

**ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE**

February 4, 2011

3:33 p.m.

MEMBERS PRESENT

Senator Thomas Wagoner, Co-Chair
Senator Joe Paskvan, Co-Chair - via teleconference
Senator Bill Wielechowski, Vice Chair - via teleconference
Senator Bert Stedman
Senator Hollis French
Senator Gary Stevens

MEMBERS ABSENT

Senator Lesil McGuire

OTHER LEGISTORS PRESENT

Senator Cathy Giessel

COMMITTEE CALENDAR

PRESENTATION: DEPARTMENT OF ENVIRONMENTAL CONSERVATION OVERVIEW

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

LARRY HARTIG, Commissioner
Department of Environmental Conservation (DEC)
Anchorage, AK

POSITION STATEMENT: Presented Department of Environmental Conservation (DEC) overview.

ACTION NARRATIVE

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CO-CHAIR THOMAS WAGONER called the Senate Resources Standing Committee meeting to order at 3:33 p.m. Present at the call to order were Senators Stedman, French, and Co-Chair Wagoner. He

noted that Senator Wielechowski and Co-Chair Paskvan will be calling in.

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Presentation: Department of Environmental Conservation Overview

CO-CHAIR WAGONER announced the Department of Environmental Conservation overview as the only order of business today.

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LARRY HARTIG, Commissioner, Department of Environmental Conservation (DEC), introduced his staff in the audience and said he would talk about some of the department's challenges and some of the successes that they have not quite met yet. DEC's mission is to protect human health and the environment. These two things are connected; protecting the environment is always connected to human health. Also, he said, DEC is a science-based process-driven agency; all their decisions fulfilling their mission are science-based.

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SENATOR STEVENS joined the committee.

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COMMISSIONER HARTIG said many of their duties and authorities are set out in Title 46 and Title 44, Chapter 46, and regulations in 18.80(c). But also, many of their responsibilities and functions come from federal law (the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, the Circle of Superfund, Oil Pollution Act, and more), and much of their funding is federal money. With that funding comes oversight by the Environmental Protection Agency (EPA) and other agencies. He and his directors interact daily with primarily the EPA on regulatory programs and on-shore spill response and with the US Coast Guard for off shore spills.

He explained that the way they carry out their mission is by developing standards. In protecting human health, whether it's the air or water or the food, they develop science-based standards that are meant to assure that water, air, and food is clean and safe for humans. For instance, the standards for water quality took four to five years to develop and get approved by the EPA. The public has four or five processes for comment to go through a proposed standard and go through an appeal if they don't like it, but once those standards are developed they are used in the permits. For instance, how much mercury can be in

the water and still be considered safe for fish and human consumption. So, when they look at a discharge, they consider how much is in the water already from other dischargers, how much occurs naturally, and what will be the ultimate concentration, and then they have to decide how often it will get monitored, etc.

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If they are not achieving compliance, depending on the situation, they may try working on "compliance assistance," particularly if it's somebody new or a small community that is trying to achieve a good result. On the other hand, if someone is a repeat offender, they can do "high level" enforcement. The work with the Attorney General's Office and can bring civil and even criminal charges.

COMMISSIONER HARTIG said they respond to oil spills and protect food safety. DEC also operates the State Environmental Health Lab that is in Anchorage on Tudor Road next to the Human Health Lab. This lab is where the state veterinarian who works for DEC is housed. It does a lot of work with animals.

He said DEC regulates pesticides and does a lot of public outreach and education, even though there is less money to do it. Probably one of the most important things they do is interact with the EPA federal requirements so they work in Alaska, particularly rural Alaska.

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The DEC has five divisions. The Division of Administration: does contracting, procurement, budget assistance, limited human resource work, and houses the environmental crimes unit. This unit has three investigators - two criminal investigators in Fairbanks and one civil investigator in Anchorage. They work closely with the Attorney General's Office to investigate potential and more severe violations that could result in either civil or criminal counts. They also work closely with the federal agencies: US Department of Justice and the US Attorney's Office on joint investigations.

The four other divisions are Air Quality, Environmental Health, Spill Prevention and Response, and Water Quality.

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COMMISSIONER HARTIG began with the Air Quality Division, and said unlike the other programs, the permitting program in the Air Quality Division is largely supported by fees, a federal

requirement. So, these tend to be more complicated and expensive for people to develop. It's a smaller division, but its rules are from the more complicated areas of environmental law. They regulate "point sources" (out of the stack emissions) as well as "non-point sources," road vehicles, fugitive dust, things like fine particulate matter in Fairbanks and discharges from power plants, and get involved in auto emissions. Fairbanks and Anchorage used to have carbon monoxide programs, and fortunately both programs were so successful, largely because the cars are cleaner these days, that both programs have either gone away or are going away.

He said the Air Permits Program in the Air Quality Division issues three types of permits: the construction permits (Title 1) and these are largely based on federal law and are the most complicated to write. The next kinds of permits are the Title 5 (operating permits) that brings all the different requirements relating to air emissions into one operating permit. They get renewed every five years and these are for larger facilities. Smaller facilities that want to avoid the more complicated requirements under Title 1 or Title 5 permits can get a minor permit and try to limit their emissions and thus not hit the more complicated federal levels.

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COMMISSIONER HARTIG said several new EPA rules have come out on green house gases and one is a reporting rule requiring larger facilities, those that emit more green house gas emissions (primarily carbon dioxide), to monitor those and report them to EPA. That program is run by EPA, although DEC collects the data and will use it when they write permits. Second, though, which started in January and is more important to the state, is regulating the larger emitting facilities for CO₂. They must apply "best available control technology" to limit the amount of their carbon emissions. So when the division writes a new permit to a facility that needs a Title 1 or Title 5 permit he has to evaluate what technology they are using to control their emissions of carbon dioxide. When they look at that, they look at economic environmental, energy use and other factors to determine whether they are meeting the best available control technology standard. There isn't a written standard at this point.

Another challenge is the Fairbanks Air Quality. Fugitive dust results from open air operations. For example, a large pile of coal that sets out and it dries and the wind blows the dust around. He said they are getting more and more complaints in the

state about two types of fugitive dust emissions; one is material handling these piles of coal and other material like that and the other is abrasive blasting like sand blasting of boat hulls and bridges and that sort of thing. So, they are in the process of coming up with regulations that will control those.

COMMISSIONER HARTIG said gas line permitting and North Slope Cumulative Air Quality are somewhat inter-related. On the North Slope historically when new facilities were being developed that would have air emissions they would be permitted and looked at separately. Now because of the number of facilities up there, the cumulative impacts have to be considered. So, if the cumulative amount of particulate pollutants reaches a certain level, that will stop development. So, it's important to get ahead of that and track the emissions, model them and make predictions.

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Gasline permitting: It is important to be doing this modeling and data collecting now, because permitting these larger facilities require at least a year's worth of air quality data looking at all the different conditions on an annual basis. He recalled that AGIA talks about permits in 2014; so that permitting effort would have to occur by 2012/13 - now.

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COMMISSIONER HARTIG explained that the EPA has set various national, human, health-based, air quality standards. When this occurs they look at the entire population - children, people with asthma, pregnant women, and older folks. Recently, they set an air quality standard for fine particulates at PM2.5 microns for a 24 hour period. These really small particulates can get deep into lungs and cause respiratory problems, which can be severe. This standard is not being met in Fairbanks, primarily because PM2.5 mainly arises from the burning of wood and other hydrocarbon fuels. Around the time that EPA set this standard was when home heating and diesel fuel prices shot up. A lot of people in Fairbanks were turning to wood for heat and power, and there was no way to stop it. So, Fairbanks has a "non-attainment area" under the Clean Air Act, the state is required to come up with a plan to bring them into attainment. That plan has to be in place and approved by EPA by December 2012, and then there is a compliance deadline of 2014. No one believes that Fairbanks will be able to come back into compliance by 2014, but as long as the steps are being taken, that deadline can be extended. He

emphasized the bottom line is not just complying with the federal requirement, but about protecting human health, too.

He explained that the state has the responsibility of coming up with this attainment plan. DEC has an MOU with Fairbanks North Star Borough where they would take the lead in developing the plan, working with the community, and they would provide the technical support and expertise to help inform that plan. Also, EPA has been heavily involved and cooperative in providing information to help the community develop this plan. The bottom line is this is difficult for the community of Fairbanks and he didn't think it would be solved within the next 10 years. It is important when asking people to change the way they do things to be able to demonstrate that whatever they do will actually be worth the sacrifice in terms of air quality that would be achieved.

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CO-CHAIR WAGONER asked if Fairbanks is the only place that is having that size of particulate matter problem.

COMMISSIONER HARTIG answered that it is the only area that is at non-attainment right now, but other areas are close. Juneau is close to non-attainment in the Mendenhall Valley. Juneau has been proactive by having non-burn days when the air quality is below a certain level. It is more difficult for Fairbanks because it is colder. EPA is considering whether to lower this PM2.5 standard and will make a decision next summer. If they do that, Fairbanks would be back in and maybe Mat-Su Valley.

CO-CHAIR WAGONER said the reason he asked that question is because he represents one place that burns a lot of beach coal for home heating when it gets really cold. He was sure that causes a lot of particulate matter, and he asked if there is going to be a standard that has a certain number of days.

COMMISSIONER HARTIG answered that there may be areas within that area where the air quality is not being met. But that does not mean that they entire county or borough would be labeled as such.

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SENATOR FRENCH asked if North Pole is also a non-attainment area.

COMMISSIONER HARTIG answered yes. This is not easy for the residents who are trying to keep their fuel costs down. The

community's reaction to this initiative was not well received. A citizen's initiative was passed last summer that took away the borough's ability to regulate home heating fuel devices and that has "put the monkey on the state's back" as the regulator for individual stoves and boilers. The borough is trying a voluntary educational approach with a grant of \$1 million from the federal Department of Energy and they are changing out the more dirty stoves to cleaner burning stoves, using dry wood and dampering for a more efficient burn. They are having success there and it will go a long ways to curing the problem, but they don't anticipate getting them into total attainment. Other sacrifices will have to be made. The problem they are going to run into is they are going to run out of the \$1 million and they need another \$4 million to get to all the rest of the stoves and boilers they want to change out. They are searching for state help and federal grant money as well.

CO-CHAIR WAGONER asked what types of stoves and boilers the residents are replacing the current units with.

COMMISSIONER HARTIG answered that it is a combination of things. Wood pellet stoves are being used and they are trying to use more modern and fuel-efficient stoves. He would follow up on that.

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COMMISSIONER HARTIG explained that even if individuals in Fairbanks have clean burning stoves it won't necessarily help if they use wet wood. One of their challenges is getting the quantity of wood they need and having a place to dry it. They have been having discussion with the Division of Forestry about the Tanana Valley Forest; the problem with that is that the forest is far from town and it's difficult for them to get wood there. But the idea would be to trade out wet wood for dry wood.

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SENATOR STEDMAN said that it seems the solution to this problem is to gasify Fairbanks and not use wood burning stoves. He asked what percentage of the Fairbanks they need to get on natural gas or propane to alleviate the problem.

COMMISSIONER HARTIG answered that is what the mayor and people would like to do. They do import some natural gas, and they are looking at every which way to get more in. This is a longer term solution. The 2012 deadline for the attainment plant and 2014 to be able to demonstrate you're going to get there with reasonable progress means they can't wait 10 years for a gas line.

Whatever they do would be an interim solution. He thought the EPA would work with them if it looked like they would get the gas.

SENATOR STEDMAN asked the commissioner to clarify what will happen to the Fairbanks community should it chose to ignore this initiative.

COMMISSIONER HARTIG answered three things. The state has the responsibility to write the attainment plan, otherwise the EPA will write it. If they didn't comply with the plan, the EPA can limit the federal highway funds coming to the state (which they have done in other states), and particularly to that community; second, the new larger facilities that who need air permits would have a more difficult time getting them; lastly, any federal projects would have to show that they are not adding to the issue. It would stifle economic development.

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COMMISSIONER HARTIG said that they are trying to develop a plan with the community to find out where the most PM2.5 emissions are coming from and figure out what options make the most sense.

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He said the Environmental Health Division is probably the most diverse and the largest. It includes such things as public drinking water system oversight and regulation largely driven by federal law called "public drinking water rules." These rules might limit things such as total coli form bacteria and require purifications standards for ground or surface water. There could be a particular type of bacteria that could come of concern nationally and they would issue a rule on how to address that, for instance. Again, these rules either fit well in Alaska or they are very tough to administer particularly out in the rural communities; they're costly because they are a relatively small group of rate payers. DEC works very closely with these communities. If the state does not maintain primacy with drinking water compliance, than the EPA would do so.

The division does pesticide control, and writes an average of five permits a year mainly for state agencies because any application of pesticides by a state agency on state land requires a permit. If it impacts water, a permit would have to be issued for that. These permits can be very controversial. He assured the committee the permits are very science-based they work closely with the EPA in deciding what pesticides to use and how they should be applied.

He said Solid Waste Management is another program DEC covers. These are areas from an unregulated dump in a rural community to an Anchorage land fill. They also have the Environmental Health Laboratory. DEC does testing of chemical samples, animal and fish tissue, animal necropsies. They monitor outbreak of disease in the animal populations and work with Fish and Game or other veterinarians around the state to investigate. It is important to watch this, because it can affect the health of other animals as well as jump from the animal population to commercial animals or to humans. The lab tested Avian flu for instance when that was a big issue. He said the Lab also looks for contaminants in the environment and they monitor fish tissue that ADF&G sends in from around the state. This is important for the reputation of the Alaska Seafood and Marketing Industry, because in other states before they allow Alaskan products to come in, they want lab certification that it is free of contaminants.

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COMMISSIONER HARTIG said one of the challenges that the Environmental Health Division has is the inspection of food. In most states it is run by the counties. In Alaska that wouldn't work. Anchorage is the only community that runs its own restaurant inspection program; Fairbanks and Juneau rely on the state to do it. It is very difficult to get inspectors out into rural Alaska to investigate. The recommended rate of inspections of more high risk restaurants is twice a year, rural Alaska gets it once every four years. They try to deal with other things like inspection programs and food handler certification programs that provide another level of safety; however, they fall short with inspections.

Another challenge is the solid waste landfills in rural Alaska. The Denali Commission, the EPA, and the US Department of Agriculture can fund landfill work, but it just falls down the list of things. Because even though these projects could get funded through the Village Safe Water Program, they are not as high a priority as drinking water or waste water treatment.

He said the department does paralytic shellfish poisoning (PSP) testing for the growing shellfish industry in Alaska. This last summer a couple of recreational users got sick from PSP and had one fatality in Alaska. So, they are looking at what can be done for the recreational users. They have come up with a pilot program for \$400,000 that would work with local communities where they would collect the samples and send them to the Environmental Health Lab. They would run the PSP tests, send it

back to the community and then the local government could post the results. If there was a problem they could work with the State Human Health People to evaluate the results and advise people on the risk. There currently is no recreational testing. He stressed that the Environmental Health Lab is not competing with private industry. The commercial people don't want to do the type of tests they are doing, because it's either not profitable because there is not enough of that kind of work or its cutting edge equipment and/or methodologies.

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He said regulation of food safety is one of the initiatives that can be put in the "challenged" category, and they are working on where to draw that line. They don't want to regulate small charity events like potlucks.

CO-CHAIR WAGONER asked if someone in Ketchikan was raising oysters, do they have to take their samples and send them all the way to Anchorage. Did the UAS do testing at one time?

COMMISSIONER HARTIG answered that he would have to get back to him on that. He said there are two different kinds of growers, those that farm and those that collect in the wild. The department would go out and do sampling in that area for those that collect in the wild; it would have to be sampled regularly because with PSP you can sample in an area for years and it's clean, but then come back the next time and have PSP. It's hard to predict. They are working on developing an alternative methodology where sampling could be simplified to make it easier to operate in the field. But it needs to be approved by the Food and Drug Administration. PSP testing is fairly heavily subsidized by the state recognizing it is a new and growing industry where the tests are complicated and expensive.

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The Spill Prevention and Response Division (SPAR) tries to initially prevent spills and if a spill happens, they respond. Core service is emergency response and not to just oil, but to other hazardous substances. The Hazmat Program is usually run at a local level and the department provides oversight and coordination with the fire department and such. They have their Industry Preparedness Program with people who try to prevent spills. State law requires having plans on how they will prevent and respond if there is a spill. Those "C-plans" have to be submitted to DEC for approval and have to go through a public review and comment period, an appeal process, and all the larger plans get appealed. Once a company is approved it has to have

the resources in place to comply with that plan and do spill drills and other drills, both announced and unannounced. The next step is if something goes wrong and there is a spill, then the Prevention and Energy Response Program (PERP) people respond. Before the Big Gulf spill people didn't realize that the person who caused the spill has to respond to it. The government's responsibility is to provide the oversight and to make sure the person is responsible and their contractors respond. If they are incapable of mounting the response and slow in mounting it, then the government will step in with its resources, "but we don't have a standing army of spill responders."

SENATOR FRENCH said he was curious about this year's supplemental that has to do with the comprehensive oil and gas infrastructure risk assessment that was funded with \$5 million in 2007. This year because of a change in the scope and methodology, DEC is talking about giving back some of this money. The note says: "The result of the study was confined to the North Slope and did not include the level of detail initially envisioned."

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COMMISSIONER HARTIG said he would come back to that, and went to detail the Contaminated Site Program where the PERP people assess what is causing a spill and then put together a health safety response. Once the emergency issues are taken care, the loose contamination has to be cleaned up. Clean up standards have to be set up and those plans have to be approved.

CO-CHAIR WAGONER asked where the abandoned drums are located.

COMMISSIONER HARTIG guessed it was an old military site, Sand Point. He said several abandoned military sites have been identified for contamination review and are being taken care of one by one, and good progress is being made.

He touched on the declining prevention account fund that helps fund the day to day operations of SPAR. He explained that most of SPAR's operating budget comes from the Response Fund that is the nickel a barrel tax (the 470 Fund). It is broken into a Spill Prevention Account and a Response Account. The Prevention Account gets 4 cents and the Response Account gets 1 cent. The Prevention account helps fund the day to day operations of SPAR - the people that review and approve the C-plans. The Response Account has \$50 million and that 1 cent kicks in when it goes below that. When they respond to a spill they try to recover costs from the person who is responsible for it. That would go

into a mitigation account and the legislature would consider appropriating that back into the Response Fund to make it whole.

All of this is based on production, the commissioner said, and with production declining it means the amount going in is going down to the tune of 6 percent a year. Over the past few years the nickel/barrel fund is in the red, but it has been made up by the fund's historic surplus. SPAR will be completely in the red, however, by 2014.

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Another challenge is changing conditions on the North Slope - aging infrastructure, declining production, talk of OCS development, extended-reach drilling on BP's Liberty Project - and the possibility of more challenging operating conditions. As they saw a couple of weeks ago because of the incident at Pump Station 1, they had very limited time to bring that line back up before it froze.

Under Initiatives, they are trying to identify all the historical contaminated sites in the area for potential construction. They have also been working with the Coast Guard on the Aleutian Island Risk Assessment with monies taken from the Selendang Ayu criminal settlement. More and more traffic is going through the Aleutian Island area, and upgrades in tracking ships as well as having access to their information and adequate tow ropes to keep them off reefs may help provide a template for other areas in Alaska that are beginning to see more traffic like the Bering Straits going north - because of OCS development.

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Deepwater Horizon Lessons and Risk Assessment Work Plan: Jurisdiction: It's difficult to understand a lot of different agencies regulate oil spills. Commissioner Hartig explained what pipelines are regulated by DEC and which are regulated federally - the gather center at Pump Station 1 (crude oil pipeline). DEC has some jurisdiction over leak detection requirements on TAPS. The feds don't regulate flow lines; in fact, Alaska is the only state that regulates flow lines. Two spills happened in 2006.

SENATOR FRENCH asked if the one in August was the largest spill in the North Slope's history.

COMMISSIONER HARTIG answered yes; the leaks occurred on crude oil pipelines. Many of the questions from the legislature he received after this spill is what DEC is doing to prevent

another one. So, they proposed an Alaska risk assessment (\$5 million capital appropriation) that would be divided into two phases. The first phase would get nationally known contractors to design the assessment and then go out to the public, industry, and the National Academy of Science and ask them to review that methodology for all TAPS facilities. They came back with a detailed look at all the risks associated with all the facilities, but it would go way beyond \$5 million and could not be implemented very easily. However, alternatives were suggested like statistical analysis looking for trends. That information was pulled together in a risk study for continuing North Slope operations that was reviewed by an expert panel of consultants. They identified the flow lines that DEC was regulating as the biggest risk.

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SENATOR FRENCH asked for clarification on which flow lines he meant - the ones downstream of the gathering centers or the three-phase upstream flow lines to the wellhead.

COMMISSIONER HARTIG answered that they identified that in general it's both pipelines - the crude oil transmission lines, the flow lines, the facility and all the different types of pipe.

COMMISSIONER HARTIG explained that he included everything from the wellhead at Pump Station 1 to the gathering center (regulated by the feds). If it is a pipeline it is riskier.

SENATOR STEDMAN asked him to wrap his information in his presentation over the amount of reconditioning or rebuilding of line segments that have been done the last few years.

COMMISSIONER HARTIG replied that he does not have those figures with him, but will get them to him. He continued with the Alaska Risk Assessment. Of the pipelines, the most risky subset would be the three phase lines, not the flow lines. Prior to the this risk assessment DEC had already done a number of things: put together regulations for flow lines, got the information on corrosion and monitoring control programs, did an inventory of all the lines and triaged the most high risk ones, did engineering reviews of the more high-risk lines looking at the actual data from the companies, and did field inspections. So, when the risk assessment identified the flow lines as the highest risk areas, they had an expert panel come up with their recommendations for mitigation measures beyond what they were already doing. It looked at a standardized approach to

evaluating spills and collecting data on them in a systematic way that would also trigger a deeper analysis (root cause analysis) into all the root causes of a spill. It also looked at coming up with key indicators that should be tracked in these pipelines that would give early indication of corrosion or other problems, and a way of reporting those to the agency, so the public would also have that information. This report has been published and they are now in the process of implementing these changes.

COMMISSIONER HARTIG mentioned another way to regulate is by looking at a company's management and risk control systems. At this time, DEC has not gone to this kind of safety management system, but they are looking at it. It is being used more by the federal agencies, and the state doesn't want to have anything that is inconsistent with that. He said they also put together a GIS data base of the pipeline inventory, so issues can be identified in future spills. There are still a few items left to finish the risk assessment.

Several years ago they got a \$240,000 appropriation for a marine traffic risk assessment for Cook Inlet. This is not just for Tesoro and its crude oil operations but as they bring in more aviation gas for the International Airport. They worry about the ice conditions and tides et cetera. The money was enough for a work plan, but it wasn't enough to execute the risk assessment itself.

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The Water Division, Facilities Section, of the DEC makes sure that the water you drink is safe, but it also makes sure those who are operating water facilities are doing their job. They do not just regulate these facilities, they run projects. The Village Safe Water Program is for communities of 600 people or less is in this section and the department does grants on water and sewer projects. Those grants are 75 percent federal money coming from EPA or the US Department of Agriculture, Rural Development Program, with a 25 percent general fund match by the state. When this program was started about 30 years ago, less than 50 percent of communities in rural Alaska had this kind of service; now it's closer to 90 percent. The biggest challenge for that program is money. He said federal funding has decline by 40 percent in the last seven years, which means a corresponding 40 percent drop on the state match. So, as they get to the last 10 percent, those are the harder to serve communities with water issues or permafrost. In addition to this, there are facilities that have been running for 30 years,

so facilities need to be upgraded and/or replaced or replaced because the community is growing.

The Facilities Program has the Municipal Grant and Loan program for the larger communities. It is primarily a loan program and primarily state funded. The state puts up a match and if you're community is larger your match has to be larger. If they can find federal money that can be used for their match, but typically it is local money. Typically it has been \$23 million a year, but this year in the governor's proposed budget it is \$20 million.

COMMISSIONER HARTIG explained the way the program works is they solicit applications in the fall, they have published criteria where the projects are ranked, and then they give the list to the legislature.

The biggest challenge is the declining federal money. Each year they go through the same cycle and in some years people do better than others. It depends on who applies and what the projects are. In some instances a project just won't ever score well but it is really a legitimate needed project. And then there would be an opportunity to do an appropriation outside the Municipal Loan Program for that. DEC would be called on to advise the governor about a potential veto and weigh the importance of the project. This program is highly at risk of going away because it's too much of an Alaskan earmark. There are other federal loan programs, but those don't work as well on the smaller communities; and he emphasized that he saw a 40-percent cut on those by the new Republican House that is coming into power now.

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The other side the water quality programs is setting water quality standards - how to protect the uses of water for recreation, for drinking, for use by fish or aquatic life, fishing, and boating. They also look at what kind of treatment technology can achieve; whatever of those is more stringent that is what they apply in writing a permit.

The challenges for the Water Division are largely the declining federal funding in the Village Safe Water Program, the incredible backlog of permits as EPA transfers the Water Permitting Program to DEC, and new requirements being imposed by the EPA for these permits over which they have veto authority.

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CO-CHAIR WAGONER asked if his department had drafted nuclear energy regulations as outlined in SB 220.

COMMISSIONER HARTIG answered they had not yet done so, but they also had not received any applications. Other states are going through the same thing right now, and their plan is to see what they are coming up with. If he saw any movement towards a nuclear facility he would speed that up.

CO-CHAIR PASKVAN thanked the commissioner for responding to the request that he provide in-depth information on the challenges that the department was facing in particular parts of the state.

SENATOR WIELECHOWSKI said he would like to see at some point any recommendations the commissioner had on funding for the Oil Spill Response and Prevention Fund. He also wanted to hear more about the transition from federal oversight to state oversight under the Clean Water Act. He said he would submit his questions in writing.

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CO-CHAIR WAGONER found no further testimony and adjourned the meeting at 5:07 p.m.