

ALASKA LEGISLATURE COMMITTEE FILES 1985-1988

3214.40 HCRA HB 700 - HJR 55

TABLE 5

Frequency of Use of Drugs and Alcohol  
At Time of Offense for Four Offense Classes<sup>68</sup>

	<u>Used Drugs</u>	<u>Used Drugs &amp; Alcohol</u>	<u>Used Alcohol</u>
<u>Violent Offenses</u>	3.2% (19)	4.9% (29)	56.3% (330)
<u>Property Offenses</u>	4.0% (29)	4.4% (32)	39.2% (286)
<u>Forgery/Fraud Offenses</u>	2.7% ( 7)	0.8% ( 2)	9.1% ( 24)
<u>"Morals" Offenses</u>	1.1% ( 1)	9.9% ( 9)	46.2% ( 42)

The Judicial Council conducted a second analysis of the relationship between alcohol and felony crime, using 1980 data.<sup>69</sup> In this study, urban felony cases were evaluated separately from rural cases. As shown in Tables 6 and 7, a strong correlation was found to exist between alcohol use and crime. Violent crime was more frequently linked to alcohol, in both urban and rural areas, than other categories of criminal activity.

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<sup>68</sup> Id.

<sup>69</sup> Alaska Judicial Council, "Alaska Felony Sentences: 1980," December 1982.

TABLE 6<sup>70</sup>

Frequency of Use of Drugs and/or Alcohol  
At Time of Offense for Five Offense Classes\*  
(Urban Courts - 1980)

<u>Class of Offense:</u>	<u>Total Cases</u>	<u>Used Drugs</u>	<u>Used Drugs &amp; Alcohol</u>	<u>Used Alcohol</u>
1. Murder/Kidnapping	(n=14)	----- -----	21.4% (3)	78.6% (11)
2. Violent Felonies	(n=142)	2.1% (3)	4.2% (6)	65.5% (93)
3. Property Offenses	(n=195)	2.6% (5)	2.6% (5)	46.2% (90)
4. Fraud Offenses	(n=24)	----- -----	12.5% (3)	12.5% (3)
5. "Other" Offenses	(n=9)	11.1% (1)	----- -----	22.2% (2)

\*Percents indicate proportion of all cases within class.

70 Id.

TABLE 7<sup>71</sup>

Frequency of Use of Drugs and Alcohol  
At Time of Offense for Five Offense Classes\*  
(Rural Courts - 1980)

Class of Offense:	Total Cases	Used Drugs	Used Drugs & Alcohol	Used Alcohol
1. Murder/Kidnapping	(n=4)	----- -----	----- -----	100.0% (4)
2. Violent Felonies	(n=142)	1.4% (2)	4.9% (7)	80.1% (113)
3. Property Offenses	(n=151)	2.6% (4)	5.3% (8)	55.6% (84)
4. Fraud Offenses	(n=16)	----- -----	----- -----	6.3% (1)
5. "Other" Offenses	(n=13)	----- -----	15.4% (2)	46.2% (6)

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\*Percents indicate proportion of all cases within class.  
Drug offenses omitted from this analysis.

The relationship between alcohol and misdemeanor crime in 1981 was evaluated by the Judicial Council as part of a study of misdemeanor sentencing patterns.<sup>72</sup> The figures reflected in Table 8 show that misdemeanor offenders frequently were using alcohol at the time their crime was committed.

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<sup>71</sup> Id.

<sup>72</sup> Alaska Judicial Council, "Alaska Misdemeanor Sentences: 1981," December 1983.

TABLE 8

1981 Misdemeanors  
Breakdown by Community of  
Alcohol and/or Drug Use at Time of Offense<sup>73</sup>

	No Evidence		Alcohol		Drugs		Alcohol & Drugs		Alc/Drugs (Not Spec.)	
	n	(%)	n	(%)	n	(%)	n	(%)	n	(%)
Anch.	193	(42.2)	240	(52.5)	2	(0.4)	13	(2.8)	9	(2.0)
Barrow	5	(10.0)	43	(86.0)	0		2	(4.0)	0	
Bethel	12	(10.6)	100	(88.5)	1	(0.9)	0		0	
Fair.	55	(21.7)	177	(70.0)	3	(1.2)	12	(4.7)	6	(2.4)
Juneau	22	(21.6)	74	(72.5)	0		6	(5.9)	0	
Kodiak	21	(21.6)	72	(74.2)	1	(1.0)	3	(3.1)	0	
Nome	13	(11.1)	102	(87.2)	0		2	(1.7)	0	
Sitka	21	(23.6)	64	(71.9)	1	(1.1)	2	(2.2)	1	(1.1)
TOTAL	342	(26.8)	872	(68.2)	8	(0.6)	40	(3.1)	16	(1.3)

<sup>73</sup>Id.

In addition to these statewide studies, the relationship between alcohol and criminal activity has been evaluated in at least one specific region of the state. Tables 9 and 10 show that most incidents of criminal activity in the mid-Kuskokwim area of southwest Alaska were found to be alcohol-related for study years 1979 and 1981-1982.<sup>74</sup>

TABLE 9

Total and alcohol-related incidents by village: 1979

<u>Village</u>	<u>total incidents</u>		<u>alcohol-related incidents</u>	
	<u>number</u>	<u>instigated by</u>		<u>number</u>
		<u>natives</u>	<u>adult male natives</u>	
Aniak	19	14	9	15
Chuathbaluk	2	2	2	2
Crooked Creek	15	15	11	15
Kalskag, Lower	4	4	3	2
Kalskag, Upper	1	1	1	1
Red Devil	1	1	0	1
Sleetmute	6	2	0	6
Stony River	4	3	3	3
Between villages	3	3	3	1
TOTAL	55	45	32	46

<sup>74</sup>David L. Marshall and Susan Soule, "Law Enforcement Incidents, Mid-Kuskokwim: 1979," July 1, 1980; and David L. Marshall, "Law Enforcement Incidents, Mid-Kuskokwim: 1981-1982," May 31, 1983.

TABLE 10

Total and alcohol-related incidents by village: 1981-1982

<u>village</u>	<u>number</u>	<u>total incidents</u>		<u>alcohol-related</u>
		<u>instigated by</u>		<u>incidents</u>
		<u>natives</u>	<u>adult male</u>	<u>number</u>
Aniak	6	5	3	2
Chuathbaluk	1	1	1	1
Crooked Creek	7	7	7	5
Kalskag, Lower	7	7	6	4
Kalskag, Upper	9	9	8	7
Sleetmute	22	21	11	20
Stony River	5	4	3	3
TOTAL	57	54	40	42

Families

Heavy drinking appears to have a profound affect on family stability. In families with at least one alcoholic spouse, the rate of separation and divorce is seven times that of the general population. Alcoholism is involved in 40% of family court problems nationwide. One third of the persons interviewed in a 1982 survey felt that alcohol caused problems in their families.<sup>75</sup>

Domestic Violence

An excellent and well-documented study of spouse abuse in three southwestern Alaska Eskimo communities

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<sup>75</sup>T. Jacob and R. Seilhamer, "The Impact on Spouses and How They Cope," pp. 114-126 in Alcohol and the Family, St. Martin's Press, 1982.

categorically found that a strong relationship between problem drinking and wife beating exists.<sup>76</sup> In two of the communities studied, the incidence of spouse abuse was found to be ten times greater than that reported nationally.

The domestic violence problems linked to alcohol were not limited to incidents of spouse abuse: child abuse and parent abuse<sup>77</sup> were also found to be common in the villages studied. With two exceptions, all cases of child abuse discovered by the researchers involved alcohol. In addition, child neglect was found to be characteristic of households containing problem drinkers. Parent abuse appeared to be 100% alcohol-related.

In comparing men who abuse their spouses with those that do not, the researchers found that the abusers had a history of exposure to spouse abuse in their childhood home. Compared to non-victims, most victims did not have a background of abuse in their own families. These findings suggest that spouse abuse may become more widespread as children from violent homes make families of their own.<sup>78</sup>

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<sup>76</sup>Anne D. Shinkwin and Mary C. Pete, "Homes in Disruption: Spouse Abuse in Yupik Eskimo Society," August 1983.

<sup>77</sup>For example, threats made to a parent of sufficient severity to cause the parent to leave the house.

<sup>78</sup>Significantly, the researchers found that when the problem drinker stopped abusing alcohol, the domestic violence usually stopped.

Tables 11 and 12 show the relationship between problem drinking and abusive behavior that was found to exist.

TABLE 11<sup>79</sup>

Proportion of people in spouse abusing relationships  
who are problem drinkers

	<u>Spouse Abusing Couples % of Problem Drinkers</u>	
	<u>Males</u>	<u>Females</u>
Kotlik	100%	9%
Emmonak	100%	30%
Hooper Bay	*85%	**39%

\*Three more batter only when drunk, raising the percentage of alcohol involvement to 94% One is a non-drinking victim whose wife is a problem drinker.

\*\*One abuses her husband.

TABLE 12<sup>80</sup>

Violence among problem drinkers

	<u>Problem drinkers</u>		
	<u>Kotlik</u>	<u>Emmonak</u>	<u>Hooper Bay</u>
Total Percent of Problem Drinkers Involved in Violence	71%	72%	66%
Type of Violence			
Non-domestic only	32%	22%	33%
Domestic only	18%	23%	21%
Non-domestic and Domestic	21%	28%	13%

<sup>79</sup> Id. at 49.

<sup>80</sup> Id. at 53.

Another study of the relationship between alcohol abuse and domestic violence was conducted in 1982 by analyzing questionnaires completed by clients at a battered women's shelter in Anchorage.<sup>81</sup> This study found that the use of alcohol and drugs was a major contributing factor in domestic violence: 46% of the spouse abusers were reported to always use alcohol or drugs during their violent episodes, and 63% were using alcohol or drugs during the most recent episode of violence. Among spouses reported as substance abusers, 53% were always violent when using alcohol or drugs and 83% were using alcohol or drugs during the most recent episode of violence.

The Anchorage study also found a relationship between the severity of violence and substance abuse. The more extreme the violence, the more likely that the spouse was using alcohol or drugs: 57% of the women suffering a relatively low level of violence reported that their spouse used alcohol or drugs, while 87% of those suffering extreme abuse had chemical-using spouses. A much higher degree of violence and alcohol or drug abuse was reported by native

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<sup>81</sup>David Basham and Denise Brothers, "An Investigation of Alcohol and Drug Abuse Among Battered Women in Anchorage," p. 198-206 in Knowlton Johnson (Ed.), Insights and Strategies for Confronting Violence: Conference Proceedings, Proceedings of the 1982 Conference on Violence, School of Justice, University of Alaska, 1983.

clients, both in terms of family history and the reason the client sought assistance at the Anchorage shelter .

Other conclusions of significance reached by the Anchorage researchers are:

1. The history of violence in the male's family is of far more importance in contributing to his violent behavior than is his history of alcohol or drug use, although his use is associated with more severe violence.
2. In cases where women have been mistreated as children, the frequency of beatings tends to be greater.

#### Alcohol and Pregnancy

Heavy drinking during pregnancy increases the risk of miscarriage and can result in alcohol-related birth defects.<sup>82</sup> When consumed in large amounts, alcohol can cause fetal alcohol syndrome.<sup>83</sup> Fetal alcohol syndrome appears to occur at a rate of 1 to 3 cases per 1,000 births.<sup>84</sup> The primary characteristics of fetal alcohol syndrome can be grouped into four categories:

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<sup>82</sup>U.S. Department of Health and Human Services, "Fifth Special Report to the U.S. Congress on Alcohol and Health," December 1983.

<sup>83</sup>Id.

<sup>84</sup>Id.

1. Central Nervous System: Eighty percent of fetal alcohol syndrome patients are mentally retarded. Other central nervous system symptoms are poor motor coordination, reduced muscle tone, tremulousness, irritability in infancy, and hyperactivity in childhood.
2. Growth Deficiencies: Over 80% of fetal alcohol syndrome patients have prenatal and postnatal reduction in body length, weight and head circumference.
3. Facial Abnormalities: A pattern of abnormal features of the face and head is frequently seen in fetal alcohol syndrome patients.
4. Other Malformations: Fetal alcohol syndrome patients suffer malformations of various organ systems, including cardiac, urogenital, and skeletal.<sup>85</sup>

Alcohol-related birth defects occur more frequently than fetal alcohol syndrome.<sup>86</sup> Low birth weight is the leading cause of infant mortality in Alaska, and alcohol

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<sup>85</sup>James Gorman, "Alcohol Related Morbidity and Mortality, Medical Diagnosis and Treatment: A Concept Paper," March 15, 1982.

<sup>86</sup>U.S. Department of Health and Human Services, "Fifth Special Report to the U.S. Congress on Alcohol and Health," December 1983.

consumption by the mother during pregnancy is one of the factors leading to low birth weight.<sup>87</sup>

### Children of Alcoholics

Children of alcoholics have been the subject of a great deal of study over the past ten years. Researchers have found that there is a substantial relationship between having an alcoholic parent and development of alcoholism. A compilation of research conclusions reflects the following facts about children of alcoholics:<sup>83</sup>

1. 50% of alcoholics are children of alcoholics.
2. 36% of the children of alcoholics are heavy abusers of alcohol. In comparison, an evaluation of the children of families with serious problems other than alcoholism, shows that 16% abuse alcohol.
3. One out of four children in school has at least one parent who abuses alcohol.
4. Children of alcoholics are frequent victims of incest, child neglect, and other forms of violence and exploitation. In 90% of child abuse cases, alcohol is a significant factor.
5. A disproportionate number of children being

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<sup>87</sup>Alaska Native Health Board, Inc., "Rural Health Issues Study and Statewide Suicide Evaluation Project," 1985.

<sup>88</sup>Cindy Scales and Joyce Schwettman, "Children of Alcoholics: Facts and Recommendations," 1985.

referred to school authorities for discipline and entering the juvenile justice system or mental health facilities, are children of alcoholics.

6. Children of alcoholics are prone to experience a range of psychological difficulties, including learning disabilities, anxiety, attempted and completed suicide, eating disorders and compulsive achieving.
7. Family alcoholism is responsible for native students dropping out of high school at a higher rate than other students.
8. Over 50% of people served by Employee Assistance Programs are adult children of alcoholics.

This data is supported by anthropological field work. For example, an analysis of Athabascan drinking habits discussed the reaction of children to parental drinking.<sup>89</sup> The anthropologist observed that when parents became intoxicated, children maintained and managed the household. Older siblings fed, dressed and cared for younger siblings, thus protecting them from neglect. Children cared for parents rendered helpless by alcohol, and occasionally protected other family members from violent outbursts of the drinking parent. In extreme situations, children left home

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<sup>89</sup>Greg Brelsford, "Athabascan Drinking Behavior: A Preliminary Ethnography," Department of Health and Social Services Quarterly, 14-20, Winter 1977.

and stayed temporarily with relatives or friends while their parents were drinking.

### Economic Costs

The economic cost to society from alcohol abuse is high. Various methodologies have been used for measuring the cost of alcohol abuse to the State of Alaska in dollars. One study concluded that the total cost for fiscal year 1984, including direct and indirect costs, was \$195,500,000.<sup>90</sup> Table 13 summarizes the specific figures used in arriving at this total.

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<sup>90</sup>California Health Research Foundation, "Economic Costs to State of Alaska for Alcohol, Drug Abuse and Mental Illness, 1983-1984," 1985.

TABLE 13

Costs to the State of Alaska from Alcohol Abuse: 1984

CORE COSTS	<u>\$169,600,000</u>
Direct	<u>25,400,000</u>
Treatment	22,300,000
Support	3,100,000
Indirect	<u>144,200,000</u>
Mortality	41,800,000
Morbidity	102,400,000
Reduced Productivity	92,100,000
Lost Employment	10,300,000
OTHER RELATED COSTS	<u>\$25,400,000</u>
Direct	<u>18,000,000</u>
Motor Vehicle Crashes	7,200,000
Crime	6,800,000
Public	6,100,000
Private	600,000
Property Loss/Damage	100,000
Social Welfare Program	500,000
Other	3,500,000
Indirect	<u>7,400,000</u>
TOTAL	<u>\$195,500,000</u>

Another analysis of the economic cost of alcohol abuse has been prepared by the State Office of Alcoholism and Drug Abuse (SOADA). The figures developed by SOADA indicate that the cost of alcohol abuse in Alaska is \$185,294,061.<sup>91</sup> Since the state gains \$14,868,433 in income from alcohol excise taxes, the net loss to the state under the analysis prepared by SOADA is \$170,425,628.<sup>92</sup> Table 14 summarizes the specific figures used in arriving at this total.

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<sup>91</sup>These figures are based on a methodology developed and explained in Volume I of "Working Papers: Descriptive Analysis of the Impact of Alcoholism and Alcohol Abuse in Alaska, 1975," by the Analysis of Alcohol Problems Project, Dennis Kelso, Project Director. At the time the 1975 study was completed, the total economic cost attributable to alcoholism and alcohol abuse amounted to \$131.2 million. This amount was compared to figures prepared for the United States as a whole and found to be 65% greater than a corresponding adjusted national estimate.

<sup>92</sup>According to James Gorman, the Health Planner for SOADA responsible for updating the economic analysis first developed by the Analysis of Alcohol Problems Project, *id.*, these figures represent a conservative estimate of the cost of alcohol abuse to the State of Alaska. For example, none of the dollars spent on running the Alaska Psychiatric Institute are included in the figures, despite the fact that Gorman reports at least 10% of the persons institutionalized at A.P.I. are there for solely alcohol-related problems.

TABLE 14

Selected Computations of Alcohol Related Costs: 1984

Public Assistance Payments:	\$5,828,210
Medical Assistance Payments:	5,650,892
Social Services:	
Foster care, Institutional care for children, Day-care, Protective Services, Homemakers (*some drug costs included)	8,718,444
Motor Vehicle:	
Accidents, Fatalities, Injuries, Property Damage	31,903,460
Criminal Justice System:	
Prosecution, Enforcement, Courts, Corrections	78,644,355
State Office of Alcoholism & Drug Abuse:	15,109,700
Costs of Lost Production:	19,870,000
Estimated Institutional Excess Costs, Health and Medical Care	19,569,000
	<u>TOTAL COSTS</u> \$185,294,061
Net Revenue to State from License Fees and Taxation	<u>TOTAL REVENUE</u> \$14,868,433
	<u>NET COST</u> \$170,425,628

Legal Issues Presented by Proposal to  
Ban Possession of Alcohol

Federal Law on Regulating Alcohol

The Twenty-first Amendment to the United States Constitution<sup>93</sup> gives states the power to absolutely prohibit, or to limit and regulate, traffic in intoxicating liquors within their borders.<sup>94</sup> In Ziffrin, Inc. v. Reeves,<sup>95</sup> the Court determined that a state may absolutely prohibit the manufacture of intoxicants, their transportation, sale, or possession, irrespective of when or where produced or obtained, or the use to which they may be

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<sup>93</sup>In pertinent part, the Twenty-first Amendment provides that "The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited."

<sup>94</sup>See e.g., California v. LaRue, 409 U.S. 109, 114 r'hrq. denied 410 U.S. 948 (1972):

While the States, vested as they are with general police power, require no specific grant of authority in the Federal Constitution to legislate with respect to matters traditionally within the scope of the police power, the broad sweep of the Twenty-first Amendment has been recognized as conferring something more than the normal state authority over public health, welfare and morals.

It is important to note, however, that the Twenty-first Amendment does not empower the states to prohibit or regulate the importation of alcoholic beverages into federal lands within the states that are under the exclusive jurisdiction of the United States, such as national parks and military reservations. Collins v. Yosemite Park & Curry Co., 304 U.S. 518 (1938). See also, Alaska Legal Services Corporation, "Applicability of Alaska Title 4 Alcohol Local Option Law Regarding Federal Enclaves Within Alaska," June 21, 1982.

<sup>95</sup>308 U.S. 132 (1939).

put. States "may adopt measures reasonably appropriate to effectuate"<sup>96</sup> such prohibitions and may "exercise full police authority in respect of them."<sup>97</sup>

A specific "right to privacy" does not exist under the federal constitution. However, the Supreme Court has found that certain of the specific protections provided in the Bill of Rights have "penumbras" that create "zones of privacy."<sup>98</sup> In evaluating the federal right to privacy, the Alaska Supreme Court has stated:

...the federal right to privacy arises only in connection with other fundamental rights, such as the grouping of rights which involve the home. And even in connection with the penumbra of home-related rights, the right of privacy in the sense of immunity from prosecution is absolute only when the private activity will not endanger or harm the general public.<sup>99</sup>

Given the nature of the privacy rights that the Court has found to be protected by the federal constitution, it is unlikely that the right to consume alcohol would fall within the boundaries of protected behavior.<sup>100</sup>

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<sup>96</sup> Id. at 108.

<sup>97</sup> Id.

<sup>98</sup> Griswold v. Connecticut, 381 U.S. 479 (1965). In Griswold, the Court held that "specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance." 381 U.S. at 484.

<sup>99</sup> Ravin v. State, 537 P.2d 494, 500 (1975).

<sup>100</sup> Griswold v. Connecticut, 381 U.S. 479 (1965) (right of married persons to contraception information); Roe v.  
(Footnote Continued)

## State Law on Regulating Alcohol

Prohibition laws existed, and were upheld, even before Alaska became a state.<sup>101</sup> In In re Kave,<sup>102</sup> the court acknowledged that the right to sell liquor could be prohibited altogether in Alaska. After statehood, in upholding delegation of rule-making authority to the Alcohol Beverage Control Board, the court stated in Boehl v. Sabre Jet Room,<sup>103</sup>, that the legislature has the power to impose either complete prohibition or any other conditions deemed necessary "to afford the greatest degree of protection to the citizens of the state."<sup>104</sup>

The Supreme Court distinguished regulation of alcoholic beverages from regulation of other commercial enterprises because alcohol "possesses the capacity for grave and harmful effects upon the public welfare."<sup>105</sup> In reaching this conclusion, the court did not rely on an extensive

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(Footnote Continued)

Wade, 410 U.S. 113 (1973) (right to choose abortion); Stanley v. Georgia, 394 U.S. 557 (1969) (right to possess obscene matter in the home). The Alaska Court of Appeals has stated that, as a matter of federal constitutional law, the consumption of alcoholic beverages does not rise to the same level as the above-enumerated rights. Harrison v. State, 687 P.2d 332 (Alaska App. 1984).

<sup>101</sup>See History of Alcohol Regulation in Alaska, *supra* at 13.

<sup>102</sup>11 Ak. Rpts. 556, 562 (Ak. Dist. Ct. 1948).

<sup>103</sup>349 P.2d 585 (Alaska 1960).

<sup>104</sup>Boehl v. Sabre Jet Room, 349 P.2d at 589.

<sup>105</sup>Id. at 589.

evidentiary record. Instead, the court found as a "matter of common knowledge that lack of restraint in this field is almost invariably damaging to the community."<sup>106</sup>

### Privacy Issues

Article I, Section 22 of the Alaska Constitution states, "The right of the people to privacy is recognized and shall not be infringed." This explicit constitutional right grants greater protection to individual privacy interests than the federal Constitution. In 1975, the Alaska Supreme Court relied on the privacy provision of the state constitution in ruling that adults could not be prohibited from possessing marijuana in their own homes for personal use.<sup>107</sup> The court found that the state had not demonstrated the existence of any legitimate state interest in regulating such conduct strong enough to justify breaching the privacy of an individual's home.<sup>108</sup>

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<sup>106</sup> Id.

<sup>107</sup> Ravin v. State, 537 P.2d 497 (Alaska 1975). A common misconception about the Ravin decision is that the court found a constitutional right to possess marijuana. This contention was specifically rejected by the court, which clearly concluded "that there is not a fundamental constitutional right to possess or ingest marijuana in Alaska." Id. at 502. The challenger to the existing local option law in Harrison v. State, 687 P.2d 332, 338 (Alaska App. 1984), conceded that an absolute right to consume alcohol does not exist in Alaska.

<sup>108</sup> In so ruling, the court noted that the "effects of marijuana on the individual are not serious enough to  
(Footnote Continued)

In its ruling, the court emphasized that privacy in the home is a fundamental right under both the federal and Alaska constitutions. However, the court was equally emphatic that privacy is not an absolute right. The right to privacy

must yield when it interferes in a serious manner with the health, safety, rights and privileges of others or with the public welfare. No one has an absolute right to do things in the privacy of his own home which will affect himself or others adversely.<sup>109</sup>

Therefore, an analysis of whether a statutory provision violates constitutional privacy protections must consider whether the state has demonstrated a sufficient public welfare justification for the statute and whether there is a "close and substantial relationship" between the statute and protection of the public welfare.<sup>110</sup> If such a relationship is not shown in cases where fundamental rights are involved, statutory prohibitions will be found unconstitutional:

The privacy of the individual's home cannot be breached absent a persuasive showing of a close and substantial relationship of the intrusion to a legitimate governmental interest...The state must demonstrate a need based on proof that the public health or welfare will in fact suffer if the controls are not applied.<sup>111</sup>

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(Footnote Continued)

justify widespread concern, as least as compared with the far more dangerous effects of alcohol, barbituates and amphetamines." (Emphasis added) 537 P 2d. at 509-510.

<sup>109</sup> Id. at 504.

<sup>110</sup> Id.

<sup>111</sup> Id. at 511.

In State v. Erickson,<sup>112</sup> the court applied the Ravin standard to a claim that the statutory prohibition against cocaine possession and use in the home violated the right to privacy. After an extensive discussion of the effects of cocaine, the court determined that cocaine presents a "substantial potential for harm" to the public welfare.<sup>113</sup> This was "a sufficient showing of societal risk" to legitimize prohibiting that which would be constitutionally protected in the absence of such a showing.<sup>114</sup> Therefore, the court ruled that criminalizing the personal use and possession of cocaine, by adults in their homes, does not impermissibly infringe on the individual's right to privacy.

In considering a challenge to that portion of the local option law which allows communities to ban importation of alcohol, the court in Harrison v. State,<sup>115</sup> began its analysis by ruling that there is no fundamental right to possess or consume alcohol in Alaska. However, the court pointed out that the privacy amendment to the state constitution "shields the ingestion of food, beverages or

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<sup>112</sup>574 P.2d 1 (1978).

<sup>113</sup>Id. at 22. As part of its evidentiary summary, the court acknowledged factual support for the contention that "cocaine is probably less dangerous than alcohol, barbiturates or amphetamines."

<sup>114</sup>State v. Erickson, 574 P.2d at 22 n. 144.

<sup>115</sup>687 P.2d 332, 338 (Alaska App. 1984).

other substances."<sup>116</sup> As a result of the determination that these activities are constitutionally protected, their regulation must be justified as a legitimate health and welfare measure. Since a law banning importation is strongly related to consumption of alcohol in the home, the Harrison court evaluated whether the ban on importation violates state constitutional privacy protections. The court emphasized that because the importation law indirectly regulates consumption of alcohol in the home, the state "bears a heavy burden of justifying the regulation as a legitimate health and welfare measure."<sup>117</sup>

After referring to undisputed evidence that "unmistakably established a correlation between alcohol consumption and poor health, death, family violence, child abuse, and crime,"<sup>118</sup> the Court of Appeals held that the state had met its burden of justifying the local option law as a health and welfare measure. In so ruling, the court made specific reference to previous rulings of the Alaska Supreme Court that had expressly recognized "the deleterious effects of consuming alcoholic beverages" and that had expressly found that alcohol is more dangerous than either

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<sup>116</sup> Id.

<sup>117</sup> State v. Harrison, 687 P.2d at 338.

<sup>118</sup> Id.

marijuana or cocaine.<sup>119</sup> The Court of Appeals upheld the law by concluding that "enactment of Alaska's local option law bears a close and substantial relationship to the legitimate legislative goal of protecting the public health and welfare by curbing the level of alcohol abuse in our state."<sup>120</sup>

#### Possession by Consumption

In 1972, the Legislature passed the Uniform Alcoholism and Intoxication Treatment Act.<sup>121</sup> The Uniform Act included a declaration of state policy relating to persons abusing alcohol:

It is the policy of the state that alcoholics and intoxicated persons should not be criminally prosecuted for their consumption of alcoholic beverages and that they should be afforded a

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<sup>119</sup>Id. at 338-39.

<sup>120</sup>Id. at 339. The court rejected Harrison's assertion that the local option law is not substantially related to a legitimate state purpose because the moderate consumption of alcoholic beverages may be medically beneficial:

While moderate use of alcoholic beverages may be beneficial, the evidence showing the harmful effects of consumption is undisputed. The legislature, after considering the severe social costs of alcohol abuse, concluded that all communities should have the option of controlling the level of local distribution and availability. Even though decreased restrictions on the availability of alcoholic beverages may, as Harrison argues, increase the proportion of moderate consumers to alcohol abusers, broadened access to alcoholic beverages will undoubtedly increase the absolute number of alcohol abusers. The threat posed to society by widespread alcohol abuse is enormous.

<sup>121</sup>A.S. 47.37.010 et seq.

continuum of treatment so they may lead normal lives as productive members of society.<sup>122</sup>

In Peter v. State,<sup>123</sup> the Alaska Supreme Court considered at length the underlying purpose of the Uniform Act and of the concurrent repeal of Alaska's public drunkenness statute.<sup>124</sup> The court found that the Uniform Act was passed as a response to changing societal attitudes towards those who are unable to deal with alcohol responsibly:

[The Uniform Act] incorporates into the law the realization that alcoholism is a disease, and that symptoms of this disease, i.e., public drunkenness, should not be made the subject of criminal sanctions. Rather, the legislature has decided that the proper reaction is to treat these manifestations of the disease of alcoholism through a comprehensive care program. To the extent that prior laws would defeat this purpose, they must fall.<sup>125</sup>

The court then invalidated a regulation making it a misdemeanor to appear upon or along a highway or street in an intoxicated condition. This ruling was based on a finding that "there is an irreconcilable conflict between an act, a principal purpose of which is to decriminalize public

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<sup>122</sup>A.S. 47.37.010.

<sup>123</sup>531 P.2d 1262 (Alaska 1975).

<sup>124</sup>Until its repeal, A.S. 11.45.032 prohibited being drunk, and drinking in public, and made each offense punishable by a maximum \$300 fine, 30 days imprisonment, or both a fine and imprisonment.

<sup>125</sup>Id. at 1271.

drunkenness," and the regulation under consideration.<sup>126</sup>  
The court found the regulation to be "little more than a law prohibiting public drunkenness in the guise of a traffic regulation."<sup>127</sup>

In a different context, the Bethel District Court relied on Peter and invalidated a municipal ordinance prohibiting the carrying, concealing and transporting of open containers of intoxicating liquor in public by persons under the influence of intoxicating liquor.<sup>128</sup> The court found that the ordinance was impermissible because it ran afoul of the purpose of the Uniform Act, and was merely "a lever by which the City attempts to criminalize public drunkenness."<sup>129</sup>

If a law banning possession of alcohol were interpreted to mean that an intoxicated person could be convicted of a law violation simply for possessing alcohol within his or her blood supply, such a law might be invalidated under the analysis applied in the above-cited cases. There appears to be little distinction between prohibiting being drunk in

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<sup>126</sup> Id.

<sup>127</sup> Id.

<sup>128</sup> City of Bethel v. John, et. al., B-77-13039 Cr. (1977).

<sup>129</sup> Id. at 9.

public and prohibiting possession of alcohol, when that alcohol is possessed solely within the body.<sup>130</sup>

#### Criminal, Civil and Quasi-criminal Penalties

In Alaska, the law provides an array of remedies for statutory violations. Persons engaging in prohibited behavior may be prosecuted under the state criminal laws, may be subjected to civil suit, or may be sanctioned by imposition of civil monetary penalties within the context of the rules of criminal procedure. The sanctions that combine aspects of both civil and criminal law are referred to as quasi-criminal offenses.<sup>131</sup>

In general, civil actions are brought to protect the rights of individuals, or to remedy private wrongs.<sup>132</sup> The procedural setting in which these actions are heard is

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<sup>130</sup>In addition to the conflicts with the Uniform Act discussed above, there is authority which suggests that internal possession of a controlled substance, standing alone, is insufficient to prove knowing possession of the substance. See, e.g., State v. Flinchpauh, 659 P.2d 208, 211 (Kan. 1983) ("Once a controlled substance is within a person's system, the power of the person to control, possess, use, dispose of, or cause harm is at an end. The drug is assimilated by the body."), and Hunnicut v. State, Memorandum Opinion and Judgment No. 550 at 4 (Alaska App., March 28, 1984) ("On appeal, the state concedes that internal possession alone cannot support a conviction."). Of course, the offender's state of intoxication could clearly be used as circumstantial evidence of prior possession.

<sup>131</sup>State v. Clayton, 584 P.2d 1111, 1114 (Alaska 1978); State v. O'Neill Investigations, Inc., 609 P.2d 520, 525-26 (Alaska 1980).

<sup>132</sup>State v. O'Neill Investigations - 609 P.2d at 525.

controlled by the rules of civil procedure. Ordinary criminal enforcement mechanisms, such as arrest for failing to respond to a summons, are not available.<sup>133</sup>

The definition of criminal offense was first set forth by the Alaska Supreme Court in Baker v. City of Fairbanks.<sup>134</sup> The court held that criminal offenses are those for which a violation may be penalized by incarceration, by loss of a valuable license, or by a fine of such magnitude that it indicates criminality. Criminal offenses are also those which "connote criminal conduct in the traditional sense of the term."<sup>135</sup>

In clarifying the latter phrase, the court has said that offenses "connote criminal conduct" when they have "been long established as part of the common law proscribing criminal conduct"<sup>136</sup> A criminal connotation may also arise where contemporary social values place "public opprobrium"<sup>137</sup> on the conduct.<sup>138</sup>

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<sup>133</sup>State v. Clayton, 584 P.2d at 1113.

<sup>134</sup>471 P.2d 386, 402 (Alaska 1970).

<sup>135</sup>Id.

<sup>136</sup>Alaska Public Defender Agency v. Superior Court, 584 P.2d 1106 (Alaska 1978).

<sup>137</sup>"Opprobrium" is defined as "something that brings disgrace" or "public disgrace or ill fame that follows from conduct considered grossly wrong or vicious." Webster's Third New International Dictionary, G. & C. Merriam Co., (Footnote Continued)

Quasi-criminal offenses are those that are not serious, and do not connote criminality, yet are intended to be enforced within the context of the criminal justice system.<sup>139</sup> There are both civil and criminal aspects of quasi-criminal statutes. Civil monetary penalties are used as the sole sanction for noncompliance with the statute, however, criminal procedures, such as arrest for failing to respond to a summons, are available as enforcement tools. If an offense is classified as quasi-criminal, a violator is not entitled to a jury trial, nor is court-appointed counsel available.<sup>140</sup> However, like a criminal case, "A quasi-criminal proceeding 'is for the protection of the public.'<sup>141</sup>

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(Footnote Continued)  
1961.

<sup>138</sup>Alaska Public Defender Agency v. Superior Court, 584 P.2d at 1110.

<sup>139</sup>State v. Clayton, 584 P.2d 1111 (Alaska 1978).

<sup>140</sup>Baker v. Fairbanks, 471 P.2d 386 (Alaska 1970); Alexander v. Anchorage, 490 P.2d 910 (Alaska 1971); Alaska Public Defender Agency v. Superior Court, 584 P.2d 1106 (Alaska 1978).

<sup>141</sup>Id. at 1114, citing Bray v. State, 140 Ala. 172, 37 So. 250, 253 (Ala. 1904):

A prosecution for the violation of a municipal ordinance, designed for the preservation of the public peace, the security of the person or property, or the protection of public morals, has been held frequently by this court to be a quasi-criminal proceeding and not a civil action.

## Collateral Legal Issues<sup>142</sup>

The Fifth Amendment to the United States Constitution provides in part: "[N]or shall any person be subject for the same offense to be twice put in jeopardy of life or limb."<sup>143</sup> If a person is charged and tried or convicted for an offense, the fifth amendment precludes the filing of subsequent charges based on the same incident. However, the double jeopardy clause is triggered only where a person is charged with an "offense." In Alaska, infractions are not considered to be offenses for purposes of double jeopardy.<sup>144</sup>

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<sup>142</sup>This section sets out the legal support for conclusions reached by the Committee about the effect of proposed amendments to the local option law. See section entitled Committee Findings and Conclusions, *infra* at 105.

<sup>143</sup>See also Alaska Constitution, article 1, section 9.

<sup>144</sup>Carlson v. State, 676 P.2d 603 (Alaska App. 1984), quoting State v. Currie, 41 N.J. 531, 197 A.2d 678, 684-85 (1964):

[V]iolations are generally tried quickly and informally before local police magistrates who are in some instances not even attorneys at law. The evidential presentation may be very limited and the legal representation may likewise be very limited or entirely absent. The maximum fines and terms of imprisonment are minor in comparison to those fixed for violation of our Crimes Act...The elements of oppression or harassment historically aimed at by the constitutional and common law prohibition are not significantly involved; and permitting the second prosecution would not violate the reasonable expectations attendant upon the first proceeding while barring it would operate with gross unfairness to the State.

Under Criminal Rule 45(b), a person charged with a felony, a misdemeanor or a violation shall be tried within 120 days. Service of a traffic infraction citation has been found to trigger Criminal Rule 45, and to bar prosecutions for subsequent charges based on the same incident filed after more than 120 days.<sup>145</sup>

The United States Constitution, in the Fourth Amendment, provides that: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause..." The Fourth Amendment applies, and, unless the case is exceptional, search warrants must be obtained, in all contexts: criminal, civil and quasi-criminal.<sup>146</sup>

#### Committee Findings and Conclusions

##### Findings:

Finding Number One: The abusive use of alcohol interferes in a serious manner with the health, safety, rights and privileges of Alaskans, and with the public welfare.

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<sup>145</sup>Koch v. State, 653 P.2d 664 (Alaska App. 1982).

<sup>146</sup>Camara v. Municipal Court, 387 U.S. 523 (1967); Marshall v. Barlow's Inc., 436 U.S. 307 (1978).

Finding Number Two: The public health and welfare will, in fact, suffer if the abusive use of alcohol is not controlled.

Finding Number Three: The prohibition of alcohol in rural Alaska villages is an effective tool for controlling the abusive use of alcohol.

Finding Number Four: Serious crimes, and a wide variety of other social problems, could be prevented if the possession of alcohol were prohibited.

Finding Number Five: There is a strong and unmistakable correlation between alcohol consumption and poor health, fetal damage, death, suicide, crime, family violence, family stability, and child abuse.

Finding Number Six: The level of dangerous alcohol-related behavior is directly tied to the level of alcohol consumption, and the level of alcohol consumption is directly tied to both the cost and availability of alcohol. A law prohibiting possession would limit the availability of alcohol, and would increase the cost of illicitly-available liquor.

Finding Number Seven: The dangers resulting from alcohol abuse are particularly acute in rural Alaska because the communities are small, isolated, without adequate law enforcement, without adequate health care facilities, and populated by people who are closely related and interdependent.

Finding Number Eight: The most damaging type of abusive alcohol-related behavior is that which affects innocent victims, such as children and elders. Children are particularly vulnerable, and as a result of parental alcohol abuse, suffer from a broad range of serious problems.

Finding Number Nine: The abusive use of alcohol perpetuates an escalating pattern of crime and violence from generation to generation.

Finding Number Ten: The most serious harm to the innocent victims of alcohol abuse takes place in private homes and behind closed doors. In communities that have chosen to ban the sale and importation of alcohol, and that have significant alcohol-related social problems, most drinking takes place in private homes.

Finding Number Eleven: The economic cost of alcohol abuse is high and can not be afforded by either the state or rural communities.

Finding Number Twelve: A significant number of rural Alaska communities want, and would use, the authority to ban possession of alcohol. These communities have had a long-standing belief that alcohol should be completely banned, and this belief is based on a lengthy history of alcohol prohibition in rural villages.

Finding Number Thirteen: The policy decision to ban possession of alcohol is one that must be made by local government. If local authorities are precluded from making such a decision, self-government efforts are undermined,

respect for the state legal system is lost, and the public welfare is damaged.

Finding Number Fourteen: Although Alaska law permits communities to ban the sale and importation of alcoholic beverages, the present law is unenforceable because the possession of alcoholic beverages, including homebrew, is permitted.

Finding Number Fifteen: Despite the serious impact that the abusive use of alcohol has on the public health, safety and welfare, possession of alcohol in violation of a ban is not a serious offense and does not connote criminality. Penalties for violating a ban on alcohol should be limited to civil fines and confiscation of the liquor. Criminal procedures should be used to enforce the civil penalties since the ban on alcohol is for the protection of the public. "Possession of alcohol in violation of a local option law" is a quasi-criminal infraction.

Finding Number Sixteen: A fine of \$1000 is not of such a magnitude that it indicates criminality in either urban or rural Alaska communities.

Finding Number Seventeen: "Possession of alcohol in violation of a local option law" is an infraction, and is not an "offense" for purposes of constitutional double jeopardy considerations.

Finding Number Eighteen: A determination of whether "possession of alcohol in violation of a local option law"

is a violation under Criminal Rule 45(b) should be left to the judiciary.

Finding Number Nineteen: The entire Committee Report to the Legislature, which is entitled "A Search for Control: The Effect of Alcohol on Public Rights and Private Wrongs" is adopted by the Committee and, in its entirety, represents a complete recitation of the Findings of the Joint Special Committee on Local Option Laws.

Conclusions:

[The alcohol problem] is more serious than any war that's going on in the world. Wars have purpose ...but alcohol that abuses young children and all that kind of thing, it is totally no good to nobody.

Neil Charlie, Minto elder

The severity of Alaska's problems with alcohol cannot be overemphasized, or exaggerated. Alcohol-induced tragedies have become a reality of daily life across the entire state, and have repeatedly forced Alaskans to recognize the fragility and vulnerability of human existence. Every possible tool must be available for use in combatting the threat posed by alcohol.

Since Alaska communities are extremely diverse, the tools available to fight alcohol abuse must be equally varied. Approaches to controlling alcohol that are effective in urban areas are unlikely to work in the rural villages of the state. Similarly, alcohol control mechanisms that help stop the disintegration of homogenous and isolated villages, would be completely out of place in a complex

urban community. Laws must be flexible enough to provide solutions to the problems faced in all communities.

Villagers have repeatedly told the Committee that they want the power to completely prohibit alcohol. The broad range of problems that are associated with alcohol abuse, as set forth more fully in the Findings of Fact, legally and morally justify legislative action that grants villages that power. Therefore, the recommendation of the Committee is that the local option law be amended and that communities be granted the power to ban possession of alcohol.

## Appendix A

The following documents have formed the basis for the Committee report and have specifically and formally been made a part of the hearing record. In addition to the documents listed, transcripts have been made of all eighteen Committee hearings held during November and December 1985. The transcripts have also specifically and formally been made a part of the hearing record and were heavily relied upon by the Committee in making the Findings of Fact contained in this report.

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'Teetotaling': Drinking Levels and Styles in an Urban  
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Alcohol, 45:237-250, 1984.

Yamashiro, Jane, "Alcohol Control in Alaska Eskimo  
Communities: A Case Study of Antagonistic Policies  
Communal vs. 'Official' Law," August 1983.



# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith  
Signature of Camera Operator

7/25/89  
Date

# Alaska State Legislature

## COMMITTEES:

Committee on Community and Regional Affairs  
Committee on Transportation  
Special Committee on Oil and Gas  
Special Committee on Fisheries  
Finance Sub-committee on Fish and Game




**Andre Marrou**  
Representative

## District 5

Kenai	Sterling
Soldotna	Anchor Point
Homer	Port Graham
Seldovia	English Bay
Kachemak	Nikolaevsk
Kasilof	Halibut Cove
Ninilchik	Clam Gulch

April 24, 1985

To; Peter Goll, Chairman House Community and Regional Affairs  
From: Andre Marrou 

Subject: HCR 23; Joint Committee on Unorganized Boroughs

Our State Constitution mandates that the entire state be organized into boroughs (Article X, Section 3), yet 25 years after its ratification, 74% of our land lies outside any borough boundaries. This area represents 16% of our population.

Having no local government and tax base, the State provides 100% of community service funding for unorganized boroughs. Meanwhile, people who live within organized boroughs are required to support their local services via taxes.

We face a moral quandary in that there is no pragmatic justification as to why some of us have to pay for the services that are provided by local government and some of us get the same services for free. The term "for free" is a misnomer. Actually, everybody within organized boroughs is paying higher than their fair share of State revenues to support people outside organized borough boundaries.

If we operate under the premise that we all own these revenues equally, I believe there is a moral mandate to spend these monies equally. This is not the case when we provide 100% funding for some and much less than 100% for others.

This resolution, if passed, is simply a first step in recognizing what, if any, possible boroughs might be considered for organization.

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HCR No. 23  
 Title: Establishing a Joint House and Senate Committee on Unorganized Boroughs  
 Sponsor: Representative Andre Marrou  
 Requestor: House C & RA Committee  
 Date of Request: 4/16/85

FISCAL DETAIL

Agency Affected: Legislative Affairs  
 Program Category Affected: General Government  
 BRU, Program or Subprogram(s) Affected: Council & Subcommittees

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		7.2				
200 TRAVEL		5.8				
300 CONTRACTUAL		1.0				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>14.0</b>				

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		14.0				
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

HCR 23 proposes a Joint House and Senate Committee on Unorganized Boroughs be established to study the unorganized area and prepare a report to the Legislature. Anticipated costs for FY 86 would be one staff member to support the committee members consisting of four members of the Senate and four members of the House. Other costs would be travel and contractual (phones, postage, etc.).

Prepared By: Pamela A. Calhoon, Manager *Pamela A. Calhoon* Phone: 465-3850  
 Division: Administrative Services Date: 4-17-85

Approved by: Executive Director, Warren W. Endicott *Warren W. Endicott* Date: 4-17-85  
 Agency: Legislative Affairs Agency

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

F 4/19 C+RA

ⓓ COMMENT :

Introduced: 3/25/85  
Referred: Community &  
Regional Affairs

Don't clear to me why  
needed, doesn't appear  
harmful but probably lots  
of bush opposition to  
changing their boundaries. It  
does make sense that the whole state  
be divided into Boroughs or Munis.

Should have 2d referral -  
Rule Comm.

BY MARROU AND JENKINS

1 IN THE HOUSE

2

HOUSE CONCURRENT RESOLUTION NO. 23

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

Establishing a Joint House and Senate

6

Committee on Unorganized Boroughs.

7

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

8

WHEREAS Alaska has a unique system of local government that differs in

9

constitutional concept and in law from traditional local governments; and

10

WHEREAS despite efforts to encourage the formation of local govern-

11

ments, almost three-fourths of the area of the state remains unorganized

12

and without local government; and

13

WHEREAS the geographical boundaries of the total unorganized area are

14

too vast for efficiently providing governmental services that are respon-

15

sive to local needs; and

16

WHEREAS under art. X, sec. 6, Constitution of the State of Alaska, the

17

legislature is responsible for providing services in the unorganized area,

18

allowing for maximum local participation and responsibility; and

19

WHEREAS if the unorganized area were divided into unorganized

20

boroughs, local participation in governmental decisions would be greatly

21

enhanced;

22

BE IT RESOLVED by the Alaska State Legislature that a Joint House and

23

Senate Committee on Unorganized Boroughs is established to study the unor-

24

ganized area for the purpose of selecting proposed boundaries that conform

25

to the requirements of art. X, sec. 3, Constitution of the State of Alaska,

26

to the maximum extent possible, so that the unorganized area may be divided

27

into not less than four and not more than 12 unorganized boroughs; and be

28

it

29

FURTHER RESOLVED that the Joint House and Senate Committee on

1 Unorganized Boroughs shall prepare a report containing recommendations for  
2 the formation of several unorganized boroughs within the existing unor-  
3 ganized area and submit the report to the Legislature by the fifth day of  
4 the Second Session of the Fourteenth Legislature; and be it

5 FURTHER RESOLVED that the President of the Senate appoint four members  
6 of the Senate and the Speaker of the House appoint four members of the  
7 House of Representatives to the Joint House and Senate Committee on Unor-  
8 ganized Boroughs; and be it

9 FURTHER RESOLVED that the Joint House and Senate Committee on Unor-  
10 ganized Boroughs is authorized to meet between sessions of the Fourteenth  
11 Legislature and is terminated on the fifth day of the Second Session of the  
12 Fourteenth Legislature.

Introduced: 3/25/85  
Referred: Community &  
Regional Affairs

1 IN THE HOUSE

BY MARROU AND JENKINS

2

HOUSE CONCURRENT RESOLUTION NO. 23

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

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Establishing a Joint House and Senate

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Committee on Unorganized Boroughs.

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10 ganized Boroughs is authorized to meet between sessions of the Fourteenth  
11 Legislature and is terminated on the fifth day of the Second Session of the  
12 Fourteenth Legislature.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

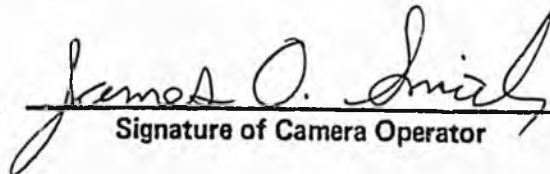
Mary Van Nimwegen

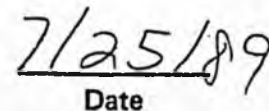
HC & RA 4/26/85 3p.m.



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Signature of Camera Operator

  
Date

HJR

55



# Alaska Power Authority

April, 1986  
Update

## SOUTHEAST ALASKA TRANSMISSION INTERTIE

Energy requirements in Southeast Alaska are expected to continue to increase to meet community growth, new industry and mining development. As load requirements exceed existing generation, new resources are sought. Historically, communities in Southeast have preferred hydropower to meet their future power requirements. Skagway, Haines, Juneau, Sitka, Petersburg, Wrangell and Ketchikan have all in recent years investigated hydro sites in their region. This has resulted in the following projects being developed or are under construction:

<u>Area</u>	<u>Project</u>	<u>Date Completed</u>	<u>Installed Capacity</u>
Juneau	Snettisham (Long Lake)	1973	46.7 MW
Sitka	Green Lake	1982	18.5 MW
Petersburg/ Wrangell	Tyee Lake	1984	20.0 MW
Ketchikan	Swan Lake	1984	22.0 MW
Juneau	Snettisham (Crater Lake) (Under Construction)	1989	34.0 MW

Potential new developments such as the Green's Creek mine near Juneau and the Quartz Hill Molybdenum mine east of Ketchikan will require large amounts of power. Estimates of the Quartz Hill power requirements approach 80 MW in a base load operation. No single hydro project in S.E. Alaska can meet these requirements.

An important consideration in Southeast power supply planning is the opportunity of interconnection with British Columbia Hydro and the Northern Canada Power Commission in the Yukon Territory. Both these Canadian utilities presently have surpluses of hydroelectric power. A link between B.C. Hydro and the Yukon through the Southeast Alaska would connect established load centers and yet provide future opportunities for access to transmission facilities.

The apparent benefits to the communities and industries resulting from the development of an interconnected transmission system are many and enduring. A few are summarized below:

- o Allows transfer of energy from areas of surplus to areas of deficits, thereby making the system more flexible and more efficient.
- o Reduces the need for investment in large reserve capacity at individual communities.
- o Provides a ready market for any future feasible development.

- o Allows an opportunity to develop the most economical projects for the region.
- o Reduces the risk associated with uncertainties of future load growth in any one area.
- o Reduces O&M problems associated with generating plants in small communities.

Such an intertie would also benefit B.C. Hydro and Northern Canada Power Commission by providing a market for surplus power; it would benefit Quartz Hill by significantly decreasing the time and initial capital needed to develop a power source.

The overall plan for an interconnected system includes the lines from Kitsault (B.C. Hydro) to Quartz Hill and Ketchikan, and from Swan Lake to the Tye facilities. Other segments include a Whitehorse-Juneau intertie that would include Haines and Skagway and provide transmission back-up to the Snettisham project. Another segment would be a Tye-Snettisham connection which would pick up Kake and supplement the Snettisham supply with currently surplus Tye power. As additional segments of the system are developed, joint participation in comprehensive and economic development of potential hydro sites becomes practical. The final result should be a more reliable and economic power supply to all interconnected Southeast communities.

Since 1985, the Alaska Power Authority has made steady progress on this project. An analysis of preliminary bathymetric data obtained from NOAA warrants detailed underwater surveys before final decision on route locations can be made. In-house evaluations of preliminary cost estimates and load forecasts indicate that under present economic conditions, the interconnection of all major load centers is not immediately justified as one project. The best approach appears to be the development of several small segments over a period of several years as each segment becomes financially attractive. The strong interest in the development of Quartz Hill molybdenum deposit has presented a unique opportunity to develop the southern portion of this intertied system. This relatively large load (60 - 80 MW) will not only provide a market for the surplus power, but could also justify construction of segments which provide critical links for future lines.

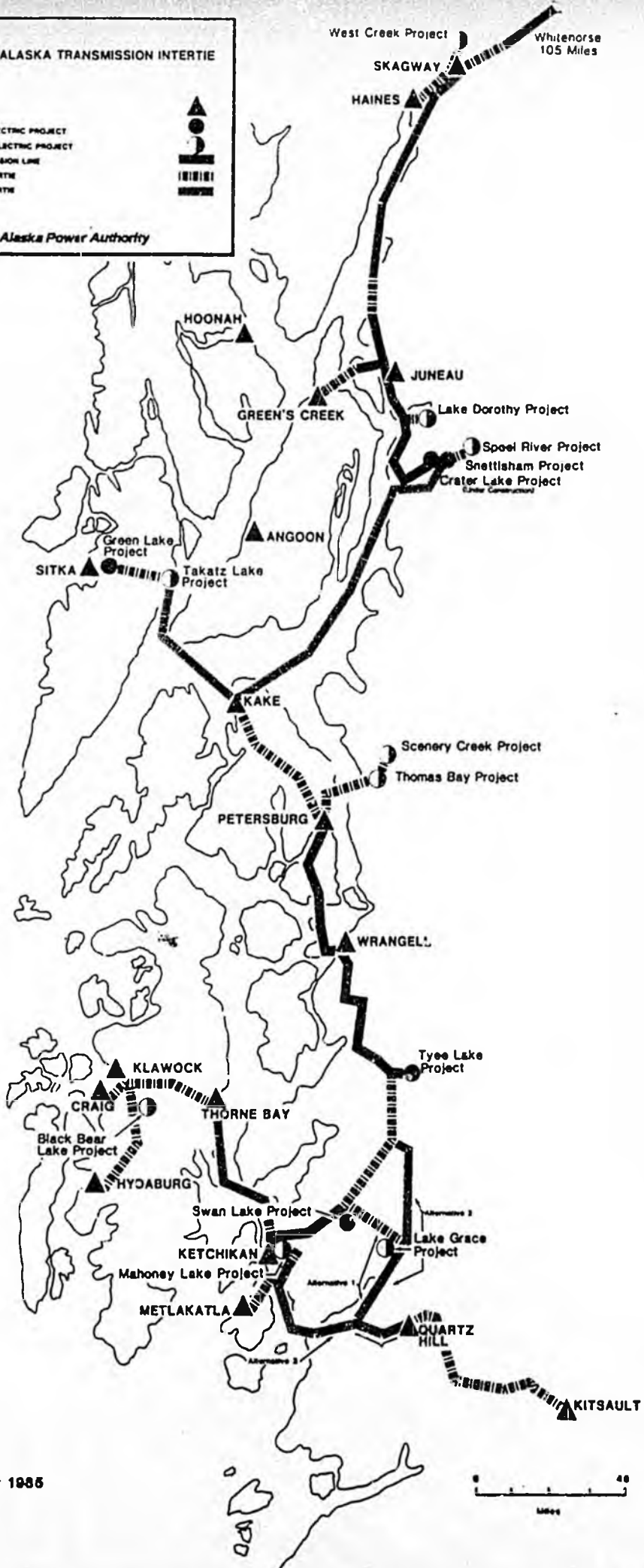
During summer of 1986, the Power Authority is planning to initiate alternative transmission route studies, including underwater surveys; conduct environmental assessments; update load forecasts for various communities; perform power flow studies; and prepare reliable cost estimates for necessary economic and financial analyses.

**SOUTHEAST ALASKA TRANSMISSION INTERTIE**

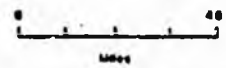
LEGEND

- LOAD CENTER
- EXISTING HYDROELECTRIC PROJECT
- POTENTIAL HYDROELECTRIC PROJECT
- EXISTING TRANSMISSION LINE
- POTENTIAL AC INTERTIE
- POTENTIAL DC INTERTIE

Alaska Power Authority



October 1985



Offered: 4/7/86  
Referred: Community & Regional  
Affairs

Original sponsors: Grussendorf, Duncan,  
Goll, et al

1 IN THE HOUSE  
2 CS FOR HOUSE JOINT RESOLUTION NO. 55 (Loans)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - SECOND SESSION  
5 Relating to development of the Southeast  
6 Intertie.  
7 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
8 WHEREAS a proposed electric transmission grid system connecting the  
9 major load centers of Southeast Alaska, Northwestern British Columbia, and  
10 the Yukon Territory is known as the Southeast Intertie; and  
11 WHEREAS the Southeast Intertie may form a viable energy alternative  
12 that may provide the economic and commercial infrastructure necessary for  
13 the continued industrial, commercial, and residential growth of Southeast  
14 Alaska; and  
15 WHEREAS the construction of the Southeast Intertie may promote the  
16 availability of a stable, long-term energy supply, increase electrical  
17 system reliability, and stabilize power costs for the communities of South-  
18 east Alaska;  
19 BE IT RESOLVED that the Alaska State Legislature respectfully requests  
20 that the Governor direct the appropriate state agencies to work with the  
21 United States Forest Service to create a federal and state reservation of  
22 transmission corridors through the public land connecting Canada and Alaska  
23 using the most feasible, economic, environmentally sound, and efficient  
24 routes possible; and be it  
25 FURTHER RESOLVED that the Alaska Power Authority develop and adopt a  
26 policy giving priority to the establishment of a transmission grid system  
27 that will interconnect Southeast Alaska with Canada or interconnect South-  
28 east Alaska with the other major electric systems in the state; and be it  
29 FURTHER RESOLVED that the Governor, together with the Alaska

BY THE HOUSE SPECIAL COMMITTEE  
ON STATE LOANS

1 congressional delegation and federal officials, initiate discussions with  
2 appropriate Canadian officials to take the necessary political, logistical,  
3 and other steps to promote the construction of a Southeast Intertie; and be  
4 it

5 FURTHER RESOLVED that the Alaska Power Authority do the necessary  
6 research for long range planning, transmission route identification, trans-  
7 mission route development, and transmission line construction.

8 COPIES of this resolution shall be sent to the Honorable Ronald  
9 Reagan, President of the United States; the Honorable George Shultz, Secre-  
10 tary of State; the Honorable John S. Herrington, Secretary of Energy; the  
11 U.S. Forest Service; British Columbia Hydro; the Northern Canada Power  
12 commission; and to the Honorable Ted Stevens and the Honorable Frank  
13 Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative,  
14 members of the Alaska delegation in Congress.

Introduced: 1/14/86  
Referred: House Special Committee on  
State Loans and Community & Regional  
Affairs

BY GRUSSENDORF, DUNCAN,  
GOLL, SUND AND TAYLOR

1 IN THE HOUSE

2

HOUSE JOINT RESOLUTION NO. 55

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

Relating to development of the Southeast

6

Intertie.

7 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 WHEREAS a proposed electric transmission grid system connecting the  
9 major load centers of Southeast Alaska and Northwestern British Columbia is  
10 known as the Southeast Intertie; and

11 WHEREAS the Southeast Intertie will form a viable energy alternative  
12 that will provide the economic and commercial infrastructure necessary for  
13 the continued industrial, commercial, and residential growth of Southeast  
14 Alaska; and

15 WHEREAS the construction of the Southeast Intertie will promote the  
16 availability of a stable, long-term energy supply, increase electrical  
17 system reliability, and stabilize power costs for the communities of South-  
18 east Alaska;

19 BE IT RESOLVED that the Alaska State Legislature respectfully requests  
20 that the Governor direct the appropriate state agencies to work with the  
21 United States Forest Service to create a federal and state reservation of  
22 transmission corridors through the public lands connecting Canada and  
23 Alaska using the most feasible, economic, environmentally sound, and effi-  
24 cient routes possible; and be it

25 FURTHER RESOLVED that the Alaska Power Authority develop and adopt a  
26 policy giving priority to the establishment of a transmission grid system  
27 that will interconnect Southeast Alaska with Canada and interconnect South-  
28 east Alaska with the other major electric systems in the state; and be it

29 FURTHER RESOLVED that the Governor, together with the Alaska

1 congressional delegation and federal officials, initiate discussions with  
2 appropriate Canadian officials to take the necessary political, logistical,  
3 and other steps to promote the construction of a Southeast Intertie; and be  
4 it

5       FURTHER RESOLVED that the Alaska Power Authority do the necessary  
6 research for long range planning, transmission route identification, trans-  
7 mission route development, and transmission line construction.

8       COPIES of this resolution shall be sent to the Honorable Ronald  
9 Reagan, President of the United States; the Honorable George Shultz, Secre-  
10 tary of State; the Honorable John S. Herrington, Secretary of Energy; the  
11 U.S. Forest Service; British Columbia Hydro; the Northern Canada Power  
12 commission; and to the Honorable Ted Stevens and the Honorable Frank  
13 Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative,  
14 members of the Alaska delegation in Congress.

---

P.O. Box 275 • Juneau, Alaska 99802

SOUTHEAST  
CONFERENCE

---

(907) 586-8000

April 1, 1986

Representative John Sund  
Chair, House Special Committee  
on Loans  
Alaska State Legislature  
Juneau, AK 99811

Dear Representative Sund:


The Southeast Conference has reviewed HJR 55 and we do support the passage of this resolution. During the September, 1985 Annual Convention, the Southeast Conference adopted a resolution in support of establishing the transportation and transmission corridors for the Southeast Intertie. (Attached)

Because of the future importance of the Southeast Intertie to the stabilization of costs of both residential and commercial power, the Southeast Conference determined the Southeast Intertie to be their number one priority during the 1986 Legislative Session.

We do recommend an addition to the resolution. Because of the tremendous surplus of power from the dam at Whitehorse, Yukon, and because the transmission lines are now only about 30 miles from Skagway, we request that line 9 of HJR 55 be changed to read "major load centers of Southeast Alaska, Northwestern British Columbia, and Yukon is known as the Southeast Intertie;"

With that addition, HJR 55 is consistent with the long-range economic development plan of the Southeast Conference.

Sincerely,

  
John Farnan  
Executive Director  
Southeast Conference

A RESOLUTION OF THE SOUTHEAST CONFERENCE  
REGARDING TRANSPORTATION AND POWER  
TRANSMISSION LINE CORRIDORS.

WHEREAS, a series of power transmission lines connecting British Columbia and Yukon Territory and extending through Southeast Alaska is known as the Southeast Intertie; and,

WHEREAS, the Southeast Intertie will have significant economic benefit and will stabilize power costs and improve reliability;

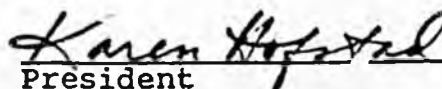
NOW THEREFORE BE IT RESOLVED BY THE SOUTHEAST CONFERENCE that it urge the State of Alaska and the U.S Forest Service to take all reasonable steps to:

1. Cause the U.S. Government to reserve historic transportation corridors between Alaska and Canada for future transportation needs and transmission line corridors.
2. Cause the U.S. Government to reserve necessary future transmission line corridor designations through the wilderness areas of Southeast Alaska so they will be available when development becomes feasible.
3. Cause the Alaska Power Authority to have performed all studies necessary to define the most feasible route and configuration of the Southeast Intertie.
4. Cause the appropriate State and federal agencies to initiate dialogue with the Canadian officials to obtain the necessary agreements and permits to facilitate the Southeast Intertie connections with Canadian power sources.

These steps will assure that as it becomes economic to construct various segments of the Southeast Intertie, the segments can be developed in a manner consistent with the overall objectives of the Southeast Intertie,

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Governor Bill Sheffield, U.S. Senator Ted Stevens, U.S. Senator Frank Murkowski, U.S. Representative Don Young, the Senate President, the Speaker of the House, Historical Routes Chairman Jack Coghill, U.S. Forest Service, Alaska Power Authority, B.C. Hydro, northern Canada Power Commission, and area newspapers.

PASSED AND APPROVED at the annual meeting of the Southeast Conference held in Wrangell, Alaska, this 20th day of September, 1985.

  
President

HTA 55  
-H Lease  
in CRA  
APR 07 1986

THOMAS BAY POWER COMMISSION

PETERSBURG - WRANGELL, ALASKA

XXXXXX XXX R50X R30X R2X AKASKA R982X  
Box 1318 Wrangell, Alaska

(10)

April 1, 1986

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State House of Representatives  
Pouch V  
Juneau, Alaska 99811

Subject: House Joint Resolution No. 55

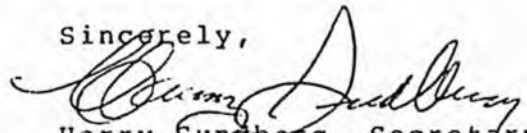
Dear Mr. Grussendorf:

The Thomas Bay Power Commission wish to go on record in supporting the resolution no. 55 which you and members Duncan, Goll and Taylor have presented to the house.

It is our firm belief that the development of the Southeast Alaska intertie will provide the economic and commercial infrastructure that is needed in Southeast Alaska to provide the continued industrial, commercial and residential growth that is needed in the area and will assure a stable and long term energy supply for our continued growth.

As the APA had anticipated and planned for this addition in their long range planning by building our own 80 plus mile transmission corridor beyond our needs until well into the early 2020, the early completion of such an intertie would make this segment again cost effective, and a vital important part of the transmission corridor.

We support this concept whole heartedly, and urge its passing.

Sincerely,  
  
Harry Sundberg, Secretary  
Thomas Bay Power Commission



# KETCHIKAN PUBLIC UTILITIES

ONE FRONT STREET

KETCHIKAN, ALASKA 99821

TELEPHONE 867-228-2111

MUNICIPALLY OWNED  
ELECTRIC WATER PHONE

April 3, 1986

Honorable Representative John Sund  
Alaska State Legislature  
Pouch V - Mail Stop 3100  
Juneau, Alaska 99811

Dear John:

Tom Friesen has just informed me that he has had a recent conversation with your staff upon hearing that you were considering strong support of a power intertie between British Columbia and Southeast Alaska.

We commend your commitment and support of this difficult issue and as such felt that it would be beneficial to you to have the results of a March 11, 1986 meeting between Tom Friesen, Ted Ferry, myself and B.C. Hydro officials.

The purpose of the meeting was to understand on a first hand basis the potential for an intertie between British Columbia and Ketchikan with the opportunity to serve the proposed U.S. Borax molybdenum project at Quartz Hill. During the course of the meeting the B.C. Hydro representatives enumerated the following milestones that must be achieved in order to attain the proposed intertie:

- A. Development of a specific project plan and environmental assessment.
- B. Provision of up front funding by Southeastern Alaska for the new intertie as well as upgrade of the existing Skeena to Kitsault transmission line.
- C. Attainment of a Provincial energy export permit.
- D. Attainment of a Federal energy export permit.

In addition to these hurdles, we were informed that two factors besides environmental and construction costs would prevail in the approval process.

The first being that B.C. Hydro as of that date might possibly be able to squeeze out our needed 80 megawatt requirement. However, as time went on, their capability to provide surplus power would most likely diminish unless they pursued an aggressive policy of future hydro development. In any event, that future development would take many years to accomplish.

Representative John Sund  
April 3, 1986  
Page Two

The second hurdle appears to be that there are presently two closed molybdenum mines near the terminus of their Kitasault transmission line. Thus it was suggested that the provincial government would be less than enthusiastic to consider granting an energy export permit for an intertie serving a potential competitor such as U.S. Borax.

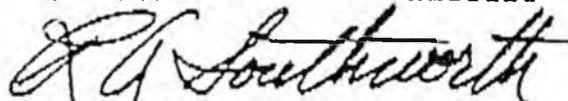
Having read about the alleged energy surplus and having no prior knowledge of the closed molybdenum mines, needless to say we were somewhat stunned to hear of this particular negative turn of events. It became evident that proceeding with an intertie between our countries would entail a considerable change in the economic environment, the molybdenum markets, and the development of added energy capacity.

In light of the present situation it seemed imperative that emphasis be redirected toward the development of smaller interties and particularly in our case the intertie between Tye and Swan Lake hydroelectric projects and Ketchikan and Metlakatla. These smaller intertie projects can provide an immediate benefit of added capacity and security for our communities. Additionally they become the backbone for the overall intertie project of the future.

We appreciate your concern and energy that you have put forth on our behalf on this complicated issue.

Very truly yours,

KETCHIKAN PUBLIC UTILITIES



Richard A. Southworth  
Utilities Manager

RAS:LLM

cc: Mayor Ted Ferry  
Councilmember Tom Friesen

007/E4

# ALASKA POWER AUTHORITY

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December, 1985  
Update

## SOUTHEAST ALASKA TRANSMISSION INTERTIE

Energy requirements in Southeast Alaska are expected to continue to increase as a result of community growth, new industry and mining development. As load requirements exceed existing generation, new resources are sought. Historically, communities in Southeast have preferred hydropower to meet their future power requirements. Juneau, Haines, Skagway, Sitka, Petersburg, Wrangell and Ketchikan have all in recent years investigated hydro sites in their region. Sitka's Green Lake Project went into service in 1983. The Alaska Power Authority, and the Corps of Engineers, in conjunction with the Alaska Power Administration, have also had a significant role in the investigation and development of hydropower on behalf of the communities. Together they have developed three major projects in Southeast in recent years: Snettisham, Tyee Lake and Swan Lake.

New developments such as the Green's Creek mine near Juneau and the Quartz Hill Molybdenum mine east of Ketchikan will require large amounts of power. Estimates of the Quartz Hill power requirements approach 80 MW in a base load operation. No single hydro project in the Quartz Hill vicinity can meet these requirements.


An additional consideration in Southeast power supply planning is the advantage of interconnection with British Columbia Hydro and the Northern Canada Power Commission in the Yukon Territory. Glaciers, ice fields and lack of load centers currently preclude economic development of transmission corridors directly between B.C. Hydro and the Yukon. A link between B.C. Hydro and the Yukon through the Southeast would connect established load centers and yet provide future opportunities for access to transmission facilities.

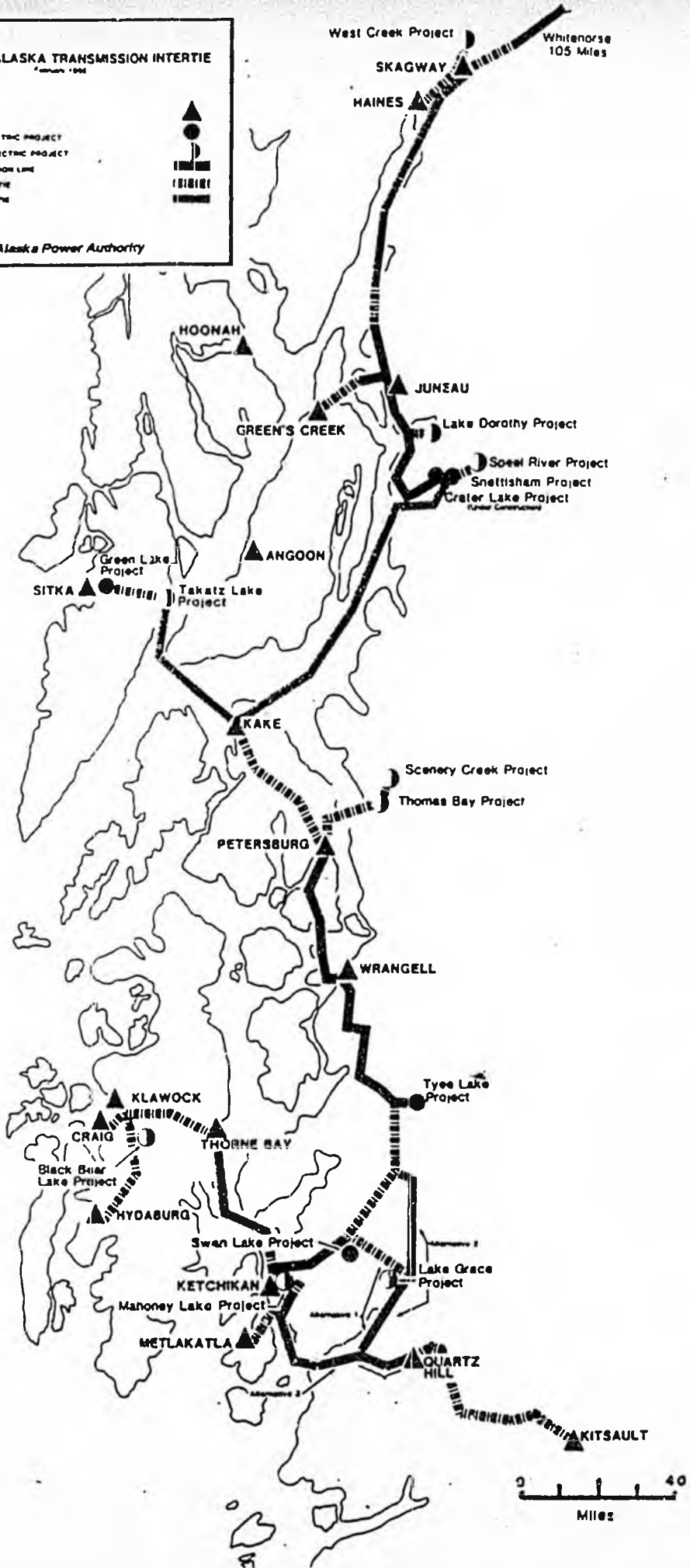
The apparent benefits to the communities and industries in Southeast Alaska and to Canada resulting from the development of an interconnected transmission system are many and enduring. Initial steps might include the construction of the Kitsault to Quartz Hill segment or the Tyee-Swan Lake segment of the intertie. The Kitsault to Quartz Hill segment would provide sufficient power for the mine's early years. This would benefit B.C. Hydro by providing a market for its surplus power; it would benefit Quartz Hill by significantly decreasing the time and initial capital needed to develop a power source. Most importantly, it would benefit the southeast communities by providing the time required to develop replacement power in a staged and orderly manner. Other segments include a Whitehorse-Juneau intertie that would include Haines and Skagway and provide transmission back-up to the Snettisham supply. Another segment would be a Tyee-Snettisham connection which would pick up Kake

**SOUTHEAST ALASKA TRANSMISSION INTERTIE**  
February 1966

**LEGEND**

- LOAD CENTER
- EXISTING HYDROELECTRIC PROJECT
- POTENTIAL HYDROELECTRIC PROJECT
- EXISTING TRANSMISSION LINE
- POTENTIAL AC INTERTIE
- POTENTIAL DC INTERTIE

 Alaska Power Authority



West Creek Project  
 Whitenorse 105 Miles

SKAGWAY

HAINES

HOONAH

JUNEAU

GREEN'S CREEK

Lake Dorothy Project

Soel River Project

Snettisham Project

Crater Lake Project  
Under Construction

Green Lake Project

ANGOON

Takatz Lake Project

SITKA

KAKE

Scenery Creek Project

Thomas Bay Project

PETERSBURG

WRANGELL

Tye Lake Project

KLAWOCK

CRAIG

Black Bear Lake Project

THORNE BAY

HYDABURG

Swan Lake Project

Lake Grace Project

KETCHIKAN

Manoney Lake Project

METLAKATLA

QUARTZ HILL

0 40  
 Miles