

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

March 4, 2013

3:32 p.m.

MEMBERS PRESENT

Senator Cathy Giessel, Chair
Senator Fred Dyson, Vice Chair
Senator Peter Micciche
Senator Click Bishop
Senator Lesil McGuire
Senator Anna Fairclough
Senator Hollis French

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 10

Relating to the presence and interests of the state and the nation in the Arctic; urging appointment of a representative of the state to the Arctic Council; relating to icebreakers; and relating to United States Coast Guard operations and facilities in the Arctic.

- MOVED CSSJR 10(RES) OUT OF COMMITTEE

SENATE BILL NO. 54

"An Act extending the termination date of the authority of the Commercial Fisheries Entry Commission to maintain a vessel-based limited entry fisheries system for the weathervane scallop and Bering Sea hair crab fisheries; and providing for an effective date by amending the effective date under sec. 28, ch. 137, SLA 2002."

- HEARD & HELD

HOUSE BILL NO. 36

"An Act exempting certain federal agencies or military services firing or using munitions on active ranges from prior authorization requirements of the Department of Environmental Conservation."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SJR 10

SHORT TITLE: ARCTIC: POLICY, USCG, ARCTIC COUNCIL

SPONSOR(s): SENATOR(s) GIESSEL

02/27/13 (S) READ THE FIRST TIME - REFERRALS
02/27/13 (S) RES
03/04/13 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 54

SHORT TITLE: EXTEND HAIR CRAB & SCALLOP LIMITED ENTRY

SPONSOR(s): RESOURCES

02/13/13 (S) READ THE FIRST TIME - REFERRALS
02/13/13 (S) RES
03/04/13 (S) RES AT 3:30 PM BUTROVICH 205

BILL: HB 36

SHORT TITLE: EXEMPT DISCHARGES FROM USE OF MUNITIONS

SPONSOR(s): T.WILSON

01/16/13 (H) PREFILE RELEASED 1/7/13
01/16/13 (H) READ THE FIRST TIME - REFERRALS
01/16/13 (H) RES
01/28/13 (H) RES AT 1:00 PM BARNES 124
01/28/13 (H) Moved Out of Committee
01/28/13 (H) MINUTE(RES)
01/30/13 (H) RES RPT 7DP 2NR
01/30/13 (H) DP: JOHNSON, HAWKER, P.WILSON, OLSON,
SEATON, FEIGE, SADDLER
01/30/13 (H) NR: TUCK, TARR
02/04/13 (H) TRANSMITTED TO (S)
02/04/13 (H) VERSION: HB 36
02/06/13 (S) READ THE FIRST TIME - REFERRALS
02/06/13 (S) RES
03/04/13 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

JOE BURNS, intern to Senator Giessel
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Commented on SJR 10 for the sponsor.

CORA CAMPBELL, Commissioner

Alaska Department of Fish and Game (ADF&G)
Juneau, AK

POSITION STATEMENT: Supported SB 54.

BEN BROWN, Commissioner
Commercial Fisheries Entry Commission (CFEC)
Juneau, AK

POSITION STATEMENT: Supported SB 54.

JIM STONE
Alaska Scallop Association
Kodiak, AK

POSITION STATEMENT: supported SB 54.

JOHN LAMAR, vessel owner
Kodiak, AK

POSITION STATEMENT: Supported SB 54.

ALEXUS KWACHKA, representing himself
Kodiak, AK

POSITION STATEMENT: Opposed SB 54.

BRENDEN HARRINGTON, representing F/V Kilkenny
Kodiak, AK

POSITION STATEMENT: Supported SB 54.

HENRY MITCHELL, representing himself
Fisheries Consultant
Coastal Villages Region Fund Group
No address provided

POSITION STATEMENT: Supported SB 54.

STEVEN BRANSON
Crewman's Association
Kodiak, AK

POSITION STATEMENT: Opposed SB 54.

SHIRLEY MINEO, representing Tom Mineo
Kodiak, AK

POSITION STATEMENT: Supported SB 54.

MAX HULSE, representing himself and the whole Hulse Family
Eagle River, AK

POSITION STATEMENT: Supported SB 54.

GLEN MICHELSON, representing himself
Kodiak, AK

POSITION STATEMENT: Supported SB 54.

REPRESENTATIVE TAMMY WILSON,
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of HB 36.

GENERAL TOM KATKUS, Commissioner
Department of Military & Veterans Affairs (DMVA)
Anchorage, AK

POSITION STATEMENT: Supported HB 36.

KEVIN WARD, Regional Counsel
US Army Regional Environmental Office
Denver, CO

POSITION STATEMENT: Supported HB 36.

LIEUTENANT COLONEL JUSTIN TRUMBO
Western Regional Counsel
US Air Force
San Francisco, CA

POSITION STATEMENT: Supported HB 36.

SETH BEAUSANG, Assistant Attorney General
Representing the DEC
Department of Law (DOL)
Anchorage, AK

POSITION STATEMENT: Was available to answer questions on HB 36.

MICHELLE BONNET HALE, Director
Division of Water
Department of Environmental Conservation (DEC)
Juneau, AK

POSITION STATEMENT: Supported HB 36.

ACTION NARRATIVE

[3:32:33 PM](#)

CHAIR CATHY GIESSEL called the Senate Resources Standing Committee meeting to order at 3:32 p.m. Present at the call to order were Senators McGuire, Dyson, French, Micciche and Chair Giessel.

SJR 10-ARCTIC: POLICY, USCG, ARCTIC COUNCIL

[3:32:55 PM](#)

CHAIR GIESSEL announced SJR 10 to be up for consideration.

JOE BURNS, intern to Senator Giessel, sponsor of SJR 10, explained that this resolution broadly deals with the overall Arctic policy of the United States with particular emphasis on how that policy affects Alaska. Specifically, it urges Congress to expand the existing US Coast Guard Icebreaker fleet to maintain its growing Arctic responsibilities, requesting that the US Department of State include a designated representative from the State of Alaska to serve as part of the official state delegation to the increasingly influential Arctic Council.

MR. BURNS said there is renewed interest in the Arctic because of diminishing levels of polar sea ice that is presenting new opportunities to the world. Geologists believe the Arctic holds the potential for large quantities of natural resources that could promote domestic energy security and the Alaskan economy. The decline in the amount of floor sea ice is also presenting commercial interests with the opportunity to reduce international shipping times compared to conventional routes by navigating the Arctic Ocean.

[3:35:06 PM](#)

He said though the rest of the world appears to recognize the potential of the Arctic, relatively little interest has been exhibited at the federal level. "Major Icebreakers of the World," published by the US Coast Guard reveals how our neighbors have demonstrated their Arctic interests.

Icebreakers are essential to carrying out Arctic operations and projecting a nation's presence in northern waters. Russia has 17 state-operated icebreakers, Canada has 6 and the US has only 3 and only 1 of those is presently in service.

MR. BURNS said that US interests are at stake in the Arctic and these interests are of particular concern to Alaskans because international Arctic policy affects them uniquely compared to any other state. To preserve Alaska's interests, SJR 10 seeks to give Alaska a presence on the Arctic Council. Since its inception in 1996, this international high-level forum has emerged as a leading channel for the discussion of international Arctic affairs among all the Arctic states.

The sponsors believe Alaska's Arctic interests are fundamentally America's interests and that whatever avenues are available to pursue those interests should be pursued. Our nation should seek to unlock the Arctic's potential by having the US take a leadership role in guiding international Arctic policy. They

believe that adopting the provisions in SJR 10 will be a good step in advancing that goal.

[3:36:45 PM](#)

MR. BURNS brought some updated information regarding the number of Russian icebreakers that should be reflected in the resolution on page 2, line 24. It says the total number of Russian icebreakers presently commissioned is now 36 vessels and below it on line 25 the number of Russian government operated icebreakers commissioned is 17.

SENATOR DYSON moved conceptual Amendment 1 based on the updated information on page 2, line 24, to change "35" to "36" and on line 25, to change "22" to "17".

CHAIR GIESSEL found no objection and announced that Amendment 1 was adopted.

CHAIR GIESSEL gave great accolades to Senator McGuire who brought great expertise to this topic.

SENATOR MCGUIRE said it was a joy to work with her on this issue.

[3:38:17 PM](#)

SENATOR FAIRCLOUGH and SENATOR BISHOP joined the committee.

[3:38:31 PM](#)

SENATOR FRENCH asked how much an icebreaker costs.

MR. BURNS answered that he didn't have that information, but would get it for him.

CHAIR GIESSEL said she was looking at an article about a privately owned icebreaking anchor-handling tug vessel originally commissioned by Royal Dutch Shell for construction by Edison Chouest Offshore for \$150 million; it was somewhat smaller than a full icebreaker. The cost would be substantial.

SENATOR DYSON said there is a difference of magnitude between an icebreaker that can break seasonal ice and one that can bust through multi-seasonal ice by a factor of three. The US is in the process of getting its multi-season ice capable vessel refitted for \$2.5 to \$3 million and they are considering doing it to a sister vessel, too.

SENATOR DYSON moved to report SJR 10, as amended, from committee to the next committee of referral with individual recommendations and attached fiscal notes.

CHAIR GIESSEL, finding no objection, announced that CSSJR 10(RES) moved from the Senate Resources Standing Committee.

[3:41:18 PM](#)

At ease from 3:41 to 3:43 p.m.

SB 54-EXTEND HAIR CRAB & SCALLOP LIMITED ENTRY

[3:43:09 PM](#)

CHAIR GIESSEL announced SB 54 to be up for consideration.

[3:43:50 PM](#)

CORA CAMPBELL, Commissioner, Alaska Department of Fish and Game (ADF&G), Juneau, AK, supported SB 54. She explained that the state manages most aspects of the crab and scallop fisheries in both state and federal waters under an agreement with the federal government and this bill would extend the Weathervane Scallop and Bering Sea Hair Crab based limited entry program for another 10 years. Focusing on the sustainability and conservation aspects of the program, she explained that the vessel-based program was born out of a need to ensure the sustainability of those two fishery resources. Originally, a conventional limited entry program was examined where permits are awarded to individuals, but it was inadequate for protecting the economic health and stability of these two fisheries and promoting sustained yield of the resource. To address these concerns, a vessel-based limited entry program was brought forward to the legislature and enabling legislation was passed in 2002 and that was extended in 2008.

She said these are the only two vessel-based limited entry programs in Alaska due to the unique nature of these fisheries and during the time that the program has been in place, it has worked well. The scallop limited entry program has provided an economically viable fishery and a sustainable fishery, which is what is most important to the department. The Hair Crab limited entry program is currently closed, but it remains in place so that if and when the fishery reopens she would have the ability to limit participation to ensure that fishery's continued sustainability.

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SENATOR MICCICHE said he is a limited entry permit holder and the transmittal letter warns about dire consequences that hadn't take place. He also understood that the intent of the constitution to not encourage corporate ownership of permits and asked what would protect other fisheries from being added to this type of program in the future.

COMMISSIONER CAMPBELL said this legislation specifically authorizes a vessel-based system for these two fisheries for particular reasons. So, it's not currently something that is authorized for other fisheries and for policy reasons it is very unlikely that it will be extended to other fisheries. However, with scallop fisheries you are talking about a fishery that is a dredging operation that is hard on bottom gear. So, a big part of the reason they looked at wanting to come up with a limited entry system that would effectively limit participation in this fishery is because they have an interest in seeing those resources harvested efficiently by an appropriate number of vessels and not necessarily allowing for unlimited expansion of the number of participating vessels.

[3:48:34 PM](#)

That is in contrast with some other limited entry programs like salmon where the desire of the state is to reduce barriers to entry and to make opportunity available to Alaskans that want to participate in those fisheries.

SENATOR MICCICHE asked if he wanted to enter the Weathervane Scallop fishery would he have an opportunity to buy one of the vessels or has it become difficult because of the corporate nature of the permit system.

COMMISSIONER CAMPBELL said the permits and the vessels are available for transfer and some have transferred since the beginning of the program. The scallop beds are on both state and federal sides of the boundary and the scallop fishery is also limited on the federal side. The state program is complimentary to a federal program that also limits entry in federal waters and most of the fishing activity takes place across those boundaries. So, there would be a need to buy into both programs if you wanted to have full access to the beds.

[3:50:01 PM](#)

BEN BROWN, Commissioner, Commercial Fisheries Entry Commission (CFEC), Juneau, AK, said the first bill for the Weathervane Scallop fishery passed in 1997 unanimously; there wasn't very much controversy about vessel-based limitation at that time.

That bill, House Bill 141, didn't create the vessel-based limited system, but it envisioned its creation at the same time the legislature put a moratorium on the entry of any new vessels into the fishery. The reason for that was dire concern about over-fishing. The dredges are not easy on the sea floor and there are by-catch problems with some important crab species that migrate through the scallop beds. The moratorium was established unanimously by the legislature to give time to figure out a way to manage it. Several years later, after the National Marine Fisheries Service (NMFS) imposed a federal scallop license limitation program, this legislature chose to pass legislation that gave the CFEC the tool of vessel-based limited entry.

Returning to Senator Micciche's question, Commissioner Campbell said there can't really be a slippery slope because the legislature would have to change the statute to allow vessel-based limited entry for any other fishery. And even if the CFEC commissioners wanted to do it, they would be powerless to do so without legislative action. But they have absolutely no interest in vessel-based limited entry for any other fisheries; it's just not required given the biological or economic characteristics of any other fishery.

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SENATOR MICCICHE said he had constituents from the fish trap days who are concerned for their own fisheries and thanked him for his answers.

MR. BROWN said bad fishing practices were going on back in the 90s, and the moratorium was driven by the collapse of the scallop fishery in New England when some of those boats came around and decided to fish in Alaskan waters. They were able to do so until the moratoria in the state and federal waters were put into place. That froze things in time, but it didn't answer the long term question of how to issue these permits.

The impediments to the fishery are financial as much as anything else; these are pretty large boats that require significant numbers of crew and operate 24/7 a lot of the time. There are some pretty stringent fisheries management plan provisions: onboard observer coverage, an inability to use mechanical shuckers and other measures to make sure the fishing capacity won't overwhelm the resource. When the bill passed in 2002, it didn't have a sunset like all the rest of the limited entry programs; it would have existed in perpetuity but for a five-year sunset that was put into place on the Senate floor at the

end of the process. When it came up for review five years ago, a bill to extend it didn't pass, so that provision was attached to another bill. So, they are now looking at a sunset at the end of 2013.

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MR. BROWN said the CFEC has a number of concerns, because of the likelihood that reversion to open access would require the managers to shut the fishery down on the state waters side and the remaining fishing would probably be shut down permanently in a short amount of time. They don't know what the feds would do, but it would upend the existing delegated management regime, because it would be somewhat anomalous to have the state managing the fishery in federal waters if the fishery wasn't being managed in state waters.

He summarized that they believe the program is working well and that those who hold the permits obtained them in a manner entirely consistent with the vessel-based limited entry provisions that were created in 2002 and some of those permits have transferred hands. They are fished and held in conjunction with the federal permits.

MR. BROWN said they can't speak to much of the legalities on the federal side of the line, but he could say that everything that is happening on the state waters side is legal and constitutional. If anyone really thought this program was too exclusive and violated the Alaska Constitution he, as an attorney, thought someone would have already litigated it. Or maybe it was just too expensive, but even if one were brought he was confident that Alaska Supreme Court would say no. It is not too exclusive and it is serving the biological and conservation purposes of the Limited Entry Act; and it's allowing fishermen who are depending on the economic return on the resource to make a living. He said they would hear from members both in and out of the cooperative. Of the initial number of permits issued, five are now active; three are being fished in the cooperative and two are independent.

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CHAIR GIESSEL opened public testimony.

JIM STONE, Alaska Scallop Association, supported SB 54, and said he is a partner/manager of three scallop vessels. He introduced Glen Michelson, partner who had been fishing for 30-plus years, John LaMar from Kodiak who had fished for 35 years, Erik Neighammer who also had fished for 35 years, and Shirley, the

wife of Tom Mineo, captain of the Provider who was sick, Bobby Mineo, and Mona Stone, his wife who does the marketing.

MR. STONE said he is a 35-year fisherman and fished Alaska crab, cod, scallops and salmon. He is currently the manager of three of the scallop vessels and the guy in charge of scallop sales. All three catcher freezer boats are home-ported in Kodiak. There are six partners, each one essentially owning half of a boat. These boats average about 100 feet in length and are quite expensive to own and operate. They fish with 12 crewmen and must carry required observers at a cost of almost \$400/day, which is going up soon. They burn 600 gallons of fuel/day that is about 19 percent in June; insurance has gone up by 42 percent this year. None of them can afford to own a boat by themselves and financially it makes sense for them to all work together.

They have done their due diligence to ensure that their ownership violates neither state nor federal rules. Conservation measures have forced this fishery from about 1.2 million pounds in the 90s to only about 400,000 pounds today. They applaud the fishery manager's stance on the side of precaution and in the name of sustainability.

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He said they are given very small crab by-catch amounts and must work together to avoid roving schools of crab. They are happy to report that the conservation record of ADF&G's management of the scallop fishery has not gone unnoticed. They have lobbied for many years with the Monterey Bay Aquarium Seafood Watch Program to rate Alaska Weathervane Scallops. Such a small fishery is not normally on their radar and has been un-rated by any third parties. When selling to the high end consumers and chefs these ratings are increasingly important.

With the help of ADF&G, University of Alaska and National Marine Fisheries in Anchorage, they have been able to prove their stance as a sustainable fishery in Seafood Watch's eyes as best alternative and have been invited to attend their cooking solutions in May for a three-day event where they will be afforded a golden opportunity to introduce Alaska Weathervane Scallops to hundreds of world-famous chefs. As a result of working together they have been able to get out to the culinary world and market themselves and have participated with seafood and fisheries events all over the state and up and down the West Coast, and recently in Vancouver, B.C. They frequently work side-by-side with the Alaska Seafood Marketing Institute (ASMI) and are pushing the Alaska brand name with them.

He said currently open scallop beds are 100 percent in federal waters with a couple of exceptions: one is in Shelikof Strait and the other off of Yakutat where small pieces of the three mile line go through the bed. So, about 10-20 percent of the total scallop catch comes out of state waters and the remainder out of federal waters. As a bit of historical perspective, they got in the position of needing legislative help in 1995 when a vessel from the East Coast found a loop hole in the regulations and was able to go out into the federal waters and fish scallops. ADF&G couldn't do anything and neither could NMFS. So they fished on and off for several months until NMFS found a way to stop them and then they left the state to never return. In 1996, as a result of this, the entire fishery was shut down, both federal and state, for an entire year. It was obviously devastating to the local fishermen. Department of Fish and Game (ADF&G) has made it clear that if the vessel limited entry program is not extended and it returns to open access that they will not be able to manage the fishery.

He referred them to the last two whereas provisions in the United Fishermen of Alaska Resolution that pertains the most to them.

CHAIR GIESSEL noted a letter in support of SB 54 from the North Pacific Fisheries Management Council (NPFMC).

SENATOR BISHOP asked how he could stay in business with insurance rates going up 42 percent a year. What is driving that?

MR. STONE answered that he assumed it was claims in the fishing industry; they are lumped in with other fisheries across the country normally going to London for insurance. Right now no one wants to insure fishing vessels; it's a difficult market. Their brokers told them to hold and maybe they would see a reduction next year.

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SENATOR MICCICHE asked how many other vessels are active in the fleet beside his three.

MR. STONE answered that four vessels have been in the fleet over the last few years: the Arctic Hunter, Ocean Hunter, Provider and Kilkenny Another vessel is owned by Max Hulls, who hasn't been fishing for four or five years.

[4:08:02 PM](#)

SENATOR MICCICHE said he bought his scallops regularly and they were incredible and he thanked him for his comments.

JOHN LAMAR, vessel owner, said a vessel just sold to someone on the East Coast. He thought they had been misled on the size of the stocks. The total allowable catch is 1.5 million pounds, but now they are catching 400,000 lbs. { He wanted them to know it was purchased and may come back into the fishery.

[4:10:08 PM](#)

ALEXUS KWACHKA, representing himself, Kodiak, AK, opposed SB 54. When they started there were 11 boats; now there are four only two of which are fishing in state waters. And it is a monopoly on the federal side. One of the beauties of the state fisheries is that you have to be an owner/operator and he didn't like the vessel-based limited entry system for the reason. Being an active participant is key. He said they are looking at rationalizing the Gulf for the trawl fisheries and he didn't want to see this ever slide into another fishery. The 10 years is inappropriate and if this goes forward a five-year sunset is more appropriate in terms of fixing it if it's wrong.

[4:12:18 PM](#)

CHAIR GIESSEL said he alluded to shortening the sunset to five years and asked what they had gotten wrong so far.

MR. KWACHKA said he was concerned about the participation in the state waters even though it's a small portion. Basically, a group of people has gotten together and consolidated and setting the precedent of a lack of potential opportunity by the monopoly on the federal side things because they hold the LLPs on that side, too. The idea is to have more opportunity and it's a cost prohibitive fishery to get into.

[4:13:27 PM](#)

BRENDEN HARRINGTON, representing F/V Kilkenny, Kodiak, AK, supported SB 54, He said the Kilkenny is the one independent scallop boat. He is a life-long Alaska resident and a life-long fisherman as well. He is 32 years old and been fishing out of Kodiak since he was nine in a lot of different fisheries. In 2009, seeing the way things were going in the halibut fishery they decided to diversify and bought one of the open scallop permits and boat. They employ eight people and theirs is evenly split between Kodiak and Homer residents.

He said the Weathervane fishery is small, but he was impressed with the level of oversight the state had managed to put together for the fishery and the degree of communication that exists between the fishermen and the regulators as well as the generally conservation-minded management of the fishery. He felt confident about the management and the future help of the scallop stock, which is a welcome feeling given the uncertain sectors of fisheries up here, like halibut.

[4:16:21 PM](#)

Their biggest worry since making the investment in the scallop fishery is the possibility of the expiration of the state limited entry permit at the end of the year. He is part of the new generation of fishermen who want to move away from boom/bust mentality of the past into the future where they take a smarter more sustainable approach to harvesting and husbanding the resources.

The current management of the weathervane scallop fishery is a good example of this new mentality of conservation and he feared the consequences of allowing the vessel-based permitting system to expire and open up the state waters to more boats, especially since the current licensing system was in direct response to irresponsible actors splitting loop holes in the previous regulations in order to fish unsupervised and unregulated with complete disregard for sustainability of the resource.

MR. HARRINGTON explained that they are different from the other boats in that they take the majority of their scallops from state waters, because only one other boat is fishing there. The others are fishing in federal waters.

[4:18:23 PM](#)

HENRY MITCHELL, representing himself, Fisheries Consultant, Coastal Villages Region Fund (CVQ group that owns numerous vessels), supported SB 54 saying a number of their vessels are the successors and interests through purchase of the vessels and permits to participate in the Bering Sea Hair Crab fisheries. He urged them to extend CFEC authority over the fishery so that they may be able to participate in it at some time in the future.

[4:19:34 PM](#)

STEVEN BRANSON, Crewman's Association, Kodiak, Alaska, opposed SB 54. It seems like a continuation of a de facto privatization of what should be a public resource. The state waters are a state resource. Although Kilkenny hires a local crew, the rest

are not so state-minded. The Alaska Constitution said the resources are for first and foremost for the people of Alaska. He said he would love to go scallop fishing with his small boat and dredge. If it must be extended, he urged them to do it for less than 10 years. He said he supported adhering to the total allowable catch, trip limits and gear restrictions; perhaps using smaller dredges would do less damage and allow more people to fish.

SENATOR DYSON asked if water conditions where they fish are such that small boats are disadvantaged in tough weather.

MR. BRANSON said yes, but state waters are within three miles and scallops are very prolific around Kodiak.

[4:23:11 PM](#)

SENATOR DYSON asked if many scallop boats fish other gear types as well.

MR. BRANSON answered that the Arctic Hunter switched around a little bit.

[4:24:17 PM](#)

SHIRLEY MINEO, representing Tom Mineo, Kodiak, Alaska, said he had fished 33 years in the State of Alaska for scallops. He now runs the Provider and is also part owner. It's a family business them; his father started fishing in the late 60s, and her daughter and son fish on the boat, as well. She stressed that it is a small fishery and this needs to be kept in place to sustain the fishery.

SENATOR FAIRCLOUGH said previous testimony indicated that they were hiring people from out of state.

MS. MINEO said in her group, one gentleman lives in Oregon.

SENATOR FAIRCLOUGH asked if he had ever lived here.

MS. MINEO said Steven had been on their boat for just a few years and had fished in other fisheries, but she didn't know that he had been an Alaskan resident.

[4:26:15 PM](#)

MAX HULSE, representing himself and the whole Hulse Family, Eagle River, AK, supported SB 54. He said they had been involved in Alaska fisheries, primarily scallops, since 1979. They had

been Alaskan residents since 1966 and were issued both state and federal scallop permits due to their historical participation.

The family started harvesting and packing scallops in 40 pound bags in ice, marketing the fresh scallops to wholesale outlets in the Anchorage area; more recently they flash froze them onboard in 5 pound blocks and marketed them to both Anchorage and Seattle. On the way, they built a small family-operated DEC-approved processing plant at his home in Eagle River and have shipped scallops for over 20 years to customers in a number of states. He also sold scallops at a road-side site on the Glenn Highway.

He said his son, Scott, first started fishing in Kodiak waters and lower Cook Inlet. He was instrumental in starting the Cook Inlet fishery for small boats using one six-foot dredge. His 1983 proposal to the Alaska Board of Fisheries was approved and the Cook Inlet fishery was opened.

MR. HULSE said he hoped to reenter the fishery after finishing vessel upgrades at the end of the summer. The boat is 79 feet and mainly relies on harvesting scallops in state waters. He said she has a crew of 10 and they are all from Alaska.

[4:29:31 PM](#)

GLEN MICHELSON, representing himself, Kodiak, AK, supported SB 54. He had fished in Alaska for 34 years; he had fished crab, salmon, scallop and Pollock. His grandfather and father fished Alaska before him and both of his sons fish in Bristol Bay; one has a permit. Now he is a relief skipper on the boats and has become a "port engineer" making sure the boats are properly maintained. Since the installation of the Kodiak Boat Lift in 2009 they can do most of their repairs in Alaska, which helps local businesses and saves them \$25,000 to \$30,000 in fuel and two weeks of running time per boat.

Someone mentioned a monopoly, but there are two boats fishing that are not affiliated. Last year they paid out \$1.6 million in crew share and spent \$850,000 in Alaska in fuel, \$480,000 in repairs and maintenance, \$135,000 in groceries and \$200,000 in supplies.

[4:31:54 PM](#)

SENATOR FAIRCLOUGH asked how the quota of 400,000 pounds is spread between vessels.

MR. MICHELSON replied that they don't have individual quotas; it's an Olympic style fishery.

MR. BROWN answered that "quota is bad word;" there is a "total allowable catch." Because of the limited number of participants in the fishery, it resembles something like a quota, but there is no guaranteed amount. The biologists determine a sustainable harvest amounts. Just a couple of weeks ago, the Scallop Plan Team, a joint state and federal group, held an annual meeting in Kodiak and prepared the Stock Assessment and Fishery Evaluation (SAFE) report; it is all biologically driven in terms of what they know were in any given bed and how much is being brought up on the state or federal side.

[4:33:35 PM](#)

CHAIR GIESSEL closed public testimony and held SB 54 in committee.

HB 36-EXEMPT DISCHARGES FROM USE OF MUNITIONS

[4:33:55 PM](#)

CHAIR GIESSEL announced HB 36 to be up for consideration.

[4:34:10 PM](#)

REPRESENTATIVE TAMMY WILSON, sponsor of HB 36, explained that in 2008 when the Alaska Clean Water Act was amended to its current form a problem was created with the state's long-standing comprehensive military munitions exemption. The proposed amendment in HB 36 clarifies AS 46.03.100(e)(7) such that it cannot be misinterpreted to restrict military exercises on ranges other than instances where the federal Clean Water Act would apply. It reduces the chance of litigation and trying to interpret "waters of the U.S.," which still has not been interpreted the same way.

REPRESENTATIVE T. WILSON said currently Alaska is the only state with this unclear interpretation of the Clean Water Act. If not amended, there exists the possibility that military ranges would need to curtail operations because of misinterpretations of Alaska law, even if the ranges are in compliance with federal law.

She said the amendment in HB 36 was vetted by the Environmental Protection Agency (EPA), the Department of Environmental Conservation (DEC), the Department of Defense (DOD) and the Alaska Department of Military and Veteran's Affairs (DMVA).

She said that HB 36 maintains primacy, protects the environment and allows military exercises to continue without potential litigation. It only adds "or service" so the Coast Guard is included; "otherwise regulated under 33 U.S.C. 1251-1376 (Federal Water Pollution Control Act), as amended" was just making sure the federal law and state law work together.

[4:36:10 PM](#)

GENERAL TOM KATKUS, Commissioner, Department of Military & Veterans Affairs (DMVA), Anchorage, AK, supported HB 36. He said the military is very important in the state of Alaska and this is one more step to clarify a structure that would provide a potential barrier to training and opportunities Alaska offers its military, especially in the areas of JBAR or any other training range.

[4:38:04 PM](#)

KEVIN WARD, Regional Counsel, U.S. Army Regional Environmental Office, Denver, CO, said he was speaking today on behalf of the Department of Defense (DOD) as well as the Alaska military services, and supported HB 36. This amendment clarifies that the Alaska Clean Water Act will apply to military ranges if they are regulated by the federal Clean Water Act. An ambiguity arose in 2008 when the act was amended for the Alaska DEC to obtain primacy from the U.S. Environmental Protection Agency (EPA). The current language that was added in 2008 speaks of "waters of the United States," but that term has been subject to much litigation including numerous decisions by the U.S. Supreme Court and other federal courts, numerous policies, regulations and guidance issued by various federal and other agencies. This language would allow consistency between the Alaska and federal programs while allowing the Alaska Department of Environmental Conservation(DEC) to retain primacy and be the decision maker regarding any permits.

[4:39:53 PM](#)

LIEUTENANT COLONEL JUSTIN TRUMBO, Western Regional Counsel, U.S. Air Force, San Francisco, CA, supported HB 36. He urged them to pass this important bill on behalf of all the Department of Defense, because it will help sustain military readiness training in Alaska and ensure that military ranges are operating in accordance with federal law.

[4:40:36 PM](#)

SETH BEAUSANG, Assistant Attorney General for the DEC, Department of Law (DOL), Anchorage, AK, was available to answer questions on HB 36.

MICHELLE BONNET HALE, Director, Division of Water, Department of Environmental Conservation (DEC) supported HB 36. She said this is just clarifying language that does not affect primacy for the Alaska Pollutant Discharge Elimination System Program.

CHAIR GIESSEL opened public testimony and finding none, closed it.

CHAIR GIESSEL asked if any concerns were expressed on the House side.

REPRESENTATIVE T. WILSON answered no and added that this issue had been vetted through Senate Resources last year.

CHAIR GIESSEL held HB 36 in committee.

4:42:41 PM

There being no further business to come before the committee, Chair Giessel adjourned the Senate Resources Standing Committee meeting at 4:42 p.m.