

HB 77 Opposition Documents Index Group #4
Passed Out to Committee Members on 3/13/14

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From: Mikse Willoya-Marx

Sent: Thursday, March 13, 2014 11:52 AM

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 bill and it's intent to restrict the voices of land owners, in regard to land use projects is absurd. It is obvious to the constituents the lawmakers have been convinced by political desire to give full access to outside industry interests, at the cost of Alaskan livelihood. This shows the true nature and disregard of this body of government of Alaskans needs and desires for a sustainable future.

Mikse Willoya-Marx

3513 N Fortune Cir

Wasilla, AK 99654

From: Alan Munro

Sent: Wednesday, March 12, 2014 4:06 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. Utterly unbelievable. Can the authors and co-sponsors of this HB77 nonsense be serious?

Alan R. Munro

Alan Munro

Juneau

From: Angela Ferrari

Sent: Wednesday, March 12, 2014 3:52 PM

To: senator.click.bishop.@akleg.gov; Sen. Cathy Giessel; Sen. Lesil McGuire; Sen. Anna Fairclough; Sen. Fred Dyson; senator.peter.mecciche@akleg.gov; Sen. Hollis French

Cc: senate.resource.committee@akleg.gov

Subject: Please include this in the public record and distribute to the Senate Resource Committee for HB77

I continue to oppose HB77 even with the changes presented Monday. Tribes and Alaskans deserve a say in what happens in Alaska's resources. Closed door decision making is not good for anyone.

Sincerely,

Angela Ferrari

From: Barbara Carlson

Sent: Wednesday, March 12, 2014 3:14 PM

To: Sen. Lesil McGuire; Sen. Cathy Giessel; Sen. Anna Fairclough; Sen. Fred Dyson; Sen. Click Bishop

Cc: Sen. Berta Gardner; Sen. Bill Wielechowski; Sen. Hollis French; Rep. Andy Josephson; Rep. Harriet Drummond; Rep. Les Gara; Rep. Mia Costello; Rep. Paul Seaton

Subject: Testimony against HB77

Importance: High

Dear Senators McGuire, Giessel, Bishop, Fairclough, and Dyson:

I am unable to make it to the hearing in person, so I write to ask that you reject the poorly conceived and hastily and secretly amended HB77.

I agree with Rick Halford who wrote that 'Section One authority given to the Commissioner to issue general permits for an activity on State land while allowing him to override DNR's own laws and statutes is an overreach of power and authority.' This is inappropriate and it is unconscionable to consider it.

This bill fails to address the right of the affected public to appeal. This is an egregious fault and the Senate should recognize that fact and not support it.

The changing of how it messes with water rights is still not a good thing. Again, this was poorly conceived and hastily revised.

The loss of the Alaska Coastal Management Program to this state was deplorable. It has removed from many processes the very critical voice of local knowledge and collaboration. To pass HB77 would be another enormous step in that wrong direction which would leave future generations at our mercy. The changes proposed in tAs Rick Halford wrote, " The amended House Bill 77 turn a blind eye to all of the lessons of the western United States. Such shortsightedness ignores our obligation to protect future generations of Alaskans from the potential greed of the present.

Read more here: <http://www.adn.com/2014/03/11/3369622/point-counterpoint-an-amended.html#storylink=cpy>

As Byron Mallot wrote, "...we can responsibly develop our natural resources and grow our economy for generations to come."

Again, I ask that you reject HB77 which would not serve Alaskans well.

Thank you for your consideration.

Barbara

Barbara Carlson

6050 W Dimond Blvd.

Anchorage, AK 99502

From: Kirsten Park

Sent: Thursday, March 13, 2014 8:54 AM

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 bill is unconstitutional and takes rights away from Alaskans when it comes to who can use what waterways. Do not take control out of Alaskans hands and give it to big business. Keep Alaska in the hands of Alaskans.

Kirsten Park

eagle river, AK 99577

From: MICHAEL WISNEWSKI
Sent: Thursday, March 13, 2014 9:41 AM
To: Sen. Cathy Giessel
Cc: Senator.Bert.Stedman@skleg.gov
Subject: HB 77

Dear Senator Stedman and Senator Giessel,

Please vote no on HB 77.

It gives too much power to the DNR commissioner, an unelected official. It takes decisions out of the public eye. And it could cause a lot of harm to Alaskan streams and waters.

And, I'm afraid it will limit the legal rights of Alaskans to challenge the DNR.

No on HB 77!!

Thank you,

Mike Wisnewski
201 W. Mattle Rd.
Ketchikan, AK
99901

From: Josie's Earthlink
Sent: Thursday, March 13, 2014 1:42 PM
To: Sen. Cathy Giessel
Cc: 71josie@earthlink.net
Subject: Comment on HB77 on 3/13/14.

March 13, 2014

Dear Senator Giessel and the committee members,

Re: Comment on HB77. Please include this in public record and distribute to Natural Resources committee members.

Please accept my opposition to HB77. I am an Alaska resident and small business owner. I oppose HB77 because it takes away the rights of every Alaskan to know, through public notice and comment periods, the details of proposed developments on our land and waterways. These development decisions can and will likely affect not only state, or public lands, but may also impact private land and the downstream water quality and flow volume through Alaskan's private properties. Currently, Alaskans have the right to receive public notice, public comment periods and due process, and HB77 strips the public of these rights as well as expanding the executive powers of the DNR.

I oppose HB77 as it will allow DNR to grant general permits for up to 5-years duration providing for broad stroke development with no ongoing public notification and no public input, oversight or accountability, along the incremental path of development for up to a 5-year stretch of time. The provision of granting general permits for such lengthy time frames is risky for the public and the state, providing for unwarranted exposure.

I oppose HB77 as it lowers the standards of excellence to do business in Alaska. As a small business owner, I can appreciate the rigors of making the mark to perform quality business in this great state, and I firmly believe that the bar should not be lowered or made less rigorous. I want quality businesses and development companies, those which follow our process and meet or exceed our standards, and only those, to do business in Alaska.

However, if a development company cannot make the rigors of permitting, as currently outlined and practiced, then that company does not deserve to do business and development in Alaska. Currently, you and I know that there are companies that have historically participated in the DNR permitting process and have either met or exceeded our current DNR standards and these folks do business in Alaska; there are others that are making continual growth and progress with permitting and development, utilizing the current process (e.g., Red Dog mine, Donlin Project, amongst others).

Finally, I oppose HB77 due to the language in the bill which is not well defined to protect the public when possibly impacted or needing to appeal a DNR decision. The qualitative language such as, "substantially adversely impacted" or "irreparable harm", lack quantitative definition or substance for legitimate due process proceedings, thereby potentially leaving the public and state exposed to ongoing messy lawsuits.

I request that you please offer more public testimony opportunities for HB77. To my knowledge the amended HB77 was just made publicly available on Monday, 10th of March 2014, two days prior to the announced public testimony session at the Anchorage LIO. I heard about the short notice LIO testimony session the day after the amended HB77 became public, then planned to take time from work the following day to attend the session, listen and possibly speak. However, it was apparent that there were more people waiting to testify than what could be handled in a single, 1.5 hour session! It was clearly not enough time for the public to weigh in on such a serious and impacting bill as HB77.

I would estimate that hundreds of Alaskans, predominantly Native Alaskan constituents, residing in ROADLESS areas, with unreliable mail, communication infrastructure and air service, may not have gotten notice of yesterday's meeting. Our rural Alaskan constituents were thereby prevented from testifying. In light of the fact that the amended HB77 undermines tribes and individual Alaskans' ability to keep water in streams, and seriously undermines their ability to participate in natural resource decisions on state land in other ways, it is advisable to have more testimony from our rural and Native Alaskan constituents.

In conclusion, as a member of the public, I ask that you, our public leaders, stand up for the public's rights and oppose HB77. While I appreciate the attempts to fix this HB77. The recent proposed amendments to the bill do not address my concerns or those raised by the public at statewide public forums and in petitions and letters. In fact, some changes make the bill even worse.

Again, I ask that you please allow Alaska residents additional opportunities to testify regarding HB77. In addition, I hope that the Alaska Legislature will fully vet this bill in front of multiple committees.

Respectfully submitted,

Josanne Breeding-Owen
7141 Montagne Circle
Anchorage, AK 99507

From: Cathy Flanagan
Sent: Thursday, March 13, 2014 12:50 PM
To: Sen. Cathy Giessel
Subject: HB 77

I hope you will consider these facts and the rights of Alaskans to hold a water right that can provide for future benefits of water to all Alaskans before you vote for House Bill 77.

My name is Cathy Flanagan, I am a hydrologist. I work with water bodies around Alaska and know that these water bodies can provide multiple uses (development and conservation purposes) to Alaskans when a reservation of water is held as a water right.

AS 46.15.145 provides of means for establishing a water right called a "reservation of water". This type of water right does not "lock up" all the water in a river or lake; it allows for an amount of flow or level of water determined by DNR and the applicant, and leaves the rest of the water for other uses. AS 46.15.145 currently enables "a person" to apply for a reservation of water that is intended to keep a specified flow or level of water in a stream or lake for the protection of fish and wildlife habitat, migration, and propagation; recreation and park purposes; navigation and transportation purposes; and/or sanitary and water quality purposes. In other words, it provides a quantity of flow (rivers) or level of water (lakes) to protect a system while allowing for other uses such development.

Under HB 77, AS 46.15.145 would be amended in a way that removes the ability of a water reservation to meet the purpose that is intended to achieve (protection of fish and wildlife habitat, migration, and propagation; recreation and park purposes; navigation and transportation purposes; and/or sanitary and water quality purposes). And what protection is gained if the State can review reservations with an economic development bias at any point they determine appropriate? Conservation and development can occur in conjunction with one and other but not if they are looked at by the State as two objectives that are in direct conflict.

The same questions may be posed with regard to the changes associated with AS 46.15.155 (TWUP). How much protection does a reservation provide to a river reach or lake if the State can enable temporary water use permits (TUWPs) without considering water reservation (unadjudicated)? If unadjudicated water reservations with a designated purpose to "protect fish and wildlife" is not considered above a TUWP, the purpose of that reservation is ignored, the value of that reservation is diminished, and the right of the applicant to these protections is disregarded. This portion of the amendment also allows the commissioner to issue new TWUPs for the same project without review, once the original TWUP is allowed; this just compounds the problem by ignoring the purposes and intent of the original reservation to water for instream flow.

It is very important to remember that AS 46.15.145 is part of the water code for a reason. It is intended to allow for multiple uses (development and conservation) of natural waters without destroying the beneficial uses associated with those waters. Not all the water is "locked up" in the river or lake, but the amount left is enough to protect the thing that makes Alaska so unique, free and clean water that support the wildlife and landscapes that are Alaska.

Best regards,
Cathy Flanagan, Anchorage, AK

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Cathy

Cathy Flanagan
1518 Airport Height Drive
Anchorage, AK 99508

From: On Behalf Of Gary Newman

Sent: Thursday, March 13, 2014 1:48 PM

To: Sen. Cathy Giessel

Subject: HB 77 - please distribute to Resources Committee and insert into record

Members of the Senate Resources Committee:

Even with the recent CS to HB 77, I remain concerned that the bill removes enough public process and input with too much unchecked power to the DNR for permitting. Just defining 'significant and irreparable harm' as the barrier to permitting approval isn't adequate. Alaskan resources are supposed to be managed for all Alaskans. The added barrier of Alaskans having to be "substantially and adversely affected" rather than simply "aggrieved" is also a big change not in the interest of what should be a public process for the use of resources of Alaskans.

Joining the many who object to HB 77, I urge you to hold this bill in committee so that it can expire with this session.

Thank you for your consideration.

Gary Newman

Fairbanks, Alaska

From: Nina Faust
Sent: Thursday, March 13, 2014 12:40 PM
To: Sen. Cathy Giessel; Sen. Fred Dyson; Sen. Peter Micciche; Sen. Click Bishop; Sen. Lesil McGuire; Sen. Anna Fairclough; Sen. Hollis French
Subject: HB 77

P.O. Box 2994
Homer AK 99603

March 13, 2014

Dear Senate Resources Committee Members:

It is very sad that many folks turned out to comment on HB 77 yesterday, but only 3 were permitted time to speak. I suggest that a mechanism needs to be determined to provide time for those who turn out. Maybe an early sign up will help in determining amount of time for a hearing.

I strongly support removing language that bans in-stream flow applications and removes the untenable, over-reaching authority granted to the DNR Commissioner, and places limits on the application of general permits.

The temporary water permits need to be acted upon in a timely fashion and there should be public notice of an in-stream flow permit application. These reservations can affect adjacent users or the general public so notice is important.

Any resident of the state of Alaska should have standing on issues affecting water resources. We all have a public interest in our streams and rivers, whether for drinking water or protection of fish habitat.

As this bill evolves to its final form, Legislators need to remember their responsibility to protect the rights of all Alaskans and maintain a natural resource permitting system that provides for meaningful citizen participation. We are partners in these decisions, and whatever form the bill takes, that must be reflected. This bill will affect water quality and salmon habitat, concerns of all Alaskans and future generations. Let's do what will best protect these resources.

Thank you for your consideration.

Sincerely,

Nina Faust

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

From: John Jensen

Sent: Thursday, March 13, 2014 2:09 PM

To: Sen. Cathy Giessel

Subject: Alaskans oppose HB 77 and will not be cut out of the process! Please include this in public record and distribute to committee members.

In re: HB 77. For general permits, powers are too broad for "any activity." A given administration, now or later, could take this to an extreme if it so chose. We can only hope that that would not happen but we must consider that DNR lost a court case over holding permits back. General permit powers are especially troubling considering that "any activity" would not be noticed to the public.

Alaskans should not have to be "significantly adversely affected" before they can challenge decisions. This sets the bar too high, especially for individuals or small groups who simply do not have the money or other power to challenge the State government.

In re: water reservations, DNR should be required to consider and act on applications (which cost applicants their own money) and give a logical, non evasive reason for any refusal. DNR should be required to act on them within a reasonable length of time. Corporations, for example, should not get a higher priority than Alaskans in this regard.

A bill that is this complex and expansive deserves multiple public hearings to allow Alaskans to provide input, and review by several legislative committees.

Sincerely,

John Jensen
12900 Patrick Rd
Anchorage, AK 99516

Testimony to Alaska Senate Resources Committee on HB 77, as Amended 3/10/2014
from Judy Brakel, Box 94, Gustavus, Alaska 99826

Chair Cathy Giessel and Senate Resources Committee Members:

Having already lost the Coastal Zone Management program, a demise instigated by Gov. Parnell, Alaskans now face a remarkable power grab by the Administration in the form of HB 77. Our Alaska Constitution already made the Governor, hence the Administration, exceptionally powerful, so this bill would go far to consolidate power in the Administration. As someone testified yesterday, one sees the Third Worlding of Alaska.

I have studied the latest CS for HB 77. That's not easy to do, since the revised 25 page bill only became public on the night of March 10, less than three days ago. I attended a webinar on March 11 designed to explain the new version in which the presenter was unable to answer many of the questions we posed - not surprising given the short notice and the complexity of the bill and its implications.

Notably, parts of the bill, e.g. the General Permits, have been described by the Dept. of Natural Resources as applying to relatively minor matters such as siting of mooring bouys, but the actual language of the bill provide no sideboards; General Permits could just as well apply to millions of acres. The Commissioner of the Dept. of Natural Resources can issue a permit if he makes a finding that the use under the permit will not cause "significant or irreparable damage." That standard is not defined. Apparently if the Commissioner believes that the damage can be repaired 30 years from now, he can issue a permit.

Again re General Permits, a limited public comment process is provided before the issuance of a permit, but as activities proceed under the permit, it states that there will be no further public process and no administrative appeals. For administrative appeals a new high bar for "standing" is instituted: the appellant must be "substantially and adversely affected" and have participated in the earlier comment period. Only once is "substantially and adversely affected" defined: they must be directly affected by a decision "either by a physical or financial detriment to the person's interests." At the hearing someone asked whether impacts on subsistence uses would qualify, especially since economic evaluation of them is difficult.

I'll discuss Temporary Water Use permits later, but under both those and General Permits it can be difficult for citizens to foresee all the consequences of a permit. An example could be fracking and its effects on, say, water quality. But too late - people already had their one-and-only chance to have a say. The bill explicitly says that they cannot appeal the subsequent activities.

Temporary Water Permits can be issued for 5 years, and now in one of the revisions to HB 77, "the Commissioner may issue one or more new temporary water use authorizations for the same project." Incredibly, for both the initial issuance and succeeding Tempory Water permits, there is no requirement for public notice and no

requirement for a public comment period! I heard this but could not believe it. However, take a look at p. 24 of the bill.

Concerning Water Reservations, applications to keep water *in a river or other water body*, for fish or other public purposes, the bill does allow individuals, tribes, etc. can apply for these, but if granted the reservations will be held by the state. The Administration says this is to guard against hypothetical “frivolous” applications by outside organizations opposed to development projects. However, water reservation applications can hardly be frivolous, for “the applicant must have submitted not less than five years of nonproprietary public domain hydrologic data or hydrologic data collected by or for the applicant” (I think that’s an appropriate requirement). First-in-line applications will no longer have priority for consideration, a change, I believe, in state water law. These provisions would sound innocuous, but apparently are not, seeing that tribal organizations are so concerned, and remembering the recent application for water rights in the Chuitna by people worried about a proposed coal mine, an application that went unconsidered while the Administration instead took up the application of Pac-Rim Coal for that water.

Certainly there is value in making permits for some matters easier and more efficient. That can be done in the future, but please withdraw this bill that is so hastily being foisted upon us with false claims that its problems are fixed. In HB 77 we are faced with a huge power over-reach by the Administration at the expense of the people of Alaska, and at the expense of salmon and other resources.

Thank you,

Judy Brakel (a life-long Alaskan)
Box 94, Gustavus, Alaska 99826

From: Victoria Kotongan
Sent: Thursday, March 13, 2014 9:50 AM
To: Sen. Donny Olson
Subject: Alaskans oppose HB 77 and will not be cut out of the process! Please include this in public record and distribute to committee members.

Wednesday's hearing was another example of the fact that there has not been enough public discourse about House Bill 77. Hundreds of Alaskans were prevented from testifying and they deserve their time to testify in opposition of this bill. I hope that the Alaska Legislature will fully vet this bill in front of multiple committees.

HB 77 would provide for new expanded DNR powers, erode Alaskans rights to appeal DNR decisions, and damage the existing process for water reservations. Additionally, even with new revisions, HB 77 undermines tribes and individual Alaskans' ability to keep water in streams and seriously undermine their ability to participate in natural resource decisions on state land in other ways.

While we appreciate the attempts to fix this bad bill. The recent proposed amendments to the bill do not address concerns raised by the public at statewide public forums and in petitions and letters, and in fact, some of the changes make the bill even worse.

A bill that is this complex and expansive deserves multiple public hearings to allow Alaskans to provide input, and review by several legislative committees.

Sincerely,

Victoria Kotongan
Box. 246
Unalakleet, AK 99684

From: Elsa M Sebastian
Sent: Thursday, March 13, 2014 9:26 AM
To: Sen. Cathy Giessel
Subject: HB 77 Public Comment

Hello, I was not able to speak yesterday at the hearing. Please include my comments in the public record.

HB 77 should be discarded. There are too many issues with this bill that Alaskans are uncomfortable with, and if this bill passes it would demonstrate just how out of touch the legislature is with the needs and concerns of real Alaskans. I believe that barring Alaskans who are not "significantly adversely affected" from weighing in on permitting decisions is undemocratic. The Department of Natural Resources should recognize that the needs of Alaskans are not simply economic. I'm also upset that the DNR is not required to evaluate water reservation applications as they are filed. If an Alaskan, any Alaskan, takes the time and trouble to file for a water reservation, their application should be considered in the order in which it was received. Why should the DNR be allowed to prioritize some applications over others? Are there special interests at play? Are certain parties favored over others in these processes? No agency should be allowed to operate in this way. Thank you for your time and consideration.

Elsa Sebastian
Lifelong Alaskan and Juneau resident

TESTIMONY OF COOK INLETKEEPER
BEFORE THE ALASKA SENATE RESOURCES COMMITTEE
ON HOUSE BILL 77
MARCH 12, 2014

Thank you for the opportunity to testify. My name is Bob Shavelson and I represent Cook Inletkeeper, an Alaskan organization focused on protecting clean water and healthy salmon habitat throughout the Cook Inlet watershed.

Others have made strong points why the revisions to HB 77 still leave gaping holes in Alaskans' ability to participate in meaningful ways in decisions affecting our public resources, so I'll just touch on three quick points.

First, section 1 remains overly broad, because it allows DNR to issue general permits for a whole host of activities across large geographic areas, and individual projects authorized by general permits do not get public notice. For example, the state could issue a general permit for log transfer facilities across all of Cook Inlet, and shellfish farmers and fishermen would never get notice when an actual project would impact their businesses. I have attached a list of other activities that could also be authorized under general permits. Without some reasonable sideboards, section 1 remains overly broad and cuts Alaskans from important resource decisions.

Second, section 42 renders the state's water reservation system meaningless, because it gives DNR unfettered discretion to ignore or refuse to process water reservation applications. Alaskans should have the right to ensure their state government will keep water in our salmon streams. A simple, reasonable fix would be to require DNR to process water reservation applications within a specific timeframe.

Finally, section 43 will allow the government to extend so-called "temporary" water uses indefinitely. These uses can consume significant volumes of water in local streams and lakes – impacting drinking water supplies and fish streams - and they do not get public notice.

From a public policy standpoint, it makes little sense to make it easier for an Outside corporation to take water from a salmon stream than it is for Alaskans to keep water in those streams to protect fish. HB 77 needs to keep some balance in our water management policies.

But taking a step back, it's important not to look at HB 77 in a vacuum. Over the past several years, we've seen a disturbing trend to cut Alaskans out of fish and game and water resource decisions, and to grant more and more power to state bureaucrats.

For example, we lost our Coastal Management Program, which was the best permitting efficiency tool we had, because it allowed agencies, project applicants and the general public to see information about a project in one place. But we tossed that away because it gave local Alaskans a voice in the decision making process.

Furthermore, there's no public notice for important permits – such as Title 16 permits for filling or impacting fish habitat. I've attached some statistics on how fast fish habitat permits get issued, because it's impossible at current staffing levels to protect habitat when the state is pushing through thousands of fish habitat permits a year. And the public never sees them.

Now, the state is moving to rollback still more opportunities for public participation around our state critical habitat areas, refuges and sanctuaries. I've enclosed an article that discusses those rollbacks.

HB 77 reinforces the trend to remove Alaskans from decisions that impact our fish and game and water resources. As the owners of these resources, Alaskans have a right to participate. Our democracy is not always a neat and clean process, but it's the best government have.

We have some of the last viable salmon runs in the world. But we're repeating the mistakes made in the Lower 48. I urge this Committee to take a hard look at Alaska's permitting system as a whole, and to work to put Alaskans back into their rightful role for natural resource decisions in HB 77.

Attachment A

DNR General Permitting Authorities Under HB 77(H)

While removing “notwithstanding any other provision of law” does not allow DNR to override permitting by other agencies, it still allows for any permits issued by DNR for particular activities to be made “general permits” with rote conditions and standards that are not tailored to the particular geographic area. That means no public process for individual activities, only an opportunity to comment on the rote conditions, and no ability to appeal any individual activity falling under a “general permit.” Permits that could be made “general permits” include but are not limited to:

- a. Land use permits for mining exploration activities;
- b. Millsite permits for use of the state's surface estate for a millsite, tailings disposal, or another use necessary for mineral development (up to mineral lease term of 55 years);
- c. Land use permits for explosives and explosive devices, except firearms;
- d. Land use permits for 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. Land use permits for geophysical exploration for minerals subject to lease or an oil and gas exploration license;
- f. Land use permits for an activity on land subject to a mineral or land estate property interest if the parties cannot agree on what constitutes reasonable concurrent use;
- g. Permits for log storage and transfer facilities;
- h. Permits for oil well drilling sites and production facilities for the purposes of recovering minerals from adjacent land under lease;
- i. Prospecting permits for deposits of minerals on tide and submerged lands (up to ten years);
- j. Coal prospecting permits (up to three years with two three-year extensions);
- k. Placer mining applications (five year max).

Performance Details

Department of Fish and Game - Habitat

- [Return to Departments](#)
- [Habitat website](#)

Mission

Properly protect Alaska's valuable fish and wildlife resources and their habitats as Alaska's population and economy continue to expand.

Core Services

- Conduct pre-project field work, review applications, and issue Fish Habitat and Special Area permits for activities in fish bearing waters and legislatively designated Special Areas, conditioning permits to properly protect resources.
- Actively and timely participate in project reviews to ensure proper protection of important habitats.

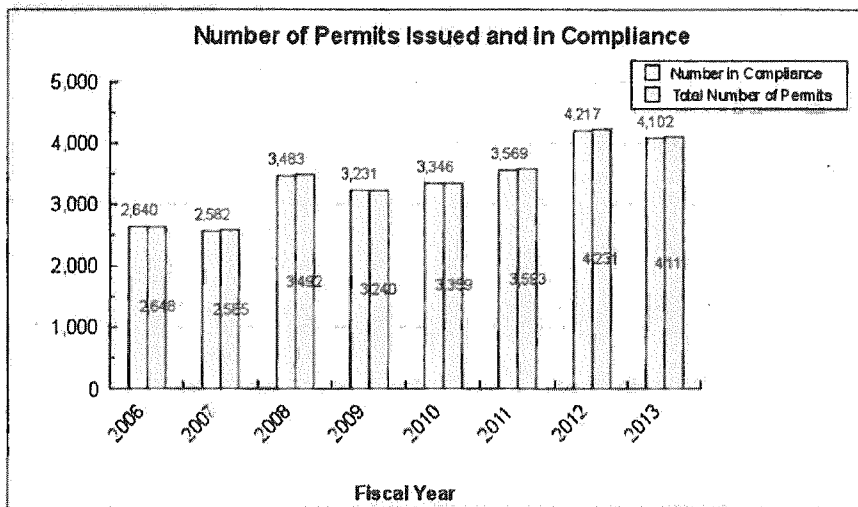
Mission Results >>>	Core Services
A: Properly protect Alaska's valuable fish and wildlife resources and their habitats during resource development activities. Details >	A1: Conduct pre-project field work, review applications, and issue Fish Habitat and Special Area permits for activities in fish bearing waters and legislatively designated Special Areas, conditioning permits to properly protect resources. Details > <ul style="list-style-type: none"> • TARGET #1: 100% of resource developers meet agency requirements for protection of fish, wildlife, and their habitats. A2: Actively and timely participate in project reviews to ensure proper protection of important habitats. Details > <ul style="list-style-type: none"> • TARGET #1: Eight day average permit review timeframe for Fish Habitat permits and fifteen day average review timeframe for Special Area permits

Performance Detail

A: Result - Properly protect Alaska's valuable fish and wildlife resources and their habitats during resource development activities.

A1: Core Service - Conduct pre-project field work, review applications, and issue Fish Habitat and Special Area permits for activities in fish bearing waters and legislatively designated Special Areas, conditioning permits to properly protect resources.

Target #1: 100% of resource developers meet agency requirements for protection of fish, wildlife, and their habitats.

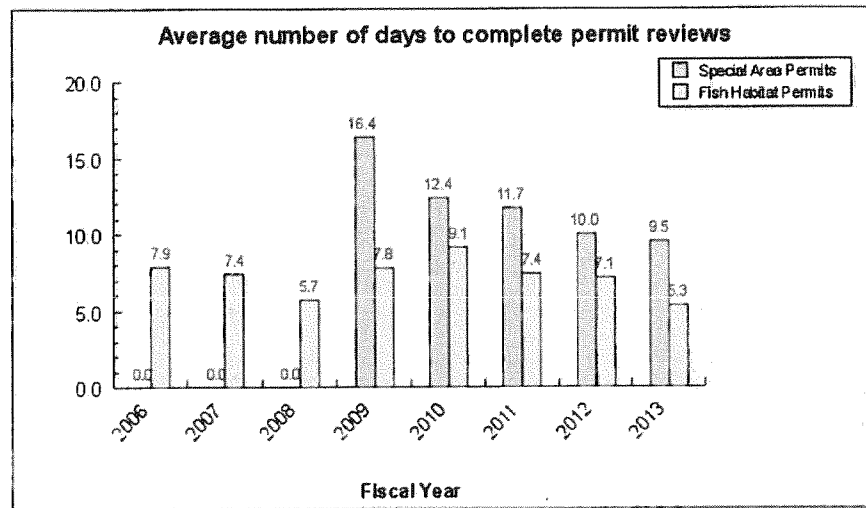


Methodology: Total numbers of permits in compliance compared to total number of permits.

Analysis of results and challenges: In FY2013, 99.78% of all developers were in compliance with Fish Habitat and Special Area permits (Note: Habitat assumed responsibility for Special Area permits in FY2009; prior years reflect Fish Habitat permits only). The above percentage reflects projects where permits have been successfully issued and the developer is in compliance with their approved permit conditions. This percentage is an indication of Habitat's success in protecting fish, wildlife, and their habitats, while allowing approvable development activities to proceed. The number of permit applications reviewed has remained high. Trend-wise, these data indicate that Division of Habitat continues to consistently achieve a high level of habitat protection simultaneous with a high level of permit activity.

A2: Core Service - Actively and timely participate in project reviews to ensure proper protection of important habitats.

Target #1: Eight day average permit review timeframe for Fish Habitat permits and fifteen day average review timeframe for Special Area permits



Methodology: Average permit review time, statewide.

Average number of days to complete permit reviews

Fiscal Year	Special Area Permits	Fish Habitat Permits
FY 2013	9.5 -5%	5.3 -25.35%
FY 2012	10.0 -14.53%	7.1 -4.05%
FY 2011	11.7 -5.65%	7.4 -18.68%
FY 2010	12.4 -24.39%	9.1 +16.67%
FY 2009	16.4 0%	7.8 +36.84%
FY 2008	0 0%	5.7 -22.97%
FY 2007	0 0%	7.4 -6.33%
FY 2006	0	7.9

Analysis of results and challenges: The Habitat Division quickly processes permit applications where average review timeframe continues to meet or exceed the target. This statistic indicates that permits are timely issued, and development activities are not delayed by our permit decision.

The Habitat Division moved back to ADF&G in FY2009 and assumed Special Area permitting responsibilities. The Habitat Division now has five fiscal year's data which shows that the average review time has decreased and is below our target benchmark.

ATTACHMENT C

ADFG SPECIAL AREAS ROLLBACKS

The Battle of Dude Creek

By Alexandra Gutierrez, APRN - Juneau | October 25, 2013 - 10:30 pm

<http://www.alaskapublic.org/2013/10/25/the-battle-of-dude-creek/>

Morgan DeBoer walks out on the crane flats on a Sunday morning. A lifelong Gustavus resident, DeBoer is one of the public members on the Dude Creek planning team. (Alexandra Gutierrez/APRN)

Morgan DeBoer walks out on the crane flats on a Sunday morning. A lifelong Gustavus resident, DeBoer is one of the public members on the Dude Creek planning team. (Alexandra Gutierrez/APRN)

If you take a walk through the wetlands around Gustavus in the fall, it's hard to hear yourself over this noise of thousands of sandhill cranes. The Dude Creek Critical Habitat Area is an important resting place on their migration route. The rest of the year, the reserve doesn't look like much. It's a soggy parcel of land just outside of town. But it's special to the small community, which asked the state to protect the area 25 years ago.



Now, the cranes aren't the only thing causing a fuss at Dude Creek. The wetlands have become an unlikely battleground in a fight that could decide how millions of acres of sensitive land in the state are managed. APRN's Alexandra Gutierrez has this story.

In the same way that pet owners start to resemble their dogs, Hank Lentfer kind of looks like a sandhill crane. He's a bit gangly and angular, with sharp eyes. For most of his adult life, Lentfer has been in love with the bird population and its habitat in Gustavus.

"I first came here as a high school student with a biology class from Juneau," says Lentfer.

That was in 1983. Now, Lentfer lives in Gustavus year-round. He's a steward for the Nature Conservancy and has a spot on an advisory group for some state habitat in Gustavus. The team's job is to give input on how to manage the Dude Creek Critical Habitat Area to best protect the sandhill cranes that feed there during their migration.

Here's how the planning process is supposed to go: The Department of Fish and Game's Habitat Division sits down with stakeholders, and they go back and forth on what rules should apply to the land. Once division staff, state biologists, the Fish and Game commissioner, and — ideally — local residents are satisfied with what comes out of the meetings, the rules are then turned into state regulations.

Lentfer says it had been a collaborative process until this year.

"It was amazingly non-controversial," says Lentfer.

The Habitat Division issued their first draft in 2011, and it was pretty standard. In tone, and level of strictness, it didn't deviate much from the state's other management plans. The new version that was issued this May did. A lot.

"It was totally out of the blue," says Lentfer. "It was just — it just came in e-mail, saying 'This is it. This is the new draft,' radically different from the one that not only the planning team had signed off on, but all the members of the community that had been given a formal opportunity to comment. All those comments had been very thoughtfully summarized and included in that plan. And that's all been gutted."

Hank Lentfer represents the Nature Conservancy on the planning team. The conservation group had been planning to let the state manage their reserve in Gustavus, but that deal has been put into question by changes to the special areas planning process. (Alexandra Gutierrez/APRN)

Hank Lentfer represents the Nature Conservancy on the planning team. The conservation group had been planning to let the state manage their reserve in Gustavus, but that deal has been put into question by changes to the special areas planning process. (Alexandra Gutierrez/APRN)

The management plan had been cut in half and was covered in red edits. Whole sections on scientific research and local knowledge had been stripped. When it came to things like geological exploration or hazardous waste disposal, phrases like “will not allow” were replaced with “may allow.” Everything that was prohibited before could now be permitted on a case-by-case basis and without public notice.

Dude Creek is not desirable land for development. The ground beneath it is made of clay, and it’s hard to imagine any resource extraction or even building construction happening there. The most high stake issue the planning team had been dealing with was whether to allow four-wheelers. Alaska is full of controversial protected areas — Susitna Flats where there’s a nearby mining project, Kachemak Bay where there are jackup drill rigs, Bristol Bay where there are productive salmon streams. But Dude Creek’s just not one of them.

Lentfer says it felt like the state went from working with the community to working against it.

“It seems ironic that a plan developed in such strong collaboration with local people is being taken apart by the very state government that is trying to wiggle free from federal control.”

‘THERE’S A LOT OF RED INK’

To find out why these changes were made, I talked to Randy Bates, director of Fish and Game’s Habitat Division.

Bates has plenty of experience in land management issues. He spent more than a dozen years in the Department of Natural Resources working on coastal zone management, and he directed that program until it was dismantled. So it’s not a surprise to him now that this new plan from Habitat has put Gustavus residents on edge.

“There’s a lot of red ink in this draft, and I think it’s created a lot of public angst over what we’re doing,” says Bates.

Over the course of two hours, Bates walks me through the draft. During our conversation, he distances himself from the process.

“I didn’t have a hand in the redlining of this.”

Bates’ explanation for what happened is he gave staff his vision, and they went overboard. Still, there’s one principle he stands by when it comes to any sort of human activity.

“The idea is can we get to yes instead of can we justify no,” says Bates.

Bates says that because technology — and even the land itself — can change, he wants to move away from hard restrictions on land use that could block development decades from now. Instead of denying activity outright, he wants biologists to look at a permit application and ask:

“Is that oil and gas exploration activity or placer mining operation or gravel extraction operation, is that going to prohibit the use of that area by the cranes or the moose or the fish, the reason for its designation? If it is, Habitat’s first desire is to modify the project.”

The changes made to the Dude Creek plan aren’t just about Dude Creek. Habitat manages 32 special areas that stretch from the Bristol Bay region up to the Interior and then down to Southeast. That’s 3 million acres of land that the state set aside for ecological reasons. Only about half of the management plans for these areas have been completed.

Dude Creek happened to be the one that Habitat staff was working on when Bates called for a new approach to management. And he says that yes, some of this language is “precedent setting.”

The Dude Creek Critical Habitat Area covers 4,000 acres of land. (Alaska Department of Fish and Game)
“The concept of these changes was unfairly foisted upon Dude Creek. Dude Creek is ... I mean even talked to our regional supervisor, and said, ‘What kind of activities do you expect to occur out there?’ ‘Randy, I don’t expect to see much in the next 20 years. There’s probably not a lot going on. We’re going to see four wheelers. We’re going to see tree stands or wildlife viewing platforms — that’s what we’re going to see.’ We’re not going to see oil and gas operations. We’re not going to see miners out there. So, the concept of these changes has really affected a really small-focused plan, and it’s really raised a stir. If we were to implement this on the Susitna Flats, or the Redoubt Bay, or Kachemak Bay, it would have been the same sort of blow up, but this is much ado about nothing in this plan in many ways. It affects these other plans to a much greater extent.”

Part of why Lentfer and other Gustavus residents are troubled by this new approach is that it’s coming at the same time the Parnell administration is making an aggressive push to reform permitting. One of the governor’s big priorities is a bill that sets a higher bar for appealing a permitting decision and makes it easier for the state to issue general permits that don’t need public notice. The idea is to shrink a permitting backlog while encouraging development. But conservation groups describe the policy as an effort to limit public involvement on management decisions.

Bates says Habitat’s new permitting strategy has nothing to do with that.

“We’re not changing the planning process to exclude the public and just notify them. We still have every intention to run the process the way it was, soliciting input, sitting down, understanding the concerns. We’re not cutting anybody out of this process.”

‘UPHEAVAL’ AT HABITAT

But internal Fish and Game documents obtained by APRN contradict that statement and show even more drastic changes ahead.

As of this month, work on all new management plans, including Dude Creek, has been put on hold. Instead, Habitat has been directed to revise all completed management plans in the Dude Creek style. Rather than go through the old process — which involved public scoping meetings, collaborative interagency planning teams, and a series of comment periods — Habitat will put multiple plans into one big regulatory review packet that will go out for comment once a year.

According to an e-mail Bates sent to the division, staff cannot discuss the management changes with the public without getting his approval. Even when talking with other Fish and Game workers, they are required to report that communication and there are restrictions on what they can say. Sources within the department characterize it as a “gag order.”

The documents also show internal strife within the division. During a meeting this summer, Bates talks about staff “upheaval” and how things have gotten “relatively out of control” with the special areas planning process. During that same meeting, a staff member notes that the overhaul to the management plan process doesn’t just cut out public input — it overrides language agreed to by state biologists.

During a May meeting, a regional supervisor asks if the new planning approach is putting federal funding for two staff positions at risk, since they aren’t fully complying with requirements about public and agency engagement. That concern was again addressed during an October 22 meeting:

Mike [Daigneault, Anchorage regional supervisor] asked Randy [Bates] about funding issue, noting that the State Wildlife Grant (SWG) funding for special areas planning has specific restrictions and cannot be used to pay for the development of State regulations ... He noted that SWG funding had never been used to pay for staff time devoted to adopting plans into regulation, only the collaborative inter-agency development of those plans.

Randy requested that Mike send him the SWG requirements, stating that “it may just be a creative writing exercise where we have to justify how what we’re doing now will improve communications with federal agencies down the road” ...

Mike stated: “to be completely honest, Randy, given the fact that we’d be the ones charging our time, I’d have an ethical problem with that.”

Randy stated: “if I decide to go forward with it, then that’s my issue, but if you choose not to do the work, then that’s an issue you and I will have to deal with.”

In e-mails, staff question the direction to mark any document that isn’t explicitly public as “privileged and confidential,” which means someone would have to sue to get them released. (While APRN originally filed a public records request in an effort to obtain these documents, they were ultimately submitted by a source within the Department. APRN was told that the fee would exceed \$2,000 and that many of the requested files would either be redacted or denied because of attorney-client privilege.)

Fish and Game Commissioner Cora Campbell says the friction between Habitat staff and its leadership may be due to an internal misunderstanding of the new policies. The changes are in response to an order from the governor to make regulations more efficient, and that there’s no attempt to limit public involvement. She says the move away from prohibitions is meant to give more discretion to state biologists.

“When you have special area plans that are not flexible at all, that can become problematic,” says Campbell. “There is nothing deeper than that here. This is not anything sinister.”

With no connection to the road system, no DMV office, and no law enforcement presence, many of the vehicles in Gustavus lack license plates. But some do have bumper stickers. (Alexandra Gutierrez/APRN)

With no connection to the road system, no DMV office, and no law enforcement presence, many of the vehicles in Gustavus lack license plates. But some do have bumper stickers. (Alexandra Gutierrez/APRN)

‘YOU WANT TO DETERMINE YOUR OWN DESTINY’

It’s hard to think of Dude Creek as some politically fraught place when you’re actually standing in the crane flats. I’m with Morgan DeBoer, who represented the City of Gustavus on the planning team.

DeBoer helped work through some of the original questions on snow machines and hunting accessibility. He jokes that their original plan wasn’t terribly strict, even with the cranes themselves.

“You can still shoot them over there,” says DeBoer. “It’s just their habitat we’re protecting.”

DeBoer’s got more of a claim on the land than most. In the history of Gustavus, only a couple of families tried to homestead in those meadows, and they didn’t have any success.

“The first party back in the ‘30s was an aunt of mine, and her nickname was ‘Dude,’” says DeBoer. “That’s why it was called Dude Creek.”

DeBoer’s kind of a dude himself. He comes from a line of prospectors, and he makes his living by operating a sawmill, a few cabins, and a nine-hole golf course that is fertilized with goose droppings.

While we’re out on the crane flats, we talk about the planning process. The changes make him nervous. DeBoer’s not worried about the near-term, because the land is so inhospitable to development. There haven’t been many user conflicts over the years, even without a formal management plan in place.

“But if there isn’t one and it’s not a real solid one with good teeth to it, you’re opened up to problems down the line is the way I see it,” says DeBoer.

Plus, he thinks it’s important for locals to shape whatever document comes out, since they’re the ones who have to live with the outcome.

As he's telling me about the crane flats, I realize DeBoer's kind of a funny advocate for them. The sort of things his ancestors did — homesteading, mining for gold — are exactly the kinds of activity that would be prohibited with a stricter management approach.

But at the same time, DeBoer's position makes sense. His family ended up settling in Alaska to establish a life under their own rules.

"Yeah, you want to determine your own destiny," says DeBoer. "You bet."

(Alexandra Gutierrez/APRN)

Signs of state presence are minimal at Dude Creek. (Alexandra Gutierrez/APRN)

We finish talking and spend a few minutes listening to the wind. When we leave the flats, I nearly trip on something that's covered in grass. It turns out to be a small sign that reads "Dude Creek Critical Habitat Area" — the only indicator you're anywhere special.

"It needs some trimming," says DeBoer as he starts clearing the weeds. "I hope this isn't symbolic like I'm cleaning the headstone in the cemetery, and this is the cemetery."

After he finishes, DeBoer smiles. He's not ready to go into mourning yet. He thinks — he hopes — this habitat should be around for a long time. He would just like a guarantee on that.

From: Nick Cassara

Sent: Wednesday, March 12, 2014 3:07 PM

To: Sen. Cathy Giessel

Subject: Please Vote HB 77 Down!

Hello Senator Giessel,

Why are we trying to fix something that is not broken? HB 77 was dreamed up to limit Alaskan citizens participation in there government. This administration does not seem to want to deal with the people of Alaska. Remove public participation from water rights, and allow industry unfetter access to our resources.

Whatever happened to the OWNER STATE?

Walter Hickel would be very upset with this administration, if he was still with us! Please do not let the right of all Alaskans be deluded by HB 77!

Thank you for your help protecting the rights of the people who live in this state!

Sincerely yours,

Nick Cassara

2895 N Robin Lane

Palmer, Alaska 99645

PS Please share my comments with your fellow committee members!

From: **Robert Claus** <rclaus@aptalaska.net>

Date: Wednesday, March 12, 2014

Subject: HB77

To: senator.cathy.giessel@akleg.gov

Cc: Jonathan Kreiss-Tomkins <jonathan.s.kt@gmail.com>, Senator.Bert.Stedman@akleg.gov

Please include this in the public record and distribute to committee members.

I am opposed to HB 77 in its entirety. The public process that has successfully protected the land, waters, and animals of Alaska for decades has been under attack. The one-time consumptive use of resources for the immediate profit of large, mostly non-Alaskan entities has been placed above sustainable use for Alaskans.

HB 77 is a legislative effort to keep Alaskan citizens out of the permitting process, and is counter to the best ideas of our Constitution: joint ownership of the resources of the state, encouragement of citizen participation in governmental process, and transparency of governmental action.

Please do not let this bad bill out of your committee.

Bob Claus

PO Box 986, Craig, AK 99921

(907) 401-0270

rclaus@aptalaska.net

From: Alyson Stogsdill

Sent: Wednesday, March 12, 2014 5:23 PM

To: Sen. Cathy Giessel

Subject: HB77

Senator Giessel, Bill Warren, Nikiski asked me to email you with his opposition of HB77. His contact information is bwarren99611@gmail.com and his phone is 776-8551.

Also of the participants at the Kenai LIO for the hearing on 31314, 14 people were against HB77 and 1 person was in favor.

Thank you.

Alyson Stogsdill

Kenai Legislative Information Officer

907-283-2030

1-855-583-2030 toll free

Click [HERE](#) to visit the Alaska State Legislature Website

Click [HERE](#) to watch live streaming of the Alaska State Legislature

Click [HERE](#) to send your legislator a Public Opinion Message during session

From: Bob McCard

Sent: Wednesday, March 12, 2014 2:56 PM

To: Sen. Cathy Giessel

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

Dear Senator Giessel:

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

HB 77 does a disservice to Alaskans:

By NOT allowing them to question the actions of government

By limiting public meetings and public input.

By giving too much power to the Commissioner of Natural Resources

By taking laws off the books that safeguard the environment and fisheries

Thank you.

Bob McCard

Kasilof, AK, 99610

From: Merrill Lake

Sent: Wednesday, March 12, 2014 2:53 PM

To: Sen. Cathy Giessel

Cc: kylee@akcenter.org

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

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

There are many Alaskans among the crowd following House Bill 77 that are the "Result" of the lands you threaten to compromise and we will continue to fight to protect our rights to speak on behalf of Mother Nature. Despite your adjustments you will not be able to present this bill to which the public would accept. We understand that you are trying to build the Alaskan Economy, but with this bill the overall risk and damage is far too unpredictable. The value of our Last Frontier is far too great to make attempts to quicken the permitting process. So far there have been over 30 resolutions from tribal leaders who best directly represent the public that subsist and survive because of these lands. Our state representatives are set into place because we believe you will do what best represents us. You have seen and heard the testimonies about this bill, now please do what is right by the public voice and remove this bill for the sake of our future generations.

Merrill Lake

Chevak, AK

From: Familie Veh

Sent: Wednesday, March 12, 2014 5:22 PM

To: Sen. Cathy Giessel; Sen. Cathy Giessel; Sen. Peter Micciche

Subject: Testimony

Senator Giessel & Senator Micciche;

This is Kate Veh from Soldotna. I am disappointed that I was unable to testify today in opposition to House Bill 77. Please re-open the testimony on this important bill. I am sending you my written testimony here.

Thank you for taking my testimony!

The revised HB 77 bill issues too much power to the DNR Commissioner.

It makes it difficult for Alaskans to challenge DNR decisions.

The language about irreparable harm is ambiguous.

The bill was released for public viewing only 2 days ago.

My questions to you are:

1. Due to the increase in power granted to one person, will you write into the bill a mandate that the DNR Commissioner is to be elected directly by Alaskans?

2. Are you aware that keeping Alaskans out of the decision-making process is a direct violation to our US Constitution?

If the answers to the 2 above questions are "no", then I'd recommend terminating this bill.

Thank you for reading though my testimony!

Sincerely,

Kate Veh

Soldotna, AK

Paul Frost
P.O. Box 229
Togiak, Alaska 99678
907-727-5265 cell

Re: House Bill 77

Hello, my name is Paul Frost, a first Nations, Yupik alloidal title land owner, from Togiak, Alaska who is thankful to the Senate Resource Committee, to speak AGAINST HB 77, Land Use and Water Rights.

I come before this committee representing myself and family under Common Law. I strongly object to Alaska's corporate citizen, Governor Pharisee Parnell, who works for Big Oil and Mining before, during and after his political "service" to the State of Alaska. My hope is that there are Statesmen who are elected Representatives, that will vote against House Bill 77.

I strongly oppose HB 77. There will come a time, and is already here in my opinion, where clean drinking water is more valuable than all the oil, gas and minerals to be mined here in Alaska. Late Governor Wally Hickel was ahead of his time in wanting to build a water pipeline to the lower 48. With all the fracking and reckless development going on in the contiguous United States, they will need clean water. Thank you for considering my testimony and I urge all to VOTE AGAINST HB 77. Thank you very much.

Very Truly Yours,

Paul Frost

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

From: Carol Tyler

Sent: Wednesday, March 12, 2014 3:09 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.

Carol Tyler

Box 521362-1880 Smyth Dr

Big Lake, AK 99652

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

From: Brian Fay

Sent: Wednesday, March 12, 2014 3:09 PM

To: Sen. Cathy Giessel

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

I am writing in opposition to HB77. The changes presented on Monday don't change the fact that this is a bad bill. I have lived in Alaska since 1961 and am confident that this legislation does nothing to help Alaskans and is very detrimental to public process.

Sincerely,

Brian Fay

Brian Fay

17135 Santa Maria

Chugiak, AK 99577

From: Keith Nyitray

Sent: Wednesday, March 12, 2014 2:58 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.

As Legislators you are supposed to represent the public and insure that our voices are heard and that we can participate in the public process! It's not without reason that this bill is known as the "Silencing Alaskans Act."

Shame on any Senator who votes for this!

Sincerely;

Keith Nyitray

PO Box 6531

Sitka, AK 99835

From: Sara Jackinsky

Sent: Wednesday, March 12, 2014 2:54 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.

This bill does not address my concerns including expanded DNR powers, eroding Alaskans rights to appeal DNR decisions and gutting the public's right to reserve water in streams for fish and other public uses.

The process to create and amend this bill was done in secret, closed-door meetings. Any legislation and especially legislation of this magnitude must be open to the public.

I urge you to oppose this proposed legislation.

Thank you.

Sara Jackinsky

Sara Jackinsky

PO Box 1044

Homer, AK 99603

From: Hannah Ragland

Sent: Wednesday, March 12, 2014 3:02 PM

To: Sen. Cathy Giessel

Cc: Sen. Fred Dyson; Sen. Peter Micciche; Sen. Lesil McGuire; Sen. Anna Fairclough; Sen. Hollis French; Sen. Click Bishop

Subject: vote no on HB 77

Senator Giessel-

I am writing to express my opposition to HB 77, and request that the bill is not passed through the Senate Resource Committee. Please include my comments in the public record for the bill.

Members of the public, and the legislature, need a chance to better understand the changes proposed Monday when (or if) the bill is heard or reintroduced in the next legislative session. While a few sections of the bill seem benign, there are many sections, including those on general permits, water reservations, and restrictions on who can appeal an agency decision must be scrapped. Also, it is unclear how many of the changes would effect land use that is already occurring (i.e. municipal entitlements that have been requested but the borough has not received title to). While DNR insists that this bill is necessary to streamline permitting, there can be no argument that this bill streamlines the permit process largely through removing or restricting public process. Keeping HB 77 from passing through your committee is critical, and will ensure that the checks and balances of public input are included at this stage in Juneau.

There are many reasons I do not support HB 77, but I will focus on the proposal to use general permits to grant land use activities across broad regions. This is unacceptable because it would erase any opportunity for public review and appeal of site-specific land use permits. I live on the Stampede Road outside Healy. For many reasons, I have an interest in land use along the Stampede Trail corridor, including the fact that my husband works on the Stampede Trail as a dog mushing guide in the winter, a job dependent on having safe access and scenic routes. Several years ago, a company based out of Colorado applied for a permit to install an ecological monitoring site south of Stampede Road. When we first heard of the land use application, we were told that an elevated boardwalk (several feet tall) would be installed from the road to the site, crossing an RS 2477 trail that we use with dog teams in the winter. The designs were largely copied from ecological monitoring sites in the lower-48 that simply would not have worked here.

Had local residents not had a chance to comment on the permit, the company proposing the site would have built an elevated boardwalk that would have either made the RS2477 trail inaccessible, or a hazard to cross under (or over). Besides the boardwalk, there were many other parts of the land use permit and cross country authorization that simply did not fit. Without a site specific permitting process, there would have been no opportunity for local residents to work with both the state and the company to design site access and a site that did not interfere with public use of the trails. The company was grateful that local residents could provide them with information about how to make things work better and with fewer conflicts, and the state employees we worked with were grateful that we could provide constructive comments. Since the permit was approved I have shared photos of snow conditions and GPS points of the trail with the company to help them with planning, and hosted meetings so residents and tour operators know when construction activities are going to happen. The process worked well, and should not be changed. Pushing land use permits broad regional permits will increase conflicts between the public and the state about land uses because the public will be left out of the process and will inevitably see more conflicts on the ground.

Because a revised version of HB 77 was not shared until Monday's hearing, public process of this bill in Juneau has been restricted. In the same way, if HB 77 were to pass as it has been proposed, it would stymie public involvement in DNR's decision-making process. Please keep checks and balances in place by keeping the public in the process for state decisions on public resources, and vote no on forwarding HB 77.

Hannah Ragland

Healy, AK



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Resources Committee
Committee on HB 77 Committee Name
Bill / Subject Dated 3/12/14

This bill silences and limits the input of Alaskans in the permitting process. The reason given for this bill is the 2,600 backlog of pending applications.

By streamlining the permitting process you are ~~short cutting & short circuiting~~ the voice of Alaskans & limits public participation. Maybe the DNR needs ~~to hire more staff~~. This substantially and adversely affects All Alaskans.

SIGNED:

Sharon C. Alden

Testifier

Self

Representing

159 Kniffen Rd Eklus, AK 99712
Address / Phone Number

Please Send a copy to Sen. Giessel
and Sen. Bishop

To Senator Bishop & Senator Giesel



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Resources Committee

Committee on HB 7.7 Committee Name
Dated 3.12.14
Bill / Subject

I was appalled by the late revisions which we received Monday 3.10. We have had no time to consider the revisions. Now we have only 1½ hours to offer our testimony. It seems that democracy is being steamrolled by expediency - for both the Committee and the extractive industries which stand to gain by this bill. Three problems:

- The revisions transfer vast powers to DNR to issue general permits for "any activity" without public notice or hearing. DNR could override its own laws. This violates our constitution. Resources are owned by US.
- unclear terms need to be defined: "significant and irreparable harm" must be ~~be~~ clarified to make it EASIER for Alaskan citizens to challenge permitting. Also "substantially and adversely affected" needs clarification. Otherwise, here comes the lawsuit, here comes endless litigation.
- Water Reservations - There have been reservations awaiting action for a long time. They must be grandfathered in

SIGNED:

Testifier

Jeffrey A. Merkel
self

Representing

246 Crest Dr., Fairbanks 99712
Address / Phone Number

March 12, 2014

Testimony given by Mary J. Toutonghi on HB 77

I would like to begin with a quote from Byron Mallott a candidate for governor of the state of Alaska in 2014 in the Juneau paper on March 9, 2014.

HB 77 is just the latest effort to silence Alaskans.....I trust an informed Alaska public to help make decisions that benefit us all, that provide for jobs, economic opportunities and healthy communities. The first questions asked of any development should be how will the public benefit and how does that benefit weigh against any public harm?.....Alaskans deserve a real conversation about striking the right balance – we shouldn't destroy one resource to develop another or trade short-term gain for long term success.

It is my personal feeling as a concerned citizen of Alaska that HB77 denies me and the other citizens of Alaska a continuing input that would cause loss of long term stable benefit for a short term fix. By requiring stringent reductions of public input for issues such as fish habitat and other water related rights this bill violates the intent of Alaska's constitution.

From: Ken Winterberger
Sent: Wednesday, March 12, 2014 7:51 PM
To: Sen. Cathy Giessel
Subject: I strongly oppose HB 77 and I know that many more Alaskans feel the same! Please include this in public record and distribute to committee members.

Dear Alaska State Senators,

I am very disappointed that the public testimony held today for House Bill 77 was cut off by Senator Giessel at 5:00pm, leaving Alaskans statewide unable to add their voice to this process.

HB 77 would provide for new expanded DNR powers, erode Alaskans rights to appeal DNR decisions, and damage the existing process for water reservations. Additionally, even with new revisions, HB 77 undermines tribes and individual Alaskans' ability to keep water in streams and seriously undermine their ability to participate in natural resource decisions on state land in other ways.

Indeed, there have been attempts to fix this bad bill. The recent proposed amendments to HB 77 do not address concerns raised by the public at statewide public forums and in petitions and letters, and in fact, some of the changes make the bill even worse.

I hope that the Senate will hold more public hearings to allow Alaskans to provide input on this very important bill.

Sincerely,

Ken Winterberger
3000 Capstan Drive
Anchorage, AK 99516

From: Kirk Johnson

Date: March 12, 2014 at 9:21:23 PM AKDT

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

Subject: Alaskans oppose HB 77 and will not be cut out of the process! Please include this in public record and distribute to committee members.

Reply-To: <kirkjohnsondds@me.com>

Wednesday's hearing was another example of the fact that there has not been enough public discourse about House Bill 77. Hundreds of Alaskans were prevented from testifying and they deserve their time to testify in opposition of this bill. I hope that the Alaska Legislature will fully vet this bill in front of multiple committees.

HB 77 would provide for new expanded DNR powers, erode Alaskans rights to appeal DNR decisions, and damage the existing process for water reservations. Additionally, even with new revisions, HB 77 undermines tribes and individual Alaskans' ability to keep water in streams and seriously undermine their ability to participate in natural resource decisions on state land in other ways.

While we appreciate the attempts to fix this bad bill. The recent proposed amendments to the bill do not address concerns raised by the public at statewide public forums and in petitions and letters, and in fact, some of the changes make the bill even worse.

A bill that is this complex and expansive deserves multiple public hearings to allow Alaskans to provide input, and review by several legislative committees.

Sincerely,

Kirk Johnson
16040 Old Seward Highway
Anchorage, AK 99516

From:

Date: March 12, 2014 at 9:25:03 PM AKDT

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

Subject: HB 77

Ms Giessel, this bill needs to be placed into the Hiland Road land fill. It places natural resource management into the hands of a few, and contradicts the Alaska constitution and its intent. Its intent is not for the best interest of 'all Alaskans.' Robert Gieringer

From: Gary Dailey

Sent: Wednesday, March 12, 2014 7:54 PM

To: Sen. Cathy Giessel

Subject: Alaskans oppose HB 77 and will not be cut out of the process! Please include this in public record and distribute to committee members.

Dear Alaska State Senators,

I am extremely disappointed that today's public testimony for House Bill 77 was cut off by Senator Giessel at 5:00pm, leaving Alaskans statewide unable to add their voice to this process.

HB 77 would provide for new expanded DNR powers, erode Alaskans rights to appeal DNR decisions, and damage the existing process for water reservations. Additionally, even with new revisions, HB 77 undermines tribes and individual Alaskans' ability to keep water in streams and seriously undermine their ability to participate in natural resource decisions on state land in other ways.

While we appreciate the attempts to fix this bad bill. The recent proposed amendments to the bill do not address concerns raised by the public at statewide public forums and in petitions and letters, and in fact, some of the changes make the bill even worse.

I hope that you will hold additional public hearings to allow Alaskans to provide input on this complex and important bill.

Sincerely,

Just because you can line your pockets with corporation money, doesn't mean you have the right to do so in the faces of all alaskans. You don't have to be an industry shill, stand up for what's right, not what will benefit your reelection campaign fund.

Gary Dailey
50306 Island Lake Road
Kenai, AK 99611

From: Thomas E. Meacham

Sent: Wednesday, March 12, 2014 7:58 PM

To: Sen. Cathy Giessel

Cc: Sen. Hollis French; Sen. Anna Fairclough; Sen. Peter Micciche; Sen. Fred Dyson; Sen. Click Bishop;
Sen. Lesil McGuire

Subject: Re: Testimony on 2d SCS CSHB77 (RES)

Dear Chair Geissel and Members of the Senate Resources Committee:

I appreciate the fact that you held a hearing this afternoon to take testimony regarding the revised HB 77.

However, I do not appreciate that the total hearing time was so limited, and the picking of LIO sites to testify so random, that only four (by my count) of the 55 people in attendance at the Anchorage LIO were able to testify before the hearing closed.

I assume it was not by design, but the Anchorage LIO's turn to testify seemed to come up only every other round, while other LIO locations seemed to be called on more frequently. However, these other locations may also feel that with the number of people waiting to testify at each location being from 10 to 20 persons or more, their own turns came up too infrequently.

In any event, by a show of hands there appeared to be from 30 to 35 people in the Anchorage LIO who wanted to testify regarding HB 47 and its amendments, but although they waited patiently, it was clear that the Chair would never get to them.

For the record, while I have submitted written comments to your Committee regarding only the instream-flow reservation provisions of HB 77, I do strongly oppose the bill as a whole, and I urge that it not make it out of your Committee.

I believe that the ordinary Alaskans, who collectively own Alaska's natural resources, have had entirely enough with the Department of Natural Resources' attempts to "streamline" them out of the public policy decisions regarding these resources.

With best wishes,

Tom Meacham
Anchorage

From: Craig Cederberg

Date: March 13, 2014 at 2:39:51 AM AKDT

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

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 fact that this was even proposed is insulting. In an effort to streamline and speed up a typically long drawn out government process to effect a change, the people involved and /or effected are excluded to a point that it is unAmerican. I can almost rationalize it being illegal. It is never acceptable for the government to (local, state or federal) to exclude the citizens input, appeal and/or over sight of a preposed project/legislation, how our resources are to be used or saved. The fact this was crafted behind closed doors makes this even more suspicious. I do not want to expand the powers of the DNR or ADF&G to a point that they are out of reach of supervision, accountability and/or beyond appeal. All Alaskans have a right to utilize our resources and to have an input or voice in how we utilize them.

Craig Cederberg

Craig Cederberg

3833 Image Dr

Anchorage, AK 99504

March 12, 2014

TO: Senator Cathy Giessel

FROM: Terri Zopf-Schoessler

SUBJECT: HB77 PLEASE SHARE WITH COMMITTEE

I am a 31-year resident of Soldotna, Alaska. Proposed HB77 is a cynical attempt to circumvent the public input process in favor of large-scale corporate interests. While public testimony is, by its nature, time-consuming, the impact of issuing permits and developing Alaska's natural resources requires this check-and-balance system. HB77 relegates those personally impacted by the effects of corporate development to silent, second-class citizenship, centralizes power in the hands of a few non-elected individuals, and allows a shameless end-run around the democratic process. While it is wonderfully ironic that a bill which seeks to limit public testimony has been put forth in a manner that limits public input, Alaskans deserve to be heard. Respectfully, the only answer is to kill this bill.

Kenaitze Indian Tribe
P. O. Box 988
Kenai, Alaska 99611

Resolution No. 2013-32

RESOLUTION OPPOSING HOUSE BILL 77 AMENDING STATE PERMITTING STATUTES AND ELIMINATING WATER RESERVATIONS

Whereas, Kenaitze Indian Tribe is a federally recognized Tribal Government to the Tribal citizens and has a responsibility to provide a government to protect the good health and welfare of its Tribal citizens, and address any needs in its community; and,

Whereas, the Kenaitze Indian Tribe is qualified to exercise powers of self-government by reason of its original Tribal sovereignty as passed down from its ancestors since time immemorial; and nothing in this resolution shall be in conflict therewith;

Whereas, the Kenaitze Indian Tribe is a Federally-recognized Tribal Government in Alaska, with full power and authority to negotiate with the Federal Government; and,

Whereas, the Kenaitze Indian Tribe has a responsibility to steward the land, water, and other natural resources to maintain a cultural subsistence way of life for future generations; and,

Whereas, Alaska Native peoples depend on abundant salmon runs in healthy rivers for food security in subsistence lifestyles and also for Tribal identity; and,

Whereas, the Parnell administration is promoting legislation, House Bill 77 (H.B. 77) that amends Alaska's state permitting laws and rules changing how the state's commonly held resources will be managed; and,

Whereas, sixteen Tribes have invested millions of dollars to substantiate applications for in-stream flow rights, and are appropriators of the rights for those water reservations; and,

Whereas, H.B. 77 would eliminate the rights of Alaska Native peoples to apply for in-stream flow rights and rescind all existing in-stream flow water rights applications submitted by Tribes; and,

Whereas, H.B. 77 ignores Tribal sovereignty rights by eliminating the process for Alaska's Federally-recognized Tribal Governments to acquire water reservations to protect productive salmon streams, while local governments (borough and municipalities) will continue to be able to apply for water reservations under the new law; and,

Whereas, H.B. 77 gives DNR the authority to issue an endless series of temporary water use permits for a single project, without opportunity for public review or vetting; and,

Whereas, H.B. 77 expands the Alaska Department of Natural Resources (DNR) authority to issue general permits for almost any project on state lands without any public input; and,

Whereas, H.B. 77 makes it more difficult for Alaska Native peoples to access the judicial process and prevents Alaska Native peoples from having their day in court; and,

Therefore, Be It Further Resolved, the Kenaitze Indian Tribe opposes H.B. 77 and urges the Alaska State Senate to reject the legislation as it fails to recognize tribal sovereignty, gives DNR new broad and unchecked powers at the expense of Alaska Native people's ability to participate in collaborative resource management, creates legal loopholes to remove guaranteed points of public oversight, and establishes significant barriers to access the judicial process.

Certification:

We the undersigned officers and members of the council for the Kenaitze Indian Tribe hereby certify that the Council which is made up of 7 members, of whom 4 constitutes a quorum, were present at the meeting held October 31, 2013, that this Resolution has passed by the affirmative vote of 7 members and that this Resolution has not been rescinded or amended in any way.

Mary Ann Mills

Mary Ann Mills, Tribal Chairperson
Kenaitze Indian Tribe

11-1-13

Date

Susan Wells

Susan Wells, Tribal Secretary
Kenaitze Indian Tribe

11-1-13

Date

KENAI LEGISLATIVE INFORMATION OFFICE

Email: Kenai_LIO@akleg.gov

Phone: 907-283-2030 / Fax: 907-283-3075

WRITTEN TESTIMONY

NAME:

Kate Vek, Soldatna

REPRESENTING:

Myself

BILL # or SUBJECT:

HB 77

COMMITTEE:

Resources

DATE:

3-12-14

Thank you for taking my testimony!

The revised HB 77 bill issues too much power to the DNR Commissioner.

It makes it difficult for Alaskans to challenge DNR decisions.

The language about irreparable harm is ambiguous.

The bill was released for public viewing only 2 days ago.

My questions to you ~~are~~ ^{are}: ~~Are~~ Will you write into the bill a mandate that the DNR Commissioner is elected by Alaskans?

Also - Are you aware that keeping Alaskans out of the decision-making process is a direct violation to our US Constitutional rights (thus a potential lawsuit)?

If the answer to the 2 above questions is No, then I'd recommend terminating this bill.

Thank you!

Good Afternoon,

Robert Ruffner – Executive Director; Kenai Watershed Forum – 44129 Sterling Hwy., Soldotna AK. 99669.

The Kenai Watershed Forum is a non-profit organization whose mission is: Working Together for Healthy Watersheds on the Kenai Peninsula . We accomplish this mission through three major programs: Education, Research and Restoration. We have worked extensively with the resource agencies since our incorporation in 1997. The organization has had annual budgets over \$3M, much of which has been invested in stream restoration. The restoration projects we engage in are mostly focused on culverts and fish passage, but we have also tackled much more complex restoration efforts, in one case requiring diverting the entire Anchor River for nearly a quarter of a mile. The Anchor is a very popular, medium size river and our work required the diversion completely out of its channel on ADNR land, so we are very familiar with multi-jurisdiction permitting requirements and have a stellar relationship with the on-the-ground staff that oversee these permits.

We have followed this bill closely since it was first brought to our attention by Senator Micciche and we applaud the efforts to gather more input and address the concerns that have been brought back to the Senate Resources Committee. I will focus my comments on one subsection of the CS version of the bill that negates much of what I would otherwise consider positive steps to address our organization's concern. Section 42(H) on page 23 line 18. This subsection consolidates discretionary authority in a Commissioner with no transparency or certainty of fair consideration. The work to collect data in support of an instream flow reservation is not trivial, in the easiest roadside conditions we cannot do this for less than \$10k/yr. As our board of directors considers investments we make in our research program, we ask for the same consideration any other corporation would get in terms of transparency and certainty of fair consideration for our investment.

We don't think every water right should be granted, nor do we think every water reservation should be granted, but both should have a process that includes fair consideration with a clear and transparent pathway to a decision. For-Profit entities must consider the risks associated with preparing a request for a water right and they need guidance to help them evaluate the risks and take actions to minimize the risk of denial. 42(H) is so arbitrary it is impossible for someone considering an investment to reserve a percentage of water for fish to evaluate the risks or take action to minimize those risks of having a reservation denied. This section seeks to eliminate anyone other than the commissioner from issuing a binding decision without any responsibility or accountable to the applicant. I would strongly assert this newly inserted subsection is bad policy. We would be happy to work on offering substitute language, given the opportunity – but as is, we ask for this new subsection to be eliminated in its entirety.

From: David Zimmer

Sent: Wednesday, March 12, 2014 4:32 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 bill removes me from the democratic process. HB77 was created in secret, not in a meeting open to the public. This bill allows DNR to secretly approve projects without giving the public notice and an opportunity to participate in the decision making allowing it. HB77 removes my right to appeal a badly made DNR decision unless I can prove that I have been adversely affected. This is about management of public land, and I am the public. HB77 also threatens our ability to provide enough water in streams for fish. I oppose HB77.

David Zimmer

7155 E Shorewood Dr

Palmer, AK 99645

From: Richard Harness

Sent: Wednesday, March 12, 2014 4:16 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.

Richard Harness

Old Sterling Hyway

Anchor Point, AK 99556

From: Hillary Hafner [mailto:hafnerhillary@gmail.com]

Sent: Wednesday, March 12, 2014 6:41 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record

Dear Legislation,

My name is Hillary Hafner. I moved to Anchorage some years ago from New Orleans, Louisiana to attend college. Alaska was my state of choice because of its pristine environment and the mentality of people that live in this state. I have heard time and time again that it is a certain "breed" of people that lives in Alaska. A hardy, intelligent, and proud people.

I think that House Bill 77 is offensive to Alaskan residents because it threatens to revoke the ability for residents to maintain the environment that they have so proudly stewarded over the last few decades - even longer for tribes that have been here prior to this land becoming a state of America.

The incorporation of House Bill 77 into Alaska's legislation is a modern example of White men and women extinguishing the livelihood of Native peoples - only this time it is with ambiguous phrases and sly political tactics rather than with guns and horses - for the sake of riches and energy sources.

The example set by America's lower 48 states is not a positive one to follow. The management of resources all over America is flawed. There are countless examples: Appalachian mountain top mining, Utah oil sands, and the one I am most familiar with: oil in the Gulf of Mexico. Besides the BP disaster that occurred in 2010, the harvesting of oil in the Gulf of Mexico (AND Valdez, AK) is a hazardous process. The oil transported to Texas and Louisiana for refining heavily impacts the fenceline communities, causing asthma and brain damage in children, as well as cancer in adults. The harvesting of natural resources along the coast has also been shown to erode the wetlands and set up New Orleans for disaster with each hurricane season.

Natural resources belong moreso to the earth than they do to the people living on it. They are resources not only for us, but also for the earth itself. It needs these resources to function more than large corporations need these resources to make billions of dollars. Coal and oil are driving elements that are

extracted from the insides of the Earth. The extent at which this is happening around the world is outrageous. Alaska is known as the last frontier and is valued among the majority of American citizens for its natural beauty - not for its natural resources.

Please do not expect Alaskan residents to sit idly by as the DNR and the state legislation tries to rape Alaska's environment for its resources and the people for their health in order to gain money and power in foreign exchange. As years pass and new generations grow up and become increasingly educated, we are discovering the flaws in our government and its inability to actually care for the people it governs.

Unlike Louisiana, Alaska is not a lost cause because it is still a young state with relatively new legislative policies. Please give Alaskan as well as American citizens a sliver of faith in their government and do not vote "Yes" for House Bill 77.

Thank you,

A sincerely concerned citizen.

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

From: Kevin Degler

Sent: Wednesday, March 12, 2014 5:18 PM

To: Sen. Cathy Giessel

Subject: Kill HB77 now.

Hello,

I stand opposed to any version of HB77 presented to date. It looks like Alaska is for sale to the developers and campaign contributors.

To tell the public that the government will do the right thing is getting to be a joke.

Please oppose HB77. It does not properly serve the owners of the resource.

Thank you

Kevin Degler

Kevin Degler

Orca Place

Anchorage/Beluga, AK 99501