

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

May 5, 2004

1:15 p.m.

MEMBERS PRESENT

Representative Nancy Dahlstrom, Co-Chair
Representative Beverly Masek, Co-Chair
Representative Cheryll Heinze, Vice Chair
Representative Carl Gatto
Representative Bob Lynn
Representative Kelly Wolf
Representative David Guttenberg

MEMBERS ABSENT

Representative Nick Stepovich
Representative Beth Kerttula

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."

- MOVED HCS CSSB 190(CRA) OUT OF COMMITTEE

CONFIRMATION HEARING(S)

Board of Game

Ben Grussendorf - Sitka
Michael Fleagle - McGrath

- CONFIRMATION(S) ADVANCED

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
 03/23/04 (H) Heard & Held <Assigned to Subcmte>
 03/23/04 (H) MINUTE(CRA)
 04/29/04 (H) CRA AT 8:00 AM CAPITOL 124
 04/29/04 (H) Subcommittee Meeting
 03/29/04 (H) MINUTE(CRA)
 05/03/04 (H) CRA AT 8:00 AM CAPITOL 124
 05/03/04 (H) Moved HCS CSSB 190(CRA) Out of
 Committee
 05/03/04 (H) MINUTE(CRA)
 05/03/04 (H) CRA RPT HCS(CRA) 4DP 2NR
 05/03/04 (H) DP: ANDERSON, WOLF, KOOKESH, MORGAN;
 05/03/04 (H) NR: SAMUELS, CISSNA
 05/05/04 (H) RES AT 1:00 PM CAPITOL 124

WITNESS REGISTER

AMY SEITZ, Staff
 to Senator Tom Wagoner
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: During discussion of SB 190, provided
 comments and responded to questions on behalf of the sponsor,
 Senator Wagoner.

MICHAEL FLEAGLE, Appointee
 Board of Game
 McGrath, Alaska

POSITION STATEMENT: Testified as appointee to the Board of Game.

BEN GRUSSENDORF, Appointee
Board of Game
Sitka, Alaska

POSITION STATEMENT: Testified as appointee to the Board of Game.

ACTION NARRATIVE

TAPE 04-26, SIDE A

Number 0001

CO-CHAIR NANCY DAHLSTROM called the House Resources Standing Committee meeting to order at 1:15 p.m. Representatives Dahlstrom, Masek, Gatto, Lynn, and Wolf were present at the call to order. Representative Heinze and Guttenberg arrived as the meeting was in progress.

SB 190 - KENAI RIVER SPECIAL MANAGEMENT AREA

Number 0066

CO-CHAIR DAHLSTROM announced that the first 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." [Before the committee was HCS CSSB 190(CRA).]

Number 0093

AMY SEITZ, Staff to Senator Tom Wagoner, Alaska State Legislature, sponsor, noted on behalf of Senator Wagoner that the current version of SB 190 adds, to the Kenai River Special Management Area (KRSMA), 536 acres of land that the state acquired via the Exxon Valdez oil spill (EVOS) settlement fund.

Number 0164

CO-CHAIR MASEK moved to adopt HCS CSSB 190(CRA) as the work draft. There being no objection, it was so ordered.

MS. SEITZ went on to say:

So the 536 acres - and then there's just under 30 acres of lands that were inadvertently left out of the original 1984 bill - those are all wetlands that have been labeled as critical habitat area. ... It's been a long process getting to these particular properties. [Starting] back in 1995, Governor Knowles wanted the Kenai comprehensive management plan updated, and so the Kenai River Special Management Area (KRSMA) advisory board started having meetings in [1997]. They came up with the new plan, which requested just under 8,000 acres of land be added. The majority of those lands were up in the upper Kenai River area - Cooper Landing area, around there.

Through the process, most of those lands were taken out - 3,500 acres were taken out - due to complications they would cause with the Chugach electric powerhouse in Cooper Landing. The other lands were taken out because there ... [was] a bible camp on one that would be kicked off, and other issues like that. So the Senator, when he introduced SB 190, decided [that] these are the acres that are the most critical - and the [Alaska Department of Fish & Game (ADF&G)] has mentioned that. These are the lands that have the least problems; ... they're already under the [Division of Parks & Outdoor Recreation] through the [EVOS]. So that's why we reduced it so drastically from what they had requested.

MS. SEITZ offered that Section 3, on page 5, clarifies language currently in statute, and that Section 4, which was altered in the House Community and Regional Affairs Standing Committee, now no longer makes any changes to the advisory board.

Number 0446

REPRESENTATIVE WOLF surmised that because the land was purchased with EVOS funds, the state already owns it.

MS. SEITZ turned attention to [Amendment 1], which read [original punctuation provided]:

Page 5, line 9,
following " municipalities", insert "adjacent to
the Kenai River"

Page 5, line 10,

Following "groups.", delete "An"

insert "Unless appointed as a representative of a user group, resident property owners, a municipality adjacent to the Kenai river, or other interest group, an"

Page 5, line 12,

Following "board", insert "only as an ex officio member serving without a vote."

Page 5, line 12,

Following "of the", insert "voting"

Number 0603

REPRESENTATIVE HEINTZ made a motion to adopt Amendment 1.

Number 0605

REPRESENTATIVE WOLF objected, and suggested that Amendment 1 would cause too many members of the KRSMA advisory board to become ex officio members, and would remove municipal, state, and federal resource-agency representation from the KRSMA advisory board, which he characterized as currently being a good working group with a professional makeup. He mentioned that with regard to the original version of SB 190, the KRSMA advisory board supported the addition of the land but refused to comment on Section 4, which said in part, "An employee, elected official, or other representative of a federal or state government may not be appointed to the advisory board.".

REPRESENTATIVE WOLF relayed that agency members and KRSMA advisory board members have approached him with concerns regarding making those listed in Section 4 of the original bill ex officio members and thus removing their ability to participate fully as voting members.

MS. SEITZ explained:

[Amendment 1] would make the agency representatives ex officio, all except for the municipality agencies. They will hold a voting seat: Soldotna, Kenai, and the Kenai Peninsula Borough, which would represent the Cooper Landing area - Homer, Seward, all the other "peninsula" cities. The [ADF&G], Department of Natural Resources [DNR], [Department of Environmental

Conservation (DEC)] - those ones would be ex officio - and the Senator wanted ... them ... to have a seat on the board to discuss the topics because he knows that they are knowledgeable, ... [that] they are a valuable part of the ... board.

But ... the advisory board is advisory - it advises the ... [DNR], so the state will still have a say in what happens with how the lands are managed - and it was set up as a citizens' advisory board. By having the agencies [have] such a big part [with regard to] voting, the Senator didn't feel like it was a true citizens' board, so he - along with the [ADF&G] - thought it would be best to have those agency members as ex officio. There was another concern brought up to the Senator, that the wording would make it so the commissioner of DNR [would be] unable to appoint a public member who happens to work for the state.

So by opening that up, the commissioner did have the ability to interpret the language, but that also opened it up to the ability for someone to challenge it in court. So the language in ... [Amendment 1] ... reads, "Unless appointed as a representative of a user group, resident property owners, a municipality adjacent to the Kenai river, or other interest [group]", and then it goes on to say that the agency members would be ex officio. So that clarifies it - and this language was given to us by [Legislative Legal and Research Services] - clarifies it so it's not opened up to being challenged by court. And the [DNR] ... requested us to make that clarification.

Number 1048

CO-CHAIR DAHLSTROM sought confirmation that representatives of the municipal agencies of Soldotna, Kenai, and the Kenai Peninsula Borough would still have voting rights.

MS. SEITZ confirmed that point.

REPRESENTATIVE WOLF concurred but expressed concern that adoption of Amendment 1 will result in eliminating various agencies' voices and their incentive to participate. He mentioned a few issues that have come before the KRSMA advisory board. In response to a question, he concurred with Ms. Seitz's comment that the KRSMA advisory board was set up as a citizens'

advisory board, but mentioned that there is only one ADF&G representative currently sitting on the board who is not a resident of the Kenai Peninsula.

MS. SEITZ pointed out that at the most recent KRSMA advisory board meeting, members voted 10-3 in favor of the language in Section 4 of CSSB 190(STA), which read in part, "An employee, elected official, or other representative of a federal or state government may be appointed to the advisory board as an ex officio member serving without a vote.".

REPRESENTATIVE GATTO asked whether Amendment 1 would allow someone from Palmer to serve as a voting member, and whether someone who is not "adjacent" to the river would not be able to serve as a voting member.

MS. SEITZ reiterated that the language in Amendment 1 was crafted by Legislative Legal and Research Services, and explained that it is intended to describe those communities that the Kenai River runs through and directly affects.

REPRESENTATIVE GATTO expressed concern with limiting membership to only those that live adjacent to the Kenai River.

MS. SEITZ offered her belief that the bill only requires municipality representatives to be from municipalities adjacent to the Kenai River.

Number 1587

A roll call vote was taken. Representatives Heinze and Gatto voted in favor of Amendment 1. Representatives Wolf, Lynn, Dahlstrom, and Masek voted against it. Therefore, Amendment 1 failed by a vote of 2-4.

Number 1616

CO-CHAIR MASEK moved to report HCS CSSB 190(CRA) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS CSSB 190(CRA) was reported from the House Resources Standing Committee.

CO-CHAIR DAHLSTROM turned the gavel over to Co-Chair Masek.

CONFIRMATION HEARING(S)

Board of Game

Number 1654

CO-CHAIR MASEK announced that the committee would next consider the appointment of Michael Fleagle to the Board of Game.

Number 1702

MICHAEL FLEAGLE, Appointee, Board of Game, said that he is currently serving on the Board of Game, having originally been appointed by Governor Knowles and then reappointed by both Governor Knowles and Governor Murkowski. He went on to say:

I find that I enjoy ... working on the Board of Game and [on] the policies that we set in place for game management in the state. I have some goals, that I have of my own, for ... wanting to be on the board and that I've tried to bring about while on the board, and one is to restore abundance to game populations, as we're dictated in statute and also ... to manage on the sustained-yield principle of the Alaska [State] Constitution. ... To that end ... I've been a strong advocate for predator management. I feel that ... the state is finally back on track as far as managing game the way that we're supposed to, with a couple of active control projects going, ... and I take a certain amount of pride in being involved with the board then, ... to bring that back into the Alaskan forefront. ...

I also want to talk about ... trying to resolve some of the issues that we're seeing cropping up in game management, and that's ... what's perceived to be overcrowding by nonresidents, guides, and outfitters into remote areas of Alaska, and I see that as a direct result of the diminishing game populations in other areas. And I think ultimately we can address that competition through ... trying to restore some of the populations in places that [have] been depleted. And that's another goal of mine, ... to try to minimize the user conflicts and ... maintain overall healthy game populations and just keep everybody happy that wants to hunt. Thank you.

CO-CHAIR MASEK raised the issue of Tier II permits and their problems, and asked Mr. Fleagle to comment.

MR. FLEAGLE said:

I have long advocated, for my area here in the upper Kuskokwim, that although we probably legally should have been in the Tier II situation, we've done everything possible to stay out of it. We just know how they don't work as intended, and there's a lot of problems. Unfortunately, the way the Tier II system is set up in statute under [AS] 16.05.258 and what we have to work with, there's not a lot that we can do to try to make it more equitable, except there are some possible issues that we could address on some of the questions. And I think the one you're referring to is the residency requirements. ...

The Board of Game has been sued, I'm personally named in a lawsuit, I've got personal filings against mining claims that I hold because of my actions on the board [regarding] ... not adopting a recommended change that a person brought to the board, so I'm well aware of the problem. ... But I think we're on the way to addressing [it], and we've got a committee of the Board of Game right now ... that's trying to address how we can better distribute these permits to our people that have had a history of getting them [so they] can get them again, and so we don't [have] the abuse that we see in the current system. And we do get reports of people abusing the permit system ...- all it takes is false statements on an application and you get a permit, and to people who used to hunt, it's not fair. I recognize that ...; I'm not promising a solution, but we're on the way to [trying] to find one.

Number 2025

CO-CHAIR DAHLSTROM made a motion to advance from committee the nomination of Michael Fleagle as appointee to the Board of Game. There being no objection, the confirmation was advanced from the House Resources Standing Committee.

Number 2051

CO-CHAIR MASEK announced that the committee would next consider the appointment of Ben Grussendorf to the Board of Game.

Number 2069

BEN GRUSSENDORF, Appointee, Board of Game, offered his belief that the reason his name has been submitted for reappointment to the Board of Game is that the advisory committees throughout the state, the Alaska Outdoor Council (AOC), the Territorial Sportsmen's Association, the trappers' associations, and the guide associations all feel that he is competent to do the job and appreciate his viewpoint. He mentioned his lifelong interest in game and wilderness issues.

REPRESENTATIVE WOLF asked Mr. Grussendorf to give his views on bearbaiting and transporting nuisance moose.

MR. GRUSSENDORF, on the issue of bearbaiting, said that he has no problems with baiting black bears, but remarked that there should be some understanding, with regard to the location of such sites, that they won't interfere with other activities or with communities and residential areas in general. He mentioned that although he would not personally hunt over bait, he does see the benefit of doing so for black bear because of the density of the forest and because of the ability to select the animal and ensure that it is not a sow or cub. He added, "Baiting a brown bear, that's another question; it just doesn't hit me as something that I'd like to see in Alaska."

MR. GRUSSENDORF, on the issue of transporting nuisance moose, said that it is an interesting idea - though it could be dangerous - and that he is willing to see it tried as proposed in Senator Con Bunde's legislation.

Number 2292

CO-CHAIR DAHLSTROM made a motion to advance from committee the nomination of Ben Grussendorf as appointee to the Board of Game. There being no objection, the confirmation was advanced from the House Resources Standing Committee.

ADJOURNMENT

Number 2312

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 1:50 p.m.