

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

April 26, 2006

3:40 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 Albert Kookesh

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 17

Urging the United States Department of Justice and the Alaska Department of Law to identify all natural resource damages from the Exxon Valdez oil spill that were unanticipated at the time of the 1991 settlement, to develop plans to remedy the damages, and to present the ExxonMobil Corporation with a request for the full \$100,000,000 that is available through the "Reopener for Unknown Injury" clause of the 1991 civil settlement to carry out these plans.

MOVED CSSJR 17(RES) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 484(FSH)

"An Act allowing for revenue received from issuance of additional entry permits to be appropriated for reimbursement to salmon fishery associations."

MOVED CSHB 484(FSH) OUT OF COMMITTEE

BP North Slope Spills - Update

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 57(FIN)

"An Act relating to the sale of certain state land to adjacent landowners."

BILL HEARING POSTPONED TO 4/27/06

CS FOR HOUSE BILL NO. 415(JUD)

"An Act relating to landowners' immunity for allowing use of land without charge for a recreational activity; relating to landowners' liability where landowner conduct involves gross negligence or reckless or intentional misconduct; relating to claims of adverse possession and prescriptive easements, or similar claims; and providing for an effective date."

BILL HEARING POSTPONED TO 4/27/06

HOUSE BILL NO. 419

"An Act repealing the Board of Storage Tank Assistance, the underground storage tank revolving loan fund, and the tank cleanup loan program; repealing certain reporting requirements relating to underground petroleum storage tank systems; making conforming amendments; and providing for an effective date."

BILL HEARING POSTPONED TO 4/27/06

SENATE BILL NO. 170

"An Act relating to the Department of Fish and Game, the Board of Fisheries, and the Board of Game; relating to the taking of big game and to the disposition of a mount, trophy, or part of a fish or game animal; setting fees for certain trapping licenses and certain hunting licenses, permits, and tags; setting fees for the resident combined hunting, trapping, and sport fishing license and the resident combined hunting and sport fishing license; relating to the resident small game hunting license; setting application fees for certain hunting permits and stamps; establishing a surcharge on hunting, trapping, and sport fishing licenses; relating to certain hunting, trapping, and sport fishing licenses, tags, permits, and stamps; relating to the fish and game fund; relating to violations of fish and game laws; relating to state management of wildlife; relating to endangered fish and wildlife; and providing for an effective date."

BILL HEARING POSTPONED

PREVIOUS COMMITTEE ACTION

BILL: SJR 17

SHORT TITLE: COLLECT MORE EXXON VALDEZ SPILL DAMAGES

SPONSOR(s): SENATOR(s) FRENCH

02/01/06	(S)	READ THE FIRST TIME - REFERRALS
02/01/06	(S)	RES, JUD
04/19/06	(S)	RES AT 3:30 PM BUTROVICH 205
04/19/06	(S)	Scheduled But Not Heard
04/24/06	(S)	RES AT 3:30 PM BUTROVICH 205
04/24/06	(S)	-- Meeting Canceled --

04/26/06 (S) RES AT 3:30 PM BUTROVICH 205

BILL: HB 484

SHORT TITLE: FISHERY ASSOCIATION REIMBURSEMENT

SPONSOR(S): REPRESENTATIVE(S) WILSON

02/13/06 (H) READ THE FIRST TIME - REFERRALS
02/13/06 (H) FSH, RES, FIN
03/22/06 (H) FSH AT 8:30 AM CAPITOL 124
03/22/06 (H) Moved CSHB 484(FSH) Out of Committee
03/22/06 (H) MINUTE(FSH)
03/24/06 (H) FSH RPT CS(FSH) 3DP 2NR
03/24/06 (H) DP: WILSON, ELKINS, THOMAS;
03/24/06 (H) NR: HARRIS, KAPSNER
03/31/06 (H) RES AT 1:00 PM CAPITOL 124
03/31/06 (H) Moved CSHB 484(FSH) Out of Committee
03/31/06 (H) MINUTE(RES)
04/03/06 (H) RES RPT CS(FSH) 4DP 1NR
04/03/06 (H) DP: SEATON, ELKINS, CRAWFORD, RAMRAS;
04/03/06 (H) NR: OLSON
04/10/06 (H) FIN RPT CS(FSH) 3DP 7NR
04/10/06 (H) DP: KERTTULA, FOSTER, CHENAULT;
04/10/06 (H) NR: HAWKER, HOLM, KELLY, STOLTZE,
WEYHRAUCH, MOSES, MEYER
04/10/06 (H) FIN AT 9:00 AM HOUSE FINANCE 519
04/10/06 (H) Moved CSHB 484(FSH) Out of Committee
04/10/06 (H) MINUTE(FIN)
04/19/06 (H) TRANSMITTED TO (S)
04/19/06 (H) VERSION: CSHB 484(FSH)
04/20/06 (S) READ THE FIRST TIME - REFERRALS
04/20/06 (S) RES, FIN
04/24/06 (S) RES AT 3:30 PM BUTROVICH 205
04/24/06 (S) -- Meeting Canceled --
04/26/06 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

SENATOR HOLLIS FRENCH
State Capitol
Juneau AK

POSITION STATEMENT: Sponsor of SJR 17.

STACY STUDEBAKER, Vice Chair
Public Advisory Committee (PAC)
Exxon Valdez Trustee Council
Kodiak, AK

POSITION STATEMENT: Supported SJR 17.

MIKE MAXWELL
Cordova, AK
POSITION STATEMENT: Supported SJR 17.

PATIENCE ANDERSON FAULKNER
Cordova, AK
POSITION STATEMENT: Supported SJR 17.

ROXY ESTES
Cordova, AK
POSITION STATEMENT: Supported SJR 17.

NANCY BIRD, President
Prince William Sound Science Center
Cordova, AK
POSITION STATEMENT: Supported SJR 17.

STANLEY RICE, Senior Scientist
National Marine Fisheries Service
Juneau, AK
POSITION STATEMENT: Supported SJR 17.

PEGGY WILSON
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of HB 484

LINDA MILLER, staff
Representative Peggy Wilson
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Introduced HB 484 on behalf of the sponsor.

LARRY DIETRICK, Director
Division of Spill Prevention and Response
Department of Environmental Conservation
410 Willoughby
Juneau, AK 99801-1795
POSITION STATEMENT: Presented the North Slope Oil Spill Update.

ROBYNN WILSON, Director
Tax Division
Department of Revenue
PO Box 110400
Juneau, AK 99811-0400

POSITION STATEMENT: Provided information related to the North Slope Oil Spill Update.

MS. DENISE HAWS, Economist
Tax Division
Department of Revenue
PO Box 110400
Juneau, AK 99811-0400

POSITION STATEMENT: Provided information related to the North Slope Oil Spill Update.

ACTION NARRATIVE

CHAIR THOMAS WAGONER called the Senate Resources Standing Committee meeting to order at [3:40:18 PM](#). Present at the call to order were Senators Bert Stedman, Fred Dyson, Albert Kookesh, Kim Elton and Chair Wagoner. Senator Ben Stevens arrived soon thereafter.

SJR 17-COLLECT MORE EXXON VALDEZ SPILL DAMAGES

CHAIR THOMAS WAGONER announced SJR to be up for consideration.

SENATOR HOLLIS FRENCH, sponsor of SJR 17, explained that the resolution asks the attorneys general for Alaska and the U.S. to pursue a reopener clause seeking up to \$100 million for damages that were not anticipated when the Exxon Valdez oil spill litigation was settled in 1991. He directed committee member's attention to copies of a 1991 New York Times article that provides a glimpse at the confrontational litigation that took place in settling the claims and the role the transportation secretary played as a critical go between.

The article mentions President Bush's EPA administrator, William Riley, who insisted that the settlement contain some provision for future and as yet unforeseen injuries. The figure Mr. Riley put forth initially was \$300 million, but the figure was eventually reduced to \$100 million.

SENATOR FRENCH noted that in 2003 the National Research Council conducted a study that said one of the profound outcomes of the 1989 Exxon Valdez oil spill was that the affect of oil spills on marine resources is largely unpredictable. It found that there is a lack of understanding of the structure and function of complex ecosystems.

SENATOR FRENCH outlined the six legal steps that are required before the state could get money from Exxon.

1. Populations, habitats and species must have suffered losses or declines of the spill area.
2. Losses have to be substantial.
3. Losses have to have resulted from the oil spill.
4. Losses could not have reasonably been known or anticipated at the time the Trustees settled the case.
5. Restoration projects must be identifiable.
6. Costs of the projects must not be grossly disproportionate to the magnitude of the benefits anticipated from the remediation.

[3:44:08 PM](#)

SENATOR BEN STEVENS arrived.

SENATOR FRENCH highlighted the groups that support the measure. Notably the City of Cordova, Kodiak Island Borough, Alaska Municipal League, Kenai Peninsula Borough, and the Prince William Sound Science Center have issued supporting resolutions. Also, the United Cook Inlet Drift Association, the United Fishermen of Alaska, the Chugach Regional Resources Commission, and the Cordova District Fishermen United have issued letters of support.

[3:45:13 PM](#)

CHAIR WAGONER asked how much money is left in the current Exxon Valdez Oil Spill (EVOS) account.

SENATOR FRENCH said he did not know.

[3:45:29 PM](#)

STACY STUDEBAKER, Vice Chair, Public Advisory Committee (PAC), Exxon Valdez Trustee Council, Kodiak, reported that she has been a member of the EVOS PAC for the last 10 years and has been following the restoration process and scientific studies carefully. She urged the committee to support SCR 17, which encourages the state and federal government to reopen the settlement with Exxon and to seek \$100 million for projects and damaged resources that could not have been anticipated at the time of the settlement.

MS. STUDEBAKER related that lingering oil was found at 58 percent of 91 test sites. That is estimated to have a linear shoreline equivalent of at least 6 miles of shoreline in Prince William Sound. Seventeen years ago it wasn't possible to predict that so much oil would still be present below the surface in a

form that resembles that encountered in 1989. The lingering oil is bio-available and continues to impede the recovery of species that live and or feed in the oiled areas. Furthermore, recent studies show that lingering oil is more toxic than was anticipated in 1991 and it's possible that organisms are being exposed to sources of lingering oil that have yet to be discovered.

Adding to the list that Senator French highlighted, she said the Kodiak Island Borough, the City of Kodiak, the City of Homer, the City of Cordova, and the Kenai Peninsula Borough have all passed resolutions supporting SJR 17. Essentially all the communities within the spill region as well as a number of organizations support reopening the settlement. She emphasized that list includes the EVOS Trustees Council Public Advisory Committee.

MS. STUDEBAKER said local people don't consider the oil spill to be over because they are living with the long-term impacts to fisheries, subsistence food, and wildlife populations. Long-term monitoring must go hand-in-hand with short-term restoration projects, she concluded.

[3:50:34 PM](#)

MIKE MAXWELL, Cordova, said he was born and raised in Cordova. He has been a commercial fisherman for 37 years and he is still very angry with Exxon because after 17 years there is still a lot of lingering oil on the beaches. He asked the committee to support SJR 17 and help revitalize the once great herring fisheries.

PATIENCE ANDERSON FAULKNER, Cordova, stated support for SJR 17. [Abbreviated testimony due to audio difficulty.]

ROXY ESTES, Cordova, said she is a second-generation Cordova fisherman who is no longer able to fish because of the collapse in the herring fishery. Although the reopener won't directly affect fishermen, it would benefit both the human and animal species that depend on herring as a part of their food chain. Pointing out that scientists are talking about a 100-year clean up, she said we need help in a desperate fashion.

NANCY BIRD, President, Prince William Sound Science Center, Cordova, spoke to the resolution the board passed last September. It urges support for reopening the claim and suggests that the funds be used to endow long-term programs to study and monitor the long-term effects of the lingering oil on the marine

environment as well as to assess remediation techniques. Programs should specifically include a long-term herring research and restoration program that would advise fisheries management entities on further restoration efforts.

She noted that others have highlighted the main issues of lingering oil on the beaches and the decline of herring species both of which provide a link to unanticipated damages. As far as how the money is used, she said the issues before us don't necessarily have specific plans. No one has ever tried to enhance herring populations on the scale that is under discussion. In the same vein there aren't any known techniques for beach remediation on the scale that is necessary here. However, small projects can be started and the lack of detailed plans should not inhibit forward movement.

MS. BIRD emphasized the importance of herring to all species throughout Prince William Sound. At this point the ecosystem is changing because of the lack of herring.

[3:57:51 PM](#)

SENATOR RALPH SEEKINS arrived.

MS. BIRD advised that the restoration reserve fund currently has about \$120 million. Those funds are specifically to restore damages that were known at the time of the settlement while SJR 17 addresses damages that were unanticipated in 1991.

CHAIR WAGONER inquired about the clam and muscle populations.

MS. BIRD replied she isn't aware of the details, but she has seen indications that bivalves in the oiled areas are having difficulty. She elaborated that herring are having a particularly hard time because so many species are dependent on herring.

[4:00:33 PM](#)

SENATOR FRED DYSON asked how many miles of beach were oiled originally.

MS. BIRD replied she understands it was 1,500 miles.

SENATOR DYSON asked how many miles of beach have lingering oil.

MS. BIRD replied between 6 and 15 miles, but it covers a deceptively wide region because the oiling doesn't occur continuously. It's more like a few hundred yards here and there.

She related that when she recently visited the Bay of Isles on the north end of Knight Island it was easy to find lingering oil that came to surface. It still sheens and looks and smells like fresh oil. It's not everywhere but it's still impacting the ecosystem, she said.

SENATOR DYSON asked about the status of the beaches that were left as test sites.

MS. BIRD replied she believes it's been a mixed bag. Initially it took longer for species to come back on beaches that were treated because the treatment killed so much. The untreated beaches have a lot of residual oil and the result of that is that the critters have been slow to come back.

SENATOR DYSON asked if the untreated test beaches are included in the shoreline estimate for lingering oil.

MS. BIRD said she didn't know. She elaborated on aspects of the testing.

SENATOR DYSON said he'd like to know specifically. He changed topics and noted that the last report he saw on herring indicated that the petroleum could cause genetic damage in the species. He asked Ms. Bird if oil is the certain cause of the herring population demise as opposed to other causes or long-term cycles.

MS. BIRD clarified that she is not a scientist and then said that despite the fact that strong correlations can be drawn, there is no scientific way to definitively make the link that the oil spill caused the demise of the herring. She related that recent acoustic surveys indicate that the demise of herring most likely began in 1990 right after the oil spill, but the evidence isn't definitive because acoustic studies were not done in 1990 through 1993. She offered to send further study information as well as the specific beach information.

SENATOR DYSON asked if the marine animal species that are troubled in Prince William Sound are also troubled in areas of Alaska that were not oiled.

MS. BIRD said Stellar Sea Lions are stressed in areas other than Prince William Sound and that species relies heavily on herring. Harbor Seals were on the decline, but they are stabilizing now. She didn't know about populations in other areas. Killer Whale

populations in Prince William Sound have dropped but that's not the case in other areas such as Southeast.

[4:10:15 PM](#)

CHAIR WAGONER closed the public hearing.

SENATOR RALPH SEEKINS asked if there are natural oil seeps in the Prince William Sound area.

SENATOR DYSON said insignificant amounts occur in the northeast corner. He then said he would like to get more information before voting on the resolution.

CHAIR WAGONER commented on the amount in the EVOS account and said the money is going further since Governor Murkowski stopped the previous spending practices. He suggested that the \$120 million that's left in the fund should go a long way toward doing some of the studies that are indicated.

He stated that he would like to see the resolution move; it simply asks that the reopener clause be considered before the June 2 deadline.

[4:13:15 PM](#)

SENATOR KIM ELTON suggested that not passing the resolution expeditiously could be interpreted to mean that the legislature doesn't support pursuit of the reopener clause.

SENATOR BERT STEDMAN referenced page 3, line 10, and asked if the March 24, 2006 date should be changed.

SENATOR FRENCH responded the date has passed so it should probably be removed from the resolution.

SENATOR DYSON declared a potential conflict of interest. He has participated in seven or eight marine science projects in Southcentral and is actively pursuing more of that work.

[4:16:29 PM](#)

SENATOR ALBERT KOOKESH said he would like the resolution to move.

SENATOR DYSON said he would like more information, but he didn't want to impede progress.

CHAIR WAGONER asked Mr. Rice to respond to Senator Dyson's questions.

SENATOR DYSON asked what science has said about the damage that was done to the herring populations.

STANLEY RICE, senior scientist for oil spill studies at the Auke Bay Lab, National Marine Fisheries Service, Juneau, provided information on the herring decline in Prince William Sound. He explained that in 1989 most eggs were not spawned in oiled zones, but just about all the herring larvae that hatched drifted into the oiled areas so there was a very significant effect in the 1989 year-class. The damage was cellular rather than reproductive cell genetic damage so it did not affect successive generations. Nevertheless it was a significant impact to the 1989 year-class even though the population didn't crash until sometime later.

One researcher suggests that the population may have started to decline as early as 1989 while other evidence says it started in 1993. Clearly, by that time a lot of disease issues were evident and now the population is confronted with either a viral or a fungal disease on an annual basis. One disease affects recruiting year classes and the other affects the older year classes and probably terminates life one to three years prematurely at the most reproductively capable age.

When compared to other populations, the Prince William Sound herring population is not showing signs of recovery. Up and down fluctuations are normal, but for a population to stay down this long is relatively unusual. It is also fairly unusual for a population to be limited by disease for this length of time. Although the links aren't hard and fast, the suggestion is that the depressed population is oil related.

SENATOR DYSON asked about the report that six miles of beach still have profound residual oil and asked if that includes any of the beaches that were deliberately not remediated.

MR. RICE explained that when the beaches were selected as part of the 2001 survey, they were chosen randomly within a population of heavily and moderately oiled beaches. The beaches that were in the selection pool did not include those that were set aside to receive no remediation.

He elaborated that the statistical measure of oil indicates about six miles of beach inside Prince William Sound only. The distribution of oil is patchy so the six miles is spread

throughout the sound with some areas showing heavier concentration than others.

One thing that surely wasn't known in 1989 or 1991 when the settlement occurred is that the distribution of oil went down into the beach in depth as well as tidal height. Today the majority of oil is in the mid zone. Mussels and clams start in that zone and move down the beach meaning that a lot of biology and prey resources are in the oiled zone.

SENATOR DYSON asked if there is a consistent pattern of tide and storm surges on the beaches that aren't recovering.

MR. RICE replied it's a bit mixed, but it's not the exposed rocky beaches. It's the more protected environments such as the Bay of Isles, Herring Bay, Lower Pass, and Northwest Bay. In those places you can dig four or five inches down and after that the oil seeps in and sometimes fills the hole with oil that's the same consistency as it was in 1989. That's why it's still referred to as toxic and mobile. If an otter or Harlequin Duck disturbs that sort of environment it will receive an oil dose exposure, he said.

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SENATOR DYSON asked which fish and mammals feed on herring.

MR. RICE replied if there is a single most important fish, it is herring because almost everything feeds on that species. Although most birds feed on herring, it's the chicks that are dependent on herring for survival. Many of the marine mammals are in the same situation. Humpback Whales feed on herring heavily in the winter, as do sea lions and seals. Sea otters are one of the rare species not connected to herring; they feed almost exclusively on invertebrates.

Herring is important because it has a biology that takes energy from phytoplankton and zooplankton, which is unavailable to the larger species, and absorbs it into their bodies. Then the herring makes itself available to predators.

[LARRY DIETRICK, Director, Division of Spill Prevention and Response, Department of Environmental Conservation (DEC), advised that a comprehensive synthesis of all the science on the condition of the injured resources in Prince William Sound is available on the EVOS website. The list is sorted by species.]

[4:26:20 PM](#)

CHAIR WAGONER suggested amending the resolution to remove "March 24, 2006, the 17th anniversary of the spill," from page 3, line 10, and to insert "June 2, 2006" in its place.

SEEKINS moved Amendment 1 as outlined above. There was no objection and it was adopted.

[4:27:33 PM](#) at ease [4:29:07 PM](#)

SENATOR ELTON moved to report CSSCR 17(RES) from committee with individual recommendations. There was no objection and it was so ordered.

[4:29:53 PM](#) at ease [4:31:12 PM](#)

CSHB 484(FSH)-FISHERY ASSOCIATION REIMBURSEMENT

CHAIR WAGONER announced HB 484 to be up for consideration.

PEGGY WILSON, sponsor of HB 484, introduced Linda Miller.

LINDA MILLER, staff to Representative Peggy Wilson, explained that in 2002 the Alaska Legislature created salmon fishery associations to encourage fleet reduction. She said associations may be formed throughout the state to facilitate a permit buy-back program, which allows a group of fishermen to buy back permits in a particular fishery. The Southeast Alaska Seiners formed an association for that purpose, and then asked about a reimbursement provision if the Commercial Fisheries Entry Commission (CFEC) were to re-issue permits the association had previously bought back.

MS. MILLER said CSHB 484(FSH) makes it clear that in the unlikely event that the CFEC sells permits that an association previously purchased, the legislature may appropriate money back to the association. The change from the original version makes it clear that the association that actually did the buy-back is the one that may receive the payback. She said that the state has a responsibility to monitor each limited entry fishery. In the event that more permits are needed through a CFEC determination or a court action, the provisions of HB 484 would apply.

[4:34:36 PM](#)

SENATOR STEDMAN asked for clarification that the market value of the permit would go to the association and not the purchase price.

MS. MILLER said her understanding is that the money that the association expended originally would be returned.

SENATOR RALPH SEEKINS noted that the word "may" on line 9 is permissive so it is at the will of the legislature.

[4:36:30 PM](#)

SENATOR SEEKINS moved to pass CSHB 484(FSH) from committee with individual recommendations and attached fiscal note(s). There being no objection, it was so ordered.

[4:37:14 PM](#) at ease [4:38:19 PM](#)

BP North Slope Oil Spills - Update

CHAIR THOMAS WAGONER announced the next order of business was a North Slope Oil Spill update.

LARRY DIETRICK, Director, Division of Spill Prevention and Response, Department of Environmental Conservation (DEC), reported that the GC-2 oil spill cleanup is essentially completed and that includes the revegetation process. He said the environmental impacts have been minimal and there are no wildlife impacts. DEC will be monitoring the recovery during and post spring break-up, he said.

[4:39:35 PM](#)

The bypass line from GC-2 is still in use and yesterday production was back to 87,000 barrels per day. The corroded 34-inch line is still out of service and the assessment and testing on it will continue for a matter of weeks before delivery through it resumes.

The final BP investigation report is out and currently under independent review by outside engineering consultants. Once the review is complete the state will determine corrective action. The federal Office of Pipeline Safety also issued an order of corrective action and meetings between that office, the state, and BP are ongoing to respond to the federal corrective action request.

MR. DIETRICK noted that DEC is making arrangements to hold the Arctic Pipeline Integrity Conference that Governor Murkowski called for. Corrosion experts from around the world will be brought to Alaska to consult and give advice on corrosion

management. The target date for completion is prior to October 1.

4:41:40 PM

The governor also announced the formation of the Arctic Pipeline Technology Team, which includes the Department of Environmental Conservation, the Alaska Oil and Gas Conservation Commission, and the Department of Natural Resources. It will be a standing body that pools the state's pipeline expertise to address the issues that may arise. The work group will bring in academia, other federal agencies, industry and private expertise.

4:42:41 PM

SENATOR FRED DYSON asked where the hole was located in the pipe.

MR. DIETRICK replied it was in the six o'clock position.

SENATOR DYSON asked if the hole was near a bend in the line.

MR. DIETRICK responded the BP investigation report attributes the hole to internal corrosion and it occurred at a caribou crossing. He elaborated that the line is elevated but it drops at caribou crossings and goes through what is essentially a gravel covered culvert. It provides a ramp for the caribou to cross.

SENATOR DYSON asked if the hole was near one of the turns at either end.

MR. DIETRICK replied it was located in a straight section a number of feet inside either end of the culvert.

SENATOR KIM ELTON noted that the evidence shows bacterial growth in GC-2. He also noted that a change in the emulsion breaking chemicals in the pipeline appears to coincide with the period of increased corrosion. He asked if the company adjusted the chemicals it uses or if the state or federal government asked BP to adjust them.

MR. DIETRICK replied a number of issues potentially contributed to the corrosion. One suggestion in the report is that the interaction between the emulsion breaker and the corrosion inhibitor contributed to the problem. BP is continuing to analyze that possibility but the most recent information does not indicate that the interaction of the two agents cancels the effectiveness of the corrosion inhibitor. The state will also review that issue independently, he said.

SENATOR ELTON asked if that same mix is used in other pipelines or just in this one.

MR. DIETRICK recalled the report said the emulsion breaker was used at just GC-2, but the corrosion inhibitor is used field wide.

[4:47:37 PM](#)

CHAIR WAGONER asked Ms. Wilson to review the Department of Revenue report dated April 10, 2006.

ROBYNN WILSON, Director, Tax Division, Department of Revenue, reported that the revenue impact is estimated to be \$27 million through April 10, 2006 and assumes 77,000 barrels of deferred production for 33 days and then 36,000 barrels for 6 days.

She understands that a bypass line was installed April 3, 2006 and as a result, the production is backup to about 75 percent of what the main line would have been.

CHAIR WAGONER said he understands that if an oil spill is determined to be catastrophic, which is interpreted to be any spill that is greater than 100,000 gallons, then the company would not be able to use the PPT credits for clean-up costs associated with the spill. He asked if that is correct.

MS. WILSON read AS 46.04.900 that defines a catastrophic oil spill. The definition requires that it be an oil discharge of 100,000 barrels or that it is a spill that presents a grave and substantial threat. She noted that oil is required in the first criteria but it doesn't say that in the second criteria.

Under the PPT bill that that passed the Senate yesterday, deductions are denied for expenditures incurred to clean up catastrophic oil spills. That language is specific to oil spills that affect inland waters, but it doesn't necessarily address oil spills on land.

[4:53:17 PM](#)

Neither the House Resource Committee CS nor the governor's bill, as originally drafted, have any language about an oil spill. That means it could be interpreted that a deduction is not precluded if it happens on a lease. If a spill happens on the lease, it would be upstream and would fall under the general basket of lease expenditures, which makes it deductible. However, expenditures incurred as a result of negligence are not

deductible. Ms. Wilson suggested that that possibility would elicit litigious discussion.

Ms. Wilson explained that for a typical business facility repairs are deductible, but a major overhaul that extends the life of the asset is capitalized. The difference in PPT is that if the expenditure is currently expensed, then it would be available for a deduction. If the expenditure is a major overhaul that extended the life of the pipeline or asset, then it would be capitalized. That means that it would be both deducted and then subject to a credit.

CHAIR WAGONER remarked as it stands now, the state would pay about 47.5 percent.

MS. WILSON replied if it was a capitalized expenditure that extended the life of the pipeline under discussion then the answer is yes. It would enjoy a 22.5 percent tax reduction rate plus the credit rate of 25 percent.

[4:56:04 PM](#)

MS. DENISE HAWS, Economist, Tax Division, Department of Revenue (DOR), reviewed the DOR FY 2006 Revenue Sensitivity Matrix for Lost ANS Production. She reported that the April 1-25, 2006 ANS price is \$67.47. The average oil production for the same dates is 819 million barrels per day. Based on 33 days of loss production in March and 6 days of loss production in April, the revenue impact is about \$26 million.

MS. WILSON said she would provide the committee with updated reports that would include the amounts that Ms. Haws mentioned.

MS HAWS advised that the fiscal year-to-date price is \$60.01, which is \$1.29 over the spring forecast.

There being no further business to come before the committee, Chair Wagoner adjourned the meeting at [4:59:14 PM](#).