

**ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE**

April 9, 2003

3:34 p.m.

MEMBERS PRESENT

Senator Scott Ogan, Chair
Senator Thomas Wagoner, Vice Chair
Senator Fred Dyson
Senator Ralph Seekins
Senator Ben Stevens
Senator Georgianna Lincoln

MEMBERS ABSENT

Senator Kim Elton

COMMITTEE CALENDAR

SENATE BILL NO. 142

"An Act designating the Department of Natural Resources as lead agency for resource development projects; making conforming amendments; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 164

"An Act extending the termination date of the Board of Storage Tank Assistance; and providing for an effective date."

MOVED SB 164 OUT OF COMMITTEE

PREVIOUS ACTION

SB 142 - No previous action to record.

SB 164 - No previous action to record.

WITNESS REGISTER

Laura Achee
Staff to Representative Samuels
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Presented SB 164 for the sponsor

John Barnett

Executive Director
Board of Storage Tank Assistance
DEC, 410 Willoughby Avenue M/S 1800
Juneau, AK 99801

POSITION STATEMENT: Stated support for and answered questions about SB 164

Gary Webber
President, Board of Storage Tank Assistance
DEC, 410 Willoughby Avenue M/S 1800
Juneau, AK 99801

POSITION STATEMENT: Stated support for SB 164

Commissioner Tom Irwin
Department of Natural Resources
400 Willoughby Ave.
Juneau, AK 99801-1724

POSITION STATEMENT: Answered questions about and stated support for SB 142

Cam Leonard
Assistant Attorney General
Department of Law
PO Box 110300
Juneau, AK 99811-0300

POSITION STATEMENT: Answered questions about SB 142

Commissioner Ernesta Ballard
Department of Environmental Conservation
410 Willoughby
Juneau, AK 99801-1795

POSITION STATEMENT: Answered questions about and stated support for SB 142

Bill Jefferson
Division of Governmental Coordination
Office of the Governor
Juneau, AK

POSITION STATEMENT: Answered questions about SB 142

ACTION NARRATIVE

TAPE 03-26, SIDE A
Number 0001

CHAIR SCOTT OGAN called the Senate Resources Standing Committee meeting to order at 3:34 p.m. Senators Wagoner, Dyson, Seekins

and Ogan were present. The committee first took up SB 164. Chair Ogan announced that Senator Stevens had arrived.

SB 164-EXTEND BOARD OF STORAGE TANK ASSISTANCE

MS. LAURA ACHEE, staff to Representative Samuels, explained to members that SB 164 was introduced by the Senate Rules Committee at the request of Representative Samuels, Chair of the Legislative Budget and Audit (LBA) Committee. She told members that John Barnett, Gary Webber and LBA staff were available to testify and answer questions.

MR. JOHN BARNETT, a private contractor hired by the Board of Storage Tank Assistance to act as its executive director, told members the seven-member board was established in 1990. All members serve without compensation and he is the only staff person. The board was established at the request of the Alaska Tank Owners and Operators Association to act as a forum, to mediate disputes between tank owners and operators and the Department of Environmental Conservation (DEC), to oversee proposed regulations, and to review corrective clean-up plans and assist in expediting no further action letters on sites. In addition to those duties, the board is empowered with certain authorities related to eligible cost for financial assistance for the Underground Storage Tank Revolving Loan Fund.

MR. BARNETT said this board keeps attorneys out of the picture. Historically, when disputes between the regulated tank community and DEC arose, a lot of money was spent by the Department of Law (DOL) rather than on clean up to protect public health. Since the board was established, disputes are mediated, clean ups are expedited and the funds are used where they do the most good: to protect the public health.

CHAIR OGAN asked Mr. Barnett if his executive director position is full time.

MR. BARNETT said it is part time.

CHAIR OGAN asked how many disputes are resolved each year for \$50,000.

MR. BARNETT said the number varies from year to year depending upon the level of involvement, the number of sites, location, and the condition of the sites. Some years, dozens of disputes that resulted in formal appeal hearings were resolved. He now resolves most cases by contacting DEC and the owner. Typically,

the problem is caused by a communication breakdown. At the present time, the board has a grant program that terminates June 30, 2004. It provides grants for up to \$250,000 per facility to eligible applicants. When the program began, grants for up to \$1 million were available. He expects an increased workload when the new loan program comes on line. He expects more questions about what repairs are eligible because the tank owner will be paying for those costs. In addition, an applicant's credit worthiness will be considered. The state will be fronting the loan because the banks will not. The board's authorities will be slightly expanded under the loan program due to the fact there will be financial records involved with credit applications.

SENATOR WAGONER asked if DEC gave tank owners and operators a specific date by which buried tanks had to be reported.

MR. BARNETT explained that on December 22, 1988, EPA regulations took effect. The state program began on September 5, 1990. Tank owners had until March of 1991 to register with DEC. The board believes that 97 or 98 percent of all known tanks in the state are listed in the DEC database. Some of those tanks have been closed in place in the ground. A great number have been removed. However, of the over 1,000 active facilities in the state, about 50 sites are undergoing clean up. The program originally had about 2,000 applicants; over 1,000 have been funded at a cost of over \$40 million. Because of different amounts of annual appropriations, funding levels varied from \$3 to \$5 million so the sites were prioritized based on facility size and location. For example, a roadhouse with no other fueling facility for 200 miles in all directions was ranked higher than an urban facility. That ranking system will be used for the loan program as well.

MR. BARNETT told members that about 5 to 15 facilities were provided with clean up funds each year. Some of them have just received their initial grants but they will not have sufficient time to receive additional grants. Some of the sites have taken over 13 years to clean. Aside from the grant program, DEC had an upgrade and closure program that sunsetted this past June. In 1999 and 2000 DEC found some sites to be contaminated. Those contaminated facilities were unable to undertake the clean up activities through the grant program. The board essentially acts as an ombudsman in those cases. He said he expects improvements in the future due to a new administration at DEC. Many of the disputes were related to administrative policies. The board has more flexibility to resolve issues.

SENATOR WAGONER said most of the tanks in the City of Kenai were above ground storage tanks. The city passed an ordinance requiring all tanks to be buried underground, a case of being your own worst enemy.

CHAIR OGAN said although \$50,000 is a relatively small amount of money, the legislature has to look at what services the state can continue to provide. He said there is a process within the bureaucracy to try to resolve disputes using hearing officers so he questions the need to spend another \$50,000 to resolve disputes when DEC employees are paid to do that. He asked for a more accurate description of the disputes the board resolves.

MR. BARNETT told Chair Ogan that the tank owners have always felt the registration fees they pay were intended to support the board. Language was included in SB 153 last year that authorized those registration fees to go into the Underground Storage Tank Revolving Loan Fund and to pay for the cost of the Board of Storage Tank Assistance. He said regarding board oversight of regulations, an example of the most recent problem was a regulation that required the tank owner to be onsite 24 hours a day. This regulation required the tank owner to be available at all times a fuel delivery might take place. He said that fuel deliveries often happen in the wee hours of the morning on an intermittent schedule. That regulation was far more stringent than the federal requirement. The original intent of DEC was to ensure that deliveries were made properly and no overflows occurred. The board worked with DEC to come up with a more favorable regulation that involved working with their own employees to ensure that delivery was made properly.

CHAIR OGAN said a whole process for drafting regulations provides for public comment. He said the legislature can no longer rubber stamp programs or job descriptions and he is not sure whether this one needs to continue. He said the state will see major changes in the next three or four years. British Columbia cut its budget by 35 percent in one year. States everywhere have to cut huge amounts. He said that since SB 164 has a fiscal note, he will defer to the Finance Committee on whether to fund this. He then took public testimony.

MR. GARY WEBBER, President of the Board of Storage Tank Assistance, told members that when HB 220 was drafted in 1990, the tank owners volunteered to pay a \$1,000 per tank registration fee to fund this board. When the tanks were upgraded, the registration fee was reduced to \$75 per tank. Tank owners feel they have been paying for this board all along. The

funds were previously appropriated out of the prevention account. Since the enactment of the 1999 legislation, the appropriation now comes from the general fund but tank owners put money into the general fund to offset that expense. He said \$75 is not much but there are enough tank owners to support the cost of the board.

MR. WEBBER said the tri-annual inspection is a good one. The board, tank owners and DEC were involved in putting that program together; it is one of the best in the country. Regarding the regulation Mr. Barnett discussed, he said an insurance agent told him that title to product is not passed to the tank owner until it has been put in the ground. Prior to that, it is the truck driver's responsibility to verify the tank contains enough room to hold the amount to be filled. To require the tank owner to be there 24 hours per day would make the tank owner responsible for the delivery, tank truck and equipment. He emphasized that a third party, seven-person oversight board is invaluable to tank owners and, since they are paying for it, they are entitled to have it. He said tank owners no longer run to their attorneys when they have trouble complying with laws.

CHAIR OGAN announced that Senator Lincoln had arrived.

SENATOR WAGONER moved SB 164 from committee with individual recommendations and its accompanying fiscal note.

CHAIR OGAN said he would let the Finance Committee make the policy call on this legislation. He then announced that without objection, the motion carried.

The committee took a brief at-ease.

SB 142-DNR LEAD RESOURCE DEVELOPMENT PROJECTS

COMMISSIONER TOM IRWIN, Department of Natural Resources (DNR), introduced Ms. Ernesta Ballard, Commissioner of the Department of Environmental Conservation (DEC), Mary Siroky of DEC, and Janet Burleson Baxter of DNR. He noted that Deputy Commissioner Dick LeFebvre of DNR and Cam Leonard from the Department of Law (DOL) were available to answer questions.

COMMISSIONER IRWIN stated support for SB 142 and explained that it is an act designating DNR as lead agency for resource development projects. The driving force behind this legislation is the Governor's priority to develop natural resources. The Governor absolutely believes that priority will provide new

wealth for Alaska. The purpose of SB 142 is to facilitate and expedite resource development. The bill will specifically provide the commissioner of DNR with statutory authority under AS 38.05.020(b) to lead and coordinate all matters related to the state's review and authorization of resource development projects. As the state puts more focus on development of resources, DNR needs clear and explicit authority to carry out its role to lead and coordinate the state's review and authorization of these resource projects. Although DNR has and will continue to serve as lead for mining projects, its authority to serve as lead agency for other resource development projects is not as explicit. SB 142 will provide the necessary clarity for future resource development.

COMMISSIONER IRWIN told members that the primary responsibility in DNR will rest with the Office of Project Management and Permitting. This office includes the project management function and the coastal zone management program. Large resource development projects are more efficiently reviewed and authorized using a lead agency to coordinate and integrate the various permitting processes of the agencies involved using a project team approach. Smaller projects, normally less complex and requiring fewer permits, may benefit from lead agency coordination for review. However, they may not require the establishment of a project team.

COMMISSIONER IRWIN described a three-phase process that projects using the lead coordinating agency and project team approach will undergo. In phase one, the proposed project will be evaluated to determine if the lead agency project team approach will best address the review and permitting needs of the project. The second phase will result in establishment of the project team, development of an integrated agency review schedule, delineation of information requirements, and completion of any necessary agreements. This is where any misconceptions will be eliminated because all participants will sit at the table and delineate the required activities for a particular project. During phase three, the actual project review and authorization will take place. It includes public participation and is tailored specifically to the requirements for permitting the project. Additionally, SB 142 will assist DNR's efforts to streamline project review and authorization by facilitating:

- the state's ability to pull together agencies to address the project's specific concerns
- the review and authorization process

- a more cohesive working relationship among agency representatives
- better communication
- more efficient permitting and a consolidated public process where possible
- integration of the state's permitting process with that of the federal agencies.

COMMISSIONER IRWIN said the laws governing resource development have proliferated. The state now has more agencies with permitting authority over resource development projects than ever. Resource development should not be held up by the sheer complexity of government. This bill is intended to help alleviate that problem. He again stated support for SB 142.

SENATOR LINCOLN asked where the definition of "resources" is located in statute. She expressed concern that the bill contains the phrase "all matters relating to resource development."

CHAIR OGAN thought "resources" would apply to anything that falls under the titles of DNR, the Alaska Department of Fish and Game (ADF&G), and DEC.

SENATOR LINCOLN thought "resources" would include minerals, fish and game, air and water.

COMMISSIONER IRWIN said the divisions within DNR include oil and gas, parks, mining, land and water, agriculture, and then there are the associated issues with DEC and ADF&G. He said he could not provide the specific statutory definition of "resources" but they should include the areas for which DNR is accountable and specifically the areas for which DNR issues permits.

SENATOR LINCOLN commented that she cannot think of anything that is not a resource, which is why she wants a more definitive response. She then noted that at least 20 statutes are being repealed in SB 142 and asked for a brief description of those statutes.

COMMISSIONER IRWIN deferred to Mr. Leonard for a summary of those statutes.

MR. CAM LEONARD, Assistant Attorney General, DOL, told members that most of the sections being repealed in SB 142 are the provisions in existing law that made DEC the coordinating agency for purposes of permitting projects. While some of those

sections will remain intact, they are being moved to other statutes.

SENATOR LINCOLN asked Mr. Leonard to address AS 41.

MR. LEONARD said AS 41 is a cross reference to the permit coordination act, AS 46.35. It is a housekeeping repeal to reflect that the cross reference will no longer be valid.

CHAIR OGAN noted Mr. Leonard said most of the statutory provisions being repealed have never been used. He questioned whether DEC ever held public hearings.

MR. LEONARD said individual agencies held public hearings. To his knowledge, what wasn't used was the coordinated approach led by DEC, which is what AS 46.35 pertains to.

CHAIR OGAN said some portions of the bill need not conform to the Administrative Procedure Act (APA), such as Section 2, AS 44.62.330(a). He asked if that applies to adjudicatory hearing procedures.

MR. LEONARD explained that those are provisions from AS 46.35 that are being moved to another place. AS 46.35.090 contains language exempting the adjudicatory hearing procedures that DEC uses on its permits from the requirements of the APA. DEC does offer adjudicatory hearings and they are subject to clearly detailed regulations. This bill transplants that provision of law to these other two places.

CHAIR OGAN commented that the language on page 2, line 23, gives ambiguous but broad authority.

MR. LEONARD said it was intentionally left broad so that DNR could consider the breadth of the types of projects that might be covered and implement this authority through regulation.

CHAIR OGAN asked if a fair interpretation is that language would give DNR the authority to write whatever regulations it deems necessary.

MR. LEONARD said DNR would be limited because it cannot intrude upon another agency's legislative authority. For example, DNR could not write new water quality standards that would trump DEC's regulations. The regulations he was referring to would be more procedural as to how DNR would go about performing its coordination role.

COMMISSIONER ERNESTA BALLARD, DEC, told members coordination can really improve the prospect for those interested in resource development, particularly in rural Alaska. In rural areas, it can be very difficult to know the details and follow the complexities of multiple agency permitting programs. One benefit DEC anticipates from DNR's lead role is coordination of the public hearing process. Interested parties can see how a project is going to look in its totality at one place at one time. She said in no way will SB 142 change her responsibilities to do water quality protection. She believes SB 142 will make a real improvement, particularly given the rural nature of most of the projects, so that everyone sees the project moving forward as a total project.

CHAIR OGAN said he supports that concept. He then asked if DEC was the coordinator in the past, at least in theory in statute, and whether DEC ignored that policy.

COMMISSIONER BALLARD said she cannot speak to why DEC never used its statutory authority to coordinate. She believes AS 46.35 was passed 30 years ago. The coordination over the last ten years was achieved through the intent of the commissioners to coordinate, not through the auspices of that act.

CHAIR OGAN said he wanted to make sure the legislative body remains the policy setting body. He said as much as he respects the commissioners, the state now has the most powerful DNR commissioner in the history of the state. He said this bill removes several statutes and replaces them with one sentence; he assumes the authority to implement that one sentence is very broad, which requires a lot of trust on the part of the legislative branch.

COMMISSIONER BALLARD said she believes the wisdom of this approach is that any permitting decision involves making choices. Those choices are directed to some degree by law and, in large part, through the discretion provided through rule making in regulation. She would prefer that those choices be made in the total context of the project so that all parties involved, both supporters and opponents, see the entire project. She and the other commissioners believe this is the preferred method. SB 142 codifies the commitment made by this Administration. She believes the permitting issues are sufficiently complicated so keeping them separate does not serve the public interest.

CHAIR OGAN said he agrees but wants everyone to be mindful of the healthy constitutional tension between the legislative and executive branches so that any delegation of power is made by a conscious decision rather than by default.

SENATOR BEN STEVENS referred to the three-phase design and asked Commissioner Irwin to describe how he will formulate phase one. He asked what agencies will be involved and what the evaluation criteria will be to determine whether a project is large enough to require a project team. He also asked Commissioner Irwin to describe the process for a small project.

TAPE 03-26, SIDE B

COMMISSIONER IRWIN said a company proposes an idea or project to a state agency. The company may present an idea or an engineering plan that defines 50 percent of the cost. The benefit of having a lead agency is its ability to get everyone with the appropriate expertise to the table at one time. The company would explain the scope of the project to the group. Each agency would describe what permits the company will need to obtain and any other requirements. The company should leave that meeting with a clear list of requirements and a commitment from the lead agency. That should quickly lead to a follow-up meeting to discuss the permit schedule. He said the agencies will also understand the timeline. DNR will have the authority to get the right people to the table at the right time and hold people accountable.

Regarding the determination of whether a project is considered to be small or large, COMMISSIONER IRWIN said part of that determination will be made by the company. Certain projects will obviously be large, but those will be in the minority. However, many projects will fall into a gray area. DNR does not want to preclude companies with small projects that want to get into the three-phase process from doing so. Companies need to understand there is an associated cost with the three-phase process, which will be paid for by the companies. The commissioner said at the first meeting, it should be obvious to team members whether a three-phase process is necessary. However, the company will be able to hear what each agency will require. He told members the public will be giving input so the entire process can be adjusted if an issue arises.

SENATOR BEN STEVENS asked Commissioner Irwin if he could provide an estimate of the number of resource development permits DNR

will handle through the Office of Project Management and Permitting.

COMMISSIONER IRWIN said he could not provide any numbers but DNR has no desire to deal with simple permits that are under DEC's purview.

SENATOR BEN STEVENS asked if a project requiring multiple agency permits would be under the purview of the Office of Project Management and Permitting. However, a project needing a routine outfall permit from DEC would not require DNR oversight.

COMMISSIONER BALLARD told Senator Stevens that DEC has an on-line permit questionnaire. She said if a company is unable to work through the permit questionnaire online, it probably needs to get at least an interagency consultation. She said even a big project can be relatively simple in terms of permitting but, for example, if several variables could have an effect on water quality, the online application process will reject it. That is when everyone will benefit because it is at that point the project definition can be changed early to get a better permitting outcome. She gave, as an example, a mining project proposal that would require a camp and sewage treatment facility. Fecal coliform in a spawning bed stream will not affect spawning, but it has other implications if there is a drinking water system nearby. The earlier DEC knows about the project, the sooner DEC can help the applicant put a project together that will move quickly through the permitting process.

SENATOR WAGONER said the only flaw he can see in this system is that certain people might be absent during the permit review.

COMMISSIONER IRWIN acknowledged that having agency staff present at a meeting is probably the most important thing DNR can do.

SENATOR LINCOLN said this is the only committee to hear this bill. She is uneasy with it because it is a new concept and it puts so much power in one office. She agreed that it may work with a good commissioner, but if someone wanted to abuse his or her power, it could be devastating. She said this bill creates a new office with five employees. She asked Commissioner Irwin the cost to run the new office each year and what the start-up costs will be. She asked Commissioner Ballard if DEC's budget will be decreased as a result. She also wanted to know what the appeal process will be with the new office. She commented that she would feel better if the bill contained a sunset provision.

COMMISSIONER IRWIN said he believes it is important to remember that DNR will lead and coordinate, it will not make decisions for DEC. The concept is to get people to the table so that a project team can make decisions. DNR is not doing anything with the appeal process. Regarding the cost of the new office, the companies will be paying that cost. He emphasized the importance of getting the agencies, company, and public together to understand the complex process that will occur, the areas that need to be addressed, and what permits will be required so that nothing goes by the wayside. What will be eliminated are meetings with absent staff who point out later in the process what will not work.

COMMISSIONER BALLARD added that this bill does not create any new power; all of the power to carry out state law vests with the governor. SB 142 will improve organizational responsibility and achieve a better result. The power to permit derives from the law and the underlying state policy to develop natural resources for the well being of the citizens and to protect the environment. She said in this complex permitting world, this approach will be an improvement. DEC's entire budget anticipated the results of this legislation. DEC assumed it will work hand-in-hand with DNR. DEC's workload remains identical but by working hand-in-hand with DNR, DEC believes it can streamline the permit process and that is reflected in DEC's overall budget reduction. She said, regarding the appeal process, project applicants and project opponents know how to appeal the components that DEC is responsible for. She said the ability of people in the state to access administrative procedures, including appeals, are mature. She is not concerned that this legislation will truncate that process at all.

SENATOR LINCOLN asked the cost of the five-person office.

COMMISSIONER IRWIN replied, "As we roll in DGC - the efficiencies there, we roll in this combined teamwork that we're setting up in this project, we see those efficiencies also, we feel that these costs are adequately reflected in our '04 budget."

SENATOR LINCOLN asked for an amount.

COMMISSIONER IRWIN said he would get her that number.

SENATOR WAGONER said this approach was tried in Kenai but did not work because the federal agencies would "go sideways on us."

COMMISSIONER IRWIN said DNR cannot make the federal agencies come to the table but the federal agencies did attend meetings for the Fort Knox project. He believes federal agency participation is necessary and should be worked on but he cannot affirm they will be at the table.

SENATOR WAGONER asked if an invitation will be extended to the federal agencies.

COMMISSIONER IRWIN replied, "Absolutely, we need to."

SENATOR SEEKINS asked if anyone in state government has the responsibility now to lead and coordinate in any kind of matter related to the review and authorization of resource development projects.

CHAIR OGAN answered the Division of Governmental Coordination.

COMMISSIONER BALLARD said that is a cabinet responsibility and, from the point of view of this cabinet, it has assumed that responsibility jointly. Cabinet members have affirmed their commitments to resource development and have agreed to contact each other to try to work together whenever an opportunity arises.

SENATOR SEEKINS asked why, if that is so, this legislation is necessary.

COMMISSIONER BALLARD said the entire cabinet wants to focus the responsibility this way. The cabinet feels very strongly that without working together, it cannot achieve the resource development goals that the Governor articulated in the time frame available.

SENATOR SEEKINS said he agrees but was wondering if up until now, everyone has sworn to work together but no one has taken the lead.

CHAIR OGAN said that theoretically, discussions about who is doing what take place at cabinet meetings.

SENATOR SEEKINS said he acts as the coordinator in his business and that is more cost efficient because without it he would have to call all of his division managers to keep track of what is going on. He asked if having one house keep track of the status will be more cost efficient.

COMMISSIONER IRWIN said that is correct, and he had the opportunity to experience that with what the state set up for the Ft. Knox mine.

SENATOR SEEKINS said he is not concerned about funding five people to do the work because that may result in a decrease from 15 to 5. He then asked if the federal agencies are more likely to attend if they are invited to the table.

COMMISSIONER IRWIN said DNR has already had very good meetings with BLM and EPA. Their federal counterparts do not want to attend numerous meetings either - their time is valuable too.

SENATOR SEEKINS said he views SB 142 very positively and considers it analogous to how private industry works. He said he typically holds one person responsible for coordinating any kind of a project in his organization. He said he has had to get permits, both state and federal, for projects in the past and has found that whenever a coordinating agency oversaw a project, the process was much smoother than if he had to find out what to do where. He said it seems that part of the objective of SB 142 is to provide a [recipe] for the process.

COMMISSIONER IRWIN said the permit process is not easy to understand so when everyone is at the table at the same time, the flow of information is much better and everyone leaves with the same understanding of how the process will proceed. He said when agencies act independently, they might provide different answers but when they act together, the picture changes.

SENATOR SEEKINS said when he looks at the constitutional authority the legislature has to provide for the utilization, development and conservation of all natural resources for the maximum benefit of the people, it is important that be done in a timely and wise manner and in concert with modern principles of stewardship. He believes SB 142 moves the state in that direction and he supports it.

CHAIR OGAN asked if the Division of Governmental Coordination (DGC) was created by statute or whether it was set up under administrative policy. He asked if it will continue to exist if SB 142 is enacted. He said the general idea behind DGC was to act as a clearinghouse and coordination point for the different agencies. It was purposely set up independently - it does not issue permits but acted as "the director of the choir."

MR. BILL JEFFERSON, Director of the Division of Governmental Coordination, explained to members that DGC was created by statute but it is narrowly scoped for the Alaska Coastal Management Program, which is not statewide. SB 142 will cover the entire state.

CHAIR OGAN asked if Mr. Jefferson's job will be eliminated.

MR. JEFFERSON said he just moved to another division.

CHAIR OGAN asked Mr. Jefferson if the legislature can just pull that part of the statute out.

MR. JEFFERSON said he believes part of the function of the executive order was to move that statutory authority to DNR.

SENATOR SEEKINS said regarding the comments about the power of the DNR commissioner, he believes that in the end the legislature has authority and oversight of development of resources. He said he is certain a runaway commissioner would be the result of a runaway governor.

CHAIR OGAN asked how this will affect agencies that are not in DNR, DEC or ADF&G when they issue a permit, for example an agency within DOTPF. He noted that currently to start oil and gas projects, a company must have all permits in place.

COMMISSIONER IRWIN said all agencies need to be at the table because when a project involves habitat issues, the company needs to hear that upfront and design around it. He said changes can be economical when a project is still in the design phase. If changes must be made late in the game, everything is turned upside down, such as bank financing. He said this process will not cut corners on what is done for the environment, it will let people know upfront what needs to be done so that projects can be designed and built with those requirements in mind.

CHAIR OGAN said that sounds great, however in the real world, after everyone has been at the table they go back to their jobs and come back with stipulations. He asked if the commissioner of DNR will have the authority at the end of the day to expedite a project if another agency comes along with a stipulation that delays a project.

COMMISSIONER IRWIN said those situations will undoubtedly arise and will get elevated to the commissioner's level where a decision will have to be made. He reminded members that

ultimately the commissioner will be accountable to the legislature.

COMMISSIONER BALLARD told members that the development of the Red Dog Mine 20 years ago involved multiple state agencies and depended on a road that brought revenue in. A borough was formed to get municipal financing for the road so DEC got involved. To make that project viable and feasible, both from a permitting point of view and from a resource cost point of view, major agencies of state government had to work together with everyone involved. She said non-resource agencies have to be involved in project design and development in this "vast, far flung, disconnected state." That project benefited from multiple agency involvement.

CHAIR OGAN asked if the commissioner will be able to force other agencies to prioritize a permit if it is holding up a project and costing money.

COMMISSIONER IRWIN said the project manager should have called the individual commissioner long before a problem gets elevated to his level. If necessary, he would make that call.

CHAIR OGAN asked the commissioners to be prepared for another hearing on SB 142 on Friday. There being no public testimony, Chair Ogan adjourned the meeting at 5:05 p.m.