

# HB 77 (FILE 6)

<TARGET><BILL>HB 77</BILL><SUBJECT>HB 77 (FILE  
6)</SUBJECT><COMM>SRES28</COMM></TARGET>

**HB 77 Opposition Documents Index Group #9**  
**Passed Out to Committee Members on 3/14/14**

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40. Laura Brooks – March 14<sup>th</sup>
41. Monica Mullet – March 14<sup>th</sup>
42. Randy Hagenstein – March 14<sup>th</sup>

**From:** Kenneth Marsh

**Date:** March 13, 2014 at 6:44:34 PM AKDT

**To:** <[Senator.Cathy.Giessel@akleg.gov](mailto:Senator.Cathy.Giessel@akleg.gov)>

**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. There is still much about this bill that should not be allowed to be put into law. The whole concept continues to put too much power in the hands of those that may not always reflect the will of the voters. Please do not aid in passing this bill.

Ken Marsh

Box 13011

Trapper Creek, Alaska 99683

**From:** Doug Hill

**Date:** March 13, 2014 at 6:32:48 PM AKDT

**To:** <[Senator.Cathy.Giessel@akleg.gov](mailto:Senator.Cathy.Giessel@akleg.gov)>

**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.

“As a committee, we believe public testimony is an important part of the process,” said Giessel. “That’s why it is critical to me, and the others, to give Alaskans an opportunity to have their voices heard.”

What!!! What a charade!!! Why are Giessel and other supporting this corporate takeover style bill? A bill that limits the power of public interest and hands Alaska's watersheds over to industry!

Have supporters of HB 77 remember that healthy salmon stocks were an impetus for Statehood at a time when corporate interest were mining salmon???

Do supporters know anything about Alaska history?

Wake up and think long term.

Doug Hill  
437 S Gulkana Street  
Palmer, AK 99645

**From:** Kara Hastings

**Date:** March 13, 2014 at 8:59:45 PM AKDT

**To:** <[Senator.Cathy.Giessel@akleg.gov](mailto:Senator.Cathy.Giessel@akleg.gov)>

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

Madam Chair and Committee members,

I just wanted to state that I oppose HB77. I could list off all the reasons why I oppose this bill but they have been stated by many, many, many Alaskans before me.

HB77 gives the commissioner of DNR unprecedented power in a state where the resources belong to the people. I should be able to protect water on my property, and hold the reservation. Terms need to be defined and the legislation needs to be cleared up.

You have heard all of this. The fact that so many Alaskans have spoken out against this bill should make you rethink your vote. We take off work to attend these hearings. I don't make as much as you do and taking off two days in one week to attend a hearing to defend my constitutional rights will seriously impact my paycheck. You represent me, my neighbors, family, and friends. I vote, think twice before you vote, choose to vote for the people, not your wallet.

Thank you for your time, I am sorry that I have to send this on such unfriendly terms. I want to have faith in my government, but sometimes it is hard. Please give me a reason to have hope again, vote for the people you represent.

Sincerely,

Kara Hastings  
8437 Duben Ave  
Apt. 102  
Anchorage, AK 99504

**From:** John Briner

**Date:** March 13, 2014 at 9:04:20 PM AKDT

**To:** <[Senator.Cathy.Giessel@akleg.gov](mailto:Senator.Cathy.Giessel@akleg.gov)>

**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.

Also I strongly oppose any changes to the bill which are not presented to the public with sufficient time to review and comment.

John Briner

Skagway

John Briner

1253 Broadway

Skagway, AK 99840

**From:** Bob McCard

**Date:** March 13, 2014 at 9:49:37 PM AKDT

**To:** <[senator.cathy.giessel@akleg.gov](mailto:senator.cathy.giessel@akleg.gov)>

**Cc:** <[Senator.Fred.Dyson@akleg.gov](mailto:Senator.Fred.Dyson@akleg.gov)>, <[Senator.Peter.Micciche@akleg.gov](mailto:Senator.Peter.Micciche@akleg.gov)>,

<[Senator.Click.Bishop@akleg.gov](mailto:Senator.Click.Bishop@akleg.gov)>, <[Senator.Lesil.McGuire@akleg.gov](mailto:Senator.Lesil.McGuire@akleg.gov)>,

<[Senator.Anna.Fairclough@akleg.gov](mailto:Senator.Anna.Fairclough@akleg.gov)>, <[Senator.Hollis.French@akleg.gov](mailto:Senator.Hollis.French@akleg.gov)>

**Subject:** Please include this in public record and distribute to Natural Resource Committee Members"

Dear Senator Giessel:

Please include this in public record and distribute to Natural Resource Committee Members"

In order to allow all Alaskans the opportunity to voice their opinions and be heard without having to go to court and limiting the power of the Commissioner of Natural resources, I would like the Senate Resources Committee to implement the following changes in the draft of HB 77 dated 3/7/14:

Reinsert "AGGRIEVED" and delete "Substantially and adversely affected" in the following:

Page 7 lines 9&10;

Page 11 Line 15;

Page 12 lines 7 and 27;

Page 19 Lines 11 and 20;

Page 22 Line 5

Page 8 Lines 6 & 10 delete "to the Court"

Page 12 Lines 11, 12, & 13 Leave in "THE DECISION OF THE COMMISSIONER UNDER THIS SUBSECTION MAY BE APPEALED TO THE SUPERIOR COURT"

Page 12 Line 29 delete 20 and leave 30 days

Page 20 Lines 22 & 23 Reinsert "WATER" and delete "A significant amount of water as determined by the department by regulation"

Page 21 Lines 8 & 9 delete "when the commissioner determines that the proposal or application is ready for a decision"

Page 21 Line 21 Reinsert "CERTIFIED"

**From:** Nelli Williams

**Date:** March 13, 2014 at 9:54:59 PM AKDT

**To:** "Senator.Cathy.Giessel@akleg.gov" <senator.cathy.giessel@akleg.gov>

**Cc:** "Sen.Hollis.French@akleg.gov" <sen.hollis.french@akleg.gov>,

"Sen.Fred.Dyson@akleg.gov" <sen.fred.dyson@akleg.gov>, "Sen.Peter.Micciche@akleg.gov"

<sen.peter.micciche@akleg.gov>, "Sen.Click.Bishop@akleg.gov"

<sen.click.bishop@akleg.gov>, "Sen.Lesil.McGuire@akleg.gov"

<sen.lesil.mcguire@akleg.gov>, "Sen.Anna.Fairclough@akleg.gov"

<sen.anna.fairclough@akleg.gov>

**Subject: Please File in Public Record and Send to Please File in Public Record and send to Sen Resource Committee**

Dear Senator Giessel,

I am opposed to HB 77 and urge you to not pass the bill out of committee. The changes presented by the DNR during Monday's meeting did little to make substantial changes to the bill. While streamlining our systems is an admirable goal, doing so at the expense of Alaskans is unacceptable.

#1. The bill is fundamentally flawed and has seen widespread opposition across the state. Alaskans deserved to be listened to.

#2. Throughout the bill ambiguous language is used that does little to define the scope and scale of the law. Regardless of the intentions behind the bill, if this type of broad language is used the law allows for a handful of people to make substantial natural resource decision with little accountability to Alaskans. For example: After consulting with ADF&G (NOTE: not mandated to listen to what ADF&G says) DNR can make whatever decision it wants as long as the activity will not "likely" cause "significant and irreparable" harm. How can you prove that something is irreparable before the activity happens? Everyone seeking a permit application will claim that it will repair what damage they do; but the reality of natural systems is that there is no guarantee that this will happen. That is part of reason the I-48 has lost their salmon runs -- lets try to do it better in Alaska.

#3. Changes to the bill still do not address concerns of:

- Putting too much power in the hands of the DNR Commissioner and high-level DNR staff.
- Allowing DNR to issue general permits for large areas that require no public notice on future projects.
- Makes it more difficult for Alaskans to challenge DNR decisions. Please, read Article VIII of our constitution. Our fish and natural resources belong to ALL Alaskans -- we should have the opportunity to be involved in decisions on how they are used.
- The current bill guts existing laws designed to give Alaskans the power to reserve water in a river for fish, or wildlife or recreation.

Page 22 Lines 8, 9, 10, & 11 Delete "In this subsection, to be adversely affected, a person must be directly affected by a decision made by the department either by physical or financial detriment to the person's interests resulting from the decision."

Page 24 Lines 5 & 6 Delete "The commissioner may issue one or more new temporary water use authorizations for the same project."

Thank you for taking the time to read my email.

Sincerely,

Robert McCard  
23350 Kasilof River Road  
Kasilof, AK, 99610

This bill is 20+ pages long and hasn't gone through legal analysis (except maybe by the Parnell Administration -- who wrote the bill). **I urge you not to pass this bill out of committee.** There are too many flaws and questions unanswered that would have lasting impacts on Alaskans and our use and enjoyment of our state's great natural resources.

Respectfully,  
Nelli Williams  
Anchorage, AK 99502

**From:** Guy Lopez

**Date:** March 13, 2014 at 9:08:57 PM AKDT

**To:** <[Senator.Cathy.Giessel@akleg.gov](mailto:Senator.Cathy.Giessel@akleg.gov)>

**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.

No bill crafted behind closed doors should ever see the light of day. Such legislating reflects bad and corrupt government.

Guy Lopez  
2030 Shore Dr.  
Anchorage, AK 99515

**From:** John Polonowski  
**Date:** March 13, 2014 at 10:08:26 PM AKDT  
**To:** <[Senator.Cathy.Giessel@akleg.gov](mailto:Senator.Cathy.Giessel@akleg.gov)>  
**Subject:** HB77

I continue to oppose HB77, even with the changes presented on Monday. I am very frustrated with the potential loss of public input into control of Alaskans water rights. I am an Alaskan. I enjoy trout and salmon fishing. I want the right to maintain a healthy ecosystem for the fish for all of Alaskans. Not a corporation that will pollute and destroy this resource. I do not trust the DNR. The head of the DNR is appointed by the Governor. Our current governor is trying to give away our resources. You and the administration are culpable to loss of my right to clean water for fish I enjoy catching. HB77 needs to be scrapped.

Sincerely,

John Polonowski  
3000 Jones Ave  
Anchorage, AK 99517

**From:** Robert Gerlach

**Date:** March 13, 2014 at 9:00:34 PM AKDT

**To:** <[Senator.Cathy.Giessel@akleg.gov](mailto:Senator.Cathy.Giessel@akleg.gov)>

**Subject: Alaskans oppose HB 77: 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. 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.

Sincerely,

Robert Gerlach  
13666 E 2nd St.  
Talkeetna, AK 99676

**From:** clyde vicary

**Date:** March 13, 2014 at 9:07:06 PM AKDT

**To:** <[Senator.Cathy.Giessel@akleg.gov](mailto:Senator.Cathy.Giessel@akleg.gov)>

**Subject:** Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

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Sincerely,

clyde vicary  
3027 alder circle  
anchorage, AK 99508

**From:** Michael Thompson

**Date:** March 13, 2014 at 9:56:34 PM AKDT

**To:** <[Senator.Cathy.Giessel@akleg.gov](mailto:Senator.Cathy.Giessel@akleg.gov)>

**Subject:** Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

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Sincerely,

Michael Thompson  
P O Box 296  
883 Colorado Road  
Yakutat, AK 99689

**From:** Nadia Bacon

**Date:** March 13, 2014 at 10:16:24 PM AKDT

**To:** <[Senator.Cathy.Giessel@akleg.gov](mailto:Senator.Cathy.Giessel@akleg.gov)>

**Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.**

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Sincerely,

Nadia Bacon  
425 Harold Bentley Ave  
Fairbanks, AK 99701

**From:** Channing Sheldon

**Date:** March 13, 2014 at 10:57:40 PM AKDT

**To:** <[Senator.Cathy.Giessel@akleg.gov](mailto: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.**

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.

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A bill that is this complex and expansive deserves multiple public hearings to allow Alaskans to provide input, and review by several legislative committees.

Sincerely,

Channing Sheldon  
Atigun Way 212  
Valdez, AK 99686

**From:** Kevin Walker

**Date:** March 13, 2014 at 10:32:06 PM AKDT

**To:** <[Sen.Cathy.Giessel@akleg.gov](mailto:Sen.Cathy.Giessel@akleg.gov)>, <[Sen.Fred.Dyson@akleg.gov](mailto:Sen.Fred.Dyson@akleg.gov)>, <[Sen.Peter.Micciche@akleg.gov](mailto:Sen.Peter.Micciche@akleg.gov)>, <[Sen.Click.Bishop@akleg.gov](mailto:Sen.Click.Bishop@akleg.gov)>, <[Sen.Lesil.McGuire@akleg.gov](mailto:Sen.Lesil.McGuire@akleg.gov)>, <[Sen.Anna.Fairclough@akleg.gov](mailto:Sen.Anna.Fairclough@akleg.gov)>, <[Sen.Hollis.French@akleg.gov](mailto:Sen.Hollis.French@akleg.gov)>, rep.paul.seaton <[Rep.Paul.Seaton@legis.state.ak.us](mailto:Rep.Paul.Seaton@legis.state.ak.us)>, <[governor@alaska.gov](mailto:governor@alaska.gov)>, <[governor@gov.state.ak.us](mailto:governor@gov.state.ak.us)>

**Subject:** HB 77

Senator Giessel and all,

The Silencing Alaskans Act, HB 77, seems to be living up to it's name. At the Homer LIO, 17 of 20 who intended to testify were not allowed to testify. When 85% of the people who attend a public hearing are not heard, something is wrong. This is not a democracy.

I attended a Town Hall meeting with Senator Micciche last week. He could not answer many questions about HB 77 because the amendments were not released until Monday. 48 hours is not enough time to review a law that restricts the public to provide input to their legislators. Obviously, 1.5 hours was not enough time allowed for the public hearing. But, more than 150 people statewide found time to go to the hearing.

My suggestion is to table the bill - forever. It is not in the public interest of Alaskans. Giving away our resources to multinational oil and mining companies, often at the loss of our environment and fisheries, is criminal.

Kevin Walker  
Homer, Alaska

From: chris young  
Sent: Friday, March 14, 2014 9:28 AM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: 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. 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.

Sincerely,

chris young  
55500 Hill ave.  
Homer, AK 99603

From: Lars Opland  
Sent: Friday, March 14, 2014 9:07 AM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: 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. 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 is a blatant surrender of the authority of the people of Alaska, to outside corporate interests, by the very politicians who were supposedly elected to represent the people's best interests. It is a disgrace to the state legislature & an affront to the rest of us. File it in the waste paper basket where it belongs.

Sincerely, Lars Opland

Lars Opland  
Aeronautical Ave.  
Wasilla, AK 99687

From: Julie Thompson

Sent: Friday, March 14, 2014 9:27 AM

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.

Julie Thompson

12020 Old Seward Hwy

Anchorage, AK 99515

**From:** Ray, Bert

**Sent:** Friday, March 14, 2014 9:30 AM

**To:** Sen. Peter Micciche; Sen. Cathy Giessel; Sen. Fred Dyson; Sen. Click Bishop; Sen. Lesil McGuire; Sen. Anna Fairclough; Sen. Hollis French

**Subject:** Re: House Bill 77, version H, dated 3/7/2014

Dear Senators,

Thank you for your attempts to work the Department of Natural Resources rewrite of House Bill 77 into a more acceptable bill. Senator Micciche recently said that he thought the recent version of the bill was a good compromise. With respect, I do not agree. There are several provisions that are particularly bad. I am writing to address two of those provisions.

Section 42(j) of the bill provides:

...before the commissioner may issue a certificate of reservation, the applicant must have submitted not less than five years of nonproprietary public domain hydrologic data or data collected by or for the applicant to support the application.

The apparent purpose of this provision is to erect a high hurdle designed to bar most applicants from applying for a reservation of water. Unless there is adequate hydrological data available in the public domain, this provision requires each applicant to hire a professional hydrologist to obtain that data. The cost to hire professional hydrologists to obtain such data from remote waterways in the state will be burdensome to ordinary Alaskans. Those same costs will be insignificant to industries who wish to take water for large-scale mines or other projects. If those industries have obtained this data, why shouldn't the commissioner use that data when deciding how to allocate water among competing users? What purpose is served by requiring each applicant to pay for and obtain the same data, other than to make it more difficult for ordinary Alaskans to have a seat at the table when water resources are allocated?

Equally troubling is the fact that this provision might be applied retroactively to applications that have already been submitted. Alaskans who have already incurred time and expenses to submit applications might see their applications denied because the rules have changed. In fact, I cannot help but think that DNR has inserted this provision into the bill to affect the outcome of current applications. If that is the case, then a vote for HB77 is really a vote to skew decision making against fish habitat protection, despite the wide-spread support for better protection among many of your constituents.

Additional concerns with Section 42(j) include:

- Although this section arbitrarily requires the collection of five years of hydrological data, it does not specify the nature or quality of the data that is required.

- The provision arbitrarily assumes that DNR requires 5 years of hydrological data. There may be circumstances in which less data is required, and DNR's hand should not be tied by mandating the collection of 5 years of such data.

Section 42(h) is also quite troubling. It gives the commissioner unfettered discretion to decide when and in what order to process in stream flow applications. Thus Section 42(h) would allow DNR to process applications the administration supports, while ignoring applicants from competing users of the waterway. Applicants whose claims are being ignored by DNR would have no legal recourse to force DNR to consider their claims when allocating water resources.

While this scenario might sound unrealistic, it is not. Recent articles in the Anchorage Daily News have revealed that DNR has never processed an in stream flow reservation application from a private citizen, although dozens have been filed. Applications that were filed in the 1990s remain unprocessed because DNR considers such applications to be a low priority.

At best, this record reflects a lack of respect for the rights of private applicants. At worst, it reflects outright hostility towards them. Given this record, DNR should not be granted the broad discretion that it seeks under Section 42(h) of the bill. Citizens who file an application should have the right to have their application heard in a timely manner, and should have the right to seek judicial relief if DNR fails to do so.

The definition of a "compromise" is "an agreement or a settlement of a dispute that is reached by each side making concessions." While the proposed bill may seem like a compromise at first blush, it is not. If the provisions discussed above are included in the final bill, the right to reserve water rights will be nothing but an illusion for all but the wealthiest individuals or companies.

I urge you to vote to keep this bill in committee and to seek informed input by knowledgeable people in this field other than current DNR administrators, who seem to have designed a bill to restrict the applications they must review to establish in stream water rights and to insulate much of their decision making from public scrutiny.

Sincerely,

Bert Ray

Anchorage, Alaska

From: Mike Fairman

Sent: Friday, March 14, 2014 9:01 AM

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. 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.

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A bill that is this complex and expansive deserves multiple public hearings to allow Alaskans to provide input, and review by several legislative committees.

Sincerely,

Mike Fairman  
3813 forest glen dr.  
Homer, AK 99603

From: Arika Zellhuber  
Sent: Friday, March 14, 2014 10:32 AM  
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.

I am particularly concerned about our fisheries, and our ability to subsistence fish and sport fish. I am concerned about the fish themselves. Alaskans should be able to speak up for the fish and their habitat.

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 undermines 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.

Sincerely,

Arika Zellhuber  
214 Brady St. Apt. A  
Sitka, AK 99835

**From:** Dan Lesh

**Sent:** Friday, March 14, 2014 10:53 AM

**To:** Sen. Cathy Giessel; Sen. Peter Micciche; Sen. Click Bishop; Sen. Hollis French; Sen. Lesil McGuire;  
[Seantor.Anna.Fairclough@akleg.gov](mailto:Seantor.Anna.Fairclough@akleg.gov)

**Subject:** HB 77 has no place in Alaska Law

Chair Giessel and members of the Senate Resources Committee -

My name is Dan Lesh and I'm a resident of Gustavus, Alaska and lifelong Alaskan.

My family runs a tourism operation that depends on wild, sustainably managed places---one of Alaska's most enduring and reliable and unique resources--to attract visitors from around the world.

There are many reasons why HB 77 has no place in Alaska law. I have heard no good reason that the bill should be enacted. The vast majority of water rights applications that have been submitted have focused on protecting salmon habitat. Surely, salmon habitat is something we can all agree is essential to the future of Alaska.

I trust ADF&G and the Alaska state government to manage our fisheries sustainably. I do not entirely trust the state or ADF&G to protect salmon habitat, and think that continuing to allow Alaskans a role in protecting salmon habitat is the right approach.

***Alaskans all want economic development and jobs, without compromising jobs in other industries or the environment. It's pretty clear that Alaskans are opposed to HB 77 and see the approach it represents as misguided and outside of the proper balance.***

Please do not pass this bill out of committee.

Thanks for your public service and time on this issue,

Dan Lesh

Gustavus, Alaska

From: Bill Sherwonit  
Sent: Friday, March 14, 2014 10:35 AM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

I would like to add my voice to those of many other Alaskans who feel disenfranchised -- and dismissed - by the contents of House Bill 77. From what I have been able to learn, the revised HB77 still has lots of problems and does not address core issues that have prompted many of us Alaskans to oppose this legislation. Also troubling is the public process -- or rather the lack of it. The public was given little chance to study the changes to the revised bill before public testimony was scheduled. And as widely reported, this week's earlier hearing was a slap in the face to many of the people who took time out of their day and lives to testify in opposition to the bill, and were then rather rudely turned away. While I appreciate the fact that a second public hearing was scheduled, it's likely that many who attended Wednesday's hearing will be unable to do so again on Friday (today). Like others, I urge the Alaska Legislature to fully vet this bill in front of multiple committees and not merely give the appearance that the public is being included in the process by limited, insufficient hearings.

As for the troubles with HB 77: as expressed by many who have already testified against it, this power grab of a bill 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.

Despite the attempts to fix this bad bill, recent proposed amendments to it 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 find it sadly ironic that the same people who continually accuse the federal government of overreach -- notably the Parnell administration and many legislators -- would in fact blatantly overreach themselves, as demonstrated by this bad legislation, which cuts Alaskans out of what should be a public process and takes away their rights to participate in land- and water-use decisions.

Thank you for considering my comments.  
Sincerely,

Bill Sherwonit  
2441 Tulik Drive  
Anchorage, AK 99517

From:  
Sent: Friday, March 14, 2014 10:39 AM  
To: Sen. Cathy Giessel  
Cc: Sen. Gary Stevens  
Subject: HB 77

I am glad the public is allowed to voice their concerns even if the majority are all saying the same thing. That is because that is how the majority feels about HB 77.

Alaska's natural resources belong to all Alaskans and as such we all have a stake in how they are managed and deserve a say in how they are managed.

I strongly urge you to to vote against HB 77 and to please include this letter in public record and to distribute it to all natural resources committee members

Rochelle Harrison  
Thank You  
Sent from my iPad

**From:** Tia Shoemaker  
**Sent:** Friday, March 14, 2014 10:46 AM  
**To:** Sen. Cathy Giessel  
**Subject:** HB77

Alaska's natural resources belong to all Alaskans and as such we all have a stake in how they are managed and deserve a say in how they are managed.

I strongly urge you to to vote against HB 77 and to please include this letter in public record and to distribute it to all natural resources committee members.

Thank You  
Tia Shoemaker

From: olga von ziegesar-matkin  
Sent: Friday, March 14, 2014 11:08 AM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: 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. 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.

Sincerely,

olga von ziegesar-matkin  
53254 marimac drive  
po box 15191  
homer ak, AK 99603

From: Rob Lund  
Sent: Friday, March 14, 2014 11:23 AM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: 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. 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.

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A bill that is this complex and expansive deserves multiple public hearings to allow Alaskans to provide input, and review by several legislative committees.

Sincerely,

Rob Lund  
4178 Hohe St.  
4178 Hohe St.  
Homer, AK 99603

From: Sharon Brooks  
Sent: Friday, March 14, 2014 11:32 AM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: 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. 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.

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Sincerely,

Sharon Brooks  
4178 Hohe St  
Homer, AK 99603

From: Virginia Shook

Sent: Friday, March 14, 2014 11:37 AM

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.

Virginia Shook

1109 Third Ave

Kenai, AK 99611

From: Lance Trasky  
Sent: Friday, March 14, 2014 11:30 AM  
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. General permits give ADNR bureaucrats total discretion to issue permits that harm the public's interest with no public notice and no opportunity to appeal. The right to appeal bad ADNR decisions is severely restricted effectively excluding hunters, commercial and fishermen and subsistence users that depend on resources produced on state lands and waters. The water reservation section guts existing law and effectively prevents Alaskans from keeping water in streams to support commercial, sport, and subsistence fisheries. ADNR's claim that ADF&G fish habitat permits would still be there to protect fish is cynical because everyone knows that ADF&G permits do not allow for public notice or appeals by anyone but the applicant. ADF&G leaders are now all Mike Nizich cronies and are likely to favor development over fish habitat protection. The treatment of Alaskans testifying against HB 77 yesterday was shameful and shows bias on the part of the chairman of the committee.

Lance Trasky  
3941 Truro Dr  
Anchorage, AK 99507

From: Jackie Cason  
Sent: Friday, March 14, 2014 11:30 AM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

Dear Senator,

Wednesday's hearing demonstrates 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.

I wish to preface the comments below by testifying that public participation is essential and desirable if we are to have a democracy that deliberates over the interests of all Alaskans.

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.

Sincerely,

Jackie Cason  
4107 Balchen Dr.  
Anchorage, AK 99517

**From:** Pete W Praetorius

**Sent:** Friday, March 14, 2014 11:17 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:** Please include this in the public record and distribute to Natural Resource Committee Members

Dear Senator Giessel and other members of the Senate Natural Resource Committee:

I am writing in regards to HB 77. I understand that the Senate Natural Resource Committee will be taking public comment on this bill today, but because I will not be able to attend this meeting, I am submitting my comments here. Please include my comments in the public record and distribute to Natural Resource Committee Members.

I was optimistic that at your Natural Resource Committee meeting last Monday (3/10/14) that the more objectionable aspects of HB 77 would be replaced with proposals that respect the rights of Alaskans; sadly, HB 77 still reduces the ability of Alaskans to participate in the appeal process, which will hinder the ability of citizens to effectively voice their concerns regarding natural resource project decisions. Please do not put in place a law that will limit the ability of Alaskans to participate in the public process.

As written, HB 77 is nothing short of a Putin-style end run around the public process.

I understand the frustration of some companies and some who work in the permitting section of DNR when it comes to permitting projects; however, we cannot sacrifice the rights of Alaskans to participate in the public process because some feel they are being inconvenienced.

Moreover, most projects don't receive mass amounts of public scrutiny and comment. Such public review and comment is reserved for those projects that have a substantial impact. Projects that will result in a large impact deserve to be closely vetted through the public process.

Thank you for your consideration,

Pete Praetorius

Dr. Pete Praetorius

Associate Professor of Communication

Matanuska-Susitna College

Box 2889 Palmer, AK 99645

From: Don Cornelius  
Sent: Friday, March 14, 2014 11:51 AM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

Wednesday's hearing demonstrated the level of public concern about House Bill 77 and yet hundreds of Alaskans who spent time and money to testify were denied the opportunity to voice their opposition to this bill. It seems to be an fore runner of what will happen to us if the bill passes -- no or reduced opportunity to be involved in issues that affect our livelihood and quality of life.

If there is really a problem with DNR's backlog of permit applications, the solution is not to simply divert the public process and give DNR unilateral discretion to, say anything goes.

The solution is to fund DNR at a level that enables the agency to fulfill it's mission -- to allow development of Alaska's resources in a manner that protects the interests of all Alaskans.

Karen and I oppose the bill and ask the legislature to go back to the drawing board while at the same time increase funding to DNR to a level that enables the agency to fulfill it's mission.

Once resources are gone -- there's no bringing them back and another part of the Alaskan dream is gone.

Please include this letter in the public record.

Sincerely,

Don and Karen Cornelius

Don Cornelius  
P.O. Box 1727  
1002 Wrangell Ave.  
Petersburg, AK 99833

**From:** Nancy Behnken  
**Sent:** Friday, March 14, 2014 11:55 AM  
**To:** Sen. Cathy Giessel  
**Subject:** HB 77

Dear Senator Giessel,

I am writing to state my firm opposition to HB 77, both in its original form as well as the amended version that was presented to us this past Monday. In unison with the majority of Alaskans, a fraction of whom were given the opportunity to testify on Wed, I am appalled by this assault on the democratic process and urge you to kill this bill.

I will refrain from wasting your time and mine by repeating what so many citizens have already said in public testimony and written in letters to you, but I do want to go on record as being an Alaskan resident dependent on commercial fishing as my primary source of income who is adamantly opposed to this bill. The natural resources in this state are public property and it is our right and responsibility to be involved in any decisions made regarding the use, development or extraction of them. As a commercial salmon fisherman and subsistence user I am naturally very concerned about the effects that this bill could have on our salmon streams. But of course the potential irreparable harm to a vast array of other wild places and the fish, wildlife and humans dependent on these healthy ecosystems, should this bill pass, is also of tremendous concern to me.

Thank you for your time and attention to this supremely important matter.

Sincerely,

Nancy Behnken

117 Jeff Davis St

Sitka, AK 99835

From: R Goodrich  
Sent: Friday, March 14, 2014 12:46 PM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: 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. 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.

Sincerely,

R Goodrich  
9607 Musket Ball Cir  
Anchorage, AK 99507

From: kathy smith  
Sent: Friday, March 14, 2014 12:10 PM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

I wish to express my opposition to House Bill 77 and I believe the Alaska Legislature should fully vet this bill in front of multiple committees.

HB 77 means new expanded DNR powers that erode Alaskans rights to appeal DNR decisions, and damage the existing process for water reservations. Even the new revisions undermine tribes and individual Alaskans' ability to keep water in streams and to participate in natural resource decisions on state land in other ways.

This is a bad bill, and some of the changes have made it even worse. The recent proposed amendments do not address concerns raised by the public at statewide public forums and in petitions and letters.

Thank you for your consideration.

Sincerely,

kathy smith  
po box 3099  
homer, AK 99603

From: Paula Muschinske  
Sent: Friday, March 14, 2014 12:31 PM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

I am unable to attend your hearing scheduled for Friday afternoon, March 14, 2014. This is my written testimony and I request it be a part of the public record as a registered voter and citizen of the State of Alaska.

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.

The tactics used in the presentation of this bill to the public are suspicious. The Voice of the citizens of Alaska was close to being unheard because of an attempt by a few to quietly insert a meeting that few were aware of, and given very little time with which to prepare for or respond. The Voice of the citizens of Alaska will not be silenced so easily. This smacks of tactics used in other states. The state I am familiar with is Wisconsin:

\*Bills shoved through the legislature in the dead of night \*Public hearings stacked in the front end with supporters while hundreds in opposition were given a short time. A few are heard and the hearing is ended.

\* The bill is passed quickly, quietly signed by the governor in the dead of night.

\* Check these instances where these tactics were used, which are a part of Wisconsin's public record:

Crushing of the public unions

A mining bill written by the company president to put a coal mine in Northern Wisconsin

Gutting the Wisconsin DNR with the mine's own people

Vaginal ultrasound bill literally signed in the dead of night with other abortion restrictions

Tort reform

Anti-environment laws

Anti-gay laws

Voter ID laws

Voter suppression laws

Gerrymandered districts so it is impossible to vote people out of office

Cutting public education funding in favor of private schools

Sand fracing companies given full run of the state with few safeguards for WATER, air, ground and noise pollution

Taking away local zoning laws from counties and townships so only the state can regulate

This was all in one state in the past few years! Does any of this sound familiar? Does this sound like an agenda? We the people will never fully agree on legislation. But we WILL continue to demand our right to be heard on these matters in a timely fashion and without subterfuge being employed to keep our voices silent. Do NOT take the voice of the people away or their blood-bought right to due process. Blood was spilled for the rights 'of the people, by the people, and for the people.' It was not spilled for 'of the corporations, by the corporations, and for the corporations', OR 'of the few, by the few and for the few'.

SO if this can happen in Wisconsin, this can happen in Alaska. And in my opinion, it's happening right before our eyes. The tactics you are initiating smacks of the above, and I for one, as an Alaskan, refuse to have my rights and my voice taken from me by a few with underhanded tactics. It is for us, as Alaskans, and as the guardians of our state, our rights, and our resources, to raise our voices when necessary for ourselves, our children, and coming generations.

I OPPOSE this bill!

Sincerely,

Paula Muschinske  
18306 Tedrow Circle  
Eagle River, AK 99577

From: Megan Murphy  
Sent: Friday, March 14, 2014 12:59 PM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: 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. 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.

Sincerely,

Megan Murphy  
517 Grubstake Ave  
Homer, AK 99603

From: Ann Yadon  
Sent: Friday, March 14, 2014 11:58 AM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

I am appalled that hundreds of Alaskans were prevented from testifying regarding HB 77. Clearly the opposition to this bill is extreme.

Others have spoken to the problems with the bill, but to summarize it removes rights from citizens and places more governmental control over the lives of all Alaskans. A legislature that professes allegiance to citizen rights and less governmental control must realize the level of hypocrisy presented by this bill.

At a minimum, I ask you to allow Alaskans to provide input, and also ensure review by several legislative committees. As written, this bill should not even exist.

Sincerely,

Ann Yadon  
14152 Gliska  
Box 1022  
Talkeetna, AK 99676

From: Michael Wilson  
Sent: Friday, March 14, 2014 12:17 PM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: 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. 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.

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A bill that is this complex and expansive deserves multiple public hearings to allow Alaskans to provide input, and review by several legislative committees.

Sincerely,

Michael Wilson  
5050 Sams a Cir  
Wasilla, AK 99654

From: Laura Brooks  
Sent: Friday, March 14, 2014 12:30 PM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: 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. 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.

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Sincerely,

Laura Brooks  
483 A Ocean Drive Lp  
Homer, AK 99603

From: Monica Mullet  
Sent: Friday, March 14, 2014 12:34 PM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: 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. 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.

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A bill that is this complex and expansive deserves multiple public hearings to allow Alaskans to provide input, and review by several legislative committees.

Sincerely,

Monica Mullet  
48025 W. Poppy Lane  
Soldotna, AK 99669

**From:** Randy Hagenstein

**Sent:** Friday, March 14, 2014 11:33 AM

**To:** Sen. Cathy Giessel

**Cc:** Sen. Fred Dyson; Sen. Click Bishop; Sen. Anna Fairclough; Sen. Hollis French; Sen. Lesil McGuire;  
Sen. Peter Micciche

**Subject:** Comments on HB77 from The Nature Conservancy

Dear Senator Giessel and members of the Senate Resources Committee:

Please find enclosed comments on the version of HB 77 currently under consideration in the Senate Resources Committee. Thank you for the opportunity to provide input.

Sincerely,

Randall Hagenstein

Randall H. Hagenstein – Alaska State Director – The Nature Conservancy

**HB 77 Opposition Documents Index Group #10**  
**Passed Out to Committee Members on 3/19/14**

1. Dorothy Childers – March 14<sup>th</sup>
2. Barbara Hood – March 14<sup>th</sup>
3. T. Henry Wilson – March 14<sup>th</sup>
4. Deborah Limacher – March 16<sup>th</sup>
5. Elizabeth Schoessler – March 16<sup>th</sup>
6. Julianne Curry – March 16<sup>th</sup>
7. Tim Troll – March 17<sup>th</sup>
8. Dorothy Gray – March 14<sup>th</sup>
9. Cynthia Morelli – March 14<sup>th</sup>
10. Lia Slemons – March 14<sup>th</sup>
11. Janice Ziv – March 14<sup>th</sup>
12. Laura Sievert – March 14<sup>th</sup>
13. Desirae Roehl – March 14<sup>th</sup>
14. June Thomasson – March 14<sup>th</sup>
15. Darcie Warden – March 14<sup>th</sup>
16. Lani Raymond – March 14<sup>th</sup>
17. Kate Morse – March 14<sup>th</sup>
18. Nancy Behnken – March 14<sup>th</sup>
19. Maryellen Lambert – March 14<sup>th</sup>
20. Joan Hoeler – March 14<sup>th</sup>
21. Paul Carlson – March 14<sup>th</sup>
22. Kevin & Donna Maltz – March 14<sup>th</sup>
23. Tony Roof – March 14<sup>th</sup>
24. Karen Marquardt – March 14<sup>th</sup>
25. Eric Bacon – March 14<sup>th</sup>
26. Joel Jackson – March 14<sup>th</sup>
27. Paul Mackie – March 14<sup>th</sup>
28. Ann Wyatt – March 14<sup>th</sup>
29. Betsy McCracken – March 14<sup>th</sup>
30. Frank Kreger – March 14<sup>th</sup>
31. Judith Lund – March 14<sup>th</sup>
32. Lia Slemon – March 14<sup>th</sup>
33. Tom Young – March 14<sup>th</sup>
34. Dorothy Olmstead – March 14<sup>th</sup>
35. Kenneth Waggoner – March 14<sup>th</sup>
36. Janessa Reamey – March 14<sup>th</sup>
37. Allan Hayton – March 14<sup>th</sup>
38. Barbara Reilly – March 14<sup>th</sup>
39. Clay Bezenek – March 14<sup>th</sup>
40. Amy Nicolaisen – March 14<sup>th</sup>
41. David Urias – March 14<sup>th</sup>
42. Linda Kumin – March 14<sup>th</sup>
43. Tina Jess – March 14<sup>th</sup>
44. Sharman Piper – March 14<sup>th</sup>

From: Dorothy Childers

Sent: Friday, March 14, 2014 3:09 PM

To: Sen. Cathy Giessel

Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

Dear Sen. Giessel and members of the committee,

Like so many Alaskans from different walks of life, I oppose passage of HB77, including the revisions that have been made to the bill. The premise is fundamentally flawed and the state should not cut us out of decisions that affect our ways of life, livelihoods and the natural resources we value. I cannot support an expansion of DNR powers and an erosion of our rights to appeal. Degrading the process for water reservations will take natural resource management in the wrong direction.

As my senator, I urge you to at least support a full vetting of HB77 before multiple committees.

Sincerely,

Dorothy Childers

Indian, Alaska

Dorothy Childers

24301 Seward Highway

Indian, AK 99540

From: Barbara Hood

Sent: Friday, March 14, 2014 3:11 PM

To: Sen. Cathy Giessel

Cc: Sen. Click Bishop; Sen. John Coghill; Sen. Mike Dunleavy; Sen. Fred Dyson; Sen. Dennis Egan; Sen. Johnny Ellis; Sen. Hollis French; Sen. Berta Gardner; Sen. Lyman Hoffman; Sen. Charlie Huggins; Sen. Pete Kelly; Sen. Lesil McGuire; Sen. Kevin Meyer; Sen. Peter Micciche; Sen. Donny Olson; Sen. Bert Stedman; Sen. Gary Stevens; Sen. Bill Wielechowski; Sen. Anna Fairclough

Subject: Oppose HB 77

Dear Senators,

We have all heard the saying "power corrupts, and absolute power corrupts absolutely." I have always believed this concept – this truth – was a paramount consideration in the creation of our democratic form of government. Government "by the people and for the people" simply cannot be assured if power is concentrated in the hands of a few. The founders of our country divided government into three branches, and gave each branch specific powers to check the others. They went a long way to guard against the threat of absolute power.

Yet HB77 goes in the opposite direction. It strips citizens of rights and protections they have long enjoyed in favor of placing near absolute power in the hands of a politically appointed government official. It greatly restricts citizens' legal rights to challenge official decisions, no matter how ill-advised or illegal. And it takes vital water reservation rights out of the hands of those most dependent on them and most devoted to their good stewardship – local governments, tribes and individuals - and places them solely in the hands of government.

It is hard to imagine any course of action that would lay a more comfortable foundation for the corruption of absolute power. The worst corruption won't come in the form of bribes or criminal activity – although HB77 leaves the door open wide for them and their occurrence would not be far-fetched, given Alaska's recent history. The worst corruption will come instead in the form of decisions based not on public input, public will or public interest, but on the desires and demands of the elite few who will be allowed into the government's echo chamber. Most, if not all, of this small group will live far away from the regions or waterways affected by the decisions being made. Most, if not all, will be protecting their investments and financial interests, not their way of life.

This is an unconscionable direction for Alaska to take.

I urge you to vote NO on HB 77.

Sincerely,

Barbara Hood  
10161 Middlerock Road  
Anchorage, AK 99507

**T. Henry Wilson  
4830 Sportsman Drive  
Anchorage, AK 99502**

March 14, 2012

Senator Lesil McGuire  
Senate Resources Committee

Via email

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

Dear Senator McGuire and Committee members:

On March 12, 2014, I submitted comments opposing Sections 29 and 47 of 2d Senate CS for CS for House Bill No. 77 (RES), relating to the construction of a hydroelectric dam at Chikuminuk Lake. Afterwards, I learned from news reports that the Nuvista Light and Electric Cooperative ("Nuvista") has withdrawn its request to conduct further studies on the Chikuminuk dam. The articles also indicate that Senator Lyman Hoffman, Senator Gary Stevens and Representative Bryce Edgmon have signed a letter requesting that the provisions regarding the Chikuminuk be removed from the bill.

At this point, there is absolutely no reason to keep Sections 29 and 47 in the bill, and those sections should be deleted as soon as possible.

Leaving those sections in the bill would create ambiguity and uncertainty, and raise a number of legal issues. Sections 29 and 47 are vague, and do not adequately inform the public or the Division of Parks as to as to what activities may be allowed or prohibited at Chikuminuk Lake. For example, it is unclear whether there are any limits on the types of equipment that can be used, the amount of habitat that may be disturbed, the handling of hazardous wastes, or the impacts to fish and wildlife. It is unclear whether the Division of Parks has any authority left to require permits for study activities, or which regulations or management plan provisions can still be enforced. There are no time limits for determining when the feasibility studies end, and the hydropower development begin.

There may be other subjects presented in HB 77 that warrant further discussion, but the Chikuminuk dam is not one of them. Sections 29 and 47 should be deleted from the bill, and no further legislation to advance the Chikuminuk dam project should be considered.

Yours truly,  
T. Henry Wilson

From: deborah limacher  
Sent: Sunday, March 16, 2014 3:47 PM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: 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. 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.

Sincerely,

deborah limacher  
66691 fry ct.  
pobox 3001  
homer, AK 99603

From: Elizabeth Schoessler

Date: March 16, 2014 at 4:49:29 PM AKDT

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

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

My name is Elizabeth Schoessler. I am a commercial fisherman, a Biological and Natural Science student at UAA from Soldotna, Alaska. House Bill 77 was sold under the pretense it would 'streamline' the permitting process. In reality, it sacrifices Alaskan voices, gives the DNR broad and unchecked power, and would allow corporate interest to supersede Alaskan rights. Here we have a bill that was largely developed behind closed doors, written without Alaskan input to further restrict Alaskan input. Ransacking the public process negatively affects Alaskan's, nonprofits, tribes, the environment, and our democracy.

Alaska is a state renowned for its natural resources in which we all should have a say in. As an Alaskan I was appalled that tribes and the individual would no longer be able to hold their own water reservation certificate. Water reservations help ensure clean water stays in the streams for fish habitat, transportation, and recreation. Water reservation applications could lose their priority or be shelved indefinitely with this poor legislation.

I opposed House Bill 77 because Alaskan's deserve to have a say in their natural resources. This bill is too flawed to fix. Do not let this bill leave committee. I encourage you to please listen to the majority of Alaska that want you to kill this bill!

Please include this in public record and distribute to committee members



# UNITED FISHERMEN OF ALASKA

**Mailing Address:** PO Box 20229, Juneau AK 99802-0229  
**Physical Address:** 410 Calhoun Ave Ste 101, Juneau AK 99801  
**Phone:** (907)586-2820 **Fax:** (907) 463-2545  
**Email:** [ufa@ufa-fish.org](mailto:ufa@ufa-fish.org) **Website:** [www.ufa-fish.org](http://www.ufa-fish.org)

March 16<sup>th</sup>, 2014

Senator Cathy Giessel  
Chair, Senate Resources  
State Capitol Room 427  
Juneau AK, 99801  
Via email: [Senator.Cathy.Giessel@akleg.gov](mailto:Senator.Cathy.Giessel@akleg.gov)

**RE: 2d Senate CS (offered 3/14/14) for HB 77 (RES) regarding the Alaska Land Act and Water Use Act.**

Dear Senator Giessel and members of the Senate Resources Committee,

United Fishermen of Alaska (UFA) is the statewide commercial fishing trade association, representing 36 commercial fishing organizations participating in fisheries throughout the state and its offshore federal waters. We appreciate the opportunity to provide feedback regarding 2d Senate CS for HB 77 (RES) regarding the Alaska Land Act and Water Use Act.

First and foremost we would like to thank and commend the members of your committee who have stood up and asked tough questions on this bill, encouraged public dialogue and provided a more reasonable time-frame in which to analyze this bill. Your leadership on these fronts is greatly appreciated by our organization.

Secondly, we'd like to commend the Department of Natural Resources specifically Commissioner Balash, Deputy Commissioner Ed Fogels, Director of Division of Mining, Land and Water Brent Goodrum, and Deputy Director Wyn Menefee. These dedicated public servants have spent countless hours, in a number of meetings with UFA, walking us through HB 77 and the recent amendments, which has been critical to our ability to inform our members about the legislation.

As we have stated in the past, UFA recognizes the merits of streamlining Alaska's permitting processes. We are pleased to see that each new version of HB 77 works towards creating a better bill. However, we have a few remaining concerns with the amended version of HB 77.

It has been explained to us that the general permitting authority in Section 1 is only intended to be utilized for "temporary and de minimis" activities on state land. However the actual language of the bill reads that any activity within AS.38.05 or AS 38.95 may be authorized by general permit. Not all of the activities in those statutes are "temporary or de minimis", thus we believe in order to clarify the proposed law "likely significant or irreparable harm" could be changed to "temporary and de minimis".

While the definition of 'substantially and adversely affected' is explained in Sec. 33 (f) and (g) as, "adverse impact as a direct result of a DNR decision", this definition would benefit

from further clarification. DNR provided our organization with a list of definitions for the terms “substantial” and “adverse”, showing substantial to mean: “real; not seeming or imaginary” and adverse as, “acting against or opposed to one’s interest.” If, in order for the state to process a person’s appeal, the claims made must be found to be real and against the interest of the appellant, then that is a reasonable standard. However, the bill does not provide a clear enough signal to the public regarding what 'substantially and adversely affected' means to DNR.

Lastly, HB 77 reveals that there is work to be done to create a more effective, transparent, and efficient water reservation system in Alaska, we look forward to working with ADF&G, DNR, and the legislature to find reasonable and realistic solutions to help safeguard fish, wildlife, and public health as we work towards economic development.

Thank you for your time and careful consideration of this important issue. We appreciate the Senate Resources Committee’s careful review of HB 77 and your dedication to Alaska’s resources.

Sincerely,



Julianne Curry  
Executive Director

MEMBER ORGANIZATIONS

Alaska Bering Sea Crabbers • Alaska Independent Fishermen's Marketing Association  
Alaska Independent Tendermen's Association • Alaska Longline Fishermen's Association • Alaska Scallop Association • Alaska Trailers Association  
Alaska Whitefish Trawlers Association • Aleutian Pribilof Islands Community Development Association • Armstrong Keta • At-sea Processors Association  
Bristol Bay Reserve • Cape Barnabas Inc. • Concerned Area "M" Fishermen • Cook Inlet Aquaculture Association • Cordova District Fishermen United  
Douglas Island Pink and Chum • Freezer Longline Coalition • Golden King Crab Coalition • Groundfish Forum • Kenai Peninsula Fishermen's Association  
Kodiak Regional Aquaculture Association • North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association  
Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owner Association  
Seafood Producers Cooperative • Southeast Alaska Herring Conservation Alliance • Southeast Alaska Fisherman's Alliance  
Southeast Alaska Regional Dive Fisheries Association • Southeast Alaska Seiners • Southern Southeast Regional Aquaculture Association  
United Catcher Boats • United Cook Inlet Drift Association • United Southeast Alaska Gillnetters • Valdez Fisheries Development Association

**Comments to Senate Resources Committee on HB 77 from Tim Troll, Executive Director of the Bristol Bay Heritage Land Trust. 12/17/2014**

My name is Tim Troll. I am a 34 year resident of Alaska and Executive Director of the Bristol Bay Heritage Land Trust. The land trust was formed in Dillingham and incorporated as an Alaska non-profit corporation in 2000. I offer these comments on behalf of the Bristol Bay Heritage Land Trust (BBHLT). Thank you for providing this opportunity.

**Chikuminuk Lake Hydro Project:** Initially, I am grateful the Committee has removed those parts of the legislation authorizing permits to advance the study of a hydroelectric dam at the outlet of Chikuminuk Lake in Wood-Tikchik State Park. BBHLT has helped raise millions of dollars to protect the integrity of the park by securing conservation protections for private inholdings within the park, including the only inholding on Chikuminuk Lake. We now feel that our ability to continue doing so to further the State's interest in the values of the park has not been compromised. Thank you.

**Instream Flow Reservations:** BBHLT is also heavily invested in instream flow reservations on five river systems in the Nushagak and Kvichak watersheds to protect the State's and the public's interest in water levels for fish. As the Executive Director of the Land Trust I have been involved in raising approximately more than \$700,000 to file, collect and compile the five years of flow data required by DNR in order to have the applications prepared for adjudication. The following are a few of my concerns:

**\* DNR did not extend us the courtesy of consultation:** BBHLT and its partners (e.g. Curyung Tribe, SW Alaska Salmon Habitat Partnership, New Stuyahok Village Council, among others) are perhaps the largest stakeholders in the integrity of the existing law. We are extremely disappointed that DNR chose not to consult with us on the current rewrite of this section of HB 77 before it was submitted to your committee. We are Alaskans and deserve better treatment from our state. Former DNR Commissioner Sullivan was made aware of our concerns in a lengthy letter I wrote to him last year. Given the fact that we filed some of these reservations with both the encouragement and support of the State, we feel that same spirit of cooperation should have been extended to us in the rewrite of this law. We were not invited to even one meeting as the new language was being developed, and the advice we did offer when we invited DNR to one of our meetings was all but dismissed in the rewrite. The language in the proposed revision strongly suggests other interests were consulted. Our only resort now is to respond to the flaws in the changes proposed by DNR; changes we did not see until they came before your Committee.

**\* The current law is not broken:** The existing law for instream flow reservations does not prevent development as some suggest. The Commissioner of DNR already has the power under the existing law to cancel or reduce an instream flow reservation in favor of a subsequently filed water withdrawal application. The law simply imposes a requirement that the Commissioner choose between the interests protected by a reservation (fish, navigation etc.) and the interest served by the withdrawal (development, jobs etc.) and make a finding that the best interests of the State are served by the choice he or she makes. It is very likely that in most cases a choice will not be required as water levels will be enough to accommodate both needs. Yes, an instream flow reservation can be a hindrance for those wishing to withdraw water from a stream subject to a prior reservation, but that is how it should be. Public input is always a hindrance. The current law, through the application of the principle of first in time – first in right, provides the pause and the public decision point needed for the Commissioner to fully evaluate the resource impacts based upon the best available data. An instream flow reservation is not absolute under existing law. It does not block development. The real problem is DNR is underfunded, or not interested enough to address these instream flow reservations in the correct and most timely and efficient manner.

**\* We only acted because the State was not acting to protect flows.** The use of “private” applications would not be necessary if the public had confidence that the State was giving due consideration to the protection of water flows for fish. Given the vast number of salmon bearing streams in Alaska, the public would expect the State to be prudent and prioritize its instream flow efforts to streams most likely to be threatened. In our particular case we were witnessing the largest potential development impact ever to water flows on salmon bearing streams in Bristol Bay, and no action by ADF&G. We were given the impression that ADF&G did not have the funding to pursue instream flow reservations on the most threatened systems, so we, and our partners, raised the money and stepped in where ADF&G either could not or chose not to act and filed reservations for fish on behalf of the public on the Mulchatna, Stuyahok, Kaktuli, Kaskanak and Upper Talarik systems. (It should be noted the Mulchatna, Stuyahok and Kaktuli provide key habitat for the consistently productive Chinook runs of the Nushagak drainage) We undertook this effort fully aware that these instream flow reservations were not absolute and afforded no guarantee other than a measure of standing that accorded us an opportunity to be notified of a temporary or permanent withdrawal application and an opportunity to participate and be heard in DNR decisions that could adversely affect the reservation. BBHLT and its partners want to know that DNR will give due consideration to fish habitat when human induced disruptions of flow could compromise that habitat. The current instream flow law provides that assurance because there is a transparent decision point at which DNR must consider the evidence and address the question of flow. Under the current proposed revisions the public loses this assurance because DNR can effectively ignore the reservation and there is no adequate recourse for this failure to consider the reservation.

**\* The proposed legislation does not streamline water reservation law.** Rather, the proposed legislation introduces more uncertainty. An example is the first appearance of the term “nonproprietary public domain hydrologic data” used in Sec. 42 (j). What does this language mean? If something is in the public domain is it not by definition “non-proprietary.” What is proprietary public domain data? For example, BBHLT and partners have been paying USGS to collect hydrologic data. The USGS will only do so if we are willing to make the data publically available. Does this mean that someone who wants to withdraw water cannot use our data to prove a proposed withdrawal will not affect fish because we paid for the data? How would this provision be enforced? Is our permission needed to use the data we paid for and put in the public domain? Even if we give the permission can DNR refuse to consider it?

Likewise, it is not entirely clear in the proposed HB 77 to what extent the “person” tribe, municipality or federal agency that paid for the reservation has standing and can act if ADF&G or DNR cannot by virtue of funding or will not by virtue of politics assert the reservation.

Also, what does it mean in 42(i) that the right to appeal may not be transferred? If an individual “person” files a reservation it can only be done on behalf of the public. Is the reservation extinguished when the individual dies, or just the right to appeal any decision affecting the reservation? Because these rights are only held for the public benefit is it not really the public that may be “adversely” affected by a Commissioner’s decision? If an entity changes a name or consolidates with another entity is the reservation or the right to appeal lost?

These are only some of the uncertainties that arise upon a close examination of the language in the proposed revisions to HB 77. We strongly recommend that the provisions of this law relating to instream flow reservations be removed from HB 77.

**\* Grandfather existing instream flow reservations.** If the committee rejects the suggestion that instream flow be removed from HB 77, fundamental fairness warrants allowing the pending reservations to proceed under current law. We filed our instream flow applications on behalf of the public and raised substantial amounts of money in good faith. We followed rules and guidelines established by the State, and, as noted above, in some cases with the support of the State. We should not be punished for relying on the long established existing law by the *de facto* repeal of that law and the unprecedented *ex post facto* application of a new law. At a minimum our applications should be allowed to proceed under the existing law.

Respectfully Submitted,

Tim Troll, Executive Director  
BRISTOL BAY HERITAGE LAND TRUST  
P.O. Box 1388, Dillingham, Alaska 99576

From: Dorothy Gray  
Sent: Friday, March 14, 2014 3:48 PM  
To: Sen. Cathy Giessel  
Subject: HB77 comment

Dear Senator Giessel,

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

I urge you to rethink HB 77 because it limits public meetings and public input. In addition, it gives too much power to the Commissioner of Natural Resources and reduces laws that protect our Alaskan environment and fisheries.

Thank you for the opportunity to comment on this issue.

Sincerely,

Dorothy Gray  
51910 Arness Rd.  
Kenai, AK 99611

From: Cynthia Morelli

Sent: Friday, March 14, 2014 3:49 PM

To: Sen. Cathy Giessel

Subject: Alaskans oppose HB 77: 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. 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.

Sincerely,

Cynthia Morelli  
PO Box 1465  
Homer, AK 99603

From: Lia Slemons

Sent: Friday, March 14, 2014 4:23 PM

To: Sen. Cathy Giessel

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

Dear Senators,

I oppose HB77, even with the changes presented on Monday. The issue of general permits is particularly concerning, because of the geographical broad brush such permits include, and the increased likelihood that such permits would inhibit public notification of, and input on, subsequent activities.

I also believe the right of appeal should not be impinged, particularly if subsistence use is not protected.

The right to subsistence is a fundamental promise and debt to Alaskans.

Particularly as climate changes and watersheds shift across the state, in-stream flow water reservations are a sensible solution allowing flexibility to protect wildlife and public use. Water reservations are a sensible, tested tool and should not be impinged. Additionally, it is not fair to change the rules of the game on current water rights applications that have languished.

There are many problems with HB77 and I don't believe it has been substantially revised to merit passage this session.

Sincerely,

Lia Slemons

Lia Slemons

9140 Jupiter Dr

Anchorage, AK 99507

From: Janice Ziv

Sent: Friday, March 14, 2014 4:34 PM

To: Sen. Bill Wielechowski

Cc: Rebecca Goodrich; Sen. Cathy Giessel

Subject: FW: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

There can be only one reason for House Bill 77, no matter how it may be modified: to enhance the ability of resource exploiters to profit from Alaska's natural resources by precluding individual Alaskans from having a voice in the management of those resources, and particularly in the protection of those resources for the future benefit of all Alaskans.

It is essential that all citizens have access to the process by which decisions are made concerning our lands and waters. Not only would HB 77 preclude or severely limit such input in the present instance, but it would set a dangerous precedent for future legislation, not only concerning our natural resources, but concerning any legislation whatsoever. This is a fight to protect Alaska and its citizens from depredations that could ensue, as they have in the past, as a result of government working hand-in-glove with resource exploiters.

Please make sure every individual's voice is heard; schedule public hearings across the state to accommodate every citizen who wishes to speak to HB 77, and continue the hearings until all have spoken.

Most sincerely,

Janice Ziv

280 Zappa Place

Anchorage, AK 99504

From: Laura Sievert  
Sent: Friday, March 14, 2014 4:46 PM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

I am opposed to HB 77 in its new iteration. The new HB77 still denies Alaskan residents the right to fully participate in decisions about land and water use. It gives too much power to the DNR to make decisions without public input. It ignores the rights of native tribes and the interests of Alaskan communities to protect their natural resources.

The amount of public opposition to this bill must be obvious even to the most obtuse legislator. Kathy Giessel complains that “ that there was a great deal of repetition” amongst those testifying HB 77 and that “it was hard to figure out what some of their objections were” (really? ) . And yes, there is repetition, because some legislators can’t pull their special interest earplugs out in order to hear the people.

Peter Micciche’s insinuation that those opposing HB77 are being misled by facts supplied by “extreme Anchorage environmental groups” is just plain incorrect and is the typical pro-industry-at any-cost drive that is meant to divide the Alaskan people.

It is so disappointing to hear these comments from senators. Who do you represent, really?

Laura Sievert  
3329 Beaver Loop, Kenai, AK 99611

Laura Sievert  
3329 Beaver Loop  
Kenai, AK 99611

From: Desirae Roehl

Sent: Friday, March 14, 2014 4:44 PM

To: Sen. Cathy Giessel

Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

I am writing this afternoon in opposition of HB 77. I feel that HB 77 undermines tribes and individual Alaskans' ability to keep water in streams and seriously undermines their ability to participate in natural resource decisions on state land in other ways.

I appreciate the attempts that have been taken to fix this bill, however, the recent proposed amendments to the bill still do not address concerns raised by the public at statewide public forums and in petitions and letters.

A bill that is this complex and expansive deserves multiple public hearings to allow Alaskans to provide input, and review by several legislative committees.

Sincerely,

Desirae Roehl  
1742 Flatwater Cir.  
Anchorage, AK 99507

From: June Thomasson  
Sent: Friday, March 14, 2014 5:01 PM  
To: Sen. Cathy Giessel  
Subject: Testimony

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

Dear Senator Gissel,

I am strongly opposed to HB77. Our state constitution has given our resources "to the people for the common good". This legislation would allow one bureaucrat the power to make decisions regarding our public resources, without checks and balances, without public input.

Please withdraw this legislation.

Sincerely,

June M Thomasson

3175 Chinook Drive,  
Fairbanks, AK 99709

From: Darcie Warden  
Sent: Friday, March 14, 2014 5:01 PM  
To: Sen. Cathy Giessel  
Subject: I oppose HB 77

My name is Darcie Warden. I live in Fairbanks Alaska. I have been tracking HB 77 and I don't think this is a good bill for Alaska. Water must be managed in a transparent process with the ability of the public to fully engage in the process. It is important that we trust our state government and if this bill passes we will be locked out of the decision making process, breaking the trust between the state of Alaska and it's residents. I don't support this bill as many others from around the state don't either. The protection of water is much more important than streamlining permitting for industry. Make the right decision and don't pass HB 77.

Thank you

Darcie Warden

From: Lani Raymond  
Sent: Friday, March 14, 2014 6:24 PM  
To: Sen. Cathy Giessel  
Subject: HB77

We Alaskans have the right to protect our resources from attack by poorly-conceived or imprudent projects. Alaskans value fish and game and clean water very highly and know what the destruction of those resources will mean for us now and for our children and grandchildren in the future.

We Alaskans have the right to ask questions. Why should there even be the possibility that projects will roll forward with no chance for us Alaskans to question the value, risk, ramifications for our state? And without access to plans and studies, we will all be in the dark.

We Alaskans have the right to speak up. Why should we be denied the opportunity to oppose something publically that is not right? Why should we be excluded from decisions made about OUR resources and OUR land?

I have been an Alaskan for almost 50 years. Even forty years ago this piece of legislation wouldn't have gotten to first base with Alaskans! They'd all be shouting "FOUL!!"

This bill is too broad and far-reaching—one could say "over-reaching". It keeps Alaskan citizens in the dark about what's going on, limits who may speak up, and does not allow a citizen's concern about Alaska's resources to be enough of a reason to be able to speak out. That is wrong!

Since the original version of this bill appeared there have been some weak amendments added, but some of these make the bill even worse in many people's opinion. For instance giving more new powers to DNR in the Permitting Process, allowing application for Water Reservation but allowing them all to be ignored. All of that is also wrong!

This bill is bad news. Please oppose its passage.

Lynda Raymond  
41640 Gladys Ct  
Homer, AK 99603



## COPPER RIVER WATERSHED PROJECT

© *Voices for a wild salmon economy* ©

March 14, 2014

The Honorable Senator Cathy Giessel and the Senate Resource Committee  
Alaska State Legislature  
120 4<sup>th</sup> Street, State Capitol, Room 427  
Juneau, AK 99801

Dear Senator Cathy Giessel and the Senate Resource Committee,

I appreciate the additional opportunity for public testimony held today, Friday March 14. I was able to testify from the Cordova LIO, but fear my nerves and rush to fit within 2 minutes made some of my comments hard to follow. The following is my testimony.

My name is Kate Morse and I am the acting Executive Director for the Copper River Watershed Project (CRWP). The mission of CRWP is to foster the health of Copper River watershed's salmon-based communities, economies, and cultures. CRWP collaborates regularly with agencies, Tribal organizations, other nonprofits and citizens throughout the Copper River watershed on restoration, monitoring, tourism-development and education projects. HB77 as written will create an exclusive process for decisions that have the potential to affect large geographic areas.

HB77 language around general permitting gives DNR powers to issue general land-use permits for "any activity" over broad geographic area, and once the permit is in place, the public will not be given notice about specific activities authorized by the permit. Without knowledge of specific activities, the public will not be able to ensure protection of the resources, like clean water and healthy salmon habitat, that support their cultures, communities and economies. There could also be public health issues that people would not be informed of. By excluding the voice of the public, decisions will be made by people located outside a region without drawing on the local knowledge and experience of the people who have the most at stake in the outcome of the decisions being made.

HB77 states that only the public who has been "significantly adversely affected" can weigh in or challenge decisions, but it is not defined what a significant adverse effect is. We want to be assured that if subsistence use would be affected, Alaskans would have the right to speak up and challenge decisions. I have heard the intent is to stop "outside" voices from slowing down permitting processes, but it is not acceptable that this comes at the expense of the voices of Alaskans.

HB77 has been amended to allow tribes, organizations and people to apply for water reservations. However it is a lengthy process and expensive, especially to try to get the gauging data required by the application process, and there is still no confirmation as to whether the application will be reviewed or considered, and there is no requirement for DNR to honor a timeline for responding to applicants. This is an insincere amendment to the draft legislation that does not allow for a fair assessment of applications from the people who depend most on clean water and healthy subsistence resources.

P.O. Box 1560, Cordova, AK 99574

tel 907.424.3334

web [www.copperriver.org](http://www.copperriver.org)

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### *Board of Directors*

Molly Mulvaney, President, Cordova  
Gloria Stickwan, Vice Pres., Tazlina  
Brad Reynolds, Secretary, Cordova

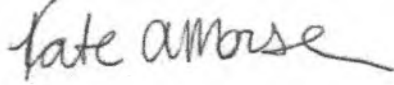
Joel Azure, Cordova  
Audubon Bakewell IV, Gakona

Maria Wessel, Cordova  
Copper Basin (2), open

We are not in support of HB77 and hope you will not allow for the complete removal of the citizens of Alaska from the DNR permitting process. Alaskans have the best local knowledge to help guide decision-making and the most at stake.

Thank you for the opportunity to comment and your work to represent Alaskans.

Sincerely,

A handwritten signature in cursive script that reads "Kate Morse". The signature is written in dark ink and is positioned below the word "Sincerely,".

Kate Morse  
Acting Executive Director  
Program Director

From: Nancy Behnken  
Sent: Friday, March 14, 2014 12:08 PM  
To: Rep. Jonathan Kreiss-Tomkins  
Subject: HB 77

Dear Jonathan,  
I'm extremely busy these days with the boat, so I apologize that this is so short. Then again, this is just a formality in this case anyway.

I am writing to state my firm opposition to HB 77, both in its original form as well as the amended version that was presented to us this past Monday. In unison with the majority of Alaskans, a fraction of whom were given the opportunity to testify on Wed, I am appalled by this assault on the democratic process and urge you to kill this bill.

I will refrain from wasting your time and mine by repeating what so many citizens have already said in public testimony and written in letters to you, but I do want to go on record as being an Alaskan resident dependent on commercial fishing as my primary source of income who is adamantly opposed to this bill. The natural resources in this state are public property and it is our right and responsibility to be involved in any decisions made regarding the use, development or extraction of them. As a commercial salmon fisherman and subsistence user I am naturally very concerned about the effects that this bill could have on our salmon streams. But of course the potential irreparable harm to a vast array of other wild places and the fish, wildlife and humans dependent on these healthy ecosystems, should this bill pass, is also of tremendous concern to me.

Thank you for your time and attention to this supremely important matter.

Sincerely,

Nancy Behnken  
117 Jeff Davis St  
Sitka, AK 99835

From: Maryellen Lambert  
Sent: Friday, March 14, 2014 2:30 PM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

I have a broken arm. I am typing painfully with one finger, so I'll be succinct. The land, the water, and the very air we breathe belongs to all of us, as well as to our posterity. Our legislature should take their responsibilities to the public good seriously.

1. The public should always be apprised of permits and developments on our resources.
2. The public should always be able to weigh in on these decisions.
3. DNR is responsible to the public good, NOT just developers.
4. We have no reason to trust a process that is so clearly limited to the governor's appointee, with limited public testimony on such a major piece of legislation. Shame on you.

Please take this bill through the proper channels or toss it out it altogether. It is bad legislation.

Maryellen Lambert  
6921 E 12th Ave  
Anchorage, AK 99504

From: Joan Hoeler

Sent: Friday, March 14, 2014 2:16 PM

To: Sen. Cathy Giessel

Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

Dear Senator Giessel-

The bill is no good

and this fix will not make it better. Things like this need more testimony, discussion and working together with all groups who have a stake in these types of issues.

Sincerely,

Joan Hoeler

Joan Hoeler

2812 Bass st

Anchorage, AK 99507

From: Paul Carlson

Sent: Friday, March 14, 2014 2:36 PM

To: Sen. Cathy Giessel

Subject: Alaskans oppose HB 77: 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. 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.

Sincerely,

Paul Carlson  
Po box 91451  
Anchorage, AK 99509

From: Kevin & Donna Maltz

Sent: Friday, March 14, 2014 2:30 PM

To: Sen. Cathy Giessel

Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

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Sincerely,

Kevin & Donna Maltz  
1316 Ocean Dr  
Homer, AK 99603

From: Tony Roof

Sent: Friday, March 14, 2014 2:16 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. 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.

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A bill that is this complex and expansive deserves multiple public hearings to allow Alaskans to provide input, and review by several legislative committees.

Sincerely,

Tony Roof  
591 Brewster st  
Fairbanks, AK 99712

From: Karen Marquardt  
Sent: Friday, March 14, 2014 2:13 PM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: 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. 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.

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Sincerely,

Karen Marquardt  
3430 Main St.  
Homer, AK 99603

From: Eric Bacon

Sent: Friday, March 14, 2014 2:11 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. 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.

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Sincerely,

Eric Bacon  
5898 Ravens Roost Circle  
Anchorage, AK 99516

From: Joel Jackson

Sent: Friday, March 14, 2014 1:57 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. 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.

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A bill that is this complex and expansive deserves multiple public hearings to allow Alaskans to provide input, and review by several legislative committees.

Sincerely,

Joel Jackson  
PO box 124  
262 silver spike rd.  
Kake, AK 99830

From: Paul Mackie  
Sent: Friday, March 14, 2014 1:47 PM  
To: Sen. Cathy Giessel  
Subject: HB 77

Dear Senator Giessel -

As a commercial fisherman in Cook Inlet, I am writing to oppose HB 77. I appreciate the efforts made to amend the bill, but I continue to believe the general permitting, standing, water reservation and water use permit provisions undercut our ability to meaningfully participate in important natural resource permitting decisions.

Thank you - Paul Mackie Homer,AK

From: Ann Wyatt

Sent: Friday, March 14, 2014 1:31 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. 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.

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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.

A bill that is this complex and expansive deserves multiple public hearings to allow Alaskans to provide input, and review by several legislative committees.

Sincerely,

Ann Wyatt  
250 West Street  
Box 169  
Klawock, AK 99925

From: Betsy McCracken  
Sent: Friday, March 14, 2014 5:35 PM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

I am writing today as a 33-year resident of Alaska. I am a fisherwoman and hunter; and I have raised my two children here. I graduated from college at the University of Alaska, Fairbanks. I have a vested interest in Alaska and its future. I am a former employee of the Alaska Department of Fish and Game, and the Department of Natural Resources. I am opposed to HB 77.

Unfortunately, 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 and thoroughly vet this bill in front of multiple committees. We appreciate the second opportunity to testify on HB 77 provided today, Friday, March 14th, but it is still not enough time to provide for an adequate public process.

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. It undermines Alaska's Public Trust Doctrine, which is intended to ensure that resource decisions are in the best interest of the public. HB 77 is, in effect, a slap in the face to every individual of Alaska.

HB 77 goes against legislative constituents well documented and voiced wishes for natural resource conservation in Alaska. Water resources are Alaska's very most important resources, and must be held in trust for fish and wildlife and the people of this great state. Water rights should not be given away to landscape level development to the benefit of a few individuals. I take personal offense to this bill on behalf of myself, my children and my grandchildren.

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. This bill as written, should be removed from process consideration all together.

A bill that is this complex and expansive, with such potential for negative consequence deserves multiple public hearings to allow Alaskans to provide input that toward conserving their individual water rights. HB 77 would facilitate a path of irreversible loss to our state. Alaskans deserve better than HB 77.

Most sincerely,

Betsy McCracken

Betsy McCracken  
6910 Rovenna Street  
Anchorage, AK 99518

From: Frank Kreger  
Sent: Friday, March 14, 2014 5:15 PM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: 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. 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. HB 77 undermines tribes and individual Alaskans' ability to participate in natural resource decisions on state land.

The clear goal of HB 77 is to CUT OUT THE PEOPLE from natural resource decisions. The Bill will empower the bureaucrats to make Alaska as SLAVE to corporations.

What ought the Senators do in regard to HB 77?

- 1) Burn the Bill.
- 2) Impeach the Governor who referred it to the Legislature for violation of his oath of office to uphold Alaska's Constitution which allocates the State's resources to all the people of the State.

Sincerely,

Frank Kreger

Frank Kreger  
645 E. Chickaloon Way  
Wasilla, AK 99654

From: Judith Lund  
Sent: Friday, March 14, 2014 4:54 PM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: 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. 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.

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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.

A bill that is this complex and expansive deserves multiple public hearings to allow Alaskans to provide input, and review by several legislative committees.

Sincerely,

Judith Lund  
4178 Hohe ST  
Homer, AK 99603

From: Lia Slemons

Sent: Friday, March 14, 2014 4:23 PM

To: Sen. Cathy Giessel

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

Dear Senators,

I oppose HB77, even with the changes presented on Monday. The issue of general permits is particularly concerning, because of the geographical broad brush such permits include, and the increased likelihood that such permits would inhibit public notification of, and input on, subsequent activities.

I also believe the right of appeal should not be impinged, particularly if subsistence use is not protected. The right to subsistence is a fundamental promise and debt to Alaskans.

Particularly as climate changes and watersheds shift across the state, in-stream flow water reservations are a sensible solution allowing flexibility to protect wildlife and public use. Water reservations are a sensible, tested tool and should not be impinged. Additionally, it is not fair to change the rules of the game on current water rights applications that have languished.

There are many problems with HB77 and I don't believe it has been substantially revised to merit passage this session.

Sincerely,

Lia Slemons

Lia Slemons

9140 Jupiter Dr

Anchorage, AK 99507

From: tom young  
Sent: Friday, March 14, 2014 4:16 PM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

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Sincerely,

tom young  
pob 537 1776 Saltwater Dr.  
1776 Saltwater Drive, Homer, 99603  
homer, AK 99603

From: Dorothy Olmstead

Sent: Friday, March 14, 2014 4:16 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.

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Sincerely,

Dorothy Olmstead  
124 Cortina  
Girdwood, AK 99587

From: Kenneth Waggoner

Sent: Friday, March 14, 2014 4:11 PM

To: Sen. Cathy Giessel

Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

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Sincerely,

Kenneth Waggoner  
3706 Sanders St.  
Juneau, AK 99801

From: Janessa Reamey  
Sent: Friday, March 14, 2014 3:55 PM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

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A bill that is this complex and expansive deserves multiple public hearings to allow Alaskans to provide input, and review by several legislative committees.

Sincerely,

Janessa Reamey  
PO BOX 687  
DILLINGHAM, AK 99576

From: Allan Hayton  
Sent: Friday, March 14, 2014 3:36 PM  
To: Sen. Cathy Giessel  
Subject: I oppose HB 77

As an Alaska Native tribal member, I feel that HB 77 is a end run move around tribal rights to challenge development proposals that affect the waters, lands and animals that we depend upon for survival.

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.

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A bill that is this complex and expansive deserves multiple public hearings to allow tribes and Alaskans to provide input, and review by several legislative committees.

Sincerely,

Allan Hayton  
405 Slater Street #1  
Fairbanks, AK 99701

From: barbara reilly  
Sent: Friday, March 14, 2014 3:26 PM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

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Sincerely,

barbara reilly  
1800 Parkside Dr  
anchorage, AS 99501

From: Clay Bezenek  
Sent: Friday, March 14, 2014 3:24 PM  
To: Sen. Cathy Giessel  
Subject: HB77

Hon arable Sen. Giessel,

I'm writing this note to ask you to vote no on HB77 as written now.  
This legislation is much to valuable to shove through without much fleshing of language and ideas.  
My representative ideas are mirrored by UFA, USAG, and SEAFA.

Thank you,  
Clay Bezenek

Ketchikan, Ak  
99901

From: Amy Nicolaisen  
Sent: Friday, March 14, 2014 3:14 PM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

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Sincerely,

Amy Nicolaisen  
1927 Spenard Rd.  
Anchorage, AK 99503

From: David Urias

Sent: Friday, March 14, 2014 3:13 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.

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Sincerely,

David Urias  
price st  
sitka, AK 99835

From: Linda Kumin

Sent: Friday, March 14, 2014 3:05 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.

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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.

Sincerely,

Linda Kumin  
4572 Sandy Beach Dr  
Anchorage, AK 99502

From: Tina Jess

Sent: Friday, March 14, 2014 2:48 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.

Tina Jess

PO Box 579

Girchson, AK 99587

From: Sharman Piper

Sent: Friday, March 14, 2014 2:50 PM

To: Sen. Cathy Giessel

Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

Dear Legislators,

I strongly disapprove of HB 77 and believe it unjustly takes away Alaskans' right to comment upon and influence our state's natural resource use and development.

In addition, the lack of public vetting and open discussion of this bill undermines the democratic public process.

We need more time to learn more about this bill and to have adequate time for public comment. This bill deserves multiple public hearings to allow Alaskans to provide public input.

Sincerely,

Sharman Piper

700 W. 21st Ave. #A

Anchorage, AK 99503

## Sen. Lyman Hoffman

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**From:** Brian Napier <bnapier\_ak@hotmail.com>  
**Sent:** Thursday, January 09, 2014 12:19 PM  
**To:** Sen. Lyman Hoffman  
**Subject:** Oppose HB 77 and Protect Alaska's Salmon

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Senator Hoffman,

I'm concerned that too many opportunities for regular Alaskans to work with state officials to manage our state lands are being taken away by House Bill 77. Like most Alaskans, I want Alaska's natural resources managed in a responsible way. That happens when local residents are involved in the process. House Bill 77 goes too far in giving DNR power at the expense of Alaskans participating to make the best decisions that impact the lands we all use for hunting, fishing, and recreation.

I know that you'll have an important choice to make this session on House Bill 77. Please stand up for Alaskans and oppose the bill.

Brian Napier  
PO Box 491  
Denali Park, AK 99755-0491  
907-683-0503

**Sen. Lyman Hoffman**

---

**From:** Bob McCard <bmccard@alaska.net>  
**Sent:** Wednesday, January 01, 2014 8:42 AM  
**To:** Sen. Lyman Hoffman  
**Subject:** HB 77

Dear Senator Hoffman:

After reading HB 77 and other material regarding HB 77, I believe that this bill is a severe infringement on our democracy, the democratic process, and the due process of law for the people of Alaska.

Members of the armed forces are serving in Afghanistan today, and thousands of men and women have served our country in past wars and given their lives fighting for our freedom and democratic way of life. HB 77 is a contradiction to their sacrifice. It deprives individual citizens of their right to question the actions of the government by limiting public meetings and public input, and by placing decision-making into the hands of one person—the Commissioner of Natural Resources

Yes, there should be resource development, but not without the input and safeguards that the people of Alaska can bring to the table for discussion. Many times, individuals at the local level are more attuned to their environments and the needs of their surroundings than administrators sitting in Anchorage or Juneau.

I strongly encourage you to look very seriously at HB 77 and either veto HB 77 or make drastic amendments to HB 77 whereby the people of Alaska have more voice in the decision-making process; safeguards are put in place to protect the environment and the fisheries; the power of decision-making is NOT in the hands of just ONE person; and that the laws currently on the books stay on the books and not be overridden by HB 77.

Thank you for taking the time to read my email.

Sincerely,

Bob McCard

## Sen. Lyman Hoffman

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**From:** David A. Nicholai <dnicholai@avcp.org>  
**Sent:** Thursday, December 12, 2013 10:20 AM  
**To:** Sen. Lyman Hoffman; Sen. Donny Olson; Rep. Bryce Edgmon; Rep. Bob Herron  
**Subject:** H.B. 77

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Good Morning and Happy Holidays:

I am writing to you in regards to H.B. 77 which is being considered, I am against this Bill because our region has been hit with low salmon runs and faces restrictions every year. With this Bill, DNR can choose where I can fish and where I should go hunting too. The thought of that has scared me for my region, especially amidst the controversy over salmon at this time.

Will we have to travel farther to fish and hunt? Cost of fuel is high within our region, jobs and income are scarce. You probably already know this and would appreciate it if it can be echoed within legislation.

Once this Bill is passed, we will have no say on what DNR decides, wasn't there a Government-to-Government relationship formed so that all people and Tribes have say on what effects them? Let's keep this agreement up and vote against this measure and keep the Government-to-Government relation as strong as it is now.

I can list a lot of reasons why you should vote against this measure, but you probably already know this. We have enough restrictions with hunting and fishing now. We don't need another department criminalizing our people because they will fish and hunt where they can to feed their family, or where their income will permit them to go.

I urge you to vote against this measure, unless the language is changed where we can work together and still have say on any new regulations. Government-to-Government relationship is very important and decisions based on this is good for the whole State of Alaska. Giving DNR more power, especially on water ways that we have been using since time immemorial, will just distance the relationship we have been building.

With this I urge you to vote against this measure.

Thank you and Happy Holidays.

David A. Nicholai  
Transportation Planner / Inventory Specialist  
AVCP Transportation Department  
PO Box 219  
Bethel, AK 99559  
Ph: (907) 543-7452 / Fx: (907) 543-7455  
email: [dnicholai@avcp.org](mailto:dnicholai@avcp.org)

**CONFIDENTIAL NOTICE:** This e-mail (including any attachments) may contain information that is private, confidential, or protected by attorney-client or other privilege. If you received this e-mail in error, please delete it from your system without copying it and notify sender by reply e-mail, so that our records can be corrected.

Richard Gustafson,

I am opposed to H/B 77.

Please reinstate the Coastal Zone  
Management program.

Thank you

Richard Gustafson

P.O. Box 4144

Homer, Alaska 99603

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.

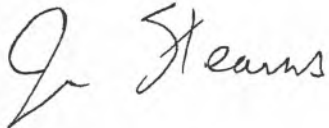
The transfer of power to DNR remains firmly entrenched. Under the revised bill DNR is still allowed to issue 'general permits' over wide ranging regions and the public notice requirements are limited.

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



KACHEMAK BAY CONSERVATION SOCIETY

## 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 huge State should be making <sup>decisions about</sup> 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 Jr.



Senator Cathy Giessel  
Chairman, Senate Resources Committee

3/11/14

HB 77 Dear Sen. Giessel,

We have been hearing a lot lately about House Bill 77, being pushed by the Parnell administration as an attempt to supposedly streamline the permitting process. There is an apparently unrelated project that has been included in this bill. Included at the behest of Senator Lesil McGuire, it is a project to develop a hydroelectric facility, which would include a 128-foot high dam, on the Allen River at remote Chikuminuk Lake, within the Wood-Tikchik State Park.

Wood-Tikchik State Park, set aside by Governor Jay Hammond in 1978, is the largest state park in the United States, and is considered a treasure even by Alaskan Standards. It includes two river systems and ten large clear-water lakes that contribute about 20 percent of Bristol Bay's commercial sockeye salmon harvest.

There are a number of issues with creating a development of this type within a wilderness area that is far from infrastructure. First, Nuvista Light and Power Cooperative, a part of the Calista Corporation, which has been awarded 10 million dollars of state funds to study the feasibility of this project, does not even own any electrical generating equipment. Along with the massive dam, they are also proposing a 118-mile long transmission line from the dam site to Bethel, which would cross Yukon Delta National Wildlife Refuge, where a utility corridor permit would be required. A final report by MWH estimated the total cost of this project at \$507,000,000, with produced power estimated at between \$0.58 to \$0.70 per kilowatt hour (kwh). That cost does not include consideration of extending power lines from Bethel to outlying villages or moving heavy equipment and construction materials to this remote site.

The Alaska Power Authority currently administers the Power Cost Equilization program that subsidizes electricity costs to rural Alaskans. Because of this Bethel residents paid only \$0.16.3 per kwh in 2011. This suggests Bethel residents would only pay about one fourth of this project's power costs. Would the remaining cost be paid by the Alaska Energy Authority? If so Nuvista would be generating a subsidized revenue stream to the Calista Corporation, and from resources outside of their boundary. It is also reported that demand for power at Bethel is highest in the winter and lowest during the summer. The flow of the Allen River is just the opposite, making it necessary to store water in the lake throughout the summer.

A March 2002 management plan put Chikuminuk Lake in a state wilderness area, and currently hydro projects are off limits. Efforts to amend park legislation, however, are currently under way, introduced by Senator McGuire in SB 32 and Representative Millett in HB 137.

The Allen River appears to contribute the greatest flow to the Tikchik Lake System. One of the biological realities of the Bristol Bay region is the substantial predation by Arctic Char and other predators on sockeye salmon smolts. It is a feeding frenzy I have witnessed at the Tikchik Narrows, one you have to experience to fully appreciate. Lower summer flows produced by this dam may likely result in increased predation on these sockeye salmon stocks by increasing densities at constriction point in the watershed.

If the senate version of HB 77 passes, not only will it give the Commissioner of DNR vast new authority to issue permits, and cut comment periods for ordinary Alaskans. It

will likely pave the way, along with SB 32 and HB 137, to eliminate the wilderness status of a vast section of Wood-Tikchik State Park, and continue the "death by a thousand cuts" that the Parnell Administration is inflicting upon our fisheries.

Jack Dean

Sterling, AK

907 262 9769

Name: Mike Syevly

Committee: Resources

Representing: Self

Date of Hearing: 3/12/2014

Bill No / Subject: HB77 (RES)

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 <sup>public</sup> ~~available~~ 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!





## 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 huge State should be making <sup>decisions about</sup> 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.

HB 77: Weissler Public Comments  
3/14/14

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

In addition to the legal issues regarding land exchanges listed below, I have identified numerous other issues that are detailed in my written comments submitted previously to the committee.<sup>1</sup>

I note again that HB 77 is part of the larger problem facing our state – that the state’s resource permitting system no longer serves the public interest. Even if the legal issues I’ve identified are fixed, HB 77 will still move the state in the wrong direction.

### **LAND EXCHANGES – SECTIONS 22 to 27**

The Department of Natural Resources describes the changes to AS 38.50 as giving the Division of Mining, Land and Water more flexibility in land exchanges. The department modeled the changes after AS 29.65.090, that provides for land exchanges between DNR and boroughs and municipalities.

- AS 28.65.090 is not a good model. It addresses land exchanges between the state and local governments that are a trade of public lands for other public lands. This is not equivalent to the land exchange statutes in AS 38.50 that address land exchanges between the state and private entities. Where public lands are put into private hands, more comprehensive statutes are warranted.
- AS 38.50.010 changes the value the state receives in an exchange from “appraised fair market value” to “approximately equal value.”
  - “Approximately equal value” is found in AS 29.65.090. While an approximate standard may be appropriate in state to municipal or borough exchanges, dealing with private interests requires a clearer standard to protect the state’s interests.
  - How is “approximately equal value” determined? Who makes the determination? Who arbitrates if there is disagreement between the parties to the exchange?

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<sup>1</sup> Previous comments submitted 3/12/14, posted online with HB 77 Opposition Documents, Group #2.  
Changing Tides Consulting  
[lisa@changingtides.com](mailto:lisa@changingtides.com)  
[changingtides.com](http://changingtides.com)

- Repeals statutes that address procedures and public notice requirements for land exchanges.
  - DNR will rely on procedures and notice requirements in other existing statutes – AS 38.05.035(e) and AS 38.05.945.
  - The referenced statutes are not written with land exchanges in mind and could be insufficient in terms of protecting the state’s interest, or create confusion regarding how they are to be applied.
- AS 38.50.010 adds that mineral rights may be exchanged.
  - Current AS 38.50.010 authorizes the director to dispose of state land. The proposed language authorizes the commissioner to exchange either or both the land estate or mineral estate.
  - Current AS 38.50.050 specifies that mineral rights in state land may be exchanged “to the extent that the conveyance is authorized by the state constitution and applicable federal law.”
    - Why is “mineral estate” added to AS 38.50.010 when it is already appropriately covered under AS 38.50.050?
    - Since the federal Statehood Act prohibits the state from parting with the title to its minerals, when would the state ever be able to convey its mineral rights?

## March 14, 2014 comments to Senate Resources Committee

re: version HB77 Version D released today.

By Dan Dunaway  
PO Box 1490  
Dillingham, Alaska 99576 907-842-2636

I retired from ADFG as the Bristol Bay Area Sport Fish Biologist. I had 22 years full time with ADFG from Bering Sea, Aleutians and Alaska Peninsula Shellfish (commercial) to Bristol Bay and Lower Kuskokwim sport fisheries, and seasonal work with ADFG in the commercial salmon fisheries of Bristol Bay and northern Cook Inlet; 1973 to 2002.

Thank you for holding hearings and thanks for the opportunity to testify on Wednesday March 12.

Below I offer new comments to the revised versions of HB 77 presented today and last Monday at the Senate Resources Committee hearings.

Thank you to the whole committee for providing additional public comment opportunity and for going the distance this evening.

Second, I am heartened that you are developing changes to the bill in response to concerns expressed.

**1) Removal of Chikuminuk Lake language.** Excellent move and I want to thank all the legislators for being responsive to this issue. I hope this is the last we see of any hydroelectric discussion for that site. The facts of that location speak for themselves. Its just too expensive to waste any more state money on it. I hope this shows up in significant savings of State funds as well.

Please make every effort to assure that this language is permanently purged from this bill whatever the fate of the rest of the bill. Further, I expect this language will not appear in any other bill for this session.

### **2) Protection of King Salmon Habitat \*Sec 46.(a)(b) & (c)**

Adding the 12 major king salmon rivers is interesting and helpful but needs to be much more specific whether just main stem rivers will be reviewed. Reading more of today's language I would interpret it to mean most of the watersheds for each river system are opened to this plan. This is a vast area of the state and developing a work plan will be a large undertaking. This will require significant participation by the Department of Fish and Game, probably USFWS, USFS, and probably other federal agencies. In fact I wonder if it would have been better to assign much of this work to ADFG vs DNR.

\*\*\* Instead of directing DNR to *consult* with ADFG I think this bill should *direct* DNR AND ADFG to collaboratively develop a work plan together. I have trouble believing 6 months is a reasonable time for this plan.

I hope you are prepared to vigorously support significant additional funding to both departments to make this exercise happen; especially by January of 2015. In the past DNR and ADFG really struggled to work together on planning efforts. DNR and ADFG did not have trained staff who could communicate well between the departments, especially given their somewhat different missions.

**\*Sec 46.(d)** "Nothing in this section prevents....."

I feel this language leaves the door open too wide for other uses. While its not likely to be a substantial issue for the main stem rivers mentioned, it could be serious in smaller tributaries where king salmon often spawn. This section could effectively nullify the protections supposedly offered in parts (a),(b)(c). Please remove this part or reword to be more clear; I suggest getting guidance from ADFG as to what might work by tributary size or approximate flow rate; get clear objective criteria. I don't know how to find him but Christopher C. Estes retired from Fish and Game might be a particularly well qualified person to offer advice.

**Other Comments:**

The changes adopted Monday, March 10 were in the right direction and I support them as far as they go. Especially removing the "not withstanding" language is excellent. Allowing individuals and Native Tribes is a help but should go farther.

Sec 4 AS38.05.035(i) ...."Substantially and adversely affected" - what does this mean? This would seem to foster arguments and litigation. It would be helpful to provide some objective criteria to define this term.

Sec 14. AS 38.05.082(b): I object to reducing the appeal time from 30 to 20 days. As I spoke Wednesday often 30 days is insufficient or barely sufficient for people to hear about and respond to concerns.

Sec 39.As 46.15.145(c)(4): I think these clearer criteria (A) to (G) are helpful and important to retain in this bill if it survives. This was a good improvement to the bill.

Sec 42.AS 46,15,155(a)..... added line "The commissioner may issue one or more new temporary water use authorizations for the same project." I object to unlimited "new authorizations". I understand there should be contingencies for project delays etc but there should be a limit to the number of new permits without a new application.

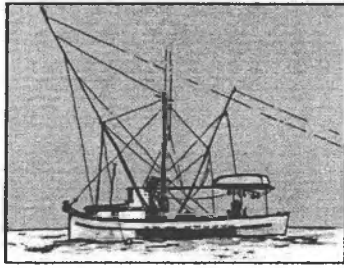
**Summary:**

I have some sympathy for the DNR staff and businesses that need small somewhat "routine" water removal permits. It would be helpful to simplify the system for all. I think the testimony of Andre today (I missed his last name and location) said it well: What started out to be a simple solution to a modest administrative problem was allowed to snowball into an unacceptable monster bill. I find it disheartening to see this greedy power grab by the current administration. I feel sorry for the staff of DNR who could benefit from a straight forward solution to the original problem.

It would be best to terminate this deeply unpopular bill and start over. More clearly state the real problem, more properly and thoroughly advertise the problem and be open to some realistic fix in a small, properly contained bill.

I think from the out cry its clear that a large portion of the public has little confidence in the administration at DNR, and now the legislature by this bill. I think some of the heavy handed moves like changing the DNR mission statement and the history of the Bristol Bay Area Plan (outlined by Gary Kline in Dillingham) are examples that have severely hurt DNR. I encourage you to write a new and better, more contained bill and restore public confidence in the Legislature, DNR , and a commitment to open public process.

Thank you.



## Alaska Trollers Association

130 Seward #205  
Juneau, AK 99801  
(907)586-9400  
ata@gci.net

March 17, 2014

Senator Cathy Giessel, Chair  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

**RE: HB 77**

Dear Senator Giessel and Committee Members:

On behalf of the Alaska Trollers Association (ATA) I have reviewed HB77 version D and offer the following comments.

ATA represents the Southeast troll fleet. Our members are professional hook and line salmon fishermen who fish in both state and federal waters off the coast of Alaska. The troll fleet is one of the largest salmon fleets in the state and 85% of the permit holders reside in Alaska. Nearly one of every 35 people in our region works on the back deck of a trolling vessel and there is a significant support sector throughout the region that relies on them. A large number of troll permit holders and deckhands live in small, rural communities. Many of our members also participate in other commercial, sport, personal use, and subsistence fisheries.

Chinook salmon is one of our fleet's primary target species. As such, we strongly support Section 46 of this bill, which mandates a work plan relative to the reservation of water for 12 river systems important to Chinook and other salmon species. Given the importance of salmon to the residents of this state, it is our opinion that this component of the bill warrants stand-alone legislation, regardless the ultimate fate of HB 77. Each of the rivers identified supports an immense abundance of fish and wildlife resources worthy of special legislative protections. Our association has long called for legislated instream flow reservations for precisely this reason. However, it is also important to note that nearly all of the freshwater in our state contributes to the sustainability of salmon, so should also continue to enjoy ample protection under the law.

Department of Natural Resources (DNR) has stated its intent to improve agency effectiveness by employing a general permit authority under HB77. The agency asserts that the ability to utilize general permits will help them make timelier permit decisions. As participants in a heavily regulated industry, ATA members appreciate efficient and transparent permit processes, but found the first version of HB 77 technically problematic and confusing. And as the volume and

intensity of testimony might imply, the timeline to review the bill has been far too aggressive for a public that cares so deeply about protecting water quality and fish and wildlife resources.

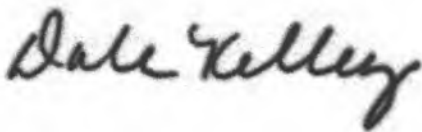
While we recognize and appreciate that DNR has gone a long way to clarify and otherwise improve HB77, there are still a few important aspects in need of your attention. Here are two.

Under Section 1 a general permit may be issued for activities provided for under AS.38.05 or AS 38.95, *if the department finds that the activity is unlikely to result in significant or irreparable harm*. DNR staff says that only activities which are temporary in nature, or have de minimis impact, will be authorized under a general permit. If that is the case, it should be plainly stated in the bill that general permits will be limited to those activities expected to have 'temporary and de minimis' impacts on fish and wildlife.

The requirement for a person to disclose how they might be *substantially and adversely affected* by a DNR decision may not be unreasonable, but we need to know what that definition means to the agency and how it will be used in the permitting process. DNR informed us that individuals would not be required to estimate the cost of any potential impacts, nor would they be asked to do studies in an attempt to 'prove' their concerns might be valid. However, the bill does not make clear to concerned citizens what, if anything, DNR will require from them to meet the *substantially and adversely affected* standard. This gives many people the impression that their concerns will not be taken seriously, because there may be a burden of proof, or the bar will otherwise be set too high.

Thank you for considering ATA's point of view. Please don't hesitate to contact me if I can provide additional information on this or other issues of concern to the commercial fishing industry.

Best regards,

A handwritten signature in cursive script that reads "Dale Kelley".

Dale Kelley  
Executive Director

KENAI LEGISLATIVE INFORMATION OFFICE

Email: Kenai\_LIO@akleg.gov

Phone: 907-283-2030 / Fax: 907-283-3075

WRITTEN TESTIMONY

NAME: Benjamin Jackinsky  
REPRESENTING:  
BILL # or SUBJECT: HB 77  
COMMITTEE: Senate Resources DATE: 3-14-14

Happy Pi Day (3 (point) 14)

I would like to voice my opposition to HB77. I feel humbled to be in the majority with so many citizens of Alaska — from the cities of Anchorage, Fairbanks, and Juneau to mid-sized towns like Sitka and Dillingham to small villages whose names it would take me a while to learn how to pronounce or spell correctly.

I am a commercial fisherman and small business owner. I have had very little time to read the different revisions of HB77 — but — the committee seems intent on rushing through the process and have a vote on the bill. Therefore, I can only hope that the committee will listen to the arguments presented and try to understand my fellow Alaskans opposition.

Speaking of Pi — the Greeks presented another wonderful concept called Democracy. HB 77 seems to have run amok of Democracy by attempting to place too much power in the hands of one individual — the commissioner of DNR.

I am sorry I don't have any "new" arguments to make against HB77. So... I'll say Happy Pi Day and may our Democracy continue to function and the people ~~continue to~~ be heard.

I made Apple Pie — for Mom

1/ep

madam chair, members of the committee,

I come before you to register my disgust.

-----

Disgust that citizens have to take the time to remind elected representatives that citizens have a right to participate in their own governance. If they took their oaths seriously, perhaps they wouldn't need reminding.

-----

Disgust with the intent of HB77, and with elected representatives who pay little or no heed to the uniquely American ideal of participatory democracy.

A trend promulgated by some, who not incidentally, most often purport to be conservatives, has been increasingly to propose various methods to limit and/or deny individual citizens and groups of

2/c)

citizens their right to participate in the decisions of their own governance.

That trend manifests itself in many ways. From actions meant to deny citizens standing before the courts, to actions that do away with whole programs which provided a vehicle for local input in government decision making, (the elimination of the Coastal Zone management program springs immediately to mind). From actions which deny due process, to actions which remove the reserved rights of citizens and instead seek to grant those rights to private entities. These actions even extend to attempts to limit a citizens right to vote.

HB77 is more of the same, this proposed legislation is one of another in the attempts to further limit and deny citizens their right to participate in their own governance.

I'm also disgusted with the attempt to create a false narrative and mischaracterize those who may object to the intent of HB77. My own senator is on record declaring that anyone who would dare object to this proposed legislation would have to be labeled as an 'extremist'.

All too recently, there was an attempt by Vladimir Putin to marginalize Ukrainians. Ukrainians from all walks of life sought only to seek participatory democratic justice in their own country. Putin's tactic in a disingenuous attempt to distort public perceptions? He went to the press in order to falsely mischaracterize those men, women, and young people as 'extremists'.

If I can stand against the attempts to deny citizens the right to participate in their own governance, if I can stand in support of that

4/4

uniquely American ideal of participatory democracy, I will proudly wear my senator's label as an extremist.

I guess all my fellow citizens who we have heard and who will hear objecting to HB77 are all of us extremists, ...I'll gladly stand with them.

You senators can stand with us too by killing this bill.

Paul Zimmerman

Box 414

Kasilof AK



## ***Kenai Peninsula Fishermen's Association***

*Ensuring the Sustainability of Our Fishery Resources*

43961 Kalifornsky Beach Road • Suite F • Soldotna, Alaska 99669-8276  
(907) 262-2492 • Fax: (907) 262-2898 • E Mail: [kpfa@alaska.net](mailto:kpfa@alaska.net)

March 14, 2014

Senate Resources Committee  
Senator Cathy Giessel, Chair  
State Capitol Building, Room 427  
Juneau, AK 99811

RE: 2<sup>nd</sup> SCS CSHB 77/Version H

The Kenai Peninsula Fishermen's Association (KPFA) represents a nonprofit 501(c)6 commercial fishing trade organization. We would like to express *our* confidence in *our* Kenai Peninsula legislative delegation, especially Senator's Giessel and Micciche in their stellar efforts to develop solutions for the revisions within the general permitting regulation CSHB 77 Version H (hb77).

Clearly the commercial fishing industry in Cook Inlet is perpetuated by maintaining sufficient amounts of clean water for resident and anadromous salmon populations. The 736 registered setnet fishermen are families, small business people and preservationists.

HB 77 must balance water resource uses, we understand that any law is only effective if those that are deciphering the intent language do so with reasonable interpretation. Considering the political nature of resource management in Alaska, we question if this current version clarifies the intent to protect and promote the resources of the State. However, we do support many of the changes made in this current version.

In section 14, although we continue with the original language that has the director, *throw the dice*, and then questions appeals based on substantially and adversely affected competing commercial setnet fishermen, we believe that this may be an inequitable contradiction.

Section 40 (c) (4) (A-E), especially (B) (C) offer some definition to establish guidelines for consideration by the DNR Commissioner.

Section 42 (i) begs the question; Will an agency such as the Alaska Department of Fish and Game (ADF&G) who holds a water reservation for a "person" substantiate and defend the rights of the applicant in the case of an appeal? Will the Department then be held accountable for the accuracy of the "hydrologic data or hydrologic data collected by or for the applicant to support the application"?

It is not our intent to hinder the adoption of this bill; rather we feel that the efforts to streamline the regulatory process are important for the protection and orderly development of our State's resources. In the future KPFA wishes to continue the long term collaboration of fine tuning this regulation. Please feel free to alerts us by the public notification process for future changes that will affect our South Central fishing community.

Respectfully,

Robert V. Williams  
President  
Kenai Peninsula Fishermen's Association



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resources Committee  
 Committee on HB 77 Committee Name Dated 3/14/14  
Bill / Subject

I oppose HB 77 in its current amended form. This bill does no good service to the Alaskan people, silencing their voice in the sustainable management of our resources. There is no clear or measurable definition of "substantially and adversely affected" allowing for dangerous and open interpretation of this term used throughout. This provides excessive latitude to DNR without oversight on the approval and provision of permits. May the legislators know that

SIGNED: Carrie Stevens  
 Testifier

myself  
 Representing

227 Woodridge St #9 Fairbanks AK 99709  
 Address / Phone Number

They should be protecting the  
RIGHTS of Alaskan citizens and our  
ability to participate in the wise  
and sustainable management and  
development of resources critical to  
our families. Please let HB 77 die  
on the floor.



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Resources Committee  
 Committee on HB 77 Committee Name  
Bill / Subject Dated 3/12/14

This bill silences and limits the input of Alaskans in the permitting process. The reason given for this bill is the 2,600 backlog of pending applications.

By streamlining the permitting process you are ~~short cutting~~ short cutting & short circuiting the voice of Alaskans & limiting public participation. ~~Maybe the DNR needs to hire more staff.~~ This substantially and adversely affects All Alaskans.

SIGNED: Sharon C. Alden  
 Testifier

Self  
 Representing

159 Kniffen Rd Fbks, AK 99712  
 Address / Phone Number

Please send a copy to Sen. Biessel  
 and Sen. Bishop

To Senator Bishop & Senator Giesel



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Resources Committee  
 Committee on HB 77 Committee Name  
Bill / Subject Dated 3.12.14

I was appalled by the late revisions which we received Monday 3.10. We have had no time to consider the revisions. Now we have only 1 1/2 hours to offer our testimony. It seems that democracy is being steamrolled by expediency - for both the Committee and the extractive industries which stand to gain by this bill. Three problems:

- The revisions transfer vast powers to DNR to issue general permits for "any activity" without public notice or hearing. DNR could override its own laws. This violates our constitution. Resources are owned by US.
- unclear terms need to be defined: "significant and irreparable harm" must be clarified to make it EASIER for Alaskan citizens to challenge permitting. Also "substantially and adversely affected" needs clarification. Otherwise, here comes the lawsuit, here comes endless litigation.
- Water Reservations - There have been reservations awaiting action for a long time. They must be grandfathered in

SIGNED:

Jeffrey A. Mertz  
 Testifier

self

Representing

246 Crest Dr., Fairbanks 99712  
 Address / Phone Number



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resources Committee  
 Committee on HB 77 Committee Name  
 Dated 3-14-14  
Bill / Subject

Hi; my name is Polly Lumi I'm from Point Hope AK  
 now living in Fairbanks AK. I am an ASRC Shareholder  
 and is against House bill 77. I love my freedom of speech  
 and I love to speak my mind. Do not take away  
 my right to speak.

SIGNED:

Polly Lumi  
 Testifier  
Self  
 Representing  
(907) 450-9455  
 Address / Phone Number



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resource  
 Committee on HB 77 Committee Name Dated 3/14/14  
Bill / Subject

My name is Joseph Aleoganna, I'm 13,  
 and I'm from Barrow, Alaska, Free speech is in the  
 Constitution, and what your doing is wrong.

SIGNED: X Joseph Aleoganna  
 Testifier Self  
 Representing 328-9937  
 Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Resources Committee

Committee on HB 977 Dated \_\_\_\_\_ Committee Name

My name is <sup>Bill / Subject</sup> Wyla T. Leavitt, I am an ASRC <sup>Shareholder</sup>  
It's simple folks, eliminate the permitting  
process, eliminate the voice of the  
people of the land.

The people are the land and the  
land defines the people.

Take away the voice and you take  
away the definition of the people.

Subsistence rights, may they ~~be~~ <sup>Perpetuate</sup>  
forever.

SIGNED: Wyla T. Leavitt  
Testifier

Barrow / Fairbanks  
Representing

3304 Gold Hill Rd. Fols, AK  
Address / Phone Number

414-4055 99709



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resources committee

Committee on HB 77

Committee Name

Dated 3-14-14

Thank you Madame Chair.

Bill / Subject

My Name is Mabel Brown, I'm From Point Hope, Alaska.

I'm a Tikigig Corporation and an ASRC shareholder  
~~I would like to say that this bill is a very bad idea~~  
I do not want to loose my voice for our waters.

We have a river called the Kookpuk river, that river feeds our village <sup>me</sup>, and I would like my grandkids and thier grandkids to continue to feed from that river. so again pls close this bill.

SIGNED:

Mabel J. Brown

Testifier

Self

Representing

Box 102 Point Hope, AK, 99766 907 368 0293

Address / Phone Number



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the SENATE RESOURCES COMMITTEE  
 Committee on HB 77 Committee Name  
 Dated 3-14-14  
 Bill / Subject

Thank you MADAM CHAIR & ~~SENATE~~ RESOURCES COMMITTEE

I'm PETER FRANKSON FROM POINT HOPE, ALASKA  
 I'm A TIAGRA CORPORATION & A SRC SHARE HOLDER  
 I OPPOSE HB-77 BECAUSE I DO NOT WANT TO  
 LOOSE MY VOICE, I THANK YOU FOR YOUR  
 TIME. ~~THANK~~

SIGNED: Peter Frankson  
 Testifier

Self  
 Representing

Box 102 POINT HOPE ALASKA 99766 907-368-0061  
 Address / Phone Number

**HB 77 Opposition Documents Index Group #11**  
**Passed Out to Committee Members on 3/19/14**

1. Nancy Pease – March 14<sup>th</sup>
2. Matthew LaCroix – March 14<sup>th</sup>
3. Wilson Rice – March 14<sup>th</sup>
4. Dick Hoskins – March 14<sup>th</sup>
5. Kurk Hardcastle – March 14<sup>th</sup>
6. Lisa Wax – January 21<sup>st</sup>
7. Roland Maw – March 10<sup>th</sup>
8. Betsy Jumper – March 12<sup>th</sup>
9. Dorothy B. Larsen – March 12<sup>th</sup>
10. Steve Mikel – March 12<sup>th</sup>
11. Molly McKinley – March 12<sup>th</sup>
12. Jill Boelsma – March 13<sup>th</sup>
13. Jessica Toubman – March 13<sup>th</sup>
14. Mary McKinley – March 13<sup>th</sup>
15. Amanda Austin – March 12<sup>th</sup>
16. Native Village of Eek – February 12<sup>th</sup>
17. Patricia Sanders – January 13<sup>th</sup>
18. Mark Paulson – January 13<sup>th</sup>
19. Sarah Hayes – January 12<sup>th</sup>
20. Alonzo Mandanna – January 12<sup>th</sup>
21. Rick Gustin – January 12<sup>th</sup>
22. Brian Napier – January 9<sup>th</sup>
23. Bob McCard – January 1<sup>st</sup>
24. David A. Nicholai – December 12<sup>th</sup>, 2013
25. Richard Gustafson – March 12<sup>th</sup>
26. Jim Stearns – March 12<sup>th</sup>
27. Clyde Boyer – March 12<sup>th</sup>
28. George Smallwood – March 12<sup>th</sup>
29. Jack Dean – March 11<sup>th</sup>
30. Mike Byerly – March 12<sup>th</sup>
31. Lisa Weissler – March 14<sup>th</sup>
32. Dan Dunaway – March 14<sup>th</sup>
33. Dale Kelley – March 17<sup>th</sup>
34. Benjamin Jackinship – March 14<sup>th</sup>
35. Paul Zimmerman – March 14<sup>th</sup>
36. Robert V. Williams – March 14<sup>th</sup>
37. Carrie Stevens – March 14<sup>th</sup>
38. Sharon C. Alden – March 12<sup>th</sup>
39. Jeffrey A. Merkel – March 12<sup>th</sup>
40. Polly Lumi – March 14<sup>th</sup>
41. Joseph Aveoganna – March 14<sup>th</sup>
42. Loyla T. Leavitt – March 14<sup>th</sup>
43. Mabel Brown – March 14<sup>th</sup>
44. Pete Frankson – March 14<sup>th</sup>

From: Nancy Pease  
Sent: Friday, March 14, 2014 2:50 PM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

How can you represent your constituents and the public interest if you don't allow for ample constituent outreach and testimony?

The shutting down of public testimony on House Bill 77 on Wednesday is another gut-punch to the public as they try to participate in government of the people, by the people, for the people. Hundreds of Alaskans were prevented from testifying--and since the revisions were only released on Monday, thousands of more affected individuals haven't even read the revisions. I hope that the Alaska Legislature will fully vet this bill in front of multiple committees.

The revised HB 77 still allows government to lock-out public participation by allowing DNR to grant overly-broad general permits for "an activity" over extensive areas of state land. The proposed language to allow activity so long as it does not "likely" cause "significant and irreparable" harm is a dangerous, autocratic delegation of power to DNR staff person or a developer. Among other problems, there is no blanket standard written in for "significant" or "irreparable". A little bit of trace pollutants in the water might not harm humans but might ruin fish runs. A wetland might be reparable in terms of appearance but not in terms of watershed function.

I also oppose HB 77's intent to strip my legal rights as an individual Alaskan. Sen. Giessel, you decry "government overreach on steroids", and here you are supporting just that sort of overreach. I shouldn't need to be "significantly adversely affected" in financial or physical terms in order to weigh in or challenge decisions.

Finally, Alaskan individuals should retain the right to reserve water in streams for wild fish, recreation or other uses. Despite some revisions, the new HB 77 provisions on water reservations give DNR unfettered discretion to put water reservations filed by Alaskans on the shelf, indefinitely.

HB 77 would provide for new expanded DNR powers, erode Alaskans rights to appeal DNR decisions, and damage the existing process for water reservations.

The recent proposed amendments to the bill do not address concerns raised by the public.

A bill that is this complex and expansive deserves multiple public hearings to allow Alaskans to provide input, and review by several legislative committees.

Sincerely,

Nancy Pease  
19300 Villages Scenic Pkwy  
Anchorage, AK 99516

From: Matthew LaCroix  
Sent: Friday, March 14, 2014 2:56 PM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

Good afternoon. Thank you to the Committee for providing this opportunity to testify regarding House Bill (HB) 77. My name is Matthew LaCroix. I am a resident of Meadow Lakes and a former employee of the Alaska departments of Fish and Game (ADF&G) and Natural Resources (ADNR). I do not support HB 77. In my opinion it is a blatant and scandalous attempt to shield the actions of public agencies from scrutiny.

Our public agencies are charged by our constitution and statutes, and constrained by regulation, to act in the public interest. Agency processes should be fair and transparent; and agencies should be accountable for their decisions. Our constitution establishes (within Section 8.10) the public notice process as a fundamental "safeguard of the public interest." Our leaders within the Executive branch should be striving to provide agency employees with the resources they need to perform their duties, and to ensure that agency actions may readily withstand review. The language of HB 77, however, demonstrates a cynical fear of review and contempt for the concerns of the very public our agencies exist to serve.

General permits are useful tools for addressing agency workloads (e.g., general permits issued by ADF&G and U.S. Army Corps of Engineers), but they are notoriously susceptible to abuse even when their application is very narrowly constrained. The use of general permits is commonly limited to the authorization of activities with "minimal" or "de minimus" effects. HB 77 allows the Commissioner of ADNR to utilize general permits to authorize "any activity" that would not cause "significant or irreparable harm." This statutory language provides the Commissioner with license to use general permits as he sees fit.

Using general permits to take segments of DNR workload out of a project-specific public review process is part of the larger effort in HB 77 to shield agency action from scrutiny. Raising the bar for appeals of agency actions is the second part of this effort. Some believe it is appropriate that "Outside groups" not be allowed to appeal State agency actions. The language of HB 77, however, does not limit appeals to Alaska residents-it limits appeals by Alaska residents. HB 77 tells Alaskans that the actions of our public agencies are no longer any of our business.

In spite of mandates within Alaska's constitution (Section 8.3 and 8.4) that "fish, wildlife, and waters are reserved to the people for common use" and "shall be utilized, developed, and maintained on the sustained yield principle," ADNR has long maintained that it may allocate public water for private use without restriction. The position of the Department is that the ability of parties to apply for instream flow reservations for specific reaches of specific waters somehow meets the requirements of the constitution. I disagree, as instream flow reservations, which ADNR does not adjudicate anyway, leave 99% of Alaska's water open to exploitation.

Members of the private sector: tribal governments, NGOs, and individuals, have stepped up and expended their own resources in order to assist the State in meeting the mandate of our constitution. Not for their own benefit alone, but in furtherance of the public good. In return they are now told through HB 77 to mind their own business. We are now told that what ADNR has long pointed to as the

sole mechanism to protect our waters and fisheries is somehow excessive. That efforts by Alaskans to seek instream flow reservations are meddlesome. That water is no longer to be held as a "public trust," but disposed of as ADNR sees fit.

The authors of HB 77 apparently see the involvement of Alaskans in agency processes not as a "safeguard of the public interest" but as an obstacle to unfettered and unaccountable agency action. I do not believe that the provisions of this bill would serve the interests of our public employees, but rather those who would use agencies for their own ends. This is not how efficiency and good government is achieved. This is how malfeasance and abuse of power is fostered. HB 77 is an insult to Alaskans and deserves to be voted down.

Thank you for considering my testimony. Sincerely,

Matthew LaCroix  
7362 W. Parks Hwy #453  
Wasilla, AK 99623

From: Wilson Rice

Sent: Friday, March 14, 2014 3:07 PM

To: Sen. Cathy Giessel

Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

HB 77 is a classic example of an ongoing attempt to limit participation in government decision-making to those persons who can prove a direct financial stake in the outcome--i.e. the developers and industries that want to use public resources for their personal financial benefit. The legislature is once again choosing between their constituents and those who give them money (ostensibly in the form of campaign contributions, the accepted euphemism).

The Parnell administration has once again taken a legitimate issue, in this case streamlining the permitting process, and used it as a smokescreen to funnel state resources to their favored few. These are public resources and the public has a right to be heard on how they are managed, particularly when it affects issues like in-stream flow. Anyone who fishes, hunts, uses subsistence resources or enjoys the Alaska outdoors should be horrified by this bill. It effectively transfers their rights to those who financially benefit from resource extraction.

HB 77 needs to be scrapped.

Wilson Rice  
2338 Douglas Dr  
Anchorage, AK 99517

From: Dick Hoskins  
Sent: Friday, March 14, 2014 3:08 PM  
To: Sen. Cathy Giessel  
Subject: Alaskans oppose HB 77: 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.

Why are you afraid to have this bill thoroughly vetted by citizens? Clearly the legislature is trying to sneak something through.

This bill at the very least needs a complete public hearing, after all, have you forgotten that AK is still a democracy and citizens are the ones that in the end make decisions?

Who are you to decide when someone has been adversely affected? The best way to deal with HB77 is to drop it. DNR and the legislature has not made the case and has used a flawed and undemocratic process right from the beginning.

Looks like a power grab to me. Curious how Republicans love to push the less government agenda except when it is to the benefit to themselves or their monied friends.

What is it you are really trying to accomplish? Why won't you be straight and tell all of us?

Sincerely,

Dick Hoskins  
1008 W 16th Ave  
Anchorage, AK 99501

**Article 8, Section 1 of the Alaska Constitution provides that *"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."***

**The DNR mission statement is *"To responsibly develop Alaska's resources by making them available for maximum use and benefit consistent with the public interest."***

1/21/14

Talk of Alaska,

I just listened to Talk of Alaska's "Permitting The Public Process and House Bill 77". I can testify that, for nearly a quarter of a century, "permitting" in Thompson Pass has not been a "public process". Title aside, much gratitude to all the folks who keep the Talk of Alaska wheels a crankin'!

I will provide a few surface examples of DNR historical desecration of Thompson Pass. And then I will attach some example documents for further substantiation.

Worthington Glacier State Recreation Site, pictured below, "a crown-jewel of the Alaska State Park System", is "Copper River Basin's/Prince William Sound's most visited site" according to DNR's website.



The connex in the park's foreground has been abandoned for years. It was leftover from Alaska Backcountry Adventures 2006 DNR permit. On 9/12/07 Thomas Irwin, the then-DNR commissioner, stated in response to an appeal for Alaska Backcountry Adventure's, ABA's, Thompson Pass lease addressed to myself Lisa Wax, Kathy

Nielsen and Bill Bixby "The relevant Management guideline says that all development along the Richardson Highway Corridor should be sited and designed to minimize impacts on views from the highway . . . All structures will be wood sided with brown roofs to blend into surrounding area."

Above photo taken autumn 2014.

DNR Deputy Commissioner Ed Vogel commented that HB77 would allow them to "switch lands we feel are better in each other's interest . . . ". Many years ago DNR approved trading the Worthington site for contaminated inland Kodiak land so that Matt White (Valdez Heli-Camps), a character with a stack of lawsuits, could build a lodge. Local adamant opposition was ignored. In a last ditch effort, I gave the Kodiak Native Corporation a pile of paperwork, the same paperwork that I had distributed generously throughout DNR and Juneau, and they withdrew their backing. The project failed to materialize without financing.

The same Matt White abandoned another Thompson PassDNR permitted site, which was out of compliance from the starting gate (illegal water crossing with a snowcat that regularly left hydraulic fluid streaks up the length of Stone Mountain . . .). These 2 photos of the site were taken on 9/28/13.





Thompson Pass DNR Land Use Permit #LAS 28702 signed 2/14/13 to Black Ops states in 5 (b) that "Removal or destruction of the vegetative mat is not authorized under this permit." The photo of the bulldozed property was taken in the fall of 2014. The permit allows for one cabin. There are now 7 cabins on the property.



This operator is proposing 2 new permit sites with a comment period that no one knows about which closes 1/27/14. One site includes 2 snowcats, a helicopter, a trailer, a camper . . . across the street from where DNR just approved another H2O permit, unbeknownst to the locals, for 3 snowcats, a helicopter, an atco, a trailer, port-a-john, fuel storage . . . closing to the public the most used backcountry ski access route, Odyssey.

I have numerous accounts and photos of DNR's blatant disregard for Thompson Pass as a renewable resource. The following email indicated that, alas, DNR would address my concerns.

Rowell, Kathlene L (DNR)  
To Me  
Jul 12, 2013

Dear Ms. Wax:

My name is Kathlene Rowell and I work for DNR Commissioner Dan Sullivan.

We received your email to Commissioner Sullivan on July 1, 2013, and your subsequent emails to him on July 2 and today, July 12, including your letter, dated July 11, 2013, to Commissioner Sullivan, Ben Ellis, Claire LeClair and Candice Snow.

This office will provide you a formal written response to your letter dated July 11, 2013, to address your concerns regarding public noticing requirements for DNR decisions in the Thompson Pass area.

Thank you for your letter and your patience.

Sincerely, **Kathlene Rowell**

Special Assistant to the Commissioner

Alaska Department of Natural Resources

(907) 269-8431 [kathlene.rowell@alaska.gov](mailto:kathlene.rowell@alaska.gov)

Over a half a year has passed and still no "formal written response" to my 7/11/13 letter.

Ed Vogel has been cc'd with many of my letters. I just listened to Ed say "... we must be able to allow activities to happen on State land to generate our economy and we need to be able to do that in a responsible way to protect our other environmental resources ... HB77 ...

Sincerely Oy,

Lisa Wax

# Letter to the editor Copper River Record

I am a wildly enthusiastic proponent of Alaska who has called Thompson Pass home for about twenty-three years.

On 7/1/13 I emailed Dan Sullivan (and cc'd many DNR folks including Candice Snow), Commissioner of Alaska's Department of Natural Resources, DNR, concerned about a rumor I had recently heard of a proposal to close the access route up the backside of Odyssey Mountain at Mile 25 of the Richardson Highway, the hairpin turn, to the public.

On 7/2/13, one day later, DNR's Candice Snow emailed me Dean Cummings', owner of H<sub>2</sub>O Heli Guides, incomplete application proposing the closure of the historical Odyssey access trail. His plan is to occupy its roadside base with an Atco, Connex, genset trailer, fuel tank, port-a-john, 3 snowcats and a helicopter for 7 months of the year.

I thanked Snow for the application and inquired about the deadline for public comment. She replied that it was 7/1/13, the day before.

I immediately asked how I could go about receiving an extension. Snow replied six days later that my extension request was denied. Curiously, neither Snow or Sullivan have replied (as of 7/22/13) to my 7/1/13 inquiry as to how DNR notified the public of H<sub>2</sub>O's application. For decades I have repeatedly asked DNR to notify me of any permit applications in the area and have repeatedly been told by DNR that I was on their notification list and still DNR fails to ever include me in their notification process. Snow did indicate in her 7/8/13 email that I "fell through the cracks". Thankfully, I am not as susceptible to crevasses as I am to DNR "cracks".

Odyssey is one of the most popular human-powered accessed ski mountains in Thompson Pass; and the sensible route up, whether or not there is a cat track, is most often the "road" that Cummings is hoping to close to the public, a route that has been used by the public long before H<sub>2</sub>O Heli-Guides existed.

The closure of Odyssey's access would be monumental. I wanted to hear what other locals knew and thought. I attended the Valdez 4<sup>th</sup> of July celebration and asked around for thoughts on the impending permit. I am now aware that I was not the only uninformed one. I spoke to a wide range of the local community. No one was aware of the permit; not the person who has more ski road runs under his belt than anyone, not the Thompson Pass D.O.T. employee, not the firefighter, not the retired school teacher (who exclaimed "their creating an incendiary situation!"). Opposition was adamant.

The backside of Odyssey, the area that H<sub>2</sub>O proposes to close, provides the best low-angle backcountry ski access in the Thompson Pass corridor. It is the only accessible feasible place for kids or beginners to experience a real backcountry run minus cliffs, glaciers and intimidating steep angles. Many folks have prepared themselves for the "road run" by first practicing on the backside of Odyssey. And certainly more advanced skiers also access both Odyssey's front side couloirs and bowl as well as Schoolbus and Goodwills, to the east, by skinning up its (most often) safer backside. Closure would force more folks to boot pack up the steep front face thereby increasing exposure to slides and falls. Not all users will have either the desire or the financial capability to employ the snowcat (which may or may not have availability).

The Mile 25 hairpin pullout is also the most popular launching point for snowmachiners accessing Marshall Pass and beyond. And snowmachiners also access Odyssey for skiing using the

September 12, 2007

Page 3 of 12

describes how the Department of Natural Resources (DNR) will manage state land in the Copper River Basin, including the Thompson Pass area. It says that the department may issue leases in Thompson Pass provided such leases are consistent with the management intent and management guidelines. The management intent says that Thompson Pass should be retained in state ownership and managed for multiple use with emphasis on expanding recreation opportunities. The relevant management guideline says the all development along the Richardson Highway Corridor should be sited and designed to minimize impacts on views from the highway.

The short-term lease the division proposes to issue to ABA will retain the land in state ownership while expanding recreational opportunities in Thompson Pass. The lease also requires ABA to site and design the development to minimize impacts on views from the highway. All structures will be wood sided with brown roofs to blend into the surrounding area. Except for one storage building that will remain onsite year round, ABA will remove all structures from the site between May 15 and early November of each year. During the winter months when the structures are onsite, the heavy snowfall will significantly minimize direct views of the development from the highway.

2. That DNR is essentially opening the gate to uses that could be detrimental to the future of the pristine area.

**Department's Response:** ABA has operated a similar commercial recreation camp seasonally from this location for the past 10 years under a series of permits issued by the Division of Mining, Land and Water. I also understand that there are five similar operations along the Richardson Highway from Valdez to the Tsina Lodge. Thus, DNR is not "opening the gate" to uses that have proven to be detrimental to the area in the past. However, allow me to clarify that the decision on this lease application does not set a precedent for future decisions. The division will continue to consider each application for use of state land on its merits.

**ISSUES RAISED BY MS. WAX ON APPEAL:** Following are the issues raised by Ms. Wax in her appeal and the department's responses.

1. What was the purpose of the public comment period if 73 of the 93 public comments were opposed to issuance of this lease and yet the department did not deny it?

07/11/13

WILL DNR HONOR ITS GUIDING DOCUMENT - THE COPPER BASIN MANAGEMENT PLAN?  
Sensory Pollution, Death Hazards & Historical Access in Thompson Pass

Dear Dan Sullivan, Ben Ellis, Claire LeClair and Candice Snow,

Twenty-three years ago I parked my jeep at the Mile 25 pullout of the Richardson Highway, the hairpin turn, the south side, also known as the backside, of Odyssey Mountain, twenty-nine miles from Valdez, Alaska. I skied in toward Marshall Pass and built a snow cave. At some point shy of a couple months later a Chinook wind came in comprising the structural stability of my dwelling. I obliged to Mother Nature's clues and packed up camp. I skied back to my rig and headed northbound. Smoke was coming out of the chimney at 35 Mile. I flipped a u-ey and have since called Thompson Pass home. Some folks search their whole life for what I found at a young age. And rent was only \$50 a month. Sir Edmund Hillary likely wished he could have done the same.

Mike Lopez of Valdez guided Sir Edmund Hillary in 1962. Hillary told Mike that he had been virtually all over the world and that the Valdez and Prince William Sound area's beauty was unsurpassed. I agree. My below words are motivated by nothing other than widespread passion for my neighborhood's health and concern for the wellbeing and safety of the public. I have no business affiliations or personal vendettas; I do have a pure unadulterated love for Thompson Pass, my home, my wonderland.

I am addressing DNR as not just a good citizen of Alaska but also as a wildly enthusiastic proponent of Alaska. I have traveled the world, unaffiliated, to promote the Valdez area at outdoor shows, ski shows . . . I have saved lives on State lands, picked up an exorbitant amount of garbage, removed rocks and road kill from the highways, maintained historic trails . . . and I am asking the State to reciprocate by being a responsible manager of my neighborhood. I am providing a condensed annotated sample of DNR's recent Thompson Pass history with the intention of encouraging DNR to think forward. I will commence, after providing an example of how DNR repetitively loses me "through the cracks", where my relationship with Thompson Pass commenced, the backside of Odyssey Mountain.

My observations lead me to assume that the DNR employee turnover deems it difficult for any current staff member to comprehend the scope of the impact DNR has had on Thompson Pass. My hope is that by addressing the outstanding Odyssey permit situation and then providing historical perspective that DNR will reevaluate its responsibilities thereby remedying its relationship with both the land and the Valdez locals. Unfortunately most locals have given up any hope of DNR representing their best interest. The history of DNR's actions in Thompson Pass has created a population of folks who feel like their input is futile; thus far, as evidenced below, it has been predominately futile. DNR has the power to reverse this trend.

I am available to provide further documentation, explanation or examples not mentioned in this condensed, yes, severely condensed (there are topics not yet addressed), document.

public of H2O's application. Candice did indicate in her 07/08 email that I "fell through the cracks". Thankfully I am not as prone to crevasses as I am to DNR cracks. I am asking again – **how did DNR notify the public?** Was it published in our local newspapers the Copper River Record and the Valdez Star? On the scanner?

News of the proposed application warranted cancelling my Independence Day travel plans. The closure of Odyssey's access would be monumental. I wanted to hear what the locals knew and thought. I attended the Valdez celebration and asked around for thoughts on the impending permit. I am now aware that I was not the only uninformed one. I spoke to a wide range of the local community. No one was aware of the permit; not the person who has more road runs under his belt than anyone, not the Thompson Pass D.O.T. employee, not the firefighter, not the retired school teacher (who exclaimed "their creating an incendiary situation!") . . . no one. Opposition was adamant. Multiple folks suggested a petition. Folks puffed up and stated that nothing was going to stop them from doing what they have always done. I was informed of past threats . . . I have had no incident or conflict with Dean Cummings. Some folks who were apparently already loaded from previous run-ins with Dean seemed riled yet relieved that they were going to have a legitimate venue for conflict. I mentioned Gandhi on more than one occasion. The agitated unrest was overwhelmingly prevalent so much so that I dropped the subject, feeling like the celebration's buzz kill. I was impressed by the City's celebratory efforts and heavy, like the fog, I headed out the Shoup Bay trail.

Odyssey is likely (as weather ultimately dictates) the most popular human-powered accessed ski mountain in Thompson Pass; and the most sensible route up, whether or not there is a cat track, is where Dean refers to the "road" that should be closed to the public, a route that has been used by the public long before H2O Heli-Guides existed, long before Dean Cummings first visited Alaska. The proposed junk-show compromises the immaculate beauty while the closure of access to Odyssey's backside would be the opening of access for deaths and environmental hazards (explained below).

Review the 1/29/04 DNR public hearing in Valdez as a refresher for how the locals adamantly and overwhelmingly opposed development in the Thompson Pass corridor on public lands.

It is downright ludicrous that the State would consider allowing an Atco, a connex, a generator (how many kw?) trailer, a port-a john (there was no mention in the Restoration Plan of removing the port-a john, the Atco or the generator trailer) and fuel storage to clutter such a magnificent view shed (See Exhibit A) for 7 months of the year. Consider DNR's past commissioner's, Thomas Irwin, accurate reference in his 09/12/07 letter to Wax, Nielsen and Bixby (Exhibit B) "**The relevant Management guideline says that all development along the Richardson Highway Corridor should be sited and designed to minimize impacts on views from the highway.**"

I can imagine that, like me, the ptarmigan, marmots, wolverines, moose, bears, wolves etc. (yes, I have seen all these animals and more) will not be stoked on the sound or smell of the generator. The said area is small and set in a topographical depression, any being in the area would likely be sucking diesel fumes, not a desirable inhalant before launching for a backcountry ski or birthing spring pups. Previous structural permits on Thompson Pass public lands have been in areas that have already been developed as gravel lots, not on raw wild land. The glorious and bountiful flora and diverse fauna would inevitably suffer from 7 months of heavy loading combined with

Permit  
Since  
Bixby

Marshall Pass and beyond. Snowmachiners also access Odyssey for skiing using the same "road" as a snowcat (or skier).

The number of and type of fuel storage containers is not defined on the application. H2O's response to the Temporary Structure section leaves this question open – "fuel container(s)". This is particularly unsettling given that the site is barely a stones throw uphill from the headwaters of a creek that flows into Heiden, the Lowe River, through Keystone Canyon and out to Prince William Sound. See Exhibit D photos. **The riparian aspect has not been addressed** in the permit Site Description (perhaps that was what was whited out?). There is **no spill response within reasonable proximity**. The fuel truck is not stored on site and once someone could arrive from Valdez, nearly 30 miles, with resources the damage will have been done, the real resource will have been irreversibly destroyed. Exhibit D photos show the falls and creek that rage into Heiden canyon. Fuel plus frozen ground plus gravity equals irreversible environmental misfortune. The photos illustrate that the topographical features will not allow for catching up with the damage. With who is the "contract" for spill response? Does DNR not require a copy of the said "contract"?

Many years ago, though told by DNR that it would never happen, I coaxingly inspired DNR to rewrite their park management contract (I still have the letter of kudos from DNR). Perhaps it is time to consider a more thorough permit application process?

I have been unable to determine why H2O has decided that the 2<sup>nd</sup> section of the Environmental Risk/Hazardous Substances is "N/A". I also do not understand how 1000 gallons from this Risk section shrunk to 73 gallons in the Fuel and Hazardous Substance Factor section. It is stated that the fuel storage will be off the road and should therefore be listed at 1000 gallons.

It is not feasible to think that Dean, after having burned so many local bridges, could possibly leave structures unmanned without consequence. There will be a problem and someone will have to stay overnight. While wondering who might become the elected watch guard I realized that I was not familiar with H2O's Permit Contact so I just quickly looked up Matt Adkins and here is the first hit:

Location: Valdez Case number: AK13020298

Type: False Statement Sportfish/Hunt License

Text: On 3-27-13, Matthew Adkins 30 YOA of Valdez, was cited by the Valdez Wildlife Trooper for making a false statement on a 2012 sportfish/hunt license application. On 6-29-12, Adkins purchased a resident license and claimed two years Alaska residency when in fact had been in Alaska only two months. Bail set at \$310 in the Valdez Court. Author: AMB0 Received Wednesday, March 27, 2013 1:27 PM and posted Wednesday, March 27, 2013 1:50 PM

The word "begin" under Project Description is uncomfortably open-ended as it implies that perhaps Dean has more in mind that he is not revealing. Nonetheless I will end this section of discussion with a **request that I be kept notified as to how the State chooses to address this permit application.**

And if DNR elects to accept H2O's application I would like a permit application for the exclusive use of the Seward Highway's Milepost 107 pullout including the grassy patch on the east side of the highway. I will service all goat gawkers by selling farmed Atlantic

Thomas Irwin continues "Thus, if ABA does not remove all waste by May 15 (beginning 2006) of each year, it is in violation of its existing permit, and the permit is revocable immediately." See Exhibit F photos.

"Modifying the proposed operation schedule from year-round to seasonal will have a bearing on the view shed between May 15 and early November of each year when only one structure will be on site. However, you are correct that the 16' x 20' storage building that will remain onsite is larger than the approximately 8' x 20' metal connex storage container that is currently onsite year-round. However, the upgraded improvements, including the new storage building, will be wood sided with brown roofs. Therefore, they should blend in better with their surroundings." See Exhibit G photos. The photo of the rusted, partially crushed, torn, peeling, dilapidated connex which is still on site, now 6 years since Irwin's above statement, was taken tonight 7/11/13 (when I realized there was going to be an exhibit delay due to iphoto issues).

"If anything, the view should be less impacted because the improvements will be upgraded." See Exhibits E, F and G for photos of "upgraded view".

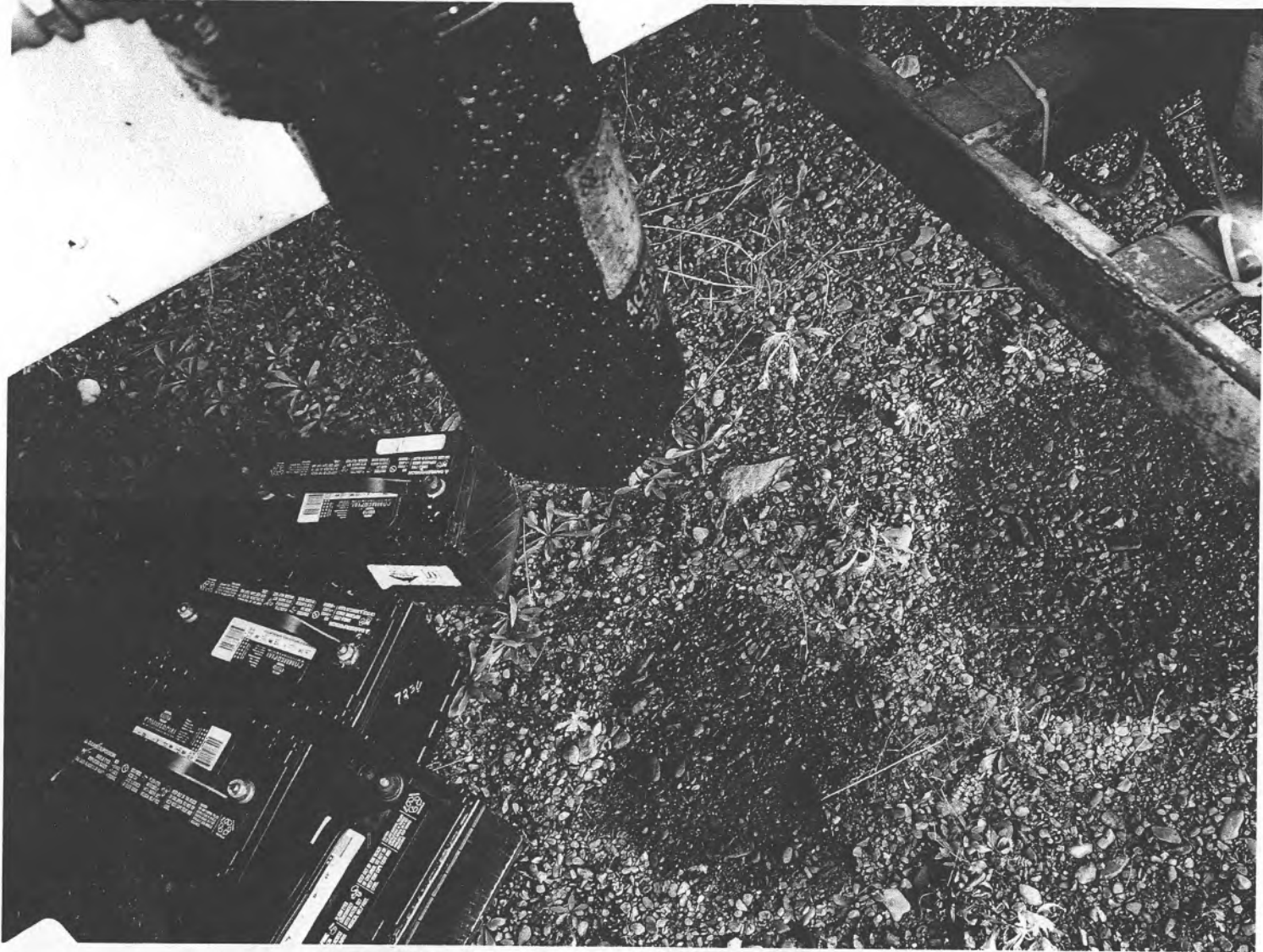
**Who holds the state liable for truth** when the price that both the locals and the tourists pay is incalculable?

And DNR is supposed to be the "resource manager" . . . ?

I stopped in the Thompson Pass airstrip this past spring to find myself between two live competing helicopters within a stone's throw of each other. A testosterone-induced approach from one heli blasted me as I stood talking near the other operators LZ. And the kvetching began . . . The teacher said it best – "incendiary situation"; and I thought DNR was involved in fire suppression. Candice, **please send me copies of these operators permits** and any others in the area that are live. Were two competing operators legitimately permitted for a shared drive and space?

Thomas Irwin's letter confirms that I was correct, during the winter of 2006 the State Parks Citizen Advisory Board passed a resolution requesting that the Division of Parks and Outdoor Recreation and the legislature get busy on creating a state park as recommended in the Copper Basin Area Plan. Years later, to my knowledge, DNR has not taken any forward action. **Please reply as to the status.** And please also provide information as to how park status would affect Thompson Pass. Would a park designation provide better protection from the transiency and long distance proximity of its managers?

Again, for a bit of historical perspective – in the mid nineties the folks from DNR, the folks who were sitting behind their desks hundreds of miles away, were pondering silly ideas for Thompson Pass. I recall a discussion considering limiting snowmachines to one side and skiers to another, similar to Turnigan Pass. Bill Bixby and I spent endless hours pawing through crates of fat bound management plans; we were detectives looking for any clue that would allow the users to have a voice. And alas, there was mention that a State Park Citizen's Advisory Board could make recommendations to DNR. And a board of diverse local folks was formed – Mike Buck, the motor-head, Nancy Lethcoe, the tree-hugger . . . but over time the board members, like the locals, lost confidence in DNR's listening ability.





NOON



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## United Cook Inlet Drift Association

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43961 K-Beach Road, Suite E • Soldotna, Alaska 99669 • (907) 260-9436 • fax (907) 260-9438  
• [info@ucida.org](mailto:info@ucida.org) •

Date: March 10, 2014

Addressee: Senate Resources Committee

RE: HB 77

Dear Senate Resource Committee Members:

UCIDA appreciates the changes and amendments already made to HB77. Water quality and water quantity are defining issues that need constant attention in order to maintain the healthy fish populations in our State. The fishing industry is one of the most important ways we define ourselves as a state, and, as we all know, is the largest sector employer. Other states and countries often look to Alaska as a model of successful legislation and management. We feel that these successes involve all three branches of government, as well as local citizens that have a direct knowledge of the local fisheries. We feel strongly that local citizens have the legal ability to apply for, and have, recognized water reservation for its local fisheries. This is important for economic, subsistence, cultural as well as heritage values. It is for these and other issues we support further changes to HB77, as described in the attached letter by Cook InletKeeper.

Sincerely,

*Original Signed Document*

Roland Maw, PhD  
UCIDA Executive Director

## Sen. Lyman Hoffman

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**From:** Legislative EmailService  
**Sent:** Wednesday, March 12, 2014 2:14 PM  
**To:** Sen. Lyman Hoffman  
**Subject:** New Pom:Resources

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Betsy Jumper  
Po Box 2273

Bethel 99559-2273, Betsy J  
[bjumper2010@hotmail.com](mailto:bjumper2010@hotmail.com)  
907-543-5301  
907-543-3053

Am against HB 77. Thank you.

## Sen. Lyman Hoffman

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**From:** dorothy@curyungtribe.com  
**Sent:** Wednesday, March 12, 2014 2:35 PM  
**To:** Sen. Lyman Hoffman  
**Subject:** VOTE HB 77 DOWN

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Good Day, Senator Hoffman,  
Per the discussion below, we are requesting your support in voting HB77 DOWN.  
Thanks,

*Dorothy B. Larson*

Tribal Administrator  
Curlyung Tribal Council  
Phone: 907-842-2384  
Fax: 907-842-4510

Good Afternoon,

I am getting back to you with an update on HB 77 as promised on Friday.

The Senate Resource Committee heard a presentation by the Department of Natural Resources on Monday which described the proposed revisions to the bill, supposedly in response to concerns with the original bill they have heard from around the state over the past year. However, no Tribes were consulted to make these changes, and amendments to the bill do little to address Tribal concerns. In fact, the changes make it even harder and less meaningful for Tribes and other Alaskans to protect important resources. This current version of HB 77 was only released to the public moments before its' first Senate Resources Committee hearing on Monday (3/10/14) and we've had 48 hours to respond.

A group of dedicated folks have been watching this bill, and after reviewing the proposed revisions still believe this bill is bad for Alaskans and our renewable resources and pristine environment. The bill still limits our ability to protect what is important to us as subsistence, commercial, and sport fishers and hunters. Over 40 Alaska Tribes and Native groups passed resolutions opposing HB 77, and DNR's proposed changes to the bill fail to address tribal concerns. Alaska Native peoples continue to be cut out of the conversation. At its core, HB 77 is an affront to Tribal members and a threat to sovereignty.

Public testimony of no longer than 2 minutes per person on HB 77 will be accepted Wednesday, March 12<sup>th</sup> from 3:30 pm-5:00 pm in the Senate Resources Committee. Because there are a limited number of telephone connections available to provide testimony through at the Capitol Building today, if you are able to get to a Legislative Information Office to provide comment, please do that and plan to arrive by 3:20 p.m. on March 12 to register. The testimony is only received until 5:00 pm, so if there is not enough time to read your testimony over the phone you can also email a written comment to [Senator.Cathy.Giessel@akleg.gov](mailto:Senator.Cathy.Giessel@akleg.gov) and include in the subject line "Please include this for public record on HB 77."

**If you cannot get to a Legislative Information Office please coordinate a public place and phone for your community members to gather around so you can be more assured to access one of the limited lines. People wanting to give testimony outside of a Legislative Information Office (LIO) need to contact the office of Senate Resources Committee co-chair Sen. Giessel PRIOR TO calling in. The toll-free number for Sen. Giessel's office is 1-800-892-4843 and the staff contact is Lindsay Williams ([lindsay.williams@akleg.gov](mailto:lindsay.williams@akleg.gov)). The call in number is 1-855-463-5009 .**

**Finally, here are some important talking points that address our concerns with HB77; please feel free to use this information to prepare your public testimony.**

### **Talking Points to Consider in Your Public Testimony**

[If you are speaking on behalf of a Tribe that has passed a resolution on HB 77, bring a copy of your resolution to present to the committee. Ask that your resolution, and all the other Tribal resolutions, be included in the public record for HB 77.]

- Your Tribal council and over 40 others have passed resolutions opposed to HB 77, but these new amendments do not go far enough to address the concerns our Tribe laid out in the amended bill.
- We need to ensure that the public, in cooperation with our resource agencies, have a tool that can be used to ensure that some water is reserved for fish.
- At face value, it seems DNR's new version would allow individuals and Tribes to seek in-stream flow reservations to protect fish and wildlife habitat and other public trust resources; however, it:
  - does not grant Tribes the ability to hold those rights if granted but instead gives the rights to a state agency,
  - allows DNR to refuse to process those applications,
  - does not allow applicants access to due process,
  - requires more stream data for the application than currently exists for most of Alaska's streams.
- This version of HB 77 simply guts the law that already doesn't go far enough to protect fish and their habitat.

**Here is more information on the changes from last year's version of HB 77, and how these changes fail to meet the needs and concerns of Alaska's tribal peoples:**

### **DNR's changes to Section 1 by deleting the term "Notwithstanding"**

DNR's change to HB 77 Section 1

DNR removed the sweeping phrase "notwithstanding any other provision of law" and expressly limited the ability to override existing laws when issuing a general permit to overriding their own statutes and regulations, not that of other agencies. Bottom line is that this is a bit better but still not good.

Section 1 of HB 77 would allow DNR to issue general permits for a wide range of activities , meaning the Commissioner of DNR could issue one general permit for "an activity" over large areas potentially before an application is even submitted for that activity in that area. Subsequent applications to conduct that activity would not be noticed to the public.

- By eliminating individual review of applications, General Permits cut the public out of each important permitting decision.

Why this is not good enough.

- This would still be a sweeping change to current law because it lets DNR *pre*approve many kinds of activities – both low-risk activities (like approving mooring buoys) and high-risk activities that have potential to cause significant and irreparable harm.
- DNR issues permits for many activities that impact our fish and our lands, including, mining exploration and mine development, forests and timber, and water use — all of which could be done under general permits if HB 77 passes.

### **DNR’s change to Section 1 changes “and” to “or”**

#### DNR’s change to HB 77 Section 1

DNR change language in Section 1 of the HB 77 from “and” to “or,” allowing DNR to issue a general permit when DNR finds the activity “is unlikely to result in significant *or* irreparable harm to state land or resources”—rather than from “significant *and* irreparable harm.”

Why this is not good enough.

Changing “and” to “or” doesn’t change the fact that “unlikely” is undefined. Legally, “unlikely” could be interpreted to mean less than a 50% chance of something happening. If there is a 49% chance of causing irreparable harm, DNR could potentially still use a general permit for that activity. DNR would call the shots and could potentially preapprove a potentially harmful activities, years in advance. The only opportunity to speak out is when the general permit is approved, when an individual has no idea when or where that activity might be approved.

If general permitting is needed for certain categories of activities, DNR should get legislative authority for a narrow list of activities, rather than undercutting public participation in important decision making.

### **DNR’s addition of a Public Notice Provision for General Permits**

#### DNR’s change to HB 77 General Permits

Even though DNR is proposing to give public notice when issuing a general permit, that doesn’t solve the problem.

Why this is not good enough.

General permits can be issued without a specific project before the agency—even unforeseeable future projects- - only allowing for public comment when they have no idea what is going to be proposed or where it is being proposed. There is no requirement for public notice and public participation when someone *later* submits an application that is covered under the general permit.

The only person who could challenge the issuance of the general permit someone who can prove to DNR’s satisfaction that the general permit creates or imposes an adverse and direct effect or detriment on the person or the interests of that person.

### **DNR’s Reliance on ADF&G to protect fish**

#### DNR’s change to HB 77

DNR will put the responsibility on protecting fish habitat on the Director of the Habitat Division of Alaska Department of Fish and Game.

Why this is not good enough.

However, since the repeal of the Coastal Zone Management Act, ADF&G fish habitat permitting is no longer subject to public notice or comment either. A project that is subject to a general permit and an ADF&G fish habitat permit could be fully approved by DNR and ADF&G with no public notice or process.

### **DNR's Amendments to the Instream Flow Provisions**

DNR's change to HB 77 on In-stream flow reservations

DNR's added individuals and Tribes to be able to seek in-stream flow reservations to protect fish and wildlife habitat and other public trust resources. But this is not enough.

Why this is not good enough.

Though an individual or Tribe may apply for a water right, the ADF&G would be awarded the right, not the individual or Tribe.

DNR will have approval to refuse to act on in-stream flow applications, and require unrealistic data needed at a level of data that doesn't exist in most of Alaska's remote anadromous fish streams. Applicants will also not have constitutional protection of due process under this bill.

Water reservations protect a fraction of the stream flow for fish, while making the rest of the water in the stream available for other uses. Water reservations are not a permanent property right on par with out of stream water rights. This DNR-proposed change isn't about "streamlining." It simply guts the law that already doesn't go far enough to protect fish and their habitat.

Another provision makes sure that no one but the applicant has the ability to challenge a subsequent DNR decision that awards that water to some other user. Despite the fact that the reservation is for the public benefit, no other member of the public, no matter how impacted they are by DNR's infringement of that water right, could challenge the state action. These are not streamlining changes. They are changes that eliminate DNR's future accountability to Alaskans.

### **DNR's Restrictions on Standing**

DNR's change to HB 77 on standing

DNR's testimony that its changes to the administrative appeal regulations simply requires people to more clearly define their interest is not true. It is a mechanism for DNR to deny concerned Alaskans the ability to participate in the administrative process.

Why this is not good enough.

DNR's changes to the administrative appeal statute would limit its accountability for decisions by removing citizen challenges. The current standard requires that a party be "aggrieved" – this is a commonly used legal word that requires people to show what interest they have that will be harmed. "Aggrieved" does not mean that any person can challenge any permit anywhere. The legislature should reject these attempts to write affected citizens out of the appeal process.

### **Temporary Water Use Permit authority expanded without public process**

DNR's change to HB 77 on water use

HB 77 expand DNR's ability to issue long-term, so-called "Temporary" Water Use Permits — all while still not providing an opportunity for public notice or comment.

Why this is not good enough.

The changes to the bill allow multiple temporary water use permits, and unlimited renewals, all with no public notice or comment. Mineral exploration projects or other industrial users that choose not to seek a permanent water right can use temporary water use permits for decades, without the public having any ability to weigh in.

**The Proposed Amendments to the Bill Do Not Go Far Enough.**

HB 77 would still:

- Changes the ban on the transfer of water out of a hydrological unit to allow transfers of “significant amount of water” out of the hydrological unit. What that phrase means is up to DNR, but currently it means 5,000 gallons a day from a single source. This is much broader than DNR’s claim that it is intended to ensure people can’t be cited for filling a water bottle and then hiking to the next hydrological unit. If that is a problem that needs a fix, the amount of water could be set by statute as 1 gallons.
- Allow DNR to choose whether to issue a written preliminary best interest finding and involve the public in important DNR decisions

*No amendments have been proposed to deal with these or the many other problems with the bill.*

*Thanks for your hard work.*

*Dorothy B. Larson*

Tribal Administrator  
Curyung Tribal Council  
Phone: 907-842-2384  
Fax: 907-842-4510

## Sen. Lyman Hoffman

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**From:** Steve Mikel <stevemikl@yahoo.com>  
**Sent:** Wednesday, March 12, 2014 7:02 PM  
**To:** Sen. Lyman Hoffman  
**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.

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Alaska State Senators,

I am extremely disappointed that today's public testimony for House Bill 77 was cut off by Senator Giessel at 5:00pm, leaving Alaskans statewide unable to add their voice to this process.

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.

This is supposed to be a democracy, or have you changed it to a plutocracy? Then we have taxation without representation, that is a bad deal, I believe that your salaries are paid by the citizens, so allow the citizens to speak, not just the foreign extraction companies.

I hope that you will hold additional public hearings to allow Alaskans to provide input on this complex and important bill.

Sincerely,

Steve Mikel  
28.8 Parks hwy  
Denali Park, AK 99755  
9074606643

## Sen. Lyman Hoffman

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**From:** Molly Mckinley <bnapier\_ak@hotmail.com>  
**Sent:** Wednesday, March 12, 2014 8:50 PM  
**To:** Sen. Lyman Hoffman  
**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.

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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.

Sincerely,

Molly Mckinley  
PO Box 491  
Denali National Park, AK 99755  
9076830503

## Sen. Lyman Hoffman

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**From:** Jill Boelsma <alaskajill@hotmail.com>  
**Sent:** Thursday, March 13, 2014 11:16 AM  
**To:** Sen. Lyman Hoffman  
**Subject:** Alaskans should not be cut out of the process! Please include this in public record and distribute to committee members.

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

I am outraged at the over-reach and poor performance of the DNR and the Parnell administration. It appears that DNR would prefer not to have public commenting about any of their doings - regardless of what they are. The Denali Borough Assembly have been given insufficient time to publicly comment on the Preliminary Decision Conveyance of Land AS 29.65.030 for the Municipal Land Entitlement Selections just given on March 4, 2014. The comment period will sunset before our next monthly borough assembly meeting and our request for an extension beyond the April 4 deadline was rejected. HB 77 appears to also want to subjugate the public comment process and further corrode the public trust in their elected officials. It is shameful.

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.

Sincerely,

Jill Boelsma  
Mile 214 Parks Highway  
Cantwell, AK 99729  
9077682266

## Sen. Lyman Hoffman

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**From:** Jessica Toubman <jesstoubman@hotmail.com>  
**Sent:** Thursday, March 13, 2014 9:49 AM  
**To:** Sen. Lyman Hoffman  
**Subject:** Oppose HB77

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Senator Hoffman,

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

HB77 and its amendments do not keep Alaskans involved in the public process in a meaningful way. Please oppose HB77 and allow Alaskans to continue to speak up about the ways our lands are managed and not place more burdens on citizens who are effected by these decisions. Please vote against HB77 and let us keep our voices in DNR decisions.

Thank you for your time.

Sincerely,

Jess Toubman  
Milepost 229 Parks Hwy, Jenna St #10  
Denali Park, AK 99755

## Sen. Lyman Hoffman

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**From:** Amanda Austin <amandab@mtaonline.net>  
**Sent:** Wednesday, March 12, 2014 11:48 AM  
**To:** Sen. Click Bishop; Sen. Lyman Hoffman; LIO Fairbanks  
**Subject:** HB 77 Concerns

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Senators,

I am a Denali area resident and am unable to comment during the public testimony session regarding HB 77. I have the following concerns:

1) The timeline from revealing the proposed changes until public testimony is/was far too short. Such a quick turnaround time is disrespectful to the public you serve, especially given that the amendments would adversely affect the public process.

2) The public process would be severely limited with the revisions. Our community was recently involved in the permitting process for a NEON site in our area. We sincerely appreciated the attention to our concerns. This is how the process should be! The public deserves to be informed about upcoming activities on public lands and should have the right to comment on those activities. Our concerns should be heard and addressed.

3) Our legal rights are limited under the new revisions. Public should be able to challenge DNR decisions to keep the DNR honest. Transparency is key to an ethical process.

Please support the public process and community involvement. It is essential to any well-meaning and high functioning government.

Thank you,  
Amanda Austin

RESOLUTION OPPOSING HOUSE BILL 77 AMENDING STATE PERMITTING STATUES AND ELIMINATING WATER RESERVATIONS

Whereas, the Native Village of Eek is a Federally recognized Tribal Government; and,

Whereas, the Native Village of Eek is inherently sovereign and has a responsibility to steward the land, water, and other natural resources to maintain a cultural subsistence way of life for future generations; and,

Whereas, the Native Village of Eek seeks to accurately represent the concerns of the Tribe; and,

Whereas, the Parnell administration is promoting legislation, H.B. 77, that amends Alaska's state permitting laws and rules changing how the state's commonly held resources will be managed; and,

Whereas, H.B. 77 expands the State Department of Natural Resources authority to issue general permits for almost any project on state lands without any public input; and,

Whereas, H.B. 77 makes it more difficult for Alaska Native peoples to access the judicial process and prevents Alaska Native peoples from having their day in court; and,

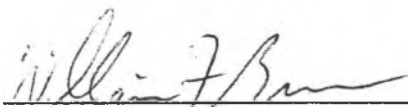
Whereas, H.B. 77 gives DNR the authority to issue an endless series of temporary water use permits for a single project, without opportunity for public review or vetting; and,

Whereas, H.B. 77 ignores Tribal sovereignty rights by eliminating the process for Alaska's Federally recognized Tribal Governments to acquire water reservations to protect productive salmon streams,

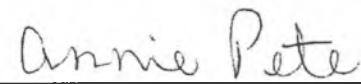
Therefore, be it resolved, the Native Village of Eek opposes H.B. 77 and urges the Alaska State Senate not to support the legislation as it fails to recognize tribal sovereignty, gives DNR new broad, unchecked powers at the expense of Alaska Native peoples' ability to participate in collaborative resource management, creates legal loopholes to remove guaranteed points of public oversight, and establishes significant barriers to access the judicial process.

**CERTIFICATION:**

I, the undersigned Secretary, do hereby certify that members of the Tribe passed the foregoing resolution at a duly called and noticed meeting on the 12th day of Feb 2014, and that a quorum was present.

  
\_\_\_\_\_  
Tribe President

2/12/14  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Tribe Secretary

2/12/14  
\_\_\_\_\_  
Date

## Sen. Lyman Hoffman

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**From:** Patricia Sanders <psdenali@gmail.com>  
**Sent:** Monday, January 13, 2014 8:30 AM  
**To:** Sen. Lyman Hoffman  
**Subject:** Oppose HB 77 and Protect Alaska's Salmon

Dear Senator Hoffman,

I'm concerned that too many opportunities for regular Alaskans to work with state officials to manage our state lands are being taken away by House Bill 77. Like most Alaskans, I want Alaska's natural resources managed in a responsible way. That happens when local residents are involved in the process. House Bill 77 goes too far in giving DNR power at the expense of Alaskans participating to make the best decisions that impact the lands we all use for hunting, fishing, and recreation.

I know that you'll have an important choice to make this session on House Bill 77. Please stand up for Alaskans and oppose the bill.

Patricia Sanders  
PO Box222  
Denalipark, AK 99755-0222

## Sen. Lyman Hoffman

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**From:** Mark Paulson <markdpaulson@hotmail.com>  
**Sent:** Monday, January 13, 2014 10:17 AM  
**To:** Sen. Lyman Hoffman  
**Subject:** Oppose HB 77 and Protect Alaska's Salmon

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear Senator Hoffman,

First and foremost, this issue should not even be on the ballot. I am a very concerned Alaskan citizen. The fact that a large company can lobby AK congress to get this on a ballot is appalling! Let the voices of the people be heard! Stand with and for Alaskans, not against them & Oppose HB77! Remember your vote is not only your voice, but the voice of many citizens relying on you. And what you vote will be remembered once the next election cycle comes around, and the next, and the next.

I'm concerned that too many opportunities for regular Alaskans to work with state officials to manage our state lands are being taken away by House Bill 77. Like most Alaskans, I want Alaska's natural resources managed in a responsible way. That happens when local residents are involved in the process. House Bill 77 goes too far in giving DNR power at the expense of Alaskans participating to make the best decisions that impact the lands we all use for hunting, fishing, and recreation.

I know that you'll have an important choice to make this session on House Bill 77. Please stand up for Alaskans and oppose the bill.

Mark Paulson  
PO Box 581  
Healy, AK 99743-0581  
406-579-3234

## Sen. Lyman Hoffman

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**From:** Sarah Hayes <sarahhayes730@gmail.com>  
**Sent:** Sunday, January 12, 2014 7:20 PM  
**To:** Sen. Lyman Hoffman  
**Subject:** Oppose HB 77 and Protect Alaska's Salmon

Dear Senator Hoffman,

I'm concerned that too many opportunities for regular Alaskans to work with state officials to manage our state lands are being taken away by House Bill 77. Like most Alaskans, I want Alaska's natural resources managed in a responsible way. That happens when local residents are involved in the process. House Bill 77 goes too far in giving DNR power at the expense of Alaskans participating to make the best decisions that impact the lands we all use for hunting, fishing, and recreation.

I know that you'll have an important choice to make this session on House Bill 77. Please stand up for Alaskans and oppose the bill.

Sarah Hayes  
PO Box 375  
Denali Park, AK 99755-0375

## Sen. Lyman Hoffman

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**From:** Alonzo Mandanna <manmandanna@gmail.com>  
**Sent:** Sunday, January 12, 2014 11:22 AM  
**To:** Sen. Lyman Hoffman  
**Subject:** Oppose HB 77 and Protect Alaska's Salmon

Dear Senator Hoffman,

I'm concerned that too many opportunities for regular Alaskans to work with state officials to manage our state lands are being taken away by House Bill 77. Like most Alaskans, I want Alaska's natural resources managed in a responsible way. That happens when local residents are involved in the process. House Bill 77 goes too far in giving DNR power at the expense of Alaskans participating to make the best decisions that impact the lands we all use for hunting, fishing, and recreation.

I know that you'll have an important choice to make this session on House Bill 77. Please stand up for Alaskans and oppose the bill.

Alonzo Mandanna  
Mile Post 237  
P O Box 611  
Denali Park, AK 99755-0611  
208-596-0105

## Sen. Lyman Hoffman

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**From:** Rick Gustin <rickgustin@yahoo.com>  
**Sent:** Sunday, January 12, 2014 3:46 AM  
**To:** Sen. Lyman Hoffman  
**Subject:** Hello

Hello

I wanted to see if I could change your mind on how you vote regarding HB77. I understand the previously stated reasons for supporting this bill. I get that industry and perhaps some of the people in state government see our current permitting system as, complex, sometimes confused, perhaps at times overbearing and above all slow. I realize that many state employees and business leaders would like to see quicker more wide spread resource development throughout the state. This is seen as providing more jobs and more revenue for the state which is seeing declines in tax revenue and jobs in the oil industry. I totally get all of that. I also feel that there are many citizens of this state, that do not understand the permitting process, may not care about it, but do care about the natural resources that they use each year, (may take them for granted but will sure bitch like hell if they are gone)

But there are some assumptions being made by you politicians that are supporting this HB77 bill which I have concerns with. One of them is that we can trust big corporations ( mining conglomerates, oil companies, timber industry) to do the right, the responsible ,the long term environmentally sound resource development thing. The mining industry, in particular has a long dark record in the U.S.. Large open pit , strip and mountain top removal types of mineral extraction have a long and somewhat jaded history in the United States as well as other countries. Unfortunately when you are talking about large low grade ore bodies, this is the type of mining you will have. There are numerous superfund sites that “we the people” have been left to pay for out of our taxes. This is what concerns me about the removal of public comment, notification, and open public process that seems to be happening with HB77. The stream lining of the permitting process is being put into mainly one mans’ hands. (ADNR Commissioner) He is an unelected public servant appointed by the governor, and he more than anyone else will be deciding who gets these water and resource development rights and for how long. And this HB77 streamlining process will make it easy for this commissioner of Dept. of Natural Resources to give these water and resource development rights to the faceless large corporate mining interests. There will be no guarantee of alaskan jobs from these decisions. And after studying the reclamation laws that were written (some by the federal government themselves) regarding mountain top removal in the coal mining areas of Appalachia, there is no good basis to think that meeting a federal label of restoration of the land really means anything. After blasting the top of a mountain away to get at the coal under it for example, and dumping all the fine soil horizon layers in the bottom of a valley, and putting all the large rock and boulder material on top of it (basically turning a natural productive soil horizon up side down) the mining companies could hydro seed the barren top layers, grow grass and meet the reclamation standard. In Alaska we are talking pristine salmon spawning habitat that could potentially be strip mined, say for coal. And after releasing the heavy metals often associated with coal seams, (mercury for instance) into the stream waters, you have some serious pollution problems regarding the growing of any salmon there later on. That is not even addressing the fact that trying to restore clean salmon spawning and rearing habitat in a strip mined stream may be economically unfeasible. If the restoration regulations are not made stiff enough, and not enforced properly, (and you can bet large corporate interests will lobby to keep those costs down as much as possible) then the restoration goal that is met, may not be adequate to replace what has been lost. And once you have opened this door to mining salmon streams, you will not be able to deny other mining claims on other salmon streams. Do you see my fears?

I understand that our permitting system(for resource development) is complex, sometimes messy, and has to take in a lot of different peoples concerns for many different points of view. Unfortunately this is the pitfall of an open democracy where the citizens have a right to know what is being done with the citizen owned state resources not just a few large resource extracting corporations that want to make a large profit using our resources. These resources do not belong to the current governor of this state, nor the Commissioner of Dept. of

Natural Resources, nor you the “elected state senators and representatives” of the people of the state of Alaska. You are our “public servants” we are not yours. You have been elected by the citizens of the state to represent them, not the faceless corporations that put pressure on you to pass legislation which might be favorable for them. Please think about this in the coming weeks and into the new year. You will soon be voting on this important, some say critical HB77 and I hope that some of you will reconsider your previous support and vote for future Alaskans, some not born yet, who hopefully will continue to be able to experience the wonder of a powerful clean environment that can produce incredible renewable resources that are fast becoming unheard of on the rest of the planet.

Sincerely  
Rick Gustin

## Sen. Lyman Hoffman

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**From:** Brian Napier <bnapier\_ak@hotmail.com>  
**Sent:** Thursday, January 09, 2014 12:19 PM  
**To:** Sen. Lyman Hoffman  
**Subject:** Oppose HB 77 and Protect Alaska's Salmon

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Senator Hoffman,

I'm concerned that too many opportunities for regular Alaskans to work with state officials to manage our state lands are being taken away by House Bill 77. Like most Alaskans, I want Alaska's natural resources managed in a responsible way. That happens when local residents are involved in the process. House Bill 77 goes too far in giving DNR power at the expense of Alaskans participating to make the best decisions that impact the lands we all use for hunting, fishing, and recreation.

I know that you'll have an important choice to make this session on House Bill 77. Please stand up for Alaskans and oppose the bill.

Brian Napier  
PO Box 491  
Denali Park, AK 99755-0491  
907-683-0503

## Sen. Lyman Hoffman

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**From:** Bob McCard <bmccard@alaska.net>  
**Sent:** Wednesday, January 01, 2014 8:42 AM  
**To:** Sen. Lyman Hoffman  
**Subject:** HB 77

Dear Senator Hoffman:

After reading HB 77 and other material regarding HB 77, I believe that this bill is a severe infringement on our democracy, the democratic process, and the due process of law for the people of Alaska.

Members of the armed forces are serving in Afghanistan today, and thousands of men and women have served our country in past wars and given their lives fighting for our freedom and democratic way of life. HB 77 is a contradiction to their sacrifice. It deprives individual citizens of their right to question the actions of the government by limiting public meetings and public input, and by placing decision-making into the hands of one person—the Commissioner of Natural Resources

Yes, there should be resource development, but not without the input and safeguards that the people of Alaska can bring to the table for discussion. Many times, individuals at the local level are more attuned to their environments and the needs of their surroundings than administrators sitting in Anchorage or Juneau.

I strongly encourage you to look very seriously at HB 77 and either veto HB 77 or make drastic amendments to HB 77 whereby the people of Alaska have more voice in the decision-making process; safeguards are put in place to protect the environment and the fisheries; the power of decision-making is NOT in the hands of just ONE person; and that the laws currently on the books stay on the books and not be overridden by HB 77.

Thank you for taking the time to read my email.

Sincerely,

Bob McCard

## Sen. Lyman Hoffman

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**From:** David A. Nicholai <dnicholai@avcp.org>  
**Sent:** Thursday, December 12, 2013 10:20 AM  
**To:** Sen. Lyman Hoffman; Sen. Donny Olson; Rep. Bryce Edgmon; Rep. Bob Herron  
**Subject:** H.B. 77

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Good Morning and Happy Holidays:

I am writing to you in regards to H.B. 77 which is being considered, I am against this Bill because our region has been hit with low salmon runs and faces restrictions every year. With this Bill, DNR can choose where I can fish and where I should go hunting too. The thought of that has scared me for my region, especially amidst the controversy over salmon at this time.

Will we have to travel farther to fish and hunt? Cost of fuel is high within our region, jobs and income are scarce. You probably already know this and would appreciate it if it can be echoed within legislation.

Once this Bill is passed, we will have no say on what DNR decides, wasn't there a Government-to-Government relationship formed so that all people and Tribes have say on what effects them? Let's keep this agreement up and vote against this measure and keep the Government-to-Government relation as strong as it is now.

I can list alot of reasons why you should vote against this measure, but you probably already know this. We have enough restrictions with hunting and fishing now. We don't need another department criminalizing our people because they will fish and hunt where they can to feed their family, or where their income will permit them to go.

I urge you to vote against this measure, unless the language is changed where we can work together and still have say on any new regulations. Government-to-Government relationship is very important and decisions based on this is good for the whole State of Alaska. Giving DNR more power, especially on water ways that we have been using since time imorral, will just distance the relationship we have been building.

With this I urge you to vote against this measure.

Thank you and Happy Holidays.

David A. Nicholai  
Transportation Planner / Inventory Specialist  
AVCP Transportation Department  
PO Box 219  
Bethel, AK 99559  
Ph: (907) 543-7452 / Fx: (907) 543-7455  
email: [dnicholai@avcp.org](mailto:dnicholai@avcp.org)

CONFIDENTIAL NOTICE: This e-mail (including any attachments) may contain information that is private, confidential, or protected by attorney-client or other privilege. If you received this e-mail in error, please delete it from your system without copying it and notify sender by reply e-mail, so that our records can be corrected.

Richard Gustafson,

I am opposed to HB 77.

Please reinstate the Coastal Zone  
Management program.

Thank you

Richard Gustafson

P.O. Box 4144

Homer, Alaska 99603

Senator Cathy Giessel  
Chairman, Senate Resources Committee

3/11/04

HB 77 Deb. Sen. Giessel,

We have been hearing a lot lately about House Bill 77, being pushed by the Parnell administration as an attempt to supposedly streamline the permitting process. There is an apparently unrelated project that has been included in this bill. Included at the behest of Senator Lesil McGuire, it is a project to develop a hydroelectric facility, which would include a 128-foot high dam, on the Allen River at remote Chikuminuk Lake, within the Wood-Tikchik State Park.

Wood-Tikchik State Park, set aside by Governor Jay Hammond in 1978, is the largest state park in the United States, and is considered a treasure even by Alaskan Standards. It includes two river systems and ten large clear-water lakes that contribute about 20 percent of Bristol Bay's commercial sockeye salmon harvest.

There are a number of issues with creating a development of this type within a wilderness area that is far from infrastructure. First, Nuvista Light and Power Cooperative, a part of the Calista Corporation, which has been awarded 10 million dollars of state funds to study the feasibility of this project, does not even own any electrical generating equipment. Along with the massive dam, they are also proposing a 118-mile long transmission line from the dam site to Bethel, which would cross Yukon Delta National Wildlife Refuge, where a utility corridor permit would be required. A final report by MWH estimated the total cost of this project at \$507,000,000, with produced power estimated at between \$0.58 to \$0.70 per kilowatt hour (kwh). That cost does not include consideration of extending power lines from Bethel to outlying villages or moving heavy equipment and construction materials to this remote site.

The Alaska Power Authority currently administers the Power Cost Equilization program that subsidizes electricity costs to rural Alaskans. Because of this Bethel residents paid only \$0.16.3 per kwh in 2011. This suggests Bethel residents would only pay about one fourth of this project's power costs. Would the remaining cost be paid by the Alaska Energy Authority? If so Nuvista would be generating a subsidized revenue stream to the Calista Corporation, and from resources outside of their boundary. It is also reported that demand for power at Bethel is highest in the winter and lowest during the summer. The flow of the Allen River is just the opposite, making it necessary to store water in the lake throughout the summer.

A March 2002 management plan put Chikuminuk Lake in a state wilderness area, and currently hydro projects are off limits. Efforts to amend park legislation, however, are currently under way, introduced by Senator McGuire in SB 32 and Representative Millett in HB 137.

The Allen River appears to contribute the greatest flow to the Tikchik Lake System. One of the biological realities of the Bristol Bay region is the substantial predation by Arctic Char and other predators on sockeye salmon smolts. It is a feeding frenzy I have witnessed at the Tikchik Narrows, one you have to experience to fully appreciate. Lower summer flows produced by this dam may likely result in increased predation on these sockeye salmon stocks by increasing densities at constriction point in the watershed.

If the senate version of HB 77 passes, not only will it give the Commissioner of DNR vast new authority to issue permits, and cut comment periods for ordinary Alaskans. It

will likely pave the way, along with SB 32 and HB 137, to eliminate the wilderness status of a vast section of Wood-Tikchik State Park, and continue the "death by a thousand cuts" that the Parnell Administration is inflicting upon our fisheries.

Jack Dean

Sterling, AK

907 262 9769

Name: Mike Syevly

Committee: Resources

Representing: Self

Date of Hearing: 3/12/2014

Bill No / Subject: HB77 (RES)

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 <sup>Public</sup> ~~available~~ 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!

Paul Byg

## 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 huge State should be making <sup>decisions about</sup> 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.

I thank you,

Clyde T. Boyer Jr.

HB 77: Weissler Public Comments  
3/14/14

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

In addition to the legal issues regarding land exchanges listed below, I have identified numerous other issues that are detailed in my written comments submitted previously to the committee.<sup>1</sup>

I note again that HB 77 is part of the larger problem facing our state – that the state’s resource permitting system no longer serves the public interest. Even if the legal issues I’ve identified are fixed, HB 77 will still move the state in the wrong direction.

### **LAND EXCHANGES – SECTIONS 22 to 27**

The Department of Natural Resources describes the changes to AS 38.50 as giving the Division of Mining, Land and Water more flexibility in land exchanges. The department modeled the changes after AS 29.65.090, that provides for land exchanges between DNR and boroughs and municipalities.

- AS 28.65.090 is not a good model. It addresses land exchanges between the state and local governments that are a trade of public lands for other public lands. This is not equivalent to the land exchange statutes in AS 38.50 that address land exchanges between the state and private entities. Where public lands are put into private hands, more comprehensive statutes are warranted.
- AS 38.50.010 changes the value the state receives in an exchange from “appraised fair market value” to “approximately equal value.”
  - “Approximately equal value” is found in AS 29.65.090. While an approximate standard may be appropriate in state to municipal or borough exchanges, dealing with private interests requires a clearer standard to protect the state’s interests.
  - How is “approximately equal value” determined? Who makes the determination? Who arbitrates if there is disagreement between the parties to the exchange?

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<sup>1</sup> Previous comments submitted 3/12/14, posted online with HB 77 Opposition Documents, Group #2.  
Changing Tides Consulting  
[lisa@changingtides.com](mailto:lisa@changingtides.com)  
changingtides.com

- Repeals statutes that address procedures and public notice requirements for land exchanges.
  - DNR will rely on procedures and notice requirements in other existing statutes – AS 38.05.035(e) and AS 38.05.945.
  - The referenced statutes are not written with land exchanges in mind and could be insufficient in terms of protecting the state’s interest, or create confusion regarding how they are to be applied.
- AS 38.50.010 adds that mineral rights may be exchanged.
  - Current AS 38.50.010 authorizes the director to dispose of state land. The proposed language authorizes the commissioner to exchange either or both the land estate or mineral estate.
  - Current AS 38.50.050 specifies that mineral rights in state land may be exchanged “to the extent that the conveyance is authorized by the state constitution and applicable federal law.”
    - Why is “mineral estate” added to AS 38.50.010 when it is already appropriately covered under AS 38.50.050?
    - Since the federal Statehood Act prohibits the state from parting with the title to its minerals, when would the state ever be able to convey its mineral rights?

## March 14, 2014 comments to Senate Resources Committee

re: version HB77 Version D released today.

By Dan Dunaway  
PO Box 1490  
Dillingham, Alaska 99576 907-842-2636

I retired from ADFG as the Bristol Bay Area Sport Fish Biologist. I had 22 years full time with ADFG from Bering Sea, Aleutians and Alaska Peninsula Shellfish (commercial) to Bristol Bay and Lower Kuskokwim sport fisheries, and seasonal work with ADFG in the commercial salmon fisheries of Bristol Bay and northern Cook Inlet; 1973 to 2002.

Thank you for holding hearings and thanks for the opportunity to testify on Wednesday March 12.

Below I offer new comments to the revised versions of HB 77 presented today and last Monday at the Senate Resources Committee hearings.

Thank you to the whole committee for providing additional public comment opportunity and for going the distance this evening.

Second, I am heartened that you are developing changes to the bill in response to concerns expressed.

**1) Removal of Chikuminuk Lake language.** Excellent move and I want to thank all the legislators for being responsive to this issue. I hope this is the last we see of any hydroelectric discussion for that site. The facts of that location speak for themselves. Its just too expensive to waste any more state money on it. I hope this shows up in significant savings of State funds as well.

Please make every effort to assure that this language is permanently purged from this bill whatever the fate of the rest of the bill. Further, I expect this language will not appear in any other bill for this session.

**2) Protection of King Salmon Habitat \*Sec 46.(a)(b) & (c)**

Adding the 12 major king salmon rivers is interesting and helpful but needs to be much more specific whether just main stem rivers will be reviewed. Reading more of today's language I would interpret it to mean most of the watersheds for each river system are opened to this plan. This is a vast area of the state and developing a work plan will be a large undertaking. This will require significant participation by the Department of Fish and Game, probably USFWS, USFS, and probably other federal agencies. In fact I wonder if it would have been better to assign much of this work to ADFG vs DNR.

\*\*\* Instead of directing DNR to *consult* with ADFG I think this bill should *direct* DNR AND ADFG to collaboratively develop a work plan together. I have trouble believing 6 months is a reasonable time for this plan.

I hope you are prepared to vigorously support significant additional funding to both departments to make this exercise happen; especially by January of 2015. In the past DNR and ADFG really struggled to work together on planning efforts. DNR and ADFG did not have trained staff who could communicate well between the departments, especially given their somewhat different missions.

**\*Sec 46.(d)** "Nothing in this section prevents....."

I feel this language leaves the door open too wide for other uses. While its not likely to be a substantial issue for the main stem rivers mentioned, it could be serious in smaller tributaries where king salmon often spawn. This section could effectively nullify the protections supposedly offered in parts (a),(b)(c). Please remove this part or reword to be more clear; I suggest getting guidance from ADFG as to what might work by tributary size or approximate flow rate; get clear objective criteria. I don't know how to find him but Christopher C. Estes retired from Fish and Game might be a particularly well qualified person to offer advice.

**Other Comments:**

The changes adopted Monday, March 10 were in the right direction and I support them as far as they go. Especially removing the "not withstanding" language is excellent. Allowing individuals and Native Tribes is a help but should go farther.

Sec 4 AS38.05.035(i) ...."Substantially and adversely affected" - what does this mean? This would seem to foster arguments and litigation. It would be helpful to provide some objective criteria to define this term.

Sec 14. AS 38.05.082(b): I object to reducing the appeal time from 30 to 20 days. As I spoke Wednesday often 30 days is insufficient or barely sufficient for people to hear about and respond to concerns.

Sec 39.As 46.15.145(c)(4): I think these clearer criteria (A) to (G) are helpful and important to retain in this bill if it survives. This was a good improvement to the bill.

Sec 42.AS 46,15,155(a)..... added line "The commissioner may issue one or more new temporary water use authorizations for the same project." I object to unlimited "new authorizations". I understand there should be contingencies for project delays etc but there should be a limit to the number of new permits without a new application.

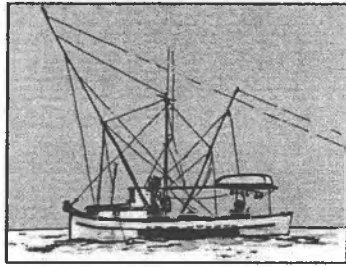
**Summary:**

I have some sympathy for the DNR staff and businesses that need small somewhat "routine" water removal permits. It would be helpful to simplify the system for all. I think the testimony of Andre today (I missed his last name and location) said it well: What started out to be a simple solution to a modest administrative problem was allowed to snowball into an unacceptable monster bill. I find it disheartening to see this greedy power grab by the current administration. I feel sorry for the staff of DNR who could benefit from a straight forward solution to the original problem.

It would be best to terminate this deeply unpopular bill and start over. More clearly state the real problem, more properly and thoroughly advertise the problem and be open to some realistic fix in a small, properly contained bill.

I think from the out cry its clear that a large portion of the public has little confidence in the administration at DNR, and now the legislature by this bill. I think some of the heavy handed moves like changing the DNR mission statement and the history of the Bristol Bay Area Plan (outlined by Gary Kline in Dillingham) are examples that have severely hurt DNR. I encourage you to write a new and better, more contained bill and restore public confidence in the Legislature, DNR , and a commitment to open public process.

Thank you.



## Alaska Trollers Association

130 Seward #205  
Juneau, AK 99801  
(907)586-9400  
ata@gci.net

March 17, 2014

Senator Cathy Giessel, Chair  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

**RE: HB 77**

Dear Senator Giessel and Committee Members:

On behalf of the Alaska Trollers Association (ATA) I have reviewed HB77 version D and offer the following comments.

ATA represents the Southeast troll fleet. Our members are professional hook and line salmon fishermen who fish in both state and federal waters off the coast of Alaska. The troll fleet is one of the largest salmon fleets in the state and 85% of the permit holders reside in Alaska. Nearly one of every 35 people in our region works on the back deck of a trolling vessel and there is a significant support sector throughout the region that relies on them. A large number of troll permit holders and deckhands live in small, rural communities. Many of our members also participate in other commercial, sport, personal use, and subsistence fisheries.

Chinook salmon is one of our fleet's primary target species. As such, we strongly support Section 46 of this bill, which mandates a work plan relative to the reservation of water for 12 river systems important to Chinook and other salmon species. Given the importance of salmon to the residents of this state, it is our opinion that this component of the bill warrants stand-alone legislation, regardless the ultimate fate of HB 77. Each of the rivers identified supports an immense abundance of fish and wildlife resources worthy of special legislative protections. Our association has long called for legislated instream flow reservations for precisely this reason. However, it is also important to note that nearly all of the freshwater in our state contributes to the sustainability of salmon, so should also continue to enjoy ample protection under the law.

Department of Natural Resources (DNR) has stated its intent to improve agency effectiveness by employing a general permit authority under HB77. The agency asserts that the ability to utilize general permits will help them make timelier permit decisions. As participants in a heavily regulated industry, ATA members appreciate efficient and transparent permit processes, but found the first version of HB 77 technically problematic and confusing. And as the volume and

intensity of testimony might imply, the timeline to review the bill has been far too aggressive for a public that cares so deeply about protecting water quality and fish and wildlife resources.

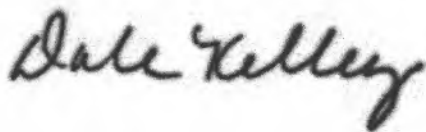
While we recognize and appreciate that DNR has gone a long way to clarify and otherwise improve HB77, there are still a few important aspects in need of your attention. Here are two.

Under Section 1 a general permit may be issued for activities provided for under AS.38.05 or AS 38.95, *if the department finds that the activity is unlikely to result in significant or irreparable harm*. DNR staff says that only activities which are temporary in nature, or have de minimis impact, will be authorized under a general permit. If that is the case, it should be plainly stated in the bill that general permits will be limited to those activities expected to have 'temporary and de minimis' impacts on fish and wildlife.

The requirement for a person to disclose how they might be *substantially and adversely affected* by a DNR decision may not be unreasonable, but we need to know what that definition means to the agency and how it will be used in the permitting process. DNR informed us that individuals would not be required to estimate the cost of any potential impacts, nor would they be asked to do studies in an attempt to 'prove' their concerns might be valid. However, the bill does not make clear to concerned citizens what, if anything, DNR will require from them to meet the *substantially and adversely affected* standard. This gives many people the impression that their concerns will not be taken seriously, because there may be a burden of proof, or the bar will otherwise be set too high.

Thank you for considering ATA's point of view. Please don't hesitate to contact me if I can provide additional information on this or other issues of concern to the commercial fishing industry.

Best regards,

A handwritten signature in cursive script that reads "Dale Kelley". The ink is dark and the signature is fluid and legible.

Dale Kelley  
Executive Director

KENAI LEGISLATIVE INFORMATION OFFICE

Email: Kenai\_LIO@akleg.gov

Phone: 907-283-2030 / Fax: 907-283-3075

WRITTEN TESTIMONY

NAME:

Benjamin Jackinsky

REPRESENTING:

BILL # or SUBJECT:

HB 77

COMMITTEE:

Senate Resources

DATE:

3-14-14

Happy Pi Day (3 (point) 14)

I would like to voice my opposition to HB77. I feel humbled to be in the majority with so many citizens of Alaska — from the cities of Anchorage, Fairbanks, and Juneau to mid-sized towns like Sitka and Dillingham to small villages whose names it would take me a while to learn how to pronounce or spell correctly.

I am a commercial fisherman and small business owner. I have had very little time to read the different revisions of HB77 — but — the committee seems intent on rushing through the process and have a vote on the bill. Therefore, I can only hope that the committee will listen to the arguments presented and try to understand my fellow Alaskans' opposition.

Speaking of Pi — the Greeks presented another wonderful concept called Democracy. HB 77 seems to have run amok of Democracy by attempting to place too much power in the hands of one individual — the commissioner of DNR.

I am sorry I don't have any "new" arguments to make against HB77. So... I'll say Happy Pi Day and may our Democracy continue to function and the people ~~listened to~~ be heard.

of 1

I made Apple Pie — for Mom

1/27

madam chair, members of the committee,

I come before you to register my disgust.

-----

Disgust that citizens have to take the time to remind elected representatives that citizens have a right to participate in their own governance. If they took their oaths seriously, perhaps they wouldn't need reminding.

-----

Disgust with the intent of HB77, and with elected representatives who pay little or no heed to the uniquely American ideal of participatory democracy.

A trend promulgated by some, who not incidentally, most often purport to be conservatives, has been increasingly to propose various methods to limit and/or deny individual citizens and groups of

citizens their right to participate in the decisions of their own governance.

That trend manifests itself in many ways. From actions meant to deny citizens standing before the courts, to actions that do away with whole programs which provided a vehicle for local input in government decision making, (the elimination of the Coastal Zone management program springs immediately to mind). From actions which deny due process, to actions which remove the reserved rights of citizens and instead seek to grant those rights to private entities. These actions even extend to attempts to limit a citizens right to vote.

HB77 is more of the same, this proposed legislation is one of another in the attempts to further limit and deny citizens their right to participate in their own governance.

I'm also disgusted with the attempt to create a false narrative and mischaracterize those who may object to the intent of HB77. My own senator is on record declaring that anyone who would dare object to this proposed legislation would have to be labeled as an 'extremist'.

All too recently, there was an attempt by Vladimir Putin to marginalize Ukrainians. Ukrainians from all walks of life sought only to seek participatory democratic justice in their own country. Putin's tactic in a disingenuous attempt to distort public perceptions? He went to the press in order to falsely mischaracterize those men, women, and young people as 'extremists'.

If I can stand against the attempts to deny citizens the right to participate in their own governance, if I can stand in support of that

4/4

uniquely American ideal of participatory democracy, I will proudly wear my senator's label as an extremist.

I guess all my fellow citizens who we have heard and who will hear objecting to HB77 are all of us extremists, ...I'll gladly stand with them.

You senators can stand with us too by killing this bill.

Paul Zimmerman

Box 414

Kasilof AK



## ***Kenai Peninsula Fishermen's Association***

*Ensuring the Sustainability of Our Fishery Resources*

43961 Kalifornsky Beach Road • Suite F • Soldotna, Alaska 99669-8276  
(907) 262-2492 • Fax: (907) 262-2898 • E Mail: [kpfa@alaska.net](mailto:kpfa@alaska.net)

March 14, 2014

Senate Resources Committee  
Senator Cathy Giessel, Chair  
State Capitol Building, Room 427  
Juneau, AK 99811

RE: 2<sup>nd</sup> SCS CSHB 77/Version H

The Kenai Peninsula Fishermen's Association (KPFA) represents a nonprofit 501(c)6 commercial fishing trade organization. We would like to express *our* confidence in *our* Kenai Peninsula legislative delegation, especially Senator's Giessel and Micciche in their stellar efforts to develop solutions for the revisions within the general permitting regulation CSHB 77 Version H (hb77).

Clearly the commercial fishing industry in Cook Inlet is perpetuated by maintaining sufficient amounts of clean water for resident and anadromous salmon populations. The 736 registered setnet fishermen are families, small business people and preservationists.

HB 77 must balance water resource uses, we understand that any law is only effective if those that are deciphering the intent language do so with reasonable interpretation. Considering the political nature of resource management in Alaska, we question if this current version clarifies the intent to protect and promote the resources of the State. However, we do support many of the changes made in this current version.

In section 14, although we continue with the original language that has the director, *throw the dice*, and then questions appeals based on substantially and adversely affected competing commercial setnet fishermen, we believe that this may be an inequitable contradiction.

Section 40 (c) (4) (A-E), especially (B) (C) offer some definition to establish guidelines for consideration by the DNR Commissioner.

Section 42 (i) begs the question; Will an agency such as the Alaska Department of Fish and Game (ADF&G) who holds a water reservation for a "person" substantiate and defend the rights of the applicant in the case of an appeal? Will the Department then be held accountable for the accuracy of the "hydrologic data or hydrologic data collected by or for the applicant to support the application"?

It is not our intent to hinder the adoption of this bill; rather we feel that the efforts to streamline the regulatory process are important for the protection and orderly development of our State's resources. In the future KPFA wishes to continue the long term collaboration of fine tuning this regulation. Please feel free to alerts us by the public notification process for future changes that will affect our South Central fishing community.

Respectfully,

Robert V. Williams  
President  
Kenai Peninsula Fishermen's Association



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resources Committee  
 Committee on HB 77 Committee Name Senate Resources Committee  
 Dated 3/14/14  
 Bill / Subject

I oppose HB 77 in its current amended form. This bill does no good service to the Alaskan people, silencing their voice in the sustainable management of our resources. There is no clear or measurable definition of "substantially and adversely affected" allowing for dangerous and open interpretation of this term used throughout. This provides excessive latitude to DNR without oversight on the approval and provision of permits. May the legislators know that

SIGNED: Carrie Stevens  
 Testifier

myself  
 Representing

227 Woodridge St #9, Fairbanks AK 99709  
 Address / Phone Number

They should be protecting the  
RIGHTS of Alaskan citizens and our  
ability to participate in the wise  
and sustainable management and  
development of resources critical to  
our families. Please let HB 77 die  
on the floor



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Resources Committee  
 Committee on HB 77 Committee Name  
Bill / Subject Dated 3/12/14

This bill silences and limits the input of Alaskans in the permitting process. The reason given for this bill is the 2,600 backlog of pending applications.

By streamlining the permitting process you are short cutting & short circuiting the voice of Alaskans & limiting public participation. Maybe the DNR needs to hire more staff. This substantially and adversely affects All Alaskans.

SIGNED: Sharon C. Alden  
 Testifier

Self  
 Representing

159 Kniffen Rd Fbks, AK 99712  
 Address / Phone Number

Please send a copy to Sen. Biessel  
 and Sen. Bishop

To Senator Bishop & Senator Giesel



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Resources Committee  
 Committee on HB 77 Committee Name  
 Dated 3.12.14  
Bill / Subject

I was appalled by the late revisions which we received Monday 3.10. We have had no time to consider the revisions. Now we have only 1 1/2 hours to offer our testimony. It seems that democracy is being steamrolled by expediency - for both the Committee and the extractive industries which stand to gain by this bill. Three problems:

- The revisions transfer vast powers to DNR to issue general permits for "any activity" without public notice or hearing. DNR could override its own laws. This violates our constitution. Resources are owned by US.
- unclear terms need to be defined: "significant and irreparable harm" must be clarified to make it EASIER for Alaskan citizens to challenge permitting. Also "substantially and adversely affected" needs clarification. Otherwise, here comes the lawsuit, here comes endless litigation.
- Water Reservations - There have been reservations awaiting action for a long time. They must be grandfathered in

SIGNED: Jeffrey A. Merkel  
 Testifier grandfathered in

self  
 Representing

246 Crest Dr. Fairbanks 99712  
 Address / Phone Number



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resources Committee  
 Committee on HB 77 Committee Name Dated 3-14-14  
Bill / Subject

Hi, my name is Polly Lumi I'm from Point Hope AK  
 now living in Fairbanks AK. I am an ASRC Shareholder  
 and is against House bill 77. I love my freedom of speech  
 and I love to speak my mind. Do not take away  
 my right to speak.

SIGNED:

Polly Lumi  
 Testifier

Self  
 Representing

(907) 450-9455  
 Address / Phone Number



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resource  
 Committee on HB 77 Committee Name Dated 3/14/14  
Bill / Subject

My name is Joseph Aleoganna, I'm 13,  
 and I'm from Barrow, Alaska, Free speech is in the  
 Constitution, and what your doing is wrong.

SIGNED: X Joseph Aleoganna  
 Testifier Self  
 Representing 328-9937  
 Address / Phone Number



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Resources Committee

Committee on HB 977 Dated \_\_\_\_\_

Committee Name

My name is <sup>Bill / Subject</sup> Woyla T. Leavitt, I am an ASRC Shareholder  
It's simple folks, eliminate the permitting  
process, eliminate the voice of the  
people of the land.

The people are the land and the  
land defines the people.

Take away the voice and you take  
away the definition of the people.

Subsistence rights, may they ~~be~~ <sup>Perpetuate</sup>  
forever.

SIGNED:

Woyla T. Leavitt  
Testifier

Barrow / Fairbanks  
Representing

3304 Gold Hill Rd. Fobks, AK  
Address / Phone Number

414-4055 90709



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Resources committee

Committee on HB 77 Dated 3-14-14

Thank You Madame Chair.

My Name is Mabel Brown, I'm From Point Hope, Alaska.

I'm a Tikigag Corporation and an ASRC shareholder  
~~I would like to say that this bill is a very bad idea~~  
~~I do not want to loose my voice for our waters.~~

We have a river called the Kookpuk river, that river  
Feeds our village, and I would like my grandkids and their  
grandkids to continue to feed from that river. so again  
pls close this bill.

SIGNED:

Mabel J. Brown

Testifier

Self

Representing

Box 102 Point Hope, AK, 99766 907348 0293

Address / Phone Number



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the SENATE RESOURCES COMMITTEE  
 Committee on HB 77 Committee Name  
Bill / Subject Dated 3-14-14

Thank you MADAM CHAIR & ~~SO~~ RESOURCES COMMITTEE

I'm PETER FRANKSON FROM POINT HOPE, ALASKA  
 I'm A TIAGRA CORPORATION & ASRC SHARE HOLDER  
 I OPPOSE HB-77 BECAUSE I DO NOT WANT TO  
 LOOSE MY VOICE. I THANK YOU FOR YOUR  
 TIME. ~~THANK~~

SIGNED:

Peter Frankson

Testifier

Self

Representing

Box 102 POINT HOPE ALASKA 99766 907-368-0061

Address / Phone Number

**HB 77 Opposition Documents Index Group #12**  
**Passed Out to Committee Members on 3/19/14**

1. John Hettinger – March 18<sup>th</sup>
2. Christopher Estes – March 17<sup>th</sup>
3. Sue Mauger – March 17<sup>th</sup>
4. Thom Ely – March 15<sup>th</sup>
5. Doug Smith – March 16<sup>th</sup>
6. Jennifer Peters – March 15<sup>th</sup>
7. Edward Czech – March 15<sup>th</sup>
8. Sharon Waisanen – March 16<sup>th</sup>
9. Kaye Holowatch – March 16<sup>th</sup>
10. Robin Daugherty – March 16<sup>th</sup>
11. Marty Remund – March 17<sup>th</sup>
12. Betty Whittenberg – March 15<sup>th</sup>
13. Delores Larson – March 14<sup>th</sup>
14. Joe Ellen Campbell – March 18<sup>th</sup>
15. Lisa Weissler – March 19<sup>th</sup>
16. Mathew M. Cannava – March 19<sup>th</sup>
17. Terri Pauls – March 13<sup>th</sup> (Phone Call)
18. Roberta Zupec – February 19<sup>th</sup> (Phone Call)
19. Denise Johnson – February 19<sup>th</sup> (Phone Call)
20. Frank Sevrey – February 19<sup>th</sup> (Phone Call)
21. Sharon Weisman – February 19<sup>th</sup> (Phone Call)
22. Donna Grant – February 19<sup>th</sup> (Phone Call)
23. James Price – February 19<sup>th</sup> (Phone Call)
24. Steve Patterson February 4<sup>th</sup> (Phone Call)

From: John Hettinger

Sent: Tuesday, March 18, 2014 2:47 PM

To: Sen. Cathy Giessel

Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.

Please oppose this autocratic and bureaucratic bill. Water rights and permits should not be controlled by a handful of bureaucrats at the DNR. It should be an open and inclusive process hearing from ALL stakeholders. Do the right thing, keep democracy and the voice and power of the people alive; kill this bill.

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.

Sincerely,

John Hettinger  
1500 Cache Dr  
Anchorage, AK 99507

## **American Water Resources Association-AK March 2013 Abstract\***

**Title:** *A Cost Effective Solution to Improve and Facilitate Local, State, and Federal Permitting Processes and Achieve Better Short- and Long-term Natural Resources Management Decisions and Associated Socioeconomic Benefits*

**Christopher C. Estes, Aquatic Resources and Habitat Scientist, Chalk Board Enterprises, LLC\*\***

The theme of the 2012 American Water Resources Association (AWRA) Alaska Conference was: *"Alaska's Waters: Challenges and Opportunities"* (<http://state.awra.org/alaska/2012awra-ak-final.pdf>). We opened with a panel discussion on the *"Status, use, and importance of hydrologic data required for achieving cost effective and wise natural resource management, conservation, development and research as it relates to present and future Alaskans: what data are needed and examples of actions underway to address data gaps and needs"* (pages 8-9).

In this presentation I will review highlights from those discussions and subsequent follow-up actions, and will argue for increased state, federal, industrial, academic, tribal, and private investments in collection, analyses, and reporting of strategic hydrologic data to improve and facilitate local, state, and federal permitting processes. I will explain why and how this investment will benefit all Alaska's water users, result in better natural resource management, and contribute to socioeconomic benefits for all Alaskans.

Alaska's vast surface and subsurface water resources are used for human consumption; tourism; industrial and energy development; export; recreation, commercial and subsistence fisheries; wildlife; navigation; and to sustain water quality conditions and environmental processes.

Efficacious management, conservation, and development of Alaska's water resources requires the acquisition and analyses of sufficient amounts of geographically-based, site-specific, and regional hydrologic data. Knowledge of precipitation, river flows, water levels and volumes in lakes and reservoirs; and groundwater availability from subsurface locations, are examples of information needed to wisely manage use of Alaska's waters. Data must represent both the open water and ice covered seasons of the year..

Less than 1% of Alaska's water bodies have site-specific flow and water level data collected specific to those water bodies. Such low coverage is due in part to the sheer volume of the resource — Alaska represents ~20% of the nation's land area, ~50% of the nation's coastline, and ~40% of the nation's flowing surface water. Most of that water is ice covered 6 or more months of the year making data collection difficult. Many waters in Alaska are related to and impacted by glaciers. Large numbers of Alaskan waters are remote and access is difficult and expensive.

Alaska's historical investment in establishing long-term programs to collect geographically based, site-specific year round hydrologic data is relatively small compared to the rest of the nation. Accordingly, most proposed water related developments in Alaska will continue to be burdened with the high costs of collecting one to five years of continuous hydrologic data needed for scaling, planning and permitting. The low cost alternatives — mostly predictive models for synthetic flow assessments — are imprecise, largely inaccurate, and therefore inadequate. The hydrologic community, most industry, natural resource managers and other stakeholders concur: significant increases in additional long-term hydrologic data will be essential to allocate or reserve water cost effectively and in a timely manner through permitting authorities such as the Alaska Department of Natural Resources. These data need, use, and management principles are embodied in the Alaska Constitution (e.g. Articles VIII, Sections 3, 13, 14, 16, 17, and 18) and state law (AS 46.15).

In summary, this discussion will focus on improving local, regional and statewide permitting processes and other socioeconomic benefits that can be achieved by expanding the expenditure of state and private resources to strategically collect sufficient amounts of long-term surface and subsurface hydrologic data and other essential components associated with the hydrologic cycle.

\*Presented at the American Water Resources Association AK Section (AWRA-AK) -Anchorage

(March 5, 2013)

\*\* [Christopher@chalkboardllc.com](mailto:Christopher@chalkboardllc.com)

Madam Chair-

My name is Christopher Estes representing myself to offer preliminary comments and suggestions regarding the March 14, 2014 version of HB 77(28-GHI524\D).

I applaud your committee's efforts to carefully assess the water appropriation related provisions of HB 77 for reservations of water. Thank you and committee members for the stakeholder comment opportunities and seeking alternatives to assess and improve this legislation.

Senator Micciche, other legislators and organizations are to be complimented for sponsoring additional meetings with state agency representatives during the latter portion of 2013 and early 2014 regarding earlier versions of this legislation.

I was a Fisheries Scientist and Chief of the Statewide Aquatic Resources Coordination Unit for the Alaska Department of Fish and Game (ADF&G) prior to retirement in 2010. I participated in the development and execution of Alaska's state water allocation laws since 1977.

Alaska has the largest state share of our nation's flowing waters. The majority of our water sources, unlike other states, are of high quality and unappropriated. It is no easy task to tackle the challenges of improving Alaska's water allocation laws (AS 46.15) that were initially enacted in 1966 and have been evolving over time.

Alaskans should be proud that most states consider Alaska to have the best, if not the most robust, water allocation law and regulatory tool box in place for preventing over appropriation that has historically plagued other states and countries. It should also be highlighted Alaska remains in its infancy when comparisons are made with states other than Hawaii. As such, we have yet to test many of the tools in our existing statutory and regulatory tool box and should be cautious when we consider revising them prior to experiencing and testing their effectiveness.

Since initial passage of the reservation of water enabling legislation in 1980, progress has been steadily made to improve efforts reserve water for fish through cooperative effort achieved by the Alaska Department of Natural Resources (ADNR) and ADF&G. Despite the progress made by ADNR and ADF&G, not including the private and federal applications filed for reservations of water for fish, it should be noted thousands of individual reaches of water that sustain anadromous fish production documented by the ADF&G Anadromous Fish Catalog have yet to be granted protection through the reservation of water process. Reservations of water for these reaches will be required to protect sufficient amounts of water to sustain productivity of all freshwater life phases and similarly for fish bearing lakes.

Less attention has been given to the fact other elements of the current reservation of water law have not yet been tested and exercised by state agencies and others to sustain beneficial uses

of water quality, navigation, and recreation in rivers and lakes during both open water frozen water seasons. Hopefully state agencies will be encouraged and support to develop the expertise and expend resources needed for acquiring these other types of reservation analyses and wisely apply those options when appropriate to benefit all Alaskans.

The original reservation of water legislation was passed in 1980 knowing that is also important to reserve sufficient amounts of water in open water and frozen rivers and lakes to sustain boating, float plane, snow machine and other types of water dependent year round access to communities, and other remote locations without road access throughout Alaska. Year-round water quantity/level dependent access is also needed to sustain natural resources exploration and development. This includes retaining flows and conditions afforded by frozen surface ice cover conditions. Using the reservation of water law to retain sufficient volumes of water in waters that are subject to permitted chemical, temperature or other effluent discharges will be essential to achieve the desired long-term dilutions intended to achieve desired water quality conditions.

I look forward to when the state will begin to exercise these and other options of the reservation of water law that were included to improve and assure the long-term socioeconomic well-being of Alaskans for multi- generations not just the present.

I believe Alaska's greatest challenge will be to more cost effectively adjudicate its existing backlog of all forms of appropriations of water (withdrawals, diversions, impoundments and reservations). The true bottle neck to adjudication deserving your attention results from a dearth of hydrologic data for approximately 99% of our surface water sources.

I think it is critical to emphasize Alaska has historically not expended the necessary resources to plan for and perform the most basic inventory of long-term surface and subsurface availability of fresh water sources. Improving our knowledge of the year-round basic amounts of water available for uses on a regional and site specific basis are vital to both our present and future socioeconomic well-being and survival as humans. This information is essential for planning and implementing natural resources extraction, energy production and development. It is also needed to plan for and used to determine the amounts of water needed to sustain other physical, biologic and chemical processes essential to human life and values. Hence, all ADNR adjudications of applications for appropriations (water withdrawals, impoundments, diversions and reservations) for significant amounts of water require this basic information, yet it doesn't often exist. ADNR needs the resources and your support to acquire this information.

As stated previously, only approximately 1% of Alaska's water sources have been adequately inventoried geographically and on a long-term year round basis.

Regardless of legislative changes, if adequate proactive actions are not taken to inventory long-term availability of Alaska's water sources, Alaska's basic hydrologic data limitations will hamper Alaska's long-term prosperity and more likely lead to future backlogs, as competition for water to meet human population and natural resource development needs grow over time.

Looking at our neighbors to the south allocating water for any type of appropriation without initially having an adequate knowledge of natural water availability can result in unintentional over appropriation. As stated by others and myself in earlier testimony and in prior presentations related to other water use act legislative amendments, the Colorado River was inadvertently overallocated because the allocation of water was based on 20 years of a higher than normal flow data period of record.

In hindsight, had Alaskans placed higher value on inventorying water availability in the early 1970s, 1980's, or 1990s, there would be 20- or more years of flow and water level data throughout the state today available for more cost effective planning, adjudication, and balancing all water related water uses and functions for ADNR to make better and more cost effective public interest determinations. As noted these determinations are essential to human survival, biologic and physical processes we depend on and value.

Fortunately, it is not too late and I am pleased the legislature is assessing this important tool and hope your committee will use this opportunity to benefit current and future Alaskans.

My specific comments and suggestions for consideration regarding improving AS 46.15 related sections of the March 14 version of HB 77 follow. Additional suggestions for additional improvement follow these bill specific recommendations:

#### **SPECIFIC COMMENTS/RECOMMENDATIONS**

Page 20, line 17, AS 46.15.035 proposed language would only be acceptable if the "significant amount of water" definition used will be uniformly applied for **all appropriation of water uses (withdrawals impoundments diversions and reservations)** for all of AS 46.15. It also depends whether the existing definition of a significant amount of water is retained as is in 11AAC 93.035. The current regulation takes into account a combination of individual and cumulative appropriation uses (even if different uses and users) from the same source of water both in this and other sections of AS 46.15

It is essential that those assessing this legislation are aware that a reservation of water, under current statute, is not on equal footing with other types of appropriations and already affords DNR flexibility to acquire data needed for adjudication and opportunities to achieve financial reimbursement.

A reservation of water can always be modified for good cause. It is probably more equivalent to a savings account for future uses if savings are no longer needed. Some equate a reservation of water to a permanent fund for fish. Alternatively, a withdrawal, diversion and impoundment cannot be modified or revoked except under extreme circumstances and revocation is rarely if ever exercised, e.g. Ship Creek-Anchorage, Indian River-Sitka..

Page 21 line 9. This seems like a good clarification.

Page 21 line 30 and page 22 lines 2 to 5 note adversely is defined on lines 8 to 10 but the definitions of **physical** and **financial** detriment are not defined and should be. Whether the definition of **adversely** will be acceptable will be contingent on this added clarification of the other two referenced terms.

Page 22 Lines 15 to 29 this added public interest language is not essential; but, if it makes people comfortable it is okay. Or, it could simply be stated in one line as AS 46.15.080 (b). One should also look at the existing regulations for AS 46.145 related to public interest. 11AAC 93.144

Page 22 lines 30, 31 and page 23. The change is good and consistent with current practices already in effect. However, this type of provision should also be added to other types of significant appropriations of water (withdrawals, diversions, and impoundments) and not limited to reservations of water.

Page 22 Lines 30, 31 and Page 23 lines 1 to 7 Temporary water uses shouldn't be open-ended and should take into account multiple cumulative temporary use permits from the same source of water.

Page 23 Lines 12 to 14. (h) This approach for determining the order of adjudication already appears to be the general practice in force for all forms of appropriations of water. If adopted it should be applied uniformly to all types of water appropriations if this is state's preference for addressing the backlog and desire is to codify current discretionary actions by DNR.

However it is a bad policy and not in the best public interest to codify a discretionary process that is critical to allocation of water and resulting in uncertainty regarding water availability for all water stakeholders.

A better wording choice or something equivalent would be: the Commissioner will adjudicate all applications for appropriation for significant amounts of water (withdrawals, impoundments, diversions and reservations) in the order of priority within no longer than 5-years after being filed unless there are mitigating circumstances in the best public interest to change the order for processing and completing the adjudication of an application for water appropriation. The DNR will provide an annual report to the legislature of its ongoing assessment of resources

needed to insure that the backlog for all appropriations of water for significant amounts of water will be limited to 1-year commencing in FY 16 for applications that currently include 5 or more years of existing hydrologic data (or the equivalent information necessary for completing the adjudication). Applications for significant appropriations of water without 5 years of data will remain pending full adjudication until 5 years of hydrologic data are acquired based on consultation with the applicant and will be adjudicated within 1 year after the 5 year data requirement has been met. Commencing in FY 16, applications for appropriations for less than a significant amount of use of water will be adjudicated in 6 months or less after application so long as they are in the public interest per AS 46.15.080.

DNR will provide an annual report to the legislature defining the highest priority needs for filling the desired 5-year data standard to eliminate gaging data gaps throughout the state. DNR will also identify options for development of surrogate hydrologic estimation models that will be satisfactory for adjudications of significant amounts of water where there is limited existing competing uses of water projected for the next 5, 10 and 20 year periods

Page 23 lines 15 to 20 it doesn't make sense that this decision wouldn't also be subject to AS 46.15.080 (b) since the water is as public resource and reservations of water are shared public resources unlike other classes/types of appropriations for withdrawal, diversion and impoundment that are usufructory. **Subject to Public Interest review should be added**

Page 23 Lines 21 to 24 as currently written this section is too narrow in definition.

Suggested language improvements would be: the applicant must have submitted not less than five years of nonproprietary or proprietary public domain hydrologic data or data collected by or for the applicant in support of the application. All data provided should meet or exceed US Geological Survey standards for measurement of hydrologic data for flows and water levels. Additionally this provision should be added as a condition for issuance of all certificates of appropriations (withdrawals, impoundments and diversions, and not just reservations of water certificates)

In the past, the DNR, ADF&G, academic, federal, and professional hydrologic community have all encouraged and promoted the need for basing all significant water appropriation use adjudications on a minimum of 5 years continuous hydrologic mean daily flow data or a surrogate estimate that is considered equivalent that meets or exceeds USGS standards. And, it

shouldn't matter who collects or provides the data so long as it is available to DNR and the public and meets or adheres to USGS scientific standards. This prior revised provision wording or something equivalent should be reworded to be an umbrella provision for all significant appropriation of water use certificates of appropriation for withdrawals, diversions and impoundment and for reservations of water under AS 46.15.

Also, see attached AWRA presentation on gaging challenges and needs for Alaska. (See also AWRA 2013 abstract).

Page 23 Lines 26 to 31

Should be reworded -- The commissioner may issue one additional temporary water authorization[s] for the same or a similar project with public notice and if in the best public interest under 46.15.080. Cumulative impacts of multiple temporary use permits for uses from the same source of water must also be considered.

Page 24 Lines 16 to 31 and page 25 Lines 1 to 4 Good start, but it would be more effective by adding and fish bearing reaches of tributaries to these 12 rivers or similar language.

ALSO ADD-

Except as provided in AS 46.15.090 and in addition to the requirements of (a) of this section, the commissioner may approve an application for removal or permit an appropriation for removal from these 12 watershed under (a) of this section of water from a lake, river, or stream that is used by fish for spawning, incubation, rearing, or migration, or ground water that significantly influences the volume of water in a lake, river, or stream that is used by fish for spawning, incubation, rearing, or migration, only if the commissioner reserves a volume of water in the lake or an instream flow in the river or stream for the use of fish and to maintain habitat for fish. The commissioner may adjust the volume of water reserved under this subsection if the commissioner, after public notice and opportunity to comment and with the concurrence of the commissioner of fish and game, finds that the best interests of the state are served by the adjustment. A reservation under this subsection (1) of a volume of water or an instream flow for the use of fish and to maintain habitat for fish that is reserved under this section is withdrawn from appropriation;(2) for fish from a lake, river, or stream, identified under AS 16.05.871 or identified in a Department of Fish and Game regional guide as being used by fish for spawning, incubation, rearing, or migration on or before July 1, 2014, has a priority date as of July 1, 2014;  
(3) of water does not apply to an application for removal or appropriation for removal under

AS46.15.040 for nonconsumptive uses of water or for single family domestic use;

(4) of water does not apply to appropriations of ground water of 5,000 gallons or less a day unless the commissioner, in consultation with the Department of Fish and Game, determines that the appropriation may adversely affect fish habitat in a lake, river, or stream; the commissioner shall consider multiple appropriations of water for a single related use as a single appropriation for the purposes of this subsection.

(d) With respect to rivers and streams described in (c) of this section, the instream flow reservation shall be limited to the portion of the stream, including tributaries to the stream, at and downstream of the point of diversion or withdrawal. With respect to lakes described in (c) of this section, the reservation shall be limited to the lake from which the diversion or withdrawal is made, and the outlet and tributaries to the outlet flowing downstream.

(e) In this section,  
(1) "fish" means CHINOOK species of anadromous or freshwater fish that may be taken under regulations of the Board of Fisheries;

Page 24 Lines 7- 9 In the event this or another form of this legislation passes, language should be added stating that all existing pending applications for reservations of water on file prior to the effective date of this legislation should be grandfathered in. There really is no reason to not eventually adjudicate the existing applications on file based on the number of pending reservations on file and the conditions they were initially filed, if these and other legislative amendment suggestions can be accommodated. The applications previously filed were based on a continually evolving process developed in coordination with other agencies and stakeholders. To change the requirements makes no sense for the small number of pending applications filed by ADF&G, other agencies and private applicants to date. It is also unnecessary because DNR must already apply AS 46.15.080 to those applications and currently has the legal option to grant all, a portion or none of the water requested depending on the outcome of the DNR public interest assessment.

Perhaps an alternative approach could be to add a provision stating all pending reservations of water effective as of July 1 2014 will be adjudicated in the order of priority subject to the best public interest within the next 5 years unless the Commissioner seeks an extension from the legislature for extending this deadline based on public interest considerations relevant to this process for adjudication for all pending water appropriation applications.

The above comments represent the existing proposed language of this bill version. Following are other ideas for consideration by the committee to help assess this legislation.

**Other suggestions for the legislature to consider:**

**Review:** Legislative audit , R. S. 1997. Audit report. Department of Natural Resources, Department of Fish and Game, and Department of Law Waterway Management Issues. Audit Control Number. 10-4540-97. Alaska State Legislature. Division of Legislative Audit. Juneau. <http://www.legaudit.state.ak.us/pages/audits/1997/4540rpt.htm>

See also recommendation 8 as it relates to the backlog issue.

**Contact:** Tony Willardson Executive Director and head of the Western States Water Council a subset of the Western Governors Association to independently review HB 77 and the Alaska Water Use Act.

**Add Provisions:**

**Water Planning Provision**

Once every 5 years DNR will produce a 5-year statewide water management plan to the legislature beginning in January 2015 identifying data and staffing needs for inventorying hydrology and adjudication processes for water appropriations (withdrawals, diversions, impoundments and reservations of water). The report will project regional statewide water uses to assist the DNR and legislature base legislative budgets and DNR staffing to insure Alaska's waters are managed in the best public interest and avoid future backlogs of water applications for all appropriation types of water. Such a plan will also identify DNR's and public stakeholder input for prioritization and funding hydrologic data required to managing and monitor the allocation of Alaska's water surface and subsurface waters.

**Alaska Water Resources Board**

Per AS 46.15.090, the DNR will reconvene the Alaska Water Resources Board to advise DNR on water policy and statutes. They will represent the diversity of Alaska's water stakeholders and meet at least once per year with the joint House and Senate Resources committee to provide their public interest recommendations pertaining to the inventory and allocation of Alaska's water resources.

**Adjudication of Water for Significant Amounts of Water in Systems Prior to Collection of Five Years of Data**

Alternative Approach to Adjudicate Competing Water for Significant Amounts of Water to Insure Reservations of Water Appropriations Will Also Considered When There is Less Than Five Years of Flow or Water Level Data

No more than the accumulative amount of 15% of the mean daily flow for ungaged water bodies can be appropriated individually and cumulatively from the same source of water in the best public interest under AS 46.15.080 from waters identified under AS 16.05.841 and AS 46.06.871 without 5 years of continuous hydrologic data meeting or exceeding USGS standards or the equivalent. This does not impact existing applications for appropriations of water granted or those on record effective July 1, 2014.

### **Backlog Adjudication of Two of the Most Significant Watersheds in the State**

In the past, Alaska has made many water appropriation decisions for significant amounts of water based on 1-year or less flow/water level data. It is my understanding, unless circumstances have changed, only two communities in Alaska potentially have important water sources over appropriated on paper, e.g. more demand for water than actually is available. I do not understand why this historically long backlog on record between water availability and uses allocated hasn't been corrected. Continuing to defer such to future generations will be a costly disservice to all Alaskans. I recommend the following.

DNR will provide the legislature a work plan and budget for fully adjudicating all the outstanding pending applications for water in the Ship Creek watershed in Anchorage and Indian River Sitka by the completion of FY 2016.

### **Other Options to Address Adjudication Costs**

There are a variety of existing opportunities and options for DNR to recover costs for adjudication in its relevant 11AAC 93 and 11AAC.05.010 regulations.

Lastly, ADNR needs adequate staffing for all adjudication types and to insure adequate collection of hydrologic data. ADNR shouldn't be primarily dependent on ADF&G to fund adjudications of reservations of water.

Thank you again for the opportunity to provide input for your consideration.

In effort to meet your deadline, I apologize in advance if there are grammatical and typo errors.

If you require additional information, please do not hesitate to contact me. (See attached AWRA abstract)

Christopher Estes Email: [topher0722@aol.com](mailto:topher0722@aol.com)

Senator Giessel and members of the Senate Resources Committee,

My name is Sue Mauger. Thank you for providing time for more testimony.

It has been suggested that the latest version of HB77 is a good compromise – an example of a back and forth process that worked. I strongly disagree.

HB77 in its original form was an example of DNR overreach to such an astonishing degree that literally hundreds of people felt compelled to take the time and make the effort to let you as a body know it was not OK. The changes I now see in the March 10th version, which address a few of the most critical concerns brought to light in public meetings, are not enough to make this bill a balanced piece of legislation.

As an example of the shell game nature of this HB77 process: many of us focused on the notwithstanding language in Section 1 and significant concerns we had to the proposed changes to the instream flow reservation application process in the original bill. Distracted by these radical changes we let other sections slide by in the first round. As an example in the temporary water use section (43) which already gives the DNR Commissioner authority to give away “a significant amount of water” for 5 years with no public notice, the proposed changes allow the commissioner to do this over and over again. So one project could get 20 years’ worth of water under this “temporary use” provision. So as we fought to stop the outrageous language in other sections, this language still persists because there’s only so much you can object to in 2 minutes. Meanwhile the power-grabbing language objected to in the first round in Section 1 has now been slipped into the instream flow application process in section 42(h) – which gives the commissioner full discretion to determine when and in what order any application for a reservation of water is processed. This is no compromise.

And finally, the argument that general permits are used across the country as a reason for Alaska to use them just makes me laugh. Salmon habitat across the world has been lost in just this manner – one small project at a time.

Please do not compromise the ability of Alaskans to have a voice in how our state is developed. Please do not support HB77.

**From:** Thom Ely

**Date:** March 15, 2014 at 3:35:28 PM AKDT

**To:** <[Senator.Cathy.Giessel@akleg.gov](mailto:Senator.Cathy.Giessel@akleg.gov)>

**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 does not protect our water resource or provide for the public process that is critical in a democracy. This is a giveaway to the resource extractive industries and will cause undue harm to habitat and fisheries.

I'm tired of our Government giving away our rights and resources to the highest bidder. We have a pristine and unique environment that needs to be strongly protected by the people. This Bill subverts that. Please kill it in committee.

Thom Ely

PO Box 1014

Haines, AK 99827

**From:** Doug Smith

**Date:** March 16, 2014 at 1:06:02 PM AKDT

**To:** "[sen.cathy.giessel@akleg.gov](mailto:sen.cathy.giessel@akleg.gov)" <[sen.cathy.giessel@akleg.gov](mailto:sen.cathy.giessel@akleg.gov)>

**Subject:** HB 77 still a bad bill

Dear Senator Giessel,

I am dismayed that the new version of HB77 does little to address the problems of the old bill. DNR's powers are still greatly expanded, citizens' rights to get information, and to appeal bad decisions are still sharply curtailed. The bill guts the ability of citizens to obtain water reservations. In short, the bill is just as bad as it was when it was removed to be reworked. The entire process has gone on behind closed doors, with a small window of opportunity for public comment.

DNR has said that the purpose of HB77 is to improve its permitting process, but if this is really DNR's intent, it should hire more staff. This bill makes it obvious that DNR is not really concerned with improving service to the public. HB77 is a huge disservice to the public, and DNR's decisions should continue to be transparent and open to challenges from Alaska's citizens. This bill should be scrapped.

Sincerely,

Doug Smith

Box 371 Talkeetna, AK 99676

**From:** Jennifer Peters

**Date:** March 15, 2014 at 8:38:17 PM AKDT

**To:** <[sen.cathy.giessel@akleg.gov](mailto:sen.cathy.giessel@akleg.gov)>

**Subject:** HB 77

To the honorable Senator Giessel,

I am opposed to the amended House Bill 77.

Jennifer Peters

9650 e Northstar Circle

Palmer, AK 99645

**From:** Edward Czech

**Date:** March 15, 2014 at 10:48:16 PM AKDT

**To:** <[Senator.Cathy.Giessel@akleg.gov](mailto:Senator.Cathy.Giessel@akleg.gov)>

**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. There needs to be more review when disturbing wild habitat not less or streamlined review.

Edward Czech

64501 Resurrection Creek Rd

Hope, AK 99605

**From:** <POMS@legis.state.ak.us>

**Date:** March 16, 2014 at 7:49:39 AM AKDT

**To:** <sen\_cathy\_giessel@legis.state.ak.us>

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

Sharon Waisanen  
44932 Eddy Hill Dr

Soldotna 99669,

My husband and I remain extremely opposed to HB 77. This bill should be given a rapid death. It does not fulfill any expectations of Alaskans who wish to be heard and to be at the decision making table. Silencing Alaskans is never a good idea.

**From:** kaye holowatch

**Date:** March 16, 2014 at 10:49:37 AM AKDT

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

**Subject: Alaskans oppose HB 77: Please include this in public record and distribute to committee members.**

Please take a look into the eyes of any child you know and tell them that removing their right to appeal decisions that will affect their quality of life and the quality of the water they drink is a good and true action. Half of all Americans drink bottled water because they don't think the clear stuff that comes out of their tap is safe to drink. Water is so precious to life. We should be shepherding this national treasure. 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 undermines 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.

Sincerely,

kaye holowatch  
13110 alpine dr  
anchorage, AK 99516

**From:** Robin Daugherty

**Date:** March 16, 2014 at 10:50:36 AM AKDT

**To:** <[Senator.Cathy.Giessel@akleg.gov](mailto:Senator.Cathy.Giessel@akleg.gov)>

**Subject:** Alaskans oppose HB 77: 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. 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.

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A bill that is this complex and expansive deserves multiple public hearings to allow Alaskans to provide input, and review by several legislative committees.

Sincerely,

Robin Daugherty  
Box 2321  
Homer, AK 99603

**From:** Marty Remund  
**Sent:** Monday, March 17, 2014 7:40 AM  
**To:** Sen. Cathy Giessel  
**Subject:** HB77

I am against HB77. Please include this in the public record and distribute to Natural Resource Committee members. Thanks, Marty Remund, Haines Alaska

**From:** Betty Whittenberg

**Date:** March 15, 2014 at 12:55:05 PM AKDT

**To:** <[Senator.Cathy.Giessel@akleg.gov](mailto:Senator.Cathy.Giessel@akleg.gov)>

**Subject: Alaskans oppose HB 77: 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. 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.

Sincerely,

Betty Whittenberg  
Po box 143 Soldotna ak  
35737 Ryan lane  
Sterling, AK 99669

Delores Larson  
PO Box 5018  
Koliganek, AK 99576

March 14, 2014

**Re: Oppose House Bill 77**

Dear Alaska Senate Resource Committee Members:

My name is Delores Larson, I am Yupik Eskimo, and my Yupik name is Myuuaq. I was born in Dillingham and raised in the Native Village of Koliganek. Koliganek is the furthest village, located on the left bank, up the Nushagak River. Koliganek currently has about 300 tribal members with a population of 210. I can proudly say that I am a commercial fisherwoman and lifelong subsistence user.

With that said I would like to voice my concerns on House Bill 77. I strongly oppose House Bill 77 because it endangers the land that we live off of, our pristine waters, and most importantly the abundance of fish and wildlife that my people have depended on for thousands of years. I truly believe the reason why Bristol Bay is considered a world class fishery is because most of it is left untouched by large scale development. You are silencing my right to protect our culture, our primary food sources, and our precious natural renewable resources.

Already there are restrictions and limitations on how much fish, caribou and moose we can legally harvest each year. Why should I trust you to make decisions when you do not have our best interest at heart, you do not value the lands, fish and animals like we do. You need to recognize the importance of working with people who live in this area and who have great insight into the natural processes at work. Tribes of Bristol Bay have special knowledge of the watershed because we have lived here for thousands of years.

The late Senator Ted Stevens pointed out that, "The best solution to salmon problems is the stronghold concept. Take the largest, healthiest, most sustainable populations and protect them. There is no question that Bristol Bay as an area, and the Nushagak and Kviachak drainages in particular, are the strongest of the stronghold. If you don't draw a line in the sand here then there is simply none to be drawn."

Tribal governments should continue to have the opportunity to engage the federal government on decisions impacting watershed resources in a process called tribal consultation. Alaska Natives have a great stake in the Bristol Bay's watershed future. Our connection to the land and the dependence on it are factors you should consider when working on environmental issues in Alaska.

Respectfully,

Delores Larson

From: Jo Ellen Campbell

Sent: Tuesday, March 18, 2014 3:54 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. 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.

There is simply too much government interference already. More legislation in this area is not needed.

Sincerely,

Jo Ellen Campbell  
1998 S Creekside Dr  
Wasilla, AK 99654

From: Lisa Weissler

Sent: Wednesday, March 19, 2014 12:17 PM

To: Sen. Hollis French; Sen. Click Bishop; Sen. Cathy Giessel; Sen. Fred Dyson; Sen. Peter Micciche; Sen. Anna Fairclough; Sen. Lesil McGuire

Subject: Additional HB 77 Legal Issues

Dear Senators:

It seems like every time I think about HB 77, I find other legal issues. In addition to the comments I submitted March 12 and March 14, I have the following comments I believe are worth your attention.

Appeals - Sections 4, 12, 13, 14, 33, 32, 33, 34

In my comments submitted March 12, I described a "catch-22" in the appeals of general permits. That is, if the new standard for appeals is adopted, a person will have to be directly effected in order to have standing to appeal. But, since general permits are issued before activities take place, it will not be possible for anyone to show a "direct" effect. It occurs to me the same problem exists for DNR best interest findings that are issued for land disposals.

For example, DNR issues best interest findings for oil and gas lease sales. These findings are done on an areawide basis covering from 2 million to 7.6 million acres. The findings occur long before any exploration or development projects are proposed. Findings are public noticed and are subject to appeal. But, like the general permits, anyone trying to appeal a best interest finding will be unable to meet the new standard DNR proposes. A person might be able to appeal when a permit is issued for a specific activity when it occurs, but given DNR's broad discretion under the general permit section, there is a real possibility that almost all permitted project activities would be subject to a general permit, and so preclude any appeals at that point.

Also regarding appeals -

- In regard to what DNR calls "frivolous" appeals, DNR regulations require that a person specify the basis upon which a decision is challenged and any material facts disputed by the appellant (11 AAC 02.030). If DNR is unclear what is the basis for an appeal, they can ask for more information. If none is forthcoming, the appeal can likely be denied for that reason. I adjudicated appeals for three years for DNR, and the so-called frivolous ones were easy. The hard appeals are the ones with a legitimate basis.
- The term "aggrieved" as it relates to appeals, shows up over 100 times in Alaska statutes. It is a well-established legal term. As noted by other commenters, by changing their standard to "substantially and adversely affected," DNR is opening the door to the court house as the agency and the public struggle to define its meaning.

SULLIVAN v. REDOIL

Though it feels like being a voice in the wilderness, I believe it is important to continue raising the need for legislation to deal with the Alaska Supreme Court decision issued last March. The Court was quite clear that DNR has a constitutional duty to analyze cumulative impacts at later phases of phased oil and gas exploration and development projects and to provide meaningful public notice of the analysis. DNR's request to the Court for reconsideration of the decision was denied last November. By permitting projects without the required analysis, DNR is violating the law. The best remedy at this point is legislation establishing the when and how DNR conducts the required analysis. If legislation is not

enacted this session, the only option for a concerned citizen like me is to appeal to court and that's not a good way to make law.

I've attached an amendment for your consideration, either for inclusion in HB 77, or as a committee bill. The changes are at the bottom of page 1 and the bottom of page 3. Please note, the proposed language under subsection (p) is based on the Court's ruling.

My prior comments on HB 77 are attached for reference. Thank you.

Sincerely,

Lisa Weissler

## Suggested language to enforce *Sullivan v. REDOIL*

\* AS 38.05.035(e) is amended to read:

(e) Upon a written finding that the interests of the state will be best served, the director may, with the consent of the commissioner, approve contracts for the sale, lease, or other disposal of available land, resources, property, or interests in them. In approving a contract under this subsection, the director need only prepare a single written finding. In addition to the conditions and limitations imposed by law, the director may impose additional conditions or limitations in the contracts as the director determines, with the consent of the commissioner, will best serve the interests of the state. The preparation and issuance of the written finding by the director are subject to the following:

(1) with the consent of the commissioner and subject to the director's discretion, for a specific proposed disposal of available land, resources, or property, or of an interest in them, the director, in the written finding,

(A) shall establish the scope of the administrative review on which the director's determination is based, and the scope of the written finding supporting that determination; the scope of the administrative review and finding may address only reasonably foreseeable, significant effects of the uses proposed to be authorized by the disposal;

(B) may limit the scope of an administrative review and finding for a proposed disposal to

- (i) applicable statutes and regulations;

- (ii) the facts pertaining to the land, resources, or property, or interest in them, that the director finds are material to the determination and that are known to the director or knowledge of which is made available to the director during the administrative review; and

- (iii) issues that, based on the statutes and regulations referred to in (i) of this subparagraph, on the facts as described in (ii) of this subparagraph, and on the nature of the uses sought to be authorized by the disposal, the director finds are material to the determination of whether the proposed disposal will best serve the interests of the state; and

(C) may, if the project for which the proposed disposal is sought is a multiphased development, limit the scope of an administrative review and finding for the proposed disposal to the applicable statutes and regulations, facts, and issues identified in (B)(i) - (iii) of this paragraph that pertain solely to the disposal phase of the project when

- (i) the only uses to be authorized by the proposed disposal are part of that phase;

- (ii) the disposal is a disposal of oil and gas, or of gas only, and, before the next phase of the project may proceed, **a cumulative impact analysis is prepared and public notice of the analysis** and the opportunity to comment are provided under regulations adopted by the department;

- (iii) the department's approval is required before the next phase of the project may proceed;

and

- (iv) the department describes its reasons for a decision to phase;

(2) the director shall discuss in the written finding prepared and issued under this subsection the reasons that each of the following was not material to the director's determination that the interests of the state will be best served:

(A) facts pertaining to the land, resources, or property, or an interest in them other than those that the director finds material under (1)(B)(ii) of this subsection; and

(B) issues based on the statutes and regulations referred to in (1)(B)(i) of this subsection and on the facts described in (1)(B)(ii) of this subsection;

(3) a written finding for an oil and gas lease sale or gas only lease sale under AS 38.05.180 is subject to (g) of this section;

(4) a contract for the sale, lease, or other disposal of available land or an interest in land is not legally binding on the state until the commissioner approves the contract, but if the appraised value is not greater than \$50,000 in the case of the sale of land or an interest in land, or \$5,000 in the case of the annual rental of land or interest in land, the director may execute the contract without the approval of the commissioner;

(5) public notice requirements relating to the sale, lease, or other disposal of available land or an interest in land for oil and gas, or for gas only, proposed to be scheduled in the five-year oil and gas leasing program under AS 38.05.180(b), except for a sale under (6)(F) of this subsection, are as follows:

(A) before a public hearing, if held, or in any case not less than 180 days before the sale, lease, or other disposal of available land or an interest in land, the director shall make available to the public a preliminary written finding that states the scope of the review established under (1)(A) of this subsection and includes the applicable statutes and regulations, the material facts and issues in accordance with (1)(B) of this subsection, and information required by (g) of this section, upon which the determination that the sale, lease, or other disposal will serve the best interests of the state will be based; the director shall provide opportunity for public comment on the preliminary written finding for a period of not less than 60 days;

(B) after the public comment period for the preliminary written finding and not less than 90 days before the sale, lease, or other disposal of available land or an interest in land for oil and gas or for gas only, the director shall make available to the public a final written finding that states the scope of the review established under (1)(A) of this subsection and includes the applicable statutes and regulations, the material facts and issues in accordance with (1) of this subsection, and information required by (g) of this section, upon which the determination that the sale, lease, or other disposal will serve the best interests of the state is based;

(6) before a public hearing, if held, or in any case not less than 21 days before the sale, lease, or other disposal of available land, property, resources, or interests in them other than a sale, lease, or other disposal of available land or an interest in land for oil and gas or for gas only under (5) of this subsection, the director shall make available to the public a written finding that, in accordance with (1) of this subsection, sets out the material facts and applicable statutes and regulations and any other information required by statute or regulation to be considered upon which the determination

that the sale, lease, or other disposal will best serve the interests of the state was based; however, a written finding is not required before the approval of

- (A) a contract for a negotiated sale authorized under AS 38.05.115;
- (B) a lease of land for a shore fishery site under AS 38.05.082;
- (C) a permit or other authorization revocable by the commissioner;
- (D) a mineral claim located under AS 38.05.195;
- (E) a mineral lease issued under AS 38.05.205;

(F) an exempt oil and gas lease sale or gas only lease sale under AS 38.05.180(d) of acreage subject to a best interest finding issued within the previous 10 years or a reoffer oil and gas lease sale or gas only lease sale under AS 38.05.180(w) of acreage subject to a best interest finding issued within the previous 10 years, unless the commissioner determines that substantial new information has become available that justifies a supplement to the most recent best interest finding for the exempt oil and gas lease sale or gas only lease sale acreage and for the reoffer oil and gas lease sale or gas only lease sale acreage; however, for each oil and gas lease sale or gas only lease sale described in this subparagraph, the director shall call for comments from the public; the director's call for public comments must provide opportunity for public comment for a period of not less than 30 days; if the director determines that a supplement to the most recent best interest finding for the acreage is required under this subparagraph,

(i) the director shall issue the supplement to the best interest finding not later than 90 days before the sale;

(ii) not later than 45 days before the sale, the director shall issue a notice describing the interests to be offered, the location and time of the sale, and the terms and conditions of the sale; and

(iii) the supplement has the status of a final written best interest finding for purposes of (i) and (l) of this section;

(G) a surface use lease under AS 38.05.255;

(H) a permit, right-of-way, or easement under AS 38.05.850;

(7) the director shall include in

(A) a preliminary written finding, if required, a summary of agency and public comments, if any, obtained as a result of contacts with other agencies concerning a proposed disposal or as a result of informal efforts undertaken by the department to solicit public response to a proposed disposal, and the department's preliminary responses to those comments; and

(B) the final written finding a summary of agency and public comments received and the department's responses to those comments.

\* AS 38.05.035 is amended by adding a new section to read:

(p) In preparing a cumulative impact analysis under (e)(1)(C)(ii) of this section, the director shall consider the project as a whole, taking into account all aspects of the project, including consideration of the project in the context of existing development in the area. The director is not required to speculate about hypothetical or possible future development in the area.

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.<sup>1</sup> 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.

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<sup>1</sup> 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.

HB 77: Weissler Public Comments  
3/14/14

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

In addition to the legal issues regarding land exchanges listed below, I have identified numerous other issues that are detailed in my written comments submitted previously to the committee.<sup>1</sup>

I note again that HB 77 is part of the larger problem facing our state – that the state’s resource permitting system no longer serves the public interest. Even if the legal issues I’ve identified are fixed, HB 77 will still move the state in the wrong direction.

### **LAND EXCHANGES – SECTIONS 22 to 27**

The Department of Natural Resources describes the changes to AS 38.50 as giving the Division of Mining, Land and Water more flexibility in land exchanges. The department modeled the changes after AS 29.65.090, that provides for land exchanges between DNR and boroughs and municipalities.

- AS 28.65.090 is not a good model. It addresses land exchanges between the state and local governments that are a trade of public lands for other public lands. This is not equivalent to the land exchange statutes in AS 38.50 that address land exchanges between the state and private entities. Where public lands are put into private hands, more comprehensive statutes are warranted.
- AS 38.50.010 changes the value the state receives in an exchange from “appraised fair market value” to “approximately equal value.”
  - “Approximately equal value” is found in AS 29.65.090. While an approximate standard may be appropriate in state to municipal or borough exchanges, dealing with private interests requires a clearer standard to protect the state’s interests.
  - How is “approximately equal value” determined? Who makes the determination? Who arbitrates if there is disagreement between the parties to the exchange?

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<sup>1</sup> Previous comments submitted 3/12/14, posted online with HB 77 Opposition Documents, Group #2.  
Changing Tides Consulting  
[lisa@changingtides.com](mailto:lisa@changingtides.com)  
changingtides.com

- Repeals statutes that address procedures and public notice requirements for land exchanges.
  - DNR will rely on procedures and notice requirements in other existing statutes – AS 38.05.035(e) and AS 38.05.945.
  - The referenced statutes are not written with land exchanges in mind and could be insufficient in terms of protecting the state’s interest, or create confusion regarding how they are to be applied.
- AS 38.50.010 adds that mineral rights may be exchanged.
  - Current AS 38.50.010 authorizes the director to dispose of state land. The proposed language authorizes the commissioner to exchange either or both the land estate or mineral estate.
  - Current AS 38.50.050 specifies that mineral rights in state land may be exchanged “to the extent that the conveyance is authorized by the state constitution and applicable federal law.”
    - Why is “mineral estate” added to AS 38.50.010 when it is already appropriately covered under AS 38.50.050?
    - Since the federal Statehood Act prohibits the state from parting with the title to its minerals, when would the state ever be able to convey its mineral rights?



**DERMATOLOGY AND  
SKIN CANCER CLINIC  
OF ALASKA, P.C.**

My testimony (I waited 3 hrs on Friday to testify at the Kenai LIO before I had to leave):

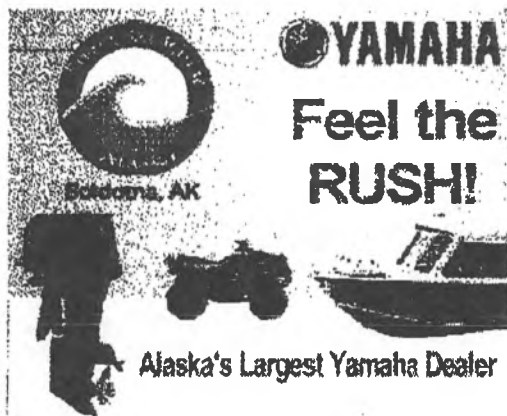
March 19, 2014 | 8:23 am

# CLARION



## HB77 an insult to Alaskans

Posted: March 18, 2014 - 8:51am



By Mathew Cannava

Soldotna

Last week the Senate Resources Committee heard testimony from Alaskans all over the State overwhelmingly against passage of Governor Parnell's HB77. This bill purports to "streamline" the permitting process by giving the DNR commissioner, a political appointee who serves the whims of the governor, almost unilateral power to approve permits impacting our waterways, fisheries, etc. There were a few who spoke in favor of this bill, many from the

Resource Development Council, a group funded largely by corporations based outside Alaska, or even the U.S.

Senator Giessel seemed most appreciative of comments directed at specific lines of the bill. This presumes however that this bill can be "tweaked" into something Alaskans would want. To the contrary, the entire premise of the bill is an affront to Alaskans...that a political appointee with no educational background in hydrology, fisheries management, wildlife management, etc...should have the power to parcel out our water/land resources with minimal notice or involvement by Alaskans.

Senator Micciche heard almost unilateral opposition to this bill during his meetings on the Peninsula, yet now feels "inclined to support it." The legislative body took an oath to serve Alaskans, yet still they advance this bill. It is a sad commentary on the integrity of our elected officials when Alaskans speak out to this extent...and are marginalized. HB77 simply needs to be tabled indefinitely.

**MATHEW M. CANNAYA, M.D.**  
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