

**ALASKA STATE LEGISLATURE**  
**HOUSE SPECIAL COMMITTEE ON FISHERIES**

April 10, 2010

9:14 a.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

Representative Wes Keller, Vice Chair

**COMMITTEE CALENDAR**

HOUSE BILL NO. 266

"An Act providing for a priority for a fishery that is restricted to residents when fishing restrictions are implemented to achieve an escapement goal."

- FAILED TO MOVE HB 266 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 266

SHORT TITLE: PERSONAL USE FISHING PRIORITY

SPONSOR(S): REPRESENTATIVE(S) STOLTZE, KELLER, NEUMAN

01/19/10	(H)	PREFILE RELEASED 1/8/10
01/19/10	(H)	READ THE FIRST TIME - REFERRALS
01/19/10	(H)	FSH, RES
02/09/10	(H)	FSH AT 10:15 AM BARNES 124
02/09/10	(H)	Heard & Held
02/09/10	(H)	MINUTE(FSH)
02/16/10	(H)	FSH AT 10:15 AM BARNES 124
02/16/10	(H)	Heard & Held
02/16/10	(H)	MINUTE(FSH)
03/29/10	(H)	FSH AT 3:00 PM CAPITOL 106
03/29/10	(H)	Heard & Held
03/29/10	(H)	MINUTE(FSH)
04/10/10	(H)	FSH AT 9:00 AM CAPITOL 106

## WITNESS REGISTER

BEN MULLIGAN, Staff  
Representative Bill Stoltze  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Reviewed the intent of HB 266, on behalf of Representative Stoltze, sponsor.

CHARLES SWANTON, Director  
Division of Sport Fish  
Alaska Department of Fish & Game (ADF&G)  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 266.

## ACTION NARRATIVE

[9:14:16 AM](#)

**CHAIR BRYCE EDGMON** called the House Special Committee on Fisheries meeting to order at 9:14 a.m. Present at the call to order were Representatives Edgmon, Millett, Johnson, Buch, Kawasaki, and Munoz.

### HB 266-PERSONAL USE FISHING PRIORITY

CHAIR EDGMON announced that the only order of business would be HOUSE BILL NO. 266, "An Act providing for a priority for a fishery that is restricted to residents when fishing restrictions are implemented to achieve an escapement goal."

[9:14:46 AM](#)

CHAIR EDGMON recalled Representative Keller moved CSHB 266 for adoption at the meeting of 3/29/10, and the chair objected for the purpose of discussion. Chair Edgmon removed his objection and, there being no further objection, CSHB 266 was before the committee.

[9:15:09 AM](#)

CHAIR EDGMON informed members of the public that the committee would be unable to hear testimony by phone until the arrival of Legislative Information Office (LIO) personnel to facilitate teleconferenced testimony.

[9:15:58 AM](#)

REPRESENTATIVE BUCH noted there was opposition to the bill from a variety of sources. He asked whether the sponsor would like to respond to the opposition.

[9:16:21 AM](#)

BEN MULLIGAN, Staff to Representative Bill Stoltze, Alaska State Legislature, remarked:

Regarding the opposition, in large part I believe the sponsor, I mean this is more of a policy call on how you would prioritize, you know, the fisheries within Alaska who, in times of shortage, who would get a priority. And I understand that by doing this change it would ... it changes how things would go. Obviously, that would upset people. But I know Representative Stoltze feels that having, you know, the ability for Alaskans to go out and access their resources for consumption is important, and that's why he brought the bill forward.

[9:17:14 AM](#)

REPRESENTATIVE BUCH observed that a reallocation, such as this bill brings, invites litigation. He opined the proposed change may result in a burdensome court case, and asked whether the costs of defending the state could be offset.

[9:18:19 AM](#)

MR. MULLIGAN said he was unsure at this time, but could look into the possibility.

[9:18:27 AM](#)

REPRESENTATIVE MUNOZ asked whether the Board of Fisheries (BOF) has the authority to allocate to a certain user group.

[9:18:35 AM](#)

MR. MULLIGAN said, "I believe so, but ... Representative Stoltze believes that this was worthy of giving it a priority and so he brought the bill forward to clarify that as, as an importance."

REPRESENTATIVE MUNOZ surmised that currently the BOF can look at all personal use, sport, and commercial use, and by law has the flexibility to allocate accordingly, but the bill would require the BOF to consider a certain priority over another.

MR. MULLIGAN said yes.

[9:19:41 AM](#)

CHARLES SWANTON, Director, Division of Sport Fish, Alaska Department of Fish & Game (ADF&G), in further response to Representative Munoz, said there is a priority for subsistence in times of shortage, and "all other uses are on equal footing, with regards to allocation, and the Board of Fisheries does have the current authority to allocate amongst those various uses."

REPRESENTATIVE MUNOZ asked, "After subsistence, can they, can they prioritize amongst those three user groups, or not, it has to be done equally? I mean, do they have flexibility currently or not?"

[9:20:41 AM](#)

MR. SWANTON expressed his belief that the BOF has the flexibility.

[9:20:44 AM](#)

REPRESENTATIVE MILLETT asked whether this issue has been previously discussed by the BOF, and followed by recommendations or rulings on personal use.

[9:21:06 AM](#)

MR. SWANTON advised he does not have personal knowledge of BOF discussion on this issue; however, around the state, for some of the larger personal use fisheries, BOF has set allocations. For example, allocations have been set for the Copper River fishery and the personal use fishery in Chitna.

REPRESENTATIVE MILLETT further asked whether the BOF set the personal use allocations, or if the allocations were done by legislation.

MR. SWANTON said "The Board of Fisheries, that's under their purview."

REPRESENTATIVE MILLETT confirmed that the decisions for personal use for Chitna and Copper River were done through the BOF and not legislatively.

MR. SWANTON concurred.

[9:22:39 AM](#)

CHAIR EDGMON asked how many personal use fisheries exist across the state.

MR. SWANTON responded that there are a large number of personal use fisheries, and he estimated there may be 80.

[9:23:17 AM](#)

CHAIR EDGMON stated that one of the concerning aspects of the legislation is that the bill would task the BOF with reviewing a great number of fisheries, perhaps writing management plans giving personal use fisheries a higher status, and placing restrictions on the other fisheries. Although the dip net fisheries are the most contentious and their number is small, he noted the absence of a fiscal note that measures the impact of the bill to the BOF.

[9:24:24 AM](#)

MR. SWANTON said the chair's assessment is "right on the money."

[9:24:59 AM](#)

CHAIR EDGMON announced the arrival of LIO personnel.

[9:25:17 AM](#)

REPRESENTATIVE BUCH asked the director for his prediction of the effects of the bill's passage.

[9:25:40 AM](#)

MR. SWANTON assured the committee that the BOF would need to take a conservative look at some of the larger fisheries, and their current management plans, and review them in light of the priority use. He refrained from further speculation.

[9:26:48 AM](#)

REPRESENTATIVE BUCH said, "This looks like a total re-vampment, of a, priorities ... it would seem to me that you would have to work the process from the bottom up." Furthermore, he opined that the federal government has a different priority. He stated his hope that the director could provide an idea "of what would happen."

[9:27:51 AM](#)

MR. SWANTON provided the example of the Chitna fishery on the Copper River. The BOF would publicly notice its intent to deal with readjusting priorities within the personal use fishery, as well as review the Copper River commercial fishery, and the subsistence and sport fisheries involved in the same stocks. Thus, in-cycle or out-of-cycle, the entire management plan would be reviewed with appropriate changes made to recognize the priority. Mr. Swanton opined this would not be a small undertaking, given that the management plan has been in effect for about fifteen years, and the current status is entrenched. Other than that he would not speculate.

[9:29:41 AM](#)

CHAIR EDGMON asked whether there is a need for the legislation.

[9:29:57 AM](#)

MR. SWANTON said that was up to the legislature and the residents of the state.

[9:30:33 AM](#)

The meeting was recessed at 9:30 a.m. to a call of the chair.

[9:47:09 AM](#)

[Although not formally announced, Chair Edgmon called the meeting back to order at 9:47 a.m. Present at the call back to order were Representatives Edgmon, Munoz, Kawasaki, Buch, Johnson, and Millett.]

CHAIR EDGMON announced that time to continue the hearing is limited, and recalled that the committee has held four hearings on HB 266. Furthermore, the committee has received a tremendous amount of written testimony, and has heard a limited amount of public testimony during the previous hearings. He asked for the will of the committee.

[9:48:03 AM](#)

REPRESENTATIVE JOHNSON moved to report CSHB 266, version [S], out of committee with individual recommendations and the accompanying fiscal notes.

CHAIR EDGMON objected.

[9:48:34 AM](#)

REPRESENTATIVE MILLETT stated she was aware of the personal use fisheries granted through the process of the BOF; however, she expressed her discomfort at this process being undertaken by the legislature. In addition, she understood the desire of residents to access a resource that is owned by everyone in the state. Representative Millett stated her support for moving the bill to the next committee in order to thoroughly explore why the issue is not before the BOF.

[9:50:02 AM](#)

REPRESENTATIVE JOHNSON restated his motion to report CSHB 266, version S, out of committee with individual recommendations and the accompanying fiscal notes.

CHAIR EDGMON restated his objection.

[9:50:26 AM](#)

REPRESENTATIVE JOHNSON contended that the greatest use for salmon should be on the table of Alaskan families. The bill ensures that "when there is a choice to be made, that the choice is that the Alaska family, [obtains] a valuable protein, especially as the economy turns a little bit, and we go down ... that protein on the table is, has to be one of the top priorities for the use of our fish and game." He stated his support for expediting the bill.

[9:51:52 AM](#)

CHAIR EDGMON explained his misgivings regarding the bill: The bill is controversial and potentially far-reaching in its implication for the BOF, and in its effect on fisheries that are currently recognized as the best managed in the world. He pointed out that the state's fisheries management policy is based on science and consensus, is well-funded, and is

established in the state constitution. Furthermore, the BOF has the appropriate authority to take the action intended by the bill, as it did by the recent subsistence determination in the Chitna dip net fishery. He underscored his opposition to the bill and concluded that this issue deserves more debate.

[9:54:18 AM](#)

REPRESENTATIVE BUCH stated his concern with the legislation is that the reallocation required will incur legal challenges of a considerable cost. Although he agreed that there should be consideration of the affected user groups, fiscal due diligence requires that he object to this bill.

[9:55:44 AM](#)

REPRESENTATIVE MUNOZ said that the bill has raised public awareness of the issue; however, further work should continue on the jurisdiction of fishery's issues. She stated that many of her constituents are in opposition to moving the bill forward.

[9:56:32 AM](#)

REPRESENTATIVE JOHNSON referred to the caution about legal challenges and pointed out that the state is currently under a legal challenge regarding the priority of a commercial use group over a personal use fishery; thus, current law is not effective in preventing lawsuits. Furthermore, it is the responsibility of the state to go to court when challenged, for the defense of its citizens.

[9:57:56 AM](#)

REPRESENTATIVE KAWASAKI spoke of his personal experience with the Chitna dip net fishery. It is difficult for people in Fairbanks to understand why they were allowed to catch five king salmon in the '90s, and are now only allowed one. He noted 8,000 residents from the Fairbanks/North Star Borough area are in support of the bill and, although he has reservations, he urged that the bill advance to the House Resources Standing Committee for further discussion about resource allocation issues and for additional public testimony.

[10:00:19 AM](#)

CHAIR EDGMON apologized to those who were unable to testify by teleconference, and asked the committee to vote on the bill.

10:00:54 AM

A roll call vote was taken. Representatives Kawasaki, Johnson, and Millett voted in favor of HB 266. Representatives Buch, Munoz, and Edgmon voted against it. Therefore, HB 266 failed to move out of the House Special Committee on Fisheries by a vote of 3-3.

10:02:05 AM

**ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 10:02 a.m.