

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

April 27, 2007

3:42 p.m.

MEMBERS PRESENT

Senator Charlie Huggins, Chair
Senator Bert Stedman, Vice Chair
Senator Lyda Green
Senator Gary Stevens
Senator Lesil McGuire
Senator Bill Wielechowski
Senator Thomas Wagoner

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 80

"An Act relating to allowable lease expenditures for the purpose of determining the production tax value of oil and gas for the purposes of the oil and gas production tax; and providing for an effective date."

MOVED CSSB 80(RES) OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 4

Urging the attorney general, the producers of natural gas in the Cook Inlet region, and the Regulatory Commission of Alaska to work to secure long-term and affordable supplies of natural gas for the people and businesses of the state.

HEARD AND HELD

SENATE BILL NO. 57

"An Act relating to hunting in marine park units of the Alaska state park system, amending the area within designated marine park units of the Alaska state park system, and adding marine park units to the Alaska state park system."

HEARD AND HELD

CS FOR HOUSE BILL NO. 186(FSH)

"An Act relating to sharing with certain federal agencies records required of sport fishing guides; and providing for an effective date."

SCHEDULED BUT NOT HEARD

SENATE BILL NO. 71

"An Act relating to voluntary land trades, purchases, and leases to enhance public access to certain streams for fishing, hunting, and recreational activities."

BILL HEARING CANCELLED

PREVIOUS COMMITTEE ACTION

BILL: SB 80

SHORT TITLE: OIL & GAS PRODUCTION TAX: EXPENDITURES

SPONSOR(s): SENATOR(s) WAGONER

02/09/07	(S)	READ THE FIRST TIME - REFERRALS
02/09/07	(S)	RES, FIN
02/21/07	(S)	RES AT 3:30 PM BUTROVICH 205
02/21/07	(S)	Heard & Held
02/21/07	(S)	MINUTE(RES)
02/28/07	(S)	RES AT 3:30 PM BUTROVICH 205
02/28/07	(S)	Heard & Held
02/28/07	(S)	MINUTE(RES)
04/18/07	(S)	RES AT 4:00 PM BUTROVICH 205
04/18/07	(S)	Scheduled But Not Heard
04/20/07	(S)	RES AT 3:30 PM BUTROVICH 205
04/20/07	(S)	Heard & Held
04/20/07	(S)	MINUTE(RES)
04/27/07	(S)	RES AT 3:30 PM BUTROVICH 205

BILL: SJR 4

SHORT TITLE: NATURAL GAS FOR STATE RESIDENTS

SPONSOR(s): SENATOR(s) WIELECHOWSKI

03/12/07	(S)	READ THE FIRST TIME - REFERRALS
03/12/07	(S)	L&C, RES
03/20/07	(S)	L&C AT 1:30 PM BELTZ 211
03/20/07	(S)	Heard & Held
03/20/07	(S)	MINUTE(L&C)
03/22/07	(S)	L&C AT 1:30 PM BELTZ 211
03/22/07	(S)	Moved CSSJR 4(L&C) Out of Committee
03/22/07	(S)	MINUTE(L&C)
03/23/07	(S)	L&C RPT CS 2DP 1DNP 1NR SAME TITLE
03/23/07	(S)	DP: ELLIS, DAVIS
03/23/07	(S)	DNP: BUNDE
03/23/07	(S)	NR: STEVENS
04/20/07	(S)	RES AT 3:30 PM BUTROVICH 205
04/20/07	(S)	<Above Bill Hearing Canceled>
04/25/07	(S)	RES AT 3:30 PM BUTROVICH 205

04/25/07 (S) -- MEETING CANCELED --
04/27/07 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 57

SHORT TITLE: MARINE PARKS ADDITIONS/HUNTING ALLOWED

SPONSOR(s): SENATOR(s) ELTON

01/19/07 (S) READ THE FIRST TIME - REFERRALS
01/19/07 (S) RES, FIN
04/27/07 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

MARY JACKSON

Staff to Senator Thomas Wagoner

Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Commented on CSSB 80(RES) for the sponsor.

JOHN NORMAN, Chair

Alaska Oil and Gas Conservation Commission (AOGCC)

Anchorage AK

POSITION STATEMENT: Commented on CSSB 80(RES) and SJR 4.

DON BULLOCK, Drafting Attorney

Legislative Affairs Agency

Juneau AK

POSITION STATEMENT: Commented on CSSB 80(RES).

CURTIS THAYER, Director

Corporate and External Affairs

Enstar Natural Gas

POSITION STATEMENT: Supported SJR 4.

SENATOR KIM ELTON

Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of SB 57.

MIKE EBERHARDT, Superintendent

Southeast Area

Division of Parks and Outdoor Recreation

Department of Natural Resources (DNR)

POSITION STATEMENT: Supported SB 57.

ACTION NARRATIVE

CHAIR CHARLIE HUGGINS called the Senate Resources Standing Committee meeting to order at [3:42:56 PM](#). Present at the call to order were Senators Wielechowski, Wagoner, McGuire, Stevens, Green and Huggins.

SB 80-OIL & GAS PRODUCTION TAX: EXPENDITURES

[3:43:52 PM](#)

CHAIR HUGGINS announced SB 80 to be up for consideration.

SENATOR WAGONER said he had three amendments.

MARY JACKSON, staff to Senator Wagoner, sponsor of SB 80, clarified that CSSB 80(RES), version M, was before the committee. She began by explaining the amendments.

AMENDMENT 1

25-LS0425\M.1

OFFERED IN THE SENATE BY SENATOR WAGONER
TO: CSSB 80(), Draft Version "M"

Page 3, lines 22 - 23:

Delete "**the standard practices of the industry**"
Insert "**good oil field practice**"

MS. JACKSON explained that Amendment 1 is a result of a on-going dialogue between all the departments and Mr. Norman. The term "the standard practice of the industry" is deleted and "good oil field practice" is inserted.

She said the committee has a memorandum from Mr. Bullock, dated April 4, saying that the term "good oil field practice" is used in The Manual of Oil and Gas.

[3:45:34 PM](#)

JOHN NORMAN, Chair, Alaska Oil and Gas Conservation Commission (AOGCC) said the AOGCC supported Amendment 1.

CHAIR HUGGINS moved to adopt Amendment 1. There were no objections and Amendment 1 was adopted.

[3:46:28 PM](#)

AMENDMENT 2

OFFERED IN THE SENATE BY SENATOR WAGONER
TO: CSSB 80(), Draft Version "M"

Page 4, lines 9 - 10:

Delete "lease expenditures that may not be deducted"

Insert "costs that may not be treated as lease expenditures or claimed as a credit based on costs that may not be claimed as lease expenditures"

Page 4, line 10:

Delete "AS 43.55.165(e), as amended"

Insert "AS 43.55.165(e)(19), as enacted"

Page 4, line 13, following "AS 43.55.020(a)":

Insert "before the effective date of this Act"

Page 4, line 15:

Delete "lease expenditures that may not be deducted"

Insert "costs that may not be treated as lease expenditures or attributable to a credit based on costs that may not be claimed as lease expenditures"

Delete "AS 43.55.165(e) as amended"

Insert "AS 43.55.165(e)(19), as enacted"

Page 4, following line 17:

Insert a new subsection to read:

"(c) Interest on an additional amount of tax due under (a) of this section or on the amount of the underpayment of an installment under (b) of this section does not begin to accrue until 90 days after the effective date of this Act."

MS. JACKSON explained that Amendment 2 is a technical amendment and is a result of a conversation with Mr. Iverson and Mr. Mintz from the Department of Revenue and Mr. Bullock. She said a memorandum from Mr. Bullock dated April 4 discusses the issues that clarify what costs are not deductible.

CHAIR HUGGINS asked if this worked for the AOGCC.

MR. NORMAN responded that it works from the AOGCC's perspective.

[3:47:45 PM](#)

Huggins moved to adopt Amendment 2. There were no objections and Amendment 2 was adopted.

[3:49:30 PM](#)

AMENDMENT 3

25-LS0425\M.3

OFFERED IN THE SENATE BY SENATOR WAGONER
TO: CSSB 80(), Draft Version "M"

Page 3, lines 21 - 22:

Delete "Alaska Oil and Gas Conservation Commission"

Insert "person in the Department of Natural Resources who is the lead person for exercising oversight over the maintenance of oil and gas facilities, equipment, and infrastructure in the state"

MS. JACKSON explained that Amendment 3 is the direct result of Administrative Order 234. It deletes the AOGCC out from the consulting group and inserts the PSIO instead, because that is the umbrella agency that will establish maintenance standards so that improper standards can be identified.

[3:50:27 PM](#)

MR. NORMAN explained that AO 234 designates the AOGCC as one of the working groups under the Petroleum Systems Integrity Office (PSIO), the coordinating lead agency that is set up by AO 234.

[3:51:48 PM](#)

CHAIR HUGGINS asked if there were objections to Amendment 3. There were none and so Amendment 3 was adopted.

[3:52:11 PM](#)

MS. JACKSON noted that the PSIO is directly funded through the operating budget.

[3:52:56 PM](#)

CHAIR HUGGINS asked Mr. Norman to explain how the amendments affect the bill starting on page 3, line 19.

[3:54:34 PM](#)

MR. NORMAN said that making the PSIO the umbrella agency streamlines the process.

CHAIR HUGGINS asked him to comment on subsection (B) on page 3, line 26.

MR. NORMAN responded that subsection (B) would deny deductions for costs "incurred to maintain the operational capability of facilities or equipment shut down because of lack of or improper maintenance of property or equipment". The AOGCC has only perspective on this is that it is desirable to leave operators maximum flexibility to make repairs to equipment or facilities without having this general incentive to try to keep operating when perhaps the safest thing to do would be to have a total shut down. He emphasized that was purely a policy consideration and that the AOGCC would work with whatever the legislature decided.

CHAIR HUGGINS said he has heard the analogy used that whatever subsection (B) does, it would be like saying that he owns an airplane that needs to be maintained, but he decides to wait a while to do that even though he knows it has a bad piston on one side and a broken spark plug on the other. Then he puts his son in it with him and goes bear hunting. He asked if the (B) is being characterized.

MR. NORMAN agreed that analogy captured the thought. The AOGCC's perspective is that that decision is best left to the operator for safety reasons and because the operator is the one who is going to bear the consequences if he doesn't affect a good repair. He explained that under this bill, operators still have that flexibility, but it contains a gentle nudge toward continuing to operate as opposed to shutting down a facility. The Commission has an eye on safety, prevention of waste and things like that.

For example, the North Star field had a leak very recently and the operator opted to shut down. The AOGCC thought that was the most prudent course of action, although there were some alternatives the operator could have pursued that wouldn't have been objectionable. He said he just couldn't judge whether this language would cause operators to decide to continue to operate when the more prudent course of action might be otherwise.

[3:59:19 PM](#)

SENATOR GREEN asked if the language in subsections 19 (A), (B) and (C) [on page 26 of CSSB 80(RES) version M] were standard industry terms and if they were well-defined.

MR. NORMAN replied that this particular provision is plowing new ground. The implementing agencies would promulgate regulations to flesh out the term of "good oil field practices" and then the courts would review them if there was a contentious issue. He said it would be difficult to anticipate every circumstance without writing a thick code.

[4:01:39 PM](#)

CHAIR HUGGINS said the prevailing operational term is "good oil field practices."

MR. NORMAN replied yes and that it is used in Title 31 in at least one place where the AOGCC is required to determine that an operator committed waste. However, in this bill it is employed in other places for advising the DOR, as well. He said the term is also used in some of their regulations as well as in the regulations of some other states.

[4:02:29 PM](#)

SENATOR WAGONER said he has seen a Solar Centaur turbine in Cook Inlet and that the standard practices are set up in manuals by the corporations that supply and train the people to maintain the turbines. They generally require certain checks at certain times in so many hours of operation - similar to airplane turbines. To him this means if they do not follow the proper testing and maintenance prescribed in those manuals, then these costs could be disallowed. This stands to reason because most of these companies don't want failure, either.

MR. NORMAN agreed, but added that sometimes there aren't manuals. There are some bad oil fields around the world, he said, and using their standard practices would not be acceptable in Alaska. Using good oil field practices as a general standard and is a higher more objective standard than those relating to specific field standards and this is the approach taken by the AOGCC in its enforcement operations. This is where the meaning of "good oil field practices" could get a little bit tricky.

[4:06:31 PM](#)

CHAIR HUGGINS moved on page 3, lines 26 - 28, to delete subsection (B).

SENATOR WAGONER objected saying the subsection is an important part of the bill and it's perfectly workable the way it is. He asked the bill's drafter to speak to it.

4:08:03 PM

DON BULLOCK, drafting attorney, Legislative Legal Services, explained that the costs referred to in this subsection would be the result of a failure of not maintaining pipeline equipment to an expected level. They do not refer to just maintenance in general. Whatever costs flow from that lack of or improper maintenance, if it results in the facility having to be shut down for whatever reason, then those costs that would not have otherwise been incurred except for the lack of or improper maintenance would not be allowed to be deducted. And the way to prevent it is to do maintenance.

4:09:10 PM

SENATOR WIELECHOWSKI asked for a real life example of what would happen if this subsection were taken out.

MR. NORMAN went back to the North Star field leak with a two-week shut down. The operator thought shutting down was the most prudent course of action and immediately notified the AOGCC that agreed. Shutting down allowed them to better perform diagnostics and to make a repair. There were some other options for continuing to operate by effecting a bypass and that would have been acceptable to the AOGCC as well, but the fact remains that they were out the production of 25,000 - 30,000 barrels per day for a couple of weeks. They took the most conservative careful approach and repaired the line and that field is now back up to full production. The limited point he raised is whether it's good policy to limit those expenses because there are safety and conservation issues as well as revenue issues. They are not talking about willful conduct and gross negligence, but rather a mistake. "And to be honest, mistakes happen in every single business" Mr. Norman said.

4:11:58 PM

SENATOR WIELECHOWSKI said this isn't about just a mistake. This is a mistake caused by an operator's lack of or improper maintenance and he saw a big difference. Allowing the operator to take the deduction is rewarding him for failing to take proper action.

MR. NORMAN replied that he understands that, but it's still a mistake if you go back to the root cause. It's not willful conduct or reckless or gross, because those situations are

already covered in section 6. They're talking about getting down to someone, some employee, failed to put in the proper lubricant, failed to change the gasket right and suddenly something happened. And then if it brings down the entire facility, that's a consequence, but it still goes back to someone made a mistake.

SENATOR WIELECHOWSKI responded that he was looking at this through a negligence and proximate cause lens. If a facility shuts down as a result of negligence, under the laws of negligence, the operator is responsible. So, allowing the deductions would be rewarding negligent behavior and he didn't think that was good public policy.

[4:13:45 PM](#)

MR. NORMAN responded that what Senator Wielechowski said was true in the context of a negligence lawsuit and he agreed, but under federal income tax policy, if you run a business and an employee makes a mistake, it's a business expense - likewise under the Alaska corporate income tax. "Businesses are allowed to deduct mistakes - whether you're in the fishing business or a hardware store or whatever...."

[4:14:27 PM](#)

SENATOR WAGONER said this policy isn't up to the federal law at all; it's up to the State of Alaska to determine what it will allow to be deducted in the PPT bill. The last six or seven words [of subsection (B)] are crucial and the 1 - 19 deductibles on pages 1 - 3 are a list of things the state does not want to allow to be deducted.

[4:15:13 PM](#)

SENATOR STEDMAN joined the committee.

[4:15:22 PM](#)

SENATOR WIELECHOWSKI asked if operators would be able to deduct a similar error off their federal taxes.

MR. NORMAN replied that he thought they would and more importantly, he pointed out that the PPT has an audit provision that says ordinarily in a business relationship, partners will contribute if the other operating partner makes a mistake. He said, "In fact I have never seen an operating agreement that said that if you make a mistake and you're the operating partner the rest of us aren't responsible."

[4:16:51 PM](#)

SENATOR WIELECHOWSKI said it seemed to him that people aren't allowed double tax exemptions and he thought the state should allow operators to deduct those costs from their federal filings.

MR. BULLOCK inserted that they should step back a minute and look at what this bill is about. It is a tax bill; it's not about how to run an oil field. He explained:

The issue behind this bill as well as all the other costs that are disallowed as deductions under the PPT is that for every dollar that is allowed to be deducted, the state is giving up 22.5 cents of revenue. In addition, if it's a qualified capital expenditure, the state is giving up another 20 percent in the form of a credit. So, it's 42.5 cents out of every dollar - potentially - maximum.

And what this is - is it says in exchange for giving the deduction of the credit in that amount, what do we expect back. Well, now under the amendment that we adopted we're expecting that they apply good oil field practices. So, that sets our reasonable expectations - that we're giving up some money; we're expecting that they do a good job of maintaining the equipment.

Now, if they don't, then like Senator Wielechowski says, if there's an event that causes harm, then the costs that flow from that event, which in this case would be triggered by some failure because of a lack of or improper maintenance, there will be costs that will be associated with that event. And new policy is - is this cost a direct result of that event - in which case if they have to shut it down, the costs associated with that shutdown, and that shutdown only occurred because they have already been found to be the result of the lack of or improper maintenance. And (B) would say since that cost flowed from that event, that we didn't want to pay for it. Then we shouldn't allow a deduction for the cost to close.

4:19:09 PM

SENATOR MCGUIRE said that ordinarily in these areas of law, there are the strict liability cases where you set a standard that gets violated and you're strictly liable. And this is bordering close to that. She reasoned further that even though it's a tax issue, you are really forcing a company to do that

analysis of gross negligence versus negligence in making its deductions. She wanted people to understand that negligence is really a very low standard that's why they came up with the gross negligence standard. She was trying to figure out how this amendment would impact a company's decision-making process.

[4:20:41 PM](#)

MR. NORMAN responded that he shares the frustration over recent events, but he is looking forward 10 years and in another basin - perhaps out in the Bristol Bay area or Copper River - a new operator coming in and trying to figure out how taxes work in the State of Alaska. He felt obligated to point out that normally:

If a company is guilty of wilful conduct, the others don't contribute at all, they lose any deduction. If they are guilty of gross negligence, they lose that ability. Certain conduct also is deemed in the law to be deserving of treatment for strict liability as Senator McGuire identified and an example of that is in section 16 of the bill. It says if you have hydrocarbons and they get lose into the environment, we don't care why you did it; we don't care how careful you were, if it happened, you're not going to get any deduction.

The only thing that I am attempting to identify right here is that this is rather unusual to zero-in on negligence, which is at the top of the heap is wilful misconduct and then there's gross negligence - recklessness - and those things normally are disallowed.

[4:24:06 PM](#)

SENATOR MCGUIRE followed up saying that the committee has a certain party in mind right now, but the legislature is trying to enact a state policy that will be used for years to come and she was concerned that the wrong word might get out.

[4:26:08 PM](#)

SENATOR WAGONER argued that he agrees to do certain maintenance when he buys a car. If he blows the engine at 69,000 miles and has not changed the oil properly, the dealer will not replace the engine because it was not properly maintained.

[4:26:51 PM](#)

SENATOR WIELECHOWSKI said this bill is not trying to put anybody in jail here and negligence is not mentioned anywhere. It isn't punitive, but rather it offers an incentive for good oil field practices. They are saying if operators don't have good practices, they will not be allowed to deduct these costs.

SENATOR MCGUIRE agreed with him, but added that the problem is that certain things are implied in the statute when they aren't said. Maybe it should imply a mental state and say "intentionally improperly maintained".

SENATOR WIELECHOWSKI said they are talking about a lack of or improper maintenance while looking at good oil field practices in making that determination. He didn't have a problem with saying to someone that they don't get a tax deduction for lax improper maintenance or completely just ignoring maintenance - whether it's negligence or good oil field practices.

[4:29:13 PM](#) at ease [4:29:16 PM](#)

CHAIR HUGGINS restated his amendment to delete subsection (B) on lines 26 - 28, page 3 of CSSB 80(RES), version M, and asked for a roll call vote.

Senators Green, Stedman, Stevens, McGuire and Huggins voted yea; Senators Wielechowski and Wagoner voted nay; so the amendment was adopted.

[4:30:32 PM](#)

SENATOR GREEN asked if there had been any effort to balance out the lack of deductions with the 30-cent per barrel credit in the new language.

CHAIR HUGGINS said the committee had some conversations on that issue and had two memos from Dr. Pedro van Meurs and testimony from the commissioner of DOR that found some connectivity.

SENATOR STEDMAN explained that his understanding is that the commissioner of DOR brought forward the transcribed minutes from August 9, 2006 on Amendment 7 that had the actual conversation that indicated a clear tie-in.

CHAIR HUGGINS said there appears to be more connectivity between the two when you read the language.

[4:31:48 PM](#)

SENATOR WAGONER asked Mr. Bullock to address that because he didn't see any connection between the two.

4:32:05 PM

MR. BULLOCK said this has to do with legislative intent, which is a tricky issue because it goes to what was in the minds of the people that voted at the time. He didn't think the confidential memo that was not released until this year could be considered to figure out what the legislature intended when the amendment was offered by Senator Wagoner in the Special Committee on Natural Gas Development. He had searched the PPT history and looked at the minutes and could find no mention of negligence or a standard of care being a linchpin for determining whether something could be deducted or not. However he said:

Now, the irony of the 30 cents is the worse the repair, the slower the oil flows. Since the floor is 30 cents times the production, that it allows actually more costs to be deducted or allowable [indisc.] when the oil slows down. So, in a way, the 30 cents has a downside, too.

SENATOR GREEN asked if that should be corrected.

SENATOR STEDMAN asked Mr. Bullock if he listened to the actual meeting or just read the minutes.

MR. BULLOCK replied that he read the minutes and the sponsor's comments that are in the minutes.

SENATOR STEDMAN asked him to listen to the voice of Dr. van Meurs on August 9 particularly on Amendment 7.

CHAIR HUGGINS said Dr. van Meurs had alluded to some interconnectivity at that time.

MR. BULLOCK replied that you would only get to legislative intent to the extent that it's unclear in the wording of the statute, itself and the statute doesn't talk about a level of care that is expected under the 30 cents. It talks about terms of repairs and replacement and how those costs should be treated and deducted.

4:34:57 PM

He explained that 30 cent provision means the first 30 cents is multiplied by the production and sets is what the operator is

going to have to pay. It's not a deduction until they rise above the 30-cent floor. If production is low, the 30 cents is multiplied by a smaller number so you're disallowing a smaller amount of costs because the volume is less. He further opined that:

If you have a problem with that or you want to change the policy, I don't think you can do it just by simply moving the words around in that sentence. What this bill does is that it approaches the problem from another angle and that's by disallowing costs that are related to this lack of or improper maintenance. So, this is saying these costs aren't even deducted because that 30 cents applies to costs that would be allowable, not costs that aren't allowable. And this bill would make certain costs not allowable - so not even subject to that [indisc.].

[4:36:16 PM](#)

SENATOR STEDMAN said he understands what Mr. Bullock is saying, but the discussion around the amendments was how to deal with concerns from Alaskans as to whether the replacement of pipes and a complete significant overhaul of Prudhoe Bay could result in very significant tax breaks. He said that was a direct quote from Dr. van Meurs and as the legislature works through this policy call by using the negligence issue language and all the industry and state disagreements over what those should be, he recalled the compromise solution was the 30-cent provision. "That was pretty clear that we were looking at the total production in volume and not trying to isolate individual fields."

[4:38:07 PM](#)

SENATOR WAGONER said:

Mr. Chairman, I take exception to that comment because I happen to be the maker of the motion. The 30 cents was to bring us closer to a gross bill than a net bill. That was the sole purpose of the 30 cents and Pedro van Meurs said that's the best way he could figure out to bring us there. And that was done in consultation with myself and two other senators in my office on the Saturday that he wrote that memo, which I think was the fifth or I can't remember. I've got em all here. It had nothing to do with pipelines and corroded pipelines. This 30-cent amendment was crafted before BP made their announcement and if you look back

on the timeline that I distributed here, that's very obvious. You can follow it right down date for date for date. The BP shutdown happened on the 7th; Pedro's memo to me was on the 5th. So we had already crafted that 30-cent amendment two days prior to BP announcing the shutdown and talking about the bad corrosion on their pipes.

[4:39:06 PM](#)

CHAIR HUGGINS said Senator Stedman was referring to Pedro van Meurs' testimony on August 9 subsequent to the shutdown.

SENATOR WAGONER commented: "It's kind of chicken or egg, Mr. Chairman."

MR. BULLOCK realigned the argument saying that the 30 cents applies to a floor on costs that are allowed and the bill before them says that certain costs aren't going to be allowed. So they never even get to the 30-cent issue because they are not something the state is willing to share the cost on if this bill is adopted.

[4:39:56 PM](#) at ease [4:49:39 PM](#)

SENATOR STEDMAN read a portion of Dr. van Meurs testimony on from August 9, 2006 Amendment 7 that his staff had transcribed:

DR. PEDRO VAN MEURS: Great pleasure to give a little bit of background on this amendment. I think over the last few days in particular there has been enormous concern expressed among Alaskans as to whether the replacement of pipes and complete significant overhaul of Prudhoe Bay could result in very significant tax breaks or very significant deductions....

So consequently, the easiest thing is to simply say okay, we take some base off of capital, some base expenditure that really will be replacement in the future - probably the oil lines will have to be replaced or other facilities or equipment or pumps would have to be replaced. And we, over the next 20 to 30 years that we hope Prudhoe Bay and other fields will still produce.

(Senator Stedman: He's non-American, so there's a little difficult in the flow of the language.)

DR. VAN MEURS: And it is much - rather than debating forever between the auditors and the oil companies whether something was repair or something was betterment - it is much easier to simply say okay we will simply disallow modest floor of capital expenditures. From an international perspective, 30 cents a barrel taxable production seems to be a reasonable number.

SENATOR STEDMAN observed that this was on legislators' minds as they dealt with these amendments and tried to come up with a compromise.

[4:52:31 PM](#)

SENATOR WAGONER went a step further to say that there were some words missing from that transcription that are in this amendment and those are: "was not maintained or was improperly maintained". He said this is the crux of the matter - the bottom line.

[4:52:59 PM](#)

SENATOR WIELECHOWSKI read further down to page 2, starting at line 8 [of the transcript] where Dr. van Meurs says: "And that would guarantee Alaskans that under this PPT bill there would be no credits - say for replacement of the pipe - that some Alaskans are worried about." He opined, since he wasn't in the legislature at that time, if this happened on August 9 and the BP pipe problem happened a couple of days before that, he presumed that would be the pipe that Alaskans were worried about and that Dr. van Meurs is referring to in saying that there would be no credits for replacement of the pipe.

[4:53:58 PM](#)

SENATOR STEDMAN recalled that when they talked about the 30 cents, it wasn't 30 cents for one year or 30 cents for three years. The 30 cents was to run in perpetuity against the life of the field and certainly in some years it would be favorable to the state and in some years it probably wouldn't be.

[4:54:26 PM](#)

SENATOR GREEN remarked that she was so happy to get her question answered.

[4:55:30 PM](#)

CHAIR HUGGINS announced that HB 186 would not be heard today.

[4:56:11 PM](#)

SENATOR STEDMAN moved to pass SB 80 from committee from committee with individual recommendations and attached fiscal notes. There were no objections and CSSB 80(RES) moved from committee.

SJR 4-NATURAL GAS FOR STATE RESIDENTS

[4:57:17 PM](#)

CHAIR HUGGINS announced SJR 4 to be up for discussion.

SENATOR MCGUIRE moved to adopt CSSJR 4, version L. There were no objections and it was so ordered.

[4:59:05 PM](#)

SENATOR WIELECHOWSKI, sponsor of SJR 4, explained that this resolution addresses the escalating costs of natural gas in the Cook Inlet area, which provides energy for approximately 473,000 Alaskans or 71 percent of the state's population to heat their homes and businesses from Fairbanks to Kenai.

He said the Kenai Liquefied Natural Gas Plant has requested from the Federal Energy Regulatory Commission (FERC) an extension to continue an export license so that it can continue to export natural gas overseas. The administration has placed a set of conditions that must be met before the application is approved and this resolution is simply asking FERC to do a couple of different things - to essentially look at the natural gas supply that exists in Cook Inlet and consider that a recent poll indicates that 89 percent of Alaskans believe that maximum use of our natural resources includes providing low cost gas for Alaskans.

The resolution urges the producers in the Cook Inlet region to work with local utilities to insure an adequate and affordable long-term gas supply. It urges the Regulatory Commission to expedite the review of any utility contracts and asks the Department of Energy in its review of the application to consider whether the needs of Alaskans are being met. Enstar, Chugach Electric Association, Alaska Public Interest Research Group (AKPIRG) and AARP have submitted letters of support for this measure.

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SENATOR WAGONER said he had no problem with the resolution, but pointed out that he wasn't sure if the Phillips plant shut down tomorrow that it would have an effect on the price of gas in Cook Inlet, because currently the gas in Cook Inlet that is

supplying the utilities is under contract for a specific amount of money. One contract is based on Henry Hub and one is maybe 80 cents less than Henry Hub. Enstar says that all their customers pay at the same rate whether they are on the Kenai or in Anchorage and he didn't know if Southcentral customers had a chance at getting more affordable gas because the state is also tasked with getting market value for its gas. Further he didn't know that the Alaska legislature could put out gas for less than market value.

Secondly, he pointed out that on line 13 of page 2, the resolution talks about 58 residents of the LNG plant, which is true; but Marathon, who is a partner with ConocoPhillips, produces probably over 55 percent of the gas that goes into the plant and has many more employees, approximately 100 to 150. He would like to see that addressed.

SENATOR WIELECHOWSKI said he would be happy to work with him to try to come up with language that would include everyone.

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SENATOR WAGONER said one more thing to think about is if production shuts down, problems happen and "none of it's very pretty over a longer period of time." He speculated that the gas would have to go into storage.

[5:04:02 PM](#)

JOHN NORMAN, Chair, Alaska Oil and Gas Conservation Commission (AOGCC), came back to testify. He said there could potentially be a conservation issue if those reservoirs were shut in but it would be inappropriate for him to comment further, because at some point in the future the commission might have to intervene in the proceeding.

[5:05:42 PM](#)

RITA HATCH, Anchorage resident, said she has been on the heating program since she moved there 10 years ago. She thought the gas belonged to Alaska in the first place and reasoned if you know you're short on gas, why give it to other countries.

[5:07:07 PM](#)

SENATOR WIELECHOWSKI said the resolution is asking FERC to look at whether the needs of the Alaskan people are being met before it agrees with the application.

MS. HATCH said their needs are not being met.

SENATOR STEDMAN commented that a partial answer to that question in Cook Inlet is that supply is definitely a concern whether replacement comes from LNG, a line from the North Slope or coal gasification. Now that the price for the customer more reflects market prices, he thought more exploration interest would be seen there.

[5:08:52 PM](#)

SENATOR WAGONER explained that people need to be aware that several times this winter ConocoPhillips decided to short the supply of gas to its plant in order to supply gas during a projected peak demand period over and above the contract Enstar had with both Chevron and Marathon. ConocoPhillips is a pretty good neighbor that way.

MS. HATCH commented that the price of gas has gone up 30 percent in the last three years so companies are not hurting by selling it to Alaskans.

[5:10:13 PM](#)

SENATOR WAGONER said Alaskans aren't paying \$14/mcf like some people in the Lower 48 do. Alaska continually has the advantage of the cheapest gas available in the United States.

MS. HATCH said we should get it cheaper.

[5:11:24 PM](#)

CURTIS THAYER, Director, Corporate and External Affairs, Enstar Natural Gas, said Enstar represents over 125,000 meters or 340,000 Alaskans and they supported SJR 4.

CHAIR HUGGINS said SJR 4 would be set aside to work out details.

SB 57-MARINE PARKS ADDITIONS/HUNTING ALLOWED

[5:12:48 PM](#)

CHAIR HUGGINS announced SB 57 to be up for consideration.

SENATOR KIM ELTON, sponsor of SB 57, said it adds some small Juneau islands that stretch from the edge of Auke Bay north to the base of Lynn Canal to marine parks. The islands are frequented by locals and visitors and most of them have deer hunting and fishing, gathering of subsistence foods, recreational activities like picnicking and camping and have commercial fishing in the adjacent waters.

[5:14:13 PM](#)

He has heard of no opposition to this measure and it is supported by the Territorial Sportsmen, which is one of the groups that work with the state to add enhancements to the state park lands. The Southeast Alaska Land Trust, the State Parks Advisory Board and Goldbelt Corporation support it and the CBJ Assembly has also passed a resolution in support of it. The one in-holder supports it.

[5:16:05 PM](#)

SENATOR ELTON pointed out that language on page 2, section 2, provides that the DNR commissioner may not prohibit hunting within a marine park unit of the Alaska State Park System and adds that to existing language "fishing, hunting, or trapping rights permitted under law or regulation."

He said the House companion bill added another layer of protection to commercial fishing in waters adjacent to the islands that are being added, but he didn't think it was needed. However, he would leave that up to the committee and had no problem with that additional language.

[5:17:16 PM](#)

CHAIR HUGGINS asked what restrictions the state parks have now.

[5:18:01 PM](#)

MIKE EBERHARDT, Superintendent, Southeast Area, Division of Parks and Recreation, Department of Natural Resources (DNR), answered that state marine parks are open to hunting and fishing. They don't allow commercial use of the park or resource extraction and fire pits are limited.

[5:20:19 PM](#)

CHAIR HUGGINS asked if aircraft was restricted.

MR. EBERHARDT replied no; parks are specifically open to aircraft.

SENATOR STEDMAN said asked why 20 fathoms was selected on page 2, line 13, instead of 10 fathoms, which is usually clearly delineated on most charts just by color.

MR. EBERHARDT replied that the impetus was to not garner a lot of water under the jurisdiction of State Parks, which is entirely focused on the uplands. A park unit is designated via aliquot parts of land. In this situation just to encompass all of the uplands, there were huge blocks of water that commercial fishers might want to use that don't really meet the statutory

reasons for making the park. So, the acreage has been kept as small as possible.

[5:22:10 PM](#)

SENATOR STEDMAN said 10 fathoms is shallower than 20 fathoms and is clearly delineated on the charts and it would be easier for people to know when they are in the park and out of the park. Also, most people try to anchor at 8 or 9 fathoms, not 20 fathoms.

MR. EBERHARDT replied that the division was trying to exclude as much water as possible.

[5:23:17 PM](#)

SENATOR WAGONER said he has experience with state parks and asked why he didn't just make the boundaries at mean low water. He has unhappy people now because there is more water in Kachemak Bay State Park than land.

SENATOR ELTON attempted to explain that using 10 fathoms made sense to him for two reasons - it's clearly delineated on marine charts and most people anchor in 10 fathoms of water or less. It also makes sense to include adjacent waters when you're talking about a marine park, because one of the issues is anchoring buoys and other things that may or may not need to be added to enhance the park and make it easier for people to use. Using mean low tide might make park enhancement more difficult in the future.

[5:26:14 PM](#)

SENATOR STEDMAN asked if "fishing" should be added to "hunting" on line 6 so if a person is trolling, he can troll by the beach.

SENATOR ELTON said he had no problem with that either.

CHAIR HUGGINS asked what he has to do to camp with a troop of 20 boy scouts.

MR. EBERHARDT replied that he would need a permit to assemble within the park with more than 20 people. It doesn't cost anything; they just want to know where people are assembling so they don't interfere with the normal use of the park units.

SENATOR ELTON added that interference with other park users is often not an issue on these small islands.

[5:27:52 PM](#)

CHAIR HUGGINS asked if they would have a wolverine trapping problem in this area or some other critter that somebody wants to trap.

MR. EBERHARDT replied that marine parks don't have a trapping issue.

CHAIR HUGGINS said SB 57 would be held and he adjourned the meeting at [5:28:48 PM](#).