

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

April 4, 2012

3:34 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Bert Stedman

OTHER LEGISLATORS PRESENT

Senator Cathy Giessel

COMMITTEE CALENDAR

CONFIRMATION HEARINGS

Fisherman's Fund Advisory and Appeals Council

Clay Bezenek, Ketchikan

James Herbert, Seward

- CONFIRMATIONS POSTPONED TO APRIL 6, 2012

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

CS FOR HOUSE CONCURRENT RESOLUTION NO. 25(FSH)

Celebrating the 75th anniversary of the Wildlife and Sport Fish Restoration Program.

- MOVED CSHCR 25(FSH) OUT OF COMMITTEE

CS FOR HOUSE JOINT RESOLUTION NO. 20(ENE)

Urging the President of the United States, the United States Congress, and the Secretary of the United States Department of

Agriculture not to implement protection of inventoried roadless areas under the "roadless rule" or otherwise restrict the development of necessary hydroelectric projects in the Tongass National Forest and the Chugach National Forest.

- MOVED SCS CSHJR 20(RES) OUT OF COMMITTEE

CS FOR HOUSE JOINT RESOLUTION NO. 32(RES)
Urging the United States Congress to remove wood bison from protection under the Endangered Species Act of 1973 and to grant control of wood bison in Alaska to the state.

- MOVED CSHJR 32(RES) OUT OF COMMITTEE

CS FOR HOUSE JOINT RESOLUTION NO. 26(RES) AM
Urging federal agencies to work with the Alaska Department of Fish and Game, Southeast Alaska Native leaders, and other interested parties to establish strategies and plans for the sustainable management of the reintroduced sea otter population of Southeast Alaska.

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 118(FIN)
"An Act relating to a tax credit for qualified research and development expenditures; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

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
03/02/12	(H)	Moved Out of Committee
03/02/12	(H)	MINUTE(RES)
03/14/12	(H)	RES RPT 4DP 1DNP 1NR 1AM
03/14/12	(H)	DP: DICK, FOSTER, SEATON, FEIGE
03/14/12	(H)	DNP: GARDNER
03/14/12	(H)	NR: MUNOZ
03/14/12	(H)	AM: KAWASAKI
03/26/12	(H)	TRANSMITTED TO (S)
03/26/12	(H)	VERSION: HB 340

03/28/12 (S) READ THE FIRST TIME - REFERRALS
03/28/12 (S) RES
04/04/12 (S) RES AT 3:30 PM BUTROVICH 205

BILL: HCR 25

SHORT TITLE: WILDLIFE & SPORT FISH RESTORATION PROGRAM

SPONSOR(S): REPRESENTATIVE(S) NEUMAN

02/22/12 (H) READ THE FIRST TIME - REFERRALS
02/22/12 (H) FSH
03/01/12 (H) FSH AT 5:00 PM CAPITOL 120
03/01/12 (H) Moved CSHCR 25(FSH) Out of Committee
03/01/12 (H) MINUTE(FSH)
03/02/12 (H) FSH RPT CS(FSH) 5DP
03/02/12 (H) DP: AUSTERMAN, JOHNSON, PRUITT, MILLER,
THOMPSON
03/16/12 (H) TRANSMITTED TO (S)
03/16/12 (H) VERSION: CSHCR 25(FSH)
03/19/12 (S) READ THE FIRST TIME - REFERRALS
03/19/12 (S) RES
04/04/12 (S) RES AT 3:30 PM BUTROVICH 205

BILL: HJR 20

SHORT TITLE: ROADLESS RULE & CHUGACH AND TONGASS HYDRO

SPONSOR(S): REPRESENTATIVE(S) JOHANSEN

03/09/11 (H) READ THE FIRST TIME - REFERRALS
03/09/11 (H) ENE, RES
03/17/11 (H) ENE AT 3:00 PM BARNES 124
03/17/11 (H) Scheduled But Not Heard
03/22/11 (H) ENE AT 3:00 PM BARNES 124
03/22/11 (H) Moved CSHJR 20(ENE) Out of Committee
03/22/11 (H) MINUTE(ENE)
03/23/11 (H) ENE RPT CS(ENE) 6DP
03/23/11 (H) DP: LYNN, TUCK, PETERSEN, SADDLER,
PRUITT, FOSTER
04/06/11 (H) RES AT 1:00 PM BARNES 124
04/06/11 (H) Heard & Held
04/06/11 (H) MINUTE(RES)
04/08/11 (H) RES AT 1:00 PM BARNES 124
04/08/11 (H) Moved CSHJR 20(ENE) Out of Committee
04/08/11 (H) MINUTE(RES)
04/09/11 (H) RES RPT CS(ENE) 6DP 2NR
04/09/11 (H) DP: MUNOZ, FOSTER, P.WILSON, DICK,
FEIGE, SEATON
04/09/11 (H) NR: GARDNER, KAWASAKI
04/12/11 (H) TRANSMITTED TO (S)

04/12/11 (H) VERSION: CSHJR 20(ENE)
04/13/11 (S) READ THE FIRST TIME - REFERRALS
04/13/11 (S) RES
04/04/12 (S) RES AT 3:30 PM BUTROVICH 205

BILL: HJR 26

SHORT TITLE: SEA OTTER MANAGEMENT

SPONSOR(S): REPRESENTATIVE(S) P.WILSON

03/31/11 (H) READ THE FIRST TIME - REFERRALS
03/31/11 (H) RES
02/03/12 (H) RES AT 1:00 PM BARNES 124
02/03/12 (H) Heard & Held
02/03/12 (H) MINUTE(RES)
02/13/12 (H) RES AT 1:00 PM BARNES 124
02/13/12 (H) Moved CSHJR 26(RES) Out of Committee
02/13/12 (H) MINUTE(RES)
02/15/12 (H) RES RPT CS(RES) 6DP 2NR 1AM
02/15/12 (H) DP: MUNOZ, FOSTER, P.WILSON, DICK,
SEATON, FEIGE
02/15/12 (H) NR: GARDNER, HERRON
02/15/12 (H) AM: KAWASAKI
03/19/12 (H) DIVIDE THE AMENDMENT UC
03/19/12 (H) DIVIDE AM NO 1A WITHDRAWN
03/19/12 (H) TRANSMITTED TO (S)
03/19/12 (H) VERSION: CSHJR 26(RES) AM
03/21/12 (S) READ THE FIRST TIME - REFERRALS
03/21/12 (S) RES
04/04/12 (S) RES AT 3:30 PM BUTROVICH 205

BILL: HJR 32

SHORT TITLE: REMOVE WOOD BISON FROM ENDANGERED LIST

SPONSOR(S): REPRESENTATIVE(S) DICK

02/01/12 (H) READ THE FIRST TIME - REFERRALS
02/01/12 (H) RES
02/29/12 (H) RES AT 1:00 PM BARNES 124
02/29/12 (H) Moved CSHJR 32(RES) Out of Committee
02/29/12 (H) MINUTE(RES)
03/02/12 (H) RES RPT CS(RES) 8DP 1AM
03/02/12 (H) DP: MUNOZ, FOSTER, GARDNER, DICK,
HERRON, P.WILSON, SEATON, FEIGE
03/02/12 (H) AM: KAWASAKI
03/26/12 (H) TRANSMITTED TO (S)
03/26/12 (H) VERSION: CSHJR 32(RES)
03/28/12 (S) READ THE FIRST TIME - REFERRALS
03/28/12 (S) RES

04/04/12

(S)

RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

REX SHATTUCK, Staff
Representative Mark Neuman
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Answered questions related to HB 340 on behalf of the sponsor.

REPRESENTATIVE MARK NEUMAN
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of HB 340 and HCR 25.

MICHELE STEVENS, representing herself
Petersburg, AK

POSITION STATEMENT: Supported HB 340 and presented a statement on its issues.

ASHLEY BROWN, Assistant Attorney General
Civil Division
Oil, Gas, and Mining Section
Department of Law (DOL)
Representing the Department of Natural Resources (DNR)
Anchorage, AK

POSITION STATEMENT: Explained legal issues regarding HB 340.

KERWIN KRAUSE, Geologist
Department of Natural Resources (DNR)
Division of Mining, Land and Water
Anchorage, AK

POSITION STATEMENT: Explained mining issues regarding HB 340 and said the department supported it.

REPRESENTATIVE KYLE JOHANSEN
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of HJR 20.

KACI SCHROEDER, Staff
Representative Bill Thomas
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Explained the changes in Senate Committee Substitute (SCS) for HJR 20.

REPRESENTATIVE ALAN DICK
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of HJR 32.

PAUL VERHAGEN, Staff
Representative Alan Dick
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Commented on HJR 32 for the sponsor.

DOUG VINCENT LANGE, Director
Division of Wildlife Conservation
Alaska Department of Fish and Game (ADF&G)
Anchorage, AK

POSITION STATEMENT: Related how wood bison would be managed by ADF&G with the Board of Game to setting harvest restrictions with regards to HJR 32.

REPRESENTATIVE PEGGY WILSON
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of HJR 26.

ARTHUR MARTIN, Intern
Representative Peggy Wilson
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Commented on HJR 26 for the sponsor.

ACTION NARRATIVE

[3:34:29 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, Co-Chair Paskvan and Co-Chair Wagoner.

Confirmation Hearings

[3:35:40 PM](#)

CO-CHAIR WAGONER announced the confirmation hearings for the Fisherman's Fund Advisory and Appeals Council. He said that staff sent out emails asking if anyone had questions and they didn't get any replies.

[3:36:31 PM](#)

SENATOR STEVENS said he didn't recall getting an email and he would have like to have invited the appointees to the meeting.

CO-CHAIR WAGONER said he could move the hearing to Friday.

SENATOR STEVENS said he would prefer that.

HB 340-PETERSVILLE RECREATIONAL MINING AREA

[3:39:16 PM](#)

CO-CHAIR WAGONER announced HB 340 to be up for consideration.

CO-CHAIR PASKVAN moved to bring HB 340 before the committee for purposes of discussion.

CO-CHAIR WAGONER objected for discussion purposes.

REX SHATTUCK, staff to Representative Mark Neuman, Alaska State Legislature, sponsor of HB 340, put himself on the record.

REPRESENTATIVE MARK NEUMAN, Alaska State Legislature, sponsor of HB 340, explained that he was approached by a constituent named Michelle Stevens who had 550 acres of federal mining claims in the Petersville Mountain area and the director of the Division of Mining, Land and Water had approached her because the state wanted to acquire that land from the federal government and then give her 220 acres back; they were then going to convey the mining rights back to her after the land was conveyed to the state so she could do some recreation mining. Some complications came up during that process and to resolve those issues they have worked with the current director and Steve Borrel with the Alaska Mining Association to remove the following previous federal mining claims from recreational mining areas as described on page 2, lines 2-6, in the bill.

[3:41:55 PM](#)

SENATOR MCGUIRE joined the committee.

CO-CHAIR WAGONER opened the public hearing.

[3:42:37 PM](#)

MICHELE STEVENS, representing herself* Petersburg, AK* said she had also submitted her testimony in writing and was available for questions.

CO-CHAIR WAGONER asked her for a three-minute summary.

MS. STEVENS explained that in 1994 she wanted to have a recreational mining area and to do that, she and Jules Tileston, Director, Division of Mining, Land and Water, Department of Natural Resources (DNR), decided that she would relinquish approximately 500 acres of what were previously federal mining claims with an express commitment from the division that once the federal land was conveyed to the State of Alaska, approximately 220 acres located in US Mineral Survey 2384 would be leased back to her for the establishment of a commercial recreational mining concession that would become known as the South Petersville Recreational Mining Area. They agreed to use the federal monuments named as reference points in a recent \$1 million survey as boundaries for the proposed site. She said the concession would include a museum and other amenities like several historic buildings that she owned and a marine steam shovel that helped build the Panama Canal and the Alaska Railroad.

MS. STEVENS said the agreement she had with the division was necessary, because there was no legal mechanism at the time for the division to allow recreational mining on state mining claims and for her, therefore, to have a recreational mining business. To ensure that the area could be managed in accordance with their agreement and that other parties could not stake the state mining claims in the affected area, Mineral Closing Order 674 was issued on June 2, 1994. And in December, 1996, Mr. Tileston drafted a letter to introduce the new regulations for the use of the Petersville Recreational Area and she wrote to her senator and representatives asking them to sign the regulations into legislation.

[3:47:46 PM](#)

On May 8, 1997, HB 46 was signed into law establishing two portions of recreational mining areas: the North Petersville Recreation Area that is currently active and the South Petersville Recreation Mining area, both totaling approximately 500 acres.

The intent of the DNR was that approximately 220 acres in the southern recreation area would be leased back to her when the state received conveyance from the BLM. Subsequent to the claims being gifted to the state and issuance of the mineral closing order, the DNR determined that it could not establish a non-competitive commercial lease to fulfill the agreement with her under existing state law. However, in 2006, DNR determined a legal way to allow a commercial business to be operated in

portions of a state mining claim by establishing a miscellaneous land use lease provided that the state mining claim holder concurred.

CO-CHAIR WAGONER interrupted her and said they pretty well got the gist of it and asked her to send her statement to his staff. She said she would do it as soon as possible.

CO-CHAIR WAGONER closed public testimony.

REPRESENTATIVE NEUMAN explained that a mistake was made and everyone had agreed that this was the best way out.

SENATOR WIELECHOWSKI asked whether this legislation could have impacts on others outside of this individual.

[3:52:41 PM](#)

ASHLEY BROWN, Assistant Attorney General, Civil Division, Oil, Gas, and Mining Section, Department of Law (DOL) representing the Department of Natural Resources (DNR), said that the bill removes certain sections from the Petersville Recreational Mining area.

SENATOR WIELECHOWSKI asked if other miners could come in and stake claims to this area.

MS. BROWN answered that currently a mineral closing order is still covering that area, but once it is lifted it would be possible for others to stake there.

SENATOR WIELECHOWSKI remarked if the deal is that she gets full mineral rights to her claim, it will be a race.

MS. BROWN responded that he was correct in understanding that there is a chance this area would not get staked by Michele Stevens.

REPRESENTATIVE NEUMAN said it's not within the state's authority to guarantee anything, but some people felt sorry for Ms. Stevens and wanted to help her. So they are trying to work it through the process the best and cleanest way they can.

SENATOR WIELECHOWSKI asked if there was anything in writing detailing the agreement that was reached.

MR. SHATTUCH answered there is anecdotal evidence in their packets, but no contractual agreement. The department has

supported it noting that either nothing will happen or they will move forward and remove the claims and work with Ms. Stevens.

[3:56:38 PM](#)

CO-CHAIR PASKVAN asked if there was a better way to correct this problem, assuming a mistake was made more than a decade ago.

MS. BROWN replied that Ms. Stevens could go through litigation, but she couldn't advise her on that and the DNR had determined there was no way they could assist her.

CO-CHAIR PASKVAN said he understood that the state couldn't guarantee her anything and asked if the state made a mistake would it rather respond in money damages or correct the mistake.

MS. BROWN explained that this legislation removes land from the Petersville Recreational Area and at some point Ms. Stevens had staked "at risk claims" on this land, but there is a legal question as to whether or not those claims would be valid; and if they were determined to be not invalid, then that land area would be open to staking by anybody.

CO-CHAIR PASKVAN asked if the state could declare its own conduct null and void based upon a mistaken fact going back to 1996.

MS. BROWN replied that she didn't understand what conduct would be invalid - the decision to make the claims part of the Petersville Recreational Area?

CO-CHAIR PASKVAN said yes; that was done by the state - only with a waiver of a mining interest. So, if you go back before the declaration of the recreational mining area to the mining claims that were in existence, wouldn't that get back to where there was any harm done to anyone?

MS. BROWN said she didn't understand the question.

MR. SHATTUCK said one of the issues that would have to be overcome in any court would probably be the fact that she voluntarily relinquished her federal claims, and consequently the standing would be difficult because she was party to that. After the fact, she went back and staked claims on state-selected land which the state can either allow or have a mineral closure. There is no guarantee those claims will ever come to fruition in terms of giving the right to the individual.

4:02:20 PM

SENATOR WIELECHOWSKI said Ms. Stevens had the right to get an attorney and file whatever lawsuit and go through whatever judicial means she could, but she chose not to. But they as lawmakers should analyze whether opening this area up for recreational mining was good public policy, and he wanted to hear from DNR about that.

CO-CHAIR WAGONER said before they go there, he wanted to chip in his two cents. It's up to her to reclaim the land the best way she can if this bill passes, but the state is basically neutral. His experience was that mining claims are not a lot of fun.

4:03:39 PM

KERWIN KRAUSE, Geologist, Division of Mining, Land and Water, Department of Natural Resources (DNR), Anchorage, AK, explained that federal claims that existed (referenced in 1997 legislation) were actually closed by the Bureau of Land Management (BLM). Because the state had a selection on that area at the time, the former owner (before Ms. Stevens) had arranged for state selected claims to be located there. Portions of those state selected claims are the ones she relinquished. The only reason the legislation referenced the federal claims is because a mineral survey had been conducted and they were on the plat records that the state and BLM had. Once the mineral closure is lifted, she or anyone can stake claims on it, he said, and Ms. Stevens could pursue litigation if she wanted to.

CO-CHAIR WAGONER asked if the department supported this bill.

MR. KRAUSE answered yes.

SENATOR WIELECHOWSKI asked what the rationale was for closing this to mineral leases in the past.

MR. KRAUSE answered to eliminate the risk that someone could inadvertently acquire exclusive rights to the minerals by creating a recreational mining area there.

SENATOR WIELECHOWSKI asked if anyone uses this land now for anything.

MR. KRAUSE answered they do not use the southern area because the BLM hadn't conveyed it to the state yet; therefore, it's still federal land and they don't have any provision for recreational mining on it. But the northern area has been open

for a number of years and it is used by recreational miners and construction dredgers, panners and such.

SENATOR FRENCH joined the meeting.

[4:07:23 PM](#)

SENATOR WIELECHOWSKI asked how many people use that northern area and if they would be precluded from using it in the future by passing this.

MR. KRAUSE responded that all of the use has been in the northern area since the recreational area was created and with the price of gold going up in the last few years, usage has increased. Because Peters Creek is a fish stream, dredging is allowed only from mid-May to mid-July and on average, several dozen dredgers are in there during that period.

SENATOR WIELECHOWSKI asked if this law passes, will it affect their ability to continuing using it.

MR. KRAUSE answered no, because the northern area is not part of the area that would be removed.

SENATOR WIELECHOWSKI asked if it would have an impact on anyone.

MR. KRAUSE answered no.

CO-CHAIR WAGONER asked the sponsor how many hearings this had in the other body and what their reaction was.

REPRESENTATIVE NEUMAN replied that the House had two hearings, and members of both bodies contacted Mr. Tileston to ask him what happened. He explained that Ms. Stevens wants to open up a business operation up there - a museum - and allow people with families to go up there and she would assist them with supplies and equipment to do some recreational mining. But it can't move forward until the state gets claim rights. Removing federal claims allows the state to actually get lands and move forward with the recreational mining areas.

CO-CHAIR WAGONER asked what the vote in the other body was.

REPRESENTATIVE NEUMAN replied 39 to 1. Representative Tuck found some information about some contaminated areas, but a memo from the Department of Environmental Conservation (DEC) stated there was no contamination. A 55-gallon drum could have been

overfilled at one time, but the area had been cleaned up and certified as such by the department.

CO-CHAIR WAGONER asked the pleasure of the committee.

CO-CHAIR PASKVAN said he was trying to figure out a better solution.

REPRESENTATIVE NEUMAN said that everybody worked on this looking for the best solution, but moving this forward was the "simple solution" they came up with.

CO-CHAIR PASKVAN moved to report HB 340 from committee to next committee of referral with individual recommendations and attached fiscal note(s).

CO-CHAIR WAGONER removed his objection.

SENATOR FRENCH apologized for being late and said he assumed the committee went over the letter from Mr. Tileston and Marty Rutherford, because they were his constituents and had a lot of creditability. It looked like the committee was conforming with their wishes in the letter.

CO-CHAIR WAGONER indicated that was the case and finding no further objections, he announced that HB 340 moved from the Senate Resources Standing Committee.

[4:13:34 PM](#)

At ease from 4:13 to 4:14 p.m.

HCR 25-WILDLIFE & SPORT FISH RESTORATION PROGRAM

[4:14:36 PM](#)

CO-CHAIR WAGONER announced consideration of HCR 25 [CSHCR 25(FSH) was before the committee].

CO-CHAIR PASKVAN moved to bring CSHCR 25(FSH), version\B, before the committee.

CO-CHAIR WAGONER objected for discussion purposes.

[4:15:58 PM](#)

REPRESENTATIVE MARK NEUMAN, Alaska State Legislature, sponsor of HCR 25, explained that it is an act celebrating the 75th anniversary of a wildlife and sport fish restoration program. It recognizes sportsmen, industry, state and federal agencies who

have acted to preserve our outdoor heritage. It is sometimes overlooked that hunters and anglers were our earliest conservationists. They saw the rapid decline of many species due to unregulated markets and commercial activities involving wildlife and habitat loss as early as the 1800s.

Seventy-five years ago the Wildlife Restoration Act established funding to restore wildlife and the acquisition and development of management of habitats. It was amended in 1970 to provide for funding for hunter training programs and the development, operation and maintenance of public shooting ranges. In 1950, the Dingle Johnson Act was passed creating a sport fish restoration program and a funding source by using a federal excise tax on fishing gear and motor boat fuels to provide grant money to fisheries conservation, boating access and aquatic education.

[4:17:07 PM](#)

Acts like these were instrumental in establishing the user pay/user benefit system, so much so that since 1939 contributions to state fish and wildlife agencies by wildlife and sport fish restoration programs have exceeded \$13 billion. This represents the greatest single conservation effort in the history of the US and is the nation's primary means of funding conservation.

[4:18:44 PM](#)

CO-CHAIR WAGONER removed his objection.

CO-CHAIR PASKVAN moved to report CSHCR 25(FSH), version \B, from committee to the next committee of referral with individual recommendations and attached zero fiscal note. There were no objections and it was so ordered.

HJR 20-ROADLESS RULE & CHUGACH AND TONGASS HYDRO

[4:20:16 PM](#)

CO-CHAIR WAGONER announced HJR 20 to be up for consideration [CSHJR 20(ENE) was before the committee].

CO-CHAIR PASKVAN moved to bring SCS CSHJR 20(), version 27-LS0554\B, before the committee for purposes of discussion.

CO-CHAIR WAGONER objected.

[4:20:44 PM](#)

REPRESENTATIVE KYLE JOHANSEN, Alaska State Legislature, sponsor of HJR 20, explained that 14 out of 15 hydro projects in the Tongass and the Chugach are subject to protection from the roadless rule in the Tongass and Chugach National Forests as a general blanket. This resolution asks to exempt hydroelectric projects from the roadless rule. The bottom line is without this exemption their stated goal of 50 percent of energy from renewables by 2025 as well as the President's goal of 25 percent of energy generated in the US coming from renewable resources by 2025 might not happen.

He asked that Representative Thomas and his staff broaden the scope of the resolution by explaining the changes in the new Senate committee substitute (SCS).

[4:22:16 PM](#)

KACI SCHROEDER, staff to Representative Bill Thomas, Alaska State Legislature, Juneau, AK, explained that most of the changes in SCS CSHJR 20() occur on pages 2 and 3. On page 2, line 6, a "whereas" is inserted that points out that Southeast Alaska has large mineral deposits and asks for leniency in building roads towards them.

[4:23:08 PM](#)

SENATOR FRENCH said the first of two "whereas" clauses referenced "roadless areas", the definition of which is in federal regulations, and the next "whereas" clause speaks about "wilderness" and asked the relationship, overlap and the degree of similarity between "roadless areas" and "wilderness".

REPRESENTATIVE JOHANSEN said he would get that information to him by the end of the day, but that only the Secretary of the Department of Agriculture can say "yes" or "no" to roads in roadless areas. In Senator Stedman's district, a hydroproject would have to appeal specifically to the Secretary of the Department of Interior to simply open a road that is already constructed in order to get trucks and equipment up to the dam. That project alone would offset a large amount of diesel fuel usage in the forest.

SENATOR FRENCH said he asked because the first "whereas" says that 57 percent of the acreage in the Tongass is roadless and the second "whereas" says an additional 35 percent is wilderness; and he guessed he was being asked to add 35 percent onto 57 percent to come up with 92 percent and he was curious about the overlap. His second question was whether the "seven projects" on page 2 were since May 28, 2010.

REPRESENTATIVE JOHANSEN replied that was his understanding; he had checked with the Forest Service and the Southeast Alaska Power Agency this morning who said those facts were still accurate.

SENATOR FRENCH said he needed some context to know if it's a punitive or reasonable request.

REPRESENTATIVE JOHANSEN replied that he didn't bring people to testify per the request of the chair, so he couldn't answer that, but their real fear is that 14 out of the 15 projects are "absolutely crucial" to getting communities connected and off of diesel.

[4:26:45 PM](#)

SENATOR FRENCH asked if those 14 projects can't be developed without relief from this rule.

REPRESENTATIVE JOHANSEN replied that they would like these projects to be exempt from that rule, because they are important.

CO-CHAIR WAGONER said the exemptions would have to be for the life of the projects as long as they are operational for maintenance purposes as well as construction and remarked that Cooper Lake behind Kenai Lake is the same type of small hydro project.

SENATOR FRENCH noted that the resolution was unanimous in the other body.

[4:28:29 PM](#)

At ease from 4:28 to 4:29 p.m.

[4:29:21 PM](#)

CO-CHAIR WAGONER removed his objection.

CO-CHAIR PASKVAN moved to report SCS CSHJR 20(), version \B, from committee to the next committee of referral with individual recommendations and attached fiscal note(s). There were no objections and SCS CSHJR 20 (RES) moved from the Senate Resources Standing Committee.

[4:30:33 PM](#)

At ease from 4:30 to 4:32 p.m.

HJR 32-REMOVE WOOD BISON FROM ENDANGERED LIST

4:32:10 PM

CO-CHAIR WAGONER announced HJR 32 to be up for consideration [CSHJR 32(RES) was before the committee].

CO-CHAIR PASKVAN moved to bring CSHJR 32(RES), version 27-LS1234\X before the committee for purposes of discussion.

CO-CHAIR WAGONER objected for discussion purposes.

4:33:04 PM

REPRESENTATIVE ALAN DICK, Alaska State Legislature, sponsor of HJR 32, explained that until their extinction over 100 years ago, wood bison inhabited a greater portion of Interior Alaska, particularly in the heart of District 6, but recent efforts to bring them back to Alaska have met with strategic and political questions. Only 104 wood bison are in Turnagain Arm waiting to be released and these are the only wood bison in the whole United States. He explained that wood bison are similar to but genetically different from and much larger than the plains bison that exist in Delta, Kodiak and other places in Alaska and the Alaska Department of Fish and Game (ADF&G) has managed them quite well for the last 70 years.

REPRESENTATIVE DICK said there are two concerns. One is that wood bison is on the Endangered Species list and two, well over \$70 billion worth of resources lie within 50 miles of where they are being proposed to be relocated. The state has negotiated in good faith with the federal government on wood bison for years, but has yet to reach a satisfactory agreement.

The federal 10J exemption of the Endangered Species Act (ESA) would declare them non-essential and experimental and the federal 4D exemption would allow them to be hunted once the herd attained a healthy population. The huge question is whether they can trust the 10J and 4D exemptions to withstand court challenges. In the distant and recent past, gavels in Washington, D.C. have beaten a rhythm that is often unfavorable to Alaska's efforts to develop its resources. The paradox is that the listing of the wood bison as an Endangered Species is the element that most endangers them after years of trying to get agreements to protect the state's concerns about delaying their relocation into the wild. HJR 32 calls for Congress to exempt the wood bison from the Endangered Species Act an exemption used by Idaho and Montana to solve a long standing

problem with restoring the Northern Rocky Mountain Wolf to their states.

REPRESENTATIVE DICK said he wanted to introduce wood bison back into the habitat where they once lived, but without risking the problems that Beluga whales, sea otters and Polar bears face. HJR 32 gives our Congressional delegation the support necessary to create a win/win situation by exempting the wood bison from the Endangered Species Act. The State of Alaska wins when it gets to work with this fascinating resource, the people of the Innoko River drainage win by eventually being able to hunt these bison, the Native corporation that wants to develop the nearby valuable resource can breathe a sigh of relief and fourthly, the wood bison themselves would like to get out from behind those bars. They looked really bored.

[4:36:10 PM](#)

He said this resolution had one hearing in the House Resources Committee; it received 8 do passes and 1 amend; it went across the House floor by a vote of 38 to 0 and was supported by Doug Vincent Lange, Director, Division of Wildlife Conservation, Alaska Department of Fish and Game (ADF&G).

SENATOR WIELECHOWSKI asked if there was any opposition to the resolution.

REPRESENTATIVE DICK replied no. It was controversial at first, but the conversation was elevated to the point of coming up with this solution, which seems to make everybody happy. There wasn't any opposition from the environmental community.

CO-CHAIR WAGONER asked what the game is like where these bison will be released and if there will be enough for subsistence purposes.

REPRESENTATIVE DICK said the problem they face now is a shortage of moose. Because predator control is not allowed on the Innoko Wildlife Refuge, the feeling is that the wood bison could stand in the deeper snow far better against predators than moose and the smaller plains bison.

CO-CHAIR WAGONER removed his objection.

CO-CHAIR PASKVAN asked if this resolution helps Congressman Young become successful.

[4:39:31 PM](#)

REPRESENTATIVE DICK replied the bison can be released as soon as there are no consequences of long-term litigation.

CO-CHAIR PASKVAN asked if determining whether the bison could be hunted or not would come under the sole jurisdiction of the state.

REPRESENTATIVE DICK replied yes.

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PAUL VERHAGEN, staff for Representative Dick, Alaska State Legislature, agreed that was correct.

[4:40:54 PM](#)

CO-CHAIR WAGONER asked how the bison would be managed.

DOUG VINCENT LANGE, Director, Division of Wildlife Conservation, Alaska Department of Fish and Game (ADF&G), Anchorage, AK, explained if these animals are exempted from the ESA they would fall under the jurisdiction of the ADF&G and the Alaska Board of Game to set harvest restrictions. He said they would be managed just like they are managing the plains bison, but initially the population would have to grow large enough to have a harvestable surplus. They could probably harvest some animals, like the older bulls, before reaching a number based on maximum sustained yield and that.

CO-CHAIR PASKVAN asked where the herd will be released.

MR. LANG replied in three areas without having to deal with the ESA: one near the Innoko Drainage, the Fort Yukon area and the Minto Flat area. The habitat in all three areas is suitable for wood bison release.

CO-CHAIR WAGONER removed his objection.

CO-CHAIR PASKVAN moved to report CSHJR 32(RES) from committee to the next committee of referral with individual recommendations and attached fiscal note(s). There were no objections and it was so ordered.

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At ease from 4:43 to 4:44 p.m.

HJR 26-SEA OTTER MANAGEMENT

[4:44:51 PM](#)

CO-CHAIR WAGONER announced consideration of HJR 26 [CSHJR 26(RES)am was before the committee].

CO-CHAIR PASKVAN moved to bring CSHJR 26(RES), \D.A, before the committee for purposes of discussion.

CO-CHAIR WAGONER objected.

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REPRESENTATIVE PEGGY WILSON, sponsor of HJR 26, Alaska State Legislature, said she could answer questions but her intern would explain the resolution.

ARTHUR MARTIN, intern for Representative Peggy Wilson, Alaska State Legislature, Juneau, AK, explained that during the 18th and 19th century because of the fur trade, sea otters were almost completely wiped out on the North American continent. In the years between 1965 and 1969 efforts were made to reintroduce sea otters back to their historic regions and the Alaska Department of Fish and Game (ADF&G) reintroduced approximately 400 sea otters into Southeast Alaska. In 1972 the management responsibility for them was transferred from the state to the federal government under the Marine Mammal Protection Act of 1972.

The issue Alaska has struggled with is that the federal government has no viable long term management plan for them. The US Fish and Wildlife Service created a management plan in 1994, but it hasn't been revised since then. In the meantime, sea otters in Southeast are flourishing and their population has grown to such a level that they are actually threatening the balance of the eco system, which is hurting the Southeast Alaska economy.

MR. MARTIN said that Southeast Alaska has a population of some 20,000 sea otters and their number grows by about 12 percent a year. They eat approximately 23 percent of their body weight each day in crabs, abalone and clams. Together with the dive fisheries, they consume about 253,000 pounds of food in a single day. According to a McDowell Report, dated November 2011, sea otter predation on the red sea cucumber, geoduck clam, red sea urchin and Dungeness crab fisheries have already caused the Southeast Alaska economy \$28.3 million directly and indirectly since 1995. To put this in perspective, last year sea otters ate an estimated 7 million pounds of commercial species whereas the entire 2010 Southeast Alaska harvest in dive and Dungeness crab fisheries was about 6 million pounds. If this trend continues,

Southeast Alaska will no longer have a viable dive fish economy. The McDowell Report said that commercial dive fisheries and large populations of sea otters cannot co-exist in the same waters.

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He explained that related to the sea otter population is the issue that although Alaska Native peoples may harvest sea otters, they are limited only to selling authentic and traditional Native handicrafts under the Marine Mammal Protection Act. This resolution is asking that while discussing the sea otter management issue the terms "authentic and traditional" be replaced with "Alaska Native articles of handicraft" to expand a cottage or niche industry and to clear up any legal gray area.

He said with the Marine Mammal Protection Act being 40 years old, things have honestly changed. Sea otter populations have grown at an impressive rate and it's time to consider a long term management plan as well as broadening the scope of allowable uses for sea otters in Alaska Native handicrafts.

SENATOR WIELECHOWSKI asked how sea otters, crabs, sea urchins, cucumbers and abalones co-existed ecologically before humans were around to manage them.

MR. MARTIN replied that he didn't know if research had been done on that issue, but theory suggests that while the sea otter populations were relative large before the fur trade, the populations of dive fisheries - sea urchins and sea cucumbers - were relatively small. After the fur harvest of the 19th century the sea otter populations decreased and so the dive fisheries began to flourish, which created an economy here. Now that the sea otters are beginning to rebound, they clash with the Southeast economy and current ecology.

SENATOR FRENCH asked where the 23 percent of their body weight each day came from. Is that the upper limit or the average number?

MR. MARTIN replied that it came from the McDowell Report as well as other reports. Male sea otters can grow up to 100 pounds and females can grow up to 80 pounds, so they took a statistical average and came up with 23 percent.

SENATOR FRENCH asked if there is an average number given in the report.

REPRESENTATIVE P. WILSON said one of the reasons sea otters eat so much is because they don't retain body fat. They have to constantly eat to stay warm and keep from losing weight.

MR. MARTIN noted that page 8 of the McDowell Report said that the animals have a high metabolism and require large amounts of food, and in captivity will consume up to 25 percent of their body weight per day (from the US Fish and Wildlife Service).

CO-CHAIR WAGONER said he had seen them eat just about everything in the salt water; 90 percent of the time when you see a sea otter it'll be on its back with something on its chest to eat.

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CO-CHAIR PASKVAN said to a certain extent they are calling on the federal government to do certain things and asked what the state is doing currently with respect to cooperative agreements and working with Alaskans to establish strategies and plans for sustainable management.

MR. MARTIN replied that the US Fish and Wildlife Service is trying to do some things in that Alaska Native peoples are the only group allowed to harvest sea otters. One of the issues is that a legal gray area exists in defining "traditional and authentic" under the Marine Mammal Protection Act and they are working on getting more public comment to rewrite their definitions. But beyond that, the federal government hasn't done anything. They just let sea otters grow and the 1994 management plan hopes sea otters will reach an optimal sustainable population range and at some point they will just start shooting them, but there is no other plan.

CO-CHAIR WAGONER said they need to remember that the state and private investors are spending millions of dollars trying to establish a shellfish industry and there has to be a balance some place.

SENATOR WIELECHOWSKI said it's always a little bit dangerous when mankind plays around with ecological balances and asked if there are any studies about the ramifications of possible over-managing the sea otter population - to sea kelp, for instance.

REPRESENTATIVE P. WILSON replied that they didn't have a way to know except when they were becoming extinct and there wasn't a sea kelp crisis during that time. Nothing crashed at that time.

She said the third paragraph of the sponsor statement said the 1994 conservation plan for the sea otter in Alaska stated that although an optimum sustainable population had not been defined, the stock was believed to be within that range. That was 18 years ago and the plan was to be reviewed annually and revised at least every three to five years, and that hasn't happened.

CO-CHAIR WAGONER remarked that Southeast is not the only place being affected by sea otters. They decimated the prolific steamer clam beds in Kachemak Bay that were always very rich.

SENATOR FRENCH referenced a "Wikipedia" page talking about the economic impact of sea otters that said:

Some of their preferred prey species - abalone, crab, clam - are also food sources for humans in some areas. Massive declines in shellfish harvests have been blamed on the sea otter, and intense public debate has taken place over how to manage the competitive between humans and sea otters for seafood. But it is complicated by the fact that sea otters have often been held responsible for clam and shellfish stocks that were more likely caused by overfishing by humans, disease, pollution and seismic activity. Shellfish declines have also occurred in many parts of the North American Pacific Coast, but do not have sea otters and conservationists sometimes note that the existence of large concentrations of shellfish on the coast is a recent development resulting from the fur trades' near extirpation of the sea otter. Although many factors affect shellfish stocks, sea otter predation can deplete a fishery to the point that it's no longer commercially viable. There is a consensus among scientists that sea otters and abalone fisheries cannot co-exist in the same area and the same is likely true of for other types of shellfish, as well.

CO-CHAIR WAGONER said he would hold HJR 26 until Friday.

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CO-CHAIR WAGONER adjourned the Senate Resources Standing Committee meeting at 5:01 p.m.