

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 14, 2005

1:29 p.m.

MEMBERS PRESENT

Senator Gary Stevens, Chair
Senator Bert Stedman
Senator Johnny Ellis

MEMBERS ABSENT

Senator Thomas Wagoner
Senator Albert Kookesh

COMMITTEE CALENDAR

HOUSE BILL NO. 42

"An Act naming the Joe Williams, Sr., Coastal Trail."

MOVED SCS HB 42(CRA) OUT OF COMMITTEE

SENATE BILL NO. 102

"An Act relating to district coastal management programs; and providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 42

SHORT TITLE: JOE WILLIAMS, SR., COASTAL TRAIL

SPONSOR(S): REPRESENTATIVE(S) ELKINS

01/10/05	(H)	PREFILE RELEASED 12/30/04
01/10/05	(H)	READ THE FIRST TIME - REFERRALS
01/10/05	(H)	CRA, TRA
01/20/05	(H)	CRA AT 8:00 AM CAPITOL 124
01/20/05	(H)	Moved Out of Committee
01/20/05	(H)	MINUTE(CRA)
01/21/05	(H)	CRA RPT 5DP
01/21/05	(H)	DP: SALMON, LEDOUX, NEUMAN, OLSON, THOMAS
01/21/05	(H)	FIN REFERRAL ADDED AFTER TRA
02/08/05	(H)	TRA AT 1:30 PM CAPITOL 17
02/08/05	(H)	Moved Out of Committee

02/08/05 (H) MINUTE(TRA)
 02/09/05 (H) TRA RPT 5DP
 02/09/05 (H) DP: SALMON, NEUMAN, THOMAS, GATTO,
 ELKINS
 02/14/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 02/14/05 (H) Moved Out of Committee
 02/14/05 (H) MINUTE(FIN)
 02/16/05 (H) FIN RPT 9DP
 02/16/05 (H) DP: HAWKER, WEYHRAUCH, CROFT, HOLM,
 KELLY, STOLTZE, FOSTER, MEYER, CHENAULT
 02/16/05 (H) ALL MEMBERS COSPONSORS
 02/16/05 (H) TRANSMITTED TO (S)
 02/16/05 (H) VERSION: HB 42
 02/18/05 (S) READ THE FIRST TIME - REFERRALS
 02/18/05 (S) TRA, CRA
 03/01/05 (S) TRA AT 1:30 PM BUTROVICH 205
 03/01/05 (S) Scheduled But Not Heard
 03/03/05 (S) TRA AT 1:30 PM BUTROVICH 205
 03/03/05 (S) Moved HB 42 Out of Committee
 03/03/05 (S) MINUTE(TRA)
 03/04/05 (S) TRA RPT 4DP
 03/04/05 (S) DP: HUGGINS, FRENCH, KOOKESH, COWDERY
 03/09/05 (S) CRA AT 1:30 PM BELTZ 211
 03/09/05 (S) Heard & Held
 03/09/05 (S) MINUTE(CRA)

BILL: SB 102

SHORT TITLE: COASTAL MANAGEMENT PROGRAMS

SPONSOR(s): SENATOR(s) STEVENS G

02/14/05 (S) READ THE FIRST TIME - REFERRALS
 02/14/05 (S) CRA, RES
 03/14/05 (S) CRA AT 1:30 PM BELTZ 211

WITNESS REGISTER

Doug Letch
 Staff to Chair Gary Stevens
 State Capitol Building
 Juneau, AK 99801

POSITION STATEMENT: Introduced SB 102

Randy Bates
 Deputy Director of Project Management
 Department of Natural Resources (DNR)

POSITION STATEMENT: Reviewed the Coastal Zone Management Program and commented on its current status for the Administration

Peter Freer
Planning Supervisor
City and Borough of Juneau (CBJ)
155 So Seward
Juneau, AK 99801

POSITION STATEMENT: Testified in support of CSSB 102

Gary Williams
District Coast Zone Coordinator
Kenai Peninsula Borough
144 North Binkley
Soldotna, AK 99669

POSITION STATEMENT: Testified in support of the intent of SB 102

Duane Dvorak
Community Development Department
Kodiak Island Borough
722 Mill Bay Road
Kodiak, Alaska 99615

POSITION STATEMENT: Testified in support of SB 102

Tom Lohman
North Slope Borough
P.O. Box 69
Barrow, AK 99723

POSITION STATEMENT: Testified in support of SB 102

Marv Smith
Lake and Peninsula Borough
P.O. Box 495
King Salmon, AK 99613

POSITION STATEMENT: Testified in support of SB 102

Jeff Currier, Manager
Lake and Peninsula Borough
P.O. Box 495
King Salmon, AK 99613

POSITION STATEMENT: Stated support for SB 102

Mr. Templan
City Planner and District Coordinator
Craig, AK

POSITION STATEMENT: Testified in support of SB 102

Frank Kelty, Chair
Aleutians West Coastal Resource Service Board,
Unalaska, AK

POSITION STATEMENT: Testified in support of CSSB 102

Carol Kolehmain, Program Director
Aleutians West Coastal Resource Service Board
Unalaska, AK

POSITION STATEMENT: Testified in support of SB 102

John Oscar
Cenaliulriit, AK

POSITION STATEMENT: Testified in support of SB 102

Dan Salmon
Village Administrator
Igiagik, AK

POSITION STATEMENT: Testified in support of SB 102

Mel Thompson
Mat-Su Valley, AK

POSITION STATEMENT: Testified in support of SB 102

Kathie Wasserman
Policy & Program Coordinator
Alaska Municipal League
217 Second Street, Suite 200
Juneau, Alaska 99801

POSITION STATEMENT: Testified in support of SB 102

ACTION NARRATIVE

CHAIR GARY STEVENS called the Senate Community and Regional Affairs Standing Committee meeting to order at [1:29:59 PM](#). Present were Senators Stedman, Senator Ellis and Chair Gary Stevens.

HB 42-JOE WILLIAMS, SR., COASTAL TRAIL

CHAIR GARY STEVENS announced HB 42 to be up for consideration and noted that public testimony was taken at the previous hearing. He asked for a motion to adopt the \G version committee substitute (CS), which would insert the middle initial "C." in the title.

1:37:10 PM

SENATOR BERT STEDMAN motioned to adopt \G version SCS HB 42 as the working document. There being no objection, it was so ordered.

CHAIR GARY STEVENS asked for a motion to report the bill from committee.

1:37:29 PM

SENATOR STEDMAN motioned to report \G version SCS HB 42(CRA) and attached fiscal notes from committee with individual recommendations. There being no objection, it was so ordered

1:37:54 PM

SB 102-COASTAL MANAGEMENT PROGRAMS

CHAIR GARY STEVENS announced SB 102 to be up for consideration. He asked for a motion to adopt the draft committee substitute (CS).

1:38:20 PM

SENATOR STEDMAN motioned to adopt \F version draft CSSB 102 as the working document. There being no objection, it was so ordered.

CHAIR GARY STEVENS asked Mr. Letch to come forward and introduce the bill.

1:38:34 PM

DOUG LETCH, Staff to Senator Gary Stevens, sponsor, introduced SB 102 as a solution to a problem many Alaska coastal district management programs face. It would change the law established two years ago in House Bill 191 and extend the 7/1/05 deadline for submitting revised coastal management plans an additional year.

He explained that Senator Gary Stevens introduced the bill in response to requests from municipal planners. Additional time is needed because this is a time consuming and complex process. Also, because there is a discrepancy between state & federal plans for the coastal zone program, the sponsor believes that

the proposed extension would help coastal districts better meet the deadline and have an orderly and efficient transition to the new program.

The CS would base the deadline for district coastal program revisions and the annulment of the existing program on federal approval of the state program.

[1:40:16 PM](#)

CHAIR GARY STEVENS asked Randy Bates to come forward.

[1:40:36 PM](#)

RANDY BATES, Deputy Director, Office of Project Management and Permitting (OPMP), Department of Natural Resources (DNR), explained that OPMP is the lead agency for the Alaska Coastal Management Program. He said he would give a brief overview of the Alaska Coastal Management Program (ACMP) and its current status in relation to the proposed bill. He hadn't reviewed the CS so his comments would not reflect those changes.

[1:41:39 PM](#)

With regard to the history of the ACMP, Mr. Bates said:

Coastal management is a voluntary state program. The value of the voluntary program is that it provides the state with a formal role in the review and approval of federal activities and federally permitted activities that may affect coastal uses and resources within the state's coastal zone.

The state began developing the ACMP in the middle to late 1970s and voluntarily chose a program structure that involved a coordinated review process at the state level comprising both state and local standards.

The state component of the program includes the guidance statutes and the implementing regulations including the consistency review process, the state standards, and a district plan guidance regulations. The state program, as we developed it, has been in place since late 1979.

The local component includes an opportunity for a coastal district to develop a local coastal district

management plan that address more specific and local management issues. The local standards are referred to as the district enforceable policies and they are included within a district's plan. These district enforceable policies add specificity to the broad general state standards.

The way the current program is structured is we have 35 coastal districts and 33 of them have current operating coastal plans. The majority of the local coastal management plans were developed in the 1980s as the program developed. Few of them have been updated since that time. There have been revisions, but for the most part the average age of the district plan is 14 years old. They just simply aren't updated as frequently as we've needed.

As far as the funding issues go, at current levels the state receives approximately \$2.8 million from the office of Oceans and Coastal Resource Management (OCRM). This is our federal approval and granting agency that distributes the money to us. These monies - the \$2.8 million from the OCRM - in addition to approximately \$2.0 million of state and matching monies are used to implement the ACMP.

The state provides the local districts with approximately \$750,000 as half of their monies to implement their coastal plans. The state provides additional monies to the local districts that are working on plan revisions. So in addition to the \$750,000 that we provide for basic implementation on an annual basis we also provide a fair amount of money to assist those districts that are revising their plans.

The ACMP unfortunately began experiencing some significant implementation problems in the early 1990s. From 1994 to 1996 an ACMP steering committee was put together and they conducted a formal program assessment. The assessment generated various summary reports and CPC resolutions and identified many needed changes to the ACMP.

In 1998 progress on the changes recommended by the ACMP steering committee and what was known at the time as the Coastal Policy Council - the governing body of

the ACMP. Those changes were slow to come about. Consequently an initiative was introduced before the Legislature to repeal in its entirety, the Alaska Coastal Management Program.

As an alternative to repealing the program, in 2002 the Legislature passed SB 308, which required a district to amend their coastal plan if it incorporated, by reference, any statute or regulation adopted by a state agency. The purpose at that time was to eliminate the redundancy that was inherent within the existing coastal plans.

If a district ignored the mandate at that time - of that law - the Coastal Policy Council - the governing body - would strike those policies from the existing district plans. Unfortunately this law, mandating coastal plan revisions, was ignored.

In 2002 it became obvious that the ACMP had become a program that was regulatorily redundant with other state and federal laws. It was complex in its implementation; and the state and local enforceable policies were vague and subject to drastically inconsistent application on a case-by-case basis.

In addition, the coastal management program is used by many coastal districts as a surrogate to those districts implementing what were properly municipal planning functions through Title 29 of the Alaska Statutes.

In 2003 HB 191 was introduced to reform and streamline the Alaska Coastal Management Program.

[1:47:18 PM](#)

MR. BATES further stated:

House Bill 191 was signed by the governor on May 21, 2003 and portions of HB 191 became effective immediately. Those portions related primarily to the consistency review process and the criteria for dealing with the review of the projects. There were delayed implementations, which we get to at the July 1 or '04 and '05 and '06.

Beginning on July 4, 2004, we had to have new regulations implementing the new reformed coastal program in place. We had to revise three chapters of regulations and be specific in the revisions and the streamlining of the ACMP. We were able to get those regulations completed by the deadline, July 1, 2004.

[1:48:50 PM](#)

There are then two concurrent tracks that have to go on before July 1, 2005. You'll see the first arrow talks about the state developing and submitting the amended ACMP to OCRM. We have done that; we've submitted the amendment - which is the statutes and regulations - to OCRM. The dialog between us, the state, and our approving agency, OCRM, is still ongoing.

[1:49:18 PM](#)

The second track that's important to recognize is the districts had a year from the time the regulations went into effect to develop their district's plan amendments and submit them to DNR for what is the state's review and approval process.

[1:49:35 PM](#)

The districts have to have the revisions done by July 1, 2005. There are two deadlines that occur on that date, which is in just a couple months. Our state standards, which are how we apply consistency to projects sunset on that date by virtue of HB 191 and the districts must submit their planned revisions to DNR by July 1, 2005.

[1:50:07 PM](#)

Between then and 2006 we've got an internal state review process to review and approve those district plans. That includes a very public process where we solicit for comments on each and every one of the district plan revisions.

I'll move back to some of the tests but I want to make sure you cover, but I will get to some details that

happen to districts if they fail to meet this existing deadline because I think that's what's most important at this point.

1:50:38 PM

So we get to current status of ACMP - the second portion of what I wanted to cover today. We are nearing on the timeline July 1, 2005. As I mentioned, there are two independent deadlines to be aware of. Let's talk about the first one, which is the first arrow up top - the deadline for approval of our state standards. As I mentioned, we have submitted our ACMP program submissions to OCRM for review and approval. Without OCRM - the federal granting agencies - approval, our state standards sunset on July 1, 2005.

We are working with our federal agency, OCRM, on what additional information they may need in order to offer us preliminary approval though our respective agencies are struggling to reconcile some very basic philosophical differences regarding the degree to which the federal agency can dictate to our state what our coastal management should be and how that management should occur.

We had a productive meeting with OCRM and other NOAA officials last week when we were back in Washington D.C. and we are awaiting OCRM's further response regarding the approvability of our program.

The second independent deadline that I want to talk briefly about is the deadline for submittal of district plans. We have worked with the district staff, the consultant that they have hired, and the municipal officials of the districts to make sure they were aware and understood the deadlines and the need to be focused and strategic in their efforts to revise their coastal plans to comply with HB 191.

Of the 33 coastal districts with plans, 27 of those coastal districts intend to submit plan revisions for review and approval by the deadline of July 1, 2005. To assist those districts in making those plan revisions we did make available \$900,000 to those districts. We shared that amongst I believe 26 that's applied timely.

To date we've also provided opportunities for sharing information and prepared various materials for them to succeed in developing and submitting their plan revisions by the deadline. These materials include a dedicated web site for downloading plan revision guidance, written responses to various questions, an annotated bibliography for their use, sample enforceable policies for their review and use, timelines for plan revisions and completions, model chapters for districts to cut past and tailor specific to their local issues, and other such products.

[1:53:25 PM](#)

The July 1, 2005 submission deadline gives the districts what we would call priority processing under the regulations such that the plan can be reviewed and approved by DNR and our federal granting agency, OCRM, in advance of the sunset deadline, which is 2006.

A district that fails to meet the submission deadline is not excluded from the ACMP. However, their existing plan may sunset in July of 2006 simply because we don't have the resources to review that plan in addition to these others that are on time.

[1:54:00 PM](#)

A district that chooses to ignore the submission deadline can continue to work on plan revisions under the more general regulations, but they do risk their plan sun setting in July '06 if their revised plan cannot be approved.

It's also important to note that once a district has a revised plan in place - now we're talking a little bit about the future - they can continue to amend their plan and embellish their policies as they see fit. So this is not a one time only planning process. We would expect, over the course of time as with any planning function, districts will refine their plans and we will work with them to make sure they are up to date.

[1:54:42 PM](#)

MR. BATES concluded that should bring members up to date on the issues and set the stage for the testimony from the coastal district representatives.

[1:55:03 PM](#)

CHAIR GARY STEVENS asked for clarification on what is entailed in working with the federal government. Specifically he questioned whether the districts needed to know something from OCRM before they completed the revised plans.

MR. BATES replied:

Unfortunately in this circumstance when we have a federal agency that oversees a program like this, the promulgation of statutes is not the end. We actually have to get approval by this federal agency to approve and then implement the statutes that this body would pass. That's the process we're in right now. We have taken the statutes of HB 191 and the regulations we promulgated, which implement HB 191, and submitted them as a single approval package called an ACMP amendment.

OCRM is looking at that amendment to determine whether we have met the criterion that is laid out in federal law and if it is approvable under their regulations. The dialog is, as I mentioned, ongoing.

OCRM has written a letter to us dated January 28, 2005, which details a number of issues that they either want more information on or additional regulatory changes. We disagree with some of the philosophical issues or revisions that they have brought up and we're trying to come to resolution with those issues. That was part of the purpose that we went to Washington D.C. for last week.

[1:57:12 PM](#)

There are a couple of issues that they have brought up, which would result in regulatory changes and awhile aback we were even ready to make those regulatory changes until they came out with the litany of un-approvable issues.

However, it's important to recognize that the language that they are asking to change, does not necessarily impact a district's write enforceable policies. It impacts how the standards, particularly the state standards and certain district policies, would be implemented - not how they are written.

1:57:48 PM

The OCRM wants us to make changes. If we did make those changes, it doesn't affect how the districts should be writing their policies necessarily. To the extent that it might, we could certainly massage those in the future. Not only through their review and approval process, but the DNR review and approval process.

1:58:14 PM

CHAIR GARY STEVENS recapped the response saying the material DNR is waiting approval on from OCRM won't impact how the districts write the plans, but it will impact how the plans are implemented. Therefore, what DNR is waiting for shouldn't interfere with a district preparing its plan.

MR. BATES replied that is correct at this point.

SENATOR BERT STEDMAN said he was interested in the points of disagreement.

1:59:02 PM

MR. BATES said it depends on which agency is characterizing the issues. OCRM would say there are four issues while DNR would describe 50 issues. Furthermore:

There are an incredible amount of points that they have chosen to challenge us on. I think it boils down to a very basic issue in that HB 191 and the regulations that were developed after that are an attempt by Alaska to develop a program that works for Alaska.

On a national coastal management basis, they have identified 58,000 coastline miles. Alaska has 34,000 of those miles and in fact our coastal zone extends,

in many cases, 200 miles inland. So we're talking about a massive zone.

The revisions that we made under HB 191 in the regulations were intended to reflect that very issue. We are not necessarily lined up with all other states, but we've got a huge area that we're trying to manage up here. And we built a program that worked for Alaska. What we're finding is the federal government is coming in and trying to tell us - tell the state - how we should be managing our coastal users and what we should be doing to manage them in the fashion that they believe that we need to manage them.

What that means in many cases is that they are not willing to recognize the network structure that we have created up here. In other words, we rely on existing state agencies and federal agencies. And we have incorporated as their authorities into the ACMP. The federal government is mandating a redundant state program. They will not accept that the Corps of Engineers is doing a good job managing wetlands. They will not accept that our water quality regulations through DEC are complete and comprehensive. And they want the ACMP to be a duplicitous comprehensive program irrespective of what other state agencies or federal agencies are doing. That is the basic philosophical problem we have with OCRM at this point. We are hoping it will come to resolution. We're certainly working hard on it.

[2:01:11 PM](#)

CHAIR GARY STEVENS said the committee heard from the districts about various concerns and he would like a rundown on where the districts stand with regard to complying with the July 1, 2005 deadline.

[2:01:51 PM](#)

MR. BATES explained that 27 of the 33 districts with existing plans have indicated an intention to submit revised plans by the deadline. To date 16 of the 27 coastal districts are prepared to put the plans out for public review by mid April. DNR has tentative dates on when each of the plans will go out for the 21-day public review and comment period and expects that the remaining 11 districts will have plans ready for public review

by the end of April. This should put all 27 districts on track to meet the July 1, 2005 deadline.

2:03:00 PM

CHAIR GARY STEVENS asked about the other six districts.

MR. BATES replied they have either "fallen off the screen" or haven't received funds to implement the coastal program, but the state is still obligated because those local district plans are part of the state regulations.

2:03:41 PM

SENATOR STEDMAN asked Mr. Bates if there are large areas of the state that aren't covered by a local plan.

2:04:16 PM

MR. BATES explained there are two types of coastal districts. One type is a municipality and the other type is called a coastal resource service area. Those are areas formed specifically for coastal management purposes. A coastal resource service area isn't any sort of municipality, but it can develop a local coastal program to manage the resources of the unorganized area.

Most of the areas in the northern part of the state are covered by coastal plans, but from Prince William Sound down through Southeast there are more pocketed communities with coastal districts that extend no farther than the municipal boundaries. State compliance policies are applicable throughout the state's coastal zone so even if there isn't a local coastal zone program, the state standards still apply.

2:06:03 PM

CHAIR GARY STEVENS asked Mr. Freer to come forward.

2:06:32 PM

PETER FREER, Planning Supervisor, City and Borough of Juneau (CBJ), reported the CBJ testified at the February 24 House State Affairs Committee in support of an extension to provide districts with additional time to prepare the revised plans. At that time, the CBJ supported a deadline of one year following the date of OCRM approval.

The extended deadline makes sense, he said. Although the CBJ might finish its plan by the end of June, it would have no program into which the plan could go if there is no reconciliation between the state and federal governments. Furthermore, the extension would provide the opportunity to write a plan after all rules and regulations are known.

[2:08:07 PM](#)

CHAIR GARY STEVENS questioned what the CBJ would accomplish with the extension that it couldn't accomplish without the additional year.

MR. FREER replied the first point is that the CBJ doesn't know if the federally approved plan might not be different from the plan that was submitted. Currently the CBJ would be writing its plan based on what was submitted, but not necessarily on what has been approved.

The second point is that when the Juneau Coastal Management Program was written in the 1980s, it took about three years to complete. In developing the revised plan any meaningful public participation process has been circumscribed because of the short timeframe. Furthermore, the ground rules for writing the plan weren't well known until months into the writing. The borough has a consultant and it will certainly produce a plan by the June 30 deadline if it stands, but the plan is prepared in a more hasty fashion than desired and with less public participation than is typical for such an issue.

CHAIR GARY STEVENS asked about the statement that not having federal approval might impact plan implementation, but not the writing of the plans.

MR. FREER replied, "Perhaps if in the final plan there were more scope to the development of enforceable policies in local plans that would change how we would write the plan."

[2:10:27 PM](#)

CHAIR GARY STEVENS opened teleconference testimony.

[2:10:34 PM](#) - [2:12:31 PM](#)

GARY WILLIAMS, District Coast Zone Coordinator, Kenai Peninsula Borough, testified from Soldotna in support of the intent of SB

102. The district would file its plan before the deadline, but the issue is filing a qualitative document. Not only is sufficient time necessary to meet the detailed requirements of the state mandated program update, time is also needed to do the mapping, public scoping and the public review of the district coastal zone plan.

The complexity of conducting a resource inventory update for a district that is as large, diverse and active as the Kenai Peninsula Borough and meeting the additional requirements of resource-specific mapping is very time consuming. He expressed concern that the district might spend scarce resources on an effort that may well require further revision.

He said he isn't opposed to updating the coastal zone plan, but the timeframe that the state has imposed is problematic. He asked the committee to provide an extension of one year for districts to complete and present the updated plans.

[2:12:35 PM](#)

CHAIR GARY STEVENS asked him to comment on Mr. Bates' comment that the lack of federal approval wouldn't impact the writing of the updated policies. It would impact just the implementation.

[2:12:52 PM](#)

MR. WILLIAMS replied the issue is that an extensive mapping process is required to substantiate the enforceable policies. That is a huge problem in delineating erosion zones, habitat areas, and shellfish rearing areas.

The borough would like to take its plans to each community and scope them before going to the planning commission to initiate the 21-day public hearing process, but there isn't enough time to do everything in the allotted time.

[2:13:57 PM](#)

DUANE DVORAK, Kodiak Island Borough Planner and Community Development Department Director, testified from Kodiak. He has 20 planning years planning experience and 16 are in coastal communities. He said he came to discuss the deadline issue addressed in SB 102 rather than the structural and programmatic changes to the ACMP.

Over the years he has seen both good and bad plans and his assessment is that the current process is bound to produce inadequate plans even though good people are working and the state has provided money for the process. Adequate time is lacking. This isn't just a matter of making the planners understand and then writing a plan to a certain regulatory specification. This is about process and making the people in the communities understand.

Allocating inadequate time to get around to the different communities and help the people to understand what's happening and to communicate the ramifications is problematic. The different interpretations and opinions need to be worked out and it's difficult to create understanding in the public when the planners are the go-betweens for agency personnel and communities.

[2:16:35 PM](#)

There appears to be disagreement between the state and OCRM regarding whether the current regulations fit with the federal intent of coastal zone management program. He opined CSSB 102 is the way to go to resolve some of the issues and provide suitable time for the process. He suggested that 18 months is minimal in light of having recently participated in the 18 month DNR process to develop the Kodiak area plan for Alaska state lands. Revision of the coastal plan deserves at least as much time once all the program issues are settled.

He mentioned that Kodiak had one of the first plans in the state and has used that plan for 22 years. To move community understanding from 1983 to 2005 in the short time allocated is a daunting challenge for the staff. He would like the public to feel it had time to consider the ramifications and that they were allowed to adequately express themselves through the process.

[2:18:37 PM](#)

CHAIR GARY STEVENS asked why the district needs additional time and how they would use 12 more months if it were available.

[2:18:51 PM](#)

MR. DVORAK replied the borough would spend more time in the public information process and in trying to get more public involvement. Although the Kodiak Island Borough is located in

the City of Kodiak, it has outlying communities that have been out of the loop in the process so far.

As mentioned earlier, there is disagreement in how the state regulations fulfill the intent of the federal legislation for coastal management programs. As to whether there are 4 or 50 points of disagreement, the borough would like those to be resolved before the process goes forward. If there were no outstanding issues then it would be easier to move forward.

2:20:39 PM

TOM LOHMAN, North Slope Borough Representative, testified in strong support of CSSB 102. He reported the borough testified at a previous hearing on the ACMP to express support for an extended timeline to the approval date of OCRM.

From the time House Bill 191 passed, the timelines have been problematic. The North Slope Borough isn't atypical, yet it took five years to get the coastal management program approved. In large part it took that long because the oil companies they deal are not passive stakeholders when it comes to something as important as the coastal management program.

The timelines clearly became a problem when DNR lost 5 months putting contractors to work on the substantial revisions of the implementing regulations due to staffing problems. They have publicly testified to the fact that at one point they had 47 percent vacancy within DNR because of problems associated with moving staff from the governor's office to DNR.

The timelines became more problematic when OCRM deemed the proposed changes to the state program to be an amendment rather than a routine program change as the state characterized it to be. At each point the districts urged the state to seek legislative relief from the timelines, but to no avail.

The fact that the changes were considered to be an amendment was news to no one involved with the program. The head of OPMP in DNR was hired to that position after House Bill 191 passed and repeatedly referred to the major program overhaul that was taking place. He suggested the administration was trying to slide one by and OCRM properly said no, it is a major program amendment and it should be viewed as such.

Finally, the deadline appears to be insurmountable, as the guidance for planner visions to the districts has changed.

Respectfully contradicting some of the statements Mr. Bates made, he said the district is waiting for guidance on some key issues for the North Slope Borough.

The two primary enticements that the federal government offers states to get involved in the voluntary program are money - \$2.8 million in this case - and the assurance that federal activities and federally permitted activities will be made consistent with state plans. On the North Slope that is very significant because the Inupiaq do Bowhead whaling offshore in federal waters of the Beauford and Chukchi Seas.

The North Slope Borough includes the Arctic National Wildlife Refuge and the National Petroleum Reserve and if the borough is to have a seat at the table, it is critical that they have some control over what goes on in those areas. However, DNR has not provided final guidance as to whether or not the borough can craft meaningful subsistence policies or habitat protection on federal lands or waters on the North Slope.

These are significant issues and even if you were to believe that the state isn't waiting for anything from OCRM, DNR would have to admit that if the guidance is final right now, it wasn't final a short time ago. Every district has its own story with respect to the substantive problems with the amendment and although this is not the time for dealing with those, you are hearing unanimity among the districts in terms of the need for additional time.

With regard to the question of how the additional time would be used, he said the North Slope would do public outreach to the communities and the oil companies. It is to everyone's advantage to engage in that dialog before putting pen to paper and submitting a plan to the state. Situations always get more difficult when two sides are entrenched in dealing with a proposal on paper. It's better to get together and work things out beforehand.

The borough has an internal process of visiting all communities and regional tribal and corporate entities. That is impossible to do before the deadline and still submit the plan to the planning commission and get final approval from the assembly. The spring subsistence cycle is underway and it is playing a big role in making it difficult to impossible to do the best job possible and meet the deadline.

In conclusion he restated strong support for the CS for SB 102 and emphasized that the requirement for district submittal of revised plans should be tied to the OCRM approval. Districts don't want to waste precious resources redoing plans that were just redone and submitted.

[2:27:37 PM](#)

CHAIR GARY STEVENS asked if the borough would submit the revised plans on time and how it would feel about the plans if the deadline weren't changed.

MR. LOHMAN replied they would submit the plan on time, but if the deadline isn't changed DNR will certainly be faced with considerable extra work. If they aren't sure about what they are supposed to do in terms of crafting policies on subsistence, habitat protection, or outer continental shelf (OCS) activity, they will include them and write them as strongly as possible and let DNR sort it out.

[2:30:19 PM](#)

MARV SMITH, Lake and Peninsula Borough Community Development Coordinator, testified that the borough strongly urges passage of the committee substitute for SB 102 to extend the deadline to complete the district plans and plan revisions as required.

The borough is committed to the task and will complete the job, but it is logical to extend the deadline because the state and federal government haven't resolved differences and it isn't clear what the amendment will encompass. He suggested that continuing to write policy without clear guidance would likely necessitate a rewrite.

The current direction regarding development of district enforcement policies is unclear and the guidance from DNR is ever changing. The timeframe is far too short to provide for adequate public process. It took the Lake and Peninsula Borough four years to complete the current plan and the 21-day review before passing the revised plan on to the state really isn't adequate. Furthermore, adequate time for mapping of the large borough is lacking. It's important to visit each of the 18 communities in the borough with the current timeline, but that won't be possible.

If the state allows the statewide standards to sunset in July, he questioned who would be at the table during federal

consistencies. Also, at the recent conference in Anchorage the Lake and Peninsula Borough was told it couldn't write any policies on subsistence. He emphasized that is the heart and bone of the citizens in the borough and that decision is wrong and should be changed.

He asked that OPMP and DNR be directed to listen to the districts. A number of suggestions have been put forward and none have been heard. The Alaska Coastal Management Program has been helpful to the Lake and Peninsula Borough and has been successful in getting grants for a number of programs. If the ACMP is dropped, a large void for grant money will be created across the state.

He questioned how the state could even consider letting the program lapse because it would become dependent on the federal government managing over half the coastline in the U.S. He urged members to pass the bill to give districts an additional year after the environmental impact statement is approved and after OPMP and OCRM have agreed on the amendment.

[2:35:18 PM](#)

CHAIR GARY STEVENS asked if there were things the district would like to see included in the plans that aren't allowed. If that were the case, he asked for specific examples.

[2:35:37 PM](#)

MR. SMITH replied they want to include subsistence and the opportunity to be involved in federal consistencies.

CHAIR GARY STEVENS asked if the borough manager was present.

JEFF CURRIER, Lake and Peninsula Borough Manager, expressed agreement with the statements Mr. Smith made.

[2:35:52 PM](#)

CHAIR GARY STEVENS asked if the borough manager wanted to comment.

[2:36:10 PM](#)

BRIAN TEMPLAN, Craig City Planner and District Coordinator, reiterated support for CSSB 102. He explained that Craig is a relatively small district and it expects to have a fully revised

plan in place before the July 1, 2005 deadline. However, to meet the deadline Craig started the process in spite of the unresolved issues between DNR and OCRM.

Eelgrass an essential fish habitat that covers more than 12 percent of the tideland/submerged areas within the municipality so the existing plan includes policies regarding eelgrass. The revised plan was to include eelgrass policies too, but an issue came up about the requirement that policies meet a threshold of a local concern.

To avoid duplicity, part of the local concern must be that a policy was not adequately addressed by state or federal regulation. As late as the October 2004 meeting between ACMP and OPMP, the interpretation of "adequately addressed" was that any state or federal agency that had currently regulated activities and/or the authority to potentially regulate activities in the future were considered adequately addressed. Because of that interpretation, many policies were held at bay while districts waited on OPMP and OCRM to resolve the issue and that didn't occur until December 16.

The OPMP and OCRM staffs have worked very hard, but the many complex issues have been overwhelming. To be completing the plan so close to the deadline when the district has a very few miles of coastline and one municipality, is indicative of the difficulties larger districts face.

[2:40:57 PM](#)

CHAIR GARY STEVENS recognized Mr. Kelty, former Unalaska mayor.

[2:41:13 PM](#)

FRANK KELTY, Chair, Aleutians West Coastal Resource Service Board, spoke from Unalaska to concur with previous testimony in support of CSSB 102. He emphasized that providing additional time to the coastal districts is important.

The Aleutians West finished rewriting its ten-year-old plan in the spring of 2003 at about the same time that House Bill 191 passed. As a result, it spent most of 2004 reworking the new document. The plan completed in 2003 had about 41 enforceable policies, but the revised plan has just 19 enforceable policies and it's likely some of those will be lost as well.

Several weeks ago the district put the revised plan out for review in a rushed process. When the plan was taken to the City of Unalaska, the planning commission had just one meeting for its review and the city council will also have just one review opportunity. Rather than taking the plan to Nikolski and Atka for a face-to-face review of the rewrite, it will be done via teleconference, which is indicative of a rushed process.

If SB 102 is adopted the district would have time to address the comments from the plan review and any changes that might come as a result of the differences between OCRM and the state.

2:44:19 PM

CHAIR GARY STEVENS called on Carol Kolehmain.

2:44:39 PM

CAROL KOLEHMAIN, Program Director, Aleutians West Coastal Resource Service Area (AWCRSA), reported she is working with board chair Frank Kelty and noted that she faxed her testimony to the committee.

MS. KOLEHMAIN said she would read portions of a March 4, 2005 letter the Alaska Coastal District Association sent to Mr. Jeffers to set the tone that the districts have given back to the state. She read:

We're writing this letter out of great concern regarding the status of the Alaska Coastal Management Program. The coastal districts have worked diligently to meet the requirements of the revised ACMP and have always supported a viable state program with a meaningful role for local districts.

We feel that preserving our opportunity for continued participation to the ACMP in state and federal decision-making is of paramount importance. In view of the recent exchange of letters between OCRM and the state, many districts are confused regarding how best to proceed in the revisions of our local plan. While we have many questions regarding recent events, we've narrowed them down to a basic few that need to be addressed and we trust that you'll take the time to do so.

Then we had some questions:

1. Will the Department of Natural Resources continue to assist the districts in completing their plan revisions?
2. What does Governor Murkowski mean when stating in his February 23 letter to NOAA that the ACMP could expire by operation of law in the summer of 2005? She read: "If OCRM does not immediately abandon the new requirements and broken promises contained in its January 2005 decision, the ACMP will expire by operation of law in the summer of 2005."
3. If the statewide standards expire this summer without any legislative action, does the state agree that consistency reviews could continue using our district policies?
4. If the Legislature approves the bill extending the time periods for amendment of the state Coastal Management Program and for districts to submit new revised plans, will the Administration support the extension? - If the Administration will not support an extension we have the following additional questions.
5. If the state program is eliminated, will all the implementing Alaska statutes and regulations previously adopted also go away?
6. How will the federal program be implemented in Alaska if the state program is eliminated?
7. Will the state or districts have the opportunity to comment or otherwise directly influence federal projects within our jurisdiction?
8. Will federal grants and assistance still be available to Alaska coastal districts from the federal government for the operation of the local coastal management plans?

We ask for a written response to our questions as soon as possible, but no later than March 18 because the time is truly running short for districts to complete their plans - because also, if the ACMP will terminate on July 1, we're going to develop a course of action as soon as possible.

We are very concerned for the future of the coastal zone management program and that we desire continued participation in the management of our coastline.

[2:49:16 PM](#)

MS. KOLEHMMAIN said she read the letter because it typifies the interactions districts have had with DNR and reflects the sincerity of the coastal districts. There is a great deal of confusion about the direction the program is heading and there are a number of questions that require an answer. OCRM has raised many legitimate questions. As originally created, the program relied heavily on local policies for implementation. The amended program has reduced the opportunity for local policies and to a great extent it relies on state standards and existing regulations. Right or wrong, this major restructuring raises questions that require an answer if federal funds are to be provided and spent.

MS. KOLEHMMAIN used the analogy of a three-legged stool and said that if one leg is significantly changed, it needs to be apparent how balance might be achieved with what remains and the coastal program is all about balance.

She urged the committee to pass CSSB 102 to allow the time to make an orderly and efficient transition to the new program.

[2:51:08 PM](#)

CHAIR GARY STEVENS said he hadn't received her letter and asked her to fax it and her testimony to his office.

[2:51:29 PM](#)

JOHN OSCAR, Coordinator for Cenaliulriit, made the point that everyone is working to make this possible, but districts such as his, which has 38 villages need the deadline extension. He reported that DNR provided little funding to allow him to visit all areas of his district, which is the largest in the state. He emphasized that it would be difficult to receive supporting resolutions from every community in the short time frame after public review of the plans. It's hard enough to explain this in plain English much less in Yupik Eskimo.

Although the intent is to streamline standards, he's had difficulty pinning down what DNR requires with regard to subsistence standards. The process is unpredictable and confusing because DNR expects districts to conform to regulations that weren't accepted by the OCRM minimum requirements from January 2005.

He expressed frustration that the inability to say anything about land, air and water quality including habitat standards and mining. Also of concern is that subsistence policies can't be applied to federal lands and waters. They can only apply to activity in designated areas and designated areas can't be made for federal lands. Designated areas are the lands that districts have documented and converted into use areas. This is referred to as mapping.

Although the ACMP doesn't allow allocation issues, it does provide a voice to the people in his region that depend on subsistence resources. If the ACMP is eliminated he wasn't sure what protection Alaskans would have from decisions made in Washington D.C. on federal water and land. He questioned whether it makes sense to remove the system that protects the civil right to harvest and gather for your family.

[2:58:16 PM](#)

CHAIR GARY STEVENS said he could appreciate the translation problems then Mr. Oscar about the villages in his district.

[2:58:33 PM](#)

MR. OSCAR explained that the district has 38 villages, the first-class city of St. Mary, 25 second-class cities and 12 tribal run communities.

[2:59:02 PM](#)

DAN SALMON, Village Administrator for Igiagik and Lake and Peninsula Borough Assembly Member, urged passage of SB 102. He reported that he has worked in Igiagik for 24 years and holds a degree from the University of Alaska in natural resource management and planning.

The original coastal zone planning program was implemented during the 10 years he was on the borough planning commission. The effort took over four years, but it had public input and there was confidence in the process and in the finished product. In contrast he described the current guidance for the revised plans as constantly in flux with no clarity or consistency. In his region the public is wary and sees the possibility of doing away with the program as a possible attempt to limit local input and a potential to reduce the quality of water dependent resources. The public views the coastal zone program as a way to

ensure that if mining comes into the region the activity is thoroughly reviewed and done correctly from the beginning.

Communities in the region aren't connected by a road system, which makes it time-consuming and costly to put the proposed revisions through without adequate time and staff.

He urged passage of CSSB 102 and any complimentary House bills to allow for an extension.

[3:02:21 PM](#)

CHAIR GARY STEVENS asked Mr. Salmon how the additional time would be spent if it were available.

MR. SALMON replied it would provide more opportunity for borough staff to educate the public and get input from the various communities.

[3:03:34 PM](#)

MEL THOMPSON, Matanuska-Susitna Valley resident, described himself and other valley residents as victims of House Bill 191. He said the changes that were made that bypassed the public process were detrimental. With all due respect he said people in his area don't see DNR as a leader. They view the agency as following the wishes of the Administration.

He questioned why DNR is leading the charge up the hill in support of the July 1 deadline when everyone else is heading in the opposite direction. Everyone has testified that more time is needed and he could see no reason not to pass CSSB 102 because these resources and the coastline belong to everyone in the state.

[3:05:18 PM](#)

KATHIE WASSERMAN, Policy and Program Coordinator, Alaska Municipal League (AML), stated that every community that testified on SB 102 is a member of the AML. When the debacle started about two years ago she was in local government. At that time not a single community member she spoke with expressed the view that the timeline was working well.

Changes dealing with resources and coastline that are of this magnitude can't be done over again when mistakes are made. She stressed that it is truly in the state's best interest to give

communities as much time as possible to get the plans done and done correctly.

The Alaska Municipal League wholeheartedly supports SB 102 to extend the deadline.

3:06:40 PM

CHAIR GARY STEVENS remarked that the testimony was interesting and Mr. Thompson's comment about leading the charge up hill with no one following was particularly telling. He asked Mr. Bates to respond.

3:07:32 PM

MR. BATES acknowledged that he heard the message that districts would like more time. He also heard the responses to the question regarding what districts would do with more time. He heard coastal districts say they don't need more time; they will get the plans submitted by the deadline. He stressed that districts will succeed and the Administration can give assurance that the planning process doesn't end with plan submittal. Districts can continue to refine plans as much as they should each year. Most districts are poised for success and DNR is working through issues the districts have.

3:08:35 PM

CHAIR GARY STEVENS said a concern they heard is that if districts do submit the plans in a timely fashion then it would be DNR's problem to ensure that all are in compliance.

MR. BATES said Mr. Lohman probably did suggest that the onus would be on DNR to review the 27 district plans, However, DNR has been under the gun for two years. Staff has risen to the challenge and has set up an internal process for review and approval of all 27 district plans, which will facilitate the review by the state and federal agencies. In addition it will give the districts what they need as far as the amendments that are necessary to comply with House Bill 191 and the implementing regulations.

The DNR goal is to massage each and every plan so that the districts are satisfied and the plans are in compliance with state law. "We are set to succeed as the staff at DNR," he asserted.

[3:10:05 PM](#)

SENATOR STEDMAN asked whether he was speaking in support of the extension or not.

[3:10:18 PM](#)

MR. BATES replied, "At this time the Administration does not support SB 102 in its original form. We came here to speak on that bill, I think at this point it would be preliminary to suggest that we don't support the CS. We would like the opportunity to look at that and revise the fiscal note as appropriate to address the impacts with that CS."

There were no further questions.

[3:10:40 PM](#)

CHAIR GARY STEVENS announced he would hold SB 102 in committee.

There being no further business to come before the committee, Senator Gary Stevens adjourned the meeting at [3:10:52 PM](#).