

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

March 31, 2008

3:38 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

CS FOR HOUSE JOINT RESOLUTION NO. 31(RES)

Opposing the enactment of the Protect America's Wildlife Act of 2007 that intends to prohibit aerial hunting of wildlife, which is essential for predator control in Alaska.

MOVED CSHJR 31(RES) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 370(RES)

"An Act relating to forested land management and protection from wildland fire and other destructive agents; changing the term 'forest fire' to 'wildland fire' where it appears in the Alaska Statutes; and providing for an effective date."

MOVED CSHB 370(RES) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HJR 31

SHORT TITLE: OPPOSE FED LAW RE AERIAL HUNTING

SPONSOR(S): REPRESENTATIVE(S) KELLER

01/30/08	(H)	READ THE FIRST TIME - REFERRALS
01/30/08	(H)	RES
02/13/08	(H)	RES AT 1:00 PM BARNES 124
02/13/08	(H)	Heard & Held
02/13/08	(H)	MINUTE(RES)
02/20/08	(H)	RES AT 1:00 PM BARNES 124
02/20/08	(H)	Moved CSHJR 31(RES) Out of Committee

02/20/08 (H) MINUTE(RES)
 02/25/08 (H) RES RPT CS(RES) 6DP 1NR 1AM
 02/25/08 (H) DP: ROSES, WILSON, FAIRCLOUGH, EDGMON,
 GATTO, JOHNSON
 02/25/08 (H) NR: GUTTENBERG
 02/25/08 (H) AM: KAWASAKI
 03/25/08 (H) TRANSMITTED TO (S)
 03/25/08 (H) VERSION: CSHJR 31(RES)
 03/26/08 (S) READ THE FIRST TIME - REFERRALS
 03/26/08 (S) RES
 03/31/08 (S) RES AT 3:30 PM BUTROVICH 205

BILL: HB 370

SHORT TITLE: PROTECTION OF FORESTED LAND
 SPONSOR(S): REPRESENTATIVE(S) KELLY

02/19/08 (H) READ THE FIRST TIME - REFERRALS
 02/19/08 (H) RES
 02/27/08 (H) RES AT 1:00 PM BARNES 124
 02/27/08 (H) Heard & Held
 02/27/08 (H) MINUTE(RES)
 02/29/08 (H) RES AT 1:00 PM BARNES 124
 02/29/08 (H) Moved CSHB 370(RES) Out of Committee
 02/29/08 (H) MINUTE(RES)
 03/03/08 (H) RES RPT CS(RES) 5DP 1NR 2AM
 03/03/08 (H) DP: WILSON, GUTTENBERG, EDGMON,
 FAIRCLOUGH, SEATON
 03/03/08 (H) NR: JOHNSON
 03/03/08 (H) AM: KAWASAKI, GATTO
 03/17/08 (H) TRANSMITTED TO (S)
 03/17/08 (H) VERSION: CSHB 370(RES)
 03/18/08 (S) READ THE FIRST TIME - REFERRALS
 03/18/08 (S) RES
 03/31/08 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

REPRESENTATIVE WES KELLER
 Alaska State Capitol
 Juneau, AK

POSITION STATEMENT: Prime sponsor of HJR 31.

DEREK MILLER
 Staff to Representative Mike Kelly
 Alaska State Capitol
 Juneau, AK

POSITION STATEMENT: Commented on HB 370 for the sponsor.

CHRIS MAISCH, Director
Division of State Forestry
Department of Natural Resources (DNR)
Anchorage, AK
POSITION STATEMENT: Supported CSHB 370(RES).

JENNIFER YUHAS
Special Assistant to Mayor Jim Whitaker
Fairbanks North Star Borough
Fairbanks, AK
POSITION STATEMENT: Supported HB 370.

LYNN WILCOCK, Fire Program Manager
Division of Forestry
Department of Natural Resources (DNR)
Anchorage, AK
POSITION STATEMENT: Supported HB 370.

ACTION NARRATIVE

CHAIR CHARLIE HUGGINS called the Senate Resources Standing Committee meeting to order at [3:38:22 PM](#). Present at the call to order were Senators McGuire, Stedman, Wielechowski, Wagoner and Huggins. Senators Green and Stevens joined the meeting shortly after it started.

CSHJR 31(RES)-OPPOSE FED LAW RE AERIAL HUNTING

[3:40:18 PM](#)

CHAIR HUGGINS announced CSHJR 31(RES) to be up for consideration.

REPRESENTATIVE WES KELLER, prime sponsor of HJR 31, said in September 2007 Congressman George Miller of California introduced HR 3663. The Defenders of Wildlife said the resolution expressly prohibits aerial gunning or land and shoot gunning of wolves and other predators for the purpose of inflation of the game species populations. The Wolf Conservative Center says that this resolution bars states from using aerial hunting to artificially boost game species populations for hunters.

He pointed out the resolution has an exemption, however, saying if the wolves are a problem for livestock in the Lower 48, then airplanes can be used to go out and shoot them. This just goes

to show how our culture where moose and caribou are just staples of the diet is not understood.

REPRESENTATIVE KELLER said it's the state's job to manage the game populations for maximum beneficial use of the people. He said Alaska is a sovereign state with sovereign borders and the legislature has been given the job of setting the policy. He said HR 3663 has 111 co-sponsors in Washington D.C., but it hasn't had a hearing yet.

[3:40:49 PM](#)

Senator Green and Senator Stevens joined the committee.

[3:41:32 PM](#)

SENATOR MCGUIRE asked what groups introduced this and if they targeted Alaska.

REPRESENTATIVE KELLER replied he had no specific names, but he found, through an acquaintance in California who works for a public relations firm, that it hires a huge staff and they look for issues like this to build a media campaign around. They will take any side of an issue and sometimes both.

SENATOR WIELECHOWSKI said he doesn't appreciate Congress telling Alaska what to do. He asked if he had any concern that Alaskans had voted twice to ban airborne hunting.

REPRESENTATIVE KELLER replied that airborne hunting has been banned except for predator control and he didn't view that as defiance of the will of the people.

SENATOR WAGONER stated that while a lot of people are against airborne hunting, a lot of his constituents say they wouldn't be opposed to the state hiring helicopters and doing predator control of wolves or having a bounty on them. He said this is a good resolution.

[3:44:06 PM](#)

SENATOR GREEN asked if this issue was opposed to an individual flying.

SENATOR WAGONER said concerns have been expressed that they aren't sure how many wolves actually get shot compared to what is reported - although he didn't see any advantage for not reporting the number of wolves killed.

CHAIR HUGGINS agreed sometimes it's just semantics because most people understand the dire condition of the game population. It has to be addressed or the herd goes away. He queried whether there were any wolves in California where Congressman Miller is from. He has heard they had some problems there with big cats mauling people. They reproduce quickly and don't have any natural enemies and aren't they doing some predator control.

[3:46:35 PM](#)

SENATOR STEVENS moved to report CSHJR 31(RES) from committee with individual recommendations. There were no objections and it was so ordered.

[3:47:04 PM](#) at ease [3:50:14 PM](#)

CSHB 370(RES)-PROTECTION OF FORESTED LAND

[3:50:23 PM](#)

CHAIR HUGGINS announced CSHB 370(RES) to be up for consideration.

DEREK MILLER, staff to Representative Mike Kelly, sponsor of HB 370, said this measure would align statute with the Alaska Interagency Wildland Fire Management Plan that has been in effect since approximately 1985. It states that all fire management decisions will be based on values warranting protection and those include cabins, lodges and other manmade structures.

He said existing language implies that fire management decisions are based solely on the value of the natural resources at risk. This bill does not obligate protection; it just allows for management to include these structures in its decision making. The other objective of the bill is to change the term "forest fire" to "wildland fire" throughout statute. This term is more up-to-date and is used throughout the Division of Forestry.

MR. MILLER said this bill has two zero fiscal notes and the Department of Law has assured them that the state will not take on additional liability with its passage.

[3:52:36 PM](#)

CHRIS MAISCH, Director, Division of State Forestry, Department of Natural Resources (DNR), explained this issue goes back to the 2004-05 fire season when a record-11-million-plus-acres burned in Alaska.

He explained that the Interagency Fire Management Plan that all the suppression agencies work with in the state dictates the four different levels of initial attack suppression. The two types of response are referred to as limited and modified. Limited means a fire may or may not be attacked. Generally speaking, a structure gets the same type of protection as the surrounding areas. If the surrounding area is in limited protection, then the structure is not protected. The exception is if human life is at risk. This is how the policy has worked for many years.

MR. MAISCH said the state has had more and more remote development and it is time to update the fire atlases that show where structures are located and the level of protection they get. The Murkowski administration brought forth what was called the "best effort doctrine" to see what could be done to protect structures in remote areas. The Department of Law determined that structures could not be protected under the current language of "natural resources at risk."

Essentially this bill would allow the division to develop a system that would allow the division to determine on the atlases what protection structures would get. He explained that the decision would be based on a number of things; one would be if the structure had fire wise principles around it - meaning the private owner of the structure had conducted activities to make the structure more survivable should a wildfire approach. It determines if there is a close water source and what kind of fuel pipe the structure is located in. For instance, if it's in the middle of black spruce with no water anywhere nearby, there's not much firefighters can do to protect a structure like that. He said updating the atlases would assure that all structures are treated consistently and equally.

SENATOR WAGONER asked if the Caribou Hills fire was on state land, private land or a combination.

MR. MAISCH answered a combination of lands were involved; most of it was on state land and about a third of it was on the wildlife refuge.

[3:56:34 PM](#)

SENATOR WAGONER asked how many of the structures were on state land. He explained that he has a structure on leased land and when the lease runs out, the state will either burn or remove the building. He asked if the Caribou Hills leases are different.

MR. MAISCH replied it depends on the individual piece of private property. Some have trespass structures on state land, some have permitted structures and some are just private in-holdings that originally came from state or federal lands. State policy is to not provide protection on trespass structures.

SENATOR WAGONER asked if those structures could be permitted for rebuilding.

MR. MAISCH didn't know, but he said it would be a good question for the Division of Mining, Land and Water that oversees that aspect of permitting on state land.

SENATOR WIELECHOWSKI asked why "forest" is changed to "wildland" on page 2, line 16.

MR. MAISCH replied the "wildland fire" is more inclusive terminology of places that burn; it used to be "forest fire." For example, this year the state had a quarter-million acre fire on the tundra up north that has no trees; the west has grasslands and rangelands.

[3:58:51 PM](#)

SENATOR WIELECHOWSKI asked where the meat of this bill is.

MR. MAISCH replied in the intent section, section 3, on page 3, lines 2-3. It removes "value of the resources" and "for the natural resources and watersheds" and inserts "values at risk". "Values" is a broader term that allows them to include manmade structures as part of the assessment process, which they have done under the Interagency Management Plan. Finally, when the law was originally put in place, there weren't as many structures in remote areas of the state, so it wasn't a big issue. Now it is.

SENATOR WIELECHOWSKI said usually intent language doesn't have a whole lot of meaning, but here it does.

MR. MAISCH answered yes.

[4:00:22 PM](#)

SENATOR WIELECHOWSKI said he heard that forests are potentially much more explosive now, because they had been managed by putting out fires for decades, which encouraged their growth.

MR. MAISCH answered he was correct, especially in the western U.S. He said the Yellowstone fires are a prime example of where fire was suppressed for decades and when a fire finally happened, the fuel loads were so heavy, that it had a more catastrophic intensity than it ever would have if a natural fire had been allowed to burn through that area more frequently. In Alaska the boreal forest is such a fire driven ecosystem; it is designed to burn and it needs to burn in order for it to stay healthy. He said that some people think that climate change is causing more intense fire seasons in addition to just fuels.

SENATOR WIELECHOWSKI asked if this language would help Southeast Anchorage concerns about protection from forest fires. He also asked if the state was doing what it could to protect those people from forest fires.

MR. MAISCH answered this language would not affect the Hillside area. That area has already been identified as a critical or full fire protection area. However, he said that the larger urban areas have community wildfire protection plans that identify areas of high risk and mitigation measures to either reduce the fuels or improve the chances for structural and human survival. The language in HB 370 would affect structures in limited or modified protection areas.

CHAIR HUGGINS asked for an update on the beetle kill issue.

MR. MAISCH answered the spruce bark beetles are declining on the Kenai and have been moving into other parts of the Anchorage bowl. They are in decline overall and salvage activities on the Kenai have declined as well. A wood pellet manufacturing company had recently purchased about 20 million feet or basically the remaining salvage sales. The wood, as long as it is still standing for a three-year period after a burn or beetle kill is low quality and can be used only for bio-energy, the last use.

[4:06:09 PM](#)

CHAIR HUGGINS asked him to describe a "controlled burn."

MR. MAISCH responded that controlled burns are sometimes referred to as "prescribed fire," and it is infrequently used in the Interior for grouse habitat improvement and for regenerating aspen stands in the spring before "green up." They haven't done a lot of prescribed fires for fuels treatment, but Alphabet Hills in the Copper River area is one area that has. The Forest Service did one in the Kenai area a couple of years ago as well.

The trick is if it's done anywhere close to an urban area, you better really have your act together.

[4:07:50 PM](#)

CHAIR HUGGINS asked how long the tree residue maintains its BTU value.

MR. MAISCH answered for a long time; once the tree starts to get soft is the point at which it starts to lose BTUs.

SENATOR WIELECHOWSKI asked if there is any plan to deal with the spruce bark beetle kill on the Kenai. It seems like it's a massive fire waiting to happen.

MR. MAISCH replied a dozen Kenai communities have come up with community wildfire protection plans. The idea behind the planning efforts is public safety - identifying evacuation routes and mapping of fuel types and loads and where at-risk things are like schools or residential developments. That is where their limited funding is spent. They might remove the fuel load close to schools and urban areas, but that makes a small dent in risk factors on the Kenai.

[4:10:45 PM](#)

SENATOR WIELECHOWSKI asked what "destructive agent" meant.

MR. MAISCH replied that "destructive agent" actually refers to the Forest Practices section of this statute. That is the law that governs activities on private, municipal and state lands for forest practices, which are generally commercial forestry activities. Destructive agents are insects like bark beetles and pathogens like the emerald ash bore.

SENATOR WIELECHOWSKI asked what he would do if we have another spruce bark beetle invasion.

MR. MAISCH answered the fact is that most of the trees that would serve as a host have already been killed. He is encouraging development of a bio-energy industry to use the residue.

SENATOR WIELECHOWSKI said he has the right to suppress and asked how he approaches that.

MR. MAISCH replied that would depend on the insect, but if it's a bark beetle they would apply a pesticide on the bowls of trees so when the beetles emerge they come in contact with it and die.

SENATOR WIELECHOWSKI asked if he crop dusts.

MR. MAISCH replied that the state has never done that, but at least one private land owner has used aerial application of herbicides for weed control. He said another example is the spruce bug worm, which is in the Interior right now. It's also in the state of Maine and other places in the Lake states and they have aerial sprayed for it as a mitigation measure; Alaska doesn't have the resources or the need to do that.

4:14:30 PM

JENNIFER YUHAS, Special Assistant to Mayor Jim Whitaker, Fairbanks North Star Borough, supported HB 370. She explained after the 2004 Interior fire season the mayor placed a high priority on fire prevention. This legislation places in the intent language the expectation that already exists in their communities for the Division of Forestry to assist with this.

4:16:42 PM

LYNN WILCOCK, Fire Program Manager, Division of Forestry, Department of Natural Resources (DNR), supported HB 370. He said Mr. Maisch did a great job of explaining why they want this legislation. He offered to answer questions.

SENATOR WAGONER asked what they have learned about the spruce bark beetle and put in place to respond to it.

MR. MAISCH answered they have learned that earlier action is appropriate in circumstances where you have the ability to act through salvage after initial discovery of an outbreak. The division has the authority to declare a zone of infestation, which gives them other tools to use. He didn't know if it would have made a difference on the Kenai, because those trees were old and in large tracts. One of the things that probably allowed it to happen was the successful effort at keeping fire out of that ecosystem over the previous decades. It put on a smorgasbord for these insects and once they got going, there wasn't a lot they could do to stop them. The same thing is happening right now in Canada and Colorado where hundreds of thousands of acres of lodge pole pines are being attacked by the mountain pine beetle. "It makes the Kenai look like a small disaster in comparison."

4:19:31 PM

CHAIR HUGGINS asked if he has land mobile radio (ALMR).

MR. MAISCH answered yes; his budget has some funds that are dedicated to ALMR, which has to do with the suppression organization and fire engines. It is part of the statewide effort to convert over to that system as mandated by some of the changes in interoperability between federal and state agencies - so they can communicate with each other in emergency situations.

CHAIR HUGGINS asked when he is communicating with the Alaska National Guard, does he use VHF or UHF.

MR. MAISCH replied he thought it was UHF.

MR. WILCOCK added that the department is still trying to figure out how to integrate ALMR with the traditional Legacy System. The problem with ALMR from his perspective is that it is limited to alongside the road net and wildland fires occur much broader than that. An interface would help them communicate with the National Guard. They use ALMR with fire departments and with some other cooperating agencies.

[4:21:35 PM](#)

SENATOR STEVENS remarked that his grandchildren know them as forest fires.

MR. MAISCH reiterated that the term "wildland fire" just broadens the concept to include more types of places where fires happen and it is okay with Smokey the Bear.

CHAIR HUGGINS asked what the term is when they let the fires burn themselves out and if he exercised that option here.

MR. MAISCH answered those fires occur in limited or modified areas and they just monitor them. It's a "let burn policy."

SENATOR WAGONER asked the difference between a controlled fire and a let burn fire.

MR. MAISCH answered that a lot of planning happens before a controlled fire. It often takes a year to write a burn plan that actually dictates how it will be ignited. A let burn happens as a matter of course.

SENATOR WAGONER asked if a let burn fire ever becomes a controlled burn.

MR. MAISCH answered no.

CHAIR HUGGINS asked how long he has been doing this.

MR. MAISCH replied nine years and he takes blood pressure pills aside from having grey hair.

[4:25:36 PM](#)

SENATOR WIELECHOWSKI asked if adding protection from other destructive agents was a big change or just a clarification.

MR. MAISCH answered that other destructive agents have been in this section all along. The House Resources Committee requested a definition of "destructive agent" and that is in section 5.

SENATOR WIELECHOWSKI asked if adding "other destructive agents" to AS 129.40/010 gave him any sort of new powers.

MR. MAISCH answered no.

SENATOR STEVENS moved to report CSHB 370(RES) from committee with individual recommendations and attached fiscal note(s). There were no objections and it was so ordered.

CHAIR HUGGINS thanked them for their comments and adjourned the meeting at [4:27:47 PM](#).