



March 21, 2014

Via E-mail and Facsimile

Senate Judiciary Committee  
c/o Senator John Coghill  
State Capitol Room 119  
Juneau, AK 99801  
Senator.John.Coghill@akleg.gov  
Fax: (907) 465-3258

Dear Senator Coghill:

We write to express our opposition to HB 47.

Nunamta Aulukestai (“Nunamta”) comprises directors appointed by eleven Native Corporations and nine tribes, including Ekwok Natives Limited, Koliganek Natives Limited, Saguyak Inc., Aleknagik Natives Limited, Choggiung Limited, Stuyahok Limited, Manakotak Natives Limited, Togiak Natives Limited, Levelock Natives Limited, Bristol Bay Native Corporation, Twin Hills Native Corporation, Ekwok Village Council, New Koliganek Village Council, Clarks Point Village Council, Aleknagik Traditional Council, Curyung Tribal Council, New Stuyahok Traditional Council, Manakotak Village Council, Togiak Traditional Council, Levelock Village Council. Nunamta represents 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. Since its founding in 2006, Nunamta has actively advocated to protect the natural resources of Bristol Bay.

Nunamta strongly opposes HB 47. This bill will represents another shift in government favoritism to Outside and foreign interests seeking private profit from Alaska’s public resources, while creating hurdles for Alaskans seeking to protect their fish and water resources. It shifts the cost of doing business in Alaska to the concerned public that already bears the inherent costs from social and other impacts from large projects in our communities, rather than to the companies that stand to gain tremendous private profits from our resources.

If passed, HB 47 may affect the bond requirement on any person “seeking a restraining order,

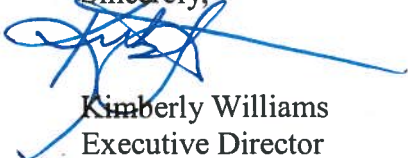
preliminary injunction, or order vacating or staying the operation of a permit that affects an industrial operation.” HB 47 at sec. 1. “Industrial operation” includes “a construction, energy, or timber activity and oil, gas, and mineral exploration, development, and production.” *Id.*

Under this legislation, a party that challenges an industrial permit, whether the party seeks preliminary relief or not, may have to post a bond covering broad categories of project costs to even file a case or maintain an appeal. The costs the bond could cover include employee wages and benefits, as well as contractor or subcontractor payments.

The bill represents a significant change from the statutes, regulations, and court rules that are currently in place in Alaska. In an original action, a court already has discretion to impose a bond when a party seeks a temporary restraining order or preliminary injunction. Alaska R. Civ. P. 65(c). This judicial discretion is consistent with Federal Rule of Civil Procedure 65(c). If a party files an appeal of a permitting decision, under Alaska Appellate Rules 204(d) and 603(a)(2), the Superior Court sitting as a court of review also has reasonable discretion regarding imposing a bond to stay the decision of the agency. *See Breck v. Moore*, 910 P.2d 599, 609 (Alaska 1996). Some legislators believe this bill is needed to stop frivolous lawsuits, but there are already mechanisms in place for the court to stop frivolous lawsuit. This bill is overbroad and instead applies to every challenge to a permitting decision, and would squelch civil discourse and public participation even in completely nonfrivolous lawsuits.

There are substantial hurdles and significant deterrents for citizens to enforce their judicial rights already built into Alaska’s judicial system, including the English Rule for attorney’s fees. The Court also has broad authority to dismiss frivolous claims and to sanction parties who abuse the system. There is simply no need for HB 47 to impose burdens on the public’s access to the judicial system.

Sincerely,



Kimberly Williams  
Executive Director

cc: Bristol Bay Native Corporation  
Bristol Bay Native Association  
Senator Lesil McGuire  
Senator Gary Stevens  
Senator Lyman Hoffman  
Senator Hollis French  
Representative Alan Austerman  
Representative Bryce Edgmon  
Representative Bob Herron