

ALASKA STATE LEGISLATURE
LEGISLATIVE BUDGET AND AUDIT COMMITTEE
Anchorage, Alaska
December 10, 2007
9:05 a.m.

MEMBERS PRESENT

Representative Ralph Samuels, Chair
Representative Mike Hawker
Representative Mike Kelly (via teleconference)
Senator Lyda Green
Senator Gene Therriault
Senator Charlie Huggins (alternate)

MEMBERS ABSENT

Senator Lyman Hoffman, Vice Chair
Representative Mike Chenault
Representative Mike Doogan
Senator Bert Stedman
Senator Johnny Ellis
Representative Reggie Joule (alternate)
Representative Kevin Meyer (alternate)

OTHER LEGISLATORS PRESENT

Senator Fred Dyson

COMMITTEE CALENDAR

APPROVAL OF MINUTES
REVISED PROGRAM - LEGISLATIVE (RPLs)
EXECUTIVE SESSION
RELEASE OF AUDITS
OTHER COMMITTEE BUSINESS

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

LETA SIMONS, Acting Director
Central Office
Division of Support Services
Department of Natural Resources (DNR)

Juneau, Alaska

POSITION STATEMENT: Presented RPL 10-8-5037.

JAMES KING, Director

Central Office

Division of Parks & Outdoor Recreation

Department of Natural Resources (DNR)

Anchorage, Alaska

POSITION STATEMENT: Presented RPL 10-8-5038.

KEVIN BANKS, Acting Director

Central Office

Division of Oil & Gas

Department of Natural Resources (DNR)

Anchorage, Alaska

POSITION STATEMENT: Presented RPL 10-8-5039.

PAT DAVIDSON, Legislative Auditor

Division of Legislative Audit

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Provided comments during the discussion pertaining to the audit requests; provided comments during the discussion of other committee business.

SENATOR FRED DYSON

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified on the timeliness of the legislative audit process.

ACTION NARRATIVE

CHAIR RALPH SAMUELS called the Legislative Budget and Audit Committee meeting to order at [9:05:31 AM](#). Representatives Hawker, Kelly (via teleconference), and Samuels, and Senators Therriault, Green, and Huggins (alternate) were present at the call to order.

APPROVAL OF MINUTES

[9:05:36 AM](#)

REPRESENTATIVE HAWKER made a motion to approve the minutes of the Legislative Budget and Audit Committee for November 2, 2007. There being no objection, the minutes from the meeting of November 2, 2007, were approved.

REVISED PROGRAM - LEGISLATIVE (RPLs)

[9:05:56 AM](#)

REPRESENTATIVE HAWKER made a motion to approve RPL 10-8-5037, Department of Natural Resources (DNR), Resource Development/Geological Development.

CHAIR SAMUELS objected for the purpose of discussion.

[9:06:53 AM](#)

LETA SIMONS, Acting Director, Central Office, Division of Support Services, Department of Natural Resources (DNR) explained that the DNR requests authorization to amend an existing capital appropriation for airborne geophysical and geological mineral inventory. The request would add an additional \$229,600 of statutory designated program receipts to accept an amount of funds from Anglo-American Exploration, Inc. (USA) in support of airborne geophysical surveys. This additional funding will allow the department to expand work in the Lime Hills-Tyonek area, to connect three separate project areas, and to provide additional geologic continuity as a result of the surveys.

RPL 10-9-5037

[9:07:44 AM](#)

CHAIR SAMUELS removed his objection. There being no further objection, RPL 10-8-5037 was approved.

[9:07:59 AM](#)

REPRESENTATIVE HAWKER made a motion to approve RPL 10-8-5038, to Department of Natural Resources (DNR), Parks & Recreation Management, Parks & Recreation Access.

CHAIR SAMUELS objected for the purpose of discussion.

[9:08:25 AM](#)

JAMES KING, Director, Central Office, Division of Parks & Outdoor Recreation, Department of Natural Resources (DNR), offered that this request would provide funding for a Chugach Electric Association, Inc. (Chugach) project, for its

reapplication for a Federal Energy Regulation Commission permit (FERC). The Chugach was required to spend \$50,000 on recreation as part of the settlement for their relicensing of the Cooper Lake hydro-electric project. The proposed project will provide for the construction of a winter recreational parking lot on Snug Harbor Road near Cooper Landing. The funds will be used to accomplish the preliminary design, seek permits, site plan, and complete the environmental documents, including those pertaining to facilities such as restrooms.

MR. KING, in response to a question by Representative Hawker, responded he did not have the specific reason this project was selected but indicated that oftentimes the process includes providing for recreation surrounding dam sites. The Chugach consulted with the state parks because Chugach was aware of the need for a parking lot for recreational snowmobile use.

REPRESENTATIVE HAWKER asked if the state has discretion to use the funds for other purposes such as trailheads in the Matanuska Susitna Valley (Mat-Su) or along the Turnagain Arm.

MR. KING responded that this project was specified in the Chugach permit.

[9:10:55 AM](#)

MR. KING, in response to a question by Senator Green, about the \$50,000 for design and permit services, responded that the FERC permit also specified a requirement for professional design. Chugach contacted the division, to request work be done by the Design & Construction section. He noted that this project was within the Kenai River Special Management Area (KRSMA).

CHAIR SAMUELS asked for clarification of the impact on the operating budget for the Division of Parks & Outdoor Recreation to maintain the facility.

MR. KING responded that the FERC license requires the Chugach to maintain the facility. He advised that the DNR Design & Construction section has the expertise to design the project.

CHAIR SAMUELS removed his objection. There being no further objection, RPL 10-8-5038 was approved.

[9:12:16 AM](#)

REPRESENTATIVE HAWKER made a motion to approve RPL 10-8-5039, Department of Natural Resources (DNR), Resource Development/Oil & Gas Development.

CHAIR SAMUELS objected for the purpose of discussion.

[9:12:38 AM](#)

KEVIN BANKS, Acting Director, Central Office, Division of Oil & Gas, Department of Natural Resources (DNR), explained that this request will allow the division to accept funds from an applicant for royalty modification to conduct a royalty modification evaluation. Specifically, AS 38.05.180 (j), the enabling legislation to offer royalty modifications for new development, gives the division the authority to hire outside consultants to evaluate projects up to \$150,000 for each project evaluation. The division received an application from Chevron U.S.A. Inc. in September 2007 for Stump Lake and the Ivan River Units in Cook Inlet. This application is likely to be split into two separate applications, with a cost of \$150,000 to conduct each royalty modification evaluation.

[9:14:44 AM](#)

MR. BANKS, in response to a question by Senator Huggins, replied that the division has two projects pending royalty modification review: Nikaitchuq project unit, which is currently in the public notice process, and Chevron, who applied for royalty release in two units. He indicated it might be possible to complete the royalty modification evaluation as one project.

SENATOR HUGGINS asked for an explanation of the balance between oil taxation and royalty applications.

MR. BANKS opined, with respect to the Nikaitchuq project which the division just completed its evaluation on, would have qualified for royalty relief under the current tax system and the Alaska's Clear & Equitable Share (ACES) legislation. He noted that ACES squeezes a little harder, but that the project would have qualified for royalty tax relief under either program because of the huge capital investment required and because of the somewhat lower yield.

MR. BANKS, in response to a question by Senator Huggins, stated he was only aware of other royalty relief that had been approved, which was the Pioneer unit project in December 2005, and was evaluated under the prior severance tax standard.

9:17:24 AM

MR. BANKS, in response to a question by Representative Samuels, offered that the Nikaitchuq unit project is through the evaluation process and is now in the public notice process. The division received an application from Chevron that must be evaluated in the next few months.

CHAIR SAMUELS asked if legislative approval is required or if the DNR has discretion to offer royalty relief.

MR. BANKS stated that currently the commissioner has discretion to award royalty modification so long as the application meets the detailed objectives and standards under AS.38.05.180 (j).

MR. BANKS concurred, in response to a question by Senator Therriault, that \$150,000 is budgeted as an annual appropriation in case royalty relief evaluation is needed. This specific request for additional appropriation is for up to two more royalty relief application evaluations.

SENATOR THERRIAULT offered his understanding that rather than having oil companies complain that oil taxes are burdensome, the applicant would provide detailed economic, construction, and timeline information. Then the division hires an expert to evaluate the economics of the project in order to determine whether a particular reservoir qualifies for royalty relief.

MR. BANKS agreed, and offered that the applicant must provide geological interpretation, and that the division also contracts out the geological review. He explained that the nature of the evolution of projects makes it more cost effective to contract for expert opinions as the need arises, rather than for the division to maintain additional permanent review staff.

9:20:17 AM

CHAIR SAMUELS removed his objection. There being no further objection, RPL 10-8-5039 was approved.

9:20:26 AM

SENATOR GREEN asked for clarification on information provided during the November 2, 2007, meeting on the status on an audit being conducted by Mikunda, Cottrell for the period ending June

2007, and offered her understanding that the contract had been awarded and work was underway.

MS. SIMONS confirmed the status that work is under way. She said she anticipates receiving a draft report in the next couple of weeks since the deadline is December 31, 2007.

SENATOR GREEN expressed concern that the contract was underway even though it was not approved until the next Board of Agriculture and Conservation Board (BAC) meeting, and questioned how the contract could be approved and the work ongoing, prior to board approval. She wondered if the record needed to be corrected.

Ms. SIMONS responded that a poll vote had been conducted by the board and that formal approval then given at its next regular meeting.

EXECUTIVE SESSION

9:22:17 AM

REPRESENTATIVE HAWKER made a motion to move to executive session for the purpose of discussing confidential audit reports under AS 24.20.301. There being no objection, the committee went into executive session at 9:22 a.m.

RELEASE OF AUDITS

[Not on the recording, but relayed by the committee aide was the following motion by Representative Hawker.]

To release to the Department of Environmental Conservation (DEC) for response the following preliminary audit: A Special Report on the Village Safe Water Program. This motion passed without objection.

[Not on the recording, but relayed by the committee aide was the following motion by Representative Hawker.]

To release to the Department of Education and Early Development (DEED) the following preliminary audit for response: Education & Early Development-Special Education Service Agency. This motion passed without objection.

OTHER COMMITTEE BUSINESS

10:19:56AM

CHAIR SAMUELS stated that some of these sunsets have different dates just to make sure that eventually the legislature will get them all. Has that helped? Has this amount gone up, down? Or is it just the same every year?

PAT DAVIDSON, Legislative Auditor, Division of Legislative Audit, Alaska State Legislature noted that staggering the sunset dates has helped the division to avoid logjams. She opined this change has worked successfully for the auditors.

10:20:29 AM

REPRESENTATIVE HAWKER sought clarification that the division's intent is to obtain authority to solicit and award a single contract.

MS. DAVIDSON replied no. She explained that the division issues a single Request for Proposal (RFP) asking - whether they are individuals or firms - to give us a price for individual auditors, and in the past the auditors have received multiple contracts.

REPRESENTATIVE HAWKER explained that his motion was based on Ms. Davidson's letter which referred to the solicitation and award of a contract for audit services.

REPRESENTATIVE HAWKER then moved to amend his motions such "that the legislative auditor be authorized to solicit and award a contract or contracts for audit services in an aggregate amount not to exceed \$125,000." There being no objection, the motion was thus amended.

10:21:36 AM

REPRESENTATIVE HAWKER made a motion to authorize the legislative auditor to spend up to \$29,900 to upgrade the division's computer network security.

CHAIR SAMUELS objected.

MS. DAVIDSON said the division is asking for approval to purchase, hardware, software, licenses, and some professional services necessary to upgrade the division's computer network security. By law, the legislative audit working papers are confidential, and so the division must provide assurance that

the security holding the data is top notch. The division is moving to upgrade hardware and software. She noted that the audit team is most effective while conducting audits in the field. The division wants to ensure that the method the auditors are using to access the division's network is as secure as possible.

REPRESENTATIVE HAWKER asked whether this request was a one-time expenditure or if this would be an ongoing expense.

[10:23:31 AM](#)

MS. DAVIDSON responded that the software licenses will be ongoing costs, but that the total software and license represent about \$13,000. The division is eligible for a discount if it purchases a three-year license. One of the most expensive licenses is with VeriSign, Inc. The bulk of the cost for this request will go towards installation costs, but the ongoing software licenses should be covered in the current operating budget.

[10:24:33 AM](#)

CHAIR SAMUELS removed his objection. There being no further objection, the motion was approved.

[10:24:41 AM](#)

REPRESENTATIVE HAWKER moved to adopt the changes proposed to the Legislative Budget and Audit Committee's policy.

CHAIR SAMUELS objected.

MS. DAVIDSON explained that the Formal Policies and Procedures Manual first proposed change pertains to special audit requests. Currently, special requests submitted to the committee in writing at least 24 hours prior to a scheduled meeting can be considered at that meeting, but statute says such requests must be submitted with at least six days notice, so the proposed change brings the manual in line with statute.

The second proposed change pertains to the committee's policy regarding committee travel and per diem policy; it provides that members are entitled to long-term per diem when participation in a meeting requires overnight stay, either the night before for a morning meeting, or the night after for a late meeting. She also explained that Chair Samuels has agreed that the

Legislative Budget and Audit Committee rather than the Legislative Affairs Agency (LAA) would pick up the long term per diem associated with the Legislative Budget and Audit meetings. She said she anticipates that the amount will be small, about \$2,000-\$4,000 per year.

[10:28:34 AM](#)

CHAIR SAMUELS concurred that the proposed change will cover the occasional meetings in which the members must stay overnight.

MS. DAVIDSON, in response to a question, responded that committee members can request reimbursement through the normal process, and that she would provide the LAA with a listing to ensure that coding is accurately completed.

[10:30:18 AM](#)

REPRESENTATIVE HAWKER, offering a hypothetical situation in which a member attends a 2-hour LBA meeting, followed by 6 hours of regular legislative duties, asked whether anything further is needed with regard to allocating reimbursement.

MS. DAVIDSON indicated that this was discussed with LAA, and, unless there are objections, if a member attends a meeting, then the entire time would be allocated to that committee.

[10:31:09 AM](#)

CHAIR SAMUELS asked whether there were any further objections to the motion. There being none, the policy changes were adopted to the Legislative Budget and Audit Committee policy manual.

[10:31:22 AM](#)

MS. DAVIDSON gave the committee an update on electronic workpaper software procurement. She explained that she was given the authorization to advertise but not award the contract, and he advised the committee that she has put the RFP out for bid. She explained the process she used, as first speaking to a number of vendors about the system components, and then identifying what the division perceived as its minimum requirements as well as evaluation factors. The division prefers off-the-shelf software because it does not want to have to modify the software. Responses are due by December 28, 2007, and must include a 30-day free trial period with demonstration software. The division will evaluate the software, and

according to the timeline anticipates it would ask for approval of the contract in early February 2008.

10:33:20 AM

CHAIR SAMUELS then relayed that he has received several requests to forward the ConocoPhillips Alaska, Inc. gas proposal. He said "we've gotten Saul Ewing, LLP—our FERC person and Econ One Research, Inc. ("Econ One") for preliminary work. He is unsure how long it will take the administration to vet the five applications to determine which ones are conforming bids. According to statute, the legislature will have access to the proposals once the administration has decided which bids are acceptable. At that time, the legislature will know whether people are talking specific tax terms or broad generalities. As soon as this happens, another meeting can be called, if necessary.

10:35:05 AM

SENATOR THERRIAULT expressed concern over who is available to review the proposals and asked if expertise was available from someone with gas pipeline experience, and also for a breakout of duties to be undertaken by Saul Ewing, LLP and Econ One Research, Inc.

CHAIR SAMUELS responded that there will be FERC implications, and it will take time to sort through what is doable and not. Ultimately it will be up to individual legislators to decide which bid is best. He offered that his approach is to wait to see what proposals are viable before hiring people. Another option to consider would be to hire a Wall Street analyst to review the companies in order to evaluate their market caps, support, history, and experience so that the legislature can eliminate companies that do not have the corporate structure to succeed with a large-scale proposal.

10:38:18 AM

SENATOR THERRIAULT offered his understanding that the current consultants are hired until the end of the calendar year.

CHAIR SAMUELS offered that as chair he has authority to extend the contracts for both Saul Ewing, LLP, and Econ One Research, Inc., and that the Econ One contract can be modified and brought back to the committee for consideration and approval.

SENATOR THERRIAULT noted that the original contract with Econ One Research, Inc. included certain individuals such as Rick Harper and Tony Finizza and indicated that they were now on contract with the administration. He inquired as to whether this would prevent their working for the legislature.

CHAIR SAMUELS discussed that ultimately who is hired will depend on whether the review will focus on the broad generalities or the specific tax terms of a proposal. He indicated that both Rick Harper and Tony Finizza would not be working for the legislature.

SENATOR THERRIAULT explained that in response to questions he posed to ConocoPhillips Alaska, Inc., with respect to the tariff amount, he had been advised that the proposal did not contain specific tariff amounts but did contain all the information necessary to calculate a specific tariff. He indicated that he would like to have Econ One or another contractor pull out the information from the ConocoPhillips proposal and run a calculation on the tariff

[10:41:04 AM](#)

CHAIR SAMUELS suggested that whoever performed this work would provide a big range. He further stated the committee should start looking for someone who can assess the viability of a company's proposal, more of the "Wall Street view."

[10:41:30 AM](#)

SENATOR THERRIAULT further explained that it was his understanding that ConocoPhillips Alaska, Inc. indicated that it intended to draw in other partners and that there is the possibility of their working with independent pipe. He said he wonders about the criteria to assess a company's ability to put together a further partnership. He said he anticipates when the details of Alaska Gasline Inducement Act (AGIA) proposals are in, that a similar evaluation will have to be done for all bidders in order to make a determination on any other partners involved. He stated that it would be good to have an understanding of the financial ability of any company submitting a proposal and that any proposer would likely have to grow beyond their initial application.

[10:42:49 AM](#)

SENATOR FRED DYSON, Alaska State Legislature discussed his concern about the process for timely audits. He requested that the Division of Legislative Audit outline its approach to conduct large scope audits so that the originator and the committee can better evaluate whether an audit is on target, and for the auditor to issue quarterly assessments for those audits that are long term in scope in order to track the progress.

CHAIR SAMUELS expressed a concern that legislators might frequently, perhaps daily, call an auditor for a status on an audit.

10:44:53 AM

MS. DAVIDSON said she shares the same concern. She offered that when there is a single issue audit there is no conclusion until the audit is completed. Auditors do not evaluate or offer a final judgment until the audit is completed. She indicated that once the audit is written, the division must consider feedback from the particular department on issues raised within the audit. That is the reason why an audit is not immediately finalized and made public. She offered that on significant audits, the division attempts to break the audit into pieces and issue reports on these segments. In this instance, she noted that the division has taken a different direction than Senator Dyson wanted. She offered that oftentimes, when there is ambiguity about the scope of the audit, the auditor will facilitate a meeting with the requestor to discuss the audit's scope. She also added that the auditor might initially plan an approach but encounter difficulties which must be worked around, and so the final approach taken might be different. She expressed interest in reviewing Senator Dyson's proposal in order to provide better communication on the specific audit.

CHAIR SAMUELS also expressed hope that the division could improve communication without putting undue pressure on the auditors or releasing incomplete information.

10:47:26 AM

SENATOR THERRIAULT asked if the chair was going to schedule a presentation of the Nikaitchuq Royalty Modification at the next meeting.

CHAIR SAMUELS replied that he could schedule it.

SENATOR THERRIAULT stated that he had read through part of royalty modification and was critical of the Oooguruk portion and believed that, by the Commissioner's own admission, they did not model part of what the state has given up in Oooguruk. He stated that he saw the value not only to the development of the field but also a company going through the process of giving the facilities access. He stated that it was a benefit to the state and other partners in going through this exercise. He further stated that in the current proposal, ENI is proposing to build separate oil and gas handling facilities on shore and he desires to question the department on what modeling they performed and what the state gave up. In this analysis, he wants to compare what the state may be giving up to what the state might receive in return.

CHAIR SAMUELS responded that if the committee met before the beginning of legislative session in January 2008 to discuss contractors that would not be a good time for the department to come before the committee. He suggested it would be best to schedule the department when legislators are in Juneau for the legislative session.

SENATOR THERRIAULT inquired whether the 60-day public comment period for the Nikaitchuq Royalty Modification had already begun and whether it would have ended by the time legislators arrived in Juneau for the legislative session in January 2008.

ADJOURNMENT

REPRESENTATIVE SAMUELS asked if there were any other comments.

There being no further business before the committee, the Legislative Budget and Audit Committee meeting was adjourned at 10:49 a.m.