

**ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE**

April 3, 2009

3:36 p.m.

MEMBERS PRESENT

Senator Bill Wielechowski, Co-Chair
Senator Charlie Huggins, Vice Chair
Senator Hollis French
Senator Gary Stevens
Senator Thomas Wagoner

MEMBERS ABSENT

Senator Lesil McGuire, Co-Chair
Senator Bert Stedman

OTHER LEGISLATORS PRESENT

Senator Con Bunde
Senator Linda Menard

COMMITTEE CALENDAR

SENATE BILL NO. 150

"An Act establishing an emerging energy technology fund."

MOVED CSSB 150(RES) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 21

Requesting the North Pacific Fishery Management Council to cease consideration of an amendment package that would require a Pacific cod endorsement for a license limitation program license holder to participate in the Pacific cod fisheries in the Gulf of Alaska.

MOVED HJR 21 OUT OF COMMITTEE

CS FOR HOUSE JOINT RESOLUTION NO. 7(RES)

Urging the United States Congress to pass legislation to open the coastal plain of the Arctic National Wildlife Refuge to oil and gas exploration, development, and production.

HEARD AND HELD

CS FOR HOUSE JOINT RESOLUTION NO. 18(RES)

Urging the United States Congress to refrain from passing legislation that designates land in Area 1002 of the Arctic National Wildlife Refuge as wilderness.

HEARD AND HELD

SENATE CONCURRENT RESOLUTION NO. 3

Urging the Governor to file an action to restrain the United States Department of the Interior, National Park Service, from intruding on the sovereign right of the state to exercise jurisdiction over navigable water and submerged land and urging the Governor to allocate sufficient resources to the Department of Law, the Department of Natural Resources, and the Department of Fish and Game to defend the state's right to manage the public use of its navigable water.

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 150

SHORT TITLE: EMERGING ENERGY TECHNOLOGY FUND

SPONSOR(s): SENATOR(s) MCGUIRE

03/13/09	(S)	READ THE FIRST TIME - REFERRALS
03/13/09	(S)	ENE, RES, FIN
03/26/09	(S)	ENE AT 11:00 AM BUTROVICH 205
03/26/09	(S)	Heard & Held
03/26/09	(S)	MINUTE(ENE)
03/27/09	(S)	ENE AT 11:00 AM BUTROVICH 205
03/27/09	(S)	Moved SB 150 Out of Committee
03/27/09	(S)	MINUTE(ENE)
03/30/09	(S)	ENE RPT 3DP
03/30/09	(S)	DP: MCGUIRE, KOOKESH, WIELECHOWSKI
04/01/09	(S)	RES AT 3:30 PM BUTROVICH 205
04/01/09	(S)	Heard & Held
04/01/09	(S)	MINUTE(RES)

BILL: HJR 21

SHORT TITLE: GROUND FISH FISHERIES LICENSES

SPONSOR(s): REPRESENTATIVE(s) AUSTERMAN

02/27/09	(H)	READ THE FIRST TIME - REFERRALS
02/27/09	(H)	FSH, RES
03/10/09	(H)	FSH AT 10:15 AM BARNES 124
03/10/09	(H)	Moved Out of Committee
03/10/09	(H)	MINUTE(FSH)
03/12/09	(H)	FSH RPT 4DP 3NR
03/12/09	(H)	DP: JOHNSON, MILLETT, KELLER, MUNOZ
03/12/09	(H)	NR: KAWASAKI, BUCH, EDGMON
03/18/09	(H)	RES AT 1:00 PM BARNES 124
03/18/09	(H)	Moved Out of Committee

03/18/09 (H) MINUTE(RES)
03/19/09 (H) RES RPT 6DP 3NR
03/19/09 (H) DP: OLSON, TUCK, SEATON, WILSON,
NEUMAN, JOHNSON
03/19/09 (H) NR: EDGMON, GUTTENBERG, KAWASAKI
03/23/09 (H) TRANSMITTED TO (S)
03/23/09 (H) VERSION: HJR 21
03/25/09 (S) READ THE FIRST TIME - REFERRALS
03/25/09 (S) RES
03/30/09 (S) RES AT 3:30 PM BUTROVICH 205
03/30/09 (S) Heard & Held
03/30/09 (S) MINUTE(RES)

BILL: HJR 7

SHORT TITLE: ENDORSING ANWR LEASING
SPONSOR(S): REPRESENTATIVE(S) MILLETT

01/22/09 (H) READ THE FIRST TIME - REFERRALS
01/22/09 (H) RES
02/23/09 (H) RES AT 1:00 PM BARNES 124
02/23/09 (H) Moved CSHJR 7(RES) Out of Committee
02/23/09 (H) MINUTE(RES)
02/25/09 (H) RES RPT CS(RES) 6DP 3AM
02/25/09 (H) DP: OLSON, EDGMON, TUCK, WILSON,
JOHNSON, NEUMAN
02/25/09 (H) AM: GUTTENBERG, SEATON, KAWASAKI
03/19/09 (H) TRANSMITTED TO (S)
03/19/09 (H) VERSION: CSHJR 7(RES)
03/20/09 (S) READ THE FIRST TIME - REFERRALS
03/20/09 (S) RES
04/03/09 (S) RES AT 3:30 PM BUTROVICH 205

BILL: HJR 18

SHORT TITLE: OPPOSING ANWR WILDERNESS DESIGNATION
SPONSOR(S): REPRESENTATIVE(S) MILLETT

02/11/09 (H) READ THE FIRST TIME - REFERRALS
02/11/09 (H) RES
02/23/09 (H) RES AT 1:00 PM BARNES 124
02/23/09 (H) Moved CSHJR 18(RES) Out of Committee
02/23/09 (H) MINUTE(RES)
02/25/09 (H) RES RPT CS(RES) 5DP 1AM
02/25/09 (H) DP: EDGMON, TUCK, WILSON, JOHNSON,
NEUMAN
02/25/09 (H) AM: GUTTENBERG
03/19/09 (H) TRANSMITTED TO (S)
03/19/09 (H) VERSION: CSHJR 18(RES)

03/20/09 (S) READ THE FIRST TIME - REFERRALS
03/20/09 (S) RES
04/03/09 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SCR 3

SHORT TITLE: OPPOSE FED. CONTROL OF STATE LAND & WATER
SPONSOR(S): SENATOR(S) BUNDE

02/04/09 (S) READ THE FIRST TIME - REFERRALS
02/04/09 (S) RES, JUD
04/03/09 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

TREVOR FULTON, Staff
for Senator McGuire
Alaska Capitol Building
Juneau, AK

POSITION STATEMENT: Commented on SB 150 for the sponsor.

REPRESENTATIVE CHERISSE MILLETT
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of HJR 7 and HJR 18.

CHRIS CANNON, representing himself
Fairbanks, AK

POSITION STATEMENT: Opposed HJR 7 and HJR 18.

LUCY BEECH, Executive Director
Gwich'in Steering Committee

POSITION STATEMENT: Opposed HJR 7 and HJR 18.

CARL PORTMAN, Deputy Director
Resource Development Council (RDC)

POSITION STATEMENT: Supported HJR 7 and HJR 18.

ADRIAN HERERA
Arctic Power

POSITION STATEMENT: Supported HJR 7 and HJR 18.

CARL PORTMAN, Deputy Director
Resource Development Council (RDC)

POSITION STATEMENT: Supported HJR 7, HJR 18, and SCR 3.

PAM MILLER
Northern Alaska Environmental Center

Fairbanks, AK

POSITION STATEMENT: Opposed HJR 7 and HJR 18.

SENATOR CON BUNDE
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of SCR 3.

ELIZABETH BARRY, Attorney
Civil Division
Natural Resources Section
Department of Law
Anchorage, AK

POSITION STATEMENT: Was available for questions on SCR 3.

DICK MYLIUS, Director
Division of Mining, Land and Water
Alaska Department of Fish and Game (ADF&G)
Anchorage, AK

POSITION STATEMENT: Supported SCR 3.

TINA CUNNING, Coordinator
Subsistence and Federal Issues
Division of Sport Fish
Alaska Department of Fish and Game (ADF&G)

POSITION STATEMENT: Supported SCR 3.

JAN FLORA, representing herself

POSITION STATEMENT: Supported SCR 3.

STAN LEAPHEART, Executive Director
Citizens Advisory Commission on Federal Areas

POSITION STATEMENT: Supported SCR 3.

ACTION NARRATIVE

[3:36:15 PM](#)

CO-CHAIR BILL WIELECHOWSKI called the Senate Resources Standing Committee meeting to order at 3:36 p.m. Present at the call to order were Senators Huggins, Wagoner, French, Stevens and Wielechowski. Senator McGuire was excused.

SB 150-EMERGING ENERGY TECHNOLOGY FUND

[3:36:45 PM](#)

CO-CHAIR WIELECHOWSKI announced consideration of SB 150, version S.

TREVOR FULTON, staff for Senator McGuire, sponsor of SB 150, introduced himself.

CO-CHAIR WIELECHOWSKI said the bill was held over so that members would have time to review it. One change that he believes the sponsor agrees to is on page 2, line 8. It corrects a mistake.

MR. FULTON agreed and added that the sponsor fully agrees.

SENATOR HUGGINS moved to delete "and" and insert "or" on page 2, line 8. There was no objection and the amendment was adopted.

[3:38:34 PM](#)

SENATOR HUGGINS moved to report CS for SB 150, version S as amended from committee with individual recommendations and attached fiscal note(s). There was no objection and CSSB 150(RES) moved from committee.

HJR 21-GROUNDFISH FISHERIES LICENSES

[3:39:12 PM](#)

CO-CHAIR WIELECHOWSKI announced the consideration of HJR 21. It was heard previously and public testimony was taken.

SENATOR WAGONER said support in his district is 50:50 and added that he's surprised that since this is just a resolution that it didn't pass after the first hearing. He surmised that there isn't much recognition that this is under consideration.

CO-CHAIR WIELECHOWSKI found no further discussion and asked the will of the committee.

[3:41:05 PM](#)

SENATOR WAGONER moved to report HJR 21 from committee with individual recommendations. There being no objections, HJR 21 moved from committee.

HJR 7-ENDORSING ANWR LEASING

[3:41:40 PM](#)

CO-CHAIR WIELECHOWSKI announced the consideration of HJR 7. [Before the committee was CSHJR 7(RES). This being the first hearing, he stated that it is his intent to hear the resolution and hold it until the next hearing to provide members time to consider it and provide comments or suggestions.

At ease from 3:42 to 3:43.

REPRESENTATIVE CHERISSE MILLETT, Alaska State Legislature, sponsor of HJR 7, said this resolution urges Congress to open the coastal plain of ANWR to oil and gas exploration and development. It is important at this time to let Congress know that the Legislature is concerned about the possible closure of ANWR and that it is important to open development of all Alaska lands for the benefit of Alaskans and the United States. ANWR holds the largest reserve for oil and gas development in the U.S. and is considered to have high potential for continued discovery.

REPRESENTATIVE MILLETT highlighted that the resolution has been amended to include an additional "whereas" clause addressing directional drilling and the development impact area has been reduced to 2,000 acres.

SENATOR WAGONER said he knows that industry has repeatedly said that 2,000 acres is enough area to develop, but he is skeptical that it is enough. "It just kind of flies in the face of reality because it's a small area," he said.

REPRESENTATIVE MILLETT replied at one point it was 7,000 acres, but because of technology advancements the oil industry has said it needs just 1,642 acres. That was rounded up to 2,000 acres to provide leeway.

SENATOR WAGONER said it isn't the drilling that takes space; it's the pipe storage yards and support services. He wants the committee to be aware that some people might question the number.

SENATOR FRENCH thanked Representative Millett for bringing this up. He has supported ANWR drilling for a long time. He mentioned how long Exxon sat on the Point Thomson lease and asked if the resolution should include a "duty to develop" clause.

REPRESENTATIVE MILLETT replied the federal leasing department has said that their leases carry an implied duty to produce. This has never been an issue.

[3:49:31 PM](#)

SENATOR FRENCH asked if she said that the federal government has leases similar to Alaska's leases where the duty to produce is implied rather than stated.

REPRESENTATIVE MILLETT answered yes; the federal leasing department told her they never saw the need to put duty to produce language in a lease because there had never been a problem. "They didn't understand why we would do that if they'd never had an issue in all the leasing they've done on federal lands," she said.

SENATOR FRENCH asked for clarification that she said that it is not explicit in the lease, but it is implicit that there is a duty to produce. Since the federal leasing department hasn't had a problem, they haven't added the language.

REPRESENTATIVE MILLETT concurred with the summary.

SENATOR FRENCH said he'd like to see that documentation because some people have criticized the slow development on federal lands.

REPRESENTATIVE MILLETT commented that she found it interesting that federal leases are handed back more frequently than state leases.

SENATOR STEVENS asked where the resolution mentions directional drilling.

REPRESENTATIVE MILLETT directed attention to page 3, line 10.

[3:52:00 PM](#)

SENATOR WAGONER recalled that there was an agreement years ago between Washington Senator Scoop Johnson and Alaska Senator Ted Stevens to continue to push for oil exploration in ANWR regardless of what might happen in the Arctic National Wildlife Refuge. He asked about including a "whereas" clause acknowledging that point because it's part of the history of the ANWR battle and discussion.

SENATOR HUGGINS asked if she knows the top ten reasons that people oppose opening ANWR.

REPRESENTATIVE MILLETT replied some of the opposition includes: environmental concerns, impacts to wildlife, the desire to keep ANWR unchanged, and concerns about the Gwich'in lifestyle.

[3:54:40 PM](#)

CHRIS CANNON, representing himself from Fairbanks said he opposes HJR 7. He said he believes that the coastal plain is

about the last five percent of land that is not open to oil and gas leasing. He questions how much is enough and if this how we want to generate state revenue. His perspective is that this isn't so much an energy issue as a big non-renewable dollar sign for the state. I'm testifying because this is important to me and I hope you can appreciate that, he concluded.

SENATOR WAGONER asked where he works.

MR. CANNON replied he works for the Gwich'in Steering Committee for eight months of the year and as a professional mountain guide the other four months.

SENATOR WAGONER asked how many children he has in school.

MR. CANNON replied he has none.

LUCY BEECH, Executive Director, Gwich'in Steering Committee, said that ANWR or the 1002 Area is known as the sacred place where life begins to the Gwich'in people. It is the calving and nursery ground of the Porcupine caribou herd upon which the Gwich'in tribe has depended for over 20,000 years. Even during famines they did not enter the calving and nursing grounds because it is so sacred. Most tribal people believe that spawning, calving, and nursery grounds are sacred and humans have no business desecrating them. Alaska Natives have given up so much to the state, but things aren't getting better. "All I see is our lives are getting worse," she said.

MS. BEECH pointed out that the existing development on the North Slope has emitted 41,408 tons of nitrous oxide and 779 tons of sulfur dioxide, a key cause of acid rain. Recently friends in the Prince William Sound saw the 20th anniversary of the devastating Exxon Valdez oil spill. How do you fix such a mess? "We're not willing to have a place we consider sacred to be gambled with," she said. This place needs to be off limits.

[4:00:56 PM](#)

PAM MILLER, Northern Alaska Environmental Center (NAEC), Fairbanks, said she is putting this issue in context by pointing out that NAEC is excited about the bill that just passed that addresses alternative energy resources. Other bills under consideration about renewable energy, weatherization, and energy efficiency are measures that will make life better for people and communities statewide. NAEC endorses those efforts as the future of sustainable energy in Alaska.

MS. MILLER highlighted that just this week the state announced a civil action against BP for continuing poor maintenance, negligence, and spills on the North Slope. The records that were provided by the state regarding the status of oversight of pipeline safety and spill reduction were a far cry from what is included in that civil complaint. She suggested legislators read that before supporting the opening of this one protected area of Alaska. Even the Department of Natural Resources admits this is the only area on the North Slope that is protected for its habitat value. She added that part of that civil action was that when pipe repairs commenced the workers were exposed to asbestos that was then released into the air. This is in contradiction to the Clean Air Act.

There has been chronic poor management of areas that are open to oil and gas so it seems fruitless to go into an area that's been protected for wildlife since 1960. Furthermore, there are still decades of oil to produce on already open state land.

MS. MILLER described as specious the argument that 2,000 acres is an adequate footprint for development since the proposed drilling area is scattered over 1.5 million acres.

[4:04:24 PM](#)

CARL PORTMAN, Deputy Director, Resource Development Council (RDC), said he is testifying in support of HJR 7. RDC is a statewide nonprofit founded in 1975. This membership-funded organization is comprised of individuals and companies from Alaska oil and gas, mining, timber, tourism, and fishing industries, as well as Native corporations, local communities, organized labor, and industry support firms. Its purpose is to link these diverse interests to encourage a strong diversified private sector in Alaska and expand the state's economic base through responsible development of natural resources.

MR. PORTMAN said the 1002 area of ANWR is considered to be the nation's most promising onshore oil and gas prospect, and there is strong statewide support for its environmentally responsible development. It could play a large role in the state's future prosperity, create thousands of jobs, and reduce reliance on foreign oil. Even if all major prospects are developed, 92 percent of ANWR would remain closed to exploration. If the footprint is limited to just 2,000 acres, that would be well under one percent of the entire Arctic National Wildlife Refuge.

MR. PORTMAN posited that the U.S. must continue to pursue new oil and gas development even as it slowly transitions to new

energy sources. Even under the most optimistic projections, the nation will be dependent on fossil fuels for nearly 80 percent of its energy consumption in 2030. "As a result, for every barrel of oil America refuses to develop domestically, it will have little choice but to import an equal amount from overseas where weaker environmental regulations often apply," he stated.

ADRIAN HERERA, Arctic Power, said this nonprofit, grassroots organization has for more than 12 years worked in Washington D.C. to open ANWR. HJR 7 is crucial to this effort because resolutions from the Alaska Legislature weigh heavily in this contentious debate. A majority of Americans support opening the 1002 area of ANWR and those who do not support it oftentimes change their minds to the affirmative once told that most Alaskans and the state government support the issue.

The ANWR issue will continue to be contentious in the future partly because it is the number one fundraising mechanism for the environmental lobby, he said. Most recently on Capitol Hill bills were introduced in both bodies to lock up the 1002 area with a wilderness designation. A letter that will be delivered to the White House is also circulating around Congress to put off limits the entire on and off shore Arctic area to all forms of commercial development. This is a threat to Alaska's sovereignty over its lands. HJR 7 represents the voice of Alaskans and tells Congress that they care and want the issue dealt with responsibly.

CO-CHAIR WIELECHOWSKI closed public testimony and held HJR 7 for further work.

HJR 18-OPPOSING ANWR WILDERNESS DESIGNATION

[4:10:55 PM](#)

CO-CHAIR WIELECHOWSKI announced consideration of HJR 18. This being the first hearing, he stated that it is his intent to hear the resolution and hold it until the next hearing to provide members time to consider it and provide comments or suggestions.

REPRESENTATIVE CHERISSE MILLETT, Alaska State Legislature, sponsor of HJR 18, said this resolution urges Congress to reject any legislation seeking wilderness designation for the 1002 area of ANWR. This is and has been a very active and contentious subject on Capitol Hill. Alaska voices need to be heard because the wilderness designation cuts off the opportunity to develop oil and gas reserves in the area. "It may be even more important than opening ANWR at this point in time because...once it's closed

it would be one enormous task to...undesignate it as wilderness," she said.

4:12:30 PM

CARL PORTMAN, Deputy Director, Resource Development Council (RDC), stated support for HJR 18. A wilderness designation would preclude future action by Congress to provide for environmentally responsible exploration and production of oil and gas resources within the Arctic National Wildlife Refuge, he said. Federal wilderness should not be expanded to include the 1002 area given that it is considered the nation's most promising onshore oil and gas prospect. This particular area was intentionally excluded from ANWR's large wilderness block in 1980 through a compromise that allowed ANILCA to move forward. This compromise doubled the size of the Alaska National Wildlife Range and converted it to the Arctic National Wildlife Refuge.

4:13:44 PM

ADRIAN HERERA, Arctic Power, stated strong support for HJR 18. Once wilderness designation is achieved on federal land, it is extremely hard to undo, he said. Arctic Power looks at this as a one shot deal because a wilderness designation will effectively lock up the land forevermore.

4:14:34 PM

PAM MILLER, Northern Alaska Environmental Center, stated opposition to HJR 18. She pointed out that Republican President Eisenhower established the Arctic National Wildlife Range in 1960 for its wilderness, wildlife, and recreational values. The coastal plain was included. He recognized the value of the entire ecosystem of which the coastal plain is the biological heart. This is where the birds and animals spend critical time for nesting, birthing and nursing. "It is an integral part of the Arctic refuge."

MS. MILLER noted that this area was withdrawn in a brilliant balancing act at the time of statehood and the state got 20 million acres, including Prudhoe Bay. USGS believes that nothing in the Arctic National Wildlife Refuge compares to that field. That's part of the reason it was set aside at the time. Certainly there is some oil potential there but Alaska needs to look to the future and what will help Alaskans. "Conservation will save...by 2030, 17 times more imports than the most optimistic projection of drilling in the Arctic refuge," she said. Describing this as a landmark issue, she asked the committee to also represent the views of the many Alaskans who want to see this area protected. HJR 18 does not do this.

SENATOR FRENCH asked the degree of overlap between the coastal plain and the 1002 area.

MS. MILLER replied the coastal plain has a number of connotations, but it is legally a term in ANILCA and in that Act the 1002 area is the same as the coastal plain. The 1002 area has 1.5 million acres and all of the geographic features including the bird nesting areas are included in that area.

SENATOR FRENCH asked if she is saying that none of the coastal plain is outside the 1002 area.

MS. MILLER replied the coastal plain has two definitions just as Prudhoe Bay has two. Prudhoe Bay is a geographic feature, but it's also an oil field and is the term that's commonly used to describe all the oil fields at Prudhoe Bay. Under ANILCA the coastal plain is the same as the 1002 area.

SENATOR FRENCH noted that the first "whereas" clause on page 2 outlines a compromise that was struck in 1980. "The deal was you get 17,000 acres designated wilderness and we get 1.5 million acres that might some day be opened for oil drilling." He asked why that deal should change.

MS. MILLER replied Congress wanted to retain control over the fate of that area. As part of the deal it withdrew the entire coastal plain and prohibited by law any oil and gas leasing, development, and production from the entire Arctic refuge. That is a higher standard than any other wildlife refuge in the country except for those with a wilderness designation. It was a lame duck deal that resulted in this law, but the language of the law itself is clear. "If there was a backroom promise, that's very different than what is in the public record concerning this 1002 area," she said.

CO-CHAIR WIELECHOWSKI recognized that Senator Bunde and Senator Menard joined the committee some time ago.

[4:21:31 PM](#)

SENATOR HUGGINS asked her top four reasons for opposing drilling in the area.

MS. MILLER replied some very special places on earth deserve to be protected. Today there is no technology that is adequate to protect that land. The area should be protected for fish and

wildlife habitat, clean water, subsistence for the Gwich'in people, and to meet international treaty obligations.

SENATOR WAGONER asked where the Gwich'in people originated.

LUCY BEECH, Gwich'in Steering Committee, said their creation story says that the Gwich'in retained part of the caribou heart and the caribou retained part of the Gwich'in heart. "This is where the Creator put us and gave us this amazing gift and place to live and to take care of."

SENATOR WAGONER stated for the record that he has read that the Gwich'in people migrated from Canada's Northwest Territories.

MS. BEECH said at one time the Gwich'in were nomadic and followed the caribou, but for 20,000 years they have lived in communities in what is now the northeast part of Alaska and northwest part of Canada.

CO-CHAIR WIELECHOWSKI asked Ms. Beech if she had testimony to offer.

[4:25:53 PM](#)

LUCY BEECH, Gwich'in Steering Committee, said the Porcupine caribou herd is currently moving from its wintering grounds to its calving and nursery grounds in the longest migration of any land mammal in the world. Soon, birds from all 50 states and six continents will be headed there. The 1002 area is one of the few places on earth that polar bears go to den. It is one of the last intact Arctic and Subarctic ecosystems in the world. It has the most biodiversity of the circumpolar north region. It is an incredibly valuable area and is very important to people of the Gwich'in Nation. "We of course want to see it protected; the caribou has sustained us since time immemorial."

[4:28:43 PM](#)

MS. BEECH said Alaska Natives have seen vast and difficult changes. We've done an amazing job surviving in the Arctic and Subarctic, but we've thrown into corporations and have subsistence laws to follow, she said. It's an entirely different way of life and it isn't easy. "We're asking to hang on to something that we have left, something that has been passed down to us from our ancestors that we want to pass on to our children and our grandchildren," she stated. In 1988 the Gwich'in Nation determined it would oppose development in the calving and nursery ground and it has continued to affirm that position. "We are people that want to continue our way of life."

SENATOR WAGONER asked if the Gwich'in Nation ever sold any oil or gas rights to oil companies.

MS. BEECH replied at one time they did lease an area that was not along a migratory route or in a calving or nursery area. However, when the elders saw it was impacting small animals like squirrels and rabbits they put a stop to it. "That was the Arctic Village in Venetie in the southern part their reserve."

[4:31:07 PM](#)

CHRIS CANNON, representing himself, said wilderness is an important reason why he lives in Alaska. He can't understand how opening the last five percent of the North Slope to oil and gas companies can be a compromise. He'd like to see wilderness in Alaska that represents the Arctic and this is all that's left. Already it's not a true compromise. If we open our minds and look at other sources of energy, we won't have to fight over sensitive areas. He suggested that the same drilling rigs could be used to tap into geothermal almost anywhere in Alaska, not in just one oil patch.

CO-CHAIR WIELECHOWSKI closed public testimony and set HJR 18 aside.

SCR 3-OPPOSE FED. CONTROL OF STATE LAND & WATER

[4:33:26 PM](#)

CO-CHAIR WIELECHOWSKI announced the consideration of SCR 3. This being the first hearing, he stated that it is his intent to hear the resolution and hold it until the next hearing to provide members time to consider it and provide comments or suggestions.

SENATOR CON BUNDE, Alaska State Legislature, sponsor of SCR 3, noted that the proposed CS has a minute change that would match language in a bill that is going through the other body.

SENATOR HUGGINS moved to adopt committee substitute (CS) to SCR 3, labeled 26-LS0496 adopt \E, as the working document. There was no objection and version E was before the committee.

[4:34:28 PM](#)

SENATOR BUNDE informed the committee that the CS deletes the phrase "file an action" and inserts the phrase "exercise all legal options" [found in the line 1 of the title of SCR 3].

SENATOR BUNDE said this resolution is about state sovereignty and the fact that the State of Alaska is incrementally losing its most cherished and sovereign right to manage its navigable waters. In the relationship between the state and federal governments, navigable waters have clearly been established as state water and state land. As such they should be regulated and governed by state laws.

He mentioned the Yukon-Charley Rivers National Preserve and said apparently there are growing encounters between the public and the National Park Service (NPS) on the state's navigable waters. In particular, the NPS is enforcing prohibitions on certain types of water craft, citing placer miners, restricting four-wheel vehicles on gravel bars below mean high water, and requiring permits for riverboat operators and other tourism related facilities. People in the administration are concerned about this encroachment and have expressed an interest in having the Legislature support legal action to return the state's proper level of sovereignty.

SENATOR BUNDE noted that each year the NPS exerts greater authority over sport and subsistence fishing. Drawing an analogy between the NPS and the growth of alder trees, he maintained that "if you don't whack them back they continue growing." SCR 3 encourages the administration to push back to clarify the delineation of state's rights. The Alaska Constitution clearly says that the state owns and manages its submerged lands and navigable waters and that its citizens are free to have unrestricted access under regulations authorized by the Legislature.

[4:39:03 PM](#)

ELIZABETH BERRY, Attorney, Civil Division, Department of Law (DOL), said she is available for questions.

SENATOR HUGGINS asked why the state wouldn't go ahead and file a lawsuit.

MS. BERRY replied DOL and other state agencies are currently evaluating the options. She highlighted that there is a statute of limitations problem with a facial challenge to this regulation, which was adopted in 1996. "We cannot just file a lawsuit," she said.

SENATOR HUGGINS asked the timeline for a decision.

MS. BERRY replied DOL hopes to soon reach a decision on a course of action.

SENATOR WAGONER questioned that regulations promulgated by the government would have a statute of limitations.

MS. BERRY explained that to challenge a regulation on its face, it has to be done within the statute of limitations, which in this case is six years.

DICK MYLIUS, Director, Division of Mining, Land and Water, Department of Natural Resources (DNR), confirmed that DNR has been working on this issue for a number of years. Responding to a question from Senator Wagoner, he said DNR supports SCR 3.

SENATOR BUNDE said one of the reasons for this vehicle is that he believes that the various departments would appreciate legislative encouragement on the issue.

CO-CHAIR WIELECHOWSKI asked Ms. Cunning if fish and game has a position.

TINA CUNNING, Coordinator, Subsistence and Federal Issues, Division of Sport Fish, Alaska Department of Fish and Game (ADF&G), stated that ADF&G supports SCR 3.

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JAN FLORA, representing herself, said she came to Alaska in 1989 as a placer miner. She left California because of heavy-handed regulators, but found they look like amateurs compared to Bureau of Land Management (BLM) regulators. She asked Senator Bunde to include the BLM in the resolution because they too harass placer miners. She related anecdotal stories of NPS and BLM harassment of placer miners. These waterways are navigable and BLM is very controlling of them, she maintained.

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STAN LEAPHEART, Executive Director, Citizens Advisory Commission on Federal Areas, said the bill packet should include copies of the letter he sent to the attorney general on the topic of intrusion of NPS regulations into state navigable waters and state management authority. He is speaking in support of SCR 3 and to point out that his letter does not address the possibility that other federal agencies could intrude into the state's management authority of its navigable waters. We're on record supporting both SCR 3 and the House companion resolution, he concluded.

CO-CHAIR WIELECHOWSKI asked Mr. Leapheart to send a copy of the letter to his office and he would forward it to other committee members. For some reason it isn't in the bill packets.

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CARL PORTMAN, Resources Development Council (RDC), stated that RDC supports SCR 3 because the State of Alaska is steadily losing a most valuable sovereign right under the Statehood Act, the Submerged Lands Act, and the Alaska National Interest Lands Conservation Act (ANILCA). The state acquired control over navigable waters for a variety of uses regardless of upland ownership. The state's constitution, laws, and regulations clarify that it owns and manages submerged lands of navigable waterways and the citizens have free and unrestricted access unless prohibited under regulations authorized by the state Legislature. Furthermore, Section 103(c) of ANILCA states that regulations adopted for national parks only apply to federal lands. Beginning in 1996 the NPS placed another layer of regulations over the state's management of its navigable waterways. It has come to RDC's attention that the federal government is enforcing prohibitions on the use of certain types of watercraft that the state in fact authorizes and is requiring some commercial operators to secure federal permits. The state should act to protect its legitimate right to manage submerged lands in its navigable rivers. RDC is in strong support of SCR 3, he concluded.

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CO-CHAIR WIELECHOWSKI closed public testimony and set SCR 3 aside.

SENATOR WAGONER told a personal story and concluded, "We do have a big problem and we need to get it defined quick because Alaskans are losing access to their recreation areas."

SENATOR BUNDE cautioned that the clock is ticking because of the statute of limitations.

CO-CHAIR WIELECHOWSKI asked when the statute of limitation runs out.

SENATOR BUNDE replied he will find out for sure, but he heard someone testify that it began in 2006.

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There being nothing further to come before the committee, Co-Chair Wielechowski adjourned the Senate Resources Standing Committee at 4:53 p.m.