

HB 119 - Talking Points

Background

In 1972, the Alaska Legislature enacted the Bristol Bay Fisheries Reserve (AS 38.0.140(f)). It provides that within state land beneath navigable waters (i.e., submerged and shorelands) a surface entry permit for oil and gas drilling within the Reserve may not be issued until the Legislature finds that such drilling will not constitute a danger to the fisheries.

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

What HB 119 Does

HB 119 clarifies or improves the initiative in several respects, including these:

- 1. It requires independent peer-reviewed reports to the Legislature to facilitate any legislative consideration required by the initiative.** HB 119 requires the Departments of Natural Resources, Fish and Game, and Environmental Conservation to independently prepare and submit reports to the Legislature, that are subjected to public comment and peer review, to document whether an applicant for permits and authorizations for a large scale metallic sulfide mine in the Reserve has carried the burden of proving beyond a reasonable doubt that such a mine will not constitute a danger to the fisheries within the Reserve.
- 2. It clarifies and defines “fisheries” consistent with existing statute.** HB 119 defines “fisheries” to mean subsistence, personal use, sport or commercial fisheries as those fisheries are defined in AS 16.05.940.

Reasons for these Clarifications and Improvements

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

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