

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

April 15, 2002

1:26 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 302

"An Act establishing the Alaska Gas Corporation, a public corporation, and providing for its structure, management, responsibilities, and operation, and requiring the development of a project plan to evaluate whether construction and operation of a natural gas transmission pipeline project by the corporation is feasible."

- MOVED HB 302 OUT OF COMMITTEE

SENATE BILL NO. 328

"An Act requiring that a nonresident big game hunter be accompanied by a big game guide who is providing big game hunting services to the nonresident under a contract with the nonresident or who is employed by a big game guide who has a contract to provide big game hunting services to the nonresident."

- MOVED SB 328 OUT OF COMMITTEE

CS FOR SENATE BILL NO. 308(FIN)

"An Act relating to the Alaska coastal management program and the responsibilities of the Alaska Coastal Policy Council; and providing for an effective date."

- MOVED CSSB 308(FIN) OUT OF COMMITTEE

CS FOR SENATE BILL NO. 319(FIN)

"An Act relating to shallow natural gas; and providing for an effective date."

- MOVED HCS CSSB 319(RES) OUT OF COMMITTEE

PREVIOUS ACTION

BILL: HB 302

SHORT TITLE:ALASKA GAS CORPORATION

SPONSOR(S): REPRESENTATIVE(S)WHITAKER

Jrn-Date	Jrn-Page		Action
01/14/02	1953	(H)	PREFILE RELEASED 1/4/02
01/14/02	1953	(H)	READ THE FIRST TIME - REFERRALS
01/14/02	1953	(H)	O&G, RES, FIN
04/01/02		(H)	O&G AT 9:00 AM CAPITOL 124
04/01/02		(H)	-- Meeting Canceled --
04/05/02		(H)	O&G AT 8:00 AM CAPITOL 124
04/05/02		(H)	Moved Out of Committee
04/05/02		(H)	MINUTE(O&G)
04/08/02	2833	(H)	O&G RPT 1DP 1DNP 2NR
04/08/02	2833	(H)	DP: FATE; DNP: KOHRING;
04/08/02	2833	(H)	NR: DYSON, CHENAULT
04/08/02	2834	(H)	FN1: ZERO(REV)
04/15/02		(H)	RES AT 1:15 PM CAPITOL 124

BILL: SB 328

SHORT TITLE:BIG GAME HUNTERS ACCOMPANIED BY GUIDE

SPONSOR(S): SENATOR(S) HALFORD BY REQUEST

Jrn-Date	Jrn-Page		Action
02/19/02	2238	(S)	READ THE FIRST TIME - REFERRALS
02/19/02	2238	(S)	L&C
03/05/02		(S)	L&C AT 1:30 PM BELTZ 211
03/05/02		(S)	Moved Out of Committee
03/05/02		(S)	MINUTE(L&C)
03/06/02	2386	(S)	L&C RPT 4DP
03/06/02	2386	(S)	DP: STEVENS, TORGERSON, DAVIS, LEMAN
03/06/02	2386	(S)	FN1: ZERO(DPS)
03/06/02	2386	(S)	FN2: ZERO(CED)

04/03/02	2610	(S)	RULES TO CALENDAR 4/3/02
04/03/02	2611	(S)	READ THE SECOND TIME
04/03/02	2611	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/03/02	2612	(S)	READ THE THIRD TIME SB 328
04/03/02	2612	(S)	PASSED Y19 N- E1
04/03/02	2619	(S)	TRANSMITTED TO (H)
04/03/02	2619	(S)	VERSION: SB 328
04/03/02		(S)	RLS AT 10:30 AM FAHRENKAMP 203
04/03/02		(S)	MINUTE(RLS)
04/04/02	2793	(H)	READ THE FIRST TIME - REFERRALS
04/04/02	2793	(H)	RES
04/15/02		(H)	RES AT 1:15 PM CAPITOL 124

BILL: SB 308

SHORT TITLE: COASTAL ZONE MGMT POLICIES/ REGS/GAS LINE

SPONSOR(S): SENATOR(S) THERRIAULT

Jrn-Date	Jrn-Page		Action
02/19/02	2233	(S)	READ THE FIRST TIME - REFERRALS
02/19/02	2233	(S)	RES, FIN
03/04/02		(S)	RES AT 3:30 PM BUTROVICH 205
03/04/02		(S)	Moved CS(RES) Out of Committee
03/04/02		(S)	MINUTE(RES)
03/04/02		(S)	MINUTE(RES)
03/06/02	2385	(S)	RES RPT CS 5DP 2NR TECH TITLE CH
03/06/02	2385	(S)	DP: TORGERSON, TAYLOR, HALFORD, STEVENS
03/06/02	2385	(S)	WILKEN; NR: LINCOLN, ELTON
03/06/02	2385	(S)	FN1: ZERO(GOV)
03/06/02		(S)	RLS AT 0:00 AM FAHRENKAMP 203
03/06/02		(S)	<Pending Referral>
03/21/02		(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/21/02		(S)	Moved CS(FIN) Out of Committee
03/21/02		(S)	MINUTE(FIN)
03/22/02	2492	(S)	FIN RPT CS 4DP 3NR TECH TITLE CH
03/22/02	2492	(S)	DP: KELLY, GREEN, WILKEN, LEMAN;
03/22/02	2492	(S)	NR: DONLEY, AUSTERMAN, WARD

03/22/02	2492	(S)	FN1: ZERO(GOV)
03/27/02	2540	(S)	RULES TO CALENDAR 10R 3/27/02
03/27/02	2543	(S)	READ THE SECOND TIME
03/27/02	2543	(S)	FIN CS ADOPTED UNAN CONSENT
03/27/02	2544	(S)	ADVANCED TO THIRD READING UNAN CONSENT
03/27/02	2544	(S)	READ THE THIRD TIME CSSB 308(FIN)
03/27/02	2544	(S)	PASSED Y17 N3
03/27/02	2544	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
03/27/02	2544	(S)	ELLIS NOTICE OF RECONSIDERATION
03/27/02		(S)	RLS AT 10:45 AM FAHRENKAMP 203
03/28/02	2562	(S)	RECONSIDERATION NOT TAKEN UP
03/28/02	2562	(S)	TRANSMITTED TO (H)
03/28/02	2562	(S)	VERSION: CSSB 308(FIN)
04/01/02	2733	(H)	READ THE FIRST TIME - REFERRALS
04/01/02	2733	(H)	O&G, RES
04/08/02		(H)	O&G AT 9:00 AM CAPITOL 124
04/08/02		(H)	Moved Out of Committee
04/08/02		(H)	MINUTE(O&G)
04/08/02	2834	(H)	O&G RPT 2DP 2NR 1AM
04/08/02	2834	(H)	DP: DYSON, FATE; NR: JOULE, GUESS;
04/08/02	2834	(H)	AM: KOHRING
04/08/02	2834	(H)	FN1: ZERO(GOV)
04/15/02		(H)	RES AT 1:15 PM CAPITOL 124

BILL: SB 319

SHORT TITLE: SHALLOW NATURAL GAS: LEASING & DISCHARGES

SPONSOR(S): SENATOR(S) TORGERSON

Jrn-Date	Jrn-Page		Action
02/19/02	2236	(S)	READ THE FIRST TIME - REFERRALS
02/19/02	2236	(S)	RES, FIN
02/27/02		(S)	RES AT 3:30 PM BUTROVICH 205
02/27/02		(S)	Moved CSSB 319(RES) Out of Committee
02/27/02		(S)	MINUTE(RES)
03/01/02	2339	(S)	RES RPT CS 6DP 1NR SAME TITLE
03/01/02	2339	(S)	DP: TORGERSON, TAYLOR, STEVENS, WILKEN,
03/01/02	2339	(S)	LINCOLN, ELTON; NR: HALFORD

03/01/02	2339	(S)	FN1: (DNR)
03/26/02		(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/26/02		(S)	Moved CSSB 319(Fin) Out of Committee
03/26/02		(S)	MINUTE(FIN)
03/26/02		(S)	MINUTE(FIN)
03/27/02	2535	(S)	FIN RPT CS 7DP 1NR NEW TITLE
03/27/02	2535	(S)	DP: KELLY, OLSON, WILKEN, AUSTERMAN,
03/27/02	2535	(S)	GREEN, WARD, LEMAN; NR: DONLEY
03/27/02	2535	(S)	FN1: (DNR)
03/28/02	2556	(S)	RULES TO CALENDAR 3/28/02
03/28/02	2557	(S)	READ THE SECOND TIME
03/28/02	2557	(S)	FIN CS ADOPTED UNAN CONSENT
03/28/02	2557	(S)	ADVANCED TO THIRD READING UNAN CONSENT
03/28/02	2557	(S)	READ THE THIRD TIME CSSB 319(FIN)
03/28/02	2557	(S)	PASSED Y17 N- E3
03/28/02	2557	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
03/28/02	2562	(S)	TRANSMITTED TO (H)
03/28/02	2562	(S)	VERSION: CSSB 319(FIN)
03/28/02		(S)	RLS AT 8:30 AM FAHRENKAMP 203
03/28/02		(S)	-- Time Change --
03/28/02		(S)	MINUTE(RLS)
04/01/02	2733	(H)	READ THE FIRST TIME - REFERRALS
04/01/02	2733	(H)	O&G, RES
04/08/02		(H)	O&G AT 9:00 AM CAPITOL 124
04/08/02		(H)	Moved Out of Committee
04/08/02		(H)	MINUTE(O&G)
04/08/02	2834	(H)	O&G RPT 4DP 1AM
04/08/02	2834	(H)	DP: DYSON, JOULE, GUESS, FATE;
04/08/02	2834	(H)	AM: KOHRING
04/08/02	2835	(H)	FN1: (DNR)
04/08/02	2839	(H)	FIN REFERRAL ADDED AFTER RES
04/15/02		(H)	RES AT 1:15 PM CAPITOL 124

WITNESS REGISTER

REPRESENTATIVE JIM WHITAKER
Alaska State Legislature
Capitol Building, Room 411

Juneau, Alaska 99801
POSITION STATEMENT: Sponsor of HB 302.

D.W. (BILL) STOLTZE, Staff
to Senator Rick Halford
Alaska State Legislature
Capitol Building, Room 111
Juneau, Alaska 99801
POSITION STATEMENT: Presented SB 328 on behalf of Senator
Halford, sponsor by request.

CATHERINE REARDON, Director
Division of Occupational Licensing
Department of Community & Economic Development (DCED)
P.O. Box 110806
Juneau, Alaska 99811-0806
POSITION STATEMENT: Answered questions relating to SB 328.

JOE BALASH, Staff
to Senator Gene Therriault
Alaska State Legislature
Capitol Building, Room 121
Juneau, Alaska 99801
POSITION STATEMENT: Presented SB 308 on behalf of Senator
Therriault, sponsor.

JOHN T. SHIVELY, Lobbyist
for Foothills Pipe Lines Ltd.
1336 West 12th Avenue
Anchorage, Alaska 99501
POSITION STATEMENT: Testified in support of SB 308.

PATRICK GALVIN, Director
Division of Governmental Coordination
Office of the Governor
P.O. Box 110030
Juneau, Alaska 99811-0030
POSITION STATEMENT: Testified on SB 308.

DANA OLSON
HC-30 Box 5438
Wasilla, Alaska 99654
POSITION STATEMENT: During testimony on SB 308, made
suggestions and expressed concerns about the bill and related
matters; testified on SB 319, expressing concerns and requesting
the bill be held over in committee for further review of
impacts.

SENATOR JOHN TORGERSON
Alaska State Legislature
Capitol Building, Room 427
Juneau, Alaska 99801
POSITION STATEMENT: Sponsor of SB 319.

JERRY BOOTH, Representative
Teck Cominco Alaska Inc.
3105 Lakeshore Drive, Building A, Suite 101
Anchorage, Alaska 99517
POSITION STATEMENT: Testified in support of SB 319.

MARK MYERS, Director
Division of Oil & Gas
Department of Natural Resources (DNR)
550 West Seventh Avenue, Suite 800
Anchorage, Alaska 99501-3560
POSITION STATEMENT: Testified in support of SB 319; answered
questions about the impact of the bill for committee members.

KEVIN TABLER, Manager of Lands and Government Affairs
Union Oil Company of California (Unocal)
P.O. Box 196247
Anchorage, Alaska 99510
POSITION STATEMENT: Testified in support of SB 319.

JOHN TANIGAWA, Special Projects Manager
Evergreen Resources Alaska Corporation
P.O. Box 871845
Palmer, Alaska 99645
POSITION STATEMENT: Testified in support of SB 319.

DARWIN PETERSON, Staff
to Senator John Torgerson
Alaska State Legislature
Capitol Building, Room 427
Juneau, Alaska 99801
POSITION STATEMENT: Commented on SB 319 on behalf of Senator
Torgerson, sponsor.

ACTION NARRATIVE

TAPE 02-30, SIDE A
Number 0001

CO-CHAIR BEVERLY MASEK called the House Resources Standing Committee meeting to order at 1:26 p.m. Representatives Masek, Fate, Green, Chenault, Stevens, Kapsner, and Kerttula were present at the call to order. Representatives Scalzi and McGuire joined the meeting as it was in progress.

HB 302-ALASKA GAS CORPORATION

CO-CHAIR MASEK announced the first order of business, HOUSE BILL NO. 302, "An Act establishing the Alaska Gas Corporation, a public corporation, and providing for its structure, management, responsibilities, and operation, and requiring the development of a project plan to evaluate whether construction and operation of a natural gas transmission pipeline project by the corporation is feasible."

Number 0100

REPRESENTATIVE JIM WHITAKER, Alaska State Legislature, sponsor, came forward to present HB 302, joined by staff person Lori Backes. He offered his belief that a legislative effort of this nature can facilitate construction of a successful gas pipeline project. However, a new element has arisen, an initiative that will put before the voters in November another "gas entity," a port authority that is a corporate entity. He said the problem with the initiative is that rather than letting the market determine where gas should or shouldn't go, it specifies a "Prudhoe Bay-to-Valdez LNG [liquefied natural gas] approach to gas." He remarked, "We've gone beyond that, and I think that we would muddy the waters significantly unless we provide an alternative to that initiative." He offered his belief that HB 302 does that.

REPRESENTATIVE WHITAKER brought attention to a legal opinion in committee packets from Jack Chenoweth [of Legislative Legal and Research Services], which he said indicates Mr. Chenoweth "sees no reason that House Bill 302 is not significantly similar to the initiative, as to make the initiative moot." Generally, in addition to being a better idea than the initiative, he said, HB 302 will have an effect that is significant, including significant revenue advantages to the state relating to ownership. Mentioning competition with regard to pipeline access, as well as in-state usage issues, he suggested that it is appropriate, if not imperative, that the state have an ownership position with regard to a natural gas pipeline.

CO-CHAIR MASEK requested Representative Fate's comments, since he is a member of the House Special Committee on Oil and Gas, which had heard the bill previously.

Number 0431

REPRESENTATIVE FATE said he thought Mr. Chenoweth's memorandum speaks well for it, and that [the bill] is a little broader in scope [than the initiative]. He offered his own opinion that it is a very good bill.

CO-CHAIR MASEK asked whether anyone wished to testify; there was no response.

The committee took an at-ease from 1:28 p.m. to 1:29 p.m.

Number 0514

REPRESENTATIVE FATE moved to report HB 302 out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, HB 302 was moved out of the House Resources Standing Committee.

SB 328-BIG GAME HUNTERS ACCOMPANIED BY GUIDE

CO-CHAIR MASEK announced the next order of business, SENATE BILL NO. 328, "An Act requiring that a nonresident big game hunter be accompanied by a big game guide who is providing big game hunting services to the nonresident under a contract with the nonresident or who is employed by a big game guide who has a contract to provide big game hunting services to the nonresident."

Number 0648

D.W. (BILL) STOLTZE, Staff to Senator Rick Halford, Alaska State Legislature, presented SB 328 on behalf of Senator Halford, sponsor by request. Calling SB 328 a "very narrow-scope fix" to comply with the original intent of the guide bill of 1996, Mr. Stoltze indicated the Department of Law's interpretation created a loophole that the original legislation didn't intend, allowing nonresident assistant guides to act as their own guides.

CO-CHAIR MASEK offered her understanding that people who come to Alaska would need a guide who is from Alaska.

MR. STOLTZE replied that the person would have to sign a contract with a registered or master guide. He said the qualifications for an assistant guide are fairly minimal: having hunted in Alaska at some point over a two-year period, to his belief, and having a letter of recommendation from a local biologist, which to his understanding is a fairly easy process. He added that the state isn't able to restrict nonresident guides because it involves interstate commerce issues and so forth. This bill therefore closes a fairly narrow loophole that was brought to Senator Halford's attention by other guides; it only affects big-game species [brown bear, grizzly bear, mountain goat, and sheep].

Number 0868

MR. STOLTZE, in response to Representative Chenault, clarified that the loophole is that an assistant guide can guide another guide, according to the interpretation, or can claim to be guiding himself/herself.

CO-CHAIR MASEK called attention to the third paragraph of the sponsor statement, which read:

Under the proposed changes to AS 16.05.407(a) an assistant guide would be able to accompany the nonresident or nonresident alien only if a registered or master guide employs him, and the hunter has a contract with the registered or master guide.

REPRESENTATIVE CHENAULT noted that AS 08.54.630 [subsection (a)(4)] says a person is entitled to an assistant guide license if the person obtains ["a written recommendation from a registered guide, state trooper, state fish and wildlife law enforcement officer, or state fish or game biologist who is familiar with the person or who intends to employ the person as an assistant guide"]. He asked why this legislation is needed.

Number 1000

MR. STOLTZE reiterated that it is needed because the Department of Law created a loophole through its interpretation; he surmised that happened because an assistant guide had pursued the issue. He offered his belief that this bill complies with the policy of a previous legislature, but acknowledged that it is a policy call.

MR. STOLTZE, in reply to questions from Co-Chair Masek and Representative Chenault, explained that an assistant guide who was hunting big-game species would have to follow the same statutes that apply to all other nonresidents hunting in Alaska and would have to sign a contract with a registered guide. He added that the only contact received, outside the public testimony, has been from guides - one from Ohio, one from St. Petersburg, Florida, and one from Big Sky, Montana - wanting to know what was going on and whether it was going to "screw up their brown-bear or Dall-sheep hunt they had planned to take themselves out on."

Number 1257

REPRESENTATIVE STEVENS noted that his own community has a large Kodiak bear population and several master guides who employ assistant guides, who often are people with very little experience; he suggested it therefore makes sense that the assistant guide be employed by the master guide. He offered his understanding that the bill is just saying the [assistant guide] must be employed by the master guide.

MR. STOLTZE reiterated that for the purpose of hunting, an assistant guide must comply with the same requirements for other nonresidents. For going on a brown-bear hunt, it requires a contract with a master guide or registered guide who has met all the statutory requirements.

Number 1325

REPRESENTATIVE McGUIRE asked whether the contract has to be for money or can be nominal.

MR. STOLTZE said it isn't spelled out. He added that part of this is trying to work within the constraints of what is doable. He suggested, however, that if a registered or master guide were willing to put his/her reputation and livelihood at stake to have this guide going out by himself/herself, "then I imagine they could sign just a paper contract with a ... master guide."

Number 1366

REPRESENTATIVE McGUIRE asked whether the constitutionality has been challenged; she mentioned the interstate commerce clause.

MR. STOLTZE said there is case history, although he couldn't cite the court cases. He added that there are no restrictions on nonresident guides who come to Alaska.

REPRESENTATIVE McGUIRE noted that an assistant [guide] could be either very inexperienced or could be a master guide from Montana who, coming to Alaska, could only serve as an assistant.

MR. STOLTZE acknowledged that possibility.

REPRESENTATIVE McGUIRE said her only question in that line of logic is that she believes the law was enacted for safety reasons, preservation of the species, and so forth, and perhaps people who might be equally or more qualified [than an Alaskan] would be denied a privilege simply on the basis of residency in another state.

MR. STOLTZE surmised that the difference might be the ability to earn a living as opposed to the recreational aspect of it. He acknowledged that he isn't a lawyer.

Number 1476

REPRESENTATIVE GREEN asked whether AS 08.54 requires a master guide to be an Alaska resident and pass certain requirements.

MR. STOLTZE said no.

REPRESENTATIVE GREEN mentioned Representative McGuire's example about a master guide from Montana. He offered his understanding that someone from Montana who comes to Alaska to hunt with a master guide from Montana would comply, then, without having a contract with a master guide from Alaska.

MR. STOLTZE deferred to the Division of Occupational Licensing.

Number 1561

CATHERINE REARDON, Director, Division of Occupational Licensing, Department of Community & Economic Development (DCED), noting that her division does the guide licensing in the state, explained:

We issue guide licenses regardless of residency. So a Montana master guide could come up here and apply for a guide license, and if he or she qualifies, then he or she would get an Alaska license. They can't just

come up with their Montana license ... and start practicing; there isn't that kind of reciprocity. But like any other citizens of the United States, they're eligible for a license if they meet the qualifications. The qualifications do include experience as an assistant guide in Alaska. So it wouldn't be an instant process; they'd probably have to spend several years working at earning the qualifications to have a guide license.

REPRESENTATIVE GREEN asked whether that is under [AS] 08.54.

MS. REARDON answered in the affirmative, noting that [AS] 08.54 contains all of the qualifications and regulation of hunting guides. [SB 328] amends the fish and game statute requiring that someone be accompanied by a licensed guide under some circumstances.

Number 1652

REPRESENTATIVE FATE offered his understanding that a guide with a license from Montana who has a contract to take other Montana residents on a bear hunt [in Alaska] would have to be accompanied if that guide didn't have an Alaskan guide license. If that Montana guide then contracted with a guide from Alaska, he asked, what happens to those people who contracted with the original Montana guide to go on a bear hunt? Must they individually contract with the Alaska-licensed guide? Or do they come under the qualifications as being contracted by the Montana guide, who then has to conform to Alaska law with a resident licensed guide?

MS. REARDON answered that they would have to contract with an Alaskan guide. She explained:

The way the guide law works, it says that in order to offer guiding services in Alaska, you must be [an] Alaska-licensed guide. A Montana-licensed guide who doesn't hold a license here is just like any other member of the public from Montana. The fact you have a guide license in Montana is irrelevant: you're like any other non-Alaska resident who wants to come up here ... and hunt or work.

Number 1739

REPRESENTATIVE FATE said this is good for the guide, but that there would be several people from Montana who would have a contract with that guide. He asked whether that makes their contract with the original Montana guide null and void, so that they also must contract with the licensed guide from Alaska to hunt.

MS. REARDON replied:

A Montana guide should not be contracting with Montanans ... to conduct a hunt in Alaska. To conduct a hunt in Alaska, you have to be an Alaska guide. So there shouldn't be anyone out there who is saying, "I can take you on a guided hunt in Alaska," unless that person has an Alaska license. ... When he entered the state and started doing any activity, he would be breaking ... the law.

Number 1793

REPRESENTATIVE CHENAULT read from the written sponsor statement. After reading from the third paragraph [text provided previously], he offered his interpretation that AS 54.630 states exactly that.

MR. STOLTZE said it wasn't a court but the Department of Law whose interpretation was that the assistant guides didn't have to comply with that statute, which is what the bill attempts to fix.

Number 1875

MS. REARDON clarified that the problem is that people are getting these licenses to avoid hiring guides. The requirement for an assistant guide license is having these recommendations, but those don't have to come from a guide; they could come from a fish and game biologist or several other categories of people. A person only has to be recommended one time to get the license, not recommended for a particular hunt. However, [nonresidents] have been getting Alaska assistant guide licenses for the specific purpose of coming up and hunting on their own or with their friends; that's the loophole. Rather than actually wanting to work as guides, they are qualifying as assistant guides to avoid paying a guide when they [hunt] in Alaska. They can do so because the current statute says [a hunter] has to be personally accompanied by an assistant guide, and these people

have been accompanying themselves, so to speak, and bringing their friends as well.

CO-CHAIR MASEK said this clearly indicates why the bill is needed. She offered her belief that part of the reason for requiring a guide in Alaska is because out-of-state guides aren't familiar with Alaska's big game or terrain, and it could be dangerous. She asked whether Representative Chenault had gotten "a clear reading of it."

REPRESENTATIVE CHENAULT said no, but that he wouldn't pursue it further.

CO-CHAIR MASEK asked whether anyone else wished to testify; there was no response. She closed public testimony.

Number 2030

REPRESENTATIVE STEVENS remarked that the big-game hunters and master guides in Kodiak have what he considers a wonderful program whereby they are trying to get villagers to become guides. It therefore becomes a matter of economic development. He said it is interesting that this bill closes a loophole with regard to nonresidents, which he believes is good.

Number 2069

REPRESENTATIVE McGUIRE moved to report SB 328 out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, SB 328 was moved out of the House Resources Standing Committee.

SB 308-COASTAL ZONE MGMT POLICIES/ REGS/GAS LINE

[Contains discussion relating to HB 439]

CO-CHAIR MASEK announced the next order of business, CS FOR SENATE BILL NO. 308(FIN), "An Act relating to the Alaska coastal management program and the responsibilities of the Alaska Coastal Policy Council; and providing for an effective date."

Number 2150

JOE BALASH, Staff to Senator Gene Therriault, Alaska State Legislature, presented SB 308 on behalf of Senator Therriault, sponsor. He explained that although SB 308 began similar to HB 439, the latter became the vehicle after being referred to the

Senate, and the individual-project petition language was removed. Remaining were two things: a prohibition on adopting state regulations and statutes [by reference] in local coastal district plans, and a provision to allow phased permitting of a North Slope natural gas pipeline that follows the Trans-Alaska Pipeline System (TAPS) route to Canada or to Alaska tidewater. He said the importance of that provision cannot be[overstated]; a project of this size, number of permits, and complexity is so great that in order for a consistency determination to be rendered, everything must be submitted at once for the agencies to look at in its entirety. This bill therefore allows an agency to proceed in whatever fashion is deemed best.

Number 2246

REPRESENTATIVE GREEN offered his observation, having done some permitting, that quite often in this process there are many nuances. Certain decisions cannot be made successfully way in advance; hence there is a need for the flexibility to move as necessary.

Number 2296

REPRESENTATIVE STEVENS asked whether the oil pipeline was phased or was built before all these requirements were in place.

MR. BALASH answered that TAPS was permitted and constructed in the early 1970s, whereas the Coastal Zone Management (CZM) program didn't come into play until 1977, to his understanding. It therefore didn't need to be phased. He said the array of statutes enacted at the federal and state levels is unbelievably complex, and it is hard to say how TAPS would have been permitted under today's regime.

Number 2398

REPRESENTATIVE KERTTULA asked what must be known up front before the project will be allowed to go forward.

MR. BALASH answered that he thinks the language leaves the discretion in the hands of the agency responsible for rendering the consistency determination. The statutes are unchanged in that regard, so the Division of Governmental Coordination (DGC) ultimately makes the decision in concert with the various agencies. He offered his understanding that this has been run by the Department of Natural Resources (DNR) and the Department of Environmental Conservation (DEC), which agree. As far as

what sort of information must be provided, he said the language doesn't stipulate any of that.

REPRESENTATIVE KERTTULA asked Mr. Balash what will happen if an agency starts out and, all of a sudden, in one of the phases, it doesn't need the consistency determination. For example, what if part of the pipe is already laid and then a snag is encountered that precludes making the second phase work?

MR. BALASH said he was trying to separate out the different versions of the different bills before the legislature. He then offered his belief that the phasing can be based on construction sequences and on distinct areas of the state that the pipe is running through; for the most part, as he understands it, there is a local coastal plan for the North Slope Borough and a couple of rivers coming down from the Beaufort Sea, but only a very limited area will require the consistency determination. For the rest of the 1,800 or so miles, the pipe won't be running through a coastal district; the processing facilities, conditioning plants, and so forth will be in a discrete area that should be able to be dealt with prior to any real "hiccups" in the process. Where it becomes most complex is that, to his understanding, the project applicant would have to know exactly which route the pipe was going to take, including which rivers it would go over or under, what time of year it would be, and so forth. And to have an idea when those things would happen is virtually impossible to know, Mr. Balash said. Therefore, this will allow concentrating on the portion of pipe that will be affecting a coastal district.

Number 2588

REPRESENTATIVE KERTTULA asked whether it will be left completely up to the agency to decide how to allow phasing and what to look at in making that decision. She asked whether the statute completely delegates that to the division.

MR. BALASH answered in the affirmative.

Number 2610

CO-CHAIR SCALZI requested a brief explanation of Section 3, subsection (b).

MR. BALASH responded that Section 1 puts into place the prohibition on the adoption [by reference] of regulations and statutes [adopted by state agencies]. He offered his

understanding that the [Alaska] Coastal Policy Council (ACPC) has already "kind of ordered that" administratively with regard to local plans. Section 3, subsection (a), gives the local coastal districts one year to comply with this statutory change; subsection (b) allows the ACPC to issue an order, once that year is up, deleting those specific references in the local plan if the local district hasn't taken the step to do so. He suggested Mr. Galvin [from DGC] could speak to the arrangements made [by DGC] regarding the local districts and their ability to make those changes.

Number 2715

JOHN T. SHIVELY, Lobbyist for Foothills Pipe Lines Ltd., testified via teleconference in support of the bill. He agreed with [Mr. Balash] that trying to get a determination on the entire gas line project up front doesn't make sense because of the complicated nature of the project. He added:

We've worked with the administration, both the Division of Governmental Coordination and the other agencies, and, I think, have all come to the same conclusion, in that that project should be phased, and that how it's phased is something that will be worked out between the agencies and the applicant.

To be frank, although there are some advantages to the applicant in the phasing situation, there are also some risks because we will have to have more than one consistency determination. But the kind of thing we're thinking about - to partially answer Representative Kerttula - is, right now we're trying to finalize a decision on the right-of-way, state lands; we already have the right-of-way across federal lands in Alaska. And under the current law, that right-of-way could not be issued until there was [a] consistency determination, and the consistency determination couldn't be issued until every permit was basically set to go: every stream crossing, every DEC permit. This ... allows decisions like the right-of-way to be made without ... having to approve the whole project.

I would be very surprised that any applicant would proceed, ... although that's technically allowed ... under this language, ... with actual construction of any part of the gas line until the whole thing was

(indisc.). So I think it would be very unlikely [there] would be pipe in the ground one place that then would be stopped because of another consistency determination.

Number 2842

PATRICK GALVIN, Director, Division of Governmental Coordination, Office of the Governor, testified that DGC is responsible for implementing the coastal management program. Noting that he would reiterate a couple of points made that day, he said:

We did participate in some discussions with some of the other agencies that would be involved in permitting a pipeline project, and came to the conclusions that were indicated earlier: that a project of the magnitude that we would anticipate here would be so large that even under our current phasing law, which allows phasing in certain circumstances, it probably technically would not meet those requirements, but from a practical standpoint would almost be too large for us to tackle all at once, given any amount of resources that we may want to throw at it.

And, also, looking at it from the point of view of the public that may want to participate in a review of the project, if we try to do it all at once, then, again, the magnitude would be so large, and while the applicant may be able to throw the resources at it and the state may even ... be able to come up with resources that may be able to tackle it, the public would not be able to comprehend such a vast scale all coming down at the same time.

And so while we recognize that there was a need to allow for phasing of a project along these lines, what we recognize is that, as I indicated, the current phasing law - which was drafted primarily looking at the sequencing of oil and gas development going from lease sales to exploration to development - was limited in its application to this type of a project, and that rather than coming up with [an] exemption or trying to change the language of the ... phasing law in order to allow for a project of this type to fit under it, it might have some unexpected consequences

of allowing other projects - that would not be nearly this scale - of fitting that same justification.

And so we felt that structurally the proper approach was the one taken by this bill, which was to say that the natural gas pipeline is so unique that it needs to have a separate provision of our phasing law to allow for phasing in a manner that would be decided at that time.

MR. GALVIN referred to Section 1 and what he called the tie-in in Section 3.

TAPE 02-30, SIDE B
Number 2965

MR. GALVIN said it had become a practice for those [local] plans to just periodically incorporate state law when they didn't feel the need to add to it. Hence there would be a statement incorporating the "rules of the Department of Fish and Game" or "the rules with regard to the DGC spill-response requirements," for example, into the plan. However, those incorporations by reference legally "froze in time" the requirements of the state law at the time the plan was adopted; as those state laws were refined and updated, local plans kept the old rules in place. Therefore, a number of times, there were conflicting rules for an individual project, even though the intent was to merely take the state law into the local plan.

MR. GALVIN reported that as this problem has been recognized over the last four or five years, [DGC] has encouraged local districts to update their plans and try to remove these provisions; however, they haven't done so because of lack of time, interest, motivation, or money to do so. Thus what [DGC] sees as an advantageous portion of this law is that it allows the ACPC, as the body that oversees the program, to take that step on its own, whereas under current process the district has to initiate that attempt, which they haven't been willing to do. This therefore offers the opportunity to rectify the situation in a way that doesn't require districts to take that initial step.

Number 2865

REPRESENTATIVE KERTTULA asked whether AS 46.40.094 is the basic statute that would apply today unless this change is made.

MR. GALVIN answered in the affirmative.

REPRESENTATIVE KERTTULA asked Mr. Galvin what, in that statute, he believes DGC will have problems with in phasing. She remarked, "I would think that this would be a project that would obviously have to be phased."

MR. GALVIN responded that the answer goes back to an example Representative Green alluded to earlier: there may be projects for which something might be identified up front, and over the course of the analysis of that project, when it gets to the point where something becomes an issue, "you may find that that's not the case." Mr. Galvin said this example fits the model in the current law, which takes into account that opportunity and allows phasing of a project "where developing information is going to be obtained during the course of an earlier phase that may result in changes at a subsequent phase."

MR. GALVIN, with regard to how a natural gas pipeline project would be developed, said there probably is the ability to obtain the information relating to all of the stream crossings and engineering that would be expected to take place within the coastal zone. However, from both a capital-investment standpoint with regard to upfront investment and from an information-gathering standpoint, [DGC] doesn't think it would be practical that such information would be available all at once at the front end of the project, and doesn't foresee the information all coming in at once. He said part of it relates to the fact that the applicant that is furthest along now is looking at giving the state right-of-way, which cannot be issued until a consistency determination has been made associated with that decision. In conclusion, he said:

So while we may be able to make a consistency determination with regard to the issues that are association with that right-of-way, the route where the pipe's going to go, and what streams are actually going to be crossed, what we won't have available to us are the engineering, the spill-response requirements, and all those other things that would ... naturally go into the consistency review that we would want to make a decision on, and we wouldn't be able to say, "Yes, you're entirely consistent." But we could make it with regard to the information that's available for the right-of-way, if this language were to go through.

Number 2697

REPRESENTATIVE KERTTULA said she must be missing something, then, because she thought phasing would have allowed limiting what is being reviewed in that phase at any rate, "unless ... you've got something that you know, where it was made a part of the record." She added, "You don't have to know everything completely up front; you do have to know 'reasonably foreseeable' or a significant effect. But are you requiring a project that's phased currently to bring in every single piece of information up front now?"

MR. GALVIN answered that it is the information that is available, which is actually the problem because, for a number of projects, people will say. "Well, we don't have the finances now to get that information, and so we would like to get just this part permitted right now." Mr. Galvin explained:

Under the phasing law, that information is available; it's just [that] they're choosing now to obtain it at this point. And so ... the concern is that if we interpret the law differently than we currently do for this gas line project, it's going to have a precedent in other projects, and that we'll end up with a much broader phasing opportunity than we currently have, just because we wanted to make this exception.

Number 2634

REPRESENTATIVE KERTTULA asked, "Why are you not requiring available information to be brought in with the gas line? Is it the expense?"

MR. GALVIN responded:

It's both the expense and the magnitude, that we see that if we're looking at a gas line in total, from treatment facility through the entire route, ... primarily on the North Slope side, that the information that would be needed would be more than what could be brought to bear at the time that either the applicant or the state would be interested in having ... that consistency determination (indisc.).

Number 2576

CO-CHAIR SCALZI remarked that there are districts that have been active with regard to their local management plans. He asked whether Mr. Galvin had communicated with municipalities about this bill and, if so, what their reaction was.

MR. GALVIN said not with regard to this particular bill. He reported that there have been a number of "hearings from the coastal policy council" dealing with this topic, however, which engendered a great deal of debate four or five years ago when it first became a problem. He said there wasn't any indication from the coastal districts, whether they have current plans or older ones, that there was an advantage in incorporating state law by reference.

CO-CHAIR SCALZI asked whether Mr. Galvin planned to consult with local districts.

MR. GALVIN pointed out that Section 3, subsection (a), allows districts to first have the opportunity to amend their plans in order to make them comply with the provisions of Section 1. This provides them a way to comply before the ACPC acts. He said there would be communication at that point.

CO-CHAIR SCALZI offered that his own concern is more about input than being in compliance.

Number 2459

DANA OLSON testified via teleconference, noting that she'd faxed her comments to the committee that morning; she asked that they be included in the legislative history. She expressed concern about citizen involvement in the bill, in particular, and suggested this negates the public process under the theory of some economic gain, even though she sees no legal or factual basis that the state will gain anything. These are major program changes that haven't been approved by the Secretary of Commerce, she said. Ms. Olson noted that earlier she had requested that there be a "title or purpose of this bill," because it seems to be a catchall for any issue that's out there, and it creates an insufficiency of notice. She suggested the need for it to be more clear and precise.

MS. OLSON noted that she'd volunteered previously to help set up citizen involvement with regard to making recommendations on program changes. She expressed disappointment that she hadn't been given such an opportunity or heard of anyone else having that opportunity.

Number 2347

REPRESENTATIVE STEVENS referred to Ms. Olson's written testimony and asked her to comment on her perceived need for a fiscal note.

MS. OLSON replied:

Well, part of the problems that I find is that when the state hasn't done AS 46.03.040, ... an environmental plan, and all they have is a regulatory means to address things, there is a requirement ... under Title 38, which is an enforceable policy of the Coastal Management Program, to revise the outdated land-use plans when necessary.

And I've alleged for years and years, since 1984, that it's necessary. I've met with deaf ears. I'm being affected by this ... fact that it's not being revised when necessary. Also, the fiscal note for consideration of specific plans that are required under specific permits, I'm alleging that if the state can't do it and hasn't been able to do it since 1984 - and I've even given an example of the Knik Arm power process - I'm alleging that this ... would not constitute an adequate risk assessment, and, therefore, I would be ... very objecting to this process.

CO-CHAIR MASEK asked whether anyone else wished to testify; she then closed public testimony.

Number 2248

REPRESENTATIVE STEVENS requested that the [sponsor's staff] address the fiscal note.

MR. BALASH replied that there would be some expense borne by the agency in terms of ordering the coastal districts to fix their plans. With regard to Section 2 of the bill, the phasing language, Mr. Balash said he imagined it would make the agency's job easier rather than harder when these applications come in. As for the agency's expenditures in relation to this, he suggested Mr. Galvin could explain that better. He added that the agencies won't have to do anything in response to this change in law. If the right-of-way application is "processed

along further," he offered his belief that there is a designated-program-receipts mechanism in place now, and that "they are paying for the work being done at the gas pipeline office" to help process that application.

MR. GALVIN, in response to Representative Stevens, said Ms. Olson had testified on this bill a number of times, primarily dealing with petition language that has been dropped in the bill. He said her reference to the environmental planning is planning done by DEC and isn't related to any aspects of this program or what [DGC] deals with; hence it is difficult to respond to that particular claim. He offered his belief that this bill won't have a fiscal impact. Although the ACPC doesn't have money set aside for dealing with this aspect, it has an operating budget "from our federal grant" under which actions necessary under this bill would fit. Therefore, [DGC] doesn't see any additional fiscal impact, he concluded.

Number 2040

REPRESENTATIVE KERTTULA began discussion of what she would later offer as Amendment 1. She related her understanding that Mr. Galvin's concern about making this consistency determination is that "you may have things available, but ... it won't be reasonable to try to look at everything." She said that, nevertheless, the heart of coastal management is trying to figure out effects of a project, and that the heart of most court cases about phasing seems to be "that you try to take a look at what the effect is going to be, as much as you know it." She asked Mr. Galvin whether he plans to look at the significant, reasonably foreseeable effects.

MR. GALVIN answered:

My expectation is that when we are doing the consistency review for the right-of-way, it would be looking at the project in terms of all the effects associated with it. But what we found is that - just the evolution of the program, as you're well aware - is that we've come to the point where now we're looking, as part of our consistency review, at the details. And it's the detail part that we need to be able to put off 'til later.

REPRESENTATIVE KERTTULA explained that with the current broad language, she worries that it seems to completely get away from looking at those effects. She asked whether there would be any

harm in trying to slightly restructure what is being looked at, to include looking at the "reasonably foreseeable significant effects" and to make it clear. She added, "You're not looking at every tiny detail, but you're using the traditional coastal zone language, so that you don't run up against ... the phasing situation where you're saying you're not even going to be able to look at that."

MR. GALVIN suggested the need to see how it fits in, but said a first look that takes into account the significant effects of the project would be keeping with "our intent."

REPRESENTATIVE KERTTULA emphasized "reasonably foreseeable."

MR. GALVIN mentioned looking at the significant effects and not dealing with the site-specific effects.

REPRESENTATIVE KERTTULA concurred.

CO-CHAIR MASEK offered her opinion that the bill has quite a few safeguards.

Number 1903

REPRESENTATIVE KERTTULA moved to adopt Amendment 1, on page 2, line 1, following "in a manner that promotes review of proposed uses and activities", to insert "and the reasonably foreseeable significant effects".

REPRESENTATIVE KERTTULA explained that she didn't foresee that it would change what the division does anyway, because under normal coastal-management law, [the division] really would have to take a look at that. However, it might help in terms of information, not only for the applicant, but also for the agencies, and it might save [the state] from a court case later. She pointed out that Mr. Galvin's testimony indicated it isn't farfetched and doesn't involve looking for things one cannot know, but looking at the reasonably foreseeable and significant effects. She suggested this committee could almost list those right now with regard to the [proposed] gas line, and she suggested it shouldn't be onerous.

Number 1820

MR. BALASH, in response to Co-Chair Masek, said he wasn't prepared to comment [on Amendment 1] on behalf of the sponsor.

Number 1732

REPRESENTATIVE FATE asked that [Amendment 1] be reiterated.

REPRESENTATIVE KERTTULA reiterated that Amendment 1, on page 2, line 1, following "activities", would insert "and the reasonably foreseeable significant effect". She indicated language following the amendment would remain unchanged, and suggested that the [overseeing] division or agency would review the amended bill. She stated:

But this makes it makes it very clear that you're going to be looking at the overall, ... you're not going to have to look at every tiny little detail, because that's why this has to be phased. I mean, that's really easy to understand; you couldn't require that up front, but you could require the broad look at what the effects are, and that will really [help] later on if this ever gets challenged, if the agency has done that, because they'll have an overall understanding.

Number 1658

CO-CHAIR MASEK objected to Amendment 1.

Number 1650

A roll call vote was taken. Representatives McGuire, Stevens, Kapsner, and Kerttula voted in favor of Amendment 1. Representatives Fate, Chenault, Masek, Scalzi, and Green voted against it. Therefore, Amendment 1 failed by a vote of 4-5.

Number 1581

REPRESENTATIVE FATE moved to report [CS]SB 308(FIN) out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, CSSB 308(FIN) was moved out of the House Resources Standing Committee.

SB 319-SHALLOW NATURAL GAS: LEASING & DISCHARGES

CO-CHAIR MASEK announced the next order of business, CS FOR SENATE BILL NO. 319(FIN), "An Act relating to shallow natural gas; and providing for an effective date."

Number 1523

SENATOR JOHN TORGERSON, Alaska State Legislature, sponsor, came forward to present SB 319. He explained that the [Department of Natural Resources (DNR)] Oil and Gas Leasing Program was started more for the rural areas of the state and has now become a commercial program rather than a program targeted to supply gas to rural areas. Senator Torgerson said [DNR] had issued more than one hundred leases and had two hundred more leases pending. He explained the points of the bill: increase state revenue by increasing the [application fees for shallow gas] leases from \$500 to \$5,000, which would more closely reflect the costs of DNR to process the leases; increase the annual rental fee from 50 cents to \$1 per acre; and delete the requirement that DNR annually notify a [lessee] by certified mail of rental due. Senator Torgerson indicated rent would be automatically due on the date determined by the lease. He explained that the deadlines have proven to be unworkable and do not recognize the work required by DNR [to prepare leases in areas that are populated and may have complex land ownership patterns.] Senator Torgerson explained that for [the purpose] of better reservoir management, the limitation of the depth of 3,000 feet [would be amended] to require that some portion of the field has to be at the 3,000-foot level. He said the total amount of acreage would be [amended] and increased from 46,080 acres to 100,000 acres, and would it [repeal] the requirement for the applicant to conduct the title search.

SENATOR TORGERSON explained that DNR routinely conducts a title search for land before the leases are issued. Additionally, he said, there are no title companies in the state that will give a "subsurface estate warranty title." Senator Torgerson said the lessee must secure a bond as a precondition of the lease; if damages occur and the lessee and the landowner cannot reach an agreement on the amount of damages, then either party can seek relief in the courts. He explained that the proposed new bonding would help protect surface owners by ensuring that the substantial bonds are in place prior to exploration development. Senator Torgerson addressed an additional point that he said "is actually just a conversion, a timeline for people, ... a transition period for them to get the leases under this current leasing program."

Number 1365

REPRESENTATIVE FATE questioned increasing the total acreage to 100,000 acres. He recalled that at an earlier meeting he had

previously suggested "squaring that up into six townships," and asked whether that would be problematic.

Number 1285

SENATOR TORGERSON indicated the area could not be squared and said he'd spoken with Mark Myers [Director, Division of Oil and Gas, Department of Natural Resources] about the possibility of an amendment "to increase this." He said, "I'm basically going to go on their recommendation; ... they think it might be all right; nobody has 100,000 acres now, so I think we're jumping the gun a little bit." He reiterated that he would go with [DNR's] recommendation and said that [DNR was considering] adding another township. Senator Torgerson said [Mark Myers] believed that might particularly help Evergreen [Resources] "out for some of the stuff in the valley."

SENATOR TORGERSON remarked:

One of the concerns I had ... is that people are tying up our acreage in the state, waiting for stuff to happen, and the old thing of \$500 and 50 cents an acre costs you nothing to tie up thousands of acres of oil and gas land and call it a shallow gas leasing.

SENATOR TORGERSON indicated he would not object to an amendment. He said he was acting on recommendations of people in the business who had indicated [an amendment] would be workable.

Number 1218

REPRESENTATIVE GREEN stated:

I have a bit of the same concern. I can understand why an exploratory outfit might want to go in, somewhat like a concession. I know in other countries, in order to try and prove up an area, they'll grant concessions and they might fiddle around and find something here that, if they had tried to find littler blocks like we generally lease in, it might not really be of an interest to them because they have to focus so much of their corporate work to go in there.

But I share the Senator's concern that right now if we ... have \$500 for so many acres, we go up to \$5,000 but we're increasing the acreage significantly. And

if we were to say something more like 10 cents an acre or something so that as the acreage increases, so, too, does the rent -- because I share your concern that pretty soon you're going to have enough of these things that any reasonable area that you might want to poke a hole in has already been leased up for almost nothing, and I am really concerned about that.

I don't think increase in rent would be a deterrent. I think what it would do is make people [say], ... "If two's good, four outta be better, maybe we only need three and we're willing to pay a little extra to get that three." But to increase this by almost 50 percent at the same rattle seems to be a little bit of a jump. So, I don't have an objection to the amount of acreage, but I think the rent ought to go up [proportionately]. So, if we make that increase in acreage, I'd like to maybe bring up a second amendment.

SENATOR TORGERSON pointed out that [the cost] would increase to \$1 per acre and asked Representative Green if he wanted [the cost to be increased] above \$1 per acre.

REPRESENTATIVE GREEN replied, "No, that's fine; I was just looking at the number on Section 2 there."

SENATOR TORGERSON reiterated that the cost was being increased from 50 cents to \$1.

REPRESENTATIVE GREEN said, "That's fine, I think that's great, if that doesn't impact this because 138,000 acres at \$5,000 seems like that's not quite a dollar an acre."

SENATOR TORGERSON suggested the current program had become commercialized compared to the past program. He said a more user-friendly program would be [beneficial] for communities in rural areas of the state that use [the program] for the consumption of power, gas, and electricity. He remarked, "Again, this program didn't necessarily work well for that, but then it got too commercialized in the NANA [region], and the Kenai Peninsula, and Mat-Su areas" He suggested that most of the [oil and gas] industry was in support of the bill.

Number 1006

REPRESENTATIVE McGUIRE called attention to Section 3, page 2, line 31, which read:

The director shall execute the lease [WITHIN 90 DAYS] after completion of a title search, the close of the public comment period, and [OR], if review is required under AS 46.40, [WITHIN 30 DAYS] after the final consistency determination is made under AS 46.40 [, WHICHEVER IS LATER].

REPRESENTATIVE McGUIRE expressed concern that the removal of the specific time requirement might stall the process and asked why it had been deleted.

SENATOR TORGERSON remarked:

Basically, 'cause we never met the 90 days, we couldn't get the work done, mainly because of the heavy volume of work that they have; so, we just took out the requirement completely because we really weren't making the 90 days.

SENATOR TORGERSON indicated the director would be the appropriate person to refer to if the committee wanted to replace the time requirement. He reiterated his concern that 90 days wasn't enough time to meet the requirement and suggested that a six-month time requirement might possibly be more sufficient.

REPRESENTATIVE McGUIRE remarked, "And I appreciate that, Senator Torgerson; I just want to make sure that there might be some incentive to try to get that through as quickly as possible."

SENATOR TORGERSON offered his belief that the incentive would be more money for DNR's budget.

Number 0839

JERRY BOOTH, Representative, Teck Cominco Alaska Inc., testified via teleconference. Mr. Booth noted that Teck Cominco was the operator of the Red Dog Mine, north of Kotzebue, and was interested in locating a potential energy source to replace the extensive use of diesel fuel. He said the Red Dog Mine has produced over a million tons of zinc and lead concentrate each year and shipped that product to the "DMTS" facility, south of Kivalina, for three months of each year. Mr. Booth told the committee that to crush the ore and make the concentrate

requires [approximately] 28 megawatts of power and uses over 18 million gallons of diesel fuel each year.

Number 0751

MR. BOOTH spoke about Teck Cominco Alaska's search for low-pressure methane gas and black shale that occur near the mine. He said the area surrounding the mine where there are indications of gas is rolling hills and rugged mountains, and much different from the Matanuska Valley or Prudhoe Bay. He mentioned the rugged nature of the region and the need to have a more flexible definition of the depth limitations for a shallow gas lease. Mr. Booth referred to AS 38.05.177, subsection (a), paragraph (1), which he suggested would assist the state and the leaseholder in knowing what area would be part of the lease. He explained that Teck Cominco Alaska currently holds four state shallow gas leases for a total of 23,000 acres, and NANA Regional Corporation, owner of the Red Dog Mine, controls nearly 100,000 acres of adjoining land to the east. Mr. Booth indicated that the total acreage of the two companies was about 123,000 acres.

Number 0670

MR. BOOTH explained that to adequately cover a resource target or concept takes considerable acreage; he offered support for the increase in the acreage. He said surface ownership in this portion of Alaska is fairly straightforward and has three major landowners: the National Park Service (NPS), the State of Alaska, and private lands of NANA. Mr. Booth said addressing the surface owners separately was not an issue for [Teck Cominco]. He said the development of shallow gas in Northwest Alaska has many impediments, and other areas of Alaska share some that they don't. Mr. Booth suggested that location was the major impediment due to access and the ability to bring large equipment in and out only in the summer months. He maintained that the lack of roads in the area and the desire and need to maintain the pristine nature of the region were a high cost-and-time impediment. Mr. Booth offered his belief that it would be very difficult, if not impossible, to cast a shallow gas lease in that part of Alaska within the three years provided in the current lease when work is seasonal.

MR. BOOTH remarked:

Logic would say that a lease should be at least five years for a primary term, with renewal options as provided in the current lease, and someone may want to

consider an amendment to cover that. ... [As] provided in this legislation, we support the five-year term with renewal options.

Number 0558

MR. BOOTH said arctic Alaska would always present numerous challenges not present elsewhere, and Teck Cominco Alaska addresses many of those challenges each day at the Red Dog Mine. He told the committee that passing this legislation would address a major challenge and impediment that [Teck Cominco] cannot address. He stated that Teck Cominco Alaska was in support of SB 319.

Number 0521

MARK MYERS, Director, Division of Oil & Gas, Department of Natural Resources (DNR), testified. Mr. Myers told the committee that [SB 319] was a big step forward toward the commercialization of shallow gas, strictly coal bed and fractured shale. He explained that [DNR] worked with Senator [Torgerson] and the parties to try to craft something that works as a package. Mr. Myers commented, "I think the elements you've heard do that rather nicely together." He explained that the increase in acreage to 100,000 acres was a recognition that the production of a coal bed would have to be produced on a large scale for commercial operations where they depressurize a large area over time.

MR. MYERS remarked:

With that recognition, it's different than a conventional oil and gas play, and may in fact require more acreage to do on a commercial scale. We have no objections to the six townships or ... approximately 138,000 acres versus 100,000 acres. What we've seen in the program, being over-the-counter filing, is that it's pretty easy to file and meet the basic qualifications anyway, and we've seen family members stack on each other to create aggregates, such are in fact at that same scale.

Number 0433

MR. MYERS suggested that there were no protections [in place] to prevent an individual or consortium from acquiring a large group

of acreage. He noted that he had seen this happen in the conventional program. He commented:

So again, the ... 46,000 acres hasn't been an impediment or affiliated organizations or affiliated people to bid in aggregate together. So, in fact, I'd personally rather see the primary party, who's interested in exploring, be able to acquire the significant amount of acreage needed to unitize, and the 138,000 give you enough for two substantial units for solid, unitized production. One of the other concerns, again, was the worry about lock-up. I think a three-year term has the converse effect, that ... what Mr. Booth had testified, that it does require the leases turn over.

Number 0357

MR. MYERS explained that the commissioner can, with discretion, renew [the lease] for three additional years. He remarked:

So, in fact, if you're making progress toward exploration development, you, in fact, probably have a six-year lease, at which point you would assume that you go into some kind of unitized production, ... to maintain the acreage over an area.

Number 0283

MR. MYERS said, "We think it works; we think the three-year term's an aspect of this not holding the acreage forever." He suggested the higher fees are necessary for the program to pay for itself and to discourage rampant speculation. Mr. Myers offered his belief that a flat fee over a graduated fee would be better because it would not penalize someone who wanted to produce a large aggregate of acreage efficiently together in a unitized form. He commented:

On the comments about the 90 days, we found that impractical; we simply can't do it for a number of reasons: one is, again, we had to go through the title work; ... we found because the lack of title insurance we couldn't guarantee the title work had been [done] adequately, so we ended up doing it ourselves. We figured, "Why burden the applicant if we are, in fact, doing it ourselves?" Also, I think it helps justify the higher fee.

The other thing is that we have to go through stipulations and mitigation measures for environmental protection, and those are unique area by area. I don't know if any of you have been involved with that process, but we're not the only agency involved with that, so the inner-agency effect is elevations, commonly, with other agencies like [Alaska Department of] Fish and Game that may disagree with the environmental protections. We also, generally, in many of the areas, have to go through the ACMP [Alaska Coastal Management Program] process. So again, to do all of that in 90 days is totally unrealistic, no matter our best intent.

MR. MYERS said the [department] has to balance the use of staff on title work for conventional lease sales, exploration licenses, and shallow gas leasing. He indicated [the use of staff] is balanced on a need-to-need basis, but the programs bringing in the most revenue for the state [are viewed] as the most important and work is often [prioritized on that basis]. Mr. Myers said not having a deadline gives the [department] flexibility. He remarked, "We work hard to get these leases out, and every chance we get, we do work on them, including, in fact, hiring contractors to do some of the title work." Mr. Myers said the [department] is motivated and wants to see the program work.

Number 0133

MR. MYERS remarked, "We think it's an important resource, strictly in the Mat-Valley, the Big Delta, and the lower Kenai, where we think it could work commercially, as well as a very appropriate use there ... in the Red Dog Mine area." He said the fees are justifiable and supportable by the industry; the program will have net positive benefits, and [SB 319] works as a whole to stimulate commercial [coal bed] development.

Number 0085

REPRESENTATIVE MCGUIRE expressed concern about [removal] of the time requirement. She asked Mr. Myers if there was a time requirement that he thought would be appropriate to provide an incentive in processing the applications.

TAPE 02-31, SIDE A
Number 0001

MR. MYERS answered that it depends on the staffing level of the division, the level of activity, and the state's internal priorities. He said in conventional leasing, it has taken up to 14 months to issue a lease. He remarked, "So, my concern is, again, putting artificial boundaries; I think in reality we should be able to turn this around in 180 days, and that is our hope." Mr. Myers noted that there had been issues of litigation regarding the filing program that had tied up certain areas. He said [a time requirement] was hard to predict and indicated it was due to the combination of process - permitting the coastal zone and the volume of applications at any one time. He remarked, "I would like to believe you could trust ... the professional judgment of whoever's in the department at the time, and hold our feet to the fire if we don't perform."

Number 0136

KEVIN TABLER, Manager of Lands and Government Affairs, Union Oil Company of California (Unocal), testified via teleconference. Mr. Tabler told the committee that he thought Senator [Torgerson] and Mr. Myers had adequately represented the benefits of the bill. He suggested that the Shallow Gas Leasing Program was an augmentation to the existing areawide leasing program and an enhancement for development of the state's natural resources. Mr. Tabler told the committee that [Unocal] was supportive of [SB 319] and urged members to pass the bill out of committee. He suggested that the amendments identified provide for better administration, flexibility, and clarification of the Shallow Gas Leasing Program. Mr. Tabler asked [John Tanigawa] from Evergreen [Resources Alaska Corporation] to address the how the acreage limitation issue is applicable to shallow gas, coal bed, and methane development.

Number 0299

JOHN TANIGAWA, Special Projects Manager, Evergreen Resources Alaska Corporation, testified via teleconference in support of SB 319, noting that his company is a wholly owned subsidiary of Evergreen Resources, Inc. He told members:

Last December, I moved to Wasilla to oversee our operations. Currently, we have 46,080 acres of shallow gas lease applications located near Willow, and today I testify in support of Senate Bill 319.

SB 319 removes obstacles to our ability to explore for and to develop shallow natural gas. Evergreen Resources Alaska's specialties extend to Alaska the main focus of Evergreen Resources, which is coal bed methane development, unconventional gas, and shallow natural gas.

These activities require at least 100,000 acres, or roughly four townships, to establish the necessary economies of scale for initial development. Due to the challenges of operating in an arctic environment, however, increasing that acreage limitation to 138,240 acres, or six townships, increases the economic viability of shallow natural gas in Alaska.

We strongly support increasing the depth limitation to one that relies on science and geology for the specific play. And we are certain that we can drill, complete, and produce natural gas [wells] below 3,000 feet in an environmentally safe and responsible manner, using already existing technologies that we employ.

Finally, Madam Chairman, the shallow gas program is the reason why Evergreen is in Alaska. We are grateful that the legislature is making this program possible and for improving it. Changes proposed in this bill provide us the necessary latitude to operate in an economically sound and environmentally safe manner. We acknowledge the Division of Oil & Gas for collaborating with us, with other [stakeholders], and this is an excellent example of how the state agencies and industry can work together to ... benefit not only industry and government, but particularly the public. Thank you for allowing me to testify. I will be pleased to answer any questions that you might have.

Number 0509

DANA OLSON testified via teleconference on her own behalf, noting that [she'd faxed her comments to the committee that morning]; she asked that they be included in the legislative history. She suggested that the social and economic impacts [to] the acreage were rather significant, and [the bill] could potentially impact community developments. Ms. Olson said she felt that DNR had a responsibility to the people who live in Alaska to adequately consider the risk assessments and the

economic [impacts], and to apply the policies and law equally (indisc.) a person similarly situated. She said she didn't feel that the risk assessment was adequate [or] that \$5,000 would [be enough money] to adequately consider the effects. Ms. Olson remarked, "And I ask you specifically to keep this in committee until that a complete and thorough review, whether the risk assessment would be adequate."

Number 0650

CO-CHAIR MASEK closed public testimony.

Number 0720

REPRESENTATIVE FATE offered the following amendment [Amendment 1]:

Page 2, line 19, following, "an aggregate of 100,000"

Delete "100,000"

Insert "138,240"

Number 0722

CO-CHAIR MASEK indicated she would like an explanation of the proposed amendment [Amendment 1].

Number 0723

REPRESENTATIVE FATE explained:

It's already been established, both in the committee and the Oil and Gas Committee, and this committee testifying, specifically, to the amount of acreage, that it's beneficial to the ... people who are ... doing the exploration, ... that it's beneficial to them in unitizing, basically, the cost effectiveness, and ... it's also been testified to by ... Mark Myers, the Director of the Division of Oil and Gas, that ... it's not going to be deleterious to any efforts to ... explore those lands, and in fact will increase the income of the state, too, given that there is an increase from \$500 to \$5,000 per acre. So, it looks to me like the testimony that we've had, relevant to the increase of acreage, has all been positive.

Number 0792

DARWIN PETERSON, Staff to Senator John Torgerson, Alaska State Legislature commented, "As Senator Torgerson testified earlier, he will agree with the department and defer to their opinion, and I understand they're okay with this amendment."

Number 0810

REPRESENTATIVE CHENAULT asked, "Just for clarity, it's not \$5,000 an acre, correct?"

REPRESENTATIVE FATE responded, "Correct."

Number 0834

CO-CHAIR MASEK returning to the proposed amendment, asked if there was objection to Amendment [1]. There being none, [Amendment 1] was adopted.

Number 0864

REPRESENTATIVE GREEN moved to report [CSSB 319(FIN), as amended] out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS CSSB 319(RES) was moved out of the House Resources Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at approximately 3:24 p.m.