

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

March 26, 2001

1:17 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Beverly Masek, Co-Chair
Representative Mary Kapsner

COMMITTEE CALENDAR

HOUSE BILL NO. 165

"An Act relating to the Kenai River Special Management Area; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 93

"An Act establishing the permit fee for the personal use dip net fisheries for the Kenai River and the Kasilof River; and providing for an effective date."

- FAILED TO MOVE CSHB 93(RES) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 20

Opposing Arctic marine shipment of nuclear waste between Russia and Japan.

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: HB 165

SHORT TITLE:KENAI RIVER SPECIAL MANAGEMENT AREA

SPONSOR(S): REPRESENTATIVE(S)LANCASTER

Jrn-Date	Jrn-Page		Action
03/09/01	0516	(H)	READ THE FIRST TIME - REFERRALS
03/09/01	0516	(H)	RES
03/26/01		(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 93

SHORT TITLE:KENAI DIP NET FISHERY PERMIT FEE

SPONSOR(S): REPRESENTATIVE(S)LANCASTER

Jrn-Date	Jrn-Page		Action
01/26/01	0171	(H)	READ THE FIRST TIME - REFERRALS
01/26/01	0171	(H)	FSH, RES, FIN
03/12/01		(H)	FSH AT 5:00 PM CAPITOL 124
03/12/01		(H)	Moved CSHB 93(FSH) Out of Committee MINUTE(FSH)
03/16/01	0624	(H)	FSH RPT CS(FSH) NT 5DP 1DNP 1NR
03/16/01	0624	(H)	DP: SCALZI, KAPSNER, KERTTULA, WILSON,
03/16/01	0624	(H)	STEVENS; DNP: COGHILL; NR: DYSON
03/16/01	0624	(H)	FN1: (DFG)
03/16/01	0624	(H)	FN2: (DFG)
03/26/01		(H)	RES AT 1:00 PM CAPITOL 124

WITNESS REGISTER

REPRESENTATIVE KEN LANCASTER

Alaska State Legislature
Capitol Building, Room 421
Juneau, Alaska 99801

POSITION STATEMENT: Spoke as sponsor of HB 165 and HB 93.

CAROL CARROLL, Director
Division of Support Services (Central Office)
Department of Natural Resources
400 Willoughby Avenue, Fifth Floor
Juneau, Alaska 99801-1724

POSITION STATEMENT: Spoke in support of HB 165.

CHRIS DEGERNES, Park Superintendent
Kenai Peninsula Area
Division of Parks & Outdoor Recreation

Department of Natural Resources
PO Box 1247
Soldotna, Alaska 99669-1247
POSITION STATEMENT: Spoke in support of HB 165.

ANN WHITMORE-PAINTER, Member
Kenai River Special Advisory Board;
Chairman, Moose Pass Advisory Planning Commission
(No address provided)
Moose Pass, Alaska
POSITION STATEMENT: Testified regarding HB 165.

DALE BONDURANT
31864 Moonshine Drive
Soldotna, Alaska 99669
POSITION STATEMENT: Testified in support of HB 165; testified
in opposition to HB 93, provided that the intent of imposing the
fees included in the bill was to restrict public access.

CHARLES QUARRE
36525 Bradford Road
Sterling, Alaska 99672
POSITION STATEMENT: Testified in support of HB 165.

PAUL SHADURA, Vice President
Kenai Peninsula Fishermen's Association (KPFA);
Board Member, Kenai River Special Management Area
PO Box 1632
Kenai, Alaska 99611
POSITION STATEMENT: Testified in support of HB 165; testified
in opposition to HB 93.

BOB MERCHANT, President
United Cook Inlet Drift Association
PO Box 398
Kenai, Alaska 99611
POSITION STATEMENT: Testified in support of HB 165 and HB 93.

DAVID RHODE
(No address provided)
Cooper Landing, Alaska 99572
POSITION STATEMENT: Testified on HB 165.

JIM H. RICHARDSON
PO Box 757
Cooper Landing, Alaska 99572
POSITION STATEMENT: Testified in support of HB 165.

TED WELLMAN (ph), President
Kenai River Special Management Area Advisory Board
(No address provided)
POSITION STATEMENT: Testified in support of HB 165.

BOB BALDWIN
Quartz Creek Homeowners' Association
and Friends of Cooper Landing
PO Box 815
Cooper Landing, Alaska 99572
POSITION STATEMENT: Testified in support of HB 165.

BILL STOCKWELL
(No address provided)
Cooper Landing, Alaska 99572
POSITION STATEMENT: Testified in support of HB 165.

GORDON WILLIAMS, Legislative Liaison
Office of the Commissioner
Alaska Department of Fish & Game (ADF&G)
PO Box 25526
Juneau, Alaska 99802-5526
POSITION STATEMENT: Answered questions regarding HB 93.

KELLY HEPLER, Director
Division of Sport Fish
Alaska Department of Fish & Game (ADF&G)
333 Raspberry Road
Anchorage, Alaska 99518-1579
POSITION STATEMENT: Answered questions regarding HB 93.

HERMAN FANDEL
702 Lawton Drive
Kenai, Alaska 99611
POSITION STATEMENT: Testified in strong opposition to HB 93.

IRENE FANDEL
702 Lawton Drive
Kenai, Alaska 99611
POSITION STATEMENT: Testified in opposition to HB 93.

ROD ARNO
(No address provided)
POSITION STATEMENT: Testified in opposition to HB 93.

BYRON HALEY, President

Chitina Dipnetters Association (CDA)
1002 Pioneer Road
Fairbanks, Alaska 99701
POSITION STATEMENT: Testified on behalf of CDA in opposition to
HB 93.

CERENE PAUL, Member
Chitina Dipnetters Association (CDA)
1002 Pioneer Road
Fairbanks, Alaska 99701
POSITION STATEMENT: Testified in opposition to HB 93.

DICK BISHOP
1555 Gus's Grind
Fairbanks, Alaska 99709
POSITION STATEMENT: Testified in opposition to HB 93.

DICK BURLEY
(No address provided)
POSITION STATEMENT: Testified in opposition to HB 93.

CARL ROSIER
Alaska Outdoor Council (AOC)
8298 Garnet Street
Juneau, Alaska 99801
POSITION STATEMENT: Spoke on behalf of AOC in opposition to HB
93.

HELEN DONAHUE, Staff
to Representative Lancaster
Alaska State Legislature
Capitol Building, Room 421
Juneau, Alaska 99801
POSITION STATEMENT: Spoke regarding HB 93.

ACTION NARRATIVE

TAPE 01-22, SIDE A
Number 0001

CO-CHAIR DREW SCALZI called the House Resources Standing
Committee meeting to order at 1:17 p.m. Representatives Fate,
McGuire, Chenault, Stevens, Kerttula, and Scalzi were present at
the call to order. Representative Green arrived as the meeting
was in progress.

HB 165-KENAI RIVER SPECIAL MANAGEMENT AREA

CO-CHAIR SCALZI announced that the first order of business would be HOUSE BILL NO. 165, "An Act relating to the Kenai River Special Management Area; and providing for an effective date."

Number 0093

REPRESENTATIVE KEN LANCASTER, Alaska State Legislature, sponsor of HB 165, explained that the Kenai River Special Management Area (KRSMA) addition is "the winding up of a process that started back in 1996." Public hearings took place in Anchorage, Soldotna, Moose Pass, and Cooper Landing over about an 18-month period, with hundreds of people present to testify. Representative Lancaster stated that the properties under discussion totaled approximately 6,000 acres, located primarily in the Moose Pass and Cooper Landing areas, with some properties in the upper and lower Kenai areas. He mentioned that the properties in the lower Kenai area had been purchased with "Exxon Valdez criminal spill money."

REPRESENTATIVE LANCASTER outlined that HB 165 would protect habitat and "wet areas along those different water bodies." Furthermore, the intent of the bill is to help prevent trampling of the areas, thereby protecting the "small fry," the result of which will help both commercial and sport fishermen by getting the salmon back out to the waters. Representative Lancaster made note that there would be some minor technical changes made to the bill.

Number 0258

CAROL CARROLL, Director, Division of Support Services (Central Office), Department of Natural Resources (DNR), detailed the proposed changes to HB 165. She noted that the first change, on page 3, line 30, was to delete "Lot 2-A of ASLS 80-87".

REPRESENTATIVE LANCASTER clarified that that was a ten-acre parcel right in the center of Soldotna, which has been turned over to the city.

MS. CARROLL directed the committee's attention to page 4, line 5: "Tract 3, Anglers Acres Subdivision Lowe Addition, Plat No. 97-19;". She explained that that tract was purchased by the Exxon Valdez Oil Spill Trustees Council, but was returned to its previous owner to resolve a dispute; therefore, it should be deleted from the bill.

[At this point, there was a motion to adopt HB 165 for discussion purposes, but it was already before the committee.]

MS. CARROLL apologized for not delivering the changes being discussed to the committee or the sponsor prior to today, adding that the detailed analysis resulting in the changes had just been done on Friday [of the previous week]. She continued, saying that the following should be deleted from page 10, line 16: "19". She stated that the reason for the deletion was because that section of land does not contain any portion of Trail River or Trail Lake.

MS. CARROLL indicated that the following should be deleted from page 11, lines 18-20: "Indian Creek Township 5 North, Range 2 West, Seward Meridian Sections 30, 31".

MS. CARROLL said that work needed to be done in Section 4, because some entire lots had been added in, when only sections of the lots should have been included. For example, she cited that in Section 13, line 24 [page 11], "Lots 5, 7, and 9" would be deleted and the following language would be added for the House Resources Standing Committee's consideration: "Portion of lots 4, 5, and 7 that are east of the Seward Highway right-of-way and west of Lower Trail Lake," and "Portion of lots 7, 8, and 9 that are within 200 feet of the Trail Lake ordinary high-water mark, or within the 100-year flood boundary, or the river, whichever is greater". She explained that the intention was to include only land near the water, not entire lots, and the management's intent with the plans was to "reduce the acreage and increase the acreage that is conveyable to the bureau." She stated that some of the acreage was reselected by the bureau on December 31, 2000.

Number 0720

CO-CHAIR SCALZI asked Representative Lancaster if he would be amenable to moving a committee substitute that would include the changes just discussed.

REPRESENTATIVE LANCASTER concurred.

MS. CARROLL interjected that DNR would be willing to work with the sponsor to supply the committee substitute as expediently as possible.

REPRESENTATIVE LANCASTER mentioned that resolutions from the Kenai Peninsula Borough, the City of Kenai, the City of Soldotna, as well as from various groups in the Cooper Landing and Moose Pass areas would be provided to the House Resources Standing Committee before the next scheduled hearing of HB 165.

REPRESENTATIVE FATE stated that the municipality has so much land that it can select. He asked if all the land being considered falls under the statute that provides for that municipal land.

REPRESENTATIVE LANCASTER replied that he believed that to be correct. He added: "When this was first introduced back in 1997, when Commissioner Shively actually planned the regulations, ... there was a lawsuit put forward by the borough. And that's part of the negotiation, I think, to come out of [it] - the last property, particularly, that Carol Carroll mentioned."

Number 0884

CHRIS DEGERNES, Park Superintendent, Kenai Peninsula Area, Division of Parks & Outdoor Recreation, Department of Natural Resources, testifying via teleconference, said that she has been working on Kenai River issues for many years. She stated that [HB 165] stems from almost 1984, when the Kenai River stress management area was first created. Ms. Degernes continued:

There were lands in the upper drainage, in the Kenai Lake, Upper Kenai River, Upper Trail Lake, and Lower Trail Lake, [which] had not been selected by the state at that time, or [been] in the process of being selected, under national forest community grant programs. It was intended, since those early days, that once these lands were selected and were in state ... ownership ... they would be available to add to the Kenai River stress management area. So, we're basically fulfilling the intent of nearly two decades ago of adding these lands for the purpose of protecting and preserving important fish and wildlife habitat and resources, and also providing recreation access and opportunities for all the people who use these areas.

MS. DEGERNES recalled that since 1984, when the original KRSMA was established, there have been a couple of more recent extensive public support processes that were mentioned by

Representative Lancaster: the revision of the Kenai River comprehensive management plan, which was adopted in 1997, "following about a year and a half of fairly intensive public involvement"; and more recently, the Kenai area plan, which was a way of classifying state land within the Kenai Peninsula Borough and "reiterated that certain lands and waters of the upper Kenai River drainage should be added to the Kenai River Special Management Area."

MS. DEGERNES said that both those public processes involved extensive meetings, where representatives from Moose Pass, Cooper Landing, Seward, Kenai, and Soldotna were heard. She stated, "There is resounding support for adding these lands," and urged the House Resources Standing Committee to adopt HB 165, as amended.

Number 1099

ANN WHITMORE-PAINTER, Member, Kenai River Special Advisory Board; and Chairman, Moose Pass Advisory Planning Commission (for the past 11 years), testified via teleconference. A resident of Moose Pass, she stated that the majority of the people in the Moose Pass area have made it clear, through numerous meetings and a community vote, that one of their priorities for the future was to protect the shores of Upper and Lower Trail Lakes. She added that the community thought that the best way to protect the habitat, as well as the recreational and scenic value [of the area], was to have the lands added to KRSMA.

Number 1200

CO-CHAIR SCALZI mentioned that Ms. Whitmore-Painter was a former long-time member of the Kenai Peninsula Borough Planning Commission.

Number 1225

DALE BONDURANT testified via teleconference in support of HB 165. He stated that the Kenai River watershed fish and wildlife resources are some of the most important, not only in Alaska, but in our nation. He mentioned that he'd been in Alaska for 54 years.

[An at-ease was taken from 1:32 p.m. to 1:38 p.m.]

MR. BONDURANT continued by saying that many people participate in [Alaska's] fisheries. He said he has seen the harm that uncontrolled development has on fish and wildlife resources. Mr. Bondurant told the committee that he had served for many years on the KRSMA citizen advisory board, and believed that its input has resulted in good management decisions. He encouraged the committee to pass HB 165.

Number 1488

CHARLES QUARRE, a property owner on the [Kenai] River, testified via teleconference in support of HB 165. He stated that the bill provides additional protection of fish and wildlife resources and habitat, as well as an opportunity to manage the recreational activities in the area. He mentioned that these lands and waters were identified in 1997, in the Kenai River comprehensive management plan, and he urged the legislature to enact HB 165.

Number 1541

PAUL SHADURA, Vice President, Kenai Peninsula Fishermen's Association (KPFA); and Board Member, Kenai River Special Management Area, testified via teleconference in support of HB 165. He mentioned his support of the Kenai Peninsula Fishermen's Association, the Cook Inlet Aquaculture Association, and any efforts to protect the Kenai River watershed. Mr. Shadura stated that [HB 165] is a "positive approach in protecting ... the future." He continued:

As with any plan, many adjustments have been made to attempt to accommodate the interests of the stakeholders. Adopted, I hope that this spirit of cooperation will continue to accommodate specific uses and users, so that all can enjoy the natural wonders of the Kenai watershed, while ... protecting its fragile ecosystem for generations to come.

Number 1659

BOB MERCHANT, President, United Cook Inlet Drift Association, testified via teleconference as follows:

On behalf of the 250 members of United Cook Inlet Drift Association, I wish to speak in favor of House Bill 165. We believe that the lands and waters of the Kenai Peninsula should be developed and settled for

the greatest benefit to the people of Alaska, and find no reason to believe that the inclusion of these lands and waters will prevent the orderly settlement and use of this property by the people.

We, of course, also support any measures taken to protect the waters and spawning habitat of our abundant fishery resources, and feel our parks administration is able to see that those resources and habitat are protected.

Number 1729

DAVID RHODE testified via teleconference, noting that he lives in Cooper Landing and has worked with the "APC" in the local community, over the years, on a lot of planning issues. He said there has been strong support in Cooper Landing for these additions. Mr. Rhode informed members that he has been working with this [issue] since the early 1980s. He said the state has done a good job of listening to the local community and incorporating its input into the plan. Mr. Rhode indicated these additions fit well with the local borough planning, the Kenai Area Plan, and the U.S. Forest Service planning. He added that he agreed with what "Chris [Degernes], Ann [Whitmore-Painter], Dale [Bondurant], Charles [Quarre], Paul [Shadura], and Bob [Merchant]" had to say. He offered to answer any "unit-specific" questions.

Number 1788

JIM H. RICHARDSON testified via teleconference in support of HB 165. [Although his testimony was indiscernible for a short time, his letter dated March 26, 2001, stated: "We own property on the Kenai River in Cooper Landing in the vicinity of some of the parcels included in the proposed legislation. I am also a public member of the KRSMA Board."]

MR. RICHARDSON reported that the addition of these lands to KRSMA received extensive public review in the 1996-97 revision of the original 1986 Kenai River Comprehensive Management Plan. He noted that he was involved in some of those meetings, during which the testimony was favorable. Mr. Richard stated that the purpose [of HB 165] is to provide additional protection to the habitat and to fish and wildlife resources. Furthermore, it will provide the general public an opportunity for recreational activity in a larger area of the Kenai River watershed.

Number 1885

[Dick Mylius of the DNR's Division of Mining, Land, and Water informed members via teleconference that he was available to answer questions, especially those relating to changes proposed by Ms. Carroll.]

Number 1925

TED WELLMAN, President, Kenai River Special Management Area Advisory Board, testified via teleconference in support of HB 165, noting that the KRSMA board had unanimously passed a resolution on March 15, 2001, in support of the bill. He said the bill would simply implement recommendations formulated in the 1997 comprehensive plan after perhaps two years of public hearings; he had participated in all of those public hearings, where, "almost uniformly, the addition of land was favored." He added that he could not recall hearing any testimony in those hearings that expressed sentiment "against the inclusion of those lands."

MR. WELLMAN said the Kenai River already suffers from too much "bank development," which has had visual impacts and has been destructive to the habitat. Over the past several years, property owners and public entities have invested hundreds of thousands of dollars in maintaining and improving the habitat, and [HB 165] is another opportunity to control the habitat of land that is currently undeveloped along the Kenai River, which has "significant habitat value."

MR. WELLMAN turned attention to the issue of these lands being managed by [the Division of Parks & Outdoor Recreation]. He said he was first appointed to the KRSMA more than five years ago because he was the chairman of the Kenai River Property Owners Association; he indicated he still holds that chairmanship. He said one of his objectives on the KRSMA board is to protect private property rights and access to the river. He reported that in his tenure on the board, he has seen the [Division of Parks & Outdoor Recreation] put forth "incredible effort" to coordinate with the public and to protect people's property rights and the resource.

MR. WELLMAN said one of the primary purposes of the KRSMA board is to provide an opportunity for the public to have input on issues relating to the Kenai River. He indicated the board has monthly meetings from September through May or June, with two opportunities at each meeting for the public to voice concerns

about the use of the lands in the park. When people have testified about it, he said, "we've dealt with it on a fair and equitable basis."

MR. WELLMAN said there have been very few complaints, and he himself is satisfied with the management of the park "from the perspective of the private property owners." He assured the committee that the advisory board would continue to be actively involved in the management. Should these lands be added to the park, [the board] would be highly involved in how the lands would be developed or used. Mr. Wellman encouraged passage of HB 165, which he said would be in the public interest in order to protect the habitat, the property values, and the commercial and sport fisheries.

Number 2125

BOB BALDWIN, Quartz Creek Homeowners' Association and Friends of Cooper Landing, testified via teleconference. He thanked Representative Lancaster and Co-Chair Scalzi for "their vision in sponsoring HB 165." He said the parcels that are most important to "us" are in the upper Kenai River drainages, including, as specified in the bill, Cooper Landing, Kenai Lake, Quartz Creek lowlands, Cooper Lake, Cooper Creek, Bean Creek, Shackelford Creek, Quartz Creek, Daves Creek, Crescent Creek, Dry Creek, Indian Creek, and the additional Kenai Lake lands.

MR. BALDWIN questioned why Indian Creek had been deleted, because it is an anadromous stream. He then noted that [his organizations'] members have participated in the development of the Kenai River Comprehensive Management Plan and the Kenai Area Plan; they believe both should be fully implemented. He stated:

The importance of the entire Kenai River watershed to the health of the river is well recognized by, I believe, most of the public - certainly all involved in these planning processes. We believe it is extremely important to add these parcels to the Kenai River Special Management Area, and we believe that [Division of Parks & Outdoor Recreation] management is the way to go with this.

The Quartz Creek Homeowners' Association properties lie adjacent to both Kenai Lake and Quartz Creek parcels, and our owners strongly support HB 165.

The Friends of Cooper Landing represent the majority position of the Cooper Landing community, as required by its bylaws, and we recognize the importance of preserving public recreational access to these waters and the lakeshore. Additionally, Cooper Landing's tourist-based economy is totally dependent on retaining ... its habitat, "viewshed," and the overall natural setting and, of course, a healthy Kenai River. The Friends of Cooper Landing also strongly support passage of HB 165.

CO-CHAIR SCALZI informed Mr. Baldwin that his question regarding Indian Creek would be addressed to either Ms. Carroll or Mr. Mylius of the DNR after public testimony was taken.

BILL STOCKWELL testified via teleconference, informing members that he strongly supports HB 165. He told the committee that important to him is the Quartz Creek area, including the Quartz Creek lowlands and the stream corridors along Quartz Creek, Dry Creek, Crescent Creek, Daves Creek, and Indian Creek. He noted that he has had a place along Dry Creek since 1972, which has been his home since 1993. When the lands were being transferred from the U.S. Forest Service to the state, he had asked why it wasn't being made a part of KRSMA, and Chris Degernes had pointed out that the lands hadn't been selected in time to be included in the Act in 1984; however, they were expected to be put in later, and there was a letter from the DNR to the borough indicating [those lands] eventually would be part of KRSMA.

MR. STOCKWELL told members that there is a weir on Quartz Creek. In the early 1980s, all five species of salmon, including a small number of chums and pinks, visited the watershed. About 10 percent of the sockeye production for the entire Kenai River drainage comes through the Quartz Creek area; 300-500 kings are produced each year and there is a fairly large run of silvers. In addition, there are Dolly Varden and rainbow trout. Furthermore, lately it has been shown that the area is important as a feeding area for Kenai Peninsula brown bear, especially in the area where Quartz Creek (indisc.).

MR. STOCKWELL acknowledged that other areas are important to other people, and he said, "As far as the other lands are concerned, I completely support that." He voiced his belief that [this bill] is good for Cooper Landing, the Kenai Peninsula, and Alaska because it will preserve the habitat and the fish and wildlife.

MR. STOCKWELL returned to the issue of Indian Creek. He indicated his understanding that Indian Creek "doesn't have 200 feet of ... state lands available to it," because some of it has been conveyed to the borough; however, it is an anadromous stream that supports sockeye salmon and the spawning of Dolly Varden. He asked that (indisc.) be left as part of KRSMA and that "those state lands that can be identified along Indian Creek should then be identified as part of KRSMA, within 200 feet of Indian Creek." He added that the parts that belong to the borough obviously cannot be identified [for inclusion].

Number 2491

MS. CARROLL, at the request of Co-Chair Scalzi, addressed the Indian Creek situation, saying Mr. Stockwell is correct. The reason that all of those sections cannot be included is that part of them have been given to the Kenai Peninsula Borough as its entitlement. She asked Mr. Mylius whether he could address the "stream side of an anadromous stream issue."

Number 2511

MR. MYLIUS responded that he didn't have the status plat in order to check the exact status. He then affirmed that [the DNR's] reason for requesting deletion was the understanding that "most have land described there as borough land." He offered, however, to double-check to see whether any state land could be included.

Number 2565

CO-CHAIR SCALZI said the committee would appreciate that because HB 165 would be held over, at the sponsor's request, in order to prepare a proposed committee substitute (CS) that addresses forthcoming amendments. He suggested that meanwhile Mr. Mylius could seek clarification as to whether Indian Creek is included.

CO-CHAIR SCALZI invited testifiers to fax testimony to his office. He then asked whether anyone else wished to testify; there was no response.

Number 2593

REPRESENTATIVE GREEN asked what the makeup of the KRSMA board is currently, as far as what groups are represented.

Number 2671

REPRESENTATIVE LANCASTER answered that there are 17 members, representing the private sector; landowners; all of the agencies that have control or law-abiding authority in the area; the borough; both cities, Kenai and Soldotna; and both Cooper Landing and Moose Pass.

REPRESENTATIVE GREEN expressed concern that the bill would exclude mineral exploration, except for oil and gas development, on the last page. He asked whether it would exclude any beetle-killed tree removal, for example, which would have been possible, under current operations, more than 50 feet back.

REPRESENTATIVE LANCASTER said no, it doesn't. He added:

In fact, your [co-chair] introduced a bill, before he got off the Kenai Peninsula Borough, that delegates authority if they go and mark from ... what's called the "Kenai one-stop shop" in Soldotna, ... to go out and mark trees in that 100-foot setback zone that can be taken if they are beetle-killed or otherwise rot or are dead.

REPRESENTATIVE GREEN asked how that could be done before [HB 165] takes effect.

Number 2725

CO-CHAIR SCALZI answered that anything in "the KRSMA area" is still subject to [oversight] by the Alaska Department of Fish & Game and the DNR. The KRSMA board is actually a "guiding body" for lands that end up in this collection of properties. He said:

So we still have to go through all the agencies. The Kenai River Center that Representative Lancaster just spoke to is the "one-stop shop" where all the agencies are involved, ... and if somebody has a water issue, a mining-rights issue, a timber issue that they need - if they want to put a dock on the river, if they want to have a haul-out facility - they go to the Kenai River Center. So, it's made it easier for the public, that they don't have to go to three or four different agencies to get a permit; they do it at one place.

The Kenai River Center also has ... excellent GIS [Geographic Information Systems] mapping and photos of

every parcel ... on the river. ... Once these plans are put into the Kenai River Special Management [Area], all they do is fall into an overview by the (indisc.) body.

Number 2780

REPRESENTATIVE GREEN referred to AS 41.21.508(b) and said the commissioner may adjust the boundaries of the Kenai River Special Management Area "by adding state-owned land and water on his own, right now." He asked why additional legislation is needed in order to do that.

Number 2815

MS. DEGERNES responded that a statute, which she believed to be in Title 38, limits the DNR from administratively adding more than 640 acres to the Division of Parks & Outdoor Recreation. Since this volume of land [under HB 165] exceeds 640 acres, it requires legislative approval.

MS. DEGERNES, in reply to a question by Co-Chair Scalzi, said she believed he was correct in describing the function and the advisory capacity of the KRSMA board, "accommodating all the issues, whether they are federal [or] state issues, but primarily to give the Department of Natural Resources recommendations ... on our management of the Kenai River Special Management Area."

MS. DEGERNES responded to Representative Green's earlier question regarding how resource development would be affected by the designation:

We are limited by statute on what kind of things we can do ... on these lands that become part of the state parks system. We can ... conduct timber harvest and timber removal, but generally, ... it's to respond to a public-safety problem, either wildland fire concerns ... of our neighbors or wildland fire concerns for park visitors and recreation users, or direct public-safety hazards. But timber sales per se would probably not be permitted ... under our authority for these park lands.

But in the Cooper Landing/Moose Pass area, ... there's been some resource development, resource extraction of some of the beetle-kill. But there's an awful lot of

trees that don't [generate] a lot of interest, either, because of the decline in the quality of that timber. So, ... I would say, honestly, there will be a lot of beetle-kill trees on these KRSMA lands that probably won't be removed - whether it's KRSMA or not - because of the ... low economic value of that timber right now.

Number 2916

REPRESENTATIVE GREEN, noting the number of dead trees and the lack of access for the whole area, asked whether leaving those snags would create a public-safety hazard.

MS. DEGERNES answered that the U.S. Forest Service has done quite a bit of work in both the Cooper Landing and Moose Pass communities - beginning in the early '90s in Cooper Landing and more recently in Moose Pass - to identify some public-safety issues and to develop areas on either side of the communities where timber has to be removed for fire-protection buffers. That [work] really isn't affected by these KRSMA land designations. Nobody in the [communities] has addressed this as a problem, she said; however, she thinks that if it's identified that a big pocket of flammable trees "that happens to be KRSMA" needs to be removed in order to protect the communities, "we have the authority to work on doing that." She noted that for other state park areas on the Kenai Peninsula, [the DNR] has been actively working with the borough.

TAPE 01-22, SIDE B
Number 2995

REPRESENTATIVE GREEN expressed concern about further restriction of areas. He asked whether the committee had heard from guides - and other users of the river areas - about what effect this might have.

REPRESENTATIVE LANCASTER answered that the guides, as well as the fly fishers, are [represented] on the KRSMA board, which he had neglected to mention earlier. They have been involved in the entire process. In response to further questions, he said there are 340 guides on the river now, and [their representative] has one vote on the board. He noted that there is a resolution from the board [in favor of HB 165].

CO-CHAIR SCALZI suggested that perhaps after the proposed CS was prepared, some of Representative Green's questions could be fleshed out a little more before the next hearing.

Number 2913

REPRESENTATIVE CHENAULT commented that he is somewhat familiar with the Chugach [National] Forest around Crescent Lake. He asked, with regard to these land selections, what the DNR's position is regarding through-access for snow machine use or other uses of the [Chugach National Forest].

MS. DEGERNES answered that [the DNR] would have to go through a management plan amendment in order to designate how these lands would be used. In general, snow machine use has been permitted in the KRSMA, "just by practice." However, all-terrain vehicles have not been permitted nor have "taken off ... as an activity or use or demand." Ms. Degernes said she anticipates that the management plan would allow snow machine use on Upper Trail Lake and Lower Trail Lake to continue as it has in the past. Most of the other areas are fairly heavily timbered, she noted, and there hasn't been any real interest on the part of the snow machine community to use some of those stream corridors or other lands, because there are easier places to go.

Number 2838

CO-CHAIR SCALZI asked whether there were further questions. He then indicated HB 165 would be held for further consideration and a future proposed CS. [HB 165 was held over.]

HB 93-KENAI DIP NET FISHERY PERMIT FEE

CO-CHAIR SCALZI announced the next order of business would be HOUSE BILL NO. 93, "An Act establishing the permit fee for the personal use dip net fisheries for the Kenai River and the Kasilof River; and providing for an effective date." [Before the committee was CSHB 93(FSH).]

REPRESENTATIVE FATE made a motion to adopt [a proposed committee substitute (CS), version 22-LS0431\C, Utermohle, 2/27/01, as a work draft]. There being no objection, Version C was before the committee.

Number 2785

REPRESENTATIVE KEN LANCASTER, Alaska State Legislature, testifying as sponsor of the bill, told the House Resources Standing Committee that he introduced HB 93 to establish a dip net fee at the mouth of the Kasilof and the Kenai River, primarily in response to impacts from trespassing and degradation of private property in those areas during a time when he served as mayor of Soldotna. He stated that the trespass on private property was particularly bad on the south side of the river. Representative Lancaster said he hoped this bill would provide some money back to the department to provide access on the south side of both those rivers, as well as to install dumpsters and temporary Port-A-Potties. He reiterated a comment made by Kevin Brooks at a prior committee meeting, stating that "as long as this was called a fee, it would go back to the department; they'd be able to use it for sanitary facilities at those [areas], without any dedication or any of that type of thing." Representative Lancaster made note that the state mental health trust lands have had to be barricaded because of all the trespass problems in that area.

REPRESENTATIVE LANCASTER reminded the committee that the City of Kenai has a request in the capital budget for \$900,000 to deal with the problem at the mouth of the Kenai River. He said they have already spent \$200,000 to provide parking, hire an attendant during "this 21-day fishery," and collect fees to help deal with some of the problems in the area.

REPRESENTATIVE LANCASTER said this has been a growing problem that needs to be addressed. He stated it was his hope that [ADF&G] would be able to track the numbers of fish that are actually taken out of the area. Representative Lancaster told the committee that Co-Chair Scalzi had mentioned the fact that people are not currently [required] to show residency. He stressed the importance of knowing whether a person is a resident, because "it is a resource dip net fishery for users in the state of Alaska."

Number 2668

CO-CHAIR SCALZI referred to his amendment [later adopted as Amendment 1], which read [original punctuation provided]:

Add to (25) - line 5

A sport fishing license is not required to purchase the dip net permit. Proof of Alaska residency is required.

He added that it was very simply stated, but might address some of the concerns expressed in previous testimony.

Number 2652

REPRESENTATIVE FATE mentioned the fact that the fee was created as a "special fee" as opposed to a "license." He stated that the fish and game fund is typically used specifically for enhancement of the fishery, and asked Representative Lancaster if "it would fall under that" or if it would be contested, were it used for purposes other than that in the future.

Number 2629

REPRESENTATIVE LANCASTER replied that he would "hate to hang myself out here too far," but reiterated that Kevin Brooks had said that, in statute, "when it's a fee-based, it goes back to the department and then is allowed to be used for access and sanitary facilities at the particular fisheries it's for." He added, "That's what I'm basing my comment on."

REPRESENTATIVE FATE stated he had no problem with that, but maintained that "somewhere down the road that could be contested." He said:

There are certain ways that these funds are handled and what constitutes a replenishment, or the income, or the cash flow into those funds. And it just does raise a question that may somewhere in the future come back to haunt us, unless we have ... some kind of statutory proof that, in fact, that won't happen in the future.

Number 2571

GORDON WILLIAMS, Legislative Liaison, Office of the Commissioner, Department of Fish & Game (ADF&G), confirmed that Kevin Brooks did have a discussion with Representative Lancaster. He stated that it's unclear to ADF&G, the way the bill is drafted now, whether or not these would be fish and game funds; that's reflected in ADF&G's fiscal note. Fiscal note number two doesn't designate these as fish and game funds. Other dip net fees - for example, Chitina fees - do go into the fish and game fund, he noted. [Mr. Williams paused to look at the proposed CS.]

Number 2546

REPRESENTATIVE LANCASTER clarified that the language of the bill had been amended to "satisfy Kevin Brooks' concern." He explained that Chitina was the example that Mr. Brooks had spoken to, which was why the dip net fee was changed to \$10 to include both rivers.

MR. WILLIAMS stated he would have to talk to Mr. Brooks. He said [the CS before the committee, Version C] was different from the CS that was on the table at the last [meeting] when a designated receipt category was being set up just for these funds, and it had been unclear at that point whether they would be fish and game funds. He added that if this were to be handled the way Chitina was, it would be fish and game funds, and then there would be restrictions regarding how those funds were used.

REPRESENTATIVE LANCASTER interjected, "That's what we've modeled this after, so hopefully we're correct. We're saying the same thing, I think."

MR. WILLIAMS concluded by saying he believes they can be used for things like some of those services. They are used in other fisheries, so that is an allowable use of fish and game funds.

Number 2489

REPRESENTATIVE FATE commented that he thought it was entirely appropriate to use the fees in the manner in which they were being designated, although this bill would impact the ability for [ADF&G] to use those funds to do some of the things that it would like.

MR. WILLIAMS answered that if the money in question came into the fish and game fund, then it would be up to the discretion of the department how it was spent. He said, "There's nothing here that says it's a one-to-one back in any way to this fishery, so it would be a matter of priorities within the department, as to where funds were used."

Number 2428

REPRESENTATIVE KERTTULA mentioned the statutory language of the Chitina dip net fishing permit and said she would be concerned that the bill actually may not have put a "border around the fee" so that [ADF&G] could appropriate it back. She noted that

because the end of that section says, "the legislature may appropriate the receipts in the sale of the permit." She commented, "Maybe we've done it, but I'd just like to be sure about that 'back.'" She pointed out that Chitina didn't appear to require residency and asked if there were other fisheries that [required residency].

Number 2383

MR. WILLIAMS replied that the Chitina fishery is a subsistence fishery now, so it has the restriction of [requiring proof of] residency. He mentioned the necessity of referring to Director Hepler about whether or not that needs to be spelled out.

Number 2362

KELLY HEPLER, Director, Division of Sport Fish, Department of Fish & Game (ADF&G), explained that the statewide requirement has a current regulation, "under 77," requiring all those who participate in a personal use fishery to be residents of Alaska.

REPRESENTATIVE KERTTULA clarified that the Chitina statute had been superceded regarding "that fishing permit."

Number 2335

REPRESENTATIVE GREEN noted that the sponsor statement read that approximately 10,000-15,000 permits were issued annually, generating up to \$150,000, while the fiscal note lists a total of \$65,000. He asked if the significant difference would "cause any grievous problems to what you're anticipating doing with the money."

Number 2306

REPRESENTATIVE LANCASTER answered that "we" have some differences of opinion on the fiscal note, which need to be looked at. He stated his belief that the fiscal note had not been updated since the last hearing, at which time the amount was \$10 for each river, whereas now it is \$10 for both rivers. Representative Lancaster explained, "They use different numbers, assuming people wouldn't want to pay to go dip net fishing, and that is the number we got from the department - the 15,000 - for the permits for last year." He indicated only 12,500 [permits] were used out of the 15,000 [issued].

Number 2269

REPRESENTATIVE STEVENS asked Representative Lancaster who the enforcement people are and how the funds get to them.

REPRESENTATIVE LANCASTER replied with the following:

I believe Representative Scalzi and myself have both had discussions with the department down there, and I'm sure these two gentlemen would just love to talk about it. But, we couldn't direct it, I don't believe, to enforcement; we could direct it somewhat, by going back to the department for the sanitation and access facilities, which I talked to. But we have talked to Mr. Fox down there, and there's a custodial-type person that they can hire for ... up to 30 days, I believe, to help monitor this fishery. They couldn't write tickets, but they could help enforce how many fish were taken [and] whether people were [degrading] the property, accessing it legally, and that type of thing. So I don't think we could direct it to enforcement.

Number 2201

REPRESENTATIVE MCGUIRE noted that it appeared that Kenai was envisioning that the \$150,000 generated would go exclusively to projects such as the dock area, new launch ramps, and a new dock access road. She stated that the City of Kenai had passed a resolution [in committee packets] with the intent of executing those projects and expected to recoup the cost in the next five years. Conversely, she noted that [ADF&G] wants the fee [to cover the cost of] temporary enforcement officers and the cost of cleanup. She asked for clarification.

REPRESENTATIVE LANCASTER responded that the City of Kenai has spent approximately \$200,000 on a paved parking area, barricades and parking attendants. He said they have raised approximately \$15,000 for the last two years by charging \$5 "apiece" to park. He clarified that regarding the projects that Representative McGuire mentioned, [the City of Kenai] has requested \$900,000 from the State of Alaska, which "is in our capital budget up on the fifth floor." He added, "So they aren't intending to get any money, I don't believe, from this."

Number 2112

REPRESENTATIVE McGUIRE paraphrased a portion of the City of Kenai's resolution, which read as follows [original punctuation provided]:

WHEREAS, there is an estimated 15,000 dip net permits issued each year; and therefore, a \$10 permit fee would increase State revenue by approximately \$150,000 per year; and,

WHEREAS, it would take the State only six years of \$150,000/year permit revenues to recoup the \$900,000 capital costs that are needed for the dip net fishery project listed above.

REPRESENTATIVE LANCASTER replied that he could not respond to that, but added, "They aren't going to get the money."

REPRESENTATIVE McGUIRE stated that her point was that [the City of Kenai] thought it was [going to get the money]. She said [Kenai] was using the permit revenues to justify its grants. She asked Representative Lancaster to confirm that a person is required to have a sport fishing license in order to get a dip net permit.

REPRESENTATIVE LANCASTER replied, "You are today."

REPRESENTATIVE McGUIRE resumed, asking, "If the goal is to target those abusers - the nonresidents and the folks who are taking more than 25 fish - are we penalizing the law-abiding residents of Alaska to build the new dock?" She mentioned her concern as a sport fisher of having to pay a \$5 parking fee and then another \$10 fee in addition to cost of her sport license.

REPRESENTATIVE LANCASTER responded that [Co-Chair Scalzi] has an amendment proposed that would rescind the requirement for a sport fishing license. He stated that it was not his intention to keep people off of the property in Kenai. He said, "They can either pay or not pay, and go fish in Kenai, or they can go to the south side of the river, or they can fish from the boat and not have to pay extra fees by local municipalities, or whatever. So it would only have the one fee."

REPRESENTATIVE McGUIRE stated that she thought the amendment was fine, but said it would be hard to find many people who want to dip net fish who don't already have a sport fishing license.

Number 1978

REPRESENTATIVE FATE asked if the [Kenai Peninsula] Borough had explored any other method by which money could be raised, other than from the \$10 dip net fee. He stated his concern over whether the fees should go into the general fund, especially since that is where the Chitina fees go. He said that [ADF&G] has some fees for the dip net fishery going into [the general fund], while others aren't. Representative Fate stated that he still worries about whether it's going to be contested, where that money should go, and what's going to happen to this law.

Number 1925

CO-CHAIR SCALZI pointed out that he had been the president and a member of the assembly for the Kenai Peninsula Borough, and that Representative Lancaster had been the mayor of Soldotna; at the time, they could not implement a fee to charge admission anywhere other than on borough lands. He stated most of the fees at Chitina go to the private landowners. He said the [Kenai Peninsula] Borough has no capabilities of offering any type of fee that would pay for "those services." He suggested Representative Lancaster could speak to the municipalities of Soldotna and Kenai.

Number 1883

REPRESENTATIVE LANCASTER stated that the primary issue he personally envisioned dealing with was the degradation of private property rights. He also said the biggest issue has been where the \$10 goes. He added he had not developed another way to raise the money.

Number 1842

REPRESENTATIVE GREEN asked: If a person "puts in" upstream, comes down in a boat, and dip nets from the boat, would that person also have to pay the \$10, even though he/she would not step on land and degrade the private property?

REPRESENTATIVE LANCASTER answered yes.

Number 1813

CO-CHAIR SCALZI stated that his concern in supporting [the bill] was that the accountability to the resource was not being readily established by offering up a free permit. He said vendors don't earn any money out of having this booklet;

consequently, they leave the booklet out, and people can get a permit without showing ID to prove they're residents of Alaska. Co-Chair Scalzi pointed out that even though people may put a boat in the river, they are still using the fishery and gaining from the benefit of having a healthy run of salmon. He said Representative Lancaster's concern was for the habitat. He concluded, "I believe that we still have to manage our fisheries with accountability at some time, and I think \$10 is pretty cheap."

Number 1740

REPRESENTATIVE CHENAULT asked if the only place to get a dip net permit is at ADF&G.

CO-CHAIR SCALZI responded no, the vendors who sell fishing licenses also provide dip net permits.

REPRESENTATIVE CHENAULT admitted it had been a couple of years since he [bought a dip net permit], and he got it from ADF&G, which is how he said it should be.

Number 1698

REPRESENTATIVE LANCASTER said there is a handful of people on boats who are "not hurting anybody," whereas the people on the beaches are tearing them up, particularly on the south side. He specified that the south side of the Kasilof is owned by a Native corporation, and the use of four-wheel-drive vehicles there is degrading the land. Representative Lancaster summarized that the majority of dip net fishing done in the area is done from the beach.

Number 1653

REPRESENTATIVE STEVENS asked if the vendors are willing to sell the dip net licenses, which cost only \$10, when there is no great gain to be had by them in doing so.

Number 1637

MR. HEPLER outlined how the [dip net] permit sales operate: [ADF&G] pays the vendor \$1 for each license that it issues and 5 percent of the total take.

Number 1599

REPRESENTATIVE CHENAULT asked if those purchasing dip net permits were being asked to show identification.

Number 1570

MR. HEPLER described the extra steps [the representatives of ADF&G] take when handing out the [dip net] permits to the vendors each year: they provide a packet [of information] with the permits; they speak personally with the vendors; and they advertise through radio and television. He noted that ADF&G used to issue the permits from its office, which was "an incredible headache for the members of the public, because we weren't set up to deal with thousands of people." Mr. Hepler said that, to some degree, trust and honesty come into play; without checking every transaction, ADF&G must trust that a person's residency will be checked. Mr. Hepler said for the most part, the vendors work very closely with ADF&G. He noted one exception last year, when Fred Meyer placed the permits out where anyone could pick one up; however, that issue was resolved.

Number 1495

REPRESENTATIVE MCGUIRE asked if there was some manner by which [the legislature] could clarify what it would hope might happen to the funds, even though it could not designate the funds. She stated her assumption there was nothing implied in the bill, should it pass, that would allow ADF&G to raise the fee beyond \$10 without the express permission of the legislature.

Number 1452

REPRESENTATIVE LANCASTER explained the reason the language of the bill was changed to the CS before the committee today was so the money could go to ADF&G, which could choose to do what it wished with it. "And we had the intent language in there before and that's what we took out to satisfy the department so they could use it," he added. He referred Representative McGuire's question regarding raising the fee to Mr. Hepler.

Number 1432

MR. HEPLER stated that the language "\$10" would be in statute; therefore, ADF&G would not have the authority to raise that on its own. He added that he would not want to have that authority.

Number 1413

DALE BONDURANT, testifying via teleconference, stated that if the fees the bill would impose were an attempt to restrict public access to a personal use dip net fishery, he would oppose HB 93. He told the committee he supported monies needed to enforce the protection of the habitat, resources, private lands, and bag limits. Mr. Bondurant pointed out that personal users "are supporting the management of these resources to at least \$13.6 million in federal excise taxes, \$3 million in resident fees, and over \$7 million in nonresident license incomes." He stated his belief that the fact that personal use dip net fisheries were closed to residents was a direct violation of the U.S. Constitution. Mr. Bondurant stated that nonresidents have the right to the same privileges and immunities as residents of other states. He mentioned that the Carlson decision cost the state approximately \$30 million, and that national organizations are preparing to sue the state on this issue, which he said could cost the state \$20 million a year. He encouraged the legislators to examine the issue of denying nonresidents, because he said it is unconstitutional.

Number 1261

CO-CHAIR SCALZI acknowledged that Mr. Bondurant made a very good point upon a subject that had not been addressed. He stated that the committee was familiar with the Carlson case and that Representative Stevens was working on a bill that would, hopefully, "remedy that in the future."

Number 1245

HERMAN FANDEL, testifying via teleconference, prefaced his testimony by stating that Soldotna is not in the dip net area. He asked the committee if the amendment before them resulted as a response to the opposition to HB 93.

CO-CHAIR SCALZI answered yes, that as a result of discussion in the House Special Committee on Fisheries, the House Resources Standing Committee, and on public radio, the amendment was conceived to address the concerns heard by himself, Senator Torgerson, and Representative Lancaster. Specifically, the amendment would make it possible for those who want only to dip net not to have to buy a fishing license in addition to the dip net permit.

MR. FANDEL continued his testimony. He stated his strong opposition to HB 93 for the following reasons: The bill will force Alaskan residents to pay additional money to dip net salmon from the Kenai and Kasilof Rivers for their personal use; sport fishermen will be forced to pay more than commercial fishermen, with no comparison of the amount of fish taken; the bill will lose money for the State of Alaska in the long run and will not raise enough money for the policing of it; and Alaskans who cannot afford the permit will be limited.

MR. FANDEL said the banks under consideration are a wet area with very little habitat that get wet periodically from the tides coming in and out; the muddy footprints from foot traffic will just disappear with the next tide. He told the committee members, if there is a "bank" or trespass problem, they should consider allowing dip netting only from boats. Mr. Fandel stated that HB 93 is a product of commercial fishing and its supporters who penalize only the sport fishermen and Alaskans who want to catch "their" fish without having to buy them with a permit. He concluded by agreeing with Mr. Bondurant's statement regarding the unconstitutional act of prohibiting nonresidents [from dip netting] and the cost to the state for taking such an action.

Number 0873

IRENE FANDEL, testifying via teleconference, asked if the \$10 fee would cover the whole family.

CO-CHAIR SCALZI answered yes.

MS. FANDEL stated that dip netting has been a way of life for her family for over 30 years and is a good way for many Alaskans to put food on the table. She expressed concern that [HB 93] was just the first step toward more regulations and more fees "down the road." Ms. Fandel told the committee that HB 93 should not be passed.

Number 0795

PAUL SHADURA, Kenai Peninsula Fishermen's Association (KPFA), testifying via teleconference, stated that he comes from "a hundred-year resident of the Kenai Peninsula" and catches and uses salmon in every possible way. He said, "You might say that I'm a full, hundred-percent subsistence user." Mr. Shadura asked the committee for its support of the \$10 management fee for the Kenai and Kasilof dip net fisheries. He stated that

serious social and environmental problems have occurred from "the disorderly prosecution of this personal use fishery."

MR. SHADURA continued to read his testimony as follows:

Fish and Wildlife Protection stated at a recent Kenai/Soldotna Fish and Game advisory meeting, that at any time they arrive on scene, at either personal use fishery, it is very easy to write violations. The City of Kenai must hire an officer just for the summer months to manage the social problem at the Kenai dock boat launch. The city has requested substantial amounts to cover the cost of managing the logistical nightmare.

MR. SHADURA mentioned the damage to the south shore riparian habitat, on both the Kenai and Kasilof Rivers. He said destruction to the primary grasslands and sand dunes still continue due to the lack of enforcement. The \$10 sport dipnet license, established in a receipt-supported services fund, would allow different managing entities a mechanism to request funds. Monitoring of the fishery could be accomplished by the ADF&G temporary technicians, at an estimated cost of \$5,000-6,000 a person. These monitors could enumerate the catch, verify permits and identification, and issue compliance forms to those who may not understand the rules. He stated his belief that a physical presence will alleviate many of the enforcement problems that are apparent at present.

MR. SHADURA voiced his concern that the fifteen percent vendor fee in the fiscal note is a little high. He suggested a "5 percent fee on a \$10 fee" would be more realistic to the vendors. He pointed out that some [personal use] fishers in his community don't sport fish and don't feel that they should be forced to pay for other users' activities. He closed with the following:

In conclusion, this is a good bill that attempts to deal with a real problem. Please support our protection officers, our department of fish and game, and our precious critical habitat estuaries for the Kenai and Kasilof Rivers. Thank you for the time.

Number 0559

BOB MERCHANT, United Cook Inlet Drift Association (UCIDA), testified via teleconference on behalf of UCIDA in support of HB

93. He explained that UCIDA's original concern was to put to rest the "numerous rumors and evidence of abuses" within this fishery. He stated that UCIDA has been told that the nominal fee will support the monitoring of this fishery, as well as deal with human issues caused by so many people congregating in such a small area - things such as access, trespassing, and disposal of human waste and trash.

MR. MERCHANT said UCIDA also believes that, should a resident choose only to dip net, then that person should not have to possess a sport fishing license; therefore, UCIDA supports the amendment to accomplish that.

Number 0480

ROD ARNO testified via teleconference in opposition to HB 93. He mentioned his present and past participation in ADF&G's capital budget process; he indicated "under that" there are two agencies through which to address the issues of access and facilities: [Division of Sport Fish] and [Division of Habitat]. Mr. Arno stated that HB 93 sets a bad precedent by giving money to correct a problem in one district when there are "numerous stream crossings" that need facilities in other districts. He mentioned previous testimony of Mr. Bondurant regarding a "pool" of \$26 million that's available for these projects. He said, "But if we have to go through legislation, as this bill does, as well as go through the capital budget process, that will make the legislative period go that much longer."

Number 0310

BYRON HALEY, President, Chitina Dipnetters Association (CDA), testified via teleconference on behalf of CDA in opposition to HB 93. A 50-year resident of Fairbanks, he stated that personal use fishermen are required to have a sport fishing license, "which is all that is needed to harvest this resource." Mr. Haley continued, as follows:

[Regarding] the fee that the Chitina dipnetters pay for access across Native lands to get to the Copper River in ... some places, the Chitina Dipnetters Association requested the legislature to put a \$10 fee on dipnetting at Chitina, to be used for [an] access fee, or Native corporation land to the Copper River, at Chitina, between the bridge and Haley Creek, and some places.

The last year we supported it to be raised to \$25 after a negotiation with the Native corporation [that] wanted more money to trespass on [its] land. Before there was a fee for dipnetting at Chitina, we had to go to the legislature and the governor for trespass money, and it was harder every year to get what we needed. I do not recall for sure when we asked for the \$10 fee, but I think it was after we had gotten money from the state for three years.

There is no access problem at Kenai or Kasilof River, and no fee is needed for the fisheries, as they are regulated by [ADF&G Division of Sport Fish] and sports fishing license. [That's all the] fee that is needed to dip for the salmon at these rivers, or any other river, without a trespass problem for dipnetting (indisc.) for salmon. If there was no access problem at Chitina, there would be no permit for fee charged (indisc.). The Chitina Dipnetters Association would not have asked ... for a fee for [the] salmon [dip net] fishery. We supported a fee at Chitina because the dipnetters who use the resources wanted to pay their own way and not have the rest of the people of the state, [who are] not using the fishery, to have to pay for access of this dip net fishery for salmon.

We do not support the amendment to delete sport fishing licenses. Thank you.

Number 0069

CERENE PAUL, Member, Chitina Dipnetters Association (CDA), testified via teleconference in opposition to HB 93. He stated that the bill is strictly an additional fee. He said, "We keep getting more and more of them and wind up with less and less for our money." Mr. Paul conjectured that residents down in [the Kenai] area might not want to fish there at all, but instead would go to Chitina. He explained that the fee that [the CDA] asked for was set up strictly for sanitation and access across Native land.

TAPE 01-23, SIDE A
Number 0001

MR. PAUL concluded by restating his opposition.

Number 0030

DICK BISHOP testified via teleconference on his own behalf in opposition to HB 93. Mr. Bishop told the committee he questioned the purpose of the bill when it was submitted, and said the amendment offered today increases his uncertainty of its purpose since eliminating the requirement for the sport fishing license would reduce the revenue from this fishery. He pointed out that this contradicts the sponsor's original intention of generating more funds to address various concerns. Subsequently, that contradiction suggests that HB 93 isn't about funding at all.

MR. BISHOP stated that whatever the rationale, he opposes an additional fee on the fishery, because it unnecessarily places a burden on individuals and family fishers who are simply trying to gather food for the table. He said on the Kenai and Kasilof Rivers it is called "personal use fishing," whereas in other parts of the state it is called "subsistence," as it is now at Chitina. Mr. Bishop noted that a dip net fishery is usually a relatively economical way to gather high-quality, wild food. He said, "Additional fees tend to work against those who could benefit most by an economical fishery." He stated that when money is needed, the [ADF&G Division of Sport Fish] has a mechanism for applying state and federal aid funds to provide access for fishers.

Number 0201

DICK BURLEY testified on his own behalf via teleconference in opposition to HB 93. He stated that he had heard it said that people who dipnet will not have to buy a fishing license; therefore, it will not be a burden for them, because the fee is \$10, as opposed to a \$15 resident fishing license. Mr. Burley pointed out that, in fact, most people who dipnet will also sport fish; therefore, he said he did not know how "you can cover up the fact that they won't have to buy a sport fishing license." He agreed with previous testimony regarding the habitat problem existing "down at the mouth on the dunes" and the comment that the incoming tides flush that area twice a day. He suggested that if [the \$10] is a fee that is being raised for [restoration of] habitat, [the legislature] should put a fee on the commercially caught salmon and use that fee for habitat enhancement. Mr. Burley said, "You can't overlook the fact that habitat is important, if you're going to maintain a viable, commercial fishery; but, for a personal use fishery such as this, I don't think Alaskans should be required to pay an additional fee, over and above their sport fishing license."

Number 0400

CARL ROSIER, testifying on behalf of the Alaska Outdoor Council (AOC), told the committee the AOC completed its annual membership meeting yesterday, and the 21 "clubs" present, including the Kenai Peninsula chapter of Safari Club International, voted unanimously to oppose HB 93.

MR. ROSIER stated that the personal use fisheries are conducted on a common property resource, and regulations require that, in order to participate, the fisherman must be a resident who has obtained a \$15 sport fishing license. He told the committee that the amendment before them today confused him; he stated that he assumed [the committee] was, in fact, dropping the sport fishing license requirement for a person who would only be dipnetting. He added that it seemed to him that it was not clear whether the requirements would call for a single permit per family; he encouraged the committee to look at that.

MR. ROSIER said that, assuming the state would step in on what he sees as a local issue, it is not clear how the money would be used or distributed back to the government entities "to carry out a directed program." He stated his belief that earmarking of state funds is prohibited.

MR. ROSIER pointed out that the resources on [the Kenai and Kasilof Rivers] are not threatened; the Board of Fisheries has found the fish stocks to be quite sustainable. He said, "With all due respect to the sponsor, we believe that this entire issue is another of the famous Cook Inlet battles over access and sharing of the salmon resource." He stated that some strong accusations have been made about the habitat degradation done by the dip net participants, and reiterated that ADF&G had not found significant degradation about which to be concerned. Mr. Rosier concluded by saying:

Indeed, when one considers the commercial activity that takes place on the beaches, in both directions from the river mouth, and use of the lower river by the driftnet fleet and their entry and departure at 'full bore,' we may have a larger problem than [that which is] presented by the dip net fishery.

Number 0640

MR. HEPLER came forward again to give his prepared testimony. He stated that [ADF&G] recognizes the proposed fee increase as a public policy call, which is well within the realm of the legislature. Mr. Hepler said the [Knowles Administration] strongly supports the opportunity for Alaskan families [to participate in a personal use fishery]. He stated that he agreed with the comments that Mr. Rosier just made, that this fishery is clearly sustainable. The board certainly has made that possible.

MR. HEPLER emphasized that he wanted to make it explicitly clear that there are no habitat concerns down on "this" part of the river. In response to one habitat concern that the Board [of Fisheries] did have "two seasons ago," he said they closed a section of river on the north side of Kenai River.

MR. HEPLER stated that accountability is one issue on which reasonable people disagree. He said he believes there is very good accountability in this fishery, for the numbers of fish being taken; he bases that belief on the fact that he helped design this permit system and, moreover, because "we get very good compliance with people turning our permits back in." He added that [the department] follows up two or three times by phone if people haven't turned their permits back in.

MR. HEPLER told the committee that enforcement is a general issue. He said he would certainly like to see more enforcement in this fishery, as well as in any other fishery in the state.

MR. HEPLER discussed the topic of sanitation. He said a couple of years ago, [ADF&G] was putting money into this fishery. He mentioned internal budget cuts [caused by federal aid cuts], which resulted in the restriction of the number of funds that were put in this fishery. Mr. Hepler said that is a concern. He stated his longstanding hope that [ADF&G] would work in closer partnership with the City of Kenai to ensure that when people do access the fishery, at least from the north side, there would be an adequate fee raised that would pay for the attendant, trash pickup, and Port-A-Potties.

Number 0849

CO-CHAIR SCALZI asked Mr. Hepler to clarify what he based his statement on concerning accountability in the fishery.

MR. HEPLER answered that [ADF&G] has its area management staff that checks people's eligibility twice a week; last year, five

violations were issued, but that was because people "are not recording." He said the department doesn't check every individual's identification because it is not conducting a census; however, it is "comfortable" with how it uses the information gathered in regard to sustainable fisheries and the [Board of Fisheries].

Number 0922

REPRESENTATIVE STEVENS asked Mr. Hepler to comment on the question of constitutionality. He also inquired if the one-permit-per-family rule would remain unchanged with [Version C].

MR. HEPLER responded that Representative Stevens was correct regarding the one-permit-per-family rule. Concerning the constitutionality of the bill, he stated that he would feel more comfortable if the attorney general were given the chance to comment on that. He added that, currently, "it's under regulation" and the Board of Fisheries has not been challenged in that regard.

Number 1008

CO-CHAIR SCALZI commented that the difference between the Carlson case and the dip net fishery discussed in the bill is that the former deals with commerce, while the latter, he surmised, is a state properties issue; therefore, the legislature can impose a higher fee for nonresidents.

Number 1085

REPRESENTATIVE MCGUIRE made a motion to adopt Amendment 1 [text provided previously] for purposes of discussion.

Number 1093

CO-CHAIR SCALZI restated that the issue heard during testimony that people who paid for a sport fishing license did not want to pay an additional fee for a dip net permit. He pointed out that people gladly pay an additional fee for a salmon stamp because the money pays for "habitat or services regarding king salmon." He said the dip net fishery was relatively new and there were both habitat and monitoring concerns to address. He recapped that Mr. Hepler had said he thinks the fishery is being adequately reinforced, while others think increased accountability is necessary.

CO-CHAIR SCALZI stated that his rationale in creating Amendment 1 was to change the bill so that those who are dipnetting to put food on the table - but not sport fishing - will only pay for a dipnetting permit and not be charged for a sport fishing license. In response to a question by Representative Fate, Co-Chair Scalzi said that the revenue to the state would decrease by not requiring people to purchase a sport fishing license when all they wanted was a dip net permit.

CO-CHAIR SCALZI mentioned that Representative McGuire's own proposed amendment would mean an even greater decrease in revenue to the state, and said it is up to the legislature to draw the line when deciding how much revenue will be affected because of legislation passed. That amendment, later labeled Amendment 2, after it was amended, read:

ADD:

Line 5,

(25)A sport fish license is not required to purchase the dip net permit, but if applicant shows proof of a resident sport fish license, the fee is waived.

Number 1249

REPRESENTATIVE FATE said he is still worried about [how fees will be applied] to the fish and game fund. He stated that there is statutory language regarding "where license fees go in that fund" and how that fund is to be used. Representative Fate pointed out that by dropping the [requirement for] the license, thereby decreasing money that would have gone into the state fund, and by collecting a fee for dip net permits, which may not go into the fund, a "double hit" is taken on the fund. He said he has received no assurance from ADF&G that the money from the dip net permits will, in fact, go into the fish and game fund and how, if it does, it will be spent.

REPRESENTATIVE FATE explained that parts of the funds are federal funds: the Pitman-Robertson funds and the "Rolfe (ph) and Dingle" funds. He said this is a complex matter. He stated that he understands that Kenai needs money to do some cleanup, among other things; however, he wants to be sure of the statutory law before he would pass the bill. In response to a comment by Co-Chair Scalzi, Representative Fate said [Amendment 1] is directly associated with what [money] does or does not go in the fund.

Number 1403

REPRESENTATIVE GREEN asked Co-Chair Scalzi how he planned to address both amendments, which he said were very similar in content.

CO-CHAIR SCALZI responded that he would take up his own amendment first, then Representative McGuire's, although he admitted that would be "a little conflicting"; the committee would have to modify Representative McGuire's amendment and rescind his amendment. He told the committee he did not know of a mechanism to take both amendments up at the same time for discussion.

Number 1467

REPRESENTATIVE MCGUIRE suggested the committee "take up the concept" in Co-Scalzi's amendment, then delete any redundant language in her amendment; hence it would read as follows:

ADD:

Line 5,
(25), but if applicant shows proof of a resident sport fishing license, the fee is waived.

Number 1500

CO-CHAIR SCALZI expressed his appreciation for Representative McGuire's suggestion, but stated that he did not know what the fiscal [impact] would be for both amendments. He said he knew his amendment "is already detracting quite a bit" from the funds, and adopting [Representative McGuire's] amendment would further lower the amount of money that the state would be able to collect. He reiterated that it would be up to the committee to decide which amendment would be best, even though their decision could be changed when it reached the floor; the decision would be an important one because the committee will probably have heard more testimony than anyone else [on the House floor].

Number 1557

REPRESENTATIVE MCGUIRE stated that Alaska is a unique state; Alaskans have the luxury of acquiring fishing licenses and dip net permits and fishing to feed their families. She said she liked Co-Chair Scalzi's amendment, because it offers an option

for those families who want to dip net only; however, it does not address the issue of those who have bought a fishing license [and don't want to pay an additional fee for a dip net permit]. She asked where the limit would be on placing user fees, listing several different areas for which a fee could be charged. Representative McGuire stated for the record that she also has a concern for the habitat and has great respect for [Co-Chair Scalzi] and Representative Lancaster; she is concerned about "the principle and the precedent we might be setting."

Number 1671

CO-CHAIR SCALZI responded that he appreciated that and said, "Philosophically, I think that's what we need to get out here." He noted that the members of the fishery caucus had had a good discussion regarding the receipts collected for test fishing in the commercial industry. He mentioned evidence that had been produced, indicating that a high amount of the resource being used to run ADF&G, could, arguably, come out of general funds. Co-Chair Scalzi stated that the commercial fishermen are saying, "You're taking quite a chunk of this resource that we should be catching." He pointed out that the counter-argument to that is that the resource belongs to all [Alaskans]. He continued:

When we're taking it out of the resource in large chunks, the commercial fishing is the one that feels it directly out of their pocket. And the sport fisherman/personal use-subsistence person is not doling out that cash to help monitor the fish.

CO-CHAIR SCALZI concluded that although he agreed philosophically with the idea that Alaskans can access so much of their game, he supports user fees and "small increments of support" as a way to pay for the management of the resources in a state with a growing population.

Number 1762

REPRESENTATIVE CHENAULT stated his belief that the state mandated the location of the fishery. He said, "Where the state actually comes into play, I'm not really positive [about that], other than we need to be responsible." He turned to previous testimony regarding the effects on the habitat, including those caused by commercial fishing in the inlet and upriver. He indicated the majority of the problem exists in the grasslands and sand dunes up above high tide, which aren't affected by

commercial fishing. Subsequently, he stated the need for further clarification.

Number 1850

CO-CHAIR SCALZI, in response to a question by Representative Stevens, replied that Representative Lancaster was comfortable with [Amendment 1]. He explained that both amendments could not be passed; if his amendment passed, then it would have to be rescinded in order to bring up Representative McGuire's amendment.

Number 1932

REPRESENTATIVE STEVENS stated that he thought the two amendments were not contradictory, but could work together.

Number 1935

CO-CHAIR SCALZI asked if there were any objections to Amendment 1. There being no objection, Amendment 1 was adopted.

Number 1948

REPRESENTATIVE MCGUIRE repeated her suggested adaptation of Amendment 2, [text provided previously] in order to avoid a need to rescind [Amendment 1]. She clarified that the adopted Amendment 1 and the proposed Amendment 2, together, would read as follows:

A sport fishing license is not required to purchase a dip net permit, but if applicant shows proof of a resident sport fishing license, the fee is waived. Proof of Alaska residency is required.

Number 2013

REPRESENTATIVE STEVENS suggested that the amendment could be worded to say, "Proof of Alaska residency or a sport fishing license is required."

Number 2027

REPRESENTATIVE GREEN pointed out it would be waiving the fee for nonresidents.

Number 2038

REPRESENTATIVE STEVENS changed the wording to read "... a resident sport fishing license."

Number 2085

REPRESENTATIVE MCGUIRE responded, "No, because then the fee would be waived for those folks." She explained that adopted Amendment 1 allows a resident of Alaska to buy a dip net permit without having to buy a sport fishing license, while proposed Amendment 2 would waive the dip net permit fee for those residents already in possession of a sport fishing license.

Number 2112

HELEN DONAHUE, Staff to Representative Lancaster, Alaska State Legislature stated that currently a fisher who has an Alaska resident [sport fishing] license can fish [the dip net fishery] at no charge, so [the committee] would not be accomplishing anything [by adopting Amendment 2]. She added that there would be no reason to pass the bill out at this point if [Amendment 2] were adopted. She specified that Alaskan residents currently have to have an Alaska [sport fishing] license in order to [participate in the dip net] fishery; with adopted Amendment 1, the only income resource in [the dip net fishery] derived from people without a [sport fishing] license would be the \$10 fee. She mentioned there will already be a loss of revenue from this bill, the amount of which could soon be provided by the department in a fiscal note.

Number 2194

CO-CHAIR SCALZI, in response to a comment by Representative McGuire, stated that the original intent of the bill was to raise revenue for the dip net fishery by charging \$10 to everyone who dipnets. He began to explain that Amendment 1 was a response to public testimony.

REPRESENTATIVE MCGUIRE interjected that she understood. She reiterated her philosophy regarding creating user fees in "all the areas where we fish." She asked, if that were done, "what good is buying a sport license anymore?"

CO-CHAIR SCALZI explained that Ms. Donahue was stating the fact that Representative Lancaster had agreed to [Amendment 1], but

would not be in favor of [Amendment 2], because the intent of the bill was [to raise] revenue.

REPRESENTATIVE GREEN asked if the only people who would pay [for a dip net license] would be those without a sport fishing license.

CO-CHAIR SCALZI answered that people who don't have a sport license would pay the \$10 if they wanted to dipnet.

Number 2400

A roll call vote was taken. Representatives Fate, Green, and McGuire voted for Amendment 2. Representatives Chenault, Stevens, and Scalzi voted against it. [Representative Kerttula was not present for the vote. Representatives Kapsner and Masek were absent.] Therefore, Amendment 2 failed by a vote of 3-3.

Number 2445

REPRESENTATIVE FATE said he had the utmost respect for Representative Lancaster and [Co-Chair Scalzi], and commented that [CSHB 93] was "basically a pretty good bill." He stated the need for clarification regarding the use of funds; consequently, he recommended that the committee hold the bill.

Number 2479

REPRESENTATIVE STEVENS moved to report CSHB 93 [Version 22-LS0431\C, Utermohle, 2/27/01, as amended] out of committee with individual recommendations and the accompanying fiscal note.

Number 2485

REPRESENTATIVE GREEN objected to the motion because all the testimony had not been heard.

CO-CHAIR SCALZI told the committee the motion would have to be held because he had previously acknowledged that Representative Green would be allowed to speak.

REPRESENTATIVE GREEN stated that he would definitely vote against the bill in its present form, so he was not sure whether he would go along with moving it out of committee.

Number 2597

REPRESENTATIVE STEVENS renewed his motion to report CSHB 93 [Version 22-LS0431\C, Utermohle, 2/27/01, as amended] out of committee with individual recommendations and the accompanying fiscal note.

Number 2619

REPRESENTATIVE FATE objected.

A roll call vote was taken. Representatives Chenault, McGuire, Stevens, and Scalzi voted to move CSHB 93(RES) out of committee. Representatives Fate and Green voted against it. [Representative McGuire stated she would be making a "note to amend." Representative Kerttula was not present during the roll call. Representatives Kapsner and Masek were absent.] Therefore, CSHB 93(RES) failed to move from committee by a vote of 4-2.

Number 2649

REPRESENTATIVE MCGUIRE said she respected [Co-Chair Scalzi] and Representative Lancaster. She mentioned having to stand up for a group of her constituents who are sport fishers.

Number 2660

REPRESENTATIVE FATE restated that his intent was not to hold the bill up because he did not like it; he explained he wanted to see the bill get "more consideration and some answers."

Number 2671

REPRESENTATIVE GREEN agreed and asked if it were possible to get the response for the issues of concern by the next meeting.

Number 2682

CO-CHAIR SCALZI responded that he had asked his aide to put together a synopsis of the concerns voiced at the meeting. He said there had been a lot of testimony here and at the House Special Committee on Fisheries - both pro and con. Co-Chair Scalzi mentioned answering the questions posed by Representative Fate, addressing the issues brought up by those who testified against the bill, and bringing the bill back to committee in the future.

Number 2712

MS. DONAHUE told the committee that Representative Lancaster would be delighted to work with [ADF&G] and any of the House Resources Standing Committee members, to answer any questions. She added that she would welcome requests for information from the committee members.

Number 2759

REPRESENTATIVE GREEN stated his assumption that the committee could get a [swift] response from ADF&G regarding CSHB 93 and the use of funds, at which point he said he "would certainly vote to move it out of committee then."

[CSHB 93(RES) failed to move from committee by a vote of 4-2.]

ADJOURNMENT

Number 2769

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:39 p.m.