

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

March 7, 2005

3:37 p.m.

MEMBERS PRESENT

Senator Thomas Wagoner, Chair
Senator Ralph Seekins, Vice Chair
Senator Ben Stevens
Senator Fred Dyson
Senator Bert Stedman
Senator Kim Elton
Senator Gretchen Guess

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 103

"An Act relating to regulation of underground injection under the federal Safe Drinking Water Act; and providing for an effective date."

MOVED SB 103 OUT OF COMMITTEE

SENATE BILL NO. 110

"An Act relating to regulation of the discharge of pollutants under the National Pollutant Discharge Elimination System; and providing for an effective date."

MOVED SB 110 OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 76(FIN) am

"An Act relating to the Big Game Commercial Services Board and to the regulation of big game hunting services and transportation services; and providing for an effective date."

MOVED CSHB 76(FIN) am OUT OF COMMITTEE

HOUSE CONCURRENT RESOLUTION NO. 2

Urging Governor Murkowski to take quick action to conduct, approve, or sanction a study of in-state natural gas needs and take-off points for intrastate use of natural gas transported in a North Slope natural gas pipeline.

MOVED HCR 2 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 103

SHORT TITLE: OIL & GAS: REG. OF UNDERGROUND INJECTION

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/14/05 (S) READ THE FIRST TIME - REFERRALS
02/14/05 (S) RES, FIN
02/28/05 (S) RES AT 3:30 PM BUTROVICH 205
02/28/05 (S) Heard & Held
02/28/05 (S) MINUTE(RES)
03/07/05 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 110

SHORT TITLE: POLLUTION DISCHARGE & WASTE TRMT/DISPOSAL

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/16/05 (S) READ THE FIRST TIME - REFERRALS
02/16/05 (S) RES, FIN
03/02/05 (S) RES AT 3:30 PM BUTROVICH 205
03/02/05 (S) Heard & Held
03/02/05 (S) MINUTE(RES)
03/07/05 (S) RES AT 3:30 PM BUTROVICH 205

BILL: HB 76

SHORT TITLE: BIG GAME SERVICES & COMM. SERVICES BD

SPONSOR(s): REPRESENTATIVE(s) SAMUELS

01/18/05 (H) READ THE FIRST TIME - REFERRALS
01/18/05 (H) RES, FIN
02/02/05 (H) RES AT 1:00 PM CAPITOL 124
02/02/05 (H) Moved Out of Committee
02/02/05 (H) MINUTE(RES)
02/04/05 (H) RES RPT 8DP
02/04/05 (H) DP: GATTO, KAPSNER, OLSON, ELKINS,
SEATON, LEDOUX, RAMRAS, SAMUELS
02/09/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519
02/09/05 (H) Heard & Held
02/09/05 (H) MINUTE(FIN)
02/10/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519
02/10/05 (H) Moved CSHB 76(FIN) Out of Committee
02/10/05 (H) MINUTE(FIN)
02/11/05 (H) FIN RPT CS(FIN) 3DP 5NR

02/11/05 (H) DP: HOLM, WEYHRAUCH, JOULE;
02/11/05 (H) NR: STOLTZE, HAWKER, MOSES, KELLY,
MEYER
03/02/05 (H) TRANSMITTED TO (S)
03/02/05 (H) VERSION: CSHB 76(FIN) AM
03/03/05 (S) READ THE FIRST TIME - REFERRALS
03/03/05 (S) RES, FIN
03/07/05 (S) RES AT 3:30 PM BUTROVICH 205

BILL: HCR 2

SHORT TITLE: IN-STATE NATURAL GAS NEEDS
SPONSOR(S): REPRESENTATIVE(S) SAMUELS

02/18/05 (H) READ THE FIRST TIME - REFERRALS
02/18/05 (H) RES
02/23/05 (H) RES AT 1:00 PM CAPITOL 124
02/23/05 (H) Moved Out of Committee
02/23/05 (H) MINUTE(RES)
02/24/05 (H) RES RPT 7DP
02/24/05 (H) DP: OLSON, KAPSNER, SEATON, ELKINS,
LEDOUX, RAMRAS, SAMUELS
02/25/05 (H) TRANSMITTED TO (S)
02/25/05 (H) VERSION: HCR 2
02/28/05 (S) READ THE FIRST TIME - REFERRALS
02/28/05 (S) RES, FIN
03/07/05 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

DAN EASTON, Director
Division of Water
Department of Environmental Conservation
410 Willoughby
Juneau, AK 99801-1795

POSITION STATEMENT: Supported SB 110.

CAM LEONARD
PO Box 110300
Juneau, AK 99811-0300
Department of Law

POSITION STATEMENT: Answered questions about SB 110.

MATT ROBUS, Director
Division of Wildlife Conservation
Department of Fish & Game
PO Box 25526
Juneau, AK 99802-5226

POSITION STATEMENT: Supported HB 76.

PAUL JOHNSON, Registered Guide
Elfin Cove AK

POSITION STATEMENT: Supported HB 76.

RICK THOMPSON, Regional Manager
Division of Mining, Land and Water
Department of Natural Resources
400 Willoughby Ave.
Juneau, AK 99801-1724

POSITION STATEMENT: Supported HB 76.

REPRESENTATIVE RALPH SAMUELS
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of HB 76 HCR 2.

HAROLD HEINZE, CEO
Alaska Natural Gas Development Authority (ANGDA)
Anchorage AK

POSITION STATEMENT: Supported HCR 2.

ACTION NARRATIVE

CHAIR THOMAS WAGONER called the Senate Resources Standing Committee meeting to order at [3:37:01 PM](#). Present were Senators Stedman, Elton, Dyson, Ben Stevens, Seekins and Chair Wagoner. Senator Guess arrived at 3:38.

SB 103-OIL & GAS: REG. OF UNDERGROUND INJECTION

CHAIR THOMAS WAGONER announced SB 103 to be up for consideration. In the last meeting there was a question about class 1 wells and a letter of intent was prepared that would accompany the bill.

SENATOR RALPH SEEKINS moved to attach the draft letter of intent to SB 103.

SENATOR ELTON objected briefly to find the letter in his packet.

[3:38:45 PM](#)

SENATOR GUESS joined the committee.

CHAIR WAGONER announced there were no further objections and the letter of intent was adopted.

SENATOR SEEKINS moved to pass SB 103 with attached letter of intent from committee with individual recommendations, and attached fiscal notes. There were no objections and it was so ordered.

[3:39:53 PM](#) At Ease [3:42:02 PM](#)

SB 110-POLLUTION DISCHARGE & WASTE TRMT/DISPOSAL

CHAIR THOMAS WAGONER announced SB 110 to be up for consideration. Additional information was requested at the last meeting and it has been received. He personally had reservations when it costs the state \$1.2 million to take over a federal program because it saves a little time.

[3:43:12 PM](#)

SENATOR ELTON agreed with him about the financial liability and recalled that the Department of Environmental Conservation (DEC) recently eliminated the Hazardous Waste Program for communities in Southeast Alaska that cost only \$20,000 and involved one employee for 30 hours. That is just a small fraction of the fiscal note for SB 110 with the addition of 13 full-time employees. He has heartburn with a decision that leads to the elimination of a \$20,000 program that served communities well -r that they protested against eliminating - and then incurring a liability of \$1.2 million on the NPDES.

The other part of the bill he didn't like was on page 5, lines 12 - 14. The implication is that after the public hearing process, state staff can still discuss permit issues with the applicant. This would assume the staff and permit applicant can make changes and not have to go back to a public process. When he asked DEC about it, he didn't get an answer. But when he asked if the public hearing process envisioned in this bill would contribute to saving time, the answer was no.

He wanted to know whether or not DEC envisioned that conditions of a permit can be changed subsequent to a public hearing without going back to another public hearing - so the public knows what those changes were.

DAN EASTON, Director, Division of Water, Department of Environmental Conservation (DEC), replied yes to his question about not having to go back to public notice after certain limited changes are made. After the public comment period has

closed, he would post the permit on the web and provide copies of the proposed final to the applicant and to others that commented on the draft permit as well as to the EPA. "So, it's not exclusively to the applicant, but it's to a restricted group."

[3:47:13 PM](#)

SENATOR ELTON asked if there is a precedent in his department.

MR. EASTON replied no.

SENATOR SEEKINS asked Senator Elton if he didn't think final terms should be worked out at the end.

SENATOR ELTON responded:

No.... What this appears to me is it appears to give the permit applicant special access to the process after the public hearing process. It notes only that the person who applies for a permit under the program has the opportunity to review the final permit. It doesn't say permit applicant, public or other parties who may or may not have testified.

[3:52:29 PM](#)

SENATOR GUESS, in reference to lines 12 through 14, asked if changes are made, would those be put back on the web so people can see the changes to the final permit.

MR. EASTON replied that it would depend on the nature of the changes. Substantial changes now have to go back to public notice. This provision in the bill is intended to address errors and omissions. He explained that that situation happened recently and the only remedy for the mistake was a full-blown modification to the permit.

SENATOR GUESS asked if the intent is to open public comment again for substantial changes.

MR. EASTON replied yes, that standard doesn't change.

SENATOR ELTON said that other people beside the permit applicant might have an interest, like a neighborhood. It seems strange that the federal government, other states and even our state's other departments don't do this and he asked how are other permit errors are dealt with. "Do you go back and start the

process over again? It seems to me that this could be superfluous."

[3:54:54 PM](#)

CHAIR WAGONER summarized that he heard Mr. Easton say that they could meet to correct minor errors and omissions. For anything major, the department has a public hearing process.

MR. EASTON agreed that was right.

SENATOR ELTON asked what provision of law requires the department to go back to the public process.

CAM LEONARD, Assistant Attorney General, Department of Law, answered that case law has been developed in court, both state and federal, although, "It's not as bright a line as some of us might wish." Basically, if the changes made to a draft permit are the logical outgrowth of what was originally proposed, the department doesn't have to go out to a public notice. But, if it's something unforeseen, the law requires a second round of public notice. It's a test that is in case law, not in statute.

SENATOR SEEKINS moved to pass SB 110 from committee with individual recommendations and attached fiscal notes.

SENATOR ELTON objected and suggested somewhere through the committee process adding language on line 12 that says:

A person who applies for a permit under the program or an interested party who participated in the public hearing sessions has an opportunity to review the final draft permit prior to it being issued.

That expands the number of interested parties who have the post-public hearing opportunity. He didn't expect an answer now, but asked for one before the bill gets to the floor and removed his objection. There being no further objections, SB 110 moved from committee.

[3:58:36 PM](#) At ease [3:59:53 PM](#)

CSHB 76(FIN)AM-BIG GAME SERVICES & COMM. SERVICES BD

CHAIR THOMAS WAGONER announced CSHB 76(FIN)AM to be up for consideration.

REPRESENTATIVE RALPH SAMUELS, sponsor, said it reestablishes the Big Game Commercial Services Board. The former board sunsetted in the early 90s and its duties were transferred to the Division of Occupational Licensing.

A Legislative Budget and Audit report recommended that the board be reestablished for consumer protection and to set ethical standards for guides. This is supported by the Board of Game and Department of Fish & Game (ADF&G) and various user groups.

REPRESENTATIVE SAMUELS reviewed the changes from last year's bill that didn't pass.

[4:01:45 PM](#)

Board membership went from two guides, two transporters, one member appointed by the Board of Game, one private land holder and one public member to two guides, two transporters, one Board of Game appointee, two private land holders and two public members. The thinking behind that is there is inherent conflict between the transporters and the guides. The second change requires the board to issue a license to someone who meets the standards. Also, the original bill had a \$1,000 fine in the previous 12 months would have precluded someone from receiving or renewing a guide or transport license and that was increased to \$2,000 - with the support of the Department of Public Safety (DPS).

[4:03:13 PM](#)

SENATOR GUESS asked if this was the same membership as the previous group that was sunsetted.

[4:03:44 PM](#)

REPRESENTATIVE SAMUELS replied that he didn't know, but the old board had the perception that it was a bit of a good old boys club. "If you knew somebody, you got certain privileges."

[4:04:28 PM](#)

SENATOR GUESS said she didn't see wildlife biologists in the board and asked if they would come under public members.

REPRESENTATIVE SAMUELS replied the Board of Game would appoint one member and that might be a biologist or a professional game manager.

[4:05:09 PM](#)

SENATOR SEEKINS asked the definition of private landholder.

REPRESENTATIVE SAMUELS replied that probably means Native Corporations with large tracts of land.

SENATOR STEDMAN said he thought it included all private landholders.

REPRESENTATIVE SAMUELS replied that it does.

CHAIR WAGONER asked Mr. Robus if he could answer Senator Guess' question.

[4:06:59 PM](#)

MATT ROBUS, Director, Division of Wildlife Conservation, replied that even though wildlife biologists are talked about as advocating for the reinstatement of the board, they are not actually included in the specification of who gets to sit on the board.

[4:07:45 PM](#)

SENATOR GUESS responded that she wanted to know how this board is different in its membership from the old one that sunsetted.

[4:07:56 PM](#)

MR. ROBUS replied that it's not much different. One of the reasons he and the Board of Game are advocating for reinstating the Commercial Services Board is because it's a complement to the biological work that the Board of Game does with input from ADF&G. Without it, the component of wildlife management that has to do with people management presented problems that the board doesn't have the tools to solve. It provides a needed function. Problems came up that couldn't be addressed by altering bag limits and seasons et cetera. The department and Board of Game both supported HB 76.

PAUL JOHNSON, Elfin Cove guide, supported HB 76. He said lots of things are falling through the cracks without the old board. To Senator Guess' question he said the prior board had nine members - two guides, two transporters, two public members, one commercial user, one private landholder and one Board of Game member. The board did not take up biological issues and the Board of Game member was a great liaison between the two boards.

[4:11:23 PM](#)

SENATOR SEEKINS asked how long he had been guiding.

MR. JOHNSON replied 30 years.

SENATOR SEEKINS asked when exclusive guides areas went away.

MR. JOHNSON replied that they went away in 1991 with the Owsichek decision.

SENATOR SEEKINS asked if there are de facto reserved guide areas in effect by landowners who have contracted exclusively with certain guides.

MR. JOHNSON replied yes. He said there are large tracts of prime federal lands that the National Park System, US Fish and Wildlife and US Forest Service have contracted through a concession process. Prior to Owsichek, once you had a use area, you had it forever. That's why they called it the good old boys club. A task force put together that eliminated the old guide board and created the Commercial Services Board, but in the middle of that process the Owsichek decision came down. The feds hoped the state would pick up the ball as they have done on their lands.

SENATOR SEEKINS asked from a guide's perspective, if there could be some ethical concerns between private landowners who contract with exclusive guides. He asked if he saw any conflict of interest there.

MR. JOHNSON replied he was the chair of the former board and the private landholders were more concerned with how they were going to get their companies involved with their local people and with just two guide members on the board he didn't foresee that being a problem. However, he could see major benefits to the state as a whole in getting those private landholders into commercial utilization of the game if they choose.

I think the more they learn about the industry, the more they may so choose. It's been a very effective process in Canada, in Africa and obviously our state is competing with those other countries.

[4:15:29 PM](#)

RICK THOMPSON, Regional Manager, Division of Mining, Land and Water, Department of Natural Resources (DNR), supported HB 76.

[4:16:13 PM](#)

SENATOR BEN STEVENS moved CSHB 76(FIN)AM with individual recommendations and attached fiscal note. There were no objections and it was so ordered.

[4:16:53 PM](#) At ease [4:17:55 PM](#)

HCR 2-IN-STATE NATURAL GAS NEEDS

CHAIR WAGONER announced HCR 2 to be up for consideration.

REPRESENTATIVE RALPH SAMUELS said this resolution simply urges the Governor to move quickly on the gas needs study that must be done before an open season can happen.

SENATOR SEEKINS moved to pass HCR 2 from committee with individual recommendations and attached zero fiscal note. There were no objections and it was so ordered.

REPRESENTATIVE SAMUELS said he welcomed cross sponsors.

HB 76-BIG GAME SERVICES & COMM. SERVICES BD

SENATOR DYSON declared that he may have a conflict of interest with HB 76.

HCR 2-IN-STATE NATURAL GAS NEEDS

HAROLD HEINZE, CEO, Alaska Natural Gas Development Authority (ANGDA), supported HCR 2. He thought it was important for the state to continue the momentum that had been started through the first hearing process.

There were no questions and there was no further business to come before the committee and CHAIR WAGONER adjourned the meeting at [4:23:02 PM](#).