

**ALASKA STATE LEGISLATURE**  
**HOUSE RESOURCES STANDING COMMITTEE**

March 18, 2011  
1:05 p.m.

**MEMBERS PRESENT**

Representative Eric Feige, Co-Chair  
Representative Paul Seaton, Co-Chair  
Representative Peggy Wilson, Vice Chair  
Representative Alan Dick  
Representative Cathy Engstrom Munoz  
Representative Berta Gardner

**MEMBERS ABSENT**

Representative Neal Foster  
Representative Bob Herron  
Representative Scott Kawasaki

**COMMITTEE CALENDAR**

CONFIRMATION HEARING(S):

Alaska Department of Fish & Game, Commissioner

Cora J. Campbell - Juneau

- CONFIRMATION(S) ADVANCED

Alaska Board of Fisheries

Michael E. Smith - Fairbanks

- CONFIRMATION(S) ADVANCED

Alaska Oil & Gas Conservation Commission, Geology Commissioner

Daniel T. Seamount - Anchorage

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 185

"An Act relating to an exemption from authorizations that may be required by the Department of Environmental Conservation for the firing or other use of munitions on active ranges."

- HEARD & HELD

HOUSE BILL NO. 106

"An Act extending the termination date of the Alaska coastal management program and relating to the extension; relating to the review of activities of the Alaska coastal management program; providing for an effective date by amending the effective date of sec. 22, ch. 31, SLA 2005; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 185

SHORT TITLE: EXEMPT DISCHARGES FROM USE OF MUNITIONS

SPONSOR(s): REPRESENTATIVE(s) T.WILSON

03/10/11	(H)	READ THE FIRST TIME - REFERRALS
03/10/11	(H)	RES
03/18/11	(H)	RES AT 1:00 PM BARNES 124

BILL: HB 106

SHORT TITLE: COASTAL MANAGEMENT PROGRAM

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/18/11	(H)	READ THE FIRST TIME - REFERRALS
01/18/11	(H)	RES, FIN
03/07/11	(H)	RES AT 1:00 PM BARNES 124
03/07/11	(H)	Heard & Held
03/07/11	(H)	MINUTE(RES)
03/11/11	(H)	RES AT 1:00 PM BARNES 124
03/11/11	(H)	Heard & Held
03/11/11	(H)	MINUTE(RES)
03/16/11	(H)	RES AT 1:00 PM BARNES 124
03/16/11	(H)	Heard & Held
03/16/11	(H)	MINUTE(RES)
03/18/11	(H)	RES AT 1:00 PM BARNES 124

**WITNESS REGISTER**

CORA CAMPBELL, Appointee  
Alaska Department of Fish & Game (ADF&G)  
Juneau, Alaska

**POSITION STATEMENT:** Testified as the appointee to commissioner of the Alaska Department of Fish & Game.

STEVEN FLORY

Anchorage Fish & Game Advisory Committee  
Anchorage, Alaska

**POSITION STATEMENT:** Supported the appointment of Cora Campbell as commissioner of the Alaska Department of Fish & Game.

RICKY GEASE, Executive Director  
Kenai River Sportfishing Association  
Soldotna, Alaska

**POSITION STATEMENT:** Supported the appointment of Cora Campbell as commissioner of the Alaska Department of Fish & Game.

REUBEN HANKE  
Soldotna, Alaska

**POSITION STATEMENT:** Supported the appointment of Cora Campbell as commissioner of the Alaska Department of Fish & Game.

WAYNE HEIMER  
Fairbanks, Alaska

**POSITION STATEMENT:** Supported the appointment of Cora Campbell as commissioner of the Alaska Department of Fish & Game.

CRAIG COMPEAU  
Sportsmen for Fish and Wildlife - Alaska  
Fairbanks, Alaska

**POSITION STATEMENT:** Supported the appointment of Cora Campbell as commissioner of the Alaska Department of Fish & Game.

JULIANNE CURREY, Executive Director  
Petersburg Vessel Owners Association  
Petersburg, Alaska

**POSITION STATEMENT:** Supported the appointment of Cora Campbell as commissioner of the Alaska Department of Fish & Game.

JOHN JENSEN  
Petersburg, Alaska

**POSITION STATEMENT:** Supported the appointment of Cora Campbell as commissioner of the Alaska Department of Fish & Game.

SARA JACKINSKY  
Homer, Alaska

**POSITION STATEMENT:** Opposed the appointment of Cora Campbell as commissioner of the Alaska Department of Fish & Game.

MITCHELL HRACHIAR  
Homer, Alaska

**POSITION STATEMENT:** Testified regarding the appointment of Cora Campbell as commissioner of the Alaska Department of Fish & Game.

PAUL A. SHADURA II  
Soldotna, Alaska

**POSITION STATEMENT:** Supported the appointment of Cora Campbell as commissioner of the Alaska Department of Fish & Game.

BOB HEINRICH  
Cordova, Alaska

**POSITION STATEMENT:** Supported the appointment of Cora Campbell as commissioner of the Alaska Department of Fish & Game.

GARY OLSON  
Anchorage, Alaska

**POSITION STATEMENT:** Supported the appointment of Cora Campbell as commissioner of the Alaska Department of Fish & Game.

JERRY MCCUNE, Lobbyist  
United Fishermen of Alaska  
Cordova, Alaska

**POSITION STATEMENT:** Supported the appointment of Cora Campbell as commissioner of the Alaska Department of Fish & Game.

MICHAEL E. SMITH, Appointee  
Alaska Board of Fisheries  
Fairbanks, Alaska

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

WAYNE HEIMER  
Fairbanks, Alaska

**POSITION STATEMENT:** Supported the appointment of Michael E. Smith to the Alaska Board of Fisheries.

CRAIG COMPEAU  
Fairbanks, Alaska

**POSITION STATEMENT:** Supported the appointment of Michael E. Smith to the Alaska Board of Fisheries.

REUBEN HANKE  
Soldotna, Alaska

**POSITION STATEMENT:** Supported the appointment of Michael E. Smith to the Alaska Board of Fisheries.

STEVEN FLORY

Anchorage Fish & Game Advisory Committee  
Anchorage, Alaska

**POSITION STATEMENT:** Supported the appointment of Michael E. Smith to the Alaska Board of Fisheries.

DANIEL SEAMOUNT, Appointee  
Alaska Oil and Gas Conservation Commission (AOGCC)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified as appointee to the Alaska Oil and Gas Conservation Commission.

REPRESENTATIVE TAMMIE WILSON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** As the sponsor, introduced HB 185.

MAJOR GENERAL THOMAS KATKUS, Commissioner  
Department of Military & Veterans' Affairs (DMVA)  
Fort Richardson, Alaska

**POSITION STATEMENT:** During the hearing on HB 185, provided information and answered questions.

MCHUGH PIERRE, Deputy Commissioner  
Department of Military & Veterans' Affairs (DMVA)  
Fort Richardson, Alaska

**POSITION STATEMENT:** During the hearing on HB 185, provided information and answered questions.

MAJOR JUSTIN TRUMBO, Regional Environmental Coordinator  
U.S. Air Force  
Region X

U.S. Department of Defense (DOD)  
San Francisco, California

**POSITION STATEMENT:** Supported HB 185

LINDSAY WOLTER, Assistant Attorney General  
Environmental Section  
Civil Division (Anchorage)  
Department of Law (DOL)  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing on HB 185, answered questions.

LYNN KENT, Director  
Division of Water  
Department of Environmental Conservation (DEC)  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing on HB 185, answered questions.

GLENN GRAY  
Glenn Gray & Associates  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing on HB 106, continued a PowerPoint presentation that he began on 3/16/11.

**ACTION NARRATIVE**

[1:05:28 PM](#)

**CO-CHAIR PAUL SEATON** called the House Resources Standing Committee meeting to order at 1:05 p.m. Representatives Seaton, Feige, P. Wilson, Dick, Gardner, and Munoz were present at the call to order.

**CONFIRMATION HEARING(S):**

**Alaska Department of Fish & Game, Commissioner**

[1:07:09 PM](#)

CO-CHAIR SEATON announced that the first order of business is the confirmation hearing for Cora Campbell, appointee as commissioner of the Alaska Department of Fish & Game. Co-Chair Seaton asked Ms. Campbell to tell the committee about herself and state why she would like to be the commissioner.

[1:08:10 PM](#)

CORA CAMPBELL, Appointee, Alaska Department of Fish & Game (ADF&G), stated she is a lifelong Alaskan originally from Petersburg. She grew up in the commercial fishing industry and commercially fished from the time she was a child until she had children of her own. During that time she participated in seining, gillnetting, and trolling for salmon, herring gillnetting, and crab fisheries, mostly all in Southeast Alaska. During the off season she worked for a local fishing association based in Petersburg, but whose members included fishers from Ketchikan on up to the Bering Sea. Her role with that group was to represent the fishermen in the various regulatory forums. Thus, she spent a lot of time at the Alaska Board of Fisheries, the North Pacific Fishery Management Council, and tracked state and federal legislation. During that time she also served on the advisory panel to the North Pacific Fishery Management

Council and she served on the advisory panel to the North Pacific Research Board, focusing on economic development and cooperative research projects.

[1:09:39 PM](#)

MS. CAMPBELL said she then transitioned to a statewide organization where she administered an outreach education program about subsistence management. This was at the time when management regulations under the Federal Subsistence Board were starting to diverge significantly from state regulations. The program focused on providing information about the federal management process and educating Alaskans who might be impacted by those decisions about how to participate in the process.

MS. CAMPBELL related that about four years ago she began work in the governor's office as fisheries policy advisor since that was primarily her background and expertise at the time. However, her responsibilities were subsequently expanded to include wildlife issues, issues with the Department of Environmental Conservation, and other issues with natural resources management. By the time she left the governor's office she had a fairly broad portfolio and exposure to a number of different departments and issues. She began serving as acting commissioner of the Alaska Department of Fish & Game on December 1, 2010.

[1:11:14 PM](#)

REPRESENTATIVE GARDNER noted that she is personally impressed with Ms. Campbell and Ms. Campbell's strong background for the commissioner's position. However, she said she is receiving calls from people who fear that Ms. Campbell's commercial fisheries background will prejudice her in favor of commercial interests and against sport fishing and subsistence users. She asked what Ms. Campbell has to say to those people expressing this concern.

MS. CAMPBELL allowed that her professional experience has largely been in the commercial industry and she grew up commercial fishing. However, while growing up she also sport fished and her family fished personal use fisheries for food. When she began working in the governor's office, she transitioned from working for any particular part of the fisheries to a position with statewide responsibilities where she advocated for all constituents and all resource users, a role she has been successful at for the past four years. She

has established relationships with sport fishing groups, subsistence users, and is comfortable working in a fair and balanced manner.

[1:13:01 PM](#)

CO-CHAIR FEIGE asked whether Ms. Campbell is aware of the program where Bristol Bay drift fisherman are all charged a 1 percent tax for fisheries development.

MS. CAMPBELL responded yes.

CO-CHAIR FEIGE requested Ms. Campbell to explain how an advocacy organization like Trout Unlimited can be given grants for marketing work from these tax collections. He further asked whether ADF&G has oversight to verify that these tax monies are used properly.

MS. CAMPBELL answered she does not believe ADF&G has any direct oversight responsibility over regional seafood development associations because they are incorporated under statutes and regulations for the Department of Commerce, Community & Economic Development.

[1:14:05 PM](#)

CO-CHAIR FEIGE inquired how the state decides whether a sport fishing group is the best choice to market commercial salmon.

MS. CAMPBELL understood the program to be a self-assessment in which the fishermen vote to assess themselves a 1 percent tax to be used for purposes of development for their fishery. The fishermen elect a board of directors from among those folks paying the taxes and the use of those monies is largely directed by that board. She said she does not know to what extent the Department of Commerce, Community & Economic Development regulations may direct appropriate uses of those funds.

[1:15:03 PM](#)

REPRESENTATIVE P. WILSON said she has known Ms. Campbell for quite some time and has watched her grow over the past 11 years. She said she feels strongly that Ms. Campbell is very capable of being the ADF&G commissioner and is fair and honest and will do a good job.

[1:15:51 PM](#)

REPRESENTATIVE DICK commented that he is impressed with how the people who originally opposed Ms. Campbell's appointment have completely turned around to supporting her appointment. He noted that the state constitution says wildlife for sustained yield. He asked whether Ms. Campbell feels current predator control policies are aggressive enough.

MS. CAMPBELL replied that she believes the department has shifted over the past several years to being more active in predator management and to refine intensive management programs. The results of those efforts are starting to be seen in several areas, but not to the abundance levels that the department would like to see in many areas, including some of the areas represented by Representative Dick. While she embraces the Division of Wildlife Conservation's philosophy that those programs are appropriate, there are still some challenges. One current challenge is that in areas where state and federal lands are in a patchwork, the department does not have the cooperation of some federal land owners. That is a significant impediment because the moose, caribou, and wolves do not know where the lines are. The department is trying to establish some type of cooperation with some of the federal land managers to allow more programs to take place and to refine those management programs.

1:18:01 PM

REPRESENTATIVE MUNOZ related the issue of possible environmental effects from barges travelling up the Taku River to a Canadian mine. One group of people opposes critical habitat designation for the river and another group made up mostly of fishermen supports such a designation. She requested Ms. Campbell to comment on whether a critical habitat designation would be the most effective means for protecting the river bottom and what other options there might be given that the Taku River is an international waterway.

MS. CAMPBELL responded she does not want to take sides in the debate about whether a critical habitat designation is the right approach for protecting the Taku River. She said she understands the concern about the proposed activities on the river. The department feels confident that it has the authority through the permitting process to protect the river, the river bottom, and the salmon habitat. She understands, however, that not everyone shares that level of comfort. A critical habitat designation can have a lot of flexibility because the legislature has very broad discretion to talk about what types

of activities would and would not be allowed. Thus, it is likely that there is a mechanism through legislative discretion to address some concerns people might have about that designation being overly restrictive.

[1:20:34 PM](#)

CO-CHAIR SEATON opened public testimony.

[1:21:34 PM](#)

STEVEN FLORY, Anchorage Fish & Game Advisory Committee, reported that the advisory committee voted unanimously to fully endorse Ms. Campbell's appointment as commissioner of ADF&G. This endorsement includes supporting votes from commercial fishermen, sport fishermen, and non-hunters. Various committee members met with Ms. Campbell and the committee feels that what she does not already know she is willing to learn, and she is open to new ideas and willing to discuss issues with the general public and advisory committees.

[1:22:47 PM](#)

RICKY GEASE, Executive Director, Kenai River Sportfishing Association, said his group had the pleasure of working with Ms. Campbell first in her capacity as the fisheries advisor in the governor's office and now as the acting commissioner of ADF&G. She is very smart and articulate and is approachable on issues. She takes the time to listen to stakeholders and members of the public and then works responsibly to seek a resolution if one is warranted. Therefore, his association endorses Ms. Campbell for commissioner of ADF&G.

[1:23:35 PM](#)

REUBEN HANKE testified that he worked with Ms. Campbell at the fisheries level in the governor's office and interacted with her at the Alaska Board of Fisheries level. He said she is very approachable and willing to listen to all sides of fish and game issues, and will make a great commissioner. He looks forward to working with her.

[1:24:29 PM](#)

WAYNE HEIMER offered his support for Ms. Campbell's appointment as commissioner of the Alaska Department of Fish & Game. He noted that during his 25 years of working at ADF&G and the 12

years since he left the department he has watched every kind of commissioner come through and has concluded that the personality of the commissioner is less important than the philosophy of the governor with whom he or she serves. He offered his support for Governor Parnell's philosophy and agenda, and the people working for him.

[1:25:41 PM](#)

CRAIG COMPEAU, Sportsmen for Fish and Wildlife - Alaska, related his organization's wholehearted support for the appointment of Ms. Campbell as commissioner of ADF&G. He said his organization is impressed with her decisive action and that she hears both sides of an issue. Over his 50 years in Alaska he has seen commissioners with much thicker resumes who have performed very poorly, in his opinion, in relation to wildlife populations and abundance management.

[1:27:00 PM](#)

JULIANNE CURREY, Executive Director, Petersburg Vessel Owners Association, noted that her organization includes over 100 members of multi-gear and multi-species fishermen from Ketchikan to the Bering Sea. She stated that the association supports Ms. Campbell's appointment to commissioner of the Alaska Department of Fish & Game. She said she is particularly delighted to speak in favor of Ms. Campbell's appointment due to her unique background in the fisheries management process, along with her history of personal participation in commercial, sport, and personal use fisheries. The association has worked alongside Ms. Campbell for a long time and she is brilliant, articulate, and understands the need for putting the resource first. The broad range of support for Ms. Campbell is a testament to her ability to manage the department.

[1:28:02 PM](#)

JOHN JENSEN said he is in favor of Ms. Campbell's appointment. As a user of all of the state's resources - subsistence, hunting, and fishing - he trusts Ms. Campbell's capability to manage these resources for all the people of the state.

[1:28:34 PM](#)

SARA JACKINSKY urged a vote against Ms. Campbell's confirmation as commissioner of the Alaska Department of Fish & Game. While Ms. Campbell is likely a wonderful person, she is not qualified

to hold this position because her degree is in education and she has no scientific, research, conservation, statistical, or economic background, and no education in fisheries issues. Her commercial fishing experience as a child is being considered as her professional resume. Her appointment would be a slap in the face to those in commercial, sport, and subsistence fishing. The people of the state deserve a commissioner who is knowledgeable and has a background and education in an appropriate area. This is a case of "who you know" with no regard to the importance of the position.

[1:30:05 PM](#)

MITCHELL HRACHIAR testified that as a scientist with a degree in geology and a social science degree in geography he was taught to present the data, establish trends based on data, and present answers from that data. Ms. Campbell's degree in education does not provide the background necessary to make sound decisions on a broad spectrum of issues such as complex trends in the ocean environment. He can only hope she has the knowledge and foresight to advise on closures of a fishery or game management area for long term viabilities, and these questions should be asked by the legislative bodies. For example, Cook Inlet is experiencing a downturn of halibut and hordes of hunters gather around the terminus of Denali Park. He said he is wondering whether Ms. Campbell would support closures of breeder halibut and broader buffer areas around the park to promote wildlife habitat and viewing. He noted that Ms. Campbell's degree in education is from the same university as Governor Parnell's, Pacific Lutheran University, and stated that faith-based game management is not a science. He reported that on a governor's press release he observed a copyright and he questions whether the government has the right to copyright data. This is becoming an issue with the Freedom of Information Act as people are being denied their rights for open information.

[1:33:02 PM](#)

PAUL A. SHADURA II said he is representing himself but he wears several hats in the community with his membership in a number of groups. His family history includes Russian, English, and Aleut descent and he is considered Alaska Native. He said he believes all Alaskans should have the opportunity to serve the people of the state of Alaska. It is not often that there is the opportunity to promote a youthful Alaskan to public service. There is no greater reward to the residents of Alaska than to be guardian to the state's precious fish and game resources. Ms.

Campbell has the proven skills, as specified in statute, of being "a qualified executive with the knowledge of the requirements for the protection, management, conservation, and restoration of the fish and game resources of the state." He said his personal experience with Ms. Campbell is that she has consistently shown a keen sense of understanding for her fellow Alaskans. She listens and is respectful. He offered his belief that Ms. Campbell will revitalize the Alaska Department of Fish and Game and will attract new expertise into a department that is currently suffering from an exodus of long time, experienced fish and game leadership.

[1:35:15 PM](#)

BOB HEINRICH noted that he was born in and lives in Cordova and was in the state before there was even a fish and game department. He said he supports Ms. Campbell's appointment and that she is a breath of fresh air; additionally, he likes that Corey Rossi and Craig Fleener work for her.

[1:36:30 PM](#)

GARY OLSON stated that he founded the Alaska Moose Federation but is testifying on behalf of himself. He said he sees as attributes Ms. Campbell's youth and that she does not come from within ADF&G. The state's history of moose population decline has affected too many people and this past is not something to be proud of. A fresh face and all the new people surrounding her are to be commended and she has his full support.

[1:37:36 PM](#)

JERRY MCCUNE, Lobbyist, United Fishermen of Alaska, noted that he is also president of Cordova District Fishermen United. He offered the support of United Fishermen of Alaska for Ms. Campbell's appointment as commissioner of the Alaska Department of Fish & Game. He said being young is a plus for Ms. Campbell because as a long time fishermen he has found that some of the best ideas and the new ideas come from the younger fishermen. Many past commissioners have come from inside the department so the opinions of the department have never changed. This is a fresh look and a fresh start. He worked with Ms. Campbell for many years before she was in the governor's office as well as when she was in the governor's office, and she is very sharp and will do a good job for Alaska.

[1:39:09 PM](#)

CO-CHAIR SEATON closed public testimony after ascertaining that no one else wished to testify.

[1:39:24 PM](#)

REPRESENTATIVE P. WILSON moved to forward the name of Cora Campbell to the joint session of the House and Senate for consideration. There being no objection, the confirmation of Cora Campbell was advanced from the House Resources Standing Committee.

CO-CHAIR SEATON noted that advancing a confirmation does not reflect a member's vote during the joint floor session; it is moving the nomination to the joint floor session for a confirmation vote.

[Later in the hearing additional testimony in support of Ms. Campbell's appointment was given.]

**CONFIRMATION HEARING(S):**  
**Alaska Board of Fisheries**

[1:40:20 PM](#)

CO-CHAIR SEATON announced that the next order of business is the confirmation hearing for Michael E. Smith, appointee to the Alaska Board of Fisheries. Co-Chair Seaton asked Mr. Smith to tell the committee about himself and state why he would like to serve on the Alaska Board of Fisheries.

[1:41:47 PM](#)

MICHAEL E. SMITH, Appointee, Alaska Board of Fisheries, said he is currently the director of wildlife and parks for Tanana Chiefs Conference. He explained that in this capacity his role is to advocate for subsistence opportunities for rural Alaskans. His background in fishing arises from his early life on the Yukon River in the village of Nulato where he was raised. He spent his summers at fish camp learning the traditions from his elders, seeing the different species of salmon as they went by, and learning the different ways of preparing those fish. After working on the Trans-Alaska Pipeline System he again went fishing, but this time it was below the Yukon River Bridge and was as a commercial fisherman. When the Yukon River fishery collapsed he became involved in management and regulatory advocacy with Tanana Chiefs Conference. He started attending

advisory committee and other meetings and became heavily involved in fishery activities, primarily on the Yukon River. During that time he was advisor to the Yukon River Panel, which is the treaty panel for the Yukon River with Canada. He has been on the Escapement Goal Committee for the Yukon-Kuskokwim area and he has also participated at the North Pacific Fishery Management Council level on the King Salmon Bycatch Committee.

[1:44:16 PM](#)

MR. SMITH noted that he has also participated on the Alaska Board of Game Tier II Committee and currently sits on the Alaska Migratory Bird Co-Management Council. Thus, he has a wide experience in regulatory management. About 10 years ago the Yukon River experienced its first crash and he focused on Yukon River salmon issues. He has grown since then and learned the process and feels comfortable in being able to represent the people along all of the Interior's rivers. He offered his appreciation of Governor Parnell's trust in his abilities.

[1:45:37 PM](#)

CO-CHAIR FEIGE asked for Mr. Smith's opinion about establishing a hatchery in the Yukon River drainage similar to the one in Prince William Sound.

MR. SMITH replied that hatcheries have been talked about quite often on the Yukon River. For the most part, most residents and most participants are fairly reluctant to participate in a hatchery because the decline is not seen as being significant enough to go that route at this time. The limited usage of the hatchery in Whitehorse does not seem to bother anyone; however, a hatchery intended to intentionally supplement the king salmon run would likely be met with resistance and at this point would have to be shown to be really needed.

[1:46:59 PM](#)

WAYNE HEIMER testified that he supports the nomination of Mr. Smith because he has heard Mr. Smith make a number of presentations and Mr. Smith understands the Yukon River as well as anyone. He said Mr. Smith can work with any number of groups of people and brings a perspective to the Alaska Board of Fisheries that has been lacking.

[1:47:43 PM](#)

CRAIG COMPEAU noted that he is a 50-year resident of Fairbanks who has been heavily involved in sportsmen's and wildlife issues in Fairbanks. For the past four years he has watched Mr. Smith in action at meetings and giving testimony and he is very impressed with Mr. Smith's professionalism and ability to gather information and make sound decisions on Yukon River fisheries and other issues. He finds Mr. Smith to be articulate, well informed, and carrying a powerful message that will be wonderful for all the folks along the rivers in the state of Alaska. He therefore strongly endorses the appointment of Mr. Smith.

1:49:08 PM

REUBEN HANKE stated he has known Mr. Smith for several years and thinks Mr. Smith will do an excellent job on the Alaska Board of Fisheries. He has attended several of the meetings that Mr. Smith has been involved with and at which Mr. Smith did a great job. He added that Mr. Smith is well rounded, approachable, and understands the complex fisheries of Alaska.

1:50:02 PM

STEVEN FLORY, Anchorage Fish & Game Advisory Committee, related that he has served with Mr. Smith on several subcommittees of different organizations, such as the Alaska Board of Game, the Alaska Board of Fisheries, and the North Pacific Fishery Management Council. He said Mr. Smith is well rounded and even though he and Mr. Smith have not seen eye-to-eye on every subject, Mr. Smith has listened, is articulate, does his homework and is well studied. Mr. Smith always shows up prepared and with an understanding and is willing to listen to other points of view. Mr. Smith has a thorough understanding of the process and is ready to hit the ground running. He reported that the Anchorage Fish & Game Advisory Committee unanimously endorses Mr. Smith's appointment.

1:52:21 PM

CO-CHAIR SEATON closed public testimony after ascertaining that no one else wished to testify.

1:52:26 PM

MR. SMITH, speaking on behalf of Tanana Chiefs Conference (TCC), offered TCC's full endorsement of Ms. Cora Campbell's appointment to commissioner of the Alaska Department of Fish & Game. He said TCC represents 42 Interior communities and

initially had concerns about Ms. Campbell. However, after meeting with her, TCC was thoroughly impressed with her knowledge and willingness to listen to TCC's concerns and her willingness to protect the subsistence way of life.

[1:53:44 PM](#)

CO-CHAIR SEATON congratulated Mr. Smith on the North Pacific Fishery Management Council's establishment of a cap on the king salmon catch in the Gulf of Alaska.

[1:54:25 PM](#)

REPRESENTATIVE P. WILSON moved to forward the name of Michael E. Smith to the joint session of the House and Senate for consideration. There being no objection, the confirmation of Michael E. Smith was advanced from the House Resources Standing Committee.

**CONFIRMATION HEARING(S):**

**Alaska Oil & Gas Conservation Commission, Geology Commissioner**

[1:54:54 PM](#)

CO-CHAIR SEATON announced that the next order of business is the confirmation hearing for Daniel Seamount Jr., appointee to the Alaska Oil and Gas Conservation Commission (AOGCC).

The committee took a brief at-ease.

CO-CHAIR SEATON requested Mr. Seamount to tell the committee about himself and state why he would like to be re-appointed to the AOGCC.

[1:57:09 PM](#)

DANIEL SEAMOUNT, Appointee, Alaska Oil and Gas Conservation Commission (AOGCC), noted that he has been doing this interesting, fun, and challenging job for the last 11 years. He said he is the AOGCC's Chair and Geology Commissioner, John Norman is the Public Member Commissioner, and Cathy Foerster is the Engineering Commissioner. For 27 years prior to government work he worked in industry for three different oil companies plus the University of California. He mainly did oil, gas, and geothermal development and exploration in California, the Rocky Mountains, and the mid-continent, both offshore and onshore. He

has a Masters degree in geology from the University of California, Riverside.

[1:59:42 PM](#)

MR. SEAMOUNT began his PowerPoint presentation with a photograph of the Alpine oil field, which he said is an example of how an oil field should be developed because it has a very small footprint (slide 1). The footprints are becoming smaller and smaller as time goes on; for example, all of the Arctic National Wildlife Refuge (ANWR) could now be developed with six small pads in addition to facilities such as pipelines. He explained that the AOGCC is a quasi-judicial state regulatory agency that has oversight for underground oil and gas operations and police power throughout the state on state, federal, Native, and private lands (slide 2). The AOGCC regulates the drilling and production for oil, gas, and geothermal resources.

[2:01:19 PM](#)

MR. SEAMOUNT related that AOGCC's mission is to prevent the waste of energy resources; promote greater ultimate energy resource recovery; protect underground fresh water from damage caused by oil, gas, and geothermal operations; protect human safety on drilling and production operations; and protect the correlative rights of the owners of oil, gas, and geothermal leases to recover their fair share of the resource (slide 3). The jurisdiction of AOGCC is oil, gas, and geothermal resource development, underground storage of natural gas, and ensuring accurate metering for custody transfer (slide 4).

MR. SEAMOUNT reviewed the types of permits and decisions put out by the AOGCC (slide 5). He said that [over the last 10 years] the AOGCC has evaluated and approved more than 2,300 drilling permits, more than 4,000 well workover permits, and 46 underground injection orders for enhanced oil recovery, waste disposal, and gas storage. The AOGCC has done hundreds of conservation orders, mainly pool rules and setting up the rules for developing reservoirs within oil fields. Also, the AOGCC has some special development considerations, such as dispute adjudication between owners.

[2:03:52 PM](#)

MR. SEAMOUNT related that AOGCC currently has 28 staff members and is going for another engineer and another inspector in light of the Gulf of Mexico disaster. The present positions include

three commissioners, five petroleum engineers, two petroleum geologists, six field inspectors, and information technology (IT), administration, and clerical support staff. He said it is an exciting time to be on the commission and he would like to continue serving the people of Alaska.

[2:05:47 PM](#)

MR. SEAMOUNT highlighted the current hot topics, which include North Slope gas sales, gas storage, geothermal and other non-traditional drilling, response to the Gulf of Mexico disaster, and the Liberty field. He noted that only 2 of the over 20 basins in Alaska with potential for oil and gas have been produced. Not seen before are the recent geothermal and coal gasification projects. Additionally, there are the liquefied natural gas issues in Cook Inlet and jack-up rigs that are coming to Cook Inlet. It is an exciting time and he would like to continue his job as an AOGCC commissioner.

[2:07:09 PM](#)

CO-CHAIR SEATON requested that AOGCC provide the committee with a map outlining the aforementioned 20 basins and whether they are on state or federal land and available for lease.

MR. SEAMOUNT agreed to do so and pointed out that the map he will be sending to the committee is a modified map of a Department of Natural Resources (DNR) map. He said that a map on the wall by the elevator down the hall from the committee room depicts the more than 20 basins.

[2:08:33 PM](#)

REPRESENTATIVE P. WILSON asked Mr. Seamount's opinion of fracking [hydraulic fracturing].

MR. SEAMOUNT replied that fracking has been going on for 50 years. When involved in the industry he was involved in hundreds of frack jobs with no problems. A lot of what is being said about fracking is total hysteria and overblown and is out of ignorance or dishonesty. In further response, he said there is very large fracking going on right now at Colville River Field (Alpine Field). The fracks are huge, much bigger than he did when he was in industry.

[2:09:53 PM](#)

CO-CHAIR FEIGE inquired how many dry holes and failed plays Mr. Seamount was responsible for during the time he was in industry in the state of Alaska.

MR. SEAMOUNT responded that he drilled quite a few discoveries as well as a few disasters, including twelve-million-dollar disasters.

[2:10:42 PM](#)

REPRESENTATIVE P. WILSON understood the ratio of dry wells to wet to be 5:1. She asked what the ratio is for the North Slope.

MR. SEAMOUNT answered it appears to him that the North Slope has a very high success rate compared to other areas, probably due to new technology and better seismic data. The success rate has been going up everywhere through the years. A lot of the wells drilled on the North Slope find oil; it is the oiliest basin he has ever looked at in North America. Many wells get drilled and plugged despite finding oil because the infrastructure is not yet there to support it. An oil company CEO will say that if it is not economic it is not a discovery; however, he predicted that someday those wells will be produced.

[2:12:11 PM](#)

REPRESENTATIVE MUNOZ inquired how long it takes to get a permit through the AOGCC process and how many active permit applications are before the AOGCC right now.

MR. SEAMOUNT replied that AOGCC processes a drilling permit in 7 days; 10 years ago it was 27 days, and AOGCC made that one of its performance measures. He estimated AOGCC has 175 drilling permits a year, which is about 1 every 2 days, so about 3 or 4 are outstanding. While the permits are done fast they are still done carefully.

[2:13:08 PM](#)

REPRESENTATIVE MUNOZ asked whether the number of permits processed by AOGCC is less compared to previous years.

MR. SEAMOUNT responded that exploration is way down in the last year and will be down even more next year. Development activity has been down since 2005. He offered to provide members with a recent presentation that gave in this regard. He said it used to be that activity could be correlated with the price of oil,

but that has not been the case in the last five years. In further response, he nodded in agreement to provide the aforementioned presentation.

[2:14:12 PM](#)

CO-CHAIR SEATON opened public testimony then closed it after ascertaining that no one wished to testify.

[2:14:44 PM](#)

CO-CHAIR FEIGE moved to forward the name of Daniel Seamount Jr. to the joint session of the House and Senate for consideration. There being no objection, the confirmation of Daniel Seamount was advanced from the House Resources Standing Committee.

**HB 185-EXEMPT DISCHARGES FROM USE OF MUNITIONS**

[2:15:14 PM](#)

CO-CHAIR SEATON announced that the next order of business is HOUSE BILL NO. 185, "An Act relating to an exemption from authorizations that may be required by the Department of Environmental Conservation for the firing or other use of munitions on active ranges."

[2:16:03 PM](#)

REPRESENTATIVE TAMMIE WILSON, Alaska State Legislature, noted that she would like to address a proposed amended version of HB 185.

CO-CHAIR FEIGE moved to adopt the proposed committee substitute (CS) for HB 185, Version 27-LS0506\E, Bullard, 3/14/11, as the work draft.

REPRESENTATIVE P. WILSON objected for discussion purposes.

CO-CHAIR SEATON requested an explanation of the differences between the original bill and Version E.

REPRESENTATIVE T. WILSON replied that the change is necessary because a long federal vetting process was accomplished and Version E is the version that they agreed to.

REPRESENTATIVE P. WILSON removed her objection. There being no further objection Version E was before the committee.

2:17:30 PM

REPRESENTATIVE T. WILSON spoke as follows:

In 2008 the state sought EPA approval of its Clean Water Act program. From this, the statutory exclusion for active military ranges under Title 46 was amended so that now it excludes the firing or other use of munitions in training activities conducted on active ranges, including active ranges operated by the Department of Defense or military agencies, unless it results in the discharge into waters of the United States. ... HB 185 clarifies section (e)(7) such that it cannot be misinterpreted to restrict military exercises on ranges other than instances where the federal Clean Water Act [Federal Water Pollution Control Act] would apply.

REPRESENTATIVE T. WILSON added that HB 185 is a collaboration between the Department of Environmental Conservation (DEC) and the Department of Military & Veterans' Affairs (DMVA). She deferred to DMVA and other military experts to provide further technical information.

2:19:29 PM

REPRESENTATIVE GARDNER understood that the purpose of the bill is to ensure that military exercises are not restricted except when it would result in discharge of waste into federal waters.

REPRESENTATIVE T. WILSON said her understanding is that right now when training exercises take place and munitions end up in the waterway there is a potential for a lawsuit to happen, and HB 185 would prevent such lawsuits.

2:20:26 PM

MAJOR GENERAL THOMAS KATKUS, Commissioner, Department of Military & Veterans' Affairs (DMVA), noted that he also serves as the Adjutant General for the Alaska National Guard and that today he is representing the State of Alaska. He said the military is well supported by Alaska's communities and the state is a good place for military operations and training. He was approached some time ago about a potential problem in the training, in the development of areas like the Joint Pacific Alaska Range Complex. The statutes covering clean water

constraints in Alaska are more restrictive and/or vague, and can be interpreted more restrictively, than the federal requirements. The bill would not reduce the constraints or make it weaker than the federal requirements; HB 185 would make the Alaska statute clear so that someone taking the military to task in a training area does not have the advantage of playing in those vague areas. The bill would clarify that the constraints of military development in training areas are to be held to the federal standards. The insertion specifies exactly what those standards are going to be.

[2:22:08 PM](#)

CO-CHAIR SEATON asked whether the problem has been with white phosphorus shells, lead, or another issue.

MAJOR GENERAL KATKUS replied that the issues would be almost any by-product that comes off of the ordinance used in the training for military; so, those military ordinances could be covered that affects the water. It would clarify what the constraints are on the environment.

[2:22:53 PM](#)

CO-CHAIR SEATON recalled a court order requiring the cleanup of white phosphorous due to its impact on migratory waterfowl. He inquired whether there would not have been an order for white phosphorus clean up had the provisions of HB 185 been in place.

MAJOR GENERAL KATKUS responded that the U.S. military is a very good steward of the environment and would have cleaned up the environment whether this bill had been in effect or not. As the military looks at developing areas, it cannot predict exactly what areas will be challenged in court for constraining the training. The bill would clarify exactly what in the clean water laws can be used and narrows the scope of different groups that may not support training range development. He said it would not be a lesser standard.

[2:24:19 PM](#)

MCHUGH PIERRE, Deputy Commissioner, Department of Military & Veterans' Affairs (DMVA), said HB 185 would not at all take away from the cleanup or the responsibility of the military, any agency or department thereof, of taking care of the lands in Alaska. The white phosphorus in the Eagle River drainage is absolutely going to be cleaned up and was cleaned up. The

specific language that would be replaced is "of the United States" which is very vague because there is a lot of water of the United States. He said DMVA worked with the lawyers at the Department of Law who work on DEC issues, as well as with the environmental section of the Department of Defense, to narrow it down specifically to the waters mentioned in 33 U.S.C. 1251 - 1376. He said there is currently discharge into water in certain training areas and that all will be cleaned up, is cleaned up, and will be cleaned up in the future; it is just a matter of defining what water is in each training area.

[2:26:32 PM](#)

CO-CHAIR SEATON informed committee members and the public that HB 185 will be held over to give people a chance to review it. He then continued with agency testimony.

[2:27:18 PM](#)

MAJOR JUSTIN TRUMBO, Regional Environmental Coordinator, U.S. Air Force, Region X, U.S. Department of Defense (DOD), said he is the chief environmental legal counsel for state law matters that affect the Department of Defense. He offered support for HB 185 on behalf of the military services in Alaska. He thanked Representative T. Wilson for her efforts to promote Alaska's continued partnership with the Department of Defense. The Department of Defense has a long and proud history of cooperation. Alaska's military installations are vital to DOD's worldwide mission. In the spirit of cooperation DOD has worked with the Department of Environmental Conservation, the Office of the Attorney General, the U.S. Environmental Protection Agency, and General Katkus's staff and other stakeholders to develop this amendment.

MAJOR TRUMBO noted that the statute that would be amended prohibits the disposal of solid or liquid waste into waters or onto lands of the State of Alaska without authorization by the Department of Environmental Conservation. This statute was amended in 2008 when Alaska sought the U.S. Environmental Agency's approval of its clean water program. As a result, the statutory exclusion for military ranges was modified so that it now excludes the firing or other use of munitions unless it results into a discharge into water of the United States. It is the phrase "discharge into waters of the United States" that has created some confusion and HB 185 would eliminate that. The bill would not repeal any protections under federal law and will help ensure that military ranges can be used and will be used in

accordance with federal law. Additionally, it would benefit the State of Alaska in that federal and Alaska state agencies agree that this amendment would not jeopardize continued U.S. Environmental Protection Agency approval of Alaska's Clean Water Act program.

[2:30:15 PM](#)

MAJOR TRUMBO said the benefit of the proposed amendment specifically to the Department of Defense will ensure that questions regarding the application of Alaska law to military ranges are determined in accordance with the federal Clean Water Act. While there may be uncertainty as to how that federal Clean Water Act program might apply to military ranges, the proposed amendment will not preclude agencies, the military, the U.S. Environmental Protection Agency, or private parties from making appropriate arguments under the federal statute. But unless amended, the application of the "Alaska Clean Water Act" to military ranges might be inconsistent with the application of clean water programs to the military in other states.

MAJOR TRUMBO pointed out that because DEC plans to apply its clean water program to munitions starting October 2011, the Department of Defense strongly supports passage of HB 185 this legislative session. The amendment provided by HB 185 will help ensure that Alaska's continuing capacity to host sustainable military readiness training for outstanding airman, soldiers, and sailors is not jeopardized.

[2:31:24 PM](#)

CO-CHAIR SEATON related that he was told HB 185 would not apply to civilian or other ranges. However, page 2, line 17, of the bill, states that the exemption is for "the firing or other use of munitions in training activities conducted on active ranges, including active ranges operated by the United States Department of Defense...." This language appears to mean any range, whether it is local, state, or sport, if it is an active training range because the language says including DOD ranges rather than limited to DOD ranges. He requested that this be investigated and the committee be informed as to what the military needs and wants to ensure that the bill addresses only the areas that are intended to be addressed.

MR. PIERRE suggested this question be posed to the Department of Law to explain why the wording is as it is. He said his understanding is that this part of the statute for including

other ranges has not changed, but where the new language was put in and why it was put in was to impact ranges operated by the Department of Defense or a U.S. military agency.

[2:33:37 PM](#)

CO-CHAIR SEATON maintained that it is all the ranges that would be modified, because it has been left in that same statute, and not just a DOD range. He reiterated his question to the Department of Law.

LINDSAY WOLTER, Assistant Attorney General, Environmental Section, Civil Division (Anchorage), Department of Law, replied she has the same understanding as Co-Chair Seaton that it would apply to both military active ranges and other active ranges.

CO-CHAIR SEATON said that since this is not the intention related to him by the sponsor, he would like to request that the sponsor get it clarified.

[2:34:53 PM](#)

REPRESENTATIVE GARDNER understood that HB 185 would effectively give primacy to federal regulations for discharge to water for munitions and active training ranges.

MR. PIERRE replied no, the goal is to "specify very clearly in our approving process what waters of the United States we are referring to." Thus, it enables reference to a specific section when there is discussion about development of future military ranges in the state of Alaska. This way there is not a wide swath of questioning that would or would not allow active military use of future ranges - not existing ranges - to be permitted.

[2:35:58 PM](#)

CO-CHAIR SEATON directed Representative Gardner's question to the Department of Environmental Conservation.

LYNN KENT, Director, Division of Water, Department of Environmental Conservation, regarding what ranges are included, explained that long before the Department of Environmental Conservation (DEC) sought primacy for the permitting program from the U.S. Environmental Protection Agency (EPA), there was already legislatively mandated state policy to exempt training ranges, including military ranges, from the requirements to get

a state discharge permit. When DEC took on primacy for the federal program, the state statute was revised to include the phrase "unless it results in a discharge into waters of the United States" because in certain circumstances ranges may require a permit under the Clean Water Act. However, DEC has learned that that language could have the effect of requiring a state permit under state law even if it was not required under the Federal Water Pollution Control Act (Clean Water Act). The new language being proposed today would very clearly exempt training ranges and military ranges from the permitting requirement that was similar to what was under state law unless it is required by the Clean Water Act. This proposed language is consistent with the Clean Water Act and consistent with the U.S. Environmental Protection Agency's approval of DEC's program and would not result in any adverse impact on the program that DEC is operating right now under the EPA primacy.

CO-CHAIR SEATON requested Ms. Kent to send definitions and descriptions of the waters being talked about and what would and would not be exempt.

[2:38:51 PM](#)

REPRESENTATIVE P. WILSON asked for the definitions of an active range and an inactive range. In response to Co-Chair Seaton, she confirmed that she is asking about any active range and whether it is different for a DOD range versus private range.

MR. PIERRE replied that as the military looks to expand its role in Alaska for training and to provide a more unique joint force opportunity in the state, the Department of Military & Veterans' Affairs is looking at the state's laws to determine how to develop new ranges and what are the causes for concern. An active range is one that is currently being used and will be used in the future. There are ranges that have been abandoned and the DMVA has received funding from the National Guard Bureau to clean up abandoned National Guard ranges. Clean up includes removing the lead bullets and contaminated dirt and DEC makes sure that this takes place. The bill is not for abandoned ranges or ranges that will be re-used because that is a whole new permitting process; it is for active ranges that are currently being used and will be used in the future.

[2:41:04 PM](#)

REPRESENTATIVE P. WILSON inquired whether all the ranges being talked about are military.

MR. PIERRE responded that DMVA's concern is for military ranges. However, as pointed out by Co-Chair Seaton, the language looks to read that civilian ranges could be impacted as well. The department will work with the co-chair and DEC to make sure it does everything right and meets the intent of the language.

CO-CHAIR SEATON stated that the Department of Law will be requested to send the committee a written definition of an active range and whether a permit is needed before using a civilian range.

CO-CHAIR SEATON held over HB 185.

### **HB 106-COASTAL MANAGEMENT PROGRAM**

[2:42:20 PM](#)

CO-CHAIR SEATON announced that the final order of business is HOUSE BILL NO. 106, "An Act extending the termination date of the Alaska coastal management program and relating to the extension; relating to the review of activities of the Alaska coastal management program; providing for an effective date by amending the effective date of sec. 22, ch. 31, SLA 2005; and providing for an effective date."

CO-CHAIR SEATON noted that today's witness [Glenn Gray] was invited to make a presentation from the districts' perspective and is not representing any particular district. Next week the Department of Natural Resources (DNR) will present its responses for any issues on which it has a difference of opinion.

[2:43:51 PM](#)

GLENN GRAY, Glenn Gray & Associates, first corrected a March 16 statement about hard rock mining in which he had said that it was up to each individual landowner to have the restrictions. However, he continued, Representative Feige was correct in saying that there are some uniform provisions throughout the state - a hard rock mine development project must obtain a plan of operations and a reclamation plan from DNR no matter who the land owner.

[2:44:33 PM](#)

MR. GRAY turned to the remaining three slides from his 3/16/11 PowerPoint presentation, explaining that [slide 13] is a summary

of some of the effects that he thinks are of concern to many of the coastal districts. A top concern is the inability to have meaningful enforceable policies. The coastal program as it was set up in 1977, as well as the 2003 changes, is a cooperative program between the State of Alaska and the coastal districts. Thus, the coastal districts are not just another stakeholder because, with the state agencies, the districts implement the program. A second concern of many people is the Department of Environmental Conservation (DEC) carve-out. The carve-out is very confusing to almost everyone. The scope of review is not always clear, especially if there is a federal permit involved. Almost every coastal resource or use is affected in some way by water quality, which adds to the confusion. Another concern is the centralized decision-making that is the result of having moved the program to one agency and having all decisions made by one agency. The legislative audit stated that this has led to a lack of opportunities for consensus building during project reviews.

[2:46:00 PM](#)

MR. GRAY, based on his talks with some of the districts, offered suggestions for possible statutory changes (slide 14). He recommended a clarification of the enforceable policy statutes because there have been some differences in opinion of what the statutes actually mean. In his opinion, the proposed work draft [Version B, moved 3/16/11] would provide that clarification. He said none of the districts are asking to remove some of the other provisions; for example, districts cannot arbitrarily or unreasonably affect uses of state concern. Regarding statutes for the centralization of power, things can be done to provide checks and balances. The proposed work draft appears to include an appeals board/regulatory board and that might be one way to do it; another idea might be to have a third impartial agency. Elevations could be decided by all three resources commissioners as was done in the past, or they could be decided by the appeals board as written in the proposed work draft. Another change is elimination of the DEC carve-out. He said he thinks this is something that would be supported by the federal 3/12/2008 evaluation and he believes the legislative audit recommended that DNR look into some options to eliminate the carve-out, and DNR's own draft bill in 2008 would have eliminated the carve-out. While likely not a purposeful change, the 2003 carve-out eliminated all possibilities for public comment on the DEC finding when it does not have a permit; for example, outer continental shelf (OCS) reviews or federal activities. While DEC did come up with a good process, there is nothing in

regulation that would require the department to do so. Regarding the timeline, he said it seems that the 90-day timeline is a problem when there is a large project with a lot of unresolved issues. The proposed work draft would address that by making an exemption for projects with an Environmental Impact Statement (EIS), which most large projects will have.

[2:48:41 PM](#)

MR. GRAY recommended possible regulatory changes (slide 15). He pointed out that statutes are not necessarily needed to make regulatory changes, but unless there is some commitment on DNR there is no guarantee that suggested regulatory changes will be made. He said one regulatory change would be to eliminate the designated area requirement. Whether this is done in statute or regulation, there would still be the opportunity for designated areas if a district wanted a special management area, but this eliminates that tie between the enforceable policies having to have a designated area first. A tremendous amount of funds have been spent on these designated areas and mapping, as well as state time to review them, and they were the topic of several of the mediations. Regarding enforceable policies, he said he believes that some of the problems could be fixed just by a different interpretation of the regulatory language or changing some of that language. Regarding statewide standards, one example is the habitat standard which used to cover the entire coastal zone but now only covers a small part of the coastal zone, and that is the same for several other standards. That could easily be fixed in regulation. A minerals standard could be reinstated to look at mining impacts under its own standard.

[2:50:13 PM](#)

CO-CHAIR SEATON requested Mr. Gray to review prescriptive requirements for enforceable policies and how that would differ from a performance-based standard.

MR. GRAY replied that one way to look at this might be to look at the current statewide standards - almost every statewide standard is performance based or some kind of a process.

CO-CHAIR SEATON asked whether Mr. Gray is saying performance based or prescriptive based.

MR. GRAY responded that he is saying either a performance-based or a process-based statewide standard because that would provide flexibility in how to meet that standard. He recalled the

example of a floating facility that he gave on 3/16/11 for which an actual enforceable district policy stated exactly how many feet the tide would be, which would be prescriptive. A performance base would state that the floating facility can never ground on the bottom, and it would be up to the applicant to decide how to do that; there might be more ways to do that than might be in the prescription. Another example is a proposed policy on the North Slope for avoiding impacts to bowhead whales, in which a specific decibel level could not be exceeded when measured at a specific number of miles from the activity. This is prescriptive, and the company absolutely has to do that no matter what. A performance base would specify that at a specific number of miles from the source of the noise there shall be no deflection of whales, and then it would be up to the industry as to how to meet that. He said that, generally, when he was working with the oil industry, the industry liked these performance-based stipulations or policies because that gave them some flexibility to meet the intent of the policy without having to meet an actual prescription.

[2:53:16 PM](#)

CO-CHAIR SEATON understood Mr. Gray to have earlier said that the statewide standards are almost all performance based.

MR. GRAY answered yes, performance based or process based.

CO-CHAIR SEATON further understood that the local district policies are required to be prescriptive.

MR. GRAY replied, "Exactly."

[2:53:40 PM](#)

CO-CHAIR SEATON requested Mr. Gray to provide citations regarding the issues depicted on slide 7.

MR. GRAY agreed to do so.

CO-CHAIR SEATON, regarding slide 9, referenced a March 17 document about the Alaska Coastal Management Program's changing requirements for subsistence use designations. He surmised that the examples in the March 17 document relate to the arrows and changes outlined on the slide.

MR. GRAY replied he has the actual documentation in his records and aforementioned is a summary of the documents. He pointed

out that many of the meetings were not taped and a lot of the direction was oral, so there was no written record unless a district sent a follow-up e-mail stating its understanding of the direction given in a meeting. On several occasions as a consultant he did that to make sure he understood the meeting correctly, and the response he got [from DNR] on at least two occasions was that it would not go back and clarify whether he had interpreted the various points correctly. He said he provided to the committee what he could find in some document or another, but a lot of this was verbal in its original record, other than notes.

2:56:20 PM

CO-CHAIR FEIGE inquired why it is unreasonable to expect the Division of Coastal and Ocean Management (DCOM) to not change its regulations. It seems that a natural evolution of regulations would be expected in the normal process of regulating things like the coastal management program.

MR. GRAY responded that he did not mean to give that impression. While not speaking for any specific district, he said he thinks the districts would have welcomed some changes to the regulations for a while now. However, personally, he has not heard any commitment to make any changes other than to the consistency review regulations.

2:56:59 PM

CO-CHAIR FEIGE, regarding DCOM asking for more and more detail in terms of larger and larger map scales, said that does not seem unreasonable to him. While such maps may cost money, the boroughs are not destitute.

MR. GRAY related that he received a call from DCOM yesterday saying that it is in the process of changing that map scale. He said his personal opinion is that it is unreasonable because such maps would cost hundreds of thousands of dollars for some of these boroughs, which is significant even for the North Slope Borough. The Bering Strait district, which is the third largest, receives an annual grant of \$75,000 and this must cover everything from travel to employment of the program director.

CO-CHAIR SEATON commented that he does not have any problems with going through a regulatory process and making changes. However, what is being looked at here is that the districts were told how to write their enforceable policies to make them

consistent with the statewide standards and requirement for enforceable policies. But over time, as they went through the process of creating an enforceable policy, the requirements for writing the enforceable policy changed and the districts are therefore always trying to develop a plan that is required and a policy that is required, but the requirements for that policy keep changing. This is where much of the frustration has come from numerous districts over the past several years.

[2:59:49 PM](#)

CO-CHAIR FEIGE asked whether Mr. Gray has been working actively to make statutory changes to the Alaska Coastal Management Plan.

MR. GRAY responded that he has no means to do that. Occasionally an aide will give him a call and he will give his opinion, but he did not prepare this bill.

CO-CHAIR FEIGE said that was not what he asked; he said he asked whether Mr. Gray has actively lobbied for changes to the Alaska Coastal Management Plan regulations.

MR. GRAY answered he is not a lobbyist so he does not lobby, but that, yes, he has been promoting changes.

CO-CHAIR FEIGE inquired how much time Mr. Gray has dedicated to that.

MR. GRAY replied he does not know how to make a guess at that. He said it is a small part of what he does and that currently he has seven different contracts with coastal communities, not all on coastal zone issues, so his day is pretty full.

[3:00:50 PM](#)

CO-CHAIR SEATON held over HB 106, noting that the committee packets include bullet points on the proposed committee work draft for HB 106 as well as a sectional analysis on the proposed work draft [Version B, moved 3/16/11]. He urged members to review these documents.

[3:01:46 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:02 p.m.