

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES

March 9, 2010

10:21 a.m.

MEMBERS PRESENT

Representative Bryce Edgmon, Chair
Representative Wes Keller, Vice Chair
Representative Craig Johnson
Representative Charisse Millett
Representative Cathy Engstrom Munoz
Representative Robert L. "Bob" Buch
Representative Scott Kawasaki

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 46

"An Act requiring the Department of Environmental Conservation to collect and make available to the public certain information relating to water pollution; prohibiting certain mixing zones in freshwater spawning waters; and requiring a public comment period for certain sewage system or treatment works modifications."

- TABLED

HOUSE BILL NO. 365

"An Act relating to sharing records regarding fish purchased by fish processors with certain federal agencies, to requirements to obtain and maintain a fisheries business license, and to payment of industry fees required of fish processors; and providing for an effective date."

- HEARD & HELD

HOUSE CONCURRENT RESOLUTION NO. 15

Directing the Legislative Council to contract for an assessment of environmental and socioeconomic consequences of large-scale mineral extraction in the Bristol Bay area watershed.

- BILL HEARING POSTPONED

PREVIOUS COMMITTEE ACTION

BILL: HB 46

SHORT TITLE: MIXING ZONES/SEWAGE SYSTEMS

SPONSOR(S): REPRESENTATIVE(S) SEATON

01/20/09	(H)	PREFILE RELEASED 1/9/09
01/20/09	(H)	READ THE FIRST TIME - REFERRALS
01/20/09	(H)	FSH, RES
03/31/09	(H)	FSH AT 10:15 AM BARNES 124
03/31/09	(H)	Heard & Held
03/31/09	(H)	MINUTE(FSH)
01/28/10	(H)	FSH AT 10:15 AM BARNES 124
01/28/10	(H)	Heard & Held
01/28/10	(H)	MINUTE(FSH)
03/09/10	(H)	FSH AT 10:15 AM BARNES 124

BILL: HB 365

SHORT TITLE: FISH PROCESSOR FEES, LICENSES, RECORDS

SPONSOR(S): REPRESENTATIVE(S) MILLETT

02/23/10	(H)	READ THE FIRST TIME - REFERRALS
02/23/10	(H)	FSH, RES
03/09/10	(H)	FSH AT 10:15 AM BARNES 124

WITNESS REGISTER

REPRESENTATIVE PAUL SEATON

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified as the prime sponsor of HB 46.

LYNN KENT, Director

Division of Water

Department of Environmental Conservation (DEC)

Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 46.

CAMERON LEONARD, Senior Assistant Attorney General

Natural Resources Section

Civil Division (Fairbanks)

Department of Law (DOL)

Fairbanks, Alaska

POSITION STATEMENT: Testified during the hearing on HB 46.

FRANK HOMAN, Chairman/Commissioner

Commercial Fisheries Entry Commission (CFEC)

Alaska Department of Fish & Game (ADF&G)
Juneau, Alaska

POSITION STATEMENT: Testified in favor of HB 365.

BRAD HANES, Commercial Fisherman
Ketchikan, Alaska

POSITION STATEMENT: Testified in favor of HB 365.

BRYAN BENKMAN, Commercial Fisherman; Member
Southeast Alaska Seiners Association (SEAS)
Seattle, Washington

POSITION STATEMENT: Testified in favor of HB 365.

SETH WYMAN, Commercial Fisherman; Board Member
Southeast Alaska Seiners Association (SEAS)
Seattle, Washington

POSITION STATEMENT: Testified in favor of HB 365.

SVEN STROUSE(ph), Commercial Fisherman; Board Member
Southeast Alaska Seiners Association (SEAS)
Mt. Vernon, Washington

POSITION STATEMENT: Testified in favor of HB 365.

RANDY STEWART, Vice President
Southeast Alaska Seiners Association (SEAS)
Mt. Vernon, Washington

POSITION STATEMENT: Testified in favor of HB 365.

DAN CASTLE, President
Southeast Alaska Seiners Association (SEAS); Board Member
Southeast Revitalization Association (SRA)
Juneau, Alaska

POSITION STATEMENT: Testified in favor of HB 365.

BOB THORSTENSON, Executive Director
Southeast Alaska Seiners Association (SEAS)
Juneau, Alaska

POSITION STATEMENT: Testified in favor of HB 365.

NIK NEBL, Commercial Fisherman; Member
Southeast Alaska Seiners Association (SEAS)
Ketchikan, Alaska

POSITION STATEMENT: Testified in favor of HB 365.

BRUCE WALLACE, Commercial Fisherman
Juneau, Alaska

POSITION STATEMENT: Testified in favor of HB 365.

GARY HAYNES, Commercial Fisherman
Ketchikan, Alaska

POSITION STATEMENT: Testified in favor of HB 365.

SCOTT MCALLISTER, Commercial Fishermen
Juneau, Alaska

POSITION STATEMENT: Testified in favor of HB 365.

JERRY MCCUNE, Representative
United Fisherman of Alaska (UFA)
Juneau, Alaska

POSITION STATEMENT: Testified in favor of HB 365.

MITCH EIDE, Commercial Fisherman; Board Member
Southeast Alaska Seiners Association (SEAS)
Petersburg, Alaska

POSITION STATEMENT: Testified in favor of HB 365.

ACTION NARRATIVE

[10:21:16 AM](#)

CHAIR BRYCE EDGMON called the House Special Committee on Fisheries meeting to order at 10:21 a.m. Present at the call to order were Representatives Edgmon, Buch, Kawasaki, Munoz, and Keller. Representatives Millett and Johnson arrived as the meeting was in progress.

[10:21:25 AM](#)

HB 46-MIXING ZONES/SEWAGE SYSTEMS

[10:21:38 AM](#)

CHAIR EDGMON announced that the first order of business would be HOUSE BILL NO. 46, "An Act requiring the Department of Environmental Conservation to collect and make available to the public certain information relating to water pollution; prohibiting certain mixing zones in freshwater spawning waters; and requiring a public comment period for certain sewage system or treatment works modifications." He then noted that public testimony on HB 46 was closed.

[10:23:06 AM](#)

REPRESENTATIVE PAUL SEATON, Alaska State Legislature, informed the committee that the bill asks three questions: Should citizens have the right to know Department of Environmental Conservation (DEC) information on freshwater pollution without having to file a Freedom of Information Act request? Should pollution above the state toxic standards be allowed to be discharged on freshwater spawning beds as mixing zones? Should neighbors have the right to a public hearing if a commercially operated sewage lagoon is going to be expanded over 50 percent in their neighborhood? Representative Seaton stated that the biggest of these questions is regarding mixing zones, and explained that mixing zones are areas where the state allows toxic pollutants to be discharged. He pointed out that the bill restricts this discharge in a spawning area; in fact, this is a return to the law previous to 2002, when mines "were permitted under those situations." For example, the Donlin Creek [mine] was required to move its mixing zone upstream, away from a spawning area. He noted that HB 46 will ensure that there is an exemption for problems with turbidity from placer mining operations, and the bill does not affect other permits for in-stream crossings.

[10:25:15 AM](#)

REPRESENTATIVE KELLER recalled that amendments have been discussed at previous hearings. He moved to adopt Amendment 1.

CHAIR EDGMON objected for the purpose of discussion.

[10:25:33 AM](#)

REPRESENTATIVE SEATON explained Amendment 1, which read as follows:

Page 3, line 24, following "for a":
Insert "commercially operated"

REPRESENTATIVE SEATON said that the amendment eliminates the question of whether a sewage lagoon is a disposal site on private property.

[10:26:03 AM](#)

CHAIR EDGMON removed his objection. Hearing no further objection, Amendment 1 was adopted.

[10:26:12 AM](#)

REPRESENTATIVE KELLER moved to adopt Amendment 2.

CHAIR EDGMON objected for the purpose of discussion.

[10:26:25 AM](#)

REPRESENTATIVE SEATON explained Amendment 2, which read as follows:

Page 3, following line 21

Insert:

(4) "useful life" means the anticipated time in which a facility can continue to be operated without replacement or major renovation.

REPRESENTATIVE SEATON said that the amendment adds clarity to the intent of the statute.

[10:26:44 AM](#)

CHAIR EDGMON removed his objection. Hearing no further objection, Amendment 2 was adopted.

[10:26:49 AM](#)

REPRESENTATIVE KELLER moved to adopt Amendment 3.

CHAIR EDGMON objected for the purpose of discussion.

[10:26:59 AM](#)

REPRESENTATIVE SEATON explained Amendment 3 which read as follows:

Page 3, line 5

After "authorization" delete "."

Insert:

", or for an area where spawning was ongoing at the time of initial authorization, if that authorization occurred more than five years prior to the effective date of the bill."

REPRESENTATIVE SEATON said the amendment provides clarity for rural villages that have sewage outfalls which have not been officially permitted.

[10:27:47 AM](#)

CHAIR EDGMON removed his objection. Hearing no further objection, Amendment 3 was adopted.

[10:28:01 AM](#)

CHAIR EDGMON called for discussion on HB 46, as amended.

[10:28:20 AM](#)

REPRESENTATIVE MILLETT maintained her concern about the effect of changing mixing zone requirements on small, undeveloped communities. In addition, the fiscal note indicates the addition of staff, and she opined that DEC is "doing a good job with the statutes as they stand on mixing zones." She said she will not be able to support the bill in its present form.

[10:30:01 AM](#)

REPRESENTATIVE SEATON responded that the remaining question was whether the committee believes it is good public policy to discharge toxics above the state standards for aquatic life on freshwater spawning areas. He clarified the spawning areas are nesting areas for the named species, such as salmon, when the salmon are not actively laying eggs. Furthermore, there have been no mine permits denied because of this accommodation. Representative Seaton opined not protecting spawning grounds is "trading away our renewable resources and our fisheries resources on which all our communities depend." The bill does not prevent mixing zones in rivers, but makes modifications so that a mixing zone does not occur in a spawning area.

[10:31:38 AM](#)

REPRESENTATIVE MILLETT expressed her belief that the legislation elevates one resource over another for development. She said, "In my walk around the state, have seen that [miners] are doing the upmost to protect all resources equally." She concluded that the bill may not allow permitting for some mines and is "over-reaching."

[10:32:50 AM](#)

CHAIR EDGMON pointed out that HB 46 has safeguards to exempt municipalities and placer mines, and asked Representative Seaton to speak about the exemptions.

[10:33:54 AM](#)

REPRESENTATIVE SEATON provided the example of the Donlin Creek mine, which applied for a permit prior to the change in law. The mine was required to move its mixing zone 1,400 feet to a "boulder patch area" that was not in a spawning area. After this change, the mine received its permit. Furthermore, the bill exempts artificial settling ponds or channels that are later "invaded by one of the fish species," so they may not be reclassified as spawning areas. In addition, the bill accommodates turbidity caused by placer mines. He restated the intent of the bill is to prevent pollution, above the level that the state sets as safe for aquatic life, from being discharged in spawning areas.

[10:36:54 AM](#)

REPRESENTATIVE KELLER recalled testimony from DEC indicating that regulations already prohibit mixing zones in spawning areas "with the time element." He stated that the above information, along with the "unknowns" surrounding the bill's impact on municipalities, prevent him from supporting the bill.

[10:37:53 AM](#)

REPRESENTATIVE SEATON advised that comments from the municipalities and villages have indicated that one of the amendments adopted "took care of that problem that DEC had identified, that there were some things that they hadn't permitted." Therefore, unpermitted discharges that are normal in some parts of rural Alaska are taken care of. However, after the useful life of facilities is past, the replacement should be "at a level of what we want to see for Alaska."

[10:38:54 AM](#)

REPRESENTATIVE MUNOZ observed HB 46 also affects lakes and resident fish, such as Arctic char and other species. The bill is very broad, and she cited the difficulty of permitting the tailings disposal plan for the Kensington Mine in Juneau that occurred over the discovery of an introduced trout species.

Although the Kensington Mine did not require a mixing zone, she maintained her concern about adding uncertainty to the permitting process. She asked for a response regarding the aforementioned issue and on the influence of the Clean Water Act (CWA) on this legislation.

[10:40:14 AM](#)

REPRESENTATIVE SEATON concurred that the Kensington Mine did not require a mixing zone. Although freshwater fish in lakes are included in the language of the bill, he pointed out that HB 46 does not cover broadcast spawners, but only species that spawn in redds, or nests. He acknowledged that the CWA requires public process for its tri-annual review; however, public process for adopting standards is set "as appropriate" by 33 United States Code (USC) 1313(c)(1). He assured the committee that the idea that the state can, or cannot, disallow mixing zones is not the issue as proven by the statute that was enacted affecting the cruise line industry. The bill does not change the toxic standards, but merely disallows the ability to exceed the established standards on spawning grounds.

[10:43:27 AM](#)

REPRESENTATIVE MUNOZ opined legislation affecting the cruise ship industry has proven to be a very onerous and unscientific method of regulating water quality. She maintained her concern that legislating water quality without the regulation process leads to unintended consequences.

REPRESENTATIVE SEATON reminded the committee that in 2002, the Murkowski administration eliminated the standard that prevented mixing zones from being part of spawning areas, and this bill reinstates the previous standard.

[10:44:53 AM](#)

REPRESENTATIVE JOHNSON asked whether salmon always spawn in the same area.

REPRESENTATIVE SEATON responded that spawning areas are identified by the Alaska Department of Fish & Game (ADF&G) and are not extremely variable. The fish tend to return to the same area that has gravel and upwelling waters.

[10:45:46 AM](#)

REPRESENTATIVE JOHNSON further asked whether water temperature is a factor.

REPRESENTATIVE SEATON answered that water temperature varies year to year, and with salmon, ADF&G has surveys that indicate the established spawning areas. Some species, such as pink salmon, are more mobile and may invade a new area.

[10:47:05 AM](#)

REPRESENTATIVE JOHNSON observed that ADF&G may determine that there has not been an invasion because the fish have been in a certain area years before. He said, "... to get to the point of my questioning, are we talking about eliminating a mixing zone, anywhere on a river that's a potential spawning zone, based upon the invasion ...? Are we basically excluding any place that could ever potentially be a spawning zone in a river?"

REPRESENTATIVE SEATON said no. An application for discharge will require findings to determine whether the area is a spawning area and the permit will be granted, or not, based on that finding.

[10:48:21 AM](#)

REPRESENTATIVE JOHNSON expressed his belief that the legislation leaves open to interpretation "is it a spawning zone, was it a spawning zone, is it going to be a spawning zone?" His primary concern is that this bill eliminates basically any habitat that could potentially be a spawning zone.

[10:49:03 AM](#)

REPRESENTATIVE SEATON explained that when a permit is considered, ADF&G determines whether the area is a spawning area.

[10:49:31 AM](#)

LYNN KENT, Director, Division of Water, Department of Environmental Conservation (DEC), clarified that the cruise ship law did not affect the water quality standards, but addressed effluent levels. However, HB 46 does make changes to the water quality standard, because the Environmental Protection Agency (EPA) views the mixing zone regulations as a part of the water

quality standards. She then deferred to testimony from the Department of Law (DOL) on the EPA process.

[10:50:37 AM](#)

CAMERON LEONARD, Senior Assistant Attorney General, Natural Resources Section, Civil Division (Fairbanks), Department of Law (DOL), advised the committee the bill would require EPA approval through a process governed by federal regulations. He directed attention to his written response to "Mixing Zone Bill Questions, Our File No. 665-09-0019," dated 2/11/10, and provided in the committee packet.

[10:51:13 AM](#)

REPRESENTATIVE SEATON referred to the letter response and pointed out that Section 303(c)(2)(B), which is cited in the letter, is specific to toxic pollutants and does not apply to the mixing zone requirements. Furthermore, Sections (c)(3) and (4) pertain to EPA's approval and disapproval process; thus, although it would be good to put these things in findings, pollutants, mixings zones, and the EPA process are different topics.

[10:52:03 AM](#)

MR. LEONARD disagreed, and said that anytime DEC promulgates any water quality standard it does go through the same federal approval process. The applicable requirements of the CWA are Sections 303(c)(1) and (c)(2)(A), and are not limited to toxins, but apply to any water quality standard.

REPRESENTATIVE SEATON opined the new existing standards have not been approved by EPA; however, the standards in the bill have been approved.

[10:53:08 AM](#)

REPRESENTATIVE MUNOZ observed Mr. Leonard's letter indicates an analysis occurs before a change is made. She read from page 3 [original punctuation provided]:

Federal regulations require that a state seeking EPA approval of a proposed revision to a water quality standard submit the following information: analyses conducted to support the standard; an explanation of the scientific basis for the standard; and

certification by the Attorney General or other legal authority this it was duly adopted. ... the sponsor of a bill proposing a change to an existing standard should make the first two items available to the committees considering the bill, and to the public, before the bill is enacted.

[10:54:07 AM](#)

MR. LEONARD further explained that these requirements can be found in federal regulation 40 Code of Federal Regulations (CFR) Section 131.6. The regulation lists what the state is required to submit to EPA in support of a water quality standard project and there is a separate regulation for governance of public hearings. Mr. Leonard advised these requirements "would be triggered by this bill, just as they are triggered every time DEC promulgates water quality standards as regulations."

[10:54:57 AM](#)

REPRESENTATIVE SEATON reiterated that the water quality standards are in place and the new ones are those being applied for; furthermore, the prohibition on the pollution of mixing zones in spawning streams has been in place before. The authority [for this] has been previously adopted in state law.

[10:55:38 AM](#)

CHAIR EDGMON noted he represents a fishing district that has concerns about a nonrenewable resource encroaching on its valuable fishery, and stated his support for the bill. He opined the bill warrants passage to another committee to continue the discussion during this legislative session.

[10:57:01 AM](#)

REPRESENTATIVE BUCH moved to report HB 46 out of committee with individual recommendations and the accompanying fiscal notes.

[10:57:13 AM](#)

REPRESENTATIVE JOHNSON objected. He said that the committee should not move a bill in order for more discussion, but only if the committee feels it is good policy and should become law. During a 90-day session, committees must start making policy decisions, instead of the tendency to "move every bill to

finance, or every bill to judiciary, or every bill to resources."

[10:58:39 AM](#)

REPRESENTATIVE MILLETT said she would not vote for the bill because she did not think there is a current deficiency in water regulations; in fact, the legislation is far-reaching with unknown implications to EPA and water quality standards. Alaska already has a burden of federal policies on resource extraction; furthermore, DEC has "done a great job."

[10:59:55 AM](#)

REPRESENTATIVE JOHNSON suggested the committee table the legislation because of the need for further information.

[11:00:17 AM](#)

REPRESENTATIVE BUCH objected and maintained his motion to move the bill.

[11:00:30 AM](#)

The committee took an at-ease from 11:00 a.m. to 11:02 a.m.

[11:02:59 AM](#)

REPRESENTATIVE JOHNSON made a motion to table the bill.

[11:03:25 AM](#)

REPRESENTATIVE BUCH objected.

[11:03:46 AM](#)

CHAIR EDGMON offered the floor to Representative Buch.

[11:03:56 AM](#)

REPRESENTATIVE BUCH said that HB 46 is restorative legislation.

[11:04:36 AM](#)

A roll call vote was taken. Representatives Johnson, Munoz, Keller, and Millett voted in favor of tabling HB 46. Representatives Edgmon, Kawasaki, and Buch voted against it.

Therefore, HB 46 was tabled in the House Special Committee on Fisheries by a vote of 4-3.

HB 365-FISH PROCESSOR FEES, LICENSES, RECORDS

[11:05:44 AM](#)

CHAIR EDGMON announced that the final order of business would be HOUSE BILL NO. 365, "An Act relating to sharing records regarding fish purchased by fish processors with certain federal agencies, to requirements to obtain and maintain a fisheries business license, and to payment of industry fees required of fish processors; and providing for an effective date."

[11:05:44 AM](#)

REPRESENTATIVE MILLETT informed the committee HB 365 is a continuation of a fishery capacity reduction program enacted by the legislature in 2002, commonly known as the "buyback" program. She read from a letter submitted by the Commercial Fisheries Entry Commission (CFEC) dated 3/2/10, a copy of which was provided in the committee packet [original punctuation provided]:

HB 365 is simply an accounting procedure modification to make the program operate more efficiently and allow the lender to monitor the capacity of the reduction loan repayment. It does not change the program established in 2002 in any way....

HB 365 will allow the National Marine Fisheries Service (NMFS) access to confidential state records and reports through an exception to AS 16.05.815(a). This is not an unusual request since a dozen other exceptions have been granted in statute, including NMFS but for purposes of fishery management and enforcement. This legislation is necessary since it is the State of Alaska that maintains the fish ticket harvest data and fish processor annual reports. This exception will provide assurance to NMFS that they are receiving the proper repayment of their loan....

The original legislation in 2002 was supported by the Alaska fishing community and had overwhelming legislative support in both the House and Senate, as did the 2006 modification. This support stemmed from the fact that the program was initiated by fishermen

for fishermen, it is a voluntary program (no one will be forced to sell their limited entry permit), the program requires a majority vote of all the fishermen to implement the loan agreement, the fishery association will have access to federal funds of \$21 million through the Magnuson-Stevens Fishery Conservation and Management Act, there is little State expense or administration, the State maintains all its responsibility to manage its fisheries in the future should conservation or economic conditions change, and the program has had a history of legislative support.

REPRESENTATIVE MILLETT asked the committee to consider the bill in order to continue to sustain a healthy and vibrant fishery in Southeast.

[11:08:02 AM](#)

FRANK HOMAN, Chairman/Commissioner, Commercial Fisheries Entry Commission (CFEC), Alaska Department of Fish & Game (ADF&G), explained the program is available to any fishery throughout the state; thus, Southeast seiners developed an association to seek federal funding for a buyback loan that will be repaid by the fishermen. He stressed that this is a voluntary program, and only works in regions where the fishermen "come together and want to do this." In the last decade, the seiners in Southeast have only been fishing about one-half of their permits because of high costs and low prices for fish. He opined the program gives the remaining fishermen an opportunity to "take the chance with the future and to buy out the permits not fished which would enable them, those remaining, to improve their economic condition in the future."

[11:10:54 AM](#)

REPRESENTATIVE JOHNSON asked about the permanence of the program, given market changes and state constitutional issues.

[11:11:40 AM](#)

MR. HOMAN advised that one of the features allows the state to maintain its responsibility to the fishery; in fact, the Limited Entry Act states that if changes occur, the state has the opportunity to analyze a fishery through an "optimum number study." Furthermore, if a fishery becomes too exclusive, the state may issue more permits into that fishery. As a protection for the fishermen, modification legislation enacted in 2006

directed that the proceeds from the new permits would be used to pay off any loan balance.

[11:13:51 AM](#)

REPRESENTATIVE JOHNSON pointed out that the 2006 legislation does not "trump the constitution, which says that ... we have rights to the resources that are owned by the people..." Although in support of the buyback program, he cautioned that only a state constitutional amendment will guarantee the permanence of the program. However, passage of a constitutional amendment may create "privileged groups," in fact, some fisheries are close to this situation already, and opening the fishery may cause a "false economy," subject to lawsuits. Representative Johnson warned that the state may be caught in the middle, and he asked that the record reflect his intention to protect the resource by the guarantee of limited entry, although "the courts are going to end up deciding, probably."

[11:15:36 AM](#)

MR. HOMAN agreed that issues over limited entry may be determined by the courts; however, he did not anticipate that the changes in the fishery that would cause this to happen are coming. He opined that if the statutes were changed, and new permits were not allowed, the court would "see that as an overreaching limitation."

[11:16:49 AM](#)

REPRESENTATIVE JOHNSON applauded the association in Southeast that has brought this legislation forward; however, a law must work throughout the state, and he asked, "If you took this model and put it in Bristol Bay, or ... put it in Cook Inlet, what would it look like?"

[11:17:46 AM](#)

MR. HOMAN explained that the program is available to other regions if they form a fishery association, under state statute, and seek a comprehensive group of fishermen to work with the federal government. In addition, there are other methods available, such as assessing themselves upfront and collecting money to buy permits back. He assured the committee the program is available now to other regions, if there are unused permits, as an opportunity to reduce the fleet.

[11:19:19 AM](#)

REPRESENTATIVE JOHNSON restated his support of the program; however, he would like to see further assurance of permanence.

[11:20:35 AM](#)

CHAIR EDGMON opened public testimony.

[11:20:49 AM](#)

BRAD HANES, commercial fisherman, informed the committee he was a fourth generation purse seiner, beginning his fishing career when he was 18 years old. He spoke in support of the bill, even though it meant "putting a tax on myself."

[11:21:59 AM](#)

BRYAN BENKMAN, commercial fisherman; member, Southeast Alaska Seiners Association (SEAS), informed the committee he has been fishing in Southeast since 1973. He recalled that the fishery was overcapitalized in the '80s and '90s, but in the last decade the number of fisherman has dropped, making this a good time to pursue the buyback. He supported the opportunity to stabilize the fishery.

[11:23:44 AM](#)

SETH WYMAN, commercial fisherman; board member, SEAS, stated he and his organization support HB 365, and that members of the association are willing to tax themselves to make the fishery stable and more beneficial to the industry.

[11:24:56 AM](#)

SVEN STROUSE(ph), commercial fisherman; board member, SEAS, also stated support for HB 365 on behalf of the association, saying that the legislation will maintain the economic viability of the fishery for the future.

[11:25:53 AM](#)

RANDY STEWART, Vice President, SEAS, said he was representing himself and the association. He assured the committee that the bill will not cause the cost of permits to rise, or restrict access to the fishery; in fact, in 1977, when he began fishing, a newcomer still needed help with financing to enter the

fishery. Mr. Stewart recalled that the implementation of limited entry provided stability to the fishery. The value of the permit is a small portion of the cost to enter a fishery, as the cost of becoming a commercial fisherman is too high for any young person on his/her own. Potential investors will look at the stability of the industry prior to making an investment or loan, and the possibility of 170-200 returning permits is a destabilizing factor. Mr. Stewart expressed his personal interest in an industry that is not exclusive, but is profitable and would attract buyers to purchase permits that come on the market. He concluded that the bill will provide a stabilizing influence.

[11:29:12 AM](#)

DAN CASTLE, President, SEAS; board member, Southeast Revitalization Association (SRA), stated he was representing himself, SEAS, and SRA. He related that SRA was tasked with building this program 10 years ago by securing money and extinguishing latent permits. He described the development of the program, and opined HB 365 simply provides a collection vehicle to collect the money from the fishermen and repay the loan. Mr. Castle urged the committee to move the bill.

[11:31:36 AM](#)

BOB THORSTENSON, Executive Director, SEAS, stated that he was speaking on behalf of himself and his constituents. He stressed the importance of the bill and that it was written over an entire decade. Regarding the permanence issue, he cautioned that the bill addresses this in the best way possible without "a series of optimum number studies." He shared Representative Johnson's desire to deal with the optimum number of permits in a different manner; however, this risk will be taken by the fishermen, as the language in the 2006 legislation says the state "may" use the resulting funds from reissued permits to reimburse the association. Mr. Thorstenson recalled that the first round to purchase permits retired 35 permits with a percentage of non-resident permit holders at about 80 percent. He predicted that after consolidation, Petersburg will hold about 22 percent of the permits. He pointed out the state legislature began this process in 2002, and the association has worked for eight and one-half years to secure the twenty-one million dollar loan.

[11:34:34 AM](#)

REPRESENTATIVE MUNOZ asked whether the processors supported the buyback program in 2002.

[11:34:42 AM](#)

MR. THORSTENSON said yes. In fact, in 2003, letters of support were received from every major processor. He understood the concern of the processing sector about the recent price fluctuations; however, those are cyclical swings. He expressed his belief that a larger fleet does not mean more fish will be caught. He advised that there was full support to pursue this program recently.

[11:36:38 AM](#)

REPRESENTATIVE MUNOZ further asked whether the buyback program will have any effect on existing active permits.

MR. THORSTENSON said no active permits will be removed in Southeast unless they are offered for sale. The legislation also pertains to other regions.

[11:38:10 AM](#)

NIK NEBL, commercial fisherman; member, SEAS, said he was representing himself and the association. He observed that the state, through the commercial fishing loan fund, provided access to the fishing industry for those with a desire to be fishermen. Mr. Nebl obtained a commercial loan from 1984-1994, through the "ups and downs" of the industry, until he became a permit holder. He expressed his hope that this legislation will stabilize the industry for newcomers, and help families keep fishing.

[11:39:54 AM](#)

BRUCE WALLACE, commercial fisherman, stated he has been a fisherman since 1970, and he purchased a limited entry permit at the inception of the program in 1976. His experience in the industry is broad, and he has found that most aspects of a fishery cannot have certainty. Fish products can be enhanced and well-managed, but these factors do not control the biology of a fishery. On the other hand, there is some ability to control the market. Mr. Wallace advised that the bill closes a promise that was made in the limited entry law over a decade ago, before the target goal of 300 permits in Southeast was artificially inflated by legal action. After a decade of

effort, the fleet "stayed with it" and has reached closure. He asked for the committee's support of the bill.

11:43:02 AM

GARY HAYNES, commercial fisherman, said that he is a lifelong resident of Ketchikan. Mr. Haynes recalled lobbying for the Limited Entry Act in 1974, which he thought was a stabilizing measure for the industry then. He has been running his boat since 1976, and feels strongly that HB 365 is another great tool for stabilization, as was limited entry.

11:44:18 AM

SCOTT MCALLISTER, commercial fishermen, agreed with Mr. Wallace that this legislation "closes a deal that was kind of, was implied in the original Limited Entry Act." His understanding was that the act provided for optimum and maximum numbers of permits. This left open the possibility for buyback; however, the bill preserves the commerce in commercial fishing, which is in competition with all of the other elements and aspects of fishing in the state. He concluded that the bill ensures the balance and stability of commercial fishing in the future, with the possibility of achieving the optimum number of permits within a fishery "and hav[ing] a future, stable, commercial future for the participants in that fishery."

11:46:35 AM

JERRY MCCUNE, representative, United Fisherman of Alaska (UFA), stated UFA supports the bill. In his role on the restructuring panel on the Board of Fisheries, and working on the legislation in 2000, he heard from fishermen that they supported the bill because it is voluntary. No one can be forced out of the fishery; therefore, UFA supports the action by SEAS and the vote of the fishermen. He expressed his hope that the program is successful.

REPRESENTATIVE MUNOZ asked what length of time is used to determine that a permit is latent.

MR. MCCUNE advised that a permit must be renewed every two years, and a permit holder who has not fished in four years would be considered latent.

CHAIR EDGMON observed the chairman of the CFEC is indicating his agreement with Mr. McCune's answer.

11:49:23 AM

MITCH EIDE, commercial fisherman; board member, SEAS, said he was a lifelong Petersburg resident representing himself and the association. He stated that the younger fishermen are willing to pay a tax for 25 years because this legislation is important for the future stability of the fishery. Mr. Eide urged the committee to pass the bill.

11:50:12 AM

CHAIR EDGMON closed public testimony, and stated that the bill would be held [HB 365 was held over.]

11:50:27 AM

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 11:50 a.m.