

**ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES**

March 28, 2023

10:01 a.m.

MEMBERS PRESENT

Representative Sarah Vance, Chair
Representative Kevin McCabe
Representative Ben Carpenter
Representative Craig Johnson
Representative Louise Stutes
Representative Rebecca Himschoot

MEMBERS ABSENT

Representative CJ McCormick

COMMITTEE CALENDAR

HOUSE BILL NO. 95

"An Act relating to designation of state water as outstanding national resource water; and providing for an effective date."

- MOVED HB 95 OUT OF COMMITTEE

OVERVIEW: THE AUTHORITY AND MANAGEMENT OF ALASKA'S FISHERIES

- HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 95

SHORT TITLE: NATL. RES. WATER NOMINATION/DESIGNATION

SPONSOR(S): REPRESENTATIVE(S) RAUSCHER

03/06/23	(H)	READ THE FIRST TIME - REFERRALS
03/06/23	(H)	FSH, RES
03/23/23	(H)	FSH AT 10:00 AM GRUENBERG 120
03/23/23	(H)	Heard & Held
03/23/23	(H)	MINUTE (FSH)
03/28/23	(H)	FSH AT 10:00 AM GRUENBERG 120

WITNESS REGISTER

AARON BRAKEL, Inside Passage Waters Program Manager
Southeast Alaska Conservation Council

Juneau, Alaska

POSITION STATEMENT: Provided public testimony in support of HB 95.

MARIO BENASSI, representing self

Haines, Alaska

POSITION STATEMENT: Provided public testimony in opposition to HB 95.

REPRESENTATIVE GEORGE RAUSCHER

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: As prime sponsor, spoke to HB 95.

ART NELSON, Executive Director

Alaska Board of Fisheries

Alaska Department of Fish and Game

Anchorage, Alaska

POSITION STATEMENT: Gave a PowerPoint presentation, titled "Alaska Department of Fish and Game, Alaska Board of Fisheries, Process Overview."

DOUG VINCENT-LANG, Commissioner

Alaska Department of Fish and Game

Juneau, Alaska

POSITION STATEMENT: Responded to questions from the committee.

ACTION NARRATIVE

[10:01:00 AM](#)

CHAIR SARAH VANCE called the House Special Committee on Fisheries meeting to order at 10:01 a.m. Representatives Vance, McCabe, Johnson, Stutes, and Himschoot were present at the call to order. Representative Carpenter arrived as the meeting was in progress.

HB 95-NATL. RES. WATER NOMINATION/DESIGNATION

[10:01:57 AM](#)

CHAIR VANCE announced that the first order of business would be HOUSE BILL NO. 95, "An Act relating to designation of state water as outstanding national resource water; and providing for an effective date."

CHAIR VANCE opened public testimony on HB 95.

[10:02:31 AM](#)

AARON BRACKEL, Inside Passage Waters Program Manager, Southeast Alaska Conservation Council (SEACC), stated that SEACC is Southeast Alaska's regional conservation organization, working for 50 years to protect the clean water and the "natural bounty" of the region. He expressed support for HB 95 and the legislative political process for designating Outstanding Natural Resource Waters (ONWR), as long as there is a transparent, science-based process which incorporates public participation and a clear timeline for decisions. He stated that SEACC supports an administrative ONWR designation process by the Alaska Department of Environmental Conservation (DEC) with a specific deadline. He further suggested that SEACC would support a yearly update from DEC on the progress of nominations.

[10:05:47 AM](#)

MARIO BENASSI, representing self, urged the committee not to make the decision on the waters a political decision. He expressed the opinion that DEC is licensing "polluters" in Tier I and Tier II waters, and he argued it would do the same for the unpolluted waters in Tier III. He continued that the decision should be in the hands of the people with expertise rather than making it a "political football to kick down the road." He said any river in Alaska could be targeted by the extraction industry; however, he argued that the rivers should remain "sacred" as the Native communities have held them historically.

CHAIR VANCE, after ascertaining that there was no one else who wished to testify, closed public testimony.

[10:08:32 AM](#)

REPRESENTATIVE HIMSCHOOT moved to adopt Amendment 1 to HB 95, labeled, 33-LS0524\A.3, Bullard, 3/25/23, which read as follows:

Page 1, line 7:
Delete "only"
Insert "by the department or"

Page 1, line 9, following "by":
Insert "the department or by"

Page 1, following line 10:
Insert new material to read:

"(c) A person may request that the department designate certain water of the state as outstanding national resource water by submitting a nomination to the department. The nomination must include

- (1) a detailed description of the water;
- (2) relevant water quality data to the extent that it is available;
- (3) the reason the water is being nominated, including information on the water's archaeological, cultural, scientific, or recreational significance;
- (4) whether the water is in or adjacent to a park, monument, refuge, fish and game critical habitat area, or other protected area;
- (5) a summary of stakeholder and community support for designation of the water as outstanding national resource water; and
- (6) other information supporting the nomination.

(d) Within 60 days after receiving a nomination under (c) of this section, the department shall determine whether the nomination contains the required information. If the department determines that a nomination is incomplete, the department shall notify the person who submitted the nomination in writing and identify the information still required by the department. A person notified under this subsection may resubmit the nomination with the information required by the department.

(e) If the department determines that a nomination includes all information required under (c) of this section, the department shall consider the nomination complete. Once the department determines that a nomination is complete, the department shall

- (1) provide public notice of the nomination within 60 days by
 - (A) posting notice of the determination on the Alaska Online Public Notice System (AS 44.62.175);
 - (B) making a copy of the nomination available on the department's Internet website; and
 - (C) providing a copy of the nomination and the notice to adjacent landowners and the Department of Natural Resources;
- (2) provide at least 60, but not more than 120, days for public comment;
- (3) hold at least one public hearing during the public comment period; the department shall give

reasonable public notice of the time, date, and place of each public hearing at least 30 days before the hearing; and

(4) consult with the Department of Fish and Game, federally recognized tribes in the area where the water is located, and relevant federal land managers.

(f) The department shall make a final decision in writing of whether to designate water as outstanding national resource water within 180 days after the end of the public comment period under (e) of this section. The department shall provide public notice of the decision.

(g) When considering whether water shall be designated as outstanding national resource water under (f) of this section, the department shall consider whether

(1) the water is habitat for fish or other wildlife;

(2) the water has recreational value;

(3) endangered fish or other wildlife are present in the water;

(4) the water or a portion of the water is in or adjacent to a park, monument, refuge, fish and game critical habitat area, or another protected area;

(5) the water is of exceptional quality;

(6) the water is of significant archaeological, cultural, or scientific importance;

(7) the water provides special educational opportunities;

(8) the water contains unique aquatic habitat.

(h) A person aggrieved by a final decision of the department under (f) of this section may, within 90 days after notice of the final decision, request an adjudicatory hearing under AS 44.62.330 - 44.62.630.

* **Sec. 2.** AS 46.03.880(b) is amended to read:

(b) Notwithstanding AS 44.62.330(a)(25), except for a hearing under AS 46.03.085(h), adjudicatory hearing procedures to review permit decisions under this chapter need not conform to AS 44.62.330 - 44.62.630 (Administrative Procedure Act)."

Renumber the following bill section accordingly.

REPRESENTATIVE MCCABE objected.

REPRESENTATIVE HIMSCHOOT explained that the amendment would do three things: create the option for a DEC path as well as a legislative path; lay out what a nominator would have to provide in terms of science and rationale; and outline a clear process for the department to follow. She argued that there are a number of states which provide for a Tier III designation. She stated that the amendment would allow the nominator to choose a legislative or an administrative pathway. She expressed concern that some people may have wanted to use a legislative pathway but have not been able to. She pointed out that there has been concern a legislative pathway could result in litigation; however, she argued that either path could lead to litigation if the process is not specific enough. She expressed the opinion there should be two pathways to Tier III water usage, and the process [to create a Tier III pathway] has taken too long.

[10:12:03 AM](#)

REPRESENTATIVE STUTES reminded the committee of the previous discussion which related that if a waterway is designated Tier III through the legislative process, a proposal to change the waterway from Tier III back to Tier II would have to go back through the legislature. She questioned whether a DEC determination would be treated similarly.

REPRESENTATIVE HIMSCHOOT responded that in other states with only an administrative pathway, regulations are set for how to designate and how to un-designate Tier III waterways.

REPRESENTATIVE MCCABE maintained his objection.

[10:13:16 AM](#)

A roll call vote was taken. Representatives Stutes and Himschoot voted in favor of the adoption of Amendment 1 to HB 95, and Representatives McCabe, Vance, Carpenter, Johnson, and Vance voted against it. Therefore, Amendment 1 failed by a vote of 4 to 2.

[10:15:00 AM](#)

REPRESENTATIVE HIMSCHOOT moved Amendment 2, labeled 33-LS0524\A.2, Bullard, 3/24/23, which read as follows:

Page 1, line 7:
Delete "only"
Insert "by the department or"

Page 1, line 9, following "by":
Insert "the department or by"

Page 1, following line 10:

Insert a new subsection to read:

"(c) A person may request that the department designate certain water of the state as outstanding national resource water by submitting a nomination to the department. The nomination must include

- (1) a detailed description of the water;
- (2) relevant water quality data to the extent that it is available;
- (3) the reason the water is being nominated, including information on the water's archaeological, cultural, scientific, or recreational significance;
- (4) whether the water is in or adjacent to a park, monument, refuge, fish and game critical habitat area, or other protected area;
- (5) a summary of stakeholder and community support for designation of the water as outstanding national resource water; and
- (6) other information supporting the nomination."

REPRESENTATIVE HIMSCHOOT stated Amendment 2 is shorter than Amendment 3; however, it would essentially do the same thing by allowing the DEC pathway. She added that Amendment 2 would tighten the language.

[10:15:39 AM](#)

REPRESENTATIVE CARPENTER commented that Amendment 2 appeared to be a major departure from the intent of HB 95. He expressed the opinion that this would require more discussion; therefore, at this point he is not in support of the amendment.

[10:17:01 AM](#)

CHAIR VANCE asked Representative Himschoot to describe the difference between Amendment 1 and Amendment 2.

REPRESENTATIVE HIMSCHOOT explained that basically the amendments are the same; however, the section which outlines the process for DEC is removed from Amendment 2. She added that it still allows the choice of a legislative pathway or an administrative

pathway for an organization, entity, or a tribe, as well as specifying the information a nominator would need to provide in seeking the approval for a Tier III waterway, with DEC setting the regulatory pathway.

[10:19:02 AM](#)

REPRESENTATIVE CARPENTER pointed out that HB 95 would already provide a process for someone to bring forward a nomination through the legislature. He questioned the value of having two different nomination processes.

[10:19:57 AM](#)

REPRESENTATIVE HIMSCHOOT explained that she came from an area where waterways are important to the way of life, so she would like the nominators to have the option of an administrative process. In response to a follow-up question, she said in theory DEC would follow the regulations which had been set forth for each nomination.

[10:20:57 AM](#)

REPRESENTATIVE STUTES asked whether the amendment would enable a nominator to go to the legislature, if a nominator is rejected by DEC.

[10:21:17 AM](#)

REPRESENTATIVE HIMSCHOOT replied that a nominator could choose one and then choose the other. She clarified that these petitions would not be concurrent.

[10:21:39 AM](#)

REPRESENTATIVE JOHNSON expressed the belief that the stewardship of the resources in the state belongs in the hands of the legislature, as laid out in the state constitution. He voiced opposition to the amendment.

[10:22:22 AM](#)

REPRESENTATIVE CARPENTER said Alaska has a strong history of legislative responsibility in the management of resources. The legislature delegates resource management to various boards comprised of citizens of the state. The amendment would be delegating this responsibility to the executive branch, through

DEC, rather than management by the people. He argued that this amendment would be a departure from how things have been done in the past.

[10:22:59 AM](#)

REPRESENTATIVE MCCABE voiced his concern about various departments being able to promulgate regulations without statute, and the mandate is for the legislature, not the departments, to manage resources. Having two pathways inherently would make the process political, and he voiced opposition to the amendment.

[10:23:40 AM](#)

REPRESENTATIVE MCCABE maintained his objection.

A roll call vote was taken. Representatives Stutes and Himschoot voted in favor of the adoption of Amendment 2 to HB 95, and Representatives McCabe, Carpenter, Johnson, and Vance voted against it. Therefore, Amendment 2 failed by a vote of 4 to 2.

[10:24:19 AM](#)

REPRESENTATIVE HIMSCHOOT withdrew Amendment 3.

CHAIR VANCE expressed concern about creating two nomination processes. She compared the decisions involved in the Tier III nominations to the legislature's role in designating park lands.

[10:25:57 AM](#)

REPRESENTATIVE GEORGE RAUSCHER, Alaska State Legislature, as prime sponsor, spoke to HB 95. Responding to the concerns voiced by some committee members, he expressed the belief that the proposed legislation would make the Tier III process move faster. Speaking to the concerns about politicizing the process, he made the point that every four years there could be a change in the administration; therefore, there would be a change in commissioners and directors. He argued that this would be more of a political system than the legislature, because the committee process in the legislature involves in-depth discussion, which creates a level of scrutiny from legislators. He voiced the opinion that the legislators are dedicated to the protection of wildlife, fisheries, and water,

adding that the legislators are elected by people with these same values.

[10:28:35 AM](#)

REPRESENTATIVE STUTES pointed out that moving through the legislature is not always a rapid process. She reminded the committee that a committee chair can stop the progress of a bill, despite hopes for expediency.

[10:29:13 AM](#)

REPRESENTATIVE HIMSCHOOT thanked the committee for considering the amendments.

[10:29:53 AM](#)

REPRESENTATIVE MCCABE moved to report HB 95 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 95 was reported from the House Special Committee on Fisheries.

[10:30:17 AM](#)

The committee took an at-ease from 10:30 a.m. to 10:32 a.m.

OVERVIEW: The Authority and Management of Alaska's Fisheries

[10:32:54 AM](#)

CHAIR VANCE announced the final order of business would be an overview of the authority and management of Alaska's fisheries.

[10:33:09 AM](#)

ART NELSON, Executive Director, Alaska Board of Fisheries, Alaska Department of Fish and Game (ADF&G), gave a PowerPoint presentation, titled "Alaska Department of Fish and Game, Alaska Board of Fisheries, Process Overview" [hard copy included in the committee packet]. He explained that the presentation would cover the function and formation of the Board of Fisheries, as outlined on slide 2.

MR. NELSON moved to slide 3, which addressed the main function of the Alaska Board of Fisheries ("board"). He described the board as the third element of Alaska's fisheries management model. He stated that board members are appointed by the

governor and confirmed by the legislature. These members represent a broad array of fishing groups and other interests. He explained that in resolving fishery disputes, the board takes the politically charged issue of allocation away from fishery managers and politicians. He advised that the separation of allocation and conservation decisions is critical for achieving sustainable fisheries in the state and elsewhere.

MR. NELSON continued to slide 4, which addressed the board's composition. He stated that the Board of Fisheries is composed of seven members appointed by the governor and subject to confirmation by the legislature in joint session. He stated that members must be residents of the state and appointed without regard to political affiliation or geographical location of residence. The governor is directed to make appointments based on appointees' interest in public affairs, good judgment, knowledge, and ability in the field of action of the board, and with a view to providing diversity of interest and points of view in the membership. He added that members are appointed for a three-year term, beginning on July 1.

[10:35:14 AM](#)

MR. NELSON described how proposals are presented to the board. He noted that there is a call for proposals for the next Board of Fisheries meeting, and these proposals would be under discussion for the following four to six months. He pointed out the major steps in the proposal process on slide 5. This included call for proposals, distribution of proposals, the public review and comment process, board regulatory meetings, and implementation.

[10:36:25 AM](#)

MR. NELSON, in response to a question from Chair Vance concerning whether a decision by the Board of Fish or the Board of Game could be reversed, expressed uncertainty and said that he would follow up to the committee.

[10:37:17 AM](#)

REPRESENTATIVE MCCABE questioned whether seats on the board should be designated as subsistence, sports, or commercial seats. He expressed the opinion that a seat should be occupied by a person relevant to the situation.

[10:38:23 AM](#)

MR. NELSON responded that this is within the purview of the legislature. He then pointed out how situations are not always clear cut, and people often cross back and forth between commercial, sport, and subsistence.

REPRESENTATIVE MCCABE commented that, if a person is assigned to a sport or commercial seat, the person should be expected to support this fishery. He pointed out this has always been a contentious issue.

[10:41:04 AM](#)

CHAIR VANCE acknowledged these concerns. She referenced the statute pointed out by Mr. Nelson which relates that board members should come from diverse backgrounds, professions, and geographical areas but should still represent all Alaskans. She pointed out that a good board member will bring diversity of interests along with different points of view.

[10:42:55 AM](#)

MR. NELSON, moving to slide 6, addressed the board's 3-year meeting cycle, pointing out the timeframe for different areas and species.

[10:43:50 AM](#)

REPRESENTATIVE STUTES questioned why meetings always seemed to be held during fishing season. She questioned whether there has been an attempt to set meeting times which work for the people who are fishing and suggested the board reach out to the user groups.

[10:44:15 AM](#)

MR. NELSON responded that the timing of meetings is very complex and expressed difficulty finding a time which is good for everyone; however, he stated that the board would continue to look for the best solution.

[10:45:30 AM](#)

MR. NELSON provided the committee with information regarding when the dates are set and how to access this information on the website. He also encouraged everyone to take advantage of the opportunity for public comment.

[10:46:12 AM](#)

REPRESENTATIVE STUTES asserted that the meeting times need to be dependable. She said, for example, a meeting had been set in Ketchikan but was moved to Anchorage, exempting two thirds of the user group.

[10:46:54 AM](#)

CHAIR VANCE responded that a few years ago a meeting had been shifted to Anchorage for budgetary reasons, and then she referenced the effects of the COVID-19 pandemic. She asked whether these issues have been corrected.

[10:47:22 AM](#)

MR. NELSON agreed that the pandemic disrupted the meeting schedules, but the meetings are now back on cycle. He offered that he has been working to get meetings to the smaller communities. He moved to slide 7, which outlined the proposal process. He said the board typically receives 200 to 400 proposals a year, concerning everything from bag limits, season dates, to overhauls of the fishery management plan. He stated that proposals can be submitted online, by mail, or by fax.

MR. NELSON moved to slide 8, which showed the number of proposals and where they originated, including individuals, associations and companies, tribal governments and organizations, ADF&G, the Division of Alaska Wildlife Troopers, local fish and game advisory committees, and regional advisory councils.

[10:51:03 AM](#)

MR. NELSON moved to slide 9, which addressed the board regulatory meetings. He said the board holds 3 to 5 meetings a year, with each meeting lasting from 2 to 14 days, totaling 25 to 40 meeting days a year. He pointed out on the slide the typical agenda for board meetings, which includes introductions, ethics disclosures, ADF&G staff reports, oral public testimonies, deliberation on proposals, and miscellaneous business.

[10:52:18 AM](#)

REPRESENTATIVE STUTES questioned what happens during conflicts of interest, such as when a person chooses not to disclose a conflict, even if the conflict is commonly known.

MR NELSON, in response, explained the issue should be brought to the attention of the board's chair, as the chair is the designated ethics supervisor; furthermore, the chair's ruling is made in consultation with a representative from the Department of Law (DOL). He added that the chair's ruling could be challenged by the entire board. He explained that the meetings were open to the public except for executive sessions. He added that the meetings are streamed live and recorded.

[10:54:49 AM](#)

MR NELSON, in response to Chair Vance, stated that how people can contribute at the meetings would be addressed in a later slide. In response to a follow-up question, explained that one of the most common reasons the board would go into executive session is for pending litigation or personnel matters. Before the board goes into executive session, a motion is made giving a general reason for the session, without giving details.

[10:56:59 AM](#)

REPRESENTATIVE HIMSCHOOT asked whether the board operates under Robert's Rules of Order.

MR NELSON responded that the board generally follows Robert's Rules of Order, but it would not confine itself to the letter.

[10:58:00 AM](#)

MR. NELSON moved to slide 10, which addressed proposal outcomes. The slide displayed a summary of the board's actions on proposals from meetings. He said about a third of the proposals are adopted by the board as written or as amended. He proceeded to slide 11, which addresses sources of public input, which include: the general public, local governments, tribal groups, village councils, fishery groups, industry groups, and local fish and game advisory committees. He added that there are 84 of these fish and game advisory committees in the state.

[10:59:54 AM](#)

MR. NELSON, in response to a question from Chair Vance concerning his role as director, expressed the desire to "keep

the train on the tracks," manage staff, keep the meetings organized, and have an open transparent process for public engagement. In response to a follow-up question, he explained that the board has returned to in-person testimony. He stated that the board would accept electronically submitted comments ahead of time, and written comments can also be submitted while the meeting is in progress.

[11:02:40 AM](#)

MR. NELSON moved to slide 12, which outlines the 84 local ADF&G advisory committees. This includes 23 committees in Southeast, 18 committees in Southcentral, 12 committees in Southwest, 16 committees in the Interior, 9 committees in the Arctic, and 6 committees in Western Alaska. He mentioned that people sometimes attend meetings for more than one region. He stated that most advisory committees have between 9 to 15 members, with meetings from 1 to 6 times a year.

[11:04:22 AM](#)

REPRESENTATIVE HIMSCHOOT questioned the funding for the board.

MR. NELSON explained that all the advisory committee representatives are unpaid volunteers, with the state paying for travel in some cases. In response to a follow-up question, he stated that the paid travel would vary, depending on the location of the advisory committee and the travel logistics. He gave some examples from different communities.

[11:06:54 AM](#)

MR. NELSON, in response to a question from Chair Vance, stated that meetings are held by teleconference. He emphasized the importance of holding at least one in-person meeting each year. He added that sometimes band width limits the ability of communities to participate by teleconference.

[11:07:30 AM](#)

MR. NELSON, moving to slide 13, stated that the sources of agency input are the commercial, sport, and subsistence divisions of ADF&G, DOL, the Division of Alaska Wildlife Troopers, and the Commercial Fisheries Entry Commission. The federal sources of agency input are the North Pacific Fishery Management Council (NPFMC) and the Office of Subsistence Management.

[11:08:19 AM](#)

MR. NELSON, moving to slide 14, addressed the board's legal and policy considerations. He stated that the legal parameters the board must abide by are the Alaska State Constitution, Alaska Statutes, board regulations and policies, court rulings, and international treaties. Concerning the "sustained yield" principle, he pointed out a quote from the Alaska State Constitution on slide 15, which read as follows [original punctuation provided]:

Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses (Article 8, Section 4)

MR. NELSON observed that Alaskans are fortunate because the authors of the state constitution included the sustained yield principle, which supersedes other interests and has a unifying effect. He also quoted Article 8, Section 2, of the constitution, which specifies that Alaska resources be developed for the maximum benefit of the people. He proceeded to slide 16 and slide 17, which addressed the Alaska Statutes. The slides read as follows [original punctuation provided]:

Board of Fisheries Authority
(AS 16.05.221; AS 16.05.251)
"Conservation and Development"

Powers and Duties of the Commissioner
(AS 16.05.050)

Alaska Administrative Procedures Act
(AS 44.62)

Open Meetings Act (AS 44.62.310)

Executive Branch Ethics Act (AS 39.52)

Allocation Criteria (AS 16.05.251(e) and #91-129-FB),
including -

- history of each fishery
- number of participants

- importance for personal and family consumption
- availability of alternative resources
- importance in local, regional, and state economy
- importance for providing recreational opportunity

Management of Wild and Enhanced Stocks (AS 16.05.730)

State Subsistence Law (AS 16.05.258)

MR. NELSON moved to slide 18, which addressed subsistence uses. He pointed out the specific steps taken to ensure priority is given for subsistence harvest opportunity and the benchmarks for reviewing the adequacy of regulations on a year-to-year basis. He stated that amounts vary depending on the location and the type of species. For example, some amounts are determined per pound, some by number, and some by number of specific species.

[11:13:07 AM](#)

REPRESENTATIVE STUTES commented that subsistence fishery seems to be "after the fact" and question its regulation.

MR. NELSON responded that this would be a question for area managers, as they have past seasonal experience.

REPRESENTATIVE STUTES followed up with a question about personal limits for subsistence.

[11:14:50 AM](#)

DOUG VINCENT-LANG, Commissioner, ADF&G, in response, explained that subsistence regulations are different from sport and personal-use regulations. Subsistence use is community based on allowances made for community members to harvest for other members of the community. Subsistence fishing is more typically done with a fish wheel, beach seine, gillnet, and community sharing, so an individual bag limit is not applicable. In response to a follow-up comment concerning boxes of subsistence fish leaving the state, he said it is illegal to sell subsistence fish; however, the fish can be shared with other individuals. He added that people can also take sport or

personal-use fish out of state. He advised that the board has tried to set limits on how many subsistence fish can be sent out of state.

COMMISSIONER VINCENT-LANG, in response to Chair Vance, reiterated that Alaskans can share subsistence resources with family members, and this includes those who are out of state. He added that he has not heard very much discussion about transport of subsistence fish out of state.

[11:17:45 AM](#)

REPRESENTATIVE MCCABE questioned the delay in subsistence data, as compared with how quickly commercial and sports fish are counted.

COMMISSIONER VINCENT-LANG alluded to the differences between subsistence fishing and other fisheries, especially concerning the community sharing aspect. He said that different methods of counting subsistence catches have been tried, but these are very costly programs. He added that community surveys seem to be more successful.

[11:19:38 AM](#)

CHAIR VANCE asked whether dip netting is considered subsistence fishing.

COMMISSIONER VINCENT-LANG responded that dip nets on the Yukon River can be used for subsistence fishing, while on the Kasilof, Kenai, and Copper Rivers dip nets are mostly for personal-use fishing, although there is a portion of the Copper River which has subsistence fishing. He added that personal use fishing has different reporting requirements.

[11:20:31 AM](#)

REPRESENTATIVE CARPENTER asked whether boxes of fish lined up at the airport can be marked and identified as personal or subsistence. He also questioned whether personal-use fish can be shipped out of state.

COMMISSIONER VINCENT-LANG explained that an enforcement officer could check to see if the person has a personal-use permit. A person with subsistence-caught fish might not have a permit with them, as the regulations are different. He said that personal-use fish can be transported out of state, but most personal-use

fish are kept in state for food security and home pack. He stated that these uses were observed by the Food Security Task Force.

[11:22:26 AM](#)

REPRESENTATIVE STUTES asked whether personal-use fish takes are reported immediately.

COMMISSIONER VINCENT-LANG responded that these numbers are reported after the fact; however, using a cell phone application for reporting on the Kenai River is being explored. He added this area has good cell phone coverage, while other places have poor cell phone coverage. In response to a follow-up question, he stated that the reporting of personal-use fish is mostly post-season reporting, but it varies depending on the species. He advised that if a permit holder fails to report, the individual would be denied a license for the next year.

[11:23:57 AM](#)

CHAIR VANCE commented on her family's personal-use permit and filling out the post card for reporting. She expressed interest in the phone application.

REPRESENTATIVE STUTES expressed the opinion that it would be difficult to manage a fishery for sustainable yield using after-the-fact reporting.

REPRESENTATIVE MCCABE questioned past discussions concerning filling out guide reports on cell phones.

CHAIR VANCE responded that the discussions had regarded the saltwater logbook program, which is very different. She asked for an update concerning the personal-use cell phone application.

COMMISSIONER VINCENT-LANG said that ADF&G does have a cell phone application for reporting harvests, including big game; however, not everyone has a cell phone, so ADF&G would need to provide another mechanism for those who do not have cell phones for reporting.

[11:27:49 AM](#)

REPRESENTATIVE CARPENTER asked whether a date has been chosen for using the application.

COMMISSIONER VINCENT-LANG responded that the application is in progress, and user groups are being consulted with.

CHAIR VANCE, regarding subsistence concerns and the bycatch issue, questioned NPFMC's interface with the Alaska Board of Fisheries and ADF&G.

COMMISSIONER VINCENT-LANG responded that the board and NPFMC have a joint protocol committee where some of the issues which cross jurisdictions are tackled. He described some of these common concerns. In response to a follow-up question concerning bycatch, he stated that a bycatch task force was created by the governor, and its work was completed last December. He expressed the opinion that these matters are important enough to warrant creating a subgroup of the board to keep current with the issues. In response to a follow-up question, he explained that the task force was advisory in nature, and he has looked to it for advice on implementation and the recommendations.

[11:32:06 AM](#)

MR. NELSON, addressing the earlier question concerning transporting subsistence fish out of state, explained that some areas of the state do not have limits on subsistence fish. He recommended that proposals be taken to the board with specific concerns. He suggested that interested parties submit proposals to local ADF&G staff. He advised that a proposal could be accepted, but there may not be a budget or enforcement or monitoring for it.

MR. NELSON continued the presentation with slide 19, which addressed the board's regulations and policies. These include Sustainable Salmon Fisheries Policy, in 5 AAC 39.222; Escapement Goal Policy in 5 AAC 39.223; Mixed Stock Salmon Fisheries in 5 AAC 39.220 and #93-145-FB, and Emerging Fisheries in 5 AAC 39.210). He referred to the ADF&G website.

MR. NELSON moved to slide 20 and discussed the procedures for out-of-cycle actions. He stated that the Board of Fisheries Agenda Change Request Policy, under 5 AAC 39.999, allows for out-of-cycle action for conservation purposes, correction of errors, unforeseen effects, not predominantly allocative, and coordination with federal agencies, programs, and laws. He stated that the Joint Board Emergency Petition Policy, under 5 AAC 96.625(f), allows for out-of-cycle action for unforeseen events threatening resources or unforeseen situations which

would preclude biologically allowable resource harvest. He stated that the Subsistence Proposal Policy, under 5 AAC 96.615(a), allows for out-of-cycle action for fish and game populations not previously considered and for an expedited review, if required. Under 5 AAC 39.998, Category 2 measures in BS/AI King/Tanner crab fishery allows for out-of-cycle action for achieving consistency with the federal fisheries management plan.

MR. NELSON continued to slide 21 and addressed ways for interested parties to get involved. Some suggestions included getting on the board's mailing list, submitting proposals or submitting written comments on proposals, attending board meetings and presenting testimony, joining or attending local fish and game advisory committees, or joining an industry or stakeholder group.

[11:37:33 AM](#)

MR. NELSON moved to slide 22, which reviewed some points for individuals to consider when submitting proposals. The list included to be respectful of the people and process, provide facts to support opinions and new information, be objective, and avoid adversarial debates. In conclusion he reminded the committee that the board has a credible, structured process, which involves a high level of public participation. He added that the board members put in extensive time and hard work.

[11:40:27 AM](#)

CHAIR VANCE questioned the process of appointing someone to the board.

MR. NELSON explained that the process begins with the individual expressing interest to the governor and the Office of Boards and Commissions. This will put the individual's name on the list to be considered. He expressed the opinion that it is a good idea for the individual to have others who support his/her candidacy contact the governor, and then the governor's nominees are presented to the legislature for confirmation.

[11:42:04 AM](#)

REPRESENTATIVE HIMSCHOOT commented that the Board of Fisheries and the Board of Education has set regulations for the entire state. Comparing the two boards, she complemented the Board of Fisheries on its exceptional level of engagement.

[11:42:38 AM](#)

REPRESENTATIVE CARPENTER questioned the public process based on population centers. He reviewed the number of advisory committees and the population distribution. He questioned why there are fewer meetings in Anchorage compared to other places in the state. He questioned whether analyses have been done regarding population distribution versus board meeting locations.

MR. NELSON responded that the advisory committees were established by the joint boards. He explained that if people are interested in changing the structure of the advisory boards, they can submit proposals. He gave some examples of changes which had been made in the past through this process. He expressed readiness to make inquiries about this question. In response to a follow-up question, he stated that he would be able to have a response to the question quickly.

[11:47:33 AM](#)

CHAIR VANCE commented that many times ex officio members of the legislature have sat on various boards. She asked whether this is ever a consideration for the Board of Fisheries and the Board of Game.

[11:47:52 AM](#)

MR. NELSON responded that state statute requires the Commissioner of Fish and Game be an ex officio of the Board of Fisheries. He expressed uncertainty concerning whether legislators have served as ex officio members.

CHAIR VANCE reiterated Representative Carpenter's concern about everyone having an equal voice in the public process. She expressed the concern that everyone should feel they have an equal opportunity to give input.

[11:49:47 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 11:49 a.m.