

**ALASKA STATE LEGISLATURE  
HOUSE SPECIAL COMMITTEE ON FISHERIES**

Dillingham, Alaska  
September 26, 2007  
9:00 a.m.

**MEMBERS PRESENT**

Representative Paul Seaton, Chair  
Representative Kyle Johansen  
Representative Craig Johnson  
Representative Gabrielle LeDoux  
Representative Peggy Wilson  
Representative Bryce Edgmon  
Representative Lindsey Holmes

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Representative Carl Gatto  
Representative Mark Neuman  
Representative Bob Roses  
Representative Scott Kawasaki

**COMMITTEE CALENDAR**

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: 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
03/02/07	(H)	Heard & Held
03/02/07	(H)	MINUTE(FSH)
03/05/07	(H)	FSH AT 8:30 AM BARNES 124
03/05/07	(H)	Heard & Held
03/05/07	(H)	MINUTE(FSH)
05/09/07	(H)	FSH AT 8:30 AM BARNES 124
05/09/07	(H)	Heard & Held
05/09/07	(H)	MINUTE(FSH)
09/24/07	(H)	FSH AT 4:30 PM Newhalen
09/24/07	(H)	Heard & Held
09/24/07	(H)	MINUTE(FSH)
09/25/07	(H)	FSH AT 2:00 PM Naknek
09/25/07	(H)	Heard & Held
09/25/07	(H)	MINUTE(FSH)
09/26/07	(H)	FSH AT 8:30 AM Dillingham

**WITNESS REGISTER**

NELS JOHNSON

Dillingham, Alaska

**POSITION STATEMENT:** Testified in support of HB 134.

HENRY STRUB

Dillingham, Alaska

**POSITION STATEMENT:** Testified in support of HB 134.

ROBERT WASSILY

Clarks Point, Alaska

**POSITION STATEMENT:** Testified in support for the concept of HB 134.

PATTY LUCKHURST

Dillingham, Alaska

**POSITION STATEMENT:** Testified in support of HB 134.

CHRIS KLABUNDE, Member

Dillingham City Council

Dillingham, Alaska

**POSITION STATEMENT:** Testified in support of HB 134.

CINDY ROQUE

Dillingham, Alaska

**POSITION STATEMENT:** During hearings on HB 134, testified on the socioeconomic conditions of rural Alaska, and responded to questions.

JACQUELYN WILSON  
Dillingham, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 134.

EMILY OLSON, Environmental Coordinator  
Village of Clarks Point  
Clarks Point, Alaska

**POSITION STATEMENT:** Testified in support of HB 134.

LAWRENCE OLSON  
Clarks Point, Alaska

**POSITION STATEMENT:** Testified in support of HB 134, and responded to questions.

JOSEPH WASSILY, Member  
Clarks Point Village Council  
Clarks Point, Alaska

**POSITION STATEMENT:** Testified in support for the concept of HB 134.

NORMAN ANDERSON  
Naknek, Alaska

**POSITION STATEMENT:** Testified in support of HB 134.

RON BOWERS  
Dillingham, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 134, and responded to questions.

WASSILLIE ILUTSIK  
Aleknagik, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 134, and responded to questions.

MARK HERRMANN, Owner  
Warehouse Mountain Farm  
Dillingham, Alaska

**POSITION STATEMENT:** Testified with mixed concern on HB 134, and responded to questions.

DAVID BOUKER  
Dillingham, Alaska

**POSITION STATEMENT:** Testified in support of HB 134.

RALPH ANDERSEN  
Dillingham, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 134, made recommendations, and responded to questions.

PETER CARUSO, Representative  
Bristol Bay Fisherman's Association (BBFA)  
King Salmon, Alaska

**POSITION STATEMENT:** Testified in opposition to the original HB 134, and responded to questions.

EVA NIELSEN-KING, Representative  
South Naknek Village Council  
South Naknek, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 134, and made recommendations.

JIM WALLMAN  
Dillingham, Alaska

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

FRANK WOODS  
Dillingham, Alaska

**POSITION STATEMENT:** Testified in support of HB 134.

TED ANGASAN, Representative  
Naknek Tribal Council  
South Naknek, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 134.

HARRY WASSILY SR.  
Clarks Point, Alaska

**POSITION STATEMENT:** Testified in support of HB 134.

JOHN D. NELSON, JR.  
Kokhanok, Alaska

**POSITION STATEMENT:** Testified in support of HB 134.

BILLY MAINES, Member  
Dillingham City Council  
Tribal Environmental Coordinator, (indisc.) Tribal Council  
Vice Chair, Nushagak Mulchatna Watershed Council  
Dillingham, Alaska

**POSITION STATEMENT:** Testified in support of HB 134.

WILLIAM JOHNSON  
Dillingham, Alaska

**POSITION STATEMENT:** Testified in support for the concept of HB 134.

SAM FORTIER, Representative  
Alaska Peninsula Corporation  
Newhalen Tribal Council  
King Salmon Tribe  
Twin Hills Native Corporation  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 134, and responded to questions.

DAN DUNAWAY

Dillingham, Alaska

**POSITION STATEMENT:** Testified in support of HB 134, and responded to questions.

CHENISE NELSON, Student Representative  
Dillingham High School  
Dillingham, Alaska

**POSITION STATEMENT:** Testified in support of HB 134.

HEIDI ANDREWS Student Representative  
Dillingham High School  
Dillingham, Alaska

**POSITION STATEMENT:** Testified on HB 134.

TERRY HOEFFERLE  
Dillingham, Alaska

**POSITION STATEMENT:** Testified on HB 134, made recommendations, and responded to questions.

ANDREW DEVALPINE, Director  
Bristol Bay Coastal Resource Service Area (BBCRSA)  
Dillingham, Alaska

**POSITION STATEMENT:** During hearings on HB 134, testified on the Alaska Coastal Management Program (ACMP), and the regulatory/permitting process.

DEWAYNE JOHNSON  
Dillingham, Alaska

**POSITION STATEMENT:** Testified in support of HB 134.

JOE FAITH  
Dillingham, Alaska

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

BOBBY ANDREW, Spokesman  
Nunamta Aulukestai  
Dillingham, Alaska

**POSITION STATEMENT:** Testified in support of HB 134.

PATRICIA TREYDTE  
Dillingham, Alaska

**POSITION STATEMENT:** Testified on HB 134, and made recommendations.

ALICE RUBY, Mayor  
City of Dillingham  
Dillingham, Alaska

**POSITION STATEMENT:** During hearings on HB 134, provided an overview of the socioeconomic conditions of Dillingham, testified in support for the concept of HB 134, and made recommendations.

DOROTHY B. LARSON  
Dillingham, Alaska

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

GEORGE WILSON JR.  
Levelock, Alaska

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

ANNA NIELSEN, Elder  
Dillingham, Alaska

**POSITION STATEMENT:** Testified during hearings on HB 134.

RUSSELL NELSON  
Dillingham, Alaska

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

RICK TENNYSON, Land Manager  
Choggiung Limited  
Dillingham, Alaska

**POSITION STATEMENT:** Testified in support of HB 134, and responded to questions.

ROBERT HEYANO  
Dillingham, Alaska

**POSITION STATEMENT:** Testified in support for the concept of HB 134.

HJALMAR OLSON, Chief Executive Officer  
Bristol Bay Native Corporation  
Member, Board of the Alaska Federation of Natives (AFN)  
Member, Nushagak Fish and Game Advisory Committee  
Dillingham, Alaska

**POSITION STATEMENT:** During hearings on HB 134, clarified the official position of the Alaska Federation of Natives (AFN).

RACHEL MUIR  
Dillingham, Alaska

**POSITION STATEMENT:** Testified in support of HB 134.

MIKE DAVIS  
Dillingham, Alaska

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

RICK HALFORD  
Eagle River, Alaska

**POSITION STATEMENT:** Testified in support of HB 134, made recommendations, and responded to questions.

THOMAS TILDEN, Member  
Choggiung Tribe;  
Representative, Choggiung Limited;  
Dillingham, Alaska

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

ULU TILDEN  
Dillingham, Alaska

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

KAREN MCCAMBLY  
Dillingham, Alaska

**POSITION STATEMENT:** Testified in support of HB 134.

STEVE WASSILY JR.  
Dillingham, Alaska

**POSITION STATEMENT:** Testified in support of HB 134.

MARIAN SMALL  
Dillingham, Alaska

**POSITION STATEMENT:** Testified in support of HB 134.

STAN SMALL

Dillingham, Alaska

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

HELEN CYTHLOOK

Dillingham, Alaska

**POSITION STATEMENT:** Testified in support of HB 134, and made recommendations.

PETER CHRISTOPHER SR.

New Stuyahok, Alaska

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

MARGIE NELSON

Koliganek, Alaska

**POSITION STATEMENT:** Testified in support of HB 134.

JODY SEITZ

Dillingham, Alaska

**POSITION STATEMENT:** Testified in support for the concept of HB 134.

KEVIN JENSEN

Pedro Bay, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 134.

#### **ACTION NARRATIVE**

**CHAIR PAUL SEATON** called the House Special Committee on Fisheries meeting to order at [9:00:26 AM](#). Representatives Seaton, Edgmon, Wilson, Holmes, Johnson, Johansen, and LeDoux were present at the call to order. Representatives Neuman, Gatto, Kawasaki, and Roses were also in attendance.

#### HB 134-PROTECTION OF SALMON SPAWNING WATER

[9:01:15 AM](#)

CHAIR SEATON announced that the only order of business would be 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 25-LS0381\M, Kane, 2/22/07, was left pending at the 2/28/07 meeting.]

[9:01:43 AM](#)

CHAIR SEATON provided the parameters and protocol for testifying including conflict of interest procedures, submission of written testimony, the issues of the bill version being addressed, and accessing copies of the bill.

[9:11:30 AM](#)

REPRESENTATIVE EDGMON provided that the intent of the bill is to address the policy question concerning water usage of the five major river drainages in the Bristol Bay area. The question, he said, is whether these drainages should be considered a priority habitat for salmon migration and spawning, above all other uses for the water. Such a priority could have unintended consequences, which is one reason that the bill is in a working draft form, and why testimony is critical. He addressed the bill directly, and called attention to each section, explaining the various aspects, definitions, concepts, intents, mitigation fines, and usage exemptions. He asked, what is more important for the use of the Bristol Bay water: protection of the salmon, or industrial development.

[9:17:27 AM](#)

CHAIR SEATON added that Version M does not discriminate between the amounts of water usage. Every user is considered the same whether they require water on a large or small scale. If a current user does not hold water rights, securing a permit under this bill may be prohibitive.

[9:19:35 AM](#)

NELS JOHNSON introduced himself as a life long Bristol Bay fisherman. He stated support for the bill, and said it will be important for future generations. Referring to a local advertisement campaign, he said, "We need to know the real truth about what is true." The fish will not survive without clean, fresh water.

[9:23:40 AM](#)

HENRY STRUB opined that the most important aspect of the bill is that fish come first. Anything that threatens the fishery will bring a death knell to the community, he predicted. The fishery is rebounding, after a ten year depression, based on the image of the pure fish product marketed as wild caught salmon harvested from pristine waters. He pointed out that flag waving the mining jobs, as being local, is a misnomer. He defined a local job as being an hour driving commute, and being able to return home each night. A job that is offered two hundred miles away is not local, he opined. These jobs will not serve the local people who need work, especially off season fishermen. He expressed optimism about the future of the fishery, and reiterated that "fish come first."

[9:26:07 AM](#)

ROBERT WASSILY stated support for the concept of HB 134. He said that he is a subsistence hunter/community provider, and fears for the demise of the area resources, should a large scale mine begin development.

[9:28:43 AM](#)

PATTY LUCKHURST echoed the previous witness, saying "fish come first." She moved to Alaska from an area of southern Illinois, where they strip mine for coal, and also lived in a copper mining area of Arizona. She witnessed the permanent damage created by these developments, despite promises of rejuvenation, and reclamation. The area should be preserved for generations to come, and the renewable resources utilized throughout the state, she opined.

[9:30:28 AM](#)

CHRIS KLABUNDE said that although he is a member of the Dillingham City Council, he is speaking on his own behalf. He paraphrased from a prepared statement, which read as follows [original punctuation provided]:

Since humans arrived in this area, there has been a single life blood that has sustained this region.

The water, running from large glacially carved lakes down the rivers and into Bristol Bay.

This source of wealth is unlike any other left in the world. As pure and natural now, as it ever was.

These watersheds support millions of examples of an economic resource that has returned annually for thousands of years. Salmon.

I come here today, to ask you to look into the future. Consider generations of Alaskans that will inhabit this area, but have not been born yet and for you to protect these watersheds for the long term and their use.

It is no secret the economy that is supported by the fisheries here, have seen its good times and bad.

I will point out that the return of sockeye to the Nushagak River in the last two years; have been among the largest runs in recorded history.

This shows the resource is healthy, and with proper management, it can be sustained indefinitely.

The problems facing the salmon resources are varied, but these are being actively addressed.

The truth about farmed salmon has come out. It is an inferior product and the market appears to be moving away from it.

Processors are adding value to our wild product by filleting more and canning less.

Fishers and processors are more concerned about quality now more than ever and are working to improve it.

Brailer bag limits are imposed by processors.

Refrigeration systems are more common now than ever on boats.

The recent development of marketing associations, are in search of better uses of, and expanding the markets for our fish.

High operating costs and lack of infrastructure in the region are the current real hindrance to global prosperity for Wild Bristol Bay Salmon.

But a greater threat to it looms on the horizon. Proposed mineral exploitation at the head waters of the two greatest watersheds in the region will negatively affect it.

Putting into jeopardy the health and livelihoods of all its residents, present and future.

I ask you to listen to the testimony you have heard throughout the region, and comply with the wishes of the majority of us who live here and will be affected by it.

Be responsible stewards and partners in the use of the rivers in this region, support the locals, and protect our water for the future.

Don't let the promise of quick money from big business veto the ideals of those who make our lives here.

[9:33:30 AM](#)

CINDY ROQUE pointed out that the lack of facilities in the area, is the cause for this hearing to displace the school children's lunch room. She requested that the representatives take time, during their stay, to tour the school facilities and apprise themselves of the public school situation/condition. She opined that the needy school conditions in Dillingham are echoed throughout other rural areas of the state. Additionally, the jail is designed to house eight inmates, but has a current population of eleven. She continued to posture for socioeconomic support in the rural areas, and noted the names of legislators who have responded to her continued correspondence requesting geographic differential, and power cost equalization laws/regulations.

REPRESENTATIVE JOHNSON asked if she had an opinion to share on HB 134.

MS. ROQUE said, "I have very mixed emotions, sir."

[9:38:06 AM](#)

JACQUELYN WILSON said that as a public school teacher, she has provided a neutral stance on the issue to her high school

students. However, she said, her husband is a commercial fisherman, and she expects that the fishery will "pull through."

[9:39:17 AM](#)

EMILY OLSON, Environmental Coordinator, paraphrased from a prepared statement, which read as follows [original punctuation provided]:

I support HB 134. I come from a family of four generations of fisherwomen. Fishing was the only source of income for more than a decade. Smoked and salted salmon is part of my diet. During the hard times all we had to do was cook a pot of rice and eat fish. The salmon industries have provided higher education for many of our leaders. Our Governor fished in this river. So you see, I am very sensitive when it comes to salmon. It built all the villages here in Bristol Bay. What other resource can ... the history of salmon is more than 100 years. Mining is not a natural renewable resource. The Pebble Mine will be short term. Salmon have sustained our people.

The Nushagak River is also a habitat for pike, whitefish, and trout. Tourists pay big bucks to catch their fish, whether it is salmon, pike, whitefish or trout. Lodges provide employment and revenue to the local communities.

Another issue that has been overlooked is Belugas. Nushagak River is a breeding ground for Belugas. Each spring I see them birthing right in front of my home. Belugas tell us when the fish and smelts are in abundance. Isn't the Belugas listed in the Endangered Species Act?

[9:41:52 AM](#)

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

I support HB 134. I am a commercial fisherman and a subsistence hunter in this region. We rely on these natural resources to sustain our natural lifestyle of living as I know it. My parents, grandparents, and ancestors relied on these resources. We cannot afford this mistake.

Without the fishing industry Bristol Bay Economic Development Corporation, (BBEDC) would not exist. BBEDC provides employment for local people on the high seas, processors, office internship, salmon camp for youths, vessel internship, scholarships, voc-tec training, and ABE/GED.

CHAIR SEATON directed attention to the bill, page 2, line [23], which lists seafood processing as an exempted industry for water usage, and asked if the exemption should be expanded upon for processors building improvements such as docks.

MR. OLSON said they should be exempted.

CHAIR SEATON clarified that Mr. Olson would like to have the seafood processing exemption expanded to include the seafood industry, including the support facilities.

MR. OLSON responded, yes.

[9:44:21 AM](#)

REPRESENTATIVE JOHNSON clarified that stating support for the bill, Version M, would limit economic development in the region. Thus, building or expansion of docks, and other activities would not be allowed.

CHAIR SEATON interjected that the bill limits water use. He paraphrased from the bill, page 2, line 13, that a person may not alter, destroy, displace, relocate, channel, dam, convert to dry land, or otherwise adversely affect any portion of a river, stream, lake, or bog. If that is applied to all commercial activities throughout the region, it will curtail further development of such activities as a dock expansion. The question is to what extent do the people of this region want restrictions of water usage to apply: commercial use throughout the entire watershed, or exempt minimal quantities of water. He pointed out that only eight lodges in the area hold water right permits. If this bill passes as written, the lodges without water rights would not be able to continue operating, and could face difficulty obtaining a permit, as there is not a grandfather clause in the bill. He stressed the need to hear the opinion of what restrictions the people of the area are interested in having imposed. Do the exemptions need to be broadened or narrowed down. Further, he provided an example of a municipality being allowed to build a dock, however, a barge

company would be prevented from such activity. Is this what the people of the region want to have occur.

[9:50:21 AM](#)

REPRESENTATIVE EDGMON stated that the bill is still in a formative state, and is not intended to halt all economic development of the region.

[9:51:19 AM](#)

JOSEPH WASSILY, Member, Clarks Point Village Council, paraphrased from a prepared statement, which read as follows [original punctuation provided]:

I support HB 134 in concept. I've been a fisherman since I was eight years old, I hunt moose, caribou, ducks, geese, and live off of the land, get berries for the family, I strongly support our subsistence way of life, because all of my life I've lived off of the land to feed my family and elders. I also seal hunt, subsistence fishing for smelts, pike, rainbows, trout, and red fish, and king salmon also to put up in the smoke house. I strongly oppose the Pebble Mine because if it goes through it may ruin our fishing and water ways and our subsistence way of life.

[9:53:03 AM](#)

NORMAN ANDERSON commented that construction of commercial docks would be near the fishery vs. in the upper reaches of the rivers. He then paraphrased from a prepared statement, which read as follows [original punctuation provided]:

I support house bill 134, and appreciate you all traveling away from home and family to listen to my reasons why. I am a commercial fisherman, as are my two sons, who together we own and operate our commercial fishing operation, as was my father who taught me, and as was my mother, who supported all four of her children off the salmon we respect this day. As I have learned from our elders, I taught my sons how to respect the land and waters of our region. Our regions history began because of our unique water quality, the status of our hydrology creates the perfect combination to enhance and support our Wild Salmon, and quantity of fish. All five species exist

because of the mixture of fresh and salt water, both are exceptionally clean. Grandma Nicolet of Naknek Alaska told me once that any interruption in our clean waters in our area will forever change our lifestyle. I like and use the scientific phrase a bright young lady relayed to me, without sound geology we cannot have sound biology. This is what Grandma Nicolet was telling me when I was about six years old beyond Libbyville in Naknek as we hunted ducks. I do support development in Bristol Bay, I know we need jobs, we are experiencing an out migration of our residents, and schools are being impacted. Villages are hurting because of the high price of fuel. But look around you, we are a strong people, for years we have fought off invading industries that have sought riches that live beneath our land and waters. The struggle is what gives us our strength. We are not experiencing any spiritual breakdown. We live a subsistence life style. The meager take to sustain as Webster defines it. We are careful not to disturb the tundra, as life depends on it. No we do not eat the spiders and mice, but do depend on the birds and fur bearing animals that do. Again we do rely on our unique hydrology. The spring run off carries down hill what ever the upper watershed has to offer, if health threatening chemicals are amongst the ingredients, then too we will see the after affects in our diets. Picture yourself down stream of a sewer lagoon. I apologize for the graphic. For generations the native people have used the land. Not until the western civilizations came to stay do we see the beginning of scars on our land, all under the auspices of progress. Minerals and Hydro-carbons are not progress for they only line the pockets of large scale companies. Remember we must all do whatever we can to save this big village we call earth. So again I support saving our fragile waters in Bristol Bay. I support House Bill 134.

[9:57:03 AM](#)

[Ina Bouker's Dillingham High School Yupik class provided the traditional Reindeer Herding Dance to the committee.]

CHAIR SEATON requested that the dancers' names be scribed, for the record.

10:01:57 AM

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

I'm Ron Bowers and have been a local resident for over 24 years. My wife is Yupik Eskimo and a lifelong resident of this region. Subsistence, land, and water use issues are very important to our family and most all my in-laws and neighbors. Those who are trying to protect our local fisheries and the subsistence lifestyle are to be commended. We in Bristol Bay are blessed with resources like few other places in this world. As a former candidate for House District #37, I heard the concerns and fears of locals about protecting our fisheries and subsistence resources, to the fullest extent possible.

However, as I read and reread my friend Representative Bryce Edgmon's HB #134, I am fully persuaded that it continues to be a very bad piece of legislation. HB #134 is a knee jerk reaction to the coming economic opportunities and resource development, now occurring in our long, economically depressed region. HB #134 seems to be based more on fear and short on facts.

HB #134 will only serve to drive businesses away from this region and cause greater economic hardships. This is in a region where a gallon of milk cost almost \$8 dollars. Here in Dillingham gasoline is nearly \$5 dollars and in some local villages, well over \$5 dollars a gallon. Even in Dillingham, the flagship of economic opportunity for our region, most citizens are hard pressed. In just the past week I have been informed of 4 more families that are leaving town, due to financial reasons. Our local school population is down, well over 100 students in the past three years. In some of this region's communities, schools have been closed or are on the verge of being mothballed, due to population decline.

HB #134 will make it virtually impossible for most new businesses or even current locally owned businesses to function in our region, except if that company is a fish processor. While one sentence in HB #134 seems to allow for oil & gas exploration and production in Bristol Bay, I question if such an endeavor can occur

if this bill becomes law. This piece of legislation could force all local gravel pit operations to cease washing gravel. This would eliminate any local cement production and shut down almost all our region's construction projects. Even the popular family run, Saturday market in Dillingham is threatened by HB #134. The hard working [Herrmann] family irrigates their local vegetable farm with surface water found on their property. Under provisions of HB #134, this family business could be fined up to one million dollars a day, for simply irrigating their flowers and vegetables. Dillingham residents would lose one more business and a great source of healthy and less expensive produce.

HB #134 is so ridiculous that a Bristol Bay resident could even be fined up to \$100,000 dollars per day for diverting floodwaters from their home during Spring break-up.

Finally almost all that HB #134 seems to address is already covered by current regulations and/or agencies. Even the controversial proposed Pebble Mine must hurdle at least 65 permits to ever begin production.

Yes Representatives Edgmon and Ramras, I have read HB #134 and I cannot believe its narrow sightedness and the damage it could wreak on Bristol Bay.

I respectfully ask that the Honorable House Fisheries committee put this bill to rest.

[10:05:31 AM](#)

REPRESENTATIVE EDGMON reiterated that the intent of the bill is to present a policy question to the legislature, and the residents of Bristol Bay, in terms of the current use of the water, and to protect the water as essential habitat for salmon production. He asked if heard correctly, that this concept is not supported by the witness.

MR. BOWERS responded that he supports clean water, subsistence, and the fisheries. He would not support anything that would jeopardize those activities, or the natural resources. He does not support adding another layer of regulation above what exists in current statute.

[10:07:04 AM](#)

WASSILLIE ILUTSIK noted that he has been a commercial fisherman for 55 years. said that the bill is very restrictive, and cited the desperate need for economic development in Bristol Bay. It is difficult to make a living by commercial fishing. The lodges on Lake Aleknagik do not hire Natives to work; neither do other lodges in the region. This bill would shut down future economic development, and foreclose on some existing establishments, he opined.

[10:09:38 AM](#)

REPRESENTATIVE GATTO asked how many children and grandchildren he can count.

MR. ILUTSIK replied that he has four grandchildren; all boys.

REPRESENTATIVE GATTO inquired if it is possible that they will all find work in commercial fishing.

MR. ILUTSIK said that the only income they expect to receive this year is the permanent fund check. These are young men in their 20s and 30s.

REPRESENTATIVE GATTO referred to the speaker's statement that the lodges do not hire local Natives, and asked why that might be.

MR. ILUTSIK responded that it is discriminatory. He related that his boys, and some others from the village, acquired their six pack licenses and approached the lodges for employment. However, guides were brought in from the Lower 48 states, rather than hiring the Native guides; as they do all of their employees and food supplies.

[10:12:43 AM](#)

MARK HERRMANN, Owner, Warehouse Mountain Farm, paraphrased from a prepared statement, which read as follows [original punctuation provided]:

In regard to HB 134 protection of salmon spawning, I am adamantly opposed to the bill as it is currently proposed, for the following reasons.

Our family has operated a small farm near Warehouse Mountain for the past 20 years. We try to operate in a responsible manor with minimal soil inputs and conservative growing practices. We use water to wash, process, and irrigate crops. We are several miles from the nearest salmon streams, but as the bill is currently written we would be in violation.

This bill would effectively put us out of business.

We support the concept of this bill for protection of the fisheries, but this bill in its current form will not encourage economic diversity and development in Bristol Bay.

[10:13:32 AM](#)

REPRESENTATIVE EDGMON asked if he supports the concept of the bill, to protect the water as salmon habitat.

MR. HERRMANN responded, absolutely. That is what runs the economy of the bay, but it is important to not shut down other economic possibilities.

[10:14:15 AM](#)

REPRESENTATIVE LEDOUX inquired if he supports the bill as it relates to mining activities.

MR. HERRMANN said that in terms of a mine the scale of the proposed Pebble, he supports the restrictions included in the bill. However, for mining on a smaller scale, it should be revisited. He said that a gravel pit is considered a mining activity, and requires a large amount of water to operate. These are details that need to be worked out.

[10:15:40 AM](#)

DAVID BOUKER stated support for HB 134, as a work in progress. He said, "I think [Representative Edgmon's] on the right track." He related two examples of mining operations, which he has observed that have negatively impacted the areas where they are sited: Good News Bay Mine in Platinum, Alaska, and Anaconda Mine in Butte, Montana. The Good News Bay Mine runoff was evident at the mouth of Icicle Creek, discoloring a half mile of the waters in the Kuskokwim Bay. The Anaconda Mine created a

desert environment and a super-fund clean up site around the mammoth tailing holes.

[10:17:53 AM](#)

RALPH ANDERSEN began by stating that although his is a member of the Bristol Bay Native Association, he speaking on his own behalf. He then noted that what he is about to propose hasn't been considered by any organizations. He drew attention to page 2, Section 2, where the propose insertion would be made, and read:

Within the new AS 16.10.015, add a new subsection ... (b) (5) to read: ... otherwise permitted uses occurring on lands owned by a corporation organized pursuant to Sec. 43, USC 16.01 et seq ... (Alaska Native Claims Settlement Act) or on restricted Native allotment or restricted Native townsite land.

[10:21:23 AM](#)

REPRESENTATIVE WILSON stated appreciation for the proposed amendment, as an effort to address what is desired at the local level.

MR. ANDERSEN said that the subsistence life style is what grew into the first economy for the area. The fisheries became a cash economy. The commercial fishery has become an important aspect of the community, and there is a fear of loss. He suggested that focus be brought to bear on what could be gained, rather than what might be lost.

REPRESENTATIVE WILSON stated that every bill can have unintended consequences, which the committee hopes to avoid.

[10:24:44 AM](#)

REPRESENTATIVE JOHNSON acknowledged that there are many Native allotments "out there" and asked, "What if Pebble II is discovered on Native land ...." He asked should anyone, Native or private corporation be exempted from this act.

MR. ANDERSEN replied that the committee might ask if they are acting as good and prudent stewards of the land. He is proposing a starting point, and said he is not aware of what kinds of activities could result from development on Native allotments. There could be restrictions if someone wants to

build a lodge. Native lands are privately owned, and it is not right to disallow someone to develop their land.

REPRESENTATIVE JOHNSON clarified that it is a matter of who should be exempt.

MR. ANDERSEN said that he would expect his amendment to be appropriately vetted.

[10:28:06 AM](#)

CHAIR SEATON read "restrictive based allotments," from the proposed amendment, and asked if all Native allotments are restricted.

MR. ANDERSEN replied, no.

CHAIR SEATON asked if the intent of the amendment is to only exempt the restricted Native allotments, then the unrestricted allotments would still fall under the provision that would not be able to have certain commercial developments.

MR. ANDERSEN answered the way the proposed amendment is written.

[10:28:52 AM](#)

REPRESENTATIVE LEDOUX inquired as to whether Mr. Andersen would favor restrictions related to large scale mining being applied to Native allotments or Native Corporation lands.

MR. ANDERSEN opined that any type of development should be scrutinized.

REPRESENTATIVE LEDOUX observed that he is addressing the differences of corporate and private land. She asked if he would consider extending the amendment to include all privately owned land.

MR. ANDERSEN pointed out that the proposed amendment addresses Native corporation, Native allotments, and Native town sites. He expects his amendment to provide an opportunity for the committee to address these concerns.

[10:31:34 AM](#)

PETER CARUSO, Representative, Bristol Bay Fisherman's Association (BBFA), provided the mission of the BBFA: to

advocate for the sustainability of salmon in the watershed. Membership is restricted to Alaskan residents. At the September 7, 2007, board meeting, HB 134 was reviewed and unanimously opposed. He reported that the opposition centers on the grandfathering in of existing fish processors in the bay, but does not allow for future growth in the fishery. The existing processors were unable to handle the recent volume of the current runs. Given the growth of the fishery this restriction on development would prove detrimental to the fishery.

10:32:42 AM

CHAIR SEATON asked if the board had reviewed the original bill or Version M, when arriving at their decision.

MR. CARUSO said it was the original bill that was reviewed.

CHAIR SEATON noted that the BBFA board interpreted the original bill correctly, however, Version M does provide seafood processors exempt status. The water usage, of the seafood processor would still need to meet state standards, he pointed out, and support facilities could be affected. He asked if this exemption satisfies the associations concerns.

MR. CARUSO responded, "Yes, it needs to be dressed up."

10:34:39 AM

EVA NIELSEN-KING, Representative, South Naknek Village Council, paraphrased from a prepared statement, which read as follows [original punctuation provided]:

My name is Eva King. I am a year round resident of South Naknek and have been a commercial salmon fisherman since 1976, when I was ten years old. Four of my sons are now commercial fisherman. I ask that oral and written statements be entered into the record. I am also representing our village government, The South Naknek Village Council - a federally recognized tribe.

In 1990, 18 years ago, processing companies paid us 70 cents per pound for salmon as publicly stated in the Borough Post newspaper of that year.

In 2007, processing companies paid commercial fisherman a low of 40 cents a pound at Ekuk, on the

Nushagak River 58 cents, and up to 60 cents a pound here in the Naknek-Kvichak District; pre-1980's fish prices. Some of our leaders are saying our salmon runs are on the rebound, if this is true why is it that many of our fishermen can't afford to purchase their winter fuel?

Fishermen this season were placed on limited catches from 2-6,000 pounds. Some were not allowed to fish at all because our processing companies could not process the salmon because they didn't have the capacity, which they assured the state they had earlier. All of this happens during the peak of the run. Couple this current problem with the pre-1980 salmon prices and not being allowed to deliver your catch, this proposed legislative HB 134 will prohibit natural resource development and only adds to our economic distress. All villages in Bristol Bay except for Dillingham, the regional center, don't have employment opportunities. Dillingham is the headquarters to BBAHC, BBNA, BBEDC, and other private enterprises with jobs available here. We are happy for the people of Dillingham who have good job opportunities.

We know your focus is targeted to stop the Pebble Project however your legislation is more far reaching. It would prohibit development on Native Corporation lands and other private lands. All of this without consideration is an illegal taking of rights. Millions and millions of acres of land would be locked up and prohibited from being developed.

Because we lack job opportunities - lack of infrastructure, high energy and utility cost. Your legislation lacks any concern for those of us who reside here year round. But instead want only to take away any potential.

There is no question our regional economic base must be diversified - we cannot depend on commercial fishing alone anymore. We need local jobs, not government welfare. Your quest strongly appears to satisfy sportsmen, conservation groups, lodge owners; people like Bob Gillam and maybe some of yourselves so as not to disturb your summer playground as proposed in HB 134. Additionally, many who will be testifying in support of HB134 in the next few days are already

retired, semi-retired and are not interested in the welfare of younger generations. They are living in the past when commercial fishing provided an annual income. To my knowledge these so-called elders have not presented solutions to our economic dilemma.

It would be nice to have the days of old - when commercial fishing provided families their annual income.

By introducing HB 134, you have successfully divided families, village against village, ethnic groups against one another. You have used subsistence hunting and fishing as your wedge. You have done this so well that many locals embrace your statements as the truth, not knowing your strategy.

If you feel so strongly about Natives keeping hunting and fishing subsistence lifestyles, we insist that your legislation HB 134 be amended to ensure a subsistence priority for Bristol Bay Alaska Natives. If you do this, you would at least publicly state your commitment to the importance of subsistence hunting and fishing for the Bristol Bay Natives.

Subsistence hunting and fishing does not include sportsmen and their organizations. They are the same as any commercial fishermen and should not be included with subsistence.

Rep. Bryce Edgmon in his press release September 20, 2007 Bristol Bay Times, recommended we include pressing issues to this legislative committee for consideration and action.

So here goes. Your committee must stop the outside fish processing companies from robbing us blind by paying us extremely low prices. These low prices are forcing our resident people to move to urban areas to find other employment instead of staying at home and going on government welfare assistance. We are a proud people and shun the idea of government handouts. We have an immediate need for roads and bridges connecting village to village to increase trade, commerce, health, and safety. Our state government through your actions must invite foreign salmon buyers into Bristol Bay. We need competition! Again, we

know like the anti-Pebble Project movement, how powerful the salmon processing lobbyists are. And like anything else, it seems what ever is a benefit to resident Alaska's the chances of inviting foreign processors will not happen. Most, if not all Bristol Bay salmon processing companies own salmon farms. Maybe this is part of the reason for our low prices for wild Alaska salmon.

Inviting foreign buyers in for a competitive salmon price can happen if you want it to and are committed to make it happen. So where do you stand on this? Can we depend on you? How soon?

These invitations to foreign buyers should run on five year increments - not an annual basis since it takes time to plan for finance and equipment. With out this invitation for foreign buyers the current fish processing companies will continue to pay us pre-1980 prices. The cost of living from 1980 to 2007 has risen approximately 75%. You can do your own research if you wish, however this number of 75% is conservative. We need immediate help from you - here again is a missed opportunity to help in our economic distress.

Again, for the record I am apposed to HB 134 as it is currently drafted. For me to reconsider my views on HB 134 I am requesting the following:

Amend HB134 to guarantee subsistence hunting and fishing a priority use for Bristol Bay Natives. Begin immediately building roads and bridges in the Bristol Bay region connecting villages to one another for trade, commerce, health, and safety. Senator Stevens recommended this at a health forum in Anchorage in August.

Since HB 134 is an illegal taking of rights with out consideration - we strongly request the legislature and the administration disclose to the Alaskan public the monetary cost we as Alaskans would pay to Northern Dynasty, Native Corporations and private land holders as soon as possible.

As an example, excluding Northern Dynasty's claim, Native and other private land holder's, amount to several million acres of land that would be prohibited

from development, because of your legislation; HB 134 and its companion Senate Bill 67.

When can we receive a report of the potential monetary cost this type of legislation will cause?

There have been statements of reports by reputable people that the State doesn't have enough money in our state permanent fund portfolio to cover all cost relating to HB 134. In fact, the portfolio would fall short to cover the total cost.

Is one of your solutions to raise taxes or institute taxes to cover these shortfalls? Your legislation HB 134 and its companion Senate Bill 67 will cause numerous lawsuits. So how much is our state willing to endure?

I wonder as should you, how would the late Jay Hammond feel about paying for an illegal taking of rights knowing there is a high cost that could destroy his legacy of the Permanent Fund and then some?

Believe me; your political quest and development prohibitions carry a terrible high cost. And if your legislation miraculously passes there will not be enough money combining all of our state coffers to pay for your mistakes.

My village of South Naknek does not have many employment opportunities, as I reported before in the last hearings. More than two-thirds of our village population has already moved away to find jobs and we are currently losing two more households. Because of a lack of employment opportunities and people moving, our local school has been closed for several years now. This has torn the heart out of our community.

Now all of our school children are flown to Naknek to attend school daily. You have no idea of the danger and the emotional stress this causes the school children and parents as we are a maritime community with wind most of the time. Our airport is in extremely bad condition, we have complained for years to everyone in the state government to bring the airport up to safety standards. Our airport was rebuilt several years ago. However it is in worst

condition now than what it was before it was rebuilt. Now we have less length than what we started with and our new cross-wind is hardly useable with many sections sinking more than three feet. We urge each one of you to visit our airport and come to your own conclusions.

With bad weather our children do not fly, so we sometimes boat the children to school, or drive them in sub-zero weather if the river is frozen. We have even gone so far as to find a charter and personally pay for them to get them home when they are weathered in at Naknek.

South Naknek is the only community in the United States with a flying school bus. After describing the current airport conditions would you subject your child to this horrible kind of danger?

For your information there is a plan to build a bridge to connect South Naknek to the Naknek - King Salmon Highway on the north side of the river. This bridge, once built would solve many of our problems and more importantly provide safe travel for our school children. This is our current plan however many years ago there was another plan to build a bridge across the Newhalen River connecting Newhalen-Iliamna and Nondalton. Because of politics this bridge was never built. I pray that this will not be our fate too. You know well who stopped the Newhalen River - Nondalton Bridge, I need not mention his name.

It would be welcomed by all residents of South Naknek for you to put your energy into our plight and needs as much as you have put in to HB 134. This would be a more positive endeavor. The potential cost for a successful passage of HB 134 will not leave any money left to build any infrastructure anywhere in the state of Alaska.

If not for high negative emotions and negative political strategies Alaska and Alaskans should welcome industries in who want to invest for the benefit of all. I am praying that the majority of our State Legislature is still prudent and reasonable and will let the process for development work before making judgments and decisions.

Alaska has the highest standards for environmentally sound resource development. Politics and negative emotions have always been grounds for making the poorest and costliest decisions - oppose HB134 and its companion Senate bill.

I must add that I am not receiving a salary, nor have I ever, from Northern Dynasty. Further I am not receiving \$300,000 + or any consulting fees either. You are welcome to review my tax returns if you wish. Shame on those folks and organizations that have lied only to think they would gain public support for their blatant and damaging lies. Northern Dynasty has always been above board and open. I urge each of you to ask those who testify for HB 134 who is paying their way. Fair is fair, right?

Finally, as a point of information Northern Dynasty has hired more local residents than all salmon processing companies and sportsmen operations within the past few years combined. Considering salmon processing companies have been around since at least the late 1800's and sportsmen operations since at least the 1950's. A pretty good track record for Northern Dynasty isn't it?

[10:40:31 AM](#)

JIM WALLMAN, speaking as a subsistence user, stated support for the bill and expressed appreciation for the exemptions. Further changes may need to be made, however, he pledged faith that the committee will make the appropriate alterations while upholding the best interests of the region. He encouraged the committee to become familiar with the complete process that allowed the permitting of mines in Montana to operate, through the subsequent poisoning of the water that occurred. Further, he said that with the rebound in the fishery market, and the added value being placed on the fishery, "we already [have] our gold mine."

REPRESENTATIVE WILSON commented that Alaska rules and regulations, already in place, would prohibit the type of activity that occurred in Montana.

[10:43:51 AM](#)

FRANK WOODS introduced himself as a commercial fisherman and subsistence user. He pointed out that the current gold rush is not for one mine; the Nushagak area has another 120 claims. Currently the Nushagak is experiencing record runs of sockeye salmon, and clean water is essential to maintain a healthy return. Further, he said he is not against development or growth, but it must be done responsibly. He predicted that this issue, already nation wide, will become an international concern. He provided the committee a copy of his daughter's school term paper on mining.

[10:48:05 AM](#)

TED ANGASAN, Representative, Naknek Tribal Council, reported a village population decline from 225, in 2001, to 60 today. The five school children commute via airplane to Naknek. The people rely entirely on fishing. In 2004, the Tribal Council passed a resolution to support studies of the mine, and what it might do to provide employment in the area. In March, 2007, a resolution was issued to oppose the mine unless certain restrictions were passed. However, he said, he did not vote in favor of the resolution. He opined that the village has few choices, and without the economic opportunities that the mine offers, it may become a ghost town. The Naknek [inaudible] road project is slated to receive \$4 million over the coming years, but this bill would disallow the road and derail the project. Native allotment lands would not be able to be developed, he pointed out; area Natives have awaited these allotments for decades. He said, on behalf of the Naknek Village Council, and as a private citizen, he opposes the bill, as written.

REPRESENTATIVE EDGMON clarified that the bill is not against progress in the area.

[10:53:02 AM](#)

HARRY WASSILY, SR., stated support for the bill, and said Alaska is the last frontier, with fresh water and clean air. He expressed concern for the exploration activities, and the damage that is being suffered by the tundra. The state would do well to monitor these activities now, for the damage and runoff waste that is already occurring. It will get inside the salmon, crab, and moose he cautioned, rendering them uneatable.

[10:57:07 AM](#)

JOHN D. NELSON, JR., stated five world classes associated with Bristol Bay: sockeye salmon capital of the world, hunting, sport/commercial fishing, subsistence, and pristine waters. He reported on the tremendous amounts of water circulated out of three open pit mines: Bingham Canyon Mine, Kennicott Mine, and the Newmont Mine.

[10:58:54 AM](#)

BILLY MAINES, Member, Dillingham City Council; Tribal Environmental Coordinator, (indisc.) Tribal Council; Vice Chair, Nushagak Mulchatna Watershed Council, provided a reminder of the integral relationship between water and life. He speculated that if any of the fish, wildlife, or other flora and fauna of the area, were to testify, they would be in favor of this bill. He advocated for as many restrictions as possible, as a means for preserving the area. He reported that he no longer drinks the water directly from the rivers or lakes, due to development. The nutrients that come from the watersheds, into Bristol Bay, feeds/maintains a billion dollar ecosystem in the Bering Sea, which "we seem to be responsible for."

[11:02:26 AM](#)

WILLIAM JOHNSON, noting that he is a commercial fisherman and subsistence user, stated his support for the concept of HB 134, and said that it requires amending to include reasonable, renewable resource economic development. He reported that for two years he researched becoming a miner. Following the DNR guidelines and process he was on track to prospect, until he realized what consequences would occur to the area. There are 20 mines for various types of deposits, throughout the area. He suggested providing roads and encouraging renewable resource development. This type of development relies on clean water, he said. Further, he opined that the enhanced salmon products being marketed will provide a continued economy base, and is the best way to proceed.

[11:05:53 AM](#)

SAM FORTIER, Representative, Alaska Peninsula Corporation; Newhalen Tribal Council; King Salmon Tribe; Twin Hills Native Corporation, stated that the four organizations he represents oppose HB 134. He then related that he has also been asked to represent 20 individuals who have were intimidated by a threat of investigation if they were to speak on HB 134. He

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

I have also been delegated by the Alaska Federation of Natives Litigation and Legislative Affairs Committee to inform you that AFN has recently adopted a resolution opposing HB 134.

We are opposed to HB 134 because it will radically curtail private water appropriation rights and private property uses in most of Bristol Bay.

We are opposed to HB 134 because it will radically and unconstitutionally change the existing regime under Alaska law regarding resource use and consumption, so that virtually all forms of future economic development in Bristol Bay will be prohibited. In addition to not addressing extraordinary situation, such as drought, that may effect villages and cities, the bill would effectively prohibit any new water-intensive industries or business. These impacts are not confined to state owned lands, but will extensively impact privately held lands, including Native corporation lands.

We are opposed to the criminalization of formerly lawful uses of private property by Section 1, part 1 of HB 134. This section prohibits: withdrawing, obstructing, injecting, pumping, either temporarily or permanently any subsurface or surface water in drainages supporting salmon or any water hydrologically interrelated or connected to those drainages in the Nushagak, Kvichak, Naknek, Egegik, and Ugashik watersheds. The sweeping prohibition against previously allowable uses of water is assuredly unconstitutional. Appropriation of water is guaranteed under Article VIII, Section 13, Alaska Constitution.

We are opposed to the bill because virtually all of the aquifers in the Bristol Bay watershed are "hydrologically interconnected or related to" drainages. This bill would effect private water wells and other forms of use, on private lands.

We are opposed to the bill because it has a profoundly disproportionate and adverse effect on Native

Corporations, whose mission it is to provide economic opportunities to their shareholders now and for future generations.

We are opposed to the bill because it amounts to a taking without compensation in violation of Art. VIII, Section 16, of the Alaska Constitution.

We are opposed to the bill because it directly interferes with the riparian rights of Surface estate owners, including the right to beneficial uses of water adjacent to and beneath their properties.

We are opposed to HB 134 because it directly interferes with any hydrological based form of alternate energy. The proposed language forbids any development that would result in pumping or withdrawing geothermal energy sources, such as steam, that is "hydrologically interrelated or connected" to a salmon stream drainage would be off-limits.

We are opposed to HB 134, because salmon streams are already protected under existing law, as contained in Alaska Stat. 16.10.010. HB 134, however, strips other regulatory agencies, such as the Department of Environmental Conservation, from deciding on a case by case basis, whether to permit or license hydroelectric power, or to permit water use for civic, domestic, irrigation, manufacturing, mining, "or other purposes tending to develop the natural resources of the state," as allowed under Alaska Stat. 16.10.015.

We are opposed to the bill because it prohibits and punishes previously lawful conduct with no fair warning. The bill is silent on the criteria used to determine such complicated terms as interrelatedness and interconnectedness. Nor are any definitions supplied for either of these terms.

The law will extend to "any portion of a river, stream, lake, bog, tributary, or any other water body, including the beds of water bodies, in drainages supporting salmon. The ambiguous phrase, "otherwise adversely affecting," is so broad as to render any use not permitted under Section 1, even something so mundane as traveling across a swamp on an ATV [all terrain vehicle], a criminal act. It would most

assuredly halt any oil and gas or mineral exploration or development on Native lands.

We are opposed to the bill because it is broadly and patently unfair. The grandfathering of existing industries and the exclusion of any new industries or businesses would have a significant and negative impact on economic growth and orderly development in Bristol Bay, virtually guaranteeing that it will remain a captive colony of fishing lodges and fish processors. In this manner, the bill would also appear to violate every Alaskan's right to uniform application of laws and regulations guaranteed under Art. VIII, Section 17, of the Alaska Constitution.

Locking up the resources on Native lands, as this bill would do, will also affect 80,000 Alaska Native shareholders throughout Alaska, 11 other Regional Corporations and 200+ village corporations statewide. Those individuals and corporations rely upon resource revenue sharing under the Alaska Native Claims Settlement Act. HB 134's prohibitions will directly and inalterably impact BBNC's ability to share resource revenues.

HB 134 is bad for Bristol Bay, it is bad for Alaska, and it is disastrous for Village corporations.

[11:12:13 AM](#)

REPRESENTATIVE JOHANSEN asked if the clients involved are comfortable with the current regulatory process. [Inaudible.]

MR. FORTIER replied, absolutely. The process is fair and works, he opined.

REPRESENTATIVE JOHANSEN inquired whether any of the clients actively take part in the regulatory process [inaudible].

MR. FORTIER answered that they do, or he represents them.

[11:13:01 AM](#)

REPRESENTATIVE EDGMON inquired as to the number of shareholders Mr. Fortier is representing.

MR. FORTIER reported that the Alaska Peninsula Corporation has over 640 shareholders, Twin Hills Native Corporation has about 70. He is also appearing on behalf of the Alaska Federation of Natives, which is the representative body for most of the state's Native organizations. Further, he stated that 90 thousand acres of land are held in common by Choggiung and other Bristol Bay village corporations. This Native land pool was formed for the express purpose of economic development, including mineral, oil, and gas interests.

REPRESENTATIVE EDGMON [Inaudible.] He referred to Title 16 statute to read the existing penalties for interfering/violating a salmon spawning area; \$500.

MR. FORTIER responded that Sec. 030 prohibits unpermitted interference. He opined that HB 134 would criminalize previously legal activities.

[11:16:47 AM](#)

REPRESENTATIVE LEDOUX asked if habitat being located within DNR constitutes a concern.

MR. FORTIER said that the present regulatory scheme is acceptable.

[11:18:50 AM](#)

REPRESENTATIVE EDGMON reiterated that the concept of the bill is to provide clean water habitat for salmon spawning, and inquired if his clients oppose that concept.

MR. FORTIER stated that, if the question is whether his clients oppose protecting water, the bill goes beyond that scope. He opined that private property interests are protected under the state constitution, and he considers the bill to be an attack on private property owners in the Bristol Bay region.

[11:22:19 AM](#)

DAN DUNAWAY specified that although he is an alternate member of the Nushagak Fish and Game Advisory Board; a member of the Bristol Bay Advisory Council; and retired fisheries biologist; he is speaking on his own behalf. He paraphrased from a prepared statement, which read as follows [original punctuation provided]:

I support HB 134 in its general intent. We must protect the water end fish habitat in the Bristol Bay area. The fish populations dependent on pristine waters of our area are critical to the subsistence users as well as world renowned to the sport and commercial fisheries. I believe the Bristol Bay WILD, NATURALLY PROPAGATED fish adds significantly to the value and prestige of all Alaska's fisheries, like Cadillac adds prestige to GM automobiles. Since 1990 trout management has been guided by the South West Alaska Rainbow Trout Management Plan that specifically precludes enhancement and artificial propagation. A survey conducted prior to implementing the plan found people don't come here to catch hatchery fish, they want wild natural salmon and trout.

Support for this and other bills comes from a fear that environmental protections were greatly diminished under Governor Murkowski. As yet Governor Palin has refused to restore the Habitat Division to Fish and Game, and allowed the Commissioner of DNR to belittle environmentally concerned Alaskans. We are no longer certain the State has the most rigorous and effective environmental standards or the will to enforce them.

We acknowledge this bill needs improvement. Changes to this bill should include provisions for small to moderate scale water uses, especially for environmentally sound commercial operations such as the local farmer Mark [Herrmann]. I don't want to see small environmentally sound economic development discouraged. I also suggest through this bill or by resurrecting older bills we should make instream flow reservations for all waters in Bristol Bay prior to allowing large industrial water use.

I have met a number of people who can afford to fish anywhere in the world who say Bristol Bay is the best, their favorite place to come world wide. Many more, especially European anglers told me - take care of what you have, protect it, there are fewer and fewer places like this. This area is a valuable resource as it is and could become more rare than gold in the future.

[11:27:12 AM](#)

MR. DUNAWAY, responding to a question from the committee, stated that Christopher Estes was the state specialist on instream flow reservations. He related, "It was a really important thing about preserving water rights and instream flow for fish populations throughout Alaska, but I understand it's a very incomplete process."

CHAIR SEATON directed attention to the public information table, and the six-page legal brief regarding water right issues.

[11:29:04 AM](#)

CHENISE NELSON, Student Representative, Dillingham High School, stated support for the concept of the bill, on behalf of her high school. She offered a picture of the traditional use of the area by the Natives, vs. foreign investors, and asked the committee, "Who do you represent?" Considering it a threat to the fish habitat, she finished, "If the Pebble Mine were to be, life as we know it would cease to exist."

[11:29:38 AM](#)

HEIDI ANDREWS, Student Representative, Dillingham High School, said that mines are notoriously harmful to areas, particularly open pit mines. She reviewed the use of cyanide, as an extraction agent, and the environmental threat that it poses. Tourism and the subsistence life style would be jeopardized by mining activities.

The committee took a brief at ease from 11:32 a.m. to 11:35 a.m.

[11:35:35 AM](#)

TERRY HOEFFERLE [The beginning audio was not captured, his written testimony is provided in its entirety.] paraphrased from a prepared statement, which read as follows [original punctuation provided]:

I am the fourth son of Henry and Anne Hoefflerle, and was born and raised in the Gogebic Mining District on the south shore of Lake Superior. For 35 years I have been a subsistence and sport hunter and fisherman in Western Alaska. During that time I have been a commercial fisherman, educator, and bureaucrat.

In my testimony today I want to support protection of wild salmon and clean water and prohibit threats to these. In doing so, if time permits, I intend to:

Encourage combining HB 134 and SB 67. Ideas in [these] bills are not mutually exclusive and complement each other.

Address problems with Exclusions and Prohibitions in HB 134, which might lead to an exhaustive list of exceptions (needs to be rewritten).

Prohibitions of: Specific operations that "use or generate" cyanide, sulfuric acid, or other toxic reagents. Prohibit large scale industrial and commercial use, all others exempt.

Shortcomings of our management regime to address these issues. Put it in ADF&G like SB 67 does, not DNR/DEC. DNR is set up to expedite and encourage mining permits, as though these are the highest and best use of our resources. More stringent standards.

Speak to the urgency of taking legislative action now.

I want to express my concern about proposals to operate massive mines in the headwaters of our rivers. This is an exceptional, fragile environment which demands exceptional measures of us to protect it. I speak in favor of HB 134, or some combination of 134 with SB 67 as measures beyond the current regulatory regime that should be enacted.

Multinational resource extraction companies are not charitable organizations. As profit making corporations, law requires of them a fiduciary responsibility to the bottom line. If the citizens of Alaska want a mining company to do anything that would diminish its profits, including often costly environmental safeguards, it is their responsibility to make and enforce laws demanding those things. Our current regulatory regime is woefully inadequate.

We are not talking about mom and pop gold panning or placer mining. It is not likely that anyone will see either a nugget or a flake of gold from the type of mining operations contemplated here. The ore

concentrate carried away from the mine site represents only a tiny fraction of the earth that must be dug up. The remainder is waste rock and tailings. Hundreds of millions of tons of those tailings will be toxic and need to be safeguarded forever. Northern Dynasty Mines (NDM) proposes nothing different from low grade metallic sulfide mines that have already failed. NDM simply proposes a greater scale - to accommodate as much as 8.2 billion tons of waste.

I have heard two spurious claims repeated by opponents to HB 134: 1. A mine can be developed safely here, and 2. Alaska has some of the most stringent mining laws in the world. These are patently false.

The chemical nature and location of the rock at the mine site makes the release of sulfuric acid and toxic copper into waters a virtual certainty. According to a recent survey, the governmental success rate in permitting, so as to prevent such contamination, has been demonstrated to be exceptionally poor - a 93% failure rate, nationwide. There are reasons for such dismal results: One of the most prominent reasons is shortcomings in public policy.

DNR, faced with a massive failure rate at similar mines around the country, in much more arid climates, is not credible in its claim that its permitting process will work when others have failed. This is why it is so important for the Legislature to enact legislation now that conserves the Bristol Bay drainages and establishes processes and standards that protect those drainages. Doing so is the only way to serve the public and protect Alaskan's interests in the natural resources that belong to them.

There are many (including our Governor) who advocate letting the permitting process take its course. This approach presupposes that our permitting process indeed adequately protects those precious resources. Experience, and a review of applicable law shows that it does not. The permitting process gives Alaskans no say until the decisions are made, by the fox told to guard the henhouse (paid permitting staff, DEC and DNR heads who have ties to the industry). Existing law and regulatory regime regarding mining and water are at a par with oil protocols in place prior to Prudhoe

Bay and Exxon Valdez. Two pages in Statute. The current process places the interest of large multinational corporations above the needs of the people of Alaska.

This begs the question: "Can the mining companies point to a single similar open pit mine that did not significantly pollute water and destroy land?"

Mining companies have claimed in the press that they can develop mega mines in Bristol Bay without hurting the environment. Let's take them at their word and add to the permit process the requirement of Wisconsin's 1997 Act 171 which demands that any company mining in sulfite bearing rock: provide examples of mining operation in the U.S. or Canada that have not resulted in significant environmental pollution.

The law includes specific qualifying criteria that must be satisfied in order for the example site, or sites, to be considered. The mining company must submit documentation from groundwater/surface water monitoring that includes data showing that: (1) An example mine has been closed for 10 years without the pollution of groundwater or surface water from acid drainage at the tailings site or at the mine site or from the release of heavy metals; and (2) An example mine has operated for 10 years without the pollution of groundwater or surface water from acid drainage at the tailings site or at the mine site or from the release of heavy metals.

OR make the prohibitions in HB 134 more specific:

1. Prohibit: a. use or generation of cyanide, sulfuric acid, or toxic or acidic ore processing or reagents; b. storage or disposal of industrial waste, mining waste rock or overburden, mining processing or beneficiation products or byproducts, tailings, or chemically processed ore or waste, and c. withdrawal, appropriation, obstruction, channeling, injection, pollution or alteration, on either a temporary or permanent basis, any surface or subsurface water hydrologically interrelated or connected to waters in the area covered by the bill.

2. No state agency shall issue a permit or authorization for prohibited activities or that would have potential to create acid mine or acid rock drainage into surface or groundwater. For mining sulfide minerals or ores, both the mining area and affected area, including all facilities, shall be reclaimed and remediated to achieve a naturally self-sustaining ecosystem appropriate for the area that does not require long-term or perpetual care, including treatment, and the areas shall be returned as expeditiously as possible to the ecological conditions that approximate pre-mining conditions.

3. Any permit, lease compatibility determination, or authorization for facilities related to mining sulfide minerals or ores in the protection area shall be subject to a public notice and comment period after which the agency shall respond to comments in writing and with scientific or technical justification for the agency's position.

[11:37:44 AM](#)

CHAIR SEATON requested that he speak to the scale, modification of the bills, and [inaudible]. Further, he asked if a per day water use volume limit should be considered.

MR. HOEFFERLE opined that a prohibition on large scale industrial/commercial uses, would be in order. Any operation with upwards of 300 million tons of toxic waste, cannot be compared with operating a fish hatchery, or a salmon processing plant. Any operation of a size that could operate on a 160 acre Native allotment would be of an allowable scale. The statutes that govern oil development and water, are [visually indicated] thick. Contrast that with the mining and water statutes, which cover two pages. The laws governing mining water are not current, and are woefully inadequate, he said.

[11:41:47 AM](#)

ANDREW DEVALPINE, Director, Bristol Bay Coastal Resource Service Area (BBCRSA), paraphrased from a prepared statement, which read as follows [original punctuation provided]:

It is no accident that the very first legislative acts of the Murkowski administration were to rework the Alaska Coastal Management Program [(ACMP)] and to move

fish and game's habitat division into the Department of Natural Resources. These moves were made under the mantle of streamlining. In the world of coastal management, their effect was to disenfranchise local districts.

The original ACMP was designed to give local governments and districts a way to comment on development in their regions and to have these comments integrated into state and federal law - districts would have policies that reflected local priorities, and those policies gave local comments legal heft. That is to say, comments tied to these policies were backed up by statute and regulation.

The Murkowski ACMP eliminated that connection and pulled the ACMP authorities back into the state agencies. Local districts could still comment, but they would, in effect, have no more local policies to base their comments on and, hence, no statutory tie-in. This is how the Murkowski administration disenfranchised the local districts.

Rep. Edgmon's bill is predicated on the notion that the watersheds feeding into the Bristol Bay Fisheries Reserve are inadequately protected. As we went through the ACMP revision and the Habitat division move, we were assured that the fundamental statutes and regulations the agencies work under remained intact and, consequently, environmental protection was uncompromised.

While this is true to an extent - agency statutes and regulations are intact - the Habitat division in particular has lost the hooks that local policies gave them to hang their project stipulations on. What Habitat has to work with henceforth remains to be seen, in my experience, but one thing is certain - local concerns will not be so well represented.

Does this mean Habitat, and the other agencies, are inadequate to the task of regulating a Pebble Mine? I call your attention to the Kuipers Report. This a systematic, peer-reviewed study that examines the accuracy of Environmental Impact Statements written for a sampling of mining operations. The findings

show that EIS's failed to predict water-quality impacts in a significant percentage of these studies.

The shortcomings boil down to testing for acid-rock drainage. Bottom line - there is no test that adequately foretells how different bodies of waste rock will behave over time. There are a variety of tests - collectively called kinetic bench tests - and all of their shortcomings involve lack of time to adequately assess how different ores behave.

I have not found any part of the DEC regulations that even mention these tests. This is the sort of thing we would like to have policies on. But you know what? We can't. The state tells us every area we want to address with our policies is covered by the various agencies -- yet the state has nothing on this. So, no, it does not appear to us that the watershed is adequately protected.

[11:46:27 AM](#)

DEWAYNE JOHNSON stated support for HB 134, because it will ensure water for the residents, as opposed to allowing the mine to prioritize water usage. If water levels are low, the village people will not be able to obtain supplies via barge. Flying supplies in would be cost prohibitive, he opined.

[11:47:24 AM](#)

JOE FAITH said that HB 134 is necessary to protect the water in Bristol Bay, especially from harmful water diversions, and pollutions. He reminded the committee that they are charged with "regulating the regulators." Permitting predictions, often do not match the reality once mining begins. Up to 90 percent of the current operating mines, have exceeded water quality standards. One hole in the permitting process is the lack of regulations for mercury emissions for gold mining; except as a hazardous pollutant when a single mine exceeds 20 thousand pounds. He said this could risk having advisories issued for daily salmon consumption limits. Mercury emission standards should be required for the entire state, he maintained. Other concerns he posed were: Pebble Mine as an experiment, due to its size and operating conditions; water requirements for operating the mine; salmon runs; volcanic conditions in the area; and the potential for earthquakes. Additionally, other mines may be developed in the area, requiring more water. He likened the

subsistence resources to a neighborhood grocery store, and said, "You wouldn't want somebody to go to your store and threaten it with cyanide and sulfuric acid." Water is the source of life and needs to be protected by this bill, and he requested it be passed with the appropriate amendments.

[11:50:52 AM](#)

BOBBY ANDREW, Spokesman, Nunamta Aulukestai, praised the committee for journeying to the region, and encouraged them to do the same throughout the state, when other regions stand to be impacted by similarly important legislation. He pointed out the village resolutions that have been passed to oppose the Pebble Mine. The effects of mineral development will be evident in the water quality, as well as the air, and land. Water, as the source of life, is fundamental for the health of the areas renewable resources, and the residents who depend upon them. He called for all of the watersheds of the area to be protected, as spawning grounds for the anadromous and non anadromous fish. The subsistence life style has sustained the people of the region, who consider themselves "rich in many ways." Many have chosen to lead a western culture based life, and many live between that and their traditional culture. The village corporation leaders have the responsibility to protect the land, as they were selected for their ability to sustain renewable resources, as well as future economic development purposes. He stated support for the amendment proposed by Ralph Andersen [same day testimony taken at 10:18:00]. He acknowledged that some villages passed resolutions in support of the original HB 134. Finally, he offered to be a facilitator for committee members interested in visiting any of the villages.

[11:57:05 AM](#)

PATRICIA TREYDTE, as a commercial fisher and subsistence user, stated that the Pebble Mine could only be detrimental to the area. She cautioned that the bill is broad, and in need of amendments. The individual exceptions pose a problem, she opined, stating that private property rights are extremely important whether they effect individuals, Native corporations, or Native allotments. However, those rights must be balanced with protecting the resources, as the resources belong to everyone; everyone depends on them. Imposing restrictions based on the scale of the project may be the best approach, vs. individual exceptions which could cause unintended consequences.

[12:01:28 PM](#)

ALICE RUBY, Mayor, City of Dillingham, stated that the city supports HB 134 in its concept and intent. She paraphrased from a prepared statement, which read as follows [original punctuation provided]:

My name is Alice Ruby and I am speaking to you now as the Mayor of the City of Dillingham. Welcome to Dillingham again. Thank you for coming here and allowing us to speak to you in person.

We understand that you flew over the Nushagak and Kvichak drainages during the past couple of days. So you are somewhat familiar with the geography of our area. The water body that flows past our community is the mouth of the Nushagak River - the Mulchatna River flow[s] into the Nushagak and literally past our front door.

Dillingham is a first class city. We are located outside of the Lake and Pen Borough boundaries and we are a part of the unorganized borough. Our municipal boundaries extend about 11 miles north and about 6 miles west. They generally follow the shores of the Nushagak and Wood Rivers.

We have about a \$10 million annual municipal budget. Of that, about \$5 million is the School district and \$5 million is city operations. Our city contributed \$1.3 million to the City school district for FY 08 - that is an increase from about \$1.1 in FY07 and \$1.2 in FY06 - please note that our school contribution is almost twice what is required by law.

We are a permanent population of about 2500 people. But at any time you will see hundreds and sometimes thousands more people moving through our community. During the summer months, hundreds of people flow through for commercial fishing - fishermen, crewmembers, processing labor force and the fishing support industry. Fortunate or unfortunate, a large percentage of those people are from outside of our region - from around the state and around the nation.

We are a transition and transportation hub for the Togiak National Wildlife refuge, the Wood Tikchik State Park and the Nushagak/Mulchatna Watershed.

During the spring, summer and fall, we see hundreds of people flow through our community in route to the 50# lodges and dozens of temporary sport fishing and hunting camps in those areas. A client will pay from a few hundred to over \$5,000 per week to visit one of those sites.

We support our city through a 13 mill property tax, a 6 percent sales tax, a 10 percent bed & alcohol tax and a variety of user fees via our dock, harbor, landfill, water & sewer and others.

In about 2 months our voters will be presented with a proposition for a \$15 million G.O. [General Obligation] Bond to renovate our schools. We expect to take advantage of the state's debt reimbursement program and we expect to be able to repay the bond by holding tight to our current level of service.

We choose to tax ourselves fairly heavily; especially relative to other communities within our region. We do so because we want to maintain and grow our infrastructure and ultimately the community that we have.

It's no secret to any resident in our community that we're struggling. We are an economy in recovery. Our cost of living is high from everyday groceries to our energy.

Our economy and ultimately the community's tax base are critically dependent upon our renewable resources - that is our fish, game and the habitat that sustains us. Whether it is commercial fishing, commercial recreation, private recreation, or subsistence activities. We choose to grow our economy based on the resources that surround us - we have chosen to make an effort to enhance our fishing industry and our recreational industry.

Anything that happens in the headwaters of the Nushagak/Mulchatna Rivers will have an affect on our community. It will affect our social as well as our economic well being and our future. That is why the City of Dillingham has taken a position of "Fish First". Any activity that threatens the water quality of the river is of great concern to our community. We

must protect those renewable resources and we must protect the river that feeds us.

HB 134 represents the protections that are needed for the river bodies that feed our community and the economy that we are continuing to try to grow. We strongly urge your support.

I listened with interest to some of the suggestions for modifying the bill. We agree that there is probably room for some modifications to the bill. The exemptions could be broadened to include community development. Though the council hasn't given direction, I believe that the suggestion that the prohibited activities could be based on size or magnitude has some potential for clarifying. I don't believe the council would support exclusion of land by ownership status because it is the water column that is being addressed. All lands whether federal, state, private, or trust lands (such as allotments) should be considered; otherwise excluding parcels in a patchwork pattern would probably defeat the purpose of the bill.

[12:04:17 PM](#)

DOROTHY B. LARSON said that although she is an administrator for the Curyung Tribal Council and vice-president of Curyung Limited Corporation, she related that the Curyung Tribal Council supports HB 134, pending modification. She pointed out that the intent, although dealing with water usage, extends to protect all of the habitat/environment in the region; perhaps state and worldwide. Monetary value is placed on economic development, however, a monetary value should also be attached to the subsistence factor of the renewable resources. This inherent value may be difficult to ascertain, but she reported that for her family it would amount to approximately \$27,000; considering what they would have to purchase if they could not consume salmon, moose, caribou, duck, geese, berries, and other natural resources. She stipulated that this figure should be considered conservative, and explained how she arrived at the total. These "backyard" resources are all dependent on water and a quality habitat. Extrapolating this figure to encompass the 800 Dillingham households, and the sub regional residents, the figure is over \$21 million dollars annually. The inherent value cannot be priced, she opined. The state should take a stand on protection over development. She stated that she is not against development, however, some opportunities are more feasible in

light of the harm and adverse effects that they could cause to the environment.

12:09:26 PM

GEORGE WILSON, JR., introduced himself as a commercial fisherman and subsistence user. He stated support for the bill, with modification to allow fish processors to expand, and other dock construction to occur. Additionally, he suggested that private and Native land should be exempt for small commercial business. Industrial scale development should not be allowed, he opined.

12:11:22 PM

ANNA NIELSEN, Elder, as an elder, she related a story, from her youth, of the reindeer herders, who would visit her home village of Nushagak once a year to slaughter several hundred deer. The early fishing operations of the area were also related. She pointed out that the common thread was the care of the land. These groups would always leave a "clean camp," she said, because of their concern for the environment. She opined that people do not take the same level of care today. The animals must be cared for, via a clean habitat, and she expressed concern for the detrimental effects, and what would be left behind, should a large scale mine begin operations.

12:18:08 PM

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

I believe that the Bristol Bay watershed needs protection for the sake of our salmon economy and lifestyle. My biggest fear is we would trade a long term renewable economy for a short term non-renewable economy that has the potential of destroying not only the salmon populations that this community depends on, but also the tourism that has been built up here over the past several decades.

The only concern that I have with this bill is, that I would like to make sure that we can still continue to develop gravel pits, rock quarries, roads, and power lines between the villages and towns as necessary when the people in the communities of Bristol Bay require them.

While you are here I hope you will take time to look at our schools and keep in mind that Research shows a Facility condition may have a stronger effect on student performance than the influences of family background, socioeconomic status, school attendance, and behavior combined. Well designed facilities send a powerful message to kids about the importance a community places on education.

[12:20:07 PM](#)

RICK TENNYSON, Land Manager, Choggiung Limited, paraphrased from a prepared statement, which read as follows [original punctuation provided]:

Choggiung Limited Village Corporation represents the villages of Dillingham, Ekuk, and Portage Creek with over 1700 shareholders most residing in the Bristol Bay region, and is owner of about 350,000 acres of land. Choggiung opposes the development of open pit mining in Bristol Bay region; therefore, we support house bill 134 in its existing version or a similar version.

Choggiung's Mission Statement:

Choggiung's mission is to be a profitable corporation ensuring current and future shareholder benefits, as we protect our land, and respect our people and heritage.

As with many Alaskan locations Bristol Bay is unique. Bristol Bay's unique is our abundance of wild salmon, Bristol Bay hosts the world's largest sockeye salmon run. These salmon along with many species of trout thrive in our naturally pristine waters. People from all over the world come to enjoy our pristine environment, but they leave the land and water as they found it, pristine.

These natal pristine waters provide nourishment to our mammals, fish, plants, and berries. All of which are vital to our subsistence way of life.

These waters not only provide for our subsistence needs, but our economic needs as well. The combined commercial value of salmon, halibut, and herring totaled over \$100 million in 2005. This industry has

been our economic engine for more than the past century. Each year this industry leaves the land and water as they found it, pristine.

Open pit mining will forever change the regional demographics of our land and water. This will affect our subsistence and economic lifestyle of Bristol Bay.

We the local residents, down stream of an open pit mine will receive little or no economic benefits from an open pit mine, but we will be the one receiving the blunt of the affects of an open pit mine. These affects could be subtle, such as mine employees competing for our subsistence foods or as catastrophic as injecting toxic waste in to our aquifer. This would kill our mammals, fish, plants, and berries totally destroying our subsistence way of life, leaving the residents down stream with absolutely nothing.

Choggiung Limited shareholders voted at its 2006 Annual Shareholder meeting at a ratio of three to one to oppose open pit mining in the Bristol Bay region.

Choggiung Limited Village Corporation strongly supports economic development and the creation of jobs in Bristol Bay but is unwilling to compromise its longstanding relationship with our land, water, and traditional lifestyle. Any economic benefits an open pit mine may offer in the Bristol Bay region is not worth risking our subsistence way of life.

[12:23:09 PM](#)

REPRESENTATIVE NEUMAN [Inaudible.]

MR. TENNYSON responded that Choggiung is in partnership with the Bristol Bay Native Corporation (BBNC), operating a rock quarry/gravel business. Additionally there have: land leases along the Nushagak and Mulchatna Rivers; commercial fishing interests; and commercial and residential rental units in town.

[12:24:20 PM](#)

ROBERT HEYANO noted that he is a commercial fisherman and subsistence user. He stated that he supports the concept of HB

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

I support the concept of HB 134 for the following reasons:

1) Clean water and fish habitat are essential for maintaining the fish resources of Bristol Bay. Under Federal management and before enactment of the 200 mile limit the Bristol Bay salmon returns experienced periods of very low levels. Through conservative management and because of the fact that the water and fish habitat were pristine and undisturbed the salmon resources rebounded to all time high levels without the aid of a single hatchery.

2) I believe the actions taken by the past administration, moving habitat from Fish and Game to DNR, the loss of senior experienced management the move created within habitat division, changes to the Alaska Coastal Resource Management program reducing their effectiveness on habitat protection, and allowing mixing zones in salmon spawning streams has weakened the protection of fish and their habitat through the permitting process. Protecting clean water through legislation such as HB 134 would place it in statute and prevent further administrations from changing it by EO.

3) The Alaska Board of Fisheries after their December Bristol Bay meeting gathered additional information and concluded at their March 2007 meeting that there are not sufficient habitat protections in place for the Bristol Bay fishery.

4) The image of Alaska with its clean and pristine waters sells Alaska produced seafood products. Approximately 2 years ago Bristol Bay drift gillnet permit holders established the second RSDA in the State of Alaska and voted in support of a 1% self assessment tax to fund the RSDA, The primary goal for the RSDA is to increase the value of the fish to the harvester. With all the publicity and attention that the Northern Dynasty mineral deposit has generated, my concern is that without additional protections for assurance of clean water the mining activity would

have a serious negative impact to the primary goal of the RSDA.

5) The value and uniqueness of the salmon and resident species of fish resources in this area require additional protections such as what HB 134 would provide.

[12:28:11 PM](#)

HJALMAR OLSON, Chairman/Chief Executive Officer, Bristol Bay Native Corporation; Member, Board of the Alaska Federation of Natives (AFN); Member, Nushagak Fish and Game Advisory Committee; stated that earlier testimony of the AFN Board taking a stance on this bill, should be considered erroneous. When the board convenes in Fairbanks, in the next month, the issue may be on the agenda, however, he reported AFN generally takes positions on statewide issues only, not regional issues of this type.

[12:30:09 PM](#)

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

I have only lived in Dillingham for fifteen years, but living in a place pristine enough to support wild salmon habitat is an honor and, globally, is becoming a rare privilege. I support measures such as House Bill 134 to restore protection of the watershed of Bristol Bay.

[12:30:46 PM](#)

MIKE DAVIS recalled the effort that was expended on hearings, in the 1970's, to appropriately address regulatory measures for the impending oil development. He suggested that an eco system will be impacted, by the proposed [Pebble Mine], and opined that existing regulations do not address the protection of an entire eco system. The legislature should take up the task of ensuring this type of regulation, he suggested. He requested that the committee modify and support this legislation, as it is a "step in the right direction."

[12:32:35 PM](#)

RICK HALFORD stated support for the concept of HB 134, and said:

There's a lesson in this bill for all of us. You know, Mr. Edgmon started out with a draft request to Legislative Legal; probably to build a rifle to shoot a moose 250 yards away. ... The lawyers ... went all through this, in every direction, and sent him back a shotgun, and the moose is still 250 yards away. And we're spending all of our time arguing about where the stray pellets go. The bottom line is the Pebble Mine. It's hard to avoid getting back to that, because it's mega projects we're talking about not little projects.

MR. HALFORD continued, handing out a visual page to the committee, indicating the scope of the Pebble Mine. He underscored that it is the largest project of its kind in the world. He sympathized with the situation that the committee is faced with: the largest salmon run on earth, and a this mega project that sits in a saddle between the two drainages that feed that fishery. Corporations are not allowed to have a conscience, because it's an economic instrument, he pointed out. He explained contribution restrictions that govern corporations, as such contributions are inherently used to sway decisions. The only way in which a corporation is allowed to contribute funds is if it is intended to create a better environment for their work, and, eventually, to lead to a better bottom line for their stock holders. He went on:

That means leave less in Alaska; take more from Alaska. Article 8, of the constitution, Sec. 13 talks about water rights. ... It finishes with: "water rights are subject to the general reservation of fish and wildlife." That's after everything else, and applies to everything else. Now, what reservation is there for the Upper Talarik Creek fish when his spawning bed ... is at the bottom of a two thousand foot deep hole that's three miles wide. Somehow you have to figure out what to do with that. I don't know that you will be able to deal with it in this bill. Again, it's become a shotgun, it needs to be a rifle. It needs to exempt all of the small things that we're too worried about and deal with the mega projects that we are worried about. But one of the things that you hear ... is let the permitting process work. ... That sounds good. But be worried that that's code for "let us get far enough that we establish court enforceable rights, that we can then sue you for, and you can never afford to stop us." ... At the very least, amend

the mineral leasing act to say that no court enforceable rights accrue until after the permits are actually issued.

[12:38:17 PM](#)

REPRESENTATIVE ROSES recalled when Mr. Halford, a former legislator, represented his district. [Inaudible.]

MR. HALFORD responded, "I'm afraid I have. Again the magnitude is unbelievable." He likened it to the Prudhoe Bay development, and speculated that it will spawn a number of organizations to take up the issue. It's bigger than ANWR, or the gas line, it is the biggest issue on the horizon for the state, he opined. The values on both sides are astronomical and set up "the perfect storm" for a discussion between renewable and non-renewable resources. He predicted the battle will ensue for some time to come.

[12:39:49 PM](#)

REPRESENTATIVE WILSON clarified the amendment that he suggested be made to the bill: disallowing enforceable rights to accrue until after the permits are issued.

MR. HALFORD cautioned against allowing the permitting process to proceed, expecting that the project could be disallowed via that process. The investment that the corporation establishes, through that process, entitles them to property rights, which can be litigated. At that point, the state would not be able to afford to stop the development, despite the dangers to the other resources. A \$50 billion lawsuit would have to go unchallenged. To avoid a legal trap, this point needs to be clarified by Legislative Legal, and included in the bill.

[12:41:05 PM](#)

REPRESENTATIVE LEDOUX asked about the permitting process and the location of the Office of Habitat [inaudible].

MR. HALFORD responded that at some point you have to have an investment climate that operates. The exploration aspect can be economic for the region, even if the long term project is not supported; a conflict that needs to be avoided.

[12:42:30 PM](#)

REPRESENTATIVE ROSES recalled that when Mr. Halford was a legislator there was legislation that addressed watersheds. [Inaudible.]

MR. HALFORD said that years ago he opposed legislation that he wished he had not. The legislation amplified the aforementioned section and discussed inflow stream reservations for salmon. He referred again to Article 8, Sec. 13, to emphasize the point he made earlier for reservation of habitat. Further, he stressed that the size of this mineral project is unparalleled.

12:44:40 PM

THOMAS TILDEN, Member, Choggiung Tribe; Representative, Choggiung Limited; on behalf of the Choggiung Tribe and Choggiung Limited, stated support for the concept of HB 134, and said the tribe would be willing to work with the committee on appropriate modifications. He recalled the formation of the Comprehensive Bristol Bay Plan in 1982. At that time, the Native interests focused on protection of the salmon habitat, including the extensive watershed. The concern was submitted to be included in the comprehensive plan and was overruled by the mining industry and the state. He said, "It seems as though ... the State of Alaska is something that we are fighting with." This fight extends to the Coastal Zone Management Plan, and the issuance of water permits. He pointed out that the fisheries of Bristol Bay belong not only to Alaska, but to the nation, as people come from around the nation to fish, or work during the season. He expanded the scope to the international arena, considering the exportation of the fish products to the global market. Further, he stated, "What we are working with here is an 1872 law." At that time the gold was visible in the ore, but today the method does not require visual evidence. The gold is extracted utilizing cyanide, and other caustic chemicals that are harmful in the environment. When his father came to Alaska, he recounted, he came as a gold miner. After several seasons of mining, he discovered his gold in the renewable resources of the region. He finished:

That's what we find, here in Bristol Bay, is we have found our gold. And our gold is about ready to be trashed. You don't plant a cabbage field, and throw a ... herd of cattle in it, and expect to eat cabbage afterwards; it's not going to be there. It's just like putting a mine ... at the head of the watershed of our salmon streams. One of them is going to go. You're going to either eat beef or salmon. But I

doubt very much you're going to be eating any salmon, because I think you're going to have to find a way to eat gold. And we don't want to eat gold. ... To thrive the way that we thrive we need to continue to live the way that we live. ... We know that this particular bill is not perfect, but we love the intent. We want to continue to live our lifestyle, and we depend on you to protect us, and watch over us, by doing what is right; making the changes so that this bill is doable for all of us.

12:49:20 PM

ULU TILDEN said, following college, she chose to return to her childhood home of Dillingham to live and work as a biologist. She related that this summer she obtained a job coordinating six interns, some of which entered the situation unsure of their education but left wanting to be biologists. The aforementioned is just one example, she said, of ways that the young people of the area can find work. She opined that there are other avenues to diversify the local economy without turning to something as high risk as a mine. Ms. Tilden informed the committee that she is a finalist for the Alaska Marketplace Award with the hope to start an organic farm if she is funded. Although she characterized the spirit of HB 134 as good, she expressed the need for modifications to the legislation in order to allow smaller renewable development. She pledged her support for protecting the watersheds from high risk development for future generations.

12:50:49 PM

KAREN MCCAMBLY related that last year she testified before the Board of Fisheries as a commercial [fisher] and subsistence user. She said that her thoughts have not changed. As a mother and youth advocate of Dillingham, Ms. McCambly said that she is present today for the children because what is done today will be of consequence of [their] future and livelihood. The decisions that will be made will make or break the residents of the region. She then paraphrased from a prepared statement, which read as follows [original punctuation provided]:

We must first protect our water quality by not allowing the Pebble Mine to be developed in this region. Earlier in the year, Northern Dynasty Mines sent out some representatives to "inform" the people of this region about their plans. Their presentation

was mediocre, their answers vague, and their concern for us was none existent. Afterward it was clear that they were not out here for us, they were here because it was good for their PR [public relations]. My question for them is how much money is enough, so that they can sleep at night, after telling us that everything is going to be OK. Luckily, ladies and gentlemen of the legislature, you have the power to put us at ease. ... I am asking that when you ... write HB 134, that you please remember us. Remember the people who took time away from their jobs, remember the students who took time away from their class, remember everyone who stood before you, because they felt that it was important to share with you their feelings, their thoughts, and the anxiety of the project that is before us. ... Thank you for acting on what is in the best interest of the people. All I ask is that you ... do for us what we cannot do for ourselves. You are the voice of the people.

[12:53:42 PM](#)

STEVE WASSILY, JR., introduced himself as a generational commercial fisherman living a subsistence lifestyle. There are few jobs in the villages, making subsistence crucial. He related his opposition to the Pebble Mine as he feared for what the Pebble Mine would do to the region's environment, and subsistence lifestyle.

[12:56:51 PM](#)

MARIAN SMALL suggested that part of Alaska National Interest Lands Conservation Act (ANILCA) should have addressed the protection of the water, Native livelihoods, and Native culture. She said:

Every raindrop that falls down, goes down into our land, and our creeks, and to our bodies. There's no job in this world that's going to support our families forever. Every raindrop is needed in order for our Native culture, and lifestyle to survive.

[12:58:17 PM](#)

STAN SMALL, speaking as a commercial fisherman, recalled discussion from a Board of Fisheries meeting in which the Pebble Mine mentioned the possibility of using an earthen dam. After

looking into the use of an earthen dam, Mr. Small related that he discovered an earthen dam that failed in Idaho, creating casualties. Pebble Mine is proposing an earthen dam, and should it fail, it would be toxic water cascading forth and destroying the environment. He offered support for the bill, but needs some work.

[1:00:18 PM](#)

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

I am representing myself, but do have some comments for the Qayassiq Walrus Commission (QWC) and the Bristol Bay Marine Mammal Council (BBMMC) I work for. Although what I say does not currently reflect what their stance on this HB 134 Bill is.

I am an Aleknagik Traditional Council member. I have commercially fished all my life 'til recently some personal health problems have prevented me from participating in the seasonal fishery. Although, I along with the majority of the Bristol Bay and the Alaska Peninsula heavily rely on our year-round traditional activities of harvesting and gathering for our food resources which include mainly in the Nushagak area salmon, or 'sayaq, neqa" in the Yupik Eskimo language. Our late father, Tom Chythlook, taught us to practice our traditional way of life, which includes Native traditional values/customs of treating the land, the seas, the water, and the air we breathe in with utmost respect, like walking into a church with reference. One, because the lands, the earth, and the environments our traditional Native ancestor's or ciurllaq's walked on are sacred traditional areas where they used to live on. Without pure water, the marine and fresh water food resources will die because they will stop being nourished by water to grow, produce, and give themselves to us to sustain us. We need to continue to protect our lands, the lakes, the rivers, and the ocean ecosystem we gather and harvest our traditional food resources. Please reference the attached 2 documents I supplied for you, a letter to Governor Sarah Palin, dated March 13, 2007, and a memo dated August 22, 2007, of some of the concerns of the QWC I work for - #1. The QWC Commissioners would like to be involved with any

environmental issues that will affect their traditional way of life including - having agencies work with them in conducting water quality test monitoring of the commercial herring/salmon gillnet fishery waters of Togiak, Nushagak, Naknek, Kvichak, Egegik, and Ugashik Districts to establish a baseline. Please refer to attached correspondence for further details. I support Representative Edgmon's draft working bill, HB 134, as long as our traditional way of life will continue to be protected with no restrictions, and to continue to give us the freedom to gather and harvest our salmon, marine mammals, moose, and caribou, herring, herring roe, clams, water fowl, bird eggs, medicinal and edible berries in pure air, pure water, and a pure environment for generations to come.

[1:03:52 PM](#)

PETER CHRISTOPHER, SR., related the wide area in which he commercial fishes and subsists within. He then related his support of HB 134, although he expressed the need for some revisions. He stressed the importance of protecting the watersheds of the area for the health of the fisheries, and included concern for the health of the game animals in the area. He reported visiting mines in Nevada, Fairbanks, and Nome, stating that he was not impressed with any of them. He described the river near Nome, where the mine has closed, leaving the river polluted with an orange tinge, and juvenile fish that are deformed. Also, the moose in the area have blue livers, and the feathers of the cranes are not intact. "It scares me," he said.

[1:10:21 PM](#)

MARGIE NELSON said that the watershed is the lifeline to the Bristol Bay people and communities. "Without the health in our watershed, what will we have?" she asked, and continued:

Water effects every part of our life. ... Water is essential for our survival. Water is a cycle, it effects our whole environment. I want my health, I want my clean water, and I also want to keep our salmon wild.

[1:12:23 PM](#)

JODY SEITZ stated support for the intent of HB 134. As a researcher for ADF&G 18 years ago, she walked the length of various aspects of the watershed. She related her opposition to Pebble Mine. She opined on the sensitivity to salmon regarding changes in their habitat, then clarified the necessity for independent science and appropriately supported, unbiased/unfettered scientists to prevail on the issue.

[1:14:45 PM](#)

KEVIN JENSEN noted that although he is a member of Pedro Bay Village Council; director of the Pedro Bay Corporation; and an employee of the formerly known as Northern Dynasty Mines, he is speaking on his own behalf. He stated that information regarding Pedro Bay may have been reported erroneously to the committee regarding the geology of the area. Pedro Bay is surrounded by wetlands, and does not sit on bedrock, as mentioned. The bill would effect development plans that this village has in place, including a deep water port and bridges. He noted his opposition to HB 134, adding that there could have been changes made to [the law] that's already in place.

[1:17:15 PM](#)

CHAIR SEATON thanked everyone for their participation.

[HB 134 was held over.]

[1:17:52 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 1:18 p.m.