

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

January 25, 2012

3:34 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Senator Cathy Giessel

COMMITTEE CALENDAR

PRESENTATION: Department of Natural Resources (DNR) Overview by
DNR Commissioner Dan Sullivan

- HEARD

SENATE BILL NO. 24

"An Act establishing the Sport Fishing Guide Services Board and licensing requirements for sport fishing guide-outfitters, sport fishing outfitters, sport fishing assistant guides, and sport fishing transporters; making conforming amendments; allowing the Department of Fish and Game to collect information on guiding services; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 13

"An Act providing for the waiver of certain fees and charges in state parks for disabled veterans."

- SB 13 MOVED OUT OF COMMITTEE ON 1/23/12

PREVIOUS COMMITTEE ACTION

BILL: SB 24

SHORT TITLE: SPORT FISHING GUIDING SERVICES

SPONSOR(S): SENATOR(S) MCGUIRE

01/19/11	(S)	PREFILE RELEASED 1/7/11
01/19/11	(S)	READ THE FIRST TIME - REFERRALS
01/19/11	(S)	RES, FIN
02/07/11	(S)	RES AT 3:30 PM BUTROVICH 205
02/07/11	(S)	Heard & Held
02/07/11	(S)	MINUTE(RES)
02/19/11	(S)	RES AT 10:00 AM BUTROVICH 205
02/19/11	(S)	Heard & Held
02/19/11	(S)	MINUTE(RES)
02/21/11	(S)	RES AT 3:30 PM BUTROVICH 205
02/21/11	(S)	Heard & Held
02/21/11	(S)	MINUTE(RES)
10/10/11	(S)	RES AT 9:00 AM Anch LIO Conf Rm
10/10/11	(S)	PUBLIC COMMENT
01/23/12	(S)	RES AT 3:30 PM BUTROVICH 205
01/23/12	(S)	Heard & Held
01/23/12	(S)	MINUTE(RES)
01/25/12	(S)	RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

MICHAEL PAWLOWSKI, Staff
Senator Lesil McGuire
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Discussed provisions in CSSB 24() version I.

AL CAIN
Division of Sport Fish
Alaska Department of Fish and Game (ADF&G)
Anchorage, AK

POSITION STATEMENT: Answered questions about provisions in CSSB 24() version I.

DAN SULLIVAN, Commissioner
Department of Natural Resources (DNR)
Juneau, AK

POSITION STATEMENT: Gave presentation on Alaska oil production issues.

BILL BARRON, Director

Division of Oil and Gas
Department of Natural Resources (DNR)
Juneau, AK

POSITION STATEMENT: Commented on Alaska oil production issues.

BRENT GOODRUM, Director
Division of Mining, Land and Water
Department of Natural Resources (DNR)
Anchorage, AK

POSITION STATEMENT: Commented on Alaska oil production issues.

ACTION NARRATIVE

[3:34:53 PM](#)

CO-CHAIR THOMAS WAGONER called the Senate Resources Standing Committee meeting to order at 3:34 p.m. Present at the call to order were Senators Wielechowski, Stevens, French, McGuire, Stedman, Co-Chair Paskvan and Co-Chair Wagoner.

SB 24-SPORT FISHING GUIDING SERVICES

[3:35:10 PM](#)

CO-CHAIR WAGONER announced SB 24 to be up for consideration. [CSSB 24(), labeled 27-LS0278\I, was before the committee.]

MICHAEL PAWLOWSKI, staff to Senator Lesil McGuire, sponsor of SB 24, said the Department of Fish and Game representatives were asked to talk about the enforcement provisions in the current draft, in particular AS 08.57.220 on page 13, the responsibility provisions.

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AL CAIN, Division of Sport Fish, Alaska Department of Fish and Game (ADF&G), explained that section (1) on page 14 [Section .220] makes the guide, outfitter or transporter responsible when a client commits a violation in their presence. He didn't see any culpable mental state stated; Section .200, the civil penalties provision, would come into play for that. An example would be a client on a boat catching too many fish while the guide wasn't paying attention. But the guide could not be issued a citation for the same violation that the client had committed in those circumstances.

Section (2) requires that the guide expressly (or implied) authorizes an unlawful act; in that case the guide would be equally responsible for that violation. He could be sentenced under Section .210, the criminal provisions.

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SENATOR STEDMAN asked how the guide or the assistant guide is tied back to the outfitter. There seems to be occasions when the behavior of the guide is condoned by the people that own or manage particular lodges; and then they have the tendency of claiming they are just hiring an individual contract worker.

MR. CAIN said he didn't see any provision allowing that connection under Section .210 in the bill. And by outfitter, he assumed that he meant the actual guide; current law provides for operators who employ guides; those premises change in SB 24 to "a guide who employs assistant guides." He asked if Senator Stedman meant how the guide who is not on the boat but who is the employer of the assistant guide is made responsible.

SENATOR STEDMAN said yes.

MR. CAIN said he didn't see a provision that allows for that connection. Under Section .210 he sees "a person who is licensed under the chapter who commits or aides in the commission of a violation or permits the client to commit a violation." That language infers the guide or assistant guide who is out on the boat and does not make the actual guide who is back at the lodge responsible. Current language in AS 16.40.260 makes the operator liable for inappropriate actions committed by the guides they employ. At this time SB 24 doesn't capture that element.

SENATOR STEDMAN suggested they look at strengthening that language, because there are some lodges that condone egregious violations of the state's fish and game laws. It's very difficult to go back to the lodge owner from a guided sport boat when he is not on the boat.

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CO-CHAIR PASKVAN said he had heard over the years in the construction trades a general contractor, for example, hires sheetrock workers not as employees but as independent contractors, and the question is if a lodge operator would use an artifice to create a mechanism to avoid a liability for egregious conduct.

CO-CHAIR WAGONER agreed that language needed to be looked at and thanked Mr. Cain for his testimony.

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CO-CHAIR WAGONER said he had an amendment to restrict public members to current commercial fishers not one person who has been a commercial fisherman. He also had an amendment to delete the waiver for the Kenai River Special Management area that is already in statute.

CO-CHAIR WAGONER said SB 24 would be held for further work.

Department of Natural Resources (DNR) Overview

[3:45:26 PM](#)

CO-CHAIR WAGONER invited Department of Natural Resources (DNR) Commissioner Dan Sullivan to provide the presentation Alaska Oil Production Issues.

[3:47:09 PM](#)

DAN SULLIVAN, Commissioner, DNR, said a top priority for him and the Department of Natural Resources (DNR) team is to have a strong, respectful and responsive relationship with the legislature. He encourages timely responsive information with his team to help the legislature and the administration do their jobs. He said he would give an overview of some of the strategies, activities and results they have focused on since the end of last session and invited them to jump in and ask questions.

CO-CHAIR WAGONER said he wanted some emphasis placed on where they are in the permitting process and cleaning up the backlog of permits.

COMMISSIONER SULLIVAN said he would provide that. He would also mention some opportunities and challenges including their thinking behind the million barrels a day "road map." In that respect he tried to focus their mission statement to be more in line with Article 8, Section 1, of the Alaska Constitution and revamp their core services to more accurately reflect what the DNR actually does.

SENATOR STEVENS asked how the mission statement is different.

COMMISSIONER SULLIVAN replied that he wanted the department's mission statement to be more in line with the Constitution's policy statement. There was another issue from an internal management perspective focusing on providing a mission that the department gets behind. Early last year when he became commissioner, he visited a number of communities around the state and was surprised to hear that in a number of areas one of

the views of DNR is that it was "the department of no" and locked up resources, particularly in Fairbanks. He wanted to make sure that at least people within the department know this was the land of Alaska people not the land of DNR. It doesn't mean they are not focused on future generations and conservation; but he thought it was important to make the alignment closer to the directive in the Constitution.

COMMISSIONER SULLIVAN said it came out that writing a mission statement is actually a role the legislature has in statute. But he checked with the Department of Law and from their perspective that didn't preclude commissioners from reworking it.

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SENATOR STEVENS said some Senators have said it's their job and asked him to provide the committee with the legal explanation.

COMMISSIONER SULLIVAN said language says the legislature has authority to issue mission statements, but it doesn't preclude commissioners from doing it.

CO-CHAIR PASKVAN asked if a prior legislature had enacted the mission statement.

COMMISSIONER SULLIVAN replied in 2003 the legislature last issued a mission statement and that the DNR's mission statement has changed a few times since then.

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CO-CHAIR PASKVAN repeated that Senate President Stevens was indicating that he would like to see a legal analysis of that.

COMMISSIONER SULLIVAN said okay.

SENATOR STEVENS said it would be interesting to see a comparison in writing of the old and the new mission statements.

CO-CHAIR WAGONER asked him to proceed with his presentation.

COMMISSIONER SULLIVAN said since the last legislative session, the United States Geological Survey (USGS) came out with new Cook Inlet estimates reflected in slide 9. Slide 10 showed the very significant mineral deposits. The key to what he wanted to cover here was looking back on the year since the last legislative session when the state government was very focused on a vision and a strategy to address the TransAlaska Pipeline

System (TAPS) throughput and to get it up to 1 million barrels a day.

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He and his team focused on implementing all five parts of their strategy:

- Enhance Alaska's global competitiveness and investment climate
- Ensure the permitting process is structured and efficient
- Facilitate and incentivize the next phases of North Slope development
- Unlock Alaska's full resource development potential through partnerships with key stakeholders.
- Promote Alaska's resources and positive investment climate to world markets

COMMISSIONER SULLIVAN said part two is focused on permitting and Brent Goodrum, Director, Division of Mining, Land and Water, who is a retired Marine and recon and infantry officer and has a lot of experience in systems management, has been leading the charge. Since the last session the number of people in that division increased (as part of the increment from the legislature) and 31 of 36 vacancies were filled. New employee training was conducted for over 50 employees. They have focused on a new IT system within the division as part of the same increment. At the same time, they have made a 20 percent dent in the 2,500 permit backlog.

Additionally, they are looking at an entire area of regulations and potential statutory changes in a package they would present to the legislature for permitting efficiencies in terms of certainty and coordination. They have listened to stakeholders and other agencies and have held public meetings throughout the state to get input while also trying to coordinate with the federal government. They have been anticipating and planning for permitting the next phases of resource development such as shale oil and underground coal gasification, and he reported that progress had been made.

4:04:00 PM

COMMISSIONER SULLIVAN said there are signs that some of this is bearing fruit and they are going to have a busy exploration season this winter and spring. Similarly they had a North Slope lease sale in December that was successful. He said they "really, really, beat the pavement" to get a lot of companies interested in it; some didn't show at the last minute, but they

got diverse companies. Shell, Repsol and ConocoPhillips picked up additional acreage, any he is asking the other companies why they didn't show. For some of them it was the tax issue.

SENATOR FRENCH asked if he knew the status of any of the explorations wells.

COMMISSIONER SULLIVAN deferred those answers to Mr. Barron.

[4:05:47 PM](#)

BILL BARRON, Director, Division of Oil and Gas, Department of Natural Resources (DNR), reported that Repsol had started its activities; most of the ice roads and ice pads had been built. The season looks to be favorable, but from where they were four or five months ago thinking it was going to be one of the largest ever they are looking at somewhere between 10 and 16 wells to be drilled this year, which is the normal average over the last 10 or 15 years. It still looks like a good season but it didn't play out as good as expected.

SENATOR FRENCH said this is the "reality check" they wanted from the division as the season is upon them. He asked if he sensed that the North Slope is "rig constricted."

MR. BARRON agreed that is part of the problem. Only so many rigs are available and that causes a bottleneck with the limited timeframe of winter only on ice roads and ice pads.

SENATOR FRENCH said that Repsol is actually sticking to their plan (a five-rig exploration program), and asked if that is because they are bigger and more sophisticated.

MR. BARRON answered that Repsol realized what the limitations were and were aggressive; they dropped one rig that is being picked up by Savant for exploration work out of Badami.

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SENATOR FRENCH stated that is fantastic news, because he hated to think of where we would be with no wells drilled this year. He asked what the practical limit is on the North Slope for drilling exploration wells in the next five years.

MR. BARRON replied while what he says is true given current operating conditions on the North Slope, it wouldn't take much for some of those operation conditions to change. Anything the state can do - for example, roads to resources - to extend permanent roads into those areas that would minimize the need

for the length of some of the ice roads would be an advantage. And if Repsol and Great Bear have success, there will be a market-driven exercise to get more rigs up here.

COMMISSIONER SULLIVAN added that discussions with all companies indicate that a lot more rigs could be here with proper planning.

SENATOR FRENCH said Great Bear is a good example of what can be done in the summer time.

MR. BARRON agreed and said Great Bear had a good idea to go to previously disturbed areas. That allowed the division do a resource evaluation on existing disturbed soils and to sign a waiver from the ice road/pad stipulation in the best interest finding to accommodate that.

SENATOR FRENCH remarked that is exactly the kind of thinking they want to reward.

MR. BARROIN clarified that the Great Bear wells are not included in his numbers, because they will be done out of the winter season.

SENATOR FRENCH said the roads to resources program is the kind of thing Alaska could do with its oil wealth to be a partner with the oil industry. He said with lower taxes they could hope for more activity, but a concrete proposal to spend \$90 million for a road to Umiat or double that could actually open up a new basin.

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SENATOR WIELECHOWSKI said his understanding is that some wells were denied permits by some local North Slope communities.

COMMISSIONER SULLIVAN replied he wouldn't call it denied, and explained that Repsol, the State of Alaska and the North Slope communities collaborated over a number of weeks to get to an optimal number of wells that got support from all the different stakeholders.

SENATOR WIELECHOWSKI asked if five wells were planned.

COMMISSIONER SULLIVAN replied five rigs for about fifteen wells and now that is down to four rigs.

SENATOR WIELECHOWSKI asked if the number of wells was decreased.

MR. BARRON replied yes; those were deferred until next year.

SENATOR WIELECHOWSKI asked if that was the North Slope Borough.

MR. BARRON replied yes.

SENATOR WIELECHOWSKI asked if that would that have gone through the Coastal Zone Management (CZM) program before.

MR. BARRON replied yes. The issues and concerns that were brought forward by the communities and the borough would have been the same ones that would have been brought forward through the CZM Act. But it allowed the DEC, ADF&G and the local communities to actually engage in a "much more healthy and direct dialogue."

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COMMISSIONER SULLIVAN agreed that it was a very healthy dialogue.

SENATOR WIELECHOWSKI remarked "although we have less rigs and less wells being drilled now."

COMMISSIONER SULLIVAN said if he was implying with CZM there would have been more wells, that's the wrong conclusion. He explained that the borough has its own processes to go through and he was coordinating closely with them.

MR. BARRON stated ironically the one rig being removed from Repsol's program actually gave a smaller player, Savant, an opportunity to drill this winter. So, there is an exploration program in an area they would not have had prior to this.

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CO-CHAIR PASKVAN asked in a global context if any permit application for a significant activity on the North Slope is being held up by permitting activity.

COMMISSIONER SULLIVAN answered probably no. He said they had a very busy November and December because of the lease sale, the permitting requirements for a fairly busy exploration season and some big deals closing in the Cook Inlet. His team made a "Herculean effort" along with others in state government.

CO-CHAIR PASKVAN said the public should hear that there is nothing on a permitting basis right now that is inhibiting activities on the North Slope.

COMMISSIONER SULLIVAN responded if you're talking state government that is correct.

SENATOR WIELECHOWSKI asked how many permits are backlogged and if there had been any delay in any development in the state because of it.

COMMISSIONER SULLIVAN deferred that answer to Mr. Goodrum, but added that because of this backlog somebody somewhere is probably hurting. He had to do triage based on economic impacts but his goal is to eradicate it. It's just not fair.

4:20:25 PM

BRENT GOODRUM, Director, Division of Mining, Land and Water, Department of Natural Resources (DNR), reported on June 30, 2,658 authorizations were in a backlog status; that number had grown from the last legislative session because they had 26 to 28 vacancies within his division. Once they started hiring folks (31 of 36 vacancies) as of December 30, in 2011 the total backlog was 2,095, a decrease of 563 authorizations or 21 percent.

SENATOR WIELECHOWSKI thanked him for trying to get rid of the backlog and asked who is hurting from it.

MR. GOODRUM replied there are various types of authorizations; over 600 are water related. Permits are shorter in nature and there are around 200 from throughout the state. He said the division has developed tools for greater visibility so they can prioritize efforts to provide the most benefit to the state.

COMMISSIONER SULLIVAN said they are not just getting the backlog down, but they are trying to reform the system to make it more efficient through technological changes and using a kind of systems approach, but also through regulations or statutory changes, some of which no longer make sense.

CO-CHAIR PASKVAN asked if he expected to see the 20 percent reduction continuing. He thought 20 percent in six months was awesome and wanted to know what to expect in the future.

MR. GOODRUM replied when the commissioner worked with the legislature last year, the initial three-year timeline was

ambitious. While some permits are easier to obtain, they also hired and trained new folks and identified tools to better understand their processes so they improve continuously. To hit 20 percent was great, but he couldn't anticipate doing the same next year. Some authorizations are more complex, but the goal is still to keep within the three-year commitment.

COMMISSIONER SULLIVAN said that in 2011 clearly there was positive news from Cook Inlet. The USGS report came out upping the numbers significantly and the department had one of its most successful lease sales in about 30 years there. A competitive price is driving this as well as competitive investment incentives. The Inlet has significant players - Apache, Hilcorp and diverse other players - as a result of this committee's actions. He emphasized that they were very vigilant with regard safety with all the new players.

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In 2011, a mining exploration "boomlet" was going on and that one-third of all mineral exploration and investment in the US took place in Alaska. It's not just big projects, but 34 different exploration projects worth over \$1 million each. The offshore mineral leases in the Nome area obtained a lot of interest and a significant amount of money for the state.

COMMISSIONER SULLIVAN said the department had a summit called the Strategic and Critical Minerals Summit in Fairbanks. They tried to get high level panelists, participants and industry folks from all over the country; it was a sold out event. Half the people were from out of state. At least two big newspapers, Bloomberg and Reuters, covered it and talked about Alaska's potential.

He said the department is coordinating a three-year assessment of strategic and critical minerals in the state with the USGS with a focus on rare earth elements. Companies think it's great because all the information will be made public.

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He said DNR has other areas of responsibility; they had a good year with regard to agriculture and continue focusing on promoting the Alaska grown program. The Division of Parks and Outdoor Recreation has the largest park system in the country, and the director, Ben Ellis, has been doing a fantastic job there and has new initiatives like Arts in the Park and the boating safety program.

COMMISSIONER SULLIVAN reported that the Division of Forestry had doubled the size of the state forest. The Governor's task force made progress, too. Alaska had a fire season, but by the end they went down to help Texas put out its fires.

COMMISSIONER SULLIVAN said finally they saw a bit of a shift in alignment with federal government with regards to resource development although the Point Thomson EIS that has been delayed one year. Fish and Wildlife might want to bootstrap some of the ANWR values into state land, which he would oppose vigorously.

SENATOR WIELECHOWSKI asked how many federal permits are backlogged.

COMMISSIONER SULLIVAN replied that he didn't know, but would get back to him on that.

CO-CHAIR PASKVAN asked how he felt the coordination with federal government went on last fall's lease sale.

COMMISSIONER SULLIVAN replied that it went great. He has gotten very good cooperation from them on the Rare Earth issue and the lease sale. The idea was to hold the NPRA and state lease sale on the same day, so a company could think more strategically about the North Slope, and it would be great to do it again.

CO-CHAIR PASKVAN agreed that coordination between the state and federal government is good.

COMMISSIONER SULLIVAN said that was an overview of the last year, but added that there are significant challenges ahead. There are a lot of good things to build on. The TAPS throughput issue remains the most urgent from their perspective. A lot of positive progress has been on commercializing North Slope gas and he pointed out that Alaska is closer to Asia than the Gulf States and Qatar.

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COMMISSIONER SULLIVAN said DNR tries every day to strike a balance between responsible resource development and being good stewards of the environment.

SENATOR WIELECHOWSKI said the new mission statement took out "conserve" and asked what the pressing need was to change that.

COMMISSIONER SULLIVAN replied that he was focused on aligning the mission statement with the policy statement in the Alaska

Constitution. They see the issues of conservation and the public's future use encompassed by the term "within the public interest responsible development" and he pointed out that entire divisions are focused on conservation, like the Division of Parks and others.

SENATOR MCGUIRE said it's predicted the state will need 180,000 barrels of oil by 2016 in order to keep up with the current budget and asked if he knew of permits that would be requested that will help achieve that goal.

COMMISSIONER SULLIVAN replied that TAPS is at a 6 percent decline right now (he estimated that's about 36,000 barrels a year) and that while the exploration season is positive, getting a discovery on line will take more time than 2016. He wasn't aware of any developments that would even hold the line at 600,000 barrels unless there is more i-field drilling in the legacy field.

SENATOR MCGUIRE said Alaskans want the state to remain competitive with its oil and gas investments and have asked if there isn't a way to link a tax benefit to guaranteed production. She tells them no and recalls how lowering the cruise ship tax couldn't guarantee that new cruise ships would come in. She said she thought the Senate was coming around, but that they needed data and his help to explain to the public why the formula is wrong. There is a base rate and the progressivity element; trying to understand how every dollar compounds into the .4 percent tax and why that ends of up acting punitive is very complex to explain.

SENATOR MCGUIRE said she also wanted a good dialogue between Commissioner Sullivan and the co-chairmen of Finance on decoupling, because even though it was vetoed last year, a majority of the Senate members believed decoupling was the right way to go. They are two separated systems and it was presented to them as a 6:1 ratio until the discovery of shale oil which put that ratio "way off the charts." They now know at a minimum those two systems ought to be separated. She wanted to hear assurances he would work with the co-chairmen of Finance about it, because that is the only way they will get to a solution.

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COMMISSIONER SULLIVAN said there is no doubt that Alaska still sits on a world class hydrocarbon basin; it includes conventional state and federal, but if you start to look at unconventional, USGS is doing an unconventional study up there

and they think the numbers are going to be off the charts. Everybody recognizes that; that is not the issue. The issue is a lot of people think we're at a sustained high price base in terms of oil prices, but the disturbing thing from the administration's perspective is that oil production is booming everywhere - other states and countries - but not in the great hydrocarbon basin of North America. Why? That is a hugely important question and it has to do with costs. "There is no doubt about it." In the state of Alaska. development on the North Slope is saddled with certain costs that we're never going to get rid of: remoteness and extreme Arctic climate and environment. How can these costs be addressed? Road to resources is one thing, but he has heard across the board from companies that are looking to come here and the ones that are already here. Even Repsol said they are exploring, but they aren't promising any development because of the high taxes. What he heard was focused mostly on the marginal tax rate at higher prices.

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He said the Governor's concern with decoupling is not having to work through it twice, but he didn't say "no" at his press conference.

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SENATOR STEDMAN said he didn't know how changing the policy statement interties with the legislature and he thought that should be checked so everyone understands the legislature's responsibilities versus the executive branch's.

CO-CHAIR PASKVAN said in discussions he has had with people on development of the central North Slope, he has heard about a section 404 permit and asked what application that has on the North Slope region.

COMMISSIONER SULLIVAN replied that it is the wetlands clean water related issue that provides a "federal hook" into all kinds of different activities even in the state lands. So, if you have a federal government that is not being cooperative...

CO-CHAIR PASKVAN asked what the experience has been in the central North Slope and if it will be an issue with shale oil extraction.

MR. BARRON answered the 404 permit for shale will undoubtedly be an issue. Most of Great Bear's acreage will be involved in a 404 determination.

CO-CHAIR PASKVAN asked if there is any history in comparable lands on the central North Slope with respect to how 404 issues have been dealt with in Alaska.

MR. BARRON replied almost all of the developments on the greater North Slope have had a 404 determination one way or another, and the companies have come to understand what those time constraints are and plan accordingly. Federal permitting associated with wetlands and their primacy is one of the things that has slowed development.

CO-CHAIR PASKVAN asked if this is a standard business application on the central North Slope.

MR. BARRON replied yes, and in the Cook Inlet.

4:59:30 PM

CO-CHAIR WAGONER thanked everyone and adjourned the meeting at 4:59 p.m.