

**ALASKA STATE LEGISLATURE**  
**SENATE RESOURCES STANDING COMMITTEE**

March 2, 2007

3:34 p.m.

**MEMBERS PRESENT**

Senator Charlie Huggins, Chair  
Senator Bert Stedman, Vice Chair  
Senator Gary Stevens  
Senator Lesil McGuire - via teleconference  
Senator Bill Wielechowski  
Senator Thomas Wagoner

**MEMBERS ABSENT**

Senator Lyda Green

**COMMITTEE CALENDAR**

Confirmation Hearings:

Department of Environmental Conservation (DEC)

Commissioner Tom Hartig

CONFIRMATION ADVANCED

Board of Game

Ben Grussendorf

Bob Bell

CONFIRMATIONS ADVANCED

Department of Natural Resources (DNR)

Commissioner Tom Irwin

CONFIRMATION ADVANCED

Big Game Commercial Services Board

Richard Rohrer

Leif Wilson

CONFIRMATIONS POSTPONED

Alaska Oil and Gas Conservation Commission (AOGCC)

Commissioner Cathy Foerster

CONFIRMATION ADVANCED

HOUSE BILL NO. 25

"An Act relating to landowners' immunity for allowing use of land without charge for a recreational activity; relating to

landowners' liability where landowner conduct involves gross negligence or reckless or intentional misconduct; relating to claims of adverse possession and prescriptive easements, or similar claims; and providing for an effective date."

HEARD AND HELD

#### PREVIOUS COMMITTEE ACTION

BILL: HB 25

SHORT TITLE: RECREATIONAL LAND USE LIABILITY/ADV. POSS

SPONSOR(S): REPRESENTATIVE(S) SEATON, WILSON

01/16/07	(H)	PREFILE RELEASED 1/5/07
01/16/07	(H)	READ THE FIRST TIME - REFERRALS
01/16/07	(H)	RES, JUD
01/24/07	(H)	RES AT 1:00 PM CAPITOL 124
01/24/07	(H)	Moved Out of Committee
01/24/07	(H)	MINUTE(RES)
01/25/07	(H)	RES RPT 8DP
01/25/07	(H)	DP: GUTTENBERG, EDGMON, SEATON, KAWASAKI, WILSON, ROSES, JOHNSON, GATTO
01/31/07	(H)	JUD AT 1:00 PM CAPITOL 120
01/31/07	(H)	Heard & Held
01/31/07	(H)	MINUTE(JUD)
02/01/07	(H)	JUD AT 1:00 PM CAPITOL 120
02/01/07	(H)	Heard & Held
02/01/07	(H)	MINUTE(JUD)
02/05/07	(H)	JUD AT 1:00 PM CAPITOL 120
02/05/07	(H)	Moved Out of Committee
02/05/07	(H)	MINUTE(JUD)
02/07/07	(H)	JUD RPT 1DP 3NR
02/07/07	(H)	DP: LYNN
02/07/07	(H)	NR: GRUENBERG, HOLMES, SAMUELS
02/12/07	(H)	TRANSMITTED TO (S)
02/12/07	(H)	VERSION: HB 25
02/14/07	(S)	READ THE FIRST TIME - REFERRALS
02/14/07	(S)	RES, JUD
03/02/07	(S)	RES AT 3:30 PM BUTROVICH 205

#### WITNESS REGISTER

TOM HARTIG, Commissioner-designee  
Department of Environmental Conservation (DEC)  
Anchorage AK  
**POSITION STATEMENT:** Commissioner-designee, DEC.

BOB BELL

Anchorage AK

**POSITION STATEMENT:** Appointee to the Board of Game.

BEN GRUSSENDORF

Sitka AK

**POSITION STATEMENT:** Appointee to the Board of Game.

TOM IRWIN, Commissioner-designee  
Department of Natural Resources (DNR)  
Juneau AK

**POSITION STATEMENT:** Commented on issues related to being commissioner of DNR.

RICHARD ROHRER

BearCamp, Inc.

Kodiak AK

**POSITION STATEMENT:** Reappointee to the Big Game Commercial Services Board.

CATHY FOERSTER, Engineering Commissioner  
Alaska Oil and Gas Conservation Commission (AOGCC)  
Anchorage AK

**POSITION STATEMENT:** Reappointee to the AOGCC.

REPRESENTATIVE PAUL SEATON

Alaska State Capitol

Juneau, AK 99801-1182

**POSITION STATEMENT:** Sponsor of HB 25.

DAVE BRANN, member

Kachemak Nordic Ski Club

Homer AK

**POSITION STATEMENT:** Supported HB 25.

MILLI MARTIN, Member

Kenai Peninsula Borough Assembly

Homer AK

**POSITION STATEMENT:** Supported HB 25.

DAVID STUTZER

Representing himself

Homer AK

**POSITION STATEMENT:** Supported HB 25.

MICHAEL SCHNEIDER, Attorney

Representing himself

Anchorage AK

**POSITION STATEMENT:** Supported the concept of HB 25, but it needed changes.

**ACTION NARRATIVE**

CHAIR HUGGINS called the Senate Resources Standing Committee meeting to order at [3:34:07 PM](#). Present at the call to order were Senators Stevens, Wagoner, Wielechowski, Stedman, and Huggins. Senator McGuire was on teleconference. Chair Huggins announced that they would not take up the confirmation for Denby Lloyd as commissioner of the Department of Fish and Game today.

Confirmation Hearings  
Board of Game

TOM HARTIG, Commissioner-designee, Department of Environmental Conservation (DEC), gave a brief overview of his background. He has been in Alaska since 1967 and has had many positions in the state. He is a lawyer and has good experience to bring to this position.

[3:40:51 PM](#)

MR. HARTIG related how he would like working in the pipeline era that he thought would present interesting environmental issues.

[3:41:19 PM](#)

CHAIR HUGGINS asked if he has difficulties transitioning to this new position with his past private affiliations.

MR. HARTIG replied that he couldn't have taken the job if he felt he had a conflict. He is sensitive to even the appearance of something inappropriate.

[3:42:55 PM](#)

CHAIR HUGGINS let him know that there is heightened interest in retiree rehire. He thanked him for his willingness to do this sort of thing and recognized his good reputation as well.

SENATOR STEDMAN moved to forward Mr. Hartig's name to the full body. Chair Huggins stated this did not reflect an intent by any of the members to vote for or against confirmation on the floor.

CHAIR HUGGINS said the committee would next take up the reappointment of Bob Bell to the Board of Game.

[3:43:55 PM](#)

BOB BELL said he was just appointed to the Board of Game in November to finish out Mike Fleagle's term. He brings the

perspective of someone who has participated in Alaska wildlife as a hunter for almost 40 years. He also worked throughout the state as an engineer and surveyor and is keenly aware of the rural issues that come up around fish and game. He is aware of rural issues that come up in regard to fish and game.

CHAIR HUGGINS noted that Mr. Bell is one of the guys who used to hunt in Unit 16 B before it was closed for lack of moose. He hoped he could some moose back at 16 B.

MR. BELL promised to do everything he could to accomplish that.

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SENATOR WAGONER said people are questioning the process in which Denby Lloyd was appointed as commissioner of ADF&G. Also, there is more consternation about the two people he picked as a deputy commissioner and his director of the Division of Game. He asked if he could comment on that.

MR. BELL replied that it's difficult for him to comment because he's relatively new at this position, but he personally thought Mr. Lloyd would do a good job.

SENATOR WAGONER asked why the Boards of Fisheries and Game elected to send only one name for the commissioner's position for the governor to consider.

MR. BELL replied that he voted to send three names forward, but he was in the minority.

SENATOR STEDMAN asked what kind of policy the state should have in allocating big game resources.

MR. BELL replied the state needs to look at the subsistence issue first, then Alaska residents, and others after that.

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SENATOR STEDMAN said he was referring more to the allocation of permitted bear hunts.

MR. BELL asked if he meant Kodiak bears or general bear season.

SENATOR STEDMAN said it could be black bear or brown bear, but he added that there is ever-increasing pressure on big game animals and increasing restriction on bear tags issued.

MR. BELL replied that the Constitution says they are supposed to manage for sustained yield and they rely on the department's biologists to indicate the number of bears that would be appropriate to take out of a particular population. A certain number of bears have to be available to maintain the guiding industry, but he feels if there isn't enough, Alaskans should get first choice on any game animal. That would include bears.

SENATOR STEDMAN asked the question more directly. Should the big game industry go the way of a limited entry or IFQ model for fisheries - where you have a de facto ownership of so many bear harvests as a guide.

MR. BELL replied no. The state's game resources are supposed to be available to everyone equally.

CHAIR HUGGINS indicated there were no further questions and he asked Ben Grussendorf to comment next.

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BEN GRUSSENDORF, reappointee to the Board of Game, briefed the committee on his background and said he has already served on the Board of Game for six years. His interests have always been wildlife hunting and viewing. He spent 20 years in the Alaska Legislature. Several governors have felt that he has something to contribute and he said:

It's great to be with a bunch of people that talk about something you're interested in and that's wildlife and you hear some real interesting stories. I've never seen a 15 ft. bear, but I've heard some people talking to me around here that have seen one.

SENATOR WAGONER set forth his previous question on how the commissioner of ADF&G got appointed.

MR. GRUSSENDORF replied that when the Joint Boards looked at the candidates, Mr. Lloyd was head and shoulders above all the others in terms of management skills. He has a diverse background; most of them felt he would pick people who were knowledgeable in areas he wasn't that knowledgeable in. And he has done that.

SENATOR WAGONER asked if statute didn't require them to send a list of names, not just a single individual's.

MR. GRUSSENDORF replied not necessarily. Often a governor has taken the name or two that have been submitted and simply said, "Add more names." Most on the boards felt that Governor Palin was supportive of Mr. Lloyd and, in an odd way they took some pressure off of her from being the arbitrator.

SENATOR STEDMAN asked in a state with its resources held in common and the Forest Service owning most of the land mass in Southeast and restricting access which appears to be in essence privatizing the harvesting of big game animals, what his thoughts were - on brown bears in particular.

MR. GRUSSENDORF replied that years ago people had great concern, because anybody that had a big game license could hunt anywhere in the state. That created a problem with locals in some areas who were trying to make a living where a lot of bears would be harvested. Now most guides have certain areas they are allowed to bring their clients to and there has been a separation of areas for certain guides. He said a lot of permitting questions have arisen on federal land and the federal government has played a very heavy role in Southeast brown bear management, in particular Game Unit 4, which Senator Stedman represents.

Bert, I don't know how else to answer that question, but we're very concerned because of the harvest of close to 45 percent happen to be female bears. In one area it was over 50 percent. So, there is a lot of concern. We have a brown bear management proposal that....and we're trying to follow it as best we can.

SENATOR STEDMAN said he is concerned not so much with the management of the harvest itself, but how the feds have allocated it to some hunters and not others, particularly bears.

I'd hate to see us go down the road like we have done with IFQs where we end up with a lot of the ownership of the resource out of state. And with the Forest Service restricting access into the Tongass, it appears to me to be a virtual defacto privatization of big game hunting in the Tongass.

MR. GRUSSENDORF agreed and explained that the Board tries to determine the harvestable surplus of brown bears. The state keeps track of the number of bears taken. He didn't know how to get over the hurdle of the US Forest Service and federal agencies. He said that the Forest Service was very active when

the state was developing the brown bear management scheme for Southeast and it holds a certain trump card.

SENATOR STEDMAN said one of the issues the state appears to be facing with the inquiry of the FBI is the impact of privatization of resources and who ends up creating the wealth and who ends up with the wealth. He is a little gun shy when it appears that the guide industry seems to have had a fairly effective hand in allocating who got how many bears and where. There are too many correlations between that issue and what the state faces with its fisheries, just on a smaller scale.

MR. GRUSSENDORF agreed, but said a lot of the bears taken are by residents. Senator Stedman was talking about the guided hunts that are usually non-resident. He suggested that they talk to Scott McCloud, Brad Dennis and Paul Johnson who are all guides and have concerns about the locals, too.

[4:03:39 PM](#)

SENATOR WAGONER reiterated that statute says:

'The governor shall appoint the commissioner of Fish and Game from a list of qualified persons nominated by the Board of Fisheries and the Board of Game meeting in joint session subject to the right of the governor to request additional nominations.'

Now that doesn't mean you give him one and then if she doesn't like that you give 'em additional. It's says 'a list' and if she doesn't like any name on that list, then she can ask for more. But the statute is pretty clear that the Board of Fish and Game should send a list of applications to the governor, not a single individual name.

CHAIR HUGGINS asked if Mr. Grussendorf voted to send forward one name.

MR. GRUSSENDORF replied:

Yes, Mr. Chairman. We put one person on the list. If the Governor was not satisfied with that, she could have very easily told us to put another name on there and I am aware of governors that actually told the boards whose name should be on that list. And our indication was that Denby Lloyd would be on that list.

CHAIR HUGGINS asked how he knew the Governor was supportive of Mr. Lloyd.

MR. GRUSSENDORF replied that she must have supported him because she appointed him the acting commissioner when she first came in.

CHAIR HUGGINS asked if he would send more than one name forward if he had it to do over again.

MR. GRUSSENDORF replied he guessed so. Then that puts the pressure on the governor who then gets to be the bad person. He said there was no doubt in the board's mind who was the best qualified. The question was should they put all the other names in there, too. They were qualified, but not to Mr. Lloyd's caliber. The former commissioner, Mr. Campbell, was thinking about submitting his name and as soon as he found out that Mr. Lloyd was interested in it, he withdrew it because he felt he could lead the ADF&G in the right direction.

SENATOR WIELECHOWSKI asked if he remembered what the vote was.

MR. GRUSSENDORF replied no. They voted on each individual person, but 4 votes are needed from each board [a total of 8 votes] and the only person who got the four - actually all of - the votes was Denby Lloyd. Several didn't receive any votes at all from the Board of Fisheries.

SENATOR WIELECHOWSKI asked if anyone in the Palin administration told him that they weren't in compliance with the statute and they needed to submit additional names.

MR. GRUSSENDORF replied no, not a word.

[4:09:26 PM](#)

SENATOR STEDMAN moved to forward the names of Bob Bell and Ben Grussendorf to the Joint Session. There were no objections and it was so ordered.

CHAIR HUGGINS asked Tom Irwin to come forward.

TOM IRWIN, Commissioner-designee, Department of Natural Resources (DNR), said he is a Christian and those are his basic principles. He described his family saying it was very important to him. He graduated from the Colorado School of Mines and his education was in mineral engineering and chemistry. He said he has been in the resource-development industry in multiple

responsibilities from operations to management, design and purchase. His philosophy is that his children and grandchildren need Alaska.

4:13:03 PM

SENATOR STEVENS said he has great respect for him and all he's done. He mentioned the conflict at Lake Iliamna between a fishery resource that has been there for a number of years and mineral resource that is potentially being developed. He asked what principals drive him in issues like that - of competing resources.

MR. IRWIN replied this is a two-fold issue that is a critical to Alaska. "One is we will never jeopardize Lake Iliamna or Bristol Bay and that fishery. It's a renewable resource and we have to protect it. Period." Second, Alaska is a fair state of laws and regulations based on a constitution.

We talk about resource development. We have a very clear process to evaluate these projects. If we become a state that randomly chooses by individuals or boroughs or groups of people who say this is good or this is bad without going through a process, then we jeopardize our whole system. Now, we're not talking about a mine, Pebble, we're talking about the next mines, we're talking about oil and gas, because if you satisfy one group, the outside pressures from the Lower 48 get very involved. We must have a process. If there is a flaw in the process, and that works both ways, if we're duplicating efforts and we're wasting state's money or company's money, we shouldn't be doing it. If we have a shortfall for evaluation, we need to fix it.

Now I want to make it very clear. I've been through these processes and if somebody is going to present something on Bristol Bay or Pebble, specifically, to DNR, they better be well-prepared and I haven't seen anything yet. We're jousting with something fictitious at this point. Before we want to talk reclamation plans, I want to see as much effort put into starting up as shutting down. I'm adamant about seeing water quality - subsurface, surface - I want background on hydrology. It's critical. I want financial assurances. I want to know what financial assurances there are during start up, midstream interruptions when you're operating - closure. You have to have these things.

Dam stability - I know a lot about dam stability. I want to know ground accelerations and is it tight in the bedrock, can it be supported. Now, I don't have the expertise of dam safety engineers, but it needs to be clear before we even start the process, you have to have all of this. We can't as a state - and I feel strongly about this - we can't as a state go to random processes.

4:17:02 PM

COMMISSIONER IRWIN said if the state chooses randomly it will drive resource development away, because the risks will be too high and everyone knows how outside influences can make the decisions that the state should be making.

CHAIR HUGGINS asked a question about ethics and conflict of interest. He said multiple articles have been written over the last month about some people who worked for Murkowski last year who are now lobbyists. His deputy commissioner from DNR was also in some of those articles who said she worked as a lobbyist for one of the potential competitors under AGIA in a former life. He asked what he thought about that issue.

MR. IRWIN replied that first of all, the article didn't present the correct dates. And when he became commissioner, a deputy commissioner helped convince him he should serve. She had already committed to leaving to be a partner in a firm, which the firm reported correctly. He asked her to give him a few weeks to help him out, which she did. She clearly did not start her new job until the end of February. "She is incredibly honorable. So she stuck with me and they tied this whole reporting together as February." He reminded them that they were doing no negotiating or lobbying at that time. The process hadn't even started yet. "So for her situation, her loyalty to the state, her honesty, and frankly her support of me when I was fired, her leaving, her integrity is impeccable and she does this state a great service."

Second, he said ethics are important; but the legislature has a real problem because it is tough to legislative ethics. Ethics come from inside a person.

So, do we need ethics? Absolutely....I think we also need to question the issue - and it's tough in Alaska. If I may speak for you all, you don't have full time

jobs here. We have people that once they leave government service also, they still want to live here and work here. And we need to be careful. You have some tough decisions. How can they go back into industry? You certainly don't want people who work in the legislative area or in governmental service then having to leave the state because they can't find work. So, I'm not answering your question; I'm probably muddying it more. But those are tough issues. You've got to allow people to be able to stay here.

He related how he signed over everything with the Fort Knox project - after being its vice president and general manager - to a deputy commissioner of DNR, when he became commissioner. He didn't even attend meetings - even though he wanted to know what was going on there - because he thought there would be a conflict of interest. Maybe he overdid it, but he felt good about himself.

When he left state government, he wanted to stay in the state. He was offered a good position in Golden Valley Electric Association that he didn't take because there are clear lines if you are a commissioner or higher up and he didn't even want to come close.

[4:23:33 PM](#)

CHAIR HUGGINS said he didn't mean to intimate anything about anyone's integrity or honesty. That is not the question in his mind; it's the appearance. And because the state is negotiating, it could legally come back and bite them.

MR. IRWIN said he didn't think so and the issue ever got to court, he would request the deputy commissioner's negotiation notes with TransCanada about which he said, "I think you'll find she beat the tar out of them. I wish we'd have done the same in other negotiations.... She has negotiated incredibly well." He was very gratified that she decided to stay on.

SENATOR WAGONER moved to forward Mr. Irwin's name to the full body. There were no objections and it was so ordered.

[4:25:41 PM](#)

Big Game Commercial Services Board - Confirmation Hearing

CHAIR HUGGINS invited Richard Rohrer to testify.

RICHARD ROHRER, BearCamp, Inc., reappointee to the Big Game Commercial Services Board, said he first came to Alaska in 1965 and has been involved in the guide industry ever since. He described his various licenses and offered to answer questions.

SENATOR WAGONER asked how the reconstitution of the board had been working.

MR. ROHRER replied that the board has worked very well together and he hoped to see it through the sunset date.

SENATOR STEVENS said he didn't know that Mr. Rohrer had worked on developing the Kodiak Archipelago conservation management plan..

MR. ROHRER responded that the brown bear plan is used extensively and is very well respected all over the world. He continues to be on the CUBS committee that helps both the federal government and state biologists implement all its parts.

SENATOR STEVENS asked if he is happy with how the plan has worked out. [Mr. Rohrer's phone connection stopped at this point.]

[4:30:40 PM](#)

CHAIR HUGGINS announced that Leif Wilson was not present, but he wanted to continue processing both of the names. He hadn't heard of any issues with Mr. Wilson.

MR. ROHRER [reconnected] agreed that the plan was very successful.

[4:31:57 PM](#)

CHAIR HUGGINS asked if he could describe what oversight he had over guide conduct and activities.

MR. ROHRER replied that part of the legislative mandate for the board was to establish ethics - which it did at its first meeting. They were placed into regulation quickly. He said that the board is responsible for licensing people who meet the criteria in all categories and has disciplinary authority as well.

CHAIR HUGGINS asked if he had dealt with the case where a pilot broke the wings off two airplanes including the lower longerons and flew away afterwards.

MR. ROHRER replied that the board had not dealt with that case.

CHAIR HUGGINS asked how long it normally takes to get to a case.

MR. ROHRER replied the board has been in existence for two years and he is a little frustrated at how slowly cases get to it.

CHAIR HUGGINS said if that's the case, the board might not be functioning correctly.

SENATOR WAGONER asked where he saw the slowdown.

MR. ROHRER replied that normally disciplinary actions come to the board from the investigator with the DECCD. Just as the board was established, the department had a change of personnel and he wasn't sure its current investigator is permanent. Also, the department has only one person dealing with guide-related issues and he has other boards to deal with as well. The DECCD is the licensing authority he works with and it's always been a bit of a personnel issue.

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SENATOR STEVENS moved to forward the two names to the full body.

SENATOR WAGONER objected to delete Mr. Wilson's name. There was no objection and only Mr. Rohrer's name was forwarded to the full body.

[4:36:23 PM](#)

Alaska Oil and Gas Conservation Commissioner AOGCC

CATHY FOERSTER, Engineering Commissioner, AOGCC, thanked them for considering her reappointment to this position. She has been serving the state in the AOGCC since March 2005 when she was appointed to complete the unexpired term of the engineering commissioner. She has a few reasons why she wants to be reappointed. First, she is grateful for the chance to give something back to the state. This has been a wonderful place for her family to grow up.

The second reason is purely business. The AOGCC is in the middle of several extremely important and highly technical projects right now and many of them are heavily dominated by engineering issues. For example, it just completed a technical study that will inevitably assist them in determining the appropriate allowable gas off-takes from Prudhoe Bay when the state has the

North Slope gas sale. It is also in the early phases of a similar study for the Pt. Thomson reservoir.

SENATOR WAGONER asked if Pt. Thomson is called a retro grade field.

MS. FOERSTER replied that it is a gas condensate or retro grade condensation field.

SENATOR WAGONER asked for her take on Exxon claiming that that field is not economical to produce gas liquids without producing the gas at the same time.

MS. FOERSTER replied that she didn't have enough information, but her opinion is that the amount of condensate at risk is 300 million barrels - comparable to an Alpine field. That's why the commission has engaged in a study to try to understand what Exxon is saying so it can come to its own conclusion as to whether it is feasible to get the reserves by cycling or if going to gas blowdown is the only option.

SENATOR STEDMAN moved to forward Ms. Foerster's name to the full body. There were no objections and it was so ordered.

At ease from [4:40:39 PM](#) to 4:41:20 PM.

**HB 25-RECREATIONAL LAND USE LIABILITY/ADV. POSS**

[4:41:20 PM](#)

CHAIR HUGGINS announced HB 25 to be up for consideration.

REPRESENTATIVE PAUL SEATON, sponsor of HB 25, read the sponsor statement. He said it encourages expansion of recreational opportunities for Alaskans by protecting private landowners that allow free recreational use of their lands by raising the liability standard to "intentional, reckless or gross negligent misconduct".

He related that currently land owners rely on the unimproved land statute, but it is problematic because the definition of what is improved and unimproved is not clear in the determinations that have come out of the courts. So, landowners are unable to really assess their liability when they allow recreational use of their land.

This bill also protects landowners from adverse possession or prescriptive easement based on them giving free recreational use to recreational users.

REPRESENTATIVE SEATON said that many people have testified favorably about this issue.

[4:45:30 PM](#)

SENATOR STEVENS said other states have done similar things and asked how this bill compares to those.

REPRESENTATIVE SEATON pointed out nine pages of documents about other states. Many have used the same tack.

[4:46:19 PM](#)

SENATOR WIELECHOWSKI asked if recently passed legislation on adverse possession and prescriptive easements didn't apply to these lands.

REPRESENTATIVE SEATON replied that a bill was passed limiting the state from taking land through eminent domain. He didn't think they had changed the adverse possession statutes recently. Prescriptive easement is more the case where someone claims the use of the land and can claim its use for the future. He pointed out that this bill applies only if the recreational use is for free. This does not apply if the use is for commercial purposes.

SENATOR WAGONER commented that the legislature passed an adverse possession bill, called the "squatters' bill," three or four years ago. He thought that took care of all these concerns.

CHAIR HUGGINS asked the status of airplanes taking off and landing in his back yard.

REPRESENTATIVE SEATON replied that taking off and landing is not trespassing. If it is done for recreational purposes, that is defined in the statute, but does not include language about air fields. It expressly does not include boxing contests, sparring and wrestling matches or exhibitions, activities involving devices that are subject to the requirements of AS 05.20. He said he would have to check out which statute applied to air fields.

CHAIR HUGGINS asked him to check that out because he has been asked that question multiple times. He asked if his backyard has a groomed area that someone would call a strip, is that covered in his bill under "improved".

REPRESENTATIVE SEATON replied that under this bill it doesn't matter if it is improved or not, but it does matter if its recreational use is free or not.

CHAIR HUGGINS asked what if the land is owned collectively.

REPRESENTATIVE SEATON replied that the land would have to be privately owned, not publicly owned as with a municipality - and you can't charge for its use.

[4:51:41 PM](#)

SENATOR STEVENS said they are trying to protect land owners and this doesn't protect them from any event. He asked what responsibility landowners have for maintenance.

REPRESENTATIVE SEATON replied if someone has an attractive nuisance that he knows is dangerous, and a minor comes in and gets hurt, he can be liable. This bill adopts the same standard the state has for unimproved land and it is case-specific.

[4:54:26 PM](#)

DAVE BRANN, Kachemak Nordic Ski Club member, said he had been involved in trail development and maintenance in Alaska for over 30 years and things are more difficult in the last 10 years due to smaller parcels of private property for recreational trails to go over. People want and need trails close to urban areas and liability concerns are problematic. "HB 25 does a great deal to solve those problems and make recreational use much more available and attractive to the local community members."

[4:56:16 PM](#)

MILLI MARTIN, Homer, said she is also a member of the Kenai Peninsula Borough Assembly, and that it passed a resolution supporting HB 25. She noted that 45 other states have similar statutes.

[4:57:46 PM](#)

CHAIR HUGGINS thanked her for serving on the assembly.

DAVID STUTZER, Homer resident, said he has been working with his neighbors to provide easements to the ski club for the trail that crosses their land. He said this is a very good bill and would ease his neighbor's concerns about adverse possession and liability as discussed by Representative Seaton. He said with the growth of the state and development of areas around towns and cities, it becomes necessary to have trails across private

land. This bill would allow people to give permission to use those lands without fear of liability except for gross negligence.

[4:59:22 PM](#)

MICHAEL SCHNEIDER, Anchorage resident, said the issues in HB 25 have merit, but he has problems with the way it is written. Subsection (a) where it says a landowner need only to allow recreational activity - that language is too loose. Under (e)(1)(C) "charge" is defined as "a contribution in kind, service, or cash from a user if all of the contribution is used to improve access...." He said under that language someone could charge him \$1,000 to hunt bear on their property and he could fall into a pit or some hazard that they knew about and unreasonably failed to warn him of. They could after the fact take his \$1,000 and put it towards remediation of the problem and comply with the technical words of this statute. He did not want to give that sort of broad immunity to inappropriate circumstances.

CHAIR HUGGINS asked him to get together with the sponsor. He agreed and apologized for not getting together with him before. He asked if he was representing himself.

MR. SCHNEIDER replied that he has been a practicing attorney in Anchorage for 32 years mainly tort claims. He has been interested in acquiring free recreational access to property since he was 12 years old and he is speaking for himself.

[5:02:36 PM](#)

CHAIR HUGGINS announced that he would hold the bill.

REPRESENTATIVE SEATON added that abandoned aircraft landing areas are included in current immunity language if they are away from an improved structure. If they are near an improved structure, it may not qualify for the same immunity. So this bill clarifies that.

CHAIR HUGGINS announced he would hold HB 25.

There being no further business to come before the committee, Chair Huggins adjourned the meeting at [5:04:28 PM](#).