HB 77

(FILE 4)

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From: James Mackovjak

Sent: Wednesday, March 12, 2014 10:09 AM

To: Sen. Cathy Giessel

Subject: Please include the attached documents in the public record and distribute them to committee members.

Dear Senator Giessel,

The attached documents refer to the superficial and irresponsible process by which DNR granted a gold mining lease at Gustavus's gravel pit. If needed, I can provide additional documents.

James Mackovjak

P.O. Box 63

Gustavus, Alaska 99826

City of Gustavus
P.O. Box 1
Gustavus, AK 99826
Phone: (907) 697-2451

September 20, 2013

H. William Cole
Alaska Department of Natural Resources
550 West 7th Ave., Suite 930
Anchorage, AK 99501-3577

Re: your letter of September 4, 2013

Dear Mr. Cole:

We take exception to your letter of September 4, 2013. In it, you stated that the "discovery" by Hammonds and Ward "likely qualifies under regulatory and legal parameters as a discovery." We have a big problem with the word "likely." In your attempt to grant Hammonds and Ward the right to mine on public property, you are transferring a public resource to private individuals. This is very serious business, and attempting to do so without absolute certainty that there is actually economic gold on the claim is doing a disservice to the City of Gustavus and damages the credibility of the Department of Natural Resources.

Based on the totally superficial "discovery" process witnessed by two members of the Gustavus City Council (their affidavits have been provided to DNR), it is obvious that, per Alaska statute, no ordinarily prudent person would expend further time, labor, and money upon the property with a reasonable expectation of developing a paying mine.

Again, "likely" discovery is not good enough. DNR needs to come to Gustavus and start anew with a responsible discovery process that complies with Alaska statute. We await your prompt reply.

Regards,

Lou Cacioppo, Mayor

Cc: Sen. Dennis Egan
Rep. Beth Kerttula
Paul Grant
Steve Sorenson

THE STATE of ALASKA
GOVERNOR SEAN PARNELL

Department of Natural Resources

Division of Mining, Land & Water
Mining Resources Section

550 West 7th Avenue, Suite 930
Anchorage, Alaska 99501-3577
Main: 907.269.8642
TDD: 907.269.8411
Fax: 907.269.8949

September 4, 2013

Mr. Lou Cacioppo, Mayor
City of Gustavus
P. O. Box 1
Gustavus, Alaska 99826

Re: Question of discovery on upland mining lease, ADL 716439

Mayor Cacioppo;

This letter is in response to your inquiries concerning discovery on the Honey Hole #7 mining claim. The issue of discovery on the Honey Hole #7, subsequently mining lease ADL 716439, was investigated by Kerwin Krause, our previous Mineral Property Manager earlier this spring. In an email to Steve Sorensen dated April 3, 2013, Mr. Krause stated that after reviewing the lease application and relevant legal precedents he and David Wilfong, who witnessed the discovery process, both were of the opinion that "the processed alluvium that Mr. Hammond and Ms. Ward first sampled and declared as their 'discovery' in February last year likely qualifies under regulatory and legal parameters as a discovery." I share that opinion. The DNR, Mining Section does not believe that further analysis of the "discovery" issue will be productive.

At this time the DNR would prefer to focus on the task of writing an agreement for reparation of damages and/or bonding under AS 38.05.130 that is satisfactory to all parties. I encourage you to work with Mr. Hammond and Ms. Ward to come to an agreement on how gravel operators and the miners will accommodate each other's activities, the minimize any damages, and establish any bond that might be appropriate. Thank you for working with the DNR and the mining lessees on these issues.

Sincerely,

H. William (Bill) Cole
Geologist, Mineral Property Manager
(907) 269-8648

City of Gustavus
P.O. Box 1
Gustavus, AK 99826
Phone: (907) 697-2451

July 17, 2013

Kerwin Krause
Alaska Department of Natural Resources
Division of Mining, Land & Water
350 West 7th Ave., Suite 920
Anchorage, Alaska 99501-3577

Dear Mr. Krause,

The City of Gustavus seeks further review by the Alaska Department of Natural Resources of the decision to issue an upland mining lease for the David Hammonds/Rhonda Ward Honey Hole #7 mining claim. The City believes that the procedure used for validating a "discovery" on the Hammonds/Ward claim did not prove the existence of valuable minerals of a concentration and extent that an ordinarily prudent person would invest in it.

Pursuant to 11 AAC 86.309, an application for a mining lease in Alaska requires a "showing of discovery." Alaska statute (11 AAC 86.105) provides the definition of *discovery*: "finding of valuable mineral as would justify an ordinarily prudent person in expending further time, labor, and money upon the property with a reasonable expectation of developing a paying mine."

The Gustavus foreland is a vast deposit of glacial outwash sand, gravel and silt. The Honey Hole #7 mining claim is located on the foreland, at the City of Gustavus's gravel pit. See attached statement of Greg Streveler, Chief Scientist, Icy Strait Environmental Services, on why the claim is "highly unlikely to host exploitable concentrations of gold."

The entire discovery process at the Honey Hole #7 claim took place on July 2, 2012. It was observed by David Wilfong, of the Alaska Department of Natural Resources, and two members of the Gustavus

City Council (Karen Colligan-Taylor and James Mackovjak). In the entire process, only one small sample (five to ten gallons) of material was selected and processed (panned). The sample, selected by Mr. Hammonds, was comprised entirely of material that had fallen from the conveyor belt of a third-party (Fairweather Construction) screening operation.

Council member Mackovjak advised Mr. Wilfong of the obvious, that the sample wasn't random, and Mr. Wilfong agreed, stating that a random sample would require taking material from several locations on the claim and at varying depths, including on top of bedrock.

Mr. Hammonds panned the material taken from beneath the conveyor belt, and repeatedly insisted to Mr. Wilfong that there was color (gold) as well as garnets in the sample. Mr. Wilfong said he saw some low-grade garnet, but not much else. The panned material was not preserved.

Based on Alaska statute and the information provided above, what further administrative review process is available to challenge Division of Mining, Land & Water's assertion that discovery has been proven, that there exists on the claim valuable minerals of a concentration and extent that an ordinarily prudent person would invest in it?

Thank you for your consideration.

Lou Cacioppo, Mayor

cc: Senator Dennis Egan
Representative Beth Kertulla
Commissioner Daniel Sullivan

Denis Ransy Comments on Version H of HB 77

This bill still represents government overreach and bureaucratic tampering of citizen rights.

I oppose H.B. 77. The amended version is not an improvement. It would pretty much remove Alaskans' rights to preserve adequate water for fish habitat. This administration obediently accommodates nearly every industrial interest that comes along. Well, what about sport and commercial fishing? They are or were large interests. But they depend on every feeder creek and tributary in Alaska that rears fish. Without these creeks, fishing dies, along with thousands of Alaskans' fish for the table, and this bill would endanger that much-needed food source.

H.B. 77 puts way too much power in the DNR Commissioner's hands. He would truly become the "Resource Czar", with unchallenged power to give away our resources to any industry he chooses.

All Alaskans own our waterways, not corporations. Large development projects have almost always had negative consequences: polluted waters, dried up creeks, large areas off-limits to citizens. Here are two examples of recent DNR mismanagement of our waters.

The Susitna Dam will completely change the River water flow. It will withhold millions of gallons of water from migrating salmon throughout the summer season. I see DNR doing nothing to reserve adequate water for the fishery.

A company wants to mine directly beneath the bed of the Chuitna River near Cook Inlet. Groups attempting to keep the River and its salmon runs alive tried to get an instream flow reservation for years, but DNR never granted it. But the coal company got a temporary water use permit very quickly. This is not rational permitting. This is just favoring huge industry over fish and concerned citizens.

Version H does include public notice and public comment for General Permits. But there are no boundaries on nor definitions of when a general permit is necessary.

The claim of "streamlining" permitting is frankly is just an excuse and not backed by hard evidence. H.B. 77 is the removal of meaningful participation in the permitting process.

I am a 38 year Alaskan resident. I spent 15 seasons in commercial fishing and tendering. I fish every year for personal use.

Sincerely,
Denis Ransy

From: Jonathon Wooden

Sent: Wednesday, March 12, 2014 12:13 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Jonathon Wooden

PO Box 244113

Anchorage, AK 99524

From: Gene Cornelius
Sent: Wednesday, March 12, 2014 12:49 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

This is just wrong - government skulking behind closed doors to hide from whom? The people? YOU WORK FOR US!

Knock it off, get your hands out of each others' pockets, and do some real work.

Gene Cornelius
60990 Clarice Wy
Homer, AK 99603

From: Gail Heineman

Sent: Wednesday, March 12, 2014 11:40 AM

To: Sen. Cathy Giessel

Subject: HB 77 - oppose

Senator Giessel,

I oppose HB 77. Please vote it down. The bill gives the Commissioner of DNR too much power, and would enable outside corporations to claim water rights ahead of Alaskans which is contrary to our Constitution. Please include this email in the records for this bill.

I am an Alaska resident, and have been since 1981.

Thank you.

Gail Heineman

2732 W 67th Ave

Anchorage, AK 99502

From: Eric Lantzman

Sent: Wednesday, March 12, 2014 12:04 PM

To: Sen. Anna Fairclough

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Eric Lantzman

4501 Diplomacy Dr

Anchorage, AK 99508

From: Eric Booton

Sent: Wednesday, March 12, 2014 11:16 AM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Natural Resource committee members

Dear Senator Giessel and Natural Resource Committee,

As a young adult that has made my life in Alaska, as an avid angler, and as part of the future of this great state, I strongly oppose House Bill 77 in it's current form as well as the amendments that were presented Monday March 10, 2014.

House Bill 77 is clearly an effort by the Alaska Department of Natural Resources, supported by many of our Law Makers, to "streamline" the permitting process by effectively streamlining Alaskan voices from the process.

Alaskans currently have the right to file for in-stream flow reservations to protect the bodies of water that they rely on for food, travel, and their livelihood. HB77 is a clear attempt to first remove this right to protect the water and fish resources we rely on completely, and now with the amendments, make that process completely irrelevant by allowing the DNR to either never make a decision or prioritize the applications.

A current example of the importance of in-stream flow reservations to everyday Alaskans and our most valued natural resource, salmon, that I find relevant is the in-stream flow reservation filed by the Chuitna Citizens Coalition to protect the salmon stream that they rely on for subsistence from being destroyed by PacRim Coal. If HB77 passes with its current amendments, then the DNR will be given the green light to continue to kick the can down the road on addressing the Chuitna Citizens Coalitions in-stream flow reservation and will prioritize the water use permits that were submitted by PacRim Coal long after the Chuitna Citizen's Coalition had filed their in-stream flow reservation; this will effectively be trading the Chuitna river, home to all 5 Pacific Salmon Species, for low grade coal to be burned in foreign markets, and the sole profiteer will be an outside mining corporation.

If a development project cannot co-exist with the percentage of water that has been reserved by Alaskan citizens via an in-stream flow reservation for subsistence, transportation, or their livelihood, then there is no-way that that project can truly be "responsible development".

It is obvious that HB77 is too flawed to fix and it undermines the democratic process that this nation and state were founded on. For the reasons above I strongly oppose this bill.

Thank you for the opportunity to provide comment,

Eric Booton

3209 Wyoming Drive

Anchorage, AK 99517

From: Elizabeh Tachick

Sent: Wednesday, March 12, 2014 12:11 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Elizabeh Tachick

PO Box 751186

Fairbanks, AK 99775

From: Elaine Hussen
Sent: Wednesday, March 12, 2014 1:00 PM
To: Sen. Cathy Giessel
Subject: Please send this to mebers of the Senate Resource Committee and make part of the public record.

Dear Senate Resource Committee members,

After reviewing the changes to HB 77 released Monday, I am still very concerned with the level of authority this bill gives to the DNR. It brings us to paternalistic "we know what's best for Alaska" thinking. This is America, not Russia. I'd expect this kind of action out of the Kremlin, not Juneau. No person or agency should have such limitless centralized authority over important and potentially contentious issues and resources. Decisions should be made with spirited public debate, in the light of day, with all parties coming to agreement for the greater good.

Of equal concern is the way decision, once made, are held to a ridiculous standard of "significantly and adversely affected" in order to reverse a decision. Sometimes the greater good is served by things being left alone. Would it significantly affect me if birds all died because of air pollution. No, I'd be sad and my interests would not be served. Not every interest or impact can be defined or defended using that model of redress.

I STRONGLY OPPOSE HB 77, again. Please defend the principals of participatory government, transparency in leadership and fair dealing. No changing the rules to suit the desired outcome. Please vote against this bill.

Elaine Hussen
3747 Linnaea Wy
Fairbanks, AK 99709

From: Carson Chavana
Sent: Wednesday, March 12, 2014 12:55 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

I have been following this bill for almost a year now. After hearing that hundreds of people gave testimony on HB77 at public forums last year and beginning of this year (with only 1 person in favor of the bill), it is incredibly to me that some Senators will still vote against their constituency. This bill and the process in which our state is letting Alaskans give feedback on it has undoubtedly shown that some of our government officials are less interested in hearing what citizens have to say and more interested in "streamlining" or "making efficient" mining or extraction processes.

So often our state government forgets they answer to us.

I so thank those Senators who've listened to their constituents and plan to vote the way that is true to Alaskan values. Protecting our way of life should always come before prioritizing the profits of outside companies.

It is undeniable that there is corruption in politics. An elected official wouldn't say otherwise unless corrupt himself/herself. But it is a phenomena that is easily changed by those in power. Vote with the people and you'll forever be supported.

Carson Chavana
1055 W 27th Ave 514
Anchorage, AK 99503

From: Constance Hoskins
Sent: Wednesday, March 12, 2014 12:39 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

Monday's additions do not change my opposition to HB77.
- Reducing the appeal process is wrong. Every citizen should be able to appeal DNR decisions interdependent of whether DNR thinks someone has been impacted. That undermines the purpose of an appeal. Citizens should always have a right to appeal actions of the government independent of what the government thinks it is justified or not. everyone deserves a hearing of their grievances. That is a constitutional right.
- This looks like a power grab by the DNR which is not warranted or needed. DNR seems to have forgotten that it serves as the pleasure of Alaskans not a particular administration or party.
- Why the secrecy? What is there to hide? Afraid what citizens would think? If it is such a good idea why was the process hidden?
- All permitting processes should be totally visible and transparent to citizens with proper notification and their participation in the process solicited and considered.

Constance Hoskins
1008 W 16th Ave
Anchorage, AK 99501

From: b kraft
Sent: Wednesday, March 12, 2014 11:54 AM
To: Sen. Cathy Giessel
Cc: Sen. Fred Dyson; Sen. Peter Micciche; Sen. Click Bishop; Sen. Lesil McGuire; Sen. Anna Fairclough; Sen. Hollis French
Subject: HB77

Senator Giessel,

I sent a list of questions, most asking for a legal opinion with regards to HB77. I have not received a response to any of the questions from any of the members of the Senate resource committee. This may underscore the fact that you are all very busy and that HB77 is a large wide sweeping bill with many drastic changes. Although these changes do not typically grab headlines or make for good talk radio, the changes genuinely seem to remove a person's ability to question a decision by the DNR and its commissioner as well as making it much more difficult for an Alaskan business owner to challenge a DNR decision. This is not "Streamlining" the permuting system. It is eliminating public participation and public notice.

Additionally, the language that the DNR must consult with ADF&G with regards to water rights, inflow stream reservations and other issues is misleading. After consulting with ADF&G (but not mandated to listen to what ADF&G says) DNR can make whatever decision it sees fit as long as the activity will not "likely" cause "significant and irreparable" harm to the habitat. How do you prove that something is irreparable before the activity is completed? It is impossible. Every permit application will claim that it will repair whatever it damages but the reality is that there is no guarantee that this will happen.

I can understand the desire to "streamline" a onerous system with regards to getting permits to conduct activity on state land. However, this HB77 does not accomplish that, it simply takes Alaskans out of the process and puts a tremendous amount of power and trust into the Commissioners sole discretion. I would hope that our elected officials will consider the adverse affects of this bill and not pass it.

Thank you,

Brian Kraft-Owner
Alaska Sportsman's Lodge—Kvichak River
Alaska Sportsman's Bear Trail Lodge—NakNek River
Bristol Bay Lodge—Wood Tikchik State park area
Kodiak Sportsman's Lodge—Kodiak Island
www.fishasl.com

THOMAS E. MEACHAM
ATTORNEY AT LAW

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March 14, 2014

Testimony before Alaska Senate Resources Committee
on
2d Senate CS for CS for House Bill No. Bill 77

Madam Chair and Members of the Committee:

My name is Tom Meacham. I am an attorney living in Anchorage, beginning in 1967-68, and continuously since 1971. I have practiced law in Anchorage for 43 years. During all of that time my law practice has concentrated almost exclusively on Alaska natural resources law: mining, oil and gas, water, federal and state public lands, ANCSA and ANILCA issues, and easements and rights-of-way.

I request that a written copy of this testimony be filed with the public comments on this Bill.

I was an appointed member of the Alaska Water Use Board (AS 46.15.190 - .220) from 1982 through 1990. Sadly, that Board exists in theory only, and no longer meets. The instream-flow reservation (IFR) provisions of existing Alaska law (AS 46.15.145) were enacted in 1980 and amended in 1986, and the Water Board assisted in that process.

I am confining my remarks today solely to the amendments proposed to the IFR statute by the HB 77 of 2013, and the proposed changes to those IFR amendments contained in the 2nd Senate CS announced on March 12. I am gratified that the Dept. of Natural Resources (DNR) and the Governor have listened to the hundreds of Alaskans who have spoken out on this issue, and other issues, presented by the HB 77 of last year.

Nevertheless, I believe that the new proposed amendments would still turn the IFR program on its head – just perhaps not as drastically as before.

The concept of the IFR provision (AS 46.25.145) in 1980 was that an agency or a person could file for an IFR certificate to protect **certain specified public uses**, that **a priority date would be established** under Art. 8, Sec. 13 of the Alaska Constitution **as of the date of filing**, and that the IFR application would be processed to a conclusion (either denial, or issuance of a certificate) in much the same way that DNR processes an application for a water appropriation certificate.

SCS CSHB 77 (2013) would have eliminated most of the intended and existing procedural parallels between IFRs and appropriative water rights, and would have extinguished many existing applications filed by non-governmental entities.

Sec. 42 of HB 77 of 2013 would also have extinguished the existing right of any non-public individual or entity to even file for an IFR. Thankfully, Sec. 42 of the 2d Senate CS will recognize that non-governmental "persons" will be able to apply for an IFR.

However, I have several specific suggestions for amendments to the 2d Senate CS that I strongly urge the Committee to adopt, to clarify the law and to preserve the concept and intent of the IFR statute. **These are**:

1. Sec 42, p. 23, lines 15-17: The IFR certificate applied for by a "person" (as "person" is newly defined in Sec 45) is to be issued to the "appropriate state agency". However, the definition of "person" is now so broad in Sec. 45 that it covers public corporations, state agencies, political subdivision, and the United States. **It makes no sense that public entities' IFR certificates should be held by another public agency, the "appropriate state agency."** As I will show later, the definition of "person" is too broad.

As a compromise position, I believe that non-public entities and individuals should agree that an issued IFR certificate should be held by "the appropriate state agency." **However, the IFR applicant should clearly have standing to defend the IFR in appropriate proceedings, if the IFR is later proposed to be altered or eliminated. To this extent, a non-governmental IFR applicant *must* be recognized as having a right, or interest, or legal standing in the continuation of the issued IFR certificate it had originally applied for, and had funded.**

The denial of any property interest in an IFR application, and in an issued certificate, appear to conflict with the Water Use Section of the Alaska Constitution Art. 8, Sec. 13). This Section recognizes that priority of application "shall give prior right." **This amendment would purport to make an IFR application, when issued as an IFR certificate, as not a being a property "right" of any type. At the least, the amendment should clearly recognize the right of a person applying for the IFR legal standing to defend the wisdom of that reservation.**

2. Sec. 42, p. 23, line 16: An "approved certificate of reservation" has no legal meaning. It is either a pending "IFR application," or a DNR-issued "certificate of reservation." By its terms, an issued "certificate" has been "approved;" there is no such animal as a certificate that has not been "approved."

3. Sec. 42, p 23, line 18-20: The case of *Chuitna Citizens Coalition and Cook Inletkeeper vs. Alaska Dept. of Natural Resources*, No. 3AN-11-12094CI (Superior Ct., Anchorage) has held that DNR's long inaction on pending IFR applications has resulted in the denial of Constitutional due process to the applicant. Any grant of discretion to the Commissioner to "determine when and in what order" IFR applications are to be processed, **must be made "consistent with Constitutional due process considerations."** I urge that this amendment be added.

4. Sec. 42, line 23: The appeal procedure cited as AS 46.15.133(e) does not, by its terms, apply to the appeal of IFR reservation applications. It applies only to an appeal of a Commissioner's decision to "grant, deny or condition a proposed sale or an application for appropriation or removal in accordance with (c) of this section" [AS 46.15.133]. **It does not cover appeals from IFR decisions.** I recommend that the word "reservation" be added to AS 46.15.133(e), as follows: "a proposed sale or an application for an appropriation, **reservation** or removal..." Other subsections of AS 46.15.133 should be similarly amended to insure that the entire process established in this "Notices and objections" section also clearly covers the adjudication of IFR reservation appeals.

5. Sec 42, p. 23, line 26: The prohibition against the transfer or assignment of a right to appeal the subsequent administration by the commissioner of an issued IFR certificate appears to have no rational purpose. It could leave no one with standing to question a subsequent decision by the commissioner to reduce or eliminate an IFR certificate. (Perhaps that is DNR's hidden purpose).

For example, if a city obtained an issued IFR, and it later merged with and became a unified borough, the borough would have no right to support the original IFR certificate if the commissioner later decided to reduce or eliminate it. All entities, both public and private, undergo legal changes during their existence. I do not object to a prohibition against assignment of the right to appeal an issued IFR certificate to an unrelated entity, but **the right to have standing to appeal and support an IFR certificate should lawfully pass to the "successor in interest" of an IFR applicant.** I urge that this change be made.

6. Sec. 42, p. 23, lines 27-29: The requirement for "not less than five years of data" is onerous, and is far in excess of any data requirement imposed on an applicant for an appropriation of water under the Water Use Act. Further, it may pose a significant burden when submitting data for IFR reservations on lakes.

7. Sec. 42, p. 23, line 29: The phrase "nonproprietary public domain hydrologic data" is nonsensical. If it were "proprietary," it could not be publicly disclosed or submitted in any event.

8. Sec. 43, p. 23, line 31, p. 24, lines 1-6: This section would permit the Commissioner to permit the temporary uses of "a significant amount of water" for five-year periods, one after the other. **This would be a complete evasion of the water-rights process specified in Art. 8, Sec. 13 of the Alaska Constitution.** The Commissioner would be granted this authority in all instances in which "the water applied for has not been appropriated." This amendment should be changed to specify that a temporary water use authorization may be issued **only when the water applied for "has not been appropriated, or is not the subject of a pending application for appropriation or reservation."**

Without this amendment, the Commissioner could "establish priorities" by delaying indefinitely DNR's adjudication of a pending appropriation application or an IFR application (under authority he seeks elsewhere in HB 77), while continuing to issue serial temporary water use permits for "significant quantity of water" from the same water source. **This would be a complete perversion and evasion of the "first in time, first in right" requirement of Art. 8, Sec. 13 of the Alaska Constitution.** It should not be allowed to occur.

In addition, because under this amendment temporary water uses could involve "significant quantities of water," the issuance of temporary use permits should be required to undergo the public notice and comment procedures that are routinely required of DNR for other disposals of state lands and resources.

9. Sec. 44, p. 24, lines 7-9: An applicant for an IFR reservation should be recognized as having a "property right" in the IFR application and certificate **to the extent that this person has legal standing to seek issuance of the certificate, to assert its priority, and to defend it** if the Commissioner later takes steps to reduce or extinguish it.

This denial of any "property right" in an IFR application would also include all state-agency IFR applicants. Would there remain no entity -- public or private -- with legal standing to seek issuance of an IFR certificate, to assert its priority, and to defend it? Without the statutory recognition of this minimal legal standing, all IFR certificates become meaningless. **The denial to all IFR applicants of any "property right" in the application or certificate is simply the denial of the "first in time, first in *right*" requirement for water management under Art. 8, Sec. 13 of the Alaska Constitution.**

10. Sec. 45, p. 24, lines 10-13: This definition of "person" is sloppy drafting. The existing AS 46.25.145(a) already permits "an agency or political subdivision of the state, [and] an agency of the United States" to file an IFR application. **There is no need to also define these entities as "persons," as the amendment would do.** This would only add confusion to the definition of "person."

The remaining non-public entities in the proposed definition of "person" ("individual, partnership, association, federally recognized tribe, public or private corporation") are appropriate, and should be included in this definition.

Thank you for this opportunity to present this testimony regarding 2d SCS CSHB 77.

/s/ Thomas E. Meacham
9500 Prospect Drive
Anchorage, Alaska 99507

tmeacham@gci.net

From: John Schandelmeier

Sent: Wednesday, March 12, 2014 11:26 AM

To: Sen. Cathy Giessel

Subject: HB 77

The Paxson Fish and Game Advisory Committee opposes this bill. Our committee feels that there may be unforseen consequenses should this bill pass. It adds one more layer of government to water access. Individuals and entities such as our committee would have to go through another government agency in the advent of a conflict over water useage. Our Advisory committee is very involved in habitat and access issues as we feel these items are at the crux of fish and game management in our state.

Thank you, John Schandelmeier, chair Paxson F&G Advisory

From: Mark Hieronymus
Sent: Wednesday, March 12, 2014 12:53 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday. I believe that omitting water reservations and eliminating public input on the permitting process is a breach of trust between the citizenry and government.

Mark Hieronymus

Juneau, AK 99801

From: Mark Dickson

Sent: Wednesday, March 12, 2014 12:29 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday. Stop and think about our permanent renewable resources.

Mark Dickson

58987 Deitz Ln

Homer, AK 99603

From: Maddy Rafferty

Sent: Wednesday, March 12, 2014 11:11 AM

To: Sen. Cathy Giessel

Subject: Please Include This in Public Record and Distribute to Natural Resource Committee Members

Please Include This in Public Record and Distribute to Natural Resource Committee Members

Testimony for House Bill 77 hearing:

My name is Madeline Rafferty, my residential address is 5340 Anderson Road, Fairbanks Alaska, 99709. I am testifying here today because I'm a student here in Juneau at University of Alaska Southeast.

I spent my summer talking with Alaskans about HB 77. I can tell you first hand, that when most people understood what the bill was, they were not in favor of it.

The addition of amendments to House Bill 77 is a completely inadequate response to the flood of opposition it has received. No amendment can fix the core of this bill; Alaskans are being denied the basic right to participate in the public permitting process.

We Alaskans are being given ONE public comment opportunity for amendments that have been 10 months in the making. I can't help but notice how painfully reflective this is of the silence HB77 is trying to achieve.

Are these amendments really the best alternative? No, the best alternative is to vote down this bill. I'm asking House members to adhere to the rights of their community members and say "No" to HB77.

Thank you.

Madeline Rafferty

March 12, 2014

Testimony of Lance Trasky

3941 Truro Drive

Anchorage, Alaska 99507

Subject: Testimony on HB 77 to be included in public record

The Senates changes to HB77 are cosmetic and do nothing to fix the fundamental problems with this bill which effectively eliminates public review and appeals of ADNR actions by allowing ADNR to write general permits for any type of activity no matter how controversial or destructive. ADNR's assurance that ADF&G fish habitat permits would not be affected is cynical because everyone knows ADF&G permits are written by Parnell appointees, have no public notice and only allow applicants to appeal. HB77 excludes the public which depends on state lands for many purposes by limiting appeals of ADNR disposals of state lands and resources to permit holders and persons with a financial or property interest in the disposal. HB77 allows ADNR to give away state lands without any assurances that there would be any benefit to the citizens of Alaska. HB77 takes away the public's right to apply for and hold water rights to maintain adequate in stream flows for fish and wildlife production. Allowing ADNR to hold in stream flow reservations is a travesty, since ADNR could give them away to the next out of stream applicant.

The changes to HB77 actually made it worse and deceive the general public by claiming the original problems have been fixed. It needs to be rewritten. If the legislature is going to depend on ADF&G fish habitat and refuge, critical habitat, and sanctuary permits to protect the public interest in state lands then you need to require that these permits provide public notice and appeals. The Senate should also follow the Alaskan Constitutional lead and enact a separate statute which would establish a baseline in stream flow reservation for fish, wildlife, water quality, recreation and transportation. Out of stream users could appropriate water above what is necessary to support those uses.

Thank you for the opportunity to comment.

From: Kyle Jefferies

Sent: Wednesday, March 12, 2014 12:19 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Kyle Jefferies

1200 W Dimond Blvd Spc 523

Anchorage, AK 99515

From: Krista Justice
Sent: Wednesday, March 12, 2014 12:50 PM
To: Sen. Cathy Giessel
Subject: HB 77

I continue to oppose HB77, even with the changes presented on Monday.

It's time to start listening to what citizens have to say. This bill will be detrimental to our democracy.

Krista Justice
33085 Gas Well Rd
Soldotna, AK 99669

From: Kelsi Swenson
Sent: Wednesday, March 12, 2014 1:03 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday. This bill takes away the rights of all Alaskans, who deserve to keep their water rights, health and safety, and subsistence lifestyle. It makes me sick to live under an administration thay caters to non renewable resources instead of the longevity and health of its citizens.

Kelsi Swenson

Anchorage, AK 99508

From: Kevin Barksdale
Sent: Wednesday, March 12, 2014 12:57 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

Thank you for the opportunity to testify in opposition to HB 77. My name is Kevin Barksdale life long Alaskan. I am a third generation commercial fisherman, land owner, and sportsman of this exact area being discussed for these water rights.
The State of ALASKA is showing neglect to its people who it serves in regards to water rights in particular to the Middle Creek and Chuit River.
We as Alaskans still get to enjoy the natural beauty of this state by seeing or eating the tasty resources this state reproduces year after year. Direct mining threw a active salmon stream would not allow this. This is why I am against this bill for allowing this avenue to open for the first time in state Alaska to open mining in a active salmon stream.
Its wrong
Thanks for your time on this important matter in state history

Kevin Barksdale
4161 Birch view
wasilla, AK 99654

From: Kathleen Shoop [mailto:kathleenshoop@yahoo.com]

Sent: Wednesday, March 12, 2014 12:08 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Kathleen Shoop

Kathleen Shoop

20052 Birch Hill Dr

Palmer, AK 99645

From: Katherine McLaughlin

Sent: Wednesday, March 12, 2014 12:32 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

After re-reading HB77 in its entirety as it was re-submitted, I fail to see that the major issues that Alaskans had on the original wording of this bill have been addressed. In some cases, the changes have made the problems even worse. IF this bill is necessary, then it should have been discussed and written with the assistance of the stakeholders and citizen's whose concerns need to be heard and met, not in secret meetings held by the Parnell Administration alone.

HB77 fails to provide for Alaskan's right to fair and adequate decision making, resource allocation and the Constitutional mandate to preserve and protect our natural resources for the benefit of its citizen's in perpetuity.

HB77 weakens existing regulations, places undo permitting and decision making authority with DNR, and further restricts citizens rights to comment and apply on water use and allocation.

HB77 should be stopped in its tracks. I am asking you to please ensure that it is.

Kate McLaughlin, President & Executive Director Prince William Soundkeeper

Katherine McLaughlin

PO Box 1368

Cordova, AK 99574

From: Martha Holden
Sent: Wednesday, March 12, 2014 12:45 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

My husband and I vote as often as there is an election in our precinct, and I am an Election Worker for all elections.

Our biggest concern over HB 77 is the overview that looks like our ELECTED officials, who we put into office to serve and PROTECT our interests, are being purchased by the interests of either BIG OIL or BIG MINING. Nowhere does it say that you are in office to serve YOUR interests. We will be going over the contribution lists of each of you before next voting, and if there is ANY hint of being purchased by anyone but your constituents, we will put on a campaign to ruin any chance(s) you might have to seek further office.

We don't care what pants pockets you have your hands in. but even a hint will bring on our wrath. Removing or lessening our input into ANY bill before you, or presenting ANY bill that changes or removes our interests will NOT be tolerated. We working class people have had it with your activities behind closed doors, contrary to our interests, or against the Constitution we all voted on before Statehood.

BEWARE, your voting public is on notice.....

Martha Holden
5001 E Brumage Dr Apt 2
Wasilla, AK 99654

From: Michele Cornelius

Sent: Wednesday, March 12, 2014 12:23 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday. The process to amend the bill should have been done with the participation of those who will be affected by the bill. DNR is given too much power to determine what will cause harm and it could be difficult to appeal a bad decision even if there is good cause. Alaskans need to be able to protect our streams and keep the water flowing for healthy fish runs, and HB77 is moving in the wrong direction.

Michele Conrelius

Michele Cornelius

PO Box 739

Homer, AK 99603

T. Henry Wilson
4830 Sportsman Drive
Anchorage, AK 99502

March 12, 2012

Senator Lesil McGuire
Senate Resources Committee

Via email

Re: Opposition to HB 77, 2d SCS CSHB 77 (RES), Sections 29 and 47
Chikuminuk Lake hydroelectric dam

Dear Senator McGuire and Committee members:

I am writing in opposition to the latest version of HB 77, which I believe to be a work draft captioned 2d Senate CS for CS for House Bill No. 77 (RES). I am a resident of Anchorage, and have lived in Alaska for approximately 29 years. I am opposed to the bill for a number of reasons, but these comments focus on Sections 29 and 47, relating to the construction of a hydroelectric dam at Chikuminuk Lake.

Section 29 of the bill would add a new subsection (e) to AS 41.21.167, to provide that a feasibility study for a hydroelectric power dam at Chikuminuk Lake is not an incompatible use of the Wood-Tikchik State Park. Section 47 provides that the DNR Division of Parks may not enforce or implement provisions in the Wood-Tikchik State Park Management Plan, and regulations applicable to the Wood-Tikchik State Park that are inconsistent with AS 41.21.167(e).

The Chikuminuk dam project has been studied enough. It is not feasible from an economic standpoint, without getting into debates about the value of the wilderness, or conservation versus development. Further studies are not necessary or appropriate.

For background, when the Wood-Tikchik State Park was created, several potential hydroelectric projects were under consideration. Two of them, at Grant Lake and at Elwa Lake, were designated for further study,[1] while Chikuminuk was not. The area around Chikuminuk Lake was designated as wilderness in the Wood-Tikchik State Park Management Plan, after an extensive public process.[2] Sections 29 and 47 would amount

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[1] The Nushagak Electric &Telephone Cooperative recently announced that it was halting work on the Grant and Elwa Lake hydro projects because they are not cost effective. http://kdlg.org/post/nushagak-cooperative-halting-work-proposeed-hyrdo-projects-nearby-state-park

[2] http://dnr.alaska.gov/parks/plans/woodt/woodtpln.htm

to an end run around that public process, and would nullify the Plan and Park regulations to benefit one special group.

Sections 29 and 47 of the bill are supposedly needed to allow the Nuvista Light and Electric Cooperative ("Nuvista") to conduct feasibility studies in order to determine whether a dam at Chikuminuk Lake is a good idea or not. This begs the question of what feasibility studies have already been done, and what is known about the Chikuminuk dam project.

It turns out that a lot of studies have been done. According to Nuvista's website, there have been eleven studies between 1978 and 1982 examining hydroelectric power in the Bethel area, all of which found that the Chikuminuk project is not economically viable.[3] Yet another feasibility study was completed in 2011. It is entitled *Kisaralik and Chikuminuk Lake Reconnaissance and Preliminary Hydropower Feasibility Study* (MWH, 2011). The Colorado-based engineering firm MWH conducted this study for the Association of Village Council Presidents Regional Housing Authority. The cost of $222,952 was paid with a grant from the Alaska Renewable Energy Fund.[4] The 2011 feasibility study covers both the proposed hydroelectric project at Chikuminuk Lake, and three other potential hydroelectric projects in the Kisaralik River drainage (Kisaralik Upper Falls, Lower Falls and Golden Gate Falls). There is a link to the final MWH report on Nuvista's website.[5]

The 2011 study did not find the Chikuminuk project to be feasible, and Nuvista does not claim that it is feasible. Instead, Nuvista claims that the 2011 study found that current oil prices increased the likelihood of a Chikuminuk Lake project being feasible.[6] That might be one way to spin it, but that is not what I see as important points to take away from the 2011 study.

The 2011 study includes an opinion of the probable construction costs. The Chikuminuk Lake project was the most expensive of the four projects studied, with a total project cost of $507 million.[7] The 2011 feasibility study also includes an economic

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[3] http://nuvistacoop.org/initiatives/chikuminuk-lake-hydroelectric-project/history/

[4] *See* Appendix to Alaska Renewable Energy Fund Status Report (Alaska Energy Authority, 2013) at 100: http://www.akenergyauthority.org/re-fund-6/4_Program_Update/FinalREFStatusAppendix2013.pdf

[5] http://nuvistacoop.org/wp-content/uploads/2014/02/Final-Kisaralik-and-Chikuminuk-Hydro-Study-Report-20110322.pdf

[6] http://nuvistacoop.org/initiatives/chikuminuk-lake-hydroelectric-project/history/

[7] Final Report at 12-4 (MWH, 2011).

valuation, in which the net present value (NPV), or the cost in today's dollars, of the four dam projects was compared to a diesel fuel alternative over a 50-year period. The diesel only alternative had the lowest NPV, meaning that it is the preferred choice from an economic standpoint. The report states: "*In all three demand scenarios, the diesel only future has the lowest NPV and from an economic viewpoint, would be the preferred lowest cost choice.*"[8]

The difference in cost between the diesel alternative and the Chikuminuk project is significant. The 2011 feasibility study includes the following table in the Executive Summary, which that shows a 50-year NPV of $909 million for the diesel only scenario, and $1,104 for Chikuminuk.[9] This table indicates that Chikuminuk would cost $195 million more than diesel over the life of the project ($1,104 - $909 = $195M). The same table also shows that 22% of the project costs would have to be subsidized by grants, with no repayment obligation, to bring the cost down to a level equivalent to the diesel only scenario. Assuming a total project cost of $507 million, that means a subsidy of approximately $111.5 million. So, it is not even a close call from a financial standpoint.

The 2011 feasibility study does find that the Chikuminuk dam would have some advantages over the Kisaralik dams, including less potential impact on salmon runs, but that is beside the point. The fact that the Chikuminuk dam would not be as bad a project as the Kisaralik dams does not make it a good project. It is more like the lesser of two evils. The important point is that the power generated by any of these dams would cost hundreds of millions of dollars more than the power generated by diesel. That cost would be borne by the State and passed along to consumers.

The 2011 feasibility study identified many other technical and logistical obstacles with the Chikuminuk project, including the difficulty of accessing the site. Either a road from Dillingham or Bethel, or a large airstrip, would be required. The risk of cost overruns would be high. [10] The project would also require the construction of

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[8] Final Report at 14-11 (MWH, 2011) (Emphasis added).

[9]

Power Supply Option	50-Year NPV ($millions	% Grant Funding Required
Diesel Only	$909	NA
Chikuminuk Lake	$1,104	22
Kisaralik - Upper Falls	$1,312	47
Kisaralik - Lower Falls	$1,117	28
Kisaralik - Golden Gate Falls	$1,155	26

Final Report, ES-4 (MWH, 2011).

[10] "The Chikuminuk Lake site is viewed as the most difficult to access of the four sites evaluated. Given that the site is located in a remote part of a State park, construction of access roads are expected to be challenging to permit. In addition, site access roads would

approximatley115 miles of electrical transmission lines to Bethel, at a projected cost of over $141 million. The power lines would have to go through mountain passes subject to avalanches, and across the extensive wetlands of the Kuskokwim River drainage. [11]

An additional complication is the fact that the power lines would cross the Yukon Delta National Wildlife Refuge for approximately 60 miles. The U.S. Department of Interior, acting through the U.S. Fish and Wildlife Service, would have to authorize the construction on Refuge lands, and there is no guarantee that would be allowed. At a hearing on Alaska energy costs in Fairbanks, U.S. Representative Don Young predicted that getting permission to build a transmission line across the Yukon Refuge from Chikuminuk Lake would be a major hurdle that could require an act of Congress to overcome.[12]

If all of that were not enough, the site plan of the Chikuminuk dam would encompass approximately 160 acres of private land, a former Native allotment now owned by the Bristol Bay Heritage Land Trust.[13] It is unclear how Nuvista proposes to deal with the rights of this private landowner.

To sum up, we already know that the Chikuminuk dam has been the subject of at least a dozen feasibility studies, all of which have found that the project is not economically viable. The most recent study was funded by the State at a cost of $222,952, and concluded that it would be hundreds of millions of dollars less expensive to generate electricity with diesel fuel only. We know that there are numerous technical and logistical hurdles, which could significantly increase the project costs. We know that federal land mangers can effectively veto the project. We know that the project would

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cross extensive wetland area, soft soil and rugged mountains, making access road construction technically challenging as well. Alternatively, the site could be accessed entirely by air. Both alternatives are expected to have significant financial and scheduling impacts on the project." Final Report at 6-3 (MWH, 2011).

[11] "The path of the transmission line would transect rugged portions of the Kilbuck Mountains, and extensive swamps and bogs of the Kuskokwim River lowlands. Mountainous portions of the alignment, most notably the mountain pass crossing west of Chikuminuk Lake could potentially be exposed to landslides and avalanche hazards. The Kuskokwim River lowland will pose extensive constructability challenges as the lakes and bogs will make overland travel of construction equipment impractical during non-winter months. Discontinuous areas of permafrost may also be encountered within unconsolidated Quaternary deposits along the alignment. A detailed evaluation of permafrost areas and how they may impact transmission line support systems should be conducted during more detailed phases of design." Final Report at 6-4 (MWH, 2011).

[12] http://www.newsminer.com/alaska-energy-woes-fuel-hearing-with-rep-don-young/article_493d4fc1-9396-5c54-ac7d-7fd12298230a.html

[13] http://www.bristolbaylandtrust.org/land-conservation/

adversely affect the property rights of a private landowner. We know that the project, if approved, would change forever the wilderness character of the Wood-Tikchik State Park. Is it really necessary to spend another $10 million to determine whether a dam at Chikuminuk Lake is a good idea or not?

The high cost of energy in the Bethel area is a genuine problem, and alternatives to diesel fuel are needed. However, the Chikuminuk dam is not the solution. Further studies are not going to change the practical realities. It is time to face the facts, and start looking at other alternatives to provide power for the Yukon-Kuskokwim and Bristol Bay regions. With the current fiscal outlook, the State cannot afford to simply throw money in the general direction of a problem like high cost of energy in rural Alaska, and hope that something sticks. Someone needs to run the numbers, ask hard questions and set priorities. So far that has not happened in the case of the Chikuminuk dam.

The Chikuminuk dam has been studied enough - more than enough - in order to know that it is an exceptionally bad idea. Sections 29 and 47 should be deleted from the most recent version of HB 77. Further bills to advance the Chikuminuk dam project should not be entertained.

Yours truly,

Henry Wilson

From: Teresa Sundmark
Sent: Wednesday, March 12, 2014 12:59 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

To whom it may concern:
I would like to express my opposition to HB77,even with the changes presented on Monday.
I believe Governor Parnell has not shown respect for Alaskan's while drafting this bill, and while proposing the amendments.

The power structure of the DNR is based largely on politics, and by giving the DNR power without having to consider the people's input, a biased administration could wreak tremendous damage on public lands and waterways without regard to the wishes of the citizens. If passed, this bill could and will slant the permitting process to always favor industry.

The structure of the bill as it is written not only disregards citizen input, it makes it difficult for the public to appeal decisions that the DNR makes. This is wrong, not just from a democratic standpoint, but also from an environmental stewardship standpoint. Alaskans should have the ability to make their concerns heard in regards to public land.

Thank you for considering my standpoint on this issue. I value living in a society where my concerns can be expressed and recognized.

Teresa Sundmark
36800 Maria Rd
Homer, AK 99603

From: Susan Olsen

Sent: Wednesday, March 12, 2014 12:50 PM

To: Sen. Cathy Giessel

Cc: Susan Olsen

Subject: HB 77

Dear Senator Giessel:

Please include these comments in the public record; I am unable to testify in person today.

Making public the amendments to this highly controversial bill on Monday afternoon for public testimony on Wednesday afternoon is simply emblematic of the contempt being shown by the governor and legislature for the public process in this bill. These late-arriving amendments do not resolve the difficulties expressed by the public.

I am delighted to see that the DNR Commissioner may no longer ignore existing law but I certainly object to the elimination of "first in time" processing for water reservations. I also question whether having the state hold, and thereby control, water reservations, now obtainable by individuals and NGOs, defeats the purpose for filing for a reservation if the state can subsequently manage the same on its own terms. And finally, changing the standard for appeal without defining the terms in the legislation doesn't solve the issues raised by the public: making certain that the Commissioner cannot decide arbitrarily if the appeal can be accepted and, even more, making certain that the public has a right to challenge capricious decisions by the Commissioner.

This bill needs more work before going to a full vote of the Senate. Please hold in Committee and amended it to reflect the valid issues previously raised by the public.

Susan Olsen

8601 Sultana Drive

Anchorage, AK 99516

From: Susan Hall

Sent: Wednesday, March 12, 2014 12:18 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday which were done behind closed doors which counteracts the government initiative to make processes clear and transparent to the public.

The expansion of DNR power, reduced rights to appeal DNR decisions, and reducing the public's right to reserve water in streams for fish and other public uses does not sit well with me.

The General Permits section places all the power in the hands of the DNR, allowing them sole rights to determine who (private or public entity) is issued a permit and makes the appeal process cumbersome and time consuming potentially allowing ongoing pollution or destruction of Alaska's rivers and streams.

I disagree wholeheartedly with HB77.

Sincerely, Susan Hall - Alaskan Resident

Susan Hall

4424 Taku Blvd

Juneau, AK 99801

From: Sam Wright
Sent: Wednesday, March 12, 2014 12:53 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

Sam and Donna oppose HB77 even with changes presented on Monday.

We can not be present on Wednesday but are very concerned with the concentration of power this bill gives the Department of Natural Resources. We are not the only Alaskan's concerned with this bill but we were never consulted as a public and feel this bill will limit our rights to appeal decisions made by DNR. As this bill is written, any Alaskan must show that they are "significantly and adversely affected" in order to appeal. Having to demonstrate direct financial or physical harm from the government's decision is too high a bar. And, DNR gets to decide what is "significant and irreparable harm". We're sure our interpretation and DNR's interpretation of those words would differ. Do they get to define those terms? What time frame would DNR be using to decide "significant and irreparable"?
This is an ill-advised bill. We oppose it.
Sincerely,

The Rev. Sam Wright and Donna Lee
PO Box 1193
Chickaloon, AK 99674

From: Robert Howard

Sent: Wednesday, March 12, 2014 12:24 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Having served as Chair of Knik River Watershed Group, and having a solid decades long record of trying to save salmon habitat in the rich Jim Swan Wetlands, I have witnessed first hand a verifiably errant DNR process and astounding irresponsible attention to habitat supposedly protected by law. Lawmakers need look no further than the Knik process and record for an exceedingly egregious example demonstrating the utter folly of HB77.

A legislative hearing on the errant application of HB307, Knik R. Public Use Area, would prove extremely enlightening and a far more productive endeavor.

Please stop HB77!

Robert Howard

240 N Independence

Palmer, AK 99645

TESTIMONY OF THE CHUITNA CITIZENS COALITION

BEFORE THE ALASKA SENATE RESOURCES COMMITTEE

ON HOUSE BILL 77

MARCH 12, 2014

Thank you for the opportunity to testify. My name is Judy Heilman. I live in Beluga, and I represent the Chuitna Citizens Coalition. We're a group of Alaskan property owners, hunters and fisherman concerned about protecting salmon habitat in the vicinity of the proposed Chuitna coal strip mine in Upper Cook Inlet.

The Chuitna coal strip mine would set a dangerous precedent for every fish stream in Alaska, because it would be the first permit issued by the state to allow mining completely through 25 miles of a wild salmon stream.

Our group is uniquely affected by this legislation because it will essentially take our application to reserve water for salmon in a tributary of the Chuitna River – called Middle Creek – and allow DNR to ignore it.

We think it's wrong to mine through our salmon streams. We have seen what ill-planned development has done to salmon runs in the Lower 48, and we think Alaska can and should do better.

We filed applications to keep water in Middle Creek, to protect the King salmon, Silver salmon and other fish runs it supports. The State took our $4500 in application fees but refused to act on our request. The State also had refused to act on a similar water reservation on the main stem of the Chuitna, filed by the state's own habitat biologists at ADFG in 1996.

In the meantime, the State issued permits to the coal company to take water from the same streams for exploratory work.

Because DNR would not process our application, we were forced to ask a court to decide, and the court found the State violated our constitutional rights by failing to process our water reservations.

Now, the coal company has submitted a water right application to take 100% of Middle Creek so it can mine down 350 feet or more through the salmon habitat. Enclosed please find a summary of that application.

No one has ever built new salmon habitat after such intensive impacts, and the best science shows it's impossible.

We support responsible development, and our water reservations do no stop the coal company from mining. They would simply ensure enough water remains in the stream to support salmon. If HB 77 goes through as drafted, the State can simply ignore our applications, and process only the water withdrawal for coal strip mining.

We think our Constitutional framers wanted Alaskans to play an active role in protecting our fish and game resources. That's why we Alaskans are the owners of our fish and game and water resources under the Constitution. But Monday was the first time we ever saw the revisions to the water reservations section. This process has taken place behind closed doors, and it's the wrong way to go about making such important policies.

We urge you to reject the current language on water reservations, and to convene a working group of Alaskans to develop a fair and open process for protecting the water our salmon need to thrive.

Sent: Tuesday, March 11, 2014 8:49 AM

To: Sen. Cathy Giessel

Subject: HJR 1 & HB 77

Dear Senator Giessel:

As one of your constituents, I ask you to NOT support HJR 1, the constitutional amendment which would allow public funding to support private schools. We have raised two children who attended public schools in Juneau, Fairbanks, and Anchorage. We have now lived in Anchorage for 20 years and both of our children graduated from Service High School and have earned bachelors and graduate degrees. We believe that public schools form the bedrock of our American democracy and urge you NOT to support HJR 1.

I also encourage you NOT to support HB 77. This bill will place at risk public water rights, public access to natural resource management decisions, and the ability to maintain safeguards on our important and sustainable salmon spawning streams throughout Alaska. Please do NOT support HB 77. I spent 20 years as a biologist for the Alaska Department of Fish and Game and I believe this bill is not in the best long-term interest of the Alaskan public.

As your constituent, I appreciate your willingness to consider my concerns.

Sincerely,

John W. Schoen

13240 Mountain Place

Anchorage, AK 99516

From: precisionboat
Sent: Tuesday, March 11, 2014 10:33 AM
To: Sen. Cathy Giessel
Subject: Please include this in the public record- HB 77 testimony

Dear Senator Giessel

I am writing to express my strong opposition to HB 77. It is bad legislation for several reasons:

First, it gives too much decision-making power to the Commissioner of the Dept. of Natural Resources. One individual should not be able to approve projects that may have a significant harmful effect on Alaskan communities, without the due process and protections which are presently in law.

Second, it eliminates the ability of people and organizations to apply for in-stream reservations, and exalts the ability of outside corporations to receive rights to the same water, so the ability to protect water sources is diminished. This will be bad for Alaskans who depend on healthy fish and wildlife habitat for their livelihood.

Third, it is undemocratic- it severely diminishes the rights of people to protect the resources they depend on. It is wrong to take away citizen's due-process rights. The ability to challenge a decision of the DNR administratively, or ask for a court review is an important check on the power of the government.

In sum, HB 77 would remove protections for fish and wildlife habitat at a time when they need maximum protection from mining and other threats. I am the owner of a commercial fishing boat repair business which provides a livelihood for 9 families here in Sitka. The health of Alaska's waters and fish habitat is critically important to me, my employees, and their families.

For these reasons I urge you to fight against HB 77.

Thank you,

--
Michael Litman
Precision Boatworks
222 Smith Street
PO Box 1971
Sitka, Alaska 99835

Senate Resource Committee
CHAIR: Senator Giessel Sen.Cathy.Giessel@akleg.gov
VICE-CHAIR: Senator Dyson Sen.Fred.Dyson@akleg.gov
MEMBER: Senator Micciche Sen.Peter.Micciche@akleg.gov
MEMBER: Senator Bishop Sen.Click.Bishop@akleg.gov
MEMBER: Senator McGuire Sen.Lesil.McGuire@akleg.gov
MEMBER: Senator Fairclough Sen.Anna.Fairclough@akleg.gov
MEMBER: Senator French Sen.Hollis.French@akleg.gov

Honorable Senators, March 11, 2014

I appeal to the Senate Resource Committee to reject or revise HB77 for the following reasons:

1. This bill expands the power of the Department of Natural Resources (DNR) by preventing Alaskans rights to appeal DNR decisions and gutting the process for water reservations.
2. Once a general permit is in place, the public will never know about specific projects authorized by it because public notices would no longer be required.
3. By requiring you to be "significantly adversely affected" in order to weigh in or challenge decisions, direct financial, or physical harm from the government decision (a very high bar indeed) will limit Alaskans rights and asks the question whether subsistence users could challenge DNR decisions ever, even if DNR break the rules.
4. Despite some revisions, the new HB 77 provisions on water reservations give DNR autonomous discretion to put water reservations filed by Alaskans on the shelf, indefinitely. This strips the existing law which allows Alaskans to reserve water in streams for wild fish, recreation or other uses.

HB77 gives unprecedented power to the DNR while stepping all over the rights of Alaskans and impeding Alaskans from public comments, even the very knowledge of DNR activities. Please do not allow this appalling bill to proceed in trampling our democratic system of government.

Sincerely,

Cindy Birkhimer
4264 Kramer Lane
Homer, AK 99603

Dear Senator Giessel and Senate Resources Committee:

Regarding: House Bill 77 General Permits under the Alaska Land Act

Please include these comments in the public record.

I am retired from the Department of Natural Resources, Division of Mining, Land and Water, Southeast Regional Office, having served there in various capacities, including Land Use Authorization Manager and briefly as the acting Regional Manager.

I am well aware of DNR's interest to address its overwhelming backlog of pending permit applications and spent many hours with staff discussing various ways to increase efficiencies and reduce adjudication times without sacrificing our constitutional responsibilities to uphold the Public Trust. Indeed, we found there are no easy answers.

Most adjudicators would agree that each application for a use of state land or resources has some aspect to it that presents a unique situation, or is different in some manner that hasn't been specifically addressed before. Does a personal dock impair an adjacent landowner's ability to access their personal dock? Will a rarely, if ever, used log storage site preclude another long-term beneficial use? It is difficult, if not impossible, to anticipate and address all the potential situations that will be presented under the authority of a general permit. Not all applications for an activity addressed in a General Permit will, nor should, be covered by the General Permit. Some proposed activities, because of their unique situation, should be individually reviewed under standard review procedures.

I believe General Permits can help address the application backlog and increase efficiency to some extent, but not as proposed in this bill. General Permits should only apply to de-minimis activities. For instance, in the southeast region intertidal ground source heat pumps and mooring buoys could likely have a streamlined authorization process without much risk to adverse impacts to other people, landowners, or the environment. The proposed standard of DNR having to determine an activity is "likely" to cause significant impacts and irreparable harm is way too high. In my experience, it would be a very rare occurrence for DNR to find that an activity would likely cause significant impacts and irreparable harm even in the face of substantial evidence to the contrary; especially if the public and other interests are left out of the decision-making process. Please note that efficiency for DNR may not result in overall efficiency for the State of Alaska if this results in an increase in litigation due to DNR's inability to

consider all the mitigating factors of a situation and therefore unintentionally issue authorizations that conflict with other laws or jurisdictions.

I believe the appeal process for developing a General Permit should be open to any party that participates in its development and review. Further, I do not believe DNR, or any agency or individual, can meet its Public Trust responsibilities in isolation of other agencies and affected parties. That is why I believe an application for an activity under a General Permit must still be sent to other state and federal agencies, local governments, Native corporations, and interested parties listed on the General Permit for a short, expedited review (such as five business days with possibility for a short extension upon request) so that these potentially interested parties have an opportunity to concur under their authorities or interests that the proposed activity complies with the standard stipulations on the permit and does not present unique circumstances that are not adequately addressed in the General Permit. Hopefully, a mutual agreement would be found between the parties and a special stipulation addressing the unique situation could be added to the permit. I understand there may be resistance to this suggestion but I believe it is necessary to fulfill DNR's Public Trust obligations.

A General Permit should be publicly reviewed every 3-5 years to evaluate the department's, other agencies', and the public's experience in how well it has worked and make necessary adjustments. A ten year review period is too long, especially in the first few years of each General Permit.

Thank you for considering these comments.

Chas Dense
427 West 11th Street
Juneau, AK 99801

From: bee long

Sent: Wednesday, March 12, 2014 10:44 AM

To: Sen. Cathy Giessel

Subject: SCS CS HB 77 Testimony

Dear Senator Giessel, Chair, and Senator Fred Dyson, Vice Chair, Senate Resources:

I would hope that you would include the below testimony, also in an attachment, in the public record as I may not be able to testify today. Thanks a lot. Becky Long

Becky Long Comments SCS CS HB 77 Version H to Senate Resources Committee

As an active participant in commenting on this omnibus bill, I am angry that this amended version was crafted behind closed doors without regular Alaskans sitting at the table with DNR, ADFG, and industry. Now the amendments only became public March 10. We have less than 48 hours to try and understand this huge bill. The administration and the state legislature seem to be fearful of public participation. The reasons for this bill, a backlog of unprocessed permit applications, have been solved by DNR itself. Thus the reason for this bill has been made moot and unnecessary.

I still don't support this bill. None of the amended changes have convinced me otherwise. One particular amendment shakes me up. My husband and I own water rights for the creek by our residence. A new section says a person can take up to 5000 gallons of water out of a hydrologic unit without a water right or a permit. That is a lot of water. I am fearful that someone could impinge on my water rights by appropriating that much water in the small creek we use without me being able to know or comment about it. The reason given in DNR's documents is so someone taking water out for their canteen would not be illegal. This is illogical to make 5000 gallons the bar for getting no permit.

I object to the definition of standing for administrative and court appeals. I have participated in such appeals. The Alaskan public has used the current standing responsibly. There is absolutely no proof that they have not. But even beyond that fact, this standing section is unnecessary because the courts have the ability to throw out frivolous lawsuits. DNR can merely refuse to act on a request for reconsideration.

Many times appeals occur because what DNR has decided is an illegal action. This standing bar would prevent the public from holding DNR to accountability. Why should we the public have to prove physical harm or direct financial liability? This would eliminate an appeal based on subsistence rights. Is this what this state has come to?

I am opposed to the whole concept of general permits. The new sections of public notice and comment do not assuage those feelings. There are no perimeters or definitions as to what would be generally permitted. It is totally up to the discretion of the unelected Commissioner. There is no definition of significant harm or irreparable harm. So how will DNR determine what can be permitted? Such a general permit after issued would give blanket approval over a wide range of activities in a large area for ten years without public notice or the ability to comment on later activities. For instance, DNR could grant a general permit for cross country travel across roadless state land for ten years with no control or knowledge of the public about the number of trips, the number of applicants and subcontractors traveling, and no way to protect the environmental integrity of state lands.

In conclusion, this omnibus bill is going to guarantee future land use conflict which the legislature will have to adjudicate. Why vote for something that is going to create future problems for your constituency.

Becky Long

P. O. Box 155
Talkeetna, AK 99676
03-11-14

Senate Resources Committee
Alaska State Capitol
Juneau, AK

Dear Senators:

RE: HB 77 Amendments

The amendments to **HB 77** did not repair the major problems with this bill. This bill still denies Alaskans their voices. I have to ask why Alaskans are being given such a short amount of time to comment on such a disastrous piece of legislation that, if passed, would so profoundly affect every one of us? Major areas of concern follow:

Under the area of **General Permits**, HB 77 would give DNR the power to issue a general permit for an "activity" over broad geographic areas of State land. Once this permit would be issued, the public would never know about specific projects it would authorize, as the public would not receive notification. The new version indicates that the DNR commissioner must consider ADF&G laws, *but they can still override their own laws and regulations.* This gives the DNR commissioner too much power. THERE ARE NO CHECKS AND BALANCES.

HB 77 would **Limit Legal Rights**. HB 77 would make it more difficult for an individual Alaskan to challenge DNR decisions, *even if DNR didn't follow their own rules.* Alaskans would be punished by DNR's attempt to "keep outsiders from slowing the permitting process in the state." Having used this process responsibly, Alaskans' voices should not be silenced. We should have a voice in our natural resource development. Alaskans should be respected and our input should be welcomed. That is the democratic process. When I have written legislators in the past, they have thanked me for taking the time to take part in the legislative process. DNR should do the same. There were NO CHANGES MADE in this area on the new version of HB 77. This was one of the areas that caused a public outcry...and NO CHANGES WERE MADE IN THIS AREA. It will be more difficult for Alaskans to challenge poor or illegal government decisions.

Water Reservations: HB 77 would gut the law that allows Alaskans to reserve water in steams for wild fish, recreation or other uses. Even though there were some revisions, the new version of HB 77 provisions on water reservations give DNR free rein to put water reservations filed by Alaskans at the bottom of the stack of things to be considered, indefinitely. No timeline has to be given to the applicants. Alaskans could spend a lot of time and money to file an application to reserve water in a stream and still not have the right to actually be considered by the State. Now that is *lip service.* And that is all it is. Do you think that Alaskan are buying that? Local governments, tribes, and individuals could no longer hold their own certificates for a reservation...only ADF&G cold hold the reservation.

I sincerely hope that none of you approve of this unbelievably poorly written legislation. It is an affront to all Alaskans. It takes away our rights. It could destroy our resources. Please do not pass HB 77.

Respectfully,

Cathy Teich
907-733-2155
cathyt@mtaonline.net

cc: Senator Mike Dunleavy

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From: Bruce and Kari Rogers

Sent: Wednesday, March 12, 2014 10:07 AM

To: Sen. Cathy Giessel

Subject: HB 77

Senator Giessel,

We are writing to express our opinion regarding the pending HB 77, due for discussion this afternoon, which the Parnell administration is promoting to take away the right of individuals, non-profits, and tribes to file for water rights. We oppose HB 77 which would unnecessarily complicate and interfere with private operations for agriculture, mining, home uses, etc. Our waterways are invaluable for the protection of salmon and other fisheries stocks and nothing should potentially lend itself to future compromise of this resource.

The Parnell administration continues to run amuck with regard to the protection and wise use of our natural resources, albeit wildlife and fisheries management, water resource management, land management, energy resource management, etc.

We need representatives in Juneau who will stand up for the people of Alaska against this wholesale compromise of our natural resources. Please vote NO on HB 77 and speak out on behalf of we Alaskans who cannot stomach the Parnell administration's tactics.

Sincerely,

Bruce and Kari Rogers

Gakona, Alaska 99586

From: Cherie Northon
Sent: Wednesday, March 12, 2014 8:38 AM
To: Sen. Cathy Giessel
Cc: Sen. Berta Gardner; Rep. Andy Josephson
Subject: HB 77

Senator Giessel

I work for Anchorage Waterways Council, an organization that works to protect the waterways in Anchorage. Today I am writing as a citizen of Alaska who is against this bill. This is a political grab by agencies supposedly to streamline the "process", when it is actually undermining the "process". Every day we seem to be losing personal rights to influence wrongs that we speak out against. Where is the "public process"? Yes, one may be entirely against an issue, gather myriad fellow opponents, but a minority is going to do what they think is best--based on what? Money? Politics? HB 77 seems to be a perfect example of this.

The salmon that are so coveted in this state by subsistence users, residents, and tourists are one of our greatest assets. They need streams and habitat that are not impacted by actions that are deleterious to their survival. One resource should not be harmed at the expense of another. When individuals or groups are worried about the impact on a resource, they have the right to speak out and provide their concerns and BE HEARD and HEEDED. Our elected officials are there to represent their constituents, not special interests.

If you want to see the way that our fabulous resource can go--the way it happened in Europe--read David Montgomery's book "King of Fish--the Thousand-Year Run of Salmon." It foretells how the last remaining wild salmon species, ours, will follow the demise of its Atlantic ancestors.

I hope you will submit my comments against this bill as I am unable to testify today.

Respectfully,

Cherie Northon, Ph.D.

Mapping Solutions

P.O. Box 230329

Anchorage, AK 99523

www.mapmakers.com

March 11, 2014

To the Honorable Senate Resources Committee:

Please add my name to the already extensive and bipartisan list of Alaskans opposing HB77. My reasons for opposing this bill are numerous, and I am confident many of those reasons have already been articulated in others' comments and testimonies.

Beyond those reasons, I would like to remind the Alaska State Senate of the two billion dollars of public funds the states of Washington and Oregon have collectively spent on salmon recovery on the Columbia River over the past decade. You read that correctly: two *billion* dollars of public funds spent on salmon recovery that could have been spent on roads, ports, docks and harbors, education, health, energy, agriculture, any number of things. And what have those two billion public dollars earned for the public? An estimated *six to ten percent* recovery of historic salmon runs on the Columbia. That's it.

You might ask why this is relevant to HB77. Less than 100 years ago, the Columbia had one of the most prolific salmon runs the world has ever known. An estimated 16 million chinook annually. Yet with lack of appropriate permitting and regulation for various activities along the river, namely hydroelectric generation, agriculture, timber, and mining, the Columbia salmon fisheries that seemed limitless suddenly disappeared. The governing bodies and permitting authorities' cavalier attitudes throughout the 20th century demonstrated painfully clearly that salmon are not limitless, that salmon habitat requires stewardship (not antipathy or indifference), and the thousands of jobs associated with salmon will disappear just as quickly as the salmon do once their habitat is disrupted. I wonder if Oregonians and Washingtonians of my age wish their predecessors had exercised more foresight and more thorough permitting processes on activities that affected/eliminated their salmon. I wonder if Oregonians and Washingtonians wish those two billion dollars of public funds had been spent on projects other than fixing problems borne of the cavalier mentality that salmon are limitless.

The intent of this letter is not to suggest that we can sustain our communities without energy, agriculture, timber, or minerals. Rather, I am here as a young Alaskan to demand proper due diligence in permitting processes—not a weakened process that sets the stage for unilateral decision making and future misuse and/or abuse, which is the stage HB77 sets.

As a thirty-one year old Alaskan, I do not want to inherit a state that will need to spend precious public dollars on salmon recovery if we don't need to. I see more intelligent, more strategic ways to spend our dollars than by fixing problems that could have been avoided with foresight and consideration for future generations.

Again, I could list at least a dozen more reasons why this bill will severely damage the Alaska my generation will inherit, but I'll leave that to the numerous other Alaskans who I'm sure have already called and emailed and who plan to testify against this bill in person.

Regards,

Daven Hafey

157 Gastineau Ave #A

Juneau, AK 99801

From: Clayton Smith

Date: March 11, 2014 at 8:21:48 PM AKDT

To: <senator.cathy.giessel@akleg.gov>

Cc: <Representative.Paul.Seaton@akleg.gov>, <Senator.Peter.Micciche@akleg.gov>

Subject: HB77 Please include this in public record and distribute to committee members.

My name is Clayton Smith and I would like to comment on HB77. I have just gone over the changes to this bill and still have serious concerns. First I am uncomfortable with the language in the general permitting portion.I'm not sure I understand what "unlikely to cause significant and irreparable harm" means. I also am not clear on what constitutes financial or physical harm, would this cover subsistence activities? Also I don't like the idea of more than 1 temporary water use permits in a row without some form of data being collected, not to mention no public notice or comment. I believe this bill is still flawed in so many ways that I would encourage you to start from scratch and draft a new bill. Finally I think you have done a disservice in allowing two days to comment on these changes after hundreds of people testified in town hall forums. The changes in this bill don't seem to address the real concerns I heard in these meetings. Thanks for the time.

From: Brett Jabers

Sent: Wednesday, March 12, 2014 8:16 AM

To: Sen. Cathy Giessel

Subject: Hb 77

Thank you for spending time to improve House Bill 77. The amendments to section 1 of the bill do not go far enough. I am happy that section 1 was changed so that DNR must obey ADF&G laws. I would like this section to be further amended by defining what "any activity" means regarding DNR's authority to issue general land use permits for “any activity” over broad geographic areas. Also, the public MUST be given notice about each of the specific activities authorized by the general permit.

Thank you.

Brett Vadla

From: shelley gill

Sent: Tuesday, March 11, 2014 5:58 PM

To: LIO Homer

Subject: worst bill ever

HB77 once litigated will be unconstitutional. That doesn't stop this administration from trying to shove it down our throats. Parnell and his cronies know it will take time to fight it if passed. Anything won in the meantime is a net gain for his corporate buddies and a loss for Alaskans. We were once a great state. It is time to reclaim who we are. Not a shill for corporate interests but conservationists who love this great land. Independent but understanding of diversity and the necessity to pull together. Real Alaskans don't look forward to moving somewhere warm and cushy. They look forward to another day right here. And that day includes having our salmon, our way life intact. Absolutely vote no. Then blue ticket Parnell and his buddies out of state.

From: Ruth McHenry
Sent: Wednesday, March 12, 2014 9:57 AM
To: Sen. Cathy Giessel
Subject: HB 77

Dear Senator Giessel and Senate Resource Committee members:

We strongly oppose HB 77. Here's why:

The Copper Basin has no city or borough government, but it does have tribal governments and non-profit organizations that fulfill many of the functions of city and borough government. For instance, in Chistochina, Cheesh'na Tribal Council applied for an in-stream flow reservation for Sinona Creek in order to protect its king salmon run. After years of collecting data, Cheesh'na submitted its application, together with a $1500 fee. That was at least five years ago, but DNR still has not acted upon the application.

At the other end of the Copper Basin, the Kenny Lake Community League operates and maintains one community well; the Kenny Lake Volunteer Fire Department operates another well which the public is allowed to use; a third non-profit, the Willow Creek Water Consortium, does scientific studies of the one creek that flows through the community (and in and out of your district), in order to determine its roles in furnishing groundwater for wells and supporting fish and other wildlife. At times in the past few years, the fire department well has been unable to keep up with local demand, and some home wells have gone dry, so water could become a critical issue for Kenny Lake. As data flows in from the Water Consortium studies, it may be prudent to file an in-stream flow reservation...but if HB77 passes, no organization, tribal government, or individual will be allowed to apply.

Although the Parnell administration claims that individuals and groups could still work with city, borough, state, or federal agencies to place in-stream flow reservations on waters, we can imagine that cooperation from those agencies would depend upon the political philosophy and priorities of the administration in control at the time. Additionally, we wonder if a secured in-stream flow reservation held by a governmental entity could be voluntarily voided by that entity under a different administration.

We would appreciate your taking our concerns into consideration and voting against HB77.

Thank you,

Ruth McHenry, Volunteer Staff
Copper Country Alliance
HC60 Box 306T
Copper Center, AK 99573

From: Pudge Kleinkauf

Sent: Wednesday, March 12, 2014 9:39 AM

To: Sen. Cathy Giessel

Subject: comments on HB 77

3/12/14 Dear Senator Giessel: I am writing to oppose HB77, which will come before the Senate Resources Committee today. I would appreciate your making this e-mail part of the public record and sharing it with the other Resources Committee members.

If passed, HB77 would significantly restrict my ability to participate in natural resources issues that I need to be aware of to operate my business, Women's Flyfishing® Under this bill, permits can be issued by DNR for any number of activities on large tracts of land with little detail, and without opportunity for the public to weigh in on that decision. Alaskans have always had the right to be notified about development projects which may affect them, and this bill would completely do away with that opportunity. To my mind this is granting an inordinate amount of power to a state agency without giving the public either notice or a chance to be heard on the pros and cons of these actions.

Under the current wording in the bill Alaskans would need to show that they would be "significantly adversely affected" to challenge DNR decisions once they are made, when the harm that a decision would bring might already be in effect. Without the opportunity to become familiar with possible actions of the Department, it would be difficult, if not impossible to determine whether or not the decision would have an adverse impact.

HB77 also removes the sections of current law that allow Alaskans with business like mine as well as Alaska Native Villages to reserve water in streams for wild fish or recreation or other uses. Under the bill, DNR would have unconstrained discretion to dump water reservations filed by Alaskans into the garbage and ignore them. Government should not permit all such unfettered decision-making to occur, given the possible harm that might be done to outdoor businesses.

Senator McQuire appears to have a clear understanding of the harm that HB77 will do to the long-protected right to public input as well as the possible long-term harm to various land and water usage that might occur if HB77 passes. Her skepticism of this over-reaching bill is wise, and I hope that her position will convince other members of the Committee to agree.

I strongly urge you NOT to pass HB77 out of the Senate Resources Committee. It is a bill that is NOT in the best interests of Alaskans.

Sincerely,

Cecilia “Pudge” ‘Kleinkauf

Cecilia "Pudge" Kleinkauf, Owner

Women's Flyfishing®

A Trout Unlimited Endorsed Business

P.O. Box 243963

Anchorage, AK 99524

www.womensflyfishing.net

From: Kathy East

Date: March 11, 2014 at 7:57:44 PM AKDT

To: "senator.cathy.giessel@akleg.gov" <senator.cathy.giessel@akleg.gov>

Subject: Please include this in public record (HB77)

Reply-To: Kathy East <mukluckathy@yahoo.com>

I am opposed to HB 77. Firstly, it is not appropriate that the committee waited until 48 hours before the final hearing to release the changes and allow us to make public comment. Also, the timing of the hearings makes it impossible for those of us with "regular" daytime job hours to testify. Therefore, I am submitting my comments in writing.

I am opposed to the bill for the following reasons.

1. The bill empowers DNR to issue general permits for "an activity" over broad

geographic areas of state land; once the general permit is in place, the public will never know about specific projects authorized by it because these projects would not be noticed to the public. Current DNR staff seeks to assure us that only de-minimis activities will be issued via general permits but this proposed law is written to allow anything that is considered "an activity" so long as it does not "likely" cause "significant and irreparable" harm. There is no clear definition of "significant and irreparable" harm. Also, once the general permit is in place, the public will not be given notice about specific activities authorized by the permit.

2. The bill makes it more difficult for individual Alaskans to challenge

DNR decisions, even when the DNR doesn't follow the rules. Under HB 77, someone has to be "significantly adversely affected" in order to weigh in or challenge decisions. This is a subjective judgement and not well defined. It also raises the question of whether subsistence users could challenge DNR decisions. DNR says the change is needed to keep outside meddlers from slowing permitting in state but Alaskans are being punished by this amendment and silenced from having a voice in the natural resource development process, even when vital areas like salmon habitats are threatened. Alaskans have used this part of the process responsibly and should be respected and welcomed by the DNR.

3. It would invalidate the existing law which allows Alaskans to reserve water in streams for wild fish, recreation or other uses. HB 77, if passed, would give DNR unfettered discretion to put water reservations filed by Alaskans on the shelf, indefinitely. So, Alaskans can spend a lot of time and money to file an application to reserve water in a stream, but will no longer have the right to actually be considered by the state. Furthermore, local governments, tribes and individuals can no longer hold their own certificate for a reservation, only ADF&G can hold the reservation.

Thank you for your consideration!

Kathy East

1610 Silver Pines Rd.

Kenai AK, 99611

From: Martin Niemi

Sent: Wednesday, March 12, 2014 10:01 AM

To: Sen. Cathy Giessel

Subject: HB77

Sen. Giessel:

Seems like most of you legislators have forgotten that the Alaska and U.S goverments are supposed to be a government of the people, for the people, and by the people. You folks seem hell-bent on cutting out the citizen-patriot in the decision making process in favor of mines and oil. Too many of you folks seem to have "conflicts of interest" which really cloud your objectives as representatives of the people who elected you.

As an outdoorsman, I firmly believe that a wrong decision on HB77 could impact access to favorite hunting and fishing areas in order to foster big money corporations which have mining interests. Also, it puts too much power into the hands of a commissioner who may not have the best interests of the people at heart. I strongly oppose HB77..

Martin Niemi

616 Atla Court

Douglas, Alaska 99824

PO Box 766
Talkeetna, AK 99676
March 11, 2014

Senator Cathy Giessel, Chair
Senate Resources Committee
Alaska State Senate
Juneau, Alaska

Via email: senator.cathy.giessel@akleg.gov

Dear Senator Giessel and Resources Committee members:

These are my comments on the new version of HB 77 (which I refer to herein as HB 77H) that was released on Monday, March 10, 2014. Please enter my comments into the public record and distribute to all Resources Committee members.

On January 14 2014, I attended a community meeting in Talkeetna on HB 77, and testified before Ed Fogels of DNR and Senator Mike Dunleavy. There 50 - 60 people there, and everyone who testified (I recall about 23) was opposed to HB 77. Nobody spoke in favor. The commenters were thoughtful and on point. I, naively as it turns out, believed that HB 77 would be revised to address the people's legitimate concerns.

I was wrong. HB 77H is a big disappointment. HB 77H is not a compromise, far from it. It still grossly diminishes the public's opportunity to participate meaningfully in decisions that affect our public lands and waters. The bill continues to represent extraordinarily bad public policy.

With respect to General Permits, the removal of the "notwithstanding any other provisions of law" language was an improvement, as was the substitution of "or" for "and" in the "significant or irreparable" clause. But how does one define "significant" and how does one define "irreparable"? These are subjective words; open to various interpretations by different people. The word "unlikely" is also a subjective word and open to varying interpretations. This language sets the stage for arbitrary and inconsistent land and water management decisions that are not in the public interest. It would concentrate unprecedented and undue amount of authority and discretion in the hands of one individual, the DNR Commissioner. The Commissioner is appointed; not elected. The Commissioner does not represent the people of Alaska.

General permits for truly minor things, like mooring buoys, make sense. But this HB 77H language is way too broad, permissive, and open-ended, and is not limited to land and water uses with minor, barely discernable impact. This language would invariably lead to bad decisions. And it could work either way... on one hand unwise and ill-conceived development or, on the other hand, overly restrictive protections.

Also with General Permits, there is no language that requires consideration of potential harm to adjoining private property.

In addition, the public process for general permits is severely curtailed. General permits can be issued for a very broad area, for 10 years. The public is deprived of the opportunity to participate in permitting decisions on specific projects within that 10 year period, and that is not fair to the public. People potentially affected by a land or water use permitting action have a right to be heard. And they should have appeal rights (for the reasons under "With respect to standing," below.

With respect to water reservation and temporary water use permits, I note a note a change from HB77 to HB 77H that would allow individuals, tribes, and organizations to file for water reservation. Unfortunately, what is given with one hand is effectively taken away with the other. Under HB 77H, DNR is under no duty to act on an application, and the filing could be supplanted by a later water use application. And, temporary water use permits can be renewed every five years, with no cap on the number of renewals. Water quantity and quality supports much in this state, not the least of which is our salmon. You shouldn't mess around with our salmon. DNR along with ADF&G has a responsibility to protect our salmon and its habitat... to say nothing of other fish and wildlife. You should be protecting salmon habitat; not crafting a law that would orchestrate its destruction.

With respect to standing, HB 77H would unreasonably restrict the ability of a person to file an administrative appeal or request for reconsideration. It also would establish onerous filing requirements and give DNR undue discretion to reject an appeal or a request for reconsideration. One of the few checks we (the people) have on agency misbehavior is the right to cry "foul." I have filed administrative appeals and I have done it for legitimate reason (e.g., agency did not follow its own Administrative Code). It is a lot of work. My points have usually been rejected, but not always. Administrative appeals and requests for reconsideration are worthwhile processes that hold agencies accountable and lead to better public policy. Access to the appeal and request for reconsideration process should not be weakened.

HB 77H makes clear that this administration views the public merely as an obstacle to overcome rather than a meaningful participant in the process. I care very much about Alaska and its future. It is important to me to participate not only in actions that affect me directly, but also in the management and permitting decisions that affect our public lands and waters. These decisions will define the look of Alaska in the future, and I want to participate.

Unfortunately, in so many ways, HB 77H says that my opinion doesn't count.

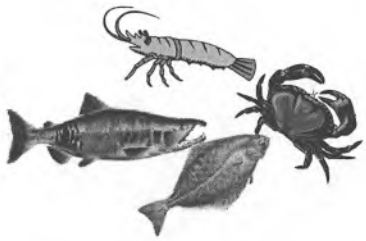
HB 77H reflects changes to earlier versions only at the margins. The changes we see in HB 77H do not represent a compromise, fair or otherwise. The substance of the insult to the public remains. The bill is fatally flawed, and I urge you to scrap it entirely.

Sincerely,

John Strasenburgh

Southeast Alaska Fishermen's Alliance

9369 North Douglas Highway
Juneau, AK 99801
Phone: 907-586-6652 Email: seafa@gci.net
Fax: 907-523-1168 Website: http://www.seafa.org



March 11, 2014

Senate Resources Committee
Senator Giessel, Chair
Alaska State Legislature
State Capitol,
Juneau, AK 99811

Dear Senator Giessel and Committee Members,

Southeast Alaska Fishermen's Alliance (SEAFA) listened to the senate resource committee hearing on Monday March 10th when the changes to SCS CSHB 77 (FIN) were introduced. SEAFA still is not comfortable with SCS CSHB 77 (FIN) as written. We sincerely appreciate the work and hearings that Senator Micciche and others did on this legislation. We also share the concerns that Senator McGuire mentioned during the hearing.

Southeast Alaska Fishermen's Alliance fully supports the revision where section one with the "Notwithstanding" language was removed. This retains ADF&G's statutory authority intact.

We believe support allowing a person or tribe to apply for water reservation rights but having the public agency hold them is a good compromise but we are concerned about how the backlog of applications are handled in the bill. While we understand that a particular system may have more of an immediate need/priority to be addressed but when a system or stream is being evaluated all permits applying for those water rights should be looked at concurrently with the date the applications were submitted taken into consideration.

Another concern SEAFA has with the latest version is without providing definitions of some terms used in the bill, you are handling an incredible amount of power and judgment within a single individual, the commissioner of Department of Natural Resources. Particularly the definitions "unlikely", "significant" or "irreparable" should be defined or provide further clarification with intent language for what these terms should mean.

Thank you for considering our comments on this very complex legislation.

Sincerely,

Kathyn LH

Kathy Hansen
Executive Director

From: JAMES BRENNAN

Date: March 11, 2014 at 11:06:45 PM AKDT

To: <senator.cathy.giessel@akleg.gov>

Subject: HB 77

PLEASE INCLUDE THIS IN THE PUBLIC RECORD AND DISTRIBUTE TO COMMITTEE MEMBERS

Members of the Senate Resources Committee:

I am a lifelong Alaskan who has lived, worked and recreated primarily in Southcentral and Southeastern Alaska. I am strongly opposed to HB 77, both in its original and recently revised form.

Even in Alaska, water in specific rivers, creeks and lakes can be a scarce resource. Its appropriation and reservation, both for temporary and permanent use, is a highly important decision that should involve full public process and participation. Particularly given the Alaska Constitution's special recognition for the public's right to resources, the Legislature should not adopt a law, like HB 77, that increases the government's power to issue general permits, short-circuiting the public' notice and right to be heard as to the water being allocated and the purposes of the allocation. The standing of affected citizens to object to and challenge governmental decisions allocating this precious resource should be encouraged, not curtailed.

What are we striving for here? A Soviet-styled system, where the central governmental planners make all the decisions, unfettered by the bothersome local residents? Legislators who generally stand up for individual rights against insular governmental power should check their credentials before voting for this bill. As always, a public process assuring Alaskans' individual rights to question governmental decision-making may slow down an "efficient" process that operates by centralized fiat. But the trade-off, favored by all real democracies, is that bad central decisions may be fully scrutinized so that lousy decisions can be avoided or adjusted. Water allocations can have far-reaching, long term consequences, with horrific unintended consequences that a full public process may shine a light on beforehand.

Are we losing the value we place on the views of individual Alaskans? Are the knowledgeable views of rural Alaskans and businesses, commercial and recreational fishermen and others directly familiar with the values and uses of specific waterways now of no account, to be shunted aside or minimized in favor

of sacrosanct policies of know-it-alls in State office buildings in Juneau and Anchorage, who may from time to time be in the grip of a large corporate interest which cares little for long term Alaska?

Our Constitutional framers and past Legislatures have remembered who they represented. Please, don't you forget.

Jim Brennan

1006 G St.

Anchorage, Alaska 99501

My name is Matt Obermiller. I am a 20 year resident of Alaska and live in the Copper Basin.

I have some serious concerns about HB 77 and am strongly against passing it for the following reasons:

- As a general contractor, I am typically heavily involved in the planning and design of the projects that I build. Good planning is a crucial key to a successful, smooth running project. Good outcomes are seldom arrived at accidentally and I want to know about and deal with every possible problem and hitch before I start the project to avoid any delays which are always very expensive, and to accomplish fully the intended outcome of the project. There are no good surprises in construction or operating a business! HB77 appears to be very short sighted in that it wants to eliminate a knowledgeable voice, that of the public, from the planning process for public lands and resources. As a member of the public, I have given input on a number of public and private projects over the years and have been told several times by members of the planning committee's, "we never thought of that!" One little comment allowed planners to identify and head off a problem which saved them a lot of trouble and grief down the road. Not only does public involvement result in a better planned project, people who were invited to be part of the planning of a project are probably less likely to sue to stop the same project.
- As an engaged American, I have long watched dictators with chests full of medals and big mustaches run roughshod over their citizens in every corner of the globe and seen the lengths we in the US have gone to to stop these abusers and try to give the citizens some voice in the affairs that affect them. HB77's intent to remove the public voice from affairs that affect the public would be loudly decried by us in any other country in the world. Why are we thinking of enforcing the same behavior here?
- One of the reasons I moved to where I live (off grid) next to a river is so I could put in a small hydro plant to provide power to my house. HB77 appears to jeopardize my ability to do this
- I also get my drinking water out of my river. I want to, as a private citizen, be able to reserve flow for my hydro plant and drinking water but HB77 would put my ability to live here at the mercy of any corporate, municipal or government entity that comes along. This is not right!
- There are fish in my river but not salmon this far up so the protections that many of the waterways in Alaska enjoy due to salmon cannot be relied upon to protect either the flow or quality of my river. I'm sure many other rivers fall into the same category. I and any member of the public should not be inhibited by public law from participating in a public process regarding public land or resources

HB 77 is not to be about making a cumbersome process more efficient in order to better serve the citizens and interests of Alaska, it is about expanding unchecked government power and hiding government actions from rightful scrutiny. Legitimate, righteous actions need fear no scrutiny. Both this bill and the methods used to try to pass it are shameful and the authors of both are right to fear they won't stand public scrutiny.

Don't pass this bill. It's heavy handed, shortsighted and just plain wrong. We Alaskans deserve and demand better.

Sincerely,

Matt Obermiller
822-5961

Nunamta Aulukestai
"Caretakers of Our Land"
PO Box 735
Dillingham, AK 99576
907-842-4404
nunamtaexdir@gmail.com
www.nunamta.org

March 5, 2014

Via Email: lindsey.williams@akleg.gov

Senate Resources Committee
Chair: Senator Cathy Giessel
Capital Building 427
Juneau, AK 99811

Re: HB 77

Dear Senator Giessel,

We once again write to oppose HB 77, which was introduced by the Governor and is in the Senate Resources Committee. Our views have not changed even with the Department of Natural Resources' (DNR) latest revisions. The bill as it currently is proposed still rolls back the protections for fish and game habitat, as well as restricts the democratic process of public notice and comment on administrative decisions and to redress grievances before the agency regarding legally questionable decisions.

Nunamta Aulukestai ("Nunamta") comprises directors appointed by ten ANCSA village corporations and ten tribes in the Bristol Bay region. Nunamta provides a voice for Alaska residents in the Bristol Bay region who rely on the land, fish, wildlife, cultural resources and waters of the region for subsistence and their cultural way of life. Nunamta continues to believe that HB 77 is a reaction by the Department of Natural Resources to stop the advocacy by Nunamta to protect the resources in Bristol Bay that are vital to tens of thousands of Alaskans.

On the resource development side in Alaska, we get criticized because our funding for advocacy specifically to make sure we have enough water in our streams and rivers for fish and to support wildlife is because the funding comes from outside of Alaska. How is that any different than the resource development side which are developers from outside Alaska, and many of them foreign owned corporations. Furthermore, to say the duty to protect fish and wildlife belongs to the Department of Fish and Game (ADF&G), we agree! However it is our belief that since 2003, the agency's voice has been silenced by the continued development mandate coming out of DNR.

As Alaskans, our elected officials have a duty to listen to Alaskans. Having an open and transparent process ensures that all voices are heard for resource development, but HB 77 eliminates this important right.

The current version of HB 77 does nothing to address standing which was one of the main concerns with the original bill. You have to be "Substantially Adversely Impacted" to appeal a DNR decision yet there is no definition of that term in the bill, except for section 39 where it is defined as "physical or financial detriment to a person's interests resulting from the decision." That is way too high of a bar of proof for an Alaskan to have to prove if they want to have a voice in the process.

The amended version of HB 77 fails to define "Likely significant or irreparable harm" in section one. Does this mean that the commissioner can issue a general permit if they are 51% certain the harm can be repaired? It must be spelled out in the law what this means. Otherwise, the law invites lawsuits to clarify it.

Although revised to add "persons" who can apply for water reservations, Section 42 is worse than what was previously in the original HB 77.

Not only are tribes, municipalities or people no longer able to hold the reservation, which means it is unclear whether they would have standing to advocate for it in the future, the priority date given on those applications is rendered meaningless because of the new language that says: "Section 42 (h) The commissioner has the discretion to determine when and in what order any application for a reservation of water is processed." We believe that this gives the Commissioner too much discretion to sit on a water reservation application and not process the application.

Therefore, we believe that Section 42(h) should be deleted from this current version along with Section 42(j).

The reason Section 42(j) should be deleted is that the data used in the collection of the data for the reservation becomes nonproprietary public domain hydrologic data or the **data is collected by or for the applicant**. On one hand, Tribes as applicants need to find the funding, which is likely thousands of dollars, to gather the data for the reservation but then they may not have standing to appeal and THEN their data becomes public and they have to let DNR know that the data was collected by or for the application. This process does not protect fish habitat and creates control issues where none are warranted.

We urge the Committee to vote keep HB 77 in Committee for further work.

Sincerely,

Luki Akelkok, Sr.
Chairman

From: Maureen Knutsen
Sent: Wednesday, March 12, 2014 1:39 PM
To: Sen. Cathy Giessel
Subject: HB77 Please include this in public record and distribute to Natural Resource committee members.

I am a 39-year resident of Naknek dependent on subsistence and commercial fishing and I am opposed to HB77 in its current amended form. The revisions do not adequately address the concerns of Alaskans.

With the issuance of general permits, there is no provision for public notice of specific activities authorized.

It is still too difficult for individuals or affected groups to challenge DNR decisions that may adversely affect them.

Although tribes, organizations and individuals may file applications for water reservations for fish in streams, there is no guarantee that DNR will act on those applications.

Therefore, I ask that HB77 be rejected by this committee.

Thank you for considering my comments.

Maureen Knutsen
PO Box 134
Naknek, AK 99633
907-246-6675

HB 77: Weissler Public Comments
3/12/14

To: Senate Resources Committee
From: Lisa Weissler, Attorney
Date: 3/12/14
RE: Public comment – 2d SCS CSHB 77(RES), Version H

I. INTRODUCTION

There is no way to fix HB 77 because it is part of a bigger problem. The problem is that the state resource permitting system is not serving the Alaska public – instead the focus is on making it easier to put public resources into private hands. Since 2003, consideration of public interests and the inclusion of local governments and the public in resource development decisions have steadily diminished. HB 77 is yet another door closing on Alaskans.

Rather than trying to fix a bill that cannot be fixed, time would be better spent on developing comprehensive legislation that provides for meaningful and consistent consideration of public interests in resource development decisions, including

(1) providing for coordinated project reviews that give the public and local governments an opportunity to effectively participate in the permitting process and for the public and agencies to review projects as a whole;

(2) giving local governments deference on issues of local concern; and

(3) establishing a way to identify state and local public interests and the means to balance those interests in the permitting process.

At the least, there needs to be legislation passed enforcing a recent Alaska Supreme Court ruling that the state has a constitutional duty to analyze and give public notice on the cumulative impacts of certain oil and gas exploration development projects. DNR is currently approving such projects in direct violation of the Supreme Court ruling. (see Attachment 2).

On balance, the state will achieve better resource development if there are opportunities for meaningful public participation, decisions are coordinated among the agencies, and there are clear public interest criteria on which resource development decisions are based.

II. HB 77

In addition to making the current permitting system worse, HB 77 has many legal problems. The following are issues I have identified so far.

GENERAL PERMITS – SECTION 1

The revisions to the general permit section do not fix the problems identified in the original version of HB 77 – the section is fundamentally the same. The main issues are as follow:

- Permit activities authorized by general permits. New language stating that only activities permitted by statute may be authorized by a general permit does nothing to narrow the types of activities that could be authorized by a general permit. There are at least 35 permitted activities that could be authorized (see Attachment 1). DNR testifying that they will issue general permits only for minor activities means nothing – it is the law that matters.

    - General permits and leasing. That the new language ensures leasing and other disposals cannot be subject to general permits does not narrow the types of activities subject to general permits. General permits could never be used to authorize leases and other land disposals because the Alaska constitution requires public notice and consideration of the public interest for "disposals or leases of state lands, or interests therein..." (Article 8, Section 10).

- Significant or irreparable harm. Requiring a finding that an activity is unlikely to result in significant "or" irreparable harm still leaves the department with broad and undefined discretion to authorize an activity by general permit. It remains possible for almost any permitted activity to qualify for a general permit.

- Appeal of general permit decisions. Though the new language allows for an appeal of a general permit decision, a person would not be able to meet the new standard for an appeal. Under HB 77, a person has to be "substantially and adversely affected" to appeal an agency decision. For a person to be adversely affected, a decision "must create or impose an adverse and direct effect or detriment on the person or the interests of that person." General permits occur prior to any activity taking place. How can a person show a direct effect if there is no activity occurring? The proposed language in Section 1 specifically states that a person may not appeal when a generally permitted activity occurs, which is when they could be affected. It is a "Catch-22."

- Conflict with other laws. The removal of "Notwithstanding any other provision of law" was replaced with what amounts to substantially the same thing, although limited to DNR statutes. The new language says, "If there is a conflict between this subsection and AS 38.04 [Use and Classification of State Land Surface], 38.05 [Alaska Land Act], or AS 38.95 [Miscellaneous Provisions], then the provisions of this subsection apply." That means that the department's decisions under its general permit authority trump state statutes. For example, if there is a conflict between AS 38.05.181 that limits geothermal prospecting permits to a total of three years, and a general permit allows a longer time frame, the general permit provisions apply, not the law.

APPEALS – SECTIONS 4, 12, 13, 14, 31, 32, 33, 34, 39

No changes are proposed in the committee substitute for the sections of the bill dealing with appeals. The following issues remain:

- Standard for appeal. The new standard for an appeal, "substantially and adversely affected," is largely undefined. In public hearings, DNR has had to resort to the dictionary to define "substantially." This is indicative of an ill-defined law likely to cause more problems than it solves.

- Burden of proof. Most people are not well versed in the state's resource laws and already struggle to make their appeals effective. Now DNR is putting the burden on the public to describe how they are substantially and adversely affected without a clear definition of what that means. It is the job of state government to respond to people's concerns and assist them through the process, not throw them out. Rather than making it harder for people to appeal, perhaps DNR could work on ways to better communicate with the public and resolve any problems before making a final decision. This could have the added benefit of helping reduce the number of appeals.

- Section 39 – Water Appropriation Appeals. This section is confusing. Under AS 46.15.133(c), the commissioner shall grant, deny, or condition a water appropriation after receipt of any objections. Under AS 46.15.133(e), a person adversely affected by the commissioner's decision to grant, deny or condition the appropriation can appeal to superior court.

    - Under the proposed language in AS 46.15.133(e), in order to appeal to superior court, a person adversely affected has to show they are "directly affected by a decision made by the department either by a physical or financial detriment to the person's interests resulting from the decision."

    - Who decides that a person has a physical or financial detriment – the person appealing to court, or the court? How would a person or the court know whether the standard is met? Is it even possible for DNR to set the standard for standing to appeal to court – isn't that based on court law?

    - Besides being confusing, the heightened standard that a person be physically or financially affected in order to appeal a decision regarding a public resource as important as water is far too high a burden on the public.

WATER RESERVATIONS – SECTIONS 40 to 42

Section 42 – Commissioner discretion. Water reservations continue to be a big issue. Of particular note is proposed language in AS 46.15.145(h) that gives the commissioner the discretion to decide when to process a water reservation application. It appears DNR is responding to the recent court decision requiring they act on public water reservation applications that have languished for years. By asserting that DNR can put off public applications for as long as they choose, DNR undercuts the court and the public interests the court sought to protect.

TEMPORARY WATER USE PERMITS – SECTION 43.

Temporary use of water. The proposed language in this section gives the DNR commissioner the authority to issue an infinite number of new temporary water use authorizations for the same project.

- While it is possible to make adjustments whenever a new permit for the same project is issued, applying conditions to the permit is discretionary on the part of the commissioner. In addition, there is no public notice requirement where the public could identify issues the department may not know about.

- If DNR wants to authorize a use that goes past five or ten years, but is something less than a right to appropriate water, they could develop a water use permit that includes public notice and sufficient criteria to protect the public interest.

- For a historical perspective, in 2001, DNR put forward the legislation that established temporary water use permits in statute. The original bill set the time period at five years with an optional extension for one additional term of five consecutive years. In response to concerns raised by then Senator Gary Wilken, the language allowing an additional five year term was removed. Senator Wilken voiced concern that some people could decipher the language as creating a "permanent permit." In agreeing to remove the extension language, the DNR director stated, "the intent of the temporary permit is to be temporary." (Senate Finance Committee Minutes, SB 139, May 2001).

LAND EXCHANGES – SECTIONS 22 to 27

DNR describes the changes to the land exchanges statutes as giving the department "more flexibility in its authority to exchange land or interest in land when it is in the best interest of the State." (DNR Presentation, Senate Resources, March 10, 2014).

A fundamental question is whether this flexibility is in the state's best interest. Land exchanges are a big deal in that they dispose of public land. That is why comprehensive statutes have been on the books since 1976.

ATTACHMENT 1

Permitted activities under AS 38.05 and AS 38.95 and regulations that may be authorized by a general permit include the following:

AS 38.05.150	Coal prospecting
AS 38.05.152.	Sodium prospecting
AS 38.05.154	Sulphur prospecting
AS 38.05.157	Potassium prospecting
AS 38.05.181	Geothermal prospecting
AS 38.05.250	Mineral prospecting permits on tide and submerged land
AS 38.05.850	Roads Trails Ditches Field gathering lines Transmission & distribution pipelines not subject to right-of-way statutes Telephone or electric transmission & distribution lines Log storage Oil well drilling sites & production facilities Other similar uses or improvements Personal or commercial use or removal of resources of limited value
38.95.075	Use of trapping cabins
38.95.080	Trapping cabin construction
11 AAC 05.010	Identifies land use permits under AS 38.05.850 subject to fees: - Commercial use of a structure or facility that can be occupied (e.g., floating logging camp, floating lodge, guide or outfitter's camp) - Noncommercial use of a structure or facility (e.g., private mooring buoy, float, dock, weir, boat ramp, loading ramp) - Commercial structure or facility (e.g., commercial mooring buoy, fish holding pen, log storage, A-frame logging, equipment staging) - Early entry onto prospective surface leasehold for site development or site analysis - Grazing livestock
11 AAC 58.210	Special land use permit
11 AAC 65.010	Personal use cabin
11 AAC 96.035	Commercial use or commercial harvest of forest products other than timber
11 AAC 96.010	Permits are required for an activity involving (A) the use of explosives and explosive devices, except firearms; (B) Uses that are not listed in 11 AAC 96.020 as generally allowed uses; (C) the use of hydraulic prospecting or mining equipment methods; (D) drilling to a depth in excess of 300 feet, including exploratory drilling or stratigraphic test wells on state land not under oil or gas lease; (E) geophysical exploration for minerals subject to lease or an oil and gas exploration license
Other DNR permits	Agricultural land use permit Tideland permits Millsite permit for a mill facility associated with a mining operation

ATTACHMENT 2

Sullivan v. REDOIL

Alaska Constitution

Article 8, Section 1: "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest."

Article 8, Section 2: "The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the state, including land and waters, for the maximum benefit of the people."

The Alaska Supreme Court has a long history of enforcing the public interest clauses in Article 8 of the state constitution.

Most recently, in a March 2013 decision, *Sullivan v. REDOIL*, the Court found that the Department of Natural Resources has a constitutional duty to analyze the cumulative impacts of phased oil and gas exploration and development projects and provide timely and meaningful public notice of the analysis.

The Court leaves it to the legislature as to how the state should analyze cumulative impacts, but maintains their role in ensuring that constitutional principles are followed, particularly what they describe as a bedrock principle in Article 8 that the state's natural resources are to be made "available for maximum use consistent with the public interest."

DNR is currently allowing phased oil and gas exploration and development projects to move forward without the necessary cumulative impact analysis and public notice.[1] DNR is not above the law and cannot ignore its constitutional duty.

Statutes enforcing DNR's constitutional duty to conduct cumulative analysis of phased oil and gas exploration and development projects need to be enacted this session. Failure to do so will mean that Alaskans must appeal to court to get their own state government to follow the law.

[1] On August 26, 2013, I filed an administrative appeal of a DNR decision approving a phased oil and gas development project. On March 7, 2014, DNR requested I provide additional information showing I have standing to appeal. The commissioner set April 21, 2014 as the deadline for providing the additional information.

-----Original Message-----
From: Karla Hart
Sent: Wednesday, March 12, 2014 1:37 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77. The recent changes do not solve fundamental flaws.

My reasons for opposition have voiced by many others speaking out against HB 77, the original and the amended. There is no fix for this bill.

In Alaska's constitution public interest and best interests of the public are mentioned repeatedly with respect to our natural resources. Public involvement is essential to protect these interests. Projects that have been through public process are better because of the public comments and issues raised.

I feel strongly that we the people are public stewards of our natural resources. Our stewardship is not limited to our personal financial interest. Most of us who stand up for the environment have no direct financial interest in a clean healthy environment. We do understand that everything is connected and that cumulative impacts and losses are meaningful.

Rick Halford,s Anchorage Daily News editorial states well my concerns and I copy below for the record.

Regards,

Karla Hart
4950 Wren Drive
Juneau, Alaska 99801

From: Jeremy Black
Sent: Wednesday, March 12, 2014 2:39 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

Alaskans are all affected by resource management, because it is the landscape that brings many of us here. Citizens that vote for our elected officials need to be equally a part of decisions, even if the decision is already clear to be good or bad. Taking away the opportunity to hear about upcoming projects and give an adequate say into what is going on that can be listened to, is detrimental to the voice of the citizens.

I can say I am significantly affected by the beautiful state of Alaska. It is what I have continued to tell others about and why I have urged them to come here to experience it with their own eyes. It is disturbing that HB77 would dismiss this by limiting concern only to those that are physically or financially affected.

Even with the changes that have gone through, HB77 is still a bill that would significantly diminish Alaskans' voices. We need to take the future consequences into higher regard instead of just focusing on the benefits that would come from a momentarily splurge of easier development and profit. I oppose HB77.

Jeremy Black
4026 Parsons Ave. #2A
Anchorage, AK 99503

From: Dave Atcheson
Sent: Wednesday, March 12, 2014 1:34 PM
To: Sen. Cathy Giessel; Sen. Peter Micciche
Subject: Please include this in public record and distribute to committee members

Testimony on HB 77:
Please include this in public record and distribute to committee members
I would like to urge the members of this committee to slow down on HB 77. The amendments to this long and very unwieldy bill were just made and the citizens of this state deserve better than to have this quickly pass through committee and not have time to examine and comment.
Additionally, at first look this bill, with amendments, still makes it much more difficult for individual Alaskans to challenge DNR decisions, even when permit holders don't follow the rules. Under HB 77, you have to be "significantly or adversely affected" in order to weigh in or challenge decisions. Direct financial or physical harm from the government decision – a very high bar that will limit our rights and raises the question as to whether subsistence users could ever challenge DNR decisions. While the DNR commissioner no longer has authority to issue general permits without consideration of ADF&G laws, they can still override their own laws and regulations. The new provisions in this bill still gives vast new powers to DNR to issue general land use permits for "any activity" over broad geographic areas. Once the general permit is in place, the public will not be given notice about specific activities authorized by the permit. Once again the public's voice, regular Alaskans, are silenced, while large companies, sometimes foreign companies, can go about their business without our being able to weigh in.
Also, despite some revisions, the new HB 77 provisions on water reservations give DNR complete discretion as to whether to put water reservations filed by Alaskans indefinitely on the shelf. Without a priority date as to when DNR would adjudicate, it doesn't matter that people and tribes have been included as those that can file for reservations. It's all just smoke and mirrors and does nothing to further the rights of citizens.
Again, if nothing else, please slow this process down, so we (Alaskan citizens and your constituents) can make an informed decision and weigh in on something that may very well affect us in the future.
Thank you for your time and consideration.

Dave Atcheson
Sterling, Alaska
907-398-4216

Enriching Our Native Way of Life

Bristol Bay
NATIVE CORPORATION

March 12, 2014

Senator Cathy Giessel
Chair Senate Resources Committee
State Capitol Room 427
Juneau AK, 99801

Senator Fred Dyson
Vice-Chair Senate Resources Committee
State Capitol Room 121
Juneau AK, 99801

Re: Version H of HB 77

Dear Senate Resources Committee:

Bristol Bay Native Corporation (BBNC) appreciates the Alaska Legislature's willingness to gather public input on this far-reaching legislation and appreciates the long hours that many members have devoted to these important issues. Improvements in the latest draft of the bill (Version H) respond to some of BBNC's concerns. However, many of the most fundamental problems with the bill remain. Until these are adequately addressed, BBNC believes the legislation does not yet adequately balance permitting efficiency with public access to and participation in the decision-making process.

As the major private landowner in the Bristol Bay region BBNC is committed to responsibly developing and managing its lands and resources for the benefit of current shareholders and their descendants. Nevertheless, BBNC also believes it is important that our local communities are fully involved in all decision-making processes that may affect their well-being and supports the right of Bristol Bay residents to fully participate and be consulted in agency permitting, land use, and water resource decisions affecting the region.

This past fall and winter, hundreds of Alaskans, including many BBNC shareholders, attended public meetings regarding HB 77 and expressed concerns that the bill would: (1) create a Department of Natural Resources (DNR) general permit that appears to trump all other laws, (2) raise the bar for public citizens to establish the standing necessary to challenge many DNR decisions, (3) significantly restrict who can apply for instream flow reservations, (4) eliminate "best interest" findings for many types of land disposals, (5) more broadly authorize DNR to sanction water transfers across hydrologic boundaries, (6) authorize DNR to issue successive temporary water use permits for development projects, and (7) authorize a feasibility study for a hydroelectric site at Chikuminuk Lake in Wood-Tikchik State Park. The public's objections

111 West 16th Avenue, Suite 400 Anchorage, AK 99501 T 907.278.3602 F 907.276.3924

caused many legislators to withhold their support and to call for further changes to the legislation, resulting in the current Version H.

While Version H makes progress, further changes are necessary to achieve governmental efficiency and sound decision-making while, at the same time, encouraging and facilitating meaningful citizen participation. Citizen participation is always an important value under Alaska's constitution and laws, but it is especially important for decisions affecting land, water, and other resources in a region whose way of life is deeply intertwined with the natural environment. Alaska government agencies also have a special responsibility to work with Alaska Native tribes on a government-to-government basis, and BBNC encourages legislators to keep this in mind when considering the proposed legislation.

BBNC offers the following specific observations and recommendations regarding Version H of HB 77. As discussed below, while BBNC is encouraged by the fact that this new combined substitute is an improvement over prior versions of the bill, it nevertheless perpetuates several deficiencies from the earlier versions.

1. General Permits

Version H removes the "[n]otwithstanding any other provision of law" language that could be interpreted to mean activities approved by a general permit would not need to satisfy other provisions of law, and limits general permits to those activities already subject to permitting under AS 38.05 and AS 38.95 and that are not likely to cause "significant" or "irreparable" harm. This narrowing of the scope of the general permit authority is a welcome change. However, at the Senate Resources Committee hearing on Monday, March 10, 2014, DNR Deputy Director Wynn Menefee was unable to provide Senator Giessel an example of the types of activities that would cause "irreparable" harm (and thus not be subject to general permitting), and he acknowledged that certain activities that are a part of large development projects could be authorized by general permits under HB77. These admissions suggest that the contours of the general permit authority are not defined well enough in the bill. This raises the concern that piecemeal permitting strategies could be used to shield a broad range of activities on State lands from standard public notice and comment requirements. The bill should place more clear limits on the general permit authority sought by DNR.

2. Standing

At the earlier public forums, numerous people criticized HB77 for raising the threshold burden of standing required for persons to challenge DNR decisions. These provisions are unchanged in Version H and will limit who can challenge DNR decisions to those who can show a direct physical or financial detriment. Indeed, DNR Deputy Director Menefee openly acknowledged on Monday that the goal of these provisions is to limit citizens' ability to appeal or seek reconsideration of agency decisions. These changes will inappropriately insulate important DNR decisions from public oversight. The proposed standing provisions also run counter to prevailing Alaska Supreme Court principles of standing, which allow a

wider range of persons access to administrative and judicial review. Such review is a core provision of our system of checks and balances and is a highly valued public right. BBNC and its shareholders are wary of measures that would allegedly make government more efficient by restricting or limiting citizens' right to challenge government decisions and action. This is not good government, as it would allow flawed and unlawful decisions to evade appropriate review. Accordingly, these proposed changes should be revisited and either modified or struck.

3. Instream Flow Reservations under AS 46.15.145

Version H eliminates one of the biggest concerns in the prior versions of the legislation and maintains the current statutory language that allows a "person" to apply for instream flow reservations. The language further specifically defines "person" to include a "federally recognized tribe." These are all positive changes.

However, additional changes to the State's instream flow reservation program introduced by Version H are troubling. New language in section 42 mandates that all reservations granted be held by the State (as opposed to the applicants) and would not bestow a property right to the applicant. These changes are unfair in that they treat applicants for instream flow reservations differently than applicants for beneficial uses of water who are conferred a property right (section 42). These changes are also unnecessary because only a small percentage of instream flow reservations are filed by "persons," and so far DNR has never issued a reservation to a private applicant.

New language in section 42 of Version H would require anyone applying for an instream flow reservation to submit 5 years of hydrologic data in support of their application. This is a huge hurdle. This also suggests an additional unfairness in the bill. Anyone who is able to meet the new hydrologic data requirement and prove the need for the reservation deserves to receive a property interest that they can then individually protect.

The changes in Version H appear to be an effort to strongly discourage private applicants—a prohibition DNR tried, but failed, to specifically incorporate in the earlier version of HB 77. The Legislature should not do implicitly in this bill what it has already declined to do explicitly—make it impossible for private persons and entities to apply for instream flow reservations.

4. Criteria for Best Interest Findings for Water Reservations under AS 46.15.145

Version H provides criteria to guide DNR's public interest determinations for water reservations, and these criteria include economic, fish and game habitat, public health and access considerations. These criteria are helpful, and it is good that they will now be defined in statute. Noticeably missing, however, is a criterion for subsistence. It is not sufficient that there is a fish and game habitat criterion; the two are not the same. Subsistence encompasses social and cultural as well as habitat concerns. For this reason, subsistence has

unique seasonal, geographic, and generational dimensions that deserve independent consideration. One of BBNC's strategic priorities is to advocate for fish and subsistence protections. In accordance with this strategic priority, we strongly believe these statutorily enumerated criteria should include subsistence as a stand-alone consideration.

5. Best Interest Findings for Land Disposals

Multiple sections of Version H explicitly give DNR discretion as to whether it will make a preliminary best interest finding for any type of land disposal other than for oil and gas development. Preliminary best interest findings are helpful to the public's understanding as to why DNR is making the subject land disposals, and the agency often provides them for land disposals of all kinds. They are also helpful in that they provide the public an opportunity to provide public comment on the disposal decision. These changes suggest DNR intends to issue preliminary best findings less frequently. That is not a beneficial change as it will make it harder for the public to understand DNR's rationale for land disposals or otherwise participate in the decision-making process.

6. Temporary Water Use Authorizations under AS 46.15.155

Despite significant public disapproval voiced at the public forums about changes to the temporary water use authorization program, section 43 of Version H remains unchanged and allows DNR to issue an unlimited series of successive 5-year temporary water use permits for projects of all sizes and scopes. Senator McGuire voiced concern about the broad power this confers on DNR to allow projects to indefinitely use unlimited quantities of State water resources over long periods of time on a purportedly "temporary" basis without going through the water rights process. BBNC shares these concerns. The existing temporary water use program is extremely lax on users and includes no meaningful public participation. The changes in section 43 will solidify rather than address the problems with the program and insulate it from public participation even further. That is a mistake.

7. Chikuminuk Hydroelectric Feasibility Study Compatibility Determination

Sections 29 and 47 of Version H continue to include a finding that a feasibility study for a hydroelectric project in Wood-Tikchik State Park in the Bristol Bay region is not an incompatible use and continue to limit implementation of the Wood-Tikchik State Park management plan. While BBNC does not yet have a position on the project itself, we do feel strongly that a specific issue like this feasibility study should not be buried in legislation focusing primarily on other important topics. Including the compatibility determination in this bill means the topic will receive little, if any, independent debate or consideration. The issues surrounding the Chikuminuk provisions should be removed from this bill and considered separately.

Conclusion

BBNC appreciates the Legislature's changes and improvements in Version H as compared to earlier versions of HB77. Nevertheless, it is a work in progress, and BBNC would like to see further revisions consonant with the recommendations described above.

We appreciate the opportunity to comment on this legislation.

Respectfully submitted,

Daniel L. Cheyette
Associate General Counsel
Bristol Bay Native Corporation

cc: Senator Peter Micciche
Senator Click Bishop
Senator Lesil McGuire
Senator Anna Fairclough
Senator Hollis French
Senator Lyman Hoffman
Senator Gary Stevens

-----Original Message-----
From: Anissa Berry-Frick
Sent: Wednesday, March 12, 2014 1:34 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.
It is wrong to take away public participation on matters pertaining to Alaskan waters and fish, no matter how "trivial."
It is wrong to discriminate who can have water reservations, especially when the Governor is promoting large-scale mining.
There's a major reduction in how to appeal DNR decisions. When the public cannot contest decisions made by the state, it is wrong. It's wrong that this law would make it nearly impossible for the public to show harm.
I am opposed to SB 77 because it is one more reduction in laws that are meant to protect Alaskan resources.

Anissa Berry-Frick
PO Box 1222
Juneau, AK 99827

-----Original Message-----
From: Andrew Homan
Sent: Wednesday, March 12, 2014 1:38 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday. Please rconsider this entire bill. Itis poorly thought out and is strongly opposed by citizens.

Andrew Homan
23132 cohoe king loop
Kasilof, AK 99610

-----Original Message-----
From: Tina Brown
Sent: Wednesday, March 12, 2014 1:35 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Tina Brown
19400 Beardsley Wy
Juneau, AK 99801

-----Original Message-----
From: Sylvia Panzarella
Sent: Wednesday, March 12, 2014 1:42 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday. This is a blatant grab for extreme governmental power by the state government . Those who support this bill are trying to do it behind closed doors , because they know that Alaskans who are aware of this power grab would never support it. Do not be hypocritical and complain about the federal government and then turn around and do much worse regarding the public's ability to control our interests. Do right by Alaskans and not by special interest groups.

Sylvia & Marius Panzarella

Sylvia Panzarella
7022 Tanaina Dr
Anchorage, AK 99502

From: Dave Atcheson

Sent: Wednesday, March 12, 2014 1:34 PM

To: Sen. Cathy Giessel; Sen. Peter Micciche

Subject: Please include this in public record and distribute to committee members

Testimony on HB 77:

Please include this in public record and distribute to committee members

I would like to urge the members of this committee to slow down on HB 77. The amendments to this long and very unwieldy bill were just made and the citizens of this state deserve better than to have this quickly pass through committee and not have time to examine and comment.

Additionally, at first look this bill, with amendments, still makes it much more difficult for individual Alaskans to challenge DNR decisions, even when permit holders don't follow the rules. Under HB 77, you have to be "significantly or adversely affected" in order to weigh in or challenge decisions. Direct financial or physical harm from the government decision – a very high bar that will limit our rights and raises the question as to whether subsistence users could ever challenge DNR decisions. While the DNR commissioner no longer has authority to issue general permits without consideration of ADF&G laws, they can still override their own laws and regulations. The new provisions in this bill still gives vast new powers to DNR to issue general land use permits for "any activity" over broad geographic areas. Once the general permit is in place, the public will not be given notice about specific activities authorized by the permit. Once again the public's voice, regular Alaskans, are silenced, while large companies, sometimes foreign companies, can go about their business without our being able to weigh in.

Also, despite some revisions, the new HB 77 provisions on water reservations give DNR complete discretion as to whether to put water reservations filed by Alaskans indefinitely on the shelf. Without a priority date as to when DNR would adjudicate, it doesn't matter that people and tribes have been included as those that can file for reservations. It's all just smoke and mirrors and does nothing to further the rights of citizens.

Again, if nothing else, please slow this process down, so we (Alaskan citizens and your constituents) can make an informed decision and weigh in on something that may very well affect us in the future.

Thank you for your time and consideration.

Dave Atcheson

Sterling, Alaska

907-398-4216

-----Original Message-----

From: Bobbi Burnett

Sent: Wednesday, March 12, 2014 1:53 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

Trust in the US government is at an all time low. Politicians don't listen to the people that they are supposed to protect and serve. HB77 is a prime example. I've been at the hearings and the overwhelming majority of Alaskans understand that this bill is BAD. It gives government agencies like DNR the ability to give permits without public notice. Once the permit is issued-we are screwed. We will have no say or recourse unless we can prove we have been directly harmed-whether physically or financially. WHO decides that? How much harm is too much? Giving big coal companies permits to take water out of the salmon streams harms/destroys the salmon runs. WHO decides if the fish can live with a fraction of their water or if we can live with a fraction of our food?

Current water use rules will be thrown out. Even ones that have been PENDING for years--now they won't have to even bother with them. Secret closed-door meetings clearly show that our governor wants to do things his way. He doesn't care about preserving our state-only its destruction 'for the money'.

HB77 is a dangerous bill. This state belongs to the people, not the little power-hungry politicians.

PLEASE KILL HB77.

Bobbi Burnett

13400 Lamb Dr

Anchorage, AK 99516

Testimony to the Senate Resources Committee on HB 77

By Vivian Mendenhall
4600 Rabbit Creek Road
Anchorage, Alaska 99516

Senator Giesel, Senate Resources Committee:

Thank you for the opportunity to testify on HB 77. This bill contains crucial issues for Alaskans.

I am a 35-year resident of Alaska, a career wildlife management professional (now retired), and an expert in wildlife habitat management. I love our state, its people, and its environment. I fully accept the value of commercial development—but the public must be assured that natural resources will be protected for our own use, too. I am representing myself.

Our natural resources must be managed by the state as a public trust for the benefit of the people, not for the benefit of the government or corporations (Alaska Constitution, Article 8, Section 3; http://w3.legis.state.ak.us/docs/pdf/citizens_guide.pdf). This bill is another attempt by our government to deny Alaskans' rights in our resources.

1. Water rights:

Last year's version of HB 77 would not have allowed private entities to apply for instream flow reservations. That has been changed, which is a great improvement.

However, language should be added that requires DNR to process and decide on applications in a timely manner, and (possibly with exceptions) in the order in which they were submitted. DNR's behavior in this regard has been atrocious—last year the court had to order the agency to process an application on which it had been sitting for many months.

It is worth noting that the **Administration is on record as ignoring Alaskans' rights** to reasonable use of our water. Last year Governor Parnell was quoted as saying that **Alaska is the only state which grants water rights** to groups or individuals. **That is dead wrong!** Of the other 49 states, **forty-four do issue permits** to reserve water rights. And of the seventeen other states that follow the Prior Appropriation doctrine (as does Alaska), **ten specifically offer instream flow reservations** as well.

2. General permits:

General permits have their uses (as I know from my agency career). **But their proper uses are for specified activities, in specific places and times**—like the fishing buoys that the administration likes to cite. General permits must only be issued if a specific plan has been submitted. Otherwise, DNR will be permitting whatever it likes at the moment.

Even as amended, HB 77 would deny a permit only in case "significant or irreparable harm" is likely. But those terms are not defined. And (as mentioned below), **the public will not be able appeal, even if scientific evidence shows such harm is unavoidable!**

DNR could decide that motorized traffic across marshes or tundra isn't "significant or irreparable harm," if staff doesn't mention that such traffic would alter water flow and destroy soils for hundreds of years. And a general permit wouldn't even allow case-by-case evaluation of "harm."

The general permit provisions must be rewritten by specialists who actually know and care about Alaska's lands and habitats.

3. Standing to appeal:

HB 77 continues to say that **a person who wishes to appeal must (a) have engaged in a hearing process (if any was held), and (b) must be "substantially and adversely affected"** by the decision. Furthermore, the bill doesn't even define those terms--DNR is left to decide what they mean.

This effort to shut Alaskans out of the decision process is unacceptable because:

- **People will have to follow DNR's decision processes every day** (or hire lawyers who do), or they won't know about hearings;
- DNR is likely to deny appeals by **people who depend on a resource for their subsistence harvests, or for recreation** (hunting, photography, boating, wildlife viewing, etc.); and
- **Scientific information cannot be inserted into the process**—DNR can exclude specialists who actually know what the probable impacts of a permit or decision would be, but who aren't "substantially and adversely impacted" in DNR's terms.

Alaskan's must have a reasonable right to appeal decisions by DNR in a timely manner.

In conclusion, the Administration claims that water rights, case-by-case permits, and appeals are not efficient. Well, I'm in favor of reasonable efficiency. **But a democracy cannot be perfectly efficient!**

There are examples worldwide of governments that shut the people out, giving unquestioned power to officials. But they are not called democracies. Please support the rights of Alaskans to participate in management of our resources.

Thank you.

-----Original Message-----

From: Jay Laxson

Sent: Wednesday, March 12, 2014 2:06 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Jay Laxson

11901 Woodbourne Cir

Anchorage, AK 99516

From: Julie Rafferty
Sent: Wednesday, March 12, 2014 1:32 PM
To: Sen. Cathy Giessel
Subject: Please add to testimony for HB 77 hearing today & distribute to Natural Resources Committee Members

Please add to testimony for HB 77 hearing today & distribute to Natural Resources Committee Members. Thank you!

I am unable to testify in person today but I would like to add my voice to those against HB 77. Alaskan resident perspectives should be solicited and heard before the State of Alaska issues public permits. It is part of our great democratic process. Please don't vote to squelch community concerns before decisions are ultimately made by the State. I urge you to vote NO.

Thank you for your service to our great state.

Sincerely,

Julie Rafferty
5340 Anderson Road
Fairbanks, AK

-----Original Message-----

From: Josh Klauder

Sent: Wednesday, March 12, 2014 2:04 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

The changes do little to change my impression that this bill is anti-Alaskans, and a power grab by DNR and it's all too friendly friends in various industries.

"Streamlining" sounds to me like a code word for shutting out Alaskans from our own resources. I have noted that when they WANT to, DNR can process an application in about ten minutes, while ignoring a previously filed application for years. "Streamlining" is not the problem!

Josh Klauder

PO Box 396

Talkeetna, AK 99676

-----Original Message-----

From: James Price

Sent: Wednesday, March 12, 2014 2:02 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I strongly oppose HB77.

As an Alaskan and a commercial fishermen, this legislation threatens the long-term sustainability and future of our fisheries.

I oppose being ignored and excluded from the process that determines Alaska's future.

Please support my right to be heard. Please vote against HB77.

James Price

49185 Island Lake Rd

Kenai, AK 99611

-----Original Message-----
From: James Mattis
Sent: Wednesday, March 12, 2014 1:29 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

James Mattis
13108 Thornridge Dr
Grand Blanc, MI 48439

-----Original Message-----

From: Glenn Olson

Sent: Wednesday, March 12, 2014 1:48 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Glenn Olson

7034 Fairweather Park Lp

Anchorage, AK 99518

-----Original Message-----

From: Franzelle Carmon

Sent: Wednesday, March 12, 2014 1:54 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

I thought Alaska was the last great frontier. It seems that with current trends, you folks would have it look like CA or the midwest. Wow, please consider wisdom and integrity in your examination of what is best for Alaska.

Franzelle Carmon

409 Trabing Rd

Buffalo, WY 82834

-----Original Message-----

From: Dean Sundmark

Sent: Wednesday, March 12, 2014 2:18 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

The new changes to proposed HB 77 do not satisfy my concerns about public input into DNR decision making processes. I believe the bill needs to require DNR to hold public hearings on permitting decisions and way public testimony heavily in their decisions. I strongly believe this type of policy is in keeping with the Alaska Constitution as it honors that fact that the constitution clearly identifies Alaska's natural resources as owned by the citizens of the State.

HB 77 also fails to allow for an adequate appeals process if decisions are made that are contrary to existing law or policy. The language of "significantly adversely affected" restricts citizens and public organizations such as city governments or tribes from addressing adverse policy decisions. Finally I do not think HB 77 provides enough security to Alaskans regarding water reservations. As this bill has been written and modified it is reduces Alaskan's ability to make meaningful contributions to democratic processes. As such I advocate that the bill be terminated and that any similar legislation in the future be developed through a public input process. Thanks for considering my comments.

Dean Sundmark

Homer Alaska

AK 99603

Dear Senate Resources Committee, March 12, 2014

We adamantly oppose HB77. The amendments do not address our major concerns. We are very disappointed in the rewrite; especially after all the public outcry requesting changes that would represent Alaskans not cooperation's. Gov. Parnell spends a lot of the state's money suing the federal government for "over reach". This bill is state government overreach! Giving the kind of power to the DNR Commissioner, as HB77 does, is the wrong direction. Not allowing Alaskans to appeal decisions the commissioner makes is blatant dismissal of the people's rights. The rewrite does nothing to protect Alaskans water reservations for fish, recreation or other uses. Furthermore, local governments, tribes & individuals can no longer hold their own certificates for reservation.

We expect, as Alaskan residence more respect from our elected officials. This bill hands our rights over to outside cooperation's and the government on a silver platter. We beseech you to vote no on HB77.

Sincerely,

Roberta Highland & Robert Archibald

PO Box 2460

Homer, AK 999603

907-235-8214

-----Original Message-----

From: Chancy Croft

Sent: Wednesday, March 12, 2014 2:12 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I opposed HB 77 in the form it passed the House. I oppose the bill with the cosmetic changes now being proposed.

Commissioner Balash said in his PointCounterPoint article today that if "the department approves a water reservation sought by a 'person' the certificate will be issued to an appropriate state agency." If DNR does not have the staff to appropriately evaluate permits, what agency would possible have the staff to protect the water reservation sought by a person?

More importantly, I object to the Orwellian concept that the rights of a person are inferior to the rights of a corporation or a government agency. I do not need and I certainly do not want "Big Government" to hold any of my rights – to water or anything else. A corporation using water should not have more rights to use water in Alaska than a person who wants to protect that same water.

Chancy Croft

Chancy Croft

2727 Mccollie Dr

Anchorage, AK 99517

-----Original Message-----

From: Dan Carr

Sent: Wednesday, March 12, 2014 2:19 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Dan Carr

18858 W Willow Cir

Willow, AK 99688

-----Original Message-----

From: Cheryl Konter

Sent: Wednesday, March 12, 2014 2:34 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Cheryl Konter

3058 Seclusion Cove Dr

Anchorage, AK 99515

-----Original Message-----

From: Carly Wier

Sent: Wednesday, March 12, 2014 1:25 PM

To: Sen. Cathy Giessel

Subject: Oppose HB77 - please include in public record on this bill

Dear Senate Resources Committee,

I am disappointed and disheartened that the revised HB77 presented on Monday still does not address the major concerns that so many Alaskans like myself took the time to speak out about last Fall. I am especially disappointed that DNR did not work with Tribes and others who had very specific concerns and recommendations to find middle ground. The only stakeholders DNR seemed to consult were development interests. Sadly, this is business as usual for DNR.

Still, in the revised bill, DNR can issue a general permit for specific "activities" before specific projects are proposed. Then, after the general permit is issued I would have no way of knowing what specific project was authorized.

But what is most troubling in this section is that DNR has complete discretion to decide what the words "significant and irreparable harm" mean. This is an unacceptable way to provide certainty to developers and individual Alaskans alike.

I also think the new language leaves it unclear as to whether DNR can ignore their own rules and statutes when they see fit to approve a permit application. We are simply asked to trust DNR staff, which is just like asking us to trust the fox to watch the hen house.

The section that tries to clarify who can appeal DNR decisions was perhaps well intended but it goes to far and does a disservice to Alaskans who have legitimate and valid complaints against DNR when they break their own riles. Specifically the words "significant and irreparable harm" set the bar way too high for individual Alaskans with specific, valid complaints.

Finally, perhaps the worse offender in this revised bill is the section on water reservations. First, it is categorically unjust and unfair to change the rules for current water reservation/in-stream flow applications that have been pending for years. Changing the rules midway through the game or process has never been fair or right and it is not fair or right in this bill.

I personally know individuals from the Chuitna Citizens Coalition and these are honest, hard working Alaskans who are trying to play by the rules and use the tools set up for them to keep water in streams for fish. They are not the oustide big environmental groups this bill is attempting to mitigate. This bill changes the rules for them after they submitted more than $4000 and waited for years for an answer from DNR. Meanwhile, DNR can issue a permit for a huge outside coal company to come in and take all of the water out of the stream they are trying to protect and instead pump mine waste into the Chuitna. It is clear watching this process who DNR and the Parnell administration is working for - and it is NOT Alaskans. It is very clearly outside companies that may give big donations at election time but return little to nothing but a permanently destroyed salmon stream to Alaskans.

As a consumer of the public process - someone who votes, volunteers, tries to participate in agency decisions and processes that affect my way of life in Alaska - I remain concerned that DNR and the Parnell Administration are taking steps to remove individuals like me from the process. Already, developers have unlimited access to consultation with DNR to produce their permit applications and navigate this process. They have a seat at the table already. The real fix is to find a way for Alaskans to provide input into the resource decisions that affect our way of life and our future. In a state like Alaska, with the constitution we have, this should not be too much to ask.

I respectfully request that you stand up for Alaskans and not outside corporations and do not pass this bill out of committee. It is too big and too dangerous. Instead, I suggest you task DNR to hold real and meaningful public hearings to hear from the public on the permitting process. The "tour" they did a few years ago to hear from the public was wholly inadequate. As a participant in one of those meetings in Anchorage, I can say from first-hand experience that it was a typical DNR hearing - poorly promoted, short, unnecessarily technical, and with inadequate opportunity for dialogue.

Respectfully,
Carly Wier
Anchorage, Alaska

Carly Wier
3405 Woodland Park Dr
Anchorage, AK 99517

-----Original Message-----

From: Allison Barker

Sent: Wednesday, March 12, 2014 2:02 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Public notice is absolutely essential for the public process to work in a democratic system. As it stands, the current DNR public process is flawed and should have more strict, rather than less strict requirements that HB 77 would enable. As Alaskans who depend on clean water, unpolluted air, healthy salmon, pristine blueberries, and abundant moose...our water rights must continue to be protected on an individual, state, and federal level. Privatizing Alaska's water would be detrimental to the public and at a huge cost to the state. As a citizen of Alaska, a farmer who depends on clean, fresh, abundant water (and the protection of it), and a person who depends on his/her subsistence rights...I strongly OPPOSE any changes to HB77 or any bill similarly written. This bill will have a ripple effect on every Alaskan who depends on the state to protect our inherent resources that makes our lives possible. It is not time to loosen and increase the loopholes for big corporations and DNR to do what they want, when they want, without notice to their neighbors. This deserves a public outcry. Deny HB 77 Now, or we will suffer the consequences.

I urge you to consider the reputation you want to have for future generations...one that listens to its people and believes and supports the public process OR a dictatorship that makes decisions behind closed doors?

Allison Barker

PO Box 1223

Chickaloon, AK 99674

-----Original Message-----

From: Bobbi Burnett

Sent: Wednesday, March 12, 2014 1:53 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

Trust in the US government is at an all time low. Politicians don't listen to the people that they are supposed to protect and serve. HB77 is a prime example. I've been at the hearings and the overwhelming majority of Alaskans understand that this bill is BAD. It gives government agencies like DNR the ability to give permits without public notice. Once the permit is issued-we are screwed. We will have no say or recourse unless we can prove we have been directly harmed-whether physically or financially. WHO decides that? How much harm is too much? Giving big coal companies permits to take water out of the salmon streams harms/destroys the salmon runs. WHO decides if the fish can live with a fraction of their water or if we can live with a fraction of our food?

Current water use rules will be thrown out. Even ones that have been PENDING for years--now they won't have to even bother with them. Secret closed-door meetings clearly show that our governor wants to do things his way. He doesn't care about preserving our state-only its destruction 'for the money'.

HB77 is a dangerous bill. This state belongs to the people, not the little power-hungry politicians.

PLEASE KILL HB77.

Bobbi Burnett

13400 Lamb Dr

-----Original Message-----

From: Paulette Sortor

Sent: Wednesday, March 12, 2014 2:18 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday. It is time to take back the rights of Alaskans and return power to the people, not Alaska politicians who have only their own self interests in mind. Why are so many decisions made by few who supposedly represent their constituents. They do not. Plus many of these decisions are made out of the public eye. I say pay all politicians minimum wage, and outlaw lobby/corporate control of our government. Alaska is the most precious state of our country and it is being hijacked by crooks.

Paulette Sortor

PO Box 34

Anchor Point, AK 99556

-----Original Message-----

From: Patricia Wherry

Sent: Wednesday, March 12, 2014 1:53 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I oppose HS Bill 77, even with the changes presented on Monday. A large piece of the Alaska public is speaking again. Same tune.

The closest public to the situation, the native community, still objects on fishing issues.

The National Parks were miraculously created to stay a possibly heavy, state hand for immediate gratification.

Stop the finagling to close public input and guardianship efforts by the National Parks.

Oppose HS Bill 77.

Patricia Wherry

5875 Glacier Hwy #37

juneau, AK 99801

-----Original Message-----

From: Patricia O'Brien

Sent: Wednesday, March 12, 2014 2:12 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Please just dump this proposed legislation. There is nothing in it that I can support.

Patricia O'Brien

Patricia O'Brien

PO Box 35451

Juneau, AK 99803

From: Mike Friccero

Sent: Wednesday, March 12, 2014 2:35 PM

To: Sen. Cathy Giessel

Subject: HB 77 "Please include this in public record and distribute to Natural Resource committee members."

"Please include this in public record and distribute to Natural Resource committee members."

Dear Sr Cathy Geissel,

As the chairman of the AK Senate Resource Committee I implore you to vote against HB 77

This legislation does not serve the public interest. There is so much that is wrong with this bill that I am shocked anyone would come out in favor of it and risk reelection (in my opinion).

There will be a lot of "push back" if this bill moves forward, as so many Alaskans are not aware that this bill could move out of committee in this form, this quickly. This legislation will diminish public participation regarding permitting process for lands and waterways that are the public domain.

We will very soon be experiencing an exploratory boom for extraction projects around Alaska. If you want the public to trust the permitting process, then do not take steps to make the process less rigorous.

Respectfully

Mike and Gina Friccero

Michael Friccero

Rainy Dawn Services

F/V Miss Gina

Kodiak, Alaska

907 539 1320 cell

-----Original Message-----

From: Michelle Singleton

Sent: Wednesday, March 12, 2014 2:35 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

It is my general belief and understanding that our laws which help govern people and protect the environment and our United States resources should NOT be giving extra power to an authority which can then jeopardize an entire community for a lifetime. I cannot believe that our own government wants to give up the people's right to protect one of the last untouched places in this World. Give up the people's voice for corporate gain. I completely appose this bill and what it represents. We are sacrificing something that cannot be replaced, the rights of tribes to their land and water and salmon to the last unaffected stream in the World. This bill should not pass.

Sincerely,

Michelle Singleton

989-600-9899

Michelle Singleton

2031 E 75th Ave B

Anchorage, AK 99507

-----Original Message-----

From: Marcia Denison

Sent: Wednesday, March 12, 2014 2:30 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.You must protect us from mining that kills our salmon food and lively hoods.The water belongs in the streams and is our right to substantive life.

Marcia Denison

618 Gambell 7

Anchorage, AK 97048

-----Original Message-----
From: Ward Grant
Sent: Wednesday, March 12, 2014 1:28 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday. The bill is still an effort to game the system by the Governor and DNR. There is a tremendous bias by the state to favor industry over the Alaskan citizen. I live and work as a commercial fisherman in Beluga, Alaska and the history of the commissioner and DNR in dealing with the Chuitna Coal Project is an embarrassement. Just look at the effort that was needed by citizen organizations to get the state to review our request for water rights. We had to go to court at our expense, and after we won the DNR still denied that they were obstructing us. They clearly stated that if they can get HB77 passed it would void the decision by the court. There is no trust for the Governor and his yes men at the DNR. They do not represent us just big developers.

Ward Grant commercial fisherman

Ward Grant
PO Box 876865
Wasilla, AK 99687

From: Robyn Lauster
Sent: Wednesday, March 12, 2014 1:29 PM
To: Sen. Cathy Giessel
Cc: Sen. Hollis French
Subject: House Bill 77

Senator Giessel:

I have lived in Alaska since 1962 and I am a supervoter. I am deeply concerned about House Bill 77. Any move to lessen the amount of public input regarding natural resources in Alaska I consider unconstitutional. Our constitution clearly states that Alaska's resources are to be managed for the good of the public. Therefore, the public needs to be consulted.

Water is a seriously at-risk resource worldwide, as are salmon. The existing law allows Alaskans to reserve water in streams for wild fish, which is only sensible. HB 77 gives DNR too much power, allowing politics to control decisions that require careful science and public input.

It is completely unfair and unreasonable for the Parnell administration to hold secret their revisions for 10 months, then require response within two days. At the very least, the public comment period on this important bill needs to be extended to give people a chance to digest its contents and its wide-ranging effects.

At a time when other states are busy dismantling their dams because of the damage they have caused, Alaska is now looking to build them. And mining -- particularly strip mining -- is anathema to healthy streams and salmon, both of which are strong reasons for people to live in and travel to Alaska. The Parnell administration favors development and out-of-stream withdrawals over the health of the stream and salmon, which is short-sighted and clearly against public wishes. Because courts have agreed with the public and upheld the law, now the administration wants to change the law, just as they want to change how we choose our judges because they don't like the courts' decisions.

Please do everything you can to slow down and stop this wrong-headed bill. Thank you.

Robyn Lauster
3003 W. 32nd Ave.
Anchorage, AK 99517

-----Original Message-----

From: Stan Anderson

Sent: Wednesday, March 12, 2014 2:20 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I to oppose HB77, even with the changes presented on Monday.

I do not trust the AK DNR to make water quality and other environmental quality decisions. I see HB77 as a naked political power grab on behalf of narrow self-interests.

Stan Anderson

59835 Tern Ct

Homer, AK 99603

From: Darryl Schaefermeyer <darryls@alaskasealife.org>

Date: March 11, 2014 at 8:45:40 PM AKDT

To: <Senator.Cathy.Giessel@akleg.gov>

Cc: Tara Jones <taraj@alaskasealife.org>

Subject: HB 77, Section 42

Senator Giessel,

The Seward Association for the Advancement of Marine Sciences, dba, Alaska SeaLife Center holds water rights permit LAS 19238 for which it submitted a Statement of Beneficial Use on September 10, 2009, including the required $50.00 Certificate recording fee, supporting its usage of 579.74 acre feet per year and therefore establishing its eligibility to be issued a permanent water right Certificate of Appropriation in accordance with AS 46.15.120. This water is from an unnamed spring developed by the Alaska SeaLife Center in 1996 and is used continuously to support aquarium life, marine research and marine mammal and seabird rehabilitation. It is critical to the Center's operations.

After filing the Statement of Beneficial Use, the Center has each year sought action by the Department to issue the Certificate of Appropriation, including a letter to then Commissioner Sullivan to which no response was ever received. We are continually informed verbally that due the large backlog in water rights permits, the Department is unable to inform Center when the Certificate will be issued.

In reviewing 2nd SCS CS HB77(Res) Version H, we understand that AS 46.15.145 would be amended by directing the Commissioner to issue any approved certification for a water reservation applied by a person as defined in AS 46.15.260 to an appropriate state agency to ensure that public entity holds the reservation for a public resource. While we understand the stated rationale in making this proposed change, the process is not spelled out for determining the "appropriate state agency" nor does it spell out the rights and role of the person who applied for and established beneficial use of the water, other than stating the applicant will have the right to appeal a decision on the application and only the applicant or agency holder of a reservation may appeal subsequent administration of the reservation under AS 46.15.145(f).

Of particular concern to us, are actions by the "appropriate state agency" issued the Certificate for the water reservation that is vital to the mission and operation of the Alaska SeaLife Center. In not being the recipient and holder of the permit, the Center risks being subject to the unilateral actions of the

state agency in administration and management of the Certificate which could jeopardize this resource critical to the Center. We request the Committee to address this concern by appropriate amendment and/or clarifying report language.

Please enter this e-mail in the March 12, 2014 hearing record on the bill. Thank you.

Best wishes always,

DARRYL SCHAEFERMEYER

Facilities Director

Alaska SeaLife Center

Direct: (907) 224-6309

Fax: (907) 224-6320

Mobile: (907) 362-2271

P.O. Box 1329 • 301 Railway Ave • Seward, AK 99664

www.alaskasealife.org

Attachments: (1) LAS 19238 Alaska DNR Case Abstract

(2) September 15, 2011 Letter to Commissioner Dan Sullivan

PUBLIC TESTIMONIES REGARDING HOUSE BILL 77

SITKA, ALASKA

MARCH 12TH, 2014

Directed to:

SENATE RESOURCES COMMITTEE

GOVERNOR SEAN PARNELL

DEPARTMENT OF NATURAL RESOURCES STAFF

APPEREANCES:

LINDA BEHNKEN

ANDREW THOMS

JAMES SWIFT

LORRAINE INEZ LIL

ERIC JORDAN

JOEL HANSON

SCOTT HARRIS

MICHAEL BAINES

MATTHEW DONOHOE

KIM ELLIOT

CHARLES BINGHAM

DAVEY LUBIN

PAULETTE MORENO

JOHN MURRAY

ANDREW SCORZELLI

PUBLIC TESTIMONIES REGARDING HOUSE BILL 77

GIVEN FEBRUARY 13TH, 2014
SITKA, ALASKA

MS. BEHNKEN:

"HB 77 is very far reaching in its effect, it vests unprecedented power in the Department of Natural Resources when it comes to giving away state lands, allowing development in areas that would have tremendous effect on salmon streams, really reduces the public's ability to comment on in stream flow and effects to salmon, and as currently written eliminates the opportunity for individuals and tribal government to comment- only Departments can participate under the bill as currently written on commenting in the permit process.

[HB 77] would have probably moved through quickly because it is so difficult for people to pick apart and understand what all it says if it wasn't for some key people that spoke out and held it up. Our Representative Jonathan Kreiss-Tomkins did a lot on that and Senator Stedman really put the breaks on it and gave people the chance to understand all its implications and speak out.

I think that given the push behind it from mining industries and businesses, there will still be a good push to get this bill through, so I think public comment and voicing opinions on this bill is incredibly important."

Discussed Chuitna Citizens Coalition (CCC) v Sullivan (DNR) court case involving the two legal issues brought forth by CCC: water reservation applications and appealing a mining project.

Question asked by audience member: "Is there anything in this bill that you like?"

Mrs. Behnken: "If there are things that I like in this bill, I couldn't point them out to you. I do understand that DNR has interest in facilitating the permitting process so that there could be quicker decisions but I think they've gone way beyond that with this bill and that's the message they need to hear from the people."

MR. THOMS:

"My name is Andrew Thoms and I'm the Director of the Sitka Conservation Society. We're concerned about this bill because we just see this as another step that the Governor is taking in removing the people of Alaska out of the process, and we see that as starting with the Coastal Zone Management Plan being steamrolled through. His next

step was giving a huge oil tax break to oil companies, and now this is another step that will streamline all the permitting process for those oil and gas companies and mining companies. It feels like the people of Alaska are last on the Governors list. And consider the fact that he came from a background of oil lobbying and now he's doing all this-- you put eggs in the incubator and they hatch and this is what you get with our Governor. For us, its priority is that we speak out against this. We've been making calls and writing letters to our legislature's office. And I know from Senator Stedman's office its helping and for other legislators its helping too in standing up and pushing back. We need to give a clear message to stop what this Governor is pushing and what he's shown us he will do to take citizens out of the process."

MR. SWIFT:

"I'm a long time fishermen here and was a member of the Fish and Game Advisory Board many years back and very involved in fisheries politics. This bill just subverts everything that we have in Alaska and it historically speaking is similar to why statehood came about. We were being controlled by the salmon canneries that had all the power and were just killing all the fish off and if you look back historically that was one of the reasons why statehood came about—to stop all those fish traps from stealing all the salmon. And I know that when I started salmon fishing in the early 70s, there wasn't many salmon around here, and that's what we have to look forward to. We've been very good with our water permits and supply and we have a lot of fish as a result and this bill just wants to subvert that and give the rights and decisions in the hands of corporate entities. It's happening all around America right now. I can't believe they're so blatant. I stand totally against this. Thank you."

MRS. LIL:

"My name is Lorraine and I've lived in Sitka for over 25 years. I was stunned today when I read this bill. How can we revert back to dirty water from mining without any public comment? I attended a lecture a few nights ago from the person that inspects the mines and the most important thing is water, water, water. This bill will revert us back to not caring about water. I think that we need to stand up and fight this bill because it does everything that Alaskans do not want."

PUBLIC TESTIMONIES REGARDING HOUSE BILL 77

GIVEN FEBRUARY 13TH, 2014
SITKA, ALASKA

MR. JORDAN:

Asked the audience:

"Is there anyone here that would like to speak in favor of the bill?"

No one responds.

Read Governors transmittal letter dated January 17th, 2013.

"I want to point out that in Alaska we have a long history of unilateral support for the right to comment on water rights for our fish and wildlife.

We have a long tradition of both Republican and Democratic leaders that have stood for water rights and salmon. Whether it is Senator Bert Stedman this year, or Governor Jay Hammond in the 70's,or Senator Dick Eliason who represented Sitka in the 80's, and authored the bills that banned salmon farming in Alaska and established our wild salmon priority, protecting water and salmon are a bipartisan effort in Alaska.

The state of Alaska has the strongest protection for salmon of any government in the world.

The problems with this bill are not partisan in nature; they are in the details of this bill."

MR. HANSON:

"My name is Joel Hanson. I'm a long time resident of Southeast Alaska currently serving as Conservation Director for The Boat Company, a small cruise ship operation providing nature-based tours in summer months between Sitka and Juneau. In reading over this bill, I'd say that I might be able to support it if I totally trusted the Alaska Governor and his appointed officials at the Department of Natural Resources to always have the best interests of the majority of Alaskans at heart. But I don't have that feeling of trust, not in the current administration and not in any administration that would attempt to short-circuit public participation in resource development issues involving salmon habitat and water quality. I have no confidence in HB77's potential to serve the public's long-term interests, and that's about the extent of my technical analysis of the current version of this bill."

PUBLIC TESTIMONIES REGARDING HOUSE BILL 77

GIVEN FEBRUARY 13TH, 2014
SITKA, ALASKA

MR. HARRIS:

"My name is Scott Harris and this is Tomy. I've been in Alaska for 20 years. I've worked in the industries of natural resource management, education, and commercial tourism. There is a lot of egregious parts of this bill like the water reservations but the biggest problem for me and a lot of us here in Alaska is this is a direct attack on Democracy and citizen participation. These are public resources and we are the public so the State and people that manage public resources need to listen to the public. That's America, that's Alaska, that's Democracy. And yes it's harder, it takes more time, you have to find consensus among different opinions, but tough-- that's the way it needs to be when talking about public resources. I think the Parnell administration is constantly trying to chip away at public participation. Coastal zone management is one of the first steps, the next was the oil tax giveaway, and now its right here with HB 77. I think the whole bill should pretty much just be scrapped. Public participation is key to really making good decisions and responsible stewardship and utilization of our resources. Thank you."

MR. BAINES:

"Michael Baines, Tribal chairman of Sitka Tribe. Over 30 tribes have expressed opposition to HB 77 and Sitka Tribe is one of them. There have been other letters that have gone out on HB 77 and I'll just read one paragraph written by Dorthy B. Larson and Rob Sanderson Jr. , who is the second Vice President of the Central Council of the Tlingit and Haida Indian Tribes of Alaska:

'Alaska Native peoples must speak up on behalf of our lands, waters, and traditions that may be at stake because of this bill. The Parnell administration has prioritized HB 77, which makes significant changes to its permitting process on state land. The bill would limit tribes and individual Alaskans in our ability to appeal Department of Natural Resources decisions and receive notification of decisions. The bill would strip our rights to apply for in-stream water.'

I want to recognize Harvey Kitka and Austin Bell, staff and the Tribe's Resource Protection Department.

Also, we submitted a LTE in the paper the other day which some of you may have seen but I'll read it:

PUBLIC TESTIMONIES REGARDING HOUSE BILL 77

GIVEN FEBRUARY 13TH, 2014
SITKA, ALASKA

'Introduced by Governor Parnell, House Bill 77 would essentially fast-track all future development of natural resources on State lands by all but eliminating the public's involvement in the land use, disposal, and exchanges process. HB 77 removes the right of tribal governments to acquire in-stream water rights to ensure adequate water flow for subsistence fish stock, severely limits the public comment period and gives the commissioner of the Department of Natural Resources unprecedented authority to issue permits and severely restrict the public's right to appeal administrative decisions. The Sitka Tribe of Alaska has taken a stance in opposition of HB 77 for the reasons listed above. If you fish commercially for a living, enjoy sport hunting and fishing, or engage in subsistence harvesting, I encourage you to join STA in its stance to protect our natural resources and our rights to control how those resources are managed. Letters of opposition should be sent to the Alaska Senate, which currently controls the fate of this devastating bill.'

Thank you."

MR. DONOHOE:

"Hi I'm Matt Donohoe and I'm on the board of the Alaska Trollers Association, the oldest Fisherman's Organization in Alaska. We represent small boat hook and line salmon fishermen in Southeast Alaska. This winter our board voted to oppose House Bill 77 as passed. Historically protection of fish and game was so important to the people of Alaska that it was enshrined in the State Constitution. I asked some of the old timers about that when I got up here in 1973. 'Why,' I asked, 'did they vote for statehood? Didn't that mean that they would have to pay Federal Income Tax among other things?' They told me, 'We wanted to protect the fish.' This bill attacks the basic constitutional guarantees of fish and wildlife protection that are in Alaska's constitution. It attacks the concept of common ownership of resources as laid out in Article VIII Sections 2 and 3 of that document. It is 'We, the People of Alaska' that own the fish and water of our State. This Bill will lead to privatization of water, threaten salmon, and condemn our children to a future that is more like the rest of the world than Alaska. I believe that if this bill is passed without significant changes future generations of Alaskan's will not have the salmon or other wildlife resources we have today.

Thank you."

PUBLIC TESTIMONIES REGARDING HOUSE BILL 77

GIVEN FEBRUARY 13TH, 2014
SITKA, ALASKA

MS. ELLIOT:

"Nice to see all of you here. My name is Kim Elliot and I have lived in Sitka since I could walk and I think a good example of things that happened when we didn't have any kind of say about stuff was what the water used to look like when the pulp mill was operating. We really have to think about what our future would look like if we didn't have any rights to take care of the water upstream from our piece of property wherever that might be. People really deserve the right to question what the government is doing."

MR. BINGHAM:

"Hi my name is Charles Bingham. I've lived in Alaska since I was a kid, all over the state, and Southeast now for 14 years. One of actions that's kind of triggered this bill was in the Chuitna drainage up in the Mat -Su Valley. In this area they are talking about building a coal access right in the middle of prime salmon streams. They finally had some trials in the region about this issue, and the 5 hearings they held with over 500 people attending, only one person testified in favor of the bill. We need to make sure our legislatures hear how many people are dissatisfied with this bill. Let your legislators know how unsatisfied you are with the bill."

MR. LUBIN:

Read from "The State of Alaska" by Ernest Green

"Ernest was territorial governor and then appointed as first senator of the state. He wrote this book and what he was talking about in these major sections is the federal government and its kind of exactly what's going on right now with Juneau. Section two is called 'The Era of Total Neglect (1867-84),' 'The Era of Flagrant Neglect (84-98)', 'The Era of Mild but Unenlightened Interest (98-12)'... You get what's going on. Matt mentioned the fish traps- that was the impetus for the state of Alaska, was to get control of the resources. I was thinking that in 99 I served on a state board called the TRAAK board. It was this incredible board comprised of a dozen people from the far left to the far right, an incredible forum of people. We created such great progress for the state. When Murkowski became governor, we had a meeting planned in Juneau so we're all there from all over the state

sitting in a room and the interim DOT commissioner walked in the door and said 'well this is going to be your guys last meeting because the DOT engineers know exactly what they're doing and really don't need your input anymore. Thanks a lot but we're done' and I was just floored. Well the irony is that four years later when that gubernatorial term was up, that governor got 20% of the GOP primary vote and that governor was replaced by the gubernatorial team that is now comprised of our current governor. This is the same kind of crap. Remove the public from the equation and its just not right. There are so many people that aren't involved in the government but have tons of expertise and lots of ideas and to remove them is simply un-American. And I just wanted to finish with this one little passage from this book 'Alaskans have stood too much, too long to be discouraged or other than determined to fight on to validate the most basic of American principles- government by consent of the governed. They knew through unchanging experience that the state of Alaska would not improve appreciably until the State of Alaska came into being.'

Thank you."

MS. MORENO:

"My name is Paulette Moreno and I'm past president of Alaska Native Sisterhood Sitka Camp Number 4 and potential delegate for Tlingit Haida Central Council but however I'm speaking here today as an Alaskan. What is the definition of 'adversely effected'? How do you define 'adversely affected'? That language was in the bill and I think that the wording does infringe on our democratic rights. Is it true that the definition may cause other Alaskans a denial to appeal based on not being able to 'prove' by the language of the bill that they are 'adversely affected'? My concern as an Alaskan is what happens in one area in the state when one Alaskan or person of interest effects all people of interest and what happens in one area- be if a salmon starts in one area and ends up in another area and somebody is sending us salmon or fish or herring from across the state- that it's a cycle of life and does effect each and every one of us. And there isn't anybody that's going to walk into my home, my kitchen, my refrigerator with their elders and young ones and tell me that I'm not participating in something because they're defining me- -we define ourselves. As Alaskans, as a people, as the Tlingit people have always one in time memorial and many Alaskans are standing together with us today to do that also. And also, I do not support this HB77 because I feel as

though it's an infringement on our democratic rights. It limits our ability to challenge permits in courts, it puts the burden on the public to prove what is personal harm- if this gentlemen here is not getting fish for his children and grandparents why is it all the sudden our burden to prove what is personal harm to our families. And it's dangerous for the government to define who is eligible to challenge a bill. As that begins to happen and as it continues with the language of the State, that's something that we really need to join forces with and join together and I'm glad to see we're joining together around this bill. Also what is DNR doing to define 'adversely affected'? I wonder if they're doing anything in the language to define that and if not, why not. So with the language of the bill as it is, I'm strongly opposed to it. This strongly affects Alaska native tribes and all Alaskans so I agree with STA in their opposition to this bill. I'm in support of their stance. If you're not able to apply directly to appeal this bill with DNR, this bill states you have to send it to Fish and Game and then they would send it to DNR- that's a lot of litigation time and an opportunity for things to get out of control. This bill may not happen to target particular groups or individuals however it just feels like that with the case study of the Chuitna Citizens Coalition and mining company case, they went after the mining corporation was in there and they had to prove and stand up and could challenge-what if we had to stand up as a Tlingit people and prove our spiritual rights? Now they're asking us to prove who'd be adversely affected- what's next Governor? I hope you're listening to this. I do not agree with this bill as is however I do know that Senator Micchee is looking at an amendment that seems to be interesting however at this time with the language that's stated as an Alaskan I am very opposed to House Bill 77. Thank you."

MR. MURRAY:

"I got two questions: 'Who will benefit from HB77?' and 'Who is the governor working for?' The language is so messed up you got to be a bloody lawyer to get through it like 'significant and irreparable harm'- that's a pretty wide latitude on the definition. The bill needs to be presented to the public so we can understand it. Thirteen pages, you can't understand this. This bill needs to be understandable so Alaskan citizens can participate in the process as good managers of the public resources. Improvements need to be made, and public outreach is the way to see this happen. Thank you."

PUBLIC TESTIMONIES REGARDING HOUSE BILL 77

GIVEN FEBRUARY 13TH, 2014
SITKA, ALASKA

MR. SCORZELLI:

"I do not like public speaking but I'm doing this because I feel it's really important. My name is Andy Scorzelli and I'm a board member of the Chum Trollers Association. I've been commercial fishing in Alaska since 1991. Chum Trollers is against HB77. Now speaking for myself as a resident and fishermen here, I feel like I'm preaching to the choir since we're all on the same page- we're against this bill. If my words are going to go to the Governor or anyone else that has anything to do with this legislation I want to say that I definitely reject section one of the bill 'giving the commissioner of DNR ultimate authority to ignore any other provision of law' to do whatever he wants--that's utter bulls***. If you're hearing me now governor, that's what I have to say to you. And I hope everyone else feels the same way. Thank you."

HB 77 Opposition Documents Index Group #3
Passed Out to Committee Members on 3/13/14

1. Susan Rogers – March 12, 2014
2. Linda Behnken – March 12, 2014
3. Terry Perensovich – March 12, 2014
4. Ken Corson – March 12, 2014
5. Seawan Gehlback – March 12, 2014
6. David Janka – March 12, 2014
7. Barclay Kopchak – March 12, 2014
8. George Smallwood – March 12, 2014
9. Mike Byerly – March 12, 2014
10. Clyde Boyer – March 12, 2014
11. Kachemak Bay Conservation Society, Jim Stearns – March 12, 2014
12. Richard Gustafson – March 12, 2014
13. Ekwok Tribal Council, Luki Akelkok, Sr. – March 12, 2014
14. Claudia Anderson – March 12, 2014
15. Curyung Tribal Council, Dorothy Larson – March 12, 2014
16. Laurie Daniel – March 12, 2014
17. Douglas F. – March 12, 2014
18. Paul Liedberg – March 12, 2014
19. Mildred Martin – March 12, 2014
20. Rich MacIntosh – March 12, 2014
21. Mike Stoltz – March 12, 2014
22. William Dunne – March 12, 2014
23. Tom Smayda – March 12, 2014
24. Zachary Bell – March 12, 2014
25. Katmai Service Providers Resolution – March 12, 2014
26. Tim Covell– March 12, 2014
27. Michael Lane – March 12, 2014
28. Mariah Johnson – March 12, 2014
29. Mathew Cannava – March 12, 2014
30. Andrew Milauskas – March 12, 2014
31. Jon Miller – March 12, 2014
32. Felicia Riedel – March 12, 2014
33. Martin Decker – March 12, 2014
34. David Athons – March 12, 2014
35. Linda De Gross – March 12, 2014
36. Jim Perzechino – March 12, 2014
37. John Johnson – March 12, 2014
38. Chris Worcester – March 12, 2014
39. Robert Sylvester – March 12, 2014
40. Joe Bearden – March 12, 2014
41. Dave Svendsen – March 12, 2014
42. Adam Grove – March 12, 2014
43. Carl Johnson – March 12, 2014
44. Susan Olsen – March 12, 2014

From: Susan Rogers

Date: March 12, 2014 at 9:58:36 PM AKDT

To: <Senator.Cathy.Giessel@akleg.gov>

Subject: Alaskans oppose HB 77 and will not be cut out of the process! Please include this in public record and distribute to committee members.

Reply-To:

Wednesday's hearing was another example of the fact that there has not been enough public discourse about House Bill 77. Hundreds of Alaskans were prevented from testifying and they deserve their time to testify in opposition of this bill. I hope that the Alaska Legislature will fully vet this bill in front of multiple committees.

HB 77 would provide for new expanded DNR powers, erode Alaskans rights to appeal DNR decisions, and damage the existing process for water reservations. Additionally, even with new revisions, HB 77 undermines tribes and individual Alaskans' ability to keep water in streams and seriously undermine their ability to participate in natural resource decisions on state land in other ways.

While we appreciate the attempts to fix this bad bill. The recent proposed amendments to the bill do not address concerns raised by the public at statewide public forums and in petitions and letters, and in fact, some of the changes make the bill even worse.

A bill that is this complex and expansive deserves multiple public hearings to allow Alaskans to provide input, and review by several legislative committees. Thank you for opening another session of testimony on Friday.

Sincerely,

Susan Rogers

8641 Sultana Drive

Anchorage, AK 99516

Linda Behnken, testifying for the Alaska Longline Fishermen's Association, representing over 100 Alaska commercial fishing businesses.

Our organization appreciates the committee's work on HB 77, but we are disappointed with the amendments. We had hoped these amendments would address broad-based concern with the bill, but believe they fall far short. Before going any further, I want to recognize and thank Senator McGuire for her comments this week relative to the amendments.

The bill still does not define many important terms, which is worrisome, and where terms are defined, as in "adversely affected" by a DNR decision, the definition significantly raises the bar for Alaskans to comment or object to DNR permitting decisions that affect important habitat and waterways.

The bill still vests DNR with expansive discretionary powers to evaluate water use requests both in terms of scope, with general permits, and timing, with renewal of temporary permits and the elimination of assigned application processing priorities.

The bill also adds seven new issues that a DNR commissioner must consider before deciding if an instream flow is in the public interest, all couched in a tone suggesting that water simply left in a lake or river is somehow being wasted.

This concerns our Association and we hope concerns the Committee. Water is important to Alaska's fish and fish are important to this state for subsistence, recreation and commercial purposes. Resource development should not jeopardize Alaska's streams, lakes and waterways, nor should it "adversely affect" Alaska's subsistence, sport and commercial fisheries. We ask that the committee vote down HB 77 and the version of amendments. We ask that you instead consider alternative strategies for addressing the DNR permitting backlog.

Thank you

Linda Behnken
alfafish@acsalaska.net
907 738 3615

March 11, 2014

I am a Resident of sitka and commercal fisher for over 30 years. I feel DNR, amendments on H.B. 77 fall far short of allowing a full vetting of the public concerns and effects on water uses.

In an effort to streamline the permitting applications process, H.B 77 has gutted constitutional law by omitting the public from the public process. The Govenor and D.N.R need to revise their goals and keep water permitting in and open and transparent process. The road to resources needs to be a 2-way street. Resource extraction can happen without adversley affecting down stream users. Having all parties present and included in the comment period allows thoughtful insight to long term effects on habitat and other user groups. Please protect our rights and do not pass this bill.

Thank you,

Terry Perensovich

Terry Perensovich
sitka
907 752 0345

HB77 is un American. As written it diminishes public participation in state land ,water and resources. It erodes the corner stones of Democracy for expedience and streamlining. It is filled with vague language as to time, scope and the discretion of current directors . Bad decisions will have a long life without consequence. Public and group organizations must have a voice in these issues to maintain the system of checks and balances that will ensure prosperity and opportunity for future generations.

Ken Corson
405 Mills St
SITKA, AK
907-747-5119
Email. Corsonken3@google.com
MARCH 12, 2014

CORDOVA LEGISLATIVE INFORMATION OFFICE

Email: Cordova_LIO@legis.state.ak.us
Phone 907-424-5461 Fax 907-424-5462

WRITTEN TESTIMONY

NAME: Seawan Gehlbach

REPRESENTING: self

BILL#/ SUBJECT: ~~HB~~ 77

COMMITTEE & HEARING DATE: SRC 3/12/2014

I am opposed to HB77. Ours is a commercial fishing family living in Cordova, Alaska. Activities on State lands and navigable waters affect our business & commercial fishing, subsistence harvest, and recreation. Notification of citizens and public input are vital responsibilities of the State of Alaska to its citizens. Decreasing access to information & input of Alaskans in the permitting process is unacceptable. We have understanding and knowledge of the land and sea we live from, ~~that~~ important nuances that would not be known to permit writers miles away. There is a process in place now for permitting and it is sufficient.

Thank you for your consideration & public testimony.

Seawan Gehlbach

CORDOVA LEGISLATIVE INFORMATION OFFICE

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Phone 907-424-5461 Fax 907-424-5462

WRITTEN TESTIMONY

NAME: DAVID JANKA

REPRESENTING: SELF

BILL#/ SUBJECT: HB77

COMMITTEE & HEARING DATE: SRES 3/12/14

I DO NOT FEEL THAT THIS WOULD BE GOOD FOR ALASKA. IT IS COMMODITIES, LAND OWNERS, INDIVIDUALS AND ESPECIALLY OUR SALMON. PLEASE DO NOT THIS BILL TO MOVE FORWARD.

THANK YOU.

CORDOVA LEGISLATIVE INFORMATION OFFICE

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Phone 907-424-5461 Fax 907-424-5462

WRITTEN TESTIMONY

NAME: BARCLAY KOPCHAK

REPRESENTING: SELF

BILL#/ SUBJECT: HB 77

COMMITTEE & HEARING DATE: Senate Resources Committee

We Alaskans pride ourselves on our civic mindedness & our ability to offer input in the decision making process of Govt. HB 77 lessens many of opportunities to participate in renewable resource decisions with over broad latitude for the DNR Commissioner

WRITTEN TESTIMONY

Name: George Smallwood

Representing: Self / Future of Alaska

Bill No./Subject: HB 77 (RES) Version H

Committee:

Date of Hearing: 03/12/2014

I oppose this short sighted bill. Please kill this bill. TKS

Name: Mike Byerly
Representing: Self
Bill No/Subject: #HB77 (RES)
Committee: Resources
Date of Hearing: 3/12/2014

Thank you for giving the opportunity to provide public input here today. And thank you to Senator McChecky for supplying the earlier opportunities for public input on HB77.

There were a few improvements made in this latest version of the bill ~~and those are appreciated~~, but the essence of bill remains. The notwithstanding in Section 1 has been removed and "a person" has been retained as some who can apply for an in stream flow reservation, ... but there's still too much latitude given to the department for issuing general permits and plenty wrong with the bill as a whole.

Substantially and adversely affected is still used throughout the bill. We're all Alaskans. We should all retain the right to appeal or request reconsideration on permitting actions.

Appeal periods, for those who can actually make one, are still way too short.

The director still retains the ability to extend leases at his discretion in multiple sections of the bill.

The director still retains the discretion to make Public decisions that have been made by the department and to provide public comment.

Regarding section 35, The department retains the ability to determine what a "significant amount of water " is when determining removals from one hydrologic unit to another. Prior language was that it couldn't be done, unless defined conditions were met, like enough water for fish production.

The commissioner retains the ability to issue one or more new temporary water use authorizations. This is open ended. It gives the commissioner the ability to just perpetually issue authorizations with no real oversight. Again too much discretion.

I really get the chills anymore when I hear that some other type of permitting needs to be stream lined. Invariably it seems that there are other motives behind the reasoning. I fail to see what's wrong with a through, conscious, thoughtful approach to permitting that is upfront with the public about how OUR land and water resources are being affected by decisions made by the State.

I think there's too much wrong with this bill, I feel that it's miss guided, and that it just needs to go away. If we really want to say to the public and industry that the SOA has a "strong and rigorous permitting system" we don't need to water it down like this bill does.

Thank you!

Mike Byerly

WRITTEN TESTIMONY

Name: Clyde Boyer

Representing: myself & my wife Vivian

Bill No./Subject HB 77

Committee:

Date of Hearing: 3/12/2014

My wife & I oppose this bill. We believe that input is important for all citizens of Alaska if they wish to testify on what might be happening in their part of the State of Alaska.

I don't believe that someone living in one part of our large State should be making decisions about development projects in other parts of our State without allowing for adequate input from anyone who is a citizen to testify.

We need to have open discussions and the appearance of transparency in all decisions in Alaska regarding development & natural resources.

Please vote down this bill & leave the process the way it currently is.

Thank you,

Clyde T. Boyer Sr.

Resource committee,

3/12/14

First of all we would like to offer our appreciation that the legislature and Gov. Parnell listened to the public outcry regarding the problems with HB 77. Clearly, the message of the people across all political lines was clear. HB 77 in its previous form was unacceptable.

So now we are here again and we are led to believe that the issues have been addressed and the bill is again moving forward. Unfortunately, most of the fundamental problems with the bill remain the same.

The transfer of power to DNR remains firmly entrenched. Under the revised bill DNR is still allowed to issue 'general permits' over wide ranging regions and the public notice requirements are limited.

It remains an enormous challenge, both politically and economically, to challenge poor or even illegal decisions unless you face direct financial or physical harm.

The provision that undercuts existing law regarding the right to protect in stream flows for fish is still in place. Even if such a request is submitted, DNR can simply send this often urgent application into the bureaucratic hamster wheel, and for all intents and purposes, bury it, even after the applicant has made an enormous outlay of effort and resources.

The Parnell administration worked behind the scenes for 10 months and emerged with the newly crafted HB77, which, in essence, amounts to nothing more than cosmetic changes. They failed to work with individuals and groups who might have been able to craft a bill that was at least palatable to many opponents. On top of that, they release, the revised bill just two days before the committee hearings, therefore again, depriving the citizens of Alaska the time to analyze and comment on this very important legislation.

JIM STEARNS

J. Stearns

KACHEMAK BAY CONSERVATION SOCIETY

Richard Gustafson,

I am opposed to HB 77.
Please reinstate the Costal Zone
Management program.

Thank you

Richard Gustafson
P.O. Box 4144
Homer, Alaska 99603

My name is Luki Akelkok, Sr. from Ekwok.

I am the Chairman of Ekwok Tribal Council, Chairman of Ekwok Natives Limited and Mayor for the City of Ekwok. I am speaking today in that role.

1. HB 77 as it is written in Senate Resource if it can't be fixed in this committee it should die!
2. The Committee needs to fix the following:
   a. Define what it means to "likely significant or irreparable harm."
   b. Define "substantially and adversely impacted."
3. The entire newly written section on water reservations for "persons" or Tribes seems like a water "lock-up" but for us in rural Alaska who live on the river, we must do everything possible to make sure we have adequate water in the rivers and streams for fish, wildlife and for us to travel on these waters. We see this latest version of the bill to favor out-of stream use over in-stream protections.
4. Finally, Based on Nuvista's latest letter dated on February 28, 2014 to Senator Hoffman the Chikuminuk Dam Project and feasibility project be **dropped**. I would ask members of the committee then to move to delete the entire Section 47 on line 16 to 23 of this page.

KODIAK LEGISLATIVE INFORMATION OFFICE

Email: Kodiak_LIO@akleg.gov
907-486-8116/ phone, 907-486-5264/fax

WRITTEN TESTIMONY

NAME: Claudia Anderson
REPRESENTING: myself
BILL#/ SUBJECT: HB 77
COMMITTEE & HEARING DATE: Senate Resources

I am still opposed to HB77

The original bill was so very awful and big governmentish but the new bill is still lengthy. According to what I've read on line. it only partially addresses major concerns. In particular Native groups still can not hold in stream flow reservations

Clean water is far too important for several Alaskan industries to be bargained away.

Culture Subsistence
Native Justice Education

Curyung Tribal Council
PO Box 216 • 531 D Street
Dillingham, Alaska 99576
Phone: (907) 842-2384
Fax: (907) 842-4510

Dorothy B. Larson, Tribal Administrator Dorothy B Larson
Curyung Tribal Council
P.O. Box 216
Dillingham, Alaska 99576
(907) 842-2384

My name is Dorothy B. Larson, Tribal Administrator for the Curyung Tribal Council in Dillingham, Alaska. I was born and raised here, have practiced hunting and fishing activities my entire life, and will continue to work diligently to assure there are protections for this way of life into perpetuity.

The Curyung Tribal Council and over 40 Alaska tribes and Native groups passed resolutions opposing HB77 and DNR's proposed changes, revealed less than 48 hours ago, fail to address our concerns. DNR has AGAIN worked behind closed doors, without public consultation and process, to revise this dangerously flawed bill, insists it addresses our concerns, but the bill is even more dangerous now. We request that these resolutions be posted to HB77 Public Comment immediately so that our legislators can take into account our concerns when considering the revised bill.

We have a responsibility to steward the land, water, and renewable resources which we take seriously; HB77 in its' original and revised form will eliminate our ability to accomplish this by blocking public notice, comment, or process.

Even though the new version bars general permits for projects that would cause either significant OR irreparable harm, once a blanket general permit is issued specific developments could proceed with no further requirement for public notice or comment.

Although tribes and individuals have been added back as eligible to apply for water rights, the water right would be held by a state agency no matter who applied. We disagree with this element; if we put in the time, money, and effort, we demand some form of input and control.

Finally, the commissioner would have the discretion to decide when, in what order, and IF an application is processed, but to apply for a water right an applicant would have to provide at least five years of data to support the application, not knowing if their application would even be considered. If the water right or reservation was approved, it would be issued to a state agency and our whole purpose would be defeated since the original applicant could be kept out of the information loop, and therefore not have the guarantee of notice and comment.

The Curyung Tribal Council STILL opposes HB77 and seek your support in blocking its' passage. Thank you.

Senate Resources Committee hearing on HB77 vers H work draft CS (SRES) - March 12, 2014

Thank you for the opportunity to comment on Revised HB77, also known as the Silencing Alaskans Act.

Upon review, the bottom line is the amendments presented in the revised version of HB77 do not address the major problems with the legislation. The most controversial parts remain largely unchanged. Rather than working together with concerned Alaskans, the administration developed this revision behind closed doors, taking 10 months to produce and allowing a bare two days for public review.

Revised HB77 still eliminates opportunities for the Alaskan public to weigh-in on land, water and natural resource development decisions statewide. It impacts almost any activity or use on state land that requires a permit. The bill still takes the power away from the people and holds it in the hands of state government. It does this by granting broad powers to DNR and removes public notice and comment periods from permitting activities. The bill still makes it difficult for the public to challenge DNR decisions. It still takes water reservation rights away from tribes, native corporations, non-profit organizations and individuals. And the text of the bill uses ambiguous, undefined terminology such as 'unlikely to cause' and 'significant or irreparable harm' and 'substantially and adversely affected'.

The revision is not at all a compromise between the original, regressive legislation and what the public has been overwhelmingly calling for. It undercuts the fair and reasonable, publically engaged, transparent democratic process that has been successfully used in land, water and natural resource management in Alaska for many decades. The effect is to keep Alaskans in the dark. This is an unmistakable example of overreach of power and authority on the part of the state.

HB77 clearly favors broad-based extractive development activity over careful development encompassing ecosystem-based natural resource management and protection. This short-sighted approach goes against what we as a nation have learned from past mistakes and ignores our obligation to protect the future good.

I ask that you do not support HB77 in any of its forms. Please do not pass this bill forward out of committee. Thank you.

Laurie Daniel PO Box 3713 Homer, AK 99603 lauriedanieltnc@hotmail.com

Alaska State Legislature

Please enter into the record my testimony to the SENATE RESOURCES (committee name)

committee on HB 77 (bill # / subject), dated 3/12/14.

OPPOSED TO HB 77 AS WRITTEN.

Signed: Douglas Fulton

Testifier

Representing (optional)

312 ASPEN CIRCLE Bx 2530 VALDEZ AK 99686

Address

907-229-1619

Telephone

Paul A. Liedberg
P.O. Box 478
Dillingham AK 99576

Comments for the Senate Resources Committee on HB77

My name is Paul Liedberg and I would like to state my opposition, specifically to the portion of HB77 that relates to hydropower development at Chikuminuk Lake within the Wood-Tikchik State Park. I am a ten year resident of Dillingham. I recently retired after a 36 year career in public land management. I currently sit on the Dillingham City Council and have served on the Dillingham Planning Commission for about seven years. My comments reflect my personal views and I represent myself.

Many people testified in opposition to this project within the park last year when it was advancing as SB32. I encourage you to review that testimony if you haven't already done so. The comments I submitted are still relevant and I will not repeat them for you here. In light of the recent reports that the proponent of this project is no longer pursuing it, I will keep my comments brief.

I would just like to say that even without the proponent moving forward, it is wrong to amend the park's originating legislation and management plan direction by keeping the subject references that are now in HB77. Any discussion and decision that addresses whether hydro development should be compatible in the park needs to be done in a forum more specific to that topic.

Commercial users that make much of their living providing services in the park, the Bristol Bay Heritage Land Trust that has expended funds and time to support park goals, the public, and park management, all need assurance that their plans in support of the park and park visitors will not be jeopardized in the future because of language left in this bill today.

I would urge you to remove language from HB77 that would make hydropower development compatible at Chikuminuk Lake within the Wood-Tikchik State Park.

Thank you for the opportunity to provide these comments.

3/12/2014

From: Mildred Martin
Sent: Wednesday, March 12, 2014 12:54 PM
To: Sen. Cathy Giessel; Sen. Fred Dyson; Sen. Peter Micciche; Sen. Anna Fairclough; Sen. Hollis French; Sen. Lesil McGuire; Sen. Click Bishop
Subject: HB 77

Dear Senator Giessel and Members of the Senate Resources Committee;

I am unable to make the hearing this afternoon,. however I would like to voice my continued strong opposition to HB77. I understand that for some of you, you feel like an acceptable compromise has been offered. I do not agree with that.

1. The expansive new powers to DNR still exist.
2. Alaskan's are silenced and punished if they try to protect vital salmon resources. This is and remains very wrong. We have a right to a voice. Please do not try to take it from us.
3. There is still no guarantee that DNR will consider applications for water reservations. This too is very wrong.

Even with the proposed changes, The most controversial sections of the legislation: expanded DNR power, eroding Alaskans rights to appeal DNR decisions and eviscerating the process for water reservations, still remains unchanged and unfixed.

I strongly oppose this rendition of HB77 and ask you please to do likewise.

Thank you,

Milli Martin
PO Box 2652
Homer, AK 99603

From: Rich MacIntosh

Sent: Wednesday, March 12, 2014 11:16 AM

To: Sen. Cathy Giessel

Subject: Please include this letter on HB 77 in the public record.

Dear Senator Giessel and other Senators:

My wife and I do NOT support HB 77. This bill will place at risk public water rights, public access to natural resource management decisions, and the ability to maintain safeguards on important and suatainable salmon spawning streams throughout Alaska. We have written our Senator on this issue, and we also urge other Senators NOT to support this bill.

HB 77 is not in the best long-term interest of the Alaskan public.

Sincerely,

Rich Macintosh

Molly MacIntosh

Kodiak AK

From: Mike Stoltz

Sent: Wednesday, March 12, 2014 12:11 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Mike Stoltz

PO Box 202

Talkeetna, AK 99676

From: William Dunne

Sent: Wednesday, March 12, 2014 12:34 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I believe that the amendments recently made to HB 77 do not make it an acceptable bill, in fact some changes make it worse.

Please do not reduce the right of citizens to appeal permits.

More public process is needed in the development of and amending this bill.

Sincerely,

Willy Dunne

William Dunne

40508 Waterman Rd

Homer, AK 99603

From: Tom Smayda
Sent: Wednesday, March 12, 2014 12:42 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.
This bill is bad since it gives major decision making power to one individual, removes the public process,and favors big companies that have strong lobbying power and finances. tom smayda

Tom Smayda
900 N Witherspoon Rd
Palmer, AK 99645

From: Zachary Bell

Sent: Wednesday, March 12, 2014 12:17 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

HB77 is a horrible Bill taking away rights from Alaskans and not giving us a voice. I am ashamed that this is even being considered. This is going against everything that America is.

Please take a stand and vote this Bill down.

Zachary Bell

3320 Beech Wy 1

Wasilla, AK 99654

A RESOLUTION BY KATMAI SERVICE PROVIDERS:

Whereas, HB77 is a wide sweeping and dangerous bill that was originated under the guise of "Streamlining the permitting process"

And whereas HB77 would, among other things, give the Commissioner of the Alaska Department of Natural Resources the authority to grant General Permits without public notice and at his sole discretion, thereby taking away the public's right to ensure that enough water remains in streams to keep fisheries healthy.

And Whereas, HB77 as written, takes away the ability to voice concerns when it comes to water and fishery issues.

Therefore, it is resolved that the members of Katmai Service Providers are opposed to HB 77.

There were no dissenting votes.

Members

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Mark Madura
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fax: 707-283-7753
depriest@fishingpursuits.com

www.missionlodge.com

Newhalen Lodge
Bill Simms
3851 Chiniak Bay Dr.
Anchorage Ak 99515
Phone: 907-522-3355
newhalenlodge@gci.net

No See Um Lodge, Inc.
John Holman
P.O. Box 382
King Salmon, Ak. 99613
Phone: 907-746-5395
Phone: 907-376-9394
www.noseeumlodge.com
flynfishr@yahoo.com

Ouzel Expeditions, Inc.
Paul & Sharon Allred
P.O. Box 935
Girdwood, Alaska 99587
Phone: 907-783-2216
sharon@ouzel.com
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Pere Marquette Outfitters.LLC
David Roller
7531 E Decker Rd
Fountain, MI 49410
231-898-2289 (also fax)
231-134-0049 cell
david@pmoutfitters.com

Raspberry Island Remote Camps
Lee Robbins
M/V Single Star
PO Box 1426
Kodiak, AK 99615
adventure@mvsinglestar.com
www.raspberryisland.com

Royal Wolf Lodge
Chris Branham
P.O. Box 190207, Anch Ak 99519
Phone: 907-248-3256
Branham@royalwolf.com

www.royalwolf.com

Sea Hawk Air, Inc.
Rolan Ruoss & Jo Murphy
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Steller Air Service
Mark Munro
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Homer, Alaska 99603
Phone: 907-299-0284
Cell: 907-299-8206
stellerair@gmail.com

Tikchik Narrows Lodge
Bud Hodson
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Anchorage, AK 99502
Winter- 907-243-8450
Summer- 907-644-3961
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www.tikchiklodge.com

Trail Ridge Air, Inc
Jim Jensen

3961 Floatplane Dr
Anchorage, AK 99502
907-248-0838
907-248-2658 fax
jim@trailridgeair.com
www.trailridgeair.co

Women's Flyfishing
Cecilia "Pudge" Kleinkauf
P.O. Box 243963
Anchorage, AK 99524
Phone: 907-274-7113 fax same
pudge@womensflyfishing.net
www.womensflyfishing.net

From: Tim Covell
Sent: Wednesday, March 12, 2014 11:57 AM
To: Sen. Cathy Giessel
Subject: House Bill 77

Dear Senator,

I am writing to express my opposition to the amendments to House Bill 77 and House Bill 77 as well.

HB 77 as written would take away the rights of Alaskans, myself included, to challenge or to even be aware of projects and activities that could affect water as well as fish and wildlife resources that Alaskans enjoy.

During my career, twenty two years, at the Coal Mine in Healy AK. as well as many years in the construction industry in Alaska I have personally witnessed and can give several examples of the lack of involvement of the DNR in water issues after permitting of projects is granted. Some of which is no fault of the DNR but simply because no DNR people are on site after the permitting process to observe the problems that happen after projects are finnished.Things that are not seen in offices in Fairbanks, Anchorage , Juneau, unfortunately often do happen that no one will do or say anything about. Therefore, in my opinion, HB 77 further strips the rights of ordinary citizens to question or even be aware of what is going on with our water resources within the state. If you would like examples of what I am saying I would be happy to oblige. Fines for permit infractions are part of doing business and are unable to turn back the clock for mistakes that should never have happened.

I consider HB 77 and amendments to be an affront on my civil rights as an Alaskan citizen. Poor legislation meant to circumvent my input on important issues concerning something very, very important to me. Clean water and an government that should be proactive in protecting it, no matter the cost or inconvenience to someone in a permitting office somewhere or less expensive for any corporation or entity trying to bypass the rights of the public.

Thank you for your consideration of this letter.

Tim Covell
PO Box 74
Healy, AK 99743

[redacted]

From: Michael Lane <lane@mtaonline.net>
Sent: Tuesday, March 11, 2014 5:22 PM
To: LIO Mat-Su
Subject: HB 77

After working 33 years in the oil industry I still believe in the public right to information and the right to speak out. I'm against HB 77 and hope that our Mat Su representatives do not support this bill. There are too many reasons to list, but I feel this is an assault on democratic process disguised as streamlining of the permit procedure.

Best Regards,
Mike Lane
Palmer, AK

MATSU LIO Fax 907-376-6180 Mar 12 2014 10:36am P001

From: Legislative EmailService

Sent: Wednesday, March 12, 2014 8:30 AM

To: Sen. Cathy Giessel

Subject: New Pom:Environmental Concerns

Mariah Johnson

Po Box 3043

Seward 99664-3043,

I oppose HB 77! Alaskans have the right to be heard to protect the last pristne place on Earth!

From: Legislative EmailService

Sent: Wednesday, March 12, 2014 10:36 AM

To: Sen. Cathy Giessel

Subject: New Pom:HB 77 Land Use/disp/exchanges; Water Rights

Mathew Cannava

180 E Beluga Ave

Soldotna 99669-0502

HB 77 does NOT serve Alaskans. I was at Senator Micciche's "town hall" meetings where there was OVERWHELMING opposition. Now Senator Geissel and Parnell hold the bill until 3:30PM yesterday, limiting Alaskan's ability to review the bill prior to comment.

It is OUR water...not Outside corporations.

From: Legislative EmailService

Sent: Wednesday, March 12, 2014 9:57 AM

To: Sen. Cathy Giessel

Subject: New Pom:HB 77 Land Use/disp/exchanges; Water Rights

Andrew Milauskas

Po Box 45

Girdwood 99587-0045,

I strongly oppose this bill. There is no reason that power to provide input about proposed activities on state land should be taken out of the hands of the people of Alaska. There is no reason that their rights to reserve their own clean water should be eroded either.

From: Jon Miller
Sent: Wednesday, March 12, 2014 1:14 PM
To: Sen. Cathy Giessel
Subject: Please vote NO on HB 77--Please Distribute to all Committee Members--Please include my comments in the public record
Importance: High

Dear Ms. Giessel and Members of the Senate Resource Committee:
I urge you to vote NO on House Bill 77 because this bill will weaken Alaskans' ability to have a meaningful voice in how our state's natural resources are managed and developed. I believe that Alaskans as individuals and as communities should be encouraged and empowered to play a greater, more informed role in resource management decisions—not excluded from the process, as HB 77 attempts to do.
Like other Alaskans, I am accustomed to hearing tales of inefficient, burdensome regulations that stifle efforts to develop our natural resources, but I have also seen the harmful results of inadequate regulation, poor enforcement, and public input into management decisions. Of the two, I am far more concerned about the latter because more Alaskans are impacted, and the impacts are often more long lasting.
As an Alaskan resident for over 25 years I am convinced that the unique, outstanding quality of life Alaskans enjoy is based ultimately on the continued wise, restrained, and providential management of our natural resources—resources the likes of which have been overused and squandered in other states such that many opportunities we currently enjoy and rely upon in Alaska are no longer options for residents of other states. The long term sustainability of our renewable natural resources—our fisheries, hunting and fishing along with other subsistence activities, timber, water and air quality, etc.—is my single greatest concern for Alaska's future, and HB 77 is a direct threat to sustainable management of our resources in my opinion.
More specifically, the changes to HB 77 have not adequately addressed serious concerns many Alaskans have voiced with the bill:
--A lack of specificity that allows DNR to issue overly broad "General Permits" without need for subsequent public notification, or provisions for public review of specific "activities". The intent here appears to be to hide potentially controversial decisions behind overly vague blanket permits.
--The ability for Alaskans to take legal and administrative steps to appeal DNR decisions would be excessively restricted. This "streamlining" effort will further erode Alaskans' ability to challenge DNR's decisions, even when they clearly violate DNR's own regulations, state law, etc. Again, a bad idea if we want Alaskans and Alaskan communities to play an involved role in resource management decisions.
--Water reservations and in-stream-flow guarantees are extremely important to maintaining stream health and ensuring Alaskans continue to reap the greatest sustained benefit from our public waters. As currently written, this bill would give DNR discretionary ability to simply sit on water reservation applications without any procedural or time-line requirements to issue or deny the permit. This change appears, again, to slant toward industry and away from public involvement in how our water resources are managed, and sends a very poor message to the Alaskan people that this legislature does not have our long-term interest at heart.
Please include my comments in the public record, and please distribute to all Senate Resource Committee Members.
Respectfully,
Jon Miller
2630 Home Run
Fairbanks, AK 99709
(907) 479-5629
Jonmiller@acsalaska.net

From: Felicia Riedel
Sent: Wednesday, March 12, 2014 1:12 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.
It goes too far by taking away from the public process and the rights of individuals, while allowing only governmental applications or appeals.
The whole point of the laws HB 77 is trying to undo is to help us keep water in our streams for fish -a major part of our protein -or recreation.

Felicia Riedel
HC 60 Box 335-R
Copper Center, AK 99573

From: Martin Decker
Sent: Wednesday, March 12, 2014 12:55 PM
To: Sen. Cathy Giessel
Subject: For public record and to the Senate Resource Committee members

I am an independent voter and you have lost my vote if you support HB77. This is bad legislation which places too much power in a governmental body and takes away the ability of Alaskans to have a say in the use of our own resources.

Martin Decker
2110 Tudor Hills dr.
Anchorage, AK 99507

From: David Athons
Sent: Wednesday, March 12, 2014 1:06 PM
To: Sen. Cathy Giessel
Subject: HB 77 comments. Please include in public record and distribute to committee members.

I am opposed to HB 77 as it currently stands. I am appalled that overwhelming opposition to this legislation was voiced yet little significant change occurred this legislative session. Amendments to HB 77 do not address my concerns with this legislation. It erodes renewable resource protections and public process by giving too much power to the Commissioner of DNR. It remains an overreach of power and authority. It continues to erode public rights to comment and appeal decisions regarding public resources. It erodes the public right and process for making water reservations.

It continues to give the Commissioner of DNR authority to issue permits while allowing override of DNR's own statutes and regulations. Under this legislation the Commissioner may issue one permit for a wide range of activities over broad geographic areas while allowing no public notice for subsequent activities. It allows for any activity that does not cause ""likely significant or irreparable harm" while not defining what that might be.

The rights of the public are compromised as one must be "substantially and adversely impacted" to weigh in or appeal a decision by DNR. This legislation significantly impacts current law regarding individual Alaskan's ability to file for water rights and reservations

This legislation takes away public rights and processes giving the power of DNR to lock up and give away public resources while degrading renewable common property resources. Alaskan's rely on renewable resources for subsistence and personal use as well as for economic viability whether as commercial fishermen or in the vast and growing tourism industry. Alaska's pristine and productive natural resources are becoming increasingly precious as Global resources are being rapidly depleted elsewhere on this planet.

I see this legislation as a political "give-away"; a "takings" from the public which benefits only the financial bottom line of outside interests.

Sincerely,
David Athons
36655 River Hills
Kenai, AK 99611

From: Linda De Gross

Sent: Wednesday, March 12, 2014 1:06 PM

To: Sen. Cathy Giessel

Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Linda De Gross

5842 Dow Place

Anchorage, AK 99507

From: Jim Perzechino
Sent: Wednesday, March 12, 2014 1:13 PM
To: Sen. Cathy Giessel
Subject: HB77

My name is Jim Perechino, i am a registered voter and I am against HB77 and any other bill that will have a negative impact on our water, and fish. I will vote accordingly.

Jim Perzechino
c st
Sterling, AK 99682

From: John Johnson
Sent: Wednesday, March 12, 2014 1:14 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday. It is still taking away our rights, and our power to say no. Especially if we don't know what the government is doing for more money. Vote no.

John Johnson
13271 east Glenn avenue/ PO box 2678
Palmer, AK 99645

From: Chris Worcester
Sent: Wednesday, March 12, 2014 1:12 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Chris Worcester
PO Box 2511
Truckee, CA 96160

From: Robert Sylvester
Sent: Wednesday, March 12, 2014 1:15 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

I am opposed to this Bill since it removes my ability to have any meaningful input into the uses of Alaska's natural resources, be it oil, coal, water or fish and/or game. Anyone who professes to honor the sovereignty of Alaskan citizens must surely oppose this Bill vigorously.

Robert Sylvester
PO Box 22487
Jueau, AK 99802

From: Joe Bearden
Sent: Wednesday, March 12, 2014 1:12 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday.

Joe Bearden
1809 Lakepark Dr
Raleigh, NC 27612

-----Original Message-----

From: dave svendsen

Sent: Wednesday, March 12, 2014 8:09 PM

To: Sen. Cathy Giessel

Subject: Alaskans oppose HB 77 and will not be cut out of the process! Please include this in public record and distribute to committee members.

Wednesday's hearing was another example of the fact that there has not been enough public discourse about House Bill 77. Alaskans deserve to be heard on this issue, and to have their time to testify.

HB 77 would provide for new expanded DNR powers, erode Alaskans rights to appeal DNR decisions, and damage the existing process for water reservations. Additionally, even with new revisions, HB 77 undermines tribes and individual Alaskans' ability to keep water in streams and seriously undermine their ability to participate in natural resource decisions on state land in other ways.

While we appreciate the attempts to fix this bad bill. The recent proposed amendments to the bill do not address concerns raised by the public at statewide public forums and in petitions and letters, and in fact, some of the changes make the bill even worse.

I hope that you will hold additional public hearings to allow Alaskans to provide input on this complex and important bill.

Sincerely,

dave svendsen

11400 cobra st

anchorage, AK 99507

-----Original Message-----

From: Adam Grove

Sent: Wednesday, March 12, 2014 8:06 PM

To: Sen. Cathy Giessel

Subject: Alaskans oppose HB 77 and will not be cut out of the process! Please include this in public record and distribute to committee members.

Wednesday's hearing was another example of the fact that there has not been enough public discourse about House Bill 77. Alaskans deserve to be heard on this issue, and to have their time to testify.

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While we appreciate the attempts to fix this bad bill. The recent proposed amendments to the bill do not address concerns raised by the public at statewide public forums and in petitions and letters, and in fact, some of the changes make the bill even worse.

I hope that you will hold additional public hearings to allow Alaskans to provide input on this complex and important bill.

Sincerely,

Adam Grove

4701 E 145th Ave

Anchorage, AK 99516

-----Original Message-----
From: Carl Johnson
Sent: Wednesday, March 12, 2014 12:28 PM
To: Sen. Cathy Giessel
Subject: Please include this in public record and distribute to Senate Resource Committee members

I continue to oppose HB77, even with the changes presented on Monday. If anything, the Alaska Legislature should be enhancing and expanding public participation in natural resource management decisions, not further restricting it.

When our Founding Fathers drafted the Alaska Constitution, they constructed an awesome document in general, but specifically an amazing tool for protecting our natural resources in Article VIII. Proper management of our resources under the spirit of that Article has placed Alaska in a unique position compared to our sister states: we have abundant fresh water, we enjoy unprecedented fish runs, our scenic beauty is the envy of the world, and we have abundant wild food sources that help to maintain a traditional way of life that has existed for thousands of years.

But HB77 defies and disparages the intent, meaning and purpose of Article VIII. The General Permits section pre-authorizes too many types of activities without public input. And even when the public does find out about poor permitting decisions, there is little recourse as the new appeal process greatly limits the number of people who can seek judicial relief. Article VIII makes it very clear that all natural resources in Alaska are owned in the common; thus, any Alaska resident should be able to seek judicial relief for poor decisions regarding management of those commons. But under the new standard, only someone with direct financial interests could challenge a DNR decision. Not even subsistence users would be able to challenge a decision by this measure.

Additionally, in a time when other states are facing severe drought, shortage of fisheries, and dwindling habitat for fish and wildlife, now is not the time to put barriers in place to protecting the flow of our valuable waterways. The idea that Alaska residents would be precluded from submitting instream water flow reservations for subsistence, recreational or other activities is patently absurd. And then to give such rights to multinational corporations over the interests of Alaskans - in patent violation of the Alaska Constitution - is exceptionally egregious.

You were elected to office to support and defend the Alaska Constitution, and to enhance enjoyment of our valuable common resources. Fulfill your oath and do what the people of Alaska expect you to do. Protect their Constitution and their interests, not the interests of multinational corporations. Vote "no" on HB77.

Thank you for your consideration.
Carl Johnson
Anchorage
Carl Johnson
17800 Steamboat Dr
Anchorage, AK 99516

-----Original Message-----

From: Susan Olsen
Sent: Wednesday, March 12, 2014 12:50 PM
To: Sen. Cathy Giessel
Cc: Susan Olsen
Subject: HB 77

Dear Senator Giessel:

Please include these comments in the public record; I am unable to testify in person today.

Making public the amendments to this highly controversial bill on Monday afternoon for public testimony on Wednesday afternoon is simply emblematic of the contempt being shown by the governor and legislature for the public process in this bill. These late-arriving amendments do not resolve the difficulties expressed by the public.

I am delighted to see that the DNR Commissioner may no longer ignore existing law but I certainly object to the elimination of "first in time" processing for water reservations. I also question whether having the state hold, and thereby control, water reservations, now obtainable by individuals and NGOs, defeats the purpose for filing for a reservation if the state can subsequently manage the same on its own terms. And finally, changing the standard for appeal without defining the terms in the legislation doesn't solve the issues raised by the public: making certain that the Commissioner cannot decide arbitrarily if the appeal can be accepted and, even more, making certain that the public has a right to challenge capricious decisions by the Commissioner.

This bill needs more work before going to a full vote of the Senate. Please hold in Committee and amended it to reflect the valid issues previously raised by the public.

Susan Olsen

8601 Sultana Drive

Anchorage, AK 99516