

**ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS
STANDING COMMITTEE**

March 23, 2004
8:07 a.m.

MEMBERS PRESENT

Representative Carl Morgan, Chair
Representative Kelly Wolf, Vice Chair
Representative Pete Kott
Representative Ralph Samuels
Representative Albert Kookesh

MEMBERS ABSENT

Representative Tom Anderson
Representative Sharon Cissna

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 190(STA)

"An Act adding certain state-owned land and water to the Kenai River Special Management Area; relating to the mineral estate of the state-owned land and water in the Kenai River Special Management Area; relating to the Kenai River Special Management Area advisory board; and providing for an effective date."

- HEARD AND HELD; ASSIGNED TO SUBCOMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 190

SHORT TITLE: KENAI RIVER SPECIAL MANAGEMENT AREA

SPONSOR(S): SENATOR(S) WAGONER

04/16/03	(S)	READ THE FIRST TIME - REFERRALS
04/16/03	(S)	STA, RES
01/20/04	(S)	STA AT 3:30 PM BELTZ 211
01/20/04	(S)	Moved CSSB 190(STA) Out of Committee
01/20/04	(S)	MINUTE(STA)
01/21/04	(S)	STA RPT CS 3DP 1NR NEW TITLE
01/21/04	(S)	DP: STEVENS G, COWDERY, STEDMAN;
01/21/04	(S)	NR: GUESS
02/16/04	(S)	RES AT 3:30 PM BUTROVICH 205
02/16/04	(S)	Heard & Held
02/16/04	(S)	MINUTE(RES)

02/27/04 (S) RES AT 3:30 PM BUTROVICH 205
02/27/04 (S) Moved CSSB 190(STA) Out of Committee
02/27/04 (S) MINUTE(RES)
03/01/04 (S) RES RPT CS(STA) 3DP 1NR
03/01/04 (S) DP: OGAN, STEVENS B, SEEKINS; NR: ELTON
03/05/04 (S) TRANSMITTED TO (H)
03/05/04 (S) VERSION: CSSB 190(STA)
03/08/04 (H) READ THE FIRST TIME - REFERRALS
03/08/04 (H) CRA, RES
03/23/04 (H) CRA AT 8:00 AM CAPITOL 124

WITNESS REGISTER

SENATOR THOMAS WAGONER
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Spoke as the sponsor of SB 190.

AMY SEITZ, Staff
to Senator Thomas Wagoner
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: During discussion of SB 190, answered questions.

PETER PANARESE, Field Operations
Central Office
Division of Parks & Outdoor Recreation
Department of Natural Resources
Anchorage, Alaska
POSITION STATEMENT: Testified that DNR is in support of SB 190.

PAUL SHADURA
Kenai, Alaska
POSITION STATEMENT: Testified on SB 190.

ACTION NARRATIVE

TAPE 04-10, SIDE A
Number 0001

VICE CHAIR KELLY WOLF called the House Community and Regional Affairs Standing Committee meeting to order at 8:07 a.m. Representatives Morgan, Wolf, Kott, and Samuels were present at the call to order. Representative Cissna arrived as the meeting was in progress.

SB 190-KENAI RIVER SPECIAL MANAGEMENT AREA

VICE CHAIR WOLF announced that the only order of business would be CS FOR SENATE BILL NO. 190(STA), "An Act adding certain state-owned land and water to the Kenai River Special Management Area; relating to the mineral estate of the state-owned land and water in the Kenai River Special Management Area; relating to the Kenai River Special Management Area Advisory Board; and providing for an effective date."

Number 0076

SENATOR THOMAS WAGONER, Alaska State Legislature, sponsor of SB 190, explained that SB 190 transfers land to the Kenai River Special Management Area (KRSMA) and it changes the makeup of the KRSMA Advisory Board so that it's more of a citizen advisory board. The most contentious issue is in regard to the changes to the KRSMA Advisory Board, which was originally intended to be a citizen advisory board. He explained that transferring land to KRSMA, which was established in 1984 to protect the Kenai River system, allows the [transferred] land to be managed by regulation. This legislation will add some 536 acres of land that the state acquired with funds from the Exxon Valdez oil spill (EVOS) settlement as well as a few parcels overlooked during the original 1984 legislation. He noted that meetings held to revise the Kenai River Comprehensive Management plan and the Kenai Area Plan resulted in the decision that the Kenai River should be managed as a watershed system. Therefore, to provide the management called for in this revision, several thousand acres would have to be added to KRSMA. Senator Wagoner emphasized that the Kenai River needs to be protected since it's a valuable resource that should be available for generations to come. However, it's not feasible to add several thousand acres at this time, which is why that land wasn't included in this legislation. This legislation merely addresses the 560 acres of EVOS lands.

Number 0316

SENATOR WAGONER turned to the provision in SB 190 that changes the makeup of the KRSMA Advisory Board. He explained that originally the legislation didn't allow state and federal agency employees to be members of the board. However, CSSB 190(STA) makes state and federal agency employees advisory members of the board. Therefore, the KRSMA Advisory Board will operate as most citizen boards in that the citizens are the voting members. Such a makeup doesn't diminish agency input because it's very

valuable. Senator Wagoner informed the committee that he served on the original Cook Inlet Aquaculture Board and related that often the agencies have the ability to dominate these boards, commissions, and committees because of their knowledge and presence. The desire is to use the knowledge of agency members, but allow the citizens to make the final decision.

Number 0434

REPRESENTATIVE SAMUELS asked if this legislation basically makes the area into park land.

SENATOR WAGONER pointed out that this isn't normal state land because the parcels being addressed were already set aside, most of which were purchased with EVOS monies. Therefore, this legislation would merely add land to the park system. In further response to Representative Samuels, Senator Wagoner specified that there are several small parcels that are adjacent to the Kenai River.

REPRESENTATIVE SAMUELS inquired as to the number of agency members versus citizen members currently on the KRSMA Advisory Board.

SENATOR WAGONER noted that the only agency members left on the KRSMA Advisory Board are the City of Soldotna, the City of Kenai, and the [Kenai Peninsula Borough]. The [Kenai Peninsula Borough] representative represents all the areas outside the incorporated areas of the two cities involved. The agency members that were made advisory members were the Kenai National Wildlife Refuge, U.S. Forest Service, Alaska Department of Fish & Game, Department of Natural Resources, and Department of Environmental Conservation.

REPRESENTATIVE SAMUELS asked if the [agency] positions [that were made advisory positions] were eliminated or replaced with citizen members. He asked if the board became smaller.

SENATOR WAGONER opined that the board became smaller, but noted that [the size of the advisory board] is up to the commissioner who appoints the board members.

REPRESENTATIVE SAMUELS noted that there are 12 members [under CSSB 190(STA)] and 17 members now.

SENATOR WAGONER related his belief that the membership [under CSSB 190(STA)] makes it easy for the commissioner to appoint additional, at-large community members.

Number 0670

VICE CHAIR WOLF informed the committee that the Kenai River travels approximately 84 miles through federal, state, and tribal lands. However, the legislation proposes to make the agency representatives of these groups non-voting members. Therefore, he expressed concern that the agency representatives in charge of managing the land through which the Kenai River flows will be non-voting members. He inquired as to the response from the agencies.

SENATOR WAGONER said that he didn't believe there has been any response from the agencies. He noted that the committee packet includes a letter of support from ADF&G.

AMY SEITZ, Staff to Senator Thomas Wagoner, Alaska State Legislature, interjected that both ADF&G and DNR support this legislation.

SENATOR WAGONER stated that he hadn't received anything negative from the U.S. Forest Service or the other agency. He opined that the agencies understand that this is a citizen advisory board and they will maintain the ability to have full input with regard to lands managed by the agency. Senator Wagoner said that he didn't have any problems with the agency members being non-voting members because sometimes agency members tend to dominate the meetings.

REPRESENTATIVE MORGAN asked if there is concern with regard to the agencies not having voting rights on the KRSMA Advisory Board.

Number 0922

PETER PANARESE, Field Operations, Central Office, Division of Parks & Outdoor Recreation, Department of Natural Resources, related that DNR reviewed the legislation and provided a lot of input to its sponsor. He announced that DNR is in support of it. The ex-officio membership of the government members of the KRSMA Advisory Board is a workable situation. Over the many years of working on this board, it has rarely been the case that the government agency's vote has swayed an issue in one way. Mr. Panarese emphasized that DNR representatives will continue

to be present. In further response to Representative Morgan, Mr. Panarese said that he didn't believe this legislation would diminish the department's participation.

Number 1006

PAUL SHADURA informed the committee that he is a resident of the Kenai Peninsula Borough and a two-term member of the KRSMA Advisory Board. However, he noted that he is not present to represent the KRSMA Advisory Board, and he has not expressed his views officially with the KRSMA Advisory Board. Mr. Shadura thanked Senator Wagoner for introducing SB 190, and expressed his frustration with trying to include other lands in KRSMA. The lands this legislation targets are already being managed as necessary for the conservation and security of the Kenai River watershed system.

MR. SHADURA turned to the portion of the legislation that addresses the makeup of the advisory board. He recalled that when he first entered the advisory board, he thought that his views or those of other citizens would be overshadowed by the agencies. However, over time he said he realized that the agencies solidified the advisory board process and made it a stronger voice in the community. Mr. Shadura pointed out that there is very little opportunity in this state for both federal and state agencies and public citizens and users to sit at the same table. He highlighted that most of the KRSMA Advisory Board decisions are unanimous consent, which binds the community and the various agencies. Within the structure of the bylaws of the KRSMA Advisory Board, a certain amount of public members are required to be present before a quorum can be established for a meeting. Furthermore, agency representatives can abstain if the representative feels that it's a sensitive or delicate issue. Mr. Shadura opined that this legislation came about possibly because some individuals didn't like an agency making certain statements. Mr. Shadura said that several times he has been frustrated with the way the [KRSMA Advisory Board] has went, but at the same he acknowledged that the consensus process is extremely important in a highly contentious area. The protection of the Kenai River watershed is the most important priority of the KRSMA Advisory Board, he said.

Number 1261

VICE CHAIR WOLF pointed out that currently the KRSMA Advisory Board consists of nine at-large public citizens and eight individuals who represent various agencies. He turned attention

to an e-mail, which is included in the committee packet, from Mona Painter who is concerned with regard to the change in the makeup of the board. The committee packet also includes a letter from Kenai Peninsula Borough Mayor Dale Bagley who is concerned with regard to adding additional lands to KRSMA. He asked if the sponsor has talked with Mayor Bagley.

SENATOR WAGONER replied yes. He related his understanding that Mayor Bagley has concerns with regard to taking any lands out of any portion of the private sector and locking them into a park system. He noted that Mayor Bagley said he fully understood that the lands recommended for transfer are EVOS lands, which were different than private lands going into the public sector or public lands going into a lockup situation. With regard to the letter from [Mona Painter in] Cooper Landing, Senator Wagoner acknowledged that Cooper Landing has expressed its desire to not have the agencies represented and to include several thousand acres into KRSMA. However, the latter point was how the legislation was killed in the past. Senator Wagoner pointed out that there is no support for putting that much additional land into KRSMA. He noted that he has explained to Ms. Painter and others in Cooper Landing that they do have a representative on the KRSMA Advisory Board and it's the Kenai Peninsula Borough representative. Cooper Landing isn't an incorporated area, otherwise it would have the same right of representation as do the City of Soldotna and the City of Kenai.

Number 1473

REPRESENTATIVE SAMUELS turned attention to the letter in the committee packet from Ken Lancaster, President, KRSMA Advisory Board. Mr. Lancaster suggests that the language of the legislation read such that an individual could be a public member of the advisory board even if he or she happens to be an employee of one of the non-voting agencies.

SENATOR WAGONER said that he didn't have a problem with that, and suggested that the commissioner would have the latitude to address that. In fact, there is currently a public member of the KRSMA Advisory Board who happens to be an employee of ADF&G.

VICE CHAIR WOLF recalled that the U.S. Forest Service and U.S. Fish & Wildlife have compiled data with regard to the number of angler days on the upper reaches of the Kenai River, from the mouth of the lake to a mile below the Russian River. [That data specifies that] currently, 550,000 angler days take place on the upper reaches of the Kenai River. Furthermore, there is an

issue with regard to guides [on the lower Kenai River] and thus there is a working group reviewing that sector of users. Vice Chair Wolf expressed concern with removing the agency personnel from the advisory board.

SENATOR WAGONER suggested that the vast majority of those fishing in the upper Kenai River are fishing in the mouth of the Russian River. He acknowledged that there is a problem or at least a perceived problem with the number of guides on the lower Kenai River. He predicted that eventually some difficult decisions will have to be made with regard to the amount of activity [allowed] on the Kenai River.

VICE CHAIR WOLF announced that he would like to review this legislation further. Therefore, he assigned CSSB 190 (STA) to a subcommittee with Representative Wolf, chair, and Representatives Samuels and Kookesh.

CHAIR MORGAN pointed out the letter from Bill Stockwell, chair, Cooper Landing Fish & Game Advisory Committee, who expressed concern with regard to Section 4 of the legislation. According to the letter, the Cooper Landing Fish & Game Advisory Committee voted unanimously to oppose Section 4 of SB 190 at the March 18, 2004, meeting.

Number 1826

SENATOR WAGONER reiterated that Cooper Landing is the community with the most concern and it's also the community that wants to include another 10,000 acres, which will kill the legislation in the Senate. Senator Wagoner reiterated that CSSB 190(STA) maintains three agencies on the KRSMA Advisory Board, which include two primary communities on the Kenai River and the Kenai Peninsula Borough, which represents everyone on the entire stem of the Kenai River. He characterized those representatives as citizen agencies of the advisory board.

VICE CHAIR WOLF reminded the committee that SB 190 was assigned to subcommittee.

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 8:32 p.m.