

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

April 5, 2006

1:23 p.m.

**MEMBERS PRESENT**

Representative Jay Ramras, Co-Chair  
Representative Ralph Samuels, Co-Chair  
Representative Carl Gatto  
Representative Gabrielle LeDoux  
Representative Kurt Olson  
Representative Paul Seaton  
Representative Harry Crawford

**MEMBERS ABSENT**

Representative Jim Elkins  
Representative Mary Kapsner

**COMMITTEE CALENDAR**

HOUSE BILL NO. 386

"An Act making uniform throughout the state the deadline for certain exploration expenditures used as credits against the production tax on oil and gas produced from a lease or property in the state by extending to July 1, 2010, the deadline for those expenditures on leases or properties located north of 68 degrees, 15 minutes, North latitude."

- MOVED CSHB 386(O&G) OUT OF COMMITTEE

HOUSE BILL NO. 328

"An Act prohibiting mixing zones in freshwater spawning waters."

- HEARD AND HELD

HOUSE BILL NO. 464

"An Act relating to the possession of the edible meat of big game animals."

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 386

SHORT TITLE: EXTEND NORTH SLOPE SEVERANCE TAX CREDIT

SPONSOR(s): REPRESENTATIVE(s) KOHRING

01/20/06 (H) READ THE FIRST TIME - REFERRALS  
01/20/06 (H) O&G, RES, FIN  
02/23/06 (H) O&G AT 5:00 PM CAPITOL 124  
02/23/06 (H) NATURAL GAS PIPELINE INCENTIVE/ GAS TAX  
03/02/06 (H) O&G AT 5:00 PM CAPITOL 124  
03/02/06 (H) NATURAL GAS PIPELINE INCENTIVE/ GAS TAX  
03/07/06 (H) O&G AT 5:30 PM CAPITOL 124  
03/07/06 (H) Scheduled But Not Heard  
03/08/06 (H) O&G AT 6:00 PM CAPITOL 124  
03/08/06 (H) Scheduled But Not Heard  
03/16/06 (H) O&G AT 5:00 PM CAPITOL 124  
03/16/06 (H) Moved CSHB 386(O&G) Out of Committee  
03/16/06 (H) MINUTE(O&G)  
03/17/06 (H) O&G RPT CS(O&G) NT 1DP 3NR  
03/17/06 (H) DP: KOHRING;  
03/17/06 (H) NR: SAMUELS, DAHLSTROM, ROKEBERG  
03/31/06 (H) RES AT 1:00 PM CAPITOL 124  
03/31/06 (H) Heard & Held  
03/31/06 (H) MINUTE(RES)  
04/05/06 (H) RES AT 1:00 PM CAPITOL 124

BILL: HB 328

SHORT TITLE: BAN MIXING ZONES IN SPAWNING AREAS

SPONSOR(s): REPRESENTATIVE(s) SEATON, OLSON, GATTO, LEDOUX

01/09/06 (H) PREFILE RELEASED 12/30/05  
01/09/06 (H) READ THE FIRST TIME - REFERRALS  
01/09/06 (H) FSH, RES  
01/20/06 (H) FSH AT 8:30 AM CAPITOL 124  
01/20/06 (H) Heard & Held  
01/20/06 (H) MINUTE(FSH)  
01/27/06 (H) FSH AT 8:30 AM CAPITOL 124  
01/27/06 (H) Moved CSHB 328(FSH) Out of Committee  
01/27/06 (H) MINUTE(FSH)  
01/30/06 (H) FSH RPT CS(FSH) 3DP 2NR  
01/30/06 (H) DP: KAPSNER, SALMON, LEDOUX;  
01/30/06 (H) NR: ELKINS, THOMAS  
04/03/06 (H) RES AT 2:00 PM CAPITOL 124  
04/03/06 (H) <Bill Hearing Postponed to 04/05/06>  
04/05/06 (H) RES AT 1:00 PM CAPITOL 124

BILL: HB 464

SHORT TITLE: WANTON WASTE OF BIG GAME

SPONSOR(s): REPRESENTATIVE(s) CROFT

02/13/06 (H) READ THE FIRST TIME - REFERRALS  
02/13/06 (H) RES, JUD  
04/05/06 (H) RES AT 1:00 PM CAPITOL 124

**WITNESS REGISTER**

REPRESENTATIVE VIC KOHRING  
Alaska State Legislature  
Juneau, Alaska  
POSITION STATEMENT: Presented HB 386 as sponsor.

SYLVIA KAZILNAROWIZC  
Ekwok, Alaska  
POSITION STATEMENT: Testified in support of HB 328.

HENRICK WESSEL, Environmental Officer  
Golden Valley Electric  
Fairbanks, Alaska  
POSITION STATEMENT: Testified that HB 328 will not impact  
thermal mixing zones.

FRANCIS NELSON  
Koliganek, Alaska  
POSITION STATEMENT: Testified in support of HB 328.

PAUL SHADURA, Executive Director  
Kenai Peninsula Fishermen's Association  
Kenai Peninsula  
POSITION STATEMENT: Testified in support of HB 328.

STEVE BORELL, Executive Director  
Alaska Miners Association  
POSITION STATEMENT: Testified in opposition to HB 328.

DALE NELSON, Chair  
Legislative Liaison Committee  
Alaska Professional Design Council  
POSITION STATEMENT: Testified in support of good science.

RICHARD HAHN  
Soldotna, Alaska  
POSITION STATEMENT: Spoke in opposition to changes in HB 328.

ROLAND MAW  
United Cook Inlet Drift Association  
Kenai Wild  
POSITION STATEMENT: Testified to the omissions in HB 328.

SHAWN DOCHTERMANN

Fisherman

POSITION STATEMENT: Testified in support of HB 328.

DAN DUNAWAY

Retired Fisheries Biologist

Dillingham, Alaska

POSITION STATEMENT: Testified in support of HB 328.

ANDREW DEVALPINE, Director

Coastal Resource Service Area

And Bristol Bay Fisherman

POSITION STATEMENT: Testified in support of the intent of HB 328.

KRISTIN SMITH, Executive Director

Copper River Watershed Project

Cordova, Alaska

POSITION STATEMENT: Testified in support of HB 328.

THOMAS PEBLER

Sport Fisherman

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 328.

KATE TROLL

Alaska Conservation Alliance

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 328.

GARVAN BUCARIA

Matanuska-Susitna Valley

POSITION STATEMENT: Testified in support of HB 328.

MYRL THOMPSON

Susitna Valley, Alaska

POSITION STATEMENT: Testified in support of HB 328.

REPRESENTATIVE ERIC CROFT

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 464 as sponsor.

JOE KLUPSCH

Alaska Professional Hunters Association

POSITION STATEMENT: Testified in support of the concept of HB 464.

#### **ACTION NARRATIVE**

**CO-CHAIR RALPH SAMUELS** called the House Resources Standing Committee meeting to order at [1:23:31 PM](#). Representatives Ramras, Seaton, LeDoux, Samuels, and Crawford were present at the call to order. Representatives Gatto and Olson arrived as the meeting was in progress.

#### HB 386-EXTEND NORTH SLOPE SEVERANCE TAX CREDIT

CO-CHAIR SAMUELS announced that the first order of business would be HOUSE BILL NO. 386, "An Act making uniform throughout the state the deadline for certain exploration expenditures used as credits against the production tax on oil and gas produced from a lease or property in the state by extending to July 1, 2010, the deadline for those expenditures on leases or properties located north of 68 degrees, 15 minutes, North latitude."

REPRESENTATIVE VIC KOHRING, Alaska State Legislature, presented HB 386 as Sponsor and said the bill provides tax credits to the oil and gas industry for drilling work and abandonment of work. The credit will "apply toward a variety of payments to the State of Alaska. Such payments are production taxes, what are called bonus bids, lease rental payments, property taxes, corporate income taxes." He said he hopes it will provide a major incentive to invest in Alaska. The bill adjusts the law that is going to expire in 2007 and extends it to 2010. He said the legislature should pass it now so the companies can plan accordingly. He said HB 386 is strongly supported by the industry, particularly Anadarko Petroleum Corporation and BG North, who said it is in Alaska because of the credits.

[1:26:37 PM](#)

REPRESENTATIVE KOHRING said these credits were addressed in the committee substitute to HB 488, which might not be included in the final bill. It is important that the industry have these [credits] to offset the taxes of HB 488, he stated.

[1:27:31 PM](#)

CO-CHAIR SAMUELS said these were referred to as "the SB 185 tax credits" in the CS, which came from Representative Kohring.

REPRESENTATIVE KOHRING said his staff worked on creating the credits.

CO-CHAIR SAMUELS said he is not going to offer an amendment. If HB 488 doesn't pass, "then I don't have a problem as much with being able to take these tax credits off of the income property taxes, because, quite frankly, they're not used that much. These are for true explorers." He said he will be sending a letter from the House Resources Standing Committee to the House Finance Committee to say his committee has not changed its position on HB 488 "on not being able to take these credits against income and property taxes in the big scheme of things. If you're going a big tax reform bill, but we still thing the income tax and the property tax should not have this as a credit against that, but if it is a stand-alone piece of legislation, the implications are far less severe."

[1:29:30 PM](#)

REPRESENTATIVE SEATON said these credits under this bill are not tradable, but they would be under HB 488. If it is only allowable against production tax, "you're going to have to wait until you go into production, so I think it's reasonable for this tax but not the other."

[1:30:02 PM](#)

CO-CHAIR SAMUELS said it is a different scenario if HB 488 and SB 305 fail.

REPRESENTATIVE SEATON moved to report CSHB 386 (O&G) out of committee with individual recommendations and the accompanying fiscal notes and the accompanying letter. Hearing no objections, it was so ordered.

The committee took an at-ease from [1:31:28 PM](#) to [1:32:49 PM](#).

#### HB 328-BAN MIXING ZONES IN SPAWNING AREAS

CO-CHAIR RAMRAS announced that the next order of business would be HOUSE BILL NO. 328, "An Act prohibiting mixing zones in freshwater spawning waters."

REPRESENTATIVE SEATON said the committee substitute (CS) for HB 328 clarifies that the Department of Environmental Conservation (DEC) makes determinations with the concurrence of the

Department of Natural Resources (DNR). It is a small change on Page 2, line 19 from the previous version.

REPRESENTATIVE SEATON moved to adopt CSHB 328, labeled 24-LS1273\C, Bullock, 4/5/06 as a working document. Hearing no objections, Version C was before the committee.

[1:34:20 PM](#)

REPRESENTATIVE SEATON said there are a couple of changes from the House Special Committee on Fisheries version of HB 328. Village Safe Water projects are allowed to have mixing zones that are approved by a municipal wastewater treatment facility. He referred to Page 3, line 7, which includes the definition of village, which allows for the safe water projects to also remain in effect if they are later invaded by one of the species listed in the bill. "So they would be then treated the same as municipal wastewater treatment facilities."

[1:36:06 PM](#)

REPRESENTATIVE SEATON said the CS also exempts the current mechanical or suction dredge placer mine mixing zones until they come up for reauthorization. At that time the mines will be restricted to 500-foot mixing zone that are 500 feet apart. He said it addresses mining operations that are currently legal. He noted that a question came up about thermal discharges, but mixing zones do not cover those discharges.

[1:37:22 PM](#)

REPRESENTATIVE SEATON said the bill goes back to the state's 1995 prohibition of mixing zones in spawning streams for anadromous or resident fish that create redds. He said there has been some confusion about broadcast spawners, which are not included in the bill. He said there has been consternation about turbidity mixing zones, and "actually there is nowhere in statute that allows that." This bill will give statutory guidance and authority for the small placer miners with regard to turbidity. The CS provides the requirements for turbidity, which will be handled by DEC in concurrence with DNR. In the designated special areas, ADF&G will need to concur.

[1:39:27 PM](#)

REPRESENTATIVE SEATON said that the CS defines "area" as the physical location where spawning occurs, "so other than the

exception for the turbidity mixing zone, which are contained in section C, we're talking about a physical area, not a timing. It also includes lakes, streams, rivers and other flowing water." He said that under the constitution, the state must look out for all Alaskans, and the new regulations only deal the long-term productivity of anadromous fish, and do not consider resident fish—valuable for sport, commercial and subsistence uses. The species are listed, so not every fish in the state is included. He said it doesn't include sticklebacks, for example. He said hundreds and hundreds of people have objected to the changes proposed by the Department of Environmental Conservation, and this bill serves the people of Alaska and protects the living resources of the state, "as we are charged to do."

[1:41:20 PM](#)

REPRESENTATIVE GATTO asked about northern pike and if it is introduced in some areas.

REPRESENTATIVE SEATON said they are indigenous in some areas and "relied on" by people.

REPRESENTATIVE GATTO said in some areas they are being eradicated, and he asked how the bill will affect those efforts.

REPRESENTATIVE SEATON said the legislation only deals with mixing zones and has no impact on catch or eradication.

[1:42:55 PM](#)

SYLVIA KAZILNAROWIZC said she is from the Bristol Bay area of Alaska, and she said mixing zones in a spawning area is not a good idea. She said waste from mines would pollute the water. She spoke of the potential pebble mine, and pollution from the mine may affect her community; it is a very bad idea.

HENRICK WESSEL, Environmental Officer, Golden Valley Electric, said the bill does not apply to thermal mixing zones, and it will not impact his company.

[1:45:45 PM](#)

FRANCIS NELSON said she lives in Koliganek on the Nushagak River. She said the 2006 mixing zone regulations don't require monitoring of all water bodies. The people in her village rely on freshwater fish, including pike, whitefish, grayling, rainbow

trout, and Dolly Varden. She said it is shared with family. She said all the important habitat has not been identified, and a permit applicant, like Northern Dynasty, can't do studies on the entire river bottom. She said the mine would impact many streams, and there is much habitat that must be studied and documented. The current regulations lower the level of protections. She noted that on the Nushagak the fish are very fresh, and won't be if the water is poisoned by tailings.

[1:49:03 PM](#)

MS. NELSON said her son spoke of a famine and asked what would happen if they no longer had their Native foods. "He knows that our way of life is being threatened." She spoke of a very old story of being careful of what goes into the river. There would come a day when the people of the village would be threatened by someone trying to destroy the river and its fish. She said the mixing zone regulations were written to permit open pit mining. Who do our leaders serve, Canadian mining companies or Alaska residents? she asked. She said the bill will protect her fish. She said she values land, water, air, wildlife, fish and, above all, human health.

[1:51:16 PM](#)

PAUL SHADURA, Executive Director, Kenai Peninsula Fishermen's Association, said his group supports HB 328. He said he has been very vocal with DNR and DEC to come up with a resolution in the regulatory process, but the adopted regulations have some glaring inequities in the regulations and the memorandum of understanding (MOU) from January 26, 2006. He said the enforcement actions or overview actions for the MOU between the departments aren't very clear. "We feel that in a legislative statute format that the departments would clarify and the legislature would be able to identify certain operations and moneys that would be necessary to overview these programs." He said the habitat division in DNR does not have the required personnel or a plan to put the regulations in place. He expressed concern that ADF&G's role is limited to "special-use areas" and is only allowed to comment.

[1:54:01 PM](#)

STEVE BORELL, Executive Director, Alaska Miners Association, said he opposes the bill and it targets mining; it is a blatant attack on the industry and a significant challenge for villages. "What is the demonstrated problem that needs to be fixed?" He

said the new regulations are restrictive and, "make this statute a moot point." It will have major adverse impacts on miners and rural communities. The bill's author implies that HB 328 will have no impacts beyond the most recent past. He does not agree with that. There are other types of discharges that will be affected, he opined. The intent of the CS, on the surface, won't impact placer mines, but that is not the case, he said. The bill adds criteria that would preclude the use of mixing zones. "The changes merely move the death sentence for placer mines three to four years into the future when the current general permit will expire." Current regulations include an absolute prohibition of mixing zones in salmon spawning areas, and the CS adds further restrictions for anadromous fish. "By specifying only one of many water quality criteria in this bill in this case, turbidity, the bill eliminates any opportunity for a mixing zone for any other water quality criteria."

1:57:16 PM

MR. BORELL said turbidity is one of many that must be addressed before a mixing zone is issued. It is an indicator for the other criteria in current regulations, but the bill only mentions turbidity. "The mixing zone will not be allowed for other constituents and once the current permit expires, a new permit is required, and the placer miners that needed one would be eliminated." He said the bill expands existing regulations by including two illogical limitations to the length of mixing zones. The first limitation is that a mixing zone would not be able to extend beyond 500 feet. He said Lynn Kent of DEC said 32 placer mines have mixing zones, and 28 of those would have to close because their mixing zones are longer than 500 feet.

1:59:21 PM

MR. BORELL said that new placer mines would also be forced to close. He said the CS includes an illogical and arbitrary limitation on the distance between mixing zones. "What new science would now require that they must be 500 feet apart?" He asked about suction operation separated by a 200-foot island and having discharges flowing "over a mile or more."

2:00:38 PM

MR. BORELL said the bill doesn't not give any consideration to load mining. The load sources are discovered after the placer gold deposits, like at Goodnews Bay. He said he hopes the Calista Corporation finds load sources. This bill contains many

serious problems for municipalities and villages, he stated. Most will require continuous discharges in spawning areas. The loopholes for existing permits "do not provide the leeway that they appear to address." He asked about municipalities that do not meet the exception provided in the bill, but due to growth, expand their wastewater facilities where they would need a new permit for a mixing zone, but no longer would be exempt.

[2:02:44 PM](#)

MR. BORELL said dozens of villages without current discharge permits will be forced to have a mixing zone, and EPA knows that many villages do not meet the current law, but it has not been politically correct for EPA to cite them. He said environmental lawsuits will force villages to shut down their sewage systems. DEC does not know how many villages will need mixing zones, he said. He said villages will have to be abandoned.

[2:04:23 PM](#)

CO-CHAIR RAMRAS asked how many of the placer miners are in the interior.

MR. BORELL said that's where placer mining takes place.

[2:05:04 PM](#)

DALE NELSON, Chair, Legislative Liaison Committee, Alaska Professional Design Council, said the CS eliminates the use of good science, and there are regulations that pertain to water quality standards, fish and game, and natural resources. He said he supports good science.

[2:06:40 PM](#)

RICHARD HAHN, Soldotna, said section 46 sounds like the committee has given control of mixing zones back to DEC, and it doesn't give him any warm feelings. He said turbidity level can be defined by DEC. He noted that a spawning stream is a continuous fish hatchery, including spawning, egg incubation, and rearing, and all states are susceptible to water quality. In spite of the massive public objections, DEC promulgate their regulations. He noted that the C version allows DEC to adjudicate issues, and it is well-known that DEC and the Murkowski administration are severely biased, as is the mining industry. He suggests that DEC not have any responsibility for adjudication for mixing zone issues.

ROLAND MAW said he was speaking for the United Cook Inlet Drift Association, which represents 580 families, and for Kenai Wild, a corporation for marketing high-quality salmon. High-quality is defined by having special handling and processing as well as organic, unpolluted salmon. He said Kenai Wild and other regional brands have spent millions of dollars to market these salmon. The high-quality message has worked, and such fish get higher prices--double the price. He asked why smelt were left off of the legislation. He listed areas with tens of thousands of tons of smelt, and thinks the bill might have an oversight. He spoke of them as a food source for fish, birds, and people.

[2:12:42 PM](#)

MR. MAW said it is quite disturbing that only on refuges will ADF&G have any role in mixing zones. He has a huge disagreement with that. He said ADF&G has a role in determinations and adjudications, and it should be at the same level as DNR. He said there needs to be a definition of "not adversely affect." The fish marketed by Kenai Wild must not have pollution or hormones in them, so would on adverse affect be the loss of the European market? he asked. He asked if Kenai Wild would have standing to sue because of the artifacts of pollution.

[2:15:53 PM](#)

REPRESENTATIVE SEATON said the list of resident freshwater fish is currently in state regulations, and has been used since 1995. The citation of DEC and its responsibility is within the statutory guidelines and regulations. He said the terminology of not adversely affecting salmon is only for the spawning and rearing of fish, and not it is not referring to marketing.

[2:18:15 PM](#)

REPRESENTATIVE GATTO noted that smelts appear to be protected based on previous DEC testimony.

[2:19:35 PM](#)

SHAWN DOCHTERMANN, Fisherman, said he owns a Bristol Bay permit and he is a board member of Alaska Independent Fisheries Marketing Association. He thanked the bill sponsors who are standing up to the irrational plan to allow mining debris to be dumped into salmon streams, and said it is important to "put our foot down now." He said salmon provides protein for the world,

and he asked if a miner would be willing to drink water from a stream with mining waste. He said water tables would have the potential to be impacted. He noted that Bristol Bay region subsistence, hunting, sport fishing and commercial fishing is worth more than dollars. He said if only one tainted salmon makes it to market, it can wreck the statewide salmon fishery market forever. He said food is more important than metal. The Kvichak River already has problems, and he doesn't want to see it completely "killed." He asked the commissioner of ADF&G what Jay Hammond would say about allowing mixing zones in salmon streams. Salmon is the true Bristol bay gold. He said HB 328 will protect a way of life.

[2:22:57 PM](#)

DAN DUNAWAY, retired fisheries biologist, said he supports HB 328, and he referred to a American Fisheries Society letter. He said the bill is designed to prevent problems so they don't need to be fixed. The recent regulations of DEC attempt to circumvent Alaska's traditional prohibition of mixing zones that have been in place since 1995. It is tiresome to constantly fight the administration's efforts to undermine the widely supported prohibition. There have been huge public outcries in support of protecting Alaska waters, he stated. He said he believes that the issue of fish colonizing previously non-existent waterways, such as ditches, are well accommodated within the bill. He said he is concerned that the regulations are too liberal for lakes, which allow 10 percent of the lake surface to be used as a mixing zone. That could be very harmless or very detrimental depending on what that 10 percent covers, and he pointed out that sockeye, Alaska's most valuable salmon, spawn in lakes. He said consultation with DNR and ADF&G should be required, and that DEC is understaffed. He said he supports the species list in the current bill.

[2:27:10 PM](#)

ANDREW DEVALPINE, Director, Coastal Resource Service Area (CSRA) and Bristol Bay Fisherman, said he personally supports the intentions and efforts behind HB 328. The board of the CSRA, which constitutes four watersheds, also supports it.

[2:28:14 PM](#)

KRISTIN SMITH, Executive Director, Copper River Watershed Project, said her group, which promotes sustainable economic development, supports HB 328. She said the region relies on

salmon for subsistence, commercial and sport fishing, which generate a total of \$20 million annually. She said to look to Oregon and Washington to see what happens with incremental encroachments on salmon habitat. She said fish are a public resource that must be managed for a public benefit, and it only benefits the few to allow mixing zones. Mixing zones should be banned from all spawning areas at all times of the year. Spawning waters are a continuous rearing zone. She noted that hydrocarbons break down into several forms and long term residual poly-cyclic aromatic hydrocarbons are the most deadly and the longest lasting. They cause reproduction malfunctions in fish, so it is critical that the state manage waters for all forms of pollution. She said spawning beds are an area, not a point in time. She said there has been widespread public opposition to the change in mixing zones. She spoke of the perception of Alaska wild salmon, and not to harm that.

[2:32:35 PM](#)

REPRESENTATIVE SEATON asked for DEC to look at the fiscal note for the CS, which does not invalidate permits, but requires the change when the permit is due.

[2:34:04 PM](#)

THOMAS PEBLER said he sport fishes and he supports HB 328. He pointed out that Alaska's fisheries are the finest in the world, and they should not be compromised for sake of waste discharge. The reason salmon are invaluable is because of the laws and labor that has gone into maintaining their quality. To allow additional mixing zones will defeat the original law. "Mitigation and exemptions on the prohibition of mixing zones in fish spawning habitat should be rejected absolutely. It is not possible to adequately compensate for invaluable renewable resources." He said other species are important and integral to the aquatic ecosystem; plants, animals, fungus, and bacteria are needed by fish. He noted that it would be futile to allow mixing zones during periods between spawning; egg, fry, and smolt, anadromous or not would be susceptible. One spill could wipe out an entire generation or do further damage. He said there is a lack of funding and staff to monitor mixing zones.

[2:36:39 PM](#)

KATE TROLL, Executive Director, Alaska Conservation Alliance, presented a letter from Carl Rosier [original punctuation provided]:

Since my arrival in Alaska in 1955, my professional life has been devoted to the protection of Alaska's fish and game resources. I spent 30 years working for the Department of Fish and Game (ADF&G) and served as the ADF&G Commissioner during Governor Hickel's administration. I have been an active member of the Territorial Sportsmen and the Outdoor Council and sat on their boards.

After a life time of working to provide our fish with healthy habitat and water quality, it is truly disconcerting to witness the backsliding of our historically strong fisheries management and protective regulations and witness Alaska's world renowned fisheries placed at risk.

At statehood, Alaska "took on" the management of the state's fisheries. At the time, salmon runs were badly abused. Alaska's strong constitutional mandate, the implementation of tight management programs and the essentially intact habitat - all contributed to the return of healthy runs. Some systems took longer than others to recover; some of the last ones to recover were those whose habitat had been compromised.

In those early years of statehood and continuing into future decades, Alaska's fisheries managers clearly understood the critical role that habitat and water quality play in the maintenance of healthy fish runs. **It was clear to them that the answer to pollution was not dilution.** All around us, we were witnessing the coastwide loss of habitat. The Great Lakes are a looming example of how dilution is not the answer to pollution. People couldn't eat the fish, they couldn't swim in the lakes. Rather, the Great Lakes have left a legacy of pollution and a clean-up bill for our generation and probably for several generations to come.

It is disheartening that, in Alaska, we seem hell bent on doing the same thing by creating these mixing zones that place our fisheries resources at risk. True, the demise of this little creek and that little creek is not going to make much difference but, as the state grows, we will see the pollution of these little

systems causing a cumulative effect on habitat loss and total production.

Since 1995, state regulations have explicitly prohibited mixing zones in freshwater areas where fish spawn. This regulation was specifically adopted to protect Alaska's fisheries and support Alaska's constitutional mandate to protect and conserve fish and game resources in a sustainable manner. It has been a hallmark of Alaska's strong commitment to our fisheries resources and it distinguishes Alaska's resource management from those of other states.

Unfortunately, the Department of Environmental Conservation's newly adopted regulations seriously weaken this strict prohibition by permitting the Department of Natural Resources(DNR) and, in some limited cases, the ADF&G to "determine spawning areas both temporally and spatially."

It is baffling to me that Alaska's resource managers should now consider allowing mixing zones in spawning areas when we know the history of what has happened along the entire Pacific Coast with this kind of misuse of water resources. Why get on this slippery slope when we have a system that has worked?

During all my years with the Department of Fish and Game, this would never have been allowed to occur. True, there have been exceptions made under very controlled conditions and that's acceptable; there's nothing wrong with some exceptions along the way. However, mixing zones were to be the **exception and not the rule.**

It is especially short-sighted and dangerous to relax the state restrictions, when the Habitat Division has been moved from ADF&G to DNR. With this move, the habitat authority and permit responsibility no longer reside with the ADF&G. There is no loyalty to fish per se in the DNR. The loyalty to that resource is with Fish and Game; and the fish and those commercial, sports and subsistence users who rely on healthy fisheries resources lost big time when that move occurred.

I have always been a supporter of the regulatory process. I was proud of the strict prohibition on mixing zones in spawning areas which were adopted in regulation during my tenure with the Administration. However, the newly adopted DEC regulations clearly fly in the face of fisheries' and habitat protection and do not reflect Alaska's constitutional mandate. This is why I urge the Alaska legislature to pass House Bill 328.

[2:41:49 PM](#)

GARVAN BUCARIA said he supports HB 328 and is concerned about the effluent from placer and hardrock mining. He said the proposed Pebble mine with sulfide-bearing metals will be toxic to fish. He said he is concerned about the contamination of fish habitat. He has worked in the hydro section of the Federal Energy Regulatory Commission and spoke about a review of mercury contamination that resulted from the removal of oxidized earth and the felling of trees. In many waters of the nation there are problems with the consumption of fish. He said he has had involvement with acid mine drainage, and he spoke of the opportunity for biological magnification. He said the Anchorage Daily News spoke of methyl mercury and how ultraviolet light can render it nontoxic. He said if water is clear--without turbidity--sunlight penetrates and helps render metals nontoxic.

[2:46:17 PM](#)

MR. BUCARIA spoke of the need to protect upwelling areas for salmon. He recommended a book called the Life of a Stream, which discusses restoration. He said chlorine from swimming pools kills everything for hundreds of yards downstream.

[2:48:17 PM](#)

MYRL THOMPSON, Susitna Valley, said a mining company in the Philippines polluted a river, bay, and coral reef, and that Canadian companies have a bad record. Mixing zone wastes flow downstream and affect estuaries, which are critical to salmon. He said the coal bed methane industry wants to take advantage of mixing zones by discharging polluted water. He spoke of a study by Trout Unlimited, which showed that such discharges have wiped out macro-invertebrates and the trout dropped down to nothing. He noted that the cyanide heat mining at Donley Creek will create a lot of runoff into the rivers. "The sound science that one of the speakers spoke of earlier, you're not hearing it," he

said. All fisheries biologists "have said that this is a very, very bad deal." He said that Wilma Subra, a nationally-recognized oil and gas waste expert, said that [allowing mixing zones] is the worst thing Alaska could do to its waters.

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[HB 328 was held over.]

HB 464-WANTON WASTE OF BIG GAME

CO-CHAIR RAMRAS announced that the final order of business would be HOUSE BILL NO. 464, "An Act relating to the possession of the edible meat of big game animals."

REPRESENTATIVE ERIC CROFT, Alaska State Legislature, Sponsor of HB 464, said he grew up hunting and learned to salvage as much of the animal as possible. He said most hunters do that, but some trophy hunters don't use the meat. There are laws with strict penalties to deal with that, but hunting is remote activity, and it is difficult to catch someone who is wasting meat. He said there is not enough enforcement as well. It is difficult in the Kotzebue area, and it has created a lot of tension, and the bill came from his visits to these areas.

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REPRESENTATIVE CROFT suggesting using the antlers to enforce good meat salvage practices, by confiscating the trophy if an insufficient amount of meat comes out of the field. If it is done right, it will be much easier to enforce. Instead of having a trooper in every other field, one only needs to check when hunters come in from the field. The current wanton waste laws have a complicated series of proofs. Excuses like transportation problems and predators are difficult to prove. But it would be simple to establish certain standard: if a hunter doesn't have half the meat, he or she can't have the horns. He said it would be difficult to write a rule that would apply from Ketchikan to Kotzebue. He has provided varying degrees of specificity, from requiring a set amount of meat to allowing the Alaska Board of Game to set salvage requirements.

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REPRESENTATIVE CROFT said he wants the board to make regulations where appropriate. He said without the required meat, no one

will need to hear any excuses. He said he has hunted all his life and only once did a grizzly bear get part of an elk.

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REPRESENTATIVE CROFT spoke of four hunters coming into Kivalina with 5 antlers from caribou and moose, and they had two medium-sized game bags of meat. Villagers stopped them. The hunters obviously didn't eat it on the way down, and the villagers were mad. There was almost a fight. He said it happens over and over in the Kotzebue area and elsewhere. He said he would like a concept of developing a concept of using the desire for the trophy as a tool for less wanton waste.

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REPRESENTATIVE LEDOUX asked if hunters have to go to a trooper and show the horn or antlers and the meat.

REPRESENTATIVE CROFT said no; but the Board of Game can figure out how it will be done. The concept is to keep the antlers and the meat until arriving home to process the meat. He said enforcement could catch them at the airport or anywhere hunters were in transport.

REPRESENTATIVE LEDOUX said there is a limit of troopers, so how would the hunters get caught?

REPRESENTATIVE CROFT said there are many ways, but one solution would be to have a trooper in the Kotzebue airport. Currently, a trooper would have to fly to the kill site; it would be a criminal burden of proof. For true wanton waste, the state can take a person's plane, he said. The bill will not weaken the protections, but the times when it can't be proved, the hunter will not get the horns. He said it is a no-fault deal. Maybe a grizzly did get it, but the person will lose the trophy, and will not be thrown in jail.

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CO-CHAIR SAMUELS agreed with the concept. He said currently a hunter must salvage the meat and asked how the law works now if a bear takes the meat. He said he has seen hunters that didn't get picked up in Kodiak for five days due to weather and the meat was spoiled. He asked if the hunters would have to bring in the spoiled meat.

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REPRESENTATIVE CROFT said if the meat was bagged and a bear took it, that would be a defense to the wanton waste statute. He said exceptions can make a rule unfair. He said the Board of Game is struggling with the regulation of transporters, and this would be a more market-based approach—a conservative approach. "I'm not going to over-regulate you, but if you bring hunters out without...we are going to take their horns and we're going to put a list of transporters and who's horn we've seized..." He said transporters are carrying more than is allowed, "and you could either mandate the number of clients they could have or you could simply say 'you better check on your clients because they're going to be really mad if you leave them in the field too long and they lose their trophy'".

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JOE KLUPSCH, Alaska Professional Hunters Association, said, in concept, he would support any regulation or action by the Board of Game to deal with wanton waste. The Big Game Commercial Service Board has discussed reporting requirements and the amount of meat removed from the field. The board has had testimony from Kotzebue and other areas. He is curious about the public safety enforcement position on the bill. He said there are current regulations that allow a trooper in the field to cite a hunter for wanton waste, but there aren't enough troopers. Wanton waste has extenuating circumstances, but too often there is simply an excuse to leave meat. A trooper must get to the site in time because ravens and bears work fast, he said. His only potential reservation is that a person without meat is presumed guilty. He said he would like the board to address it and doesn't like the legislature dictating to the board. He said everyone wants to eliminate deliberate wanton waste, which is a big problem. He said his board is working on bringing transporters into the issue.

[HB 464 was held over]

#### **ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at [3:16 PM](#).