

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

Anchorage, Alaska
October 23, 2008
9:48 a.m.

MEMBERS PRESENT

Representative Jay Ramras, Chair
Representative Nancy Dahlstrom, Vice Chair
Representative John Coghill
Representative Bob Lynn
Representative Max Gruenberg

MEMBERS ABSENT

Representative Ralph Samuels
Representative Lindsey Holmes

OTHER LEGISLATORS PRESENT

Representative Scott Kawasaki (via teleconference)
Representative David Guttenberg (via teleconference)
Representative Paul Seaton (via teleconference)

COMMITTEE CALENDAR

OVERVIEW(S): MATTERS PERTAINING TO THE HIGH GAS AND HEATING OIL PRICES IN ALASKA AND WHY GAS PRICES HAVE FALLEN IN THE LOWER 48 BUT NOT IN ALASKA

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

REPRESENTATIVE BILL THOMAS
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided comments during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

REPRESENTATIVE MIKE HAWKER

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided comments and asked questions during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

CLYDE (ED) SNIFFEN, JR., Senior Assistant Attorney General
Commercial/Fair Business Section
Civil Division (Anchorage)
Department of Law (DOL)
Anchorage, Alaska

POSITION STATEMENT: Provided comments and answered questions during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

REPRESENTATIVE CARL GATTO
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided comments and asked questions during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

BARRY PULLIAM, Senior Economist
Econ One Research, Inc.
El Segundo, California

POSITION STATEMENT: As a consultant to the Department of Law, provided comments and responded to questions during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

SENATOR GENE THERRIAULT
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided comments and asked questions during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

JEFF COOK, Director
External Affairs
Flint Hills Resources
North Pole, Alaska

POSITION STATEMENT: Provided comments and responded to questions during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

STEPHEN RIBUFFO, Deputy Port Director
Port of Anchorage

Municipality of Anchorage (MOA)
Anchorage, Alaska

POSITION STATEMENT: Provided comments and responded to questions during the presentation on matters pertaining to the high gasoline and heating oil prices in Alaska.

ACTION NARRATIVE

CHAIR JAY RAMRAS called the House Judiciary Standing Committee meeting to order at [9:48:23 AM](#). Representatives Coghill, Dahlstrom, and Ramras were present at the call to order. Representatives Lynn and Gruenberg arrived as the meeting was in progress. Representatives Kawasaki (via teleconference), Guttenberg (via teleconference), and Seaton (via teleconference) were also in attendance.

Overview(s): Matters pertaining to the high gas and heating oil prices in Alaska

[9:49:46 AM](#)

CHAIR RAMRAS [announced that the only order of business would be consideration of matters pertaining to the high gas and heating oil prices in Alaska and why gas prices have fallen in the Lower 48 but not in Alaska].

[9:51:35 AM](#)

REPRESENTATIVE BILL THOMAS, Alaska State Legislature, in response to a question, relayed that the retail price of gasoline is \$4.93/gallon in Cordova, \$4.88/gallon in Haines - though he'd heard that it has recently dropped \$.30/gallon - and either \$5.50/gallon or \$5.60/gallon in Kake. However, home heating fuel, which is what most people in his district are concerned about, has an average price of over \$5.00/gallon.

CHAIR RAMRAS noted that the retail gasoline price in Anchorage has dropped as low as \$3.44/gallon, and is now [approximately] \$3.58/gallon in Fairbanks. He then read a letter by someone who had expressed concern that a week ago, the retail price of gasoline was \$3.59/gallon in Anchorage and \$4.26/gallon in Homer even though the price had dropped to under \$3.00/gallon in the Lower 48.

[9:53:19 AM](#)

REPRESENTATIVE MIKE HAWKER, Alaska State Legislature, observed that immediately after the committee began investigating the pricing practices of Alaska's refineries, prices dropped, though they are still much higher than the national average. He opined that Alaska's refineries now recognize that they are in the spotlight.

CHAIR RAMRAS relayed that the committee would be meeting again next month to hear public testimony on this issue, that the committee would be producing a report on this issue, and that one of the committee's recommendations to the next legislature will be that the legislature continue holding meetings on this topic until prices again match those in the Lower 48. He acknowledged that the high prices of petroleum products in Alaska are unlikely to be the result of antitrust violations, and opined that Governor Palin should also hold meetings with Alaska's refiners on the issue of pricing regardless of the administration's ongoing investigation into the matter.

REPRESENTATIVE THOMAS relayed that the high price of diesel fuel is having a huge impact on his constituents because they are heavily involved in the fishing industry.

REPRESENTATIVE COGHILL noted that with two refineries in his district, a lot of his constituents are having a hard time understanding the nexus between [continued high] heating oil prices and the [recent reduction in the] price of a barrel of oil. A lot of people are relying on wood and coal [for heat], he relayed, and questioned whether this could be having an impact on the volume [of heating oil being sold] and thus on retail prices as well.

CHAIR RAMRAS offered his understanding that in his district, 300 coal-burning furnaces have been installed in various locations, including the Fairbanks Community Food Bank.

REPRESENTATIVE COGHILL surmised that changes in conservation and consumption could also be affecting retail prices.

REPRESENTATIVE LYNN suggested that they investigate how much retail prices are being influenced by market fluctuations as opposed to some other factor.

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[The committee then watched a short video from an ABC News: Nightline episode titled "Gas Price Reprieve".]

REPRESENTATIVE COGHILL, in response to a question, mentioned that he is often also asked about heating fuel prices.

CHAIR RAMRAS offered that correspondence his office has received indicates that some people are under the impression that government is somehow "aiding or abetting this adversary that's out there." Such is not the case, he remarked, adding that all Alaskans, including those in government service, are paying the prevailing higher prices. He recalled that testimony provided during the committee's previous hearing on this topic indicates that both of Alaska's refineries have unique circumstances to deal with. For example, the Flint Hills Resources' refinery in North Pole is a small refinery and must use oil - instead of natural gas, which is cheaper - to refine its raw crude oil into the products that it sells; and the Tesoro Alaska Company's [small] refinery in Nikiski must purchase all its raw crude oil from several different sources - including foreign markets - and must then export about one-third of its finished products at a loss. Furthermore, neither of these small refineries could be considered to be a model of efficiency.

[10:11:47 AM](#)

CLYDE (ED) SNIFFEN, JR., Senior Assistant Attorney General, Commercial/Fair Business Section, Civil Division (Anchorage), Department of Law (DOL), concurred, but pointed out that those challenges have been the same for about 20 years and so shouldn't account for the extraordinarily long time it's now taking for retail prices in Alaska to fall as they have in the Lower 48. By now, retail prices should have started to resemble those down south, as they have historically, and so his department has been investigating whether this lag is the result of illegal activity on the part of the refiners.

CHAIR RAMRAS noted that a year ago, prices in Alaska resembled those in other locations with similar population characteristics, but currently the retail gasoline rack rate in Seattle is \$.90 lower than it is in Alaska. Furthermore, all gasoline sold in Southeast Alaska is imported [from the Lower 48], and the retail prices are higher in Southeast Alaska than they are in the Railbelt. He offered his understanding that because of limited storage capacity at the Port of Anchorage for retail gasoline, the aforementioned two refineries in Alaska are able to, in effect, maintain a duopoly. He noted that Petro Star, Inc. (PSI), doesn't refine its own gasoline.

MR. SNIFFEN concurred on the latter point, but suggested that the point about sufficient storage might be debatable because there are several tank farms [at the Port of Anchorage] and so "terminaling" space is probably available for lease, though perhaps not enough to incentivize an entrepreneur into hauling gasoline up from the Northwest. Under import parity, one would expect refineries to price their products at a price comparable with what it would cost an entrepreneur to bring fuel up from an Outside source, add overhead costs, and then sell it. Import parity is the competitive check that drives Alaska's refiners' prices. For example, if Alaska's refiners start charging too much, it will encourage an entrepreneur to bring fuel up from the Lower 48 to sell, but once the refiners see that something like that is occurring, they would simply lower their prices, resulting in a loss of investment for the entrepreneur.

MR. SNIFFEN remarked that the legal issues are different than the economic issues, adding that Alaska doesn't have a "price gouging" law. Furthermore, Alaskans need to understand that with regard to petroleum products, it isn't a "price-plus" market: no matter what it costs to produce a gallon of gasoline, refiners don't have to price that gallon of gasoline based on their costs - they can price their refined product at whatever the market will bear, at whatever consumers are willing to pay for it. Refiners have no legal requirement to lower their prices, and thus could charge \$10/gallon if they so chose, if they thought consumers would pay that price. There aren't a lot of legal limitations on how refineries and gasoline stations can price their products, as long as no collusion, price-fixing conduct, or coordinated activity occurs.

[10:19:00 AM](#)

MR. SNIFFEN said that although there are very few refineries in Alaska and thus the market is a bit different here, there is also a refinery in Anacortes, Washington, and yet gasoline prices in that area are not the lowest in the nation. Furthermore, there are refineries in California, and gasoline prices in those areas are also not the lowest in the nation. So despite what was portrayed in the video, locations in which a refinery is located are not necessarily where the cheapest gasoline prices will be found, particularly if they are small refineries. And in Alaska, the refineries are very small and not as complex as some of the big refineries in the Lower 48. For example, the Flint Hills Resources' refinery is just a topping plant - it can only do so much with its raw product, and that must be of high quality in order that it can be turned into

jet fuel, heating oil, and gasoline - and the Tesoro Alaska Company's refinery must use "light sweet crude" in order to produce gasoline. The cost of these raw products is a lot higher than the cost of lesser quality products that need to be processed in a complex refinery such as some of those that have the ability to basically turn "sludge" into gasoline.

MR. SNIFFEN, in response to comments and questions, after mentioning that during the last administration, the DOL had proposed a price-gouging statute to the legislature, concurred that all of the price-gouging statutes that he is aware of are triggered only by a declared state of emergency - declared by either the local government or the federal government - and are meant to prevent retailers from raising the price of a power generator, for example, from \$300 to \$3,000 during an emergency situation such as would be caused a hurricane. Such statutes essentially say that during a declared state of emergency, a retailer cannot raise prices to anything greater than they were 30 days prior to the declaration. This is an attempt to prevent retailers from preying on consumer fears during unfortunate circumstances in order to make a profit. However, he said he is not aware of any statute that puts a cap on gasoline prices, or that is triggered by a particular economic situation.

REPRESENTATIVE GRUENBERG asked Mr. Sniffen to provide the committee with a copy of the legislation the DOL proposed.

CHAIR RAMRAS shared his understanding that that legislation didn't address wholesalers or manufacturers. He offered his recollection that previous testimony has indicated that there is not a lot of money to be made by being a retailer of gasoline, that selling gasoline at the retail level is simply an inducement for people to come into a station or store and purchase other products.

[10:25:45 AM](#)

MR. SNIFFEN acknowledged that most price-gouging legislation is focused on retailers because that's where such conduct generally occurs, though one piece of legislation he is familiar with did somewhat address distributors as well.

REPRESENTATIVE GRUENBERG asked whether the legislation the DOL proposed would be relevant to the issue before them.

MR. SNIFFEN said he doesn't know that it would have much impact on gasoline pricing, or that the DOL could draft a bill that

would address an economic crisis outside of a declared state of emergency.

REPRESENTATIVE GRUENBERG expressed interest in antitrust legislation.

CHAIR RAMRAS asked whether legislation could be crafted to address price gouging at the refinery level.

MR. SNIFFEN surmised that such legislation would be difficult to craft because it would need to regulate the price that refiners charge; it would essentially prohibit refiners from setting prices based on market conditions. High gasoline prices are a difficult problem to address because the demand in Alaska is relatively constant. Prices in the Lower 48, for example, have dropped due to a huge drop in demand, but Alaska doesn't have the luxury of being able to similarly reduce its demand.

[10:30:04 AM](#)

CHAIR RAMRAS then read portions of an e-mail he'd received that expressed concern about statements he'd made that were quoted in a Fairbanks Daily News-Miner article; the author of the e-mail suggested that it is the legislature's duty to take action on this issue. Chair Ramras asked Mr. Sniffen what would be the worst that could happen if the legislature were to enact a law that limited what refineries could charge.

MR. SNIFFEN surmised that the worst that could happen is that the refineries would simply close down, and even if that were not the immediate outcome, such legislation could result in refineries producing a poorer-quality product, or becoming unreliable, or not being able to fulfill contractual obligations as they attempt to cut costs.

REPRESENTATIVE LYNN asked what the difference is between price control and anti-gouging legislation.

MR. SNIFFEN said that price-gouging legislation would put a limit on how much may be charged for a product or service; price control efforts, in contrast, are generally subsidized by government programs. The only way to effectively implement some sort of pricing limitation, he opined, would be to have an entity such as the Regulatory Commission of Alaska (RCA) regulate the product. However, he pointed out, a similar tack taken in Hawaii with regard to gasoline prices didn't work out.

CHAIR RAMRAS asked Mr. Sniffen to provide the committee with more information about the steps Hawaii took and the results.

MR. SNIFFEN, in response to a comments and a question, said he suspects that regulating gasoline prices via an agency such as the RCA could result in Alaskans paying higher prices, on average, than in the past.

REPRESENTATIVE HAWKER suggested that Alaska's refiners should be put on notice that they must either voluntarily decrease their prices or face being regulated or being subject to criminal penalties.

[10:41:39 AM](#)

REPRESENTATIVE LYNN suggested that regulating gasoline prices would disrupt "the free market economy," which, he opined, most people favor. He asked Mr. Sniffen whether, at this point in time, he would recommend regulating gasoline prices via the RCA.

MR. SNIFFEN said he doesn't think he could recommend such action. Gasoline is a tricky commodity to regulate, and so instead its pricing is treated like that of other consumer products such as milk, bread, and eggs, even though gasoline isn't a product that people can simply choose not to buy. Gasoline is almost an essential service, though not quite because in many instances there are other means of transportation available, though perhaps not necessarily in Alaska. He suggested instead that it would be better if refiners made a voluntarily commitment to fair pricing. Furthermore, if Alaska had an infrastructure that encouraged competition, such as a public terminal that could be leased for gasoline storage, the threat of that alone would perhaps go a long way towards encouraging refiners to keep their prices a little more competitive. Sooner or later, competition is really the answer.

REPRESENTATIVE LYNN concurred. Competition is the answer regardless of what product/commodity is being discussed, he opined. With regard to the concept of regulating gasoline, he said, "This is a very dangerous path we're going down, here; to me, the answer ..., in a free market economy, is to increase the competition"

MR. SNIFFEN concurred.

CHAIR RAMRAS questioned whether the Tesoro Corporation is charging high prices at its refinery in Alaska in order to make up for losses at its other refineries. He again suggested that the committee be provided with information about the steps Hawaii took and the results.

[10:46:35 AM](#)

MR. SNIFFEN said he would attempt to do so. In response to comments and questions, he relayed that the statute the DOL uses to investigate potential antitrust and consumer protection violations requires that the DOL maintain the confidentiality of the information it's gathered during an investigation. Because of this, the DOL can't disclose the information recently provided by Tesoro. He remarked, however, that the DOL did have a good discussion with Tesoro, and that Tesoro was very cooperative in providing the information that Mr. Pulliam and he need in order to determine whether anything illegal is occurring. He said he doesn't think that Tesoro is attempting to ride the wave of high gasoline prices as long as possible; instead, Tesoro has simply been reacting to market conditions in a fairly responsible manner. "There [are] ... just ... a lot of interesting complexities that go into their pricing decisions," he offered.

MR. SNIFFEN, in response to a question, explained that the antitrust investigation that occurred during the Knowles Administration focused on whether there was collusion among refineries [and/or] distributors to artificially set the price of gasoline at the level it was back then; there seemed to have been a bubble between 1995 and 1998 of supra-competitive prices. That investigation found no evidence of collusion, and prices did come down after the investigation was concluded, and normalized over time. The current investigation is similar, though there are different dynamics present such as an unprecedented run up in the price of crude oil, as well as an unprecedented run down. And as the markets in the rest of the United States adjusted to those price fluctuations, Alaska's market hasn't really followed the same trends. The DOL's current investigation is focused on whether that failure to follow those trends is the result of some coordinated or collusive activity.

MR. SNIFFEN, in response to another question, said that the DOL is looking at more than just the refineries' rack rates; the DOL is looking at all sellers of fuel, not just the refiners. He said he is not convinced that there isn't some arrangement that

might be illegal, and so the DOL is still going to explore that possibility, as well why it is that the relationship in Alaska between the price of crude oil and the price of gasoline has been so different than it has been everywhere else. There are some explanations for why the price of gasoline is higher in Alaska, but those contributing factors have always been present and so don't explain why prices in Alaska haven't responded to the market in the same way prices everywhere else have. Anytime retailers and refiners are able to maintain supra-competitive prices for an extended period of time, there is generally a reason why and it's generally not a market-based reason. This is raising a big red antitrust flag, so the DOL is still investigating what that reason might be because supra-competitive prices, although currently somewhat lowered, are still in place in Alaska, and a market that's operating rationally shouldn't be able to maintain supra-competitive prices. Competitive pricing, in comparison, stays close to what it would cost a company to make or provide a particular product or service and have a reasonable rate of return.

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CHAIR RAMRAS questioned whether it is correct to say that the retail sellers of gasoline have competitive pricing, and so the supra-competitive pricing is occurring before the gasoline gets to the retailers.

MR. SNIFFEN surmised that that might be true in Southcentral Alaska, but not in Southeast Alaska because there just isn't a lot of competition in Southeast Alaska. In response to comments and questions, after noting that the DOL has the power to subpoena information and keep it confidential, he suggested that the legislature use its power to open up competition via statutory changes, explore regulatory options, and consider introducing price-gouging legislation that would apply in times of emergencies, though the issue of whether extremely high crude oil prices constitute an emergency would also need to be addressed.

REPRESENTATIVE HAWKER asked whether the DOL needs anything more from the legislature that would assist the DOL in its investigation.

MR. SNIFFEN said he couldn't think of anything at this point, but surmised that the committee's hearings on this topic have been helpful to the public.

REPRESENTATIVE HAWKER offered his belief that these hearings have resulted in price reductions.

REPRESENTATIVE THOMAS said he's heard complaints that the recent repeal of Alaska's motor fuel tax hasn't actually been passed on to consumers.

MR. SNIFFEN said that as soon as the repeal took effect, the Department of Revenue (DOR) stopped charging that tax, and retail gasoline prices in Anchorage did drop [by \$.08], though that doesn't necessarily mean that \$.08 hasn't since been added back onto retail prices. He pointed out that some areas of the state have borough and city sales taxes, and consumers in those areas are still paying those taxes.

REPRESENTATIVE THOMAS noted that he's seen some local initiatives proposing to repeal those local taxes.

MR. SNIFFEN acknowledged that those local taxes can significantly raise the price of petroleum products. In response to a question, he offered his understanding that Alaska's refineries are meeting their jet-fuel contract requirements, that jet fuel still needs to be imported into the state in order to meet demand, and that Alaska's refineries are producing more gasoline than there is demand for in the state because Alaska is the smallest user of gasoline in the nation - Alaska's demand is tiny compared with that of any other state. He added that he doesn't think that any attempts by the refineries to meet the state's demand for jet fuel are driving the state's gasoline-pricing problems. In response to a comment and a question, he offered his understanding that gasoline is a byproduct of jet fuel production, and said he doesn't know what effect doing away with the state's jet fuel contracts would have with regard to what the refineries decide to produce.

REPRESENTATIVE COGHILL suggested that the jet fuel contracts might impact gasoline availability.

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REPRESENTATIVE GRUENBERG asked if the DOL has investigated whether, at stores that also sell gasoline, the prices of their other products went up when they lowered their gasoline prices.

MR. SNIFFEN said no.

REPRESENTATIVE GRUENBERG questioned whether, if newspapers were to publish the gasoline prices at various local retail locations, it would increase competition.

MR. SNIFFEN said it might and it certainly wouldn't hurt; to the extent that lower prices can be rewarded by a higher volume of sales, it certainly helps competition. However, the way most people go about deciding where to buy gasoline is that they wait until the low-fuel light comes on and then they buy gasoline at the closest gas station regardless of the price, and still other people are driven by the desire for convenience and so they simply buy their gasoline at the most convenient location such as at a gas station located on the way to work or on the way home from work. He surmised, therefore, that having gasoline prices published in newspapers will only affect the decisions of those who make a point of investigating where the lowest prices are, though at current prices, he acknowledged, perhaps more people are choosing to do that.

REPRESENTATIVE GRUENBERG said it seems to him that at stores that also sell gasoline, it is the other products that are the loss lead items, and not gasoline; if such were not the case, then those stores would advertize their gasoline prices in the newspapers just as they do their other products.

MR. SNIFFEN offered his recollection that at the last meeting on this topic, representatives from Safeway, Inc., testified that they would much rather sell their other products than gasoline, because their profits are higher for those other products. He offered his understanding that some stores that offer a reward program for gasoline sales will advertize that fact.

REPRESENTATIVE GRUENBERG surmised that perhaps most stores don't advertize the price of their gasoline because the cost of the gasoline to them fluctuates so much.

[11:17:28 AM](#)

REPRESENTATIVE CARL GATTO, Alaska State Legislature, asked whether the refineries commit to providing a specific amount of jet fuel.

MR. SNIFFEN offered his understanding that all contracts for jet fuel are long-term contracts of one to three years, and that once a refinery enters into such a contract, the refinery is then committed to providing a certain volume of jet fuel though it may not actually refine all of it and may instead have to

import some of it. In response to another question, he offered his understanding that the price of jet fuel is keyed to another market - another price marker - and so when that market fluctuates, the price also fluctuates.

CHAIR RAMRAS referred to a proposed confidentiality agreement recently drafted by Legislative Legal and Research Services, and asked Mr. Sniffen whether he thinks it would be worthwhile for the legislature to pursue obtaining confidential information from the refiners.

MR. SNIFFEN surmised that engaging in such an agreement and pursuing such confidential information would give the legislature a much better understanding of how retailers determine their pricing, but the legislature would then be precluded from sharing anything it learns with the public - so it would probably be enlightening but not useful. Notwithstanding that point, he added that he would encourage the legislature to pursue obtaining that confidential information, because then he would be able to share his observations about that information with the legislature.

REPRESENTATIVE LYNN, in response to comments, indicated that in general, he has a problem with [entering into] confidentiality agreements because he is wary of learning something that he can't then share with his constituents.

The committee took an at-ease from 11:26 p.m. to 11:33 p.m.

[11:33:38 AM](#)

BARRY PULLIAM, Senior Economist, Econ One Research, Inc., as a consultant to the Department of Law, first briefly recounted his investigatory experience as it pertains to gasoline and its pricing, and remarked that there have been many, many such investigations at both the national level and at the state level. In response to a question regarding whether the legislature would benefit from pursuing confidential information from refiners, he echoed Mr. Sniffen's comments. On the issue of Alaska's gasoline market, he referred to page 1 of his PowerPoint presentation, and said it illustrates that Alaska is part of the West Coast supply area - Petroleum Administration for Defense District (PADD) V - and thus although comparisons can be made between Alaska and other states, with regard to supply, the more relevant comparisons will be between Alaska and the other PADD V states: Arizona, California, Hawaii, Nevada, Oregon, and Washington. The Pacific Northwest, in other words,

is the potential supply alternative for Alaska, and in fact somewhat already functions as such, particularly in Southeast Alaska.

MR. PULLIAM said that from a refining standpoint and a petroleum supply standpoint, the West Coast operates differently than the rest of the country, just as Alaska operates differently than the rest of the country and the West Coast. Alaska has to contend with geographic distances and a lack of infrastructure such as pipelines that could readily connect it with refineries in the Gulf Coast or the rest of the West Coast, and so it is not always in lockstep with those markets.

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MR. PULLIAM, referring to page 2 of his PowerPoint presentation, indicated that it illustrates that Alaska has the lowest percentage of gasoline sales of all the states, selling only two-tenths of 1 percent of the national average. Alaska is not a big demand area, and so it just doesn't have a lot of refineries; [page 3 of the PowerPoint presentation illustrates that] Alaska only has two refineries, one owned by Tesoro Alaska Company, and one owned by Flint Hills Resources. In contrast, Washington and California have 18 refineries owned by 10 companies that are readily able to move product up and down the West Coast, thus resulting in a different competitive picture. Furthermore, in terms of capacity, Alaska's refineries are small - less than half the average size of those on the rest of the West Coast - and are very simple refineries. One statistic on page 3 refers to a refinery's "complexity" - how much of a barrel of crude oil can it turn into the more valuable lighter products such as gasoline and jet fuel. Compared to refineries in the rest of the nation, Alaska's refineries are the least complex refineries still operating, and they are not designed to manufacture a lot of gasoline and so produce very little of it, though they do have some limited ability to upgrade some "bottom of the barrel" products into "middle distillates" such as jet fuel and diesel.

MR. PULLIAM said Alaska's refineries, in addition to being smaller and less efficient, have smaller footprints and so on a "per unit" basis, the fixed costs must be spread over the smaller number of barrels being refined. Referring to page 4 of his PowerPoint presentation, he indicated that it illustrates petroleum product sales in Alaska compared to the rest of the PADD V region. Only about [15.4 percent] of what Alaska sells is gasoline, whereas about [44.9 percent] of what the rest of

PADD V region sells is gasoline. However, about [60.8 percent] of what Alaska sells is jet fuel, whereas only about [13.1 percent] of what the rest of the PADD V region sells is jet fuel. Alaska's consumption is really geared towards jet fuel. He noted that because of confidentiality issues, page 4 doesn't reflect production statistics, only consumption statistics. He predicted that if he were able to list production statistics, Alaska could be seen to be producing a larger percentage of residual fuel than other [PADD V states]; these bottom-of-the-barrel products are not as valuable as either jet fuel or gasoline.

MR. PULLIAM, referring to page 5 of his PowerPoint presentation, indicated that it illustrates that for the last 10 years, the demand in Alaska compared to elsewhere on the West Coast is very seasonal, with a big spike in demand during the summer months. This seasonality somewhat affects how refiners operate and what they manufacture. So although some comparisons can be made between Alaska and other PADD V region states - and doing so is more relevant than comparing Alaska with any of the other states - Alaska is still different, particularly with regard to the types of products offered, the average consumption levels, the types of refineries it has, and the nature of the competition in that there just aren't as many "players" in Alaska.

MR. PULLIAM, referring to page 6 of his PowerPoint presentation, indicated that it illustrates the price of Alaska North Slope (ANS) crude oil compared with after-tax retail prices of gasoline in Anchorage and Seattle since 2004. Page 7 of his PowerPoint presentation, he relayed, illustrates combined local, state, and federal gasoline taxes throughout the country. Alaska, even before the repeal of its state motor fuel tax, had the lowest taxes in the country. Currently, except for local taxes, Alaska only pays a federal tax of \$.18/gallon, whereas the average taxes in the U.S. as a whole come to about [\$.484/gallon], and Washington has taxes of about \$.56/gallon. Page 8 of his PowerPoint presentation, he explained, illustrates the price of ANS crude oil compared with before-tax retail prices of gasoline in Anchorage and Seattle since 2004. Essentially, retail gasoline prices generally keep pace with the price of crude oil, but don't go in lockstep - they are "sticky" and so it takes time, even in places other than Alaska, for "oil prices to work themselves through the system." Furthermore, there are other factors that go into the pricing of gasoline, such as what is occurring in the refining market.

MR. PULLIAM noted that what has occurred recently is that from the beginning of 2008, crude oil essentially doubled in price and then fell back down to what it was in 2007. This has been the most volatile period that he can remember, he added, and indicated that page 9 of his PowerPoint presentation illustrates that as the price of ANS crude oil goes up in the latter part of 2007 and first part of 2008, gasoline prices in both Anchorage and Seattle went up as well, though the margin between oil prices and gasoline prices did shrink until the point when oil prices started to decrease, sometime in July 2008. Seattle gasoline prices fell off at a slower rate than oil but more quickly than Alaska gasoline prices. The fact that Alaska's gasoline prices fall more slowly than in other states is a pattern that's been seen historically, though not to the degree seen recently.

MR. PULLIAM, in response to a question, explained that residual oil - sometimes referred to as the bottom of the barrel - can be used for asphalt, and more sophisticated refineries can "crack" residual oil into bunker fuel oil; generally, though, residual fuel is not as valuable as even crude oil itself. In response to comments and a question regarding page 9 of his PowerPoint presentation, he explained that lags in prices work both ways. For example, in 2007, when prices were going up, the price in Seattle rose more quickly than did the price in Alaska. He acknowledged that once the price in Alaska hits a high peak, it is then slow to come off that high price. Page 9 compares the before-tax retail gasoline price in Anchorage between November 2007 and mid-October 2008 with that of Seattle, and with the price of ANS crude oil. In mid-October 2008 the price in Seattle was approximately \$1/gallon more than crude oil, and the price in Anchorage was about \$1.76/gallon more than crude oil. Noting that he'd looked at data from as far back as 2000, he characterized this three-and-a-half-month price lag between the West Coast and Anchorage as the longest on record. In response to a request, he relayed that he would also look at data as far back as the early 1990s. In response to a question, he said that page 9 reflects daily numbers turned into monthly averages.

[11:54:27 AM](#)

SENATOR GENE THERRIault, Alaska State Legislature, referring to page 8 of Mr. Pulliam's PowerPoint presentation, asked whether the lag in a reduction of Alaska's prices is due to gouging by the refineries or due to the fact that the state's supply infrastructure is less competitive and less sophisticated. He also asked whether other PADD V states that have found

themselves awash in gasoline are then encouraged to drop their prices faster.

MR. PULLIAM said that all of those factors have contributed [to the current higher prices in Alaska compared to other locations]. He indicated that in a purely competitive market, one would expect people to take advantage of the lower prices elsewhere by getting that cheaper product to Alaska and selling it at Alaska's higher price, which is currently higher than Seattle's by about \$.80/gallon. So, since it certainly doesn't cost \$.80/gallon to transport gasoline from one location to another, and since the structure of Alaska's market is less competitive - fewer refiners, fewer wholesalers - the question then becomes, why hasn't that difference in price been arbitrated away, since that's what competitive markets do. What he has found, he relayed, is that in small markets, such as Alaska's, even a three-month lag in price reduction doesn't really provide enough incentive to bring in cheaper product; the aforementioned sort of market discipline is only possible if the lag continues long term. Furthermore, outside of Southeast, Alaska doesn't really have the infrastructure for handling such additional imports of gasoline. He then offered an example in which California, for a brief period of time, experienced fewer imports and [thus higher prices].

[12:01:51 PM](#)

MR. PULLIAM, referring to page 10 of his PowerPoint presentation, indicated that it compares the before-tax retail gasoline price in Anchorage between November 2007 and mid-October 2008 with those of Seattle and Honolulu, and with the price of ANS crude oil. Hawaii is similar to Alaska in that they both have only two refineries and about the same number of wholesalers, and thus they have a similar competitive structure, though the demand in Hawaii is larger than it is in Alaska. Regardless, the price of gasoline in Alaska is still higher, by about \$.29, than it is in Hawaii, and the rate at which prices are adjusting in Hawaii is not as great as it is in Seattle. Referring to page 11 of his PowerPoint presentation, he indicated that it illustrates the rack price - the wholesale price - of gasoline in Anchorage and in Seattle, along with the price of ANS crude oil, since 2004. In Alaska, rack prices are set by the refiners and some distributors, and are typically more responsive to changes in the price of crude oil than are subsequent retail prices. The drop off in rack price and the margins between the rack prices illustrated on page 11 is similar to the drop off and margins with regard to retail prices

as illustrated on previous pages of the PowerPoint presentation. This indicates that at issue is the question of what is going on at the refinery/wholesale level, not the wholesale/retail level.

MR. PULLIAM, in response to comments and a question, explained that the recent large margin between Seattle's rack price and Anchorage's rack price, such as is illustrated on page 11, can be found with any two markets or locations that are as far apart from each other as are Anchorage and Seattle - there simply will be periods in which the rack prices move far apart as a result of the particulars of each location/market. He acknowledged that this current period and large margin have lasted far longer than any others in the past. Additionally, the recent huge increase in the price of crude oil, as well as the recent huge price decline is also unprecedented. He said that at this point, he doesn't have an explanation for why there is currently such a large margin between Anchorage and Seattle prices, other than to say that the nature of Alaska's market is different and could potentially account for the lag in a price reduction.

CHAIR RAMRAS expressed interest in learning which questions the committee should be asking the refineries.

[12:10:01 PM](#)

MR. PULLIAM, in response to a question, explained that for arriving at what a gallon of ANS crude oil would cost, he used a calculation of 42 gallons per barrel.

REPRESENTATIVE GRUENBERG suggested that a graph illustrating the price differentials as percentages, as opposed to monetary amounts, would be helpful.

MR. PULLIAM said that although he could create such a graph, he doesn't think it would be helpful because what is being investigated is the difference between prices in Alaska and prices in Seattle, for example, and so what should be considered is the difference in price as it relates to the cost of importing product to Alaska from elsewhere in the Pacific Northwest; that cost, although it can change some depending on the cost of the fuel it takes to transport product, doesn't change in the same kind of "percentage manner" as the underlying price of oil.

REPRESENTATIVE GRUENBERG argued that he would still find it helpful to see such a graph.

[12:13:32 PM](#)

MR. PULLIAM, referring to page 12 of his PowerPoint presentation, indicated that it illustrates that at least since 2004, the statewide average after-tax price of kerosene-type jet fuel in Alaska pretty much mirrors that in Washington. Jet fuel prices aren't subject to the same kind of disparity found with gasoline prices, in part because that's how that particular market works; there are a larger number of suppliers as well as importation from other sources - thus there is far more competition - and the buyers of jet fuel are very sophisticated and have the ability to leverage a nationwide buying package, and thereby bring that to bear in Alaska. He predicted that if the chart were to include a jet fuel price for Hawaii, it would also mirror the Alaska and Washington prices. Buyers of jet fuel could probably even leverage to bring product in to their area and thus avoid being reliant upon local supply if the local price got too far out of line.

SENATOR THERRIAULT surmised that Alaska is a big player in the jet fuel market, that it's refineries are well suited to the manufacture of jet fuel, and that if the jet fuel price in Alaska gets too high, buyers will simply bring jet fuel in from elsewhere.

MR. PULLIAM concurred, adding that jet fuel is already regularly imported into Alaska and this has resulted in [price] stability.

SENATOR THERRIAULT asked what would be the impact on gasoline prices in Alaska if a similar importation infrastructure were put in place.

MR. PULLIAM opined that having an adequate importation infrastructure in place would be a big factor and something worth looking at. When other states have looked into the issue of high fuel prices, they've determined that having an adequate importation infrastructure is key to being able to discipline price. The only thing that can discipline price when there are only two refiners is the potential for cheaper product to be imported into the area, and even if product isn't brought in, just having an adequate importation infrastructure in place can provide more price discipline. And, of course, there would still be challenges associated with importing product to Alaska; for example, having enough buyers, and having sufficient storage space. And with regard to having enough buyers, that issue is further complicated by the fact that in Alaska, there just aren't a lot of retailers that aren't already affiliated with,

or have a contract with, a particular supplier. Nonetheless, he reiterated, establishing an adequate importation infrastructure is something worth looking at.

MR. PULLIAM, in response to a question, said that the focus of the DOL's investigation has been on the price of gasoline, not the price of home heating oil or diesel. He offered, however, that the buying leverage of diesel is more akin to that of gasoline than to that of jet fuel.

CHAIR RAMRAS added that the committee is also primarily focused on gasoline prices. He expressed interest in learning why, if the industry was making a profit when selling gasoline at \$2.77/gallon a year ago when oil was \$81/barrel, the industry must now charge \$3.94 even though oil is again \$81/barrel. At issue, he opined, is the question of what was it that occurred which resulted in gasoline prices in Alaska not keeping pace with prices in the Lower 48 once those prices started to decrease.

[12:22:58 PM](#)

MR. PULLIAM, acknowledging that short-term prices are volatile and prone to disparity, suggested that it would be helpful for the committee to look at average prices over the long term. Page 13 of the PowerPoint presentation, for example, illustrates the spread between Anchorage and Seattle before-tax retail gasoline prices every year since 2002; the average spread for the last seven years was about \$.15/gallon, which is not too far out of line with what one would expect it to cost to bring product up to Alaska and the incremental cost of selling product in a place where there is less demand. Early on in 2008 the spread was about \$.18/gallon; however, most recently it has been about \$.36/gallon.

MR. PULLIAM indicated that page 14 of his PowerPoint presentation illustrates the spread between Anchorage and Seattle's before-tax retail gasoline prices for the months of August through October every year since 2002. From 2002 through 2007, the spread averaged only about \$.17/gallon, whereas in 2008, the spread was \$.71/gallon. Therefore, he concluded, the seasonality of demand in Alaska had nothing to do with the failure of prices in Alaska to decrease when prices in the Lower 48 decreased - there is nothing that explains a spread of \$.71/gallon. He then indicated that page 15 of his PowerPoint presentation illustrates the average monthly spread between Anchorage and Seattle's before-tax retail gasoline prices for

the period between 2002 and 2007, compared with the monthly spread for 2008. The monthly spreads in 2008 do not follow the spread pattern of the prior six years. In response to a question, he said that even if he were to add more prior-year data, the monthly spreads in 2008 still wouldn't resemble the spreads in prior year.

REPRESENTATIVE HAWKER noted that the vast difference in monthly spreads started to occur in April 2008. He asked what occurred at that point in time to account for the abrupt change in spreads.

MR. PULLIAM said he can't point to a particular event or cause other than to say that the structure of Alaska's market is simply different; there is less competition in Alaska, and so there is no incentive to lower prices again once a company has been forced to raise prices to keep up with higher costs.

REPRESENTATIVE HAWKER maintained his belief that something specific had to have happened.

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MR. PULLIAM, in response to comments, offered his belief that at least in the Anchorage and Fairbanks areas, any extra profit resulting from Alaska's lag in reduced pricing is not, for the most part, being seen at the retail level, regardless that there might be some anecdotal evidence which suggests that some retailers are enjoying a higher profit margin for short periods of time. This lack of consistent large profits over the long term for retailers is the result of there being sufficient competition at that level; again, however, in Alaska, there is less competition at the "rack/distribution" level. Referring, then, to page 16 of his PowerPoint presentation, he noted that he'd also given consideration to whether the pricing lag Alaska is experiencing is simply something that happens after oil prices have fallen, but research of past oil price decreases indicates that such is not the case. He said he doesn't have an answer regarding why Alaska's retail prices are not now keeping pace with retail prices elsewhere other than the fact that this year, the oil market has been more volatile than it's ever been, that gasoline prices tend to lag oil prices, and that they tend to lag even more in a less competitive environment such as Alaska's. It just doesn't seem to be the case that continued high retail prices in Alaska are the result of illegal activity, he concluded, adding that this same conclusion has been reached in various past investigations.

CHAIR RAMRAS asked what would be the effect of enacting anti-gouging legislation that would be triggered by an economic disaster, defined as occurring anytime oil prices rise above \$100/barrel, and that would apply to rack prices rather than retail prices.

MR. PULLIAM - speaking of his experience with the state of Hawaii when it attempted to address, via a price cap and regulatory oversight, high gasoline prices at the wholesale level - expressed disfavor with the concept of such legislation, and warned members to be extremely cautious when considering that approach because it could result in decreasing the state's gasoline supply. Hawaii geared it's wholesale-price cap to an average of wholesale prices in Los Angeles, Houston, and New York, under the theory that product could come from a variety of locations; in reality, however, Hawaii was able to obtain less expensive gasoline from Asian markets, and this enabled wholesalers in Hawaii to raise prices up to the cap and thus charge more for product than consumers were paying on the West Coast. Eventually, Hawaii allowed that legislation to lapse, and there is still ongoing debate regarding whether it actually did anything to control high gasoline prices.

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CHAIR RAMRAS suggested that the legislature could perhaps institute a price cap that would preclude a rack rate in Alaska from being more than \$.17/gallon higher than the rack rate in Seattle, or from being more than the average historical difference between Alaska and Seattle prices over the preceding seven years.

MR. PULLIAM suggested that any such price cap should be tied to the movement of the price of a barrel of oil as it either approaches or recedes from a particular price, not just tied to a fixed price.

CHAIR RAMRAS asked whether a price cap on rack rates would negatively affect the market.

MR. PULLIAM said he could research that issue further, but again warned that there are potential pitfalls associated with trying to implement such a cap.

CHAIR RAMRAS acknowledged that point, but argued that his constituents are strongly urging him to do something about the

high price of gasoline in Alaska. He then reiterated his suggestion to institute a price cap on rack rates, as well his question about what the unintended consequences of such a cap would be.

MR. PULLIAM, in response to a different question, explained that the federal gasoline tax is the same for all states - \$.18/gallon, and reiterated that Alaska no longer has a state gasoline tax. In response to another question, he said that although there are items the prices of which the State controls, to do so with petroleum products should only be undertaken with extreme caution.

The committee took a recess from 12:47 p.m. to 2:19 p.m.

2:19:05 PM

JEFF COOK, Director, External Affairs, Flint Hills Resources, noting that he'd already provided written testimony during the committee's last hearing on the topic of high gasoline prices, and that he didn't have much to add, explained that Flint Hills Resources supplies only about 15 percent of the gasoline consumed in Alaska, and that all of the gasoline his company refines is consumed in the Interior. From the aforementioned written testimony, he repeated that his company sells about one-third of the heating fuel sold in the Interior. He then relayed that Flint Hills Resources has provided the DOL with all the information it requested, though that information remains confidential, even from him.

MR. COOK went on to say:

Federal laws relative to price fixing inclusion prohibit us from discussing details of pricing, costs, and our marketing in a forum where our competitors attend or might be able to gain information from a public forum. My guess is our competitors are probably on line listening as we speak. So, to the extent possible, ... I will answer questions you have
....

CHAIR RAMRAS asked whether Flint Hills Resources would be amenable to providing legislators with confidential information if legislators sign the proposed confidentiality agreement.

MR. COOK, noting that he is not the company's legal counsel, relayed that Flint Hills Resources would be willing to look at that document to see if it is satisfactory.

CHAIR RAMRAS, noting that some members are reluctant to be provided with information that can't then be shared, said he wants to be provided with confidential information in order to better understand the issue.

REPRESENTATIVE HAWKER opined that such information would be helpful, but cautioned that confidentiality agreements impose incredible responsibilities on those who sign them.

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REPRESENTATIVE GRUENBERG suggested changes to the proposed confidentiality agreement.

REPRESENTATIVE COGHILL indicated that he is not in favor of signing a confidentiality agreement.

REPRESENTATIVE DAHLSTROM indicated that she is in favor of signing a confidentiality agreement.

CHAIR RAMRAS mentioned that at its next meeting, the committee will further address the question of whether to enter into a confidentiality agreement with the refiners.

REPRESENTATIVE COGHILL observed that were he to enter into a confidentiality agreement with refineries, constituents might begin to question his motives for any actions he takes regarding the refineries after being provided with their confidential information.

[Following was a brief discussion regarding how the committee might be proceeding should all or some members choose to enter into a confidentiality agreement.]

REPRESENTATIVE HAWKER, referring to page 15 of Mr. Pulliam's PowerPoint presentation, asked Mr. Cook what occurred in April 2008 to account for the abrupt change in historical pricing spreads.

MR. COOK said he does not know of anything.

REPRESENTATIVE HAWKER asked him to speculate.

MR. COOK declined to do so.

REPRESENTATIVE GRUENBERG asked Mr. Cook whether he would be willing speculate if he could do so in a confidential setting.

MR. COOK explained that were Flint Hills Resources to enter into a confidentiality agreement with legislators, he would not be the one providing legislators with the confidential information, and thus he couldn't speculate then, either.

[2:35:24 PM](#)

CHAIR RAMRAS asked whether Flint Hills Resources is producing less gasoline in order to be able to produce more jet fuel.

MR. COOK said no.

CHAIR RAMRAS asked whether refineries are attempting to recoup, via high gasoline prices, any losses they experienced as a result of high crude oil prices.

MR. COOK explained that that's not how refineries price their products; instead, prices are considered in terms of what the daily markets are doing. He noted that the confidential information provided by Flint Hills Resources to the DOL addresses this point in more detail.

CHAIR RAMRAS asked how environmental regulations have impacted Flint Hills Resources, and whether the cost of complying with any such regulations is being amortized into the price of its products.

MR. COOK, in response, repeated a portion of his written testimony provided during the committee's last hearing on the topic of high gasoline prices:

There were many topping plants operating in the United States when the North Pole Refinery opened for business in 1977. Now, there are just a few. Increased environmental emissions regulations caused many topping plants to shut down and increasingly stringent federal requirements on the type of fuels produced forced others to close.

The North Pole Refinery was able to keep pace with new environmental regulations but the changes in the type

of fuels required has impacted the amount of gasoline that can be produced at our North Pole plant.

Since federally mandated decreases in sulfur content for gasoline and diesel fuel came into effect in the last few years, our ability to produce those two fuels has been substantially diminished. While the refinery still produces some gasoline and off-road diesel, we now buy gasoline and diesel fuel from other sources in order to meet the full needs of our customers.

MR. COOK, in response to a question, said Flint Hills Resources is currently able to meet gasoline demands in the Interior, but only just. In response to another question, he acknowledged that the type of crude oil being acquired by a refinery does affect its ability to refine products. For example, crude oil that contains more impurities can cause problems with a refinery's equipment, and crude oil with more viscosity must be heated more in order for it to flow through to the refining equipment. There is some concern that as Alaska's remaining supply of crude oil increases in viscosity, a refinery located in the Interior would not be able to operate on any resulting intermittent supply of crude.

REPRESENTATIVE COGHILL asked whether the quality of the raw crude oil that Flint Hills Resources refined resulted in Alaska's high retail gasoline prices compared with those of other PADD V states.

MR. COOK said he is not qualified to answer that question.

REPRESENTATIVE COGHILL said he assumes that the cost of operation is higher when the raw product is more viscous.

CHAIR RAMRAS asked what it would cost for Flint Hills Resources to convert its refinery such that natural gas, instead of oil, could be used to produce its refined products.

MR. COOK explained that Flint Hills Resources has not yet conducted a complete analysis, but feels that such a conversion would be an advantageous step to take, assuming a stable supply and a competitive price. In response to a question, he said:

The future of refining in Alaska and North Pole is uncertain. On the positive side, we have a great workforce, and they have ... hit a number of safety records in our operation recently, and we're very

proud of those. ... We believe that the people of Alaska value having in-state refining, and we certainly know that some of the larger economic entities such as the Alaska railroad, the Ted Stevens International Airport, and [the] Fairbanks airport realize the value of having in-state refining. However, these uncertain economic times and recent high crude prices have hurt our refinery in particular. ... Additional federal regulations on fuels could also negatively impact our operations. There's also discussion on climate change, and other regulations that have the potential to challenge our operations. And ... declining North Slope crude production is also a concern, as is the challenge of places like Prince George, B.C., saying they want to take away the cargo business out of the Ted Stevens International Airport in Anchorage. So these are some of the challenges we face in the future - very uncertain.

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CHAIR RAMRAS asked Mr. Cook what he sees as being the major factors contributing to the fact that gasoline prices in Alaska do not come down as quickly as they do in the Lower 48 and lag behind the price of oil when it falls.

MR. COOK declined to answer that question because of confidentiality concerns, but noted that Flint Hills Resources has provided the DOL with information on that point.

CHAIR RAMRAS asked what effect a price cap, such as was discussed earlier, would have on Flint Hills Resources.

MR. COOK said it would be difficult to say without being able to analyze the specific language of such a cap. Flint Hills Resources, he added, would never compromise on the quality of the fuel it sells, and strongly believes in free enterprise and the competitive system; in the long term, consumers are best served by unfettered economic enterprise. In response to another question, he relayed that when his friends and relatives ask him about the high retail price of gasoline, he replies that the market will work [to lower prices] and they must just have patience. He noted that he, too, is paying those same retail prices.

REPRESENTATIVE HAWKER asked Mr. Cook what he thinks the State could do to increase competition.

MR. COOK, remarking that it would be very difficult for Flint Hills Refinery to increase its gasoline production, offered his belief that the State is doing a good job of providing for a competitive environment. He also mentioned that Flint Hills Resources no longer sells fuel to the military.

REPRESENTATIVE COGHILL surmised that most military bases in Alaska get their fuel from Petro Star, Inc. (PSI).

MR. COOK, in response to a question, offered his understanding that the Alaska Railroad Corporation (ARRC) obtains about 40 percent of its revenue from transporting fuel for Flint Hills Resources.

CHAIR RAMRAS observed that having a healthy railroad is critical to having a healthy infrastructure in the state. He then asked the representative from the Port of Anchorage to address the issue of [terminaling] space at the Port of Anchorage.

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STEPHEN RIBUFFO, Deputy Port Director, Port of Anchorage, Municipality of Anchorage (MOA), first explained that the Port of Anchorage considers itself to be a "landlord port," and that everything it does with respect to property leases and tariff assessments must first be approved by the Anchorage Assembly. As a landlord port, the Port of Anchorage is responsible for taking care of the property: maintaining the dock space, keeping the lights on, and keeping the roads clean. However, any operations that take place at the port are not the Port of Anchorage's to run. There are 22 people on staff at the Port of Anchorage, 15 of them are what he called "maintainers", and the rest comprise office staff and management. All the equipment and personnel - either in-house or contract - necessary to operate the port belong to the companies that do business down at the port.

MR. RIBUFFO said that the Port of Anchorage earns revenue in three different ways: from lease arrangements; from dockage - a per/foot charge per/12-hour period for the size of the vessel tied to the dock; and "wharfage" - also known as tonnage - based on the amount of commodity that crosses the dock, whether coming or going. The Port of Anchorage generates approximately \$14 million in revenue yearly, with a yearly profit of between \$3

million and \$4 million depending on a given year's expenditures; those changing expenditures include payroll, overtime in the wintertime, and the cost of gravel/sand.

MR. RIBUFFO, on the issue of petroleum products, relayed that there is enough storage capacity at the Port of Anchorage for 2.8 million barrels. This capacity is spread between all the Port of Anchorage's petroleum tenants: Flint Hills Resources, "Signature Fuels" - which services the airport - Tesoro [Alaska Company], and "Chevron" - which has two primary customers, the downtown service stations that it supports, and the "defense fuels" contract it has with Elmendorf Air Force Base for jet fuel. He noted that all the jet fuel used at Elmendorf Air Force Base comes through the Port of Anchorage. That 2.8 million barrels of storage capacity is what he termed static storage capacity, whereas about three to four times that amount actually passes through the Port of Anchorage in any given year. A little more than 50 percent of the Port of Anchorage's revenue is generated by petroleum products, and the Port of Anchorage collects about \$.125 per ton.

MR. RIBUFFO said that the Port of Anchorage receives [refined] petroleum products from all the refineries in Alaska, and the only refined fuel it receives from out of state is aviation gasoline; this aviation gasoline, which contains lead, comes from California because that's where one of the few refineries in the U.S. that can still produce leaded fuel is located.

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CHAIR RAMRAS asked where the fuel that Tesoro stores in its allocated space comes from, and where any of the fuels stored in the Port of Anchorage's 2.8 million barrels of static storage space comes from.

MR. RIBUFFO said that when a petroleum product comes across the Port of Anchorage's dock, "it has no color" in that the Port of Anchorage has no knowledge of where a customer's petroleum product originated from. Furthermore, the Port of Anchorage receives no crude oil; all petroleum products received at the Port of Anchorage are refined.

MR. RIBUFFO in response to questions, said that should an entity wish to buy gasoline in the Lower 48 and bring it to the Port of Anchorage in order to resell it up here, currently the entity would be limited with regard to available space; however, the Port of Anchorage is undergoing expansion, and so once that

expansion is completed, it will open up opportunities for the aforementioned type of enterprise.

CHAIR RAMRAS asked whether the Port of Anchorage would be able to work with the Institute of Social and Economic Research (ISER) if the ISER could be persuaded to conduct a study regarding the Port of Anchorage and its expansion as they relate to possibly providing an entity with the storage space necessary to bring gasoline up to Alaska from the Lower 48.

MR. RIBUFFO said that the Port of Anchorage would find the time to assist the ISER in any such study, and would view doing so as an exciting opportunity. In response to a question, he noted that with regard to the aforementioned expansion, the Port of Anchorage could use as much help from the State as it is willing to provide.

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CHAIR RAMRAS reiterated that the committee would be meeting again next month to hear public testimony on this issue, that the committee would be producing a report on this issue, that at its next meeting, the committee will further address the question of whether to enter into a confidentiality agreement with the refiners, and that one of the committee's recommendations to the next legislature will be that the legislature continue holding meetings on this topic until prices again match those in the Lower 48. He then offered some suggestions regarding how the next hearing on this issue would proceed.

REPRESENTATIVE HAWKER suggested that the issue of import parity be discussed further during the next meeting; for example, the committee could invite comments from those companies that barge refined fuel to Alaska.

REPRESENTATIVE LYNN said he has serious concerns about price fixing, maintaining the free market, and the problems that would arise for those who decide to sign a confidentiality agreement.

REPRESENTATIVE COGHILL - noting that no one thus far has been able to pinpoint a reason why retail gasoline prices in Anchorage started being so much higher than in Seattle as of April 2008, as illustrated via page 15 of Mr. Pulliam's PowerPoint presentation - reiterated his concerns regarding entering into confidentiality agreements, and how his

constituents might view any actions he takes afterwards should he choose to sign such an agreement.

CHAIR RAMRAS asked Mr. Sniffen when the DOL's report could be expected, what topics were going to be highlighted, and how the DOL will separate confidential information from that which will be disclosed to the public.

MR. SNIFFEN concurred that the DOL doesn't yet know what has occurred to cause the aforementioned anomalous spread between Anchorage and Seattle retail gasoline prices, but assured the committee that the DOL will know the answer at some point, though it may not be an answer that anyone wants to hear; for example, the answer could simply be that prices are higher in Alaska because refiners are able to charge more in Alaska and therefore do so, or it could simply be that the higher prices are the result of recent fluctuations in the price of crude oil. He said he anticipates that the DOL will be able to provide something - at least an interim report - to the legislature before the start of the next session. The final report, he indicated, will educate the public with regard to current law, market influences, and factors unique to Alaska. Right now, however, the only thing that the DOL can point to that might have resulted in Alaska's higher gasoline prices is the dramatic increase and dramatic decrease in the price of crude oil.

MR. SNIFFEN, with regard to creating a report for the public that doesn't contain any confidential information, acknowledged that that will be a challenge, but surmised that after the DOL has a chance to review the confidential information given to it, at least some of the DOL's conclusions could be relayed to the public without disclosing any confidential information. He added that he is already considering how best to phrase what can be disclosed. He then offered his understanding that the cost of shipping gasoline to Alaska runs between \$.08/gallon and \$.10/gallon, and so those figures are being considered by the DOL as it investigates the issue of import parity and what would really be necessary in order for someone to successfully import gasoline to Alaska.

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MR. SNIFFEN, in response to a question, explained that the administration is considering drafting some proposed revisions to the state's antitrust statutes, such as providing for stronger penalties; under existing law, certain antitrust violations only warrant a misdemeanor penalty. Alaska is not in

line with other states or the federal government with regard to antitrust enforcement and penalties.

REPRESENTATIVE GRUENBERG noted that he's asked Legislative Legal and Research Services to provide him with the antitrust laws of all states and the federal government, and with a listing of their provisions, differences, [and similarities]. He offered his understanding that Alaska's antitrust law was drafted in the '70s or early '80s, and that the current penalties provide for one year in jail and a fine of \$20,000 for an individual or \$50,000 for a corporation.

MR. SNIFFEN, in response to a question, offered his belief that under federal law, the fine is \$10 million for an individual and \$100 million for a corporation.

CHAIR RAMRAS asked how many people have been convicted of antitrust violations in Alaska over the last 10 years.

MR. SNIFFEN said not many, but noted that there have been a couple of civil actions brought by the state for the purpose of stopping some potentially illegal conduct; he then offered an example.

REPRESENTATIVE GRUENBERG indicated that he is considering proposing legislation that would alter all sections of "the Act."

CHAIR RAMRAS expressed interest in incorporating information about the administration's proposed changes into the aforementioned forthcoming committee report.

MR. SNIFFEN agreed to work with the committee on that point. In response to a question, he indicated that Deborah Behr heads up the DOL's Legislation & Regulations Section.

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REPRESENTATIVE GRUENBERG noted that the National Conference of Commissioners on Uniform State Laws (NCCUSL), of which Ms. Behr is a member, is currently working on revisions to some sections of the Uniform Commercial Code (UCC), and offered his understanding that at some point those revisions would be coming before the committee.

[Following was a brief discussion about how the committee might be proceeding at its next meetings, and what might be included in the aforementioned forthcoming committee report.]

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:33 p.m.