

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

February 27, 2015

1:03 p.m.

MEMBERS PRESENT

Representative David Talerico, Co-Chair
Representative Mike Hawker, Vice Chair
Representative Bob Herron
Representative Kurt Olson
Representative Paul Seaton
Representative Andy Josephson
Representative Geran Tarr

MEMBERS ABSENT

Representative Benjamin Nageak, Co-Chair
Representative Craig Johnson

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 4

Urging the United States Congress to provide a means for consistently and equitably sharing with all oil and gas producing states adjacent to federal outer continental shelf areas a portion of revenue generated from oil and gas development on the outer continental shelf to ensure that those states develop necessary infrastructure to support outer continental shelf development and preserve environmental integrity.

- MOVED HJR 4 OUT OF COMMITTEE

HOUSE BILL NO. 115

"An Act relating to the transfer of public land from the federal government to the state and to the disposal of that land; and providing for an effective date."

- MOVED CSHB 115(RES) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 6

Supporting the introduction and enactment of federal legislation acknowledging that the federal government is financially responsible under the Alaska Native Claims Settlement Act for the remediation of contaminated land subject to conveyance under the Act; urging the United States Department of the Interior to

implement the six recommendations to identify and clean up the Alaska Native Claims Settlement Act lands in its 1998 report to the United States Congress; and urging the President of the United States and the United States Congress to remediate and make free from pollutants lands in the state conveyed under the Alaska Native Claims Settlement Act.

- MOVED HJR 6 OUT OF COMMITTEE

CS FOR HOUSE JOINT RESOLUTION NO. 7(FSH)
Opposing the proposed designation of an Aleutian Islands National Marine Sanctuary.

- MOVED CSHJR 7(FSH) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HJR 4

SHORT TITLE: OFFSHORE OIL & GAS REVENUE SHARING

SPONSOR(s): REPRESENTATIVE(s) SADDLER

01/21/15 (H) READ THE FIRST TIME - REFERRALS
01/21/15 (H) RES
02/27/15 (H) RES AT 1:00 PM BARNES 124

BILL: HB 115

SHORT TITLE: AK SOVEREIGNTY;US TRANSFER LAND TO ALASKA

SPONSOR(s): REPRESENTATIVE(s) CHENAULT

02/18/15 (H) READ THE FIRST TIME - REFERRALS
02/18/15 (H) RES, FIN
02/27/15 (H) RES AT 1:00 PM BARNES 124

BILL: HJR 6

SHORT TITLE: FEDERAL CONTAMINATION OF ANCSA LANDS

SPONSOR(s): REPRESENTATIVE(s) MILLETT

01/21/15 (H) READ THE FIRST TIME - REFERRALS
01/21/15 (H) RES
02/27/15 (H) RES AT 1:00 PM BARNES 124

BILL: HJR 7

SHORT TITLE: OPPOSE ALEUTIAN NATIONAL MARINE SANCTUARY

SPONSOR(s): REPRESENTATIVE(s) EDGMON

01/21/15 (H) READ THE FIRST TIME - REFERRALS
01/21/15 (H) FSH, RES

02/05/15 (H) FSH AT 10:00 AM CAPITOL 120
02/05/15 (H) Moved CSHJR 7(FSH) Out of Committee
02/05/15 (H) MINUTE(FSH)
02/06/15 (H) FSH RPT CS(FSH) 7DP
02/06/15 (H) DP: HERRON, FOSTER, MILLETT, JOHNSON,
ORTIZ, KREISS-TOMKINS, STUTES
02/27/15 (H) RES AT 1:00 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE DAN SADDLER
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As the sponsor, introduced HJR 4.

REPRESENTATIVE MIKE CHENAULT
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As the sponsor, introduced HB 115.

TOM WRIGHT, Staff
Representative Mike Chenault
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of Representative Chenault,
sponsor, answered questions regarding HB 115.

ED FOGELS, Deputy Commissioner
Office of the Commissioner
Department of Natural Resources (DNR)
Anchorage, Alaska

POSITION STATEMENT: During the hearing on HB 115, answered
questions.

REPRESENTATIVE CHARISSE MILLETT
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As the sponsor, introduced HJR 6.

KRISTIN RYAN, Director
Division of Spill Prevention & Response
Department of Environmental Conservation (DEC)
Anchorage, Alaska

POSITION STATEMENT: During the hearing on HJR 6, answered
questions.

NICHOLA RUEDY, Acting Executive Director

Alaska Native Village CEO Association (ANVCA)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HJR 6.

JULIANNA SHANE, Director
Tanadgusix (TDX) Corporation
St. Paul Island, Alaska

POSITION STATEMENT: Testified regarding HJR 6.

JIM ARNESEN, Corporate Lands & Regulatory Manager
Eklutna Incorporated
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HJR 6.

TIM CLARK, Staff
Representative Bryce Edgmon
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HJR 7(FSH) on behalf of Representative Edgmon, sponsor.

ACTION NARRATIVE

[1:03:24 PM](#)

CO-CHAIR DAVID TALERICO called the House Resources Standing Committee meeting to order at 1:03 p.m. Representatives Olson, Seaton, Josephson, Tarr, Hawker, and Talerico were present at the call to order. Representative Herron arrived as the meeting was in progress.

HJR 4-OFFSHORE OIL & GAS REVENUE SHARING

[1:04:59 PM](#)

CO-CHAIR TALERICO announced that the first order of business is HOUSE JOINT RESOLUTION NO. 4, Urging the United States Congress to provide a means for consistently and equitably sharing with all oil and gas producing states adjacent to federal outer continental shelf areas a portion of revenue generated from oil and gas development on the outer continental shelf to ensure that those states develop necessary infrastructure to support outer continental shelf development and preserve environmental integrity.

[1:05:12 PM](#)

REPRESENTATIVE DAN SADDLER, Alaska State Legislature, as the sponsor, introduced HJR 4. He said HJR 4 calls on the federal government to enact a fair and sensible system of federal revenue sharing from the outer continental shelf (OCS). Oil and gas development in federal areas can be a boon for the federal government in terms of jobs, revenue, and a secure source of domestic energy, but it also creates costly impacts on the states bordering that development. The government recognizes these strains and in some states it shares the proceeds to help the states offset the costs of the improvements and services necessary for safe, responsible development. In onshore areas the federal government shares 50 percent of the revenue with the state in which that production occurs. In states within three miles of near shore, the federal government shares 27 percent of the revenue. In four states bordering the Gulf of Mexico the federal government shares 37.5 percent. However, under current federal law, the State of Alaska would receive 0 percent share of any federal revenues from oil produced in the Chukchi and Beaufort seas or other OCS areas. Industry, the federal government, and the State of Alaska know that the federal waters off the North Slope hold tremendous amounts of oil. Recent environmental impact statements for Shell Oil's efforts in that region indicate that over three billion barrels of oil are likely to be produced. But just as onshore development in the North Slope required investments in infrastructure, development of Alaska's offshore resources of oil and gas will also require investments. Investments will need to be made in infrastructure like roads, ports, airports, utilities, and housing, as well as in services including public safety, search and rescue, oil spill response, and environmental monitoring and mitigation. The \$2.75 billion generated since 2006 by the Chukchi and Beaufort seas federal OCS lease sales would have brought \$1 billion to the State of Alaska had the same revenue sharing provisions applied to Alaska as apply in the Gulf of Mexico. Now is a good time to have this kind of resolution passed and to see Alaska's best chance of OCS revenue sharing in Congress. Alaska's senior U.S. senator, Lisa Murkowski, is now the chair of the U.S. Senate Energy and Natural Resources Committee. Senator Murkowski sponsored legislation last year to offer a 37.5 percent share of OCS revenue, but it didn't get through and it's anticipated the senator will try again. He said HJR 4 will send a strong message from the State of Alaska to the U.S. Congress to support legislation to enact a fair and sensible system of federal revenue sharing.

[1:08:14 PM](#)

CO-CHAIR TALERICO opened public testimony and closed it after ascertaining no one wished to testify.

[1:08:57 PM](#)

REPRESENTATIVE SEATON said he has supported this in the past. Fair and equitable distribution needs to be there, so he appreciates the sponsor bringing this resolution forward.

[1:09:24 PM](#)

REPRESENTATIVE HAWKER moved to report HJR 4 out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, HJR 4 was reported from the House Resources Standing Committee.

The committee took an at-ease from 1:09 p.m. to 1:11 p.m.

HB 115-AK SOVEREIGNTY;US TRANSFER LAND TO ALASKA

[1:11:58 PM](#)

CO-CHAIR TALERICO announced that the next order of business is HOUSE BILL NO. 115, "An Act relating to the transfer of public land from the federal government to the state and to the disposal of that land; and providing for an effective date."

[1:12:11 PM](#)

REPRESENTATIVE HAWKER moved to adopt the proposed committee substitute (CS), labeled 29-LS0587\E, Bullard, 2/26/15, as the working document. There being no objection, Version E was before the committee.

[1:12:55 PM](#)

REPRESENTATIVE MIKE CHENAULT, Alaska State Legislature, as the sponsor, introduced HB 115. He read from the following written sponsor statement [original punctuation provided]:

House Bill 115 enacts the Transfer of Public Lands Act. The bill requires the United States to transfer title to public lands to Alaska on or before January 1, 2017. This bill would also provide that if the state transfers title to public lands to which it received title from the federal government under the

Transfer of Public Lands Act, the state shall retain 50 [percent] of the net proceeds received by the state and pay 50 [percent] of the net proceeds the state receives to the federal government.

Although there are a number of state and federal constitutional issues regarding the provisions contained within the bill, this bill was introduced since the 25 year deadline from the time Alaska was admitted into the Union as provided within the Statehood Act. PL 85-508 is long past. I believe there is a breach of contract as well as a breach of good faith since the state is still entitled to and awaiting the transfer of the remaining 5.5 million acres. Thus far the state has received patent to about 99.5 million acres.

The state has 10.9 million acres of selections from which to receive its 5.5 million acres of entitlement as well as 10.2 million acres of top-filings that may eventually become selections should applicable withdrawals be lifted. These withdrawals come in numerous varieties of federal action and processes. Two common executive branch actions that created withdrawals are Public Land Orders (PLOs issued by the Department of the Interior and Executive Orders issued by the President.

At this time according to the Department of Natural Resources, there are approximately 222 million acres within Alaska under federal ownership.

This bill is modeled after a Utah house bill, [House Bill] 148.

[1:16:26 PM](#)

REPRESENTATIVE SEATON noted that according to a legal memo there are several constitutional problems. He inquired whether some of those are cured by the proposed committee substitute.

TOM WRIGHT, Staff, Representative Mike Chenault, Alaska State Legislature, replied not so much according to the legal memo. He said he doesn't think there is anything in the legal memo that the sponsor could fix in this bill, but a lot of the adaptations within the proposed CS were recommendations by the Department of Natural Resources (DNR). The sponsor hasn't tried

to hide the constitutional issues and that is why the legal memo was distributed.

[1:17:19 PM](#)

REPRESENTATIVE TARR inquired whether anyone from the federal government is available to answer questions.

CO-CHAIR TALERICO responded there is not.

REPRESENTATIVE TARR understood that the process is being worked through but that the surveying process for the selected land takes a lengthy amount of time and could be the reason for some delays. She asked whether the sponsor has any information in this regard and whether there is anything else outside of the bill that the state can do to speed up the process.

MR. WRIGHT deferred to DNR for an answer.

ED FOGELS, Deputy Commissioner, Office of the Commissioner, Department of Natural Resources (DNR), concurred that the surveying and transfer of the lands does take some time, but the key issue for DNR is that so much of the potential federal lands the state would like to choose from are locked up in these federal withdrawals and Public Land Orders (PLOs). To speed up the process the state needs the federal government to lift those withdrawals so there is a bigger pool of lands for the state to choose from.

[1:20:41 PM](#)

REPRESENTATIVE JOSEPHSON observed that page 2, [line 2], of the CS references the Ninth Amendment [to the Constitution of the United States]. He inquired why this is included given it is a Bill of Rights amendment related to personal liberties. He understood the Ninth Amendment essentially says something like "the previous eight amendments may not constitute all the liberties of the American people."

MR. WRIGHT answered the Ninth and Tenth amendments are closely aligned. The Ninth Amendment goes to the enumeration in the constitution of certain rights that shall not be construed to deny or discourage others retained by the people. The Tenth Amendment deals with more of state rights. The sponsor thought both were inclusive into the state sovereignty issue and didn't want to miss anything.

REPRESENTATIVE JOSEPHSON recalled that the first draft of HB 115 excluded national parks, but Version E doesn't do that. He asked whether the Utah measure excluded national parks like Zion, Bryce Canyon, Arches and other famous national parks that he has yet to see.

MR. WRIGHT replied the Utah bill did exclude the national parks. He said there are some national park lands that DNR would like to have access to, according to the information he received. However, he said, the sponsor is having second thoughts on the national park inclusion, especially with these times of budgetary deficits about whether the sponsor would want to take those over. Thus, the sponsor is further exploring national parks, but that is as far as the sponsor is willing to go at this point in time.

[1:22:40 PM](#)

REPRESENTATIVE HAWKER understood the language in the legislation doesn't mandate that the State of Alaska accept such things as national parks, it allows the state and the agency to make decisions whether it's in the best interest to accept land that is made available to the state.

MR. WRIGHT responded correct.

[1:23:10 PM](#)

REPRESENTATIVE SEATON drew attention to Version E, Section 4, page 2, lines 26-27, which states: "LIFTING OF PUBLIC LAND ORDERS; PERIOD FOR MINERAL EXPLORATION AND RESOURCE EVALUATION." He inquired whether that is the federal government withdrawing its claim for subsurface resources within the areas the federal government is going to continue to own or is just exploration ability so the state can evaluate the land and say which the state would want to choose.

MR. WRIGHT answered it is to allow DNR to do evaluations as to what mineral resources may be there and what might be available for development. He deferred to DNR to answer further.

MR. FOGELS replied that those withdrawals and Public Land Orders keep the state's selections from attaching. If they are lifted and then the state's selections attach, the state can get conveyance to the lands in fee simple subsurface and surface.

[1:24:51 PM](#)

REPRESENTATIVE TARR requested examples of these areas where there is a Public Land Order that the state would want withdrawn so that that land would become available for state selection.

MR. FOGELS responded one example is PLO 5150, which withdrew a corridor along the original Trans-Alaska Pipeline System (TAPS) right-of-way. He said it is a very big corridor that does not need to be withdrawn from selections since the pipeline has been constructed. Recently, as part of DNR's strategic and critical minerals initiative, some work was done in that area and some information was found that leads the department to believe there is potential for rare earth elements along that corridor. So, that is clearly a place that DNR would like to see the PLO lifted so the state's selections can attach and the state could get ownership of that land.

REPRESENTATIVE TARR asked what the process would be without this legislation for communicating with the federal government about a situation like the aforementioned.

MR. FOGELS answered that DNR's process, which it has been undertaking, is to communicate with the Secretary of Interior and asking the Secretary to lift these Public Land Orders. At an Alaska regional level DNR works with the Bureau of Land Management (BLM) as BLM does its resource management plans, and in those plans DNR will ask BLM to recommend lifting those withdrawals as part of the BLM plan. But ultimately the Secretary of Interior must put pen to paper to lift those withdrawals.

REPRESENTATIVE TARR inquired whether there is a process outside of BLM's land use plans in which DNR can ask for a withdrawal and, if so, whether that process requires the federal government to respond to the state within a certain amount of time and issue a decision within a certain amount of time.

MR. FOGELS replied DNR is not aware of any formal process with any kind of structure to it, so it would be simply a matter of writing letters. He said DNR has asked and has not gotten anywhere.

[1:28:00 PM](#)

REPRESENTATIVE HAWKER observed the fiscal note currently in the committee packet goes to the original bill and is not relevant to Version E. He inquired whether Mr. Fogels can assure him

that a forthcoming fiscal note for Version E will also be an indeterminate note.

MR. FOGELS responded he does not see any change in DNR's fiscal note with Version E.

MR. WRIGHT added, "except for the analysis."

MR. FOGELS stated that except for the analysis the fiscal note would be indeterminate.

[1:29:12 PM](#)

CO-CHAIR TALERICO opened public testimony on the bill. No one in the committee room or on line wished to testify.

[1:29:48 PM](#)

REPRESENTATIVE TARR commented that it would be helpful to have a federal government representative respond to questions at the next hearing on the bill.

CO-CHAIR TALERICO understood Representative Tarr's concern, but said he hopes to move the bill today. He said he has dealt with this from a municipal level before and has typically found the federal government to be nonresponsive.

REPRESENTATIVE SEATON thanked the sponsor for considering the national park issue, saying that that would be beneficial to the bill because it would take off the table something that could be very controversial and draw a number of people to oppose the bill. He encouraged the sponsor to make the bill cleaner. He added that when the federal government isn't listening, action needs to be taken to hopefully stimulate some listening.

CO-CHAIR TALERICO confirmed the bill has another committee of referral.

REPRESENTATIVE HERRON said that in his recent four years of experience on Arctic policy, federal employees will talk as long as it is not being recorded in a committee hearing. He said he therefore thinks it unlikely that the committee would get their comments on the record.

[1:31:55 PM](#)

CO-CHAIR TALERICO closed public testimony.

1:32:07 PM

REPRESENTATIVE JOSEPHSON said this bill speaks to some real and perceived frustration. But, he added, he thinks he wouldn't recognize his home state anymore if the bill were to pass. He related that the legal opinion he has says Article XII, Section 12, makes this unconstitutional and describes why.

REPRESENTATIVE TARR expressed her disappointment that in under 10 minutes the committee is going to work on and move a bill that is substantial in nature and that has far reaching impacts. She offered her hope that the committee can be more thoughtful in the future.

REPRESENTATIVE HAWKER said he doesn't feel at all uncomfortable about moving this bill forward as it sends a message to the federal government that he is comfortable with. It is a statement from the House Resources Standing Committee that it believes that Alaska's statehood entitlement needs to be fulfilled and fulfilled in a timely basis.

1:33:58 PM

REPRESENTATIVE HAWKER moved to report the proposed committee substitute for HB 115, Version 29-LS0587\E, Bullard, 2/26/16, out of committee with individual recommendations and the forthcoming indeterminate fiscal note.

REPRESENTATIVE TARR objected, saying she thinks more time should be given to deliberating the bill and hearing from additional people. She pointed out that typically when the legislature wants to communicate with the federal government it is done by resolution rather than statute. So, if that is truly the intent of this legislation, the committee should be considering a resolution, not a far-reaching statutory change.

REPRESENTATIVE JOSEPHSON also objected, stating he doesn't think this needs more attention and he doesn't need to hear from the federal government. He said he doesn't think there would be any point in having Yosemite, Yellowstone, the Great Smoky Mountains, all of it, and it is for those reasons he will be not recommending the bill's passage.

REPRESENTATIVE HAWKER noted that the bill places provisions into uncodified law, so it doesn't carry the full weight and

authority of a statute. As uncodified law it is an even stronger statement than a simple resolution.

[1:35:49 PM](#)

REPRESENTATIVE TARR, in response to Co-Chair Talerico, maintained her objection by nodding yes.

A roll call vote was taken. Representatives Herron, Hawker, Olson, Seaton, and Talerico voted in favor of the proposed CS for HB 115. Representatives Tarr and Josephson voted against it. Therefore, CSHB 115(RES) was reported out of the House Resources Standing Committee by a vote of 5-2.

The committee took an at-ease from 1:36 p.m. to 1:39 p.m.

HJR 6-FEDERAL CONTAMINATION OF ANCSA LANDS

[1:39:34 PM](#)

CO-CHAIR TALERICO announced that the next order of business is HOUSE JOINT RESOLUTION NO. 6, Supporting the introduction and enactment of federal legislation acknowledging that the federal government is financially responsible under the Alaska Native Claims Settlement Act for the remediation of contaminated land subject to conveyance under the Act; urging the United States Department of the Interior to implement the six recommendations to identify and clean up the Alaska Native Claims Settlement Act lands in its 1998 report to the United States Congress; and urging the President of the United States and the United States Congress to remediate and make free from pollutants lands in the state conveyed under the Alaska Native Claims Settlement Act.

[1:39:47 PM](#)

REPRESENTATIVE CHARISSE MILLETT, Alaska State Legislature, sponsor, introduced HJR 6, noting it is not new and is something the legislature has passed every session. She said the resolution has to do with the 1971 Alaska Native Claims Settlement Act (ANCSA), which was to finish the land claims with the tribal communities in Alaska. However, the tribes did not anticipate that these transferred lands would be contaminated and the tribes would be unable to fulfill their agreement with the federal government on what those lands would be used for, which would be revenues for each one of the corporations. Contaminated land doesn't generate revenue, it costs revenue. This is being seen more and more. Places like Unalakleet and

Tyonek have had severe problems with contaminated lands that were conveyed to them. Many corporations are currently in the process of having lands conveyed and have stopped conveyance due to finding out that the lands have all sorts of waste from every agency within the federal government. A 1998 Government Accountability Office report for the Bureau of Land Management (BLM) talked about over 600 contaminated land sites. It offered six recommendations for the BLM, Department of Interior, and the ANCSA corporations to work together to find some solutions. Not one of those six recommendations has been acted upon. Representative Millett said she has been to Washington, DC, several times on this issue. It is a huge problem for the Native corporations; they have been unable to fulfill their promise to their shareholders because their lands are contaminated and it is costing millions of dollars. The resolution speaks to that, to the 1998 report, to where the lands are, to how many sites are contaminated, and encourages the BLM and the Department of Interior to take this seriously and move forward. While they have taken full ownership of the contamination, it is the remediation part that they need to fulfill their promise to.

[1:42:38 PM](#)

REPRESENTATIVE HERRON asked whether Representative Millett has met with Interior Secretary Sally Jewell on this issue.

REPRESENTATIVE MILLETT replied she has not met with Secretary Jewell on this issue, but has met on this issue with her undersecretary, the Alaska BLM, and with Alaska's BLM representative in Washington, DC, but, it has not risen to that level with Secretary Jewell. She reported that the ANCSA corporations have also not met personally with Secretary Jewell on this issue, but have met with her undersecretary and a few other people. She believed this issue has come up in conversations with U.S. Senator Lisa Murkowski on the record in one of the energy committees two weeks ago. Secretary Jewell knows this is an issue and that the federal government has taken responsibility for it. The problem being run into with the legacy wells is that both the State of Alaska and the federal government are in deficit spending, so it another opportunity for the federal government to plead poverty. The ANCSA corporations have offered to go back and renegotiate some of the conveyances and trade land for clean land, which has been met with some skepticism within the BLM. Solutions are being worked on, but it is an arduous process that is going to take a long time and she doesn't want to stop the pressure for Alaska's

first people who should have the opportunity to prosper from the land that they were promised.

[1:44:41 PM](#)

REPRESENTATIVE HERRON related that both he and Representative Millett had the opportunity to meet with Secretary Jewell and the Northwest [Arctic] Leadership Team (NWALT). He requested Representative Millett to share what Secretary Jewell said about travesty wells.

REPRESENTATIVE MILLETT replied she and Secretary Jewell had a lengthy discussion about travesty wells, the federal government's response to travesty wells, and the opportunity for working together on travesty wells. Secretary Jewell seemed under the impression that the \$50 million received by Alaska in the "Helium bill" was enough to clean up approximately 87 travesty wells, some of which are buried under lakes or under landslides. There was a spirited discussion that \$50 million was a good start, she said, but is not anywhere near the cost of the remediation of the wells. Secretary Jewell also pointed out that as part of mitigation efforts in leases for oil and gas companies on federal lands on the North Slope, the producers will now have incorporated into their lease agreement and their plan of production that the mitigation cost will be absorbed by the producers. Representative Millett said she found this to be very hypocritical because it will add an incredible cost to the production of oil and gas from federal lands. It is known that the oil producers partnering with the State of Alaska did not create the problem on the land. She further reported that Secretary Jewell seemed to think there was some value with the legacy wells that were drilled from 1941-1988. Representative Millett said she is unsure what type of well data is had on those wells. When the Alaska Oil and Gas Conservation Commission (AOGCC) looked at a list of the most dangerous wells to the least dangerous wells, it had a very difficult time getting information from the BLM on those wells and there are still some wells on which AOGCC has no data. She said she therefore found it unusual that Secretary Jewell would say that there was a benefit cost savings for the oil producers to have the information on legacy wells when a lot of that well data is missing and is from 1941. Some of those wells are uncased surfaced wells that went down 100 feet and some went down 1,000 feet. Some were very lightly drilled permafrost testing wells. Secretary Jewell has a different view than Alaskans who think that someone making a mess should take the responsibility of cleaning up that mess.

1:48:39 PM

REPRESENTATIVE HERRON asked Representative Millett to relate why Secretary Jewell is so rigid on legacy wells.

REPRESENTATIVE MILLETT responded she pointed out to Secretary Jewell the hypocrisy of the federal government and the mission of the Department of Interior, which is to be the caretaker of the land. However, Secretary Jewell wouldn't take the opportunity to be the advocate for cleaning up the legacy wells.

REPRESENTATIVE HERRON stated he and his colleagues did not hear an apology from Secretary Jewell.

1:50:38 PM

REPRESENTATIVE JOSEPHSON asked how many of the 650 sites were contaminated before about 1965.

REPRESENTATIVE MILLETT answered she is unsure as it has been difficult to inventory the actual contamination dates and the agency that did the contamination. Alaska has been a test site for nuclear tests, oil and gas drilling, permafrost, pipeline stabilization, and for every scientist who wanted to try something detrimental to the environment. While there is some inventory, it was long before 1971 and the ANCSA settlement.

REPRESENTATIVE JOSEPHSON inquired whether Ms. Kristin Ryan of DEC knows the chronology of these sites and whether they predate approximately 1965.

KRISTIN RYAN, Director, Division of Spill Prevention & Response, Department of Environmental Conservation (DEC), replied she doesn't know; the information on a lot of these sites is patchy. Of the over 2,000 contaminated sites that the division is aware of, over half are on federal land. Monitoring the cleanup of contamination of federal lands is a huge portion of DEC's work. Many of those sites are not in active remediation, DEC is aware that they are there and is working with the appropriate federal agency to start remediation.

REPRESENTATIVE JOSEPHSON asked whether the other 1,350 contaminated sites predate the mid-1960s.

MS. RYAN responded she does not know.

1:53:47 PM

CO-CHAIR TALERICO opened public testimony on HJR 6.

1:54:20 PM

NICHOLA RUEDY, Acting Executive Director, Alaska Native Village CEO Association (ANVCA), stated ANVCA is a nonprofit organization with the mission to advocate for policies which will benefit and protect the interests of Alaska Native village corporations with local, state, and federal government. Of the more than 200 Alaska village corporations, more than 80 belong to ANVCA. The millions of acres conveyed by the federal government to Native corporations included land with various types of hazardous waste and toxic materials that pose significant health risks to humans, animals, and the environment, such as arsenic, asbestos, polychlorinated biphenyls (PCBs), mining waste chemicals, and petroleum. During the 1990s the Alaska Native community raised concerns that the department was conveying contaminated lands to Alaska Native corporations. In 1995 Congress directed the Secretary of Interior to prepare a report of the extent of the contamination on lands conveyed pursuant to ANCSA. In December 1998 the department submitted a report to Congress entitled "Hazardous Substance Contamination of Alaska Native Claims Settlement Act Lands in Alaska." In that report the department acknowledged conveying more than 650 contaminated sites to Alaska Native corporations. The report identified numerous types of hazardous wastes, including known carcinogens, on conveyed lands. Recognizing the unjustness of conveying the contaminated lands, the department recommended an approach to identify contaminated sites and the cleanup needs on ANCSA lands, including six recommendations. Research indicates the department has made no effort to implement any of those six recommendations. Through correspondence on July 31, 2013, the department's office in Alaska acknowledged that "the department has had no further involvement after the report was submitted." In a September 18, 2013, letter to Secretary Jewell the Alaska Delegation stated that after 15 years the department has had sufficient time to act on its six recommendations and said it is imperative that progress be made now to clean these lands so they can fulfill the goal of the aboriginal lands claims settlement. On July 10, 2014, Secretary Jewell responded to the Alaska Delegation that the department is committed to determining which sites are identified in the 1998 report conveyed under ANCSA in order to continue follow-up on the six recommendations. There has yet to be any major cleanup. The ANVCA stands behind HJR 6, which

supports enactment of federal legislation acknowledging that the federal government is financially responsible under ANCSA for the remediation of contaminated land.

[1:58:14 PM](#)

JULIANNA SHANE, Director, Tanadgusix (TDX) Corporation, related that in the 1870s the federal government started commercial seal harvest. In 1984 the federal government finally phased out of the Pribilof Islands. The TDX Corporation then went after cleaning the contaminated sites that were located on the island. It took \$76 million and 11 years to clean up the property before the corporation allowed conveyance to it. But it is possible and TDX trained its people to do it. The property conveyance will hopefully be finished within the year. She said she is here to say that it can be done by the local corporations, the village corporations, to train their own people. This is something the elders fought for and the rest of the people have continued the fight. The cleaning funds were received through a special act, so it can be done. To hear it is being said that certain areas cannot be cleaned or different lands should be selected does bring an issue to those leaders who are charged for the health and welfare of their people. If it is within the vicinity of a village these items and areas need to be cleaned and not buried.

[2:00:50 PM](#)

JIM ARNESEN, Corporate Lands & Regulatory Manager, Eklutna Incorporated, shared that Eklutna Incorporated has received a number of contaminated properties through the ANCSA provisions. One of the more prominent contaminated areas is in the heart of the Native village of Eklutna. This was the former U.S. Army site of Camp Mohawk and the BIA Eklutna boarding school. Over the last few years the Native village of Eklutna has obtained Native American Lands Environmental Mitigation (NALEM) program funds, which are available for tribes. Some investigation and remediation has been done with those funds, but more remediation is needed. Eklutna Incorporated worked with the U.S. Army Corps of Engineers through the Formerly Used Defense Sites (FUDS) program to investigate and attempt petroleum product remediation in the former Camp Mohawk area within the existing gravel pit at Eklutna. Contaminated gravel that smells like diesel is not saleable. That effort is continuing and Eklutna is awaiting further results from testing done this last year and further remediation activity in that area is expected.

[2:02:29 PM](#)

MR. ARNESEN said another contaminated site inherited by Eklutna Incorporated is the original Matanuska town site. The area was used by a former polluter from Anchorage who is now deceased. The polluter had placed a large number of contaminated materials of various kinds and quantities all around the properties and migration of the liquids is believed to have occurred. The old Donnelly Homestead was also inherited through ANCSA and Eklutna Incorporated spent substantial funds about 15 years ago to clean up the surface. The cleanup operation consisted mostly of surface debris from Donnelly who operated an illegal junkyard on the property; the property is impaired and may require more remediation in the future. Eklutna Incorporated has property next to the Birchwood Recreation and Shooting Park where over the years trespass shooters have polluted the property with lead. Eklutna Incorporated is in the process of determining the levels of contamination which will guide the remediation effort. More recently Eklutna Incorporated discovered potential contamination believed to be emanating from the old Peters Creek landfill, which has been closed for some time. Eklutna Incorporated is in the process of determining the extent of potential contamination and type of remediation needed there under testing protocol. Eklutna Incorporated has received other properties that have been used by various governmental units and as the corporation goes to develop its properties it has run into contamination and/or bury pits where debris of one kind or another have been disposed of. The cost of remediating these impaired properties has been a financial burden upon Eklutna Incorporated and has at times prevented, stopped, or delayed a project. Eklutna Incorporated believes that contamination issues on its lands due to past use by former governmental units have not been addressed fully or satisfactorily. Impacted lands are a burden and a big hurdle for many economic development opportunities upon Native lands. Eklutna Incorporated supports HJR 6, which asks the U.S. Congress to pass legislation to hold the federal government responsible for remediation of contaminated lands received under ANCSA. Eklutna Incorporated believes the federal government has a financial and moral obligation to remediate the contaminated sites and reimburse funds spent by Native corporations on the contaminated sites.

[2:05:12 PM](#)

CO-CHAIR TALERICO closed public testimony on HJR 6.

[2:05:21 PM](#)

REPRESENTATIVE JOSEPHSON related that in a subcommittee meeting with the Department of Environmental Conservation (DEC), there was some recognition by DEC officials that many of these sites date to World War II and the Cold War when everyone was in a hurry to win what they were striving for. It is interesting that a lot of the national environmental laws came into effect in the mid-1960s. The one that some people find most troublesome is the 1969 National Environmental Policy Act (NEPA) where federal agencies cannot start any project without doing at least an environmental assessment and perhaps an environmental impact statement (EIS). Many of these acts were signed by President Richard Nixon. He said he only notes this because he commends Representative Millett for her actions, but it is an interesting thought that these statutes have made things better. What hasn't gotten better, and he shares Representative Millett's concern, is the delay in all of this. It is unconscionable, he said, and something needs to be done.

[2:06:55 PM](#)

REPRESENTATIVE SEATON appreciated the sponsor bringing forth this resolution, saying this needs to be looked at throughout the lands of Alaska and the responsible party should be the one in charge of ensuring that remediation takes place.

CO-CHAIR TALERICO concurred.

[2:07:31 PM](#)

REPRESENTATIVE HAWKER moved to report HJR 6 out of committee with individual recommendations [and the accompanying zero fiscal note]. There being no objection, HJR 6 was reported from the House Resources Standing Committee.

The committee took an at-ease from 2:07 p.m. to 2:11 p.m.

HJR 7-OPPOSE ALEUTIAN NATIONAL MARINE SANCTUARY

[2:11:29 PM](#)

CO-CHAIR TALERICO announced that the final order of business is HOUSE JOINT RESOLUTION NO. 7, Opposing the proposed designation of an Aleutian Islands National Marine Sanctuary. [Before the committee was CSHJR 7(FSH).]

[2:11:52 PM](#)

REPRESENTATIVE HAWKER moved to adopt CSHJR 7(FSH) as the working document. There being no objection, CSHJR 7(FSH) was before the committee.

[2:12:13 PM](#)

TIM CLARK, Staff, Representative Bryce Edgmon, Alaska State Legislature, explained the resolution declares the legislature's opposition to a nomination made by the Public Employees for Environmental Responsibility (PEER), a group based in Washington, DC, although the group does have some membership in Alaska. The nomination was to the National Oceanic and Atmospheric Administration (NOAA) for the creation of what would be called the Aleutian Islands National Marine Sanctuary. Since introduction of the original resolution PEER has received a rejection from NOAA. However, because NOAA also invited PEER to revise and perhaps resubmit its nomination, Representative Edgmon, in consultation with many of the communities that are upset about this issue, decided to go forward with the resolution. He said CSHJR 7(FSH) includes acknowledgment of this recent development.

MR. CLARK noted that many of the communities located within the proposed sanctuary boundary are in large part upset that they were never consulted by any of the groups that brought forth the nomination to NOAA. The communities are perhaps more upset by the contents of the nomination itself, which would have put an area of 554,000 square nautical miles into a sanctuary. That area is nearly equal to the entire land mass of the state of Alaska. It would have locked in all current restrictions on fishing and other commerce in that whole vast area. Also, it would have sought significant new restrictions that likely would obstruct present and future economic activity. Those additional restrictions are enumerated pretty specifically in PEER's nomination document.

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MR. CLARK continued, stating the nomination also disregards an extraordinary amount of conscientious and effective environmental stewardship that already exists in the region. More than 227,000 square nautical miles of the Aleutians are already designated critical habitat conservation area. The Aleutians are subject to the North Pacific Fishery Management Council's Aleutian Islands Fishery Ecosystem Plan which brings heightened scientific scrutiny to assess the health of the

ecosystem to ensure fisheries sustainability and the well-being of the communities there. Also, the fisheries and ecosystems are rigorously managed under the Alaska Department of Fish & Game (ADF&G), the North Pacific Fishery Management Council, and Alaska's Board of Fisheries, as well as research and management through the National Marine Fisheries Service. For shipping there is an ongoing Aleutian Islands Risk Assessment, which includes development of the Optimal Response System for towing, salvage, and [spill] response capabilities. Offshore oil and gas development risk is very low following President Obama's December [2014] withdrawal of more than 32 million acres in the North Aleutian Basin from exploration leasing.

MR. CLARK reiterated that there was almost no local consultation to Representative Edgmon's knowledge. He said there is no local support for the proposed marine sanctuary that Representative Edgmon is aware of from having talked with many people throughout his district. On the contrary, Representative Edgmon has received either resolutions or official letters [of opposition] from the Aleutians East Borough Assembly, the federally recognized [Agdaagux Tribe] of King Cove, the Akutan Traditional Council, the City of Sand Point, and the City of Adak, among others. The City of Unalaska recently voted to oppose this and any such similar nomination.

[2:18:42 PM](#)

MR. CLARK, in response to Co-Chair Talerico, reviewed the sectional analysis regarding the changes between HJR 7 and CSHJR 7(FSH). He said the substantive revisions include inserting an additional "whereas" clause on page 3, lines 3-7, which notes NOAA's response to PEER, as well as addition of the phrase "or any similar nomination" in the "resolve on page 3, line 10, in order to address the possibility of the submission of a revised nomination by PEER or other entities.

[2:19:37 PM](#)

REPRESENTATIVE HAWKER remarked that basically the legislature is sending a very strongly worded letter from the State of Alaska expressing its opinion to decision makers in Washington, DC. He observed that the distribution list for the resolution includes the U.S. Secretary of Commerce, the Under Secretary of Commerce for NOAA, along with Alaska's congressional delegation. He asked whether the sponsor thinks this is a wide enough distribution.

MR. CLARK replied that the nominating process in the marine sanctuary program exists in NOAA and the distribution is addressed specifically to the people overseeing the nominations program. He said the sponsor would welcome suggestions from the committee if there are any.

REPRESENTATIVE HAWKER suggested the sponsor may want to consider whether the net is cast wide enough.

MR. CLARK thanked Representative Hawker.

[2:21:32 PM](#)

CO-CHAIR TALERICO opened public testimony on HJR 7 and closed it after ascertaining that no one wished to testify.

[2:22:12 PM](#)

REPRESENTATIVE HERRON brought attention to the map delineating the boundary of the proposed marine sanctuary. He said it is incredulous that the group did not consult any local people, the indigenous people, or the State of Alaska. He noted the proposed boundary completely surrounds Nunivak Island, Kuskokwim Bay, and Bristol Bay, and therefore it is not only the Aleutian Islands. Given that the federal government is to consult with the State of Alaska and Alaska's indigenous groups in its Arctic strategies, he commended the U.S. Department of Commerce for doing this correctly. It is important for the state to always insist on being consulted when decisions are being made so far away from Alaska, he added.

REPRESENTATIVE JOSEPHSON said he echoes Representative Herron's comments. Drawing attention to the U.S. Department of Commerce's letter of January 23, 2015, he noted it came 31 days after the submittal. In its letter, he observed, the department highlights the lack of local participation as well as no clarification of support from the federal and state agencies listed as potential management partners. He commended the U.S. Department of Commerce.

REPRESENTATIVE SEATON noted that management of the [Alaska Maritime National Wildlife Refuge] would overlay into the proposed sanctuary designation. He said he hasn't heard from anyone that the refuge designation is problematic in any way and he thinks there has been broad general support for the refuge. The visitor center for the refuge is located in Homer and gives a picture of those kinds of ecosystems. He suggested that the

sponsor may want to include that overlapping responsibility as the resolution moves along.

CO-CHAIR TALERICO related that he had a discussion with the sponsor this afternoon and the sponsor is quite passionate about this. He offered his appreciation to the sponsor for contacting him to explain this issue.

[2:26:50 PM](#)

REPRESENTATIVE HAWKER moved to report CSHJR 7(FSH) out of committee with individual recommendations [and the accompanying fiscal zero fiscal note]. There being no objection, CSHJR 7(FSH) was reported from the House Resources Standing Committee.

The committee took an at-ease from 2:27 p.m. to 2:30 p.m.

[2:29:57 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:30 p.m.