

**ALASKA STATE LEGISLATURE  
SENATE RESOURCES STANDING COMMITTEE**

March 4, 2015

3:31 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

Senator Mia Costello, Vice Chair  
Senator Bert Stedman

**COMMITTEE CALENDAR**

UPDATE ON ENDANGERED SPECIES ACT COORDINATION BY STATE OF Alaska

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

COMMISSIONER SAM COTTEN

Alaska Department of Fish and Game (ADF&G)  
Juneau, Alaska

**POSITION STATEMENT:** Provided presentation on the Endangered Species Act (ESA).

DAVID ROGERS, Special Assistant to the Commissioner  
Coordinator, Endangered Species Act

Alaska Department of Fish and Game (ADF&G)  
Juneau, Alaska

**POSITION STATEMENT:** Commented on the Endangered Species Act.

BRAD MEYEN, Sr. Assistant Attorney General  
Natural Resources Section  
Department of Law (DOL)

Anchorage, Alaska

**POSITION STATEMENT:** Answered legal questions related to the ESA update.

**ACTION NARRATIVE**

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**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 Coghill, Micciche, Wielechowski and Chair Giessel.

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SENATOR STOLTZE joined the committee.

**Update on the Endangered Species Act Coordination by the State of Alaska**

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CHAIR GIESSEL announced an update of the Endangered Species Act (ESA) coordination by the State of Alaska. She said the Alaska Department of Fish and Game (ADF&G) is a pivotal player in defending the state's rights along with the Department of Law (DOL). She welcomed Commissioner-designee Sam Cotten and David Rogers, Coordinator of the Endangered Species Act.

COMMISSIONER SAM COTTEN, Alaska Department of Fish and Game (ADF&G), Juneau, Alaska, said that they would do a short presentation on the Endangered Species Act starting with a power point presentation by David Rogers. He said they worked closely with Brad Meyen, with the Department of Law and Moira Ingle, senior member of the ESA Team from ADF&G. He said the department has a specialist in marine mammals and scientists that pay close attention to these issues. He said David Rogers is a special assistant to the commissioner who specializes in a variety of things: ESA, and alphabet soup agencies including the National Marine Fisheries Service (NMFS). Today they would talk about the Endangered Species Act.

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DAVID ROGERS, Special Assistant, Alaska Department of Fish and Game (ADF&G), Juneau, Alaska, said he is a lawyer who practiced actively for 15 or 20 years with a focus on business law. He has done some lobbying representing both industry and the conservation community. He worked for "I don't know how many legislative committees" in the early part of his career. This is his fourth tour of duty in the government. He worked for the

Department of Natural Resources (DNR) and was special counsel to the Alaska Railroad Transfer Team under the Department of Transportation and Public Facilities (DOTPF) in setting up the Alaska Railroad Corporation (ARRC). Later, he worked for the Department of Environmental Conservation (DEC) as a program manager and as the deputy director of the Air and Water Quality Division. Now he is working with the ADF&G, probably his "last hurrah." He said his family has owned several businesses over the years and currently operates a beverage distribution company.

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MR. ROGRES started by listing a suite of relevant laws:

- Endangered Species Act (ESA) of 1973
- Marine Mammal Protection Act of 1972
- Administrative Procedure Act
- National Environmental Policy Act
- Alaska Endangered Species Act

He said there are a few species listed under the Alaska Endangered Species Act that have different standards than the federal act.

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He explained the Endangered Species Act (ESA) Section 4, Listing and critical habitat process, as follows:

The applicable agency has to use the best scientific and commercial data available (new research not required) to determine whether a species is endangered or threatened because of any of the following five factors:

1. Present or threatened destruction, modification, or curtailment of its habitat or range;
2. Overutilization for commercial, recreational, scientific or educational purposes;
3. Disease or predation;
4. Inadequacy of existing regulatory mechanisms;
5. Other natural or manmade factors affecting its continued existence.

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He explained that the difference between endangered and threatened is that an endangered species is in danger of extinction throughout all of a significant portion of its range. Threatened species is likely to become an endangered species within the foreseeable future.

CHAIR GIESSEL asked if "endangered" has a timeframe.

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MR. ROGERS responded that he would focus on that in a little bit. He added that listing isn't limited to just a species; it can include subspecies and "distinct population segments (DPS)," the Steller Sea as an example. The eastern DPS was initially listed as threatened and now it's delisted. On the other hand, the western DPS is still listed as endangered.

What happens after being listed? Mr. Rogers explained that if the project has a federal nexus - a permit or federal funding that may affect a listed species - then they undertake what is called a Section 7 consultation process that has multiple steps. Section 9 also prohibits the "take" of a listed species. This means it's illegal to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct.

Some "take" exceptions are:

- Alaska Native subsistence harvest - marine mammals
- For threatened species the Service can specify other exceptions under Section 4(d)

MR. ROGERS said that federally listed "endangered" species include:

- Steller sea lions - National Marine Fisheries Service(NMFS)
- Bowhead whales (NMFS)
- Cook Inlet beluga whale (NMFS)
- Humpback whales (NMFS)
- Others

"Threatened" species include:

- Polar bear - United States Fish and Wildlife Service(USFWS)
- Northern sea otter (USFWS)
- Wood bison (USFWS)
- Ringed seals, a subspecies (NMFS)
- Others

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Pending reintroductions - a special category for non-experimental populations in which the normal hoops don't apply:

- Wood bison (ADF&G working with the United State Fish and Wildlife Service (USFWS))

-Steller's eider (USFWS is working to reintroduce them in Yukon Kuskokwim Delta)

Under consideration for listing are:

- Pacific walrus (USFWS)
- Alexander Archipelago wolf (USFWS)
- Seals in Iliamna Lake (NMFS)
- Alaska yellow-cedar (USFWS)

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Delisted species:

- Arctic Peregrine falcon - 1994
- Aleutian Canada goose - 2001
- Eastern DPS, Steller sea lion - 2012
- Central North Pacific stock, humpback whale (state petitioned for delisting and is expecting a decision in April)

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Listing Not Warranted (State research contributed to most):

- Southeast Alaska herring
- Pinto abalone
- Ribbon seal
- 43 species of Alaska corals

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Listings based on climate change arguments:

- Polar bear - projected loss of sea ice within 50 years
- Bearded seal - projected loss of sea ice within 100 years
- Ringed seal - projected loss of sea ice within 100 years

Petitions based on climate change arguments:

- Alaska yellow cedar
- Seals in Iliamna Lake
- Pacific walrus

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Climate Change Listing Concerns:

- Precautionary listing of ice-dependent species like the Polar bear and ice seals
- Limited evidence of current declines
- Models predict possible extinction 45 to 100 years in the future
- Appropriate timeframe for modeling?

SENATOR MICCICHE said thousands of species have become extinct in the last thousands of years for many reasons and asked what kind of credit is given to natural forces that have little to do with human interaction in a species becoming extinct.

MR. ROGERS said he couldn't answer that, but asked Brad Meyen to try.

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BRAD MEYEN, Sr. Assistant Attorney General, Natural Resources Section, Department of Law (DOL), Anchorage, Alaska, explained that the five factors mentioned earlier are looked at for listing of a species and they don't distinguish between a human caused event and a naturally occurring one. A species can be listed if it is just from a naturally occurring cause.

COMMISSIONER COTTEN said the reason for the Steller sea lion drop in population couldn't be determined, but clearly the fix was to restrict fishing.

SENATOR WIELECHOWSKI asked the basic process for listing a species.

MR. MEYEN answered the process can be by NMFS or USFWS initiative or a petition filed by anyone. But it must be a document that reviews the science and states the reason for the need to list; this is submitted to the agency. The agency has a 90-day period to review the petition and make a determination whether further review is warranted. During the 90-day period they basically just pull open their files and see what information they have on hand to evaluate the situation and then decide whether further investigation is warranted. For example, the National Marine Fisheries Service (NMFS) found enough information to warrant further review of the ringed seal and the impacts of climate change on them.

He explained that with a positive 90-day finding, there is another 12-month review period during which the public and the state can submit comments on what the agency should be looking at in the status of that species. At the end of that 12-month period, the federal agency must make a finding whether there is sufficient information to warrant listing the species and then publish a proposed rule, or make a finding that listing is not warranted at this time, or make a finding that listing is warranted but there are other species that need more attention at this time and the agency doesn't have time to get to it. For

that reason, the species is then put on a candidate species list and looked at in a future time period. If the decision is to go ahead and list the species, there is another 12-month period in which the public and state can comment. Litigation cannot be filed to stop the efforts at this time, because the rule is not final. The rules must become final under the formal rule-making process of the Administrative Procedure Act of the United States. At such time as the rule is final, though, and the decision is made to list the species, a six-year period is started when litigation can be filed.

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SENATOR WIELECHOWSKI asked the standard of review for courts. Is it an abuse of discretion standard or a higher standard?

MR. MEYEN answered that the abuse of discretion standard is used. The administrative record must support the decision and the agency must be able to connect the dots through the information that they reviewed and the decision they reached.

SENATOR WIELECHOWSKI asked the court's view of challenges to ESA listings. Are they often overturned or not?

MR. MEYEN answered that challenges of an actual listing are an uphill battle, because the agencies get deference in two ways: they are accorded deference from the courts if there is some sort of an interpretation of the ESA that they have been filled in through promulgation of regulation, and the second is in evaluation of the science. But, having said that, he added that the state had been a party to two climate change cases now where the judge vacated the decision at the district court level and sent it back to the agency for further consideration.

SENATOR COGHILL said that precautionary listings are based on models that are speculative in many ways, because they look out 20 or 100 years, and even models they look back on show that they haven't predicted very well. So, when it goes to a court, does the court get to review the information or is it considered science?

MR. MEYEN replied that the court gets to review the information that the agency has relied upon, but in the bearded seal case the federal agency made a real cursory review. The model made an assumption that the sea ice would no longer be there in 100 years to support their life strategies and on that basis alone found that the species should be listed as threatened. The dots were not connected about how that species would be impacted.

CHAIR GIESSEL, referencing slide 3, asked if ESA, Section 4, listing and critical habitat processes, is using the "best scientific and commercial data available" because it also says (new research not required). Is that true that nothing new needs to be done in terms of science?

MR. MEYEN answered that was correct. But having said that, where the ADF&G anticipates potential listings it has proactively put plans into the works so that there is more, fresh and better science for the agency to look at. Otherwise the decision will be made on stale and inadequate information.

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CHAIR GIESSEL asked how that anticipatory work and DOL budget cuts would affect the state's effectiveness in pushing back on these designations.

MR. MEYEN answered that he wasn't prepared to address proposed budget constraints, but he had personally been working these topics and issues for the past seven years, and based upon what litigation he has now and what he anticipates in the near future, the Department of Law and ADF&G should be able to handle that.

CHAIR GIESSEL asked if ADF&G continues to have the robust staff focus on developing this proactive science.

COMMISSIONER COTTEN replied that it is hard to say at the moment, because they don't know what the final budget will look like, but so far it looks like they will be able to continue their work.

MR. ROGERS added that they are serious about this and will do what they have to do within their powers to continue a robust effort on these issues.

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SENATOR MICCICHE asked if the state has a legal leg to stand on in cases like the beluga whale and limiting future adverse human-related activities in the critical habitat area that led to the listing in the first place.

MR. MEYEN answered that the twist Alaska has that other states don't is that it has marine animals, which are also governed under the Marine Mammal Protection Act, and are the same mammals that have been petitioned to be listed under ESA. So, it has

layers of protection and differences in what is considered a take. In this instance it goes back two stages. The Cook Inlet Beluga whale subsistence harvest impacts were known in 1999 when the first attempts were made to list the species. At that time it was taken into account and attempts were made to list under both the state and federal acts, and both were denied. Later in 2008, the federal agency looked at the situation again and saw no improvement in the population level and decided to list the species. In that instance, the State of Alaska challenged the listing indicating that the impact was known when it occurred. The court gave deference to the agency and upheld its decision because that is where the population was.

SENATOR MICCICHE asked there any potential for adjusting for subsistence harvests prior to a species becoming threatened or endangered.

MR. MEYEN answered that it was hard to guess and he wasn't aware of another situation with those sorts of risks.

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MR. ROGERS next discussed listing concerns and how recovery objectives are developed for species that are at currently healthy levels but projected to decline and how critical habitat should be designated if the species ranges is projected to change. He explained that the ESA provides few additional protections from the existing Marine Mammal Protection Act protections. So, the ultimate question to ponder is whether a listing based on climate change warrants a different approach. Another issue is expansion of critical habitat designations: 187,000 square miles for the Polar bear.

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SENATOR STOLTZE asked the department's position on climate change, if it has a position.

COMMISSIONER COTTEN answered that he wasn't prepared to describe the administration's position on climate change at this time, but there are a lot of climate changes in the Arctic. They are more specifically focusing on some of the listings like this that use climate change as a nexus and are in the process of challenging those decisions based on the 100-year horizon.

MR. ROGERS added that regardless of the cause, something is going on and it has to be taken into account in thinking about how to address these issues.

SENATOR STOLTZE asked the question of Mr. Meyen.

MR. MEYEN said he didn't have a response to the policy, but climate change modeling in the litigation is really a record-based review.

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MR. ROGERS said the 187,000 square miles listing for Polar bears was vacated and the proposed ringed seal critical habitat of 350,000 square miles is in the comment stage and due March 31.

CHAIR GIESSEL asked if he had a preview.

MR. ROGERS answered that Moira Engel was doing the heavy lifting on that, but they were just in the beginning stage of getting comments together.

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He said the boundaries for the discussion of critical habitat are ESA, Section 3, which says that critical habitat means the specific areas within the occupied area where biological and physical features essential to the conservation of the species are found. Section 5 also adds that critical habitats include entire the geographical area, which can be occupied by the species. One new requirement is that there has to be an economic analysis associated with critical habitat designations and the secretary has discretion to exclude areas based on the economic analysis.

CHAIR GIESSEL remarked that it says critical habitat shall not include the entire geographical area and in looking at the ringed seal, it appears that it is including the entire geographical area. The humpback whale was filed based on distinct population segments and she asked if that is an opportunity here to limit the area that would be considered critical habitat.

MR. ROGERS answered that it is an opportunity to comment, but they haven't developed the comments. They will do their best to influence the final decision.

CHAIR GIESSEL asked if he has any new science on the populations in geographic areas that would refute this very large possible critical habitat designation.

MR. MEYEN responded that it is known that the ringed seals number in the millions, so one of the arguments is that the whole area isn't needed for sustainability of the species.

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SENATOR STOLTZE asked him to describe any strategy or philosophical changes that came with the change of administrations.

COMMISSIONER COTTEN answered that the administration has not changed direction or philosophy. They are still pursuing some of the same issues the previous administration was pursuing. They are evaluating successes and lack thereof; they want to learn from mistakes and build on the areas of success. They are still interested in the deficiencies in the U.S. government proposal.

SENATOR STOLTZE said during the campaign there was a lot of criticism about excessive and unproductive lawsuits and asked if this administration has the same commitment to litigation to aggressively pursue things through the court.

COMMISSIONER COTTEN answered that for the ones they are focusing on today the commitment is as strong, but the Department of Law could speak more on the litigation aspect. If litigation hasn't been successful, they may decide they can't afford some of those things. But if they have been successful, they want to recognize that.

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MR. ROGERS added that he is a lawyer and litigation is an important tool; money changes the equation a bit, but no one is afraid to use it. Talking has value, but it doesn't always work. When they sit down and make some final decisions and Commissioner Cotten signs a document, a recommendation, an opinion, that will be the real test of how they feel and the best way to judge case by case how they are looking at these things.

SENATOR STOLTZE said the previous administration always had attorney generals in those ESA discussions.

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SENATOR WIELECHOWSKI encouraged them to look carefully at these cases and to go forward on the cases they think they can win. He advised that the abuse of discretion standard is the easiest standard for a federal agency to win with.

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MR. ROGERS agreed that it is a tough argument.

MR. MEYEN responded that it is a difficult standard, but they have learned that under ESA, the one advantage the state has is Section (4)(i) that requires the federal government to respond specifically to state comments on whether to list a species or not, whether to designate critical habitat or not, and to date that has been the strong arm in this litigation when they fail to do it. The state has been a very important player in particularly the challenge of the designation of critical habitat for the Polar bear and listing of the bearded seals. In both cases the court recognized that obligation to respond to the state and also recognized the failure of it.

SENATOR MICCICHE said he didn't know if the 350,000 square-mile proposed listing makes the Guinness Book of Critical Habitat Records or not, but it seems like a large swath of real estate especially with 1 million seals in existence. It seems like they are at least interested in violating the ESA, Section 5. Some listings almost seem to be project specific and asked what actually begins the process. Could it be an NGO that just simply opposes Arctic exploration?

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MR. MEYEN answered that NGOs submit a petition with the biological reasons they want to see the species listed. That triggers the agency's review. If there has been no petition, the agency itself can have an informal discussion and decide to begin its own review of whether or not to list a species.

SENATOR MICCICHE asked if he thought there was at least the potential for abuse of the ESA on a project-specific basis.

MR. MEYEN replied that it was hard to address a hypothetical question.

MR. ROGERS moved on to the issue of state strategy, the first one being political and building partnerships with various organizations. The prior administration was involved and the new one is, too. In fact, the director and others are going to the Association of Fish and Wildlife Agency gathering in Omaha, Nebraska, and to the extent they can pay for the travel, they intend to actively participate in these things. That includes the State/Federal ESA Task Force. Bringing concerns to Congress and others could be an effective option.

COMMISSIONER COTTEN added that they want to find other states that participate in these associations that have similar v that the more states campaigning for changes to federal law, the more likely the chances of success are.

CHAIR GIESSEL asked if he had identified any specific part of the ESA that could be changed.

COMMISSIONER COTTEN answered that he didn't have anything in particular with ESA, but had some authority issues with ANILCA.

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MR. MEYEN replied that the previous administration had looked at some areas of the ESA, but he hadn't had time to speak to the commissioner about them. One was generally felt throughout all the state wildlife agencies and that is the deference given to science and elevating that deference to the state's science.

SENATOR STOLTZE said in the past, the DOL took the lead and others supplemented their case and asked if there had been a shifting of the lead department.

COMMISSIONER COTTEN answered that the actual decision to litigate lies with DOL. Most recently, the ADF&G's role is as a resource to the DOL for Endangered Species Act listings. The ADF&G has taken some leadership role in working other states on specific issues, most recently the National Park Service and Fish and Wildlife Service preserve lands in Alaska and some Alaska hunting regulations.

SENATOR COGHILL suggested using three strategies. The first was to talk to the western states, because they have such big federal land tracts, talk to the coastal states, as well: the Gulf Coast, Pacific Coast and the East Coast. They have similar issues and have been very successful in getting some of their OCS issues navigated through the ESA.

Secondly, the ESA specifically has broadened its scope by defining language through regulation and some court cases have broadened that even more. So, if they are going to talk to Congress about specific language, the science just has to be better defined.

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CHAIR GIESSEL agreed that more good science is needed and ADF&G has the good biologists to do it. She said the climate change issue had never been tested relating to the Polar bear; theories

were put out about ice melting, but populations of Polar bears haven't changed. She urged to first get the science and then engage the federal agencies, with a lawsuit if necessary.

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MR. ROGERS went to slide 22 and said it's the state's right to conduct research and develop conservation acts that are sometimes less expensive and easier to develop than ESA requirements. So, that is a focus and the primary goal of the state's wildlife action plan, but funding is a constraint. A lot of the money comes from federal sources with state matches. He believes in science as the basis for these decisions and he will be focusing on that.

CHAIR GIESSEL said the Alaska Arctic Policy Commission recognized the robust work being done at the University of Alaska Fairbanks (UAF) in Arctic issues. She asked if the department collaborates with them or if there are "silos" of research being done.

MR. ROGERS replied that some collaboration goes on today, but he has also begun conversations with Chancellor Rogers and others to talk about the possibility of additional collaboration with the university. It is a priority.

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MR. ROGERS explained that they created a process called "Aqua" that got everyone doing research around one table to prioritize research needs and figure out who was going to do what. It's not a perfect solution, but he would follow up. He doesn't like silos.

CHAIR GIESSEL asked if there is actually an Alexander Archipelago wolf subspecies.

MR. ROGERS said that question is being debated.

COMMISSIONER COTTEN said it had been explained to him that a petitioner, in hopes of success on getting something listed, is better off taking on a small chunk of a population. For instance, some people think Prince of Wales Island is a distinction subspecies of grey wolf, because it might be easier to get a listing under those circumstances. However, Kim Titus, their chief wildlife scientist, is an expert on wolves and he suggests that it is one population of Southeast wolf.

CHAIR GIESSEL asked if a substantial scientific basis for that assertion is being developed.

COMMISSIONER COTTEN answered yes. He added that he had actually had conversations with USFWS on this subject and they haven't announced a conclusion otherwise yet.

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CHAIR GIESSEL asked what the implications are if this wolf is thought to be a distinct subspecies.

COMMISSIONER COTTEN replied that they would go through the process that Mr. Rogers described earlier. There would be a petition, and under Section 7 consultation they would end up with a biological opinion, and if there was old growth timber on federal land on Prince of Wales Island, then there would perhaps be restrictions on removing old growth timber if they are listed.

CHAIR GIESSEL wanted to know how much further this could be expanded and asked if this is a subspecies, are grey wolves in general in Alaska threatened, which would implicate the intensive management policy of managing our wildlife?

COMMISSIONER COTTEN said there has been no suggestion that grey wolves are endangered or threatened in general in Alaska.

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MR. ROGERS added that in terms of the real world consequences of a listing, it is the consultation process that often leads to mitigation measures and delays.

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MR. ROGERS said another strategy is to fully participate in various ways through data and information, comments, recovery planning (the department is deeply involved in Polar bear recovery planning), and submitting delisting petitions.

He said like the previous administrations, they are meeting at high levels to discuss some of the policy implications to help them understand each other. This applies not only to ESA, but ANILCA issues.

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MR. ROGERS said the standard he uses is if the science doesn't support a listing or they didn't do it right, they will take a

real hard look. They also intervene in court cases where the state has interest.

MR. MEYEN commented that if the NMFS or the USFWS makes a decision and their decision is challenged by other groups or interests the state is supportive. That has been done on several occasions.

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MR. ROGERS went to current litigation:

-Polar bear critical habitat designation was struck down and remanded to the USFWS. The USFWS has appealed.

-Bearded seal, a threatened listing, was struck down and remanded and NMFS has appealed that one.

MR. ROGERS said the state had a successful challenge in district court on the bearded seal listing, because of a lack of information and data connecting the dots between the projected loss of sea ice and habitat needs. There is a very large current population of 155,000 animals with no indication of current decline. That was remanded to NMFS for additional work and it is also under appeal.

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CHAIR GIESSEL paused him to say she was glad the department was engaged in that and along with a private organization, the Resource Development Council (RDC). Legislators comment on these things as well, but they look at the department to be the "Big Gun" and again she urged robust action.

MR. ROGERS quoted Judge Beistline who summed up the issue:

An unknown, unquantifiable population reduction, which is not expected to occur until nearly 100 years in the future is too remote and speculative to support a listing as threatened. If the court were to hold otherwise, such a holding could logically render every species in the Arctic and sub-Arctic areas potentially threatened.

He said similar litigation is currently being considering on ringed seals.

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SENATOR STOLTZE said the North Slope Borough has a noted research department for game and fish and asked if he had worked with them.

COMMISSIONER COTTEN answered they haven't, yet, but they are starting to look for research partners for a lot of other reasons. The North Slope Borough is another logical partner that has already filed a suit on the ringed seal (as has Alaska Oil and Gas Association (AOGA)).

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SENATOR WIELECHOWSKI asked if industry actively follows these cases.

COMMISSIONER COTTEN replied that AOGA has filed suit already on the ringed seals and that is an example of action.

SENATOR WIELECHOWSKI said the only reason he asked is with declining budgets it will be hard to have robust research, analysis and litigation and if industry is picking that up, it's a good thing.

SENATOR COGHILL said the National Environmental Policy Act (NEPA) has provided a reason to do a lot of science in Alaska some of which has brought significant benefit to the state's fisheries. Some suits are defensive in order for them to be able to finish the science and the public comment on NEPA.

CHAIR GIESSEL asked if they are commenting on the gill nets on the Kenai and Kasilof Rivers.

COMMISSIONER COTTEN replied that the opportunity to file for a request for reconsideration is still open, but you can't just send in some little note; it is quite an extensive document. It is being worked on internally and will be ready to submit if it is necessary.

MR. ROGERS said he would keep the chair posted.

CHAIR GIESSEL thanked the presenters.

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Finding no further business to come before the committee, Chair Giessel adjourned the Senate Resources Standing Committee meeting at 5:00 p.m.