

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

March 5, 2018

1:04 p.m.

MEMBERS PRESENT

Representative Andy Josephson, Co-Chair
Representative Geran Tarr, Co-Chair
Representative Harriet Drummond
Representative Justin Parish
Representative Chris Birch
Representative DeLena Johnson
Representative George Rauscher
Representative David Talerico
Representative Chris Tuck (alternate)

MEMBERS ABSENT

Representative John Lincoln, Vice Chair
Representative Mike Chenault (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 355

"An Act relating to the crime of criminally negligent burning; relating to protection of and fire management on forested land; relating to prohibited acts and penalties for prohibited acts on forested land; and providing for an effective date."

- HEARD & HELD

PRESENTATION(S): FOOD SECURITY IN ALASKA

- HEARD

PRESENTATION(S): ALASKA OIL AND GAS CONSERVATION COMMISSION

- HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 355

SHORT TITLE: FIRE;FOREST LAND; CRIMES;FIRE PREVENTION

SPONSOR(S): REPRESENTATIVE(S) GUTTENBERG

02/16/18	(H)	READ THE FIRST TIME - REFERRALS
02/16/18	(H)	RES, JUD
02/28/18	(H)	RES AT 1:00 PM BARNES 124
02/28/18	(H)	Heard & Held
02/28/18	(H)	MINUTE (RES)
02/28/18	(H)	RES AT 6:00 PM BARNES 124
02/28/18	(H)	Heard & Held
02/28/18	(H)	MINUTE (RES)
03/05/18	(H)	RES AT 1:00 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE DAVID GUTTENBERG

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, presented HB 355.

ANNE NELSON, Senior Assistant Attorney General

Natural Resources Section
Civil Division (Anchorage)
Department of Law (DOL)
Anchorage, Alaska

POSITION STATEMENT: Answered a question regarding HB 355.

DARRELL BREESE, Staff

Representative George Rauscher
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Speaking on behalf of Representative Rauscher, explained Amendment 1 to HB 355.

CHRIS MAISCH, State Forester, Director

Division of Forestry
Department of Natural Resources (DNR)
Fairbanks, Alaska

POSITION STATEMENT: Answered questions regarding HB 355.

DANNY CONSENSTEIN, Board Member

Alaska Food Policy Council (AFPC)
Anchorage, Alaska

POSITION STATEMENT: Presented the Alaska Food Policy Council Strategic Plan dated 1/12/12.

KEN METER, Consultant

Crossroads Resource Center (CRC)
Minneapolis, Minnesota

POSITION STATEMENT: Provided a PowerPoint presentation entitled, "Building Food Security in Alaska," dated 3/5/18, and answered questions.

GARY FERGUSON, BS, ND
Healthy Communities Consultant
Anchorage, Alaska

POSITION STATEMENT: Provided a PowerPoint presentation entitled, "Addressing Nutrition Insecurity with Traditional Foods," undated.

HOLLIS FRENCH, Commissioner, Chair
Alaska Oil and Gas Conservation Commission (AOGCC)
Anchorage, Alaska

POSITION STATEMENT: Provided a PowerPoint presentation and expressed AOGCC's opinion that legislation is needed regarding plugging liability for oil and gas wells in Alaska.

CATHY FOERSTER, Commissioner
Alaska Oil and Gas Conservation Commission (AOGCC)
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to AOGCC's opinion that legislation is needed regarding plugging liability for oil and gas wells in Alaska.

ACTION NARRATIVE

[1:04:45 PM](#)

CO-CHAIR GERAN TARR called the House Resources Standing Committee meeting to order at 1:04 p.m. Representatives Tarr, Josephson, Birch, Parish, Talerico, Rauscher, Drummond, and Tuck (alternate) were present at the call to order. Representative Johnson arrived as the meeting was in progress.

HB 355-FIRE;FOREST LAND; CRIMES;FIRE PREVENTION

[1:05:22 PM](#)

CO-CHAIR TARR announced that the first order of business would be HOUSE BILL NO. 355, "An Act relating to the crime of criminally negligent burning; relating to protection of and fire management on forested land; relating to prohibited acts and penalties for prohibited acts on forested land; and providing for an effective date."

[1:06:22 PM](#)

REPRESENTATIVE DAVID GUTTENBERG, Alaska State Legislature, as prime sponsor, presented HB 355. He explained that HB 355 addresses fire safety, suppression, and education. The bill seeks to restructure the way fines are levied, called a bail, which is whether a person receives a ticket, or goes to court, or is pursued because of deliberately setting a fire that caused considerable damage. The bill also includes a component addressing fire safety, as well as clarifies the authority of fire prevention officers to enter private property to investigate fires. Currently, if it is post-fire and fire prevention officers need to investigate, they must receive the property owner's permission and without said permission, they need to obtain a warrant for access.

[1:07:36 PM](#)

REPRESENTATIVE TUCK asked if a subpoena is required for access.

REPRESENTATIVE GUTTENBERG replied that if a [wildland] fire goes through private property, fire prevention officers can access the property to suppress, control, and put out the fire. However, to further investigate after the fire, officers must have the property owner's permission or obtain a warrant if permission is denied.

[1:09:10 PM](#)

REPRESENTATIVE RAUSCHER moved to adopt Amendment 1, labeled 30-LS1382\D.2, Radford, 3/1/18, which read:

Page 2, lines 10 - 11:

Delete "or a destructive agent"

Insert "[OR A DESTRUCTIVE AGENT]"

Page 2, line 12:

Delete "at any time"

Insert ", when responding to a wildland fire or suspected fire, [AT ANY TIME]"

Page 2, lines 14 - 15:

Delete "or a destructive agent"

Insert "[OR A DESTRUCTIVE AGENT]"

CO-CHAIR JOSEPHSON objected for discussion purposes.

1:09:35 PM

REPRESENTATIVE RAUSCHER explained Amendment 1 limits the times when forestry officials can enter private property by deleting the words "at any time" and inserting "when responding to a wildland fire or suspected fire," and deletes "or a destructive agent." He said the amendment preserves the property rights and the privacy of property owners. He acknowledged officials need to investigate nearby properties during a fire and immediately after, but [without the amendment] officials could enter private properties at a much later time.

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REPRESENTATIVE JOSEPHSON questioned why Amendment 1 deletes and inserts "or a destructive agent."

REPRESENTATIVE RAUSCHER said the definition of destructive agent includes bugs, which is not a valid reason to access one's private property at any time.

1:12:38 PM

ANNE NELSON, Senior Assistant Attorney General, Natural Resources Section, Civil Division (Anchorage), Department of Law (DOL), stated she was also confused by whether the intent of the amendment was to remove "destructive agent".

The committee took a brief at-ease.

1:14:18 PM

DARRELL BREESE, Staff, Representative George Rauscher, Alaska State Legislature, said the definition of destructive agent is found in AS 41.15.170 as follows:

destructive agent means an insect, pathogen or other environmental agent that causes damage to a forest resource

MR. BREESE further explained that Division of Forestry regulation 41 AAC 9595 places the onus for addressing insect infestation wholly on the property owner with the division's approval or disapproval of the method the property owner is using. As written, the amendment would delete language from both HB 355 and from existing statute by the bracketed language.

[1:15:40 PM](#)

CO-CHAIR TARR requested Mr. Chris Maisch to speak to why "destructive agent" is in current statute and whether removing that term would be a problem.

[1:15:40 PM](#)

CHRIS MAISCH, State Forester, Director, Division of Forestry, Department of Natural Resources (DNR), stated that AS 41.15.020 gives the DNR commissioner the power to make regulations related to fires and destructive agents and that this definition [of a destructive agent] is used in numerous places in statute. For example, in an emergency the commissioner can declare a zone of infestation and then emergency regulations to address something such as a bark beetle outbreak. He advised that in its history the Division of Forestry has not needed to make use of this statutory authority, but it exists for that reason.

[1:17:13 PM](#)

CO-CHAIR JOSEPHSON posited that the amendment would prevent a fire officer right of entry to forested land to address a destructive agent, and an officer would only have right of entry when responding to a wildland fire or a suspected fire. He surmised the amendment's goal of protecting the privacy of private property owners reaches across public lands.

MR. MAISCH replied that his comments were narrowed to the "destructive agent" piece, but that the aforementioned would be a concern. He said the division has other authority to declare a zone of infestation to address an issue of insects or disease, although he would read the amendment narrowly as Co-Chair Josephson described when it refers to wildland fire or suspected fire and that there could be some potential conflicts between the two.

CO-CHAIR JOSEPHSON stated he has some concerns about the expansiveness of this section under the bill and under current law. He said his understanding of criminal procedure is that a person could still file motion practice and say notwithstanding this statute or this bill, something should be suppressed because someone's rights weren't read to them or a warrant should have issued, although one would think that this might support the state's argument that a warrant wasn't always necessary. He said he is making the point that there could

still be an assortment of motion practice in criminal court theoretically.

[1:19:46 PM](#)

REPRESENTATIVE BIRCH observed the term destructive agent appears in multiple locations in the bill and the bill title relates generally to burning, negligent burning, and everything related to fire. He asked whether the division can quarantine property due to issues such as dead standing trees on public or private land, without consent of the property owner.

MR. MAISCH responded he could not envision a unilateral case in which the division would enter property without first going through forest practices statutory authority involving the commissioner and a best interest finding to establish a zone of infestation, which could be insects, diseases, or other pathogens, and then enacting emergency regulations on how the division would intend to deal with that, which could mean treatments on private lands. There would be a more exhaustive process for the division to go through besides just making a unilateral decision that it would take action under this statute. This statute is really focused on the fire piece.

REPRESENTATIVE BIRCH surmised this accommodation currently exists.

MR. MAISCH answered correct.

MR. BREESE pointed out that the section that would be amended by Amendment 1, AS 41.15.040, deals specifically with the right of entry to control and to suppress fires. So, if this section is amended, the Division of Forestry would still have a right to enter for any other reasons, such as insect infestation. The changes suggested by the amendment are to limit the entry when [the division] is controlling and suppressing fires.

[1:22:49 PM](#)

REPRESENTATIVE PARISH expressed his concern about denying [state fire officers] access to land to prevent a fire, to investigate a negligent fire, or to investigate after a fire. He said Amendment 1 is overly restrictive and he cannot support it.

REPRESENTATIVE DRUMMOND noted the state forester did not indicate a destructive agent has been an issue for the division. Furthermore, she said, if insects, diseases, or pathogens

contribute to fire danger by killing trees, the destructive agent language must be part of the assessment in fire prevention by the division, and there is no reason to remove it. She said she therefore cannot support Amendment 1.

REPRESENTATIVE JOSEPHSON stated he opposes Amendment 1. The law as written allows a fire officer to enter public and private land to prevent prospective fires because of destructive agents such as bug infestations, he said, and he doesn't have enough knowledge to say that that should be prohibited. He further cautioned against encumbering a fire official's ability to access and inspect public land.

[1:26:19 PM](#)

REPRESENTATIVE TUCK asked whether a destructive agent could be something that may be administered to prevent insect infestation. He requested clarification on the intent of existing statute regarding destructive agent.

MR. MAISCH responded that destructive agent is defined in statute and means insect pathogen or environmental agent that can cause damage to the forest resource. Whatever the cause, standing dead timber is a more receptive and dangerous fuel source to wildland fire than is a standing green forest. Destructive agent is rather broad, but in the context of forestry operations, it would primarily be for spruce bark beetle infestations. He reminded members that the spruce bark beetle infestation on the Kenai Peninsula was substantial and crossed public and private ownership. He advised that prevent, control, and suppress all have specific meanings in forestry.

[1:28:43 PM](#)

REPRESENTATIVE TUCK surmised the purpose of having this language in this section is to allow the division to check whether a property owner is applying flammable agents and/or whether something needs to be applied to prevent the trees from drying out and becoming a fire hazard.

MR. MAISCH answered the division would not be checking on what a property owner is applying. He explained that if a property owner has cut a lot of timber on his/her land and hasn't properly treated the slash or disposed of the material it becomes a breeding source for the insects and then the insects can spread onto adjoining private or public lands. Therefore,

that would be the reason why forestry division staff would need access to a piece of property.

[1:29:41 PM](#)

REPRESENTATIVE TUCK offered his understanding that there are regulations which require downed trees be treated with a proper destructive agent and the purpose of this is to be able to inspect whether the downed trees have been treated with the proper destructive agent.

MR. MAISCH replied correct, it would be a control method. He explained there are numerous control methods for keeping an insect infestation or potential infestation under control. It is how the slash is treated - which could be chemical treatment or physical treatment such as bucking, burning, or burial. There are many ways to do that and those are addressed under the separate Alaska Forest Resources and Practices Act statute.

[1:30:47 PM](#)

REPRESENTATIVE DRUMMOND said any organization authorized to prevent, control, or suppress a fire includes any one of the volunteer or paid fire departments in the state's communities. She noted the Anchorage fire department has been working for years to remove excess dry timber on "the hillside" in Anchorage because it is extremely difficult or impossible to get water to that area given the size of the roads. Therefore, she said, close attention must be paid to who would be prevented from getting to the source of a fire or potential source of a fire.

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CO-CHAIR TARR held over HB 355 with Amendment 1 pending for further discussion.

PRESENTATION(S): FOOD SECURITY IN ALASKA

[1:32:38 PM](#)

CO-CHAIR TARR announced that the next order of business would be presentations on food security in Alaska.

[1:34:15 PM](#)

DANNY CONSENSTEIN, Board Member, Alaska Food Policy Council (AFPC), informed the committee that the Alaska Food Policy

Council (AFPC) is a coalition of Alaskans working to create a healthier and more secure, self-reliant Alaska by improving its food system. He said a food system is a term that describes how food is acquired and used in a region, from the source of the food to how it is stored, distributed, and consumed, which is also known as a foodshed.

MR. CONSENSTEIN provided a brief background of farming in Alaska and the role agriculture has played in the growth of the state. He stressed farming's impact on the state's economy, the health of its residents, and in supporting diverse cultures, but questioned whether the Alaska food system is working well. Therefore, he said, the AFPC decided to explore what a strong food system would look like. Drawing attention to pages 8-11 of the AFPC Strategic Plan dated 1/12/12, he reported that AFPC set five goals to strengthen the food system. Goal 1, he explained, is that all Alaskans should have access to affordable, healthy (preferably local) foods. Goal 2 is that Alaska's food-related industries should have a strong workforce and operate in a supportive business environment. Goal 3 is to ensure that food is safe and protected as it is distributed. Goal 4 is that Alaska should have a sustainable food system, meaning the state can keep growing food and growing enough food to feed Alaskans in the future. Goal 5 is that Alaskans should be engaged in the state's food system. While those are the goals, he continued, the hard part about building a stronger food system is how to do it; for example, whether policies need to be changed.

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MR. CONSENSTEIN related that the Alaska Food Policy Council took some early steps, one being related to procurement, which is a big driver. While consumers are already purchasing a lot of Alaska grown products and want to buy Alaska grown, the question is whether Alaska's institutions are buying Alaska grown. He stated that if the engine of procurement was working and the state and school districts were purchasing Alaska grown, then the private sector food producers would fill that gap from the supply side. For example, AFPC encouraged more programs in schools - the Nutritional Alaska Food in Schools Program helped schools purchase from the farm - and AFPC supported the product preference, or 7 percent, statute. The AFPC worked with local communities on emergency planning because thinking about being prepared for the next emergency is a step towards food security.

MR. CONSENSTEIN, regarding the goal of engaging Alaskans, said AFPC has sponsored three statewide conferences to bring people

together to learn more. He related that AFPC also facilitated dialog in the communities of Nome, Fairbanks, Palmer, Bethel, Juneau, Homer, and Anchorage. Further, AFPC encouraged the state administration to form a work group so that state agencies with different responsibilities around food could communicate and coordinate better and become more efficient, which was done under Governor Parnell.

MR. CONSENSTEIN stated AFPC is now looking at members of the legislature to think about changes in policy that could build a stronger food system. To move forward, he explained, there needs to be an understanding of where the state is now. The AFPC hired Ken Meter, an economist from Minnesota who has done this for other regions and states, to do a food assessment of Alaska and the executive summary of his report [is in the committee packet].

[1:42:53 PM](#)

REPRESENTATIVE BIRCH inquired whether Mr. Consenstein's presentation is related to any legislation before the body.

MR. CONSENSTEIN replied his presentation is not in reference to any particular legislation, but that several bills are before the body that AFPC supports and that would go towards building a stronger food system. The point of his presentation and that of others today, he explained, is to provide an understanding of how the state's food system impacts Alaskans, the state's economic development, the health of Alaskans, and food security. He offered his hope that the committee or other members of the legislature might work with AFPC, a nonprofit think tank around food and food policy, to come up with some legislation for introduction in the next session that would strengthen the food system.

[1:44:32 PM](#)

KEN METER, Consultant, Crossroads Resource Center (CRC), provided a PowerPoint presentation entitled, "Building Food Security in Alaska," dated 3/5/18. He explained his study was conducted by talking to several dozen people around Alaska and doing economic research. He turned to a picture of the Juneau airport on slide 1 and reminded members that the food for many Alaskans comes by airplane. He said the map on slide 2 lists the studies he has done - 136 regional studies in a total of 40 states and 2 Canadian provinces, as well as studies for 3

tribes. The list, he noted, indicates how widespread the discussion is about food and his role in that.

MR. METER stated the next three slides show some different approaches in Alaska to food security. Slide 3, he said, is a picture of the Chena Hot Springs greenhouse, which taps surplus heat from the hot springs to raise vegetables that are sold to the people visiting the hot springs. Slide 4 is a picture of traditional salmon drying in Kotzebue. Slide 5 shows the greenhouse at Tim Meyer's farm in Bethel above the Arctic Circle where he grows vegetables to sell to Bethel residents.

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MR. METER displayed slide 6 and noted Alaska's population has grown from about 300,000 in 1969 to over 700,000 in 2016, an increase of 151 percent over 48 years (slide 7). Addressing the graph on slide 8 he related that the personal income in Alaska has gone from \$10 billion in 1969 to over \$40 billion [in 2016], an increase of 304 percent (slide 9). He said these two datapoints pose an interesting question because one would think that the economics of farming would be improving since there are more people with more money to spend to buy food. However, he stated, that is not really the case.

MR. METER turned to slide 10 and reported his study showed that Alaska residents buy about \$2.1 billion of food every year, but about \$2 billion of that is sourced outside of Alaska and so leaves the state. He qualified, however, that the \$2.1 billion is not very accurate [see Mr. Meter's explanation under the 1:54:30 p.m. timestamp]. He noted the rising income and rising population present a challenge to look for ways that the state could retrieve some of those dollars and keep them in the state to work for other purposes and to pay taxes within the state government. Moving to slide 11, Mr. Meter noted that Alaska farmers only sell about \$12 million of food products each year. He advised that this large gap between production by the state's 700-plus farmers and the demand for food could be filled.

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MR. METER displayed slide 12 and noted it lists the top farm products in Alaska according to the 2012 census of agriculture. He pointed out that although land is at a premium in Alaska, most of the farm product sales do not go toward feeding people. [The number one product] is nursery crops (ornamentals) for landscaping and number two is hay. Vegetables sold to humans is

number three. So, he continued, while the production in Alaska is important, it doesn't do much to feed the state's population.

MR. METER turned to slide 13 and discussed the history of farm income in Alaska from 1969-2016. He explained the orange line on the graph shows the money that all the farms in Alaska have earned by selling products since 1969. The maroon line shows how much it cost those farmers to produce those products. He pointed out that in 2007 the cost of producing food and other commodities rose substantially and has continued to rise steadily since then. Alaska has a strange situation where the returns being earned by farmers are staying steady, but the expenses have gone up. Why this is happening is a conundrum he cannot answer, he said, and it is a big challenge to the future of eating food from Alaska farms. Subtracting the production expenses from the cash receipts is depicted by the red line, he noted, which shows that the net cash income for farmers has been declining steadily since 2002 and has been negative every year since 2005. Alaska farmers have had significant losses trying to produce both food products and ornaments for state residents.

MR. METER displayed the graph on slide 14 and spoke further about the net cash income for Alaska farmers from 1969-2016. He explained the numbers are the same data as used on the previous slide but are adjusted for inflation - the value of the dollar is now one-sixth of the value it was when the previous chart was started. The graph shows that, when adjusted for inflation, quite a bit more money was earned in the 1970's when the value of the dollar was higher, and the earnings in 1997 and 2001 also look a bit higher, but the losses are still the same since 2005.

[1:51:04 PM](#)

REPRESENTATIVE PARISH asked what attributed to the enormous spike in expenses for farmers in 2007.

MR. METER replied he doesn't really know, but the data shows what farmers are spending their money on and much of this is increased labor costs. He said he doesn't have the time or resources to answer the question adequately or reliably, but his assumption is that many farmers have an off-farm job to pay for the cost of their farm operations. As the farmer's expenses keep rising, the farmer keeps selling what he/she can on the farm and makes up for that income with an off-farm job.

MR. METER drew attention to the peak in the orange line representing cash receipts for the years 1991-2003. He said

some of the peak is due to the State of Alaska starting to count what he considers to be non-farm items as part of agriculture income. When that stopped in 2003 the income for farmers leveled off and so it could be said that the positive income in that era is more of a statistical question than a reality for farmers. If that bump is taken out, he continued, a steady decline would be seen since 1989 to the present.

MR. METER moved to slide 15 and pointed out that farmers are making \$33 million less farming today than in 1969. Since 1989 farmers have spent \$119 million more raising crops and livestock than they received from the market. These are severe questions for the future of agriculture, he said, especially when there are hundreds of thousands of people to feed and there is so much of a past tradition of agriculture in the state.

[1:53:28 PM](#)

REPRESENTATIVE RAUSCHER requested examples of what Mr. Meter considered non-farm items during the years 1991-2003.

MR. METER replied his understanding from staff at the Division of Agriculture is that there was a time when some of the farmed seafood products were considered agriculture. However, he explained, that statistical move to claim those as part of agriculture was, over time, disallowed because it really didn't conform to federal practices, so those higher number of sales were essentially because of an accounting shift. It went back to the more standard accounting system in 2003, and since then the cash receipts have remained steady in adjusted dollars.

[1:54:30 PM](#)

REPRESENTATIVE TUCK inquired whether the \$2.1 billion spent on food by Alaskans is strictly for farmed agriculture products or also includes seafood.

MR. METER explained that to get this number he used an average for the western U.S. states where the cost of food is less than in Alaska. Also, Alaska has more people who depend upon subsistence or other personal use gathering of wild foods. Therefore, he said, it isn't a very accurate number in the sense that he cannot prove it is exactly \$2.1 billion and \$2 billion. Additionally, he continued, he cannot prove there is \$100 million of trade from Alaska farms to Alaska consumers. The data he has would show that the direct sales from farmers to household customers is about \$2.2 million in 2012, which is all

the hard data he would have to show how much food is moving directly from farms to household customers. That would not include food that goes to a grocery store or food that is processed on the way to Alaska consumers, he added, so it is an inadequate total measure. The flow of food from Alaska farms to Alaska consumers is quite small, and there is not a lot of food processing in the state either.

[1:56:17 PM](#)

MR. METER resumed his presentation. He said slide 16 addresses the benefits coming into Alaska from the [federal government's] Supplemental Nutrition Assistance Program (SNAP). He explained the red line on the graph is the same red line seen before, but it looks much shallower because the scale has changed. The orange line is the amount of federal payments coming in to support farmers, which have been rising in the last few years commensurate with the decline in farm income. However, he said, the startling story here is that the SNAP benefits to low income people went up to \$200 million in 2011. While it fell to \$160 million [in 2016], it is still 13 times the amount of food that [Alaska] farmers sell. He pointed out that SNAP benefits are often the number one source of money for food in Alaska and it could be argued that all those subsidies from the federal government are more important in feeding Alaskans than farmers are themselves. That is a challenge for the longevity and health of people who live in the state, he opined.

MR. METER moved to slide 17 and noted the state spends about \$450 million every year to cover the medical costs of diabetes and related conditions, which is another flow of money leaving Alaska every year. This is tied to eating improper foods as well as improper exercise, he said, and is another reason to think about having more Alaskans more closely connected to a source for healthy food.

[1:57:55 PM](#)

MR. METER displayed slide 18 and said CRC has calculated that if every person in Alaska were to buy \$5 of food directly from some farm in the state (a hypothetical calculation since those farms don't currently exist in the state), farms would earn \$193 million of income, which is 16 times the current cash receipts. Specific changes like that, he continued, could make a large difference in terms of farm income. Turning to slide 19 he related that the State of Alaska took CRC's suggestion and [in 2017] started a buy \$5 Alaska Grown challenge in which [six]

retailers], the Alaska Farm Bureau, and farmers collaborated. Carrs Safeway won an award for its displays around the state and Walmart came in second. Several producers said they increased their sales and reach in selling food because of that challenge. He suggested that continuing the Alaska Grown challenge could make a big impact by publicizing to Alaskans why it is in their interest to buy more food from local farmers.

MR. METER drew attention to slide 20 and noted that one of every three farms in Alaska sells direct to customers. This ranks Alaska up with states like Vermont and New Hampshire, he said, as one of the top states in the nation for how many farms reach out directly to their customers.

MR. METER turned to slide 21 and said CRC calculated how much land would be required to provide all of Alaska's demand [at current rates of consumption] for a few select vegetables that are easy to grow in Alaska. The acreages are as follows: 4,700 acres for potatoes, 200 for carrots, 200 for cabbage, and 600 for lettuce. Even though the state has given up much of its best land for urban development, he continued, it does have land suitable for farming if new farmers can be brought on and if the fertility can be improved.

[2:00:02 PM](#)

MR. METER moved to slide 22 and discussed a CRC project done in South Carolina in 2013. Ironically, he noted, South Carolina is importing almost as much food as does Alaska even though it has four growing seasons. He said CRC's approach was to say that a whole web of facilities is needed. This "food web" includes aggregation points like the one existing in Charleston, he explained, as well as places on farms that have the infrastructure to safely wash and package food and to get it on pallets for loading into storage or selling to individual household customers. This model would work very well in Alaska, he advised. He drew attention to the picture of a packing barn on slide 23 and said it is on a farm in Wisconsin and is a good example of infrastructure built on a farm to make local foods much more efficient, from the boxes shown in the picture back to a micro-van that conveys the product to buyers.

MR. METER displayed slide 24 and said public investment is a key role in addition to publicizing the need to buy food from Alaska farms and building infrastructure that creates community efficiencies. He pointed out that the heavy investment in good auto and air transport enables food to travel rapidly from long

distances, but food has trouble going the short distances within the state. Warehouses need to be built along with an entire system of relationships that will convey food from local farms to local consumers, he said, and that would be a good role for the state to take on. He concluded by drawing attention to his contact information shown on slide 25.

[2:01:57 PM](#)

REPRESENTATIVE BIRCH [observed from slide 15] that in 2016 farmers lost \$30 million on \$40 million worth of cash receipts. He asked what Mr. Meter would advise the State of Alaska to do to mitigate this.

MR. METER replied his answer is what he said at the end of his presentation - creating infrastructure, such as food caches in rural areas, warehouses with freezer and cooler space so that it becomes more efficient to get food from farms to customers in the state, advertising the need for consumers to buy food and keep the money in the state, and supporting new farms so the state has people with the skills of agriculture. Since 1950 the number of people with those skills has declined, he noted. The state needs to build the support system around agriculture to make it feasible for people to make a better livelihood than they currently are making.

REPRESENTATIVE BIRCH commented that in looking at the raw numbers it appears that a doubling of the receipts is needed to at least break even. He said most of the people he knows shop at Costco or Walmart because in an urban area people shop where the groceries show up. While he appreciates fresh carrots, he said there is a huge hole to be dug out of. He asked what is being looked for, short of a straight-up subsidy.

[2:04:37 PM](#)

CO-CHAIR TARR stated she is unsure whether CRC looked at the number of new farms during that time. Addressing the [net cash income] line, she noted that starting a new farm is cost intensive and Alaska has had lots of growth in that industry in the more recent years. She asked whether CRC evaluated anything like that, given a new farm would be "upside down" with costs like purchasing equipment.

MR. METER responded, "Not in any great detail," and concurred with Co-Chair Tarr. A dilemma had by Alaska farmers is the move towards importing more inputs, he said. Oil pumped in Alaska

goes to Seattle for refining and then comes back to the state. Fertilizers are purchased from Outside. Alaska has a real challenge because all the inputs essentially must be brought in from outside Alaska, adding cost to the farming. The rising cost of living means it is more expensive for labor and so on. Some of the refinements, he suggested, could be to use the waste food generated by manufacturers and the tourist industry to create more fertility rather than purchasing chemicals from Outside. An infrastructure can be had that is based on materials that can be harvested and grown inside the state instead of importing. In some ways, he added, it has become less economical precisely because of investing in the infrastructure that made it so easy to get food to a store but didn't make it easy to get food from a farm to a consumer.

CO-CHAIR TARR noted the committee has jurisdiction over the Department of Natural Resources (DNR) and has spent much time on the Division of Oil & Gas but much less time on the Division of Lands, Mining and Water and the Division of Agriculture. Over the past few years, she said, the committee has been trying to look at the other opportunities relative to that type of resource development. The \$2 billion economic opportunity for Alaska stood out to her and prompted having these hearings.

[2:08:25 PM](#)

GARY FERGUSON, BS, ND, Healthy Communities Consultant, provided a PowerPoint presentation entitled, "Addressing Nutrition Insecurity with Traditional Foods," undated. He said he has 16 years of experience in the health system, has served on the Alaska Food Policy Council, and has been working on food and nutrition security issues across the state for many years, primarily in the Alaska tribal health system.

DR. FERGUSON displayed slide 2, a picture of a river system. He said a lot of his work has been around addressing the social, economic, cultural, and environmental factors that contribute to health and wellbeing. He explained slide 3 shows the social determinants of health and having to move upstream to stem the tide of some of these long-term issues to prevent chronic disease. Nutrition is an important part of that as food and food systems are addressed and ensuring that there are vibrant local food economies, as well as traditional foods.

DR. FERGUSON moved to slide 4 and discussed the domains of health influence. Noting he is also a clinician, he said an important part of health care is to keep communities whole

through great public health and clinics. Clinical care is only about 20 percent of the domain of health influence, he stated. Health behaviors are about 30 percent and healthy eating is part of that. Social and economic conditions, such as education and employment, are key indicators, he continued, and the environment is another domain. Having healthy food available is important to health and wellbeing in communities.

[2:10:42 PM](#)

DR. FERGUSON turned to slide 5 depicting a diagram of Maslow's hierarchy of needs. He explained it is a theoretical model looking at addressing the basic needs of foods, safety, and security from the western perspective and from the First Nations perspective as informed by the Blackfoot Nation. As these needs are addressed, communities and individuals can be actualized. The First Nations model, he pointed out, is interesting because it is not just about individual actualization, but also about cultural perpetuity of which food is a basis - healthy foods and foods locally available.

DR. FERGUSON drew attention to slide 6 depicting the cover of Alaska Magazine from the early 2000's with an article entitled, "The Store Outside Their Door," which looked at subsistence lifestyles and the importance of these foods to Alaska's communities. He said it isn't just about addressing food security by shipping food into villages, it's also about looking at how these local and traditional foods are valued. These foods are important nutritionally and culturally.

DR. FERGUSON explained slide 7 focuses on the decline of traditional foods, with this slide being about a study on the decline in traditional marine food intake and vitamin D levels. Historically, Alaska Native people had very high levels of vitamin from their marine food intake and this study showed there has been a consistent decline because of the change to a more western diet and the giving up of some of these important traditional foods.

[2:12:24 PM](#)

DR. FERGUSON turned to slide 8 relating to a study of Alaska Native traditional foods in the Norton Sound region. He said the study found that traditional foods of seal oil and salmon improved pre-diabetes and prevented diabetes, and that people who ate traditional diets had less cardiovascular disease. He moved to slide 9 and said another study found that Alaska Native

people are hardwired for these traditional foods and may not do so well with western foods such as grains, sugar, and carbohydrates. Congenital sucrase-isomaltase deficiency (CSID) affects upwards of 10 percent of the Inuit population. For Native people, he continued, the traditional foods that are high fat, high protein, and low carbohydrate are good medicine.

DR. FERGUSON displayed slide 10 and related that chronic disease is a very expensive hit on the health care system. Obesity and some chronic diseases are preventable by eating a healthy diet, including traditional foods, he noted, and therefore a healthy diet provides cost savings to health care systems. Addressing slide 11, he said Hippocrates, the father of medicine, stated it well when he said that food is truly medicine and the first medicine should be food.

DR. FERGUSON drew attention to slide 12 depicting the Store Outside Your Door Program, which he has helped co-produce over the years. While at Alaska Native Tribal Health Consortium, he said, he worked with many tribes and tribal health organizations to capture how to hunt, fish, gather, and grow food in a person's community. Many resources show how resilient a community can be when it focuses on the store outside its door versus the store that is locally available and often doesn't have healthy, nutrient dense foods on the store shelves.

[2:14:50 PM](#)

DR. FERGUSON turned to slide 13 and discussed picking foods from the beach. He said badarki [chiton] salad is a traditional food that he ate while growing up in Sand Point on Shumagin Island. He related that the picture on slide 14 is taken at The Siglauq in Kotzebue where amazing work is being done around having traditional foods such as caribou and seal served to elders at the Siglauq facility. These nutrient dense foods help the elders feel good, he stated, and serve as cultural connections and comfort foods for the elders.

DR. FERGUSON displayed slide 15 and pointed out that a person's taste preferences start in the womb in that what the mother eats is craved by her baby later in life. Moving slide 16 he noted the mother is feeding her son traditional whale food, which is very iron rich and nutrient dense. This will set her son right as he starts his life, he said, and will ideally give him a preference for such local foods. Dr. Ferguson said the photos on slides 17 and 18 depict a traditional salmon food in Metlakatla. This traditional food can be used to help with

teething and to help children develop a taste for salmon, which is rich in vitamin D and calcium.

2:17:06 PM

DR. FERGUSON displayed slides 19-23 and noted fireweed is a nutrient dense, traditional green that is gathered in the spring. One cup of fireweed leaves or shoots provides more vitamin A than the daily need and is a good source of vitamin C and fiber. He said studies show that the harsher the environment the more nutrient dense Alaska plants become because they form antioxidants, which also benefit people. Another nutrient dense green is sour dock. Many people don't realize there are so many foods in the landscape that people can live off and the ancestors of Native Alaskans thrived nutritionally because of living off the land. Ensuring that these foods are available for the next generation is important, he stressed.

DR. FERGUSON turned to slides 24-25 and pointed out that iron deficiency anemia is a challenge faced by young and elderly Native Alaskans and is a big issue in the statewide Head Start Program. He said the iron content of a three-ounce portion of seal meat is equal to two portions of caribou/reindeer, or to six hamburgers, or to 56 hotdogs. Whale contains about two times the amount of iron in seal, he added. These incredibly nutrient dense foods are important to Native Alaskans from a health promotion and obese prevention standpoint.

2:19:20 PM

DR. FERGUSON discussed slides 26-27, noting that the traditional berries harvested in Alaska are three to six times higher in antioxidants than commercially harvested berries. Displaying slide 28 he said the Centers for Disease Control and Prevention (CDC) and the National Institutes of Health (NIH) have shown interest in how the traditional foods of [Native Americans] are important for the future of indigenous peoples when looking at chronic disease prevention and health promotion.

DR. FERGUSON noted slide 29 depicts some of the work done in his home region by the Aleutian Pribilof Islands Association, Inc., to address traditional foods in Head Start facilities. He explained that "qaqamiigux" is the traditional foods eaten in the Aleutian and Pribilof island region.

DR. FERGUSON said slide 30 depicts what some of the communities are doing to help people understand the value of traditional

foods and the importance of passing that on to the next generation. For example, the village of Igiugig did a six-week traditional food challenge as a health experiment that measured biometrics like weight, blood pressure, blood sugar, and heart rate to see how traditional foods impacted people's health.

DR. FERGUSON displayed slide 31, a picture of a culture camp in Atka. He said culture camps are held all over Alaska every year to help the next generations to be connected to their food system and how to live off the land. Additionally, the camps provide physical activity and connect the next generations to their culture and elders.

[2:21:03 PM](#)

DR. FERGUSON stated that the quote on slide 32 is from Dr. Rita Pitka Blumenstein, a great supporter of the work with traditional foods and traditional medicines:

We are free to be who we are - to create our own life out of our past, and out of the present. We are our ancestors. When we heal ourselves, we also heal our ancestors - our grandmothers, our grandfathers, and our children. When we heal ourselves, we heal Mother Earth.

DR. FERGUSON added that tackling food and [food] security and helping the next generations to grow up healthy will save the State of Alaska money and effort at trying to address chronic disease once fully manifested versus preventing these diseases with healthy foods in the first place.

[2:21:58 PM](#)

CO-CHAIR TARR remarked that Dr. Ferguson's presentation highlights the challenge the legislature has in public policy when making decisions about natural resources, such as land management and access. She said legislators should be thinking about the foods people will be able to access as a result.

DR. FERGUSON stated Co-Chair Tarr's remark is about protecting food systems through looking at baseline environmental impact statements (EIS's) and looking at communities and resource development. He said good baseline surveys of traditional foods and where people get their foods from are an important part of protecting and ensuring there are healthy vital food systems. Much of his work has been about, "How do we live off the land

and be vibrant people?" and "How do we connect to the understanding that our ancestors had of these important foods?" Environmental stewardship is a cultural value, he continued, and these important foods that are truly medicine will go away if they aren't protected as economies and resources are developed. As stated by Mr. Meter, the fertile lands where food can be grown must be incorporated into the thinking.

[2:25:06 PM](#)

MR. CONSENSTEIN added that he looks forward to working with the committee over the interim on some options for policy changes that would strengthen the state's food system.

CO-CHAIR TARR noted there has been talk about [the committee] convening a task force or caucus.

PRESENTATION(S): ALASKA OIL AND GAS CONSERVATION COMMISSION

[2:26:24 PM](#)

CO-CHAIR TARR announced that the final order of business would be a presentation by the Alaska Oil and Gas Conservation Commission.

[2:27:23 PM](#)

HOLLIS FRENCH, Commissioner, Chair, Alaska Oil and Gas Conservation Commission (AOGCC), began his presentation by discussing workover activities depicted in charts on a series of seven PowerPoint slides. Displaying the slide entitled, "Workover Activities (2003-2017*)," he noted the 2017 numbers [are preliminary] and said the trend is the same as it has been for the last few years with no aberration historically.

[2:27:55 PM](#)

CO-CHAIR JOSEPHSON surmised the chart reflects an effort to double-down and get more resource out of the ground and so, in a sense, reflects resources available and economic strength.

MR. FRENCH replied he would be cautious about commenting on what it means. He said he is giving the numbers so the committee can look at them and draw its own conclusions. A certain number of workovers took place last year, he explained, and workovers are something short of drilling a new well and are usually downhole well repairs.

[2:29:00 PM](#)

REPRESENTATIVE PARISH observed from the chart that 2009 was the most active year. He said he doesn't see any connection between these and a dollar value for the workover activities. He inquired whether the chart shows only the number of instances, which appear to be between a low of 650 and a high of just under 1,800. He further inquired whether it would be useful to know the expense of each workover.

MR. FRENCH responded he doesn't have access to the cost per workover, or the cost per job, because billing receipts are not submitted to AOGCC. The commission just permits the actual work and out it goes to the field.

[2:29:57 PM](#)

REPRESENTATIVE BIRCH asked whether workovers are a contributor to the uptick in production seen over the last three years.

MR. FRENCH answered the way to look at it is that if this work is not done, the decline is going to be a lot worse.

REPRESENTATIVE BIRCH said there is no decline.

MR. FRENCH agreed, but explained that without this work things get worse. The uptick in production is due to several factors and certainly the work done in 2014 and 2015 has something to do with that. These are wells that have been stimulated, repaired, and operated on to work better, and the results are being seen.

REPRESENTATIVE BIRCH concluded that workover investment has had a positive impact on production.

MR. FRENCH replied the short answer is yes.

[2:31:53 PM](#)

MR. FRENCH returned to his presentation and reviewed exploration wells using another series of seven PowerPoint slides. He noted explorations wells aren't always a popular activity, the number of exploration wells always being relatively low compared to other wells. But, he added, as a harbinger of the future AOGCC knew the committee would be interested.

MR. FRENCH moved to a series of three PowerPoint slides about the number of development wells that have been drilled. He said he calls these "regular" or "normal" wells and explained they are non-exploration wells drilled in a known field in a known location. He pointed out that the number of development wells drilled has remained remarkably steady over the years.

[2:32:50 PM](#)

REPRESENTATIVE BIRCH noted much has been said about oil tax credits, for which the state still has a billion dollars of liability to pay down. He asked whether the wells depicted in the slide [entitled, "EXPLORATORY (WILDCAT/DELINEATION) WELLS AND WELL BRANCHES, Statewide, Oil and Gas: Completed, Suspended or Abandoned (2003-2017*)]], would be represented in the investment that the industry has made, such as the wells drilled in the Colville River and Smith Bay areas by Caelus Energy, LLC.

MR. FRENCH answered that a well would be represented if it has been actually drilled. He said the Smith Bay and Nanushuk wells, and the wells being drilled in the National Petroleum Reserve-Alaska (NPR-A), are represented.

[2:34:21 PM](#)

REPRESENTATIVE PARISH, regarding the same slide, observed the statement, "Total Wells and Well Branches Drilled and Completed, Suspended, or Abandoned since 2003." He asked what proportion of these would be abandoned wells.

MR. FRENCH replied he doesn't know the number but abandoning a well happens with regularity. Frequently an exploration well is drilled and analyzed, he explained, and then plugged and abandoned shortly thereafter because there is no immediate plan to re-enter that wellbore and do something with it.

[2:35:17 PM](#)

CO-CHAIR TARR, regarding the same slide, observed the number of operators and inquired whether these are the operators in active exploration work and not just the lessee.

MR. FRENCH responded that these are wells actually drilled. A company may be leasing property, or may be expanding, or may be making plans or announcing plans, he added, but AOGCC doesn't count it until a drill bit goes in the earth and a well drilled.

CO-CHAIR TARR noted the committee packet includes a similar slide that is specifically for the Arctic Slope.

2:36:11 PM

MR. FRENCH returned to his presentation and said he would discuss AOGCC's effort to update its bonding practices and would present an idea AOGCC would like the committee to consider. Speaking from a paper entitled, "Presentation to House Resources, Monday, March 5, 2018, he read a quote from the publication, "RISKS OF ACQUIRING AGING OILFIELDS," published by the Rocky Mountain Mineral Law Foundation:

As sure as death is the great certainty of life, so too is plugging the great certainty of petroleum development: every well will - at some future point unknown - cease to produce in paying quantities and require plugging. In transactions involving aging oilfield properties, both the seller and the purchaser must understand and appreciate their respective risk of plugging liability.

MR. FRENCH, to make members aware of the size of the liability, reported there are about 5,200 wells in Alaska. Most are oil producers, some are injectors of either gas, water, or miscible injectant to help sweep the reservoir, and a few are disposal wells. While 5,200 is a large number, he said, Louisiana has over 200,000 wells and Texas has over 500,000. While Alaska has a long way to go to get to those numbers, he continued, AOGCC wants to stay on top of this issue from the get-go.

MR. FRENCH related that AOGCC holds bonds to ensure that the operator of a lease plugs and abandons its wells when finished. He said AOGCC has begun the process of updating its bonding practices, which was brought to the committee's attention last year. At that time AOGCC pointed out its regulations that say a bond "must not be less than \$100,000" for a single well and "not less than \$200,000 for a blanket bond covering" all an operator's wells in the state. He noted that AOGCC has historically required no more than \$100,000 for the first well and \$200,000 for all subsequent wells. All of BP's 1,900 wells on the North Slope are covered by a \$200,000 bond; the same is true of ConocoPhillips. He recalled that year's headline about those hearings stated, "'Paltry' bonding for oil operators puts Alaska at risk," and said AOGCC thinks that sums it up well.

2:39:04 PM

MR. FRENCH noted AOGCC held a workshop last summer to discuss the issue with industry and to solicit industry's input directly and through written submissions. He reminded members that last year AOGCC stated its belief that it doesn't need any statutory authority to act. He related that comments received by AOGCC after the workshop from the Alaska Oil and Gas Association (AOGA) and ConocoPhillips also said a new law isn't needed; AOGCC has the authority it needs to take action.

MR. FRENCH pointed out that AOGCC is not the only holder of bonds in the state. He said the Department of Natural Resources (DNR) holds bonds for Dismantlement, Removal and Rehabilitation (DR&R), which are monies held to remove surface improvements such as pipelines, facilities, and tanks.

MR. FRENCH said AOGCC has not arrived at a cookbook answer for this bonding effort. Earlier this year AOGCC sent a letter to every operator in the state requiring them to give AOGCC their estimates [by 3/7/18] of what it would cost to properly plug and abandon (P&A) their wells.

MR. FRENCH related that informing AOGCC's effort was the bankruptcy of Aurora Gas LLC, a small company/operator of 19 gas wells all located on the west side of Cook Inlet. Alaska has seen oil companies bankrupt in the past, he said, but this one was different in that no one stepped forward to buy all of Aurora Gas's assets. Of the 19 wells Aurora Gas had when it went into bankruptcy, only the 6 best producing wells were acquired by a new company, Aurora Exploration. He noted that while those names seem very similar, they are distinct legal entities. From its time spent in bankruptcy court last fall, AOGCC learned a lot about that process. Of the 13 remaining wells, 10 are on land owned by Cook Inlet Region, Incorporated (CIRI). This turns out to be a big break for the State of Alaska, he explained, because under AOGCC regulations if the operator disappears AOGCC looks to the landowner for following through on plugging and abandoning those wells. Thus, CIRI will have to pay to plug and abandon those 10 dead wells. The other three wells will fall on DNR. He offered his belief that DNR will come to the legislature for money to make the wells safe and to plug and abandon them.

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MR. FRENCH reported that last fall AOGCC held a hearing to get a better handle on what it costs to plug and abandon a well.

There is no simple answer, he reported. The first question that must be asked is about the well's location. Is it on the North Slope, in Cook Inlet, on or off the road system? Last summer AOGCC dealt with [NordAq Energy Inc.], a company that had two wells - one on the west side of Cook Inlet near the mouth of the Kustutan River and the other off-road on the north Kenai Peninsula where a snow road had to be built to access the well.

MR. FRENCH pointed out that for bonding purposes the question is not what it's going to cost the operator to do the P&A work. The bond is in case the operator fails to do its obligation and the state must step in and do the work. Therefore, the state must figure out the amount of money it needs to hold as security should it get handed the P&A job. He said AOGCC's best estimate for plugging and abandoning the wells on the west side of Cook Inlet, off the road system, is around \$600,000 each.

MR. FRENCH said all this information brings him to the impetus for this hearing. While working on this issue, it has come to AOGCC's attention that in at least two jurisdictions, California and Kansas, the regulating authorities are armed with statutes that allow them to pursue former operators for plugging and abandonment costs in the event a current operator is financially unable to do so. He noted the statutes do not get much use, they are there as a form of backstop. One high-profile case involved an oil platform in Santa Barbara where the current operator [Venoco LLC] went bankrupt, potentially leaving the State of California on the hook for millions of dollars of costs. California's prior operator law allowed it to enter negotiations with Exxon, the operator of the platform at the time the law went into effect, and the state and Exxon reached a settlement.

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MR. FRENCH said the language of the laws in California and Kansas are simple. He read aloud from the laws, which state:

California:

(c)(1) The current operator, as determined by the records of the supervisor, of a deserted well that produced oil, gas, or other hydrocarbons or was used for injection is responsible for the proper plugging and abandonment of the well or the decommissioning of deserted production facilities. If the supervisor determines that the current operator does not have the

financial resources to fully cover the cost of plugging and abandoning the well or the decommissioning of deserted production facilities, the immediately preceding operator shall be responsible for the cost of plugging and abandoning the well or the decommissioning of deserted production facilities.

(2) The supervisor may continue to look seriatim to previous operators until an operator is found that the supervisor determines has the financial resources to cover the cost of plugging and abandoning the well or decommissioning deserted production facilities. However, the supervisor may not hold an operator responsible that made a valid transfer of ownership of the well prior to January 1, 1996.

Kansas (Kan. Stat. Ann Section 55-179 (2014):

For the purposes of this section, a person who is legally responsible for the proper care and control of an abandoned well shall include, but is not limited to, one or more of the following: [1] Any operator of a waterflood or other pressure maintenance program deemed to be causing pollution or loss of usable water; [2] the current or last operator of the lease upon which such well is located, irrespective of whether such operator plugged or abandoned such well; [3] the original operator who plugged or abandoned such well; and [4] any person who without authorization tampers with or removes surface equipment or downhole equipment from an abandoned well.

MR. FRENCH pointed out that these laws are two approaches - one keeps going back in time until finding someone who can afford to plug and abandon the wells and one goes back just to the last operator. He said both approaches capture the concept that this is an enormous liability and that it will not go away soon. Referring to his previous quote, "In transactions involving aging oilfield properties," Mr. French stated he thinks [the buyer and the seller] both know there is something at risk for all that liability.

[2:46:00 PM](#)

REPRESENTATIVE RAUSCHER offered his understanding that [DNR] would be asking for bonding for the three abandoned wells on state land, not the ten abandoned wells on CIRI land.

MR. FRENCH replied CIRI will to have to pay to plug and abandon the ten wells that are on CIRI land, and the state will have to pay to plug and abandon the three wells that are on state land.

[2:47:04 PM](#)

CO-CHAIR JOSEPHSON inquired as to how much cash would be required from the bond holder for a \$600,000 bond.

CATHY FOERSTER, Commissioner, Alaska Oil and Gas Conservation Commission (AOGCC), responded that the cost of a bond is dependent upon the financial stability of the company. For example, she continued, it costs BP and Exxon much less than it does a little company.

CO-CHAIR JOSEPHSON, regarding Aurora Gas and Aurora Exploration, asked whether accidentally both were called Aurora or was a situation where one was a sub-corporation and therefore could only be touched in some limited way.

MR. FRENCH answered they are two distinct corporations. He allowed that even AOGCC was confused by that and thought it saw the same actors on both sides, but that was wrong. He explained it is a very powerful concept in bankruptcy law that once a company goes bankrupt, it is done and over. He said AOGCC thought about trying to get Aurora Exploration to plug and abandon those old wells because that's all AOGCC cared about, but that is contrary to bankruptcy law and couldn't be done.

CO-CHAIR JOSEPHSON offered his understanding the state can capture \$300,000 and is therefore short about \$1.5 million on these three wells.

MR. FRENCH replied the state has \$200,000 because AOGCC's practice has been to take \$100,000 for the first well and \$100,000 for the second well and that constitutes the operator's statewide bond. Therefore, most companies have \$200,000 on account with AOGCC.

CO-CHAIR JOSEPHSON, regarding the approximate \$1.5 million the state will be out in general fund dollars, surmised the state would try to seek a judgment through the attorney general and

notwithstanding the bankruptcy filing the state would try to become a creditor and try to get in the queue in some way.

MR. FRENCH responded that that is a dead end, based on the bankruptcy hearings he sat through and getting a feel for what is coming in versus what is going out. He related that when California dealt with the [Santa Barbara] platform, one of the more humorous lines in the letter of intent signed between [California] and Exxon is that the parties anticipate the former operator, Venoco LLC, is not going to comply with the order from the state to plug and abandon those wells. The reality is that nothing can be squeezed from a [bankrupt] operator.

[2:50:53 PM](#)

REPRESENTATIVE PARISH calculated that an overall liability of almost \$8 million was ducked by this oil company folding, of which the State of Alaska is on the hook for \$1.6 million unless the bonding is also used to offset the costs of CIRI. He asked whether there would be any division there.

MR. FRENCH answered CIRI is on its own, but that CIRI had the foresight to have purchased an insurance policy against this eventuality.

MS. FORESTER advised that while worrying about three wells is important because it is real money, the question is how much to worry about 5,300 wells. The big picture, she advised, is that AOGCC needs to improve its bonding, however that will not get AOGCC there. A bill is needed that says AOGCC can go back on old operators. Plus, other things need to be done that AOGCC is working on and that DNR is working on. She said she is not worried about three wells, she is worried about 5,300 wells.

[2:52:43 PM](#)

REPRESENTATIVE PARISH posed a scenario in which an operator owns 1,000 wells of which 800 will not be useful in the future. He inquired whether the operator could sell off the [800] wells without any adjustment to its bonding as well as no adjustment to the bonding of someone who owns two wells.

MR. FRENCH replied AOGCC focuses on operators. If an operator were to sell those wells and someone stepped forward to operate them, AOGCC would analyze that [new] operator's strength and make that operator post a bond before it became the operator. That change of operatorship is controlled by AOGCC, he

continued, and AOGCC's moment to act is when a change of operator form is submitted and that is when AOGCC would say it needs some bonding. Ms. Foerster's point is well taken, he added, it is the big picture and that huge number, particularly aging Prudhoe Bay wells. He related he has taken two or three trips to Prudhoe Bay since starting his AOGCC job and he was deeply impressed with how much that infrastructure has aged since when he worked there from 1984-1992.

[2:54:07 PM](#)

REPRESENTATIVE PARISH offered his understanding that an operator going bankrupt after acquiring a great number of aging wells would leave [the State of Alaska] without further recourse.

MR. FRENCH responded that he and Ms. Foerster are before the committee because AOGCC sees a danger where a strong presence could exit, and a financially less strong company could take over some assets and leave much more exposure to the state treasury in the form of taking care of a known obligation.

MS. FOERSTER posed a scenario in which a big company leaves, it sells to a little company, and the little company is unable to plug those thousands of wells. She said [the state] would have three choices: 1) the legislature could pass a backstop bill that allows AOGCC to go back on the former operator, an option she likes; 2) the state's coffer could be dug into for billions of dollars that it doesn't have, an option she doesn't like; or 3) [the abandoned equipment and pollutants] could be left in place and the state turned into [a mess like what was done with] the federal government's legacy wells on the NPR-A.

[2:56:11 PM](#)

REPRESENTATIVE BIRCH, relating to cost, asked what mechanics are involved in plugging and abandoning a well; for example, whether a big rig would be set up over the hole and grout pumped into it. He further asked how many wells have been abandoned.

MS. FOERSTER answered that every well will have its own cost. Some wells will need only a little grout pumped into them, but these will be the exception. Many wells will require a rig on them - some of those are in the middle of infrastructure where there are already rigs that can just be driven over and set up to do the work, and then there are wells in the middle of nowhere that will require a rig to be helicoptered in, one piece at a time, and this can only be done after an ice road has been

built. So, she continued, the cost can be as simple as attaching a hose and pumping in grout or it can be huge.

[2:57:35 PM](#)

REPRESENTATIVE DRUMMOND remarked this is scary. She offered her understanding that not all the 32 operators listed on the slides are operating right now. She presumed that each operator has drilled two or more wells and therefore the state collected a \$200,000 bond from each one, which is only \$6.4 million. She further presumed that not all the [5,200] wells were created by those 32 operators, which is a big problem [for the state]. Regarding Aurora Gas, she inquired as to what happens with the \$200,000 bond in bankruptcy.

MR. FRENCH replied the bond is made payable to AOGCC and only AOGCC can collect it. For Aurora Gas, he said, it is basically a certificate of deposit at a local bank. When the time comes, AOGCC will seize the bond and hand it over to the Department of Administration for deposit in the general fund. He added that AOGCC has only seized a bond once to help pay for P&A liability. Mr. French explained the statute says AOGCC can require a bond and AOGCC's regulations say not less than \$100,000 and not less than \$200,000, so there is no upper limit. But, he advised, the committee will hear from industry that every dollar out of its pocket for bonding is one less capital dollar it will spend next year. That is the industry's negotiating posture, so AOGCC is faced with a delicate balancing act of hitting the right number.

MS. FORESTER pointed out that bonding is not going to solve the problem because AOGCC is not going to collect \$1 billion worth of bonds.

MR. FRENCH agreed.

[2:59:57 PM](#)

REPRESENTATIVE DRUMMOND asked whether the state could take the \$200,000 bond and buy an insurance policy with it.

MR. FRENCH responded it might be possible the state could engage in the same business CIRI engaged in, which is buying an insurance policy for that liability. But, he continued, that is risky.

MS. FOERSTER added that to say CIRI bought an insurance policy is a very simplistic approach. She explained that before CIRI

approved the sale to Aurora Gas from the old operator, CIRI made the old operator sign a promissory agreement saying the old operator would be responsible for plugging and abandoning the wells should the buyer be unable. That old operator still exists and still has money and CIRI has gone back on the old operator and that old operator is going to plug the wells. So, it is kind of like an insurance, but is more like what AOGCC is asking the committee to consider, which is to have the ability to go back on the old operator.

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CO-CHAIR JOSEPHSON surmised that if BP has 1,900 wells the cost is not going to be a few thousand per bond because BP is sort of self-insured. Given the cost of P&A has gone up, he said he is trying to determine what the retort could be other than it is a dollar that cannot go somewhere else.

MR. FRENCH posited that the industry will say to look at its history and that it has taken care of its responsibility. In the history of the state, he said, there have been few instances where it has fallen back on the state. The nature of insurance and the nature of long-range issues is that they don't pop up every day. It is a matter of [the state] trying to be careful and trying to stay ahead of something. Industry is aware of this and is not neglecting it, but AOGCC believes it is a much bigger liability than gets discussed at regular intervals. Therefore, AOGCC appreciates the opportunity to discuss it today and thinks it prudent for the state to have that backstop of a law that lets the last guy be looked at.

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CO-CHAIR JOSEPHSON surmised the bond would apply to private land, such as CIRI, and that CIRI would have to have the same \$600,000 requirement prospectively.

MR. FRENCH replied that AOGCC doesn't have a "cookbook" response and is going to take each operator one at a time. He said he is unsure whether AOGCC will multiply wells times \$600,000 to come up with a number.

CO-CHAIR TARR noted 5,000 wells times \$600,000 is a \$3 billion problem.

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REPRESENTATIVE JOHNSON, regarding multiplying \$600,000 by every well in the state, inquired whether the goal is to have a bond that will be sizeable enough for people to act if they want to get back their bond, or whether it is to cover the state for every dime it might possibly cost in the future. She offered her interpretation that at first this was portrayed as a very dark and huge problem, but then it was heard that [AOGCC] has only gone after a bond once.

MS. FOERSTER responded that AOGCC has only had cause to go after the bond one time and did, and now AOGCC has another opportunity to do that with Aurora Gas and will. But, she explained, the problem isn't going to be solved by a bond and the problem isn't going to be solved by a bill. The problem of having thousands of wells in the state, all of which will become an idle well eventually if not plugged, is going to require several steps. She said one step that AOGCC has already instituted is that every operator comes in once a year and reviews with AOGCC every idle well the operator has and what the future utility and mechanical condition is for each idle well. After those reviews an agreement is made on which wells will be plugged and abandoned over the next year. The commission is going through each operator's idle well inventory and trying to lower it year by year. Ms. Foerster said another step will be reviewing AOGCC's bonding process and trying to make it more realistic. But bonding is not going to be the solution by itself, she said. Another part of the solution is working with legislators to pass a bill that lets AOGCC go back on other operators.

MS. FOERSTER added that another part of the solution which hasn't been mentioned and which she would like to see is an idle well fund. She outlined how this fund would work: If an operator has, say, 100 idle wells, then the next year it will cost the operator, say, \$100 per well for each of the 100 wells that is still idle. If any of those wells are still idle the following year it will cost the operator \$500 per well and the next year it will cost \$1,000 and so on. That money would be put into an idle well fund to be used for plugging and abandoning wells. This fund would do two things, she continued. It would start to build a fund that AOGCC can use for plugging and abandoning wells and will disincentivize operators from leaving their wells idle. She described this issue as being like a patient that requires several doctors doing several different things - legislators are one of the doctors, AOGCC is another, and DNR is another. When DNR allows operators to sell properties to new operators, they must work DR&R agreements that are more creative and inclusive.

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REPRESENTATIVE JOHNSON inquired whether AOGCC is having trouble with companies doing their due diligence when AOGCC asks for their compliance.

MR. FRENCH answered NordAq Energy Inc. has plugged and abandoned its well on the far side of Cook Inlet but hasn't yet gotten to its well on the Kenai Peninsula. NordAq is not a multi-million dollar or multi-national company and is trying to scrape together the money to do this job, he said. But part of it is AOGCC and DNR putting the heat on NordAq to push it in the right direction. He noted AOGCC probably spends 80 percent of its effort working with 20 percent of these companies. He added that while AOGCC does worry about the large number of wells had by ConocoPhillips, BP, and Hilcorp, they are huge companies that have an amazing amount of people putting energy into these. It is the little outfits that give AOGCC a lot of fits.

REPRESENTATIVE JOHNSON asked how much the settlement was with Exxon.

MR. FRENCH replied he will get back to Representative Johnson after the hearing.

REPRESENTATIVE JOHNSON commented that while maybe there should be concern on this, she feels there won't be 5,200 wells coming in at one point. She said there must be good operators in the state and surmised the "big three" are working with [AOGCC]. She stated there needs to be a spectrum of concern and how the amount of the bonds is chosen, there must be awareness of what that could do as far as development.

MR. FRENCH agreed it is a valid point and said it is something AOGCC is struggling with. The number cannot be too high, or it is a penalty; and the number cannot be too low, or it isn't meaningful. It is part of policy setting, he continued, and it isn't easy.

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REPRESENTATIVE TALERICO said this should be looked at as a risk assessment. Although he can appreciate the number of wells in the state, he continued, he also realizes that some have been plugged and taken care of. Some of these companies are probably very responsible and work at taking care of that. It is

difficult when it is said [the state] has X number of wells and [the state] is going to cover the expense for all of those, although there are those smaller companies that do that. There are different costs associated with different wells. He asked whether AOGCC, via the Administrative Code, will have a tiered system for the bonding so that AOGCC recognizes that something way in the outback that requires an ice road is a completely different cost than something that is on the road system.

MR. FRENCH agreed each company is different. He said the well Caelus drilled at Smith Bay is wildly different than a Swanson River well that a truck can be driven to, and that the old Swanson River field is in a very different landscape than the North Slope landscape.

[3:12:18 PM](#)

CO-CHAIR TARR summarized that there are two different issues here. One is the bonding authority issue that AOGCC can address independent of the legislature. The other is a committee bill providing statutory language to allow AOGCC to go after the previous operator. She ascertained that no one on the committee was opposed to considering a committee bill in this regard.

[3:12:51 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:12 p.m.