

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

February 13, 2008

3:36 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 251

"An Act repealing the termination date of the vessel permit system for the Bering Sea hair crab fishery and the weathervane scallop fishery; and providing for an effective date."

MOVED CSSB 251(RES) OUT OF COMMITTEE

SENATE BILL NO. 246

"An Act establishing a working group to analyze the potential of a hydroelectric power project on the Susitna River; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 248

"An Act relating to the salmon product development tax credit; providing for an effective date by amending an effective date in sec. 7, ch. 57, SLA 2003, as amended by sec. 4, ch. 3, SLA 2006; and providing for an effective date."

SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 251

SHORT TITLE: VESSEL PERMIT SYSTEM

SPONSOR(s): SENATOR(s) OLSON

01/28/08           (S)           READ THE FIRST TIME - REFERRALS

01/28/08 (S) RES  
02/13/08 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 246

SHORT TITLE: SUSITNA HYDRO WORKING GROUP; REPORT  
SPONSOR(s): SENATOR(s) THOMAS

01/19/08 (S) READ THE FIRST TIME - REFERRALS  
01/19/08 (S) RES, FIN  
02/13/08 (S) RES AT 3:30 PM BUTROVICH 205

**WITNESS REGISTER**

SENATOR DONALD OLSON  
Alaska State Legislature  
State Capitol  
Juneau, AK

**POSITION STATEMENT:** Sponsor of SB 251.

FRANK M. HOMAN, Commissioner  
Commercial Fisheries Entry Commission  
Alaska Department of Fish & Game  
Juneau, AK

**POSITION STATEMENT:** Answered questions and conveyed support for SB 251.

JULIE KAVANAUGH, Fisherman  
Kodiak, AK

**POSITION STATEMENT:** Opposed SB 251.

JOHN HILSINGER, Director  
Division of Commercial Fisheries  
Alaska Department of Fish & Game

**POSITION STATEMENT:** Supported SB 251 and answered questions.

OLIVER HOLM, Fisherman  
Kodiak, AK

**POSITION STATEMENT:** Opposed SB 251.

ALEXUS KWACHKA  
Kodiak, AK

**POSITION STATEMENT:** Opposed SB 251.

THERESA PETERSON, Fisherman  
Kodiak, AK

**POSITION STATEMENT:** Opposed SB 251.

ALAN PARKS, Fisherman  
Homer, AK  
**POSITION STATEMENT:** Opposed SB 251.

JERRY McCUNE  
United Fishermen of Alaska  
**POSITION STATEMENT:** Supported SB 251.

SENATOR JOE THOMAS  
Alaska State Legislature  
State Capitol  
Juneau, AK  
**POSITION STATEMENT:** Sponsor of SB 246.

GRIER HOPKINS, Staff to Senator Joe Thomas  
Alaska State Legislature  
State Capitol  
Juneau, AK  
**POSITION STATEMENT:** Assisted with presentation of SB 246.

#### **ACTION NARRATIVE**

**CHAIR CHARLIE HUGGINS** called the Senate Resources Standing Committee meeting to order at [3:36:14 PM](#). Present at the call to order were Senators Green, McGuire, Stedman, Wielechowski, Wagoner, and Chair Huggins. Senator Stevens arrived shortly thereafter.

#### **SB 251-VESSEL PERMIT SYSTEM**

[3:36:46 PM](#)

CHAIR HUGGINS announced SB 251 to be up for consideration. In packets was a proposed committee substitute (CS), Version E, labeled 25-LS1386\E, Kane, 2/5/08.

SENATOR DONALD OLSON, Alaska State Legislature, sponsor of SB 251, told members this deals with a complex situation. In 2002 the legislature created a vessel-based permit system for the emerging hair crab and scallop fisheries in state waters. This was to address resource conservation concerns because of unlimited fleet harvesting capability and to provide the efficiencies of unified management across state and federal waters. Without SB 251, the permit system expires December 30, 2008, at which time these two fragile fisheries will revert to unlimited open fisheries, creating significant pressure on the resource and fisheries management.

SENATOR OLSON said SB 251 is strongly supported by the state and federal fisheries managers to sustain the management and conservation values of the current system, and it is strongly supported by fishing organizations within his own district. He also indicated it has support from the United Fishermen of Alaska (UFA) and other statewide fisheries organizations.

SENATOR OLSON pointed out that whereas SB 251 permanently eliminates the sunset for the vessel-based permit system, the proposed CS, Version E, simply extends the sunset date for ten years. This alternative proposal would trigger future legislative review of the merits of this system.

SENATOR OLSON told members his interest stems from two Community Development Quota (CDQ) groups with permits in these fisheries: 1) Norton Sound Economic Development Corporation and 2) Coastal Village Regional Fund, represented by Senators Olson and Hoffman in their respective districts. These consortiums of coastal villages share in the economic benefits of high-seas fisheries; without SB 251, the value of their investments and these permits will drop to zero, and the fisheries and economies will be threatened. He provided a map of villages affected if this sunset isn't extended.

[3:39:51 PM](#)

SENATOR STEVENS arrived.

SENATOR OLSON highlighted the prevention of management chaos, noting that prior to 2002, state and federal waters were fished under two sets of rules and regulations; there was a management agreement between the two governments for these fragile fisheries, and management was given to the state. Without SB 251, there'll be an open season and new regulations will be put in place; many more fishermen will be out there. Saying this affects lots of people, even some who aren't in the fisheries, he asked for members' support.

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FRANK M. HOMAN, Commissioner, Commercial Fisheries Entry Commission (CFEC), Alaska Department of Fish & Game (ADF&G), in response to Senator Stedman, said there are two forms of limited entry today. One is the traditional method, to an individual fisherman; this is how all the salmon fisheries are established. Of the 68 limited fisheries, 66 are in the traditional individual-permit system. Only two fisheries - those being looked at today - are under a vessel license permit system.

MR. HOMAN explained that the two fisheries generally use big boats that have two or three skippers in a year. Under the traditional system, each skipper would have received a permit. However, the desire was to limit this fishery to conserve the resource. So rather than doubling or tripling the number of permits, in 2002 CFEC talked with the legislature, which authorized this new system for these two fisheries.

SENATOR STEDMAN surmised the department and administration support this bill.

MR. HOMAN affirmed that, specifying that CFEC, ADF&G, the North Pacific Fisheries Management Council (NPFMC), and UFA are in favor. It only relates to these two fisheries where the resource is of such concern. The previous open access led to the 2002 legislation; the effort is to prevent going back to that situation.

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SENATOR WIELECHOWSKI asked how many permits are under the vessel permit system and how many are owned by Alaskans.

MR. HOMAN replied there are 8 permits in the scallop fishery and 18 in the hair crab fishery. It's a little difficult to tell about residency, but he believes at least 3 scallop permits are for Alaska residents; there were 4, but one moved.

MR. HOMAN said in the hair crab fishery, Alaskans have an interest in at least a third of the permits. These are vessel permits, and a vessel can be owned by an individual, a partnership, or a corporation. Generally, fishermen band together to be able to afford the larger boats for these two fisheries. It's not the same as for salmon, where individuals buy vessels.

SENATOR WIELECHOWSKI asked if he'd heard any opposition.

MR. HOMAN replied yes; some people do not like this system, but a majority of those he's heard from aren't in the fishery. To his knowledge, the majority of fishermen want to keep this system because it's well managed and understandable - they know what the rules and regulations are. Some people don't like the idea of limited entry to begin with, however, and would prefer open access for all fisheries. He surmised the limited entry system was instituted to prevent that kind of chaos.

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SENATOR WIELECHOWSKI asked if Alaskans are saying there are too many out-of-state permits and they're denied access.

MR. HOMAN responded that limited entry is based on historical participation, both for the traditional system and the vessel license program; CFEC takes a fishery as it is when it's limited and, under the limited entry law, has to give credit for historical participation. The State of Alaska cannot discriminate between residents and nonresidents. All fisheries have some nonresidents when they're limited. Taking limited entry as a whole, it is about 78 percent Alaskans. It has worked well over the 30 years of limited entry, he said, with the same percentage as when it was first limited. He added there is no way he knows of to direct a permit to an Alaskan.

MR. HOMAN, in response to Chair Huggins, highlighted how fragile the two vessel-permit fisheries are; they can't stand very much pressure. He said going to open access would encourage more boats to participate. The catch for the scallop fishery is limited by a quota system regulated by ADF&G. Any addition would impact the whole fleet economically.

CHAIR HUGGINS asked if any other aspects of limited entry protect the species.

MR. HOMAN answered that the limited entry system, when designed 30 years ago, had two goals: conservation of the resource and protecting the economic health of the participants. All limited entry fisheries that have been established had conservation as the first basis. The effort is to protect the resource so it sustains itself over time and provides an economy for the state.

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CHAIR HUGGINS asked if there is an active weathervane scallop fishery.

MR. HOMAN affirmed that. In further response, he opined that the current quota is 500,000 pounds of shucked scallops; it has been that for several years.

CHAIR HUGGINS noted there were affirmative nods from the audience.

MR. HOMAN estimated the gross value fluctuates from perhaps \$2 million to \$4 million. He pointed out that the Bering Sea hair crab resource is in even worse shape; that fishery hasn't been open for at least six or seven years. He said ADF&G is

monitoring it, waiting for the resource to replenish itself so it can be opened.

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JULIE KAVANAUGH, Fisherman, noted her family lives in Kodiak and has commercially fished from Ketchikan to Akutan for 34 years. Lifelong Alaskans, they are 100 percent dependent on fishing income. Although they don't participate in these particular fisheries, she said they value the decisions that affect them in years to come. She said while SB 251 seems basic, simple, and easy, the structure of these fisheries made it conducive for vessels to form cooperatives and reduce the number of participants in the scallop fishery from 8 to 3-4.

MS. KAVANAUGH indicated in 2002, in the Grunert case, the Alaska Supreme Court struck down 5 AAC 15.359 because it was fundamentally at odds with the Limited Entry Act, whose central premise was that permit holders are individuals who actively fish; a cooperative regime didn't require active participation by permit holders. Since only 3-4 permits are fished, she asked where the other vessels are and what other fisheries they impact while collecting royalties on Alaska's resources.

MS. KAVANAUGH said the court also expressed concern that a cooperative-style fishery may interfere with CFEC's ability to determine an optimum number of permits; the model destroys any relationship between the number of permits issued and the ultimate number of participating vessels and gear units. She opined that the 2002 legislation which allowed vessel-based permitting was unconstitutional, going against the premise that access rights are for persons who actively participate.

MS. KAVANAUGH indicated ADF&G has a management plan outline to replace the vessel-based system and believes it has the management tools and ability to implement it. Even without sufficient funding, she said, ADF&G's able staff are confident they can care for Alaska's resources. Disagreeing that SB 251 is about conservation, she asked that state managers be allowed to manage the fisheries and be given funding to do so. Voicing concern about the precedent set by vessel-permit legislation and how it has been used by the Board of Fisheries in the Gulf of Alaska, she stated strong opposition, saying SB 251 is unconstitutional, has no merit, and affects her and the community where she lives.

SENATOR GREEN requested a response.

3:57:16 PM

MR. HOMAN responded that SB 251 doesn't authorize cooperatives or say anything about them. What can happen already, in any fishery, is a cooperative effort by fishermen to lower costs to increase economic return. For example, the Kodiak fishery has nine participants with traditional individual permits; they get together and harvest fish with one or two boats, for economic reasons. In the scallop fishery, similarly, five boats operate under an agreement among themselves that only two or three will fish; they then share the harvest. Nothing new in the bill leads to that.

SENATOR WAGONER gave his understanding that this reduces the amount of gear effort.

MR. HOMAN affirmed that, noting there is a lot less pressure on the resource by having three boats instead of five; if it goes to open access, there'd be many more boats fishing. Certainly, ADF&G could restrict seasons, catch, or gear, but all those make it less economically feasible for boats that participate. The scallop fishery isn't an entry-level fishery where someone could just decide to hop in a boat and go. It takes an investment because the boats are big and there is a lot of gear.

CHAIR HUGGINS noted it's a bottom fishery by design.

MR. HOMAN agreed. He recalled that one small-boat scallop fisherman had testified in earlier meetings that he doesn't go out most years because he can't make any money.

CHAIR HUGGINS asked to hear from ADF&G as well.

4:01:20 PM

JOHN HILSINGER, Director, Commercial Fisheries Division, Alaska Department of Fish & Game, told members ADF&G supports this bill. It has found, under the vessel-based limited entry system, that this is a highly manageable and sustainable fishery. As Mr. Homan noted, only the scallop fishery is open.

MR. HILSINGER noted the hair crab fishery is at low stock levels; if this bill doesn't pass and it goes to open entry, it would significantly delay any possible opening in that fishery. It's partly a conservation issue related to blue king crab; that fishery has a very low catch per pot. When the number of boats is small, fishermen can concentrate on the area where the hair crab are. But as the number of boats increases, they tend to spread out and increase their bycatch of blue king crab. He

said ADF&G has been working hard to reduce any potential bycatch of blue king crab in order to recover that stock.

CHAIR HUGGINS asked about other elements the committee should be aware of.

MR. HILSINGER replied that in anticipation of this limited entry program possibly coming to an end, ADF&G has been developing a potential management plan to deal with the fishery. While it's ADF&G's best attempt to design a fishery that sustains the stocks, however, it would lead to problems. For one thing, the state-waters boundary line runs through the middle of several scallop beds; sometimes it isn't straight. It would be extremely difficult for a boat to stay on one side or the other.

MR. HILSINGER explained that a boat in the state-waters fishery wouldn't be allowed to fish in federal waters, but a federally licensed boat could fish in both. To separate the catch, ADF&G anticipates requiring boats to register for either state or federal waters and then stay in those waters until they reregister.

MR. HILSINGER said this would complicate management and likely would impact the profitability. The boats are used to towing back and forth across the line. Having to stay on one side or another will increase costs because they'll have to lift and then reset the gear. It will complicate the fishery.

CHAIR HUGGINS surmised ADF&G prefers limited entry.

MR. HILSINGER affirmed that. In response to Senator Wagoner, he explained that while the blue crab would be returned, that population is at such a low level that ADF&G has actually closed other crab fisheries specifically to prevent such bycatch. He indicated even the level of incidental mortality from being caught and returned would be a problem for that population.

SENATOR STEVENS asked him to explain the contingency plan and what the fishery would look like if this program ended.

MR. HILSINGER answered that the following is envisioned: The registration deadline would be April 1; the season opens July 1. Since these vessels are all required to have observers on board, observers would be identified and trained before the season opens. Each boat would register for either state or federal waters. Although a boat could only fish in the area for which it registered, a change of registration would be allowed.

MR. HILSINGER further explained that harvest totals would be kept separate for state and federal waters; ADF&G would set up separate harvest guidelines for those. About 30 percent comes from state waters and 70 percent from federal waters. Envisioned is some kind of vessel monitoring system (VSM) based on a global positioning system (GPS); a vessel could be tracked on a computer screen to see if it was fishing in the appropriate area, and thus ADF&G would know whether the catch was from state or federal waters.

MR. HILSINGER noted there might be another element he didn't recall. Also, some fishermen might have other proposals when the board takes this up at its March meeting.

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SENATOR McGUIRE asked what is being done through regulation for gear and bycatch in general, whether there has been discussion of this in ADF&G, and whether the technology and gear are improving at a level that the department is happy with.

MR. HILSINGER replied it is discussed. All fisheries are different. Recently lots has been heard about salmon bycatch in the Bering Sea pollock fishery, which is at high levels; he opined that there isn't good technology to prevent that. There also are bycatch issues in longline fisheries. One in the news recently relates to seabirds, which may take the bait as the gear is set or retrieved; technology appears pretty effective in preventing that, and the department recently put out news releases alerting folks that they're required to have that seabird-avoidance gear onboard their vessels.

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OLIVER HOLM, Fisherman, informed members that he'd been fishing around Kodiak Island over 40 years in many different fisheries, though not the scallop fishery. He said he doesn't believe it is appropriate for Alaska to have state-managed fisheries based on vessels rather than individuals. It goes against the intent of the constitutional framers and the limitation program, which gave people the right to fish in Alaska. When it is switched to vessels, it's impossible to keep track of who owns the right.

MR. HOLM said most bigger fisheries in Alaska are managed by the federal government, and corporate owners have plenty of opportunity under federal limited entry to participate as vessel owners; he believes it is important that the state not go that route in state waters, but instead provide a counterpoint to the

federal system so actual people and residents of Alaska have an opportunity to make a living.

MR. HOLM downplayed UFA's endorsement. Noting he's on that board, he said this item was put on the agenda for teleconference not long ago, with fairly short notice. The vote was 11 for; 1 against, which was him; and 8 abstentions. There wasn't extensive debate about the merits of this policy. He questioned how that can be a ringing endorsement for a change in state policy.

SENATOR McGUIRE asked if Mr. Holm had talked to Alaskans who'd like to get into one of these fisheries but hadn't been able to.

MR. HOLM replied that people haven't been able to because of the license limitation program. He opined that there wouldn't be a flood of new participants, because scallop fishing takes a fairly substantial vessel, but he surmised some people might want to participate in the 30 percent that's in state waters.

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ALEXUS KWACHKA, Kodiak, testified that he is absolutely opposed to vessel-based limited entry, believing it's not in the state's best interests. There were 12 vessels for scallops in 1996; now there are 4. He asked where those other 8 vessels are and whether they receive economic benefits from participating in other fisheries as well. Noting \$2 million to \$4 million is substantial money, Mr. Kwachka said he'd like to see the money trail and how that works.

MR. KWACHKA noted there hasn't been a hair crab fishery since 2000; he doesn't believe one is imminent and thus this seems to be a shotgun approach to fix a small-scale problem. He opined that corporate ownership isn't in Alaska's best interest. Recalling talk about economic efficiencies, he said there can be the greatest economic efficiencies in the world - one scallop boat, longliner, salmon boat, and crab boat - but that's not in Alaska's best interest. He said the "economic inefficiencies" of these fisheries are what drive coastal Alaska.

MR. KWACHKA recalled a 2006 bill enacted to allow permit stacking. He also referred to recent changes by the Board of Fisheries, noting one person can fish two permits with all the units of gear. Saying consolidation isn't the route to take in these fisheries, he instead proposed that these programs should be based on providing economic opportunity for Alaskans.

MR. KWACHA reported that he sits on the fish and game advisory committee. Last night they looked at what the state has in mind for a scallop fishery, which he thinks is workable. Although it would create a few problems related to the boundary line, the line is highlighted on computers and it's straightforward. He specified that he doesn't support this bill.

4:17:10 PM

THERESA PETERSON, Fisherman, Kodiak, told members she is a 20-year resident there, a member of an active commercial fishing family, and a strong supporter of Alaska's limited entry system and its stated policy that limited entry permits only go to a person who actively participates in a fishery. For this and other reasons, she opposes SB 251.

MS. PETERSON said the authority to allocate harvest privileges to vessel owners and corporations is fundamentally at odds with the Limited Entry Act. If the State of Alaska desires extreme consolidation and absentee ownership among Alaska's fisheries, legislators need to propose such a change to the constitution and justify, in a transparent manner, why such a move is beneficial to Alaska's residents.

MS. PETERSON said while this bill addresses solutions to a particular problem within the hair crab and weathervane scallop fisheries, it sets precedent and policy. She urged the state to find another method within the framework that works for the 66 traditional limited entry fisheries. She expressed concern that under the vessel-based program, owners could designate one person to hold and operate the permit.

MS. PETERSON opined that the contingency plan outlined by Mr. Hilsinger covers the biological and managerial concerns. As a supporter of limited entry and holder of four permits, she expressed hope that her testimony wouldn't be discounted because she doesn't hold a permit in this fishery. She surmised that permit holders who reap the benefits while not actively participating will naturally support continuing the program.

MS. PETERSON said while the NPFMC supports the bill, several managers have implemented rationalization programs that have led to absentee ownership of Alaska's fishing privileges, which isn't beneficial to Alaska's residents. She expressed hope that legislators would stand up for coastal communities and keep active participation a component of the limited entry system.

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ALAN PARKS, Fisherman, Homer, noted he has participated in commercial fisheries in Alaska for over 30 years. He voiced adamant opposition to SB 251 and agreed with the Kodiak testifiers. He said the concept of vessel-based limited entry conflicts with many philosophical approaches of the state on fisheries allocation, shaping coastal communities, and providing opportunity for Alaskans. Expressing concern that the vessel-based system is also corporate-based, an approach he disagrees with, Mr. Parks said he doesn't favor any management regime that creates absentee ownership and a revenue stream for people who don't actively fish.

MR. PARKS conveyed approval of ADF&G's contingency plan outline, saying it's important to have good monitoring. By knowing whether the harvest is in state or federal waters, the state will know which scallop beds are being fished and how many pounds come from each bed, allowing better conservation than now. He said the state has an opportunity here to move forward with regulating the state-waters fisheries to the greatest benefit of Alaskans.

[4:23:46 PM](#)

JERRY McCUNE, United Fishermen of Alaska, pointed out that a letter in packets says UFA doesn't support this kind of vessel-based program except for this particular fishery. Noting there couldn't be other programs like this unless it went through the legislature, he emphasized that this is about conservation. Citing personal experience, he predicted that if it goes to open access, folks will try to go fishing and then overload the fishery, leading to its closure. He said it makes sense to UFA to run this particular very small fishery this way.

SENATOR STEVENS asked why UFA generally opposes vessel-based fisheries.

MR. McCUNE answered that the established program, with ownership of permits by a person, has been in place in large fisheries. Part of UFA's decision was because about 28 skippers would qualify for a permit in this particular fishery. But 28 boats would be too many for the fishery. He indicated the vessel-based permit works for this fishery, keeping it viable and keeping a small portion of those boats working.

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CHAIR HUGGINS inquired about UFA's vote on this.

MR. McCUNE replied he takes his instructions from the board. As long as the majority supports something, his instruction is to follow that. He doesn't talk about how particular groups voted.

CHAIR HUGGINS asked whether the UFA board had asked Mr. McCune to testify in support of this bill.

MR. McCUNE affirmed that.

CHAIR HUGGINS asked if anyone else wished to testify. He then asked Mr. Hilsinger to address any issues from the testimony.

[4:28:52 PM](#)

MR. HILSINGER returned to the issue of trying to manage the scallop fishery under ADF&G's contingency plan. He said the boundary line of federal waters is not a smooth line across the ocean. Even though it's at three miles, it bumps around every point of land on the coast. He surmised people might underestimate the difficulty of staying within state waters while fishing. It will increase enforcement issues.

MR. HILSINGER reported that some fishermen have suggested limiting the size of the scallop dredges to slow the fishery and make it more manageable. He predicted that might actually make boats with federal permits not viable in the fishery, since only those can fish in federal waters; then that whole fishery would be at risk.

MR. HILSINGER noted if there were separate gear types in state and federal waters, there'd be tremendous enforcement difficulty - which boat it is, how much gear is on board, what size it is, and so on, plus ensuring that the boat doesn't cross over the line with the gear. It wouldn't be as easy to manage as separate fisheries in state and federal waters.

MR. HILSINGER also pointed out that ADF&G doesn't have precise population estimates for the scallops in state waters versus federal waters. Generally, about one-third of the catch has come from state waters and two-thirds from federal waters. But there isn't the ability right now to actually survey those waters to determine precise distribution. So harvest guidelines are based on a general understanding of the historical harvest, not necessarily on a good estimation of numbers of scallops.

MR. HILSINGER, in response to Senator Stevens, explained that there is a federal program under which someone buys a federally approved VSM unit and then a computer screen can be used to

track the boat and know where it is, where it has been, and so on. Also, each vessel is required to have an onboard observer, who is primarily there to collect biological data but can also try to track where the boat is. An observer has to sleep sometimes, so solely having one on the vessel doesn't ensure that ADF&G knows where it is fishing. The hope is that having both the onboard observer and the VSM will allow tracking.

MR. HILSINGER noted there is some difficulty because the boat isn't prohibited from going into state or federal waters, but is prohibited from fishing there. The VSM shows whether a boat is on one side of the line or the other. If it's traveling at fishing speed where it isn't supposed to fish, there'd be a suspicion of fishing but no proof. There'd still have to be enforcement to make sure people fish where they're supposed to.

SENATOR STEVENS remarked that the ADF&G contingency plan sounds rational and logical. While there'd be difficulties, he didn't see insurmountable problems.

MR. HILSINGER explained that ADF&G's plan would ultimately depend on how many vessels participate. If there wasn't a big increase in effort, it would probably work; a large increase would be more problematic. One reason for the registration deadline is so ADF&G could close an area before it even opened if ADF&G saw a tremendous increase in effort. He emphasized that the state-waters portion of an individual scallop bed can be extremely small, although in some cases it's fairly large.

[4:36:50 PM](#)

SENATOR WIELECHOWSKI asked if the court has ruled on the constitutionality of a vessel-based permit system.

MR. HOMAN came back up and answered no. The court has ruled on scores of limited entry cases, but not relating to vessel limitation. Pointing out that the term "consolidation" was used several times in testimony, he clarified that in 2002, when the legislature approved this program, it was well aware of that issue. All these issues have been discussed in the past.

MR. HOMAN noted the statute says the Limited Entry Commission shall adopt regulations limiting the number of vessels that may be held by a permit holder or group of related permit holders if the commission finds that limiting the number of vessel permits that may be held by a permit holder or group of related permit holders is necessary to prevent the excessive concentration of ownership of vessel permits in the fishery.

MR. HOMAN said following that, a series of regulations were adopted for these fisheries. In the scallop fishery, no person or entity may have an interest in any more than one permit. In the hair crab fishery, it's limited to two; that's because when these fisheries were limited, the hair crab fishery had participants who owned two vessels. By statute and regulation, consolidation cannot go any further than it is, he added.

MR. HOMAN pointed out that the co-ops discussed today in this fishery, and other fisheries of the traditional nature, are agreements by participants to form together for mutual benefit. This isn't authorized or encouraged by the state. They do this for their own betterment. This type of situation is available to all fishermen.

MR. HOMAN also emphasized that the legislation which authorized this doesn't extend to any other fishery. The legislature made an exception for these two fisheries in 2002 so they'd be managed differently. And CFEC cannot go into any other fisheries with this vessel license program unless authorized by the legislature. Thus there is no spreading corporate takeover of other fisheries.

[4:41:31 PM](#)

SENATOR STEVENS expressed appreciation for Mr. Homan's long involvement with CFEC. He asked what principles led the state down the road of a limited entry program based on the individual, rather than the vessel.

MR. HOMAN indicated in the early 1970s, when limited entry was established, fisheries consisted primarily of individual owners. The legislature wanted to protect that. Limited entry was designed to protect individuals who depend on the fishery for their livelihood and also those who depend on the fishermen, mostly families, often in rural Alaska. That has worked well for many years.

MR. HOMAN said as fisheries grew and other fisheries besides salmon became involved, however, different business structures became evident. Although the traditional individual system didn't always quite work out, it was always kept as a principle. In fact, it is an overriding principle of the state to have an individual participating actively in the fishery.

MR. HOMAN noted in the Grunert decision, cited earlier, the Alaska Supreme Court upheld that principle in the traditional

fisheries, saying the individual was important, as was active participation. The new system developed by the legislature in 2002 is an exception. Trying to accommodate the individual, and those dependent on that individual, is still the guiding principle.

[4:45:14 PM](#)

SENATOR STEDMAN moved to adopt CSSB 251, Version E, labeled 25-LS1386\E, Kane, 2/5/08, as the working document.

SENATOR STEVENS objected. He said lots of reasons had been heard why the committee shouldn't be dealing with this, and he wouldn't repeat them all. Fishermen in communities had opposed the idea. Historically, it has been an individual-based limited entry permit system. Highlighting unintended consequences, he opined that the committee was seeing the results of that here.

SENATOR STEVENS removed his objection and Version E was adopted.

CHAIR HUGGINS invited the sponsor to provide closing comments. He noted Version E only changes the date, to December 30, 2018.

SENATOR OLSON concurred. He said his heart goes out to those in Kodiak who have investments and others in the private sector who are affected negatively. But some folks in the poorest areas of the state have been able to subscribe to the CDQ program and benefit because they weren't able to afford some of the big capital investments.

SENATOR OLSON added that no system will be perfect. Letting this sunset creates the need for a whole set of regulations and a bureaucracy set up with monitors on these ships. Highlighting the monumental change and surmising it will have negative effects if this program sunsets, he urged support for the bill.

[4:47:49 PM](#)

SENATOR STEDMAN moved to report CSSB 251, Version E, out of committee with individual recommendations and attached fiscal notes.

SENATOR STEVENS objected. He explained that the committee had heard strong opposition from the communities he represents, and the constitutionality needs to be addressed. Also, he saw nothing insurmountable with ADF&G's plan to manage these fisheries if the program isn't extended.

SENATOR STEVENS emphasized individual ownership by real people and providing economic opportunities for Alaskans. He said absentee ownership is an important issue, and this conflicts with principles held by many including him. While appreciating Mr. Homan's comments, he said this isn't a bill he wants to move forward. If it does move, he questioned extending it ten years, when the original program was for eight.

SENATOR GREEN reported being approached in the hallway by someone who said folks in favor of the bill had been told it wasn't necessary to call in.

MR. HILSINGER, in response to Senator Wagoner regarding federal requirements, said in the scallop fishery it isn't a requirement to have the VMS on board. In some other federal fisheries, it is. Most of the boats have it, however.

4:51:23 PM

A roll call vote was taken. Senators McGuire, Wielechowski, Wagoner, Green, Stedman, and Huggins voted in favor of moving the bill from committee. Senator Stevens voted against it. Therefore, CSSB 251(RES) was moved out of the Senate Resources Standing Committee by a vote of 6-1.

The committee took an at-ease from 5:52:05 PM to 4:53:02 PM.

**SB 246-SUSITNA HYDRO WORKING GROUP; REPORT**

4:53:02 PM

CHAIR HUGGINS announced SB 246 to be up for consideration.

4:54:47 PM

SENATOR JOE THOMAS, Alaska State Legislature, sponsor of SB 246, told members this bill establishes a working group to analyze the potential of a hydroelectric power project on the Susitna River. It directs the governor to designate a lead agency and establish a working group to consult with organizations and departments to analyze the hydroelectric potential. The agency will review and update past studies, bringing the current feasibility, demand, and cost analyses back to the legislature at a designated date.

SENATOR THOMAS noted in recent years Alaskans have seen energy costs skyrocket. High costs and uncertainty make it difficult for Alaskans to make ends meet and also adversely affect economic growth. The energy from a hydroelectric facility is predictable, stable, clean, and low-cost; for instance, the

Bradley Lake hydroelectric dam produces energy for the Railbelt at 5 cents a kilowatt hour, far below the 17.5 cents paid in the Interior, not to mention rural areas.

SENATOR THOMAS said the majority of Railbelt turbine power plants are over 30 years old; all will need retrofitting and replacement, estimated at \$1 billion to \$2.5 billion, a cost he predicted will increase dramatically. Once replacements begin, there will still be rising energy costs, fluctuating operating expenses, and high-pollution facilities.

SENATOR THOMAS pointed out that 25 years ago, when a dam along the Susitna River was looked at, Cook Inlet gas cost 25 cents per million cubic feet, compared to more than \$8 today. The population was substantially less, and other energy costs were a fraction of today's costs. He suggested these factors, along with environmental and long-term energy considerations, merit reopening the discussion.

SENATOR THOMAS noted this anticipates that the designated agency will work along with the U.S. Army Corps of Engineers, which was responsible for the original study. Urging support for SB 246, he said nothing is as comprehensive an approach to reducing costs, emissions, and dependency on finite, nonrenewable energy production for the Railbelt and adjacent areas.

SENATOR THOMAS, in response to Chair Huggins, relayed what is envisioned: The governor will pick the Alaska Energy Authority as an energy coordinator. That agency will coordinate with the Department of Natural Resources; Department of Environmental Conservation; Department of Fish & Game; Department of Labor & Workforce Development; Department of Commerce, Community & Economic Development; and Railbelt utilities and other area stakeholders. The intent is to update the old study to reflect current costs and feasibility, as well as other issues that may have been raised.

SENATOR THOMAS reported that it is anticipated to be done by the end of 2009, though he expressed willingness to have it be longer. He noted another bill addresses a longer timeframe, and the money is addressed in both bills. Regarding opposition, he said almost every comment he's heard has been that people are encouraged by revisiting the Susitna issue; it isn't just those who worked on it before and thought it a good idea.

[4:59:05 PM](#)

GRIER HOPKINS, Staff to Senator Joe Thomas, Alaska State Legislature, explained that now the Railbelt uses about 800 megawatts of power, with a maximum capacity of about 1,400. Expected to increase more than 40 percent in the next 20 years, this power is generated by an aging infrastructure. With most of it at least 30 years old, it will have to be replaced in the next 10 years, at a pretty high cost.

MR. HOPKINS opined that the Susitna option needs to be looked at to ensure the Railbelt isn't locked into the same path if it's not the preferred option. This could be an overarching project that is stable, clean, renewable, and low-cost, with predictable energy and operating costs throughout the 100-plus-year lifespan. Reopening the study now would allow the legislature to make sure all options are judged before going down that path.

CHAIR HUGGINS asked which communities would benefit. He surmised Fairbanks wouldn't need the energy, since it would get natural gas from the proposed pipeline.

SENATOR THOMAS replied he hoped so, but also believed there would be a strong impetus to sell that gas, as had happened with oil. That would provide the most monetary gain, though not necessarily if one looked at economic development in Alaska, a tougher hurdle. He cautioned against putting all the eggs in one basket.

CHAIR HUGGINS asked if he'd coordinated with any power-generation organizations or received feedback.

SENATOR THOMAS replied yes, as far as looking at their interest. Everyone spoken with had responded positively. He surmised more letters of support would be forthcoming.

[5:01:43 PM](#)

SENATOR WAGONER informed members that he'd talked to fishing groups and other associations. At one time, they opposed this project, but with new technologies and potential for rearing salmon and other sport fish, they're very supportive now.

SENATOR WIELECHOWSKI noted he'd forwarded an e-mail about possibly getting the U.S. Army Corps of Engineers involved.

SENATOR THOMAS responded that involvement of the U.S. Army Corps of Engineers is anticipated, since it did the original study. But it isn't believed that such involvement can be mandated.

SENATOR GREEN recalled a previous study group in which the U.S. Army Corps of Engineers was listed as a participant, possibly in legislation. She suggested that participation is needed here.

SENATOR THOMAS replied this might be amended to add some language that anticipates or requests such involvement.

CHAIR HUGGINS held SB 246 over.

There being no further business to come before the committee, Chair Huggins adjourned the Senate Resources Standing Committee meeting at [5:03:27 PM](#).