

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

April 8, 2010

3:35 p.m.

MEMBERS PRESENT

Senator Lesil McGuire, Co-Chair
Senator Bill Wielechowski, Co-Chair
Senator Hollis French
Senator Thomas Wagoner

MEMBERS ABSENT

Senator Charlie Huggins, Vice Chair
Senator Bert Stedman
Senator Gary Stevens

OTHER LEGISLATORS PRESENT

Representative Bryce Edgmon
Representative Cherisse Millett
Representative Jay Ramras

COMMITTEE CALENDAR

OVERVIEW FROM CONOCOPHILLIPS

- HEARD

CS FOR HOUSE BILL NO. 210(RES)

"An Act designating Kinzarof Lagoon as part of the Izembek State Game Refuge; authorizing a land exchange with the federal government in which state land adjacent to the Izembek National Wildlife Refuge and within the Alaska Peninsula National Wildlife Refuge is exchanged for federal land to serve as a road corridor through the Izembek National Wildlife Refuge and federal land located on Sitkinak Island; and providing for an effective date."

- HEARD AND HELD

CS FOR HOUSE JOINT RESOLUTION NO. 40(RES)

Opposing the proposed designation by the National Marine Fisheries Service of 3,000 square miles of upper Cook Inlet, the mid-inlet, all of the inlet's western shores, and Kachemak Bay as critical habitat for beluga whales.

- HEARD AND HELD

HOUSE JOINT RESOLUTION NO. 26

Urging the United States Congress to adequately fund land surveys in Alaska in order to issue patents to the State of Alaska and Alaska Native corporations.

- HEARD AND HELD

CS FOR HOUSE CONCURRENT RESOLUTION NO. 10(RES)

Urging the Governor to exercise all available legal options 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: HB 210

SHORT TITLE: IZEMBEK STATE GAME REFUGE LAND EXCHANGE

SPONSOR(s): REPRESENTATIVE(s) EDGMON

04/01/09	(H)	READ THE FIRST TIME - REFERRALS
04/01/09	(H)	RES
04/08/09	(H)	RES AT 1:00 PM BARNES 124
04/08/09	(H)	Moved CSHB 210(RES) Out of Committee
04/08/09	(H)	MINUTE(RES)
04/10/09	(H)	RES RPT CS(RES) 6DP 3NR
04/10/09	(H)	DP: OLSON, SEATON, WILSON, EDGMON, NEUMAN, JOHNSON
04/10/09	(H)	NR: GUTTENBERG, TUCK, KAWASAKI
04/11/09	(H)	TRANSMITTED TO (S)
04/11/09	(H)	VERSION: CSHB 210(RES)
04/13/09	(S)	READ THE FIRST TIME - REFERRALS
04/13/09	(S)	RES
04/08/10	(S)	RES AT 3:30 PM BUTROVICH 205

BILL: HJR 40

SHORT TITLE: COOK INLET/KACHEMAK BELUGA POPULATION

SPONSOR(s): REPRESENTATIVE(s) MILLETT

01/27/10 (H) READ THE FIRST TIME - REFERRALS
 01/27/10 (H) RES
 02/24/10 (H) RES AT 1:15 PM BARNES 124
 02/24/10 (H) Moved CSHJR 40(RES) Out of Committee
 02/24/10 (H) MINUTE(RES)
 02/26/10 (H) RES RPT CS(RES) 3DP 2NR
 02/26/10 (H) DP: P.WILSON, NEUMAN, JOHNSON
 02/26/10 (H) NR: SEATON, TUCK
 03/01/10 (H) NOT ADVANCED TO THIRD READING SAME DAY
 03/01/10 (H) BEFORE THE HOUSE IN SECOND READING
 03/01/10 (H) TRANSMITTED TO (S)
 03/01/10 (H) VERSION: CSHJR 40(RES)
 03/02/10 (S) READ THE FIRST TIME - REFERRALS
 03/02/10 (S) RES
 04/08/10 (S) RES AT 3:30 PM BUTROVICH 205

BILL: HJR 26

SHORT TITLE: STATEHOOD/ANCSA LAND SURVEY FUNDING
 SPONSOR(S): REPRESENTATIVE(S) FAIRCLOUGH

03/18/09 (H) READ THE FIRST TIME - REFERRALS
 03/18/09 (H) RES
 04/06/09 (H) RES AT 1:00 PM BARNES 124
 04/06/09 (H) Moved Out of Committee
 04/06/09 (H) MINUTE(RES)
 04/07/09 (H) RES RPT 3DP 3NR
 04/07/09 (H) DP: WILSON, JOHNSON, NEUMAN
 04/07/09 (H) NR: OLSON, SEATON, TUCK
 02/15/10 (H) TRANSMITTED TO (S)
 02/15/10 (H) VERSION: HJR 26
 02/17/10 (S) READ THE FIRST TIME - REFERRALS
 02/17/10 (S) RES
 04/08/10 (S) RES AT 3:30 PM BUTROVICH 205

BILL: HCR 10

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

02/27/09 (H) READ THE FIRST TIME - REFERRALS
 02/27/09 (H) RES
 03/30/09 (H) RES AT 1:00 PM BARNES 124
 03/30/09 (H) Moved CSHCR 10(RES) Out of Committee
 03/30/09 (H) MINUTE(RES)
 04/01/09 (H) RES RPT CS(RES) NT 6DP 1NR
 04/01/09 (H) DP: OLSON, TUCK, SEATON, WILSON,
 JOHNSON, NEUMAN

04/01/09	(H)	NR: GUTTENBERG
04/10/09	(H)	BEFORE THE HOUSE
04/10/09	(H)	TRANSMITTED TO (S)
04/10/09	(H)	VERSION: CSHCR 10(RES)
04/11/09	(S)	READ THE FIRST TIME - REFERRALS
04/11/09	(S)	RES
04/15/09	(S)	RES AT 3:30 PM BUTROVICH 205
04/15/09	(S)	Scheduled but not Heard
04/08/10	(S)	RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

DAN CLARK, Manager
Cook Inlet Assets
ConocoPhillips Alaska

POSITION STATEMENT: Presented ConocoPhillips overview on Cook Inlet oil and gas issues.

KAREY LOCKHART
Marathon Oil

POSITION STATEMENT: Was available for questions on Cook Inlet oil and gas issues.

REPRESENTATIVE EDGMON
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of HB 210

STANLEY MACK, Mayor
Aleutian Seas Borough

POSITION STATEMENT: Supported CSHB 210.

HENRY MACK, Mayor
King Cove, Alaska

POSITION STATEMENT: Supported CSHB 210(RES).

DICK MYLIUS, Director
Division of Mining, Land and Water
Department of Natural Resources (DNR)

POSITION STATEMENT: Supported CSHB 210(RES).

TIM CLARK
Staff to Representative Edgmon
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Commented on HB 210 for the sponsor.

REPRESENTATIVE MILLETT
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of HJR 40.

JASON BRUNE, Executive Director
Rural Development Council (RDC)

POSITION STATEMENT: Supported HJR 40.

CRYSTAL KOENEMAN
Staff to Representative Fairclough
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Commented HJR 26 for the sponsor.

REPRESENTATIVE HAWKER
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of HCR 10.

DICK MYLIUS, Director
Division of Mining, Land and Water
Department of Natural Resources (DNR)

POSITION STATEMENT: Commented on HCR 10.

TINA CUNNING
Subsistence and Federal Issues Coordinator
Department of Fish and Game (ADF&G)
Juneau, AK

POSITION STATEMENT: Supported HCR 10.

JOHN STURGEON
Representing himself

POSITION STATEMENT: Supported CSHCR 10.

ACTION NARRATIVE

[3:35:00 PM](#)

CO-CHAIR LESIL MCGUIRE called the Senate Resources Standing Committee meeting to order at 3:35 p.m. Present at the call to order were Senators Wagoner, French, Wielechowski and McGuire.

Overview from ConocoPhillips Alaska

[3:35:18 PM](#)

CO-CHAIR MCGUIRE announced a presentation by ConocoPhillips as the first order of business.

[3:36:01 PM](#)

DAN CLARK, Manager, Cook Inlet Assets, ConocoPhillips Alaska, said they operate three assets in the Cook Inlet area: the Beluga River Unit, the North Cook Inlet offshore unit, and the Kenai LNG plant in Nikiski. ConocoPhillips operates approximately 160-170 mmcf/day of natural gas production currently in the two units.

He said he would give a brief background of the Kenai LNG plant and discuss the benefits of the continued operation of it. He said it has been operating for over 40 years and is currently the only significant industrial user of natural gas in South Central Alaska. It received a two-year extension to its export license effective April 1, 2009. This extension provided for approval to export up to 99 tcf/btus or 99 bcf. During the first year they exported 27.9 trillion btus.

He said the plant is owned by the Kenai LNG Corporation with ConocoPhillips owning 70 percent of the shares and Marathon Oil owning the remaining 30 percent.

MR. CLARK said ConocoPhillips has informed the US Department of Energy and the Governor of Alaska of their intent to seek an extension to the export license up to March 31, 2013. The request will be for existing volumes of natural gas. No increase in volume for export will be requested for the 99 trillion btus that was previous authorized; it is only a request to extend the time available to export the original volume. No extension in volume will be requested.

The Kenai facility provides about \$130 million per year to the state and local economies. The LNG facility supports about 60 direct jobs and is estimated to support an additional 50 indirect jobs; they account for an estimated \$17 million/year in personal income.

[3:39:14 PM](#)

CO-CHAIR MCGUIRE said this export license is the only one in the United States and many of them had written letters to bolster the support for this extension.

SENATOR WAGONER asked if he meant billion instead of trillion.

MR. CLARK answered the correct authorized amount is 99 trillion btus, which is equivalent to 99 bcf. He continued that the production of gas for feedstock to the LNG facility and the sale of LNG generate about \$60 million/year in royalties and taxes for the State of Alaska and the Kenai Peninsula Borough. Furthermore, continued operation of the LNG plant helps to bridge the gas to the time when local storage options can be expanded or until other sources of natural gas including North Slope natural gas becomes available to South Central Alaska.

Additionally, it is important to note the plant has provided and can continue to provide an invaluable service to the South Central gas market. The plant owners have diverted natural gas to local utility markets when unexpected supply interruptions occur or when peak winter demands are excessive. The continued operation of the plant allows for a stable production environment which will significantly reduce the risk of water influx and associated loss of reserves and deliverability associated with the shut-in of production. He explained that during the summer and winter shoulder seasons the utility market can't absorb the natural gas production the Cook Inlet Basin is capable of producing. However, during the winter and specifically during cold spells, when demand increases up to three-fold, the deliverability of the basin is matched or even outstripped by utility demand. Shutting-in producing gas wells can damage the reservoirs and cause the loss of reserves and deliverability resulting in reduced supply for residential needs.

He summarized that in addition to jobs and a healthier economy, continued operation of the plant means natural gas will be available for local utility providers to meet heat and electric demands. In the event of supply interruptions because of excessive peak demand, discontinued use of the LNG facility would actually mean that less natural gas would be available to meet utility and residential needs.

[3:43:10 PM](#)

SENATOR FRENCH said many constituents are not happy with the idea of exporting natural gas. He asked him to explain why that is a good thing and to tell them exactly how much gas sells for overseas.

MR. CLARK replied that the primary reason it's a good idea to continue exports is because of the significant swing in demand from summer (low) to winter (high). If there were no export market, wells would have to be shut in, which would lead to

water influx and other failures on the well. So even though gas is physically leaving the state, it allows that production to continue and be maintained at a high deliverability rate, so when it's needed it can simply be diverted. In previous years, the excess deliverability of gas generated jobs and increased revenues.

He said current sales prices are strong; in Japan it is about \$11/mmbtu. For contrast, this year Enstar's average cost of gas is about \$7/mmbtu.

SENATOR FRENCH said the persistent rumor is that the gas being sold in Japan is selling for less than what is being charged in the Anchorage area and he asked Mr. Clark to reassure folks that is not the case.

[3:45:16 PM](#)

MR. CLARK said, with the exception of a handful of months over past 40 years, the price for gas delivered to Japan has been higher.

SENATOR WAGONER asked when gas is regasified in Japan, does it get blended for a higher btu value.

MR. CLARK replied that the exported Kenai gas is considered a lean LNG (1000 butts/cu. ft.). It has to go to a specific set of tanks and once it is regasified it is blended into their system.

[3:46:37 PM](#)

CO-CHAIR MCGUIRE asked what process Alaskans should look for to weigh in to support the extension. Is there a public comment period?

MR. CLARK replied that their current timeline is to submit the application to the US Department of Energy by the end of May; then they will start the process which will include a comment period.

[3:47:27 PM](#)

CO-CHAIR MCGUIRE asked if they have considered plans regarding how the LNG plant might fit into in-state gas line plans.

MR. CLARK answered for long-term continued use of the plant, which is what he thinks it would be, the compression would have to be renewed and that requires considerable investment - as much as a new facility would cost.

[3:48:46 PM](#)

CO-CHAIR WIELECHOWSKI asked if he thinks there is enough gas in Cook Inlet to sustain extension of this facility.

MR. CLARK replied he thinks so. It is evident to him there will be deliverability beyond local needs for several years. They would only be exporting what is not needed locally.

CO-CHAIR WIELECHOWSKI said they have heard there could be a potential crisis in Cook Inlet, and possible brown-outs. Did he believe that?

MR. CLARK replied that supply volumes have been declining "pretty significantly." There could be problems during the coldest days; all systems would have to work optimally to meet demand, but that would be only a few days out of the year. Stable production is what is important to meeting those demands.

CO-CHAIR WIELECHOWSKI asked if compressor failure could happen on the colder days.

[3:50:49 PM](#)

MR. CLARK replied yes, that is possible. A major failure would be a major concern.

CO-CHAIR WIELECHOWSKI asked who owns the compressors and if they will they be upgraded.

MR. CLARK replied that the 15 or so producing wells in the Beluga Unit that delivers to Chugach or Enstar flow through the central compressor there. If that failed it would be a big deal, but they have backup compressors. A few minutes delay could occur between events which can create loss in pressure, but that would be temporary. He didn't know what compression other producers had.

[3:52:20 PM](#)

CO-CHAIR WIELECHOWSKI referenced the "waterfall chart" and asked if there are enough reserves in Cook Inlet to last for years to come.

MR. CLARK replied that there is enough for several years; the questions come up around deliverability. Those really cold days require things to work very smoothly.

CO-CHAIR WIELECHOWSKI said ConocoPhillips agreed to drill new wells in the last extension and asked what the result of that

was as well as their plans to drill more wells if this extension is granted.

MR. CLARK replied that ConocoPhillips proposed to drill two wells at Beluga River when they got the last extension, and they did so in 2008. They also drilled another well at Beluga River in 2009 and three wells at the north Cook Inlet unit. All of those wells with the exception of one are producing "good volumes."

[3:54:31 PM](#)

CO-CHAIR WIELECHOWSKI asked if he sees the need to drill additional wells and if he anticipates doing so.

MR. CLARK replied that they are not seeking to add volumes to export, and didn't see a need to tie additional drilling to that. The contracts that are signed to sell gas, whether to a utility or to a buyer in Japan, are what works best to drive drilling activity.

CO-CHAIR WIELECHOWSKI asked if they get this extension would they have adequate storage in Cook Inlet.

MR. CLARK replied that the LNG plant provides a virtual storage because of the ability to divert gas away from the plant, but for the long term benefit of Cook Inlet, additional underground storage is needed. When that is in place, it will be another tool that will allow steady production.

CO-CHAIR WIELECHOWSKI asked what cost is per mcf to extract the gas and deliver it.

MR. CLARK answered that information is proprietary.

CO-CHAIR WIELECHOWSKI asked if more incentives are needed to spur more gas storage facilities in Cook Inlet.

MR. CLARK replied that incentives could be helpful, but he didn't know if any particular incentive would spur that.

CO-CHAIR WIELECHOWSKI asked if new incentives are needed to spur exploration.

MR. CLARK replied that any incentives that could help improve the economics of wells would be helpful, but the real challenge is the size of the market.

[3:57:49 PM](#)

CO-CHAIR WIELECHOWSKI asked if ConocoPhillips pays around \$60 million/year in royalty and taxes.

MR. CLARK answered yes.

CO-CHAIR WIELECHOWSKI asked how much their overall taxes were diluted with the "dilution effect of gas."

MR. CLARK answered that he didn't know that answer.

CO-CHAIR MCGUIRE asked how many people are currently employed at the plant.

MR. CLARK replied about 30 ConocoPhillips personnel at the plant itself.

CO-CHAIR MCGUIRE asked where they are in the life cycle of their Japan contract.

MR. CLARK replied that the contract they are currently in matched up with the current two-year extension. To move beyond March 31, 2011 will require this contract to be amended or a new contract.

CO-CHAIR WIELECHOWSKI said he knows the Regulatory Commission of Alaska (RCA) is concerned that the state had agreed to support their last extension, because they thought it weakened the utilities' ability to negotiate a contract. He asked if ConocoPhillips has contracts with all of the utilities to provide gas and what was their intent to provide gas to them before meeting the need for the export license.

MR. CLARK replied that Chugach had just submitted a contract to the RCA last week that will meet their needs through this period. Enstar has not yet submitted a contract that meets their needs, but he understood that they will this week. He didn't know if it would cover all of their needs, but it was progressing that way.

[4:00:59 PM](#)

CO-CHAIR WIELECHOWSKI said as long as they can meet in-state needs and get affordable gas to the consumers of Cook Inlet he is in full support of the extension.

CO-CHAIR MCGUIRE remarked that they are excited at his announcement and look forward to helping in the explanation to the public that has been challenging.

[4:02:12 PM](#)

KAREY LOCKHART, Marathon Oil, said Mr. Clark covered the issues adequately and she had no further comments.

HB 210-IZEMBEK STATE GAME REFUGE LAND EXCHANGE

[4:02:25 PM](#)

CO-CHAIR MCGUIRE announced consideration of HB 210 [CSHB 210(RES) was before the committee].

REPRESENTATIVE EDGMON, sponsor of HB 210, said this bill deals with a much publicized effort to establish a 30-mile road between the communities of King Cove and Cold Bay. It authorizes the Department of Natural Resources (DNR) to make the transaction given that the actual land exchange with the federal government is of unequal values. Title 38 requires the DNR to authorize land transactions of that nature. Submerged and tidelands are involved as part of the overall transaction as well; so the department needs to be able to consummate that.

With the passage of HB 210, he said, further work will need to be done at the federal level to complete the full authorization for the construction of the small part of the road that is missing. The Department of Interior would need to do an environmental impact study (EIS) and a public interest finding.

He explained that the proposed route goes through about 10 miles of some bird migration and wilderness areas, which will have to be approved. He said the most harrowing 10 minute flight he's ever taken is from Cold Bay to King Cove. With the help of a hover craft in the last couple of years, transport between the two areas is easier, but it is very expensive and as well as cumbersome to keep the hover craft running. For the 750 residents at King Cove this is about accessing the fifth largest all-weather runway in the state that also happens to be straddled by both the Gulf of Alaska and the Bering Sea. So, for them this is a life and safety issue.

[4:08:12 PM](#)

CO-CHAIR MCGUIRE confirmed that she has been contacted by people from that area who are concerned, and she applauded his efforts to deal with this problem.

CO-CHAIR WIELECHOWSKI said he can understand the health and safety issue, but this land exchange is controversial because it is the first time it has been done on a national wildlife refuge. He asked what kind of community outreach and involvement process it had been through, and was it acceptable to all parties.

REPRESENTATIVE EDGMON answered that the land transaction involves about 60,000 acres versus the 206 acres that comprise the very narrow one-lane transportation corridor that would complete the road; the US Fish and Wildlife Service threw in about 1,600 acres off of Kodiak Island for good measure. Converting the National Wildlife Refuge into wilderness areas has been going on since ANILKA was established in 1980, and it has been happening without any consultation at all with the community members, fishermen, the tribe or the city. So, the recent outreach effort has been unprecedented.

SENATOR WIELECHOWSKI asked if most of the organizations, particularly environmental, have accepted this as a fair compromise.

REPRESENTATIVE EDGMON replied that the National Public Lands Bill that was passed in March of last year took a great deal of effort including that of the Alaska delegation. Certainly, there was opposition to it. But many sideboards were enacted around the construction of the road - a single-lane gravel road, steel cables on both sides, specified turnouts, and a road design that has to meet the EIS. Further sideboards are the state process and public interest finding.

[4:12:04 PM](#)

STANLEY MACK, Mayor, Aleutian Seas Borough, Alaska, said he lives in Sand Point, but also lived in Cold Bay for years. He is a commercial fisherman and supported HB 210. It is the final step in a long legislative process authorizing a trade of state and King Cove Corporation land to the federal government in exchange for approving a small road through the Izembek National Wildlife Refuge.

The road corridor will allow for a one-lane gravel road so the residents of King Cove will finally have a safe and dependable access to Cold Bay Airport. Not all of the transportation challenges can be resolved, but King Cove's problem is different because it can be solved. He couldn't express how happy he is to think that this is going to happen in his lifetime. It

represents a successful partnership between state and local government to achieve.

4:16:25 PM

HENRY MACK, Mayor, King Cove, Alaska, said he supported CSHB 210(RES). He said he had lived most of his life in King Cove and was a commercial fisherman for 40-plus years. This road has long been in the making since 1976 when they first adopted a resolution identifying the need. King Cove's small plane airport is unusable 30 to 40 percent of the time due to high winds. This will resolve the problem for many people whose lives are impacted by the lack of reliable access to the Cold Bay Airport.

4:19:56 PM

DICK MYLIUS, Director, Division of Mining, Land and Water, Department of Natural Resources (DNR), said under AS 38.50 his division is responsible for conducting land exchanges involving state land and they support this legislation. It is before them for two reasons. The first one is that AS 38.50.020 requires legislative approval of land exchanges for other than equal appraised fair market values and secondly, one of the provisions of this exchange is that certain state tide and submerged lands would be added to the Izembek State Game Refuge.

He said a road from King Cove to Cold Bay has been talked about for many years and DNR's original Bristol Bay area plan adopted 25 years ago identified the need for this corridor. Regional transportation prepared by the Department of Transportation and Public Facilities (DOTPF) has also identified this need. Several years ago the Aleutian Seas Borough, City of King Cove, King Cove Village Corporation, Governor's Office and DNR agreed to revive the discussions about a land exchange to enable construction of the road and it was largely because borough leaders had found that the hover craft was not providing a safe economical long-term solution to King Cove's access needs. So, the state, the borough, the city and corporation met with the US Fish and Wildlife Service to develop the land exchange that is before them now.

MR. MYLIUS said the parties all recognize that the biggest hurdle for such a land exchange would be securing approval of the Congress, because it involves federal wilderness refuge lands. The exchange legislation was introduced by Lisa Murkowski and Representative Young in 2007; Governor Palin wrote letters in support, the state testified before the House Committee on Natural Resources and the land exchange which was originally a separate piece of legislation was wrapped into the Omnibus lands

bill that was considered late in 2008, and passed in 2009 and signed into law by President Obama in March.

In putting together the exchange, he said it was clear that due to concerns over the unique wildlife and wilderness values of the refuge that a simple fair market value would not adequately address the public's and Congress' concerns for those values. So, it was determine at the start that the package would require state legislative approval. Statute already requires legislative approval for exchanges for other than an equal appraised fair market value.

The existing values of most of these parcels of land are wilderness and wildlife values which are difficult to quantify in a land appraisal, and similarly with health and safety concerns of the local residents, the primary reason for the road.

Acreage-wise the exchange is clearly skewed in favor of the US Fish and wildlife Service. The state will acquire approximately 206 acres in the road corridor and about 1,600 acres on Sitkinak Island; US Fish and Wildlife Service will acquire 43,000 acres of state land that will be added to the National Wildlife Refuge, 2,500 acres of Native corporation land and another 5,430 acres of Native corporation selections that will be relinquished. In addition, the King Cove Native Corporation has agreed that it will sell additional land to the US Fish and Wildlife Service at fair market value should the service desire to purchase that land.

In addition to the road corridor, the state will acquire a 1,600 acre parcel on Sitkinak Island which is located south of Kodiak Island; the remainder of that island is already state or borough land used for grazing. The 1,600-acre parcel is a former Coast Guard facility. The value of the two townships the state would trade to the US Fish and Wildlife Service primary is primarily wildlife habitat for fish, caribou and brown bear. These lands drain the western side of Pavlov Volcano and have been offered for oil and gas leasing in previous state lease sales but have received no bids. State geologists say that the likely oil and gas resources lie further north or offshore of these parcels.

[4:24:44 PM](#)

MR. MYLIUS said the second provision requires approval by the legislature for adding 3,000 acres of state tide and submerged lands in Kinzarof Lagoon, at the head of Cold Bay, to the state game refuge. These lands have resource values similar to Izembek

Lagoon including valuable eel grass beds, which are critical for water fowl that migrate through or reside in the area. He said the department and the governor support this legislation.

SENATOR FRENCH moved to adopt the proposed Senate committee substitute (SCS) to CSHB 210, labeled 26-LS0788, Version E, as the working document of the committee. There being no objection, the motion carried and SCS CSHB 210() was before the committee.

TIM CLARK, staff to Representative Edgmon, explained the differences. He said the SCS is comprised of three lines on page 5, line 27, that say: "The construction and operation of the road described in (b)(1) of this section is authorized after the state receives the land described in (b)(1) of this section in accordance with PL11-11(Ombibus Public Land Management Act of 2009)."

The reason for this minor addition was to make it clear that construction and use of the road is allowed if the exchange is authorized. It is similar to access provisions in existing state law affecting other state game refuges including the Mendenhall Wet Lands State Game Refuge and the Goose Bay State Game Refuge. What might not be immediately clear is that the Izembek National Refuge is actually super-imposed over a state game refuge, so while the corridor becomes state land, it also becomes arguably state game refuge land. This being similar to other provisions for access in state game refuges they thought it seemed prudent to add it to the bill.

[4:28:30 PM](#)

MR. CLARK said it is rather complex for a seven-page bill, mainly because this bill answers the three mechanisms in the federal legislation that can render the exchange null and void: a finding by the Secretary of the Interior that the exchange is not in the public interest, a voluntary rendering of null and void by the state or the Native Corporation made before construction of the road commenced, and if permitting of the road was not accomplished within seven years of the federal act's passage. The clock began in March 2009 when the President signed the legislation. The challenging structure is if for any reason the exchange is voided, there is no need to revisit statute to ensure that all involved lands are returned to their original status. But if that is not the case, the legislature is saved the trouble of having to convene to dismantle any of the transactions.

CO-CHAIR MCGUIRE, finding no further comments, closed public testimony and set the bill aside.

[4:31:54 PM](#)

At ease from 4:31-4:33.

HJR 40-COOK INLET/KACHEMAK BELUGA POPULATION

[4:33:07 PM](#)

CO-CHAIR MCGUIRE brought the meeting back to order and announced consideration of HJR 40 [CSHJR 40(RES) was before the committee].

REPRESENTATIVE MILLETT, sponsor of HJR 40, said this resolution opposes the proposed designation by the National Marine Fisheries Service (NMFS) of 3,000 square miles of upper Cook Inlet as a critical Beluga habitat area. She said the critical habitat designation is part of the Endangered Species Act (ESA) process, and the Belugas were designated as endangered species in October 2008. The ESA requires consideration of listing endangered species habitat as critical habitat. The NMFS designated the whole 3,000 square miles from Upper Cook Inlet all the way down to Homer as Beluga habitat, and HJR 40 opposes that as being excessive.

REPRESENTATIVE MILLETT explained that the ESA allows for economic consequences in considering the critical habitat listing and she believes the NMFS grossly underestimated that at \$600,000. Instead she said this critical habitat designation would encompass everything from the Port of Anchorage to fishing grounds outside of Homer and Kenai to oil and gas exploration and any type of construction or resource development that would take place across the Inlet, which would jeopardize not only Mt. Spurr, but Chakachamna/Susitna and coal gasification projects.

She learned that the west side of Cook Inlet was listed as critical habitat and there had been only one sighting of a Beluga whale there in the last 10 years. Also, she said, NMFS only counts them once a year by doing an aerial flight, and juvenile Belugas aren't counted because they are the color of mud and look like waves.

REPRESENTATIVE MILLETT said this listing would also severely limit the products that can come into Anchorage as well as oil and gas exploration in Cook Inlet. All three of Alaska's delegation oppose this designation and that she entered the resolution during the NMFS public comment period.

She said back in the 1990s a subsistence hunt took place not realizing there was a delicate balance between the subsistence harvest and the Beluga population. In 1998 a harvest management plan was established and since then the Belugas have shown an increase in numbers. The NMFS has stated that the reason for the decline was overharvesting.

[4:37:58 PM](#)

SENATOR FRENCH asked her what she thinks would be a more reasonable designation.

REPRESENTATIVE MILLETT said there is no opportunity to have public comment and she is not a biologist; it is a tool of the NMFS. She believes the west side of Cook Inlet should not be included.

SENATOR FRENCH asked if she thinks the west side of the Inlet should be excluded.

REPRESENTATIVE MILLETT said her preference is no designation. She believes the Belugas "are coming back" because the subsistent hunts are done, and it will take them a little while to rebound. The NMFS has said it will take 10-15 years to have the population increase. She believed having a harvest management plan in place with a take of two Belugas a year is already working well enough.

SENATOR FRENCH said he heard a good presentation by Jason Brune [executive director, Rural Development Corporation (RDC)] about this a few years ago, and he wondered what the population was in the 1980s when the subsistence harvest took place.

[4:40:19 PM](#)

REPRESENTATIVE MILLETT answered that the Beluga population started out at 1,300 in the 80s, in 1994 it was 653, and in 1998 it was 347, which is when the subsistence harvest took place. In 2004 the population was 366, in 2005 it was 278, and in 2009 they rebounded to 321. There has not been a 2010 count yet. They have increased by an average of about 4 percent per year since the subsistence management plan was put in place.

SENATOR FRENCH said it sounds like part of the problem is that NMFS only does one count a year. He asked if they should be appropriating more money to count Beluga whales more often.

REPRESENTATIVE MILLETT replied that she has asked NMFS to increase its counts and to include juveniles, although she doubts she has much influence.

SENATOR WAGONER said he fished that Inlet for the better part of 40 years, and some years you would see a lot of Belugas, some years you wouldn't. The only place you could count them is in lower Cook Inlet and the only time you could count them is when the food is in. For the scientists to say this is a sub-species is something he doesn't believe. As for the numbers, if they studied the food source, they could get a good idea about how many Belugas are going to be there.

[4:43:27 PM](#)

CO-CHAIR MCGUIRE said this is just another way the Endangered Species Act is being used by the federal government, and she hoped they would depend on the state in which they are making the designation for their data.

[4:44:20 PM](#)

JASON BRUNE, Executive Director, Rural Development Council (RDC), said he concurred with Senator Wagoner's and Senator French's statements and that he supported HJR 40.

CO-CHAIR MCGUIRE asked him to provide his written comments. She closed public testimony and set HJR 40 aside.

HJR 26-STATEHOOD/ANCSA LAND SURVEY FUNDING

[4:45:27 PM](#)

CO-CHAIR MCGUIRE announced consideration of HJR 26.

CRYSTAL KOENEMAN, aide to Representative Fairclough, sponsor of HJR 26, said at statehood Alaska was granted a land entitlement from the federal government of approximately 103 million acres. Alaska Natives, through the Alaska Native Claims Settlement Act (ANCSA), were granted a land entitlement from the federal government of 45 million acres. Currently, Congress is not sufficiently budgeting the enough funds to the US Bureau of Land Management for the timely completion of land surveys for lands that were promised to the Natives in the State of Alaska. It was supposed to be done by the 50th statehood anniversary, which has come and gone.

[4:47:08 PM](#)

CO-CHAIR MCGUIRE noted that there is an amendment in the packet and asked if she supported it.

MS. KOENEMAN answered absolutely, and that the amendment had updated numbers since the resolution was first introduced last year.

CO-CHAIR MCGUIRE moved to adopt Amendment 1.

26-LS0739\R.2
Bullock

AMENDMENT 1

OFFERED IN THE SENATE

Page 2, line 8:

Delete "December 31, 2008, more than 66,000,000"
Insert "January 31, 2010, more than 57,000,000"

Page 2, line 9:

Delete "40,000,000"
Insert "42,000,000"

Page 2, line 10:

Delete "14,000,000"
Insert "15,000,000"

Page 2, line 11:

Delete "12,000,000"
Insert "7,000,000"

There being no objection, the motion carried.

CO-CHAIR WIELECHOWSKI asked what the importance is of getting a land patent.

MS. KOENEMAN replied that she would get an official response back to him, but it makes the land transfers easier.

[4:48:52 PM](#)

CO-CHAIR MCGUIRE finding no further testimony, closed public testimony and held HJR 26 as amended.

HCR 10-OPPOSE FED. CONTROL OF STATE LAND & WATER

[4:49:20 PM](#)

CO-CHAIR MCGUIRE announced consideration of HCR 10 [CSCHR 10(RES) was before the committee].

4:49:30 PM

REPRESENTATIVE HAWKER, sponsor of HCR 10, said the issue behind this resolution was brought to him by a constituent and is about the state's ownership of its submerged lands and navigable waters. It is something that is guaranteed by law, the state's constitution, and subsequent interpretations unless there is a specific federal override.

He explained that back in 1996 the National Park Service started adopting regulations which improperly extend its own claims of management and enforcement authorities over state-owned navigable waters within the units of the National Park System. As evidence he offered a letter from the Alaska Citizen's Advisory Commission on Federal Areas, dated February 13, 2009. The Commission identified and analyzed this problem and asked the governor to file a lawsuit challenging the regulations. Senator Therriault and Senator Bunde were potential sponsors of legislation - one of which is gone and the other one almost gone - so it fell to him to offer it.

REPRESENTATIVE HAWKER said the Commission recognizes the state is done with attempts at administrative remedies and wanted to go to court for a legal remedy. That language was toned down in the resolution, and it now asks the administration to "take all available actions".

SENATOR FRENCH asked if there is an interplay between this issue and the Katie John case.

4:54:51 PM

DICK MYLIUS, Director, Division of Mining, Land and Water, Department of Natural Resources (DNR), replied generally not. They both deal with navigable waters, but the Katie John case deals with federal reserve water rights and this deals with a park service regulation.

SENATOR FRENCH asked if anyone else might have any more to add.

TINA CUNNING, Subsistence and Federal Issues Coordinator, Department of Fish and Game (ADF&G), agreed HCR 10 has nothing to do with the Katie John case, which has to do with only locating where the federal subsistence priority applies in state waters. The National Park Service regulations issue is an ANILCA case related to where federal regulations that are promulgated for the management of federal lands can apply off of federal lands onto state waters.

CO-CHAIR MCGUIRE adjourned and then immediately called the meeting back to order to allow Mr. Sturgeon to testify.

4:56:55 PM

JOHN STURGEON, representing himself, supported CSHCR 10. He said the State of Alaska owns its submerged lands designated as "navigable." This includes rivers such as the Yukon. Several years ago when he was hunting on the Yukon, he was stopped by the National Park Service police and was told he could not drive his 5X10 ft. hover craft down the Yukon. They said they had legal jurisdiction even though they admitted he was on state land. Later, when he returned to Anchorage he learned that the state constitution, the statutes, and regulations all very clearly say the State of Alaska has management authority on its navigable waters. In addition, he learned that Section 103(c) of ANILCA says on ANILCA designated units federal conservation unit regulations do not apply to state and private land. It was an ANILCA promise that was ignored. He said it is of little use for the State of Alaska to own its submerged lands on navigable waterways if the National Park Service is going to override its management.

4:58:35 PM

CO-CHAIR MCGUIRE closed public testimony and set HCR 10 aside. Finding no further business she adjourned the meeting at 4:59 p.m.