

625 FIVE - NO. 9

STATEMENT FOR SENATE COMMERCE COMMITTEE
ON SUNSET LEGISLATION CONCERNING
THE ALASKA TRANSPORTATION COMMISSION

SEA-LAND FREIGHT SERVICE BELIEVES THE LEGISLATURE SHOULD CAREFULLY WEIGH THE ADVANTAGES OR DISADVANTAGES OF ANY DEREGULATION IN LIGHT OF THE FOLLOWING FACTS:

1. TRANSPORTATION IS A VITAL LIFELINE TO COMMERCE IN ALASKA. MOTOR CARRIERS ARE ADEQUATELY PROVIDING FOR THE NEEDS OF ALASKA CITIZENS. DEREGULATION MAY HAVE AN ADVERSE EFFECT ON SUCH A SYSTEM.
2. MOTOR CARRIERS ARE UNDERGOING SEVERE FINANCIAL DIFFICULTIES AT THE PRESENT TIME. ARCTIC MOTOR FREIGHT, AR-DEES, KAPS TRANSPORT, ETC. IN CHAPTER XI BANKRUPTCY. WEAVER BROS. HAVE SHUT THEIR DOORS. INDUSTRY MUST RECEIVE SOME REGULATORY PROTECTION IN ORDER TO REMAIN VIABLE.
3. LACK OF REGULATION WOULD PROVIDE OPEN ENTRY FOR CARRIERS WHICH WOULD SIPHON OFF PROFITABLE OIL FIELD RELATED FREIGHT FROM EXISTING CARRIERS. RESULTING DRAIN IN REVENUES WOULD HAVE SEVERE IMPACT ON CARRIERS SERVING THE GENERAL PUBLIC AS WELL AS THE OIL INDUSTRY.

SEA-LAND STRONGLY FEELS THAT ATC SHOULD CONTINUE TO EXIST AS REGULATORY AGENCY. WE URGE THE ADMINISTRATION TO SUPPORT SUCH CONTINUANCE BEFORE THE LEGISLATURE. WE FEEL AT THE SAME TIME THAT THE ATC SHOULD BE IMPROVED IN THE FOLLOWING MANNER:

1. THE ENFORCEMENT POWERS OF THE ATC MUST BE STRENGTHENED THROUGH LEGISLATIVE ACTION. ILLEGAL OPERATORS ARE OPERATING WITH IMPUNITY WHILE ATC STANDS BY HELPLESSLY.
2. ATC MUST HAVE ADEQUATE STAFFING OF QUALIFIED KNOWLEDGEABLE PERSONNEL WHO CAN FULFILL THEIR LEGISLATIVE MANDATE.
3. THE ADMINISTRATION AND IN PARTICULAR THE ATTORNEY GENERAL'S OFFICE MUST GIVE GREATER ASSISTANCE TO THE ATC IN HELPING THEM FULFILL THEIR MANDATE. WE BELIEVE THERE IS A DEFINITE LACK OF NECESSARY SUPPORT AT THIS TIME.

SEA-LAND ALSO BELIEVES THAT ANTI-TRUST IMMUNITY MUST BE GUARANTEED FOR ALASKA CARRIERS ASSOCIATION. THIS BELIEF IS BASED UPON FOLLOWING:

1. ACA PROVIDES A VITAL FORUM FOR SHIPPERS AND CARRIERS ALIKE TO DISCUSS RATES AND MUTUAL TRANSPORTATION PROBLEMS.
2. ACA PROVIDES FOR RIGHT OF INDEPENDENT ACTION FOR INDIVIDUAL CARRIERS TO INITIATE THEIR OWN RATE ACTIONS. CONSEQUENTLY THERE IS NO RESTRAINT OF TRADE.
3. LACK OF ANTI-TRUST IMMUNITY COULD HAVE SEVERE IMPACT UPON MOTOR CARRIER INDUSTRY ALREADY HAVING SEVERE ECONOMIC DIFFICULTIES.

IN CLOSING WE WISH TO THANK THE SENATE FOR PROVIDING SEA-LAND WITH THE OPPORTUNITY OF BEING HEARD.

R. P. MOSKAL
SEA-LAND FREIGHT SERVICE, INC.
2600 DENALI STREET
SUITE 602
ANCHORAGE, AK 99503

John S. Lee
P.O. Box 168
Palmer, Alaska 99645

Commerce Committee
Alaska State Senate

In re: Alaska Transportation Commission Hearing

Dear members:

This letter is intended to document my view that the transportation industry in Alaska should be deregulated.

I have been a pilot in Alaska for the past 12 years and am a resident by birth. I have worked for four certificated air taxis and have been involved in regulatory matters of two of them. I am currently a licensed general contractor. I operate a flight school in Palmer. Additionally, I am a civil engineer.

In 1973 I applied for and received certification by the Alaska Transportation Commission for a bus line linking the Matanuska Valley to Anchorage. I am therefore familiar with certification requirements.

I have reviewed the Performance Review of the Alaska Transportation Commission, completed by the Division of Legislative Audit. I have some problems with the findings of that report.

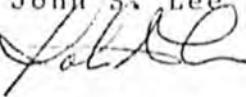
1. The report purports to evaluate the necessity of the ATC. However, in context it seems to accept the current regulatory goals pursuant to further study. I don't believe further study is needed based on the ongoing.
 - a. National studies have concluded that there is no economic justification to consumer or producer for regulating the transportation industry.
 - b. It is intuitive that the presence of regulation increases the costs of operation to both producer and consumer, mainly through the costs of managing required reports etc. Additionally, regulation has attached a monetary value to saleable existing certificates. A new operator must include an amortization of his certificate cost in his rates. Prices of certificates for air carriers vary in the range of \$25,000 to over \$100,000, depending on location, authority and other variables. Additionally, taxes to support the regulatory agency add indirectly to transportation costs.
 - c. The presence of regulation and accompanying lack of sound economic judgements coupled with the absence of free enterprise create prices that can exceed fair market values of the free enterprise system.
 - d. There would be no safety penalty in air commerce due to the effective presence of the Federal Aviation Administration.
2. The report does not contradict economically unsound philosophies of the present commission.
 - a. The report states that the commissioners considered fair rates to be determined by a fair return on investment, although they could

not define what a fair rate was. This is an incorrect incentive for a regulated entity, although it is quite typical. Prices set by investment and cost relationships in an isolated supply-demand environment leads to inefficient rate base padding (unneeded or extravagant expenditures for the purpose of building the base for rate increases). To effectively control this sort of thing requires that regulators staff sufficiently to evaluate and correct the internal efficiencies of each regulated entity.

3. The report fails to identify several major deficiencies that currently exist.

- a. In granting new certificates, the Commission frequently imposes operation radii on air carriers that are absurd and destroy the economic viability of the operators' intent. There are cases of radii of 25 miles on new air taxis. This is ludicrous in Alaska. One operator's airspace includes only about 100 square miles of land and the rest is open water. These area limitations are imposed by the Commission without consulting the operator.

In essence, the basic goals of the existing regulatory body are not economically sound. Additionally, as the report states, the present goals are not pursued with management effectiveness. It would be in the public interest to let the free enterprise system prevail.

John S. Lee


HOGUE, LEKISCH & LAWRENCE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

3201 "C" STREET, SUITE 401 • ANCHORAGE, ALASKA 99503

(907) 276-1726

ANDREW E. HOGUE
PETER A. LEKISCH
BILL LAWRENCE
WARREN G. KELLICUT

January 19, 1979

P. W. Benediktsson
c/o Baranof Hotel
Juneau, AK

Re: AS 44.66.010(a)(2)
Termination of Alaska Transportation Commission

Dear Ben:

I have reviewed the above-referenced statute and the applicable legislative history. As you are aware, AS 44.66 was a new chapter added to the statutes by the Legislature in 1977 as the result of Chapter 149, Session Laws of Alaska. I am enclosing a copy of the chapter as adopted.

You will note that under AS 44.66.010(a)(2), the Alaska Transportation Commission will terminate on June 30, 1979, unless the Commission is continued or reestablished by the Legislature for a period not to exceed four years (AS 44.66.010(c)). Before the termination of the Commission, a committee of reference of each house must hold one or more hearings to receive testimony from the public and must consider the proposed budget of the Commission and the performance audit of the activities of the Commission (AS 44.66.050(a)). During the public hearing, the agency (Commission) has the burden of showing a public need for its continued existence (AS 44.66.050(b)).

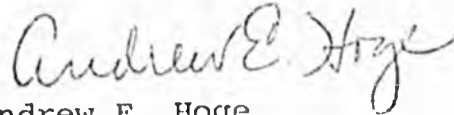
The committee of reference must then, not later than the 60th day of the legislative session, submit a report to the presiding officer of the House (AS 44.66.050(d)), containing a summary of the findings of the committee and the recommendations. The committee may introduce a bill to provide for the reorganization or continuation of the Commission (AS 44.66.050(e)).

The statute is clear as to the legislative method for determining the propriety of the continuation of the Commission, and I have enclosed a draft of a bill apparently for referral

P. W. Benediktsson
January 19, 1979
Page Two (2)

to any committee of reference to perpetuate an agency. You will note each agency must be perpetuated by its own bill. I would suggest you indicate to the presiding officer of the respective body of the Legislature that the committee report must be submitted within 60 days of the beginning of the session, and this is after the requisite public hearing so the process can begin.

Very truly yours,



Andrew E. Hoge

AEH/ms
Enclosures

COMMERCE COMMITTEE

January 30, 1979

Mr. Richard Pegues
Administrative Officer
Department of Law
Pouch K
Juneau, Alaska 99811

Dear Mr. Pegues:

Enclosed are SENATE BILLS 37, 43, 44, and 60.

I would appreciate your comments/position papers on this SENATE BILL to include a fiscal note, if appropriate. If you decide that a fiscal note is not required, please make such a statement in your reply. If your Department recommends specific changes, in addition to general comments, I would prefer that they be keyed to page and line numbers.

If you know of other departments or agencies that have an interest in this legislation, please let me know so that I may get the benefits of comments from all knowledgeable and interested parties.

In consideration of a productive and expeditious session, we request that your comments/position be returned to the Senate Commerce Committee within 10 days.

Sincerely,

Brad Bradley
State Senator
Chairman
Senate Commerce Committee

WEB/jp
Encl



Official Business

Alaska State Legislature

Senate

Committee on Commerce

January 30, 1979

Pouch V
State Capitol
Juneau, Alaska 99811

FILE
COPY

Mr. Dick Holden, Deputy Commissioner
Facility Planning & Research
Department of Transportation
Pouch Z
Juneau, Alaska 99811

Dear Mr. Holden:

Enclosed is SENATE BILL 60 relating to enforcement authority/Alaska Transportation Commission.

I would appreciate your comments/position papers on this SENATE BILL to include a fiscal note, if appropriate. If you decide that a fiscal note is not required, please make such a statement in your reply. If your Department recommends specific changes, in addition to general comments, I would prefer that they be keyed to page and line numbers.

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Brad Bradley
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Chairman
Senate Commerce Committee

WEB/jp
Encl

06011 03011 ANCHORAGE AK 488 01-23 1150A AST
 PMS P W BENEDIKTSSON CARE SHATTUCK AND GRUMMETT TLX45313
 301 SEWARD ST TFS86-2414

JUN

SEALAND REPRESENTATIVES UNABLE TO ATTEND MEETING WITH GOVERNOR HAMMOND TODAY DUE TO UNAVOIDABLE CIRCUMSTANCES. WOULD APPRECIATE YOUR CONVEYING SEA-LAND POSITION ON DEREGULATION TO GOVERNOR AS WELL AS PRESENTING HIM A COPY OF THIS TELEGRAM.

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SEA-LAND BELIEVES THAT SOME MEMBERS OF THE ATTORNEY GENERALS STAFF ARE CAUSING DIFFICULTY IN OBTAINING NEEDED ANTI-TRUST IMMUNITY. WE BELIEVE THAT THOSE MEMBERS OF THE ATTORNEY GENERALS STAFF ARE NOT FULL COGNIZANT OF THE URGENT NEED FOR ANTI-TRUST IMMUNITY AND SUGGEST THAT THEY OPEN LINES OF COMMUNICATION WITH CARRIERS AND ACA TO RESOLVE THE QUESTIONS THEY HAVE.

IN CLOSING WE WISH TO THANK GOVERNOR HAMMOND FOR PROVIDING THE CARRIERS THE OPPORTUNITY OF MEETING WITH HIM. WE ALSO EXPRESS OUR APPRECIATION FOR HIS EFFORTS IN KEEPING THE NORTH SLOPE ROAD OPEN.

WE LOOK FORWARD TO MEETING WITH HIM IN THE NEAR FUTURE EITHER INDIVIDUALLY OR COLLECTIVELY AS A GROUP OF CARRIERS TO FURTHER DISCUSS THE FUTURE OF TRANSPORTATION AND REGULATION IN THE STATE.

R P MOSKAL

SEA-LAND FREIGHT SERVICE INC.
 2600 DENALI STREET SUITE 602
 ANCHORAGE ALASKA 99503. 5303079, 3 277-6413

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A PROFESSIONAL CORPORATION
P. O. BOX 2840
ANCHORAGE, ALASKA 99510

750 W. 2nd Avenue
Anchorage, Alaska 99501

January 9, 1979

Tel. (907) 279-9574
Cable Address—MERANCH

Robert H. Ziegler, Esquire
ZIEGLER & CLOUDY
307 Baldwin Street
Ketchikan, Alaska 99901

Dear Bob:

I have been meaning to write you for some time, because as a longtime friend, lawyer, legislator and one concerned for the well being of the free enterprise system, I know you are interested in anything that will improve governmental administrative agencies operations, particularly those who are performing quasi-judicial functions involving commerce generally.

I am particularly concerned with two agencies, the Alaska Transportation Commission (ATC) and the Alaska Public Utilities Commission (APUC), as to certain activities and functions by which they operate.

My main thesis is Alaska badly needs regulatory reforms. At the outset, let me first establish that I believe both of these administrative agencies should be continued and not disbanded under the so-called "Sunset Law". However, let me be quick to say that a balancing factor is needed, and their regulatory powers should be spelled out with more clarity and definitiveness. As noted hereinafter, within a different framework, both agencies need technical assistance. I am sure you and other legislators must know many in the private sector have serious problems with the present systems.

The two matters that most concern me with respect to the two agencies are as follows:

1. The need to restructure both agencies so that the Commission is properly staffed; but, in addition, there should be an attorney, an economist and other technicians to represent the public interest. Such persons should be allowed to operate independently, and on behalf of the

Write many aviation & trucking businesses for comments

Robert H. Ziegler, Esquire
January 9, 1979
Page Two

public without having to answer to the Governor, the Attorney General's office or to the Commissioners. I find it difficult to understand how a staff, such as operates for the Public Utility Commission, can operate on behalf of the public and at the same time advise the Commission. It is not unlike the District Attorney representing the public, and simultaneously advising the Judge who is hearing the case. I have heard it said from good authority that APUC Commissioners have suggested to the staff what their reports should contain, which recommendations then conveniently correspond with the Commission's ruling. The relationship particularly in the APUC, is badly blurred. I think a total divorcing of a staff, who will represent the public is critical.

It is also my view and opinion that the ATC needs a much stronger technical staff. At this time, the ATC does not employ a single economist or accountant and has the services of only one attorney. An agency with such poor staffing, in my opinion, cannot regulate effectively.

Businesses subject to regulatory agency decisions are severely threatened under the present structure. An overhaul within the agencies or new corrective legislation is mandatory. Either that, or totally deregulate carriers and truckers and follow the practice of the new Airline Deregulation Act of 1978 (49 USCA 1301 et seq.).

The APUC has other problems besides those listed above. Recently, the APUC Commissioners made a determination that was clearly not within the public interest. In fact, it will cost the Fairbanks residents over \$400,000 a year more for cable service because of the Commission's action, or lack of action. Because this matter is in litigation, for the moment I will only make limited comment in regard thereto.

2. A second point of concern is the lack of insulation from political influences the individual commissioners are subject to, direct or otherwise. In other words, administrative agency commissioners have as delicate a job in the decisions they have to make as superior court judges or supreme court judges. Yet the rumble and street talk is that commissioners and hearing officers are frequently

Get copy
(2)

Robert H. Ziegler, Esquire
January 9, 1979
Page Three

contacted ex-parte by persons in government regarding proceedings that are pending before the commissioners or the hearing officers. It should be and must be totally prohibited. I am seriously considering making this an issue in one matter and deposing certain Commissioners and staff.

Both of these regulatory bodies are hearing cases that involve literally millions of dollars and far more than the major portion of cases in the courts. Yet and unless something is done to better assure the independence of these decision makers and their ability to truly resolve causes in accordance with the evidence under clearly established standards set by law, real harm will result. Indeed, it will create hardships on companies who have large investments and interests in businesses being mandatorily regulated by these agencies.

Furthermore, I am absolutely appalled at the lack of legal understanding of their responsibilities by some of the commissioners. In a recent proceeding before the APUC, one of the commissioners was far more of an advocate for a particular applicant (there were six applicants) than most of the attorneys involved in the case. He hardly maintained himself as an unbiased, independent arbitor. As a trial practitioner I am sure you readily appreciate how this thwarts both the fairness of the proceedings and due process of law.

I am not an advocate of government regulation of any industry; but if regulations are to be, they should be consistently and fairly applied. I do not expect business to be unrealistic towards regulatory agencies; but in the same vein, regulatory agencies need to be more realistic towards business.

In simple terms, business needs to make money to provide the jobs, facilities, etc., and to give the stockholders a reasonable return on their investment. At this point in time, a regulatory analysis by an independent body is definitely needed because regulatory reform is critical.

It is my understanding that there will be names coming from Governor Hammond's office nominating persons to serve as Commissioners on these Commissions within the next 20 days. It is also my understanding that the legislative

Robert H. Ziegler, Esquire
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Page Four

performance audit of the ATC will be presented during this
upcoming session. In addition, I am told there may be
legislation involving both these agencies. I expect the
legislature will be much more involved in the appointment
process because of these upcoming events. But for both, I
would appreciate being given a sufficient amount of notice
beforehand so that I may personally appear and testify
before any legislative committee who would be involved in
considering or approving commissioners or legislation
relating to the above.

*Have Don
comment
on audit*

*Notify
Camarot
to commit
& testify*

I am sending Governor Hammond a copy of this letter because I am sure the matters discussed herein will also be of interest to him.

Personal regards,

MERDES, SCHAIBLE, STALEY
& DeLISIO, INC.

By: *Henry J. Camarot*
Henry J. Camarot

HJC:db

cc: Governor Jay Hammond
APUC
ATC
Other Legislators

Linder Quits APUC Post

After only three months on the job, Ronald G. Linder has resigned his \$43,400-a-year position as executive director of the Alaska Public Utilities Commission because he believes the agency's control of utility businesses is excessive.

Linder also says the commission's staff has no independence and that commissioners routinely interfere with the staff's work.

A retired Air Force colonel and five-year Alaska resident, Linder was selected for the position after a two-month search, attracting more than 50 applicants. He took office Oct. 8.

"The commission seems to want to take over management prerogatives of the utilities," he said Monday. "All they're left with is meeting the payroll."

He said when the federal government is moving to less regulation of airlines, the trucking industry and broadcasting, the commission here insists on more.

"More regulation costs more," Linder said.

(See Page 2, Col. 2)

*Call Ron
to testify*

Resignation

Excessive Control Of Utilities Prompts Linder's

(Continued from Page 1)

He said the state's utilities, from the smallest on up, were being suffocated in paperwork and that staff morale was poor because staffers were called on to do too much.

"Many times when they get paperwork in, they've told me they don't know what to do with it so they just throw it in the file," Linder said.

He said the staff has to get commissioners' approval "even on the smallest items." Some other states,

he said, have the utility regulatory agency's staff completely separate from the commissioners.

Marvin Weatherly, engineering member of the commission, said Linder is a "great guy. We were sorry to see him go. We asked him to reconsider."

He said Linder had objected to requiring a small cable television company serving several Aleutian villages to obtain a certificate.

Linder said he did not believe

cable television should be regulated at all, since it is not a necessity. He objected to the state's "moving into regulating pay television and creating monopolies."

In Anchorage, he said several companies should be given the opportunity to compete. If problems arise, he said, they should be solved at the municipal level.

Robert Stoller, assistant attorney general assigned to the commission, said Linder is "an excellent man who

had extraordinary rapport with the staff. He was a humanist. We'll miss him. But no one is indispensable."

The commission has already moved to replace Linder, offering the job over the weekend to Cale Herry, a New Mexico resident who Weatherly said came in second in the search.

Herry is also a retired military man. He came to Anchorage Friday, Linder's last day, was interviewed by the commissioners and accepted the job. He will begin work in February.

Weatherly said Herry's interview contained questions on his philosophy of utility regulation.

Linder, Weatherly said, was driven to resign because of "a philosophical difference as to what regulation is all about."

This came out of the January 9, 1979 "Anchorage Times".
Thought it might be of added interest.

return address } *Shaw Flight Service*
PO Box 6003
Anch. Ak. 99502

Airport and Aircraft Services, Inc.

BOX 6147, ANCHORAGE, ALASKA 99502
(907) 279-0031

P. O. BOX 1
DEADHORSE, ALASKA 99701

P. O. BOX 436
CORDOVA, ALASKA 99574
(907) 424-7429

W.E. BRAD BRADLEY

The Chairman
Senate Committee on Commerce
Legislature of Alaska
Pouch B
Juneau, Alaska 99802

February 21, 1979

Dear Brad.
Gentlemen

I heard that you are considering the continuance of the Alaska Transportation Commission under the Sunset Law. This is one government agency that would never be missed by anyone. I ask that you do not reinstate it. The only results of its demise will be a revitalization of Air Commerce, a great increase in services to the People, and lower fares that result from greater competition.

In many cases there is no question of competition but just an air carrier wanting a chance to serve the Public. This is denied by the ATC because of unwillingness to take action and their adherence to the wishes of big business. My company is a classic example. In 1972 we applied for Air Taxi authority in Cordova and Yakutat. Two and one half years later the ATC granted provisional authority, not to just our company but to about eight. They actually solicited applications in this case. My company had helicopters in 1972 and 1973 but was forced to sell them in early 1974 because of no authority to operate. The belated temporary ATC certificate in late 1974 was too late.

Now in 1979 we see that Yakutat has no air service and Cordova has lost Parkair. The other operator closes down all winter. In general all the communities in the Gulf have lost air services because the ATC granted authority to everyone in locations where the market would not support it. Of course this was done after many expensive hearings and years later. They have no business trying to regulate the economics of air commerce.

In 1970 as President of Gay Airways, Inc. we applied for authority to operate Air Taxi from Deadhorse, Alaska, a service then in critical need. The ATC after three years of expensive hearings finally granted us authority, again along with about seven other companies. Today all are out of business except the monopoly ERA Helicopters, Inc. and SEAIR. That market cried for one or perhaps two operators but could not support seven, five at Deadhorse and two close by. Again the pioneer, Gay Airways, Inc. got shot down for early efforts to serve the Public need.

Airport and Aircraft Services, Inc.

BOX 6147, ANCHORAGE, ALASKA 99502

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DEADHORSE, ALASKA 99701

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Page two

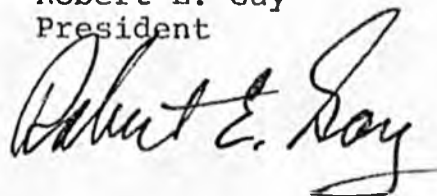
Please consider the precedent of Congress in the Airline Deregulation Act of 1978. What is good for the other 49 States should certainly be good for Alaska, the State most dependent upon Air Transportation. This in spite of Senator Ted Stevens who excepted Alaska at the behest of Reeve Aleutian Airways, Wein Airways, and Alaska Airlines who wish to retain their monopolies. Now the ATC has been delegated all CAB power which creates an even worse situation. Alaskan Air Carriers are limited by the size of aircraft and by the locations they may serve both of which are detrimental to the Public.

Many of our towns can be served only by aircraft under 12,500 pounds. This denies them large cargo by air because the airlines do not serve them and the ATC will not let Alaskan Air Carriers do it. The size of aircraft used by an operator is very effectively regulated by the Federal Aviation Administration. There is no need for arbitrary control by the ATC.

I would like an opportunity to testify in event you or the House Committee hold hearings in Anchorage. Please call if I may provide further information.

Sincerely yours,

Robert E. Gay
President



Shaw Flight Service, Inc.

Box 6003, INTERNATIONAL AIRPORT • ANCHORAGE, ALASKA 99502 • 907-243-1573

CHAIRMAN
Senate Commerce Committee
State of Alaska

February 21, 1979

Gentlemen.

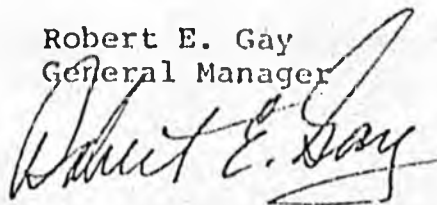
The Alaska Transportation Commission is a totally unnecessary government agency. Your review under the Sunset Law of its value and public need should consider the following:

1. The Federal Aviation Administration provides more than adequate operational controls and Public safety through their certification procedures and their governing regulations and enforcements thereof. Their primary concern is that of Public Safety with particular emphasis upon aircraft, personnel and air carrier operations, and all navigation systems and airports.
2. The ATC functions are contrary to the Free Enterprise system, the foundation of our Nation.
3. The ATC promulgates and fosters monopolies in Aviation and restricts competition. Many of our Alaskan cities and villages are at the mercy of a single large Air Carrier. Small towns are denied the services of large aircraft needed for outsized cargo. Numerous examples can be made available upon request.
4. The United States Congress has recognized the imminent death of the Air Transportation industry like that of the Railroads, under the strangleholds of the Civil Aeronautics Board. They have acted by deregulation and the elimination of the CAB. All greatly to the benefit of the American Public.
5. In the Airline Deregulation Act of 1978, CAB authority, in the case of Alaska has been delegated to the State. This action in effect creates a new all powerful bureaucratic monster. With former CAB authority and present ATC authority this agency will slowly stifle and deteriorate Alaskan Aviation.

In event you hold hearings in Anchorage or desire documentation of the above I will be most happy to supply it. I hope you take the view of the Public Interest, heed small business, avoid large aviation monopolies and Unions, and let the ATC die a natural death. It is an agency no longer needed.

Sincerely,

Robert E. Gay
General Manager





ALASKA AIR CARRIERS ASSOCIATION INC.

BOX 6469
ANCHORAGE, ALASKA 99502

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February 27, 1979

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Honorable W. E. "Brad" Bradley
Chairman,
Senate Commerce Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Bradley:

I would like to apologize for requesting input into the Sunset Legislation as regards the Alaska Transportation Commission at this late date. I was just elected President of the Alaska Air Carriers Association February 24. At that time I was not sure what our prior input was but feel very strongly that the Transportation Commission is needed for the best interest of the traveling public.

As you are aware, much of this state is completely dependent on aircraft support -- much different than states with no Transportation Commission. The Number One Priority of everyone should be safety. There is absolutely no question in my mind that safety is directly related to regulation of the industry. If you open it up there will be numerous little guys with beat-up Cessna 180's wanting to make a fast buck and since they will be operating on shoestrings, they will cut corners on maintenance, training and pushing to complete the trip to make the buck.

We are not concerned about the long run as individual operators. In my own company, which is Peninsula Airways, Inc., at King Salmon, we now operate 18 aircraft with annual revenues exceeding Two Million Dollars. I built my company over the last 25 years in the face of a lot of competition. The unfortunate thing is that the shade tree operators, before they go bankrupt or kill themselves, are liable to take some of the innocent general public with them.

W.E. Bradley

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February 27, 1979

We are not saying the Alaska Transportation Commission is perfect. In fact, there are some serious problems but it seems this should be the ideal opportunity to correct some of these problems. In particular, we would like to see Senate Bill 60 passed, giving the Commission cease and desist powers and giving the Commissioners more control over the hearing examiner. In fact, we think the report by the Legislative Audit Committee contained a lot of good recommendations and could be used as a guide. There was one recommendation that would not be too practical, that being that the Alaska Transportation Commission gather profit and loss figures and regulate those also. We feel that is a very big job, far beyond practical budget considerations at this time.

In summation, we strongly urge the retention of the Alaska Transportation Commission and that it be endowed with the power to provide competition in markets where needed but also able to keep out the "fast buck" operators. Such action can only provide safer, more dependable service to the general public.

Sincerely,

ALASKA AIR CARRIERS ASSOCIATION, INC.


Orin Seybert
President

OS:ur

ATC

HEARINGS

2/15/79

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-Bernie Bylsma (Turnigan Chevron, Wrecker)
also. . . Alaska State Auto Club and some other
service station dealers and operators.

. . . I am here to ask for the deregulation of tow trucks. The Consumer, I think, should be able to have who he wants tow his vehicle. We believe that. The consumer wants it. How many times we have to turn away people who want us to tow their vehicles but due to regulations, we aren't allowed to do it. The public has to pay some times as much as three and four times more to a licensed tower than we can do it for. Those three or four times are rare cases and basically those cases would come only under the state automobile club where there are set rates, for instance; if you have a brand new car that you just bought and you get 4 miles away from the dealer and it goes dead and you call the Alaska Auto Club of which you are a member, you should be able to get the car towed back for twelve dollars (\$12) is what the tower charges the auto club, the contract towers for the auto club for that distance where it would cost just about 4 times as much and the auto club has to simply say "we can't do it" and then of course, the auto club member is all up in the air, he's paid his dues and can't do it. It keeps membership out of the auto club, it keeps the auto club from growing, there have been a number of cases where people have asked for their dues back because that has happened. Convenience is often less as far as convenience, what I mean is, they get there quickly. I'll give that an example in a minute. License operators basically have a monopoly on the towing, there's no. . . uh, and with that monopoly comes inefficiency. Their ability to charge the rates that basically they have set up and they have to be called so it only makes for inefficiency on their part. Towing in the states of Washington, Oregon, and California is unregulated. I've got a . . . I wanted to read this from. . . uh . . . it's a letter to us from our state auto club who was in contact with the auto clubs

(2)

in Oregon and California. It concerned Arthur Lamboldt from Washington, and L. R. Nepper from Oregon. Mr. Lamboldt said Washington has no tow truck law, the City of Seattle has an insurance coverage requirement but that is the only regulation of the road service industry. He says, discussions have come up from time to time at Olympia, but each time it has been determined any state regulations would simply be restricted would discourage free enterprise and would discourage the small operator and encourage inefficient operations. Mr. Nepper told us a tow truck law went into effect in 1947 in Oregon, it was repealed in 1948 within just 12 months it was found monopolistic practices and higher prices where the public came into being. The Oregon PUC removed the law from the records. The only reference in Oregon law today is that a disabled vehicle under tow does not come under any state regulation. On the other hand, a non-disabled vehicle under tow or being carried by truck comes under their freight restrictions. And in California, this is directly from the California State Automobile Assn., except for accident towing on inter-state and state highways, the state of California does little to regulate the towing industry. For these relatively few calls, the California highway patrol has set up a zone system. They inspect and improve tow operators from within the zone who are then called out on a rotation basis as the need arises. For the most part, the towing industry is relatively clean in California. Active competition keeps it that way. They go on about saying they have it in Nevada, where they have the auto club there has great difficulty with them one place we do encounter government control is in the state of Nevada where the entire towing industry is regulated by the state public service commission. Frankly it's a headache. The law requires that anyone who does towing for hire must have a certificate of

(3)

.of public convenience and necessity and so forth as much as we do. I wanted to give a few specific examples of what happens. This is a couple things that have happened to myself. We had towed a mustang into our place of business to repair. Now we are allowed to do that . . . to tow it to our own place. When we told him how much the repairs were, he said it wasn't worth it, it was an old car. They sold it to somebody in Fairbanks as a relic or something and wanted it shipped it up there. We could not tow it from our place of business to the railroad yard. The price of our tow would have been \$32.50 had we done it. It cost them \$51.00 to do it with a licensed company. There was a case just about a month ago where there was an accident less than a half a mile from where my business is. There were two cars involved, state troopers called us, I guess the customer had asked that we tow his car away, the state troopers called us, we answered the call, licensed operator was there to tow the other one away and he said "no, we can't take that one, it's against the regulations." They called me on my driver called me on the radio and I said "ask him to call his dispatcher, if its alright, we can do it if his dispatcher says no leave it alone, even though the state troopers wanted us to take it away. But they said no so I told the driver to come on back. It took him 45 minutes to geth another wrecker there to tow that vehicle away. That is not convenience, by any means. We had a one of my colleagues in the business, another station were called by the state troopers, there had been an accident at Tooter and the new Seward Highway, the same thing happened except he picked the car up and towed it away. Even though he was called by the state troopers, he picked the car up and towed it away and he was cited by the ATC for doing it and given a \$150.00 fine suspended or something like that. We have another case, these cases come up all the time.

(4)

.I think a couple weeks ago, Al Davis from the Transportation, he's on the commission made some remarks to us in a meeting about that Globe Automotive had a car that they discovered that they towed in was under warranty and the customer wanted it taken to Alaska Sales and Service. Globe called the Trans/Comm. and they gave him permission, said that it was alright to do that, so by so doing Al Davis told us at this meeting that that type of thing was alright if we had towed it in, had worked on it, found we couldn't do it, we could tow it some place else. Yet, two years ago I was cited and fined, again suspended, for exactly the same violation. It's a controversial type of thing, evidently they don't know what they're doing themselves. Al Davis also made a remark that he didn't want to see a lot of unsafe record drivers a lot of 16 year old kids pulling cars out of ditches and so forth and he cited a time when I guess near Glennallen somewhere in that area he was going down the highway just in time saw a cable across the road with a car in a snow bank on one side and somebody to anchor their vehicle had driven off the other side and had a cable stretched across the road. Certainly, it is extremely dangerous but there's no law now, there's nothing to keep that driver from pulling it out the way it is now. It is a safety hazard, there's no regulation to keep that driver or that wrecker from pulling that vehicle out onto the road. There are certainly laws against what he did. He was merely breaking the law and anybody would do that I don't think it was a valid thing to say that because someone did that because anyone with a four-wheel drive vehicle pulls people out off the side of the road constantly that are stuck in the and can't get out. They're private individuals helping each other. They're still responsible for what they do but they don't take adequate precautions they certainly would have the responsibility.

②

We're not asking for towing that involves more than two parties. Deregulation of that, the two parties being the vehicle operator, the owner of the vehicle and the tow truck operator. In any case that involves impounding, repossession that involves a third, like the state or anyone else, there should be some regulation of that and we aren't asking for that we are only asking that we be able to tow a vehicle from one place to another and not being. . . and . . . uh. . . to be able to do it legally. The state of Oregon has . . . that any disabled vehicle does not come under freight cargo, or they don't have it in their regulations, or their exempt from the Trans/Com regulations. That's about it. Unless you have any questions.

(Brad)

Yes, we have situations in numerous states in the lower 48 which . . . Washington, Oregon state and California, Bernie. What would you think about having various classifications of certificates maybe one for your level whereby you could have a Class C or A which ever way you might want to go. You could tow in smaller cars with a small wrecker that you might have. You couldn't have the big jobs of course.

(Blysm)

Well, certainly, but is there a need for it? I'm not going to tow in a large vehicle with my small one ton wrecker. It's inconceivable that I do it.

(Brad)

The reason I asked that is because we've had the other sides

testimony and they claim that if you don't have a certificate that you can't make them come up to any particular standards and too, sometimes they will wench out or tow out a vehicle and do damage to the car because they do a little more than they're capable of or possibility of not properly maintaining the towing equipment or a cable may break or they don't have torches to put on the highway and they don't have a lot of the safety requirements or don't satisfy those who have expensive equipment and do have to come up to certain standards but they maintain quality service. I have discussed this with some of the others that testified from the other side and they thought it might be a good idea. Of course, your certificate would'nt be quite as expensive, and it wouldn't permit you to do the big jobs that you probably wouldn't do anyway.

(Bernie)

True, anybody that pulls a vehicle out though, is gonna have to accept responsibility of the vehicle that he is pulling out. I think that about three times in the last twelve that I have had a tow truck that we have damaged a vehicle. One time it was an inexperienced operator drug it along the bank and damaged the side another time an inexperienced operator had a cable where he shouldn't have, the people should have stopped but he had the road blocked and they thought they saw a way to shoot through it they shot through and caught the cable. But, we assumed the responsibility for it. We assume the responsibility for our damages and if somebody is grossly negligent, certainly they have to assume the responsibility. We discussed this with a group of operators last week and we came to conclusion that really . . . uh what really is the necessity of it. And it's just alot more work and regulation and costly, time consuming

work to regulate them that way when what really is the necessity?

(Brad)

I'm not trying to give you the impression that I am an advocate of regulation because I am a firm believer in competitive free enterprise system and as much deregulation as possible. .

(Bylsma)

We came to that conclusion really how much good does it do to classify if you classify them you have to do a lot of regulations and handle the regulations and is it really necessary?

Mr. Buzz VanAlstein (Douglas Trucking, Juneau, General Manager)

Speaking for Douglas Trucking, we would like to go on record as saying that we are not in favor of deregulation per se simply because we feel there too many advantages to the consumer being offered that we don't think would be available especially in the smaller towns like Juneau and I think it would affect the smaller communities in the state and in the bush communities also simply because there is with the system we have not, there is a network where people can ship long distances regularly and consistently that we don't feel would be available or as good if they were deregulated. Simply by having the certificates we have, we are obligated, and it says so right on the certificate, convenience and necessity for the general public. We have to serve all of the people within the scope of our authority thoroughly and equally and I think that as far as the larger carriers are concerned it would affect them even more because the large communities are usually the easiest ones to serve, however, the small communities I think with deregulation, would not be getting the service. There would be several people handling the larger communities point to point and there would be quite a problem with the smaller communities. The reason I bring up the smaller community thing is because we live in one of them. Of course, we are a smaller trucking company and our scope of authority is basically within 50 miles. But with the network that is set up here we have a structure and framework with which we can work with other carriers so when a customer comes to us and wants to ship to the lower 48 overseas, if necessary, or anywhere else in the state, we have the connections with the other carriers

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who also have a scope of authority that is well defined, a tariff structure and a schedule where we can tell this customer with a reasonable amount of satisfaction that we can deliver those goods in a timely manner consistently. For the individual consumer as well as the businessman. The farther the business or person is away from the trade centers, the more important this is. The farther you go the harder it is. Especially in this state. . . smaller communities are entitled to the same service if possible that the larger communities have. With the structure we have here now we can provide a schedule and a network and we feel that especially from a smaller company's standpoint that having the structure to work in for we can go to whatever carrier that would be or would have the authority that would interline with us. We could serve this community better because our authority is only within 50 miles but if we want to serve customers in this city and offer them service and as you know, the transportation lines into this state are quite long. It's not like shipping from Seattle to San Francisco that's quite easy to do. . . it's not so here. Harder business here we rely on some of the bigger carriers to interline with, whose business is interline transport, whereas ours is the local community we know the community, we know where things are at here, we know the individual problems some of the people have just getting their goods in and out of the city itself. Our business is not long distance transportation, however, there are other carriers whose business is this. But the network we've got I think we can provide a very good service because we can combine those two things and help those people move their goods in a timely manner . . . if we don't there is a structure set up for entry and exit into this market and it is a regulated market, but it will not support the poor operator . . . it's just a matter of time just like in any business,

but we feel that . . . uh . . . with the structure provided with the system we've got, we can provide a better service. There's a tariff structure where the rates are published. We feel that with deregulation, and less emphasis on a published rate that a businessman could get a nipment in, people delivering the load could say "by-the-way, next week it goes up 20%" This makes it awful hard for a businessman to plan strategy in his market and for him to survive because there's nothing for him to count on consistently at least with the tariff structure we have now there is a time frame in there where you have to publish a notice and people can be made aware of it, it's public record, there's a time limit in there, that once it's been reviewed and it's kind of a cushion on the market for these people. We feel that without some sort of regulation . . . there's no protection from companies you've never heard of before. With the system we've got, there's a policing agency there that if I didn't get my money, there is someone I can go talk to, a commission that's going to go over there and talk to that carrier and have the ability to level fines, and in general, polices public interest. We are in favor of a strong commission because they have got to be a go between between the general public and the carrier. Deregulation will eliminate alot of this and alot of the control and we don't feel it would be in the best interests of the public. I feel that one of the areas where it would hurt the most . . . of course if you get the shippers that ship alot of stuff, like the major business's they're used to the shipping rules and regulations and can work with anything because they do alot of it, but I think the part that hurts the most and what most people listen to and what we have to listen to also is to the individual. Small shipments going long distances . . . what assurance does he have that this

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is going to be done at all and that he is going to be treated fairly. Without the network, without the system with regulation I don't think that this person would be able to say 'I can ship from Juneau, Alaska to San Francisco' with any amount of security that that shipment is going to get there. And if it doesn't, where do I go to find out about it? It does not restrict free enterprise, I think it is ensuring the public with the system that they can move in and with a certain amount of satisfaction, without it we're in trouble. SB 60 is going in this direction and I am in favor of it.

(Senator Stimson)

How do you feel about the way the trans/commission is presently regulating the industry?

(Van Alstein)

I think the commission is in a position to control the industry which it should, and there's always room for improvement in anybody's position as far as I have ever seen but I think that they are. . . have given us the guidelines and some kind of a framework that we can expect to work in and the limits of their authority are pretty spelled out and how they want to use it is up to them. Frankly, as far as Douglas Trucking is concerned, we feel that the commission has been fair we've certainly enjoyed all the decisions they've made but that's the case then I'd have to say they weren't far. The commission has been fair.

(Senator Stimson)

You made the reference a number of times to the need for a stronger commission . . . do you consider this a strong commission?

(Van Alstein)

I feel the commission for what has begun and where it's going I think it is definitely positive. I hope it continues and can be made stronger through things such as this bill and so on . . . to where they can be even stronger. We would very definitely be in favor of that. That's going to be the arbitrator. Basically, from where we stand is that it will give the commission some bigger teeth to enforce. If your'e going to reprimand a company or fine a business for operating illegally no matter what industry their in, the fine has got to be of enough magnitude to make any business in any line of work they're in, to think twice about entering any illegal action. This will help.

(Brad)

Do you think its possible for a man with very moderate means that has a desire to go into the trucking business possible for him to get into the trucking business, get a certificate, get approved by the commission?

(Van Alstein)

I'm glad you asked that question, i really do, because the company I work for is a classic example of that. One of the owners,

was to inherit his fathers business when his father died and because of several things did not. He was working as an employee for Orme Transport (father's business) and he just at one point finally quit and obtained a certificate because there was a piece of authority on the market not being fully utilized, he was being worked but nothing to his capacity for sure and with a couple of other people that he is with association with now bought this piece of authority and is now we feel one of the major carriers in Juneau. You can buy a piece of authority, you can apply for a piece of authority and its for the commission to view and rule on.

(Brad)

Suppose you only had the means to purchase only a couple of trucks to go into a small trucking business, is the system so constructed that its possible for that individual to get into the system and compete against some of the big guys?

(Van Alstein)

Yes, I think so. With hard work , it can be done and I believe quite successfully. I think the entry in and out of the market is quite open. One must realize that a poor operator will not and should not survive.

(Brad)

Have you ever gone before the commission to testify for or against someone else who is trying to get licensed or certificated to operate

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a trucking company?

(VanAlstein)

Yes, we had a case here in Juneau to sit in on hearings on the transfer of authority. They

(Brad)

I know you are not into the towing and wrecking business, and I have a good general understanding of that business plus the trucking business, but do you think that there's as much necessity for regulating the towing and wrecking business as it is the trucking business?

(VanAlstein)

Well, I don't think that I am very qualified to answer that because my exposure to the towing and wrecking business is quite limited. I've frankly, never even had to use one and I've not ever talked to any people in that part of the industry. I'm really not in a position to say.

(Brad)

One reason I asked the question, is because most states regulate trucking, but all states don't regulate towing and wrecking.

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Burt Wagnon (Dep. Commissioner, CED)

The ATC occupies the position of very limited line of authority with the Dept. of Commerce & Economic Development. I do have a few things I would like to mention to you and answer any questions you may have, but I'll keep them very brief. We have reviewed the audit and we are generally in agreement with most of these findings. One exception would be item 14 pertaining to positioning of attny. general's staff within the ATC. The attny. general has a 4-page letter in there that is quite self-explanatory and if you'll permit, we'll just let that letter stand as it is. There are a lot of questions and problems raised by the audit that need to be addressed. As I said, we are generally in agreement, but I'd wish to temper that with the fact that the state is in a financial position now where funds are a very limited resource so to speak. And, I would hope, that as we go through the hearing process we keep in mind the money problems we have we evaluate very carefully how much do we spend to correct certain problems and cost benefits related to them? Deregulation and regulation review are very strong topics. We're generally in favor of deregulation, but ^{also have} a concern for the consequences that might come about. I wish to take a few minutes to expand upon that, if I may. There are certain factors that have come about recently that we feel may complicate the picture somewhat. The recent airline deregulation has raised some questions concerning air service to small communities. We are concerned that if the ATC were sunsetted, what consequences this may have on air transportation to the bush communities. The CAB is going to commence holding hearings in the state of Alaska shortly and will come up with a position I understand not long thereafter. There are a lot of questions that we feel are unanswered about what would be ^{the} consequences

SENATE COMMERCE COMMITTEE
February 22, 1979
3:00 p.m., Capitol Bldg. Room 209

Sen. Bradley: Performance review hearings on the Alaska Transportation Commission and the first one to testify is Mr. Benedicktsson.

Benedicktsson: Mr. Chairman, for the record I am Ben Benedicktsson, managing director of the Alaska Trucking Association. I would like to take this opportunity even though I have already testified to testify on behalf of one of my board of directors members, Mr. Robert C. Moskal, Sea-Land Freight and Service, Inc. I have provided copy of the written testimony, if I may read into the record and then as much as I can respond to your questions. (See written testimony) If there are any questions, sir, I would like to

Senator Kelly: You're concerned with the deregulation of the ATC, is that still mainly in the highway transportation area?

Benedicktsson: That's true. I can't speak for the air carriers. I don't represent them. I have no background in air carrier equipment. I speak for the motor carriers.

Sturgulewski: Can you respond, Ben, regarding the tow truck operators and some of the bulk haulers?

Benedicktsson: I certainly can. First of all, we are opposed to any deregulation, for a couple of reasons.

Sturgulewski: Now would you state for whom?

For tow trucks?

Sturgulewski: Well, would you say you oppose deregulation?

Benedicktsson: The Alaska Trucking Association, on behalf of our board of directors, in order to keep the record clear. Let me pose you a problem if I may. Suppose, as part of the wreckers and towers, suppose you were travelling through Fairbanks in the middle of the night in February, snowing or whatever you want to have it, you go off the road and you don't happen to know the corner, guy who owns the corner Chevron station, you are going to have to go to someone to pull you out of the ditch. I used this example before... With the present system the regulated wrecker and tower operator is flat required to come out and haul you out of the ditch. He may not be able to do it for a couple of hours, what with problems or whatever, but he has someone on duty 24 hours a day. Second case in point, suppose one of my...uhhh tractor trailer combinations belongs to one of you, turns over and blocks the road. You're going to have to have specialized equipment that the corner Chevron is not going to have to move that. You simply cannot go to the small wrecker. I think in testimony earlier a wrecking tower of the capabilities we're talking about runs in the terms of \$100,000 to \$110,000 to buy. Somebody has to go out here to support that operation and the guy on the corner is not going to do it. As far as the bulk commodity people are concerned, here it's as much a matter of principle as anything else. We just don't feel that if you deregulate anybody, open the

door, who'll come in it. It would tend to hurt the whole industry to have anyone deregulated.

Sturgulewski: If I could explore that just a little bit, there is a hue and cry across the country for the extraordinary amount of regulations and what we tended to do is create economic boxes when we regulate it, and there seems to be a great deal of hue and cry if we talk about on a specific basis of deregulating. Would you care to share a little philosophy with us?

Benedicktsson: I kind of feel that people who talk about deregulation are putting themselves in the boxes you mentioned earlier. . . . Those who don't read history are going to have relive it. The reason we have regulation is because the shippers and the carriers together demanded regulation. Uhhh as an example, theBullwinkle Act of 1947 was guaranteednationally with immunity from heavy trucks, provisions for collective rate-making was passed resoundingly overTruman's veto. . . .no question about it, because the shipper, the national industrial transportation. . . .NIT. . . . NIT League recently has come solidly and resoundingly behind regulations. . . .going to have it. These are in essence the people who ship, the people who receive, thethey could behappens if you disturb, seriously disturb, the stability of the transportation system that is required to keep our market economy going, and if we don't do this work, we don't retain the stability everybody's in trouble, not just the trucking industry.

Senator Kelly: You said when talked about they werederegulation, are you talkingbig national carriers....Alaskabig carriers. The problem seems to be....that Brad talks about all the time and I've heard this at home, too. The problem seems to be with the little guy who can't get a foot in the door.

Benedicktsson: Whose the little guy....rhetorical.... Nationally there are 15,000 carriers who handle theor common authority. Uhhh, the top 50 using a market analysis, represent only 10% of that total value of uhhh money to be spent on transportation and So, really we are talking about existing. Nationally uhhmm something like 94% ofauthority.... The objective, one of the objectives, of both the ITC and ATC is to insure that the number of trucks out there equals the amount of trade. You have to have that. So when someone comes in and says I'm a little guy, I want a trucking outfit, I requested authority, and has not been granted it, probably because for good and solid reasons there was not enough traffic to warrant one more truckingThat's the way the system is, designed,.....

Sen. Bradley: As has been explained, they have to have a quorum in the other committee, too, and we've got one excused today uhh, Senator Stimson, so it makes it little hard he's on both committees. So we can continue now since we've had a quorum. One, two questions, Ben, and that is ..uhhh. How do you justify uhhh eight towing and wrecking certificates in

Fairbanks with approximately 60,000 population and only five in the greater Anchorage area with approximately 250,000.

Benedicktsson: Economies of scale, I think is what the answer is because in Anchorage with the five enterprises you have, they are are larger, their capacity meets the necessities for towing and wrecking..uhhh the organizations in Fairbanks, I know, are considerably smaller, so it's not a matter of how many firms, but what the capacity is and the capacity meets

Sen. Bradley: Is Anchorage Towing and Wrecking that has 14 vehicles of every size to take of, has the capability of taking care of all types of wrecks, accidents, towing,..... and 12 drivers is that the largest in Anchorage, most capable?

Benedicktsson: Uhhh, I don't know if the most capable or not, but I think they are the largest.

Sen. Bradley: Does Fairbanks have one with similar capabilities?

Benedicktsson: Gee, I don't believe so.

Sen. Bradley: The one we had testifying.

Benedicktsson: He's from Glennallen. Jeff Moore.

Sen. Bradley: Uhhh, I was talking about Mr. Gillespie.

Benedicktsson: Ohh, I'm sorry, Mr. Gillespie, I would have to hold off and give you some answers after I go back and check on it, but as far as I know they seem to be smaller.

Sen. Bradley: Assuming that we are over-regulated, suppose we deregulated all modes of transportation for a year.... see if it would work better. What good or damage do you think we would have?

Benedicktsson: Let me draw an analogy with New York City...What would happen if you closed every corner drug store in the city of New York tomorrow? My answer was probably inimmediate medical care of one type or another. You'd probably notice the difference.

Sen. Bradley: Uhhh, we are not closing the trucking, we're just deregulating it.

Benedicktsson:If the trucking industry were deregulated in this state, then I think you would find that the out from the Anchorage, Fairbanks, Kodiak,....whatever areas, would really start to suffer. It's very simple.

Sen. Bradley: But, we wouldn't be closing, it's not a good comparison. We wouldn't be closing the railroads down, we just deregulating them.

Benedicktsson: But with all due respect, we, the American Trucking

Association, conducted a survey a couple of years ago and we asked our members, what would you do in terms of youroperating authority if they were deregulated and the answer of 82% was to stop serving the smaller communities.

Sen. Bradley: Well, what about, what is it? Twenty-six of the major airlines were deregulated and they haven't stopped.

Benedicktsson: According to our figures, however, 67 communities in the United States a few months ago were without air transportation they had before.

Sen. Bradley: Won't that enable the smaller operation like we have around here and in Anchorage to get some of that business.

Benedicktsson: Only if they are able to react on a fast enough basis. And it's not our feeling that they are. But you can't all of a sudden insert a trucking company and pull it outwhatever without disturbing the flow of commerce.

Sen. Bradley: You mean a big trucking company will just stop operating and go bankrupt possibly if we deregulate?

Benedicktsson: No sir. They would stop serving the small community. There is a certain social costing involved in transportation. Anchorage tends to support Glennallen to a

small extent, Eagle River, and the likes. Uhh, if the analogy I use at the University when Iit's the little old lady in Osh-Kosh had to pay for her hundred baby chicksshe probably couldn't afford it. Instead that costing is spread across the larger communities and this is very simply the way the system is developed. and it's made ...

Sen. Bradley: Senator Ferguson has now joined us. Well, don't you think that maybe uhhh these big companies, these big trucking outfits that didn't or wouldn't serve the couldn't economically serve the small communities, don't you thi k that would enable a lot of these areas to have to spring up little trucking firms to take care of their communities,in the line of free enterprise?

Benedicktsson: Yes sir. Given time, if they have the time. But I don't feel that. We are talking about 20% and probably more than that.... But 20% of gross national product goes to transportation. Of that figure probably about uhhh 12 to 15% goes to trucking. My figures may be a little high on the 12%, let's be conservative and say 7%. That's a lot of bucks and that's a lot offor the suburban areas, for the Glennallen, for the Osh-Kosh, or whatever, unless you have that very basic underpenny of the economic fabric that we have developed, then you may be will tend to get back to the middle ages. I making a really strange statement.

We'll all gather around the moat. How are you going to have the.... How are you going to have shopping centers? If I go into a shopping center and I pick out refrigerator that I would like to have and there happens to be the only one on the floor that is green and purple with orange polka dots or whatever. I recognize that's what I really have to have. Well, let me check. Let's see where, we have one back in the warehouse. He calls back and you know they always have one in the warehouse, but you know what they can't deliver it until next Tuesday. Well, it's not coming from the warehouse, it's coming from the central distribution point, by virtue of having a stable transportation system, that the shipper can depend on, he knows what it's going to cost next Tuesday. *without going*
in 1960
to the
He knows that it's going to be delivered. If it isn't and we find out about it, the Alaska Transportation Commission finds out about it, we can pull the guy's permit.

Sen. Bradley: But don't you think uhh you know if you had a complete free enterprise, unregulated system, regulate only for say insurance and safetyand so on....Sears is going to take the guy that gives them the quickest service and the best price and when he doesn't respond properly they are going to get somebody else who wants that business. So whether you regulate it or not they're still going to know what the price is going to be, because if you switch that price suddenly, they're going to have a little hassle and they're either get back and standardize that price or you're going to get somebody else that wants his business.

Benedicktsson: Well, a couple of alternate things could happen. One, especially in Anchorage and in Alaska, you'll have the people coming in from the outside. The trucker from Texas with his one truck operating out of a motel room somewhere. Comes in for the summer and then leaves. Leaving your stable companies that are here year-round to in essence handle the ... of the trade and the wintertime trade. The second possibility and one that we have seen happen nationally though not to my knowledge in Alaska is that a large company can go to the smallfirms and say, "We'll give you 100% of our business, if we can charge it." That will be probably....probably be something that isif not perhaps...compensatory costs. In which case the guy is faced with a cash flow problem. Either he gives into the big shipper or he's put in a position where he has to compromise on the very things you talked about, safety and maintenance or whatever. In order to keep a cash flow going to the point you can make a living. Uhhh this is one of the protections

Sen. Bradley: Senator Ferguson do you have any questions?

Thank you very much, Mr. Benedicktsson.

Benedicktsson: Thank you, Mr. Chairman, on behalf of both Sea-Land and Alaska Trucking Association.

Sen. Bradley: Okay, Mr. Miller. Timothy Miller.

Tim Miller: My name is Tim Miller. I am representing myself as an owner operator, and I am in strong favor of deregulating the trucking industry.feel free to ask any questions as I go along. I've operated trucks both in Alaska and outside and parts of Canada. I've delivered freight from the Artic Ocean to the Gulf of Mexico. Uhhm, I have no operating authority, except as a private carrier and I have run trucks both as for private carriers and for common carriers. I've operated trucks common carriers who have ATC rights and I feel because of these rights I was lost \$80,000 that was never paid to me because of the regulations. I have haule^d for both private carriers but you have. See the reason I lost \$80,000 was that I was put in the same position of hauling for a private carrier which I said was illegal for me to do that and I know a number of people that do it. ... that when I delivered a freight for a private carrier and he doesn't pay the money, I can take his freight put a lien on it. ... Now as a common carrier since he does not own that freight he just stalls and you've got no recall, that's due to the regulations. I feel that in a free society market forces and not governments dictates should regulate transportation to a community. I also feel that in a free society the government should not discriminate between one class of people and another class. Meaning that they're

discriminating with the truckers with authority and giving them preferential treatment to the truckers without authority. I also feel that if the industry was deregulated better service at a lower cost would be provided to the consumer. I have a case in point the construction on the Trans-Alaskan Pipeline. The common carriers they had beat up equipment at the time at the start of the construction, they could not deliver the freight. They had to lease owner-operators. Uhhh, the freight, if would had been deregulated at that time the freight would have been delivered cheaper, and faster. I would have been delivered cheaper because the owner-operators who were delivering it the freight had run on percentage of the tariff. The majority in run on percentage of tariffs, some ran on mileage but it was also they run on someone else's authority, the trucking permit, the trucking companies were taking their cut and still making money off of it. So we were making money, too. We're making money at running at a lower tariff. We could deliver the freight faster, if it had been deregulated, we'd have delivered the freight faster because the inefficiencies of you had to pick up like I ran out of Fairbanks. Fairbanks to Prudhoe Bay. They had to pick up the freight at the pipeline yard, that was where the oil companies, Alyeska's yard, pipe terminal, they deliver to the terminal, individual trucking company's terminal and there it was redispached going north. Sometimes it set in the trucking terminal for two weeks waiting to be dispatched. Now if it had

been deregulated we could have just through contract carrier or othergone directly to the oil company, picked up the freight at the pipeline and we would have delivered it north, and I say it. I was at the time running at 70% of the tariff. At 30% less costs we would delivered the freight. Okay. Also the large companies here because of the regulations I feel were very, very inefficient. They had, that one outfit that I ran for there during the time of the pipeline, we had 40 drivers and 45 nondrivers, either rate and tariff men, people who are out hustling freight, uhh mechanics, uhh, you know, big overhead and in a trucking business a driver is a production and he's the guy that makes the bucks. It's not just these people that are sitting on the desk. You know if you have that kind of overhead, you are bound to go broke. I feel that if long-haul trucking was deregulated and safer. If every truck driver knows that's ever driven a truck, knows that each truck handles differently. A cabover handles differently than a conventional model truck. ...two identical trucks...sitting up there, they can have both identical component parts and you get in each one, they are going to drive differently, they're going to handle differently. It's a dangerous and what happens to large trucking outfits is that they practice hot....they take a hotseating is a term used for when a driver is assigned a different truck for every trip. It's a very dangerous situation.

They do not know. You know you are running an Alaskan road. You run into mud and slick roads...one time I was running in mud that was up to my knees. You know chained up and everything else. You are coming down off mountains and it's very slick. But as an owner-operator with a small, we call them jippos, the owner-operator if they can run a truck, you run the same truck and know that truck and they take care of that truck. They know everything about that truck. I got two trucks and I know everything about both them trucks. I can take them over any roads, any condition, and I'm sure I wouldn't wreck it and I proved that over the pipeline. I made trip, after trip, and ran it for two years, on the Haul Road and all those accidents were taking going on, I was off the road one time and I ran in the ditch forced off by a company driver. I took the ditch. I was out in fifteen minutes, but anybody that's seen the trucking operation on the pipeline, I think you've heard about it, accidents upon accidents. One time I drove from Fairbanks to Prudhoe Bay and I counted on trip which I made in about three days to deliver that load on that trip I counted 18 wrecks on that road. Uhh I don't want to give any names, but I would if it was asked. I wish also that a study by the State of Alaska was on during the pipeline construction would take a study on who caused the accidents, but whether it was the company drivers, company ran equipment, or whether it was independently owned trucks that caused the accidents. I through my own observation, I would

come to the conclusion that the company ran equipment, company truck and company drivers were the cause of the majority of the accidents. This also jacked up all our insurance rates. I think that safety is the only part of this industry that should be regulated. I think that the safety of the vehicle and the competency of the driver should be the only thing and uhhh the only thing and that could be handled by the Department of Public Safety and not have a separate committee to do it.

Sen. Bradley: What about insurance?

Tim Miller: Insurance, I think that if it was deregulated, hopefully it will be deregulated, that each operator should have to get a performance bond, like any contractor. Get a performance bond and carry insurance. ...posted performance bond. I think that would eliminate people from flocking in from the outside. To become bonded you have to be stable and you have to have a stable business. I think that's the only thing that would be required that you have to be bonded and you know, like I say let the free market control services. Don't ... it seems so ridiculous that we have uhhh, all this ... you ...on regulation so that places like Glennallen or Copper Center, or Nenana can get two boxes of freight delivered uhh twice a year or something. It's to me, it's absurd. I also feel that those communities would be served. Cause it's probably ...economically viable

for a small outfit to go in and service them. But, the way it's set up right now, my personal opinion is that due to this regulation the state is giving indirect subsidies to the large operators, people with money. And I've heard testimony in here before saying that it's easy to get rights. I'm saying that we shouldn't have to get rights. I'm saying that we should have the right to operate, you know, you should not have to file any paperwork. After when you spend like myself, I probably got ohhh, replacement value on my equipment would be close to \$200,000. Why should I have to spend that kind of money and then have to go through this bureaucracy to get rights to operate it. Now, I just don't feel that justHell, I can't push a pencil, I have to drive a truck. You know, that's the way things are. I would like to say in conclusion that if the money was spent the same they spend it on regulating us, was put into highway construction that we would all have much better transportation system. You know, I hope you have questions, because I would like to really get into it.

Sen. Bradley: Do you have any questions Senator Ferguson? Hey, you've answered a lot. Such good testimony, I don't have any either.

Tim Miller: Can I add some more? Thank you. Is that saying that the freight will not be delivered is I just can't believe it. I know too many independent operators who would

like myself. I've got two trucks, if there is freight going have to be delivered. Even right today, now it's illegal for me to haul for a private carrier, the only time I can haul is for my own self. Even today, you know, someone wants, I'll take the chance. Someone wants to pay me money to go to Fairbanks or go to from Juneau go to Fairbanks and pick up freight, I'll go pick up his freight and I'll work out my rates and tariffs. I'll work out over the phone. I won't have to have a rate and tariff man to sit down and do it. You know, and I'll figure out what it's going to cost me and I'll put a markup on it, like any other business. I think that's the way the system should be. It's just that I can't believe in a free enterprise society that they if you are competent to do the job they won't let you. I'm quite upset about it and hopefully that things will change in

Sen. Bradley: You think it will be better if we deregulate rather than regulate.

Tim Miller: I think that the consumer, the taxpayer, everybody will benefit, including us, the people that actually do the work. That's the guys that drive the trucks. Everybody will benefit. The consumers will get a much better service, they'll get at a much cheaper rate and they'll get I mean faster services. That's like getting back to the pipeline, I could deliver that freight but it probably took a week on an average to deliver a load

of freight, I could ...deliver in two and a half days that's from Fairbanks to Prudhoe Bay, the Fairbanks pipeline camp. You know, you just can't believe the amount because of the regulation the mass amount of paper work, the system is set up so, there are so many paper shufflers in it that, and I consider them nonproductive. It's part of ...but it's still as a mass of bureacracy there, just protecting it. I think the most important man for a trucking company today is the rate and tariff man, you know, what'she can interpret the tariff if he's sitting down. I mean he doesn't probably the next most important man will be an attorney to make sure that they can keep all the competitions out,keep it out. You know, if it was deregulated I would be advertising in the morning. Advertising in the morning, I'd be setting up a network. I think also that if it was theof market. The market is not there. I'm saying that if it was deregulated we would get out and develop our own market, that individuals truckers would go out and develop their own market. There's markets that probably have never going to be touched or haven't been touched. People you know it's like certain people don't know if they need this service. That's where advert'ing comes in. You've got to explain to them that they actually do need this service. That they would basically that your freight can be delivered as fast by truck as it can by airplane or almost.you can do it cheaper you know you just gotta ...but I think that

the market is there and could be developed if it was deregulated. So I'm saying that we would have better services.

Sen. Bradley: Any questions by any other members? Okay,to hear the other side. From an individual who has experienced a lot of the trials and tribulations advantages and disadvantages.

Tim Miller: I'm saying that the world would not come to an end if the trucking industry was deregulated.

Sen. Bradley: Some of the members have knocked around what about deregulating for a year or so. No decisions have been made, you know. Would that be a better way of doing it rather than I could assume I suppose from your testimony that you would be willing to deregulateto see if things improved or got worse. I may be wrong.

Tim Miller: Sure, I mean at least.

Sen. Bradley: I'm not making decisions. I'm not cause anybody to assume anything but ...we just knocked it around.

Tim Miller: Loose systems that are set up in the outside are almost like deregulation...okay, like you are saying that they havetruck terminals in Alaska. You know that you got truck terminals, Sea-Land has

truck terminals, Weaver Brothers always got an outfit ...have truck terminals in that they are...there point. Another in the outside, you can have a they have such a thing as you can tripin the State of Alaska you can't ...trip permit. In the State of Alaska you can only lease a truck for a minimum of thirty days. And it doesn't take thirty days to make a trip in the State of Alaska, you know, and in the outside you have to pay a trip permit and they have brokers. If you want to pick up a load and let's say if you are in Oklahoma City and you are heading for Seattle or something like that you have a broker...who hustle freight, they do nothing but hustle. They are out there and they are calling different places and they got phone banks there and they have permits, permits canfor ...rights in one or two states you don'tall fifty if you want to go that way. What they will do is they'll charge you roughly \$30 a load for hustling their freight. What they've got is they have their own terminal set up. You know it's the brokers that are doing this. You know phone banks and they're moving a lot of freight to.....owner-operators running outside. That's the way they are doing it. Some are running leased to common carriers and others are hauling illegal freight or you know going throughyou have what they call a bingo card on the outside. They call bingo card and what it is you have a different company ...authority to go to different states, hauling in different in

states and if you have the a card has all fifty states on it and you have a stamp on it. If a police officer asks you for the card and you're ...out of state you better have a stamp on that. Well, I did pick up a load once in Oklahoma and I delivered it in Idaho and he give me a bingo card and I have two stamps. One in Oklahoma and one in New Mexico, but the freight was delivered with no problem, but that the brokers you know are hedging on the law a bit.

Sen. Bradley: I don't have any further questions, do you Senator Ferguson? Thank you very much. We appreciate it very immensely. Okay, Mr. Doyle. Wait. Mr. Hurlbert. I'm sorry Ralph. We're trying to get out here in 100 days and it will probably be 110 or 120, let's let these legislators get back to the job.

Rep. Hurlbert: Mr. Chairman, I am Representative Hurlbert, and uhh I represent district 18 out in western Alaska and I'm also an air taxi pilot. Primarily for Western Alaska. I've got about 8,000 hours out there. Uhhh I want to support deregulation for the air taxi. Now I am not getting into the trucking industry, that's their own argument. I do know that there's substantial inequities in the air taxias it stands and Ibeing regulated by ATC would be allotment of air taxi certificates under the tariffs that are allotted by the ATC and I just like to go into it briefly.

Now I've been involved personally myself with trying to get an air taxi certificate out in the Bethel area several years ago. Uhhh It was a very big shoot out in that if you when you boil it down to a situation when you've got other people deciding whether you ought to get a certificate or not the cards are more or less stacked. It boils down to a situation of the haves or the have nots. There's established air craft. They can stack the cards in their favor by the mere fact that they are in business. It's all predicated on a need for the server, the financial ability of a newcomer into the business and so forth and so on. Well, I have seen in the particular instance there was need for new air taxis, uhhh at the same time there was a heck of a need. This particular instance before the hearing was come up air taxis in the area would stack a whole bunch of leased airplanes and show a big surplus of pilots. All this it was stacked more or less to where they could show that it was being crowded. Consequently, they had an argument in their case and it was put out. Of course, after the claim was denied it went back to the same old ballgame on an economic basis. They finally dropped the airplanes and delivered them back. I have seen the instances where (some of them are in the house here now)lived in the Bethel area, flew out there for twenty years, 20,000 hours or more, denied goodaccident freewas denied certificates on that very basis alone. When we get into the area of tariffs you areit builds a monopolistic atmosphere whenever you are

certain individuals to perform a service and they've got complete control over them. Not complete control because they are regulated, but I mean they have the entity within itself, nobody can compete with them from an outside source Right? So they apply for tariffs for to go from point A to point B and back. They have hourly rates, hours tariff on the aircraft, I've been involved in this as a pilot and seen how exactly they fly from point A to point B on a point to point tariff and at the same time someat an hourly rate to go to point A to point B to pick up another person to go to point C or point B, all this time gathering revenue under their supposedly hourly and then point to point on these other rates and it accumulates way and above what they are supposed to be gathering to start with. Simply throughon this where it's noncompetitive really. It is competitive in the fact that there's other air taxis, but not really on a scale that we know competition. The safety, we are already regulated in the area of FAA.when it comes into safety ATC does not go into the area of safety as we know it. Now there has been an instance where theyknocked out an air taxi strip...under the auspices of safety where there was accidents overYou probably know what I am talking about, but primarily most of your all of your safety factors come under the FAA inspection so really as far as the regulatory powers it's all on an economic rather than safety when you come into the ATC. Safety is already regulated by the FAA. Okay,

....so consequently if you're regulated by two source
...economic and one on safety, the enterprising aspect
should be regulated by itself on its on merit....
the safety end is already there ...the regulations
for you... I have one other item, I didn't write it
down. Anyway that's my argument, I would like also
reiterate that there's people that in back here that
are coming forward thatnamely Haroldson and
they've been through this whole ball of wax out in
western Alaska and they know what they are talking
about. I like to ...very clear to you.

Sen. Bradley: Thank you very much Rep. Hurlbert. Let's take about
a two minute break. We'll continue right on. Anybody
needs the washroom its the first room on your left past
the elevator. Mr. Doyle.

Ralph Doyle: I'm Ralph Doyle. I own and operateI have statewide
(See written testimony.)

Sen. Bradley: Next one is Mr. Rebische. Sli Rebische.

Sli Rebische: I'm for deregulation for the simple reason that I
think that we can get better service, faster service,
cheaper service. But the way it is now I order some-
thing that a big outfit has to bring out me. (I'm in
the block business. They wait until they get damned
good and ready to get it to me. I've got three men

tied up waiting for a load of blocks. For instance, if I can't get them until Thursday, this is Monday I'm losing a whole weeks time. If it was deregulated I could go to any dude I wanted to and get them to bring out the day I wanted them. And to me it's hurting me doing it. And these guys are afraid these fly-by-nighters from the outside. I welcome them in the block business. Because if I'm there ten years in the block business and some dude comes alongside and out-bids me it just proves that I've been taking the public. I've been fleecing them. So I don't I'm fleecing the guy, they could bring ten block layers in my area, I say all the more power to them. I'll work for them, against them, anyway I want to. But I not afraid to lose my business. I'm not taking people now. And I don't see how these fly-by-nighters can even get a foot hold, unless the company has got tied up today or is giving them the shaft to start with. So I'm strictly for deregulation and give it a chance, if it don't work you can always come back to it. So anybody that is worry about outside help as far as I'm concerned or somebody taking their business, they are screwing the public today or they wouldn't be worrying about it. Thank you.

Sen. Bradley: May the best man win.

ALASKA TRUCKING ASSOCIATION, INC.

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STATEMENT ON REGULATION OF THE INTRASTATE TRUCKING INDUSTRY IN ALASKA

I AM BEN BENEDIKTSSON, MANAGING DIRECTOR OF THE ALASKA TRUCKING ASSOCIATION. MY ASSOCIATION IS COMPRISED OF SOME 450 MEMBER COMPANIES. THE TRUCKING INDUSTRY IN THIS STATE WHICH WE REPRESENT, EMPLOYEES SOME 17,000 EMPLOYEES AND ACCOUNTS FOR BETWEEN 15 AND 20 PERCENT OF THE STATE'S GROSS NATIONAL PRODUCT.

WE HAVE AN ASSOCIATION MOTTO THAT SAYS, "IF YOU GOT IT, IT CAME BY TRUCK." WITH THE STATE'S VERY LIMITED TRANSPORTATION NET WORK, I DON'T THINK THAT THERE IS ANY QUESTION THAT OUR MOTTO IS TRUE.

THE SYSTEM OF REGULATION WHICH HAS LED TO PRESENT INTER AND INTRA STATE ECONOMIC CONTROL OF THE TRUCKING INDUSTRY, IS BY NO MEANS A NEW CONCEPT. FOR EXAMPLE, THE IDEA OF THE COMMON CARRIER COMES DOWN TO US THROUGH BRITISH COMMON LAW FROM THE TIME OF CHAUCER. THE REQUIREMENT TO SERVE ALL WITHOUT DISTINCTION WHICH WAS IMPOSED ON THE MILLER AND THE INNKEEPER IN CHAUCER'S DAY VARIES LITTLE FROM THAT REQUIRED OF A COMMON CARRIER IN TODAY'S SOCIETY.

ON A NATIONAL LEVEL, THE ECONOMIC REGULATION OF THE TRUCKING INDUSTRY DERIVES FROM THE INTERSTATE COMMERCE ACT OF 1887, AMENDED MANY TIMES SINCE THEN. ONE OF THE MAJOR AMENDMENTS

IF YOU'VE GOT IT, IT CAME BY TRUCK



WAS THE MOTOR CARRIER ACT OF 1935, WHICH PUT THE MOTOR CARRIER INDUSTRY UNDER THE INTERSTATE COMMERCE COMMISSION FOR ECONOMIC AND OPERATIONAL CONTROL. AS IT CURRENTLY STANDS, EVERY STATE IN THE UNION, AND THE FEDERAL GOVERNMENT, HAS A REGULATORY AGENCY WHICH PROVIDES ECONOMIC REGULATION FOR THE TRUCKING INDUSTRY. IN OUR OWN STATE, OF COURSE, THE ALASKA TRANSPORTATION COMMISSION FULFILLS THAT FUNCTION.

REGULATION INVOLVES A THREE WAY PARTNERSHIP AMONG THE STATE, THE TRUCKING INDUSTRY AND THE GENERAL PUBLIC. EACH HAS A SUBSTANTIAL PART TO PLAY IN THE REGULATORY PROCESS. THE COMMON CARRIER AGREES TO SERVE ALL WITHOUT DISTINCTION WITHIN THE GEOGRAPHICAL AREA WHICH HE SERVES AND WITHIN THE LIMITS OF ANY SPECIALIZED SERVICE WHICH HE MIGHT OR MIGHT NOT HAVE TO PROVIDE. THE STATE, THROUGH THE MEDIUM OF THE REGULATORY AGENCY, WILL THEN LIMIT THE NUMBER OF TRUCKS ON THE ROAD TO MATCH THE AMOUNT OF TRAFFIC AVAILABLE. THE REGULATORY AGENCY ALSO ASSUMES ANTI-TRUST PROTECTION FOR THE GENERAL PUBLIC IN REGARD TO THE COLLECTIVE AND INDIVIDUAL RATES WHICH ARE MADE BY THE TRUCKING INDUSTRY. THE GENERAL PUBLIC, AS THE THIRD PARTNER, HAS THE BENEFITS OF A STABLE, SOUND TRANSPORTATION SYSTEM. IN THE AREA OF RATE MAKING, THE GENERAL PUBLIC ALSO HAS THE BENEFIT OF A READILY AVAILABLE RATE STRUCTURE KNOWN IN ADVANCE. THE ALTERNATIVE IN THIS REGARD WOULD BE TO FORCE THE SHIPPING PUBLIC TO EXAMINE THE RATES AVAILABLE OF LITERALLY HUNDREDS OF COMPANIES.



INTERESTING ENOUGH, IT WAS THE LACK OF A STABLE TRUCKING OPERATION AND A STABLE RATE STRUCTURE WHICH FORCED THE PASSAGE OF THE MOTOR CARRIER ACT, AND LATER, THE REED/BULWINKLE ACT OF 1947, PERMITTING COLLECTIVE RATE MAKING. IT WAS THE SHIPPERS WHO DEMANDED CONTROL.

THERE IS ONE OTHER BENEFIT TO THE GENERAL PUBLIC FROM THE REGULATORY PROCESS THAT IS NOT TOO OFTEN DISCUSSED. TRANSPORTATION PLANNING MUST DERIVE ITS NEEDS FOR EXPANSION AND MAINTENANCE ON A TRAFFIC DATA BASE. IN THIS STATE, THAT DATA BASE IS DEVELOPED BY THE ALASKA TRANSPORTATION COMMISSION. WITHOUT IT, THERE IS NO OTHER PRESENTLY EXISTING METHOD FOR THE STATE DEPARTMENT OF TRANSPORTATION TO OBTAIN THE DATA ON WHICH THEY BUILD THEIR LONG RANGE PLANNING.

THE LEGISLATIVE BUDGET AND AUDIT COMMITTEE, OPERATING UNDER THE PROVISIONS OF ALASKA STATUTES 24 and 44, (THE SUNSET LEGISLATION), CONDUCTED REVIEW OF THE ALASKA TRANSPORTATION COMMISSION. THE STATES INTENT OF THE REVIEW WAS TO DETERMINE IF THE COMMISSION IS OPERATING IN AN EFFECTIVE AND EFFICIENT MANNER. THAT STUDY HAS BEEN COMPLETED AND THE REPORT ISSUED TO THE LEGISLATURE. THE ALASKA TRUCKING ASSOCIATION ~~CONCURRED WITH~~ ^{CONCURS WITH} SUPPORTS THE BASIC CONCLUSIONS PUBLISHED IN THE PERFORMANCE REVIEW BY THE BUDGET AND AUDIT COMMITTEE. WE STRONGLY AGREE THAT THE ALASKA TRANSPORTATION COMMISSION SHOULD CONTINUE TO REGULATE THE TRANSPORTATION INDUSTRY. WE ALSO AGREE THAT THE ECONOMIC CONSEQUENCES OF



REGULATION OR DEREGULATION NEED TO BE DETERMINED IN ORDER TO FULLY EVALUATE THE PUBLIC NEED FOR THIS AGENCY. IN THE INTERIM, HOWEVER, THERE ARE CERTAIN RECOMMENDATIONS MADE BY THE BUDGET AND AUDIT COMMITTEE WHICH SHOULD BE ADOPTED. THE ENFORCEMENT RESPONSIBILITIES OF THE ALASKA TRANSPORTATION COMMISSION HAVE NOT BEEN PURSUED AS STRONGLY AS THEY SHOULD BE. IN THIS REGARD, THE ATC IS HAMPERED BY A VERY CUMBERSOME ENFORCEMENT PROCESS AND A LACK OF ABILITY TO ASSESS FINES WHICH ARE MEANINGFUL. ~~THESE HAVE BEEN INTRODUCED IN THE~~
~~LEGISLATIVE SESSION WHICH WOULD GO A LONG WAY TO REMEDY THE~~
~~ENFORCEMENT PROBLEM. A COPY OF THESE IS ATTACHED. THE~~
~~WORKING DRAFT STATUTES REGARDING COLLECTIVE RATE MAKING~~
~~AND ITS ANTITRUST IMPLICATIONS SHOULD BE CLARIFIED.~~
~~SUGGESTED STATUTORY CHANGES ARE ATTACHED (SEE)~~

IT IS OUR CONTENTION THAT IF THE TRUCKING INDUSTRY, WERE IT TO BE DEREGULATED, AS HAS BEEN ADVOCATED BY SOME, WOULD RESULT IN THE GENERAL POPULACE FINDING ITSELF FACING THE SAME CHAOTIC CONDITIONS WHICH BROUGHT ABOUT REGULATION IN THE FIRST PLACE. SMALLER COMMUNITIES SIMPLY WOULD NOT BE SERVED. THERE WOULD BE NO WAY THAT THE SHIPPING PUBLIC COULD EITHER DEPEND ON SERVICE OR ON RATES, BUT INSTEAD, WOULD BE FORCED TO NEGOTIATE ONE ON ONE WITH A VERY LARGE NUMBER OF CARRIERS. OUTSIDERS COULD COME INTO THE STATE FREELY DURING OUR HIGH TRAFFIC MONTHS, TAKING OFF THE CREAM OF THE BUSINESS, AND THEN DISAPPEARING, LEAVING THE PUBLIC WITH A VERY DIMINISHED TRUCKING CAPACITY. THIS, OBVIOUSLY, ALSO WOULD NOT BE AT ALL



GOOD FOR THE TRUCKING INDUSTRY OR ITS EMPLOYEES.

THE AIRLINE INDUSTRY IS BEING POINTED OUT BY PROPONENTS OF DEREGULATION AS A SUCCESSFUL EXPERIMENT IN EXTENSIVE DEREGULATION. WE ARE NOT PREPARED TO ARGUE THE MERITS OF AIRLINE DEREGULATION EXCEPT TO COMMENT THAT THE DEREGULATION PROCESS AND ITS IMPACTS HAVE NOT YET BEEN FULLY EVALUATED. FURTHER, THERE IS NO WAY TO COMPARE PASSENGER TRAVEL AND COMMODITY MOVEMENT. THEY SIMPLY DO NOT REFLECT OR REACT TO THE SAME PROCESSES. REDUCING FARES MAY SIGNIFICANTLY INCREASE AIR TRAVEL. SIGNIFICANT REDUCTIONS IN TRANSPORTATION COSTS FOR COMMODITIES ON THE OTHER HAND, WILL NOT INCREASE THE AMOUNT OF COMMODITIES USED. WE CONSIDER IT VERY DOUBTFUL THAT DEREGULATION WOULD LEAD TO REDUCED TRANSPORTATION COSTS FOR COMMODITIES. THIS CERTAINLY HAS NOT BEEN THE CASE WITH AIR FREIGHT DEREGULATION.

THE REGULATORY SYSTEM IS NOT PERFECT. THERE ARE AREAS WHERE IMPROVEMENT COULD BE ACCOMPLISHED. WE FEEL THAT DOING AWAY WITH THE ENTIRE PROCESS, HOWEVER, WOULD BENEFIT NO ONE.

P. W. BENEDIKTSSON,
MANAGING DIRECTOR

Value of licence 250,000

THINGS TO CONSIDER ON NON-REGULATED TOWING:

1. Non-regulated tow trucks have no insurance requirements -
e.g. adequate limits of BI & PD; Cargo insurance - most have insurance that covers a service car, but not a tow truck.
2. Non-regulated towers are not obligated to take tow calls -
e.g. inclement weather; small hours of the morning; old abandoned cars blocking or impeding traffic; bad road conditions, etc.
3. Very few non-regulated tow trucks are properly equipped -
e.g. flares; scotch blocks; lighting; tie straps; tools to unlock steering gears and transmissions, or knowledge of how to use these tools.
4. Very few (if any), receive information on procedures for towing new model cars, and bulletins from manufacturers on those vehicles that cannot be towed without causing major damage: (Corvettes, Saab, Mercedes, Mercury Capri, pickup campers, motor homes, Fiat, late model VW, and many others).
5. I do not know of any non-regulated tower that has equipment to handle vehicles that cannot be towed by a regular tow truck.
- ★ 6. Very few non-regulated towers have a driver that is fully trained on all types of towing and recovery. *Safely*
7. Most non-regulated towers have just one small truck - no large wrecker and no slide-back.
8. Very few non-regulated towers have a secured storage facility for damaged or disabled vehicles. *w/dogs*
9. Non-regulated towers charge what they feel like, depending on conditions. We are much busier when cold, snowing and windy.

*Jim Christopher
Alaska Towing & Wrecking*

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Jim Christopher
Alaska Towing & Wrecking

Senator Bradley, Chairman
Senate Commerce Committee
Alaska State Legislature

Gentlemen:

I have been in the trucking business in Alaska since 1955, which was several years prior to any regulation by the Alaska Transportation Commission.

When the A.T.C. came into being I was forced to comply with its regulations or go out of business. As I had grandfather rights it was no problem to get a contract carriers permit. I was upset about the formation of the ATC however as it seemed to be a government tool to restrain free competition. Over the years I have paid out thousands of dollars to help support the A.T.C. Dollars which ultimately come from the consumers in the form of higher prices.

I have carefully read the 40 some page report, "Performance Review of the A.T.C." dated October 24, 1978, which was compiled by the Commissioner of the Dept. of Commerce & Economic Development. It clearly reveals that the A.T.C. has operated since its conception in utter confusion, with regulations already being enforced by other agencies. The A.T.C. is of doubtful benefit to the firms it regulates and does the public a great disservice by creating monopolistic kingdoms where the public becomes the loser.

The free enterprise system is what made our country the most productive on earth. I think it is about time we dare to trust it again. It will not only eliminate meaningless, expensive, chaotic and duplicated control, but it will benefit the general public, which is what it is all about.

If you have any doubt about the past efficiency of the A.T.C. just study the Performance Report mentioned previously.

As a permit-holder, I concur with it's findings.

The A.T.C. has been around for too many years to the benefit of a few with a vested interest. It should NOT be allowed to survive another year to try to get its act together. The A.T.C. has been a case of the blind leading the blind since its creation.

Let's give the Alaskan people credit for being intelligent enough to know what is in their best interest. They don't need the A.T.C. to "protect" them.

Sincerely,

A handwritten signature in cursive script that reads "Til Wallace".

Til Wallace
P.O. Box 632
Chugiak, Alaska 99567
(907) 688-2161

SB 166 essentially allows the Alaska Transportation Commission (ATC) to regulate price fixing and other varieties of agreements between common carriers. Such agreements are generally prohibited by § 1 of the Sherman Act, 15 USCA § 1, and AS 45.52.010, but certain exemptions from the ambit of the antitrust laws have been accorded to regulated industries. The purpose of SB 166, as stated by its proponents, is to bring the Alaska Motor Freight Carrier Act into conformity with certain provisions of its federal counterpart - particularly, § 5a, 49 USCA 5b₃ of the Interstate Commerce Act - by allowing parallel antitrust exemptions. The principal beneficiaries of SB 166 would be the rate bureaus, which collectively organize and publish joint and individual rates for its members, in that they would be immunized from the force of the antitrust laws. Rate bureaus are currently operating in Alaska and elsewhere, but recent federal action demonstrates conclusively that they are subject to antitrust attack. (See United States v. Southern Motor Carriers Rate Conference, et al., 61,555 GCH 72, 174).

The problem confronted here is essentially one of attempting to balance two aspects of the public interest; on the one hand, there is the necessity of stable, consistent, and rational public transportation, and unrestricted price-cutting and destructive competition are inimical to this goal; on the other hand, is the public desire for the lowest rates possible and this mitigates in favor of competition. The remedy sought by this bill should thus be directed towards defining the antitrust exemption as narrowly as possible so as not to eliminate healthy competition as well as destructive competition.

Congressional action in this ~~area~~^{area} has taken the form of the Reed-Bullwinkle Act of 1948, and that act attempts to reconcile the demands of the national transportation system with the policies of the antitrust laws. The

166. It provides for, among other things, collusive rate-making when such action is in the furtherance of the national transportation policy and it thus provides the basis for rate bureaus, since without antitrust immunity bureaus cannot operate.

The Interstate Commerce Commission (ICC) has authority to approve the establishment of rate bureaus and grant them antitrust immunity under the terms of ^PReed-Bullwinkle. The ICC also has authority to review previously approved agreements to determine whether the agreements have continued to be in the national interest and, should the ICC find that they have not, the Commission is empowered to terminate or modify their prior approval. The ATC would enjoy similar powers under § 1(i) of SB 166. In furtherance of this power to review previously approved agreements, the ICC instituted an investigation in 1973 to determine whether the scope of the antitrust immunity granted to rate bureaus should be more narrowly defined. In 1976, following extensive field investigations and hearings, the Commission issued Order Ex Parte 297, which directed that the agreements of rate bureaus would no longer be accorded antitrust immunity; (1) if such bureaus protest the independent action proposals of any of their member carriers; (2) if such carrier members are affiliated with shippers, unless the agreements of the bureau prohibit such carriers from serving on the bureau's board of directors, general rate committees, or any other committees which have an effect directly or indirectly upon the rate-making function of the bureau, without prior Commission approval; and, finally, (3) if the bureaus involved are operating as profit-making entities. These rule changes were challenged by the bureaus, but were upheld in Motor Carriers Traffic Association, Inc. v. United States, decided July 21, 1977 by the United States Court of Appeals, Fourth Circuit.

It is these changes, based on nearly thirty years of ICC experience in regulating rate bureaus and upheld by

the federal courts, that I suggest be added to SB 166 in order to more nearly balance the two possibly conflicting aspects of the public interest in stabilizing the transportation industry and preserving competition.

The proposed amendments are as follows:

(e)(1) No conference, bureau, committee, or other organization established under (e) of this section may file a protest or appear as a party before the commission in opposition to any independent action taken by a member carrier.

(e)(2) No conference, bureau, committee, or any other organization established under (e) of this section shall in any way discourage member carriers from publishing individual tariffs or proposing independent action.

The right of individual members to file tariffs independently is guaranteed by SB 166, AS 42.10.350(e), however, to permit rate bureaus to protest the proposals of a member so chills the individual proposal that it stands little chance of adoption, while providing the opportunity for misuse of the bureaus as policing agencies against individual action. It is the position of the ICC that unless independent action is protected there can be no antitrust immunity.

(e)(3) A conference, bureau, committee, or other organization established under (e) of this section may not allow any carrier which is in any way affiliated with a shipper to serve on the board of directors, general rate committee or any other committee which has an effect, either directly or indirectly, upon the rate-making function of

one user of the transportation system pays less, another user must pay more. This proposal simply keeps carriers which have a compromised interest in rates, by dint of their control by a shipper, from taking a leadership role in rate-making. It is, in other words, designed to remedy a possible conflict of interest.

(e)(4) A conference, bureau, committee, or other organization established under (c) of this section may not be a profit-making organization.

(e)(5) No conference, bureau, committee, or any other organization established under (c) of this section shall invest in any commercial business, whether related or unrelated to their primary function of processing and causing to be published rates and related matters for member carrier, nor may any such organization acquire other rate bureaus without prior commission approval.

Rate bureaus are financed by assessing fees from their member carriers and these costs are passed along to the public in the form of increased rates. Obviously, profit-making is incompatible with service organizations which operate under an antitrust immunity.

In addition, the language in section (c) should be modified so that it parallels that which is used by the ICC:

(c) Agreements between or among carriers of different classes may only be concerned with matters relating to joint rates or through routes and may only be approved if the policy declared in sec. 10 of this chapter is advanced and approval is consistent with the

public interest. For purposes of this section, carriers by motor vehicle are carriers of one class; carriers by water are carriers of one class; carriers by railroad are carriers of one class; carriers by air are carriers of one class; and freight forwarders are carriers of one class.

Finally, in order that the ATC might monitor the operation of the rate bureaus, I would suggest the addition of a section which parallels 49 USCA § 5b(3) which provides:

Each conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the commission under the provisions of this section shall maintain such accounts, records, files, and memoranda and shall submit to the commission such reports, as may be prescribed by the commission.

I would add to this provision the requirement that rate bureaus be required to keep formal minutes of all rate committee proceedings and make such minutes available for inspection by the commission. This addenda is consistent with Ex Parte 297.