

**ALASKA STATE LEGISLATURE**  
**HOUSE RESOURCES STANDING COMMITTEE**

March 21, 2005

1:52 p.m.

**MEMBERS PRESENT**

Representative Jay Ramras, Co-Chair  
Representative Ralph Samuels, Co-Chair  
Representative Jim Elkins  
Representative Carl Gatto  
Representative Gabrielle LeDoux  
Representative Kurt Olson  
Representative Paul Seaton  
Representative Harry Crawford  
Representative Mary Kapsner

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 197

"An Act exempting certain natural gas exploration and production facilities from oil discharge prevention and contingency plans and proof of financial responsibility, and amending the powers and duties of the Alaska Oil and Gas Conservation Commission with respect to those plans; and providing for an effective date."

- HEARD AND HELD

HOUSE JOINT RESOLUTION NO. 15

Relating to open ocean aquaculture in the federal exclusive economic zone.

- MOVED CSHJR 15 (RES) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 5

Opposing imposition of a milk tax on Alaskans.

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 197

SHORT TITLE: OIL SPILL EXEMPTIONS FOR GAS WELLS  
SPONSOR(S): OIL & GAS

03/03/05 (H) READ THE FIRST TIME - REFERRALS  
03/03/05 (H) O&G, RES  
03/15/05 (H) O&G AT 5:00 PM CAPITOL 124  
03/15/05 (H) Moved Out of Committee  
03/15/05 (H) MINUTE(O&G)  
03/16/05 (H) O&G RPT 5DP 1NR  
03/16/05 (H) DP: SAMUELS, GARDNER, DAHLSTROM,  
ROKEBERG, KOHRING;  
03/16/05 (H) NR: KERTTULA  
03/21/05 (H) RES AT 1:00 PM CAPITOL 124

BILL: HJR 15

SHORT TITLE: OPEN OCEAN AQUACULTURE  
SPONSOR(S): FISHERIES

03/01/05 (H) READ THE FIRST TIME - REFERRALS  
03/01/05 (H) FSH, RES  
03/09/05 (H) FSH AT 8:30 AM CAPITOL 124  
03/09/05 (H) Moved CSHJR 15(FSH) Out of Committee  
03/09/05 (H) MINUTE(FSH)  
03/10/05 (H) FSH RPT CS(FSH) 4DP  
03/10/05 (H) DP: HARRIS, WILSON, LEDOUX, THOMAS  
03/21/05 (H) RES AT 1:00 PM CAPITOL 124

**WITNESS REGISTER**

REPRESENTATIVE VIC KOHRING  
Alaska State Legislature  
Juneau, Alaska  
POSITION STATEMENT: Presented HB 197 as sponsor.

LARRY DIETRICK, Director  
Division of Spill Prevention and Response  
Department of Environmental Conservation (DEC)  
Juneau, Alaska  
POSITION STATEMENT: Answered questions regarding HB 197.

IAN FISK, Staff  
to Representative Bill Thomas  
Alaska State Legislature  
Juneau, Alaska  
POSITION STATEMENT: Presented HJR 15 on behalf of Representative  
Thomas, sponsor.

PAULA TERREL

Alaska Marine Conservation Council  
Juneau, Alaska

POSITION STATEMENT: Testified in support of HJR 15.

JERRY MCCUNE

United Fishermen of Alaska  
Juneau, Alaska

POSITION STATEMENT: Testified in support of HCR 15.

#### **ACTION NARRATIVE**

**CO-CHAIR RALPH SAMUELS** called the House Resources Standing Committee meeting to order at [1:52:27 PM](#). Representatives Olson, Ramras, Samuels, Seaton, LeDoux, Elkins, and Gatto were present at the call to order. Representatives Kapsner and Crawford arrived as the meeting was in progress.

#### HB 197-OIL SPILL EXEMPTIONS FOR GAS WELLS

CO-CHAIR SAMUELS announced that the first order of business would be HOUSE BILL NO. 197 "An Act exempting certain natural gas exploration and production facilities from oil discharge prevention and contingency plans and proof of financial responsibility, and amending the powers and duties of the Alaska Oil and Gas Conservation Commission with respect to those plans; and providing for an effective date."

REPRESENTATIVE VIC KOHRING, Alaska State Legislature, said HB 197 is designed to correct an unintended consequence of House Bill 531 in 2004. While trying to place restrictions on the coal bed methane industry, the legislature inadvertently required gas drilling companies to create oil spill contingency plans, he said. This bill will provide an exemption where there is negligible risk for oil spills. There are no fiscal consequences, and there is support from the industry, the Alaska Oil and Gas Conservation Commission (AOGCC), and the Department of Environmental Conservation (DEC), he concluded.

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REPRESENTATIVE SEATON questioned language in Section 2 where it said the exemption does not apply to gas drilling where oil could be encountered.

REPRESENTATIVE KOHRING said the exemption doesn't apply to gas drilling where oil could be encountered. There are areas in gas formations that are capable of flowing oil, so only if it is determined by the AOGCC that there is no potential for oil to seep out, then there would be an exemption.

REPRESENTATIVE GATTO said it can't be known before drilling.

REPRESENTATIVE SEATON asked about line 13 on page 3 where "crude oil does not include natural gas or refined petroleum products." He wanted to make clear that pipelines with refined petroleum products will be required to have oil spill contingency plans.

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LARRY DIETRICK, Director, Division of Spill Prevention and Response, Department of Environmental Conservation, said AOGCC is responsible for determining the likelihood of oil being present. He said he is not aware of AOGCC ever making the wrong determination. If there is oil present, the requirement will be imposed. If a contingency plan was not in place and there was a spill, the permittee will still need to respond appropriately as directed by other statutes.

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MR. DIETRICK thinks the reference to crude oil tries to make it clear that the bill applies to the gas-only situation.

REPRESENTATIVE SEATON said that was his concern. "Crude oil does not include natural gas--I don't have a problem with that--but then we have 'or refined petroleum products,' and if we're exempting pipelines that are carrying refined oil products from having an oil spill contingency plan, I would have a problem with that, but I am not sure if that's the effect of the bill."

MR. DIETRICK said, "There are no other categories of the regulated facilities that would be exempted by this, other than the gas exploration activities, so the scenario of a refined petroleum product pipeline, say, or oil storage tank that's currently regulated would still continue to be regulated."

REPRESENTATIVE SEATON asked if the language should include refined petroleum products "if we're just trying to distinguish between crude oil and natural gas."

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MR. DIETRICK said he thinks there is a technical reason for clarifying the definition, and he'll ask the Department of Law.

REPRESENTATIVE GATTO noted that on page 3, line 13, the definition of crude oil does not include natural gas, and he asked if natural gas is always part of crude oil.

MR. DIETRICK said natural gas is separately defined in statute, and the intent is to distinguish them. Natural gas has a stand-alone definition. It is a component of crude, but for the purposes of applying the exemption, the two are considered separately.

REPRESENTATIVE SEATON noted that on page 3, line 25, there is the language that oil does not include natural gas, and then there is a different definition on page 4, line 7.

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REPRESENTATIVE SEATON asked if it was just non-conventional gas that is being considered.

MR. DIETRICK answered that the bill concerns non-conventional gas because that is what was inadvertently changed last year.

REPRESENTATIVE SEATON asked if HB 197 conforms to the current procedures for conventional gas.

MR. DIETRICK said that is correct, and the definitions are technical changes to make it consistent.

REPRESENTATIVE GATTO asked about the deletion on page 2, line 8.

MR. DIETRICK replied, "The change made by [house bill 531], narrowed that definition of 'non-conventional' to the gas wells, and that was the problem area, so that's why they deleted it, and it's replaced with the language, which is all new in Section 1. So they deleted the reference to non-conventional, which was changed by 531 to have a different--it narrowed it from its originally broad thing, which would have continued to allow gas wells to be exempt. So when it narrowed it down, it implied then that contingency plans would be required for the non-conventional or the coal bed wells, and that's what they're trying to fix." Section 1 substitutes for the deleted language in Section 2, he added. If AOGCC makes the determination that oil is not present, then no contingency plan would be required.

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REPRESENTATIVE KOHRING said it is not his intention to include refined petroleum products, and he would support clarifying that language. He also noted a technical correction that he would like fixed on page 4, line 1, where he would like to insert the word "to" after the word "oil".

REPRESENTATIVE ELKINS asked who is responsible if there is an oil spill when no contingency plan was required.

MR. DIETRICK said the operator is, and that is part of the application process. If an oil contingency response plan was not required, the operators are still required to immediately respond to a spill.

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MR. DIETRICK said that the idea of requiring a plan is for specific situations where the risk is high enough to have a high level of preparedness in place.

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CO-CHAIR SAMUELS set the bill aside until teleconferencing problems could be fixed.

HJR 15-OPEN OCEAN AQUACULTURE

CO-CHAIR SAMUELS announced that the next order of business would be HOUSE JOINT RESOLUTION NO. 15, Relating to open ocean aquaculture in the federal exclusive economic zone.

IAN FISK, Staff to Representative Bill Thomas, Alaska State Legislature, said there is draft federal legislation that would allow open ocean aquaculture. The fishing industry has numerous concerns, he said, including disease transmission, antibiotics, damage to the environment by anoxic conditions created by overfeeding, health of farmed fish to consumers, escapes into the natural environment of non-native species, and use of genetically modified organisms. He added that there are socio-economic concerns about impacts to existing fisheries and the communities and businesses that depend on them. Mr. Fisk said the federal exclusive economic zone as all federal waters from 3 miles to the 200-mile limit. He said Alaska's fisheries are soundly managed now for sustainability and maximum resource

value. Alaskans are the primary participants in the state's fisheries, and much of the economic benefits stay in the state and spread through communities, local businesses, and state government.

MR. FISK said the legislature banned fin fish farming in state waters in 1990, and HJR 15 refers to federal waters. Since 1990 the international fish farming industry has caused harm to the state's fisheries, but "we are starting to see the benefits of sticking to our guns," because Alaska has carved out a niche in the world market, which is producing better fish prices based on Alaska's natural and healthy fish products. "We've made a name for ourselves," he said.

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MR. FISK said the committee substitute (CS) adds a resolve that the legislature opposes open ocean aquaculture for fin fish and predator shellfish in the waters off Alaska, and it urges Congress to prohibit the use of genetically modified fish anywhere in the United States exclusive economic zone. The CS also states support for the regional fisheries management councils, and requests that the councils be granted authority over any proposals regarding open ocean aquaculture in federal waters.

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REPRESENTATIVE SEATON moved to adopt CS HJR 15(FSH) version 24-LS0631\Y, Utermohle, 3/21/05, as a work draft.

There being no objection, it was so ordered.

REPRESENTATIVE SEATON asked why, on page 3, line 9, the resolution requests a legislative environmental impact statement (EIS), if it is already required by law.

MR. FISK said the Administrator of the National Marine Fisheries Service has said that an EIS will not be required.

REPRESENTATIVE GATTO pointed out the sentence in the resolution that prohibits genetically modified fish, "what would happen if we wound up with devastating diseases to the entire stock and the virtual elimination of any kind of fishery, but it was possible, with the introduction of a gene, to build some resistance into the fish. This prohibits us from saving our own fishery," he said.

MR. FISK said Alaska's fish stocks are very biologically diverse and, in the case of salmon, they are very abundant and ubiquitous, so there is a very small risk for such an event. The bigger risk, he said, is if we allow genetically modified organisms into net pens that are prone to failure. He added that the introduction of unnatural fish is the biggest threat to natural stock.

REPRESENTATIVE GATTO asked what was prone to failure.

MR. FISK clarified that net pens fail. "We've seen the escape of lots of farmed fish from farms in British Columbia. If we allowed genetically-modified organisms, in my opinion, we're just playing with fire," he said.

REPRESENTATIVE GATTO said his concern is that "the way biological systems go, you introduce a predator, and they're very efficient at what they do, and especially when you have this incredible food supply. If, indeed, we had something that was so attractive to a predator, that we were simply losing so many fish that there wasn't any sense to fish any more, but we could make the fish bigger so they couldn't eat it, or make the fish resistant to a bacteria or a virus ... so they wouldn't die from it, wouldn't that be detrimental if we said we can't save the fish by saving them? That's the concern that I see in that one statement," he said.

MR. FISK said Representative Gatto's concern is "so nightmarish" he doesn't know how to respond to it. "If we get to a point where our natural stocks are to that level of depletion, I would hate to think that we would have to engineer the entire response to it," he said.

REPRESENTATIVE GATTO said pike are effective predators; "they're good at what they do and they enjoy doing it. If, indeed, we had a pike-like situation where we're losing our stocks like crazy, and somebody says there isn't any way to save these guys" unless we genetically modify them, then, "nightmarish or not, we're making legislation that could make a nightmare," he said.

CO-CHAIR RAMRAS asked how much a wild Alaska fish costs compared to a farmed fish.

MR. FISK said he guesses wild Alaska salmon retails for 40 to 50 percent more than farmed fish. That is just salmon, he said, and any other number of species could be farmed. Alaska's fish

get a premium price because of the name association and the inherent quality that Alaska's system produces. "Our whole management system is considered world class," he said, and farmed Alaska fish will confuse the market place.

CO-CHAIR RAMRAS asked the difference between a hatchery and a fish farm, and if a hatchery were to keep fish until they were bigger, would they be considered farmed fish.

MR. FISK said hatcheries only assist fish through a very early stage of their lives, and they spend their entire adult lives as any other fish would.

CO-CHAIR RAMRAS asked if farmed fish are kept in pens.

MR. FISK said farmed fish have to be kept in pens and fed until they are marketable.

CO-CHAIR RAMRAS said the Douglas Island Pink and Chum (DIPAC) fish hatchery in Juneau sees a two to three percent return of their fish, and he asked if farmed fish have a higher return.

MR. FISK said, "Definitely. The fish don't have to compete and behave like a real fish, they just sit there ... like salmon cows, fattening up, living close to each other, festering and getting diseased, instead of being like a real fish out in the ocean competing and becoming robust like our own wild fish."

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PAULA TERREL, Alaska Marine Conservation Council (AMCC), said she fishes commercially, but she is representing the AMCC, which works with coastal communities - trying to keep Alaskans fishing. Most board members are commercial fishermen, she added. The AMCC supports CSHJR 15(FSH) and would like one change. On page 2, line 28, she said, it would be stronger to remove "in the waters off Alaska," because farmed fish from other areas can have a negative impact on Alaska fisheries.

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MS. TERREL said a company has requested permission from the Food and Drug Administration to supply fish farms with genetically modified fish. A genetically modified fish would be an invasive species, she said.

REPRESENTATIVE GATTO said if global warming is real and raises water temperatures, and salmon want cold water, "and they start to get away from us and start moving further and further north ... and we start losing the volumes of fish we have now" and a company says it can make the salmon tolerant to warmer water by genetic modification, "and you could lose your whole industry, or you could do this, would you do it?" he asked.

MS. TERREL said genetic modification modifies the fish's hormones, "I don't know that you are modifying their resistance to disease or other things," she said. The water is getting warmer, and salmon are still here, she added. Alaska has world-class fishery management and she doesn't think Representative Gatto's scenario would happen.

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REPRESENTATIVE KAPSNER said salmon are sensitive to water temperatures, but the way they navigate to their spawning stream is with the magnetic pole and through their sense of smell.

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JERRY MCCUNE, United Fishermen of Alaska, said "[someone is] putting in for a permit for genetic modified that's shot up with hormones so it makes a king salmon huge but its head stays [really] teeny so the brain doesn't catch up with the body." He said the reason the hatcheries started was to complement Alaska's wild stocks. It has nothing to do with "genetic modified," which has been banned in some states and in the European Union. It has nothing to do with replacing wild stocks, he said. Hatcheries raise their fish to a certain size, and if they held them too long, the timing would be wrong, he added. Holding them for too long introduces disease and other problems. "They have to go out at a certain time so they'll come back at a certain time," he said.

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REPRESENTATIVE GATTO questioned Ms. Terrel's statement that modifying genes only results in a hormonal change.

MR. MCCUNE said, yes, "to make a fish grow [really] fast," so growing a king salmon takes one year instead of the natural five years.

REPRESENTATIVE GATTO said it is curious that genetic modification only affects hormones. "You can genetically modify corn and everything else, and make it grow bigger, and it's not hormones, it's something else," he said.

MR. MCCUNE said, "You change the genetics. Fish have certain genetics, and they go back to certain streams because ... they have these two bones in there that [have] a polar pull that goes back to certain water. If you have genetic modified fish, all you do is grow a fish fast, you're not going to replace genetic modified fish to help our wild stocks, because you would be changing the whole gene pool of the wild stocks. Each stock has a unique gene pool," he said.

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REPRESENTATIVE SEATON moved to adopt Amendment 1, as follows:

Page 3, line 9, after "by"

Delete "law"

Insert "the National Environmental Policy Act"

REPRESENTATIVE SEATON said he wants to make sure that open ocean aquaculture is in conformance with the National Environmental Policy Act of 1969.

There being no objection, Amendment 1 carried.

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CO-CHAIR SAMUELS asked Mr. Fisk about removing the words "off Alaska" from the resolution.

MR. FISK said he would not mind banning aquaculture from all federal waters. "It is up to the committee," he said.

REPRESENTATIVE CRAWFORD said he thinks it's a "dandy amendment."

CO-CHAIR SAMUELS asked if Amendment 2 reads as follows:

Page 2, line 28, after "shellfish"

Delete "in the waters off Alaska"

Amendment 2 was considered as moved, and there being no objection, Amendment 2 carried.

CO-CHAIR RAMRAS moved to report CSHJR 15(FSH) version 24-LS0631\Y as amended with individual recommendations. Hearing no objection, CSHJR 15(RES) was reported out of the House Resources Standing Committee.

HB 197-OIL SPILL EXEMPTIONS FOR GAS WELLS

CO-CHAIR SAMUELS announced that the next order of business would be revisiting HOUSE BILL NO. 197, "An Act exempting certain natural gas exploration and production facilities from oil discharge prevention and contingency plans and proof of financial responsibility, and amending the powers and duties of the Alaska Oil and Gas Conservation Commission with respect to those plans; and providing for an effective date."

REPRESENTATIVE SEATON offered Amendment 1 as follows:

Page 4, line 1, after "oil"  
Insert "to"

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There being no objection, Amendment 1 carried.

The committee took an at-ease from 2:43 p.m. to 2:44 p.m.

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REPRESENTATIVE SEATON said he wants the committee to consider offering an amendment to delete "or refined petroleum products" from page 3, lines 13-14 and from page 4, lines 7-8. He will wait until the sponsor can explain why it is in the bill.

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[HB 197 was held over]

**ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:45 p.m.

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