

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

March 2, 2012

1:10 p.m.

**MEMBERS PRESENT**

Representative Eric Feige, Co-Chair  
Representative Paul Seaton, Co-Chair  
Representative Alan Dick  
Representative Neal Foster  
Representative Cathy Engstrom Munoz  
Representative Berta Gardner  
Representative Scott Kawasaki

**MEMBERS ABSENT**

Representative Peggy Wilson, Vice Chair  
Representative Bob Herron

**COMMITTEE CALENDAR**

HOUSE BILL NO. 340

"An Act relating to the reservation of certain mining claims from all uses incompatible with the purposes for establishing the Petersville Recreational Mining Area."

- MOVED HB 340 OUT OF COMMITTEE

CONFIRMATION HEARINGS(S):

Big Game Commercial Services Board

Don Quarberg - Delta Junction  
Michael Meekin - Palmer  
Michele Metz - Douglas  
Brenda Rebne - Anchorage

- CONFIRMATION(S) ADVANCED

Fishermen's Fund Advisory & Appeals Council

Clay Bezenek - Ketchikan  
James Herbert - Seward

- CONFIRMATION(S) ADVANCED

Board of Game

Lynn Keogh, Jr. - Anchorage

- CONFIRMATION(S) ADVANCED

**PREVIOUS COMMITTEE ACTION**

BILL: HB 340

SHORT TITLE: PETERSVILLE RECREATIONAL MINING AREA

SPONSOR(S): REPRESENTATIVE(S) NEUMAN

02/22/12	(H)	READ THE FIRST TIME - REFERRALS
02/22/12	(H)	RES
03/02/12	(H)	RES AT 1:00 PM BARNES 124

**WITNESS REGISTER**

REPRESENTATIVE MARK NEUMAN

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Testified as prime sponsor of HB 340.

EDMUND FOGELS, Deputy Commissioner

Office of the Commissioner

Department of Natural Resources (DNR)

Anchorage, Alaska

**POSITION STATEMENT:** Answered questions regarding HB 340.

WYN MENEFEE, Chief of Operations

Central Office

Division of Mining, Land and Water

Department of Natural Resources (DNR)

Anchorage, Alaska

**POSITION STATEMENT:** Answered questions regarding HB 340.

MICHELE STEVENS

Talkeetna, Alaska

**POSITION STATEMENT:** Testified in support of HB 340.

KERWIN KRAUSE, Mineral Property Manager

Central Office

Division of Mining, Land and Water

Department of Natural Resources (DNR)

Anchorage, Alaska

**POSITION STATEMENT:** Answered questions regarding HB 340.

DON QUARBERG, Appointee  
Big Game Commercial Services Board  
Delta Junction, Alaska

**POSITION STATEMENT:** Testified as appointee to the Big Game Commercial Services Board.

MICHAEL MEEKIN, Appointee  
Big Game Commercial Services Board  
Palmer, Alaska

**POSITION STATEMENT:** Testified as appointee to the Big Game Commercial Services Board.

TINA BROWN  
Juneau, Alaska

**POSITION STATEMENT:** Testified in opposition to the appointment of Mr. Lynn Keogh, Jr., to the Board of Game.

JOE LETARTE, President  
Alaska Trappers Association (ATA)  
Two Rivers, Alaska

**POSITION STATEMENT:** Testified in support of the appointment of Mr. Lynn Keogh, Jr., to the Board of Game.

LYNN KEOGH, JR., Appointee  
Board of Game  
Anchorage, Alaska

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

#### **ACTION NARRATIVE**

[1:10:38 PM](#)

**CO-CHAIR ERIC FEIGE** called the House Resources Standing Committee meeting to order at 1:10 p.m. Representatives Foster, Gardner, Dick, Seaton, and Feige were present at the call to order. Representatives Kawasaki and Munoz arrived as the meeting was in progress.

#### **HB 340-PETERSVILLE RECREATIONAL MINING AREA**

[1:10:56 PM](#)

**CO-CHAIR FEIGE** announced that the first order of business would be HOUSE BILL NO. 340, "An Act relating to the reservation of

certain mining claims from all uses incompatible with the purposes for establishing the Petersville Recreational Mining Area."

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REPRESENTATIVE MARK NEUMAN, Alaska State Legislature, prime sponsor, introduced HB 340, explaining it is a "fix-it" bill. In 1995 under the Hickel Administration, his constituent, Michele Stevens, had mining claims on about 220 acres of federal lands. The State of Alaska wanted that land, so it requested Ms. Stevens to lift her mining claims so the land could be transferred to the state. Ms. Stevens agreed to do so and worked with Jules Tileston, director of the Division of Mining, Land and Water at that time. Harry Noah was commissioner of the Department of Natural Resources (DNR) at that time. The state accepted the land and committed to convey the mining claims back to Ms. Stevens. However, Alaska's statutes disallow this from happening and Ms. Stevens has been working to make it happen since then. It is a time sensitive issue, he pointed out, and he has met with Ms. Stevens, Ed Fogels, the current deputy commissioner of DNR, and the Alaska Miners Association to figure out how to get these mining claims conveyed back to Ms. Stevens. He said the language in HB 340 allows the state to fix this mistake.

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REPRESENTATIVE GARDNER inquired whether Ms. Stevens has any documentation of the agreement that the state would give back the mining claims and then could not.

REPRESENTATIVE NEUMAN replied yes, Ms. Stevens has multiple documents. Also, there is a letter in the committee packet from Mr. Tileston and Marty Rutherford, deputy commissioner of DNR at the time that it was DNR's intent to transmit these mining claims back to Ms. Stevens. He explained that a technicality in the way the Alaska statutes are written needs to be fixed. He added that he has personally spoken with Mr. Tileston about Mr. Tileston's desire to make Ms. Stevens whole again.

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REPRESENTATIVE KAWASAKI requested an explanation of the term "recreational mining area".

REPRESENTATIVE NEUMAN deferred to Mr. Fogels.

EDMUND FOGELS, Deputy Commissioner, Office of the Commissioner, Department of Natural Resources (DNR), responded that a recreational mining area is a legislative designation by which land is set aside for the specific purpose of creating an area on which people can recreate and mine. A normal staked mining claim must be worked for mineral production in a commercial fashion and is not designed for recreational or tourism purposes. However, recreational mining areas were designed to allow recreational and tourism activity and are typically closed to mineral entry so that normal mining claims cannot be staked.

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CO-CHAIR FEIGE surmised there are limitations on the size of equipment that can be used on a recreational mining claim.

MR. FOGELS believed there is not and added that it is up to the legislature to decide how big of an area it wants to create.

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REPRESENTATIVE NEUMAN, returning to Representative Kawasaki's question, said he understood from talking with Ms. Stevens that her intent was to be able to open these areas so that people could recreationally try to find gold or other minerals.

REPRESENTATIVE KAWASAKI asked for further explanation about the purpose of a recreational mining claim.

MR. FOGELS answered that it is not a recreational mining "claim", it is a recreational mining "area", which is an area that the legislature creates and sets the rules for. Typically, some kind of management plan is required to be in place and then DNR has the ability to go to bid for concession for someone to operate a recreational mining area. He pointed out that the Crow Creek Mine in Girdwood is a private enterprise rather than a state recreational mining area, but it is the same kind of operation - a tourist-oriented business that charges for a gold pan and the opportunity to pan for some gold in the creek.

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REPRESENTATIVE KAWASAKI inquired about the differences in what would be required for a recreational mining area versus a traditional mining claim.

MR. FOGELS explained that for a traditional mining claim the state's mining laws must be followed for staking the claim, paying annual rental, working the claim, and showing that the claim is being progressed. Once there is an economic discovery, the state's permitting process must be undergone. If the state issues the permits, the mine can be built and people hired to begin a commercial mining operation that pays royalties and taxes. For a recreational mining area, the intent is to give Alaskans and other visitors a place to go gold panning either on their own or through a business that rents out gold pans for the day. The intent is for the recreationists to have fun and maybe get a few flecks of gold in their pans.

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CO-CHAIR SEATON drew attention to the April 9, 2010, letter to Senator Huggins in the committee packet from Dick Mylius, Director, Division of Mining, Land and Water. He observed that page 2, paragraph 2, states that the area would be open to staking and there would be no assurance that Ms. Stevens would be able to stake prior to other people. He asked whether HB 340 enacts what this letter says or gets around that by ensuring that prior claims continue on through state ownership and leave the rest of the area open for a recreational mining area.

MR. FOGELS replied that HB 340 would remove just that one portion of recreational mining area from the whole recreational mining area. It is a very complicated land situation in that area, which is in part why there is this problem to begin with. The land has not yet actually been conveyed to the state; it is state selected land that is still owned by the U.S. Bureau of Land Management (BLM). The statutes that enact the recreational mining area are only valid on state land. It hovers above state selected land and will take effect as soon as that land gets conveyed to the state. The letter from Director Mylius points out that if the recreational mining area is removed there would then be no guarantee that Ms. Stevens would be the first one to stake the claim. In the subsequent looking at and picking apart of this complex situation, DNR thinks it may be more complicated than that, so the department is trying to chase that piece down. The bottom line is that there is still no guarantee that Ms. Stevens will be able to re-stake these claims if this bill goes through.

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REPRESENTATIVE SEATON observed that the April 9, 2010, letter states there are two areas - a northern area of 300 acres and a southern area of 200 acres. The letter further states that the northern recreational mining area has not been used much due to [difficult] access, so the presumption is that the southern area has better access and would provide the activity. He inquired whether HB 340 would vacate the entire southern area.

MR. FOGELS confirmed that HB 340 would vacate the entire southern area of 220 acres; he noted that the northern area has a lot of potential. At some point the department would next do a management plan for the entire area to determine a way to provide for a concessionaire in the southern area and focus recreational activity on the northern area rather than the southern areas.

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CO-CHAIR SEATON asked why not remove only the five acres within the southern area on which the BLM is issuing Ms. Stevens a lease, rather than the entire two hundred acres.

MR. FOGELS believed the mining claims at issue for Ms. Stevens are more than five acres. He deferred to Mr. Wyn Menefee for further explanation.

WYN MENELEE, Chief of Operations, Central Office, Division of Mining, Land and Water, Department of Natural Resources (DNR), explained that the original claims had by Michele Stevens encompassed the entire southern recreational mining area. Those claims no longer exist there, so currently there are no claims. The aforementioned five acres is a portion of the area that Ms. Stevens is working out with the federal government to bring under lease in order for the state to get conveyance of that land because there are trespass structures that must be brought into compliance before the state receives the land. Aside from that, currently there are no claims that sit over top of this area and therefore there is no five-acre claim and all the claims have disappeared.

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REPRESENTATIVE GARDNER understood the reason there are no claims [in this southern area] is because Ms. Stevens gave up those claims in the understanding that once the state had title she would be made whole.

MR. FOGELS confirmed that that is correct.

REPRESENTATIVE GARDNER maintained that it is not quite right to say those claims do not exist because Ms. Stevens has a standing agreement that was never met.

CO-CHAIR FEIGE replied correct, but said the claims have been released.

MR. FOGELS explained that Ms. Stevens voluntarily relinquished those claims and by law they extinguish and are no longer there.

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REPRESENTATIVE GARDNER noted that when Ms. Stevens voluntarily relinquished those claims there was an agreement with the state that when the state had title Ms. Stevens' claims would be reinstated. So, she concluded, there is a moral claim as well as a legal claim.

CO-CHAIR FEIGE commented that he, too, would be upset.

REPRESENTATIVE NEUMAN responded that that is exactly what HB 340 is fixing - the intent of the bill is to fix that promise made by the state to Ms. Stevens. The state promised to make Ms. Stevens whole after that land was conveyed to the state, valuable land that the state wanted. Ms. Stevens agreed to do so even though she did not have to. In the complications of conveying that back to her, there are about four lines in statute that need to be changed, which is what HB 340 would do, and then the department can convey those claims to her.

REPRESENTATIVE GARDNER surmised there were original documents signed by the state regarding the state's promise to Ms. Stevens.

REPRESENTATIVE NEUMAN answered he has seen documentation that would fill this room.

REPRESENTATIVE KAWASAKI asked whether the Department of Law is available for questions.

CO-CHAIR FEIGE replied no. He invited Ms. Stevens to provide testimony.

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MICHELE STEVENS, a lifelong Alaskan, explained that in 1995 she gifted approximately 500 acres of area encompassed by state selected mining claims that she had acquired. These were located as a result of previous federal mining claims being declared null and void and were known as the "Peters Creek Jacobsen Mining Property". She agreed to gift portions of her state selected mining claim, situated within the U.S. Mineral Survey 2384, to the State of Alaska with the express commitment by the state that once the federal land was conveyed to the state, approximately 220 acres of the area known as the southern Petersville Recreational Mining Area would be leased to her for the establishment of a commercial recreational mining concession that would include a museum and other amenities to be provided by her. She owns several historic buildings and a Marion shovel that helped build the Panama Canal and the Alaska Railroad and was used for mining at Petersville in the 1940s. She also has other structures that are on the federal mining claims located within the 220 acres. She said Representative Neuman has maps of the area that can be shared with the committee. The agreement she had with the State of Alaska to transfer or gift her state selected mineral rights to the state was necessary because there was no other legal mechanism for her to have a recreational mining business on state land.

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MS. STEVENS specified that to ensure the area could be managed in accordance with the agreement with her and to ensure that other parties could not stake mining claims in the area, Mineral Closing Order 674 was issued on June 2, 1994. On May 8, 1997, House Bill 46 was signed into law establishing two portions of recreational mining area. The north Petersville Recreational Mining Area is currently active and the south Petersville Recreational Mining Area is not active. The two parcels total approximately 500 acres. It was the intent of the Department of Natural Resources that the approximately 220 acres in the southern recreational area would be leased to her when the state received conveyance from the BLM. Subsequent to the claims being gifted to the state and its issuance of the Mineral Closing Order, the Department of Natural Resources determined that it could not, under existing state law, establish a noncompetitive commercial lease to fulfill the agreement with her. However, in 2006, DNR determined a legal way whereby a commercial business could be operated on a portion of a state mining claim or claims by establishing a miscellaneous land use lease, provided there was concurrence with the state mining

claim holder. This approach, however, could not be followed for lands designated by statute as a recreational mining area.

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MS. STEVENS said HB 340 contains two provisions. First, it would reinstate her full mineral rights to those portions of her mining claim that encompass the southern recreational area, which can be seen on the map. Second, it would remove the statutory designation and allow DNR to fulfill its original agreement with her. She said the State of Alaska, DNR, and the Alaska Miners Association concur that this is the best mechanism to proceed forward.

MS. STEVENS, addressing the statement that the mining claims might not go back to her, explained that a mining claim located on the outside of a federal area is called an at-risk claim, so it automatically goes back to the person who has the area on the outsides of that portion. Since she has portions outside the proposed recreation area that are active mining claims, that gives her at-risk claims. She suggested that Mr. Kerwin Krause [of DNR] explain this.

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REPRESENTATIVE KAWASAKI asked whether Ms. Stevens has the "expressed commitment" in writing so that the committee could see it.

MS. STEVENS replied she has some documents written by Jules Tileston expressing that he was working with the public, Ms. Stevens, and the Yetna Mining District to have this recreational area presented. She said the state has a whole folder of documents and related that Mr. Tileston has been talking with people in the department to let them know what the intent was.

CO-CHAIR FEIGE drew attention to the 1/26/12 letter to Governor Parnell from Jules Tileston and Marty Rutherford, who were DNR officials involved in the transaction at the time.

REPRESENTATIVE KAWASAKI inquired whether Ms. Stevens has any information from 1994 when the "expressed commitment" was made.

MS. STEVENS confirmed that some things were written down by Jules Tileston, but said that back then it was a handshake type of thing - in her meetings with the DNR director and commissioner, everyone agreed that this would be a good

situation for everybody because the state would get revenue, people would have a place to recreate, and she could have a concession with a museum. It was supposed to be a win-win situation for everyone.

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MS. STEVENS, in response to Representative Gardner, agreed to provide a written copy of her testimony.

REPRESENTATIVE GARDNER said that like Representative Kawasaki she is looking for some kind of documentation. She inquired whether Ms. Stevens received any other kind of compensation when she signed the quit claim or other document at the time.

MS. STEVENS said she did not receive any money. The agreement with the state was that she would have a concession and the public could come and the state would receive revenue from the concession. It was supposed to be a win-win situation for the state, her, and the public because her buildings and equipment are historic and there was a need and a desire by the public to have a place to recreate since at the time it was illegal to have recreational mining on a mining property, claim, or lease. This was a way to let the public have a place to go.

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REPRESENTATIVE GARDNER specified that in the absence of documentation from the time, she wanted to make sure on the record that there was not some other compensation because, if not, she would say that Ms. Stevens was very generous to give up her claims to 500 acres for mining.

MS. STEVENS thanked Representative Gardner and replied she thinks the documentation is quite clear that Jules Tileston was the director [of the Division of Mining, Land and Water] and Marty Rutherford was the [deputy] commissioner [of DNR] at the time, and those are the people she was working with at the time to have a bill passed. She also wrote letters to Lyda Green and Rick Halford to have the bill passed. She felt the biggest documentation is what the committee has in front of it now, which states that this was the intent.

REPRESENTATIVE NEUMAN interjected that he has spoken to Mr. Tileston and others about the intent and read the documentation presented by Ms. Stevens. He pointed out that the current DNR deputy commissioner has just testified before the committee that

that was the intent, and the letter from the director and deputy commissioner at the time states that that was the intent. Reputable people are saying that this was the intent of the state. There is a lot of documentation, he continued, but he was trying not to give the committee too much paper. He said HB 340 would simply make Ms. Stevens whole by fixing some language that would then allow the department to fix the situation.

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REPRESENTATIVE KAWASAKI said that because he was not around when House Bill 46 was passed, he is trying to understand the issue since it is for a very specific area. He added that he is also trying to ascertain whether there could be potential legal exposure from creating a law that allows a noncompetitive commercial lease, as would be done by HB 340.

KERWIN KRAUSE, Mineral Property Manager, Central Office, Division of Mining, Land and Water, Department of Natural Resources (DNR), stated that he thought Ms. Stevens had, or would be, providing to the committee some memorandums from Jules Tileston. Other than those and a few emails in the file, he said he is unaware of any letters issued on this matter by the commissioner or the director. In response to Co-Chair Seaton, he agreed to provide these documents to the committee.

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REPRESENTATIVE GARDNER noted that while the sponsor has said he has read all the documentation presented by Ms. Stevens, the committee only has a lone letter written 16 years after the fact and another letter written 18 years after the fact. It is important for the committee to do due diligence to determine what the agreement was at the time. While she has great respect for Mr. Tileston and Mr. Rutherford, it is important for the committee to look at all documentation that is available.

MS. STEVENS offered to provide the committee with the letters she wrote to Lyda Green and Rick Halford stating her support of House Bill 146 and that the bill would benefit her by allowing her to have a concession there. In response to Co-Chair Feige, she agreed to fax the letters to the committee. She added that if this is thought about logically, she would not have gifted the mineral rights back to the state if the state had not said that it would let her have a concession in return. Seventeen years ago this was the only way that a person could have a concession on mining properties.

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CO-CHAIR SEATON read from page 2 of the 4/9/10 letter to Senator Huggins from Dick Mylius, which states: "In addition, there is no assurance that [Michele] Stevens would be the first to stake claims for the law is in favor of whoever stakes the claim first after the land becomes open. It is likely that a number of claimants would end [up] with conflicting claims. It is likely that the Department of Fish and Game may have concerns about any large-scale mining on the active portion of the Creek." Co-Chair Seaton inquired whether the current bill gets past the problems pointed out by Mr. Mylius.

MR. FOGELS replied that HB 340, as currently written, only gets partly there. It would remove the legislatively designated area. The Department of Natural Resources would then have to lift the Mineral Closing Order to make that land available to be staked. What complicates the matter is that that land is not yet state land, it is state selected. The BLM must actually convey that land to the State of Alaska. Thus, three key things have to happen before that land can be staked and have it be a valid staked claim. As mentioned by Ms. Stevens, an at-risk claim is where a claimant stakes a state claim on state selected land. It is not yet a real claim and will never be a real claim unless the federal government actually conveys that land to the state. If the federal government never conveys that land to the state, then it will never be a valid claim, which is why it is called an at-risk claim. Ms. Stevens has at-risk claims on top of federal land that is state selected that has a legislatively designated area on top of it and a state Mineral Closing Order on it, so it is very complicated. The department is trying to get some clarity from the Department of Law, but if Michele Stevens does indeed have valid at-risk claims staked, then once all this unravels and the state finally gets the land, then Ms. Stevens is likely to have her claims whole. He said he cannot at this point, from the department's perspective, tell the committee 100 percent that that is exactly what will happen.

[1:51:12 PM](#)

CO-CHAIR SEATON, noting that HB 340 would write a statute, asked whether there is any other way to recognize the holdover claims from the federal government so as to avoid a time period of open staking.

MR. FOGELS responded the department has discussed that, and a number of other things could be done in this legislation. For example, the legislature could lift the Mineral Closing Order so the department does not have to do that later down the road. However, he did not know whether the legislature could actually reinstate those claims in HB 340.

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CO-CHAIR SEATON said he does not want to hold up this process given that it is a process, but said it seems this process has the potential for further entanglements. Honoring the state's previous agreement needs to be done in the most expeditious way that does not open these claims to conflict. He requested that the sponsor and DNR work with the Department of Law to find out whether HB 340 can do that and not result in years of litigation for an Alaska citizen who acted in good faith. While he did not want to hold up the process, he said that perhaps the Department of Law could suggest a way to honor this commitment in a much clearer way than going through an open staking process and relying on at-risk claims to give priority.

REPRESENTATIVE NEUMAN said that that is the intent, but certain steps must occur first, as stated by Mr. Fogels, and HB 340 is the first step in working through this process. Ms. Stevens acted in good faith and did not have to do this in the first place; she wanted to help the State of Alaska get these lands conveyed to it. Many people are working to make Ms. Stevens whole and this is the simplest way.

The committee took a brief at-ease.

[1:56:49 PM](#)

CO-CHAIR SEATON stated that the committee is trying to find the most expedited way to accomplish this process without creating further legal entanglements for Ms. Stevens. He said he is hearing from DNR that there may be some other things that could be added by the legislature that the department cannot do. He understood that DNR would be conferring with the Department of Law between now and the next committee of referral to determine whether there are amendments that would accomplish the intent without putting Ms. Stevens' claims at risk.

MR. FOGELS confirmed that Co-Chair Seaton's understanding is correct.

CO-CHAIR SEATON said he is fine with moving the bill today but thinks there could be a better and clearer way to resolve this in Ms. Stevens favor.

REPRESENTATIVE KAWASAKI said he thinks there are legal issues with HB 340 and he therefore feels uncomfortable moving the bill with recommendations because there is no other committee of referral. The next time members will see this bill is potentially on the House floor.

1:58:47 PM

REPRESENTATIVE GARDNER stated that the bill is not quite ready, given that it has no other committee of referral. In principle, she absolutely agrees with the bill - the right thing to do is to make this person whole. However, it is also the right thing for the committee to ensure that it is doing things properly and with due diligence. This needs to be done correctly so it will not come back and bite the state.

CO-CHAIR FEIGE noted that the bill's next stop is the House Rules Standing Committee. While HB 340 is one way forward, he concurred that there may be other methods the Department of Law can recommend for righting the wrong dealt to Ms. Stevens. He requested that if the bill is reported from committee the chairman of the House Rules Standing Committee be provided with an opinion from the Department of Law as to any other options that might be available to the state or Ms. Stevens. It is unfortunate the Department of Law was unavailable for this meeting, he said, but he would like to see HB 340 moved out of committee in the spirit of righting this wrong.

2:01:21 PM

CO-CHAIR SEATON moved to report HB 340 out of committee with individual recommendations and the accompanying zero fiscal notes.

REPRESENTATIVE GARDNER objected, saying that while she supports the bill in principle, she thinks it is "half baked" and will create a fiasco down the road.

REPRESENTATIVE DICK inquired whether the sponsor can provide assurance that HB 340 will do the right thing for Ms. Stevens.

REPRESENTATIVE NEUMAN replied that there have been many hours of discussion to get to this point to make sure that the right thing is being done, and he will continue to do that.

REPRESENTATIVE GARDNER maintained her objection.

MS. STEVENS suggested that reinstating the active mineral rights that existed prior to the [land transfer agreement] would probably clear up the problem.

[2:03:27 PM](#)

A roll call vote was taken. Representatives Dick, Munoz, Foster, Feige, and Seaton voted in favor of reporting HB 340. Representatives Gardner and Kawasaki voted against it. Therefore, HB 340 was reported out of the House Resources Standing Committee by a vote of 5-2.

The committee took an at-ease from 2:04 p.m. to 2:07 p.m.

**CONFIRMATION HEARINGS(S):**  
**Big Game Commercial Services Board**  
**Fishermen's Fund Advisory & Appeals Council**

[2:07:23 PM](#)

CO-CHAIR FEIGE announced that the next order of business would be [a continuation of the 2/22/12] confirmation hearings for the Big Game Commercial Services Board and Fishermen's Fund Advisory & Appeals Council. [Confirmation hearings were held on 2/22/12 for Michele Metz and Brenda Rebne, appointees to the Big Game Commercial Services Board, and for Clay Bezenek and James Herbert, appointees to the Fishermen's Fund Advisory & Appeals Council, but their names were not forwarded from committee.]

CO-CHAIR FEIGE requested Mr. Don Quarberg, appointee to the Big Game Commercial Services Board, to state why he would like to be on the board.

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DON QUARBERG, Appointee, Big Game Commercial Services Board, Delta Junction, Alaska, said that to be honest, two years ago he did not. He has lived in Delta Junction since 1978 and has served on the fish and game advisory committee for a long time, including being the chairman for the last four years. He worked with the Alaska Department of Fish & Game (ADF&G) on the Delta

Junction State Bison Range and was in the room in 1979 when the bill was written to establish the range. About two years ago, the Department of Natural Resources (DNR) started its review of the Guide Concession Program and his advisory committee, which has a couple of assistant guides, was given the opportunity to comment on the program. He asked those guides to meet with local guides to discuss suggestions for improving the program. Not knowing much about the guiding industry, he thought it might behoove himself to attend that work session to satisfy some of his own interests and, as a result, he learned a considerable amount about the guiding industry. He then traveled to Anchorage to attend the Alaska Professional Hunters Association (APHA) meeting, where he was favorably impressed with the association's code of ethics and challenges to improve the service and quality of the guiding industry.

[2:10:24 PM](#)

MR. QUARBERG related that following the APHA meeting he was asked to attend a meeting of the Big Game Commercial Services Board in Fairbanks, at which he met with a few of the guides and DNR employees to discuss the Guide Concession Program. He later received a call from members of the Big Game Commercial Services Board asking whether he would be interested in serving on the board as a public representative. He said he told them the only way he would be interested in serving on the board was if it was felt he had some talent that would improve the committee. When they encouraged him to apply, he sent his resume to the governor's office, after which he received an appointment. To date he has participated in two audio conferences of the board, so other board members could be contacted to see whether he contributed positively. If he can help he would like to help, he does not want to hinder anything. However, he does not intend to lie down and let the guide industry do what it wants to do. He would like to find a way to improve the situation and yet improve the interests of the public, which is him.

[2:12:45 PM](#)

REPRESENTATIVE GARDNER requested Mr. Quarberg to talk about his service with the Delta Bison Working Group.

MR. QUARBERG replied that the group started in 1979 and the range was developed in 1984. He explained that the Delta Bison Working Group is somewhat of an advisory capacity to ADF&G on how to manage the bison range. The group has basically been trying to manipulate the bison herd, in such way that still

meets the intent of the law, to postpone the bison's migration over into the private land. A multitude of things have been done, but bison are migratory by nature and he thinks they just walk to have something to do because the bison can have food, shelter, and water right in front of them and yet they will walk off and leave it. It has been a real struggle and there has been a lot of controversy and it is quite an obstacle.

2:14:15 PM

CO-CHAIR FEIGE asked what Mr. Quarberg sees as some of the challenges with implementing the Guide Concession Program or even getting that program through to the public.

MR. QUARBERG responded that a major hurdle in the whole program is drawing lines on the map that will provide guide concession areas with sufficient resource to enable guides to make a living. There is a tendency to be all things to all people, and he fears that just cannot happen. There is much competition now because guides can "shoot out and run out". An evaluative process is trying to be used to select the best guides for the areas that they want to be in. The downside to that might be that ADF&G has to conduct a population estimate in every area to determine the harvestable surplus, which he hopes does not have to be done. When he first arrived in Alaska in the mid-1970s, there were exclusive guide areas and the guiding industry seemed to work pretty well. But someone filed suit, it was ruled unconstitutional, and then it became a heyday. The standards on the guide exam were lowered and the number of guides skyrocketed to 1,800; with that much competition there will always be problems.

2:16:32 PM

CO-CHAIR FEIGE, in regard to implementing the Guide Concession Program, asked what Mr. Quarberg believes paramount - the status of the game populations or the economic health of the guides.

MR. QUARBERG answered he does not think one can be separated from the other. If he were god for a day he would review these guides and would appoint the better guides into the industry and leave out those with an unethical track record. The guide industry provides a service. Some resident hunters try to limit the nonresidents. However, Alaska is 60 percent federal land, which means nonresident hunters own just as much of Alaska as he does. In 2010, nonresident hunters represented just 12-13 percent of the hunters, yet through licenses and tags they

contributed over 70 percent of the funding for ADF&G. So, if the nonresidents are eliminated, the resident hunters will have to step up to the plate financially to have the same level of game management that the state has now.

2:18:35 PM

CO-CHAIR FEIGE, after ascertaining that no one wished to testify regarding Mr. Quarberg's qualifications, requested that Mr. Michael Meekin, appointee to the Big Game Commercial Services Board, state why he would like to be on the board.

MICHAEL MEEKIN, Appointee, Big Game Commercial Services Board, stated he was born and raised in Alaska and has been a guide and actively involved in the industry since becoming an assistant guide at age 16. He has an opinion or two on some of the issues coming up and at age 59 would like to give back to what has been good to him for quite a few years.

CO-CHAIR FEIGE asked where Mr. Meekin has guided.

MR. MEEKIN replied he also has a transporter's license and runs Meekin's Air Taxi Service out of the Sheep Mountain area, which generally deals mainly with Unit 13, although he operates in Units 14 and 16 as well. So, basically, he operates in Southcentral Alaska.

2:20:25 PM

CO-CHAIR FEIGE requested Mr. Meekin to state his thoughts on the proposed Guide Concession Program and the biggest challenges that the state faces on that program.

MR. MEEKIN said he has heard a little bit about the program, but not the whole program and how it would be initiated. Having been actively involved in guiding when there were exclusive guiding areas, he thought a problem could be that the people with the most amount of money will get the concessions, which he maintained has happened with the federal concessions. He would like to see that there is a place for the little people, such as a guide without a lot of clients that may live in remote Alaska; he would like to see that lifestyle preserved. However, since he has not seen how that program is being developed, he could not say for sure.

The committee took a brief at-ease.

CO-CHAIR FEIGE ascertained that no one from the public wished to testify regarding the appointment of Mr. Quarberg or Mr. Meekin.

[2:24:02 PM](#)

CO-CHAIR FEIGE turned to discussion of the Fishermen's Fund Advisory & Appeals Council and asked whether anyone from the public wished to testify [regarding appointees Clay Bezenek and James Herbert, whose confirmation hearings were held on 2/22/12, but whose names were not forwarded from committee]. Co-Chair Feige closed public testimony after ascertaining no one wished to testify.

CO-CHAIR SEATON moved to forward the names of appointees to the Big Game Commercial Services Board [Michele Metz, Brenda Rebne, Don Quarberg, and Michael Meekin] and appointees to the Fishermen's Fund Advisory & Appeals Council [Clay Bezenek and James Herbert] to the joint session of the House and Senate for consideration. There being no objection, the confirmations of Michele Metz, Brenda Rebne, Don Quarberg, Michael Meekin, Clay Bezenek, and James Herbert were 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 only moving the nomination to the joint floor session for a confirmation vote.

#### **Board of Game**

[2:25:39 PM](#)

CO-CHAIR FEIGE announced the [continuation of the 2/22/12] confirmation hearing for [Lynn Keogh, Jr.], appointee to the Board of Game. He opened public testimony.

[2:26:00 PM](#)

TINA BROWN said that in addition to her written testimony she would like to stress a bottom line - Alaskans trust committee members, their elected officials and representatives, to put responsible and honorable people in positions of power, such as on the Board of Game. The public needs and wants people who respect the laws and who can be trusted to make the best decisions for everyone. She maintained that Mr. Keogh's record shows he is not such a person and urged that members vote against his confirmation.

CO-CHAIR FEIGE closed public testimony.

[2:27:26 PM](#)

REPRESENTATIVE DICK commented that he has lived in western Alaska for 45 years. While he takes seriously the e-mails and letters that legislators receive, only one of these is from a person who actually lives in an area that is impacted by predator control, which is an issue that has been brought up in regard to Mr. Keogh. He related his frustration from the past about people making decisions regarding the conditions under which rural people live when the people making these decisions are unaware of the consequences of their decisions and do not live with those consequences. While understanding how people who oppose predator control would ideologically disagree with Mr. Keogh, he said Mr. Keogh is aware of the reality of people living in rural areas that need predator control. He stated that his area desperately needs predator control to protect the moose population and he therefore thinks people like Mr. Keogh are needed for at least 10 more years to recover from the devastation that took place in the past.

CO-CHAIR FEIGE re-opened public testimony.

[2:30:23 PM](#)

JOE LETARTE, President, Alaska Trappers Association (ATA), endorsed the appointment of Mr. Keogh to the Board of Game on behalf of his 1,000-member organization. He said Mr. Keogh represents the values, the knowledge, and the expertise to sit on the board and he therefore urges that Mr. Keogh be confirmed.

REPRESENTATIVE DICK asked how many of the members of the Alaska Trappers Association live in the woods where predator control is an issue.

MR. LETARTE replied that ATA has a vast membership in Bethel, Nome, and the Brooks Range. The majority of ATA's membership is based closer to urban areas, but it has many full-time professional trappers, such as Mr. Keogh, who have spent their lives in the woods and depend on the resources being talked about for a livelihood.

[2:31:48 PM](#)

REPRESENTATIVE KAWASAKI related that he has questioned why there are not more candidates for the Board of Game. He inquired

whether Mr. Letarte believes that there are not enough qualified candidates for this board and, if so, why that is.

MR. LETARTE said he thinks there are quite a few qualified people, such as Mr. Keogh. He added that Mr. Keogh is about as qualified as they come due to his past experience.

REPRESENTATIVE KAWASAKI, saying he would not argue about Mr. Keogh's qualifications right now, observed that Mr. Keogh has six years on the Anchorage Fish & Game Advisory Committee. He then related the education and experience of the appointees to the other boards and said he finds it hard to believe that there are not enough qualified candidates [for the Board of Game].

[2:33:43 PM](#)

CO-CHAIR SEATON recalled his [2/22/12] question to Mr. Keogh about the low bull-to-cow ratio that is a problem in the area near the co-chair's home. He posited that things are being looked at wrongly when predator control is used for resolving the problem of not enough bulls for the number of cows, rather than predator control because the moose population is too low. He further recalled that when asked about habitat issues for this same area, Mr. Keogh answered that he disregarded comments about this issue because the people making the comments were against predator control. Co-Chair Seaton said he took some offense to that because he was one of the people who had written a letter to the board. He related that he owns five acres on which there is no willow browse left due to the explosion of snowshoe hares over the last several years; yet predator control is occurring in this area of severe habitat competition. People in the Homer area have lost their fruit trees due to the hares and he has personally shot over 100 hares on his lawn from his bedroom window. Addressing Representative Dick, he said that the comments of the people living in his area were disregarded by Mr. Keogh, which is not the balance he wants to have on the board. While not saying how he will vote on the candidate, he said he was not happy with the candidate's answer to his question about this issue.

[2:36:50 PM](#)

REPRESENTATIVE DICK recounted a past meeting in McGrath where people were expressing their concerns. One of the people from the refuge was rocking back and forth saying "browse, browse, browse". In this person's mind, it did not matter what people at the meeting were saying because inadequate browse was the

mantra. He maintained that this is like the boy who cried wolf - the browse conversation has been going on for 20 years, so when it finally is the issue, a [board member] is far less likely to listen because the conversation has been ongoing for so long. People were being told that the reason their moose were dying off was because there was not enough browse, even though a person could not get through the woods due to the amount of the browse.

2:38:06 PM

REPRESENTATIVE KAWASAKI said he has not met Mr. Keogh and does not know what Mr. Keogh's votes have been as a board member, but that does not matter so much for deciding whether Mr. Keogh is a qualified applicant for this board. The committee knows the evidence about whether this appointee would be an objective thinker on the board and whether he would take public testimony into account. This appointee has a number of troubling tickets and violations, and when asked about them, the appointee did not seem to take appropriate responsibility for his actions and did not seem accountable to those issues. When asked whether he or a member of his family could be affected financially by decisions made by the board to which he was applying, Mr. Keogh responded no. When asked why he responded no when he has a guiding business, Mr. Keogh seemed to think it was not an issue. This is troubling, Representative Kawasaki continued, given that the appointees to the Big Game Commercial Services Board who have an interest, such as a guiding license, have said yes about having a conflict of interest. A conflict of interest is obvious in Mr. Keogh's case, too, he asserted, and he wants to have someone on the Board of Game who will reflect the state as a whole and be objective in opinion and rulings. He added that he has trouble supporting Mr. Keogh's qualifications.

2:41:15 PM

CO-CHAIR SEATON suggested that Mr. Keogh be allowed to respond to the committee members' comments.

CO-CHAIR FEIGE asked whether Mr. Keogh would like to respond.

LYNN KEOGH, JR., Appointee, Board of Game, said he did a poor job on 2/22/12 explaining his position on the habitat and snowshoe hare issue. He offered his understanding that as snowshoe hares start to repopulate to excess, the browse on which they feed defends itself by creating a toxin that becomes bitter to the hares. So, it is the toxic browse that kills the

hares in the end, not the hares that kill the browse. Therefore, he did not consider snowshoe hares browsing on the willows a concern because the toxic browse keeps itself from being over-browsed. Regarding his violations, he said he has not looked at the written court record because living through it was enough. He pointed out that because he is a junior, some of the court record information may not be his. He asserted that he did take responsibility for the violations because he did not fight them and he paid his fines. His integrity means a lot to him, he continued, and he does not want anyone thinking he intentionally does things against the law.

[2:44:00 PM](#)

REPRESENTATIVE MUNOZ inquired whether any of the judgments against Mr. Keogh were based on misdemeanors or crimes greater.

MR. KEOGH replied no and noted that a background check was done on him two years ago when he put in for a contract to do bear guarding and it showed no violations on his record. Regarding the conflict of interest, he explained that at the beginning of every Board of Game meeting board members must do an ethics disclosure. Since different proposals are dealt with at each meeting, members must give their opinion as to whether they think they have a conflict of interest on any of the proposals and the chair deems whether there is indeed a conflict. If so, the member abstains from the discussion and vote on the particular proposal.

[2:45:18 PM](#)

REPRESENTATIVE GARDNER observed from the list of court cases in the committee packet that on June 17, 1995, there was a case labeled "violate comm guide S"; she asked whether that was Mr. Keogh or his father and what it meant. She added that the reference is "11AAC18.030(c) violate comm guide S violation or infraction noncriminal" and said it was assigned to Judge Christensen (ph).

MR. KEOGH believed that violation was his and said it was a parking citation related to commercial guide stipulations. He said he never received the citation, but two years after the fact he and his father were coming home from their trap line when a trooper pulled up and did a name check. Evidently a ticket had been issued that he never received and the citation stated that he was not present. When he contested the ticket in the Kenai courts the judge threw it out. He explained that his

commercial operator permit allows him to do certain things, and things that have been allowed for years by [the Division of Parks & Outdoor Recreation] can suddenly be changed to not being allowed, such as what parking lot a guide can park in. The perpetual changes can be confusing; for example, a permit allowing for the launching of a boat at a particular launch is changed such that the boat cannot be launched without paying a fee. While not an excuse, he is just saying that this is part of living and working with [the Division of Parks & Outdoor Recreation] on the Kenai Peninsula.

[2:47:55 PM](#)

REPRESENTATIVE GARDNER inquired about a 2004 violation labeled "comm fish permit stip" which was a no contest.

MR. KEOGH replied it was fishing stipulations and he believes it was the motor violation, although he is not 100 percent sure.

REPRESENTATIVE GARDNER noted there were two violations on that same day in 2004, one the outboard motor and the other "comm fish permit".

MR. KEOGH responded that it is a double whammy on that type of thing because the motor violation is also a guide stipulation violation, which means the guide is hit twice for the same thing.

[2:49:02 PM](#)

CO-CHAIR FEIGE noted the committee has had a lot of input on Mr. Keogh's nomination and that Mr. Keogh has attended two Board of Game meetings.

MR. KEOGH answered he is in his third Board of Game meeting as he speaks.

CO-CHAIR FEIGE observed that many of the comments on Mr. Keogh pointed to a list of court records, of which several of the violations were his father's. Further, a respectable number of the tickets were for speeding. Other than some fairly minor parking or boat access tickets, he understood that Mr. Keogh has not been cited for any violation of the big game regulations.

MR. KEOGH confirmed he does not have any fishing or hunting violations and said he has a background check to verify that.

[2:50:28 PM](#)

CO-CHAIR FEIGE added that the complaints against Mr. Keogh seem to center mostly on his opinion on the use of predator control in managing game populations. He related that he has spent a lot of time flying over Representative Dick's backyard and during the late 1990s and into the 2000s he saw quite a bit of problems with predator populations taking down the resources that the people of Alaska depend on. In his own backyard over the last 10 years there was an issue of excessive wolf numbers in the Nelchina Basin. A land and shoot program for wolves has now been ongoing for four years and each year the number of wolves taken under that program has decreased. A constituent of his participating in the hunt told him that last year the number of wolves shot did not meet the quota set by the Alaska Department of Fish & Game. The caribou numbers have now started to increase in the Nelchina Basin, which is a Tier II hunting area frequented by many Anchorage, Matanuska-Susitna, and local residents. He maintained that predator control has its benefits and is a useful tool for the overall health of game populations. He said he does not find anything beyond Mr. Keogh's opinion on predator control that would, in his view, disqualify Mr. Keogh for the Board of Game.

CO-CHAIR SEATON clarified that his comments were not directed towards Representative Dick's area; each member knows his or her own backyards and that is what his comment was referring to.

[2:53:17 PM](#)

CO-CHAIR SEATON moved to forward the name of Lynn Keogh, Jr., appointee to the Board of Game, to the joint session of the House and Senate for consideration. There being no objection, the confirmation of Lynn Keogh, Jr., 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 only moving the nomination to the joint floor session for a confirmation vote.

The committee took an at-ease from 2:53 p.m. to 2:55 p.m.

[2:55:44 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:55 p.m.