

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

February 21, 2001

1:10 p.m.

MEMBERS PRESENT

Representative Beverly Masek, Co-Chair
Representative Drew Scalzi, Co-Chair
Representative Hugh Fate, Vice Chair
Representative Joe Green
Representative Mike Chenault
Representative Lesil McGuire
Representative Gary Stevens
Representative Mary Kapsner
Representative Beth Kerttula

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 10

Relating to the management of the Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries and the protection and restoration of the Steller sea lion.

- MOVED CSHJR 10(FSH) OUT OF COMMITTEE

HOUSE BILL NO. 63

"An Act relating to electronic application for and issuance of licenses, permits, and tags issued by the Department of Fish and Game; relating to violations regarding a license, permit, or tag applied for or issued electronically; and providing for an effective date."

- HEARD AND HELD

PREVIOUS ACTION

BILL: HJR 10

SHORT TITLE: GROUND FISH FISHERIES AND STELLER SEA LION

SPONSOR(S): RESOURCES

Jrn-Date	Jrn-Page		Action
01/31/01	0210	(H)	READ THE FIRST TIME -

			REFERRALS
01/31/01	0210	(H)	FSH, RES
02/12/01		(H)	FSH AT 5:00 PM CAPITOL 124
02/12/01		(H)	Moved CSHJR 10(FSH) Out of Committee MINUTE(FSH)
02/14/01	0313	(H)	FSH RPT CS(FSH) 4DP
02/14/01	0314	(H)	DP: DYSON, COGHILL, SCALZI, WILSON
02/14/01	0314	(H)	FN1: ZERO(H.FSH)
02/14/01	0314	(H)	REFERRED TO RESOURCES
02/21/01		(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 63

SHORT TITLE: ELECTRONIC FISH & GAME LICENSURE

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
01/16/01	0096	(H)	READ THE FIRST TIME - REFERRALS
01/16/01	0096	(H)	FSH, RES, FIN
01/16/01	0096	(H)	FN 1: ZERO(DFG)
01/16/01	0096	(H)	GOVERNOR'S TRANSMITTAL LETTER
02/12/01		(H)	FSH AT 5:00 PM CAPITOL 124
02/12/01		(H)	Moved Out of Committee MINUTE(FSH)
02/14/01	0314	(H)	FSH RPT 3DP 1NR
02/14/01	0314	(H)	DP: COGHILL, SCALZI, WILSON; NR: DYSON
02/14/01	0314	(H)	FN1: ZERO(DFG)
02/14/01	0314	(H)	REFERRED TO RESOURCES
02/21/01		(H)	RES AT 1:00 PM CAPITOL 124

WITNESS REGISTER

GORDON KRUSE

Marine Fisheries Scientist

Division of Commercial Fisheries

Alaska Department of Fish & Game (ADF&G)

PO Box 25526

Juneau, Alaska 99802

POSITION STATEMENT: Testified on HJR 10.

DR. ROBERT SMALL

Marine Mammals Coordinator

Division of Wildlife Conservation

Alaska Department of Fish & Game (ADF&G)

PO Box 25526
Juneau, Alaska 99802
POSITION STATEMENT: Testified on HJR 10.

FRANK KELTY, Resource Department
City of Unalaska
P.O. Box 610
Unalaska, Alaska 99685
POSITION STATEMENT: Testified in support of HJR 10.

JERRY McCUNE
United Fishermen of Alaska
211 Fourth Street, Suite 110
Juneau, Alaska 99801-1143
POSITION STATEMENT: Testified on HJR 10.

KEVIN BROOKS, Director
Division of Administrative Services
Department of Fish & Game (ADF&G)
PO Box 25526
Juneau, Alaska 99811-5526
POSITION STATEMENT: Spoke in support of HB 63.

ACTION NARRATIVE

TAPE 01-13, SIDE A
Number 0001

CO-CHAIR DREW SCALZI called the House Resources Standing Committee meeting to order at 1:10 p.m. Members present at the call to order were Representatives Masek, Scalzi, Fate, Chenault, Stevens, and McGuire. Representatives Green, Kapsner, and Kerttula arrived later.

HJR 10-GROUNDFISH FISHERIES AND STELLER SEA LION

CO-CHAIR SCALZI announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 10, Relating to the management of the Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries and the protection and restoration of the Steller sea lion. [Before the committee was CSHJR 10(FSH).]

Number 0160

CO-CHAIR SCALZI noted for the record that Representative Green had arrived. He mentioned that Dr. Gordon Kruse and Dr. Bob Small would be testifying together.

Number 0278

CO-CHAIR SCALZI said [HJR 10] "is not an attack on the National Marine Fisheries Service [NMFS], Steller sea lions, nor is it an endorsement of any particular fishing practice in Alaskan waters. Rather, this resolution is a strong request to the United States Congress that any implementations imposed on our fisheries management plans by the Endangered Species Act are based on sound and thorough science." He said that today U.S. Senator Frank Murkowski had spoken to that issue, in general terms, "but offered the same consideration to all of our resources, that we take these things out of the political arena and back to scientists."

Number 0350

CO-CHAIR SCALZI stated that the figures in this resolution are not exaggerated. He said, "The task before [NMFS], by the Endangered Species Act, is to prove a negative. They have to prove that the commercial fishing industry is not the cause of the decline of the Steller sea lion, and what measures ... are going to be implemented to mitigate that assumption." He commented that it would be a difficult task. Co-Chair Scalzi continued, saying:

There [are] very evident problems trying to reach the conclusion in proving a negative on something that is this extensive and far-reaching. Some of the evidence that you've probably been aware of in the packet, the documents that you have, is some of the discussions regarding orca predation, the sustenance of the fishing -- of the diet for Steller sea lions.

And the conclusions that you read at the end of the bi-op [biological opinion], one thing that struck me was that in section 5.21, line 21, in the bi-op, there's a quote that said, "However, the authors noted that the results of the simulations are not better than the assumptions they are built on." This is ... kind of dramatic to me because it went through a very detailed analogy of how many animals were here 15 years ago and how many are here today, the percentage that they estimate that the orcas are [killing]. But yet, after going through all those pieces of evidence, they ... say that we can't assume anything; we don't even believe our own evidence. So, [it's] very

frustrating, particularly with the commercial fishing industry (indisc.) up to \$800 million dollars over the course of the next few years, just what that is going to mean dramatically to the ... industry.

CO-CHAIR SCALZI said there is not sufficient data to make confident decisions, and that HJR 10 is asking for evidence "so that the delay in restrictions are maintained until we do get that degree of confidence." He introduced Gordon Kruse and Bob Small and invited them to begin their testimony.

Number 0565

GORDON KRUSE, Marine Fisheries Scientist, Division of Commercial Fisheries, Alaska Department of Fish & Game (ADF&G), spoke as Chair of the Steller Sea Lion Restoration Team. He offered a "thumbnail sketch of where we've been and where we're headed":

As you all know, the National Marine Fisheries Service issued their biological opinion on November 30, 2000. And, as pointed out, that generated a lot of concern among the fishing industry and others concerning the magnitude of the management measures, as well as some of the science and how it would (indisc.) science was evaluated in that opinion. The governor formed the state's restoration team, again, ... of which we are members.

Principally, our mission, as we hope everyone's is, is to try to restore Steller sea lions, at the same time providing some avenues for commercial fishing and other fishing in Alaska. The main points of [the] objectives of our committee are to review the biological opinion, to make research recommendations as far as particular needs, [in order] to understand the causes of population changes, to make some recommendations about prudent management measures, and some other things. But those are probably the main highlights.

Concerns about the science, the way the different alternatives and hypotheses were evaluated, was one of the main reasons for stemming the creation of the state's restoration team. In addition, the North Pacific Fishery Management Council [NPFMC], through a scientific and statistical committee, also reviewed

the biological opinion, and they have a draft review of their ... comments at this point in time.

Again, because of concern for the science in the document, there will be a National Academy of Sciences review of the biological opinion, and that will take about 18 months to be conducted. Because of that time line, the [NPFMC] will also have a ... quicker turnaround review process, involving three peer review scientists that can provide information, again, for the council - a quicker turnaround.

... I can highlight one of the points in our review to this point, which we articulated in a memorandum to our deputy commissioner, and that was, given our initial review, the restoration team feels that the reasonable and prudent alternative to finding a biological opinion is not justified based on the data and analysis provided. ... We plan to have a complete review from our restoration team of the biological opinion in the next month or two.

As far as into the future, there ... is ... what's called an RPA committee - Reasonable Prudent Alternative committee - essentially, that is the suite of management measures. Bob Small is on that committee, and in a moment I'll let him describe a little of what that committee's up to. They met for the first time yesterday. But essentially the goal, then, is through the [NPFMC] to bring forward some ... alternatives to the management measures that were proposed by [NMFS] that could be put into place, at least for the second half of this year, 2001. And then, later in the fall, there may well be a new biological opinion prepared, and the council will consider a set of longer-range management measures that hopefully would restore the [Steller] sea lions into the future, as well as provide for fishing.

Number 0875

DR. ROBERT SMALL, Marine Mammals Coordinator, Division of Wildlife Conservation, Alaska Department of Fish and Game (ADF&G), said that the first meeting of RPA took place yesterday, February 20, 2001, and it would meet another four times in the next six weeks to "look at what application for fishing restrictions would be in place for the remaining six

months of the calendar year, 2001." He stated that the overall objective of the RPA will be "to try to determine if there are alternatives to the RPA that [are] published in the biological opinion."

DR. SMALL said the RPA meetings will be open to the public. He stated that membership in the RPA is composed of representatives from NMFS, ADF&G, and fishing groups. Dr. Small said that the process for potential revisions through the RPA will begin after the April council meeting. He said that the RPA's first meeting served to gather available information and to look for additional data that may not have been fully disclosed "within the biological opinion" and that may need further study. He stated that the next six meetings would be used to dissect the information gathered and to decide what objective conclusions are allowed by science and "when do we start making assumptions and subjective decisions." Dr. Small said that scientific evidence is limited; there is still the need for the interpretation and application of it. He commented that the RPA would be a very "dynamic group."

Number 1032

CO-CHAIR SCALZI noted for the record that Representative Kapsner had arrived. He opened up the floor to questions.

Number 1055

REPRESENTATIVE STEVENS said he appreciated the efforts of the RPA team. He asked where the research dollars were going, stating his concern that "they are going in the right place." He mentioned that the House Special Committee on Fisheries had heard from Dr. Andrew Trites, and he asked Dr. Small for his opinion on Dr. Trites' research.

Number 1105

DR. SMALL responded by saying that Dr. Trites is highly regarded and that his argument is very compelling and deserves attention; however, it is based on theories that are not proven and that need further scrutiny. Dr. Small continued, saying:

I think Dr. Trites - as far as the research side of it - he has received, within the last federal appropriation, \$800,000 as an earmark towards the North Pacific Consortium ... of universities that he represents. And so that is a specific earmark, as

well. The rider that [U.S.] Senator Stevens brought across, there's a large amount of money, and I think some of the ... materials in front of you break down those funds. And the large portion of the money that was brought in on that rider will now be going through a "request for proposal" process. And so, Dr. Trites, as well as anybody else [who] feels as though they have the background, the knowledge to try to get at some of these other questions, will have the opportunity to go after those funds.

Number 1212

REPRESENTATIVE STEVENS asked whether NMFS or another group would make the decisions about how the research dollars will be utilized.

DR. SMALL said, "As of last Friday, I don't believe that final decision has been made. My understanding is that it will be outside of the [NMFS], but through what organization, I'm not sure yet." Dr. Small made a distinction between "the funds and the rider, and the annual appropriations":

A research funding horizon has been quite low, and I think now that we see the impact of this issue and the amount of dollars that are needed to really try to keep it apart, we're moving into sort of a different era here now. Whereas the amount of money that's been available is quite small (indisc.) for the next year or two we've got some of those sources. And the department's own research program ... has an earmark that we go through on an annual basis to try to get the funds through the [NMFS]. But outside of those funds, there are no other funds for the state's programs or for the [NMFS].

Number 1300

REPRESENTATIVE FATE mentioned research being done and expressed concern about the length of time required to make any decisions because of the complexity of the issue. He asked Dr. Small and Dr. Kruse if they had any idea of what the timelines for decision making would be, taking into consideration not only the complexity of new research, but the agreement on those differing research projects. Representative Fate said he has a fear of the process taking so long that the federal government will step in to take over.

Number 1391

DR. KRUSE answered:

I think there's a couple levels. And you're right, the timeline is ... really critical. Certainly, when new money comes available, you design new studies and you put them in the water. It can take a couple years to complete a project, write up results. So, that timeline can be frustrating to people wanting to make decisions for fishing later this year and for the next year. But I think [there are] two things happening. One is [that] the biological opinion that was prepared was done so by largely one component within the [NMFS]. We're on a ... time track now for more of an open process through the peer reviews of the restoration team and other committees that I mentioned, plus this RPA committee on the management side.

So, I think that might provide a vehicle for more input to the [NMFS] - which makes the ultimate call and does write the biological opinion - to have others involved and looking at alternative hypotheses and the preponderance of evidence, if you will. So there's kind of two levels of things: ... One is collecting new information ... that will pay off in the future when that research becomes concluded and agreed upon; the other is evaluating existing evidence, existing data. And there's still opportunity to do that on a quicker turnaround with a broader group of scientists, including peer review scientists. So, I think there's two levels over which there could be payoffs in terms of improving our understanding of a situation and the correct measures to take.

Number 1498

REPRESENTATIVE FATE expressed his concern about the length of time it will take to consider all the differing sets of data. He asked Dr. Kruse what his projected timeline is.

Number 1559

DR. KRUSE said:

I guess in terms of the management side, there's a quick timeline for ... this RPA committee getting in new measures for the second half of this fishing year. So, that committee that Bob Small is on will be delivering some products, in terms of alternative management measures, to the North Pacific [Fishery Management] Council in April. And that is as contracted a possible. My understanding is the council would hear those, select a subset of them, recommend it ... to be analyzed, go out for public review, and then decisions will be made in June.

When councils make decisions, I think it takes a couple of months for those to be implemented, but the NMFS can implement an emergency rule, so that those measures could be implemented July 1, 2001. So, in terms of management, that's as quick a timeline as possible. Again, it will be operating on, essentially, the information that we currently have. It won't benefit from additional scientific evidence or ... new studies.

So ... incorporate that into the management process; I think, essentially, that will happen as new information comes available that changes the view on whether it is the orcas or it is climate or it is fishing. That information, then, would drive the need for a new biological opinion, and, therefore, a new set of management measures.

So, ... I expect that there'll be new bi-ops and new management measures put in place as new information comes available that changes the opinion of, I guess, essentially the [NMFS], since they're the ones writing the biological opinion. But it is frustrating.

Number 1651

REPRESENTATIVE FATE asked if it would be safe to say that the new opinions would be available by January 2001, so that the legislators are able to make some appropriate legislation based on the new material.

Number 1687

DR. KRUSE responded that it is his understanding that a new biological opinion may be generated in the Fall of 2001.

Number 1702

REPRESENTATIVE GREEN asked Dr. Kruse and Dr. Small if it is possible that the data provided by the RPA might conflict with that of the NMFS to such an extent that a third study would have to be done, thereby prolonging the whole process, or if the new study would be so overwhelming as to be unquestioned.

Number 1754

DR. SMALL answered:

I think the distinction that you made earlier is quite important here. The information that'll take place, or that will be generated here over the next six months, or within this calendar year, I think is going to be more a reevaluation and difference of opinions of existing data. As for some finality, to say this is the cause for the decline - whether you're speaking of the recent decline or the historic decline - that information will not be here by the end of this year, unless there's a silver bullet out there that ... all the scientists have been trying to find for years, [and] it just shows up. I don't mean to make light of this situation, but the complexity and the magnitude of this type of issue is not something that we can solve within a short period of time. So I think the timeline that we are all on in the process, the public process [by which] more people can have a good thorough look at it, is the best thing that we can do with the existing data. The research that is going to be continued this year, and for the next several years, I think will allow us to begin to tease it apart more and more. But I ... just want to make sure that it's not presupposed that there'll be some new data within [a certain] period of time that will give us a definitive answer to this issue, because it will take some time.

Number 1836

REPRESENTATIVE GREEN asked if new research disagreeing with old wouldn't cause the need for further research, thereby prolonging the process.

Number 1875

DR. SMALL clarified that the reanalysis of existing data will be subjective. He said, "There will be a new set of opinions or interpretations in a much more open process than the biological opinion was generated this first time through. But in terms of a long-term recovery and pulling back of some restrictions, the data that's needed for those types of actions ... will take additional time."

Number 1909

REPRESENTATIVE GREEN asked Dr. Small how long that would take.

Number 1920

DR. SMALL answered several years to get the different types of data, but said that the groups involved can make decisions as they go along. He added, "The reason it's so controversial right now is because the information isn't there to make a clear understanding."

Number 1943

REPRESENTATIVE GREEN explained that reading results of research would be like two people reading a book. If they both disagree on its intent, they will have to go to the author for answers, which could turn out to be a long and involved process. Representative Green asked if NMFS would "continue to create problems for commercial fishing, or will they maybe resume pending the outcome of further research."

Number 1984

DR. SMALL said that he could not predict what NMFS will do, but commented that he thought that the plan would be to limit restrictions on fisheries, "with the understanding that those restrictions have to be in compliance with removing jeopardy under the Endangered Species Act."

Number 2011

REPRESENTATIVE GREEN expressed his concern that if the review of the existing data supports NMFS policy, there wouldn't be any possibility to continue with research, knowing that the outcome may be "at odds with NMFS."

DR. SMALL explained that there is a variety of research being done on an ongoing basis. Although results will continue to come in, some will take a long time to be completed.

Number 2084

REPRESENTATIVE STEVENS commented on the amount of research being done in the Seattle area on Alaska's Steller sea lion situation. He asked Dr. Small for his opinion on the possibility of moving the scientific research facilities out of Seattle and into Alaska.

Number 2124

DR. SMALL responded that the NMFS has already increased its presence in Alaska. It has plans to hire some people in Kodiak, as well as Anchorage, although the feasibility of moving the entire research facilities is arguable. He pointed out that although most of the scientists spend time in Alaska, they are based out of Seattle. He said that the regional office, run by Dr. Balsigner and his group, is located in Juneau.

Number 2189

CO-CHAIR SCALZI told Representative Stevens that he had made a good point. He said that there are facilities in Alaska for research, and perhaps the legislature could add support to that idea.

Number 2200

REPRESENTATIVE FATE stated that "conclusion in the scientific world is hard to come by," and asked Dr. Small if there is enough evidence to take action now, rather than waiting.

Number 2295

DR. SMALL said, "Actions are being made now, and they will continue to be made, revised, hopefully more enlightened and more definitive, as new information comes in."

Number 2320

FRANK KELTY, Resource Department, City of Unalaska, testified via teleconference. Until recently a long-time mayor of Unalaska, he spent 30 years working in the Alaska seafood industry, he said, and 18 years as an elected official in his

community. He urged the committee to move the resolution forward and specified that the community supports it as written.

MR. KELTY said this issue is of extreme importance to the communities of the Gulf [of Alaska] and the Bering Sea; in his 30 years of involvement, this is one of the most critical issues he has seen. There is extreme concern about the problems it will cause for the second part of the year, because the RPAs will go into effect in June.

MR. KELTY noted that he had attended the North Pacific [Fishery Management] Council meeting a week ago; the scientific statistical committee that works for the council, which is made up of scientists, gave its report on the [biological opinion]. He stated, "Basically, they said it was scientifically deficient, and the RPAs weren't warranted based on the science that was involved."

MR. KELTY said most of the communities have a major problem with the [biological opinions] and RPAs. Unalaska, the hub of the fishing industry in the Bering Sea, has been the nation's number-one commercial fishing port for a dozen years. When the previous [biological opinion] came out, it was "basically going into the pollock fishery." Now, he said, the restrictions and RPAs have moved into "the Pacific cod fishery, the mackerel fishery, all gear types, large boats, small boats, and will have a dramatic impact on our community and other communities, all fishery-dependent communities in the Gulf and the Bering Sea." Mr. Kelty continued:

We have no state-water fishery here in Unalaska, so our local-resident small boats that are mostly under 60 feet, there's no way they can drive up to Area 7, which is north of Unimak Island from Unalaska, to find a place to fish. ... Our small-boat fleet will basically be shut down.

Our shoreside vessels are going to be greatly impacted by this. The reductions of area ... are worse than what Judge Zilly had in place in his injunction. And this is going to lead to problems that we saw last year during the "C and D" season here in the fall, of many days where the plants here locally had no fish because the vessels were so far away, you couldn't keep a rotation together. ... That leads to increased costs, product problems - the value of the product - because ... you're getting older fish to work with,

[resulting in a] decreased tax base. It's going to cost jobs. It's just a major problem.

Some of the other issues I think we're going to see if these restrictions go in place later on this year are bycatch issues and gear conflicts. They have opening dates for June for trawling in the Gulf and trawling in the Bering Sea, when you have ... salmon migrating to other areas of Western Alaska. I can see this ... could have some major problems [because of] bycatch and gear conflicts. ... I would encourage the committee to approve this resolution and move it out and get it to the floor.

Number 2534

CO-CHAIR SCALZI commented that a lot of people think the impact will be largely on the trawl fleet, but Dutch Harbor, Sand Point, and King Cove have small-boat fisheries included in this restriction due to the [biological opinion] saying that the small "footprint" of pot boats and jig boats will still have an impact. He asked whether that is correct.

MR. KELTY affirmed that. He said this takes in all gear types and vessel sizes. He emphasized the importance of cod. With the decline of crab stocks, a majority of crabbers there have been involved in pot cod fishing and will be "shoved into the same area where trawlers are, in that one critical habitat area that's open north of Unimak, Area 7." Having all three gear-types in that area will cause major problems. Furthermore, when the only industry in his own community is affected, there will be a trickle-down effect to support businesses, schools, and government. Mr. Kelty restated his appreciation of the committee's consideration of this resolution and the show of support for Alaska's coastal communities.

Number 2648

JERRY McCUNE, United Fishermen of Alaska, came forward. He stated:

One thing that brought this all about is the litigation from Greenpeace. And so whether we have [an] answer in science or not, it still can be challenged in court. ... The way the ESA [Endangered Species Act] is written, I could pretty much go to a bay and say, "I don't see sea otters anymore," and

file. ... I don't have to have any scientific evidence of that. I can file on that; it doesn't mean they'll take that petition up, but they can.

And so that's part of the problem that we're fighting, too, ... the way the ESA is written. ... It's not [so] much [the] intent [of] Congress when [they wrote about] how to deal with these issues; it's mostly the environmental groups [that] are dealing with it in court. If they don't agree with the [biological opinion] that NMFS comes out with, or the science that the scientists come up with behind me, here, they can challenge it, based on I don't know what, because I haven't seen anything they based ... their science on yet. So, that's the other equation in this thing.

So, to come out of the science and not be challenged, and be able to put the fishery back on track -- the president of the university laid it out to me pretty good. He said, ... "The question isn't why they're declining; the question is to find out why ... they continue to decline, ... when the ones in Southeast are bouncing back."

MR. McCUNE emphasized that the questions behind the reasons for the decline, including whether the cause is the climate or the food, for example, are still out there. He restated that part of the problem is that it is challenged in court.

Number 2740

REPRESENTATIVE McGUIRE asked what efforts have been made to approach either [U.S.] Senator Murkowski, [U.S.] Senator Stevens or Congressman Young to introduce legislation that would fine-tune the ESA so that there are some basic benchmarks that must be met before one can file litigation.

MR. McCUNE replied, "We've tried it a couple of times." He said it is a formidable task when opposing well-financed people who want to keep the status quo. Mr. McCune stated that he takes a "middle of the road" approach. He believes action should be taken if a species is endangered, but does not agree with using an endangered species to stop timber cutting or fishing. Mr. McCune suggested that the opportunity to challenge the legislation successfully may exist now, because of the new [federal] administration. He's heard [U.S.] Senator Murkowski

speaking about revisiting that issue. Even so, it will be a huge fight.

Number 2808

REPRESENTATIVE MCGUIRE clarified that she believes it is important that there be balance, and endangered species are important to protect. Her concern, however, is that "we're going too far one way or the other." She said that if this may be used as an abusive technique to stall a process, she thinks that is wrong. She restated the need for benchmarks.

Number 2832

REPRESENTATIVE GREEN said he has heard that this is not a new issue, and that [Steller sea lions] will move to follow the food.

MR. McCUNE said he could only offer his own experience. In the past five years, he has seen many changes in his fishing environment. One year, he won't see birds, and then another year he will see more birds than ever. He referred to the diet of the sea lions and said he isn't convinced - from what he has read thus far from the scientists - that their diet is the total problem. He said sea lions come into the Copper River for the hooligan, then stick around for the salmon, which they catch out of the nets; then they leave. In Prince William Sound, he noted, a lot of tags from pups have been found in orca whales; what impact that has, he isn't sure. He noted that orcas have also learned how to take fish off of longlines. Mr. McCune stated his amazement at the many changes in the last 25 years.

Number 2915

CO-CHAIR SCALZI asked whether anyone else wished to testify. Hearing no response, he closed public testimony.

REPRESENTATIVE STEVENS offered an amendment on page 3, line 15. [The amendment is not on tape at this point but was restated later.]

TAPE 01-13, SIDE B

Number 2935

REPRESENTATIVE KERTTULA expressed concern that [the amendment] might [introduce a separate topic] that might better stand

alone; however, she indicated a willingness to go along with the consensus of the committee.

Number 2915

REPRESENTATIVE STEVENS said he understood what Representative Kerttula was saying, but noted that the title of the resolution is, "Relating to the Management of the Bering Sea, Aleutian Islands, and Gulf of Alaska Groundfish Fisheries and the Protection and Restoration of the Steller Sea Lion." He said an amendment dealing with the research on the Steller sea lion does fit within the title.

REPRESENTATIVE KERTTULA indicated concurrence, "if it's only the movement of the people dealing with that issue; but if it's dealing with movement of the whole office," then an amendment would surely be needed. She liked the idea, she added, but just was not sure it should be included in HJR 10.

Number 2881

REPRESENTATIVE STEVENS said to that end, he would offer a friendly amendment to his own amendment, saying, "relocated to Alaska Steller sea lion research to Alaska." He specified it would read as follows: "amend to insert after line 15, further resolve that the Alaska State Legislature respectfully request the National Marine Fisheries Service relocate its Alaska Steller sea lion research to Alaska."

Number 2825

REPRESENTATIVE MASEK asked whether there is the technology for lab work set up here in the state. "Would we be able to handle it logistically?" she added.

REPRESENTATIVE STEVENS replied that as far as he knew, the answer was yes. He didn't want to get specific about communities because it might appear self-serving, but he noted that Kodiak has a large facility, brand new, that is 80 percent occupied by the National Marine Fisheries Service. There is space available. The University of Alaska leases part of that [space], which they are not using, and [the University's leased space] would be available as well. [Work also is underway on] developing a facility in Juneau where there would be space available in time. In addition, there is a facility in Seward. He thought one of the representatives from ADF&G could speak to the question more accurately than he could.

Number 2769

REPRESENTATIVE MASEK noted that the word "research" in the amendment could mean "just about anything," and asked for clarification of the maker's intent in using that word.

Number 2748

REPRESENTATIVE STEVENS replied:

The intent is the biological research on the Steller sea lion, what their diet is, what their habits are, ... their breeding, the pup activity. So I think it would [mean] the whole gamut of biological research on the Steller sea lion. I'm not talking about economic research or anything like that, but [research specific] to the biological creature.

Number 2728

REPRESENTATIVE MCGUIRE said she liked the idea, and proposed saying, "We request that facilities relating to the management of the Bering Sea, Aleutian Islands, and Gulf of Alaska groundfish fisheries and the protection and restoration of the sea lion be located in Alaska." She said she thought that title would be a little broader, and explained, "You're looking at the management of the Bering Sea, Aleutian Islands, itself; you're also looking at groundfish studies that might directly or indirectly link into the Steller sea lion research."

REPRESENTATIVE MCGUIRE further suggested incorporating, "just a teeny sentence about policy, about why it is that we think that's important; that the legislature feels that ... being closer to the region about which the scientific studies are being conducted is in the best interest of science, or something like that."

CO-CHAIR SCALZI concurred with Representative Kerttula. He said, "In all due respect to the attempt at a motion," he thought the motion is an amendment that warrants a separate resolution. He thought the idea of moving some of those [research] facilities to where the ongoing research should be was very justifiable. He noted that sponsors had gone over HJR 10 with ADF&G, NMFS, and all industry. To now change the title is certainly within the purview of this body, but a lot of work has gone into focusing this, particularly, on this issue of the

Endangered Species Act and the ramifications it has. While he agreed with the intent of the amendment, he did not think he could support "getting too far off track on this."

Number 2599

REPRESENTATIVE STEVENS observed that he had learned something and believed that a separate resolution might be better. He withdrew his amendment and indicated his intention to write up a separate resolution.

Number 2580

REPRESENTATIVE KERTTULA suggested that he consider making that a committee resolution.

REPRESENTATIVE STEVENS concurred.

REPRESENTATIVE McGUIRE suggested the House Resources Standing Committee consider broadening it beyond just Steller sea lion research.

Number 2531

REPRESENTATIVE FATE moved to report CSHJR 10(FSH) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHJR 10(FSH) was reported out of the House Resources Standing Committee.

HB 63 - ELECTRONIC FISH & GAME LICENSURE

Number 2517

CO-CHAIR SCALZI turned to the next order of business HOUSE BILL NO. 63, "An Act relating to electronic application for and issuance of licenses, permits, and tags issued by the Department of Fish and Game; relating to violations regarding a license, permit, or tag applied for or issued electronically; and providing for an effective date." He announced that HB 63 would be held for a week, because one of the House Resources Standing Committee members was working on some amendments. He said that the bill would be open for discussion only, but no action would be taken on it in today's meeting. Co-Chair Scalzi thanked speaker Kevin Brooks for the overview he gave in the House Special Committee on Fisheries and for being present to speak.

Number 2446

KEVIN BROOKS, Director, Division of Administrative Services, Department of Fish & Game (ADF&G), testified in support of HB 63. He said that the bill may sound familiar to some of the committee members; it was heard last year as HB 164. Mr. Brooks proceeded to give a description of the electronic fish and game licensing process.

MR. BROOKS explained that in the last 18 months or so, ADF&G has introduced an internet system which allows the public to go online on ADF&G's web site and purchase a fish and game license. The process is as follows: The applicant signs on, on the Internet, uses a credit card to pay, and within a day or two ADF&G sends the applicant a license through the mail, which the applicant will receive in 7 to 14 days.

MR. BROOKS described the program as successful, saying that in the first year, over 8,000 items sold over the Internet, which brought in a revenue of over \$700,000. The public likes the "user friendliness" of the system and the option it provides; however, they would like to be able to have instant access to the license through this method, rather than waiting for it to arrive by mail. Mr. Brooks said that the challenge for ADF&G is figuring out how to issue the license electronically. He added that ADF&G has checked to see how other states handle their licensing, narrowing its inquiries down to the western states that mirror the types of hunting and fishing opportunities found in Alaska.

MR. BROOKS backtracked to tell the House Resources Standing Committee about three things ADF&G uses as "overriding sideboards" when it takes on a licensing project. First, ADF&G wants to make improvements that are "an enhancement to public service". Second, ADF&G wants to make sure that there is an open line of communication between itself and Department of Public Safety personnel and those involved in fish & wildlife protection, so that any decisions made involving licensing will not negatively impact enforcement efforts. Third, ADF&G doesn't want to do anything that might diminish its revenue and hurt its own fund.

MR. BROOKS noted that when ADF&G looked at its sales after the first year, it found that many nonresidents were taking advantage of the opportunity to plan ahead and purchase their fishing and hunting licenses online. He surmised that the system works well for nonresidents because they are planning their trips in advance; however, the Alaska resident often wants

to hunt or fish at the last minute, with no store open in which to buy a license. In order to address this problem, ADF&G has come up with a "paperless" concept that is used in some other states. Mr. Brooks said:

I think it's Georgia that uses a number, it's a "smart number." Part of it's randomly generated. Part of it is encrypted to identify someone's gender or weight or hair color, or some other identifying characteristic, [which] might be included in that sequence of numbers.

MR. BROOKS stated that people who obtain paperless licenses would have to carry picture identification with them. A number and identification would be sufficient for enforcement. Currently there is no requirement for people to carry anything other than a hunting or fishing license.

MR. BROOKS explained that there is work to do to initiate a paperless process of issuing fishing and hunting licenses, but "the statutes as written contemplate a paper process." He stated that the technology is available for ADF&G to "move into an electronic arena." Furthermore, ADF&G has written into HB 63 "that it would require a best-interest finding on the part of [the] commissioner of Fish & Game and [the] commissioner of Public Safety, and a concurrence of Public Safety that anything that [ADF&G does] is not going to adversely affect them." He asked the House Resources Standing Committee to endorse HB 63, to enable ADF&G to continue looking for ways to improve this process and respond to the requests of the public.

Number 2145

REPRESENTATIVE KAPSNER asked if electronic licensing would preclude stores from selling licenses or would decrease administrative help to those stores. She noted that not everyone has access to a computer.

MR. BROOKS answered that ADF&G has always looked at the electronic process as complementary to the existing vendor process, and an option for anyone who wants to take advantage of it. He cited that ADF&G works with about 1,500 vendors and sells 700,000 pieces of stock. He said there would always be people in stores selling licenses.

Number 2102

REPRESENTATIVE FATE noted that there would be a \$3 increase in fees to cover the cost of administration. He asked Mr. Brooks, "Will this change how fee structures of licenses may be made, or is this \$3 ... the only fee structure that will be changed?"

MR. BROOKS responded that that question had resulted in an amendment in HB 164 last year. He stated:

Currently, through the vendor compensation process, we pay a dollar per item sold and 5 percent of the co-sale. For instance, if someone buys a fishing license with a king salmon stamp, we would pay \$2 in vendor [compensation] - additional vendor [compensation] - plus 5 percent of \$25, which is a buck and a quarter. So that transaction translates to \$3.25 in vendor compensation paid on ... that purchase. And so we came up with the \$3 as [a] close approximation of that. As it currently stands on our Internet sales, we don't pay any vendor [compensation]. We don't pay ... ourselves vendor compensation. So the entire sale goes into the fish and game fund for future appropriation by this body.

What we've found, though, in other states, they've done competitive solicitation, where they've hired a third-party vendor ... to handle this process for them and then they'd charge a transaction fee. ... They would not get the vendor [compensation]; they would get a per transaction fee. And that's what the \$3 was meant to do. But it would only occur ... through a third-party contract. And as it currently stands, we're writing this with state employees and so it really doesn't apply, ... the direction we're going, but it is something that other states have done, and so we've kind of mirrored ... what other states are doing.

Number 1990

REPRESENTATIVE FATE asked Mr. Brooks to confirm that the transaction fee is the only change in the fee structure in HB 63 and that HB 63 would not enable any future changes outside of that transaction fee.

MR. BROOKS answered yes, and added that the transaction fee would only be on "these electronic kinds of purchases."

Number 1965

REPRESENTATIVE KERTTULA asked how much money ADF&G gets from vendor fees.

MR. BROOKS repeated that it is \$1 per item and 5 percent of the sale. In response to other questions by Representative Kerttula, Mr. Brooks said that the \$3 would not be added on top of the already existing vendor fee, but would be instead of that. If ADF&G were to make a contract with a third party, it would not sign [the third party] up as a vendor. The \$3 per transaction would be the compensation. Mr. Brooks stated that under the state procurement code, ADF&G would have to competitively solicit that. In order to clarify the need for the \$3 fee for a process that is done electronically, Mr. Brooks said:

I'll give you another drastic example: A nonresident hunter comes up here and spends a couple thousand dollars on some big game tags. We could easily spend a hundred dollars on commission on that transaction, and this would limit it to \$3.

MR. BROOKS added that some states add on a "surcharge" because the ability to apply online for a hunting or fishing license is viewed as a convenience. He affirmed that the cost of the license would not increase.

REPRESENTATIVE KERTTULA mentioned language in the bill referring to the requirement of the applicant to carry identification, found on page 2, line 17, in Section 2. She asked what the penalties would be for someone who disobeyed that agreement.

MR. BROOKS replied that ADF&G has discussed that issue with enforcement, and the answer is that if that person was fishing with a number, yet was carrying no identification, he/she would be fishing illegally.

Number 1814

CO-CHAIR MASEK asked what is being done with all the money [from licensing] that is being put into the ADF&G fund.

MR. BROOKS answered:

All revenue from the sale of fish and game licenses - last year [it] was nearly \$23 million - goes into the

fund and is subject to appropriation by this body. So it's in the Division of Sport Fish and the Division of Wildlife Conservation's budget [that] you see those fish and game fund dollars show up in the operating budget. And it's subject to your appropriation that that happens.

MR. BROOKS, in response to a follow-up question by Co-Chair Masek, stated:

To generate \$23 million, we pay approximately \$2 million a year in vendor compensation. Those are the big numbers. To the extent that we sell these licenses ourselves through the Internet or some other process like that, we'll forego paying a portion of that vendor compensation.

For instance, on the 8,000 licenses we sold last year, we sold over \$700,000 in revenue. Five percent of that was with \$35,000, another \$8,000 in additional vendor [compensation], because we pay a dollar per item sold. So, over \$40-45,000 that we would have normally paid in vendor compensation stayed in the fish and game fund for future appropriation by this body. And so to the extent that the state sells licenses, ... there's foregone commissions paid [that stay] in the fish and game fund for resource management or other things that you deem appropriate.

On the flip side of that, we've had a few vendors come up and say, "Well, you're going to take all our business," and really, I ... personally don't see that happening. The vendors that we talk to - and ... we have 1,500 of them statewide - probably have 80 percent of our sales occurring with 20 percent of those vendors; it's what we call our "80:20 rule."

So we have ... a handful of big vendors that do a majority of the sales and then a lot of smaller ones that we rely heavily on to get license sales out in very remote areas of the state. I don't ever see that going away. I think it's always going to be a partnership, a highbred system, if you will, where we can take advantage of technology but also heavily rely on these sales that occur over the counter in stores.

The other thing we've heard, as a follow-up to that, is no one's getting rich off vendor [compensation]. I mean, we spent \$2 million a year, and that's a lot of money. Some of the big chain stores, Fred Meyers, Carrs, and things like that are -- corporations are making money on that, but they make their money on outfitting hunters and fishers coming through the door.

And so, to that end ... we have some projects on the drawing board where maybe we put a kiosk in the store, or a person could come in and do a self-serve on their license purchase, and then they're still in there shopping in the store. ... We want to approach some things like that with some of our bigger vendors, maybe do a pilot project, things like that. So, we have a lot of ideas out there and we listen to our vendors, we do surveys with them

CO-CHAIR MASEK asked if some of the funding was put back into "studies" or "improving resource."

MR. BROOKS answered yes. In response to a follow-up question from Co-Chair Masek, he said that ADF&G is very interested in hunting opportunities. He mentioned a finance subcommittee meeting and "performance measures" in the budget, such as percentage of hunters. He estimated that 20 percent of Alaskan residents between the ages of 16 and 59 hunt, and, therefore, need to buy a license. Mr. Brooks said ADF&G wants to continue reaching out to those who hunt and fish by offering hunting and angling education programs, as well as opportunity. He said that there are more people [hunting in Alaska] now than ten years ago.

CO-CHAIR MASEK said that she is glad to have Mr. Brooks' last statement on record and she would like to work with ADF&G and the House Resources Standing Committee on "the game aspect." She emphasized the importance of assuring a continued flow of revenue by providing ample opportunity for the public to hunt and fish. She recommended looking at the hunting programs set up by other states, which she said are more sophisticated in some areas than Alaska's.

Number 1407

REPRESENTATIVE CHENAULT referred back to Mr. Brooks' previous statement regarding cost savings - the estimated \$45,000 in

commissions for the 8,000 transactions made through "one of the vendors." He questioned whether there really is a cost savings, since there is someone paid to do all the paperwork involved.

MR. BROOKS replied that there are some specific, measurable savings. For instance, ADF&G has clerical staff in the licensing program, and the number of employees on that staff has not been increased with the implementation of this electronic process. When a person goes online, the information he or she provides automatically goes into ADF&G's database. He estimated that ADF&G currently spends "six figures" on data capturing the licenses. He said, "Oftentimes those same people [who] 'data capture' our licenses finish our busy season and go to work for [the Alaska] permanent fund." Mr. Brooks added that ADF&G would not do anything to negatively impact the fund, saying, "Even in a break-even scenario, if [ADF&G] thought [it] was reaching out and making customer service better and easier for people to access government, I think there'd still be some positive benefit there."

Number 1253

REPRESENTATIVE McGUIRE asked Mr. Brooks if he was familiar with [HB 48], which passed out of [the House Resources Standing Committee] and would exempt the requirement for social security numbers [on hunting or sport fishing licenses]. She asked Mr. Brooks if that would be incorporated into [HB 63] as well.

MR. BROOKS answered yes. He said [if HB 63 is adopted], ADF&G would send out a letter to all its vendors letting them know that the social security field on the application is optional. He remarked that it is ironic that ADF&G has made it easier for online applicants by offering to "populate the field" for them if they fill in their name and social security number.

REPRESENTATIVE McGUIRE said:

I like the concept of it. I guess I wonder if we're putting the cart before the horse, because what you're asking us to do in this bill is to give you the ability to establish a system for doing it, and then you're going to come back and obtain concurrence from the commissioner of public safety, but you're not going to come back and obtain concurrence from the legislature. And the reason I ask is because I'm on the [Administrative] Regulation Review Committee, so we deal with these problems all the time, where we

pass a bill and we think it means "X" and then the regulations are written, or the plan's carried out in a way that we never intended it to be. ... I guess I just wonder whether or not we should have a little better idea of exactly how the plan will work first and then ... pass a bill that implements that system, because of these points of concern, ... the social security and other things. And has that been looked at?

MR. BROOKS replied that ADF&G takes all those things into [account]. He said [the change in social security requirement] would apply, whether the application is on paper or is electronic.

REPRESENTATIVE McGUIRE asked Mr. Brooks why ADF&G couldn't start studying the new plan now, without having to wait for legislation to pass.

MR. BROOKS responded by telling Representative McGuire that ADF&G is already looking at systems used by other states. He mentioned the "smart number" concept again. He said:

We could do that, but we could lose another year just in implementing, to have to come back and say, "OK, we've got all this in place and now we want to go ahead. But we're not talking about a fundamental change through a licensing program, in my opinion. It's offering one more option of how you can buy this thing. And we will operate directly from the statutes; all of our fees are set in the statutes. We don't even issue regulations on administering the licenses.

REPRESENTATIVE McGUIRE cited [sub]section (d), page 2, line 29, which read:

The commissioner of fish and game and the Department of Public Safety may adopt regulations to interpret or implement their respective duties in this section.

She concluded that there is room for regulatory authority.

Number 0999

CO-CHAIR SCALZI thanked Mr. Brooks for his testimony and asked him to provide the House Resources Standing Committee with a

one-page synopsis of some of the opportunities of the last ten years and into the future for hunters and fishermen. He made reference to the issue that's been discussed about the decline in the number of Kenai residents who buy fishing licenses. He questioned whether ADF&G might have a plan to "sweeten the deal for residents."

MR. BROOKS confirmed that Co-Chair Scalzi was talking about hunting and fishing opportunities. He said he would talk to Kelly Hepler [Director, Division of Sport Fish, ADF&G] and Wayne Regelin [Director, Division of Wildlife Conservation, ADF&G] and follow up on that request. [HB 63 was held over.]

Number 0897

CO-CHAIR SCALZI introduced his own draft letter to Colonel Glen Godfrey, Commissioner, Department of Public Safety, dated February 20, 2001, regarding a request by Southeast Alaska seiners for enforcement against poaching. He said that the problem was rampant before statehood, but has been under control until recently, partly due to the "good management of fish and game." Representative Scalzi listed the reasons for the recent increase in poaching as due to low salmon prices and some overcapitalization issues. He stated that his intent was to put this issue before the House Special Committee on Fisheries, as well as the House Resources Standing Committee, to ask both bodies to consider this draft letter of support requesting "some presence" on some of the islands in Southeast Alaska.

REPRESENTATIVE STEVENS mentioned that he had heard of the use of "stream guards" in the past. He suggested that in addition to "brown shirts" or "blue shirts," the House Resources Standing Committee should consider using "stream guards," which are "less expensive in terms of personnel costs."

CO-CHAIR SCALZI said that if [Representative Stevens] wanted to add a sentence to the draft letter, "we would certainly be amenable to an amendment." He informed the House Resources Standing Committee members that they had until "springtime" to finalize the letter.

REPRESENTATIVE KAPSNER pointed out a "typo" in the fourth paragraph [of the draft letter]. Where it reads, "be an important detriment to illegal fishing activities," the word "detriment" should be changed to "deterrent."

REPRESENTATIVE STEVENS suggested broadening the language to include other areas besides Southeast, if applicable.

REPRESENTATIVE McGUIRE noted that the first "with" [in the third line] of the fifth paragraph should be omitted.

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:40 p.m.