

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

April 8, 2005

3:37 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Fred Dyson

COMMITTEE CALENDAR

SENATE BILL NO. 85

"An Act repealing the ban on the use of certain off-road vehicles within five miles of the right-of-way of the James Dalton Highway; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 96

"An Act granting certain state land to the University of Alaska and establishing the university research forest; and providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 85

SHORT TITLE: OFF-ROAD VEHICLE USE ON DALTON HIGHWAY

SPONSOR(s): SENATOR(s) SEEKINS

01/31/05	(S)	READ THE FIRST TIME - REFERRALS
01/31/05	(S)	TRA, RES
02/08/05	(H)	TRA AT 1:30 PM CAPITOL 17
02/08/05	(S)	Scheduled But Not Heard
02/15/05	(S)	TRA AT 1:30 PM BUTROVICH 205
02/15/05	(S)	Heard & Held
02/15/05	(S)	MINUTE(TRA)
02/17/05	(S)	TRA AT 1:30 PM BUTROVICH 205
02/17/05	(S)	Moved SB 85 Out of Committee

02/17/05 (S) MINUTE(TRA)
02/18/05 (S) TRA RPT 3DP 1DNP
02/18/05 (S) DP: HUGGINS, COWDERY, THERRIAULT
02/18/05 (S) DNP: FRENCH
03/21/05 (S) RES AT 3:30 PM BUTROVICH 205
03/21/05 (S) Heard & Held
03/21/05 (S) MINUTE(RES)
04/08/05 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 96

SHORT TITLE: UNIVERSITY LAND GRANT/STATE FOREST
SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/07/05 (S) READ THE FIRST TIME - REFERRALS
02/07/05 (S) RES, FIN
04/08/05 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

JACK REAKOFF
Wiseman AK

POSITION STATEMENT: Opposed SB 85.

RAY BANE
Alaska Resident

POSITION STATEMENT: Opposed SB 85.

DR. SYNDONIA BRET HARTE, Associate Science Director
Toolik Research Station
University of Alaska Fairbanks
Fairbanks AK

POSITION STATEMENT: Opposed SB 85.

IAN HARRIOTT, Student
University of Alaska Fairbanks
Fairbanks AK

POSITION STATEMENT: Opposed SB 85.

JIM SACKETT
Fairbanks AK

POSITION STATEMENT: Supported SB 85.

TERRY REICHARDT
Fairbanks AK

POSITION STATEMENT: Commented on SB 85.

CHARLES DERRICK

Fairbanks AK
POSITION STATEMENT: Supported SB 85.

WAYNE HEIMER
Fairbanks AK
POSITION STATEMENT: Supported SB 85.

DAVID STELLER
North Pole AK
POSITION STATEMENT: Supported SB 85.

GAR PESSEL
Fairbanks AK
POSITION STATEMENT: Opposed SB 85.

FLORIAN SEVER
Sitka AK
POSITION STATEMENT: Opposed SB 85.

GARVIN BUCARIA
Mat-Su Valley AK
POSITION STATEMENT: Opposed SB 85.

KRISTIN SMITH, Executive Director
Copper River Watershed Project
Cordova AK
POSITION STATEMENT: Opposed SB 85.

GEOFF CARROL, Biologist
Unit 26A
Alaska Department of Fish and Game (ADF&G)
Barrow AK
POSITION STATEMENT: Opposed SB 85.

JOSHUA BACON
Barrow AK
POSITION STATEMENT: Opposed SB 85.

BRIAN PEARSON
Department of Wildlife Management
North Slope Borough
Barrow, AK
POSITION STATEMENT: Opposed SB 85.

TAQULIK HEPA
Department of Wildlife Management
North Slope Borough

Barrow AK

POSITION STATEMENT: Opposed SB 85.

MARK LUTRELL

Seward AK

POSITION STATEMENT: Opposed SB 85.

BRITT CONSTANTINE

Alaska Conservation Alliance

Alaska Conservation Voters

Juneau AK

POSITION STATEMENT: Opposed SB 85.

MARY JACKSON

Staff to Senator Wagoner

Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SB 96 for the sponsor.

DICK MYLIUS, Deputy Director

Division of Mining, Land and Water

Department of Natural Resources

400 Willoughby Ave.

Juneau, AK 99801-1724

POSITION STATEMENT: Commented on SB 96.

ACTION NARRATIVE

CHAIR THOMAS WAGONER called the Senate Resources Standing Committee meeting to order at [3:37:05 PM](#). Senators Stedman, Ben Stevens, Seekins, Elton, Guess and Chair Wagoner were present.

SB 85-OFF-ROAD VEHICLE USE ON DALTON HIGHWAY

CHAIR THOMAS WAGONER announced that SB 85 was up for consideration.

[3:37:54 PM](#)

JACK REAKOFF, Wiseman resident, said he has been a trapper and tour guide since the 1970s. He said that moose, caribou and sheep populations in the area are already heavily harvested by wolves and bears as well as humans and opening the area to ATV use would further stress these populations. He said that an agreement was made that this area would be managed differently than other areas in Alaska; ATV restrictions were part of that agreement. Game populations in northern Alaska are low density;

winters are long and more severe. Growing seasons are typically one to two months shorter than in the rest of Alaska.

[3:40:45 PM](#)

SENATOR WAGONER remarked that Mr. Reakoff said something about an agreement, but his staff has been searching through the records since hearings were started on this bill and could not find a copy of any agreement made by the state of Alaska or anyone else. He asked him to bring him a copy of the agreement he was talking about.

MR. REAKOFF responded that he didn't have one, but he would look for one. He thought they were mostly oral agreements.

[3:42:04 PM](#)

RAY BANE said he is a longtime resident of the Alaska Pipeline Corridor. The overwhelming consensus of research on the impacts of ATV access indicates that it causes significant environmental damage. The Alaska Department of Fish and Game (ADF&G) and independent environmental scientists concur with these findings. Impacts include degraded habitat, reduced water quality and stress on wildlife.

Permafrost lands like those along the pipeline corridor are particularly prone to severe ATV damage. Without sufficient ground frost and adequate snow cover, the fragile vegetation mass is crushed and abraded and entire hillsides can become destabilized.

He said that ATV trails are quickly eroded because ATV drivers are forced to use the margins on such trails thus expanding damage done to them. The Dalton Highway has been a model area for environmental stewardship.

[3:44:52 PM](#)

DR. SYNDONIA BRET HARTE, Associate Science Director, Toolik Research Station, University of Alaska Fairbanks, said that the station is located in the Dalton Highway Corridor at Mile 284.5. It is a well-funded facility for Arctic research studies. She said that current environmental conditions are important for the viability of many studies conducted through the station and ATV use could destabilize the environment around it. She cited concern for the enforcement of restrictions due to inadequate law enforcement personnel and funding.

SENATOR RALPH SEEKINS asked if she attended the meeting he had at the Toolik Research Station.

DR. HARTE replied that she remembers meeting with him personally.

[3:48:12 PM](#)

IAN HARRIOTT, University of Alaska Fairbanks student, opposed SB 85. He said that hunting is possible and popular along the Dalton Highway and that allowing ATV use there would degrade the environment and chase off animals.

[3:50:49 PM](#)

JIM SACKETT, Fairbanks, supported SB 85 and referenced Senator Seekins' article in the Daily News Miner that stated his case very nicely. He wanted his kids to be able to explore areas along the Dalton Highway.

[3:52:03 PM](#)

TERRY REICHARDT, Fairbanks, said that she has hunted for caribou in the area since 1972 and hunting has change a lot since then. She thought it was because of the increasing human population and resulting increased demand for the resource. She could think of no areas accessible to caribou by road and stated her concern that lifting the ATV ban would cause the game to move even farther away from the road thus making ATV use a necessity for hunting. She suggested opening the corridor to rifle hunting instead of ATV use.

[3:54:14 PM](#)

CHARLES DERRICK, Fairbanks, supported SB 85 and said that closing the corridor to ATVs for the benefit of hunters is unfair. He suggested restricting certain areas of the Dalton corridor to walk-in hunting while opening other areas to ATV use. He thought Toolik Lake would be a nice recreation area, but the research at the station should be protected. He thought it should have been established within the park area where conflicts like this would not occur. Plenty of parks have been established within Alaska where ATV use is prohibited and there is no reason the Dalton Highway corridor should be closed.

SENATOR WAGONER said that there has been a verbal agreement that the research center at Toolik Lake would be protected. BLM supports that also and the committee would write sideboards if the bill passes and Senator Seekins agrees with that.

WAYNE HEIMER, Fairbanks, supported SB 85 saying that it opens the Dalton Highway corridor to planning and thinking. He worked with the ADF&G throughout the pipeline planning, building and

monitoring phases. His area of expertise was Dall sheep. He said that Dr. David Kline, while a distinguished scientific icon at the University, is out of touch with much of recently published materials on animal responses to vehicular disturbance. When the pipeline was built people didn't know how animal populations would be affected and therefore restrictive measures were passed. He likened them to the controversy heard over passage of the Patriot Act. He thought good planning and protections for the Dalton Corridor would be needed and could be managed for the maximum benefit of all users.

[3:59:18 PM](#)

DAVID STELLER, North Pole, said that this bill in itself does not change hunting regulations in the area and the Board of Game would still regulate the area. Hunting regulations still say that no motorized vehicles can be used to assist hunters in their excursions. Hunting with firearms within the corridor would still be prohibited under a separate statute.

There's millions of acres of public land along the Dalton Highway corridor that belong to all residents of the state and, in fact, there's millions that belong to all residents of the entire country. It doesn't seem right to have this restriction limiting the use by the people that actually own it.

SB 85 would only allow hunters to use their ATVs outside of the corridor and he supported it.

[4:01:08 PM](#)

GAR PESSEL, Fairbanks, said he is a retired geologist and has worked for many years with both industry and government. His main concern with SB 85 is that ATV access will cause increased damage to the corridor. He said that ATV's have "thrashed" many areas in the state and would probably do similar damage to the Dalton Corridor. He said that industry is prohibited from using heavy equipment in the Dalton area and ATV users should be similarly restricted. He has hunted in the Eureka area and is familiar with the game there. He has watched everywhere the vehicles can reach and:

The game gets shot out.... It's like a hoard of locusts in terms of running the game out of the country - wherever they can reach. They've created a network of mud holes and muddy trails to the point where I've even had some of them complain that it's too much trouble pulling each other out of the mud

holes and they'd like to be followed if they had the money to do it."

4:04:28 PM

FLORIAN SEVER, Sitka, said that state laws governing ATV use are similar to the federal laws that govern most of the lands in his area. Over the last 12 years he used a photo service to document numerous instances of extensive resource damage that has been caused by ATVs going off of the existing road systems on Kruzoff Island.

The federal policy is that the forest is open to ATV use as long as no resource damage takes place. I have found by my observations that it is virtually impossible for ATVs to operate off the road system without causing resource damage. This resource damage is often irreparable. Wetlands have a tendency to channelize; they turn into ponds. They actually alter the ecosystem of a wetland. It changes the nature of a bog to a series of ponds where the remaining area is changed forever. Again, I am against SB 85.

He stated that no matter what kind of limits are put on the ATV use on paper, there will always be those people who want to push the edge of the envelope, so to speak, to always try to get out to places where nobody else has been before with disregard for regulations. He also pointed out that there wouldn't be any funds to remediate any of the damage. He referred the committee to Karen Waters of the Sitka Rangers for photographs and comments he has provided her.

4:06:18 PM

GARVIN BUCARIA, Mat-Su Valley, said he is a former professional fisheries biologist and opposed SB 85. He said it has been demonstrated that ATV use causes irreparable damage to tundra. He said that the system in place works now and should be maintained. He remarked that Alaskans cannot afford to damage what has taken thousands of years to generate and is already subject to the effects of warming and climate change.

4:08:55 PM

KRISTIN SMITH, Executive Director, Copper River Watershed Project, Cordova, opposed SB 85. She noted it has no fiscal note and there is no definition of ORV. It could allow Humvees or anything like that. However, she is most concerned that ATV use will conflict with preservation of fish and wildlife habitat and

its destruction of habitat is well documented throughout the state.

GEOFF CARROL, Alaska Department of Fish and Game (ADF&G) biologist for Unit 26A, Barrow, opposed SB 85. It would negatively affect the state's credibility since it has broken several promises concerning the preservation of the Dalton Corridor.

[4:12:54 PM](#)

He said that passing SB 85 would greatly disrupt hunting and would cause significant competition between subsistence hunters and recreational hunters in the area. The caribou there have already been disrupted by human activity and passing this bill would create even a greater disruption. He agreed with previous testimony that SB 85 would create an increased demand for enforcement and consequently of enforcement funds, which are not even mentioned.

[4:15:17 PM](#)

JOSHUA BACON, Barrow, said he uses the Dalton Highway corridor with his father annually to harvest caribou and opposed SB 85. ATV restrictions keep the experience challenging and create a high quality hunting experience. The Steese and Richardson Highways are already open to ATV access. He said that lifting ATV restriction would cause increased human activity along the corridor; it would increase road dust and require more road maintenance. It would disrupt wildlife in the area and increase demands for enforcement that would require state funding, which is not provided.

BRIAN PEARSON, Department of Wildlife Management, North Slope Borough, opposed SB 85 because of negative impacts from ATV use to the subsistence harvest of caribou and furbearers and the damage to tundra, wetlands and riparian systems. He was also concerned about its impacts to the ongoing experiments at Toolik Lake Research Station and that enforcement would need increased funding.

He informed the committee that increased access along the Dalton Highway would result in increased pressure on the Central Arctic and Teshekpuk caribou herds. He remarked that residents of Anaktuvuk Pass have diets that are up to 85 percent dependent on caribou products.

[4:21:51 PM](#)

TAQULIK HEPA said works for the North Slope Borough Department of Wildlife Management and opposed SB 85 because of what its impacts would be on subsistence users. One of her primary responsibilities has been to record a project that documents subsistence-harvested resources and its importance to each of the eight North Slope communities, especially Anaktuvuk Pass.

There is no doubt with the passing of this bill, there will be a dramatic increase in the number of people who use the Dalton Highway, either for hunting or for recreational uses and will provide an opportunity for easy access to areas that are important to the residents of the North Slope for subsistence purposes. There is bound to be an increase in conflicts between subsistence hunters and sport hunters.

She said revoking the ATV ban will affect the migration of caribou and will thus have a great impact on the food supply of the residents of Anaktuvuk pass. Further she said:

Under the state system, most of the North Slope's game management area 26 is managed under the Barrow office in Barrow and regulations for that area are made up at the Region 5 Board of Game meeting. However Units 26 B and C, including the Dalton Highway, is managed out of Fairbanks and people from Fairbanks will have ready access to managers for their area and have more influence on decisions that are made there. Regulations for 26 B and C made at the Region C Board of Game meetings, which are...almost always held in Fairbanks - and that would make it easier for those people to attend.... It is unfortunate that the management decisions for 26 B will be heavily influenced by the people from Fairbanks that will have more access to wildlife managers.

Currently, there is no state advisory council on the North Slope she said, although it has asked the state to create one there. That request was declined.

[4:25:12 PM](#)

MARK LUTRELL, Seward, opposed SB 85. He claimed that the bill is short-sighted and that revoking the ATV ban will cause extensive ecological damage to the environment and wildlife.

There's poaching; there's trash - all the bad habits of humans - extensive ecological damage like erosion,

decreased water quality, decreased fishery habitat - a waste of mud holes. You know the oil industry when they do run over tundra, they are required to use Rollagons and that's also very regulated. They understand that the tundra is sensitive.

SB 85 also has management problems. There's no law enforcement out there; there's no money for increased law enforcement. There's no money for increased biological monitoring; there's no money for plans or management. SB 85 will lead to unregulated ORV use....

4:28:27 PM

BRITT CONSTANTINE, Alaska Conservation Alliance and Alaska Conservation Voters, stated that she has personally lived in and studied the Dalton Highway Corridor area. In 2001 she did an archeological survey for the natural gas line route and walked most of the distance between Atigan Pass and the South Fork of the Koyukuk River. She walked 7 to 10 miles per day and it wasn't that hard to do.

I don't see why people need to have ATVs to visit this area. Part of its beauty is that it is remote and that it is quiet and there is no motorized access. It's very unique in that way. I just really think the Arctic is a very special place. It truly is different than the rest of the state and it needs to be treated differently by our regulations and by our laws. All terrain vehicles are so damaging to tundra, specifically, that they need to be more heavily regulated in areas where there are tundra period....

She said she didn't see any fiscal note that would cover regulations that would have to be developed to cover the use of ATVs.

CHAIR WAGONER interrupted to say that the Arctic is not a portion of the corridor they are talking about.

MS. CONSTANTINE explained that the gates of the Arctic Park are easily accessible from the Dalton Highway.

Just because this ban only refers to five miles around the Highway, that doesn't mean that's all that it covers, because you get on a snow machine in this kind of country, you can go literally forever if you had

enough fuel and supplies. It's that flat. The hills are gentle and rolling....

It only takes one tire track to strip this insulating moss layer, which exposes dark soil. The dark soil absorbs additional sunlight that heats up the permafrost and melts it - creating a shorter depth. This creates a drainage ditch, in essence, along which water can drain and funnel. If there is even a slight incline, as there is in most surfaces, a single tire track can eventually drain and turn an entire hillside...into dry shrubby heath. This can be permanent. So, this bill can be very damaging and I oppose it.

[4:33:35 PM](#)

PETE KELLY, University of Alaska, said someone earlier said that the University opposed the bill, but he is not aware of any motion from the Board of Regents, the President or his staff to support or oppose the bill. The Institute of Arctic Biology enjoys a large degree of autonomy and he said he could not speak for its departments.

SENATOR SEEKINS said he has talked to the land use planners who say there is no intent for anybody to rip up the land with an off-road vehicle. He finds it amazing that many people believe that the revocation of a blanket permit would allow rampant misuse and extensive damage to the land. He remarked that the last paragraph of the letter of intent says that if one year is not sufficient to address peoples' concerns, then the legislature would convene in a special session to extend the time.

[4:38:09 PM](#)

He said that it is interesting that Alaska has a state law that prohibits access to federal lands on 180 miles of road. He didn't know of anywhere else where that exists. Further, he stated that the Bureau of Land Management has a good record of being able to put land use plans into effect and it would not allow people to run rampant over the lands.

[4:39:36 PM](#)

CHAIR WAGONER said that Senator Seekins had agreed to hold additional public hearings over the summer in the Fairbanks, Cold Foot and Barrow regarding this bill.

SENATOR SEEKINS said he would take personal offence if anyone suggests that he is trying to allow unfettered use of ATVs on public land.

SB 96-UNIVERSITY LAND GRANT/STATE FOREST

CHAIR THOMAS WAGONER announced SB 96 to be up for consideration.

SENATOR SEEKINS moved to adopt CSSB 96(RES), version \G, as the working document. There were no objections and it was so ordered.

[4:43:00 PM](#)

MARY JACKSON, Staff to Senator Wagoner, explained that the companion bill to SB 96, HB 130, now has completely different language and has had multiple hearings. A number of properties were deleted that were problematic; language has been added that was described in a separate document.

Briefly she explained that on page 5 language - "In addition to access under" - was added on lines 27 and 28 and on page 6, lines 2 through 4. A new subsection (m) was added on page 7, lines 21 through 24. Language on pages 7 and 8 deletes the problematic parcels. A new subsection (o) with specific reference to two properties in Biorka and Lisianski was added on page 8, lines 4 through 6. Pages 8 and 9, section 6, subsection (b) through section 7 contains all new language. New language is on page 10, lines 20 through 22. Section 9 on page 10 is also new language. She said the fiscal notes still apply to the CS.

[4:45:04 PM](#)

DICK MYLIUS, Deputy Director, Division of Mining, Land and Water, Department of Natural Resources (DNR), said that the Governor feels that the University of Alaska should receive more land as part of its land grant charter. When he was in Congress, he introduced legislation to give it more land as well. The Legislature has promised to give the university more land in SB 7, which was passed in 2000. It was vetoed, overridden by the Legislature and subjected to litigation relating to whether it was an appropriations bill or not.

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The Supreme Court finally ruled in April 2004 that SB 7 is the law and since then the state has had an obligation to provide the University with 260,000 acres of land. SB 7 had several problems and SB 96 is essentially a substitute for it. The issue is the value of the land that had potential for generating

revenue was taken off the table as part of various compromises. For example, no mineral, oil or gas properties could be acquired through the use of the bill and survey requirements created a \$1.7 million fiscal note over a 10-year period for a total of \$17 million. SB 96 has a fiscal note of less than \$800,000 over a three-year period. The old bill would have required a 10-year process during which the University and DNR would have been haggling about which parcels might or might not go to them and that would have created uncertainty for development on some of them.

[4:50:22 PM](#)

The decision was made by the Legislature that DNR has a three-year process to issue the deeds. This CS transfers 64 parcels, a total of about 253,000 acres, of land. The parcels were selected from lands DNR had identified for development.

[4:52:10 PM](#)

MR. MYLIUS reviewed that there are three primary acreage components to the properties. The first is about 80,000 acres of educational properties that would fit in to the University as an educational institution and are not meant to generate revenue. The largest of those is a large portion of the Tanana Valley State Forest that is educational and experimental. The University's Sitka campus and Poker Flats rocket launch facilities are on DNR land and are also being transferred. A 90,000-acre tract in Nenana that has high potential for discovery of natural gas, that is currently under exploration license to Andex Petroleum Corporation, will be transferred subject to the exploration license. When the gasline is built, this gas could feed into the line at Fairbanks. Another 80,000 acres consists of investment properties, which the University is thinking of using for land sales and commercial type developments. About half of those parcels are scattered around Southcentral and Northern Alaska and about half [according to the CS and the House version] or 35,000 acres are in Southeast Alaska. He referenced the parcels on maps hanging in the committee room.

[4:56:17 PM](#)

SENATOR ELTON said that there has been great concern in Southern Southeast that the state is giving away the land would diminish the ability of communities to incorporate - especially property on Prince of Wales Island.

[4:57:23 PM](#)

MR. MYLIUS responded that is true to some extent. When new municipalities form boroughs or cities they receive 10 percent of the vacant and unappropriated and reserved state land. So, if the University is given 5,000 acres out of what becomes a municipality, their entitlement would go down. The CS actually takes care of that issue because it says that entitlements from new municipalities formed will not be reduced by this acreage. However, the University is looking at the best land to be used for development and that may be the same land the municipalities want. He has heard that concern from a number of communities and he doesn't have a solution for that.

SENATOR ELTON asked why Lena Creek and Sumdum Island were removed from the list. He was wondering what potential use Lena Creek could have been put to, because the availability of land for housing is difficult in Juneau.

MR. MYLIUS replied that he did not know why the Lena Creek property was selected. The City and Borough of Juneau originally nominated it for state ownership from the National Forest. It has clearly been viewed as a residential property. He did not know why Sumdum Island was removed from the list. Someone mentioned that it was viewed as recreation sites.

SENATOR SEEKINS said concerns had been expressed to him that some of these lands would be sold to 501c3 nonprofits and become de facto conservation lands and he is considering a conceptual amendment to prevent that kind of land transfer. A letter of intent on page 3, lines 12 through 18, encourages the University to be mindful of developing in-state value-added industries to the extent economically feasible and practical.

[5:02:07 PM](#)

MR. KELLY said he was not sure how such a restrictive amendment would be made. He explained that the piece of land the University recently sold was in response to a court-mandated settlement.

SENATOR SEEKINS asked if it would be feasible, from a DNR standpoint, to place such a restriction in the deed.

MR. MYLIUS replied that it would be more effective to place it in statute.

SENATOR SEEKINS said that one of the premises of the bill is that the land would be placed where it is most profitable and he

is concerned that allotting the land to conservation use is not the most effective way to do that.

5:04:21 PM

SENATOR STEDMAN said he was surprised at the formidable opposition that has arisen from this issue and he is reluctant to support this bill without modifications to improve the public process. Both Wrangell and Petersburg have an interest in just tabling the bill entirely.

He hoped some kind of a compromise could be reached. One suggestion is to add language requiring DNR to have a more stringent process to develop and transfer land, in which case all of the parcels should be included. Another option would be for DNR and the University to hold public hearings with the affected communities to determine what parcels should and should not be removed. The only other option would be to just table the bill, but he said he would leave that ball in the committee's court.

5:13:12 PM

MR. KELLY responded that the University has a history of good land stewardship and the Board of Regents has a constitutionally mandated process that incorporates public input. He said that only 1 percent of the land is in public hands and this bill will only increase it by .4 percent. He remarked that it is in the best interests of the University to maintain good stewardship of the land since that would presuppose good will among prospective local students. "We want people to support the University of Alaska. We bend over backwards so it never appears as if we're going in and running roughshod over a community."

SENATOR STEDMAN asked if he supported holding public hearings in some of the communities. He added:

There isn't enough private property in Southeast Alaska; there is too much national forest and the people should be able to have access to property. Most of this property that has been selected is premium property; most of it is geared for remote cabin sites or maybe small little clusters of groups of cabins or small homes that want to live together. It's clearly not an industrial policy that is being pursued here....

MR. KELLY restated that the University has a history of meeting with communities before and during development. He reminded them

that some of the land wouldn't go into development for years. "I would just like to reassure you that we do that anyway...."

SENATOR ELTON remarked that it would be helpful for him and Senator Stedman to have information on the land use determinations made by the University.

[5:21:24 PM](#)

SENATOR STEDMAN said he didn't know of any tide or submerged lands that were involved in the conveyance, so the 50 ft. easement wouldn't be a problem. But, in the future, if any tidelands are conveyed, easement size would be an issue.

If the intent here is to allow and insure public access along the water front - and the public should have access along the water front regardless if there's any constitutional protection to the issue - it's just the way Southeast has always been - why is it set at 50 ft.? Because in my entire life I have yet to see anybody walk down the beach at high tide. You'd break your neck - because of the density of the forest and the terrain....

[5:25:26 PM](#)

MR. MYLIUS responded that the bill does concern uplands and a 50 ft. easement would start at the high tide line and go inland. The reason for having any public access is because the constitution requires it and state law, AS 305.127, requires reserving public access easements when transferring land, but doesn't define how wide it would be. His research indicates that the law was passed in 1976 or 1977 and DNR adopted regulations at that time establishing 50 ft. easements. That language is included on all of the department's conveyances with the exception of requests for specific parcels with a physical reason. He hasn't received any specific complaints about 50 ft. and there is a process for vacating that that has been used. He said there is no magic number for easement width. Fifty feet is not an issue in municipalities that have 100 ft. setbacks.

[5:27:27 PM](#)

SENATOR STEDMAN disclosed that he has less than a mile of water front broken up into four different parcels, some of which have the 50 ft. access easement. He wanted to know the number of times the easement has been reduced for the University.

I think it's a little egregious for the people especially in Southeast Alaska who reside on islands

that are fairly rugged, most of them. If you happen to have a parcel, which I don't, of land that has a rock face in front of it or a raised bluff, [and] would have either had to have a 50 ft. setback into the trees when it's physically almost impossible for the public to walk up and through there.

He said he didn't want to see California policies be implemented in Alaska because they just don't fit. He understands that an owner must go through the local planning commission to get a reduction in an easement. Then the commissioner of DNR has to sign off on it, which is a bit of a hindrance. People often ignore it and put their structures wherever they want them and enforcement isn't there unless a parcel is sold and the lender requires a plat. He thought there should be a better mechanism to deal with the public policy part of this issue.

[5:29:24 PM](#)

MR. MYLIUS said there aren't a lot of requests for these. He had one last year in Excursion Inlet. He did not have a tracking mechanism that could easily document how many easements had been changed. It comes to his attention when a structure is obstructing a public trail and the users complain about it.

SENATOR WAGONER thanked everyone for their testimony and said there would be more opportunities to for them and adjourned the meeting at [5:32:41 PM](#).