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The Drunken Driving Crackdown Is It Working?

BY RAY McALLISTER

It was 10:55 p.m. Saturday, May 14. The old school bus, headed south on Interstate 71, now was outside Carrolton, Ky. The 63 teen-agers and four adults on board, all members of the First Assembly of God Church in Radcliff, Ky., were returning home from Kings Island amusement park north of Cincinnati.

Coming the other way in a Toyota pickup truck was Larry Mahoney, 34, a chemical worker from Worthville, Ky. He was headed north, but in the southbound lanes, apparently too drunk to realize he was driving the wrong way.

"If it were possible to turn back the clock, we would," Gov. Wallace Wilkinson would say four days later in declaring a day of mourning. "Whatever consolation we can give will never make up for the loss of friends and loved ones."

Mahoney and the bus driver, John Pearman, each tried to brake.

It was too late.

"I just heard a crash, felt the impact of the [truck] and looked up and saw flames," said Wayne Cox, a 14-year-old who survived. "They spread pretty fast. ... I was pinned. Everything was pretty wild."

Ray McAllister is a reporter for the Richmond Times Dispatch.

The fuel tank of the bus ruptured and exploded in an orange fireball that shot from the front to the back of the bus. Flames engulfed the bus—"Not one part of it was untouched," Carroll County Coroner James Dunn told reporters, "inside, outside."

Twenty-four teen-agers and three adults died when they could not reach the rear exit. Their bodies were burned beyond recognition. Dental records were used because, as Kentucky State Medical Examiner Dr. George Nichols told family members, he did not want the families to view the charred remains.

"The picture ... of their children in that room," he explained to reporters later, "is not what they have in their memories or wallets."

Mahoney was charged with 27 counts of murder, and Carroll County Commonwealth's Attorney John Ackman said he would seek the death penalty.

Mahoney had driven drunk before. He pleaded guilty in 1984 to drunken driving, was fined $300 plus court costs, and ordered to pay $140 for traffic school. Under the toughened standards of the 1980s, his license also was suspended for six months.

Mahoney's blood-alcohol content level at that time was .16, more than one-and-a-half times the intoxication level. Four years later, his drunkenness was worse.

On May 14, the day he killed 27 people on I-71, his blood-alcohol level was .24. Eleven one-ounce drinks consumed in one hour would yield a level of .24 for a 150-pound person.

The Kentucky crash has prompted renewed looks at the nation's drunken driving problem. Has the legislative and judicial crackdown of the 1980s been a panacea? Has it worked at all?

Following several widely publicized crashes, public attention and debate focused on the issue in the early 1980s.

Everyone could agree that drunken drivers were the enemy. Citizen lobbies—notably Mothers Against Drunk Driving, Students Against Drunk Driving, Remove Intoxicated Drivers—were organized.

Politicians joined in. Law enforcement efforts were increased. State and federal legislators stiffened penalties for drunken driving, made some penalties mandatory, and tied federal funds to others.

As a result, arrests for drunken driving rose by 223 percent from 1970 to 1986, the Bureau of Justice Statistics says. Young drivers, the biggest offenders, were hit hardest. In 1983, the peak year, one of every 39 licensed drivers aged 21 was arrested.

BEN VAN HOOK

The funeral of several of the 27 who died in the Kentucky bus crash.

Moreover, through federal inducement, all 50 states raised their drinking ages to 21 (Wyoming, a holdout, became the 50th this past July 1). Most adopted .10 (or even lower) as the per se level of intoxication. Most increased sentences. Many adopted mandatory license loss, at least for repeated driving-under-the-influence offenders.

And judges handed down tougher sentences, in part because they had to. In 1983, according to the Bureau of Justice Statistics survey, the median sentence given to first-time drunken drivers had reached five months in jail. For repeat offenders, the sentences were about twice as long.

So what happened when everyone got tough?

From 1982 to 1985, the U.S. Department of Transportation says, alcohol-related traffic deaths declined by fully 11 percent. It is a bottom line that even skeptics have to consider impressive.

But who gets the credit? The obvious answer isn't necessarily the right one. It's not clear that tougher penalties have been wholly or even largely responsible for the drop.

For instance, a survey of judges in six states—California, Colorado, Georgia, Maryland, Pennsylvania and Wisconsin—raises a question about the effectiveness of mandatory sentencing, a key element in the get-tough legislation across the country.

Critics have long contended that some judges maintain a there-but-for-the-grace-of-God-go-I attitude toward such cases, refusing to implement tough sentences because they drive drunk themselves. An article presenting the survey results was published in the *Judges' Journal* in 1985. It suggests that "the judges' opinions indicated they believe mandatory sentencing makes it less likely that offenders will be sentenced.

"Like the old English juries that would not find thieves guilty if this meant hanging them, our modern American judges know that their colleagues and juries may prefer to give no punishment rather than to give one that is excessively harsh."

Dr. Ralph Hingson, chief of social and behavioral sciences at the Boston University School of Public Health, says, "Within the courts, judges vary in their response to laws like per se laws and mandatory penalties that take some of their discretion from them. I would suspect there is a debate within the judicial branch on the utility of these laws."

ABA/WIDE WORLD

Dr. Ralph Hingson

But Hingson advances the theory that publicity and public debate, and not necessarily the legislative and judicial response, may be more responsible for change, anyway.

"It's a real chicken-and-egg sort of thing," he says. "But there's social process going on in which society is trying to change its norms about what's acceptable in terms of drinking and driving.

"Once laws are in effect, they may serve as anchors to hold in place the new standards."

Hingson and colleagues, for instance, found in a detailed study in Maine that fatal crashes began to decline well before the passage of tougher laws. Increased attention seemed to be the reason.

ABA/WIDE WORLD

Doris Aiken

That could signal bad news.

A Catholic University study of 1979-1986 showed that 1983 was the peak year for publicity on drunken driving, which has been plummeting since. There were 50 stories on the subject in 370 popular magazines that year, but in 1986 there were only nine. And there were 169 stories in four major newspapers (*The New York Times*, *The Washington Post*, the *Los Angeles Times* and the *Wall Street Journal*) in 1983, but in 1986 there were only 45.

At the same time, the fatalities began to rise again. Alcohol-related traffic deaths, which had declined by 11 percent from 1982 to 1985, were back up by 7 percent (to 23,990) in 1986, the latest year for which figures are available.

Hingson likens the U.S. situation to that of Great Britain. A national get-tough law there drew immediate results but had less effect as interest waned. Comparisons are difficult because the British had one law and the United States has had more than 700 state and national laws, but "the first warning signs are beginning to appear that that may be happening here," says Hingson.

What he finds particularly disturbing is what's happening to young drivers.

During the '80s, nearly 30 states raised their drinking age to 21. They have consistently showed a 10-to-15 percent decrease in nighttime crashes among the age groups that had lost their drinking privileges, he notes.

But Hingson says that, in 15 states performing comprehensive alcohol testing of fatalities throughout the 1980s, teen-age deaths are up 9 percent. Other statistics about young drivers are equally discouraging.

Hingson returns to his awareness-and-publicity theory.

"The highest-risk driving group [those just getting their licenses] is

AP

When Larry Mahoney hit the bus, its gas tank ruptured, engulfing the bus in flames.

constantly being replenished," he says. "It may be these people were not paying very much attention four or five years ago when the issues were being raised.

"You have to constantly be reinforcing the message, especially with new drivers coming along."

Anne Russell, Mothers Against Drunk Driving's legislative expert, agrees, but only to a point.

In 1983, she said, "There really was a peak in publicity and probably a peak in law enforcement." The legislative peak came just two years later, in 1985, when a total of 223 laws were passed in 45 states. Those laws run the gamut from "comprehensive DWI packages to specific fine-tuning," she says.

The drop in national publicity was followed in 1986 by a bottoming out of the number of new laws, she says. It dropped to a total of 178 in 40 states.

Now, though, "we are seeing an upswing of interest again," as evidenced by renewed publicity and in new laws that increased to a total of 216 in 45 states in 1987.

Doris C. Aiken, president and founder of the New York-based Remove Intoxicated Drivers, which has chapters in 34 states, sees less of a break in attention paid drunken driving. Even with the recent increase in deaths, "we're not up to where we were before" the law changes. California is an exception, she says.

While she is heartened, Aiken adds that "I think we've done 50 percent of what we have to do." Two major items remain on the agenda: Taking a drunken driver's license immediately upon arrest for a period of 45 (or 90) days. And setting up drunken driving checkpoints. Many states have adopted one, the other, or both.

RID is not alone in wanting to take a drunken driver's license immediately. That administrative act, which is carried out by the arresting police officer before any court conviction, is in use in 23 states and likely will be adopted by more.

"Now that there is 50-state compliance with age 21 as the legal drinking age, probably the No. 1 priority right now is administrative license revocation," says MADD's Russell.

The reason: It is simply the single most effective change a state can make.

The Insurance Institute for Highway Safety, in a study released last March, examined the 700-plus laws adopted across the country during the first half of the 1980s.

"Well, everybody tried to address the problem, and many were attempting to address it by passing what was considered to be stronger legislation, not all of which has had the right effect," explains John R. Cook, senior vice president for the Insurance Institute.

The Institute divided the laws by type, then judged them against the fatality rates. Cook says three types had a definite effect:

- Administrative license revocation, "which permits the seizing of the driver's license if a suspected drunken driver either fails to take a breathalyzer exam or fails one." The practice cut nighttime fatalities, the ones most likely to involve alcohol, by fully 9 percent.
- Mandatory jail sentence or community service for first offenders. The practice, used by 24 states, cut nighttime fatalities by 6 percent.
- Per se laws, which allow no argument about guilt when a specified blood-alcohol level (often .10 percent) is reached. Ironically, these laws had little statistical effect on nighttime fatalities but did affect daytime fatalities, cutting them by 6 percent.

And that's it. That's the extent of the statistically effective approaches. Even such oft-implemented efforts as suspending licenses after convictions and mandatory sentences for repeat offenders fail under this sternest of tests. While no one seriously debates their worth, statistically their impact is minimal.

The one real loser in the war on drunken driving, ironically, seems to be alcohol treatment programs.

"In the late 1970s, early 1980s, the trend was toward diverting drunken drivers into a treatment program for the alcohol problem," MADD's Russell says, referring to studies by the National Highway Traffic Safety Administration.

Judges still believe treatment to be an important part of dealing with people convicted of DUI (driving under the influence) or—the terms vary by state—DWI (driving while intoxicated). The 1985 survey of six states shows that while most judges say they want tougher laws, they "believe present laws overstress the legal objective of retribution and underemphasize the objectives for rehabilitation and deterrence."

The trouble with rehabilitation, Russell counters, is that "there's no proof that has anything to do with the drinking and driving accidents."

Boston University's Hingson agrees that, while it's "useful to continue treatment programs for DWI people, the data about the effective-

ness of these programs is that they are not all that effective."

"Whether that means treatment programs cannot be effective is certainly, in my judgment, premature," he adds.

Hingson says that successful treatment programs, such as those run by Alcoholics Anonymous, require a commitment by the drinker. "There's obviously less motivation when the commitment is by the court," he says. "Maybe there's a way of restructuring around that, I don't know."

Whatever the reason, statistics do indicate that convicted drunken drivers often continue to drive drunk.

The Bureau of Justice Statistics this year released a survey of DWI offenders held in 407 local jails in 1983—nearly half had been sentenced for previous DWI convictions. Moreover, three-quarters of those repeaters had been in treatment.

The survey also showed a frightening level of drinking. The average drunken driver had drunk 6 ounces of alcohol, the equivalent of 12 beers or eight mixed drinks. More than a quarter of the drunken drivers had consumed at least 10 ounces of alcohol, the equivalent of 20 beers or 13 mixed drinks.

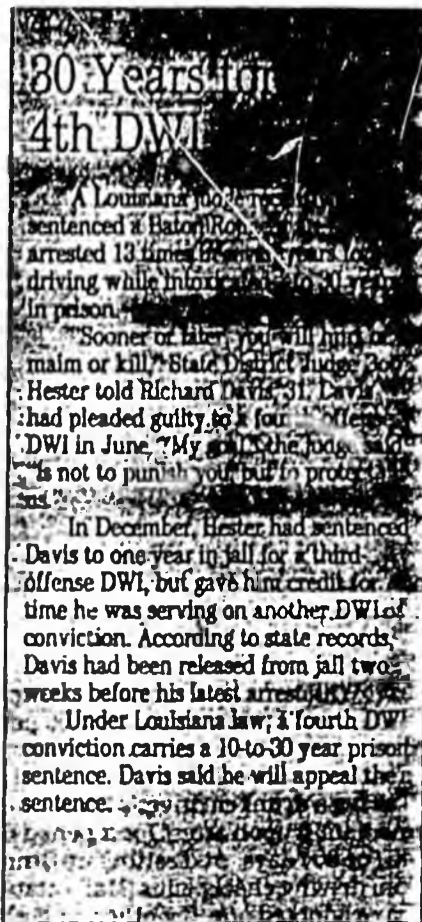
RID's Aiken blames the "alcoholization" of society for much of the problem.

"By the time a kid is 15, he's seen 70,000 messages to drink beer on every single occasion. We're selling a lie, a big lie, to very young children."

Her organization has tried unsuccessfully to pressure television networks into running an anti-drinking spot to counter each alcohol commercial. The networks now run some public service announcements but, she points out caustically, teen-age fatalities rose 14 percent in 1986.

"So that's how much good PSAs do," she says. "Nothing."

In the meantime, there are a number of quick fixes that can help, she says. They include administrative license suspensions, mandatory seat belt laws, open container laws that outlaw drinking and driving, dram-shop statutes that hold bars and restaurants responsible for over-serving alcohol, .10 per se laws, allowing preliminary breath tests to help police decide whether to make an arrest, and prohibiting plea bargaining



30 Years for 4th DWI

A Louisiana [illegible] sentenced a Baton Rou[illegible] arrested 13 times [illegible] years for driving while intox[illegible] to 30 years in prison.

"Sooner or later you will [illegible] maim or kill," State District Judge [illegible] Hester told Richard Davis, 31. Davis had pleaded guilty to a fou[illegible] DWI in June. "My [illegible] the judge said, "is not to punish you but to protect [illegible]"

In December, Hester had sentenced Davis to one year in jail for a third-offense DWI, but gave him credit for time he was serving on another DWI conviction. According to state records, Davis had been released from jail two weeks before his latest arrest.

Under Louisiana law, a fourth DWI conviction carries a 10-to-30 year prison sentence. Davis said he will appeal the sentence.

on DUI cases. Most states have already adopted at least some of these measures.

But administrative license suspensions, as indicated by the Insurance Institute figures, may be the single most effective remedy.

MADD likes it, Russell says, because "it serves to connect the consequences of the act with the act itself." Waiting for a court decision can take as long as four months, she says, "and in the meantime, that person will probably be driving drunk again."

But the idea of immediately yanking a license is not always easy to sell.

"It used to not pass because lawyers sitting on code committees thought it would be against the Constitution and that, because it was administrative, [lawyers] would be frozen out," Aiken contends.

The experience in some of the first states, notably Minnesota, showed there can be a quick hearing to contest the administrative license pull, well before trial on the actual DUI charge, she says.

Hingson emphasizes that enforcement of laws already on the books needs to be increased.

"There is reason to believe police enforcement increased during the 1980s but that the increase may be short-lived," he says. That would be particularly harmful because the risk of being arrested while driving drunk is already statistically small, he says.

"That's why drunken drivers drive drunk—chances are they're not going to be in a crash or arrested on any single trip," Hingson says. The danger is real but cumulative, he explains. Over several years, the odds are that a drunken driver will be in an accident or arrested, but not during any given trip.

Russell agrees that "a drunken driver has to believe there's a chance he'll get caught." Studies show that on weekend nights, only one of every 2,000 drivers who are legally drunk are arrested, she says.

The upshot, Hingson adds: "When the enforcement goes up, the nighttime fatalities go down."

Hingson says there are new problems, notably the raising of some interstate speed limits to 65 miles an hour. "Intoxicated drivers, because of their poorer fine motor skills and coordination are particularly a problem as speed goes up."

But there is also a new attitude, he says. His studies "show people are applying informal pressure to keep friends from driving drunk," something that didn't happen much before the push of the '80s.

All of which leads back to the Kentucky bus crash that killed 27. Could anything have been done?

Despite the seeming randomness of that disaster, Russell says it could have been prevented had more in the way of societal change been in place. Larry Mahoney had been drinking heavily at several places, she says, and one person almost stopped him from getting into his pickup truck.

But he didn't.

"I know that he had friends who could have stopped him from getting in his vehicle, had they just done it," she says. "And the establishments where he got his drinks could have cut him off.

"The laws are important," Russell emphasizes. "But they can't do it alone." ■

Drunk Driving: The Highway Killer is Back

After steadily declining since 1982, deaths caused by drunk drivers are on the rise again.

By Barbara Bellomo

A dramatic increase in alcohol-related traffic fatalities in 1986 could force states to consider once again passage of even stricter laws to get drunks off the road.

In the early '80s, the states rushed to pass more than 900 laws aimed at reducing what had become an alarming and continuous increase in alcohol-related deaths on the country's streets and highways.

The result of this increased public awareness of the national menace of drunks behind the wheel—spawned in large part by such groups as Mothers Against Drunk Driving (MADD)—was a decline in alcohol-related traffic deaths from 1982 to 1985.

But in 1986, fatalities related to drinking and driving rose by 7 percent, causing concern among traffic safety experts and anti-drunk-driving groups, some of which urge wider enactment of laws that have proven effective and others who call for stricter law enforcement and tougher sentencing.

"We've made inroads in reducing drunk driving, but now we're slipping back," says Barry Sweedler of the National Transportation Safety Board (NTSB). "The issue has lost the glamour it had in the early '80s."

Dr. Ralph Hingson of Boston University's School of Public Health believes that public pressure is essential in keeping the issue alive in legislatures in light of the sharp increase in drunk-driving-related deaths.

"There's no doubt that there was tremendous progress in the early '80s. It was unprecedented," he said. "The drunk driving laws and all the public discussion surrounding them were great, but it's almost like we found the key and now we're throwing it out. We have to stay on top of it."

How effective have those tough drunk driving laws been?

The American Bar Association and the National Transportation Safety Board recently evaluated state laws to determine what works most effectively to keep drunk drivers off the road. Successful initiatives include:

- Allowing police officers to confiscate drunk drivers' licenses at the time of arrest;
- Requiring judges to impose mandatory sentences for first and multiple offenders;
- Restricting or eliminating plea bargaining;
- Sobriety checkpoints;
- Raising the minimum drinking age to 21; and
- Enacting dram shop laws.

The most effective deterrent, according to the studies, is "roadside administrative revocation," which allows law enforcement officers to take away a drunk driver's license on the spot. Nearly half the states have such laws.

The NTSB acknowledges that while some people will continue to drive even without their license, most will

Barbara Bellomo is a staff writer for State Legislatures.

Some judges are using public humiliation as a tactic for reducing drunk driving. In Tuscarawas County, Ohio, Judge Edward O'Farrell issues special-colored license plates to first-time DUI offenders. And in Sarasota County, Fla., Judge Becky Titus requires offenders to place bright red and gray bumper stickers on their cars, so that other drivers know that they have been convicted of driving drunk.

drive less, or at least sober, until their court date. Many DUI offenders, before they even get to court, are arrested a second time for the same offense. Yet in states that don't have automatic revocation laws the second arrest will often show up as the driver's first offense.

License revocation in all 50 states continues to be one of MADD's national goals. Norma Phillips, national president, says, "Most citizens value their drivers' licenses. [Revocation] also has a psychological effect on people. It hits home that what they've done is unacceptable behavior."

John Grant, executive director of the National Commission on Drunk Driving, believes that tougher drunk-driving legislation—including automatic revocation—has had the greatest impact on social drinkers, who understand the consequences of drinking and driving. And Senator Rod Monroe of Oregon says that while repeat offenders in his state sometimes continue to drive under suspension, the new laws have had an effect on social drinkers. "It has produced an awareness. Even at political functions you see lots of non-alcoholic drinks being served now."

Most criminal justice specialists agree that automatic revocation is a tool in fighting drunk driving, but they argue that it does little to deter hard-core repeat offenders who often are alcoholics. They believe that the emphasis of the anti-drunk-driving campaign should focus on problem drinkers instead of the social and moderate imbibers who may get in a scrape only once, if ever.

Sweedler believes that repeat offenders pose the biggest challenge to law enforcement. Revocation legislation is important because "it still reduces their driving if not their drink-

ing problem." But he adds that the Safety Board urges states to require an evaluation of an offender's drinking problem before sentencing.

"If he's an alcoholic, sending him to an alcohol education program isn't going to work, and committing someone who went out one night and had a little too much fun to a six-month program is inappropriate as well. We must match treatment with the problem," he says.

While evaluation is key to handing down an appropriate sentence, both the bar association and the National Transportation Safety Board agree that mandatory sentencing of repeat offenders is critical in getting drunk drivers off the roads.

MADD members regularly monitor courtroom proceedings in drunk driving cases, because, according to Phillips, "When we are present in court to offer the victim support, you see judges handing down stricter sentences."

Ohio Judge Edward O'Farrell, who recently appeared on ABC's Nightline with Ted Koppel, is one judge who consistently is hard on drunk drivers.

O'Farrell achieved notoriety for his practice of ordering first-time offenders to sport canary yellow plates on their cars that help to alert police that they are DUI offenders. In addition, he imposes a mandatory 15-day sentence, six-month license suspension and a $750 fine. If the offense involves an accident or injury the penalty goes up considerably. O'Farrell says his intent in the beginning was "to shock the hell out of people."

"The number of people dying in my county has plummeted because of my intractable position that no matter who you are, you're going to jail if you drink and drive," he says. Last year, there was one alcohol-related traffic fatality among the 85,000 residents of Tuscarawas County, O'Farrell's jurisdiction.

Phillips believes "the laws on the books aren't worth the ink they're written in if they are not enforced. Judges still have discretion (with mandatory sentences). But they must hand down more swift and sure penalties because only the threat of jail will deter drunk driving."

Senator Monroe says his primary focus is to see that the drunk driving legislation he has sponsored in the past "is properly enforced." He attributes the leniency of many judges to their view that "DUI cases are minor offenses" that clog already overburdened courts.

"Drinking is part of the macho West—a test of manhood in some people's eyes. When judges grew up, everyone drank and drove," he said. "Some are very strict, but others don't feel it is that serious. They have a tendency to wink at it and impose minimal fines."

Monroe charges that judges in his district routinely refer teen-agers arrested for drunken driving to a two-hour alcohol education program, even though a law he authored gives them the latitude to confiscate the licenses of drunken drivers under 18.

Mandatory sentencing can get drunks off the road and into treatment or behind bars, but only when states restrict or eliminate plea bargaining in drunk-driving cases, the NTSB and bar association studies state. When plea bargaining is allowed, the association argues, there is often no record of a driver's first DUI offense, allowing repeat offenders to continually receive lighter sentences.

In addition, the ABA's report found that, "It (plea bargaining) eliminates many options for appropriate action by the justice system to reduce future risk. By failing to charge an offender with drunk driving, the system is prevented from accurately identifying the risk that individual presents if he commits a subsequent offense."

While some critics believe the criminal justice system is slacking off on drunk drivers, in many states there simply is not enough room in jails to hold them.

"Judges are frustrated because there are very few meaningful sanctions for second offenders—jail space is very precious in this state," says Oregon Representative Dick Springer.

A number of criminal experts believe that incarceration can be an effective deterrent, but alcohol treatment must be provided to effectively reduce drunk driving. Jailing drunk drivers with criminals is inappropriate, they argue.

Arizona and Massachusetts are among a few states where lawmakers have appropriated funds to their corrections departments to build minimum security facilities strictly for DUI offenders. Other states are looking at alternative punishments to relieve overcrowded prisons and jails and to respond to the concern that jail is a place for criminals, not alcoholics.

One of the tougher alternative punishments for repeat offenders is automobile forfeiture, already on the books in Alaska and New York. Alaska Representative Niilo Koponen has sponsored legislation that would make forfeiture mandatory. Although New York also has a forfeiture law, judges there rarely invoke it. But the state has generated $22 million through a statewide program that collects county fines from DUI offenders. The revenue is used to provide funding for the state's anti-drunk-driving campaign.

Five states have enacted legislation allowing judges to require repeat offenders to install a breathalyzer device in their cars that locks the ignition if the driver's alcohol level is over a specified limit. Oregon is the most recent. Its one-year experiment, the Ignition Interlock Pilot Program, requires judges in 11 counties to order the device for repeat offenders who need to drive. To obtain an occupational or hardship license, the driver must have previously received alcohol treatment, carry insurance and have the breath tester.

"It's an electronic probation officer," Representative Springer, the law's sponsor, says of the device.

Another effective deterrent, according to the NTSB and the ABA, are sobriety checkpoints. Twenty-five states have established them, and a number have landed in court as a result. Civil liberties groups, arguing that checkpoints are unconstitutional, have successfully brought suit against them in California, Oregon and Pennsylvania. The California Supreme Court later reversed its ruling, stipulating that law enforcement agencies must give the public advance notice of the checkpoint's location and must use systematic selection criteria.

The Pennsylvania Supreme Court recently outlawed random sobriety roadblocks, saying they were set up at "such unlikely times and places" that citizens were being stopped unjustifiably by police. But like California, the court upheld their legality, imposing similar restrictions on law enforcement departments. Last September, Oregon banned the use of checkpoints.

Despite constitutional challenges, the NTSB maintains that roadblocks are cost effective and a strong deterrent to drinking and driving.

Alcohol-related fatalities among teen-agers 15 to 19 are a real concern. Deaths in this age group were significantly higher in 1986 than in 1985, according to John Grant of the National Commission on Drunk Driving. He attributes the increase to the fact that automobiles are more accessible, fuel is cheaper and "kids drive with more abandon and less responsibility."

However, Boston University's Hingson theorizes that the anti-drinking movement had little impact on this group because "it was before their time. The number of new laws geared toward drunk driving reached its zenith in 1985 and evidence shows it may be tapering off. That's a bad sign for a high risk group such as teen-agers who are just entering the driving pool."

Preventing alcohol-related fatalities among teen-agers has spurred many states to enact legislation targeted specifically to those under 21. With the exception of Wyoming, every state has

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raised the drinking age to 21 (some with a nudge from Congress, which threatened a loss of federal highway funds without it). State troopers across the country say the laws have already saved many lives.

Maine recently lowered its maximum permissible blood alcohol content to .02 percent for drivers under 21. The new law deals a double blow—a fine is imposed for drinking under age and driving privileges are suspended for one year. Rhode Island has introduced legislation that would lower its legal blood alcohol limit to .04 percent for teen-agers.

As part of its national lobbying effort, MADD is urging all states to lower their maximum blood alcohol limit to .10 percent. But the American Medical Society says that even at .05 percent a person is too impaired to drive. Forty-two states have .10 percent maximum levels and Oregon and Utah have lowered their limits to .08 percent. Colorado recently introduced a bill that would lower the legal limit from .15 percent to .10 percent.

To date, half the states have enacted strong liability legislation—which the studies consider to be effective—aimed at bars and restaurants that serve drinks to intoxicated patrons, and Maine, Oklahoma and Texas are among several states that require or encourage training programs for bartenders to learn how to identify customers who have had too much to drink.

Grant says that drunk-driving legislation in and of itself is not a panacea. He theorizes that the key to getting drunk drivers off the streets and highways lies in a coordinated approach by states.

"Enforcement and implementation of the laws has been the biggest challenge. We don't need any new laws. We need to implement the ones we have.

"Everyone must do their part from judges to more active police enforcement to better court interpretation of what the law says. Education and prevention in the work place and the schools are a big part of it, too. And it's vital that the media keep the issue alive," he says.

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Ford

A M E N D M E N T

OFFERED IN THE HOUSE BY ULMER

TO: CSHB 53 (Transportation)

Page 10, line 5:

Delete "five"

Insert "eight"

Page 10, line 6, after "if":

Insert "(i)"

Page 10, line 7:

Delete "and"

Insert "(ii)"

Page 10, line 9, after "program":

Insert ", and (iii) the person participates at least once every 14 days in a random urinalysis testing program designed to detect the presence of alcohol. Unless the person is indigent, the court shall require the person to pay the cost of alcoholism treatment or urinalysis testing required under this subsection"

Page 10, after line 11:

Insert a new subsection to read:

"(e) The court shall revoke limited license privileges granted

under (d)(2)(B) of this section if a urinalysis required under that subparagraph reveals the presence of alcohol. A person whose limited license privileges are revoked under this subsection may not reapply for limited license privileges for a period of one year. A person whose limited privileges are revoked two or more times under this subsection may not reapply for limited privileges under (d) of this section."

Reletter the following subsection accordingly.

A M E N D M E N T

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Page 10, line 5:

Delete "five"

Insert "eight"

Page 10, line 6, after "if":

Insert "(i)"

Page 10, line 7:

Delete "and"

Insert "(ii)"

Page 10, line 9, after "program":

Insert ", and (iii) the person participates at least once every 14 days in a random urinalysis testing program designed to detect the presence of alcohol. Unless the person is indigent, the court shall require the person to pay the cost of alcoholism treatment or urinalysis testing required under this subsection"

Page 10, after line 11:

Insert a new subsection to read:

"(e) The court shall revoke limited license privileges granted

under (d)(2)(B) of this section if a urinalysis required under that subparagraph reveals the presence of alcohol. A person whose limited license privileges are revoked under this subsection may not reapply for limited license privileges for a period of one year. A person whose limited privileges are revoked two or more times under this subsection may not reapply for limited privileges under (d) of this section."

Reletter the following subsection accordingly.

A M E N D M E N T

OFFERED IN THE HOUSE BY ULMER

TO: CSHB 53 (Transportation)

Page 10, line 5:

Delete "five"

Insert "eight"

Page 10, line 6, after "if":

Insert "(i)"

Page 10, line 7:

Delete "and"

Insert "(ii)"

Page 10, line 9, after "program":

Insert ", and (iii) the person participates at least once every 14 days in a random urinalysis testing program designed to detect the presence of alcohol. Unless the person is indigent, the court shall require the person to pay the cost of alcoholism treatment or urinalysis testing required under this subsection"

Page 10, after line 11:

Insert a new subsection to read:

"(e) The court shall revoke limited license privileges granted

under (d)(2)(B) of this section if a urinalysis required under that subparagraph reveals the presence of alcohol. A person whose limited license privileges are revoked under this subsection may not reapply for limited license privileges for a period of one year. A person whose limited privileges are revoked two or more times under this subsection may not reapply for limited privileges under (d) of this section."

Reletter the following subsection accordingly.

#253

Alaska Department of Fish & Game Division of Sport Fish

ALASKA SPORT FISH C·U·R·R·E·N·T·S

Vol. 1 Issue 2 October 1988

FROM THE DIRECTOR'S DESK

In early September, I had the privilege of attending the annual meeting of the American Fisheries Society. The meeting was attended by over 1200 biologists, managers, and administrators from Canada, Mexico, and every state in the Union. The many sessions (usually three to eight in progress concurrently) covered almost every conceivable topic related to fisheries in America.

Besides the many technical sessions, there were several sessions that dealt with changing trends in emphasis in many states. Here are a few that may be of interest and have application in Alaska:

• More states are recognizing the importance of economic data for recreational fisheries and are effectively using this along with biological and other data in the decision-making process.

• There is increasing involvement of sport anglers in department programs, increasing demand for public awareness, and more cooperative activities between agencies and between agencies and the public.

• Sport fishing interest groups are becoming more active and are forming coalitions to resolve major issues of mutual concern.

• While conflicts are increasing over funding, allocation of fish, and other issues, habitat protection remains the most crucial concern.

STAFF PROFILE

The following profile is of Larry Engel, area management biologist for the Matanuska-Susitna Valley and Susitna-West Cook Inlet areas. With over 24 years of service with the Sport Fish Division, Larry ranks as one of the department's elder statesmen.

Larry was born and raised in the Seattle, Washington area and graduated from the University of Washington with a B.S. in fisheries. While serving in the U.S. Navy at Kodiak, he was involved with the Kodiak Conservation Club and the Territorial Department of Fisheries working on various projects on the island.

He began his career with the Division of Sport Fish in 1960 as a biological aide in Juneau and worked seasonally with the division until 1964 when he was promoted to a full-time biologist position. From 1964 through 1972 Larry worked as a research project leader on the Kenai Peninsula. The Engel's home in Soldotna served as the first Fish and Game "office" in that community. While on the peninsula he successfully pushed to have snagging in freshwater prohibited. In 1972 Engel was transferred to Palmer as the area management biologist. Recent passage of the Recreational River Corridor legislation ranks high among many of his career satisfactions.

Larry enjoys hunting, fishing, youth athletics and spending time with his wife Nancy and their two teenage sons.

ALASKA LEADS COUNTRY IN BOATING FATALITIES

Alaska is the only state in the union that has not adopted a state boating safety program. Because Alaska lacks a state program, the Coast Guard acts as the boating law administrator for areas that fall under federal jurisdiction. Consequently, because of this very limited federal Boating Safety Program, Alaska's boaters are paying dearly through personal injury, loss of life, and loss of property. In 1987, 46 people lost their lives in recreational boating accidents. Seventy percent of these tragedies occurred on inland Alaskan waters such as lakes, rivers, and sheltered waters. This was second only to motor vehicle fatalities as the largest category of accidental deaths. When this figure is compared with the rest of the United States, Alaska has by far the worst boating record--over 28 times the national average. Another thing to be remembered is that the boating season in many states lasts year round, unlike Alaska which has a boating season of six months or less.

It is evident from these statistics that Alaska has a severe boating problem. What can we do to solve this problem or at least bring it under control?

The most effective and proven means for dealing with this problem would be to legislate a comprehensive state boating safety program. This legislation would identify and charge a state agency with the responsibility for implementing a coordinated boating safety program. Not just another law enforcement program of the Department of Public Safety, but more importantly, a means to implement a comprehensive public education program. With a state as vast as Alaska, the emphasis needs to be focused on public education and awareness.

ALASKA
UNINTENTIONAL DEATH BY CAUSE 1984 - 1987

	Boating Related Drowning	Other Drowning	Air Transport	Fire	Motor Vehicle	Total Unintentional
1984	51	51	43	26	156	463
1985	73	25	73	28	156	488
1986	58	27	39	11	131	391
1987	46	18	65	16	96	355
TOTAL	228	121	220	81	539	1697
Average per year	57	30	55	20	135	424
% of Total	13%	7%	13%	5%	32%	100%

Source: Vital Statistics Research Section
Division of Public Health
Alaska Department of Health & Social Services

Note: Totals include non-residents

HB
55

No. 1

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HB 55
PUBLISH DATE: HOUSE 1/9/89

FISCAL NOTE

REQUEST:

Revision Date:
Title: An Act relating to the Alaska Oil & Gas Cons. Comm., Changing Court Rule
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Oil & Gas Cons. Comm.
BRU: Oil & Gas Cons. Comm.
Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: C. V. Chatterton
Phone: (907) 279-1433
Division: Oil & Gas Conservation Comm.
Date:
Approved by Commissioner: Larry Merculieff (signed: Kirsty Marshall for)
Date: 11/23/88
Agency: Department of Commerce & Economic Development

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

page 1 of 1

LW/dg13071D-2
112388a

No. 2

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION : HB 55
PUBLISH DATE : HOUSE 1/9/89

FISCAL NOTE

REQUEST:

Revision Date:
Title : Underground Injection Program

Sponsor : Rules Committee
Requestor : Governor Cowper

Agency Affected : Natural Resources
BRU : Petroleum Management

Components :

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

This bill does not affect the Department of Natural Resources. The Oil and Gas Conservation Commission is located within the Department of Commerce and Economic Development.

Prepared by : Carol Wilson
Phone : 465-2400
Division : Commissioner's Office
Date : 11/29/88

Approved by Commissioner : [signature]
Date : 11-28-88
Agency : Natural Resources

Distribution (by preparer) :
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : HB 55
PUBLISH DATE :

FISCAL NOTE

REQUEST:

Revision Date:
Title : An Act relating to the Alaska Oil & Gas Cons. Comm., Changing Court Rule
Sponsor : Rules Committee
Requestor : House Judiciary Committee

Agency Affected : Oil & Gas Cons. Comm.
BRU : Oil & Gas Cons. Comm.
Components : Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

This legislation will have no fiscal impact on the department in FY 90.

Prepared by : C. V. Chatterton
Phone : (907) 279-1433
Division : Oil & Gas Conservation Comm.
Date : 1/18/90

Approved by Commissioner : Larry Merculieff
Date : 1/ /90
Agency : Department of Commerce & Economic Development

Distribution (by preparer) :
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

LW/dg13071D-2
011890b

go0679hEa
Chenoweth

A M E N D M E N T

OFFERED IN THE HOUSE BY MENARD

TO: DRAFT CSHB 55( )

Page 1, line 7, after "Commission":

Insert ", and transferring its responsibility for reinjected water to the Department of Environmental Conservation"

Page 3, following line 15:

Insert new bill sections to read:

"* Sec. 6. AS 46.03.100(d) is amended to read:

(d) This section does not apply to injection projects permitted under AS 46.03.055 [AS 31.05.030(h)].

* Sec. 7. AS 46.03 is amended b adding a new section to read:

Sec. 46.03.055. REINJECTED WATER. (a) The department may take all actions necessary to allow the state to acquire primary enforcement responsibility under 42 U.S.C. 300h-4 (Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f-300j) for the control of underground injection related to the recovery and production of oil and natural gas.

(b) The commissioner may not deny public access to information that is required to be disclosed under 42 U.S.C. 300h-4.

* Sec. 8. AS 31.05.030(h) and 31.05.035(e) are repealed.

* Sec. 9. TRANSITION. All litigation, hearings, investigations, and other proceedings pending under a law amended or repealed by this Act, or

in connection with functions transferred by this Act, continue in effect and may be continued and completed notwithstanding a transfer or amendment or repeal provided for in this Act. Certificates, orders, and regulations issued or adopted under authority of a law amended or repealed by this Act remain in effect for the term issued, or until revoked, vacated, or otherwise modified under the provisions of this Act. All contracts, rights, liabilities, and obligations created by or under a law amended or repealed by this Act, and in effect on the effective date of this Act, remain in effect notwithstanding this Act's taking effect. Records and other property of the Oil and Gas Conservation Commission held for purposes of administration of AS 31.05.030(h) are transferred commensurate with the provisions of this Act to the Department of Environmental Conservation."

Renumber the following bill sections accordingly.

go0679hE
Chenoweth
4/3/89

Original sponsor: Rules/Governor

1 IN THE HOUSE
2 CS FOR HOUSE BILL NO. 55 ( )
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to the Alaska Oil and Gas Conserva-
7 tion Commission; changing a court rule, Rule 732 of
8 the Uniform Rules of Criminal Procedure, adopted by
9 the Alaska Supreme Court under its constitutional
10 rule-making authority; and providing for an effective
11 date."
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
13 * Section 1. AS 31.05.027 is amended to read:
14 Sec. 31.05.027. LAND SUBJECT TO COMMISSION'S AUTHORITY. The
15 authority of the commission applies to all land in the state lawfully
16 subject to its police powers, including [. IT APPLIES TO] land of the
17 United States and [OR TO] land subject to the jurisdiction of the
18 United States [ONLY TO THE EXTENT THAT CONTROL AND SUPERVISION OF
19 CONSERVATION OF OIL AND GAS AND PREVENTION OF WASTE BY THE UNITED
20 STATES ON ITS LAND FAILS TO CARRY OUT THE INTENT AND PURPOSES OF THIS
21 CHAPTER, AND OTHERWISE APPLIES TO FEDERAL LAND SO FAR AS AN OFFICER OF
22 THE UNITED STATES HAVING JURISDICTION, OR AN AUTHORIZED REPRESENTA-
23 TIVE, SHALL APPROVE ANY OF THE PROVISIONS OF THIS CHAPTER OR ORDERS
24 OF THE COMMISSION WHICH AFFECT LAND]. The authority of the commission
25 further applies to all land included in a voluntary cooperative or
26 unit plan of development or operation entered into in accordance with
27 AS 38.05.180(p).
28 * Sec. 2. AS 31.05.070(a) is amended to read:
29 (a) The commission may summon witnesses, administer oaths, and

1 require the production of records, books, and documents for examina-
2 tion at a hearing or investigation conducted by it. [A PERSON MAY NOT
3 BE EXCUSED FROM ATTENDING AND TESTIFYING, OR FROM PRODUCING BOOKS,
4 PAPERS AND RECORDS BEFORE THE COMMISSION OR A COURT, OR FROM OBEDIENCE
5 TO THE SUBPOENA OF THE COMMISSION OR A COURT, ON THE GROUND OR FOR THE
6 REASON THAT THE TESTIMONY OR EVIDENCE, DOCUMENTARY OR OTHERWISE,
7 REQUIRED OF THAT PERSON MAY TEND TO INCRIMINATE OR SUBJECT THAT PERSON
8 TO A PENALTY OR FORFEITURE.] This section does not require a person
9 to produce books, papers, or records, or to testify in response to an
10 inquiry not pertinent to a [SOME] question lawfully before the commis-
11 sion or court for determination. If a witness claims the privilege
12 against self-incrimination, the commission may request the attorney
13 general to apply to the superior court under AS 12.50.101 for an order
14 compelling testimony [A NATURAL PERSON IS NOT SUBJECT TO CRIMINAL
15 PROSECUTION OR TO A PENALTY OR FORFEITURE FOR OR ON ACCOUNT OF ANY
16 TRANSACTION, MATTER OR THING CONCERNING WHICH, IN SPITE OF OBJECTION,
17 THAT PERSON MAY BE REQUIRED TO TESTIFY OR PRODUCE EVIDENCE, DOCUMEN-
18 TARY OR OTHERWISE, BEFORE THE COMMISSION OR COURT, OR IN OBEDIENCE TO
19 ITS SUBPOENA. HOWEVER, A PERSON TESTIFYING IS NOT EXEMPT FROM PROSE-
20 CUTION AND PUNISHMENT FOR PERJURY COMMITTED IN SO TESTIFYING].
21 * Sec. 3. AS 31.05.150(a) is amended to read:
22 (a) A person who [WILFULLY] violates a provision of this chap-
23 ter, or a regulation or order of the commission adopted under this
24 chapter, is liable for [SUBJECT TO] a civil penalty of no [NOT] more
25 than $5,000 a day [$1,000] for each day [ACT] of violation [AND FOR
26 EACH DAY THAT THE VIOLATION CONTINUES], unless the penalty for viola-
27 tion is otherwise provided for and made exclusive in this chapter.
28 * Sec. 4. AS 31.05.150(b) is amended to read:
29 (b) A [IF A] person who, for the purpose of evading this chapter

1 [,] or any regulation or order of the commission adopted under this
2 chapter, knowingly commits an act specified in AS 11.46.630(a) is
3 guilty of a class A misdemeanor [WILFULLY MAKES OR HAS MADE A FALSE
4 ENTRY IN A REC , ACCOUNT OR MEMORANDUM REQUIRED BY THIS CHAPTER, OR
5 BY A REGULATION OR ORDER, OR WILFULLY OMITS, OR CAUSES TO BE OMITTED,
6 FROM A RECORD, ACCOUNT OR MEMORANDUM, FULL, TRUE AND CORRECT ENTRIES
7 AS REQUIRED BY THIS CHAPTER, OR BY A REGULATION OR ORDER, OR REMOVES
8 FROM THE STATE OR DESTROYS, MUTILATES, ALTERS OR FALSIFIES SUCH RE-
9 CORD, ACCOUNT OR MEMORANDUM, THE PERSON IS GUILTY OF A MISDEMEANOR,
10 AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN $5,000,
11 OR BY IMPRISONMENT IN JAIL FOR NOT MORE THAN SIX MONTHS, OR BY BOTH].
12 Sec. 5. AS 31.05.150 is amended by adding a new subsection to read:
13 (f) A person who knowir lates a regulation or order of the
14 commission is guilty of a misdemeanor punishable by a fine of no more
15 than $5,000 a day for each day of violation.
16 * Sec. 6. Section 2 of this Act has the effect of changing Rule 732 of
17 the Uniform Rules of Criminal Procedure, adopted by the Alaska Supreme
18 Court in State v. Serdahely, 635 P.2d 1182 (Alaska 1981). It changes the
19 immunity granted a witness for compelled testimony from "transactional"
20 immunity to "use" immunity.
21 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).
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28
29

HOUSE COMMITTEE REPORT

(9)
Date Referred: January 9, 1989 . FURTHER REFERRALS: JUDICIARY

Date of Committee Action: 4-14-89

The RESOURCES Committee recommends that:

HOUSE BILL NO. 55 [OIL & GAS CONSERVATION COMMISSION]
"An Act relating to the Alaska Oil and Gas Conservation Commission; changing a court rule; and providing for an effective date "

[X] be replaced with CS HB 55 (Res)   [ ] the same title   [X] a new title

[ ] have attached amendment(s)

[X] do pass
[ ] do not pass
[ ] no recommendation
[ ] individual recommendations
[ ] additional referral to the ________ Committee

ADOPTS: Hs. Resources letter of intent

ATTACHES NEW FISCAL NOTE(s):
[ ] fiscal impact
[ ] zero fiscal note
[ ] zero with analysis

APPROVES PREVIOUS:
[ ] fiscal note(s) published:
[X] zero fiscal notes(s) published: 2 ea - 1-9-89 CED & 1-9-89 DNR

SIGNING DO PASS:

[signatures]
Mike Navarre
Mike Davis

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

Bill Hudson - No Rec.
Richard Foster - No Rec
[signature] No Rec.

Chairman's signature

Alaska State Legislature

HOUSE OF REPRESENTATIVES

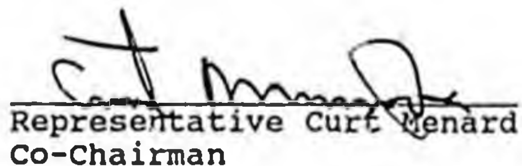
COMMITTEE ON RESOURCES

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3719

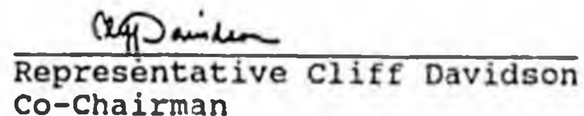
Letter of Intent
for
CS HB 55 (RES)

Letter of Intent

It is the intent of the legislature that the administration examine the possibilities of moving all or a portion of the responsibility for the underground injection control (UIC) program from the Alaska Oil and Gas Conservation Commission to the Department of Environmental Conservation by Executive Order or examine the possibility of accomplishing this function through an inter-agency agreement. It is the intent of the legislature that the agency/agencies with control over the program conduct sufficient inspections of the types of substances being injected and provide for adequate public participation during all phases of the UIC program. It is further the intent of the legislature that the agency/agencies assigned the responsibility be best suited to protect Alaska's ground water.



Representative Curt Menard
Co-Chairman



Representative Cliff Davidson
Co-Chairman

go0679hE

Original sponsor: Rules/Governor

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 55 (Res)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Oil and Gas Conserva-
7 tion Commission; changing a court rule, Rule 732 of
8 the Uniform Rules of Criminal Procedure, adopted by
9 the Alaska Supreme Court under its constitutional
10 rule-making authority; and providing for an effective
11 date."

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

13 * Section 1. AS 31.05.027 is amended to read:

14 Sec. 31.05.027. LAND SUBJECT TO COMMISSION'S AUTHORITY. The
15 authority of the commission applies to all land in the state lawfully
16 subject to its police powers, including [. IT APPLIES TO] land of the
17 United States and [OR TO] land subject to the jurisdiction of the
18 United States [ONLY TO THE EXTENT THAT CONTROL AND SUPERVISION OF
19 CONSERVATION OF OIL AND GAS AND PREVENTION OF WASTE BY THE UNITED
20 STATES ON ITS LAND FAILS TO CARRY OUT THE INTENT AND PURPOSES OF THIS
21 CHAPTER, AND OTHERWISE APPLIES TO FEDERAL LAND SO FAR AS AN OFFICER OF
22 THE UNITED STATES HAVING JURISDICTION, OR AN AUTHORIZED REPRESENTA-
23 TIVE, SHALL APPROVE ANY OF THE PROVISIONS OF THIS CHAPTER OR ORDERS
24 OF THE COMMISSION WHICH AFFECT LAND]. The authority of the commission
25 further applies to all land included in a voluntary cooperative or
26 unit plan of development or operation entered into in accordance with
27 AS 38.05.180(p).

28 * Sec. 2. AS 31.05.070(a) is amended to read:

29 (a) The commission may summon witnesses, administer oaths, and

1 require the production of records, books, and documents for examination at a hearing or investigation conducted by it. [A PERSON MAY NOT
3 BE EXCUSED FROM ATTENDING AND TESTIFYING, OR FROM PRODUCING BOOKS,
4 PAPERS AND RECORDS BEFORE THE COMMISSION OR A COURT, OR FROM OBEDIENCE
5 TO THE SUBPOENA OF THE COMMISSION OR A COURT, ON THE GROUND OR FOR THE
6 REASON THAT THE TESTIMONY OR EVIDENCE, DOCUMENTARY OR OTHERWISE,
7 REQUIRED OF THAT PERSON MAY TEND TO INCRIMINATE OR SUBJECT THAT PERSON
8 TO A PENALTY OR FORFEITURE.] This section does not require a person
9 to produce books, papers, or records, or to testify in response to an
10 inquiry not pertinent to a [SOME] question lawfully before the commis-
11 sion or court for determination. If a witness claims the privilege
12 against self-incrimination, the commission may request the attorney
13 general to apply to the superior court under AS 12.50.101 for an order
14 compelling testimony [A NATURAL PERSON IS NOT SUBJECT TO CRIMINAL
15 PROSECUTION OR TO A PENALTY OR FORFEITURE FOR OR ON ACCOUNT OF ANY
16 TRANSACTION, MATTER OR THING CONCERNING WHICH, IN SPITE OF OBJECTION,
17 THAT PERSON MAY BE REQUIRED TO TESTIFY OR PRODUCE EVIDENCE, DOCUMEN-
18 TARY OR OTHERWISE, BEFORE THE COMMISSION OR COURT, OR IN OBEDIENCE TO
19 ITS SUBPOENA. HOWEVER, A PERSON TESTIFYING IS NOT EXEMPT FROM PROSE-
20 CUTION AND PUNISHMENT FOR PERJURY COMMITTED IN SO TESTIFYING].
21 * Sec. 3. AS 31.05.150(a) is amended to read:
22 (a) A person who [WILFULLY] violates a provision of this chap-
23 ter, or a regulation or order of the commission adopted under this
24 chapter, is liable for [SUBJECT TO] a civil penalty of no [NOT] more
25 than $5,000 a day [$1,000] for each day [ACT] of violation [AND FOR
26 EACH DAY THAT THE VIOLATION CONTINUES], unless the penalty for viola-
27 tion is otherwise provided for and made exclusive in this chapter.
28 * Sec. 4. AS 31.05.150(b) is amended to read:
29 (b) A [IF A] person who, for the purpose of evading this chapter

[,] or any regulation or order of the commission adopted under this chapter, knowingly commits an act specified in AS 11.46.630(a) is guilty of a class A misdemeanor [WILFULLY MAKES OR HAS MADE A FALSE ENTRY IN A RECORD, ACCOUNT OR MEMORANDUM REQUIRED BY THIS CHAPTER, OR BY A REGULATION OR ORDER, OR WILFULLY OMITS, OR CAUSES TO BE OMITTED, FROM A RECORD, ACCOUNT OR MEMORANDUM, FULL, TRUE AND CORRECT ENTRIES AS REQUIRED BY THIS CHAPTER, OR BY A REGULATION OR ORDER, OR REMOVES FROM THE STATE OR DESTROYS, MUTILATES, ALTERS OR FALSIFIES SUCH RECORD, ACCOUNT OR MEMORANDUM, THE PERSON IS GUILTY OF A MISDEMEANOR, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN $5,000, OR BY IMPRISONMENT IN JAIL FOR NOT MORE THAN SIX MONTHS, OR BY BOTH].

* Sec. 5. AS 31.05.150 is amended by adding a new subsection to read:

(f) A person who knowingly violates a regulation or order of the commission is guilty of a misdemeanor punishable by a fine of no more than $5,000 a day for each day of violation.

* Sec. 6. Section 2 of this Act has the effect of changing Rule 732 of the Uniform Rules of Criminal Procedure, adopted by the Alaska Supreme Court in State v. Serdahely, 635 P.2d 1182 (Alaska 1981). It changes the immunity granted a witness for compelled testimony from "transactional" immunity to "use" immunity.

* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

HOUSE COMMITTEE REPORT

4/

(7)
Date Referred: April 17, 1989   FURTHER REFERRALS:

Date of Committee Action: 4-19-90

The JUDICIARY Committee considered: HB 55

HOUSE BILL NO. 55 [OIL & GAS CONSERVATION COMMISSION]
"An Act relating to the Alaska Oil and Gas Conservation Commission; changing a court rule; and providing for an effective date."

RECOMMENDATIONS:
[X] be replaced with CSHB55(JUD)   [ ] the same title
[X] a new title
[ ] have attached amendment(s)
[X] do pass
[ ] do not pass
[ ] no recommendation
[ ] individual recommendations
[ ] additional referral to the ________ Committee

ADOPTS: ________ letter of intent

ATTACHES NEW FISCAL NOTE(s): (Dept)
[ ] fiscal impact ________
[ ] zero fiscal note ________
[ ] zero with analysis ________

APPROVES PREVIOUS: (Date/Dept)
[ ] fiscal note(s) CED & DNR
[x] zero fiscal note(s) 1/9/90
[ ] zero fn/analysis ________

SIGNING DO PASS:
[signature] Gruenberg
[signature] ELLIS
[signature] Goll
[signature] M. Davis

SIGNING: (Check approp. column)

	Do Not Pass	No Rec	Amend
Mike Miller (M. Miller)		✓	

[signature] [signature]
Chairman's Signature

go0679hJ

Original sponsor(s): Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 55 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Oil and Gas Conserva-

7 tion Commission."

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

9 * Section 1. AS 31.05.027 is amended to read:

10 Sec. 31.05.027. LAND SUBJECT TO COMMISSION'S AUTHORITY. The

11 authority of the commission applies to all land in the state lawfully

12 subject to its police powers, including [. IT APPLIES TO] land of the

13 United States and [OR TO] land subject to the jurisdiction of the

14 United States [ONLY TO THE EXTENT THAT CONTROL AND SUPERVISION OF

15 CONSERVATION OF OIL AND GAS AND PREVENTION OF WASTE BY THE UNITED

16 STATES ON ITS LAND FAILS TO CARRY OUT THE INTENT AND PURPOSES OF THIS

17 CHAPTER, AND OTHERWISE APPLIES TO FEDERAL LAND SO FAR AS AN OFFICER OF

18 THE UNITED STATES HAVING JURISDICTION, OR AN AUTHORIZED REPRESENTA-

19 TIVE, SHALL APPROVE ANY OF THE PROVISIONS OF THIS CHAPTER OR ORDERS

20 OF THE COMMISSION WHICH AFFECT LAND]. The authority of the commission

21 further applies to all land included in a voluntary cooperative or

22 unit plan of development or operation entered into in accordance with

23 AS 38.05.180(p).

24 * Sec. 2. AS 31.05.150(a) is amended to read:

25 (a) A person who [WILFULLY] violates a provision of this chap-

26 ter, or a regulation or order of the commission adopted under this

27 chapter, is liable for [SUBJECT TO] a civil penalty of no [NOT] more

28 than $5,000 a day [$1,000] for each day [ACT] of violation [AND FOR

29 EACH DAY THAT THE VIOLATION CONTINUES], unless the penalty for viola-

1 tion is otherwise provided for and made exclusive in this chapter.

2 * Sec. 3. AS 31.05.150(b) is amended to read:

3 (b) A [IF A] person who, for the purpose of evading this chapter
4 [,] or any regulation or order of the commission adopted under this
5 chapter, knowingly commits an act specified in AS 11.46.630(a) is
6 guilty of a class A misdemeanor [WILFULLY MAKES OR HAS MADE A FALSE
7 ENTRY IN A RECORD, ACCOUNT OR MEMORANDUM REQUIRED BY THIS CHAPTER, OR
8 BY A REGULATION OR ORDER, OR WILFULLY OMITS, OR CAUSES TO BE OMITTED,
9 FROM A RECORD, ACCOUNT OR MEMORANDUM, FULL, TRUE AND CORRECT ENTRIES
10 AS REQUIRED BY THIS CHAPTER, OR BY A REGULATION OR ORDER, OR REMOVES
11 FROM THE STATE OR DESTROYS, MUTILATES, ALTERS OR FALSIFIES SUCH RE-
12 CORD, ACCOUNT OR MEMORANDUM, THE PERSON IS GUILTY OF A MISDEMEANOR,
13 AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN $5,000,
14 OR BY IMPRISONMENT IN JAIL FOR NOT MORE THAN SIX MONTHS, OR BY BOTH].

15 * Sec. 4. AS 31.05.150 is amended by adding a new subsection to read:

16 (f) A person who knowingly violates a regulation or order of the
17 commission is guilty of a misdemeanor punishable by a fine of no more
18 than $5,000 a day for each day of violation.

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STANDARD ALASKA PRODUCTION COMPANY

STATEMENT ON HB 186 - March 17, 1988

HB 186, in Section 2, seeks to (i) amend AS 31.05.035(c) to limit its application to all exploratory wells, and (ii) exclude wells drilled on private lands from the benefits of extended confidentiality, while providing these benefits to wells drilled on State lands. Standard believes no legitimate public interest is served by this discriminatory treatment of wells drilled on private lands.

In Alaska's unique frontier environment, years may elapse between the drilling of an exploratory well and the disposition of unleased acreage nearby. Almost any well yields significant information about nearby lands, both State and private, and has considerable commercial value. Alaska exploratory wells are extremely expensive. The capital investment required to drill a well is simply not justified unless the information obtained thereby is maintained in a confidential status until nearby lands are leased. Therefore, Standard believes the proposed language on lines 2 and 3 on page 2 of HB 186 should be eliminated.

Standard has consistently objected to the removal of provisions providing protection for exploratory wells, delineation wells or development wells which are deepened to new horizons. However, Standard has no objection to the immediate release of information from wells drilled strictly in a development setting. Accordingly, Standard would support provisions relieving the Alaska Oil and Gas Conservation Commission from this administrative burden.

Standard believes the encouragement of the drilling of exploratory wells on all lands is in the overall best interest of the State and is the key to continued development of the oil and gas industry in Alaska. Unless provisions are made for protection of information obtained from this activity, no incentive will exist to engage in exploration in areas where development could require decades.

TESTIMONY OFFERED ON MARCH 17, 1988
BEFORE THE ALASKA HOUSE OF REPRESENTATIVES
RESOURCES COMMITTEE
REGARDING HOUSE BILL 186

By J. R. Carson

Thank you, Mr. Chairman. My name is John Carson. I am the Chief Geologist for Chevron U.S.A.'s Western Region. I have been a petroleum geologist for 32 years and have spent nearly two-thirds of that time working on Alaska exploration. I speak today on behalf of Chevron. I appreciate the opportunity to testify on this matter of importance to both the State and the petroleum industry. My remarks will be brief. I will be glad to answer questions.

Chevron opposes Section 2 of House Bill (HB) 186 which amends AS 31.05.035(c). The issue is extended confidentiality of well data. HB 186 proposes restricting eligibility for extended confidentiality to exploratory wells only and to further restrict eligibility to only those wells drilled on state lands.

As we stated in testimony during last year's session with reference to HB 41, Chevron believes the current law is fair, well-intended, and in the best interest of the State as well as the industry. I will not repeat that total testimony here today, but will sum it up by saying we feel that the opportunity to apply for extended confidentiality encourages operators to expend risk capital in the search for oil and gas; they can count on their sensitive data being held from other operators while waiting for a sale to be scheduled and held. Further, the surrounding landowners will receive higher sale bids and leasing bonuses if the data are held confidential. The benefit to all will be increased drilling over a long period of time which should lead to discovery of more reserves. For your further information, we have attached a copy of Chevron's testimony on HB 41 offered last April.

Chevron's objections to Sec. 2 of HB 186 are twofold: first, the limitation of extended confidentiality to exploratory wells, and second, the elimination of extended confidentiality provision for wells drilled on lands other than those owned by the State.

Chevron has no objection to routine development wells being excluded from eligibility; however, problems arise when delineation or development wells drilled below the producing zones are not afforded confidential status. Such wells may not fall in the State's definition of exploratory wells. Often, the data from these wells is highly critical. Provisions should be made to cover these wells as well as stratigraphic tests which are drilled solely to gain information about the rocks in the subsurface.

In discussing the limitation of extended confidentiality to wells drilled on state lands, I would like to make three points: 1) oil knows no political boundaries, 2) the AOGCC's obligation is to protect all landowners, and 3) the makeup of landownership in Alaska, which confirms the need for the current law.

Oil and gas accumulations and their accompanying rock formations have no coincidence with or regard for political boundaries. Consequently, enacting legislation that discriminates as to ownership is futile. Oil is where you find it and accumulations are rarely on one landowner's domain. Prudhoe Bay is a notable exception.

The AOGCC is empowered to subject its policing authority to all lands of the state regardless of ownership (Sec. 1 of HB 186 clarifies this authority). This authority should carry with it an obligation to protect, as well as police, all of the

landowners of the state. Surely, the federal government and private landowners, whether they be Alaska natives or individuals, deserve the same protection as the State. If HB 186 is enacted, operators would tend to drill on state lands to the detriment of the private landowner and the federal government.

An argument for relaxation of extended confidentiality is that the law was enacted for a special situation — the Beaufort Sea Sale of 1979 — and is no longer needed. We believe the policy considerations which gave rise to the law remain wholly applicable today. There are too many variables in the Alaska political scene to assure sales coming off as scheduled. In addition, the 6,640-mile long coast line of Alaska has the same multiple landownership at every mile that was responsible for sale delays in the Beaufort in 1979. The 1979 sale may have been unique in that the two government agencies were able to work out a joint sale. Typically state and federal agencies hold sales at different times in the same area while private landowners lease when the demand exists. This complication of various leasing dates is the reason that extended confidentiality eligibility on all lands is so important.

HB 186 acknowledges that extended confidentiality for exploratory well data is appropriate, but unfairly limits its effect to wells drilled on state lands.

As presently drafted, HB 186 would apply to well data presently on file with the State. We have previously expressed our grave concern with this type of retroactive legislation. The present version of HB 41 recognizes these concerns. That bill has been amended to prevent retroactive consideration. A similar amendment should be made to HB 186.

In summary, AS 31.05.035(c) currently provides protection for all parties concerned; the state, the landowners, and the operators. Continuation of this law unchanged will, in the long run, encourage drilling for oil and gas and, hopefully, in finding new reserves which will offset foreign oil dependency and strengthen Alaska's economy.

Thank you. I will be glad to answer any questions you may have.

STEVE COWPER
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 9, 1989

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Cotten:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the Alaska Oil and and Gas Conservation Commission (commission). This bill offers revisions to AS 31.05 to improve the state's underground injection control (UIC) program for injection wells related to the recovery and production of oil and natural gas (Class II wells). It also conforms certain sections of AS 31.05 to the revised criminal code, and removes unnecessary restrictions on the commission's authority to regulate oil and gas activities.

The primary reason for this bill is the need to improve the state's UIC program to ensure continued federal funding. In 1984, CSHB 680(L&C) was enacted (ch. 91, SLA 1984). It authorized the commission to "take all actions necessary to allow the state to acquire primary enforcement responsibility under 42 U.S.C. 300h-4 (Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f -- 300j), for the control of underground injection related to the recovery and production of oil and natural gas." AS 31.05.030(h). The commission prepared an application for a state UIC program for Class II wells, which was approved by the U.S. Environmental Protection Agency (EPA) in June 1986.

In their review of the state's UIC application, EPA staff identified certain provisions in AS 31.05 which could be amended to improve the state's proposed program. This set of amendments is now proposed as required under the terms of a memorandum of agreement between the commission and EPA, Region 10. If the changes requested by the EPA are not made, continued federal funding for the UIC program would possibly be jeopardized. During its periodic audits of the state's UIC program, EPA inquires as to the status of these amendments.

Another set of amendments, to the criminal provisions of AS 31.05, is recommended by the criminal division of the Department of Law. When the comprehensive rewrite of AS 11 and AS 12 was undertaken in 1981 and 1982, it was determined to be too great a task to attempt amendment of the state's other criminal provisions, scattered throughout the Alaska statutes, at the same time. As this bill amends AS 31.05 for other reasons, I believe it appropriate to take advantage of this opportunity to clean up the criminal provisions of AS 31.05, to make them consistent with AS 11 and AS 12, as revised.

A third amendment removes unnecessary restrictions on the commission's jurisdiction over federal land. All of these amendments are recommended by the Alaska Oil and Gas Conservation Commission and are discussed in more detail below.

The amendments of AS 31.05 in the bill are as follows:

Section 1. AS 31.05.027 is amended to eliminate state statutory limitations on the commission's jurisdiction over land of the United States.

Federal law requires that state UIC programs apply to underground injection occurring on property leased or owned by the United States. 42 U.S.C. 300h(b)(1)(D) and 300j-6. However, AS 31.05.027 presently provides in part:

> The authority of the commission . . . applies to land of the United States or to land subject to the jurisdiction of the United States only to the extent that control and supervision of conservation of oil and gas and prevention of waste by the United States on its land fails to carry out the intent and purposes of AS 31.05.005 -- 31.05.170, and otherwise applies to federal land so far as an officer of the United States having jurisdiction, or an authorized representative, shall approve any of the provisions of AS 31.05.005 -- 31.05.170 or orders of the commission which affect land.

The jurisdictional limitations of AS 31.05.027 first appeared as territorial legislation enacted in 1955, when Alaska's relationship to the federal government was far more subservient than after Alaska's acceptance into the Union. As a state, Alaska's potential jurisdiction over oil and gas activities on federal land is limited only by constitutional restrictions on the exercise of state police powers. See Myers, The Law of Pooling and Unitization, sec. 11.04 (2d Ed. 1985). AS 31.05.027 asserts less jurisdiction than is now constitutionally permissible. It would be amended by this bill to remove this potential impediment to the commission's regulation of oil and gas activities on federal land.

Section 2. AS 31.05.070(a) is amended to eliminate "transactional" immunity when a person is being compelled to testify or produce documents before the commission or a court, and to make its provisions consistent with the revised Alaska criminal code.

As it now reads, AS 31.05.070(a) affords a person transactional immunity if compelled to appear as a witness under that statute. This provision could preclude effective enforcement of the state's UIC requirements by foreclosing subsequent prosecution of that witness for violating a requirement of the state's UIC program. The provision is also inconsistent with the immunity provision of AS 12.50.-101. The amendments eliminate the immunity provision. Under the proposed language to be added to AS 31.05.070(a), a witness who asserts his or her privilege against self incrimination may be granted immunity and compelled by a court, under AS 12.50.101, to testify. The immunity will be immunity from the use of his or her testimony and any evidence derived from it. Language that disallows self-incrimination as a ground for excusing attendance, testimony, or production of books and records, is also deleted. That current language is potentially unconstitutional, and is unnecessary.

AS 31.05.070(a) also currently provides that a compelled witness is not exempt from prosecution and punishment for perjury committed while testifying. This provision would also be repealed because it duplicates provisions of the criminal code.

Sections 3 and 4. AS 31.05.150(a) and (b) are amended to eliminate the "wilful" standard from consideration in the imposition and recovery of civil penalties; to increase the civil penalties that may be imposed; to make sec. 150's provisions consistent with the provisions of the revised criminal code; and to establish criminal liability for violations of the commission's regulations and orders.

AS 31.05.150(a) currently imposes civil penalties for wilful violations of AS 31.05 or regulations or orders of the commission. However, there is no indication of the type of wilfulness required.

Use of the term "wilfully" in criminal statutes has traditionally required a showing of bad intent. Although evidence of bad intent is generally not required to impose civil penalties, amendment of the statute to eliminate the term would remove any doubt as to the ability of the state to impose civil penalties in the absence of evidence of bad intent.

The amendments would increase the amount of civil penalties imposable under AS 31.05.150(a) from "not more than $1,000" to "no more than $5,000 a day for each day of violation." The $1,000 amount, which was first established in 1955, might now be inadequate to deter violations. The increased penalty would more effectively accomplish deterrence.

Section 4 amends AS 31.50.150(b), which imposes criminal liability for falsifying records and committing similar offenses, to make the description of those offenses consistent with AS 11.46.630(a)(1) -- (4). The class A misdemeanor penalty classification raises the possible maximum term of imprisonment to one year but the amount of the fine is unaffected.

Section 5. AS 31.05.150 is amended by adding a new subsection (f), imposing criminal liability on a person who knowingly violates a regulation or order of the commission.

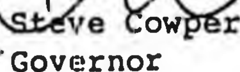
Section 6. Section 2 of this bill, providing for "use" immunity rather than "transactional" immunity, amends a court rule that was adopted in a somewhat unusual manner. This section takes a cautious approach, to assure compliance with art. IV, sec. 15, of the Alaska Constitution, regarding legislative change of a court rule.

Section 2 would, for commission sanctions, amend Rule 732 of the Uniform Rules of Criminal Procedure (promulgated by the National Conference of Commissioners on Uniform State Laws in 1984). This rule does not appear in the publication of Alaska Court Rules, but rather was adopted by the Alaska Supreme Court in a decision, State v. Serdahley, 635 P.2d 1182 (Alaska 1981). A Superior Court judge has held that a legislative change of the substance of that rule requires the same procedures as for a legislative change of any other court rule.

Thus, sec. 6 cites the court rule and describes the change, as required by Rule 39(e), Uniform Rules of the Alaska State Legislature. Also, in compliance with that legislative rule, the title of the bill mentions the court-rule change. If this bill passes but the section making that change does not receive a two-thirds vote in favor of it, and if the amended statute is challenged in court, the Alaska Supreme Court will, of course, have the final word on whether these legislative procedures were necessary.

I urge your prompt action on this measure to strengthen the state's UIC program and to update AS 31.05.

Sincerely,



Steve Cowper
Governor

April 14, 1989

Testimony on HB 55
before the House Resources Committee

The Safe Drinking Water Act sets forth procedures for use of deep wells for disposal of various wastes. Underground injection is a method of disposal where wastes are pumped into a geologic formation that is supposed to be first evaluated for its compatibility with the wastes, and capacity to hold the wastes in place. Pressure is critical since fluids must have sufficient pressure to displace native fluids yet not so much pressure that formation is fractured or waste migrates.

The Environmental Protection Agency issues permits and regulates these wells, by five classes, depending on waste type. As with many environmental laws, EPA delegates parts to the state. In Alaska's case, EPA delegated the Class II portion of the program to the Alaska Oil and Gas Conservation Commission in 1985.

Alaska Center for the Environment opposed this transference at that time because we saw inherent conflict in having the same agency that regulates oil and gas production also attempt to enforce environmental protection laws. Since evaluating AOGCC's performance since it has had authority over the injection program, we feel even more strongly that it is unable to adequately manage the injection program, thus seriously jeopardizing both the Alaskan environment and the future of Alaskans health.

Some of the problems are:

1. Class II wastes are defined as nonhazardous and strictly related to oil and gas production, such as produced waters, which are fluids that are brought to the surface with oil and gas. These wastes can be dangerous because of corrosivity, chemical additives, and presence of carcinogens, such as benzene. The wastes are far from benign and warrant careful handling and disposal.

2. Once injected, there is a high degree of uncertainty as to what happens to the wastes. It is a classsic OUT OF SIGHT, OUT OF MIND disposal method. Wastes can travel miles to resurface in other wells, contaminate groundwater, or cause drastic changes in the environment including inducement of earthquakes.

3. Full containment of the waste is not always assured. Of 18 permit applications submitted to and approved by AOGCC, at least 8 failed to test for compatibility of wastes with the confining layer, which is the geologic strata meant to hold the waste in place. Four applications failed to even identify or describe the confining layers.

MEMORANDUM State of Alaska

ALASKA OIL & GAS CONSERVATION COMMISSION

TO: Bob Evans
Office of the Governor

DATE: January 3, 1990

FILE NO: 1.CVC.45
TELECOPY NO: 276-7542
TELEPHONE NO: 279-1433

THRU:

RECEIVED
JAN 05 1990
OFFICE OF THE COMMISSIONER

SUBJECT: Legislative letter of intent for CSHB 55 -- Transfer of Class II UIC program to DEC

FROM: C. V. Chatterton
Commissioner

Issue: Representatives Menard and Davidson, in a letter of intent for CSHB 55, are asking the administration to examine the possibilities of moving all or a portion of the Underground Injection Control (UIC) from AOGCC to the Department of Environmental Conservation (DEC) by Executive Order or examine the possibility of accomplishing this function through an interagency agreement.

Background: The federal government's UIC regulations are promulgated under the Safe Drinking Water Act (SDWA) of 1974 as amended. The regulations define five categories of injection wells: Class I, Class II, Class III, Class IV and Class V. Class II wells deal with the underground emplacement of fluids related to the recovery and production of oil and natural gas.

In 1986, AOGCC was delegated primacy for the UIC program for Class II wells in Alaska by the U. S. Environmental Protection Agency (EPA) pursuant to Section 1425 of the SDWA. AS 31.05.030(h) sets forth the statutory authority for AOGCC to accept this enforcement responsibility. As a prerequisite for the award, AOGCC promulgated comprehensive regulations governing underground injection relating to oil and gas activities. The regulations provide an opportunity for public hearing, establish criteria for injection well construction, provide for testing the mechanical integrity of each well, and set forth operating and monitoring requirements for injection wells.

AOGCC does not regulate the kinds of fluid that may be injected by a Class II well beyond the limitation that waste fluids injected for disposal must not be hazardous as defined by federal regulations promulgated under the Resource Conservation and Recovery Act (RCRA). RCRA regulations exempt wastes that are intrinsically associated with the exploration, development or production of crude oil from hazardous waste definition. No limitations are placed on fluids injected for enhanced recovery, which effectively is a cycling process. This approach is in keeping with the SDWA, which avoids addressing the kinds of

fluids that may or may not be injected underground in Class II wells. The purpose of the act is to prohibit contamination of underground sources of drinking water by any fluid injected into a Class II well. (See 42 USC 300h)

AOGCC has been found by EPA on two separate annual audits to be doing a credible job of preventing contamination of drinking water sources by fluids injected underground through Class II injection wells. Contamination is prevented by insuring that the mechanical integrity of injections wells is achieved and maintained and the sealing integrity of confining zones is not broached.

Discussion: Representatives Menard and Davidson's request to transfer the UIC program to DEC is somewhat perplexing. AOGCC administers the UIC program for Class II injection wells only; all other underground injection by Class I, Class III, Class IV and Class V wells in Alaska is administered by EPA. For several years, EPA has wooed DEC to no avail to seek primary enforcement responsibility for the other four injection well classes. It would appear counterproductive to require DEC to staff up and administer just the Class II UIC program without also seeking primary enforcement responsibility for the other injection well classes. Further, the Class II UIC program alone does not appear to provide the vehicle for alleviating Representative Davidson and Menard's concerns.

The primary concern of Representatives Menard and Davidson appears to be one of insufficient inspection of the types of fluid being injected underground. The UIC Class II program, however, is not the vehicle for regulating the type (kind) of fluids being injected underground. Rather than regulating fluid types, the thrust of the UIC Class II program is to address the source of the fluid injected for disposal (ie., non-hazardous fluids only). EPA addresses this point in its August 22, 1989 Final Report of Mid-Course Evaluation of the Class II UIC program which states "oil and gas wastes are not defined on the basis of their constituents, but rather are defined on the basis of their source."

Sampling a fluid to determine its constituents would be of little avail in determining the source of the fluid. And fluid source rather than fluid constituents appears to be the measure for determining whether or not a fluid is exempt from a definition of hazardous waste for purposes of disposal in a Class II well. EPA best summarizes this point in its Mid-Course Evaluation, stating: "analytical methods will help detect hazardous constituents, but that does not mean necessarily that the wastes are hazardous under RCRA and cannot be disposed in a Class II well."

Recommendation: Under the Class II UIC program, and considering the RCRA exemption for oil field wastes, it is questionable

whether AOGCC has authority to monitor and regulate the various constituents of fluids injected underground. However, if AS 46.03.100(d) and AS 46.03.299(b) were repealed, it appears that DEC would have statutory authority, without the Class II UIC program, to regulate the types of fluids that may be injected underground for disposal. AS 46.03.100(d) exempts Class II well injection projects from the requirements of a DEC waste disposal permit; AS 46.03.299(b) exempts oil field wastes from the state's hazardous waste regulations.

Regardless of whether the public good is better served by regulation of the types of fluids injected underground, it seems appropriate for the UIC Class II program to remain intact with the Commission. In fact, transfer of the program may not be a prudent step. This issue was raised by EPA during its midyear 1989 review which states.

> "The transfer of the UIC Program to ADEC is a legislative decision. If the legislature decides to make such a transfer, EPA would work closely with the state to ensure a smooth transition. It is worth noting that such a transfer would require statutory and regulatory revision commensurate with the more stringent §1422 of the Safe Drinking Water Act and UIC Regulations 40 CFR §§144-146. Delegation under the more flexible §1425 requires an existing Class II program to demonstrate how the existing program is effective in protecting underground sources of drinking water. Since the legislature would, in effect, be creating a new program for ADEC to administer, the §1425 option would not be available to it. Also, the Class II wells can not be split between two state agencies; ADEC could coordinate with the AOGCC under a state memorandum of agreement."

In summary, should the Legislature find that the public good is better served by regulating the constituents of fluids injected underground in Alaska, the repeal and/or amendment of selected sections of AS 46.03 appears to offer a more direct route than the transfer of the UIC Class II well program to DEC.

cc. Dick Monkman, Deputy Commissioner, DCED
Linda Wild, Legislative Liaison, DCED

MEMORANDUM State of Alaska

ALASKA OIL AND GAS CONSERVATION COMMISSION

TO: Guy Bell, Director
Div of Admin Services
Dept of Comm & Econ Devel
Juneau

DATE: April 6, 1990

FILE NO: F.CVC.50

TELEPHONE NO:

THRU:

SUBJECT: Blowout Prevention
Inspection Program

FROM: C V Chatterton
Chairman

The following is in response to your April 4, 1990 telephone request and supplements my April 4, 1990 subject memorandum.

With the grounding of the Exxon Valdez tanker, the public has understandingly shown concern with the operational safety of other potential sources for catastrophic oil spills. The public is questioning the veracity of industry statements that "it can't happen, but should it happen we will fix it." The public is now turning to its regulatory agencies seeking assurance that crude oil handling operations in Alaska are being conducted in accordance with the law and with the best available technology.

Rightfully so, the public now questions the level of inspection activity performed by governmental agencies as to whether or not in-place inspection programs are appropriate and adequate to provide the confidence that "all goes well" in Alaska in operations that could be the source of another catastrophic crude oil spill.

A well being drilled for crude oil or a crude oil producing well that is being re-enetered for workover purposes offers a potential source for an oil spill resulting from a well blowout.

The Alaska Oil and Gas Conservation Commission has promulgated regulations under the authority of AS 31.05.030 to govern proper procedures and equipment installations necessary to insure that the best available defenses against the occurance of a well blowout are practiced. 20 AAC 25.033 Primary Well Control and 20 AAC 25.035 Secondary Well Control are the salient regulations pertinent to well blowout prevention. These regulations require rig crews to conduct periodic tests and report the results on the daily drilling record. These basic records are required to be kept at the well site for inspection during the drilling or workover period, and in the well operator's office for the following five years.

One may question the authenticity of the required test reports. Are required tests being actually performed and results accurately reported? Are operating procedures being conducted in accordance with regulation? The probability is that the required tests and procedures are being performed, followed, and accurately reported.

To gain this assurance of probability, one must understand the makeup of personnel involved on a drilling well. For example, on an exploratory well site, the operator (the "oil company") will have one employee and sometimes two representing the "oil company" interests by providing 24-hour supervision of rig activity. There will be an independent drilling contractor providing the equipment and employees to do the actual well drilling. Their employee cadre will consist of a drilling foreman and two crews of six to 12 employees each working back to back 12-hour shifts. There will be an independent mud logging contractor providing the equipment and personnel to maintain a 24-hour continuing check of the condition of the drilling fluid. Other independent contractor employees are also on location for a total of 40 to 50 people, only one of which, or possibly two, represent the "oil company". With the exception of the one or two company representatives, these people owe no allegiance to the "oil company".

As noted earlier, our regulations require documentation of blowout prevention equipment test results on the daily drilling record, the "tour sheet". Entries on the tour sheet are made by the working lead man, the driller, an employee of the contractor, for each shift. The driller signs the tour sheet to verify its completeness and accuracy of events happening during his shift or "tour". A periodic review of the tour sheets will immediately disclose whether a required blowout prevention equipment test has failed to be conducted or reported. Further, the independent drilling contractor and its employees lack a monetary incentive for cutting corners on regulations. The "oil company" is picking up the tab for the well.

Regardless of apparent built-in checks by third parties on regulatory compliance by an oil company, we do have a field inspection program to provide a further degree of assurance that drilling operations are being safely conducted in compliance with regulations. Our field inspection program provides for one inspector on the Arctic Slope seven days a week. The inspector actually witnesses the required testing of blowout prevention equipment and inspects its installation. With one inspector watching over 24-hour operations of the

currently 14 drilling and workover rigs operating, the inspector is unable to witness every required blowout prevention equipment test. The inspector will waive witnessing many routine and repetetive tests on the same rig. The inspector prioritizes his inspections when unable to witness all tests being conducted. Highest priority is given to inspecting the initial installation and testing of blowout prevention equipment installed on an exploratory well by a rig that has been stacked and manned by new drilling crews. Lowest priority is placed on witnessing the required weekly retesting of already installed equipment. Our inspectors review the tour sheets on location to insure that required tests other than those actually witnessed have been performed and recorded.

In the Commission's judgment, our inspection program provides a highly visible regulatory presence in the field, and we find the authority of the inspector is respected and accepted. Our field inspection program coupled with the third party checks mentioned above provides, in the Commission's judgment, the assurance that operations are being conducted in compliance with regulations governing blowout prevention systems.

MEMORANDUM State of Alaska

ALASKA OIL AND GAS CONSERVATION COMMISSION

TO: Guy Bell, Director
Div of Admin Services
Dept of Comm & Econ Devel
Juneau

DATE: April 4, 1990

FILE NO: F.CVC.49

TELEPHONE NO:

THRU:

SUBJECT: Blowout Prevention
Inspection Program

FROM: C V Chatterton
Chairman

Confirming phone calls, the following is in response to your query as to the cost of a rig blowout inspection program for Alaska comparable to the degree of inspector on-scene presence practiced by the Feds.

To allay fears of non-compliance with our regulations, to the degree that the Feds require for their regulations, we should have about seven inspectors on the Arctic Slope. This will provide a continuous or nearly continuous presence of an inspector for each drilling and workover rig.

Working our inspectors on a 7-day on/7-day off schedule, as do the Feds, we propose 14 inspectors for Arctic Slope drilling and workover rigs. Currently, there are 14 drilling and workover rigs operating on the Slope. Each on-scene inspector would be assigned from one to three rigs to follow, depending upon the remoteness of the rig.

The cost of compensating, transporting, and maintaining one of our inspectors on the Slope approximates $162,500 per year. His relief -- on his seven days off -- costs for personal services at $71,082 per year.

On this basis, the 14 inspectors needed to provide a presence on Arctic Slope drilling and workover rigs, for an inspector program comparable to the Feds to insure compliance with our regs, will cost in the neighborhood of $1,635,000/yr.

For Cook Inlet we now have four rigs operating. To provide near-presence coverage of operating rigs, equivalent to Feds, would require two inspectors on the Cook Inlet scene, each with a relief inspector. Cost of the Cook Inlet program would approximate $325,000 per year.

Summarizing, we will require a cadre of 18 inspectors and $1,960,000 annually to fund a rig inspection program to provide the presence or near-presence of inspectors on each operating rig, comparable to the Federal program. With a cadre of inspectors this size, there probably will be the need for additional inspector supervisors. These costs have not yet been determined.

It should be realized that mere compliance with all regulations will in no way guarantee that a well blowout will not occur. A regulation will not prevent a well blowout. Well blowouts occur because of human failure, not non-compliance with regulations. Yet, all that a tight inspection program can provide is greater assurance that regulations are being complied with.

State cuts drilling rig inspections

By CHARLES WOHLFORTH
Daily News reporter

The state has reduced inspections of equipment that prevents blowouts on oil and gas drilling rigs, cutting the number of inspectors from five to three over the last five years while increasing their workload.

Inspectors for the Alaska Oil and Gas Conservation Commission, which is responsible for the equipment, say their coverage is inadequate. But when their supervisor said it to the commission in a memo recently, he was stripped of his duties and ordered to destroy the document.

Blowouts occur on drilling rigs when a driller suddenly loses control of the pressure of underground oil or gas. Blowout preventers cut off the flow from the well to keep

Please see Back Page, INSPECTIONS

INSPECTIONS: State cuts down on monitoring of equipment to prevent blowouts

Continued from Page A-1

the rig from turning into a gusher that can cause explosions, fires, deaths, and oil spills.

The federal government guards against blowouts and other drilling accidents by keeping inspectors full time on exploratory rigs, which are the most likely to have blowouts. State inspectors have missed attending weekly tests on such rigs, according to the memo by the inspector supervisor, Michael Minder.

Minder wrote the memo in January, outlining the decrease in inspections and suggesting more inspectors are needed. His boss, Commissioner Lonnie Smith, removed Minder from his supervisory post and told him to destroy all the copies of the document, Smith said.

The Anchorage Daily News obtained a copy of the memo. It says that since the commission reduced its number of inspectors from five to three, their attendance at mandatory blowout preventer tests on North Slope oil rigs fell from 85 percent to 27 percent last year. Smith said the facts in the memo are accurate.

Instead of inspections, the commission has relied on reports of the tests filed by the operators of the rigs themselves, said Chairman C. V. "Chat" Chatterton."

The memo also says the inspectors attended only eight of 15 blowout preventer tests reported in Cook Inlet in 1989.

Cook Inlet oil rigs, although they can have natural gas blowouts, are not liable to cause oil spills because the pressure of the oil in the old fields has declined. But North Slope rigs could turn into gushers if the equipment failed, experts said.

The last major blowout in Alaska was the 1987 natural gas explosion of the Marathon Oil Co. Steelhead platform in Cook Inlet. No one was killed and the blowout caused no serious pollution.

The world's biggest oil spill was caused by a blowout in Ixtoc, Mexico, in 1979. It gushed 140 million gallons of crude oil — 12 times as much as the Exxon Valdez — during nine months it was out of control.

The oil and gas commission, which receives its funding from the state Department of Commerce, is the only agency that inspects drilling equipment on state lands and water.

The commission had a budget of $2.6 million until oil prices declined and squeezed the state budget under the administration of Governor Bill Sheffield, Chatterton said. For the last three years, its annual budget has been $1.6 million, he said.

But the commission's only request for an increase in funding was for a new computer system, Chatterton said. He and Smith said three inspectors are enough.

Two of the three inspectors disagreed. A third could not be reached.

"We need more inspectors," said Inspector Bobby Foster. "Three inspectors checking the rigs in the the state right now, plus all the other work we do — we need more inspectors."

"It's a bad situation," said Inspector Harold Hawkins.

Minder was on a rig in Cook Inlet this week and could not be reached for comment. His memo said he hoped the number of inspectors would be increased.

"A lack of manpower together with budgetary constraints have reduced our exposure both on the North Slope and, particularly, in the Cook Inlet fields," he wrote.

It was that sentence that got him in trouble, said Minder's boss, Smith. Smith said Minder showed him a hand-written copy of the memo, and Smith ordered him not to have it typed or to distribute it unless the sentence was removed. He said Minder distributed the memo anyway. Smith ordered Minder to get the copies back and destroy them, and stripped Minder of his supervisory duties.

"I don't think we were getting his support, and we certainly weren't going to change his viewpoint, so I changed the organization," Smith said.

The commission has three members: Chatterton, Smith, and David Johnston. Johnston, a petroleum geologist, has been on the commission since January 1989. Smith has been a member, and worked for the commission's predecessor, since 1969. Before that he worked for Gulf Oil. Chatterton, a former state legislator, joined the commission in 1982. He worked for Standard Oil of California.

They said the fact that there have been few blowouts shows that the inspection program is good enough. Smith said the number of exploratory wells has gone down, so fewer inspections are needed.

But Minder's memo said tests on exploratory wells were missed, and that drilling activity is increasing, including on old equipment that has been out of use for years.

The federal government keeps inspectors on outer continental shelf exploratory rigs 24 hours a day as long as they are in operation, said Alan Powers, regional director of the Minerals Management Service. He said that policy is partly motivated by doubts about rig operators.

"Who knows whats going on?" Powers said. "Are you going to believe their promises? Well, the way to overcome that (doubt) is to put someone on the rig."

But Chatterton said the federal program is excessive.

State inspectors are responsible for many more wells than their federal counterparts in Alaska, and since 1986 have also had responsibility for inspecting wells used to inject oil field waste into the earth. The state receives $100,000 a year to do those inspections for the federal Environmental Protection Agency, Chatterton said.

Despite the increased work load, Chatterton said three inspectors can do the work five did before because their work schedules were changed. Now inspectors travel to the North Slope for a marathon week of work, then spend a week in Anchorage on call to go to Cook Inlet, then take a week off, Chatterton said. The inspectors are exempt from union rules and do not receive overtime, he said.

The inspectors were less enthusiastic about the schedule. Foster said he has gotten as little as eight to 12 hours of sleep in an entire week as he struggled to inspect as many North Slope wells as possible. Last week he worked 90 hours, he said. Nonetheless, he is unable to finish all the work.

"There's just three of us in the state," Foster said. "It gets to the point where you can just work so many hours, and then you give out."

Hawkins he has worked 40 hours straight without sleep during inspections on the Slope. But he stopped working those hours last year, when he had a heart attack while working the second of two consecutive 22-hour days.

"I damn near died over this," Hawkins said. "I won't do that anymore, since I had my heart attack."

But Chatterton said he will not ask for more money for inspectors because he is looking out for the public's good.

"We're not in the business of making jobs for people or spending the public's money, and we don't think we need more than three inspectors," Chatterton said.

1/15/89 AT

Environmentalists protest use of waste injections

By BOB ORTEGA
Times Writer

The man running the public hearing leaned forward and smiled apologetically.

"I'm puzzled and at a loss as to how to proceed with this, to be honest," he said.

The confusion of Chat Chatterton, the amiable chairman of the Alaska Oil and Gas Conservation Commission, was understandable. For years, the commission has quietly approved industry requests to allow underground injection wells in oil fields. Usually, when the commission prints a public notice in the newspaper, no one responds, so it issues an order without any hearing or debate.

Much the same was expected last month, when Unocal Corp. asked for the OK to inject wastes 2,300 feet underground into a well north of Beluga, across Cook Inlet from Anchorage.

So no one seemed to know exactly what to do when both Unocal and the commission received a sudden broadside from Trustees for Alaska and the Alaska Center for the Environment, two Anchorage-based environmental groups.

In a detailed five-page letter, the groups questioned both the commission's procedures and legal authority, and charged that Unocal's Dec. 1 application was deficient in at least three dozen different ways.

Friday, in a public hearing held at the environmental groups' request, Trustees' executive director Randall Weiner and ACE director Sue Libenson reiterated their concerns.

Unocal, they said, had failed to show that it won't pollute an aquifer that may someday provide drinking water. Unocal environmental engineer Roy Roberts said he could address the points brought up by Weiner and Libenson — but would prefer to do so in writing.

So now what?

After a little headscratching and some off-the-record consultation with Unocal officials and Weiner, Chatterton and fellow commissioner Lonnie Smith decided, in effect, to leave matters open for two more weeks so Unocal could respond to the questions raised at the hearing.

Commission staff members seemed both surprised and amused at the attention.

The commission was created by federal statute nearly a decade ago; and gained primary responsibility over injection wells three years ago from the Environmental Protection Agency.

Since then, the commission has issued 18 orders covering hundreds of wells, all on the

See Waste, page B-4

Continued from page B-1

North Slope or in the Cook Inlet area. Only once before has it received any kind of protest, and never, according to commission records, has it received a substantive protest.

The lack of public interest may be understandable. While the public notices are always printed in one of the two Anchorage daily newspapers, most of the wells have not been anywhere near any communities except Sterling, Kenai, and, on the North Slope, Nuiqsut.

In addition, most of the injections have been into very deep aquifers already exempted by the EPA for that kind of activity.

In this particular case, Unocal is seeking an aquifer exemption, and an order allowing it to inject wastes into a well next to the Lewis River Field. There is a freshwater aquifer more than 1,000 feet thick, immediately below the surface; but the company plans to inject its wastes into a deeper, salt-water aquifer.

The application concludes that a layer of siltstone and coal between the two aquifers will protect the upper one from contamination, and points out that there are no communities in the area anyway.

At the hearing, Libenson argued that 100 years ago, there were no communities using fresh water in the Anchorage area.

"I think we need to consider public water sources even in areas not now heavily populated," she said.

"We only have to look over to oil and gas development on the Kenai, where daily we discover new problems with the drinking water," to see the importance of preventing potential pollution, she said.

Weiner, in oral and written testimony, said that Unocal apparently has failed to gain permits or proper certification from the Alaska Department of Environmental Conservation, the state Division of Governmental Coordination, and the Matanuska-Susitna Borough.

He also charged that, in essence, Unocal's application failed to provide enough information to prove that wastes won't leak into the freshwater aquifer during the disposal process, and that the application failed to follow required procedures.

Finally, Weiner also said that the commission should provide greater public notice, issue a fact sheet to explain to the public in lay terms what actions are being contemplated, and double the response period to 30 days.

"It's doubtful that Tyonek and Susitna flats residents were informed of this application," he said.

Unocal's Roberts said the company is working on the well to make sure the casing doesn't allow leakage; he said he's satisfied the upper aquifer will not be contaminated.

Steven Porter, an attorney for the commission, said he has not yet researched, but plans to look into questions raised about the commission in the testimony.

Weiner has promised that Trustees for Alaska will provide substantial input into any future oil industry requests for aquifer exemptions.

Exerpted from: January 29, 1986 MOA
State of Alaska - EPA Region X

16. The AOGCC agrees that when seeking injunctive relief for UIC violations, it shall request the court, when appropriate, to order the violator to cease or curtail its oil or gas production operations.

17. The AOGCC agrees to seek the following statutory amendments in the 1986 Legislative session:

    a. AS 31.05.027 to be amended to eliminate any limitation of AOGCC jurisdiction on land of the United States.

    b. AS 31.05.070(a) to be amended to eliminate the transactional immunity provided as a result of a person being compelled to testify or produce documents before the Commission or a court.

    c. AS 31.05.150(a) to be amended to eliminate "wilfully" from consideration in the imposition and recovery of civil penalties.

    d. AS 31.05.150(b) to be amended to include wilful violations of a rule, regulation or order of the Commission as cause for imposition and recovery of criminal fines.

If the 1986 Legislature fails to enact these amendements, the AOGCC will submit the amendments in subsequent Legislative sessions.

C. V. Chatterton, Chairman
Alaska Oil and Gas
Conservation Commission

Ernesta B. Barnes
Regional Administrator
U.S. Environmental Protection
Agency, Region 10
JAN 29 1986

United States
Environmental Protection
Agency

Water Division

Region 10
1200 Sixth Avenue
Seattle WA 98101

Drinking Water

Alaska
Idaho
Oregon
Washington

Evaluation of the Alaska Oil & Gas Conservation Commission Underground Injection Control Program

U.S.
Environmental
Protection
Agency,
Region 10
September 1988

Evaluation of the Alaska Oil and Gas Conservation Commission Underground Injection Control Program

Executive Summary

On June 19, 1986, the Alaska Oil and Gas Conservation Commission (AOGCC) was delegated primacy for the Class II Underground Injection Control (UIC) Program as authorized under Section 1425 of the Safe Drinking Water Act. The remainder of the UIC Program for Class I, III, IV, and V injection wells continues to be administered by the U.S. Environmental Protection Agency (EPA) Region 10.

A representative of the EPA conducted an in-depth performance audit of the AOGCC Class II UIC Program on September 12-19, 1988. Three days were used for office review and four days for inspections and field review of Class II wells on the North Slope. This audit is an expanded version of the routine Region 10 Mid-Year review. The purpose was to evaluate the overall implementation of the AOGCC UIC primacy program since its approval in June of 1986.

The evaluation of the AOGCC UIC Program focused on the following major elements:

I. Administration
II. Public Outreach
III. Inventory/Data Management
IV. Permitting/File Reviews/Aquifer Exemptions
V. Mechanical Integrity Testing
VI. Financial Assurance
VII. Plugging and Abandonment
IX. Compliance/Enforcement

Discussions on each of these elements is contained in the body of this report. In general, the Alaska Section 1425 UIC Program is a well implemented and well staffed operation. The AOGCC staff is technically competent; environmentally sensitive; and responsive to the public, the regulated community, and EPA. However, there are some areas of concern where program changes are recommended. Discussed below is a brief summary of the audit team's findings.

Highlights

1. The AOGCC maintains a trained technical staff sufficient to manage the UIC Program.

2. AOGCC has completed and maintains an accurate inventory for all Class II wells.

3. All injection wells are regulated under AOGCC Area Injection Orders or Disposal Injection Orders.

4. The AOGCC continues to make environmentally sound permit determinations for Class II injection wells, which afford protection of underground sources of drinking water (USDWs).

5. The AOGCC maintains a close working relationship with EPA for processing aquifer exemptions.

6. The AOGCC has effectively utilized federal grant dollars to meet national and regional priorities as defined in the state specific guidance.

7. Widespread public involvement is obtained by publication of public notices in the states' largest newspaper; sending copies of notices to those people on the mailing list; and requiring applicants to provide a copy of their permit application to operators and surface owners within a 1/4 mile radius of the injection project.

8. The Mechanical Integrity Test (MIT) requirement of an initial baseline pressure test and a repeat of the pressure test at least every four years, coupled with annulus monitoring, provide good assurance that USDWs are being protected.

9. The quarterly and annual reports, program plans, grant applications, and Financial Status Reports have been submitted to EPA on schedule.

10. The commitment to an effective field inspection effort is a strong point.

11. The Commission's UIC Program Manager continues to maintain a strong commitment to meeting UIC program requirements and working with EPA.

Findings and Recommendations

1. EPA is concerned that the public notification effort does not include publication of notices in local newspapers and the holding of hearings in the local area where the injection operation is located. It is recommended that local newspapers be used and hearings be held closer to the injection well operation. In lieu of local hearings a television or telephone hookup could be used.

2. Financial assurance requirements may not be adequate to assure proper plugging and abandonment of wells if economic conditions worsen. Financial responsibility should be increased.

3. Using two inspectors on the North Slope during periods of increased MIT testing would preclude the current need to occasionally waive important inspections.

4. Permit applications do not consistently demonstrate or document the requirements of state regulations. A closer review of the permit applications and permits would ensure the state regulations are met.

5. Other recommendations are noted in the report.

EPA Review Team

Harold Scott, Alaska UIC Coordinator - Region 10

AOGCC Participants

C.V. Chatterton, Chairman
Lonnie Smith, Commissioner
Blair Wondzell, Senior Petroleum Engineer
Mike Mender, Senior Petroleum Engineer
Bob Crandall, Geologist
Harold Hawkins, Petroleum Inspector

(1) the drilling, producing and plugging of wells;

(2) the shooting and chemical treatment of wells;

(3) the spacing of wells;

(4) the disposal of salt water, nonpotable water and oil field wastes;

(5) the contamination or waste of underground water;

(6) the quantity and rate of the production of oil and gas from a well or property; this authority shall also apply to a well or property in a voluntary cooperative or unit plan of development or operation entered into in accordance with AS 38.05.180(p).

(f) The commission may classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this chapter.

(g) When the commission finds sufficient likelihood of an unexpected encounter of oil, gas, or other hazardous substance as a result of well drilling in an area of the state, the commission may, by regulation, designate the area and specify a depth in the area as one in which wells or any boring into the soil in excess of the specified depth but not otherwise subject to this chapter are subject to the regulations and requirements adopted under this section. The designation of an area or specification of a depth under this subsection does not constitute a certification that no hazardous substance will be encountered in another area or at a lesser depth, and the state is not liable for any damages arising from such an unexpected encounter of a hazardous substance.

(h) The commission may take all actions necessary to allow the state to acquire primary enforcement responsibility under 42 U.S.C. 300h-4 (Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f-300j), for the control of underground injection related to the recovery and production of oil and natural gas. (§ 4 ch 40 SLA 1955; am § 2 ch 75 SLA 1960; am § 1 ch 209 SLA 1970; am § 1 ch 87 SLA 1977; am §§ 1, 2 ch 160 SLA 1978; am § 1 ch 91 SLA 1984)

Effect of amendments. — The 1984 amendment added subsection (h).

Sec. 31.05.035. Confidential reports. (a) For all wells for which a permit to drill has been issued by the commission since January 3, 1959, the commission may require:

(1) the making and filing of reports, well logs, drilling logs, electric logs, lithologic logs, directional surveys, and all other subsurface information on a well drilled for oil or gas, or for the discovery of oil or gas, or for geologic information; and

(2) the filing of flow test information and all logs, except experimental logs and velocity surveys run on a well and not required by (1) of this subsection;

elements, as submitted to EPA in the State's program application:

(a) *Incorporation by reference.* The requirements set forth in the State statutes and regulations cited in this paragraph are hereby incorporated by reference and made a part of the applicable UIC program under the SDWA for the State of Alabama. This incorporation by reference was approved by the Director of the Federal Register on June 25, 1984.

(1) Alabama Water Pollution Control Act, Code of Alabama 1975, sections 22-22-1 through 22-22-14 (1980 and Supp. 1983);

(2) Regulations, Policies and Procedures of the Alabama Water Improvement Commission, Title I (Regulations) (Rev. December 1980), as amended May 17, 1982, to add Chapter 9, Underground Injection Control Regulations (effective June 10, 1982), as amended April 6, 1983 (effective May 11, 1983).

(b) The Memorandum of Agreement between EPA Region IV and the Alabama Department of Environment Management, signed by the EPA Regional Administrator on May 24, 1983.

(c) *Statement of legal authority.* (1) "Water Pollution—Public Health—State has Authority to Carry Out Underground Injection Control Program Described in Federal Safe Drinking Water Act—Opinion by Legal Counsel for the Water Improvement Commission," June 25, 1982;

(2) Letter from Attorney, Alabama Water Improvement Commission, to Regional Administrator, EPA Region IV, "Re: AWIC Response to Phillip Tate's (U.S. EPA, Washington) Comments on AWIC's Final Application for Class I, III, IV, and V UIC Program," September 21, 1982;

(3) Letter from Alabama Chief Assistant Attorney General to Regional Counsel, EPA Region IV, "Re: Status of Independent Legal Counsel in Alabama Water Improvement Commission's Underground Injection Control Program," September 14, 1982.

(d) The Program Description and any other materials submitted as part of the application or as supplements thereto.

Subpart C—Alaska

§ 147.100 State-administered program—Class II wells.

The UIC program for Class II wells in the State of Alaska, other than those on Indian lands, is the program administered by the Alaska Oil and Gas Conservation Commission approved by EPA pursuant to Section 1425 of the SDWA. Notice of this approval was published in the FEDERAL REGISTER (May 6, 1986); the effective date of this program is June 19, 1986. This program consists of the following elements, as submitted to EPA in the State's program application.

(a) *Incorporation by reference.* The requirements set forth in the State statutes and regulations cited in this paragraph are hereby incorporated by reference and made a part of the applicable UIC program under the SDWA for the State of Alaska. This incorporation by reference was approved by the Director of the FEDERAL REGISTER effective June 19, 1986.

(1) Alaska Statutes, Alaska Oil and Gas Conservation Act, Title 31, §§ 31.05.005 through 31.30.010 (1979 and Cum. Supp. 1984);

(2) Alaska Statutes, Administrative Procedures Act, Title 44, §§ 44.62.010 through 44.62.650 (1984);

(3) Alaska Administrative Code, Alaska Oil and Gas Conservation Commission, 20 AAC 25.005 through 20 AAC 25.570 (Supp. 1986).

(b) The Memorandum of Agreement between EPA Region 10, and the Alaska Oil and Gas Conservation Commission, signed by the EPA Regional Administrator on January 29, 1986.

(c) *Statement of Legal Authority.* Statement from the Attorney General of the State of Alaska, signed by the Assistant Attorney General on December 10, 1985.

(d) The Program Description and any other materials submitted as part of the original application or as supplements thereto.

[51 FR 16684, May 6, 1986]

§ 147.101 EPA-administered program.

(a) *Contents.* The UIC program in the State of Alaska for Classes I, III,

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IV and V wells, and for all classes of wells on Indian lands, is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, and 146, and additional requirements set forth in the remainder of this subpart. Injection wells owners and operators and EPA shall comply with these requirements.

(b) *Effective dates.* The effective date of the UIC program for all non-Class II wells in Alaska and for all wells on Indian lands, is June 25, 1984.

[52 FR 17680, May 11, 1987]

§ 147.102 Aquifer exemptions.

(a) This section identifies any aquifers or their portions exempted in accordance with §§ 144.7(b) and 146.4 of this chapter at the time of program promulgation. EPA may in the future exempt other aquifers or portions, according to applicable procedures, without codifying such exemptions in this section. An updated list of exemptions will be maintained in the Regional office.

(b) The following aquifers are exempted in accordance with the provisions of §§ 144.7(b) and 146.4 of this chapter for Class II injection activities only:

(1) The portions of aquifers in the Kenai Peninsula, greater than the indicated depths below the ground surface, and described by a ¼ mile area beyond and lying directly below the following oil and gas producing fields:

(i) Swanson River Field—1700 feet.

(ii) Beaver Creek Field—1650 feet.

(iii) Kenai Gas Field—1300 feet.

(2) The portion of aquifers beneath Cook Inlet described by a ¼ mile area beyond and lying directly below the following oil and gas producing fields:

(i) Granite Point.

(ii) McArthur River Field.

(iii) Middle Ground Shoal Field.

(iv) Trading Bay Field.

(3) The portions of aquifers on the North Slope described by a ¼ mile area beyond and lying directly below the Kuparuk River Unit oil and gas producing field.

§ 147.103 Existing class I, II (except enhanced recovery and hydrocarbon storage) and III wells authorized by rule.

Maximum injection pressure. The owner or operator shall limit injection pressure to the lesser of:

(a) A value which will not exceed the operating requirements of § 144.28(f)(3) (i) or (ii) as applicable; or

(b) A value for well head pressure calculated by using the following formula:

$$Pm = (0.733 - 0.433\ Sg)d$$

where

Pm = injection pressure at the well head in pounds per square inch

Sg = specific gravity of inject fluid (unitless)

d = injection depth in feet.

§ 147.104 Existing class II enhanced recovery and hydrocargon storage wells authorized by rule.

(a) *Maximum injection pressure.* (1) To meet the operating requirements of § 144.28(f)(3)(ii) (A) and (B) of this chapter, the owner or operator:

(i) Shall use an injection pressure no greater than the pressure established by the Regional Administrator for the field or formation in which the well is located. The Regional Administrator shall establish maximum injection pressures after notice, opportunity for comment, and opportunity for a public hearing, according to the provisions of Part 124, Subpart A of this chapter, and will inform owners and operators in writing of the applicable maximum pressure; or

(ii) May inject at pressures greater than those specified in paragraph (a)(1)(i) of this section for the field or formation in which he is operating provided he submits a request in writing to the Regional Administrator, and demonstrates to the satisfaction of the Regional Administrator that such injection pressure will not violate the requirement of § 144.28(f)(3)(ii) (A) and (B). The Regional Administrator may grant such a request after notice, opportunity for comment, and opportunity for a public hearing, according to the provisions of Part 124, Subpart A of this chapter.

(2) Prior to such time as the Regional Administrator establishes rules for maximum injection pressure based on

data provided pursuant to paragraph (a)(2)(ii) of this section the owner or operator shall:

(i) Limit injection pressure to a value which will not exceed the operating requirements of § 144.28(f)(3)(ii); and

(ii) Submit data acceptable to the Regional Administrator which defines the fracture pressure of the formation in which injection is taking place. A single test may be submitted on behalf of two or more operators conducting operations in the same formation, if the Regional Administrator approves such submission. The data shall be submitted to the Regional Administrator within 1 year of the effective date of this program.

(b) *Casing and cementing.* Where the Regional Administrator determines that the owner or operator of an existing enhanced recovery or hydrocarbon storage well may not be in compliance with the requirements of §§ 144.28(e) and 146.22, the owner or operator shall comply with paragraphs (b) (1) through (4) of this section, when required by the Regional Administrator:

(1) Protect USDWs by:

(i) Cementing surface casing by recirculating the cement to the surface from a point 50 feet below the lowermost USDW; or

(ii) Isolating all USDWs by placing cement between the outermost casing and the well bore; and

(2) Isolate any injection zones by placing sufficient cement to fill the calculated space between the casing and the well bore to a point 250 feet above the injection zone; and

(3) Use cement:

(i) Of sufficient quantity and quality to withstand the maximum operating pressure;

(ii) Which is resistant to deterioration from formation and injection fluids; and

(iii) In a quantity no less than 120% of the calculated volume necessary to cement off a zone.

(4) The Regional Administrator may specify other requirements in addition to or in lieu of the requirements set forth in paragraphs (b) (1) through (3) as needed to protect USDWs.

Subpart D—Arizona

§ 147.150 State-administered program. [Reserved]

§ 147.151 EPA-administered program.

The UIC program for the State of Arizona is administered by EPA.

(a) *Contents.* The UIC program that applies to a injection activities in Arizona, including those on all Indian lands, is administered by EPA. The program for all injection activity, except that on Navajo Indian lands, consists of the UIC program requirements of 40 CFR Parts 124, 144 and 146, and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective dates.* The effective date for the UIC program in Arizona, except for the lands of the Navajo Indians, is June 25, 1984.

[52 FR 17681, May 11, 1987]

§ 147.152 Aquifer exemptions. [Reserved]

Subpart E—Arkansas

§ 147.200 State-administered program—Class I, III, IV and V wells.

The UIC program for Class I, III, IV and V wells in the State of Arkansas is the program administered by the Arkansas Department of Pollution Control and Ecology, approved by EPA pursuant to section 1422 of the SDWA. Notice of this approval was published in the FEDERAL REGISTER on July 6, 1982 (47 FR 29236); the effective date of this program is July 6, 1982. This program consists of the following elements, as submitted to EPA in the State's program application.

(a) *Incorporation by reference.* The requirements set forth in the State statutes and regulations cited in this paragraph are hereby incorporated by reference and made a part of the applicable UIC program under the SDWA for the State of Arkansas. This incorporation by reference was approved by the Director of the Federal Register on June 25, 1984.

HOUSE RESOURCES STANDING COMMITTEE
March 17, 1988
8:30 a.m.

MEMBERS PRESENT

Co-Chair Adelheid Herrmann
Co-Chair Sam Cotten
Representative John Sund
Representative Mike Navarre
Representative Drue Pearce
Representative Dick Shultz

MEMBERS ABSENT

Representative Cliff Davidson
Representative Henry Springer
Representative Lyman Hoffman

COMMITTEE CALENDAR

HJR 40 - Relating to petroleum research and development in the state.

HELD in Committee for further consideration.

HB 186 - "An Act relating to the Alaska Oil and Gas Conservation Commission; changing a court rule; and providing for an effective date.

HELD in Committee for further consideration.

WITNESS REGISTER

Representative Jim Zawacki
Alaska State House of Representatives
P.O. Box V
Juneau, AK 99811
465-2719

Hugh Malone, Commissioner
Department of Revenue
P.O. Box S
Juneau, AK 99811
465-2300

C.V. Chatterton, Chairman
Oil & Gas Conservation Commission
3001 Porcupine Drive
Anchorage, AK 99501
279-1433
Position Statement: Supports HB 186 With Amendments.
Supports HJR 40.

Dr. Sharma, Research Director
University of Alaska
3rd Floor, Signers' Hall
Fairbanks, AK 99755
474-7112
Position Statement: Supports HJR 40.

John R. Carson
6001 Bollinger Canyon Rd.
San Ramon, CA
(915)842-6404
Position Statement: Supports HB 186 With Amendments.

Steven R. Porter, Assistant Attorney General
Department of Law
1031 West 4th, Suite 200
Anchorage, AK 99501
276-3550

PREVIOUS ACTION

HB 186:	Jrn-Date	Jrn-Pg		Action
	03/18/87	542	(H)	Read the first time with referral(s)
	03/18/87	543	(H)	RES, JUD, FIN
	03/18/87	543	(H)	2 Zero fiscal notes published 3/18/87
	03/18/87	543	(H)	Governor's trans ltr

HJR 40:	Jrn-Date	Jrn-Pg		Action
	01/11/88	1841	(H)	Read the first time with referral(s)
	01/11/88	1841	(H)	RES
	01/18/88	1932	(H)	Co-spon added: Adams, Frank, Furnace, Koponen
	01/20/88	1958	(H)	Co-spon added: Miller Pearce
	01/22/88	1984	(H)	Co-spon added: Menard

ACTION NARRATIVE

(Tape HRC 88-131, Side 2, #294)

Chairman Sam Cotten called the meeting to order at 8:40 a.m. He informed members they would be considering HB 186 and HJR 40.

HB 186 - "An Act relating to the Alaska Oil and Gas Conservation Commission; changing a court rule; and providing for an effective date.

Chairman Cotten advised members HB 186 had been introduced by the Governor. He informed members that Mr. Chat Chatterton, Chairman of the Oil and Gas Conservation Commission would be available via teleconference.

C.V. CHATTERTON, Chairman, Alaska Oil & Gas Conservation Commission advised members he was in support of HB 186. He advised members that along with him were Commissioners Lonny Smith, Bill Barnwell and Steve Porter with the Department of Law.

Mr. Chatterton stated that a similar bill to HB 186 had been introduced during the second session of the Fourteenth Legislature, as HB 572. He noted that the bill had moved out of the House Resources Committee, however died in House Finance. Mr. Chatterton informed members that except for sections 2 and 8, of the HB 186, there appeared to be no difference than the original proposal of HB 572.

Mr. Chatterton stated that Chapter 91 of the Session Laws, 1984, enacted AS 31.05.030 (h), which authorized the commission to take all actions necessary to allow the state to acquire the primary enforcement responsibility for Class 2 underground injection wells. He stated that under that authority, the commission prepared and submitted to the U.S. Environmental Protection Agency (EPA) an application for approval of a state underground injection control program. Mr. Chatterton informed members that in reviewing the application, the EPA staff identified provisions in AS 31.05, which in their judgement should be amended to improve the state's underground injection control program. He noted that the statutory amendments were reflected in HB 186, in sections 1, 3, 5, 6, and 7. Mr. Chatterton stated that the amendments were proposed for legislative consideration under terms of a memorandum of agreement between the Commission and the Environmental Protection Agency, which obligated the commission to strive for legislative enactment of the proposed amendments.

Mr. Chatterton stated that the commission felt they were fulfilling their obligation in striving for the proposed legislation, both in the fourteenth and fifteenth legislature.

Mr. Chatterton referenced section 2, which proposed amendments to the confidentiality provision of AS 31.05.035 (c), advising members that section would not serve any beneficial purpose and asked that the committee consider a Resource Committee Substitute deleting section 2, from HB 186.

Mr. Chatterton advised members that in dealing with tax matters, in general on the oil industry, that Chapter 247, Session Laws, 1970 repealed AS 31.05.130 and AS 31.05.140, which resulted in the affiliation with IOCC more or less disintegrating. He stated that the state had maintained it's affiliation, annually paying it's assessment to the IOCC, and by reenacting section 4, there would be no monetary exposure.

Mr. Chatterton stated that section 8 was an amendment of the criminal provisions of AS 31.05 which had been recommended by the criminal division of the Department of Law.

Chairman Cotten asked for a briefing of the Underground Injection Control Program, and what EPA was requesting the state to change.

Mr. Chatterton advised members that the program for primary enforcement responsibility had been awarded to the state in May of 1986. He advised members that the program basically covered the underground injection of fluids that had been involved in oil field operations. Mr. Chatterton stated that they would involve any materials that were used for enhancing the recovery of crude oil from an oil reservoir, or the disposal of oil field wastes that are not hazardous materials. Mr. Chatterton informed members that the purpose was carried out by the Federal Safe Drinking Water Act of 1974. He stated that it was to prevent the contamination of fresh waters. Mr. Chatterton advised members the commission had been protecting fresh waters since before statehood. He informed members that whether or not HB 186 should pass, or portions of the proposed legislation with respect to the Underground Injection Control Program, that he did not believe it would change or interfere with the states current program.

Chairman Cotten noted that he had some question as to the technical changes of the different amendments and how they would change the program the commission was pursuing. He asked that Mr. Chatterton explain to members exactly what

the underground injection program entailed, and how closely and directly the commission monitored the program.

Mr. Chatterton advised members that the commission did monitor the program in compliance with what was demanded by the the Environmental Protection Agency. He stated that specifically, the commission issues permits for drilling of service wells which would be used for the purpose of disposing of oil field waste, or for the purpose of enhancing the ultimate recovery from the state's oil reservoirs. He noted that those would be gas injection wells to maintain reservoir pressure, and water injection wells to maintain reservoir pressure. Mr. Chatterton advised members there were approximately 460 class two wells the commission has surveillance over, with approximately 20 oil field waste disposal wells.

Mr. Chatterton informed members the commission issues permits for the drilling of those types of wells, and also permits for the conversion of an existing producing well to become an injector well. He stated that in the process of issuing the permits, the commission reviews whether or not the construction of the well was such that it could be maintained so there would be no chance of waste fluids getting into fresh water. Mr. Chatterton informed members the commission also monitors the operation of the wells, with all operations reporting to the commission on a monthly basis.

Chairman Cotten referenced section 1, stating that it appeared to increase the land that could be subject to the commissions authority. He asked Mr. Chatterton if that would increase the commissions authority over federal lands at all. Mr. Chatterton advised members that regardless of the way AS 31.05.027 read, the commission would take the position, under regulation, that all lands subject to the police powers of the United States, would be the commissions responsibility.

Mr. Chatterton stated that the effect of section 1 was basically a requirement of the EPA. He informed members that the Environmental Protection Agency requires the underground injection on federal lands to be controlled, and noted that the EPA did not trust their sister agencies to live up to the drinking water act, so section 1 had been specifically requested to make the commissions authority over federal lands much more clear with respect to underground injections.

STEVE PORTER, Assistant Attorney General, Department of Law, advised members that he would like to confirm the fact that the police power of state, such as Alaska, did extend to federal jurisdiction as a constitutional matter, so long as the state exercises it's police powers and did not

interfere with the preemptive or supremacy clause rights of the federal government. He stated that it was his feeling there was no constitutional problem with the section, but that it merely clarifies the fact that the police powers could extend to federal lands.

Chairman Cotten referenced sections 3, 5, 6 and 7 and asked that the commission explain those four sections. Mr. Porter informed members that the distinction between transactional immunity and use immunity was that when the state was having someone testify with regard to a particular matter in which criminal charges could be brought, there would be two different types of immunity categories that could be granted. He noted that with transactional immunity, the person who would be granted immunity could not be charged with the transaction about what they testified. Mr. Porter stated that under the second type of immunity, which would be the use immunity, the state would not be able to use that person's testimony or any evidence that should arise out of that person's testimony against them. He noted that if they were able to come up with completely independent evidence of that person's criminal guilt, the person could be convicted. Mr. Porter advised members that if they would read AS 31.05.070, as currently written, it would grant transactional immunity, and the change in the language that would be enacted with section 3, would convert the transactional immunity into use immunity. Mr. Porter stated that if the commission were to grant immunity to a person to testify under the transactional immunity clause, the person could not have been convicted of that offense, no matter how strong the other evidence was. He stated that under the new statute, the commission could use his testimony against him.

Chairman Cotten referenced sections 5, 6, and 7 and asked that the commission explain those sections and provide members with a practical application as to when they would come into play. Mr. Porter advised members that sections 5 and 6 dealt with the fact that AS 31.05.150, as currently written, only provides for civil penalties against violators of the commission's statutory regulations, if the offense was willful. He noted that it had been another recommendation of EPA, in that they would need willfulness to define a crime, however one would not need willfulness for civil penalties. Mr. Porter stated that in section 5, it would delete the requirement of willfulness from the civil penalty provision. Mr. Porter advised members that another effect of section 5 was that it would increase the penalty from $1000 per act, to $5000 per day. He noted that the idea there was that private civil penalties had been in effect since before statehood, and the amount of the penalty was not sufficient.

Mr. Porter addressed section 6 advising members that it would amend the criminal portion of the penalties of the commission, to clarify a Class A misdemeanor, which would bring it into compliance with the rest of the criminal code.

Mr. Porter referenced section 7, advising members that it would add a new subsection (f), which would impose a criminal liability with a criminal fine of no more than $5000 per day for known violations. He noted that rather than having civil penalties for knowing violations, they would now have civil penalties of $5000 for any violation, and also the possibility of a $5000 fine for criminal violations.

Mr. Porter addressed section 8, advising members that was mostly procedural, and arises out of the fact that in section 3, the change between transactional and use immunity would vary an informal adoption by the Alaska Supreme Court, of an immunity rule that generally went for transactional immunity. He stated that under the legislative rule and under the constitution it would be necessary to have expressed legislative intent in the bill to alter the judicial adoption of the rule.

Mr. Porter referenced a case State vs. Daily, in which the Alaska Supreme Court stated that in general, transactional immunity would be offered whenever a person would be required to testify. He stated that at the recommendation of the EPA for conservation commission purposes, it was believed that use immunity would be better than transactional immunity. Mr. Porter advised members that with the legislative rule, it would be necessary to state that expressly in the act, or the court cases had held that it would be deemed to be inadvertent, and there would not be any legislative overruling of the court rule.

Mr. Chatterton stated that the commission believed they could continue to ensure compliance with regulations without resorting to the courts. He informed members that he could not visualize where those sections would ever come into play, whether or not they would be amended as was being proposed. It was Mr. Chatterton's opinion that the amendments were basically a mechanism to clear the statutes up.

Chairman Cotten asked if there had ever been violations of commission orders. Mr. Chatterton advised members there had been violations on one or two occasions, and they had been suspended, however he knew of only one. He advised members that the EPA kept asking for reports as to the number of violations the commission had taken to court.

Mr. Chatterton advised members the commission did not have to go to that extent, advising members there were other means of insuring compliance and bringing people into compliance.

Representative Herrmann asked that Mr. Chatterton address section 2, and provide members the reason the commission wanted that section deleted. Mr. Chatterton informed members that the commission felt it would serve no useful purpose of having further legislative oversight on that particular subject at this point in time. He informed members, with regard to HB 41, they had requested language that the commissioner should only have the right to extend confidentiality beyond the 24 months on state lands. Mr. Chatterton advised members the commission would be relaxed with the deletion of the reference to state land, and limiting the confidentiality to only exploratory wells.

Chairman Cotten referenced section 4 and the affiliation of the Interstate Oil Compact Commission, and asked if any new authority or responsibility would be placed upon the commission with the reenactment of that language. Mr. Chatterton advised members it would not affect the commission, that they would not function any differently than they were currently functioning.

JOHN CARSON, Chief Geologist, for Chevron U.S.A., Western Region addressed members of the committee. He provided members a written copy of his testimony.

(See Attachment #1.)

Mr. Carson noted that HB 186 acknowledged the fact that extended confidentiality for exploratory well data was appropriate, but unfairly limits its affect to wells drilled on state land. Mr. Carson advised members that the legislation, as presently drafted, would apply to well data presently on file with the state. He noted that Chevron had previously expressed their grave concern with that type of retroactive legislation. Mr. Carson stated that the present version of HB 41 recognized that concern, and had been amended to prevent retroactive consideration, and noted that a similar amendment should be made to HB 186, under section 2.

Mr. Carson stated that AS 31.05.035 (c) currently provides protection for all parties concerned; the state, the land owners and the operators. He stated with the continuation of existing law would, in the long run, encourage drilling for oil and gas, and hopefully find new reserves which would offset foreign oil dependency as well as strengthen Alaska's economy.

Representative Sund asked if Mr. Carson had comments on any other areas of the proposed legislation, other than section 2. Mr. Carson, said he did not, and that Chevron would be in support of the legislation if section 2 were not included.

Chairman Cotten asked if the language were to define exploratory wells in a way that would satisfy Chevron's concern with regard to the different zones and the removal of state land only, if they would then support the legislation. Chairman Cotten asked Mr. Chatterton also, if that would be of any benefit to the state. Mr. Carson advised members that Chevron would have no problem with not being able to expend a true routine development well beyond the two years.

Mr. Chatterton referenced page 1, line 28, regarding the underlined language, <u>for all exploratory wells</u>, and asked that the committee favorably consider to include "for all stratographic tests and exploratory wells". Mr. Chatterton referenced page 2, line 2, and requested that the committee add language after <u>from</u> insert <u>stratographic tests and.</u> Mr. Chatterton stated that in the commissions regulations, they did have a definition for an exploratory well, and noted that it read as follows; exploratory well means a well that is drilled to discover a pool, and noted that that may take care of the concern expressed by Mr. Carson of Chevron.

Chairman Cotten asked how it would benefit the public in making all the other development wells not eligible for the extended confidentiality. Mr. Chatterton stated that it was his feeling it would be of benefit to the public indirectly as it would cut out the amount of attention and time that the commission would have to put forth in the confidential filing, and would cut costs somewhat.

Chairman Cotten asked Mr. Carson if the committee were able to define, satisfactorily exploratory wells, and add the strategic testing language, as requested by Mr. Chatterton, would Chevron support the proposition making the other development wells not eligible for the extended confidentiality. Mr. Carson advised members that Chevron would have no problem with that. He stated however, that adding only "stratographic tests" would still not relate to the deepening, and was not completely sure that a well drilled to find a new pool would either.

Chairman Cotten referenced the confidentiality of the type of information they were discussing, and advised members he had spoken with some associates of Mr. Carson, and had informed him that the federal rules had changed and asked for an explanation of that. He stated that as the committee discussed HB 41 the previous year, it was his

recollection that the extended confidentiality would not apply as far as the federal government was concerned.

Mr. Carson advised members that about the same time HB 41 was being considered by the Alaska Legislature, the OCS Regulations adopted the provision where they would extend confidentiality on wells drilled in OCS waters until such time there was a lease sale, and after the lease sale and the lands that affected that well, it could then be released to the public. He noted that it had since been enacted, and was his understanding that it only involved OCS lands. He added that it was such a lease that would be offered within 50 miles of the well.

Chairman Cotten asked if it would be Mr. Carson's understanding that federal rules parallel state rules. Mr. Carson stated that under current state law he felt they closely paralleled each other.

Mr. Chatterton advised members he was fearful of one area in that the way section 2 was written, that there would be no confidentiality for development wells, that it would become public information immediately. Chairman Cotten noted that currently there was a two year confidential period.

Chairman Cotten advised members it would be his intent to ask staff to communicate with industry representatives and the commission to possibly arrive at a suitable definition that could prove satisfactory to everyone, and also further explore the question regarding the 24 month confidentiality period for development wells.

Chairman Cotten referenced the commissions underground injection control program and the definition of non-hazardous wastes that were going to be regulated and asked that the commission provide members information as to how that definition had been arrived at. Mr. Chatterton informed members he would provide the requested data as well as they could.

Chairman Cotten informed members and the public he would HOLD HB 186 in committee for further consideration.

Chairman Cotten asked that Mr. Chatterton remain on line for the discussion of HJR 40.

Chairman Cotten called a brief AT EASE. (9:35 a.m.)

The meeting reconvened at 9:45 a.m.

HJR 40 - Relating to petroleum research and development in the state.

Chairman Cotten informed members that Representative Zawacki was the prime sponsor of HJR 40 and would provide testimony on the proposed resolution.

REPRESENTATIVE ZAWACKI advised members the resolution pertained to petroleum research and development in the state of Alaska. He referenced a letter from Senator Ted Stevens, which had been included in members packets, advising members that the letter addressed recommendations by the Energy Research Advisory Board which had been formed to advise the Department of Energy on research needs, to establish six energy producing provinces throughout the country and to establish a university based center of excellence that would have included Alaska. He stated that due to budget constraints from DOE and Congress that the proposal had been delayed. Representative Zawacki informed members that because of that, it had been necessary to amend the original language, and that was the reason for the committee substitute.

Representative Zawacki informed members that the resolution was supported by Dr. Sharma, the Research Director of the University of Alaska, Fairbanks. He noted that the resolution would send a message to the Governor, the state's congressional leaders and the Secretary of the Department of Energy, of the extreme importance of petroleum research and development in the state of Alaska.

Representative Zawacki advised members that Alaska was acknowledged as the number one petroleum producing state in the country, and that it was necessary to emphasize the unique problems associated with petroleum production in the state of Alaska.

Representative Zawacki informed members that the resolution would bring further recognition to the state and the Research Development Center at the University of Alaska, Fairbanks. He asked that the committee support the proposed committee substitute of HJR 40.

DR. SHARMA, Research Director, University of Alaska, Fairbanks, addressed committee members. He stated that 85% of the state's revenues were derived from oil production. Mr. Sharma stated that also, 40% or more of the future U.S. petroleum resources would be derived from the state of Alaska. He noted that it would be very pertinent that the state develop technology to produce the oil resources economically. Dr. Sharma informed members that the basic purpose of the petroleum laboratory in Fairbanks was to maximize oil recovery and to develop technology so that the state would be able to economically compete and produce the resource. He noted that it would also set up an

independent expertise center in order to assist the private sector to develop Alaska resources.

Dr. Sharma informed members that the legislature had been kind and generous to allocate $1 million for the petroleum development laboratory. He advised members that they did have a very limited staff and because of that they were concentrating only on specific problems of Alaskan fields.

Chairman Cotten referenced Dr. Sharma's four major reasons of the requested legislation, noting that it would seem that one would overlap with the authority and responsibility of the Oil & Gas Conservation Commission. He stated that would involve the question of maximizing the development of the resource. Chairman Cotten asked that Dr. Sharma further comment towards that issue. Dr. Sharma stated that when they speak about maximizing recovery, the Petroleum Development Laboratory would be developing an enhanced oil recovery method, as well as developing technology. He informed members that they would be working with the reservoir material in the laboratory to assure that the new technologies would recover as much oil as possible. Dr. Sharma stated that the Oil & Gas Conservation Commission was solely mandated to regulate, however in order to fill their obligation of regulating the industry, it would be necessary for them to have background information as to which method would maximize the recovery of oil. Dr. Sharma advised members that the commission did not have the authority or expertise to undertake that type of research and development of technology. He advised members that that information was necessary in order to maximize oil recovery.

Mr. Chatterton addressed HJR 40, however advised members they did not have the bill before them, but stated that the commission would have no problem with the proposed resolution.

Chairman Cotten informed members some very important questions had been raised during the meeting and it would be his intention to hold another hearing to consider both pieces of legislation to consider what research would be necessary and also the subject of maximum recovery.

The Meeting Adjourned at 10:00 a.m..

(Tape HCR 88-132, Side 1, #635.)

HOUSE RESOURCES STANDING COMMITTEE
March 30, 1988
8:30 a.m.

MEMBERS PRESENT

Co-Chair Adelheid Herrmann
Co-Chair Sam Cotten
Representative John Sund
Representative Mike Navarre
Representative Cliff Davidson
Representative Henry Springer
Representative Lyman Hoffman
Representative Dick Shultz

MEMBERS ABSENT

Representative Drue Pearce

COMMITTEE CALENDAR

HB 186 - "An Act relating to the Alaska Oil and Gas Conservation Commission; changing a court rule; and providing for an effective date."

HELD in committee for further consideration.

HB 548 - "An Act relating to oil discharge contingency plans."

CS HB 548 (RES) was Reported Out of Committee with a zero fiscal note and a DO PASS RECOMMENDATION.

HJR 40 - Relating to petroleum research and development in the state.

HELD in Committee for further consideration.

WITNESS REGISTER

Dennis D. Kelso, Commissioner
Department of Environmental Conservation
P.O. Box O
Juneau, AK 99811
465-2600
Position Statement: Supported HB 548.

ACTION NARRATIVE

Tape HRC 88-137, Side 1, #394

CHAIRMAN COTTEN called the meeting to order at 8:35 a.m. noting members present. He advised members they would not be considering HJR 40 and HB 186 as he was postponing action on those at this meeting should anyone be in attendance wishing to testify.

HB 548 - "An Act relating to oil discharge contingency plans."

Chairman Cotten advised members the bill had been introduced by the House Resources Committee as there was other similar proposed legislation being considered by the legislature and the committee wanted to make sure hearings would be scheduled on the legislation.

Chairman Cotten advised members the legislation dealt with requirements for oil discharge contingency plans. He asked that Commissioner Kelso come forward and address members of the committee.

DENNIS KELSO, Commissioner, Department of Environmental Conservation, advised members that Larry Dietrick, Director of the Division of Environmental Quality, was available and prepared to address questions regarding the department's oil pollution control program.

Commissioner Kelso informed members the department was in support of HB 548. He noted that the bill was extremely important and would accomplish two things. Commissioner Kelso advised members that the proposed legislation would clarify DEC's authority to require that oil handling facilities be able to carry out their oil spill contingency plans. Commissioner Kelso informed members that those plans were presently required under existing law.

Commissioner Kelso advised members the bill would also establish penalties for not having the ability to accomplish what the plan states.

Commissioner Kelso referenced the recent Cook Inlet oil spill informing members that that spill had illustrated the importance of the measure and issue before them. He stated that the spill was relatively small when compared to world standards, advising members it involved between 56,700 and 159,600 gallons, however was very critical as it occurred directly over a record salmon run area. Commissioner Kelso advised members that the result was a potential jeopardy to an important part of the commercial salmon pass, as well as a risk to the recreational fishery as the spill occurred immediately prior to July 4.

be necessary for the operators to be able to show the state that they did have access to the appropriate cleanup equipment, however would not have to have the equipment on site, as they would be a member of a cooperative that mobilizes materials and people when a spill should occur.

REPRESENTATIVE LYMAN HOFFMAN asked if it would be determined then that the facility would not have to own the equipment, but have access to a second party for the cleanup process. Commissioner Kelso stated that was his understanding, that often times there were contractual arrangements that dealt with the mobilization in the event of a spill.

Chairman Cotten noted that it was his understanding that the proposed legislation was an administration bill which was introduced by the administration in the other body.

DOUG MERTZ, Assistant Attorney General, Department of Law, advised members that his reading of the proposed amendment would basically accomplish the same effort as the original language. He stated that it would give the state the ability to make the contingency plan prove that the plan could be carried out and that in fact the facility would have real world access to the equipment, whether it be owned by the facility, or have an alternative arrangement.

REPRESENTATIVE HERRMANN asked for further clarification of the terms "access to." Mr. Mertz advised members that the key element was the contingency plan itself. He noted that if the facility would receive approval of their contingency plan, they would have to show that they did have the ability to respond with the appropriate personnel and equipment within a certain, short time frame. Mr. Mertz noted that it was the time frame they would have to prove ability to meet.

Representative Sund asked who was required to have an oil discharge contingency plan in place. Commissioner Kelso advised members that they would include tank vessels, tank barges, offshore exploration production facilities and on-shore facilities. He advised members that on-shore facilities would have to have 10,000 barrels or more in order to be covered.

Representative Sund stated that in southeast Alaska, much of the fuel was distributed out of Ketchikan by barge, noting that both Standard Oil and Union Oil carry approximately 450,000 gallons each. He asked if they would fall under the legislation. Commissioner Kelso stated that that would be correct. Representative Sund asked if it was the oil company's responsibility to obtain the contingency plan, or the people they discharge the fuel to, to be responsible for the plan.

LARRY DIETRICK, Director, Division of Environmental Quality, advised members that periodic training was intended for the response personnel of the organization that has the contingency plan. He noted that in addition, the department may require that simulated training exercises on a larger scale, with actual spill materials, be conducted on a periodic basis with the state providing oversight during those training exercises.

REPRESENTATIVE ADELHEID HERRMANN asked if the department felt comfortable with the language on page 1, line 17 "may require". Commissioner Kelso advised members the department presently had that authority, and felt it sufficient to make a case by case determination.

Representative Sund MOVED to Report Out of Committee CS HB 548 (RES) with Individual Recommendations. There being NO OBJECTION, it was so ordered.

CS HB 548 (RES) was Reported Out of Committee with a zero fiscal note and a DO PASS RECOMMENDATION.

ANNOUNCEMENTS:

Chairman Cotten advised members with regard to HB 186 and HJR 40, that the committee was awaiting additional information on the legislation, and would be scheduled at a later date.

ADJOURNMENT:

The meeting adjourned at 9:55 a.m.

(Tape HRC 88-137, Side 1, #630)

HOUSE RESOURCES STANDING COMMITTEE
April 12, 1988
8:30 a.m.

MEMBERS PRESENT

Co-Chair Adelheid Herrmann
Co-Chair Sam Cotten
Representative John Sund
Representative Mike Navarre
Representative Cliff Davidson
Representative Drue Pearce

MEMBERS ABSENT

Representative Henry Springer
Representative Lyman Hoffman
Representative Dick Shultz

COMMITTEE CALENDAR

CONFIRMATION HEARINGS:

Don Collinsworth, Commissioner, AK. Department of Fish and Game.
Phil Smith, Commissioner, Commercial Fisheries Entry Commission
William Barnwell, AK. Oil and Gas Conservation Commission
Frederick Hodson, Board of Fisheries
Arthur Clark, Guide Board
Peter Buist, Guide Board
Samantha Castle, Game Board
Robert Lochman, Board of Fish

SB 362 - "An Act establishing the dude Creek Critical Habitat Area; and providing for and effective date.

HELD in Committee until the following date.

WITNESS REGISTER

Commissioner Don Collinsworth
Department of Fish and Game
P.O. Box 3-2000
Juneau, AK 99802
465-4100

Philip J. Smith, Board Member
Commercial Fisheries Entry Commission
P.O. Box KB
Juneau, AK 99811

William Barnwell, Board Member
Oil and Gas Commission
3629 Knik Avenue
Anchorage, AK 99517

PREVIOUS ACTION

SB 362:

JRN-DATE		JRN-PG	ACTION
01/21/88	(S)	1984	READ THE FIRST TIME - REFERRAL(S)
01/21/88	(S)	1984	RESOURCES, FINANCE
02/16/88	(S)	2266	RES RPT CS 5DP NEW TITLE
02/16/88	(S)	2267	FISCAL NOTE PUBLISHED
02/16/88	(S)	2267	LETTER OF INTENT WITH RES REPORT
03/16/88	(S)	2649	FIN RPT 6DP CS(RES) W/NEW TITLE
03/16/88	(S)	2649	TWO ZERO FISCAL NOTES W/ANALYSES
03/17/88	(S)	2666	RULES TO CALENDAR
03/17/88	(S)	2668	READ THE SECOND TIME
03/17/88	(S)	2668	RES CS ADOPTED UNAN CONSENT
03/17/88	(S)	2669	ADVANCED TO THIRD READING UNAN CONSENT
03/17/88	(S)	2669	READ THE THIRD TIME CSSB 362(RES)
03/17/88	(S)	2669	RES LETTER OF INTENT AMENDED Y12 N7 X1
03/17/88	(S)	2670	ADOPTED RES LETTER OF INTENT AS AMENDED
03/17/88	(S)	2670	SENATE LETTER OF INTENT Y12 N7 X1
03/17/88	(S)	2671	PASSED Y18 N1 X1
03/17/88	(S)	2671	EFFECTIVE DATE SAME AS PASSAGE
03/17/88	(S)	2671	ELIASON NOTICE OF RECONSIDERATION
03/18/88	(S)	2691	RECON TAKEN UP - IN THIRD READING
03/18/88	(S)	2691	ADOPTED NEW SENATE LETTER OF INTENT
03/18/88	(S)	2692	PASSED ON RECONSIDERATION Y18 N- X2

03/18/88	(S)	2692	EFFECTIVE DATE SAME AS PASSAGE
03/18/88	(S)	2694	TRANSMITTED TO (H)
03/21/88	(H)	2641	READ THE FIRST TIME - REFERRAL(S)
03/21/88	(H)	2642	RESOURCES THEN FINANCE

Previous committee consideration and testimony on SB 362 was held on April 6, 1988.

ACTION NARRATIVE

(Tape HRC 88-143, Side 2, #000)

CHAIRMAN ADELHEID HERRMANN called the meeting to order at 8:45 a.m. noting members present. She informed members they would be considering the confirmation of appointed positions to various state boards and commissions. Chairman Herrmann advised members that Mr. Barnwell in Anchorage and Don Collinsworth would be considered first as they had time constraints. She advised members they would also be considering the confirmation of Phil Smith, Bud Hodson, Arthur Clark, Peter Buist and Samantha Castle.

Chairman Herrmann asked that Mr. Barnwell in Anchorage, available via teleconference, provide comments to the committee. She advised members he was being considered as a member of the Alaska Oil and Gas Conservation Commission.

WILLIAM BARNWELL, advised members he had no comments, however would address questions of committee members.

REPRESENTATIVE SAM COTTEN advised members he would like to hear Mr. Barnwell's philosophy regarding the operation of the Oil and Gas Conservation Commission; his ideas as to how active the commission ought to be; and whether he saw any new initiatives being derived from the commission regarding oil and gas conservation within the state's primary oil provinces.

Mr. Barnwell advised members that he did feel the commission ought to hold many hearings to make sure that the public be informed on oil and gas issues and help in providing information to the legislature, as well as the public, on the state of the oil industry. He advised members that the commission was in a position of having substantial knowledge of the oil industry and it was important that the state and the legislature be aware of the information available to effectively manage the state's oil and gas interests.

Mr. Barnwell informed members that one of the larger issues of the oil industry was the protection of the waters below the oil fields. He advised members that was the reason he had requested to be considered first as the commission was meeting with the Environmental Protection Agency (EPA) that morning to discuss the state's underground injection program. Mr. Barnwell advised members that it was an important issue to insure that the disposal activities were properly managed, and the underground formations properly protected.

Mr. Barnwell advised members that another issue of concern to the commission was the opening up of new fields, as it would be necessary to be well informed as to the geology of the fields, as well as the engineering properties of those formations.

Mr. Barnwell advised members that the commission was a very objective, nonpartisan organization that makes decisions purely to prevent the waste of the resource, and to manage it properly so that the state would realize the greatest benefit from the oil and gas reserve in Alaska.

Representative Cotten referenced the AS 030. which references the responsibilities of the commission. He stated that under AS 030. (d), it states that the commission may require the gaging, or other measuring of oil and gas to determine quality and quantity of oil and gas. Representative Cotten asked that Mr. Barnwell explain to members what activity the commission had undertaken recently, or would expect to undertake in the near future regarding gaging the quantity of oil and gas primarily in the north slope area.

Mr. Barnwell advised members that the commission meters the flow of oil from the oil fields which was done primarily to determine the amount of oil that was being produced from the oil and gas fields in the state. Mr. Barnwell stated that through the meters the commission very accurately measures the amount of oil and gas that not only comes out of the ground, but also the amount of water and gas that is injected back into the fields. He advised members that that procedure was done from the total picture, not from the point of view of what the state royalty should be or what the sales ticket would be. Mr. Barnwell advised members that the commission keeps records of all the oil and gas that is produced, and from the various meters, the Department of Natural Resources intervenes and separates out what each individual oil company has produced.

Representative Cotten asked that Mr. Barnwell provide comments regarding reservoir analysis. Mr. Barnwell advised members that the commission had not done as much of that as had been done in the past. He advised members that

when Prudhoe Bay first came on-line there were some very detailed and complex models of the Prudhoe field and the commission had been using those models to predict and understand what was happening there up until this time. Mr. Barnwell stated that due to budget constraints over the past couple of years, the commission had not allowed modeling. He advised members however, that they did have a petroleum reservoirs engineer on the staff and kept and received records on the pressure and production data from all fields. Mr. Barnwell informed members that within the next year or so, it would be probable that they might have to do a considerable amount more of that type of analysis because of the Prudhoe field beginning to decline in production and also because of other oil fields coming on-line. Mr. Barnwell made reference to the Endicott field in that the commission would have to monitor that more closely as it begins to come on-line.

Representative Cotten advised members that a bill was before the committee, HB 186, which the committee had considered at one meeting and would have another hearing on in the near future. Mr. Barnwell advised members that the commission welcomed questions from the legislature. He stated that with regard to HB 186, that there were some provisions in the proposed legislation that EPA had requested, which were housekeeping provisions regarding penalties and it was the commission's hope that those provisions would remain in the legislation and follow through the legislative process.

Chairman Herrmann thanked Mr. Barnwell for his comments. She advised members they would consider comments of Mr. Don Collinsworth next, as he was also under a time constraint.

MR. DON COLLINSWORTH, Commissioner, Department of Fish and Game, advised members that there was a North Pacific Fisheries Management Council Meeting underway in Anchorage, and that was his reason for requesting to be heard early on in the committee hearing.

Mr. Collinsworth gave a brief background regarding his past involvement with the state and personal history.

Mr. Collinsworth advised members that the duties of the Commissioner of the Department of Fish and Game were described in Alaska Statute, Title 16. He stated that the duties were to manage, protect, maintain, improve and extend the fish and wildlife resources in the interest of economy and general well-being of the state.

Mr. Collinsworth advised members that the department was organized to carryout those functions of the commissioner. He stated that he was pleased to advise the members that the fish and wildlife resources of the state were