

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

March 30, 2005

1:08 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

Representative Paul Seaton

**COMMITTEE CALENDAR**

HOUSE JOINT RESOLUTION NO. 9

Urging the United States Congress to honor the process and judgment of the federal courts in the case of the Exxon Valdez disaster and to refrain from enacting legislation that would affect the outcome of the courts' resolution of the case.

- MOVED HJR 9 OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 16

Opposing the designation of any area in the state as a world heritage site, biosphere reserve, or any other type of international designation without the consent of the Alaska State Legislature.

- HEARD AND HELD

HOUSE BILL NO. 198

"An Act relating to aquatic farming; and providing for an effective date."

- MOVED CSHB 198(RES) OUT OF COMMITTEE

HOUSE BILL NO. 174

"An Act relating to commercial fishing permit and vessel license fees; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HJR 9

SHORT TITLE: URGE CONGRESS HONOR EXXON VALDEZ JUDGMENT

SPONSOR(S): REPRESENTATIVE(S) LEDOUX

02/14/05 (H) READ THE FIRST TIME - REFERRALS  
02/14/05 (H) RES, JUD  
03/30/05 (H) RES AT 1:00 PM SENATE FINANCE 532

BILL: HJR 16

SHORT TITLE: OPPOSE UN LAND DESIGNATIONS IN ALASKA

SPONSOR(S): REPRESENTATIVE(S) ELKINS

03/14/05 (H) READ THE FIRST TIME - REFERRALS  
03/14/05 (H) RES  
03/30/05 (H) RES AT 1:00 PM SENATE FINANCE 532

BILL: HB 198

SHORT TITLE: AQUATIC FARMING

SPONSOR(S): REPRESENTATIVE(S) ELKINS

03/04/05 (H) READ THE FIRST TIME - REFERRALS  
03/04/05 (H) FSH, RES  
03/18/05 (H) FSH AT 8:30 AM CAPITOL 124  
03/18/05 (H) Moved CSHB 198(FSH) Out of Committee  
03/18/05 (H) MINUTE(FSH)  
03/21/05 (H) FSH RPT CS(FSH) 3DP 2NR  
03/21/05 (H) DP: WILSON, ELKINS, THOMAS;  
03/21/05 (H) NR: HARRIS, KAPSNER  
03/30/05 (H) RES AT 1:00 PM SENATE FINANCE 532

**WITNESS REGISTER**

SUZANNE HANCOCK, Staff  
to Representative Gabrielle LeDoux  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Presented HJR 9 on behalf of Representative  
LeDoux, sponsor.

MATT JAMIN, Attorney for the Plaintiffs  
Exxon Valdez Lawsuit  
Kodiak, Alaska

POSITION STATEMENT: Testified in support of HJR 9.  
MICHAEL MAXWELL, Commercial Fisherman

Cordova, Alaska  
POSITION STATEMENT: Testified in support of HJR 9.

ROXY ESTES  
Cordova, Alaska  
POSITION STATEMENT: Testified in support of HJR 9.

DOLLIE SCOTT  
Cordova, Alaska  
POSITION STATEMENT: Testified in support of HJR 9.

MICHAEL SCOTT, Commercial Fisherman  
Cordova, Alaska  
POSITION STATEMENT: Testified in support of HJR 9.

DIANE PLATT  
Cordova District Fishermen United  
Cordova, Alaska  
POSITION STATEMENT: Testified in support of HJR 9.

STEVE SMITH, Commercial Fisherman  
Cordova, Alaska  
POSITION STATEMENT: Testified in support of HJR 9.

JERRY MCCUNE  
United Fishermen of Alaska  
Juneau, Alaska  
POSITION STATEMENT: Testified in support of HJR 9.

JAMES VAN HORN, Staff  
to Representative Jim Elkins  
Alaska State Legislature  
Juneau, Alaska  
POSITION STATEMENT: Presented HJR 16 on behalf of Representative Elkins, sponsor.

CINDY MIDDLESTADT, Communications Manager  
Alaska Support Industry Alliance  
Anchorage, Alaska  
POSITION STATEMENT: Testified in support of HJR 16.

JASON BRUNE, Project Coordinator  
Resource Development Council  
Anchorage, Alaska  
POSITION STATEMENT: Testified in support of HJR 16.

IRENE ANDERSON, Assistant Land Manager

Bering Straits Native Corporation  
Nome, Alaska  
POSITION STATEMENT: Testified in support of HJR 16.

DICK COOSE  
Concerned Alaskans for Resource and Environment  
Ketchikan, Alaska  
POSITION STATEMENT: Testified in support of HJR 16.

JOS GOVAARS, Staff  
to Representative Jim Elkins  
Alaska State Legislature  
Juneau, Alaska  
POSITION STATEMENT: Presented HB 198 on behalf of Representative Elkins, sponsor.

JULIE DECKER, Executive Director  
Southeast Alaska Regional Dive Fisheries Association  
Wrangell, Alaska  
POSITION STATEMENT: Testified in support of HB 198.

ROBERT HARTLEY, Oyster Farmer, President  
Alaska Shellfish Growers Association  
Homer, Alaska  
POSITION STATEMENT: Testified in support of HB 198.

DAVID BEDFORD, Deputy Commissioner  
Alaska Department of Fish & Game  
Juneau, Alaska  
POSITION STATEMENT: Testified in support of HB 198.

PAUL FUHS  
Pacific Aquaculture Caucus (PAC) Alaska  
Juneau, Alaska  
POSITION STATEMENT: Testified in support of HB 198.

#### **ACTION NARRATIVE**

**CO-CHAIR RALPH SAMUELS** called the House Resources Standing Committee meeting to order at [1:08:51 PM](#). Representatives Olson, Elkins, Ramras, Samuels, and LeDoux were present at the call to order. Representatives Crawford, Kapsner, and Gatto joined the meeting while it was in progress.

HJR 9-URGE CONGRESS HONOR EXXON VALDEZ JUDGMENT

CO-CHAIR SAMUELS announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 9, Urging the United States Congress to honor the process and judgment of the federal courts in the case of the Exxon Valdez disaster and to refrain from enacting legislation that would affect the outcome of the courts' resolution of the case.

SUZANNE HANCOCK, Staff to Representative Gabrielle LeDoux, Alaska State Legislature, said HJR 9 urges the United States Congress to respect the judicial process and refrain from any action to alter the punitive damage awards to more than 32,000 plaintiffs as a result of the 1989 Exxon Valdez oil spill. She noted that after 16 years, the plaintiffs are still waiting for resolution of the lawsuit. When Congress considered the Oil Pollution Act of 1990, Exxon Mobil Corporation sought an amendment that would have substantially reduced the punitive damages that would have been paid from the Exxon Valdez oil spill. This resolution allows the courts to determine the matter, she concluded.

[1:10:38 PM](#)

MATT JAMIN, Attorney for the Plaintiffs, Kodiak, said Congress is passing bills very quickly without public input, and current members of Congress are concerned about class action and tort litigation. It is possible, he said, that legislation could retroactively alter the Exxon Valdez punitive award case. He said he supports the resolution.

[1:12:22 PM](#)

MICHAEL MAXWELL, Commercial Fisherman, Cordova, said he has fished and repaired nets since he was a child. "Our lives were drastically changed when the Exxon Valdez ran aground." He noted the Prince William Sound herring fisheries were "totally wiped out," losing a huge portion of his livelihood. "Fisherman who had \$500,000 boats sold them for pennies on the dollar," he added. In Cordova there are \$30,000 nets stacked up and unused. He said he has lost health insurance and has many medical problems. The community had a fundraising benefit to help pay for his medical needs. The spill took livelihoods away from many, and he asked, "Where is the help from our politicians and government? Our court system has failed us." He suggested forbidding Exxon from drilling on the Arctic National Wildlife Refuge. "How about laws quadrupling verdicts of large corporations for using their great influence to stifle court proceedings?" he asked, "Where's the help?" He accused the

legislature of doing nothing. "While Exxon makes millions, we go broke," he said. "You people are all in Exxon's pockets," he said. His daughter was 2-years-old when the spill happened, and she will graduate from high school this spring, he noted. "My biggest dream was to send her to a good school, and, hopefully, one of these days I will be able to do it. Please help us," he concluded.

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ROXY ESTES, Cordova, said the Exxon Valdez oil spill destroyed her life, and forced her children to move away. She said putting a cap on damage awards is ludicrous. "The damage done is beyond words." Big oil has had their way, she said, and it bulldozed right over locals with no one in the political arena willing to stand up for them. No one has been held accountable for the lives destroyed, she said. She stated, "Exxon's excellent p.r. campaign has been enormously successful. Everyone worldwide thinks Prince William Sound is fine. It is not. It probably never will be again." Elected officials need to represent the people who put them in office, she added. "Stand up for the little guy."

[1:18:41 PM](#)

DOLLIE SCOTT, Cordova, said herring, crab and everything that was fished has gone downhill. She said if the damage claims aren't settled, it is an invitation to do it again. She said all the fishermen fought against having the pipeline come out of Valdez. She said the community could have lived with an accident due to a storm, but "it was a drunken accident."

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MICHAEL SCOTT, Fisherman, Cordova, said people think that Exxon has paid all that is due, "but nothing has been paid to the fisherman." He suggested that they pay before they can do business in the state.

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DIANE PLATT, Cordova District Fishermen United, said her organization represents over 900 commercial fishermen in area (E). She noted that many of them have been devastated by the oil spill, and she encourages any attempt to get the plaintiffs the settlements they have been waiting for.

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STEVE SMITH, Commercial Fisherman, Cordova, said half of his income was from herring fishing, which is now gone. He noted that nothing indicates it is coming back. He said the case has been going on longer than is reasonable. "Exxon has a lot of money; they don't mind spending it on their attorneys, and they're very reluctant to go ahead and pay the bill that the courts and juries have deemed we have coming." He concluded that justice delayed is not really justice.

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JERRY MCCUNE, United Fishermen of Alaska, Juneau, said there have been several attempts by Exxon to get legislation to free them of punitive damages. "They're on constant watch in Washington D.C.," he said. The resolution urges Congress not to allow any legislation to get Exxon out of their duty.

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REPRESENTATIVE ELKINS moved to pass HJR 9 from committee with individual recommendations. There being no objection, HJR 9 passed from the House Resources Standing Committee.

HJR 16-OPPOSE UN LAND DESIGNATIONS IN ALASKA

CO-CHAIR SAMUELS announced that the next order of business would be HOUSE JOINT RESOLUTION NO. 16, Opposing the designation of any area in the state as a world heritage site, biosphere reserve, or any other type of international designation without the consent of the Alaska State Legislature.

JAMES VAN HORN, Staff to Representative Jim Elkins, Alaska State Legislature, presented HJR 16 on behalf of Representative Elkins, sponsor (original punctuation provided):

House Joint Resolution 16 opposes the designation of any area in Alaska as a World Heritage Site, Biosphere Reserve, or any other type of international designation without the specific consent of the Alaska State Legislature. It also urges the United States Congress to pass and the President to sign legislation that will require approval by and Act of Congress before any area in the United States or its territories can be nominated as a World Heritage Site,

Biosphere Reserve, or any other type of international designation.

This resolution urges the Congress of the United States to reaffirm the power of Congress, under article IV, section 3 of the United States Constitution over international agreements, which concern disposal, management, and use of lands belonging to the United States. To protect State powers not reserved to the Federal Government under the Constitution from Federal actions designating lands pursuant to international agreements. Ensure that no United States citizen suffers any diminishment or loss of individual rights as a result of Federal actions designating lands pursuant to international agreements for purposes of imposing restrictions on use of those lands. Protect private interests in real property from diminishment as a result of Federal actions designating lands pursuant to international agreements.

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REPRESENTATIVE CRAWFORD asked him to define a biosphere reserve.

MR. VAN HORN said it is an area of terrestrial and coastal ecosystems promoting solutions to reconcile the conservation of biodiversity with sustainable use. The United Nations Educational Scientific and Cultural Organization (UNESCO) "governs these biosphere reserves," he added. "Biosphere reserves just sort of showed up," he said. They include three areas once designated: core area, buffer zone, and transitional zone. He said normally the core area is not subject to human activity, the buffer zones help protect the core area, and the transitional zone is an area outside of the buffer where resources are developed for the benefit of the people who live there. "The majority of the biosphere reserves are talking about people like in South America ... where they sell their baskets and Native arts and stuff of this nature," he said. "What is disturbing is ... the Secretary of Interior, by just a signature of her pen, can designate a World Heritage Site." He said it circumvents the constitution.

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CINDY MIDDLESTADT, Communications Manager, Alaska Support Industry Alliance, said the alliance is a nonprofit trade group

of oil, gas, and mining industries. The alliance supports HJR 16 because environmental maneuvers can stall development projects, and conservation designations would provide another tool for the international environmental groups and wildlife activists. She said industry projects need to get off the ground and maintain operations. International movements and ill-spirited motivations could increase the fear factor, she added, and it is appropriate that Congress decides before any conservation designations are made in Alaska.

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JASON BRUNE, Project Coordinator, Resource Development Council, said his organization's mission is to grow Alaska's economy by developing natural resources. He said he agrees with Ms. Middlestadt's comments. He said the Alaska National Interest Lands Conservation Act created a network of conservation systems. The federal government manages 235 million acres in Alaska, and 58 million are Wilderness. The addition of world heritage sites is unnecessary, he opined. "Such designations would severely limit the economic potential of resource development projects throughout our great state," he said. "Alaskans, and Alaskans alone," should make decisions on "our land and our resources," therefore Congress and the legislature should approve of biosphere reserves in Alaska.

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STEVE BORELL, Executive Director, Alaska Miners Association, said biosphere reserves and world heritage sites would pose a serious threat to development, and they would be used to harass developers. No more lands in Alaska should be added to any type of conservation system. Administrative actions cannot be used to close or study lands unless the study is authorized by an act of Congress, he said. He said world heritage sites have been used by environmental groups to stop projects, and one project in Australia was harassed by picketing a board meeting. Three environmental groups petitioned an overseas developer to not insure a mine in Kamchatka, where a world heritage site overlaid a park and preserve that had been established by the Russian government. He believes that if a world heritage site was in place in western Alaska, the Red Dog mine would have been blocked. He said it is important for an act of Congress to approve a world heritage site. He noted is not concerned by the current Alaska administration, but he is by future ones.

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IRENE ANDERSON, Assistant Land Manager, Bering Straits Native Corporation, Nome, said she has worked in opposition to the marine biosphere in Beringia. The federal budget allocates a lot of money to universities to study Beringia National Park, she added. She said she wants to stop authorization of money for studies of these areas. She noted that there is good information coming from the studies, but "they don't need to be calling [it] an international park." She said Bering Strait Natives have land within and adjacent to the Bering Land Bridge National Preserve, and Shishmaref needs to move because of warming ocean erosion problems. She said, "If we get these world heritages...we could see that not only would the Native land be affected...but neighboring state land...mines right south of the preserve, and we would expect that that would no longer happen because of the transitional zones and buffer zones."

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DICK COOSE, Concerned Alaskans for Resource and Environment, Ketchikan, said his group was formed to keep access to resources. He said he supports HJR 16, "that asks, basically, the U.S. legislature to require that the Congress and the state legislature approve any UN designations of world heritage sites, biosphere reserves, or any other type of international designation." The designations ultimately restrict or stop public use of public and private land, he said. In Yellowstone National Park, there was a mine outside of the park that was stopped as a direct result of a United Nations designation. He requested that local governments also have a say. "The UN is a non-elected body ... and we don't need their interference in our lives," he said.

[1:47:22 PM](#)

REPRESENTATIVE ELKINS said he would like to hold the resolution in order to draft amendments.

[HJR 16 was held over]  
HB 198-AQUATIC FARMING

CO-CHAIR SAMUELS announced that the next order of business would be HOUSE BILL NO. 198 "An Act relating to aquatic farming; and providing for an effective date."

JOS GOVAARS, Staff to Representative Jim Elkins, said HB 198 amends Alaska's Aquatic Farming Act and will allow aquatic farms to operate in compliance with a recent supreme court decision. It will permit shellfish farmers to sell insignificant wild shellfish stocks, he explained. Alaska Department of Fish & Game (ADF&G) opened a commercial dive fishery on designated mariculture sites to remove the wild geoducks, which prepares the sites for future mariculture. He noted that this legislation is a compromise between industry members and the administration.

REPRESENTATIVE KAPSNER asked about the taxation.

[1:50:20 PM](#)

JULIE DECKER, Executive Director, Southeast Alaska Regional Dive Fisheries Association (SARDFA), Wrangell, said HB 198 is a result of a supreme court decision, which forced the parties to come to the table and create a compromise. The levy, which Representative Kapsner referred to as a tax, should be set in regulations because this is a new way to approach resource management. If the legislature feels it is appropriate to set the levy in statute, she said SARDFA would like it as high as possible. The court said the state cannot hand significant stocks to an individual. To comply with the court decision, the levy would need to be high enough to make sure there is no net profit going to the farmer, she said. The farmers will be allowed to clear land to prepare for their farming activities.

[1:52:33 PM](#)

ROBERT HARTLEY, Oyster Farmer and President, Alaska Shellfish Growers Association, Homer, said HB 198 is an enabling bill to allow the shellfish industry to go forward. Dive fishermen and the state are in agreement with this legislation, he added. He said that without the bill, the geoduck farms will be gone and the Seward hatchery will close, because the geoduck seed is a vital part of the shellfish hatchery business plan.

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DAVID BEDFORD, Deputy Commissioner, Alaska Department of Fish & Game, said he was one of the principles involved in developing "this compromise." He said Alaska has been a poor environment for the development of geoduck farms, which he thinks will be a productive industry. The superior court said the state constitution bars ADF&G from transferring a significant amount

of common property resource to farmers. The supreme court said there is no statutory authority to transfer insignificant amounts. HB 198 remedies the problem. It allows shellfish farmers to harvest insignificant amounts of wild stock from their farm sites, he said. For geoducks, ADF&G staff believe 12,000 pounds per farm site should be considered insignificant. Full public regulatory review will revisit this number, he said. Other elements of HB 198 are important, he added. Section 2 reiterates the superior courts decision that the state may not authorize a taking of significant stocks of shellfish by a farmer, and surveys will be required by biologists.

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MR. BEDFORD said that Section 3 of HB 198 creates a new authority for the commissioner of ADF&G to allow a farmer to harvest a significant amount of wild stock with an appropriate levy--not a tax, but a right to harvest. He said that this is new ground, and advised that the greater the compensation the public will receive, the more it will be acceptable for the exclusive harvest. Whatever price was charged, farmers would need to be somewhere below the break-even point.

[2:00:01 PM](#)

MR. BEDFORD said Section 5 is important, because ADF&G does not allow the public access to proprietary information, but it will report to the public the total amount of shellfish taken. He said another section requires farmers to leave the amount of stock that they take when their permit is over.

[2:01:33 PM](#)

CO-CHAIR SAMUELS said there is talk of an amendment that defines an insignificant number.

MR. BEDFORD said ADF&G prefers to set the amount in regulation because that process allows for more science and public input.

[2:02:36 PM](#)

REPRESENTATIVE KAPSNER suggested that it is also easier to change regulations.

MR. BEDFORD said it is true, but there would be another hearing.

REPRESENTATIVE KAPSNER asked about the level of a levy.

MR. BEDFORD said the principle criteria is what is adequate compensation to the public for a common property resource.

REPRESENTATIVE KAPSNER said she doesn't understand how farmed animals can be a common property resource.

MR. BEDFORD answered that in aquatic farming, there are natural stock already there.

2:04:59 PM

REPRESENTATIVE KAPSNER asked how it is lucrative if a farmer is assessed a 50 percent levy.

MR. BEDFORD said there is no levy on their stock, only on the natural stock.

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REPRESENTATIVE CRAWFORD asked the difference between wild and farmed stock.

MR. BEDFORD said they are easily identified by age and size.

2:07:16 PM

PAUL FUHS, Pacific Aquaculture Caucus (PAC) Alaska, said shellfish farming will be a good industry. One five-acre farm can produce as much as the total commercial harvest of Alaska wild stock in one year. It will help the wild fishery because it creates a year-round market, he said. He said the tension between wild harvesters and farmers is that farmers want to establish farms on good habitat, which means there are already wild stock there. There is no commercial fishery on a site with only 100,000 pounds of wild stock. He said the legislature was fed up with ADF&G for not allowing farms, so it passed House Bill 208. He said there are two amendments. The one from Lance Nelson in the Department of Law is a good amendment, he opined.

MR. FUHS said he will leave it up to the legislature to determine whether to set 12,000 pounds in policy, but, "I wish we could say that we had more faith in [ADF&G] to stick by 12,000 pounds, or not attach other things to it, like how close it is to another fishery or other things that you could never define. My clients are going to be fine with their farm, but if you want this to go into an industry and have other people to be

able to have farms sites where there's insignificant stocks, you either need to put it in as 12,000 pounds or keep a close eye on what [ADF&G] is doing. Eventually, I think we may come to the conclusion you really need to move this to the Department of Agriculture in [the Department of Natural Resources]." He said that ADF&G has a natural hostility to farming.

[2:11:29 PM](#)

REPRESENTATIVE CRAWFORD asked the value of 12,000 pounds.

MR. FUHS said 12,000 pounds would wholesale at \$100,000.

REPRESENTATIVE LEDOUX asked, "Do these things move around?"

MR. FUHS said geoduck clams live in one place about three feet under the sea floor and filter 80 gallons of water a day.

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MR. FUHS said he doesn't know anyone who is opposed to HB 198.

[2:14:11 PM](#)

REPRESENTATIVE ELKINS offered Amendment 1, as follows:

Page 1, line 9, delete "acquire ownership of"

Hearing no objection, Amendment 1 carries.

[2:14:58 PM](#)

CO-CHAIR RAMRAS moved to pass HB 198 as amended with individual recommendations. There being no objection, it was so ordered.

[2:15:56 PM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at [2:16 PM](#).