

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION STANDING COMMITTEE

February 23, 2012

1:07 p.m.

MEMBERS PRESENT

Senator Albert Kookesh, Chair
Senator Joe Thomas, Vice Chair
Senator Linda Menard

MEMBERS ABSENT

Senator Dennis Egan
Senator Charlie Huggins

COMMITTEE CALENDAR

SENATE BILL NO. 180

"An Act directing the Department of Transportation and Public Facilities to develop and implement standards and operating procedures allowing for the use in the construction and maintenance of transportation projects and public facilities and in the construction of projects by public and private entities of gravel or aggregate materials that contain a limited amount of naturally occurring asbestos, and authorizing use on an interim basis of those materials for certain transportation projects and public facilities; relating to certain claims arising out of or in connection with the use of gravel or aggregate materials containing a limited amount of naturally occurring asbestos; and providing for an effective date."

- MOVED CSSB 180(TRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 180

SHORT TITLE: NATURALLY OCCURRING ASBESTOS IN GRAVEL

SPONSOR(s): SENATOR(s) OLSON

01/27/12	(S)	READ THE FIRST TIME - REFERRALS
01/27/12	(S)	TRA, JUD
02/23/12	(S)	TRA AT 1:00 PM BUTROVICH 205

WITNESS REGISTER

DAVID SCOTT, Chief of Staff

Senator Donny Olson
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Introduced SB 180 on behalf of the sponsor.

CHAD NORDLUM, Deputy Director of Planning
Northwest Arctic Borough
Kotzebue, AK

POSITION STATEMENT: Testified in support of SB 180.

SCOTT JONES, Vice Mayor
City of Ambler
Ambler, AK

POSITION STATEMENT: Testified in support of SB 180.

ELIZABETH HENSLEY, Public Policy Liaison
NANA Regional Corporation
Kotzebue, AK

POSITION STATEMENT: Testified in support of SB 180.

LANCE MILLER, PhD., Vice President of Resources
NANA Regional Corporation
Kotzebue, AK

POSITION STATEMENT: Testified in support of SB 180.

ACTION NARRATIVE

[1:07:08 PM](#)

CHAIR ALBERT KOOKESH called the Senate Transportation Standing Committee meeting to order at 1:07 p.m. Present at the call to order were Senators Thomas, Menard and Chair Kookesh.

SB 180-NATURALLY OCCURRING ASBESTOS IN GRAVEL

[1:07:30 PM](#)

CHAIR KOOKESH announced the consideration of SB 180 and noted there was a proposed committee substitute (CS).

[1:07:34 PM](#)

DAVID SCOTT, Chief of Staff for Senator Donny Olson, sponsor of SB 180, stated that the sponsor would like the committee to adopt version M committee substitute. He introduced SB 180 speaking to the following sponsor statement: [Original punctuation provided.]

[SB 180] authorizes and regulates the use of gravel or aggregate material that contains naturally occurring

asbestos (NOA). There are documented cases of NOA being found in several areas of the state, including Juneau, along the Dalton Highway and Ambler. Discovery of NOA in local gravel pits has delayed, and in Ambler's case, halted construction projects. The use of NOA in construction projects may be regulated by states. Virginia and California have been regulating NOA for many years. With the passage of SB 180, the discovery of NOA in local gravel sources and the cost of transporting non-NOA gravel and material will not impact the success and completion of construction projects and important future state infrastructure in Rural Alaska. Several large projects are on the state's horizon that will require the use of large amounts of gravel. These large projects are in mineral rich areas of the state critical to the future development of Alaska. Most notably, it is estimated that the gas pipeline alone may use 50 to 60 million cubic yards of new gravel. Many miles of the Dalton Highway will be reconstructed in support of the project, requiring additional gravel. In Rural Alaska, almost all airport construction and upgrades require material from local gravel sources; a new small airport can use up to 25,000 cubic yards of gravel. The use of NOA gravel and materials should be resolved before it becomes an issue during the actual construction process of any of these large future projects.

SB 180 directs the Department of Transportation and Public Facilities to develop and implement statewide regulations and standard operating procedures (SOP) to allow for the use of NOA for both State and private construction projects. SB 180 will balance the needs of moving Alaska forward; building critical infrastructure, completing construction projects while protecting the health of Alaskan workers and communities.

MR. SCOTT noted that a sectional analysis was included in the packets.

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SENATOR THOMAS asked if the sponsor anticipates that DOTPF would stipulate in regulation when and where material containing NOA could be used, based on a percentage of asbestos.

MR. SCOTT said the bill provides civil immunity for the use of gravel or other aggregate material that contains no more than .25 percent naturally occurring asbestos by mass.

SENATOR THOMAS surmised that DOTPF already had some information about NOA content in gravel pits that were previously identified.

[1:13:32 PM](#)

SENATOR MENARD asked if there were studies on the economic impact, over the last decade, of not being able to use gravel or other aggregate material that contains NOA.

MR. SCOTT offered to follow up with that information and pointed out that the packet included information about the projects in Ambler that have been delayed due to NOA in the material source.

SENATOR MENARD asked if the monitoring and testing would be done by a state agency or outsourced to a private company.

MR. SCOTT described the plan process and opined that the state would do the monitoring.

SENATOR THOMAS asked if NOA was prolific in the Ambler area.

MR. SCOTT offered his understanding that naturally occurring asbestos is prevalent wherever jade is found, and Jade Mountain is located on the upper Kobuk River. NOA is also found in other areas of the state.

SENATOR THOMAS commented that perhaps NOA is so prevalent that finding an alternate source of gravel or aggregate material isn't possible.

SENATOR MENARD asked DOT's position on the bill.

MR. SCOTT said he'd describe it as supportive; the lines of communication have been open and the governor's office has worked closely with the sponsor. He noted there is a companion bill in the House.

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CHAIR KOOKESH noted that the Mayor of Ambler recently testified about the need for the state to develop an operating procedure. He asked if the bill was responding to that request.

MR. SCOTT said yes.

CHAIR KOOKESH asked the history of the legislation.

MR. SCOTT explained that there were previous unsuccessful attempts to address the issue, and that the sponsor was pushing hard this year.

CHAIR KOOKESH summarized that the idea is to develop a standard operating procedure for DOTPF to allow people in the state to use material that contains NOA.

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CHAD NORDLUM, Deputy Director of Planning, Northwest Arctic Borough, Anchorage, AK, stated strong support for SB 180. The bill addresses the public safety factors associated with allowing important construction projects to go forward in both Ambler and Kobuk. It will help move much delayed transportation projects forward.

CHAIR KOOKESH asked if more than two communities would benefit from this bill.

MR. NORDLUM replied NOA is a common issue in the entire region.

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SCOTT JONES, Vice Mayor, City of Ambler, stated that the state needs to adopt standard operating procedures for handling materials that contain asbestos. He described an airport project that included air monitoring and that the finding was no significant impact for airborne NOA. He provided background information from 2003 when a geology student took a gravel sample and NOA was found. There's plenty of gravel in the area and it can't be used. NOA is only a problem when it's airborne and that can be mitigated. There are no reports of asbestos poisoning in the region.

He emphasized that the state needs to develop standards for using material that contains NOA so that much-delayed projects can go forward.

CHAIR KOOKESH noted that representatives from the Division of Public Health and the Department of Law (DOL) were online to answer questions.

1:26:45 PM

ELIZABETH HENSLEY, Corporate and Public Policy Liaison, NANA Regional Corporation, stated that NANA wanted to go on record as

supporting SB 180. It's very important in order to move projects forward in both Ambler and Kobuk. The dollar amount of these delayed projects is about \$10 million. She named several, including riverbank support and the school in Kobuk. The bill is has broad support in this tightknit region. She noted that both California and Virginia have well-developed programs for dealing with NOA and those serve as an example.

SENATOR THOMAS asked if NOA is so pervasive that it's not realistic to think that DOT would do some testing identify an alternative source.

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LANCE MILLER, PhD., Vice President of Resources, NANA Regional Corporation, said he's a geologist by training and that this highlights the critical importance of gravel statewide. He explained the general geology of the region. The rocks are dark and iron-rich serpentine and jade that has asbestos mineral content. Chrysotile is the most common of the seven forms of asbestos-type minerals, and is found from Southeast to the Arctic.

He confirmed that DOTPF has actively looked for alternate sources of gravel, but it raises the cost of projects if gravel has to be shipped in. A fair amount of this work has been done in the Ambler area, and there is a significant resource that is less than .25 percent. The real impetus for the bill is the fact that California has extensive experience with using NOA in very populated areas.

With regard to the health issues, he said the real question is what is reasonable. When the NOA issue was first identified, DHSS looked at 128 x-rays and a number of death certificates in the villages of Kobuk, Shungnak, Ambler, and Kiana and found no asbestos-related deaths, no reports of mesothelioma back to 1970, and reported cases of lung cancer only in Kiana. The report said that asbestos had been used by Alaska Natives for hundreds of years, based on archeological reports. Anecdotal evidence confirms this; some of the highest concentrations of asbestos are found in the gravel bar directly in front of Ambler.

MR. MILLER said it's important to highlight that this material is naturally occurring; the well-known issues associated with the use of asbestos issues relates to processed asbestos. He concluded that the use of gravel is crucial; this is a solution

for helping to keep rural villages viable and for moving projects like Roads to Resources forward.

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SENATOR MENARD asked if naturally occurring asbestos gets a bad rap like naturally occurring arsenic. She also asked the current value of jade.

MR. MILLER said the Environmental Protection Agency (EPA) has not addressed NOA so there are no rules at the federal level, but any medical professional is likely to say that any exposure to asbestos could cause mesothelioma. He listed asbestos, arsenic, and zinc and said it's important to recognize that in a lot of places these things are part of the background.

With regard to the price of jade, he said it is a niche market and its value comes from the way it's crafted. He said Korea, New Zealand and the Lower 48 have expressed interest in jade supplies, but that transportation is an issue in this largely roadless area.

CHAIR KOOKESH commented that he wasn't worried about asbestos when he saw the jade staircase in the Anchorage Sheraton Hotel recently. He also commented on the scare several years ago about mercury levels in halibut.

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SENATOR THOMAS said asbestos was widely used in building materials until the 1970s when the industry had to own up to the dangers. Early on they said it was so safe it could be eaten, when in fact the real danger comes when it's airborne.

MR. MILLER confirmed that asbestos is safe when it's wet; the real problem is when it's friable and gets into the air and your lungs.

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CHAIR KOOKESH closed public testimony and noted that he asked the chair of the Senate Judiciary Committee to look closely at Section 2 relating to immunity. It's a question that is more appropriately addressed in that venue.

CHAIR KOOKESH asked for a motion to adopt version M committee substitute (CS).

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SENATOR MENARD moved to adopt the work draft CS for SB 180, labeled 27-LS1219\M, as the working document.

CHAIR KOOKESH announced that version M was before the committee, and asked for a motion to move the bill.

[1:42:20 PM](#)

SENATOR MENARD moved to report CS for SB 180, version M, from committee with individual recommendations and attached fiscal note(s).

CHAIR KOOKESH announced that without objection, CSSB 180(TRA) moved from the Senate Transportation Standing Committee.

[1:42:37 PM](#)

There being no further business to come before the committee, Chair Kookesh adjourned the meeting at 1:42 p.m.