

**ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE**

March 9, 2016

3:31 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARINGS

Board of Fisheries

Alan Cain - Anchorage, Alaska
Robert Ruffner - Soldotna, Alaska

- CONFIRMATIONS ADVANCED

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

ALAN CAIN, Appointee
Alaska Board of Fisheries
Anchorage, Alaska
POSITION STATEMENT: Testified as appointee.

ROBERT RUFFNER, Appointee
Alaska Board of Fisheries
Soldotna, Alaska
POSITION STATEMENT: Testified as appointee.

LYNN WHITMORE

Anchor Point, Alaska

POSITION STATEMENT: Testified in support of confirming Mr. Cain and Mr. Ruffner.

WES HUMBYRD

Homer, Alaska

POSITION STATEMENT: Spoke in opposition to confirming Mr. Cain and in support of confirming Mr. Ruffner.

RICHARD MCGAHAN

Nikiski, Alaska

POSITION STATEMENT: Requested careful consideration for Board of Fisheries appointees.

WILLIAM PETERSON, Administrator

New Stuyahok Tribal Council

New Stuyahok, Alaska

POSITION STATEMENT: Spoke in support of Mr. Ruffner.

JIMMY HURLEY

Ekwok, Alaska

POSITION STATEMENT: Encouraged representation of Bristol Bay fishing interests on the Board of Fisheries.

GEORGE PIERCE

Kasilof, Alaska

POSITION STATEMENT: Spoke in support of having biologists/scientists on the Board of Fisheries.

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 Stedman, Coghill, Stoltze, Wielechowski, and Chair Giessel. Senators Costello and Micciche joined shortly thereafter.

Confirmation Hearings **Alaska Board of Fisheries**

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CHAIR GIESSEL announced confirmation hearings for the Governor's appointees to the Board of Fisheries. She invited Alan Cain to tell the committee about himself and why he wants to serve on the Board of Fisheries.

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SENATOR COSTELLO joined the committee.

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ALAN CAIN, Alaska Board of Fisheries appointee, Anchorage, said there are two or three reasons why he wants to serve on the board. He said he has observed the board providing a wonderful service to the state, and he has been involved in protecting, enforcing, and helping managers in managing Alaska's fish. He is proud of that service and wants to apply it to the board process. He said he has seen many groups and individuals come before the board with a lot of differences, and by listening very carefully, evaluating needs, and referring to the constitution and applicable laws, "we can usually find an agreeable solution to most things." He said he will be happy to be part of that.

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SENATOR MICCICHE joined the committee.

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SENATOR STOLTZE asked if he was a DNR [Alaska Department of Natural Resources] contract employee in the Knik area.

MR. CAIN said yes; he was hired to establish the peace officer and law enforcement program. He said he provided training and assisted with the regulations over the years.

SENATOR STOLTZE said he did a good job setting the stage for [the program].

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SENATOR WIELECHOWSKI asked for Mr. Cain's thoughts on how to solve Cook Inlet issues, like dipnetting, and if there should be any priority users. He asked about curtailments of emergency openings in Cook Inlet when fish runs are low, or if dipnetting and sport fishing should be curtailed first.

MR. CAIN said he has no preferences other than the legal precedent set forth in Title 16 of Alaska's statutes, which gives a subsistence preference. He noted that he sat through "five different cycles of Cook Inlet" and is very familiar with the user groups involved and the passions they have. He said that things change, like user groups becoming more efficient in harvesting, and the board members need to listen very carefully to all input. The Alaska Department of Fish and Game (ADF&G) has

a tremendous amount of management experience and has done an excellent job of managing "that river" and the adjacent river systems. Things are in reasonable condition at this time, he added, so big changes have to be looked at very carefully. There will always be minor adjustments, he said, and he is open to listening to each user group.

SENATOR WIELECHOWSKI asked if he agreed with the conservation corridor established for the "Mat-Su" recently.

MR. CAIN answered yes.

SENATOR WIELECHOWSKI asked if there are any salmon management plans that are not working.

MR. CAIN said that he does not feel strongly that any management plan is not working, but adjustments and improvements are always needed. He assumes that ADF&G and the user groups will have suggestions for the board's Cook Inlet fishery cycle, he said, and he will take a look at each one very carefully.

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SENATOR WIELECHOWSKI noted that the Kenai and Kasilof personal-use fisheries have increased lately, and he asked if Mr. Cain supports any proposals that would institute fees, limit boat use, or reduce the number of fish that can be taken.

MR. CAIN said he does not oppose those options; all options need to be considered carefully.

SENATOR WIELECHOWSKI asked if he agrees with the drift fleet closures so that Southcentral dipnetters can fish "usually Friday through Saturday or Sunday."

MR. CAIN answered yes; that has been an effective way to increase the take in the river for personal use.

SENATOR WIELECHOWSKI noted that there was an increase in the number of fish that could be taken on the Copper River so that it matches Kenai River limits, which many people think is a good thing, but because there are limited places to fish, people are spending a lot more time dipnetting, so it may have had some negative impacts.

MR. CAIN said any change has to be reevaluated year after year. The board's cyclical schedule provides a chance to assess the impacts of any change, he stated.

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SENATOR STOLTZE asked about limitations on personal-use fisheries, since Mr. Cain said he is open to those restrictions.

MR. CAIN answered that he is open to discussion on any changes. User groups suggest many changes every year, he said, and for the Cook Inlet cycle there are usually about 500 proposals for the Board of Fisheries to consider. He will listen, he said, and he is not interested in disenfranchising any individuals or groups. His goal is to allocate as equally as can be.

SENATOR STOLTZE said there is not the capacity "to put an equal number up the river as that are harvested by that ever-efficient drift fleet." He said the smaller user groups are personal and sport fishers, and he asked what limits Mr. Cain is not opposed to for "the Goliath" drift fleet.

MR. CAIN said there have been many ideas from different user groups to limit one another and even themselves, and he considers some to be extreme and others reasonable. The seven people on the board are there to evaluate every proposal as fairly as possible and come up with equitable solutions. In Cook Inlet, there are lot of people interested in harvesting salmon, and sometimes the debates become very passionate and emotional. The board needs to calmly listen to all of the suggestions and sort out the best for that cycle.

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SENATOR STOLTZE said that answer is appropriate, and he does not expect him to come in aligned one way or the other. Any time the system is fair, Senator Stoltze's constituents benefit, he said, because they cannot afford to hire lobbyists. Fair is about all they can expect from the process that is often driven by ADF&G.

MR. CAIN remarked that he has seen well-organized user groups with very strong voices and others who are more subdued, and he has watched board members listen to both. Listening carefully is the key to finding a fair solution, he stated.

SENATOR MICCICHE said if there is not a transparent, public process, it is tough to bring people together. He asked Mr. Cain how his service can improve public confidence, because both sides often feel like they are not heard, whether they are or not.

MR. CAIN said that the board made a huge improvement by going to the committee process, because the previous model of taking public testimony for three to five minutes and going straight to deliberations didn't give board members the information they needed. Public confidence improved dramatically, he said, and each individual or group can speak before those committees, which takes more days, but "I've watched very polarized factions move a little bit closer together when they hear each other's opinions and explanations about effects on families and livelihoods"

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MR. CAIN said people feel that they have been heard, and the new process really helps the discussion move along. He stated that he wished there was more time for the public process, but he supports the new committee process.

SENATOR WIELECHOWSKI opined that the biggest management tool "is to send the commercial fleet out ... and have more emergency openers." It seems like the last resort is to allow sport users to take more fish and dipnetters to go longer hours, and he asked if Mr. Cain would be open to changing the management of over-escapement to allow more sport fishing and dipnetting.

MR. CAIN said he would be open to that and any suggestions, "and any way we can more equitably spread the harvest between user groups, I would be open to listening to." He acknowledged that the commercial fleet is very efficient when there are dramatic spikes in returns to the river, but there are other ways, and some are difficult to manage but not impossible.

SENATOR WIELECHOWSKI asked for his thoughts on the commercial setnet fishery. It has been closed for numerous years, and [setnetters] are concerned about that, and sport users are concerned about the impact on Kenai Chinook salmon runs.

MR. CAIN said it is an awkward issue because of the potential for harvest of king salmon returning to the Kenai and Kasilof rivers and the upper reaches of Cook Inlet. "They're efficient at doing that, and that's been one of the major reasons that they had to take the concessions that they have," he stated. He opined that they are a valid and historic user group that needs careful consideration, but he has no specific suggestions on how to minimize the king salmon harvest. He said ADF&G and the setnet fleet have made good progress.

SENATOR WIELECHOWSKI asked if he would recommend having areas limited to only drift boats on the Kenai River.

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MR. CAIN answered that such areas could be considered, but he would need to know the specifics. Typically, users have shared areas because fish are where they are. He said he would like to hear from ADF&G on its ability to manage the fishery.

SENATOR STOLTZE said Cook Inlet has a mixed-stock fishery, and he asked if there should be a focus on "more discrete stock management."

MR. CAIN said he is not familiar with the most recent genetic studies on where fish run, especially for the streams in Upper Cook Inlet. He said he does not know "if there's been any big increases in patterns of where those fish are located or not, and, probably, if they were able to discover that, the first thing you could count on is ... change." He stated that he supports an equitable distribution of fish into all streams that fulfills the constitutional mandate to sustain fisheries. Additional genetic research on harvest and migration patterns can help determine where fisheries can be open and where corridors should allow for passage, he added.

SENATOR STOLTZE stated that his question was about conservation of the species when harvesting a mixed stock. He wants to make sure fish get back to the right rivers, and it is a difficult prospect, he said. Some political entities are resistant to getting information and do not want the question to come up about discreet stock management, he stated, because the system is now advantageous to "those who do the mass harvests." He said the Mat-Su Valley led the effort to analyze genetics, but it was resisted by the status quo. Pure frustration might drive an [Endangered Species Act] lawsuit, he added. His constituency is the fish, "because we don't have a constituency that can use them if we don't have the fish."

MR. CAIN said mixed stock management is difficult all over the state. The board will consider every factor and may have to err on the side of conservation to not deplete any particular run.

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SENATOR MICCICHE noted that the Board of Fisheries meets in specific areas; however, some of "those interceptions" occur in other areas. He asked how that system can be improved. He said that Alaskans tend to be concerned about their closest neighbors

instead of the other fisheries that may be involved. How can there be "more of a relationship between the different areas, particularly when we have a stock of concern on how far out we should consider the best management practices for that species?"

MR. CAIN said it is a very challenging area. He pointed to the difficulties between the Area M harvesters on the [Alaska] Peninsula and the Yukon and Kuskokwim area harvesters, where the river groups feel strongly that a lot of interceptions are happening. He said the board has tried several strategies, and he does not have any new ones to suggest, but he feels strongly that more scientific genetic studies are needed at all points of interception. The board needs to be very careful about how they support management plans for mixed harvests, he stated.

SENATOR WIELECHOWSKI asked what factors led to the decrease in salmon returns to [the Matanuska River and Susitna River Basin], and what can be done to increase them.

MR. CAIN said original escapement, harvests, predation, global warming, water column temperatures, and other ocean conditions influence returns. The board needs to focus on the things it can control, he stated.

CHAIR GIESSEL announced that the next order of business would be the confirmation hearing for Robert Ruffner.

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ROBERT RUFFNER, Alaska Board of Fisheries appointee, Soldotna, said he graduated from the University of Minnesota in geology, focusing on river mechanics. He studied numerical modeling and statistics, which will be helpful to the Board of Fisheries. He said he worked for a conservation organization that was balanced, and it worked hard to seat board members from all user groups. It worked on habitat issues, and he is familiar with user groups that "use some of the habitat issues as a sword against another group." He said he just resigned from his position there, but he is still working for the organization in a very limited capacity on a restoration project along the Tesoro pipeline route.

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MR. RUFFNER said he has served on the Kenai Peninsula Borough planning commission and a road [service] board. He wants to serve on the Board of Fisheries because he wants his kids to have the experiences he had as a child. He noted that there is a focus on Cook Inlet, but the board has a tremendous job with a

multi-billion-dollar industry working across the entire state, and one reason he wants to serve is to learn more about other parts of the state. He said he will bring the proper temperament to hear the various user groups. It is important to listen to the impassioned people with concerns and issues and try to bring people together to find the best solution. Others tell him he has that skill, he said.

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MR. RUFFNER said his science and statistical background will be helpful. Understanding how numerical models are derived is important, and he hopes to illuminate the sophisticated modeling techniques used in fishery and economic analysis. He added that he has a strong commitment to the public process. Alaska's process is unique in the world, and he strongly believes in the "AC" process and having proposals brought forward to a body that can arbitrate them with neutrality and transparency. He will always state the reasons for his votes, he added.

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SENATOR STOLTZE said he is more open to Mr. Ruffner now that he is applying for a different seat. He asked him if he wants to revise anything from last year's testimony, particularly with regard to his commitment to the board action on corridors. Has anything changed?

MR. RUFFNER said he put a number of points on the record, and he did not see any fishery that was carried out this year that would lead him to change any of his positions. He noted that there was a good showing of coho in the valley and on the Kenai.

SENATOR STOLTZE said there is no statutory Kodiak seat on the board, and Mr. Ruffner is applying for what has traditionally been a commercial seat for Bristol Bay. Senator Stoltze said that Mr. Ruffner spoke of only two days of commercial [fishing] experience, but "I suspect you've probably tried to bone up ... you probably have broader knowledge." He said this is more of a commercial seat, and he is comfortable with that designation, but he asked Mr. Ruffner if he has a broader involvement or understanding that might make him more qualified for this seat.

MR. RUFFNER said he fished two years in the inlet [then corrected himself later and said he had fished for two days], but last year he did personal-use fishing. He said he understands the fisheries and how they operate, particularly salmon. He will have to study up on other species, like crab and herring, and he has the time to do that.

SENATOR WIELECHOWSKI commented that he is glad to see him back at it; "last year was rough, and it had nothing to do with you. It was just simply over the seat designation." He added that Mr. Ruffner is immensely qualified.

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CHAIR GIESSEL opened public testimony.

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LYNN WHITMORE, Anchor Point, said Mr. Cain has been at Board of Fisheries meetings for at least 30-some years and he cannot imagine a better candidate. "He's about as fair a man as I've ever seen sitting in that arena," he stated. He added that Mr. Ruffner is a river scientist, which the board sorely needs. Both candidates are fair, he said. He has seen prejudices on the board, "and I look forward to watching these guys go through that process, and I'm guessing they're going to be real fair about it."

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WES HUMBYRD, Homer, said he has commercial fished in Cook Inlet since 1966, "and I was all for Mr. Cain until he said ... that he thought the conservation corridor in Cook Inlet was a good thing." He now does not want Mr. Cain confirmed, because that is one of the worst things the Board of Fisheries has ever done, and it put a lot of commercial fishermen out of business. Many went bankrupt, he added, because they were not able to get to where the sockeye salmon were, and almost 1 million fish went to waste. He said neither the dipnetters nor anyone else could catch them. Mr. Ruffner, on the other hand, needs to be confirmed because he was dragged over the coals last year due to politics. Mr. Humbyrd believes that he will be very fair.

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SENATOR STOLTZE said Mr. Ruffner also supports the corridor. He asked Mr. Humbyrd if he should vote against him.

MR. HUMBYRD told Senator Stoltze that that is his own decision. Mr. Ruffner has a lot of background in biology, and "I just want somebody on that board that uses biological data and science to make a decision." He said he is against the conservation corridor "because we do not fish like Bristol Bay, Mr. Stoltze, and everybody up there thinks we do." If people want them to fish like that, then they should be allowed to fish the first five miles of the Kenai River, he said, and that way they will not be wasting millions and millions of dollars of revenue,

which would have been \$120 million in 2014. He opined that the conservation corridor was created to benefit the silver salmon fishermen and the guides in the Mat-Su valley. When his fishery had to let the fish go by, "you went ahead and gave all the sport fishermen up there a new bag limit at the cost of the commercial people, and we didn't get to fish anymore. We sat on the beach." Last year was the worst year he has had in 49 years, and he knows what he is doing, he concluded.

SENATOR STOLTZE said, "I'm sorry that we supported our constituents."

SENATOR MICCICHE said he is not going to condemn folks that he sees as credible board members "for single statements that are identical to other folks that are applying." He said he needs to choose good board members, and, based on Mr. Cain's testimony, he will look at every issue fairly.

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RICHARD MCGAHAN, Nikiski, said he started fishing in 1955, and he hopes Mr. Ruffner remembers his promise of putting Alaskans first. Regarding Mr. Cain, he said, "We have got to quit splitting this inlet up." In 2014, over-escapement was 81 percent in Cook Inlet, and that adds up to about \$120 million lost to fishermen. Alaska is talking about budgets, he said, and things need to be straightened out. The Alaska Constitution tells ADF&G to utilize the fish, and the governor has the right to appoint the people to make sure that job is done, "so let's keep it for Alaskans." If people read the mission statement in the Board of Fisheries regulations, he said, they would understand how the fisheries were supposed to be managed, which is based on the federal and state constitutions. He said to consider these [appointments] very carefully.

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WILLIAM PETERSON, Administrator, New Stuyahok Tribal Council, New Stuyahok, said he has been a commercial fisherman in the Bristol Bay region, and he asked if the Board of Fisheries has a representative from Bristol Bay. He wished to ask the appointees questions [and was told he could not], but he confirmed that he supported Mr. Ruffner, but he was not sure about Mr. Cain.

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JIMMY HURLEY, Ekwok, said he has lived in Ekwok along the Nushagak River for about 60 years, and he was hesitant to support Mr. Ruffner for the commercial seat on the board, because he lacks commercial fishing experience. There are people

in Bristol Bay who have fished all their lives, and the area represents 50 percent of the fish in the world, so "I don't see how we're getting left out in Bristol Bay." He said that awhile back Nushagak River was number one for king salmon. He noted that he sat on the Nushagak Advisory [Committee] when the river's kings were in trouble, and it took five years for every user group to agree on one thing: commercial, sport, and subsistence users all had to limit their take.

MR. HURLEY stated that on the Kenai River, every user is cutting each other's throats, and the resource will be depleted, which is what happened over 20 years ago on the Nushagak, "but we built this fishery," and the river is number one for king salmon. People might not know what is at stake, "but we live on the river and put our fish up," and this is why they fought the Pebble mine. "We need representation on that Board of Fish, a real commercial fisherman, not a one-two time fisherman," he added. He said he picks more fish than anybody, and he is a guy out of Ekwok, so the experience is there, but they need good representation. If not, the entire fishery will go down the drain, he stated. He recommended against confirming Mr. Cain and Mr. Ruffner and asked for someone from Bristol Bay.

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GEORGE PIERCE, Kasilof, said the boards of fisheries and game are stacked with friends and neighbors, and they are controlled by fishing and hunting guides. "That's why the fish and game is so messed up today," he stated. Nominees must be biologists or scientists in the appropriate field, not friends, good-old-boys, or nice guys. The state needs to take control of the fish and game boards; legislators need to have control. He said Mr. Ruffner is a good guy, but he is a geologist, not a biologist, neither is Mr. Cain. "You can't keep confirming these people that don't have any knowledge of fish or game," he opined. He said Mr. Ruffner would be good for the position, but the fish board is uncontrollable right now, so he urged the legislature to put scientists on the board.

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CHAIR GIESSEL, finding no further comments, closed public testimony. She stated that accordance with AS 39.050.080, the Senate Resources Committee recommended that the names of Alan Cain and Robert Ruffner be forwarded to the full legislature in joint session for consideration. This does not reflect an intent by any member to vote for or against the individuals during any further sessions.

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The Senate Resources Standing Committee adjourned at 4:31 p.m.