

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES

February 18, 2008
8:36 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Kyle Johansen (via teleconference)
Representative Craig Johnson (via teleconference)
Representative Gabrielle LeDoux
Representative Bryce Edgmon
Representative Lindsey Holmes

MEMBERS ABSENT

Representative Peggy Wilson

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
09/26/07	(H)	Heard & Held
09/26/07	(H)	MINUTE(FSH)
02/18/08	(H)	FSH AT 8:30 AM BARNES 124

WITNESS REGISTER

ADAM BERG, Staff
to Representative Bryce Edgmon
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided testimony on HB 134, and responded to questions on behalf of the bill sponsor, Representative Edgmon.

DAVID CHAMBERS, Ph.D., President
Center for Science in Public Participation
Bozeman, Montana

POSITION STATEMENT: Provided testimony and responded to questions on HB 134.

BRIAN KANE, Attorney
Legislative Legal Counsel
Legislative Legal and Research Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Responded to questions on HB 134.

ED FOGELS, Director
Office of Project Management & Permitting
Department of Natural Resources (DNR)
Anchorage, Alaska

POSITION STATEMENT: Provided testimony and responded to questions on HB 134.

SCOTT THORSEN (ph)
Anchorage, Alaska

POSITION STATEMENT: Spoke in opposition to HB 134.

MARTHA CROW
Douglas, Alaska

POSITION STATEMENT: Spoke in support of HB 134.

MATTHEW NICOLAI, President
Calista Corporation
Anchorage, Alaska

POSITION STATEMENT: Spoke in opposition to HB 134.

TREFON ANGASAN
Anchorage, Alaska

POSITION STATEMENT: Spoke in opposition to HB 134.

RALPH ANGASAN SR., President
Alaska Peninsula Corporation (APC)
Anchorage, Alaska

POSITION STATEMENT: Spoke in opposition to HB 134.

DAN DUNAWAY
Dillingham, Alaska

POSITION STATEMENT: Spoke in support of HB 134.

KAREN CURRY
Far Bank Enterprises
Bainbridge, Washington

POSITION STATEMENT: Spoke in support of HB 134.

ROBERTA HIGHLAND
Homer, Alaska

POSITION STATEMENT: Spoke in support of HB 134.

FRANK WOODS
Bristol Bay Native Association (BBNA)
Dillingham, Alaska

POSITION STATEMENT: Spoke in support of HB 134.

TERRY HOEFFERLE
Nunamta Aulukestai
Dillingham, Alaska

POSITION STATEMENT: Spoke in support of HB 134.

THOMAS TILDEN, Chief
Curyung Tribal Council
Choggiung Limited
Dillingham, Alaska

POSITION STATEMENT: Spoke in support of HB 134.

JEREMIAH MILLEN, Field Representative
Alaska Wilderness League (AWL)
Anchorage, Alaska

POSITION STATEMENT: Spoke in support of HB 134.

GEORGE MATZ
Cook Inlet Alliance
Kachemak Bay Conservation Society
Homer, Alaska

POSITION STATEMENT: Spoke in support of HB 134.

KONRAD SCHAAD
Homer, Alaska

POSITION STATEMENT: Spoke in support of HB 134.

MARK MUNRO
Homer, Alaska

POSITION STATEMENT: Spoke in support of HB 134.

JOE FAITH
Dillingham, Alaska

POSITION STATEMENT: Spoke in support of HB 134.

BRIAN KRAFT
Trout Unlimited
Anchorage, Alaska

POSITION STATEMENT: Spoke in support of HB 134.

ACTION NARRATIVE

CHAIR PAUL SEATON called the House Special Committee on Fisheries meeting to order at [8:36:07 AM](#). Representatives Seaton, Edgmon, Holmes, and LeDoux were present at the call to order. Representatives Johnson (via teleconference) and Johansen (via teleconference) arrived as the meeting was in progress.

HB 134-PROTECTION OF SALMON SPAWNING WATER

[8:36:22 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.]

CHAIR SEATON provided some of the history of the bill, including the field hearings, and explained that Version 0, is a result of the field hearing testimonies.

REPRESENTATIVE LEDOUX moved to adopt Version 25-LS0381\0, Kane, 1/22/08, as the working document.

REPRESENTATIVE HOLMES objected for discussion.

[8:39:13 AM](#)

REPRESENTATIVE EDGMON, sponsor of HB 134, said that public testimony in Bristol Bay identified two common themes: the overriding concern that no harm should come to the watershed no matter the feelings toward Pebble Mine, and the lack of economic opportunities for individuals and communities in the region. He pointed out that everyone who testified wants to keep the waters clean and the subsistence and commercial fisheries intact. He noted that although many people support the concept of HB 134, they have concern for any unintended consequences of the bill, specifically related to economic development. He reported that he worked with his staff to incorporate these public concerns into Version 0.

[8:42:19 AM](#)

REPRESENTATIVE EDGMON then turned to the major changes to the bill. Beginning with Section 2, he explained that all of the exemptions have been removed and the prohibitions and penalties will only apply to sulfide mining operations in the Bristol Bay Fisheries Reserve, not any jurisdictions outside this reserve. He explained that there will be fines of up to \$1 million per day for damage from "sulfide mining operations" [defined in Section 2, lines 25-27] to the "anadromous waters of the Bristol Bay watershed" [defined in Section 2, lines 22-24].

[8:46:24 AM](#)

REPRESENTATIVE EDGMON summarized Section 3, which requires a resolution of legislative approval for any oil, gas, or mining activity in the Bristol Bay Fisheries Reserve. He explained that he has determined through his discussions with Legislative Legal Services that this is not special interest legislation because the bill deals with the statutorily designated Bristol Bay Fisheries Reserve. He opined that HB 134 does not constitute a "takings," which he defined as a government action that diminishes a leaseholder's property right, because the

courts have clearly stated that exploration rights are separate from development rights.

[8:49:02 AM](#)

REPRESENTATIVE LEDOUX related her understanding that sulfide mining is not allowed unless the legislature finds this will cause no danger to the fishery.

REPRESENTATIVE EDGMON noted his agreement.

REPRESENTATIVE LEDOUX inquired whether Section 2 prohibits mining, and if it is possible to mine without withdrawing, diverting, or pumping water.

REPRESENTATIVE EDGMON specified that the intent is not to prohibit mining. However, whether this bill does prohibit mining by virtue of the penalties for damaging anadromous streams is a policy question that is central to the bill. He expressed interest in the [mining] industry's point of view.

REPRESENTATIVE LEDOUX asked if channeling, damming, or relocating is always defined as damaging.

REPRESENTATIVE EDGMON stated that Section 2, lines 9-12, uses existing ADF&G language from AS 16.10. He further explained that Section 2, lines 13-16, include terms his staff compiled to give additional meaning to lines 9-12. He allowed that some of these terms may be recognized to have unintended consequences.

CHAIR SEATON, referring to Section 2, lines 10-11, asked if reinjection of water, similar to the oil and gas process, is a concern if it occurs within an area that is not surface overlaid by salmon water.

REPRESENTATIVE EDGMON agreed that this is correct as long as the reinjection is not in the proximity of an anadromous stream.

[8:53:06 AM](#)

CHAIR SEATON asked what defines the proximity to a stream, and whether Section 2(a) applies to any water that is pumped and/or reinjected within the watershed.

REPRESENTATIVE EDGMON replied that the intent is for the bill to have a very broad application, giving anadromous streams as much protection as possible.

REPRESENTATIVE HOLMES asked for an explanation of sulfide mining.

[8:54:27 AM](#)

REPRESENTATIVE EDGMON responded that no definition for sulfide mining exists in state statutes, so it is necessary to construct a definition.

ADAM BERG, Staff to Representative Bryce Edgmon, Alaska State Legislature, said that the sponsor relied on scientists for a definition. Legislative Legal and Research Services asked the sponsor to list the minerals. He mentioned that the author of the mineral list was David Chambers.

[8:55:52 AM](#)

DAVID CHAMBERS, PhD, President, Center for Science in Public Participation, said that Mr. Berg requested technical advice on sulfide mining. He said he advised the sponsor on which minerals to include on a list of sulfide minerals. He explained that gold is not a sulfide mineral, although gold does commonly occur with sulfide minerals. There are many gold mines which have sulfide mining problems, including acid mine drainage. He mentioned the Pogo and Kensington Mines as examples. He explained that placer mining is gold mining in a non-sulfide environment.

REPRESENTATIVE HOLMES asked if gold should be included on this mineral list.

[8:58:39 AM](#)

DR. CHAMBERS responded that mining gold in sulfide rock material could pose a threat to the fisheries. He said he did not know if gold would be covered under this legislation, even though the intent appears that it should. He offered his belief that this may be a problem if gold is the only recovered mineral from a mine. He warned that his worldwide mining studies show there is more water damage from gold mining in sulfide [minerals] than from any other single source.

[8:59:50 AM](#)

REPRESENTATIVE LEDOUX asked Mr. Chambers if gold can be mined with a sulfide operation.

DR. CHAMBERS responded that it is most typical for gold mines to be sulfide mines.

REPRESENTATIVE LEDOUX posed a scenario in which gold is left off [this mineral list], and asked if someone could mine for gold and just call the rest "by catch".

REPRESENTATIVE EDGMON said that although gold was omitted from the mineral list because he did not want the bill to affect the placer miners, it may have to be included in the bill.

REPRESENTATIVE LEDOUX asked whether placer miners use sulfide.

[9:02:09 AM](#)

DR. CHAMBERS explained that gold is often deposited with sulfide minerals during a volcanic genesis. When gold deposits are exposed by weather and moved by gravity, often downstream, most of the sulfide minerals are weathered away, leaving only the placer gold.

[9:03:43 AM](#)

CHAIR SEATON asked if cyanide releases any sulfides during gold processing, and, if so, would this be exempt under HB 134.

DR. CHAMBERS replied that it is not common to use cyanide in placer operations, as gravity is used for the separation process.

REPRESENTATIVE EDGMON noted that cyanide is not mentioned in the bill.

[9:05:00 AM](#)

REPRESENTATIVE JOHANSEN asked who Dr. Chambers works for and where there is more information about his organization.

DR. CHAMBERS explained that the Center for Science in Public Participation is a non-profit company providing technical advice on mining, primarily to public interest groups and tribal governments.

[9:06:51 AM](#)

CHAIR SEATON referred to the Legislative Legal and Research Services memorandum, dated February 12, 2008, which read in part:

When the legislature wishes to act in an advisory capacity, it may do so by resolution; but, when it intends its action to have a binding effect on people outside the legislature, it may do so only by following the enactment procedures for bills.

CHAIR SEATON, referring to Section 3, asked if the use of a resolution is appropriate.

REPRESENTATIVE EDGMON referred the question to Brian Kane, the author of the memorandum.

CHAIR SEATON asked Mr. Kane to clarify whether a positive enactment of a resolution is binding or advisory.

[9:10:25 AM](#)

BRIAN KANE, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency, opined that in State v. A.L.I.V.E. Voluntary (Alaska 1980), the court clearly states that any action to bind a person outside the legislature needs to be passed as a bill, not a resolution. He did not know if AS 38.05.140(f) referenced in Version O, Section 3, has been challenged in court. He offered his belief that a binding action would require a bill, not a resolution.

CHAIR SEATON asked Mr. Kane whether a resolution passed by the legislature is binding.

MR. KANE expressed his belief that the court would not rule the resolution is binding. Based on A.L.I.V.E. Voluntary, the court has said a resolution is advisory, and a bill is binding when regulating someone outside the legislature.

REPRESENTATIVE LEDOUX asked if this would become binding by changing the wording from "resolution" to "bill", and would this change create any unintended consequences.

MR. KANE responded that it was his belief that the change in wording would appear to meet the requirements from A.L.I.V.E. Voluntary without any foreseeable unintended consequences. He said the goal of the bill is to work with what is already in statute, AS 38.05.140(f).

9:13:14 AM

CHAIR SEATON asked Representative Edgmon for a synopsis of the Legislative Legal and Research Services memorandum dated February 12, 2008 in response to the "takings" issue.

9:14:21 AM

REPRESENTATIVE EDGMON responded that "resolution" is used in Section 3 instead of "legislation" because of concern for a "takings" claim.

MR. BERG explained that the February 12, 2008 legal opinion states that there may be a "takings" claim regardless of Section 3.

REPRESENTATIVE EDGMON offered his belief that while the opinion from Legislative Legal and Research Services is valid, it is legally conservative. He offered a "far more extensive opinion" on "takings" which was different from that of Legislative Legal and Research Services. This legal opinion dated January 9, 2007, "Elevating Habitat Conservation Standards in the Bristol Bay Drainages," written by William P. Horn of Birch, Horton, Bittner, and Cherot, was commissioned by Trout Unlimited.

CHAIR SEATON mentioned that although many legal opinions have been submitted, he wants to be able to address the February 12, 2008, opinion. He reminded the public that for those who have already submitted comments, it is not necessary to do so again. He asked that the public testimony only address Version 0.

9:20:18 AM

CHAIR SEATON established that he wanted to get some agency opinions and clarifications on the record before he begins with public opinion.

ED FOGELS, Director, Office of Project Management & Permitting, Department of Natural Resources (DNR), said that DNR does not have a position on Version 0, but would like to mention the effect on its land management.

MR. FOGELS explained that the differences from the original bill to Version 0 are: the restrictions on water usage within Bristol Bay Fisheries Reserve are limited to only include sulfide mining and leasable minerals; and the activities within

the reserve are restricted only if they affect anadromous fish waters. He noted that AS 41.14.870 defines anadromous fish waters, which do not include tributary waters of the anadromous waters or up surface waters. He commented that Version 0 makes unclear to DNR which waters are affected. He noted that Version 0 prohibits any water usage by sulfide mines, and given that all mines must use some amount of water, Version 0 effectively prohibits all sulfide mining.

MR. FOGELS relayed DNR's belief that the term "sulfide mining" is vague. He expressed his understanding that because the list of specified metals which define "sulfide mining" in Version 0 does not include gold, then a gold mining operation would not be subject to this bill, even if sulfide minerals were present in the ore.

MR. FOGELS noted that there are already provisions for civil and criminal penalties for environmental release or reporting violations, under AS 46.03.760, AS 46.03.790, and AS 12.55.035. He mentioned that AS 46.03.780 provides that for violations which cause the death of fish, animals, or vegetation, and/or damages to the environment, the violator is liable to the state for damages. He observed that Version 0 affects state and Native corporation land and water.

MR. FOGELS requested more clarity as to which agency, Department of Natural Resources (DNR), Department of Environmental Conservation (DEC), or the Alaska Department of Fish & Game (ADF&G), assesses these fines. He requested an explanation of the process for someone to defend against alleged fines, and whether these fines will be set through an administrative, civil, or criminal action.

MR. FOGELS commented that the reference in Section 3 to AS 38.05.135 appears to be in error, unless the bill intends to prohibit the development of leasable minerals. He asked how Section 3, which is intended to apply to all mineral rights, will work with Section 2, which effectively prohibits most mining.

[9:25:08 AM](#)

REPRESENTATIVE EDGMON asked what is the maximum penalty assessed under Title 46.

MR. FOGELS offered his belief that fines may range from \$500 to \$100,000 per violation and that AS 46.03.780 may require the

violator to restock and restore the environment to its prior condition.

REPRESENTATIVE EDGMON explained that the intent of the bill is to increase the penalties for sulfide mining to be comparable to those for oil discharge, as the current mining penalties are insufficient to protect the anadromous streams into Bristol Bay.

CHAIR SEATON asked for his interpretation as to whether page 2, lines 11-12, includes the entire watershed.

MR. FOGELS expressed his belief that this would include the entire watershed.

CHAIR SEATON said the committee would ask Legislative Legal and Research Services for clarification regarding the difference between Section 2(a) and 2(b).

[9:29:36 AM](#)

SCOTT THORSEN (ph) said that the bill is irresponsible and duplicative because federal and state water quality regulations coupled with modern mining techniques are already responsibly managing the waters. He mentioned that the bill is a semi-transparent attempt to stop the Pebble Mine.

MARTHA CROW said that she supports HB 134 because it is important to keep Alaska's water clean. She said she misses drinking water directly from the river.

[9:33:03 AM](#)

MATTHEW NICOLAI, President, Calista Corporation, said that he has pledged to protect the company assets, which include the subsurface rights. He mentioned that HB 134 does not allow exploration of the land, which will result in a loss of shared revenue for all the regional and village Native corporations. He offered his belief that HB 134 will result in a "takings" lawsuit against the state. He mentioned that he has participated in the development of 18 federal environmental laws to protect Native lands.

[9:38:05 AM](#)

REPRESENTATIVE EDGMON said that a survey of Bristol Bay Native Corporation shareholders revealed 69 percent are in opposition to some fashion of the mine.

REPRESENTATIVE EDGMON pointed out that this legislation impacts the Bristol Bay Fisheries Preserve and that the proposed Pebble Mine site is on state land, not Native corporation land.

REPRESENTATIVE LEDOUX asked if Calista Corporation is economically involved, or philosophically involved with respect to Native corporation land.

MR. NICOLAI responded that if any legislation affects Alaska Native Claims Settlement Act (ANCSA) defined incomes, then all Native corporations must take a position. He explained that an Alaska Federation of Natives (AFN) committee opposed the original bill and the committee will most likely reconvene to address Version O. He allowed that denial of resource exploration on Native land will result in an economic loss and the Native corporations need to protect their assets.

[9:42:00 AM](#)

TREFON ANGASAN said he was opposed to HB 134 because of the "takings" issue.

RALPH ANGASAN SR., President, Alaska Peninsula Corporation (APC), declared that the APC opposes all versions of HB 134. He explained that the APC landholdings included land near the Pebble deposit. He offered his belief that HB 134 constitutes a "taking" by not allowing the APC a determination of use for its own property. If sulfide mining is prohibited in the Bristol Bay region, the APC surface exploration agreements will be negated, exploration activities will cease, shareholder jobs and APC revenue will be lost, and the APC will hold the state accountable for any financial loss. He explained his belief that the newly-formed APC subsidiary for environmental consulting will lose millions of dollars in contracts and contract opportunities. He said he believes the bill will affect the APC shareholders expectations that mining will bring improved transportation, communications, and utilities to the region, and he believes this will result in the movement of young people to urban areas. He offered his further belief that HB 134 is based on "unfounded and baseless untruths with absolutely no scientific evidence to support the meager findings." He opined that this bill gives the appearance that tourism and sport fishing are more important than other sustainable economies for providing good jobs and opportunities to local residents and businesses. He offered his belief that HB 134 is a product of special interests.

[9:49:18 AM](#)

DAN DUNAWAY said that he was raised in Alaska, graduated from the University of Alaska Fairbanks (UAF) with a degree in fisheries biology, worked during the university summer breaks in Bristol Bay, and upon graduation was hired by the ADF&G. He reflected that he worked in Bristol Bay as an ADF&G sport fisheries biologist from 1989 until his retirement in 2002 and he currently serves on the Bristol Bay Rural Advisory Council for the federal subsistence program.

MR. DUNAWAY encouraged "gold associated with sulfide minerals" to be included on the minerals list in Version O. He explained that although he is not entirely opposed to mines, but he is concerned with the damage from sulfide mines. He expressed his desire to be assured that the design and operation for any permitted mines is truly sufficient to protect the Bristol Bay waters and fisheries.

MR. DUNAWAY explained that his studies of mining have shown that sulfide mines have tremendous potential to damage the fisheries. The ores and tailings of sulfide metal mines, when exposed to air and water, generate sulfuric acid that dissolves toxic heavy metals which are then carried into surface and ground waters. These toxic metals and compounds kill fish, animals, and plants. They can also threaten human health. He cited the Flambeau mine in Wisconsin, which the mining industry touts as a successfully operated and closed mine. Although the mine closure work was certified as complete, he directed attention to two letters which contend numerous problems still exist. These letters point out that toxic ground water is getting into the Flambeau River, and post-mine water quality is "far worse than acceptable standards." He stated that he believes the mining technology is not yet adequate to protect [the fisheries], and that he supports HB 134.

CHAIR SEATON opined that Version O prohibits any mining at all, and asked if there are water quality standards that are acceptable.

REPRESENTATIVE EDGMON clarified that Version O is not prohibiting all mining, but is addressing anadromous streams and the penalties for damage to anadromous streams.

CHAIR SEATON asked Mr. Dunaway to offer his interpretation of HB 134 as a bill that either addresses water quality standards or prohibits water usage in an area associated with a sulfide mine.

MR. DUNAWAY offered that his interpretation of HB 134 is not to prohibit a mine, but instead to allow a mine with very high standards for the protection of fish and water.

[9:57:04 AM](#)

KAREN CURRY, Far Bank Enterprises, related that she grew up in Fairbanks as a "die hard salmon angler" and she understands the impact of hard rock mining to the surrounding communities due to the proximity of the Fort Knox Mine to Fairbanks. She offered her belief that the fundamental difference between the Fort Knox Mine and the proposed Bristol Bay mining district is that Bristol Bay is home to the largest salmon run in the world. She opined that HB 134 will protect the fisheries in Bristol Bay from sulfide mining operations. She commented that the riches of the Bristol Bay area are its renewable resources. She offered that her company has Alaska sales of fishing gear and apparel worth almost \$4 million, most of which is being used in the Bristol Bay region. The health of the Bristol Bay fishery is important to many Alaskan Natives and Non-Natives. She explained that her company received huge support for its "One Day for Bristol Bay" fundraiser. She relayed that anglers in the Lower 48 are knowledgeable about sulfide mining and the devastation caused by slurry spills, cyanide leaching, dam failures, and toxic dust to watersheds in Colorado, Montana, Idaho, South Dakota, and New Mexico. She pointed out that when spawning fish die, the fishing industry dies.

[10:01:57 AM](#)

ROBERTA HIGHLAND offered her strong support for HB 134, noting that she wants to see gold included on the mineral list. She said she does not believe there is the proper technology for mining in this area. She expressed the need to review the mining history. She then expressed that "clean water is more precious than any mining development" and HB 134 will protect the Bristol Bay watershed. She opined that this is a chance to rectify the oversight of not already giving this area long term protection. She further opined that Alaska needs to set high standards. She mentioned that there has never been a legal decision upholding a "taking" suit. She noted that the Alaska Conservation Alliance is advocating environment, energy, ethics, and economy as the keys to future decision-making for Alaska.

10:04:37 AM

FRANK WOODS, Bristol Bay Native Association (BBNA), said that the BBNA board declared [support for] any legislation protecting salmon habitat. He mentioned that this bill protects the resources of Bristol Bay for the commercial, subsistence, and sport fisheries because salmon is why people live in Bristol Bay.

10:07:49 AM

TERRY HOEFFERLE, Nunamta Aulukestai, said that he believes Version O has removed many concerns of the local communities. He expressed his agreement with Version O's focus on sulfide mining and the earlier comments of Mr. Dunaway. He opined that there is not a place in the world where sulfide mining exists that has not polluted the surrounding environment. In fact, many states with large scale mining have passed citizen initiatives which no longer allow sulfide mining. He testified that the further a mining company progresses in the exploration and permitting process, the more likely that the issue of "taking" will be raised. He suggested that the legislature change the "taking" rules to state that there is no valid "taking" until there has been permit approval. He expressed concern that allowing the process to take its course will ultimately mean expensive "taking" litigation.

10:13:10 AM

THOMAS TILDEN, Chief, Curyung Tribal Council, Choggiung Limited, related that both Curyung Tribal Council and Choggiung Limited have submitted resolutions against the Pebble Mine Project to the House Special Committee on Fisheries. Speaking on his own behalf, he said he believes that jail time should be included in Section 2(c) with the monetary fines and penalties. He cited examples of more punitive penalties in Canada. He relayed his support for Section 1, which legislates a heightened level of protection for Bristol Bay because the people of Bristol Bay depend on the salmon. He said he believes the Alaska Federation of Natives (AFN) represents a strong commitment to protect the culture and the subsistence lifestyle of Alaskan Natives. This commitment to protect, he opined, is more important than revenue [from ANCSA, 43 U.S.C. § 1606 (ANCSA § 7) (i)(1)(A)].

10:20:31 AM

JEREMIAH MILLEN, Field Representative, Alaska Wilderness League (AWL), said that AWL supports protection of the Bristol Bay fisheries in order to maintain subsistence, tourism, and commercial fishing which are vital to the region. He stated his belief that Alaska has an obligation to protect the qualities that shape its environment, history, and culture, and to maintain careful stewardship of its resources. He identified the unifying element within Bristol Bay as salmon because the salmon fishery drives the economy, culture, and ecology of the region.

[10:24:23 AM](#)

GEORGE MATZ, Cook Inlet Alliance, Kachemak Bay Conservation Society, opined that HB 134 will not prohibit a sulfide mine if the mine does not impact surface or ground waters. He relayed that the Cook Inlet Alliance supports HB 134 because the bill sets a clear, unequivocal standard that leaves little room for creative interpretation.

[10:28:49 AM](#)

KONRAD SCHAAD informed the committee that he and his sons have been fishing in Bristol Bay for more than 20 years. He said he believes "that Version 0 puts some teeth" into ensuring the future of Bristol Bay. He expressed his belief that fines for infractions are not enough [to deter infractions].

[10:30:50 AM](#)

MARK MUNRO related that he and his wife have fished in Bristol Bay for 20 years. He explained that he supports Version 0 because he believes the risk [from mining] is too great and that the [mineral] resource is not disappearing. Mining, he opined, should wait until the technology improves, so that mining is not putting the sport fish, commercial fish, and subsistence cultures at risk. He noted his agreement with the addition of a jail penalty and personal liability to HB 134.

[10:32:31 AM](#)

JOE FAITH related his support for Version 0. He allowed that he would like to see "gold associated with sulfide mining" included on the mineral list. He informed the committee that as well as fishing, he runs a gold suction dredge. He related his understanding that placer mining will not violate the bill, although operating a gold suction dredge in salmon spawning

water is a violation of the intent of the bill. He suggested including a definition for sulfide in the bill because sulfides seem to create the [environmental] problems. He advocated for the inclusion of a jail penalty with the other penalties described in the bill.

[10:36:15 AM](#)

BRIAN KRAFT, Trout Unlimited, related that he owns two fishing lodges in the Bristol Bay area and he has been studying the Pebble Project for more than four years. He said that he supports Version O because he believes the bill extends the intent for a Bristol Bay Fisheries Reserve. He noted that Trout Unlimited has submitted to the committee the following documents: "Predicting Water Quality Problems at Hard Rock Mines", "DNR's Vague Statutory Standards" dated 11/15/07, and the earlier referenced legal memorandum from William P. Horn, dated January 9, 2007.

[10:39:45 AM](#)

REPRESENTATIVE EDGMON clarified that the Bristol Bay Native Corporation (BBNC) position on HB 134 is neutral. He said he did not want to suggest by his earlier remark that BBNC had any other position.

CHAIR SEATON announced that public testimony would remain open for Wednesday's meeting [2/20/08].

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 10:41 a.m.