

**ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE**

March 1, 2004

3:30 p.m.

TAPE(S) 04-18

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 23
Relating to the labeling of salmon and salmon food products.

HEARD AND HELD

CS FOR HOUSE JOINT RESOLUTION NO. 32(FSH) am
Relating to the labeling of fish and fishery food products.

MOVED CSHJR 32(FSH) am OUT OF COMMITTEE

SENATE BILL NO. 318
"An Act relating to the individual right of Alaska residents in
the consumptive use of fish and game."

HEARD AND HELD

SENATE BILL NO. 275
"An Act relating to certain fees or other monetary charges of
the Department of Environmental Conservation; relating to action
against Department of Environmental Conservation permits and
other authorizations for failure to pay a monetary charge; and
providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SJR 23

SHORT TITLE: LABELING OF SALMON FOOD PRODUCTS

SPONSOR(s): SENATOR(s) LINCOLN

01/20/04 (S) READ THE FIRST TIME - REFERRALS
01/20/04 (S) RES
03/01/04 (S) RES AT 3:30 PM BUTROVICH 205

BILL: HJR 32

SHORT TITLE: LABELING OF FISH & FISH PRODUCTS

SPONSOR(s): REPRESENTATIVE(s) KERTTULA

01/20/04 (H) READ THE FIRST TIME - REFERRALS
01/20/04 (H) FSH, L&C
02/02/04 (H) FSH AT 9:00 AM CAPITOL 124
02/02/04 (H) Moved CSHJR 32(FSH) Out of Committee
02/02/04 (H) MINUTE(FSH)
02/04/04 (H) FSH RPT CS(FSH) NT 6DP
02/04/04 (H) DP: GARA, OGG, SAMUELS, WILSON,
02/04/04 (H) GUTTENBERG, SEATON
02/09/04 (H) L&C AT 3:15 PM CAPITOL 17
02/09/04 (H) Moved CSHJR 32(FSH) Out of Committee
02/09/04 (H) MINUTE(L&C)
02/12/04 (H) L&C RPT CS(FSH) NT 4DP
02/12/04 (H) DP: LYNN, GATTO, DAHLSTROM, ANDERSON
02/16/04 (H) TRANSMITTED TO (S)
02/16/04 (H) VERSION: CSHJR 32(FSH) AM
02/18/04 (S) READ THE FIRST TIME - REFERRALS
02/18/04 (S) RES
03/01/04 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 318

SHORT TITLE: CONSUMPTIVE USE OF FISH AND GAME

SPONSOR(s): SENATOR(s) SEEKINS

02/11/04 (S) READ THE FIRST TIME - REFERRALS
02/11/04 (S) RES, JUD
03/01/04 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 275

SHORT TITLE: DEPT. OF ENVIRONMENTAL CONSERVATION FEES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/23/04 (S) READ THE FIRST TIME - REFERRALS
01/23/04 (S) RES, FIN

01/26/04 (S) CORRECTED FN1: (DEC)
03/01/04 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

Representative Beth Kerttula
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of HJR 32.

Mr. Brian Hove
Staff to Senator Ralph Seekins
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Commented on SB 318 for sponsor.

Mr. Wayne Regelin, Deputy Commissioner
Department of Fish & Game
PO Box 25526
Juneau, AK 99802-5226
POSITION STATEMENT: Commented on SB 318.

Ms. Kristin Ryan, Director
Division of Environmental Health
555 Cordova Street
Anchorage AK 99501
POSITION STATEMENT: Supports SB 275.

Mr. Edmond Collazzi, Program Coordinator
Division of Spill Prevention and Response
Department of Environmental Conservation
410 Willoughby
Juneau, AK 99801-1795
POSITION STATEMENT: Commented on SB 275.

Mr. Gary Zaugg
Pac Alaska
Ketchikan AK
POSITION STATEMENT: Opposes SB 275.

Mr. Tom Henderson
Kake AK
POSITION STATEMENT: Opposes SB 275.

Mr. Andrew Hackman
Consumer Specialty Products Association (CSPA)
Washington, D.C.

POSITION STATEMENT: Supports SB 275.

Mr. Art King, President
[Indisc.] Homeowners Association
Prince of Wales Island
Alaska

POSITION STATEMENT: Opposes SB 275.

Mr. John Pugh
Clam and Shellfish Grower
Prince of Wales Island

POSITION STATEMENT: Opposes SB 275.

Mr. Jim Wild
Elfin Cove Oysters
Elfin Cove AK

POSITION STATEMENT: Opposes SB 275.

Mr. Jeff Longridge
Alaska Trollers Association
Sitka AK

POSITION STATEMENT: Opposes SB 275.

ACTION NARRATIVE

TAPE 04-18, SIDE A

^#SJR32

^#HJR32

SJR 32- CONST AM: PERM FUND INCOME FOR DIVIDENDS
HJR 32-LABELING OF FISH & FISH PRODUCTS

CHAIR SCOTT OGAN called the Senate Resources Standing Committee meeting to order at 3:30 p.m. All members were present. The first order of business to come before the committee was HJR 32.

REPRESENTATIVE BETH KERTTULA, sponsor of HJR 32, introduced her aide, Aurora Hauke, who worked on this legislation supporting the timely labeling of fish and fishery food products.

It comes from my fundamental belief that people deserve to know what's in their fish, where it's from and how it's raised. We all know that wild salmon and our fish taste better and it's better for you. Thankfully, due to a lot of the people in this room's efforts, people are beginning to realize that. Because fish is such an important part of our economy, we need

to take advantage of this awareness and do everything we can to support it and support our congressional delegation's great efforts to see this.

CHAIR OGAN asked if language on line 7 saying that [farmed fish] environments are treated with various chemicals is accurate. He has heard that some farmed fish have PCBs.

REPRESENTATIVE KERTTULA said her understanding is that chemicals are sometimes used, but she didn't know exactly what they are.

SENATOR KIM ELTON said he thought the language referred to the feed that is often highly treated and broadcast. Not all of the feed is absorbed by the fish and remains in the water column.

SENATOR RALPH SEEKINS inserted that antifungals have been added to some farmed fish habitats and those can also be absorbed by fish.

REPRESENTATIVE KERTTULA informed them that the Alaska Trollers Association has said that when [farmed] fish are fry, their water may be treated with chemicals to kill parasites and fungi.

CHAIR OGAN innocently asked if a sentence could be added that says farmed fish tastes like mud, because that's what they taste like to him.

SENATOR GEORGIANNA LINCOLN congratulated Representative Kerttula on sponsoring this resolution. She sponsored the same one on the Senate side and has no problem with HJR 32 moving forward.

REPRESENTATIVE KERTTULA added that the original resolve talked about the global assessment of organic contaminants in farmed salmon and the research involved in that report. The report contained some erroneous information about Alaska salmon and that language was removed.

SENATOR LINCOLN said language in the further resolve was also changed to say the Alaska delegation supported timely labeling.

REPRESENTATIVE KERTTULA said that is correct.

SENATOR THOMAS WAGONER moved to pass CSHJR 32(FSH)am, version \I.A, from committee with individual recommendations and with the attached fiscal note. There were no objections and it was so ordered.

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3:47 - 3:49 - at ease

^#SB318

SB 318-CONSUMPTIVE USE OF FISH AND GAME

CHAIR SCOTT OGAN announced SB 318 to be up for consideration.

MR. BRIAN HOVE, staff to Senator Ralph Seekins, sponsor of SB 318, said:

Article VIII, Section 3, of the Alaska Constitution provides that, 'Whenever occurring in their natural states, fish, wildlife and waters are reserved for the people for common use.'

Article VIII, Section 4, of the Alaska Constitution provides that, 'Fish, forests, wildlife, grasslands and all other replenishable resources belonging to the state shall be utilized, developed and maintained on the sustained yield principle, subject to preferences among beneficial uses.'

The qualifying phrase 'subject to preferences among beneficial uses' signals recognition by the constitutional delegates that not all the demands made upon resources can be satisfied and that prudent resource management based on modern conservation principles necessarily involves prioritizing competing uses.

Alaska's natural resources are public trust assets. They are held by the state in trust for the benefit of all its people. In Alaska, the Legislature serves as the trustee of these assets. As such, it has delegated some of its trust powers and duties to the Board of Fish, the Board of Game and the Department of Fish and Game.

Senate Bill 318 gives direction from the trustees (the Legislature) to the boards and the department that, when making decisions regarding the management and/or allocation of these commonly owned resources, they should recognize that the consumptive use of wild fish and game resources by Alaskans to feed themselves and their families is a very important and fundamental individual right.

SENATOR THOMAS WAGONER asked how consumptive use is different than personal use.

MR. HOVE replied that consumptive use means that an individual needs that use for sustenance.

SENATOR RALPH SEEKINS shouldered the question saying personal use could be for any of a number of different reasons, but he intends to focus on use of the resource for sustenance. Feeding a family should have priority over feeding dogs, for instance.

If there was a competing use between that caribou being used to entertain a tour bus or to feed Alaskans, that feeding Alaskans should be first. We should manage our resources for that level, because of the collective ownership and, I think, because of the way the framers said sustained yield, which means to me, harvest....

CHAIR OGAN commented that a preference for the use of fish and game is already in statute with the highest preference for subsistence.

SENATOR KIM ELTON said he was having difficulty with the definition of consumptive use. Senator Seekins said that the use of caribou for food for a family should have a higher preference than a bus-full of tourists viewing them. But, the argument can be made that a bus-full of tourists viewing caribou feeds the tourism employee several times over and where would the non-consumptive uses of wild fish and game resources be then.

SENATOR SEEKINS agreed with him and explained that the more caribou there are, the more there are to be viewed and hunted, but he was trying to get to the point of competing uses between tourism and feeding families. In allocating the resources, it's important to recognize the right of individual Alaskans for their sustenance.

SENATOR ELTON followed up with a "fact situation."

The Board of Game allocates resources and also looks at different management types in different regions of the state. Would this put the hunting of brown bears in Pack Creek, for example, south of Juneau - would that elevate that specific subset of brown bears above the wildlife viewing opportunities that accrue both to tourists and to people that live in the region? How

would this change in language... affect the policies that are presently brought to bear by the [indisc.] watchful wildlife areas versus harvest areas?

SENATOR SEEKINS said he didn't know anybody who eats brown bear for sustenance, but in terms of management:

I don't think anybody would suggest in their right mind you go into the McNeil River bear viewing area and kill those brown bears to eat and say that that was a reasonable requirement under the way we're looking at this. Again, we go back to if people need the food or dogs need the food, people come first.

SENATOR ELTON politely warned Mr. Regelin that he would be asked that same question when he gets to the stand.

CHAIR OGAN said it seemed to him that SB 318 states a policy that consumptive use of wild fish and game by individual Alaskan residents is one of the high preferences; but by law, subsistence is the highest preference and he asked Mr. Regelin if the rest of the uses were implied after that.

MR. WAYNE REGELIN, Deputy Commissioner, Alaska Department of Fish and Game, answered that the subsistence law says subsistence has the highest priority - then residents and then non-residents. AS 16.05.255 is the intensive management law that allows the Board of Game, if it determines consumptive use is an important use of a resource, to say that consumptive use is the highest priority for that wildlife population. He stated:

The Administration and the Department of Fish and Game strongly support the long-term continuation of hunting and fishing in Alaska and elsewhere in the United States. We have a lot of people over in the department who promote hunting and recreational fishing on a daily basis. A few years ago, many state legislatures considered legislation or constitutional amendments that affirmed that hunting and fishing was an important and legitimate use of their fish and wildlife resources. These state legislatures did it in response to attacks on hunting and fishing and trapping by various anti-hunting groups.

At that time, the Alaska Legislature considered a constitutional amendment.... Representative Dyson introduced that legislation and it didn't make it on

to the ballot as a constitutional amendment. Very few states, when it was all said and done, did that. Those that did - I think three or four - were very careful in how they worded their law, because hunting is a regulated activity that requires a license in every state.... Our attorneys have some concerns that if we say it's a fundamental right, it could have ramifications on the state's ability to regulate hunting and fishing activities and even to require a hunting and fishing license. They also say it could affect trespass laws. That's because if an activity is a fundamental right, a state agency must attain a higher standard in order to regulate that activity. It doesn't mean they can't regulate it; it changes the standards. And that makes our lawyers nervous.

Also, if we made this a fundamental right, there is a great concern that it could have a dramatic impact on the Board of Fish to make allocation decisions between commercial fishing and other uses. This language, some think, would give sport fishing a priority over commercial fishing. I don't think that's probably the intent, but there's the concern. Now, I want to say right up front I'm not a lawyer and proud of it and no lawyers are here today. There's two experts on this area of law that work for the Department of Law and one of them is at the Board of Game meeting in Fairbanks and the other one isn't available today. I think he's ill.... They are more than willing to work with us and the sponsor on this bill....

I would close by saying the administration has concerns about making hunting and fishing a fundamental right and thinks the current statutes already make consumptive use of wildlife and fish a high priority. But that said, if you would like us to work with the sponsor and the Department of Law to prepare language for the committee to consider, we'd be happy to do that.

SENATOR ELTON asked if he could infer that an Alaskan sport fisher could have more entry to King salmon, for example, than a sport fisher from Oregon who flies up to a lodge.

MR. REGELIN replied, "Yes, I believe it would."

SENATOR ELTON said it used to be that two out of every three sport caught Kings in Southeast Alaska were caught by non residents and it's pretty much the same now. He asked what a determination that Alaska sport fishers had a more fundamental right to access King salmon would do to the economy of the guided commercial fish fleet in Southeast.

MR. REGELIN replied:

I don't think any of us can answer that question and I don't think a lawyer would be able to either. I think that what it would do is open up a lot of things to challenge that have been basically the way we have done things for the last 45 - 50 years that we've been a state - where hunting and fishing is a privilege that can be regulated and then the Legislature has authorized the Board of Game and the Board of Fish to make allocations and you've given a lot of direction in how to do that. But, it would change that. Now, whether or not it would say that non-residents couldn't fish any more, I don't think it would say that, but it could say that a resident could sue and say I have a fundamental right to catch more, so they don't catch any. I'm not sure.... It just opens up a whole lot of questions that would be very difficult and time consuming for courts to answer, if people took it to court.

SENATOR SEEKINS asked if hunting is a privilege or a right.

MR. REGELIN replied:

I don't think there's a definite answer to that. It's probably in people's opinion. In this state, I think everybody looks at it as a right, but it's a heavily regulated right. Many other states say it's a privilege. You have to have a license to do it. It's one of those word games.

CHAIR OGAN said that the state issues a license under certain criteria for driving and that is a privilege. He agreed with the sentiment that it's a right, but it's regulated as a privilege.

SENATOR SEEKINS opined that even rights can be licensed to a degree.

It's a fundamental right to vote. That doesn't mean that I can vote every Tuesday or that I can vote twice or three times. Fundamental rights are still restricted within a certain degree. And, I think in this case, the intent, at least, is that a restriction on hunting and fishing to be able to feed your family would be when it's a biological necessity for the health of the resource to do that. I think that's basically what our set of licenses does.... Correct me if I'm wrong, Mr. Regelin, but aren't those management tools to manage for the health of the resource as much as they are to try to restrict the taking?

MR. REGELIN replied:

Yes, they are management tools to regulate the harvest to the appropriate levels and hopefully those wouldn't change. I think there's a possibility that challenges in court could change the fundamental way we have to regulate fish and game populations.... We already have a priority for subsistence use. It's very clear that that's our number one priority and we have just consumptive use as a very high priority. I'm not quite sure what's broken.

SENATOR SEEKINS asked what he meant by a higher standard.

MR. REGELIN said he would defer that answer to the Department of Law, because that is where he got the phrase.

SENATOR SEEKINS asked what the standard is now that they are worried about.

MR. REGELIN replied that the current standard is what has been adopted over the past 45 years of state history in regulating fish and game.

CHAIR OGAN attempted to shed some light saying that making consumption a fundamental right is almost a constitutional issue. Someone could say they have a fundamental right to hunt without needing a license.

SENATOR SEEKINS said it seems fundamental that the people who own the resource should be able to use it to feed their families against other competing uses. He wouldn't mind having a higher standard if Alaskan families could harvest their commonly owned resource for sustenance.

CHAIR OGAN agreed with his sentiment, but felt that unintended consequences were likely to happen.

SENATOR SEEKINS said SB 318 is not crafted to give someone the right to trespass.

It's [SB 318] direction to those people to whom we have transferred part of our trust responsibility... to consider the management of and the allocation of those resources that they recognized that Alaskans have a fundamental right to feed families before dogs.

SENATOR GEORGIANNA LINCOLN raised her hand for a question.

CHAIR OGAN noticed, said he would hold the bill, and then recognized her.

SENATOR LINCOLN appreciated the time to comment and said that a sport hunter or fisher could say they are taking the food home to feed their family and that she had asked for a legal opinion on what a fundamental individual right means in that regard.
[END OF SIDE A]

4:26 p.m.

TAPE 04-18, SIDE B

SENATOR LINCOLN asked Senator Seekins if he had a problem with the current preference for subsistence users.

SENATOR SEEKINS replied that he feels that is a rightful priority.

SENATOR LINCOLN asked if he thought SB 318 would have an impact on subsistence in any way.

SENATOR SEEKINS replied, "No, I don't."

SENATOR LINCOLN asked Mr. Regelin if he thought SB 318 would impact the priority users.

MR. REGELIN replied:

I don't think so, but I'm not sure. The part I worry most about is the fishing part and the battles we have

over allocation between sport fishing and commercial fishing.... More so than on the subsistence area.

SENATOR ELTON said:

If this bill comes back up, we do need to have attorneys that are wise in the sport fish, commercial fish and game statutes. When they do come back, Mr. Regelin, [there] are two things that I think they need to answer. One of them you just addressed, but the way I read this, if we take the suggestion by the sponsor and add 'for their sustenance', it seems to create even more of an issue between the sport fish and the commercial fish industry and I'd be interested in the lawyer's interpretation.... I would also like the lawyers to address the issue of whether the addition of those words would have an impact on the guided game industry and whether or not it would lower the priority they may have to access some of our game resources....

CHAIR OGAN said that the preferential uses in the constitution would have to be discussed.

SENATOR WAGONER said he thought SB 318 might be opening a Pandora's box and wanted to hear what the attorneys say about a conflict being created between statutes and the constitution.

CHAIR OGAN said that SB 318 would be held for further work.

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4:32 - 4:33 - at ease

^#SB275

SB 275-DEPT. OF ENVIRONMENTAL CONSERVATION FEES

CHAIR SCOTT OGAN announced SB 275 to be up for consideration.

MS. KRISTIN RYAN, Director, Division of Environmental Health, Department of Environmental Conservation (DEC), said SB 275 allows DEC to recover the estimated cost of services provided for the pesticide registration program to the seafood and food safety laboratory services - PSP testing, in particular, contingency plan review and financial responsibility for non-crude oil operations. It also eliminates the prohibition on the department to include travel costs and actual costs for services and allows the department to add late fees and revoke permits when companies do not pay for their services.

SENATOR WAGONER asked if the fees include any amortization of the bonds that are going to be sold to build a new lab in Anchorage.

MS. RYAN recalled that last year during bond discussions legislators asked the department to increase fees to cover the costs to construct the new seafood and food safety facility along with the higher operating costs.

The work we do at the laboratory are the two areas [in which] we have proposed to increase or charge fees for services we haven't in the past. But, the bond bill has already been completed and construction of the new laboratory will start this spring. These fees would offset the operating costs of the facility.

CHAIR OGAN asked if the bonds had been sold.

MS. RYAN replied yes.

SENATOR WAGONER asked Ms. Ryan if she had copies of correspondence from the growers associations and various aquaculture projects dealing with shellfish.

MS. RYAN replied that she has had some contact with Roger Painter, in particular, and some other growers about the new \$125 PSP test fee.

SENATOR WAGONER said he was concerned that a lab was being built that would put the shellfish growers out of business.

SENATOR SEEKINS asked what the fee is for testing pesticides regarding page 2, line 14.

MS. RYAN replied that SB 275 proposes a \$40 fee. Other states charge \$125 for similar services. The reason the department is only charging \$40 is because the intent is to offset the general funds used in the pesticide program.

SENATOR ELTON asked if the department's goal is to offset the general fund cost, did it use the same logic in setting the proposed fee for PSP testing.

MS. RYAN replied:

That is a difficult question to answer. The fee that we propose for PSP testing is related to the costs

associated with doing the test only. It is not associated with necessarily offsetting other general fund expenses at the laboratory.

SENATOR ELTON still wanted clarification on why the department is not fully recovering the costs associated with the pesticide program. He asked if it fears the fees would have too much of an impact, but that it wants to fully recover the costs associated with the PSP testing program.

MS. RYAN replied that the registration process is already occurring and the general fund expenses to provide that service are \$69,000, which a fee of \$40 completely covers.

SENATOR WAGONER asked what portion of the bond amortization the fees would cover.

MS. RYAN replied that she would have to get back to him on that, but amortization of the bonds is a portion of the increased operating costs. The rent payments on the current facility are similar to what the bond payback fees would be. However, the new facility has increased electricity demands to operate the equipment and, therefore, higher operating costs.

SENATOR SEEKINS asked where the refinery fits into the hierarchy.

MS. RYAN replied that she can't respond to that part of the legislation and would get back to him on that.

MR. EDMOND COLLAZZI, Program Coordinator, Division of Spill Prevention and Response, DEC, explained that refineries were not going to be charged since they handle crude oil coming in and turn it into refined oil. "The fees are intended for the handlers and transporters of refined oil, once it is refined."

MR. GARY ZAUGG, Pac Alaska (geoduck mariculture), said he is against SB 275 unless the PSP testing fee is modified.

MR. TOM HENDERSON, Kake, said he is an oyster grower and a member of the Alaska Shellfish Growers Association that opposes the fees in SB 275. Saying, "The PSP testing fees would just about kill every shellfish growing business in Alaska," he contended that the industry is new and most growers aren't making any money, yet. A quick look at a grower who is just starting out reveals an investment of about \$10,000 to \$30,000. An oyster farmer starts selling about 25 dozen oysters per week

and has to submit samples for two tests to be able to sell the oysters - a total of \$250. The grower probably gets \$6 per dozen net from the oysters - \$150 in gross sales. Some growers would end up paying \$10,000 to \$15,000 per year just for their testing. Other growers who were also growing clams would pay up to \$25,000 a year. "Nobody in this state is making \$25,000 per year profit on their farm."

MR. HENDERSON said that he had been involved in growing for 10 years and has not started making a profit yet as far as income tax is concerned. "I might survive, because I'm at the lowest level of PSP testing." He noted that Alaska's fees are already higher than any other state; it also has the highest rate of PSP in the world with no public testing. The only testing that is done is done on the farms. He related how farmers in Kachemak Bay publicized high levels of PSP at one point and probably had a positive impact on the public use of shellfish in that area.

SENATOR WAGONER asked if he currently paid the cost of transporting samples for testing.

MR. HENDERSON replied that he does and sends them through the post office express mail. It costs \$13.50 per sample and takes one and half to two days. Occasionally the sample arrives partly decomposed, but it's always been good to use.

MR. ANDREW HACKMAN, Consumer Specialty Products Association (CSPA), said he supports the \$40 fee, but would like to see clarification that would limit it to no more than \$40 per registration. He explained briefly that the association represents manufacturers of antimicrobial products, like Mr. Clean, which is considered a pesticide according to federal/state law. It also represents products such as insecticides and insect repellants like Off or Raid.

CHAIR OGAN asked if the association is based in Washington, D.C.

MR. HACKMAN indicated that is correct.

MR. ART KING, President, [Indisc.] Homeowner's Association on Prince of Wales Island, said that having to pay for PSP testing would discourage newcomers to the industry and cause some existing farmers to fold.

MR. JOHN PUGH, [Indisc.] one of the largest growers in the state on Prince of Wales Island, said he produces steamer clams and oysters and sends out six PSP samples per week for seven months

a year and one sample a month for five months a year. He estimated having to pay \$25,500 per year if he had to pay \$125 per sample. He has been in operation for four years and had never been in the positive. "This would surely drive my business into the ground."

MR. JIM WILD, Elfin Cove Oysters, said he had been operating since 1994. Currently, he does two PSP samples per week in the summer, which would cost \$250 and another \$20 for express mail. He sells \$600 to \$1,000 worth of oysters and didn't think he would be able to maintain if he had to pay the high testing fees. He pointed out that he already pays \$1,500 per year to the Department of Natural Resources (DNR) for his five-acre lease and suggested transferring some of that money over to the DEC budget. All he gets for the lease is an annual envelope from DNR asking for payment.

CHAIR OGAN said he would take his suggestion to the commissioner of DNR.

MR. JEFF LONGRIDGE, Alaska Trollers Association, said he is also a direct marketer and processor of fish on his vessel. He restricted his comments to page 1 of SB 275. Currently, he pays a standard fee for inspection of vessels based on the size of the operation.

Modifying this bill to add travel costs to the permit fee structure leaves us with a very uneven playing field. We in the organization, and me personally, feel that the fee structure should be set up on a statewide basis and be a flat level playfield for all. When we start including travel costs, we could have a very wide disparity between someone who lived in a more developed area and someone who lived in a more rural area. That is an unfair situation.

SENATOR BEN STEVENS asked Ms. Ryan how the \$125 was formulated and how it relates to amortization of the bonds. Secondly, he asked if any other system is set up where a user fee is tied into the amortization of a state-owned asset. He felt this fee goes to a new level.

CHAIR OGAN asked if he was concerned about the dedication of funds issue.

SENATOR STEVENS, slightly outraged, replied:

Perhaps we should go to the Alaska Bar Association and put a user fee on the retirement of every courthouse bond that we have on the lawyers that walk through the door.... We ought to be equitable and spread it across everything.

MS. RYAN responded that she would provide him with the calculation for the fees adding that the department was asked to offset the costs of operating the lab regardless of the bond payment. The staff doing the testing is paid for out of general funds. The department is not looking for ways of paying off the debt, but of keeping the lab operating and payment of the bonds is part of that cost. The reason that PSP tests are targeted for fees is because they are the largest quantity of testing, about 984 per year, submitted to the department.

SENATOR STEVENS cordially thanked her for the follow-up.

CHAIR OGAN held SB 275 for further work and adjourned the meeting at 5:05 p.m.

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