



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Commerce, Community,
and Economic Development

ALCOHOLIC BEVERAGE CONTROL BOARD

550 W. 7th Avenue, Suite 1600
Anchorage, Alaska 99501
Main: 907.269.0350
TDD: 907.465.5437
Fax: 907.334.2285

MEMORANDUM

TO: Cynthia A. Franklin, Director

DATE: November 6, 2015

FROM: Steven Johnson, Investigator III

SUBJ: Bethel Spirits

As per your request I travelled to Bethel, AK on 10-22-2015 for the purpose of measuring distance between the proposed site of Bethel Spirits and the Bethel Youth Facility. Below is the narrative from my reports which was placed into ARMS:

“On 10-22-2015 at approximately 0730 hours I, Investigator Steven M. Johnson, arrived in Bethel, AK for the purpose of attaining proper measurements between a proposed licensed establishment, Bethel Spirits and the Bethel Youth Facility which houses a school. I measured the distances utilizing a Kesson Model RR112 measuring wheel which I borrowed from the Bethel Police Department. At 0850 hours I spoke with the Superintendent of the Bethel Youth Facility, Darrell Garrison, who informed me the facility’s property begins at the 50’ setback from the center of the roadway (Chief Eddie Hoffman Highway). I began measuring and taking photographs at 0940 hours.

Alaska Statute 04.11.410(a) states: A beverage dispensary or package store license may not be issued [...] if the licensed premises would be located in a building the public entrance of which is within 200 feet of a school ground [...], measured by the shortest pedestrian route from the outer boundaries of the school ground.

Measuring from the 50’ setback from the center of Chief Eddie Hoffman Highway into the Bethel Youth Center’s driveway to the front entrance of the Kipusvik building (which Bethel Spirits would be located in) a distance of 522’ 4” was read (see attached photograph).

Bethel Municipal Code 5.08.011 prohibits a package store within 300 feet of school buildings, measured by the most direct route of travel on the ground, from the main parking lot entrance of the establishment in a straight line, regardless of obstructions to the nearest public sidewalk, walkway, street, road, or highway by the nearest route, to the nearest portion of the school grounds.

Again measuring from the 50' setback into the Bethel Youth Facility's property to a 50' setback into the south parking lot entrance of Kipusvik, a measurement in a straight line of 145' 8" was read (see attached photograph).

I also measured from the opposite entrance located off an unnamed road in between the Kipusvik building parking lot and the hospital building. Measuring the route around the Kipusvik parking lot, down Chief Eddie Hoffman Highway to the Bethel Youth Facility, a measurement of 843' 1" was read (see attached photograph).

After the measurements were complete and I was sitting in my rental vehicle making notes a vehicle pulled up. The driver of said vehicle introduced himself as Chief Achee of the Bethel Police department. I introduced myself and thanked him for the use of the measuring device. I asked the chief about the road in between the complex and the hospital building. He informed me it was a road for the hospital building and when the Kipusvik building was built they needed two entrances/exits in order to conform to code, and the south entrance was the original main entrance. I thanked Chief Achee for the use of the measuring wheel and returned it to him and he drove away.

While taking measurements I photographed the wheel as well as the entrances of the Kipusvik parking lot in relation to the Bethel Youth Facility. See attached photographs.

I completed measurements and photographs at 1015 hours.

Nothing further."

Respectfully submitted,

Steven M. Johnson, Investigator III

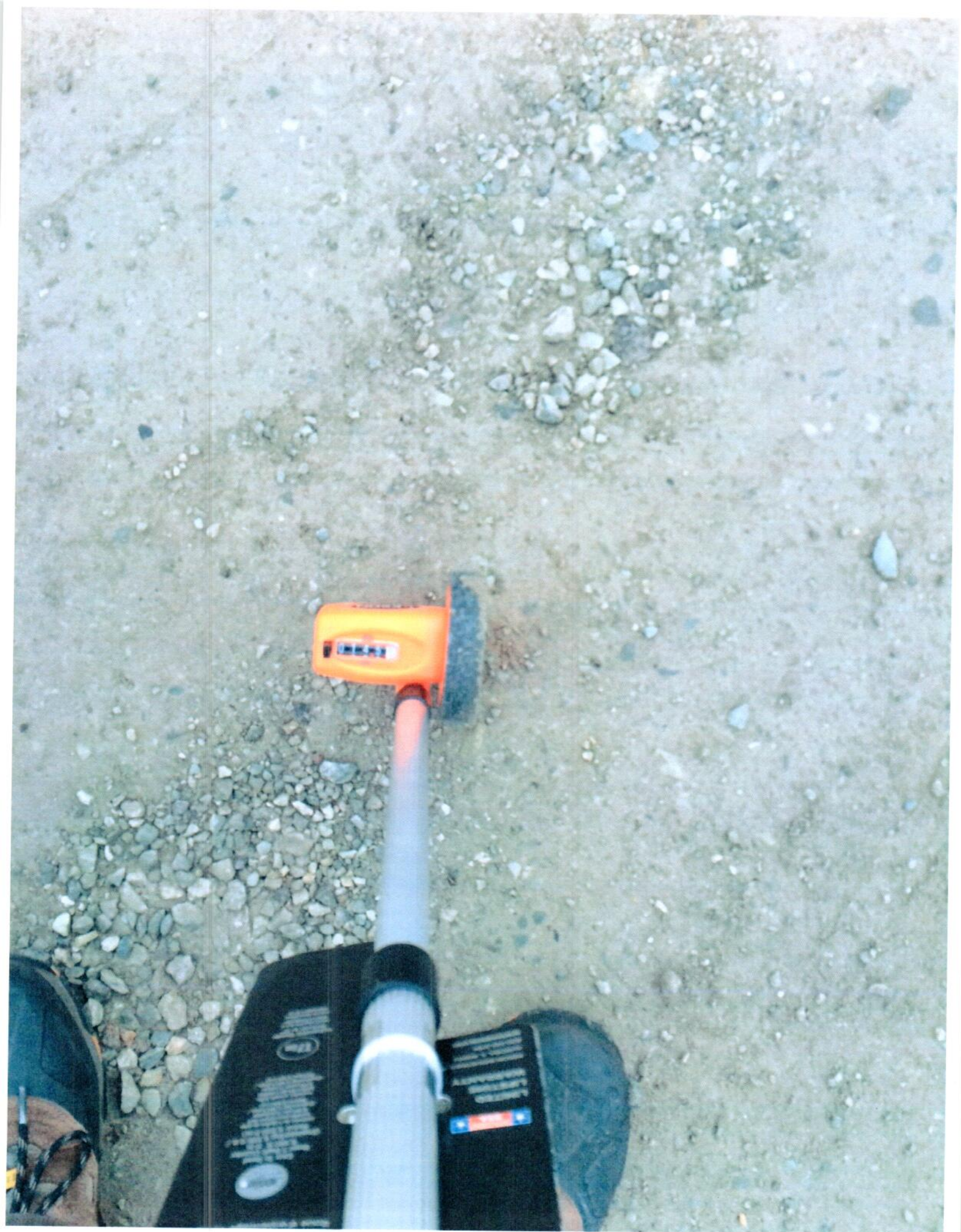






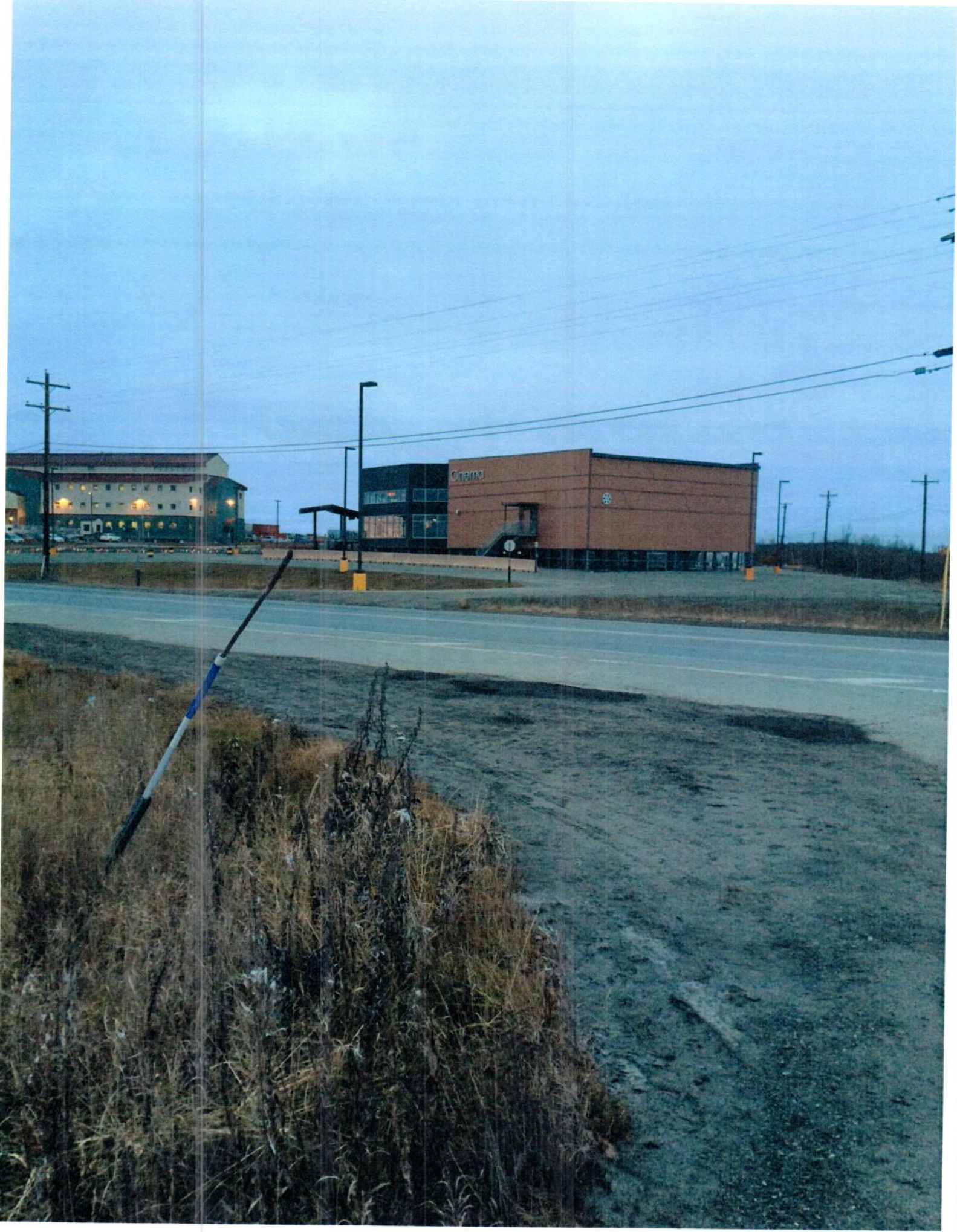


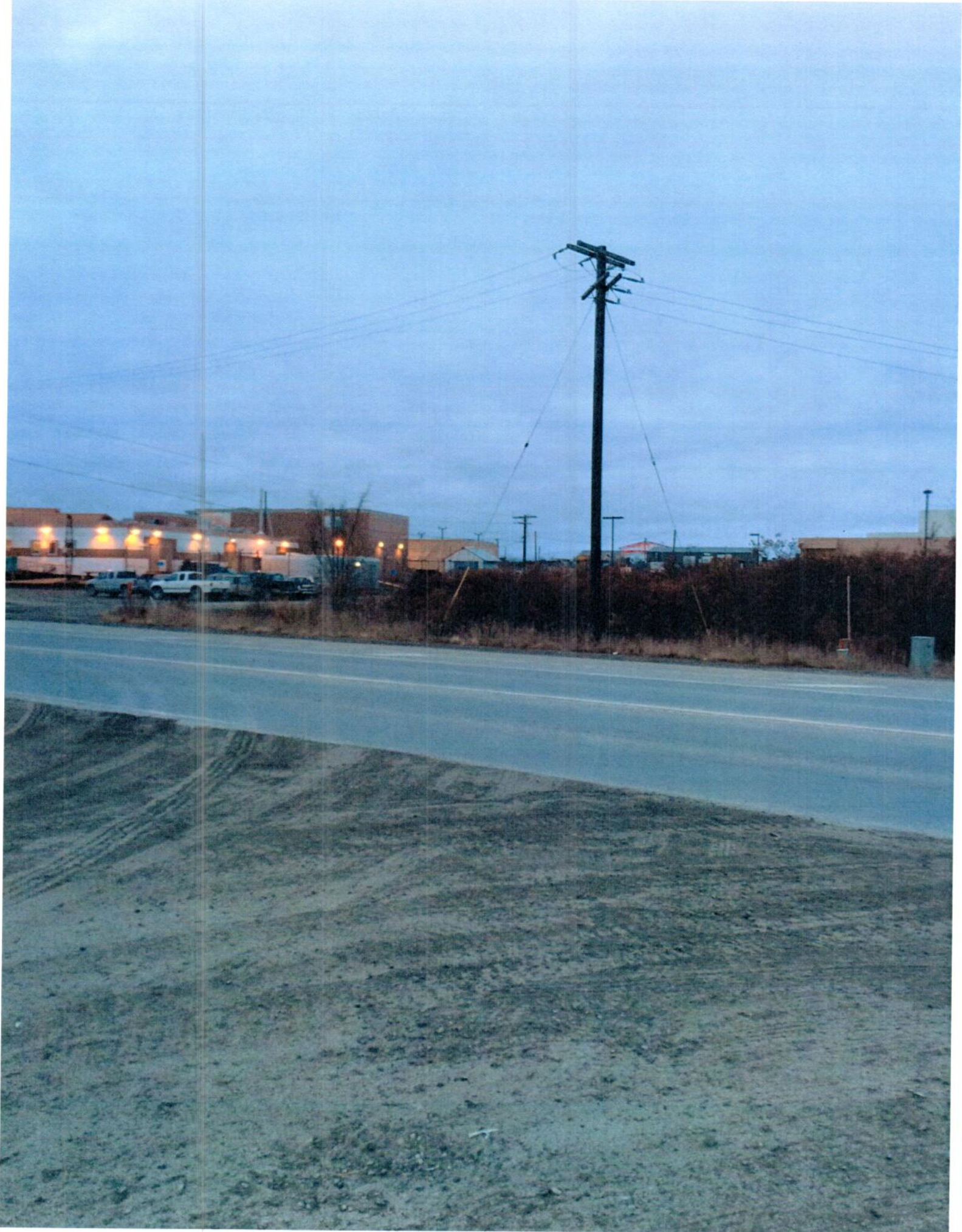




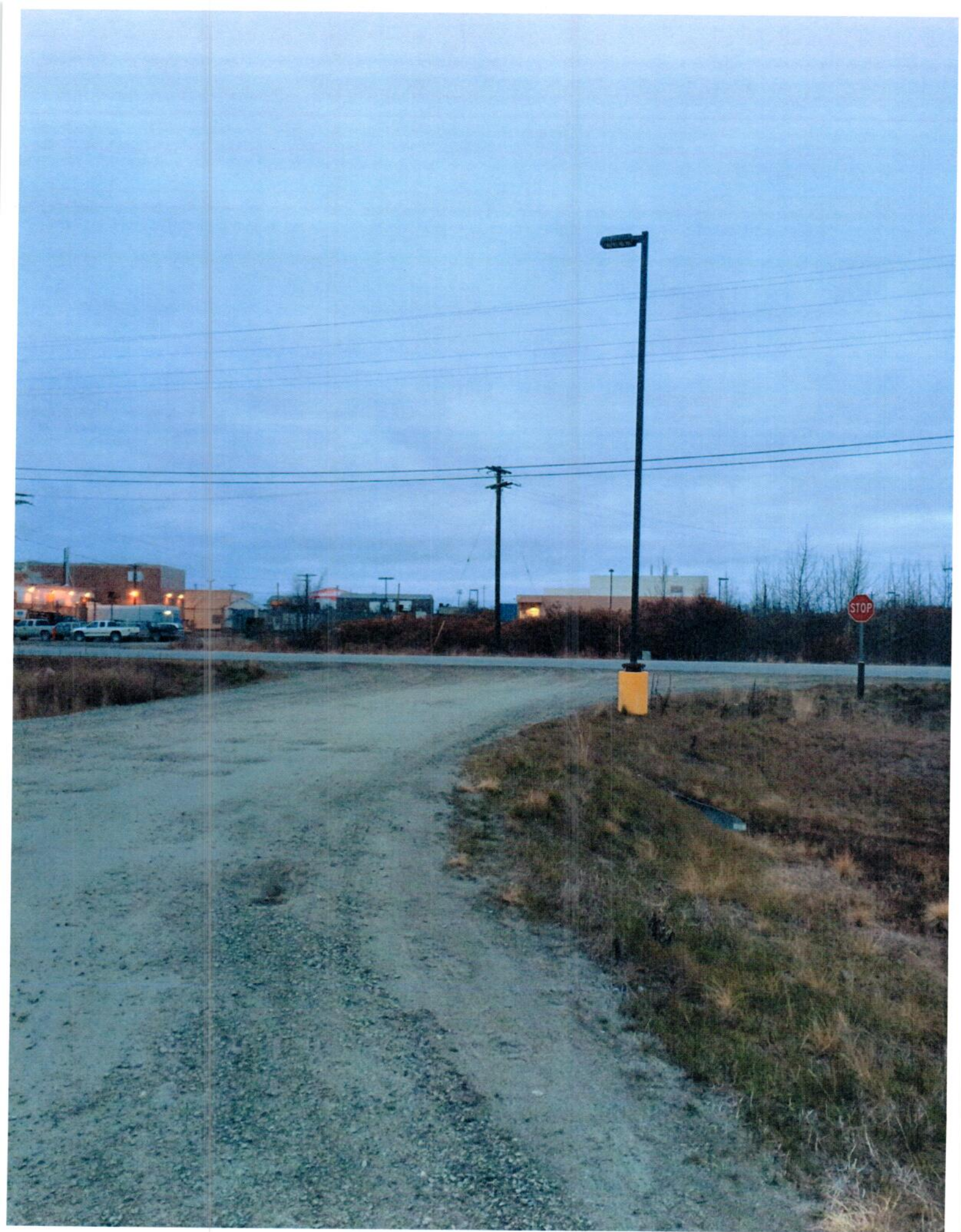








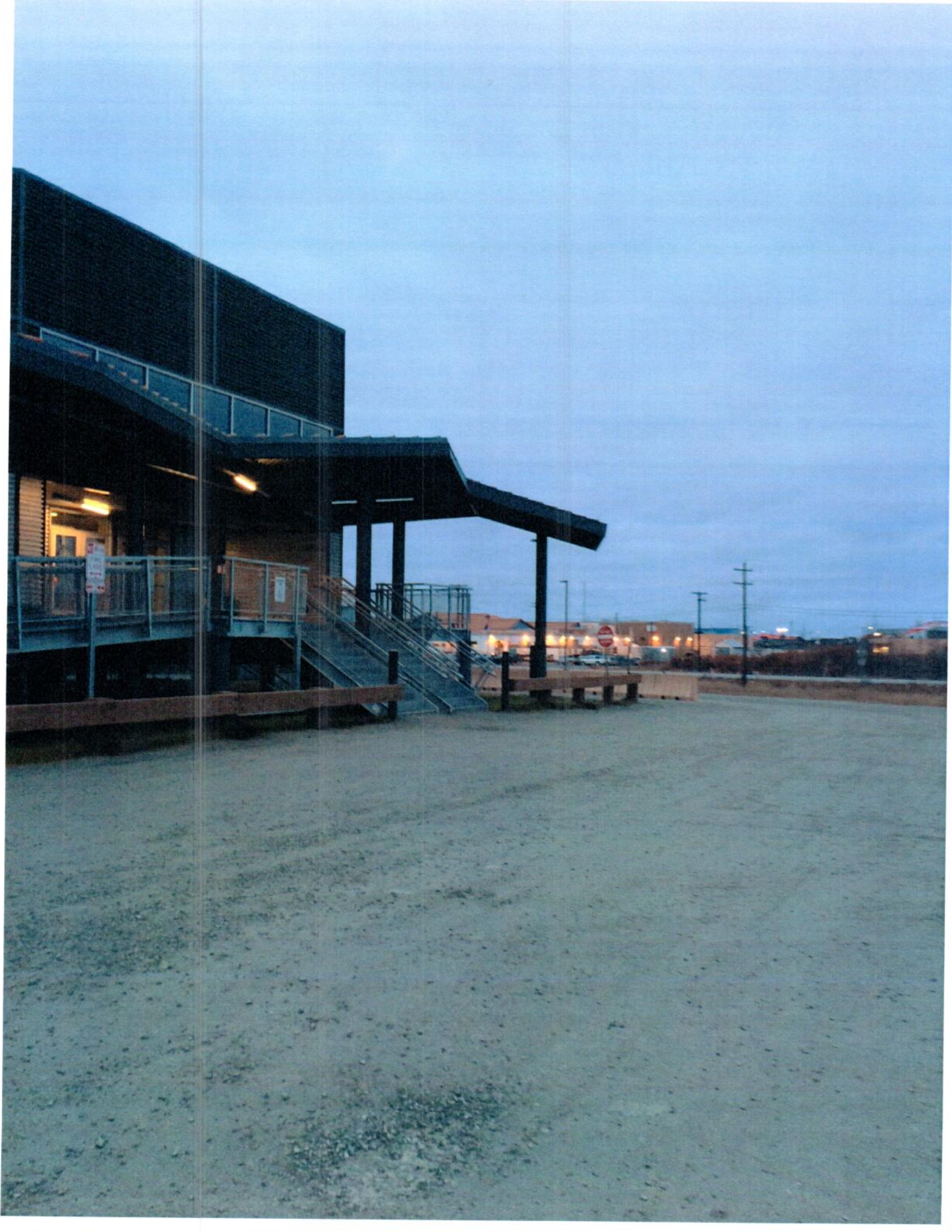














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October 8, 2015

Alcohol Beverage Control Board
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501

Re: Bethel Spirits LLC's Liquor License Application

Dear Members of the Board:

I am general legal counsel to the Lower Kuskokwim School District (LKSD). LKSD is a public school district. It was established as a Regional Educational Attendance Area pursuant to AS 14.08.011-14.08.151 to operate public schools in 23 communities in the Lower Kuskokwim Region, including the City of Bethel.

The LKSD's School Board has asked me to provide the Alaska Beverage Control Board (ABC Board) with this legal opinion demonstrating that the location of Bethel Spirits LLC's proposed package store violates AS 04.11.410(a), prohibiting the issuance of a package store license if the licensed premises would be located within 200 feet of a school ground. In a letter to the ABC Board dated June 25, 2015, the Attorney for the City of Bethel opposed the issuance of Bethel Spirits' package store license in part because the proposed location of the store was within 200 feet of the Bethel Youth Facility (BYF). The City measured the actual distance as 102 feet. LKSD operates a public school at BYF. As such, the package store would be within 200 feet of a school ground.

Article VII, Section 1. of the Alaska Constitution requires the legislature to "establish and maintain a system of public schools open to all children of the state." Under this constitutional mandate, the legislature has enacted AS 14.03.080 providing that school age children "are entitled to attend public school...in the school district in which the child is a resident..." In furtherance of that that constitutional and legislative mandate, AS 14.07.020 (a)(5) requires the Alaska Department of Education and Early Development (DEED) to coordinate with the state's juvenile justice system to establish "a program for the continuing education of children who are held in detention facilities in the state during the period of detention."

The educational program established at BYF is operated by LKSD. In multiple classrooms within BYF, LKSD employs both full-time and part-time Alaska certified teachers and at least one paraprofessional to provide a program of instruction pursuant to

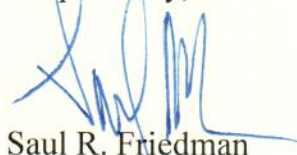
the District's adopted curriculum, and in compliance with the school laws of the state, including required standards based testing. The District also provides equipment, computers, and supplies in furtherance of that effort.

DEED regulation 4 AAC 05.900(5) defines a "school" as "a program of instruction which complies with all statutes, regulations and requirements applicable to the operation of public schools in the state." As such, DEED recognizes LKSD's program of instruction at BYF as a school. *See* the attached DEED publication entitled PRELIMINARY 2014-2015 Attendance Rate by School at page 7 of 11. Additionally, LKSD's educational program at BYF is funded by the State of Alaska pursuant to the public school funding formula established in AS 14.17. entitled Financing of Public Schools.

In short, for the reasons set forth above, Bethel Spirits' proposed package store would be within 200 feet of a school ground-- LKSD's school in BYF-- in violation of AS 04.11.410(a).

Thank you for your time and consideration.

Respectfully,



Saul R. Friedman

SRF:cef

cc: Daniel Walker, Superintendent, LKSD
Bethel Spirits LLC

PRELIMINARY 2014-2015 Attendance Rate by School
(Does Not Include Correspondence Programs)

District	School	Rate
Kodiak Island	Akhiok School	94.8%
Kodiak Island	Chiniak School	85.7%
Kodiak Island	East Elementary	93.3%
Kodiak Island	Karluk School	97.3%
Kodiak Island	Kodiak High School	93.3%
Kodiak Island	Kodiak Middle School	93.4%
Kodiak Island	Larsen Bay School	93.7%
Kodiak Island	Main Elementary	94.1%
Kodiak Island	North Star Elementary	93.9%
Kodiak Island	Old Harbor School	92.8%
Kodiak Island	Ouzinkie School	90.5%
Kodiak Island	Peterson Elementary	95.3%
Kodiak Island	Port Lions School	93.0%
Kuspuk	Aniak Jr/Sr High School	87.3%
Kuspuk	Auntie Mary Nicoli Elementary	91.4%
Kuspuk	Crow Village Sam School	85.4%
Kuspuk	George Morgan Sr. H.S.	81.2%
Kuspuk	Gusty Michael School	89.2%
Kuspuk	Jack Egnaty Sr. School	94.2%
Kuspuk	Johnnie John Sr. School	84.2%
Kuspuk	Joseph S. & Olinga Gregory Elementary	87.2%
Kuspuk	Zackar Levi Elementary	88.1%
Lake and Peninsula	Chignik Bay School	94.2%
Lake and Peninsula	Chignik Lagoon School	98.7%
Lake and Peninsula	Chignik Lake School	85.6%
Lake and Peninsula	Egegik School	88.1%
Lake and Peninsula	Igiugig School	94.8%
Lake and Peninsula	Kokhanok School	93.7%
Lake and Peninsula	Levelock School	91.1%
Lake and Peninsula	Meshik School	92.4%
Lake and Peninsula	Newhalen School	90.9%
Lake and Peninsula	Nondalton School	94.3%
Lake and Peninsula	Perryville School	96.6%
Lake and Peninsula	Pilot Point School	84.4%
Lake and Peninsula	Tanalian School	94.0%
Lower Kuskokwim	Akiuk Memorial School	92.2%
Lower Kuskokwim	Akula Elitnaurvik School	91.1%
Lower Kuskokwim	Anna Tobeluk Memorial School	84.8%
Lower Kuskokwim	Arviq School	86.0%
Lower Kuskokwim	Ayagina'ar Elitnaurvik	89.9%
Lower Kuskokwim	Ayaprun Elitnaurvik	96.0%
Lower Kuskokwim	Ayaprun School	91.2%
Lower Kuskokwim	Bethel Regional High School	86.9%
Lower Kuskokwim	Bethel Youth Facility	100.0%
Lower Kuskokwim	Chaputnguak School	89.6%

YKHC Hostel

YKHC Hospital

YKHC HOSPITAL

Youth Facility

Location of
Bethel Spirits
Store

YKCC Jail

River Access

YKHC Assisted
Living

Prematernal Home

Allanavik Hotel
(Medicaid Hotel)

From: [Sawyer, Jane Preston \(CED\)](#)
To: [Oates, Sarah D \(CED\)](#)
Subject: FW: Bethel Spirits and Northwest Company Applications
Date: Wednesday, May 27, 2015 10:05:04 AM

Jane

From: Patty Burley [mailto:pburley@cityofbethel.net]
Sent: Wednesday, May 27, 2015 9:40 AM
To: Sawyer, Jane Preston (CED); Franklin, Cynthia A.
Cc: Lori Strickler
Subject: Bethel Spirits and Northwest Company Applications

Per the requirements of 3 AAC 304.145, the City of Bethel notified both applicants, Bethel Spirits and Northwest Company, of their right to defend their application before the local governing body. The matter was scheduled for May 26 at 6:30 pm.

On May 15, 2015, Ms. Anna Hoffman of Bethel Spirits, contacted the City, in writing, and requested the matter be continued until the next regularly scheduled meeting. The request was granted the same day. Bethel Spirit's right to defend their application has been rescheduled to June 9, 2015 at 6:30 pm before the Bethel City Council.

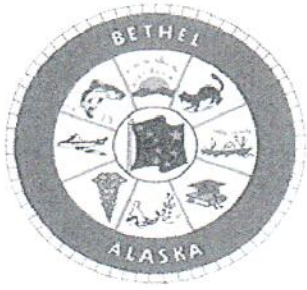
On May 26, 2015, Northwest Company appeared before the Bethel City Council and requested the matter be continued until the next regularly scheduled city council meeting. The request was granted. Northwest Company's right to defend their application has now also been rescheduled to June 9, 2015 at 6:30 pm before the Bethel City Council.

Both parties have been notified. Bethel Spirits was notified in writing and confirmed receipt of the notice and Northwest Company was notified orally at the May 26 hearing which they attended.

--

Patty Burley
Bethel City Attorney

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CITY OF BETHEL

P.O. Box 1388 Bethel, Alaska 99559

907-543-1385

Fax 907-543-2936

May 5, 2015

Anastasia Hoffman
Bethel Spirits, LLC
Bethel Native Corporation
P.O. Box 719
Bethel, Alaska 99559

Re: Package Store License Application # 5385

Dear Ms. Hoffman:

As per the Council's Resolution 15-08, passed April 28, 2015, and in accordance with 3 AAC 304.145, you will be provided a reasonable opportunity to defend your application for a package store license before the Bethel City Council.

Bethel Spirits LLC, is being provided up to ten minutes to present their defense of their package store license application during the May 26, 2015, regular City Council meeting. The meeting will be held at 300 State Highway, Bethel, AK in the Council Chambers and will begin at 6:30p.m. The agenda for this meeting will be posted to the City of Bethel's website, www.cityofbethel.org on Thursday, May 21, 2015.

Respectfully,

Lori Strickler,
City Clerk

cc: Alcohol Beverage Control Board

June 17, 2015

Alcoholic Beverage Control Board
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501

Re: Bethel Spirits LLC's Liquor License Application

Dear Members of the Board:

The Bethel City Council's (the "City Council") policy of protesting *every* liquor license application, regardless of particular facts, within the City of Bethel, a wet community, is arbitrary, capricious and unreasonable. Bethel Spirits' application for a package store license meets all requirements under state statutes and regulations and Bethel city ordinances. Since the only basis for the City Council's protest is the City Council's explicit intent to frustrate implementation of the City of Bethel's legal status as a wet community under Title 4, the Board must overrule the protest and grant the application. Title 4 does not allow the governing body of a wet community to overrule a local option election lawfully conducted and certified under Title 4. Moreover, Title 4 does not provide a local option in which legal sales are prohibited in a community while unlimited quantities of alcohol are allowed to be imported. The City Council's protest has no reasonable factual basis because the application meets all legal requirements, and it is contrary to law because it creates a de facto local option not provided for by law.

Background

On October 6, 2009, the residents of the City of Bethel, in a local option election conducted in accordance with Title 4, voted to be wet.¹ Between October 6, 2009 and February 9, 2010, six local establishments applied for liquor licenses.² The City Council adopted an ordinance setting out legal requirements to obtain a license on January 12, 2010.³ On January 19, 2010, the City Council held an advisory vote, which had no statutory sanction under Title 4, asking residents a series of general questions, including whether the City should "support a liquor license application for a liquor store" in the City of Bethel, which question mischaracterizes the City Council's role in the granting of liquor licenses under Title 4.⁴ Following the advisory vote, the City Council protested all six applications, which protests

¹ City of Bethel Resolution 09-40; City of Bethel Ordinance 09-20.

² See Alcoholic Beverage Control Board website by searching for "Bethel" at <http://commerce.state.ak.us/dnn/abc/ABCLicenseSearch.aspx>.

³ City of Bethel Ordinance 09-44.

⁴ See City of Bethel Resolution 10-07; City of Bethel Ordinance 09-40.



were upheld by the Board.⁵ On May 4, 2010, the voters of the City of Bethel held a second statutory local option election under Title 4.⁶ Again, the residents of the City of Bethel, exercising specific rights vested exclusively in them under state law, elected for the City of Bethel to remain wet.⁷

Although wet for five and a half years, there are still no legal alcohol sales in the City of Bethel.⁸ Yet, alcohol pours into the community at unprecedented levels, and bootlegging is rampant.⁹ The Board itself estimates that in the first quarter of 2015 alone, customers in the City of Bethel purchased the equivalent of 1,100 bottles of liquor in large orders.¹⁰ No one can reasonably believe this volume of alcohol is being imported for the personal consumption of the purchasers.

On April 6, 2015, Bethel Spirits LLC submitted its application for a package store license in the City of Bethel, on premises owned by an affiliated company. The application meets all requirements set out by the Board, and the proposed premises meet all applicable state and city legal requirements.

On April 28, 2015, the City Council, by a 4-3 vote, adopted a resolution protesting the application. We understand that the resolution has been filed with the Board as the City Council's protest to Bethel Spirits' application. The protest identifies no legal infirmities or deficiencies with Bethel Spirits' application. Making explicit that the City Council's sole basis for protesting the application is its intent to obstruct implementation of the City of Bethel's legal status under the state's alcohol laws and not any fact specific to Bethel Spirits' application, the resolution states that "the City protest stands based on the opposition of the people of Bethel, *regardless of the presence or lack thereof of Bethel municipal Code or State Statute violations.*"¹¹

⁵ City of Bethel Resolutions 09-55, 10-03, 10-04, 10-05, 10-06, 10-16; Alcoholic Beverage Control Board Agenda Minutes, February 26, 2010, at page 14, available at http://commerce.state.ak.us/dnn/Portals/9/pub/Minutes/2010/Minutes_022610.pdf.

⁶ City of Bethel Resolution 10-32; City of Bethel Ordinance 10-01.

⁷ City of Bethel Resolution 10-32; *see also* AS 04.11.491(a), which provides that a municipality can adopt a local option only if a majority of the persons voting on the question vote to approve the option.

⁸ *See* Lisa Demer, *As debate over liquor store rages, Bethel awash in alcohol even without legal sales*, available at <http://www.adn.com/article/20150406/debate-over-liquor-store-rages-bethel-awash-alcohol-even-without-legal-sales> (April 6, 2015).

⁹ *See id.*; Ben Matheson, *A Moving Target: WAANT Pursues Bootleg Liquor*, available at <http://kyuk.org/a-moving-target-waant-pursues-bootleg-liquor/> (April 23, 2015).

¹⁰ Ben Matheson, *A Moving Target: WAANT Pursues Bootleg Liquor*, available at <http://kyuk.org/a-moving-target-waant-pursues-bootleg-liquor/> (April 23, 2015).

¹¹ City of Bethel Resolution 15-08.

The means by which the City of Bethel may regulate alcohol are set forth in Title 4 of the Alaska Statutes, several features of which are critically relevant to the protest at hand.¹² First, Title 4 sets forth specific local options which are the exclusive means by which a community may ban the local sale of alcohol.¹³ If the local options explicitly set out under Title 4 are not *exclusive* and municipalities like the City of Bethel may regulate alcohol sales differently than as explicitly set out by statute, the statutory options are meaningless.¹⁴ No local option provides for prohibited local sales with unlimited importation, the situation which the Board has allowed to exist in the City of Bethel.¹⁵

Second, Title 4 vests the registered voters of a city with the exclusive power to determine the city's legal status under the local option laws.¹⁶ Third, the statute explicitly sets forth the procedures, to the point of dictating the ballot language, by which the registered voters may exercise the power to determine the city's legal status under the local option laws.¹⁷ In accordance with these statutorily mandated procedures, the voters of the City of Bethel voted twice in the last five and a half years for the City of Bethel to be a wet community under Alaska law.

Under Title 4, the Board is required to deny an application protested by the local governing body unless it finds the protest to be "arbitrary, capricious, and unreasonable."¹⁸ A protest is arbitrary, capricious and unreasonable unless it has a reasonable factual basis and is consistent with law.¹⁹ A protest by a municipality, resulting from an administrative determination, that is not based on, and instead explicitly disregards, an analysis of the relevant

¹² See AS 29.35.080(a) ("A municipality may regulate the possession, barter, sale, importation, and consumption of alcoholic beverages under AS 04.11.480 - 04.11.509 and AS 04.21.010.").

¹³ See AS 04.11.491(a) (prescribing five local options); AS 29.35.080(a) (exclusive statutory authority for a municipality to regulate the possession, barter, sale, importation and consumption of alcoholic beverages, limiting such authority and regulation exclusively to the provisions set forth in AS 04.11.480-04.11.509 and AS 04.21.010, i.e., the local option statutes).

¹⁴ See *State v. Frazier*, 719 P.2d 261, 262 (Alaska 1986) ("It is also a basic rule of construction that a statute should be construed to give effect to all of its provisions. No part should be read as inoperative, superfluous, void or insignificant.") Allowing municipalities to create their own, unique local options without statutory basis renders the comprehensive local option scheme meaningless. The Alaska Supreme Court's goal is "to give effect to the legislature's intent, with due regard for the meaning the statutory language conveys to others." *Rollins v. State, Dept. of Revenue, Alcoholic Beverage Control Bd.*, 991 P.2d 202, 208 (1999).

¹⁵ See AS 04.11.491(a) (prescribing the five local options); AS 04.11.491(g) (where local sales are prohibited, importation is also restricted); AS 04.11.150(g) (same).

¹⁶ See AS 04.11.491(a) ("If a majority of the persons voting on the question vote to approve the option, a municipality shall adopt a local option to prohibit . . . the sale of alcoholic beverages."); AS 04.11.509(a) ("If a majority of the voters vote to prohibit, change, or remove a local option under AS 04.11.491 - 04.11.495, the clerk of the municipality . . . shall notify the board of the results of the election immediately after the results are certified.").

¹⁷ See AS 04.11.491-04.11.495 and AS 04.11.507.

¹⁸ AS 04.11.480(a).

¹⁹ See 3 AAC 304.145(a), (e).

facts is arbitrary and capricious.²⁰ A protest that is not based on logical and traditional grounds supported by the evidence is unreasonable.²¹ The Alaska Supreme Court has never upheld the Board's denial of a liquor license for reasons having nothing to do with the specific application being protested.²²

The City Council's decision to protest Bethel Spirits' application is arbitrary, capricious, and unreasonable on several grounds. First, to protest an application regardless of its content or merits is *the* legal definition of arbitrary and capricious. Second, to protest *every* application in order to frustrate implementation of the City Council's legal status under the local option laws is the very definition of not acting in compliance with the law. Third, it is unreasonable to rely on an advisory vote with no legal basis, relevance or meaning under a statute that explicitly sets out an exclusive election process by which the very subject of the advisory vote is legally required to be determined. Moreover, the advisory vote neither supports the City Council's protest nor properly construes the City Council's role in the statutory application process, since the City Council's "support" is not required for the grant of the application and the advisory vote was not to "oppose" the application. Fourth, because the power to allow legal sales of alcohol is vested by law in the registered voters who twice voted pursuant to statutory elections to allow them, the City Council's action of blocking all liquor license applications regardless of their merits is action not in compliance with law.

Applicant's Position

1. Protesting the application without consideration of its contents is arbitrary.

The City Council's decision to protest Bethel Spirits' application "regardless" of any legal deficiency is essentially to acknowledge that it is protesting the application without actually considering it. As a matter of basic administrative law, such action by the City Council is arbitrary and capricious *per se*.²³

²⁰ *Kachemak Bay Watch, Inc. v. Noah*, 935 P.2d 816, 822 (Alaska 1997) (decision is arbitrary and capricious when reached without weighing or analyzing evidence or where there is a failure to consider an important factor).

²¹ See 3 AAC 304.145(a); *Stoltz v. City of Fairbanks*, 703 P.2d 1155, 1157 (Alaska 1985).

²² See e.g., *Stevens v. State, Alcoholic Beverage Control Bd.*, 257 P.3d 1154 (Alaska 2011) (upholding denial of license renewal based on particular licensee's continued violation of local noise ordinances and disturbance of adjacent property owners); *Stoltz*, 703 P.2d at 1157 (upholding denial of particular licensee's request to move her bar because the new location was too close to a senior citizens housing complex and in an area which already contained a high concentration of bars); *State, Alcoholic Beverage Control Bd. v. Decker*, 700 P.2d 483 (Alaska 1985) (upholding denial of particular license because it would contribute to the teenage drinking problem at schools in the immediate vicinity and there were already a number of liquor stores in the area).

²³ See *Kachemak Bay*, 935 P.2d at 822.

Since the City Council explicitly acknowledges that its protest is not based on facts that render this *particular* application objectionable, the only way for the protest to survive the Board's regulations is for the protest to be based on "a general public policy," in which case the policy must satisfy three criteria: (i) it must have a reasonable basis in fact; (ii) it may not be contrary to law; *and* (iii) it may not be patently inapplicable to the particular application being protested.²⁴

The City Council's protest cannot properly be grounded on general public policy because, as discussed further below, the policy of preventing the granting of any liquor license in a wet municipality is, on its face, contrary to law, namely Title 4. Moreover, the City Council itself has enacted an ordinance establishing the standards an applicant must satisfy in order to obtain a license. A public policy that categorically denies a license to applicants who meet the standards set forth in the ordinance is contrary to law on its face.

2. The City Council may not protest every application in order to prevent legal liquor sales in Bethel.

The City of Bethel is not under any statutory local option. A package store liquor license may be granted pursuant to Title 4, its implementing regulations, and the municipal ordinances that are consistent with them.²⁵ As a wet community, under applicable statutes and regulations, at least two package store licenses may be granted in City of Bethel.²⁶ By categorically protesting every liquor license application, the City Council is preventing the legal purchase and sale of liquor in the City of Bethel that is permitted by law.

By statute, municipalities have five local options, none of which allow for the prohibition of legal sales with unlimited legal importation of alcohol, the situation that currently exists in the City of Bethel. The City Council may not lawfully create its own "local option" merely because it disagrees with the local options provided by statute, and the Board is remiss to validate such a course of action. The City Council may urge the state legislature to amend Title 4 to provide additional local options; it may not deny people their rights under existing law merely because it disagrees with it.²⁷

²⁴ 3 AAC 304.145(e).

²⁵ See AS 04.21.010 ("An ordinance adopted under this section may not be inconsistent with this title or regulations adopted under this title.").

²⁶ See AS 04.11.400(a)(2) (allowing one package store license inside an incorporated city for each 3,000 population or fraction of that population).

²⁷ See City of Bethel Resolution 10-18 (even the City Council recognized that state legislative action was required to achieve this de facto sixth local option of banning lawful sales and allowing unrestricted importation).

3. The 2010 advisory vote cannot override two certified Title 4 local option elections.

Title 4 sets out the requirements for local option elections.²⁸ The statutes dictate the entire voting process, including the procedure to petition for and conduct an election, and even the precise language to be placed on the ballot.²⁹ The Board is notified of the results of the election immediately after the results are certified, and the Board then notifies the Department of Law and the Department of Public Safety.³⁰ As noted, the election procedures set out in Title 4 are the exclusive statutory means by which a municipality may ban the granting of liquor licenses within its boundaries.

Twice in the last five and one-half years the voters of the City of Bethel chose to be wet in accordance with the elections process set out in Title 4. In protesting Bethel Spirits' application, the City Council ignores these statutory votes and relies on an advisory vote with no legal significance or sanction under the statute or regulations of the Board. Such reliance is unreasonable *as a matter of law* where the statute explicitly states how the voters shall express their will on the legal availability of liquor licenses. For the Board to validate the City Council's protest on the basis of the advisory vote is to render the election procedures and results in Title 4 meaningless.

Apart from not being legally sanctioned, the City Council's reliance on the 2010 advisory vote is arbitrary and unreasonable on other grounds as well. For one, the vote obviously had nothing to do with Bethel Spirits' current application. In contrast, Bethel Spirits' current, specific application has the written support of almost the same number of Bethel residents who voted no in the 2010 advisory vote.³¹ It is unreasonable to base a protest on an outdated generalized non-statutory advisory vote while ignoring hundreds of recent, specific letters of support properly submitted to the Board in connection with Bethel Spirits' application.³²

Further, the language of the advisory vote – “whether the City should support a liquor license application for a liquor store” – misconstrues the City Council's role in the application process. The City Council's “support” is not required for an application to be granted. Rather, its “protest” is required to protest issuance of a license. Moreover, since the City Council could very well “not support” an application while at the same time not file a protest against it, the advisory vote fails to support the City Council's action on Bethel Spirits' application. Finally,

²⁸ See AS 04.11.491–04.11.495 (describing the local options and how to change and remove them); AS 04.11.507 (describing the procedure for local option elections).

²⁹ See *id.*

³⁰ AS 04.11.509(a).

³¹ See City of Bethel Resolution 10-07. All letters in support of Bethel Spirits' application have been submitted to the City Council and the Board. Additional letters of support are being received daily.

³² See 3 AAC 304.035(a) (public comment may be submitted to the Board in writing by any person at any time).

the City Council's protest misconstrues the advisory vote as expressing "opposition" to Bethel Spirits' application, as it does nothing of the sort.

4. The power to decide whether liquor licenses will be legally available in the City of Bethel is vested in the voters, not in the City Council.

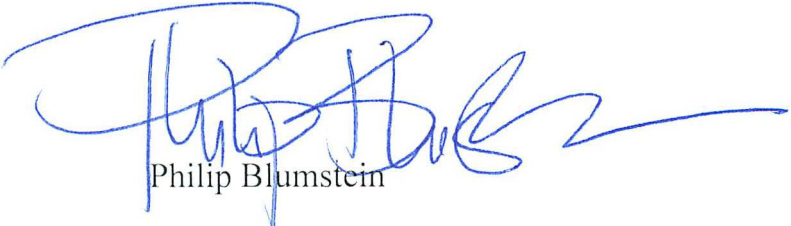
The City Council is protesting Bethel Spirits' application because the City Council does not want liquor to be sold legally in the City of Bethel. But the power to make this decision is vested by law in the voters, not in the governing body, of the community, and is expressed by an election process carefully dictated by statute. The legal process has resulted in the City of Bethel being a wet community, that is, one in which an applicant for a liquor license meeting the standards and requirements of state and city law is allowed to have its application considered and processed on its merits. The City Council's protest is based on its disagreement or dissatisfaction with the City of Bethel's status under Title 4. But the power to decide that status is not vested in the City Council, and therefore its protest must be rejected.

Conclusion

In enacting Title 4, the Legislature was not making suggestions to municipalities or to the Board; it was establishing specific local options to be enacted and administered in specific ways to achieve considered and specific objectives. The City Council's protest is an attempt to evade these specific laws by preventing the granting of liquor licenses in the City of Bethel through a means not authorized by law. The Board should not validate the City Council's evasion of the state's local option laws. Those laws provide the sole means by which the City of Bethel may lawfully ban the sale of liquor within the city. The voters of the City of Bethel have twice rejected doing so. The Board should reject the City Council's protest and grant the application. The people of the City of Bethel and the businesses that operate there, in a wet community, should enjoy the same rights and privileges as the people and businesses in other wet communities in the State of Alaska.

Very truly yours,

LANDYE BENNETT BLUMSTEIN LLP



Philip Blumstein

cc: City of Bethel

To: Bethel City Council
Fr: Ana Hoffman, Bethel Native Corporation 
Dt: 3/24/15 (Regular City Council Meeting)
Re: Public Hearing on Bethel Spirits (on Council's agenda)

I am here to ask for your support of Bethel Native Corporation's efforts to pursue opportunities to continue to engage in viable economic development activities in Bethel. Over the last forty years, BNC has made significant infrastructure investments in this community to provide goods and services to both residents and shareholders. Last year the community celebrated the opening of the Kipusvik facility, this investment is consistent with BNC's business practice over the last four decades: building and investing in our home community.

Bethel Native Corporation continues to believe there is a market need for the Kipusvik facility to function as a retail operator space. There is also an opportunity to substantially upgrade the services in the facility. To that end, the Corporation has formed a wholly owned subsidiary company called Bethel Spirits LLC. This subsidiary is in the process of applying for a package store liquor license in Bethel. If the Alcohol Beverage Control Board approves the application, the liquor store would be enclosed within a small portion of the Kipusvik facility. Currently, there are plans to have a defined space for the package store upstairs in the back. The footprint for Bethel Spirits retail and storage space is approximately 2900 square feet, which is less than 1% of the overall facility.


Bethel Native Corporation is evaluating all options to bring retail operations back to Kipusvik but there is no tenant ready to take over the space at this time. Bethel has a state of the art facility, equipped to service a growing community, and this is a time of opportunity to provide retailers with the tools needed to maintain sales in the same way that they would be expected to operate in any other community of this size.

During the last council meeting, I was encouraged to hear City Council members discuss the need for the City to reach out to BNC to help facilitate more economic development and job creation opportunities. Bethel Spirits ability to acquire a liquor license will provide the City with a mechanism to collect sales tax and facilitate control over legal alcohol sales. We all know that the current situation in Bethel only perpetuates the rampant presence of illegal alcohol sales and continuing to ignore that reality helps no one.

The City of Bethel needs tools to collect taxes to provide basic services to the residents. The City is responsible for water and sewer utilities, public safety, parks and recreation facilities, street and road maintenance, landfill and recycling efforts and emergency response capacity. BNC works to ensure investments are sustainable and that we can continue to improve the quality of goods and services, and generate economic development in our home town. At this time, I think we can all appreciate the magnitude of the opportunity and realize that in order to continue to foster growth in this community we need to provide access to utilizing the tools we are eligible for.

The State of Alaska Alcohol Beverage Control Board has the authority to grant a liquor license for a package store within the City of Bethel. We have researched this opportunity and the application proposed by Bethel Spirits meets Alaska's statutory requirements and the location meets the additional stipulations established by the City Council and included in the Bethel Municipality Code. Bethel Spirits will be applying for a package store license in early April. I ask for your support and I look forward to working with the City of Bethel. Thank you for putting this on your agenda tonight. I appreciate the discussion, I respect your work and greatly value your service.

(Ana Hoffman presented this statement during the regular City Council meeting in Bethel on March 24, 2015.)

TO: Townhall Meeting scheduled by Bethel City Council
FR: Ana Hoffman, Bethel Native Corporation 
DT: 4-6-15
RE: Bethel Spirits (meeting attended by Cynthia Franklin, Director ABC)

My name is Ana Hoffman. The question before this community is not whether we will have alcohol sales or not, the question is whether we are going to have legal sales that are regulated, OR just continue to only have illegal sales where taxis and shady hotels prey on people. On Saturday morning, right outside my house, there were four intoxicated people sitting behind a building, minding their own business when a taxi driver went out of his way and drove directly towards them, he stopped and opened his window. As I approached the scene, he suddenly drove away. The people sitting there did not flag him over, the taxi driver targeted them.

We have heard people speak in opposition to Bethel Spirits and talk about the destruction caused by alcohol, yet where is the public outcry when the ABC board meets to review the liquor licenses for Brown Jug and Gold Rush Liquors. The R&R bottles being sold by the local bootleggers are being packaged and shipped by them. Opening a liquor store in Bethel will actually stabilize this community and provide the City with a mechanism for support, through the collection of sales tax.


During the last City Council meeting there were requests for the City of Bethel to protest Bethel Spirits application based on a 2010 advisory vote while a few others asked the City to sponsor a new advisory vote. And although I firmly believe the public would vote in favor of opening this liquor store; the City's advisory vote approach is intrinsically flawed. How can the City protest any liquor license application when the basis of that protest includes the question "Should the City of Bethel support the City to apply for a liquor license and the operation of a city owned liquor store?" This presents a conflict of interest for the City and I'd caution both the City Council and the Alcohol Beverage Control Board from relying on this survey method. Your duty is to apply Alaska Statutes and municipal codes to the applications that comes before you.

I was born and raised in Bethel, and I've made a conscious decision to raise my family here. The problem of alcoholism is not unique to this area, but what we have done here is create an environment that perpetuates abusive habits. It is time for our community to mature and no longer be crippled by paternalistic mentalities.

We manage our lives in the most challenging of environments, we can handle a liquor store in Bethel and the area villages can handle it too. Let's give ourselves a little credit. We are capable, sophisticated, adapting people.

Recently someone asked me about the issue of genetics and the supposed predisposition Alaska Natives have to addiction. My response to him was this, I cannot change the genetics I have in me or the genetics in my sons. Their genes are set, but what I can do is provide my boys with the tools to live in their surroundings and then it will be up to each one of them to decide how he will live his life.

(Ana Hoffman presented this statement during the town hall meeting in Bethel 4.6.15)

To: Bethel City Council
Fr: Ana Hoffman, Bethel Native Corporation 
Dt: 4/28/15 (Regular City Council Meeting)
Re: City Council Resolution 15-08 (on Council's agenda)

I am speaking in opposition to Resolution 15-08, A Resolution Protesting the Issuance of a Package Store License to Bethel Spirits LLC.

The first whereas in this resolution refers to results from the 2010 advisory vote. As we have heard, that vote was confusing, some people thought they were voting to return to local option and the survey included the question of a City run liquor store, which you've recognized is problematic. Additionally the advisory vote was non-binding and not enforceable, it was purely a public survey. I would argue that the results of that advisory vote should not govern your ability to decide your position regarding the applications in front of you today.

The resolution goes on to discuss the distance from the Kipusvik building to the State of Alaska Dept of Juvenile Justice Facility. The Bethel Youth Facility is a detention center, inmates receive instruction there, but you cannot enroll your children as you would with any other public or private school. The youth in that facility are court ordered to be there, they are in the Dept of Juvenile Justice custody. I've contacted LKSD and confirmed that BYF is a Department of Corrections facility. The building is not insured by LKSD and is not maintained by LKSD. BYF does not fit the school grounds definition provided in the BMC.

The BMC also describes how the distance measurements should be taken and it clearly states "distance shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:

1. From the main parking lot entrance of the establishment from which alcoholic beverages are sold or offered for sale;
2. In a straight line, regardless of obstructions, to the nearest public sidewalk, walkway, street, road or highway by the nearest route;
3. To the main entrance of the church building or to the nearest portion of the school grounds."

The City resolution 15-08 claims the main parking lot entrance of the proposed package store is 102 feet from the State's Juvenile Justice Facility, but the City's measurement was not done accurately. The City measured from the stop sign at the entrance of our property, not the entrance of the parking lot. This map shows where the measurement should begin. A parking lot is defined as "an area outside a building for parking cars, trucks, etc." Following the BMC instruction, the distance from the Department of Correction's grounds to the entrance of our

parking lot is 446 feet. Additionally, if you measure according to AS, the distance is expanded further to 516 feet. Bethel Spirits is in compliance with both the BMC and AS.

The City resolution then references AS 04.1.150(e) prohibits the business premise occupied by a package store to be connected by a door, opening or other means of passage intended for the access of the general public to an adjacent retail business not also licensed under AS Title 4, unless approved by the board. Well don't worry, Bethel Spirits store will not provide a "means of passage" to other retail businesses in the facility. It will be enclosed within the facility with its own entrance, just like what you would see at Costco, Fred Meyers, Safeway, or any other facility you have been to in Alaska. You will not need to walk through Bethel Spirits to get to the theater or other retail space in the facility.


Lastly on the local news, I heard one of the council members say they would protest the applications because "there's a lot of private corporate gain to be had, and not much tax revenue." This statement is problematic on many levels. Whether or not you as a city will be able to extract profitable gain should never be a consideration of yours when things come before you. The City of Bethel is a non-profit municipality.

Beyond that, does the City Council really want to discourage the growth of private enterprise in Bethel? Do you want to impede businesses from operating here and investing here? The reality is that alcohol sales are happening now, the presence of illegal sales is undeniable and not a cent is taxed. We have quite possibly created the most un-healthy environment imaginable, unlimited importation and no mechanism for legal sales. Allowing for the issuance of a liquor license enhances control and regulation over the current system of chaos.

The City Council must have envisioned a time when there would be legal alcohol sales here, an entire section of your BMC is dedicated to implementing the sale of alcoholic beverages. The BMC spells out the allowable hours of operation, no sales on Sunday, no sales on Lincoln and Washington's birthdays, no sales on the 4th of July or thanksgiving or Christmas or labor day or memorial day or new year's day. The City has prepared for this day and it is here.

Bethel is not a local option community, as the Director of the ABC board stated during a recent public meeting, Bethel is WET, WET, WET. The question before you is this... are the residents of Bethel going to be subject to the same laws, regulations and expectations that other residents of Alaska enjoy or not? Please consider supporting the Bethel Spirits application and bringing some order, stability and visibility to this community and this region. Thank you.

(Ana Hoffman presented this during the City Council meeting on April 28, 2015. In response, the City Council removed the reference to 102 feet of distance contained in the original resolution. The City Council also added the statement that they will protest regardless of any presence or lack of violations.)

To: Bethel City Council
Fr: Ana Hoffman, Bethel Native Corporation 
Dt: 6/9/15 (Regular City Council Meeting)
Re: Public Hearing on Bethel Spirits (on Council's agenda)

Thank you for the invitation to defend Bethel Spirits application for a package store liquor license. Bethel Spirits submitted its application to the ABC Board on April 6, 2015. Twenty two days later, on April 28, the City Council passed resolution 15-08 by a vote of 4 to 3. I attended that meeting and articulated my concerns with the components of the resolution at that time. My objections are on record so I will not reiterate my previous comments here tonight.

What I would like to say is this, my invitation is require by law. Alaska Statures states "a local governing body that protests an application shall allow the applicant a reasonable opportunity to defend the application before a meeting of the local governing body." A reasonable opportunity... several council members have stated that they would oppose any and all applications for liquor licenses until there is a new advisory vote, to update the five year old advisory vote. But the new advisory vote will be scheduled at a time that is most convenient and most affordable to the City of Bethel, regardless of any statutorily prescribed timelines. The reasonable opportunity has been absent from the beginning.

Before Bethel Spirits even submitted its application to the ABC Board, the City Council hosted a public hearing about Bethel Spirits on March 24, 2015. During that meeting, the City sites 37 people spoke in opposition to the potential licensing of alcohol sales in Bethel. But more specifically the majority of those individuals spoke about their general belief that alcohol is bad and every one of those speakers acknowledged the presence of illegal sales in Bethel. Again the question before the City Council is whether or not you are going to support legal, regulated alcohol sales or simply, through inaction, continue to tolerate illegal sales.

One of the arguments I heard from this council to justify a vote protesting Bethel Spirits was that bootlegging would still be present because bootleggers only sell to those individuals who cannot legally purchase alcohol from Anchorage.

Last month I was walking along the river bank and I came across three adult residents of Bethel sitting together sipping a bottle of R&R and I realized, it is not just people living in dry villages that are buying bottles from the bootleggers, it is not just people on probation or restricted by court ordered buying alcohol from bootleggers; it is people who do not have credit cards, who

don't have bank accounts, who don't have access to scanners or fax machines in order to send their IDs to liquor stores in Anchorage, it is people who can't afford to buy in bulk, it is people who operate in a minimal cash economy, in essence we are forcing the most disenfranchised in our community to purchase the most inflated product.

To date, over 400 letters of support for Bethel Spirits package store have been submitted to the ABC Board and the City of Bethel. In the process of gathering these letters, I heard a few comments and perspectives that I'd like to share. One person said, "I support the opening of a liquor store because I would like to see a time when young adults from this area can sit down and have a can of beer instead of only being exposed to alcohol through bottles of whiskey." Let me drive this comment home with my own experience. In the 1980's I was visiting my grandmother's village, walking with my cousins on the boardwalk when we came across three adult men, sharing a bottle of vodka. We exchanged a few words and they attempted to hand the bottle our direction. There I was, standing in a dry village, when Bethel was damp being offered a bottle of hard liquor, I was 13 years old. Now in 2015, this is still how young people are being introduced to alcohol in this region. We have created a perpetual cycle. Later in life, my first drink was from a can of beer in Anchorage where alcohol is legally bought and sold.

Another person stated the situation we have created in Bethel, allowing unlimited importation with no mechanism for legal sale only incentivizes people with bad intentions and we should create conditions in the economy that encourage good and legal intentions. He said, "when is the last time a bootlegger said, here you go, here's five dollars for the community." It is time that we confront these difficult questions with rational minds. You, as council members have a duty to review this application with logic and reason. I don't think Bethel Spirits has been afforded that basic expectation by the majority members of this council because it is uncomfortable.

The letters you see here represent a diverse cross section of our community and your constituency. They come from people who live across the slough and all the way up through Kasayulie subdivision. They were signed by people who are new to Bethel and others who have been here for over sixty years. Many people signing the letters repeated the statement, "it is time." One person even said "I'm sorry Ana that my generation didn't deal with it, we should have dealt with it but we didn't and now you have to." I am okay dealing with it... I am not okay continuing to do nothing about the current situation. Bethel is not a local option community. At one time I advocated for that, but that vote failed, twice. Bethel is wet and it is time to deal with it.

As I've stated before, Bethel Spirits application is compliant with Alaska Statutes and the Bethel Municipal Code regulations. There is overwhelming public support for a Bethel Spirits package store as demonstrated by over 400 letters of support. Clearly citizens of Bethel want to be governed by the same laws and regulations that all other Alaskans live by and enjoy. Knowing all of this, please reconsider your protest of Bethel Spirits package store application.

(Ana Hoffman presented this during the City Council meeting in Bethel on 6.9.15. The City Council did not respond.)



MEMORANDUM

TO: Robert Klein, Chair and
Members of the Board

FROM: Cynthia Franklin
Director, ABC Board

DATE: June 22, 2015

RE: Application for Bethel Spirits, LLC
#5385- Summary of Letters by
Investigator Steve Johnson

The Alcoholic Beverage Control Board (ABC) received numerous letters regarding a possible liquor license within the City of Bethel; namely License #5385 Bethel Spirits. The ABC specifically received 525 letters, all of which were examined and considered.

Of the aforementioned 525 letters 501 were written in support of the package store license application. 3 of those letters were from individuals not residing in Bethel, the remaining 498 letters were from residents of Bethel. The majorities of the support letters were in draft form and mentioned Bethel not being a Local Option community therefore having no mechanism for legal sales resulting in an inundation of illegal alcohol sales i.e. bootlegging.

The 24 remaining letters were written in objection to the liquor license application as well as any future applications. The objections covered a myriad of explanations as to why a liquor store should not be allowed. Of the objections written, detriment to public safety was recorded the most often. Other reasons for objections varied, including fear of increased Fetal Alcohol Spectrum Disorder (FASD) cases, increased addiction, lack of shelter services, underage access, the misperception of added revenue to the city, as well as creating more family issues, domestic violence incidents, and more social problems. One letter declared allowing a "[l]iquor business destroys Biblically based Christian living, yet another one states; "Bringing a liquor store will enhance NATIVE GENOCIDE, slowly killing our people."

In reviewing each individual letter it can be appreciated the community sought input into this process; some more passionate than others, but each individual ensuring their voice be heard.



Objections are broken out numerically as follows:

10 – Public Safety

4 – Family issues / Domestic Violence

2 – Anti-Christian / Social issues

1 – Fetal Alcohol spectrum Disorder

1 – Shelter Services

1 – Underage Access

1 – Misperception of added revenue

1 – Not in the City's best interest

1 – Increased addiction

1 – Effects on Local Option villages

1 – Unsure



YUKON-KUSKOKWIM HEALTH CORPORATION

"Working Together to Achieve Excellent Health"

April 3, 2015

The City of Bethel
The Honorable Richard Robb
Post Office Box 1388
Bethel, Alaska 99559
Fax 907-543-5556

HAND DELIVERED & VIA TELEFAX

Re: YKHC Opposes All Applicants for Liquor Licenses in the City of Bethel, Alaska.

Dear Mayor Robb:

I, Dan Winkelman, on behalf of the Yukon-Kuskokwim Health Corporation (YKHC), oppose all applicants for liquor licenses within the City of Bethel, Alaska. This includes Bethel Native Corporation (BNC), doing business as, Bethel Spirits, located at 905 Chief Eddie Hoffman Highway, the Alaska Commercial Company and all other applicants.

I. INTRODUCTION

By way of background, YKHC is a non-profit, tribal health organization providing healthcare to approximately 30,000 residents and visitors to the Yukon-Kuskokwim Delta in Western Alaska. We operate the region's only hospital, 5 subregional and 41 village health clinics in a roadless region the size of the State of Oregon. YKHC's headquarters is located in Bethel and the company has approximately 1,300 employees with an annual budget of approximately \$150 million.

The City of Bethel is a transportation and commerce hub for many Yukon-Kuskokwim Delta villages. Our winter weather in and around Bethel can be treacherous at times. It is not uncommon to have blizzards that lead to white out conditions with -30 degrees Fahrenheit or higher wind chills. Because Bethel is the only large community within our region, in many cases certain goods and services are only available in Bethel. Therefore, many villagers travel to and from Bethel via water, overland and air travel to go between villages and into the City of Bethel for the provision of health care, to purchase goods and services and for other related matters.

To protect the health and welfare of their villages from the ill effects of alcohol, many, if not all, villages surrounding Bethel elected to invoke local options under Alaska Statute 04.11.491 and prohibit the sale, importation and possession of alcoholic beverages.

II. THE CITY OF BETHEL SHOULD OPPOSE ALL APPLICANTS AND PETITION THE ALCOHOLIC BEVERAGE CONTROL BOARD TO DENY ALL APPLICATIONS FOR LIQUOR LICENSES BECAUSE IT IS NOT IN THE BEST INTERESTS OF THE CITY OF BETHEL AND NEARBY VILLAGES

A. Alcohol Sales in the City of Bethel Will Likely Increase Alcohol-Related Crimes, Search and Rescues, Domestic Violence, Incarcerations, Accidents, Traumas and Fatalities to the Extent to not be in the Best Interests of the City of Bethel and Nearby Villages.

Although retailers are trained to follow state law by not allowing purchases of alcohol to intoxicated persons, such sales of alcohol in the City of Bethel would likely increase intoxicated drivers in Bethel as well as boat and snowmachine drivers traveling between villages. This conduct is the very type that local option communities try to prevent. In effect, allowing Bethel alcohol sales would invalidate their village local option and increase alcohol-related injuries and violence.¹

According to a 1997 comprehensive study in the Journal of the American Medical Association (hereinafter, "JAMA Study") "in remote Alaska, where injuries are the leading cause of death, residence in a wet village, which had no local restrictions on alcohol availability, was associated with higher rates of both total injury death and alcohol-related injury death among Alaska Natives."² According to the JAMA Study, "[t]he strength of the association was greatest for deaths due to motor vehicle injury, homicide, and hypothermia."³ The JAMA Study concluded that, "[t]hese findings indicate that measures limiting access to alcoholic beverages in this region may decrease alcohol-related injury deaths."⁴

Sales of alcohol in the City of Bethel will likely increase alcohol-related search and rescues, domestic violence, incarcerations, accidents, traumas and fatalities within the City of Bethel and nearby villages. These types of incidents are not in the best interests of the City of Bethel and nearby villages.

¹ Carla A. Campbell, et al. THE EFFECTIVENESS OF LIMITING ALCOHOL OUTLET DENSITY AS A MEANS OF REDUCING EXCESSIVE ALCOHOL CONSUMPTION AND ALCOHOL-RELATED HARMS, Am Jour. Prev Med, Vol. 37, No. 6, p.556, 562-64 (2009), summarizing seven studies that examined the effects of alcohol bans in tribal, nontribal, isolated and less-isolated communities concluding that:

The effectiveness of bans in reducing alcohol-related harms appears to be highly dependent on the availability of alcohol in the surrounding area. In isolated communities, bans can substantially reduce alcohol-related harms. *However, where alcohol is available in areas nearby those with bans, travel between these areas may lead to serious harms.*

Campbell at 564 (emphasis added).

²Michael G. Landen, et al., ALCOHOL-RELATED INJURY DEATH AND ALCOHOL AVAILABILITY IN REMOTE ALASKA, Jour. of the American Medical Assoc., Vol. 278, No. 21, p.1757 (1997).

³ Landen at 1757.

⁴ *Id.* at 1755.

B. Law Enforcement, First Responders and Healthcare Providers Will Face an Increased Workload to the Extent to not be in the Best Interests of the City of Bethel and Nearby Villages.

The workload of the personnel for the City of Bethel, State of Alaska and YKHC that conducts search and rescue operations, police, jail and fire protection and healthcare providers, will likely substantially increase to the extent to not be in the best interests of the City of Bethel and nearby villages. Indeed, according to a 1994 comprehensive study on the North Slope Borough by a Fellow with the U.S. Department of Health & Human Services, Indian Health Service, when measures are in place to limit access to alcoholic beverages, “[a] reduction was also evident in the number of alcohol-related calls received by the North Slope Borough Public Safety Office and in the number of alcohol-related visits reported by the Barrow hospital.”⁵

If liquor license applications are approved, it is likely that alcohol-related visits to YKHC’s hospital will increase. Many researchers agree that as “alcoholic beverage outlet density”⁶ increases, excessive drinking and related harms like injuries also increase.⁷ For example, when the City of Barrow banned possession of alcohol in 1994:

the number of alcohol-related visits reported by the Barrow hospital decreased. A total of 222 alcohol-related visits were reported in September and October of 1994, and this figure decreased to 37 visits in November and December of 1994 for an 83% reduction.⁸

Although the 1994 Barrow example is different from the City of Bethel’s current application before them to allow alcohol sales, by implication it supports the proposition that as alcohol becomes more readily available, alcohol-related injuries increase.

III. CONCLUSION

Accordingly, for the foregoing reasons the City of Bethel should oppose all applicants and petition the Alcoholic Beverage Control Board to deny all liquor license applications because it is not in the best interests of the City of Bethel or nearby villages since its approval

⁵ Michael P. Keiffer, ALCOHOL LEGISLATION AND ITS EFFECT ON SEVERE INJURIES ON THE NORTH SLOPE BOROUGH, www.ihs.gov/MedicalPrograms/InjuryPrevention/documents/keiffer.pdf, 129 (1994).

⁶ Campbell at 556 stating that:

Alcoholic beverage outlet density refers to the number of physical locations in which alcoholic beverages are available for purchase either per area or per population. An outlet is a setting in which alcohol may be sold legally for either on-premises or off-premises consumption. On-premises settings may include restaurants, bars and ballparks; off-premises settings may include grocery and convenience stores as well as liquor stores.

⁷ *Id.* at 565-66 concluding that:

Using a variety of different study methods, study populations, and alcohol measures, most of the studies included in this review reported that greater outlet density is associated with increased alcohol consumption and related harms, including medical harms, injuries, crime, and violence. This convergent evidence comes both from studies that directly evaluated outlet density (or changes in outlet density) and those that evaluated the effects of policy changes that had a substantial impact on outlet density, including studies of privatization, remonopolization, bans on alcohol sales and the removal of bans, and changes in density from known policy interventions and from unknown causes.

⁸ Keiffer at 132.

will likely increase alcohol-related injuries, violent crime, lead to increased workload for first responders and other personnel, increased hospital emergency department wait-times, staff burnout and other societal ills.⁹

Respectfully Submitted,

YUKON-KUSKOKWIM HEALTH CORP.

A handwritten signature in black ink, appearing to read "Dan Winkelman", with a horizontal line extending to the right.

Dan Winkelman, President & CEO

⁹ Campbell at 565-66.

Sawyer, Jane Preston (CED)

From: Franklin, Cynthia A (CED)
Sent: Monday, April 20, 2015 2:20 PM
To: Sawyer, Jane Preston (CED); Oates, Sarah D (CED)
Subject: FW: Bethel Liquor License Testimony
Attachments: Testimony to the ABC Board.docx

Cynthia Franklin
Director, ABC
907-269-0351

From: mark leary [<mailto:napaimute@gci.net>]
Sent: Monday, April 06, 2015 11:19 AM
To: Franklin, Cynthia A (CED)
Subject: Bethel Liquor License Testimony

Please accept the attached as my testimony regarding the issuance of a liquor license in Bethel.

Please read carefully – I'm sure this is different than what you have been or will be hearing from the very vocal opposition.

Thank you.

Mark Leary
PO Box 1983
Bethel, AK 99559

Ph: (907) 545-2877

Testimony to the ABC Board:

I'm sure you have been hearing a lot of testimony against having a liquor store in Bethel

There are already many liquor stores here.

You can buy alcohol in Bethel anytime of the day or night – no ID required. No regulation what so ever.

I've started to document it. After the city council meeting where many testified against a liquor store, the next day in the AC parking lot I took pictures of a cab making an alcohol transaction. I've seen more since. Ask the airlines – especially ACE about the cab drivers that pick up cases of R & R whiskey.

And do you know what these unregulated liquor stores in Bethel sell?

Whiskey & Vodka in 750 ml plastic traveler bottles. Easy to transport - easy to conceal.

No beer No wine – nothing but hard alcohol. No choices.

I've long believed that this is what's killing our people or putting them in prison – the hard liquor that's the only thing available to them, whiskey, vodka, and oh - home brew. Go ask the inmates at the Yukon Kuskokwim Correctional Center. I bet not one of them will say they were drinking beer or wine when they committed their crime. The same with all the dead people if we could ask them.

I've been in search and rescue groups my entire adult life – both upriver and as a team leader here in Bethel. We have recovered many bodies over the years – 99% of them alcohol related deaths. Many had bottles of R&R whiskey on them or near them. I can still see each and every one of those lost people and name them. Good people that died before their time because of the way we drink.

Just this winter, after the trails on the River finally opened to Bethel – the trails to the bootleggers – we had 5 alcohol related deaths in less than a month.

1. An ATV crash above Bethel
2. A stabbing in Napaskiak
3. 3 on an ATV driving into an open hole and drowning

Do you know how we learn to drink here?

Let me tell you. I was too young to remember what Bethel was like 40 years ago when there were bars and a liquor store but I can tell you what I've seen in the years since.

I grew up in a house with **0 alcohol** so the way I learned to drink was like everybody else around me. As a teenager my buddies (many of them dead or in prison now from alcohol) and I would put our money together and go buy a "jug" from a bootlegger. We'd go hide out somewhere and pass it around each one trying to drink at least their share. Then we'd see what happens. Sometimes it was OK – kind of fun – so we'd go buy another one. Drinking hard liquor until it wasn't fun anymore. There would be fighting, crying, crashing, and all forms of abuse towards each other and worse - **to Women.**

That's how we defined manhood in those early years. How drunk you could get and how much damage you could cause.

Some of us died. Some of us went to prison. A very few of us made it to college.

Our first night in Fairbanks - drinking age was 19 then. I met up with some of my buddies from high school basketball – guys from Toksook Bay and Aniak. We went to the liquor store right down the hill from UAF. Man, I'll never forget the first time going in a liquor store. We didn't know what all that stuff was! It was too confusing – too much to choose not just whiskey and vodka.

Well that night we picked the beer that had a moose on it cause we were all nukalpiaq – hunters; but after that it was all downhill because we weren't used to having to having alcohol so freely available.

Weekends we did the same thing we were used to doing at home. Drinking it all up as fast as we could. Losing control. Fighting, crying, breaking stuff- tearing up our dorm rooms. Then it became weekdays too.

Little by little most of us went home. We didn't know how to handle alcohol.

All that time guys in our dorm floor that grew up with alcohol were watching us making fools of ourselves. One day they talked to the few of us that were left:

“You guys need to learn how to drink. Come over to our room tonight.”

So we did. They mixed us some kind of drinks. They took a sip and put them down. Started a conversation. After several minutes of talking they'd take another sip. We'd copy them. It went on like this all night. Take a sip. Put it down. Talk. Tell stories. Take another sip. **Slow down.** We were learning. A few of us survived college like this.

Later I spent some time in the Middle Yukon, close to Galena where they have bars and liquor stores. I was so surprised to open a refrigerator in a fully Native house and see beer in there. **Beer that would stay for days at a time.** No need to gobble it up – there were liquor stores close by - at Last Chance & Galena. Made me think – why can't we (the People of the Lower Kuskokwim) be like this?

There are many people in Bethel, both native and non-native who can drink sociably, responsibly; - they've been exposed to something different than buying R&R from a bootlegger. They've learned. But they are quiet because the opposition is so vocal and passionate. If you speak in favor of a liquor store in Bethel you are viewed as having no heart for the People.

It's time for us to learn – to try something different. What we have now is not working. People are still dying. People are still going to prison. Probably more now than ever – more than they did 40 years ago when we had a liquor store in Bethel. We have the highest rates of every negative thing: crime, suicide, all forms of abuse, etc.

Let's try it. Let's see if things get worse. Let's have a mechanism built in to any liquor license issued that if after 24 months if crime and death rates rise it be rescinded. If it does then we can always go back to the way we are now.

Treating the People of this region like they're kids and don't know what's good for them.

Thank you.

Mark Leary

P.O. Box 1983

Bethel, Alaska 99559

Ph: (907)545-2877

Sawyer, Jane Preston (CED)

From: Franklin, Cynthia A (CED)
Sent: Monday, April 20, 2015 2:21 PM
To: Sawyer, Jane Preston (CED); Oates, Sarah D (CED)
Subject: FW: Concerns for liquor licensing in bethel

Cynthia Franklin
Director, ABC
907-269-0351

From: Phillip Kopanuk [<mailto:phillip.kopanuk@yahoo.com>]
Sent: Tuesday, March 24, 2015 11:11 AM
To: Franklin, Cynthia A (CED)
Subject: Concerns for liquor licensing in bethel

Cyndi Franklin,

I'm writing this letter in regards to the proposed liquor store that the Bethel Native Corporation plans on opening. I live in bethel and I'm opposed to this idea for several reasons. I believe that adding a liquor store to bethel would bring an increase in alcohol abuse, not only in adults but teenagers as well. Putting a liquor store in a region where people are prone to alcohol dependence without the adequate resources for help is absurd. Alcohol abuse causes many problems for not only bethel but the villages bethel serves. The decision to put an industry that's dangerous to our people will not only affect bethel, without a doubt people from the many villages around bethel will be taking advantage of this openly available market and bring it back to their villages to bootleg which is going to cause problems because most if not all are dry communities. Aside from bootlegging in the villages think of the Domestic violence, sexual assault, murder, drunk driving accidents, deaths from exposure because of passing out outside, suicide and countless other things that are going to happen. This isn't going to be a victimless decision because a lot of people are going to be hurt, and you can't tell their families and friends that it was all because the city needed more money. The homeless population is going to go up. How exactly is bethel or the villages around it prepared to cope with the rapid influx of problems? The jail is always over-crowded, the police response time is slow because in December I had to call the cops numerous times to remove guests from the Bethel Winterhouse and a few of them were violent and countless times the response time was an hour to an hour and a half because only a handful of cops were on duty and couldn't keep up with all the calls. I understand that individual adults have the right to drink if they want and that's their right, but on the other hand the people that don't drink or don't want to deal with the added problems have the right to be protected against this as well. Now that I talked about the adults what about the children? Alcohol is notorious for breaking homes apart, destroying families, careers, stealing innocence from children. How many stories are their out there of parents dropping their kids off to go party and not returning until days later. Do I really need to bring up all the stories of child abuse and neglect that I have seen in my own life to convince people of the problems alcohol brings? This is not the kind of homes we want our kids, nieces, nephews and cousins growing up in. In this day and age opening a liquor store isn't the only option for generating revenue, there's a whole industry dedicated to those struggling with alcohol and drug abuse to profit in. How about opening a new Substance abuse facility and putting more tax on the booze that's already making it there in crazy numbers. Your job as the leaders of our community is to be looking out for the welfare of the people and promoting a healthy lifestyle, not dropping a liquor store in the middle of a community that's just going to feed the addiction of so many people and cause havoc everywhere. I feel sad for all the people that will be that will be affected by this, especially the kids. Please think about the consequences that will follow this

decision and think about other ways to generate revenue, a liquor store is not the answer.

Sincerely,

Phillip Kopanuk

Sent from Yahoo Mail for iPhone



NAPASKIAK TRIBAL COUNCIL

P.O. Box 6009

Napaskiak, Alaska 99559

(907) 737-7364 • Fax (907) 737-7039

April 8, 2015

To: Alcoholic Beverage Control Board

Subject: Opposing Liquor License for Bethel, Alaska

From: Napaskiak Tribal Council

Dear Board,

The Napaskiak Tribal Council strongly opposes applications for liquor license(s) in Bethel to be approved. Napaskiak is located down river from Bethel just 6 miles away. The community of Napaskiak has direct impact from alcohol abuse even it is a "dry village" or a local option village which prohibits alcohol in the community.

We have had 2 murders and numerous criminal arrests that resulted from alcohol. Social issues such as child neglect, fetal alcohol syndrome, and many issues are such results from alcohol. We have 2 VPSO's that are assigned to Napaskiak and they are still over worked due to alcohol related issues. We had too many deaths that are alcohol related such as drowning.

With the support of this community the Napaskiak Tribal Council is opposing and protesting for the Alcoholic Beverage Control Board to NOT APPROVE OR ISSUE LIQUOR LICENSE TO ANY BETHEL APPLICANT(S).

Sincerely,

Stephen Maxie, Tribal Administrator

CC: Napaskiak Tribal Council