

HB

14

**<TARGET><BILL>HB 14</BILL><SUBJECT>HB
14</SUBJECT><COMM>HFSH30</COMM></TARGET>**

Committees:
Resources: Co-Chair
•
Legislative Budget
and Audit: Vice-Chair
•
Labor and Commerce
•
House Special
Committee on Econ.
Devel., Tourism, &
Arctic Policy (EDA)

ALASKA STATE LEGISLATURE



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REPRESENTATIVE ANDY JOSEPHSON

SPONSOR STATEMENT

House Bill 14 – Legislative Approval for Bristol Bay Sulfide Mine

The purpose of House Bill 14 is to add additional requirements to Ballot Measure 4 (2014) which acted to prevent large-scale metallic sulfide mining in Bristol Bay without legislative approval. HB 14 mandates that in order for the legislature to grant such approval it must first find that an applicant has proven beyond a reasonable doubt that there is no danger to the fisheries within the Bristol Bay Fisheries Reserve.

Article 11 of the Alaska Constitution sets forth the voter initiative mechanism for creating law and section 6 prohibits changes to a voter initiative within two years of its passage. This two year period has passed and now is the time to make substantive changes to further protect flora and fauna of the Bristol Bay Region. Not only does this area contain the largest sockeye salmon run in the world, it is also the home to protected species like the beluga whale and the Steller sea lion. It is the locus of a diverse array of ecosystems and should be protected for generations to come.

House Bill 14 sets a stringent requirement on legislative approval: proof beyond a reasonable doubt, the highest standard in the law, that there is no danger to fisheries in the region, an important commercial, subsistence, and recreational resource for the state. I humbly ask for your support in protecting this invaluable region in Alaska and its living natural resources.

If you have any questions or would like to begin a document on this proposed legislation, please contact my office at 465-4939.

HOUSE COMMITTEE REPORT
- Corrected -

4/28/17
IN

(7)
Date Referred to Committee: January 18, 2017

FURTHER REFERRALS: Resources

Date of Committee Action: 4/27/17

The HOUSE SPECIAL COMMITTEE ON FISHERIES considered: HB 14

HOUSE BILL NO. 14
"An Act relating to the Bristol Bay Fisheries Reserve; and providing for an effective date."
HB 14 LEG. APPROVAL OF BRISTOL BAY SULFIDE MINE

Recommends it be replaced with HCS or CS for HB 14 (FSH)
For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

- List of Abbrev for Depts.:
- ADM
 - AJS
 - CED
 - COR
 - EED
 - DEC
 - DFG
 - GOV
 - DHS
 - LWF
 - LAW
 - LEG
 - MVA
 - DNR
 - DPS
 - REV
 - DOT
 - UA

NEW FISCAL NOTES				
*FN# is assigned by Chief Clerk's Office				
*FN#	List by Dept(s):	Fiscal	Indet.	Zero
1	DEC	✓		
2	DFG	✓		
3	DNR	✓		

PREVIOUS FISCAL NOTES				
FN#	List by Dept(s):	Fiscal	Indet.	Zero

Signing with recommendations		Printed Last Name	DP	DNP	NR	AM
		TRER	X			
		Kreiss-Tankers			X	
					X	
Chair:		STUTES	X			

HOUSE
FISHERIES
COMMITTEE
PACKET

January 31st, 2017

1

HB 14

*Leg. Approval of Bristol Bay
Sulfide Mine*

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30-LS0161\D
Shutts/Bullard
1/27/17

CS FOR HOUSE BILL NO. 14()
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE JOSEPHSON

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to the Bristol Bay Fisheries Reserve; and providing for an effective**
2 **date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 38.05.142 is amended to read:

5 **Sec. 38.05.142. Legislative approval required for certain large-scale mines.**

6 (a) In addition to permits and authorizations otherwise required by law, a final
7 authorization must be obtained from the legislature for a large-scale metallic sulfide
8 mining operation located within the watershed of the Bristol Bay Fisheries Reserve
9 designated in AS 38.05.140(f). This authorization shall take the form of a duly enacted
10 law finding that the proposed large-scale metallic sulfide mining operation will not
11 constitute danger to the fisheries, fish, or wildlife [FISHERY] within the watershed
12 of the Bristol Bay Fisheries Reserve.

13 (b) The commissioner shall [MAY] adopt regulations under AS 44.62 to
14 implement this section.

1 (c) In this section,

2 (1) "fisheries" means subsistence, personal use, sport, or
3 commercial fisheries as those fisheries are defined in AS 16.05.940;

4 (2) "large-scale metallic sulfide mining operation" means a specific
5 mining proposal to extract metals, including gold and copper, from sulfide-bearing
6 rock and that would directly disturb 640 or more acres of land;

7 (3) "permits and authorizations" means permits, decisions,
8 amendments to permits or decisions, extensions, renewals, modifications,
9 compliance orders by consent, or authorizations necessary for or related to a
10 large-scale metallic sulfide mining operation within the watershed of the Bristol
11 Bay Fisheries Reserve, including one that approves a dam, plan of operation,
12 bond, or reclamation plan related to the large-scale metallic sulfide mining
13 operation.

14 * Sec. 2. AS 38.05.142 is amended by adding new subsections to read:

15 (d) Before a final authorization may be obtained from the legislature for a
16 large-scale metallic sulfide mining operation located within the watershed of the
17 Bristol Bay Fisheries Reserve,

18 (1) the commissioner, the commissioner of fish and game, and the
19 commissioner of environmental conservation must each make an independent finding
20 that an applicant has proven beyond a reasonable doubt that a large-scale metallic
21 sulfide mining operation located within the watershed of the Bristol Bay Fisheries
22 Reserve will not constitute a danger to the fisheries, fish, or wildlife within the
23 watershed of the Bristol Bay Fisheries Reserve;

24 (2) the commissioner must submit a report to the legislature that
25 contains the three independent determinations made by the commissioner, the
26 commissioner of fish and game, and the commissioner of environmental conservation
27 under this subsection; the commissioner shall deliver the report to the senate secretary
28 and the chief clerk of the house of representatives and notify the legislature that the
29 report is available; and

30 (3) any judicial review of permits and authorizations must be
31 completed.

1 (e) If, after an applicant receives final authorization under (a) of this section,
2 the applicant receives a permit or authorization that is significantly different than one
3 previously granted to the applicant, the large-scale metallic sulfide mining operation
4 may not be undertaken until the commissioner, the commissioner of fish and game,
5 and the commissioner of environmental conservation each make a revised independent
6 determination that an applicant has proven beyond a reasonable doubt that a large-
7 scale metallic sulfide mining operation located within the watershed of the Bristol Bay
8 Fisheries Reserve will not constitute a danger to the fisheries, fish, or wildlife within
9 the watershed of the Bristol Bay Fisheries Reserve. The commissioner shall submit a
10 revised report to the legislature regarding the three revised independent
11 determinations.

12 (f) The commissioner shall deliver a report or revised report under (d) or (e) of
13 this section to the senate secretary and the chief clerk of the house of representatives
14 and notify the legislature that the report is available. The commissioner shall

15 (1) prepare the report or revise a report using an interagency public
16 process, in cooperation with the commissioners of fish and game and environmental
17 conservation;

18 (2) provide an opportunity for public comment before the report or
19 revised report is submitted to the legislature; and

20 (3) subject the report to peer review.

21 (g) The commissioner shall inform the governor, the president of the senate,
22 and the speaker of the house of representatives of any incident that may create a
23 danger to the fisheries, fish, or wildlife within the watershed of the Bristol Bay
24 Fisheries Reserve.

25 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).

ALASKA STATE LEGISLATURE



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REPRESENTATIVE ANDY JOSEPHSON

Committees:
Resources: Co-Chair
•
Legislative Budget
and Audit: Vice-Chair
•
Labor and Commerce
•
House Special
Committee on Econ.
Devel., Tourism, &
Arctic Policy (EDA)

SUMMARY OF CHANGES

House Bill 14 – Legislative Approval for Bristol Bay Sulfide Mine

There are three changes to the original version of the House Bill 14 that occur in the Committee Substitute. First, the original version protected the “fisheries” of the Bristol Bay Fisheries Reserve. The term ‘fisheries’ was defined within the bill as meaning “subsistence, personal use, sport, or commercial fisheries as [they are defined in existing statute.]” This definition read only to include those species and habitats as they relate to human use. The Committee Substitute has added in the terms ‘fish’ and ‘wildlife’ to offer more broad protections to life within the Reserve, not just those species and areas used by humans. These terms are inserted into other areas of the bill where appropriate.

Further, the geographic area described in the original bill was the Bristol Bay Fisheries Reserve which is a distinct area delineated in statute and administrative regulations. The Committee Substitute expands this area to include the entire watershed of the Reserve, a significantly larger scope. The definition of watershed can be found in state and common law jurisprudence.

Finally, the term ‘modification’ was inserted under the definition of ‘permits and authorizations’ to increase specificity.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 14
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB014-DEC-WQ-04-21-17
Title: LEG. APPROVAL OF BRISTOL BAY SULFIDE
MINE
Sponsor: JOSEPHSON
Requester: House Fisheries Committee

Department: Department of Environmental Conservation
Appropriation: Water
Allocation: Water Quality
OMB Component Number: 2062

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2018 Request	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Personal Services							
Travel							
Services						200.0	45.0
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	200.0	45.0

Fund Source (Operating Only)

1004 Gen Fund (UGF)						200.0	45.0
Total	0.0	0.0	0.0	0.0	0.0	200.0	45.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Projected costs were moved out two fiscal years to reflect anticipated project timeline.
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Prepared By: <u>Michelle Hale</u>	Phone: <u>(907)465-5135</u>
Division: <u>Water</u>	Date: <u>04/21/2017 01:35 PM</u>
Approved By: <u>Alice Edwards, Deputy Commissioner</u>	Date: <u>04/21/2017</u>
Agency: <u>Department of Environmental Conservation</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB 14

Analysis

This bill requires the Department of Environmental Conservation Commissioner make an independent determination that an applicant for metallic sulfide mining operation located within the watershed of the Bristol Bay Fisheries Reserve has proven beyond a reasonable doubt that the operation will not constitute a danger to the fisheries, fish, or wildlife.

In order to assist the Commissioner in making the independent determination, the Department requires contractual support in the form of technical assistance and legal counsel in reviewing the numerous permits from multiple state and federal agencies. Each time a permit is issued or significantly modified, a new independent determination will need to be made. For a large mine project that would disturb 640 or more acres of land, as described in existing statute at AS 38.05.142 (c), it is expected that routine, ongoing permit modification and reissuance would result in an annual review.

Contractual costs include technical assistance (\$125,000 in the first year) and legal counsel (\$75,000 in the first year). The Department assumes that costs would begin in FY2022, though the project start-up date is unknown at this time.

For years beyond the first independent determination, costs are expected to be reduced given that many of the permits and authorizations will already have been reviewed. Annual costs for FY2023 and beyond are expected to be \$25,000 for technical assistance and \$20,000 for legal counsel.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 14
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB014-DFG-HAB-04-21-17
Title: LEG. APPROVAL OF BRISTOL BAY SULFIDE
MINE
Sponsor: JOSEPHSON
Requester: House Fisheries

Department: Department of Fish and Game
Appropriation: Statewide Support Services
Allocation: Habitat
OMB Component Number: 486

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2018 Request	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Personal Services						110.0	25.0
Travel							
Services						75.0	10.0
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	185.0	35.0

Fund Source (Operating Only)

1004 Gen Fund (UGF)						185.0	35.0
Total	0.0	0.0	0.0	0.0	0.0	185.0	35.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable; initial version.

Prepared By: <u>David Rogers, Director</u>	Phone: <u>(907)465-6436</u>
Division: <u>Habitat</u>	Date: <u>04/21/2017 12:00 PM</u>
Approved By: <u>Carol Petraborg, Director</u>	Date: <u>04/21/17</u>
Agency: <u>Division of Administrative Services</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB 14

Analysis

This bill requires the Department of Fish and Game Commissioner make an independent determination that an applicant for metallic sulfide mining operation located within the watershed of the Bristol Bay Fisheries Reserve has proven beyond a reasonable doubt that the operation will not constitute a danger to the fisheries.

The Commissioner will need assistance in the form of subject matter expertise from staff and legal assistance in reviewing the numerous permits from state and federal agencies, in order to make the independent determination. Each time a permit is issued or significantly modified, a new independent determination will need to be made. For a large mine, it is expected that routine, ongoing permit modification and reissuance would result in an annual review.

Our costs are based on the annual salary cost of a Habitat Biologist IV (about \$110,000 per year to fund an existing vacant PCN) and legal and/or outside technical assistance (\$75,000 per year). Project startup is unknown. Costs are projected to begin in FY22 and GF included in this fiscal note will supplant the need for industry support, thus maintaining the bill's intent of achieving an independent determination.

For years beyond the first independent determination, costs are expected to be reduced given that many of the permits and authorizations will already have been reviewed. Annual costs for FY23 and beyond are expected to be \$25,000 for habitat biologists and \$10,000 for legal assistance.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 14
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB014-DNR-MLW-04-21-17
Title: LEG. APPROVAL OF BRISTOL BAY SULFIDE
MINE
Sponsor: JOSEPHSON
Requester: House Fisheries

Department: Department of Natural Resources
Appropriation: Fire Suppression, Land & Water Resources
Allocation: Mining, Land & Water
OMB Component Number: 3002

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018	Included in	Out-Year Cost Estimates					
	Appropriation Requested	Governor's FY2018 Request	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018						
Personal Services								
Travel								
Services				5.0	5.0		250.0	45.0
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	5.0	5.0	0.0	250.0	45.0	

Fund Source (Operating Only)

1004 Gen Fund (UGF)			5.0	5.0		250.0	45.0
Total	0.0	0.0	5.0	5.0	0.0	250.0	45.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? 06/30/20

Why this fiscal note differs from previous version:

Initial version.

Prepared By: <u>Brent Goodrum, Director</u>	Phone: <u>(907)269-8625</u>
Division: <u>Mining, Land and Water</u>	Date: <u>04/21/2017 01:00 PM</u>
Approved By: <u>Andrew T. Mack, Commissioner</u>	Date: <u>04/21/17</u>
Agency: <u>Department of Natural Resources</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB 14

Analysis

Under Sec. 2, The commissioner of Department of Natural Resources (DNR) would be required to make an independent finding that the applicant for a large-scale metallic sulfide mining operation located within the watershed of the Bristol Bay Fisheries Reserve has proven beyond a reasonable doubt that the proposed mine permit does not constitute a danger to the fisheries, fish or wildlife.

Because DNR does not employ subject matter experts in fisheries or water quality, DNR will be required to contract for private subject matter experts in these fields to complete those elements of the finding. To contract for these services, DNR anticipates the need for \$250.0 thousand to have the capacity to prepare the required findings and reports and \$45.0 thousand per year thereafter for technical and legal support. It is uncertain when this would begin, however it is likely that it would take at least two years minimum to go through the permitting. Therefore, the expected cost incurred will not begin until at least FY2022.

Proposed AS 38.05.142(b) requires DNR to adopt regulations to implement this section of law. Although there is no due date, it is anticipated that we would have to hire a contractor to help craft and promulgate these regulations by the end at a cost of \$5.0 thousand in FY2019 and FY2020 to accomplish this task.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 14
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB014-DFG-HAB-01-27-2017
Title: LEG. APPROVAL OF BRISTOL BAY SULFIDE
MINE
Sponsor: JOSEPHSON
Requester: (H) FSH

Department: Department of Fish and Game
Appropriation: Statewide Support Services
Allocation: Habitat
OMB Component Number: 486

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018	Included in	Out-Year Cost Estimates					
	Appropriation Requested	Governor's FY2018 Request	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable; initial version.

Prepared By: <u>David Rogers, Director</u>	Phone: <u>(907)465-6436</u>
Division: <u>Division of Habitat</u>	Date: <u>01/27/2017 03:30 PM</u>
Approved By: <u>Carol Petraborg, Director of Administrative Services</u>	Date: <u>01/27/17</u>
Agency: <u>Department of Fish and Game</u>	

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2017 LEGISLATIVE SESSION**

BILL NO. HB 14

Analysis

This bill will require that the Commissioner of ADF&G make an independent determination that an applicant for metallic sulfide mining operation located within the watershed of the Bristol Bay Fisheries Reserve has proven beyond a reasonable doubt that the operation will not constitute a danger to the fisheries.

The division does not anticipate any additional costs as this falls within our normal scope of work.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 14
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB014-DFG-DCF-01-27-2017
Title: LEG. APPROVAL OF BRISTOL BAY SULFIDE
MINE
Sponsor: JOSEPHSON
Requester: (H) FSH

Department: Department of Fish and Game
Appropriation: Commercial Fisheries
Allocation: Central Region Fisheries Management
OMB Component Number: 2168

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2018 Request	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **No**
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable; initial version.

Prepared By: <u>Scott Kelley, Director</u>	Phone: <u>(907)465-6100</u>
Division: <u>Division of Commercial Fisheries</u>	Date: <u>01/27/2017 01:00 PM</u>
Approved By: <u>Carol Petraborng, Director of Administrative Services</u>	Date: <u>01/27/17</u>
Agency: <u>Department of Fish and Game</u>	

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2017 LEGISLATIVE SESSION**

BILL NO. HB 14

Analysis

This bill would have zero fiscal impact to the Division of Commercial Fisheries. Any additional workload to the Division of Commercial Fisheries from this bill would fall into existing workflow processes. Division staff would use existing information pertaining to the affected commercial fisheries and provide comments to the Division of Habitat, tasked with coordinating department responses for these types of proposed projects/activities, who in turn coordinate with the Department of Natural Resources.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 14
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB014-DFG-DSF-01-27-2017
Title: LEG. APPROVAL OF BRISTOL BAY SULFIDE
MINE
Sponsor: JOSEPHSON
Requester: (H) FSH

Department: Department of Fish and Game
Appropriation: Sport Fisheries
Allocation: Sport Fisheries
OMB Component Number: 464

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates					
			FY 2018	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable; initial version.

Prepared By: <u>Thomas Brookover, Director</u>	Phone: <u>(907)267-2150</u>
Division: <u>Division of Sport Fish</u>	Date: <u>01/27/2017 10:00 AM</u>
Approved By: <u>Carol Petraborg, Director of Administrative Services</u>	Date: <u>01/27/17</u>
Agency: <u>Department of Fish and Game</u>	

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2017 LEGISLATIVE SESSION**

BILL NO. HB 14 _____

Analysis

This bill would have zero fiscal impact to the Division of Sport Fish. Any additional workload to the Division of Sport Fish from this bill would fall into existing workflow processes. Division staff would use existing information pertaining to the affected sport fisheries and provide comments to the Division of Habitat tasked with coordinating Department responses for these types of proposed projects/activities who in turn coordinate with the Department of Natural Resources.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 14
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB014-DFG-SUB-01-27-2017
Title: LEG. APPROVAL OF BRISTOL BAY SULFIDE
MINE
Sponsor: JOSEPHSON
Requester: (H) FSH

Department: Department of Fish and Game
Appropriation: Statewide Support Services
Allocation: State Subsistence Research
OMB Component Number: 2625

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates					
			FY 2018	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable; initial version.

Prepared By: <u>Hazel Nelson</u>	Phone: <u>(907)267-2190</u>
Division: <u>Division of Subsistence</u>	Date: <u>01/27/2017 04:00 PM</u>
Approved By: <u>Carol Petraborg, Director of Administrative Services</u>	Date: <u>01/27/17</u>
Agency: <u>Department of Fish and Game</u>	

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2017 LEGISLATIVE SESSION**

BILL NO. HB 14 _____

Analysis

This bill will require that the Commissioner of ADF&G make an independent determination that an applicant for metallic sulfide mining operation located within the watershed of the Bristol Bay Fisheries Reserve has proven beyond a reasonable doubt that the operation will not constitute a danger to the fisheries.

Subsistence fisheries are an essential component of the local economy and way of life for Bristol Bay communities. If adopted as written, the bill would have zero fiscal impact to Division of Subsistence because review of information related to development projects is currently encompassed in the division's activities.



January 31, 2017

Members of the House Committee on Fisheries
Alaska State Legislature
C/O Reid Harris, House Fisheries Committee Aide

RE: Comments in Support of HB 14, "An Act relating to the Bristol Bay Fisheries Reserve."

Dear Committee Members,

Please accept this letter on behalf of Trout Unlimited (TU) in support of H.B. 14, "An Act relating to the Bristol Bay Fisheries Reserve; and providing for an effective date." TU is grateful for the Committee's attention to the important issues affecting Bristol Bay fisheries.

TU is the nation's largest sportsman's organization dedicated to coldwater conservation with more than 1,000 members in Alaska. TU members own and operate businesses—including sport-fishing lodges, air taxi services and commercial fishing operations—that depend on clean water, natural flows and healthy wild salmon and resident fish populations. In addition to our members in more remote parts of the state, including Bristol Bay, TU has active chapters in Fairbanks, Anchorage and the Mat-Su, on the Kenai Peninsula, and in Southeast Alaska.

The Bristol Bay region is the world's greatest wild salmon fishery, contributing many thousands of jobs and more than \$2 billion in annual economic activity. It provides more than half of the world's wild sockeye salmon, is a once-in-a-lifetime destination for trophy rainbow trout anglers, consistently ranks among the top three producers of king salmon, and has supported Alaska Native communities for thousands of years. These important jobs and the irreplaceable culture of the Bristol Bay region will last millennia if we take care of the region's unique fish, wildlife and water resources.

Alaskans from all walks of life overwhelmingly recognize the great importance of the Bristol Bay fisheries reserve to Alaska's economy, culture and communities. Ballot Measure 4, which passed in 2014 with more than 65% of the vote and a majority in every voting district throughout the state, is a clear mandate for the legislature to do all it can to protect Bristol Bay's world-class fisheries and fish and wildlife resources from the dangers posed by large-scale metallic sulfide mining operations in the region. Because H.B. 14 would strengthen the protections Alaskans overwhelming voted to support in 2014, TU supports the bill and encourages this committee and the State Legislature to do the same.

The fish, wildlife and water resources of the Bristol Bay region are central to Alaskans' way of life and our economic, cultural and spiritual well-being. It is critical that the legislature ensure the continued productivity of these irreplaceable and important resources.

Sincerely,

Austin Williams
Alaska Director of Law and Policy

Bristol Bay Fishermen's Association

(formerly AIFMA)

P.O. Box 60131

Seattle, WA 98160

Phone/Fax (206) 542-3930



January 30, 2017

Representative Louise Stutes Via Fax: 907-465-4956
State Capitol, Room 406
Juneau, AK 99801

Re: HB 14 – our support.

Dear Representative Stutes,

I am enclosing a copy of our written testimony in support of HB 14. Please enter it and this letter into the record for the hearing on January 31, 2017 before the House Fisheries Committee.

In 1972, the Legislature enacted the Bristol Bay Fisheries Reserve (at AS 38.05.140(f)). It provides that within state land beneath navigable waters (i.e., submerged and shorelands) a surface entry permit for oil and gas drilling in the Reserve may not be issued until the Legislature finds that such activities will not constitute a danger to the fisheries. In 2014, the voters enacted an initiative (AS 38.05.142) which provides that in addition to permits or authorizations otherwise required by law, any metallic sulfide mine in the drainages of the Reserve must obtain a final authorization by the Legislature taking the form of a law that contains a finding that such a mining operation will not constitute a danger to the fisheries.

HB 14 clarifies or improves the initiative in several respects, including these:

1. HB 14 improves the quality of science in decision-making. HB 14 requires the Departments of Natural Resources, Fish and Game, and Environmental Conservation to independently prepare and submit reports to the Legislature, that are subjected to public comment and peer review, to document whether an applicant for permits and authorizations for a large scale metallic sulfide mine in the Reserve has carried the burden of proving beyond a reasonable doubt that such a mine will not constitute a danger to the fisheries within the Reserve. Peer review strengthens, and a high standard of proof science-based decisions.

2. HB 14 clarifies and defines "fisheries" consistent with existing statute. HB 14 defines "fisheries" to mean subsistence, personal use, sport or commercial fisheries as those fisheries are defined in AS 16.05.940. Requiring an applicant to carry the burden of proof, and defining "fisheries" consistent with statute, implement:

- the pledges of Pebble Limited Partnership that "fish come first" and that PLP will not develop a mine that damages Alaska's fish, wildlife or communities dependent on them;
- the Sustained Yield Clause of the Alaska Constitution (Art. VIII. § 4), and
- the State's Sustainable Salmon Management Policy at 5 AAC 39.222(c)(5)(A)(v), which places the burden of proof on those who plans or activities could be a danger to the fisheries.

Regards,

A handwritten signature in black ink, appearing to read "David Harsila".

David Harsila,
BBFA President

Dear Fisheries Committee Members,

Please do all that you can to stop the Pebble Mine.

Thanks in advance,

Daren

--

Daren Erickson

Alaska's Enchanted Lake Lodge, Inc.

(907) 273-0044 P (June 1 - Oct 1)

(907) 694-6447 P (Oct 1 - June 1)

<http://www.enchantedlakelodge.com>

Info@enchantedlakelodge.com

Dear Representative Stutes,

I wanted to email my support of HB14 and any such action to further strengthen Ballot Initiative 4 from 2014. I own and operate Alaska Fly Anglers, Inc, an Alaska Sub S corp. My primary locality of business is in the Bristol Bay region. My entirely livelihood along with that of much of my family is dependent upon healthy and well managed fisheries. For such a stable and Alaska centric local economy to be put in possible jeopardy by a foreign owned mining company is beyond comprehension to Alaskans.

Sincerely, John Hohl. Kodiak, AK

John Hohl

Alaska Fly Anglers, Inc

www.alaskaflyanglers.com

(907) 252-2868

Dear Members,

I own and operate Alaska Alpine Adventures, and have been living and operating in the Bristol Bay region since 1995. We are an adventure travel company who shares with guests from around the world the vast riches of wilderness, solitude, and wildlife in Alaska's National Parks & Wildlife Refuges - Katmai & Lake Clark National Parks in particular.

I've been involved in the fight to protect the region from large scale mineral development since 2004. While it took more than a decade, there are a few things that are now abundantly clear and factual. Pebble, and large scale mines like it are too risky because they threaten salmon, clean water, and the experiences my clients seek. Secondly, an overwhelming majority of Alaskans are opposed to the development of Pebble. The region's ecosystem is far too precious to Alaskans to risk sacrificing it for short term profits for a few.

I support any effort that will increase the protections for salmon and the commercial fishing and tourism jobs that depend on them. I urge you to take the leadership on this issue that Alaskans have been asking for for over a decade.

Regards, Dan Oberlatz

Dan Oberlatz | [Alaska Alpine Adventures](#)
Owner-Guide
Tel: 1-877-525-2577 | Cell: 907-301-9997

"Best Adventure Travel Companies on Earth" 2008 & 2009 - *National Geographic Adventure Magazine*

"50 Tours of a Lifetime" 2010 - *National Geographic Traveler Magazine*

Dear Fisheries Committee Members,

I am writing to show my support for HB 14 and HB 56, which I understand will be discussed today by the House Fisheries Committee. As a Bristol Bay Permit holder since 2001, and a Bristol Bay fisherman since 1981, I consider the Bristol Bay fishery a sanctuary of culture, lifestyle, and a vital economic resource that has existed for hundreds, if not thousands, of years.

HB 14 will clarify and make more specific some legislative protections the State of Alaska can provide to protect the Bristol Bay watershed and fishery from the threat of mining near critically important habitat, and I support it, as well as any legislation that may be considered to offer more protection from the likes of Northern Dynasty and the Pebble Mine Partnership. It seems odd to me that the "conservative" branch of our federal and state government wants to gamble with the future of renewable resources, particularly a fishery like Bristol Bay, which is the world's largest and most important wild salmon fishery. Historically, looking at almost every wild salmon fishery on the West Coast of the United States and Canada, the runs of fish have been significantly impacted and reduced to almost extinction, due to pollution, from one cause or another from human development. I hope the fisheries committee members will do everything it can to keep Alaska's water's clean and free from pollution that is detrimental to its fish and wildlife.

HB 56 will allow more investment in fishing equipment and boats, which is needed to keep up with demands for quality products. Particularly in Bristol Bay, when we are limited to 32 feet, quality is often sacrificed on the older, narrower boats, that do not have the space and room to safely add RSW equipment or the engine power necessary to operate such equipment. HB 56, if passed, will provide more money for fishermen to make investments into the fishery.

Thank you for passing on my comments.

Sincerely,

Erick Sabo

Owner/Operator F/V Alsatia, Bristol Bay.

Dear Representative Stutes,

Please stand up for Alaskans and tell Pebble Partnership that Alaskans cannot be bought. We do not support trading our salmon industry and culture for short-term jobs at Pebble.

We have overwhelmingly opposed the Pebble Mine time and time again. We hope you will govern with this opposition in mind.

Sincerely,

Sincerely,

Jennifer Weis

1565 Sunrise Drive
Anchorage, AK 99508

EKWOK VILLAGE COUNCIL

**P.O. Box 70
Ekwok, AK 99580
907-464-3336
F 907-464-3378**

January 30, 2017

Representative Louise Stutes
State Capitol, Room 406
Juneau, AK 99801

Via Fax: 907-465-4956

Re: Support for HB 14

Dear Representative Stutes,

Native Village of Ekwok, on the Nushagak River, is represented by the Ekwok Village Council. In 2014, our community voted strongly in favor of Ballot Measure 4. It passed. It requires final authorization by the legislature of any large-scale metallic sulfide mine in the drainages of the Bristol Bay Fisheries Reserve, including the Nushagak River drainage where Ekwok is located.

Because you represent Kodiak and serve as Chair of the House Special Committee on Fisheries, you know how important our salmon fisheries are.

The Ekwok Village Council supports HB 14. It would improve upon, and clarify, Ballot Measure 4.

We would be pleased to testify in support of HB 14. We urge that it be passed out of the fisheries committee with a do-pass recommendation, so that it can move on to the next committee, which will be the House Resources Committee.

Sincerely,

Luki Akelkok Sr.

Luki Akelkok Sr.

Dear Representative Stutes,

Recently, the Pebble Partnership has been in the press proclaiming that the Pebble Mine will advance in 2017. I am writing to remind you that, as my elected leader, I expect you and your fellow legislators to stand up for Alaskans and tell this foreign mining company that Alaskans cannot be bought. We do not support trading our salmon industry and culture for short-term jobs at Pebble. It's foolish and irresponsible to trade a renewable resource for a finite one.

As you well know, Alaskans overwhelmingly oppose the Pebble Mine. Alaskan constituents are relying on you to point out the glaring problems that Pebble faces, the largest of which is the broad opposition from Alaskans to any proposal that threatens Bristol Bay's world-renown salmon resource. We hope you will govern with this opposition in mind.

Alaskans have been living with the threat of Pebble hanging over their heads for over decade now. It has never been a more important time for our state leaders to stand up for Alaskan jobs, businesses, and salmon. We are fine without a giant mine in Bristol Bay. Let's make 2017 the year we said yes to ensuring long-term fishing and tourism jobs, and that Alaska Native communities in Bristol Bay continue to thrive.

Sincerely,

REPORT SUMMARY:¹
INVESTIGATION OF RECLAIMED DRILL SITES, PEBBLE PROSPECT,
AUGUST 2016

Center for Science in Public Participation²
for
United Tribes of Bristol Bay
304 Main Street
Dillingham, AK 99576

November 3, 2016

BACKGROUND

The Pebble ore deposit was intensively explored between 2004 and 2012. Active exploration has not occurred in the past four years. The site has 1,355 drill holes ranging from shallow geotechnical holes to exploration holes (DDH) up to 6,000 feet deep, all located on State-owned land. Drilling targeted copper sulfide mineralization, and “rock flour” cuttings with copper and sulfide can create acidic soil with high copper concentrations when disposed of on the landscape. Additionally, drill holes that are not properly reclaimed could generate acid downhole and allow groundwater to carry metals to the surface.

The Pebble Limited Partnership (PLP) operates under a Miscellaneous Land Use Permit (MLUP), in part to continue reclamation work. PLP rates reclaimed drill holes as “active”, “inactive”, or “plugged”, and within each of these rates the degree of maintenance required, from A – significant repairs necessary, to E – site is stable and fully reclaimed. The Alaska Department of Natural Resources (DNR) uses this self-reported rating system to grade these sites.

In November 2015, the United Tribes of Bristol Bay (UTBB) and others petitioned DNR to investigate the status of reclamation, including drill holes that had not been properly plugged, unsuccessful revegetation efforts, and the continuing presence and impact of drilling waste.

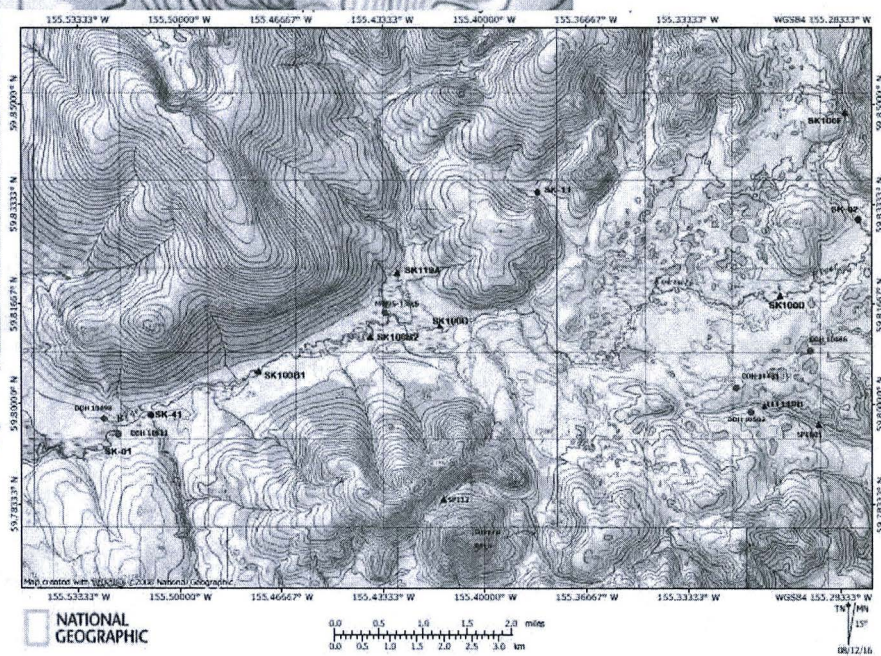
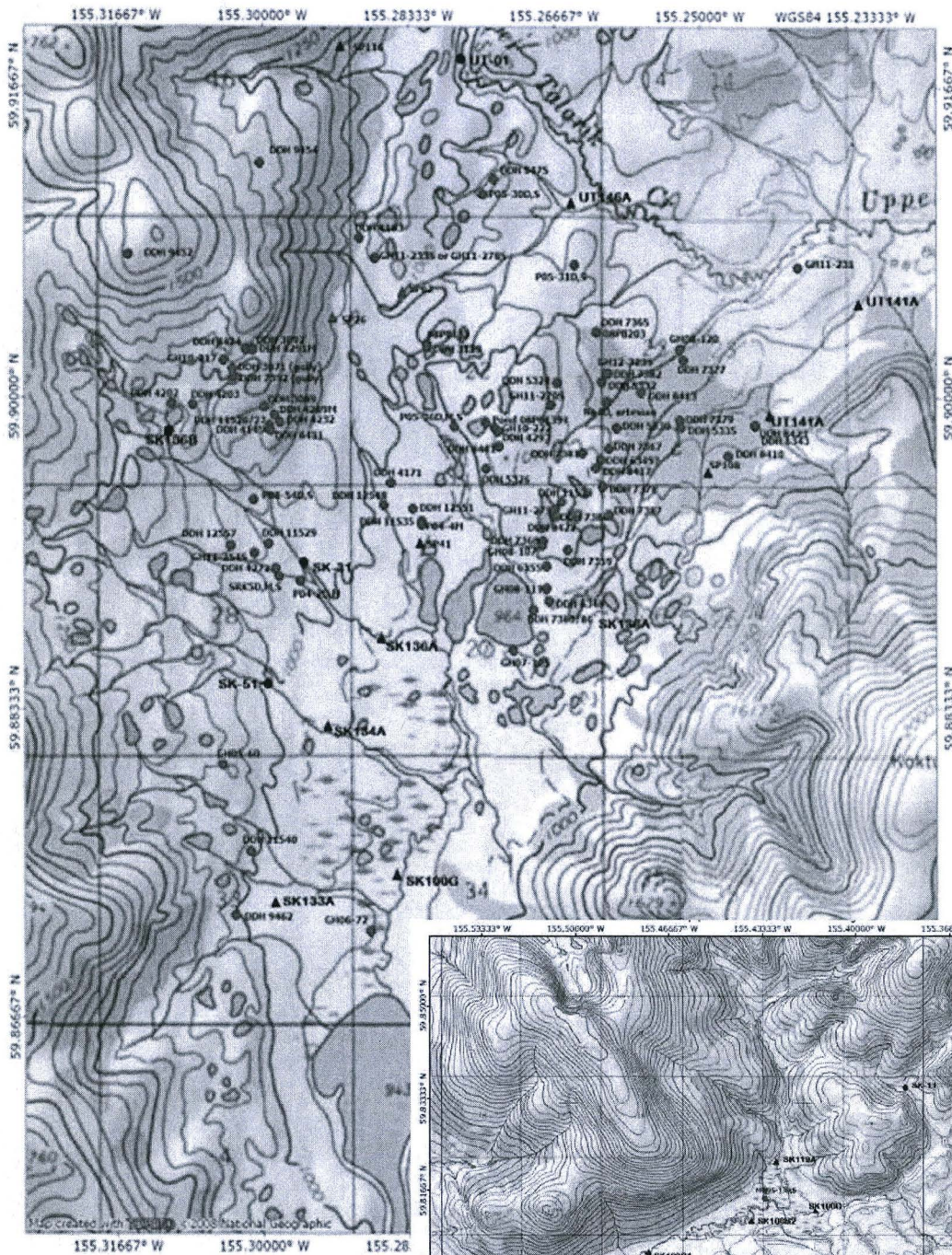
A Center for Science in Public Participation (CSP2) team inspected 107 wellsites in August (CSP2 sites inspected are in red, Figure 1). Of the sites visited, 34% had no issues, 41% had environmental issues, and 25% had minor issues such as open casings, frost-jacked casings, casings with plugs and valves, or no site identification. Our study determined that 71 of 107 sites inspected were not fully reclaimed. Evidence of impacts was documented through photos, pH and conductivity field meters, and laboratory analysis. Impacts observed in the field were largely dead vegetation, artesian flows, and the presence of open, apparently abandoned, drill casings

In July 2016, DNR inspected 141 sites, including 34 identified by PLP as sites that needed monitoring or repair work.³ At 23 drill sites that CSP2 and DNR both inspected, within a week of each other, DNR identified problems at 3 and CSP2 determined that at least 8 of the 23 had problems.

¹ The full report is: Zamzow, K and D Chambers. 2016. Investigation of Reclaimed Drill Sites, Pebble Prospect, 2016. Kendra Zamzow, Ph.D., and David M Chambers, Ph.D., P. Geop., Center for Science in Public Participation, Bozeman, MT, for the United Tribes of Bristol Bay, Dillingham, AK, October, 2016.

² Kendra Zamzow, Ph.D., and David M Chambers, Ph.D., P. Geop., Center for Science in Public Participation, 224 North Church Avenue, Bozeman, MT, Ph. 406-585-9854, email: msp2@msp2.org

³ DNR Field summary report for APMA A20146118 and A20142788, July 26-27 2016
http://dnr.alaska.gov/mlw/mining/largemine/pebble/field-reports/A166118_20160726_TripReport_FINAL.pdf



NATIONAL GEOGRAPHIC
0.0 0.5

NATIONAL GEOGRAPHIC
0.0 0.5 1.0 1.5 2.0 miles
0.0 0.5 1.0 1.5 2.0 2.5 3.0 km

Figure 1. Mining exploration drill sites at the Pebble prospect inspected by the CSP2 team, August 2016.

(Top) Main ore body.

(Right) South Fork Koktuli river valley, southwest of main ore body.

CSP2 INSPECTION RESULTS

Drilling waste disposed of on the landscape

Remnants of direct discharge from drilling are still evident on the landscape as oxidized or grey fine-grained material accompanied by dead brush and tundra (Figure 2). Exploration drilling targeted sulfide ore with copper, gold, and molybdenum, and sampling by CSP2 determined sites with remaining drill waste discharge to be very high in copper and molybdenum. Some samples were acidic, and may be continuing to impact vegetation. Five areas with discharge were located. The nearest sites to these discharges were drilled in 2004, 2006, 2007, and 2012, indicating that the waste may have been impacting vegetation and soil for anywhere from 4 to 12 years.



Figure 2: Dead vegetation and acidic drill cuttings (light-colored material in foreground) remain years after the hole was drilled. Soil was over 100 times higher in copper and molybdenum than background. The nearest hole (DDH 6355) was drilled in 2006.

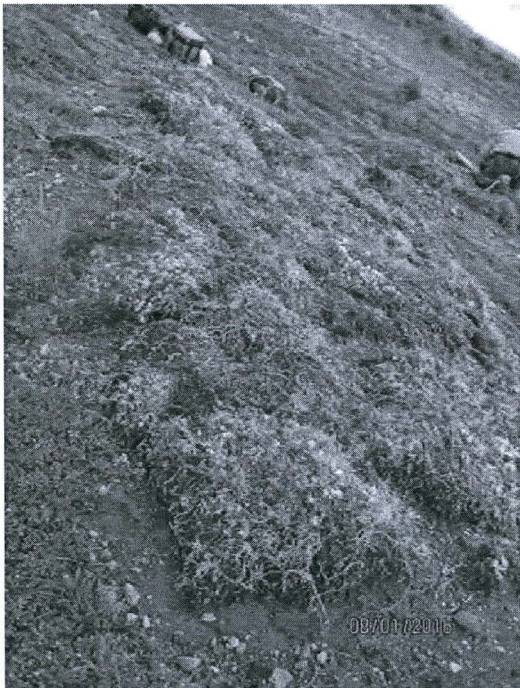


Figure 3: Dead vegetation on reclaimed drill waste sump DDH 11540, drilled in 2011.

Drill Waste Sumps

During exploration drilling some drilling waste was contained in small pits, or “sumps”, which were then covered over with the material that came from the original hole. Determining whether sumps are leaching contaminants, and the potential impact on groundwater, is difficult without baseline water data. One site (DDH 11540) was observed with sumps in use but overflowing in 2011. A nearby groundwater spring was not contaminated with metals, based on samples taken. In 2016, the spring was sampled by CSP2 and the concentrations of copper, iron, manganese, arsenic, and aluminum were much higher than in 2011, suggesting the sump contents could be leaching into groundwater. However, a more detailed investigation of groundwater is needed to verify whether contamination exists.

Vegetation fails to grow on some of the drill sumps established to contain drill waste (Figure 3). After drilling is complete, drill sumps are covered with soil removed from the sump, and tundra mats or other vegetation placed on top. CSP2 sampling determined that the soil on top of the sump is not toxic. Therefore, vegetation should grow on sump covers if tundra and other vegetation are handled correctly.

Artesian drill holes

Artesian sites are producing water, neutral in pH, but elevated in metals. Artesian flow is occurring whether the drill casing is present or not. DNR listed six artesian sites for PLP to address but did not collect samples to determine what type of water was being discharged. CSP2 sampled one of the six artesian sites DNR visited and found it to be discharging aluminum, manganese, sulfate, sodium, calcium, and magnesium in high concentrations but was low in copper (DDH 9475, Figure 4). Of five artesian sites CSP2 had tested, two were very high in copper, iron, and at least six other metals, with copper being well into the range of being toxic to aquatic life.⁴

Drill cuttings have also flushed from open drill casings frequently cut off just above the ground surface. These were all acidic, and high in copper and molybdenum. If these are continuing to flush periodically, either the holes were not cemented, or the cement has failed. As wells age, it will be important to know if the problem is observed at more sites.

Artesian conditions may vary daily and are not always dramatic. For example, one site that was flushing material up around a casing and into a wetland – and testing found petroleum elevated in the wetland sediment – was not noted as artesian when DNR visited (DDH 7382). A site DNR described as artesian was not flowing when CSP2 visited a week later (DDH 5332).

Some sites that clearly have been artesian have temporary fixes. It is not clear why temporary fixes have been applied instead of removing the drill casing, as required by DNR. At least two of these sites, repaired in 2015, were visited by DNR and approved as “good condition”, with aerial photographs provided. Photographs on the ground (CSP2) indicate that sites are not permanently stable.

The 2016 DNR inspection report states:

No violations of stipulations within MLUP A6118 were identified during the inspection. In addition, no violations of any other State or Federal Agency authorizations or permits were identified during the inspection.

and;

Overall, the Pebble Limited Partnership operation is in good condition and is consistent with industry standards... ADNR concurs with the structure and effectiveness of the internal borehole rating system developed and utilized by PLP.

However, CSP2 visited several sites with an “E” rating (stable and fully reclaimed) that had active uncontained artesian flow (DDH 7379 and DDH 7380/7386, drill hole with no ID) or drill holes flushing acidic cuttings (DDH 5324, DDH 6355, DDH 7392M, GH08-111 area). Most of these had the 3E rating, indicating they were plugged and fully reclaimed.



Figure 4: Artesian flow at DDH 9475, drilled in 2009.

⁴ Sites DDH 7382 and DDH 7380/7386 had copper of 76 or 215 µg/L and iron of 8 or 178 mg/L; Alaska water quality standards for the protection of aquatic life are less than 3 µg/L for copper and 1 mg/L for iron.

Incomplete Reclamation

Approximately 25% of the sites visited had steel drill casings extending above the surface. These drill casings can pose a risk to snow machine operators when fully or partially covered with snow. The Multiple Land Use Permit that DNR issued to allow Pebble mine exploration on State land requires specific reclamation actions, including cutting abandoned drill casings off below ground surface, filling drill holes with a minimum of 10 feet of cement, removing equipment and buildings, and submitting an annual reclamation statement.

There were sites that had open drill casings (Figure 5), and sites where drill casings had been removed but artesian water appeared to flow from the old drill hole.

Mobilizing equipment to properly remove these drill casings and close the drill holes will be very expensive due to the remoteness of the location.



Figure 5: Steel drill casing at reclaimed drill site DDH 11540, drilled in 2011.

CONCLUSIONS

Key categories of problems that were identified during the inspection include: artesian drill holes that are flushing water, and sometimes drill cuttings; drill cutting that were placed unrestrained on the surface and in ponds, and have since turned acidic; drill waste sumps that may be leaching contaminants into groundwater, and which are covered with vegetation that is still dead; drill casings that have no cap, or the cap is open, and, steel drill casings that stick up above ground level and pose a safety risk to snow machines.

Allowing drill waste to be placed directly on the tundra, where it is exposed to oxygen and water, has led to acid generation in the waste. This is not only a demonstrated source of contamination at Pebble, but it should be obvious that allowing this practice to continue at any mineralized drilling site could result in similar contamination. DNR should not allow drill waste to be placed on the ground surface.

The impacts of placing drill waste into kettle ponds, and unlined waste pits covered with overburden, is less clear. It appears that drill waste in the waste pits is turning acid, but to see if this is impacting groundwater would require additional monitoring. Drill waste has been observed in kettle ponds, but these ponds flush annually, and additional water quality and sediment monitoring would be required to determine if there are impacts to aquatic organisms.

It is evident that these are significant ongoing reclamation and maintenance issues. Sites that have not been in use for years continue to have artesian flows or possibly flush drill cuttings; many sites require revegetation. Until all the drill holes are fully reclaimed they pose a financial risk to the State if the mining operator were to go bankrupt.

DNR has the discretion to subject each permit to “any provisions the department determines necessary” to assure compliance with the MLUP regulations, and “to minimize environmental impacts.” Currently DNR depends on PLP to self-rate the level of reclamation still needed at drill sites, but these ratings are

not always accurate. Random inspections, such as conducted in 2016 by DNR, in addition to inspections of self-reported problem sites should continue. However, DNR decided that none of the 134 drill sites they inspected in 2016 posed an environmental or compliance risk. CSP2 identified several areas where drill holes may be having current and continuing impacts in the area, and where there were impacts from discharge during drilling that have not recovered yet.

DNR currently requires no reclamation plan, and can waive the reclamation bond, as it has for the most recent land use permit. To fully understand and address the extent of all environmental impacts a detailed inspection, detailed reclamation plans with funding, and follow up monitoring is needed. It is clear that with the existing issues, and Pebble's unstable financial state, the full environmental impacts cannot be understood nor addressed, and the full financial risks to the State will not be known until a more detailed inspection has been done.

CSP2 recommends that the following tasks be included in the process of additional reclamation inspections at Pebble:

- Collect water quality data at springs located in proximity to drill waste pits in to determine whether high concentrations of metals are present and whether water quality changes with time;
- Collect water quality from existing monitoring wells, including sites listed as "converted to active" wells, in proximity to exploration holes to determine if groundwater is being impacted;
- Where springs are not present, collect groundwater from new shallow wells upgradient and downgradient of drill waste pits to assess potential impacts on groundwater;
- Collect additional sediment data in kettle ponds that were used for drill waste disposal, and around wells where drill waste is still in evidence;
- Collecting water quality at artesian wells, including sites that are "daylighting" or "upwelling" to determine the type of environmental impact occurring;
- Collect water quality where ponded water with iron staining is observed around a casing; if water is elevated in copper, it may indicate the ponded water is from artesian conditions;
- Collect groundwater from new shallow wells both upgradient and downgradient from selected drill waste pits to assess potential impacts on groundwater.
- Remove drill waste that is leaching metals and/or acid, or is not revegetating;
- Identify all wells with remaining drill casings, and cut off all well casings at wells that are not being actively used. Properly mark remaining drill casings so they can be avoided by snowmachines in the winter; and,
- Re-plug wells with free-flowing artesian water and from which drill cuttings have flushed out onto the landscape.

#####

To whom it may concern,

My family and I own and operate Alaska's Fishing Unlimited, Inc dba. Fishing Unlimited Lodge which has been in operation since 1976.

The lodge is a fly-out fishing lodge located in Port Alsworth on Lake Clark approximately 35 miles north of the proposed Pebble mine.

Fishing Unlimited has 8 employees and brings into Alaska every year between \$800,000 - \$1,000,000.

Pebble, and large scale mines like it are a risk to my business because it threatens salmon, trout, clean water, and the experience my clients seek.

I support any effort that will increase the protections for salmon and the commercial fishing and tourism jobs that depend on them. I urge you to be the leaders on this issue Alaskans have been asking for for over a decade.

Thank you!

Best Regards,

Martin Kviteng

Alaska's Fishing Unlimited, Inc.

Subject: Pebble Mine hearing with House Fisheries Committee

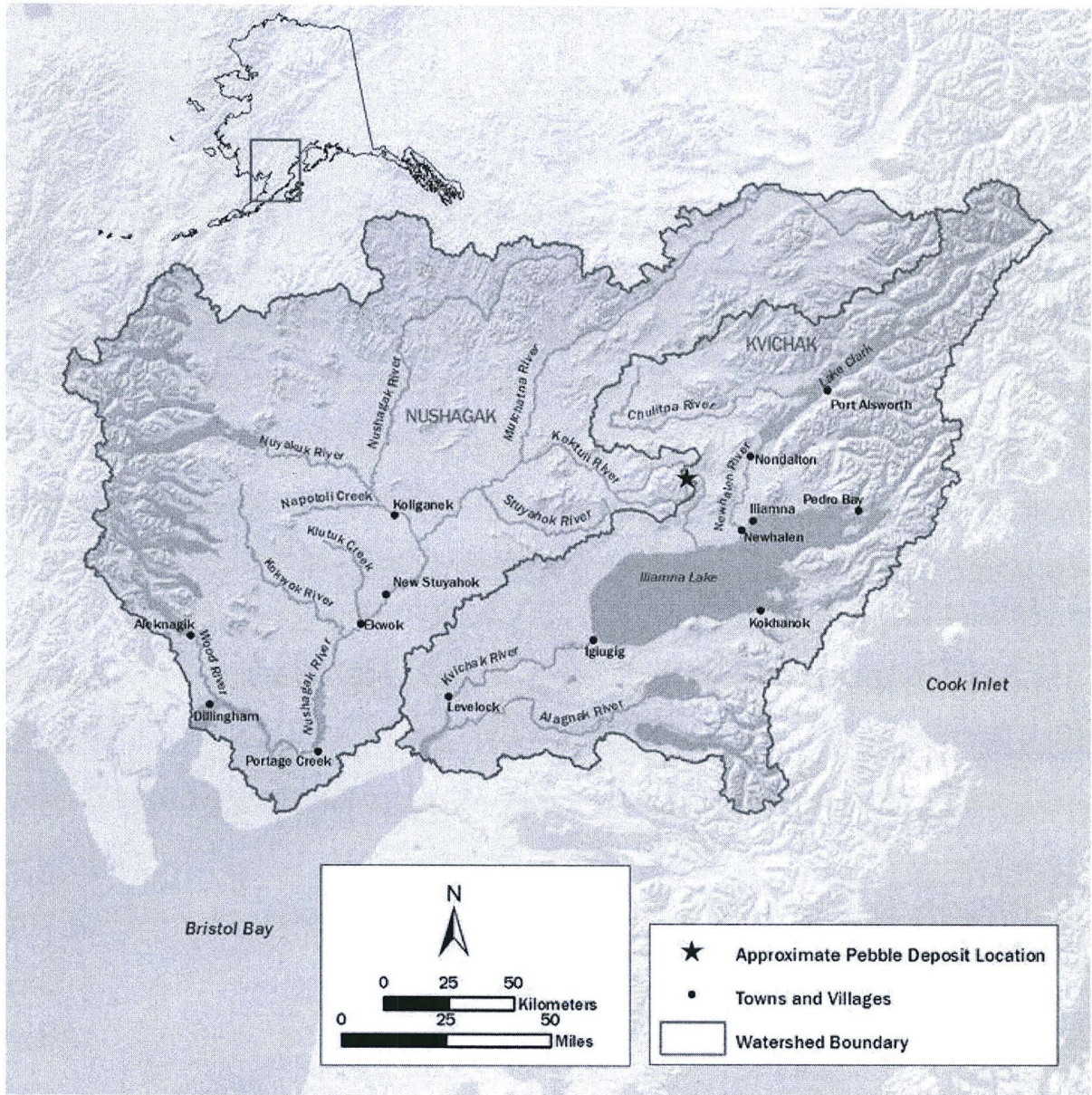
We understand there is a meeting going on starting at 10 AM today on the above subject. We would like them to know we are against the Pebble Mine to continue to get permitting or even think of building it in this pristine area. We must stop the Pebble Mine now. Just because we have a need President doesn't mean Alaskans have changed their mind on this mine. Protect our Salmon, Wildlife, etc. from this mine.

It now only will affect the salmon streams but any or all water going through the area. The area just in the last year had over a 7 magnitude earthquake, and look at the size of that pool that is suppose to hold all the toxic from the mining process.

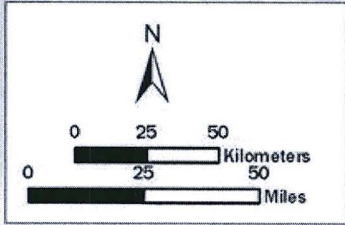
Please stop the Pebble Mine, now. Protect our wildlife and salmon.

Thank you.

Sincerely, Gary and Eileen Sheridan



Bristol Bay



- ★ Approximate Pebble Deposit Location
- Towns and Villages
- Watershed Boundary

2014 GENERAL ELECTION
November 4, 2014
Official Results

Date:11/25/14
 Time:14:55:03
 Page:6 of 8

Registered Voters 509011 - Cards Cast 285449 56.08%

Num. Report Precinct 441 - Num. Reporting 441 100.00%

HOUSE DISTRICT 34			
		Total	
Number of Precincts		7	
Precincts Reporting		7	100.0 %
Times Counted	8437/13819		61.1 %
Total Votes		8251	
McGuan, George	DEM	3090	37.45%
Muñoz, Cathy E.	REP	5132	62.20%
Write-in Votes		29	0.35%

HOUSE DISTRICT 40			
		Total	
Number of Precincts		23	
Precincts Reporting		23	100.0 %
Times Counted	4421/9057		48.8 %
Total Votes		4102	
Nageak, Benjamin P.	DEM	3982	97.07%
Write-in Votes		120	2.93%

HOUSE DISTRICT 35			
		Total	
Number of Precincts		14	
Precincts Reporting		14	100.0 %
Times Counted	8069/14196		56.8 %
Total Votes		7843	
Samuelson, Steven A.	REP	3189	40.66%
Kreiss-Tomkins, Jona	DEM	4630	59.03%
Write-in Votes		24	0.31%

Ballot Measure 2 - 13PSUM			
		Total	
Number of Precincts		441	
Precincts Reporting		441	100.0 %
Times Counted	285449/509011		56.1 %
Total Votes		279945	
YES		149021	53.23%
NO		130924	46.77%

HOUSE DISTRICT 36			
		Total	
Number of Precincts		10	
Precincts Reporting		10	100.0 %
Times Counted	7157/13064		54.8 %
Total Votes		6978	
Ortiz, Daniel H. "Da	NA	3530	50.59%
Klein, Chere L.	REP	3426	49.10%
Write-in Votes		22	0.32%

Ballot Measure 3 - 13MINW			
		Total	
Number of Precincts		441	
Precincts Reporting		441	100.0 %
Times Counted	285449/509011		56.1 %
Total Votes		280694	
YES		194654	69.35%
NO		86040	30.65%

HOUSE DISTRICT 37			
		Total	
Number of Precincts		35	
Precincts Reporting		35	100.0 %
Times Counted	5015/9788		51.2 %
Total Votes		4286	
Edgmon, Bryce	DEM	4173	97.36%
Write-in Votes		113	2.64%

Ballot Measure 4 - 12BBAY			
		Total	
Number of Precincts		441	
Precincts Reporting		441	100.0 %
Times Counted	285449/509011		56.1 %
Total Votes		273702	
YES		180490	65.94%
NO		93212	34.06%

HOUSE DISTRICT 38			
		Total	
Number of Precincts		31	
Precincts Reporting		31	100.0 %
Times Counted	5198/10328		50.3 %
Total Votes		4829	
Herron, Bob	DEM	4683	96.98%
Write-in Votes		146	3.02%

Supreme Crt-Justice Stowers			
		Total	
Number of Precincts		441	
Precincts Reporting		441	100.0 %
Times Counted	285449/509011		56.1 %
Total Votes		233363	
YES		146829	62.92%
NO		86534	37.08%

HOUSE DISTRICT 39			
		Total	
Number of Precincts		33	
Precincts Reporting		33	100.0 %
Times Counted	5835/10718		54.4 %
Total Votes		5406	
Foster, Neal W.	DEM	5277	97.61%
Write-in Votes		129	2.39%

Sup Court JD1 Menendez			
		Total	
Number of Precincts		43	
Precincts Reporting		43	100.0 %
Times Counted	33700/56357		59.8 %
Total Votes		28498	
YES		21078	73.96%
NO		7420	26.04%

Working Together.

The new Pebble Partnership is more than two business organizations coming together. We are a progressive mining company committed to people, the environment and communities.

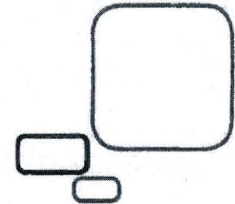
The new Pebble Partnership is about more than just mining. It is about building a better Alaska.

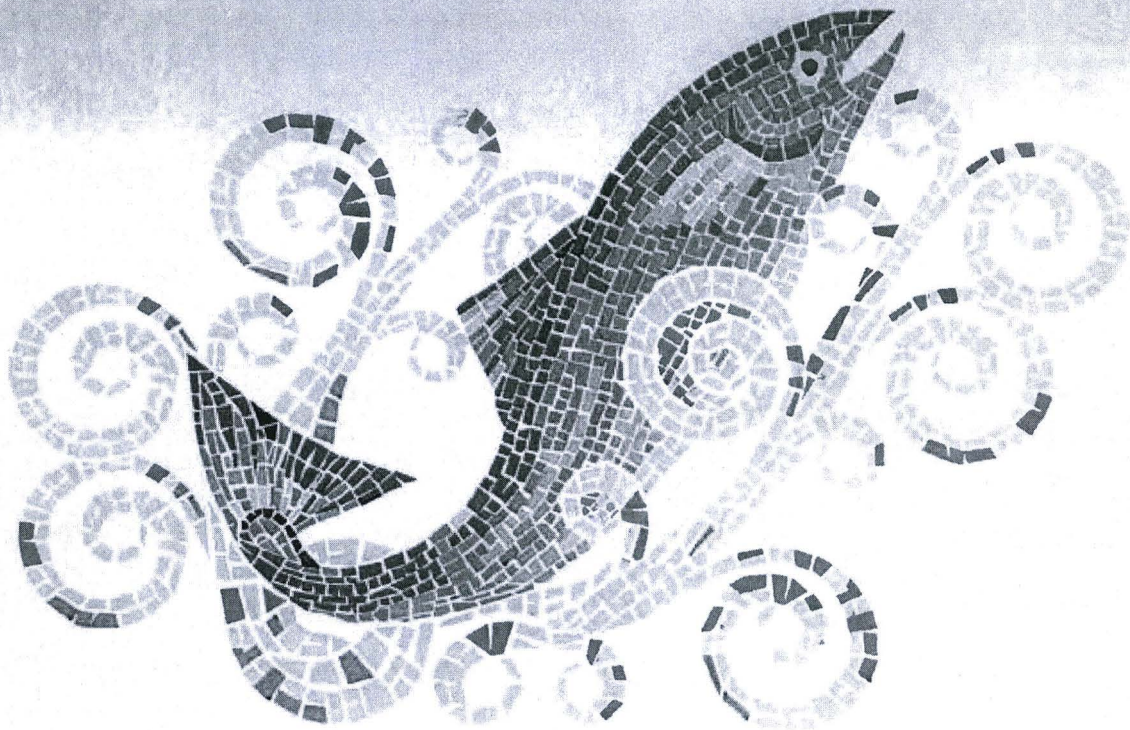
As it develops, the Pebble Partnership will be guided by five core principles:

- 1 Pebble must benefit people – Pebble is for all Alaskans
- 2 Pebble must co-exist with healthy fish, wildlife and other valued natural resources
- 3 Pebble must apply the world's best and most advanced science
- 4 Pebble must help build sustainable communities
- 5 At Pebble, we must listen before we act



www.pebblepartnership.com





Fish Come First

The Pebble Partnership's Five Core Principles:

- 1** Pebble must benefit people—Pebble is for all Alaskans
- 2** Pebble must coexist with healthy fish, wildlife and other valued natural resources
- 3** Pebble must apply the world's best and most advanced science
- 4** Pebble must help build sustainable communities
- 5** At Pebble, we must listen before we act

The Pebble Partnership's message to Alaskans about the world-class fisheries of Bristol Bay is clear: fish come first. We simply won't develop Pebble if it harms commercial, subsistence or sport-fishing in this remarkable region.

By working together with local communities, our project can actually enhance Bristol Bay fisheries and the contributions they make to the region's economy and culture. That's what the Bristol Bay Sustainable Fisheries Fund is all about.

But promises are not enough. It is our obligation to show Alaskans how Pebble will protect the fish, water and wildlife resources of Bristol Bay. The Pebble Partnership may be a mining company—but for all of us—fish must come first.

**"We simply will not develop a mine
that damages Alaska's fish and wildlife."**

—Cynthia Carroll, CEO of Anglo American plc, one of two progressive mining companies of The Pebble Partnership



Log on—we would like
to hear from you.
www.pebblepartnership.com



Environment

"If it's a choice between fish and mining, we go away. Fish have to come first."

JOHN SHIVELY, FORMER CEO

Interviewed on Dan Rather Reports

That's the commitment that the Pebble Partnership has always made.

Environmental Stewards

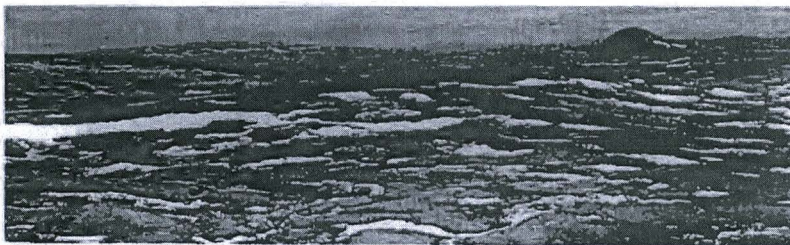
There's a reason we've spent more than 8 years and \$120 million conducting the most extensive environmental studies ever undertaken in Alaska. The Environmental Baseline Document (EBD) is a critical component in the next phase: finalizing a mine plan. It provides an understanding of environmental characteristics as they exist today, on a physical, biological and socioeconomic level. Minimal impact on the ecosystem is the goal, so that day-in, day-out, the natural rhythm of the place is as unchanged as possible. Because in building this mine, we expect to be held accountable. We wouldn't have it any other way.



Climate

"Windy!"

That's what you'd probably say, if you had to choose just one word to describe conditions at the Pebble Deposit. According to the climate scientists who monitor the area's meteorology stations, wind conditions at the mine site can be described as "calm" less than 2% of the time. Hold on to your hats, folks!

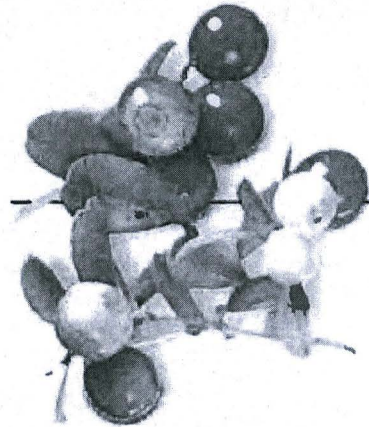


In the summertime, the maritime influences of Iliamna Lake, the Cook Inlet and Bristol Bay tend to cool the air, keeping summer temperatures mild. The warmest temperature documented at the Deposit in the EBD was 75.7° Fahrenheit. In the winter, the lake freezes over and the bay ices-up, so they play less of a moderating role; winters at Pebble are overcast and damp. Occasionally, there's a hard cold snap when frigid Arctic air moves in, but that tends to be brief. The lowest temperature recorded at the Deposit in the EBD was measured during just such a cold snap: -31.5° F in January of 2006.

Although it tends to be about 5° colder at the Deposit than at Iliamna Airport, typically, temperatures follow the same curve. You can get a pretty good sense of conditions at Pebble by looking up the airport's meteorological records (the airport code is PAIL).

Plants

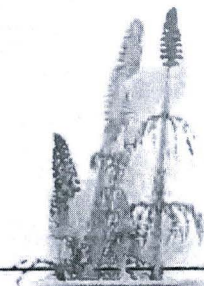
The entire mine study area is in an ecological zone termed "low scrub shrub," more than 80% of which is covered in low (under 5' tall) ericaceous shrubs, alders, willows and lichens. Roughly 10% is made up of "herbaceous vegetation" with a smattering of forest, and the rest is water (shallow lakes, rivers and streams).



Ericaceous Shrubs?

Ericaceous shrubs are members of the heather family, *Ericaceae*, and they're the most common plant in the mine study area. You're probably familiar with some of the edible species of *Ericaceae*, like the lingonberry (*Vaccinium vitis-idaea*), black crowberry (*Empetrum nigrum*) or bog bilberry (*Vaccinium uliginosum*). There are also much less edible ericaceous shrubs, like the poisonous bog rosemary (*Andromeda polifolia*), which isn't related to rosemary at all.

One interesting understory plant is horsetail or snakegrass (*Equisetum*). As a modern plant, *Equisetum* are not rare—they're found on every continent but Antarctica, and can be considered invasive—but botanically they're notable for being something of a living fossil. *Equisetum* is the only surviving member of a plant family that dominated the forests of the late Paleozoic Era before the advent of the dinosaurs. Some grew to be over 100 feet tall, and were the trees of their day.



In some places, the willows and alders form thickets. In their understories, we find plants like Devil's club (*Opiopanax horridus*), Alaska spiraea (*Spiraea besouerdiana*), broad buckler ferns (*Dryopteris dilatata*), white currants (*Ribes glandulosum*), and perhaps Alaska's most distinctive flower, fireweed (*Epilobium angustifolium*).

Water

As mentioned above, about 10% of the mine study area is surface water, and through rivers, streams and seepage much of it eventually flows into rivers that lead to Bristol Bay. Technically, there are eight watersheds in the Bristol Bay area. The Pebble Deposit is near the headwaters of three tributaries: the north and south fork Kaktuli, and Upper Talarik Creek. Cumulatively, the three watersheds represented by these tributaries amount to less than 1% of the Bristol Bay Drainage.

Maintaining water quality will always be a concern, as many streams and rivers of the region are spawning and rearing grounds for all five species of Alaska salmon, as well as Arctic grayling, Dolly Varden, trout and other sport, subsistence and commercial fish. It's very important that we understand as much as possible about the waterways and how they interrelate.



Surface, Subsurface and Quality

We funded years of research into the water of the study area—surface water and groundwater hydrology, and overall water quality—to develop a comprehensive understanding of both water quality and quantity, and how the different systems interact. Through a network of automated sensors, stream flow was measured every 10–15 minutes during ice-free months, and manually through bore-holes after freeze-up. Piezometers installed at hundreds of monitoring locations recorded more than 14,000 groundwater level measurements to document subsurface water behavior. And 3,400 samples were



taken from streams and rivers, lakes and marshes, shallow- and deep-bore wells, testing temperature and pH, nutrients, ions, dissolved and trace elements, organic carbon and more.



What did we learn about water?

More than can be neatly summarized here—the details span six chapters of Pebble's Environmental Baseline Document. A thumbnail description of the watershed would be a bit like describing the Mona Lisa as "an enigmatic smiling lady." Accurate if you're already familiar with her, but not very useful if you aren't. It's complicated, and very much greater than the sum of its highly interrelated parts. As an introduction to the findings, we suggest referring to pages 37–48 of our overview publication, The Pebble Environment.

Wildlife

Co-existence. It's not a term or goal the Pebble Partnership takes lightly—co-existing with fish and the surrounding environment is a core principle at Pebble. To support a cooperative mine design, we're studying what species of fish are present and how they use the nearby streams. Where are the fish spawning, rearing and feeding? What does the fish habitat look like and how does it function? How wide and deep is the channel? How fast are the flows? Are there pools, runs, riffles, backwaters? What types of organisms feed fish? This information, combined with water quality data, are part of the many puzzle pieces the Partnership is evaluating.

Studying the fish specifically and indications of impacts to the fishery is only part of the equation. However, the fact that fish migrate to sea for several years and are exposed to numerous threats from fishing to marine hazards, makes them poor indicators of local and real time impacts. So Pebble also studies macroinvertebrates and periphyton, small stream dwelling organisms that are extremely sensitive to environmental change and tell us almost immediately of any changes to the local environment.



Mammals

A 2009 study, conducted in cooperation with the Alaska Department of Fish and Game, estimated about 48–58 brown bears per 386 square miles in the area surrounding Lake Iliamna. That's a lot of bears that you might accidentally encounter while out in the field, and it's why one of the important jobs that area residents have taken on during the project's discovery phase is serving as bear guards. It's difficult for scientists and engineers to focus on fieldwork and maintain a constant lookout, so bear guards are trained to do it—and their traditional knowledge of the area is invaluable. When a bear is spotted, all work stops, and, if necessary, helicopters are called in. Getting people out of the bears' way, rather than the other way around, is the fundamental principle of our bear program.

The Mulchatna Caribou Herd has a varied history of use of the area but currently their principal range is farther to the west. In recent years they migrate into the area around midsummer after calving elsewhere.

Of course, there are more than just brown bears and caribou in the study area. Biologists documented the presence, in low densities, of more than 40 species of mammal including coyote, river otters, moose, red fox, wolverines, black bear, beaver, tundra hare, lynx, gray wolves and martens. A 2010 survey of moose estimated 0.03 moose per .39 square miles, or 33 moose for the mine area. The combined mine and transportation study areas were estimated to be home to about 96 moose.

Bird life

From geese and ducks to cormorants and cranes, at least 37 species of waterbirds inhabit the ponds, lakes, river and wetlands of the Bristol Bay drainage study area, with 16 species using the Cook Inlet drainage study area. Some come to breed, others merely pass through on their migration. Hundreds of ducks gather in the lower Inliken River in preparation for spring and fall migrations, for example. The area is also home to raptors—eagles, falcons, owls, ravens and more. Over two seasons—2004 and 2005—researchers identified 73 raptor nests in the mine study area belonging to seven species, and 23 nests in the much smaller Cook Inlet study area belonging to three species. In both areas, bald eagle nests were the most abundant of all. And of course, there are the landbirds and shorebirds—neither waterfowl nor raptor. These typically smaller, colorful birds swarm the area each summer.

While the practice is not as common today, cormorants in China and Japan have been trained to use their natural diving abilities to catch fish for fishermen. Many of us remember first learning about these birds in the children's book *The Story About Ping*, by Marjorie Flack.

Bristol Bay Fishermen's Association

(formerly AIFMA)

P.O. Box 60131

Seattle, WA 98160

Phone/Fax (206) 542-3930



January 30, 2017

Representative Louise Stutes Via Fax: 907-465-4956
State Capitol, Room 406
Juneau, AK 99801

Re: HB 14 – our support.

Dear Representative Stutes,

I am enclosing a copy of our written testimony in support of HB 14. Please enter it and this letter into the record for the hearing on January 31, 2017 before the House Fisheries Committee.

In 1972, the Legislature enacted the Bristol Bay Fisheries Reserve (at AS 38.05.140(f)). It provides that within state land beneath navigable waters (i.e., submerged and shorelands) a surface entry permit for oil and gas drilling in the Reserve may not be issued until the Legislature finds that such activities will not constitute a danger to the fisheries. In 2014, the voters enacted an initiative (AS 38.05.142) which provides that in addition to permits or authorizations otherwise required by law, any metallic sulfide mine in the drainages of the Reserve must obtain a final authorization by the Legislature taking the form of a law that contains a finding that such a mining operation will not constitute a danger to the fisheries.

HB 14 clarifies or improves the initiative in several respects, including these:

1. HB 14 improves the quality of science in decision-making. HB 14 requires the Departments of Natural Resources, Fish and Game, and Environmental Conservation to independently prepare and submit reports to the Legislature, that are subjected to public comment and peer review, to document whether an applicant for permits and authorizations for a large scale metallic sulfide mine in the Reserve has carried the burden of proving beyond a reasonable doubt that such a mine will not constitute a danger to the fisheries within the Reserve. Peer review strengthens, and a high standard of proof science-based decisions.

2. HB 14 clarifies and defines "fisheries" consistent with existing statute. HB 14 defines "fisheries" to mean subsistence, personal use, sport or commercial fisheries as those fisheries are defined in AS 16.05.940. Requiring an applicant to carry the burden of proof, and defining "fisheries" consistent with statute, implement:

- the pledges of Pebble Limited Partnership that "fish come first" and that PLP will not develop a mine that damages Alaska's fish, wildlife or communities dependent on them;
- the Sustained Yield Clause of the Alaska Constitution (Art. VIII. § 4), and
- the State's Sustainable Salmon Management Policy at 5 AAC 39.222(c)(5)(A)(v), which places the burden of proof on those who plans or activities could be a danger to the fisheries.

Regards,

David Harsila,
BBFA President

In Support of HB 14
Written Testimony of Bristol Bay Fishermen's Association
Before the House Special Committee on Fisheries
Alaska Legislature – January 31, 2017

I am David Harsila, President of the Bristol Bay Fishermen's Association, formerly the Alaska Independent Fishermen's Marketing Association. Our Association has represented the commercial fishermen of Bristol Bay since 1966. We support HB 14. I'll explain why.

In 1972, the Legislature enacted the Bristol Bay Fisheries Reserve (at AS 38.05.140(f)). It provides that within state land beneath navigable waters (i.e., submerged and shorelands) a surface entry permit for oil and gas drilling in the Reserve may not be issued until the Legislature finds that such activities will not constitute a danger to the fisheries.

In 2014, the voters enacted an initiative (AS 38.05.142) which provides that in addition to permits or authorizations otherwise required by law, any metallic sulfide mine in the drainages of the Reserve must obtain a final authorization by the Legislature taking the form of a law that contains a finding that such a mining operation will not constitute a danger to the fisheries.

What HB 14 Does

HB 14 clarifies or improves the initiative in several respects, including these:

1. HB 14 improves the quality of science in decision-making by requiring independent peer-reviewed reports to the Legislature to facilitate any legislative consideration required by the initiative. HB 14 requires the Departments of Natural Resources, Fish and Game, and Environmental Conservation to independently prepare and submit reports to the Legislature, that are subjected to public comment and peer review, to document whether an applicant for permits and authorizations for a large scale metallic sulfide mine in the Reserve has carried the burden of proving beyond a reasonable doubt that such a mine will not constitute a danger to the fisheries within the Reserve.

Requiring peer review strengthens science-based decision-making by agencies (i.e., DNR, DEC, and ADF&G), and ultimately by the legislature under AS 38.05.142. In a March 31, 2015 letter to the Chair of the Fisheries Committee, the Council of Alaska Producers, a trade association of the mining industry in Alaska, claimed falsely that HB 119 in the 29th Legislature (the predecessor of HB 14) would politicize what should be science-based decisions. Peer review strengthens, rather than politicizes, science-based decisions.

2. HB 14 clarifies and defines "fisheries" consistent with existing statute. HB 14 defines "fisheries" to mean subsistence, personal use, sport or commercial fisheries as those fisheries are defined in AS 16.05.940.

Reasons for these Clarifications and Improvements

Requiring an applicant to carry the burden of proof, and defining "fisheries" consistent with statute, implement:

- the pledges of Pebble Limited Partnership that "fish come first" and that PLP will not develop a mine that damages Alaska's fish, wildlife or communities dependent on them;
- the Sustained Yield Clause of the Alaska Constitution (Art. VIII. § 4), and
- the State's Sustainable Salmon Management Policy at 5 AAC 39.222(c)(5)(A)(v), which places the burden of proof on those who plans or activities could be a danger to the fisheries.

Thank you.

Rep. Andy Josephson

m: Taralyn <taralyndicus@gmail.com>
Sent: Monday, January 30, 2017 10:36 PM
To: Rep. Andy Josephson
Subject: Support HB 14

Dear Representative Josephson,

Please support HB 14 and protect Bristol Bay drainages for risky mines such as Pebble.

Alaska's wilderness and natural resources are part of what makes our state great, and, especially because I am a mother of two young Alaskan boys, I believe it is imperative that we take steps toward protecting and preserving these precious gifts so that they can be appreciated by generations to come.

Thank you for your time and consideration.

Sincerely,

Taralyn Dicus
1180 South Jewel Street
ner, AK 99645

(907) 841-8277

Pennsylvania Code (see highlighting below regarding mining and beyond a reasonable doubt standard, (also see link below)

§ 86.102. Areas where mining is prohibited or limited.

Subject to valid existing rights as defined in § 86.1 (relating to definitions), surface mining operations except those which existed on August 3, 1977, are not permitted:

(1) On lands within the boundaries of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C.A. § 1276(a)) or study rivers or study river corridors as established in guidelines under that act and National Recreation Areas designated by act of Congress.

(2) On Federal lands within the boundaries of a National forest. Surface mining operations may be permitted on the lands, if the Secretary of the United States Department of Interior and the Secretary find that there are no significant recreational, timber, economic or other values incompatible with surface mining operations and the surface mining operations and impacts are incident to an underground coal mine.

(3) Which will adversely affect a publicly-owned park or a place included on the National Register of Historic Places, unless approved jointly by the Department and the Federal, State or local governmental agency with jurisdiction over the park or places.

(4) On lands within the State park system. Surface mining activities may be permitted if the Department of Conservation and Natural Resources and the Department find that significant land and water conservation benefits will result when remaining of previously mined land is proposed.

(5) On lands within State forest picnic areas, State forest natural areas and State forest wild areas. Surface mining operations may be permitted on State forest lands other than picnic areas, natural areas and wild areas, if the Department of Conservation and Natural Resources and the Department find that one or more of the following apply:

(i) There will be no significant adverse impact to natural resources, including timber, water, wildlife, recreational and aesthetic values.

(ii) Significant land and water conservation benefits will result when remaining of previously mined lands is proposed.

(6) On lands within the game land system of this Commonwealth. Surface mining operations may be permitted by the Department if the Game Commission consents and finds that one or more of the following apply:

(i) There will be no significant long-term adverse impacts to aquatic or terrestrial wildlife populations and their habitats.

(ii) Significant wildlife habitat and land and water conservation benefits will result when remaining of previously mined lands is proposed.

(7) On lands within the authorized boundaries of Pennsylvania Scenic River Systems which have been legislatively designated as such under the Pennsylvania Scenic Rivers Act (32 P. S. § § 820.21—820.29). Surface mining operations may be permitted if the Department of Conservation and Natural Resources and the Department find that significant land and water conservation benefits will result when remaining of previously mined lands is proposed, and that the surface mining operation is consistent with the Scenic Rivers System designation and will not adversely affect the values which the designation is designed to protect.

(8) Within 100 feet (30.48 meters) measured horizontally of the outside right-of-way line of a public road, except:

(i) For mine access roads or haulage at the point where they join the right-of-way lines.
(ii) When the Department, with concurrence of the agency with jurisdiction over the road, allows the public road to be relocated or the area affected to be within 100 feet (30.48 meters) of the road, after the following:

(A) Public notice and opportunity for a public hearing in accordance with § 86.103(c) (relating to procedures).

(B) Making a written finding that the interests of the affected public and landowners will be protected.

(9) Within 300 feet (91.44 meters) measured horizontally from an occupied dwelling, unless one or more of the following exist:

(i) The only part of the surface mining operations which is within 300 feet (91.44 meters) of the dwelling is a haul road or access road which connects with an existing public road on the side of the public road opposite the dwelling.

(ii) The owner thereof has provided a written waiver by lease, deed or other conveyance clarifying that the owner and signatory had the legal right to deny surface mining operations and knowingly waived that right and consented to surface mining operations closer than 300 feet (91.44 meters) of the dwelling as specified.

(A) A valid waiver shall remain in effect against subsequent owners who had actual or constructive knowledge of the existing waiver at the time of purchase.

(B) Subsequent owners shall be deemed to have constructive knowledge if the waiver has been properly filed in public property records or if the surface mining operations have proceeded to within the 300 foot (91.44 meters) limit prior to the date of purchase.

(iii) A new waiver is not required if the applicant for a permit had obtained a valid waiver prior to August 3, 1977, from the owner of an occupied dwelling to mine within 300 feet (91.44 meters) of the dwelling.

(10) Within 300 feet (91.44 meters) measured horizontally of a public building, school, church, community or institutional building or public park.

(11) Within 100 feet (30.48 meters) measured horizontally of a cemetery. Cemeteries may be relocated under the act of April 18, 1877 (P. L. 54, No. 54) (9 P. S. § § 41—52)).

(12) Within 100 feet (30.48 meters) measured horizontally of the bank of a perennial or intermittent stream. The Department may grant a variance from this distance requirement if the operator demonstrates **beyond a reasonable doubt** that there will be no adverse hydrologic impacts, water quality impacts or other environmental resources impacts as a result of the variance. The variance will be issued as a written order specifying the methods and techniques that shall be employed to prevent adverse impacts. Prior to granting a variance, the operator is required to give public notice of application thereof in two newspapers of general circulation in the area once a week for 2 successive weeks. If a person files an exception to the proposed variance within 20 days of the last publication thereof, the Department will conduct a public hearing with respect thereto. The Department will also consider information or comments submitted by the Fish and Boat Commission prior to taking action on a variance request.

2/1/17

Thank you for clarifying and strengthening the language in the Bristol Bay Fisheries Reserve.

I am a 5th Generation fisherman from Naknek. I've commercially fished every season all season since the age of 7 and this summer will be my 34th consecutive season. I was born to fish and I have done it smart and successfully starting out small and making it pay before getting a nicer boat. I have had my kids growing up on the boat and also my other relatives.

I am also a board member on the Bristol Bay Fisherman's Association, a committee member on our regional Fish and Game Advisory Committee and have worked tirelessly on protecting the amazing fishery in Bristol Bay for many years in many forms including serving on the Bristol Bay Economic Corporation board as well in the past.

I'm pleased to know that legislators are looking out for us in Bristol Bay.

Its as clear to me the importance of the Bristol Bay Fishery and to the mass of voters in 2014 who passed the initiative by over 65%. I hope the rest of the committee members and all the legislators understand the true will of the Alaskan voter and that is to put every safeguard in place to protect the Great Bristol Bay Fishery.

Thank you for your service and If I can do anything please don't hesitate to contact me at salmonandsoul@gmail.com or by cell (907)469-0707

Thanks again. Everett Thompson of Naknek

--

Everett Thompson

"eat wild Alaska salmon"

www.naknefish.com



ALASKA MINERS ASSOCIATION

121 W. FIREWEED SUITE 120 | ANCHORAGE, ALASKA | 99503 | 907.563.9229 | ALASKAMINERS.ORG

**HB14: An Act Relating to Bristol Bay Fisheries Reserve
Testimony by Deantha Crockett, Executive Director, Alaska Miners Association
January 31, 2017
House Fisheries Committee**

Chairwoman Stutes and Members of the Committee, thank you for the opportunity to testify today.

My name is Deantha Crockett; I am Executive Director of the Alaska Miners Association. AMA is the professional trade association for Alaska's mineral industry, including small family run placer mines; large-scale mines and projects, and the contracting sector that supports Alaska's mines. We're represented in eight statewide branches: Anchorage, Denali, Fairbanks, Haines, Juneau, Kenai, Ketchikan/Prince of Wales, and Nome.

I'm here today to provide comment on HB14, which suggests amendments to the Bristol Bay Forever ballot initiative passed by voters in 2014.

At the time the citizens initiative titled the Bristol Bay Fisheries Reserve was before voters, we heard from proponents that it would strengthen environmental protection and enhancement for the Bristol Bay region by requiring the Alaska Legislature to take action for final authorization of a mine within the watershed. The bill is written so that such action would take place after the mine had obtained the dozens of state, local, and federal permits required to move forward with mine development.

AMA didn't choose to engage in opposition to the 2014 Bristol Bay Forever initiative because the law is clearly unconstitutional. It violates the separation of powers doctrine, which specifies that the legislature enacts laws and the executive branch implements and executes laws. It created laws via ballot box resource management, and not through deliberate, technical consideration. The Legislature must now review and approve permits after they are issued by the executive branch, and after the technical experts at our regulatory permitting agencies have evaluated and approved them. This process is called a "legislative veto" and the Alaska Supreme Court has repeatedly said that a legislative veto is unconstitutional. Additionally, as lawmakers I ask you: Does the legislature have the technical staff necessary to evaluate the complexities inherent in permitting decisions? Do you even have the time, especially in a 90-day session, to thoroughly evaluate this type of decision?

To add to the flagrant legal issues, the initiative created what is clearly special and local legislation. Why single out a resource project in Bristol Bay? Why not have the same legislative authority and approval for projects located in the Cook Inlet drainage, the Yukon-Kuskokwim drainage, the North Slope, the Aleutians, and the Copper River drainage? Why would we guide permitting decisions in Alaska by making one set of rules for decisions in the Bristol Bay region while we have a different set of rules governing permitting requirements in the rest of the state? The bill sponsor notes that a legal opinion expresses no conflicts, but I caution you that should HB14 proceed, I would expect to see formal legal challenges.



Amending the initiative via this bill, HB14, is only making bad policy worse, and we urge you undergo significant legal review prior to adopting legislation. It politicizes Alaska's resource permitting process by having state agency decisions subject to review and approval by politicians rather than professional technical agency staff with the expertise to truly examine a proposed project.

Some may be surprised to learn that the law is actually *less protective* than existing statutes because it removes judicial scrutiny. Administrative actions by agencies in the permitting processes are governed by clear legal standards and subject to legal review in the court system. The judicial branch serves as an important check and balance to assure all interested parties of a lawful and careful process. In contrast, this bill requires the legislature to make a finding and pass a statute to approve a project. But any vote of the legislature is inherently a political decision, and such a vote would typically be immune from legal challenge.

To conclude, I assure you that this type of legislation sends an alarmingly negative message to the investment community that Alaska is unstable when it comes to permitting. It could impact future investment and job opportunities for all Alaskans, at a time when we so desperately need economic diversity. We urge you to consider that Alaska has a stringent, robust environmental permitting and oversight structure, and development projects in the state, no matter where they are located, should be evaluated through that process. HB14 is bad policy and should not be passed from this Committee. Thank you.



February 1, 2017

**THE BRISTOL BAY FOREVER INITIATIVE & HB 14: UNCONSTITUTIONAL
LEGISLATION THAT VIOLATES THE SEPARATION OF POWERS
REQUIREMENT OF THE ALASKA CONSTITUTION**

The Bristol Bay Forever Initiative (BBF) and HB 14 conflict with the Alaska Supreme Court's decisions in *Bradner v. Hammond* and *State v. A.L.I.V.E. Voluntary*. Specifically, the statute establishes a legislative veto over otherwise final permits and authorizations issued to a proposed mining project by numerous state and federal agencies acting under valid general laws.¹ The statute also creates an improper pocket veto for the Commissioners of DNR, Fish & Game, and DEC.

In order for a hardrock mine to be constructed in Alaska, numerous permits and licenses must be obtained from multiple state and federal agencies. Many of these permits are issued by the Department of Natural Resources, and include a plan of operations, a reclamation and mine closure plan, dam certification, water rights, rights-of-way, and more. This permitting process involves a substantial degree of scientific data collection and analysis, and ensures that any proposed mining operation, if approved, is in the state's best interest.

¹ AS 38.05.142.

The BBF initiative and HB 14 circumvent this process by injecting legislative politics into what is otherwise a scientific permitting process, undermining Alaska's legally established hardrock mine permitting process. Moreover, by seeking to establish a legislative veto over the final permitting decisions of the executive branch, the statute runs afoul of the Alaska Supreme Court's decisions in *Bradner v. Hammond* and *State v. A.L.I.V.E. Voluntary*.

A "legislative veto" occurs when a legislative body acts to disapprove, and thus "veto," an executive branch action that has been authorized by statute.² There are four possibilities for structuring the veto:

"[F]irst[,] the proposed executive action can be precluded if either house passes a resolution expressly disapproving it; second[,] the proposed executive action can be precluded if both houses pass resolutions of disapproval; third, if either house approves the proposal, it is permitted to go into effect; and fourth, if both houses approve the proposed action, it is permitted."³

The BBF statute involves the fourth type of legislative veto. Specifically, if both houses of the legislature give their stamp of approval to the otherwise final permits and authorizations issued to a proposed hardrock mining operation by executive branch agencies, then and only then may the mine proceed with construction. If the legislature does not issue this "final authorization," or if it fails to act, all of the final permits and authorizations issued to the mine would presumably be null and void.

² 1 Norman J. Singer, *Sutherland Statutory Construction* § 3:19 (7th ed. 2012).

³ *Id.* (quoting John R. Bolton, *The Legislative Veto: Unseparating the Powers*, 1-2 (1977)). See also Jacob E. Gersen and Eric A. Posner, *Soft Law: Lessons from Congressional Practice*, 61 STAN. L. REV. 573, 583 (2008) ("the positive legislative veto forbids policy to be implemented unless Congress approves ex post.").

BBF's attempt to transform the legislature into the permitting arm of DNR's Division of Mining for Bristol Bay would impermissibly infringe upon the power of the executive branch to faithfully execute the laws, in violation of the Alaska Supreme Court's decision in *Bradner v. Hammond*.⁴ In *Bradner*, the Court noted that the separation of powers doctrine is inherent in the Alaska Constitution,⁵ and that its purpose is "the avoidance of tyrannical aggrandizement of power by a single branch of government[.]"⁶ Finding that the appointment of executive officers was an executive, rather than a legislative function, the Court held that a statute requiring legislative approval for the deputy heads of each principal executive department and 19 specified division directors was unconstitutional.⁷ In doing so, the Court held that "the separation of powers doctrine requires that the blending of governmental powers will not be inferred in the absence of an express constitutional provision."⁸

To hold otherwise would emasculate the restraints engendered by the doctrine of separation of powers and result in potentially serious encroachments upon the executive by the legislative branch⁹

There is no question that the issuance of permits and authorizations under the hardrock mine permitting process is a function of the executive branch. The permitting

⁴ See *Bradner v. Hammond*, 553 P.2d 1, 6 (Alaska 1976) (citing Alaska Const., art. III, § 16).

⁵ *Id.* at 5 (quoting *Public Defender Agency v. Superior Court, Third Judicial District*, 534 P.2d 947, 950 (Alaska 1975)).

⁶ *Id.* (citing *Continental Ins. Cos. v. Bayless & Roberts, Inc.*, 548 P.2d 398, 410-11 (Alaska 1976)).

⁷ *Id.* at 2, 6-8.

⁸ *Id.* at 7 (citing *Leege v. Martin*, 379 P.2d 447, 450 (Alaska 1963); *State v. Campbell*, 536 P.2d 105, 110-11 (Alaska 1975)).

⁹ *Id.* at 8.

process is conducted under valid general grants of authority to principal executive branch departments, including the Department of Natural Resources, the Department of Fish and Game, and the Department of Environmental Conservation.¹⁰ In issuing these permits and authorizations, the executive branch carries out its duty to faithfully execute the law.¹¹ Indeed, “under our system of government, it is the function of the executive department, honestly and efficiently, to administer, enforce, or faithfully execute the laws, as interpreted by the courts, subject only to limitations which are contained in the state constitution.”¹² BBF’s attempt to transfer the final step in approving a proposed mine to the legislature constitutes an impermissible infringement upon the core function of the executive branch, in violation of the Alaska Supreme Court’s decision in *Bradner*.¹³

Moreover, the manner in which BBF seeks to review the decisions of an executive branch agency, the “legislative veto,” was specifically disapproved by the Alaska Supreme Court in *State v. A.L.I.V.E. Voluntary*. In this case, the Court analyzed a statute which allowed the legislature, by concurrent resolution, to annul a regulation of an agency or department.¹⁴ Although this specific type of legislative veto violated the bicameralism and

¹⁰ See Alaska Const., art. III, § 22; AS 44.17.005.

¹¹ See Alaska Const., art. III, § 16. See also Alaska Const., art. III, § 24 (“Each principal department shall be under the supervision of the governor.”).

¹² 16 C.J.S. Constitutional Law § 354 (collecting cases).

¹³ *Bradner*, 553 P.2d at 6-8. See also *INS v. Chadha*, 462 U.S. 919, 958 (1983) (“once Congress makes its choice in enacting legislation, its participation ends.”); *Springer v. Philippine Islands*, 277 U.S. 189, 202 (1928) (“Legislative power, as distinguished from executive power, is the authority to make laws, but not to enforce them[.] ... The latter [is an] executive function[.]”).

¹⁴ *State v. A.L.I.V.E. Voluntary*, 606 P.2d 769, 770 (Alaska 1980).

presentment requirements of the Alaska Constitution,¹⁵ the Court proceeded to note that the existence of two specific veto provisions in the Alaska Constitution “leads logically to the conclusion that no other [legislative] veto power is implied.”¹⁶ The Court also observed the numerous problems created by the legislative veto, including “infring[ing] on the executive’s power to administer and enforce the laws[,]”¹⁷ and potential dual officeholding violations under article III, § 26.¹⁸ The Court also cited a study which concluded that “the legislative veto encourages secretive, poorly informed, and politically unaccountable legislative action.”¹⁹

In addition, the statute also gives unprecedented authority to the Commissioners of DNR, DEC and Fish & Game to exercise a “pocket veto” over a fully permitted mine. Under the statute, each of the Commissioners is charged with making an independent finding about whether a mine will harm fisheries, and each is required to prepare a report to the legislature. But there is no time limit or due date for such a report, so any one of the Commissioners could delay in perpetuity the progress of a fully permitted mine merely by not acting. Further, any one of the Commissioners could issue the required report, but

¹⁵ *Id.* at 772-73.

¹⁶ *Id.* at 774-75. These veto provisions include article III, § 23 and article X, § 12. *See id.* at 775 n.19 and n.20.

¹⁷ *See id.* at 776.

¹⁸ *See id.* at 777-78.

¹⁹ *Id.* at 779. *See also* Richard J. Pierce, *Administrative Law Treatise* § 2.4 at 61 (5th ed.) (“The threat of potential legislative veto increased the power of factions in the agency decisionmaking process. A representative of a special interest could wield the threat of legislative veto to force an agency to act in a manner favorable to its interests by enlisting the support of one or a handful of strategically placed members of a single House of Congress.”).

opine that the mine may harm fisheries, and that action also would invalidate duly executed permits. This gives each of the Commissioners essentially unfettered authority to invalidate permits and side step the administrative process that typically governs permit applications.

Given the Court's decisions in *Bradner v. Hammond* and *State v. A.L.I.V.E. Voluntary*, there is little question that the legislative and Commissioner vetoes contained in the BBF statute would impermissibly interfere with the core function of the executive branch to faithfully execute the law. Because the Initiative violates the separation of powers doctrine, it is unconstitutional and will ultimately be invalidated in a court challenge.

Notably, the legal issues discussed in this memorandum have not and could not have been litigated in the prior Alaska Supreme Court case called *Hughes v. Treadwell*. That case was a pre-election challenge to the BBF initiative. Under Alaska law, a pre-election challenge is generally limited only to consideration of whether a ballot initiative violates one of the subject matter restrictions contained in the Alaska Constitution. These include the limitations on initiatives that make appropriations or enact local or special legislation. Alaska courts generally do not consider constitutional challenges unless and until an initiative is enacted. Thus, the issues discussed above were not ripe for consideration by the courts at the time of the *Hughes v. Treadwell* litigation.



Council of
Alaska Producers

**HB14: LEG. APPROVAL OF
BRISTOL BAY SULFIDE MINE**

February 17, 2017

Representative Louise Stutes
Chair, House Fisheries Committee
State Capitol
Juneau, 99801

Dear Representative Stutes,

The Council of Alaska Producers (CAP) appreciates the opportunity to provide comments on HB14 "An Act relating to the Bristol Bay Fisheries Reserve; and providing for an effective date."

CAP is a non-profit trade association formed in 1992 and serves as a spokesperson for the large metal mines and major metal developmental projects in the state. Bringing together mining companies with interest in Alaska, the Council represents and informs members on legislative and regulatory issues, supports and advances the mining industry, educates members, the media, and the general public on mining related issues, and promotes economic opportunity and environmentally sound mining practices.

CAP opposes HB14 because this law would be an unconstitutional violation of the separation of powers doctrine. The legislature is supposed to enact laws and the executive branch is supposed to implement and execute laws. Adding an additional step for the legislature to review permits *after* they have been thoroughly vetted and issued is equivalent to a legislative veto and the Alaska Supreme Court has repeatedly said that a legislative veto is unconstitutional. The proposed review would not strengthen the existing regulatory system, but it would add time and cost to an already lengthy and rigorous process.

Alaska competes globally for investment dollars. At a time when the state should be working to attract investment, HB14 sends a negative message that Alaska's permitting system is unstable. Investors look at the way HB14 and the Bristol Bay Forever Initiative single out a resource project in Bristol Bay and they ask what project or area will be next?

HB14 also unnecessarily politicizes Alaska's resource permitting process. Currently, professional agency regulators base their regulatory decisions on science. This is how permitting decisions should be made. By turning a science decision into a political decision, HB14 weakens due process. For democratic systems and market economies to function well, all participants need to be able to trust that they will be treated equally according to consistent rules and that special exceptions will not be made for projects or issues that are particularly liked or disliked.

In these difficult fiscal times for the state, I urge you to send a message to the investment community that Alaska is open for business with a thorough and rigorous permitting system that is based on science and applied consistently. This is the best way to strengthen our economy while ensuring responsible development that safeguards the environment.

Please keep politics out of the permitting process and stop HB14.

Thank you for this opportunity to provide comments.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Matthias". The signature is fluid and cursive, with a prominent loop at the end.

Karen Matthias
Executive Director

Juneau Testimony: House Fisheries at 10AM there will be a hearing on HB14 – An Act relating to the Bristol Bay Fisheries Reserve by Rep. Josephson.
This bill would amend the 2014 Bristol Bay Forever Initiative and make a bad bill much worse. Our top line view is this entire issue is unconstitutional under the separation of powers clause.

Key Topics to Cover:

Yes, Good Morning Representative Josephson and esteemed members of the House Special Committee on Fisheries and Resources

My name is Mary Ann Pease and I have my own consulting Business, MAP Consulting and I am an active member of the State Chamber, CommonweathNorth and several other pro-business and resource development organizations here in Alaska. I have been a resident for over 30 years and my Alaskan born husband and I reside here with our 2 sons also born here in Alaska.

I am quite disappointed in introduction of HB14, which clearly politicizes Alaska's resource permitting process by having our state agency decisions subject to review and approval by politicians/Legislators rather than professional technical agency staff. Best practices of review should reside with technical experts NOT Legislators!

- I also question how HB14 comports with our Constitution. The legislature is supposed to enact laws and the executive branch is supposed to implement and execute laws. **This places the legislature in a position of reviewing permits after they are issued by the executive branch.**

This process is called a “legislative veto” and the Alaska Supreme Court has repeatedly said that a legislative veto is unconstitutional.

I want my Legislators focusing on ways to keep Alaska and our Economy OPEN FOR BUSINESS and not shutting it down.

Mines and resource development clearly help in solving rural energy issues that have plagued our state over the decades. Resources Development supports jobs, our economy, diversified opportunities for our children, and a SUSTAINABLE future for our state!

- I would also like to draw your attention to - One amendment proposed in HB14 that would make it mandatory for the commissioner of DNR to enact regulations to implement the law. But the purpose of the statute is to require a **legislative approval of a permitted mine. Is DNR supposed to regulate the legislature?** This appears to be merely an exercise in producing more red tape.
- The additional language to the bill adds additional levels of bureaucracy to any decision making. This type of uncertainty will add cost to investment decisions in Alaska.