2417 HJ HB 14 - HB 17

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

REQUEST

Bill/Resolution No.: HB 14 702
Title: Re: Permitting
Sponsor: Martin
Requestor: House Labor and Commerce

II. FISCAL DETAIL

Agency Affected: Natural Resources
Program Category Affected:
BRU, Program of Subprogram(s) Affected: several

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	see analysis					
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						
	see analysis					

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS:

Actual final impacts of this legislation will depend upon the specifics of resulting regulations, inter-agency memoranda of understanding detailing responsibilities and procedures, and RSA funding arrangements and personnel transfers. In any event, DNR will require additional personnel in order to act as lead agency.

[illegible]

Prepared By: Mark Wittow Phone: 465-2400
Division: Commissioner's Office Date: 4/15/83

Approved for By Commissioner: Date: 4/18/83
Department: Natural Resources

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

Page 1 of 2

I. REQUEST

Bill/Resolution No.: HB 14 701
Title: "...processing of permits..."
Sponsor: Repr. Martin
Requestor: House Labor & Commerce

II. FISCAL DETAIL

Agency Affected: Department of Law
Program Category Affected: General Govt.
BRU, Program of Subprogram(s) Affected: Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard L. Pegues Richard T. Pegues, Director Phone: 465-3672
Division: Administrative Services Division Date: April 13, 1983
Approved by Commissioner: Richard L. Pegues for Norman C. Gorsuch, Attorney General Date: April 13, 1983
Department: Department of Law

Distribution:
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Copy to Requestor (if different from Sponsor)

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST
Bill/Resolution No.: HB 14 ~~402~~
Title: Re: Permitting
Sponsor: Martin
Requestor: House Labor and Commerce

II. FISCAL DETAIL
Agency Affected: Natural Resources
Program Category Affected:
BRU, Program or Subprogram(s) Affected: several

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	see analysis					
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						
	see analysis					

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS:

Actual final impacts of this legislation will depend upon the specifics of resulting regulations, inter-agency memoranda of understanding detailing responsibilities and procedures, and RSA funding arrangements and personnel transfers. In any event, DNR will require additional personnel in order to act as lead agency.

Prepared By: Mark Wittow Mark Wittow Phone: 465-2400
Division: Commissioner's Office Date: 4/15/83

Approved by Commissioner: for Mary Sullivan Date: 4/18/83
Department: Natural Resources

Distribution:
Original to Legislative Finance
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Copy to Sponsor

5/10

COMMITTEE REPORT

HOUSE

(9)

FURTHER: JUDICIARY FINANCE

4/26/83

Date: 5/9/83

Mr. Speaker:

The Committee on RESOURCES has had HB 14

"An Act relating to processing of permits by state agencies, and to administration of the Alaska coastal management program."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 14 (Resources) [✓] same title [ ] new title

and recommends

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
Dick Shultz	Ronald L. Ferguson
Arliss J. Sturgulewski	
John Ringstad	Anthony Vaska Do Not Pass
Kay Conley	Rick Uehling It's a travesty

John Ringstad
CO-CHAIRMAN
John Ringsted

H 60

4/26

COMMITTEE REPORT

HOUSE

(7)

1/17/83

FURTHER: RESOURCES
JUDICIARY
FINANCE

Date: 4/21/83

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 14

"Relating to processing of permits by state agencies, and to administration of the Alaska Coastal Management program."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 14(L&C) [ ] same title [ ] new title

and recommends

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[X] 2 Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Nick Kovarik — Do not pass

[illegible]

[illegible]

Rick Uehling [illegible]

J Malone — DO NOT PASS UNLESS AMENDED

CHAIRMAN

H 60

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

Page 1 of 2

I. REQUEST

Bill/Resolution No.: HB 14 701
Title: "...processing of permits..."
Sponsor: Repr. Martin
Requestor: House Labor & Commerce

II. FISCAL DETAIL

Agency Affected: Department of Law
Program Category Affected: General Govt.
BRU, Program of Subprogram(s) Affected: Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard L. Pegues Richard L. Pegues, Director Phone: 465-3672
Division: Administrative Services Division Date: April 13, 1983
Approved by Commissioner: Richard L. Pegues for Norman C. Gorsuch, Attorney General Date: April 13, 1983
Department: Department of Law

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Copy to Requestor (if different from Sponsor)

HB 14 vol. 1 - page 222
Fiscal Note
Analysis

This bill greatly shortens the permitting process time of state agencies. Although this will cause us to assist with some new regulations necessary for a shortened permit process for the permitting agencies, this additional work will not be time consuming or burdening. Therefore, the bill will have a fiscal impact on the Department of Law's operations. Considerable fiscal impact will occur on the part of agencies responsible for permits, such as Fish & Game, DEC and Natural Resources, as they gear up to review and issue permits in shortened times provided by the bill.

COMMITTEE REPORT

HOUSE

(7)

FURTHER: FINANCE

5/10/83

Date: May 25, 1983

Mr. Speaker:

The Committee on JUDICIARY has had HB 14

"An Act relating to processing of permits by state agencies; and to administration of the Alaska coastal management program."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[✓] replace with CS for HB 14 (RES) [✓] same title [ ] new title

and recommends

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60

League of Women Voters of Alaska

COMMENT ON HB 14 REGARDING PROCESSING OF PERMITS
FOR HOUSE JUDICIARY COMMITTEE
May 25, 1983

The League of Women Voters of Alaska has followed the issue of processing of permits for several legislative sessions. We do not have a particular interest in the outcome of most permits, but we do have a great interest in the process of granting permits. We believe that the public interest in our air, water, and land resources must be protected. This should be the primary purpose of any permitting system. Further, the public must have appropriate opportunities to participate in the process. All factors in a permit decision must be balanced so that the greatest weight is given to the public interest.

The League of Women Voters of Alaska is composed of the five local Leagues in Ketchikan, Juneau, Central Kenai Peninsula, Anchorage, and Fairbanks, a provisional League in the Matanuska-Susitna area, a small unit in Kodiak, and a few scattered at-large members. We speak on selected governmental issues based on our principles and positions. The positions and principles are adopted following in-depth study and consensus among the whole membership.

The League of Women Voters of Alaska opposes HB 14. There has been no outpouring of public demand for this type of legislation. Rigid schedules should not be established by statute. We believe that any perceived problems with the permitting process have been and will continue to be corrected administratively. Administrative changes can provide the necessary flexibility to accommodate a variety of permits while providing for efficient processing of them.

We have some specific comments on the bill. The time limits for processing permits delineated in the bill do address some of the concerns we have had with some versions of bills dealing with this issue. There has been some provision made for public input in the allowable time limits. We still believe that the time limits are unnecessarily rigid for three reasons. First, there is no public demand for specific time limits. Second, we can envision cases where a field season would be desirable, or the issues surrounding a particular development would be so complex, that it might not be possible to reach a sound decision within the time limits. The bill does not permit much flexibility in these few cases. Thirdly, we are concerned that staffing levels at some future time may not be adequate to give full consideration to all permits applied for. Then many permit applications may face the provision for automatic approval. We do not believe that automatic approval upon failure to meet the time requirements is in the public interest. We can see a number of potential problems with this provision. For example, many permits may receive pro forma approval or denial without proper scrutiny in order to meet the requirement. In either case we suspect the result will be costly litigation which could add years of delay to any project.

The bill provides for designation of a lead agency. In principle this is reasonable. A "one-stop" process could be a great benefit to an applicant. In practice, an agency with an interest in a particular outcome may have difficulty fairly balancing conflicting information submitted by other agencies. The lead agency must be a neutral party in the process if the public is to have faith in its ability to balance competing factors.

The League of Women Voters of Alaska believes this bill is both unnecessary and unwise. There is no compelling need at this time to make statutory changes in the permitting process. This bill will not serve the public interest.

Prepared by Mary Beth Judey
4837 Palo Verde Dr.
Fairbanks, AK 99701
479-3765

(2)

AMENDMENT

OFFERED IN THE HOUSE: BY: Representative Bussell

TO: CS HOUSE BILL No. 14 (Resources)

SENATE BILL No. _____

PAGE: 5 LINE: 14

insert:

the Office of the Governor, Division of Policy Development and Planning.

delete:

[Department of Natural Resources.]

LAW OFFICES

BIRCH, HORTON, BITTNER, PESTINGER AND ANDERSON

A PROFESSIONAL CORPORATION

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RONALD G. BIRCH
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RODNEY B. CARMAN
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JACK D. CLARK
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JOSEPH W. EVANS
JOSEPH W. GELDHOF
PAUL H. GRANT
TIMOTHY M. HAAKE *
HAL R. HORTON
CAROL A. JOHNSON
MARC W. JUNE
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JEFFREY B. LOWENFELS
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PATRICK H. OWEN
MICHAEL J. PARISE
SUZANNE C. PESTINGER
MICHAEL V. REUSING
ELISABETH H. ROSS
WILLIAM R. SATTERBERG
E. BUDD SIMPSON
DANIEL W. WESTERBURG

* NOT ADMITTED IN ALASKA

April 14, 1983

The Honorable Walt Furnace, Chairman
House Labor and Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: SSHB 14: Sealaska Amendments

Dear Chairman Furnace:

Following yesterday's hearing, I reviewed Sealaska's proposed changes to SSHB 14 with Bill Berrier. I believe the following accurately represents the results of our discussions:

1. Sealaska has proposed the insertion of a new subsection "e" to proposed AS 44.62.635. At yesterday's hearing, concerns were expressed that our amendments' reference to the "Division of Policy Development and Planning" was improper, since DPDP was being reorganized within the Office of Budget & Management. However, because the Governor's executive order creating that office was rejected by the legislature, and because legislation creating the office (SB 152) has not yet been enacted, it is proper drafting to continue to refer to the Division of Policy Development & Planning by its historical name;

2. Sealaska had proposed to add, as a new Section 4 to HB 14, the "Authority not Enlarged" section of its proposed legislation. See Sealaska bill, p. 3, lines 6-14. This section is particularly vital if the legislature is to solve the "foot in the door" problem described in my testimony of April 12th. Mr. Berrier sees no objection to the inclusion of this subject matter in the bill; however, he would prefer to see the issue addressed in the existing lead agency section of HB 14. In response to Mr. Berrier's suggestion, Sealaska would recommend that new subsections (f) and (g) be added to proposed AS 44.62.635 to read:

(f) "Nothing in this section, or AS 46.40, may be construed as authorizing a lead agency, or any resource agency, to deny or condition a consistency determination because of impacts which may be caused by activities not themselves requiring a state permit or disposal of interest in state land."

(g) "In making a consistency determination under this section for an activity occurring outside the boundaries of a coastal resource district with an approved district plan, the lead agency, or any resource agency, may consider only those statewide standards and guidelines adopted by the Alaska Coastal Policy Council under AS 46.40.040(1)."

3. Sealaska, finally, had proposed the insertion, as a new Section 4 to HB 14, of proposed AS 46.40.065 (Sealaska bill, pg. 2, lines 4-13). This provision would have required landowner consent before "areas which merit special attention" could be designated outside the boundaries of coastal resource districts. Without this provision, the Alaska coastal policy council will retain almost unbridled authority to impair or prohibit major resource development activities in the unorganized borough.

Mr. Berrier believes that the insertion of this provision would violate the "one subject rule" (Alaska Const., Art. II, Sec. 13) because HB 14 deals only with Coastal Management procedures, while Sealaska's proposed 46.40.065 deals with the substantative authority of the Alaska Coastal Policy Council.

Sealaska respectfully disagrees with Mr. Berrier's conclusion. The Alaska Supreme Court has, repeatedly, very broadly construed the state's "one-subject" rule, and has required only that the subjects included bear some rational relationship to each other, or fall within the same "general idea." Gellert v. State, 522 P.2d. 1120, 1123 (Alaska 1974); see also North Slope Borough v. Sohio Petroleum Corporation, 585 P.2d. 534 (Alaska 1978). The driving force behind permit reform legislation over the past four years has been to ease the burden which the Alaska coastal management program has placed upon private industry in the state. Major industry in the state will be benefited little by the designation of a lead agency, if that agency may still prohibit major resource development in the unorganized borough without the landowners meaningful participation in the process. Both HB 14, and proposed AS 46.40.065, very much deal with the procedures governing the application of the Alaska Coastal Management Act to private industry. As a result, they both

"embrace some one general subject... [and] fall under some one general idea..." Gellert v. State, 522 P.2d. at 1123. Thus, there hardly appears the "substantial and plain" violation of the one-subject rule which would raise a serious constitutional question. North Slope Borough v. Sohio Petroleum Corporation, 585 P.2d. at 545.

Nonetheless, should the committee conclude that a significant "one-subject rule" problem exists with respect to the inclusion of proposed AS 46.40.065, Sealaska would urge the committee to include that provision as a companion bill. The unilateral designation of AMSA's in the unorganized borough is a very serious problem, and one which deserves consideration in conjunction with any permit reform legislation.

Sealaska appreciates the consideration given its amendments by this committee. We, in turn, have made every effort to accomodate our amendments to the needs of other industries in the state, and as well to the common goal of insuring the prompt consideration and passage of HB 14. Since the enactment of HB 14 this session will in all likelihood end the "permit reform" debate before the legislature, I'm sure the committee can appreciate Sealaska's concern that the needs of the Southeast Alaska timber industry, and of Native regional corporations throughout the state, are recognized in any permit reform legislation.

Sincerely,

BIRCH, HORTON, BITTNER,
PESTINGER AND ANDERSON

Jon K. Tillinghast by SBJ

Jon K. Tillinghast

JKT:rdg

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

May 23, 1983

To: House Judiciary Committee

From: Ginny Chitwood

Re: HB 14 - Processing of Permits

Over the past several years during the debate on permit reform bills, there have been alot of questions raised by municipalities about where local governments and coastal resource districts fit in the whole process of consistency decisions and the approval of permit applications. In one version, local recommendations were to be given "great weight", but what that phrase meant was unclear. This year, the local recommendations need to be "considered", according to HB 14, and are not mentioned at all in SB 219. Does this mean that local planning and zoning ordinances are no longer valid? that approved coastal management programs can be overridden? that the wishes of the residents of an area have no more weight than a letter from John Doe in Podunk? We're sure that's not the legislature's intent, but that is not clear from the legislation.

AML has consistently endorsed permit reform, either administratively or legislatively, but opposes streamlining strictly for the sake of streamlining, especially if the wishes of local people are going to be overridden in the process. We hope that you will schedule a teleconference hearing to ensure the widest possible participation in the discussions of this bill.

James M. Souby
Director
Division of Policy Development
and Planning

DATE: January 3, 1983

FILE NO:

TELEPHONE NO:

FROM: Wendy Wolf
State-Federal Coordinator
Division of Policy Development
and Planning

SUBJECT: Oil & Gas Permits
in 1982

In 1982, 22 federal Oil and Gas Permit reviews were completed by this office. All these projects were declared consistent. By each oil company, the number of days needed for each review is indicated:

ARCO	30(2) 38(3) 41 42 44 45 52 112	This averages out to 46 days each, or 40 days exclusive of the 112 day review. The latter is Put 7 - a previously inconsistent project. 3 other projects were withdrawn by the applicant prior to review close out.
EXXON	51	
MOBIL	33	
PHILLIPS	39 41	
SHELL	43 48	
SOHIO	42 30	
TENNECO	55	
UNION	142 146	These Union permits were held up by negotiations between Union and DEC over the necessity for discharge permits for relief pits.

The overall average review time is 53.9 days for these permits. Exclusive of the 3 lengthy reviews, the review time averages 41 days.

Our new expediting procedures appear to be working well.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

CITY OF ANGOON and SIERRA CLUB,

Petitioners,

vs.

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION and SEEE ATIKA, INC.,

Respondents.

(C)

FILED in the Trial Courts STATE OF ALASKA FIRST DISTRICT AT JUNEAU

FEB 10 1983

Barbara Dillman, Clerk

By SAW Deputy

No. 1JU-82-1919 Civil

MEMORANDUM OF DECISION AND ORDER

Upon hearing oral arguments of counsel and testimony of three witnesses, and upon consideration of the pleadings and memoranda, the court has arrived at the following conclusions.

1. Petition for Review

The Petition for Review is granted, pursuant to App. R. 610(b)(1). Postponement of review of the November 8, 1982 decision of the Commissioner of the Department of Environmental Conservation (DEC) on petitioners' emergency motion for stay would result in injustice. The injustice consists of petitioners inability to obtain a ruling from the Commissioner of DEC on their request for a stay before clearcutting takes place.

The Petition for Review raises the question of whether the Commissioner of DEC erred in concluding he had no jurisdiction to enjoin the clearcutting at issue. The court finds in favor of the petitioners on this question. The Commissioner himself recognized that he should consider standards for protection of the coastal zone under the Alaska Coastal Management Act when reviewing respondent's plans to construct a log transfer facility However, the Commissioner did not feel that the proposed clear-cutting was a proper subject of his permitting authority. Therefore, he held he had no power to enjoin the clearcut.

The Coastal Management Act should be given a broader reading

The Commissioner's authority is not delineated by the activity on the face of the application for a Certificate of Reasonable Assurance. The Act envisions a comprehensive review by agencies of impacts to coastal land and water. Consequently, activities closely associated with uses specifically mentioned in permit applications must also be considered.

The court finds no compelling reason to treat the clearcut separately from the log transfer facility. The cutting, by respondents' own testimony, will serve a variety of functions, all related to the sorting, storage, and transfer facilities of this project. The fact that some of the cut acreage is intended for a log sort yard does not alter the court's reasoning. No persuasive evidence was presented to require that a sort yard must receive separate consideration. Since the Commissioner has the authority, and is in fact mandated, to determine consistency with the ACMP for the entire project at Cube Cove, he has the jurisdiction to issue a stay if warranted.

The case is remanded to the Commissioner of DEC to determine whether the clearcutting should be enjoined pending the adjudicatory hearing. The interests of judicial and administrative economy dictate that DEC make this decision, not the court, given the extensive record before the department in this case already. In remanding, this court is not making any judgment on the merits of petitioners' emergency motion for stay. The court is only confirming the Commissioner's authority, and directing that he exercise that authority as soon as possible.

2. Preliminary Injunction

Ordinarily, the function of a preliminary injunction is to preserve the status quo -- or establish a new status -- while an underlying action is pending. The showing for an injunction involves three factors: irreparable harm to petitioners, little or no harm to respondents, and the existence of a substantial

question presented on the merits.

In this case, the underlying action before the court is a Petition for Review. The question presented by the Petition has been decided, in favor of the petitioners, so the traditional purpose of an injunction does not exist. However, since a TRO has been in effect for almost three months, and the Commissioner will shortly be deciding the propriety of a stay, this court finds further temporary injunctive relief appropriate. The current injunctive order will be extended only until such time as the Commissioner issues a ruling on petitioner's emergency motion for stay. The court urges that this action take place in the very near future, so that the duration of its injunctive order is extremely short-lived.

For the reasons stated above, the Petition for Review is granted and decided in favor of petitioners. The Motion for Preliminary Injunction is granted only insofar as it extends the court's current injunctive order until the Commissioner of DEC rules on the merits of petitioners' emergency motion for stay. The Commissioner is directed to handle this matter expeditiously.

IT IS SO ORDERED.

DONE at Juneau, Alaska, this 10th day of February, 1983.

Walter L. Carpeneti

Walter L. Carpeneti
Superior Court Judge

CERTIFICATION

This is to certify that on the above date I provided a copy of the above Memorandum of Decision and Order to:

Barbara Malchick, Esq.
Douglas Mertz, Esq.
Jacquelyn R. Luke, Esq.

Secretary to the Judge

Department of Environmental Conservation

Subcommittee: NRMEC
Members: Bettisworth, Grussendorf, Vaska/Wendte

House Ceiling: 11,300.
Senate ceiling: 11,000.
Governor: 11,809.

Federal Receipts: 1620.4
FY 83 Federal Receipts: 2282.7

Line item or program	Request	Gov.Amd.	House	Difference
Facilities construction and operation	1184.9	1150.	1082.	-5.8%

The area of water and sewer construction was identified by members of the subcommittee as a major interest in terms of capital projects. This area is receiving federal money to train water and sewer operators (65.) This unit administers the Village Safe Water, Municipal Grants (for sewer projects) and the Operator Training and Certification programs. The difference between the House and Governor's proposals amounts to 68. and would delete an environmental conservation supervisor position and travel money.

Environmental Quality Permit Section	0	0	0	0

This section has been cut out, due to the shifting of these functions to regional offices. This is felt to be more efficient, thus cutting down the time to process permits. This localization of function is estimated to cut down the time by up to 2 weeks. In dividing up the section, 12.2 was given to the northern regional office, 12.2 to central and 60.7 to southeast. Other money was shifted to the director's office.

Environmental Quality Southcentral region	2092.9	1798.6	1794.	-0.1%

The size of the rquest was based on a 6% increase for inflation and money to take up those areas which were covered by federal money which would not be present for the coming year.

Env. Quality Management Director's office	241.0	225.1	220.1	-2.1%

There has been an increase from FY 83 levels (146.8) largely because of transfers from other programs within this unit (Water Quality, Management and Technical Assistance, Air and Solid Waste.)

Env. Quality Management Water Quality Management	1081.	915.5	1101.5

SHORT FORM PAGE D NAT XX PUB XX

2 4 6 10 12 14 16 18 20 24 25 28 30 32 36 38 42 44 46 50

OVERKILL

OR

HAVE WE ARRIVED AT THE POINT WHERE IT IS NO LONGER POSSIBLE TO GET THERE FROM HERE?

Part of the life blood of any logging operation in Southeast Alaska is the ability to establish logging camps and the facilities to put logs into the water and boom and raft them preparatory to towing them to a mill site or shipping point. Because these facilities involve uplands, tidelands and navigable waters, an applicant must clear the activity necessary for construction with an upland owner (if other than his own private property), the Alaska Department of Natural Resources (DNR) because they are custodians of the State's tidelands and the Corps of Engineers, Department of the Army (Corps) as the agency responsible for issuing permits for facilities in navigable waters.

To illustrate the total "overkill" of procedures and duplication one must struggle through in obtaining the necessary permits and approvals, it is necessary to track the procedure. Neets Bay 10 and 12 are a good example of such facilities and their record.

Neets Bay is within the Ketchikan Pulp Company (KPC) (KPC is a wholly-owned subsidiary of Louisiana-Pacific Corporation)long term timber sale and the original need for camp, log transfer and boom and rafting facilities was recognized and reviewed by the Forest Service (FS) multi-discipline team when designating areas for the 1974-79 five-year operating area for which an environmental impact statement (EIS) was written. Therefore, as the upland owners, the Forest Service reviewed and approved the site for these facilities and included them in the EIS prior to commencing logging operations on the five-year period beginning July 1, 1974.

On April 26, 1977 (Exhibit A) a letter was sent to the Corps together with application for a permit described as "proposed standing log boom retained in position by 5 ton anchors, log transfer facility using approximately 1,000 cubic yards of upland shot rock and employing an A-frame lift-off device, an offloading ramp consisting of a lashed log crib filled with shot rock from an upland source, a small boat dock and ramp to aid in construction of roads and facilities".

On June 15, 1977 we were sent a letter by the Corps notifying us of their receipt of our application, the assignation of Reference No. 071-OYD-2-770123 and the notification of assessment of a $100.00 processing fee should approval be granted. (Exhibit B)

On July 19, 1977 we received from the Corps (Exhibit C) a copy of a letter from the U. S. Environmental Protection Agency (EPA) requesting the permit, if issued, contain the following special conditions:

1. The permittee shall implement, once per year for a period of three years, a bottom sampling program to determine whether lost solids have accumulated in the project waters associated with the log transfer site. Each such sampling shall be completed not later than September 1 of each sampling year.

2. The permittee shall submit a brief report of the findings of each sampling effort and a sketch showing location of sampling sites, to the Corps of Engineers, the Alaska Department of Environmental Conservation and the U.S. Environmental Protection Agency not later than October 15, of each sampling year.

3. The permittee shall remove all significant accumulations of lost wood solids, if any, and dispose of them in an upland fill approved by the U.S. Forest Service and/or the Alaska Department of Environmental Conservation and concurred in by the Environmental Protection Agency. The permittee shall modify log transfer procedures, including possibly the relocation of the transfer site if significant accumulations of lost wood solids are found as a consequence of any sampling program conducted by the permittee or the Environmental Protection Agency.

AIthough EPA saw fit to copy the Alaska Department of Environmental Conservation (DEC), the U.S. National Marine Fisheries Service (NMFS), the U.S. Fish & WildLife Service (USF&WS) and the Forest Service with their letter, they did not see fit to send it to the applicant thus requiring a copy of the letter to come from the Corps with their notice to us and our return agreement July 29, 1977 to the Corps (Exhibit D) with copy to EPA.

On August 29, 1977 and after advertisement of request for public comment, the Corps sent a letter (Exhibit E) informing us to submit our processing fee and we would receive our permit. On September 15, 1977 having submitted the required fee we received a cover letter and our permit from the Corps (Exhibit F). This permit contained standard Corps conditions a-x (24 in number) plus the three additional conditions of EPA. Included in the 24 Corps conditions are the conditions for applicant

to "at all times be consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, and pretreatment standards established pursuant to Sections 301,302,306 and 307 of the Federal Water Pollution Control Act of 1972 (P.L. 92-500; 86 Stat. 816), or pursuant to applicable State and local law".

Another subsequent section also adds, "...if applicable water quality standards are revised or modified during the term of this permit the permit will be modified if necessary to conform with such revised standards within 6 months of the revision..."

On September 30, 1977 we applied to the Department of Natural Resources for a tideland permit for this same area. However, due to market changes affecting our need for logs, scheduling our logging operations, together with the need to recover blown down timber in other areas, it became apparent we would not be moving into this area as planned.

It is difficult to be precise in these schedules when we must get our Corps permits started a minimum of six months prior to construction and construction must precede logging by at least one year. This means we are estimating our logging needs one and one-half to as much as three years in advance in relation to needing permits, and we are working with the Forest Service preparatory to writing environmental impact statements as far as eight years in advance of construction for some of these facilities.

In any event, we did not start the work applied for in either the DNR tidelands permit or the Corps permit as expected. On April 16, 1979 we received notice from DNR (Exhibit G) to notify them of our intentions on the tidelands permit or they would close the file. We advised DNR by letter of April 20, 1979 (Exhibit H) of our new estimated dates of construction schedule starting on March 1, 1980 and completion on August 1, 1980.

It was now apparent our logging activities in this area would not be completed during the 1974-79 five-year period but would now fall withir the 1979-84 period. This necessitated the FS multi-discipline team review and the inclusion of this area and its facilities in yet another EIS.

We also wrote the Corps on August 8, 1979 (Exhibit I) requesting extension of our permit to cover our new schedule. On October 4, 1979 (after a period of almost two months) we received word from the Corps (Exhibit J) stating they could not extend our permit because we had not commenced work by April 26, 1978 or a year after our original application and must reapply.

On October 16, 1979 we sent a cover letter and application to the Corps (Exhibit K). The letter, application and drawing were basically the identical ones used for our original application of April 26, 1977. On or about October 23, 1979 we received from the Corps a letter (undated) (Exhibit L) designating our application NPACO-RF-P Neets Bay 12 with the reference number 071-OYD-2-790398. We were further informed by the Corps that further action on our permit was suspended because the permit area was within the Alaska coastal zone and we must provide a certification that our activity would comply with the Alaska Coastal Management Program. Also, they advised us that a permit cannot be issued until we have obtained a Certificate of Reasonable Assurance or Waiver of Certification as required by Section 401(a)(1) of the Clean Water Act. This certification or waiver is to be issued by the DEC.

We next received a letter dated November 30, 1979 from DNR (Exhibit M) informing us that our tideland permit ADL 100073 for Neets Bay was to be advertised as shown on the attached notice. We then received a copy of the Corps public notice dated December 7, 1979 (Exhibit N) and attached was a copy of the public notice from the Office of the Governor, Division of Policy Development & Planning (DPDP) for Application for Certification of Consistency with the Alaska Coastal Management Program and also attached was the DEC public notice of Application for Water Quality Certification. This latter certification is assurance that any discharge to waters of the United States resulting from the project described in the Corps permit will comply with the Clean Water Act and applicable state laws, even though the applicant must agree to abide by these laws as a condition of obtaining the permit from the Corps and the permit itself so stipulates (see Corps permit General Conditions part b).

A letter dated December 12, 1979 was sent to the Corps from DPDP (Exhibit O) advising them they had received the application, were reviewing it for Alaska Coastal Management Program Consistency Determination and had distributed the material to the appropriate governmental agencies for a review which they were scheduled to close on January 10, 1980, soon after which they would send the review decision to the Corps. Also, the State Clearinghouse has now assigned State ID No. FD280-79121111FP.

On December 28, 1979 we had a telephone call from the NMFS questioning whether there was enough water under the transfer site to float the log bundles at all tides. We directed him to the plat submitted with our application indicating 50 to 60 feet and pointed out that the site would be of no use for our purposes if the bundles did not float. We agreed to make ourselves available to travel to the site with them However, we later found they had visited the site without cont[illegible] with us.

On January 4, 1980 we were copied on a letter sent from the Alaska Department of Fish & Game (ADF&G) (Exhibit P) requesting a one month extension to permit a more thorough evaluation and assessment of the impacts of this development. ADF&G sent copies of this letter to USF&WS, NMFS, EPA, two recipients (Juneau and Anchorage) at DNR, two recipients (both Juneau) at DEC, one other recipient at ADF&G and the State Clearinghouse.

Also, on January 4, 1980 the DPDP wrote the Corps (Exhibit Q) notifying them the Alaska State Clearinghouse was extending the closing date for review from their original January 10, 1980 by fifteen days which they calculated would be a closing date of February 2, 1980. (Actually, 15 days from January 10, 1980 is January 25, 1980).

On January 17, 1980 we received a copy of a letter from EPA to the Corps (Exhibit R) advising them the proposal may have adverse impacts on water quality and/or the aquatic resources and accordingly, coordination with appropriate State and Federal resource agencies was needed and they would expect to provide additional comments within 30 days. The EPA copied USF&WS, ADF&G, DEC and NMFS.

On January 18, 1980 we received a copy of a letter from the Corps to NMFS (Exhibit S) agreeing to extend the review period to February 7, 1980.

On January 29 we received notice and billing from DNR (Exhibit T) for the advertisement for our State Tideland Permit.

On February 8, 1980 we received a copy of a letter from EPA to the Corps (Exhibit U) informing them of no objection to issuance of this permit "provided the applicant complies with all State & Federal resource agency conditions that may be needed to protect the aquatic resources". A copy of this letter went to USF&WS, NMFS, ADF&G, and DEC. Had EPA read the requirements written into a Standard Corps Permit they would have noted the applicant must not only agree to comply with all State and Federal conditions but must also agree to currently comply if rules or regulations are added or modified and we would not now at this late date have to agree with what we must agree with to obtain the valid permit.

On February 15, 1980 we received a letter from the Corps (Exhibit V) enclosing a copy of a letter they received from the ADF&G saying they had reviewed the application and "find this project consistent with those Coastal Zone Management standards we have responsibility for reviewing and have no objections to issuance of a permit, provided the following special stipulations are included:

1. A non violent log transfer facility is employed.

2. The permit is limited to a five year period".

Copies of this letter dated February 1, 1980 were sent to NMFS, USF&WS, EPA, 2 recipients at DNR, 2 recipients at DEC, ADF&G, Clearinghouse and to the Applicant.

It is interesting to note that at this late date there is a requirement for a non violent dump when both the original and subsequent applications for permit detailed in the drawings of the facilities as well as in the verbal description a lift-off, non violent type of equipment to be used. Also, the insistence of a five year limitation with no explanation whatsoever of why they think this is necessary or investigation as to whether this limitation is consistent with the applicant's requirements.

We next heard directly from DPDP on February 19, 1980 (Exhibit W). They informed us that, "As currently planned, we have found the proposal to be inconsistent with ACMP. It will be consistent with the ACMP provided the attached stipulations are met.

INCONSISTENT DETERMINATION ATTACHMENT

Conditions related to South Neets Bay Timber Project
(State I.D. # FD 280-79121111 FP):

1. The Department of Environmental Conservation must first issue a Certificate of Reasonable Assurance stating that the proposed activity will comply with the requirements of Section 401 of the Federal Water Pollution Control Act Amendments of 1972 as modified by the Clean Water Act of 1977.

2. A non-violent log transfer facility must be employed.

Copies of this letter were sent to Office of Coastal Management (OCM), Department of Law, COE(Corps) and DEC. Again, we have the requirement for a non violent log transfer in the permit application.

At this point we seem to be in the position of not being able to get approval from DPDP until DEC goes to public notice and issues a Certificate of Reasonable Assurance that the project will be in compliance with Section 401 of the Federal Water Pollution Control Act even though this is stipulated by the Corps as a general condition of the permit.

We next received a letter from the Corps dated February 21, 1980 (Exhibit X) and relaying to us a letter they received from NMFS and indicating they had made two on-site inspections of the area to be covered by this application. They state, "As a result of these investigations, we believe that the proposed action will not significantly harm marine, estuarine, or anadromous fisheries resources if the following stipulations are incorporated into the permit:

1. Log transfer methods should be non violent. This will reduce the amount of bark debris knocked off in the transfer process.
2. This permit shall expire in five years.
3. A sufficient amount of clean shot rock shall be placed over all fill material so that erosion and leaching of fill material will not occur".

We were not copied on this letter, necessitating the Corps send us a copy and request our comments to NMFS who must then contact the Corps of our agreement. Also, had this agency read either the original or second application for this facility they, too, would have noted it was specifically for a lift-off (non violent) type and was to be filled entirely by shot rock. They also deemed a five year limitation on the permit without any explanation of the necessity or inquiry of the applicant.

Also on February 21, 1980 we wrote DPDP (Exhibit Y) agreeing to a non violent dump, even though this was the intention from the original application for this permit on April 26, 1977.

On March 3, 1980 we received from the DEC by Certified Mail, Return Receipt Requested (Exhibit Z) a cover letter transmitting to us a State of Alaska Department of Environmental Conservation Certificate of Reasonable Assurance. This document states the log transfer facility consisting of 1,000 cubic yards of shot rock fill and an A-frame lift-off device will be constructed along with other facilities. It then stipulates the following provisions:

1. A spill prevention control and counter measures plan in accordance with 40 CFR 112.4(c)*has been prepared by the applicant and submitted to ADEC.

2. A non-violent log transfer facility is employed.

3. A clean shot rock cap is placed over all fill material to prevent surface erosion.

4. ADEC 401 certification expires in five (5) years.

Copies of this letter were sent to Corps, EPA, ADL(DNR), ADF&G, NMFS, USF&WS, SERO(?), OCM and State Clearinghouse.

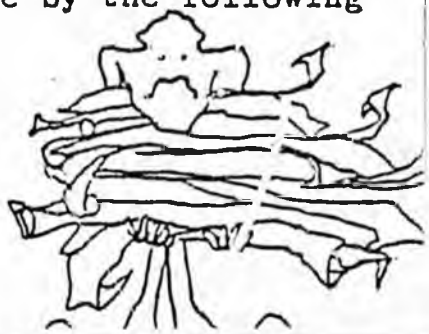
Although we do not understand why a spill prevention control and countermeasure plan is needed for approval of this permit we will submit one to DEC because to argue it would be time consuming and it will be required by the Coast Guard, FS and EPA prior to fuel being stored in the area. We will agree to a non violent log transfer as stipulated on both plans and description of our permits since April 26, 1977 and we will agree to a clean shot rock cap because all of the fill material will be clean shot rock as stated in application. We are still curious as to why so many agencies (or is it really one agency with a lot of shadows?) insist on a five-year limit without inquiring of us how long we will need the facility. In this case, we will most likely agree to the five year stipulation, only so we can commence the project and hope for an extension if we need the facility longer.

On March 3, 1980 we also received a copy of a letter from DPDP to the Corps (Exhibit AA) informing them they had received a Certificate of Reasonable Assurance from DEC stating that the subject project will comply with the requirements of Section 401 of the Federal Water Pollution Control Act. They further state they have now completed their ACMP review of the subject proposal and find it consistent with ACMP. Copies of this letter were sent to OCM, two recipients at ADF&G, DEC and Commissioner McAnerney of Regional Affairs (CRA).

As of this writing, on March 10, 1980, we do not have our permit and we do not have a DNR tideland permit. Our construction season has started and our construction people are on the ground constructing the road and developing quarry sites and are badly in need of this permit to properly schedule their work.

Neets Bay 12, NPACO-RF-P, No. 071-OYD-2-790398, State I. D. No. FD280-7912111IFP and ADL No. 100073 has been reviewed by two FS multi-discipline team reviews including participants from other State and Federal agencies, been included within two Environmental Impact Reports in which all agencies could (and most did) make comments, as well as any private citizen and has now been reviewed by, or copied with, some correspondence by the following agencies in relation to this application:

FS U.S. Forest Service



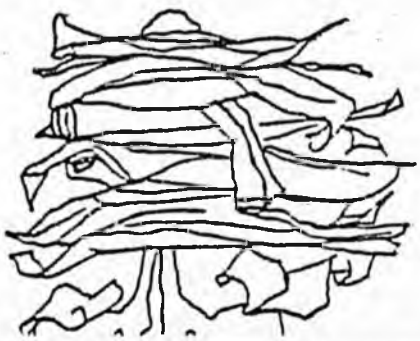
Corps	Corps of Engineers, Dept. of Army
EPA	U.S. Environmental Protection Agency
DNR	Alaska Department of Natural Resources
DPDP	Office of the Governor, Division of Policy Development and Planning
ADF&G	Alaska Department of Fish & Game
DEC	Alaska Department of Environmental Conservation
ADL	Alaska Department of Law
CRA	Commissioner of Regional Affairs
	State Clearinghouse
OCM	Alaska Department of Coastal Management
SERO	Unable to identify
NMFS	National Marine Fisheries Service
USF&WS	U.S. Fish & Wildlife Service

The question needing an answer is, why so much duplication, delay and totally unnecessary paperwork is required for a routine non-controversial permit such as this? Is it really necessary for nine State Departments or Agencies and probably twice that number of State employees along with five Federal Agencies and their employees to review, make comments and shuffle the paper? This chronology illustrates how rapdily the bureaucracy has come upon us when one reviews the rather direct route to the permit received in 1971 as compared to the frightening growth and duplication that has sprung up by 1979, even when applied to an area for which there had been a previous permit issued.

We do not fault the Corps, as their practice is to be helpful in notifying the applicants of agency input, but their regulations force them to respond to each and every comment, no matter how duplicative, until all participants are satisfied. We also think that if all agencies would read and analyze the General Conditions an applicant must consent to in order to get a permit they would realize many of their concerns are already well protected and much of their review and comments unnecessary. Attached is a current copy of the Corps General Conditions for a permit, for your information.

We sincerely feel this process is non productive, wasteful, inflationary and in need of review, particularly in respect to the State's duplicative reviews. It is only for this purpose this review has been written and circulated. If it accomplishes some reduction in what we consider a decided OVERKILL the effort will have been worthwhile.

3/80



I. General Conditions:

a. That all activities identified and authorized herein shall be consistent with the terms and conditions of this permit; and that any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension or revocation of this permit, in whole or in part, as set forth more specifically in General Conditions j or k hereto, and in the institution of such legal proceedings as the United States Government may consider appropriate, whether or not this permit has been previously modified, suspended or revoked in whole or in part.

b. That all activities authorized herein shall, if they involve, during their construction or operation, any discharge of pollutants into waters of the United States or ocean waters, be at all times consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pretreatment standards and management practices established pursuant to the Federal Water Pollution Control Act of 1972 (P.L. 92-500, 86 Stat. 816), the Marine Protection, Research and Sanctuaries Act of 1972 (P.L. 92-532, 86 Stat. 1052), or pursuant to applicable State and local law.

c. That when the activity authorized herein involves a discharge during its construction or operation, of any pollutant (including dredged or fill material), into waters of the United States, the authorized activity shall, if applicable water quality standards are revised or modified during the term of this permit, be modified, if necessary, to conform with such revised or modified water quality standards within 6 months of the effective date of any revision or modification of water quality standards, or as directed by an implementation plan contained in such revised or modified standards, or within such longer period of time as the District Engineer, in consultation with the Regional Administrator of the Environmental Protection Agency, may determine to be reasonable under the circumstances.

d. That the discharge will not destroy a threatened or endangered species as identified under the Endangered Species Act, or endanger the critical habitat of such species.

e. That the permittee agrees to make every reasonable effort to prosecute the construction or operation of the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife, and natural environmental values.

f. That the permittee agrees that he will prosecute the construction or work authorized herein in a manner so as to minimize any degradation of water quality.

g. That the permittee shall permit the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

h. That the permittee shall maintain the structure or work authorized herein in good condition and in accordance with the plans and drawings attached hereto.

i. That this permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein.

j. That this permit may be summarily suspended, in whole or in part, upon a finding by the District Engineer that immediate suspension of the activity authorized herein would be in the general public interest. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall indicate (1) the extent of the suspension, (2) the reasons for this action, and (3) any corrective or preventative measures to be taken by the permittee which are deemed necessary by the District Engineer to abate imminent hazards to the general public interest. The permittee shall take immediate action to comply with the provisions of this notice. Within ten days following receipt of this notice of suspension, the permittee may request a hearing in order to present information relevant to a decision as to whether his permit should be reinstated, modified or revoked. If a hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the hearing, or within a reasonable time after issuance of the suspension notice to the permittee if no hearing is requested, the permit will either be reinstated, modified or revoked.

k. That this permit may be either modified, suspended or revoked in whole or in part if the Secretary of the Army or his authorized representative determines that there has been a violation of any of the terms or conditions of this permit or that such action would otherwise be in the public interest. Any such modification, suspension, or revocation shall become effective 30 days after receipt by the permittee of written notice of such action which shall specify the facts or conduct warranting same unless (1) within the 30-day period the permittee is able to satisfactorily demonstrate that (a) the alleged violation of the terms and the conditions of this permit did not, in fact, occur or (b) the alleged violation was accidental, and the permittee has been operating in compliance with the terms and conditions of the permit and is able to provide satisfactory assurances that future operations shall be in full compliance with the terms and conditions of this permit; or (2) within the aforesaid 30-day period, the permittee requests that a public hearing be held to present oral and written evidence concerning the proposed modification, suspension or revocation. The conduct of this hearing and the procedures for making a final decision either to modify, suspend or revoke this permit in whole or in part shall be pursuant to procedures prescribed by the Chief of Engineers.

l. That in issuing this permit, the Government has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

m. That any modification, suspension, or revocation of this permit shall not be the basis for any claim for damages against the United States.

n. That the permittee shall notify the District Engineer at what time the activity authorized herein will be commenced, as far in advance of the time of commencement as the District Engineer may specify, and of any suspension of work, if for a period of more than one week, resumption of work and its completion.

three year limit from the date of issuance of this permit unless otherwise specified) and is not completed on or before _____ day of _____, 19 _____. (three years from the date of issuance of this permit unless otherwise specified) this permit, if not previously revoked or specifically extended, shall automatically expire.

p. That this permit does not authorize or approve the construction of particular structures, the authorization or approval of which may require authorization by the Congress or other agencies of the Federal Government.

q. That if and when the permittee desires to abandon the activity authorized herein, unless such abandonment is part of a transfer procedure by which the permittee is transferring his interests herein to a third party pursuant to General Condition t hereof, he must restore the area to a condition satisfactory to the District Engineer.

r. That if the recording of this permit is possible under applicable State or local law, the permittee shall take such action as may be necessary to record this permit with the Register of Deeds or other appropriate official charged with the responsibility for maintaining records of title to and interests in real property.

s. That there shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.

t. That this permit may not be transferred to a third party without prior written notice to the District Engineer, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferee subscribing to this permit in the space provided below and thereby agreeing to comply with all terms and conditions of this permit. In addition, if the permittee transfers the interests authorized herein by conveyance of realty, the deed shall reference this permit and the terms and conditions specified herein and this permit shall be recorded along with the deed with the Register of Deeds or other appropriate official.

II. Special Conditions: (Here list conditions relating specifically to the proposed structure or work authorized by this permit):

The following Special Conditions will be applicable when appropriate:

STRUCTURES IN OR AFFECTING NAVIGABLE WATERS OF THE UNITED STATES:

a. That this permit does not authorize the interference with any existing or proposed Federal project and that the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

b. That no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.

c. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.

d. That the permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the authorized structure or work, shall, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former conditions. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

e. Structures for Small Boats: That permittee hereby recognizes the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to insure the integrity of the structure permitted herein and the safety of boats moored thereto from damage by wave wash and the permittee shall not hold the United States liable for any such damage.

MAINTENANCE DREDGING:

a. That when the work authorized herein includes periodic maintenance dredging, it may be performed under this permit for _____ years from the date of issuance of this permit (ten years unless otherwise indicated);

b. That the permittee will advise the District Engineer in writing at least two weeks before he intends to undertake any maintenance dredging.

DISCHARGES OF DREDGED OR FILL MATERIAL INTO WATERS OF THE UNITED STATES:

a. That the discharge will be carried out in conformity with the goals and objectives of the EPA Guidelines established pursuant to Section 404(b) of the FWPCA and published in 40 CFR 230;

b. That the discharge will consist of suitable material free from toxic pollutants in other than trace quantities;

c. That the fill created by the discharge will be properly maintained to prevent erosion and other non-point sources of pollution; and

d. That the discharge will not occur in a component of the National Wild and Scenic River System or in a component of a State wild and scenic river system.

DUMPING OF DREDGED MATERIAL INTO OCEAN WATERS:

a. That the dumping will be carried out in conformity with the goals, objectives, and requirements of the EPA criteria established pursuant to Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, published in 40 CFR 220-228;

b. That the permittee shall place a copy of this permit in a conspicuous place in the vessel to be used for the transportation and/or dumping of the dredged material as authorized herein.

This permit shall become effective on the date of the District Engineer's signature.

Permittee hereby agrees to comply with the terms and conditions of this permit.

EXHIBITS INCLUDED*

Exhibit A	Application to Corps	4/26/77
Exhibit B	Corps letter	6/15/77
Exhibit C	Corps letter w/EPA letter	7/19/77
Exhibit D	KPC to Corps & EPA	7/29/77
Exhibit E	Corps to KPC	8/29/77
Exhibit F	Corps permit	9/15/77
Exhibit G	DNR letter	4/16/79
Exhibit H	LP to DNR	4/20/79
Exhibit I	LP to Corps	8/8/79
Exhibit J	Corps denying extension	10/4/79
Exhibit K	Letter & application to Corps	10/16/79
Exhibit L	Letter from Corps recognizing application	Undated
Exhibit M	Notice of DNR tideland ad.	11/30/79
Exhibit N	Corps Public Notice + DPDP and DEC	12/7/79
Exhibit O	DPDP to Corps	12/12/79
Exhibit P	ADF&G to Corps	1/2/80
Exhibit Q	DPDP to Corps	1/4/80
Exhibit R	EPA to Corps	1/14/80
Exhibit S	Corps to NMFS	1/18/80
Exhibit T	DNR to LP	1/25/80
Exhibit U	EPA to Corps	2/5/80
Exhibit V	Corps to KPC(ADF&G)	2/15/80
Exhibit W	DPDP to KPC	2/19/80
Exhibit X	Corps to KPC(on NMFS)	2/21/80
Exhibit Y	KPC to DPDP	2/21/80
Exhibit Z	DEC to KPC	3/3/80
Exhibit AA	DPDP to Corps	3/3/80

3/80

*Available upon request

Louisiana-Pacific Corporation
Ketchikan Division
Post Office Box 6600
Ketchikan, Alaska 99901 U.S.A.
Telephone 907-225-2151
Telex 529-55-251
Answer back: KAYPULPCO KET

April 1, 1980

Mr. James E. Caruth, Chief
Regulatory Functions Branch
Department of the Army
Alaska District, Corps of Engineers
P.O. Box 7002
Anchorage, Alaska 99510

Re: NPACO-RF-P, Ward Cove 23
071-OYD-2-790391

Dear Mr. Caruth:

Enclosed is a self-explanatory letter we have sent to the Division of Parks of the Alaska Department of Natural Resources. We hope we are able to convince the ADP there is a better way and trust our letter will permit continued processing of our application.

Sincerely,

D. L. Finney, Manager
Forestry & Government Affairs

hr
Enclosure

Louisiana-Pacific Corporation

Ketchikan Division

Post Office Box 6600
Ketchikan, Alaska 99901 U.S.A.
Telephone (907-225-2151
Telex 529-55-251
Answerback KAYPULPCO KET

April 3, 1980

Mr. Chip Dennerlein, Director
Division of Parks, State of Alaska
Department of Natural Resources
619 Warehouse Drive, Suite 210
Anchorage, Alaska 99501

Re: Ward Cove 23

Dear Chip:

Our first reaction to your comment on our Corps permit is that you have read the "Overkill" paper and felt left out by not having your agency mentioned. If this is the case, please accept our apologies as we had no intention of slighting you or your department. Just in case you haven't seen the "Overkill" paper, one is enclosed, so you can see how we have come to develop a prejudice toward any agency feeling it necessary to comment on Corps permits.

There are several things about your request for assurance on which we would like to comment. First, by writing the Corps without copying us, you necessitate the Corps writing to us (copy enclosed), us writing you and giving you assurance, then you writing the Corps and telling them it's all right, then the Corps writing us and telling us it's all right, before the processing of our permit can continue. If you really feel you must continue to be involved, please have the courtesy of sending us a copy of your request. Or, if you really intend to join the ranks of the "overkillers", you could let us know you intend to so respond to all permits and we can head off a lot of nonsense by notifying the Corps we will abide by your every wish at the time we apply. This would save you, us and the Corps a lot of letter writing, postage and, most importantly to us, valuable time.

Another observation we have is that the cultural resources you wish to protect are already covered by the American Antiquities Act of 1906 (16 USC 431-433), National Historic Preservation Act of 1966 (16 USC 470) and Executive Order 11593(1971). Provisions of a Corps permit require an applicant to be in compliance with all Federal, State and Municipal laws. Also, our long term timber sale with the Forest Service has been recently modified to include an obligation for us to report any historic cultural resources immediately. Your added request for assurance does seem to be an "overkill".

One last observation is, if you have read the permit application we submitted, you will have noted it is for placing fill material and setting piling. It strikes us that there is not even the remotest possibility of discovering cultural resources with these activities.

Chip, as you can probably tell, you rattled our chain. We have decided to take head-on all unnecessary State Agency involvement in Corps permits because it really is coming to the point where we can no longer get there from here. Your agency just happens to be the first new customer since we wrote our exposé. Hopefully, our efforts will be rewarded by getting some logic in to the system and if such is the case, it will be well worth the time spent.

Now, so our application for NPACO-RF-P Ward Cove 23 Reference No. 071-OYD-2-790391 to Construct Berm and Place Piling in Ward Cove, Ketchikan, Alaska may proceed, we hereby notify you we agree, if any cultural resources are uncovered during the period of construction, our project engineer will halt all work that may disturb such resources and contact the Division of Parks (and probably the Guinness Book of Records) at once.

We shall, by copy of this letter, notify the Corps of our agreement but respectively request that you also contact the Corps at the soonest possible time, informing them you have our assurance and have no objection to the futher processing of our permit.

Louisiana-Pacific Corporation

We would be most interested in any comments you might have concerning your continued involvement in Corps permits.

Sincerely,

D. L. Finney, Manager
Forestry & Government Affairs

hr
Enclosure

cc: J. Hammond – w/cc of Corps & Parks letters
T. Miller "
J. Reinwand "
R. LeResche "
W. McConkey "
& a host of others

DEPARTMENT OF THE ARMY
ALASKA DISTRICT. CORPS OF ENGINEERS
P.O. BOX 7002
ANCHORAGE, ALASKA 99510

REPLY TO
ATTENTION OF:
NPACO-RF-P
Ward Cove 23

MAR [illegible] 1980

Ketchikan Pulp Company
P.O. Box 6600
Ketchikan, Alaska 99901

Reference: 071-OYD-2-790391
Construct Berm & Piling
Ward Cove
Ketchikan, Alaska

Gentlemen:

Inclosed is a copy of a letter dated 12 March 1980 concerning your application for a Department of the Army permit for the referenced work.

It is the policy of the Department of the Army to provide an applicant the opportunity for a resolution or rebuttal to all objections and/or recommendations received on a proposed project. In this regard, the Alaska Division of Parks (ADP) has reviewed your proposal and requested that if any cultural resources are uncovered during the period of construction, your project engineer halt all work that may disturb such resources and contact them at once.

I would appreciate receiving any comments that you may have on the request by ADP. If you intend to comment, please give your immediate attention to this matter so processing of your permit application can be expedited.

Sincerely,

Larry L. Reeder
for JAMES E. CARUTH
Chief, Regulatory Functions Branch

1 Incl
As stated

STATE OF ALASKA

JAY S. HAMMOND, GOVERN

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PARKS

619 Warehouse Dr., Suite 210
Anchorage, Alaska 99501

March 12, 1980

File No.: 1130-2-1

Subject: Ward Cove 23

Mr. D. L. Robbins, Chief
Construction/Operations Division
Corps of Engineers
Box 7002
Anchorage, AK 99510

Dear Mr. Robbins:

We have reviewed the subject proposal and would like to offer the following comments:

STATE HISTORIC PRESERVATION OFFICER

No probable impacts. Should cultural resources be found during the construction, we request that the project engineer halt all work which may disturb such resources and contact us immediately.

William S. Hanable
State Historic Preservation Office

STATE PARK PLANNING

Consistent with ACMP.

LWCF

No comment.

Sincerely,

for Chip Dennerlein
Director

CD/cw

16-311(R)

April 8, 1983

The Honorable Bettye Fahrenkamp
Chairman of the Senate Resources
Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Enclosed Coastal Management Legislation

Dear Senator Fahrenkamp:

The purpose of this letter is to transmit and recommend for your consideration legislation which would make certain changes to the Alaska Coastal Management Act (AS 46.40).

The changes are sought because of several problems with the Alaska coastal management program which are shared by Sealaska and Alaskan industry as a whole. These problems are, to a degree, the same which have been raised over the past four years in the course of "permit reform" debate. As you quite are aware, permit reform legislation has become quite controversial, with little likelihood that comprehensive legislation will be enacted in the near future. There are, however, certain problems in existing state regulation over which there is little disagreement. Rather than await the uncertain resolution of the larger "permit reform" controversy, Sealaska believes that real and substantial progress in regulatory reform can be made by addressing a few specific problems at this point in time.

The first problem addressed by the enclosed legislation is perhaps the most notorious--the duplicative and potentially conflicting "consistency determinations" which are authorized by existing law. As you know, any number of state agencies are

required to make a "consistency determination" on the same project. The administration long ago acknowledged that there was absolutely no justification for this state of affairs. Yet while everyone recognizes a need for having but one "consistency determination" for each project, the pitfall has been agreeing on the agency to make that decision. While many industry groups advocate that the decision be made by the Department of Natural Resources, environmental organizations have not surprisingly recommended the Department of Environmental Conservation.

The proposed legislation strikes a middle ground by providing that one consistency determination will be made for each project by the Division of Policy Development and Planning. The division is already the agency primarily responsible for coastal management matters, and, as a result, this bill does not make revolutionary changes from the existing law. It would, however, solve the problem of overlapping consistency determinations immediately, leaving for later, more comprehensive legislation, the issue of where that authority should ultimately reside.

There is an equally important issue addressed by the bill, one of which some legislators may be unaware. When the Coastal Management Act was enacted in 1977, it was the intent of the legislature that the program be implemented through existing agency authorities. The last thing the legislature wanted was to expand the jurisdiction of any state bureaucracy.

However, earlier this year, Judge Walter Carpeneti of the State Superior Court in Juneau ruled that the coastal management program had the effect of expanding agency jurisdiction. The problem is essentially this: if the Department of Environmental Conservation has permit jurisdiction over a particular dock, Judge Carpeneti believes that DEC may deny the permit for that dock if it concludes that the activities which that dock will facilitate will violate the coastal management program--<u>even if those activities themselves do not require a DEC permit.</u> To carry Judge Carpeneti's ruling to its logical extreme, when DEC reviews the first transfer dock for a new major oil development--such as the Beaufort Sea--it may acquire jurisdiction over all field operations by virtue of the coastal management act.

A copy of Judge Carpeneti's decision is enclosed. While we believe that the court was mistaken, clarifying legislation is necessary. Under the enclosed bill, for example, if a coastal management consistency determination is needed for a dock, a determination will be made <u>on that dock,</u> and not on every single activity which will in any manner be aided by the construction of the dock.

Third, there is a developing problem of extraterritorial regulation by Alaska cities under the guise of the coastal management program. Some small cities have prepared coastal management plans which include standards and guidelines for lands outside the city limits. While the Office of Coastal Management is technically calling these extraterritorial zoning laws "advisory," it is apparent that as as a practical matter, state agencies may begin to adopt and apply them. It is Sealaska's view that if a particular city wishes to control land use outside its existing borders, it should seek to expand those borders, rather than using the coastal management act as a means of indirect annexation.

Finally, under the Alaska coastal management program, the Coastal Policy Council may designate "areas which merit special attention" outside existing district limits--zones in which development is severely restricted or perhaps precluded. Some have proposed to designate large tracts of privately-owned land as "AMSA's." Sealaska believes that private land owner consent should be required before an AMSA is designated over privately owned land outside existing district boundaries. Under this proposal, the Council will be required to accomodate the private land owner before the AMSA may be designated.

I realize that it is late in the session, and that your committee has many matters before it. On the other hand, most of the issues addressed by the enclosed legislation have been aired and debated in committee after committee for some four years. At the present time, absolutely nothing has come from the time consuming and acrimonious debate over permit reform. This bill would at least resolve some of the most obvious problems with the existing coastal management program without endless and repetitive debate.

I would appreciate it, if at your earliest convenience, you could discuss this legislation with Jon Tillinghast. I have also requested Sam Kito and Robert Loescher to work with Mr. Tillinghast on this legislation.

Sincerely,

Byron I. Mallott

cc: Representative Terry Martin
Robert Loescher
Sam Kito

IN THE SENATE

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act amending the Alaska Coastal Management Act."

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

* Sec. 1. AS 46.40.100(a) is amended to read:

Sec. 46.40.100. COMPLIANCE AND ENFORCEMENT. (a) Municipalities, and subject to AS 46.40.205, state agencies shall administer land and water use regulations or controls in conformity with district coastal management programs approved by the council and the legislature and in effect.

* Sec. 2. AS 46.40.200 is amended to read:

Sec. 46.40.200. STATE AGENCIES. Upon the adoption of the Alaska coastal management program, state departments, boards and commissions shall review their statutory authority, administrative regulations, and applicable procedures pertaining to land and water uses within the coastal area for the purpose of determining whether there are any deficiencies or inconsistencies which prohibit compliance with the program adopted. State agencies shall, within six months of the effective date of the Alaska coastal management program, and subject to AS 46.40.205, take whatever action is necessary to facilitate full compliance with and implementation of the program, including preparation and submission of recommendations to the council for additional or amended legislation.

HESSIGER AND ANDERSON
ATTORNEYS AT LAW
130 SEWARD STREET - SUITE 411
JUNEAU, ALASKA 99801
(907) 586-2660

* Sec. 3. AS 46.40 is amended by adding new sections to read:

Sec. 46.40.065. AREAS WHICH MERIT SPECIAL ATTENTION. If a person proposes to the council that an area which merits special attention should be designated outside the boundaries of a district with an approved coastal management plan, and that area includes lands which are in private ownership, the council shall, before approving the designation, notify each affected private land owner. The designation may only be approved by the council if each private land owner within the proposed designation has given his consent.

Sec. 46.40.205. COASTAL MANAGEMENT CONSISTENCY DETERMINATIONS. (a) Whevever an activity within or affecting the coastal area of the state requires either a federal permit or license for which a consistency determination is required by 16 U.S.C. §1456, or two or more state permits, a single consistency determination will be made for the activity by the division. The determination made by the division under this subsection is conclusive on all state agencies, and no state agency may comment to the federal permitting agency on the consistency of the activity with the Alaska coastal management program.

(b) Whenever an activity within or affecting the coastal area of the state requires only one state permit, any required consistency determination shall be made by the permitting agency.

(c) In making a consistency determination under (a) of this section, the division shall solicit recommendations from other state agencies. Each state agency shall confine its comments to matters within its primary area or expertise.

(d) For the purposes of this section, "state permit" includes any state action sought or required for the construction

PFEFFERLE AND ANDERSON
ATTORNEYS AT LAW
130 SEWARD STREET - SUITE 411
JUNEAU, ALASKA 99801
(907) 586-2880

or operation of an activity, including any disposal of an interest in state land or water, land classification or certification under Sec. 401 of the Clean Water Act, 33 U.S.C. §1341.

Sec. 46.40.208. AUTHORITY NOT ENLARGED.

(a) Nothing in this chapter may be construed as authorizing a state agency or the division to deny or condition a permit or disposal of interest in state land or water because of impacts which may be caused by activities not themselves requiring that permit or disposal from the permitting agency.

(b) Nothing in this chapter may be construed as authorizing a coastal resource district to engage in extraterritorial planning or regulation.

* Sec. 4. AS 46.40.210 is amended by adding a new subsection to read:

(7) "division" means the Office of the Governor, Division of Policy Development and Planning.

PESTINGER AND ANDERSON
ATTORNEYS AT LAW
[illegible] - SUITE 411
JUNEAU, ALASKA 99801
(907) 586-2880

Bill Sheffield, Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

February 7, 1983

POSITION PAPER

RE: HB 14

SPONSOR: Representative Martin

Program Effects of Bill

The bill deals with permit reform and provides for a "fast tracking" of all permit applications requiring agency decisions within certain timeframes. The measure also provides for a "Lead Agency" concept for the issuance of coastal management consistency determinations.

Comments

The proposed revisions to regulatory procedures are considerable; some of the changes are probably desirable and others have no direct bearing upon this Department or its concerns. Section 44.62.635 "Lead Agency" is of particular interest, as it deals with Alaska Coastal Management Program (ACMP) consistency determinations. One of the foremost selling points of the National Coastal Management Program is the requirement that federal coastal actions must be consistent with approved State programs. In Alaska that concept has been expanded upon to require that proposed State and Federal coastal activities be consistent with ACMP approved local programs. HB 14 and Executive Order 53 are in opposition in that the latter would continue to vest consistency review authority in the Governor's Office, while the former would disperse this responsibility to individual line agencies. Moreover, subsection (b) would weaken the consideration afforded to approved local programs to an extent rendering them little more than advisory. Communities and regions that have Coastal Management Programs in place or in the works have proceeded under the expectation that local programs would have more than advisory powers.

Original Request

THE ALLIANCE

P.O. Box 100 / Anchorage, Alaska 99510 / (907) 277-0010

April 21, 1983

Representative Charlie Bussell
Pouch V - MS 3100
Juneau, Alaska 99811

Dear Representative Bussell:

As one of our objectives, The Alaska Support Industry Alliance supports regulatory reform.

To enhance an improvement in the manner and the time in which permits are issued, the Board of Directors of The Alliance are in support of H.B. 14 as introduced and amended by Representative Terry Martin. The passing of H.B. 14 will improve the permitting procedure, thus allowing industry to schedule their activities in a more orderly and efficient manner, resulting in a better cost effective climate for all Alaskans.

We urge you to support H.B. 14.

Sincerely,
For The Alaska Support
Industry Alliance

VJ Molyneux

Val J. Molyneux
Committee Chairman,
Regulatory Reform

VJM:lh

Alaska Support Industry Alliance . . . for responsible economic development

Resource Development Council
for Alaska, Inc.

444 West 7th Avenue, Anchorage, Alaska 99501
Box 100516, Anchorage, Alaska 99510 — 907/278-9615

April 8, 1983

William Sheffield, Governor
State of Alaska
Pouch A
Juneau, Alaska 99811

RE: REGULATORY REFORM

Dear Governor Sheffield:

The Resource Development Council has had serious concerns about regulatory reform for the past four years and each year has encouraged the administration to do something about permitting problems. We have recently learned your administration intends to do something about it, and for this we commend you.

However, we understand administration "working groups" are nearing a final conceptual decision to have one lead agency, OMB, act for all state permits. We also understand your staff has been informed that industry has no problem with OMB's having this authority. Our industry contacts indicate exactly the opposite to be true. For this reason, we urge you to not finalize any position until there has been representative input from the various industries affected.

Attached is a copy of the new RDC policy statement on regulatory reform which was passed unanimously by the Executive Committee. As you can see, we are advocating changes in permit handling and attitudes. We think the direction your staff is heading will not only result in longer permit times, but will require more regulations, statutory and contractual changes. Also it perpetuates an unnecessary layer of bureaucracy which used to be in DPDP and has been given new life under a different name in OMB.

Comments indicate one of the selling points in having OMB issue the permits is that it is "neutral" and "capable of conflict resolution." Governor, industry doesn't really need someone who is "neutral." It needs to deal with people who are knowledgeable and can understand business problems and the free enterprise system.

Government employees need to understand that each stipulation costs money and many stipulations discourage development. Alaska is rapidly pricing itself out of the market because of the gold-plated stipulations being imposed by multilayers of government. The cost to the state in jobs and money due to "lost opportunity" runs into the hundreds of millions of dollars each year. It's too bad business can't take advantage of these opportunities and create new jobs, as bad as our state needs them.

Most of industry's problems in permitting do not come from the permitting agency charged by law to issue the permits. These agencies generally have enough expertise to understand industry's problems; permits and changes can be negotiated.

By far, most of the problems come from <u>other agencies</u> who have no statutory authority to act on the permit but who have gained authority under MOU's between agencies. These latter agencies insist that industry construct the project their way. They try to design many parts of the project, but having little or no expertise, they cannot conceive of the problems they cause and the costs that result. In most cases they don't care. Their lack of experience can result in permit provisions which are near fatal to a project. Unfortunately, these requirements seem to be in the majority of permits. Most of the problems could be eliminated by the agency setting standards and letting industry determine how to meet those standards.

State agencies that issue permits are required to show that the proposed operation is consistent with the state or locally approved CCM plan before they issue a permit. Who is better qualified than that permitting agency to make such a determination and why must the determination be made <u>twice</u>? In other words, why does the added layer of OMB have to be in the picture at all?

We need a system which significantly speeds up the permitting process. The new proposal sounds much like the earlier proposal for Uniform Procedures Regulations which would have been a disaster if they had been implemented. We urge you and your staff to abandon any thoughts along that line. We don't need new regulations to implement regulatory reform.

No amount of change in law or regulations can accomplish regulatory reform without complete backing by you. On the other hand, we are not sure that any change is required in law or regulations. We believe the main change needed is one of employee attitude and that only <u>you</u> can bring that about.

To accomplish regulatory reform, the main thing needed is for you, the Governor, to issue a command to all of your troops that you want the permit time and stipulations reduced by 50% within a year, and that after one year you will personally challenge any supervisor who has not accomplished this objective. With strict enforcement, this approach would be very effective.

The prior administration never gave state employees the feeling that it was serious and intended to accomplish reform; we are confident you can.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL
for Alaska, Inc.

Mano Frey

Mano Frey
President

encl.

1983

Resource Development Council for Alaska, Inc.

444 West 7th Avenue, Anchorage, Alaska 99501
Box 516, Anchorage, Alaska 99510 - 907/278-9615

POLICY STATEMENT NO. 11

REGULATORY REFORM

The Resource Development Council recognizes the need for certain regulations to implement statutes to protect the public health, safety and welfare. However, the proliferation of applications, stipulations, regulations and permits is overwhelming to Alaskans and has resulted in, and continues to have an increasingly negative effect on the economy. Everyone including labor and business suffers and the helpless consumer ends up paying the bill. Many promises of reform have been made with few tangible results.

Regulations should facilitate and maintain orderly administration of policy where the broad public interest is at issue. However, when the power of the government to regulate becomes such a burden to the private sector that it creates economic hardship, suffering or negation of individual liberties and rights of property, then the Council concludes that regulatory powers have been over-extended. When regulations multiply and overlap, the power may be abused and it becomes counter-productive and in need of reform.

The Resource Development Council recommends the following:

I

That governments draw up a test of standards by which any regulation will be measured, such as:

1) Is it duplicative?

2) is it truly calculated to protect only the broad public interest?

3) does it violate individual personal or property rights?

4) does it create undue financial burden which will translate to negative shift in the overall economy?

5) when individual and personal rights are subjected to threat, then full burden of proof of need, as well as financial responsibility, will be borne by the agency or agencies responsible for promulgation of the regulation,

6) that a clear distinction be made between established laws of the land and government regulation as created at will within government agencies and bureaus.

continued...

II

That local, state and federal governments make a positive commitment to an effective regulatory reform program that eliminates duplication of permits, multiple handling of permits, duplication of statutory authorities, "networking," and prohibits employees from writing law through "stipulations." These various governments should require their employees to adhere to this commitment of regulatory reform and should stringently enforce that commitment.

III

That government allow its employees to add stipulations only when there is a proven need and then only if required by statute.

IV

That, as public policy, the resource agency responsible for issuing a permit should be the lead agency and be responsible for all provisions of the permit. The lead agency should be able to override the recommendations of any agency furnishing advice and should not include stipulations of other agencies not provided for under the law authorizing the permit and should establish and enforce reasonable time limits for input by other agencies.

V

That the state and local governments eliminate the subtle "networking" process which functions without statutory authority and results in delays, re-work and non-issuance of permits.

VI

That the burden of proof be placed on the government to show why a permit does not comply with law.

VII

That the federal, state and local governments require agencies to review their regulations and work toward elimination of those that are archaic and not asolutely required by law; and that legislature and Congress annually review administrative progress in achieving regulatory reform.

VIII

That legislation be enacted to require disclosure of the costs, both public and private, related to permit processing and administration of regulations and that testimony at public hearings on cost/benefits be required prior to agency adoption of any regulation.

continued...

IX

That legislation be enacted to require fiscal notes on the external economic effect as well as environmental impact of each proposed statute and a cost/benefit review be included in the fiscal note.

X

That to minimize frivolous lawsuits, many of which are based on ill-founded regulations and stipulations, legislation should be enacted to require the loser in each lawsuit to pay the court costs, all attorney fees, the cost of delays, plus interest on all of these funds.

XI

That prior to adoption of regulations, public hearings be held as required by the Alaska Administrative Procedure Act (AS 44.62.190-210.)

Adopted ----------

USBORAX

April 27, 1983

The Honorable Terry Martin
Alaska House of Representative
Pouch V
State Capitol
Juneau, AK 99811

Dear Representative Martin:

U.S. Borax supports your efforts to introduce legislation (SSHB 14) to reform the permitting process in order to avoid unnecessary delays in the orderly development of Alaska's resources.

U.S. Borax is in the process of developing the Quartz Hill molybdenum deposit located 45 miles east of Ketchikan, Alaska. This is a world-class mineral deposit of significant long-term importance to the State of Alaska and anything that can be done to minimize costs and delays in the permitting process of this project while retaining the controls necessary for proper development would, in our opinion, benefit both the State of Alaska and U.S. Borax.

We have read your bill and believe it would minimize costs and delays as well as improve the permitting process by establishing a lead state agency depending on the resource involved.

Sincerely,

Eugene D. Smith/gw

Eugene D. Smith
Vice President
Government and Public Affairs

EDS:gw

cc: Mr. R. E. Kendall
Mr. D. L. Finney
Mr. J. C. Paulsen
Mr. Bill Miles

UNITED STATES BORAX & CHEMICAL CORPORATION · 3075 WILSHIRE BOULEVARD · LOS ANGELES, CALIFORNIA 90010 · (213) 381-5311
MAIL ADDRESS: P. O. BOX 75128, SANFORD STATION, LOS ANGELES, CALIFORNIA 90075

Alaska Loggers Association, Inc.

111 STEDMAN, SUITE 200
KETCHIKAN, ALASKA 99901
Phone 907-225-6114

April 22, 1983

Honorable Terry Martin
Alaska State Representative
Pouch V State Capitol Building
Juneau, Alaska 99811

Dear Representative Martin:

Please excuse the lack of response to your letter of April 13 concerning ALA support of H.B. 14. All the loggers are either working or are in the process of getting started and I haven't been able to get enough Directors together to consider a resolution supporting the bill.

It is hoped by the time I get it approved it will not be too late to support this legislation.

Sincerely,

Donald A. Bell

Donald A. Bell
General Manager
ALASKA LOGGERS ASSOCIATION

DAB/mjh
cc: Jim Clark

HB

17

U.S. Department
of Transportation

National Highway
Traffic Safety
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

FACTS ABOUT TEENAGE DRUNK DRIVING

From the National Center for
Statistics and Analysis

Although drunk driving is a problem that pervades all age groups of our licensed population, it is especially severe for teenagers. The combination of learning how to drive, youthful risk-taking behavior, and drinking is accounting for the number one killer of teenagers in this country. Consider these facts:

- Teenage drivers are involved in 1 out of every 5 fatal accidents that occur with close to 9,000 teenagers (15-19 years old) killed in motor vehicle accidents in 1980.[1]

- Almost 60 percent of fatally injured teenage drivers were found to have alcohol in their blood systems prior to their crash, with 43 percent at legally intoxicating levels (i.e., greater than or equal to .10 percent blood alcohol concentration).[2]

- Of the 25,000 persons who die each year in drunk driver accidents, 5,000 of those victims are teenagers. That means that 14 teenagers die each day in drunk driver accidents.[1]

- Alcohol involvement in teenage fatal accidents is at least three times greater in nighttime accidents (between 8 PM and 4 AM) than it is in daytime accidents (between 4 AM and 8 PM).[2]

- In addition, teenage drivers are involved in 1 out of every 4 injury accidents, with a total of 650,000 injured teenagers in 1980.[3] Alcohol is involved in close in 20 percent of injury producing accidents, which means that 130,000 teenagers are injured per year in drunk driver accidents. So, 14 teenagers die and an additional 360 teenagers are injured in alcohol related crashes per day.

- Although teenagers comprise only 8 percent of the driver population and account for only 6 percent of the vehicle miles travelled in this country, they add up to 17 percent of all accident involved drivers and at least 15 percent of all drunk drivers in accidents.[2]

- Think of this: of 330 children born today in the U.S. (about the size of a small grade school), one will die and four will sustain serious or crippling injuries in an alcohol related crash before they reach the age of 24.[4]

- The Surgeon General has reported that life expectancy has improved in the U.S. over the past 75 years for every age group except one. The exception is the 15-24 year old American whose death rate is higher today than it was 20 years old. And the leading single cause of death for this age group is drunk driving.[5]

- As if the pain and suffering were not enough, insurance companies have estimated that teenage drunk driver accidents are costing society close to $6 billion per year in damage, hospital costs, lost work, etc.[6]

SOURCES:

1 Fatal Accident Reporting System 1980, National Center for Statistics and Analysis, National Highway Traffic Safety Administration, Washington, DC, Publication No. DOT-HS-805-953, October 1981.

2 Alcohol Involvement in Traffic Accidents--Recent Estimates from the National Center for Statistics and Analysis, National Highway Traffic Safety Administration, Washington, DC, Publication No. DOT-HS-806-269, May 1982.

3 Report on Traffic Accidents and Injuries for 1979-1980--The National Accident Sampling System, National Center for Statistics and Analysis, National Highway Traffic Safety Administration, Washington, DC, Publication No. DOT-HS-806-176, February 1982.

4 Mathematical Analysis Division, NRD-31, National Center for Statistics and Analysis, National Highway Traffic Safety Administration, Washington, DC.

5 Health, United States, 1980, National Center for Health Statistics, Public Health Service, U.S. Department of Health and Human Services, Hyattsville, Maryland, Publication No. (PHS) 81-1232, December 1980.

6 Allstate Insurance Company, letter dated March 24, 1982, from Loss Prevention Manager, Allstate Plaza, Northbrook, Illinois 60062.

FACTS ON ALCOHOL AND HIGHWAY SAFETY

The Problem

Overview:

Drunk driving continues to be one of our nation's most serious public health and safety problems. Some 50 percent of all drivers killed each year have blood alcohol concentrations in excess of the legal limit, 0.10 percent. In single vehicle fatal crashes, where it is more certain who is at fault, upwards of 65 percent of those drivers who die were legally drunk. Over the past 10 years, the proportion of highway deaths involving alcohol has averaged a tragic 25,000 per year. Thus, a staggering one quarter of a million Americans have lost their lives in alcohol-related crashes in the last decade.

The cost of drunk driving has a high economic cost to this country as well. A conservative estimate of the total economic cost of drunk driving is put at 24 billion.

Alcohol and Crashes:

Alcohol is a major contributing factor to fatal (and serious injury) automobile crashes. According to a 1978 review of the literature, approximately 60 percent of fatal crashes involved a driver who had been drinking. Between 40 and 55 percent of such crashes involved a driver who had a blood alcohol concentration (BAC) greater than .10 percent (w/v).

With regard to alcohol and responsibility for fatal crashes, the drinking driver problem is even more significant. In one study drivers judged to be at fault in fatal crashes were six times more likely to have had BAC's greater than .10 percent (w/v) alcohol in their blood than drivers judged not at fault for their crashes (60 percent vs. 10 percent).

This strong relationship between crash responsibility and high alcohol levels is shown further in single vehicle crashes, where responsibility is apparent, and where between 60 and 75 percent (60-75%) of dead drivers have BACs greater than .10 percent (w/v).

The Driver Population:

What the high BAC figures in crashes suggest is that the majority of alcohol related fatal crashes are caused by heavy (problem) drinkers. Some portion of the approximately 15 percent of fatal crashes which involve drivers who have been drinking, but who do not have BACs greater than .10 percent, may be caused by less heavy, less chronic, "social" drinkers.

The majority of drivers are either abstainers or light to moderate (social) drinkers. Even quite liberal estimates suggest that only about 10 to 15 percent of the nation's drivers would be classified as being heavy (problem) drinkers.

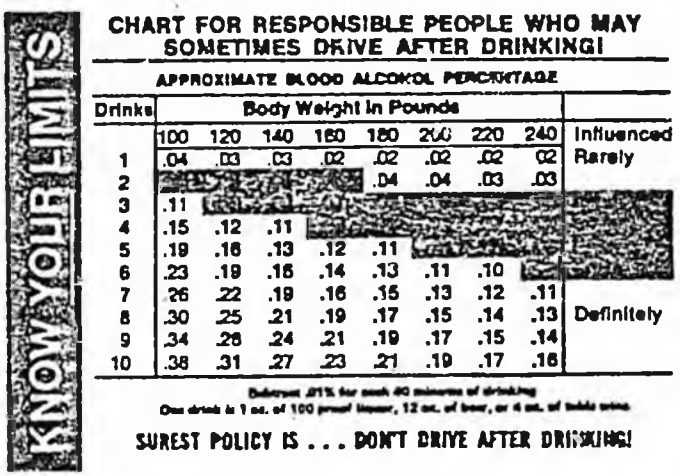
Arrested Drunk Drivers:

The average proportion of licenses drivers arrested for drunk driving over a one-year period is estimated to be one percent (1%). This translates to approximately 1.3 million of approximately 130 million licensed drivers.

On a nightly basis, between one in five hundred (1/500) and one in two thousand (1/2000) drivers on the road with a BAC greater than .10 percent (w/v) are arrested for drunk driving. These estimates come from a number of roadside surveys conducted in conjunction with the Alcohol Safety Action Projects (ASAPs) funded by the NHTSA in the 1970's and from the Grand Rapids data reported by Borkenstein and others.

The average BAC of these drinking drivers is approximately .20 percent, double the level for persumed intoxication. Estimating an average period of alcohol consumption at 4-5 hours, this means that the average fatally injured drinking driver had about 15 drinks prior to becoming involved in the crash.

Blood Alcohol and Body Weight



Past Approaches and Current Activities

Federal Action:

Over the last 12 years, the National Highway Traffic Safety Administration (NHTSA), an Agency within the U.S. Department of Transportation, has worked with the States to reduce alcohol related deaths on the highway. NHTSA initiated 35 Alcohol Safety Action Projects (ASAPs) throughout the country from 1971-1976 which resulted in the development of a coordinated systematic approach to deal with drunk driving.

In 12 of the 35 ASAPs, a statistically significant reduction in fatal crashes at night was achieved. Individual projects were able to double, and even triple driving while intoxicated arrests, using such new technology as roadside breath testing. Court procedures were streamlined to handle large caseloads. Roughly a quarter-of-a-million drinking drivers were referred for treatment.

Before the passage of the Highway Safety Act of 1966, few States specified a presumptive level of driving while intoxicated. The Federal standard for alcohol safety prescribed the 0.10 percent blood level that legally defines the legal intoxication limit. Now all the States have laws defining driving under the influence at the 0.10 percent level. The majority of the States now have made some improvements in their law enforcement, court, rehabilitation, and educational efforts.

State Action

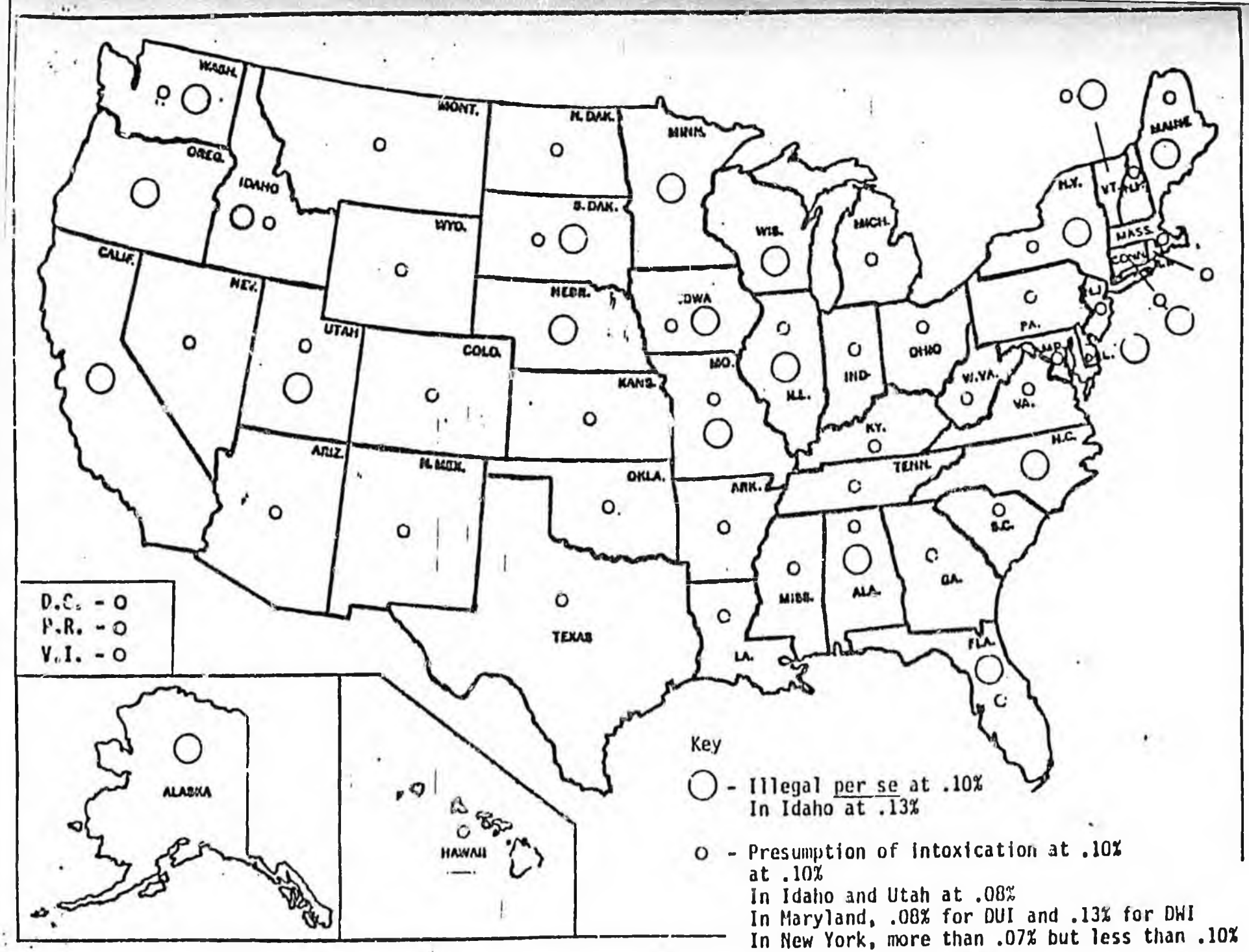
Under the Section 402 grant program established by the Highway Safety Act the States are increasing the proportion of funds allocated to alcohol programs. In FY 1982 approximately 35 percent of 402 funds ($27.8 of 78.6 million) were allocated to drunk driving programs (with an added 30 percent spent on alcohol enforcement activities under Police Traffic Services).

Responding to citizen interest, 21 States and a number of local jurisdictions have established special drunk driving task forces to revitalize State/local programs.

Fifteen States have raised the minimum legal drinking age to reduce alcohol related crashes among youth. Other States such as Maryland have introduced legislation to raise the drinking age during 1982.

Sixteen States have adopted statutes allowing preliminary roadside breath testing to assist officers in establishing probable cause for drunk driving arrests.

Twenty-one States have established illegal per se statutes designed to simplify and streamline the prosecution of drunk drivers by making it illegal simply to operate a motor vehicle with an illegal blood alcohol concentration (above 0.10%).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TEXAS
D.C. - O
P.R. - O
V.I. - O
ALASKA
HAWAII
Key
- Illegal per se at .10%
In Idaho at .13%
- Presumption of intoxication at .10%
at .10%
In Idaho and Utah at .08%
In Maryland, .08% for DUI and .13% for DWI
In New York, more than .07% but less than .10%

LEGAL AGE FOR CONSUMPTION OF BEER, WINE AND DISTILLED SPIRITS

STATE	EFFECTIVE DATE OF LATEST AMENDMENT	MINIMUM DRINKING AGE[A] AND BEVERAGE				
		BEER		WINE		DISTILLED SPIRITS
		NOT OVER 3.2% ALCOHOL	OVER 3.2% ALCOHOL	TABLE	FORTIFIED	ALL
Alabama	7/75	19	19	19	19	19
Alaska	9/70	19	19	19	19	19
Arizona	8/72	19	19	19	19	19
Arkansas	3/35	21	21	21	21	21
California	12/33	21	21	21	21	21
Colorado	4/45	18	B	21	21	21
Connecticut	10/72	18	18	18	18	18
Delaware	7/72	20	20	20	20	20
District of Columbia	2/34	18	18	18	21	21
Florida	10/80	19	19	19	19	19
Georgia	9/80	19	19	19	19	19
Hawaii	3/72	18	18	18	18	18
Idaho	7/72	19	19	19	19	19
Illinois	1/80	21	21	21	21	21
Indiana	1/34	21	21	21	21	21
Iowa	7/78	19	19	19	19	19
Kansas	3/49	18	21	21	21	21

LEGAL AGE FOR CONSUMPTION OF BEER, WINE AND DISTILLED SPIRITS

STATE	EFFECTIVE DATE OF LATEST AMENDMENT	MINIMUM DRINKING AGE[A] AND BEVERAGE				
		BEER		WINE		DISTILLED SPIRITS
		NOT OVER 3.2% ALCOHOL	OVER 3.2% ALCOHOL	TABLE	FORTIFIED	ALL
Kentucky	5/38	21	21	21	21	21
Louisiana	11/48	18	18	18	18	18
Maine	10/77	20	20	20	20	20
Maryland	7/74	18	18	18	21	21
Massachusetts	4/79	20	20	20	20	20
Michigan	12/78	21[C]	21[C]	21[C]	21[C]	21[C]
Minnesota	9/76	19	19	19	19	19
Mississippi	7/66	18	18[D]	18[D]	21	21
Missouri	5/45	21	21	21	21	21
Montana	7/79	19	19	19	19	19
Nebraska	7/80	20	20	20	20	20
Nevada	12/33	21	21	21	21	21
New Hampshire	5/79	20	20	20	20	20
New Jersey	1/80	19	19	19	19	19
New Mexico	12/34	21	21	21	21	21
New York	5/34	18	18	18	18	18
North Carolina	5/35	18	18	18	21	21
North Dakota	12/36	21	21	21	21	21
Ohio	8/35	18	21	21	21	21
Oklahoma	12/76	18	21	21	21	21
Oregon	12/33	21	21	21	21	21

HB 17
JR

Drinking age

3-3-83
Times

A GOOD BILL to raise the minimum drinking age in Alaska from 19 to 21 is on the verge of being diluted and diverted from the legislative track.

Such a bill has been introduced in a number of previous sessions and what should be an easy matter to deal with has always gotten involved in curious machinations that have resulted in its demise.

THIS TIME AROUND, some legislators are arguing that the measure, which also prohibits persons under the age of 21 from serving drinks, is unfair to young adults. A lot of people are now dead who might be alive had that measure been put on the books when it first came up. Many of Alaska's highway deaths are attributable to drunk drivers in the under-21 age group.

Back in the early 1970s, when youngsters were being given all sorts of additional legal privileges, Alaska lowered its drinking age to 19. Those days are over and members of the Alaska legislature should pay attention to some of the things that have happened as a result of those actions.

STATISTICS show that raising the drinking age in other states has resulted in a decrease in the number of alcohol-related highway deaths. The figures also show that 19 of the 27 states that lowered their drinking age during the 1970s have now thought better of those actions and reversed them.

The new concerns being raised by Alaska legislators this session should not be allowed to block passage of this bill. Its sponsors are encouraged to do whatever is necessary to get it back on the track.

Drinking age plan may change

by Bill White
Times Juneau Bureau

3-1-83

Juneau — A bill to raise Alaska's minimum drinking age to 21 has been put on hold, as lawmakers prepare amendments to protect the rights of citizens who are 19 or 20 years old now.

As written, the proposal would raise the drinking age from 19 to 21 years old 90 days after it became law.

The bill also would prohibit workers under the legal age from serving liquor. The only exceptions would be those 19 or 20 years old who hold such jobs when the bill becomes law.

But Rep. Jim Duncan, D-Juneau, told the House Finance Committee the bill would unfairly exclude young adults from some kinds of work.

Duncan added, "we may be on the verge of making institutional criminals" of those 19 or 20 years old who are used to going to bars or dances where liquor is served. Their lifestyles aren't easy to change, he said.

Dan Hickey, the state's chief prosecutor, said passage of the bill should reduce crime. But he doesn't have the staff to push prosecutions of those who would violate the new law, he said.

Finance Chairman Al Adams, D-Kotzebue, told Hickey to prepare amendments to the bill to stagger when the new law would take effect to protect the rights of those who now drink or who may serve liquor.

The committee plans to take up those amendments Wednesday.

Rep. Mike Miller, D-Juneau, urged the committee members to approve the bill.

"I was one of the members of the legislature in the early 1970s when we took what we considered a pioneering step in lowering the drinking age," he said.

"I think I was dead wrong and I think a lot of kids are dead right now," he added, referring to statistics that show an increase in alcohol-related traffic fatalities among young people.

Miller cited a December 1982 report from the Presidential Commission on Drunk Driving that found "raising the legal drinking age produced an average annual reduction of 28 percent in nighttime fatal crashes involving 18-21 year old drivers."

He said 27 states lowered their drinking ages in the 1970s for all alcoholic beverages and 11 other states lowered the age for beer or wine consumption. But 19 states have reversed their actions.

Miller said the bill not only would save lives on Alaska's highways, but it would reduce alcohol consumption in the state. "None of us can take a great deal of pride in the amount of drinking in Alaska."

Rep. Terry Martin, R-Anchorage, sponsor of the bill, said 55 percent of all fatal traffic accidents in Alaska involved those younger than 19. But the state's Highway Safety Planning Agency said that between 1979 and 1982 the age group under 20 accounted for one-fourth of all alcohol related fatalities. Members of that same age group hold 3 percent of the driver's licenses in Alaska.

Rep. Vern Hurlbert, D-Sleetmute, said raising the drinking age might cause some young adults to drink in their cars rather than bars.

The Sheffield administration has endorsed the bill. But it favors staggering the effective date of the bill to raise the minimum age to 20 next year and 21 in 1985.

The House passed a similar bill last year. But it died in the Senate.

Opinion

JUNEAU EMPIRE

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We support raising the drinking age

Anyone who has lived in Alaska for any length of time has known someone hurt by alcohol.

Alcohol abuse crosses every line. It affects old and young, man and woman, rich and poor. But no instance of alcohol abuse is as tragic as among young people.

To see a teen-ager caught up in alcohol abuse can only be described as a shame. Yet most of us see it, hear about it and read about it all the time.

Most drinkers, young and old, are responsible. Yet a sizable minority — a minority that cannot be ignored — continues to misuse alcohol. And many are teen-agers.

The major and most deadly abuse of alcohol is drunken driving. For some reason, young Alaskans especially are arrested time and again for drunken driving. You can see it in the daily police reports and hear about it from concerned friends and parents.

All too often, you read about it in the obituaries.

According to Mothers Against Drunk Drivers, a nationwide group that has taken hold in Alaska, almost one-third of the 24,000 people who died in alcohol-related traffic accidents nationally were teen-agers.

No death is as tragic as a drunken-driving death. That tragedy is even worse when it involves a teen-ager.

Getting rid of alcohol in Alaska seems an impossibility. Though it has been successful in many rural areas, the return of prohibition is not at hand in most of the state.

What is at hand is a movement to raise Alaska's drinking age from 19 to 21.

That is an effort we can all support. Raising the drinking age will not solve Alaska's drinking problem. Nor will it stop drunken driving among teen-agers.

But it will help stop the on-going tragedy of alcohol abuse among many of Alaska's youths.

"I voted to lower the drinking age in 1970," Rep. Mike Miller, D-Juneau, told the House Judiciary Committee last week. "We were dead wrong."

We agree. Drinking is not a right. It is a privilege we believe is hurting too many teen-agers.

Though no statistics are available for the state, we and many other responsible Alaskans agree that raising the drinking age to 21 will save lives.

We support raising the state drinking age.

21: Magic drinking age

Panel: 19 too young

By The Associated Press

Witnesses at a House Judiciary Committee hearing weren't sure people automatically become responsible drinkers at age 21, but they nevertheless agreed that the drinking-age should be lifted from 19 to 21.

A measure to do that, (HB17), whose prime is Rep. Terry Martin, R-Anchorage, was the subject of a hearing Thursday. Martin told committee members that age 21 seems to be "some kind of magical number that does reduce death."

Martin said that of 24,000 annual alcohol-related traffic deaths nationally, 7,000 were teenagers. The problem has prompted Congress to consider a national age of consumption, he added.

Alaska's director of Highway Safety, Charlie Smith, said statistics on alcohol-related traffic deaths in the 49th state are largely unavailable because "last year was the first time I was asked to produce statistics."

A presidential commission has recommended all states raise their drinking age to 21, Smith said.

Howard Scaman, who represented Mothers Against Drunk Driving, Students Against Drunk Driving, and the Coalition for a Safe Alaska, said that the problem is so serious that alcohol "is readily available in the junior high system."

The state, he said, has one liquor license per 183 people, several times higher than the national average.

Rep. Mike Miller, D-Juneau, said he was part of the problem.

"I voted to lower the drinking age in 1970," he said. "We were dead wrong. We felt that if they wanted to get it, they were going to get it. And they were going to drive anyway."

Raising the drinking age won't eliminate teenage drinking, Miller said, "but we can lessen it."

"There is no magic number," he said. "We have to draw the line somewhere. Twenty-one seems to be a good age."

When Rep. Don Clocksin, D-Anchorage, said he was concerned the law would be discriminating because of age, But, Miller added, "Drinking and getting drunk is not a right. And society has a right to draw a line."

A representative of the Hotel, Restaurant and Bartenders Union Local 878, Michelle Castanedo said she had no objection to raising the drinking age. But, she said, she would like to see a provision for 18-to 20- year-olds being allowed to work in places where alcohol is served.

A committee substitute providing for her concern is expected to be introduced today as hearings on the bill continue.

Martin supports higher drinking age

Associated Press 1/28/83

Juneau — Witnesses at a House Judiciary Committee hearing weren't sure people automatically become responsible drinkers at age 21, but they nevertheless agreed that the drinking age should be lifted from 19 to 21.

A measure to do that, sponsored primarily by Rep. Terry Martin, R-Anchorage, was the subject of a hearing Thursday. Martin told committee members that age 21 seems to be "some kind of magical number that does reduce death."

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"There is no magic number," he said. "We have to draw the line somewhere. Twenty-one seems to be a good age."

When Rep. Don Clocksin, D-Anchorage, said he was concerned the law would be discriminating because of age, Miller admitted he shared the same concerns.

But, Miller added, "Drinking and getting drunk is not a right. And society has a right to draw a line."

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A committee substitute providing for her concern is expected to be introduced today.

Letters to the editor

Raise the age for drinking

Dear Editor:

In response to the letter, "Cure for teenage drinking," I would like to make a few comments.

Mr. Kirk wrote a lengthy and lively letter demeriting Rep. Terry Martin's bill to raise the drinking age from 19 to 21. He says the bill violates the "American Way" of giving citizens great responsibility for their individual actions.

Let's keep in mind that laws and regulations arise in response to harmful behavior. This bill is long overdue!

Real-life groups of people are, in fact, punished for the transgressions of a few of their members. The "old elementary school teacher who used to make the whole class stay in from recess because someone was talking during class" offers us all a valuable lesson. No one lives completely unto himself. Our actions always produce an affect touching those persons associated or identified with us. For example, a disruptive or criminal family member causes grief to other members of his family. Shoplifters cause the price of retail goods to rise for all shoppers, and careless youthful drivers cause other teen-agers to pay higher insurance rates. The elementary teacher was illustrating the point that it was not only her job to maintain order in the classroom but that the group also was expected to exhibit appropriate conduct and encourage classmates to do the same.

We should learn early in our education that we are individually and collectively responsible for our actions. Peer pressure to do what is right is the only hope for an orderly society, as it is impossible to have a policeman for every citizen. One who buys liquor for a minor contributes to that minor's risk of harm to himself and others. One who purchases products that contribute to people's poor health and safety — whether it be tobacco, alcohol, or illegal drugs — directly reinforces that more of that substance will be produced. These individuals share in the responsibility along with the intoxicated driver who cripples and kills on the highway.

Nothing will prevent a minor from obtaining dangerous substances if he is determined to do so just as it is impossible to prevent a suicide by a peron bent on self-destruction. However, there is no reason to make these items convenient to youth prior to their reaching an age that we hope allows for the development of maturity and judgement needed to exercise caution if not outright refusal to use these substances.

Comparing the loss of jobs for teenagers in drinking establishments because of the revised 21 year old drinking age is sort of like finding a remedy for cancer and then complaining that some nurses will find themselves out of work. It is true that unemployment is a priority, but the disabling and killing of youthful drivers, their friends, and other innocent drivers is a much higher priority. It is time we consider the long-range costs of our decisions and policies rather than just the immediate effects. It might be a bore to drive at 55 mph and see what you pass but thousands of people are alive today as a result of the law.

Yes, one could say Terry Martin's plan punishes the innocent teen-ager along with the guilty. It's a fact of life. But, if you are a teenager who chooses not to drink, you would hardly consider Rep. Martin's bill a punishment.

Paul M. Anthony
Eagle River

Editorial Opinion and Comment of

FAIRBANKS
Daily News - Miner

"Independent in All Things . . . Neutral in None"

Other opinions expressed on this page do not necessarily reflect those of the Daily News-Miner.

Alcohol abuse worries

We hope members of the Alaska Legislature will be as concerned about the serious community problems caused by alcohol abuse as are their constituents.

Around the nation, Americans are worried. A recent Gallup poll found that Americans are more worried about excessive drinking than they are about smoking or overeating. A majority think the federal tax on liquor should be doubled.

In Alaska, that concern is reflected in efforts to curb the problems caused by alcohol abuse, particularly drunk driving. Last year, Anchorage residents formed a chapter of a powerful new organization called Mothers Against Drunk Driving. Now some Fairbanks residents who have personally experienced the tragedy of losing a family member or friend in an accident involving a drunk driver are setting up a chapter here. Watch for their announcement soon of a public meeting for anyone who is interested.

It's going to take a lot of public pressure to enact the changes we need to make alcoholic beverages less available and therefore cut down on the abuses associated with alcohol. So far, the Legislature has refused to take final action on measures that would increase the state excise tax and restore the drinking age to 21. At the same time, statistics from across the nation are documenting the increasing number of deaths of young people in traffic accidents where booze is involved. And we read more and more about the young age at which students are beginning to accept alcohol consumption as part of their daily living.

The Gallup survey, commissioned by the National Council on Alcoholism's New York affiliate, found that 68 percent of the 1,039 adults surveyed rated an educational campaign to foster drinking moderation "very important."

Fifty-six percent named at least one type of alcoholic beverage on which they favored doubling the federal tax, with an increase in distilled liquor drawing the most support—from 54 percent. Forty-nine percent favored doubling the federal tax on beer, 48 percent on wine.

Sixty-two percent said they would like to see the major political parties support a moderate drinking campaign in their platforms and 59 percent said they would be more likely to vote for a candidate who supported such a campaign.

That should send a message to incumbent legislators. Though people concerned about alcohol abuse and supporting state measures to control it may not have the dollars to match campaign contributions from the liquor industry, they certainly have the votes.

The Legislature has been derelict in the face of the facts in not enacting a tax increase on alcoholic beverages since 1961. It's past time they turned a deaf ear to the powerful liquor lobbyists and passed legislation to raise the drinking age and pay for some of the human misery created by those who can't handle alcohol.

Here in Fairbanks, we've so far managed to sweep aside most of the proposals to deal with alcohol abuse, too often claiming that since a specific proposal won't do the whole job, we shouldn't enact it. With that shortsighted view, we'll never even get started.

Fairbanks Mayor Bill Walley's blue ribbon commission can be a big help in curbing alcohol abuse and thereby making Fairbanks cleaner and safer if it will recommend specific steps the community can take and urge people to also push for other steps the state can take.

The problems caused by alcohol abuse aren't going to go away if we ignore them—sadly, they're going to get even worse.

This year is the time to press for some action.

Letters to the editor

1/15/83 Times

Cure for teen-age drinking

Dear Editor:

Rep. Terry Martin has filed another bill to raise the drinking age from 19 to 21 years of age. A similar bill was squashed last year in the state Senate.

Martin's argument is that by allowing these young adults — and a 19 or 20-year old is a legal adult, mind you — access to legal liquor makes it that much easier for teenagers to get booze. He points out that teenagers cause a disproportionate share of drunk-driving accidents. The answer to teen-age drunk driving, he says, is to prohibit those kids' older friends and siblings from touching that Old Demon Rum.

The bill violates certain principles.

It is the American way, our historical tradition, to give citizens great responsibility for their individual actions. Freedom is curtailed only when an individual proves irresponsibility by abusing that freedom. Groups of people — ethnic, religious, demographic — are not to be punished for the irresponsibility or other transgressions of a few of the members of those groups.

Remember that old elementary school teacher who used to make the whole class stay in from recess because someone was talking during class? Remember how, even then, you perceived that as not fair? Better example: statistics show that blacks and Hispanics in America commit more violent crimes per capita than do whites. I hope I shall never hear Alaska legislators calling for restrictions on the rights of blacks and Hispanics because of this.

Too farfetched? Allow me one more hypothetical situation: Two nations go to war. One contains a number of citizens whose ancestors came from the enemy nation. Regardless of their actual citizenship or loyalty, these citizens are rounded up and held in concentration camps for the duration. The nation which succumbs to this lapse in judgment is still embarassed by it some 41 years later.

Enough on principles. What about the practical effects of the bill in question? Martin's attempt at prohibition would not prevent 19- and 20-year-olds from getting alcohol; they would obtain it surreptiously just as 17- and 18-year-olds do now. What it would do is prevent them from holding jobs in establishments where liquor is served. This includes that nice restaurant at the hotel as well as your local neighborhood pizza parlor. Such establishments are a major source of employment for young people without job skills.

There are other ways to cut back on drunken driving. One idea, put forward by the staff of the then-Sen. Charlie Parr last year, is to suspend the license of any minor caught driving while intoxicated until that minor reaches adulthood.

For some teens, three days in jail, no matter how monotonous or difficult at the time, might seem a status symbol when back amongst their peers. But the thought of losing their wheels for a long time ought to make even the tough teens tremble. The proposal has the advantage of punishing individual teen-agers rather than a whole demographic slice of their older brothers and sisters.

There are other ways to cut back on drunk drivers, including impoundment of vehicles and longer mandatory jail terms. These proposals don't quite provide the "quick fix" Martin desires, but they differ from his plan in one important aspect: they punish the guilty, not the innocent.

Equal responsibility can be expected only when equal rights are extended. Nineteen- and 20-year-olds are legal adults who stand before the same system of police, courts and corrections as do the rest of us. To deny them a privilege we all enjoy, a right of access to entertainment as well as employment, is not only impractical but wrong.

Kenneth C. Kirk
4318 Vance Dr.

Alaska's image

Dear Editor:

When his days as governor were numbered, Jay Hammond spent a lot of time in public appearances talking about what his "legacy" would be for eight years of service. Now we know more about what he was meant to Alaskans from the public opinion shift which has apparently occurred nationwide as a result of Hammond-era public relations escapades.

Traditionally Alaskans have not wasted a lot of valuable energy trying to impress Outside residents of our meaningful existence in this world of hocus-pocus. But image-maker Hammond needed to convince the rest of the nation that we really care what they think of us; with the result being a loss of self-esteem.!

Two million dollars were reportedly spent for a national communications program to embellish an already positive national image. Two years later, after many tales of woe for programs that flopped and books that weren't published, the concensus Outside is that Alaskans are frivolous with money they don't deserve to have or to throw around.

Donn R. Liston
Anchorage

Barbs

If there's enough for second helpings, it most likely wasn't all that appetizing to begin with.

There's no one harder to shut up than the person who has nothing to talk about.

The Effect of Raising the Legal Minimum Drinking Age on Fatal Crash Involvement

HB112

Allan F. Williams, Ph.D., Paul L. Zador, Ph.D.
Sandra S. Harris, M.S., Ronald S. Karpf, Ph.D.

June 1981

Insurance Institute for Highway Safety
600 Watergate
Washington, DC 20037

The Effect of Raising the Legal Minimum Drinking Age on Fatal Crash Involvement

ABSTRACT

In the early 1970's, many states in the U.S. lowered their legal minimum drinking ages, resulting in increased fatal crash involvement among young drivers. Beginning in 1976 and continuing into the 1980's, some of these states raised their drinking ages. The present study, conducted in nine states in which the drinking ages were raised, found that this resulted in reductions in fatal crash involvement among drivers the law changes applied to, especially in types of fatal crashes in which alcohol is most often involved. The reductions in the nighttime fatal crash involvement of such drivers, that occurred in eight of the nine states, ranged from 6 to 75 percent. On average, a state that raises its drinking age can expect about a 28 percent reduction in nighttime fatal crash involvement among drivers the law change applies to. It was estimated that in the 14 states that had raised their drinking ages as of January 1981, the result each year is about 380 fewer young drivers involved in nighttime fatal crashes. In the 31 states that still had a legal minimum drinking age less than 21 as of that date, it is estimated that each year there could be about 730 fewer young drivers in nighttime fatal crashes if the legal drinking age were raised to 21.

In the early 1970's, more than half of the states in the U.S. lowered their legal minimum drinking ages -- in most cases from 21 to 18 -- for the purchase of some or all alcoholic beverages. Research indicated that this legislation resulted in increased crash involvement among young drivers.[1,2] In a study of various states and Canadian provinces that reduced their drinking ages from 21 to 18, there were significant increases in fatal crash involvement -- particularly in nighttime and single vehicle crashes in which alcohol is most often involved -- of drivers under 21 in these areas, compared with adjacent areas that did not reduce their drinking ages. These increases occurred not only among 18-20 year olds, who were directly affected by the law change, but also among 15-17 year olds.[1]

As a result of these findings and other reports of growing teenage alcohol-related problems, many states that had lowered their legal minimum drinking ages in the early 1970's raised them beginning in 1976. By the end of 1980, 14 of the 30 states that had lowered their drinking ages for the purchase of some or all alcoholic beverages had raised them, although not necessarily back to the original ages. In this paper, a study of the effect of raising the drinking age on fatal crash involvement of teenage drivers is reported.

METHODS

Research Design

Nine states, all of which raised their legal minimum drinking ages between September 1, 1976 and January 1, 1980, were studied. Four states that raised their drinking ages during 1980 were excluded, because the law changes were too recent for their effects to be measured using data available when the

study was conducted. New Jersey, which raised its drinking age from 18 to 19 on January 2, 1980, but included a "grandfather" clause permitting those already 18 before that date to drink, was also excluded.

Each of the nine states was paired with a comparison state in which the legal minimum drinking age remained unchanged during the study period. Comparison states were chosen on the basis of geographic proximity to law-change states and comparability with law-change states with respect to numbers of crash fatalities. Table 1 shows the law-change and comparison state pairs, and drinking age regulations in each state.

Table 1 goes here

Data on driver involvement in fatal crashes from January 1975 through September 1980 were obtained from the Fatal Accident Reporting System (FARS).* Only drivers of motor vehicles -- automobiles, light trucks, vans, on-off road vehicles -- were included.

Alcohol is a major factor in fatal motor vehicle crashes in general, but is particularly likely to be involved in nighttime fatal crashes (9:00 p.m. - 5:59 a.m.), especially single vehicle nighttime fatal crashes.[3-5] This subset of crashes therefore received special attention during the study.

The duration of post-law periods studied ranged from nine months (Illinois) to three years (Minnesota). In two states that raised their drinking ages from 18 to 19 but had a "grandfather" clause that permitted those already 18 years

* FARS is a computerized data base containing information on motor vehicle fatalities in the 50 states, the District of Columbia, and Puerto Rico. The data are collected by the state governments under contract to the National Highway Traffic Safety Administration. Police accident reports are the primary source of data, supplemented by data from medical examiners and other sources.

old to drink, the 12-month period following the law change dates was excluded. Pre-law and post-law periods for the nine states are shown in Figure 1. The ages to which the law changes apply are also given for each state in Figure 1.

Figure 1 goes here

Fatal crash involvement of drivers younger than those covered by the laws (starting with age 15) was also studied because of the possibility of spillover effects in these ages when alcoholic beverages could no longer be obtained legally by older teenagers. As a control, drivers older than those to whom the law changes applied (through age 21) who could drink legally in law change states throughout the study period were also included.

When a state changes its drinking age, there are possible effects on fatal crash involvement in adjacent states, both in the age groups the law changes apply to, and among their younger and older associates. These effects can be positive or negative. For example, if a state raises its drinking age from 18 to 21 and a neighboring state has an 18-year-old drinking age, then 18-20 year olds in the law-change state may travel to the neighboring state in order to drink legally, and may crash there. On the other hand, if a neighboring state has a 21 year old drinking age, 18-20 year olds in that state may no longer travel to the law-change state to drink, and consequently may crash less in both states.

These and other possible effects have a bearing on the research design used in the present study, which involved comparing law-change states with neighboring (although not necessarily contiguous) states, and also must be considered in assessing the net effect of states raising their legal minimum drinking age. It was found, however, that the number of drivers of the age

groups studied with out-of-state licenses in fatal crashes in law-change and comparison states in the pre- and post-law periods was small (less than 10 percent of the total). More importantly, the number of drivers in fatal crashes in law change states that were licensed in the comparison states (and fatal crash involved drivers in comparison states that were licensed in the law-change states) was less than one percent of the total.

Analyses based only on drivers licensed in the state in which the crash occurred produced the same results as analyses based on all drivers; the latter measure was therefore used.

Statistical Analysis

If raising the drinking age reduces driver involvement in alcohol-related fatal crashes, nighttime fatal crashes would be expected to be reduced more than daytime crashes (and single vehicle nighttime fatal crashes more than multiple vehicle daytime fatal crashes). In other words, the ratio of night-to-day fatal crashes in a law-change state would be greater before the law change than after it. This can be shown in a 2 x 2 table as follows:

	Time Period	
Time of Crash	Before Law Change	After Law Change
Night	n_{11}	n_{12}
Day	n_{21}	n_{22}

and $$\frac{n_{11}}{n_{21}} \geq \frac{n_{12}}{n_{22}} \qquad (1)$$

A statistical measure that compares such ratios is the log odds ratio,[6] defined as:

$$\beta = \ell n \quad \frac{n_{12}/n_{22}}{n_{11}/n_{21}} \qquad (2)$$

Positive values of β correspond to increases in the night/day ratio, negative values to decreases, and $\beta = 0$ whenever the ratio is unchanged. Except for small samples ($n \leq 5$) the distribution of β is asymptotically normal and its variance is approximately:

$$\sigma_\beta^2 = \frac{1}{n_{11}} + \frac{1}{n_{12}} + \frac{1}{n_{21}} + \frac{1}{n_{22}} \qquad (3)$$

The hypothesis of no change in the night/day ratio subsequent to the law could therefore be tested in terms of the approximately standard normal test statistic $Z = \beta/\sigma_\beta$. Large negative values of Z would indicate a reduction in this ratio; large positive values an increase.

To rule out the possibility that changes in the ratios in law-change states were part of a regional trend, the log odds ratio for a law-change state (β_ℓ) was compared with the log odds ratio of the non-law change (comparison) state with which it was paired (β_c). To calculate β_c data for the comparison state were split into before and after periods that coincided with these periods in the law-change state. Positive, zero or negative values of the difference $\Delta\beta = \beta_\ell - \beta_c$ are indicative of greater, equal or smaller increases in the law-change state than in the comparison state. The variance of this test statistic is $\sigma^2_{\Delta\beta} = \sigma^2_{\beta_\ell} + \sigma^2_{\beta_c}$ and $\Delta\beta/\sigma_{\Delta\beta}$ is again standard normal if the change in the night/day ratio was the same in both states.

To rule out the possibility that changes observed in age groups covered by the law (and younger ages) were part of a trend in the night/day ratio that occurred in other age groups in law change states, log odds ratios in law-change and comparison states were compared for older drivers through age 21, to whom the law change did not apply. This was done by comparing $\Delta\beta_a$ for the law-affected group to a similarly calculated $\Delta\beta_o$ for the older age group. As before, the variance of $\Delta\beta_a - \Delta\beta_o$ is equal to $\sigma^2_{\Delta\beta_o} + \sigma^2_{\Delta\beta_a}$ and the test statistic is $(\Delta\beta_a - \Delta\beta_o)/(\sigma^2_{\Delta\beta_a} + \sigma^2_{\Delta\beta_o})^{\frac{1}{2}}$ which is standard normal in the absence of a difference between the $\Delta\beta$'s.

The log odds ratios were also used to estimate changes in the number and percentage of drivers in nighttime fatal crashes resulting from the law. Consider now the 2 x 2 x 2 contingency table for a given age group:

		State			
		Comparison		Law-Change	
		Before	After	Before	After
Time of Crash	Night	a	b	e	x
	Day	c	d	g	h

If the two odds ratios are the same then,

$$\frac{xg}{eh} = \frac{bc}{ad} = e^{\beta_c} \qquad \text{and } x = bceh/adg.$$

Now if, instead of x, the cell frequency is actually n, then the difference

$$\Delta n = n - x = n\,[1 - e^{\beta_c - \beta_2}] \qquad (4)$$

is the change in drivers involved in nighttime fatal crashes in the law-change state after the law went into force. This change can be expressed as a percentage:

$$\Delta P = 100\,\frac{\Delta n}{x} = 100\,[e^{\Delta\beta} - 1] \qquad (5)$$

Estimates of net changes in fatal crash involvement due to the laws were obtained by comparing the estimated changes for the age group covered by the law (ΔP_a) with the estimated change (ΔP_o) for the older group. Applying formula (5) for both age groups leads to the estimated net change due to the law for the law-affected group:

$$\Delta P_k = \frac{\text{Net change}}{\text{in state k}} = \frac{\Delta P_a - \Delta P_o}{1 + \Delta P_o} \qquad (6)$$

These methods were also used to determine what changes occurred in driver involvement in single vehicle nighttime fatal crashes and in all fatal crashes.

Data from the matched state pairs were analyzed by means of these methods in three different ways. The simplest analysis was based on data pooled across the nine law change and nine comparison states. In this analysis the pooled data were treated as if all of it had come from one change and one comparison state. This analysis disregards the variation between the states.

In the second method the "typical" change attributable to the laws was estimated as the average of the nine separate state estimates:

$$(\Delta P)_{av} = 1/9\ (\Delta P_1 + \ldots + \Delta P_9) \qquad (7)$$

The corresponding estimate for the variance of ΔP_k is

$$\sigma^2 = 1/8 \sum_{1}^{9} (\Delta P_k - (\Delta P)_{av})^2 \qquad (8)$$

and so the 95 percent confidence interval for the average is $(\Delta P)_{av} \pm 1.96\ \sigma/\sqrt{9}$. National projections for the estimated impact of already existing laws and the impact of further law changes were estimated on the basis of $(\Delta P)_{av}$.

Finally, to estimate the percentage change in driver fatal crash involvement that occurred in law-change states during the study period, the estimated changes were summed across the law-change states and divided by the estimated sum of the number of drivers that would have been in fatal crashes without the law change. This estimate corresponds to the "aggregate" change due to the laws. The aggregate change is a weighted average of the changes, whereas the typical change is an unweighted average. Statistical significance of the aggregate change was assessed in terms of the test statistic:

$$Z = \frac{1}{\sqrt{9}} \sum_{1}^{9} \frac{\Delta\beta_{ak} - \Delta\beta_{ok}}{(\sigma^2_{\Delta\beta_{ak}} + \sigma^2_{\Delta\beta_{ok}})^{\frac{1}{2}}} \qquad (9)$$

In the absence of a law effect Z would have a standard normal distribution.

RESULTS

Table 2 shows the results of comparisons between the nine law-change and comparison state pairs on driver involvement in fatal crashes before and after the laws went into force. In the age groups the laws applied to, there was a greater decrease in driver involvement in nighttime than in daytime fatal crashes in law-change states than in comparison states subsequent to the laws ($Z = -3.29$, $p = 0.001$). There was also a greater decrease in single vehicle nighttime fatal crash involvement than in multiple vehicle daytime fatal crash involvement for those ages ($Z = -2.85$, $p < 0.01$). There were an estimated 30 percent fewer drivers in the law-affected age groups in fatal nighttime crashes in law-change states during the post-law periods studied, and 41 percent fewer drivers in single vehicle nighttime fatal crashes. There was a decrease in driver involvement in all fatal crashes in law-change states in the age groups that the law applied to, but it was not statistically significant ($Z = -1.20$, $p > 0.10$).

Table 2 goes here

There was some indication of decreased fatal crash involvement of drivers in law-change states who were younger than drivers the law changes applied to, but the changes were not statistically significant. This was also the case when comparisons were based only on drivers one year younger. There were also small, non-significant changes for older drivers in law-change states.

The three sets of estimates of the percent net reductions in fatal crash involvement of drivers in law-change states to whom the law changes applied are given in Table 3. The three estimation methods yielded reasonably consistent results. Estimated reductions in driver involvement in nighttime fatal crashes

ranged from 18 to 28 percent; all three estimates were statistically significant. Estimated reductions in driver involvement in single vehicle nighttime crashes ranged from 23 to 35 percent. Although these reductions were higher than the nighttime reductions, only the aggregate estimate was statistically significant, in part because of the smaller number of drivers in nighttime single vehicle crashes. There were smaller estimated reductions in all fatal crashes (12 to 20 percent); the pooled estimate was statistically significant.

Table 3 goes here

Table 4 shows, for each of the nine law-change states, the estimated post-law changes in nighttime fatal crash involvement for law-affected and older drivers, and the net effects. The net effects of the laws on drivers the law changes applied to are also displayed in Figure 2. There were estimated net reductions in driver involvement in nighttime fatal crashes in eight of the nine states, ranging from 6 to 75 percent. Montana was the lone state in which there was not a net reduction. The average reduction in the nine states was 28 percent (± 17 percent for a 95 percent confidence interval).

Table 4 goes here

Figure 2 goes here

Figure 3 displays the estimated effects of driver involvement in nighttime fatal crashes as deseasonalized monthly time series from 1975 into 1980 as the

nine states studied raised their legal minimum drinking ages.*

Figure 3 goes here

DISCUSSION

When states lowered their legal minimum drinking ages in the early 1970's, the result was an increase, among both law-affected and younger drivers, in involvement in fatal crashes, especially those crashes in which alcohol is most often involved. The results of the present study indicate that when states raise their drinking age, there is a corresponding decrease in fatal crash involvement among law-affected drivers. There is some evidence that raising the drinking age also affects younger drivers, but the reductions in the involvement of younger drivers in fatal crashes were not statistically significant.

For the 14 states (including the nine studied plus five others) that as of January 1981 had raised their legal minimum drinking ages in recent years, it is estimated that these law changes result each year in about 380 fewer young drivers involved in nighttime fatal crashes.** For the 31 states (including seven of the nine studied) that as of January 1981 had a drinking age for

* The estimated monthly series was obtained in three steps. First, for each month the data in the 2 x 2 table representing day/night and law change/no law change splits were pooled among states that had already raised the drinking age, and the frequency of nighttime crash involvement in the change state was estimated so that the odds ratio of the modified table then equalled the odds ratio for a similar table obtained by pooling all pre-law change counts across all months and all states. Second, these estimated counts for the post-law periods in the change states were added to the sum of the observed counts in the states that still did not change their laws. Third, this sum was smoothed using X-11. The estimated monthly reduction in fatal crash involvement was subdivided between law effect and other factors using a constant factor (40 percent). This factor represents the estimated reduction in the involvement of older drivers.

** This annual estimate was based on data from 1979, the last full year for which FARS data were available when the present study was conducted.

some or all alcoholic beverages that was less than 21,* it is estimated that each year there could be about 730 fewer young drivers involved in nighttime fatal crashes if in all states the drinking age for all alcoholic beverages was raised to 21. Any single state that raises its drinking age can expect the involvement in nighttime fatal crashes of drivers of the age groups to which the change in the law applies to drop by about 28 percent.

The societal benefits achieved in states that have raised their drinking ages are substantial; the benefits achievable by additional states raising their drinking ages would be even more substantial. Raising the legal minimum drinking age to 21 in all states would have an important impact in reducing the annual toll of motor vehicle deaths in the United States, particularly the deaths of young people and of others with whom they are involved in crashes.

* If persons less than age 21 were allowed to purchase only beer containing not more than 3.2% alcohol by weight, the state was classified as having a 21-year-old drinking age.

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