

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES

February 9, 2007

8:34 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Kyle Johansen
Representative Craig Johnson
Representative Peggy Wilson
Representative Bryce Edgmon
Representative Lindsey Holmes

MEMBERS ABSENT

Representative Gabrielle LeDoux

COMMITTEE CALENDAR

OVERVIEW: DEPARTMENT OF ENVIRONMENTAL CONSERVATION - FISH
MONITORING PROGRAM

- HEARD

OVERVIEW: ALASKA DEPARTMENT OF FISH & GAME - PERMANENT ID CARD
PROGRAM

- HEARD

HOUSE BILL NO. 41

"An Act returning certain duties regarding habitat management
from the Department of Natural Resources to the Department of
Fish and Game; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 41

SHORT TITLE: TRANSFER HABITAT DIV FROM DNR TO F&G

SPONSOR(S): REPRESENTATIVE(S) GARA

01/16/07	(H)	PREFILE RELEASED 1/5/07
01/16/07	(H)	READ THE FIRST TIME - REFERRALS
01/16/07	(H)	FSH, RES, FIN
02/09/07	(H)	FSH AT 8:30 AM CAPITOL 124

WITNESS REGISTER

KRISTIN RYAN, Director
Division of Environmental Health (DEH)
Department of Environmental Conservation (DEC)
Anchorage, Alaska
POSITION STATEMENT: Presented an overview of the DEC fish monitoring program, and responded to questions.

ROBERT GERLACH, Doctor of Veterinary Medicine (DVM)
State Veterinarian
Division of Environmental Health (DEH)
Department of Environmental Conservation (DEC)
Anchorage, Alaska
POSITION STATEMENT: Responded to questions regarding the DEC fish monitoring program.

DR. JAY BUTLER, M.D.
Director
Division of Public Health (DPH)
Department of Health and Social Services (DHSS)
Anchorage, Alaska
POSITION STATEMENT: Presented the DPH aspect of the DEC fish monitoring program, and responded to questions.

DR. LORI VERBRUGGE, Ph.D.
Environmental Public Health Program Manager
Division of Public Health (DPH)
Department of Health and Social Services (DHSS)
Anchorage, Alaska
POSITION STATEMENT: Responded to questions regarding the public health aspect of the DEC fish monitoring program.

KRISTIN WRIGHT, Licensing Supervisor
Division of Administration
Alaska Department of Fish & Game (ADF&G)
Juneau, Alaska
POSITION STATEMENT: Presented information on the Permanent Identification Card licensing program, and responded to questions.

REPRESENTATIVE LES GARA
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented HB 41, as the prime sponsor.

ACTION NARRATIVE

CHAIR PAUL SEATON called the House Special Committee on Fisheries meeting to order at [8:34:06 AM](#). Representatives Johnson, Johansen, and Edgmon were present at the call to order. Representatives Wilson and Holmes arrived as the meeting was in progress.

OVERVIEW: DEPARTMENT OF ENVIRONMENTAL CONSERVATION - FISH MONITORING PROGRAM

[8:34:18 AM](#)

CHAIR SEATON announced that the first order of business would be an overview of the Alaska fish monitoring program.

[8:35:29 AM](#)

KRISTIN RYAN, Director, Division of Environmental Health (DEH), Department of Environmental Conservation (DEC), described the fish monitoring program as a collaborative effort, first begun about 10 years ago by the Environmental Protection Agency (EPA). The EPA provides guidelines for states to implement a monitoring system. If a state does not take up this task, the EPA will conduct a program. She explained that, when analyzing and reporting data, the EPA may utilize a risk factor of "up to ten," in order to err on the side of caution. The DEC does not impose the same strict federal standards, and she suggested that it behooves the state to establish a tailored monitoring program, for the purpose of incorporating a broader spectrum of risk and benefit factors.

[8:37:58 AM](#)

CHAIR SEATON requested further clarity on the federal risk factors.

MS. RYAN explained that, although the EPA does not mandate the state to provide a program, it is deemed extremely important that every state monitor fish for contaminants. When a state does not implement a program, the EPA administers their own. She described how a standard EPA test might be conducted, and the resultant consumption advisory that would be issued. This advisory offers the public a guide to the amount of fish that can safely be consumed, based on the toxins ascertained to be present. A ten-fold safety factor is added to the EPA's calculation, as a multiplier. In response to Chair Seaton, she

stated that if the toxin levels indicated that 20 meals of fish could safely be eaten per month, the EPA safety factor would caution the consumer to eat only two meals per month.

[8:39:26 AM](#)

MS. RYAN said that because of the possible repercussions from an EPA consumer report, it would be prudent for Alaska to take ownership, and evaluate the fish stocks utilizing Department of Health and Social Services (DHSS) expertise. She opined that this would provide the best information to Alaskan's and the consumers of Alaskan seafood. Additionally, she cited that the European Union has strict contamination standards, upheld for imported seafood. There is a growing, global market demand for confirmation that fish products are low in contaminants.

[8:40:30 AM](#)

MS. RYAN reported that in 2001, the department was able to apply 301 funding to foster a monitoring program. These funds are predominantly targeted for surface water monitoring, but can be correlated to contaminants found in the fish. In subsequent years, U.S. Senator Ted Stevens has been instrumental in providing earmarked funds, to continue the program. Depending on the source of these funds, the scope of the program has been restricted. She opined that, if the state were to take financial ownership of the program, it could be "conducted" rather than "managed." Ms. Ryan described the means by which samples have been collected, to minimize costs and maximize resources. Volunteers from user groups, as well as state and federal fish management agencies have been drawn on to help with the effort. A training protocol is conducted, for participants, to provide consistency in sample collection.

[8:42:39 AM](#)

CHAIR SEATON asked how and where the samples are analyzed.

MS. RYAN responded that the Environmental Health Laboratory (EHL), located in Palmer, receives the frozen whole or cut fish. The technicians prepare the samples for analysis, grinding, and stabilizing the tissue. Heavy metal testing is conducted at the lab, however, further studies are conducted by Analytical Services Ltd. (AXYS), British Columbia, Canada. She directed the committee's attention to the handout in the packet, titled "Alaska Department of Environmental Conservation fish Monitoring Program Total Heavy Metal Concentrations*(ppm) for Fish Species

Collected, Update January 2007." The handout provides the heavy metal findings by species, and sample count; reporting the mean, standard deviation, median, minimum, and maximum levels.

[8:44:31 AM](#)

CHAIR SEATON asked if the 2007 report, was completed on a specific sampling or based on an accumulation of data samples.

MS. RYAN answered that it represents the samples in aggregate.

CHAIR SEATON referred to the Silver Salmon data [fifth page of data], and clarified that the "94" is the total number of fish sampled since the program was established in 2001.

MS. RYAN confirmed his understanding and pointed out that the sampling is opportunistic. Due to the lack of funding, it has not been possible to procure representative samples from specific water bodies. Obviously, the resources to be sampled are on a large scale and the sampling has been minimal, which places a restriction on the interpretation of the data.

[8:46:13 AM](#)

REPRESENTATIVE JOHNSON asked if it would be fruitful to generate a report for each year to identify trends, or if the sample size is too small to allow for that type of analysis.

MS. RYAN conveyed that the small sample numbers are not adequate to indicate trends, although the samples do indicate consistency.

REPRESENTATIVE JOHNSON inquired what sampling size would be needed to establish a baseline. He observed that the current sample size is inadequate to identify problems.

MS. RYAN responded that more sampling would be the key to establish an adequate baseline. Thus far, she said, the samples have been "broken out" into water bodies. Hiring statisticians would be helpful, and is under consideration.

[8:48:57 AM](#)

REPRESENTATIVE EDGMON referred to the mixing zone bill [HB 74], heard previously in committee, and asked what level of confidence the department has in the relationship between the

data collection that is being accomplished and mixing zone regulations.

MS. RYAN advised that the correlation between mixing zones and the data being collected "is weak at this point." Primarily, saltwater fish have been sampled, with a small number of freshwater species being sampled from interior lakes, or streams; where mixing zones would occur. The report in the packet does not target any mixing zone sensitive areas. She pointed out that mercury, a targeted contaminant, "is predominantly an issue from coal fired power plants dropping ... total mercury onto water bodies." The algae transform the mercury into a methylated form, which is absorbed/consumed by the fish, becoming concentrated in the flesh and liver tissue. Other contaminants, identified in the report, are pervasive in the entire ecosystem, but mercury tends to be an issue in the water.

[8:51:01 AM](#)

MS. RYAN offered that the long term goal would be to monitor the environment in a comprehensive manner, to ensure the safe stewardship of the land and proper regulation of industry. Continuing her presentation, she said that the samples are sent to the Canadian lab, for Organochloride testing. The outlay for this testing is \$3,000 per sample. Given the funding restrictions, the subset of samples sent out for testing tends to be small. The EHL is currently developing the ability to test for pesticides, and effectively lower the sample testing cost. She directed attention to the handout titled "Alaska Department of Environmental Conservation Fish Monitoring Program: Analysis of Organic Contaminants." It represents an interpretation from DHSS, on organic data. Although the report is two years old, it provides results of testing for specific pesticides. At this time, the pesticide concern is minimal, although, Ms. Ryan pointed out, the PCB pollutants appear to be elevated. As indicated on page 15, the levels for sockeye and chinook salmon are at levels beyond the EPA guidelines. This reading is fodder for a potential concern. Given the inadequate sample size, however, conclusions cannot be established, and DHSS has not issued consumption restrictions. The page 9 graph, compares the PCB content of Alaskan salmon on a world level; the lowest indicated.

[8:54:58 AM](#)

REPRESENTATIVE JOHNSON asked how many samples were used to generate the information in the organic contaminants report.

MS. RYAN deferred to the state veterinarian.

[8:55:31 AM](#)

ROBERT GERLACH, Doctor of Veterinary Medicine (DVM), State Veterinarian, Division of Environmental Health (DEH), Department of Environmental Conservation (DEC), stated that a total of 90 fish were sampled, with salmon represented by 18 chum, 24 sockeye, and 35 chinook.

[8:55:56 AM](#)

CHAIR SEATON reviewed the scope of the graph on page 9 [Figure 3], and the location of the reported samples. He pointed out that some of the Alaskan locations do not provide a reading, and he asked about the interpretation of this comparison.

MS. RYAN cautioned that the interpretation of the data is a complex system, and she counseled that DHSS, qualified toxicologists are charged with handling this aspect of the work.

[8:57:25 AM](#)

REPRESENTATIVE JOHNSON stated that the statistical validity is difficult to grasp; the sample size does not appear to be large enough to make any judgments. He asked if the proportions of the samples, from specific areas, are identified in useable numbers.

MS. RYAN directed attention to page 2 [Table 1], for the species samples by region. The effort is to establish a statistical representation by water body, and she deferred to Dr. Gerlach for further comment.

DR. GERLACH, shared the representative's concern for the sample size, and cited the geographic size and logistics of the state as a major challenge. He offered that even the 600 halibut samples, the highest number examined for heavy metals, is not representative of every region of the state, or of the commercial and sport harvests. DEC is working with the halibut commission biometricians, to continue with this initial sampling plan. He conceded, "The concern about the number of fish sampled - they're not going to be representative of entire population[s] of salmon or the halibut, at this point."

9:00:37 AM

REPRESENTATIVE JOHNSON predicted that, in the near future, the legislature may be asked to make decisions based upon this minimal data, despite the validity of the research, and expressed his concern for that outlook.

CHAIR SEATON agreed that the need for sound science cannot be ignored, however, the initial numbers are helpful, despite the sample size. He expressed that it is up to the legislature to establish a sampling regime that will broaden the database, and provide confident answers.

9:02:09 AM

REPRESENTATIVE JOHNSON reiterated his interest in having the samples reported on by year. It could help to identify any trends, even with the minimal samples. He revised his request to focus on halibut, given the current media concerns and the larger number of samples available.

CHAIR SEATON requested that a draft of such a chart be submitted to the committee.

MS. RYAN assured the committee that a yearly graph would be made available. She reported that the data will indicate a trend for the larger older fish to contain more contaminants.

CHAIR SEATON cautioned that it may not be helpful to provide a graph, utilizing minimal samples, and create dubious readings. Generalizations, and speculations, on such information, could result in unintended consequences.

REPRESENTATIVE JOHNSON retracted his request, stating that perhaps the question has already been answered.

MS. RYAN asked Dr. Gerlach to confirm the trend, which she reported.

9:05:04 AM

DR. GERLACH agreed with her testimony, and stated that the 2001-2007 data would not indicate a significant change in contamination levels within the environment, or the fish concentrations. Long term studies on halibut are available from

NOAA. The older samples could be compared to what is being sampled now to provide trend lines.

9:06:13 AM

REPRESENTATIVE EDGMON read from the handout, page 10: "The FDA [U.S. Food and Drug Administration] has established legal tolerances for the maximum levels of contaminants ...". He asked if these FDA bench marks have remained consistent or been made more stringent over the years.

MS. RYAN clarified that different standards are established by each agency. She said, "The world of what's safe to eat is ever changing, and everyone has ... a different idea about it." One way this is effected is by how an agency defines a serving. The FDA assumes a commercial standard where a consumer would eat one serving of one fish, but EPA considers the recreational user who may consume one entire fish, thus requiring a stricter standard. All of the agencies disagree. Ms. Ryan noted that, in regards to mercury, the contamination does not primarily come from local sources, but rather from coal fired stoves in China and Russia. Alaska does have natural ore deposits of cinnabar, however, which could be a minor contributing factor. The public notice currently released by DHSS used the heavy metal data, with specific concern for mercury, to generate a consumer advisory. The halibut, ling cod, and especially shark, as consumers of other fish, are beginning to indicate a trend for concentrations of mercury. Ms. Ryan further described the collaborative work of DEC with DHSS and ADF&G. She shared an example of a fish and game intern that exemplified this collaboration.

9:10:57 AM

REPRESENTATIVE JOHNSON referred to the press release in the committee packet, and asked about the information reporting that mercury has been "found in all streams in the West." He asked if this included Alaskan waters.

MS. RYAN responded that Alaska was not included in the study. Thus far, DEC has focused on testing fish, and is not testing the water and soils in the same way; although the University of Alaska, and some private endeavors, have been applying effort to the task. All indications are that Alaska is producing "some of the cleanest" fish, she said, and pointed out that mercury is a pervasive element in the environment.

REPRESENTATIVE JOHNSON stated that his concern is for the implications of the article's headline, and he asked again if Alaska was part of the study.

MS. RYAN assured the committee that this study did not include Alaska.

CHAIR SEATON cited the articles on mercury being discussed: February 1, 2007, Volume 13, No. 03, Sublegals, an article based on a study generated by the EPA in Oregon state and expanded to the other Western states; January 23, 2007, San Francisco Chronicle, headlined "Survey Finds Mercury in fish in West"; and January 24, 2007, The Oregonian, headlined "Mercury found in all fish in the West."

[9:13:48 AM](#)

REPRESENTATIVE JOHANSEN asked whether DEC requested an increment allocation in the budget for the fish monitoring project.

MS. RYAN informed the committee that the department has tried multiple times to attain a budget increment, without success. A Capital Funds appropriation did come through in FY06, as a one-time allotment, and was in combination with DHSS to complete a biomonitoring project.

[9:14:30 AM](#)

REPRESENTATIVE JOHANSEN referenced the Pacific Salmon Treaty funding, and asked what limits are placed on DEC for accessing the treaty funds. He acknowledged that the funds are exclusive to salmon work, but asked whether this funding could be utilized for accomplishing DEC sampling goals.

MS. RYAN described the means by which DEC has managed to attain funding, the channels through which federal funds have been received, and the need to adhere to regional restrictions, based on the funding earmarks. A federal increment request has been submitted.

[9:17:14 AM](#)

CHAIR SEATON reviewed information from the February 9, 2007, DEC press release, and surmised:

It sounds like ... the primary concern would be for women of child bearing age, or young children who

consume many portions from one large fish containing the higher mercury levels. ... The message here is that most commercially caught fish aren't going to be impacted, because they're averaging [a] much smaller size than this, but that the concern, at least in halibut, would be for the largest size fish.

MS. RYAN confirmed that this is the identified trend, and it is expected to continue to be indicated, as more samples are collected. The larger older fish have the higher concentrates as do the predacious fish, such as shark.

9:19:23 AM

CHAIR SEATON directed attention to the final page of the handout, a chart titled "Alaska Department of Environmental Conservation Fish Monitoring Program Total Mercury Concentration *(ppm) for fish species collected, Update January 2007," and ascertained from Ms. Ryan that this was the data used to generate the press release. He asked if DEC has converted this information into meals per month for every species, or is it premature to offer advice.

MS. RYAN stated that DHSS is at the point of using this data to determine consumption advice. She highlighted that this press release announces the public process. It is not an easy task to establish consumption advice, and it effects industries unduly. There is an inherent challenge in predicting how the public will receive a detailed health related message. With that in mind, she said that DEC has worked with constituent groups to craft the message. The caveat is that the "the data is what it is."

CHAIR SEATON cautioned that the long-lived species, such as dogfish, when tested, may demonstrate similar elevated mercury levels, as the predacious and larger fish. A dogfish could be thirty five years old when caught, allowing it the possibility of attaining high concentrates of contaminants. Although there is not significant data on specific species for substantiation, Ms. Ryan agreed with the theory.

9:22:15 AM

CHAIR SEATON referred to the questioned raised regarding mixing zones. He inquired about the ability of DEC to adequately provide the necessary oversight on the self monitoring program requirements for agencies with heavy metal discharge components. Chair Seaton indicated concern for the accumulative effects of

these heavy metals in a watershed. A report of sample frequency, and heavy metal volume discharge, may be in question. He asked if DEC has coordinated with the Division of Water to ensure statistically valid sampling, as pertains to a permitted mixing zone.

MS. RYAN reported a lack of coordination with her counterparts in the Division of Water. She explained that the focus of the fish monitoring project has been on ocean water; however, the EPA intended the fish consumption sampling project to "drive discharge permits." A confined body of water, such as a lake with an available point source, is more easily monitored vs. determining specific contamination profiles to track stream pollution. She predicted that the synergistic effect of the two projects would eventually allow for adequate safety monitoring, and evaluation, of the states mixing zones.

CHAIR SEATON cited this as a topic currently under consideration by the committee. Without a statistically valid program to monitor the heavy metals being discharged, and the ability to project the cumulative effects, it will be difficult for the legislators to respond in an appropriate manner.

[9:25:52 AM](#)

REPRESENTATIVE JOHANSEN questioned the suitability of linking mercury, halibut, and a consumption advisory. Despite the advisory standards, he stressed the importance for a consumer to be able to trust that Alaskan halibut is edible. Providing caveats for heavy metal toxins, he opined, could prove to be detrimental to the Alaskan halibut market.

MS. RYAN declared, "That is the trickiness of what we're trying to do, and it will be the health department that ... officially issues advice." She clarified that the press release was to begin a public process of releasing the data gathered thus far by DEC. The department's official stance is that fish continue to be a safe source of nutrition, and people should continue to enjoy fish products.

REPRESENTATIVE JOHANSEN opined that perhaps it is not necessary to alert the public.

REPRESENTATIVE EDGMON interjected his understanding that DEC is acting under a federal mandate to provide this information to the public.

MS. RYAN affirmed that if the state does not provide public advice the EPA will issue a statement. She reiterated that the federal safety factor is much higher than what is held by the state.

[9:29:16 AM](#)

REPRESENTATIVE JOHANSEN asked for clarity on the EPA requirements for dissemination of this information to the public.

MS. RYAN EPA said, "They issue consumption advisories; EPA will do it if we don't."

[9:29:47 AM](#)

CHAIR SEATON relayed how nuances tend to "get lost," such as the age discrimination of the fish. It would be good to have information on these nuances, including species, age, and size. Even if it appears to be confusing the public should be informed.

MS. RYAN confirmed the importance of ageing the fish, a highly specialized process. Currently there is only one person able to "read" the fish otoliths, at ADF&G. She predicted that the primary trend indicator will be the age data, gathered from these ear bones.

[9:31:33 AM](#)

JAY BUTLER, M.D., Director, Division of Public Health (DPH), Department of Health and Social Services (DHSS), provided an overview of fish consumption health benefits including. He said that fish are an excellent source of lean protein, omega 3 fatty acids, anti-oxidants, and vitamins. Additionally, fish consumption can reduce the risk of heart disease related deaths, in adults, and promote healthy brain development in a growing fetus and young children. The concern of eating large quantities of fish has been due to the methyl mercury concentrations in the flesh of certain species and the neurological effects this has on the brain development of a fetus. This has prompted a statewide study in Alaska, begun in 2002, to monitor and study maternal hair. To date, hair from 359 women in 51 communities has been analyzed. The median mercury concentrations are far below the level understood to cause adverse health effects, as established by the World Health Organization (WHO); 1/2 of a part per million vs. 14 parts per

million. Based on the fish monitoring data collected, DPH is working with a variety of agencies, organizations, and the public, to develop new fish consumption recommendations for Alaskans. The goal is to ensure that the mercury concentration levels remain below the WHO guidelines. He reported that the Alaska guidelines will focus on species with average mercury concentrations above 0.4 parts per million. The species identified by the current data include: lingcod, shark, spiny dogfish, yelloweye rockfish, and halibut over 50 pounds. The recommendations for consumption of these species by women of child bearing age, and young children, will be completed in the next few months. In conclusion, he opined that fish are one of the healthiest parts of the Alaskan diet.

DR. BUTLER invited comment from the DPH health program manager.

LORI VERBRUGGE, Ph.D., Environmental Public Health Program Manager, Division of Public Health (DPH), Department of Health and Social Services (DHSS), stated support and agreement with Dr. Butler's presentation.

REPRESENTATIVE EDGMON said, "Just to make the point, it is 'wild fish.'"

[9:35:54 AM](#)

REPRESENTATIVE WILSON asked the doctor to address the validity of the research that has linked mercury influenced neurological disorders with autism.

DR. BUTLER described the known mercury effects of subtle cognitive decline and changes in neuromuscular function. He deferred to Dr. Verbrugge for the specific connection to autism.

DR. VERBRUGGE stated that correlations have been drawn between mercury and autism; however, she was unable to comment on the validity of the studies.

DR. BUTLER explained how the available data suggests that autism is caused by multiple factors including genetic predisposition, and environmental exposures.

[9:37:48 AM](#)

CHAIR SEATON noted the use of the term "women of child bearing age," rather than cautioning pregnant women, regarding consumption of contaminated fish. He speculated that this would

refer to the concentration levels accumulated over a period of time, longer than gestation, that could have an effect on the developing fetus.

DR. BUTLER concurred, and added that it is also used for "simplicity of message." Public health agencies have widely adopted the use of this term to minimize confusion.

CHAIR SEATON stressed that the message is used to invoke awareness of the effects on the developing fetus and child, rather than for the pregnant mother.

DR. BUTLER affirmed that the mercury concentration toleration levels are being standardized for adult males or females that are unlikely to become pregnant. For this category, there is no evidence of health risks, at this time. In response to a question from the committee, he stated that the concern is for how the mercury levels effect the fetus, as well as the breast fed child.

OVERVIEW: ALASKA DEPARTMENT OF FISH & GAME - PERMANENT ID CARD PROGRAM

[9:40:17 AM](#)

CHAIR SEATON announced that the next order of business would be an overview of the permanent identification card program.

[9:40:36 AM](#)

KRISTIN WRIGHT, Licensing Supervisor, Division of Administration, Alaska Department of Fish & Game (ADF&G) explained the availability of the Permanent Identification Card license to resident seniors over the age of 60, as allowed under current fishing and hunting statute. License distribution has averaged 4,300, during the last ten years, up 50 percent from the previous 10 years.

[9:41:34 AM](#)

CHAIR SEATON established these numbers as the yearly average for newly issued licenses; not cumulative estimates.

MS. WRIGHT clarified that the department does not track if a person has become inactive. She provided the residency criteria, necessary to obtain a fish and game license, and stressed that it is different from other state residency

requirements. To receive a PID, a person must meet these fish and game residency standards and have attained 60 years of age. She added that these requirements were recently reviewed by the attorney generals office. The Alaska Bureau of Wildlife Enforcement (ABWE) is the agency charged with citing violators. It is difficult, she reported, for the officers in the field to ascertain the active and inactive PID holders. Also, non-resident seniors can easily obtain a PID. Ms. Wright directed attention to the application form in the committee packet and pointed out that the applicant is not required to provide proof of residency other than attesting to compliance with their signature. Referring to a previous committee request, she reported that there have been two problems during the past year, involving PID licensees; one in Ninilchik and one in Hyder, both handled by ABWE. Both cases hinged on residency requirements: one had to wait for six more months to become a resident; one was not resident eligible and received a citation and fine.

[9:45:00 AM](#)

CHAIR SEATON inquired about the residency of the person who received the citation; had they held a PID, and had they ever been a resident.

MS. WRIGHT responded that the cited card holder was a seasonal park service employee who considered themselves an Alaskan, but whose permanent residence was technically "down south."

[9:45:32 AM](#)

REPRESENTATIVE WILSON suggested that basing eligibility on a person's receipt of a Permanent Fund Dividend (PFD) check might simplify matters.

MS. WRIGHT said such a requirement would remove other qualifiers and streamline the process; however, due to arriving after the PFD deadline a person may need to wait an extra six months to qualify. This may not cause an undo burden and a daily fishing licenses could be purchased, during the interim.

REPRESENTATIVE WILSON asked if this would require a change of regulation or statute.

MS. WRIGHT said it would require a statutory change.

[9:47:25 AM](#)

CHAIR SEATON suggested that other issues may exist. From his PID card, he read [original punctuation provided]:

This card must be in your possession while engaging in the authorized activities as described on the front. This card is not valid if residency requirements per AS 16.05.940 and AS 16.05.415, and veteran requirements, if applicable, per AS 16.05.341 are not maintained.

CHAIR SEATON stated that, [even] as a legislator, he is not sure if he is in compliance and maintaining these residency requirements. The indications are that seniors obtain these cards, live elsewhere, but return to the state in the summer and consider their card valid. He suggested stipulating a three year renewal on the card.

MS. WRIGHT agreed, and stated that such a constrain would also be helpful in maintaining a "clean" data base, for statistical studies and harvest surveys.

[9:49:26 AM](#)

CHAIR SEATON pointed out how the controls for limited bag fisheries can also be skewed when a PID holder loses their separate bag limit stamp. He asked if a three year PID card could accommodate a location for these stamps.

MS. WRIGHT explained the conflict of the various fisheries and species that could complicate this approach.

[9:51:09 AM](#)

REPRESENTATIVE JOHANSEN voiced his understanding that this card was created to eliminate a timeline, hence the term "permanent." Imposing a three year renewal could nullify that intent and cause confusion for seniors.

CHAIR SEATON stated that in the process of creating a simplistic senior benefit, the effort has fostered an uncontrollable situation.

[9:52:05 AM](#)

REPRESENTATIVE JOHNSON referred to the two violations, and asked if this is typical, and if so does it truly represent a problem.

MS. WRIGHT responded that there have been other violations over the years; however, the citations are very low. She noted that ABWE is not emphasizing this area for enforcement.

CHAIR SEATON interjected that ABWE officers have difficulty identifying violators who hold a PID, due to the residency issues.

HB 41-TRANSFER HABITAT DIV FROM DNR TO F&G

9:54:18 AM

CHAIR SEATON announced that the final order of business would be HOUSE BILL NO. 41, "An Act returning certain duties regarding habitat management from the Department of Natural Resources to the Department of Fish and Game; and providing for an effective date."

9:54:49 AM

REPRESENTATIVE LES GARA, Alaska State Legislature, presented HB 41 as prime sponsor, paraphrasing from the sponsor statement, which read as follows [original punctuation provided]:

In 2003, former Governor Frank Murkowski made a change to fisheries protection policy that has been controversial ever since. By Executive Order [EO], he transferred the Department of Fish and Game's Habitat Division to the Department of Natural Resources. At the time, every former Commissioner of the Department of Fish and Game (ADF&G) objected to the move. They contended, as many still do, that the move created a conflict that would prevent the Division from performing its duty to make sure Alaska's fishing waters and other wildlife resources are protected, and that development projects be designed in a manner that doesn't compromise that goal.

The goal of protecting fish and game habitat is consistent with the goals of the ADF&G. The Department of Natural Resources is charged with many functions, including that of resource development. In theory the Habitat Division could serve its function equally within either Department. However, the transfer occurred because certain businesses felt the move would make the agency more compliant with private developer interests and consequently less protective

of the fisheries and other resources it was charged with protecting.

With significant projects on the horizon, like the Pebble open pit mine, the public should be confident that the Habitat Division's functions remain independent and uncompromised. For the reasons stated by the Board of Fisheries, and the former commissioners of ADF&G, we believe this division should be moved back to the ADF&G.

10:02:02 AM

REPRESENTATIVE GARA named various testifiers who have provided written testimony, or will appear as witnesses, during the public hearing on the bill. He directed attention to the committee packet and Governor Palin's letter, of February 8, 2007, to the chairman of the Board of Fisheries. Although it states that she is not inclined to exercise EO privilege, he opined that she does show concern for the issue. He read:

While the habitat functions, perhaps, should never have been moved from ADF&G to DNR, that reorganization has already occurred.

REPRESENTATIVE GARA speculated that the governor understands the ramifications of moving OHM&P back to ADF&G. Further, he expressed concern for how future developments, with major environmental impacts, will be addressed. The issue of fishing stream protection is in the forefront.

10:03:56 AM

CHAIR SEATON asked if there are any examples of OHM&P providing inadequate habitat protection, within the permitting process, due to the office's relocation to DNR.

REPRESENTATIVE GARA responded that a definite change in the "view," which habitat assumes on issues, has been reported to him. There are reasons, he offered, why lower level employees may not choose to come forward and "criticize the decisions of their superiors," although this may be what is needed to adequately address the issue. He offered the current memorandum of understanding (MOU), between DNR and ADF&G for the permitting of the proposed Pebble Mine, as an example. The MOU effectively calls for ADF&G to assume a "junior role."

10:07:20 AM

CHAIR SEATON pointed out that a revision of the MOU is being considered, according to the governor's letter. Prior to further discussion on HB 41, he asked that the sponsor provide specific examples of how OHM&P has failed to fulfill its function, due to the current configuration.

REPRESENTATIVE GARA reiterated the difficulty in obtaining examples, however, he stressed that the sentiment does exist.

[HB 41 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 10:09 a.m.