

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 1, 2012

3:35 p.m.

MEMBERS PRESENT

Senator Donald Olson, Chair
Senator Albert Kookesh
Senator Linda Menard
Senator Johnny Ellis

MEMBERS ABSENT

Senator Thomas Wagoner

COMMITTEE CALENDAR

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."

- MOVED CSSB 148(CRA) OUT OF COMMITTEE

SENATE BILL NO. 204

"An Act relating to loans for the purchase of fishing quota shares by certain community quota entities; and providing for an effective date."

- HEARD & HELD

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

OVERVIEW: TOXINS RELEASE INVENTORY

- REMOVED FROM AGENDA

PREVIOUS COMMITTEE ACTION

BILL: SB 148

SHORT TITLE: GAS PIPELINE PROPERTY TAX EXEMPTION

SPONSOR(s): SENATOR(s) WIELECHOWSKI, EGAN, ELLIS, FRENCH, DAVIS, KOOKESH

01/17/12	(S)	PREFILE RELEASED 1/13/12
01/17/12	(S)	READ THE FIRST TIME - REFERRALS
01/17/12	(S)	CRA, RES, FIN
02/09/12	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)
02/09/12	(S)	Heard & Held
02/09/12	(S)	MINUTE(CRA)
02/28/12	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)
02/28/12	(S)	Scheduled But Not Heard
03/01/12	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)

BILL: SB 204

SHORT TITLE: LOANS TO COMMUNITY QUOTA ENTITIES/PERMITS

SPONSOR(s): COMMUNITY & REGIONAL AFFAIRS

02/21/12	(S)	READ THE FIRST TIME - REFERRALS
02/21/12	(S)	CRA, FIN
03/01/12	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)

BILL: SB 152

SHORT TITLE: LEG. APPROVAL OF BRISTOL BAY SULFIDE MINE

SPONSOR(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)
02/28/12	(S)	Heard & Held
02/28/12	(S)	MINUTE(CRA)
03/01/12	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

DAVID SCOTT, Staff
Senator Donald Olson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Explained the committee substitute for SB 148 and introduced SB 204.

MICHELLE SYDEMAN, Staff
Senator Bill Wielechowski
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified that the sponsor supported the committee substitute for SB 148.

DUNCAN FIELDS, Council Member
North Pacific Fishery Management Council
Kodiak, Alaska

POSITION STATEMENT: Testified in support of SB 204.

WANETTA AYERS, Director
Division of Economic Development
Department of Commerce, Community and Economic Development
Anchorage, Alaska

POSITION STATEMENT: Testified that DCCED did not have a position on SB 204, but was prepared to implement the loans should the bill pass.

MICHAEL O'CONNOR, President
Ouzinkie Native Corporation
Ouzinkie, Alaska

POSITION STATEMENT: Testified in support of SB 204.

KRISTEN PETERSON, Staff
Senator Hollis French
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced SB 152 on behalf of the sponsor.

RICK ROGERS, Executive Director
Resource Development Council for Alaska, Inc.
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 152.

ANDERS GUSTAFSON, Executive Director
Renewable Resources Coalition
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 152.

JIMMY HURLEY, representing himself
Ekwok, Alaska

POSITION STATEMENT: Testified in opposition to SB 152.

SUE ANELON, Member

Iliamna Village Council
Iliamna Natives LTD.
Iliamna, Alaska

POSITION STATEMENT: Testified in opposition to SB 152.

VERNER WILSON III, Member
Curyung Tribal Council and
Shareholder, Bristol Bay Native Corporation (BBNC)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 152.

FRED ANGASAN, Chair
Land Committee
Alaska Peninsula Corporation
South Naknek, Alaska,

POSITION STATEMENT: Testified in opposition to SB 152.

MIKE SATRE, Executive Director
Council of Alaska Producers
Juneau, Alaska,

POSITION STATEMENT: Testified in opposition to SB 152.

ED FOGLES, Deputy Commissioner
Department of Natural Resources
Anchorage, Alaska

POSITION STATEMENT: Testified on SB 152 and provided information on the permit process for large-scale hard rock mining projects

ACTION NARRATIVE

[3:35:59 PM](#)

CHAIR DONALD OLSON called the Senate Community and Regional Affairs Standing Committee meeting to order at 3:35 p.m. Present at the call to order were Senators Wagoner, Kookesh, Menard, Ellis and Chair Olson.

SB 148-GAS PIPELINE PROPERTY TAX EXEMPTION

[3:36:18 PM](#)

CHAIR OLSON announced the consideration of SB 148 and asked Mr. Scott to explain the committee substitute (CS).

DAVID SCOTT, Staff, Senator Donald Olson, Alaska State Legislature and Aide, CRA Committee, said version I committee substitute (CS) makes three changes. First, the legislation sunsets in 10 years. The idea was that this would spur a company to act to take advantage of the tax exemption. Second, language

on page 4, lines 27-28, clarifies that the pipeline must transport the gas to market for sale. Third, language on page 5, lines 7-8, clarifies that the state will assess the 0.5 bcf/day pipeline when it assesses the pipeline transportation systems.

CHAIR OLSON asked if the sponsor approved of the 10-year sunset.

MR. SCOTT answered that the sponsor did not object.

CHAIR OLSON asked if he or the sponsor had heard from any boroughs or landowners that would be affected by the property tax exemption.

MR. SCOTT said no.

CHAIR OLSON asked the reason for the third change.

MR. SCOTT answered that the state assessor brought that suggestion forward. Current statute requires the state assessor to find the full and true value of oil and gas pipeline systems and the assessor wanted to clarify that the 0.5 bcf/day pipeline also needed to be assessed.

[3:40:42 PM](#)

MICHELLE SYDEMAN, Staff, Senator Bill Wielechowski, Alaska State Legislature, said the sponsor was comfortable with the changes made in the CS for SB 148. The third change was an amendment the sponsor brought to the committee to alleviate the problem that had come up with TAPS, which was that local governments have different ideas about the value of an asset. The state assessor would provide a uniform valuation for the asset. The sponsor also requested the requirement to transport the gas to market so the state doesn't give a tax deferral to move gas from one production facility to another. The intention was that the gas would serve Alaskans. With regard to the sunset, she said the sponsor appreciated that the committee wanted to create a sense of urgency to act but she imagined that the Resources Committee would take up that issue, because some people may think it should be longer.

CHAIR OLSON found no further questions or discussion and asked for a motion to adopt the CS.

[3:42:20 PM](#)

SENATOR KOOKESH moved to adopt the CS for SB 148, labeled 27-LS0990\I.

CHAIR OLSON found no objection and announced that version I was adopted. He asked the will of the committee.

[3:42:42 PM](#)

SENATOR KOOKESH moved to report [CS for] SB 148 from committee with individual recommendations and attached fiscal note(s).

[3:42:53 PM](#)

CHAIR OLSON announced that without objection CSSB 148(CRA) moved from the Senate Community and Regional Affairs Standing Committee.

SB 204-LOANS TO COMMUNITY QUOTA ENTITIES/PERMITS

[3:43:12 PM](#)

CHAIR OLSON announced the consideration of SB 204, which relates to loans to community quota entities (CQE).

[3:43:25 PM](#)

DAVID SCOTT, Staff, Senator Donald Olson, Alaska State Legislature and Aide, CRA Committee, said that SB 204 modifies the Community Quota Entity (CQE) program by establishing an independent revolving loan fund modeled within the existing Alaska Commercial Fishing Revolving Loan Fund. It provides better terms for the CQEs to purchase independent fishing quotas (IFQ). He provided the following sectional analysis:

Section 1 amends AS 16.10.320(a) to conform to other changes in the bill, specifically Section 3.

Section 2 provides that principal and interest payments or any money chargeable to principal or interest that is collected through liquidation by foreclosure would go back into the revolving loan fund created in the bill.

Section 3 adds a new subsection (1) to AS 16.10.320. It establishes that CQEs may use the loan terms spelled out in the bill to purchase 50,000 pounds of quota share. The loan may not exceed 95 percent of the appraised value of the collateral and the maximum term is 25 years, except for extensions under AS 16.10.310(a)(1)(E). The loan may not exceed \$1 million and interest payments may be deferred for up to 10 years.

Section 4 amends the Commercial Fishing Revolving Loan Fund statute, AS 16.10.340, to include the CQE revolving loan fund.

Section 5 is a conforming language change.

Section 6 adds a new section to AS 16.10 that creates the revolving loan fund.

Section 7 amends AS 16.10.350(a) to state that the commissioner of commerce will be the administrator of the fund.

Section 8 is the effective date, which is July 1, 2012.

[3:46:54 PM](#)

SENATOR ELLIS joined the committee.

CHAIR OLSON asked if the commissioner of commerce had the authority to oversee this type of loan.

MR. SCOTT responded that the commissioner of commerce already oversees the Commercial Fishing Revolving Loan Fund.

CHAIR OLSON asked how CQEs are related to IFQs.

MR. SCOTT said CQE stands for community quota entity and IFQ stands for individual fishing quota. The North Pacific Fisheries Management Council qualified 42 Gulf of Alaska communities to form nonprofit CQE organizations in order to purchase 50,000 pounds of IFQ shares. He deferred further explanation to Mr. Fields.

CHAIR OLSON asked if a CQE could exist without IFQs.

MR. SCOTT responded that there would be no point in forming a CQE if the organization didn't move forward to buy quota shares.

[3:49:38 PM](#)

DUNCAN FIELDS, Fisheries Consultant, stated that he was speaking on behalf of the rural communities for which he works, particularly Old Harbor and Ouzinkie on Kodiak Island and the Gulf of Alaska Coastal Community Coalition, which represents the 42 communities that have qualified as Community Quota Entity (CQE) communities. He was not representing the views of the North Pacific Fisheries Management Council (NPFMC), although he

was a member. He noted that the NPFMC had recognized three more communities as CQE qualified so there would be 45 CQE communities once the federal regulations were finalized.

MR. FIELDS said SB 204 is a loan bill to create economic opportunities and jobs in rural CQE communities. About 15 years ago, the NPFMC realized that fishing permits and IFQs were leaving rural communities and fishing opportunities were lost when these were sold. When community leaders looked at how to reverse that downward spiral, they struck on the concept of a community quota entity. Unlike the Bering Sea Community Development Quota (CDQ) program, these entities would purchase the quota in the marketplace. The community would hold the quota in trust and lease it to individuals in the community.

The North Pacific Fisheries Management Council developed this construct and imposed limitations as to the type of quota that could be purchased, the amount of quota that could be purchased, the way the quota could be fished. In 2004, the NPFMC authorized forty-two Gulf Coast communities to purchase halibut and sablefish IFQ shares. Only two communities have bought quota, primarily because they lacked access to capital.

The state initially qualified the CQEs for the Commercial Fisheries Revolving Loan Fund, but the terms of the loan, particularly the 20 percent down payment, were a barrier. Representative Austerman suggested modifications and introduced HB 141, the companion bill to SB 204.

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MR. FIELDS explained that SB 204 establishes a separate loan fund for CQE communities. The down payment is 5 percent as opposed to the previous 20 percent. The loan term is extended from 20 years to 25 years and interest payments may be suspended [for up to 10 years]. The bill also provides that the communities would pay interest at rates similar to those in the revolving loan fund. He opined that this would provide some communities an opportunity to access IFQs that they couldn't otherwise access. As communities have success, other communities will likely follow and access these loan funds.

The \$45 million fiscal note would provide a maximum of \$1 million to each of the approximately 45 qualified communities.

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CHAIR OLSON commented on the number of limited entry fishing permits that are held by non-residents, and asked why anyone would be interested in selling such a valuable asset to a CQE.

MR. FIELDS differentiated the halibut and sablefish IFQs from the State of Alaska limited entry permits. The halibut and sablefish IFQs are more fluid in terms of market exchange than limited entry permits. The people who sell the IFQs tend to make different economic decisions than folks that are selling a limited entry permit. A limited entry permit gives an individual a right to participate in the fishery, whereas an IFQ gives an amount of product, pounds of fish. Sometimes people will sell a portion of their IFQs to expand their business and others will sell all their IFQs because they're getting out of the fishery.

He said that one reason for forming the community quota entities was to address the problem of limited entry permits leaving rural communities. Should there be a mechanism for rural communities to hold limited entry permits, he opined that the CQE would be the ideal entity to facilitate that mechanism. He relayed that these CQEs have also received two other types of fishery access opportunities from the National Marine Fisheries Service through the NPFMC. One is halibut charter permits. The 21 CQE communities in Southeast Alaska have each received up to five halibut charter permits. The community can lease those permits to an individual who must either start or end the fishing trip in the community. Gulf of Alaska CQE communities have seven permits.

Gulf of Alaska communities have a third fisheries access opportunity called a groundfish limited license permit (LLP). These are essentially federal limited entry permits for use by the CQE in that community.

CHAIR OLSON asked how it happened that two CQE communities were financially successful.

MR. FIELDS said they were both unique circumstances. The community of Ouzinkie was able to access IFQs through the fortuitous sale of trees that were donated by the local Native corporation. Old Harbor accessed quota share primarily through a five-year loan. He said that CQE needed to locate another funding source within 18 months or sell its IFQ shares.

[4:03:09 PM](#)

CHAIR OLSON asked if there were loan default plans.

MR. FIELDS cautioned that he was not a banking expert, but his understanding was that the payments would be made annually and the loans would be secured by the halibut quota. In the event of a default, the community would sell the IFQ shares and the proceeds would go to the State of Alaska.

CHAIR OLSON asked what the interest rate would be.

MR. FIELDS said the interest would be prime rate plus two percentage points, but not more than 10.5 percent.

CHAIR OLSON asked what other lending institutions thought of this program.

MR. FIELDS said the banks they work with recognize that loans of this type would not be allowed in their portfolios; in this role the state can promote rural economic development. Some bankers have suggested that if this program is successful, it may help individuals build their personal portfolios and increase the likelihood of qualifying for personal loans.

CHAIR OLSON asked if more IFQs might be available in the future.

MR. FIELDS responded that there was a national effort to move the federal fisheries towards rationalized fisheries or an individual transferable quota (ITQ) program. He offered his belief that in the near future all the federal fisheries in Alaska would be encompassed by either ITQ or IFQ programs.

[4:07:33 PM](#)

CHAIR OLSON asked how many of the 42 IQE communities depended on subsistence fishing to feed their families.

MR. FIELDS answered that a number of the smaller Gulf Coast communities rely on subsistence for a substantial amount of their diet. The same applies for Kodiak Island and he suspected it was true for the Chignik area as well. Dependence on subsistence is probably less in the larger communities, but it's still a component of their diet.

CHAIR OLSON asked how commercial fishing entities view subsistence users.

MR. FIELDS said there seems to be general cooperation between the local residents who are fishing CQE halibut and those who are subsistence users. He opined that sport charter operators

and non-resident fishermen would be more likely to compete with subsistence users.

CHAIR OLSON asked Ms. Ayers to comment.

[4:10:38 PM](#)

WANETTA AYERS, Director, Division of Economic Development, Department of Commerce, Community and Economic Development (DCCED), said that DCCED followed HB 141 last session and provided a fiscal note on SB 204 regarding operating costs. The division would be able to manage this loan fund if it were to be implemented; it appears to be very similar to the current Fisheries Enhancement Revolving Loan Fund. She agreed with Mr. Field's answer regarding loan payments and defaults.

CHAIR OLSON asked if selling the quota generally covers any delinquency and default.

MS. AYERS answered yes; quota is considered very good collateral and DCCED has liquidated it in the past when necessary.

CHAIR OLSON said he asked because it appeared that the number and size of halibut was on a downward trend.

MS. AYERS said that DCCED would take all regulatory, management, and market factors into consideration when making a loan.

CHAIR OLSON asked if the administration was in favor of SB 204.

MS. AYERS answered that the administration does not have specific position on the bill, but DCCED was prepared to implement it should it be adopted.

[4:14:42 PM](#)

MICHAEL O'CONNOR, President, Ouzinkie Native Corporation, said Ouzinkie was a nonprofit corporation that focused on economic development. He relayed that Ouzinkie currently had 8,000 pounds of halibut IFQs and Old Harbor had 16,000 pounds. These were the only CQEs that own and actively fish halibut IFQs. In Ouzinkie, the individual who leased the halibut IFQs received 55 percent of the catch and the CQE nonprofit corporation received 45 percent. This brings substantial money to a small community.

Responding to a comment from the Chair, he elaborated on the timber sale that made it possible for the Ouzinkie CQE to buy 8,000 pounds of halibut IFQ shares. He confirmed that

conventional lenders are not interested in loaning money for community owned IFQs.

[4:20:55 PM](#)

CHAIR OLSON asked if it was because of the risk.

MR. O'CONNOR answered yes.

CHAIR OLSON questioned why the state should undertake that risk.

MR. O'CONNOR opined that it wasn't large risk because the market for IFQs was fluid.

CHAIR OLSON asked if he agreed that the growing farmed fish market might threaten Alaska wild fish.

MR. O'CONNOR answered that he believed that the public perception of farmed fish was turning negative.

[4:22:43 PM](#)

CHAIR OLSON found no further public testimony and announced he would hold SB 204 in committee.

SB 152-LEG. APPROVAL OF BRISTOL BAY SULFIDE MINE

[4:23:03 PM](#)

CHAIR OLSON announced the consideration of SB 152 and asked Ms. Peterson to remind the committee about the bill.

[4:23:44 PM](#)

KRISTEN PETERSON, Staff, Senator Hollis French, Alaska State Legislature, read the first paragraph of the sponsor statement for SB 152 as follows:

Senate Bill 152 is designed to engage the legislature in development issues in the Bristol Bay Fisheries Reserve. The bill would require the legislature to enact a law that includes a finding that any proposed large-scale metallic sulfide mine operation constitutes no danger to the fishery within the reserve. This would have to be completed before the issuance of an authorization, license, permit, or approval of a plan of operation that could affect water in or flowing into or over the reserve.

CHAIR OLSON opened public testimony.

[4:24:38 PM](#)

RICK ROGERS, Executive Director, Resource Development Council (RDC) for Alaska, Inc., said RDC was strongly opposed to SB 152. He relayed that RDC was a nonprofit organization whose purpose was to link its diverse membership interests to encourage a strong, diversified, private sector in Alaska, and expand the state's economic base through responsible resource development.

He said that one of RDC's top legislative priorities was to encourage the state to promote and defend the integrity of Alaska's permitting process and to advocate for predictable, timely, and efficient permitting processes that are based on sound science and economic feasibility. RDC's perspective was that SB 152 did the opposite. The bill was not about just the Pebble mine; it was a legislative referendum on the state's permitting process for projects across all industries. It effectively usurps the permitting authority of the executive branch and creates uncertainty for companies that are investing or contemplating investment in Alaska. He urged the committee to hold the bill.

CHAIR OLSON asked how to protect the fisheries and maintain the maximum sustainable yield.

MR. ROGERS answered that there are processes and systems in place to do that. Any suggested improvements should be vetted, but the legislature should not adjudicate whether a project should get permits. Many people will review a project the magnitude of Pebble before it gets a permit; that process has worked for Alaska for years. It's been possible to develop large-scale projects responsibly while maintaining a robust fishery.

[4:29:08 PM](#)

CHAIR OLSON commented that what the Murkowski administration did to the coastal zone management program was devastating to the people of Alaska, particularly those on the coast who no longer have a seat at the table to voice concerns. That's why there is grave reservation about this particular mine, he said.

MR. ROGERS said he recognized the concern about the magnitude of the project, its location, and the other resources in the Bristol Bay region, but he did not believe that SB 152 was an appropriate approach for dealing with those issues.

[4:30:23 PM](#)

ANDERS GUSTAFSON, Executive Director, Renewable Resources Coalition (RRC), said he was speaking on behalf of the more than 6,000 Alaskan members in support of SB 152. The membership consists of individuals, businesses, and organizations that historically have fought over allocation of the Bristol Bay fishery resource, but have since joined forces to protect the habitat and water that is the building block of this resource.

In the early 1970s when Alaska was first developing its oil and gas resources, the legislature recognized the incredible, renewable resource that is the Bristol Bay fishery and realized it was appropriate to designate a boundary for this watershed. The legislature also realized there should be a process for Alaskans to have a say in whether massive industrial developments should be allowed. By supporting SB 152, the coalition is asking the legislature to give that same level of oversight to a large-scale mining development in the same region. The bill does not affect mining development across the state; it is about protecting the Bristol Bay fishery. The members of RRC also believe that SB 152 will create a level of certainty in the marketplace that this fishery will continue to be strong. This will create a friendlier environment for those dependent on the fishery to reinvest in their businesses.

MR. GUSTAFSON reiterated that SB 152 does not prohibit mining. It ensures a process by which the people of Alaska, through their representatives, can protect the incredibly significant Bristol Bay fisheries resource.

[4:33:29 PM](#)

JIMMY R. HURLEY, representing himself, said he had lived in Ekwok for the past 50 years and he strongly opposed SB 152. He said that the people who live in this area don't want to live on food stamps; they want jobs.

[4:35:52 PM](#)

SUE ANELON, Member, Iliamna Village Council, Iliamna Natives Limited (INL), stated that the council and corporation were strongly opposed to SB 152, because a rigorous science-based permitting system was already in place. The legislature should instead be dealing with the more important issues of oil taxes, helping companies create jobs, and economic development in rural communities. She also stated that the bill could affect other landowners and development projects within the state.

CHAIR OLSON said he should have pointed out earlier that Senator French had visited Southwest Alaska a number of times to survey the situation.

[4:37:59 PM](#)

VERNER WILSON III, Member, Curyung Tribal Council and shareholder, Bristol Bay Native Corporation (BBNC), testified in support of SB 152. He said he was a Bristol Bay commercial fisherman who also did subsistence fishing. He stated that the legislation gives a voice to Alaskans on the very important issue of a large-scale mine in the Bristol Bay region. Proponents say the development could create 2,000 jobs, but they don't say how many jobs may be impacted. He said his father paid thousands of dollars for a permit to fish in Bristol Bay and the family depends on the fishery. This issue is important to this and future generations. The Bristol Bay fishery has been there for thousands of years and it can continue for thousands more if it is managed sustainably and the habitat is protected. He reiterated that the legislation gives voice to Alaskans on an issue about which they really care.

CHAIR OLSON asked why he was interested in protecting a fishery that he didn't depend on any longer.

MR. WILSON clarified that he did depend on the Bristol Bay fishery; his parents still live in the area and he returns to fish every summer. He imagined that he would move back permanently after he finished graduate school. He began fishing when he was about age four and looked forward eventually to getting his own boat and permit. If fishing and mining are to coexist, it's necessary to ask the tough questions, he said.

CHAIR OLSON asked if after he finished graduate school he can imagine putting on boots and rain gear and working in the fish slime.

MR. WILSON answered yes. He added that he looked forward to being a part of further developing the seafood industry and a sustainable economy.

[4:44:23 PM](#)

FRED T. ANGASAN, Chair, Land Committee, Alaska Peninsula Corporation (APC), stated that as one of the largest private landowners within the Bristol Bay Salmon Reserve, APC was opposed to SB 152. Matters currently committed to the sound discretion of executive agencies based on science and the concept of due process would instead be considered in the

political arena. He said APC was convinced that the legislation violated state law. APC's primary mission is to manage its land for the benefit of the villages and Congress has charged the corporation with economic development of those lands. SB 152 directly interferes with that by creating uncertainty about the effect of a metallic sulfide deposit on their land, which has tremendous potential for mineral development. It would place at risk the surface exploration agreements that APC has entered into. APC has confidence in the current process, he stated.

[4:51:29 PM](#)

MIKE SATRE, Executive Director, Council of Alaska Producers (CAP), said CAP was a nonprofit trade association representing the producing large metal mines and large mine development projects in the state. He said he was testifying to voice opposition to SB 152. The bill uses existing statutory language that places limitations on surface entry permits to develop oil and gas leases or exploration licenses within the Bristol Bay Fisheries Reserve, but it goes much farther. SB 152 attempts to restrict mining throughout the region regardless of land status or whether the activities are in the fisheries reserve. It could strip the rights of individuals who already hold valid mineral claims and exploration permits in the area. This could possibly constitute a taking, which would violate both the Alaska and U.S. constitutions. The existing statute for oil and gas does not assume that the development will adversely affect water; it only requires a finding that the development will not harm the fishery. SB 152 assumes that mining activity will adversely affect water quality and the proponents have stated their belief that it will potentially stop one project. This, too, raises constitutional issues, he said.

MR. SATRE said CAP strongly supports the existing large mine permitting processes in the state and all efforts to fully fund, strengthen, and improve the permitting functions of the resource agencies. If SB 152 were to pass, state permitting agencies would be forced to follow the directives of the legislature, rather than basing decisions on the existing science-based, transparent, and predictable permitting processes.

[4:54:11 PM](#)

ED FOGLES, Deputy Commissioner, Department Natural Resources, said he was not taking a position on the bill. He wanted to discuss the state's regulatory process and present issues for the committee to consider. He opined that the state's mine permitting process was solid. The seven operating mines in the

state were all operating within environmental compliance, with no significant impact to the downstream fisheries.

He emphasized that the permitting process for a large mine was complex. It involves a number of agencies and dozens of experts with advanced degrees in addition to the federal environmental impact statement (EIS). He cautioned that the legislature would have to figure out how to parse through that in order to make a decision, but it wouldn't be an easy task.

SENATOR MENARD asked how many people would be dedicated to a project like the Pebble Mine.

MR. FOGLES said that approximately 20 agency experts would be involved, although the number would vary throughout the life of the mine.

SENATOR MENARD observed that a tremendous number of people were already dedicated to the process, which was why she was uncomfortable.

[4:58:35 PM](#)

MR. FOGLES said that DNR's reading of the bill is that it would cover any hard rock metal mine on both state and private lands. Thus, any significant hard rock mining project within the Bristol Bay area would have to come before the legislature. Because each mine project has dozens and dozens of state and federal permits that come out at different times, DNR is not clear on how that would work for the legislature. Time lags will also be an issue to evaluate because the legislature isn't in session all the time.

[5:00:33 PM](#)

CHAIR OLSON commented that he anticipates more bills like this because there was no coastal zone program where people from the local area have a seat at the table to voice their concerns.

MR. FOGLES said he had been involved in permitting a number of mines, three of which were not in the coastal zone, and community concerns were always taken into account. Regardless of what is in place, DNR will always address community concerns, he said.

CHAIR OLSON said public testimony would continue at the next meeting. He asked the sponsor to provide closing comments.

[5:02:13 PM](#)

SENATOR HOLLIS FRENCH, sponsor of SB 152, said the bill was based on the 1972 law that was passed to protect the Bristol Bay Fisheries Reserve from oil and gas development. The legislature at the time considered including mining but oil and gas was the immediate threat to the fisheries and that became the topic of the bill. SB 152 is designed to put large-scale mining on the same footing as oil and gas. If it can be done safely and with no threat to the fishery, then go ahead. If it can't be done safely, then it should stop. The legislature deserves input given the far-reaching nature of the impact on fishermen across all of Alaska.

CHAIR OLSON asked the sponsor before the bill moved from committee to address the constitutional questions that the bill potentially raised.

CHAIR OLSON held SB 152 in committee.

5:03:58 PM

There being no further business to come before the committee, Chair Olson adjourned the Senate Community and Regional Affairs Standing Committee meeting at 5:03 p.m.