

**ALASKA STATE LEGISLATURE**  
**SENATE RESOURCES STANDING COMMITTEE**

February 28, 2024

3:31 p.m.

**MEMBERS PRESENT**

Senator Click Bishop, Co-Chair  
Senator Cathy Giessel, Co-Chair  
Senator Bill Wielechowski, Vice Chair  
Senator Scott Kawasaki  
Senator Forrest Dunbar  
Senator Matt Claman

**MEMBERS ABSENT**

Senator James Kaufman

**COMMITTEE CALENDAR**

SENATE BILL NO. 220

"An Act relating to the Regulatory Commission of Alaska and regulation of the service of natural gas storage."

- HEARD & HELD

SENATE BILL NO. 243

"An Act relating to the board of directors of the Alaska Energy Authority."

- HEARD & HELD

OVERVIEW: AIDEA

- HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 220

SHORT TITLE: RCA REGULATE NATURAL GAS STORAGE FACILITY

SPONSOR(S): SENATOR(S) GIESEL

02/08/24	(S)	READ THE FIRST TIME - REFERRALS
02/08/24	(S)	RES, L&C
02/19/24	(S)	RES AT 3:30 PM BUTROVICH 205
02/19/24	(S)	Heard & Held

02/19/24 (S) MINUTE (RES)  
02/23/24 (S) RES AT 3:30 PM BUTROVICH 205  
02/23/24 (S) Heard & Held  
02/23/24 (S) MINUTE (RES)  
02/28/24 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 243

SHORT TITLE: ALASKA ENERGY AUTHORITY GOVERNANCE

SPONSOR(s): RESOURCES

02/19/24 (S) READ THE FIRST TIME - REFERRALS  
02/19/24 (S) RES, FIN  
02/26/24 (S) RES AT 3:30 PM BUTROVICH 205  
02/26/24 (S) Heard & Held  
02/26/24 (S) MINUTE (RES)  
02/28/24 (S) RES AT 3:30 PM BUTROVICH 205

#### **WITNESS REGISTER**

RANDY RUARO, Executive Director  
Alaska Industrial Development and Export Authority (AIDEA)  
Anchorage, Alaska

**POSITION STATEMENT:** Presented an AIDEA update.

BRANDON BREFCZYNSKI, Deputy Director  
Alaska Industrial Development and Export Authority (AIDEA)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions about AIDEA.

#### **ACTION NARRATIVE**

[3:31:01 PM](#)

**CO-CHAIR CLICK BISHOP** called the Senate Resources Standing Committee meeting to order at 3:31 p.m. Present at the call to order were Senators Wielechowski, Kawasaki, Dunbar, Claman, Co-Chair Giessel, and Co-Chair Bishop.

^#sb220

#### **SB 220-RCA REGULATE NATURAL GAS STORAGE FACILITY**

[3:31:57 PM](#)

CO-CHAIR BISHOP announced the consideration of SENATE BILL NO. 220 "An Act relating to the Regulatory Commission of Alaska and regulation of the service of natural gas storage."

[3:32:09 PM](#)

SENATOR GIESSEL moved to adopt Amendment 1, work order 33-LS1180\A.1, to SB 220.

[Original punctuation provided.]

33-LS1180\A.1  
Nauman  
2/20/24

**AMENDMENT 1**

Page 1, line 2, following "**storage**":  
Insert "**; and providing for an effective date**"

Page 3, following line 2:  
Insert a new bill section to read:  
"**\* Sec. 5.** This Act takes effect immediately under AS  
01.10.070(c)."

[3:32:24 PM](#)

CO-CHAIR BISHOP objected for purposes of discussion.

[3:32:50 PM](#)

CO-CHAIR BISHOP found no further objection and Amendment 1, work order 33-LS1180\A.1, was adopted.

[3:32:57 PM](#)

CO-CHAIR BISHOP held SB 220, as amended, in committee.

#

^#sb243

**SB 243-ALASKA ENERGY AUTHORITY GOVERNANCE**

[3:33:01 PM](#)

CO-CHAIR BISHOP announced the consideration of SENATE BILL NO. 243 "An Act relating to the board of directors of the Alaska Energy Authority."

[3:33:15 PM](#)

CO-CHAIR BISHOP opened public testimony on SB 243; finding none, he closed public testimony.

[3:33:48 PM](#)

CO-CHAIR BISHOP held SB 243 in committee.

#

^Presentation: AIDEA Update

**PRESENTATION: AIDEA UPDATE**

[3:33:53 PM](#)

CO-CHAIR BISHOP announced the consideration of an update from AIDEA.

[3:34:15 PM](#)

RANDY RUARO, Executive Director, Alaska Industrial Development and Export Authority (AIDEA), Anchorage, Alaska, presented an overview of AIDEA.

[3:34:33 PM](#)

MR. RUARO moved to slide 2 and described AIDEA's mission:

[Original punctuation provided.]

## **ABOUT AIDEA**

### **Mission**

Our mission is to "promote, develop, and advance the creation of jobs and economic development in Alaska by providing various means of financing and investment."  
(AS 44.88.010)

The legislature made the creation of jobs and economic development AIDEA's mission because "unemployment is a serious menace to the health, safety, and general welfare to the people in rural Alaska and in the entire state."

Taking care of the "health, security, and general welfare" of Alaskans is a constitutional duty under Art. 7, sec. 4 of the Alaska Constitution as is the development of Alaska's resources. Art. 8, sec. 1.

MR. RUARO said the legislature acknowledged decades ago that unemployment poses a serious health risk, particularly in rural areas. He said he is conducting background research focusing on youth, graduating seniors, and others in Alaska communities. He stated that he was previously a special assistant and recounted conversations with rural youth in Alaska aimed at understanding the root causes of these challenges. Every young person expressed a sense of hopelessness regarding the future and job prospects within their communities. He said one group stated they would prefer to remain homeless in Anchorage with no job opportunities. He stated that he expects to continue to finish his research in the next couple of weeks. He stated he would like to submit a written report to committee members on suicide

and other social issues resulting from a lack of jobs, especially in rural Alaska. He invited the committee to understand the negative effect of job scarcity.

[3:37:47 PM](#)

CO-CHAIR BISHOP commented that he worked alongside Larry Westlake Sr. on the Red Dog Project and commended him for his efforts.

[3:38:03 PM](#)

MR. RUARO said Larry was a pleasure to work with on the Ambler Roads Subsistence Committee, which recently adopted standards from the Red Dog Mine for the protection of fish and wildlife. He acknowledged Larry as leading a huge part of the effort.

[3:38:30 PM](#)

MR. RUARO moved to slide 3 and explained AIDEA's purpose:

[Original punctuation provided.]

#### **ABOUT AIDEA**

AIDEA, and the precursor to AIDEA, has been investing in Alaskans since 1961 to strengthen employment opportunities and economic development.

S.B. 153

Enacted by the Alaska State Legislature  
Because investment capital was "critically needed" to  
enable jobs and enhance general welfare  
Approved April 24, 1961

Alaska's Development Finance Authority

- Financially Self-Sustaining Public Corporation  
(no GF per AS 44.88.190(b))
- Alaska State Development Corporation established  
in 1961. AIDEA created in 1967.
- More than \$468 million in total dividends since  
the first dividend was issued in 1997
- Directed over \$3.5 billion into economic  
development in Alaska

MR. RUARO said in less than two years following statehood, the legislature understood the importance of land and access to capital. AIDEA believes Senate Bill 153 is still important in supporting businesses in Alaska to have access to capital. He noted there had been an ongoing debate regarding the role the Permanent Fund Dividend should play in economic development. Ultimately AIDEA was selected over the PFD to provide support and lead economic efforts.

[3:39:45 PM](#)

BRANDON BREFCZYNSKI, Deputy Director, Alaska Industrial Development and Export Authority (AIDEA), Anchorage, Alaska, said that is an accurate representation of the discussion that took place when legislators were trying to figure out whether the PFD should be a state economic development fund or the trust that it is today. To satisfy the need for economic development, many agencies were established.

[3:40:24 PM](#)

SENATOR GIESSEL pointed out bullet 4 and referenced the FY24 budget. She recalled that during the AIDEA Board meeting in December 2022, \$17.9 million was allocated as the FY24 dividend to the state. She asked for confirmation of her understanding that only \$10 million was cited in the budget and the rest was held for the Brooks Range Mustang Road project.

[3:41:27 PM](#)

MR. RUARO replied that is correct. He said Section 55(b) provided an offset of roughly \$7 million from the \$17 million dollars as a credit against the cash amount of the dividend.

[3:41:48 PM](#)

SENATOR GIESSEL said the legislature approved the inclusion of the Brooks Range Road in the budget as part of the dividend and the intended transfer it to the Department of Natural Resources (DNR). She asked how it was legally possible for AIDEA to sell the Brooks Range Road and what happened to the \$7.9 million in revenue that the road was supposed to represent to the state. had been guaranteed to the state.

[3:42:23 PM](#)

MR. RUARO explained that following the passage of the budget, a buyer emerged for the Mustang project, prompting AIDEA to maintain it as a package entity sale to Finnix Operating LLC, which is in the process of developing the pad for oil and gas production. If successful, estimated revenue would generate roughly \$65-70 million and create job opportunities. AIDEA

decided to retain the road within the asset package sold to Finnix, as they required it as a prerequisite for the sale. However, this has resulted in inconsistencies in the language regarding the dividend. He suggested deleting subsection (b) of 55(b) and eliminating all references to the road to fix the language issue. There were also evaluation errors in assessing the road's value that once corrected would balance out previous dividends where the road had been overvalued. The initial concept was to adjust the dividend in 2025 to reflect the road's corrected value, but the sale circumvented this necessity. Therefore, this years' \$11 million dividend, as currently proposed in the governor's budget, remains unaffected. The sale of the road is expected to yield benefits for the dividend calculations for 2025, which mitigates the need for an additional \$7 million offset related to the road's value. After addressing the valuation errors, the dividend situation for 2024 is essentially balanced. He offered to follow up with detailed data.

[3:45:24 PM](#)

SENATOR WIELECHOWSKI asked for confirmation of his understanding that AIDEA transferred Mustang Road to Finnix as part of the transaction finalized at the end of 2023.

[3:45:36 PM](#)

MR. RUARO replied that is correct.

[3:45:41 PM](#)

SENATOR WIELECHOWSKI asked if AIDEA was in possession of the road at time of the transfer.

[3:45:51 PM](#)

MR. RUARO replied that the entity holding the road was a subsidiary named Mustang Holdings LLC, which is owned by AIDEA.

[3:46:02 PMS](#)

SENATOR WIELECHOWSKI asked if AIDEA refrained from transferring the road to DNR as a result of HB 39, the appropriations bill passed last year.

[3:46:15 PM](#)

MR. RUARO replied that is correct.

[3:46:23 PM](#)

SENATOR GIESSEL said she would appreciate seeing what the over evaluation of Mustang Road was that resulted in an error in the

FY24 budget. She asked for clarification that the FY25 [dividend] budget currently holds \$11 million.

[3:46:47 PM](#)

MR. RUARO replied that is correct, the proposed dividend amount is roughly \$11 million, so there is no offset required for the other half of the assumed road value for this year in FY25.

[3:47:02 PM](#)

SENATOR GIESSEL asked whether the \$11 million value is cash not assets.

[3:47:09 PM](#)

MR. RUARO replied that is correct.

[3:47:15 PM](#)

CHAIR BISHOP asked if the proposed \$65-70 million in revenue is intended for the life of the project or on an annual basis.

[3:47:28 PM](#)

MR. RUARO replied that it is equal to the life of the project.

[3:47:34 PM](#)

SENATOR WIELECHOWSKI inquired about the total value of assets owned by AIDEA.

[3:47:39 PM](#)

MR. RUARO responded that the total value of assets owned by AIDEA varies depending on the type of asset being referred to. He noted that AIDEA owns buildings among other assets.

[3:47:53 PM](#)

SENATOR WIELECHOWSKI asked for information on AIDEA's investable assets, including money assets available for investing in loans to companies. He asked how much of the \$17.9 million dividend AIDEA invested in and what the rate of return was.

[3:48:15 PM](#)

MR. RUARO replied that AIDEA operates various programs, each with different rates of return. The Loan Participation Program currently has approximately \$550 million out in loans accumulated over multiple years and accounts for about half of the programs at AIDEA. He estimated that the average return rate for the Loan Participation Program is around five percent. Additionally, AIDEA holds other assets with varying rates of return and lease payments, including fixed income assets. He offered to provide a detailed breakdown of the data.

[3:49:45 PM](#)

MR. RUARO moved to slide 4 and listed AIDEA's economic tools:

[Original punctuation provided.]

#### **OUR FINANCIAL TOOLBOX**

- **Loan Participation**
  - The Loan Participation program provides long-term fixed and variable rate financing to Alaska's commercial busine
- **Energy & Resource Development**
  - The Alaska Sustainable Energy Transmission Supply Fund (SETS) & Arctic Infrastructure Development Fund (AIDF) created new programs and powers within AIDEA to addresses the State's energy, Arctic infrastructure, and resource needs.
- **Project Finance**
  - AIDEA can finance projects (whole or partial) through its ability to develop & own assets within the State.
- **AIDEA Bonds**
  - AIDEA has the authority to issue tax-exempt and taxable bonds.
- **Strong Investment Relationships & Financial Expertise**
  - AIDEA provides financial expertise and information to assist with projects, job creation, and infrastructure development.
- **Conduit Revenue Bonds**
  - AIDEA is one of the State's Principal issuers of taxable & tax Exempt Conduit Revenue Bonds.
- **Asset Ownership**

- o In addition to traditional financing, AIDEA can directly own assets that generate revenue or enable economic development.

MR. RUARO said the Loan Participation Program (LPP) currently has roughly \$550 million allocated in loans to Alaska businesses. He noted that AIDEA partners with Alaska banks on these loans, which have an approximate zero-default rate. At a recent AIDEA Board meeting in January, two loans worth \$25 million each were approved. He expressed his belief that these programs could help drive businesses that might not otherwise have survived with conventional financing methods. AIDEA does not receive a large rate of return from the Conduit Revenue Bonds Program. He cited the Tanana Chiefs Regional Health Center as an example and said the primary goal is to facilitate entities in obtaining financing, thereby benefitting the economy and other organizations. Funds are set aside for specific types of financing, particularly for energy and resource development, although the capital allocation in this area is not currently substantial. While AIDEA does not own many projects, it does own the FedEx Hangar and the Skagway Ore Terminal that is no longer in operation. AIDEA can issue tax-exempt and taxable bonds. However, anything above \$25 million requires legislative authorization. AIDEA is currently reviewing its existing assets to determine their utility, such as ports, transmission lines, and other available authorities that could be used and would be helpful to place on their books.

[3:52:56 PM](#)

MR. RUARO moved to slide 5 and highlighted the FY23 LPP:

[Original punctuation provided.]

#### **FY 2023 LOAN PARTICIPATION PROGRAM (LPP) HIGHLIGHTS**

- \$23.36 Million Financed
- \$387.5 Million in Outstanding (Existing) Loans
- \$83 Million in Potential Pipeline
- 0% Delinquency
- 27 Industries Represented
  
- 10 Loans Financed

- 278 Construction Jobs
- 212 Permanent Jobs

MR. RUARO said AIDEA financed roughly \$24 million in businesses last year and \$387 million in outstanding loans with no delinquencies. There are several projects in the pipeline that vary from small- to large-scale.

[3:53:38 PM](#)

MR. RUARO moved to slide 6 and spoke to AIDEA's project investments and owned assets:

[Original punctuation provided.]

**2023 Updates AIDEA Project Investments and Owned Assets**

- HEX LLC successfully repaid \$7.5 million investment eight months early.
- DeLong Mountain Transportation System (Red Dog Road and Port) has provided more than \$269 million in payments in lieu of taxes (PILT) since 1990

MR. RUARO listed some projects that AIDEA provided loans for. He said Red Dog Mine has been the largest and most successful project. In 1985 or 1986, the legislature approved bonding to facilitate the construction of the port and road for the Red Dog Mine project. At that time, Cameco, the company behind the project, faced challenges and incurred losses of \$150-250 million, leading its largest shareholder to sell their stake. However, with the support of the legislature, bonds were approved for AIDEA to construct the necessary infrastructure. Since then, the Red Dog Mine has operated successfully.

[3:54:39 PM](#)

SENATOR GIESSEL asked who maintains the DeLong Road.

[3:54:44 PM](#)

MR. RUARO replied that the road is maintained by Teck Alaska, Inc.

[3:54:53 PM](#)

MR. RUARO moved to slide 8 and spoke to statehood rights:

[Original punctuation provided.]

### **DEFENDING ALASKA'S STATEHOOD RIGHTS**

This past year, AIDEA took significant steps to assert Alaska's statehood rights and promote responsible infrastructure development.

The rights offered by Congress to Alaskans for statehood included:

- The right to select and receive ownership title to approximately 30 percent of the state, or 105 million acres, as "statehood lands"
- Ownership of all minerals, oil, and gas beneath statehood lands
- A right of access to "prospect for, mine, and remove" state-owned minerals on state lands (Section 6(i) Statehood Act)
- The right to manage and decide whether resources should be developed on state lands according to laws passed by the Alaska Legislature and the Alaska Constitution
- Title to submerged lands and minerals beneath navigable waters, and right to make development decisions (Section 6(m) Statehood Act)

MR. RUARO said that Congress at the time of statehood expressed concern over the lack of progress in Alaska and saw the state as a promising opportunity. Congress granted Alaska ownership of subsurface rights, the right of access to prospect for, mine, and remove minerals, and it adopted art. VIII of Alaska's constitution, which say the legislature decides what lands should be developed to the maximum extent possible for Alaskans. He noted that AIDEA emerged with some of the strongest statehood rights as a result.

[3:57:02 PM](#)

CO-CHAIR GIESSEL asked to move to slide 8 that says "Defending Alaska Statehood Rights. She acknowledged his expertise but questioned whether he is on the Statehood Defense Team which is comprised of commissioners.

[3:57:36 PM](#)

MR. RUARO said AIDEA has been a part of that informal working unit within state government. The agency collaborates closely with the Department of Law and the Attorney General, coordinating efforts and communicating on issues related to statehood rights. AIDEA was granted the legislative authority to sue and be sued.

[3:58:20 PM](#)

SENATOR WIELECHOWSKI asked if any funds were used to fight in support of the Pebble Mine project.

[3:58:30 PM](#)

MR. RUARO replied that AIDEA did not support or participate in the appeal of that project.

[3:58:55 PM](#)

SENATOR WIELECHOWSKI clarified that he wondered if AIDEA spent any funds in defense of or in support of opening Pebble Mine, or in opposition to the Environmental Protection Agency's (EPA) veto of the project.

[3:59:10 PM](#)

MR. RUARO replied AIDEA did not spend funds for that purpose. However, it participated in an amicus brief that advocated for general statehood rights, particularly for the right of access and resource development.

[3:59:39 PM](#)

SENATOR WIELECHOWSKI requested the case number, name, and details on dollars spent.

[3:59:47 PM](#)

MR. RUARO clarified that the case did indeed involve the Pebble Mine. He said while he does not have the case number on hand, he could provide it to the committee later. The objective was to highlight the broader statehood rights in the hopes of affirming the right to develop state lands. AIDEA approached the case from a comprehensive perspective on statehood rights rather than focusing solely on any specific mine project.

[4:00:48 PM](#)

CO-CHAIR GIESSEL clarified that her question about his involvement with the the statehood defense team stemmed from her lack of awareness that AIDEA was involved in matters concerning submerged lands. She stated she is working on SB 192 and is working on submerged lands right now with DLNR. She observed

that it appears AIDEA is expanding its scope into other departments.

[4:01:24 PM](#)

MR. RUARO replied that he would not take the lead on any communications with the administration regarding submerged lands but could try to answer questions.

[4:01:53 PM](#)

CO-CHAIR GIESSEL clarified her point that she was unaware of AIDEA's mission to expand into these other areas. She said while she understands the interest in Arctic National Wildlife Refuge (ANWR) leases, considering no other bids were made, she expressed concern that the agency's scope might be spreading too broadly.

[4:02:22 PM](#)

MR. RUARO explained that submerged lands are integral to projects since they often form part of the routes involved. Therefore, there is an interest in asserting the strongest possible rights of access in these projects. AIDEA's projects are impacted by the outcomes of these issues.

[4:02:56 PM](#)

SENATOR CLAMAN inquired about the amicus brief and questioned whether the case in question occurred when the administration directly sued the federal government in the Supreme Court.

[4:03:18 PM](#)

MR. RUARO replied that is correct.

[4:03:23 PM](#)

SENATOR CLAMAN sought clarification on whether AIDEA, independent of the administration, paid a lawyer to draft an amicus brief on AIDEA's behalf in support of the administration's efforts.

[4:03:43 PM](#)

MR. RUARO replied that AIDEA worked in coordination with the Department of Law (DOL) regarding the amicus brief. The arguments put forth by AIDEA were aligned with those of the Department of Law.

[4:03:56 PM](#)

SENATOR CLAMAN asked who wrote the amicus brief.

[4:04:02 PM](#)

MR. RUADO replied that the contractor lawyer's name is Chris Niels.

(Timestamp)

SENATOR CLAMAN asked what firm he was with at the time.

(Timestamp)

MR. RUADO replied that he is an independent attorney.

(Timestamp)

SENATOR CLAMAN asked how much he was paid.

(Timestamp)

MR. RUADO replied that it was roughly \$25,000.

[4:04:22 PM](#)

SENATOR CLAMAN inquired about the shift in AIDEA's mission from promoting job advancement and economic development to financing and investment in defense of statehood rights.

[4:04:54 PM](#)

MR. RUADO replied that AIDEA's ability to get projects up and running depends on statehood rights. Nearly all projects require federal permits. He stated his belief that if statehood rights are correctly interpreted and applied, it would streamline and reduce the costs associated with getting projects operational.

[4:05:23 PM](#)

SENATOR KAWASAKI expressed concern that the focus on statehood rights issues seemed centered around extraction activities. He stated his belief that there are other ways to enhance job creation and economic development in Alaska that do not involve mining or extraction. He said he would collaborate with the committee to submit written questions.

[4:06:29 PM](#)

MR. RUARO emphasized the broad reach of federal permit requirements, which can extend to a transmission line for a renewable, broadband, or transmission lines project, basically, anything in the ground, including federal wetlands. He expressed his belief that the protections and rights of the state to develop and access resources extend far beyond extractive industries.

[4:07:07 PM](#)

CO-CHAIR BISHOP asked him to confirm that he previously stated that AIDEA has a "duty to defend itself."

[4:07:21 PM](#)

MR. RUARO confirmed that AIDEA has that statutory authority.

[4:07:26 PM](#)

SENATOR DUNBAR asked about the level of independence AIDEA has to do an amicus brief on either side of the political party. He drew a parallel to the PFD, which is required to be independent from political forces. He questioned how AIDEA would have responded if a different governor had opposed the state's position. He asked whether AIDEA has the autonomy to draft an amicus brief independently or if it must align with the state's stance. Given that AIDEA manages a substantial amount of funds, he expressed his opinion that political considerations should not overly influence revenue generation for the state. He also noted that the governor has taken a particular stance on certain issues, such as the Pebble Mine while there are other politicians who have taken an opposing view.

[4:09:01 PM](#)

MR. RUARO stated that in this particular case, AIDEA aligned with the state's position. He pointed out that AIDEA's statutes grant the authority to sue and be sued, but also obtain legal expertise. He said he interprets this as the ability for independence and the discretion to file in the best interest of AIDEA, which is focused on jobs and economic development. If AIDEA were to stray from its statutory mission, it would move far away from its primary goal.

[4:09:43 PM](#)

SENATOR DUNBAR clarified that he wasn't suggesting AIDEA was deviating from its mission. He acknowledged that the agency has the independence to take a contrary position to the state of Alaska if necessary.

[4:10:13 PM](#)

MR. RUARO replied that while AIDEA has some independence in its policy choice, it is constrained by AIDEA's statutory mission focused on economic development and jobs. He said there is not enough discretion available to take a position contrary to their statutory purpose.

[4:10:49 PM](#)

MR. RUARO moved to slide 9 and spoke to AIDEA's jurisdictional evaluation method (JEM):

[Original punctuation provided.]

## AIDEA's JURISDICTIONAL EVALUATION METHOD (JEM)

- Wetlands are divisible into types and can be mapped into polygons
- Wetland polygons must directly abut a non-wetland jurisdictional water
- Wetlands must be indistinguishable from an adjoining jurisdictional water (other than wetlands) or relatively permanent flowing or standing water that is either a jurisdictional water or tributary to a jurisdictional water; and
- Relatively permanent waters are based on the Rapanos plurality which expressly held that WOTUS "does not include channels through which water flows intermittently or ephemerally, or channels that periodically provide drainage for rainfall"

MR. RUARO said AIDEA was directly affected by the Supreme Court's Sackett decision. Following this decision, the Supreme Court determined that the Army Corps of Engineers and the U.S. EPA's interpretation of their authority over federal wetlands was overly broad. Because AIDEA was impacted, it contracted a hydrologist and worked with its attorneys to understand what the Sackett ruling meant for AIDEA's projects.

[4:11:40 PM](#)

MR. BREFCYNSKI moved to slide 10, which displays a map of the pre- and post-Sackett Wetlands Assessment. He explained that the contracted hydrologist assisted in analyzing the implications of the Sackett decision and how it would affect the definition of "Waters of the United States" and what qualifies as wetlands. This impacts AIDEA's projects, particularly as it is the developer proponent and for the Ambler project and will be handling permitting for AIDEA's portion of the West Susitna Access Road. While the definition of a wetland remained unchanged, the Sackett decision determined whether the federal government or the state has jurisdiction over those wetlands. The map illustrates an old ruling from the Ambler Project, which demonstrates a significant reduction in the area of impacted wetlands post-Sackett ruling.

[4:13:17 PM](#)

SENATOR CLAMAN asked whether the Sackett decision had an impact on the two AIDEA projects: the West Susitna Road Project and the Ambler Road Project.

[4:13:32 PM](#)

MR. RUARO replied that it includes these two projects and any projects that involve activities touching or disturbing the ground, potentially affecting federal wetlands.

[4:13:47 PM](#)

SENATOR CLAMAN clarified his question. He asked if there are any other currently active projects, besides West Susitna Road and Ambler Road, that are affected by the Sackett decision.

[4:14:05 PM](#)

MR. RUARO replied that these are the two main projects that are affected. However, there are also projects in the pipeline that have not yet reached a decision stage but would also be affected by the ruling.

[4:14:16 PM](#)

SENATOR CLAMAN asked if he is referring to proposed projects and that they have not yet decided to move forward on them.

[4:14:22 PM](#)

MR. RUARO replied that is correct.

[4:14:26 PM](#)

SENATOR CLAMAN asked if these are the only two active projects that have been approved by AIDEA and are currently in progress.

[4:14:35 PM](#)

MR. RUARO replied while there are currently two projects in progress, there are others being built that are impacted by wetlands including the port and the road at Red Dog Mine. He clarified that under the old rule, virtually any activity that disturbed the ground could potentially be affected by wetlands regulations, but not under the new rule.

[4:15:06 PM](#)

MR. BREFCYNSKI moved to slide 11 and spoke to AIDEA's interest in wetland jurisdiction:

[Original punctuation provided.]

#### **WHY SHOULD YOU CARE ABOUT WETLAND JURISDICTION?**

- The presence of federal wetlands triggers federal permit requirements which is costly and takes a long time.

- Federal government gains significant control over resource development decisions in Alaska.
- Federal government can force the landowner to pay in land or money as "mitigation" for impacts to federal wetlands.
- "Crushing" penalties can be imposed on landowners for even accidental violations such as imprisonment and up to \$60,000 a day in fines.
- For example, each of the 348 passes with a plow by a farmer on federal wetlands is considered a separate violation.

The average applicant for an individual permit spends 788 days and \$271,596 in completing the process." - Rapanos

MR. BREFCYNSKI said it's all about who is issuing the permit and AIDEA currently prefers to go through the state than the federal administration. AIDEA is going through supplemental EIS on the Ambler Project and had initially planned to commence the West Susitna project last year. However, the Department of Transportation intervened, resulting in a change in scope, and consequently, AIDEA had to withdraw its permit application.

[4:16:00 PM](#)

CHAIR BISHOP referenced the last point on the slide and asked for the number of acres the average permit encompasses.

[4:16:18 PM](#)

MR. RUARO replied AIDEA could work on identifying this information.

[4:16:24 PM](#)

MR. BREFCYNSKI moved to slide 12 and spoke to project results to jurisdictional wetlands:

[Original punctuation provided.]

**RESULTS OF JEM APPLICATION TO THE AMBLER ACCESS PROJECT**

**Project results to jurisdictional wetlands:**

Pre-Sackett Final Environmental Impact Statement  
(March 2020): 2,079 acres

Post-Sackett JEM Application of Data (October 2023):  
308 acres

An 85 percent reduction of 1,771 acres!

MR. BREFCYNSKI said less impacted federal wetlands are expected to reduce costs to a project.

[4:17:06 PM](#)

SENATOR DUNBAR inquired about the practical differences in the size and shape of a road, as well as the mitigation efforts to protect wetlands that would result from the Sackett ruling. He questioned whether AIDEA would construct a significantly different road and implement lesser environmental protective measures due to the post-Sackett effects.

[4:17:52 PM](#)

MR. RUARO replied that the immediate impact is that AIDEA is paying a reduced compensatory mitigation amount. He mentioned that there are probably potential material sites which were previously within Army Corp jurisdiction but are now subject to state law. AIDEA has no intentions of altering the road design that would escalate environmental impacts. However, it anticipates having more flexibility in working with certain material sites to help facilitate the project. He offered to follow up with a map of these sites. AIDEA has no plans to diminish protections due to the absence of federal wetlands oversight.

[4:19:04 PM](#)

CO-CHAIR BISHOP said he wanted to get on the record the reduction of 1,771 acres pre-1997 or 1998 was consistent with the law of the land. The Army Corps of Engineers, through regulation, broadened the definition of wetlands in the state, extending it to 2,079 acres. It was the Sackett decision that reverted the definition back to its original status in the Army Corps manual of 1977.

[4:19:54 PM](#)

MR. RUARO responded that the initial jurisdiction granted by the Army Corps was limited, but it was expanded by EPA and the Army Corps to include any lands where there was potential for the flow of water beneath the surface. The Supreme Court decision

effectively returns the jurisdiction closer to the original regulations issued by the Army Corps.

[4:20:31 PM](#)

MR. BREFCYNSKI clarified that no federal agencies have established post-Sackett guidance. However, AIDEA's initiative was aimed at getting ahead of the ruling by initiating discussions with federal regulators. AIDEA has collaborated with the Department of Transportation (DOT) and the Department of Environmental Conservation to obtain their input. Establishing a methodology to ascertain jurisdictional wetlands would be beneficial for Alaska. If determined that these lands are state-owned, it would be preferable over a 404 primacy program.

[4:21:40 PM](#)

MR. RUARO moved to slide 14 and explained ANWR 1002 leases:

[Original punctuation provided.]

#### **ANWR 1002 LEASES**

- AIDEA has 10-year lease agreements with the BLM for seven tracts in the Coastal Plain of ANWR totaling 365,775 acres, effective January 1, 2021.
- Section 1002 of ANILCA excludes the "1002 Area" from ANWR's wilderness designation.
- In 2005, the USGS mean estimate of technically recoverable oil was 7.7 billion barrels.
- Revenue to state treasury from development potentially \$10s of billions.

MR. RUARO added that these leases were recently cancelled by the federal government without due process or an avenue for appeal, resulting in litigation by AIDEA regarding these lease rights. AIDEA is actively advocating for the reinstatement of its leases and is gearing up to secure the return of leases as well as participate in the upcoming lease sale bidding process in December 2024.

[4:22:36 PM](#)

SENATOR WIELECHOWSKI asked if AIDEA has explored the possibility of acquiring leases in Cook Inlet. He said this would be within its mission, and according to USGS, there is 19 trillion feet of

cubic gas there. However, companies do not currently want to explore Cook Inlet. He asked if AIDEA has considered this opportunity.

[4:23:06 PM](#)

MR. RUARO replied that he did consider this until the senator's question. He said while there are active projects with applications to AIDEA now, but they are all managed by existing leaseholders.

[4:23:29 PM](#)

SENATOR WIELECHOWSKI asked if AIDEA would be willing to consider exploration opportunities in Cook Inlet similar to how they are doing with ANWR. He opined that getting the gas into the market would uplift the economy, which would align with AIDEA's mission and prevent the state's economy from crashing.

[4:24:14 PM](#)

MR. RUARO replied that AIDEA recognizes the significance of the problem and is actively focusing on Cook Inlet while collaborating with other agencies to gather their perspectives and ideas. Although there are some ongoing projects pending in the area, he expressed uncertainty regarding whether they will provide a comprehensive solution.

[4:24:48 PM](#)

SENATOR DUNBAR commented that he is working to better understand AIDEA's vision regarding its acquisition of long-term ANWR leases. He wondered whether AIDEA could transition into an oil company if it intends to maintain these leases over the long term.

[4:25:32 PM](#)

MR. RUARO replied that he wasn't involved in the decision-making process regarding the ANWR leases. He expressed his belief that AIDEA's intention is not to transform into an oil company. Rather, the goal is to maintain the leases, conduct seismic studies, and identify an entity interested in acquiring the leases. The primary objective was not to become an oil company but rather to find a partner or buyer for the leases.

[4:26:23 PM](#)

SENATOR DUNBAR asked if he anticipates that AIDEA would generate more revenue from acquiring the leases than the initial acquisition costs. He sought clarification on whether the state would recover its initial investment in the first leases and

whether it would profit more from the second round of lease acquisitions compared to the funding required.

[4:27:02 PM](#)

MR. RUARO indicated that the amounts spent on the initial leases have been refunded to AIDEA. He stated that AIDEA's strategy involves identifying the most promising areas for exploration. In 2020 or 2021, there was an update from USGS regarding the likely locations and prospectivity of ANWR. AIDEA has engaged the services of a petroleum geologist and aims to identify the most prospective areas and acquire very valuable leases that would yield returns greater than the initial investment.

[4:27:58 PM](#)

SENATOR CLAMAN asked if AIDEA is suing the federal government for the right to those first set of leases despite the cancellation of the first set of lease sales and the subsequent refund of money to AIDEA.

[4:28:18 PM](#)

MR. RUARO confirmed and explained that although AIDEA accepted the refund, it was done with the understanding that AIDEA would not waive its rights to pursue the reinstatement of its leases.

[4:28:33 PM](#)

SENATOR CLAMAN asked if there is an ongoing lawsuit to get leases back.

MR. RUARO replied that is correct.

[4:28:44 PM](#)

SENATOR CLAMAN asked if the lease sale in 2022 was revoked by the federal government.

[4:28:59 PM](#)

MR. RUARO replied that the lease sale is still required to occur under federal statute. He mentioned that the federal government is currently in the process of conducting a Supplemental Environmental Impact Statement (SEIS) to rectify administrative errors in the original SEIS. He stated that AIDEA expects the next decision regarding the SEIS to be available within the next 60 days.

[4:29:33 PM](#)

SENATOR CLAMAN said he understands the sale must be held per statute but noted that the Biden administration has reportedly

cancelled the sale. He inquired whether the sale is currently pending the new EIS.

[4:29:46 PM](#)

MR. RUARO replied that is correct.

[4:29:53 PM](#)

CO-CHAIR BISHOP asked if AIDEA would get its lease back if the SEIS was reversed.

[4:30:08 PM](#)

MR. RUARO replied that AIDEA's understanding is that the SEIS is intended to be forward-looking only to the 2024 sale and the leases would not be returned.

[4:30:43 PM](#)

MR. BREFCYNSKI moved to slide 15 and spoke to the West Susitna Access project locations. He said in FY22, AIDEA received a capital budget appropriation of \$8.5 million to fund the permitting work necessary to advance the West Susitna Access Road. Initially, AIDEA fully supported this endeavor. However, since then, DOT has decided to invest in the project and is proposing to construct an access road to the west side of the Susitna River. Despite this, AIDEA is continuing its efforts to establish a 100-mile-long road leading to prospective mining claims and other resources.

[4:32:16 PM](#)

SENATOR DUNBAR inquired whether AIDEA initially invested in building a toll road or a road where they could potentially earn revenue.

[4:32:32 PM](#)

MR. BREFCYNSKI responded that while funding the road through tolls could be one option, the final decision on how the road would be financed is still under discussion.

[4:32:44 PM](#)

SENATOR DUNBAR suggested that some source money would be needed. Since DOT is contributing to a portion, he wondered if that portion would be open to the public.

[4:33:17 PM](#)

MR. BREFCYNSKI replied that is correct on the DOT portion. He said AIDEA is considering options to allow open public access.

[4:33:51 PM](#)

MR. BREFCYNSKI moved to slide 16 and described project benefits:

[Original punctuation provided.]

### **PROJECT BENEFITS**

Provide safe and efficient road access from the existing highway system in proximity to existing port facilities and population centers in Southcentral Alaska to resources in the Fish Creek NRMU and western Yentna and Skwentna River Basins that increase job growth and economic development opportunities.

- **Mineral Resources**

Copper, gold, silver, coal, and platinum potential; more than 3,000 active mining claims within the basin

- **Recreational Resources**

Opportunities for snowmachining, fishing, hunting, boating, recreational mining, and use of cabins

- **Oil & Gas**

Active oil and gas exploration in the northern Cook Inlet; nine oil and gas producing units and fields in the study area

- **Forestry**

700,000+ acres available for harvest; enhances emergency response & fire prevention

- **Alternative Energy**

Opportunities including geothermal and hydroelectric projects, and woody biomass resources

- **Agricultural Resources**

More than 65,000 acres of agricultural land identified for potential agricultural uses

MR. BREFCYNSKI highlighted the need for certain minerals, particularly those essential to the Department of Defense (DOD),

where the U.S. currently produces none. He stated that 85 percent of antimony is supplied by China and Russia. DNR has put out solicitation for oil and gas exploration licenses in the area, there is also an interest in timber sales and forestry in parts along the road for both commercial use and fire prevention as well. The project facilitates the allocation of land for regular settlement, allowing Alaskans to own both agricultural and regular settlement land close to major population centers.

[4:35:31 PM](#)

SENATOR CLAMAN asked if any companies with mineral interests have invested into supporting the application to build the road in West Susitna.

[4:35:51 PM](#)

MR. BREFCYNSKI explained that AIDEA has been utilizing funds from the legislative appropriation allocated in FY22. While mining companies have conducted their own studies, including cultural surveys and road design studies, they haven't directly invested funds into this effort. AIDEA has purchased certain studies from other mining companies to speed up the process.

CO-CHAIR BISHOP noted that the committee will soon hear from certain mining companies.

[4:36:56 PM](#)

MR. BREFCYNSKI moved to slide 17 and listed primary claims held in the region. He said the development of these mines alone could potentially create several hundred or even thousands of job opportunities. Additionally, he noted that this projection does not account for the other industries that the road would support within the state.

[4:37:39 PM](#)

MR. BREFCYNSKI moved to slide 18 and provided an update on the West Susitna Access project:

[Original punctuation provided.]

#### **AIDEA WEST SUSITNA ACCESS PROJECT UPDATE**

- Prior to July 2023, the West-Su Access Project was entirely driven by AIDEA and funded by a FY22 capital appropriation of \$8.5 million.

- In 2023, the Alaska Department of Transportation & Public Facilities (DOT&PF) released the 2024-2027 Statewide Transportation Improvement Program (STIP) that included funding for a separate project that provides access to the west side of the Susitna River.
- While AIDEA's project scope has changed, work is still underway to evaluate, permit, and ultimately construct a road to the proposed terminus at the Whisky Bravo Airstrip (MP 100).
- 2024 field season planning underway

MR. BREFCYNSKI added that AIDEA will have a relatively robust set of data and information once that would enable AIDEA to effectively draft an EIS statement, it submits its permit application to the Army Corps. It would like to be well prepared in advance.

[4:38:25 PM](#)

CO-CHAIR BISHOP requested that he provide a map to the committee that shows the right-of-way for the Donlin pipeline.

MR. BREFCYNSKI replied yes and said the right-of-way is for about half of the road.

[4:39:09 PM](#)

SENATOR DUNBAR requested an estimate regarding the return on investment for the road project.

[4:39:19 PM](#)

MR. BREFCYNSKI replied that an estimate is not currently available as it depends on the development of a financing structure or model, which will be completed in the near future.

[4:39:39 PM](#)

SENATOR DUNBAR asked for a rough estimate and wondered if the state would earn back its DOT investment.

[4:40:16 PM](#)

MR. BREFCYNSKI replied that he believes that it is likely. The state portion for DOT is \$7-8 million. Since a substantial portion of the funding would come from federal highway dollars, it represents an efficient use of state funds, which could be recouped through the establishment of state parks, and park and use fees. Since it runs through the STIP, it is also a 90/10

match with federal dollars, so the DOT would be able to recoup significant amounts of initial investment. He offered to provide a McKinley Research study commissioned on the economic benefits of the West Susitna Road to establish a baseline of the economic activity expected including mining, agriculture, recreation, timber and more for the state and the Mat-Su Borough. More land being brought into private ownership would result in increased land on the borough's tax rolls.

[4:41:23 PM](#)

CO-CHAIR BISHOP asked if AIDEA would control and maintain the road once established across the river.

[4:41:42 PM](#)

MR. BREFCYNSKI replied that it has not yet been determined. However, he envisioned that if companies involved are contributing, it would be similar to that of the Dalton Highway Maintenance and Toll System (DMTS).

[4:41:54 PM](#)

CO-CHAIR BISHOP noted that DMTS is 53 or 57 miles from the port site, and requested the cost adjusted with today's inflation.

[4:42:17 PM](#)

SENATOR WIELECHOWSKI said he was thinking about the return on investment and the value AIDEA contributes to the state. There are \$550 million in loans. He pointed out that based on the \$17.9 million in dividends, the return on AIDEA's loan amounts to a 3.25 percent rate of return, which estimates that the rate may fall within the 1-2 percent range. A report generated last year analyzed all projects and highlighted that less than half of AIDEA's projects have benefited the state. The 26 projects revealed that they are more likely to incur costs rather than generate revenue. Additionally, \$294.1 million has been written off as worthless by AIDEA's board. This amount is almost equivalent to the \$301.4 million in net contributions the state has made to AIDEA. The report concluded that if that money was allocated to the PFD, the state would have made \$11.4 billion. He expressed that there is widespread uncertainty about AIDEA's genuine impact, especially considering its investment failures in Krispy Kreme and Burger-Fi businesses. He questioned the rationale for the state to continue supporting AIDEA since it hasn't engaged in projects with significant impact.

[4:45:17 PM](#)

MR. RUARO responded that he reviewed the report and believes the numbers are seriously flawed. He opined that the data does not

attribute the development of Red Dog to AIDEA's investments. AIDEA is not a competitor to the PFD, as it has contributed significantly to the PFD through royalties from Red Dog. He suggested that if royalty payments from Red Dog to the PFD in 1989 were factored into the analysis, the impact would be considerable. While acknowledging that there have been some failed projects, he asserted that when considering the success of projects like Red Dog, the overall numbers tell a different story. He highlighted that many Loan Participation Programs (LPP) initiatives support Alaskan businesses that may have struggled to obtain traditional bank financing otherwise. He mentioned that there are also two programs excluded from the presentation, including loans ranging from \$100,000 to \$300,000 at the fair rate of interest specifically aimed at supporting small businesses. Taking these factors into account, AIDEA provides a significant benefit to Alaskans. He concluded by mentioning that AIDEA has funded projects in Cook Inlet and has several other projects in the pipeline.

[4:48:08 PM](#)

SENATOR DUNBAR said one common critique of the public-private partnership is that it socializes the risk and privatizes the profits. He stated that while he understands the logic of AIDEA investing in permitting and design, the association is bullish on investment in the West Susitna and Ambler Road projects. He asked whether there may be a way to obtain upfront funding from companies to shift the risk away from the people of Alaska. This could entail either sharing the risk or ensuring that private investors take on the risk for the construction of the road.

[4:49:13 PM](#)

MR. RUARO replied that there is a cautionary agreement in place for the Ambler Road, so those mines are contributing 50 percent of the cost of the studies and research needed to advance permitting, design, and construction. AIDEA plans to utilize the Red Dog model to ensure the project does not progress to construction without commitments from the mines to cover the project's costs through tolling or another financing arrangement. However, he noted that this commitment might be fulfilled over time, as was the case with the Red Dog project. He emphasized that AIDEA would not proceed with the projects without the mines financial commitments in place.

[4:50:01 PM](#)

CO-CHAIR BISHOP asked if AIDEA consults with a mining technician.

[4:50:19 PM](#)

MR. RUARO replied that there is no mining technician on staff, instead AIDEA has an expert it is hoping to put under contract. AIDEA For now, AIDEA hires consultants as needed.

[4:50:43 PM](#)

SENATOR CLAMAN asked if the inclusion of this portion of the West Susitna Road in a DOT plan was one of the reasons the Statewide Transportation Improvement Plan (STIP) was rejected.

[4:51:13 PM](#)

MR. RUARO replied that he is uncertain of the reason but is aware of a technical glitch or failure to include the word "bridge" in the project description. Due to this omission, AIDEA requested that DOT include that aspect in the project descriptor.

[4:51:40 PM](#)

MR. BREFCYNSKI added that the department stated it was not eligible for bridge funding.

[4:51:49 PM](#)

SENATOR CLAMAN expressed concerns about AIDEA's approach to project costs and questioned how AIDEA decided to undertake the risk of building the road rather than issuing a loan for it.

[4:52:46 PM](#)

MR. RUARO replied that the Reg Dog project was a decision led by the legislature, which designated AIDEA as the financing mechanism for the road and port. The legislature allocated \$11 million to fund the permitting and pre-construction phases for the West Susitna Road. Regarding risk and construction, he clarified that the road would not proceed to construction without commitments from mining companies to cover the costs. AIDEA is thereby protected in this regard.

[4:53:34 PM](#)

SENATOR KAWASAKI pointed out that Anchorage Fish Plant was a legislative directive that instructed AIDEA to use a \$125 million loan for development, so there is some shared blame. However, the facility has been turned into a church.

[4:54:41 PM](#)

There being no further business to come before the committee, Co-Chair Bishop adjourned the Senate Resources Standing Committee meeting at 4:54 p.m.