

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

April 12, 2013
3:30 p.m.

MEMBERS PRESENT

Senator Cathy Giessel, Chair
Senator Fred Dyson, Vice Chair
Senator Peter Micciche
Senator Click Bishop

MEMBERS ABSENT

Senator Lesil McGuire
Senator Anna Fairclough
Senator Hollis French

COMMITTEE CALENDAR

CS FOR HOUSE JOINT RESOLUTION NO. 16(RES) AM
Relating to the National Ocean Council, the development of a
national ocean policy, and coastal and marine spatial planning.

- MOVED CSHJR 16(RES) AM OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HJR 16

SHORT TITLE: NATIONAL OCEAN POLICY

SPONSOR(S): REPRESENTATIVE(S) SADDLER

04/01/13	(H)	READ THE FIRST TIME - REFERRALS
04/01/13	(H)	RES
04/08/13	(H)	RES RPT CS(RES) NT 5DP 3NR
04/08/13	(H)	DP: JOHNSON, P.WILSON, SEATON, SADDLER, FEIGE
04/08/13	(H)	NR: TUCK, OLSON, TARR
04/08/13	(H)	RES AT 1:00 PM BARNES 124
04/08/13	(H)	Moved CSHJR 16(RES) Out of Committee
04/08/13	(H)	MINUTE(RES)
04/10/13	(H)	TRANSMITTED TO (S)
04/10/13	(H)	VERSION: CSHJR 16(RES) AM
04/11/13	(S)	READ THE FIRST TIME - REFERRALS
04/11/13	(S)	RES
04/12/13	(S)	RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

REPRESENTATIVE DAN SADDLER
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Sponsor of HJR 16.

RICK ROGERS, Executive Director
Resource Development Council
Anchorage, Alaska
POSITION STATEMENT: Supported HJR 16.

DOUG VINCENT-LANG, Director
Division of Wildlife Conservation
Alaska Department of Fish and Game
Juneau, Alaska
POSITION STATEMENT: Supported HJR 16.

JULIANNE CURRY
Executive Director
United Fishermen of Alaska
Juneau, Alaska
POSITION STATEMENT: Supported HJR 16.

ACTION NARRATIVE

[3:30:19 PM](#)

CHAIR CATHY GIESSEL called the Senate Resources Standing Committee meeting to order at 3:30 p.m. Present at the call to order were Senators Bishop, Micciche and Chair Giessel.

HJR 16-NATIONAL OCEAN POLICY

[3:30:43 PM](#)

CHAIR GIESSEL announced HJR 16 to be up for consideration. [CSHJR 16(RES) AM was before the committee]

REPRESENTATIVE DAN SADDLER, Alaska State Legislature, Juneau, Alaska, sponsor of HJR 16, said the resolution urges the National Ocean Council (NOC) to exempt the State of Alaska from an imminent and far reaching new federal policy that manages and zones activities in marine and coastal areas. He explained that President Obama created the National Ocean Council in 2010 and gave the council broad authority to create a new national policy. NOC would ensure the protection, maintenance, restoration, and health of the oceans, coasts, Great Lakes

ecosystems and resources. He noted that NOC would also respond to climate change and ocean acidification.

REPRESENTATIVE SADDLER said the key element of the new NOC policy is to develop coastal and marine spatial plans. The new NOC policy would actually determine what could or could not be done in oceans and coasts. NOC would also affect upstream inland areas that are many miles from the marine coastal areas. The prospective activities affected by NOC would include: oil, gas, renewable energy development, fishing, subsistence activities, mining, timber, transportation, and tourism. He asserted that the higher population density in the Lower 48 and the well documented conflicts between user groups might receive some benefit from NOC. He said Alaska did not need additional layers of comprehensive federal planning and management. He said increased bureaucratic burden from federally imposed policies had not been documented to work. He noted that it was not clear that the resources were available through appropriate appropriations channels for NOC to be executed. He said NOC released its National Ocean Policy Implementation Plan in January 2012 with the intent to release a final plan by the spring of 2012. NOC's final implementation plan is over a year overdue and is expected to be released any day.

He set forth that now was the time for the legislature to urge an Alaska exemption to a national ocean policy and to coastal and marine spatial planning, or at a minimum to ask for voluntary state-by-state NOC participation. He observed that HJR 16 follows the pattern of the fair number of resolutions that the current legislature has passed that protest federal overreach. He asserted that legislative actions including the resolution before the committee were a necessary and direct response to what he feared was unprecedented expansion of federal authority over the last several years. He stated that the worst could be yet to come unless the legislature expressed its opposition clearly and firmly. He urged the committee to ensure that Alaska maintained control over activities in its ocean, coasts, and waterways and to minimize federal overreach by supporting HJR 16.

CHAIR GIESSEL asked how far inland it would extend.

REPRESENTATIVE SADDLER answered that one of the principals that the National Ocean Policy intended to operate by was ecosystem-wide management. He noted that NOC oversight would depend on how far the federal management authorities determined an ecosystem extended. He remarked that all streams run to the ocean, so

philosophically and theoretically an ocean policy could extend up into the mountains.

[3:34:35 PM](#)

RICK ROGERS, Executive Director, Resource Development Council (RDC), Anchorage, Alaska, said RDC had been involved in the NOC issue since the president's 2010 executive order. He explained that he had testified on a federal subcommittee on the issue that was held in Anchorage. He noted that he was also a board member of the National Ocean Policy Coalition, a national group of users concerned about NOC's policy.

MR. ROGERS said RDC was engaged in the NOC issue because RDC thought it would have a disproportionate impact in Alaska because of the state's vast coastline. He noted that Alaska had more coastline than all the other states combined. He asserted that NOC would add uncertainty to an already cumbersome and complex regime of state and federal permitting. He said that added oversight would not provide real benefits to the marine environments and NOC would be another top-down federal management approach.

[3:36:21 PM](#)

SENATOR DYSON joined the committee.

MR. ROGERS referenced Representative Saddler's statement on ecosystem-wide management. He said ecosystem-wide management had a good sound on its face and was probably a worthy goal, but RDC's concern pertained to never having enough information when dealing with ecosystems. He asserted that RDC's concern was getting into a situation without complete information and the necessary decisions to move Alaska's economy forward would not be made.

He addressed Representative Saddler's statement pertaining to upland reach and concurred that NOC's policy could extend to the mountain sides. He noted RDC's concern for NOC's policy called Coastal and Marine Spatial Planning (CMSP) and stated that the plan could be like the Alaska National Interest Lands Conservation Act (ANILCA) of the sea. He explained that CMSP would come up with broad areas that were off limits to fisheries, oil and gas exploration, or marine transportation. He noted that one of the justifications for NOC was to resolve conflicts and RDC members including mining, tourism, forestry, oil and gas, and fisheries were all aligned in their concern about the issue.

[3:38:15 PM](#)

DOUG VINCENT-LANG, Director, Division of Wildlife Conservation, Alaska Department of Fish and Game (ADF&G), Juneau, Alaska, noted that he previously served as the Ocean Policy Coordinator for the State of Alaska. He said Alaska has a strong interest in assuring the continued health and productivity of its marine and coastal resources. Alaska relies on its marine and coastal areas for commercial and sports fisheries, subsistence uses, recreation, transportation, shipping, and a multitude of other uses. Marine and coastal resources are vital to Alaska's economy; they support a vibrant fishing industry, the state's largest private sector employer. Alaska's fishing industry produces almost \$6 billion in annual economic activity and accounts for 60 percent of the nation's seafood production. Coastal and marine areas also provide abundant development opportunities in offshore oil and gas, renewable energy, shipping, and tourism sectors. He noted that Alaska has over 44,000 miles of shoreline and more mileage than the other eight proposed planning areas combined. In an expansive Exclusive Economic Zone (EEZ), Alaska's interest in managing its ocean and coastal resources could not be overstated.

MR. VINCENT-LANG said implementation of the president's NOC policy instituted a new federal framework to govern marine, coastal, and possibly uplands areas. NOC would federalize decision processes regarding marine and coastal activities and imbed authority in the regional governance boards dominated by federal agencies and federal decision processes. Alaska's marine and coastal resources and their uses were already tightly regulated by a vast array of federal, state, and local authorities. The existing oversight had a proven track record and in ADF&G's opinion was fully capable of ensuring the long term health and viability of Alaska's marine and costal resources. ADF&G did not believe additional federal regulatory oversight was needed and opposed the creation of additional federal bureaucracy and regulation. ADF&G viewed NOC as an unnecessary threat to Alaska's sovereignty and did not support NOC's process for zoning or regulated marine use planning purposes. ADF&G would support achieving efficiency by relying on the proven processes and authorities that are already in place. Establishing further authority should be through congressional action due to Congress' keen awareness of the current multi-jurisdictional structure and respect for the traditional role of states in managing their marine and coastal resources. Jurisdiction and management decisions are clearly divided between the states and the federal government regarding marine waters, submerged lands, marine activities, and coastal

ecosystems. Alaska's jurisdiction includes uplands, wetlands, tide and submerged lands that extend out three nautical miles to the territorial limit. Alaska manages and leases lands with the addition of federal and local agency permitting in order to restrict activities that could impact the environment. Alaska and the federal government each had respective sovereign responsibilities and authorities to maintain healthy, resilient, and sustainable marine and coastal resources. Any adopted program must recognize and respect Alaska's jurisdiction and sovereign authorities. Coastal states must be recognized as equal partners with sovereign jurisdictions and authorities, not relegated to stakeholder status in marine and coastal policy development and implementation. Rather than the development and implantation of a new regulatory program, a better focus would be an investment in arctic research, monitoring, and infrastructure. He asserted that Alaska needs more resources, not more rules to ensure coastal and marine resource conservation. He said it is unfortunate that the new planning effort is draining agency resources at a time when core agency functions are struggling for funding due to declining federal budgets. He specified that ensuring an effective outcome for any planning effort would require clearly defined and expected outcomes with appropriate timelines. He said the planning effort should provide the state both a marine and coastal resource with primary authority to develop ocean and coastal policies. He explained that despite numerous requests, the state has not been given planning specifics. The health and management of Alaska's marine and coastal resources is simply too critical to engage in a process that does not provide meaningful dialog opportunities to address stated concerns, he emphasized.

MR. VINCENT-LANG declared that the state does not feel the NOC policy is ready for implementation and cannot support the NOC effort until the requested details are provided, especially with respect to governance and regulated use. He summarized that ADF&G appreciated HJR 16 and the concern it expresses.

[3:42:47 PM](#)

CHAIR GIESSEL asked if he sits on the National Ocean Council.

MR. VINCENT-LANG answered no; he holds a position in ADF&G that coordinates ocean policy comments for the administration.

CHAIR GIESSEL referenced information in the packets regarding the National Ocean Council membership, and noted that Mark Robbins represents the governor's office.

MR. VINCENT-LANG clarified that an advisory group advises NOC, but does not have decision authority. He explained that NOC is a federal body, so Alaska has an advisory, but non-decisionary, seat at the table.

[3:43:50 PM](#)

JULIANNE CURRY, Executive Director, United Fishermen of Alaska (UFA), Juneau, Alaska, said UFA represents 36 member groups that fish in Alaska and the offshore federal waters. She remarked that UFA appreciates HJR 16 as a common sense and straight forward resolution. She explained that Alaska produces over half of the nation's seafood and is known worldwide as the poster-child for sustainable fisheries management. She asserted that UFA is vastly opposed to any action that tries to preempt the authority of the North Pacific Fishery Management Council or the Board of Fisheries.

SENATOR BISHOP asked hypothetically if she would be nervous if he were the federal government and offered help.

MS. CURRY answered yes.

[3:45:17 PM](#)

CHAIR GIESSEL closed public testimony and asked if the sponsor wanted to make closing remarks.

REPRESENTATIVE SADDLER pointed out the prior discussion pertaining to the one seat that the state may have at the table. He cited NOC's national order that would create the following:

- 10 national policies
- 27 member council
- 18 member governance coordinating committee
- 9 regional planning bodies
- 9 national party objectives
- 9 strategic action plans
- 7 national goals for coastal marines spatial planning
- 12 guiding principles for coastal marine spatial planning to be created

REPRESENTATIVE SADDLER explained that Alaska would have one seat on an advisory council without being the majority and could be overruled in case of disagreements. He reiterated that it is a complex web.

CHAIR GIESSEL asked if the ultimate resolve is "an Alaska region exemption or to allow voluntary state participation."

REPRESENTATIVE SADDLER replied yes. He noted a press release from Senator Lisa Murkowski that detailed hearings on Ocean Policy with Rebecca Blank, Acting United States Secretary of Commerce. He said Senator Murkowski indicated that an exemption may be offered to Alaska.

[3:47:05 PM](#)

SENATOR MICCICHE said NOC is just coastal zone management on a federal level which Alaska voters clearly did not support in the last election cycle. He declared that the NOC executive order had no statutory authority and noted that there had never been a single bill in the federal House or Senate. He explained that NOC addresses urban and suburban development impact. He asserted that NOC looks like an all controlling plan for absolute overreach. He said the term overreach is overused, but NOC scares him. He asked Representative Saddler why he felt it necessary to include or to allow voluntary state participation in both sections, both the "be it resolved" and the "further resolved." He inquired why a stronger statement was not used that specified a request for an Alaska region exemption and the state would fail to recognize the final implementation plan.

REPRESENTATIVE SADDLER replied that there may be some states that do not have an effective or well-tuned management regime where user conflicts and lower resource levels might justify NOC if the states in question want to do so. He reiterated that Alaska is different. It has good systems in place, it doesn't have the same conflicts, and it has more resources. He asserted that an Alaska exemption is appropriate. He commented that he certainly has his opinions about what the federal government should do nationally, but he said the intent is to focus on what is good for or bad for Alaska.

SENATOR MICCICHE commented that the resolution almost provides an out to allow voluntary state participation, and in his view means Alaska would lose. He said having a seat at a really imposing table rarely has a very positive outcome.

REPRESENTATIVE SADDLER asked if he would prefer a straight denunciation of NOC and decline involvement.

[3:49:22 PM](#)

SENATOR MICCICHE replied that Alaska would always have the option of joining later. He said he likes the straight request

for an Alaska region exemption first, with the NOC plan not being recognized. He stated that he would not make an amendment, but it was something to consider as the resolution goes through the process. He reiterated that he likes the resolution, but he does not want to provide an option where Alaska is allowed to attend NOC meetings and be ignored because of opposition.

REPRESENTATIVE SADDLER clarified that his intention is not to have a "B" option; rather, that Alaska would have to assent to its imposition in Alaska. He commented that perhaps the resolution should have been drafted more closely.

SENATOR MICCICHE asked if the intent was to pass the resolution today.

CHAIR GIESSEL answered yes.

SENATOR MICCICHE asked Representative Saddler to clarify that he was saying that Alaska would have the choice of an up and down vote as to whether or not individual states participate.

REPRESENTATIVE SADDLER answered that his desire would be to have Alaska not participate if it did not want to.

[3:50:53 PM](#)

CHAIR GIESSEL noted that the beginning of the resolution talks about an Alaska region exemption. She asked if Alaska was not at the table, the state would also not be participating and the Alaska area would be exempt.

REPRESENTATIVE SADDLER answered correct.

CHAIR GIESSEL noted that Alaska could choose to participate, because it's voluntary.

REPRESENTATIVE SADDLER replied that he had heard some discussion that NOC is not a state-by-state program. He explained that there is a Northeast Region, Western Coastal Regions, and Alaska is big enough to qualify for its own region. He agreed with Chair Giessel that the state could agree to participate at a later date after seeing how NOC works as a pilot program in the Lower 48. He noted having the same discussions with some fishing groups, but clarified that he could not speak for UFA. He said part of NOC's problem is due to the program being so amorphous with all-encompassing language. He said NOC's interpretation and application of regulations are so broad that Alaska would not know what it was getting into. He noted his concern and others

agreed that NOC had not attracted much notice. He stated that part of the resolution's effort is to raise public awareness for NOC.

SENATOR MICCICHE expressed worry about NOC affecting all 404 jurisdictional waters with tidal influence. He emphasized that it was not oceans, but the 12 miles up the Kenai River and other similar rivers throughout Alaska. He said he was fine with the resolution.

CHAIR GIESSEL noted the NOC regions as follows: Great Lakes, Gulf of Mexico, Mid-Atlantic, Northeast, South Atlantic, and West Coast. She addressed the Alaska region commenting that it's almost as if Alaska is still a territory with one representative each from Alaska, the Pacific Islands, and the Caribbean. She expressed appreciation for Senator Micciche's comment that overreach is being overused.

[3:53:03 PM](#)

SENATOR DYSON moved to report CS for HJR 16 from committee with zero fiscal notes and individual recommendations.

CHAIR GIESSEL announced that seeing no objection, CSHJR 16(RES) AM was reported from the Senate Resources Standing Committee.

[3:53:30 PM](#)

CHAIR GIESSEL adjourned the Senate Resources Standing Committee meeting at 3:53 p.m.