

N. J Hillstrand

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Pioneer Alaskan Fisheries Inc.
Coal Point Trading Company
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RE I oppose HB 41 as written Please hold to consider problems

I am writing to you from 45 years of multiple disciplines of the fishing industry, fishing different gear types, species and areas, in Alaska and presently as a value-added seafood processor, retailer and internet sales seafood market. I was a fish culturist for ADFG in multiple hatcheries and habitat rehabilitation, Our Alaskan Corporation, started by Earl Hillstrand, a Territorial Representative, has been in business for 58 years.

Thank-you for considering my concerns and accepting my comments in opposition to HB 41.

Mobile, extremely complex creatures like King Crab require a separate intentional Bill tailored directly to address step by step repercussions of life stages. These large mobile creatures do not return to an SHA like a salmon. Habitat manipulation would be far superior.

I am also concerned there is no careful consideration for equity for Alaskan fishermen, lack of oversight and cost to the state of Alaska.

HB 41 attempts to be an all-inclusive, do all, bill that includes experimental mobile (crab) culture, basically in its infancy, combined with sedentary species like oysters. Compounding this complexity is contrary intents, that combine depressed indigenous species with marketable foreign species like oysters making it seriously problematic.

147 ADFG staff no longer available to attend to over 20 statutes

HB 41 is patterned after 45 year old statutes, that were attended by an expensive Division of 147 dedicated ADFG Fisheries Rehabilitation Enhancement and Development F.R.E.D. staff, and a Habitat Division to oversee and monitor these mandates.

Where is this structure now? There is no dedicated structured biological framework of oversight or monitoring and no fiscal note or even anticipated fiscal note, required for cohesion to protect the public trust.

Where are the Comprehensive Shellfish Plans?

Does HB 41 direct a framework of a Comprehensive Shellfish Plan to keep this organized similar to 16.10.375?

Does HB 41 incorporate what we have learned from loopholes and problems found in the salmon hatchery statutes?

Since the original Salmon Hatchery Act was written in 1974 there has been a wealth of economic, biological and genetic information that must be comprehended for HB 41 inclusion. There are loopholes that need filled. All hatcheries are not equal, all species are not equal, and manipulation within nearshore waters is unknown as Doug Vincent Lang just stated last week in his budget presentation to the legislature. Lessons have also been learned in the Barents Sea from introductions to learn from.

Mobile species like crab require additional oversight

Page 4 line 15

“(1) procure shellfish from the department”. Is much too vague.

Define: “department”. Lacking the structure of the 147 army of FRED Division, this bill must detail who and where in the department, authority comes from such as:

“(1) procure shellfish from the department only in the relevant area when local area biologists, intimate with local populations, can ensure the broodstock number removed is sustainable for depressed populations of indigenous shellfish species to withstand.

This is a very real dilemma. “Department” appointees in Anchorage or Juneau, can easily unwittingly override local knowledgeable biologists, to assist a corporation get broodstock. This supersedes critical local knowledge of sustainable removal, not in the best interest of the resource nor the state.

Another vivid example that challenges sustained yield of crab is:

Page 1 line 13

“Consider the need of projects authorized under AS 16.12.010 to harvest and sell shellfish that are not needed for broodstock to obtain funds for purposes allowed under AS 16.12.080.”

16.12.010 again uses “commissioner” or “department” deprived of required structure of staff and detailed policy to ensure exploitation loopholes do not occur. Budgetary challenged agencies, use remote stroke of a pen decision-making. This is a very real problem. To sell valuable depressed stocks of crab “not needed for broodstock” opens the loophole for future corporate exploitation of Alaska’s valuable resources. Especially if nonresident. To sell broodstock from populations in a depressed state diminishes natural self-perpetuating populations without structured oversight. This is reminiscent before statehood.

Page 3 line 7

“(3) Increase the area of productive natural shellfish habitat”

For depressed populations of king crab, self-perpetuation using habitat and possibly three-dimensional habitat structure for predator evasion should be number (1) not number (3). But what other species are being displaced?

Please consult with local coastal ADFG hired staff to get their impartial biological opinion. Many are very concerned about this bill.

IS THE STATUTORY INTENT TO PROTECT WILD STOCK SUSTAINABILITY?

Where is the Intent of purpose within HB 41, that in addition to contributing to a fishery, mandates these programs shall be operated without adverse effects to natural stocks of fish in the state, such as proclaimed in the 1974 enactment to initiate a bill of this scale:

Hatchery Act 1974 INTENT

Section 1. INTENT. It is the intent of this Act to authorize the private ownership of salmon hatcheries by qualified nonprofit corporations for the purpose of contributing, by artificial means, to the rehabilitation of the state's depleted and depressed salmon fishery.

The program shall be operated without adversely affecting natural stocks of fish in the state and under a policy of management which allows reasonable segregation of returning hatchery-reared salmon from naturally occurring stocks.

WHO WILL BE THE OVERSIGHT TO EVALUATE EXCLUSIVE RIGHT AND SPECIAL PRIVILEGE OF FISHERIES?

Big processors, most nonresident, require ever expanding cost recovery to pay expenses in this expensive promotional bill. How will the Common Property fishermen be assured a high share. Unfortunately, loopholes found in some salmon hatcheries today can be evaluated in Alaska that basically exclude the common property fishermen. Processors and the hatcheries themselves have usurped the local fishing fleet. If this is not the intent of this bill it must be clarified.

Page 5 line 7

Sec. 16.12.040 Alteration, suspension, or revocation

This statute has loopholes that allows inconsistencies when inefficiency of aquaculture, is detected. This is not condoned by the constitution.

Is there a shut off switch beyond 16.12.040? Alteration, suspension, or revocation requires the word “shall” instead of may or discretion, to ensure special privilege does not creep in. To assure compliance of permits and that operations are in the best interest of the state costs money. Presently there are noncompliant hatchery permits condoned to continue without any notification by the “department” to the commissioner. “Department” in this case is the “Regional Planning Teams” These teams voting membership have become unbalanced. Discretion can lead to condoning special privilege. This costs the state time and money when a permit benefits so few and is against the Public trust.

Page 5 Line 26

Sec. 16.12.050 (b) Regulation to Released Shellfish

to clarify this subsection (b) Please add:

source and number of wild and hatchery broodstock...)

Adding these four words allows the broad safeguarding authority designed for the Board of Fisheries of **AS 16.05.251. Regulations of the Board of Fisheries**

(a)(7) watershed and habitat improvement, and management, conservation, protection, use, disposal, propagation, and stocking of fish;

(a)(8) investigating and determining the extent and effect of disease, predation, and competition among fish in the state, exercising control measures considered necessary to the resources of the state;

(a)(9) prohibiting and regulating the live capture, possession, transport, or release of native or exotic fish or their eggs;

(d) Regulations adopted under (a) of this section must, consistent with sustained yield and the provisions of AS [16.05.258](#) , provide a fair and reasonable opportunity for the taking of fishery resources by personal use, sport, and commercial fishermen.

(h) The Board of Fisheries shall adopt by regulation a policy for the management of mixed stock fisheries. The policy shall provide for the management of mixed stock fisheries in a manner that is consistent with sustained yield of wild fish stocks.

The Board of Fisheries has grappled with this section **16.12.050** (b) for decades because the department confusion with BOF oversight authority.

Attached are two Attorney General opinions as well as an AG transcript at a BOF meeting that elucidates reasoning of why this balance of power is needed especially in the future as a safeguard of the public trust.

It is even more imperative, with the absence of the structured oversight of 147 ADFG dedicated staff that 16.12.050 **(b)** requires detailed legislative attention, to ensure and clarify the intent of the regulatory process under the Administrative Procedures Act.

Clarifying BOF authority, over **the number** of wild **and hatchery** broodstock allows decision-making for balanced oversight between all involved department staff, the permit holders, the Board of Fisheries and the affected public to weigh in. The BOF has the regulatory authority when discrepancies are detected in the source **and number** of any increase of broodstock whether in the wild or as a check within a hatchery, to ensure the best interest of the state.

The department needs this additional assessment by the more impartial BOF.

HB 41 dilutes the regulatory authority of the Board of Fisheries stating:

The Board of Fisheries may, after the issuance of a permit by the commissioner, amend by regulation, adopted in accordance , with AS 44.62 (Administrative Procedures Act) the terms of the permit relating to the source of wild broodstock, the harvest of shellfish by permit holders, and the specific locations designated by the department for harvest.

The original statute was more explicit to ensure needed oversight and balance over the number of broodstock allowed by hatchery operators, after the commissioner's issuance of the original permit:

(b) The Board of Fisheries may, after the issuance of a permit by the commissioner, amend by regulation adopted in accordance with AS [44.62](#) (Administrative Procedure Act), the terms of the permit relating to the source and number of salmon eggs, the harvest of fish by hatchery operators, and the specific locations designated by the department for harvest. The Board of Fisheries may not adopt any regulations or take any action regarding the issuance or denial of any permits required in AS [16.10.400](#) - [16.10.470](#).

BOF can to step in if or when discrepancies are found in “numbers” exceeding the carrying capacity of other fisheries or the terms of the hatchery permit.

HOW CAN THERE BE A ZERO FISCAL NOTE?

Without anticipation of enormous costs to this Bill when the words: ADFG department, Commissioner, Board of Fisheries, DCCED Commissioner is mentioned over 40 times in this bill. These projects are expensive in time, energy, money that will divert wild fish priority management from these department budgets.

ADNR is affected in siting coastal nearshore waters for permitting and requires a fiscal note. There are already stress on this agency as permittees ask to expand their farms and local residents are complaining.

Funds will also be drained from **ADEC** affecting this department to maintain additional APDES permitting especially in larger farms that foul the ocean floor.

MAGNITUDE of SCALE

Where is the cap to ensure a threshold of how large, how many, is sustainable from expansion when big corporations take advantage of State agency efforts without a cost benefit analysis to ensure the public interest? Put and take farms can remove Alaskan resources without adequate state benefit. For instance even without this bill, a request was made to ADNR for a farms of 150 acres.

What is the impact of shading 150 acres of nearshore waters to other species and fisheries? Has the question of competition been answered for large farms like this? How many large farms will be sustainable? If marketed out of Alaska what % comes back to the state?

WHERE DOES HB 41 ENSURE PROTECTION OF ALASKAN MOM AND POP FARMS?

Do small sustainable farm sites have first rights? Can large corporations consolidate, merge and take over an area removing Alaskan opportunity?

Who is in charge of ecologically siting these farms? What part of the “department” now that the two Divisions without constituencies of FRED and Habitat no longer exist? Where does the money come from to ensure adequate research protects natural populations are not exploited beyond sustained yield?

Thank-you for listening to my concerns. HB 41 will benefit from careful attention to detail and a broader council from ADFG staff if they are allowed to testify honestly. Thank-you for ensuring this bill is comprehensive to safeguard Alaska’s best interest.

With Sincere Regards

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Please visit: <http://www.barentsinfo.org/barents-region/Nature/Animals-and-plants/King-crab>

<https://www.themoscowtimes.com/2012/05/30/barents-crabs-suffer-from-soviet-legacy-russian-reality-a15119>

<https://thebarentsobserver.com/en/ecology/2019/11/arctic-crab-invasion-reaches-new-shores>