

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

February 26, 2018

1:05 p.m.

MEMBERS PRESENT

Representative Andy Josephson, Co-Chair
Representative Geran Tarr, Co-Chair
Representative John Lincoln, Vice Chair
Representative Harriet Drummond
Representative Justin Parish
Representative Chris Birch
Representative DeLena Johnson
Representative George Rauscher
Representative David Talerico

MEMBERS ABSENT

Representative Mike Chenault (alternate)
Representative Chris Tuck (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 305

"An Act relating to oil and hazardous substances and waiver of cost recovery for containment and cleanup of certain releases; and providing for an effective date."

- MOVED CSHB 305(RES) OUT OF COMMITTEE

CONFIRMATION HEARING(S) :

Big Game Commercial Services Board

Michelle Heun - Palmer
Robert Beans - Palmer
Cash Joyce - Wasilla
Adam Trombley - Anchorage

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 367

"An Act relating to the liability of a Native corporation for the release or threatened release of hazardous substances present on certain lands."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 305

SHORT TITLE: OIL/HAZARDOUS SUB.:CLEANUP/REIMBURSEMENT

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/24/18	(H)	READ THE FIRST TIME - REFERRALS
01/24/18	(H)	RES, FIN
02/09/18	(H)	RES AT 1:00 PM BARNES 124
02/09/18	(H)	Heard & Held
02/09/18	(H)	MINUTE(RES)
02/23/18	(H)	RES AT 1:00 PM BARNES 124
02/23/18	(H)	Heard & Held
02/23/18	(H)	MINUTE(RES)
02/26/18	(H)	RES AT 1:00 PM BARNES 124

BILL: HB 367

SHORT TITLE: NATIVE CORP. LIABILITY FOR CONTAMINATION

SPONSOR(s): MILLETT

02/21/18	(H)	READ THE FIRST TIME - REFERRALS
02/21/18	(H)	RES, JUD
02/26/18	(H)	RES AT 1:00 PM BARNES 124

WITNESS REGISTER

KRISTIN RYAN, Director
Division of Spill Prevention and Response
Department of Environmental Conservation
Anchorage, Alaska

POSITION STATEMENT: Answered a question during the hearing of HB 305.

MICHELLE HEUN, Appointee
Big Game Commercial Services Board
Palmer, Alaska

POSITION STATEMENT: Testified as appointee to the Big Game Commercial Services Board, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community & Economic Development.

ROBERT BEANS, Appointee
Big Game Commercial Services Board
Palmer, Alaska

POSITION STATEMENT: Testified as appointee to the Big Game Commercial Services Board, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community & Economic Development.

CASH JOYCE, Appointee
Big Game Commercial Services Board
Palmer, Alaska

POSITION STATEMENT: Testified as appointee to the Big Game Commercial Services Board, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community & Economic Development.

ADAM TROMBLEY, Appointee
Big Game Commercial Services Board
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Big Game Commercial Services Board (BGCSB), Division of Corporations, Business and Professional Licensing, Department of Commerce, Community & Economic Development.

SAM ROHRER, President
Alaska Professional Hunters Association
Kodiak, Alaska

POSITION STATEMENT: Testified in support of the appointment of Mr. Joyce and the reappointment of Mr. Trombley as appointees to the Big Game Commercial Services Board.

REPRESENTATIVE CHARISSE MILLETT
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Speaking as the sponsor, introduced HB 367.

HANS RODVIK, Staff
Representative Charisse Millett
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of Representative Millett, sponsor, presented the sectional analysis of HB 367.

CURTIS MCQUEEN, Chief Executive Officer
Eklutna Inc.
Anchorage, Alaska

POSITION STATEMENT: Testified in support during the hearing of HB 367.

HALLIE BISSETT, Executive Director

Alaska Native Village Corporation Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support during the hearing of
HB 367.

ACTION NARRATIVE

[1:05:49 PM](#)

CO-CHAIR ANDY JOSEPHSON called the House Resources Standing Committee meeting to order at [1:05] p.m. Representatives Josephson, Birch, Parish, Talerico, Johnson, Lincoln, [Drummond], and Tarr were present at the call to order. Representative Rauscher arrived as the meeting was in progress.

HB 305-OIL/HAZARDOUS SUB.:CLEANUP/REIMBURSEMENT

[1:06:59 PM](#)

CO-CHAIR JOSEPHSON announced that the first order of business would be HOUSE BILL NO. 305, "An Act relating to oil and hazardous substances and waiver of cost recovery for containment and cleanup of certain releases; and providing for an effective date."

CO-CHAIR JOSEPHSON reviewed the discussion of HB 305 [at the previous hearing on 2/23/18].

[1:07:56 PM](#)

REPRESENTATIVE LINCOLN moved to adopt Amendment 1, labeled 30-GH2583\A.1, Nauman, 2/26/18, which read:

Page 2, lines 5 - 7:

Delete all material and insert:

"(1) the release was from piping, tankage, or other equipment used solely to provide space heat or electrical power generation for a building used primarily for residential purposes and that does not consist of more than four dwelling units;"

REPRESENTATIVE TARR objected for discussion purposes.

[1:08:21 PM](#)

REPRESENTATIVE LINCOLN moved to adopt Conceptual Amendment 1 to Amendment 1, to delete the word "space" [on line 4]. He

explained - as discussed at the previous hearing - the purpose of Conceptual Amendment 1 is to allow [mixed sources of fuel] to provide heat to other systems, such as heating water. There being no objection, Conceptual Amendment 1 to Amendment 1 was adopted.

REPRESENTATIVE LINCOLN explained the purpose of Amendment 1, as amended, is to allow the Department of Environmental Conservation (DEC) discretion to choose not to seek cost recovery from residents who also have small commercial operations within their homes, such as a wood-splitting business in the garage, or a small store in the home.

REPRESENTATIVE DRUMMOND expressed support for Amendment 1.

REPRESENTATIVE LINCOLN recognized Representative Talerico, DEC, and Legislative Legal Services for their work on the bill.

[1:10:48 PM](#)

KRISTIN RYAN, Director, Division of Spill Prevention and Response, DEC, informed the committee DEC has no objection to Amendment 1, [as amended], which is consistent with how DEC seeks to implement the proposed legislation.

[1:11:03 PM](#)

The committee took a brief at-ease.

CO-CHAIR JOSEPHSON asked if Co-Chair Tarr maintained her objection.

[1:11:09 PM](#)

CO-CHAIR TARR removed her objection. There being no further objection, Amendment 1, as amended, was adopted.

[1:12:50 PM](#)

CO-CHAIR TARR moved to rescind the committee's action in adopting [Conceptual Amendment 1 to HB 305 at the hearing of 2/23/18]. There being no objection, it was so ordered.

REPRESENTATIVE PARISH spoke in support of the bill, and said HB 305 would aid individual homeowners who are dealing with an oil spill and remove their apprehension about reporting a spill to DEC.

CO-CHAIR TARR spoke in support of the bill; she pointed out Fiscal Note Identifier: DEC-SPAR-01-22-18 indicated a loss of \$60,000 per year in revenue to DEC, which would "have to be paid for in another way."

[1:14:59 PM](#)

The committee took an at-ease from 1:14 p.m. to 1:16 p.m.

[1:16:26 PM](#)

CO-CHAIR TARR moved to report HB 305, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 305(RES) was reported from the House Resources Standing Committee.

[1:16:51 PM](#)

The committee took an at-ease from 1:16 p.m. to 1:20 p.m.

CONFIRMATION HEARING(S):
Big Game Commercial Services Board

[1:20:05 PM](#)

CO-CHAIR JOSEPHSON announced that the next order of business would be confirmation hearings of appointees to the Big Game Commercial Services Board (BGCSB).

[1:21:09 PM](#)

MICHELLE HEUN, appointee, informed the committee she has been newly appointed to fill a transporter vacancy on the BGCSB. She said she is retired from state employment and owns and operates a small family lodge in the Talkeetna Mountains.

CO-CHAIR TARR asked whether lodge activities qualify Ms. Heun for the transporter vacancy on BGCSB.

MS. HEUN said yes, she has been a licensed transporter since June 2014, and thus is very interested in the rules and regulations affecting her business.

CO-CHAIR TARR asked Ms. Heun to comment on the reported tensions between transporters and guides related to sheep hunting.

MS. HEUN said her personal experience is that transporter guidelines are very clear to follow, even though there has been a change in fees.

CO-CHAIR JOSEPHSON asked for her background related to big game laws and regulations.

MS. HEUN explained her family business began in December 1995, and big game regulations require her - as a lodge owner who rents cabins to hunting clients - to become a licensed transporter; her lodge also provides commercial food services and is licensed by the Matanuska-Susitna Borough; she said she is diligent and believes problems between guides and transporters can be worked out.

CO-CHAIR JOSEPHSON, as an aside, stated the committee would not be voting for or against confirmation of any of the appointees during today's hearing.

[1:25:35 PM](#)

REPRESENTATIVE PARISH surmised [BGCSB] may make decisions that might benefit Ms. Heun's business financially; however, he pointed out on her [Board/Commission] application, she indicated she has no conflict of interest.

MS. HEUN said she has no conflict of interest because her lodge is "weather driven," and is not dependent upon clients for revenue; her interest in state resources is in the preservation of wild game and on ethical hunting. Ms. Heun said she is a proponent of reserving land for future use, and restated she has no conflict.

REPRESENTATIVE PARISH observed a transporter has a professional connection to big game hunters, and an issue before BGCSB may have a bearing on Ms. Heun's business.

MS. HEUN agreed for an issue pertaining to [Game Management] Unit 13, where her lodge is located, she would recuse herself from voting; however, she stressed hunting is not her primary source of revenue.

REPRESENTATIVE BIRCH noted the position must be filled by a licensed transporter - so, clearly - there would not be a conflict.

REPRESENTATIVE JOHNSON recalled her personal experience at a lodge and expressed her confidence in the appointee in all matters.

1:30:30 PM

ROBERT BEANS, appointee, informed the committee he is a lifelong Alaskan who brings to the board vast expertise serving on boards and commissions at local, regional, state, and national levels. Mr. Beans said he understands the workings of boards and seeks to serve on the BGCSB to represent private landowners. He currently is a member of the board of directors of both Calista Corporation and the Alaska Village Electric Cooperative, and has many years of past service to other organizations.

CO-CHAIR JOSEPHSON questioned whether there is a specific seat on BGCSB for landowners.

MR. BEANS said yes. In further response to Co-Chair Josephson, he explained the appointee to the landowner seat would ensure the land is protected when there is hunting and fishing activity.

REPRESENTATIVE DRUMMOND advised Mr. Beans is known to her and is well-suited for the appointment.

REPRESENTATIVE PARISH recognized Mr. Beans' military service.

MR. BEANS, in response to Co-Chair Josephson, said he lives in Palmer.

CO-CHAIR TARR informed the committee the regulated professions represented on BGCSB are: assistant guide; class-A assistant guide; master guide-outfitter; registered guide-outfitter; retired guide-outfitter and transporter; in addition, the membership includes two licensed registered guide outfitters, two licensed transporters, two private landholders, two public members, and one member from the Alaska Board of Game.

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CASH JOYCE, appointee, said he is a lifelong Alaskan who owns several businesses. Mr. Joyce stated he is suited to represent Alaskans in an unbiased manner. In response to Co-Chair Josephson, he confirmed he is a licensed transporter and was appointed to a transporter seat.

CO-CHAIR TARR restated her question related to reported tensions between transporters and guides.

MR. JOYCE said he does not have a private campaign; his multiple businesses are based upon transporting and guiding residents and nonresidents.

REPRESENTATIVE LINCOLN asked whether Mr. Joyce is also a licensed and registered guide and outfitter.

MR. JOYCE said correct. In further response to Representative Lincoln, he opined all have the right to use the land, residents and nonresidents. It is in the best interest of transporters or tour operators to be unbiased as to whether they are serving residents or nonresidents. He restated his intention to represent the people.

REPRESENTATIVE LINCOLN asked for a further description of the competing interests between transporters and guides.

MR. JOYCE explained the conflict is that transporters transport residents and nonresidents, depending on species; for example, [to hunt certain] species, nonresidents must be guided. Conversely, the business of a registered guide is founded on nonresidents, thus a guide "might be a little bit biased. "

[1:42:10 PM](#)

REPRESENTATIVE PARISH, after confirming Mr. Joyce owns several businesses affiliated with big game industries, directed attention to the Board/Commission application under Conflict of Interest and read:

Is it possible that you or any member of your family will benefit financially by decisions made by the board or commission ...?

MR. JOYCE expressed his belief it is inherent he may or may not benefit and said, "... I'm just a liaison, I don't make the regulations."

CO-CHAIR JOSEPHSON surmised from Mr. Joyce's testimony a transporter serves clients from in- or out-of-state, and a big game guide might give more attention to out-of-state interests.

MR. JOYCE said correct.

REPRESENTATIVE RAUSCHER asked how long Mr. Joyce worked in construction.

MR. JOYCE said he is not bound by one occupation, but works in different occupations, and has no conflicts of interest. In further response to Representative Rauscher, he said he works every day at one business or another.

REPRESENTATIVE TALERICO questioned whether Mr. Joyce's experience with licensed guide and licensed transporter examinations would be beneficial, should BGCSB make recommendations for changes to improve the examination and licensing system.

MR. JOYCE indicated yes.

REPRESENTATIVE JOHNSON inquired as to the different viewpoints held by a transporter and a licensed-registered guide.

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MR. JOYCE said his wife and he have an air service that serves not only hunters, but other air taxi clients; although he wants all three of his businesses to thrive, he would separate his interest to prevent any bias of one over the other.

REPRESENTATIVE JOHNSON asked how many clients are provided only transport compared with those who are also provided guiding services.

MR. JOYCE estimated transporting is a smaller portion [of his businesses], and the air taxi business is growing; in the future, he expects the air taxi and transporting percentages to remain higher than that of guiding.

CO-CHAIR JOSEPHSON opined the [Board/Commission application] conflict of interest questions are difficult to answer - under some circumstances, a conflict of interest would occur - and the questions may be misread.

REPRESENTATIVE PARISH asked Mr. Joyce whether the right to harvest game should be dependent upon residency status.

MR. JOYCE said no; he stated ADFG is the governing body in this matter.

[1:52:25 PM](#)

ADAM TROMBLEY, appointee, informed the committee he is seeking reappointment to BGCSB and is a lifelong Alaskan. Mr. Trombley said he has been involved in public service for the last 10 years, and is now vice chair of BGCSB.

REPRESENTATIVE PARISH direction attention to Mr. Trombley's professional experience with [Nalco Champion].

MR. TROMBLEY explained Nalco Champion is a specialty chemical provider to the oil industry.

REPRESENTATIVE DRUMMOND inquired as to what seat Mr. Trombley seeks.

MR. TROMBLEY said a public member seat.

[1:54:28 PM](#)

REPRESENTATIVE PARISH asked for Mr. Trombley's personal experience related to big game, and as a member of the board.

MR. TROMBLEY said he is a hunter with no experience as a guide. During the past year, BGCSB has reviewed proposed legislation and he has enjoyed interacting with the industry. He related when people violate rules, the industry intervenes appropriately and BGCSB validates consent agreements to ensure the industry is viewed as impartial by the public.

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CO-CHAIR JOSEPHSON opened public testimony.

[1:56:51 PM](#)

SAM ROHRER, President, Alaska Professional Hunters Association, informed the committee Mr. Joyce is respected in the hunting industry and is knowledgeable and experienced. The Alaska Professional Hunters Association also supports the reappointment of Mr. Trombley, because Mr. Trombley previously served as a public member and understands the issues affecting the guiding and transporting industries. Mr. Rohrer urged for their names to be forwarded for confirmation by the legislature.

[1:58:36 PM](#)

CO-CHAIR JOSEPHSON, after ascertaining no one else wished to testify, closed public testimony.

[1:59:07 PM](#)

CO-CHAIR TARR said the House Resources Standing Committee has reviewed the qualifications of the governor's appointees to the Big Game Commercial Services Board and recommends their names be forwarded to a joint session of the House and Senate for consideration. She reminded members that signing the reports regarding appointments to boards and commissions in no way reflects individual members' approval or disapproval of the appointee, and that the nominations are merely forwarded to the full legislature for confirmation or rejection.

[CO-CHAIR TARR moved to advance the confirmations of Michelle Heun, Cash Joyce, Robert Beans, and Adam Trombley, appointees to the Big Game Commercial Services Board, to a joint session of the House and Senate for consideration. There being no objection, the confirmations were advanced.]

[Objection by Representative Parish was ruled out of order by Co-Chair Josephson.]

REPRESENTATIVE PARISH questioned the appointees' responses to the conflict of interest section of the application, as there inevitably could be some conflicts of interest that should have been acknowledged and explained by the appointees.

CO-CHAIR JOSEPHSON suggested the fault is in the application form.

REPRESENTATIVE PARISH urged the appointees to provide corrected applications.

[2:02:52 PM](#)

REPRESENTATIVE BIRCH opined the fact is boards and commissions are filled by those who make a living - and have expertise - in the businesses at hand. He spoke in support of advancing the appointees' names for consideration.

[2:04:05 PM](#)

CO-CHAIR JOSEPHSON announced the names were advanced.

The committee took an at-ease from 2:04 p.m. to 2:08 p.m.

HB 367-NATIVE CORP. LIABILITY FOR CONTAMINATION

[2:08:37 PM](#)

CO-CHAIR JOSEPHSON announced that the final order of business would be HOUSE BILL NO. 367, "An Act relating to the liability of a Native corporation for the release or threatened release of hazardous substances present on certain lands."

[2:08:40 PM](#)

REPRESENTATIVE CHARISSE MILLETT, sponsor, explained HB 367 would remove from Alaska Native corporations the liability for land conveyed to them under the provisions of the Alaska Native Claims Settlement Act (ANCSA). In 1971, nearly 44 million acres of land began being conveyed to 12 Native corporations; much of the selected lands were in proximity to Tribal and village land. As an aside, Representative Millett disclosed she is a Doyon Limited shareholder. She returned to the bill and explained subsequent to conveyance, it was found some of the land had been contaminated, much of it during the '50s, '60s, and '70s when military scientific research and government nuclear testing were conducted in Alaska. Further, radar installations were established throughout the state prior to regulation by the U.S. Environmental Protection Agency (EPA) and the Department of Environmental Conservation (DEC). As the Native corporations sought to develop their lands, the contamination was identified. Representative Millett said HB 367 directs if the conveyed (contaminated) land was not contaminated by the present landowner, but by the federal government, the Native corporation would be held harmless. She reminded the committee the same issue was raised by previous legislation [HJR 29, passed in the Twenty-Seventh Alaska State Legislature and HJR 6, passed in the Twenty-Eight Alaska State Legislature] related to 137 legacy wells, which were contaminated by military and/or private testing; in the case of the legacy wells, "the federal government now has been, taken ownership of the contamination and now has cleaned them up ... [except] for 23." Although all seek to clean up the lands, she said the Alaska Native corporations should not suffer; in fact, a small corporation would be depleted if held liable for the cost of complying with state and federal regulations. She concluded ANCSA was a wonderful idea, however, now that the lands are conveyed, Native corporations are not able to assume the ownership of the land and the liability for its restoration.

[2:14:01 PM](#)

HANS RODVIK, Staff, Representative Charisse Millett, Alaska State Legislature, on behalf of Representative Millett, sponsor of HB 367, paraphrased from the sectional analysis as follows [original punctuation provided]:

Section 1: Amends AS 46.03.822(a) to reference creation of new subsection N

Section 2: Amends AS 46.03.822(m), by including a new definition of Native corporation, as given in United States federal law

Section 3: Adds a new subsection (subsection N) to AS 46.03.822, which removes Alaska Native corporations from liability from damages or costs related to release or threatened release of hazardous substances on their land, if that land was already contaminated when it was transferred to them under the Alaska Native Claims Settlement Act (ANSCA)

Section 4: Repeals AS 46.03.822(c)(3), which was an insufficient attempt at properly absolving Alaska Native corporations from liability to damages or costs concerning contaminated lands they were transferred under ANSCA

CO-CHAIR JOSEPHSON asked whether there is a legal distinction if a Native corporation selected lands after December 1971, knowing the land was contaminated.

REPRESENTATIVE MILLETT advised at the time of conveyance, many Native corporations relied on Bureau of Land Management (BLM), U.S. Department of the Interior (DOI), surveys that did not reveal contamination. The contamination of lands yet to be conveyed was discovered in the '90s, thus some of the conveyances are "on hold," pending an understanding of the liability issues.

CO-CHAIR JOSEPHSON questioned whether HB 367 would apply to spills not by the federal government, such as those by a contractor.

REPRESENTATIVE MILLETT said the bill relates to any contamination of the land, and provided examples of contaminants found.

MR. RODVIK added the [former] landowner responsible for the largest number of sites - over 162 sites - is the U.S. Department of Defense (DoD), a fact which was confirmed by DEC in 2015.

CO-CHAIR JOSEPHSON asked for the role of Congress in this matter.

REPRESENTATIVE MILLETT reminded the committee through the aforementioned legacy well legislation, Alaska asked Congress for recognition of the issue and for restoration funding, which was partially accomplished by U.S. Senator Lisa Murkowski by a \$50 million rider attached to the [Fiscal year 2017 Interior and Environment Appropriations Bill]. Although more funds are needed, Native corporations continue to petition federal agencies for [remediation funding].

[2:20:03 PM](#)

REPRESENTATIVE BIRCH asked whether there is a potential for Native corporations to return or exchange lands that have a high level of contamination, through the "over-selection" provision of ANCSA.

REPRESENTATIVE MILLETT advised some transfers have been stopped; she acknowledged there was a large amount of over-selection [land] for some of these same reasons. She deferred to Mr. Rodvik.

MR. RODVIK was unsure whether corporations could return contaminated land; federal "land swaps" with the state do occur, although he did not know what terms would be acceptable to Native corporations.

REPRESENTATIVE JOHNSON recalled this issue has been discussed around the state; in fact, near Nome there is radioactive waste. She encouraged Representative Millett to add support from local governments to the bill.

REPRESENTATIVE MILLETT agreed to continue seeking letters of support; she stated the potential financial impact to the Kuskokwim Corporation - if it were forced to assume responsibility for cleaning up contamination - after it "received the land in good faith."

[2:24:17 PM](#)

CO-CHAIR JOSEPHSON directed attention to a document, included in the committee packet, provided by the Alaska Native Village Corporation Association entitled, "ANCSA CONTAMINATED LAND" dated September 2016, and a document provided by DEC entitled, "Brownfields Resources for ANCSA Contaminated Lands," dated 10/16/16.

REPRESENTATIVE JOHNSON expressed her support for the bill.

2:25:06 PM

REPRESENTATIVE LINCOLN said the ultimate remedy is to correct a historical injustice against - not just Alaska Native corporations (ANCs) - but against everyone in the state. He urged for a unified approach from all Alaskans, state government, ANCs, and village corporations to advocate for the bill in one voice. He restated liability is an existential threat to ANCs and prevents accurate reporting of known sites to DEC. Representative Lincoln directed attention to DEC's first three recommendations for action: establish an exchange of information between ANCSA landowners and federal, state, local, and Tribal agencies; compile a coordinated and comprehensive inventory of contaminated sites, as directed by HB 367; work at the federal level.

REPRESENTATIVE MILLETT acknowledged not all the contaminated land in Alaska is owned by Native corporations; her research revealed beginning in the '30s, '40s, and '50s military and scientific testing occurred on what was considered inhabitable land, especially from the Alaska Peninsula to the Aleutian Islands. Further, discussion of the situation in Alaska has raised awareness of testing in other Western states, although not to be compared to the testing that was done in Alaska prior to statehood. She further agreed that a unified voice is important and that in order for Native corporations to be successful, they must be able to develop their assets.

REPRESENTATIVE RAUSCHER asked whether the lands in question have to be "preidentified."

REPRESENTATIVE MILLETT explained HB 367 affects conveyed and selected lands which are proven to have been contaminated prior to their transfer to a Native corporation. However, due to the fear of liability, some lands have not been completely surveyed and some lands are very remote. In fact, oil and gas

exploration in remote areas has uncovered barrels of contaminated waste.

REPRESENTATIVE JOHNSON inquired as to how many ANCs have attempted to address environmental assessments of their lands.

REPRESENTATIVE MILLETT said land is owned by 12 Native Corporations, Tribal corporations, and village corporations, and over 1,000 sites have been identified, with varying degrees of contamination. Cleanup costs could range from hundreds of thousands of dollars to many millions of dollars; for example, remediation of one legacy well has cost over tens of millions of dollars.

[2:32:59 PM](#)

MR. RODVIK advised more information on environmental assessments is forthcoming at a later hearing.

REPRESENTATIVE MILLETT pointed out DOI is aware of the problem and commissioned a report in 1998 that contained action items, and which was updated in 2016; however, although DOI has accepted responsibility, work is needed to obtain federal funding and begin restoration.

REPRESENTATIVE JOHNSON asked - subsequent to the passage of HB 367 - what the procedure to approach the federal government would be.

REPRESENTATIVE MILLETT explained, in a manner similar to the legacy well legislation, she would work in partnership with the Alaska congressional delegation and with likeminded states. Unlike ANCSA lands, responsible parties for some of the legacy wells were unknown.

[2:36:43 PM](#)

CURTIS MCQUEEN, Chief Executive Officer, Eklutna Inc., informed the committee Eklutna Inc. represents the first aboriginal people of Anchorage and the Eklutna Dena'ina of the Matanuska-Susitna Borough (Mat-Su Borough). He expressed his appreciation of lawmakers' support. Mr. McQueen said Eklutna relied on information it received prior to 1971 when it made its land selections; in fact, because many of Eklutna's aboriginal lands were already developed, Eklutna is still in the process of receiving its land. In the village of Eklutna, the corporation is in the process of removing a hydroelectric dam from the

Eklutna River and restoring salmon habitat. He said Eklutna is very pro-development and is supportive of the military, although one of its contaminated sites is Camp Mohawk, which was a mobile [military] camp behind the Eklutna school between Cook Inlet and the village. The Tribal government of Eklutna has worked to clean up surface contamination from Camp Mohawk; however, polychlorinated biphenyl (PCB) and diesel fuel have leached into the silt bed and are reaching the mouth of the Eklutna River and Cook Inlet. He said this threatens previous work that has been done to restore king salmon in north Cook Inlet. Eklutna seeks balance, and partners with the Alaska military; part of its ANCSA land selection includes 17,000 acres of Joint Base Elmendorf-Richardson (JBER). In response to an earlier question, he said the lead agency seeking to identify and address the cleanup of contaminated lands in Alaska is the U.S. Army Corps of Engineers (USACE), which successfully cleans up sites when funded. As a Formerly Used Defense Site (FUD site), Eklutna is now five years into research of the site, and a plan for cleanup should be complete within two more years. He said the cleanup cost predictions are "well into the millions, maybe tens of millions, just to clean up our site, alone." He noted the Alaska congressional delegation continues to search for future funding for USACE, and he urged for a joint resolution in support of all of the federal agencies that are responsible for restoration. Further, he advised Eklutna has sites that were not contaminated by the military, such as land in the Mat-Su Borough that was contaminated by railroad construction in the '30s and '40s, and was cleaned up by the joint efforts of Eklutna, the borough, and the state. From Eklutna's perspective, DEC has not forced village corporations to restore their land, which would bankrupt many of the 179 small village corporations; however, he cautioned this policy could be altered after a change of administration, and HB 367 would protect ANCSA landowners as they search for funding. Mr. McQueen concluded the current federal administration, the state administration, village corporations, and ANCs are pro-development, but at the same time need to address contaminated lands.

[2:43:53 PM](#)

REPRESENTATIVE BIRCH directed attention to a document provided in the committee packet entitled, "Alaska Native Village Corporation Association House Resources Committee," on the page entitled, "2018 State Priorities," and praised priority "4. Support the Stand For Alaska [campaign]." He then directed attention to the page entitled, "2018 Federal Legislative Priorities," priority "5. Swap ANCSA contaminated lands with

federal government," and asked whether swapping contaminated land with the federal government is a realistic option.

MR. MCQUEEN expressed his belief ANCs and village corporations do not have the aforementioned option; he pointed out Eklutna has been waiting for 45 years for its 67,000 acres in the Knik River watershed - although some land may be conveyed by 2019 - that is clean and beautiful land. He explained the conveyance process is slowed by many interest groups, bureaucracy, and the lack of land; however, Eklutna would be interested in swapping land.

REPRESENTATIVE PARISH asked whether the aforementioned land in JBER has been granted to Eklutna.

MR. MCQUEEN explained Eklutna is part of the North Anchorage Land Agreement and is owed approximately 17,000 acres within JBER, and the Municipality of Anchorage is owed approximately 15,000 acres. In the '80s, parties agreed not to pursue legal action; recently, he recalled, "part of JBER might have shrunk, by the army shrinking the base," thus the shareholders of Eklutna view the JBER land as a future conveyance, and do not seek JBER land at this time due to its importance to the military.

REPRESENTATIVE PARISH directed attention to the bill beginning on page 2, line 27, and continuing to page 3, line 1 which read:

(n) In an action to recover damages or costs, a Native corporation otherwise liable under this section is relieved from liability under this section if the Native corporation proves that the release or threatened release of the hazardous substance to which the damages relate occurred on land granted to the Native corporation under 43 30 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act) and the hazardous substance was present on the land at the time the land was granted.

REPRESENTATIVE PARISH gave an example of a serious spill occurring tomorrow on Eklutna's acreage at JBER and asked whether Eklutna would be held liable.

MR. MCQUEEN said the North Anchorage Land Agreement identifies Eklutna land as a section located near Eagle River and the Anchorage landfill, which may be received by Eklutna incrementally, - as the base shrinks - and was conveyed in 1971.

Eklutna is not aware of any present contamination, thus Eklutna will not know the condition of the land "until we get it."

2:50:50 PM

HALLIE BISSETT, Executive Director, Alaska Native Village Corporation Association (ANVCA), informed the committee ANVCA members represent about 176 village corporations that reside within 12 land-based regional Native corporations created by ANCSA. Since 2012, ANVCA has been working on the issue of contaminated lands, and she acknowledged the support of Representative Millett and others. She pointed out HB 367 is a real solution that would shield village corporations from liability, so they may continue to gather the inventory of contaminated sites in Alaska, which has heretofore been prevented due to the state's ability to assign liability when contaminated sites are reported by villages. In addition, HB 367 would allow village corporations - once they are free from legal designation as the responsible party - to apply for additional funds at the federal level for cleanup, such as those from the Brownsfields Grant Program. In response to an earlier question, she said ANVCA seeks to return land to productive use, and to provide technical training to villagers for jobs related to environmental restoration work: HB 367 would provide many benefits to rural Alaska. In response to Representative Birch, she noted one of ANVCA's priorities is to swap land with the federal government in the future, which is not currently an option. Further, ANVCA will continue to seek appropriations from the federal government, and guidance from the legislature and DEC. She acknowledged past state support for related joint resolutions, and legislators' present swift response to HB 367.

2:55:28 PM

CO-CHAIR JOSEPHSON questioned whether Congress needs to pass an amendment to the Comprehensive Environmental Response Compensation, and Liability Act (CERCLA).

MS. BISSETT said yes. U.S. Senator Dan Sullivan's amendment to CERCLA was adopted in the U.S. Senate version; the U.S. House bill passed without the desired language that provides a shield from liability.

REPRESENTATIVE LINCOLN asked whether ANVCA would be eligible for additional funding subsequent to the passage of HB 367, or if federal action is needed.

MS. BISSETT said both the state and federal shields from liability are needed.

[HB 367 was held over.]

[2:58:32 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:58 p.m.