

**ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE**

April 9, 2018

3:30 p.m.

MEMBERS PRESENT

Senator Cathy Giessel, Chair
Senator John Coghill, Vice Chair
Senator Bert Stedman
Senator Kevin Meyer
Senator Bill Wielechowski
Senator Click Bishop

MEMBERS ABSENT

Senator Natasha von Imhof

COMMITTEE CALENDAR

SENATE RESOLUTION NO. 9
Relating to management of public land and resources in the
state.

- MOVED SR 9 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SR 9

SHORT TITLE: PUBLIC LAND/RESOURCE MANAGEMENT

SPONSOR(s): RESOURCES

04/04/18	(S)	READ THE FIRST TIME - REFERRALS
04/04/18	(S)	RES
04/09/18	(S)	RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

RANDY RUARO, Staff to the Budget and Audit Committee (LB&A) and
Senator Stedman
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Commented on SR 9.

CHAD HUTCHISON, Staff to Senator Majority and Senator Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Commented on SR 9.

ACTION NARRATIVE

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CHAIR CATHY GIESSEL called the Senate Resources Standing Committee meeting to order at 3:30 p.m. Present at the call to order were Senators Stedman, Meyer, Bishop, Coghill, Wielechowski, and Chair Giessel.

SR 9-PUBLIC LAND/RESOURCE MANAGEMENT

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CHAIR GIESEL announced consideration of SR 9, introduced by the Senate Resources Committee. Alaska's lands are the focal point of contention for fish, wildlife, development, access, and other issues affecting Alaska's families, businesses, and jobs and the Citizen's Advisory Commission on Federal Areas (CACFA) has been the mainstay in protecting Alaska's interests. Today they would hear a resolution that calls on this organization's recommendations to be heeded and cautions about the unique issues and opportunities the federal government presents.

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CHAD HUTCHISON, Staff to the Senate Majority and Senator Coghill, Alaska State Legislature, said the primary focus of SR 9 is to talk about the good work related to the Citizens Advisory Commission on Federal Areas (CACFA). He would also talk about one of its special subcommittees known as the Alaska State Lands Advisory Group (ASLAG). The petition is a work product of both of those organizations talking about some of the state/federal relationships as they have developed over the years and some of the action points moving forward that may be helpful from a state sovereignty perspective.

A brief history: CACFA was originated in 1981 right after the adoption of the Alaska National Interest Lands Conservation Act (ANILCA) in 1980. The commission is made up of 12 commissioners: 6 appointed by the governor and 6 appointed by the legislature: 3 each from the Senate and House. Why? ANILCA added over 100 million acres of federal conservation system units (CSU) in Alaska, and that included refuges, parks, and forests. The key distinction with ANILCA lands is they are all supposed to be

managed differently in the State of Alaska than they were in the Lower 48. Once the 100 million acres were added, the federal CSUs added up to 222 million acres. One of the predominant promises given to the State of Alaska when this occurred was that Alaskans were still allowed access and the continued ability to develop its natural resources. The question post-1980 has always been if the federal government has adhered to those promises. The answer in many cases is no.

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Some of the land management designation plans have restricted access as it relates to ATV travel. The Sturgeon case is a great example of the questions over jurisdiction of navigable waters in federal park system units and there are many other examples, Kantishna for one, of regulations making development cost-prohibitive.

MR. HUTCHISON said the broken promises can be seen in the petition that was filed by ASLAG, and CACFA is the organization that monitors both. It is the agency that would take action in coordination with the Department of Law (DOL) to ensure there is a conduit for the voices of every-day Alaskans on these issues. CACFA provides a valuable service that works with the federal delegation on crafting policy, law, and amendments, and with the administration on lawsuits and things of that nature.

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He said that Senator Coghill had been on CACFA for a couple of years. The reality is that a lot of the federal agencies have to go through an education process; for one thing, a lot of the decision makers live in Washington, D.C., or Seattle, and the ones based on Anchorage would be from Montana or Washington. So, their analysis as to federal land management in their previous home state is different from how it exists in Alaska.

CACFA is a good conduit to help educate the Bureau of Land Management (BLM) and U.S. Park Service staff who administer and implement ANILCA at the federal level and who would be learning about ANILCA for the very first time, so they could get it right more often than not. Education is a continual process because of staff turnover.

MR. HUTCHISON said the reason CACFA is so effective is that they routinely work with DNR and DOL to bring forward historical knowledge related to how federal land management is implemented in Alaska. Some of these successes are issues related to the Outer Continental Shelf (OCS) leasing, leasing in the National

Petroleum Reserve-Alaska (NPR-A), and the road through the Izembek National Wildlife Refuge. They do this by using the Congressional Review Act (CRA) to overturn what are essentially unilateral U.S. Fish and Wildlife Service policies on refuges. Even when CACFA didn't exist, many advocates were making sure the federal delegation was aware of some of the problems that occurred on the lands managed by BLM.

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Another outstanding issue relates to the "no more clause" in section 13.26 of ANILCA. Many view the BLM as managing areas of critical environmental concern as "defacto wilderness designations." Of course, they are supposed to be managed for multi-use.

He said one of the bigger action points regarding the petition is that a large portion of the lands managed by BLM are supposed to be for multi-use. Those conveyances have state oversight in order for it to develop natural resources - whether it be timber or mines - and to ensure that development is responsible. By ensuring that the state has control, one avoids the political dynamics that may exist within the current national executive administration and have less unilateral movement by the federal agency as it relates to the land in question: for instance, predator control in refuges, the mirror image of ongoing litigation in the preserves, and the Sturgeon navigable waters issue.

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RANDY RUARO, staff to Senator Stedman, Alaska State Legislature, added that an overwhelming amount of federal agency activities need to be watched and CACFA performs that function. The most obvious way the federal government can affect Alaska is through its formal land management plans that usually involve an environmental impact statement (Environmental Impact Statement (EIS)). Just during the Obama administration, they had outer continental shelf (OCS) planning, ocean zoning, National Petroleum Reserve-Alaska (NPR-A), the eastern Interior, Alaska National Wildlife Refuge (ANWR), and the Tongass. On top of those land management plans, add the danger from the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA). Taking all of those acts together, probably not much of Alaska isn't affected by federal land management plans.

MR. RUARO said the state also has to watch out for policy changes that affect Alaska land use in a manual that is basically a secretarial order that has no notice: for example,

the Wildlands Initiative by Department of the Interior Secretary Salazar and the Sturgeon case that came out of a land management plan in 1996, the Earthworks lawsuit affecting federal mining claims across the United States. In 2016, the Federal Register had 97,000 pages of filings and the Sturgeon case changed the entire management structure for submerged lands in 30 words on a single page of regs. It's an incredibly large and diverse amount of agency action to watch and CACFA does that.

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In conclusion, he said CACFA's vigilance is needed to keep track of the sheer volume and ways that federal land management can affect Alaska; the consequences can be very significant for not keeping up with them and bringing challenges where appropriate.

SENATOR COGHILL related that Alaska was purchased by the federal government, then it had the Territorial and Organic Acts. Congress has been in control of Alaska for all these years, and while all other states have only a statehood compact which they get to appeal to as their singular document, Alaska also has ANCSA and ANILCA, which play out how conservation lands would be used. Now Congress, instead of looking at a statehood compact, sees Alaska through a series of laws. The trouble is that they can change the whole compact by changing a regulation or just putting forth a guidance that can overrule a compact. Then there's the Endangered Species Act. Congress has to give Alaskans better protection, because of the various guidances which are all very unique. He said ASLAG is a subcommittee of CACFA and proposes some far-reaching questions: either let us co-manage it with you, close it off, or give it back, "but this death by a thousand definitions has got to quit."

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CHAIR GIESSEL said that ASLAG petition is posted on-line and it is a great historic document in terms of our land management. She asked what kind of funding CACFA had that has gone away.

MR. HUTCHISON answered the last time CACFA was allocated funding was in the 2016 operating budget. It was funded for \$272,000 for one permanent full-time position and one permanent part-time position. By the time CACFA had run its course, achieving efficiencies on the way, there was only one full-time position, so if funding was ever to start back up again it would probably be for less than the \$272,000.

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SENATOR COGHILL said he and Senator Bishop tried to get that into the budget, but the \$200,000 wasn't entirely for the executive director who knew the structure and the laws; it was primarily for facilitating citizens to have input into federal issues. They could enlist a broader constituency, a huge benefit for Alaska for that small dollar amount.

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CHAIR GIESSEL asked when the joint land use council went away.

MR. HUTCHISON replied the joint land use council between the federal and state governments and the regional Native corporations went away in 1990, 10 years after ANILCA.

SENATOR COGHILL said there was a strong disagreement between the governor who was not getting information from the federal government at that point, although there is probably more to the story. But significant issues have been identified that need to be dealt with because someone from Indiana, for instance, has the same standing on an Alaska issue as an Alaskan resident. So, the state is trying to elevate its voice with the federal agencies.

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CHAIR GIESSEL asked committee members if they had any possible amendments to this resolution and noted that a longer version wasn't moving on the House side. Consequently, she asked the sponsor if they could condense it to a shorter version, and that is how they arrived at this document with Senator Coghill's assistance.

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CHAIR GIESSEL, finding no committee comments, opened public comment. Finding no comments, she closed public testimony.

SENATOR MEYER asked if the Laundry House supports this.

SENATOR COGHILL answered yes.

SENATOR COGHILL moved to report SR 9, version 30-LS1541\A, from committee with individual recommendations and attached zero fiscal note(s). There were no objections and it was so ordered.

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CHAIR GIESSEL adjourned the Senate Resources Standing Committee at 3:59 p.m.