

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

March 9, 2005

3:39 p.m.

MEMBERS PRESENT

Senator Ralph Seekins, Vice Chair
Senator Ben Stevens
Senator Kim Elton
Senator Gretchen Guess

MEMBERS ABSENT

Senator Thomas Wagoner, Chair
Senator Fred Dyson
Senator Bert Stedman

COMMITTEE CALENDAR

SENATE BILL NO. 113

"An Act relating to entry into and management of Gulf of Alaska groundfish fisheries."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 113

SHORT TITLE: GULF OF ALASKA GROUND FISH FISHERY

SPONSOR(S): SENATOR(S) STEVENS B BY REQUEST

02/23/05	(S)	READ THE FIRST TIME - REFERRALS
02/23/05	(S)	RES, FIN

WITNESS REGISTER

ED DERSHAM

Board of Fisheries

Anchorage AK

POSITION STATEMENT: Supported SB 113.

SUE ASPLUND

Department of Fish & Game

PO Box 25526

Juneau, AK 99802-5226

POSITION STATEMENT: Supported SB 113.

BRUCE TWOMLEY, Chairman
Commercial Fisheries Entry Commission (CFEC)
Department of Fish & Game
PO Box 25526
Juneau, AK 99802-5226
POSITION STATEMENT: Supported SB 113.

FRANK HOHMAN
Commercial Fisheries Entry Commission (CFEC)
Department of Fish & Game
PO Box 25526
Juneau, AK 99802-5226
POSITION STATEMENT: Supported SB 113.

ALEXUS KWACHKA
Kodiak AK
POSITION STATEMENT: Opposed SB 113.

CHUCK THOMPSON, President
Kodiak Divers Marketing Association
Board Member, Alaska Jig Association (AJA)
Kodiak AK
POSITION STATEMENT: Opposed SB 113.

STEVE GROGGY, Vice President
Alaska Draggers Association
Kodiak AK
POSITION STATEMENT: Supported SB 113.

JULIE KAVANAUGH
Kodiak AK
POSITION STATEMENT: Opposed SB 113.

TIM GOSSETT
Kodiak AK
POSITION STATEMENT: Opposed SB 113.

LONNIE WHITE
Kodiak AK
POSITION STATEMENT: Opposed SB 113.

STEVE MATHIEU
Kodiak AK
POSITION STATEMENT: Opposed SB 113.

TIM TRIPP
Kodiak AK

POSITION STATEMENT: Opposed SB 113.

PETER THOMPSON
Kodiak AK

POSITION STATEMENT: Opposed SB 113.

DONNA JONES
Kodiak AK

POSITION STATEMENT: Opposed SB 113.

THERESA PETERSON
Kodiak AK

POSITION STATEMENT: Opposed SB 113.

LEONARD CARPENTER
Kodiak AK

POSITION STATEMENT: Opposed SB 113.

LUDGER DOCHTERMANN
Kodiak AK

POSITION STATEMENT: Opposed SB 113.

SHAWN DOCHTERMANN
Kodiak AK

POSITION STATEMENT: Opposed SB 113.

ROBERT CARTER
No address provided

POSITION STATEMENT: Opposed SB 113.

GLEN CAROLL
Homer AK

POSITION STATEMENT: Opposed SB 113.

MACO HAGGERTY
Homer AK

POSITION STATEMENT: Opposed SB 113.

ALAN PARKS
Homer AK

POSITION STATEMENT: Opposed SB 113.

BRUCE HENDRICKSON
Homer AK

POSITION STATEMENT: Opposed SB 113.

ARNE FUGELVOG, President

Petersburg Vessel Owners Association
Petersburg AK
POSITION STATEMENT: Supported SB 113.

CHARLIE PARSONS, Vice Chair
Western Alaska Ground Fishermen's Association
Homer AK
POSITION STATEMENT: Supported SB 113.

MIKE MILLIGAN
No address provided
POSITION STATEMENT: Supported SB 113.

ACTION NARRATIVE

CHAIR RALPH SEEKINS called the Senate Resources Standing Committee meeting to order at [3:39:37 PM](#). Present were Senators Elton, Guess, Ben Stevens and Chair Seekins.

SB 113-GULF OF ALASKA GROUND FISH FISHERY

CHAIR SEEKINS announced SB 113 to be up for consideration.

ED DERESHAM, Board of Fisheries, said the board's task force on this issue was begun because of federal rationalization and because many state groundfish fisheries have become a race for fish. That task force has realized that the board needs additional authority to be able to address a comprehensive solution that would be best for the State of Alaska.

We fleshed out the bare bones of a dedicated access privilege partial solution to these things along with an open entry portion.... We think that the bare bones idea is enabled by this legislation, which is process legislation, not programmatic. It's meant to create the ability for the CFEC and Board of Fisheries to use this additional authority in the process and then flesh out a complete solution that would address what we think would be best for the participants, the Alaska residents in the coastal communities....

In addition, we have also been in discussion with the CFEC (Commercial Fisheries Entry Commission) about a Memorandum of Understanding to flesh out the cooperation part of this legislation and we believe that the result of that will be a Memorandum of Understanding that we will be able to get into the

legislative record before this bill is voted on. It will create a joint public process for much of this work... which is kind of a new idea that I think would have many benefits for the public process input of stakeholders and other interested parties.

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SENATOR BEN STEVENS, sponsor, said he wanted to clear up misconceptions. It was also introduced last year and was requested by the Board of Fish, the North Pacific Fisheries Management Council (NPFMC), ADF&G and CFEC as a result of federal action in federal waters. He emphasized that the urgency of addressing this issue has increased because the NPFMC is closer to acting on its management plan, which surrounds the Gulf of Alaska fisheries.

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SENATOR STEVENS said his first concern is to protect the rights of Alaskan fishermen in Alaskan waters. The question is will this help Alaskan fishermen in Alaskan waters against adverse or unintended consequences of a implementation of the federal fisheries management plan. Another question is, "If we don't act, what happens?" Those organizations came to him saying that the state has to act or it will face negative consequences for its fishermen. He stated:

I just hope that people who testify against the bill will understand the reasoning behind the bill and understand what the bill allows the departments to do and allows the fisheries managers to do to meet their objective as fisheries managers. Those objectives are pretty well stated on page 4 - which is sound fishery management, resource conservation, protect the economic health of the fisheries, have enforceable allocations, promote the safety of the participants and...adopt other important goals as identified by the commission. We're creating a tool for the fisheries managers to use if they see fit to use it.

[3:48:18 PM](#)

SUE ASPLUND, Alaska Department of Fish and Game (ADF&G), read position paper. She said the race for fish and the increasing pressure to get more does not maximize the economic value of the fisheries to fishermen, to processors, to the coastal communities - or to the state. She feared that:

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The planned rationalization of the federal Gulf of Alaska groundfish fisheries has the potential to further aggravate all of the problems that are already inherent in this race for fish....

Alaska's current Limited Entry program satisfactorily addresses fisheries and social issues in many of Alaska's fisheries. It may not best serve all of Alaska's diverse groundfish fisheries given the demands on today's global marketplace for consistent supply, quality and market and product diversity.

SB 113 provides authorities to the Board of Fisheries and Commercial Fisheries Entry Commission (CFEC) that allow them to explore innovative Gulf of Alaska groundfish fisheries allocation and management strategies to find solutions to the changing global marketplace and that would benefit the resource, the resource users and the communities that depend upon them....

SB 113 has been purposefully written to provide for maximum flexibility without predetermining any programmatic outcome. It's intended that program development for each Gulf groundfish fishery will be developed in a transparent Board of Fish and CFEC public processes and not within this legislation.

MS. ASPLUND stressed that this is process legislation, not programmatic. It expands the public process by adding the Board of Fish and its public processes onto the CFEC hearing process. A dedicated access privilege is not ownership and providing entry-level access for fisheries is a state priority.

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She said that while limited entry has generally worked well in Alaska biologically, it does not prevent over-capitalization and increases harvesting. Some would argue that the groundfisheries have already seen significant negative effects of over-capitalization such as low product values, short seasons, loss of resident processing for workers in coastal communities, safety issues, et cetera. Longer seasons would likely provide stability to coastal communities and fishermen.

BRUCE TWOMLEY, Chairman, Commercial Fisheries Entry Commission (CFEC), supported SB 113. The CFEC and board need dedicated access to control quota fisheries.

It is a way of assigning quota so that people don't overfish their individual share. It can be based on past historic catch. It's a new development; it's a tool the state hasn't had and we know from our experience in limiting quota fisheries that the state's license limitation program simply doesn't work. I could give you examples; it has not been an effective tool.

He explained that SB 113 is limited to the Gulf of Alaska fisheries and doesn't mandate anything.

When and if that produces a proposal for this fishery, there is going to be extensive public comment.... One thing we contemplate is joint hearings.... Merely acting on this doesn't lock the state for all time into a particular system. The state always has the power to modify the system.

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Constitutional provisions limit what the state can do for limited access. It can only be used to prevent economic distress among fishermen and only for conservation. This framework doesn't apply to the federal limited fisheries.

The court has said it is better to serve more people rather than less. A dedicated access privilege better serves that standard than the traditional license limitation program where everything is tied to the existing number of units of gear in a fishery. and all applicants have to be ranked against one another.

The point of a dedicated access privilege is it can be much more inclusive because you have the opportunity to bring everybody who is currently participating in the fishery - everybody who can demonstrate a reliance on the fishery into the fishery at their own level of participation.

FRANK HOHMAN, Commercial Fisheries Entry Commission (CFEC), supported Mr. Twomley's comments.

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ALEXUS KWACHKA, Kodiak fisherman, said under SB 113 it is possible to issue a license to a vessel and not the vessel operator. It divides the pie and will marginalize a lot of guys with a lot at stake. It creates unequal access.

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CHUCK THOMPSON, President, Kodiak Divers Association said he is also on the board of the Alaska Jig Association (AJA) and they opposed SB 113 because it is too broad. Management tools are already available to prosecute these fisheries in a safe and timely manner. SB 113 would create unequal access. Jig fishermen don't race for fish. Further, he stated as a husband, father and resident of Alaska, he is also concerned that there would be no entry-level fisheries.

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STEVE GROGGY, Vice President, Alaska Draggers Association (representing 30 vessels), supported SB 113. He noted the Governor, the North Pacific Fisheries Management Council, the Board of Fish Rationalization Task Force, Board of Fish, and United Fishermen of Alaska all support SB 113. Many industry members who favor this bill can't testify today because they have gone fishing.

He said that a significant amount of Pacific cod and pollock have been caught inside three miles in the federal fisheries - otherwise known as the parallel fishery.

Even though the vessels thought they were operating in a federal fishery, it turns out the state of Alaska has jurisdiction over this catch. SB 113 will allow the state to maintain authority over the inside three-mile catch allowing fishermen to have somewhat equal treatment when compared to potential fishing privileges in the federal program. Otherwise they would be dropped out of the loop, since both would receive fishing privileges based on catch history.

SB 113 also allows for a coordinated fishery management approach for stocks that are migratory across the three-mile jurisdiction line.... The state must take action to protect the fishery resource and Alaskan fishers. Otherwise they put at risk inside three-mile fishers with excessive effort by new fishers joining in the fray of open access fisheries.... With SB 113, Alaska has the ability to drive the outcome in the federal process.

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It does not designate processor quota shares or predetermine what species or gear types need to have programs developed, but

it does grant authority to the Board of Fisheries and CFEC to adequately develop plans for Alaska groundfish fisheries.

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JULIE KAVANAUGH, representing family, said SB 113 is about unequal access and she is opposed to it. She urged extensive public hearings on this issue.

[4:18:23 PM](#)

TIM GOSSETT, Kodiak, said Gulf rationalization takes away opportunity and opposed SB 113. It's much too ambiguous and gives CFEC and the Board of Fish too much power.

LONNIE WHITE, Kodiak, liked what SB 113 does, but thought it was contrary to the spirit and intent of our state constitution. Jobs and money are lost with the emerging industry efficiency. He thought this issue should be voted on by the people of Alaska, not passed as a bill in the Legislature. He did not support it.

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STEVE MATHIEU, Kodiak, opposed SB 113. It's vague and gives too much power to the Board of Fisheries. He wanted to know exactly what plan would be adopted by it.

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DONALD LAWHEAD, JR. opposed SB 113. Everyone understands the current system. He echoed previous testimony in opposition to SB 113 emphasizing that it represents unequal access.

[4:27:04 PM](#)

TIM TRIPP, Kodiak, opposed SB 113. The Board of Fish already has the tools to stabilize fisheries. He didn't see any justification to give the CFEC more power than it already has.

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PETER THOMPSON, Kodiak fisherman, opposed SB 113. More time is needed for affected fishermen in the coastal communities to weigh in on the matter. This bill is too broad and gives too many undefined powers to CFEC and the board.

[4:29:07 PM](#)

DONNA JONES, Kodiak, opposed SB 113. It gives too much power to the board. It is unconstitutional to give the Board of Fish power to bypass the legislative process. She did not support creating a dedicated access privilege to a state fishery. She

was also concerned that this advocates privatization of a public resource.

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THERESA PETERSON, Kodiak fisherman, opposed SB 113. It is vaguely written and stakeholders won't know how they are affected.

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LEONARD CARPENTER, Kodiak, opposed SB 113. It gives the board and CFEC too many powers and they already have adequate tools to manage fisheries. He encouraged the legislature to have a lot of hearings.

[4:37:39 PM](#) Recess [4:43:58 PM](#)

LUDGER DOCHTERMANN, Kodiak, opposed SB 113 for reasons already stated. The Kodiak fishermen are the ones who asked for this statewide fishery in the first place. He wanted open access for the little guy.

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SHAWN DOCHTERMANN, Kodiak, said he fishes in the jig groundfish fishery and can survive with open access. But, if the state waters are rationalized, that will make him and others go bankrupt. "I am completely against the whole idea of SB 113." Further, there are no guidelines for the Board of Fish or the CFEC. They will have the power to manipulate the state water fisheries as they please. State government is working against the little guy.

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ROBERT CARTER opposed SB 113 because it is unconstitutional. Fish should be an open resource. "If people can't make money fishing, then they get out of the business. Those who make money can stay in. It's the American way. The resource has never been in danger."

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GLEN CAROLL, Homer pot cod fisherman, said the catch rate for fish is accelerating and this causes poor quality. Every year the season is shortened by at least a week as the race for fish goes on and on. He supported SB 113.

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MACO HAGGERTY, Homer, opposed SB 113.

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ALAN PARKS, Homer, opposed SB 113 for all the reasons stated. Let it go through the board process and work on a community level.

[4:56:32 PM](#)

BRUCE HENDRICKSON, Homer, opposed SB 113, which tries to bring state fisheries in alignment with federal fisheries. It allocates the resource to a vessel, not an individual, and at the vessel level it represents capital. Small boat fishermen lose and big boat lobbyists walk away with the resource.

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ARNE FUGELVOG, President, Petersburg Vessel Owners Association, said he is also a member of the North Pacific Fisheries Management Council. Both supported SB 113. The NPFMC will have a rationalization program finalized by next winter.

If we retain open access in state waters and have a federally rationalized fishery, I truly believe we will have a disaster on our hands because we will have a complete mismatch of programs. Fishermen who participate in the state water fishery are the same ones who participate in the federal water fishery. A program for those fishermen that does not work in both state and federal waters, I think, is going to be a real problem.

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CHARLIE PARSONS, Vice Chair, Western Alaska Ground Fishermen's Association, supported SB 113. He said all the members are fishing right now so they are not available to testify in favor of it. Rationalizing the fishery will spread it out over time and space and make it a much safer and more profitable fishery.

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MIKE MILLIGAN, representing himself, explained the history about the lobbying effort in D.C. to get a state water fishery that was allowed under the original Magnuson Stevens Act. It was successful at the beginning of the Knowles administration. "It has been a fantastic fishery for us."

He had a couple of problems with SB 113, however. Most people started out on boats with mentors; probably 50 percent of the skippers didn't own the boats they worked on. These skippers didn't qualify to get IFQs for halibut. That is really what people mean when they have concerns about dedicated access

privilege. He also wanted to see some way for people to enter the fishery. Further he stated:

What isn't known about the three-mile limit is that under Magnuson Stevens, the state could have taken 12 miles. If there's going to be a rational deep discussion before this committee, I would like this committee to ask that question - Why didn't the state go for 12 miles?

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CHAIR SEEKINS clarified that under Alaska law "persons" includes people, corporations and partnerships. He asked if that was the intent of the use of the word in this bill.

SENATOR BEN STEVENS replied yes.

CHAIR SEEKINS told Mr. Milligan that the definition of "person" includes skippers.

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SENATOR BEN STEVENS highlighted page 5, number 4 that indicates past landings are credited solely or partially to the interim permit holder, the entry permit holder, the vessel owner or the commercial fishing license holder. He emphasized that no one is excluded in the consideration of this plan. He concluded saying that he looked forward to the next hearing.

CHAIR SEEKINS adjourned the meeting at [5:18:40 PM](#).