

**ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE**

March 2, 2015

3:30 p.m.

MEMBERS PRESENT

Senator Cathy Giessel, Chair
Senator Mia Costello, Vice Chair
Senator John Coghill
Senator Peter Micciche
Senator Bill Stoltze
Senator Bill Wielechowski

MEMBERS ABSENT

Senator Bert Stedman

COMMITTEE CALENDAR

CONFIRMATION HEARING

Commissioner-Alaska Department of Fish and Game
Sam Cotten

- CONFIRMATION ADVANCED

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

SAM COTTEN, Commissioner-Designee
Alaska Department of Fish and Game (ADF&G)
Juneau, Alaska

POSITION STATEMENT: Commissioner-Designee for the Alaska
Department of Fish and Game (ADF&G).

OLIVER HOLM, representing himself
Kodiak, Alaska

POSITION STATEMENT: Supported Sam Cotten's appointment as
commissioner for the Alaska Department of Fish and Game (ADF&G).

PAUL SHADURA, II
South Kalifornsky Beach Independent Fishermen's Association

Kasilof, Alaska

POSITION STATEMENT: Supported Sam Cotten's appointment as commissioner for the Alaska Department of Fish and Game (ADF&G).

GEORGE MILNE

North Pacific Fisheries Association

Homer, Alaska

POSITION STATEMENT: Unanimously supported Sam Cotten's appointment as ADF&G commissioner.

JEFF FARVOUR

Alaska Longline Fishermen's Association

Sitka, Alaska

POSITION STATEMENT: Whole-heartedly supported Sam Cotten's appointment as Commissioner of ADF&G.

RICHARD DAVIS

Seafood Producers Cooperative

Sitka, Alaska

POSITION STATEMENT: Strongly supported Sam Cotten's appointment as Commissioner of ADF&G.

ACTION NARRATIVE

[3:30:19 PM](#)

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

[3:30:46 PM](#)

**Confirmation Hearing: Alaska Department of Fish and Game (ADF&G)
Commissioner, Sam Cotten**

[3:30:51 PM](#)

CHAIR GIESSEL announced the confirmation hearing for Sam Cotten, commissioner designee for Alaska Department of Fish and Game (ADF&G).

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SENATOR WIELECHOWSKI joined the committee.

SENATOR COGHILL joined the committee.

CHAIR GIESSEL welcomed Mr. Cotten to the table.

[3:31:50 PM](#)

SAM COTTEN, Commissioner-Designee, Alaska Department of Fish and Game (ADF&G), Juneau, Alaska, said he was excited about the opportunity of heading the Alaska Department of Fish and Game. He was born and raised in Alaska and except for a couple of stints in Viet Nam he has lived his entire life here. He brings a balanced approach to this job with a lot of hands-on background at hunting and fishing, as a sportsman, as a personal use fisherman and as a commercial fisherman. He also has a background in fisheries management having been a member of the North Pacific Fisheries Management Council that manages fisheries from 3 to 200 miles off Alaska's coast. In addition, he spent many years serving in the legislative branch of government and has a good appreciation for it does.

He said the department has a huge responsibility to a lot of people in this state and he is taking that very seriously. His goals include doing an outstanding job of managing and protecting the state's fish and game resources. The better information they have and the better science they have the better job they are able to do of providing access to the fish and game resources.

His other priorities include work on Chinook salmon research to find out why historical runs are not returning. Another goal is to try and diffuse some of the polarization among fisheries user groups by making as many decisions as possible in the open so people can understand how and why those decisions were made. He has already been doing some of that in meeting with different interest groups around the state on issues they feel passionately about.

COMMISSIONER COTTEN said he is hoping to have better success working with federal agencies and has already had some success, at least, with the National Marine Fisheries Service (NMFS). He said he is hoping to establish a sustainable budget for the department.

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SENATOR STOLTZE asked if he could recall some of the folks he voted against for major appointments when he was in the legislature and what went into his thinking when he decided not to give the governor deference.

COMMISSIONER COTTEN replied that he couldn't remember how many he had voted against, but it was a few.

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CHAIR GIESSEL said that the federal government is putting forth the concept of ocean zoning and is expressing a great deal of concern about ocean acidification and climate change. It is conceivable they could use that theory to actually regulate the harvest of salmon that spend much of their life out in the ocean. Then, they would take control of the state's harvests. This may seem like a long way off, but they seem to be moving quickly in usurping Alaskans' access to resource and she asked how he would balance this approach with management of the state's fisheries.

COMMISSIONER COTTEN responded that the state has an opportunity, as a working majority on the North Pacific Fisheries Management Council, and often interfaces with the National Marine Fisheries Services on issues like ocean zoning, and he didn't think there was a serious threat or even an interest on the part of the U.S. government to get involved with salmon management. But other issues in ocean zoning could affect Alaska like the recent case with Steller sea lion mitigation measures that closed a lot of areas to fishing.

He explained that ocean zoning is a federal initiative that Alaskans can express their views on and the Council (including Oregon and Washington) has been regularly against it.

CHAIR GIESSEL asked where he comes down in terms of technique - lawsuit or talking - on pushing back on any of the designations.

COMMISSIONER COTTEN replied that he evaluates issues on a case by case basis. Sometimes going to court is the only option, but other efforts have had varying degrees of success, too. The North Pacific Fisheries Management Council has a direct relationship with at least one federal agency, the National Marine Fisheries Service (within the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA)). So, they have had some success in avoiding lawsuits by working closely with them, presenting alternative ideas, joining with them on committees that study different things like sea lions. His approach would be to try to exhaust possible successes in those areas, but in the case of the sea lions, the state had to go to court.

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SENATOR COGHILL said sometimes two federal agencies don't agree with each other on how things should be done and that the state has a lot of memorandums of understanding (MOU) with the federal government and that maybe he could explore using more MOUs.

COMMISSIONER COTTEN replied that he hadn't done that, but it sounds like it might be a fairly effective tool. It makes sense.

SENATOR COGHILL said the state may be at the table, but the feds are working around us on the Endangered Species and Marine Mammal Protection Act issues.

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COMMISSIONER COTTEN agreed and said the state might have to go back to court over a couple of ice seal species in the Arctic. He is in internal discussions now on the next step; they are not missing any deadlines and are well aware of the situation. The premise that the NMFS and USFWS are using is that climate change is going to eventually (a 100-year horizon) destroy their habitat (ice) and therefore, they should be put on the Endangered Species List and mitigation measures be considered for them.

SENATOR COGHILL said his office watches what the federal government is doing in coming into state waters so the state can at least comment. He asked if the commissioner had had a chance to look at what that means to Alaska's fisheries.

COMMISSIONER COTTEN answered that an extra territorial jurisdiction (ETJ) effort has never been done in Alaska, but now one is pending in Southeast Alaska for Chatham Straits that suggests the federal government ought to take over management of fisheries in that area to protect subsistence use. The issue is actually in front of the Board of Fisheries in Sitka, but it is getting worked out. Alaska doesn't need help in managing its fisheries in its own waters, he said.

SENATOR COGHILL said he is "a kid from the Tanana River" and is tied to the Yukon where fish in general, especially Chinook, have been hard to come by, and while raising Chinook as a stock is more difficult, the hatchery up there could possibly be used for that. He asked if anything in his thinking could enhance salmon runs in the upper parts of the Yukon/Tanana River.

COMMISSIONER COTTEN replied that the Fairbanks hatchery is capable of producing Chinook salmon, and he has responded to folks with information on that subject, but it comes down to having the money to do it. You have to decide what kind of investment you want to make for the return that is expected, and part of the expense is identifying those fish and determining how successful programs have been.

SENATOR COGHILL said they had done some studies on those stocks and asked if they are tagging fish or just counting them.

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COMMISSIONER COTTEN answered there had been several different efforts; one is "mark and recapture" that tags a fish and later catches it and figures out information from that and they can count fish with weirs located in several different places. That is a big part of the management effort and it has been happening for some time.

SENATOR MICCICHE said after the fire of 1969 game is becoming increasingly scarce in his district and asked how he felt about a systematic plan for creating habitat on state lands.

COMMISSIONER COTTEN replied that intensive management statutes allow for habitat manipulation, but then it becomes a budget issue and there are probably a lot of other considerations. He was at that fire and would be glad to work with him and his staff on specific efforts.

SENATOR MICCICHE said he was coupling two concerns: one is public safety and the other is habitat. He asked if the "Sam Cotten leadership team" would be willing to look at the area north of the highway wearing both sets of glasses. It's not something that has been done aggressively in the last 20 years or so.

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COMMISSIONER COTTEN answered that he didn't have any specific plans at the moment. He thought there would be a lot of public interest if they moved ahead with things like controlled burns. He was sensitive to the fact that moose numbers on the Peninsula are drastically down.

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SENATOR WIELECHOWSKI said his district in East Anchorage and JBER has a lot of sport fishermen and dip netters and the closest place for them to go is the Mat-Su drainage. But many people take the drive down to Kenai to fish and there are increasing concerns over the availability of sport fish and kings in the Kenai. A lot of different things have been tried over the years and he asked what efforts the department is undertaking to ensure strong returns to those areas.

COMMISSIONER COTTEN said everyone likes to promise more fish, and the Board of Fisheries put a new management structure in place this summer and there were good coho returns. But one year doesn't tell the whole story. He hopes to continue seeing success in the Valley, but the Habitat Division is looking at ways to improve habitat and other agencies are involved in restoration activities like culvert removal and pike eradication. He welcomes ideas on improving Mat-Su fish returns.

SENATOR WIELECHOWSKI asked if he had heard anything about changing the Cook Inlet management structure from the Board of Fisheries.

COMMISSIONER COTTEN replied that he hadn't heard that, but they are on a three-year cycle. If the Board were take it up out of cycle and make some changes that would be a big surprise to him.

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SENATOR STOLTZE asked him to explain the structure for fish and game management in this administration and who he gets his marching orders from.

COMMISSIONER COTTEN responded that the constitution and the statutes prescribe a lot of his marching orders. Previous administrations have had a designated person on the Third Floor that would interface with the governor on fisheries issues and those folks have had different levels of participation over the years. This year the governor cut his budget significantly and although Lieutenant Governor Mallott has some interest in fisheries issues, he isn't taking an active role in day-to-day management. He is heading up a task force on trans-boundary river issues because of concerns about Canadian mines on rivers that flow into Alaska.

SENATOR STOLTZE said he heard there is a conscious effort to realign commercial fishermen as the majority of members.

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COMMISSIONER COTTEN said he hadn't been informed that there is a policy to skew the board in any way. The governor is just looking for good people who will do a good job.

SENATOR STOLTZE asked if it would be improper to change the balance.

COMMISSIONER COTTEN responded that he would have a chance to decide on whoever the governor appoints.

SENATOR COGHILL said hunting in his area in the Interior gets pretty interesting because there are a variety of different rules and some of the enforcement can get pretty tough based on some subjective things; people are advised to take a GPS and a lawyer hunting with them. He asked how that situation could be smoothed out a little bit.

COMMISSIONER COTTEN responded that he was reluctant to say too much, but he hoped public safety personnel would use common sense.

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SENATOR COGHILL said that is a dialogue that needs to keep happening. People who turn themselves in, especially for a common sense error, are still being treated like criminals. These close enforcement calls should be worked on, because so many people in his area depend on hunting to fill their freezers.

COMMISSIONER COTTON said he appreciated the fairness issue and it seems like there could be some way to recognize that someone turned himself in.

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SENATOR MICCICHE said the commissioner has the authority to operate with emergency orders somewhat outside of the management plan and that never goes well on either side. His district has all of the user groups, a lot of whom hate each other, and he asked the commissioner if there is any value to bringing groups together independently outside of the board process to find some agreement on some issues.

COMMISSIONER COTTEN said he absolutely wants to do that and has already done some of that in meeting with many representatives of his neighbors, but he hadn't figured out how best to get them together and asked for his advice. He wanted to get as much consensus as possible.

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CHAIR GIESSEL turned to the National Park Service's (NPS) impact on access to Alaska's game in a couple of national parks. John Sturgeon using his hover craft on the National River to go moose hunting and the federal government is now saying they have jurisdiction over navigable waters, which places a barrier for citizens reaching hunting grounds. The NPS has also preempted state subsistence hunting regulations in a couple of national

parcs addressing bears in den sites and wolf seasons. What would he do?

COMMISSIONER COTTEN answered that he already had conversations with the assistant director, Burt Frost, at the last Board of Game meeting and it didn't go real well. The Park Service either doesn't want to or doesn't understand what the state's goals are for intensive management. He'll keep trying to educate them, but it hasn't gone well yet. Some of their personnel refer to intensive game management as game farming, so people can get trophy animals and mount them on their wall when in fact, the primary purpose is for consumptive uses and food security. Obviously, they are not going to allow hunting in Denali Park, but the preserve lands are of recent concern. He said the department had not missed any deadlines or opportunities to comment on this issue.

CHAIR GIESSEL said one of the strengths of going to court is that then they have to talk to you and you are at the same table as the NGOs who are already at the table with the federal agencies. The state has had some success in court with the Endangered Species issues. Landscape Conservation Cooperatives are being put together that manage the land and the animals and fish on it under very a broad climate change premises and said that is something we have to be prepared to push back on.

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COMMISSIONER COTTEN agreed and added that the department has tried to figure out a way to make those work to the state's benefit, but hadn't had a lot of success.

SENATOR STOLTZE offered that he didn't think Alaska would talk its way out of this one and asked if he had assembled the strongest possible team in defending Alaska's position against the feds.

COMMISSIONER COTTEN replied yes; the ADF&G has excellent folks that have a lot of experience with this issue. He explained that the Department of Law (DOL) makes the lawsuit decision, but ADF&G provides whatever evidence and biological information needed to support their case.

SENATOR STOLTZE noted that Commissioner Cotten had been an active supporter of his party had done a commercial supporting the former junior senator from Alaska. His quote referencing HB 77 in the commercial said, "This idea was obviously cooked up by somebody who wasn't from here." It had the tag Sam Cotten as a

commercial fishing representative. He asked if he would do that commercial again.

COMMISSIONER COTTEN replied that he would do it again, but he wasn't talking about a candidate in particular; he was referring to issues.

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OLIVER HOLM, representing himself, Kodiak, Alaska, said he had been a commercial fisherman and hunter around Kodiak Island for over 50 years, had been on the Kodiak Fish and Game Advisory Committee for more than 35 years and the local salmon enhancement association for 25 years. He ran into Mr. Cotten over the years and was quite confident he would do a fine job as ADF&G commissioner.

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PAUL SHADURA, II, South Kalifornsky Beach Independent Fishermen's Association, Kasilof, Alaska, said their mission is to protect and promote the fishery resources returning to the Kasilof River and the Tustumena Lake watershed. He said the State of Alaska is fortunate to have an ADF&G commissioner with such sound, long-time continued involvement with resources within the state and up to the 200-mile limit. Commissioner Cotten has an ability to listen to many different views and to respond in a fair, concerned and reasonable manner. He is approachable, clearly a requirement to be able to communicate with all resource use interests.

MR. SHAUDURA said his concern with the ADF&G as a whole is that with these apparent lead times important assessment projects will not be actuated. Clearly, less science means less opportunity for all Alaskans. But he was confident Commissioner Cotten would be able to chart a course through these shallow waters and work with all individuals and groups - to have them work with the department and not apart. Less conflict can only be accomplished with strong, cooperative, honest and transparent communications.

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GEORGE MILNE, North Pacific Fisheries Association, Homer, Alaska, said the board voted unanimously to supported Sam Cotten's appointment as ADF&G commissioner. They are quite familiar with him as he is from their area. As a board member of the Cook Inlet Aquaculture Association, he had personally worked with Mr. Cotten. He said, "Sam Cotten knows fish and game; Sam Cotten knows Alaska and he is passionate about our

resources." His experience on the NPFMC is invaluable to the state in protecting its interests and his experience in the legislature is also invaluable to the entire process.

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JEFF FARVOUR, Alaska Longline Fishermen's Association, Sitka, Alaska, whole-heartedly supported Sam Cotten's appointment supported as Commissioner of ADF&G.

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RICHARD DAVIS, Seafood Producers Cooperative, Sitka, Alaska, strongly supported Sam Cotten's appointment supported as Commissioner of ADF&G. He said they are a vertically integrated trade association of 550 commercial fishermen, 450 of whom are Alaskans who harvest a wide variety of seafood products. They are the oldest and largest fishermen's cooperative in North America. They have participated in processing and marketing fish for Alaskans since 1944 and have worked with Sam Cotten and have observed his leadership and management capabilities. During his time on the NPFMC he was knowledgeable, as well as accessible to fishery participants and he was courteous in his exchanges with them. He is an ideal fit for this position.

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CHAIR GIESSEL, finding no further comments, closed public testimony and noted two letters of support from the United Fishermen of Alaska (UFA) and the Southeast Alaska Fishermen's Alliance.

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SENATOR MICCICHE remarked that Mr. Cotten had lots of support from commercial groups and asked if he knew why the committee hadn't heard from personal use, subsistence and sport users.

COMMISSIONER COTTEN said he didn't know of any opposition, but he hadn't solicited any comments from anybody.

SENATOR MICCICHE observed that normally he gets many letters from different sides and his email has been quiet, which he took to be a good sign.

CHAIR GIESSEL observed that a lot the letters and testimony have been from fishing interests versus the game interests.

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SENATOR STOLTZE said he couldn't think of anyone he would rather have as commissioner to manage Alaska's commercial fisheries

than Sam Cotten. But he had some concerns about some game issues; there had been a shift on some level of the philosophy of management of game just by the change of appointments. He said he had known the commissioner for his entire life and had worked with him at one time and valued the experience he gained. Any contentions he has with him have almost always been on the issues of intensive management.

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SENATOR COGHILL said he was grateful that Mr. Cotten would step up, especially during tough budget times. Some of the more astute game people continually remind him that the regulations don't often line up well enough with the statutes. It burns him when people go out with good faith trying to follow the rules and find out later that an interpretation of a regulation was the third movement down from what they thought the law was.

SENATOR MICCICHE advised that he couldn't spend enough face time in communities that are impacted by fisheries decisions. Transparency and early warning is key for closures as many people plan their lives around these activities.

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CHAIR GIESSEL said her past district included Cooper Landing that has significant issues with trapping and multi-use; sled dogs have been caught in some of the traps and pets have disappeared. A lot of multi-use land in that area is federal, state and Native, so it is a complex issue. She hoped he would vigorously defend Alaska's state lands use, the use of its fish and game resources and the constitution.

Finding no further comments, Chair Giessel, said in accordance with AS 39.05.080, the Resources Committee reviewed the following and recommends the appointment(s) be forwarded to a joint session for consideration: Commissioner, Department of Fish and Game, Sam Cotten. 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. There were no objections.

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CHAIR GIESSEL adjourned the Senate Resources Committee meeting at 4:37 p.m.