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National Security

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estimate was changed by tens of billions of dollars. "What really set me off," he later explained to a reporter, "was a meeting I attended last February in Washington. It was really cold that day. After leaving the meeting I went toward the subway and encountered a young homeless woman, with a baby in rags. I talked with her for awhile." Her situation was desperate, he said. "I thought back to the meeting I had just left. I thought of the behavior [of SDI officials]. When somebody raised the issue of cost overruns running into billions of dollars, there was laughter. I thought back to previous meetings when I'd seen this type of behavior before. Once when a scientist said the system would let enough rockets get through to kill 120 million people, another official joked, 'So what, as long as nobody in my state is killed.' I work for the taxpayers. I had to speak out."

GAP worked with Mr. Saucier to organize and verify the evidence of abuse and mismanagement that he had amassed, and to convey critical information to key congressional leaders. As it became clear to GAP attorneys that Mr. Saucier was the target of illegal retaliation for whistleblowing, GAP began to prepare his case.

The Army responded by stepping up its campaign against Mr. Saucier. He was given an assignment that he understood as a "last chance" to regain favor with his superiors. Tasked with drafting an alternative to the current Star Wars plan for theater missile defenses, Mr. Saucier drew up a sophisticated critique of current programs and a plan for an antimissile system using existing technology--at a cost of \$3 billion less than the Star Wars program. Not surprisingly, SDI officials were unimpressed. The proposal, they concluded, was "fraught with errors."

But a panel of top space scientists disagreed. GAP sent Mr. Saucier's plan to seven eminent scientists from across the country--including Nobel Prize laureate Hans Bethe--for scientific review. Their responses affirmed that Mr. Saucier's analysis and technical conclusions were sound. Meanwhile, Saucier's allegations were gaining broad attention in Congress. The House Government Operations

Committee, chaired by Rep. John Conyers (D-Michigan) and the Senate Government Affairs Committee, chaired by Sen. David Pryor (D-Arkansas) launched investigations into the evidence of scientific fraud and misconduct.

Then last December, Mr. Saucier was served with a "notice of proposed removal for unsatisfactory performance"--military parlance for a scheduled termination. SDI had had enough of Aldric Saucier's whistleblowing. On February 14, he was fired. The move created an uproar on Capitol Hill. "The firing gives every appearance of retaliation. I do not believe it was mere coincidence that

Mr. Saucier was meeting with my staff on the precise day he was fired," said Rep. John Conyers. "If the Army thinks that this firing will close the book on the story of fraud and abuse in the Star Wars program, it's dead wrong." Senators Carl Levin (D-Michigan), George Mitchell (D-Maine), David Pryor (D-Arkansas) and William Cohen (D-Maine) also intervened on behalf of Mr. Saucier.

Within two weeks, the government's Office of Special Counsel (OSC) had ordered Defense Secretary Richard Cheney to investigate Saucier's allegations of "violations of law and regulation, gross mismanagement, gross waste of funds," and "abuse of authority" at SDI. GAP attorneys had filed a whistleblower disclosure with the Office of Special Counsel on Saucier's behalf in November; the office found a "substantial likelihood"



GAP legal director Tom Devine is lead attorney for Mr. Saucier.

that the Saucier allegations were well-founded.

On March 6, the Army blinked. SDI officials agreed to keep Saucier on the payroll indefinitely while the Pentagon conducts a high-level review of his allegations. For GAP, the Saucier victory marks a major test of the Whistleblower Protection Act--the landmark 1989 legislation championed by GAP--in a case with billions of dollars and major policy questions at stake. GAP will continue to work with Congress and the OSC to bring the truth to light and prevent the wrongful termination of Mr. Saucier. Meanwhile, GAP and Mr. Saucier are pressing for further investigation of SDI waste and mismanagement and a re-examination of the proposed budget increases in the SDI program.

Environmental Protection

The Sell-out of Our National Forests

GAP whistleblower John McCormick is a fifteen-year veteran of the U.S. Forest Service. Below is an excerpt from his testimony before the Civil Service Subcommittee of the House of Representatives last January 29.

Mr. Chairman:

My name is John McCormick. Until I retired this month, I ran the "whistleblower desk" at the United States Forest Service as a criminal investigator. This was the last assignment in a career of over thirty years' law enforcement experience, including twenty with the federal government--since 1976 with the Forest Service.

I am honored but sad to testify today. There has been a systematic breakdown in public service at the Forest Service. The agency has become comfortable with lying to the public, ignoring long-festering problems, and serving the timber industry as government agents of environmental destruction rather than environmental protection.

I do not come to these conclusions lightly. I have dedicated my entire professional life to public service, and am an outdoorsman in my personal time who deeply loves our

"The agency has become comfortable with lying to the public and serving the timber industry as government agents of environmental destruction."

environment, including the national forests. After thirty years of hard work and sometimes risking my life to defend the law, I know when public service has been replaced by a public sell-out. That is the case at the Forest Service.

At the Forest Service, among other projects, I led the investigations for numerous successful prosecutions of negligence fires by logging companies (and) the government's first timber theft case. Quite frankly, I was proud to be a public servant. In 1984, however, my career began to sour while I was the regional special agent in Alaska.

After uncovering instances of timber theft, improper road construction in the national forests, conflict of interest and personal corruption, I was ordered off key investigations and (then repeatedly reassigned when I disclosed what I had found) through the chain of command and in response to inquiries from the General Accounting Office, congressional investigators and journalists.

In my experience, the common thread of violations has been harassment of employees who do not cooperate with attempted coverups of agency misconduct. In addition to conventional firings and adverse actions, reprisal techniques [are varied]. Agents [are removed] from cases if they "learn

too much" and want to follow the evidence wherever it leads, despite political consequences. [Whistleblowers] are shifted across the country, sometimes by mid-level managers with only two weeks' notice. Employees are warned not to be seen talking with whistleblowers, and threatened or fired for testifying or otherwise helping the dissenter's legal case. Managers and their aides do the dirty work: themselves if peers cannot be coerced to spy on their colleagues. In my own instance, managers watched me like a hawk, and my desk was searched.

Despite the systematic repression in the Forest Service, the quantity of whistleblower allegations has increased seven times over in the past five years. That is a dramatic indictment of the breakdown in public service. Examples of whistleblower concerns are listed below.

■ **Facilitating a pattern of "timber theft,"** in which loggers harvest trees that cannot lawfully be cut under environmental laws, and then fail to pay the government anything since there is no record that the harvests even occurred.

■ **Censoring reports and doctoring data** to permit illegal harvesting of trees in habitats necessary for endangered species such as the spotted owl and bald eagle. Illegal timber-harvesting techniques [are allowed], such as use of heavy machinery that leaves diesel oil spills and contaminates watersheds, and dumping of pesticides by logging companies into rivers and watersheds.

■ **Tolerating an escalation of illegal international timber exports from government land.** Loggers prefer export sales because the timber can be sold at prices that in some instances are seven times more profitable than domestic sales.

■ **Diversion of funds appropriated by Congress for wilderness maintenance into advance work for timber sales.** (The Forest Service also has) a tradition of pork barrel projects--illustrated by a \$160 million contract for a road to nowhere in Alaska while I was stationed there.

■ **Lack of personal integrity within the D.C. Law Enforcement Group,** illustrated by recent felony indictments of its former Assistant Director for diverting government money to personal use. He pled guilty to one count. Although the Forest Service demoted and reassigned the official, he received a cash award and, through manipulation of grade steps, actually enjoyed a salary increase from his demotion.

On balance, the most striking feature of these abuses is that they keep occurring. This means the pattern of government lawlessness will continue and intensify. There is no structure for accountability. The first step on the road to recovery is to face the truth about an agency that has become a comfortable haven for a big lie. (This congressional hearing is a milestone in that process. Even more important, however, will be stamina in following through to solve the problems the investigations are exposing.

Environmental Protection

Joining Forces to Reform the Forest Service

GAP has joined forces with the Association of Forest Service Employees for Environmental Ethics (AFSEEE) in a campaign to expose the abuses and restore environmental ethics and accountability in the U.S. Forest Service.

The Forest Service has the dual and contradictory mandate of protecting over 190 million acres of public land—and generating profits as the government's timber company. Recent years have seen a growing failure to balance the two missions. Agency management has issued an unambiguous directive, according to employees: Get the cut out. The rush to cut trees for profit has been pitted against the obligation to respect environmental laws that protect wildlife and wilderness areas and guard against degradation of our soil, water and air.

Honest federal employees are caught in the contradiction. As the political pressure is turned up at every level, environmental, ethical and scientific standards are routinely sacrificed to meet predetermined cutting targets. And long-simmering dissent within the Forest Service is exploding into unprecedented levels of formal complaints and pressure for internal reform.

At the center of the debate is AFSEEE, an expanding organization of concerned Forest Service employees working for change within the agency. Created in 1989 by whistleblower Jeff DeBoris, a former timber planner for the Forest Service, AFSEEE advocates a new resource ethic to govern land management decisions—one that places resource sustainability and the integrity of ecosystems above commodity production and political expediency.

GAP, meanwhile, has been contacted by growing numbers of Forest Service whistleblowers in recent years. (See, for example, articles on Don Kern and John McCormick in the Fall 1991 and Spring 1992 issues of *Bridging the GAP*.) Now in cooperation with AFSEEE, GAP attorneys are going behind the scenes to investigate, verify and publicize employees' allegations of environmental abuse. What the two organizations are learning is deeply disturbing.

The environmental abuse and mismanagement within the Forest Service grows out of the contradiction in the agency's mission—and its financial imperative. Unlike other federal agencies, the Forest Service does not receive its entire budget from Congress. The agency is permitted to keep most of its gross earnings from the sale of timber. In 1990 timber sales generated \$630 million for the service—more than a quarter of its total revenue.

Congress has further increased the emphasis on timber sales by tying the Forest Service budget appropriation to



AFSEEE founder and executive director Jeff DeBoris at an Oregon clearcut.

specific cutting targets. The agency's fiscal imperatives have led to spiralling levels of timber-cutting: the Forest Service must sell wood to ensure its continued existence. Despite the requirement that timber harvest rates be environmentally sustainable, the agency is deliberately and systematically over-cutting to meet the demands of Washington and industry.

The environmental consequences of over-cutting extend far beyond the immediate damage to a particular area. They range from loss of wildlife habitat and increased risk of extinction of plant and animal species, to extreme erosion and destruction of waterways and natural fisheries. Over the long run, over-cutting means an acceleration of the greenhouse effect and a simplified ecosystem.

Increasing numbers of whistleblowers are coming to

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Environmental Protection

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GAP with reports that their scientific reports are altered by supervisors to meet quotas and satisfy the interests of lumber, mining, and grazing companies. Wildlife biologists, hydrologists and others are routinely pressured to manipulate data and censor their findings. All too often, they are forced to choose between their professional ethics and the demands of their jobs. California biologist Francis Mangels is a case in point. Mangels exposed a decade-long practice in the Shasta National Forest of falsifying data to permit over-cutting of groves of ancient trees and destruction of rare nesting sites of the northern spotted owl.

Gross mismanagement, according to Forest Service employees, is turning a bad situation into an outright sell-out of our public forests. Agency managers routinely sell trees to timber companies at prices well below the costs of processing the sites and the sales. While the Forest Service claims to be earning money, a recent congressional study estimates that the agency has lost taxpayers \$5.6 billion over the last decade. The trade-off between profits and environmental protection, these whistleblowers argue, is not a trade-off but a double loss to the American public—in irreplaceable wilderness and in public funds.

As abuses mount, agency management has tightened control over public access to information, short-circuited investigations of violations, and engineered reprisals against whistleblowers. Thomas Lake, a wilderness specialist on California's Modoc National Forest, was informed in writing that "any outside activity that may tend to bring criticism of or embarrassment to the Forest Service is forbidden." GAP whistleblower Don Kern, a hydrologist in Montana's Flinthead National Forest, was denied a renewal of his contract because of his whistleblowing.

The growing dissent within the Forest Service provides an unprecedented opportunity to expose and address long-standing patterns of abuse and mismanagement of our remaining public lands. As AFSEEE's organizing efforts generate increasing numbers of employees willing to come forward with critical information on environmental abuses—but hampered by a very real concern for their own legal protection and job security—GAP is positioned to provide advice and legal support, and to help bring evidence of abuse to the attention of Congress and the media.

In a joint effort, GAP and AFSEEE will host a national conference for employees from the Forest Service and other natural resource, wildlife and environmental protection agencies, entitled "Protecting Integrity and Ethics," on March 27-28 in Washington, D.C. (See box.)

Concern among policymakers is growing: several members of Congress have already contacted AFSEEE and GAP for expertise and guidance on the issue. In 1991, GAP's investigative information and assistance helped convince Rep. Gerry Sikoraki's House Civil Service Subcommittee to launch an investigation and hold hearings on Forest Service abuses last January. Additional hearings are scheduled for March 31, before the House Government Operations Subcommittee on the Environment.

The mandate for reform is clear. The Forest Service must return to its original mandate of stewardship and preservation of our forests. This requires at a minimum that environmental protection be placed above timber-cutting in the agency's hierarchy of values, and that the agency's budget not be tied to timber-cutting targets and profits. Equally important is to re-affirm that the Forest Service is responsible above all to the public: information must flow freely, environmental laws respected, and public funds used honestly. Above all, the agency's employees must be permitted to perform their jobs as civil servants charged with protecting our environment.

Protecting Integrity and Ethics

On March 27 and 28, GAP and the Association of Forest Service Employees for Environmental Ethics (AFSEEE) will host a conference for employees of environmental agencies, entitled *Protecting Integrity and Ethics*.

Across the country, government employees charged with managing U.S. forests, rangelands, wildlife, air and water are confronting increasing political manipulation of their agencies' missions. These employees are the nation's first line of defense against environmental degradation. Yet all too often, concerned employees seeking to ensure enforcement of environmental laws are met with harassment or intimidation.

The *Protecting Integrity and Ethics* conference is designed to inform public employees of their legal rights and options when confronting ethical issues on the job, and to focus public attention on widespread government environmental violations, from excessive clearcutting of national forests to dangerous disposal of nuclear wastes.

Congressman Mike Synar (D-OK) will give the keynote address. The list of speakers features union leaders, congressional staffers, journalists and a wide range of environmental whistleblowers, including: Felix Smith, a former biologist for the Fish and Wildlife Service who exposed toxic levels of selenium which endangered California wildlife preserves; P.J. Ryan, a National Park Service officer who founded and publishes a newsletter for Park Service employees that gives voice to whistleblowers and alternative viewpoints within the agency; Sonja Anderson, a former engineer at the Department of Energy's Hanford nuclear weapons plant who blew the whistle on falsified scientific data resulting in massive environmental contamination; Hugh Kaufman, an engineer for the Environmental Protection Agency who provided testimony to Congress exposing Love Canal and thousands of other hazardous sites in the United States; EPA biologist Dwight Welch (see story, page 7); and former Forest Service investigator John McCormick (see story, page 4).

Congress will be holding hearings to take advantage of this unprecedented gathering of environmental whistleblowers. On March 31, the House Government Operations Subcommittee on the Environment will hear testimony on timber sales in national forests. For more information on the conference, contact Christy Law at GAP.

Environmental Protection

Deadly Science at EPA

Dwight Welch is an insect biologist for the Environmental Protection Agency. He is also the president of the National Federation of Federal Employees Local 2050, a union representing scientists and other professionals at EPA's headquarters. And in the eyes of EPA management, he is a troublemaker.

"It started with the aerosols," Welch explains. A skilled entomologist, Dwight Welch is the agency's expert on the indoor aerosol foggers used to kill fleas and other household pests. Over a decade ago, he demonstrated that high levels of flammable and explosive chemicals—such as butane and propane—made the aerosol foggers a potentially deadly threat to unsuspecting consumers. Releasing the can's contents into a home could lead to a dangerous explosion set off by a simple pilot light or a spark from an electrical appliance. The solution, Welch suggested, was simple: the products must be properly labelled with warnings. But the EPA was not interested in Welch's solution—or in confronting the bug bomb manufacturers. A change in the label to include the new warning could cost the industry billions in lost business.

For over thirteen years, Welch has pressed the agency to adopt new labelling requirements for the aerosol pesticides. While the agency has stalled, hundreds of consumers have been injured and some have died in explosions and fires caused by bug bombs. Welch's persistent efforts—and a lawsuit filed on his behalf by GAP—have only recently forced EPA to take serious steps toward issuing new regulations.

At EPA headquarters, however, Dwight Welch's efforts were met with a campaign of harassment and intimidation. In 1989, the day after confronting an upper-level supervisor about inaction on the aerosols, Welch was transferred from his position as a product chemist to a meaningless administrative job. He protested, and was transferred to a position reviewing toxicology data. His new assignment was to gauge the level of toxicity to humans and animals

of particular pesticides, by checking the work of the pesticide manufacturer's chemists.

The problem is that Dwight Welch is trained to determine whether a chemical will kill bugs—not humans. He maintains that he lacks even the basic background to perform this job and points out that federal law prohibits it; the Office of Personnel Management requires formal training of employees performing such toxicology data reviews.

Unwilling to jeopardize public health and safety, Mr. Welch requested that EPA provide him with the requisite education in toxicology. EPA refused. Agency officials dismissed Welch's request with the disturbing argument

that most of the toxicology data reviewers in Welch's section also lacked the required training. The agency sidesteps the issue by calling these reviewers "biologists" rather than "toxicologists." But the danger remains: Welch cited a recent example of a pesticide product implicated in scores of animal deaths. The product had been inadequately reviewed by untrained EPA personnel. "It was pots then," he observed. "Next time it could be humans."

Faced with a choice between breaking the law to follow orders or preserving his scientific integrity and safeguarding the public health, Dwight Welch has chosen the latter. As a result, he has been threatened with absent without leave (AWOL) sanctions, and given unsatisfactory performance ratings by EPA. He is being

set up for termination, through an order to perform an impossible and unethical task. EPA's message is not lost on Mr. Welch. "I've basically called attention to scientific fraud and mismanagement, so they're trying to destroy my career."

Welch's recent election as president of NFFE Local 2050, he believes, has intensified EPA management's campaign of harassment and intimidation. Local 2050 has become a hotbed of scientific dissent within the agency, and Welch is not the first union official to be targeted for mistreatment by agency management. NFFE has embarrassed agency heads by drawing national attention to the high levels of indoor air pollution within the EPA head-

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Dwight Welch.

Nuclear Reform

Radiation Retaliation at Weapons Plant

GAP client Charles "Bud" Varnadore is a third generation nuclear worker at the Oak Ridge National Laboratory--and one of the first employees to break the 49-year code of silence on environmental, safety and other misconduct at the Tennessee nuclear weapons facility. His reward was an intensive campaign of harassment by his employers that ended in his placement in a duty station half-full of radioactive, toxic and asbestos waste materials.

What makes Mr. Varnadore's case truly chilling is the fact that Oak Ridge scientists knew that Mr. Varnadore was a cancer patient in remission after chemotherapy, with a suppressed immune system. Despite the requirement that radiation and chemical exposures of nuclear workers be as "low as reasonably achievable," Mr. Varnadore was put in harm's way in two rooms that were virtual toxic waste dumps--one containing over 700 different chemicals.

Before raising environmental health concerns, Bud Varnadore had an excellent record as a mechanical technician at two Oak Ridge contractor facilities since 1962. He transferred to the Oak Ridge National Laboratory in 1985, a Department of Energy facility contracted to Martin Marietta Energy Systems--and experienced firsthand how little respect the prestigious national lab holds for employee concerns about environmental, safety and health matters.

Bud Varnadore was first labelled a "troublemaker" when he objected to his assignment to use mechanical hands in a "hot cell" because he is blind in one eye and the job requires depth perception to avoid dangerous radioactive spills. Analytical Chemistry Division scientists ignored him, spills occurred, and he was transferred. Mr. Varnadore was subsequently denied raises and promotions and assigned meaningless janitorial work.

Mr. Varnadore later raised concerns about improper sample preservation procedures that violated Environmental Protection Agency requirements. He questioned Oak Ridge managers' decision to subject a secretary to unnecessary radiation exposure: the secretary was instructed to pick up samples, place them on a car seat and drive a distance of eight miles, without proper protections. Finally, he appeared on the *CBS Evening News* in March 1991, to discuss the elevated cancer rate among Oak Ridge workers.

Management retaliation was swift and severe. Varnadore was ordered to a "home base," or primary duty station, that was nearly half-full of radioactive materials and friable asbestos awaiting disposal. When that lab was found unsafe, he was transferred to a new "home base," in which sixty percent of the floor space was covered with unidentified toxic chemicals in leaking containers, and hundreds of pounds of mercury. He was denied a request to meet with management and medical personnel to evaluate his working environment.

Mr. Varnadore filed a Department of Labor whistleblower complaint on November 20, 1991, later amending it to charge that the top management of Martin Marietta had ratified his retaliatory treatment by requiring him to stay in the toxic room for six weeks after Oak Ridge health personnel recommended his removal due to the visible mercury contamination.

On January 18, 1992, GAP arranged to videotape the rooms in which Mr. Varnadore was exposed to toxics, over Martin Marietta's objections. Mr. Varnadore narrated the tape. Even after Oak Ridge personnel illegally removed evidence, the condition of the rooms was appalling. This opinion was later shared by DOE officials who paid surprise visits to the room and viewed the GAP videotape.

Two weeks later, the Department of Labor found Mr. Varnadore had been subjected to discrimination for raising environmental concerns, and subjected to a hostile working environment by being placed in the "questionable" rooms. The finding is the first-ever whistleblower action against Oak Ridge or Martin Marietta.

Within five days of the Department of Labor finding, Bud Varnadore was given a critical performance evaluation that blasted his "negative attitude toward management and policies."

A Labor Department hearing on Mr. Varnadore's case is scheduled for July 6, 1992 in Knoxville. Mr. Varnadore has also filed for damages in state court. He is represented by GAP legal counsel for constitutional rights Ed Slavin, American Environmental Health Studies Project General Counsel Jacqueline O. Kittrell of Knoxville, Tennessee, David A. Stuart and Christopher Van Riper of Clinton, Tennessee, and Professor Robert C. Banks, Jr. of Memphis.

The case has attracted extensive news coverage, including pieces in the *New York Times*, *Time*, and an "Eye On America" segment of *CBS News*. It has also set precedents in the battle over nuclear whistleblower protections.

In February, DOE made history by writing off Martin Marietta, making it the first DOE contractor ever denied reimbursement for legal expenses--from that day forward, the corporation has had to bear its own legal bills in the Varnadore case. In another first in nuclear whistleblower treatment, DOE Oak Ridge Field Office Manager Joe LaGrone apologized to Mr. Varnadore in a February meeting arranged by GAP, and created an interdisciplinary task force to investigate Oak Ridge's Analytical Chemistry Division and Mr. Varnadore's concerns.

In Washington, House Energy and Commerce Committee Chairman John Dingell and the Environmental Protection Agency have also launched investigations into violations at the facility.

In Tennessee, meanwhile, Bud Varnadore's case has empowered more whistleblowers, who have come forward to break the silence about conditions at Oak Ridge nuclear installations.

Nuclear Reform

Brain Cancer Epidemic Raises Fears in Los Alamos

Nestled between the canyons and blue skies of northern New Mexico lies the government-owned Los Alamos National Laboratory. Renowned as the scientific birthplace of the atomic bomb, Los Alamos now houses one of the largest scientific communities in the United States. Much of the activity in the dozens of laboratories that dot the forty square-mile area remains top-secret, related largely to the nation's nuclear defense program. Loosely regulated by the Department of Energy, many of the labs experiment with various and exotic radioisotopes.

David Nochumson is a mild-mannered, bespectacled engineer in his mid-40s. In March 1990, he was appointed to manage the Radiological Air Effluent Monitoring program at Los Alamos. With a PhD from Harvard and twelve years of experience in air pollution work at Los Alamos, Nochumson was a good choice for the job.

Within weeks of beginning his new assignment, however, Dr. Nochumson discovered that Los Alamos was operating its facilities in violation of the law by failing to comply with federal Clean Air Act requirements. The problems, he found, ran far deeper than a few paperwork violations: Los Alamos wasn't monitoring all of its emission stacks, and where there were monitoring devices, the equipment was inadequate. Plants emitting uranium were measured only for plutonium. Equipment was not properly calibrated. Dr. Nochumson estimated that it would require as much as \$12 million and several years to remedy the problems. By August 1990, he reported his findings and issued a corrective action plan that was approved by management.

But the funding and staffing that Nochumson requested never arrived. Months passed, and Nochumson continued to document violations in dozens of internal memoranda. In early 1991, he sought advice from a friend in the upper levels of the Environmental Protection Agency, who recommended that he report the violations. Nochumson took his advice. He urged management to report the fact that Lab reports were using 1988 data in 1990 reports—and

that the Lab's air emissions data was not rollable, nor its results defensible.

He had crossed the line. His supervisors began criticizing his efforts to document the violations. His reports came back heavily edited; critical information on noncompliance problems was deleted. He received a memo from his superiors ordering him to include only "positive factual statements, if anything" in his reports. "I created your position and I can do away with it," his supervisor reminded him. Nochumson traced the mounting harassment to the Lab's fears of negative publicity: "I think when I told them



David Nochumson and his family.

it's not just a compliance program, it's protecting the health of the public—they were concerned it could get into the papers," he later reflected.

Soon after, Nochumson was ordered to report to the Laboratory counselor's office—ostensibly for "mediation" with his supervisors over "communications problems." The counselor corrected Nochumson's misimpression: he was scheduled for a full evaluation.

By this time, Nochumson had sought and retained Carol Oppenheimer, a talented and energetic local attorney in Santa Fe. Oppenheimer brought in GAP to assist in the case. In June 1991, Nochumson filed a complaint under the Clean Air Act, which prohibits discrimination against employees who disclose violations.

Meanwhile, across town and unbeknownst to Dr.

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Nuclear Reform

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Nochumson, a local citizen named Tyler Mercier was independently documenting high air radiation emissions from Los Alamos. Mercier, a local artist, had been trained in radiation monitoring by Lab personnel. His wife works at the Lab, and he had little reason to discount the claims of Lab officials that emission levels were safe. But he grew concerned when he found that he was consistently recording higher radiation levels than those reported by the Lab.

Mercier turned to local health records, and began to document extraordinary levels of brain cancer and birth defects in Los Alamos, a town of about 18,000. On average, brain tumors occur in four out of 100,000 people in the U.S. Yet Mercier identified eighty victims of brain cancer in the town of Los Alamos. Twenty-two had suffered from primary tumors in the brain within the last four years. Eight of these individuals lived on one block. Mercier discussed his findings with several Lab scientists but drew little response. He continued his investigations, taking his information to the press and to the Department of Energy.

The story quickly drew national attention. Just as quickly, Mercier became the target of serious harassment and even death threats. His car was run off the road, and a railroad tie was thrown in front of his van while his wife was driving. On June 4, 1991, the day that Nochumson filed his Labor complaint, and a few weeks after Mercier testified before a DOE committee, Mercier's house in Texas was burned to the ground. The family renting the house from Mercier said they were called and warned to get out of the house, because it was about to go up in flames. The investigation into the incident raised further suspicions. The "investigator" was a man who had just come from the Department of Energy in New Mexico, to inexplicably "fill in" for the fire marshall in the Texas county, Mercier told GAP attorneys. The investigator has never issued a written report; he claims the fire was an accident.

GAP attorney Tom Carpenter has investigated the links between the events in Mercier's life and the findings and subsequent harassment of Dr. Nochumson: as Nochumson urged the Laboratory to report and correct its illegal radioactive air omission operations, Tyler Mercier was documenting high levels of ambient air radiation in Los Alamos, and an apparent brain tumor epidemic. "Add to the mix the direct involvement of Nochumson's supervisors in Mercier's situation," Carpenter commented, "and you have the makings of a cover-up."

The cover-up scheme, however, was unsuccessful. In October 1991, the U.S. Department of Labor ruled in Dr. Nochumson's behalf, ordering the Lab to pay him damages and rescind the memoranda. The Lab appealed the ruling; a hearing is likely this summer. Then in December 1991, the U.S. EPA filed a notice of noncompliance against Los Alamos, ordering the Lab to correct the violations within ninety days or be subject to a shutdown of operations. Yet the Laboratory maintains that Nochumson's

"communication style" affected his ability to accomplish his work assignment, and has made it clear that Nochumson is not welcome back from his present leave of absence.

Dr. Nochumson, meanwhile, is weighing his next steps. Nochumson has suffered inordinate stress as a result of the campaign of harassment and intimidation directed against him on the job. His wife passed away after a year-long bout with cancer in late November 1991. Now solely responsible for the raising of his two children, six and nine, David Nochumson is struggling to regain his footing.

GAP continues to provide him with support and legal assistance, and to press for a full resolution of the health and safety issues he exposed. Congressional and agency investigations into the violations of law and the discrimination against Nochumson continue. Both GAP and Dr. Nochumson seek nothing less than full accountability from the U.S. Department of Energy and its contractor in Los Alamos, the University of California.

GAP Wins DOE Reform

Nearly two years ago, GAP filed a formal request that the Department of Energy implement new, more effective protections for whistleblowers at DOE nuclear weapons plants. In response, the DOE issued a proposed set of regulations in March 1991, which were badly flawed. GAP, together with several whistleblowers and members of Congress, submitted formal written comments criticizing the proposal and calling for sweeping overhauls. Surprisingly, the DOE responded.

On March 8, 1992, the DOE issued new and final regulations, effective next month, which for the first time extend broad legal protections to contractor employees at DOE nuclear facilities. Most significantly, the new regulations shift the legal burden of proof to make it easier for employees to prove that they were targets of discrimination. The reform also extends workers the right not only to disclose health or safety hazards, but to refuse to engage in illegal or dangerous practices on the job.

The reform is not without its loopholes, however. Perhaps most disturbing is a requirement that employees certify that they have exhausted internal remedies provided by employers. This allows employers to identify whistleblowers in advance—and to cook up post-hoc rationales for the discriminatory act that is the subject of the complaint. In each case, moreover, the hearing will be decided not by a judge, but by an attorney assigned by the agency. The fact that the DOE controls the entire process means that the effectiveness of the reform in practice remains to be seen. Efforts by GAP and members of Congress to introduce meaningful policy reforms for whistleblower protection continue; a number of promising bills are currently making their way through Congress. For a full analysis of the new DOE regulations, please write Tom Carpenter at GAP.

Worker Safety

Reforming OSHA: The Fight for Worker Safety

A single mother of six works on a poultry plant assembly line in North Carolina. Her job forces her to repeat the same motions thousands of times a day, forty hours a week for little more than minimum wage. She is fired when she is injured. A paint crew supervisor at a Texas nuclear power plant is disabled—and out of work—after breathing asbestos-laden paint dust. A South Carolina man, working to support his family, is overcome by toxic fumes at his machinist job—then fired for reporting the health hazard.

Every day, scores of American workers risk serious injury or illness on the job. The risks they run are largely unnecessary and often illegal. Those employees have little control over their working conditions, and little information about their rights in the workplace. Faced with few economic options, they cannot quit; if they report the problems to management, they risk losing their jobs.

The federal government's answer to these workers is contained largely in the Occupational Safety and Health Act, enacted by Congress in 1970 to guard against health and safety abuses on the job. But the OSHA law's ideal of a safe workplace for all Americans, GAP has learned, has turned into a nightmarish system in which injured workers all too often face delays, neglect, or further abuse.

GAP has worked with hundreds of individual employees who have blown the whistle on unsafe working conditions over the years. They represent a wide range of occupations, from nuclear engineers to factory workers, from EPA biologists to USDA food inspectors. Yet their reports of safety violations, on-the-job injuries, employer reprisals, and the lack of government action are disturbingly consistent.

Many workers, GAP has found, are not even aware that unsafe conditions and the resulting injuries can be reported to the Occupational Safety and Health Administration (OSHA) for investigation and action—in part because employers routinely fail to comply with the

requirement that notices be prominently posted at the worksite. Rosalinda Saldana did not know she could report the extreme conditions at the Townsends, NC poultry plant—nor did she know that she had recourse when she was fired for becoming ill as a result of her working conditions. Others who are aware of their rights often choose not to report problems to OSHA, for fear of retaliation. Louis Nagy repeatedly went to his managers at Standard Plastics in Spartanburg, SC with reports about overpowering chemical fumes before finally telling several co-workers that he was going to take the problem to OSHA. He was laid off the day before filing his report.



OSHA Inspector at work.

Photo courtesy of OSHA

For over a decade, GAP has brought the case for meaningful reforms in workplace safety before Congress, the courts and the public. This year may bring a turning point in the battle for stronger worker protections. A legislative revision of the OSHA law was introduced in Congress last August, entitled the Comprehensive Occupational Safety and Health Reform Act. At the request of key congressional committees, GAP has joined other civil and labor rights organizations in providing information and expertise on the reform. In March, GAP legislative counsel Jeff Ruch and clients Linda Porter and Louis Nagy testified before the House Education and Labor Committee and the Senate Labor Subcommittee.

GAP's primary concern is the pattern of reprisals against employees who come forward to report health and safety threats on the job. Reprisal cases reported under OSHA outnumber cases reported under all other statutes combined. Yet the record of enforcement in this area is dismal. In 1990, 3526 claims of employment retaliation were filed with OSHA. The agency found in favor of employees in only three percent of cases investigated; and only one-half of one percent were judicially enforced.

GAP's efforts on behalf of individual employees reveals a pattern of deliberate delays and inaction by OSHA, designed to force workers to drop their complaints or accept less than favorable settlements. GAP client Linda Porter

continued on back page

OSHA, continued from page 11

(profiled in *Bridging the GAP*, Fall 1991 and in a recent CBS 60 Minutes piece) is a case in point. Ms. Porter detailed the deliberate exposure of unknowing workers to asbestos and toxic fumes without proper safety equipment at the Comanche Peak nuclear power plant. When Linda brought her safety concerns to OSHA, her employer retaliated by subjecting her to a staged "asbestos test" with faulty respirators. Linda not only lost her job, but now faces a lifetime of adverse health effects from acute neurotoxic exposure. Four years of diligent work on her case have yielded no action from OSHA. GAP attorney Elaine Dodge is continuing to press for a full and fair resolution of her claim.

The signal sent to workers, Jeff Ruch explains, is to keep quiet about safety violations, and to avoid speaking with OSHA inspectors at all costs. And the message has been received. Almost half of the OSHA inspectors surveyed by the General Accounting Office in 1989 observed that workers feel they would have little or no protection if they reported violations. The result is an eerie and disturbing silence in many American workplaces. Workers have refused to come forward to report unsafe conditions even when lives were at stake. In two recent OSHA investigations of fatal construction accidents, for example, no employee was willing to come forward as a witness despite the deaths of coworkers.

The proposed reform of OSHA regulations would create significant new protections for employees who report unsafe working conditions. Employees would be allowed to pursue their own claims against an employer, instead of waiting years for OSHA to decide whether or not it will take action. The bill would shift the legal burden of proof, making it easier for workers to prove that they were targeted for retaliation for blowing the whistle. The reform also clarifies the rights of workers to refuse to work in unsafe jobsites. Unrepresented workers would be empowered for the first time to control the safety conditions of their jobs: the bill mandates the creation of joint worker/management safety committees. And the measure requires sanctions for industry violators of health and safety standards.

The Comprehensive Occupational Safety and Health Reform Act will be taken up by Congress this year. GAP will continue to provide information and expertise to policymakers on this bill and other efforts to secure broader protections for workers. Fifteen years of work on behalf of individual whistleblowers have demonstrated to GAP that the battle against unsafe working

conditions will not be won one employee at a time: only serious reforms in existing law and enforcement mechanisms will finally stem the tide of worker injuries and abuses. To find out what you can do to help, contact Jeff Ruch at GAP.

WELCH, continued from page 7

quarters building. As union president, Welch testified before Congress on EPA's mishandling of asbestos removal from EPA buildings. The day he testified, he was reprimanded for being AWOL—because he had not submitted the toxicology reviews for which he lacked training.

With the aid of attorneys Mick Harrison and Richard Condit, co-directors of GAP's EPA Watch program, Welch seeks not only a remedy for the adverse actions taken against him by EPA, but also adequate protection of public health and safety: GAP and Welch are pressing EPA to adopt proper warning labels and to require that only qualified scientists perform sensitive toxicology duties. As a result of his leadership role in the union and his long service within EPA, many government employees are watching closely. The stakes are high: if EPA is permitted to punish Welch for his actions on behalf of public safety, GAP attorneys argue, then the concepts of scientific integrity, free speech, whistleblower protection, and federal environmental protection are mere fictions.

Thanks!

GAP deeply appreciates the support of our members. Together, we're making a difference. We would also like to convey our special appreciation to the foundations, individuals and organizations that have helped us during this fiscal year:

American Federation of Government Employees, Bauman Family Foundation, Boehm Foundation, Bullitt Foundation, OS Fund, Columbia Foundation, Deer Creek Foundation, Marion Eddy, Helen Eddy, Fund for Constitutional Government, Fund of Four Directions, Bernard Gimbel Foundation, Heart of America Foundation, Jauella Foundation, Helaine Heilbrunn Lerner Philanthropic Fund, Alida R. Messinger, Mary Morgan, Ruth Mott Fund, Peace Development Fund, Ploughshares Fund, Alan Rabinowitz, Rockefeller Family Associates, Rockefeller Family Fund, Sherman Foundation, Klerego and John Schumann Foundation, Phillip Stern Family Fund, Town Creek Foundation, and United Food and Commercial Workers.

The Government Accountability Project (GAP) is a nonprofit, public interest organization based in Washington, DC. GAP provides legal and advocacy assistance to concerned citizens who witness dangerous, illegal or environmentally unsound practices in their workplaces and communities and choose to "blow the whistle." Since its founding in 1977, GAP has helped hundreds of public and private employees and grassroots organizations expose threats to public health and safety and the environment. Bridging the GAP is the Government Accountability Project's newsletter, edited by Eva Bertram and Christy Law, and produced by Carl Sublett.

Government Accountability Project
810 First Street, N.E.
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For more information or to make a contribution, please contact:

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ARTICLE

TRUTH & CONSEQUENCES

Will those who expose fraud
in science be tomorrow's heroes?

BY JEFF GOLDBERG

In the 1990s, whistleblowers are being exposed to a new wave of...
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abuse in our society will be treated as genuine heroes.

During the last ten years, the ranks of whistle-blowers have increased dramatically. Recent legislative promises to encourage them by not only protecting their rights but also offering financial rewards. The media, special interest groups, and the general public are mustering support. And the growing impact of whistle-blowers may one day help to create an ethical climate in which government agencies and private corporations will be fully accountable as a matter of course. Sadly, the price of truth has so far been high for the public, as well as those individuals who speak out because their consciences won't let them remain silent. Gorko and Silkwood are now a part of our folklore, but many others who have risked their lives have remained stranded in obscurity.

The price for not breaching the truth was a national tragedy on January 28, 1986, when the space shuttle *Challenger* exploded, claiming the lives of six astronauts and a school teacher. The price for telling the truth would also prove devastatingly high for Roger Boisjoly, a senior scientist at Morton Thiokol, Inc., in Brigham City, Utah, where the shuttle's solid fuel boosters were manufactured and serviced.

Boisjoly's assigned duties included examining the boosters for damage after NASA recovered and returned them to Thiokol. What he had seen after being in January and April 1985 scared him. There were areas of lengths of blackened soot and grooves between the primary and secondary aft field seals—evidence that hot combustible gases were eroding the O-rings, rubber washers ten feet in diameter that were supposed to seal the joints of the rockets during launch. In February 1985, after the January flight mission, he stated that temperatures between 1,000 and 1,500 degrees Fahrenheit at the time of the launch could



harden the O-rings, rendering them unreliable. Boisjoly convinced several engineers and management of the potential danger of an explosion. Then, the night before the fatal *Challenger* launch, temperatures at Cape Canaveral suggested by Boisjoly's studies. But he failed in his eleventh-hour attempt to delay the launch. Under pressure from NASA, Thiokol officials capitulated. In Boisjoly's opinion, management's desire to please NASA overruled his concerns. Then, after testifying before the presidential commission investigating the disaster, Boisjoly was demoted.

Chuck Atchison also paid a high price for blowing the whistle. In 1977, when he started working as a safety inspector at the Comanche Peak nuclear power plant in Glen Rose, Texas, Atchison believed so adamantly in safe, clean nuclear energy that he was reluctant to sign *The China Syndrome* two years later. He thought the sorts of life-threatening problems presented in the movie could never happen.

The near meltdown at Three Mile Island that same year convinced Atchison of the need to be more careful, and in 1982, he exposed safety infractions at Comanche Peak so serious it took until September 1989 to correct them. The public was fortunate. Other plant workers came forward with safety concerns, and the local community organized in their support. The plant's owner, Texas Utilities, and Atchison's employer, the Brown and Root construction company, have invested \$4 billion since 1984 to insure the plant's safety when it finally started up this year.

For Atchison, however, the intervening years were hellish. Although Brown and Root declines comment, Atchison claims the company tried to brand him as a "troublemaker" and blames it for his subsequent



quent difficulty. In finding comparable work. Faced with mounting debts, he and his wife sold their house and moved into a trailer. During the darkest days Atchison earned a living collecting beer cans along the highway and selling them as scrap. More disturbing, as the Comanche Peak licensing debate turned into a long, bitter struggle, he began receiving anonymous threats each time he was to testify. Having told the truth, Atchison now feared for his life.

Atchison and Boersly aren't alone in their experiences, according to psycho-therapist Donald Spoken and his statistician wife, Karen. In their 1987 survey of whistle blowers they found that 84 percent of those who had worked in private industry had been fired. In government agencies, where red tape makes it more difficult to fire an employee outright, 75 percent were demoted. The vast majority of whistle-blowers, moreover, reported harassment, including having their telephones bugged and their activities monitored. And the consequences of their actions go beyond the workplace. Whistle-blowers have experienced financial upheavals, divorce, and deteriorating physical and mental health during the average three to five years it took to resolve their cases. Yet 64 percent of all those surveyed, without hesitation, said they would take the same action if similar circumstances arose again.

Most whistle-blowers have been able to rebuild their careers, though for many the transition has been difficult. "The more flexible they are—if they're willing to find new careers, if necessary, instead of staying with what they've done, for instance—the better they make out," Spoken says. "Blowing the whistle still often means committing 'careericide.' It's a high cost, especially when it's the person who cheated or was responsible for wrongdoing who should pay. But so far that hasn't



stopped people from speaking out, and it never will."

Rebuilding shattered lives may not be easy, but most former whistle-blowers view their experiences as personally positive in terms of self-esteem. NASA demoted aerospace engineer Bill Bush after he protested NASA's management to the media. Today, however, he waxed philosophical about the impact of being a whistle-blower on his life. "During my life of sixty years I took more than I was willing to give. I missed many opportunities to be of service to others because of my twin rules: 'Don't rock the boat' and 'Me first.' As a consequence I became a rudderless ship in a purposeless journey to no place. Then in 1974 and 1975, when I publicly criticized my federal employer, I abandoned my cardinal rules forever. Only since then have I made any favorable progress toward balancing my deplorable take-and-give tally sheet."

Above all, it is the conviction and determination to see justice done, even at the risk of extreme personal hardship, that has begun to transform whistle-blowers' painful experiences into a force for ethical change in America. Even so, those who choose honesty over loyalty confront an institutional juggernaut that often mirrors one in a state of war, emphasizing a closing of the ranks.

Prevailing attitudes in large corporations and government agencies have



Left hand page, top: Roger Boersly, warned NASA of potential problems for the space shuttle Challenger and says he was branded a troublemaker. Bottom: After revealing the truth about huge cost overruns by military contractors, Ernest Fitzgerald was fired. Right-hand page, top: Lawyers for the GAP organization like Billie Gerde, provide legal aid to protect whistle-blowers' rights. Bottom: Hard to examine government-employed troublemakers, Donald Spoken ended up blowing the whistle on the very same project.

been so restrictive that one government whistle-blower comments, "*E pluribus unum* may be emblazoned on our nation's official seals, but the motto 'Don't make waves' is enshrined in the heart and mind of every right-thinking civil servant." As a result, whistle-blowers have been shunned as malcontents, loose cannons, and misfits even after such wrongs as Watergate, Three Mile Island, thalidomide, and the Dalkon shield stirred widespread outrage over government and corporate misconduct, especially where public safety and environmental issues were concerned. Though they were invariably the good guys, the ones sounding the alarms on dangerous and illegal activities have suffered the worst personal damage, the most outrageous injustices, while those responsible for wrongdoing have escaped almost unscathed. "Deep Throat," the ultimate whistle-blower, who helped to bring down a president, may be the lone exception.

Lately, however, this has begun to change as whistle-blowers join ranks with lawyers, legislators, and other concerned individuals in networks of mutual support. The process was set in motion ten years ago by Bill Bush. Although he got his civil service rank and salary restored after three years of appeals, Bush was given a windowless office and a job without responsibilities. With little else to do, he began clipping newspaper and magazine accounts of others who'd had experiences similar to his own. Eventually he compiled a file that would become a central data bank, in an effort to organize what has become a kind of Underground Railroad for whistle-blowers in their efforts to escape retaliation and gain vindication. His list of names now numbers more than 8,500.

For many whistle-blowers, the first refuge they find is at Soeken's home office in the suburb of Laurel, Maryland. They typically arrive with suitcases full of documents, weighted down with the physical burden of having to prove they're telling the truth. Their experiences vary but have inevitably left them in a state of shock. "They've been fired, demoted, or harassed for doing what they thought was the right thing," Soeken says. "When they come to me, these people are burning in a furnace and they are usually screaming in pain. I pull them out of that furnace and put the fire out. Then I redirect the pain—back onto the people who caused it in the first place."

In the process of helping whistle-blowers, Soeken became one himself. In 1978, as a U.S. Public Health Service employee, Soeken administered mandated "fitness for duty" exams to government employees who supervisors alleged were mentally incompetent. "The majority of the people ordered to take the exam were whistle-blowers, who had been branded as people with an authority problem, hostile," Soeken recalls. "Yes, they *did* have problems with authority, and yes, they *were* hostile, but it was because of what happened to them."

In 1984 he testified as a key witness at congressional hearings that eventually led to abolishing such exams for federal employees.

Since then Soeken has been devising coping strategies, exercise regimens, and relaxation techniques to relieve stress and help get whistle-blowers back on their feet. In the sanctuary of his den or in the seclusion of the Whistle Stop, a ten-room house he maintains for his clients in the mountains of West Virginia, Soeken encourages them to tell their stories in detail. "Once they confirm aloud that what they did was right, they start getting angry," he says. "The next step is to get them a good lawyer."

In the fight to win legal rights and protections for whistle-blowers, Washington, DC, attorney Louis Clark is the man who has most often championed their cause in court and on Capitol Hill. In 1978 the former Methodist seminarian joined the Government Accountability Project (GAP), a citizens' group that provides free legal aid to whistle-blowers. One of his first clients was Soeken, who sought advice on how to blow the whistle on the government's misuse of psychiatric exams. Since then Clark, now GAP's executive director, has counseled thousands of whistle-blowers and has organized a crack legal team to work in their behalf.

Until recently, according to Clark, the whistle-blowers' dilemma was made more difficult by the lack of clear-cut legal protections or procedures for fighting back. "Employees simply haven't had the freedom to dissent or blow the whistle on products, processes, or procedures," Clark says. "The free speech protections of the Constitution do not apply to private industry. Instead, employers have the common-law right to fire employees at will."

Within government agencies, constraints against speaking out are supported by judicial opinions dating

back to Oliver Wendell Holmes. A public servant, Holmes said, "may have a constitutional right to talk politics, but he has no constitutional right to be a policeman." Commenting on the Ernest Fitz-

gerald case, then Assistant Attorney General William Rehnquist, now Chief Justice of the U.S. Supreme Court, concurred. "A government employee is seriously restricted in his freedom of speech," he argued. "One simply cannot work in serving the Air Force or any other organization and then expand other efforts in tearing it down."

In 1968 Air Force cost analyst Ernest Fitzgerald identified \$2 billion in cost overruns on the Lockheed C-5A transport plane. With most officers retiring in their early forties and looking to the weapons industry for second careers, the Pentagon had an unwritten policy that allowed military contractors to routinely add huge markups and overhead expenses to already steep costs. So it was not surprising that Fitzgerald's superiors retaliated—reassigning him to auditing bowling alleys in Thailand. After he testified about the C-5A before a congressional committee in 1969, Fitzgerald was fired—on Richard Nixon's direct order to "get rid of that son of a bitch," the Watergate tapes later revealed. In 1974, after an exhausting court battle, Fitzgerald was reinstated by the Air Force. Although his victory made him a hero to other whistle-blowers—or "ethical dissenters," as Fitzgerald prefers to call them—it had cost more than \$500,000 and five years of his life for what he describes as the crime of "committing the truth."

Thanks in great part to the efforts of GAP attorneys, some progress has been made toward rectifying whistle-blowers' lack of legal protection. With California leading the way, 26 states have instituted exemptions to the discharge "at will" doctrine, allowing employees to sue their employers for harassment or wrongful dismissal. In the mid-Seventies, Congress passed laws governing nuclear power and weapons, food inspection, environmental protection, and the pharmaceutical industry. They all contained provisions to safeguard whistle-blowers who might possess information crucial to the public's health and safety.

Congress also drafted legislation to protect government whistle-blowers in the wake of widespread media coverage of Fitzgerald's unanticipated Supreme Court victory. Though the mandate from Congress made it clear that

whistle-blowers exemplified "loyalty to the highest moral principles" and deserved a "vigorous protector," the 1978 Civil Service Reform Act was disastrous for their cause. Fitzgerald dubbed it the "Civil Service Deform Act."

The Civil Service Reform Act created the Office of the Special Counsel (OSC), responsible for giving whistle-blowers a fair hearing and, if necessary, for demanding corrective action by the appropriate government agency. If the employee had been demoted or fired as a result of his or her actions, the OSC was to take the case to the Merit Systems Protection Board, a three-judge panel that functions as a civil service appeals court. The result was an unwieldy bureaucratic maze that served to strip government whistle-blowers of their right to press their own cases in court. "Whistle-blower protection provisions in the Civil Service Reform Act were so weak they were almost laughable," Clark says. "We couldn't find anybody who would actually be helped by it, and we soon found ourselves fighting against the act."

During the Carter administration, an understaffed, underfunded team of OSC lawyers struggled to make the cumbersome new system work. Under the Reagan administration, however, the record was one of obstructionism. According to affidavits and testimony at special counsel Alex Kozinski's judicial confirmation hearings (cited in the *Howard Law Journal* and cowritten by GAP legal director Thomas Devine), Kozinski nitpicked OSC legal briefs for minute grammatical errors. He also issued a gag order to the agency's public relations officer. Moreover, he taught seminars to federal managers, instructing them on how to fire whistle-blowers without running afoul of the OSC. "It was like the FBI teaching criminals how to rob banks," Clark says. Within a year,

nearly 50 percent of the OSC staff had quit, not to be replaced.

During the Reagan era there were only four legal rulings that the whistle-blowers' defense statute had been violated, and 99 percent of the thousands of people who sought the agency's help were turned down. Their names were routinely turned over to their agencies, often leading to further retaliation. "Whistle-blower protection under the ODO was a cruel hoax," Buckner says. "People were pummeled to death before they were quietly gotten rid of." Encouraged when the original provisions were passed in 1978, federal

employees now reported decreased confidence in their freedom of speech, increased fear of reprisals, and an overall reluctance to report misconduct.

It took the *Challenger* disaster to galvanize public support for whistle-blowers into meaningful legislation. In May 1988, during open hearings before the presidential commission, Roger Boisjoly and another Thiokol engineer, Allan McDonald, revealed that they had been demoted following their previous testimony. But the aerospace company's managers—who had actually approved the fatal launch and covered up by denying any advance warning of danger—had not been disciplined in any remotely comparable way.

"Virtually overnight, the aftermath for those who told the truth about the shuttle explosion shifted the entire American ethic on the subject of whistle-blowers," Clark says. "The public was outraged. GAP was suddenly swamped with calls from whistle-blowers who wanted to come forward, from the press, and from people offering their help. Members of Congress with their ears to the ground jumped on the issue."

Thiokol eventually returned Boisjoly and McDonald to their former positions. McDonald served as the spokesman for the company's \$500 million effort to redesign the shuttle's safety seals, but for Boisjoly, the return of his responsibilities was accompanied by mounting frustration. He says he was told that he had done more harm by telling the commission what had happened to him than in all his previous testimony. "Even though I was supposed to be doing important work on the redesign," he says, "I was ignored, frozen out of the decision-making process. Finally, it became excruciating to report to work." Boisjoly began an extended sick leave in June 1988 and the following year went on long-term disability for two years.

The outcome of the *Challenger* affair, however, produced two important pieces of legislation to protect and even reward whistle-blowers. Under the Whistle-blower Protection Act, employees who had been demoted or fired during the appeals process would be reinstated in their previous positions at the

same salary, retroactive to the date of their firing or demotion. More important, the new law allowed whistle-blowers to sue the OSC directly and use CAP or other legal counsel to litigate in court on their behalf. But in October 1988, shortly before he left office, Reagan pocket-vetoed the measure by

refusing to sign it after Congress adjourned for the upcoming election. Among the reasons cited by Attorney General Richard Thornburgh for the President's unexpected action: The bill did not adequately protect an employer's ability to discipline or fire non-whistle-blowers. The new Congress redrafted the bill and sent it to George Bush, who signed it in April 1989.

The other measure passed in the wake of the *Challenger* disaster went further by providing cash rewards to whistle-blowers in cases of fraud by government contractors. Ernest Fitzgerald had long argued for a "bounty hunter" law like the 1988 False Claims Act. A revision of a Civil War-era law aimed, for example, at punishing sellers of adulterated gunpowder, the measure permits whistle-blowers to file lawsuits against wrongdoers, and it also guarantees them 10 to 30 percent of any awards of damages.

In June 1989 the first major case to test the False Claims Act resulted in a \$14 million settlement by Industrial Technics, a Michigan firm accused of overcharging the Air Force and the Navy for ball bearings. George Butenkoff, the former employee who allegedly blew the whistle on the fraudulent activities, collected \$1.4 million as his share of the out-of-court settlement.

The False Claims Act has so far survived defense contractors' challenges to its constitutionality. Of some 100 False Claims suits filed so far, the Justice Department has selected 14 for further action, including cases in which Northrop, Singer, and Lockheed have been accused of inflating and falsifying costs totaling more than \$100 million. Provided the courts continue to uphold it, the False Claims Act is expected to create a ground swell of whistle-blower activity. Once a few cases produce big rewards, says John Phillips, a Los Angeles attorney who helped draft the bill, public interest "will explode like the appeal of the lottery."

The Cavallo Prize, a private fund established by money market manager Michael Cavallo, also rewards whistle-blowers. This year's winners included Boisjoly, who shared one \$10,000 award with Richard Cook, a former NASA budget analyst who compiled a financial report that NASA allegedly refused to heed. Awards of \$10,000 each also went to Pauline Ewell, a Virginia state employee who exposed the state's purported laxity in handling toxic waste disposal; and John Shannon,

a nuclear physicist who reported alleged safety problems at the Knowles Atomic Lab in Schenectady, New York.

Public support for whistle-blowers has been most clearly voiced in the Industrial Tectonics case and in jury decisions that awarded large settlements to harassed or wrongfully discharged whistle-blowers. "Getting a case to a jury makes a world of difference," Clark says. "Jury decisions are where the people get to vote on whistle-blowers, and they're sending a strong message to those in power: Tell the truth or pay the price." In one recent Kentucky case, the jury awarded two former Ashland Oil executives, William McKay and Harry Williams, \$69.5 million in damages for being fired after protesting illegal payments by Ashland to Mideast middlemen for crude oil during the Arab oil embargo. Rather than going through the appeals process, Ashland and the former executives agreed to a settlement of \$25 million.

GAP attorneys have won more than \$7 million in settlements for their clients. That includes \$530,000—the largest ever in a civil service suit—on behalf of Bertrand Berube, who was fired by the government's General Services Administration when he publicly protested the unsafe conditions of many of Washington's federal buildings.

As whistle-blowers continue to grow in number, so does their strength. Victories in Congress and the courts have been accompanied by organizing efforts by whistle-blowers to form community support groups and develop tactics to avoid retaliation. In the nuclear power and weapons industry, in particular, employees have successfully banded together to disclose their shared safety concerns without the risk of retribution that often befalls isolated individuals. Last September, following anonymous tips from workers at the Rocky Flats nuclear weapons plant in Colorado, a full investigation disclosed that enough plutonium had escaped into the facility's air ducts to cause an accident. Corrective measures have been taken and no known employees have been harassed or fired.

Only about 20 percent of all whistle-blower cases have resulted in wrongs being righted. Enough progress has been made, however, to convince sociologist Myron Glazer that whistle-blowers are at the forefront of "a nascent social movement tied together by a common ideology of accountability, leaders who articulate its goals, and organizations committed to implementing strategies to bring about reform."

While far from universal, the corporate response has evidenced a significant shift away from the "win at all costs" mentality. Ethics codes have been adopted by Dow Corning, Standard Oil, and other business giants. Om-

budsman positions to field employee complaints about safety, misconduct, and other ethical issues have been created at Martin Marietta, General Dynamics, and other companies. And ethics courses are being emphasized at Harvard and other universities' business schools. Soeken's advice to businessmen: "If you have a person with information that your product is defective, the best response is to give him or her a thorough hearing. It may not be an approach that shows short-term returns, but in the long run, it can save companies millions in damages if something goes wrong later."

Government agencies have been less forthcoming. Though the Bush administration has made ethics an issue by appointing a presidential commission to investigate misconduct and abuses of authority within the government, employees in the executive branch have been discouraged from speaking out. A series of presidential gag orders threaten those who disclose information to the media or Congress with the loss of security clearances.

The articulate and frascible Fitzgerald continues to protest executive gag orders that restrict federal employees from disclosing any information without permission from a clearance officer. In 1987 he refused to sign a Reagan administration order that would have prevented him from informing Congress about his work. Only the support of Congress kept him from losing his security clearance. He also refuses to comply with George Bush's "kinder, gentler gag order." Again Congress so far has backed his stance. Meanwhile Fitzgerald continues to speak out against the formulas used by the Pentagon to add excessive markups and overhead to manufacturers' prices, and what he bluntly calls the "CYA" ("cover your ass") mentality throughout the government bureaucracy. Try as they might, neither the Pentagon nor the White House has yet found a way to shut Fitzgerald up.

Former whistle-blowers have also gone on to become activists in the struggle to protect other whistle-blowers and to ensure that their voices are heard. Bolsjoly was recently licensed as an engineering consultant, which will allow him to conduct investigations and testify as an expert witness in cases involv-

ing safety negligence. He also addresses engineering students about his experience. His advice, should they find themselves in a similar position: "Press the issue so hard they can't ignore you."

As a temporary Muskogee, Oklahoma, Census Bureau employee, Billie Garde reported her boss for sexual harassment and other improprieties. He was later indicted for conspiracy to defraud the U.S. government and for improper political activity; he pleaded guilty to six counts and was sentenced

to a year in prison. Garde went on to earn a law degree and work for GAP. In 1987 she took on the Nuclear Regulatory Commission (NRC), which was demanding the names of 56 South Texas Nuclear Project workers. The whistle-blowers had registered more than 600 safety violations at the plant and now feared the NRC would turn their names over to their employer. After a yearlong court battle, a U.S. district court ruled that the constitutional freedoms of the workers took precedence over the NRC's demands.

More recently Garde successfully represented a citizens' group composed of Comanche Peak nuclear plant workers and members of the local community. The power plant had been shut down for a decade, plagued by numerous challenges. The citizens' group agreed to drop its lawsuit blocking the facility's license in exchange for citizen input on plant operations, including access to safety inspections and the appointment

of one member of the group to the Operations Review Committee. "At Comanche Peak many plant workers became whistle-blowers in order to make the plant safer," Garde says. "The public backed them up and finally management had to accept us. It was that or suffer more delays costing billions of dollars. As a victory for whistle-blowers, the case is unprecedented."

While it may be years before arrangements to ensure accountability and public safety become commonplace, one thing is certain. Giving honesty precedence over blind loyalty and ambition, whistle-blowers will continue to speak out against wrongdoing in government and industry. The price of their telling the truth need never again be personally or professionally devastating—provided lawmakers, the media, and especially the public continue to back them up. Whether or not they are regarded as heroes in the future, they need not be its casualties. □

Alyeska Pipeline Service Criticized By an Ex-Inspector

By ALLANNA SULLIVAN

Staff Reporter of THE WALL STREET JOURNAL

Lack of quality control at Alyeska Pipeline Service Co. has left the Trans Alaska Pipeline vulnerable to deterioration and mishap, according to an affidavit filed by a former quality control inspector from that company.

Glen Plumlee, the inspector, charges that the welding program on the pipeline is in a state of confusion and that some of the welding during initial construction of the pipeline has never been properly evaluated. It seems that tests to evaluate the credibility of the ultrasonic procedure used at the time to test some of the welds were faked, he alleges.

In addition, pressure vessels have been uninspected for over a decade, leaks and vapor losses exist without regard for damage to the environment or worker health.

But possibly the most serious problem, Mr. Plumlee says is that as a result of shoddy quality control "no one knows the actual condition of the pipeline."

The pipeline carries crude oil produced on the North Slope of Alaska to a terminal in Valdez where it is loaded onto tankers for shipment to the lower 48 states. One-quarter of the nation's oil supply is shipped to market via the pipeline.

Mr. Plumlee, who has 18 years of experience as a quality control inspector, was fired from his job with Alyeska in November after he refused to accept a cut in pay and a demotion, he says. He has filed a complaint with the Labor Department and an affidavit with certain U.S. lawmakers, including Congressman John Dingell (D., Mich.), detailing what he believes are safety and quality control problems at Alyeska.

He is being represented in his actions by the Government Accountability Project and the Hamel Environmental Accountability Project. Both groups provide help to whistle-blowers. Thomas Carpenter, an attorney representing the two groups, was "especially critical of Alyeska's harassing, intimidating and interfering with the professional responsibilities of the pipeline inspectors." Mr. Carpenter said such harassment in the nuclear industry is considered criminal.

A representative of Congressman Dingell says the documents provided by Mr. Plumlee yesterday are being reviewed. All he could say for the moment is "the allegations are serious."

Mr. Plumlee also charges that inspectors at Alyeska have been intimidated and harassed as they tried to do their jobs. As a result, some have quit and others have been fired, including him. The former inspector says that he provided a file of documents outlining safety and technical problems within Alyeska to the company's legal department, but it was returned to him without comment or instructions.

William Howitt, vice president of engineering who oversees quality control for Alyeska, said in an interview that he is confident that Alyeska and government officials know exactly what's happening on the pipeline. "That no one knows the condition of the pipeline is untrue," he said.

Problems with the pipeline aren't new. Within the last few years, massive corrosion along the 880-mile length of the pipeline was discovered. A huge piece of pipe at Atigun Pass was just replaced last spring.

Alyeska, in Anchorage, Alaska, is a consortium of seven oil companies which includes Atlantic Richfield Co., British Petroleum Co. and Exxon Corp.

METRO

TUESDAY, March 17, 1992

ANCHORAGE DAILY NEWS

SECTION B

Ex-Alyeska inspector complains to D.C.

By KIM FARARO
Daily News business reporter

A former Alyeska inspector has filed a sworn affidavit with Congress alleging that Alyeska Pipeline Service Co. has consistently ignored possible safety and environmental problems pointed out by him and other inspectors over the past three years.

The ex-employee, Glen Plumlee, also alleged that the company regularly harassed its inspectors to discourage them from reporting

problems along the trans-Alaska pipeline and at the giant Valdez tanker terminal. He said, for example, that the company ordered him to visit its mental health clinic after he became outspoken about his complaints.

"The management of TAPS (the trans-Alaska Pipeline System) has deliberately sacrificed its own system of safety-related checks and balances in favor of profit," Plumlee stated in the affidavit.

Alyeska Vice President Bill Howitt on Monday denied Plumlee's harassment charges. He also said he had investigated Plumlee's technical complaints last year after the inspector requested a meeting with him.

"(Plumlee's complaints) haven't gone away or gotten buried," Howitt said. "They've either been addressed or are being addressed."

The key to the dispute between Plumlee and the company is that they inter-

pret the company's quality manual differently. The manual says inspectors should sign off on problems they raised if they believe the action taken is "appropriate."

Plumlee said he interpreted that to mean that he had to agree with whatever action was taken. Howitt said the decision on how to address problems is supposed to be resolved by company engineers who design Alyeska's equipment, and the inspector is merely sup-

posed to acknowledge that the engineers made a ruling.

Howitt said Plumlee's complaints were based on the fact that he "elected to disagree" with company procedure allowing engineers the final say.

Plumlee has provided his affidavit to Rep. John Dingell, D-Mich. and head of the House Energy and Commerce Committee, which has jurisdiction over Alyeska's activities. Dennis Fitzgibbons, a committee spokesman, said the affidavit and

supporting documents have been passed on to committee investigators. Fitzgibbons said the investigators need to determine if the allegations are true before the committee would consider taking any action.

The affidavit was compiled and distributed to Congress and the press with the aid of the Hamel Environmental Accountability Project, a non-profit group recently established by

Please see Page B-2, PLUMLEE

PLUMLEE: Ex-Alyeska inspector sends gripe to Congress

Continued from Page B-1

outspoken Alyeska critic Chuck Hamel.

Alyeska operates the pipeline and terminal for its seven oil-company owners.

Inspectors are one of the company's defenses against shoddy or negligent construction and maintenance work. They are supposed to watch over construction and repair crews and ensure the work they do meets company guidelines and industry codes. The codes are designed to ensure that equipment poses no threat to workers and is structurally sound.

Plumlee was one of about five top-level inspectors until last November, when he was fired because he refused to accept a job that would have cut his take-home pay, Howitt said. Plumlee says he and other inspectors were offered the new assignment as punishment for bringing up problems; Howitt says the company decided the new jobs would make more efficient use of inspectors' time and that the pay cut reflected the fact that they would no longer have to put in mandatory overtime.

In his affidavit, Plumlee claims the company ignored many inspectors' warnings, including those on:

- An insulating flange meant to prevent explosions near the tankers. The flange is located on one of the loading arms used to transport crude to tankers and is designed to resist electrical current that might flow from the tanker and possibly ignite fumes. Plumlee said the flange did not pass a test designed by company engineers to show that it successfully blocked enough of the current. He said engineers approved use of the flange anyway. He cannot recall if he signed off on this, but said if he did it was "under duress."

Howitt said an engineer allowed the flange to be used because he determined it was safe.

- Electrical systems, including a large piece of equipment at the Valdez terminal called a gas dehydrator. Electrical inspectors told the company that the conduit carrying the power lines to run the machinery had been improperly grounded. They worried that if there were a short circuit, a worker who touched the pipe could be electrocuted.

The company provided documentation it said proved the conduit was grounded properly, but Plumlee said the electrical inspectors did not agree that it was sufficient proof.

Howitt said he was not familiar with that case and could not comment.

- Pressure vessels, which Plumlee said hold naphtha, pressurized air and other substances, and can blow apart if weakened by corrosion. An inspector warned the company in a report last July that it was not examining the tanks frequently enough, which would violate state law.

Howitt said — and Plumlee acknowledged — that the pressure vessel report was compiled at the direction of the company's quality control chief, and that the company was checking to see if it had violated the law and needed to change its inspection program. Plumlee said, however, that the company had earlier ignored inspectors' complaints on the tanks and that he would believe they were taking it seriously when he saw a completed inspection program.

In addition, Plumlee said he sometimes witnessed corrosion repair crews on the pipeline doing shoddy work that could lead to more rusting in the future. For instance, he said, workers did not always clean the pipe properly before applying coating and taping designed to keep out moisture.

Sections of the pipeline, which stretches from the North Slope oil fields to Valdez, are plagued with corrosion caused by the premature failure of the original coating.

Plumlee said he did not report the corrosion-repair problems because he was overseeing inspectors at the time instead of working as an inspector. He said the inspectors had previously been harassed and were too fearful of losing their jobs to file reports.

In his affidavit and in interview, Plumlee said such harassment was not uncommon from both workers in the field and from Alyeska management.

Plumlee said the managers balked at inspector complaints because repairs could slow work and throw off construction budgets.

He also attributes his forced visit to the mental health clinic to his outspokenness.

Alyeska said it could not comment on that charge, even to say if Plumlee was forced to go, because company policy dictates that such visits are confidential.

He also included documentation with his affidavit

that showed yet another inspector had complained about intimidation on the job.

In a complaint addressed to an Alyeska lawyer, Chuck Bidy claimed that a Valdez terminal manager had told him he would break his arm if he continued to write up what Bidy believed were violations of company policy and code. Alyeska spokeswoman Marnie Isaacs said she had been unable to reach the attorney to confirm she had received the letter.

Bidy still works at Alyeska and would not comment on the letter.

In addition to his affidavit, Plumlee has filed a complaint with the U.S. Department of Labor that alleges he was forced out of the company because he raised safety concerns, and that demands his job back.

765-549-c 517

Ex-inspector says firm faked safety tests of Alaska pipeline

By William P. Coughlin
GLOBE STAFF

The 800-mile Trans-Alaska pipeline may be in a weakened condition because its owner faked or ignored quality control tests, a former company inspector said.

The pipeline, which carries 25 percent of the nation's crude oil, was built under a congressional mandate in 1976 and is operated by Alyeska Pipeline Service Co. at Valdez, Alaska. Alyeska is a consortium of seven oil firms, led by Exxon, British Petroleum and Arco.

According to an affidavit signed by R. Glen Plumlee of Anchorage, a former quality control inspector for Alyeska, and filed yesterday with chairmen of three congressional committees, the crucial line "has numerous hardware deficiencies."

Plumlee charged that pipeline management "deliberately sacrificed its system of safety-related checks and balances in favor of profit" and management "systematically attempted to circumvent government mandated quality assurance requirements." The most serious problem, the former pipeline inspector said, "is not technical defects and missed inspections... it is the fact that no one knows the actual condition of the pipeline. The welding program is in a state of confusion, pressure vessels have been uninspected for over a decade, leaks and vapor losses are allowed to exist without regard for their impact on the environment or workers' health."

"I am extremely concerned about... the potential for environmental disaster, and possibly loss of human life if there were a failure with the pipeline system."

Plumlee's statement was delivered to Bennett Johnston of Louisiana, chairman of the Senate Energy and Natural Resources Committee; George Miller of California, chairman of the House Interior Committee and to John Dingell of Michigan, chairman of the House Energy and Commerce Committee.

The statement was delivered through a nonprofit organization in Virginia, the Hamel Environmental Accountability Project, headed by Charles Hamel, a widely known oil industry critic.

Plumlee is represented by Hamel's organization and the Government Accountability Project in Washington. Both groups help whistleblowers and have provided Plumlee with legal help.

The three Congressional committees have oversight over the pipeline. Dingell's

former House subcommittee held hearings in 1976-78 to probe allegations of X-ray substitution and falsification of pipeline welds.

The oil industry had promised Dingell's panel it would obey all federal and state regulations in maintaining the pipeline, and rectify the shortcomings.

Yesterday, Dingell said through a spokesman: "We regard these new allegations as very serious. New oversight hearings on this matter are not out of the question."

Bill Howitt, vice president of engineering for Alyeska, who manages Alyeska's quality control program, denied Plumlee's allegations in a telephone interview yesterday.

He said Plumlee was "terminated" in November after refusing a job "promotion," although Howitt conceded the job would have taken him out of the field, and meant less

take-home pay. Plumlee said he was "intimidated and then terminated. They did not want me in the field finding problems."

In his affidavit, Plumlee asserted that:

- X-rays of welding on the pipeline have been faked.

- Leaks and vapor losses endanger the environment and workers' health.

- Management instructed inspectors to "ignore, undermine and/or deceive state and federal regulators" on tests.

- Laxity and negligence by the Interior Department's Bureau of Land Management and the Department of Transportation's Office of Pipeline Safety contribute to the situation.

- Alyeska "blacklists" inspectors who are not "team players" and tries to pressure them to disregard laws... so repairs can be made under budget and on time."



Aristide levels intense attack on army chief

WASHINGTON POST

WASHINGTON - Haiti's exiled president, Jean-Bertrand Aristide, yesterday denounced Lt. Gen. Raoul Cedras, commander of the Haitian



UPce 10-Mar-92 07:29:00

Engler supports health-fraud 'whistleblowers'

LANSING, Mich. (UPI) -- Gov. John Engler wants to reward people who blow the whistle on crooked medical professionals.

A report in Tuesday's Detroit News said the governor will ask state lawmakers to create a "Health Care Fraud Strike Team" to combat growing medical fraud that's costing the system \$2.5 billion a year.

The team would investigate fraud in the medical field, particularly inflated or outright bogus claims to insurance carriers. Recent estimates suggest that nearly \$1 of every \$10 spent on health care nationally is fraudulent.

Under Engler's plan, the proposed anti-fraud unit could pay cash rewards of up to 10 percent of any money recovered by the state from convicted offenders. The unit will be composed of a combination of current regulatory boards, investigators from the Attorney General's office and others.

Engler is scheduled to outline his plan Wednesday at Detroit's Hutzel Hospital.

APn 28-Feb-92 03:55:00
Harassment-Whistleblower

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By BOB EGELKO

Associated Press Writer

SAN FRANCISCO (AP) -- In a ruling offering protection to "whistleblowers," the state Supreme Court upheld a \$1.3 million judgment awarded a man who said he lost his job for reporting another employee's sexual harassment charges.

Vincent Gantt, who said he was pressured into resigning after he stood up for the fellow employee, was effectively fired in violation of "fundamental public policy," the court ruled unanimously Thursday.

"Few employees would cooperate with such investigations if the price were regulatory discharge from employment," the court said in an opinion written by Justice Armand Arabian.

But in a separate 5-2 vote, the court narrowed somewhat the grounds recognized by lower courts for finding a firing to be in violation of "public policy." Such a finding allows a worker to sue for emotional distress and punitive damages.

A public policy violation must be based on some state law or constitutional provision, because those are the policies that employers should be aware of, the court said.

Gantt, a former sales manager for Sentry Insurance Co. said one of his subordinates, Joyce Bruno, complained to him in 1980 that another supervisor was sexually harassing her.

After he told his superiors, Gantt said, he was pressured to retract his statements, began receiving poor performance evaluations, was demoted to salesman and was denied access to accounts he needed to do that job until he quit in 1983.

He said a company lawyer also told him not to cooperate with a state investigation of Bruno's charges and later told the state investigator it was actually Gantt who harassed her.

Sentry said the company's lawyer only gave Gantt the advice that was ethically required in such a situation -- to answer only questions asked and volunteer nothing -- and never pressured him to lie.

Bruno, who was fired, filed a complaint with the state Department of Fair Employment and Housing that has since been settled.

WP 05-Mar-92 21:00:00

2 Pension Funds Target Firm's Executive Pay; ...

2 Pension Funds Target Firm's Executive Pay; Calif. Trustee Warns
Champion International
By Robert J. McCartney
Washington Post Staff Writer

NEW YORK, March 5 - California's two principal state pension funds signaled today that they will vote their stock against the directors of Champion International Corp. to protest its compensation levels and an attack by the company's chairman on a critic of his pay package.

California State Controller Gray Davis, who is a trustee of both pension funds, announced that he would recommend the move unless the company addressed shareholders' concerns about its pay policies in light of Champion's relatively poor performance in recent years.

Sources said both funds - the California Public Employees' Retirement System (Calpers) and the State Teachers' Retirement System (Calstrs) - were sure to vote against the directors unless the company took dramatic action to reduce the pay of Champion Chairman Andrew Sigler. His compensation for 1990 included \$1.24 million in cash, plus stock options that some analysts valued at \$2.25 million.

"Directors of poorly run companies should not reward management while shareholders suffer," Davis, who is campaigning for the Democratic nomination to run for the U.S. Senate, said in a press release.

The trigger for the funds' decision to target Champion was a threat by Sigler's lawyer to take legal action against Graef S. Crystal, a well-known executive pay critic, who repeatedly listed Sigler as one of the nation's most overpaid executives. Crystal has worked as a consultant on executive pay for Calpers, which is the nation's largest public pension fund.

"We are witnessing a campaign of corporate intimidation against a whistle-blower who sounded the alarm against excessive compensation," Davis said.

Champion responded with a statement saying that Davis had "misconceptions and concerns about the company's compensation policies, which will be addressed thoroughly and promptly." It said its executive pay is tied to performance, and that the company had taken no action to "silence" Crystal.

Technically, the two pension funds' move is only symbolic, because together they own only a little more than 1 percent of Champion's stock.

But experts on corporate governance said the step was potentially significant because of the warning it sends to corporate boards of directors. In the current climate of controversy over executive pay, directors who never worried about the matter are suddenly likely to face unfamiliar shareholder pressures over it.

"This incident demonstrates the underlying problem of the failure of boards of directors to hold managements accountable for pay for performance," said John H. Nash, president of the D.C.-based National Association of Corporate Directors.

In addition, the California funds' move appeared likely to prompt other big institutional investors, especially public pension funds, to join in voting against Champion's directors.

"When a fund as prominent as Calpers announces that it is going to use the most popular mechanism of the year, voting 'no' on directors, on the most popular issue of the year, executive compensation, against one of the least popular companies of the year, Champion, I would not be surprised to see others follow," said Sarah Teslik of the Council of Institutional Investors.

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Paper Suit

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BEAUMONT, Texas (AP) -- Residents who live downstream from paper mills have filed a class action suit against more than 30 paper companies asking for \$100 billion in damages from toxic waste discharges.

The 17-page suit, filed in state district court earlier this week, alleges the companies misled authorities on their dioxin discharges, trespassed on residents' property and inflicted emotional distress.

The plaintiffs live downstream from paper mills that discharge dioxin into rivers. Dioxin is widely considered a carcinogen, though manufacturers dispute its potency.

"We propose a nationwide class, every person who has been exposed against their will and against their knowledge" to dioxins by the defendants, plaintiffs' attorney John Deakle said Thursday.

Deakle and two other attorneys, Patrick Pendley and Skip Hulett, filed the suit on behalf of two southeast Texas residents and the class.

The suit names the American Paper Institute, the industry's trade and lobbying group, and large paper makers including James River Paper Co., Mead Corp., Boise Cascade Corp. and Westvaco Corp.

The suit says the companies have known about dioxins in effluents since 1985 and have taken few corrective measures. There are 103 domestic paper mills that produce dioxin as a byproduct of the bleach process used in making paper, Deakle said.

Several companies contacted Thursday declined comment, saying they had not seen the suit.

"The American Paper Institute has not seen any papers and therefore cannot comment on specifics," spokesman Tom Kraner said in New York. "The industry believes there is no basis for any litigation over dioxin."

Andrew Drysdale, spokesman for Boise Cascade, also said the company hadn't received the suit.

"This industry and this company since the time dioxin was first discovered in papermaking have worked tirelessly and very openly to understand how it was being created, what if any health risk it was posing and doing what it could and should to rid itself of dioxin," Drysdale said.

In 1985, dioxin was found to be emitted in trace amounts from plants that produce heavy, white stock from the "bleach Kraft" process, which that uses chlorine.

The defendants conspired to keep the dioxin discharges secret, minimize or discount the possibility of harmful effects, manipulate test data and try to obtain favorable regulatory standards, the suit alleges.

Deakle said hundreds of documents obtained from the companies, some from whistleblowers, will back up allegations.

He said attorneys settled on the \$100 billion damage figure based on the assets and recent profit histories of the defendants.

"Arguably, this will be the largest single piece of litigation ever tried in the United States," Deakle said.

Neither the American Bar Association nor the American Trial Lawyers Association could confirm that perspective, however.

UPf 06-Mar-92 13:34:00

California funds likely to oppose Champion

SACRAMENTO, Calif. (UPI) -- California's two main state pension funds will be asked to vote their stock against directors of Champion International Corp. to protest high executive pay, California Controller Gray Davis said Friday.

Davis, a trustee for the California Public Employees' Retirement System (Calpers) and the State Teachers' Retirement System (STRS), said he would recommend the move by the funds because of an attack by Champion's chairman on Graef Crystal, a critic of his pay package.

"We are witnessing a campaign of corporate intimidation against a 'whistle-blower' who sounded the alarm against excessive compensation," Davis said. "His efforts are aimed at aligning executive compensation with corporate performance."

It is unlikely that the funds, particularly Calpers, would go against such a recommendation without a significant commitment from Champion to change its policies.

Champion is a conglomerate specializing in building materials and paper products. Its annual revenues are about \$5 billion.

Calpers, a \$64 billion fund which holds about 1 percent of the shares in many Fortune 500 companies -- including Champion -- voted its shares against ITT's slate of directors last year in a protest of ITT's executive pay policies.

Champion's chairman and chief executive officer, Andrew Sigler, was paid \$3.5 million in 1990, according to United Shareholders Association, an activist group pushing for "pay-for-performance" as a basis for compensation.

Champion, of Stamford, Ct. will have five of its 13 directors up for re-election at its May 21 annual meeting. Spokeswoman Mary Green said Sigler has agreed to accept Davis' invitation to meet on April 9 with the Council of Institutional Investors in Washington to discuss Davis' concerns.

Green said Sigler's 1990 salary and bonus totaled \$1.24 million and said he did not exercise stock options. The United Shareholders Association valued the stock options awarded to Sigler in 1990 at \$2.3 million. Green said those options could not be valued since they were not exercised.

Green also denied an allegation by Davis that attorneys for Champion have threatened to sue Crystal.

Davis said Champion is waging a campaign against Crystal, a compensation consultant hired by Calpers and the Council of Institutional Investors. Crystal, a professor at the University of Berkeley and a longtime architect of executive salary packages, has become highly visible on the issue, partly due to his authorship of a highly critical book, "In Search of Excess -- the Overcompensation of American Executives."

Davis said correspondence initiated by attorneys for Champion has threatened litigation against Crystal. He noted that Crystal was subsequently fired by Financial World magazine, where he was a columnist.

Davis, who recently announced his candidacy for the U.S. Senate as a Democrat, said Champion has ranked in the bottom 20 percent of S&P 500 companies based on the average return over the past five years. He said it is often cited as an example of a company which has not linked executive compensation to corporate performance.

Davis said he has invited Sigler to address the annual meeting of the Council of Institutional Investors, an organization of 70 institutional investors, next month. Davis is co-chair of the council.

"Executive pay should be linked to a company's performance," Davis said. "CEOs of well-run companies should be handsomely rewarded. CEOs of poorly run companies should take a reduction in pay. Directors of poorly run companies should not reward management while shareholders suffer."

A number of companies have revised compensation packages recently, including United Airlines, ITT, IBM and Avon, under pressure from shareholder groups and pension funds.

Calpers and the United Shareholders Association said Thursday they have removed Ryder System Inc. from campaigns to force the truck-rental concern to change its corporate governance policies. The Ryder board voted on Feb. 21 to require a majority of directors and all members of the board's compensation and nominating committees be independent non-employee directors.

Davis said in a letter to Sigler that he is seeking an independent analysis of Champion's compensation practices and the

actions of its counsel.

He said that if concerns about compensation practices at Champion are not addressed, he will recommend that Calpers and STRS vote against the current slate of directors.

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Close-up

THE RISKS OF COMING FORWARD

Even with '89 law, blowing whistle is 'Russian roulette'

What's happened to whistle-blowers since Congress in 1989 passed an act to protect them? A two-part Close-up series beginning today examines continued claims of retaliation. Below, a look at civilian whistle-blowers. Tomorrow in the Times, military whistle-blowers say they've been sent to mental hospitals in retaliation.

by Pete Yost
Associated Press

WASHINGTON — The Army tries to fire a civilian scientist after he criticizes the Star Wars program.

A senior technician at a government laboratory questions plant safety, so his bosses reassign him to a room filled with radioactive chemicals.

It's been two years since Congress passed the Whistleblower Protection Act, but reports of the reprisals it was supposed to discourage are still rolling in.

"We're still shooting the messenger," said Sen. David Pryor, D-Ark.

Take the case of Aldric Saucier. He told Army brass there was waste, mismanagement and fraud in the \$30 billion Strategic Defense Initiative, commonly known as Star Wars.

"I've been spit on by senior Army officers, shoved up against a wall, and elbowed in the head and the neck so hard that I had to get medical treatment," he said.

The Army wants to fire him, saying his work is "poorly organized, contains numerous errors and his assumptions, conclusions and recommendations are not substantially supported." Prominent scientists outside the Pentagon who reviewed a recent report by Saucier say he does competent work. The report concerns modifying the Patriot air defense system. One scientist called Saucier a "careful dedicated civil servant who has properly raised questions about" Pentagon programs.

A state of news stories on his

plight and intervention by Pryor, three other U.S. senators and a congressman have temporarily saved Saucier's job.

Better than the lottery

The 1989 protection law that Saucier is invoking has increased whistle-blowers' chances of survival. Before the law was passed, employees had to prove that their whistle-blowing was the motivating factor for retaliation. Now, they only have to prove that it's a contributing factor, and then the burden of proof shifts to the employer to show that it was not.

"Before, your chances were as good as playing the lottery. Now they're about as good as playing Russian roulette," said Thomas Devine of the Government Accountability Project, a nonprofit group representing Saucier.

Adds Paul Higgins, who screens such cases for the group: "I don't think the legislation has put fear into managers who are retaliating against whistle-blowers. We continue daily to get calls from people who are terminated, abused, sent to forced psychiatric evaluations, who were very clearly ... protected whistle-blowers under the law."

Saucier designed a laser program to destroy incoming enemy ballistic missiles before they deployed their warheads. He says his design was less costly, more reliable and could have been ready years sooner than other proposed systems.

But the Army and the Strategic Defense Initiative Office in the Pentagon "wanted their pork-barrel program," said Saucier.

Saucier's allegations of waste, fraud and mismanagement are among some 100 such complaints a year that go to the Office of Special Counsel, a federal agency that seeks to protect government whistle-blowers.

The special counsel, Kathleen Koch, referred Saucier's allegations to the Secretary of Defense for further investigation, one of



Richard B. Hayes / Seattle Times, 1989
Gary Lakvold is among several Hanford Nuclear Reservation employees who claim they've been harassed for reporting abuses.

about a dozen such referrals each year to various agencies.

The counsel gets 500 complaints a year about reprisals and has launched an investigation into Saucier's allegations.

Limited reach

The new law's reach is limited, though. For example, it does not cover government contractors at the Hanford Nuclear Reservation where some employees have filed public with safety concerns and filed lawsuits against the contractors for alleged harassment.

"We as lawyers are having to patch together remedies for them and find and stretch laws to cover them," said Tom Carpenter, a lawyer with the Government Accountability Project.

Legislation is pending in Congress that would extend protections to whistle-blowers at federal contractors, said Carpenter, who provides free legal services to such clients.

Also not covered by the law is Charles Varnadore, who has won numerous commendations during his 17-year career in government-owned nuclear facilities in Oak Ridge, Tenn.

Varnadore says the commendations stopped when he ques-

tioned safety and other procedures at the Oak Ridge National Laboratory, which is owned by the U.S. Department of Energy and operated by Martin Marietta Energy Systems. According to Varnadore, soil samples with potential pollutants were being mis-

handled and a secretary was required to be a supervisor to put samples on the front desk she was driving.

His office

As Varnadore's complaints mounted, "they criticized me for incompetence, they criticized me for insubordination and then they put me in a room full of radioactive waste," said Varnadore.

The 20-foot-by-30-foot room had no windows, half a dozen laboratory bench tops contaminated with radioactive material, and plastic bags of radioactively contaminated ceiling tile and lab equipment, he said.

Martin Marietta issued a statement this month saying it takes Varnadore's allegations "very seriously" but hasn't turned up any evidence that his work area violated federal health standards.

The U.S. Labor Department ruled in Varnadore's favor, saying he had suffered discrimination for

Psychiatric evaluations

Some civilian whistle-blowers claim one method of retaliation has been psychiatric tests forced on them by superiors. Two cases: Rosalie Lamp (Fort Washington, Md.):

She recently was ordered to undergo psychiatric evaluation after she reported general security violations by co-workers while working in Europe as a civilian Army employee. "They wanted me to quit, they wanted to fire me, and they wanted me to keep my mouth shut," Lamp said. "They wanted to cover up their mishandling of information."

A critical job appraisal in March 1991 was prepared by a superior whom she had reported for alleged security violations. In June 1991, an official with the Army Office of the Inspector General acknowledged that Lamp had "provided valuable assistance in identifying and correcting many security shortcomings and deficiencies." She alleges that the retaliation continued, even after she was transferred to another military facility.

This month, Lamp filed a complaint with the Office of Special Counsel. "It absolutely reminds you of a Russian novel," said her attorney, Marahyn Leal, of the actions taken against Lamp. "You would not read about what was going on and if you were talking about the United States of America."

John Knecht (Yuma, Ariz.):

He was the civilian chief of internal review at the Army's Yuma Proving Ground when he reported that U.S. engineers had charged foreign governments for work not performed. He claims his Army supervisors retaliated by ordering psychiatric evaluations.

Knecht gave more than 200 pages of documents supporting his allegations to the Army's Office of Inspector General, which later destroyed them.

Knecht, who received superior job evaluations before making the allegations, was reprimanded repeatedly. He was ordered to take psychiatric tests that found no evidence of a mental disorder. His job evaluations deteriorated. In 1988, he was terminated.

His case was cited in a draft report by a Senate subcommittee that harshly criticized the inspector general system. Says Knecht: "What you've got are these watchdogs who are supposed to be reporting abuses, and a lot of them are just covering it up."

Dallas Morning News

raising safety issues. Martin Marietta moved him to another office, but the company is seeking to reverse the ruling.

Varnadore, who has had colon cancer, is appealing too, seeking \$1.5 million in damages. The process could take years.

"My division chief suggested I quit, but where's a 50-year-old man with cancer going to get a job?" said Varnadore.

Other cases

A special whistle-blower conference this weekend at Georgetown University offered other cases of alleged harassment:

John Brodeur, a geophysicist, who said he was fired after telling congressional investigators that the system used to monitor radiation leaks at the Energy Department's Hanford Nuclear Reservation is riddled with deficiencies.

Jim Smith, who said he was forced from his engineering job at Argonne National Laboratory after concluding that an experimental reactor may not live up to its claim of being "meltdown-proof."

John McCormick, former special agent in charge of whistle-blower complaints at the Forest Service, who said "whitewash,

coverups and poor investigations are common."

McCormick told a House subcommittee earlier this year that the agency logs national forests in violation of environmental laws, censors scientific data and punishes workers who object.

Gary Lakvold, who said he was suspended from his job at Hanford after complaining about deliberate falsification of data, fraudulent reports and problems with security protection of nuclear materials.

Dwight Welch, the president of a union representing scientists, lawyers and engineers at the Environmental Protection Agency, who says half the members of the union's executive board have suffered reprisals.

Francis Mangels, a biologist for the Forest Service who said he suffered reprisals after exposing plans to log trees containing bald eagle and northern spotted owl nests in California's Shasta-Trinity National Forest.

Mangels, who has worked for the service 20 years, said his supervisor altered his environmental assessments so as not to interfere with timber production.

"The attitude was, 'How dare you find a bald-eagle nest in my timber sale?'" he said.

HCR

9

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HCR 9

Revision Date: _____ Department Affected: Commerce & Economic Dev
Title: Supporting a bid by the World Trade Center BRU: International Trade

Sponsor: House Spec. Comm. on Trade & Tourism Component: _____

Requestor: House Spec. Comm. on Trade & Tourism COMPONENT SERIAL NO.

--	--	--	--

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Ginna Brelsford, Trade Specialist Phone: 561-2060
Division: International Trade Date: 2/25/91

Approved by Commissioner: Glenn A. Olds *[Signature]*
Agency: Department of Commerce & Economic Development Date: 2/25/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Executive Summary

University of Alaska Anchorage World Trade Center Alaska 1994 World Trade Centers Association General Assembly

World Trade Center Alaska is requesting the opportunity to host a World Trade Centers Association (WTCA) General Assembly and an international trade show in 1994. A successful bid would see Anchorage as the host city to approximately 1000 delegates, with benefits spreading far within the state. The event would place Alaska permanently on the map of world trade.

The Center began its lobbying efforts over a year ago and successfully hosted a "Taste Alaska!" reception at last year's General Assembly in St. Paul, Minnesota. The reception was a smash and people were talking about Alaska throughout the rest of the conference.

The response to Alaska's lobbying efforts have been excellent, and an active bid committee has been at work coordinating the effort. This Bid Committee has been working to develop a winning written proposal and video, lobby support within the state, form the delegation to travel to Hong Kong for the WTCA Spring Meeting in April to formally present the bid. We have made every attempt to learn from past hosts, to review successful bids, and to develop grassroots support. In April, Alaska will send a delegation to Hong Kong 20 - 30 strong, representing business, government and education throughout the state.

We are working closely with the Anchorage Convention & Visitors Bureau to coordinate the bid effort, and have received their wholehearted endorsement. The Anchorage Chamber of Commerce, the Mayor's Office, the Municipality of Anchorage, the Department of Trade & Economic Development (formerly Commerce) and the Governor's Office are all behind our efforts. Representatives from Juneau, Fairbanks, Mat-Su, and Valdez have all contributed their support in the bid process. The World Trade Center Alaska is confident it will meet with success in Hong Kong.

Contact:

World Trade Center Alaska / Anchorage
World Trade Center Building
4201 Tudor Centre Drive, Suite 320
Anchorage, AK 99508
Tel: (907) 561-1615
Fax: (907) 561-1541

John Choon Kim, Executive Director
Carolyn J. DePalatis, Manager

6 WHO IS INVOLVED IN ALASKA'S CENTER?

World Trade Center Alaska operates in cooperation with the University of Alaska Anchorage, Alaska Center for International Business (ACIB). As the State's educational and research arm for international trade, the ACIB gives the World Trade Center Alaska an educational dimension to its business agenda. World Trade Center Alaska members can also gain access to ACIB's comprehensive trade database information.

Alaskan members range from single entrepreneurs to major corporations and organizations conducting business in everything from natural resources to handicrafts and clothing, electronics, joint ventures and tourism.

WORLD TRADE CENTER ALASKA ADVISORY BOARD

Charles E. Berke
Chief Director
U.S. Department of Commerce,
USAITCS, Int'l Trade Admin.

Reedy Bates, Ph.D.
Vice Chancellor
University of Alaska Anchorage

William Blachman, Ph.D.
Dean of School of Business
University of Alaska Anchorage

Ronald Bost
President
Security Pacific Bank of Alaska

Robert A. Brown, Chairman
Attorney
Brown, Brown & Handberg

Larry Elinson
Assistant Port Director
Port of Anchorage

Paula Heller
Special Assistant
U.S. Senator Mark Lemmon's Office

E.N. Pete Nelson
Senior Land Representative
Ingram, Inc.

David Olson
Vice President, University Relations
Alaska Pacific University

Emile B. Pace, Vice Chairman
Litho Corporation

Ann Parikh
Regent
U.A. Board of Regents

Robert Poe, Jr.
Director
Commerce Office of Int'l Trade

William J. Sheffeld
Former Commerce Secretary of Alaska

Donald F. Schenk, Ph.D.
Chancellor
University of Alaska Anchorage

John Chuck Rice, Ph.D.
Executive Director
World Trade Center Alaska
Alaska Center for Int'l Business

Camryn J. DePalatis
Manager
World Trade Center Alaska



Go Global!

World Trade Center Alaska is a central resource for information, contacts and programs to facilitate world trade. Through joining, a company becomes part of the premiere international organization that "makes business happen" for its members.

As a member of the World Trade Centers Association (WTCA) headquartered in New York, World Trade Center Alaska is part of an extensive worldwide network of over 200 affiliated international business organizations and World Trade Centers. Through cooperative relationships and support services, the World Trade Center Alaska taps resources of the world's major trading centers for reciprocal access to its members.

World Trade Centers are powerful international business development tools, centralizing trade activity and promotion of goods and services for the regions they serve. WTCA members can take advantage of:

- Trade/Investment Opportunities
- Valuable Information and Contacts
- Regional/Global Exposure
- Dynamic Educational Programs

All World Trade Centers Association members receive a membership card which entitles them to reciprocal privileges at affiliated World Trade Centers.

The fishing industry in Alaska is among the many sectors that can take advantage of World Trade Center services.

1 WHAT IS THE WORLD TRADE CENTER ALASKA?

You want to expand your business through international trade, but you don't know where to begin.

Begin and grow with the World Trade Center Alaska.

THE WORLD TRADE CENTER ALASKA acts as a central resource for information, contacts and programs to facilitate world trade. Through joining, a company becomes part of the premiere international organization that "makes business happen" for its members.

As a member of the World Trade Centers Association (WTCA) headquartered in New York, World Trade Center Alaska is part of an extensive worldwide network of over 200 affiliated international business organizations and World Trade Centers. Through cooperative relationships and support services, the World Trade Center Alaska taps resources of the world's major trading centers for reciprocal access to its members.

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- Regional/Global Exposure
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The fishing industry in Alaska is among the many sectors that can take advantage of World Trade Center services.



World Trade Center Alaska is connected with the World Trade Center Twin Towers headquarters in New York and over 200 affiliated Centers globally.



2

WHAT BENEFITS WILL YOU RECEIVE?

- **TRADE LEADS:** Worldwide trade leads on WICA's NETWORK system. Communicate electronically to follow up from home or office.
- **BUSINESS ASSISTANCE:** Fax, telex, clerical, translation, trade development assistance and executive suite rental.
- **TRADE-RELATED PROGRAMS:** "How to" seminars, country programs, speakers series, and special events.
- **TRADE NEWSLETTERS:** Newsletters on current trade opportunities and developments.
- **RECIPROCAL SERVICES... WORLD-WIDE!** Educational programs, hotel discounts, trade shows, trade assistance, etc. at other World Trade Centers. Includes office space and support staff at other Centers when traveling -- like having an office away from home without costly overhead.

The International Trade Program of the Anchorage School District, located in the World Trade Center Building, offers senior high school students a unique opportunity to learn languages, culture and business skills for operating in the international environment.



4

WHAT ARE SOME SUCCESSES?

- A World Trade Center Alaska member pursued a NETWORK ad calling for a joint-venture to develop alternative energy sources in Canada and made an agreement to supply specialized equipment netting \$12 million over three years.
- An Alaskan member needing a document translated into Indonesian was able to locate an efficient, high quality and low-cost service through linking up with the World Trade Center Jakarta.

3

HOW CAN NETWORK CUT YOUR COMMUNICATIONS COSTS?

NETWORK costs for electronic messages are only a fraction of telephone, fax or telex charges. Electronic conferencing (E-Mail) costs \$1.50 for a 1000-character message anywhere in the world! A one-screen advertisement of 800 characters costs only \$40 for two-weeks of continuous worldwide display.

In addition, listings get picked up by subscribing journals such as *Nikkan Kogyo* (Japan), *Les Echos* (France), *Daily Trade News* (Korea), and *The Journal of Commerce* (U.S.). This bonus gives an ad a potential readership of over four million - a cost to you of only \$0.000009 per reader!

Locating potential partners and communicating with them electronically over NETWORK, members can expand their business contacts and profits.



5

HOW CAN YOU BECOME A MEMBER?

Simply fill out and post the inquiry card. Memberships are on an annual basis, running one year from the application date. Rates are listed on the back side of the membership application. Exclusive Corporate Memberships are also available.

Inner Circle Corporations supportive of the World Trade Center's efforts include:

CSX • Yukon Pacific • Sea-Land
Hughes Thorsness Gantz Powell
& Brundin

Art's version of the Journal Northern Lights welcomes the visitor in the lobby of the World Trade Center Building in Anchorage.



World Trade Center Building
4201 Tudor Centre Drive, Suite 320
Anchorage, Alaska 99508 USA
Tel: (907) 561-1615 • Fax: (907) 561-1541
Telex: 981074 WICA AHIG UD • WICAK

World Trade Center Alaska is part of the University of Alaska Anchorage, Alaska Center for International Business (ACIB).
University of Alaska Anchorage is an equal opportunity employer and does not discriminate based on race, ethnicity, age, gender or handicap status.

PLACE
STAMP
HERE

Yes! I'm interested in membership. Please contact me so that I can find out more!

Yes! I'm interested in assisting World Trade Center Alaska to expand its efforts. Please contact me.

Name/Title

Company

Street Address/P.O. Box

City/State/Zip

Telephone/Fax Number

World Trade Center Alaska
World Trade Center Building
4201 Tudor Centre Drive, Suite #320
Anchorage, Alaska 99508

HCR

21

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO: HCR 21

Revision Date: _____
Title: Establishing a Task Force on Safety
in the Workplace.
Sponsor: Representative Koponen
Requestor: Representative Koponen

Department Affected: Legislative Affairs Agency
BRU: Legislative Council
Legislative Operating Budget
Component: Council & Subcommittees
Session Expenses & Legis Oper Budget
COMPONENT SERIAL NO: 783

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	53.2	26.6	0	0	0	0
TRAVEL	17.3	8.6	0	0	0	0
CONTRACTUAL	28.0	14.0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	98.5	49.2	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	98.5	49.2	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	98.5	49.2	0	0	0	0

POSITIONS:

FULL-TIME	1	0	0	0	0	0
PART-TIME	0	1	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

The following is requested to adequately support the Task Force on Safety in the Workplace:

Prepared By: Pamela A. Stoops, Director
Division: Administrative Services

Pamela A. Stoops

Phone: 465-3850
Date: 4/12/91

Approved By: Warren W. Endicott, Executive Director
Agency: Legislative Affairs Agency

Warren W. Endicott

Date: 4/12/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

PERSONAL SERVICES

1. Staff is requested as follows to assist the Task Force on Safety in the Workplace.

Researcher - Range 17A		
\$3,156 x 12 months =	\$37,872	
\$37,872 x 40% benefits =	<u>\$15,322</u>	
	\$53,194	53.2

TRAVEL

It is anticipated there will be 2 meetings of the 12 member Task Force on Safety in the Workplace.

2 meetings x 12 members = 24 airfares	-	
24 airfares x \$436 = \$10,464		
2 days per diem x 24 = 48		
48 days x \$100 = 4,800		15.3

Staff Travel - \$2,000 2.0

CONTRACTUAL

Advertising - advertising of public notice of meetings; Professional Services - \$28,000. 28.0

SUPPLIES

Supply needs will be absorbed within the existing Legislative Operating & Session budgets.

EQUIPMENT

Equipment needs will be absorbed within the existing Legislative Operating & Session budgets.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO : HCR 21

Revision Date: _____
Title: " Establishing a Task Force on
Safety In the Workplace."
Sponsor: Representative Koponen
Requestor: House Labor & Commerce

Department Affected: Labor
BRU: Labor Standards & Safety
Component: Occupational Safety & Health
COMPONENT SERIAL NO. 970

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

This fiscal note assumes the Department of Labor would not be responsible for providing funding for the task force.

Prepared by: Bob Libbev, Director Phone : 264-2452
Division: Labor Standards & Safety Date : 4/8/91

Approved by Commissioner: Nancy Bear Usera
Agency: Department of Labor Date: 4/8/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Alaska State Legislature
Representative Niilo Koponen

Pouch V
Juneau, Alaska 99811
(907) 465-4992

House District 21

119 N. Cushman, Suite 207
Fairbanks, Alaska 99701
(907) 456-8172

POSITION PAPER

HOUSE CONCURRENT RESOLUTION 21

"ESTABLISHING A TASK FORCE ON SAFETY IN THE WORKPLACE"

Alaska suffers from the highest workplace fatality rate in the country. Our workplace accident rate is embarrassingly dismal.

Workplace injuries burden Alaska's economy. Workers suffer physical and emotional effects, along with financial difficulties caused by significant wage losses. Employers must endure lost production time, higher insurance premiums, increased operation costs and equipment damage.

The 1970 Federal Occupational Safety and Health Act assured, "so far as possible, every working man and woman in the Nations safe and healthful working conditions and to preserve our human resource." Sadly, the tragic workplace toll persists, jeopardizing lives, safety and health. Many state and federal safety standards have not been updated in over 20 years. Our laws need revision and our OSHA program needs revamping.

This bill creates a task force to establish a model workplace safety program for the State of Alaska. The Task Force on Safety in the Workplace would focus primarily on preventing injuries rather than trying to remedy problems after accidents, illnesses or fatalities have already occurred. The task force would examine Alaska's past workplace safety record, determine causes of the state's high rate of injuries, review current laws, consult with workplace safety institutes, and propose legislation to implement the program.

Reasons for a Committee Substitute of HCR 21.

In the CS on page 2 Line 31 (4) the changes were made by adding one more person to the Task Force. One person who represents businesses with over 25 employees and one person who represents businesses under 25 employees.

In the CS on page 2 Line 32 the word "organized" in front of labor was added. On page 3 Line 8 - A Further Resolved was added to report its initial findings and recommendations to the Governor and the Legislature by the first day of the Second Regular Session of the 17th Legislature. Since this Legislature will be the one passing this Resolution, it was felt that they should receive a report on the task forces findings. The Final Report is not due until the First Regular Session of the 18th Legislature in which there will be new members of the Legislature replacing individuals who have supported this legislation.

The Job Safety and Health Act of 1989

Title One: Joint Worker/Management Committees

- A. Worker/Management Committees must be authorized to:
 - 1. Stop work until hazardous conditions are abated.
 - 2. Review appointment and employment of safety and health personnel.
 - 3. Conduct monthly inspections.
 - 4. Obtain employer's information concerning safety and health practices.
 - 5. Investigate accidents.
- B. Worker participation must be legitimate.
- C. Committee members must receive sufficient training.
- D. All businesses with eleven or more employees must designate a safety and health officer.

Title Two: Rights of Victims and Whistleblowers

- A. Victims must have:
 - 1. The right to obtain copies of OSHA investigative files and citations quickly and free of charge.
 - 2. The right to participate in appropriate deliberations and adjudicative processes, personally or through their representatives, as proposed in the Construction Safety and Health Improvement Act, S. 2518.
- B. Whistleblowers must have:
 - 1. The right to disclose hazards which violate federal law or threaten health and safety.
 - 2. The right to participate in a federal agency proceeding relating to the dangerous activities of an employer.
 - 3. The right to refuse to perform dangerous work, as proposed in the Uniform Health and Safety Whistleblower Act, S. 2095.

Title Three: Civil and Criminal Penalty Structures

- A. Civil penalty changes.
 - 1. Minimum penalty increases should:
 - a. Adjust all civil penalties for inflation (a maximum willful violation penalty would be increased from \$10,000 to \$29,700).
 - b. Tie future penalties to the cost-of-living index, as proposed in the Federal Civil Penalties Inflation Adjustment Act, S. 1014.
 - 2. NSWI recommends penalty increases of:
 - a. \$50,000 (up from \$10,000) for a willful violation.
 - b. \$10,000 (up from \$1,000) for a serious violation.
- B. Penalty settlement guidelines.
 - 1. Penalty reductions must not exceed 30%.
 - 2. Settlement discussions must not occur until after abatement of hazardous conditions.

3. Written rationalizations for any reduction must be made available to all concerned parties.
 4. Settlements over \$100,000 should be entered into U.S. District Court records.
- C. Criminal penalties.
1. Current maximum fine of \$10,000 and a six month prison sentence for an individual or a corporation are too weak.
 2. An increased fine of \$250,000 for an individual and \$500,000 for a corporation (as proposed by former Assistant Attorney General William Weld) should set the new standard.
- D. Willfulness.
1. The current willfulness standard, requiring an employer to have a history of previous citations, and subsequently to have a repeat violation involving a fatality, makes it very difficult to convict serious offenders.
 2. A new definition of willfulness, based on the California penal code, should be adopted.
- E. Reckless endangerment.
1. A new standard for reckless endangerment should be based on the following criteria:
 - a. Any violator with one serious or willful violation during the previous four years would potentially be liable of reckless endangerment.
 - b. Willfulness would not be considered in applying the reckless endangerment test.
 - c. Reckless endangerment would carry a maximum fine of \$100,000 and a prison sentence of one-to-five years.
- F. Fatalities.
1. Increase penalties for violations involving fatalities to a maximum prison sentence of 20 years, as proposed in S. 2518.

Title Four: Public Welfare Cost Recovery

- A. In cases where federal funds provide support for victims of job-related injury or illness, the government should litigate to recover costs from employers for standards-related violations.
- B. The Departments of Labor and Justice would litigate under this provision.

Title Five: Rights of Local and State Governments

- A. Current case law discourages a state or local government from pressing criminal charges against an employer in a federally-regulated OSHA state.
- B. Federal preemption of state or local laws, including criminal laws, which provides more stringent job safety and health standards should be prohibited, as proposed in S. 2518.

Title Six: State-Plan States

- A. State-Plan States should be encouraged to experiment in developing safer workplaces by providing a grant program for special initiatives.
- B. The Secretary of Labor should develop standard reporting measures for State-Plan States and make reports available to the public.
- C. Workers in State-Plan States should have the right to demand inspections by federal officials when state inspections fail to eliminate hazardous conditions.
- D. The Secretary of Labor should terminate inadequate State-Plan programs.

Title Seven: Safety and Health Standards

- A. The revision of existing standards and promulgation of new standards lags far behind sound scientific knowledge.
- B. The Secretary of Labor's responsibility to promulgate standards should be strengthened by:
 - 1. Reasserting the right to propose individual standards.
 - 2. Reasserting the right to promulgating consensus standards.

Title Eight: Licensed Technicians

- A. In oversight of all high-risk activities, the law should:
 - 1. Require licensing of all key supervisory personnel.
 - 2. Provide general definitions of the work functions to be supervised by licensed technicians.
- B. An employer's failure to comply with this provision should constitute a serious violation.

FATALITY RATES 1983 - 1989

	United States	Alaska
1983	5.6	15.3
1984	6.4	14.7
1985	6.2	16.1
1986	5.9	14.8
1987	5.4	29.0
1988	4.4	15.4
1989	-	8.3

ILLNESS RATES USING A BASE OF 10,000 WORKERS

	United States	Alaska
1984	18.4	21.4
1985	18.0	28.7
1986	19.2	23.2
1987	26.4	38.6
1988	32.2	31.2
1989	-	53.7

Crosstabulation: NATURE2 Nature of Injury or Illness By REGION

REGION->	Count	Anch-Mat Su Regio	Gulf Coa st Regio	Interior Region	Northern Region	Southeas t Region	Southwes t Region	Row Total
NATURE2		1.00	2.00	3.00	4.00	5.00	6.00	
10 Amputation / Enu	10	11	5	3	3	9	4	35 .4
11 Asphyxia, Strang	11	1	1	1	1		1	5 .1
12 Burn (Heat)	12	82	29	29	14	27	10	191 2.0
13 Burn (Chemical)	13	27	14	10	6	7	2	66 .7
14 Concussion	14	37	22	14	10	25	12	120 1.2
15 Infective / Para	15	5	4			2		11 .1
16 Contusion, Crush	16	353	138	106	71	266	88	1022 10.6
17 Cut, Laceration,	17	409	156	107	62	230	70	1034 10.7
18 Dermatitis	18	12	11	7	1	6	5	42 .4
19 Dislocation	19	84	23	13	22	41	13	196 2.0
20 Electric Shock	20	2	4	1		1		8 .1
21 Fracture	21	274	107	94	95	152	64	786 8.2
22 Exposure to Low	22	2	1	1	5	1	3	13 .1
23 Hearing Loss / I	23	5	3	1		2		11 .1
24 Environmental He	24	1						1 .0
25 Hernia, Rupture	25	41	23	17	16	19	16	132 1.4
Column (Continued) Total		3900 40.5	1293 13.4	1051 10.9	733 7.6	1942 20.2	703 7.3	9622 100.0

Crosstabulation: NATURE2 Nature of Injury or Illness By REGION

REGION->	Count	Anch-Mat Su Region	Gulf Coa st Region	Interior Region	Northern Region	Southeas t Region	Southwes t Region	Row Total
NATURE2		1.00	2.00	3.00	4.00	5.00	6.00	
26 Inflammation	26	52	40	17	9	46	22	186 1.9
27 Poisoning	27	32	6	8	8	10	12	76 .8
29 Radiation Effect	29	3	6	2		5		16 .2
30 Scratches, Abras	30	93	59	34	20	83	30	319 3.3
31 Sprains, Strains	31	2200	581	533	331	909	292	4846 50.4
32 Hemorrhoids	32				1	1		2 .0
33 Hepatitis	33	2					3	5 .1
40 Multiple Injurie	40	48	13	16	9	27	4	117 1.2
50 Changes in Atmos	50	1						1 .0
51 Cerebrovascular	51	3	2	2	1	1	1	10 .1
52 Complications -	52	1						1 .0
53 Eye Diseases	53	4	3	1	1	3		12 .1
54 Mental Disorders	54	21	2	4	2	1		30 .3
55 Neoplasm	55	2		1				3 .0
56 Nervous System	56	29	17	6	9	21	11	93 1.0
57 Respiratory Syst	57	7	5	2	1	7	3	25 .3
(Continued)	Column Total	3900 40.5	1293 13.4	1051 10.9	733 7.6	1942 20.2	703 7.3	9622 100.0

Crosstabulation: NATURE2 Nature of Injury or Illness By REGION

REGION->	Count	Anch-Mat Su Regio	Gulf Coa st Regio	Interior Region	Northern Region	Southeas t Region	Southwes t Region	Row Total
NATURE2		1.00	2.00	3.00	4.00	5.00	6.00	
Symptoms & Ill-D	58	6	5	2		5	1	19
No Injury or Ill	90	1						1
Damage to Prosth	95				1		1	2
Other Dis/Inj Ne	99	49	13	19	34	35	35	185
Column Total		3900 40.5	1293 13.4	1051 10.9	733 7.6	1942 20.2	703 7.3	9622 100.0

Number of Missing Observations = 39

SAY UNCLE

OCCUPATIONAL HAZARD

A much-maligned OSHA confronts rising demands with a reduced budget

By CATHY TROST

WASHINGTON—Comedian Rodney Dangerfield's lament—"I don't get no respect"—has its echoes in the corridors of the Occupational Safety and Health Administration, a watchdog that might as well be named The Agency Nobody Loves.

Labor? OSHA's a cream puff, says David Landrigan, health and safety director of the Communications Workers of America. "OSHA has almost been the Department of Commerce under the Reagan administration. Basically it's done nothing for workers."

Industry? OSHA is biased and punitive, complains William Haggert, chairman of Bath Iron Works Corp. He's smarting over a \$4.2 million fine OSHA levied late last year against the company for alleged health and safety violations. The charges, he says, were "replete with overstatements and exaggeration" and "just blew our minds."

Congress? OSHA is full of fumbler, many feel. Responding to a recent proposal for a new OSHA type agency to deal specifically with the construction industry, Rep. Paul Henry, a Michigan Republican, says wearily: "You'd still have the same bozoes running it."

Who's right? In some respects, they all are—but the blame doesn't rest on OSHA's shoulders alone. The agency has come under fire for doing too much—or too little—from the day its doors opened on Constitution Avenue 17 years ago. The reality is that OSHA's effectiveness has been pinched by budget and staff cuts and its grasp on business loosened by the Reagan administration's deregulatory shock troops.

And now, against a backdrop of national anxiety over the chemical nightmare of Bhopal, India, the agency confronts enormous new workplace health and safety challenges from new processes and products. Among these: a spate of hazardous chemicals and such evolving workplace technologies as video-display terminals and computer-chip production.

Some wonder if OSHA has enough resources—and muscle—for the job. Indeed, they argue that OSHA should be scuttled and replaced with a watchdog with sharper teeth. At the least, they say, local and state authorities should expand their regulatory powers.

Agency critics cite Pymn Thermometer Corp., a Brooklyn, N.Y., company where, they claim, OSHA knew of high levels of mercury for more than a decade, yet took no action. Last year, a New York jury found the company and two of its executives guilty in the mercury poisoning of a worker (but the judge set aside the verdict on jurisdictional grounds). OSHA officials conceded mishandling the case.

Still, "we think we're firm but fair," insists John Pendergrass, President Reagan's third OSHA chief. He maintains the agency has used its power to correct problems in many workplaces, but he notes that according to federal law it's the employers' responsibility to provide a safe workplace. "The law doesn't say we're supposed to be the safety director of every plant."

The agency's reputation improved substantially during the recent two-year tenure of Labor Secretary William Brock. Under his direction, OSHA launched a campaign against some of the nation's biggest corporations, imposing a string of record-breaking fines for failure to properly keep essential injury and illness records.

In one of his first actions, Mr. Brock (who subsequently left to run the ill-fated presidential cam-

proposed amount, was a bombastic generalist that did little to attack the root problems of workplace illness and injury. "When you don't use criminal penalties, when you settle fines at a fraction of a job dollar and when you have a policy that basically is an invitation to cheat, you certainly don't have vigorous enforcement of safety standards at the workplace," asserts Rep. Tom Lantos, a California Democrat who held hearings last year on safety conditions in the meatpacking industry.

OSHA later levied a \$2.5 million fine against Occidental Petroleum Corp.'s IBP unit, charging that the nation's largest meatpacker deliberately concealed worker injuries and illnesses. (IBP has contested the case.)

The agency uses company-kept injury records to target inspectors to work sites where injuries are most likely to occur, a system that Rep. Lantos contends provides irresponsible firms "a premium for cheating," but that OSHA believes is the most effective use of its resources. OSHA officials also argue that touting up the dollar signs on firms obscures the agency's bigger accomplishments in getting companies to correct hazards that often involve many more workers than the one cited—a phenomenon Mr. Pendergrass calls "the multiplier effect."

Richard Boggs, vice president of Organization Resources Commission, a corporate consultant, agrees "that more has been done for worker health and safety during the Reagan administration than the comparable eight years before." Last year, for instance, the agency issued a variety of rules governing farm-worker sanitation, grain dust, benzene and formaldehyde, covering more than 32 million workers.

But many rules came after years of legal pressure and court directives. And several were criticized as too weak, bolstering charges that the agency's regulating pace is glacially slow.

OSHA faces a far more pressing challenge, however. It must set more standards for exposure to hazardous chemicals and expand its inspection force, outsiders maintain. The recent spate of big fines "was only the tip of the iceberg," argues Philip Landrigan, director of the Mount Sinai School of Medicine's environmental and occupational medicine division. He contends that there are "serious overexposures in chemical substances occurring very commonly in workplaces across the country." Among these: excessive levels of silica exposure in 43% of U.S. ferrous foundries and excessive levels of lead in more than half the air samples OSHA has taken in New York factories.

New regulations aside, OSHA can't even enforce its current rules unless it increases its inspection force. Mr. Landrigan and others argue. OSHA currently has 1,123 inspectors, enough to inspect only about 2% of the nation's 3.4 million work forces covered by federal law.

OSHA officials argue that the agency does about
Please turn to page WR

The Largest Penalties in OSHA's History

Initially proposed penalties and settlements as of March 1, 1988

DATE	COMPANY	REASON FOR PENALTY	FINES/SETTLEMENT (In thousands of dollars)
2/11/88	Dee Eum ¹	Safety/health violation	\$2,788/not settled
11/4/87	Bath Iron Works	Safety/health violation	\$4,200/not settled
10/28/87	TPM International ²	Building collapse	\$1,000,000/settled
9/25/87	Scott Paper	Record keeping	\$812/8475
7/8/87	Chrysler (Newark, Delaware)	Safety/health violation	\$1,576/not settled
11/6/86	Chrysler (Livonia, Michigan)	Safety/health violation	\$1,576/not settled
4/1/86	Union Carbide	Record keeping	\$1,576/5408

¹A joint venture of St. Joe Minerals and Eum into Mining

²A joint venture of TPM International and George B.E. Mosbacher

³Joint contractors involved in a building collapse

⁴A unit of Occidental Petroleum

Source: OSHA

paigned by Sen. Robert Dole) slammed Union Carbide Corp. with a \$1.4 million fine and likened the plight of some of its employees to the canaries once used to sniff deadly gases in coal mines. (Union Carbide contested the fine and eventually settled for \$405,500 without admitting guilt.)

For a time, the OSHA news releases rolled off the presses with regularity. The list of accused included some of the most prominent names in American business: Chrysler Corp., General Motors Corp., Ford Motor Co., General Dynamics Corp. and Caterpillar Inc. In all, OSHA proposed a total \$24.7 million in fines against companies for health and safety violations in fiscal 1987, an amount nearly five times the \$5.5 million proposed in 1982. To date this fiscal year, more than \$18 million in fines have been proposed.

But critics complain that the blitz of big fines, which generally are settled for half or less of the

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Walter Kunz,
President,
Kunz Oil Co.
59% and still going strong

HAZARD

Continued from page 25R

70,000 inspections annually—twice as many as the IRS—and increasing the staff may be prohibitively expensive. "If we were to inspect every plant once a year, we'd have to have 125,000 inspectors at a cost of about \$13.8 billion," says Mr. Pendergrass.

Budget cuts outside OSHA's control already have hobbled government safety research. Consider the National Institute for Occupational Safety and Health, the government's occupational research arm: Its budget this fiscal year was less than half [in 1980 dollars] what it was eight years ago, notes Dr. Landrigan, a former official there.

Yet OSHA's burden in the future is likely to grow more complex, as emerging technologies trigger new safety and health hazards. The new work force is losing manufacturing to technology jobs and includes growing numbers of women. Fears persist about possible health effects from video-display terminals, especially on jobs that require lots of repetitive hand motions, such as computer keying and grocery scanning.

Disorders of the hand, wrist, shoulder and back due to repetitive movements have reached "epidemic proportions," says Deborah Berkowitz, health and safety director of the AFL-CIO's Food and Allied Service Trades division. She contends such problems afflict 25% of telephone workers, 60% of cashiers using grocery laser scanners, and nearly 50% of meat-packers. OSHA hasn't yet ruled on disorders such as carpal tunnel syndrome, a wrist disease, but the agency has addressed that problem by citing several companies

under its "general duty" powers, including Kroger Corp., Chrysler Corp. and U S West Inc.'s Mountain Bell unit in Denver.

The Communications Workers union's Mr. LeGrande calls the situation at Mountain Bell "truly catastrophic," with some directory-assistance operators becoming medically disabled from carpal tunnel syndrome. He says the company branded the cases "mass hysteria."

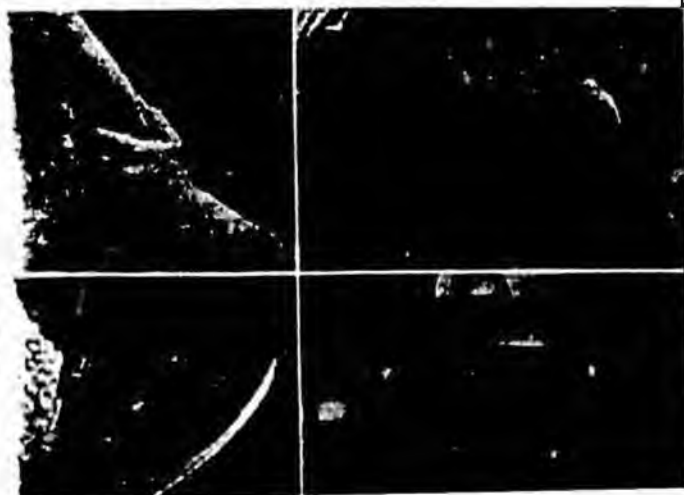
For its part, Mountain Bell says its medical department has seen 140 employees from two Denver offices during the last two years who complained of repetitive motion symptoms, but that only "a couple of dozen" people continue to receive medical treatment. Officials say the number of symptoms in Denver compared with other offices is "highly unusual."

A spokeswoman says the company's medical director had suggested "there may be some mass psychological hysteria involved," and that other medical problems like obesity, arthritis and pregnancy could contribute to the reported symptoms. The company is "rigorously" contesting the OSHA citation.

The spotlight has turned, too, to chemicals used in the semiconductor industry. After a study last year found an unusual number of miscarriages among women employed at a semiconductor plant, some companies removed all pregnant women from computer-chip production jobs.

OSHA has begun considering a rule for solvents used in the electronics industry, but that process could take years. "If the people at OSHA had ovaries they might do things a little differently," Eula Bingham, who ran OSHA under President Carter, complained at a recent meeting. ■

YWATCH.



RISKY BUSINESS

Some jobs have high murder rates

Tragedy and activism

Families demand answers in fatal work accident

Hard lessons came out of a fatal on the job accident in Indiana: the was that occupational safety inspectors can't be everywhere. Another, that workers compensation may cover no more than funeral costs. This is the second part of an AP series, "Danger at Work"

By SHARON COHEN
Associated Press Writer

AUBURN, Ind. When tragedy tore apart Linda Link's life, she struggled with anguish. Then anger. Finally, she turned her emotions into something else: activism.

She took up the fight for worker safety. It's little solace for the loss of her son, Jeff, who died in an on the job accident. But she's devoted to the cause. So are her comrades who share her sorrow.

There's Edna Freetz. Her son Bill, died trying to save Jeff.

And Bob Hensinger. His son, Larry, also was killed in the rescue attempt.

And Sue Irish. Her son, Barney, died, too, rushing to help the others.

And Brenda Fogle. Her son, Craig, the last man to come to his co-workers' aid, died last. After two days in a coma, his respirator was turned off.

Five families buried sons, their futures unfulfilled, their fate bound in tragedy. Now, more than a year after the young men—ages 19 to 25—died in a toxic-fume accident at Bastian Plating Co., their parents are writing letters, calling law makers, rallying—and pleading, "Never again."

"If we can do any good, it gives us the satisfaction to know that the boys didn't die in vain," Mrs. Link said. "We can't bring them back, but in their name, we can help help make it so these things don't happen ever again. And it gives us something to think about other than the tragedy."

"You're hoping you'll change things... you'll get people to listen," Hensinger said. "It's always



worth a try. Only a fool sits back and does nothing."

The families' goals are modest. No sweeping changes. Just a little more caution and a lot more accountability from employers.

"Even if one factory would be really safe, that would make us feel good," Mrs. Freetz said.

Toxic gas in tank

The campaigners were brought together by the June 24, 1988, tragedy at Bastian when Jeff was overcome by hydrogen cyanide fumes while cleaning a holding tank. Bill, a plant worker just four weeks, and Larry, climbed in to help, investigators were told.

Barney, once Bill's schoolmate, valiantly tried to save them, according to reports. Then Craig, the last rescuer, slid down the side of the tank, hitting his head, his mother said.

The workers didn't know zinc cyanide residue was in the 5 by 4 by 5 tank, said David Bear, spokesman for the Indiana Occupational Safety and Health Administration. Muratic acid, a dilute form of hydrochloric acid, was used for the cleaning, he said, and the mixture produced the toxic gas.

OSHA fined Bastian \$41,700, claiming it hadn't provided adequate training, respirators or rescue equipment—such as a lifeline to pull workers out—nor conducted air tests in the tank before anyone

Bastian has contested the "know-

ing" violations and paid the remainder, totaling \$1,700. It has declined further comment since releasing a statement shortly after the accident saying, "We are sorry that it took a tragedy of these proportions to focus attention on the issue of industrial safety."

'Job's going to kill me'

The parents say they knew the job could be hazardous; their sons came home with arm or leg burns. Larry even told his ex-wife, "If I don't get out, the job's going to kill me," his father said. "I took it as a figure of speech."

After the accident, the families say Bastian made a terrible situation worse by not telling them what happened.

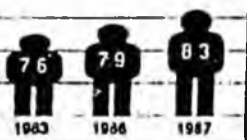
"We need answers," Irish said. "A lot of them."

DeKalb County Prosecutor Monte Brown has been asked by a worker safety watchdog group to convene a grand jury probe of the accident, but has declined comment pending a report from the state Department of Environmental Management.

"Five guys went to work and expected to return home," said Bill Groth, the watchdog group's co-founder. "They didn't. Something went drastically wrong."

Worker Injuries

Total recordable cases per 100 full-time workers



Source: Bureau of Labor Statistics, BLS, Bureau of Census

Lost Workdays

Total lost workdays per 100 full-time workers



Total lost workday cases per 100 full-time workers (injury results in lost time beyond six work days)

Year	Cases per 100 workers
1983	3.4
1986	3.8
1987	3.8

Source: Bureau of Labor Statistics, BLS, Bureau of Census

Government is suddenly so concerned about the environment here. The land contains a trans-Alaska pipeline construction camp that was the site of the... of the... of the...

Source: Bureau of Labor Statistics, BLS, Bureau of Census

Source: Bureau of Labor Statistics, BLS, Bureau of Census



SAFETY CRUSADE—The families of five young men who were killed last year in an on the job accident at the Bastian Plating Co. in Auburn, Ind., are pushing for worker safety. Surviving family members pictured here are, from left, Bobby and Bob Hensinger, Brenda Fogle, Ben and Linda Link, and Edna and Jack Freetz.

Disasters underscore need for flood, quake insurance

By CAROLE GUILD
The New York Times

NEW YORK—The financial aftershocks from last month's California earthquake and Hurricane Hugo in September are still being felt.

Those people actually caught up in the disasters are, of course, still trying to put the pieces of their lives back together.

But many others around the country have been affected too, shaken by all the scenes of destruction.

Some have begun to reevaluate the path for flood or earthquake insurance, which is not included in regular homeowners' policies.

And some have become much more aware of how the federal government can foot part of the bill with tax deductions for all types of casualty losses.

What follows is a primer on how to minimize losses from natural disasters.

Flood coverage

Not only do a percent of the total loss of damage caused by Hurricane Hugo was insured in part...

Personal Finance

agreed to follow federal land use guidelines.

The coverage is offered directly from the federal government or through private insurers.

The terms of the policies, whether private or federal, are nearly identical.

Premiums vary, depending on the age and construction of the building, as well as its use and location.

The average annual premium for \$40,000 of coverage is \$275, said David L. Cobb, a spokesman for the Federal Insurance Administration, a unit of the Federal Emergency Management Agency.

The question for consumers is whether insurance is necessary. Coverage is now required by the government in high-risk areas including flood-prone areas.

Organization in Alexandria, Va. Nonetheless, he advises all homeowners who are at risk to buy coverage. To determine risk, find your home on a "flood plain" map, available at local government offices. The map shows the likelihood of a flood occurring on an annual probability basis; he recommends insurance whenever the annual "risk" rate is 1 percent or more.

Does it matter whether you purchase coverage from the government or privately?

The premiums are the same, but Cobb says private insurers should be used, "because they have much more experience and knowledge about paying claims than an agency of the federal government."

For information on federal policies, call 800 638 6600.

Earthquake insurance

While most of the damage caused by Hugo will be taken care of by Hugo's only 25 percent of those affected by the earthquake in California were insured.

The insurance industry...

The insurance industry...

Feds make key move in land politics

The Japanese play a board game called Go, a pastime so simple that it can be taught to a child in a few minutes, but with strategy so subtle that players study it for years.

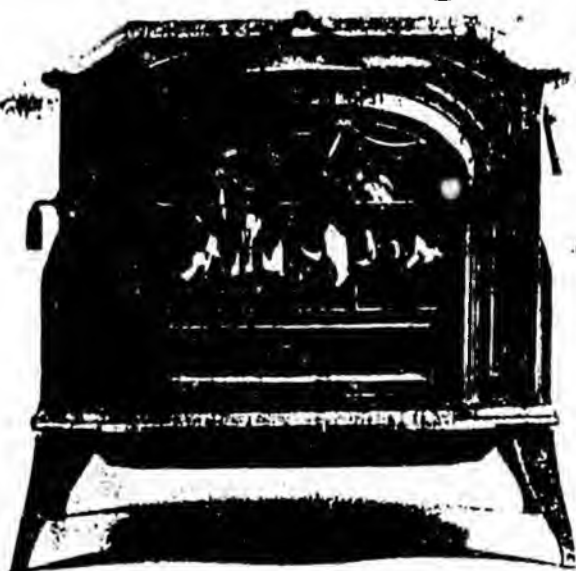
al government and closed to public entry or state land selections. The corridor is managed by the Bureau of Land Management as an energy transportation corridor.

This is potentially valuable property, right along the pipeline and well within the North Slope oil province.

However, it areas would be...

Government is suddenly so concerned about the environment here. The land contains a trans-Alaska pipeline construction camp that was the site of the...

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WORK: Hard lessons

(Continued from Page D 1)
pensation is the exclusive remedy for on-the-job accidents.

Kendall says the families have been "radicalized by the experience."

At the same time, they've learned a hard civics lesson, discovering that government moves slowly, its agencies hamstrung by rules, laws and dollars.

Slaps in the face

"I always thought OSHA inspected every place every year," Mrs. Freeze said. "They don't have the money or the inspectors to do everything. It's going to have to be the employer that's going to have to look out for his employees."

"You get so many slaps in the face, all the things you find out," Mrs. Link said.

Workers compensation, for one.

Jeff "being a single person, all we got was \$2,000 for funeral ex-

penses. They don't give you any compensation for the love you lost," Mrs. Link said. "Not that any amount of money can bring him back."

Now five families live with memories.

.. Of Barney, who stopped by each morning to tell his mother he loved her.

Of Craig, who had a twinkle in his eye and a passion for music.

Of Bill, who tinkered with cars and hoped to become a diesel mechanic.

Of Jeff, who loved the mountains. His parents plan to etch scenes of Wyoming on his gravestone.

And of Larry, whose tombstone reads: "He gave his life for a comrade."

"You've got to go on," his father said, "or it will eat you up."

The families are trying to do that, confident their sons would be proud of their crusade.

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BOY SCOUTS OF AMERICA

Alaska's oil reserves slip away

In 1981, during an oil industry boom fueled by the Iranian revolution, Alaska oil employment jumped by one third, while that of Texas, the nation's next-largest oil producer, rose by only a little more than one fifth.

In 1986, in the midst of an oil industry recession caused by international crude oil price wars, Alaska oil employment fell by about 5 percent, the least of the five leading U.S. oil states and only half the loss suffered by the next best performer, Texas. In 1987 Alaska's oil patch job loss was about the same, while Texas' plunged nearly 30 percent and two other states lost more than 10 percent.

In 1988, with oil industry jobs on a slight rebound, Alaska led



Fred Pratt

the way, with a percentage growth outdistancing the other leading producers by a 2 to 1 margin.

That's among a number of interesting facts in an updated review of our state's oil industry by three Alaska Department of Labor staffers. The article is published in the November issue of the department's statistical report, "Alaska Economic Trends."

The authors stress that Alaska produces far more oil per well and per employee than the other states, a fact that decides how Alaska weathers the ups and downs of the industry.

The average Alaska oil well pumped 888,000 barrels last year, compared with the average Texas well's yield of only 8,900 barrels. That's a good long way to explaining why there are 30 times as many oil field workers and almost 200 times as many oil wells in Texas as there are in Alaska.

Alaska oil jobs are primarily in production and transportation on large fields owned by major companies, so our state hasn't suffered as much as others from big swings in oil employment.

Most of us know our state is the top oil producer in the United States, making up one quarter of the national total last year. Most don't know that we can

Workers collect pain with their paychecks

By MELANIE COHEN
Associated Press Writer

In 18½ years in a meatpacking plant, Dave Kellen's wages have helped build his house, put food on the table and raise two daughters. But, he says, he has paid a terrible price: the use of his hands.

Kellen's hands are too weak to chop wood, much less twist open a bottle. He blames it on years of such jobs as tearing gobs of fat from hogs, repeating the same few steps, struggling to keep pace with hundreds of carcasses an hour.

His employer, John Morrell & Co., says plant safety is improving and is contesting a \$4.3 million government fine for allegedly allowing dangerous work conditions. Meanwhile, Kellen, 41, who has endured surgery twice on each hand, now sweeps floors at the Sioux Falls, S.D., plant. And he's worried.

"I'm sitting here with my hands 35 percent crippled. They're what's got to make my living for the next 20 years," he said. "Is Morrell going to be there? Are my hands going to get worse? I don't know who'd be willing to hire me. That's what's got me scared. It's like going blind slowly."

Such problems go beyond one man, one company or one occupation.

Many union, safety and academic experts say Kellen is an

example of an insidious trend in American industry. Companies are producing more, cutting payrolls, modernizing, computerizing—and creating a more hazardous workplace.

"People are getting hurt more than they ever were," argues Joseph Kinney, director of the National Safe Workplace Institute. "They're under more pressure to produce than they ever were. A lot of companies that once were using seven workers to do a job are now asking five to do it."

"The new fat-free American

We live in a time of corporate downsizing, mergers and acquisitions and leveraged buyouts that end or greatly diminish many of the modest safety and health programs that exist," said a September report by the workplace institute. "The raiders and downsizers are unwitting participants in our industrial carnage."

While most workers no longer confront sweat-shop horrors and archaic equipment, some experts say a new trend in which technology allows experienced employees to be replaced by those with less training has contributed to increasing dangers.

Others disagree, noting large investments that companies, including the Big Three automakers, are making to improve plant designs. They also cite giant government penalties against lead, paper, meatpacking, construction and other firms that are serving as a deterrent.

"I think workplaces are generally safer," said Herrien Zettler, deputy director of compliance programs at the Occupational Safety and Health Administration.

Kinney's group says OSHA has improved, but he cites government numbers: the average number of workdays lost due to on-the-job accidents for each 100 workers rose from 30.5 days in 1980 to 69.9 days in 1987.

And the National Safety Council says permanent work-related disabilities rose from 60,000 in 1985 to 70,000 in 1987.

Safety experts speculate conditions may be even grimmer because companies use reports in hopes to avoid OSHA inspections. In fact, the government has cited Union Carbide Corp., USX Corp. and others for alleged record-keeping violations.

Overtime, worker turnover. Ironically, some are rising in hopes to economic prosperity, especially in steel. One steelworker's local says injury rate is rarely doubted when overtime peaked.

"When you're tired and you work in a dangerous operation, fatigue is

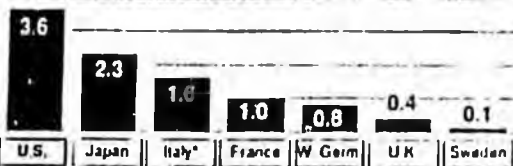


business syndrome is asking those who are left to do too damn much."

Similar concerns have surfaced from congressional hearings to union organizing drives, in auto, meatpacking, construction, steel and other industries. Experts say automation, competition and the changing business landscape play a role

Worker Fatality Rates Compared

Industrial accident death rate per 100,000 workers



*1984 figure, all others 1988, most recent available

Source: Bureau of Labor Statistics

APR 11, 1989



Associated Press

FRUITS OF HIS LABOR—Repetitive injuries suffered on the job at the John Morrell & Co. meatpacking plant in Sioux Falls, S.D., have left worker Dave Kellen with disabled hands.

going to lead to accidents," said Mike Wright, the United Steelworkers of America's health and safety director.

A 1988 University of Texas study found nearly 93 percent of injury increases in durable goods industries could be explained by over time and employee turnover.

"These aren't the only culprits."

"Automation is increasing and the workers who performed a variety of the jobs are being replaced by machinery," said Bob Hall, research director at the Institute for Southern Studies in North Carolina.

The jobs that are left are not as complicated and increasingly treat people as robots and treat arms and hands like they report of a machine. But you can't tell a person's arm or hand.

Workers who cut, chop or pull thousands of times daily have de-

veloped painful and sometimes disabling hand, arm and wrist ailments, known as repetitive trauma disorders. The most severe form is called carpal tunnel syndrome, a thickening or swelling of tendons in the wrist.

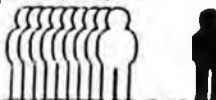
Repetitive trauma disorder cases—including hearing loss—soared from 26,700 to 72,900 from 1981 to 1987, the government says, though some attribute part of that to heightened awareness.

Much publicity has focused on meatpacking where, the United Food and Commercial Workers Union says, production jumped nearly 20 percent in the last five years while production employees dropped by almost 50 percent.

When line speeds are increased and the workforce is decreased in the name of efficiency, injuries go up. (See ENR Page D-5)

Worker Injuries

One of every 11 U.S. workers will be seriously injured or killed at work.



A U.S. worker is injured every 16 seconds.

One of every six U.S. workers will die from occupational related diseases.



DANGER: Companies push workers harder and create a more hazardous workplace

(Continued from Page D1)
up," said Debra Berkowitz, the union's health and safety director.

Meat packers' injuries

Meat and poultry workers, some of whom have testified before Congress, have complained about treacherously fast production lines, where meat flies off damaged conveyor belts and blood splatters in their faces. They have described cysts, infections, and crippling hand and back pain, that make it hard to

lift their children, comb their hair or hold a glass.

Former poultry employee Lilla Watson worked as a packer and log cutter for nearly a decade, making surgery three times on her hands, has arthritic legs and says she can't scrub floors or lift heavy pots.

"I feel bitter and angry," she said. "Ain't no job I can get where I can use my hands occasionally."

Workers such as Watson often don't have many options, either be-

cause of the scarcity of job opportunities or limited education.

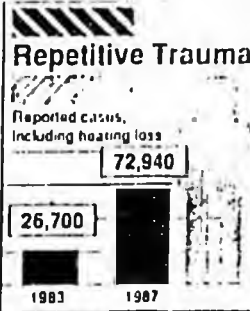
Another injured worker, Bev Whaley, said she had surgery on her right hand because of her job at the Murrell plant in Sourd Falls. She said a doctor told her she'd have to "learn to live with it." I wanted to take a baseball bat and smash his hands and tell him he'd have to learn to live with it."

Her union local claims assembly line speeds have increased in many areas, for example, in the beef kill department, where the animal is kno-knocked, its throat slit, the hole pulled off and the body split in half. Its hourly rate jumped from 16 1/2 an hour in 1979 to 19 1/2 in 1986.

Said co-worker Kellen: "You're just pushed to the limit."

But companies dispute the charge. Poultry producer Pacific Farms Inc. recently estimated repetitive trauma disorders at its plants at less than 1 percent.

And though OSHA contends Murrell knew conditions were causing injuries but did nothing, company spokesman Harold Baxter said safety improvement efforts were being made and the agency reviewed re-



Source: Bureau of Census

ports during an atypical time, a period that included a strike.

In 11 months, records show 1 million of 2,000 workers sustained repetitive strain injuries. Baxter said there are no quick fix programs for such injuries. "It's going to take a lot of hard work," he said. "Our progress has been dramatic."

Murrell says injuries at Sourd Falls fell per 100 workers from 70.5 in January 1988 to 12.48 in July 1987. Baxter attributed the high injury

rate to the timing of replacements and other strike effects, for the decline, he credited outside consultants, workers and supervisors.

But Jim Lyon, union local president, said he hasn't seen any safety progress and said company numbers are "totally inaccurate." He also contends a program providing prizes for injury free records encourages people not to report them.

Murrell isn't the only meat packer to come under government scrutiny.

OSHA also fined the nation's largest meat packer, IIP Inc., but a \$5.7 million penalty was reduced to \$2.5 million after the company agreed to conduct a three-year safety program to reduce motion injuries.

OSHA lowers fines

A recent workplace institute study of several large penalties found OSHA had bargained fines down from \$20.3 million to \$2.3 million.

And in cases where OSHA fines are smaller — in the thousands of dollars — the agency "is not effective in providing the stimulus employers need to properly deal with safety and health," said John

Moran, a former official of the National Institute for Occupational Safety and Health. "The bottom line in business is the dollar toll."

OSHA's Zettler said his agency usually doesn't reduce penalties by more than half. In IIP's case, he said, "we believe the significant reduction was justified by what we were getting back."

Zettler also conceded OSHA doesn't have staff to inspect all hazardous places annually and it may cost more to comply than pay a penalty. "If it takes us 15 years to get there, the guy has saved that investment for 15 years," he said.

But he says his agency has increased safety awareness and most major companies have health experts. Many also have hired safety design experts.

One is the University of Michigan's Center for Ergonomics. Director Don Chaffin believes it's simplistic to blame productivity alone for increased injuries and says corporations are paying more attention to these concerns.

But one union local disagrees. At the Allegheny Ludlum Corp., plant in Brackenridge, Pa., maintenance division injuries jumped from 27 percent to 45.47 percent during four heavy overtime months in 1988, said Carol Mochak, USW local 1186's safety chairman.

"People tend to overlook a lot of safety procedures," he said. "They're lax in wearing safety equipment. All they want to do is get the job done as quickly as possible."

Cost-cutting pressures

Productivity also has been an issue in construction, said Moran, the former NIOSH official who now works at a firm that trains hazardous waste cleanup workers.

"It's been getting worse for the last several years — the economic pressures, the greater and greater emphasis on cutting costs," he said.

"It's 'Get it done faster.' If you're laying a pipeline, you save money as a contractor by not putting in proper shoring or shoring in the trench."

He said in 96 percent of trench cave-in deaths he studied at NIOSH, there was no shoring or shoring.

Shortcuts in the name of efficiency are ultimately uneconomical, said H. Kenneth of the United Food and Commercial Workers. "Any gains made by pushing people will be lost if he has to cover and maintain any situation."

As the industry has agreed to a

PRAITT:

(Continued from Page D1)

of IIP operating in Alaska, is cutting its seven layers of management down to four. Tesaco is cutting 11 layers of management down to five.

The Economist article explains that most of the recent "savings" claimed by oil companies were the result of leaner management, but rather a price war among the smaller oil field contractors who most of their work. As crude oil prices plunged in the past 18 years, market prices for refined products remained fairly stable and the large integrated oil companies made out fairly well.

This is coming to an untidy end, the article notes, and the crude oil exploration and production subsidiaries are having to learn to stand or fall on their own profitability.

That's not good news for Alaska which is primarily an exploration and production state. We seem to have come out quite well in recent years, but our two largest players, BP and Atlantic Richfield, but our thin oil reserves base and high costs mean we can't automatically assume we'll be among the heavyweights forever.

And what are our political leaders doing? They halted all state oil lease sales six months ago and bet our future on the vain hope of persuading Congress to open the Arctic National Wildlife Refuge, a move that promises meager benefits for Alaska at best.

Someone needs to take a new look at this.

Free lance journalist Don H. H. has been covering Alaska business and politics for the past 10 years.

NEST EGG:

(Continued from Page D1)

Purchasing cash value life insurance and participating in dividend reinvestment plans are more traditional ways of imposing the discipline of saving upon yourself.

But Downey, the financial planner, frowns on purchasing insurance as a savings vehicle, instead of purchasing just the insurance you need for adequate coverage.

She also doesn't like automatic transfers to a credit union, bank of savings and loan account.

"I've seen many customers who constantly tap their accounts so that the savings plan becomes meaningless."

Yet those who have stuck to a self-imposed savings plan report emotional benefits from the (SAA) and (SAA).

North Ranch Limited
d/b/a
The Bull's Eye
located at
1470 Chena Hot Springs Road, Fairbanks
is applying for transfer of corporate stock
to
North Ranch Limited
d/b/a
The Bull's Eye
located at
1470 Chena Hot Springs Road, Fairbanks

** Interested persons should submit written comment to their local governing body, the applicant and to the Alcoholic Beverage Control Board at 550 West Seventh Avenue, Anchorage, Alaska 99501

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HJR

18

FISCAL NOTE

**STATE OF ALASKA
1992 LEGISLATIVE SESSION**

BILL NO. HJR 18

Revision Date: _____ Department Affected: Commerce & Economic Dev.

Title: Federal Earthquake Ins. Program BRU: Insurance

Component: Operations

Sponsor: Rep. Ellis & Gruenberg

Requestor: _____

COMPONENT SERIAL NO.

0	3	5	4
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
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						
FUND SOURCE:	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
FUND SOURCE:						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: *David J. Walsh* David J. Walsh, Director Phone: 465-2515

Division: Insurance Date: 3/6/92

Approved by Commissioner: *Glenn A. Olds* Glenn A. Olds

Agency: Commerce & Economic Development Date: 3/6/92

3111 C STREET, SUITE 455
ANCHORAGE, ALASKA 99503
(907) 581-7628

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JUNEAU, ALASKA 99811
(907) 465-3704

ALASKA STATE HOUSE



CHAIR
RULES COMMITTEE

JUDICIARY

SPECIAL COMMITTEE ON INTERNATIONAL
TRADE & TOURISM

LEGISLATIVE COUNCIL

REPRESENTATIVE JOHNNY ELLIS

MEMORANDUM

TO: House Labor & Commerce Committee Members

FROM: Rep. Johnny Ellis

RE: HJR 18 — Federal earthquake hazard reduction and insurance program

DATE: 3/9/92

I introduced this resolution last year when a compromise bill in the 101st Congress was being developed on two major pieces of earthquake insurance. H.R. 2806 reflects this compromise between Congressmen Swift (D-WA), Dreier (R-CA), Brown (D-CA), and Boehlert (R-NY). There is a total of 46 co-sponsors from 18 states.

I am proposing friendly amendments today to make this resolution urge the passage of H.R. 2806 — instead of legislation proposed by the earthquake project — as HJR 18 currently states. The Earthquake Project is a consortium of trade associations and independent companies within the property/casualty insurance industry. There is more information on the Project in your packets.

HJR 18 is in support of a bill in Congress, H.R. 2806, which will create a national base of customers for earthquake insurance, resulting in lower premiums for Alaskans who are purchasing earthquake coverage for their home. Current earthquake insurance rates cost approximately \$1.50 per \$1,000 on a home, averaging about \$250 a year for a \$150,000 home — with a \$15,000 deductible. Insurance agents estimate less than 1 percent of Alaskans elect to purchase earthquake insurance.

HJR 18 is a resolution urging Congress to adopt a federal earthquake hazard reduction and insurance program. Congress is now considering H.R. 2806 which will reduce the risks of losses due to earthquakes by:

- 1.) Establishing a strong state-oriented earthquake hazard reduction program to save lives and property;
- 2.) Making earthquake insurance more available and affordable

Alaska's 1964 earthquake killed 131 people and caused more than \$1 billion damage in today's dollars. Alaska still faces a substantial risk of a catastrophic earthquake during the next several decades. Most individuals, firms, municipalities and states are poorly prepared for such a disaster which could easily produce property damage in



excess of \$50 billion and, without advance preparation, many thousands of injuries and fatalities.

Private property insurance markets are ill-equipped to provide broad-based coverage for shake damage from catastrophic earthquakes. Such events are too infrequent and too costly for private insurers to insure at low rates. If insurers were able to spread their risks of shake damage throughout a national base of customers, earthquake insurance would become more affordable.

California is the only state that *requires insurance companies to offer* earthquake insurance. Still, only 20 to 25 percent of Californians purchase it.

With a universal program that spreads the risk nationwide, it is estimated the costs will decrease by 60 percent. Under the proposal, high risk areas might pay as much as \$50 per year while low risk areas might pay a premium as low as \$1 to \$2.

Rep Al Swift (D-WA)

R George Brown (D-CA)

Rep David Dreier (R-CA)

Rep. Sterry Boehlert
(R-NY)

American Insurance Association
March 10, 1992
Before
House Labor & Commerce Committee

My name is Mary A. Nordale and I appear today representing the American Insurance Association (AIA) in strong support of House Joint Resolution 18. The American Insurance Association is an industry trade group representing approximately 240 property and casualty insurance companies.

House Joint Resolution 18 urges the Congress to establish an earthquake insurance program similar to the federal flood insurance program.

The Earthquake Project pointed out in Catastrophic Earthquakes: The Need To Insure Against Economic Disaster, March, 1989 that:

Alaska is similarly at tremendous risk from a great earthquake. From 1938 to 1979, nine earthquakes of magnitude 7.4 or greater hit the area. The last destructive earthquake struck Anchorage in 1964 and its effects were felt as far south as San Diego and as far west as Hawaii. In fact, the 1964 quake is among the largest known anywhere in the world (8.4 magnitude). Total property damage from the quake exceeded \$311 million, and the economic base of entire communities was destroyed, thereby crippling the economy of the whole state and depriving Alaska of a major share of its tax base at a time when funds were most needed to aid in restoration.

Another ravaging seismic event in Alaska is probable within our lifetime. About 100 miles offcoast and 10,000 feet below the sea, the eastward moving ocean flow meets the North American current at a place called the Yakataga Seismic Gap. According to the USGS, someday in the foreseeable future, the sea bed will move, causing an earthquake of dangerous proportions that likely will generate a tsunami.

That quotation appears in a segment of the report in which predictions of massive earthquakes along the Pacific Coast appear. The report mentions a 60-percent chance of a major earthquake along the San Andreas Fault in the next 30 years, and in some locations the probability rises to 70 percent. Other faults in California are also likely to move in the next 30 years, all causing earthquakes of 7.5 to 8.3 magnitude. The Seattle area could experience an earthquake of 9.5 magnitude.

If the 1964 earthquake was felt as far as San Diego and Hawaii, it is not inconceivable that Alaska will feel shocks from

massive earthquakes along the Pacific Coast. Alaska could also experience tsunamis generated by these earthquakes.

In 1964 the federal government, acting under the orders of President Lyndon B. Johnson, organized a massive program of assistance to Alaskans, their communities, businesses and institutions. Since 1964, federally funded programs of disaster relief have diminished. If a destructive earthquake or tsunami hit Alaska now or in the future, no federal programs like those of 1964 would be available. The state and its people would be permanently and, perhaps, devastatingly harmed economically.

In 1964 very few Alaskans had earthquake insurance or, for that matter as we discovered in the 1967 flood at Fairbanks, flood insurance. Since 1967, flood insurance has been available and for the Fairbanks area, that availability has meant a substantial economic benefit.

The time has come to prepare for the next destructive earthquake and experience of these extraordinary economic disasters compels the conclusion that only a national program can be large enough to provide funds for reconstruction when an earthquake has struck.

In 1964 Alaska had a population of about 250,000. Today it is over 500,000. We have more homes and businesses that could be destroyed. We have invested enormous sums in our public institutions--schools, museums, universities, sports and other recreation facilities, roads, harbors, docks, airfields. We have a lot more at stake today than we had in 1964.

In 1964, the earthquake struck at a time of day on Good Friday that meant we had few people concentrated in large public and business structures. We may not be so fortunate in the next earthquake. Even so, we lost over 100 people and three communities--Valdez, Tatitlek and Chenega. It was only because President Johnson took strong and immediate steps to provide assistance that those communities could rebuild, and Anchorage, Kodiak, Seward, Seldovia and Homer, to name a few, were able to reconstruct their damaged harbors, homes, roads, airfields, schools and other facilities. The steps President Johnson was able to take are no longer available to any president. We have the example of the San Francisco earthquake to show that Alaskans will not be able to obtain the massive federal assistance that put the state back on its feet in 1964.

The members of the American Insurance Association have wide experience in property and casualty losses. They know both the benefits and the limitations of property and casualty insurance and they, through AIA, urge the Alaska State Legislature to support vigorously and actively Congress's adoption of a federally administered earthquake insurance program so that the devastating

economic losses experienced because of destructive earthquakes can be in part replaced.

EARTHQUAKE HAZARD REDUCTION AND INSURANCE:

A PROGRAM TO REDUCE LOSS AND SPEED RECOVERY FROM A CATASTROPHIC EARTHQUAKE

July 1991

Millions of Americans live, work, and go to school every day in buildings that will not withstand a major earthquake. In spite of the risk, few Americans are insured for losses caused by earthquakes and fewer still take preventive measures to reduce loss of life and property. All this despite the fact that scientists warn that a truly catastrophic quake (one 30 times more powerful than the 1989 World Series quake) is likely to hit somewhere in the continental U.S. in the next 30-40 years.

Compromise legislation (H.R. 2806) has been introduced by Congressmen Swift, Brown, Dreier, and Boehlert which reduces the risks of losses due to earthquakes by: (1) establishing a strong state-oriented earthquake hazard reduction program to save lives and property; and (2) making earthquake insurance more available and affordable. A federal earthquake insurance and hazard reduction program would:

- **Lessen the damaging effects of earthquakes.** Through a combination of incentives and phased-in requirements, states and localities would implement loss-reduction measures (e.g., building codes) to improve seismic safety of buildings. These mitigation measures will save lives, reduce injuries, and minimize property damage from future earthquakes.
- **Reduce federal disaster assistance.** Today, there is an over-reliance on federal disaster relief to compensate for property damaged or destroyed in an earthquake. According to Dr. Robert Litan of Brookings, the disaster assistance resulting from the 1989 Loma Prieta earthquake cost every taxpayer \$17. The proposed program would reduce this disaster aid by shifting much of the cost to a pre-funded insurance program involving a private-sector partnership with the insurance industry.
- **Lower earthquake premiums.** With a universal insurance program that spreads the risk nationwide, premiums will drop dramatically—at least a 60% decrease on average. Under the program, high-risk areas might pay \$50 per year; in low-risk areas, the premium may be as low as \$1 or \$2.
- **Address a national problem.** Earthquakes are a national problem requiring a national solution. Scientists say that 39 states are vulnerable to major or moderate quakes. The "big one" could as easily occur east of the Rocky Mountains as in California.
- **Protect the national economy.** A monster quake could cause \$50 billion in insured losses which would ripple through the economy, affecting the financial markets and every American. This would reduce the reserves held by insurers, preventing them from providing coverage to many consumers, even those outside the quake region. A federal reserve fund would help cushion the economic blow of a truly catastrophic earthquake.
- **Not cost the federal government.** The proposal relies on premiums collected from homeowners and the insurance industry to fund the program, not the taxpayers. If a shortfall should require the use of federal funds, they must be repaid with interest from future premiums and insurance company payments.

Congress of the United States

House of Representatives

Washington, D.C. 20515

Saving Lives and Insuring Against the Loss of Catastrophic Earthquakes

July 19, 1991

Dear Colleague:

Earthquake activity throughout our country continues to revive vivid images of the devastating quake we all witnessed as we tuned in to the 1989 World Series. Most recently, there have been small rumblings along the New Madrid fault in the Central U.S., a quake in upstate New York, discoveries of major faults off the Pacific Northwest, and the jolt which struck southern California on June 28.

We introduced on June 27 a compromise bill which better prepares our nation to respond to the ever-present risk of earthquakes. The bill (HR 2806) creates two programs: (1) a hazard reduction program to mitigate losses from future earthquakes; and (2) an insurance program to make earthquake insurance more available and affordable.

This legislation is needed to address a truly national problem. While we often think of California for earthquakes, the fact is that at least 39 states are vulnerable to major quakes. Studies from the U.S. Geological Survey confirm that the next "monster" quake (one perhaps 30 times more destructive in power than the 1989 "World Series" earthquake) could occur as easily east of the Rocky Mountains as in California. An example of a high-risk area is the New Madrid fault which covers seven states -- Tennessee, Missouri, Arkansas, Mississippi, Kentucky, Illinois, and Indiana. Other states with significant earthquake risks include Washington, Massachusetts, South Carolina, Alaska, Oregon, Idaho, Utah, Montana, Nevada, Wyoming, Arizona, New Mexico, and Hawaii.

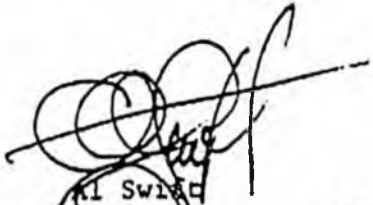
HR 2806 combines features of the two leading earthquake insurance bills introduced in the 101st Congress: HR 4915, the Brown-Boehlert bill, and HR 4480, the Swift-Dreier bill. The new bill reflects our efforts to unite around a single vehicle to enhance the prospects for favorable congressional action.

One key element of the compromise is a new hazard reduction program which relies on incentives and phased-in requirements to ensure that states and localities are taking steps to mitigate losses. These steps include community-based building codes, land-use planning, and some strengthening of existing high-risk structures. The other key element in the bill is a two-tiered insurance program which operates in partnership with the private sector to pre-fund natural disaster assistance. There is a primary insurance program which makes insurance universally available and affordable to homeowners and an excess reinsurance program which protects the economy from catastrophic earthquakes.

This new bill is truly a compromise. While none of us agrees with every provision, we believe this bill is an excellent start in fashioning a workable and effective program to save lives and reduce property damage from future earthquakes.

Attached is a five-page summary of the bill. We hope you will agree to cosponsor HR 2806. If you have questions or would like to cosponsor, please call Eric Niles or Kate Hallahan at 5-2605.

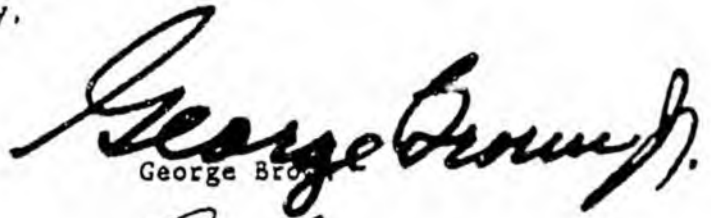
Sincerely,



Al Swift



David Dreier



George Brown



Sherwood Boehlert

102D CONGRESS
1ST SESSION

H. R. 2806

I

To amend the Earthquake Hazards Reduction Act of 1977 to encourage implementation of research results, to protect life and property, and to facilitate the provision of insurance against the risk of catastrophic earthquakes and volcanic eruptions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 1991

Mr. SWIFT (for himself, Mr. BROWN, Mr. DREIER of California and Mr. BOEHLERT) introduced the following bill; which was referred jointly to the Committees on Science, Space, and Technology and Banking, Finance and Urban Affairs

NOVEMBER 4, 1991

Additional sponsors: Mr. BRUCE, Mr. COSTELLO, Mrs. MINK, Mr. NEAL of Massachusetts, Mr. POSHARD, Mr. ROTH, Mr. FORD of Tennessee, Mr. MOAKLEY, Mr. MCCLOSKEY, ~~Mrs. YOUNG of Alaska~~ Mr. FROST, Mr. LEWIS of California, Mr. TANNER, Mr. TORRES, Mr. FAZIO, Mrs. UNSOELD, Mr. HORTON, Mr. STARK, Mr. ROE, Mr. ROYBAL, Mr. DICKS, Mr. MINETA, Mr. PORTER, Mr. NOWAK, Mr. HANCOCK, Mr. CONDIT, Mr. BILBRAY, Mr. EMERSON, Mr. MORRISON, and Mr. ABERCROMBIE

A BILL

To amend the Earthquake Hazards Reduction Act of 1977 to encourage implementation of research results, to protect life and property, and to facilitate the provision of insurance against the risk of catastrophic earthquakes and volcanic eruptions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 SECTION 1. SHORT TITLE.

2 This Act shall be cited as the ~~'Earthquake Hazard~~
3 ~~Reduction Amendment Act'.~~

4 SEC. 2. FINDINGS.

5 Section 2 of the Earthquake Hazards Reductions Act
6 of 1977 (42 U.S.C. 7701) is amended by adding at the
7 end the following new paragraphs:

8 “(12) The Federal Government should work
9 constructively with the States and localities to assist
10 and require, if appropriate, the development, adop-
11 tion, and enforcement of hazard reduction measures,
12 including building codes, land-use planning, and
13 seismic strengthening of existing structures.

14 “(13) The catastrophic and unpredictable na-
15 ture of earthquakes and volcanic eruptions prevent
16 individual private insurers from offering the nec-
17 essary insurance against these perils without the
18 participation of the Federal Government.

19 “(14) In the absence of an adequate system for
20 insuring against such losses, the Federal Govern-
21 ment and State governments will bear excessive and
22 avoidable costs of disaster relief and the commerce
23 and economy of the Nation would be seriously desta-
24 bilized.

25 “(15) The existing systems of private insur-
26 ance, reinsurance, and government disaster relief are

1 and economy of the Nation would be seriously desta-
2 bilized.

3 “(15) The existing systems of private insur-
4 ance, reinsurance, and government disaster relief are
5 inadequate and should be improved and better co-
6 ordinated.

7 “(16) A reasonable method of providing insur-
8 ance against such losses is to create a Federal earth-
9 quake insurance and reinsurance program, which
10 will assist in making insurance against such disas-
11 ters widely available and affordable to the general
12 public.”.

13 **SEC. 3. PURPOSE.**

14 Section 3 of the Earthquake Hazards Reduction Act
15 of 1977 (42 U.S.C. 7702) is amended—

16 (1) in paragraph (5), by inserting “working
17 with the States and localities to ensure the adoption
18 and enforcement of earthquake hazard reduction
19 measures,” after “such risks,”;

20 (2) in paragraph (6), by striking “and” at the
21 end;

22 (3) in paragraph (7), by striking the period at
23 the end and inserting “; and”; and

24 (4) by adding at the end the following new
25 paragraph:

1 “(8) the creation and implementation of a Fed-
2 eral earthquake insurance and reinsurance pro-
3 gram.”.

4 **SEC. 4. DEFINITIONS.**

5 Section 4 of the Earthquake Hazards Reduction Act
6 of 1977 (42 U.S.C. 7703) is amended by adding at the
7 end the following new paragraphs:

8 “(8) The term ‘additional losses’ means claim
9 and loss adjustment expense payments for earth-
10 quake coverage issued pursuant to subtitle B of title
11 II that exceed the accumulated amounts in the Resi-
12 dential Property Insurance Fund.

13 “(9) The term ‘alien insurer’ means an insurer
14 or reinsurer organized or incorporated in a country
15 other than the United States.

16 “(10) The term ‘Director’ means the Director
17 of the Federal Emergency Management Agency.

18 “(11) The term ‘earthquake’ means any shak-
19 ing or trembling of the crust of the earth caused by
20 underground seismic forces or by breaking and shift-
21 ing of rock beneath the surface, and includes any
22 volcanic eruption.

23 “(12) The term ‘earthquake coverage’ means
24 insurance issued pursuant to subtitle B of title II.

1 “(13) The term ‘earthquake-prone State’ means
2 a State determined by the Director pursuant to sec-
3 tion 201 to have an exposure to the earthquake per-
4 ils.

5 “(14) The term ‘Federal agency’ means any de-
6 partment, agency, corporation, or other instrumen-
7 tality of the executive branch of the Federal Govern-
8 ment, and includes the Federal National Mortgage
9 Association and the Federal Home Loan Mortgage
10 Corporation.

11 “(15) The term ‘federally related mortgage
12 loan’ has the meaning given the term in section 3(1)
13 of the Real Estate Settlement Procedures Act of
14 1974, except that the term does not include any loan
15 described in subparagraph (B)(iv) of such section.

16 “(16) The term ‘fires associated with an earth-
17 quake’ means any fire proximately caused by an
18 earthquake.

19 “(17) The term ‘insurance industry’ means all
20 private insurers and private reinsurers.

21 “(18) The term ‘large building’ means any
22 nonresidential structure that has more than 1 story
23 or more than 5,000 square feet per story.

1 “(19) The term ‘loss-reduction criteria’ means
2 the criteria for earthquake loss mitigation estab-
3 lished by the Director under section 203.

4 “(20) The terms ‘private insurer’ and ‘private
5 reinsurer’ mean any insurer or reinsurer that is (A)
6 licensed or admitted to write property and casualty
7 insurance or reinsurance within a State, or (B) is a
8 branch of an alien insurer or reinsurer that is en-
9 tered through and licensed by a State to conduct in-
10 surance or reinsurance business. In the case of an
11 insurance exchange or group of unincorporated un-
12 derwriters, the term means an underwriting syn-
13 dicate, notwithstanding the licensed or admitted sta-
14 tus of the insurance exchange or group of unincor-
15 porated underwriters.

16 “(21) The term ‘Reinsurance Fund’ means the
17 Reinsurance Fund established under section 245.

18 “(22) The term ‘residential property’ means
19 any (A) 1- to 4-family residential structure (includ-
20 ing mobile or manufactured homes) and the personal
21 property therein, and (B) personal property of occu-
22 pants of residential structures (including con-
23 dominiums, cooperatives, and apartment structures).

24 “(23) The term ‘residential property insurance
25 coverage’ means policies, riders, or endorsements of

1 insurance that provide indemnity, in whole or in
2 part, for the loss, destruction, or damage of residen-
3 tial property and other eligible property as deter-
4 mined by the Director.

5 “(24) The term ‘Insurance Fund’ means the
6 Residential Property Insurance Fund established
7 under section 228.

8 “(25) The term ‘seismic zone’ means an area
9 within a State identified and classified by the Direc-
10 tor under section 201(a) as subject to major seismic
11 risk.

12 “(26) The term ‘seismically hazardous critical
13 facilities’ means schools and structures essential to
14 emergency services necessary for postearthquake re-
15 covery (including hospitals, fire and police facilities,
16 temporary shelters, and emergency operating and
17 preparedness centers) that—

18 “(A) have unreinforced masonry bearing
19 walls, tilt-up construction, or nonductile con-
20 crete frame construction; and

21 “(B) are located in seismic zones within
22 earthquake-prone States.

23 “(27) The term ‘Self-Sustaining Mitigation
24 Fund’ means the Fund established under section
25 204.

1 “(28) The term ‘volcanic eruption’ means the
2 expulsion, as a result of natural causes, of molten
3 rock, rock fragments, gases, ashes, and other natu-
4 ral substances through an opening in the crust of
5 the Earth.”.

6 **SEC. 5. CONFORMING AMENDMENTS.**

7 The Earthquake Hazards Reduction Act of 1977 (42
8 U.S.C. 7701 et seq.) is amended—

9 (1) in section 4(2), by inserting “, as used in
10 title I,” before “means”;

11 (2) by inserting after section 4 the following:

12 **“TITLE I—HAZARDS**
13 **REDUCTION”;**

14 (3) by redesignating sections 5, 6, 7, 8, 9, 10,
15 11, and 12 as sections 101, 102, 103, 104, 105,
16 106, 107, and 108 respectively;

17 (4) in sections 101, 103, 105, 106, and 108 (as
18 redesignated by paragraph (3) of this section), by
19 striking “this Act” each place it appears and insert-
20 ing “this title” in each such place; and

21 (5) in section 108 (as redesignated by para-
22 graph (3) of this section), by striking “sections 5
23 and 6” each place it appears and inserting “sections
24 101 and 102” in each such place.

1 **SEC. 6. INSURANCE AND REINSURANCE.**

2 The Earthquake Hazards Reduction Act of 1977 (42
3 U.S.C. 7701 et seq.) is amended by adding at the end
4 the following new title:

5 **“TITLE II—INSURANCE AND**
6 **REINSURANCE**

7 **“Subtitle A—Participation by**
8 **States in the Adoption of Haz-**
9 **ard Reduction Measures**

10 **“SEC. 201. IDENTIFICATION OF EARTHQUAKE-PRONE**
11 **STATES.**

12 **“(a) INITIAL IDENTIFICATION OF STATES.—**The Di-
13 rector, in consultation with the United States Geological
14 Survey, other relevant Federal entities, and seismic ex-
15 perts in the private sector, shall identify States having an
16 exposure to earthquake perils, which shall include any
17 State subject to major or moderate seismic risks. The Di-
18 rector shall also identify and establish any areas, within
19 such States, that are subject to major seismic risk as seis-
20 mic zones. The Director shall identify such States and
21 zones before the expiration of the 1-year period beginning
22 on the date of the enactment of the Earthquake Hazard
23 Reduction Amendments Act, and shall cause a listing of
24 such States and zones to be published in the Federal Reg-
25 ister and in widely circulated local newspapers in the ap-
26 plicable States before the expiration of such 1-year period.

1 “(b) FINAL NOTIFICATION.—Each State identified
2 under subsection (a) shall be considered to be an earth-
3 quake-prone State for purposes of this Act upon the expi-
4 ration of the 6-month period beginning upon the expira-
5 tion of the period under subsection (a). The Director shall
6 notify the Governor of each State identified under sub-
7 section (a) in writing, before the expiration of such 6-
8 month period, that the State is an earthquake-prone State
9 for purposes of this Act.

10 “(c) ONGOING IDENTIFICATION AND NOTIFICA-
11 TION.—Based upon any additional seismic information
12 that from time to time becomes available, the Director
13 may identify States (not identified under subsection (a))
14 having an exposure to earthquake perils. Any such States
15 shall be considered to be an earthquake-prone State for
16 purposes of this Act upon the notification of the Governor
17 of the State, in writing, of the identification of the State
18 as an earthquake-prone State.

19 “(d) APPEAL.—Any State aggrieved by a final deter-
20 mination as a earthquake-prone State pursuant to sub-
21 section (b) or (c), may, after exhausting administrative
22 remedies, appeal such determination to any United States
23 district court for a district located within the State, not
24 more than 60 days after receipt of notice of such deter-
25 mination. The scope of review by the court shall be as pro-

1 vided under chapter 7 of title 5, United States Code. Dur-
2 ing the pendency of any such litigation, all determinations
3 of the Director shall be effective and final for the purposes
4 of this title unless stayed by the court for good cause
5 shown.

6 "SEC. 202. EARTHQUAKE LOSS MITIGATION ADVISORY COM-
7 MITTEE.

8 "(a) ESTABLISHMENT.—There is established an inde-
9 pendent advisory committee within the executive branch
10 to be known as the Earthquake Loss Mitigation Advisory
11 Committee (in this section referred to as the 'Committee').
12 The Committee, its members, and its functions shall be
13 separate from the National Earthquake Hazards Reduc-
14 tion Program Advisory Committee established under sec-
15 tion 103 and the Earthquake Insurance and Reinsurance
16 Advisory Committee established under section 227. To the
17 extent not contradicted by the provisions of this section,
18 the Committee shall be subject to the provisions of the
19 Federal Advisory Committee Act.

20 "(b) MEMBERSHIP.—

21 "(1) APPOINTED MEMBERS.—The Committee
22 shall be composed of 5 members appointed by the
23 President, by and with the advice and consent of the
24 Senate. The members shall be chosen from among
25 citizens of the United States who are respected ex-