

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

February 28, 2012

3:34 p.m.

MEMBERS PRESENT

Senator Donald Olson, Chair
Senator Linda Menard
Senator Johnny Ellis

MEMBERS ABSENT

Senator Thomas Wagoner
Senator Albert Kookesh

OTHER LEGISLATORS PRESENT

Representative Pete Petersen
Representative Bryce Edgmon

COMMITTEE CALENDAR

SENATE BILL NO. 152

"An Act requiring legislative approval before the issuance of an authorization, license, permit, or approval of a plan of operation for a large-scale metallic sulfide mining operation that could affect water in or flowing into or over the Bristol Bay Fisheries Reserve."

- HEARD & HELD

SENATE BILL NO. 147

"An Act relating to an Alaska Water and Sewer Task Force; and providing for an effective date."

- MOVED SB 147 OUT OF COMMITTEE

SENATE BILL NO. 148

"An Act exempting a gas pipeline with a design capacity of 500,000,000 or more cubic feet of gas a day from the state's oil and gas exploration, production, and pipeline transportation property taxes until the pipeline generates revenue for its owners; and relating to the determination of full and true value for the purpose of determining the amount of required local contribution for public school funding."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 152

SHORT TITLE: LEG. APPROVAL OF BRISTOL BAY SULFIDE MINE

SPONSOR(s): SENATOR(s) FRENCH

01/17/12 (S) PREFILE RELEASED 1/13/12
01/17/12 (S) READ THE FIRST TIME - REFERRALS
01/17/12 (S) CRA, RES
02/28/12 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)

BILL: SB 147

SHORT TITLE: WATER AND SEWER TASK FORCE

SPONSOR(s): SENATOR(s) KOOKESH

01/17/12 (S) PREFILE RELEASED 1/6/12
01/17/12 (S) READ THE FIRST TIME - REFERRALS
01/17/12 (S) CRA, FIN
02/21/12 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)
02/21/12 (S) Heard & Held
02/21/12 (S) MINUTE(CRA)
02/28/12 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

SENATOR HOLLIS FRENCH
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 152.

DORTHY SHOCKLEY, Staff
Senator Albert Kookesh
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information on SB 147 on behalf of the sponsor.

MARY SCHLOSSER, Staff
Senator Albert Kookesh
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information on SB 147 on behalf of the sponsor.

RICK HALFORD, Consultant

Trout Unlimited-Alaska
Chugiak, Alaska
POSITION STATEMENT: Supported SB 152.

DANIEL CHEYETTE, Associate General Counsel
Bristol Bay Native Corporation
Anchorage, Alaska
POSITION STATEMENT: Supported SB 152.

LISA REIMERS, CEO
Iliamna Development Corporation
Anchorage, Alaska
POSITION STATEMENT: Opposed SB 152.

TREFON ANGASAN, Chair
Alaska Peninsula Corporation
Anchorage, Alaska
POSITION STATEMENT: Opposed SB 152.

RICHARD KING, Administrator
Ekwok Village Council
Ekwok, Alaska
POSITION STATEMENT: Supported SB 152.

RACHAEL PETRO, President and CEO
Alaska State Chamber of Commerce
Anchorage, Alaska
POSITION STATEMENT: Opposed SB 152.

DENNIS ANDREW SR., President
New Stuyahok Village Council
New Stuyahok, Alaska
POSITION STATEMENT: Supported SB 152.

THOMAS TILDEN, Tribal Chief
Curyung Tribal Council
Dillingham, Alaska
POSITION STATEMENT: Supported SB 152.

GARY CLINE, Village Representative
Nunamta Aulukestai
Dillingham, Alaska
POSITION STATEMENT: Supported SB 152.

HERMAN NELSON SR., President
New Koliganek Village Council
Koliganek, Alaska

POSITION STATEMENT: Supported SB 152.

KIMBERLY WILLIAMS, Executive Director
Nunamta Aulukestai
Dillingham, Alaska

POSITION STATEMENT: Supported SB 152.

ABE WILLIAMS, President
Nuna Resources
Naknek, Alaska

POSITION STATEMENT: Opposed SB 152.

ACTION NARRATIVE

[3:34:51 PM](#)

CHAIR DONALD OLSON called the Senate Community and Regional Affairs Standing Committee meeting to order at 3:34 p.m. Present at the call to order were Senators Menard and Chair Olson. Senator Ellis arrived soon thereafter.

SB 152-LEG. APPROVAL OF BRISTOL BAY SULFIDE MINE

[3:35:18 PM](#)

CHAIR OLSON announced the consideration of SB 152.

[3:35:47 PM](#)

SENATOR HOLLIS FRENCH, Alaska State Legislature, sponsor of SB 152, said the bill was designed to help further engage the legislature in development issues in the Bristol Bay Fisheries Reserve (BBFR). He said BBFR was created in 1972 to add a heightened level of fisheries protection. He said a bill was enacted which required the legislature to pass a BBFR impact resolution prior to oil and gas development. He said the bill was sponsored by Senator Jay Hammond and noted that an early provision included a proposal similar to SB 152. He said in a sense, SB 152 would finish the work that was initiated in 1972.

CHAIR OLSON recognized Representative Pete Peterson and Representative Bryce Edgmon were present.

[3:37:19 PM](#)

SENATOR FRENCH said AS 38.05.140(f), provides that BBFR surface entry permits and exploration licenses to develop oil and gas leases may not be issued on state owned or controlled land until the legislature, by appropriate resolution, specifically finds that entry would not constitute danger to the fishery. He said

SB 152 would treat large scale, metallic sulfide mining in the exact same way as oil and gas. He said SB 152 would not prohibit mining, it simply adds heightened protection.

[3:37:34 PM](#)

SENATOR ELLIS joined the meeting.

[3:37:43 PM](#)

CHAIR OLSON called an at ease at 3:37 p.m. and set SB 152 until later in the meeting.

SB 147-WATER AND SEWER TASK FORCE

[3:38:07 PM](#)

CHAIR OLSON announced the consideration of SB 147.

[3:39:03 PM](#)

DORTHY SHOCKLEY, Staff for Senator Albert Kookesh, Alaska State Legislature, introduced herself.

MARY SCHLOSSER, Staff for Senator Albert Kookesh, Alaska State Legislature, introduced herself.

MS. SCHOCKLEY said the bill would create a nine member Alaska Water and Sewer Task Force (WSTF) to address the estimated 6000 homes in Alaska without safe water and sanitation systems. She said WSTF would be responsible for collecting data and presenting a report to the legislature in January 2013.

CHAIR OLSON asked if additional information had come forward since the bill was last heard before the committee.

MS. SCHOCKLEY answered no.

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SENATOR ELLIS moved to report SB 147 out of committee with individual recommendations and accompanied fiscal note(s).

[3:39:50 PM](#)

CHAIR OLSON said without objection, SB 147 passed out of the Community and Regional Affairs Committee.

[3:40:04 PM](#)

At ease 3:40:04 p.m. to 3:40:35 p.m.

SB 152-LEG. APPROVAL OF BRISTOL BAY SULFIDE MINE

CHAIR OLSON announced the continued consideration of SB 152. He asked Senator French to continue his presentation.

3:40:39 PM

SENATOR FRENCH said the fishery in Bristol Bay was one of the top producing wild salmon systems in the world and the most lucrative salmon fishery in Alaska. He said the salmon populations were highly vulnerable to even small changes to habitat water quality.

He said Alaska had never denied a permit to a large-scale mine. He noted that the facts presented warranted legislative oversight and legislative involvement in the process. He said that due to the geochemistry and location of Bristol Bay, sulfide deposits in the headwaters run a high risk of polluting the bay. He said the magnitude of the potential risks to the BBFR region and the potential statewide impact, legislatures representing communities from across the state should weigh in. He said the legislature may very well decide to approve the mine after a thorough hearing, but the process should be exacting.

SENATOR OLSON asked where else in Alaska were there metallic sulfide deposits that would challenge the magnitude of the Pebble Mine (PM).

SENATOR FRENCH answered that he did not know.

CHAIR OLSON commented on the potential "slippery slope" from SB 152 and asked about the potential legislative impact on other mines in Alaska.

SENATOR FRENCH answered that a precedent was in place for oil and gas operations in BBFR and that was exactly where the slippery slope stopped. He said a legislator could go to any constituent and say SB 152 put mining on the same footing as oil and gas in BBFR where so many lives and jobs depended on the annual salmon return.

CHAIR OLSON asked how politics would be kept out of responsible resource development.

3:43:46 PM

SENATOR FRENCH answered that politics were going to be infused in the BBFR issue throughout its life. He said the vital question was how the fish would be protected and how the public process would be protected.

CHAIR OLSON asked if an opportunity would be missed if BBFR mining would not be allowed to continue and the region's wild salmon fishing was phased out due to the impact from farmed fish.

SENATOR FRENCH answered that SB 152 would help cement the future of wild Alaska fish as being much brighter and stronger. He noted that fishermen in Sitka were against PM due to the potential impact on the state's fishing industry from BBFR tainted fish.

CHAIR OLSON responded that he agreed.

[3:45:58 PM](#)

RICK HALFORD, consultant, Trout Unlimited-Alaska, Chugiak, said he did not recall being opposed to mines in the past and PM was unique due to its location, type and size.

He said an existing law strictly regulated BBFR's oil and gas development. He said adding sulfide mines of more than one square mile to the law would not impact any other BBFR development projects.

He said three companies were involved with PM - Northern Dynasty Minerals, Rio Tinto and Anglo American. He noted that the PM project was initiated by Cominco Alaska Exploration and the company sold its interest below its investment costs. He said Northern Dynasty Minerals was continuously for sale and the market's assessment of PM's probability had affected its stock prices from a high of \$20 per share to the current low of \$7 per share. He noted that Tom Albanese, Rio Tinto's chairman, does not believe PM would ever permit as an open pit mine.

[3:48:48 PM](#)

He said many fisheries in North America were threatened. He said the real stronghold of a completely viable and totally diverse fishery was Bristol Bay. He said BBFR was like no other place left on earth and was truly a state resource of national importance.

He said BBFR was interesting due to its altitude and wet conditions. He said the BBFR spawning grounds was a thousand foot plateau in a rolling hill area with porous soil material where ground and surface water mixed. He said BBFR impact would be from the mine and its 100-mile access corridor that crossed all of the streams of the northeast end of Iliamna Lake, the greatest red salmon lake on earth.

[3:51:30 PM](#)

MR. HALFORD said an all-weather road would have to be created in a mountainous region to haul millions of gallons of fuel. He noted that a fuel pipeline would have to be installed due to the size of the project. He said a 1400 to 1600 gallon spill occurred during the initial fuel haul.

He said PM's 10.8 billion ton deposit was very low grade with high sulfur content and a copper equivalent value of 0.0033 percent. He noted that the Greens Creek Mine (GCM) was a sulfide mine located 25 miles south of Juneau. He said PM would be 300 times the size of GCM. He said GCM was an underground mining operation that was very well controlled and operated. He said the largest open pit mine in North America, Utah's Bingham Canyon Mine (BCM), would be one-third the size of PM. He said BCM was located in a desert and has polluted 72 square miles of the aquifer located underneath.

[3:53:43 PM](#)

MR. HALFORD said BBFR had been impacted by the current drilling program's drilling-muds, fluids and tailings. He said current remediation efforts were lacking and legislative oversight would be a big step in the right direction. He said the bill would bring the legislature to the table in the biggest decision for Western Alaska.

[3:58:15 PM](#)

SENATOR MENARD asked how the legislature would conduct a BBFR review.

MR. HALFORD answered that the legislature should get the best available scientific data and listen to the local people.

SENATOR MENARD asked if the recent BBFR vote was close.

MR. HALFORD answered that the recent initiative was a close vote and occurred in a small portion of the BBFR region. He said 52 to 55 percent favored PM. He noted that Dillingham, the largest community in the area, was not included. He noted that polling in the larger communities indicated that 80 percent of the voters opposed PM.

SENATOR MENARD asked which boroughs voted.

[4:00:13 PM](#)

MR. HALFORD answered that the Lake and Peninsula Borough voted. He said boroughs that would be affected downstream did not vote. He said the Bristol Bay Native Corporation (BBNC) conducted a regional poll that indicated that 70 to 80 percent opposed PM.

CHAIR OLSON asked why Manokotak was considered in BBFR.

MR. HALFORD answered that Manokotak was considered to be in the BBFR drainage area.

SENATOR MENARD asked how it could be assured that politics would not come into play.

MR. HALFORD answered that a former politician said that a person not interested in politics was like a drowning man not interested in water. He said politics was the way we do things.

SENATOR MENARD responded that lobbyists also had an impact on politics.

CHAIR OLSON asked for clarification on the results from the initiative vote.

MR. HALFORD answered that the vote was a lot closer than the advocates of the ballot initiative had expected. He said the turnout was in the two communities where PM was basing their operations, Iliamna and Newhalen. He estimated that less than half of the BBFR drainage population voted in the initiative.

CHAIR OLSON asked why Southwestern Alaska's Donovan Creek Mine (DCM) was not receiving as much adversity.

[4:03:46 PM](#)

MR. HALFORD answered that DCM was owned by the local native corporation. He said the fishery impacted by DCM was much smaller than PM.

CHAIR OLSON commented that many families depend on the Kuskokwim River King Salmon run and would be negatively impacted by DCM. He asked why the same PM opposition effort was not being applied to DCM.

MR. HALFORD answered that DCM was more controversial than expected. He said he was surprised that Bethel voted against DCM. He noted that DCM would provide jobs and local ownership opportunities in Bethel. He said DCM had the same material problems as PM, but the size of the mine was much smaller.

CHAIR OLSON asked if gold mining would have occurred in Nome 100 years ago if SB 152 legislation existed.

MR. HALFORD answered that he believed he never ran for political office in opposition to mining. He said mining had economic importance in Alaska and noted there had been environmental issues. He said Bristol Bay was a unique case where legislation would be reasonable and he did not oppose other mines in Alaska. He said PM's size, high sulfur content and acid drainage would be deadly to BBFR's water.

[4:07:31 PM](#)

CHAIR OLSON asked if remediation technology existed to control PM.

MR. HALFORD answered no. He said remediation had never been successful in a wet climate. He said remediation would have to occur in perpetuity with acid issues being just as dangerous 1000 years from now.

CHAIR OLSON asked if muriatic acid would be produced.

MR. HALFORD answered that sulfuric acid would be produced.

CHAIR OLSON asked how we make sure legislation to stop mining would not impact responsible resource development. He noted that the oil industry was extracting a nonrenewable resource in the North Slope's extreme conditions.

[4:09:29 PM](#)

MR. HALFORD said onshore oil and gas drilling had far less environmental impact than mining. He said rising mineral values made mining low-grade ore feasible. He said low-grade ore mining generated high levels of waste. He noted that the state received ten times more money from the oil industry's gross taxation versus the mining industry's net taxation system.

[4:11:03 PM](#)

CHAIR OLSON asked if he would oppose development if oil was discovered in Bristol Bay.

MR. HALFORD answered that he supported onshore drilling and opposed offshore drilling.

SENATOR MENARD referenced a National Geographic article regarding Alaska's choice between gold and salmon. She asked if there was any way Alaska could have both gold and salmon.

MR. HALFORD answered that was the argument made in every one of those considerations was for one or the other. He said that for Bristol Bay it was a choice between salmon and gold due to the issue with perpetual remediation.

[4:14:41 PM](#)

SENATOR MENARD asked if Mr. Halford owned several thousand acres in BBFR.

MR. HALFORD answered that he did not own land in BBFR. He said he owned 150 acres north of Dillingham, approximately 120 miles from BBFR.

SENATOR MENARD asked if bringing on a scientifically educated consultant had ever been considered.

MR. HALFORD answered that he did not have a science education background. He said right decisions would be made if we were to listen to local people, original people of the area and science. He said PM would not occur if people understand what was at stake for BBFR. He said sulfide mines were very dangerous.

SENATOR MENARD commented that she was a strong supporter of mines and understood the conflict with commercial fishing in Bristol Bay.

[4:17:33 PM](#)

MR. HALFORD responded that he liked the people in the mining industry and did not begrudge them of their investments. He said danger from a sulfide mine was more than the rest of the system in the state could bear. He said BBFR supported a \$400 million to \$500 million fishing industry and the soul of the region's people would be lost if salmon were gone.

[4:18:43 PM](#)

SENATOR MENARD asked about the impact from SB 152.

MR. HALFORD answered that the legislation was a small step to have the legislators involved in the process.

CHAIR OLSON commented that SB 152 was not a small step and roadblocks could be inserted by the legislature that would be fairly significant. He noted that legislators were holding up

the Coastal Resource Management Program that was supported by 80 percent of Alaskans. He said he was cautious on trying to get the legislature more involved.

[4:19:46 PM](#)

DANIEL CHEYETTE, Associate General Counsel, Bristol Bay Native Corporation (BBNC), said BBNC supported responsible resource development via projects that met high standards of fiscal, social and environmental sustainability. He said projects must provide long-term economic returns without risking or damaging subsistence resources, native culture or the commercial salmon fishery. He said Bristol Bay commercial fishing provided more than 11,500 jobs and \$164 million in wages to the region. He said BBNC would not risk the crucial fishing resource for the purpose of developing other resources and opposed the proposed PM project.

[4:22:44 PM](#)

MR. CHEYETTE said BBNC shareholders responded to a survey with 81 percent opposing PM. He said BBNC had provided written testimony with recommendations for SB 152 to include findings that speak to the unique nature of Bristol Bay's fisheries.

CHAIR OLSON asked what the sentiment of the non-native population was for PM.

MR. CHEYETTE answered that BBNC did a statewide survey and found less than 32 percent had a positive opinion of PM. He noted that other industries, including oil and gas, had a favorability rating over 70 percent.

[4:25:45 PM](#)

LISA REIMERS, CEO, Iliamna Development Corporation, said PM would bring needed jobs and an economy to the area with a high cost of living. She noted that the majority of jobs provided by BBFR were out of state. She said Iliamna residents would like to make their own decisions regarding PM.

CHAIR OLSON noted the importance of jobs to survive as a western culture and asked what would happen if there was a problem and the mine had to shut down.

MS. REIMERS answered that Iliamna could not solely survive on commercial fishing and BBNC was not creating local job opportunities. She said Iliamna residents were adaptable and could move on if the PM was closed.

[4:29:45 PM](#)

TREFON ANGASAN, Chairman of the Board, Alaska Peninsula Corporation (APC), said APC was a merger of five village corporations with two located in the Iliamna Lake area. He said SB 152 would insert political decision-making and usurp the permitting authority of state agencies. He said the bill was poor public policy and would restrict mining in the region. He said the bill would violate APC's property interest under the Alaska Native Claims Settlement Act (ANCSA), the Alaska State Constitution and the U.S. Constitution.

[4:35:38 PM](#)

MR. ANGASAN said SB 152 was a giveaway to the sports lodges that threatened APC's ability to develop its lands and resources. He said BBNC's support for SB 152 was misplaced and violated its responsibilities under ANCSA. He said SB 152 would expose the state to enormous liabilities for inverse condemnation.

[4:37:13 PM](#)

He said SB 152 would substantially reduce the value of investments made by APC and mining exploration companies. He said mining companies were taking enormous risks and would be held hostage by the political whims of the legislature. He said APC had confidence in the process and it should not be threatened by ex post facto actions for a politically motivated legislative body.

[4:40:37 PM](#)

RICHARD KING, Administrator, Ekwok Village Council, Ekwok, said the Senate has a trust responsibility to the people of Bristol Bay. He said the people of Bristol Bay have spoken with over 80 percent in opposition to large-scale mining. He said he lived in northern Minnesota and saw mining's negative impact on fishing.

[4:43:50 PM](#)

RACHAEL PETRO, President and CEO, Alaska State Chamber of Commerce (ASCC), said ASCC supports an efficient and predictable permitting process. She said ASCC encourages the legislature to uphold current regulatory and permitting laws to facilitate natural resource exploration. She said SB 152 would insert political decision making into established regulatory structures by usurping the permitting authority of state agencies and restrict mining throughout Bristol Bay regardless of land status. She said the bill was poor public policy and would establish a dangerous precedent for all future resource development in Alaska.

[4:46:40 PM](#)

DENNIS ANDREW SR., President, New Stuyahok Village Council, said the village would be the first community affected downstream by the proposed PM. He said New Stuyahok relied on subsistence fishing and considered Bristol Bay their "dinner table" for thousands of years. He said PB would be too high of a risk for a large mine in the Bristol Bay headwaters.

[4:48:30 PM](#)

THOMAS TILDEN, Tribal Chief, Curyung Tribal Council, said an extraordinary mine requires extraordinary legislation for the future of the state. He said when PB was proposed he was for the mine and the economic opportunity it brought to BBFR. He said his mind changed in opposition to PM after reviewing data on what might happen. He said he attended meetings where the mining companies would not guarantee a percentage of local employment. He said PM would be located in BBFR's unique upland-wetlands where possible contamination would have wide spread impact.

[4:51:37 PM](#)

GARY CLINE, Village Representative, Nunamta Aulukestai, said the respective tribal governments support legislation for added protection within BBFR. He said the future was on a collision course between the subsistence foods and the many mining claims that have potential to impact the BBFR watershed. He said trading a prolific salmon habitat for a large mine was not acceptable. He said current oversight from government agencies was not diligent in their inspections regarding water use permits during drilling exploration. He said water was taken from streams where salmon were residing and spawning.

[4:54:36 PM](#)

HERMAN NELSON SR., President, New Koliganek Village Council, said the village was located 50 miles west of the proposed PM. He said legislative approval that affects BBFR water and land was necessary.

[4:57:02 PM](#)

KIMBERLY WILLIAMS, Executive Director, Nunamta Aulukestai, said she supported the passage of SB 152 for future generations. She said the Department of Natural Resources had to improve their oversight and noted that PM's data shows fish populations were declining in streams impacted by exploratory drilling.

[4:58:52 PM](#)

ABE WILLIAMS, President, Nuna Resources, said SB 152 sets a bad precedent by turning the current regulatory structure into a political folly. He said Nuna Resources was established to advocate for a sustainable economy in BBFR including the support for responsible resource development and advocating for due process. He said due process was the key for regional resource diversification to address a dwindling population.

[5:01:22 PM](#)

CHAIR OLSON said SB 152 would be held in committee.

[5:01:36 PM](#)

There being no further business to come before the committee, Chair Olson adjourned the Senate Community and Regional Affairs Standing Committee meeting at 5:01 p.m.