

Bristol Bay Fishermen's Association*(formerly AIFMA)*

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January 30, 2017

Representative Louise Stutes Via Fax: 907-465-4956
State Capitol, Room 406
Juneau, AK 99801

Re: HB 14 – our support.

Dear Representative Stutes,

I am enclosing a copy of our written testimony in support of HB 14. Please enter it and this letter into the record for the hearing on January 31, 2017 before the House Fisheries Committee.

In 1972, the Legislature enacted the Bristol Bay Fisheries Reserve (at AS 38.05.140(f)). It provides that within state land beneath navigable waters (i.e., submerged and shorelands) a surface entry permit for oil and gas drilling in the Reserve may not be issued until the Legislature finds that such activities will not constitute a danger to the fisheries. In 2014, the voters enacted an initiative (AS 38.05.142) which provides that in addition to permits or authorizations otherwise required by law, any metallic sulfide mine in the drainages of the Reserve must obtain a final authorization by the Legislature taking the form of a law that contains a finding that such a mining operation will not constitute a danger to the fisheries.

HB 14 clarifies or improves the initiative in several respects, including these:

1. HB 14 improves the quality of science in decision-making. HB 14 requires the Departments of Natural Resources, Fish and Game, and Environmental Conservation to independently prepare and submit reports to the Legislature, that are subjected to public comment and peer review, to document whether an applicant for permits and authorizations for a large scale metallic sulfide mine in the Reserve has carried the burden of proving beyond a reasonable doubt that such a mine will not constitute a danger to the fisheries within the Reserve. Peer review strengthens, and a high standard of proof science-based decisions.

2. HB 14 clarifies and defines "fisheries" consistent with existing statute. HB 14 defines "fisheries" to mean subsistence, personal use, sport or commercial fisheries as those fisheries are defined in AS 16.05.940. Requiring an applicant to carry the burden of proof, and defining "fisheries" consistent with statute, implement:

- the pledges of Pebble Limited Partnership that "fish come first" and that PLP will not develop a mine that damages Alaska's fish, wildlife or communities dependent on them;
- the Sustained Yield Clause of the Alaska Constitution (Art. VIII. § 4), and
- the State's Sustainable Salmon Management Policy at 5 AAC 39.222(c)(5)(A)(v), which places the burden of proof on those who plans or activities could be a danger to the fisheries.

Regards,

David Harsila,
BBFA President

In Support of HB 14
Written Testimony of Bristol Bay Fishermen's Association
Before the House Special Committee on Fisheries
Alaska Legislature – January 31, 2017

I am David Harsila, President of the Bristol Bay Fishermen's Association, formerly the Alaska Independent Fishermen's Marketing Association. Our Association has represented the commercial fishermen of Bristol Bay since 1966. We support HB 14. I'll explain why.

In 1972, the Legislature enacted the Bristol Bay Fisheries Reserve (at AS 38.05.140(f)). It provides that within state land beneath navigable waters (i.e., submerged and shorelands) a surface entry permit for oil and gas drilling in the Reserve may not be issued until the Legislature finds that such activities will not constitute a danger to the fisheries.

In 2014, the voters enacted an initiative (AS 38.05.142) which provides that in addition to permits or authorizations otherwise required by law, any metallic sulfide mine in the drainages of the Reserve must obtain a final authorization by the Legislature taking the form of a law that contains a finding that such a mining operation will not constitute a danger to the fisheries.

What HB 14 Does

HB 14 clarifies or improves the initiative in several respects, including these:

1. **HB 14 improves the quality of science in decision-making by requiring independent peer-reviewed reports to the Legislature to facilitate any legislative consideration required by the initiative.** HB 14 requires the Departments of Natural Resources, Fish and Game, and Environmental Conservation to independently prepare and submit reports to the Legislature, that are subjected to public comment and peer review, to document whether an applicant for permits and authorizations for a large scale metallic sulfide mine in the Reserve has carried the burden of proving beyond a reasonable doubt that such a mine will not constitute a danger to the fisheries within the Reserve.

Requiring peer review strengthens science-based decision-making by agencies (i.e., DNR, DEC, and ADF&G), and ultimately by the legislature under AS 38.05.142. In a March 31, 2015 letter to the Chair of the Fisheries Committee, the Council of Alaska Producers, a trade association of the mining industry in Alaska, claimed falsely that HB 119 in the 29th Legislature (the predecessor of HB 14) would politicize what should be science-based decisions. Peer review strengthens, rather than politicizes, science-based decisions.

2. **HB 14 clarifies and defines "fisheries" consistent with existing statute.** HB 14 defines "fisheries" to mean subsistence, personal use, sport or commercial fisheries as those fisheries are defined in AS 16.05.940.

Reasons for these Clarifications and Improvements

Requiring an applicant to carry the burden of proof, and defining "fisheries" consistent with statute, implement:

- the pledges of Pebble Limited Partnership that "fish come first" and that PLP will not develop a mine that damages Alaska's fish, wildlife or communities dependent on them;
- the Sustained Yield Clause of the Alaska Constitution (Art. VIII. § 4), and
- the State's Sustainable Salmon Management Policy at 5 AAC 39.222(c)(5)(A)(v), which places the burden of proof on those who plans or activities could be a danger to the fisheries.

Thank you.