ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE
February 17, 2016
3:31 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Mia Costello, Vice Chair

OTHER LEGISLATIVE MEMBERS PRESENT

Senator Charlie Huggins
Senator Kevin Meyer
Senator Anna Mackinnon
Senator Pete Kelly
Representative Wes Keller

COMMITTEE CALENDAR

OVERVIEW: UPDATE ON JOHN STURGEON SUPREME COURT CASE

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

JOHN STURGEON
Anchorage, Alaska
POSITION STATEMENT: Commented on the Sturgeon Case Update.

MATTHEW FINDLEY, Attorney
Representing Mr. Sturgeon
Anchorage, Alaska
POSITION STATEMENT: Commented on the Sturgeon Case Update.

JANELL HAFNER, Assistant Attorney General
Department of Law (DOL)
Juneau, Alaska
POSITION STATEMENT: Commented on the Sturgeon Case Update.

RUTH BOTSTEIN, Assistant Attorney General
Department of Law (DOL)
Anchorage, Alaska
POSITION STATEMENT: Commented on the Sturgeon Case Update.

EDDIE GRASSER, Vice President
Safari Club International (SCI)
Palmer, Alaska
POSITION STATEMENT: Commented on the Sturgeon Case Update.

ACTION NARRATIVE

3:31:21 PM
CHAIR CATHY GIESSEL called the Senate Resources Standing Committee meeting to order at 3:31 p.m. Present at the call to order were Senators Coghill, Wielechowski, and Chair Giessel.

Senators Huggins, Meyer, Kelly, and Mackinnon, and Representative Keller were in attendance.

Overview: Update on John Sturgeon Supreme Court Case

3:32:25 PM
CHAIR GIESSEL announced an update on the John Sturgeon case that affects the entire State of Alaska and was heard in the U.S. Supreme Court recently. She introduced Mr. Sturgeon and his Alaskan attorney, Matthew Findley.

3:33:40 PM
JOHN STURGEON, Anchorage, Alaska, said he appreciated being in Juneau and thanked the people who had personally donated to his effort. He said he would use a slide presentation, but wouldn't follow it very closely.

MR. STURGEON said the Washington Post had a very favorable article on his lawsuit the day before the Supreme Court hearing. The story started in 2008. He had been hunting the same area just outside of Eagle on the Yukon River since 1971. He was repairing a broken cable on his 6 horse power (hp) motor on his hovercraft when three uniformed National Park enforcement folks stopped him, and asked a lot of questions as if they were really

interested in what was going on. They asked if he had hunted moose here for a long time to which he answered yes. Then the tone changed completely; they actually pulled out a rule book and showed him a sentence that said "hovercrafts are not allowed in parks and preserves." He responded that he didn't know that, and that he needed to get it out of there right away. They said if he started the motor up they would give him a citation. So, he got his river boat up there and put the hovercraft in the river boat and got out without getting a citation. He had hunted the same area since 1971 and had used the hovercraft there since 1991.

3:35:54 PM
SENATOR STOLTZE joined the committee.

MR. STURGEON said the foundation of the lawsuit is based on Section 103(c) of the Alaska National Interests Lands Conservation Act (ANILCA). He then turned the presentation over Mr. Findley, his attorney and expert on ANILCA.

CHAIR GIESSEL recognized Senator Kelly in the audience.

MATTHEW FINDLEY, Attorney representing Mr. Sturgeon, Anchorage, Alaska, said Section 103(c) of ANILCA is an example of something that should be simple, but somehow has spun into more than five years of litigation.

CHAIR GIESSEL asked Mr. Findley to remind the committee what the acronym ANILCA means.

MR. FINDLEY said ANILCA stands for the Alaska National Interest Lands Conservation Act.

MR. FINDLEY said that, despite what the Park Service keeps saying, Mr. Findley said, ANILCA is a statute that was designed to resolve long-standing land allocation issues in Alaska that started with the Statehood Act. Between the passage of the Alaska Native Claims Settlement Act (ANCSA) in the early 70s and the passage of ANILCA in the late 70s, there were constant issues about land selections for the state over what lands would go to Native Corporations, what lands should be withdrawn for preserves, and what lands should be more economically developed. ANILCA was supposed to resolve all of that. So compromises were made on both sides. Over 100 million acres of parks were created, but also significant swaths of land were set aside for more economic development. That purpose is in the Preamble of the statute.

MR. FINDLEY explained that one of the compromises (embodied in Section 103(c)) that was made was over a concern that about 100 million acres was going to be added to the park system. Folks raised their hands, particularly the state and Native Corporations. From the Native Corporation perspective, over 40 percent of their land selections were going to be surrounded by these parks. These were lands given to them for economic development, so they didn't want to be part of the park and didn't want to be regulated like a park in the contiguous United States. They wanted to have the same status after ANILCA that they had before. Legislative history shows that is the deal that was struck. It's clear throughout the statute that the intent was that their land was not owned by the federal government, was not part of the park and was not to be regulated as if it were going to be. So, the first sentence in Section 103(c) says if the land is not owned by the federal government it is not part of the park, period.

That should have been enough, but the second sentence makes it even clearer saying "clearly these lands won't be regulated as though they were part of a park." The third sentence says, "If the federal government does want to regulate this land it needs to go out and buy it." One would hope that this section would have ended the issue, he said, but it didn't.

3:39:15 PM
Up until 1996, there actually hadn't been a conflict. The Park Service in Alaska wasn't trying to regulate these non-federal lands as if they were part of the park. That changed in 1996 when the Park Service changed its regulations and extended its regulatory reach to all navigable waters without regard to ownership of the submerged lands or ownership of the waters.

MR. FINDLEY said under the Equal Footing Doctrine at Statehood, Alaska took title to all its submerged lands and navigable waters. So, the rivers are state land; they aren't part of the parks and they shouldn't be regulated as though they were. However, the state did not actually challenge the regulation when it was promulgated in 1996, and so it sat there until Mr. Sturgeon came along with his case.

SENATOR MICCICHE joined the committee.

MR. STURGEON said he filed a public interest lawsuit after a lot of discussion and thought. He calls it a public interest lawsuit, because he didn't get a citation or a written warning.

He hired three separate attorneys that specialize in natural resource issues, all three of whom thought he had a good case with Section 103(c) navigable waters, and the promises made in ANILCA, as a basis for suing the federal government. He searched around a while to find the right attorney and Matt Findley came to the top.

3:41:52 PM
MR. FINDLEY explained the basics of the lawsuit, which brought an "as-applied challenge to the regulation." He provided the following background of that statutory provision:

> It is our belief that the NPS cannot ban hovercrafts on Navigable waters owned by the State of Alaska.
>
> Section 103 (C) of ANILCA specifically says Federal management regulation do not apply on inholdings. A point made crystal clear by the co-sponsors of ANILCA.
>
> The legislative history of 103(c) is extensive. Rep. Sieberling, 125 Cong. Rec. 11158 (1979) (Rep. Sieberling was the sponsor of the amendment adding 103(c):
> "All this amendment does is restate and make clear beyond any doubt that any State, native or private lands, which may lie within the outer boundaries of the conservation system unit, like the National Park, are not parts of that unit and are not subject to regulations which are applied to public lands which, in fact, are part of the unit."

In response to a query from Congressman Young to not use "catch words that some sharp lawyer" could use against the state later the following was stated:

> ...if lands are within the boundaries drawn on the map for the conservation unit, it does not in any way change the status of that State, native, or private land or make it subject to any of the laws or regulations that pertain to U.S. public lands, so that those inholdings are clearly not controlled by any of the public land laws of the United States.

MR. FINDLEY said these aren't the only quotes. There are great quotes from Senator Stevens and others in the Senate who were actually sponsors of the legislation that were Democrats. Both sides of the isle knew what was going on. Yet the Park Service

changed its position in 1996 and people were "blown away" by the court's interpretation.

CHAIR GIESSEL recognized former State Senator Scott Ogan in the audience.

3:44:15 PM
MR. STURGEON summarized that this case is about more than hunting moose on the Yukon River. It's about state sovereignty and a promise made at statehood. Navigable waters are owned by the State of Alaska. The submerged lands are owned by the State of Alaska and rivers like the Yukon with all kinds of large sand and gravel bars are owned by the State of Alaska, too.

It's a classic case of federal overreach. If one reads the Congressional intent, one wonders how it ever got to the Supreme Court. It's pretty clear that the federal government ignored the law. He said this lawsuit is also about the federal government keeping the promises it made in ANILCA, which is the grand compromise in Alaska between economic development and conserving special areas. Part of the deal was that the parks, preserves and refuges were supposed to be managed differently than in the Lower 48. That is what this case is all about.

MR. STURGEON said this lawsuit is also about the federal government keeping promises it made to Alaska Native Corporations: 18.1 million acres of the Native Corporations' 44 million acres are within the boundaries of these parks, preserves, and refuges. The federal government, after the Ninth Circuit when he filed the petition to cert the Supreme Court, made it very clear that they weren't going to overuse this new Sturgeon Ruling. However, Parks Service attorneys referenced 9(b) rules, which are used to manage the 26 oil wells within parks and preserves, in the Sturgeon case in the Ninth Circuit to include Alaska. Before the Ninth Circuit decision, Alaska was exempt from those rules.

MR. STURGEON said the federal government has done a great disservice to Alaska Native Corporations by not keeping promises made in the Alaska Native Claims Settlement Act (ANCSA). The corporations are supposed to use this land for economic development for the betterment of their people. If they are managed like a park, preserve or refuge, that won't happen. The federal government has to know they have limits, too, and that's what Section 103(c) does.

3:47:53 PM

What does Alaska have to lose? Mr. Sturgeon said management of all its navigable waters within Conservation Units. He explained that when parks, preserves and refuges were designated under ANILCA, they weren't described like parks down south. The legal descriptions for Yosemite and Yellow Stone National Parks, for instance, are like squares, but in Alaska, ecosystem boundaries were used, and those included a lot of state, private, and native land. That is one of the reasons that Section 103(c) was written.

3:49:05 PM
He said under the Ninth Circuit ruling the state could lose management of its lands within the parks, preserves and refuges and have to follow the Park Service's regulations. The 18 million acres of Native corporation land and private allotments - homesteads and mining claims - would also have to follow Park Service regulations.

MR. FINDLEY said he asked for "certiorari" from the Supreme Court, and the government came back and said the Ninth Circuit just gave a ruling that gives the Park Service plenary authority over these non-federal lands within Alaska parks, but, hey, don't worry about it. They weren't actually going to use the power. But less than a month after they filed that brief, the Park Service issued its new proposed revised 9(b) regulations saying, for the first time, they were going to try to apply these oil and gas regulations on Alaska inholdings. Yet, still at oral argument before the Supreme Court the lawyer for the solicitor general's office again stood up and said the Park Service only exercises limited authority over these non-federal lands. Chief Justice Roberts asked if she wasn't just relying on the first provision of the Organic Act, which says any regulation the Park Service deems necessary and proper to regulate land.

MR. FINDLEY said he tries to make clear to the court that the 9(b) regulation is just the tip of the iceberg. Once the Park Service sees they have this power, they're going to go with it.

3:50:54 PM
MR. STURGEON said it does make a difference which judge you get, and Justice Roberts seemed to be very sympathetic to his case. It first lost in District Court and then in the Ninth Circuit they got three of the worst judges possible. But sometimes there is a silver lining. In this case the silver lining could have been that the Ninth Circuit's decision was way out there, and maybe that is why the Supreme Court took the case.

3:52:28 PM
MR. FINDLEY said for those not familiar with the process, when this case was filed before the U.S. Supreme Court, it was important that it was a case of concern to a broad cross section of Alaskans. So the case had many amicus briefs from a broad coalition of people. Large Native Corporations, both regional and village, came in, primarily because a lot of their Native Claims Settlement Act lands were at issue; the Alaska delegation - both Senators Sullivan and Murkowski and Representative Young - filed a brief; a brief was filed by a coalition of development organizations and some outside organizations like Safari Club, Pacific Legal, Southeastern Legal, and of critical importance, the State of Alaska.

He explained that the State of Alaska (SOA) had moved to intervene in the case and actually participate as a full party at both the District Court and Ninth Circuit level, primarily on the basis that the Park Service had a practice of making the state get permits to do research on its own land. Yet, somehow the Ninth Circuit found that that wasn't sufficient injury for the state to have standing. The state came back in at both the cert petition and the merit stage to file an amicus brief for the Supreme Court. They filed an excellent amicus brief - Ruth Botstein and Janell Hafner, Assistant Attorneys General, did amazing work. The state also asked for divided argument, which the Supreme Court sometimes grants when a sovereign wants to argue alongside a private party. Ruth Botstein argued the case and did a "fantastic job." He said the state was a wonderful partner throughout the whole ordeal.

3:53:48 PM
SENATOR STEDMAN joined the committee.

3:54:48 PM
SENATOR MICCICHE asked if any Alaska-based NGOs had filed briefs in opposition to his case.

MR. FINDLEY answered the National Park Service Conservation Association, the Trustees for Alaska, and the Subsistence Users Coalition/Foundation, along with lawyers from both Alaska and British Columbia (B.C.) filed on the other side.

MR. STURGEON said the Supreme Court hearing was pretty incredible, and he was very fortunate to have some very good attorneys. It was a very expensive, very lengthy process. At one point he had to make a decision to pull out the stops realizing

that he is representing more than just John Sturgeon; he is representing all the people of Alaska. He decided to do whatever it would take to win. That included hiring Supreme Court specialists in D.C.

MR. FINDLEY related that he was in D.C. for 10-12 days before the argument doing nothing for 14 hours a day but preparing for it. He was there with two other lawyers from his firm, with Ms. Botstein and Ms. Hafner from the AG's office, and Will Consovoy, the D.C. lawyer. They did research and put together materials, had several moot court sessions - moot court before the National Association of Attorneys General and with a bunch of Supreme Court practitioners from D.C., moot court at the Heritage Foundation, and a moot court at Georgetown Law School. In each one of those sessions both he and Ruth were grilled for over an hour. It really helped them hone their presentation. They didn't get any surprise questions, because of their elaborate preparations.

3:58:39 PM
MR. STURGEON said because of the magnitude of this case, Mr. Findley did whatever he needed to do to prepare for it. He doesn't know how they did, but he is optimistic. All he can say is that he would have much rather been Mr. Findley than the federal attorney whose questions were a lot more hostile. He was told by the specilized attorneys that you really can't tell what the justices are thinking from the questions they ask.

MR. STURGEON point out a question that Supreme Court Justice Alito asked the federal attorney. Justice Alito asked why the federal brief contained an incredibly small amount of space on defending the Ninth Circuit's decision. That was important, since it was the Ninth Circuit's decision that was the reason for the Supreme Court hearing the case.

MR. FINDLEY echoed what Mr. Sturgeon said, that it's dangerous to speculate about the Justices' questions. His team was very prepared, and it was an honor and a privilege to appear before that court.

CHAIR GIESSEL said after they finished that day, the Attorney General, Craig Richards, visited her office and dropped off the transcript, and he was very excited at what he read. He thought they had done very well and was feeling pretty optimistic about the outcome.

MR. STURGEON said this case cost way more than he thought it would. Prior to being accepted by the Supreme Court, District and Ninth Circuit courts and preparing for the appeal to the Supreme Court cost about $325,000. He thanked Ed Rasmussen for helping him with it. The Supreme Court portion was $327,000. Everyone was prepared, but it took a lot of time, money and effort. The total cost is $652,000, assuming the case is now done.

4:05:34 PM
The best thing in this whole lawsuit is the support he received from Alaskans. Mr. Sturgeon said it has been absolutely incredible. He has raised $250,000 so far, and he never asked anyone for a penny. He related the numerous fund raising efforts.

4:07:15 PM
MR. FINDLEY noted that this was the final summary of any case that Supreme Court Justice Antonin Scalia heard before he passed. Mr. Findley summarized the government's position by reading his closing statement:

> The government's position here, they keep saying their authority is limited, and Mr. Chief Justice hit the nail on the head. They're relying on the Organic Act which allows them to enact any regulations they feel necessary at any time. They've already done that with the 9(b) oil and gas regulations, seeking to apply those to Non-Federal land within Alaska. ***And the hits are going to keep on coming unless this Court stops this interpretation and goes back to what 103(c) was meant to do, which was to prevent the Park Service from taking these lands that aren't owned by the government and regulating them as though they are part of the park.***
>
> And the second point want I want to make-
> There's a lot of discussion about whether ANILCA covers official navigable waters or not. The clear statement rule covers that question. And in that circumstance, it's a question of is anything in the statute clearly saying we are taking away State authority over navigable waters? You will not find the term navigable waters in the statute once. Let's contrast this to other park enabling legislation. This is for Olympic National Park, and you'll find this at 16 U.S.C. 251(n). And here's what it says: "The

boundary of Olympic National Park Washington is hereby revised to include within the park all submerged lands and waters of Lake Ozette, Washington, and the Ozette River, There's your clear statement.

4:09:52 PM
MR. STURGEON concluded that was the summary of his journey from a broken down hovercraft on the Yukon River to standing in front of the highest court in the land.

CHAIR GIESSEL said she heard that at least one of the Justices kept referring to it as a "Hoover craft."

MR. FINDLEY said that was Justice Sotomayor.

SENATOR STOLTZE remarked that years ago the legislature took a lot of lead in fighting the federal government, and he commended Ted Popely and Ron Somerville who had the uncanny vision to hire future Interior Secretary Norton and future Justice and later Chief Justice Roberts to engage in Alaska's service. So, historically Justice Roberts has been involved in Alaska issues.

CHAIR GIESSEL recognized former Representative Bill Thomas in the audience.

4:13:37 PM
JANELL HAFNER, Assistant Attorney General, Department of Law (DOL), Juneau, Alaska, said she is one of the attorneys that represented the State of Alaska as amicus curia in Mr. Sturgeon's case before the Supreme Court.

RUTH BOTSTEIN, Assistant Attorney General, Department of Law (DOL), Anchorage, Alaska, acknowledged Ms. Hafner's introduction.

MS. HAFNER said they both work in the opinions, appeals and ethics section of the DOL and specialize in civil appellate practice. They were co-counsel on this case. Ms. Botstein argued and appeared on the state's behalf at oral arguments before the Supreme Court last month. They appreciate the invitation to be at today's meeting and they were very proud to support Mr. Sturgeon in this very important case.

She gave a brief overview of the state's interests, which were slightly distinct from Mr. Sturgeon's in this case. She explained that the state has long been concerned with the extent to which the Park Service and other federal land management

agencies have attempted to regulate lands that the federal government does not own. This case has always been about who has regulator control and authority over state lands and waters: the State of Alaska or the federal government? From a litigation perspective, DOL involvement began in 2011 after Mr. Sturgeon filed his lawsuit. At that point, one of the senior assistant attorneys general who specializes in natural resources brought suit on behalf of the SOA against the Park Service in a very similar case with a different pattern.

The hovercraft ban that was the subject of Mr. Sturgeon's lawsuit was one type of a small class of regulations that the Park Service had been attempting to roll out and expand over state lands and waters. Another regulation in effect required the ADF&G to apply for a permit to access a state-owned exposed gravel bar on the Alagnak River in Katmai National Park for the purpose of conducting a "benign scientific study" of genetic sampling on salmon stock. The state was not accessing federal lands at any point. It's a fairly well established and undisputed principle of the law that the state owns the submerged lands and the beds below navigable rivers, and part and parcel of that ownership right is the right to regulate and manage the waters that flow above the submerged lands for navigation and for fishing. That is a very essential component of state sovereignty, and that right has passed to the State of Alaska as a matter of constitutional grace under what is known as the Equal Footing Doctrine, and it was also guaranteed in the Submerged Lands Act, which Congress passed in 1953.

4:17:32 PM
MS. HAFNER said they filed suit against the Park Service; the case proceeded on a companion track and was handled by the same court as Mr. Sturgeon's. The cases were essentially treated as effectively consolidated. The theme of the DOL case was very similar in that the state said ANILCA was intended in many ways to strike a balance. It is in one part a conservation act, and no one is denying that. But it also made very clear that it would protect the state's ability to provide for the self-sufficiency of the Alaskan people. One of the ways it did that is through Section 103(c). They focused on that provision as being an essential safeguard in allowing the state to continue to have authority to manage and regulate its resources. Ultimately, they were unsuccessful at the District Court level and at the Ninth Circuit, as well.

At the Ninth Circuit the court took a little bit of a divergent approach with respect to the parties before it, and it dismissed

the ADF&G's case against the Park Service on "standing grounds." "Standing" is a legal doctrine that says that a plaintiff must have a concrete injury and the court, if it rules in that person's favor, must be able to give some relief. It won't be just an abstract or an advisory ruling. The idea behind the doctrine is to prevent a party from just airing a general grievance.

4:19:48 PM
MS. HAFNER explained that in the Ninth Circuit's view, because the scientific research study that the state had used the permit for was already completed, it wouldn't be entitled to any relief if it won, because the cost of complying with the permit and some of the harms they had focused on were already over and done with. It felt very differently about Sturgeon's claim, because he had anticipated using his hovercraft to access hunting grounds each year, and so it reached the merits of his legal question on what Section 103(c) of ANILCA really means.

At that point, the DOL had a few options. With two adverse rulings, one on the core legal question of what 103(c) of ANILCA means and the other if it protects the state's management authority. Then they had the adverse decision on standing. The state took a hard look at what their goal was, and the most important thing was to get the legal decision that the Ninth Circuit made on the question of 103(c) reversed. So, they evaluated what would be the best and most effective way of getting that question before the Supreme Court and decided to devote their resources to drafting a strong amicus brief and participating in Mr. Sturgeon's petition for cert.

MS. HAFNER related that decision was informed by a number of reasons including that the Supreme Court likes legal cases to come to it in a very straight forward, clean, legal fashion with preferably not a lot of messy facts and not a lot of threshold questions. If the court sees an off-ramp and doesn't have to get to the meat of an issue, it will take it. Both the state and Mr. Sturgeon agreed that they wanted the court to really reach this issue and to rule that the Ninth Circuit really got it wrong.

She said that the team was very heartened and pleased when the court accepted Mr. Sturgeon's petition and then incredibly pleased to have the court grant the state's request to appear at oral argument. It's not unprecedented, but it is a very exceptional opportunity to have, because the state was not a party. It was the ultimate opportunity to present and vindicate the state's sovereign interest in this case, and illustrate for

the court why they believe that this decision has meaning not just to folks like Mr. Sturgeon, but really impugns the state's sovereignty and its sovereign right to manage its resources and to put that into some real perspective. She added that that opportunity was made possible, in large part by the department's great working relationship with Mr. Sturgeon and his counsel, who were very gracious in ceding time that they had at the podium to the State of Alaska. Their strong relationship was very effective in refining the arguments and augmenting and supplementing the approach that each took with respect to putting these issues before the court.

MS. HAFNER said they had two rounds of briefing: one was at the cert stage, the stage at which one asks the Supreme Court to take the case. It's when you convince the court why your case matters and what the broader implications and interests are, and then once it decides to take the case, there is another opportunity to submit another round of briefing. The state filed a second brief where they really attempted to convince the court that the Ninth Circuit got it wrong, really highlighting the state's interest and their primary goal of why the state's sovereign interest in its natural resource management matters so much.

She said Congress does not lightly take away a state's authority to manage its lands and waters. That is a legal doctrine that DOL built on. The court knows that, and it's something that is invoked fairly frequently, as are the notions of federalism, the state's rights, and state sovereignty. They tried to drive home the practical and bring that down from an academic level and say those issues matter in Alaska in a very unique way that they don't matter in the rest of the world, and to say that there are real world harms here that extend to Mr. Sturgeon and well beyond to the state as a whole. They explained, in part, that the Statehood Act, ANILCA and ANCSA were this trilogy of legislation that all on their own way really tried to account for the Alaska-specific needs and challenges. They highlighted the size of the state, the remote nature, the fact that so many Alaskans live unconnected from the road system, what not living on the road system looks like here, and really highlighted the transportation and infrastructure barriers that exist throughout much of the state. Part of that was to say to someone who is living in Washington, D.C., who might not be so familiar with what Alaska looks like, when you impose an access restriction on a river, or you authorize the Park Service to roll out these regulations on a nationwide basis and lump in Alaska lands and waters, you're doing a lot more than simply telling someone they

can't kayak on the Potomac River or curtailing someone's ability to use a snow machine on a well-used trail in Glacier National Park. To Alaskans those sorts of access restrictions mean rural Alaskans can't get fuel delivered in the winter and that winter ice road traffic will be impeded, that you will impede commercial fuel shipments to hub communities, medical supplies, and the ability to get to and from one's home. That was the theme of their case: Number 1, we have a sovereign right to manage our resources and that has historical importance here to provide for our people and that number 2, given these unique challenges and the realities of what rural Alaska and Alaska as a whole looks like, there is more of a value to local decision making and the need for the state legislature and decision makers who have expertise in and familiarity with the reality of daily life in Alaska to be making these sorts of land management decisions. They framed the sovereign right to manage the lands and resources in a very contemporary real world way and showed how the ramifications of this decision and taking away that local control would matter and harm everyday Alaskans.

4:27:09 PM
MS. BOTSTEIN said she is in the opinion, appeals and ethics section of the DOL. She echoed all the previous speakers' comments. She said it was really an honor and a privilege to represent Alaska in this case. Everyone in the state has something to gain or lose here. Handling this case within the Department of Law was also a wonderful thing. In the past they have hired outside counsel like now Chief Justice John Roberts to work with the state on federal cases at this level.

She said that one can't predict the outcome based on the argument, but it went well. The court was very interested and they had a chance to clarify some confusion that will be helpful as the court makes its decision, and she was pleased that she got a chance to talk about what life is like for rural Alaskans and how these access restrictions that the federal government wants on state use and access of its lands and waters really affects everyday people. This is always valuable as many people who live in major urban East Coast areas really don't have any idea of what it's like to live in Alaska and depend on a river to travel or to hunt for moose to feed their family.

4:30:54 PM
ED GRASSER, Vice President, Safari Club International (SCI), Palmer, Alaska, said he is chair of their Governmental Affairs Committee based in Washington, D.C. He said the previous

speakers ably covered the case. He thanked Mr. Sturgeon for taking the case forward and everyone who donated to the cause.

MR. GRASSER said SCI is the world's largest hunting-based conservation organization. They have been engaging with the federal government for the last five years, starting with the polar bear issue that was based, in SCI's view, on erroneous information. The Three Amigos case in Texas is where U.S. Fish and Wildlife Service (FWS) told some SCI members they couldn't hunt antelope, an exotic species imported from Africa, on private land. Because they were endangered in Africa, they couldn't be hunted on the ranch. Never mind that the only chance for reintroducing them into the wild was the ranches in Texas who were hosting the animals. They had a good breeding program, and the alternative for them since they couldn't charge for hunting any more to help sustain their operations, was to extirpate those herds. That was totally okay with U.S. FWS.

So, the absurdity of some of these federal rules coming down the pike, whether they are affecting people like Mr. Sturgeon or their members in Texas, is that they are happening in not just Alaska, but in the rest of the states, as well. They just won a case in Florida on black bear hunting and are entering into a joint case in North Carolina on wolves. His point is that the federal government is moving forward with efforts to regain or take over wildlife management across the nation, which was a central concern in the Sturgeon case.

MR. GRASSER said SCI just had a huge meeting in Las Vegas and met with National Rifle Association leadership and other organizations. Now 48 states, including Alaska, have a Sportsmen's caucus to try to build a team to fight back. Even the eastern states are beginning to realize they are in jeopardy.

MR. GRASSER said a savings clause in a lot of federal acts including ANILCA basically says that nothing in the act neither diminishes nor enhances state management authority. They want that changed to make it clear that the state does have management authority. He hoped Alaska would be at the forefront of this fight. He said he thanked Mr. Sturgeon for bringing this case forward, and that it was a travesty that an individual had to bear the financial cost for a case that is critical to the state.

SENATOR HUGGINS asked the date and time of the SCI meeting in Anchorage.

MR. GRASSER replied Feb 27, and it's the biggest sportsmen's event of the year in Alaska.

4:37:51 PM
MR. STURGEON thanked Alaskans for their support; it's been incredible. Keep up the fight, he said, federal overreach is not going to stop.

SENATOR MICCICHE thanked him, and said he was proud that the state contributed to this effort. It might not have been financial help, but the time and dedication from state personnel to assist this case was invaluable.

MR. STURGEON concurred. Had the State of Alaska not been involved, he said it was highly unlikely they would have pursued the case to the Supreme Court.

SENATOR HUGGINS said Mr. Sturgeon is in the great Alaskans category.

4:40:37 PM
SENATOR COGHILL thanked Mr. Sturgeon, saying that the legislature looks for every way it can to stand up to the federal government, and he was glad that the full weight didn't fall on the State of Alaska.

MR. STURGEON closed by saying that the state's help was invaluable; the attorneys were top notch.

SENATOR COGHILL also thanked the attorneys from the State of Alaska, and said he hoped this one could "go over the top."

CHAIR GIESSEL thanked Mr. Sturgeon and the attorneys.

4:45:51 PM
Finding no further business to come before the committee, Chair Giessel adjourned the Senate Resources Standing Committee meeting at 4:45 p.m.