

**ALASKA STATE LEGISLATURE  
ADMINISTRATIVE REGULATION REVIEW COMMITTEE**

April 10, 2014

8:03 a.m.

**MEMBERS PRESENT**

Representative Lora Reinbold, Chair  
Senator Cathy Giessel, Vice Chair  
Representative Mike Hawker  
Representative Geran Tarr  
Senator Gary Stevens

**MEMBERS ABSENT**

Senator Hollis French

**COMMITTEE CALENDAR**

WATER WELL LOGS

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

YASMINE HABASH, Staff  
Senator Mike Dunleavy  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Introduced the topic of Alaska's water well log regulations.

JAMES ARTHUR SQUYRES  
Certified Public Accountant  
Delta Junction, Alaska

**POSITION STATEMENT:** Testified in favor of modifying water well log regulations.

LARRY SWIHART, Owner and Operator  
S&S Drilling  
Palmer, Alaska

**POSITION STATEMENT:** Testified in favor of modifying water well log regulations.

TED SCHACHLE,  
Alaska Water Well Association  
Big Lake, Alaska

**POSITION STATEMENT:** Testified in favor of modifying water well log regulations.

DAN BROTHERTON, Operator  
Arctic Drilling, Inc.  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in favor of modifying water well log regulations.

CHUCK ICE  
Ice Water Well, Inc.  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified that water well logs are proprietary.

LEE ICE  
Ice Water Well, Inc.  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in favor of modifying water well log regulations.

JOHN BONACOR  
Swan Drilling  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified that drilling companies should not provide well log information to the state.

JEFF ELLISON, Owner  
Blackwell Pump Service and Homer Drilling  
Homer, Alaska

**POSITION STATEMENT:** Testified that water well logs contain valuable propriety information.

BRANDON FLINN  
Tok, Alaska

**POSITION STATEMENT:** Testified that water well logs belong to the landowner.

ALVIN J. BATES  
Tok, Alaska

**POSITION STATEMENT:** Testified that water well logs belong to the landowner, and regulations will lead to fees and taxes.

TERRY BRIGNER JR.

Tok, Alaska

**POSITION STATEMENT:** Testified in favor of modifying water well log regulations.

CHERISH BRINGER

Tok, Alaska

**POSITION STATEMENT:** Testified in favor of eliminating the water well log regulation.

CANDY TROUPE

Snowshoe Motel

Tok, Alaska

**POSITION STATEMENT:** Testified in favor of modifying water well log regulations.

CINDY KOESTLER

Tok, Alaska

**POSITION STATEMENT:** Testified in favor of eliminating the water well log regulation.

JEFFREY VANZANDT

Tok, Alaska

**POSITION STATEMENT:** Testified in favor of eliminating the water well log regulation.

RHONDA VANZANDT

Tok, Alaska

**POSITION STATEMENT:** Testified in favor of eliminating the water well log regulation.

ED FOGELS, Deputy Commissioner

Department of Natural Resources (DNR)

Anchorage, Alaska

**POSITION STATEMENT:** Explained the role of DNR in managing state water resources.

JOHN BAKER, Assistant Attorney General

Natural Resources Section

Department of Law

Anchorage, Alaska

**POSITION STATEMENT:** Answered questions regarding water well log regulations.

LYNN KENT, Deputy Commissioner

Department of Environmental Conservation (DEC)

Juneau, Alaska

**POSITION STATEMENT:** Answered questions regarding how DEC uses water well log data.

**ACTION NARRATIVE**

[8:03:26 AM](#)

**CHAIR LORA REINBOLD** called the Administrative Regulation Review Committee meeting to order at 8:03 a.m. Senators Geissel and Stevens and Representatives Hawker and Reinbold were present at the call to order. Representative Tarr arrived as the meeting was in progress.

**Water Well Logs**

[8:04:06 AM](#)

CHAIR REINBOLD announced that the only order of business would be water well log regulations, and the issue was brought to the committee by Senator Mike Dunleavy.

[8:04:23 AM](#)

YASMINE HABASH, Staff, Senator Mike Dunleavy, Alaska State Legislature, noted that Regulation 11 AAC 93.140 has been in effect since 1977, and it states that a person who constructs a well shall file a report within 45 days of completion with both the property owner and the department. The regulation then lists several requirements that must be included in the water well log. She noted that she would like to discuss the last part of the regulation, which states [original punctuation provided]:

(g) Information required by (a) of this section is required for any water well that has been deepened, modified, or abandoned, and for any water supply well or water well that is used for monitoring, observation, or aquifer testing, including a dry or low-yield water well that is not used.

[8:06:23 AM](#)

JAMES ARTHUR SQUYRES, Certified Public Accountant, said he is opposed to the aforementioned regulation. He told the committee that he has sailed around the world for over 11 years, visiting 25 countries, and what he saw abroad made him aware that what

makes the United States different is its constitution. "The oppression and tyranny we have seen abroad is what made me keenly aware of infringements on our individual rights that are taking place back here in the United States," he stated. He said he is a landowner in an unorganized borough in Alaska, and he is not being paid to make this presentation or for the research he has done. The well drillers he has lined up to speak today are an integral part of his presentation. He proposed that the regulation be eliminated or that "shall" be changed to "may". He opined that the current regulation overreaches, creating an onerous and unconstitutional burden on well drillers and land owners, and it violates Article 1, Sections 1, 2, 14, and 22 of the Alaska Constitution.

MR. SQUYRES explained that the regulation requires water drillers to file logs with the Department of Natural Resources (DNR) and the Department of Environmental Conservation (DEC) after drilling private wells on private property, and it has been in effect since 1977. He said, "Rural drillers have instinctively resisted this regulation through nullification, citing the privacy concerns of individual landowners and their own proprietary interest in these well logs that contribute to the economic viability of their entrepreneurial going concerns." He added that citizens are becoming aware that this is overreaching, as there no statutory requirement for private well owners to turn in their water logs, particularly for wells drawing less than 500 gallons a day and not adversely affecting others. He said that over 90 percent of Alaska wells fit that category, and DNR has not been enforcing this regulation, leading to the "current conflicting status quo." The statute gives the authority to determine and appropriate water rights to all who apply, and there are many reasons why someone would want to race to file for water rights, he said, but some may not want to file due to unconstitutional elements, and the problem is in the regulation.

[8:11:41 AM](#)

MR. SQUYRES said when he was a practicing CPA he had to value small, closely held businesses, and there are many ways to calculate the fair market value of a business. He spoke of the "good will" factor and that well logs can "confiscate good will" from rural well drilling businesses. Well owners may be less interested in filing for water rights if the nearest neighbor is miles down the road, he said. Landowners can file for water rights at any time on a first-come, first-served basis.

8:14:14 AM

MR. SQUYRES said the inherent rights in the Alaska Constitution "has to do with the enjoyment and rewards of their own industry." Rural well driller logs make drillers vulnerable to unfair competition from new entrants who do not have to "earn" the information from working in the field. The information is on the Internet, he said. Rights have to be exercised, history has shown, or they will be eroded and trampled by unsympathetic bureaucracies allowed to run unchecked. He then quoted the Alaska Constitution: all political power is inherent in the people; all government originates with the people, is founded on their will only; and, the right of the people to privacy is recognized and shall not be infringed.

MR. SQUYRES reiterated that well logs are put on the Internet, except for those that may have terrorist concerns. It is clear that well drillers and landowners have an expectation of privacy, he opined. He spoke of individuals who voluntarily give up rights, and then quoted the constitution: The right of the people to be secure in their persons, houses and other property, papers, and effects, against unreasonable searches and seizures, shall not be violated. "Papers" would include well logs that are paid for by the landowner, he stated. Little thought is given on how the well logs can be manipulated or searched with current or future technology that may not even exist; metadata may fall into the wrong hands, he warned. The people call upon the legislature to protect citizens from onerous and overreaching regulations, he said. The constitution says that fish, wildlife, and waters are reserved for the people for common use, and no one wants to deny Alaskans a drink of water. The regulation requires an application for the use of a significant amount of water, and 500 gallons per day is not significant, but DNR and DEC say they need every well log to manage each and every drop of water in this state, "yet the statute calls for them to appropriate only to those who apply." This is the problem that leads to the violation of constitutional rights, he said. When someone files a well log voluntarily, no rights are violated, but when compelled, rights are violated. He stated that this could lead to extra costs in the budget. Enforcement action could lead to expensive legal cases, draining state coffers. He said, "No mention was made in the constitution or statute about the onerous and unconstitutional elements discussed above in regards to this regulation." He called on the committee to take all action possible to eliminate this old regulation or to modify it.

[8:21:35 AM](#)

CHAIR REINBOLD said he had a very persuasive argument. She noted that HB 140 is in the Senate, "which does cause an agency or a commission or a board to identify where the regulation is promulgated and also to assist the impacts, in aggregate, to the private sector."

MR. SQUYRES said he has spoken with Senators Bishop and Dunleavy and Representative Feige, who has been helpful.

REPRESENTATIVE TARR asked if well logs are provided when land is transferred, and if that is a reason to keep the logs.

MR. SQUYRES opined that a purchaser would want that information.

REPRESENTATIVE TARR asked if the state makes that information available to a buyer. If the regulations went away, how would the information be retained?

MR. SQUYRES suggested that the seller would be highly motivated to provide such information to the bank to facilitate the transaction. He said things may be different in urban areas, but applying the regulation to every square inch of the state is going a bit far.

[8:25:31 AM](#)

REPRESENTATIVE TARR surmised that the well information would be in the hands of the property owner and then made available when the property is sold.

MR. SQUYRES agreed. The landowner owns the information.

SENATOR STEVENS asked if Mr. Squyres said DNR was not enforcing the regulations.

MR. SQUYRES opined that it is difficult to go back and clean up onerous and overreaching regulations, but they are a type of oppression weighing on the shoulders of landowners, he said. He understands that DNR is not spending state funds to enforce it.

[8:27:47 AM](#)

CHAIR REINBOLD asked him to stay in touch, as she wants to follow this issue.

LARRY SWIHART, Owner and Operator, S&S Drilling, said he has worked in the water well industry for over 30 years, and he has always been opposed to the current well log regulations. There are proprietary issues, he stated. It is unethical to have to give to his many competitors information that he has gathered over his years of hard work building a customer base and learning drilling conditions in various locations. He said his competitors could contact his customers and undercut his prices. He added that when a private property owner hires his company to drill a water well, it should be the owner's prerogative to share or not share information. He requested that the regulation be changed from "will turn in well logs" to "may turn in well logs." He said this has been a concern for quite some time, and he is active in water well stakeholder meetings. He said the stakeholders have been threatened that DNR is going to start taking active measures against well drillers who do not turn in logs.

[8:32:05 AM](#)

TED SCHACHLE, Alaska Water Well Association, said his parents came to Alaska in 1954 and started a drilling business with their 10 children. He said [well logs] are personal information and belong to [landowners] and not the state. For DNR to force drillers to turn the information in is wrong, "and it erodes my rights and the private citizen's rights." His company has worked hard to develop expertise in certain locales, and by handing over well logs, a newcomer can look at the logs and decide where the best places to drill are. Currently, he said, he only turns in logs for commercial wells, and the private well logs remain with the property owner. He asked that the regulation be changed to make it voluntary to submit well logs to the state.

[8:34:57 AM](#)

DAN BROTHERTON, Operator, Arctic Drilling, Inc., said that a well log belongs to the landowner. He noted that California law prohibits distributing well completion reports to anyone but the landowner without the landowner's written consent. That is the right way to do it, he said.

[8:36:33 AM](#)

CHUCK ICE, Ice Water Well, Inc., said his company has been drilling [water wells] since the 1970s, and well information is proprietary. He said anyone can come from anywhere "and they

pick up the well logs and just walk in and start drilling and know what they're getting into." That is his biggest complaint, he noted.

[8:37:16 AM](#)

LEE ICE, Ice Water Well, Inc., said his company has been involved in drilling for three generations, and he opposes the regulation requiring him to give away something that somebody has paid him to obtain. [A well log] is not his information to give away freely, and he urged a change.

JOHN BONACOR, Swan Drilling, said he is a third generation driller, and the state should go to the homeowners to get their private [well log] information.

[8:39:36 AM](#)

JEFF ELLISON, Owner, Blackwell Pump Service and Homer Drilling, said he has been in Homer since 2008 and he also owns Water Solutions, a water filter distributor, and he is a board member of Anchor Point Safe Water and a member of the Alaska Water Well Association. As soon as he arrived in the area, it became apparent how valuable well water logs are in Alaska, particularly in rural areas. Drilling in the Lower 48 is very different, because there is basically one aquifer, he explained, so well logs are not as important. He purchased Black Well Pump Service to obtain information, not only the personal knowledge of a company that has been operating for several years, but the paperwork as well. "To turn something in that is private like that, just isn't right," he said. Additionally, gravel and sand companies can look at the logs to determine the best places to dig a pit, and they should have to pay for that information.

[8:42:42 AM](#)

BRANDON FLINN said that well logs belong to the landowner.

ALVIN J. BATES said that the people of Tok "are pretty stirred up about this. We're very upset." He said the people know the law is on books and that is has not been enforced for many years, but they feel strongly in privacy rights. The average person in Tok is a private individual, and Mr. Bates does not know of anyone who uses over 500 gallons [of water] per day. [The regulations] could very well be the first step to taxes, fees, and other costs associated with well drilling. In Colorado, he saw that people were paying \$5,000 to \$10,000 to

the state just for the right to drill a well. Tok residents are largely unemployed in the winter, wages are generally low, "and we cannot afford taxes and fees and various other things, so we strongly encourage the board to make the changes that [Mr. Squyres] requested." He added the caveat that Tok residents "hold all of you responsible for your decisions" and will consider those who vote to harm the people in the Interior of Alaska. He added that there is a lot of passion on this issue in Tok because residents know where this will lead in the future—"it will lead to taxes; it will lead to fees, and it will hurt the people of Alaska."

[8:46:41 AM](#)

CHAIR REINBOLD said that regulations are promulgated by departments and boards, not the legislature. The legislature has very little control, but she is trying to change that with HB 140. She explained that the departments are the ones who do these regulations, and most people that she has spoken with have no idea that that is the case.

MR. BATES stated that people in the Interior have to start living within their budgets. He said, "We voted against that bond—that near billion dollar bond that just came through that put us in the red, which was foolishness. People need to realize up there in Juneau, we got to start living in our budget; we can't keep squeezing us in the Interior for ... pretty soon we'll get to our last dollar; where will we spend it? On food or on taxes and fees and regulatory issues?"

[8:48:57 AM](#)

CHAIR REINBOLD thanked the callers, "because if you want your government to leave you alone, you can't leave your government alone."

TERRY BRIGNER JR. noted that the [well log] regulation needs to be eliminated or changed, as suggested by [Mr. Squyres]. His primary concern is privacy, and there is a verbal contract between a well driller and the property owner with implied privacy. As a business owner, he knows that trust between him and his clientele is important. To be forced to give out well logs is a breach of that trust, he said, and it could result in a business owner going out of business.

[8:50:58 AM](#)

CHERISH BRINGER said she and her family are landowners and this is directly affecting them. She said she does not want her children to be worried about being taxed out of their land. As Americans, "we look at our right to freedom." There are many countries that do not have freedom, "and that's why Alaskans live here." It is nobody else's business where her well is and how much of the resource she uses. "That is all up to me," she opined. The [water well log] regulation is unconstitutional and should be eliminated.

[8:52:41 AM](#)

CANDY TROUPE, Snowshoe Motel, said she is in compliance with DNR, but believes the regulation should be changed because it is an infringement upon her rights.

CINDY KOESTLER said [water well log regulations] are an infringement on her constitutional rights. She said, "We do not need more people in here trying to run us down. We are trying to survive in Tok; we pay for these wells to be put in; we are not going to pay for them to be guarded by any affiliation with the federal government." She noted that this is an election year, and the people of Tok are going to do what is best for Tok and Alaska.

[8:54:26 AM](#)

JEFFREY VANZANDT said this law needs to be repealed, because the Interior is suffering from overregulation. The legislature does not make these [regulations] but it holds the purse strings to DNR, and if it cannot stop this, his representative will not get his vote. He said he paid thousands of dollars to put in his well, and he expects his information to be private. Over 100 families have left the Tok area in the last two years "because of overburden and overpriced fuel, wood, and the cost of living." He said that this is just one more nail in the coffin for the people who live in rural Alaska. His legislators are Representative Foster and Senator Olson, and if this is not repealed, they need not ask him for his vote, he stated.

[8:56:32 AM](#)

RHONDA VANZANDT said that the regulation has to be repealed for the people of Tok. "It is another regulation on top of the people and we don't want it."

[8:58:10 AM](#)

ED FOGELS, Deputy Commissioner, Department of Natural Resources (DNR), said DNR is mandated to manage the water resources of state as a common public resource for the good of all the people of Alaska. His department manages the quantity of water to make sure that when somebody drills a well that there is plenty of water to go around, and the Department of Environmental Conservation (DEC) manages the quality of ground water, he added. He sees two issues: The first is whether or not the [water well log] regulation is actually legal, and DNR has operated under the assumption that it is. In fact, it is rooted soundly in the constitution and in statute, and a state attorney is on line if people want more information. The second issue is whether or not "this is the right thing to do," and that is the bigger issue he believes. "We need to explain to you why it is that we desperately need information on the ground water resources of the state," he stated. It is a tough job to manage water resources, especially in an area where populations are growing and demands are increasing. He said he is a private property owner in Anchorage, and he went through a lot of public meetings on Sand Lake area water issues where a key to resolving many debates was the information on the groundwater that was collected through water well logs. Another question is if DNR is administering the right process, and he noted that the regulation is very difficult to enforce, because people are drilling wells all over the state, and DNR does not have the resources to chase everyone down, and "we don't intend to that at this point." Currently, DNR is working with the stakeholders' group on this issue to see what it is doing right and what it is doing wrong, and this [water well log] regulation is at the forefront of those discussions, he explained.

[9:01:57 AM](#)

REPRESENTATIVE TARR asked how people are supposed to submit [logs]; people have said the process is onerous, and she asked if it could be refined to be more user friendly.

[9:02:38 AM](#)

CHAIR REINBOLD asked which statute the regulation comes from.

JOHN BAKER, Assistant Attorney General, Natural Resources Section, Department of Law, said the statutory basis for the water well log regulation comes from AS 46.15.010 and AS 46.15.020. The first statute is a broad grant of authority from the legislature to DNR to determine and adjudicate water rights

in Alaska and its appropriation and distribution. So, he said, DNR is to determine water rights and their priority for individuals using more than 500 gallons per day and to quantify that as a water or property right (and get a priority date). Additionally, the broader sense of appropriation (defined in Title 46 as to divert, impound, or withdraw a quantity of water from any source of water for beneficial use or to reserve it), includes withdrawing 500 gallons per day or less through a well without getting water rights. So those uses are to be regulated by DNR, he said. The second statute requires and empowers DNR to do what is necessary to carry out the objectives of the Alaska Water Use Act, he explained. It is a broad grant of authority, he noted; statutes like this are not going to have the detail that are contained in regulations. The function of regulations, as set out under the Alaska Administrative Procedure Act, is to more specifically implement the statutes in a way that is reasonably necessary and consistent. He said that another statute, AS 41.08.020(b)(4), requires DNR to know the location, quantity, and quality of water resources by aquifer, which was originally required of the Department of Geological and Geophysical [Surveys], but by administrative delegation, the Water Section of DNR implements that requirement.

[9:07:19 AM](#)

CHAIR REINBOLD said it is unimaginable how much water is in the state, and it would take many people to regulate it. Alaskans are overregulated, and she asked if there is a difference between public and private property. If a private [landowner] paid for a well, she asked if the state should pick up the fee for getting this proprietary information.

MR. BAKER said fees are a policy call for the legislature. Regarding a legal distinction between private and public resources, it is a fairly nuanced question. There is a perception issue here. Under the Alaska Constitution, water is considered a common use resource, and a well owner on private property is tapping into a public resource—a common use resource. The understanding of DNR at the time the regulation was enacted, was that the collection of this data was a condition of getting the public resource. The water itself is a public resource, even if the aquifer is underneath private land, he explained. The justification for the regulation is to obtain data necessary to continue to manage the public resource. If there are concerns about privacy or confidentiality of the data that is collected, there is another statute, 38.05.035(a)(8)(C), which allows an individual to request that DNR keep geological,

geophysical, and engineering data confidential. Well log data is hydrological information and would be considered a subset of geological data, and the statute provides a mechanism such that individuals can request that DNR keep the information confidential. The department does not have to make that information available to everyone, he explained, but it can continue to use it to manage the water resource.

9:11:18 AM

CHAIR REINBOLD expressed her belief that there are way too many laws and lawyers. "These people just want to drink water and to survive and not have the government on their back," she stated. [Drillers] do not want their competitors to see data that the government really does not need to have. It is private land, but if it is not a big, big city, "don't you see the constitutional privacy issues for the people?"

MR. BAKER said that privacy depends upon which resource is being considered. He said he is not aware of an Alaska court finding a violation of a right to privacy in an analogous situation where public resource data is requested. The way the law is set up now, the collection of that data is a condition of being able to access the resource. "I can't tell the committee that I am aware of any similar situation where an Alaska court has ever found that to rise to level of invasion of privacy," he stated. When there is a valid regulation on the books that puts all members of the public on notice, just like hunting regulations, it advises people upfront that if they want to access that public resource, providing the well log data is a condition of doing that. He said it is a policy question as to whether that information is necessary, and DNR and DEC can speak to that. Again, the aquifer is a public resource, but Title 38 allows a homeowner and, probably, the well driller to request that the information be kept confidential and not available to competitors.

9:14:26 AM

CHAIR REINBOLD said a statute supersedes a regulation and the constitution supersedes a statute, so these people have valid concerns. She asked Mr. Baker if he is willing to work with department to change "shall" to "may".

MR. BAKER said that if a state agency changes a regulation, the Department of Law will assist as directed by statutory duties,

and whether or not to make that change would be policy question beyond the scope of his office.

CHAIR REINBOLD said she wants the privately paid-for data protected and she hopes DNR is willing to work with her.

9:15:27 AM

REPRESENTATIVE HAWKER suggested that Mr. Baker meant to reference AS 38.05.035(a)(9)(c).

MR. BAKER said AS 38.05.035(a)(8)(c) refers to confidentiality of certain records.

REPRESENTATIVE TARR asked about sharing geologic information, since drilling on someone's land can impact others. Additionally, contamination in one well can lead to contamination in other wells. She asked if that information is shared with individuals as a way help understand why the information is necessary. She said she sees it as a way to protect landowners by preventing them from being impacted by the activities of someone else. She noted a situation on the hillside, where people were building homes and there was no water. It seems like log information is really necessary, and it is difficult for her to get around that, but she can appreciate that some people would want to keep their information private. She suggested that communication about what was happening underground is a way to protect landowners, and maybe that could help resolve some of their concerns.

MR. FOGELS agreed with Representative Tarr. That is part of the discussion in the stakeholder groups. The goal of DNR is not to regulate, but to make sure that Alaskans have plenty of water to drink. That is the only reason this is even an issue, he stated. He said he has personal experience because a large subdivision was going to be in some of the aquifers next to his well, and the only reason he felt comfort with the proposed construction is that he saw good data on the aquifer. "If we don't have the data, we can't manage this resource properly—it's as simple as that." He added that there are tools available to address confidentiality and DNR is willing to work with the committee to figure out a better way to do business, but the bottom line is that DNR needs that critical information.

9:19:53 AM

CHAIR REINBOLD said she could agree when there is a limited amount of water, but in areas where [the quantity of water] is not an issue, it seems like the government is doing stuff it does not need to be doing. It is paid for by someone, it is competitive data, and it completely goes against capitalism, freedom, and the constitution. At a minimum, the regulation should become a "may" instead of a "shall," she said.

[9:21:28 AM](#)

REPRESENTATIVE HAWKER said that water rights are a huge issue in his district, and one would think there is a lot of water, but there is not. There are neighborhoods where wells cannot refill from just running a shower, and it is caused by overbuilding and increasing density in era prior to these regulations. He said that around 1983, everyone filed for water rights when a large golf course was being built, as people were afraid there would not be enough water in the aquifer for basic residential purposes. He suggested that there is a checkbox to keep water data confidential. He said there were those that said they own the data, it is proprietary, and it is not anyone else's business, but it is—it is not just the individual landowner, it is what we are doing to our neighbors. In his district he believes that the state needs to maintain that information as we are allocating a scarce resource. "We need to have that information available as we make these judgments," he added.

[9:23:58 AM](#)

REPRESENTATIVE TARR asked if DEC needs the log information to manage water quality.

[9:24:16 AM](#)

LYNN KENT, Deputy Commissioner, Department of Environmental Conservation, said DEC needs and uses water well log information. It does not directly regulate private wells, but DEC regulates onsite septic systems and their distance from private drinking water wells. A neighbor cannot put in a sewage system right beside a well that may contaminate it, she explained. Well logs are used in the contaminated sites arena, and there are many sites contaminated with oil or hazardous substances that affect ground water, and DEC relies pretty heavily on both private and public well logs to determine the depth to ground water, flow rates, direction of flow, and who might be at risk of drinking contaminated water. That information is absolutely critical to protect public health, she

explained. She gave the example of relying on private well logs to track the sulfolane plume emanating from the North Pole refinery right now; the data provides initial information on what wells might be contaminated.

[9:26:10 AM](#)

REPRESENTATIVE HAWKER noted his personal experience that validates Ms. Kent's testimony and said his neighbor drilled a well right next to his septic field. The neighbor had problems and then the high costs of drilling another well, he stated.

CHAIR REINBOLD said that public testimony will remain open and she wants to work with DNR on protecting private data. She questioned how much the government should be involved "way out in the middle of nowhere" where water is a plentiful resource.

[9:28:18 AM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the Administrative Regulation Review Committee meeting was adjourned at 9:28 a.m.