

**HB 77 Opposition Documents Index Group #2**  
**Passed Out to Committee Members on 3/12/14**

1. Bruce and Kari Rogers – March 12, 2014
2. Cherie Northon, Ph.D – March 12, 2014
3. Daven Hafey – March 11, 2014
4. Clayton Smith – March 11, 2014
5. Brett Jabers – March 12, 2014
6. Shelly Gill – March 11, 2014
7. Ruth McHenry – March 12, 2014
8. Pudge Kleinkauf, Women's Flyfishing ® – March 12, 2014
9. Kathy East – March 11, 2014
10. Martin Niemi – March 12, 2014
11. John Strassenburgh – March 11, 2014
12. Southeast Alaska Fishermen's Alliance, Kathy Hansen – March 11, 2014
13. James Brennan – March 11, 2014
14. Matt Obermiller – March 12, 2014
15. Nunamta Aulukestai, Luki Akelkok, Sr. – March 5, 2014
16. Maureen Knutsen – March 12, 2014
17. Lisa Weissler – March 12, 2014
18. Karl Hart – March 12, 2014
19. Jeremy Black – March 12, 2014
20. Dave Atcheson – March 12, 2014
21. Bristol Bay Native Corporation, Daniel L. Cheyette – March 12, 2014
22. Anissa Berry-Frick – March 12, 2014
23. Andrew Homan – March 12, 2014
24. Tina Brown – March 12, 2014
25. Sylvia Panzarella – March 12, 2014
26. Dave Atcheson – March 12, 2014
27. Bobbi Burnett – March 12, 2014
28. Vivian Mendenhall – March 12, 2014
29. Jay Laxson – March 12, 2014
30. Julie Rafferty – March 12, 2014
31. Josh Klauder – March 12, 2014
32. James Price – March 12, 2014
33. James Mattis – March 12, 2014
34. Glenn Olson – March 12, 2014
35. Franzelle Carmon – March 12, 2014
36. Dean Sundmark – March 12, 2014
37. Roberta Highland & Robert Archibald – March 12, 2014
38. Chancy Croft – March 12, 2014
39. Dan Carr – March 12, 2014
40. Cheryl Konter – March 12, 2014
41. Carly Wier – March 12, 2014
42. Allison Barker – March 12, 2014
43. Bobbie Burnett – March 12, 2014
44. Paulette Sortor – March 12, 2014

45. Patricia Wherry – March 12, 2014
46. Patricia O'Brien – March 12, 2014
47. Mike Friccero, Rainy Dawn Services – March 12, 2014
48. Michelle Singleton – March 12, 2014
49. Marcia Denison – March 12, 2014
50. Ward Grant – March 12, 2014
51. Robyn Lauster – March 12, 2014
52. Stan Anderson – March 12, 2014
53. Alaska SeaLife Center, Darryl Schaefermeyer
54. Public Testimonies Regarding HB 77 Document, Sitka Alaska – March 12, 2014

From: Bruce and Kari Rogers

Sent: Wednesday, March 12, 2014 10:07 AM

To: Sen. Cathy Giessel

Subject: HB 77

Senator Giessel,

We are writing to express our opinion regarding the pending HB 77, due for discussion this afternoon, which the Parnell administration is promoting to take away the right of individuals, non-profits, and tribes to file for water rights. We oppose HB 77 which would unnecessarily complicate and interfere with private operations for agriculture, mining, home uses, etc. Our waterways are invaluable for the protection of salmon and other fisheries stocks and nothing should potentially lend itself to future compromise of this resource.

The Parnell administration continues to run amuck with regard to the protection and wise use of our natural resources, albeit wildlife and fisheries management, water resource management, land management, energy resource management, etc.

We need representatives in Juneau who will stand up for the people of Alaska against this wholesale compromise of our natural resources. Please vote NO on HB 77 and speak out on behalf of we Alaskans who cannot stomach the Parnell administration's tactics.

Sincerely,

Bruce and Kari Rogers

Gakona, Alaska 99586

From: Cherie Northon  
Sent: Wednesday, March 12, 2014 8:38 AM  
To: Sen. Cathy Giessel  
Cc: Sen. Berta Gardner; Rep. Andy Josephson  
Subject: HB 77

Senator Giessel

I work for Anchorage Waterways Council, an organization that works to protect the waterways in Anchorage. Today I am writing as a citizen of Alaska who is against this bill. This is a political grab by agencies supposedly to streamline the "process", when it is actually undermining the "process". Every day we seem to be losing personal rights to influence wrongs that we speak out against. Where is the "public process"? Yes, one may be entirely against an issue, gather myriad fellow opponents, but a minority is going to do what they think is best--based on what? Money? Politics? HB 77 seems to be a perfect example of this.

The salmon that are so coveted in this state by subsistence users, residents, and tourists are one of our greatest assets. They need streams and habitat that are not impacted by actions that are deleterious to their survival. One resource should not be harmed at the expense of another. When individuals or groups are worried about the impact on a resource, they have the right to speak out and provide their concerns and BE HEARD and HEEDED. Our elected officials are there to represent their constituents, not special interests.

If you want to see the way that our fabulous resource can go--the way it happened in Europe--read David Montgomery's book "King of Fish--the Thousand-Year Run of Salmon." It foretells how the last remaining wild salmon species, ours, will follow the demise of its Atlantic ancestors.

I hope you will submit my comments against this bill as I am unable to testify today.

Respectfully,

Cherie Northon, Ph.D.

Mapping Solutions

P.O. Box 230329

Anchorage, AK 99523

[www.mapmakers.com](http://www.mapmakers.com)

March 11, 2014

To the Honorable Senate Resources Committee:

Please add my name to the already extensive and bipartisan list of Alaskans opposing HB77. My reasons for opposing this bill are numerous, and I am confident many of those reasons have already been articulated in others' comments and testimonies.

Beyond those reasons, I would like to remind the Alaska State Senate of the two billion dollars of public funds the states of Washington and Oregon have collectively spent on salmon recovery on the Columbia River over the past decade. You read that correctly: two *billion* dollars of public funds spent on salmon recovery that could have been spent on roads, ports, docks and harbors, education, health, energy, agriculture, any number of things. And what have those two billion public dollars earned for the public? An estimated *six to ten percent* recovery of historic salmon runs on the Columbia. That's it.

You might ask why this is relevant to HB77. Less than 100 years ago, the Columbia had one of the most prolific salmon runs the world has ever known. An estimated 16 million chinook annually. Yet with lack of appropriate permitting and regulation for various activities along the river, namely hydroelectric generation, agriculture, timber, and mining, the Columbia salmon fisheries that seemed limitless suddenly disappeared. The governing bodies and permitting authorities' cavalier attitudes throughout the 20<sup>th</sup> century demonstrated painfully clearly that salmon are not limitless, that salmon habitat requires stewardship (not antipathy or indifference), and the thousands of jobs associated with salmon will disappear just as quickly as the salmon do once their habitat is disrupted. I wonder if Oregonians and Washingtonians of my age wish their predecessors had exercised more foresight and more thorough permitting processes on activities that affected/eliminated their salmon. I wonder if Oregonians and Washingtonians wish those two billion dollars of public funds had been spent on projects other than fixing problems borne of the cavalier mentality that salmon are limitless.

The intent of this letter is not to suggest that we can sustain our communities without energy, agriculture, timber, or minerals. Rather, I am here as a young Alaskan to demand proper due diligence in permitting processes—not a weakened process that sets the stage for unilateral decision making and future misuse and/or abuse, which is the stage HB77 sets.

As a thirty-one year old Alaskan, I do not want to inherit a state that will need to spend precious public dollars on salmon recovery if we don't need to. I see more intelligent, more strategic ways to spend our dollars than by fixing problems that could have been avoided with foresight and consideration for future generations.

Again, I could list at least a dozen more reasons why this bill will severely damage the Alaska my generation will inherit, but I'll leave that to the numerous other Alaskans who I'm sure have already called and emailed and who plan to testify against this bill in person.

Regards,

Daven Hafey

157 Gastineau Ave #A

Juneau, AK 99801

From: Clayton Smith

Date: March 11, 2014 at 8:21:48 PM AKDT

To: <senator.cathy.giessel@akleg.gov>

Cc: <Representative.Paul.Seaton@akleg.gov>, <Senator.Peter.Micciche@akleg.gov>

Subject: HB77 Please include this in public record and distribute to committee members.

My name is Clayton Smith and I would like to comment on HB77. I have just gone over the changes to this bill and still have serious concerns. First I am uncomfortable with the language in the general permitting portion. I'm not sure I understand what "unlikely to cause significant and irreparable harm" means. I also am not clear on what constitutes financial or physical harm, would this cover subsistence activities? Also I don't like the idea of more than 1 temporary water use permits in a row without some form of data being collected, not to mention no public notice or comment. I believe this bill is still flawed in so many ways that I would encourage you to start from scratch and draft a new bill. Finally I think you have done a disservice in allowing two days to comment on these changes after hundreds of people testified in town hall forums. The changes in this bill don't seem to address the real concerns I heard in these meetings. Thanks for the time.

From: Brett Jabers

Sent: Wednesday, March 12, 2014 8:16 AM

To: Sen. Cathy Giessel

Subject: Hb 77

Thank you for spending time to improve House Bill 77. The amendments to section 1 of the bill do not go far enough. I am happy that section 1 was changed so that DNR must obey ADF&G laws. I would like this section to be further amended by defining what "any activity" means regarding DNR's authority to issue general land use permits for "any activity" over broad geographic areas. Also, the public MUST be given notice about each of the specific activities authorized by the general permit.

Thank you.

Brett Vadla

From: shelley gill

Sent: Tuesday, March 11, 2014 5:58 PM

To: LIO Homer

Subject: worst bill ever

HB77 once litigated will be unconstitutional. That doesn't stop this administration from trying to shove it down our throats. Parnell and his cronies know it will take time to fight it if passed. Anything won in the meantime is a net gain for his corporate buddies and a loss for Alaskans. We were once a great state. It is time to reclaim who we are. Not a skill for corporate interests but conservationists who love this great land. Independent but understanding of diversity and the necessity to pull together. Real Alaskans don't look forward to moving somewhere warm and cushy. They look forward to another day right here. And that day includes having our salmon, our way life intact. Absolutely vote no. Then blue ticket Parnell and his buddies out of state.



From: Ruth McHenry  
Sent: Wednesday, March 12, 2014 9:57 AM  
To: Sen. Cathy Giessel  
Subject: HB 77

Dear Senator Giessel and Senate Resource Committee members:

We strongly oppose HB 77. Here's why:

The Copper Basin has no city or borough government, but it does have tribal governments and non-profit organizations that fulfill many of the functions of city and borough government. For instance, in Chistochina, Cheesh'na Tribal Council applied for an in-stream flow reservation for Sinona Creek in order to protect its king salmon run. After years of collecting data, Cheesh'na submitted its application, together with a \$1500 fee. That was at least five years ago, but DNR still has not acted upon the application.

At the other end of the Copper Basin, the Kenny Lake Community League operates and maintains one community well; the Kenny Lake Volunteer Fire Department operates another well which the public is allowed to use; a third non-profit, the Willow Creek Water Consortium, does scientific studies of the one creek that flows through the community (and in and out of your district), in order to determine its roles in furnishing groundwater for wells and supporting fish and other wildlife. At times in the past few years, the fire department well has been unable to keep up with local demand, and some home wells have gone dry, so water could become a critical issue for Kenny Lake. As data flows in from the Water Consortium studies, it may be prudent to file an in-stream flow reservation...but if HB77 passes, no organization, tribal government, or individual will be allowed to apply.

Although the Parnell administration claims that individuals and groups could still work with city, borough, state, or federal agencies to place in-stream flow reservations on waters, we can imagine that cooperation from those agencies would depend upon the political philosophy and priorities of the administration in control at the time. Additionally, we wonder if a secured in-stream flow reservation held by a governmental entity could be voluntarily voided by that entity under a different administration.

We would appreciate your taking our concerns into consideration and voting against HB77.

Thank you,

Ruth McHenry, Volunteer Staff  
Copper Country Alliance  
HC60 Box 306T  
Copper Center, AK 99573

From: Pudge Kleinkauf

Sent: Wednesday, March 12, 2014 9:39 AM

To: Sen. Cathy Giessel

Subject: comments on HB 77

3/12/14 Dear Senator Giessel: I am writing to oppose HB77, which will come before the Senate Resources Committee today. I would appreciate your making this e-mail part of the public record and sharing it with the other Resources Committee members.

If passed, HB77 would significantly restrict my ability to participate in natural resources issues that I need to be aware of to operate my business, Women's Flyfishing®. Under this bill, permits can be issued by DNR for any number of activities on large tracts of land with little detail, and without opportunity for the public to weigh in on that decision. Alaskans have always had the right to be notified about development projects which may affect them, and this bill would completely do away with that opportunity. To my mind this is granting an inordinate amount of power to a state agency without giving the public either notice or a chance to be heard on the pros and cons of these actions.

Under the current wording in the bill Alaskans would need to show that they would be "significantly adversely affected" to challenge DNR decisions once they are made, when the harm that a decision would bring might already be in effect. Without the opportunity to become familiar with possible actions of the Department, it would be difficult, if not impossible to determine whether or not the decision would have an adverse impact.

HB77 also removes the sections of current law that allow Alaskans with business like mine as well as Alaska Native Villages to reserve water in streams for wild fish or recreation or other uses. Under the bill, DNR would have unconstrained discretion to dump water reservations filed by Alaskans into the garbage and ignore them. Government should not permit all such unfettered decision-making to occur, given the possible harm that might be done to outdoor businesses.

Senator McQuire appears to have a clear understanding of the harm that HB77 will do to the long-protected right to public input as well as the possible long-term harm to various land and water usage that might occur if HB77 passes. Her skepticism of this over-reaching bill is wise, and I hope that her position will convince other members of the Committee to agree.

I strongly urge you NOT to pass HB77 out of the Senate Resources Committee. It is a bill that is NOT in the best interests of Alaskans.

Sincerely,

Cecilia "Pudge" Kleinkauf

Cecilia "Pudge" Kleinkauf, Owner

Women's Flyfishing®

A Trout Unlimited Endorsed Business

P.O. Box 243963

Anchorage, AK 99524

[www.womensflyfishing.net](http://www.womensflyfishing.net)

From: Kathy East

Date: March 11, 2014 at 7:57:44 PM AKDT

To: "senator.cathy.giessel@akleg.gov" <senator.cathy.giessel@akleg.gov>

Subject: Please include this in public record (HB77)

Reply-To: Kathy East <mukluckathy@yahoo.com>

I am opposed to HB 77. Firstly, it is not appropriate that the committee waited until 48 hours before the final hearing to release the changes and allow us to make public comment. Also, the timing of the hearings makes it impossible for those of us with "regular" daytime job hours to testify. Therefore, I am submitting my comments in writing.

I am opposed to the bill for the following reasons.

1. The bill empowers DNR to issue general permits for "an activity" over broad

geographic areas of state land; once the general permit is in place, the public will never know about specific projects authorized by it because these projects would not be noticed to the public. Current DNR staff seeks to assure us that only de-minimis activities will be issued via general permits but this proposed law is written to allow anything that is considered "an activity" so long as it does not "likely" cause "significant and irreparable" harm. There is no clear definition of "significant and irreparable" harm. Also, once the general permit is in place, the public will not be given notice about specific activities authorized by the permit.

2. The bill makes it more difficult for individual Alaskans to challenge

DNR decisions, even when the DNR doesn't follow the rules. Under HB 77, someone has to be "significantly adversely affected" in order to weigh in or challenge decisions. This is a subjective judgement and not well defined. It also raises the question of whether subsistence users could challenge DNR decisions. DNR says the change is needed to keep outside meddlers from slowing permitting in state but Alaskans are being punished by this amendment and silenced from having a voice in the natural resource development process, even when vital areas like salmon habitats are threatened. Alaskans have used this part of the process responsibly and should be respected and welcomed by the DNR.

3. It would invalidate the existing law which allows Alaskans to reserve water in streams for wild fish, recreation or other uses. HB 77, if passed, would give DNR unfettered discretion to put water reservations filed by Alaskans on the shelf, indefinitely. So, Alaskans can spend a lot of time and money to file an application to reserve water in a stream, but will no longer have the right to actually be considered by the state. Furthermore, local governments, tribes and individuals can no longer hold their own certificate for a reservation, only ADF&G can hold the reservation.

Thank you for your consideration!

Kathy East

1610 Silver Pines Rd.

Kenai AK, 99611

From: Martin Niemi

Sent: Wednesday, March 12, 2014 10:01 AM

To: Sen. Cathy Giessel

Subject: HB77

Sen. Giessel:

Seems like most of you legislators have forgotten that the Alaska and U.S governments are supposed to be a government of the people, for the people, and by the people. You folks seem hell-bent on cutting out the citizen-patriot in the decision making process in favor of mines and oil. Too many of you folks seem to have "conflicts of interest" which really cloud your objectives as representatives of the people who elected you.

As an outdoorsman, I firmly believe that a wrong decision on HB77 could impact access to favorite hunting and fishing areas in order to foster big money corporations which have mining interests. Also, it puts too much power into the hands of a commissioner who may not have the best interests of the people at heart. I strongly oppose HB77..

Martin Niemi

616 Atla Court

Douglas, Alaska 99824

PO Box 766  
Talkeetna, AK 99676  
March 11, 2014

Senator Cathy Giessel, Chair  
Senate Resources Committee  
Alaska State Senate  
Juneau, Alaska

Via email: [senator.cathy.giessel@akleg.gov](mailto:senator.cathy.giessel@akleg.gov)

Dear Senator Giessel and Resources Committee members:

These are my comments on the new version of HB 77 (which I refer to herein as HB 77H) that was released on Monday, March 10, 2014. Please enter my comments into the public record and distribute to all Resources Committee members.

On January 14 2014, I attended a community meeting in Talkeetna on HB 77, and testified before Ed Fogels of DNR and Senator Mike Dunleavy. There 50 - 60 people there, and everyone who testified (I recall about 23) was opposed to HB 77. Nobody spoke in favor. The commenters were thoughtful and on point. I, naively as it turns out, believed that HB 77 would be revised to address the people's legitimate concerns.

I was wrong. HB 77H is a big disappointment. HB 77H is not a compromise, far from it. It still grossly diminishes the public's opportunity to participate meaningfully in decisions that affect our public lands and waters. The bill continues to represent extraordinarily bad public policy.

With respect to General Permits, the removal of the "notwithstanding any other provisions of law" language was an improvement, as was the substitution of "or" for "and" in the "significant or irreparable" clause. But how does one define "significant" and how does one define "irreparable"? These are subjective words; open to various interpretations by different people. The word "unlikely" is also a subjective word and open to varying interpretations. This language sets the stage for arbitrary and inconsistent land and water management decisions that are not in the public interest. It would concentrate unprecedented and undue amount of authority and discretion in the hands of one individual, the DNR Commissioner. The Commissioner is appointed; not elected. The Commissioner does not represent the people of Alaska.

General permits for truly minor things, like mooring buoys, make sense. But this HB 77H language is way too broad, permissive, and open-ended, and is not limited to land and water uses with minor, barely discernable impact. This language would invariably lead to bad decisions. And it could work either way... on one hand unwise and ill-conceived development or, on the other hand, overly restrictive protections.

Also with General Permits, there is no language that requires consideration of potential harm to adjoining private property.

In addition, the public process for general permits is severely curtailed. General permits can be issued for a very broad area, for 10 years. The public is deprived of the opportunity to participate in permitting decisions on specific projects within that 10 year period, and that is not fair to the public. People potentially affected by a land or water use permitting action have a right to be heard. And they should have appeal rights (for the reasons under “With respect to standing,” below.

With respect to water reservation and temporary water use permits, I note a note a change from HB77 to HB 77H that would allow individuals, tribes, and organizations to file for water reservation. Unfortunately, what is given with one hand is effectively taken away with the other. Under HB 77H, DNR is under no duty to act on an application, and the filing could be supplanted by a later water use application. And, temporary water use permits can be renewed every five years, with no cap on the number of renewals. Water quantity and quality supports much in this state, not the least of which is our salmon. You shouldn’t mess around with our salmon. DNR along with ADF&G has a responsibility to protect our salmon and its habitat... to say nothing of other fish and wildlife. You should be protecting salmon habitat; not crafting a law that would orchestrate its destruction.

With respect to standing, HB 77H would unreasonably restrict the ability of a person to file an administrative appeal or request for reconsideration. It also would establish onerous filing requirements and give DNR undue discretion to reject an appeal or a request for reconsideration. One of the few checks we (the people) have on agency misbehavior is the right to cry “foul.” I have filed administrative appeals and I have done it for legitimate reason (e.g., agency did not follow its own Administrative Code). It is a lot of work. My points have usually been rejected, but not always. Administrative appeals and requests for reconsideration are worthwhile processes that hold agencies accountable and lead to better public policy. Access to the appeal and request for reconsideration process should not be weakened.

HB 77H makes clear that this administration views the public merely as an obstacle to overcome rather than a meaningful participant in the process. I care very much about Alaska and its future. It is important to me to participate not only in actions that affect me directly, but also in the management and permitting decisions that affect our public lands and waters. These decisions will define the look of Alaska in the future, and I want to participate.

Unfortunately, in so many ways, HB 77H says that my opinion doesn’t count.

HB 77H reflects changes to earlier versions only at the margins. The changes we see in HB 77H do not represent a compromise, fair or otherwise. The substance of the insult to the public remains. The bill is fatally flawed, and I urge you to scrap it entirely.

Sincerely,

John Strassenburgh



## Southeast Alaska Fishermen's Alliance

9369 North Douglas Highway

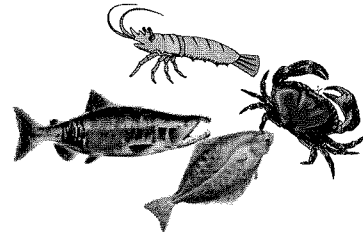
Juneau, AK 99801

Phone: 907-586-6652

Fax: 907-523-1168

Email: [seafa@gci.net](mailto:seafa@gci.net)

Website: <http://www.seafa.org>



March 11, 2014

Senate Resources Committee

Senator Giessel, Chair

Alaska State Legislature

State Capitol,

Juneau, AK 99811

Dear Senator Giessel and Committee Members,

Southeast Alaska Fishermen's Alliance (SEAFA) listened to the senate resource committee hearing on Monday March 10<sup>th</sup> when the changes to SCS CSHB 77 (FIN) were introduced. SEAFA still is not comfortable with SCS CSHB 77 (FIN) as written. We sincerely appreciate the work and hearings that Senator Micciche and others did on this legislation. We also share the concerns that Senator McGuire mentioned during the hearing.

Southeast Alaska Fishermen's Alliance fully supports the revision where section one with the "Notwithstanding" language was removed. This retains ADF&G's statutory authority intact.

We believe support allowing a person or tribe to apply for water reservation rights but having the public agency hold them is a good compromise but we are concerned about how the backlog of applications are handled in the bill. While we understand that a particular system may have more of an immediate need/priority to be addressed but when a system or stream is being evaluated all permits applying for those water rights should be looked at concurrently with the date the applications were submitted taken into consideration.

Another concern SEAFA has with the latest version is without providing definitions of some terms used in the bill, you are handling an incredible amount of power and judgment within a single individual, the commissioner of Department of Natural Resources. Particularly the definitions "unlikely", "significant" or "irreparable" should be defined or provide further clarification with intent language for what these terms should mean.

Thank you for considering our comments on this very complex legislation.

Sincerely,

A handwritten signature in black ink that reads "Kathy Hansen" followed by a long horizontal line.

Kathy Hansen  
Executive Director

From: JAMES BRENNAN

Date: March 11, 2014 at 11:06:45 PM AKDT

To: <senator.cathy.giessel@akleg.gov>

Subject: HB 77

PLEASE INCLUDE THIS IN THE PUBLIC RECORD AND DISTRIBUTE TO COMMITTEE MEMBERS

Members of the Senate Resources Committee:

I am a lifelong Alaskan who has lived, worked and recreated primarily in Southcentral and Southeastern Alaska. I am strongly opposed to HB 77, both in its original and recently revised form.

Even in Alaska, water in specific rivers, creeks and lakes can be a scarce resource. Its appropriation and reservation, both for temporary and permanent use, is a highly important decision that should involve full public process and participation. Particularly given the Alaska Constitution's special recognition for the public's right to resources, the Legislature should not adopt a law, like HB 77, that increases the government's power to issue general permits, short-circuiting the public's notice and right to be heard as to the water being allocated and the purposes of the allocation. The standing of affected citizens to object to and challenge governmental decisions allocating this precious resource should be encouraged, not curtailed.

What are we striving for here? A Soviet-styled system, where the central governmental planners make all the decisions, unfettered by the bothersome local residents? Legislators who generally stand up for individual rights against insular governmental power should check their credentials before voting for this bill. As always, a public process assuring Alaskans' individual rights to question governmental decision-making may slow down an "efficient" process that operates by centralized fiat. But the trade-off, favored by all real democracies, is that bad central decisions may be fully scrutinized so that lousy decisions can be avoided or adjusted. Water allocations can have far-reaching, long term consequences, with horrific unintended consequences that a full public process may shine a light on beforehand.

Are we losing the value we place on the views of individual Alaskans? Are the knowledgeable views of rural Alaskans and businesses, commercial and recreational fishermen and others directly familiar with the values and uses of specific waterways now of no account, to be shunted aside or minimized in favor

of sacrosanct policies of know-it-alls in State office buildings in Juneau and Anchorage, who may from time to time be in the grip of a large corporate interest which cares little for long term Alaska?

Our Constitutional framers and past Legislatures have remembered who they represented. Please, don't you forget.

Jim Brennan

1006 G St.

Anchorage, Alaska 99501

My name is Matt Obermiller. I am a 20 year resident of Alaska and live in the Copper Basin.

I have some serious concerns about HB 77 and am strongly against passing it for the following reasons:

- As a general contractor, I am typically heavily involved in the planning and design of the projects that I build. Good planning is a crucial key to a successful, smooth running project. Good outcomes are seldom arrived at accidentally and I want to know about and deal with every possible problem and hitch before I start the project to avoid any delays which are always very expensive, and to accomplish fully the intended outcome of the project. There are no good surprises in construction or operating a business! HB77 appears to be very short sighted in that it wants to eliminate a knowledgeable voice, that of the public, from the planning process for public lands and resources. As a member of the public, I have given input on a number of public and private projects over the years and have been told several times by members of the planning committee's, "we never thought of that!" One little comment allowed planners to identify and head off a problem which saved them a lot of trouble and grief down the road. Not only does public involvement result in a better planned project, people who were invited to be part of the planning of a project are probably less likely to sue to stop the same project.
- As an engaged American, I have long watched dictators with chests full of medals and big mustaches run roughshod over their citizens in every corner of the globe and seen the lengths we in the US have gone to to stop these abusers and try to give the citizens some voice in the affairs that affect them. HB77's intent to remove the public voice from affairs that affect the public would be loudly decried by us in any other country in the world. Why are we thinking of enforcing the same behavior here?
- One of the reasons I moved to where I live (off grid) next to a river is so I could put in a small hydro plant to provide power to my house. HB77 appears to jeopardize my ability to do this
- I also get my drinking water out of my river. I want to, as a private citizen, be able to reserve flow for my hydro plant and drinking water but HB77 would put my ability to live here at the mercy of any corporate, municipal or government entity that comes along. This is not right!
- There are fish in my river but not salmon this far up so the protections that many of the waterways in Alaska enjoy due to salmon cannot be relied upon to protect either the flow or quality of my river. I'm sure many other rivers fall into the same category. I and any member of the public should not be inhibited by public law from participating in a public process regarding public land or resources

HB 77 is not to be about making a cumbersome process more efficient in order to better serve the citizens and interests of Alaska, it is about expanding unchecked government power and hiding government actions from rightful scrutiny. Legitimate, righteous actions need fear no scrutiny. Both this bill and the methods used to try to pass it are shameful and the authors of both are right to fear they won't stand public scrutiny.

Don't pass this bill. It's heavy handed, shortsighted and just plain wrong. We Alaskans deserve and demand better.

Sincerely,

Matt Obermiller

822-5961



Nunamta Aulukestai  
"Caretakers of Our Land"  
PO Box 735  
Dillingham, AK 99576  
907-842-4404  
[nunamtaexdir@gmail.com](mailto:nunamtaexdir@gmail.com)  
[www.nunamta.org](http://www.nunamta.org)

March 5, 2014

Via Email: [lindsey.williams@akleg.gov](mailto:lindsey.williams@akleg.gov)

Senate Resources Committee  
Chair: Senator Cathy Giessel  
Capital Building 427  
Juneau, AK 99811

Re: HB 77

Dear Senator Giessel,

We once again write to oppose HB 77, which was introduced by the Governor and is in the Senate Resources Committee. Our views have not changed even with the Department of Natural Resources' (DNR) latest revisions. The bill as it currently is proposed still rolls back the protections for fish and game habitat, as well as restricts the democratic process of public notice and comment on administrative decisions and to redress grievances before the agency regarding legally questionable decisions.

Nunamta Aulukestai ("Nunamta") comprises directors appointed by ten ANCSA village corporations and ten tribes in the Bristol Bay region. Nunamta provides a voice for Alaska residents in the Bristol Bay region who rely on the land, fish, wildlife, cultural resources and waters of the region for subsistence and their cultural way of life. Nunamta continues to believe that HB 77 is a reaction by the Department of Natural Resources to stop the advocacy by Nunamta to protect the resources in Bristol Bay that are vital to tens of thousands of Alaskans.

On the resource development side in Alaska, we get criticized because our funding for advocacy specifically to make sure we have enough water in our streams and rivers for fish and to support wildlife is because the funding comes from outside of Alaska. How is that any different than the resource development side which are developers from outside Alaska, and many of them foreign owned corporations. Furthermore, to say the duty to protect fish and wildlife belongs to the Department of Fish and Game (ADF&G), we agree! However it is our belief that since 2003, the agency's voice has been silenced by the continued development mandate coming out of DNR.

As Alaskans, our elected officials have a duty to listen to Alaskans. Having an open and transparent process ensures that all voices are heard for resource development, but HB 77 eliminates this important right.

The current version of HB 77 does nothing to address standing which was one of the main concerns with the original bill. You have to be "Substantially Adversely Impacted" to appeal a DNR decision yet there is no definition of that term in the bill, except for section 39 where it is defined as "physical or financial detriment to a person's interests resulting from the decision."

That is way too high of a bar of proof for an Alaskan to have to prove if they want to have a voice in the process.

The amended version of HB 77 fails to define "Likely significant or irreparable harm" in section one. Does this mean that the commissioner can issue a general permit if they are 51% certain the harm can be repaired? It must be spelled out in the law what this means. Otherwise, the law invites lawsuits to clarify it.

Although revised to add "persons" who can apply for water reservations, Section 42 is worse than what was previously in the original HB 77.

Not only are tribes, municipalities or people no longer able to hold the reservation, which means it is unclear whether they would have standing to advocate for it in the future, the priority date given on those applications is rendered meaningless because of the new language that says: "Section 42 (h) The commissioner has the discretion to determine when and in what order any application for a reservation of water is processed." We believe that this gives the Commissioner too much discretion to sit on a water reservation application and not process the application.

Therefore, we believe that Section 42(h) should be deleted from this current version along with Section 42(j).

The reason Section 42(j) should be deleted is that the data used in the collection of the data for the reservation becomes nonproprietary public domain hydrologic data or the **data is collected by or for the applicant**. On one hand, Tribes as applicants need to find the funding, which is likely thousands of dollars, to gather the data for the reservation but then they may not have standing to appeal and THEN their data becomes public and they have to let DNR know that the data was collected by or for the application. This process does not protect fish habitat and creates control issues where none are warranted.

We urge the Committee to vote keep HB 77 in Committee for further work.

Sincerely,



Luki Akelkok, Sr.  
Chairman

From: Maureen Knutsen

Sent: Wednesday, March 12, 2014 1:39 PM

To: Sen. Cathy Giessel

Subject: HB77 Please include this in public record and distribute to Natural Resource committee members.

I am a 39-year resident of Naknek dependent on subsistence and commercial fishing and I am opposed to HB77 in its current amended form. The revisions do not adequately address the concerns of Alaskans.

With the issuance of general permits, there is no provision for public notice of specific activities authorized.

It is still too difficult for individuals or affected groups to challenge DNR decisions that may adversely affect them.

Although tribes, organizations and individuals may file applications for water reservations for fish in streams, there is no guarantee that DNR will act on those applications.

Therefore, I ask that HB77 be rejected by this committee.

Thank you for considering my comments.

Maureen Knutsen

PO Box 134

Naknek, AK 99633

907-246-6675

HB 77: Weissler Public Comments  
3/12/14

To: Senate Resources Committee  
From: Lisa Weissler, Attorney  
Date: 3/12/14  
RE: Public comment – 2d SCS CSHB 77(RES), Version H

## **I. INTRODUCTION**

There is no way to fix HB 77 because it is part of a bigger problem. The problem is that the state resource permitting system is not serving the Alaska public – instead the focus is on making it easier to put public resources into private hands. Since 2003, consideration of public interests and the inclusion of local governments and the public in resource development decisions have steadily diminished. HB 77 is yet another door closing on Alaskans.

Rather than trying to fix a bill that cannot be fixed, time would be better spent on developing comprehensive legislation that provides for meaningful and consistent consideration of public interests in resource development decisions, including

- (1) providing for coordinated project reviews that give the public and local governments an opportunity to effectively participate in the permitting process and for the public and agencies to review projects as a whole;
- (2) giving local governments deference on issues of local concern; and
- (3) establishing a way to identify state and local public interests and the means to balance those interests in the permitting process.

At the least, there needs to be legislation passed enforcing a recent Alaska Supreme Court ruling that the state has a constitutional duty to analyze and give public notice on the cumulative impacts of certain oil and gas exploration development projects. DNR is currently approving such projects in direct violation of the Supreme Court ruling. (see Attachment 2).

On balance, the state will achieve better resource development if there are opportunities for meaningful public participation, decisions are coordinated among the agencies, and there are clear public interest criteria on which resource development decisions are based.

## **II. HB 77**

In addition to making the current permitting system worse, HB 77 has many legal problems. The following are issues I have identified so far.



## GENERAL PERMITS – SECTION 1

The revisions to the general permit section do not fix the problems identified in the original version of HB 77 – the section is fundamentally the same. The main issues are as follow:

- Permit activities authorized by general permits. New language stating that only activities permitted by statute may be authorized by a general permit does nothing to narrow the types of activities that could be authorized by a general permit. There are at least 35 permitted activities that could be authorized (see Attachment 1). DNR testifying that they will issue general permits only for minor activities means nothing – it is the law that matters.
  - General permits and leasing. That the new language ensures leasing and other disposals cannot be subject to general permits does not narrow the types of activities subject to general permits. General permits could never be used to authorize leases and other land disposals because the Alaska constitution requires public notice and consideration of the public interest for “disposals or leases of state lands, or interests therein...” (Article 8, Section 10).
- Significant or irreparable harm. Requiring a finding that an activity is unlikely to result in significant “or” irreparable harm still leaves the department with broad and undefined discretion to authorize an activity by general permit. It remains possible for almost any permitted activity to qualify for a general permit.
- Appeal of general permit decisions. Though the new language allows for an appeal of a general permit decision, a person would not be able to meet the new standard for an appeal. Under HB 77, a person has to be “substantially and adversely affected” to appeal an agency decision. For a person to be adversely affected, a decision “must create or impose an adverse and direct effect or detriment on the person or the interests of that person.” General permits occur prior to any activity taking place. How can a person show a direct effect if there is no activity occurring? The proposed language in Section 1 specifically states that a person may not appeal when a generally permitted activity occurs, which is when they could be affected. It is a “Catch-22.”
- Conflict with other laws. The removal of “Notwithstanding any other provision of law” was replaced with what amounts to substantially the same thing, although limited to DNR statutes. The new language says, “If there is a conflict between this subsection and AS 38.04 [Use and Classification of State Land Surface], 38.05 [Alaska Land Act], or AS 38.95 [Miscellaneous Provisions], then the provisions of this subsection apply.” That means that the department’s decisions under its general permit authority trump state statutes. For example, if there is a conflict between AS 38.05.181 that limits geothermal prospecting permits to a total of three years, and a general permit allows a longer time frame, the general permit provisions apply, not the law.

#### **APPEALS – SECTIONS 4, 12, 13, 14, 31, 32, 33, 34, 39**

No changes are proposed in the committee substitute for the sections of the bill dealing with appeals. The following issues remain:

- Standard for appeal. The new standard for an appeal, “substantially and adversely affected,” is largely undefined. In public hearings, DNR has had to resort to the dictionary to define “substantially.” This is indicative of an ill-defined law likely to cause more problems than it solves.
- Burden of proof. Most people are not well versed in the state’s resource laws and already struggle to make their appeals effective. Now DNR is putting the burden on the public to describe how they are substantially and adversely affected without a clear definition of what that means. It is the job of state government to respond to people’s concerns and assist them through the process, not throw them out. Rather than making it harder for people to appeal, perhaps DNR could work on ways to better communicate with the public and resolve any problems before making a final decision. This could have the added benefit of helping reduce the number of appeals.
- Section 39 – Water Appropriation Appeals. This section is confusing. Under AS 46.15.133(c), the commissioner shall grant, deny, or condition a water appropriation after receipt of any objections. Under AS 46.15.133(e), a person adversely affected by the commissioner’s decision to grant, deny or condition the appropriation can appeal to superior court.
  - Under the proposed language in AS 46.15.133(e), in order to appeal to superior court, a person adversely affected has to show they are “directly affected by a decision made by the department either by a physical or financial detriment to the person’s interests resulting from the decision.”
  - Who decides that a person has a physical or financial detriment – the person appealing to court, or the court? How would a person or the court know whether the standard is met? Is it even possible for DNR to set the standard for standing to appeal to court – isn’t that based on court law?
  - Besides being confusing, the heightened standard that a person be physically or financially affected in order to appeal a decision regarding a public resource as important as water is far too high a burden on the public.

## **WATER RESERVATIONS – SECTIONS 40 to 42**

Section 42 – Commissioner discretion. Water reservations continue to be a big issue. Of particular note is proposed language in AS 46.15.145(h) that gives the commissioner the discretion to decide when to process a water reservation application. It appears DNR is responding to the recent court decision requiring they act on public water reservation applications that have languished for years. By asserting that DNR can put off public applications for as long as they choose, DNR undercuts the court and the public interests the court sought to protect.

## **TEMPORARY WATER USE PERMITS – SECTION 43.**

Temporary use of water. The proposed language in this section gives the DNR commissioner the authority to issue an infinite number of new temporary water use authorizations for the same project.

- While it is possible to make adjustments whenever a new permit for the same project is issued, applying conditions to the permit is discretionary on the part of the commissioner. In addition, there is no public notice requirement where the public could identify issues the department may not know about.
- If DNR wants to authorize a use that goes past five or ten years, but is something less than a right to appropriate water, they could develop a water use permit that includes public notice and sufficient criteria to protect the public interest.
- For a historical perspective, in 2001, DNR put forward the legislation that established temporary water use permits in statute. The original bill set the time period at five years with an optional extension for one additional term of five consecutive years. In response to concerns raised by then Senator Gary Wilken, the language allowing an additional five year term was removed. Senator Wilken voiced concern that some people could decipher the language as creating a “permanent permit.” In agreeing to remove the extension language, the DNR director stated, “the intent of the temporary permit is to be temporary.” (Senate Finance Committee Minutes, SB 139, May 2001).

## **LAND EXCHANGES – SECTIONS 22 to 27**

DNR describes the changes to the land exchanges statutes as giving the department “more flexibility in its authority to exchange land or interest in land when it is in the best interest of the State.” (DNR Presentation, Senate Resources, March 10, 2014).

A fundamental question is whether this flexibility is in the state’s best interest. Land exchanges are a big deal in that they dispose of public land. That is why comprehensive statutes have been on the books since 1976.

## ATTACHMENT 1

Permitted activities under AS 38.05 and AS 38.95 and regulations that may be authorized by a general permit include the following:

AS 38.05.150	Coal prospecting
AS 38.05.152.	Sodium prospecting
AS 38.05.154	Sulphur prospecting
AS 38.05.157	Potassium prospecting
AS 38.05.181	Geothermal prospecting
AS 38.05.250	Mineral prospecting permits on tide and submerged land
AS 38.05.850	Roads Trails Ditches Field gathering lines Transmission & distribution pipelines not subject to right-of-way statutes Telephone or electric transmission & distribution lines Log storage Oil well drilling sites & production facilities Other similar uses or improvements Personal or commercial use or removal of resources of limited value
38.95.075	Use of trapping cabins
38.95.080	Trapping cabin construction
11 AAC 05.010	Identifies land use permits under AS 38.05.850 subject to fees: - Commercial use of a structure or facility that can be occupied (e.g., floating logging camp, floating lodge, guide or outfitter's camp) - Noncommercial use of a structure or facility (e.g., private mooring buoy, float, dock, weir, boat ramp, loading ramp) - Commercial structure or facility (e.g., commercial mooring buoy, fish holding pen, log storage, A-frame logging, equipment staging) - Early entry onto prospective surface leasehold for site development or site analysis - Grazing livestock
11 AAC 58.210	Special land use permit
11 AAC 65.010	Personal use cabin
11 AAC 96.035	Commercial use or commercial harvest of forest products other than timber
11 AAC 96.010	Permits are required for an activity involving (A) the use of explosives and explosive devices, except firearms; (B) Uses that are not listed in 11 AAC 96.020 as generally allowed uses; (C) the use of hydraulic prospecting or mining equipment methods; (D) drilling to a depth in excess of 300 feet, including exploratory drilling or stratigraphic test wells on state land not under oil or gas lease; (E) geophysical exploration for minerals subject to lease or an oil and gas exploration license
Other DNR permits	Agricultural land use permit Tideland permits Millsite permit for a mill facility associated with a mining operation

## ATTACHMENT 2

### **Sullivan v. REDOIL**

#### **Alaska Constitution**

Article 8, Section 1: "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest."

Article 8, Section 2: "The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the state, including land and waters, for the maximum benefit of the people."

The Alaska Supreme Court has a long history of enforcing the public interest clauses in Article 8 of the state constitution.

Most recently, in a March 2013 decision, *Sullivan v. REDOIL*, the Court found that the Department of Natural Resources has a constitutional duty to analyze the cumulative impacts of phased oil and gas exploration and development projects and provide timely and meaningful public notice of the analysis.

The Court leaves it to the legislature as to how the state should analyze cumulative impacts, but maintains their role in ensuring that constitutional principles are followed, particularly what they describe as a bedrock principle in Article 8 that the state's natural resources are to be made "available for maximum use consistent with the public interest."

DNR is currently allowing phased oil and gas exploration and development projects to move forward without the necessary cumulative impact analysis and public notice.<sup>1</sup> DNR is not above the law and cannot ignore its constitutional duty.

Statutes enforcing DNR's constitutional duty to conduct cumulative analysis of phased oil and gas exploration and development projects need to be enacted this session. Failure to do so will mean that Alaskans must appeal to court to get their own state government to follow the law.

---

<sup>1</sup> On August 26, 2013, I filed an administrative appeal of a DNR decision approving a phased oil and gas development project. On March 7, 2014, DNR requested I provide additional information showing I have standing to appeal. The commissioner set April 21, 2014 as the deadline for providing the additional information.

-----Original Message-----

From: Karla Hart

Sent: Wednesday, March 12, 2014 1:37 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77. The recent changes do not solve fundamental flaws.

My reasons for opposition have voiced by many others speaking out against HB 77, the original and the amended. There is no fix for this bill.

In Alaska's constitution public interest and best interests of the public are mentioned repeatedly with respect to our natural resources. Public involvement is essential to protect these interests. Projects that have been through public process are better because of the public comments and issues raised.

I feel strongly that we the people are public stewards of our natural resources. Our stewardship is not limited to our personal financial interest. Most of us who stand up for the environment have no direct financial interest in a clean healthy environment. We do understand that everything is connected and that cumulative impacts and losses are meaningful.

Rick Halford,s Anchorage Daily News editorial states well my concerns and I copy below for the record.

Regards,

Karla Hart

4950 Wren Drive

Juneau, Alaska 99801

From: Jeremy Black

Sent: Wednesday, March 12, 2014 2:39 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

Alaskans are all affected by resource management, because it is the landscape that brings many of us here. Citizens that vote for our elected officials need to be equally a part of decisions, even if the decision is already clear to be good or bad. Taking away the opportunity to hear about upcoming projects and give an adequate say into what is going on that can be listened to, is detrimental to the voice of the citizens.

I can say I am significantly affected by the beautiful state of Alaska. It is what I have continued to tell others about and why I have urged them to come here to experience it with their own eyes. It is disturbing that HB77 would dismiss this by limiting concern only to those that are physically or financially affected.

Even with the changes that have gone through, HB77 is still a bill that would significantly diminish Alaskans' voices. We need to take the future consequences into higher regard instead of just focusing on the benefits that would come from a momentarily splurge of easier development and profit. I oppose HB77.

Jeremy Black

4026 Parsons Ave. #2A

Anchorage, AK 99503

From: Dave Atcheson

Sent: Wednesday, March 12, 2014 1:34 PM

To: Sen. Cathy Giessel; Sen. Peter Micciche

Subject: Please include this in public record and distribute to committee members

Testimony on HB 77:

Please include this in public record and distribute to committee members

I would like to urge the members of this committee to slow down on HB 77. The amendments to this long and very unwieldy bill were just made and the citizens of this state deserve better than to have this quickly pass through committee and not have time to examine and comment.

Additionally, at first look this bill, with amendments, still makes it much more difficult for individual Alaskans to challenge DNR decisions, even when permit holders don't follow the rules. Under HB 77, you have to be "significantly or adversely affected" in order to weigh in or challenge decisions. Direct financial or physical harm from the government decision – a very high bar that will limit our rights and raises the question as to whether subsistence users could ever challenge DNR decisions. While the DNR commissioner no longer has authority to issue general permits without consideration of ADF&G laws, they can still override their own laws and regulations. The new provisions in this bill still gives vast new powers to DNR to issue general land use permits for "any activity" over broad geographic areas. Once the general permit is in place, the public will not be given notice about specific activities authorized by the permit. Once again the public's voice, regular Alaskans, are silenced, while large companies, sometimes foreign companies, can go about their business without our being able to weigh in.

Also, despite some revisions, the new HB 77 provisions on water reservations give DNR complete discretion as to whether to put water reservations filed by Alaskans indefinitely on the shelf. Without a priority date as to when DNR would adjudicate, it doesn't matter that people and tribes have been included as those that can file for reservations. It's all just smoke and mirrors and does nothing to further the rights of citizens.

Again, if nothing else, please slow this process down, so we (Alaskan citizens and your constituents) can make an informed decision and weigh in on something that may very well affect us in the future.

Thank you for your time and consideration.

Dave Atcheson

Sterling, Alaska

907-398-4216





*Enriching Our Native Way of Life*

March 12, 2014

Senator Cathy Giessel  
Chair Senate Resources Committee  
State Capitol Room 427  
Juneau AK, 99801

Senator Fred Dyson  
Vice-Chair Senate Resources Committee  
State Capitol Room 121  
Juneau AK, 99801

Re: Version H of HB 77

Dear Senate Resources Committee:

Bristol Bay Native Corporation (BBNC) appreciates the Alaska Legislature's willingness to gather public input on this far-reaching legislation and appreciates the long hours that many members have devoted to these important issues. Improvements in the latest draft of the bill (Version H) respond to some of BBNC's concerns. However, many of the most fundamental problems with the bill remain. Until these are adequately addressed, BBNC believes the legislation does not yet adequately balance permitting efficiency with public access to and participation in the decision-making process.

As the major private landowner in the Bristol Bay region BBNC is committed to responsibly developing and managing its lands and resources for the benefit of current shareholders and their descendants. Nevertheless, BBNC also believes it is important that our local communities are fully involved in all decision-making processes that may affect their well-being and supports the right of Bristol Bay residents to fully participate and be consulted in agency permitting, land use, and water resource decisions affecting the region.

This past fall and winter, hundreds of Alaskans, including many BBNC shareholders, attended public meetings regarding HB 77 and expressed concerns that the bill would: (1) create a Department of Natural Resources (DNR) general permit that appears to trump all other laws, (2) raise the bar for public citizens to establish the standing necessary to challenge many DNR decisions, (3) significantly restrict who can apply for instream flow reservations, (4) eliminate "best interest" findings for many types of land disposals, (5) more broadly authorize DNR to sanction water transfers across hydrologic boundaries, (6) authorize DNR to issue successive temporary water use permits for development projects, and (7) authorize a feasibility study for a hydroelectric site at Chikuminuk Lake in Wood-Tikchik State Park. The public's objections

caused many legislators to withhold their support and to call for further changes to the legislation, resulting in the current Version H.

While Version H makes progress, further changes are necessary to achieve governmental efficiency and sound decision-making while, at the same time, encouraging and facilitating meaningful citizen participation. Citizen participation is always an important value under Alaska's constitution and laws, but it is especially important for decisions affecting land, water, and other resources in a region whose way of life is deeply intertwined with the natural environment. Alaska government agencies also have a special responsibility to work with Alaska Native tribes on a government-to-government basis, and BBNC encourages legislators to keep this in mind when considering the proposed legislation.

BBNC offers the following specific observations and recommendations regarding Version H of HB 77. As discussed below, while BBNC is encouraged by the fact that this new combined substitute is an improvement over prior versions of the bill, it nevertheless perpetuates several deficiencies from the earlier versions.

## 1. General Permits

Version H removes the "[n]otwithstanding any other provision of law" language that could be interpreted to mean activities approved by a general permit would not need to satisfy other provisions of law, and limits general permits to those activities already subject to permitting under AS 38.05 and AS 38.95 and that are not likely to cause "significant" or "irreparable" harm. This narrowing of the scope of the general permit authority is a welcome change. However, at the Senate Resources Committee hearing on Monday, March 10, 2014, DNR Deputy Director Wynn Menefee was unable to provide Senator Giessel an example of the types of activities that would cause "irreparable" harm (and thus not be subject to general permitting), and he acknowledged that certain activities that are a part of large development projects could be authorized by general permits under HB77. These admissions suggest that the contours of the general permit authority are not defined well enough in the bill. This raises the concern that piecemeal permitting strategies could be used to shield a broad range of activities on State lands from standard public notice and comment requirements. The bill should place more clear limits on the general permit authority sought by DNR.

## 2. Standing

At the earlier public forums, numerous people criticized HB77 for raising the threshold burden of standing required for persons to challenge DNR decisions. These provisions are unchanged in Version H and will limit who can challenge DNR decisions to those who can show a direct physical or financial detriment. Indeed, DNR Deputy Director Menefee openly acknowledged on Monday that the goal of these provisions is to limit citizens' ability to appeal or seek reconsideration of agency decisions. These changes will inappropriately insulate important DNR decisions from public oversight. The proposed standing provisions also run counter to prevailing Alaska Supreme Court principles of standing, which allow a

wider range of persons access to administrative and judicial review. Such review is a core provision of our system of checks and balances and is a highly valued public right. BBNC and its shareholders are wary of measures that would allegedly make government more efficient by restricting or limiting citizens' right to challenge government decisions and action. This is not good government, as it would allow flawed and unlawful decisions to evade appropriate review. Accordingly, these proposed changes should be revisited and either modified or struck.

### 3. Instream Flow Reservations under AS 46.15.145

Version H eliminates one of the biggest concerns in the prior versions of the legislation and maintains the current statutory language that allows a "person" to apply for instream flow reservations. The language further specifically defines "person" to include a "federally recognized tribe." These are all positive changes.

However, additional changes to the State's instream flow reservation program introduced by Version H are troubling. New language in section 42 mandates that all reservations granted be held by the State (as opposed to the applicants) and would not bestow a property right to the applicant. These changes are unfair in that they treat applicants for instream flow reservations differently than applicants for beneficial uses of water who are conferred a property right (section 42). These changes are also unnecessary because only a small percentage of instream flow reservations are filed by "persons," and so far DNR has never issued a reservation to a private applicant.

New language in section 42 of Version H would require anyone applying for an instream flow reservation to submit 5 years of hydrologic data in support of their application. This is a huge hurdle. This also suggests an additional unfairness in the bill. Anyone who is able to meet the new hydrologic data requirement and prove the need for the reservation deserves to receive a property interest that they can then individually protect.

The changes in Version H appear to be an effort to strongly discourage private applicants—a prohibition DNR tried, but failed, to specifically incorporate in the earlier version of HB 77. The Legislature should not do implicitly in this bill what it has already declined to do explicitly—make it impossible for private persons and entities to apply for instream flow reservations.

### 4. Criteria for Best Interest Findings for Water Reservations under AS 46.15.145

Version H provides criteria to guide DNR's public interest determinations for water reservations, and these criteria include economic, fish and game habitat, public health and access considerations. These criteria are helpful, and it is good that they will now be defined in statute. Noticeably missing, however, is a criterion for subsistence. It is not sufficient that there is a fish and game habitat criterion; the two are not the same. Subsistence encompasses social and cultural as well as habitat concerns. For this reason, subsistence has

unique seasonal, geographic, and generational dimensions that deserve independent consideration. One of BBNC's strategic priorities is to advocate for fish and subsistence protections. In accordance with this strategic priority, we strongly believe these statutorily enumerated criteria should include subsistence as a stand-alone consideration.

#### 5. Best Interest Findings for Land Disposals

Multiple sections of Version H explicitly give DNR discretion as to whether it will make a preliminary best interest finding for any type of land disposal other than for oil and gas development. Preliminary best interest findings are helpful to the public's understanding as to why DNR is making the subject land disposals, and the agency often provides them for land disposals of all kinds. They are also helpful in that they provide the public an opportunity to provide public comment on the disposal decision. These changes suggest DNR intends to issue preliminary best findings less frequently. That is not a beneficial change as it will make it harder for the public to understand DNR's rationale for land disposals or otherwise participate in the decision-making process.

#### 6. Temporary Water Use Authorizations under AS 46.15.155

Despite significant public disapproval voiced at the public forums about changes to the temporary water use authorization program, section 43 of Version H remains unchanged and allows DNR to issue an unlimited series of successive 5-year temporary water use permits for projects of all sizes and scopes. Senator McGuire voiced concern about the broad power this confers on DNR to allow projects to indefinitely use unlimited quantities of State water resources over long periods of time on a purportedly "temporary" basis without going through the water rights process. BBNC shares these concerns. The existing temporary water use program is extremely lax on users and includes no meaningful public participation. The changes in section 43 will solidify rather than address the problems with the program and insulate it from public participation even further. That is a mistake.

#### 7. Chikuminuk Hydroelectric Feasibility Study Compatibility Determination

Sections 29 and 47 of Version H continue to include a finding that a feasibility study for a hydroelectric project in Wood-Tikchik State Park in the Bristol Bay region is not an incompatible use and continue to limit implementation of the Wood-Tikchik State Park management plan. While BBNC does not yet have a position on the project itself, we do feel strongly that a specific issue like this feasibility study should not be buried in legislation focusing primarily on other important topics. Including the compatibility determination in this bill means the topic will receive little, if any, independent debate or consideration. The issues surrounding the Chikuminuk provisions should be removed from this bill and considered separately.

## Conclusion

BBNC appreciates the Legislature's changes and improvements in Version H as compared to earlier versions of HB77. Nevertheless, it is a work in progress, and BBNC would like to see further revisions consonant with the recommendations described above.

We appreciate the opportunity to comment on this legislation.

Respectfully submitted,

A handwritten signature in black ink, reading "Daniel L. Cheyette". The signature is fluid and cursive, with a long horizontal stroke at the end.

Daniel L. Cheyette  
Associate General Counsel  
Bristol Bay Native Corporation

cc: Senator Peter Micciche  
Senator Click Bishop  
Senator Lesil McGuire  
Senator Anna Fairclough  
Senator Hollis French  
Senator Lyman Hoffman  
Senator Gary Stevens

-----Original Message-----

From: Anissa Berry-Frick

Sent: Wednesday, March 12, 2014 1:34 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

It is wrong to take away public participation on matters pertaining to Alaskan waters and fish, no matter how "trivial."

It is wrong to discriminate who can have water reservations, especially when the Governor is promoting large-scale mining.

There's a major reduction in how to appeal DNR decisions. When the public cannot contest decisions made by the state, it is wrong. It's wrong that this law would make it nearly impossible for the public to show harm.

I am opposed to SB 77 because it is one more reduction in laws that are meant to protect Alaskan resources.

Anissa Berry-Frick

PO Box 1222

Juneau, AK 99827

-----Original Message-----

From: Andrew Homan

Sent: Wednesday, March 12, 2014 1:38 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday. Please rconsider this entire bill. Itis poorly thought out and is strongly opposed by citizens.

Andrew Homan

23132 cohoe king loop

Kasilof, AK 99610

-----Original Message-----

From: Tina Brown

Sent: Wednesday, March 12, 2014 1:35 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Tina Brown

19400 Beardsley Wy

Juneau, AK 99801



-----Original Message-----

From: Sylvia Panzarella

Sent: Wednesday, March 12, 2014 1:42 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday. This is a blatant grab for extreme governmental power by the state government . Those who support this bill are trying to do it behind closed doors , because they know that Alaskans who are aware of this power grab would never support it. Do not be hypocritical and complain about the federal government and then turn around and do much worse regarding the public's ability to control our interests. Do right by Alaskans and not by special interest groups.

Sylvia & Marius Panzarella

Sylvia Panzarella

7022 Tanaina Dr

Anchorage, AK 99502

From: Dave Atcheson

Sent: Wednesday, March 12, 2014 1:34 PM

To: Sen. Cathy Giessel; Sen. Peter Micciche

Subject: Please include this in public record and distribute to committee members

Testimony on HB 77:

Please include this in public record and distribute to committee members

I would like to urge the members of this committee to slow down on HB 77. The amendments to this long and very unwieldy bill were just made and the citizens of this state deserve better than to have this quickly pass through committee and not have time to examine and comment.

Additionally, at first look this bill, with amendments, still makes it much more difficult for individual Alaskans to challenge DNR decisions, even when permit holders don't follow the rules. Under HB 77, you have to be "significantly or adversely affected" in order to weigh in or challenge decisions. Direct financial or physical harm from the government decision – a very high bar that will limit our rights and raises the question as to whether subsistence users could ever challenge DNR decisions. While the DNR commissioner no longer has authority to issue general permits without consideration of ADF&G laws, they can still override their own laws and regulations. The new provisions in this bill still gives vast new powers to DNR to issue general land use permits for "any activity" over broad geographic areas. Once the general permit is in place, the public will not be given notice about specific activities authorized by the permit. Once again the public's voice, regular Alaskans, are silenced, while large companies, sometimes foreign companies, can go about their business without our being able to weigh in.

Also, despite some revisions, the new HB 77 provisions on water reservations give DNR complete discretion as to whether to put water reservations filed by Alaskans indefinitely on the shelf. Without a priority date as to when DNR would adjudicate, it doesn't matter that people and tribes have been included as those that can file for reservations. It's all just smoke and mirrors and does nothing to further the rights of citizens.

Again, if nothing else, please slow this process down, so we (Alaskan citizens and your constituents) can make an informed decision and weigh in on something that may very well affect us in the future.

Thank you for your time and consideration.

Dave Atcheson

Sterling, Alaska

907-398-4216

-----Original Message-----

From: Bobbi Burnett

Sent: Wednesday, March 12, 2014 1:53 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

Trust in the US government is at an all time low. Politicians don't listen to the people that they are supposed to protect and serve. HB77 is a prime example. I've been at the hearings and the overwhelming majority of Alaskans understand that this bill is BAD. It gives government agencies like DNR the ability to give permits without public notice. Once the permit is issued-we are screwed. We will have no say or recourse unless we can prove we have been directly harmed-whether physically or financially. WHO decides that? How much harm is too much? Giving big coal companies permits to take water out of the salmon streams harms/destroys the salmon runs. WHO decides if the fish can live with a fraction of their water or if we can live with a fraction of our food?

Current water use rules will be thrown out. Even ones that have been PENDING for years--now they won't have to even bother with them. Secret closed-door meetings clearly show that our governor wants to do things his way. He doesn't care about preserving our state-only its destruction 'for the money'.

HB77 is a dangerous bill. This state belongs to the people, not the little power-hungry politicians.

PLEASE KILL HB77.

Bobbi Burnett

13400 Lamb Dr

Anchorage, AK 99516

## Testimony to the Senate Resources Committee on HB 77

By Vivian Mendenhall  
4600 Rabbit Creek Road  
Anchorage, Alaska 99516

Senator Giesel, Senate Resources Committee:

Thank you for the opportunity to testify on HB 77. This bill contains crucial issues for Alaskans.

I am a 35-year resident of Alaska, a career wildlife management professional (now retired), and an expert in wildlife habitat management. I love our state, its people, and its environment. I fully accept the value of commercial development—but the public must be assured that natural resources will be protected for our own use, too. I am representing myself.

**Our natural resources must be managed by the state as a public trust for the benefit of the people,** not for the benefit of the government or corporations (Alaska Constitution, Article 8, Section 3; [http://w3.legis.state.ak.us/docs/pdf/citizens\\_guide.pdf](http://w3.legis.state.ak.us/docs/pdf/citizens_guide.pdf)). This bill is another attempt by our government to deny Alaskans' rights in our resources.

### 1. Water rights:

Last year's version of HB 77 would not have allowed private entities to apply for instream flow reservations. That has been changed, which is a great improvement.

**However, language should be added that requires DNR to process and decide on applications in a timely manner,** and (possibly with exceptions) in the order in which they were submitted. DNR's behavior in this regard has been atrocious—last year the court had to order the agency to process an application on which it had been sitting for many months.

It is worth noting that the **Administration is on record as ignoring Alaskans' rights** to reasonable use of our water. Last year Governor Parnell was quoted as saying that **Alaska is the only state which grants water rights** to groups or individuals. **That is dead wrong!** Of the other 49 states, **forty-four do issue permits** to reserve water rights. And of the seventeen other states that follow the Prior Appropriation doctrine (as does Alaska), **ten specifically offer instream flow reservations** as well.

### 2. General permits:

General permits have their uses (as I know from my agency career). **But their proper uses are for specified activities, in specific places and times**—like the fishing buoys that the administration likes to cite. General permits must only be issued if a specific plan has been submitted. Otherwise, DNR will be permitting whatever it likes at the moment.

Even as amended, HB 77 would deny a permit only in case “significant or irreparable harm” is likely. But those terms are not defined. And (as mentioned below), **the public will not be able appeal, even if scientific evidence shows such harm is unavoidable!**

DNR could decide that motorized traffic across marshes or tundra isn't "significant or irreparable harm," if staff doesn't mention that such traffic would alter water flow and destroy soils for hundreds of years. And a general permit wouldn't even allow case-by-case evaluation of "harm."

**The general permit provisions must be rewritten by specialists who actually know and care about Alaska's lands and habitats.**

### **3. Standing to appeal:**

HB 77 continues to say that **a person who wishes to appeal must (a) have engaged in a hearing process (if any was held), and (b) must be "substantially and adversely affected"** by the decision. Furthermore, the bill doesn't even define those terms--DNR is left to decide what they mean.

This effort to shut Alaskans out of the decision process is unacceptable because:

- **People will have to follow DNR's decision processes every day** (or hire lawyers who do), or they won't know about hearings;
- DNR is likely to deny appeals by **people who depend on a resource for their subsistence harvests, or for recreation** (hunting, photography, boating, wildlife viewing, etc.); and
- **Scientific information cannot be inserted into the process**—DNR can exclude specialists who actually know what the probable impacts of a permit or decision would be, but who aren't "substantially and adversely impacted" in DNR's terms.

Alaskan's must have a reasonable right to appeal decisions by DNR in a timely manner.

**In conclusion**, the Administration claims that water rights, case-by-case permits, and appeals are not efficient. Well, I'm in favor of reasonable efficiency. **But a democracy cannot be perfectly efficient!**

**There are examples worldwide of governments that shut the people out, giving unquestioned power to officials. But they are not called democracies.** Please support the rights of Alaskans to participate in management of our resources.

Thank you.

-----Original Message-----

From: Jay Laxson

Sent: Wednesday, March 12, 2014 2:06 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Jay Laxson

11901 Woodbourne Cir

Anchorage, AK 99516

From: Julie Rafferty

Sent: Wednesday, March 12, 2014 1:32 PM

To: Sen. Cathy Giessel

Subject: Please add to testimony for HB 77 hearing today & distribute to Natural Resources Committee Members

Please add to testimony for HB 77 hearing today & distribute to Natural Resources Committee Members. Thank you!

I am unable to testify in person today but I would like to add my voice to those against HB 77. Alaskan resident perspectives should be solicited and heard before the State of Alaska issues public permits. It is part of our great democratic process. Please don't vote to squelch community concerns before decisions are ultimately made by the State. I urge you to vote NO.

Thank you for your service to our great state.

Sincerely,

Julie Rafferty  
5340 Anderson Road  
Fairbanks, AK

-----Original Message-----

From: Josh Klauder

Sent: Wednesday, March 12, 2014 2:04 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

The changes do little to change my impression that this bill is anti-Alaskans, and a power grab by DNR and it's all too friendly friends in various industries.

"Streamlining" sounds to me like a code word for shutting out Alaskans from our own resources. I have noted that when they WANT to, DNR can process an application in about ten minutes, while ignoring a previously filed application for years. "Streamlining" is not the problem!

Josh Klauder

PO Box 396

Talkeetna, AK 99676



-----Original Message-----

From: James Price

Sent: Wednesday, March 12, 2014 2:02 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I strongly oppose HB77.

As an Alaskan and a commercial fishermen, this legislation threatens the long-term sustainability and future of our fisheries.

I oppose being ignored and excluded from the process that determines Alaska's future.

Please support my right to be heard. Please vote against HB77.

James Price

49185 Island Lake Rd

Kenai, AK 99611

-----Original Message-----

From: James Mattis

Sent: Wednesday, March 12, 2014 1:29 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

James Mattis

13108 Thornridge Dr

Grand Blanc, MI 48439

-----Original Message-----

From: Glenn Olson

Sent: Wednesday, March 12, 2014 1:48 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Glenn Olson

7034 Fairweather Park Lp

Anchorage, AK 99518

-----Original Message-----

From: Franzelle Carmon

Sent: Wednesday, March 12, 2014 1:54 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

I thought Alaska was the last great frontier. It seems that with current trends, you folks would have it look like CA or the midwest. Wow, please consider wisdom and integrity in your examination of what is best for Alaska.

Franzelle Carmon

409 Trabing Rd

Buffalo, WY 82834

-----Original Message-----

From: Dean Sundmark

Sent: Wednesday, March 12, 2014 2:18 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

The new changes to proposed HB 77 do not satisfy my concerns about public input into DNR decision making processes. I believe the bill needs to require DNR to hold public hearings on permitting decisions and way public testimony heavily in their decisions. I strongly believe this type of policy is in keeping with the Alaska Constitution as it honors that fact that the constitution clearly identifies Alaska's natural resources as owned by the citizens of the State.

HB 77 also fails to allow for an adequate appeals process if decisions are made that are contrary to existing law or policy. The language of "significantly adversely affected" restricts citizens and public organizations such as city governments or tribes from addressing adverse policy decisions. Finally I do not think HB 77 provides enough security to Alaskans regarding water reservations. As this bill has been written and modified it is reduces Alaskan's ability to make meaningful contributions to democratic processes. As such I advocate that the bill be terminated and that any similar legislation in the future be developed through a public input process. Thanks for considering my comments.

Dean Sundmark

Homer Alaska

AK 99603

Dear Senate Resources Committee,

March 12, 2014

We adamantly oppose HB77. The amendments do not address our major concerns. We are very disappointed in the rewrite; especially after all the public outcry requesting changes that would represent Alaskans not cooperation's. Gov. Parnell spends a lot of the state's money suing the federal government for "over reach". This bill is state government overreach! Giving the kind of power to the DNR Commissioner, as HB77 does, is the wrong direction. Not allowing Alaskans to appeal decisions the commissioner makes is blatant dismissal of the people's rights. The rewrite does nothing to protect Alaskans water reservations for fish, recreation or other uses. Furthermore, local governments, tribes & individuals can no longer hold their own certificates for reservation.

We expect, as Alaskan residence more respect from our elected officials. This bill hands our rights over to outside cooperation's and the government on a silver platter. We beseech you to vote no on HB77.

Sincerely,

Roberta Highland & Robert Archibald

PO Box 2460

Homer, AK 999603

907-235-8214

-----Original Message-----

From: Chancy Croft

Sent: Wednesday, March 12, 2014 2:12 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I opposed HB 77 in the form it passed the House. I oppose the bill with the cosmetic changes now being proposed.

Commissioner Balash said in his PointCounterPoint article today that if “the department approves a water reservation sought by a ‘person’ the certificate will be issued to an appropriate state agency.” If DNR does not have the staff to appropriately evaluate permits, what agency would possible have the staff to protect the water reservation sought by a person?

More importantly, I object to the Orwellian concept that the rights of a person are inferior to the rights of a corporation or a government agency. I do not need and I certainly do not want “Big Government” to hold any of my rights – to water or anything else. A corporation using water should not have more rights to use water in Alaska than a person who wants to protect that same water.

Chancy Croft

Chancy Croft

2727 Mccollie Dr

Anchorage, AK 99517

-----Original Message-----

From: Dan Carr

Sent: Wednesday, March 12, 2014 2:19 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Dan Carr

18858 W Willow Cir

Willow, AK 99688



-----Original Message-----

From: Cheryl Konter

Sent: Wednesday, March 12, 2014 2:34 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Cheryl Konter

3058 Seclusion Cove Dr

Anchorage, AK 99515

-----Original Message-----

From: Carly Wier

Sent: Wednesday, March 12, 2014 1:25 PM

To: Sen. Cathy Giessel

Subject: Oppose HB77 - please include in public record on this bill

Dear Senate Resources Committee,

I am disappointed and disheartened that the revised HB77 presented on Monday still does not address the major concerns that so many Alaskans like myself took the time to speak out about last Fall. I am especially disappointed that DNR did not work with Tribes and others who had very specific concerns and recommendations to find middle ground. The only stakeholders DNR seemed to consult were development interests. Sadly, this is business as usual for DNR.

Still, in the revised bill, DNR can issue a general permit for specific "activities" before specific projects are proposed. Then, after the general permit is issued I would have no way of knowing what specific project was authorized.

But what is most troubling in this section is that DNR has complete discretion to decide what the words "significant and irreparable harm" mean. This is an unacceptable way to provide certainty to developers and individual Alaskans alike.

I also think the new language leaves it unclear as to whether DNR can ignore their own rules and statutes when they see fit to approve a permit application. We are simply asked to trust DNR staff, which is just like asking us to trust the fox to watch the hen house.

The section that tries to clarify who can appeal DNR decisions was perhaps well intended but it goes too far and does a disservice to Alaskans who have legitimate and valid complaints against DNR when they break their own rules. Specifically the words "significant and irreparable harm" set the bar way too high for individual Alaskans with specific, valid complaints.

Finally, perhaps the worse offender in this revised bill is the section on water reservations. First, it is categorically unjust and unfair to change the rules for current water reservation/in-stream flow applications that have been pending for years. Changing the rules midway through the game or process has never been fair or right and it is not fair or right in this bill.

I personally know individuals from the Chuitna Citizens Coalition and these are honest, hard working Alaskans who are trying to play by the rules and use the tools set up for them to keep water in streams for fish. They are not the outside big environmental groups this bill is attempting to mitigate. This bill changes the rules for them after they submitted more than \$4000 and waited for years for an answer from DNR. Meanwhile, DNR can issue a permit for a huge outside coal company to come in and take all of the water out of the stream they are trying to protect and instead pump mine waste into the Chuitna. It is clear watching this process who DNR and the Parnell administration is working for - and it is NOT Alaskans. It is very clearly outside companies that may give big donations at election time but return little to nothing but a permanently destroyed salmon stream to Alaskans.

As a consumer of the public process - someone who votes, volunteers, tries to participate in agency decisions and processes that affect my way of life in Alaska - I remain concerned that DNR and the Parnell Administration are taking steps to remove individuals like me from the process. Already, developers have unlimited access to consultation with DNR to produce their permit applications and navigate this process. They have a seat at the table already. The real fix is to find a way for Alaskans to provide input into the resource decisions that affect our way of life and our future. In a state like Alaska, with the constitution we have, this should not be too much to ask.

I respectfully request that you stand up for Alaskans and not outside corporations and do not pass this bill out of committee. It is too big and too dangerous. Instead, I suggest you task DNR to hold real and meaningful public hearings to hear from the public on the permitting process. The "tour" they did a few years ago to hear from the public was wholly inadequate. As a participant in one of those meetings in Anchorage, I can say from first-hand experience that it was a typical DNR hearing - poorly promoted, short, unnecessarily technical, and with inadequate opportunity for dialogue.

Respectfully,  
Carly Wier  
Anchorage, Alaska

Carly Wier  
3405 Woodland Park Dr  
Anchorage, AK 99517

-----Original Message-----

From: Allison Barker

Sent: Wednesday, March 12, 2014 2:02 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Public notice is absolutely essential for the public process to work in a democratic system. As it stands, the current DNR public process is flawed and should have more strict, rather than less strict requirements that HB 77 would enable. As Alaskans who depend on clean water, unpolluted air, healthy salmon, pristine blueberries, and abundant moose...our water rights must continue to be protected on an individual, state, and federal level. Privatizing Alaska's water would be detrimental to the public and at a huge cost to the state. As a citizen of Alaska, a farmer who depends on clean, fresh, abundant water (and the protection of it), and a person who depends on his/her subsistence rights...I strongly OPPOSE any changes to HB77 or any bill similarly written. This bill will have a ripple effect on every Alaskan who depends on the state to protect our inherent resources that makes our lives possible. It is not time to loosen and increase the loopholes for big corporations and DNR to do what they want, when they want, without notice to their neighbors. This deserves a public outcry. Deny HB 77 Now, or we will suffer the consequences.

I urge you to consider the reputation you want to have for future generations...one that listens to its people and believes and supports the public process OR a dictatorship that makes decisions behind closed doors?

Allison Barker

PO Box 1223

Chickaloon, AK 99674

-----Original Message-----

From: Bobbi Burnett

Sent: Wednesday, March 12, 2014 1:53 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

Trust in the US government is at an all time low. Politicians don't listen to the people that they are supposed to protect and serve. HB77 is a prime example. I've been at the hearings and the overwhelming majority of Alaskans understand that this bill is BAD. It gives government agencies like DNR the ability to give permits without public notice. Once the permit is issued-we are screwed. We will have no say or recourse unless we can prove we have been directly harmed-whether physically or financially. WHO decides that? How much harm is too much? Giving big coal companies permits to take water out of the salmon streams harms/destroys the salmon runs. WHO decides if the fish can live with a fraction of their water or if we can live with a fraction of our food?

Current water use rules will be thrown out. Even ones that have been PENDING for years--now they won't have to even bother with them. Secret closed-door meetings clearly show that our governor wants to do things his way. He doesn't care about preserving our state-only its destruction 'for the money'.

HB77 is a dangerous bill. This state belongs to the people, not the little power-hungry politicians.

PLEASE KILL HB77.

Bobbi Burnett

13400 Lamb Dr

-----Original Message-----

From: Paulette Sortor

Sent: Wednesday, March 12, 2014 2:18 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday. It is time to take back the rights of Alaskans and return power to the people, not Alaska politicians who have only their own self interests in mind. Why are so many decisions made by few who supposedly represent their constituents. They do not. Plus many of these decisions are made out of the public eye. I say pay all politicians minimum wage, and outlaw lobby/corporate control of our government. Alaska is the most precious state of our country and it is being hijacked by crooks.

Paulette Sortor

PO Box 34

Anchor Point, AK 99556

-----Original Message-----

From: Patricia Wherry

Sent: Wednesday, March 12, 2014 1:53 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I oppose HS Bill 77, even with the changes presented on Monday. A large piece of the Alaska public is speaking again. Same tune.

The closest public to the situation, the native community, still objects on fishing issues.

The National Parks were miraculously created to stay a possibly heavy, state hand for immediate gratification.

Stop the finagling to close public input and guardianship efforts by the National Parks.

Oppose HS Bill 77.

Patricia Wherry

5875 Glacier Hwy #37

Juneau, AK 99801

-----Original Message-----

From: Patricia O'Brien

Sent: Wednesday, March 12, 2014 2:12 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Please just dump this proposed legislation. There is nothing in it that I can support.

Patricia O'Brien

Patricia O'Brien

PO Box 35451

Juneau, AK 99803



From: Mike Friccero

Sent: Wednesday, March 12, 2014 2:35 PM

To: Sen. Cathy Giessel

Subject: HB 77 "Please include this in public record and distribute to Natural Resource committee members."

"Please include this in public record and distribute to Natural Resource committee members."

Dear Sr Cathy Geissel,

As the chairman of the AK Senate Resource Committee I implore you to vote against HB 77

This legislation does not serve the public interest. There is so much that is wrong with this bill that I am shocked anyone would come out in favor of it and risk reelection (in my opinion).

There will be a lot of "push back" if this bill moves forward, as so many Alaskans are not aware that this bill could move out of committee in this form, this quickly. This legislation will diminish public participation regarding permitting process for lands and waterways that are the public domain.

We will very soon be experiencing an exploratory boom for extraction projects around Alaska. If you want the public to trust the permitting process, then do not take steps to make the process less rigorous.

Respectfully

Mike and Gina Friccero

Michael Friccero

Rainy Dawn Services

F/V Miss Gina

Kodiak, Alaska

907 539 1320 cell

-----Original Message-----

From: Michelle Singleton

Sent: Wednesday, March 12, 2014 2:35 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

It is my general belief and understanding that our laws which help govern people and protect the environment and our United States resources should NOT be giving extra power to an authority which can then jeopardize an entire community for a lifetime. I cannot believe that our own government wants to give up the people's right to protect one of the last untouched places in this World. Give up the people's voice for corporate gain. I completely appose this bill and what it represents. We are sacrificing something that cannot be replaced, the rights of tribes to their land and water and salmon to the last unaffected stream in the World. This bill should not pass.

Sincerely,

Michelle Singleton

989-600-9899

Michelle Singleton

2031 E 75th Ave B

Anchorage, AK 99507

-----Original Message-----

From: Marcia Denison

Sent: Wednesday, March 12, 2014 2:30 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday. You must protect us from mining that kills our salmon food and lively hoods. The water belongs in the streams and is our right to substantive life.

Marcia Denison

618 Gambell 7

Anchorage, AK 97048

-----Original Message-----

From: Ward Grant

Sent: Wednesday, March 12, 2014 1:28 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday. The bill is still an effort to game the system by the Governor and DNR. There is a tremendous bias by the state to favor industry over the Alaskan citizen. I live and work as a commercial fisherman in Beluga, Alaska and the history of the commissioner and DNR in dealing with the Chuitna Coal Project is an embarrassment. Just look at the effort that was needed by citizen organizations to get the state to review our request for water rights. We had to go to court at our expense, and after we won the DNR still denied that they were obstructing us. They clearly stated that if they can get HB77 passed it would void the decision by the court. There is no trust for the Governor and his yes men at the DNR. They do not represent us just big developers.

Ward Grant commercial fisherman

Ward Grant

PO Box 876865

Wasilla, AK 99687

From: Robyn Lauster  
Sent: Wednesday, March 12, 2014 1:29 PM  
To: Sen. Cathy Giessel  
Cc: Sen. Hollis French  
Subject: House Bill 77

Senator Giessel:

I have lived in Alaska since 1962 and I am a supervoter. I am deeply concerned about House Bill 77. Any move to lessen the amount of public input regarding natural resources in Alaska I consider unconstitutional. Our constitution clearly states that Alaska's resources are to be managed for the good of the public. Therefore, the public needs to be consulted.

Water is a seriously at-risk resource worldwide, as are salmon. The existing law allows Alaskans to reserve water in streams for wild fish, which is only sensible. HB 77 gives DNR too much power, allowing politics to control decisions that require careful science and public input.

It is completely unfair and unreasonable for the Parnell administration to hold secret their revisions for 10 months, then require response within two days. At the very least, the public comment period on this important bill needs to be extended to give people a chance to digest its contents and its wide-ranging effects.

At a time when other states are busy dismantling their dams because of the damage they have caused, Alaska is now looking to build them. And mining -- particularly strip mining -- is anathema to healthy streams and salmon, both of which are strong reasons for people to live in and travel to Alaska. The Parnell administration favors development and out-of-stream withdrawals over the health of the stream and salmon, which is short-sighted and clearly against public wishes. Because courts have agreed with the public and upheld the law, now the administration wants to change the law, just as they want to change how we choose our judges because they don't like the courts' decisions.

Please do everything you can to slow down and stop this wrong-headed bill. Thank you.

Robyn Lauster  
3003 W. 32nd Ave.  
Anchorage, AK 99517

-----Original Message-----

From: Stan Anderson

Sent: Wednesday, March 12, 2014 2:20 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I to oppose HB77, even with the changes presented on Monday.

I do not trust the AK DNR to make water quality and other environmental quality decisions. I see HB77 as a naked political power grab on behalf of narrow self-interests.

Stan Anderson

59835 Tern Ct

Homer, AK 99603

From: Darryl Schaefermeyer <darryls@alaskasealife.org>

Date: March 11, 2014 at 8:45:40 PM AKDT

To: <Senator.Cathy.Giessel@akleg.gov>

Cc: Tara Jones <taraj@alaskasealife.org>

Subject: HB 77, Section 42

Senator Giessel,

The Seward Association for the Advancement of Marine Sciences, dba, Alaska SeaLife Center holds water rights permit LAS 19238 for which it submitted a Statement of Beneficial Use on September 10, 2009, including the required \$50.00 Certificate recording fee, supporting its usage of 579.74 acre feet per year and therefore establishing its eligibility to be issued a permanent water right Certificate of Appropriation in accordance with AS 46.15.120. This water is from an unnamed spring developed by the Alaska SeaLife Center in 1996 and is used continuously to support aquarium life, marine research and marine mammal and seabird rehabilitation. It is critical to the Center's operations.

After filing the Statement of Beneficial Use, the Center has each year sought action by the Department to issue the Certificate of Appropriation, including a letter to then Commissioner Sullivan to which no response was ever received. We are continually informed verbally that due the large backlog in water rights permits, the Department is unable to inform Center when the Certificate will be issued.

In reviewing 2nd SCS CS HB77(Res) Version H, we understand that AS 46.15.145 would be amended by directing the Commissioner to issue any approved certification for a water reservation applied by a person as defined in AS 46.15.260 to an appropriate state agency to ensure that public entity holds the reservation for a public resource. While we understand the stated rationale in making this proposed change, the process is not spelled out for determining the "appropriate state agency" nor does it spell out the rights and role of the person who applied for and established beneficial use of the water, other than stating the applicant will have the right to appeal a decision on the application and only the applicant or agency holder of a reservation may appeal subsequent administration of the reservation under AS 46.15.145(f).

Of particular concern to us, are actions by the "appropriate state agency" issued the Certificate for the water reservation that is vital to the mission and operation of the Alaska SeaLife Center. In not being the recipient and holder of the permit, the Center risks being subject to the unilateral actions of the

state agency in administration and management of the Certificate which could jeopardize this resource critical to the Center. We request the Committee to address this concern by appropriate amendment and/or clarifying report language.

Please enter this e-mail in the March 12, 2014 hearing record on the bill. Thank you.

Best wishes always,

DARRYL SCHAEFERMEYER

Facilities Director

Alaska SeaLife Center

Direct: (907) 224-6309

Fax: (907) 224-6320

Mobile: (907) 362-2271

P.O. Box 1329 • 301 Railway Ave • Seward, AK 99664

[www.alaskasealife.org](http://www.alaskasealife.org)

Attachments: (1) LAS 19238 Alaska DNR Case Abstract

(2) September 15, 2011 Letter to Commissioner Dan Sullivan



PUBLIC TESTIMONIES REGARDING HOUSE BILL 77

SITKA, ALASKA

MARCH 12<sup>TH</sup>, 2014

**Directed to:**

SENATE RESOURCES COMMITTEE

GOVERNOR SEAN PARNELL

DEPARTMENT OF NATURAL RESOURCES STAFF

**APPEREANCES:**

LINDA BEHNKEN

ANDREW THOMS

JAMES SWIFT

LORRAINE INEZ LIL

ERIC JORDAN

JOEL HANSON

SCOTT HARRIS

MICHAEL BAINES

MATTHEW DONOHUE

KIM ELLIOT

CHARLES BINGHAM

DAVEY LUBIN

PAULETTE MORENO

JOHN MURRAY

ANDREW SCORZELLI

PUBLIC TESTIMONIES REGARDING HOUSE BILL 77

GIVEN FEBRUARY 13<sup>TH</sup>, 2014  
SITKA, ALASKA

MS. BEHNKEN:

"HB 77 is very far reaching in its effect, it vests unprecedented power in the Department of Natural Resources when it comes to giving away state lands, allowing development in areas that would have tremendous effect on salmon streams, really reduces the public's ability to comment on in stream flow and effects to salmon, and as currently written eliminates the opportunity for individuals and tribal government to comment- only Departments can participate under the bill as currently written on commenting in the permit process.

[HB 77] would have probably moved through quickly because it is so difficult for people to pick apart and understand what all it says if it wasn't for some key people that spoke out and held it up. Our Representative Jonathan Kreiss-Tomkins did a lot on that and Senator Stedman really put the breaks on it and gave people the chance to understand all its implications and speak out.

I think that given the push behind it from mining industries and businesses, there will still be a good push to get this bill through, so I think public comment and voicing opinions on this bill is incredibly important."

*Discussed Chuitna Citizens Coalition (CCC) v Sullivan (DNR) court case involving the two legal issues brought forth by CCC: water reservation applications and appealing a mining project.*

Question asked by audience member: "Is there anything in this bill that you like?"

Mrs. Behnken: "If there are things that I like in this bill, I couldn't point them out to you. I do understand that DNR has interest in facilitating the permitting process so that there could be quicker decisions but I think they've gone way beyond that with this bill and that's the message they need to hear from the people."

MR. THOMS:

"My name is Andrew Thoms and I'm the Director of the Sitka Conservation Society. We're concerned about this bill because we just see this as another step that the Governor is taking in removing the people of Alaska out of the process, and we see that as starting with the Coastal Zone Management Plan being steamrolled through. His next

PUBLIC TESTIMONIES REGARDING HOUSE BILL 77

GIVEN FEBRUARY 13<sup>TH</sup>, 2014  
SITKA, ALASKA

step was giving a huge oil tax break to oil companies, and now this is another step that will streamline all the permitting process for those oil and gas companies and mining companies. It feels like the people of Alaska are last on the Governors list. And consider the fact that he came from a background of oil lobbying and now he's doing all this - you put eggs in the incubator and they hatch and this is what you get with our Governor. For us, its priority is that we speak out against this. We've been making calls and writing letters to our legislature's office. And I know from Senator Stedman's office its helping and for other legislators its helping too in standing up and pushing back. We need to give a clear message to stop what this Governor is pushing and what he's shown us he will do to take citizens out of the process."

MR. SWIFT:

"I'm a long time fishermen here and was a member of the Fish and Game Advisory Board many years back and very involved in fisheries politics. This bill just subverts everything that we have in Alaska and it historically speaking is similar to why statehood came about. We were being controlled by the salmon canneries that had all the power and were just killing all the fish off and if you look back historically that was one of the reasons why statehood came about-to stop all those fish traps from stealing all the salmon. And I know that when I started salmon fishing in the early 70s, there wasn't many salmon around here, and that's what we have to look forward to. We've been very good with our water permits and supply and we have a lot of fish as a result and this bill just wants to subvert that and give the rights and decisions in the hands of corporate entities. It's happening all around America right now. I can't believe they're so blatant. I stand totally against this. Thank you."

MRS. LIL:

"My name is Lorraine and I've lived in Sitka for over 25 years. I was stunned today when I read this bill. How can we revert back to dirty water from mining without any public comment? I attended a lecture a few nights ago from the person that inspects the mines and the most important thing is water, water, water. This bill will revert us back to not caring about water. I think that we need to stand up and fight this bill because it does everything that Alaskans do not want."

PUBLIC TESTIMONIES REGARDING HOUSE BILL 77

GIVEN FEBRUARY 13<sup>TH</sup>, 2014  
SITKA, ALASKA

MR. JORDAN:

*Asked the audience:*

"Is there anyone here that would like to speak in favor of the bill?"

*No one responds.*

*Read Governors transmittal letter dated January 17<sup>th</sup>, 2013.*

"I want to point out that in Alaska we have a long history of unilateral support for the right to comment on water rights for our fish and wildlife.

We have a long tradition of both Republican and Democratic leaders that have stood for water rights and salmon. Whether it is Senator Bert Stedman this year, or Governor Jay Hammond in the '70's, or Senator Dick Eliason who represented Sitka in the '80's, and authored the bills that banned salmon farming in Alaska and established our wild salmon priority, protecting water and salmon are a bipartisan effort in Alaska.

The state of Alaska has the strongest protection for salmon of any government in the world.

The problems with this bill are not partisan in nature; they are in the details of this bill."

MR. HANSON:

"My name is Joel Hanson. I'm a long time resident of Southeast Alaska currently serving as Conservation Director for The Boat Company, a small cruise ship operation providing nature-based tours in summer months between Sitka and Juneau. In reading over this bill, I'd say that I might be able to support it if I totally trusted the Alaska Governor and his appointed officials at the Department of Natural Resources to always have the best interests of the majority of Alaskans at heart. But I don't have that feeling of trust, not in the current administration and not in any administration that would attempt to short-circuit public participation in resource development issues involving salmon habitat and water quality. I have no confidence in HB77's potential to serve the public's long-term interests, and that's about the extent of my technical analysis of the current version of this bill."

PUBLIC TESTIMONIES REGARDING HOUSE BILL 77

GIVEN FEBRUARY 13<sup>TH</sup>, 2014  
SITKA, ALASKA

MR. HARRIS:

"My name is Scott Harris and this is Tomy. I've been in Alaska for 20 years. I've worked in the industries of natural resource management, education, and commercial tourism. There is a lot of egregious parts of this bill like the water reservations but the biggest problem for me and a lot of us here in Alaska is this is a direct attack on Democracy and citizen participation. These are public resources and we are the public so the State and people that manage public resources need to listen to the public. That's America, that's Alaska, that's Democracy. And yes it's harder, it takes more time, you have to find consensus among different opinions, but tough-- that's the way it needs to be when talking about public resources. I think the Parnell administration is constantly trying to chip away at public participation. Coastal zone management is one of the first steps, the next was the oil tax giveaway, and now its right here with HB 77. I think the whole bill should pretty much just be scrapped. Public participation is key to really making good decisions and responsible stewardship and utilization of our resources. Thank you."

MR. BAINES:

"Michael Baines, Tribal chairman of Sitka Tribe. Over 30 tribes have expressed opposition to HB 77 and Sitka Tribe is one of them. There have been other letters that have gone out on HB 77 and I'll just read one paragraph written by Dorthy B. Larson and Rob Sanderson Jr. , who is the second Vice President of the Central Council of the Tlingit and Haida Indian Tribes of Alaska:

*'Alaska Native peoples must speak up on behalf of our lands, waters, and traditions that may be at stake because of this bill. The Parnell administration has prioritized HB 77, which makes significant changes to its permitting process on state land. The bill would limit tribes and individual Alaskans in our ability to appeal Department of Natural Resources decisions and receive notification of decisions. The bill would strip our rights to apply for in-stream water.'*

I want to recognize Harvey Kitka and Austin Bell, staff and the Tribe's Resource Protection Department.

Also, we submitted a LTE in the paper the other day which some of you may have seen but I'll read it:

PUBLIC TESTIMONIES REGARDING HOUSE BILL 77

GIVEN FEBRUARY 13<sup>TH</sup>, 2014  
SITKA, ALASKA

'Introduced by Governor Parnell, House Bill 77 would essentially fast-track all future development of natural resources on State lands by all but eliminating the public's involvement in the land use, disposal, and exchanges process. HB 77 removes the right of tribal governments to acquire in-stream water rights to ensure adequate water flow for subsistence fish stock, severely limits the public comment period and gives the commissioner of the Department of Natural Resources unprecedented authority to issue permits and severely restrict the public's right to appeal administrative decisions. The Sitka Tribe of Alaska has taken a stance in opposition of HB 77 for the reasons listed above. If you fish commercially for a living, enjoy sport hunting and fishing, or engage in subsistence harvesting, I encourage you to join STA in its stance to protect our natural resources and our rights to control how those resources are managed. Letters of opposition should be sent to the Alaska Senate, which currently controls the fate of this devastating bill.'

Thank you."

MR. DONOHOE:

"Hi I'm Matt Donohoe and I'm on the board of the Alaska Trollers Association, the oldest Fisherman's Organization in Alaska. We represent small boat hook and line salmon fishermen in Southeast Alaska. This winter our board voted to oppose House Bill 77 as passed. Historically protection of fish and game was so important to the people of Alaska that it was enshrined in the State Constitution. I asked some of the old timers about that when I got up here in 1973. 'Why,' I asked, 'did they vote for statehood? Didn't that mean that they would have to pay Federal Income Tax among other things?' They told me, 'We wanted to protect the fish.' This bill attacks the basic constitutional guarantees of fish and wildlife protection that are in Alaska's constitution. It attacks the concept of common ownership of resources as laid out in Article VIII Sections 2 and 3 of that document. It is 'We, the People of Alaska' that own the fish and water of our State. This Bill will lead to privatization of water, threaten salmon, and condemn our children to a future that is more like the rest of the world than Alaska. I believe that if this bill is passed without significant changes future generations of Alaskan's will not have the salmon or other wildlife resources we have today.

Thank you."

PUBLIC TESTIMONIES REGARDING HOUSE BILL 77

GIVEN FEBRUARY 13<sup>TH</sup>, 2014  
SITKA, ALASKA

MS. ELLIOT:

"Nice to see all of you here. My name is Kim Elliot and I have lived in Sitka since I could walk and I think a good example of things that happened when we didn't have any kind of say about stuff was what the water used to look like when the pulp mill was operating. We really have to think about what our future would look like if we didn't have any rights to take care of the water upstream from our piece of property wherever that might be. People really deserve the right to question what the government is doing."

MR. BINGHAM:

"Hi my name is Charles Bingham. I've lived in Alaska since I was a kid, all over the state, and Southeast now for 14 years. One of actions that's kind of triggered this bill was in the Chuitna drainage up in the Mat-Su Valley. In this area they are talking about building a coal access right in the middle of prime salmon streams. They finally had some trials in the region about this issue, and the 5 hearings they held with over 500 people attending, only one person testified in favor of the bill. We need to make sure our legislatures hear how many people are dissatisfied with this bill. Let your legislators know how unsatisfied you are with the bill."

MR. LUBIN:

*Read from "The State of Alaska" by Ernest Green*

"Ernest was territorial governor and then appointed as first senator of the state. He wrote this book and what he was talking about in these major sections is the federal government and its kind of exactly what's going on right now with Juneau. Section two is called 'The Era of Total Neglect (1867-84)', 'The Era of Flagrant Neglect (84-98)', 'The Era of Mild but Unenlightened Interest (98-12)'... You get what's going on. Matt mentioned the fish traps- that was the impetus for the state of Alaska, was to get control of the resources. I was thinking that in 99 I served on a state board called the TRAAK board. It was this incredible board comprised of a dozen people from the far left to the far right, an incredible forum of people. We created such great progress for the state. When Murkowski became governor, we had a meeting planned in Juneau so we're all there from all over the state

PUBLIC TESTIMONIES REGARDING HOUSE BILL 77

GIVEN FEBRUARY 13<sup>TH</sup>, 2014  
SITKA, ALASKA

sitting in a room and the interim DOT commissioner walked in the door and said 'well this is going to be your guys last meeting because the DOT engineers know exactly what they're doing and really don't need your input anymore. Thanks a lot but we're done' and I was just floored. Well the irony is that four years later when that gubernatorial term was up, that governor got 20% of the GOP primary vote and that governor was replaced by the gubernatorial team that is now comprised of our current governor. This is the same kind of crap. Remove the public from the equation and its just not right. There are so many people that aren't involved in the government but have tons of expertise and lots of ideas and to remove them is simply un-American. And I just wanted to finish with this one little passage from this book 'Alaskans have stood too much, too long to be discouraged or other than determined to fight on to validate the most basic of American principles- government by consent of the governed. They knew through unchanging experience that the state of Alaska would not improve appreciably until the State of Alaska came into being.'

Thank you."

MS. MORENO:

"My name is Paulette Moreno and I'm past president of Alaska Native Sisterhood Sitka Camp Number 4 and potential delegate for Tlingit Haida Central Council but however I'm speaking here today as an Alaskan. What is the definition of 'adversely effected'? How do you define 'adversely affected'? That language was in the bill and I think that the wording does infringe on our democratic rights. Is it true that the definition may cause other Alaskans a denial to appeal based on not being able to 'prove' by the language of the bill that they are 'adversely affected'? My concern as an Alaskan is what happens in one area in the state when one Alaskan or person of interest effects all people of interest and what happens in one area- be if a salmon starts in one area and ends up in another area and somebody is sending us salmon or fish or herring from across the state- that it's a cycle of life and does effect each and every one of us. And there isn't anybody that's going to walk into my home, my kitchen, my refrigerator with their elders and young ones and tell me that I'm not participating in something because they're defining me- -we define ourselves. As Alaskans, as a people, as the Tlingit people have always one in time memorial and many Alaskans are standing together with us today to do that also. And also, I do not support this HB77 because I feel as



PUBLIC TESTIMONIES REGARDING HOUSE BILL 77

GIVEN FEBRUARY 13<sup>TH</sup>, 2014  
SITKA, ALASKA

though it's an infringement on our democratic rights. It limits our ability to challenge permits in courts, it puts the burden on the public to prove what is personal harm- if this gentlemen here is not getting fish for his children and grandparents why is it all the sudden our burden to prove what is personal harm to our families. And it's dangerous for the government to define who is eligible to challenge a bill. As that begins to happen and as it continues with the language of the State, that's something that we really need to join forces with and join together and I'm glad to see we're joining together around this bill. Also what is DNR doing to define 'adversely affected'? I wonder if they're doing anything in the language to define that and if not, why not. So with the language of the bill as it is, I'm strongly opposed to it. This strongly affects Alaska native tribes and all Alaskans so I agree with STA in their opposition to this bill. I'm in support of their stance. If you're not able to apply directly to appeal this bill with DNR, this bill states you have to send it to Fish and Game and then they would send it to DNR- that's a lot of litigation time and an opportunity for things to get out of control. This bill may not happen to target particular groups or individuals however it just feels like that with the case study of the Chuitna Citizens Coalition and mining company case, they went after the mining corporation was in there and they had to prove and stand up and could challenge-what if we had to stand up as a Tlingit people and prove our spiritual rights? Now they're asking us to prove who'd be adversely affected- what's next Governor? I hope you're listening to this. I do not agree with this bill as is however I do know that Senator Micchee is looking at an amendment that seems to be interesting however at this time with the language that's stated as an Alaskan I am very opposed to House Bill 77. Thank you."

MR. MURRAY:

"I got two questions: 'Who will benefit from HB77?' and 'Who is the governor working for?' The language is so messed up you got to be a bloody lawyer to get through it like 'significant and irreparable harm'- that's a pretty wide latitude on the definition. The bill needs to be presented to the public so we can understand it. Thirteen pages, you can't understand this. This bill needs to be understandable so Alaskan citizens can participate in the process as good managers of the public resources. Improvements need to be made, and public outreach is the way to see this happen. Thank you."

PUBLIC TESTIMONIES REGARDING HOUSE BILL 77

GIVEN FEBRUARY 13<sup>TH</sup>, 2014  
SITKA, ALASKA

MR. SCORZELLI:

"I do not like public speaking but I'm doing this because I feel it's really important. My name is Andy Scorzelli and I'm a board member of the Chum Trollers Association. I've been commercial fishing in Alaska since 1991. Chum Trollers is against HB77. Now speaking for myself as a resident and fishermen here, I feel like I'm preaching to the choir since we're all on the same page- we're against this bill. If my words are going to go to the Governor or anyone else that has anything to do with this legislation I want to say that I definitely reject section one of the bill 'giving the commissioner of DNR ultimate authority to ignore any other provision of law' to do whatever he wants--that's utter bulls\*\*\*. If you're hearing me now governor, that's what I have to say to you. And I hope everyone else feels the same way. Thank you."