

ALASKA STATE LEGISLATURE
SENATE RESOURCES COMMITTEE

April 3, 2002
3:40 p.m.

MEMBERS PRESENT

Senator John Torgerson, Chair
Senator Gary Wilken, Vice Chair
Senator Rick Halford
Senator Ben Stevens

MEMBERS ABSENT

Senator Robin Taylor
Senator Kim Elton
Senator Georgianna Lincoln

COMMITTEE CALENDAR

SENATE BILL NO. 219

"An Act establishing and relating to the Joint Federal and State Navigable Waters Commission for Alaska; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 353

"An Act relating to the labeling of animal and poultry feeds and to the agriculture program coordinator; and providing for an effective date."

MOVED CSSB 353(RES) OUT OF COMMITTEE

SENATE BILL NO. 354

"An Act relating to the prices paid by milk processing plants to suppliers of fluid milk."

MOVED CSSB 219(RES) OUT OF COMMITTEE

SENATE BILL NO. 356

"An Act relating to the authority of the Department of Environmental Conservation to issue general and individual permits for waste disposal; and providing for an effective date."

MOVED SB 356 OUT OF COMMITTEE

CS FOR HOUSE JOINT RESOLUTION NO. 44(RES)am

Strongly urging the President of the United States, the United States Congress, and appropriate federal officials to support the construction and operation of the Alaska Highway Natural Gas Pipeline route.

MOVED SCS HJR 44(RES) OUT OF COMMITTEE

PREVIOUS SENATE COMMITTEE ACTION

SB 219 - No previous action to consider.

SB 353 - No previous action to consider.

SB 354 - No previous action to consider.

SB 356 - No previous action to consider.

HJR 44 - No previous action to consider.

WITNESS REGISTER

Mr. Ron Sommerville
Consultant to the Senate and House Majority
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SB 219.

Ms. Carol Carroll, Director
Division of Support Services
Department of Natural Resources
400 Willoughby Ave.
Juneau, AK 99801-1724

POSITION STATEMENT: Supported SB 219.

Ms. Janey Winegar
Staff to Senator Lyda Green
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SB 353 for sponsor.

Representative John Harris
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Supported SB 353 and is sponsor of HB 432,
companion bill.

Mr. Michael Purviance
POB 1656
Delta Junction AK 99737

POSITION STATEMENT: Supported SB 353.

Ms. Marta Mueller
516 Auklet Place
Fairbanks AK 99709

POSITION STATEMENT: Supported SB 353.

Mr. River Bean, President
Alaska Organic Association
Palmer, AK 99645
POSITION STATEMENT: Supported SB 353.

Mr. Larry De Vilbiss
HC04 Box 9302
Palmer AK 99645
POSITION STATEMENT: Supported SB 353 and SB 354.

Ms. Kelly Langford LaDere
Secretary, Alaska Livestock Producers' Cooperative
Chairperson, Upper Susitna Water and Soil Conservation District
No Address Provided
POSITION STATEMENT: Supported SB 353 and SB 354.

Mr. Wayne Brost
No Address Provided
Mackenzie AK
POSITION STATEMENT: Supported SB 354.

Senator Gene Therriault
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of SB 356.

Mr. Tom Chapple, Director
Division of Air and Water Quality
Department of Environmental Conservation
555 Cordova St.
Anchorage AK 99501
POSITION STATEMENT: Supported SB 356.

Mr. Bill Jeffress
Manager, Environmental Services, Fairbanks Coal Mining
Vice President, Council of Alaska Producers
POB 73726
Fairbanks AK 99707
POSITION STATEMENT: Supported SB 356.

Ms. Charlotte McCay, Senior Administrator
Environmental and Regulatory Affairs
Tec-Cominco Alaska/Red Dog Mine
No Address Provided
POSITION STATEMENT: Supported SB 356.

Mr. Tad Owens, Executive Director
Resource Development Council
121 W. Fireweed, No. 207

Anchorage, AK 99503

POSITION STATEMENT: Supported SB 356.

Ms. Linda Hay

Staff to Representative Scott Ogan

Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Commented on HJR 44.

ACTION NARRATIVE

TAPE 02-15, SIDE A

Number 001

#SB219

SB 219-NAVIGABLE WATERS COMMISSION

CHAIRMAN JOHN TORGERSON called the Senate Resources Committee meeting to order at 3:40 p.m. Present were Senators Wilken, Halford, Stevens and Chairman Torgerson. He said he would probably not have a quorum to take action on bills today, but would at least take testimony on the bills. He announced SB 219 to be up for consideration.

MR. RON SOMMERVILLE, consultant to the House and Senate Majority, said that SB 219 is designed for one purpose - to expedite the process for determination of navigability in Alaska. He explained some background history as follows:

In a nutshell when we got statehood in 1959 and the state inherited title to about 60 million acres of tide and submerged lands, about 15 million of that is navigable waters under our streams and, according to DNR, about 30 some million acres lies within our marine submerged lands out to three miles. The key on navigability is if it was navigable at statehood, it's navigable today. The problem has been - now I'll go through two or three items which will illustrate why in fact we should pursue a more expeditious process. The final determination, unfortunately, has fallen in almost every case to the federal courts, which is not unusual. That's the way almost every state has done, except Alaska has a considerable amount of water - about 22,000 thousand streams which could probably be litigated as being navigable or nonnavigable and upwards of one million or more of water bodies, lakes in particular, that could be litigated as well.

The problem basically is, as the state has found in the Quiet Title Act itself, in summarizing it, the feds in essence, the Court under the Quiet Title Act, can be defendants in adjudicating a disputed title in which the U.S. claims an interest. The feds have taken a narrow view of that and it has been upheld to some extent in the courts. If the feds don't take an active interest or assert an active interest in a particular water body, then the state is powerless to force some sort of quiet title act. I'll give you an example of that in just a second.

The second basic problem is the navigability criteria itself. Although the Utah Lake decision in 1987 said if Congress didn't explicitly take away the tide and submerged land estate under the Equal Footing Clause, in essence when we became a state, we inherited that title.

The Gulkana Case in 1987 was probably the key case in Alaska, which I might add that most of the attorneys have told me that navigability is kind of on a state-by-state, case-by-case basis - particular water body or stream or whatever. The Gulkana was specific to Alaska. In your packets there's kind of a summary of the Gulkana thing. I could read that if you desire, but in essence it affirmed what the state had been contending for a long time - that is a very broad definition as to the navigability use or use as a water body for commerce. The Gulkana criteria has been applied since 1983 to almost every decision, although be it very few of them relating to navigability. But it is a standard by which navigability will be determined in the future. There have been other cases that the Department of Law has pursued in order to try to get some clear definition from the courts as to what water bodies would qualify.

The third item, which is a difficulty, is the BLM surveys themselves, one of the reasons why the state is now looking at some expeditious process for determining that [indisc.]. It wasn't until 1983 when administratively BLM decided to utilize its own BLM manual of surveying instructions, and later ratified, by the way, in 1988 by Congress instructing them to do that. But prior to 1983 a lot of conveyances were made to corporations in the state, Native Corporations under the Alaska Native Claims Settlement Act, where in fact

the BLM did not determine navigability. As such, a lot of streams and water bodies were transferred and submerged lands with them to the corporations whereby the state said we think a lot of these water bodies were in fact navigable and thus sets up a case where you have plotted title and the potential for numerous litigation. So, there's never been an attempt to go back prior to 1983 and correct the errors that were made in the conveyances.

Since statehood there have been 13 rivers determined by the federal courts to be navigable in 40-some years. We estimate 22,000 rivers and the cost of about \$1 million went into a court case called the Kandig, Nation and the Black Rivers [in northeast Alaska]. That was three rivers out of two hundred that the Department of Law had submitted in 1992 and 1996 to Department of Interior with indication on the Quiet Title Act - 180 day notice, we intend to quiet title to these two hundred water bodies.

Nine years later and \$1 million later we resolved two of them. The third one is the one I was mentioning a while ago - is this issue of the feds convinced the courts that they had not asserted title to one of the rivers. So, two of them were resolved and one was left, in essence, in abeyance. There was no decision. At this rate, you can calculate it will take us 99,000 years to resolve our title to our navigable waters and an excess of \$11 billion if the same criteria were applied.

Why do we need title? If the state is going to manage its water bodies, which it more and more needs to do, that if you want to issue leases, you want to exercise jurisdiction, title becomes important, because along with title comes the ability to regulate what happens in the water column. SB 219 is designed specifically for that purpose. The body itself that is being created does not have any authority, it won't go into affect until a similar law is passed in Congress setting it up. The individuals appointed would make recommendations as to which water bodies qualify under the Gulkana decision or other criteria established by the courts. It would provide a list of navigable or nonnavigable waters, which could then be verified by Congress, the administration, the courts or whatever. I think Senator Halford could elaborate more on a recent meeting that he participated in with the Secretary and

the delegation. The response was positive to the concept and that's why Senator Halford asked that this bill is before you.

SENATOR HALFORD said:

We met with the Secretary of Interior and suggested what we were looking at, as the first draft, to create an entity that would make recommendations for being passed by state law and federal law and she said, 'Well, we have a proposal that we're considering for RS 2477s in Utah where basically the federal government files a recordable, basically, a notice of nonobjection, which essentially closes the case or as close as you can get to a quit claim on an easement.' That was more than we had hoped to think about even asking for. The draft you have takes out a lot of the formality in the original version, but it still takes a working group to come up with those that aren't controversial to be recommended for solution. That was the conversation. We were very pleased with the conversation.

MS. CAROL CARROLL, Director, Administrative Services, DNR, offered:

The department has a navigability person and the only thing that we are really able to do is to look at the conveyances that the federal government does give us and analyze those to make sure that they have conveyed the land that they are supposed to and that they haven't counted the riverbeds within that conveyance. We also, with the one person that we have there, we make sure that we take navigability into consideration when we do land sales by making sure that we get an easement so we have public access. For the committee's information, on the House side that person has been cut out of the budget. I just wanted you to know that. The department on this bill feels it would be a good idea.

CHAIRMAN TORGERSON asked, "Do you like the bill?"

MS. CARROLL replied, "We feel it would be that something really does need to be done and this bill is certainly one way you could do that."

CHAIRMAN TORGERSON said, "It's the only way I've seen so far. It's a very important bill."

CHAIRMAN TORGERSON said they would hold the bill until Senator Wilken could join them.

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#SB353

SB 353-AGRICULT. PROG.COORDINATOR/ANIMAL FEED

CHAIRMAN TORGERSON announced SB 353 to be up for consideration.

MS. JANEY WINEGAR, staff to Senator Lyda Green, sponsor of SB 353, said that Pete Fellman, staff to Representative John Harris is very aware of this issue and the bill. She said SB 353 addresses three areas, organic crop inspections, feed labeling and control of noxious weeds, and that she would see that the committee received a copy of "Noxious Invasive Plant Management In Alaska" that was produced by the University of Alaska Cooperative Extension Service. She said:

These weeds tend to impact our hunting and fishing grounds, agricultural crops and they're getting more invasive every year. Several western states have spent millions and millions of dollars controlling weeds. They're at a point now that they're very invasive and becoming very destructive. We're at the crossroads in Alaska where we can take control of them now with a little bit of money put into it.

As far as the labeling of animal feed, we are the only state that doesn't require labeling of what's in animal feed and we think that we need to do that and come up to national standards. Another area that we're addressing is the organic label. Federal labeling laws require that organic food inspectors may not have a vested interest or participation in growing or processing the foods being certified. Either an outside inspector or staff person will need to be hired to determine that it is in fact organic foods and has been grown and processed within Alaska.

This bill speaks to three problems by requiring the commissioner of [the] Department of Natural Resources to appoint an agricultural program coordinator to oversee management of an organic crop labeling program, adopt animal feed standards and implement this plan that the University has developed on noxious and invasive plant management as recommended by and developed in cooperation with federal, state, local and private agencies and groups...

CHAIRMAN TORGERSON referred to language on page 1, line 7, "establish requirements that are compatible with federal law and the laws of other states" and asked why laws of other states were included.

REPRESENTATIVE JOHN HARRIS, sponsor of HB 432, a companion bill to SB 353, responded that there is a publication put out by a federal organization that coordinated legislation in all states on this issue and developed model legislation so there is a uniform standard when it comes to weed control.

CHAIRMAN TORGERSON said he didn't know if he wanted that requirement. He asked what would happen if a state adopted something contradictory to what Alaska wants and Alaska had to abide by their laws.

MR. MICHAEL PURVIANCE, Delta Junction resident, stated support for SB 353. He said he started farming in Delta a few years ago on virgin ground and he is already beginning to see invasive weeds like chickweed. He said if we don't address these problems now, they will become big problems that would require millions of dollars to correct. He urged members to adopt this legislation.

MS. MARTA MUELLER, lifelong Alaska resident, said she is a UAF student and supports SB 353 for the following reasons.

The Agriculture Coordinator Commission will [indisc.] its development in Alaska. Working with the federally mandated Organic Food Regulations will help Alaskan food producers market organic foods, because the standards consumers can follow will be in place [indisc.].

Second, enforcing the existing state noxious weed code and reviewing DNR regulations can help development by assuring disturbed areas, such as mineral leases, transportation corridors, [indisc.], public recreation areas and farms remain weed free...

MR. RIVER BEAN, President, Alaska Organic Association, said the federal Natural Organic Program would supercede the certifying organic program in Alaska this year. He added:

While the standards that the federal government has are not as stringent as the ones that we have for the state of Alaska, we still would like to see the [indisc.] natural organic program standards be [indisc.] regardless.

What SB 353 does is it removes the old organic law from the [indisc.] book, which are the worst standards in the nation... It will also adopt a national organic program that becomes effective, I believe October 22 of this year. And third, it allows the State of Alaska to become accredited with the federal government to certify organic foods and [indisc]. Without passing this bill, the farmers are going to have to rely on out-of-state certification and carry their labels on the organic Alaskan-grown foods - like certified with standards of California or Washington state. It's unlikely that any organic farmer in the State of Alaska would want another state's label on their Alaskan organic foods.

So, the consumer is left without a choice. If they have a preference for buying certified organic foods, they will be forced to buy certified organic foods that are not grown in this state...

MR. LARRY DE VILBISS, Mat-Su "carrot man," said this bill is important to his business. Last year he began the process of transitioning his entire farm to organic, including carrots and beets, about 1,000 acres outside of Palmer. If they are not able to continue with the certification process that they started about five years ago through the Alaska Organic Association, they can't continue the program or switch to the one from out of state.

MS. KELLY LANGFORD LADERE, Secretary, Alaska Livestock Producers' Cooperative, said she also had been President and that she was Chairperson for the Upper Susitna Water and Soil Conservation District, a quasi-state agency that functions within DNR, and is composed of volunteers from within the district covering two million acres in the Upper Susitna Valley. She also makes her living as a farmer and a rancher.

Regarding the labeling aspect of this legislation, she said it's very important for people who have made the investment in livestock in Alaska that the feedstuffs that come out of a bag and go into the animals be of a certain standard. In the past unlabelled feed has come into the state and has contributed substantially to the noxious weed and invasive plant problems that are taking place across Alaskan farms, roadsides, railroad beds, and along rivers. She said, "Accurate labeling will allow the consumer the option of choosing a higher quality feed that may be certified as weed-free. She plants about 400 acres of oats each year and buys only certified weed-free, however even it has noxious and invasive weeds.

MS. LADERE said that a number of people across the state are trying to reach this level of organic certification. "It's expensive; they have to go through multiple years of inspection of their farm..."

She said that most of the noxious plants that affect livestock in this state have been introduced. For the first time in 50 years on one of her farms she is going to have to spray a chemical to control invasive plants and she is not happy about it.

SENATOR WILKEN moved on line 7 to delete the last six words, "and the laws of other states". There were no objections and the amendment was adopted.

SENATOR WILKEN moved to report CSSB 353(RES) from committee with individual recommendations and the attached fiscal note. There were no objections and it was so ordered.

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#SB219

SB 219-NAVIGABLE WATERS COMMISSION

CHAIRMAN TORGERSON announced SB 219 to be back up for consideration.

SENATOR WILKEN moved to report SB 219 from committee with individual recommendations and the attached fiscal note. Someone noted that the committee had not adopted the committee substitute.

SENATOR WILKEN moved and asked unanimous consent to rescind their actions in reporting SB 219 from committee. There were no objections.

SENATOR WILKEN moved to adopt the CS to SB 219, version C, Cooke, 3/27/02. There were no objections and it was so ordered.

SENATOR WILKEN moved to report CSSB 219(RES) from committee with individual recommendations and the attached fiscal note. There were no objections and it was so ordered.

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#SB354

SB 354-PRICES PAID BY MILK PROCESSING PLANTS

CHAIRMAN TORGERSON announced SB 354 to be up for consideration.

MS. JANEY WINEGAR, staff to Senator Lyda Green, sponsor of SB 354, said this bill has to do with farmers receiving fair pricing for their milk, which has become fairly complex in today's market place and is based upon a combination of factors including

protein, butter fat, non-fat solids and bacteria content of the milk. This bill injects fairness into the milk market place in Alaska by stipulating that if a milk processor opts to penalize a dairy farmer for a low milk fat content, the processors must also reward those farmers whose product has a high milk fat content.

MR. WAYNE BROST said he was from Mackenzie and supported SB 354. He got a letter from the processing plant telling him that the butter fat of his cows' milk was a little lower than the standard, which is 3.25%. In the summer he turns his cows out to graze and they get a higher volume of high moisture feed and the butter fat drops. Most of the time it's above 3.25%. He remarked, "I was threatened there to get a dock on my pay if it was below, but I was never offered anything when it was above. So, I'm in support of this bill so there's some reciprocity and fairness for the producer here."

MR. LARRY DE VILBISS said it has been 20 years since he ran a dairy, but he remembered that he was actually penalized for too much butter fat. He commented, "But we're living in a different world and there's a commercial value there that I think dairymen ought to be getting so I support it."

MS. LADERE said she had been in Alaska for 55 years and ever since she was nine she had been involved with agriculture. She explained:

Very simply, more butter fat figures into a higher value product for the processing plant. That increased butter fat has a dollar advantage and so anyone who produces a milk, a dairy product or milk that goes into a processing plant should logically get a higher price for his milk and I think it just is that simple.

SENATOR WILKEN asked if a milk producing plant under this legislation must pay a premium for more than 3.25% butter fat, whether the plant has the option of buying milk elsewhere so that it doesn't have to pay the premium. He questioned, "Doesn't that give the supplier a reason to go somewhere else?"

REPRESENTATIVE HARRIS responded that there is a national standard for whole milk. If Matanuska Maid purchases that milk, generally it will skim it down to the standard and buy it at a certain price. This bill basically says if your milk has a higher fat content than that standard, then it has a value. He added:

If the processing plant decides to dock you for a reduction in that value, then they must pay you the same value on the other end. So, we're not saying that they have to pay a premium. All we're saying in this

legislation is that if the plant decides to dock you for not having high enough butter fat, then they must also pay you when you are above the national standard.

SENATOR WILKEN asked if they also docked the outside supplier.

REPRESENTATIVE HARRIS explained when they bring milk in from the Lower 48, generally they specify what fat content they want and they pay for that value. He said, "If Mat-Maid says instead of 3.25%, we would like 3.5%, then they would pay for that additional fat when they bring it in."

SENATOR WILKEN asked if this bill jeopardizes their ability to market greater than 3.25% butterfat milk.

REPRESENTATIVE HARRIS answered no.

SENATOR STEVENS asked if there is a relationship between a standard plate count [SPC] and butterfat content.

REPRESENTATIVE HARRIS replied:

Indirectly. It's pretty involved and I can explain it. Standard plate count is your bacteria count and so usually the standard plate count comes from dirty equipment and that causes your plate count to go up. However, dirty equipment can cause your e-coli to go up and your e-coli can affect the quality of your milk and it could reduce the percent of butterfat that is produced by the milk cow. So, it could have an effect.

SENATOR STEVENS read from a rate sheet released by Mat-Maid on January 1, 2001, about a quality bonus incentive program. He asked if that was based on the quality of the facility, for example the use of clean equipment, or the quality of the milk produced by the animal.

REPRESENTATIVE HARRIS responded:

No, when the standard plate count and the coliform counts are indications of what's in the milk, it doesn't necessarily determine how it gets there, but it helps determine how it gets there. So, if you milk a cow with some equipment that hasn't been kept up to the standard, then your plate count will go up in your tank of milk and if your plate count goes up, then the value of your milk drops. That's why they have the quality bonus. The same thing with e-coli. If a cow happens to have an e-coli bacteria in their mammary system, it

comes through and gets into the whole tank of milk and if that's the case, the value of that milk drops.

SENATOR STEVENS said on the flip side, if you had a lower SPC count, the bonus goes up.

REPRESENTATIVE HARRIS said that was right.

SENATOR STEVENS asked if there was no correlation between butterfat content and the SPC or coliform.

REPRESENTATIVE HARRIS replied, "Not that it can be directly proven. Generally, the SPC and the e-coli counts have to do with either equipment or the health of the mammary system."

SENATOR STEVENS asked if the butter fat plan had ever been revised from 3.3% for Grade A, currently priced at \$19.75 per cubic weight ton.

REPRESENTATIVE HARRIS said that was for a hundred weight of milk.

SENATOR STEVENS noted that it said they would dock a penalty of 1/10th of 1% for content under 3.25%.

REPRESENTATIVE HARRIS replied there was more documentation from Mat-Maid saying that the standard for whole milk is 3.25.

4:25 p.m.

TAPE 02-15, SIDE B

REPRESENTATIVE HARRIS said:

In the Lower 48 they have milk marketing orders, which is a federal system that helps provide for guidance and money for the farmers to get together and establish a milk marketing order and then establish what these standards are. The milk marketing order - they go to the processing plant and say if you want all of our milk, this is the price that we need to have. The State of Alaska has a state-owned processing plant and one private plant and we have - I think we're down to eight dairy farms. So, we just don't have the volume of people to be able to dictate what we have to get, because Matanuska Maid is already bringing in 75% of the milk from Outside. So, it's just as easy for them not to negotiate.

SENATOR STEVENS asked if the other cooperatives use a structure so that if you have high fat content, you're rewarded and if you

have low content, you're penalized. He asked if that is an industry norm.

REPRESENTATIVE HARRIS replied, "Yes."

SENATOR WILKEN asked if Mat-Maid had commented on this bill.

REPRESENTATIVE HARRIS said that the Director of Agriculture, Rob Wells, had seen the bill. Matanuska Maid has the creamery board, which meets and dictates the policy of the creamers and Mr. Wells attends those meetings, but he had nothing in writing.

SENATOR WILKEN asked what will keep them from buying milk somewhere else where they don't have to pay the premium.

REPRESENTATIVE HARRIS replied that there's no place else in the Lower 48 where they don't have a premium.

CHAIRMAN TORGERSON said he wanted to pass this bill, but they would set it aside for lack of a quorum.

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#SB356

SB 356-GENERAL PERMIT FOR WATER/WASTE DISPOSAL

CHAIRMAN TORGERSON announced SB 356 to be up for consideration.

SENATOR GENE THERRIAULT, sponsor of SB 356, said the legislation was introduced to assure that the Department of Environmental Conservation (DEC) could continue to issue the general permits as it has done for a number of years. He explained:

Legislation was passed a couple of years ago that allowed the DEC to work on a uniform fee structure for general permits that were to be issued for ongoing or basic types of permitted activities, HB 361. This bill is to insure the DEC has the underlying statutory authority to actually issue the permits that the legislature approved the fee structure for then. Examples of the types of permits are remote camps or lodges, logging camps, fish hatcheries, sewer systems for communities with fewer than 1,000 people, and some oil well drilling operations. The value of the general permits are that they allow DEC to avoid duplication by creating one permit instead of multiple identical permits for activities where the risk of impact to the environment is either low or can be easily mitigated with common treatment practices. General permits save DEC and the regulated community time and money while accomplishing the goal of environmental protection.

General permits go hand in hand with the permit fee structure that was created. General permits also allow DEC to allocate more resources to field site visits and inspections, because they don't have to have personnel tied up in the department sort of reinventing the wheel over and over.

He said they worked with DEC to draft this language and that committee packets contain a letter from DEC that contains two concerns. The first concern is on page 1:

First, general permits, in our view, are appropriate only when the risk and impact to the environment is either low or can be readily and fully mitigated with common treatment practices.

SENATOR THERRIAULT thought this concern was addressed in Section 3 on page 2, lines 23 - 25, of the bill, which reads:

A general permit may be issued only if the commissioner determines that the activities that will be authorized under the permit are similar in nature and will cause only minimal adverse environmental effects when performed separately and in the aggregate.

SENATOR THERRIAULT said Section 3 gives the commissioner wide latitude to determine when the permit is appropriate. He noted DEC's second concern reads:

The procedures for developing and issuing general permits set out in statute, must describe how the public can comment on a proposed general permit and must provide for a reasonable dissemination of information on which the facilities or activities are operating under a general permit.

He believes Section 6 addresses that concern and read:

The commissioner shall immediately send copies of the application or proposal to the commissioner of fish and game, the commissioner of natural resources, the commissioner of community and economic development and the commissioner of health and social services.

Section 6 explains how the information is provided to other departments that might have a concern.

CHAIRMAN TORGERSON asked Mr. Chapple, DEC, if his department's concerns were addressed in the bill.

MR. TOM CHAPPLE, Director, Air and Water Quality, DEC, said he supported SB 356 as written.

MR. BILL JEFFRESS, Manager, Environmental Services, Fairbanks Coal Mining, and Vice President, Council of Alaska Producers, said as the Vice President of the Producers' Council he was a representative of the DEC sponsored work group that came up with recommendations over the course of a year and a half. He commented:

One of the things we found very important and crucial to DEC's credibility as a regulating community is these general permits and, as Senator Therriault said, this is an efficient way of minimizing the amount of resources DEC expends on writing individual permits that cover basically the same issues. The general permits cut down on the redundancy and what is really important is to show a field presence. I think it's good for the regulated community and the credibility of DEC's program as far as their oversight and making sure that the resources of Alaska are protected. I think Senator Therriault did an excellent job of characterizing all of the bill. What we wanted to emphasize is that we not only supported HB 361, but SB 356 clarifies what exactly DEC's authority is. We support the bill.

MS. CHARLOTTE MCCAY, Senior Administrator, Environmental and Regulatory Affairs, Tec-Cominco Alaska, operators of the Red Dog Mine, said:

Industry is reliant on DEC for numerous important permits. DEC can be most effective by providing standardized general permits for similar facilities with similar environmental risks. This frees DEC's time and resources to address more significant and individualized permits. DEC is then more efficient in fulfilling their duties and industry receives more timely permits. At Red Dog, we had many permits. That takes a lot of time and it's important to us that they be available as best possible.

MR. TAD OWENS, Executive Director, Resource Development Council (RDC), said the RDC has worked with the legislature and DEC over the last several years on permit streamlining and this bill is another step in that direction. He elaborated:

There are two reasons why RDC is strongly in support of this legislation. The first is we feel general permits are a real win-win. It not only allows DEC to operate more efficiently and allocate their resources more effectively across the broad array of services they need to provide, but it gives industry a great deal more predictability and certainty and simplicity in dealing with essentially repetitive and diminimous activities in terms of environmental impact.

And, secondly, as Senator Therriault mentioned, we worked very closely with the legislature on HB 361 and are very happy to report that industry and the agencies have fared very well under that new fee structure and this bill essentially assures that DEC will be able to match up general permits with the fixed fees that HB 361 supported... We very much support the bill.

CHAIRMAN TORGERSON thanked everyone for their testimony and said they would hold the bill for a quorum.

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#HJR44

HJR 44-ALASKA NATURAL GAS PIPELINE ROUTE

CHAIRMAN TORGERSON announced HJR 44 to be up for consideration.

MS. LINDA HAY, staff to Representative Scott Ogan, said HJR 44 was introduced to clearly articulate Alaska's position regarding commercialization of our natural gas reserves. It was introduced at the request of the Joint Committee on Natural Gas Pipelines. It received bi-partisan support in all committees in the House and on the floor of the House.

CHAIRMAN TORGERSON said he only had a problem with one section and he wanted the committee to delete language on page 4, lines 22 and 23, which was added by Representative Green. He added:

I don't necessarily think we want to go out and tell the United States that we're going to stabilize gas prices, because we've already run into opposition from some of the initiatives that have been brought forward from other gas producing states, because in fact we might stabilize prices, but we don't want to lead with our chin...

CHAIRMAN TORGERSON said they would recess until he could get a quorum back to take official action.

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4:45 - 5:10 p.m. RECESS

#SB354

SB 354-PRICES PAID BY MILK PROCESSING PLANTS

CHAIRMAN TORGERSON announced SB 354 to be back before the committee.

SENATOR WILKEN moved to pass SB 354 from committee with individual recommendations and attached zero fiscal note. There were no objections and it was so ordered.

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#SB356

SB 356-GENERAL PERMIT FOR WATER/WASTE DISPOSAL

CHAIRMAN TORGERSON announced SB 356 to be up for consideration.

SENATOR WILKEN moved SB 356 from committee with individual recommendations and zero fiscal note. There were no objections and it was so ordered.

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#HJR44

HJR 44-ALASKA NATURAL GAS PIPELINE ROUTE

CHAIRMAN TORGERSON announced HJR 44 to be back up for consideration.

SENATOR WILKEN moved to amend HJR 44 on page 4 to delete lines 22 and 23 - "WHEREAS the large volume of gas delivered to the lower 48 states may initially stabilize gas prices at a lower level, bringing financial benefit to the lower 48 economy; and". There were no objections and it was amended.

SENATOR WILKEN moved to pass SCSHJR 44(RES) from committee with individual recommendations and zero fiscal note. There were no objections and it was so ordered.

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CHAIRMAN TORGERSON thanked everyone and adjourned the meeting at 5:12 p.m.