

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 9, 2010

3:35 p.m.

MEMBERS PRESENT

Senator Donald Olson, Chair
Senator Joe Thomas, Vice Chair
Senator Hollis French
Senator Albert Kookesh
Senator Linda Menard

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 46

Urging Congressional support for the reauthorization of the Denali Commission.

- MOVED HJR 46 OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 29

Requesting the Alaska Congressional delegation to introduce and seek passage of an amendment to the Magnuson-Stevens Fishery Conservation and Management Act to create four new voting seats on the North Pacific Fishery Management Council to be filled by appointment of members of federally recognized tribes or Alaska Native organizations who are not employed by a community development quota program or the pollock industry.

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HJR 46

SHORT TITLE: SUPPORTING DENALI COMMISSION

SPONSOR(S): COMMUNITY & REGIONAL AFFAIRS

02/19/10	(H)	READ THE FIRST TIME - REFERRALS
02/19/10	(H)	CRA
02/23/10	(H)	CRA RPT 4DP
02/23/10	(H)	DP: CISSNA, HARRIS, MUNOZ, HERRON

02/23/10 (H) CRA AT 8:00 AM BARNES 124
02/23/10 (H) Moved Out of Committee
02/23/10 (H) MINUTE(CRA)
02/24/10 (H) TRANSMITTED TO (S)
02/24/10 (H) VERSION: HJR 46
02/26/10 (S) READ THE FIRST TIME - REFERRALS
02/26/10 (S) CRA
03/09/10 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)

BILL: SJR 29

SHORT TITLE: TRIBAL SEATS ON N. PAC. FISHERIES COUNCIL
SPONSOR(S): COMMUNITY & REGIONAL AFFAIRS

02/26/10 (S) READ THE FIRST TIME - REFERRALS
02/26/10 (S) CRA, RES
03/09/10 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

ROB EARL

Staff to Representative Herron
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Presented HJR 46 for the sponsor.

BOB PAWLOWSKI, Legislative Liaison
Denali Commission
Anchorage, AK

POSITION STATEMENT: Supported HJR 46.

JOEL NIEMEYER, Federal Co-chair
Denali Commission
Anchorage, AK

POSITION STATEMENT: Supported HJR 46.

GEORGE PUTLICOF
Green Peace
Palmer, AK

POSITION STATEMENT: Supported SJR 29.

JULIE RAYMOND-YAKOUBIAN, Anthropologist
Natural Resources Division
Kawerak Inc.
Nome, AK

POSITION STATEMENT: Supported SJR 29.

ART IVANHOFF

Southern Norton Sound Fish and Game Advisory Committee (SNSAC)
and Native Village of Unalakleet (NVU)
Unalakleet, AK
POSITION STATEMENT: Supported SJR 29.

KAREN GILLES, Executive Director
Bering Sea Fisherman's Association (BSFA)
Anchorage, AK
POSITION STATEMENT: Supported SJR 29.

ACTION NARRATIVE

[3:35:09 PM](#)

CHAIR DONALD OLSON called the Senate Community and Regional Affairs Standing Committee meeting to order at 3:35 p.m. Present at the call to order were Senators French, Thomas, Menard, Kookesh and Olson.

HJR 46-SUPPORTING DENALI COMMISSION

[3:36:10 PM](#)

CHAIR OLSON announced the first order of business to come before the committee was HJR 46.

ROB EARL, staff to Representative Herron, sponsor of HJR 46, said the resolution encourages Congress to reauthorize the Denali Commission with adequate funding. HJR 46 also encourages the President and his administration to continue the Denali Commission as an authorized independent federal agency. The Denali Commission is one of seven federal regional commissions serving the challenges of rural America. It has a proven record of service for 10 years but is the only regional commission not presently authorized. Its authorization expired October 1, 2009. HJR 46 will act as a clear statement from the Alaska Legislature to Congress to reauthorize the Denali Commission, enabling the Alaskan delegation to pursue the necessary funding for the commission to invest in rural Alaska.

CHAIR OLSON asked how the Denali Commission has continued to operate, and if it has been as effective, since its authorization expired on October 1, 2009.

MR. EARL replied that he would defer the question to Mr. Bob Pawlowski.

CHAIR OLSON asked if any problems are foreseeable with reauthorization of the Denali Commission.

MR. EARL replied that he has heard rumors that reauthorization is likely.

CHAIR OLSON asked if HJR 46 has any opposition.

MR. EARL answered no, not as far as he knows.

BOB PAWLOWSKI, Legislative Liaison, Denali Commission, said the commission is functioning under the appropriations process, allowing it to function as an authorized federal agency for dispersing funds and conducting programs.

CHAIR OLSON asked if the commission has the same ability to get the appropriations it has gotten in the past.

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MR. PAWLOWSKI replied that the commission has not been affected yet but will be challenged in the future. Congress can move the appropriate appropriations to an authorized agency more easily. An agency without authorization is only capable of functioning upon an appropriation.

CHAIR OLSON asked why the Denali Commission has been singled out without perpetual reauthorization.

MR. PAWLOWSKI said the commission was not included in the bill which included five authorizations. The decision for it not to be brought up for reauthorization remains unclear.

SENATOR THOMAS noted that HJR 16 indicates a base appropriation of \$11,965,000 and asked if that had been the same amount in recent years.

MR. PAWLOWSKI replied that the Obama administration established that amount as the base appropriation for the Denali Commission in 2010 budget and has recommended that amount for the 2011 budget. Previously the base programs were less than \$10 million.

SENATOR THOMAS commented that the increased amount is good.

MR. PAWLOWSKI said the increase recognizes the importance of level funding in a base appropriation.

SENATOR THOMAS asked if there is state support for the Denali Commission.

MR. PAWLOWSKI replied that the state has not given an appropriation to the Denali Commission recently. He pointed out that Karen Rehfeld [Director, Office of Management Budget (OMB), Office of the Governor] is the state co-chair and plays a key role with staff and projects that the Denali Commission complements.

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JOEL NIEMEYER, Federal Co-chair, Denali Commission, said staff for the House Transportation and Infrastructure Committee have relayed that Congressman Overstar, chair of the committee, is inclined to support reauthorization of the Denali Commission. HJR 46 from the Alaska Legislature would be helpful for Congressman Young as he works through the process.

CHAIR OLSON asked if Mr. Niemeyer anticipated any problems.

MR. NIEMEYER replied no; he has not seen anything to suggest the House Transportation and Infrastructure committee was opposed to reauthorization.

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SENATOR THOMAS commented that the annual productions he has seen should accompany HJR 46.

MR. NIEMEYER said Mr. Pawlowski will be working on that.

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SENATOR THOMAS moved to report HJR 46 from committee with individual recommendations and attached fiscal note(s). There being no objection, the motion carried.

[3:46:46 PM](#)

CHAIR OLSON called an at ease from 3:46p.m. to 3:48 p.m.

SJR 29-TRIBAL SEATS ON N. PAC. FISHERIES COUNCIL

[3:48:36 PM](#)

CHAIR OLSON announced the next order of business to come before the committee was SJR 29, a committee bill, with no fiscal note.

TIM BENINTENDI, staff to Senator Olson, read from the following statement:

SJR 29 would ask Alaska's Congressional delegation to open the Magnuson-Stevens Act to amendment, for the purpose of expanding the number of voting seats on the North Pacific Fisheries Management Council [(NPFMC)].

This resolution seeks four new voting seats to be filled with appointees who are members of federally-recognized tribes in Alaska, and/or Alaska Native Organizations (ANO's). These new seats would be filled by individuals who are not employed by a community development quota program [(CDQ's)], or the pollock industry.

Many in the Alaska Native fishing constituency in Western and Northwestern Alaska, and those in supportive resource development groups, feel their voices and their concerns are not being heard on the NPFMC. They feel four new voting seats will accommodate that voice.

Troubles in the Arctic Yukon-Kuskokwim (AYK) fisheries, notably the loss of king salmon on the Lower Yukon River, and unresolved by-catch issues in the Bering Sea, have forced this constituency to raise its profile in a forum where it is felt that remedial action can be achieved. Four new voting seats on the NPFMC will address their concerns.

SJR 29 is supported by the Norton Sound Economic Development Council, and Kawarek, Inc.

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SENATOR FRENCH asked how many members are on the NPFMC.

MR. BENITENDI answered either 11 or 13 members.

SENATOR FRENCH asked how people get appointed to the council.

MR. BENITENDI replied that the governor appoints four seats and the commissioner of Alaska Department of Fish and Game (ADF&G) holds a seat.

SENATOR FRENCH asked who appoints the other seats.

MR. BENITENDI replied the Secretary of Commerce does.

SENATOR FRENCH clarified that a federal official and our governor appoint to the council.

MR. BENITENDI replied yes.

SENATOR MENARD asked if this legislation has been attempted in the past out of concern that not enough Native people are on the fishery boards.

MR. BENITENDI replied that he does not know of an attempt just like SJR 29. He said last year a committee dealing with native issues was appointed but the constituency wants full membership on the NPFMC itself.

SENATOR MENARD clarified that under SJR 29 the NPFMC would have 15 members, four of which would have to be from the Native community.

MR. BENITENDI responded yes, that would be the case.

SENATOR THOMAS asked if all members of NPFMC are from Alaska.

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MR. BENITENDI replied no, some are federal officials and some are from Washington, Oregon and California.

SENATOR THOMAS asked about the wording on page 2, lines 22-23: "be filled by appointment of members of federally recognized tribes or Alaska Native organizations". He asked if that wording specified only Alaskan federally recognized tribes and ANO's or if further membership from Washington, Oregon and California would be allowed.

MR. BENITENDI replied that the wording should say "federally recognized tribes in Alaska" because SJR 29 is intended to be an Alaska specific resolution.

SENATOR KOOKESH asked who would appoint the four new members.

MR. BENITENDI replied that he does not know but thinks the governor would appoint the four members.

SENATOR KOOKESH said he thinks the federal Department of Commerce would make the appointments because they are federally recognized tribes. He asked if any American Indian representatives from the Lower 48 are currently on the NPFMC.

MR. BENITENDI replied that he does not know.

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CHAIR OLSON said he wanted the record to reflect a special guest in the room: Vic Fisher, one of the constitutional conventioners.

CHAIR OLSON asked if there is any opposition to SJR 29.

MR. BENITENDI replied that he has not heard of any opposition though he suspects it exists.

CHAIR OLSON asked what the current members of the NPFMC think of SJR 29.

MR. BENITENDI said he does not know but suspects the NPFMC would not want to raise the member number. Senators Murkowski and Begich discussed SJR 29 with the constituents who raised it and were concerned that reopening the Magnuson-Stevens Act would invite opportunities to make other changes. SJR 29 petitions Alaska's delegation to change their minds and open the Magnuson-Stevens Act to amendment to the NPFMC.

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GEORGE PUTLICOFF, representing Green Peace and a resident of Palmer, said the NPFMC has 11 voting members and 4 non-voting members representing Alaska, Washington and Oregon. A different council represents California under the Magnuson-Stevens Act. He said 3 members of the 11 voting members of the council are from the fishing industry - processors, catcher-processors or fishing companies. Three other members are consultants who do not list their clients but are likely fishing consultants. Therefore, 6 of the 11 voting members represent commercial fishing interests.

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The NPFMC helps set the quotas for halibut and king salmon by-catch in Gulf of Alaska and Bering Sea. Last winter the NPFMC set the king salmon by-catch quota for the pollock industry up to 60,000. The pollock industry had a by-catch several years ago of almost 700,000 salmon. These salmon are usually discarded or in some cases given to non-profits or food banks.

The NPFMC has an advisory panel made up of 20 individuals. Eleven of these individuals are from a fishing interest. Finding anyone on the advisory panel who represents environmental issues, conservation concerns or the people of Western Alaska is difficult. People from Western Alaska are often allowed only

three minutes to testify on an issue after waiting for four or six days.

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The NPFMC focuses primarily on the Gulf of Alaska and the Bering Sea and will potentially focus on Chukchi and the Arctic Sea in the near future. The people most impacted by NPFMC's decisions have no representation. Trying to provide for families through subsistence hunting and gathering is becoming more difficult and expensive. He said he himself, and Green Peace, support SJR 29 as a way to resolve the discrepancy between the industry and the people impacted by the decisions that the NPFMC makes.

DAVID OTNESS, representing himself, Cordova, said he has lived and worked throughout the state mainly in commercial fishing and is now engaged in the merchant mariner's trade. He said he was on the former governor's ADF&G transition team. Last year, the ADF&G advocated to increase the king salmon by-catch by 8,000 over what was allowed by NPFMC. This action, on a stressed fishery, would automatically exclude upriver native villages from their traditional foods.

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The people from these villages are underrepresented, have no economic horsepower and are excluded from CDQ's. Economic interests are stacked against people trying to carry on their traditional way of life. Factory trollers have taken over and promote their interest to the exclusion of the people upriver. SJR 29 gives people from fishing villages a voice.

CHAIR OLSON asked if Mr. Otness is a member of a federally recognized tribe or an ANO.

MR. OTNESS replied no, he is of Norwegian descent from Petersburg.

CHAIR OLSON asked if Mr. Otness has ever been employed by a CDQ or the pollock industry.

MR. OTNESS replied never.

JULIE RAYMOND-YAKOUBIAN, Anthropologist, Natural Resources Division, Kawerak Inc., Nome, said that Kawerak is the Alaska Native non-profit for the Bering Strait region, representing 20 tribes. Kawerak strongly supports SJR 29. The concerns of regional residents, tribes and tribal organizations must be a part of the decision-making process on par with the commercial

fishing industry. Tribally designated voting seats, filled by representatives without ties to CDQ's, or other sectors of the industrial fishing industry, are required for a fair and balanced council. Representation on NPFMC committees or the advisory panel is not sufficient; actual voting seats are required.

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Over the past two years, Kawerak has fully participated in the NPFMC process by providing written comments and testifying at the meetings of the NPFMC, its committees and advisory panel. Kawerak has facilitated the attendance of other regional tribal representatives as well.

MS. RAYMOND-YAKOUBIAN suggested one change to SJR 29: changing the wording from "or the pollock industry" to "or other industrial commercial fishing interests", or something similar, on page 1, lines 5-6 and page 2, lines 23-24.

CHAIR OLSON asked Ms. Raymond-Yakoubian to send a written possible amendment for consideration.

ART IVANHOFF, Southern Norton Sound Fish and Game Advisory Committee (SNSAC) and Native Village of Unalakleet (NVU) said he supported SJR 29. The Norton Sound salmon stocks have been depleted since 1998 and the Alaska Board of Fish identified the stock as a stock of concern. The same situation applies to the Yukon and Kuskokwim drainages. In 2007, the Bering Sea Aleutian Island Talkeet had a by-catch of 130,000 chinook which was considered a debacle. The accumulative by-catch between 2003 and 2007 was about 380,000 chinook that would have been destined for river systems. In June of 2008, Southern Norton Sound attended and testified at a NPFMC meeting in Kodiak; the absence of tribes at the table was obvious. He noted that a trolling survey will be conducted in the Northern Bering Sea. Many, who depend on the salmon, and other resources, are concerned.

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MR. IVANHOFF said villages that depend on the resources need an opportunity to sit at the table. Southern Norton Sound has 18 organizations endorsing this effort, including the Alaska Federation of Natives, the Alaska Inter-tribal Council and Alaska Village Initiatives. Several CDQ groups have endorsed the effort as well. Tribes are watching decisions being made that impact their way of life. The implementation of the Magnuson-Stevens Act included a fundamental oversight: tribes were left

out of the whole process. Eight regional councils were developed under the act and only one has a tribal representative.

SENATOR THOMAS asked if representatives of the most affected areas had attended the NPFMC meetings to express concerns.

MR. IVANHOFF said representatives have testified on numerous occasions. He reiterated that they attended the June 2008 NPFMC meeting in Kodiak looking for a reduction in chinook by-catch.

SENATOR THOMAS asked if this was to no avail.

MR. IVANHOFF confirmed that the effort was to no avail. The states and the industry have one agenda. People with a different agenda, of conservation and protection of resources, are not represented.

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KAREN GILLES, Executive Director, Bering Sea Fisherman's Association (BSFA), said the association serves 128 communities from the Arctic, Yukon-Kuskokwim and Bristol Bay regions. For nearly 30 years, BSFA has balanced the commercial fishing interest with the interests of its constituents and the need to sustain fishery resources. BSFA's board of directors, made up of commercial fisherman from coastal Alaska, agrees the NPFMC is weighted toward the industry. BSFA's board supports the concept of more seats on the NPFMC to better represent Western Alaskan issues. The concept of additional seats started as a response to the April 2009 NPFMC action on chinook by-catch which showed that the NPFMC is ill-suited and inadequately designed to address that issue and others. With Alaska holding only a slim majority of the voting seats of the NPFMC, the needed votes on issues of importance to Alaska, particularly subsistence and even sport fisheries, are difficult to obtain. The BSFA has talked to Alaska's congressional delegates and SJR 29 would open dialogue further. BSFA supports SJR 29.

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SENATOR THOMAS asked Ms. Gilles' opinion on whether or not Alaska is the gold standard of sustainability.

MS. GILLES said that statement has been applied at both the council level with federal management and at the state level. The substantial amount of research looking at the health and status of stocks, especially in the AYK regions, would not be needed if they were managed properly. ADF&G's in-season management, while noteworthy, does not give them an

understanding of what is happening with the stocks. Stocks have been suffering for a long time and the necessary attention has only begun. State management is not at a gold standard. At the federal level, the eco-system based management approach is almost cutting edge but the application, in some situations, is not carried through due to other interests.

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CHAIR OLSON asked if BSFA members all have limited entry permits.

MS. GILLES said BSFA membership is based on residency and some have limited entry permits, but not all.

CHAIR OLSON asked if the CDQ's are in favor of SJR 29 seeing as they are dependent on some at-sea processors and financial agreements.

MS. GILLES said she does not know the answer but said CDQ's walk a fine line.

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CHAIR OLSON closed public testimony.

SENATOR FRENCH said he supports the idea and is ready to move SJR 29.

SENATOR THOMAS said he wants to clarify who would appoint the new members and that the language on page 2, lines 22-24 be changed to specify that the appointments should be from Alaskan federally recognized tribes and/or ANO's.

CHAIR OLSON said he would like Ms. Raymond-Yakoubian's suggestion as well and would like to bring a committee substitute for SJR 29 back to committee in the next meeting.

SENATOR THOMAS also suggested that information on the make-up of the existing NPFMC be gathered in order to be passed on to the next committee.

SENATOR MENARD said she thinks the Magnuson-Stevens act should be looked at for this fundamental oversight and imbalance.

CHAIR OLSON held SJR 29 in committee.

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CHAIR OLSON, seeing no further business to come before the committee, adjourned the meeting at 4:33 p.m.