

**ALASKA STATE LEGISLATURE**  
**HOUSE RESOURCES STANDING COMMITTEE**

February 27, 2002

1:00 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 Mary Kapsner  
Representative Beth Kerttula

**MEMBERS ABSENT**

Representative Beverly Masek, Co-Chair

**COMMITTEE CALENDAR**

HOUSE BILL NO. 283

"An Act relating to appointments to the Board of Fisheries and to the ex officio secretary of the Board of Fisheries."

- HEARD AND HELD

HOUSE BILL NO. 284

"An Act relating to participation in matters before the Board of Fisheries by members of the board; and providing for an effective date."

- HEARD AND HELD

CS FOR SENATE BILL NO. 208(L&C) am

"An Act relating to the labeling of, the advertising of, and the disclosure of certain information about halibut, salmon, halibut products, and salmon products."

- MOVED HCS CSSB 208(RES) OUT OF COMMITTEE

HOUSE BILL NO. 421

"An Act relating to water use and appropriation."

- MOVED CSHB 421(RES) OUT OF COMMITTEE

HOUSE BILL NO. 392

"An Act relating to the use and appropriation of water."

- SCHEDULED BUT NOT HEARD

**PREVIOUS ACTION**

BILL: HB 283

SHORT TITLE: APPOINTMENTS TO BOARD OF FISHERIES

SPONSOR(S): REPRESENTATIVE(S) SCALZI

Jrn-Date	Jrn-Page		Action
01/14/02	1949	(H)	PREFILE RELEASED 1/4/02
01/14/02	1949	(H)	READ THE FIRST TIME - REFERRALS
01/14/02	1949	(H)	FSH, RES
01/16/02	1991	(H)	COSPONSOR(S): STEVENS
01/30/02	2100	(H)	COSPONSOR(S): FATE
02/08/02	2191	(H)	COSPONSOR(S): WILSON
02/11/02		(H)	FSH AT 3:30 PM CAPITOL 124
02/11/02		(H)	Heard & Held
02/11/02		(H)	MINUTE(FSH)
02/11/02		(H)	MINUTE(FSH)
02/25/02		(H)	FSH AT 3:30 PM CAPITOL 124
02/25/02		(H)	Moved CSHB 283(FSH) Out of Committee MINUTE(FSH)
02/27/02		(H)	FSH RPT CS(FSH) 3DP 1DNP 2AM
02/27/02		(H)	DP: SCALZI, WILSON, STEVENS;
02/27/02		(H)	NP: COGHILL; AM: DYSON, KERTTULA
02/27/02		(H)	FN1: ZERO(GOV)
02/27/02		(H)	REFERRED TO RESOURCES
02/27/02		(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 284

SHORT TITLE: BOARD OF FISHERIES CONFLICTS OF INTEREST

SPONSOR(S): REPRESENTATIVE(S) SCALZI

Jrn-Date	Jrn-Page		Action
01/14/02	1949	(H)	PREFILE RELEASED 1/4/02
01/14/02	1949	(H)	READ THE FIRST TIME - REFERRALS
01/14/02	1949	(H)	FSH, RES
01/16/02	1991	(H)	COSPONSOR(S): STEVENS
01/18/02	2014	(H)	COSPONSOR(S): HUDSON
01/30/02	2100	(H)	COSPONSOR(S): FATE

02/01/02	2127	(H)	COSPONSOR(S): LANCASTER
02/08/02	2191	(H)	COSPONSOR(S): WILSON
02/11/02		(H)	FSH AT 3:30 PM CAPITOL 124
02/11/02		(H)	Heard & Held
02/11/02		(H)	MINUTE(FSH)
02/25/02		(H)	FSH AT 3:30 PM CAPITOL 124
02/25/02		(H)	Scheduled But Not Heard
02/27/02		(H)	FSH REFERRAL WAIVED
02/27/02		(H)	REFERRED TO RESOURCES
02/27/02		(H)	RES AT 1:00 PM CAPITOL 124

BILL: SB 208

SHORT TITLE:DISCLOSURES: SALMON, HALIBUT, SABLEFISH

SPONSOR(S): SENATOR(S) WARD

Jrn-Date	Jrn-Page		Action
04/27/01	1303	(S)	READ THE FIRST TIME - REFERRALS
04/27/01	1304	(S)	L&C
05/02/01		(S)	MINUTE(L&C)
05/02/01		(S)	L&C AT 3:45 PM FAHRENKAMP 203
05/02/01		(S)	Moved CS(L&C) Out of Committee -- Time and Location Change --
05/03/01	1459	(S)	L&C RPT CS 4DP 1NR SAME TITLE
05/03/01	1459	(S)	DP: PHILLIPS, DAVIS, AUSTERMAN, LEMAN;
05/03/01	1459	(S)	NR: TORGERSON
05/03/01	1459	(S)	FN1: ZERO(DEC)
05/04/01		(S)	RLS AT 1:00 PM FAHRENKAMP 203
05/04/01		(S)	-- Time Change --
05/04/01		(S)	MINUTE(RLS)
05/04/01	1497	(S)	READ THE THIRD TIME CSSB 208(L&C) AM
05/04/01	1496	(S)	READ THE SECOND TIME
05/04/01	1497	(S)	L&C CS ADOPTED UNAN CONSENT
05/04/01	1497	(S)	AM NO 1 ADOPTED UNAN CONSENT
05/04/01	1497	(S)	ADVANCED TO THIRD READING UNAN CONSENT
05/04/01	1497	(S)	PASSED Y19 N- A1
05/04/01	1492	(S)	RULES TO CALENDAR 5/4/01
05/04/01	1514	(S)	TRANSMITTED TO (H)
05/04/01	1514	(S)	VERSION: CSSB 208(L&C) AM
05/05/01	1552	(H)	READ THE FIRST TIME - REFERRALS
05/05/01	1552	(H)	FSH, RES
05/06/01	1615	(H)	FSH REFERRAL WAIVED

05/07/01	1654	(H)	RES REFERRAL WAIVED
02/04/02	2151	(H)	RETURNED TO RES COMMITTEE
02/27/02		(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 421

SHORT TITLE: WATER USE AND APPROPRIATION

SPONSOR(S): RESOURCES

Jrn-Date	Jrn-Page		Action
02/13/02	2243	(H)	READ THE FIRST TIME - REFERRALS
02/13/02	2243	(H)	RES, FIN
02/20/02		(H)	RES AT 1:00 PM CAPITOL 124
02/20/02		(H)	Scheduled But Not Heard
02/22/02		(H)	RES AT 1:00 PM CAPITOL 124
02/22/02		(H)	Scheduled But Not Heard
02/27/02		(H)	RES AT 1:00 PM CAPITOL 124

**WITNESS REGISTER**

CARL ROSIER, President  
Alaska Outdoor Council  
8298 Garnet Street  
Juneau, Alaska 99801

POSITION STATEMENT: Testified in opposition to HB 283.

KEVIN HOGAN  
P.O. Box 2228  
Homer, Alaska 99603

POSITION STATEMENT: Testified on HB 283.

PAUL SEATON  
58395 Bruce Street  
Homer, Alaska 99603

POSITION STATEMENT: Testified on HB 283 and in opposition to HB 284.

WILLIAM SULLIVAN  
P.O. Box 943  
Kenai, Alaska 99611

POSITION STATEMENT: Testified in favor of HB 283 and HB 284.

BOB MERCHANT, President  
United Cook Inlet Drift Association  
36260 Wren Drive  
Kenai, Alaska 99611

POSITION STATEMENT: Testified in favor of HB 283 and HB 284.

JEFF KING

P.O. Box 2711

Soldotna, Alaska 99669

POSITION STATEMENT: Testified on HB 283.

LANCE NELSON, Assistant Attorney General

Natural Resources Section

Civil Division (Anchorage)

Department of Law

1031 West 4th Avenue, Suite 200

Anchorage, Alaska 99501-1994

POSITION STATEMENT: Testified that the administration is opposed to HB 283 and HB 284.

PAUL SHADURA, Vice President

Kenai Peninsula Fisherman's Association

903 Cook Avenue

Kenai, Alaska 99615

POSITION STATEMENT: Testified in opposition to HB 283 and in support of HB 284.

ROBIN SAMUELSEN

P.O. Box 412

Dillingham, Alaska 99576

POSITION STATEMENT: Testified in opposition to HB 283 and in support of HB 284 and SB 208.

SUE ASPELUND

Executive Director

Cordova District Fishermen United

P.O. Box 939

Cordova, Alaska 99574

POSITION STATEMENT: Testified in support of HB 284.

SENATOR JERRY WARD

Alaska State Legislature

Capitol Building, Room 423

Juneau, Alaska 99801-1182

POSITION STATEMENT: Sponsor of SB 208.

JANICE ADAIR, Director

Division of Environmental Health

Department of Environmental Conservation

555 Cordova Street

Anchorage, Alaska 99501

POSITION STATEMENT: Testified on SB 208.

JENNIFER YUHAS, Staff  
to Representative Beverly Masek  
Alaska State Legislature  
Capitol Building, Room 128  
Juneau, Alaska 99801  
POSITION STATEMENT: Presented HB 421 on behalf of the House  
Resources Standing Committee, sponsor.

BILL TEGOSEAK, Executive Director  
Inupiat Community of the Arctic Slope (ICAS)  
P.O. Box 934  
Barrow, Alaska 99723  
POSITION STATEMENT: Testified on HB 421.

TAD OWENS, Executive Director  
Resource Development Council  
(No address provided)  
POSITION STATEMENT: Testified in support of CSHB 421, Version  
L, but mentioned concerns with the possible fiscal impact.

JAN KONIGSBERG  
Alaska Public Waters Coalition  
1399 West 34th, Number 505  
Anchorage, Alaska 99503  
POSITION STATEMENT: Announced the coalition's support of the  
provisions of Section 1 of [CSHB 421].

PAM MILLER  
Arctic Connection  
(No address provided)  
POSITION STATEMENT: Testified in support of public access to  
DNR's water records and a standardized procedure as described in  
Section 1 of [CSHB 421].

ART GRISWOLD, Farmer  
HC 60 Box 4493  
Delta Junction, Alaska 99737  
POSITION STATEMENT: Testified in support of HB 421.

SUE SCHRADER  
Alaska Conservation Voters (ACV)  
PO Box 22151  
Juneau, Alaska 99802  
POSITION STATEMENT: Testified that ACV supports the provisions  
in Section 1 of HB 421.

BOB LOEFFLER, Director  
Division of Mining, Land and Water  
Department of Natural Resources  
550 West 7th Avenue, Suite 1070  
Anchorage, Alaska 99501-3579  
POSITION STATEMENT: Testified on HB 421.

**ACTION NARRATIVE**

TAPE 02-10, SIDE A  
Number 0001

CO-CHAIR DREW SCALZI called the House Resources Standing Committee meeting to order at 1:00 p.m. Representatives Scalzi, Fate, Green, McGuire, Stevens, Kapsner, and Kerttula were present at the call to order. Representative Chenault arrived as the meeting was in progress.

HB 283-APPOINTMENTS TO BOARD OF FISHERIES

CO-CHAIR SCALZI announced that the first order of business before the committee would be HOUSE BILL NO. 283, "An Act relating to appointments to the Board of Fisheries and to the ex officio secretary of the Board of Fisheries."

Number 0204

[Although there was a motion to adopt CSHB 283(FSH), it was already before the committee.]

CO-CHAIR SCALZI, sponsor of HB 283, briefly discussed changes in the bill regarding the number of seats for each particular interest group: previously the seats were three sport, three commercial, and one subsistence, whereas now they are two sport, two commercial, two subsistence, and one at-large. He said he didn't know whether there had been much dialog; his office hadn't heard many comments from committee members.

Number 0318

CARL ROSIER, President, Alaska Outdoor Council (AOC), offered AOC's view that the Board of Fisheries had been functioning extremely well in recent years, that there has been a good balance in terms of composition of the board, and that the board has been very open-minded. He said the board had made some major decisions that will long affect the salmon resources in Alaska positively.

MR. ROSIER said representation on the Board of Fisheries has been an issue since statehood, with assertions that the board was too slanted toward commercial or sport [fishing] interests, for example; also, there have been some individuals who were there to represent subsistence. He said HB 283 would create one additional board position, although he wasn't sure what problem HB 283 was addressing. He said the board seemed to be accomplishing good things for the resources and the state. He noted that HB 283 comes at a time when the state is trying to save money.

Number 0509

MR. ROSIER said some of the problems that AOC had experienced were regarding criteria for selection of people. He explained that this had gone through the advisory-committee system; consequently, people who held commercial licenses were considered to be sport fishermen because they held a sport fish license. He suggested that sport-fish [representatives] are sometimes felt to be slanted in their views as far as commercial interests are concerned. He said he thought the designation of seats went further than just designating a seat; it depends on the individuals involved and the people appointed and selected by the governor. However, it is necessary to ensure that the board continues to function in a fair and equitable manner that is good for all of the users and the resources of the state. He reiterated that AOC felt the board had been functioning very well and would like it to stay that way.

Number 0620

CO-CHAIR SCALZI said the United Fishermen of Alaska (UFA) had been concerned about representation on the board. He suggested their intent could be reflected in a recent action the board took up regarding the so-called Chignik proposal. He mentioned lack of forethought that went into trying to appease one gear group in one particular area, saying it had some downstream effect. There was concern that if there was more representation on the board, [members] would have responded differently.

MR. ROSIER suggested an appointment to the Board of Fisheries is one of the toughest jobs in the state. He indicated it is impossible to satisfy everybody. He remarked that a nice aspect of the board system is the opportunity to be heard by the board and receive a decision; however, the decision might not be favorable. He said the board does not delay decisions or drag

issues on for a lengthy period of time, which some other regulatory entities tend to do. He remarked that the system has been working very well. He concluded, "You might not always get your way before the board, but on the other hand, you certainly get your day in court."

Number 0799

KEVIN HOGAN testified via teleconference, offering his belief that the Board of Fisheries process at the present time is almost irreparably broken. He disagreed with Mr. Rosier's testimony that the process has been working well. He suggested HB 283 isn't the right answer. He explained that at the present time the board composition is virtually all sport fishermen, without commercial representation. He mentioned the possibility of a provision in HB 283 to change the allocation to an eight-year period to undo the damage done in the last eight years.

MR. HOGAN suggested there are other options including a professional board. He said the method that staff has used to determine whether proposals are allowed to go before the board has some real problems with it. He remarked that he feels that as a member of the public, his access had been severely hampered. He reiterated that there are presently some major problems with the Board of Fisheries. He said HB 283 illustrates the problem that the commercial [fishing] industry has, which is that it has been too conciliatory for too long.

Number 1000

PAUL SEATON testified via teleconference. He told the committee that he had several concerns. He said it sounded as if there would be a maximum of two members who would be eligible to have commercial fishing experience. He suggested that presently the Board of Fisheries and the membership are totally oriented towards and focused on the salmon issue - predominantly, the salmon issue in Cook Inlet. He noted that several different fisheries exist around the state, however, including troll, longline, dive, net, pot, shell[fish], and ground[fish] fisheries. The level of expertise to cover all those fisheries that can be obtained from only two members commercially is pretty small, he suggested. With 100 days of meetings a year, almost no truly active commercial fishermen [can attend] and still be active in many fisheries.

MR. SEATON proposed changing to a split board: one segment to deal with salmon, which is where the balanced board might need

to be; and another to deal with all the other fisheries. He suggested it would [resolve] a lot of contention. In addition, he indicated the commercial-fishermen board positions should be changed to allow a recently retired person from the industry to serve. He mentioned that retired people have the time and availability to serve, and could add more to the board. Furthermore, he indicated that although there are solutions to the board's problem, assigning [additional] seats and specifically limiting the position to a maximum of two people with commercial experience would not solve the problem. He mentioned another point he'd made in a facsimile submitted to the committee.

Number 1192

WILLIAM SULLIVAN testified via teleconference in favor of HB 283. He indicated he disagreed with the comment about the board functioning well in the past. He said he would like to see a balanced board. Although that may not prove to be the end-all solution, it could be effective for the next six years and could be assessed during that time. If the current board has worked, then it could be modified.

MR. SULLIVAN said he has some concerns about HB 283, such as the five-years-of-active-service requirement, which might be somewhat exclusive. In addition, he voiced concern about the wording "actively engaged in the profession of commercial fishing". Furthermore, he suggested the committee should include the legislative intent there. He said it seemed to him it could be construed that there is currently active commercial fishery representation. He mentioned that the testimony about retired commercial fishermen was a good point. He specified that he supports HB 283 as it stands.

Number 1375

BOB MERCHANT, President, United Cook Inlet Drift Association (UCIDA), testified via teleconference in support of the goal of HB 283, to guarantee a balanced board. He said commercial fishing and sport fishing are the two biggest user groups of fisheries in the state; [the addition of] two commercial positions and two sport positions to the board addresses both, and adds that experience and expertise to the board. He said UCIDA would be satisfied with two positions, although three positions could be at-large, giving the legislature and the governor the opportunity to appoint other people.

MR. MERCHANT advised the committee that UCIDA also supports term limits. He said the Board of Fisheries is supposed to be a lay board of concerned citizens who are experienced in the areas that the boards are addressing; consequently, UCIDA feels that term limits will serve to prevent people from becoming too professional on the board and to keep more of a lay board. In addition, he pointed out the section of the bill that allows a board member to skip a term and then serve on the board again for two more terms. He said if an individual comes along that is especially good at what he or she does, this provision wouldn't prevent that person from serving on the board for a very long time.

Number 1501

JEFF KING testified via teleconference. He told the committee he thought the most important point is that creative, thinking individuals are appointed to the Board of Fisheries. He said, "We bid the designated seats here on our local fish and game advisory board, and I think it had just [the] reverse effect: it seemed like we ended up with people that were more ingrained than they had before."

MR. KING referred to a bill sponsored by [then] Representative Austerman from a prior legislature. He said that bill created a fourth user group, which was "guided sportsman." Up to that time, the user groups in the state were subsistence, commercial, and sport; consequently, now there is a fourth user group in state code, he explained. He said he doesn't think HB 283 goes far enough to give a fair perspective on the board to that; furthermore, if there are going to be two sport seats, then there should be another two seats for the fourth user group, which is guide-chartered users. He suggested that because of previous legislation, the Board of Fisheries does have authority to micromanage and to allocate within sport users differently than charter fishermen and noncharter fishermen. He brought attention to page 2, sub-subparagraph (ii), "combined experience as sport fisherman, personal use fisherman, or commercial sport operator in the state". He suggested that all four user [groups] need to be incorporated in order to create fairness.

Number 1637

REPRESENTATIVE GREEN asked what the fourth user group is.

CO-CHAIR SCALZI said the fourth group is commercial guide.

Number 1652

REPRESENTATIVE FATE asked Mr. Hogan why he felt that the board was "broken" and what was causing it.

MR. HOGAN replied that one reason the board is broken is because it is packed with sport-fishing interests; consequently, the commercial-fishing income of the entire board probably doesn't exceed \$10,000. In addition, he voiced concern with some internal [issues] such as the committee structure and limiting access to the public. He remarked that he appreciated that the committee was addressing the problem. He suggested that recent board decisions had put the commercial salmon industry in Cook Inlet "on its knees."

CO-CHAIR SCALZI called upon Lance Nelson, indicating that Mr. Nelson is counsel for the Board of Fisheries.

Number 1777

LANCE NELSON, Assistant Attorney General, Natural Resources Section, Civil Division (Anchorage), Department of Law, testified via teleconference. He told the committee his comments would relate to policy concerns rather than legal issues. He said the administration is opposed to HB 283 because it is viewed as unnecessary. He mentioned the current standard set by the legislature, including interest in public affairs, good judgment, knowledge, ability in the field of action of the Board of Fisheries, and diversity of interest in points of view. Those standards - especially combined with the confirmation process itself, whereby the legislature has a chance to review these standards - should be sufficient to guarantee a capable Board of Fisheries, he explained.

MR. NELSON said further limitations might prevent building the best possible board by placing some very capable people outside of the pool of candidates. In addition, there is concern because definitions are always under dispute. Furthermore, there is more than one kind of commercial fishing, sport fishing, subsistence fishing, and so forth. For example, there have been disputes over whether someone is deemed a real commercial fisherman, he said.

MR. NELSON offered that the current language of HB 283 might prevent retired fishermen from serving on the board, and yet they might have the most experience and time available. He said there is concern that the person appointed should be more

interested in the general public interest rather than just representing a particular constituency; furthermore, if the goal is representation of a particular user group or constituency, then there aren't enough seats among a seven-member board to try to do that. He pointed out that the board, of necessity, has to be more broadminded than just focusing on a particular interest. He said there are concerns that term limits will, in some cases, prevent the most qualified and capable people, perhaps at critical times, from continuing to serve in the board process.

CO-CHAIR SCALZI indicated the intent is to do what is in the best interest of the State of Alaska.

Number 1929

REPRESENTATIVE MCGUIRE referred to the definition of qualifications for Board of Fisheries members. Drawing attention to page 2, line 7, she asked Mr. Nelson if he had any consternation about determining experience as a sport fisherman, which she said seemed vague. In addition, she asked if [determining experience] is the same for subsistence users. She remarked that the commercial fishing category seems the most concrete of the three categories.

MR. NELSON replied that statutory interpretation generally creates legal issues; therefore, the reason he hadn't addressed the legal issues is because this is a unique situation. He explained that the position taken before the courts in the past has been that these standards will have to be interpreted and applied by the legislature itself; consequently, they won't be subject to court challenge because it is not felt to be a justifiable question, and the courts don't have the right to second-guess what the legislature decides during the confirmation process. He said the governor would appoint candidates to the board; the legislature would then look at these standards and decide whether they were met in confirming the candidates or not. He remarked that if it were subject to court challenge, then he would have more concerns; however, it is more of a policy choice, and the legislature itself decides whether these are standards that it will be able to apply, as opposed to whether they'd be challenged in court later.

Number 2066

REPRESENTATIVE KERTTULA asked Mr. Nelson what the composition of the current board is.

MR. NELSON said the current board has one member [Larry Engel] who is a retired biologist from the Alaska Department of Fish and Game (ADF&G) and who worked during his career primarily in the sport-fishery management area. Another member, Virgil Umphenour, is from Fairbanks, owns a "fish processing industry," and has fished commercially in the past; furthermore, his son holds a commercial fishing permit on the Yukon River. Mr. Nelson said with the way the commercial fishery has gone in Fairbanks, opportunity has been [limited] for use of [the permit] in the recent past. He reiterated that Mr. Umphenour does buy and process commercially caught fish.

MR. NELSON continued with board members. He said John White is a dentist in the Bethel area who holds several commercial fishing permits for salmon and other species. Those fisheries have also been severely limited in the recent past; consequently, Mr. White's involvement is limited right now because of that. Also, Grant Miller is a commercial fisherman from the Sitka area who currently operates a "herring bait pound" on a regular basis; in addition, he does some tendering; in the past he was a seiner and longliner in Southeast Alaska.

MR. NELSON continued. He said Russell Nelson from Dillingham isn't currently involved in commercial fishing but was in the past, in the Bristol Bay area. Ed Dersham is a retired drug enforcement agent and is primarily a sport-charter operator out of the Anchor River - Deep Creek area. In addition, Dan Coffey is an attorney who has been involved in ownership of commercial fishing boats in the past; he has some commercial fishing experience but has primarily been practicing law in Anchorage for quite a few years.

REPRESENTATIVE KERTTULA suggested the board should designate a spot for women.

MR. NELSON remarked that there have been women representatives in the past.

Number 2223

PAUL SHADURA, Vice President, Kenai Peninsula Fisherman's Association (KPFSA), testified via teleconference. He indicated he tells people that there are no active commercial fishermen on the Board of Fisheries. He said the board controls salmon, herring, and other state-water fisheries; however, there is no multi-experienced, active, commercial fisherman on the Board of Fisheries. There are board members who have been on the Board

of Fisheries for nine years without a break, he pointed out. With the majority of state fisheries managed for commercial fisheries and a substantial "intermanagement" of the sport fisheries, he suggested it would seem practical and reasonable that there should be a direct relationship between the users and the regulators.

MR. SHADURA presented the question of how anyone could understand the intricate knowledge and years of experience required to become a commercial fisherman if that person isn't in fact a commercial fisherman; furthermore, he said it is not expertise derived from only written material, but is from years of being on the sea trying to adjust to all of the challenges. He said, "No less important is the charter operator or guide or the recreationalist who has limited time to get his or her share of Alaska's bounty."

MR. SHADURA remarked that all [users] deserve representation and should be able to present their needs to someone who understands and debates the issues when regulations and changes are brought forth. He suggested that the board rarely debates any decisions in the open; furthermore, 7-0 is the usual vote. He indicated there had never been a commercial setnet fisherman on the Board of Fisheries; however, there are more setnet permit holders in Alaska than gillnetters, seiners, trollers, or longliners. He said the setnet fishery [participants] haven't had the opportunity to have their say or remedy regulatory inequities, and are excluded from the process.

Number 2340

MR. SHADURA said many prominent sport fishing leaders advocated designated seats in the 1994 transitional papers and recommendations provided to Governor Knowles; in addition, some thought four commercial seats would be right. In Petersburg in October, 27 fishing organizations representing approximately 10,000 fishermen approved designated seats as the top priority, including three commercial seats, three sport seats, and one subsistence seat; furthermore, the KPFA supports this action. He stated that KPFA doesn't support the committee substitute (CS), although they appreciate the efforts of legislators who have tried to offer some understanding and solutions to these major inequities.

Number 2407

ROBIN SAMUELSEN testified via teleconference. He told the committee he is a former Board of Fisheries member who served a one-year term. He indicated he would not be willing to serve again. He said if it isn't broken, then why fix it. Furthermore, he said he thought mechanisms were in place to ensure that quality people get appointed to the Board of Fisheries. The governor makes the nomination and then, in joint session, the House and the Senate confirm the nominees; in the past, however, [some] people haven't been confirmed to the Board of Fisheries.

MR. SAMUELSEN said in regard to term limits, he wanted to applaud those people who are taking time from themselves and their families to volunteer to sit on the board. He remarked that he had been voted down on issues with the present Board of Fisheries. He offered his view that the Board of Fisheries had fleshed things out very well. The committee process is working, and there is a chance for people to be heard, he remarked. He referred to a situation involving the state and crab management. He indicated there were bigger issues than how many various fisheries were represented on the Board of Fisheries. He suggested there were bigger resource issues with the collapse of the salmon [fisheries] throughout the state. He indicated he felt the status quo should be left intact. He stated that he opposed HB 283.

Number 2515

CO-CHAIR SCALZI asked Mr. Samuelson if he thought the North Pacific [Fishery] Management Council (NPFMC) would bode well under the same type of lay-board process without designated seats.

MR. SAMUELSEN said Alaska's winning track record at the NPFMC reflects that Alaska is doing pretty well. He said they do have a term limit; in addition, a member can serve more than three terms on the NPFMC.

Number 2540

CO-CHAIR SCALZI mentioned seat proportions, including managers from ADF&G, processors, commercial fishing interests, a sports advocate, and representatives from different states. He asked Mr. Samuelson if he felt that was an advantage or a disadvantage. Also, he said he would like to see a lay board on [NPFMC].

MR. SAMUELSEN said he is commercial fisherman who holds a sport-fish license, has a history of subsistence, is a former member on the Board of Fisheries, and has represented Alaska on the NPFMC. Regardless of affiliation, it's the dedication that the individual needs to put forth, to represent the resource first, and all other resource users. He indicated that when he was a member on the Board of Fisheries, he never considered not talking to fishermen from other fisheries because of public perception. He remarked that he represented the resource and represented all of the user groups.

Number 2610

CO-CHAIR SCALZI indicated HB 283 would be held for further consideration.

HB 284-BOARD OF FISHERIES CONFLICTS OF INTEREST

[Contains discussion of HB 283]

Number 2631

CO-CHAIR SCALZI announced that the next order of business before the committee would be HOUSE BILL NO. 284, "An Act relating to participation in matters before the Board of Fisheries by members of the board; and providing for an effective date." [HB 284 was sponsored by Representative Scalzi.]

Number 2681

SUE ASPELUND, Executive Director, Cordova District Fishermen United (CDFU), testified via teleconference. She said CDFU thinks that HB 284 is very important; furthermore, CDFU believes it is unfair to withhold full participation in this very important process to an entity that is there because of its expertise and knowledge in the fisheries arena. She said she had personally sat through a number of Board of Fisheries meetings where members were conflicted out; those members' invaluable knowledge would have been helpful to the proceedings, but they were precluded from providing that input because of the conflict-of-interest statute. Emphasizing the importance of HB 284, she urged that it be moved from committee.

Number 2739

REPRESENTATIVE KERTTULA asked if those members were precluded from giving the information because they weren't allowed to

deliberate or if it was because there was a short amount of time for testimony.

MS. ASPELUND said members with a conflict of interest are able to participate as a member of the public. During public testimony, they may sit at the public testifiers' table and provide their five minutes of testimony. However, a member who has a conflict of interest isn't allowed to participate in the committee meetings, deliberations, or voting, she said. If particular knowledge on an issue comes up during a committee [meeting] or during deliberations that may not have come up during public testimony, members with a conflict of interest aren't allowed to provide input; consequently, at a very key part of the process they are precluded because of their conflict of interest.

Number 2795

ROBIN SAMUELSEN testified via teleconference. He told the committee he fully supported Ms. Aspelund's testimony. He said the conflict-of-interest rules are really restrictive. There are seven [Board of Fisheries] members; there are checks and balances in the board system. Consequently, it's a thorough public process. Under the present conflict-of-interest rules, however, he said he doesn't think the decisions being rendered are the best decisions; a [board member] who has a conflict isn't allowed to participate in the discussion. He said the [conflict-of-interest rules] have hindered the process when he was on the board; it has become more complicated since that time. He referred to the disclosure statement, which he said he felt was very cumbersome and unwieldy.

Number 2846

BOB MERCHANT, President, United Cook Inlet Drift Association (UCIDA), testified via teleconference. He told the committee UCIDA supports the passage of HB 284; furthermore, he concurred with Ms. Aspelund's testimony and said that was also UCIDA's position on HB 284.

Number 2858

WILLIAM SULLIVAN testified via teleconference. He told the committee he supported HB 284. He asked the committee to consider the effects on the board with the passage of HB 284 without the passage of HB 283. He remarked that if one accepts the idea that the board is presently weighted in one direction,

it may go even more in that direction by freeing up some of the conflict language.

Number 2885

PAUL SEATON testified via teleconference. He referred to a facsimile he'd submitted to the committee. He told the committee he was in opposition to HB 284. Commercial fishermen on the Board of Fisheries can fully participate in any discussion of commercial fisheries other than the specific species and area that person has a financial interest in, he explained. Every state in the Union has conflict-of-interest laws; furthermore, the laws had to be passed because conflict of interest results in bad regulations and lots of problems; he pointed out that judges or jurors don't make decisions on things in which they have a financial participation.

MR. SEATON said this bill would essentially convert the Board of Fisheries into the same structure as the [North Pacific] Fishery Management Council (NPFMC) on the federal level; in addition, [NPFMC] is exempt from conflict-of-interest laws, and can accept money from anybody or be hired as a lobbyist by anybody, in spite of a financial interest. Furthermore, [NPFMC members] can be strong participants in one particular segment of the industry and can vote in favor of that segment of the industry. He noted the vast difference in legal and practical aspects between the Board of Fisheries and the [NPFMC], since the latter is advisory in nature. He offered that [HB 284] is a terrible idea.

TAPE 02-10, SIDE B

Number 2970

MR. SEATON suggested that Alaska and all other states have drawn up conflict-of-interest laws because when people are allowed to create regulations despite having a financial conflict of interest, it causes problems. This is not a problem that "we" need to inject on top the current problems with the Board of Fisheries, he said. He urged the committee to reject HB 284.

Number 2921

LANCE NELSON, Assistant Attorney General, Natural Resources Section, Civil Division (Anchorage), Department of Law, testified via teleconference. He informed the committee that the administration is opposed to HB 284. He said the current ethical standards give the Board of Fisheries higher credibility. In addition, people are usually or almost always

present at the board meetings who can work on committees and give the same information and viewpoint as conflicted board members, he suggested. He said conflicted board members can give public testimony and talk to other Board of Fisheries members; however, they can't participate in the actual deliberations and voting.

Number 2884

REPRESENTATIVE KERTTULA asked Mr. Nelson if he could offer an example of what is concerning people about board members who have a financial conflict not being allowed to deliberate.

MR. NELSON said a board meeting begins with public testimony in which any member of the public can testify for a limited but equal amount of time to the board and can answer questions there. The board will assign proposals to committees, in which there is a panel of public members appointed to speak for the varied interests that are following the proposal, either in support or opposition. Subsequently, the committee prepares a report and makes a recommendation to the full board, which then deliberates on the proposal. The deliberations are on the record and open to the public. The board takes frequent breaks; consequently, nothing prevents the conflicted board member from talking to the other members, the public, or representative interest groups during that time. However, the conflicted board member would be prevented from discussing or arguing for or against the proposal, and from voting.

Number 2779

REPRESENTATIVE KERTTULA asked Mr. Nelson to describe the kind of conflict that would remove a member from deliberating or voting.

MR. NELSON said the major conflict would be if a member has a significant financial interest at stake in the proposal. For example, if a proposal would increase an allocation to [the conflicted board member's user group] or allow the member to financially benefit, then that member is prevented from voting. Board members often remove themselves voluntarily if there is any question of conflict of interest, to avoid the appearance of unethical conduct. The other interest at stake usually arises when the board member - or an organization in which the board member is a policymaking officeholder - has a proposal before the board, or when that organization has taken a position on a proposal before the board, or in some cases in which the conflicted board member has "shepherded" a proposal through an

organization and that organization has endorsed it. Such interests are defined as personal interests, and the [conflicted board member] is prevented from deliberating and voting on those proposals.

Number 2684

PAUL SHADURA, Vice President, Kenai Peninsula Fisherman's Association (KPFA), testified via teleconference. He told the committee KPFA supports HB 284. He said:

We could give you a good example: in Cook Inlet, where you have three sport representatives and also Mr. Umphenour is a registered guide, the situation if there was an appointment for a commercial fisherman to be there, [Mr. Umphenour] would be opted out by the current regulations or the policy from discussing any of his expertise - so making his expertise and his knowledge moot.

MR. SHADURA said he could see the conflict if it were a direct benefit to an individual. But for general classes of people, he said he had a hard time thinking it is a conflict. He remarked that if that were so, then there would be a lot of conflicts "crossing each other for many different avenues in the state." He said for "us" that's a way to communicate. Referring to Mr. Nelson's testimony regarding committee process, he reported that after the public speaks during the committee process, there are usually two board members who then debate and discuss the [issue] with other people and come out with a report that is not on the record. After the decision is made, a committee report is generated, which doesn't necessarily reflect what was said during the committee forum. Mr. Shadura remarked that he'd had a problem with that particular situation; those two members had then discussed their views with the rest of the board members. He pointed out that there could be some very real discrepancies and conflicts because of that.

Number 2570

CARL ROSIER, Alaska Outdoor Council (AOC), told the committee AOC is opposed to HB 284. This has been one of the major factors that's made the board such a trustworthy operation in the state, he remarked. He said the criticism directed toward the NPFMC on this issue seems to be a constant din of people criticizing that council as a result of [members] with conflicts of interest. He said, "Millions of dollars involved in every

decision that that council makes - of course, on this, I am not here to say whether it's right or wrong." He added that from the public's perception of the council sessions on this, however, conflict of interest is close to the top as a major problem.

MR. ROSIER suggested the Board of Fisheries doesn't get that same criticism; nor does the board overstep its bounds as far as conflict of interest is concerned. He said in 40 years of participating in or observing board sessions in the state, he had never seen an issue yet that the board couldn't come to resolution on, and individuals who were conflicted out availed themselves of opportunities to participate on the fringes. He said in order to maintain that credibility on the Board of Fisheries, it should continue to be subject to the conflict-of-interest provisions.

Number 2460

CO-CHAIR SCALZI indicated HB 284 would be held for further consideration.

Number 2455

CO-CHAIR SCALZI called an at-ease at 2:10 p.m. He called the meeting back to order at 2:11 p.m.

SB 208-DISCLOSURES: SALMON, HALIBUT, SABLEFISH

CO-CHAIR SCALZI announced that the next order of business before the committee would be the CS FOR SENATE BILL NO. 208(L&C) am, "An Act relating to the labeling of, the advertising of, and the disclosure of certain information about halibut, salmon, halibut products, and salmon products."

Number 2433

REPRESENTATIVE McGUIRE moved to adopt HCS CSSB 208 [version 22-LS0788\J, Bannister, 2/26/02] as the working document. There being no objection, Version J was before the committee.

Number 2423

SENATOR JERRY WARD, Alaska State Legislature, testified as the sponsor of SB 208. He indicated he wasn't an expert in the fishing [industry], but had been involved in fish "wars" for a long time. Also, he [is active in] commercial setnetting and

sport and subsistence [fishing]. He indicated he and his family were surprised to learn that farmed salmon [contains] red dye and antibiotics. He explained that he'd approached several [grocery stores] and asked them to label [the farmed salmon so that consumers could identify which products contain dye and antibiotics]. The people at those stores didn't know or didn't admit that those [products contain dye and antibiotics], he said. He indicated that to make the producers of farmed fish label the product is more involved than he'd had anticipated, which is why SB 208 was created. He referred to a poster he'd brought for illustrative purposes.

SENATOR WARD recounted that during a trip to California he and some friends, wanting a salmon dinner, had [contacted] every restaurant in Palm Springs to try to find Alaskan salmon. The salmon advertised on the menus said, "Alaska salmon" or "natural salmon" or "pristine salmon," for example, but there was no "wild salmon" to be found in Palm Springs, a five-star restaurant [location]. He said [the subject] again came up while working with Representative Kerttula on vaccines.

Number 2296

SENATOR WARD said he doesn't believe that people in the general public have any concept that [dye and antibiotics] are in [farmed fish]. He indicated he would like Alaskans to have an obligation to label products to identify them as free of dye and antibiotics. Senator Ward said he couldn't even begin to list the [additives]. He said after talking to the federal government and Michele Brown, [Commissioner] of the Department of Environmental Conservation (DEC), [he'd discovered] that nobody really knows all of the things that go into some of the farmed products that don't come from [the United States].

SENATOR WARD said salmon and other fish caught in Alaska don't contain [dye or antibiotics], and he feels they should be labeled as such. He offered his belief that [farmed fish containing dye or antibiotics] is poisonous, and he wants his kids and [constituents] to have the knowledge and ability to decide for themselves. He indicated this legislation is not banning [farmed fish]. It's a simple truth in labeling.

Number 2168

REPRESENTATIVE GREEN asked Senator Ward if he had eaten any [farmed fish].

SENATOR WARD said he had, but doesn't anymore.

Number 2099

REPRESENTATIVE McGUIRE complimented Senator Ward on the bill. She referred to page 3 [Section 2, which adds a new section to AS 17.20.048]. She asked how this would be enforced and what the penalty would be.

SENATOR WARD said mislabeling laws currently exist; [AS 17.20.048] would fall under those. He indicated that if a product were mislabeled, it would be fraud. However, labeling cannot be forced for [farmed fish]; it would take Alaska and other states to get Congress do that, which he said he thought would eventually happen.

REPRESENTATIVE McGUIRE asked, "So, this is more the carrot as opposed to the stick?"

SENATOR WARD said yes.

Number 1993

REPRESENTATIVE KERTTULA remarked that [SB 208] is a great bill. She began discussion of what would be adopted later as Amendments 2 and 3. Referring to page 4, line 9, subsection (c), she asked whether Senator Ward would have any concerns about changing it to say that halibut, salmon, or sablefish products include halibut, salmon, sablefish or food products made from [those]. She indicated the need to include the whole fish as well, since a whole farmed salmon might show up.

SENATOR WARD said he would have no problem and thinks it [would make the provision] clearer.

REPRESENTATIVE KERTTULA noted that a definition in Title 17 that deals with farmed-salmon products could be referred to, and in the definitions section, AS 17.23.070, which defines farmed salmon products, halibut, salmon, and sablefish could be added and changed accordingly.

Number 1782

ROBIN SAMUELSEN testified via teleconference. He told the committee he was in support of SB 208 and the amended language. He said he was glad sablefish was included [in Version J]. He said the largest fish farmer in the world has projected

producing 400,000 tons of cod in 2012, so it's going to be disruptive to the cod market. He said there are 32 different colors [of dye] that wholesalers can choose from.

Number 1734

JANICE ADAIR, Director, Division of Environmental Health, Department of Environmental Conservation (DEC), testified via teleconference. She told the committee there has been some concern that prior versions of this bill would apply to salmon or [other] fish from hatcheries. The amendment made on the Senate floor to page 3, line 28 [of the Senate version, now line 30 in Version J] removed the word "or", which she said DEC interprets to clarify that this bill doesn't apply to hatchery fish. [The relevant language on page 3, line 28, CSSB 208(L&C) am, read: "(2) has not been raised in captivity under control for its entire life".]

CO-CHAIR SCALZI noted that "or" [page 3, line 30, Version J] is [again] in the bill: "(2) has not been raised in captivity or under control for its entire life".

MS. ADAIR recommended deleting "or".

Number 1540

REPRESENTATIVE McGUIRE moved to adopt Amendment 1, to remove the word "or" from page 3, line 30. She explained that it would clarify that it [is applicable] to farmed fish as opposed to those hatched in captivity.

CO-CHAIR SCALZI asked whether there was any objection. There being no objection, Amendment 1 was adopted.

Number 1449

REPRESENTATIVE KERTTULA moved to adopt Amendment 2, on page 4, lines 9-10 [subsection (c)], to amend the language to say, "includes halibut, salmon, or sablefish or a food product made from halibut, salmon, or sablefish."

CO-CHAIR SCALZI restated the new wording:

In this section, "halibut, salmon, or sablefish product" includes halibut, salmon, or sablefish or a food product made from halibut, salmon, or sablefish.

Number 1406

CO-CHAIR SCALZI asked if there was any objection. There being no objection, Amendment 2 was adopted.

Number 1400

REPRESENTATIVE KERTTULA proposed language for conceptual Amendment 3. Reiterating her earlier point that there is a definition of farmed salmon product in statute [AS] 17.20.370, she noted that page 3, line 13 [Version J] says "the food is a farmed halibut, salmon, or sablefish product". Therefore, [Amendment 3] would add halibut and sablefish into the definition. She recommended the language, "a farmed halibut product means ... or a farmed salmon, halibut, or sablefish product means." She said this makes it clear that the provision doesn't include hatchery fish. She noted that the exact wording can be [determined by Legislative Legal and Research Services].

Number 1304

CO-CHAIR SCALZI asked about the procedure to [amend the definition], because it is not attached to the bill.

REPRESENTATIVE KERTTULA offered that it is in the ambit of the title and is clearly referred to in the bill itself.

Number 1272

REPRESENTATIVE KERTTULA moved to adopt the foregoing [as conceptual Amendment 3]. There being no objection, Amendment 3 was adopted.

REPRESENTATIVE KERTTULA pointed out an earlier suggestion to label fish that aren't tested for antibiotics as such.

Number 1222

REPRESENTATIVE FATE moved to report HCS CSSB 208 [version 22-LS0788\J, Bannister, 2/26/02, as amended] out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, HCS CSSB 208(RES) was reported from the House Resources Standing Committee.

CO-CHAIR SCALZI called an at ease from 2:31 p.m. to 2:39 p.m.

HB 421-WATER USE AND APPROPRIATION

[Contains discussion of HB 392]

CO-CHAIR SCALZI announced that the final order of business would be HOUSE BILL NO. 421, "An Act relating to water use and appropriation."

Number 1162

REPRESENTATIVE FATE moved to adopt CSHB 421, version 22-LS1334\L, Luckhaupt, 2/27/02, as the working document. There being no objection, Version L was before the committee.

Number 1150

JENNIFER YUHAS, Staff to Representative Beverly Masek, Alaska State Legislature, presented HB 421 on behalf of the House Resources Standing Committee, sponsor. Ms. Yuhas explained that last year there was a sunset attached to the temporary water permits. The intent was to review the issue over the interim. She informed the committee that water is a public-trust resource for which the constitutional responsibility of the legislature to [distribute] that resource in the public interest has been statutorily designated to the Department of Natural Resources (DNR). She noted that she had reviewed the adjudication process in general for Alaska; during her review of this process, the department had produced draft regulations to change the process.

MS. YUHAS reported that she'd attended some meetings on the proposed regulations; issues brought up were, first, public dissatisfaction because of a seemingly arbitrary [distribution] of the public-trust resource and, second, inability to get access to records. Therefore, this bill simply addresses those two complaints, by directing DNR to develop a standardized procedure so that there is something to check against in regard to ensuring that [water permits] are being distributed in a fair manner, as well as addressing the public's need to access their records.

Number 0928

BILL TEGOSEAK, Executive Director, Inupiat Community of the Arctic Slope (ICAS), testified via teleconference, noting that the ICAS is a federally recognized, regional tribal government encompassing eight sovereign tribal governments. Mr. Tegoseak informed the committee of the difficulty the North Slope tribal

members have experienced in obtaining information from the Division of Mining and Water in regard to water usage.

MR. TEGOSEAK emphasized, "My comments are not intended to reflect opposition to onshore oil development, because our tribal members support responsible oil development onshore, and we all benefit from such responsible development." However, there is the need to ensure sufficient public water supplies, especially in winter, and sufficient water to maintain subsistence resources. "These goals are not incompatible with onshore oil development," he suggested.

MR. TEGOSEAK explained that the experience of the regional tribal government has been that the division hasn't provided access to information on past water usage or current applications in a reasonable fashion. Therefore, [the regional tribal government] can't be sure its water sources are well managed. Furthermore, DNR appears to restrict access to public files, as noted in HB 392. As an example, he offered his belief that the division recently implemented a \$50-per-hour charge to obtain agency files, prepare files for inspection, and assist the requestor with file inspection; this is in addition to a \$22.50-per-hour copying charge.

Number 0703

MR. TEGOSEAK said although [the tribal governments aren't] opposed to paying reasonable fees for these services, DNR appears to be using this policy to limit the availability of records. Moreover, for individuals requesting records in order to comment on a project on the North Slope, the department has delayed access on the grounds that it's too busy processing the temporary water use permits. He said that is unacceptable. He pointed out that temporary water use permits don't require public notice; he maintained, therefore, that the least DNR could do is notify [the entity], once a permit is issued, of how much water the permit is for, how long it is for, and from which lake the water is being taken. However, DNR has established significant hurdles to this access to public records.

MR. TEGOSEAK recalled DNR's past claims that it needed more money for its water-permitting program. However, now the department seems to be placing roadblocks in the public's path. "We cannot see what the Department of Natural Resources has done with this funding," he charged. He reiterated the need for access to public documents in a timely fashion. He expressed the need for DNR to develop a process in which the department

would fax documents in a timely fashion or make them available on the Internet. Mr. Tegoseak explained that he supports Section 1 of HB 421 because it may achieve this vital public notice. He urged the committee to add a provision to require that only copying charges be paid.

Number 0456

TAD OWENS, Executive Director, Resource Development Council (RDC), testified via teleconference. He explained that RDC is a private, nonprofit trade association that represents individuals and companies from Alaska's mining, timber, tourism, fisheries, and oil and gas industries. Its mission is to grow Alaska's economy through responsible development of the state's natural resources.

MR. OWENS announced that RDC supports the changes to HB 421 encompassed in Version L. He explained, "As a rule, RDC supports efforts to clearly define and streamline the permitting procedures that are used by Alaska's resource agencies. And we feel that HB 421 in its current form is an important, incremental step towards this standard." However, Mr. Owens noted that RDC has concerns about possible fiscal impacts of the bill and therefore encourages the legislature to work closely with DNR in order to ensure that the department is able to meet the intent of the bill's language without additional funding.

Number 0305

JAN KONIGSBERG, Alaska Public Waters Coalition, testified via teleconference, bringing attention to the process issues that Version L addresses. He said the coalition is specifically concerned with DNR's process that has had the effect of limiting public access to public information on water use and applications for water use. In the last several months, the coalition has had several meetings that were well attended by the public and coalition members. During those meetings, there were reports that DNR has implemented processes to limit access by charging fees for "file review" and "file preparation." He expressed concern with the monetary impact of this policy. More important, the question is why public servants are potentially filtering public information in these records. He said [the coalition] hopes this isn't an effort by the department to "sanitize" the records. He explained:

Water is a constitutional-protected resource.  
Information in state files on water use should also be

freely given and constitutionally protected as well, Otherwise, there can be no public or legislative oversight of DNR's water permitting program.

MR. KONIGSBERG announced the coalition's support of the provisions of Section 1. He indicated hope regarding the standardized procedure and access to public documents, along with assurances that DNR will observe the current regulations - five free hours before anyone in the public is charged a fee.

Number 0065

PAM MILLER, Arctic Connection, testified via teleconference. The owner of a small business for which part of the work involves consulting on water-resource issues around Alaska, Ms. Miller mentioned that she'd participated in the American Water Resources Association - Alaska Section meeting last April, at which time surface waters were discussed. Ms. Miller said she was testifying in support of public access to DNR's water records and a standardized procedure as described in Section 1 of HB 421. Ms. Miller explained that she is concerned about water in general, due to what has happened in places such as California.

TAPE 02-11, SIDE A  
Number 0001

MS. MILLER indicated she'd attended a meeting with DNR regarding its proposed regulations; although she'd requested a simple listing of all the permits, she hadn't yet seen that list. She related other personal experiences regarding the difficulties with DNR's process involving access to the public record. In regard to HB 421, Ms. Miller said she views Section 1 as helpful in the research she has done. She pointed out that AS 44.62.312 in part says:

- (a) It is the policy of the state that
  - (1) the governmental units mentioned in AS 44.62.310(a) exist to aid in the conduct of the people's business;
  - (2) it is the intent of the law that actions of those units be taken openly and that their deliberations be conducted openly;
  - (3) the people of this state do not yield their sovereignty to the agencies that serve them;

MS. MILLER concluded by again expressing concern with public information on water resources.

Number 0369

ART GRISWOLD, Farmer, testified via teleconference in support of HB 421. He noted that he is very interested in HB 392 because it would provide agriculture with a secondary position to domestic water. Mr. Griswold expressed the need to know what wells are recorded when one purchases property. Furthermore, he asked how someone would know where and when one's irrigation well would be mixed up with one's domestic water. Without access to domestic water usage closest to one's irrigation wells, there is no knowledge of the impact on [domestic waters]. Having this information on the Internet would provide much more information.

MR. GRISWOLD offered his belief that this legislation would be beneficial. However, he expressed concern with a comment [in another hearing] that it would take DNR five years to catch up on the water permitting. Therefore, he questioned how that backlog could be addressed while providing anything up-to-date on the Internet.

Number 0524

SUE SCHRADER, Alaska Conservation Voters (ACV), noted that the committee packet should include her position paper. She highlighted the fact that ACV supports the provisions in Section 1 of HB 421. Having this information more readily available to the public will be beneficial to most Alaskans, she offered.

Number 0611

BOB LOEFFLER, Director, Division of Mining, Land and Water, Department of Natural Resources, testified via teleconference. He said, "Quite frankly, I don't understand where some of this is coming from." He related his belief [that the division] is fully committed to providing everyone public information. Mr. Loeffler explained [the division's] policy that its files are open to the public at all times. He pointed out that if someone makes an appointment, the file may be ready. However, [without an appointment] the file may be [in use by staff] and thus it's harder [to have the file available immediately].

MR. LOEFFLER informed the committee that people are charged \$.25 a page for copies and \$50 for research. He said that since he

has been director, to his knowledge, only Greenpeace had been charged \$50; that was because Greenpeace had requested over 100 files, which had to be pulled from archives and a variety of other places. He acknowledged the possibility that an employee had told Ms. Miller she'd be charged \$50; however, he said that isn't the division's policy. "The notion that we hide public records or, as was implied, that we were shredding public records is just not true," he stressed.

Number 0756

MR. LOEFFLER advised the committee that [division personnel] had spent over eight hours discussing the regulations with representatives, including Mr. Konigsberg and Ms. Miller, from a variety of environmental groups; no one had brought up issues regarding access to public records. Therefore, he noted his slight shock at these accusations. Mr. Loeffler reiterated his belief that the division's files are open to the public. If there is information otherwise, he suggested [informing] him.

MR. LOEFFLER turned to Section 1 and informed the committee that there are many records available on the Internet, but those are a bit cumbersome. Mr. Loeffler said he wasn't sure what [Section 1] was requesting. He pointed out that if the desire is to make all the division's files available on the Internet, that would amount to 1.4 million pieces of paper.

Number 0858

CO-CHAIR SCALZI related his belief that the intent is to place as much information as possible on the Internet. He said he didn't think it would be mandated to do it now, which he viewed as a [House Finance Committee] decision. The bill urges that the division move in the direction [of placing as much information on the Internet as possible].

MR. LOEFFLER said he was fine with that because he believes [the division] works for the public.

Number 0930

MS. YUHAS turned to Mr. Loeffler's comment that from the meetings with the environmental groups, he was unaware of any concerns regarding public access. However, at those very meetings was where she became aware that there was a problem with accessing public records, she said. Therefore, the bill

was introduced. Ms. Yuhas said she feels that this access problem was evident at those meetings.

MS. YUHAS expressed the need for clarification from the department regarding its definition of "significant use of water." Last year, the legislature gave the department \$300,000 to address the backlog. [That money was used to] create 5.5 new positions. Through regulation, it appears that the backlog will be eliminated because of the definition of significant use - 50,000 gallons a day - as well as the department's application requirement [for use] above 50,000 gallons, although the application won't be processed unless there is a conflict or the gallon usage becomes 50,000 gallons a day. Therefore, most of the backlog would be incorporated.

Number 1042

MS. YUHAS said the department is on record as not being happy with Representative Harris's bill regarding defining significant use. Therefore, she requested clarification from the department on its definition of significant water use, on whether the department feels it should be defined, as well as how the department intends to address the backlog through defining significant use.

MR. LOEFFLER answered that significant use is currently defined in regulation as 500 gallons a day or 5,000 gallons over ten days. The [division] had proposed regulations changing that, although analysis of the public comment hasn't been completed. He explained that those regulations would've changed significant use to 5,000 gallons a day from an anadromous fish stream or 50,000 from groundwater or a nonanadromous fish stream. No decision has been made on that. He commented, however, that it would only have limited impact on the backlog.

Number 1138

MS. YUHAS pointed out that the fiscal note will be attached to HB 421 in order to create a few more positions at DNR, which she feels is a cheaper route than losing more lawsuits due to not adhering to the public process. Ms. Yuhas urged the department to better address its responsibility to the public by reviewing its monetary requirements to meet what HB 421 is requesting. She further urged the department to be prepared to articulate those requirements to the House Finance Committee. Ms. Yuhas said, "I believe that the department may expect a higher level of scrutiny this year from the elected officials who appropriate

these funds in light of last year's award. We still don't know what exactly is happening with that \$300,000." Ms. Yuhas urged the committee to report the bill from committee.

Number 1220

REPRESENTATIVE FATE moved to report CSHB 421, version 22-LS1334\L, Luckhaupt, 2/27/02, out of committee with individual recommendations and the forthcoming fiscal note. There being no objection, CSHB 421(RES) was reported from the House Resources Standing Committee.

#### **ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:10 p.m.