

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

April 25, 2003

3:32 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 143

"An Act relating to the Alaska coastal management program and to policies and procedures for consistency reviews and the rendering of consistency determinations under that program; relating to the functions of coastal resource service areas; creating an Alaska Coastal Program Evaluation Council; eliminating the Alaska Coastal Policy Council; annulling certain regulations relating to the Alaska coastal management program; relating to actions based on private nuisance; relating to zoning within a third class borough covered by the Alaska coastal management program; and providing for effective dates."

HEARD AND HELD

PREVIOUS ACTION

SB 143 - See Resources minutes dated 4/23/03.

WITNESS REGISTER

Ms. Judy Brady
Executive Director
Alaska Oil and Gas Association (AOGA)
121 West Fireweed Lane
Anchorage, Alaska 99503

POSITION STATEMENT: Supports CSSB 143(RES)

Ms. Sara Gilbertson
Policy and Program Coordinator
Alaska Municipal League
217 Second Street
Juneau, Alaska 99801

POSITION STATEMENT: Expressed concerns about CSSB 143(RES)

Mr. Alan Joseph
Association of Village Council Presidents
Bethel, AK

POSITION STATEMENT: Asked questions about tribal councils in relation to CSSB 143(RES)

Ms. Marty Rutherford
Office of the Commissioner
Department of Natural Resources
400 Willoughby Ave.
Juneau, AK 99801-1724

POSITION STATEMENT: Described the changes made in CSSB 143(RES)

Mr. Pat Gavin
Petroleum Land Manager
Department of Natural Resources
400 Willoughby Ave.
Juneau, AK 99801-1724

POSITION STATEMENT: Answered questions about CSSB 143(RES)

Mr. Wilber Napayonak
Secretary, Koyuk Village Council
PO Box 53029
Koyuk, AK 99753

POSITION STATEMENT: Stated opposition to SB 143

Ms. Kathleen Wasserman
Mayor of the City of Pelican
PO Box 737
Pelican, AK 99832

POSITION STATEMENT: Opposed to CSSB 143(RES)

Mr. Harold Heinze
Juneau, AK

POSITION STATEMENT: Supports CSSB 143(RES)

Mr. Peter Freer
City and Borough of Juneau
155 So. Seward St.
Juneau, AK 99801

POSITION STATEMENT: Expressed concern that CSSB 143(RES) will override Juneau's current wetlands designations

Mr. Tom Oscar

No address provided

POSITION STATEMENT: Opposed to CSSB 143(RES)

Mr. Jeff Currier

Borough Manager

Lake & Peninsula Borough

PO Box 495

King Salmon, AK 99613

POSITION STATEMENT: Expressed concerns about CSSB 143(RES)

Mr. Doug Mertz

Prince William Sound Regional Citizens Advisory Council

No address provided

POSITION STATEMENT: Cautioned that the legislature's intent in CSSB 143(RES) is unclear

Senator Gene Therriault

Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Responded to concerns expressed about CSSB 143(RES)

ACTION NARRATIVE

TAPE 03-33, SIDE A

CHAIR SCOTT OGAN called the Senate Resources Standing Committee meeting to order at 3:32 p.m. Senators Wagoner, Dyson, Seekins, Elton and Chair Ogan were present.

SB 143-COASTAL MANAGEMENT PROGRAMS

CHAIR OGAN announced that a joint session of the House and Senate was scheduled at 4:30 today so he would give priority to those who signed up to testify. He noted that he did not intend to pass SB 143 out of committee today but hoped to do so early next week.

MS. JUDY BRADY, Executive Director of the Alaska Oil and Gas Association (AOGA), thanked both the Administration and the Legislature for their commitment to reform the Alaska Coastal Management Program. AOGA shares that commitment. She gave the following testimony:

At the last Senate Resources hearing, three very basic questions were asked. What are the problems with ACMP? How serious are these problems? Are they serious enough to warrant the time, effort and uncertainties associated with changing a complex program?

We've been asking ourselves these questions for quite awhile and in the ten years that I've been in the association, we have been through four regulatory processes where we tried to - where the attempt was to change things in the ACMP that people believed needed changing. That's about seven years out of a ten-year career. At the end of the last three-year process, which was last year, we looked at the issues that were still on the table and we asked ourselves:

- Is it a problem that it is still not possible to develop a reliable time line for the existing ACMP permit process?
- Is it a problem that it's not possible for state agencies to tell a company how long it will take to get a permit for a proposed project because of ACMP?
- Is it a problem that the ACMP standards are so vague that a company has virtually no certainty as to whether a proposed project is going to be in or out of a lengthy consistency review project? We had three companies in that position last year.
- Is it a problem that ACMP does not require scheduled discipline and, in practice, has been a major source of delay?
- Is it a problem that every major oil and gas development project on the North Slope and in Cook Inlet has been, at some time, in schedule limbo because of ACMP and two years ago every single project on the North Slope was in limbo?
- Is it a problem that there are numerous AG's opinions, many of them contradictory, attempting to interpret the ACMP?
- Is it a problem that third party lawsuits, administrative actions and petitions arising out of multiple interpretations of ACMP have steadily increased?

- Is it a problem that every oil and gas company investing in Alaska with experienced permitting staff consider the ACMP the single most confusing and uncertain regulatory program in the state or in any other oil and gas development state they have experienced?

I don't know how any of you would answer these questions but I can tell you how the management of our 17 companies answered these questions. Are there problems with the ACMP process? Yes. Are these problems serious enough to warrant the time, effort and risk of uncertainty to address? Yes. The question today is does the CS for SB 143 solve these serious problems and our answer is yes and no. I'll do the 'nos' first.

AOGA's members had preferred a completely self-implementing coastal program that was originally envisioned. That is, once a project or activity met all the requirements for state permits, federal permits, local ordinances, then it became consistent. It was automatically consistent. We believe this was a choice the state could make under the federal program. We believe it still had a role for the coastal districts so they could maintain their funding and their studies and we believed it would work in Alaska because we have the most comprehensive environmental laws in the country - in the United States - and we should be able to rely on our laws for environmental protection for coastal resources or resources everywhere, inland or coastal.

However, under the CS, coastal districts are to be given direct legislative authority to propose enforceable policies that will have the full effect of state law for matters of local concern. There will continue to be consistency reviews. Under the self-implementing program, there would no longer be consistency reviews. For a permitted community this means that in addition to meeting the local ordinance, state laws and federal laws, which take over a year and involve multiple opportunities for public comments and public hearings, we're still going to have to go through a consistency review.

The CS marks the first time an Alaska statute directly uses the term 'enforceable policy' and gives those enforceable policies the same standing as state and federal law without benefit of the legislative process. This is a significant grant of authority to local coastal districts. The oil and gas industry is already subject to a wide array of local, state and federal laws, each with its own review, public comment, and stipulation requirements and we are necessarily wary of the state formally adopting yet another layer of requirements. It is puzzling to hear that coastal districts believe the Administration's proposal is a taking of local authority. In sharp contrast to that view, it is our belief that it is instead a significant grant of power to coastal districts.

This summarizes our primary concern and disappointment with the CS. However, while continuing to be concerned about these two issues, we recognize that this CS contains solutions to some of the most serious problems plaguing the coastal management program and we do recognize the state's interest in the role coastal districts have with the ACMP - mainly because Marty Rutherford's just been beating us over the head with it so we see that that's an important thing.

Here's why we are going to support this CS. It establishes a timeline to complete the required consistency review. It's a 90-day timeline with a possible subsequent review of 45 days and that adds about five months. It could add as much as five months or more to a permitting process but that's better than an open-ended loop. We do note that the current timeline is supposed to be 50 days so this is an additional 30-60-90 days. It eliminates inconsistent and duplicative application of state and federal law by local districts.

Last year the legislature passed SB 308, stating the legislature's decision that coastal district enforceable policies could not duplicate state law and regulation. Local districts had a year to rewrite their policies to avoid this duplication. This CS reiterates that decision and further directs that local enforceable policies cannot duplicate either state or federal laws or regulations so right now many

of the coastal districts are or should be working on their enforceable policies so they do not duplicate state law. [Indisc.]

It establishes a clear line as to where ACMP applies and where it does not. If a project is inside the coastal zone, the ACMP applies. If it's outside, it does not. Right now we're being told by ACMP managers on occasion they don't know if a project's in or out so we should go ahead and do the coastal review so they don't get sued and we don't get sued. Well a coastal review takes up to a year. It recognizes that DEC air, land and water permits are inherently consistent. This was actually the intent of the original ACMP statute and it was in the first set of regulations - it was just never implemented.

The DEC air, land and water permits are comprehensive and technically complex permits with statutory timelines and public comment periods. The Administration's current proposal recognizes that DEC statutes and regulations are on their face sufficiently comprehensive to protect coastal resources and do not need additional consistency review. The new CS also requires state and local enforceable standards be clear, precise, understandable and not open to subjective interpretation and we believe that's fair. It replaces the coastal policy council with the Department of Natural Resources, a line agency that is directly accountable to the legislature and to the Administration and is charged with balancing local and statewide interests.

And, finally, the proposed legislation lays out a work plan that will involve public participation by all of the stakeholders over the next two years. We were very concerned at first that this was going to move so fast that people would not be able to sit down and talk about how this was going to go forward. DNR now has a year, from the time this legislation passes, to come up with new state standards that will be a public process and to have new direction to the coastal districts about how to come up with their plan. That will be a public process. Then the districts have another year to come up with theirs so we believe that the two years, with all of the experience we have had

with coastal zone since 1980 will be sufficient for all of the public stakeholders to be involved and move forward with a good program.

Because the significant improvements outweigh our concerns, the Alaska Oil and Gas Association in general supports the Administration's proposal and we support this bill going forward. I would, just for a second, like to say it's worth reflecting on the concept of coastal district enforceable policies. As Alaskans, we have always prided ourselves on the comprehensiveness of our state environmental laws and regulations. Legislators represent both their local areas and the statewide concern since we've had statehood. The real expectation should be that there will be no need for many, if any, local enforceable policies. A perfect environmental report card for Alaska and a compliment to all past legislators representing the coastal districts would be if each coastal district can conclude that their local concerns are protected under existing state law and federal law. Each new enforceable standard should be viewed as a heads up to the legislature that an important environmental concern is not now protected by state statutes.

Thank you for your time. We urge that this legislation be passed this session so work on the state standards and the local district plans can begin and be concluded within the next three years. I cannot overemphasize how important fixing this program is to the companies that do business here and I thank you very much for your consideration.

SENATOR ELTON pointed out the Juneau Assembly worked with the U.S. Corps of Engineers over a long period of time to come up with a flexible local policy rather than a rigid federal policy. The Juneau Assembly policy designated four different categories of wetlands that enabled Juneau to accomplish development and expand the tax base in an environmentally sensitive way. That policy sped up development. He expressed concern that this legislation will preclude the use of a similar, flexible, innovative process to speed development. He asked Ms. Brady if she agrees.

MS. BRADY said she discussed that matter with Peter Freer of the City and Borough of Juneau an hour ago. She said her

understanding is the issue is about situations in which both the local district and the state have identical regulations but interpret them differently for the same project. She said she believes what Senator Elton is referring to is a situation where there has been a delegation of authority to the local district from the U.S. Corps of Engineers and that is different altogether. She said she would check to make sure her understanding is correct.

CHAIR OGAN announced that all members were in attendance.

SENATOR ELTON said he believes there is confusion surrounding the definition of an enforceable policy and asked Ms. Brady to provide AOGA's interpretation.

MS. BRADY said she believes everyone is coming to an understanding of that term right now. AOGA understands an enforceable policy to have the same effect as a state law. It will bind a private developer on state or federal land, on or offshore. In that sense, it has the same power and authority as a state or federal law. A proposal for an enforceable policy must be made to and approved by DNR. Whether a project meets the consistency determination will depend upon it meeting the requirements in the enforceable policy. An enforceable policy must be very specific about what must be protected. It cannot cover the same area as one covered by state law. The local district will have to successfully argue that state or federal law does not already protect a matter of local concern.

SENATOR ELTON asked if that argument would be made to DNR rather than a coastal policy council.

MS. BRADY said that is her understanding.

CHAIR OGAN thanked Ms. Brady and asked Ms. Gilbertson to testify.

MS. SARA GILBERTSON, Policy and Program Coordinator for the Alaska Municipal League (AML), said all AML members support permit streamlining and economic development in Alaska. The AML sees companies like BP investing in Russia and wants that to occur in Alaska, but feels it is necessary to create an appropriate balance between local government participation and authority and economic development. The AML has been working with the Administration on SB 143 since it was introduced. The Administration extended some of the timelines at the AML's request. Although the AML believes the CS is a marked

improvement over the original bill, AML continues to have concerns.

MS. GILBERTSON explained that AML's first concern is separating DEC from the consistency review process. Under this move, the issuance of a DEC permit will equal consistency with the ACMP program. Despite AOGA's statement about local government participation, the AML believes the CS will diminish local government involvement in the process. The AML's second concern with SB 143 is funding. Communities will have to rewrite their local enforceable policies to meet criteria laid out in Section 14. That section contains three benchmarks: the policies must be clear, concise, and non-duplicative. It will take communities a lot of time and effort to rewrite their policies. Some districts must hold hearings in 8 to 10 villages. The AML would like the legislature to provide some funds to help with this process. In addition, the local match has been increased. Many communities have said they understand that changes need to be made but if this legislation passes, they will be paying more and getting less. Some communities feel the criteria in Section 14 are too restrictive and will be difficult to meet, leaving some communities without local enforceable policies.

MS. GILBERTSON said the AML's last and most important concern is language in Section 22 that says if a consistency review is not completed within 90 days, the activity subject to review is presumed consistent. The AML sees that provision as a huge loophole that will allow industry to stall the process. She pointed out a problem could arise when more information is requested by a community. In that circumstance, the clock on the consistency review can stop but the 90-day clock does not stop. She discussed this matter with Administration officials who said their intent is that if a community does not receive the necessary information or an appropriate response, the review should be terminated. She expects the Administration to testify about its intent today. She questioned the outcome if a community sued over that language in court and said the fact is, the language in Section 22 is very clear so even if a judge went to the legislative record to find the legislative intent, the judge might hear the Administration's intent but not the Legislature's intent.

CHAIR OGAN noted that he spent 25 years in a private sector contracting business and found the job always takes the amount of time given, no matter how much time that is. He said if he did not finish a job, he paid a penalty, so he finished many jobs at the 11th hour. He said industry wants a linear process

and has expressed frustration that the coastal management process is an open book with many delaying tactics. He asked Ms. Gilbertson to clarify her statement that applicants might intentionally drag the process to the very end.

MS. GILBERTSON said she understands the need for a timeline and believes it is reasonable to require the process to be finished in 90 days. However, communities are faced with the fact that the clock will not stop even though they encounter a problem during that time. If the process is intentionally or unintentionally stalled, AML is concerned the activity will automatically be deemed consistent after 90 days.

CHAIR OGAN asked what would happen if the community says the activity is not consistent.

MS. GILBERTSON said a community's comments would count, insomuch as it has a local enforceable policy and a seat at the table, but a problem could arise if a community has questions and asks for more information from the applicant. Nothing is built in to the 90-day timeline to allow that clock to stop.

4:00 p.m.

SENATOR BEN STEVENS asserted that Section 22 requires that a position be taken in 90 days; otherwise the time to take a position runs out. He asked Ms. Gilbertson if the AML is asking for an unlimited time in which to declare a position.

MS. GILBERTSON said it is her understanding that after 90 days, regardless of what happens during those 90 days, the activity subject to review will be considered to be consistent. She repeated that AML members feel that is a problem.

CHAIR OGAN said at the end of 90 days, a community could recommend the activity not be approved because all necessary information is not available. He stated the applicant should be motivated to cooperate so that it does not get a negative response from the community.

MS. GILBERTSON asked that either Bill Jeffers or Randy Bates comment on how that would work.

SENATOR BEN STEVENS noted subsection (0)(2) provides an exception that says, "if the applicant has requested additional time to complete the review."

MS. GILBERTSON said she is advocating for the communities.

SENATOR BEN STEVENS stated that Ms. Gilbertson is making the assumption that the applicant will not be working with the community.

MS. GILBERTSON said in some cases, the community and applicant have different interests.

SENATOR BEN STEVENS said he would take the position the language will force the community to work in cooperation with the applicant and, if a problem arises, the applicant would request an extension of the deadline. He said it has been the other way around in the past. He then noted that Ms. Gilbertson stated earlier that the CS diminishes local involvement and that communities feel they will pay more and get less. He asked her to clarify what the communities will get less of.

MS. GILBERTSON said she was referring to the fact that communities were notified this week of an increase in the local match amount. Her point was that some communities are upset about this bill. They understand they will not have as many local enforceable policies as they currently have because they will have to meet a set of criteria that is outlined in Section 14. They will not have the same role they had in DEC permitting. In those two instances, local government participation will be somewhat diminished. Some AML members are questioning why they will be paying more and not getting as much as they did.

SENATOR BEN STEVENS said under the present scenario the state is paying the local governments to put on more onerous regulations than the state has already imposed. The state already pays to impose state and federal regulations, and local communities are asking the state to pay for them to impose additional regulations. He said he believes that is a waste of money from the state's standpoint.

MS. GILBERTSON stated it is a fact that local participation in the Coastal Zone Management Program as it currently exists will be diminished if this bill passes. The local communities are only saying that they are being asked to rewrite these local enforceable policies and will need help. She noted this is a federal, state and local partnership and everyone contributes to the "pot." This week, local communities found out the local match increased. The match increase was unrelated but, in conjunction with this bill, some communities feel they would be paying more yet will have less involvement.

SENATOR BEN STEVENS asked Ms. Gilbertson if she is representing all municipal governments.

MS. GILBERTSON said the AML represents 140 communities. The communities she has been in contact with about this legislation are coastal service areas.

CHAIR OGAN said he recognizes local involvement will be diminished but he does not believe that will be a bad thing. He said the state has an interest in protecting subsurface rights and has allowed local communities to become regulators of oil and gas. He believes this bill reflects a shift in policy that allows local communities to have a say but not to regulate and harm the state's ability to access subsurface rights.

SENATOR BEN STEVENS said he does not see this legislation as diminishing local participation because the bill allows two years for the process, including public participation. However, after that time during which everyone comes to agreement, the policies cannot be changed. He said he and industry are frustrated that the process changes and there is no consistency review. He said he strongly disagrees that local control will not play a part.

MS. GILBERTSON said her point about Section 14 was that if a community has 100 local enforceable policies, it will have to make sure those policies meet the criteria if this bill passes. If only five of those policies meet the criteria, local participation will be diminished because the state is telling communities how those local enforceable policies should be structured.

SENATOR BEN STEVENS said maybe 95 of those local enforceable policies are encompassed in federal or state requirements.

SENATOR ELTON commented that he finds Section 14 and the definition of "local enforceable policy" to be confusing and asked if local governments are as confused as he is.

MS. GILBERTSON said they are somewhat confused. It is unclear to them how to scientifically demonstrate that a local enforceable policy is of local concern and they are concerned about how to pay for a scientist to do that. She said she believes the Administration will expand upon that language as it promulgates regulations.

SENATOR SEEKINS referred to a chart of the current process and said its circular action is a good reason for the 90-day timeline.

MS. GILBERTSON said she understands everyone's frustration with the fact that there is no timeline, however, the problem is that after 90 days, the activity will automatically become consistent.

SENATOR SEEKINS said unless AML can say what timeline is appropriate, he plans to support the 90 day provision because it will spur a decision within a time certain.

CHAIR OGAN noted that Senator Seekins was referring to a chart provided by AOGA about the ACMP regulatory process.

SENATOR LINCOLN stated she does not want to rely on a chart that DNR did not submit and that others have not seen or agreed with.

CHAIR OGAN thanked Ms. Gilbertson and took teleconference testimony.

MR. ALAN JOSEPH, Association of Village Council Presidents (AVCP) in Bethel, asked how communities that are governed by tribal councils will be provided for in the legislation.

MR. PAT GAVIN, former director of the Division of Governmental Coordination, stated the program has never included tribal governments as a recognized part of the program. He clarified that the coastal resource service area that encompasses the Yukon Kuskokwim area is intended to speak for all of the residents of the area, not just the municipalities.

MR. JOSEPH said communities that are run by tribal councils will continue to voice opinions on projects.

TAPE 03-33, SIDE B

MR. WILBER NAPAYONAK, Secretary of the Koyuk City Council, said right now rural areas do not have revenue generating resources available to draw from for the increase to the local match. Rural communities are struggling to survive. The City of Koyuk is struggling to secure funds to operate and maintain city business. He pointed out that all local concerns are derived from residents of the community. He said the elders of the community address local concerns and he does not see any reason to spend a lot of money on a [scientist] from out of town who

does not know the country. His third concern is that DEC is an essential part of the consistency review process. To remove DEC will leave rural communities vulnerable. He said taking away the community voice will hurt. He stated opposition to SB 143.

4:25 p.m.

MS. KATHLEEN WASSERMAN, Mayor of the City of Pelican, told members most of the coastal communities in the state are in economic decline due to problems encountered by the fishing industry. The City of Pelican will find it very difficult to rewrite its policies due to the increased local match. She is especially concerned with the 90-day timeline. She understands the concerns of industry but, from the communities' standpoint, she has seen many instances where there is no working relationship between the applicant and community. She feels the 90-day clock could be dangerous to a community that feels a project does not fit its planning policies. She also expressed concern that it will be quite difficult for the City of Pelican to pay for a scientific review. She noted that as Ms. Brady said, companies need better ways to operate in the state, but those companies also depend on healthy communities that are able to plan effectively.

CHAIR OGAN asked Ms. Wasserman if she prefers the original bill.

MS. WASSERMAN said the public comment process that has been used for the last few years has worked very well. What she finds bothersome is that an application is automatically found to be consistent after 90 days when the community may have some problems with the project. She said either the community or the applicant could delay it, so there are risks on either side. She noted as a community representative, she will weigh in more heavily on the side of the communities.

MR. HAROLD HEINZE told members he is representing himself but wanted to share his experiences in the ACMP process as a former commissioner of DNR. He reminded members that ACMP was established in the 1970s to solve a federal problem other states were experiencing. At that time, Alaska took advantage of the available federal funds to undergo a local planning process in the 1980s. When he became involved in the process in the early 1990s, the program was up and running. His exposure to ACMP was very disappointing and he sees the changes before the committee to be positive in terms of getting back to a more workable program for Alaska.

MR. HEINZE recalled two decisions that were made during his tenure as commissioner: an oil lease sale on the North Slope east of Barrow and an offshore mining project in the area of Goodnews Bay. Those decisions were made using two very different approaches. An extraordinarily elaborate process was used for the Goodnews Bay decision yet nothing from that process improved the quality of the decision. The decision on the Prudhoe Bay east lease sale was his to make so he did not go through an elaborate process. He traveled to Barrow to talk to the people and solicit input. He believes that led to a better decision. It was not subject to a lot of other people making decisions; one person was accountable for the decision.

MR. HEINZE said what he dislikes about the ACMP program is that it becomes very diffuse and litigious and he is not sure it adds anything to the quality at all. He believes this is an appropriate time to make changes to that program. He said the counterpoint to some of the earlier discussion is that it is true that a number of coastal communities are in trouble economically. But, as a commissioner, he worried about how to use state resources to build an economic base to benefit communities. He said communities that are having trouble should encourage the state to take that kind of an attitude rather than get bogged down by considering the economic problem to be local only. He said the changes in this legislation reflect a change in attitude about using state resources to help.

MR. PETER FREER, a planner with the City and Borough of Juneau (CBJ), informed members he submitted a letter from the CBJ that addresses the CBJ's more global concerns. He said he would focus his testimony on two elements of the Juneau coastal management program, which the CBJ has come to rely on as an important local development tool. The CBJ hopes that program will not inadvertently be jeopardized by this legislation.

MR. FREER said the Juneau Wetlands Management Plan has been incorporated as an element of the Juneau coastal management plan. This wetlands plan grew out of the CBJ's frustration during the 1980s caused by its inability to obtain U.S. Army Corps of Engineers 404 permits for activities in wetlands. The Juneau Wetlands Management Plan was developed to classify wetlands in the urban area into high and low value wetlands. On the low value wetlands, the CBJ has general permit authority to issue permits for construction and development activities. That greatly simplified development within the borough and on marginal wetlands where the permit process had previously been cumbersome. The Juneau Wetlands Management Plan also identifies

eight special waterfront development districts. Those special districts were adopted as elements of the coastal management program. In those areas, coastal marine, industrial and commercial development can take place. These designated coastal areas have been very important in promoting economic development and in easing the development process. The resource agencies approved these through the adoption of the Juneau Coastal Management Program in the late 1980s.

MR. FREER said he wanted to bring the committee's attention to the important elements of Juneau's coastal program and the role they play in the rational development of Juneau's coastal areas. They represent important local authority and local control that the CBJ wants to retain. The CBJ believes it would be a very unhappy consequence if its local authorities were inadvertently lost as a result of the revisions made in CSSB 143(RES).

SENATOR ELTON commented the unhappy circumstance Mr. Freer referred to would be the inability of the CBJ to promote economic development in the coastal area.

MR. FREER said the CBJ believes the approvals it has for the development of the waterfront districts and the general permit authority it has in low value wetlands expedites and simplifies the local development process. Ceding these authorities back to the state and federal government would complicate development.

CHAIR OGAN asked participants to provide brief testimony and said the committee would hear the bill again on Monday.

MR. TOM OSCAR, a member of the coastal resource area serving the Yukon Kuskokwim area, concurred with Mr. Alan Joseph's comments about the tribal council communities. In the 44 communities he serves, 15 are traditional primary governments. He would like to see clarification in the bill as to whether those governments are to be included. The 44 villages will not be able to rewrite their programs in one year. That process will be costly and time consuming. Third, the villages are in the process of mapping customary use areas to protect resources. He sees no guarantee to protect traditional hunting and fishing areas in the bill. [The remainder of Mr. Oscar's testimony was indiscernible.]

CHAIR OGAN said he would get back to Mr. Oscar with answers to his questions.

MR. JEFF COURIER, Lake and Peninsula Borough, told members he has not heard a lot of support for the proposed changes from

people representing communities. He understands a lot of work has been done on this bill, but he still hears a lot of concern. He urged members to slow down and do this right because changes will cause a lot of problems for communities around the state. He said the timing will not work for the 17 communities in the Lake & Peninsula Borough. The 90-day clause is a major concern because if an applicant holds up the process intentionally, that will soon become the trend.

MR. DOUG MERTZ, representing the Prince William Sound Regional Citizens Advisory Council, told members the Council is made up of numerous entities, including a number of local communities affected by the Exxon Valdez oil spill. Those communities know what it is like to have their local economies, commercial fishing resources and subsistence way of life disrupted by outside events out of their control. Hence, they are very concerned about what SB 143 will do to them and their degree of control over their local communities. He said the Council is hearing Administration officials say local enforceable policies will be able to continue pretty much unchanged. However, the language of the bill gives a completely different impression. He said part of the problem may be a matter of how the bill was drafted but it is very important that the Legislature make sure its policy call is stated unequivocally and clearly in the bill. He cautioned that the language of the bill excludes from the jurisdiction of local enforceable policies any number of vital matters to local communities in Sections 11, 14 and 21. He stated:

Basically, if it comes within the jurisdiction of [the Department of] Environmental Conservation, they can't do it. If it comes within the Forest Practices Act, they can't do it. If it's something that's not unique to that particular coastal resource area, they can't do it. For instance, if the local resource area is concerned about the impact on an eel grass bed, what the next resource area over has the same concern about eel grass beds, then, by definition, it becomes a matter of state concern, not local concern and they can't have a local enforceable policy. [Indisc.] addressed by federal or state law, even if it doesn't duplicate it, but it's addressed by them, the locals can't do it.

MR. MERTZ said the Legislature needs to make the basic policy call as to whether it wants local enforceable policies to continue as they are, whether it wants them to continue with

some tweaking, or whether it does not want local entities to do local enforceable policies. If it does not want any local involvement, the current bill will do that. However, if it wants either of the first two, a lot of work needs to be done on the bill because the language does not reflect that intention at all. He noted this legislation was drafted by the Administration and suggested having the legislature's drafters review the measure.

CHAIR OGAN asked Mr. Mertz if he could submit his suggestions in writing.

MR. MERTZ agreed to do so.

CHAIR OGAN asked Senate President Therriault to testify.

SENATOR GENE THERRIAULT said he wanted to respond to some of the concerns expressed in earlier testimony. Regarding the local match, nothing in the bill impacts that; the decision to increase the match was a separate budgetary decision. Either state funds or a combination of state and local funds must match the federal funds. The state no longer has the funds to continue its level of match. If communities want to continue to receive federal funds, the local governments will have to pick up more of the required match. With regard to the 90-day clock, that language contains an exception [on page 15, line 2] that refers to (d)(3). That subsection provides that an affected coastal resource district can request a subsequent review. He said on the issue of the expense of re-writing local enforceable policies, the legislature passed SB 308 last year. As a result of that legislation, many of the coastal resource areas should currently be undergoing a review of their enforceable policies. However, he does not believe the outgoing administration impressed upon the coastal resource areas the enactment of that legislation and their need to comply. The timeline for SB 308 was one year. If those changes are not made, the Coastal Policy Council has the authority to delete those enforceable policies that were just references or adoptions of state statutes and regulations.

CHAIR OGAN thanked all participants and adjourned the meeting at 4:55 p.m.