

**ALASKA STATE LEGISLATURE**  
**SENATE RESOURCES STANDING COMMITTEE**

February 28, 2014

3:31 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

Senator Lesil McGuire  
Senator Hollis French

**COMMITTEE CALENDAR**

SENATE BILL NO. 105

"An Act requiring the state to quitclaim to the federal government land or an interest in land that was wrongfully or erroneously conveyed to the state by the federal government."

- MOVED SB 105 OUT OF COMMITTEE

CONFIRMATION HEARINGS:

Commissioner - Department of Natural Resources  
Joe Balash

- CONFIRMATION ADVANCED

Alaska Commercial Fisheries Entry Commission  
Bruce Twomley

- CONFIRMATION ADVANCED

Board of Fisheries  
Frederick Johnson

- CONFIRMATION ADVANCED

**PREVIOUS COMMITTEE ACTION**

BILL: SB 105

SHORT TITLE: QUITCLAIM LAND TO UNITED STATES

SPONSOR(s): SENATOR(s) COGHILL

01/22/14	(S)	PREFILE RELEASED 1/10/14
01/22/14	(S)	READ THE FIRST TIME - REFERRALS
01/22/14	(S)	RES, FIN
02/26/14	(S)	RES AT 3:30 PM BUTROVICH 205
02/26/14	(S)	Bill Hearing Postponed
02/28/14	(S)	RES AT 3:30 PM BUTROVICH 205

**WITNESS REGISTER**

SENATOR JOHN COGHILL

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SB 105.

RYNNIEVA MOSS

Staff to Senator Coghill

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Commented on SB 105 for the sponsor.

MARTY PARSONS, Director

Division of Mining, Land and Water

Department of Natural Resources (DNR)

Juneau, Alaska

**POSITION STATEMENT:** Explained land selection issues relating to SB 105.

TOM HOSETH, Realty Officer

Bristol Bay Native Association

Dillingham, Alaska

**POSITION STATEMENT:** Supported SB 105.

SHEILA NEKETA, Land Management Specialist

Bristol Bay Native Association (BBNA)

Dillingham, Alaska

**POSITION STATEMENT:** Supported SB 105.

LUCY WEEDMAN, representing herself

Dillingham, Alaska

**POSITION STATEMENT:** Supported SB 105.

DESIREE DUNCAN, Native Lands Manager

Central Council

Tlingit Haida Indian Tribes of Alaska

**POSITION STATEMENT:** Supported SB 105.

MARSHA HOTCH, representing herself  
Klukwan, Alaska

**POSITION STATEMENT:** Supported SB 105.

EILEEN GRANT, Allotment Specialist  
Tanana Chiefs Conference  
Fairbanks, Alaska

**POSITION STATEMENT:** Supported SB 105.

JOE BALASH, Commissioner Designee  
Department of Natural Resources (DNR)  
Anchorage, Alaska

**POSITION STATEMENT:** Commissioner Designee, Department of Natural Resources (DNR)

CARL UCHYTIL, representing himself  
Juneau, Alaska

**POSITION STATEMENT:** Supported Mr. Balash as DNR Commissioner.

ROD ARNO, lobbyist  
Alaska Outdoor Council  
Palmer, Alaska

**POSITION STATEMENT:** Supported Mr. Balash as DNR commissioner.

BRUCE TWOMLEY, Commissioner  
Alaska Commercial Fisheries Entry Commission (CFEC)  
Juneau, Alaska

**POSITION STATEMENT:** CFEC Commissioner-designee

PAUL SHADURA, lobbyist  
Kenai Peninsula Fishermen's Association (KPFA)  
Kasilof, Alaska

**POSITION STATEMENT:** Supported the reconfirmation of Mr. Twomley to CFEC and confirmation of Mr. Johnson to the Board of Fisheries.

GEORGE PIERCE, representing himself  
Kasilof, Alaska

**POSITION STATEMENT:** Said his comments pertain to all the positions. He said legislators stacked the deck and it's time for a change.

FREDERICK JOHNSON, representing himself  
Dillingham, Alaska

**POSITION STATEMENT:** Board of Fisheries-designee.

## **ACTION NARRATIVE**

[3:31:13 PM](#)

**CHAIR CATHY GIESSEL** called the Senate Resources Standing Committee meeting to order at 3:31 p.m. Present at the call to order were Senators Bishop, Fairclough, Micciche, and Chair Giessel. Senator Dyson joined the committee shortly after.

### **SB 105-QUITCLAIM LAND TO UNITED STATES**

[3:31:45 PM](#)

**CHAIR GIESSEL** announced SB 105 to be up for consideration.

[3:32:20 PM](#)

**SENATOR JOHN COGHILL**, sponsor of SB 105, said this "simple" bill was drafted to settle a long-standing agreement between Natives and Americans and now Alaskans over allotments that have been promised for over 100 years. Alaska can be a help in settling some of the title questions.

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**SENATOR COGHILL** said he was raised with several people who had been involved in, claimed, or been refused Native allotments. He knows a lot of people who had other claims from the federal government, including homesteads, which were given to them fairly rapidly while many Native allotments that had the same promise were left languishing - sometimes because of the Bureau of Land Management (BLM) or because of people just not understanding how to assert their right.

One of the principles that "gets his shoulder to this" is that this is private land and Alaska doesn't have much of that, and he would like to see the Natives who had these allotments potentially given to them get settled.

Another issue of concern to him was that Alaska has title problems on all kinds of land with the federal government and these should be settled as a priority as well as a belated promise before we start settling some of the other issues.

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**SENATOR COGHILL** said SB 105 takes an existing right, potentially, and asserts it. The last page of the bill, page 4, is where the state really becomes involved. It inserts:

(14) quitclaim land or an interest in land to the federal government after a determination that the land or the interest in land was wrongfully or erroneously conveyed by the federal government to the state.

He said the state has over-selected at statehood, but prior to that, families were given the right to select land under this Native allotment. They have already had the ability to transfer land under the Department of Natural Resources (DNR), but by saying "you shall" he is making it a directive in this bill.

SENATOR COGHILL explained that some allotment lands have erroneously been transmitted to the state but now have buildings on them. So, they will hear testimony about how they will be very difficult to transfer. They will also hear that there is a lot of land that could be settled. Probably the reason it's important to settle it now - and one of the other principles - is families are dying and their claims are becoming significantly diminished. Some fight even amongst their own progeny over who should have the right to that land; now they have to make a claim and agree together to make it. It just makes it much more complex.

SENATOR COGHILL noted the Aguilar Decision, a court case that sets some standards on the dispersion of this land under Tab 8.

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RYNNIEVA MOSS, staff to Senator Coghill, explained the tabs: one is the sponsor statement and two is the bill itself. Section 4 is the repealer of the statute that makes the conveyance permissive. Section 1 mandates that if land is wrongfully or erroneous titled to the state, the state would quitclaim it back to BLM so that it could be titled to the allotment owner.

Sections 2 and 3 are provisions that ensure subsurface rights to that allotment property and that the land will not be designated as agricultural land.

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SENATOR FAIRCLOUGH asked how the term "erroneously" was arrived at.

MS. MOSS explained that someone else had a claim to the property prior to BLM deeding the land to the state. The Aguilar Case actually preserved that further by saying a Native's use of an allotment took priority over land selections made to the State of Alaska under the Alaska Statehood Act.

SENATOR COGHILL added that many of these were being processed by BLM under a temporary authorization when Alaska was doing the land selection. One of the things that failed to hit the trigger point was that a Native allotment is a valid existing right, and that is what is being asserted in SB 105.

SENATOR FAIRCLOUGH asked if the state over-selected.

SENATOR COGHILL replied that it received 103 million acres.

SENATOR FAIRCLOUGH asked if that amount had been received.

SENATOR COGHILL answered no; we are about 5 million short. He explained that significantly more land is being selected to have the ability to trade land and make adjustments for uses like mountaintops. A lot of it has to do with the rights-of-way for the pipeline.

SENATOR FAIRCLOUGH said she was still perplexed.

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SENATOR FAIRCLOUGH said she didn't see a fiscal note but the bill has a Finance referral and in her minimal search of federal transfer to the state of its remaining allotment she found that one of DNR's challenges was that any transfer had to be surveyed, but the federal government couldn't afford it; and that was somehow holding up the transfers and she wondered if changing "may" to "shall" will require the legislature to pay for it.

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MS. MOSS said that is a policy call the legislature would have to make. It's quite possible that a portion of these Native allotments are not with their proper owner, because they haven't been surveyed by BLM - and they have to be surveyed by BLM before they can give title.

SENATOR COGHILL said many of these had been in the making since the 1930's and he was willing to explore whose responsibility the cost was, but some of those things could maybe be negotiated.

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MARTY PARSONS, Director, Division of Mining, Land and Water, Department of Natural Resources (DNR), explained the mechanics behind Senator Fairclough's question about the over-selection of

land. He explained that the state was provided a certain amount of entitlement under the Statehood Act and that was amended through several pieces of federal legislation, the Alaska Native Claims Settlement Act (ANCSA) being one and the Alaska National Interest Land Claims Act (ANILCA) being the other. Each one of those provided them an opportunity to select additional lands and in ANILCA they were allowed to over-select by a certain amount as some of their selections were rejected because they were set aside for the corporations to select; the state came back and said it was really important to cover those selections. So, the federal government allowed them to select another 25 percent over the state's entitlement. That sits out there on lands that have public land orders that would keep the state from having that land conveyed to it or lands that were set aside for the corporations to select. As their entitlements are completed, the state's top filings fall into place.

SENATOR COGHILL said he kept one other principal in mind, which was making sure to not restrict good access in Alaska and the RS-2477 is probably one of our best tools, but it is becoming weaker. They are hard to prove and sometimes very contentious. Probably a protocol will have to be set up for some allotments outside of the RS-2477s. He said the people who have the right to these allotments have been promised them for over a century and our RS-2477s are getting cold by two centuries. We were supposed to assert them at a drop dead time in the 1970s and the people who used those in our lifetime are no longer able to help assert them, so records are getting harder to keep.

CHAIR GIESSEL asked him to define RS-2477.

SENATOR COGHILL explained that it is a federal mining law from the 1800s that carries that number. It said if you wanted access to public land through private property, and you could demonstrate that you could have that right of access based on having used these old trails if they were used for commerce or trade. In Alaska, certainly dog sleds were probably the primary reason for doing that. The Richardson Road that became the Richardson Highway was a mud trail to begin with and is an example of an RS-2477. The Iditarod from Nenana to Nome is a mail trail and that is also an RS-2477.

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SENATOR BISHOP asked how many parcels have yet to be conveyed.

MS. MOSS answered 303 parcels according to DNR's summary.

SENATOR BISHOP asked how many allotments were in Anchorage.

MS. MOSS answered that she didn't have specific numbers, because they range from about 40 acres to 160 acres, but when the law was repealed in 1971, roughly 10,000 Alaska Natives filed and there were over 16,000 parcels of land. She explained that they could file on more than one parcel as long as it didn't total more than 160 acres.

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MS. MOSS went on to the third tab, which was the sectional analysis. Tab four was a series of "white papers" the Tanana Chiefs had provided that would answer some of their questions about RS-2477s, which was part of the Mining Act in 1866. They have also included a summary by the Tanana Chiefs of the Aguilar Case and a map showing where the Native allotments are.

Tab five has the summary report they requested from DNR. Some maps were also attached showing some of the conflicting areas that they trying to get settled through conveyance or land trades.

Tab six held resolutions from different organizations supporting the bill. Tab seven was the actual federal law on Alaska Native Allotments and Tab eight was the Aguilar Case. She added that the Native allotments that Senator Coghill is trying to get resolved have already been through a full series of steps that are required by BLM and had already been approved.

SENATOR BISHOP asked if that meant the surveys were completed.

MS. MOSS answered no; but there are cases where the holdup is a survey.

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SENATOR FAIRCLOUGH asked of the 303 allotments that have been transferred to the State of Alaska that should have recognized a Native allotment is the federal government was willing to make the state whole in the form of other acreage or cash.

MS. MOSS answered the state and BLM had entered into an MOU to allow land swaps for Native allotments. However, the concern is that DNR have a real good reason for refusing to deed these Native allotments and Senator Coghill has asked for a breakdown of each allotment so they know why each one had not been quitclaimed.

SENATOR COGHILL said that DNR is looking for land swaps that they can work with if - for instance - a highway has been built through or some other public use has taken that land and made it not usable.

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CHAIR GIESSEL opened public testimony.

3:56:18 PM

TOM HOSETH, Realty Officer, Bristol Bay Native Association (BBNA), Dillingham, Alaska, supported SB 105. He said the Alaska Native Allotment Act of 1906 gave Alaska Natives the right to obtain legal title to up to 160 acres of land that they use. Word was out that ANCSA, passed in December 1971, would repeal the Allotment Act but it didn't and there were approximately 13,000 allotment applications and ANCSA did not repeal the pending applications. Initially, the BLM rejected the allotment applications if the land was located on land already selected by the state. This continued up until 1979 when the federal court ordered the BLM to process the applications in the Aguilar Case. The court ruled that the Allotment Act provided a preference right to all subsequent claims to the same land. Several more decisions support that this preference right begins on the date the land was first used and occupied by the applicants no matter what date the application was filed. Therefore, the current rule is Allotment applicants are entitled to the land they applied for if their use began before the state selected the land.

Going forward to 2013, in an attempt to resolve some Aguilar allotment cases that had been set aside, the state and BLM announced they had entered into an MOU, which offers the optional relocation of certain Native allotment parcels of lands that were conveyed in error to the state. In early December 2013, the BLM provided them maps of about 8 million acres the state opened for relocations. BBNA has prepared a more detailed map for his region. He believed along with other service providers that the relocation option would not resolve the Aguilar cases, because they were only going to be offered to certain cases and with a few exceptions the allotment applicants would not want to relocate.

MR. HOSETH explained that SB 105 offers a solution to resolve Aguilar allotments that were determined valid by BLM. Once these re-conveyances are completed, Alaska will be in compliance with the Statehood Act, Alaska's Constitution, the federal court order in Aguilar v U.S., and the Alaska Native Allotment Act. Furthermore, the Department of Interior will not have to sue the

state, which will save a large amount of time and resources. He thanked Senator Coghill for sponsoring the bill.

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SENATOR FAIRCLOUGH asked if the state needs to re-convey back to the BLM the land to resolve the issue; it can't just give it the allotment directly?

MR. HOSETH replied that the land needs to be re-conveyed and then BLM will issue certificates to the allotment applicants.

SENATOR FAIRCLOUGH said that BLM has limited resources at the federal level, so she could see the state resolving its side of the issue by conveying the land back to them, but then they are stuck where there aren't enough resources to convey it back to the proper allotment.

SENATOR COGHILL said the legal instrument is called a quit claim deed, which means the claim is released and BLM is able to manage it from there.

SENATOR FAIRCLOUGH said the BLM hadn't been as quick to respond to other requests the state has made, quit claim or not, and she didn't want to set up false expectations.

MR. HOSETH said that in his area many surveys had already been done for the cases that are still pending, so it wouldn't be such a long process.

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SHEILA NEKETA, Land Management Specialist, Bristol Bay Native Association (BBNA), Dillingham, Alaska, supported SB 105. She explained that she works specifically on Native allotments in her region for about 8.5 years. She assists the applicants through the process with the BLM and the state DNR. According to a BLM document there are about 301 pending Native allotments pending throughout the state of Alaska; 43 valid Aguilar allotments are located within the Bristol Bay Service Provider boundaries. This means that BBNA Land Management Services works with the applicants and their heirs (because a majority of the heirs have been deceased; there are second heirs and sometimes even third).

She explained that the BLM reviews and adjudicates the parcels of land that the Native Allotment applicants have applied for. Once they have determined that the claim is valid, if the land has been given to the state of Alaska erroneously, the BLM will

request the land be returned from the state DNR. This means that the DNR will be following their generalized land conveyance policies and review the case that the BLM submits to them, although the case has already been determined valid; the BLM makes sure they do a survey before submitting the land to the DNR. This can be a very lengthy process. She noted that the Native Allotment applicants and/or heirs need to be in agreement with the state DNR. While she has been working the Native Allotment applicants have died in this process and their heirs are waiting and some of those have died.

MS. NEKETA noted one compelling case, that of John Alexy who died at 83 years while waiting for title to his land; one of his heirs has died, and they did everything the DNR and the BLM had asked, but unfortunately the state declined to re-convey and the future of this case is uncertain. She said she supported SB 105 because it would assist not only this case but other cases throughout the entire state concerned with this issue. She thanked Senator Coghill for the bill and for being allowed to speak.

SENATOR BISHOP asked her relationship is with the BLM.

MS. NEKETA said she has a very good working relationship with the BLM; they ask for legal evidence which she helps the applicants provide.

SENATOR FAIRCLOUGH asked her to explain what kind of legal evidence she provides to the BLM.

MS. NEKETA replied that the Native Allotment application is valid, timely filed, and that the applicant did have exclusive valid use and occupancy.

SENATOR FAIRCLOUGH asked if that meant that papers were filed a long time ago or that something active is happening now to re-assert that claim.

MS. NEKETA replied that she does not provide new documentation; they follow up with existing documents that were filed originally to the Bureau of Indian Affairs (BIA) or evidence that it was submitted to the BIA.

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LUCY WEEDMAN, representing herself, Dillingham, Alaska, said she was heir to the late John Alexy, who was her grandfather. At the age of 53 he had applied for his Native allotment along with

some affidavits from two well-respected individuals of the community confirming that he had been using the selected property since 1930, a total of 83 years of documented use.

She said he brought her to his property when she was 10 years old; she didn't realize at first that she would be inheriting it someday. They still use the property today. Her grandfather waited for the title to be transferred to him, but it never happened. Her brother worked on the land and asking questions about it and thirty-three years later she, her sister, her aunt they have received one notice after another from the state DNR and each heir had complied with all the different conditions, but yet they pulled it out from under them. It angered and hurt them, because the land is their life line. To date they have not received title to the property.

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CHAIR GIESSEL asked if she has a legitimate claim that has been filed and if she is just waiting for this bill to pass.

MS. WEEDMAN answered yes.

SENATOR MICCICHE thanked Ms. Weedman for finding the courage to testify.

[4:15:02 PM](#)

DESIREE DUNCAN, Native Lands Manager, Central Council, Tlingit Haida Indian Tribes of Alaska, supported SB 105. She said Tlingit and Haida represents the Native land owners in the Southeast region and they have over 29,000 tribal citizens. She said she is also co-chair of the statewide Tribal working Group which represents over 100 tribes; all the members in the group support SB 105, because it resolves all the Aguilar allotment cases. The applicants and their heirs in their region and in the state have been waiting over 40 years to receive the land they used and occupied and that is rightfully theirs.

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MARSHA HOTCH, representing herself, Klukwan, Alaska, heir to her father's, Willie Lee, allotment, who used the land since 1933, supported SB 105. She read a letter from her father stating their case. In 1955 he was given the certificate of allotment for 111 acres; 40 acres was excluded even though they didn't tell him until 1958 why: that it had been given to the state. When the Aguilar case was decided, the 40 acres was reinstated and it was one of the few approved during that case. And the heirs are still waiting for that 40 acres.

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CHAIR GIESSEL asked if they had received the 111 acres.

MS. HOTCH answered yes.

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EILEEN GRANT, Allotment Specialist, Tanana Chiefs Conference, Fairbanks, Alaska, said she has 70 pending valid Aguilar allotments, and supported SB 105. For most of the cases the State of Alaska refuses to give the land back, because they don't feel that they have to; they feel it's discretionary. Once the BLM requests re-conveyance it sometimes takes the state 20 years to respond if they do at all. The few cases they do give back, they have kept part of the land for things like section line easements and rights-of-way. In most cases the applicants have died because many of the cases are 40 to 100 years old. If the applicants' use and occupancy started before the state selection, they should not have to give up any of the land. She said that some of the applicants or their heirs don't feel they have the right to use the land, because they don't have title to it.

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CHAIR GIESSEL thanked them for their testimony, and finding no further questions, closed public testimony.

SENATOR COGHILL closed by saying that those who testified showed the exceeding frustration of a couple of generations trying to lay claim to something. He felt that the state needed to honor those allotments where it can. Surveying is one of the barriers because of its cost, but he thought if everyone put their shoulders to it, not one person would have to bear the total cost. He was willing to work on those ways, but he was not willing to sit and let this languish any longer.

CHAIR GIESSEL asked if subsurface rights go with the surface rights.

SENATOR COGHILL answered yes, for the most part.

SENATOR DYSON asked why someone from DNR hadn't come before the committee to explain the other side.

MR. PARSONS responded that DNR staff continually works on this issue on a regular basis. He explained that in many cases they have resources, roads, and other items that either pre-date the

use and occupancy of a particular allotment that then needs to be made subject to those under the Aguilar case. They have a settlement release process they go through where either the allotted or the heirs - if they don't re-convey 100 percent of the "bundle of sticks" back to the federal government who would then give it to the allotted - will not sign and return the settlement release documents. In many cases settlement releases have been sitting out for 10 to 20 years that have not been signed and returned. But they still continue to work with those individuals to try to get them signed. In many cases it's just an iterative process back and forth between BLM, the state and the allotted with the service providers trying to reach agreements on what the re-conveyance will be subject to.

SENATOR DYSON asked if he had five times as many people working just these issues could he clear them up in five years.

MR. PARSONS said they already have dedicated staff and he wasn't sure more staff was the answer. One thing they must look at is when land comes to the state, whether erroneously conveyed or not, the statute requires DNR to go through a process, which includes a public process and a finding to re-convey or dispose of land. Many times information is in conflict with the allotted and at that point the state has to work through the process of determining whether there is another interest the state needs to protect before giving it back to the BLM to give it to the allotted and in many cases there are third party interests to work with.

SENATOR DYSON asked what the legislature can do to eliminate some of the state laws that inhibit getting these things resolved.

MR. PARSONS said he couldn't think of much that could expedite the process.

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SENATOR DYSON said he was sympathetic to the situation they are in, but it seems intolerable because Senator Coghill was telling them in SB 105 to do what they are already able to do.

MR. PARSONS said the state has attempted through an agreement with BLM to allow an allotted voluntarily to take a parcel of land that was in a legislatively designated area, for instance, or some other area that was acceptable to them on state selected land, which is still owned by the federal government. It is a much simpler process.

CHAIR GIESSEL found no more questions and remarked that she sincerely appreciated the work Senator Coghill was doing on this issue. She was thrilled that the subsurface rights would go to these property owners as a legacy.

SENATOR DYSON moved to report SB 105, version 28-LS0849\A, from committee with attached fiscal notes and individual recommendations. There were no objections and it was so ordered.

[4:36:56 PM](#)

At ease from 4:36 to 4:38 p.m.

### CONFIRMATION HEARINGS

[4:38:16 PM](#)

CHAIR GIESSEL invited Mr. Balash to come forward and review his relevant experience and interest in serving as Commissioner of the Department of Natural Resources (DNR).

JOE BALASH, Commissioner Designee, Department of Natural Resources (DNR), Anchorage, Alaska, said he believes that DNR is the premier agency in this state and that it's a real honor and privilege to be able to serve his fellow Alaskans in this capacity. He said the professionals that manage our resources across the various divisions really have a day-to-day job of dealing with nitty-gritty permits and decisions and we all rely on them to manage all of our resources.

He said we have world class assets and it requires world class management by those professionals. He views the job of the Commissioner as one to not manage the resources per se but to manage assets. He makes that distinction, because if we are going to maximize the value for the benefit of our people that really requires looking for the opportunities to leverage one asset off of another to improve and increase the value of both.

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COMMISSIONER BALASH said we have the largest state park system in the nation, but the real shame is that we have a \$60 million deferred maintenance backlog in those parks. Those are facilities and equipment that Alaskans use to enjoy the opportunity that we have here. Yet, if we put a little bit of thought and planning into it, we can leverage the innate value in those places to create revenue streams that can take care of those particular backlogs.

He said a specific example would be the efforts to develop South Denali; there is incredible demand to see North America's largest peak and there fundamentally has to be an opportunity there. Through the leadership of the Matsu delegation they are seeing the first start at development of the lower end of that particular park. But in the longer term there is a commercial opportunity, a concession that can be structured in a way to ultimately preserve our ownership interests there, but leverage the commercial opportunity that the tourism industry provides. If done thoughtfully, additional value can be created to keep in the park system and benefit not just the people who visit that particular park, but parks throughout Alaska.

That is not our only opportunity, though, Commissioner Balash said. Look at the size and scope of the Chugach State Park; there has to be an opportunity there to further advance visitor industry opportunities and partnerships.

COMMISSIONER BALASH said moving beyond the core Railbelt area, the Woodtikchik Park is incredible. If we put a little thought into it, additional leveraging opportunities can be identified there, too.

He said that as many know, working on oil and gas issues is his most recent assignment in the department and the oil tax reform last year was an opportunity to leverage our existing proven resource to provide additional development and investment to recover ultimately more barrels. He said Alaska has something on the order of 3 billion barrels of proven reserves in the ground, but potentially more than 1 billion barrels could be stranded in the ground because it no longer is efficient and economical to produce. So, thinking about the overall value proposition long term is really the way to maximize the opportunities that will result in the largest most efficient development of natural gas on the North Slope.

COMMISSIONER BALASH said some people are concerned about his age, but he knows he is young enough that he will live to see the consequences of every decision he makes and that weighs heavily on his decisions.

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SENATOR BISHOP asked how he sleeps at night.

COMMISSIONER BALASH said he doesn't always sleep; he got up this morning at 4 a.m.

SENATOR FAIRCLOUGH asked him, as an attorney, how he would protect Alaska from federal over-reach.

COMMISSIONER BALASH replied that one could very easily become numb to the challenges they face almost every day in dealing with federal agencies. It is something that cannot be tolerated from people in positions such as his who hold the responsibility of maintaining Alaska's maximum discretion to wield the assets that we have.

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SENATOR FAIRCLOUGH asked how he would resolve some of the allotment questions.

COMMISSIONER BALASH said technology allows people to communicate instantly now and that he will review the files mentioned by the heirs here today and ask for a bigger picture brief. He would look for opportunities where prior wrong decisions could be made right.

SENATOR FAIRCLOUGH said she didn't know if SB 105 was the right approach, but it's the right statement. But given from what they heard from the department "shall" doesn't get them there if they can't actually have tools as Senator Dyson suggested to actually resolve the issues. So, she challenged him to have a work plan of issues on each parcel to resolve in a 1-3 year time period before this bill comes up in the Finance Committee. She wanted to at least show good faith at a lot quicker rate than in the last 100 years.

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SENATOR DYSON encouraged him to think about putting together a task force or swat team to deal with this issue with all the other things he is doing. Protection of property is very high on the list of valid things for government to do.

[4:57:37 PM](#)

SENATOR MICCICHE said he had enjoyed working with Mr. Balash and watching him march through increasing levels of responsibility and he had done well. He has a tough job; in fact his department has its own Article (8) in the Constitution. His question was about balance and asked him what "maximum benefit" means to him.

MR. BALASH answered in his mind benefits are not finite; they are not temporal in the sense that benefit accrues today; they are generational. And it's about opportunity. Opportunities

don't last forever, however; and he believed there are resources that are valuable today, but may not necessarily be so in 100 or 200 years. So, he tends to look for solutions and ways to overcome what appear to be diverging forces that try to pull us apart. They are ultimately challenges for which a winning solution can be found, although not always.

As far as balance, his one favorite week of the year is flying around on a Beaver on floats and fly fishing for fall trout in Bristol Bay. It's a privilege and he wants that to be available for people to do for a long time.

[5:01:31 PM](#)

CARL UCHYTIL, representing himself, Juneau, Alaska, supported Mr. Balash for DNR Commissioner. He works as the Port Director in Juneau and it's refreshing to work with DNR. His job requires him to work through the permitting process and land conveyance. Sometimes it's a struggle with other state agencies and the federal government, but he has confidence that when he deals with DNR he will be treated fairly and that they have the City and Borough of Juneau interests and its citizens in mind. In particular, Mr. Balash's qualifications are remarkable: he is fair and a man of sound moral and ethics and has the intellect to do the job.

[5:03:55 PM](#)

ROD ARNO, lobbyist, Alaska Outdoor Council, Palmer, Alaska, supported confirmation of Mr. Balash as DNR commissioner. Mr. Arno said he also sits on the Citizens Advisory Commission on Federal Areas and had been in battle with DNR for the last 20 years through three commissioners. The people he represents are looking at access to public resources on public lands and it's a struggle. A lot of the conflict has to do with lack of access. He said he had the greatest confidence in the staff of DNR. Mr. Balash is a "home boy" and knows the importance of that access and the value of our wildlife and the habitat it's on.

[5:06:47 PM](#)

CHAIR GIESSEL, finding no further discussion, said in accordance with Article 3, Section 25 of the Alaska Constitution and AS 39.05.080, the Resources Committee reviewed the following and recommends the appointment be forwarded to the Joint Session for consideration: Commissioner, Department of Natural Resource, Joe Balash. This does not reflect an intent by any of the members to vote for or against the confirmation of the individual during any further sessions.

CHAIR GIESSEL invited Mr. Twomley to tell them about his relevant experience and interest in Commercial Fisheries Entry Commission.

[5:07:14 PM](#)

BRUCE TWOMLEY, Commissioner, Alaska Commercial Fisheries Entry Commission (CFEC), Juneau, Alaska, said he had been at this a while and has had the privilege of participating in the limitation of some 35 fisheries. They have worked through that and now are down to a manageable caseload. He said his many years of experience doing this work means that he can do it very efficiently. He wanted to ask them for the opportunity to complete work that he had started, especially now that it is down to a manageable level.

[5:08:46 PM](#)

PAUL SHADURA, lobbyist, Kenai Peninsula Fishermen's Association (KPFA), Kasilof, Alaska, supported the reconfirmation of Mr. Twomley. He had served the people of state and CFEC participants with merit for three decades. His institutional and historic knowledge is invaluable for the long term stability of the state's fisheries' limited entry system.

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GEORGE PIERCE, representing himself, Kasilof, Alaska, said his comments pertain to all the positions. He said legislators stacked the deck and it's time for a change. He said they developed sport fishing that became dominated by an unlimited commercial guided fishing component that was driven by a demanding tourism market. It became the controlling factor in the management of both Boards of Fisheries and Game.

State and federal agencies responsible for our wellbeing failed to protect Alaskans when we needed to be protected the most, he said. They simply became resolved to the fact that political pressure to support the sport fishing industry had become too great for them to overcome and they didn't have the will to change the status quo. People need to be appointed who have science and biology backgrounds.

SENATOR MICCICHE thanked Mr. Twomley for his service; it's impressive. He had served honorably on many incredible projects protecting fishermen and commercial fishermen and their rights through the years and through the CFEC.

CHAIR GIESSEL welcomed Mr. Johnson to review his relevant experience and interest in serving on the Board of Fisheries.

[5:15:09 PM](#)

FREDERICK JOHNSON, Board of Fisheries designee, Dillingham, Alaska, said he had lived in Dillingham since 1979 when he started fishing here commercially. His first winter job here was working for the federal census in 1980 when he had the opportunity to travel to every community of the region from Pedro Bay to the Chignik. He also ran a weekly newspaper for a dozen years starting in 1980 and became pretty familiar with the issues important to the region, especially the fisheries. He had worked for various non-profits in the region, but five years ago he went to work for the Bristol Bay Economic Development Corporation, the region's CDQ group, in a position that is much like the work of the Board of Fisheries. He is familiar with board processes and procedures and holds elected director seats on the Bristol Bay Regional Seafood Development Association and the local electric and telephone utility. Now he is ready to make the commitment of time and direction to the Board's constitutional mandates for sustainability of our fisheries while maximizing the opportunity for recreational, commercial, subsistence and person use of those resources.

CHAIR GIESSEL noted endorsement of Mr. Johnson (and Mr. Twomley) from the United Fishermen of Alaska (UFA) and the Southeast Alaska Fishermen's Alliance.

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PUAL SHADURA, lobbyist, Kenai Fishermen's Association, Kenai, Alaska, said their goal is ensure the sustainability of our fishery resources and they supported Mr. Johnson's appointment. After the recent two week session of the Board of Fisheries many are in shock and bearing the scars of the allocation process. Nevertheless, they have been very pleased with the honest, straightforward efforts of interim appointed Fritz Johnson. He attempted to improve the process by being approachable to all users. Clearly, his work experience as an editor, publisher, in public relations and regional fisheries program coordinator was pivotal in developing communications.

They commend Mr. Johnson's efforts to correct inequities and deletions in the current Board of Fisheries process and look forward to working with him to further educate board members on the intricate science, historical management, and extensive regulatory structure necessary to fairly structure fisheries management and policy for all Alaskans.

[5:19:29 PM](#)

CHAIR GIESSEL, finding no further comments, closed public testimony.

SENATOR MICCICHE said he represents a lot of folks: lodge owners, set netters, personal use fishermen, sport fishermen, and commercial fishermen of every type. All of those user groups are very important to us and many in his district were feeling somewhat stung after the recent Board meetings. He asked Mr. Johnson if he felt all the current commercial fisheries in the State of Alaska are viable today.

MR. JOHNSON asked how he would define viable. Did he mean sustainable?

SENATOR MICCICHE said no. Do you feel that as a Board of Fisheries commissioner that he is equally in defense of current commercial fisheries as he is of the other groups he listed?

MR. JOHNSON responded that he is a new appointee to the Board and the introduction he had to its process has been limited and he couldn't give him a well-considered answer. But having gone through the first seven meetings, he felt more confident about them than when he began. He looked forward to learning as much as possible about all of Alaska's fisheries and was willing to become education.

SENATOR MICCICHE said that was a reasonable answer. His concern primarily was to have board members that are not biased toward any individual group. He wasn't sure that was always the case.

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He followed up with another question: there's a swift learning curve to be on the board and his goal was to have a balanced approach. Last year a very capable Board of Fisheries commissioner, Vince Webster, was not confirmed and he asked when you consider the fact that people can aggressively come after very hard working Alaskans and drag their good names through the mud to help them be not confirmed if he could still answer as to whether he could to do his very best without feeling that external pressure to make good decisions for all Alaskans.

MR. JOHNSON said he wouldn't be interested in this position if he could not. He knows Mr. Webster well and is aware of what happened in his situation.

CHAIR GIESSEL, finding no further questions, closed public testimony and stated in accordance with AS 39.05.080, the

Resources Committee reviewed the following and recommend the appointment be forwarded to the Joint Session for consideration: Mr. Bruce Twomley and Frederick Johnson. This does not reflect an intent by any of the members to vote for or against the confirmation of the individuals during any further sessions.

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CHAIR GIESSEL thanked everyone and adjourned the Senate Resources Standing Committee meeting at 5:25 p.m.