

ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE

March 14, 2018

6:37 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

MEMBERS ABSENT

Representative George Rauscher
Representative David Talerico
Representative Mike Chenault (alternate)
Representative Chris Tuck (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 272

"An Act establishing the Tangle Lakes State Game Refuge; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 330

"An Act authorizing the commissioner of natural resources to disclose confidential information in an investigation or proceeding, including a lease royalty audit, appeal, or request for reconsideration and issue a protective order limiting the persons who have access to the confidential information."

- MOVED CSHB 330(RES) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 272

SHORT TITLE: TANGLE LAKES STATE GAME REFUGE

SPONSOR(s): REPRESENTATIVE(s) JOSEPHSON

01/16/18	(H)	PREFILE RELEASED 1/12/18
01/16/18	(H)	READ THE FIRST TIME - REFERRALS

01/16/18 (H) FSH, RES
 02/13/18 (H) FSH AT 11:00 AM GRUENBERG 120
 02/13/18 (H) Heard & Held
 02/13/18 (H) MINUTE(FSH)
 02/27/18 (H) FSH AT 10:00 AM GRUENBERG 120
 02/27/18 (H) Moved HB 272 Out of Committee
 02/27/18 (H) MINUTE(FSH)
 02/28/18 (H) FSH RPT 4DP 2DNP 1NR
 02/28/18 (H) DP: EDGMON, TARR, KREISS-TOMKINS,
 STUTES
 02/28/18 (H) DNP: EASTMAN, NEUMAN
 02/28/18 (H) NR: CHENAULT
 03/07/18 (H) RES AT 1:00 PM BARNES 124
 03/07/18 (H) Heard & Held
 03/07/18 (H) MINUTE(RES)
 03/12/18 (H) RES AT 1:00 PM BARNES 124
 03/12/18 (H) -- Public Testimony --
 03/14/18 (H) RES AT 1:00 PM BARNES 124

BILL: HB 330

SHORT TITLE: DNR: DISCLOSURE OF CONFIDENTIAL INFO
 SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/05/18 (H) READ THE FIRST TIME - REFERRALS
 02/05/18 (H) JUD, RES
 02/16/18 (H) JUD AT 1:00 PM GRUENBERG 120
 02/16/18 (H) Heard & Held
 02/16/18 (H) MINUTE(JUD)
 02/21/18 (H) JUD AT 1:00 PM GRUENBERG 120
 02/21/18 (H) Heard & Held
 02/21/18 (H) MINUTE(JUD)
 02/23/18 (H) JUD AT 1:30 PM GRUENBERG 120
 02/23/18 (H) Heard & Held
 02/23/18 (H) MINUTE(JUD)
 02/26/18 (H) JUD AT 1:00 PM GRUENBERG 120
 02/26/18 (H) Moved CSHB 330(JUD) Out of Committee
 02/26/18 (H) MINUTE(JUD)
 02/28/18 (H) JUD RPT CS(JUD) NT 1DP 5NR 1AM
 02/28/18 (H) DP: CLAMAN
 02/28/18 (H) NR: EASTMAN, KOPP, STUTES, LEDOUX,
 REINBOLD
 02/28/18 (H) AM: KREISS-TOMKINS
 03/09/18 (H) RES AT 1:00 PM BARNES 124
 03/09/18 (H) Heard & Held
 03/09/18 (H) MINUTE(RES)
 03/12/18 (H) RES AT 1:00 PM BARNES 124
 03/12/18 (H) <Bill Hearing Canceled>

WITNESS REGISTER

ALICIA SIIRA, Deputy Director
Alaska Miners Association (AMA)
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition during the hearing of HB 272.

RUTH MCHENRY, Volunteer Staff
Copper Country Alliance
Kenny Lake, Alaska

POSITION STATEMENT: Testified in support during the hearing of HB 272.

LINDA RUTLEDGE
Kenny Lake, Alaska

POSITION STATEMENT: Testified in support of HB 272.

MARLEANNA HALL, Executive Director
Resource Development Council (RDC)
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 272.

BRUCE ROGERS
Gakona, Alaska

POSITION STATEMENT: Testified in support of HB 272.

ED KING, Legislative Liaison
Office of the Commissioner
Department of Natural Resources (DNR)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the discussion of HB 272.

JOE DONAHUE, Board member
Copper Country Alliance (CCA)
Kenny Lake, Alaska

POSITION STATEMENT: Testified in support of HB 272.

CATHY TEICH
Talkeetna, Alaska

POSITION STATEMENT: Testified in support of HB 272.

FELICIA RIDEL
Kenny Lake, Alaska

POSITION STATEMENT: Testified in support during the hearing of HB 272.

KATHRYN MARTIN, Senior Vice-President
Ahtna, Incorporated (Ahtna Inc.)
Corporate Headquarters
Glennallen, Alaska

POSITION STATEMENT: Testified in opposition to HB 272.

MICHELLE ANDERSON, President
Ahtna, Incorporated (Ahtna, Inc.)
Glennallen, Alaska

POSITION STATEMENT: Testified in opposition to HB 272.

ED KING, Legislative Liaison
Office of the Commissioner
Department of Natural Resources (DNR)
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 330.

ACTION NARRATIVE

[6:37:39 PM](#)

CO-CHAIR ANDY JOSEPHSON called the House Resources Standing Committee meeting to order at 6:37 p.m. Representatives Josephson, Lincoln, Parish, and Birch were present at the call to order. Representatives Drummond, Johnson, and Tarr arrived as the meeting was in progress.

HB 272-TANGLE LAKES STATE GAME REFUGE

[6:38:31 PM](#)

CO-CHAIR JOSEPHSON announced that the first order of business would be HOUSE BILL NO. 272, "An Act establishing the Tangle Lakes State Game Refuge; and providing for an effective date."

[6:38:36 PM](#)

CO-CHAIR JOSEPHSON opened public testimony to invited testimony on HB 272.

[6:39:40 PM](#)

ALICIA SIIRA, Deputy Director, Alaska Miners Association (AMA), on behalf of AMA's executive director, disagreed that renewable and nonrenewable resources cannot coexist with public use and habitat, which Alaska's history has proven completely false, she said. The sponsor statement read, "Although most activities within the proposed refuge pertain to renewable resources, there is potential for non-renewable activities, which could irreparably damage both the ecosystem and the wildlife that depend on it." She said the AMA disagreed with this statement. A century of experience shows this premise - that one must choose between renewable and nonrenewable resources - to be false. Alaska's economy has been built on the premise that Alaskans need not choose between environmental protection and economic development. The philosophy that renewable and nonrenewable resources cannot coexist in a region, which this bill was predicated upon, would be a "death-knell" to the state's economy and state revenue, she said. She spoke in opposition to HB 272.

[6:41:30 PM](#)

MS. SIIRA paraphrased from a portion of the letter from the Alaska Miners Association dated March 6, 2018, in members' packets, which read as follows [original punctuation provided]:

The Denali Highway Region around the proposed refuge has been the subject of mineral exploration since the turn of the century. The large Valdez Creek Mine, just east of the Susitna River, was discovered in the early part of this century and reclaimed in the early 1990s. Beginning in the early 1990s, modern mining exploration increased in this region. The proposed refuge area and lands to the north, where access would be impeded by the refuge, was explored for over 20 years by American Copper and Nickel Company (ACNC), Anglo American, Fort Knox Gold (a different company than the one mining near Fairbanks), Nevada Star Resource Corporation, Pure Nickel, and a few others. Since 2000, DNR has granted approximately 20 exploration permits and the same number of permits for placer mining in the region. While most are outside the proposed Refuge area, a number have included work within the Refuge area as well.

MS. SIIRA said the region's history has shown that nearby large mines, such as Valdez Creek Mine have not created the long-term impact asserted by the sponsor and years of recent exploration have avoided the predicted impacts.

MS. SIIRA continued to paraphrase a portion of the letter from the Alaska Miners Association dated March 6, 2018, which read as follows [original punctuation provided]:

Exploration has included most of the techniques used to find hard-rock minerals including field mapping, aerial and ground geophysical exploration, soil samples, water samples, rock sampling, and exploration drilling. Almost all of the recent exploration has been helicopter supported. It has left little ground disturbance or long-term visual affect.

MS. SIIRA said that as members know, the designation of a Tangle Lakes State Game Refuge was not a new idea. When it was proposed previously and with exploration activity underway, DNR [Department of Natural Resources] field personnel were questioned and very few people using Tangle Lakes, or the Delta Wild and Scenic River even knew that mineral exploration had been occurring. The area under discussion already benefits from a system of protections through DNR's Special Use Area designation. Most of the proposed Refuge area is within DNR's Tangle Lakes Archaeological District Special Use Area, which was established in 2003. She referenced regulations in 11 AAC 96.104(b)(24), noting that through the aforementioned regulation, DNR assessed the area and concluded that mining and mineral and mineral exploration impacts were easily controlled through mining's extensive permitting and inspection process, although leasehold location order 26 put companies on notice that DNR would be looking closely to protect the cultural resources of this area.

MS. SIIRA continued to paraphrase a portion of the letter from the Alaska Miners Association dated March 6, 2018, which read as follows [original punctuation provided]:

DNR, like BLM before it, concluded that unrestricted motorized recreation had the greatest potential to cause significant impacts to these resources. For that reason, DNR enacted rules for recreation and received additional legislative funding for field personnel to manage recreation this area. This Special Use Area provides already a vehicle for special rules should those rules become necessary.

MS. SIIRA continued to paraphrase a portion of the letter from the Alaska Miners Association dated March 6, 2018, which read as follows [original punctuation provided]:

A Refuge With Only Average Habitat? DNR's land use plan, written with DF&G's help and endorsement, indicates that the vast majority of the refuge has only moderate habitat. The proposed refuge is split between two DNR Area Plans: Tanana Basin Area Plan, Subunit 5C2; and Copper River Basin Area Plan, Subunit 28.

DF&G has provided the fish and wildlife expertise for these plans. As part of these plans, the agencies rated habitat in each area into one of 5 categories. As part of the plans' public process, the habitat ratings were published for public comment. The plans concluded that the vast majority of what is proposed for the Refuge is in the middle habitat category (which the plans termed "Prime" habitat).

In addition, BLM analyzed a modern mining scenario in a 2011 Environmental Assessment for the Delta Wild and Scenic River. It concluded, "If exploration leads to the discovery of an economically viable deposit, the deposit will likely be developed only through underground mining (not open-pit) techniques. If so, a mine could be developed in a similar manner as the Pogo Mine (about 38 miles northeast of Delta Junction). Surface disturbance will vary depending on mine design, construction of roads, power line corridors, selection of tailing disposal method, and other factors. The Pogo Mine has a permitted disturbance of 425 acres." Four hundred and twenty-five acres is roughly 0.3% of the proposed refuge's area. This modern mining scenario hardly makes the case that Alaska must choose between habitat and our jobs or income.

MS. SIIRA stated that if it was not closed, the proposed refuge and surrounding area is likely to be explored again.

MS. SIIRA continued to paraphrase a portion of the letter from the Alaska Miners Association dated March 6, 2018, which read as follows [original punctuation provided]:

While the proposed refuge is not presently being explored, it is likely to be explored again. The Tangle Lakes region is known to be a highly

mineralized area, in the Nikolai Greenstone geologic terrane that is host to the incredibly rich Kennecott copper deposits.

Most recently Pure, Nickel explored the area - both within the refuge and in the area to the north, in an area where the refuge would discourage additional exploration.

MS. SIIRA commented it was her understanding that the committee had a letter from the company Pure Nickel stating that it chose to drop its claims in 2013 due to the global mineral investment climate and not for lack of mineralization.

The recent exploration showed significant potential of nickel, platinum metals and elements, and other minerals. These minerals are included in a recently published list by the United States Geological Survey (USGS) of minerals that are critical to national defense and the economy. A secure supply of domestic sources of minerals is a priority for the United States, and it should be for Alaska as well.

[6:47:22 PM](#)

MS. SIIRA stated that while exploring Alaska and the area, the Pure Nickel camp employed up to 40 people, many of whom were Alaskans, and spent more than \$25 million in the state. In just one year it spent \$400,000 in claim fees, of which a significant amount has gone to the Alaska Permanent Fund. Closing this area to mineral entry would ensure no further economic benefits from exploration and eliminate the possibility of a producing operation and jobs and revenue associated with the mine. It is proven that Alaska does not have to make the choice between the environment and resource development. Alaska's miners strongly oppose the proposed refuge, she said.

CO-CHAIR JOSEPHSON said his map of the area [in members' packets] showed that the area north of the proposed border [of the Tangle Lakes State Game Refuge] was vastly more replete with potential mineral resource occurrences than within the proposed refuge area. He asked for further clarification on her testimony that mining to the north would be discouraged if there was a refuge.

MS. SIIRA clarified the AMA thought that mining activity would generally be discouraged. During mining exploration, companies are not sure where the deposit might be located so to have a

portion nearby closed off, which might include a significant portion of the deposit would discourage exploration and development, she said.

CO-CHAIR JOSEPHSON referred to letter from Pure Nickel, Inc., which he offered to provide to members. He read from the letter from Mr. David McPherson dated March 6, 2018, "We are very frequently contacted by companies who wish to purchase the information we developed so that they can re-stake the claims and continue exploration in the area." He acknowledged that while it might be true that this bill could make it more difficult to continue exploration in the area, HB 199 expressly would allow the re-staking of the claim. He asked whether Ms. Siira agreed with Mr. McPherson's statement.

MS. SIIRA responded that she was unsure on the specifics. She offered to research it and respond to him and noted she had not personally seen the referenced letter.

[6:50:58 PM](#)

CO-CHAIR JOSEPHSON, in terms of compatibility, pointed out the state has made policy decisions that not everything is compatible, and has set aside conservation units that reflect this policy, such as Denali National Park.

MS. SIIRA answered yes.

CO-CHAIR JOSEPHSON directed attention to page 7, line 21, of HB 272, which read as follows [original punctuation provided]:

(c) Except for valid rights and interests in mineral claims existing on January 1, 2019, including the right of access to those claims, the land and water areas of the Tangle Lakes State Game Refuge are closed to mineral entry under AS 38.05.185 - 38.05.275.

CO-CHAIR JOSEPHSON said it seemed as though Pure Nickel concern about re-staking the claims would be alleviated at some level by that language.

REPRESENTATIVE BIRCH offered his belief that there was prejudicial language in the sponsor statement, which includes language, "irreparable damage." He said that typically mining work requires bonding, restoration and mining reclamation, such as reseeding. He offered his belief that language was harsh, but he liked to think that the DNR and the mechanisms the state has

in place protect the public, property, and the state interests in these lands.

MS. SIIRA responded that the state has a robust and thorough permitting system that requires bonding, reclamation, and an opportunity for public comment to keep the environment safe during resource development.

REPRESENTATIVE BIRCH agreed.

CO-CHAIR JOSEPHSON asked for further clarification on Ms. Siira's comment about "moderate habitat". He suggested that Mr. Meehan, with Alaska Department of Fish & Game (ADF&G) might be able to define the term. He remarked that the management plan maps [in members' packets] were fairly dated, with one dating from 1986, and the other one more recent. He suggested that other terms have been used by DNR, including "high value" and "prime habitat." He asked whether she had seen those terms being used to describe habitat.

MS. SIIRA answered that she had not, but she would ask the executive director about it.

6:55:10 PM

RUTH MCHENRY, Volunteer Staff, Copper Country Alliance, representing Copper Country Alliance, related her first glimpse of the Tangle Lakes area was in 1960, when she traveled on the Denali Highway during a Girl Scout trip from Haines throughout the newly-formed state. She later returned with her grandparents, and her grandfather shot a caribou to provide meat for his family. In 1988, she moved to the Copper River Basin and joined her late husband on caribou hunts: some of which were successful, and some were not. She described the Tangle Lakes area as a "glorious place to be" then and now.

MS. MCHENRY said that she and her current husband visited the area several times a year to hike, pick berries, and to enjoy the vast, open landscape. The Nelchina caribou herd has provided residents from Copper Basin, Anchorage, the Mat-Su Valley, and Fairbanks with an important meat source. Since groceries are expensive in Alaska and more so in rural Alaska, subsistence hunting provides residents with meat for their freezers. In fact, hunting represents the most important draw to the area, and she noted that over 17,000 permits were issued this season and in the last one. During summer, tourism and recreation are equally as important, providing small Alaskan-owned tours, lodges, gas

stations, and tour companies with income. Large daily Princess Cruise tours and small locally-owned tour operators show tourists the scenic alpine region - one of the few drive-through alpine zones in Alaska. She related that the committee previously has heard testimony about the importance of outdoor recreation to local businesses.

MS. MCHENRY related that many Ahtna, Inc., one of 13 Alaska Native Regional Corporations, shareholders and their families also depend on the Nelchina herd. Ten thousand years ago, Native Alaskans hunted this same area and left behind such a dense number of stone tools that the Tangle Lakes Archeological District was created to help protect artifacts; however, the district does not protect the herd or other wildlife. A refuge would protect hunting and trapping, she said. She described the Tangle Lakes region as so important that it has acquired a "refuge" status even with the threat of mining. She referred members to retired ADF&G biologist Robert Tobey's memo about caribou, moose, ptarmigan, furbearers, and waterfowl [in member's packets].

MS. MCHENRY related that the larger part of the proposed refuge is in Management Unit 5C [North Slope of the Alaska Range] of the Tanana Basin Area Plan. She quoted a portion of the management intent of Unit 5C: "Fish and wildlife habitat is designated a primary use in this unit. Values include prime-rated habitat for moose, caribou, grizzly bears, and sheep [(B-1 habitat; see Appendix A, Glossary)]." The habitat classification for the Tangle Lakes area is prime habitat, which she quoted as being: "Prime habitat are those capable of supporting maximum densities of one or more species groups on a long-term basis and are necessary for perpetuation of those populations."

MS. MCHENRY argued that the Tanana Basin Area Plan does not use the term "moderate" habitat [as stated by the AMA in earlier testimony]. She agreed that C-1 lands were considered "moderate"; however, the Tangle Lakes area does not contain C-1 lands and consists primarily of B-1 lands, she said. "Recreation is designated a primary use. High scenic values at the southern tip of Unit 5C should be protected," she quoted. Those high scenic value lands are exactly the ones along the north side of the Denali Highway in the proposed refuges, she said. She stated that the two area plans were signed off by the DNR and ADF&G commissioners.

[7:00:50 PM](#)

MS. MCHENRY, with respect to the importance of retaining wildlife habitat, stated that biologists report that caribou use different parts of their range in different years. They also use the area during different times during the year, depending on factors including snow depth and how recently the animals have fed on plants. She expressed concern about the habitat degradation since caribou graze and require substantial habitat area to survive. Biologists are unsure of the threshold of habitat degradation before it will affect the caribou herd.

MS. MCHENRY offered her belief that a new mine in the Tangle Lakes area would significantly affect habitat. She attributed habitat loss to current mining and exploration, including the potential of future mining. Other projects and activities that posed potential impacts on the caribou herd include the proposed Susitna Dam and military exercises with low-flying jets. Even though she has loved traveling to the Tangle Lakes area, she also acknowledged that highways fragment the caribou herd's habitat, too.

MS. MCHENRY said she has followed mineral exploration activity in the Tangle Lakes area for 17 years. Modern hard-rock mining typically alters land on a large scale, including underground mines, but especially open pit mining, she said. Although Pure Nickel, Inc. advised people they were uncertain of the type of mine being proposed, either type of mine would require massive waste and tailing storage, mill buildings, power lines, and roads. She expressed concern about the problem ore trucks would have on the Denali Highway roadway and tanker trucks on the Richardson Highway to other motorists, including tourists. Although Rock Creek Mine, near Nome was permitted under the state's "rigorous permitting process," it was shut down after two months because of water problems and never reopened.

MS. MCHENRY stated although helicopter-assisted mineral exploration may not have long-term impacts, the purpose of exploration leads to mining which does have long-term impacts, with some mining operations requiring perpetual treatment. The DNR permitted exploration in the Tangle Lakes region, but she questioned why the DNR would permit exploration if the department intended to refuse future mining. She suggested members should ask DNR if it has ever refused a hard-rock mine permit mine.

MS. MCHENRY, in response to whether viable mineral deposits exist in the Tangle Lakes region, said that 11 of the 45 exploratory holes drilled were in areas north of the proposed refuge. Today, there are no hard-rock claims in the proposed refuge or north of

its boundaries after three major foreign mining interests pulled out. Even Pure Nickel, Inc., a foreign junior exploration company eventually relinquished its claim within the proposed refuge or the explored area, she said.

[7:05:21 PM](#)

MS. MCHENRY stated her belief that it is time to grant ADF&G full management of this important region. Alaskan hunters, fishers, berry pickers, photographers, and paddlers care deeply about this area. They want future generations to enjoy the area as it is today, she said. These people are not "rabid Outside environmentalists," people who represent outside organizations, or mining companies based in Canada, London, or China. Instead, these are Alaskans who are here for the long term, she said. She urged members to pass HB 272.

REPRESENTATIVE BIRCH acknowledged that Kenny Lake was about 150 miles closer to the proposed refuge than his district in Anchorage. He said he was not supportive of this bill. He expressed concern with the lack of engagement with those "in it for the long haul." He pointed out several letters submitted in opposition to the bill, including Ahtna, Inc. who opposed HB 272 because it would prevent shared multiple-use opportunities. Further, the Copper Valley Chamber of Commerce submitted a letter in opposition to the bill. He acknowledged that tourism has merit but asked how jobs in resource extraction industry compared to jobs in the housekeeping and hotel industry. He suggested there were opportunities in the natural resources industries that would be curtailed if those opportunities were shut down. He expressed concern that the Matanuska-Susitna Borough had not been consulted, since it touches the western edge of the proposed refuge. He reiterated his concern over opposition stemming from a regional corporation and a government entity. He said he was very concerned about the proposal.

CO-CHAIR JOSEPHSON responded that the Ahtna, Inc. regional boundaries were not in the proposed refuge.

REPRESENTATIVE BIRCH asked for confirmation on the boundaries.

CO-CHAIR JOSEPHSON said he has looked very carefully and attested that Ahtna Regional Corporation did not have land in the proposed region.

[7:09:37 PM](#)

MS. MCHENRY said she reviewed Ahtna, Inc.'s recent letter [of February 13, 2018] and she was perplexed from their supportive stance in 2007 to one of opposition. She surmised that Ahtna, Inc. may have misunderstood the proposed bill; for one, it referred to the proposed refuge as a park. She questioned who would get [mining] jobs and if they would pertain to locals. She highlighted that the refuge was currently being used by more people, culturally and to support the economy.

CO-CHAIR JOSEPHSON acknowledged that housekeeping jobs do not pay as well as mining jobs. He stated that when the bill was introduced it was paired with testimony on the value of outdoor recreation. He asked whether she had a sense of the economic value of the region to its present uses since she has lived in the region for so long.

MS. MCHENRY responded that many people transit the area bringing numerous visitors to local businesses. She said the Hub, a major gas station in Glennallen, is "pretty well jammed" between Memorial Day to Labor Day during the tourism season.

[7:13:07 PM](#)

REPRESENTATIVE PARISH asked for further clarification on Copper Country Alliance.

MS. MCHENRY stated that the seven-member board was in support of HB 272.

REPRESENTATIVE PARISH asked whether other members have subscribed to the Copper Country Alliance's mailing list.

MS. MCHENRY stated that Copper Country Alliance consisted of 50 members located in region, noting this is a sparsely-populated area. She recalled that in 2010-12 she gathered a number of signatures for the legislature.

REPRESENTATIVE DRUMMOND stated that she located a copy of the letter she previously mentioned [in members' packets]. Ms. McHenry was number 687 of 823 signers of Save Tangle Lakes and many people in the Valdez to Delta corridor signed the letter.

REPRESENTATIVE BIRCH asked to correct an earlier statement by the Co-Chair. He stated that virtually the entire Denali Highway was in the Ahtna, Incorporated region. He further stated that nearly half of the area falls in the Ahtna, Inc. region.

CO-CHAIR JOSEPHSON disagreed, noting his research showed that Ahtna land was to the south of the proposed refuge, towards the coast and Wrangell-St. Elias. He offered to review it further, but his sense was that the land south of the highway was public land. He remarked that there might be an historic Native Corporation regional boundary since the entire state was taken up by 12 Native Regional Corporations. He wondered if Representative Birch's reckoning meant there was not any public land in Alaska but rather that it was all Native Regional Corporation land.

REPRESENTATIVE BIRCH answered no; however, he meant there should be some engagement with the entities.

REPRESENTATIVE JOHNSON emphasized the need to clearly identify land ownership. She offered her belief that some of the land was Ahtna, Inc. land.

CO-CHAIR JOSEPHSON asked whether Representative Johnson could identify that the land was owned by Ahtna, Inc.

REPRESENTATIVE JOHNSON reiterated that the committee must consider land status. She did not believe the corporation owned the land; however, the committee should consider what proposed refuge land fell within Ahtna, Inc. lands and how it might impact the corporation.

CO-CHAIR JOSEPHSON remarked that his home in Anchorage falls within the Cook Inlet region; but he owns his home fee simple. He said he was puzzled and did not understand the argument.

REPRESENTATIVE BIRCH stated that a portion of the proposed refuge falls in Matanuska-Susitna Borough (MSB). He acknowledged that the MSB might not own the land, but it fell within the borough jurisdiction and political boundary. He said he thought it would be irresponsible not to contact [the entities] in some capacity.

[7:19:54 PM](#)

The committee took a brief at-ease.

[7:20:24 PM](#)

LINDA RUTLEDGE stated her family has had a homestead since 1979 on Mile 3 of the Edgerton Highway. Her family has large subsistence vegetable gardens and the Nelchina caribou herd, which they value and respect, has been the family's source of

meat for 38 years. Certain areas along the Denali Highway are important to the Nelchina caribou herd, she said. The proposed Tangle Lakes State Game Refuge provides a prime feeding area for the herd. Caribou migrate to the Tangle Lakes area in the fall and often winter there. The lake system supports rich vegetation from lichens to an extraordinary array of blueberries. Bears, fox, swans, and ptarmigan were among the wildlife that feed on the rich blueberry patches. Her family, like many other Alaskans, gather a winter's supply of blueberries at the Tangle Lakes. She recalled a hunting partner called this area a "bread basket" since it provides so much food.

MS. RUTLEDGE asked members to consider that as Alaska's climate changes food sources will become very important. She did not understand jeopardizing the health of the Nelchina caribou herd for short-term mining extraction. She acknowledged that people were just part of the equation. The Nelchina caribou herd deserved to have the proposed game refuge as their homeland and their right to thrive. She urged members to visit the Tangle Lakes, which is surrounded by lush tundra with the Alaska Range as a backdrop. She urged members to support HB 272. She further urged members to talk with the Native population in the area as she felt they, too, would want to protect the Tangle Lakes.

REPRESENTATIVE PARISH suggested Ms. Rutledge may wish to collect written testimony and signatures from neighbors.

REPRESENTATIVE DRUMMOND asked whether her family hunts in Tangle Lake or elsewhere in the region.

MS. RUTLEDGE responded that they travel to the Tangle Lakes, but they also follow the caribou to the Susitna area. She remarked that wintertime was important to the Nelchina caribou, that, at times, overwinter in the area. She expressed concerned about food sources and prime habitat. In response to Representative Drummond, she related that she lives approximately 80 miles from the Tangle Lakes, perhaps more.

REPRESENTATIVE DRUMMOND said that since Ms. Rutledge lives in the area, she was likely well aware of the conflicts with the Ahtna Inc. -Native Regional Corporation region's land use. She said she was vaguely aware that the corporation does not own every square inch of the land. She asked whether the Ahtna Inc.'s lands were posted as closed to hunting.

MS. RUTLEDGE agreed.

[7:27:51 PM](#)

MARLEANNA HALL, Executive Director, Resource Development Council (RDC), stated that the RDC is a statewide trade association comprised of individuals and companies from Alaska's oil and gas, mining, forest products, tourism and fisheries industries as well as the 12 land-owning Alaska Native corporations, municipalities, individuals, labor unions, and other trade associations.

MS. HALL stated RDC's opposition to HB 272, An Act Establishing the Tangle Lakes State Game Refuge. She stated that the RDC's position has been to encourage the exploration and responsible development of Alaska's natural resources. Creating a new refuge would restrict or eliminate the potential opportunities in the Tangle Lakes area, including mineral development and tourism. Further, it would create new restrictions to land use at a time when our state faces fiscal and other challenges.

MS. HALL states that Alaska already contains over 70 percent of the nation's national parkland, 84 percent of the national wildlife refuge land, two of the nation's largest national forests, two of the largest state parks in the union as well as a number of other state conservation units. She said the RDC supports continuing to manage the Tangle Lakes area for multiple use, such as recreational, hunting, subsistence and other potential uses, including mining. She said these activities can coexist. Instead of creating another refuge in Alaska, the state must focus on ways to show that Alaska is "open for business;" that Alaskans are serious about growing the economy. The proposed area consists of mining claims previously held by various companies and individuals. Mining and mining exploration have occurred in the area, which has not had a significant adverse impact on wildlife.

MS. HALL reminded members that Alaska already has a comprehensive regulatory and permitting system in place to protect its land, environment, and fish and wildlife resources. Any proposed project in the region would be thoroughly scrutinized and well-vetted through the extensive permitting process and the National Environmental Policy Act of 1969 (NEPA) process, she said. In closing, she urged members to oppose HB 272.

[7:30:47 PM](#)

REPRESENTATIVE PARISH asked how many members Ms. Hall represented and how many of the RDC's members reside within the Tangle Lakes region.

MS. HALL answered that the RDC has hundreds of corporate and individual members representing tens of thousands of Alaskans in the resource and support industry sectors. She was unsure of the specific number of residents in the region who were also RDC members, but she offered to research and report back to the committee.

CO-CHAIR JOSEPHSON asked why the proposed refuge in HB 272 would be bad for tourism.

MS. HALL answered that the proposed refuge would create new restrictions to land use, which would potentially impact opportunities in the area, including tourism. She remarked that restricting land use would also create uncertainty and additional regulatory processes that would impact a tourism operation to a mining claim.

CO-CHAIR JOSEPHSON noted that the committee will ask Mr. Meehan from ADF&G to respond at a future hearing.

CO-CHAIR TARR asked for clarification of the process RDC uses when it takes a position. She recalled that tourism was under the RDC's umbrella.

MS. HALL responded that it would take time to discuss the RDC's internal policy process; however, the RDC does have general policy positions that it has vetted with the 78-member board. She related that typically the RDC's policy positions are developed in November or December, prior to the next legislative session. She said that the RDC's position is to encourage responsible development of Alaska's natural resources. In addition, one of RDC's members, Ahtna Inc. brought the bill to the RDC's attention.

CO-CHAIR TARR related her understanding that RDC prioritizes mining interests over tourism interests since there is an inherent conflict between these two interests. Although tourism was listed as one of RDC's interests, she was not hearing that reflected in today's testimony.

MS. HALL responded that the RDC believes all resource industries, including mining, tourism, fishing, oil and gas, and forestry industries can coexist. She pointed out that one interest is not placed above the other when the RDC prioritizes its positions. She offered her belief that tourism relies on mining and minerals; for example, without minerals computers would not be

possible. She said the mineral potential in the area was unknown. She attested that these minerals are not only for important for jobs and the economy in Alaska but are exported to other countries and help to ensure safety in the nation.

[7:36:54 PM](#)

CO-CHAIR TARR remarked that she had not seen the RDC take a position that she has considered pro-tourism but has found the RDC's positions favor natural resource development extraction. She offered to follow up with individual members of the RDC's board involved with the tourism industry. She has heard them engaged in legislative efforts to increase tourism marketing, make Alaska a destination, and increase the number of visitors. She characterized the tourism industry as being a sustainable long-term industry. She expressed her disappointment that she had not heard this represented in any of the RDC's positions.

MS. HALL offered to provide policy position on tourism, an industry that she said the RDC has long supported.

REPRESENTATIVE BIRCH encouraged the committee to attend the annual RDC program. He recalled that the annual program has an extensive presentation on tourism forecast, and cruise ship passenger forecast.

CO-CHAIR JOSEPHSON agreed the RDC has a great program, noting he has previously attended it.

REPRESENTATIVE JOHNSON said she appreciated the RDC providing a balanced view on HB 272.

[7:39:31 PM](#)

BRUCE ROGER provided a brief history of his family activities in the Tangle Lakes area. They have lived in the Gakona area for the past 17 years and enjoy recreational activities in the Tangle Lakes area, including hiking, hunting, and berry picking. He spoke in support of HB 272.

MR. ROGERS viewed the Tangle Lakes area as unique and accessible, that a person could hike across relatively easy terrain without chartering a plane or using off-road vehicles (ATVs or four-wheelers) for access. Archeological evidence has suggested that people have used the area for hunting for at least 10,000 years, supportive evidence that the area provides critical habitat for the Nelchina caribou herd. He offered his belief that HB 272

offered a good strategy to maintain critical habitat and hunting opportunities.

MR. ROGERS explained that he has reviewed the DNR's Tanana Basin Area Plan, noting the proposed refuge was partially in Unit 5 of the plan. The proposed refuge seemed consistent with the plan since the Tanana Basin Area Plan listed fish, wildlife, and recreation as priorities for management of the area. Under the bill, mineral exploration and development opportunities would still be available north of the proposed refuge. He suggested that mining development within the pro Tangle Lakes area would change the character of the area for a long time and put additional pressure and disturbance on the Nelchina caribou herd. He remarked that the Nelchina caribou herd has provided residents in the Copper Basin and Palmer-Wasilla area with attractive hunting and recreational opportunities. He said that the proposal seemed balanced. He urged members to support HB 272.

REPRESENTATIVE PARISH asked what proportion of residents use [the Tangle Lakes area] for subsistence.

MR. ROGERS answered that probably 50-75 percent of the hunters in the region use the Tangle Lakes area.

CO-CHAIR JOSEPHSON asked for further clarification on parameters to re-stake a claim in the proposed refuge.

[7:43:51 PM](#)

ED KING, Legislative Liaison, Office of the Commissioner, Department of Natural Resources (DNR), explained that under [Alaska statutes] AS 38.05.262, that when a claim is abandoned all rights are exhausted and cannot be rekindled under this bill after the effective date.

CO-CHAIR JOSEPHSON read a portion of the bill: Section 1, AS 16.20.043(c) on page 7, lines 21-24, which read as follows [original punctuation provided]:

(c) Except for valid rights and interests in mineral claims existing on January 1, 2019, including the right of access to those claims, the land and water areas of the Tangle Lakes State Game Refuge are closed to mineral entry under 24 AS 38.05.185 - 38.05.275.

CO-CHAIR JOSEPHSON interpreted this language to mean that parties who have valid rights and interests in mineral claims existing on

January 1, 2019 could continue to work the claims and have access to them.

MR. KING answered he was correct; if a person has existing rights on that date, those rights would continue, but after that date no new rights or interests in mineral claims could be established. For example, Pure Nickel could not re-stake its claims after January 1, 2019, he said.

REPRESENTATIVE BIRCH asked whether the administration supports HB 272.

MR. KING advised that the DNR has not taken a position on this bill.

REPRESENTATIVE DRUMMOND reviewed the Ahtna, Incorporated land status on its website. She offered her belief that she has identified the proposed refuge boundaries and it appeared to only be state or federal lands. She asked whether Mr. King was familiar with the boundaries of the proposed refuge and if the proposed refuge would infringe on any Ahtna Incorporated lands or selected lands.

MR. KING said that to the best of his knowledge all lands within the proposed Tangle Lakes State Game Refuge are state selected lands and the proposed refuge does not contain any Ahtna Incorporated selected lands.

REPRESENTATIVE LINCOLN, with respect to the Ahtna, Inc. boundaries, reminded the committee that it heard a lot of testimony on the Pebble Mine project and the regional ANCs [Alaska Native Corporations] provided valuable perspectives to the committee even though these entities did not own land in the proposed Pebble Mining area. He appreciated Representative Birch and Johnson strongly advocating to consult with [Ahtna, Inc.], along with MSB [Mat-Su Borough]. Although he did not advocate deferring to these entities, he felt that the ANCs, boroughs, municipalities, and tribes brought important perspectives to the process.

[7:48:13 PM](#)

JOE DONAHUE, Board Member, Copper Country Alliance (CCA), offered one of the things that sets Alaska apart from the rest of the United States and the world was access to truly wild places. That access was important, whether it was for world class hunting or just paddling and camping, he said. He spoke in support of HB

272. This bill would reserve Tangle Lakes for hunting and the area and range was very important for the Nelchina caribou herd. The Nelchina caribou herd has attracted hundreds of hunters each year. He related his understanding that there were not any current hard-rock mining claims in the area, so it made sense to him to reserve it for hunting and other recreational purposes.

MR. DONAHUE said the bill would bolster tourism by protecting what tourists travel to see: the caribou and the beautiful landscape in the proposed Tangle Lakes refuge. He said he was lucky to have hunted and picked berries in Tangle Lakes with his family and he recalled great memories of his time in the area. He said his wife has traveled there since she was a child and also recalled canoeing, berry picking, and caribou hunting in the Tangle Lakes with her family. He would like to share this area with his infant daughter when she is a little older, he said. His family hoped to continue to canoe, pick berries and hunt in the area. He reiterated his support for HB 272 because it would offer recreational activities in the Tangle Lakes for generations to come by protecting the land so important to the Nelchina caribou herd. He asked members to please do their part to protect this beautiful region for the rich experiences it offers to all future Alaskans.

REPRESENTATIVE BIRCH offered his belief that nothing will change if the bill failed. He stated that HB 272 would restrict the multiple use of this area. He said he is familiar with the area and the recreational opportunities that people have enjoyed but those opportunities will continue to exist for generations to come.

[7:51:48 PM](#)

CATHY TEICH stated that her significant other has hunted in the Tangle Lakes area since 1971 and she has picked berries there for twenty years. She stated that many people depend on caribou resources for food, especially since grocery prices are significantly higher in the Copper River region. In fact, people rely on caribou and moose to the extent that if it was no longer available, they would do without meat. She said she engages in photography in the Tangle Lakes area, taking photos of the pristine wilderness. She agreed with the previous testifier who said, "Alaska is special." Alaskans were lucky to have these special areas that some states do not have, and large mines would destroy habitat and change the area. She qualified her remarks by stating she was not opposed to all mining; however, she was opposed to massive mines that would destroy habitat that has

sustained caribou for 10,000 years. Many people from urban populations, including Talkeetna, Wasilla, Eagle River, and Anchorage hunt there. She expressed concern that urban hunters and the expansion of J-BER [Joint Base Elmendorf-Richardson] would place additional pressure on the [Nelchina] caribou herd. She urged support for HB 272 to create the refuge for the animals.

REPRESENTATIVE PARISH asked if the Nelchina caribou herd spent most of its time in Amphitheater Mountains or Eureka Creek areas where the proposed Tangle Lakes State Game Refuge would lie.

MS. TEICH responded that it depended upon the year; that the caribou range was far and wide, so it was difficult to determine where they would be at any given time. She agreed that the herd ranges in the areas mentioned and north of the Denali Highway near Tangle Lakes and the entire area was important to caribou.

[7:56:24 PM](#)

ELICIA RIDEL stated she and her family has lived in the Kenny Lake area since 1977 and prior to that in Fairbanks where her mom homesteaded in the 1940s. She clarified that her husband hunts and she does not; however, her family has relied on game meat, fish and their garden to survive. She expressed that she loved to go where hunters go because they find the good places like Tangle Lakes. She loved the unique geology of Tangle Lakes and gathers berries and takes photographs in the area. Four of her five children hunt, she said.

MS. RIDEL related that she previously had a mining claim and her husband had a dredge, so she spoke from experience about her belief that harvesting, including hunting, fishing, berry picking will last longer. She explained that once minerals were extracted the jobs would be gone, leaving behind a mess. She reiterated that with planning sustainable resources like harvesting or tourism can last forever. She remarked that mines close; she has been in the Wrangell Mountains and felt she was the first person there only to discover abandoned mine shafts. She recalled seeing abandoned dredges in Fairbanks. She referred to publication: Rocks, Rivers, Mountains, and Glaciers: A Selective Introduction to Geology that has a mile-by-mile geologic description of the Denali Highway. She offered her belief that many people would also enjoy doing something similar while contributing to the local economy and meshing with the local lifestyle. In closing, Ms. Ridel said it has been getting

harder to find game that rural residents rely upon, so she urged members to please support HB 272.

[7:59:09 PM](#)

KATHRYN MARTIN, Senior Vice-President, Ahtna, Incorporated (Ahtna Inc.), Corporate Headquarters, said that Ahtna Inc. was very concerned about Alaska's economy and feels that yet another new refuge in the state would be detrimental to the economic development opportunities in the region and in the state.

MS. MARTIN said that this bill would restrict land use, prevent mineral development, hinder tourism, and interfere with the customary and traditional hunting practices. She acknowledged that the bill sponsors and supporters have good intentions, but the corporation's experience has shown that this type of legislation only serves to further restrict land use and resource development so essential to a healthy society.

MS. MARTIN said that Alaska has so little land not currently designated as parks, preserves, and critical habitat. The state needs to maintain small multiple use areas remaining in the state. This type of restriction would hinder the formation of a borough since it would remove a significant land base from the borough land selection pool. She echoed earlier comments, that this area is part of Ahtna, Incorporated's traditional territory. In fact, at one time Ahtna, Incorporated's territory covered 23 million acres; however, when ANCSA [Alaska Native Claims Settlement Act] passed the corporation was only given 1.7 million acres of land. This area has historical and cultural significance to the Ahtna people; that at least four leaders in in her region depend on this area for subsistence purposes. She clarified the distance of Kenny Lakes from the Tangle Lakes proposed refuge. She reported that Paxton is 72 miles from the Glennallen Junction, that Kenny Lakes was about 40 miles south of Glennallen or 112 miles from the proposed refuge.

CO-CHAIR JOSEPHSON asked for clarification on why customary and traditional hunting uses would change under a refuge.

MS. MARTIN responded that she did not think it would change but it would be more restricted. She said that Ahtna, Inc. has felt the impacts of Wrangell - St. Elias National Park and Preserve, Denali National Park and Preserve, and the Tetlin National Wildlife Refuge. She acknowledged that these were national parks and a national refuge but these areas that are designated as refuges, units, parks, or critical habitat areas have restricted

utilization of the areas. In response to Co-Chair Josephson, she responded that Ahtna, Inc. was aware HB 272 does not create a park.

8:02:42 PM

MICHELLE ANDERSON, President, Ahtna, Incorporated (Ahtna, Inc.), spoke in opposition to HB 272. She said there has been no public process, no community meetings. She stated [the sponsor] decided it was in the state's best interest to make the area being discussed a state refuge. She was unsure of the exact definition of a "state refuge" since it was not easy to find in [statute or regulation].

MS. ANDERSON said that the proposed [Tangle Lakes State Game Refuge] area represented an important historical value to the Ahtna people. She related that scientists have validated this and it is what the Ahtna elders have always told them. She agreed that while Ahtna Corporation may not own the lands, the people have stories about these lands. She stated that her clan, the Udzisyu or caribou clan used to own Paxson Lake. She said that she could tell members hours of stories relating to the history and traditional and customary use of the area.

MS. ANDERSON said she appreciated what Ruth McHenry and others have said about trying to protect subsistence for future uses; however, Ahtna Inc.'s experience with parks or refuges is that the people must endure more rules and regulations that need to be memorized to use the lands. She remarked that she was not too keen on that idea.

MS. ANDERSON said all Alaska Native Regional Corporations have a mandate from the Congress to develop and use their lands for the economic benefit of its shareholders. She expressed concern with the proposed refuge since it was close to land to which the corporation has been given title. She said she would appreciate a thorough vetting of this concept before anything substantive is done. It would be a travesty to establish a law without talking to the people that it is going to affect, she further said.

REPRESENTATIVE PARISH asked how many Ahtna, Incorporated shareholders she represented and how many live in the region and interact with the proposed refuge.

MS. ANDERSON answered that she represented 2,025 shareholders not including Tribal members who are not shareholders. She offered to provide more precise figures. She said that the corporation

crossed a threshold last year when more than half of its shareholders live outside the region. She explained that Ahtna, Inc. has been experiencing outmigration just as with other hubs in the state.

[8:07:37 PM](#)

CO-CHAIR TARR, in response to Ms. Anderson's comments on public process, explained that these legislative hearings provide a public process, including public testimony, consideration, and individual legislators having the ability to do amendments. The legislature does not usually have community hearings since it is based in Juneau. She referred to a letter in members' packets that was signed by 823 individuals and businesses who were in support of [creating a state game refuge] some years ago. Further, a letter of 2008 [no specific date or person referenced] from the Board of Game highlighted the board's discussions and interest in forming a Tangle Lakes game refuge. She read from the letter, as follows:

We recognize the potential for mineral extraction in this area and in associated mineral leases but remain convinced the long-term value of maintaining wildlife habitat far outweighs the potential benefits of possible development projects known at this time.

CO-CHAIR TARR also referred to a 2002 memo from the Alaska Department of Fish & Game during former Governor Murkowski's administration, which provided evidence of 16 years of awareness. She was unsure how the Ahtna, Incorporated leadership would not be aware of the issue that has spanned 16 years.

MS. ANDERSON remarked [HB 272] was news to her.

CO-CHAIR JOSEPHSON offered his belief that just over ten years ago Ahtna, Inc. supported the concept of a refuge.

MS. ANDERSON offered her belief that it was a prior Ahtna administration and was under different circumstances and the conversation was different, as well. She recalled that the prior president was weighing in on the Tangle Lakes concept with the Board of Game. She recalled that the previous president thought the proposal to create a refuge was in the corporation's best interest at that time.

REPRESENTATIVE LINCOLN asked for clarification on any efforts or land selection in forming a borough.

MS. ANDERSON answered that there has been a great deal of conversation about creating a borough. She thought it warranted concern to restrict land use when it could be part of the borough and used for a different purpose.

[8:12:15 PM](#)

CO-CHAIR JOSEPHSON, after ascertaining no one else wished to testify, closed public testimony on HB 272.

CO-CHAIR JOSEPHSON announced that HB 272 would be held over.

[HB 272 was held over.]

[8:12:28 PM](#)

CO-CHAIR JOSEPHSON passed the gavel to Co-Chair Tarr.

HB 330-DNR: DISCLOSURE OF CONFIDENTIAL INFO

[8:13:00 PM](#)

CO-CHAIR TARR announced that the final order of business would be HOUSE BILL NO. 330 "An Act authorizing the commissioner of natural resources to disclose confidential information in an investigation or proceeding, including a lease royalty audit, appeal, or request for reconsideration and issue a protective order limiting the persons who have access to the confidential information."

[Before the committee was CSHB 330(JUD)]

REPRESENTATIVE BIRCH said he did not intend to offer Amendment 1. He related his understanding that Amendment 2 would not be offered, as well.

[8:14:13 PM](#)

REPRESENTATIVE BIRCH made a motion to adopt Amendment 3, labeled 30-GH2820\D.3, Nauman, 3/12/18, which read as follows [original punctuation provided]:

Page 4, line 2:

Delete "**limiting**"

Insert "**meeting the requirements of (c) or (d) of this section that limits**"

Page 4, following line 6:

Insert a new bill section to read:

"* **Sec. 2.** AS 38.05.020 is amended by adding new subsections to read:

(c) Unless the protective order meets the requirement of (d) of this section, a protective order issued under (b)(15)(B) of this section must

(1) limit access to the protected information to

(A) an officer, employee, or agent that is directly involved in conducting or managing the participation of a party in the royalty or net profit audit or appeal;

(B) a person reasonably expected to testify or provide sworn evidence on behalf of a party in the royalty or net profit audit or appeal;

(C) a person that directly reviews and approves the conduct and management of a party's participation in a royalty or net profit audit or appeal; and

(D) a person whose approval is necessary for a party to settle or otherwise resolve a portion or all of the matters or issues related to the royalty or net profit audit or appeal; and

(2) prohibit use of the information for a commercial purpose.

(d) Unless the protective order meets the requirements of (c) of this section, a protective order issued under (b)(15)(B) of this section may disclose only information under the terms and conditions agreed to by the party whose information would be disclosed."

Renumber the following bill sections accordingly.

[8:14:22 PM](#)

CO-CHAIR TARR objected for purpose of discussion.

REPRESENTATIVE BIRCH explained that Amendment 3 would strictly limit the access of confidential information shared under the protective order to those directly involved in conducting or managing an audit or appeal, to those who will testify or provide sworn evidence and to those whose approval is necessary to settle or resolve an audit or appeal.

REPRESENTATIVE BIRCH said DNR's staff has suggested that this is already accomplished under the current language in the bill or has suggested a broader scope of access; however, he would like to insert clarifying language which is essentially language contained within a protective order issued by the court. He said having this language in statute would provide further assurance that confidential information is protected.

CO-CHAIR TARR stated that Amendments 3 and 4 will address an issue brought to the committee's attention by the Alaska Oil and Gas Association (AOGA). She related that each amendment offered a different approach.

[8:15:43 PM](#)

ED KING, Legislative Liaison, Office of the Commissioner, Department of Natural Resources (DNR), said he appreciated the AOGA raising the concerns and the DNR does not object to restrictions on protective orders since they are limited. The bill as currently written provides that the protective orders are limited, he said; however, he understood industry sought additional clarity. He said the DNR would like the language to parallel existing statute. He related the language in AS 43.55.040 accomplishes the same goal and provides that clarifying and restrictive language for tax issues and disclosure of confidential data, which was what Amendment 4 intended to do.

CO-CHAIR JOSEPHSON identified Amendment 4 as the amendment labeled D.5.

CO-CHAIR TARR reminded members that the committee was considering Amendment 3, labeled D.3.

CO-CHAIR JOSEPHSON asked if the language in forthcoming amendment, Amendment 4 would mirror Title 43, which is essentially a protective order for the Department of Revenue.

MR. KING answered yes; that the first portion of Amendment 4 is exact language and the remainder is tailored to royalties in the context of DNR.

[8:18:12 PM](#)

CO-CHAIR JOSEPHSON stated he observed the House Judiciary Committee's previous hearing on this issue. He recalled that Mr. Hurley, Conoco Phillips Alaska, Inc., had expressed concern that if protective orders were not designed right the royalty audits

might not be done swiftly and his company or others could suffer because, if they underpaid, the company would incur an 11 percent royalty interest.

MR. KING responded that was exactly why the reason for HB 330; that there currently was no process to protect information disclosed under the current statute, AS 38.05.036(f), which gives the DNR the authority to disclose confidential data during a royalty audit. He clarified that the bill currently before the committee does give the department the ability to disclose this information, but because the authority is not expressly stated - the process is not expressed within in the language - when the department encounters a situation in which terms cannot be agreed upon for the release of confidential data, it becomes very difficult for the department to complete the audit. The seven pending audits awaiting the commissioner's approval cannot be resolved because the department cannot disclose the data, he said. He agreed with Co-Chair Josephson that when audits are pending, they accrue 11 percent interest.

CO-CHAIR JOSEPHSON clarified that Mr. Hurley did not express complete approval for the bill.

MR. KING interjected that Mr. Hurley did speak to his concern.

REPRESENTATIVE PARISH said he found the arguments for Amendment 4 compelling but asked how Amendment 3 would be superior to Amendment 4.

[8:20:27 PM](#)

REPRESENTATIVE BIRCH said he preferred the tighter language of Amendment 3. He stated that the legislature has a duty and responsibility to assure that the state is protecting private information while it conducts its audits. He felt confident Amendment 3 was a better approach.

CO-CHAIR TARR related her understanding that in some circumstances the language in Amendment 3 was so restrictive that it would not be possible to resolve the [disclosure of confidential information] issue. She asked for further clarification on language to resolve [the disclosure of confidential information during a royalty audit].

MR. KING responded that circumstances for each company is unique, so the structure of the companies was also unique. The ability to tailor a protective order to meet each company's needs

requires a certain flexibility in protective orders. The DNR wanted to address the concern AOGA previously raised, but it also wanted to avoid having language so restrictive that a hypothetical situation might identify a situation in which a protective order could not be issued.

MR. KING explained his concern with Amendment 3. He said Amendment 3 has four requirements that must be met in order to issue a protective order without the approval of the company. The department wanted to avoid circumstances that would prevent a protective order from being issued. He related a scenario in which a company had one section that dealt with audits but had approval authority for audits was in another section of the company, so an officer might not be available to provide approval. He offered his belief this raised the concern that other situations might also arise that could prevent a protective order from being issued under Amendment 3. Therefore, the department found the language in Amendment 4 to be superior.

REPRESENTATIVE BIRCH stated his support for Amendment 3.

[8:22:57 PM](#)

CO-CHAIR TARR maintained her objection.

A roll call vote was taken. Representative Birch voted in favor of Amendment 3. Representatives Josephson, Tarr, Lincoln, Parish and Drummond voted against it. Therefore, Amendment 3 failed by a vote of 1-5.

[8:24:10 PM](#)

CO-CHAIR TARR moved to adopt Amendment 4, labeled 30-GH2820\D.5, Nauman, 3/12/18, which read as follows [original punctuation provided]:

Page 4, lines 2 - 4:

Delete all material and insert:

**"(B) issue a protective order limiting the
(i) persons who may access the information
to legal counsel, consultants, employees, officers, or
agents of a party; the protective order may only allow
a person to access the information under this sub-
subparagraph if it is necessary for the person to know
the information in connection with the royalty or net
profit share audit or appeal; and**

(ii) use of the information to matters related to the royalty or net profit share audit or appeal;"

[8:24:18 PM](#)

CO-CHAIR JOSEPHSON objected for the purpose of discussion.

CO-CHAIR TARR reiterated her concern this language might be so restrictive that a protective order could not be issued. She stated that Mr. King had a high level of concern that the language in Amendment 3 would restrict the confidential information to only those who had a right to have access to the information, but it was not so restrictive that it would prevent the department from resolving pending royalty audits.

MR. KING answered that he could [unequivocally] agree that the language in Amendment [4] explicitly stated that the confidential information could only be used for the purposes related to the royalty or net profit share audit [or appeal] and that the information is limited to matters related to that royalty or net profit share audit [or appeal]. Further, those express terms provide or should provide enough clarity to appease the concerns raised by AOGA. He remarked the department believes that even without Amendment [4], the intent of this bill is not to disclose information to anyone for any purpose other than the reason of the bill; [to resolve the disclosure of confidential information during a royalty audit or appeal].

MR. KING spoke in support of Amendment 4, noting the department was happy with the amendment even though it did not find it really necessary in order to appease the concerns. He offered his belief that it does appease [AOGA's] concerns.

CO-CHAIR TARR stated that she appreciated the issue being brought to the committee's attention, so it could be resolved. She appreciated that AOGA wanted to be as careful as possible and she acknowledged the reasons for the caution. She offered further consideration with industry and offered her intention to provide swift action to resolve future issues that may arise. She reiterated her intention was to avoid language being so restrictive that it would not accomplish the goal.

[8:26:46 PM](#)

REPRESENTATIVE JOSEPHSON withdrew his objection.

There being no further objection, Amendment 4 was adopted.

[8:27:19 PM](#)

CO-CHAIR JOSEPHSON moved to report CSHB 330(JUD), as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 330(RES) was reported out of the House Resources Standing Committee.

[8:28:25 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at [8:28 p.m.].