

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

April 16, 2004

1:14 p.m.

MEMBERS PRESENT

Representative Nancy Dahlstrom, Co-Chair
Representative Beverly Masek, Co-Chair
Representative Carl Gatto
Representative Bob Lynn
Representative Kelly Wolf
Representative Beth Kerttula
Representative David Guttenberg

MEMBERS ABSENT

Representative Cheryl Heinze, Vice Chair
Representative Nick Stepovich

COMMITTEE CALENDAR

CONFIRMATION HEARING

Board of Fisheries

Robert Heyano - Dillingham
Art N. Nelson - Anchorage

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 531

"An Act relating to natural gas exploration and development and to nonconventional gas, and amending the section under which shallow natural gas leases may be issued; and providing for an effective date."

- MOVED CSHB 531(RES) OUT OF COMMITTEE

HOUSE BILL NO. 395

"An Act relating to shallow natural gas leasing and the regulation of shallow natural gas operations."

- MOVED CSHB 395(RES) OUT OF COMMITTEE

HOUSE BILL NO. 498

"An Act requiring the sale or trade of state land."

- MOVED CSHB 498(RES) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 531

SHORT TITLE: CONVENTIONAL & NONCONVENTIONAL GAS LEASES

SPONSOR(S): RESOURCES

03/04/04	(H)	READ THE FIRST TIME - REFERRALS
03/04/04	(H)	O&G, RES, FIN
03/16/04	(H)	O&G AT 3:15 PM CAPITOL 124
03/16/04	(H)	Heard & Held
03/16/04	(H)	MINUTE(O&G)
03/18/04	(H)	O&G AT 3:15 PM CAPITOL 124
03/18/04	(H)	Heard & Held
03/18/04	(H)	MINUTE(O&G)
03/22/04	(H)	RES AT 1:00 PM CAPITOL 124
03/22/04	(H)	<Pending Referral>
04/01/04	(H)	O&G AT 3:15 PM CAPITOL 124
04/01/04	(H)	Moved CSHB 531(O&G) Out of Committee
04/01/04	(H)	MINUTE(O&G)
04/05/04	(H)	O&G RPT CS(O&G) 7AM
04/05/04	(H)	AM: HOLM, KERTTULA, MCGUIRE, ROKEBERG,
04/05/04	(H)	CRAWFORD, HEINZE, KOHRING
04/14/04	(H)	RES AT 1:00 PM CAPITOL 124
04/14/04	(H)	Heard & Held <Assigned to Subcmte>
04/14/04	(H)	MINUTE(RES)
04/16/04	(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 395

SHORT TITLE: SHALLOW NATURAL GAS/ OIL AND GAS

SPONSOR(S): REPRESENTATIVE(S) HARRIS

01/23/04	(H)	READ THE FIRST TIME - REFERRALS
01/23/04	(H)	O&G, RES, JUD, FIN
02/05/04	(H)	O&G AT 1:00 PM CAPITOL 124
02/05/04	(H)	Heard & Held
02/05/04	(H)	MINUTE(O&G)
02/24/04	(H)	O&G AT 3:15 PM CAPITOL 124
02/24/04	(H)	Heard & Held
02/24/04	(H)	MINUTE(O&G)
02/26/04	(H)	O&G AT 3:15 PM CAPITOL 124
02/26/04	(H)	Heard & Held
02/26/04	(H)	MINUTE(O&G)
03/09/04	(H)	O&G AT 3:15 PM CAPITOL 124
03/09/04	(H)	Moved CSHB 395(O&G) Out of Committee

03/09/04 (H) MINUTE(O&G)
 03/12/04 (H) O&G RPT CS(O&G) NT 1DP 3NR 1AM
 03/12/04 (H) DP: KOHRING; NR: ROKEBERG, CRAWFORD,
 03/12/04 (H) HOLM; AM: KERTTULA
 03/19/04 (H) RES AT 1:00 PM CAPITOL 124
 03/19/04 (H) -- Meeting Canceled --
 04/07/04 (H) RES AT 1:00 PM CAPITOL 124
 04/07/04 (H) Heard & Held
 04/07/04 (H) MINUTE(RES)
 04/14/04 (H) RES AT 1:00 PM CAPITOL 124
 04/14/04 (H) Heard & Held <Assigned to Subcmte>
 04/14/04 (H) MINUTE(RES)
 04/16/04 (H) RES AT 1:00 PM CAPITOL 124

BILL: HB 498

SHORT TITLE: SALE OR TRADE OF STATE LAND
 SPONSOR(S): REPRESENTATIVE(S) SEATON

02/16/04 (H) READ THE FIRST TIME - REFERRALS
 02/16/04 (H) RES, FIN
 04/16/04 (H) RES AT 1:00 PM CAPITOL 124

WITNESS REGISTER

ROBERT HEYANO, Appointee
 to the Board of Fisheries
 Dillingham, Alaska

POSITION STATEMENT: Provided the committee with his
 qualifications and experience.

ART N. NELSON, Appointee
 to the Board of Fisheries
 Anchorage, Alaska

POSITION STATEMENT: Provided the committee with his
 qualifications and experience.

REPRESENTATIVE PAUL SEATON
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Asked questions of appointees during
 confirmation hearings on the Board of Fisheries, and as sponsor
 of HB 498, presented the bill.

ED DERSHAM, Chairman
 Board of Fisheries
 Homer, Alaska

POSITION STATEMENT: Testified in support of Mr. Heyano and Mr. Nelson's appointment to the Board of Fisheries.

JOHN JENSEN, commercial fisherman
Petersburg, Alaska

POSITION STATEMENT: Testified in support of Mr. Heyano and Mr. Nelson's appointment to the Board of Fisheries.

RON RAINEY

Kenai River Sportfishing Association, Inc.
Soldotna, Alaska

POSITION STATEMENT: Testified in support of both Mr. Nelson's and Mr. Heyano's appointment to the Board of Fisheries.

MARK GLASSMAKER, Vice President
Kenai Professional Guide Association
Soldotna, Alaska

POSITION STATEMENT: Testified in support of Mr. Heyano and Mr. Nelson's appointment to the Board of Fisheries.

STEVE McCLURE, President
Kenai Professional Guide Association
Soldotna, Alaska

POSITION STATEMENT: Testified in support of Mr. Heyano and Mr. Nelson's appointment to the Board of Fisheries.

REUBEN HANKE, sport fishing guide owner/operator
Soldotna, Alaska

POSITION STATEMENT: Testified in support of Mr. Heyano and Mr. Nelson's appointment to the Board of Fisheries.

JOE HANES, Guide;
Member, Kenai River Special Management Area Board
Soldotna, Alaska

POSITION STATEMENT: Testified in support of Mr. Heyano and Mr. Nelson's appointment to the Board of Fisheries.

DALE BONDURANT
Soldotna, Alaska

POSITION STATEMENT: During confirmation hearings, discussed the McDowell v. State case and the common use clause of the Alaska State Constitution.

JACK CHENOWETH, Attorney
Legislative Legal Counsel
Legislative Legal and Research Services
Legislative Affairs Agency

Juneau, Alaska

POSITION STATEMENT: Explained the proposed committee substitutes for HB 531, Version V, and HB 395, Version G.

MARK MYERS, Director
Division of Oil & Gas
Department of Natural Resources (DNR)
Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 395, answered questions.

ACTION NARRATIVE

TAPE 04-21, SIDE A

Number 0001

CO-CHAIR NANCY DAHLSTROM called the House Resources Standing Committee meeting to order at 1:14 p.m. Representatives Dahlstrom, Masek, Gatto, Lynn, Wolf, Guttenberg, and Kerttula were present at the call to order.

CONFIRMATION HEARING(S)

Board of Fisheries

Number 0058

CO-CHAIR DAHLSTROM brought before the committee the appointments of Robert Heyano and Art N. Nelson to the Board of Fisheries. [Packets contained biographical information on the appointees.]

Number 0161

ROBERT HEYANO, Appointee to the Board of Fisheries, provided the committee with his qualifications and experience. He told the members that he is a lifelong resident of the Bristol Bay region. Mr. Heyano said that for 31 years he has operated a Bristol Bay salmon drift gill net operation, and for 24 years he has participated in the Togiak herring seine fishery. In addition, he and his wife own and operate a small sport fish camp. Mr. Heyano emphasized that he is also an active subsistence user. He shared that he has served on a number of committees, including the Nushagak Advisory Committee for 20 years, 10 years of which he served as the chairman, and the Federal Subsistence Bristol Bay Rural Advisory Council.

CO-CHAIR DAHLSTROM noted that Representative Seaton was present and invited him to join the members at the table.

Number 0334

ART N. NELSON, Appointee to the Board of Fisheries, provided the committee with his qualifications and experience. He told the committee that he lives in Anchorage with his wife, Joanie, and three young boys. Since being appointed by Governor Murkowski early last year to complete a term on the Board of Fisheries he has enjoyed the opportunity to serve. Mr. Nelson said that it can be very frustrating and challenging when dealing with divisive issues. It has been a good experience to work with the stakeholders, learn their fisheries, and help them craft solutions to the problems they face, he added. While Alaska can boast some of the healthiest fisheries in the world, there are still many challenges such as dealing with sustained yield, allocation, or maximizing values. Sometimes the issues are all wrapped into the same issue, he commented.

Number 0501

MR. NELSON commented that he believes he brings a broad range of experience to the board; from growing up commercial fishing on his parents' boat in Prince William Sound to working on biological, subsistence, and small boat issues for Western Alaska. He shared that he also worked for the Bering Sea Pollock industry. Mr. Nelson added that he did all of this while still being an avid sport fisherman. These experiences help him to look at issues that come before the board from a variety of perspectives, he explained. He acknowledged that when dealing with fisheries issues it is not always possible to make everyone happy. Mr. Nelson summarized that he and the other members of the board have done their best to make the right decisions to protect the resources and do what is best for the residents of Alaska. He asked that the members support him in continuing his service on the board. In closing, he stated that he has known Mr. Heyano for many years; he is an excellent individual and a straight shooter, and would be a valuable addition to the board.

Number 0571

REPRESENTATIVE WOLF asked Mr. Heyano if he has fished in the Bristol Bay region.

MR. HEYANO replied yes.

REPRESENTATIVE WOLF noted that there were letters of support for Mr. Heyano from the Bristol Bay Native Association, Mr. Heyano's state senator, and Dillingham Electric Company. Representative Wolf asked if Mr. Heyano solicited the letters of endorsement.

MR. HEYANO responded that he has not asked for any letters of support.

REPRESENTATIVE WOLF asked Mr. Heyano what he believes he can contribute to the Board of Fisheries to move Alaska forward in the next three years.

MR. HEYANO replied that as an Alaskan with a strong personal interest in renewable resources such as fish and wildlife, and his experience in Bristol Bay he is aware of the need to protect the resource. He commented that the salmon industry is going through a tough time and he looks forward to working to make it a more viable industry.

Number 0834

REPRESENTATIVE WOLF commented that the Board of Fisheries deals with issues that can be "testy" at times, with respect to public input and the decisions board members have to make. He asked if Mr. Heyano believes he has the experience necessary to help resolve some of the issues between different user groups.

MR. HEYANO replied that he believes he does have the skills to address these issues. He explained that he has been a public participant in the Board of Fisheries process for approximately 20 years. During that time he has been on both sides of the issues. Mr. Heyano told the members that he has served on committees that have developed management plans that allocated the resources to users on the local level where the members are dealing with the subsistence board and commercial fisheries. Anytime a decision is made on the resource, there has to be support by the majority of users or the problems continue.

Number 0933

REPRESENTATIVE GUTTENBERG commented that the House Special Committee on Fisheries has before it legislation dealing with a moratorium in the Gulf of Alaska and the assigning of rights to either the vessels, the captains, or the permit holders. He inquired as to Mr. Heyano's opinion on the matter.

MR. HEYANO replied that he does not have an opinion at this time.

Number 0980

REPRESENTATIVE GATTO asked if Mr. Heyano believes there should be some kind of controlled access to the fish in order to preserve the resource.

MR. HEYANO replied that he is not fully versed on the fisheries in the Gulf of Alaska, so he could not comment on that particular fishery at this time. It appears that a lot of fisheries, particularly those in federal waters, are moving in the direction of controlled access, he added. Mr. Heyano told the members that if his appointment is confirmed he expects to be brought up to speed on that issue.

Number 1050

REPRESENTATIVE SEATON asked if Mr. Heyano is familiar with SB 69 which would allow board members to participate in deliberations and vote [even when] they have either a financial or participatory conflict of interest in the issue that is being addressed. He inquired as to Mr. Heyano's opinion.

MR. HEYANO said if the concept behind the Board of Fisheries is to have a layman board rather than a professional board, then he said he believes it is important that the most knowledgeable participants from the public be able to serve on the board. It is a step in the right direction, he added.

Number 1129

REPRESENTATIVE SEATON asked if he sees a distinction between participating in a fishery and being knowledgeable, and being a lobbyist or being paid to be on the board to represent an organization or viewpoint.

MR. HEYANO replied that he does see the distinction. If an individual is paid to be on the board, then there is a move of the board to the professional arena, he said.

REPRESENTATIVE WOLF commented that Mr. Heyano has received nine letters of endorsement from around the state. He asked if any members of these organizations interviewed him.

MR. HEYANO stated that no one interviewed him. He acknowledged that he has not seen either letters of support or opposition to his appointment.

REPRESENTATIVE WOLF told Mr. Heyano that he would forward him copies of the letters of endorsement.

Number 1311

ED DERSHAM, Chairman, Board of Fisheries, testified in support of Mr. Heyano's appointment to the Board of Fisheries. He told the members that he very much supports Mr. Heyano's service to the board because he has worked with him in his capacity as chairman of the Dillingham Advisory Committee, as a private individual, and as a commercial fisherman. Mr. Heyano provided valuable input to the process, he said. Mr. Dersham commented that he has found Mr. Heyano to be a fair-minded individual. The board has considered his input on the salmon fishing industry restructuring issue. He explained that as the board goes forward there will be more participation from the board on the salmon restructuring debate. Mr. Heyano will be a valuable asset with respect to that issue, and is well aware of the commitment involved. Mr. Dersham said he knows Mr. Heyano deliberated long and hard with his family before agreeing to put his name forward.

Number 1311

JOHN JENSEN, commercial fisherman, testified in support of Mr. Heyano, whom he met him last year during the board process. Mr. Jensen related that he was impressed with Mr. Heyano's ability to see all [sides] of the problems facing the board. Mr. Jensen applauded Mr. Heyano's willingness to put his name forward, and expressed the hope that Mr. Heyano's confirmation is advanced.

Number 1539

RON RAINEY, Kenai River Sportfishing Association, Inc., testified in support of the appointment of both Mr. Nelson and Mr. Heyano to the Board of Fisheries. He told the members that he lives on the Kenai River and is an avid sports fisherman. Mr. Rainey said that he has observed Mr. Nelson and his service on the board for the last two sessions and is very impressed with his fairness and ability to see both sides of an issue.

CO-CHAIR DAHLSTROM interjected that the committee is hearing testimony only on Mr. Heyano.

MR. RAINEY commented that he only knew Mr. Heyano by reputation. He said he has seen him at the Board of Fisheries meetings, and is impressed with the fact that he has both commercial fishing experience and participation in the sport fishery as well as the subsistence fishery. Mr. Rainey opined that Mr. Heyano's background will bring a balanced view to the board, and therefore he would like Mr. Heyano to be confirmed.

Number 1607

MARK GLASSMAKER, Vice President, Kenai Professional Guide Association, testified in support of the appointment of Mr. Heyano. He noted that although he has yet to meet or work with Mr. Heyano, he looked forward to his open-mindedness with the sport fishing industry.

STEVE McCLURE, President, Kenai Professional Guide Association (KPGA), related KPGA's support for the appointment of Mr. Heyano. It's important, he further related, that the makeup of the board continues to have a member from the Dillingham region.

REUBEN HANKE, owner/operator of a sport fishing guide service on the banks of the Kenai River, said that although he doesn't personally know Mr. Heyano, he comes highly recommended from a group of his peers. Furthermore, Mr. Heyano has been involved in the board process for a number of years. For those reasons, Mr. Hanke said he is comfortable that Mr. Heyano is up to date with many of the issues facing the Board of Fisheries today.

JOE HANES, Guide; Member, Kenai River Special Management Area Board, echoed earlier comments that although he didn't have any personal experiences with Mr. Heyano, he respected the opinions of other board members who are looking forward to working with Mr. Heyano. Therefore, Mr. Hanes supported Mr. Heyano's appointment.

Number 1758

DALE BONDURANT informed the committee that he participated in the McDowell v. State case and believes his participation was actively considered in the Alaska Supreme Court's decision. In the aforementioned case Article 8, SECTION 3. "Common Use. Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." of the Alaska State Constitution was cited. He related that the Alaska Supreme Court found in McDowell v. State as well as other cases

the following: "We believe that a professional hunting guide uses a resource that is sufficiently direct, therefore, it falls within the common use clause. The work of the guide is sufficiently directed to the taker, and so there is no meaningful biased for extinguishing the guide's right under the common use clause." Mr. Bondurant said that Judge Moore basically stated that McDowell v. State was an equal protection case and an easy one at that. Furthermore, the Alaska Supreme Court has, on a number of occasions, stated that the limited entry fishery is an exclusionary fishery and thus isn't a common use fishery. Mr. Bondurant asked Mr. Nelson and Mr. Heyano if they would accept the Alaska Supreme Court's 6-1 decision in the McDowell v. State case and support the common use clause of the Alaska State Constitution.

MR. HEYANO opined that the resources of the state belong to all Alaskans.

Number 1917

MR. NELSON said that he isn't intimately familiar with the McDowell case, but as a member of the board one must abide by all of the laws that are currently in place.

REPRESENTATIVE GUTTENBERG restated his earlier question regarding the legislation dealing with a moratorium in the Gulf of Alaska and assignment of rights. He noted that Mr. Nelson represents some catcher-processor vessels, and therefore questioned whether he had a position on that or has been part of the dialogue on the matter.

MR. NELSON said that he is familiar with the matter, and has sat on the board's three-member committee that is addressing rationalization. Mr. Nelson emphasized that although in his day job he works for an association of companies that work in the Bering Sea, he doesn't represent them in his seat on the Board of Fisheries. He noted that when he attends Board of Fisheries meetings he takes unpaid leave and in no way feels beholden to that association of companies. However, he said that he does bring the experience of the Bering Sea fishery to the Board of Fisheries, which is valuable along with his other experience. With regard to the moratorium, the assignment of rights is certainly in the purview of the legislation. He offered that the reason the [rights were assigned] to vessels was because it was the best way in which to get a handle on the participants in the fishery while not necessarily having a proliferation of effort. Still, he acknowledged that there are good arguments to

go to an individual [based moratorium], although it would possibly allow a significant increase in effort.

REPRESENTATIVE GUTTENBERG noted that there has also been dialogue with regard to the number of vessels that might enter [the fishery], which would result in the same effect as an individual-based moratorium. Therefore, he asked if in Mr. Nelson's reasoning there could be a place for a combination of individual- and vessel-based [rights].

MR. NELSON agreed that there could be a combination approach. He reminded the committee that the North Pacific Fishery Management Council (NPFMC) is proceeding with rationalizing the federal side of the fishery. Although the [state] isn't forced to react to the aforementioned, if the state doesn't there is a significant possibility for the influx of effort in the state waters. Also, the participants in the state water fisheries may face significant economic disadvantage through markets and an influx of competition if the federal system is rationalized and the state system is not.

REPRESENTATIVE GUTTENBERG noted that there has been discussion that there is time to see what happens [with the federal rationalization]. He asked if Mr. Nelson felt that there is a specific need to act on this matter.

MR. NELSON pointed out that NPFMC has been working on Gulf rationalization for a number of years, and only recently was the issue "punted" to Alaska with regard to how it would want to deal with it. He opined that he and the board would want to be sure it make the correct decisions on this matter, which has led the board to move slower than NPFMC would like. However, Mr. Nelson said that he wasn't comfortable making a decision until he understands the issues better and has dealt with the stakeholders. The fact that NPFMC is rationalizing compels the board to consider what it might or might not want to do in state waters, but Mr. Nelson stated that he wouldn't act on a strict timeline solely because of federal rationalization. In fact, to some extent NPFMC can't move forward with the specifics of its plan until it knows how the state will deal with state water fisheries.

Number 2373

REPRESENTATIVE WOLF asked Mr. Nelson if his experience could lend credibility and provide commonality within the board in order to remove some of the divisiveness.

MR. NELSON answered that he would hope so and felt that his broad spectrum of supporters lends to his credibility to listen to various points of view. Mr. Nelson said that he would do his best. In further response to Representative Wolf, Mr. Nelson confirmed that he hasn't seen the list of endorsements from the governor's office. However, he mentioned that he had heard that both the United Fishermen of Alaska and the Kenai River Sportfishing Association had endorsed his appointment. He also confirmed that he wasn't interviewed for the endorsements that he received.

Number 2548

REPRESENTATIVE SEATON returned to SB 69 and the financial conflict of interest and said that he understood Mr. Nelson's position as an employee. Representative Seaton asked if Mr. Nelson viewed hired lobbyists or individuals hired to come before the board as problematic.

MR. NELSON mentioned that whether he had a conflict of interest on a particular interest was addressed at a meeting earlier this year. The Department of Law suggested that Mr. Nelson remove himself from the vote, which he did. Mr. Nelson said that he does support addressing the conflict of interest issue, which SB 69 partially addresses. Currently, the [legislation] certainly allows fishermen and ground level participants to be involved with the Board of Fisheries. Many individuals wouldn't want to put their name forward because the fishery they are knowledgeable about wouldn't be able to participate in the votes and decision-making. Mr. Nelson characterized SB 69 as a step in the right direction, although he wasn't sure how it would impact him.

REPRESENTATIVE SEATON asked if Mr. Nelson would support people who take money to lobby on an issue or be hired as consultants and then participate in board deliberations and votes.

MR. NELSON replied no, he wouldn't support such.

Number 2710

REPRESENTATIVE GUTTENBERG returned to the NPFMC's rationalization and the moratorium legislation. He related his understanding that Mr. Nelson had said that NPFMC is waiting to see how the state deals with this. However, the House Special Committee on Fisheries is operating under the premise that NPFMC

will "do it first." Therefore, he questioned what the situation really is.

MR. NELSON recalled that the process started in the federal arena three to four years ago. Part of the problem is that the fish aren't aware of the three-mile boundary. He explained that NPFMC can't really determine how to manage outside the three-mile boundary until there is an idea with regard to how the state will react within the three miles. Fishermen in the state fisheries and the parallel fisheries are often the same people, and therefore the assignment of quota shares could depend upon how much the state and the Board of Fisheries decides to integrate or create a definite distinction.

Number 2856

MR. HANES noted that he had quite a bit of involvement with Mr. Nelson at the last Board of Fisheries meeting. He recalled Mr. Nelson being easy to work with and proposing some innovative ideas for problems. Therefore, he related his strong support for the appointment of Mr. Nelson to the Board of Fisheries.

MR. HANKE voiced support for the appointment of Mr. Nelson. After working with Mr. Nelson over a few board cycles, he has found him to be fair and equitable on the issues facing the state's fisheries.

MR. McCLURE stated that KRPGA has nothing but respect for the effort, work, and time Mr. Nelson has given to the Board of Fisheries. Although Mr. Nelson and the KRPGA have been on different sides of various issues, Mr. Nelson has been fair, unbiased, and professional in his actions. The aforementioned is all one can ask of anyone on the Board of Fisheries. Therefore, KRPGA strongly supports the appointment of Mr. Nelson.

MR. GLASSMAKER expressed support for the appointment of Mr. Nelson. He noted that he has met and worked with Mr. Nelson in past board proceedings. He characterized Mr. Nelson's presence on the Board of Fisheries as an asset to the state's fisheries. Mr. Nelson's level-headed understanding of the diverse issues facing the board make him an excellent choice for this difficult position, he commented.

MR. RAINEY reiterated that he has observed Mr. Nelson at several Board of Fisheries hearings at which he was straightforward, fair, and representative of all user groups. Mr. Rainey

reiterated his strong endorsement of the appointment of Mr. Nelson.

TAPE 04-21, SIDE B

MR. JENSEN spoke in favor of Mr. Nelson's appointment to the board, and remarked that Mr. Nelson is doing a good job as the current vice chair of the Board of Fisheries. He felt that given the opportunity, Mr. Jensen will continue to do a good job on the board.

MR. DERSHAM said that he has worked with Mr. Nelson for two cycles of meetings. He characterized Mr. Nelson as a hard worker and adept at taking on tough issues and developing all of the possible information. Mr. Dersham said that he supported the continued service of Mr. Nelson.

Number 2878

REPRESENTATIVE WOLF expressed concern with the endorsements from the Kenai River Sportfishing Association, which is a 501(c)(3) nonprofit organization. Under the Internal Revenue System code, a 501(c)(3) cannot endorse a candidate for public office. The governor's office has accepted the endorsements. However, Representative Wolf requested that the endorsements from the Kenai River Sportfishing Association and the Cook Inlet Sport fish Caucus be stricken [from the record] due to close association with the governor. Representative Wolf said he would object unless those were stricken [from the record].

CO-CHAIR DAHLSTROM said that she wasn't sure whether the committee could strike those endorsements from the record. She opined that it's appropriate for Representative Wolf to make his statements and then the committee will proceed with its vote. She noted that she would pass along Representative Wolf's concerns.

Number 2748

CO-CHAIR MASEK moved that the committee forward the names of Mr. Robert Heyano and Mr. Art Nelson to the full body for consideration.

REPRESENTATIVE WOLF objected.

A roll call vote was taken. Representatives Guttenberg, Kerttula, Gatto, Lynn, Masek, and Dahlstrom voted in favor of

forwarding the names of Mr. Heyano and Mr. Art Nelson to the full body for consideration. Representative Wolf voted against it. Therefore, the names were forwarded to the full body for consideration by a vote of 6-1.

REPRESENTATIVE WOLF clarified that his objection is to the endorsements not the appointees.

CO-CHAIR DAHLSTROM passed the gavel to Co-Chair Masek.

HB 531-CONVENTIONAL & NONCONVENTIONAL GAS LEASES

[Contains discussion of HB 395.]

CO-CHAIR MASEK announced that the next order of business would be HOUSE BILL NO. 531, "An Act relating to natural gas exploration and development and to nonconventional gas, and amending the section under which shallow natural gas leases may be issued; and providing for an effective date."

CO-CHAIR MASEK reminded the committee that prior to the committee's last meeting she appointed a subcommittee on HB 531, which met yesterday. She requested that the chair of the subcommittee present the information it found to the committee.

Number 2600

REPRESENTATIVE GATTO moved to adopt CSHB 531, Version 23-LS1818\V, Chenoweth, 4/15/04, as the working document. There being no objection, Version V was before the committee.

CO-CHAIR DAHLSTROM explained that basically the subcommittee reviewed HB 395 and HB 531 and determined that HB 395 pertains to the present and HB 531 to the future. Some agreement was reached with regard to the terminology, which she requested the drafter address. The subcommittee agreed that the two pieces of legislation would be compatible.

Number 2518

JACK CHENOWETH, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency, explained that the goal of the subcommittee was to ensure that the two pieces of legislation weren't in conflict. Very few changes were made to HB 531 and the changes are encompassed in Version V. The subcommittee desired for the provisions to covering the waiver of the local planning authority, which was

added last year in HB 69, to be repealed. Therefore, AS 31.05.125, AS 38.05.177(n), and a particular provision that was amended when those changes were added were repealed. The other change in Version V was to AS 46.03.100(f) where the language was changed to conform to language used in HB 524 in which the legislature addressed the exclusion from the water and wastewater discharge permits.

REPRESENTATIVE GUTTENBERG asked if any consideration was given to melding HB 531 and HB 395 together.

MR. CHENOWETH said that he wasn't given that instruction.

CO-CHAIR DAHLSTROM confirmed that there was mention of having one piece of legislation come out of the subcommittee. In discussing the pros and cons of the aforementioned, one member felt that one piece of legislation should be put forth while the other two members of the subcommittee felt that [two pieces of legislation should be put forth].

REPRESENTATIVE GATTO said that the subcommittee labored over this matter and decided that it would be more practical to keep the two pieces of legislation separate. He mentioned that the two pieces of legislation were clearly aligned.

MR. CHENOWETH explained that HB 531 reflects an approach that eliminates shallow natural gas leasing as a separate form of leasing and brings that leasing under the conventional oil and gas leasing provisions of AS 38.05.180. The aforementioned was done per the general direction provided by the Department of Natural Resources (DNR). Substantial drafting is required to allow DNR to act on leasing on a gas only basis. The legislation also includes DNR's suggestion to replace the language "shallow natural gas" with "nonconventional gas." "All of the changes made in [HB] 531, generally are made to move leasing in that direction so that ... we're back to one general form of leasing whether it's for conventional oil and gas or ... whether it's for ... nonconventional gas leasing," he explained.

Number 2248

CO-CHAIR DAHLSTROM moved to report CSHB 531, Version 23-LS1818\V, Chenoweth, 4/15/04, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE KERTTULA said that she wanted to offer an amendment.

CO-CHAIR MASEK said that Representative Kerttula, as a member of the subcommittee, had a "shot at it." She reminded the committee that there is a motion to report Version V from committee pending.

REPRESENTATIVE KERTTULA objected to the motion.

A roll call vote was taken. Representatives Gatto, Dahlstrom, Masek, and Lynn voted in favor of reporting CSHB 531, Version 23-LS1818\V, Chenoweth, 4/15/04, out of committee. Representatives Guttenberg and Kerttula voted against it. Therefore, CSHB 531(RES) was reported out of the House Resources Standing Committee by a vote of 4-2.

HB 395-SHALLOW NATURAL GAS/ OIL AND GAS

[Contains discussion of HB 531.]

CO-CHAIR MASEK announced that the next order of business would be HOUSE BILL NO. 395, "An Act relating to shallow natural gas leasing and the regulation of shallow natural gas operations."

Number 2162

CO-CHAIR DAHLSTROM moved to adopt CSHB 395, Version 23-LS1314\G, Chenoweth, 4/16/04, as the working document. There being no objection, Version G was before the committee.

CO-CHAIR MASEK reminded the committee that HB 395 had been assigned to a subcommittee. She requested that Mr. Chenoweth explain Version G.

JACK CHENOWETH, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency, noted that the committee should have a copy of an April 16, 2004, memorandum he prepared. Mr. Chenoweth related that the goal was to ensure that HB 395 operate in some fashion whether it passed by itself or if HB 531 passed as well. Section 1 of [Version G] amends the requirements regarding how the Alaska Oil and Gas Conservation Commission (AOGCC) involves itself in shallow natural gas. The language in Section 1 is the same as in the prior draft, no change has been made to this section. The only change in Section 2 is to repeal and reenact Section 1 and change all references to "shallow natural gas" to "nonconventional gas." Therefore, Section 1 will be in effect if HB 395 becomes law while Section 2 will operate if both HB

395 and HB 531 become law. Section 3, he explained, is a public forum provision that's imposed upon the AOGCC covering shallow natural gas and will operate if HB 395 alone becomes law. If both HB 395 and HB 531 become law, it's necessary to change the references to "shallow natural gas" to "nonconventional gas," which is accomplished in Section 4.

MR. CHENOWETH continued to review Version G. Section 5 is the same definition of "shallow natural gas" as in the prior version with the adjustment in the reduction of depth from 4,000 to 3,000 feet in an attempt to standardize that. However, if HB 531 becomes law, AS 31.05.170(14) is repealed, which is located on page 17, line 14, and replaced by the definition of "nonconventional gas." Section 7 of Version G will operate under passage of either legislation or passage of both. Section 7 addresses how mineral interests are to be dealt with in situations when the access to the minerals isn't covered under the Alaska Land Act, the reservation of the mineral interest under Section 6(i) of the Statehood Act. The aforementioned would be pre-Statehood Act lands and some of the split estates that have occurred under the Alaska Native Claims Settlement Act (ANCSA) when the regional Native corporations and the village corporations own separate estates. There is no need to establish an alternative to Section 7 because it stands alone.

MR. CHENOWETH pointed out that Section 8-11 are amendments that all dealing with existing shallow natural gas provisions in AS 38.05.177. The aforementioned sections maintain the same language as in the prior draft and utilize some of the safeguards for water-well tasting, noise abatement, setbacks, and the termination or abandonment obligations at the time the lease comes to an end. Mr. Chenoweth related that he was instructed to make sure that those provisions survived if shallow natural gas is replaced by nonconventional gas. Therefore, in Section 12 paragraphs (3) and (4) [and (5)] are applicable when leases are issued for nonconventional gas leasing. He highlighted that Section 11 is a provision that provides additional safeguards to cover shallow natural gas leasing and the requirement of what's to be included in an agreement between an owner and a lessee or things that have to be dealt with in the event a lessee seeks to enter land under a bond. The aforementioned provisions are carried over in Section 12(ff)(4)(E).

MR. CHENOWETH turned to Section 13, which is an amendment to the notice provision in the event existing shallow natural gas leasing goes forward under nomination. The specifics of the

notice provisions are specified in AS 38.05.945(b), Section 14 of Version G. Section 15 simply reverses Section 14 if shallow natural gas is eliminated. The amendment to reverse Section 13 is dealt with in the repeal of AS 38.05.945(a)(7) on page 17, line 14. Section 16 appears because the [subcommittee] insisted that the language having to do with the exclusion from the water well and the wastewater permitting requirements mirror what was done in HB 524. Section 17 is a conforming event. In the event that HB 531 becomes law, Sections 18 and 19 operate the same as earlier provisions for retaining the definition of "shallow natural gas" or replacing it with the definition of "nonconventional gas." Sections 20-21 repeal the waiver of the local approval authority that's given to the commissioner.

Number 1661

MR. CHENOWETH highlighted Section 23, which sets out some repealers that are contingent. He reminded the committee that various sections of Version G take effect only if HB 531 takes effect. Section 24 is an effective date for the contingent provisions and ensures that those provisions [take effect] one day later than HB 531. Section 25 is the effective date for the noncontingent provisions in Version G.

REPRESENTATIVE GUTTENBERG directed attention to page 12, line 18, paragraph (7), and inquired as to the notice requirement that is required.

Number 1525

MARK MYERS, Director, Division of Oil & Gas, Department of Natural Resources (DNR), specified that [paragraph (7)] basically puts in place the same [notice] standard as used for a conventional lease sale. Therefore, there is a best interest finding and a notification of the sale. The call for comments would also be incorporated into the best interest finding process.

MR. CHENOWETH directed attention to page 5, lines 28-29, which specifies that there must be the opportunity for public comment for a period of not less than 60 days. The aforementioned is "picked up" on page 12, lines 18-19. He reminded the committee that shallow natural gas proceeds on the basis of an individual expressing an interest in developing a particular parcel of land. Based on the identification of the parcel, the potential lessee makes application. Therefore, the obligation of DNR to provide notice of receipt of a lease application is being added

[in Section 14]. The call for public comment refers back to AS .177(c). Under HB 531 there would be no division of initiating a lease rather it would all take place under the conventional oil and gas leasing methodology. When the state initiates the decision to lease in a particular area, it isn't on the basis of an individual making an application for a lease rather it's on the basis of the state specifying the area which it's proposing to put up for lease. In the latter situation AS .177 wouldn't need to be retained and thus is eliminated if HB 531 takes effect.

The committee took an at-ease from 2:34 p.m. to 2:37 p.m.

Number 1204

CO-CHAIR DAHLSTROM moved to report CSHB 395, Version 23-LS1314\G, Chenoweth, 4/16/04, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 395(RES) was reported out of committee.

CO-CHAIR MASEK returned the gavel to Co-Chair Dahlstrom.

HB 498-SALE OR TRADE OF STATE LAND

CO-CHAIR DAHLSTROM announced that the final order of business would be HOUSE BILL NO. 498, "An Act requiring the sale or trade of state land."

Number 1120

REPRESENTATIVE PAUL SEATON, Alaska State Legislature, sponsor, stated that HB 498 is meant to help the state acquire special purpose lands. He recalled that last year he worked hard on creating a public recreational area outside of Homer, which required the acquisition of private lands. The private lands were acquired by the state being the conduit for 100 percent federal legacy lands. The argument against acquiring the land was that it was private land and the state taking it for an economic development project would remove the land from its tax base. Furthermore, it was argued that the state acquiring the land would further deplete the amount of privately owned land in the state. Trying to get through and balance the acquisition of private land by the state is the intent of HB 498.

REPRESENTATIVE SEATON explained that if the state is going to acquire private land for a public purpose, HB 498 requires the Department of Natural Resources (DNR) to review the area to

determine whether there is other settlement land, agricultural land, or resource designated lands that could be available to put up for sale on an equal value basis. He noted that the acquisition of park land or land for recreational development wouldn't be held up waiting for the sale to take place. Representative Seaton pointed out that in some areas of the state the problem is that there isn't very much state land, although there may be parcels of land that are vital to a community's economic base. If DNR can't find land within a reasonable distance, then the requirements would be fulfilled and the purchase of the [private land] wouldn't be stopped. Representative Seaton highlighted that the legislation includes a provision such that the review for other state lands could be fulfilled, if a trade with the landowner is accomplished. Basically, this legislation results in no net loss, and therefore the amount of private ownership isn't lost. Although more amounts of state land are offered for sale than is purchased, often the state lands are remote.

Number 0739

CO-CHAIR MASEK moved to adopt CSHB 498, Version 23-LS1230\Q, Bullock, 3/31/04, as the working document. There being no objection, Version Q was before the committee.

The committee took a brief at-ease at 2:45 p.m.

REPRESENTATIVE GATTO posed a situation in which there is an "in holding" for a series of parcels that are needed. If the individual with the in holding doesn't want to leave the area and accept another parcel of land, does the state have a way to deal with it, he asked.

REPRESENTATIVE SEATON clarified that this legislation in no way forces an individual to sell any land. This legislation merely requires that the state, DNR, when it acquires land from a willing private owner, offer other state land for sale to the private property owner. The land offered by the state would only be development lands. A trade isn't required and would probably be an unusual circumstance, he noted. With regard to obtaining additional federal lands by the state, Representative Seaton said those lands would be [available] as they are classified as developmental lands. Currently, there is a small amount of state land that is actually in the settlement, agricultural category because local governments have selected much of the proximate developable land.

Number 0447

CO-CHAIR MASEK noted that the committee packets includes a Homer News article regarding when the governor vetoed the federal grant for the Kachemak Heritage Land Trust (KHLT). The committee packet also includes a letter to Representative Seaton from KHLT and a letter from Representative Seaton to the governor. She inquired as to why this legislation was introduced.

REPRESENTATIVE SEATON informed the committee that last year KHLT applied for the purchase of the Baycrest Ski Trails, which was a parcel that the federal government had listed as number 14 in parcels that should be acquired for public use. The Baycrest Ski Trails provided the area of Homer with access to many of the area's ski trails. This was pulled out of the capitol budget in the Senate last year because of the philosophical concern regarding taking private land and placing it in public ownership. However, in the House it was returned to the budget. After convincing the Senate Finance Committee that this was an economic development project for the local economy, the Senate concurred and put it back in the budget. However, the aforementioned concern ultimately lead to the governor's veto of that. Later it was decided that the veto shouldn't have taken place and it was agreed that the Joint Committee on Legislative Budget and Audit could accept the money for the land. The intent of this legislation is to get past the concern and help everyone realize that so that these valuable pieces of property can be obtained.

Number 0111

CO-CHAIR MASEK moved to report CSHB 498, Version 23-LS1230\Q, Bullock, 3/31/04, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 498(RES) was reported from the House Resources Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:55 p.m.