

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

May 7, 2007

1:34 p.m.

MEMBERS PRESENT

Representative Carl Gatto, Co-Chair
Representative Craig Johnson, Co-Chair
Representative Vic Kohring
Representative Bob Roses
Representative Paul Seaton
Representative Peggy Wilson
Representative Bryce Edgmon
Representative David Guttenberg
Representative Scott Kawasaki

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARINGS

Commissioner, Alaska Department of Fish & Game

Denby Lloyd - Juneau

- CONFIRMATION ADVANCED

Board of Fisheries

Howard Delo - Big Lake

Larry Edfelt - Juneau

Vince Webster - King Salmon

- CONFIRMATIONS ADVANCED

HOUSE JOINT RESOLUTION NO. 12

Urging the United States Congress to pass legislation to open the coastal plain of the Arctic National Wildlife Refuge to oil and gas exploration, development, and production.

- MOVED CSHJR 12(O&G) OUT OF COMMITTEE

HOUSE BILL NO. 15

"An Act relating to participation in matters before the Board of Fisheries by members of the board; and providing for an effective date."

- MOVED CSHB 15(RES) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HJR 12

SHORT TITLE: ENDORSING ANWR LEASING

SPONSOR(S): REPRESENTATIVE(S) JOHNSON

03/07/07 (H) READ THE FIRST TIME - REFERRALS
03/07/07 (H) O&G, RES
04/26/07 (H) O&G AT 3:00 PM BARNES 124
04/26/07 (H) -- MEETING CANCELED --
05/03/07 (H) O&G AT 3:00 PM BARNES 124
05/03/07 (H) Moved CSHJR 12(O&G) Out of Committee
05/03/07 (H) MINUTE(O&G)
05/04/07 (H) O&G RPT CS(O&G) 4DP 2AM
05/04/07 (H) DP: DOOGAN, RAMRAS, DAHLSTROM, KOHRING
05/04/07 (H) AM: KAWASAKI, OLSON
05/07/07 (H) RES AT 1:00 PM BARNES 124

BILL: HB 15

SHORT TITLE: BOARD OF FISHERIES CONFLICTS OF INTEREST

SPONSOR(S): REPRESENTATIVE(S) SEATON

01/16/07 (H) PREFILE RELEASED 1/5/07
01/16/07 (H) READ THE FIRST TIME - REFERRALS
01/16/07 (H) FSH, RES
03/14/07 (H) FSH AT 8:30 AM BARNES 124
03/14/07 (H) Heard & Held
03/14/07 (H) MINUTE(FSH)
03/19/07 (H) FSH AT 8:30 AM BARNES 124
03/19/07 (H) Heard & Held
03/19/07 (H) MINUTE(FSH)
03/21/07 (H) FSH AT 8:30 AM BARNES 124
03/21/07 (H) Heard & Held
03/21/07 (H) MINUTE(FSH)
03/23/07 (H) FSH AT 8:30 AM BARNES 124
03/23/07 (H) Moved CSHB 15(FSH) Out of Committee
03/23/07 (H) MINUTE(FSH)
03/27/07 (H) FSH RPT CS(FSH) 2DP 3NR 1AM
03/27/07 (H) DP: LEDOUX, SEATON
03/27/07 (H) NR: JOHNSON, HOLMES, EDGMON
03/27/07 (H) AM: WILSON

05/02/07 (H) RES AT 1:00 PM BARNES 124
05/02/07 (H) Scheduled But Not Heard
05/07/07 (H) RES AT 1:00 PM BARNES 124

WITNESS REGISTER

DENBY LLOYD, Commissioner-Designate
Alaska Department of Fish & Game (ADF&G)
Juneau, Alaska

POSITION STATEMENT: Spoke as the commissioner-designate of ADF&G.

MONTE ROBERTS
Soldotna, Alaska

POSITION STATEMENT: Testified in support of Mr. Lloyd's appointment to the position of commissioner of ADF&G.

MIKE FENTON, President
Kenai River Professional Guide Association
Soldotna, Alaska

POSITION STATEMENT: Testified in support of Mr. Lloyd's appointment to the position of commissioner of ADF&G.

RON RAINEY
Kenai, Alaska

POSITION STATEMENT: Testified in support of Mr. Lloyd's appointment to the position of commissioner of ADF&G.

BILL GIFFORD
Soldotna, Alaska

POSITION STATEMENT: Echoed Mr. Rainey's testimony.

REUBEN HANKE, Owner/Operator
Harry Gnes Kenai River Fishing
Kenai, Alaska

POSITION STATEMENT: Testified in support of Mr. Lloyd's appointment to the position of commissioner of ADF&G.

GREG BRUSH
Soldotna, Alaska

POSITION STATEMENT: Testified in support of Mr. Lloyd's appointment to the position of commissioner of ADF&G.

RICKY GEASE, Executive Director
Kenai River Sport Fishing Association, Inc.
Soldotna, Alaska

POSITION STATEMENT: Testified in support of Mr. Lloyd's appointment to the position of commissioner of ADF&G.

ANDY SZCZESNY
Soldotna, Alaska

POSITION STATEMENT: Testified in support of Mr. Lloyd's appointment to the position of commissioner of ADF&G.

DREW SPARLIN
Kenai, Alaska

POSITION STATEMENT: Related his hope that Mr. Lloyd can manage the fisheries with the best biology available, with politics being secondary to that.

RICK BUCY
Anchorage, Alaska

POSITION STATEMENT: Testified that Mr. Lloyd will bring a fair and balanced outlook to all the various issues.

JOHN JENSEN
Petersburg, Alaska

POSITION STATEMENT: Testified in support of Mr. Lloyd's appointment to the position of commissioner of ADF&G.

LARRY EDFELT, Appointee
Board of Fisheries
Juneau, Alaska

POSITION STATEMENT: Related his experience applicable to the Board of Fisheries.

CLAUDE VINCENT WEBSTER, Appointee
Board of Fisheries
King Salmon

POSITION STATEMENT: Spoke as an appointee to the Board of Fisheries.

HOWARD DELO, Appointee
Board of Fisheries
Big Lake, Alaska

POSITION STATEMENT: Related his experience applicable to the Board of Fisheries.

MONTE ROBERTS
Soldotna, Alaska

POSITION STATEMENT: Testified in support of all three appointees to the Board of Fisheries.

MIKE FENTON, President
Kenai River Professional Guide Association
Soldotna, Alaska

POSITION STATEMENT: Testified in support of all three appointees to the Board of Fisheries.

RON RAINEY
Kenai, Alaska

POSITION STATEMENT: Testified in support of the three appointees to the Board of Fisheries.

BILL GIFFORD
Soldotna, Alaska

POSITION STATEMENT: Echoed Mr. Rainey's testimony.

REUBEN HANKE, Owner/Operator
Harry Gnes Kenai River Fishing
Kenai, Alaska

POSITION STATEMENT: Testified in support of all three appointees to the Board of Fisheries.

GREG BRUSH
Soldotna, Alaska

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Soldotna, Alaska

POSITION STATEMENT: Testified in support of the three appointees to the Board of Fisheries.

ANDY SZCZESNY
Soldotna, Alaska

POSITION STATEMENT: Testified in support of the three appointees to the Board of Fisheries.

DREW SPARLIN
Kenai, Alaska

POSITION STATEMENT: Testified in opposition to Mr. Delo's appointment to the Board of Fisheries, but in support of Mr. Webster's appointment.

JOHN JENSEN
Petersburg, Alaska

POSITION STATEMENT: Testified in support of the three appointees to the Board of Fisheries.

RICK BUCY

Anchorage, Alaska

POSITION STATEMENT: Testified in support of the three appointees to the Board of Fisheries.

KEVIN HOGAN

Homer, Alaska

POSITION STATEMENT: Testified in support of Mr. Webster's appointment to the Board of Fisheries, but expressed concerns with the appointments of Mr. Edfelt and Mr. Delo.

STEVEN DAUGHERTY, Assistant Attorney General

Natural Resources Section

Civil Division (Anchorage)

Department of Law

Anchorage, Alaska

POSITION STATEMENT: During hearing of HB 15, testified that Amendment 1 would seem to address all the legal issues [the department] had.

ROD ARNO, Executive Director

Alaska Outdoor Council (AOC)

Wasilla, Alaska

POSITION STATEMENT: Testified in opposition to HB 15.

JIM MARCOTTE, Executive Director

Board of Fisheries

Boards Support Section

Alaska Department of Fish & Game (ADF&G)

Juneau, Alaska

POSITION STATEMENT: Testified that the Board of Fisheries and ADF&G don't have an official position on HB 15.

ACTION NARRATIVE

CO-CHAIR CARL GATTO called the House Resources Standing Committee meeting to order at [1:34:35 PM](#). Representatives Gatto, Johnson, Edgmon, Kawasaki, Wilson, Seaton, and Roses were present at the call to order. Representatives Kohring and Guttenberg arrived as the meeting was in progress.

CONFIRMATION HEARINGS:

Commissioner, Alaska Department of Fish & Game - Denby Lloyd

[1:34:46 PM](#)

CO-CHAIR GATTO announced that the first order of business would be the confirmation hearing for Denby Lloyd as commissioner of the Alaska Department of Fish & Game.

[1:34:54 PM](#)

DENBY LLOYD, Commissioner-Designate, Alaska Department of Fish & Game (ADF&G), informed the committee that he has a lot of natural resource management experience within the state. Additionally, his post-high school education was at the University of Alaska Fairbanks. He noted that he has experience outside of ADF&G and within ADF&G, most recently as the director of the Division of Commercial Fisheries. Over the past few months as commissioner-designate, Mr. Lloyd said that he has become more familiar with the sport fishery and wildlife conservation issues. Although the sport fishery and wildlife conservation share much with commercial fisheries, the details are distinct and challenging on their own merits.

[1:36:06 PM](#)

CO-CHAIR GATTO mentioned that there is some opposition to Mr. Lloyd's appointment. There is concern that because of Mr. Lloyd's background in commercial fisheries, he may rule in its favor over sport fisheries. However, Co-Chair Gatto said that in discussions with Mr. Lloyd, he related that he wouldn't arbitrarily do so because the clear job is to [manage] both sport and commercial fisheries while representing the governor. Co-Chair Gatto opined that it was clear to him that Mr. Lloyd wouldn't be biased.

[1:37:09 PM](#)

MONTE ROBERTS related his support for Mr. Lloyd's appointment to the position of commissioner of ADF&G. In response to Co-Chair Gatto, Mr. Roberts specified that he is a sport fisherman.

[1:37:43 PM](#)

MIKE FENTON, President, Kenai River Professional Guide Association, related support for Mr. Lloyd's appointment to the position of commissioner of ADF&G.

[1:38:33 PM](#)

RON RAINEY said that he had the same concerns that Co-Chair Gatto did. However, after several conversations with Mr. Lloyd and after watching his performance as the commissioner-designate, Mr. Rainey opined that Mr. Lloyd was very fair with the sport fishery issues brought before him and will do an outstanding job. He characterized Mr. Lloyd as the "right man for the job."

[1:39:06 PM](#)

BILL GIFFORD, speaking as a sport fisherman, echoed Mr. Rainey's testimony.

[1:39:24 PM](#)

REUBEN HANKE, Owner/Operator, Harry Gnes Kenai River Fishing, voiced his support for the appointment of Mr. Lloyd as commissioner of ADF&G. Mr. Hanke related that he has known Mr. Lloyd personally for two to three years. He said that Mr. Lloyd seems to be a fair individual who listens, considers the facts, and makes sound decisions.

[1:40:06 PM](#)

GREG BRUSH informed the committee that he is a sport fisherman, father, and Kenai River guide. Mr. Brush stated his support for Mr. Lloyd's appointment to the position of commissioner of ADF&G. He said he would echo the comments of Mr. Rainey and Mr. Hanke.

[1:40:33 PM](#)

RICKY GEASE, Executive Director, Kenai River Sport Fishing Association, Inc., related that the Kenai River Sport Fishing Association, Inc., fully supports Mr. Lloyd's appointment to the position of commissioner of ADF&G. He opined that Mr. Lloyd is balanced, fair, objective, and has good management skills to bring to the department. Furthermore, there is more to the department than commercial fishing and sport fishing. Mr. Lloyd, he further opined, has put together a good management team to ensure that ADF&G is on track.

[1:41:12 PM](#)

ANDY SZCZESNY informed the committee that he and his wife have run a fly fishing business for 22 years on the Upper Kenai

River. He noted that he knows Mr. Lloyd personally and supports his confirmation.

[1:42:15 PM](#)

DREW SPARLIN told the committee that he has been a commercial fisherman in the Cook Inlet for 43 years. Mr. Sparlin noted that he has known Mr. Lloyd for 20 years and has great hope that Mr. Lloyd can manage these fisheries with the best biology available and place politics secondary to that. He said that it's important for the economy of [Kenai] that [fisheries management] is balanced. Although the aforementioned will be a tough task, he opined that Mr. Lloyd can accomplish it.

[1:43:15 PM](#)

CO-CHAIR GATTO asked if Mr. Sparlin believes Mr. Lloyd understands both economics and politics.

MR. SPARLIN related his belief that Mr. Lloyd understands both. Mr. Sparlin said that although he has great faith in Mr. Lloyd, there has to be some changes over the past.

[1:44:07 PM](#)

RICK BUCY echoed the comments of the other witnesses. He said he has had several conversations with Mr. Lloyd and feels comfortable with his appointment as commissioner of ADF&G. He opined that Mr. Lloyd will bring a fair and balanced outlook to all the various issues. In regard to the three appointees to the Board of Fisheries, Mr. Bucy said that he supports them as well. He related his belief that the governor did an excellent job choosing the Board of Fisheries appointees in a manner that brings balance to the board.

[1:44:57 PM](#)

JOHN JENSEN testified in support of Mr. Lloyd's appointment to the position of commissioner of ADF&G. He informed the committee that he is a commercial, sport, and subsistence fisherman as well as a big game hunter.

[1:45:59 PM](#)

REPRESENTATIVE SEATON highlighted that in the past, one area of concern has been analysis and reviewing harvest for the highest recovery of the resource for Alaskans. For the first time, the

department has provided a readable, reasonable analysis of success in achieving salmon escapement goals in a monitored system. The department was also able to identify a number of issues that it will review in terms of maximizing the benefit to Alaskans in those monitored systems. Representative Seaton noted that there was an extensive hearing with Mr. Lloyd, with whom he said he is personally pleased with the information that has come forth. Therefore, Representative Seaton said that he, too, supports the appointment of Mr. Lloyd to the position of commissioner of ADF&G.

[1:47:31 PM](#)

CO-CHAIR GATTO emphasized the importance of the position of commissioner of ADF&G. He then related that his conversations with Mr. Lloyd have lead him to believe that he is sincere and recognizes that he has to represent "the people you don't like and the people you do like."

[1:48:06 PM](#)

REPRESENTATIVE SEATON moved that the appointment of Mr. Denby Lloyd to the position of commissioner of ADF&G be forwarded to a joint session for consideration. Representative Seaton reminded members that signing the report regarding appointments to boards and commissions in no way reflects individual members' approval or disapproval of the appointees, and that the nominations are merely forwarded to the full legislature for confirmation or rejection.

There being no objection, Mr. Lloyd's name was forwarded.

Board of Fisheries

[1:49:11 PM](#)

CO-CHAIR GATTO announced that the next order of business would be the confirmations of three appointees to the Board of Fisheries: Larry Edfelt, Claude Vincent Webster, and Howard Delo.

[1:49:39 PM](#)

LARRY EDFELT, Appointee, Board of Fisheries, informed the committee that he is a retired ADF&G employee, where he worked from 1963-1986. Upon retirement he started a charter fishing business in the Juneau area. He further informed the committee

that he is a past member, 1992-1997, of the Board of Fisheries. He explained that he is being appointed for one year to fill the position of Rupe Andrews who recently passed away. Mr. Edfelt related that his experience with ADF&G was primarily with the Division of Commercial Fisheries, but he also worked for two years each with the Division of Sport Fish, the Division of Habitat, and the Division of Boards.

[1:51:02 PM](#)

CLAUDE VINCENT WEBSTER, Appointee, Board of Fisheries, pointed out that his appointment is for a three-year term. He noted that the committee should have his resume, to which he doesn't have much to add.

[1:51:47 PM](#)

HOWARD DELO, Appointee, Board of Fisheries, informed the committee that he didn't apply for the position, but was called by the governor's office and asked if he would accept an appointment to the Board of Fisheries. He then informed the committee that he is a retired ADF&G employee, who served from 1979-1999. Mr. Delo noted that he has a Masters degree in wildlife management from the University of Maine as well as undergraduate degrees from the University of Alaska Fairbanks in wildlife management/fisheries biology. He likened himself to Mr. Lloyd in that he, too, is a sport fish guy with whom those in the commercial fisheries have concern.

CO-CHAIR GATTO remarked that it must be quite an honor to have the governor call and request service on a board for which he didn't apply.

MR. DELO noted his agreement.

[1:53:58 PM](#)

MONTE ROBERTS related his support for all three appointees to the Board of Fisheries. He opined that the governor did a good job picking these three appointees.

[1:54:15 PM](#)

MIKE FENTON, President, Kenai River Professional Guide Association, also related his support for all three appointees to the Board of Fisheries. He then remarked that the past experience of these three employees will serve the state well.

[1:54:38 PM](#)

RON RAINEY stated his support for all three of the appointees to the Board of Fisheries.

[1:55:37 PM](#)

BILL GIFFORD, speaking as a sport fisherman, echoed support for all three of the appointees to the Board of Fisheries. He noted that Mr. Delo has experience in angler access, which is extremely important to private fishermen like himself. The aforementioned, he opined, will be an added benefit to the board that hasn't been in the past.

[1:56:03 PM](#)

REUBEN HANKE, Owner/Operator, Harry Gnes Kenai River Fishing, voiced support for all three appointees to the Board of Fisheries. He opined that it's rare to have three people nominated for the Board of Fisheries who have the background and experience that these three have. In fact, Mr. Delo and Mr. Webster were serving as chairman of advisory committees. Furthermore, Mr. Edfelt has been involved in the board process for quite some time. Therefore, these three bring a wealth of knowledge and will do a great job.

[1:57:01 PM](#)

GREG BRUSH, speaking as a sport fisherman, father, and guide, related his support for all three appointees to the Board of Fisheries. He said that although he doesn't know the appointees personally, after listening to them several times he is aware of their extensive backgrounds and is impressed with the fact that they would be fair and objective in the decision-making process.

[1:57:53 PM](#)

RICKY GEASE, Executive Director, Kenai River Sport Fishing Association, Inc., pointed out that the committee should have a written letter of support for all three appointees to the Board of Fisheries. He informed the committee that he has personally interviewed these appointees on a broad range of issues, including statewide issues. Mr. Gease opined that all three bring the proper perspective to the Board of Fisheries. That is they place the resource and doing what's appropriate in relation to conservation and then go from there with regard to

allocations of surplus harvest. All of the appointees have experience with the Board of Fisheries process, and furthermore they have the necessary experience to continue having the Board of Fisheries on step with its management decisions.

1:59:05 PM

ANDY SZCZESNY, recalling his time as a former Board of Fisheries member, related his support for all three appointees to the Board of Fisheries. He opined that all Alaskans will benefit from these appointees.

1:59:24 PM

DREW SPARLIN began by noting that he is a commercial fisherman who serves on the Board of the Cook Inlet Aquaculture Association and is an officer in [the Upper Cook Inlet Drift Association] (UCIDA). Mr. Sparlin related his objection to Mr. Delos' appointment, which is based on some of Mr. Delo's comments concerning the need for a long fishing corridor in the central part of the Cook Inlet. His comments clearly indicated that Mr. Delo has very little understanding about the harvest of fish in Cook Inlet. Therefore, Mr. Sparlin expressed hope that Mr. Delo would open his mind to [the notion] that some of his ideas might not be the best. Mr. Sparlin recalled that Mr. Edfelt served on the Board of Fisheries after being appointed by former governor Tony Knowles. He further recalled that board was very hard on the commercial fishing industry. With regard to Mr. Webster, Mr. Sparlin said that he doesn't know him, although he received a good report on him from those in Bristol Bay who thought he would be a fine appointee, and thus Mr. Sparlin supported his appointment. Mr. Sparlin expressed further hope that those current members of the Board of Fisheries could take a fair look at the information and try to rectify the problems in the Kenai, including that it has the smallest fry, smallest smolt, and lowest population of zooplankton and copepods in the history of sockeye biology in the world. "We cannot continue to put that type of fish and those numbers of fish into that system and expect them to keep reproducing; this has to be looked at," he emphasized.

2:01:50 PM

JOHN JENSEN stated his support for all three appointees to the Board of Fisheries. He opined that he has liked what the appointees have said and what he has heard about them, and therefore he said he believes they will do a good job.

2:02:16 PM

RICK BUCY, as a sports fisherman, highlighted the importance of having a board that balances the needs of all users of the resource. He said he was pleased that the governor chose to appoint an individual from each of the following areas: Bristol Bay, Southeast, and Cook Inlet. He concluded by stating his support for all three appointees to the Board of Fisheries.

2:03:00 PM

KEVIN HOGAN informed the committee that he is a commercial fisherman in the Upper Cook Inlet and is a fish buyer in Homer. Mr. Hogan voiced his support for Mr. Webster, and noted that he has concerns about the other two appointees. Mr. Hogan said that although he respects Mr. Edfelt's intellect and past service on the Board of Fisheries, he was a member of the board when fisheries resources were being allocated to leisure over livelihood. Mr. Hogan opined that those who depend on fishing as a livelihood should have a little higher level of representation on the Board of Fisheries. He expressed concern with the current balance of the board and what is going on in Cook Inlet, where he indicated [commercial fishermen] are fighting for their way of life. Therefore, he said he is moderately neutral on the appointment of Mr. Edfelt, and he expressed the need to propose another appointee rather than Mr. Delo.

2:04:54 PM

CO-CHAIR GATTO, upon determining no one else wished to testify, closed public testimony.

2:05:11 PM

REPRESENTATIVE GUTTENBERG noted that he is an Interior fisher not a coastal fisher. Personal use, no matter where, is important to those in the Interior. He recalled that there used to be a healthy commercial salmon fishery on the Yukon [River], which is now gone. Representative Guttenberg expressed concern that the entire perspective focuses on coastal management, although escapement and reaching the spawning sites is a secondary issue. He recalled an earlier comment about livelihood over leisure, and mentioned that under state management the big issue for him is personal use. Representative Guttenberg wished these appointees the best and

expressed hope that when matters with the Interior arise, they are reviewed honestly.

2:07:10 PM

CO-CHAIR GATTO noted his agreement with Representative Guttenberg regarding the Yukon [River] as he, too, is worried about the Yukon fishery.

2:07:55 PM

REPRESENTATIVE SEATON began by specifying that he isn't in opposition to sport fishing representatives, but it's problematic if members of the board have an agenda for a user group, no matter the agenda. He noted that the committee has a February 14, 2007, letter from the Matanuska Valley Fish & Game Advisory Committee, which is signed by Mr. Delo, to the governor's office. He paraphrased from the following excerpt from the February 14, 2007, letter:

Because lack of returning Fish Creek sockeye, there has been no Mat-Su Valley personal fishery in over 10 years. ... Also a weak stock policy of the Yentna is subject to a strong stock sockeye salmon escapement policy for the Kenai River. This should not be permitted

It is apparent that a significant problem exists with the Division of Commercial Fisheries managing the Central District commercial fisheries based on a preseason forecast that has very little accuracy until sufficient in-season data becomes available around the 25th of July. ...

REPRESENTATIVE SEATON expressed concern with the aforementioned statement because discussions with the biologists illuminate that the statement is incorrect. He related that the biologists do an entry curve, an assessment of the bottom of Cook Inlet, and restrictions in the central part of the district if the salmon aren't present. Therefore, much of [the information in the letter] is inaccurate and depicts a disregard for the biological data used to manage the Cook Inlet fishery. He pointed out that the letter then also says, the following:

Historically, the Central District drift fleet has been fished according to the inaccurate preseason forecast; and they fish in the center of Cook Inlet

where Northern District stocks move through. To protect depressed northern bound salmon stocks, a conservation corridor may need to be established through the center of Cook Inlet in the Central District during the period from July 9-25.

REPRESENTATIVE SEATON pointed out that the historic high catch for the Central District and Cook Inlet is July 17-24. Therefore, this letter basically suggests restricting a commercial fishery out of where it catches its fish. Representative Seaton expressed concern that this letter might indicate a preconceived agenda.

[2:11:40 PM](#)

MR. DELO, to put this in context, explained that the Board of Fisheries issued a white paper expressing its concerns regarding the various management plans for Cook Inlet and some of the problems the board anticipated. After circulating this white paper, the board sought comments from the public. The Matanuska Valley Fish & Game Advisory Committee, the Homer Fish & Game Advisory Committee, and the Central Peninsula Fish & Game Advisory Committee submitted comments. The two Kenai Peninsula advisory committees submitted comments expressing concerns about the over escapement occurring in both the Kenai and Kasilof Rivers. They suggested possible scenarios to address the over escapement. The Matanuska Valley Fish & Game Advisory Committee reviewed the fact that the Northern District was experiencing severe under escapement. The conservation corridor was submitted merely as a talking point for a possible scenario to address under escapement. Mr. Delo clarified that it was merely a conversation starter, it wasn't part of an agenda. He explained that part of the Matanuska Valley Fish & Game Advisory Committee's concerns have arisen because the weak stock/strong stock management policy doesn't seem to be in concert with the sustainable management salmon policy that's part of the regulation to be followed during the course of developing these management scenarios. With regard to the preseason forecast, in this white paper the Alaska Department of Fish & Game (ADF&G) admitted concern about the accuracy of its preseason forecast. The department acknowledged that the preseason forecast isn't as accurate a tool as it would like to have for a management tool. Still, much of the management strategy is based on the preseason forecast, which is why the February 14, 2007, letter addressed that matter. Mr. Delo then pointed out that this letter was written as a cover to a formal response to the white paper issued by the Board of Fisheries that was drafted by the Alaska

Outdoor Council (AOC). The [regional advisory committee] reviewed the AOC response and felt it was representative of the concerns held by the Northern District and there was a unanimous vote to support the response to the white paper.

[2:15:11 PM](#)

REPRESENTATIVE SEATON asked Mr. Delo if he is committed to working with the management biologists and looking at the management data, including the entry curve of fish to Cook Inlet instead of preseason forecast.

MR. DELO specified that his number one interest is looking out for the welfare of the resource itself and returning all the stocks to a healthy condition. The aforementioned, he opined, can only be achieved by using the best biological data available as developed and used by ADF&G biologists, along with input from the various user groups. Mr. Delo further opined that there must be a balanced, "Big Picture" approach. The overall welfare of the resource must be reviewed and then the resource should be managed based on the best possible and available techniques.

[2:16:42 PM](#)

REPRESENTATIVE SEATON posed a scenario in which the data on the large escapement goals of the Kenai River find small amounts of feed and small fry with a likely low survival rate. He asked if in such a scenario, Mr. Delo would review adjusting the escapement goals in order to maintain the healthiest biological condition in the streams and lake.

[2:17:28 PM](#)

MR. DELO said that he would prefer to look at the concrete biological data of things that have occurred, not those that "probably will" occur. He furthered that he would prefer to see hard data prior to committing to any management scheme. If there is a size relationship that does result in a reduced return, then there should be data that the level of fish in the system was more than what the system could accommodate. He said he isn't aware that such has occurred at this point.

REPRESENTATIVE SEATON clarified that he wasn't seeking a commitment on a particular management scheme. However, he said he is interested in whether Mr. Delo would be looking at that particular type of data and whether he would be willing to address the problem.

MR. DELO said that if there is concern from the biologists about the size of the fish and the amount of zooplankton and copepods available, then it would definitely warrant being watched. Furthermore, he said he would be amenable to adjusting the management scheme according to the results the biologists developed as a result of having the follow-up data.

[2:19:19 PM](#)

REPRESENTATIVE GUTTENBERG noted that the committee has been provided with a copy of an editorial written by Mr. Delo, for which Representative Guttenberg thanked him. He characterized the editorial as "right on."

[2:19:48 PM](#)

REPRESENTATIVE WILSON moved that the committee forward the names of Larry Edfelt, Vince Webster, and Howard Delo, appointees to the Board of Fisheries, to the full body for consideration in joint session. Representative Wilson reminded members that signing the reports regarding appointments to boards and commissions in no way reflects individual members' approval or disapproval of the appointees, and that the nominations are merely forwarded to the full legislature for confirmation or rejection. There being no objection, the aforementioned names were forwarded.

HJR 12-ENDORSING ANWR LEASING

[2:20:45 PM](#)

CO-CHAIR GATTO announced that the next order of business would be HOUSE JOINT RESOLUTION NO. 12, Urging the United States Congress to pass legislation to open the coastal plain of the Arctic National Wildlife Refuge to oil and gas exploration, development, and production. [Before the committee is CSHJR 12(O&G).]

[2:21:25 PM](#)

CO-CHAIR JOHNSON, speaking as the sponsor of HJR 12, explained that this resolution encouraging the opening of the coastal plain of the Arctic National Wildlife Refuge (ANWR) to drilling. However, HJR 12 takes a bit of a different approach as it takes into consideration some of the environmental concerns that are real. For example, the resolution encourages directional

drilling and a minimal footprint. The resolution also encourages that [any activity] pay attention to the environment, particularly the Porcupine Caribou herd. Co-Chair Johnson encouraged the committee to forward this resolution.

[2:23:00 PM](#)

CO-CHAIR GATTO asked if there was any public testimony. [No one stated interest in testifying.]

[2:23:06 PM](#)

REPRESENTATIVE SEATON moved to report CSHJR 12(O&G) out of committee with individual recommendations and the accompanying zero fiscal notes.

[2:23:22 PM](#)

REPRESENTATIVE KOHRING objected for discussion purposes. He then related his strong support for HJR 12, even in light of current events. He commended the sponsor for "keeping the flame alive" and then withdrew his objection.

[2:23:47 PM](#)

REPRESENTATIVE GUTTENBERG referred to page 3, lines 4-5, which read:

WHEREAS the oil industry has shown at Prudhoe Bay, as well as at other locations along the Arctic coastal plain, that it is capable of conducting oil and gas activity without adversely affecting the environment or wildlife populations;

REPRESENTATIVE GUTTENBERG related his belief that the oil industry is capable of doing the aforementioned and he wished the industry would do so.

[2:24:11 PM](#)

CO-CHAIR JOHNSON commented that if Alaskans forget about ANWR, it won't be long before it's totally forgotten. Therefore, he related the need to continue to "squeak."

[2:25:17 PM](#)

There being no further objection, CSHJR 12(O&G) was reported from the House Resources Standing Committee.

HB 15-BOARD OF FISHERIES CONFLICTS OF INTEREST

2:25:30 PM

CO-CHAIR GATTO announced that the final order of business would be HOUSE BILL NO. 15, "An Act relating to participation in matters before the Board of Fisheries by members of the board; and providing for an effective date." [Before the committee was CSHB 15(FSH).]

2:26:27 PM

REPRESENTATIVE SEATON, speaking as the sponsor of HB 15, explained that HB 15 better allows members of the Board of Fisheries to perform their duty and represent Alaskans. Under this legislation, members of the Board of Fisheries who participate in the sport or commercial fishery or have immediate family members who do so are allowed to participate but not vote on related matters before the board. He noted that [under HB 15] the definition of "immediate family member" is defined as those [family members] living in the household of the Board of Fisheries member. This has been problematic, particularly in rural Alaska where there is such a wide interconnected family relationship. The previous definition of "family" included aunts, uncles, and step children whether they resided in the household or not. Therefore, in areas where fishing is the predominant activity in the region, the member from that region was likely to be conflicted out and couldn't participate and vote. This legislation doesn't allow those members of the Board of Fisheries to vote on matters that in which they or family members living in their household have a financial interest.

2:29:03 PM

REPRESENTATIVE SEATON noted that the committee packet should include an amendment that addresses the fiscal note from the Department of Law (DOL). The DOL said that the location of the definition of "immediate family" would only apply to Board of Fisheries members who participated in the fishery, but not board members who had a relative that was financially connected to the industry. Therefore, the amendment specifies a new applicability section so that the definition of "immediate family" would apply to all members of the Board of Fisheries. Furthermore, it's very clear as it sets out this definition in

Title 39. Representative Seaton clarified that the amendment doesn't change the intent of HB 15, but rather specifies that it applies to all members of the Board of Fisheries not just those with a participatory interest.

[2:30:35 PM](#)

CO-CHAIR GATTO moved that the committee adopt Amendment 1, labeled 25-LS0114\M.1, Kane, 4/27/07, which read:

Page 1, line 2, following "board":

Insert **"and to the definition of 'immediate family member' under the Alaska Executive Branch Ethics Act as that Act applies to members of the Board of Fisheries;"**

Page 2, lines 4 - 5:

Delete "In this subsection, "immediate family" has the meaning given in AS 24.60.990."

Page 2, following line 5:

Insert a new bill section to read:

"* Sec. 3. AS 39.52 is amended by adding a new section to read:

Sec. 39.52.915. Applicability to the Board of Fisheries. Notwithstanding any other provision of this chapter, with respect to the application of this chapter to a member of the Board of Fisheries, "immediate family member" means

(1) the spouse or domestic partner of the member; or

(2) a parent, child, including a stepchild and an adoptive child, or sibling of the member if the parent, child, or sibling resides with the member, is financially dependent on the member, or shares a substantial financial interest with the member."

Re-number the following bill sections accordingly.

Page 2, line 14:

Delete "sec. 6"

Insert "sec. 7"

Page 2, line 16:

Delete "Section 3"

Insert "Section 4"

[2:30:45 PM](#)

REPRESENTATIVE GUTTENBERG objected, but subsequently withdrew his objection.

[2:31:06 PM](#)

CO-CHAIR JOHNSON objected in order to see what is being deleted by Amendment 1.

REPRESENTATIVE SEATON clarified that Amendment 1 deletes the reference to the definition of "immediate family" in AS 24.60.990, which is a different chapter. This amendment then inserts the actual definition [of "immediate family"] in AS 39.52, the Board of Fisheries statutes.

[2:32:44 PM](#)

CO-CHAIR JOHNSON withdrew his objection.

[2:32:47 PM](#)

REPRESENTATIVE GUTTENBERG turned attention to page 2, line 4, of HB 15 and inquired as to whether the term "may" is the same as "shall" in this case.

REPRESENTATIVE SEATON explained that "shall" and "may not" are both a permissive determiner.

[2:33:25 PM](#)

REPRESENTATIVE GUTTENBERG, referring to page 2, line 6, then inquired as to what is AS 39.52.120(f), which is being repealed.

REPRESENTATIVE SEATON explained, "We've got a repealer here and that reinstates the current language so that it sunsets it." Therefore, this is basically sunset language. In further explanation, Representative Seaton explained that AS 39.52.120(f) is the new definition section where the definition is applied to the Board of Fisheries. On June 30, 2011, this definition is repealed and it will return to the definition the Board of Fisheries currently uses.

[2:35:42 PM](#)

CO-CHAIR GATTO inquired as to who determines that a conflict exists.

REPRESENTATIVE SEATON answered that the chair of the Board of Fisheries makes that determination.

[2:35:57 PM](#)

REPRESENTATIVE KAWASAKI inquired as to what happens if the chair of the Board of Fisheries has the conflict.

REPRESENTATIVE SEATON said that it's similar to what occurs in legislative committees in that the chair can pass the gavel to the vice chair. Furthermore, the board can vote to override the ruling of the chair. He noted that anyone can make a motion regarding a conflict.

[2:36:29 PM](#)

CO-CHAIR GATTO asked if there was any further objection. There being no further objection, Amendment 1 was adopted.

[2:37:05 PM](#)

STEVEN DAUGHERTY, Assistant Attorney General, Natural Resources Section, Civil Division (Anchorage), Department of Law, said that although he hasn't seen the amendment language, he has been working with the sponsor's staff and it sounds like it would address all the legal issues. There may be some policy issues, he remarked. He related his understanding that the intent is to make the legislative definition of "immediate family" apply to the Board of Fisheries for all purposes. The prior language would have accepted the close family, but didn't provide an exception for more distant family.

[2:38:15 PM](#)

ROD ARNO, Executive Director, Alaska Outdoor Council (AOC), related that legitimizing all government processes is important to AOC, which wants to ensure that the board process doesn't have the appearance of conflict. Therefore, AOC opposes the passage of HB 15 at this time.

[2:39:19 PM](#)

JIM MARCOTTE, Executive Director, Board of Fisheries, Boards Support Section, Alaska Department of Fish & Game (ADF&G), addressed the approach the Board of Fisheries uses for the conflict of interest disclosures. He explained that prior to

each of the regulatory meetings, the board members will go through the proposals up for discussion at the meeting. A list of proposals to which there will be conflicts is compiled. At the beginning of the meeting, the chair calls on each of the board members and the chair will pass the [gavel] to the vice chair for purposes of the chair disclosing.

[2:40:21 PM](#)

MR. MARCOTTE, in response to Co-Chair Gatto, clarified that it's the responsibility of the board members to identify when there is a potential conflict. He pointed out that there is a guideline that is followed such that the member describes his/her income sources, lists any personal or financial interest that he/she or family members may have as well as any fishing businesses, and they'll identify any personal or financial interest that he/she or family members may have with any of the proposals/issues before the board at the meeting. Anything in the gray area [of conflicts] is discussed by the board. The chair will invite questions from fellow board members, sometimes there will be discussion about potential conflicts. Based on that discussion, the chair will make a ruling. As Representative Seaton mentioned, that ruling of the chair is subject to being overruled by the body as a whole. The aforementioned occurs about once a year, he related. When board members are found to have a conflict with any given proposal, they do not participate in the committee process, the deliberations, or the voting of that proposal. He noted that each quarter Mr. Marcotte files a report on that to DOL's ethic's attorney.

[2:42:43 PM](#)

MR. MARCOTTE highlighted that the Board of Fisheries is on a three-year cycle and addresses fisheries in various geographic regions of the state once every three years. Each year approximately 10 percent of the proposals before the board have been subject to a conflict, although the rate has varied from 3-20 percent as measured by the number of proposals. Typically, conflicts occur during regional meetings when a board member actively participates in one or more of the fisheries in that region.

[2:43:30 PM](#)

REPRESENTATIVE EDGMON related his understanding that when a member has a conflict, he/she can't participate or vote. The

member with the conflict doesn't sit with the body and must sit in the audience as a member of the general public during the proposal with which there is a conflict.

MR. MARCOTTE said that's correct. A good example would be with board member John Jensen, who is an active fisher from Petersburg, when the board is having a Southeast regional meeting. Rarely would more than one board member have a conflict because of the diverse background of the board members, he stated. Mr. Marcotte directed attention to tables 1-6 in the summary of proposals over the last six years titled "Summary of Board of Fisheries Vote Abstentions (2001-2006)." Table 7 provides a summary over the six-year period. Since October 2001, the Board of Fisheries has addressed a total of 2,458 proposals of which 253 were subject to board member recusals. Therefore, in a typical year that amounts to about 410 proposals of which 42 would be subject to recusals or a conflict. The aforementioned results in an overall rate of 10.3 percent. Table 8 provides the same information over the same time, but it's per board member rather than per meeting. He noted that for seven of the board members it's an incomplete term, and thus the study period represents only a portion of their overall voting record.

[2:46:02 PM](#)

MR. MARCOTTE told the committee that the Board of Fisheries & ADF&G have not taken an official position on HB 15.

[2:46:33 PM](#)

REPRESENTATIVE ROSES asked if Mr. Marcotte viewed HB 15 as working in favor of or against Mr. Marcotte's ability to do the job necessary on the board.

MR. MARCOTTE said that he doesn't have a position as there are pros and cons. He characterized it as a judgment call with regard to how the board functions in light of the public's perception of fairness. On any given day, depending on how a vote goes, some interest group might feel the process was compromised. The aforementioned would occur, no matter the guidelines, he opined.

[2:47:31 PM](#)

REPRESENTATIVE ROSES asked if the conflicts that Mr. Marcotte has observed have arisen mainly as a result of the geographic

area for which they serve or the broad definition of "immediate family."

MR. MARCOTTE pointed out that the current version [of HB 15] makes two significant changes. One such change is that it allows the board members to participate in the deliberations, but not the voting [when he/she has a conflict]. The narrowing of the definition of family is also a substantive change. During the House Special Committee on Fisheries meeting it was pointed out that often members will have many extended family members involved with fisheries if sons and daughters with fishing permits in other households are included. Therefore, having a more narrow definition of family will make a substantial difference in the number of conflicts before the board.

[2:49:32 PM](#)

CO-CHAIR JOHNSON noted he also sits on the House Special Committee on Fisheries. He informed the committee that when the legislation was first before the House Special Committee on Fisheries, it removed all conflicts of interest. Therefore, this current legislation represents a compromise. Co-Chair Johnson expressed concern if HB 15 returned to the original version once leaving this committee. He noted that the sponsor has assured him that the aforementioned won't happen, and if it does he wouldn't advance the legislation.

[2:51:54 PM](#)

REPRESENTATIVE SEATON clarified that he fully supports the amendments made in the House Special Committee on Fisheries. He said that [CSHB 15(FSH)] wasn't really a compromise, but rather a discussion as to how best to meet the goal of maintaining a high ethical standard while allowing the people of Alaska to effectively participate in the management of the fish resource. Representative Seaton said that he fully supports the existing version of HB 15 and wouldn't support returning to the previous [original] version.

[2:53:08 PM](#)

REPRESENTATIVE WILSON highlighted the importance of realizing that all legislation that leaves the committee is subject to change. In reviewing the data provided, it seems that those with expertise in a particular area aren't allowed to provide

that expertise, which is important because they may be the only ones with expertise on a particular subject.

[2:54:28 PM](#)

REPRESENTATIVE EDGMON noted that he also sits on the House Special Committee on Fisheries, and stated that the legislation before this committee does get the job done. He also noted that all three of the appointees to the Board of Fisheries were on the record as basically supporting the notion encompassed in this legislation. He, too, stated his agreement with previous speakers that this legislation needs to move forward as currently written [and amended].

[2:55:08 PM](#)

CO-CHAIR JOHNSON clarified that his use of the term "compromise" wasn't meant to impugn anyone.

[2:55:30 PM](#)

REPRESENTATIVE EDGMON opined that [CSHB 15(FSH)] was a compromise, and a good one at that.

[2:55:40 PM](#)

REPRESENTATIVE EDGMON moved to report CSHB 15(FSH), as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 15(RES) was reported from the House Resources Standing Committee.

[2:55:59 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2.56 p.m.