

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

January 29, 2020

1:09 p.m.

MEMBERS PRESENT

Representative John Lincoln, Co-Chair
Representative Geran Tarr, Co-Chair
Representative Grier Hopkins, Vice Chair
Representative Sara Hannan
Representative Chris Tuck
Representative Ivy Spohnholz
Representative Dave Talerico

MEMBERS ABSENT

Representative George Rauscher
Representative Sara Rasmussen

COMMITTEE CALENDAR

PRESENTATION(S): DEPARTMENT OF NATURAL RESOURCES

- HEARD

PRESENTATION(S): DEPARTMENT OF ENVIRONMENTAL CONSERVATION

- HEARD

HOUSE BILL NO. 27

"An Act relating to the manufacture, sale, distribution, and labeling of child-related products containing certain flame retardant chemicals; relating to an interstate chemicals clearinghouse; adding unlawful acts to the Alaska Unfair Trade Practices and Consumer Protection Act; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

CORRI FEIGE, Commissioner

Department of Natural Resources
Anchorage, Alaska

POSITION STATEMENT: Provided a PowerPoint presentation entitled, "Department of Natural Resources Overview," dated 1/29/20, and answered questions.

JASON BRUNE, Commissioner
Department of Environmental Conservation
Juneau, Alaska

POSITION STATEMENT: Provided a PowerPoint presentation entitled, "DEC in 2019: A year in review," dated [1/29/20], and answered questions.

CHRISTINA CARPENTER, Director
Division of Environmental Health
Department of Environmental Conservation
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the presentation by the Department of Environmental Conservation.

ACTION NARRATIVE

[1:09:55 PM](#)

CO-CHAIR JOHN LINCOLN called the House Resources Standing Committee meeting to order at 1:09 p.m. Representatives Tuck, Hannan, Talerico, Tarr, and Lincoln were present at the call to order. Representatives Spohnholz and Hopkins arrived as the meeting was in progress.

PRESENTATION(S): DEPARTMENT OF NATURAL RESOURCES

[1:10:50 PM](#)

CO-CHAIR LINCOLN announced the first order of business would be a presentation by the Department of Natural Resources.

[1:11:03 PM](#)

CORRI FEIGE, Commissioner, Department of Natural Resources (DNR), presented a PowerPoint presentation entitled, "Department of Natural Resources Overview," beginning with the Division of Agriculture. Commissioner Feige reminded the committee [the majority of the Division of Agriculture's budget was vetoed by Governor Dunleavy on June 28, 2019, and subsequently restored by a reversal of the veto]. Therefore, DNR sought in 2019 to rebuild a more efficient DOA to better serve the agribusiness

community in Alaska, by providing services the government should provide, and allowing agribusiness to move forward. Accomplishments for DOA during 2019 included identifying and responding to Elodea outbreaks in Big Lake and Mat-Su lakes. After the outbreak occurred, permits to apply Elodea inoculant were quickly issued by the Department of Environmental Conservation (DEC), and DOA responded to the outbreak within 24 hours so that Elodea under the lake ice will die during the winter.

REPRESENTATIVE HOPKINS asked how the Elodea inoculant is used.

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COMMISSIONER FEIGE recalled chemical application to eradicate Elodea has been used by the state since 2016-2017; however, Elodea spreads very rapidly, which requires a quick response, and applications during the winter and in the spring will increase efficacy of the chemical. In further response to Representative Hopkins, she offered to provide specific information on the location, efficacy, and use of various chemicals used to eradicate Elodea. Commissioner Feige cautioned Elodea erodes fish habitat thus DNR has worked with the Alaska Department of Fish and Game (ADFG) to repopulate fish populations that have been killed along with the Elodea.

REPRESENTATIVE HANNAN observed the pilot hemp crop was destroyed [during the summer of 2019] and asked for the status of hemp regulations and a future pilot hemp project.

COMMISSIONER FEIGE assured the committee hemp regulations and the industrial hemp program were revived after the aforementioned 2019 DOA [budget] veto was reversed. She stated the timeline for the development of hemp regulations was set by Senate Bill 6 [passed in the Thirtieth Alaska State Legislature]; the regulations are now in final legal review and the industrial hemp program will be underway within weeks. She added national regulations related to industrial hemp have undergone changes thus DNR seeks to ensure state regulations are in alignment with federal law. Commissioner Feige continued, noting the [Alaska Grown \$5 Challenge campaign] awarded its "Golden Carrot" award to the Fred Meyer store in Palmer for selling more Alaska grown produce than any other major retailer (slides 2 and 3).

COMMISSIONER FEIGE turned attention to the Division of Forestry (DOF), noting Alaska had a record fire year, but in addition to

wildfire management, DOF is responsible for forest management and development. The rejuvenation of the commercial timber industry is a high priority for the administration; however, the industry recently has been hampered by the lack of U.S. Forest Service, U.S. Department of Agriculture, timber sales. In 2019, there were 31 commercial timber sales that generated \$2.3 million in state revenue; in addition, there was a Good Neighbor Authority sale in Vallenar Bay for 16 million board feet of timber. She pointed out the biggest challenge to the Alaska timber industry is a 20 percent log tariff on spruce logs exported to China. Currently, there is proposed legislation that would modify [AS 38.05.118 Negotiated Sales.] in order to expand an export market for timber sales. Returning to wildland fire management, she said in 2019, there were 742 wildland fires that consumed nearly 2.6 million acres statewide; however, 3,800 structures were protected, as were lands valued at nearly \$1 billion. She urged Alaskans to "firewise" their property and related DOF is seeking federal funds to establish more fire fuel breaks that have stopped fires such as the [Shovel Creek fire near Fairbanks ignited 6/21/19] (slide 4).

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REPRESENTATIVE SPOHNHOLZ acknowledged the work accomplished by DOF and firefighters; she described the smoke in Anchorage that caused stress for residents with health issues and asked whether health issues have brought changes to wildfire management response.

COMMISSIONER FEIGE related the [Swan Lake fire near Sterling ignited 6/5/19] was managed in partnership with federal agencies; the state holds "initial attack responsibilities," and she advised first methods of containment are discussed with federal partners and take into consideration weather forecasts, loss of revenue to businesses, and health impacts. This is an ongoing discussion between the state and federal partners.

REPRESENTATIVE SPOHNHOLZ questioned how the state would impress a different approach upon the federal government.

COMMISSIONER FEIGE said DOF has suggested any lightening-strike fires in standing black spruce that begin before the first of June should be suppressed because they become dormant in the duff above the soil and reignite.

REPRESENTATIVE SPOHNHOLZ supported DOF's efforts in this regard.

REPRESENTATIVE HOPKINS said the Shovel Creek fire was near his house and the [existing] firebreak was critical to stopping the fire. During the fire, he heard from constituents that information on the fire was difficult for residents to access and urged that, in the future, the department provide information to local communications networks such as social media.

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COMMISSIONER FEIGE agreed.

REPRESENTATIVE HOPKINS also cautioned, during the fire, local municipalities and firefighting organizations did not know how to identify locations to be evacuated in terms that were recognized by residents.

REPRESENTATIVE HANNAN returned attention to slide 4 and asked for the meaning of Good Neighbor Authority (GNA), and if the GNA timber sale was included in the \$2.3 million in revenue generated by timber sales.

COMMISSIONER FEIGE explained GNA sales are state sales of lands neighboring U.S. Forest Service lands and the Vallenar Bay sale was included in the total revenue from commercial timber sales. She continued to the Division of Geological and Geophysical Surveys (DGGS), noting DGGS is involved in every aspect of resource development, public safety, and geologic and community hazards. For example, DGGS completed 1,900 square miles of mapping to support mineral exploration related to sourcing critical and strategic minerals in Alaska to reduce imports from China. In support of energy resources, DGGS mapped Brookian plays on the North Slope and hosted industry tours. The Alaska Geospatial Council, DGGS, DNR, completed infrared [synthetic-aperture] radar (IFSAR) and distributed data for use in the construction of powerlines, road corridors, and other major infrastructure (slide 5). In 2019 DGGS: continued assessing sand and gravel in support of the Arctic Slope Transportation and Resources (ASTAR) project and initiated a statewide snow avalanche hazard assessment for public safety; provided 1.15 million data and publication files of geologic information to interested parties of the mining and energy industries; upgraded 30 monitoring stations on eight volcanos and completed the geologic hazard assessment at the Atka Island [Korovin] volcanic complex; the Geologic Materials Center (GMC), DGGS, DNR, hosted over 1,400 visits and core viewings and provided tours to industry, government officials and international officials; the

replacement value of materials held at GMC is estimated at over \$37 billion (slide 6). Slide 7 listed DGGs activities planned in 2020.

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COMMISSIONER FEIGE informed the committee the Division of Mining, Land and Water (DMLW) manages over 160 million acres and its responsibilities include land acquisition, land planning, land conveyance, permitting, and stewardship (slide 8). Highlights for DMLW in fiscal year 2019 (FY 19) are: generated \$26.5 million in revenues through authorizations for use of state lands and waters by royalty payments and land sales; conveyed nearly 3,000 acres of municipal entitlement land; acquired more than 101,000 acres of new high-priority statehood entitlement lands; issued preliminary and final decisions for the Donlin Gold project; authorized 65 miles of ice roads, 144 miles of snow roads, and 62 acres of ice pads on the North Slope (slide 9).

CO-CHAIR LINCOLN asked how the disposal of public land is reported.

COMMISSIONER FEIGE said each calendar year DMLW issues a report on the land sales program, how state lands are sold, and the selection process; in fact, DMLW is focused on clearing land to provide access so land can be made available for sale to Alaskans. She continued to the Division of Oil and Gas (DOG), noting DOG conducts lease sales, collects royalties, authorizes oil and gas activities, and provides commercial analyses, economic modeling financial risk assessments, and audits (slide 10). Slide 11 listed DOG activities in 2019.

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COMMISSIONER FEIGE provided an update on the BP and Hilcorp Energy Co. transaction: in October 2019, the state began a review of the transaction announced in August 2019; the transaction is a transfer to Hilcorp of BP Alaska's upstream and midstream assets valued at approximately \$5.6 billion. Activities since December 2019 are: Hilcorp/Harvest Midstream [Hilcorp midstream company] restructure, completed in January 2020, in preparation for the transfer of BP's midstream pipeline assets to Harvest; on 1/9/20, the organizational meeting of the Governor's Oversight Committee (GOC) was held. The committee is composed of the commissioners of DNR, DEC, ADFG, the Department of Labor & Workforce Development, the Department of Commerce,

Community & Economic Development, the Department of Law, and the Department of Revenue, and was formed to monitor the transaction and share pertinent information in a public setting. The oversight committee organized at its first meeting and is expected to hold a public meeting in March [2020]; the committee is working with Hilcorp and BP on financial stress testing related to Hilcorp's financial capacity to manage the assets it seeks to acquire. Further related to the transaction, DNR has published a frequently asked questions (FAQ) website located on the DOG homepage with the capacity to generate automatic notification emails to interested parties. Lastly, she said the Regulatory Commission of Alaska (RCA) will hold a public hearing 2/4/20 on the midstream transaction (slide 12).

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CO-CHAIR LINCOLN expressed his understanding the North Slope fields that supply the pipeline are leased from the state to BP Exploration (Alaska) Inc. (BPXA). He remarked:

I guess there's some confusion in terms of the lease agreements [that are] being transferred from BP to Hilcorp, or if Hilcorp is basically acquiring the [limited liability company (LLC)] that is the lessee with the state. I'm just wondering if ... there's been any sort of new thinking or a different understanding of, of that arrangement, and what role the state plays in ... transferring the leases, or not.

COMMISSIONER FEIGE said the aforementioned issue falls within DNR's statutory responsibility; she agreed the transaction is an asset sale and a stock transfer because BPXA will be transferred and will become a subsidiary of Hilcorp. Regarding the state leases, she said DNR must approve all of the lease transfers prior to the approval of [the BP/Hilcorp transaction]. She further explained:

... there is a fundamental change of control and it's with that control that we monitor things like financial assurance for [dismantlement, removal and restoration (DR&R)], all of implications that come with that, and there's ... the bulk of the protection of the ... state's interest and Alaskans' interests that are carried in that piece. ... That is part of the due diligence that we're doing, we have the latitude at DNR to adjust our basic lease transfer

form ... to account for the structure of whatever the deal is that's before us There's a lot of land and legal work in that that's part of the due diligence to make sure that we capture everything ... and nothing falls through and gets dropped.

CO-CHAIR LINCOLN observed a company sets up an LLC specifically to limit its liability related to business activities; he expressed his concern that if the state is leasing to a subsidiary such as BPXA, the state may not be assured that if the LLC becomes financially unviable, the owners of the LLC will ultimately be responsible for the cleanup of the company's activities on the North Slope.

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COMMISSIONER FEIGE was unsure whether BPXA is an LLC or an S corporation; however, the interest of Alaska is protected by financial assurance agreements that utilize joint and several liability, which allow the state to hold the original leaseholder liable. In the case of [the BP/Hilcorp] transaction, the parent company, BP, has agreed to maintain joint and several liability for all of the leases included in said transaction.

CO-CHAIR TARR cautioned another catastrophe such as the [4/20/10 Deepwater Horizon oil spill in the Gulf of Mexico] may render the parent company, BP, financially unsound.

COMMISSIONER FEIGE responded:

The way we cover that is the, the financial assurance agreements that we're putting in place, those are contracts, so they're different animals by law. And they're not static documents, these are living documents, and the way DNR handles our financial assurance agreements for DR&R, or whatever else we happen to be bonding for, those are revisited ... on a three- to five-year basis, ... so we're checking in on a regular basis with the financial health of that entity and we're adjusting those bonds. So, it's a combination of not only necessarily a parent guaranty ... but there's actual cash attached as well

CO-CHAIR TARR asked whether the meetings of the Governor's Oversight Committee will be announced.

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COMMISSIONER FEIGE said GOC meetings will be publicly noticed, posted online, and open to the public. She continued to the Division of Parks and Outdoor Recreation (DPOR), noting 2020 is the 50th anniversary year of Alaska state parks. Highlights in 2019 were: 61 percent of DPOR operations were self-funded through fees such as reservations for public use cabins; DPOR issued 695 commercial permits, 286 special permits, and over 80 active and pending grants; a new public use cabin was opened in Chena River State Recreation Area; the Office of Boating Safety held 410 classes, 106 pool sessions, and reached almost 16,000 youth to continue its commitment to improve boating safety for kids and adults in Alaska (slide 13). The Office of Project Management and Permitting (OPMP) represents the state's interest with federal agencies during federal program reviews; in 2019, OPMP coordinated the state's comments on 38 plan reviews; in fact, the OPMP model to coordinate comments and permits on large development projects functions as a coordinator between federal and state agencies to prevent lags in project timelines. She explained timelines for federal permits are not codified thus the office is necessary to prevent lag and delay; in addition, OPMP serves to de-risk regulation for industry (slide 14). Slide 15 listed OPMP activities in 2019.

CO-CHAIR LINCOLN recalled previous testimony by oil and gas consultants and the mining industry that the development timeline for projects in Alaska is much longer than in other jurisdictions; although some conditions are endemic to Alaska, he asked about steps the state or the legislature could immediately take to expedite permitting.

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COMMISSIONER FEIGE advised federal permits such as environmental impact statements (EISs) take the longest, which has led the federal government to propose reforms to the National Environmental Policy Act of 1969 (NEPA). She gave an example of an EIS required by NEPA that was 10,000 pages long, cost \$15 million, and lengthened the permitting timeline by years. Speaking from her previous experience, Commissioner Feige noted the timeline to obtain an EIS is 36-48 months. She urged members to contact the federal government during the NEPA reform comment period and request streamlining of the NEPA process. She related Governor Dunleavy requested Fixing America's Surface Transportation Act (FAST Act) 41 status for the aforementioned critical and strategic minerals exploration so there will be a

codified timeline. Finally, she encouraged the use of OPMP to aid in permitting processes.

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COMMISSIONER FEIGE continued to the Support Services Division which successfully closed the recorder's offices in Juneau and Palmer, without decreasing revenue (slide 16). Finally, the Trust Land Office (TLO) generated \$10.6 million to fund Alaska Mental Health Trust Authority programs which support 85,000 beneficiaries across the state; for example, TLO sold 2.9 million board feet of timber in the Naukati timber sale to Viking Lumber, and sold the three-acre Juneau Support parcel for \$20 million (slide 17). Slide 18 listed TLO initiatives and activities in 2020. Turning attention to activities in the commissioner's office, Commissioner Feige noted in 2019, the commissioner's office team adjudicated 52 administrative appeals and established the Future Leadership Summit program to ensure there is a future professional workforce within DNR (slide 19).

CO-CHAIR TARR said she is discouraged by the continued elimination of positions within the Division of Agriculture; she pointed out the state's agriculture industry has an opportunity for economic growth from \$100 million to \$2 billion. She has heard of the division's reorganization and adjusted fees; however, the future of DOA programs, such as Alaska Grown, is unclear. Alaska needs to diversify its economy and develop other industries; she suggested if a fraction of what was spent on the oil and gas industry were to be spent on another industry, there could be great potential.

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COMMISSIONER FEIGE offered to update the committee because DNR has fully reconstituted DOA; positions have been restored and restructured to better support growth in the agriculture industry. She stated the Alaska Grown program is "alive and well," and DOA plans to support the program through fees in order to reduce reliance upon unrestricted general funds (UGF). She said she has met with the Board of Agriculture and Conservation (board) to discuss new initiatives and programs to grow the agricultural sector in Alaska and to connect the industry with international markets. Further, the board discussed how to protect Alaska growers from the importation of products that are free from inspections. Commissioner Feige acknowledged DOA was challenged by filling positions that were

lost prior to the reversal of the FY 20 veto of Division of Agriculture funds.

CO-CHAIR TARR stressed the value of agriculture to rural communities, tourism, and health.

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The committee took an at-ease from 2:02 p.m. to 2:06 p.m.

PRESENTATION(S): DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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CO-CHAIR LINCOLN announced the final order of business would be a presentation by the Department of Environmental Conservation.

[2:06:54 PM](#)

JASON BRUNE, Commissioner, Department of Environmental Conservation (DEC), provided a PowerPoint presentation entitled, "DEC in 2019: A year in review," dated [1/29/20]. Slide 2 stated DEC's mission: Conserving, improving, and protecting Alaska's natural resources and environment to enhance the health, safety, economic, and social well-being of Alaskans. He said to protect human health and the environment, DEC oversees air quality, water quality, environmental health, and spill prevention and response (slide 3). Commissioner Brune informed the committee the leadership team at DEC represents over 125 years of state service and is comprised of highly respected experts in their fields (slide 4). He paraphrased from slide 5 which read:

DEC Employees Matter

Predictable, timely, science-based, legally defensible permits require experienced and knowledgeable staff

- Improve retention rate: DEC currently has a 21 percent annual turnover rate...Why?
- Exit Interviews
- Evaluations-bringing private sector experience to DEC
- 25 percent of employees weren't current (quickly became current by end of January!)
- Evaluations are required to be done at different times of the year based on hire date

- Create individual development plans
- Evaluate employees based on metrics, not seat time
- Develop departmental, division, program, and individual goals on an annual basis (same time)
- Develop DEC's values

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COMMISSIONER BRUNE further explained, to address DEC's high employee turnover rate, he implemented exit interviews, brought employee evaluations current, and scheduled team evaluations. In addition, during a strategic planning session, DEC developed goals for programs and for individuals, decided to create individual development plans and provide training and advancement opportunities, emphasized improving the recruitment and retention of employees, and developed DEC values. He opined DEC's values of customer service, accountability, integrity, collaboration, and objectivity are the core of a science-based organization such as DEC (slide 6). Commissioner Brune said the result of significant budget cuts in the last five to six years is that the department must incorporate technology to improve efficiency and reduce costs; for example, cell phones can be used to complete remote inspections to save costs and further partnerships with the regulated community, and DEC staff will research using drones to gather information. Other methods to incorporate technology include providing vital information to the public on the DEC website and using software programs (slide 7). He turned to the topic of air quality, noting DEC has been collecting ambient air data in certain communities for 25 years to ensure compliance with national ambient air standards that are established by the U.S. Environmental Protection Agency (EPA). In Alaska, the primary pollutants are particulate matter and carbon monoxide; he pointed out the graph on slide 8 indicates an upward trend of unhealthy days for sensitive groups, which is explained by the installation in 2012 of a new monitoring station in North Pole. Most of the unhealthy days occur in Fairbanks from man-made pollution.

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REPRESENTATIVE HOPKINS returned attention to slide 7 and asked from where most of the Freedom of Information Act (FOIA) records requests to DEC originate.

COMMISSIONER BRUNE observed he receives FOIA records requests related to his schedule, per- and polyfluoroalkyl substances (PFAS), fine particulate matter (PM2.5) and residents who burn

on curtailment days, mining projects, and almost every other issue. He restated the importance of posting public information online.

REPRESENTATIVE SPOHNHOLZ questioned when 2019 air quality data will be available.

COMMISSIONER BRUNE said he will provide 2019 data when it is available.

REPRESENTATIVE HANNAN pointed out the graph on slide 8 indicates there was no natural pollution in 2016.

COMMISSIONER BRUNE surmised because unhealthy days are based on the proximity [of an event such as a fire] to the monitoring station, unhealthy days in certain locations may not be reported by monitoring stations. In further response to Representative Hannan, he said other events that create natural air pollution are volcanos and high winds that blow glacier silt.

REPRESENTATIVE HOPKINS asked whether stations monitor for dust in rural Alaska.

COMMISSIONER BRUNE said no; at times monitoring stations are installed during construction or projects, but he expressed his belief there are no permanent stations located in rural Alaska.

REPRESENTATIVE TUCK asked whether there are monitoring stations [to detect] nuclear threats.

COMMISSIONER BRUNE informed the committee DEC monitors [Fukushima Daiichi Nuclear Power Plant] radiation levels in fish from an environmental health perspective, but not air quality.

REPRESENTATIVE TUCK expressed his concern about the long-term effects of plastics into the food supply of fish and subsequently into human food supply; he asked whether there is data in this regard.

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COMMISSIONER BRUNE said the quality of Alaska fish has not been impacted by Fukushima radiation; however, the state does not test for plastics [in fish]. He continued to the issue of Fairbanks air quality and recalled in 2018, [the Home Heating Reclamation Act was passed by Fairbanks North Star Borough (FNSB) voters prohibiting FNSB from regulating home heating],

thus the responsibility was transferred to DEC. On very cold days, Fairbanks and North Pole have the worst air quality in the U.S. due to home heating by use of woodburning appliances; in fact, area residents must choose between breathing clean air and keeping warm. However, the state has a responsibility to protect human health or lose federal highway funding. Commissioner Brune stated he met with officials and held public hearings in Fairbanks; in December 2019, DEC submitted a Serious Statewide Implementation Plan and recently received a completeness notice from EPA. He said, "And we are on a pathway to having clean air once again in Fairbanks within the next decade, things will be, this issue will be addressed." He said DEC staff, residents, and policymakers have worked to bring all parties together to find a local solution to the problem. Further, he urged for research into electrostatic precipitator (ESP) technology, which could allow residents to burn [wood] on curtailment days (slide 9).

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REPRESENTATIVE HOPKINS acknowledged DEC's efforts of outreach and to ensure that large scale point sources are not economically limited by DEC proposals. He remarked:

EPA has said we won't be losing federal highway funds, ... [that EPA] will be able to protect the economics of the state is, is really good to hear because that has been a concern for ... a little over ten years now. ... I was very disappointed to hear that we are relying on a 5 percent improvement - year by year by year - with a destination of ten years out to reach attainment. Many people in my community ... and people across the city of Fairbanks don't agree with the people that it sounds like you worked closely with, whether it was former Representative [Tammie] Wilson or Mr. Mike Prax, who are two advocates for continuing to burn whatever you need to stay warm and while that is key, there are ... financial ways, there are incentives to keep people off of using many of the very old solid fuel heating systems which is the woodstoves and coal burn apparatuses that we have. ... I don't know where your communications were with Clean Air Fairbanks or ... with people who didn't share the same view on the problem ... There has been some desire to have more legal teeth for [DEC] ... to come down with stronger civil and potentially criminal actions against people if they continue to neglect the

fact that their waste from their house flows onto their neighbor's house and impacts their health. ... We have very stringent rules for septic systems that [keep] pollution on your property, and this is something that is very similar, in my view, to that issue. So, I'd like to hear who else you worked with in Fairbanks and what collaboration points you had with them outside of just Ms. Wilson and Mr. Prax on this issue.

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COMMISSIONER BRUNE said he met with all the "point source folks, ... the clean air folks, the wood-burners, the, the FEDCO - the Fairbanks Economic Development Corporation - the [Greater Fairbanks Chamber of Commerce]," and others to hear all perspectives. He remarked:

The big impact was obviously from wood-burners, but we are required when you're putting a statewide implementation plan, a serious step forward, to address the point source folks ... We have decreased the sulfur content of the coal that is going to be burned from 0.4 percent to .25 percent; there are other requirements that certain entities are going to have for using diesel one versus diesel two ... especially on curtailment days. The curtailment levels went down so there will likely be more curtailment days

COMMISSIONER BRUNE continued to explain DEC provides No Other Adequate Source of Heat (NOASH) waivers and has limits on burning [wet] wood and on those who sell [wet] wood. Regarding enforcement, he stressed the importance of educating new military personnel. After a violation, DEC's first contact is a letter and homes and businesses are visited by local residents. However, DEC is authorized to address a third violation with civil action if warranted.

REPRESENTATIVE HOPKINS pointed out Fairbanks will have waited 20 years for healthy air during the period from 2009-2029; he urged for stronger efforts such as woodstove changeouts.

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COMMISSIONER BRUNE agreed with the importance of woodstove changeouts. He turned attention to slide 10 and reminded the

committee that past efforts of the regulated industry to transfer primacy on permitting projects in Alaska from federal to state agencies were successful, so the Alaska Pollutant Discharge Elimination Systems (APDES) program holds primacy over the National Pollutant Discharge Elimination System (NDPES) to permit major industry in Alaska. In 2019, DEC did not pass EPA's five year review [that is required because of DEC's oversight of NDPES water compliance and enforcement] due to staff deficiencies and insufficient travel funds, threatening Alaska's primacy over NPDES; in response, DEC reassigned three positions and obtained federal authority to fund four new positions and travel funds. Although EPA recommended eleven additional positions, DEC has seven new inspectors in place. Further, he informed EPA inspectors they are not to announce enforcement actions on industries for which DEC is responsible.

REPRESENTATIVE HANNAN asked for the source of the additional funds to increase staffing and travel funds.

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COMMISSIONER BRUNE explained DEC had approximately \$600,000 in unused federal authority which was released through the Legislative Budget and Audit Committee process; the same amount of increased federal authority is now in the [FY 21] budget.

REPRESENTATIVE HANNAN recalled legislators anticipated that the prior 50 percent across-the-board reductions in program recommendations for travel would affect the state's ability [to conduct inspections]; she asked whether DEC has requested the restoration of travel funds specifically for monitoring and inspections in FY 21.

COMMISSIONER BRUNE acknowledged because travel authority was decreased, DEC seeks to use technology for efficiencies with its reduced budget. However, DEC is authorized to make transfers within divisions to accommodate for additional travel and will do so when necessary.

CO-CHAIR TARR asked for additional information related to the aforementioned reassignments, for example, who is doing [reassigned staff's] previous work.

COMMISSIONER BRUNE surmised staff were reassigned from duties related to data collection for the Southeast "baseline water studies" and offered to provide more information in this regard.

REPRESENTATIVE SPOHNHOLZ questioned why only seven positions were filled if EPA recommended eleven new positions.

COMMISSIONER BRUNE said DEC will assess its needs for additional staff next year. Slide 11 listed three projects of interest:

- Palmer is a [mine exploration] project near Haines related to a pending U.S. Supreme Court [groundwater hydrologic connection] case on whether the connectivity of ground water to surface water would require NPDES permits; DEC is awaiting the results of a dye test to determine if there is connectivity
- Pebble is an example of the Dunleavy Administration's focus to create a fair and predictable permitting process for all projects and DEC and the Trump Administration worked to withdraw the EPA 404(c) determination
- Ambler project has had EPA 404(q) determination withdrawn

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REPRESENTATIVE HANNAN asked when the [Palmer] dye test was conducted.

COMMISSIONER BRUNE said the dye test was conducted "within the last couple of months" and DEC is awaiting the results.

REPRESENTATIVE HANNAN pointed out her constituents in Haines want to ensure that the water test was conducted during a normal fall rainy season rather than during a colder period; she asked for the level of hydrology at the time of the test.

COMMISSIONER BRUNE said:

My understanding is that the test was done before the snow fell. I don't know, I didn't get into the minutiae of all that detail but I do know that that was obviously a consideration and if there was no connectivity, sometimes it takes months to show connectivity, so they'll obviously continue to look to see if that dye shows up, if it didn't.

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CO-CHAIR TARR, on behalf of her constituents, expressed concern about the governor using [Pebble Project] documents to develop

[the Dunleavy Administration's] position and advocate for the company, as evidenced by DEC's participation in the withdrawal [of the EPA 404(c) determination]. She remarked:

And certainly, it's been highly politicized, but this is an issue that came up in your confirmation because people have concerns about your connection and previous employment history I hope we're not, as a regulatory agency, ... getting the talking points from the company because there needs to be some distance between those two groups.

COMMISSIONER BRUNE responded:

I can assure you that this effort originated in the governor's office, not through DEC, but I can also assure you that that predictability of a fair permitting process matters to the investment community and as we have been submitting comments from DEC to OPMP, who coordinates the state's permitting process on Pebble, I have done everything in my power to ensure that my team is not, I'm not editing anything that they send. ... Companies that want to develop projects in Alaska need to meet our high standards, no one is better than Alaska at protecting the environment

COMMISSIONER BRUNE directed attention to slide 12 and restated Alaska's high environmental standards need to apply to all. Cruise ships are allowed to discharge up to 40 fecal coliform bacteria in 100 milliliters of water and some communities are allowed to discharge up to 1.5 million fecal coliform bacteria in 100 milliliters of water; for example, beach closures in Ketchikan are due to a [Clean Water Act] Section 301(h) waiver which allows the discharge of up to 1.5 million fecal coliform bacteria. He urged that communities should also be held to the higher standard.

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REPRESENTATIVE HANNAN asked whether DEC has taken action to assist communities so they can comply with the higher standard of water quality.

COMMISSIONER BRUNE pointed out many communities have [Clean Water Act Section 301(h)] waivers that are issued by EPA, not DEC. However, DEC proposes to use money from the [Commercial

Passenger Vessel Environmental Compliance Program], known as the Ocean Ranger program, to upgrade community wastewater treatment plants. The program will be similar to the Village Safe Water program, Division of Water, DEC, in which communities can apply for low interest loans, grants, and loan forgiveness. He restated DEC will regulate the cruise ship industry like other industry by moving the monitoring of cruise ship air pollution to the Division of Air Quality. Over 12 years, the Ocean Ranger program has reported one violation per year; a "revamp" of the Ocean Ranger program will consist of early season inspections for every ship, incorporating technology into monitoring, upgrading shore-based [wastewater] treatment, and more inspections by DEC staff in port and as ships are underway (slide 13).

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REPRESENTATIVE TUCK opined cruise ships have higher standards because the location and contents of discharges from cruise ships are unknown; this differs with discharges from stationary treatment plants, which can be monitored. He agreed standards for water quality from water treatment plants should be higher, and existing oversight and standards should not be reduced.

COMMISSIONER BRUNE stressed DEC is not reducing standards; inspections and enforcement and compliance on the cruise ship industry will continue, but not by Ocean Rangers. He noted nefarious activities may not be witnessed by an onboard Ocean Ranger and cruise ships have a corporate social responsibility to protect Alaska and its environment. In fact, most violations by the cruise ship industry are self-reported.

REPRESENTATIVE TUCK pointed out DEC is reducing oversight and expressed regret at the loss of the presence of the Ocean Rangers.

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COMMISSIONER BRUNE advised most regulated facilities in Alaska are inspected once per year, in fact, the foundation of the Clean Water Act is self-monitoring and self-reporting. Further, Ocean Rangers lacked authority and DEC staff will be making early season inspections of each boat.

REPRESENTATIVE HANNAN stated her constituency demands adequate monitoring. She asked what the commissioner has proposed to make inspections more effective and that will make timely

changes to the existing statute that requires inspections by Ocean Rangers.

COMMISSIONER BRUNE offered to provide a draft [of forthcoming legislation].

CO-CHAIR TARR recalled Carnival Cruise Line was recently fined \$20 million for dumping in Alaska waters. She cautioned not having a replacement program in place is poor planning, and further remarked:

I just want to express some frustration with this administration that continually pounds its fist about following the statute and listening to the people. And I find that highly offensive, that this is something that was voted on by the people, and supported by the people, and without any consistency in that position you're just taking away the voice of the people. ... You're a representative of this administration and those two things are in conflict with each other.

CO-CHAIR TARR estimated the funding supporting the Ocean Ranger program is approximately \$4 million [per year]. From her research, improving water quality in local communities would require spending billions of dollars to upgrade infrastructure, thus \$4 million would "do nothing." She surmised the funding suggested by Commissioner Brune for upgrades is unavailable and would not be spent for the purpose that voters intended. Co-Chair Tarr said, "And then the actual purpose that the voters of Alaska said they wanted, which was to have oversight on these boats, is being eliminated without them having the opportunity to weigh-in, unlike other items where the governor has proposed we should put it back on the ballot for Alaskans to weigh-in"

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The committee took a brief at-ease.

COMMISSIONER BRUNE explained [Ballot Measure 2, the Commercial Passenger Vessel Excise Tax, approved by voters on 8/22/06] is an existing law that should be reviewed by the legislature and the administration to ensure it is current and that it protects the environment, and that the money assessed [per passenger] is used in an appropriate way; the revamped program will improve the environment and regulate the cruise ship industry as other

industries are regulated. He acknowledged upgrading the Anchorage Water and Wastewater Utility (AWWU) plants from primary to tertiary treatment will cost in the billions of dollars; however, he has been told some communities in Southeast can be upgraded for estimates ranging from \$5 million up to \$30 million, and he said his proposal is not meant to pay for everything, but will lead to solutions.

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COMMISSIONER BRUNE turned attention to proposed legislation addressing Tier 3 water bodies. Previous DEC policy established that any Tier 3 nomination requires the passage of legislation to designate a Tier 3 water body; he advised proposed SB 51 and HB 138 codify the aforementioned DEC nomination process and vest the power of designation with the legislature. He cautioned DEC's policy can be changed by a future commissioner and opined the executive branch should not oversee the designation of Tier 3 water bodies, but DEC should provide guidance to the legislature. He said DEC supports HB 138; however, should HB 138 not pass, DEC will follow the existing process (slide 14). Turning to the Division of Environmental Health (DEH), he observed quick action by the division to issue pesticide permits is required to successfully respond to invasive species outbreaks such as Elodea (slide 15). In addition, on a statewide basis - with the exception of Anchorage - DEH provides food safety inspections; complaints about restaurants can be submitted by calling 907/764-YUCK (slide 16).

REPRESENTATIVE HANNAN asked for the number of food safety inspector positions.

COMMISSIONER BRUNE said due to limited travel budgets, DEC seeks in the future to combine inspections in rural Alaska; for example, utilizing "rainbow people" to inspect water and restaurants. There are fewer than 20 inspector positions.

REPRESENTATIVE TUCK asked whether there are fees charged for inspections.

COMMISSIONER BRUNE said inspection fees are included in annual permit fees.

REPRESENTATIVE TUCK questioned whether fees cover the cost of required tests.

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CHRISTINA CARPENTER, Director, Division of Environmental Health (DEH), DEC, informed the committee since FY 16, as a result of UGF budget reductions, the Food Safety and Sanitation Program has eliminated positions and prioritized its workload according to funding sources; for example, a federal contract from the U.S. Food and Drug Administration (FDA) pays to complete manufactured food inspections, many of which take place in coastal communities, or communities with fish processing facilities. Thus, while the division is conducting the federal inspections, it seeks to leverage federal funds by also completing retail food inspections of school kitchens or other facilities under DEH jurisdiction. Further, the division has raised its fees; the remaining funding available for the Food Safety and Sanitation Program consists of federal funds, fees, and a small amount of UGF.

REPRESENTATIVE TUCK surmised the fees are collected from businesses and questioned how often routine inspections are scheduled.

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MS. CARPENTER offered to provide a schedule of inspections. She clarified fish testing is under the purview of the Office of the State Veterinarian (OSV), DEH, DEC; samples for testing by OSV are collected by food safety inspectors and are also provided by stakeholders. The testing is currently funded by the Ocean Ranger program, Division of Water, DEC; DEH tests fish tissue for mercury, and other metals, and samples are sent out for further analysis.

CO-CHAIR LINCOLN inquired as to whether DEC determines which stocks will be tested and for what contaminants.

MS. CARPENTER explained DEH has a sampling process in place and much of its testing is based upon opportunistic sampling; for example, OSV has a great relationship with the stakeholders and other state agencies that provide samples. Twenty years ago, most testing focused on mercury and other metals; currently, however, additional contaminants of concern are analyzed. In addition, the division maintains a library of samples for comparison.

REPRESENTATIVE TUCK asked whether fees are charged [to test] the water quality of communities' or individuals' wells.

MS. CARPENTER advised DEC regulates public water systems that supply more than 25 people or have more than 15 service connections; testing of public water systems is funded by the federal Safe Drinking Water Act administered by EPA. Private wells are not regulated, and testing is not required by DEC.

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REPRESENTATIVE TUCK questioned whether private water systems are regulated by EPA.

MS. CARPENTER was unaware of [federal regulations].

COMMISSIONER BRUNE continued to slide 17: FDA requires DEC to test milk, in order to receive Grade A status, and to test for toxins in shellfish. However, in FY 21, DEC seeks to eliminate the dairy [testing] program due to the "current fiscal climate." Testing of shellfish is currently paid by the cruise ship industry; also in FY 21, DEC proposes that one-half of the cost of testing will be paid by UGF and one-half by fees to the shellfish industry. In order to prevent another oil spill disaster, the Division of Spill Prevention and Response (SPAR), regularly inspects drilling entities (slide 18). Further, DEC is undertaking a contingency plan (C-Plan) scoping project to garner opinions about the C-Plan process from the regulated industry, environmental organizations, and regional citizens' advisory councils. All comments on the project will be posted to the DEC website through the comment period ending 3/16/20 (slide 19). In response to Representative Tuck, he said C-Plans fall under of purview of SPAR.

COMMISSIONER BRUNE informed the committee SPAR is funded by the Oil and Hazardous Substance Release Prevention and Response Fund that collects five cents per barrel of oil produced - four cents for the prevention account and one cent for the response account - and a 0.9 cent per gallon refined fuel tax. As the growth of the fund is insufficient to sustain SPAR into the future, the division has reduced staff by seven positions and seeks other means of funding (slide 20). Also in 2019, DEC and the Cook Inlet Regional Citizens Advisory Council (CIRCAC) worked to assess the aging Cook Inlet pipeline infrastructure; a final report will be issued in spring, 2020 (slide 21). In an effort to reduce public exposure to contaminants, in 2019 DEC cleaned up 106 contaminated sites. He noted a previous contaminated site in Ward Cove has been approved for use as a cruise ship dock (slide 22).

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COMMISSIONER BRUNE said in response to PFAS (contamination) in Alaska, DEC is working with the Department of Transportation and Public Facilities and the Department of Health and Social Services to research sites, especially at state airports where aqueous film-forming foam (AFFF) concentrates have been used. The Federal Aviation Administration (FAA), U.S. Department of Transportation, requires AFFF to be stationed at airports - and tested annually - which has led to the contamination of residents' nearby water wells. The prior state administration tested for six PFAS chemicals, however, DEC is currently testing for eighteen PFAS chemicals; testing data is posted to the DEC website (slide 23). He pointed out DEC has issued the first air permit in the U.S. to test the efficacy of incinerating PFAS contaminated soils; in fact, the preliminary results show 99.99 percent of PFAS chemicals are destroyed in the process, and additional studies are forthcoming (slide 23). Finally, he described efforts to increase DEC's public outreach (slide 25).

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ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:20 p.m.