) says the governor shall appoint seven persons and shall solicit nominations from a specific list of entities. On first read that interprets as being a commandment to the governor to select individuals nominated from specific entities. A simple language change could clarify the intent.

[3:02:56 PM](#)

SENATOR THERRIAULT asked Senator Cowdery to get the legislative drafters together with the DOL.

CHAIR HUGGINS stated importance to the state and the region to continue to work with the administration on the bill.

CHAIR HUGGINS held SB 40 in committee.

SB 85-OFF-ROAD VEHICLE USE ON DALTON HIGHWAY

[3:05:39 PM](#)

CHAIR HUGGINS brought SB 85 back to the committee. He spoke to the people who were in opposition to the bill and asserted there were a large number of ATVs already in use throughout the area.

SENATOR OLSON noted overwhelming opposition to SB 85. He said SB 85 is against the wishes of the local residents.

[3:06:55 PM](#)

CHAIR HUGGINS advised listeners that Senator Olson has been present and active during the proceedings even though he is not on the committee.

SENATOR SEEKINS advised he could have provided hundreds of people to testify for SB 85 but elected not to in the interest of time. The bottom line is the people of Alaska are not allowed to use some public lands, as they are intended to. There are millions of acres of lands that people will never be able to enjoy. It is incumbent on the Legislature to provide people access to those lands.

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SENATOR COWDERY moved SB 85 from committee with individual recommendations and attached fiscal note(s).

[3:10:45 PM](#)

SENATOR FRENCH objected. He disagreed with concern expressed over homeland security with regards to the pipeline. He voiced trust in the Board of Game to manage the wildlife and he supports helping disabled people access the woods and the mountains. He said his main concern was that there is no definition of "off road vehicle" in the bill.

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SENATOR FRENCH added issues such as this come up often in Anchorage and they have found amenable solutions by compromise. He suggested the committee continue work on SB 85.

[3:14:13 PM](#)

Roll called proved SB 85 moved out of committee on a 3-1 vote with Senator French dissenting.

There being no further business to come before the committee, Chair Huggins adjourned the meeting at [3:15:14 PM](#).