

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

March 15, 2013

3:32 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Lesil McGuire

COMMITTEE CALENDAR

CS FOR HOUSE JOINT RESOLUTION NO. 5(FSH)

Opposing the United States Food and Drug Administration's preliminary finding relating to genetically engineered salmon; urging further examination of genetically engineered salmon; opposing AquaBounty's petition to produce genetically engineered salmon; and proposing, if AquaBounty's petition is approved, that its product should be labeled as "genetically modified."

- MOVED CSHJR 5(FSH) OUT OF COMMITTEE

SENATE BILL NO. 60

"An Act relating to sea otter population management."

- MOVED SB 60 OUT OF COMMITTEE

SENATE BILL NO. 69

"An Act establishing the Alaska Chinook salmon research and restoration endowment fund and relating to grants from the fund."

- MOVED CSSB 69(RES) OUT OF COMMITTEE

SENATE BILL NO. 59

"An Act relating to approval for oil and gas or gas only exploration and development in a geographical area; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HJR 5

SHORT TITLE: OPPOSE GENETICALLY ENGINEERED SALMON

SPONSOR(s): REPRESENTATIVE(s) TARR

01/28/13 (H) READ THE FIRST TIME - REFERRALS
01/28/13 (H) FSH, RES
02/12/13 (H) FSH AT 10:00 AM CAPITOL 120
02/12/13 (H) Moved CSHJR 5(FSH) Out of Committee
02/12/13 (H) MINUTE(FSH)
02/13/13 (H) FSH RPT CS(FSH) 3DP 3NR
02/13/13 (H) DP: HERRON, KREISS-TOMKINS, SEATON
02/13/13 (H) NR: JOHNSON, GATTIS, OLSON
02/13/13 (H) RES REFERRAL WAIVED
02/20/13 (H) TRANSMITTED TO (S)
02/20/13 (H) VERSION: CSHJR 5(FSH)
02/21/13 (S) READ THE FIRST TIME - REFERRALS
02/21/13 (S) RES
03/13/13 (S) RES AT 3:30 PM BUTROVICH 205
03/13/13 (S) Heard & Held
03/13/13 (S) MINUTE(RES)
03/15/13 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 60

SHORT TITLE: BOUNTY ON SEA OTTERS

SPONSOR(s): SENATOR(s) STEDMAN

02/20/13 (S) READ THE FIRST TIME - REFERRALS
02/20/13 (S) RES, JUD, FIN
03/13/13 (S) RES AT 3:30 PM BUTROVICH 205
03/13/13 (S) Heard & Held
03/13/13 (S) MINUTE(RES)
03/15/13 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 69

SHORT TITLE: CHINOOK RESEARCH & RESTORATION ENDOWMENT

SPONSOR(s): SENATOR(s) OLSON

02/28/13 (S) READ THE FIRST TIME - REFERRALS
02/28/13 (S) RES, FIN
03/13/13 (S) RES AT 3:30 PM BUTROVICH 205
03/13/13 (S) Heard & Held
03/13/13 (S) MINUTE(RES)
03/15/13 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 59

SHORT TITLE: OIL & GAS EXPLORATION/DEVELOPMENT AREAS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/19/13	(S)	READ THE FIRST TIME - REFERRALS
02/19/13	(S)	TTP, RES, FIN
02/26/13	(S)	TTP AT 3:30 PM BUTROVICH 205
02/26/13	(S)	Heard & Held
02/26/13	(S)	MINUTE(TTP)
03/05/13	(S)	TTP AT 3:30 PM BUTROVICH 205
03/05/13	(S)	Moved SB 59 Out of Committee
03/05/13	(S)	MINUTE(TTP)
03/06/13	(S)	TTP RPT 2DP 1NR
03/06/13	(S)	DP: MICCICHE, MCGUIRE
03/06/13	(S)	NR: GARDNER
03/15/13	(S)	RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

JERRY MCCUNE, lobbyist

Cordova District Fishermen United

Cordova, Alaska

POSITION STATEMENT: Supported HJR 5. Did not support SB 60, because it would be illegal and there are other ways to address the sea otter issue.

HEATH HILLYARD, lobbyist

Southeast Alaska Guides Organization (SEAGO)

Sitka, Alaska

POSITION STATEMENT: Supported HJR 5.

JAMES SULLIVAN, lobbyist

Southeast Alaska Conservation Council (SEACC)

Juneau, Alaska

POSITION STATEMENT: Did not support SB 60 as written because it conflicts with Section 109(a) of the Marine Mammal Protection Act.

ROSITA WORL, President

Sealaska Heritage Institute (SHI)

Juneau, Alaska

POSITION STATEMENT: Supported the idea of the state helping to develop an industry around using sea otter pelts rather than the concept in SB 60.

LEE KADINGER, COO

Sealaska Heritage Institute (SHI)
Juneau, Alaska

POSITION STATEMENT: Did not support SB 60, but believed the state could help support various other programs like the sea otter project.

GREG BROWN, representing himself
Juneau, Alaska

POSITION STATEMENT: Did not support SB 60 saying that the future of the shellfish industry doesn't look good and it has nothing to do with sea otters; it has to do with ocean acidification and the ability to calcify their shells.

TINA BROWN, representing herself
Juneau, Alaska

POSITION STATEMENT: Opposed SB 60.

KATHY HANSON, Executive Director
Southeast Alaska Fishermen's Alliance (SEAFSA)
Juneau, Alaska

POSITION STATEMENT: Supported SB 60.

MAX WORHATCH, representing himself
Petersburg, Alaska

POSITION STATEMENT: Supported SB 60.

SENATOR STEDMAN
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of SB 60.

DAVID SCOTT
Staff to Senator Olson
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Commented on SB 59 for the sponsor.

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

POSITION STATEMENT: Provided an overview of SB 59.

BILL BARRON, Director
Division of Oil and Gas
Department of Natural Resources (DNR)

POSITION STATEMENT: Explained the department's concepts in SB 59.

WENDY WOOLF, Office Assistant
Division of Oil and Gas
Department of Natural Resources (DNR)
Juneau, Alaska

POSITION STATEMENT: Explained the current process of department approvals for oil and gas exploration and development involving SB 59.

JAMES SULLIVAN, lobbyist
Southeast Alaska Conservation Council (SEACC)
Juneau, Alaska

POSITION STATEMENT: Had concerns about SB 59.

ACTION NARRATIVE

[3:32:01 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 Dyson, Fairclough, French, Bishop, Micciche and Chair Giessel.

HJR 5-OPPOSE GENETICALLY ENGINEERED SALMON

[3:32:43 PM](#)

CHAIR GIESSEL announced HJR 5 to be up for consideration. [CSHJR 5(FSH) was before the committee.]

[3:32:48 PM](#)

JERRY MCCUNE, lobbyist, Cordova District Fishermen United, Cordova, Alaska, supported HJR 5. They are totally against genetically modified fish and want it labeled if it's approved.

[3:34:13 PM](#)

HEATH HILLYARD, Southeast Alaska Guides Organization (SEAGO), Sitka, Alaska, supported HJR 5.

[3:35:10 PM](#)

SENATOR DYSON moved to report HJR 5 from committee with attached fiscal notes and individual recommendations.

CHAIR GIESSEL announced that, without objection, CSHJR 5(FSH) passed from the Senate Resources Standing Committee.

SENATOR MICCICHE remarked that he had never heard a single statement in support of genetically engineered salmon.

SB 60-BOUNTY ON SEA OTTERS

[3:36:19 PM](#)

CHAIR GIESSEL announced SB 60 to be up for consideration, and noted that public testimony would continue today.

[3:37:06 PM](#)

JAMES SULLIVAN, Southeast Alaska Conservation Council (SEACC), Juneau, Alaska, said SEACC strongly supports the right of Alaska Natives to hunt sea otters for subsistence purposes and for the creating and selling of handicrafts and clothing as Section 101(b) of the Marine Mammal Protection Act (MMPA) allows. But SB 60, as written, conflicts with 109(a) of the MMPA that provides that no state may enforce or attempt to enforce any state law or regulation relating to the taking of any species of marine mammal within the state unless the secretary has transferred authority for the conservation and management of that species to the state under Section 109(b)(1). SB 60 is impermissible because the Secretary of the Interior has not granted the state management authority under 109(b)(1) of the act.

Regardless of how the bill is currently written, he stated SEACC believes that ecosystem-based management reliant on the best available scientific information is the proper approach to insure healthy and sustainable fisheries within the state of Alaska. He said SEACC does not support any type of bounty system, however written.

[3:38:51 PM](#)

ROSITA WORL, President, Sealaska Heritage Institute (SHI), Juneau, Alaska, said she is also on the board of the Alaska Federation of Natives and serves as the Chair of its Subsistence Committee; she is also a Harvard trained anthropologist and has done 30 years of research throughout Alaska and the Circumpolar Arctic. So she has some knowledge of subsistence.

She introduced other members of the Institute who were all wearing sea otter products and provided written testimony along with a report on SHI's cultural and economic sustainability through traditional arts that she would leave for them. It provides an outline of their sea otter project and offers a number of recommendations that could lessen their impacts on commercial and subsistence resources.

MS. WORL said they appreciate the impacts from sea otters on the commercial fisheries, and their own tribal members are advising them of the impacts on subsistence resources. However, she was

concerned that this legislation was not the solution to the reported impacts. It could ultimately, if it were found to be legal and implemented, undermine their efforts to address the impacts in a positive way and possibly threaten a sustainable sea otter population.

She said from the onset that the harvest they are supporting will be well within the presently known scientific potential of a logical removal level from data provided by the Fish and Wildlife Service and their harvests area are also initiated in areas that are identified by the Alaska Division of Fish and Game. In addition, they are governed by their own traditional values: honoring and respecting the environment as they use the resources, protecting the environment and the resources for future generations, using traditional knowledge and incorporating new or scientific knowledge into their practices.

Through the state of Alaska's support, she explained how SHI expanded its sustainable arts program to include sea otter. Basically, the project will support the harvest of 250 sea otters annually over a three-year period and includes the tanning of sea otter hides in an Alaskan tanner and the instruction of skin sewing to 50 individuals. They believe that this project can alleviate the impacts that are evident in their region while at the same time providing revenues to individuals in economically depressed communities who often have no other alternative to gainful employment. It will also allow them to revive ancient traditions that were near extinction as a result of the decimation of the sea otter population under the Russian occupation. She showed one of the hats that were just made in one of their classes in Kake.

[3:42:50 PM](#)

LEE KADINGER, COO, Sealaska Heritage Institute (SHI), Juneau, Alaska, said the "bounty bill" may not be the best vehicle and that they believe there are other ways the state can help support various programs like the sea otter project. One of the issues they have been having is with the definition "significantly altered;" for instance, some federal agents will say his hat is not significantly altered, and the state's resources could help them clarify that these items before them are significantly altered and can enter the retail market. "Who would start a business if you are always in fear that you would be arrested for making a hat like this? And that's exactly what the situation is," he said.

The \$28,000 fiscal note would allow them to expand their project and enter further communities - into the Aleutians up north, if need be - and throughout Southeast Alaska to make a more statewide presence.

Finally, Mr. Kadinger said they could expand the marketing of sea otter products. From an economist's standpoint, rather than pushing supply, they would pull it through larger demand; more people interested in purchasing sea otter products would lead to more sustainably harvested sea otters.

[3:44:38 PM](#)

SENATOR DYSON asked if there are areas in Southeast that they don't utilize for harvesting 250 otters.

MS. WORL said the Alaska Department of Fish and Game (ADF&G) identified Petersburg, Kake, and Yakutat as areas they thought would be helpful to fishermen and other people, but they have concentrated primarily in Yakutat. Harvesting is not allowed in Glacier Bay, so that population is growing. It's also a matter of recruiting hunters and they had not been as successful in Kake where they would like to have a little more harvest as well as in the Prince of Wales (POW) area.

SENATOR DYSON asked if they object to bounty hunters doing what SHI is not able to do in areas where folks are not hunting at all.

MS. WORL responded that they don't support bounty hunting. According to their historical values and federal law, there has to be some use of the animal.

SENATOR DYSON related that beaver are a problem in his area and ADF&G would let people trap there, but the hides are not worth enough to make it economic. So, people contribute a "bounty" to incentivize trappers to get rid of the nuisance. Is she not open to that type of management?

MS. WORLAND replied saying that she would have to go back to the development of a market. A market can be created; they have tested it successfully in Santa Fe, which is the largest Indian market.

[3:48:00 PM](#)

SENATOR FRENCH said this issue is covered by federal law and they struggle with how to increase the number of sea otters that

can be legally taken by Natives for subsistence purposes. What is holding Native individuals back from taking more sea otters?

MS. WORL replied a couple of things; it is costly to go out and hunt for one. They have introduced in federal legislation a subsistence support production program that would help hunters for food some security to offset the price of their oil. Her program offers a potential solution if they can accept that the scientific numbers will allow them to harvest an additional 1,300 sea otter. Those areas of abundance could be targeted.

[3:49:24 PM](#)

GREG BROWN, representing himself, Juneau, Alaska, said the future of the shellfish industry doesn't look good and it has nothing to do with sea otters; it has to do with ocean acidification and the ability to calcify their shells. This is not the first issue that has ever come up with sea otters around the world. In fact there are dozens. For instance, Southern California had all the same issues we have and they decided to embrace the sea otters as opposed to harvesting them. They were able to grow it to a \$150 million business. The City of Santa Barbara alone employs over 388 people in the sea otter viewing business. Their financial report said for every dollar they lost in the shellfish industry they made two dollars back in the viewing industry. Today, viewing is a \$50 billion industry in the U.S. and its growing by 6 percent a year and looking back, it's totally recession proof, too.

MR. BROWN proposed that they should put a bill together to either buy out the shell fishermen or help them transition to a maritime industry with a growth future. A computer analysis of the industry showed that it would be flat at best in 24 years. Whereas wildlife viewing in Alaska is a \$600 million industry today and it will be well over \$2 billion in 24 years.

[3:51:34 PM](#)

Further he said, if SB 60 passes, they would just be back here in a few years saying there's not enough shellfish and that the bounty should be raised to \$500. Rewriting the bill to be constructive would give a lot of nice people in the shellfish industry a job in a growth maritime industry.

SENATOR FRENCH asked him to talk a little bit about his background on the economic advantages of wildlife viewing versus harvesting.

MR. BROWN said for most of his career he ran billion dollar corporations; he was president and CEO of Siemens and Schneider in Latin American and Canada (largest electrical business in the world). He retired a few years ago and moved to beautiful Juneau, Alaska, and runs a business called "Weather Permitting Alaska," an environmental investment business that invests in alternative energy and other things. He is actively in a whale watching business and that is one of the most incredible businesses he has ever seen. They have 80 percent ROI and the growth is incredible; they are booked all the time. Wildlife viewing is one of the best growing businesses in the world.

SENATOR DYSON asked if that \$600 million in the viewing industry was from cruise ships.

MR. BROWN replied that figure included everything: Denali is about \$200 million; Southeast is about \$300 million, and about \$100 million in the Kenai.

SENATOR DYSON asked if the implication was that our commercial fishermen here could all transfer to another job and learn to take out tourists.

MR. BROWN replied only the shell fishermen, not the commercial finfish industry.

[3:54:29 PM](#)

JERRY MCCUNE, lobbyist, Cordova District Fishermen United, Cordova, Alaska, said it was good to have this issue on the table even though a bounty in addition to being illegal isn't necessarily the way to go. Sea otters had rebounded "big time" in Prince William Sound after the oil spill. His problem is with the federal agency that he has been asking for a population assessment from for years. If the sea otter population gets down to where it should be, then you get into the Marine Mammal Protection Act and all kinds of trouble. That happened in the Aleutians.

MR. MCCUNE said he wasn't blaming all the problems on sea otters; there were earthquakes, ocean warming and other things. He hadn't had a dungeness fishery for a long time, but he could tell them that the little crabs go into the shallow water and get eaten fast; the shells on the islands are half a foot deep from sea otters. Sea otters need a lot of food to survive and once they eat themselves out of an area, they move on, and they are moving down toward Yakutat now.

He said sea Otters are at an all-time high in Prince William Sound and he was not advocating killing them off, but he wanted to push the federal agencies to do a better job of managing them not just protecting.

He also took exception with the shellfish industry that is still viable in Southeast because it had already crashed in Yakutat. The Bering Sea is still thriving, because it's very deep, so sea otters have a hard time getting down that far. Basically he thought there is room for both and this conversation is very useful.

[3:58:19 PM](#)

TINA BROWN, representing herself, Juneau, Alaska, opposed SB 60. She said sea otters are a key-stone species that are necessary for a healthy near-shoreline ecosystem for some sea mammals, birds and finfish including salmon and herring. Because of the near extermination of sea otters during the Russian trade, no one alive today has seen a healthy Southeast Alaska near-shore ecosystem (confirmed by all sea otter biologists).

When sea otters are present sea urchins are kept in check and kelps flourish providing habitat for fishes, marine birds, mammals; the finfish industry can actually benefit from the presence of sea otters. They also reduce greenhouse gases, which benefits everyone.

She explained that sea otters have a narrow limited home range and unsupervised take like this bounty proposes could cause unsustainability. Whether the Southeast population is at optimum sustainable population is not known and may even be a candidate for the MMPA right now.

MS. BROWN said that ADF&G is doing sea otter studies and had a sea otter symposium last February 21. Sea otter numbers in the Aleutians are low and it's irresponsible to encourage take in those areas. SB 60 disregards the large and growing tourism industry; sea otter viewing is popular and lucrative. Allen Marine in Sitka started out with sea otter viewing.

MS. BROWN said this bill is getting negative attention nationally already; it seems to support circumventing the MMPA for predator control and Alaska already has a tarnished image.

[4:00:55 PM](#)

KATHY HANSON, Executive Director, Southeast Alaska Fishermen's Alliance (SEAFA), Juneau, Alaska, supported SB 60. This

legislation is a possible way to help manage the ecosystem and maintain a sustainable shellfish industry and sea otters in Southeast Alaska, she said. If sea otters continue to grow the way they normally do, they will expand into other areas quickly and then starve themselves out. At the point your shellfish resources in the area have been killed off.

When she started SEAFA 10 years ago, she talked to the Fish and Wildlife Service who basically said sea otters would grow, die off, and the population would stabilize. She asked about the shellfish resources and was told they would need to be listed on the Endangered Species Act. That is what commercial fishermen are concerned about; they don't want to totally do away with every single sea otter, but they want to find a nice level where everyone who likes to eat shellfish can do that as well as view sea otters.

SENATOR BISHOP suggested going through Russian/American Company shipping logs for information on sea otter pelts to establish a baseline.

MS. HANSON said she knew of one Fish and Wildlife biologist who was looking for funding to do that.

[4:04:09 PM](#)

MAX WORHATCH, representing himself, Petersburg, Alaska, supported SB 60. He said he has been a dungeness fisherman for over 20 years and had seen firsthand what otter predation can do to productive crab grounds. The economic loss is very apparent already and this is a positive way the state can address the impact of otter predation on valuable state resources.

CHAIR GIESSEL found no further testifiers and closed public testimony.

[4:05:20 PM](#)

SENATOR STEDMAN said he represented District Q, which is mainly coastal Southeast, and he recognized there are some legal issues to work on and hoped they could be addressed in the Judiciary Committee. He also recognized that this issue is in the early stages of discussion and he looked forward to any recommendations that the committee wants to put forward. It's timely that the State of Alaska stands up for the people in the state; it's getting to the point where a lot of residents in the outlying communities are suffering. There is interest from the Sealaska Heritage Foundation in creating sea otter products, but they are having problems doing that as evidenced by the

"significantly altered" hat that didn't qualify - and you can't even put a zipper in a vest!

[4:06:52 PM](#)

SENATOR MICCICHE thanked the sponsor for opening this discussion that is social, nutritional and cultural as well as economic. Speaking for South Central Alaska, he said that mollusks and crustaceans have literally disappeared where they were counted on by families 30 years ago. He appreciated Senator Stedman bringing it up as a great way to get some attention and start a discussion about a plan forward for Alaskans. He had a problem with how quickly people are ready to write off generations of commercial fisheries where people have been involved for generations.

SENATOR DYSON said he wanted to be identified with those previous remarks. Maybe they should think about ranking different industries and ways of making a living. For him providing good food and using the animal for an industry outranks providing good entertainment. He also agreed that the legality of SB 60 should be discussed in the Judiciary Committee.

SENATOR STEDMAN said he took that advice seriously; "bounty" connotes wild and crazy people shooting up things and that is not what they want to talk about.

[4:09:55 PM](#)

SENATOR FRENCH said he appreciated Senator Stedman's remarks, but he still thought there was a way to work within the committee to help with things like the fuel costs so more sea otters could be harvested legally.

[4:10:31 PM](#)

SENATOR DYSON moved to report SB 60 from committee to the next committee of referral with attached fiscal note and individual recommendations.

CHAIR GIESSEL announced that, without objection, SB 60 passed from the Senate Resources Standing Committee.

SB 69-CHINOOK RESEARCH & RESTORATION ENDOWMENT

[4:11:17 PM](#)

CHAIR GIESSEL announced SB 69 to be up for consideration and noted that public testimony was closed.

[4:11:37 PM](#)

SENATOR MICCICHE moved Amendment 1.

28-LS0596\A.1
Bailey

AMENDMENT 1

OFFERED IN THE SENATE

BY SENATOR MICCICHE

Page 5, line 26, following "Board":

Insert "and the National Fish Habitat Board"

SENATOR FRENCH objected for explanation purposes.

SENATOR MICCICHE explained that it inserts "and the National Fish Habitat Board" on page 5, line 26, following "Board". He had had some involvement with that board and the reality is that the state could take advantage of some additional federal funding to supplement its investment.

[4:12:50 PM](#)

SENATOR FRENCH said he thought that language on page 5, line 26, just urges the National Pacific Research Board to consider the process and structure of the National Fish Habitat Board at the same time it considers adopting its own regulations.

SENATOR MICCICHE agreed and explained that a project's ranking in the Fish Habitat Board process is important and if two are evaluated together they would both likely be eligible for the other funding as well.

SENATOR FRENCH asked if the bill sponsor supported the amendment.

SENATOR MICCICHE answered that the sponsor supported it as well as the department.

SENATOR FRENCH withdrew his objection.

CHAIR GIESSEL, finding no further objection, stated that Amendment 1 was adopted.

[4:14:13 PM](#)

DAVID SCOTT, staff to Senator Olson, said the sponsor of the bill is aware that the sponsor of the amendment is a commercial fisherman and he trusts his judgment on that. He summarized that

there is a very real sense across many parts of the state about what's wrong with our King Salmon and this measure is trying to help people get a grip on what is going on with their resource.

[4:15:17 PM](#)

SENATOR DYSON moved to report SB 69, as amended, from committee with attached fiscal note(s) and individual recommendations.

SENATOR MICCICHE objected to say there may be a discussion taking place in the Finance Committee about the funding mechanism. He removed his objection.

CHAIR GIESSEL found no further objection and announced that CSSB 60(RES) moved from the Senate Resources Standing Committee.

SB 59-OIL & GAS EXPLORATION/DEVELOPMENT AREAS

[4:16:42 PM](#)

CHAIR GIESSEL announced SB 59 to be up for consideration.

DAN SULLIVAN, Commissioner, Department of Natural Resources (DNR), Juneau, Alaska, provided an overview of SB 59. In the broader context he said arresting the TAPS throughput decline is the most urgent issue facing the state economically.

[4:17:54 PM](#)

Enhancing Alaska's competitiveness across a whole number of areas, in particular tax reform, also includes promoting Alaska's resources and resource base throughout the entire world, and facilitating and incentivizing the next phase of North Slope development. Another key element of that comprehensive strategy is ensuring a permitting process that is more efficient, timely, and more certain, and that is what SB 59 is focused on.

[4:19:10 PM](#)

COMMISSIONER SULLIVAN said in talking to different companies throughout the country and the world the issue of competitiveness comes up, but the issues of permitting, timeliness and certainty of Alaska's permitting system also come up. Repsol recently had very senior officials come in from Madrid to talk about a number of things and they saw the work the legislature has taken up regarding taxes and permitting reform, particularly as they looked at moving into development.

He said that one of the other things he has testified previously on was the Governor's Comprehensive Permitting Reform

Modernization Plan and that includes an entire suite of permitting reform efforts that has very strong bipartisan support. Whether it's TAPS throughput, gasline commercialization off the North Slope, Interior energy plan, Cook Inlet energy issues, strategic and critical minerals, the work they are trying to do on permitting reform and modernization touches all of those critical interests of the state.

COMMISSIONER SULLIVAN said it is encouraging when you start to see things move. Last week he put out a press release because the Frasier Institute that does an annual survey of mining competitiveness had moved Alaska up in its ranking significantly, and for two major reasons: the statewide mineral assessment and the significant improvements in labor and skilled force training in the mining sector (which Senator Bishop had a lot to do with).

[4:22:31 PM](#)

He said the state certainly wants to maintain its high standards of environmental protection and encouraging responsible development, but none of the governor's bill diminishes from that. He explained that there has also been the issue of public input and this goes to leases that have already been determined through best interest findings that there is going to be oil and gas development; the leases have already been issued. The best interest findings have an enormous public input process. This is trying to get public input at the beginning of exploration phases and at the beginning of development phases; it is in many ways more meaningful than at the smaller points throughout each of the phases. This also brings certainty to exploration and development which is not only good for the public to know what's happening, but it does encourage more investment and it's good with regard to industry's outlook on developing responsible resource development in the state.

[4:24:11 PM](#)

COMMISSIONER SULLIVAN said that Representative Hawker brought up a good point on the companion bill in House Resources that DNR arguably already has the authority to do this. But that authority is not clear and he wants it absolutely clear that the department has the authority from the legislative branch rather than going to court.

[4:26:07 PM](#)

SENATOR BISHOP asked how much the gap in permitting time would close from enacting this legislation.

COMMISSIONER SULLIVAN answered that it closes up public notice times that are 30, 60 and 90 days currently. He explained that a lot of their permitting reform efforts are focused on making a very comprehensive public input process up front at the exploration phase and the development phase with very specific parameters within those plans that are approved by public notice and comment rather than changing something in the middle of the plan - so everyone knows where the certainty is. But they think it might have a much more positive impact than just the specific window of days that are being removed.

[4:28:23 PM](#)

BILL BARRON, Director, Division of Oil and Gas, Department of Natural Resources (DNR), said over the last several years they had tried to take a real hard look at land management issues and processes they can modify to encourage dialogue, transmission of information and data between the public sector and the private sector. In this bill they are trying to figure out another tool to manage state land.

One of the common themes they have heard in several discussions with the North Slope Borough, specifically, is that they really want to understand on a broader basis what will happen in a geographic area rather than a project by project approach.

MR. BARRON said they took a page out of their play book from area wide lease sales in which they go through a robust discussion and identify state lands that would be made available for state leases for oil and gas development. The understanding is that this land well be developed and it's really a question then of how to develop it.

The next logical step is to identify smaller areas for exploration and even smaller areas for development than the area wide lease is. The public would engage upfront with a broader understanding of the activities that could take place and probably will take place and be able to identify areas of concern (before plans are approved) and let the identify mitigation issues and set standards for companies. He said this is not something they would do across all state lands; it's just a tool they would have available.

[4:32:54 PM](#)

WENDY WOOLF, Office Assistant, Division of Oil and Gas, Department of Natural Resources (DNR), said she would go through how exploration and development activities are approved today and how this bill will change the process.

She started with how they offer lands for sale and explained that the department has five oil and gas lease sales in the state: the North Slope, the Beaufort Sea, the North Slope Foothills, Cook Inlet and the Alaska Peninsula. These are the area wide lease sales the bill is addressing.

She said that SB 59 takes the statutory requirement to provide a public notice at the beginning of each phase of a multi-phased project and clarifies that DNR can review the phase in each geographic area. In this context, "project" is not the individual activity on the land; it is oil and gas development in general, because the "project" is the lease sale area.

She said the best interest findings indicate the department is going to do a multi-phased project review, the first phase being a lease disposal phase, the second phase being exploration and the third phase being development. When the word "project" is used in this context it means a general project not one that is site specific. The last one is actually transportation, which is the pipelines.

MS. WOOLF said their best interest finding is when they decide that oil and gas development will occur in the area and it is done at the initial leasing phase. The question then becomes how oil and gas development will occur and that's done through the exploration and development phase decisions. This bill allows them to take a look at a broader geographical area when evaluating exploration and development, but it will not change how they evaluate the transportation phase.

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MS. WOOLF explained that this measure will allow the public to look at exploration and development across the broader geographic area and provide input about how a particular area should be developed before the development occurs. They can identify their concerns at the very beginning before they need to respond to a project that is already happening in their neighborhood.

She said industry benefits by knowing what parameters they need to operate under while they are in the design phase of their site-specific activities and coming forward with their plan of operation. So they submit a plan of operation that is in compliance with not only the lease mitigation measures that come out in the best interest finding, but in compliance with an

exploration decision that says these are the parameters under which you can explore.

In the event that a project doesn't meet the parameters, the department would go out for another public notice and comment.

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MS. WOOLF explained that the best interest finding is a broad public process: it has extensive public and state/federal agency participation and the impacts associated with oil and gas development are evaluated based on statutory criteria. The resulting decision has concrete mitigation measures that the operators who are successful in acquiring leases in the area must comply with. It also says they are doing a multi-phased project review, so that it is only addressing the leasing phase. Before subsequent phases are approved, the division would do a public notice of opportunity to comment. Those phases are defined in statute as "exploration, development, and transportation."

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To implement that requirement, the public is accustomed to the department taking the requirement to provide public notice and opportunity to comment at the beginning of an exploration or development phase down to a site specific activity on a lease by lease basis from a particular operator. And what happens is that the lease is disposed of in the lease sale and then the lessee will come in probably a few years later with a plan of operation for their seismic program (that may go across multiple leases). The department would go out to public notice for comments and come up with approval for their seismic program that includes any special stipulations that might be necessary.

If they are successful with that, the operator will come in with their next plan of operation for an exploration well; again the department will go out with a public notice of comment and issue the approval for the plan of operation for exploration. If the same operator wants to come in with another exploration plan - even for the same lease - the department will go out again for another public notice and comment before approving it. If the operator is successful and has a discovery, they will come in and describe their conceptual development plans, but then at the point that they come in with their actual plan of development for their initial development the department will go out with the public review.

After that public comment period and the plan is approved, if the operator needs to modify it, they will go out with another public notice, even though it is in the same area being developed and do another public notice with comment before approving the modified plan.

Pipeline applications will continue being a separate process and is dealt with in a separate statute; that won't change.

If the operator is successful and wants to have enhanced recovery or additional development (a satellite pad), even in a fully developed lease, the department will go out with another public comment period.

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If the adjoining lease's operator comes in and wants to put an exploration well in, the process is started over again, even though the lease to the north is in full development. Then when they come in with a development plan, again, the department will go out for a public notice and comment before approving the plan of operation. Transportation will continue to be noticed separately. As Ms. Woolf said, that is how the process works today and it's very redundant if you're in a small geographic area. If you're in a totally separate area it's not.

MS. WOOLF explained that when you're talking about a geographic area where there's activity going on, it's nice to be able to look at something much more holistically than to focus on each individual project. In the past the public has wanted to know more about what is happening in an area before they even provide comments for the first plan.

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Under SB 59, operators' plans would still have agency review (as today). The development phase goes through a public notice period and the activities are described; a phase analysis is done when the department has a conceptual plan of development from an operator. When the plans are implemented, subsequent public notices will occur. The pipeline applications will continue to have their separate public notices.

MS. WOOLF said it's important to remember that the plans of operation are not automatically approved by these phasing decisions. The department is required to review them to make sure they are in compliance with the regulations, the mitigation measures and sister agency comments. Part of what these decisions will allow the operators to do is to plan ahead and

hopefully by the time the department gets the plans of operation its concerns will have been addressed.

So, at the end of the day, the department would come out with their exploration phase decision and have a public notice and comment on a little geographic area. They'd go through the process and come up with the special stipulations, and then when an operator comes in with their particular plans of operation for their exploration phase, those pieces could go through without public notice. The plans will still require approvals, but they won't require the public notice.

She explained that the department goes out with a decision for the development phase outlining all the criteria and the parameters, but once they have gotten through that process, each individual plan of operation that is implementing the development plan can proceed without the additional public notices. As always, any time there are changes or concerns in the plans of operation that weren't considered in the first phase analysis they can always go out with individual public notices for them. This is just a tool the department can use; it's not a requirement, so it doesn't prevent them from going out individually.

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MS. WOOLF said the time savings will be for both the state and the companies, because now they may go out for an agency review and then the public notice and comments; and then they tell the company their concerns and how to address them. For the state that takes 30-60 days, but it might take 6 months for the companies, because they have had to modify their plans to incorporate those concerns. She said they are trying to provide certainty for everybody going into a development. In the beginning industry can also say it can't comply and come up with some other plan, and then the department would see if it could go forward or not. This is really about how development occurs on state land; it doesn't change any of the other regulatory processes that exist and it doesn't change the opportunity to appeal a decision the department has made in error. Those decisions are being more accessible, but they are public and anyone can come in and look at them.

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SENATOR FRENCH asked her to compare slides 6 and 9. On slide 6 it looks like there are seven opportunities for public notice and comment in the normal course of a lease and exploration and

development plan that, but slide 9 looks like there would be only two opportunities under this bill.

MS. WOLF replied yes, but he was omitting the important initial opportunity at the best interest decision. It's important to remember the extensive notices those go through and the lengthy mitigation measures that are put in place. In order for an operator to even submit his plan, he has to go through each mitigation measure in that area and tell her how they are complying with it.

SENATOR FRENCH said in slide 6 that would be something that happened before the final finding of the director.

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MS. WOOLF said that was correct. She added that every year they go out to ask for any new information in the sale areas that could be needed for their best interest findings. At that point the public could say there is way too much exploration going on and why.

SENATOR FRENCH asked how much area they are covering with the second phase after the best interest finding.

MR. BARRONS said he couldn't answer that question yet, because they are trying to basically put out a systematic approach towards this process. They intend to fully to establish those areas through a regulation process. So, they would engage the public upfront. For instance, someone could come in through that process and ask for a larger area to be broken into smaller portions and the department could do that. He explained that the area wide lease sale is "pretty darn big" and the exploration areas should not be as big (although it should be fairly big because the impacts are ice roads and ice pads and very limited exposure kinds of operations). They really want to concentrate on the development portion and those areas could be incredibly small like the size of a single unit.

SENATOR FRENCH commented that this will have some strong and fantastic applications on the North Slope where there are few people and few other impacts, where 95 percent of the state would say yes, let's explore this. But he thought there would be more conflicts in the Cook Inlet where there are more people and more recreational and hunting/fishing users. His concern was giving the department a huge new opportunity to develop without that same amount of public input in densely populated areas.

MR. BARRONS said he appreciated that insight and that they had considered that. Even now some people come in with an amendment to their plan that is too great and the department has required them to go back out for public notice and comment and that would still be the practice of the division. He explained that they might choose not to do it in multi-use areas; Kenai's east side would be a good example. But this would be a great tool to use on the west side, which has a less dense population. They are just trying to get the clear authority to use it.

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SENATOR MICCICHE cautioned him to not use the word "Kenai" too broadly and that "middle of the Inlet" would be a perfect application. The process in SB 60 was a safer way to understand the larger environmental community impacts and he liked that. He also liked that it is separated in phases and the public would be lot more comfortable knowing it does require a new evaluation for significant scope or impact changes. Best, he liked the added efficiency, because if you're doing the same thing, it's not only more efficient for human resources at the department but also for NGOs and individuals who are looking at a larger area.

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CHAIR GIESSEL asked Mr. Barron if he had been operating under this method and felt that he had this authority already, but wanted it clarified in statute.

MR. BARRON replied no; they had been doing exactly as Ms. Woolf described: the public process at every step. But they want to make sure they understand clearly what this body wants them to operate.

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JAMES SULLIVAN, lobbyist, Southeast Alaska Conservation Council (SEACC), Juneau, Alaska, said he was becoming more uncertain about how SB 59 would affect large portions of the state the more he heard the department's presentations. It's particularly problematic to not be able to comment on changes within a small geographic area (as the public is currently allowed) and how this would be applied in the Cook Inlet area in particular.

CHAIR GIESSEL thanked everyone for their testimony. She closed public testimony and held SB 59 in committee.

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Finding no further business to come before the committee, Chair Giessel adjourned the Senate Resources Committee meeting at 5:03 p.m.