

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES

March 2, 2007
8:43 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Craig Johnson
Representative Gabrielle LeDoux
Representative Peggy Wilson
Representative Bryce Edgmon

MEMBERS ABSENT

Representative Kyle Johansen
Representative Lindsey Holmes

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 4

Requesting the Federal Subsistence Board to reconsider its decision regarding the subsistence fishery priority given to Ninilchik residents.

- MOVED CSHJR 4(FSH) OUT OF COMMITTEE

HOUSE BILL NO. 134

"An Act relating to conservation and protection of wild salmon production in drainages affecting the Bristol Bay Fisheries Reserve; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HJR 4

SHORT TITLE: KENAI/KASILOF SUBSISTENCE PRIORITY

SPONSOR(S): REPRESENTATIVE(S) OLSON

01/16/07	(H)	READ THE FIRST TIME - REFERRALS
01/16/07	(H)	FSH, RES
02/23/07	(H)	FSH AT 8:30 AM CAPITOL 124
02/23/07	(H)	Scheduled But Not Heard
02/26/07	(H)	FSH AT 8:30 AM BARNES 124
02/26/07	(H)	Heard & Held
02/26/07	(H)	MINUTE(FSH)

03/02/07 (H) FSH AT 8:30 AM BARNES 124

BILL: HB 134

SHORT TITLE: PROTECTION OF SALMON SPAWNING WATER

SPONSOR(S): REPRESENTATIVE(S) EDGMON

02/14/07 (H) READ THE FIRST TIME - REFERRALS
02/14/07 (H) FSH, RES
02/28/07 (H) FSH AT 8:30 AM BARNES 124
02/28/07 (H) Heard & Held
02/28/07 (H) MINUTE(FSH)
03/02/07 (H) FSH AT 8:30 AM BARNES 124

WITNESS REGISTER

CONRAD JACKSON, Staff
to Representative Kurt Olson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented CSHJR 4, on behalf of
Representative Kurt Olson, sponsor.

RICKY GEASE

Kenai River Sportfishing Association, Inc.
Soldotna, Alaska

POSITION STATEMENT: Testified in support of CSHJR 4, Version M,
and provided comments on a statewide survey, conducted in
conjunction with HB 134.

RON RAINEY

Kenai River Sportfishing Association, Inc.
Anchorage, Alaska

POSITION STATEMENT: Testified in support of CSHJR 4, Version M.

MARC HELLENTHAL

Hellenthal and Associates
Anchorage, Alaska

POSITION STATEMENT: Reported on a statewide survey, conducted
in conjunction with HB 134.

MICHELLE POPE RAVENMOON

Fort Alsworth, Alaska

POSITION STATEMENT: Testified in support of HB 134.

STEVE TUTT

Homer, Alaska

POSITION STATEMENT: Testified in support of HB 134.

RON BOWERS
Dillingham, Alaska
POSITION STATEMENT: Testified in opposition to HB 134.

ROGER BURGGRAF
Fairbanks, Alaska
POSITION STATEMENT: Testified in opposition to HB 134.

BRIAN KRAFT
Trout Unlimited
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 134.

VERNER WILSON, III
Dillingham, Alaska
POSITION STATEMENT: Testified in support of HB 134.

DICK MYLIUS, Acting Director
Division of Mining, Land and Water (DMLW)
Department of Natural Resources (DNR)
Anchorage, Alaska
POSITION STATEMENT: Testified on HB 134.

BILLY MAINES
Dillingham, Alaska
POSITION STATEMENT: Testified in support of HB 134.

LISA KREBS
Homer, Alaska
POSITION STATEMENT: Testified in support of HB 134.

NANCI MORRIS LYON, Vice Chair
Bristol Bay Regional Subsistence Advisory Council
Board Member, Bristol Bay Chamber of Commerce
Board Member, South West Alaska Conservation Coalition
Owner, Katmai Fishing Adventures
King Salmon, Alaska
POSITION STATEMENT: Testified in support of HB 134.

GARVAN BUCARIA
Retired Biologist
Wasilla, Alaska
POSITION STATEMENT: Testified in support of HB 134.

TERRY HOEFFERLE
Dillingham, Alaska

POSITION STATEMENT: Testified in support of HB 134.

LUCY WEEDMAN

New Stuyahok, Alaska

POSITION STATEMENT: Testified in support of HB 134.

ROBERTA HIGHLAND

Homer, Alaska

POSITION STATEMENT: Testified in support of HB 134.

SHARON ANDERSON

Member, Truth About Pebble

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 134.

RICHARD KING

Ekwok, Alaska

POSITION STATEMENT: Testified in support of HB 134.

GINA MARIE POPE

Dillingham, Alaska

POSITION STATEMENT: Testified in support of HB 134.

PATRICK FLATLEY

Outreach Coordinator

Bristol Bay Alliance

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 134, with reservation.

ROBIN SAMUELSEN

Dillingham, Alaska

POSITION STATEMENT: Testified in support of HB 134, with reservation.

NORMAN VAN VACTOR

Peter Pan Seafoods

Seattle, Washington

POSITION STATEMENT: Testified in support of HB 134.

TOM PEBLER

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 134.

PAMELA BRODIE

Homer, Alaska

POSITION STATEMENT: Testified in support of HB 134.

MICHAEL MCCARTHY

Homer, Alaska

POSITION STATEMENT: Testified in support of HB 134.

JIMMY HURLEY

Ekwok, Alaska

POSITION STATEMENT: Testified in support of HB 134, with reservation.

RHONDA WAYNER

Unalaska, Alaska

POSITION STATEMENT: Testified in support of HB 134.

ACTION NARRATIVE

[Due to technical difficulties, the initial recording was stopped and restarted. No loss of testimony resulted.]

CHAIR PAUL SEATON called the House Special Committee on Fisheries meeting to order at [8:43:26 AM](#). Representatives Edgmon, Johnson, and LeDoux were present at the call to order. Representative Wilson arrived as the meeting was in progress.

HJR 4-KENAI/KASILOF SUBSISTENCE PRIORITY

[8:43:36 AM](#)

CHAIR SEATON announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 4, Requesting the Federal Subsistence Board to reconsider its decision regarding the subsistence fishery priority given to Ninilchik residents.

CONRAD JACKSON, Staff to Representative Kurt Olson, sponsor, explained the changes contained in CSHJR 4: distinguishing the communities of Hope and Cooper Landing, and providing that electronic copies, as well as posted hard copies, be transmitted to Alaska's congressional delegates. He also directed attention to the map available in the committee packet to detail the area addressed in CSHJR 4.

[8:45:07 AM](#)

REPRESENTATIVE JOHNSON moved to adopt CSHJR 4, Version 25-LS0201\M, Kane, 2/28/07. There being no objection, Version M was before the committee.

8:46:05 AM

RICKY GEASE, Kenai River Sportfishing Association, Inc., having previously testified on HJR 4, he stated continued support for the Version M, and urged passage of the bill.

8:46:23 AM

RON RAINEY, Kenai River Sportfishing Association, Inc., having previously testified on HJR 4, related his continued support for Version M, and urged passage of the bill.

8:46:44 AM

CHAIR SEATON closed public testimony.

8:46:50 AM

REPRESENTATIVE JOHNSON moved to report, CSHJR 4, Version 25-LS0201\M, Kane, 2/28/07, out of committee with individual recommendations. There being no objection, CSHJR 4(FSH) was reported from the House Special Committee on Fisheries.

HB 134-PROTECTION OF SALMON SPAWNING WATER

CHAIR SEATON announced that the next order of business would be further public testimony on HOUSE BILL NO. 134, "An Act relating to conservation and protection of wild salmon production in drainages affecting the Bristol Bay Fisheries Reserve; and providing for an effective date."

[The motion to adopt CSHB 134, Version M, was left pending at the 2/28/07 meeting.]

8:48:48 AM

MARC HELLENTHAL, Hellenenthal and Associates, provided testimony on HB 134, to report on a statewide public opinion research survey, which the Renewable Resources Coalition (RRC) sponsored. Between February 12th and February 20th, 2007, Hellenenthal and Associates interviewed 402 respondents; with a 4.9 percent margin of error. The survey used a random digit dial method, which restricted contact to residents with land line telephone service. He explained how posing questions in a particular sequence serves to establish a valid base for response. The survey began with positive/negative recognition questions of organizations and individuals in the state, prior to awareness

questions specifically about the Pebble Mine project. He continued, reading the results of each question leading up to question 4, directed specifically at HB 134. It read:

The Bristol Bay watershed is the source of the world's greatest wild salmon fishery A bill is now before the state legislature to protect this valuable natural resource, and to prohibit the draining and destruction of salmon spawning streams for industrial purposes. Do you strongly favor, somewhat favor, somewhat oppose, or strongly oppose protecting Bristol Bay salmon spawning areas in this manner?

MR. HELLENTHAL reported that 83.2 percent favored the legislation and 11.2 percent were opposed to the action. A similar question, number 5, addressed the bill before the legislature, which seeks to establish a game refuge in the headwaters of Bristol Bay, to be named after the late Governor Jay Hammond [SB 67]. The summarized results indicated that 66.9 percent favored, and 22.9 percent opposed this action. Subsequent questions addressed: a ballot initiative to require large mines to pay a percentage of their gross profits to the state; a percentage of mining gross profits to be paid directly into the Permanent Fund; whether a large scale mine should be cited at the headwaters of the Bristol Bay watershed; and a ballot initiative to strengthen Alaska's clean water laws and enhance the safety of its earthen dams.

MR. HELLENTHAL provided that question number 14 asked specifically for the respondent to make a preference between the developments of renewable resources vs. non-renewable resources. Every respondent was decisive, with a result of 87.9 percent favoring fish, wildlife, and native habitat, and 12.1 percent choosing gold and copper.

[8:55:43 AM](#)

REPRESENTATIVE LEDOUX asked if any of the questions were posed in a manner to illicit a particular answer.

MR. HELLENTHAL responded that cautions were taken to minimize interview bias. This is accomplished primarily by considering the sequence of the question. He provided examples of how the outcome of a survey can be changed by the order in which the questions are asked. Additionally, in this poll, the question of opposition to the Pebble Mine was asked twice. In the mid section of the survey, the response was that 49 percent opposed

the mine, but when asked again, as a final question, the response was 63 percent opposed. This illustrates the importance of sequencing questions, and the effect on the overall results.

REPRESENTATIVE LEDOUX asked who paid for the poll.

[8:57:31 AM](#)

MR. HELLENTHAL reiterated that it was commissioned by the RRC.

[8:57:44 AM](#)

REPRESENTATIVE JOHNSON inquired if there was any attempt to define reserve versus refuge.

MR. HELLENTHAL stated that the responders were expected to apply their own understanding to the terms.

[8:58:10 AM](#)

REPRESENTATIVE EDGMON queried about the area covered by this statewide poll, and asked if boundaries were drawn between rural and urban regions.

MR. HELLENTHAL disclosed the locations of the 402 respondents interviewed: Southeast 52; Valdez, Kenai, Matanuska-Susitna 76 interviews; Anchorage 164; greater Fairbanks area 52; and the remaining rural area 58.

[8:59:02 AM](#)

REPRESENTATIVE JOHNSON asked if there was a significant difference in the regional responses.

MR. HELLENTHAL answered that the Pebble Mine was opposed more in the coastal regions, than in the interior. Responding to a committee member, he agreed to provide a regional breakdown of the survey results.

[9:00:07 AM](#)

MICHELLE POPE RAVENMOON paraphrased from a prepared statement, which read as follows [original punctuation provided]:

Salmon have sustained my people for thousands of years. And I support HB 134 because salmon is our

most precious resource. I come from one of the richest areas in the world, because of our renewable resource. We have not damaged our lands like the rest of the world. Why not protect our food source, our way of life, and our land. We as a people, and as a region, have a potential for economic development that doesn't include molesting our lands beyond recognition. As [an] Alaska Native, I am tired and ashamed of being looked at as a victim who comes from a place with no economic hope. Alaska Native's have been portrayed as victims for hundreds of years, and it is not OK. I have worked hard, I went to college, and I'm employed by my home region, which, with initiative and entrepreneurship, my people can do this to. We do not need giant corporations coming into our homelands and risking what we, as Native people, have left. The Wild Salmon Protection Act will safeguard against destroying our salmon and ensure our clean water. This is the only home I have - if it is destroyed, I don't have anywhere else to go.

[9:02:40 AM](#)

STEVE TUTT, as a generational commercial fisherman with a long-term interest in the renewable resource, stated support for HB 134. He stated that he and his family have a long-term, vested interest in the protection of the Bristol Bay fisheries.

[9:03:48 AM](#)

RON BOWERS paraphrased from a prepared statement, which read as follows [original punctuation provided]:

I have been an Alaskan resident since 1979 and have lived in Bristol Bay or on the Alaska Peninsula since 1983. My wife and daughter are lifelong residents of this region. My wife set netted commercially for Salmon many years in Ekuk and South Naknek. My daughter spent many summers in fish camp and has worked on fisheries research projects both along the Nushagak [River] and around Lake Clark. While I no longer consider myself a commercial fisherman, I have fished for Halibut and Salmon in Port Graham, Chignik and Dillingham quite a few years ago.

As a family we participate almost year round in subsistence activities and benefit from what God has

blessed our Bristol Bay region with. From hunting Moose/Caribou/Ducks to berry picking, to catching our share of Salmon/smelts and Halibut. We fully support efforts to protect our region's natural resources.

But, we are not in favor of HB# 134. We realize that many of our region's residents are being forced to leave the land they love for less costly urban areas in our state such as Anchorage and the Mat-Su Valley. While these communities offer much, they are a long way from the subsistence resources and rural lifestyle we so dearly cherish. The main reason residents are being forced to leave our region, is for an honest job. House Bill #134 will only serve to decrease economic opportunities for our residents and cause more to have to move out.

While most testimony on HB #134 centers around The Pebble Mine and the impacts of mining. If passed this bill would also eliminate almost any chance of onshore Oil & Gas exploration to occur on most of the Alaska Peninsula. While offshore Oil & Gas has been a divisive issue throughout Bristol Bay, onshore exploration has gained broad support. Bristol Bay residents are in great need of new and diversified economic opportunities such as the employment and energy resource the Oil & Gas industry may bring.

This past month my family has to pay over \$700 dollars for basic services including electricity/telephone and internet. This does not include the almost \$5 dollar per gallon gasoline to drive our small pickup Truck or the oil we use to heat our home. HB #134 will only add another very thick layer of bureaucracy towards creating economic benefit for our region. HB#134 will chase off businesses and investors who may want to help develop oil & gas or other very doable resources in Bristol Bay.

Few things are more near to our region's hearts than subsistence. For many Commercial fishing is forever in their veins. But if more economic development is not soon brought to Bristol Bay, fishing permits are going to continue to out-migrate, young people are going to continue to leave and not come back, and many will unfortunately enjoy subsistence activities for a

few weeks only in the summer when they return from Anchorage.

9:07:15 AM

REPRESENTATIVE EDGMON referred to the importance of work availability, and asked how many job listings are in the current Dillingham paper.

MR. BOWERS answered that there are usually about 65 listed every day. However, Dillingham is the hub and for most of the smaller communities, he said, "It's very slim."

9:08:14 AM

ROGER BURGGRAF paraphrased from a prepared statement, which read as follows [original punctuation provided]:

I have lived and worked in Alaska since 1953. I majored in Wildlife Management and Conservation in college and worked for the US Fish and Wildlife Service for 3 seasons in Alaska as a stream guard and Fisheries aide. I was working for the USFWS the last year fish traps were allowed to operate and monitored their activities. I saw how Alaskans interests were being exploited by outside interests.

I am opposed to HB 134. Putting another layer of bureaucratic red tape on management of the land would serve as another disincentive for the mining and mineral exploration industry. The State of Alaska will not be allowed to promote the responsible development of other high value resources on its land.

The land encompassed by the so-called proposed Bristol Bay Fisheries Reserve was originally selected by the State for its high mineral potential.

The Pebble project has the possibility of becoming a World Class mining operation, if permitted, and would provide millions of dollars in revenues to the State of Alaska. It would provide for thousands of high paying jobs for Alaskans (especially local people who live in an economically depressed area). Spin off benefits to local communities would flourish. There is no base for that now.

Under the constitution of Alaska you as Legislators have an obligation to see to it that Alaskans get the maximum benefit from the lands it selected from the Federal Government. The passage of this bill would send a strong negative message to the mining industry and other resource development industries doing business in Alaska, thereby discouraging many potential investors.

I see HB 134, as nothing more than an effort to subvert the existing permitting process. The permitting process is thorough and time-tested to be state-of-the-art in determining whether a mine can be developed and operated in an environmentally sound manner. However, lodges in the area would be allowed to continue operations in their exclusive playground for the rich and influential and be undisturbed. This is very discriminatory.

The future of Alaska is dependent on the responsible development of our natural resources-petroleum, gas, minerals, lumber, and fisheries. All effort should be made to facilitate that development for the betterment of Alaskans in accordance with our Constitutional mandate "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." A balanced approach is imperative for the benefit of all, not just a few influential special interest persons and groups at the expense of the general population.

[9:13:27 AM](#)

REPRESENTATIVE EDGMON pointed out that when the Bristol Bay fisheries reserve concept came forward in 1972, oil and gas and mineral exploration were listed in the language. However, when the Alaska Native Interest Lands Claim Act (ANILCA) was passed, mineral exploration was omitted. Additionally, he offered that he has had the opportunity to tour the Fort Knox Mine. The Fort Knox Mine, as well as the Pogo Mine, are located in sensitive ecological areas, but not to the degree that surround where the Pebble Mine would be sited; in terms of salmon bearing streams that support the richest sockeye fishery in the world.

MR. BURGGRAF opined that the permitting process will insure that the fishery reserve is protected; it may disturb a large area of land but it can be done in a responsible manner.

[9:15:37 AM](#)

BRIAN KRAFT, Trout Unlimited paraphrased from a prepared statement, which read as follows [original punctuation provided]:

TU [Trout Unlimited] and I support HB 134 and for that matter any bill that would promote the protection and conservation of our rivers and the habitat that supports our fisheries. The proposed protection of the area that [HB] 134 addresses, is and has always been, needed. We are just fortunate that until recently our rivers and fish habitat have not been threatened. HB134 addresses the need to ensure that these critical areas remain intact and able to provide the nutrient rich environment that allows our Bristol Bay salmon stocks to continue to return in massive numbers each summer. It also ensures that resident fish populations, which are used for subsistence choice of lifestyle and support a \$100M a year sport fish industry, will also remain healthy. A bill such as [HB] 134 would be needed no matter if the industry to come into the area were going to be Oil, gas, logging, mining, or a bunch of fishing lodges or tourism based businesses. Since spawning and rearing grounds are of vital importance in the life cycle of our salmon, a law should be in place that ensures the compatibility with this habitat of any industry that wishes to operate in these critical areas. The industry should not be allowed if it is going to destroy rivers, lakes and groundwater. Therefore, it should be a law, such as HB134, that makes it illegal to do so. It just so happens that our luck has run out in regards to the status quo for the headwaters of some of these critical rivers in the Bay area. We are no longer able to just rely on Mother Nature combined with conservative fish and game management to ensure us of healthy fish stocks. We must now take action to protect these waters and habitat. The threat that has expedited the need for this bill to the forefront just happens to be large scale chemical metallic sulfide mining. The reason that threat to these rivers is very real in respect to this industry is simply

because of the location of the minerals and the process in which it takes to extract them in regards to vital habitat. The very nature of the large scale mining industry is that it crushes up earth on a massive scale - or as is the case in this area - spawning grounds. The recent track record [that] chemical mining has had in the Western US is dismal. Montana has outlawed the process that would be used at Pebble. We are having water quality problems in the Nevada desert. But as bad as the mining industry has been in sensitive areas like Montana that have some similar environmental characteristics as the Bristol Bay area, this bill is not an anti-mining bill. As I stated, the protection of clean rivers and healthy fish habitat is paramount. All other uses should be consistent and compatible with operating [while] not destroying rivers and fish. This bill does not scrutinize the permitting process or DEC requirements or EPA regulations. This bill is simply a pro clean water and pro healthy habitat bill. It is a bill that does not prohibit any industry from operating in Bristol Bay. Since DNR and ultimately the Governor have the authority, and as I learned 2 weeks ago, the discretion, to determine if it is ok to destroy habitat because of a perceived benefit, a law is needed that eliminates any political agenda and in plain language states that we, the people of Alaska, will not allow the spawning grounds of our salmon to be ruined. This bill would make it the law that an industry can operate in the region, but it just can not destroy rivers and healthy fish habitat to do so. What is wrong with that? Do the project, just don't take the water from our streams and destroy vital habitat to do so. How can you not support a bill that promotes that? I would like to know exactly how this bill would make it so that Pebble or any other mine would not be able to operate in the Bristol Bay area. Maybe that question needs to be asked here today by this committee. The answer might open all of our eyes as to what really is planned for the region and to further justify the need for the passage of HB 134.

MR. KRAFT stated uncertainty whether this bill would prohibit other mining activity.

[9:21:56 AM](#)

RICKY GEASE referred to the previously mentioned survey, and opined that the questions may have been leading. He explained the way in which an "either/or" vs. "both/and" questions influence the outcome of any survey. Additionally, water reservation systems are already in place, and he suggested that a discussion should address what the minimum water amounts are for salmon. On the Kenai Peninsula water reservations are made for that purpose. Reading from the bill he commented that it appears as though a de facto, 100 percent water allocation is being made to support fish and wildlife, and he suggested that the minimum water requirements be identified instead. Further, he opined that if this bill were being applied to the Kenai Peninsula, it would have devastating effects on the diverse economy that exists in that area.

[9:24:17 AM](#)

VERNER WILSON, III, as a generational commercial fisherman, stated support for HB 134. He related his family's history as fishermen, and emphasized the benefits of eating the uncontaminated fish produced in the region. By expanding the fisheries marketing techniques, he predicted that the demand for untainted sockeye will continue to grow, replacing standards such as tuna. Fresh, clean fish will always be sought after, he opined.

[9:28:14 AM](#)

DICK MYLIUS, Acting Director, Division of Mining, Land and Water (DMLW), Department of Natural Resources (DNR), paraphrased from a prepared statement, which read as follows [original punctuation provided]:

The Department of Natural Resources does not have a position on this bill but would like to explain how it impacts DNR's water management program and how it could impact state lands.

First, I would like to briefly explain the Division of Mining, Land and Water's role in water management. DMLW is responsible for allocations of the state's water resources under Alaska Statutes 46.15, the Alaska Water Use Act. Our authority deals with water quantity. We approve water rights for long term uses of water, issue permits for temporary water use, and are responsible for the state's instream flow program.

We do not deal with water quality, that is a DEC issue.

DMLW also manages the state owned land, including land under navigable waters and tidelands and submerged lands out to three mile. DMLW issues permits for uses of these lands.

House Bill 134 has a significant impact on these DMLW programs. The bill would limit where we can approve water rights or permits for water use.

HB 134 requires that no water can be taken from surface or subsurface waters of this area except for uses that area already approved, drinking water and domestic use, municipal uses, traditional, cultural and residential uses, energy projects, seafood processing, and transportation.

This would impact DNR's water management authority over approximately 19 million acres of land and waters within the watersheds of the Nushagak, Kvichak, Naknek, Egegik, and Ugashik Rivers. Because all of the state's water resources are reserved to the people of Alaska, any restrictions apply to all water users, whether on state, municipal, federal, or private lands.

There are no resources in Alaska that can be developed without the use of water.

If this legislation passes, DNR would not be allowed to issue water rights or water use permits for many activities that may occur within these watersheds, or even for many existing uses that do not yet have water rights.

The state owned portion of these lands (approximately 9 to 10 million acres) contain numerous, significant mineral deposits and is considered to have high mineral potential. The area also has potential for oil or gas development, DNR has held lease sales within this area and portions of the reserve are on the state's areawide leasing schedule. These uses need water for exploration and development.

In addition to mining and oil gas potential, these lands are suitable for other commercial uses, including commercial recreation. Most new commercial and industrial uses, including commercial recreational activities, within this area could not get approval to use water and could not be developed under this legislation.

In addition, DMLW permits in water uses such as erosion control structures, fish weirs and under the bill these uses would generally not be allowed.

The Department has three general concerns about the legislation as proposed - first it raises constitutional issues; second the location of the proposed statute raises questions about what department and third, the exceptions in part b, on page 2, lines 17-21, are not defined.

Briefly on each of these:

Constitutionality: The water rights program that DNR administers is based on specific guidelines established in Article VIII of the Constitution. There are serious questions of whether the proposed action to out rightly prohibit most appropriation, use or management of water resources by legislation violates Article VIII of the Constitution, particularly Section 13. It is suggested that the Attorney General's office review this bill for any constitutional conflicts.

Whose Authority. The bill creates ambiguity with regard to which agency determines whether a proposed water used is prohibited under AS 16.10.015(a) or allowed under (b). Currently the appropriation of water resources is managed by DNR under AS 46.15, however the bill places the prohibition/allowance language under DEC's authority under Title 16, Chapter 10, Article 1. This conflict in statute and authority for determination of water use needs to be addressed.

Terms: Several of the terms used in the bill such as "ordinary existing and future municipal uses", "traditional uses", "cultural uses", "residential uses", "energy projects" are not defined either in this proposed legislation or in the body of state law

dealing with water use and management. These terms need to be defined in order that the proper legislative intent is made known.

9:33:20 AM

BILLY MAINES stated support for the intent of HB 134. He said:

When you look around the state you see [that] different regions bring different things to the table. You think of the North Slope, you think of oil and gas; Southeast - timber, tourism; Bristol Bay - it's always been fish. The state and residents of Bristol Bay have benefited and utilized this rich renewable resource for centuries. Those benefits and that utilization [are] at threat currently in many fashions. The state has invested millions of dollars in promoting, and advertising, our wild, clean, pristine salmon. Consumers, whether you know it or not, are really fickle. The hint of anything wrong with something drives them away. I don't need to mention the Mad Cow disease, what it did to the beef industry; Bird Flu for poultry; farm fish, for awhile they were the answer and that drove our wild salmon down. But guess what, they found out there was something wrong with farmed fish. Well, our wild salmon's coming back up. I don't understand what's changed in 35 years. The 7th state Alaska Legislature understood the importance of our salmon; our resource. Lease Sale 92 was put on the shelf. Now it's back up. I don't understand what really has changed. I don't understand why we have to give up something for jewelry, or for the promise of maybe getting some lower cost of fuel. But where it's at, has no chance of making it to Bristol Bay. Dillingham is at the bottom of the watershed. I've been studying this issue now for four years; I'm trying to become a miner in my mind. The mining industry doesn't have a good record. In the state of Alaska, Pebble [Mine] that is being proposed right now, for the possibility of being permitted, or submitting an application for permitting, is something that the state has never seen before. Other states in the country, as well as around the world, have seen something close to Pebble, and they've had to pay the adverse effects of that happening in their backyard.

9:36:58 AM

LISA KREBS, speaking as a long time fishermen, stated support for HB 134. Although she does not live in the immediate area, she opined that [the ethos] lives strongly in the Homer area, through the various local fishermen and crew members who hold permits to harvest Bristol Bay. Citing the importance of Bristol Bay to many regions, she stated surprise at having to come before the legislature to request protection of these waters. Considering putting this area in danger is unconscionable, she said.

9:38:37 AM

NANCI MORRIS LYON, Vice Chair, Bristol Bay Regional Subsistence Advisory Council; Board Member, Bristol Bay Chamber of Commerce; Board Member, South West Alaska Conservation Coalition; Owner, Katmai Fishing Adventures, King Salmon, stated support for HB 134, paraphrasing from a statement, which read as follows [original punctuation provided]:

The Wild Salmon Protection Act would protect Alaska's greatest fishery resources by prohibiting the withdrawal, obstruction, pumping, or pollution of surface water in any Bristol Bay drainages that support our numerous, pristine, trophy fisheries.

These fisheries have become known world wide for the legendary sport fish opportunities they offer to residents and visitors alike. The recent study funded by Trout Unlimited showed that our recreational and commercial fisheries have a multimillion dollar value. That value is a sustainable resource value, something that I like to call the gift that keeps on giving. The information it contained even surprised most of us locals. Quite frankly I'm not sure we were giving enough value to our fishery before this study was published.

This legislation also prohibits the destruction of salmon habitat, creates a fining schedule for violating these protections, and protects existing water uses including the historic uses we have enjoyed for more years than we can count. I think that it will be a positive step in the right direction to insure that anybody coming into our back yard to remove a non-sustainable resource, be held

accountable. Most of the resource development I have heard about plans to leave very little in the area to support us financially after they leave or with promises of the ability to feed our families in future years. Because of that I find it extremely important that we offer protection to the resources that have been our past, present and I hope will be our future, the out standing fisheries and clean environment.

I would like to add that it is not my purpose nor do I believe that it is this Bill's purpose to preclude development in Bristol Bay. We need economic development and help for our villages on the Alaska Peninsula. I firmly believe that the purpose of this bill is to create standards of protection for the fisheries and environment in Bristol Bay! Something that has been recognized in the past and I feel that it is again warranted the highest priority to ensure future use of our precious resources.

There is currently tremendous growth in the Bristol Bay commercial sport fishery. We are seeing more Native Corporations and area Villages taking advantage of the opportunities available from owning and operating lodges to offering support services for visitors to our area. Our local Southwest Alaska Vocational and Educational Center here in King Salmon in conjunction with UAF just completed freshwater and saltwater Coast Guard Licensing Classes. They had 10 students in the Freshwater class of which 7 were Alaskan Natives. They have held these courses successfully for the past several years. In addition, last year they offered a class on sport fish guiding, graduating a total of 10 students of which over half were Alaskan natives. These classes were all fully funded from BBEDC, a TRIO grant and UAF itself, so the cost was not a factor. My operation hired one of last year's graduates and we were looking for 2 others, but none of the students were available, they all had commitments. The class is scheduled to be held again this year and we will again be looking for graduates. I know this isn't the forum for job search, but I listened on Wednesday and heard about several locals who couldn't find work in the sport fish industry, I encourage them to send us a resume, we love hiring local and are always looking for more Alaskans to add to our staff.

The sport fish and commercial fish industries have worked hard, for decades on bringing a message about Bristol Bay, a message that not only states that we have the largest abundance and size of fresh water fish and salmon available on earth, we also have the most pristine, crystal clear, clean water and environment available. Users of our precious resource all across the globe, give our markets sustainability because of the pure environment we can and do guarantee. Once again testimony to the gift that keeps on giving.

In closing, I feel the Wild Salmon Protection Act, along with the Jay Hammond State Game Refuge bill will offer immeasurable help to the fisheries by enhancing the pure, pristine, contaminant free image of Wild Bristol Bay and will help to protect our renewable resources far into the future by ensuring that habitat protection standards are carefully designed and implemented.

[9:43:08 AM](#)

CHAIR SEATON asked if she holds perfected water rights for the lodge.

MS. MORRIS LYON responded, "Yes."

[9:43:22 AM](#)

REPRESENTATIVE EDGMON referred to previous testimony regarding the minimal economic benefit of the sport fishing industry to the area, and asked if her business hires local residents.

MS. MORRIS LYON responded that locals are her first choice for hiring. If a local is not hired, housing becomes an issue. However, many of the local residents are commercial fishermen, and are absent during the openings. This is an ongoing conflict, she said, but they are still the priority hire. She suggested that Natives hoping to work in this field, expand their job search.

[9:44:38 AM](#)

REPRESENTATIVE JOHNSON asked how many Natives she employed last year.

MS. MORRIS LYON responded that out of her total staff of ten, 2 were Native and 9 were Alaskans.

[9:45:03 AM](#)

GARVAN BUCARIA, Retired Biologist, stated support for HB 134 and the establishment of the Jay Hammond Refuge area. He discussed the importance and action due to lake temperature, which causes a semi-annual turnover in every lake including a dead lake; that being a lake created for, or used as, a depository for mine tailings. These tailings will contain chemical, and mineral, residue that will leach into the water. He explained how the adaptability of insect larvae will manage to live in the adverse conditions and eventually emerge, during the seasonal turnover of the water. These aquatic insects will incorporate the harmful residues into their own hemoglobin's, and serve to carry it into the various trophic levels of the food web. The result will be that these materials will eventually penetrate the entire ecosystem. With the occurrence of biomagnifications, even a "dead" lake can have effects on salmon resources, he opined. It is hard to know how many years it will take, but at some point in the future the build up of these heavy metals, and other materials, will render the fish contaminated and inedible. The Kensington mine [north of Juneau] has won approval for this type of an approach to mining [settling pond, repository lake]. He cited his master's thesis, available at the Auke Bay Laboratory, University of Alaska Southeast, Auke Bay, Alaska, for further information.

[9:50:13 AM](#)

TERRY HOEFFERLE, stated support for HB 13[4], opining that it will build on the future of the ecosystem of Bristol Bay. Steps have been taken in the past to protect the Bristol Bay area, by those who worked to frame the Alaska Constitution, as well as the 7th Alaska Legislature. Governor Jay Hammond worked to preserve this area through the land settlement agreements. The protection provided by this bill will lay a foundation for responsible development. It is incumbent to step up to the plate, and continue to recognize and protect the unique aspects of Bristol Bay. Mining laws in the state of Alaska are not up to date, nor do they provide adequate protection. He stated, "This area is not just Southwest Alaska, it's a blessing to the whole state." He called attention to the residents as well as the wildlife that inhabit the area. The burden of accountability, he suggested should be placed on the developers.

They should be required to "come-up to our standards, to respect the way that we feel about Bristol Bay."

REPRESENTATIVE JOHNSON opined that this bill would eliminate all the development in the area.

MR. HOEFFERLE responded that he does not believe that this bill will stop all development of the area, and cited the exception clauses in provided in Section 2.

[9:56:01 AM](#)

CHAIR SEATON referred to the testimony received from DNR stating that, under the current draft of the bill, water use permits could not be issued for any development, including fishing lodges and weirs.

[9:56:43 AM](#)

LUCY WEEDMAN, speaking as a generational subsistence user, stated support for HB 134. She stated concern for the danger of pollution, with the mining industry in the "back yard." The fresh water fish, as well as the salmon require protection. Not only do the salmon use the watershed but so do the people, as well as the game, she pointed out. She said, everyone here is dependent on the fish and game out, due to the ever rising cost of living. She continued:

Bristol Bay specifically has the most pristine water, and it is getting polluted by mining industries doing exploration studies. ... We do have some states that have outlawed mining ... due to the devastating destruction of salmon, fish and game, and their habitat. Until the mining industries can prove by example and not by technological analysis, that a mine can operate safely, without environmental damage. To date the mining industry cannot prove that they can operate safely without any damage.

MS. WEEDMAN stated that she has taken courses on mining provided by the mining association. One question that stood out, she noted, is that the mining industry has stated their interest in mitigating every subsistence user, should a mishap occur. This is a fallacy, it would be impossible, she opined, and people may end up depending on the state welfare system. HB 134 should be passed to insure the livelihood of the people for generations to come. Last year Northern Dynasty applied for water rights for

two water systems. The amount of water that was requested would dry up the rivers, streams, and creek beds. It equated to 2 or 3 times the amount of water that the city of Anchorage uses. This would eliminate the salmon runs.

[10:01:56 AM](#)

ROBERTA HIGHLAND, stated support for HB 134, and stressed the need to prevent development that creates pollution. She opined that harmful, watershed pollution should not be tolerated, from any industry or municipality. There are many developments that can be done cleanly. She said, "The humans and the wildlife deserve to have the clean water."

CHAIR SEATON established that this bill is not on pollution, but rather on water use, and asked if she wished to voice a concern on the aspect of water usage.

MS. HIGHLAND clarified that her statement addresses the use of the water, and anything that would destroy salmon habitat.

[10:04:14 AM](#)

SHARON ANDERSON, Member, Truth About Pebble, paraphrased from a prepared statement, which read as follows [original punctuation provided]:

I believe it is a priority for Alaska to have a balance of economic development and environmental concerns. I am opposed to the passage of HB 134. Alaska has laws and regulations to protect our fish and game resources and they are important, but HB 134, which is to take effect immediately, inappropriately brings to a halt future development in an area that was specifically selected for its significant mineral potential, without allowing Alaska's permitting processes to be completed. More importantly, HB 134 restricts those that live in the Lake and Peninsula Borough the opportunity for alternative additional economic development; i.e. new skills and trades, and improved medical care. This area of Bristol Bay has some of the highest unemployment rates in the State. HB 134 will make a blanket moratorium on nearly all future mining development, including the proposed Pebble Mine project that has an estimated value of over \$200 billion. Mining and fisheries can co-exist. In British Columbia's Fraser River area, the world's

2nd largest salmon producing system, none of the 64 historic mines or eight active mines has had a negative impact on the fishery. One of Northern Dynasty's sister companies has operated the Gibraltar Mine since the 1970's - this mine is six times closer to the Frasier River than Pebble would be to the Kvichak River and ten times closer what it would be to the Nushagak River. What HB 134 does achieve is legislation based on emotional outbreak, assumptions and a lot of "what-ifs", instead of those based on sound research and data from the rigor of Alaska's permitting processes. We do not need to lock up any more land and limit Alaska's future opportunities.

REPRESENTATIVE EDGMON clarified that the Truth About Pebble organization was recently formed, and is comprised primarily of people who do not reside in the region. He pointed out that the chairman of Northern Dynasty has made a statement to the effect that any efforts to stop the permitting process, for the Pebble Mine, will fail miserably. This contrasts with the Truth About Pebble stance that the permitting process will be taken up with confidence. He asked for her comments on this disparity.

MS. ANDERSON stated that the Truth About Pebble has over 200 members from across the state, whose primary concern is to insure that any developer in the state be allowed the opportunity of the permitting process. She opined that it is a stringent process.

REPRESENTATIVE EDGMON concluded that Truth About Pebble believes that "the permitting process still has yet to occur and that it is a fair process, and when it's completed it will basically make the decision."

MS. ANDERSON responded affirmatively and said that the project is still 2 years away from completing the Environmental Impact Statement (EIS).

[10:09:12 AM](#)

REPRESENTATIVE LEDOUX observed that several comments have cited Alaska's rigorous permitting process. Referring to the issue of having the Office of Habitat Management and Protection (OHM&P) located within the Department of Natural Resources (DNR) vs. the Alaska Department of Fish & Game (ADF&G), she asked if Ms. Anderson wished to comment.

MS. ANDERSON offered no opinion, but she reiterated her personal confidence in the process.

[10:10:27 AM](#)

RICHARD KING, stated support for HB 134. He said:

The developer for the Pebble [Mine] project said that there would be no net loss to salmon. Then why isn't he standing in this room saying "I support [HB] 134 ...? I'll tell you why, he knows the truth. You can't put a mine and its mixing zones in the watershed and still have no net loss. He himself stated that if [HB] 134 goes through, it will shut the project down; because he knows the truth, it must pollute. Northern Dynasty came to our village, which is Ekwok. His representatives told us about the Pebble Mine. ... Every time [that] we look at the Pebble project the representatives of the company change the subject: "Look at the jobs!" If they can keep us looking at the jobs, who will protect the fish and the real Alaskans, ... who live here? If his technology is so good he should be here saying, "I support you Alaskans." This isn't a job search, this is Alaska wild and pure.

[10:12:45 AM](#)

GINA MARIE POPE, stated support for HB 134, paraphrasing from a prepared statement, which read as follows [original punctuation provided]:

I've grownup in the Iliamna/Lake Clark area, specifically Pope-Vannoy Landing in the Intricate Bay area between Pedro Bay and Kokhanok Bay. Pope-Vannoy Landing borders Alaska Peninsula Corporation Land and sits a mile and a half away from Copper River, a world class trophy rainbow river prized by fishermen. My mother owns a Native Allotment of 160 acres between Copper River and Pope-Vannoy Landing.

The last census counted about 7,520 people in the Bristol Bay region (according to a report by the Alaska Department of Fish & Game). If you count the people who visit as fishing/hunting clients or as summer visitors, my guess is that the population may

rise to approximately 10,000-15,000 over the months of June, July, and August. I would guess it does not rise cumulatively much above that.

In addition to the current scant population I have listened to the radio news and determined that if a community rises in residency to over 6,000 people, that community may lose subsistence priority. Right now our communities are much below that figure, but large-scale development in the future looms (Think of what 60,000 people injected into the region would do to the social structure).

By supporting this bill, people are asking that some assurance be made that changes will not wipe our region of the salmon that it has taken eons to establish. Social changes of population increase are one thing, but we all seem to have agreed to sustain the salmon.

I am surprised that the public support for HB 134 is not unanimous. What will our region look like 60 years from now if we protect the river systems? What if we don't allow obstructions and pollution to the lakes and drainages? Will we suffer economically because we kept our renewable resource in a natural, wild state?

Besides eating salmon for subsistence, I have gained meaningful employment because of the valuable sport fishing area we have right next to the water bodies. My first job at age 16 was at a lodge near my home. My six older brothers and sisters, all of Alaska Native descent, worked there before me. I earned enough tips and wages at the lodge to buy lumber and build a house by the age of 17. I did not feel like I was living in poverty, nor do I today.

The label of poverty is put on us not by ourselves but is a label designed to further ideas of those who overlook cultural richness and understand not the value put on an untainted food source. Even berries benefit from the nutrients which are present because of salmon returns.

I really truly thank each of you for your hard work and endurance and hope you each have a good day today.

10:15:38 AM

PATRICK FLATLEY, Outreach Coordinator, Bristol Bay Alliance, stated support for HB 134, with reservation. He offered a recount of a hunting trip in Wisconsin, which resulted in a personal lesson of how to relate to elected officials: When important issues arise stand-up and let your legislator know what you want. He requested that the committee become familiar with modern day mining practices, particularly the sulfide extraction process, and counseled them to dissect the permitting process. Further, he recommended that an answer be sought, as to why major mining states have outlawed this type of open pit sulfide mining.

10:19:49 AM

ROBIN SAMUELSEN, stated support for HB 134, with reservation to allow for on-shore oil and gas development. He emphasized that the entire mining district should be scrutinized, and the water demands closely evaluated. Northern Dynasty is only the first phase, as there are mining claims throughout the region that will require water use permits; each needing to utilize voluminous quantities of water - diverting entire river systems. This would effect fresh and salt water fish stocks. As a past board member of the Alaska Board of Fish (BOF), the North Pacific Fishery Management Council (NPFMC), and as an advisor to the North American Anadromous Fish Commission (NAAFC), he offered three guiding principals that he learned:

First [there is] no giving up on habitat and eco system protections. Number 2, was conservation of the resource. And my third guiding principal was Alaskans first. ... Every time I left [a] board I always felt it was in better shape than when I entered it. Those three guiding principles guided me and helped the resource. We are very nervous out here. Our former governor did away with mixing zones, talked about fast track permitting processes, and moved Habitat Division out of Fish and Game into DNR. ... We are scared out here. We don't want something that's going to be developed out here that's going to be polluting us longer than the pyramids of Egypt [have] been around. ... We need the added protection. We've got foreign companies, this is all foreign, ... coming into our backyard, ... wanting to turn over our soil. Yes it's going to give us 50 years of jobs. But we need the

added protection because water is life, and without water we're not going to have anything.

MR. SAMUELSEN continued, stating that the ground price of salmon is making a rebound, due to the global marketing strategies and increasing demand. As a son of a miner, he stressed the importance of not trading a non-renewable resource for one that is renewable.

[10:24:45 AM](#)

CHAIR SEATON pointed out that the bill has two aspects: preventing water use and monitoring pollution. He asked which of these aspects the witnesses' testimony supports.

MR. SAMUELSEN responded that water needs to be available for use. However, he pointed out, that the water requirements of a large scale development cannot be compared to smaller developments. Water must be available on a reasonable level.

[10:26:33 AM](#)

REPRESENTATIVE LEDOUX asked whether he would be more comfortable allowing the permitting process to take its course if: 1) OHM&P were located in ADF&G vs. DNR, and 2) the stringent mixing zone requirements were re-established.

MR. SAMUELSEN responded, "Yes." He also suggested that the process include a complete, isolated, peer review.

[10:27:34 AM](#)

REPRESENTATIVE EDGMON asked the witness to share his opinion on the market perspective, and the role which clean water habitat has played in the rebounding of the salmon prices.

MR. SAMUELSEN offered that the primary focus points behind the rise in the marketability of Alaska salmon are the clean pristine rearing/harvest waters, and the stories of the people who harvest the salmon. Although Japan is still an important customer in Alaska, the demand for Alaska wild salmon has gone global. The consumer wants to hear that the fish are coming from pristine waters, the cultural story of the Native Alaskan who has harvested the fish, and that it is a sustainable, renewable resource.

10:29:23 AM

NORMAN VAN VACTOR, stated support for HB 134, paraphrasing from a prepared statement, which read as follows [original punctuation provided]:

My sincere thanks to the bipartisan sponsors of this bill. Your bipartisanship support on this issue in Juneau is only magnified by the bipartisan support for this issue and the protection of our resources and habitat by those of us who work and live in Bristol Bay. The manner in which the Subsistence, Sport, Recreation, and Commercial business interests in Bristol Bay have galvanized and come together around the subject of Habitat and Resource protection is truly incredible and gratifying.

Each year, millions of fish pour into the bay and its drainages, putting food on the tables, and paychecks in the pockets, of thousands of local Alaskans, not to mention pumping an estimated \$400 million into Alaska's economy annually to say nothing of sustaining a cultural way of life to which no dollar value can be attributed. This bill's purpose is not to preclude development in Bristol Bay, but to instead provide standards, and a level of protection, that our incredible natural resource deserves and demands.

Fishing prices are rebounding, Salmon run returns in the Nushagak River hit an all-time record last year. The King salmon season was exceptional, and the Kvichak River salmon run is making a big comeback. Why gamble a thriving wild salmon fishery, local economy, and a healthy subsistence lifestyle.

Two years ago the statement was made to me and my staff by a scientific consultant for one of the companies interested in developing mining interests, that "we probably couldn't have picked a more difficult place in all of Alaska to site this project". When queried as to why, the response was "its all about the water and the hydrology of the area". I couldn't agree more, and as important as the water is, it's about the incredible variety of natural resources that call this area home and are given life supporting birth and growth by that very water and natural habitat of the region.

Not only are the state's greatest wild salmon runs found in the watershed, so too are the world's biggest rainbow trout and brown bears, and one of the state's largest caribou herds. Bristol Bay is truly one of Alaska's outstanding natural treasures and its long-term health is crucial for the bay's growing economy and the prosperity of those who live there.

Desperate to silence its critics, opponents to house bill 134 talk about jobs and resource development. The reality and comparative history of the risks speak for themselves. We are wise to ask the questions now and put protections like HB 134 in place that protect what we have, which is truly one of [the] wonders of the world.

Before he died former Alaska Governor Jay Hammond told the Kodiak Daily Mirror: "I could think of no place in Alaska where I'd less rather see the largest open pit mine in the world than at the headwaters of the Kuktuli and Talarik Creek, two world-class fishing streams and wild salmon spawning areas." While I could not agree more, HB 134 does not preclude major development. What it does do is raise the bar and standards for Habitat protection. Our Natural resource deserves nothing less.

[10:32:56 AM](#)

TOM PEBLER, stated support for HB 134, paraphrasing from a prepared statement which read as follows [original punctuation provided]:

It is not unreasonable that Alaska would take measures to protect its world class fisheries and renowned water quality.

It is most reasonable that those who would develop Alaska's mineral wealth afford the effort to maintain these standards for the sake of mutual prosperity.

We have heard the claims that mining operations and world class fisheries can functionally coexist. There should be no hesitation, but only encouragement, at the suggestion that we take serious precaution.

10:34:04 AM

PAMELA BRODIE, stated support for HB 134, paraphrasing from a prepared statement, which read as follows [original punctuation provided]:

I am a partner in a small family construction company. I am not a commercial fisherman, and my livelihood does not directly depend on the health of the Bristol Bay drainage, although I do eat a lot of salmon. Nonetheless, I am here to support House Bill 134 because protection of Bristol Bay drainage is essential to the well being of so many other Alaskans and, I think, to the rest of the country and the world, as the source of the world's largest remaining wild salmon run.

This area now faces unprecedented levels of industrial development, offering short term gain and long term pain. Meanwhile, Alaska's regulatory protection of salmon streams has been weakened. Alaskans need the Legislature to act to safeguard the health of our salmon streams, especially those that feed Bristol Bay.

Earlier this morning someone testified that gold and copper are to be found in almost everything we use. This is very, very far from being accurate. Over the course of history, vast numbers of people have died because of the pursuit of gold, most of them indigenous people of the American continents. Yet there is actually very little practical need for gold. Most of what has already been dug out of the ground is kept in vaults, and it is more than adequate to fill any real needs for this resource. Copper is another matter. Copper is necessary to modern life (although certainly not in everything we use). We do use copper when we build houses, but I am happy to say that we use much less per house than we used to, thanks to the development of such synthetic products as PEX [high density polyethylene], ABS [acrylonitrile butadiene styrene], and PVC [polyvinyl chloride]. Substitutes, technological advances, conservation, and recycling can make up for much of the demand. The demand for copper is not nearly a sufficient reason to endanger Bristol Bay salmon runs by allowing pollution or

excessive withdrawal of the pure waters of its salmon streams.

CHAIR SEATON asked if she is concerned about any type of development in the Bristol Bay drainage.

MS. BRODIE responded:

I do not oppose all development in the Bristol Bay drainage. I support strong protection of salmon habitat, and habitat for other fish and wildlife in the area. I do not ask or expect that HB 134 be passed without any changes whatsoever. In fact, I particularly support the approach taken in Senate Bill 67 by Senator Gary Stevens.

[10:38:38 AM](#)

MICHAEL MCCARTHY, stated support for HB 134, paraphrasing from a prepared statement, which read as follows [original punctuation provided]:

I am in support of the intent of HB 134, providing some modifications be made to allow for limited development under more stringent standards than are presently in place.

I reside in Homer and have been an Alaskan resident since 1987. My background includes being a retired Registered Geologist, (Oregon #611), with experience in exploration hard rock mining of gold, silver, copper, lead, zinc, and barite deposits as well as environmental geology. I have done geologic work in Alaska, Arizona, Idaho, Montana, Nevada, and Oregon.

It is gratifying that HB 134 is a bipartisan effort because it will take the best efforts of all minds, not just those of Democrats or Republicans to resolve this issue in a manner that best protects Alaska's future. My focus is a pragmatic one. The passage of this good idea made into law would save much calamity, litigation, and money. HB 134 can be likened to an insurance policy. We don't plan on a fire or a car accident but just in case we buy insurance protection. It is there in case something happens.

What could happen in the Bristol Bay watershed without the safe guards of HB 134? Perhaps another Butte, Montana Berkeley Pit one of America's largest Superfund clean-up sites. Originally a series of underground mines that began in the 1870's and ran until 1972 when underground mining was no longer economically feasible, the working included 42 miles of vertical shafts and 2,700 miles of other passageways. The pit first operated in 1955 and closed in 1982 after approximately 1 billion tons of material was mined. The pit measures 1.5 miles east to west, 1 mile north to south and is approximately 1,780 feet deep. The pit is presently flooded to a depth of 900 feet and contains 30 billion gallons of water with a pH of 2.5. There is an inflow into the pit of both surface and ground water that measures approximately 5,000 gallons per minute or 7.2 million gallons per day.

This 30 billion gallons of highly acidic water contains high concentrations of arsenic, copper, cadmium, cobalt, iron, manganese, zinc, and sulfate. In 1995 a large flock of migrating snow geese landed on the Berkeley Pit and were killed, most likely by the high concentration of acid. There were 542 carcasses recovered. Their livers and kidneys had bloated and many had an eroded esophagus. These contaminated mine waters require constant costly mitigation efforts to protect the areas' surface and ground water supplies.

I have personal knowledge of two additional contaminated mine areas that merit consideration. The first is Cobalt, Idaho, which I last visited in 2005. The mine waters flowing out of the abandoned mine adits are thick with brown ooze which coats everything it contacts including the ground and rocks adjacent to the stream bed of Black Bird Creek. Approximately three miles down stream from the nearest adit is a warning sign posted next to the creek. The sign reads, "BLACKBIRD CREEK IS UNSAFE FOR DRINKING WATER". It should be noted that the water in the creek here is no longer the ugly brown ooze but yet is still unsafe. I have attached photos of this because they have reference value for the next area, the South Fork of the Coeur d'Alene River by Kellogg, Idaho.

It was 1955 when I first saw this river which is approximately the same width as the Kasilof River where the Sterling Highway crosses it, or about 150 feet wide. The South Fork of the Coeur d'Alene River was very nearly the same color and clarity as Blackbird Creek only it was 15 times wider. More than fifty years later this river, and the Coeur d'Alene mining district, are another Superfund clean-up site. The same potential for contaminated mine water run off exists for the Bristol Bay Fisheries Reserve unless the safeguards of HB 134 are enacted.

The 1872 mining law, as it currently exists, contains no protections from mining pollution; it gives preferential treatment to mining over other uses; it grants special tax breaks to the mining industry, and it allows the sale of public lands for less than \$5.00 per acre. Perhaps, HB 134 could be modified to incorporate some features of the Federal Mineral Development Act of 2005. This Act was not passed into law but it was designed to help protect water resources. Please contact Montana Environmental Information Center for details, phone (406)443-2520 or mcic@meic.org.

I am faxing a 2006 report titled: Predicting Water Quality Problems At Hard Rock Mines by Ann Maest, PhD and Jim Knipers, P.E. This report shows that a review of 104 Environmental Impact Statements, for 71 major hard rock mines in the United States, produced a startling finding. The reports for these mines were evaluated for predictions related to surface water, ground water, and mine drainage quality, during and after mining. These predictions were then compared with actual water quality conditions, during and after mining. A shocking 76% of mines polluted groundwater, or surface water, severely enough to exceed water quality standards. Of the sites that did develop acid drainage, 89% predicted that they would not. In short there is a universal discrepancy between predictions and reality. The Bristol Bay Fisheries Reserve is too critical a resource to risk on the imperfect science of mine water quality predictions.

[10:42:56 AM](#)

JIMMY HURLEY, stated support for HB 134, with reservation. He stated that a water use aspect be introduced to discriminate between the various development needs. The areas job shortage could be met, he opined, by enhancing the salmon industry, monitoring the selling points, and continuing to add a quality value to the salmon. Also, he reported that he worked on the water quality test team, evaluating the King Salmon River for micro invertebrate health, and other salmon sustaining benthos. The results rated the river as a first class salmon rearing watershed. He said:

The salmon on this river [are] number one, there's nothing else. If we don't have salmon here, if king salmon don't come back up, what's the use of living here. We live on the salmon, we do everything with the salmon. ... When [Northern] Dynasty came to Ekwok, I told them it might be one day that we open up our freezer [the wild salmon run], and it might be empty.

MR. HURLEY concluded, that to have to tell his grandchildren that one day there may not be any salmon, is difficult.

[10:47:22 AM](#)

RHONDA WAYNER, stated support for HB 134, paraphrased from a written statement, which read as follows [original punctuation provided]:

I am currently a resident of Unalaska, but was raised in Naknek and lived there for 28 years. I am also a small business owner, a member of the Naknek Native Village, a commercial set-net fisherman of Bristol Bay that fishes traditionally for subsistence purposes, and a proud family member of the budding Naknek Family Fisheries. My family has successfully fished the waters of Bristol Bay for centuries and they continue to do so.

HB 134 is a positive step in the right direction to ensure that our livelihoods, investments, and local industry are sustained. It also leaves a legacy for much loved former Gov. Jay Hammond. The key component of this heated issue is sustainability which is defined as: a collection of methods to create economic growth which protects the environment, relieves poverty, and does not destroy natural capital in the short term at the expense of the long term ...

meeting the needs of the present without compromising the ability of future generations to meet their own needs.

We need to protect our salmon fisheries from the threat of this and future mines, and HB 134 does just that. It will ensure Bristol Bay's prominent position throughout the world as a source of pure, natural wild Alaskan salmon. Additionally, our people depend on the subsistence resources that our pure waters afford. Families, local government, and small businesses all rely on this resource for food, taxable income and for goods and services sold. Mining of this magnitude and type have been scientifically proven to greatly harm not only the fish stock but surrounding land based habitat. HB 134 ensures that whether development progresses there is at least a standard to hold high not just for the well being of the fish and habitat but for the people who thrive off of them.

CHAIR SEATON closed public testimony, and invited further written comments be sent to the sponsors office or to the attention of the committee.

[10:52:58 AM](#)

REPRESENTATIVE EDGMON asked when HB 134 would be heard again in committee, and the possible continuation of public testimony.

CHAIR SEATON responded that it would be taken up on Monday, [March 5, 2007] under previously heard bills.

[10:54:14 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at [10:54:27 AM](#).