

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

April 15, 2009

5:18 p.m.

MEMBERS PRESENT

Representative Craig Johnson, Co-Chair
Representative Mark Neuman, Co-Chair
Representative Kurt Olson
Representative Paul Seaton
Representative Peggy Wilson
Representative David Guttenberg
Representative Scott Kawasaki
Representative Chris Tuck

MEMBERS ABSENT

Representative Bryce Edgmon

OTHER MEMBERS PRESENT

Representative Charisse Millett

COMMITTEE CALENDAR

CONFIRMATION HEARING(S):

Board of Fisheries

Brent G. Johnson - Clam Gulch

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 74

"An Act relating to the Alaska coastal management program; and establishing the Alaska Coastal Policy Board."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 74

SHORT TITLE: COASTAL MANAGEMENT PROGRAM

SPONSOR(S): REPRESENTATIVE(S) JOULE, EDGMON, BUCH

01/20/09 (H) PREFILE RELEASED 1/16/09

01/20/09 (H) READ THE FIRST TIME - REFERRALS
01/20/09 (H) CRA, RES, FIN
02/10/09 (H) CRA AT 8:00 AM BARNES 124
02/10/09 (H) Heard & Held
02/10/09 (H) MINUTE(CRA)
02/24/09 (H) CRA AT 8:00 AM BARNES 124
02/24/09 (H) Heard & Held
02/24/09 (H) MINUTE(CRA)
03/03/09 (H) CRA AT 8:00 AM BARNES 124
03/03/09 (H) Moved CSHB 74(CRA) Out of Committee
03/03/09 (H) MINUTE(CRA)
03/05/09 (H) CRA RPT CS(CRA) 4NR
03/05/09 (H) NR: KELLER, CISSNA, HERRON, MUNOZ
04/15/09 (H) RES AT 1:00 PM BARNES 124

WITNESS REGISTER

BRENT G. JOHNSON, Appointee
to the Board of Fisheries
Alaska Department of Fish & Game
Clam Gulch, Alaska

POSITION STATEMENT: Testified as appointee to the Board of Fisheries.

RICHARD THOMPSON
Soldotna, Alaska

POSITION STATEMENT: Supported the appointment of Mr. Brent Johnson to the Board of Fisheries.

PAUL SHADURA II
Kenai Peninsula Fishermen's Association (KPFA)
Kenai, Alaska

POSITION STATEMENT: Supported the appointment of Mr. Brent Johnson to the Board of Fisheries.

CHRISTINE BRANDT
Soldotna, Alaska

POSITION STATEMENT: Supported the appointment of Mr. Brent Johnson to the Board of Fisheries.

MONTE ROBERTS, President
Kenai River Professional Guide Association (KRPGA)
Soldotna, Alaska

POSITION STATEMENT: Opposed the appointment of Mr. Brent Johnson to the Board of Fisheries.

GARY HOLLIER

Soldotna, Alaska

POSITION STATEMENT: Supported the appointment of Mr. Brent Johnson to the Board of Fisheries.

TED CROOKSTON

Kenai, Alaska

POSITION STATEMENT: Supported the appointment of Mr. Brent Johnson to the Board of Fisheries.

JOHN BLAIR, Executive Director

Southeast Alaska Guides Organization (SEAGO)

Sitka, Alaska

POSITION STATEMENT: Opposed the appointment of Mr. Brent Johnson to the Board of Fisheries.

DON JOHNSON

Soldotna, Alaska

POSITION STATEMENT: Opposed the appointment of Mr. Brent Johnson to the Board of Fisheries.

DAVID GOGGIA

Kenai River Professional Guide Association (KRPGA)

Kenai, Alaska

POSITION STATEMENT: Stated that KRPGA does not feel Mr. Brent Johnson, appointee to the Board of Fisheries, can be objective.

STEVE MCCLURE

Kenai, Alaska

POSITION STATEMENT: Opposed the appointment of Mr. Brent Johnson to the Board of Fisheries.

RON RAINEY

Kenai, Alaska

POSITION STATEMENT: Opposed the appointment of Mr. Brent Johnson to the Board of Fisheries.

RUSSELL THOMAS

Southeast Alaska Guides Organization (SEAGO)

Ketchikan, Alaska

POSITION STATEMENT: Opposed the appointment of Mr. Brent Johnson to the Board of Fisheries.

RICHARD ERKENEFF

Soldotna, Alaska

POSITION STATEMENT: Opposed the appointment of Mr. Brent Johnson to the Board of Fisheries.

JERRY MCCUNE, Lobbyist
for United Fishermen of Alaska
Cordova, Alaska

POSITION STATEMENT: Supported the appointment of Mr. Brent Johnson to the Board of Fisheries.

RON SOMERVILLE
Territorial Sportsmen
Juneau, Alaska

POSITION STATEMENT: Opposed the appointment of Mr. Brent Johnson to the Board of Fisheries.

RICKY GEASE, Executive Director
Kenai River Sportfishing Association (KRSA)
Soldotna, Alaska

POSITION STATEMENT: Opposed the appointment of Mr. Brent Johnson to the Board of Fisheries.

LARRY EDFELT
Auke Bay, Alaska

POSITION STATEMENT: Opposed the appointment of Mr. Brent Johnson to the Board of Fisheries.

ROD ARNO, Executive Director
Alaska Outdoor Council (AOC)
Fairbanks, Alaska

POSITION STATEMENT: Opposed the appointment of Mr. Brent Johnson to the Board of Fisheries.

BOB THORSTENSON, Lobbyist
for Southeast Alaska Seiners Association
Juneau, Alaska

POSITION STATEMENT: Supported the appointment of Mr. Brent Johnson to the Board of Fisheries.

CRAIG FLEENER, Director
Division of Subsistence
Alaska Department of Fish & Game
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the confirmation hearing of Mr. Brent Johnson, appointee to the Board of Fisheries.

REPRESENTATIVE REGGIE JOULE
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as the sponsor of HB 74.

TOM LOHMAN
Department of Wildlife Management
North Slope Borough
(no address provided)
POSITION STATEMENT: Supported HB 74.

JOHNNY AIKEN, Director
Planning and Community Services
North Slope Borough
(no address provided)
POSITION STATEMENT: Supported HB 74.

GORDON BROWER, Land Manager
Planning and Community Services
North Slope Borough
Barrow, Alaska
POSITION STATEMENT: Supported HB 74.

GARY WILLIAMS, Coastal District Coordinator
Kenai Peninsula Borough Coastal District
Kenai Peninsula Borough
Soldotna, Alaska
POSITION STATEMENT: Spoke in favor of the provisions in HB 74.

RANDY BATES, Director
Division of Coastal and Ocean Management
Department of Natural Resources
Juneau, Alaska
POSITION STATEMENT: During the hearing on HB 74, answered questions.

ACTION NARRATIVE

[5:18:50 PM](#)

CO-CHAIR MARK NEUMAN called the House Resources Standing Committee meeting to order at 5:18 p.m. Representatives Wilson, Olson, Guttenberg, Johnson, and Neuman were present at the call to order. Representatives Kawasaki, Tuck, and Seaton arrived as the meeting was in progress. Representative Millett was also present.

CONFIRMATION HEARING(S)
Alaska Board of Fisheries

5:19:42 PM

CO-CHAIR NEUMAN announced that the first order of business is the confirmation hearing for Brent G. Johnson, appointee to the Board of Fisheries.

BRENT G. JOHNSON, Appointee, Board of Fisheries, said he has extensive commercial fishing experience and good people skills that allow him to listen to all sides and digest the information. He is familiar with habitat issues from his time serving on the Kenai Peninsula Borough Planning Commission and he appreciates the importance of habitat to fisheries issues. Since he comes from an area that has a tremendous amount of personal use and sport fishing, he recognizes the importance of fish to both the economy and the food people eat. The professions of his relatives as bed and breakfast owners and guides give him a well-rounded appreciation of the value of fish to people other than just commercial fishermen.

5:22:36 PM

REPRESENTATIVE SEATON asked how Mr. Johnson evaluated the various individual proposals for commercial, personal use, sport, set net, and subsistence that came before him while on the Kenai/Soldotna Fish and Game Advisory Committee without undue influence from his own involvement in the set net fishery.

MR. JOHNSON responded that while on the advisory committee he was an active member of a set net organization which brought a certain view to the table that would be quite different than sitting on the Board of Fisheries where he would be representing all the people of Alaska. He maintained that the organization he was with never once submitted a proposal that took fish away from other groups. During discussions on individual proposals it was always a matter of looking at the resource and the history of who was taking fish from whom.

5:24:52 PM

CO-CHAIR NEUMAN asked whether Mr. Johnson has ever made any claims or had discussions in regard to possible dipnetting closures and the allocation of resources.

MR. JOHNSON stated he has absolutely never made a claim that he is out to close down dipnetters. A group is suing in regard to the Magnuson-Stevens Fishery Conservation and Management Act and there is a tie to dipnetting in that lawsuit. There may be an

assumption that he is tied to the lawsuit because he is a commercial fisherman, which is not the case. In further response, Mr. Johnson said he is unaware of having said or written anything [in regard to dipnetting]. He acknowledged writing many letters to the editor on a number of different issues and that it is possible he mentioned something in some fashion, but does not remember doing so.

[5:27:05 PM](#)

CO-CHAIR NEUMAN noted there are two federal lawsuits currently in the courts that would do away with dipnetting. He asked for Mr. Johnson's views in regard to more federal control over the salmon fisheries in the state.

MR. JOHNSON replied he thinks it is a very bad idea to have the federal government managing fisheries, citing the federal government's management of banking as an example for why not.

[5:28:07 PM](#)

CO-CHAIR NEUMAN inquired whether Mr. Johnson would consider any limits on dipnetting or subsistence fisheries.

MR. JOHNSON answered that he thinks there is already a bag limit on the dipnet fishery, although he is unsure what it is. He said he does not think any fishery should be a free-for-all and he therefore stands for whatever the regulations may be. He would not intend to increase the regulations or lower the bag limit unless there is a conservation concern.

[5:28:56 PM](#)

CO-CHAIR NEUMAN asked what suggestions Mr. Johnson has for ensuring the escapement of more fish into northern Cook Inlet tributaries.

MR. JOHNSON responded that he thinks science must provide the answer to the problem of why fish are not there. The studies currently being conducted by the Alaska Department of Fish & Game (ADF&G) are extremely valuable for finding out the cause. He understood the drift fleet believes ADF&G took drastic actions; however, caution must be used and escapement must be ensured so it does not become a situation like on the Columbia River or Atlantic coast. It is a real problem that needs to be worked on with a great deal of intensity.

[5:30:58 PM](#)

CO-CHAIR JOHNSON requested Mr. Johnson to explain the drastic measures taken against the drift fleet.

MR. JOHNSON said the drift fleet has historically fished in the center of Cook Inlet, but last year the fleet was taken out of the center for several periods. A corridor was developed for the drift fleet and the fleet was moved into this corridor more and more. He understood the outlook for the next number of years is for the drift fleet to fish predominantly in this corridor with little time in the center of the inlet. While he does not think there is another thing that can be done at the moment, that is not to say solutions cannot eventually be found to the problems and the stocks rebuilt in the Matanuska-Susitna Valley and the Susitna River so that the fleet can one day move back to the center.

[5:32:15 PM](#)

CO-CHAIR JOHNSON asked whether Mr. Johnson considers the moving of the drift fleet from one place to another as drastic.

MR. JOHNSON replied that the drift fleet feels it is drastic. In further response, he said he, too, thinks this is drastic. He related that one of the solutions for set netters in the northern district was a reduction in the number of nets that can be fished from three to one during July. Perhaps there are other things that can be done, but he would view all of those things as drastic.

CO-CHAIR JOHNSON commented that not being allowed to fish in the upper Cook Inlet is what he would consider drastic, not moving the nets from one place to another.

[5:34:07 PM](#)

CO-CHAIR NEUMAN expressed his concern that because Mr. Johnson would have to excuse himself from discussions on Cook Inlet, three of the members of the Board of Fisheries would be unable to vote on Cook Inlet discussions. He said keeping this from happening is why he thinks regional representation is important. He inquired how Mr. Johnson would address this.

MR. JOHNSON answered that there are some proposals on which he would not be conflicted out, such as sport fish proposals that do not affect set netting. He said the only other way he can

address it is to say he has the demonstrated experience and integrity from his service on various boards and commissions.

CO-CHAIR NEUMAN opened public testimony.

[5:36:20 PM](#)

RICHARD THOMPSON strongly supported Mr. Johnson for the Board of Fisheries based on Mr. Johnson's past dedication to fishery management and choice to use the best available science. Mr. Johnson's objectivity will allow him to represent all user groups throughout the state and in Cook Inlet.

[5:37:24 PM](#)

PAUL SHADURA II, Kenai Peninsula Fishermen's Association, cited the state statute which says the governor shall appoint each member on the basis of interest in public affairs, good judgment, knowledge, and the ability in the field of action of the board, and with the view of providing diversity of interest and points of view in the membership. Appointed members shall be residents of the state and shall be appointed without regard to a political affiliation or geographical residence. He also cited statute relating to allocation decisions. Politics should not be part of managing the sustainability of the state's natural resources, he stressed. He said he has seen and heard a tremendous amount of misinformation and misrepresentation about Mr. Johnson. In response to Co-Chair Johnson, Mr. Shadura said he supports Brent Johnson.

[5:41:30 PM](#)

REPRESENTATIVE KAWASAKI, in regard to the diversity portion of the statute, asked how Mr. Johnson would add to the board's diversity.

MR. SHADURA responded that the state is huge, but the board has only seven members. Therefore, the diversity comes over time as people with different interests come forward to sit on the board to do the people's work. He said that diversity is well founded with Brent Johnson because Mr. Johnson does not align himself with one or the other, which is why he is accepted by most of the fishing groups in the Kenai Peninsula region as someone who can remain objective.

[5:43:54 PM](#)

CHRISTINE BRANDT supported Mr. Johnson for the Board of Fisheries. She said he is honest and respectful and his experience with issues on land development, Southcentral fisheries enhancement and rehabilitation projects, conservation, and the personal use of fish and game is monumental. Mr. Johnson will have a fresh perspective for Interior issues; she pointed out that this issue was not brought up during the recent confirmation of Mr. Karl Johnstone. She said she reviewed proposals for the upper Cook Inlet for the years 1999, 2002, 2005, and 2008 and did not find one proposal put forward for reduction or closure of subsistence, personal use, or sport fishing by Brent Johnson or the Kenai Peninsula Fishermen's Association; therefore, the allegation that either of them is trying to shut down subsistence and personal-use fishing is unfounded. Mr. Johnson will be a true advocate for all users while protecting Alaska's resource for future generations.

[5:45:51 PM](#)

MONTE ROBERTS, President, Kenai River Professional Guide Association (KRPGA), opposed Mr. Johnson's appointment. While respecting Mr. Johnson's ability to fight for his cause, he said the KRPGA believes Interior, personal use, and subsistence fishermen will suffer as a result of Mr. Johnson's appointment. While the KRPGA and commercial fishermen understand the process and fight for their rights, no one fights for personal or subsistence users; therefore, personal and subsistence users need a seat on the board so they have a chance. This should not have to be legislated, it should be common sense.

[5:46:54 PM](#)

GARY HOLLIER supported the appointment of Mr. Brent Johnson. In all his years of involvement with the Kenai/Soldotna Fish and Game Advisory Committee and the Board of Fisheries, he said he has never seen such a large personal attack on an individual as there has been against the confirmation of Mr. Johnson. Except for committee members, the people who have been in the room for these confirmation hearings are the same ones at Board of Fisheries meetings. The Kenai River [Sportfishing] Association and the Kenai River Professional Guide Association continually put in proposals to try to restrict a commercial fishery in Cook Inlet and they have been successful because he could only fish five days last year. He charged that since 1975 there have been four representatives on the Board of Fisheries from Fairbanks, no commercial fisherman has been appointed since then, and under

the Knowles Administration the board had four Cook Inlet sport advocates.

[5:50:12 PM](#)

TED CROOKSTON supported Mr. Brent Johnson's appointment to the Board of Fisheries. A few individuals have mounted this great effort to protest the confirmation of Mr. Johnson. He hopes members recognize the hallmarks of this opposition which are characterized by exaggerated and fatalistic speech and unfairly and inaccurately attributing an issue to Mr. Johnson as if it is his fault the issue exists. Mr. Johnson is a man of talent, integrity, wisdom, capacity, and responsibility.

[5:52:51 PM](#)

JOHN BLAIR, Executive Director, Southeast Alaska Guides Organization (SEAGO), opposed Mr. Brent Johnson's appointment to the Board of Fisheries, but said he does not oppose Mr. Johnson as an individual. This nomination is a missed opportunity for Interior and upriver representation and Mr. Johnson's background duplicates qualifications of the people already on the board. He disagreed that there are no commercial fishermen on the board, saying the board's chair is currently a commercial fisherman. There are no representations from the sport fishing guide business and SEAGO believes the Board of Fisheries works best when there is broad representation from diverse areas and diverse user groups. The confirmation of Mr. Johnson would put an inordinate imbalance on the board.

[5:54:34 PM](#)

DON JOHNSON argued that what is being heard is a money issue: the commercial fishing industry looks at the fishery resource as dollar bills, but personal use and subsistence users look at the fish as dinner on the table. He said he does not think Mr. Johnson fits the role of representing Interior Alaska and subsistence and personal use because for 30 years he has fought Mr. Johnson's proposals which always favored commercial fishermen. The Board of Fisheries had a diversity of interest when there was at least one person that had the Interior and subsistence and personal use aspect, but this person is being removed and replaced by a person with commercial perspective which will give a majority to the commercial fishing side. He said HJR 32 supports his argument because it points out that commercial fishermen are suing everybody to ensure that a person

cannot put a fish on his or her dinner plate. He urged Mr. Johnson not be confirmed.

CO-CHAIR JOHNSON interjected that it is unfair to say all commercial fishermen are suing because the plaintiff is a small, distinct group.

[5:59:47 PM](#)

DAVID GOGGIA, Kenai River Professional Guide Association (KRPGA), stated that KRPGA has attended the past several Board of Fisheries meetings and has found that all of Mr. Johnson's issues deal with commercial fishing. Therefore, KRPGA does not feel Mr. Johnson can be objective.

STEVE MCCLURE said he has been involved with Board of Fisheries issues on the Kenai River for the last 15 years and this is the first time he has opposed a board nominee. He offered his belief that Mr. Johnson would not be a fair representative for all sides and would vote only one way every time.

[6:01:31 PM](#)

RON RAINEY testified that over the past 15-20 years of listening to Brent Johnson at Board of Fisheries and local advisory committee meetings, Mr. Johnson has been a very strong advocate for the commercial fishing group. As a sport fisherman himself he must advocate for sport fishing, so he therefore cannot blame Mr. Johnson. He contended that Mr. Johnson's appointment to the board would give a four member advantage to commercial fish, and the Board of Fisheries is all about allocation. Additionally, the Interior area would be left out of the board and an Interior person with Native background would be of benefit. He recommended Mr. Johnson not be confirmed.

[6:03:12 PM](#)

REPRESENTATIVE OLSON asked how Mr. Rainey would restructure the Board of Fisheries if he could.

MR. RAINEY reiterated that the Board of Fisheries is an allocation process and if the board is loaded with commercial fishermen the decisions will favor commercial fish. Thus, the board must be balanced and the way to do this is to require in statute that there be three commercial seats, three sport seats, and one subsistence or personal use seat. He added that he wishes the legislature would work toward this.

6:03:59 PM

REPRESENTATIVE SEATON asked whether Mr. Rainey thinks Mr. Johnson could weigh and balance the state's multitude of other fishery issues, excluding the Cook Inlet salmon issue which is only a small part of what the board would be dealing with.

MR. RAINEY maintained that Cook Inlet sport fishing is no small part of the state's sport fishery because it is 60 percent of the state's sport fishery. Having that slighted in any way is a serious problem, and having the board stacked for commercial fishing for Cook Inlet decisions far outweighs someone's lack of experience on other issues in other parts of the state. A person does not have to be from an area to make decisions on that area as the person can rely on other board members with that expertise. In further response, Mr. Rainey said Mr. Johnson could make very good decisions on everything except allocation issues involving sport and commercial fishing. Mr. Johnson is absolutely a proponent of commercial fishing and would come down on that side every time, he contended.

6:07:27 PM

RUSSELL THOMAS, Southeast Alaska Guides Organization (SEAGO), said decisions made by the Board of Fisheries have an impact on fishing regimes and individual areas throughout the state for a minimum of three years. Poor decisions have at times set a precedence that has lasted far longer than the board cycle. To help ensure a fair and equitable result for all user groups, past governors have nominated members that represent a wide variety of fishing interests and geographic areas. Boards over recent years have been balanced with three members with commercial fishing backgrounds, three with sport backgrounds, and one with subsistence/personal use background. In most cases, this has led to better decision making and a more fair and equitable result for all user groups. The very experience that qualifies Mr. Johnson for the board is the very reason he should not be confirmed, as his appointment would tip the board to commercial fishing interests. He urged members to vote no on Mr. Johnson's appointment.

6:09:46 PM

RICHARD ERKENEFF stated he has a lodge and a small fish camp and RV park on the river and the success of his business is related to fish. The most important thing in leadership is picking the

right people for the job, he said. The board makeup needs to be diverse and all the user groups need to be considered when board appointments are being contemplated. The nomination of Mr. Johnson sways the balance of the board. Additionally, there needs to be a good knowledge base of all the fisheries and three of the board's current members already provide a good knowledge base for commercial fisheries. He therefore opposed Mr. Johnson's nomination.

REPRESENTATIVE WILSON asked how many fishing lodges there are across the state.

MR. ERKENEFF answered he does not know, but guesses it is thousands. In further response, he said a lodge needs to have the income that is related to fishing in order to survive.

[6:14:45 PM](#)

JERRY MCCUNE, Lobbyist, United Fishermen of Alaska, testified he is unaware of any commercial fishing group that is opposed to the confirmation of Mr. Johnson, which is very unusual. He said he has known Mr. Johnson for 15 years and thinks he will be fair and balanced. Every person on the board has to learn about the different areas of fisheries around the state. Some members have represented the whole state very well and some have advocated only for their group. Mr. Johnson is well rounded and will be fair to all users across the state.

[6:16:03 PM](#)

CO-CHAIR JOHNSON inquired whether Mr. McCune thinks the drift and set net commercial fishing industries have any impact on sport fishing in upper Cook Inlet.

MR. MCCUNE replied it is a balancing act whether it is the Copper River or Cook Inlet. The best way to obtain balance is that the managers must assess the run and decide whether there needs to be any restrictions. The first people ratcheted down should be the commercial fishermen. For example, he said he fished three periods last year on the Copper River before being closed down and this was rightly so as it gave other users the opportunity to get some fish. Restrictions must allow for all the different users to benefit; however, the number one thing is making the escapement goal.

[6:17:34 PM](#)

CO-CHAIR JOHNSON repeated his question.

MR. MCCUNE responded it is a tough question to say yes or no, because it depends on the particular year, how the fishery is run, and how many fish are coming back. If the commercial fishermen are left to fish too long, yes that could affect what is in the river. If the escapement is lower than it should be, then users should be restricted as one goes along, and the first to be restricted would be the commercial fishermen so that sport and personal use fisheries can get some opportunity.

[6:18:58 PM](#)

RON SOMERVILLE, Territorial Sportsmen, testified that after some deliberation his organization decided to oppose Mr. Johnson's confirmation. He emphasized it has nothing to do with Mr. Johnson personally; rather, the entire reason is because of the balance in the board. Based on his own experience working for the Alaska Department of Fish & Game and serving on various boards, he said he thinks a person's prejudices are there and very few people can overcome them. Even if Mr. Johnson tries his best, not having anyone on the board representing the interests of people in the Yukon-Kuskokwim system is difficult because there needs to be personal knowledge of an area for other board members to rely on. Balance on the board is crucial, he said, and if Mr. Johnson was replacing one of the commercial fishing members he would not be opposed.

[6:23:11 PM](#)

REPRESENTATIVE WILSON asked what happened with the person on the board [who Mr. Johnson is replacing].

MR. SOMERVILLE answered that Bonnie Williams from Fairbanks was on the Board of Fisheries and her position was generally regarded as a sport fish position, although Ms. Williams voted a lot with the commercial fishermen. She was not re-appointed and Mr. Johnson was nominated, but he said he does not know the reason for this. In further response, Mr. Somerville said people in Fairbanks were assuming another person from Fairbanks would be nominated to replace Ms. Williams. Had people known earlier that she would be replaced with a commercial fisherman, there would have been more of a firestorm. He added that it is hard to oppose a commercial fisherman because his organization is not opposed to commercial fishermen.

[6:24:51 PM](#)

REPRESENTATIVE SEATON offered his opinion that what he is hearing is that people have problems with Governor Palin and the class of people she nominated, not the individual person or his actions in the past.

MR. SOMERVILLE agreed. If Mr. Johnson was replacing one of the so-called commercial fisheries seats on the board, the Territorial Sportsmen would probably not have objected. It is purely a balance issue on the board.

[6:27:00 PM](#)

RICKY GEASE, Executive Director, Kenai River Sportfishing Association (KRSA), stated that the Board of Fisheries is a really important board and in his mind the prime edict for the board is that fish come first. When the fish do not come first, then there is a political occurrence of interest. He cited several examples of where he thinks a commitment to the resource did not occur in the upper Cook Inlet. He disagreed with Mr. Johnson's position that moving the drift fleet in Cook Inlet was a drastic measure, saying he does not consider measures taken to ensure escapement as drastic. He mentioned some of KRSA's disagreements with Mr. Johnson and said his organization opposes Mr. Johnson's nomination.

[6:31:46 PM](#)

LARRY EDFELT noted he went to his first Board of Fisheries meeting in 1966 and did not miss one for the next 20 years. In the 20 years after that he has been associated with the board in many ways and appointed to it three times. The board works best when there is the broadest geographic diversity possible, as well as the broadest diversity of user groups. When there is a concentration from one area, like what is happening now in Cook Inlet, it takes representation away from other fisheries.

MR. EDFELT said he opposes Mr. Johnson's confirmation not because of Mr. Johnson's character, but because of concern about the process. Alaskans are served best when the Board of Fisheries is balanced and it really works best when there is three commercial, three sport, and one from the Interior or other user group. He said if he was a Cook Inlet commercial fisherman he would not want one of his fishermen on the board because that person could not vote on Cook Inlet commercial fishing issues. If Mr. Johnson is appointed, two of the board's seven members will be unable to vote on Cook Inlet commercial

fishing issues. It would therefore require 4 out of the remaining 5 members to change any regulation in the commercial fisheries of Cook Inlet because it takes a majority of the board to adopt a regulation.

[6:34:57 PM](#)

ROD ARNO, Executive Director, Alaska Outdoor Council (AOC), explained that most of the AOC's members depend on the harvest of wild fish and game, and in that regard AOC depends on the Board of Fisheries and the Board of Game for allocation of wild food. Having confidence in the branch of government that allocates fish is the issue to AOC. The qualifications for the service on the board are set to allow most Alaskans to serve, and AOC is confident that Mr. Johnson is qualified. However, it is what a person with Mr. Johnson's background would do on the board that concerns AOC. Three members currently sitting on the board have a direct financial interest in commercial fishing and Mr. Johnson would bring this to four. A person harvesting fish for personal use would have no confidence in the makeup of the board. He urged members to vote no on Mr. Johnson's confirmation so the legislature can consider another name. Having no Interior representation and no subsistence or personal use representative does not legitimize the process, he said.

[6:38:06 PM](#)

BOB THORSTENSON, Lobbyist, Executive Director, Southeast Alaska Seiners Association, addressed the issue of balance on the Board of Fisheries by noting that a non-commercial fisherman, Karl Johnstone, recently replaced Jeremiah Campbell, a member with commercial fishing interests. Now, a commercial fisherman, Brent Johnson, is being proposed to purportedly replace Bonnie Williams, a member with no commercial fishing. Therefore, this whole idea of balance is a bit of a red herring, he charged. Perhaps Bonnie Williams should be brought back along with someone from Bethel or Nome and then the sport fishing groups could be pleased to not have so much Cook Inlet representation. He said the governor did a good job picking Mr. Johnson as well as Mr. Johnstone and his group heartily supports both nominees.

[6:41:27 PM](#)

CO-CHAIR NEUMAN requested Mr. Craig Fleener to address the federal requirements for the makeup of [federal] boards.

CRAIG FLEENER, Director, Division of Subsistence, Alaska Department of Fish & Game, explained that the federal requirements for board makeup were promulgated several years ago in response to the state's demand to the Federal Subsistence Board to make a requirement that the regional advisory committees have representation of more than just subsistence users. Thus, a requirement was made that there be a commercial user seat, a sport user seat, a subsistence user seat, as well as seats for other users, and the makeup is no longer just subsistence folks.

CO-CHAIR NEUMAN remarked that the state requested the federal government to require representation from different user groups, yet the state does not practice this itself.

[6:43:20 PM](#)

CO-CHAIR JOHNSON inquired whether Mr. Fleener thinks drift and set net commercial fishing has an impact on subsistence fishing in the rivers where there is that compatibility or equal access.

MR. FLEENER responded he would have to say yes because anything that removes a fish from the river has an impact, whether it is commercial, personal use, subsistence, or any other fishery. Since commercial fishing is the largest user in Alaska it has the largest impact; therefore, the answer has to be yes.

CO-CHAIR JOHNSON asked the same question of Mr. Johnson.

MR. JOHNSON said yes, taking fish out of the water any place will have an effect on where those fish were going.

[6:45:16 PM](#)

CO-CHAIR JOHNSON asked how to fix the situation in upper Cook Inlet.

MR. JOHNSON answered he would fix it by using science to find out why the fish are not there. A number of people are saying that the drift fleet in particular, and the set net fleet somewhat, are intercepting their fish. He wants science to find out whether this is true because drift fishing has gone on since 1949 when his father was a Cook Inlet drift fisherman, so why now is there a downturn in the runs? He is not opposed to taking whatever regulatory or management action is needed to build the fish back up, but he wants to know why and that answer will be based on science.

6:46:20 PM

CO-CHAIR JOHNSON said he is tired of hearing about the need for good science, but asked what specific science Mr. Johnson would need to make a decision.

MR. JOHNSON said the science he would need includes: determining whether the pike have expanded and are the problem, determining whether there is a problem with the bugs that sockeye smolt eat which in turn might indicate there is a problem with the plankton; determining whether the water has become clouded up from glacial melt which impedes light penetration, which in turn impedes growth of the plankton which reduces the number of bugs available to the sockeye to eat. There is a lot of science, he continued, some that he knows about and much that he does not and he wants to find out.

6:47:27 PM

CO-CHAIR JOHNSON inquired what Mr. Johnson would tell ADF&G when the department spends the money allocated for pike research in Southeast Alaska instead.

MR. JOHNSON responded he would tell ADF&G to spend the money where the problem is. Sometimes it is an ocean survival problem and sometimes it is a fresh water survival problem, so a lot of science is involved. Human medical problems have been solved by science, he continued, and science can solve this problem too.

6:49:16 PM

CO-CHAIR JOHNSON said he has heard nothing but great things about Mr. Johnson both personally and professionally. His decision, however, will probably be based on the board's balance and that Mr. Johnson is a victim of circumstance because he would make a great member.

MR. JOHNSON expressed his appreciation.

REPRESENTATIVE SEATON agreed that no one has said Mr. Johnson is not qualified or has personal attributes that make him unqualified. He pointed out that proposals are brought forward by the public, not the Board of Fisheries, and it is the legislature's responsibility to supervise how ADF&G spends the money that is allocated to it.

6:52:27 PM

REPRESENTATIVE KAWASAKI offered his appreciation to Mr. Johnson for coming before the "firing squad". He noted that board members only receive per diem and payment for the days the board is actually in session, so board members only receive about \$12,000 a year for their work; thus, it is commendable that anyone would come forward to do this. As someone from the Interior, he said he does not oppose Mr. Johnson as a person, but thinks the board would be better served with a representative of different expertise.

6:54:30 PM

REPRESENTATIVE WILSON inquired how Mr. Johnson will deal with sport fishing concerns when they come before him.

MR. JOHNSON said he demonstrated how he would do this with his earlier testimony. He makes his living as a set netter and set netters hate drifters. While he could have buried drifters in response to Co-Chair Johnson's questions tonight, he did not because he cares about people and that is the same way he will treat sport, personal use, and subsistence fishermen. He pointed out that he has brought together various gear groups before and he can also do this with personal use, subsistence, and sport fishing.

6:56:35 PM

REPRESENTATIVE WILSON asked whether Mr. Johnson thinks he really can set aside his personal interests and be fair to all sides.

MR. JOHNSON replied that Bonnie Williams demonstrated it can be done. When Ms. Williams came down to Cook Inlet she demonstrated that a person can set aside all the personal use stuff and deal very fairly with commercial fisheries. He had assumed that Ms. Williams would vote against everything the commercial fishermen wanted to do, but she did not. He explained that he had applied for Jeremiah Campbell's seat, so when he was appointed to Ms. Williams' seat he called her to ask what was going on. Ms. Williams told him she had put her name forward and was not re-appointed. When she advised him to go forward he asked for her advice on the Yukon River and will continue to ask her advice.

REPRESENTATIVE WILSON commented that having the governor appoint a different person does not mean that person would be better.

[6:58:38 PM](#)

CO-CHAIR JOHNSON inquired whether Mr. Johnson would support legislation that requires a balanced board.

MR. JOHNSON answered he is in favor of a balanced board and thinks a legislatively balanced board is a good idea.

[6:59:17 PM](#)

REPRESENTATIVE OLSON said he has known Mr. Johnson for a number of years and the people opposing his appointment have not opposed him as a person. While Mr. Johnson will probably be seated, most people in the area are looking at this as a matter of balance.

MR. JOHNSON said he is honored to have come through.

REPRESENTATIVE OLSON moved to forward the name of Brent Johnson to the joint session of the House and Senate for confirmation. There being no objection, the confirmation of Brent Johnson to the Board of Fisheries was advanced from the House Resources Standing Committee.

HB 74-COASTAL MANAGEMENT PROGRAM

[7:02:26 PM](#)

CO-CHAIR NEUMAN announced that the next order of business is HOUSE BILL NO. 74, "An Act relating to the Alaska coastal management program; and establishing the Alaska Coastal Policy Board." [Before the committee was CSHB 74(CRA).]

REPRESENTATIVE REGGIE JOULE, Alaska State Legislature, co-prime sponsor of HB 74, introduced the bill as follows:

This allows areas of the state impacted by development to have input early in the process. It creates a network of local, state, and federal oversight so that all aspects of the project are considered during a single review. It gives the local coastal districts a seat at the table. Some of you may remember ... in 2003 when House Bill 191 ... changed what had been in place since 1977 and took those ... seats at the table. ... This would allow that those areas become part of the process again. Who better to know the

needs of the area and what is important than members of those districts. This recognizes the diversity of the state and that one size does not fit all. And it still leaves the ultimate authority with DNR [Department of Natural Resources], since consistency review in this legislation would stay with them.

REPRESENTATIVE JOULE noted that there has been rapid development in his district over the past 30-plus years, and that this area will continue being a large contributor to the economic health of the state, whether it is oil, gas, or mineral development. People need to work together to end up with a good product and local people, who are mostly pro-development, need to be included in the permitting process.

[7:05:24 PM](#)

REPRESENTATIVE JOULE listed a number of projects that have come on board since adoption of the coastal zone management system in 1977: Green[s] Creek Mine; Red Dog Mine; the outer continental shelf (OCS) and gas leases; all National Petroleum Reserve-Alaska (NPR-A) leases; the Alpine, Liberty, North Star, Badami, Prudhoe Bay, and Kuparuk development projects; Rock Creek Mine; cruise ship docks in Juneau; and the Auke Bay ferry terminal.

REPRESENTATIVE JOULE pointed out that Alaska's coastal zone includes more than 44,000 miles of coastline and can extend inland along river drainages for as far as 250 miles. Thus, almost all districts are impacted by a coastline, making HB 74 possibly one of the most important pieces of legislation that should be looked at as the state tries to develop partnerships in the areas where development is going to occur.

[7:07:06 PM](#)

REPRESENTATIVE JOULE, to provide a backdrop for why he thinks HB 74 is necessary, quoted a statement made by Mr. Randy Bates, Director of DNR's Division of Coastal and Ocean Management (DCOM), at a January 29, 2008, meeting regarding a bill Representative Joule had introduced prior:

The ACMP [Alaska Coastal Management Program] regulations ended up more stringent than what was intended under House Bill 191. Coastal districts were limited in their ability to craft enforceable policies that address coastal uses and resources that were important to the local residents. This limitation

manifested itself into severely strained relationships between the Office of Project Management & Permitting, DCOM, and many districts.

REPRESENTATIVE JOULE charged that this is a clear admission [DNR] overstepped its bounds. He said there have been countless meetings with the department where people were told that either legislation was going to be introduced or regulation changes were going to be made, but neither has been forthcoming which is why HB 74 is before the committee.

[7:09:03 PM](#)

CO-CHAIR NEUMAN opened public testimony.

TOM LOHMAN, Department of Wildlife Management, North Slope Borough, stated that the borough's district plan was approved in 1988. He explained that the ACMP is not like other regulatory schemes - it was crafted by the legislature to be a step-down program with a significant role vested in the local districts. He continued:

DNR should stop trying to make the ACMP a one-size-fits-all statewide program like most other statutory and regulatory programs. DNR has been wrong when it has testified that the districts are seeking local control that would usurp state powers. It is important to distinguish between the ability of districts to adopt local policies and have those policies approved at the state level and the districts' role in project reviews. DNR testimony has mixed the two, as it has done with the question about traditional and contemporary local knowledge. At the district plan approval level, districts ought to be able to bring any relevant information in support of a proposed policy to the attention of the board, including any information understood by local people that may not yet have been formalized in a Western scientific report. Sometimes this can be traditional knowledge passed down through generations. Increasingly, it is critical information about local environmental conditions and trends in the ecosystem. The board members will not be sheep. They should, and will, critically probe the credibility of all information presented in favor and against a proposed policy and will render their judgment accordingly. This kind of thing occurs all the time in the context

of game board decisions, for example, where differing local conditions require differing management prescriptions. ... We are talking about the ability of districts to apply useful, local information to proposed development under the specific local environmental and other conditions of their areas. In most cases, this would improve the design of projects and reduce conflicts earlier in planning processes.

[7:13:04 PM](#)

MR. LOHMAN stressed that districts are not anti-development and are not trying to obtain more influence than they had for most of the pre-2003 history of the ACMP. He contended that DNR has so far failed to provide specific examples, as requested by districts and the legislature, of districts using their pre-2003 policies to significantly delay or halt problem-free projects that were not also being delayed or halted by some other agency under some other regulatory scheme, and of policies proposed by districts that DNR sees as being impediments to development in the state. He charged that DNR has offered misleading testimony regarding districts' implementation of their plans during individual project reviews should HB 74 pass. He refuted DNR's allegation that industry will lack the certainty it needs to operate if different rules apply in different areas, pointing out that this is already the case for the oil industry which operates on both state and federal lands and waters.

[7:14:14 PM](#)

MR. LOHMAN noted that the proposed Coastal Policy Board will play no role in individual project reviews. He said nothing currently in HB 74 reverses previous actions taken by the legislature to solve earlier problems solved by the legislature. The bill corrects some of the damage done to the program when House Bill 191 passed in 2003. He expressed frustration at no action being taken by DNR or the current administration to fix the problems, even though DNR has admitted in testimony that problems do exist. Districts participated in DNR's re-evaluation process in which the goal was for DNR to file a bill at the start of the 2009 session, but that did not happen.

MR. LOHMAN said it is baffling why, after so much effort by the districts, that DNR cannot clearly explain its intentions with respect to the ACMP. Additionally, in vague explanations of its opposition to HB 74, DNR has argued that there is some mysterious legal constraint on the executive branch's ability,

either through the agency itself or the newly created Coastal Policy Board, to approve district policies that are more specific than laws passed by the legislature. Despite requests to see specific legal interpretation of the position, districts have received nothing. He commended Representative Joule and the other co-sponsors of HB 74 and urged its passage from committee.

[7:16:43 PM](#)

REPRESENTATIVE SEATON asked whether DNR is still requiring there be specific scientific knowledge on each particular cove or place, rather than a coastal policy based on habitat types.

MR. LOHMAN responded yes. He added that the North Slope Borough does not currently have an approved coastal district plan. The borough entered mediation after the required revision process of its local plan and agreement could not be reached. Tremendous hurdles in the current state law preclude districts from passing really meaningful local policies on issues that for years before 2003 brought developers and local communities and other stakeholders together to solve problems. The current process does not work and DNR has acknowledged that.

[7:18:30 PM](#)

REPRESENTATIVE SEATON inquired whether the North Slope Borough has embodied its local policies as borough code.

MR. LOHMAN replied the borough has done some of them, but some of the borough's greatest concerns on the North Slope are subsistence and issues dealing with the outer continental shelf (OCS). There is a question about how extensively the borough can impose its local land management regulations on federal lands within the NPR-A and the borough cannot craft policies dealing with the OCS under the current state program.

[7:19:20 PM](#)

REPRESENTATIVE SEATON asked whether borough land use policy has been incorporated on non-federal lands so development must comply with permits by local ordinance.

MR. LOHMAN answered that to some extent this is correct. The borough has attempted to use its land management regulations to govern development on state lands, but there are some issues as

to whether the borough can impose its land management regulations fully on federal land.

7:20:25 PM

JOHNNY AIKEN, Director, Planning and Community Services, North Slope Borough, related that HB 74 is important to the many coastal districts dissatisfied with the way things have been going over the past 4-5 years regarding their district plans. He said he is from the North Slope Borough Coastal District which does not yet have an approved plan and will likely not unless HB 74 is passed. The most important part of HB 74 is the placement of a Coastal Policy Board comprised of agency representatives and coastal district representatives who would review and approve or disapprove the coastal district plans. For the past few years, DNR has been the only reviewer and approver of district plans. Many districts have not agreed with how DNR has evaluated these plans, as well as contributing their own rules and regulations. The district has been very frustrated with how things have been handled to date.

7:22:46 PM

MR. AIKEN pointed out that lease sales have been occurring for the Chukchi and Beaufort seas, the seas closest to the North Slope Borough; yet, there is no approved district plan. Why is that, he asked. The North Slope Borough has not been unreasonable and has tried hard to work with DNR in good faith to come up with a plan. There needs to be a process in place for the borough to participate in a meaningful way, especially before development occurs in the Arctic Ocean. The Northwest Arctic Borough, the next closed district, also does not have an approved plan, he related.

MR. AIKEN said HB 74 would provide the borough meaningful participation and an avenue to take part in the state's decision-making process through a seat at the table. The process is broken and it is up to legislators to fix the problems because DNR has not done so and did not introduce a bill as promised. He stated that the borough has not stopped any projects previously and does not intend to; it is only asking that development be done in an environmentally safe manner. This bill would ensure the borough has a voice. He noted that residents depend on the revenue development brings to the North Slope Borough, but that revenue has been declining for the past decade.

7:25:33 PM

GORDON BROWER, Land Manager, Planning and Community Services, North Slope Borough, agreed with all of the previous statements in support of HB 74. He said he has worked on the Alaska Coastal Management Program for many years for the North Slope Borough and he participated in DNR's re-evaluation process, but DNR did not come up with a legislative fix. Local districts have not had meaningful roles in project reviews over the past several years and HB 74 would provide that avenue.

7:27:53 PM

MR. BROWER said he is especially concerned by OCS activities where he believes state's rights have been cut off by DNR in regard to the "carve-out" and policies concerning oil spill matters. He is also concerned about open water seismic activity because both science and traditional knowledge indicate that whales migrating along the near shore are pregnant or have newborn calves and this is a very delicate period for the whales. Satellite tagging over the last four years shows major deflections of hundreds of miles for these migrating whales when seismic activity is going on. Mr. Brower concluded by offering his support for HB 74.

7:29:52 PM

GARY WILLIAMS, Coastal District Coordinator, Kenai Peninsula Borough Coastal District, Kenai Peninsula Borough, spoke in favor of the provisions in HB 74:

Reinstitution of a Coastal Policy Board as provided in Section 1 as a means to offer a modest level of oversight to the [Alaska] Coastal Management Program is a positive step. The legislation adopted in 2003 placed the program in DNR and provided too little flexibility in the law to accommodate the differing needs of our various coastal areas. Without an oversight board there is no opportunity for coastal districts to appeal agency decisions when there are disagreements over the interpretation of statutes and DNR regulations. This was a problem that was common to all districts during the re-write of coast district plans as required by [House Bill] 191.

Second, the proposed language on page 7, lines 14-23, provides valuable guidance regarding the development

of coastal plan enforceable policies. This language is important if coastal districts are to have a meaningful role in the effective implementation of the ACMP. At present, DNR disallows coastal district policies that touch upon any activity that is regulated by federal or state agencies, whether or not that agency effectively monitors or enforces that regulated activity. State agencies apparently fear that by giving up coastal district enforceable policies in areas the state has regulatory authority that they will be giving up their authority or giving it away. Well, this is not what coastal districts seek in this proposed change. We only seek to implement the objectives of the ACMP which are to balance the development of our resources with care for our land and air and water.

Third, the proposed ... language on page 13, lines 9-11, [is] extremely important in the implementation of a resource management program. This language calls for consideration of the impacts of activities that would cause direct and significant impact to coastal uses or to resources. Under current law, a coastal district cannot consider the cumulative impact of activities that would cause damage to a resource if the activity occurs outside the boundaries of coastal resources. The effect is that, for example, an activity in an upland that has the clear potential to damage a nearby wetland may not be considered in a district consistency review. The proposed language in this section must be part of any rational management program.

MR. WILLIAMS said he has forwarded to the committee the Kenai Peninsula Borough Assembly Resolution 2009-30, supporting these and other comments that HB 74 addresses.

[7:33:40 PM](#)

REPRESENTATIVE NEUMAN noted that in a conversation today, Mr. Bates told him DNR has surveyed the coastal districts to identify the highest issues in order to determine common identifiers that would provide a starting place to start focus on. He offered to get the results to committee members once the department has finished compiling the surveys.

REPRESENTATIVE SEATON asked what the timing would be because he thought this had been done a year and a half ago.

CO-CHAIR NEUMAN agreed it could have been that long ago, but that Mr. Bates told him DNR is in the process of compiling the information. He asked whether Representative Joule knew the answer.

REPRESENTATIVE JOULE responded he is unsure, but it makes him wonder what DNR has been doing if it has had the information for a year and a half.

[7:35:28 PM](#)

RANDY BATES, Director, Division of Coastal and Ocean Management, Department of Natural Resources, stated that in their discussion, Co-Chair Neuman requested a letter be drafted to the districts to identify the top ten items of interest from the districts' perspective. He said he responded he would be happy to do so, but that DNR has conducted the re-evaluation and probably has the districts' top 10 issues captured within the comments that were submitted and therefore he could put those together in a summary to share with the committee.

MR. BATES, in response to Representative Seaton, explained that DNR conducted two rounds of comment solicitation, one in July 2008 and one in October or November 2008. Thus, there are two sets of different comments based on a general discussion of what could be done with the coastal program and then a more specific focused effort on some of the language as draft that was shared with folks. These two sets of comments could be shared with the committee immediately, he said. It is also DNR's intent to compile a response to comments, compile the issues, and share that with committee members as well.

REPRESENTATIVE SEATON said he would appreciate receiving this information.

[7:37:33 PM](#)

REPRESENTATIVE NEUMAN closed public testimony on HB 74 and held over the bill.

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 7:38 p.m.