

SCOMM

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25-LS0381\O

Kane

1/22/08

CS FOR HOUSE BILL NO. 134()**IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTY-FIFTH LEGISLATURE - SECOND SESSION****BY****Offered:****Referred:****Sponsor(s): REPRESENTATIVES EDGMON, Ramras, Dahlstrom, Gara, Kerttula****A BILL****FOR AN ACT ENTITLED**

1 **"An Act relating to conservation and protection of anadromous fish production in**
2 **drainages affecting the Bristol Bay Fisheries Reserve; amending the limitations on leases**
3 **and permits for the submerged land and shoreland within the Bristol Bay Fisheries**
4 **Reserve; and providing for an effective date."**

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

6 *** Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
7 to read:

8 **LEGISLATIVE FINDINGS.** The legislature finds that

9 (1) in 1972, the Seventh Alaska State Legislature determined that a heightened
10 level of protection was needed for the Bristol Bay fisheries and acted by designating the
11 Bristol Bay Fisheries Reserve in order to protect the longstanding and valuable commercial,
12 subsistence, and sport fishing in the area;

13 (2) the area described as the Bristol Bay Fisheries Reserve and the rivers,
14 streams, and lakes that produce the fish continue to need protection just as when the reserve

1 was created; and

2 (3) the considerations that justified the 1972 action also warrant extension of
3 similar conservation measures and protections to the river systems, ground water, aquifer
4 systems, and other hydrologic regimes, including any hydrologically interrelated or connected
5 surface and ground water, within the drainage systems that connect to the surface water of
6 Bristol Bay.

7 * Sec. 2. AS 16.10 is amended by adding a new section to read:

8 **Sec. 16.10.015. Protection of salmon streams within certain drainages**
9 **affecting Bristol Bay.** (a) Notwithstanding any other provision of law, a person may
10 not withdraw, obstruct, divert, inject, pollute, or pump, either temporarily or
11 permanently, any subsurface or surface water within the anadromous fish waters of the
12 Bristol Bay watershed in connection with a sulfide mining operation.

13 (b) Notwithstanding any other provision of law, a person may not alter,
14 destroy, displace, relocate, channel, dam, convert to dry land, or otherwise adversely
15 affect any portion of the anadromous fish waters of the Bristol Bay watershed in
16 connection with a sulfide mining operation.

17 (c) In addition to any other penalties, a person who violates (a) or (b) of this
18 section, upon conviction, is punishable by a fine of not less than \$100,000 a day or
19 more than \$1,000,000 a day. Each day on which a violation described in (a) or (b) of
20 this section occurs constitutes a separate violation of (a) or (b) of this section.

21 (d) In this section,

22 (1) "anadromous fish waters of the Bristol Bay watershed" means the
23 waters in the Bristol Bay watershed that are specified under AS 41.14.870 as being
24 important for the spawning, rearing, or migration of anadromous fish;

25 (2) "sulfide mining operation" means a mining operation for antimony,
26 arsenic, copper, iron, lead, mercury, molybdenum, nickel, palladium, platinum, silver,
27 or zinc.

28 * Sec. 3. AS 38.05.140(f) is amended to read:

29 (f) The submerged land and shoreland lying north of 57 degrees, 30 minutes,
30 North latitude and east of 159 degrees, 49 minutes, West longitude within the Bristol
31 Bay drainage are designated as the Bristol Bay Fisheries Reserve. Within the Bristol

1 Bay Fisheries Reserve, a surface entry permit to develop an oil or gas lease or an
2 exploration license under AS 38.05.131 - 38.05.134, a permit or lease for the
3 exploration, development, or extraction of minerals as authorized by
4 AS 38.05.135, or a cooperative mineral leasing agreement as authorized by
5 AS 38.05.137 may not be issued on state owned or controlled land until the legislature
6 by appropriate resolution specifically finds that the entry will not constitute danger to
7 the fishery.

8 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

SPONSOR STATEMENT / SECTIONAL ANALYSIS

HB134 – Protection of Salmon Spawning (Work Draft 25-LS0381\O)

The Bristol Bay Fisheries Reserve was created in 1972 in order to protect the longstanding and valuable commercial and subsistence fishing in the area from the threat of certain mineral leasing and permitting.

HB134 proposes to extend those protections to all anadromous fish drainages of the Reserve if those waters are proposed to be used in conjunction with a sulfide mining operation.

Specifically, HB134 would make it illegal to withdraw, obstruct, divert, pump, or pollute surface or subsurface water in any Bristol Bay drainages that support salmon, when those waters are proposed to be used in relation to a sulfide mining operation. It also lays out a fine schedule for violations of those protections.

The bill also adds sulfide mining to the list of activities prohibited from being permitted within the Reserve until legislative approval has been granted.

Bristol Bay is home to the largest red salmon runs in the world. HB134 will ensure that any mining development taking place in the region protects this fishery, and that violations of those protections are treated seriously.

BILL SECTION 1: Findings Section – Spells out the history of the Bristol Bay Fisheries Reserve.

BILL SECTION 2: Subsections (a) and (b) assure that a person, in relation to the anadromous fish waters of the Bristol Bay watershed, may not withdraw, obstruct, divert, inject, pollute, or pump any subsurface or surface water in connection with a sulfide mining operation. It also assures that a person may not alter, destroy, displace, relocate, channel, dam, convert to dry land, or otherwise adversely affect any portion of a water body in those anadromous waters if used in a sulfide mining operation.

Subsection (c) lays out a fine schedule for violations of the prohibitions. Violations are punishable by a fine of between \$100,000 and \$1,000,000 a day. It also assures that each day of violations are treated separately.

Subsection (d) defines “anadromous fish waters of the Bristol Bay watershed” and “sulfide mining operation”.

BILL SECTION 3: Adds mining permits to the list of activities requiring legislative approval before permits can be issued within the Bristol Bay Fisheries Reserve. Currently, oil & gas permits require legislative approval before they can be issued for activity within the Reserve.

BILL SECTION 4: Sets an immediate effective date.

Delete P-2 line 28~

- P 3 line

^{graph}
Johnson # 4 = eliminate
Sec. # 3 -

Johnson - Campbell # 5

P. 2 line 7

Remove Section 2

Withdraw

Attn: Legal Services – Brian Kane
From: Louie Flora, Staff, Rep. Seaton
Date: February 25, 2008
RE: final CS HB 134 from House Fisheries with attached amendments

Hi Brian,

HB 134 Protection of Salmon Spawning Waters version O passed from House Fisheries today.

Conceptual amendment #4 was adopted, deleting section 3 of the bill in its entirety. Amendment O.4 was also adopted (attached).

Thanks.

AMENDMENT

#1

Adopted

OFFERED IN THE HOUSE

TO: CSHB 134(), Draft Version "O"

- 1 Page 3, line 6:
- 2 Delete "appropriate resolution"
- 3 Insert "law [APPROPRIATE RESOLUTION]"

AMENDMENT #2 Adopted

OFFERED IN THE HOUSE

TO: CSHB 134(), Draft Version "O"

1 Page 3, lines 2 - 5:

2 Delete "a permit or lease for the exploration, development, or extraction of
3 minerals as authorized by AS 38.05.135, or a cooperative mineral leasing agreement as
4 authorized by AS 38.05.137"

5 Insert "or a lease or other approval for disposition of minerals authorized under
6 AS 38.05.185 - 38.05.275"

Article 07. LEASING OF MINERAL LAND

Sec. 38.05.135. Leasing generally; royalty and net profit share payments and interest.

(a) Except as otherwise provided, valuable mineral deposits in land belonging to the state shall be open to exploration, development, and the extraction of minerals. All land, together with tide, submerged, or shoreland, to which the state holds title to or to which the state may become entitled, may be obtained by permit or lease for the purpose of exploration, development, and the extraction of minerals. Except as specifically limited by AS 38.05.131 - 38.05.181, land may be withheld from lease application on a first-come, first-served basis, and offered only on a competitive bid basis when determined by the commissioner to be in the best interests of the state.

(b) When mineral land is to be leased, in addition to any other notice given, notice must also be given as provided in AS 38.05.945.

(c) Payment of a royalty or a net profit share payment to the state under a lease issued under AS 38.05.135 - 38.05.181 becomes due on the date and in the manner specified in the lease or in a regulation adopted by the commissioner.

(d) If a royalty or net profit share payment to which the state is entitled under AS 38.05.135 - 38.05.181 is not paid or is underpaid when it becomes due under (c) of this section, the unpaid amount of the royalty or net profit share payment bears interest in a calendar quarter at the rate of five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District as of the first day of that calendar quarter, or at the annual rate of 11 percent, whichever is greater, compounded quarterly as of the last day of that quarter.

(e) If a royalty or net profit share payment to which the state is entitled under AS 38.05.135 - 38.05.181 is overpaid, interest at the rate and compounded in the manner provided in (d) of this section shall be allowed and paid on the overpayment. The interest allowance is subject to the following:

(1) if the state grants a credit against future payments for the overpayment, the state shall pay interest on the overpayment

(A) from the date that is the later of the date the overpayment was

(i) due; or

(ii) received;

(B) to the date that is the earlier of the date

(i) of notice to the lessee of the credit; or

(ii) on which the lessee actually takes the credit;

(2) if the state refunds the overpayment, the state shall pay interest on the overpayment

(A) from the date that is the later of the date the overpayment was

(i) due; or

(ii) received;

(B) to the date the state issues the refund.

(f) The issuance by the state and acceptance by a lessee of a credit or refund of an overpayment under (e) of this section does not affect any right of the state or lessee to claim an adjustment and interest on the overpayment.

(g) [Repealed, Sec. 1 ch 37 SLA 2001].

Sec. 38.05.137. Leasing agreements.

The commissioner is authorized to enter into cooperative mineral leasing agreements with the United States regarding land which is the subject of a title dispute between federal and state authorities. Any such lease need not conform to the provisions of state law applicable to state leases issued under the authority of this chapter.

Article 08. MINING RIGHTS

Sec. 38.05.185. Generally.

(a) The acquisition and continuance of rights in and to deposits on state land of minerals, which on January 3, 1959, were subject to location under the mining laws of the United States, shall be governed by AS 38.05.185 - 38.05.275. Nothing in AS 38.05.185 - 38.05.275 affects the law pertaining to the acquisition of rights to mineral deposits owned by any other person or government. The director, with the approval of the commissioner, shall determine that land from which mineral deposits may be mined only under lease, and, subject to the limitations of AS 38.05.300, that land that shall be closed to location under AS 38.05.185 - 38.05.275. State land may not be closed to location under AS 38.05.185 - 38.05.275 except as provided in AS 38.05.300 and unless the commissioner makes a finding that mining would be incompatible with significant surface uses on the state land. State land may not be restricted to mining under lease unless the commissioner determines that potential use conflicts on the state land require that mining be allowed only under written leases issued under AS 38.05.205 or the commissioner has determined that the land was mineral in character at the time of state selection. The determinations required under this subsection shall be made in compliance with land classification orders and land use plans developed under AS 38.05.300.

(b) The failure on the part of a mining lessee or a locator to comply strictly with AS 38.05.185 - 38.05.275 and regulations adopted under those sections does not invalidate the rights of a mining lessee or a locator if it appears to the satisfaction of the commissioner that the mining lessee or the locator complied as nearly as possible under the circumstances of the case, and that no conflicting rights are asserted by any other person.

(c) Unless otherwise provided, the usages and interpretations applicable to the mining laws of the United States as supplemented by state law apply to AS 38.05.185 - 38.05.275.

Sec. 38.05.190. Qualifications.

(a) The right to acquire exploration and mining rights under AS 38.05.185 - 38.05.275 may be acquired or held only by

- (1) citizens of the United States at least 18 years of age;
- (2) legal guardians or trustees of citizens of the United States under 18 years of age on behalf of the citizens;
- (3) persons at least 18 years of age who have declared their intention to become citizens of the United States;
- (4) aliens at least 18 years of age if the laws of their country grant like privileges to citizens of the United States;
- (5) corporations organized under the laws of the United States or of any state or territory of the United States and qualified to do business in this state;
- (6) associations of persons described in (1) - (5) of this subsection.

(b) An unqualified person who acquires an interest in exploration or mining rights by operation of law shall be allowed two years in which to become qualified or to dispose of the interest to a qualified person.

Sec. 38.05.195. Mining claims.

(a) Rights to deposits of minerals subject to AS 38.05.185 - 38.05.275 in or on state land that is open to claim staking may be acquired by discovery, location, and recording as prescribed in AS 38.05.185 - 38.05.275. The locator has the exclusive right of possession and extraction of the minerals subject to AS 38.05.185 - 38.05.275 lying within the boundaries of the claim.

(b) The locator may locate a claim using one of the following methods:

(1) a locator may locate a claim based on the ground location of a complete quarter section or quarter-quarter section of a township on a rectangular survey system approved by the commissioner; a claim established in this manner may be known as the meridian, township, range, section, and claim system location, or MTRSC location; a locator using the MTRSC system to locate a claim shall in good faith mark the corners of a location as closely as practical to the existing quarter section or quarter-quarter section of the rectangular survey system approved by the commissioner; the corners marked on the ground of a claim established in accordance with this paragraph and regulations of the commissioner control in the event of a conflict over boundaries for the quarter section or quarter-quarter section on the protracted or actual survey approved by the commissioner; or

(2) a locator may locate a claim based on the staking of a ground location in which the claim may not exceed 1,320 feet in its longest dimension; the boundaries of a claim based on staking and located after January 1, 1985, shall run in the four cardinal directions unless the claim is a fractional claim or the commissioner determines that staking in compliance with this paragraph is impractical because of local topography or because of the location of other claims; a claim established in this manner may be known as a non-MTRSC location.

(c) A location's corners shall be distinctly marked on the ground in the manner prescribed by the commissioner, and a notice of location shall be attached to a monument at the claim's northeast corner in the manner and containing the information required by the commissioner. Within 45 days after the date of attaching the notice of location on the monument, the locator shall record a certificate of location in the recording district where the claim is located. The certificate of location must contain the information required by the commissioner.

(d) Locations may be amended in the manner and with the effect prescribed in AS 38.05.200. Annual labor shall be performed and statements of annual labor recorded as prescribed in AS 38.05.210 - 38.05.235.

Sec. 38.05.200. Changes in locations and amended notices.

Notices may be amended at any time and monuments changed to correspond with the amended location but a change may not be made that interferes with the rights of others. Whenever monuments are changed or an error is made in the notice or in the certificate of location, an amended certificate of location shall be recorded in the same manner and with the same effect as the original certificate.

Sec. 38.05.205. Mining leasing.

(a) Prior discovery, location, and recording shall initiate prior rights to mineral deposits subject to AS 38.05.185 - 38.05.275 in or on state land, other than submerged

land, which is open to mining leasing. Locations shall be made and certificates of location recorded in accordance with AS 38.05.195. If the located land is available only for leasing, the director shall publish in a paper of general circulation in the area of the location, notice of the recording of the location and notice that a mineral lease will be issued. The notice may be combined with notices of locations either in the same general area or statewide. Unless a conflicting location exists, no later than two weeks after publication of the notice, an application form for a mining lease shall be mailed to the locator by the director. A lease application shall be filed with the director by the locator within 90 days after receipt of the form. If the located land is not available for leasing, notice shall be given the locator by the director and the locator's prior rights shall terminate. A mining lessee has the exclusive rights of possession and extraction of all minerals subject to AS 38.05.185 - 38.05.275 lying within the boundaries of the lease or location. Mining leases may be issued for one location or for a group of contiguous locations held in common. Minerals may not be mined and marketed or used until a lease is issued, except for limited amounts necessary for sampling or testing.

(b) [Repealed, Sec. 10 ch 101 SLA 1989].

(c) A mining lease shall be for any period up to 55 years, and is renewable if requirements for the lease remain satisfied. Annual rental and production royalties shall be paid as required under AS 38.05.211 and 38.05.212. A valid mining claim located and held under AS 38.05.195 may be converted to a lease at any time upon application by the owner, and issuance by the commissioner. Rights granted by a mining lease may not be exercised until the lease has been filed for record in the recording district where the land is located.

Sec. 38.05.207. Production license. [Repealed, Sec. 19 ch 56 SLA 1997].

Repealed or Renumbered

Sec. 38.05.210. Annual labor.

(a) Labor shall be performed or improvements made annually on or for the benefit or development of each mining claim, leasehold location, and mining lease on state land except that, where adjacent claims, leasehold locations, or mining leases are held in common, the expenditure may be made on any one claim, leasehold location, or mining lease. The commissioner shall establish the date of the commencement of the year during which the labor or improvements are to be performed. Labor shall be performed at the following annual rates: (1) \$100 per claim, leasehold location, or lease if the claim, leasehold location, or lease is a quarter-quarter section MTRSC claim, leasehold location, or lease; (2) \$400 for each quarter section MTRSC claim, leasehold location, or lease; and (3) \$100 for each partial or whole 40 acres of each mining claim, leasehold location, or lease not established using the MTRSC system. If more work is performed than is required by this section to be performed in any one year, the excess value may be applied against labor required to be done during the subsequent year or years, for as many as four years. Instead of performing annual labor, the holder of a claim, leasehold location, or mining lease may make a cash payment to the state equal to the value of the labor required by this subsection.

(b) During the year in which annual labor is required or within 90 days after the close of that year, the owner of the mining claim, leasehold location, or mining lease, or

some other person having knowledge of the facts shall record with the recorder of the district in which the claim, leasehold location, or mining lease is located a signed statement setting out the information, as may be required by the commissioner, concerning the annual labor of the preceding year, any labor in excess of that required for the preceding year, and any payment of cash instead of annual labor. The statement, properly recorded, is prima facie evidence of the performance of the labor. The failure of one of several co-owners to contribute the proportion of the expenditures required for annual labor from the co-owner shall be treated in accordance with AS 38.05.215-38.05.235.

(c) The statement of annual labor required in (b) of this section may be amended within two years of the date by which the annual labor statement was required to be recorded. An amended statement shall be recorded for record in the same manner as the original statement. Additional labor claimed in an amended statement may not be applied against labor required to be done during a subsequent year.

(d) [Repealed, Sec. 10 ch 101 SLA 1989].

Sec. 38.05.211. Annual rental.

(a) The holder of each mining claim, leasehold location, prospecting site, and mining lease, including a mining lease under AS 38.05.250, shall pay, in advance, rental for the right to continue to hold the mining claim, leasehold location, prospecting site, and mining lease, including a mining lease under AS 38.05.250. Rental is due and payable as follows:

(1) the rental amount for a prospecting site is fixed at \$200 for the two-year term of the site;

(2) annual rental for a mining claim, leasehold location, or mining lease shall be based on the number of years since a mining claim, a leasehold location, or a mining lease's predecessor claim or leasehold location was first located; the annual rental amounts for a mining claim, leasehold location, or mining lease are as follows:

Number of Years Since First Located	Rental Amount Per Acre for Mining Leases	Rental Amount for Each Mining Claim or Leasehold Location Including Each Quarter-Quarter Section MTRSC System
0 - 5	\$.50	\$ 20
6 - 10	\$1.00	40
11 - or more	\$2.50	100;

(3) the annual rental in any year for each quarter section claim, leasehold location, or lease based on the MTRSC system is four times the rental amount for a quarter-quarter section mining claim, leasehold location, or lease in that year.

(b) A claim, leasehold location, or mining lease located on or before August 31, 1989, is considered to have been first located on August 31, 1989, for purposes of determining the amount of rental under this section.

(c) The rental for each year shall be credited against the production royalty under AS 38.05.212 as it accrues for that year.

(d) The rental amount established under this section shall be revised by the commissioner as provided in this section based on changes in the Consumer Price Index for all urban consumers, Anchorage Metropolitan Area (Semi-Annual Average) compiled by the Bureau of Labor Statistics, United States Department of Labor, as revised, rebased, or replaced by that bureau. The reference base index is the index for January - June 1989, as revised or rebased by that bureau. The rental amount shall be increased or decreased, as appropriate, by an amount equal to the change in the index described in this subsection rounded to the nearest whole \$5 unit. The commissioner shall calculate the change in the rental amount each 10 years and, if the rental amount must be revised, shall adopt a regulation establishing the revised rental amount. A revised rental amount applies to a rental payment if the regulation establishing the revised rental amount took effect at least 90 days before the date the rental payment is due.

(e) The locator of a new claim or leasehold location in accordance with the MTRSC system or the locator of a non-MTRSC location claim or leasehold location who amends the claim or leasehold location in accordance with the MTRSC system is entitled to a reduced rental under this section for the rental year following establishment of the new location or amendment of a non-MTRSC location. The reduced annual rental is 50 percent of the annual rental that would otherwise be due in the following rental year.

Sec. 38.05.212. Production royalty.

(a) In exchange for and to preserve the right to extract and possess the minerals produced, the holder of a mining claim, leasehold location, or mining lease, including a mining lease under AS 38.05.250, shall pay a royalty on all minerals produced from land subject to the claim, leasehold location, or mining lease during each calendar year.

(b) The production royalty

(1) is three percent of net income as determined under AS 43.65; and

(2) is subject to the exploration incentive credit authorized by AS 27.30.

(c) The commissioner shall adopt regulations to implement this section and to provide for combined reporting and paying of production royalties for mining operations that include more than one mining claim, leasehold location, or mining lease.

Sec. 38.05.215. Notice to co-owners to contribute to cost of annual labor or improvements and forfeiture for failure to contribute.

If one of several co-owners fails to contribute the proportion of the expenditures required for annual labor from the co-owner, the co-owners who have performed the labor or made the improvements may, at the expiration of the annual labor year, give the delinquent co-owner personal notice in writing, or notice by publication in the newspaper published nearest the claim for at least once a week for 90 days. If at the expiration of 90 days after the service of the notice in writing, or 90 days after the completion of the publication the delinquent fails or refuses to contribute the required proportion of the expenditures, the interest of the delinquent co-owner in the claim is forfeited to the co-owners who have made the expenditures.

Sec. 38.05.220. Recording the notice to contribute and affidavits.

(a) Within 120 days after personal service, or within 120 days after the completion of publication of the notice provided for in AS 38.05.215, the co-owner who claims the forfeiture shall record in the office of the recorder of the recording district in which the claim is located a copy of the notice with the following affidavits attached:

(1) an affidavit of the person serving the notice giving the time, place, and manner of service and by whom and upon whom the service was made or, if service was made by publication in a newspaper, an affidavit of the editor, publisher, printer, or foreman of the newspaper giving the name of the newspaper, the place where, and the time during which the notice was published and the number of insertions;

(2) an affidavit of the co-owner who claims the forfeiture stating that neither the delinquent co-owner nor any person acting for the delinquent co-owner has paid or tendered to the affiant the delinquent's proportion of the expenditures for annual labor or improvements.

(b) The record of the notice and affidavits or a certified copy of it is prima facie evidence of the facts contained in it.

Sec. 38.05.225. Lienholder may perform the annual labor.

A person who holds a claim to or lien upon an unpatented mining claim under a certificate of sale, mortgage, attachment, levy, judgment, or other lien may, when necessary for the protection of the lien or claim, go upon the mining claim and perform or cause to be performed the annual labor required by law to prevent forfeiture. Before performing the labor the claimant or lien holder shall mail a written notice of intent to perform the annual labor on the claim to the owner of the claim at the last known address of the owner of the claim.

Sec. 38.05.230. Lien for performance of annual labor.

(a) The person performing or causing to be performed annual labor upon an unpatented mining claim as provided in AS 38.05.225 shall have a lien upon the claim for the assessment work, including the reasonable cost of transportation to and from the claim incurred in doing the work. The lien is enforced either as in other suits for the foreclosure of liens upon real property or as supplemental accruing costs in an action, if any, then pending in which the claim has been levied upon by attachment, execution, or other court process.

(b) A person claiming a lien under this section shall, within 90 days after the completion of the annual labor for which the lien is claimed, record in the office of the recorder of the recording district in which the property on which the lien is claimed is situated a notice of claim of lien, verified by the oath of the person claiming the lien or that of some other person having knowledge of the facts, and stating the name of the owner or reputed owner of the property, the amount of the claim, the time of the performance of the annual labor for which the lien is claimed, the nature of the labor done or improvements made, and the amount of the claim, including costs of transportation, after deducting all just credits and offsets.

(c) An independent suit or action brought to enforce a lien under this section shall be commenced within six months after the recording of the notice of claim of lien.

Sec. 38.05.235. Lien for annual labor is independent of other liens.

The lien given for the performance of annual labor by AS 38.05.230, if the work is done in good faith and necessarily for the protection either of possession under a certificate of sale or of an attachment, levy, mortgage, judgment, or other lien, remains in effect notwithstanding the contemporaneous or subsequent vacation, dissolution, or setting aside of, or redemption from, the certificate of sale, attachment, levy, mortgage, judgment, or other lien.

Sec. 38.05.240. Labor defined for AS 38.05.210 - 38.05.235.

In AS 38.05.210 - 38.05.235, "labor" includes geological, geochemical, geophysical, and airborne surveys conducted by qualified experts and verified by a detailed report filed in the recording district office in which the claim, leasehold location, or mining lease is located which sets out fully (1) the location of the work performed in relation to the point of discovery and boundaries of the claim, leasehold location, or mining lease, (2) the nature, extent, and cost of it, and (3) the name, address, and professional background of the person conducting the work. The commissioner, by regulation, shall define the nature of acceptable survey work and the qualifications of a person competent to perform this work. The airborne surveys, however, may not be applied as labor for more than two consecutive years or for more than a total of five years on any one mining claim, leasehold location, or mining lease, and each of those surveys shall be nonrepetitive of any previous survey on the same claim, leasehold location, or mining lease.

Sec. 38.05.242. Definitions for AS 38.05.210 - 38.05.240.

In AS 38.05.210 - 38.05.240

(1) "airborne survey" means a survey from the air for mineral deposits by the proper application of magnetometers, electromagnetic input systems, infrared detectors, side-looking radar, vertical and panoramic cameras, and other devices as they relate to the search for and discovery of mineral deposits;

(2) "geochemical surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of chemistry as they relate to the search for and discovery of mineral deposits;

(3) "geological surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of geology as they relate to the search for and discovery of mineral deposits;

(4) "geophysical surveys" means surveys on the ground for mineral deposits through the employment of generally recognized equipment and methods for measuring physical differences between rock types or discontinuances in geological formations;

(5) "MTRSC system" means the system described in AS 38.05.195(b)(1) based on the ground location of a complete quarter section or quarter-quarter section of a township on a rectangular survey system;

(6) "qualified expert" means an individual qualified by education or experience to conduct geological, geochemical, or geophysical surveys, as the case may be.

Sec. 38.05.245. Prospecting sites.

(a) Before the discovery of valuable minerals, an exclusive right to prospect by geophysical, geochemical, and similar methods may be acquired by establishing a prospecting site in accordance with the MTRSC system and regulations prescribed by the

commissioner. A certificate of location shall be recorded in the recording district where the prospecting site is located within 45 days after posting the notice of location. The locator of a prospecting site has the exclusive right to stake mining claims or leasehold locations within the boundaries of the site. In this subsection, "MTRSC system" means the system described in AS 38.05.195(b)(1) based on the ground location of a complete quarter section or quarter-quarter section of a township.

(b) A prospecting site location may not include within its exterior boundaries, nor shall its boundaries be coincident with more than one boundary of any mining claim, mining leasehold location, or land under a mining lease, unless the locator of the prospecting site is also the owner, optionee, or lessee of said mining property. If such mining property or area is so included or bounded, the prospecting site is void.

(c) A prospecting site remains in effect for two years after the notice of location is attached to a monument at the northeast corner of the site if the one-time rental payment is made within 45 days of location and the work requirements are met. The two-year term begins on the date the notice of location is attached to the monument and may not be extended. During each year, work of a type compatible with the purpose of this section and acceptable to the director shall be done. The minimum expenditure for the work shall be established by the commissioner uniformly for all prospecting sites. Where adjacent prospecting sites are held in common, the expenditure may be made on any one or more locations. If a prospecting site expires, neither the locator nor a successor in interest of the locator may again hold the same prospecting site or any portion of it, as a prospecting site, for a period of one year following the date of expiration or abandonment.

Sec. 38.05.250. Prospecting permits and leases on tide and submerged land.

(a) The exclusive right to prospect for deposits of minerals subject to AS 38.05.185 - 38.05.275 in or on tide and submerged state land may be granted by a permit issued by the director. Permits shall be granted to the first qualified applicant. A permit may not include an area larger than 2,560 acres, subject to the rule of approximation. Land subject to a prospecting permit shall be as compact in form as possible taking into consideration the area involved. The term of the permit shall be 10 years. Prospecting permits shall be conditioned upon payment of rental against which credit shall be given for useful expenditures on land covered by the permit or group of contiguous permits under common ownership or assignment. Excess expenditures may be applied against rentals due for the following four years. The rental shall be \$3 per acre for the first two-year period of the permit, payable on the second anniversary of the permit and \$3 per acre for each following year, payable annually on the anniversary date of the permit. Minerals from land under a prospecting permit may not be mined and marketed or used, except for limited amounts necessary for sampling or testing. A person may not take or hold prospecting permits for minerals on state land under this section exceeding in the aggregate 300,000 acres. A person may not take or hold leases for minerals on state land under this section exceeding in the aggregate 100,000 acres.

(b) A noncompetitive lease shall be granted to a holder of a prospecting permit for so much of the land subject to the permit as is shown to the satisfaction of the director to contain workable mineral deposits. Submerged land containing known deposits of minerals subject to AS 38.05.185 - 38.05.275 may, in the discretion of the director, be

offered by competitive bid. The land shall be leased to the qualified person offering the highest amount of cash bonus.

(c) Each submerged land mining lease shall be for a period of up to 20 years and for so long as there is production in paying quantities from the leased area.

(d) The commissioner may, on the request of the lessee, assent to the suspension of operation and production under a lease whenever in the judgment of the commissioner the suspension is necessary to promote development of the lease or the lease cannot be successfully operated under its terms. The payment of acreage rental may be suspended during the period of suspension of operation and production. The suspension of the lease shall extend the term of the lease by adding the period of suspension to the lease. The commissioner may extend the term of a nonproducing lease on an application by the lessee accompanied by a showing that the lessee is reasonably close to attaining production and that, despite diligent good faith efforts by the lessee, the lessee is not able to produce due to force majeure, depressed market conditions, or other situations beyond the reasonable control of the lessee. A suspension or extension granted under this subsection may not exceed two years.

Sec. 38.05.252. Extralateral rights under shore, tide, and submerged land.

(a) Extralateral rights under shoreland, tideland, and submerged land are confirmed and granted to an owner of a lode mining claim located before January 3, 1959, under the mining laws of the United States.

(b) In this section, "extralateral rights" means rights given to an owner of a mining claim under 30 U.S.C. 26 to follow, and mine, any vein or lode the apex of which lies within the boundaries of the location of the surface of the mining claim, notwithstanding that the course of the vein or lode on its dip or downward direction may so far depart from the perpendicular as to extend beyond the planes which would be formed by the vertical extension downwards of the sidelines of the location.

Sec. 38.05.255. Surface use of land or water.

(a) Surface uses of land or water included within a mining property by the owners, lessees, or operators shall be limited to those necessary for the prospecting for, extraction of, or basic processing of minerals and shall be subject to reasonable concurrent uses. Leases for millsites, tailings disposal, and other mine related facilities may be issued by the director. The leases shall be conditioned upon payment of a reasonable annual rent for the lease and restricted to uses approved by the director.

Timber from land open to mining without lease, except timberland, may be used by a mining claimant or prospecting site locator for the mining or development of the location or adjacent claims under common ownership. On other land, timber may be acquired as provided in this chapter. Use of water shall be made in accordance with AS 46.15.

(b) A lease issued under this section is exempt from the provisions of AS 38.05.075 - 38.05.080.

Sec. 38.05.260. Water rights where claim includes both banks of a stream. [Repealed, Sec. 2 ch 50 SLA 1966. For current law see AS 46.15].

Repealed or Renumbered

Sec. 38.05.265. Abandonment.

(a) Failure to properly record a certificate of location or a statement of annual labor, pay any required annual rental, or pay any required production royalty as required by AS 38.05.185 - 38.05.200, 38.05.210 - 38.05.245, 38.05.252 - 38.05.275, and by regulations adopted under these sections constitutes abandonment of all rights acquired under the mining claim, leasehold location, or prospecting site involved, and the claim, leasehold location, or prospecting site is subject to relocation by others, unless the failure constituting the abandonment is cured under (b) of this section. A locator or claimant of an abandoned location or a successor in interest may not relocate the claim, leasehold location, or prospecting site until one year after abandonment. The locator of an abandoned prospecting site may locate a claim or leasehold location on that site at any time. A statement of annual labor that does not accurately set out the essential facts is void and of no effect. If an annual rental or a royalty payment is deficient but is otherwise timely paid, abandonment does not result if full payment is made within

- (1) the period prescribed by a deficiency notice from the commissioner; or
- (2) 30 days after a final judgment establishing the amount due if the deficiency amount due was contested.

(b) Unless another person has located a mining claim or leasehold location that includes all or part of the mining claim or leasehold location abandoned under (a) of this section or the area is closed to mineral location under AS 38.05.185 - 38.05.275, a person may cure the failure to record or pay that constituted the abandonment and cure the abandonment by

- (1) properly recording a certificate of location or a statement of annual labor, paying any required annual rental, and paying any required production royalty; and
- (2) paying a penalty equal to the annual rent for the mining claim or leasehold location that was abandoned under (a) of this section.

Sec. 38.05.270. Transfers.

The sale, lease, or other transfer of mining property or interest in mining property shall be recorded or shall be approved by the director in compliance with such regulations as the commissioner may adopt. The heirs and assigns of mining property or interest in mining property have the same rights and duties as their predecessors.

Sec. 38.05.275. Recognition of locations.

(a) Mining locations made on state land, including shoreland, tideland, or submerged land, or state selected land, under AS 38.05.185 - 38.05.275 or in the manner described in AS 27.10, acquire for the locator mining rights under AS 38.05.185 - 38.05.275, subject to existing claims and to any denial of or restriction in the tentative approval of state selection or patent of the land to the state. If shoreland, tideland, or submerged land is included in a mining location or within the projected boundaries of a mining location made in accordance with this section, the locator shall record a certificate of location under AS 38.05.195. The certificate of location must identify the position of the mining location in the system of rectangular or protracted surveys. If the mining location is made in the manner described in AS 27.10, the commissioner may require that the locator amend the mining location to conform with AS 38.05.185 - 38.05.275 and thereafter to comply with the requirements of AS 38.05.185 - 38.05.275.

(b) In this section, "state selected land"

(1) means land for which the state has filed a selection application with the United States under Sec. 6 of the Alaska Statehood Act, as amended, regardless of the validity or effect of the application, if the selection described in the application has not been rejected or relinquished;

(2) does not include land described in (1) of this subsection for which a regional corporation organized under 43 U.S.C. 1606(a), as amended, a village corporation organized under 43 U.S.C. 1607(a), as amended, a Native group corporation that qualifies for a land conveyance under 43 U.S.C. 1613(h)(2), as amended, or a Native urban corporation that qualifies for a land conveyance under 43 U.S.C. 1613(h)(3), as amended, has filed a valid selection application with the United States under 43 U.S.C. 1601 - 1641, as amended, if the selection of the corporation or group has not been rejected or relinquished.

(c) Subsection (b) of this section may not be construed to limit the director in the exercise of authority granted by AS 38.05.035(a)(12).

AMENDMENT

H3 Adpt 1

OFFERED IN THE HOUSE

TO: CSHB 134(), Draft Version "O"

1 Page 2, line 25, following "for":

2 Insert "(A)"

3

4 Page 2, line 27, following "zinc":

5 Insert "or;

6 (B) gold associated with any of the minerals listed in (A) of

7 this paragraph."

AMENDMENT#6 - ~~Amendment~~
(Define study in statute)

OFFERED IN THE HOUSE

BY REPRESENTATIVE JOHNSON

TO: CSHB 134(), Draft Version "O"

Let X - No

H. Ins - No

Ed - No

Wills - No

J. W. - Yes

J. W. - Yes

Seaton - No

yes
2 - 5 No

1 Page 2, line 12, following "operation":

2 Insert "or the discharge of a hazardous substance"

3

4 Page 2, line 16, following "operation":

5 Insert "or the discharge of a hazardous substance"

6

7 Page 2, following line 24:

8 Insert new paragraphs to read:

9 "(2) "discharge" means any addition of a hazardous substance to water
10 described in this section;

11 (3) "hazardous substance" means

12 (A) an element or compound that, when it enters in or upon the
13 surface or subsurface water of the state, presents a danger to the public health
14 or welfare, including a danger to fish, animals, vegetation, or any part of the
15 natural habitat in which fish, animals, or vegetation are found;

16 (B) oil; or

17 (C) a substance defined as a hazardous substance under 42

18 U.S.C. 9601(14);"

19

20 Renumber the following paragraph accordingly.

42 U.S.C. 9601(14):

(14) The term "hazardous substance" means (A) any substance designated pursuant to section 311(b)(2)(A) of the Federal Water Pollution Control Act [33 USCS § 1321(b)(2)(A)], (B) any element, compound, mixture, solution, or substance designated pursuant to section 102 of this Act [42 USCS § 9602], (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act [42 USCS § 6921] (but not including any waste the regulation of which under the Solid Waste Disposal Act [42 USCS §§ 6901 et seq.] has been suspended by Act of Congress), (D) any toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act [33 USCS § 1317(a)], (E) any hazardous air pollutant listed under section 112 of the Clean Air Act [42 USCS § 7412], and (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act [15 USCS § 2606]. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 134
 () Publish Date: _____

Identifier (file name): HB134-DFG-SF-12-19-07 Dept. Affected: Fish and Game
 Title: Protection of Salmon Spawning Water RDU: Sport Fisheries
 Component: Research & Restoration
 Sponsor: Representatives Edgmon, Ramras et al
 Requester: House Fisheries Committee Component Number: 2854

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information					
		FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES							
-----------------------------	--	--	--	--	--	--	--

CHANGE IN REVENUES ()							
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

Passage of this bill will not have any fiscal impact on the Department of Fish and Game.

Prepared by: Tom Brookover, Regional Supervisor
 Division: Sport Fisheries
 Approved by: Tom Lawson, Director
Division of Administrative Services, Department of Fish and Game

Phone 267-2150
 Date/Time 12/19/07 10:00 AM
 Date 12/19/2007

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: **HB134**
 () Publish Date: _____

Identifier (file name): **HB134-DNR-CPL-01-14-08** Dept. Affected: **Natural Resources**
 Title **Protection of Salmon Spawning Water** RDU **Resource Development**
 Component **Claims, Permits and Leases**
 Sponsor **Rep. Edgmon**
 Requester **House FSH** Component Number **2460**

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information					
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
OPERATING EXPENDITURES							
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES							
-----------------------------	--	--	--	--	--	--	--

CHANGE IN REVENUES ()			*** INDETERMINATE ***				
-------------------------------	--	--	------------------------------	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

HB 134 proposes to restrict water use and management over an area of approximately 19 million acres of land and submerged lands within the watersheds of the Nushagak, Kvichak, Naknek, Egagik and Ugashik Rivers.

The state owned portion of these lands contain numerous, significant mineral deposits and is considered to have high mineral potential. In addition to mining and oil and gas potential, some portion of these lands are also suitable for commercial, industrial and commercial recreational use. Prohibition of water use other than for those uses listed in (b) of Section 16.10.15 will severely curtail or foreclose those uses.

Prepared by: Dick Mylius, Director
 Division: Mining, Land and Water
 Approved by: Tom Irwin, Commissioner
Natural Resources

Phone 269-8600
 Date/Time January 14, 2008
 Date January 14, 2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. HB134

ANALYSIS CONTINUATION

Mining, Land & Water's land management costs are not likely to be increased in this area as a result of this proposed legislation. However, the net fiscal impact to the state may be affected by the potential loss of significant future revenues from sources such as mineral or oil and gas bonus bids, rents, and royalties, land sales, rentals, and permit fees. Because the potential and size of these revenue losses are not known the division has provided this indeterminate fiscal note.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____

Bill Version: HB 134

() Publish Date: _____

Identifier (file name): HB134-DEC-WQ-12-19-07

Dept. Affected: Dept of Environmental Conservation

Title: Conservation and protection of wild salmon

RDU: Division of Water

Component: Water Quality

Sponsor: Edgmon, Ramras, Dahlstrom, Gara, Kerttula

Requester: House Special Committee on Fisheries

Component Number: 2062

Expenditures/Revenues

(Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information					
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
OPERATING EXPENDITURES							
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES

CHANGE IN REVENUES ()

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Interagency Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: _____

0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

There are no fiscal impact associated with this legislation.

Prepared by: Lynn J. Tomich Kent, Director

Division: Water

Approved by: Larry Hartig

Department of Environmental Conservation

Phone 907-269-7599

Date/Time 12/21/07 4:00 PM

Date 1/9/2008

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 12, 2008

SUBJECT: Takings claims regarding CSHB 134()
(Work Order No. 25-LS0381\O)

TO: Representative Bryce Edgmon
Attn: Adam Berg

FROM: Brian J. Kane *BJK*
Legislative Counsel

You have asked the following regarding version "O" of CSHB 134: Would section 3 of this version affect any potential takings claims from a company attempting to get a sulfide mining operation permitted within the boundaries of the Bristol Bay Fisheries Reserve? Specifically, you suggest a scenario in which Company A has a sulfide mining project that has successfully completed the permitting process and fails to secure the approval of a resolution by the legislature, a requirement added by sec. 3 of the bill.

It appears to me that a takings claim by Company A in the above scenario would likely be successful. However, Company A may not have to resort to making a takings claim based on the current bill.

If Company A has staked its claim to the land containing certain minerals and has begun, and even completed, the permitting process, its rights to those minerals have vested. The land staked by Company A can only be mined by Company A, thus it has a vested interest in those minerals. If, after Company A has a vested right in those minerals, the law is changed in such a way that no longer allows Company A to use its land for the intended profit-making purpose, then it seems likely a taking has occurred. Under art. I, sec. 18 of the state constitution, "Private property shall not be taken or damaged for public use without just compensation." In this scenario, it seems likely that this is the private property of Company A and that the value of the property to Company A would be substantially reduced or eliminated if the minerals are not allowed to be mined. Hence, compensation for the denial of use will be due Company A.

That being said, there is another issue that will likely carry the day in the scenario you have described in your question - that a resolution passed by the legislature would not affect whether Company A would be allowed to mine. In *State v. A.L.I.V.E. Voluntary*, 606 P.2d 769, 773 (Alaska 1980), the court stated that when the legislature wishes to act in an advisory capacity, it may do so by resolution; but, when it intends its action to have

Representative Bryce Edgmon
February 12, 2008
Page 2

a binding effect on people outside the legislature, it may do so only by following the enactment procedures for bills.

The statute being amended by sec. 3 of the bill, AS 38.05.140(f), was enacted in 1972, and the *A.L.I.V.E. Voluntary* decision was issued by the court in 1980. Hence, this *A.L.I.V.E. Voluntary* case would likely play a significant role in the argument by Company A that it should be allowed to mine with or without the approving resolution. If the court followed its ruling set out in *A.L.I.V.E. Voluntary*, then it could easily invalidate the appropriate resolution requirement, leaving Company A with all the approval needed for mining to begin. Thus, the takings claim would not be a factor if Company A was able to mine the land as it intended.

If I may be of further assistance, please advise.

BJK:med
08-083.med

Alaska State Legislature
REPRESENTATIVE BRYCE EDGMON
House District 37



Commissioner Tom Irwin
 Dept. of Natural Resources
 550 W 7th Ave., Ste. 1400
 Anchorage, AK 99501

Adak
 Akutan
 Aleknagik
 Atka
 Chignik
 Chignik Lagoon
 Chignik Lake
 Clark's Point
 Cold Bay
 Dillingham
 Egegik
 Ekwok
 False Pass
 Ivanof Bay
 King Cove
 King Salmon
 Koliganek
 Manokotak
 Naknek
 Nelson Lagoon
 New Stuyahok
 Nikolai
 Parryville
 Pilot Point
 Portage Creek
 Port Heiden
 St. George
 St. Paul
 Sand Point
 South Naknek
 Togiak
 Twin Hills
 Ugashik
 Unalaska

February 20th, 2008

Sent By Facsimile

RE: DNR policy on takings issue

Dear Commissioner Irwin:

I am writing to request clarification from DNR on issues that have arisen during the consideration of HB 134.

As a member of the legislature, it is my duty to protect public health and the environment; it is part of my job to address statutes dealing with land management; and I am bound by Alaska's constitution to conserve fish and wildlife, even if that requires the creation of higher environmental standards. I appreciate that you, too, share these duties.

DNR staff have testified that passage of my bill could make the state liable for "takings" payments in the Bristol Bay Fisheries Reserve. It has also been suggested by some that the state may already be in a grey area regarding takings and the Pebble prospect. These positions are puzzling to me, and given the huge estimates of the worth of the Pebble prospect, I am certainly concerned about possible state liabilities.

In light of that, I would appreciate learning DNR's answers to these questions:

- 1) Entirely apart from HB 134, if Pebble Mine permit applications were on your desk tomorrow and you declined to permit the project, does DNR think the Pebble Partnership would have a valid takings case?
- 2) If the answer to question 1) is no, then given the existing requirements in Alaska law, at what point during the exploration phase does DNR think the Pebble Partnership creates a valid takings case?
- 3) With the above questions in mind, how, in DNR's opinion, could passage of HB 134, Version O, affect the validity of the Pebble Partnership's takings case against the state?

I hope you agree that these are important questions. If, for example, DNR believes that the denial of development permitting following the approval of exploration permitting constitutes a taking

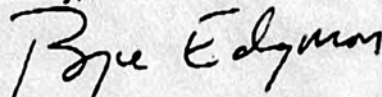
State Capitol Building
 Room 424, Juneau, AK 99801 • Phone: (907) 465-4451 • Toll Free: 1-800-898-4451 • FAX: (907) 465-3445
 Email: Rep_Bryce_Edmon@legis.state.ak.us

by the state, then Alaska is facing a crisis of monumental proportions, considering the hundreds of thousands of mineral claims blanketing our lands.

The Pebble Partnership has permits to explore, not to produce. It would be my argument that exploration permits do not constitute a right to mine, and they certainly do not nullify a state government's power to protect its citizens, manage its lands, and uphold its constitution.

Given the time constraints of the 90-day session, your prompt reply would be greatly appreciated.

Sincerely,



Representative Bryce Edgmon
House District 37

Cc: Richard Mylius, Division Director, MLW, DNR
Edmund Fogels, Division Director, OPM, DNR
Representative Paul Seaton, Chair, House Fisheries Committee

CS HB 134 Testimony

By Ed Fogels

Director, Office of Project Management and Permitting
Department of Natural Resources

The Department does not have a position on this CS, but we would like to point out how it would affect our management of the affected lands, and provide some questions and observations on the language.

The CS differs from the original bill in that the restrictions on use of waters within the Bristol Bay Fisheries Reserve is now limited to "sulfide mining" and leasable minerals.

The CS also differs from the original bill in that the activities are restricted if they affect anadromous fish waters, rather than all waters as was specified in the original bill. Anadromous fish waters are defined by AS 41.14.870, and are legally defined by *The Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes*, which is maintained by the DNR Office of Habitat Management and Permitting in collaboration with ADF&G. These waters do not include tributary waters to the anadromous waters, nor do they include subsurface waters. So we are unclear at this time as to which waters within the watershed are affected by this CS.

Because the CS prohibits any use of water by "sulfide mines," and because all mines must use or affect some amount of water, this CS effectively prohibits all "sulfide mining."

The term "sulfide mining" is vague—it is defined in the CS as any mining operation for a specified list of metals. This list does not include gold, so a gold mining operation would not be subject to this bill even if sulfide minerals were present in the ore.

With respect to the fine schedule in the CS, we believe that more clarity is needed on which agency assesses these fines—is it DNR, DEC, or ADF&G? Also, will there be a process to allow someone to defend against alleged fines, will fines be set through an administrative action, civil action, or criminal action?

Also with respect to the fines, we would like to remind the Committee that there are already provisions for civil and criminal penalties for environmental release or reporting violations under AS 46.03.760, 46.03.790, and 12.55.035. Also, AS 46.03.780 provides that in cases where a violation causes the death of fish, animals, or vegetation, or damages to the environment, the violator is liable to the state for damages.

This CS will affect approximately 19 million acres of land and waters within the Bristol Bay watersheds. This includes approximately 9 or 10 million acres of state land, and over a million and a half acres of ANCSA land.

The citation in Section 3 to AS 38.05.135 appears to be in error, unless the bill's intent is also to prohibit development of leasable minerals—this statute applies to only the leasing of mineral rights (for coal, phosphates, oil shale, sodium, potassium, oil, gas, or geothermal resources). Did the sponsors perhaps mean AS 38.05.185, which applies to the general acquisition of mineral rights, or some other statute? If this section is intended to apply to all mineral rights, how will this work with Section 2, which effectively prohibits most mining?

Thank you for the opportunity to comment.

Dr. Carol Ann Woody
Fisheries Research and Education
6601 Chevigny St., Anchorage, AK 99502
907-248-4776; carolw@alaskalife.net
<http://fish4thefuture.com/>

18 Feb. 2008
Fisheries Resource Committee
RE: HB 134

Dear Committee Members,

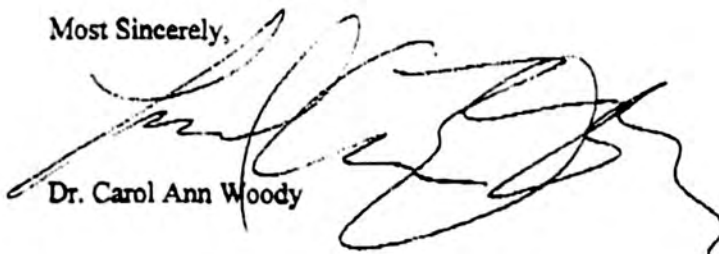
Thank you for your efforts to ensure the conservation of waters that sustain the Bristol Bay fisheries. I have worked in regions of the U.S. where people can no longer catch and eat fish without regard, as many waters, and the fish that live in them, are contaminated. It will take both hind and foresight to ensure our waters continue to run pure and continue to provide essential habitat for our rich fisheries.

I am a scientist and educator who has dedicated my career to Alaskan fisheries. For the last five years I have studied the potential risks posed by the Pebble mine to Bristol Bay fisheries. My experience serving on the federal technical advisory team at USGS on Pebble, and other mines, has given me a depth of knowledge others may lack. It is my personal mission to ensure that the people of Alaska are aware of the risks, and that they make the decision to develop or not develop mineral resources in that region based on facts, not rhetoric.

I neither support nor oppose HB 134. However, I do offer the Legislature 25 years of fisheries experience and education that may assist you in developing legislation to conserve Alaska's clean waters and diverse fisheries. If at any time I can help you in your efforts to understand the complexity of how sulfide mining can impact fish, how our current water quality regulations lag behind the science, or how we can work together to ensure Alaskan fisheries remain sustainable, I offer my services.

I have developed an educational presentation focused on the risks to our fisheries from industrial sulfide mining and would greatly appreciate the opportunity to share it with you. My contact information is above.

Most Sincerely,



Dr. Carol Ann Woody

From: Dave Lacey [dlacey@mosquitonet.com]
Sent: Friday, February 15, 2008 12:52 PM
To: Rep. Paul Seaton
Cc: Rep. David Guttenberg
Subject: HB 134

Dear Rep. Seaton, I support CS for HB 134. I eat Alaska salmon and want the fishery and my health protected.
Thanks for your efforts. Dave Lacey

Fax to Rep Staff
Person Louis Flora

465-3472

This form must be completely filled out. You may phone, fax, or deliver your POM to any LIO.

From: Please PRINT the information below. This form must be signed by the sender.

To: Put a ✓ in the appropriate box(es).

Subject: Fill out the boxes below OR enter a Subject.

Message: Your PRINTED message cannot exceed 60 words or contain any vulgar language.

2. I strongly approve of H.R. 134. OUR BOSTON BAY WATERSHED IS A VERY DELICATE ECOSYSTEM THAT IS NOT SUFFICIENTLY PROTECTED BY CURRENT PERMITTING & REGULATIONS.

Public Opinion Message

To No. 1797 Rep. 1st of 11
Person Louis Flora
465-3472

Dillingham Legislative Information Office (LIO)
P O Box 829 . Dillingham, AK 99576 . Phone: 907-842-5319 . Fax 907-842-5105

This form must be completely filled out. You may phone, fax, or deliver your POM to any LIO.

From: Please **PRINT** the information below. This form **must be signed** by the sender.

Mr. / Ms. / Mrs.	First name	M.I.	Last name	Jr. / Sr. / III
MRS	Betty	J	Bonin	
Group affiliation (if applicable)				Daytime telephone number
representing myself as a Commercial fisherperson				907-246-4224
Mailing address				Zip code
PO Box 183, Naknek, AK				99633
Residence (street) address if different from mailing address				Zip code
#1 Red Salmon Road, Naknek, AK				99633
Email address		Signature		Date
betz@bristolbay.com		Betty J Bonin		2/21/08

To: Put a $\checkmark$ in the appropriate box(es).

Committees		House members		Senate members	
☐	Community & Regional Affairs (cra)	☐	Buch (buc)	☒	Johnson (jhn)
☐	Finance (fin)	☐	Chenault (che)	☐	Joule (jou)
☐	Health, Ed., & Social Services (hes)	☐	Cisna (cis)	☐	Kawasaki (kaw)
☐	Judiciary (jud)	☐	Coghlin (cog)	☐	Keller (KEE)
☐	Labor & Commerce (l&c)	☐	Crawford (crf)	☐	Kelly (kel)
☐	Resources (res)	☐	Dahlstrom (dal)	☐	Kertula (ker)
☐	Rules (ric)	☐	Doll (dli)	☒	LeDoux (leu)
☐	State Affairs (sta)	☐	Doogan (doo)	☐	Lynn (lyn)
☐	Transportation (tra)	☒	Edgmon (edg)	☐	Meyer (may)
☒	Other: <u>Fisheries</u>	☐	Fairclough (fai)	☒	Nelson (nel)
☐	Other:	☐	Foster (fos)	☒	Neuman (neu)
		☐	Gara (gar)	☒	Olson (oli)
		☐	Gardner (gas)	☒	Ramras (rar)
		☐	Gatto (gat)	☐	Roses (ros)
		☐	Gruenberg (gru)	☐	Salmon (sae)
		☐	Guttenberg (git)	☒	Samuels (sai)
		☐	Harris (har)	☒	Seaton (san)
		☐	Hawker (haw)	☐	Stoltze (stz)
		☐	Holmes (hol)	☐	Thomas (thm)
		☐	Johansen (jha)	☐	Wilson (wis)

Caucuses	
☐	Anchorage (anc)
☒	Children's (chl)
☒	Fish (fsc)
☐	Joint Legislative Health (lhc)
☐	Majority (maj)
☐	Minority (min)

Subject: Fill out the boxes below OR enter a Subject.

HB or SB HB	Bill number 134	and check one:	☒ Support ☐ Oppose ☐ Amend	OR enter a general Subject (LIO staff may modify):
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Message: Your *PRINTED* message cannot exceed 50 words or contain any vulgar language.

I Support HB 134 in its entirety. I think	5
The revisions are very good. We need to	10
protect our fisheries and our pristine waters	15
in their spawning grounds.	20
	25
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	45
	50

Fax to rep Staff
Person Louis Flora

4653472

From: Please PRINT the information below. This form must be signed by the sender.

To: Put a ✓ in the appropriate box(es).

Subject: Fill out the boxes below OR enter a Subject.

Message: Your PRINTED message cannot exceed 50 words or contain any vulgar language.

[illegible]

Public Opinion Message

Fax to Rep Staff
Person Louis Flora

Dillingham Legislative Information Office (LIO)
P O Box 829 . Dillingham, AK 99578 . Phone: 907-842-5319 . Fax 907-842-5105

465-3472

This form must be completely filled out. You may phone, fax, or deliver your POM to any LIO.

From: Please PRINT the information below. This form must be signed by the sender.

Mr. / Mrs. / Miss	First name	M.I.	Last name	Jr. / Sr. / III
MR	Fred		Bonin	
Group affiliation (if applicable)				Daytime telephone number
NONE - Commercial fisherman				
Mailing address				Zip code
PO Box 183, Naknek, AK				99633
Residence (street) address if different from mailing address				Zip code
# 1 Red Salmon Road Naknek AK				99633
Email address		Signature		Date
betz@bristolbay.com		[Signature]		

To: Put a ✓ in the appropriate box(es).

Committees		House members		Senate members	
☐ H or S	Community & Regional Affairs (cra)	☐ Buch (buc)	☐ Johnson (jhn)	☐	☐ Bunde (bun)
☐	Finance (fin)	☐ Chenault (che)	☐ Joule (jou)	☐	☐ Cowdery (coy)
☐	Health, Ed., & Social Services (hes)	☐ Ciesna (cis)	☐ Kawasaki (kaw)	☐	☐ Davis (dab)
☐	Judiciary (jud)	☐ Coghill (cog)	☐ Keller (KEE)	☐	☐ Dyson (dys)
☐	Labor & Commerce (l&c)	☐ Crawford (crf)	☐ Kelly (kel)	☐	☐ Ellis (eli)
☐	Resources (res)	☐ Dahstrom (dal)	☐ Kertula (ker)	☐	☐ Elton (elt)
☐	Rules (ris)	☐ Doll (dli)	☒ LeDoux (leu)	☐	☐ French (fre)
☐	State Affairs (sta)	☐ Doogan (doo)	☐ Lynn (lyn)	☐	☐ Green (gre)
☐	Transportation (tra)	☒ Edgmon (edg)	☐ Meyer (mey)	☒	☐ Hoffman (hof)
☒	Other: Fisheries	☐ Fairclough (fai)	☐ Nelson (nel)	☐	☐ Huggins (hug)
☐	Other:	☐ Foster (foa)	☐ Neuman (neu)	☐	☐ Kookesh (kos)
		☐ Gara (gar)	☒ Olson (oli)	☐	☐ McGuire (mog)
		☐ Gardner (gas)	☒ Ramras (rar)	☐	☐ Olson (ols)
		☐ Gatto (gat)	☐ Roses (ros)	☐	☐ Stedman (smn)
		☐ Gruenberg (gru)	☐ Salmon (sae)	☐	☐ G. Stevens (stg)
		☐ Guttenberg (gtt)	☒ Samuels (sal)	☐	☐ Theriault (thr)
		☐ Harris (har)	☒ Seaton (san)	☐	☐ Thomas (tha)
		☐ Hawker (haw)	☐ Stoltze (stz)	☐	☐ Wagoner (wag)
		☐ Holmes (hol)	☐ Thomas (thm)	☐	☐ Wielechowski (wie)
		☐ Johansen (jha)	☒ Wilson (wis)	☐	☐ Wilken (wik)

Subject: Fill out the boxes below OR enter a Subject.

HB or SB	Bill number	and check one:	☒ Support	☐ Oppose	☐ Amend	OR	enter a general Subject (LIO staff may modify):
HB	134						

Message: Your PRINTED message cannot exceed 50 words or contain any vulgar language.

WE	NEED	TO	Keep	OUR	5
spawning	grounds	free	from	ANY	10
contaminated	materials.	I	have	witnessed	15
the	mining	companies	contamination	IN	20
Minnesota.					25
					30
					35
					40
					45
					50

Fax No. 1900 Key Staff
Person Louis Flora
415-3472

Prattville, AL 36067
 Birmingham Legislative Information Office (LIO)
 P O Box 820, Birmingham, AL 35202 . Phone: 205-343-8310 . Fax 205-343-5105

This form must be completely filled out. You may phone, fax, or deliver your POM to any LJO.

From: Please PRINT the information below. This form must be signed by the sender.

To: Put a $\checkmark$ in the appropriate box(es).

Subject: Fill out the boxes below OR enter a Subject.

Message: Your PRINTED message cannot exceed 40 words or contain any vulgar language.

I Support H.R. 184 To Protect Bristol Bay	5
Salmon And Subsistence.	10
	15
	20
	25
	30
	35
	40
	45
	50
	55

Public Opinion Message

Fax to rep staff
Person Louis FloraDillingham Legislative Information Office (LIO)
P O Box 829 . Dillingham, AK 99576 . Phone: 907-842-5319 . Fax 907-842-5105

465-3472

This form must be completely filled out. You may phone, fax, or deliver your POM to any LIO.

From: Please PRINT the information below. This form must be signed by the sender.

Mr. / Mrs.	First name	MI	Last name	J. / Sr. / III
MR	Everett	L	Thompson	
Group affiliation (if applicable)				Daytime telephone number
My self- Commercial Fisherman				246-6059
Mailing address				Zip code
PO Box 151 Naknek, AK				99633
Residence (street) address if different from mailing address				Zip code
Estrada Drive Naknek, AK				99633
Email address			Signature	Date
everett.teroy.thompson@yahoo.com			Everett Thompson	2/21/08

To: Put a ✓ in the appropriate box(es).

Committees		House members		Senate members	
H or S		☐ Buch (buc)	☒ Johnson (jhn)	☐ Bunde (bun)	
☐	Community & Regional Affairs (cra)	☐ Chenaunt (che)	☐ Joule (jou)	☐ Cowdery (coy)	
☐	Finance (fin)	☐ Cisna (cis)	☐ Kawasaki (kaw)	☐ Davis (dab)	
☐	Health, Ed., & Social Services (hes)	☐ Coghill (cog)	☐ Keller (KEE)	☐ Dyson (dys)	
☐	Judiciary (jud)	☐ Crawford (crf)	☐ Kelly (kel)	☐ Ellis (ell)	
☐	Labor & Commerce (l&c)	☐ Dahlstrom (dal)	☐ Keritula (ker)	☐ Elton (elt)	
☐	Resources (res)	☐ Doll (dll)	☒ LeDoux (leu)	☐ French (fre)	
☐	Rules (rfs)	☐ Doogan (doo)	☐ Lynn (lyn)	☐ Green (gre)	
☐	State Affairs (sta)	☒ Edgmon (edg)	☐ Meyer (mey)	☒ Hoffman (hof)	
☐	Transportation (tra)	☐ Fairclough (fai)	☐ Nelson (nel)	☐ Huggins (hug)	
☒	Other: Fisheries	☐ Foster (fos)	☒ Neuman (neu)	☐ Kookesh (kos)	
☐	Other:	☐ Gara (gar)	☒ Olson (olf)	☐ McGuire (mcg)	
		☐ Gardner (gas)	☒ Ramras (rar)	☐ Olson (ols)	
		☐ Gallo (gal)	☐ Roses (ros)	☐ Stedman (smn)	
		☐ Gruenberg (gru)	☐ Salmon (sao)	☐ G. Stevens (stg)	
		☐ Gultenberg (glt)	☒ Samuels (sal)	☐ Theriault (thr)	
		☐ Harris (har)	☒ Seaton (san)	☐ Thomas (ths)	
		☐ Hawker (haw)	☐ Stoltze (stz)	☐ Wagoner (wag)	
		☐ Holmes (hol)	☐ Thomas (lhm)	☐ Wielechowski (wie)	
		☐ Johansen (jha)	☒ Wilson (wis)	☐ Wilken (wik)	

Subject: Fill out the boxes below OR enter a Subject.

HB or SB	Bill number	and check one:	☒ Support	☐ Oppose	☐ Amend	OR enter a general Subject (LIO staff may modify):
HB	134					

Message: Your PRINTED message cannot exceed 50 words or contain any vulgar language.

I	SUPPORT	HB134	With	the	5
New	revisions	I	think	its	10
a	good	bill	and	very	15
much	needed	to	protect	our	20
Waters	in	our	Salmon	Spawning	25
grounds.	I	have	a	lot	30
invested	in	my	fishing	operation	35
and	we	need	to	protect	40
our	fish				45
					50

Feb. 20, 2008

To: Representative Peggy Wilson

From: Clay Frick
PO Box 8118
Port Alexander, AK 99836
907-568-2210 in Juneau 907-523-7797

Dear Peggy,

I am writing in support of HB 134. I was disappointed that there wasn't enough time to finish the public testimony, give it your blessing and send it on to the next committee.

As you know, our rich abundant salmon runs are the envy of the rest of the world. If you talk with any fisheries biologist in Alaska, they will tell you that our wealth of salmon in this state is largely due to the fact that we still have large and undisturbed habitat for our runs of fish to reproduce in. If we as a state want to keep the incredible wealth of fish returning year after year, we must make the habitat conservation our salmon rely on for successful reproduction priority one. HB 134 goes a long way in doing just that. We have an incredible opportunity here in Alaska to protect a renewable resource that has nurtured people and the environment we live in for thousands of years. If we are not proactive in our conservation efforts, our abundant fish resource will certainly dwindle. All one has to do is look at what has happened to the salmon populations in Washington, Oregon and California. Most of those runs are a ghost of what they once were.

I look forward to you and the rest of the Fisheries Committee's leadership in passing this bill on to the next committee and actively supporting it as it makes its way through the rest of the legislature.

Thank you,

Clay Frick
Commercial Troller
Port Alexander, AK

Bristol Bay Alliance
P.O. Box 231985 • Anchorage, AK • 99523

" Pure Water is More Precious than Gold "

PRF'S TESTIMONY TO FISHERIES ON H.B.134 (0)

FEBRUARY 20,2008

**GOOD MORNING & THANK YOU CHAIRMAN SEATON ALONG WITH THOSE
HOUSE FISHERIES COMMITTEE REPRESENTATIVES IN ATTENDANCE
WITH A SPECIAL THANK YOU TO REP. EDGMON AND THE CO-SPONSORS
FOR INTRODUCING HOUSE BILL 134. MY NAME IS PATRICK FLATLEY,
I'VE BEEN WORKING WITH THE BRISTOL BAY ALLIANCE AS THE REACH-
OUT COORDINATOR FOR THE PAST 4 YEARS.**

**THE BRISTOL BAY ALLIANCE IS A TRUE ALASKAN GRASS ROOTS 501C3
MEMBERSHIP FUNDED NON PROFIT CORPORATION. WHEN I SAY TRUE
ALASKAN GRASS ROOTS, I MEAN WE ONLY ACCEPT MEMBERSHIP
FEES AND DONATIONS FROM RESIDENTS OF ALASKA WHO SAY THEY
CAN LEGALLY VOTE IN ALASKA!**

**WE WERE FORMED TO HELP INSTILL IN ALL ALASKANS - ESPECIALLY
YOU AND ALL STAKE HOLDERS IN BRISTOL BAY - THE DESIRE TO
LEARN OBJECTIVE FACTS AS WELL AS THE RECENT HISTORY OF
THE INDUSTRIAL ACTIVITY KNOWN AS HARD ROCK, OPEN PIT &
UNDERGROUND, METALLIC, SULFIDE, CHEMICAL, MINING! WE ALSO
PROVIDE AN INFORMATION RESOURCE TO ALL INTERESTED PARTIES.
WE URGE YOU TO MOVE HOUSE BILL 134, VERSION (0) FORWARD - IT'S
A GOOD ONE AND IT WON'T HURT A THING.**

THANK YOU!

Phone: (907) 276-7604 • www.bristolbayalliance.com • e-mail: info@bristolbayalliance.com

Louie Flora

From: Andrew deValpine [bbcrsant@nushtel.com]
Sent: Wednesday, February 20, 2008 11:03 AM
To: Rep. Paul Seaton
Subject: HB 134 testimony

Rep. Seaton:

I had signed up to testify from Dillingham this morning – February 20 – but had to leave to help the oil-delivery truck navigate our driveway and trail to the barrels.

I just wanted to suggest two changes to wording. The first is a suggested approach to the sulfide mine question. I propose wording on Line 12, page 2, to read: ". . .for the purposes of operating a mine where pyrite and pyrrhotite are present in the ore body." (To replace the phrase ". . .in connection with a sulfide mining operation.")

I suggest this based on a presentation on acid rock drainage by Stephen Day, a geochemist with SRK Consultants, which have been hired by Pebble Partnership to do the geochem work. "ARD comes from oxidation of pyrite," reads his slide.

If you were to pursue this tact, I suggest assuring that these are indeed the basic rocks that react to form ARD. If there are a few others, you may want to specify them. But the main point is – be specific, or even go so far as to list the chemical makeup.

The other suggested wording change would be on Line 29, page 2: Shoud it read "Land and submerged shoreland" as opposed to Submerged land and shoreland?" Not sure of the intent.

Thank you for the opportunity to comment.

Andrew deValpine
Bristol Bay CRSA



*Your Land.
Your Voice.*

BOARD OF DIRECTORS February 19, 2008.

PRESIDENT JIMMY CARTER

Honorary Chair
Georgia

Representative Paul Seaton
Alaska House Fisheries Committee

HON. BOB MRAZEK
Chair Emeritus
New York

State Capitol, Room 102
Juneau, AK 99801-1182

TOM CAMPION
Chair
Washington

RE: Support for House Bill 134, "The Alaska Wild Salmon Protection Act."

DIANE MACEachern
Vice Chair
Maryland

Greetings Representatives of the Fisheries Committee,

MIKE MATZ
Treasurer
Colorado

Thank you for the opportunity to comment on the proposed House Bill 134. Alaska Wilderness League supports the protection of Bristol Bay fisheries to preserve health, culture, subsistence, and the economy of recreation and commercial fishing.

BECKY ROM
Secretary
Minnesota

Our primary concern for the region is sulfide mining. HB 134, in its current form, is no longer the blanket legislation of its predecessor and Alaska Wilderness League offers support for the bill, as is.

LAURA DEBONIS
California

HON. TOM EVANS
Delaware

Development can occur in Bristol Bay without significant degradation to the natural resources and values of the region, as long as it is conducted responsibly and on the appropriate scale. AWL does not discourage acceptable forms of development that will help further the sustainable growth of communities. Sulfide mining, however, does not fit within a safe development scenario and could have long term devastating health related, economic and environmental impacts.

ELLEN FERGUSON
Washington

BRUCE GITLIN
New York

MARILYN HEIMAN
Washington

HB 134 would create lasting protections and give weight to the 1972 Bristol Bay Fisheries Reserve. Enacting this legislation protects our resources and cultural values.

NORMA KASSI
Yukon, Canada

BETSY LOYLESS
Washington, D.C.

Thank you for your time,

TIM MAHONEY
Washington, D.C.

Jennifer Hillman
Jeremiah Millen

JOHN MCCOMB
Washington, D.C.

Alaska Wilderness League
943 West Sixth Street Suite 132

DEBBIE MILLER
Alaska

Anchorage, Alaska 99501

MARLYN TWITCHELL
Washington, D.C.

MAIN OFFICE

122 C St NW, Ste 240, Washington, DC 20001
Tel: 202-544-5205 * Fax: 202-544-5197



www.AlaskaWild.org

FIELD OFFICE

333 W 4th Ave, Ste 311, Anchorage, AK 99501
Tel: 907-222-4046 * Fax: 907-222-4047

Louis Fiora

From: Glenn Ellison [glennelison@alaska.com]
Sent: Thursday, February 14, 2008 5:30 PM
To: Rep. Paul Seaton
Subject: Support HB 134 - The Wild Salmon Protection Act
Attachments: Ellison Glenn.vcf

Dear Representative Seaton:

I urge you to support HB 134, The Wild Salmon Protection Act and pass it out of committee with favorable action.

I have lived and worked in Bristol Bay for many years. I am very familiar with its rich fisheries, great habitat and importance to the Region and the State.

The Wild Salmon Protection Act would protect Alaska's greatest salmon fishery by preventing habitat degradation by prohibiting withdrawal, obstruction, pumping or pollution of surface or subsurface water in connection with sulfide mining operations in any Bristol Bay drainages that support salmon. The legislation prohibits the destruction of salmon habitat, creates a schedule of fines for violating these protections, and protects traditional uses including sport, subsistence and commercial fishing as well as village and municipality uses.

This is an important bill that protects one of Alaska's most productive regions and the economically important fish and wildlife that flourish there.

Very truly yours,

Glenn Ellison

From: Kenneth Marsh [trappercreekmuseum@yahoo.com]
Sent: Thursday, February 14, 2008 10:22 PM
To: Rep. Paul Seaton
Subject: *****SPAM***** HB 124

Dear Sir,

Please consider supporting HB 124 in any fashion you can. Clean water, fishing, wildlife and natural beauty are worth much more in the long run than are out of state mining companies and their profits. I do not live in Bristol Bay but do care for our whole state and its future. I am sure you do too. Thank you,
Ken Marsh Box 13011, Trapper Creek, Alaska 99683

Looking for last minute shopping deals? [Find them fast with Yahoo! Search.](#)

From: Jay Follman [jay@industrial-resources.com]
Sent: Thursday, February 14, 2008 5:28 PM
To: Rep. Paul Seaton
Subject: Bristol Bay

Rep. Seaton,
I build plants like the mine or any other industrial facility. I am pro industry. Not this deal. Bristol Bay is special. The mine is not. I have written in favor of mine projects. This one? No not this one. Please vote against this project. Thanks Jay Follman President Industrial Resources Inc. 31 seasons BB.

2/15/2008

From: Ana-Mishel Spiroski [anamishel@HOTMAIL.COM]
Sent: Friday, February 15, 2008 12:02 AM
To: Rep. Paul Seaton
Subject: I strongly urge you to support HB 134 - The Wild Salmon Protection Act

February 14, 2008
Paul Seaton

Dear Paul Seaton,

I've been personally involved in Bristol Bay fisheries since 1997, and I feel that protecting Alaska's wild salmon stock is a top priority in the state.

I have had the opportunity to experience angling throughout the world and strongly believe that by protecting the fishery, Alaska has the opportunity to be at the forefront of conservation. Supporting HB 134 not only protects one of Alaska's most important natural resources, but enables us to set precedence by being proactive in the long-term management and stewardship of the land.

Sincerely

Ana-Mishel Spiroski
110 North Leibrock
Soldotna, AK 99669

From: John Davis [jcdavis@gci.net]
Sent: Thursday, February 14, 2008 10:02 PM
To: Rep. Paul Seaton
Subject: Please do not vote for HB 134 Wild Salmon Protection Act

February 14, 2008
Paul Seaton

Dear Paul Seaton,

Dear Mr. Seaton;

Please do not support or vote for HB 134 as it is far too restrictive and will tear apart our potential for a great economy for the villagers of Southwest Alaska.
Please do all in your power to prohibit a vote on this bill and do whatever it takes to keep it from passing.

Sincerely

John C. Davis
48590 Ksrn Ct
Kenai, AK 99611-6436

From: Craig Wright [cwright@heritagemint.com]
Sent: Friday, February 15, 2008 9:01 AM
To: Rep. Paul Seaton
Subject: *****SPAM***** Stop the Pebble Mine

Dear Sir,

I am a life long angler, outdoorsman and a frequent visitor to the King Salmon, Kvichak River, Lake Iliamna Area. For the past 8 years my brother and I and my children have come to this part of Alaska to fish and enjoy this pristine part of the world. I encourage you to act against this mine. It will ruin this fishery and the area while only creating jobs for a select few people. Imagine the destruction, devastation and visual eye sore that a 100 mile road will create to move the ore to the coast. Imagine the pollution from the trucks and people. This area is too beautiful and environmentally sensitive to allow this mine to happen. It will wipe out the salmon and eventually tourism to this part of the state. YOU simply cannot trade this resource (Gold) for another (Salmon and trout). It might create some jobs but it will also destroy others. It is unfathomable to me that any responsible legislator could even think that this mine is necessary. If you love Alaska, you simply cannot allow it. If it is allowed, I will personally boycott gold and the entire state of Alaska and I will encourage everyone I know to do the same.

Please do not be short sided and think this project is good for the state, this salmon run is to important to the ecological balance of the area. This is the last great area on earth for salmon and they must be protected.

Please act responsibly for Alaska and future generations.
Respectfully submitted.

Craig Wright
VP-Sales, Heritage Mint, Ltd.
800 934-1300 ext. 2424
480 624-2424 - Direct
602 319-6023 - Cell

According the Fraser Institute Annual Survey of Mining Companies:

- Industry considers Alaska the second most favorable taxation regime in the world
- Alaska has moved from the 7th most favorable jurisdiction in composite policy and mineral potential in 2005-2006 to the 4th most favorable in 2006-2007

From: joyanne bloom [joyanneb@hotmail.com]
Sent: Wednesday, February 13, 2008 2:59 PM
To: Rep. Paul Seaton
Subject: HB134

Representative Seaton,

Even if I didn't fish in Bristol Bay and even if I didn't eat salmon caught there at least once a week, I would still want to protect the Bristol Bay Watershed. Please pass CSHB134 so that we Alaskans can know that when development takes place our precious land and waters will be protected.

Please share my support for this bill with your other committee members.

Thank you for representing us,

Joyanne Bloom

Helping your favorite cause is as easy as instant messaging. You IM, we give. [Learn more.](#)

To: Kelly Burnett

DAN SALMON

Pg 2/11

My name is Dan Salmon, I'm a resident of Igquig which is located at the west end of Lake Igloolik at the outlet of the Kivik River. We are often described by the public as the gem of Baffin Bay for sustainability and a nice clean place to live. ~~Previously we were recognized as the school statistics on scholastic improvement test series. We are very proud of our educational achievements.~~ I'm the IVC and the school community administrator for over 22 years, a Kapik & Penikese Bay Council assembly member and former a Baymuk Planning Commission member since it was formed. I'm a local Igquig school advisory member and alternate on the Ikroavik Lake Task Force advisory committee, owner of a BB drift permit, owner of a boat house in Igquig that enters mostly to fishing, owner of a Igquig Electric power company and a contractor with the Igquig village for maintenance of our village airport. I'm a 26 yr Alaskan resident who's raised 5 children in Igquig, 3 who attend colleges including UAF for civil education, one for civil engineering at Carol College in Norton and one at the Univ. of North Dakota. I've got 4 grandkids, 2 a lawyer in law, one in Igquig High School and one who is the mother of my two grandsons, all of whom call Igquig their home. My wife is a life long Alaskan resident, the mother of our children and a member of the Igquig tribe. Today I am here to testify on behalf of IVC as the longest term community member in Baffin Bay.

2

Respectful IVC believes that HB134 is an extremely poor water piece of legislation aimed at one Company or industry rather than a bill to address water quality ^{across the} State of Alaska. Why is water quality any less important in other parts of the State such as Fairbanks ^{The Fairbanks area} than it is here? Why are some industries and entities exempt from the proposed regulation. Is it justifiable to allow some to pollute but others not? We don't need other special legislated areas, Igloo is already flanked by National Parks and Preserves on two sides with a multitude of rules and regulations that limit our economic and subsistence opportunities. We strongly object to another layer of laws and regulations that limit our lives and increase our cost of living. HB134 has the potential to 1) Limit or preclude commercial water

Tuesday is less to allow oil & gas not in. w.

2) Would prohibit infrastructure development that would alter or stream or wetlands... good for the road, dock river trucking, more development etc. etc. in Igloo

3) Igloo is a major oil & gas and all mineral ^{mineral} lands
4) Igloo is a major oil & gas and all mineral ^{mineral} lands
5) Igloo is a major oil & gas and all mineral ^{mineral} lands

Current oil & gas exports 300 gal electricity 604 kW usable
714 commercial & residential truck to the 270 mps east of Igloo
service has cost exceed \$550 per person. One Council member with 4 children spends over \$3500 in transportation to visit me for a year's trip.

3

I have roughly estimated revenue from various sources to our community result in 2007

Traditional Commercial Fishing 125,000 gross with 60,000 net

20 years • Tourism = \$200,000

2 years • Mining Exploration \$320,000 Wages & Salary

State granted and Bough sources make up the bulk of the remainder.

We have 33 people on our community payroll for 2007. We have 3 BB drift permits left in our community, 2 in my house and the other in a VC member's ownership.

Our economy is struggling and we have few options with the high cost of living and lack of infrastructure.

May in this room are against the possibility of a new industry to our region but one IVC member, a former

BB drift fisherman for over 30 years, who was forced to sell out due to debt commented that he has never heard the Alaskan Mining industry or for Federal & State economic disaster fund or bail out and never shut down due to a strike. This may or not be true but he worked as a drill helper in 2007 to feed his family of six. Federal legislation that passed the CDO program based on a committee's estimate economic dependence on fishing, painfully omitted our region. Their exacerbating the cultural and economic genocide of our region's traditional dependence on the ocean for our economy. BBED to my means. By the way, the economic disadvantaged community of Iglood is also in this group to go back to jail law, talk with Governor Palin, or visit the Commission on Delinquency and Juvenile

Not read in the room

4

of opportunities
 legislation that rightfully includes us in the
 special set aside economic opportunities for
 District B. Bruce Edmunds past and steward for the
 State in this ^{CD} program should go far in getting
 something done in a expedient matter for the
 Upper Muskogee and Lake Thomas regions. If this
 draft paper I recommend a PHS and you move
 forward on restructuring ^{through HB 134 or other legislation} as I recommend a PHS or
 Payment in lieu of Offsets ^{from community} for... we have no loss.

Today our area is learning about mining and
 exploring the ^{Potentially} possible opportunities and looking about
 the possible costs associated with this industry.
 Please recognize we have systems both National
 and at the State level that will allow us to
 analyze any proposal to develop or not the mineral
 resources in our region. HB 134 will effectively close this
 door. It is poor ^{project of} State public policy to allow some to pollute
 and others do not. It provides no economic opportunities for
 our region yet limits or takes away great potential for future
 generations. Let me be absolutely clear: IVC is officially
 neutral on the Pebble Project resource judgment until
 we have seen a proposed development permit. In the
 meantime we will continue to learn and evaluate
 information as it comes to us... from both sides of the
 table on the resource... the Pebble Project. We reject
 HB 134 in its entirety. ^{For the future} No one here has
 provided the

Not read on the
 main

House Committee Hearings
HB 134
Hearing September 24, 2007

Kimberly Williams
PO Box 653
Dillingham, Alaska 99576

Del
2/12/08

Thank you, Chairman Seaton and Honorable Members of the House for the opportunity to provide public testimony. I am testifying as a private person and a citizen from the great State of Alaska.

I am a 45 year old subsistence user of fish. My family including my late grandparents used all species of salmon and I remember fondly as a very young girl picking fish from the Nushagak mud, getting stuck, and falling as I carried red salmon up to the bank to my waiting Grandmother. Today, it is my six children who participate as subsistence users to pick fish or to wait eagerly with their grandparents to see that bright silver glimpse of a tail or head in our subsistence net on Kanakanak Beach.

Every year during May or early June, at Kanakanak Beach in Dillingham, you will see my 69 year old Dad, William Johnson and my husband, slugging thru the Nushagak Mud to carry the lines that hold our subsistence net. My father even remembers as a very young boy fishing on sailboats with his Dad to harvest wild Alaska Bristol Bay salmon. In our family it was my 3 brothers who actively commercial fished with my Dad at a very young age. It was only in 1973 that my late sister Evelyn and I were required to be on the boat because our family could have more nets to fish in the water. From that moment on, my sister and I participated in this commercial fishery like most Bristol Bay kids. If my Dad gave the call that he needed another fish picker on the boat, I would gladly rise to the occasion. I don't think the call will come anytime soon, since he taught my 22 year old son to commercial fish and he is teaching my 7 year old triplets to participate in this fishery. It is an Alaskan legacy that we are blessed to participate in a fishery like no other in the world.

This fishing income supported my college education and it's that degree which allowed me to work for the University of Alaska Bristol Bay Campus to host several land and renewable resource conferences in Dillingham (2004) and Newhalen (2005) in this very facility. I also developed classes around Mining and Fish - Can they co-exist? Which brought experts in both fields to students to learn more about the mining process and what information do we have about the fish populations that are unique to Bristol Bay's watershed. One of the most important lessons I learned as a developer of classes and an instructor during this period, is even though people will tell you politics and money are not involved - that isn't the case. Many people know that I will not ramrod into someone's position even when a mining company places a call to the Governor who then places a call the President of the University and the questions come filtering down.

I don't know the history of legislation around the creation of the Bristol Bay Fisheries Reserve in 1972. I suppose House Bill 134 for the simple reason - if we want jobs through development of our nonrenewable resources it shouldn't be at the expense of the very unique fish populations that inhabit the Bristol Bay streams and rivers. It shouldn't be at the expense of our fish that rely on very complex ground water, aquifer systems and other hydrologic regimes that support their life history. Fish come first. They have sustained many generations of Alaskans and will continue into the future by the passage of HB 134.

Representative Paul Seaton
House Fisheries Chair
345 W. Sterling Hwy
Ste 102-B
Homer, AK 99603

Box 12
King Salmon, AK 99613

September 25, 2007

Dear Representative Seaton,

I am writing to express my concern about the proposed Pebble Mine project located north of Lake Iliamna and within the Nushagak and Kvichak watersheds in Bristol Bay. I am concerned about the negative impact such a large mine would have on the natural environment, animals, and lifestyles of the village people who reside in the watersheds. I have toured the mine site and I have read the documentation on the mine and attended EIS and mining classes to better educate myself on the potential impact of the mine.

The salmon resource has helped to sustain a large share of the Bristol Bay population for thousands of years and in turn, salmon are sustained by unpolluted free flowing waters. Bristol Bay is home to the largest spawning run of sockeye salmon in the world. Over 70% of the Bristol Bay economy revolves around this renewable salmon fishery. The fishery includes the canneries, tender boaters, set netters, sport fishery, subsistence fishery and all the related businesses. Disrupting this delicate balance by developing 'the largest copper/gold mine in North America' is shortsighted and inconsiderate of the long-term needs of the indigenous people. Nor does it protect the requirements of an unpolluted freshwater/saltwater ecosystem and its estuaries to provide quality habitat for salmon to spawn and for wildlife such as caribou to eat, calve and migrate over large open undeveloped wild country.

I am asking you to address these specific concerns when considering the mine's long-term impact on the land and the people:

- What environmental and social impact would the Pebble Mine have on the Bristol Bay Fisheries Reserve as created by the Alaska State Legislature in 1972?
- How much and where will all the surface and ground water come from to be utilized within the mining process?
- What impact will the surface and ground water diversions have on the spawning runs of salmon in the Kaktuli and Upper Talarik Creeks and the entire Nushagak and Kvichak watersheds?
- What guarantees do we have that the mining processes used (surface and subsurface rock extraction, rock pulverization, and chemical extraction of metals) will not cause pollution into the surface and subsurface waters or affect the air quality?
- Who will be on site to monitor mining activities to ensure that water quality is maintained?

- How will pulverized chemically reactive rocks be contained in an air tight environment for perpetuity, and who is going to take care of the above site in perpetuity and assure all environmental quality standards continue to be followed?
- What disruption will the mine have on caribou migrations and on other large animal populations such as moose, wolverine or wolves?
- What disruption will a major road built into the heart of the Bristol Bay wilderness have on the ecosystem and the lifestyles of the village people?
- What disruption will a large power line running to the mine site have on the ecosystem and the lifestyles of the village people?
- What disruption will the mine have on the sport fishing and hunting lodges and individuals who work for these companies?
- How will the subsistence and partial subsistence lifestyles of the Bristol Bay Native populations be affected by such a large scale mine?
- Are the concerns of the individuals throughout America, who expects the State of Alaska to honor their commitment to protect the public land, water, fish and wildlife from degradation and major negative man-made impacts, being considered?

Though the mine is presently providing some economic benefits to the Bristol Bay people, most of these benefits go to highly educated engineers and professionals who do not live in the Bristol Bay area. It may be a falsity to portray that over 100 high paying jobs will be made available for over 30 years to the people most affected by the mine. Because of seasonal subsistence lifestyle preferences, skill level, and historic employment data that shows otherwise, the higher paying jobs may very likely fall to only a very limited number of Bristol Bay residents over time. And at the same time the Bristol Bay Area will experience very negative environmental and social impacts caused by the mine. Mining has been shown to be a boom and bust industry. If we take care of the needs of the salmon, we will sustain jobs and feed Bristol Bay residents for thousands of years into the future.

Documentation already shows that large-scale mining throughout the world has a very poor track record for both environmental and social health concerns. One example of a polluted mine is the Britannia Mine in British Columbia. Reported to have once been 'the largest copper mine in the British Empire', operating from 1904-1974, the Britannia Mine left a toxic water drainage legacy that is now being cleaned up with public funds costing over \$1M/year in operating costs. Can we really expect anything different from the Pebble Mine?

The estuaries of Bristol Bay have the potential to be designated as a National Estuarine Research Reserve by the National Oceanic and Atmospheric Administration. This designation would help to provide added protection, research and education to this threatened critical resource area. Your support of this potential designation would help to ensure protection of the Bristol Bay watersheds for long-term and future generations. I would also like to give my

support for HB 134 "Protection of Salmon Spawning", SB 67 "An Act establishing the Jay Hammond State Game Refuge" and HB 74 "An Act prohibiting mixing zones in freshwater spawning waters".

I offer these comments with respect to you and your position as House Fisheries Chair and as a caretaker of the Alaskan environment and the Alaskan people. And I ask you to help find answers to the questions above and to vote against moving forward with the Pebble Mine or any other large hard rock industrial mine in that region for reasons that are very obvious.

Thank you for giving me this opportunity to comment. I look forward to your reply.

Michael Kroenke

CC Representative Bryce Edgmon, Bristol Bay Representative
Representative Carl Gatto, House Resources Co-Chair
Representative Craig Johnson, Resources Co-Chair

Louie Flora

From: everett thompson [everettleroythompson@yahoo.com]
Sent: Wednesday, September 26, 2007 6:34 PM
To: Rep. Bryce Edgmon; Carl Gatta; Lindsey Holmes; Rep. Kyle Johansen; Rep. Craig Johnson;
Rep. Craig Johnson; Rep. Scott Kawasaki; Rep. Wes Keller; Rep. Gabrielle LeDoux; Bob Roses;
Rep. Paul Seaton; Rep. Peggy Wilson
Subject: Subsistence and Commercial Fisher
Follow Up Flag: Follow up
Flag Status: Blue
Attachments: 3216777131-100_3093.jpg

Representatives,

First of all. I would like to Thank You All for coming out to our region!

I now you all got a glimpse of our veiws out here. That we hold out subsistence at an upmost importance, have new begining in commercial fishing, and generations of sports fishers and guides that deepend on our renewable resourses as well.

I wanted to mention: Make sure that the turbines that UAF has been talking about setting behind the ice barges won't be effected.

Also, I wanted to mention something about Pete Hills statement about the canneries.

I wish they didn't dump so much waste in the rivers. I don't think it is good for the rivers, not good to smell littering our nets and might be a start to BioFuel around the area. ?

I also thought I would ask you about the buyback program that has been talked about for the Bristol Bay permits. When it is done or if....Can there be a program with a low interest loan that can help out some of the residents of the area, young and older to get back into the fisheries. I know some that made a mistake selling out a few years ago. Idea.

And I said in my testimony with my daughter in Naknek. We haven't even tapped into this resource in our modern times. We are just getting there. We are marketing better quality fish. Protection is needed, we can't farm red salmon+why would you want to when you have the wild product here. And in a Hundred Years. You all may be Saints!

We need to prectect this renewable resource, we need laws to make sure our renewable resources are never in danger.

I enclosed a picture of my daughter and I. I took Lakota out for a day when the fishing slowed down.

Thanks again! And if you need any imput locally here in Naknek. I can try to help.

Everett Thompson from Naknek

Luggage? GPS? Comic books?
Check out fitting gifts for grads at Yahoo! Search.

9-26-07 HB 134 Hearing Dillingham

Testimony by Dan Dunaway

Good morning and thank you for coming to Bristol Bay.

I am Dan Dunaway, born and raised Alaskan, educated at UAF.

For 14 years I was a Fish and Game fisheries biologist in Bristol Bay conducting research and management in the Bristol Bay and Lower Kuskokwim sport fisheries.

Now I am retired and live in Dillingham with my wife and 2 young sons. I am an alternate member of the Nushagak Fish and Game advisory committee and a member of the Bristol Bay Advisory Council for the Federal Subsistence program. I am also a member of the RRC.

I am a subsistence and sport user of local resources.

Today I speak only for myself.

I support HB 134 in its general intent. We must protect the water and fish habitat in the Bristol Bay area. The fish populations dependent on pristine waters of our area are critical to the subsistence users as well as world renowned to the sport and commercial fisheries. I believe the Bristol Bay WILD, NATURALLY PROPAGATED fish adds significantly to the value and prestige of all Alaska's fisheries, like Cadillac adds prestige to GM automobiles. Since 1990 trout management has been guided by the South West Alaska Rainbow Trout Management Plan that specifically precludes enhancement and artificial propagation. A survey conducted prior to implementing the plan found people don't come here to catch hatchery fish, they want wild natural salmon and trout.

Support for this and other bills comes from a fear that environmental protections were greatly diminished under Governor Murkowski. As yet Governor Palin has refused to restore the Habitat Division to Fish and Game, and allowed the Commissioner of DNR to belittle environmentally concerned Alaskans. We are no longer certain the State has the most rigorous and effective environmental standards or the will to enforce them.

We acknowledge this bill needs improvement. Changes to this bill should include provisions for small to moderate scale water uses, especially for environmentally sound commercial operations such as the local farmer Mark Herman. I don't want to see small environmentally sound economic development discouraged. I also suggest through this bill or by resurrecting older bills we should make instream flow reservations for all waters in Bristol Bay prior to allowing large industrial water use.

I have met a number of people who can afford to fish anywhere in the world who say Bristol Bay is the best, their favorite place to come world wide. Many more, especially European anglers told me - take care of what you have, protect it, there are fewer and fewer places like this. This area is a valuable resource as it is and could become more rare than gold in the future.

Thank you

Dan Dunaway, PO Box 1490, Dillingham, Alaska 99576, 907-842-2636 mwdnt@nushtel.com

Louie Flora

From: Izetta Chambers [izetta@email.arizona.edu]
Sent: Tuesday, September 25, 2007 1:18 PM
To: Rep. Bryce Edgmon; Rep. Paul Seaton; Rep. Carl Gatto; Rep. Craig Johnson
Subject: Testimony on HB 134
Follow Up Flag: Follow up
Flag Status: Blue

Dear Alaska State Representatives:

I am writing to express my support for HB 134, protection of salmon spawning. I am a resident of Naknek, Alaska, where I grew up and still consider home. I am currently a law student, and will be graduating in May 2008. I intend to come back home to Alaska, where I have maintained my residency and where my family lives. Additionally, my family and I started our own seafood company, Naknek Family Fisheries, where I participate in the management during the summer salmon season.

We must uphold the duties outlined in the Alaska constitution by protecting our precious Bristol Bay watershed. Our fishery resources are valuable, both in terms of annual return from the commercial fisheries, the economic contributions fisheries provide to a subsistence lifestyle, and the benefits that will accrue to future generations of Alaska residents from these resources.

The Pebble Mine threatens not only the quality of the water in the Bristol Bay watershed, but also the quantity of water available for salmon spawning. These risks are unjustified, given the long-term impacts of mining compared to the long-term benefits of renewable natural salmon runs. Many mining proponents claim that there are laws in place to remedy or prevent any kind of impacts of mining. They want to try to convince us that we can have our cake and eat it too. The bottom line is that mining and fish cannot co-exist. Science has proven that these fisheries populations are particularly sensitive to copper in the water, well above the legal threshold allowed in the waters as runoff or emissions from mining operations. Short term exposure to miniscule amounts of copper severely impairs the ability of salmon to navigate, thereby reducing their survival and reproduction. Current state and federal water quality standards which regulate the Bristol Bay Fisheries Reserve do not adequately protect fish from mining impacts. This is particularly true since 2003, when Alaska's long-term ban on mining zones was removed.

Recent studies have shown that despite promises of clean operations during the permitting process, a high percentage of mines in the US exceed both surface and groundwater quality standards. One need only look to the legacy of hard-rock mining in the U.S. to understand that mining is not compatible with maintaining sustainable and healthy habitat for fisheries. For example, over 12,000 miles of rivers and streams in the United States are polluted by mining operations. This is not the type of neighbor we should be allowing to move into our pristine Bristol Bay region.

My family and I depend upon the fisheries resources for subsistence and commercial uses. My grandfather fished the waters of Bristol Bay in a sailboat, prior to the introduction of diesel engines in Bristol Bay. I would be so heartbroken if my children were not able to participate in this family tradition, a tradition that stems from history and our heritage as Alaska Natives from this amazing region.

Please don't allow these bullies (Northern Dynasty and their paid supporters) to muscle you into thinking that they have some right to mine these lands. These are state lands and the mining companies thus far only

have a right to explore these lands. There has not been granted any substantive rights to mine. Please don't let threats of personal lawsuits or suits against the state scare you into voting against this important legislation to protect our salmon spawning streams. There can be no Fifth Amendment taking until a permit or some other form of property right has been granted and taken away.

In terms of the issue of bribery by local officials or leaders in the region, I wish to share with you my experience. I wrote an email to a journalist this spring in relation to the Pebble Mine. This was not meant for publication (nor was it published), but the email was seen by others. Several members of the Angasan family (most of whom were either paid employees, had received "per diem" from Northern Dynasty, or free trips from them) contacted me via their attorney, Sam Fortier. As you know, Sam Fortier is also the attorney for Alaska Peninsula Corporation, whose board is largely dominated by several members of the Angasan family (Trefon, Ralph, Mary Jane Nielsen). Mr. Fortier wrote me a letter on behalf of these individuals (and others) demanding an immediate retraction of my statements (which were either all true or based solely on my opinion of their character(s)), or they would sue me for libel. In response to this libel threat, I wrote a letter affirming my right to free speech, highlighting the public nature of the Pebble Mine debate, and their role(s) as leaders of public or tribal organizations. I never received a response to my letter. However, I did feel that my ability to discuss this issue has been stymied, and that these people were trying to "bully" me personally with this idle threat. I share this story not to paint these people in a bad light, but to emphasize the coercive and threatening environment that surrounds Northern Dynasty and some of their supporters. Don't get me wrong - I support local hire. However, what I don't support is paying people to stifle debate on an issue that is of utmost importance not only to our generation, but for future generations as well.

I applaud your efforts to get testimony from within the region and I commend Rep. Ramras' bold attempts to get to the bottom of the bribery and undue influence allegations. This is an important debate and people need to be able to express themselves freely and in a public way. I don't believe that having people from the Justice Department or from the Attorney General's office in any way will stifle the debate. On the contrary, I think that those residents who may feel intimidated by Northern Dynasty or their proponents will feel safer giving their testimony with these officials present.

Thank you for listening to the local people and I hope that you will see that we really don't want the Pebble Mine in our backyards and polluting both our salmon streams and the image of our salmon as a wild, healthy, and sustainable food product.

IZETTA CHAMBERS
J.D. CANDIDATE, CLASS OF 2008
UNIVERSITY OF ARIZONA ROGERS COLLEGE OF LAW
IZETTA@EMAIL.ARIZONA.EDU
(520) 780-7545

PSPA
PACIFIC SEAFOOD PROCESSORS ASSOCIATION
Est. 1914

February 4, 2008

Representative Bryce Edgmon
Alaska State Legislature
State Capitol
Juneau, AK 99801

RE: HB134 and the proposed Pebble Mine project

Dear Representative Edgmon,

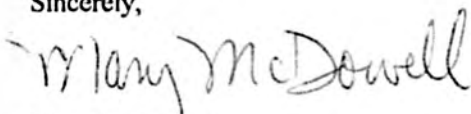
The Pacific Seafood Processors Association (PSPA) is an association of seafood processing companies with operations located throughout coastal Alaska, including shore-based salmon processing plants in the Bristol Bay region.

PSPA appreciates your efforts, through the introduction of House Bill 134 and legislative hearings on the bill, to focus public and legislative attention on the proposed Pebble Mine project. PSPA has not taken a position on the specific provisions of HB134. However, the association is grateful that hearings on this legislation are providing a forum for consideration of the serious issues and concerns raised by the prospect of such an enormous mining project in the heart of one of the richest salmon-producing regions in the world.

In July, the PSPA board of directors drafted and unanimously adopted a paper entitled, "Position on Alaska Mineral, Oil, and Gas Development Projects and the Proposed Pebble Mine Project." Because the paper is relevant to the issues that HB134 attempts to address, we are attaching that paper to this letter and ask that you provide it to committees that will be hearing HB134 for inclusion in committee members' bill packets.

Thank you.

Sincerely,



Mary McDowell,
Vice President
PSPA

enclosure

222 Seward Street, Suite 200
Juneau, AK 99801
Phone (907) 586-6366
Fax (907) 586-4618
www.pspafish.net

July, 2007

POSITION ON ALASKA MINERAL, OIL, AND GAS DEVELOPMENT PROJECTS AND THE PROPOSED PEBBLE MINE PROJECT

The Pacific Seafood Processors Association (PSPA) represents seafood processing companies operating throughout coastal Alaska. These companies provide markets to thousands of fishermen and jobs to thousands of processing workers; generate significant economic benefits to communities and the state; and supply high quality seafood products to consumers around the world.

The investments of PSPA's member companies in Alaska's seafood industry are based primarily upon the productivity of Alaska's pristine waters. It is these well-managed waters and fisheries that have provided Alaskans and the world with a wide variety of premium seafood for over 100 years. If they continue to be managed well, these waters will provide an abundant food resource for hundreds of years to come.

Additionally, Alaska's seafood industry has invested heavily over the past three decades in marketing our products as "pure and healthful," and "coming from the most pristine waters on earth." Along with the actual purity and productivity of Alaska's waters, this public perception plays a critical role in the marketability of Alaska's seafood.

Because of our investments in and dependency upon Alaska's pure waters, healthy fishery resources, and the public image of Alaska's natural environment as pristine and unspoiled, PSPA has a keen interest in ensuring that any resource development projects undertaken in Alaska not damage Alaska's ecosystems or image.

With these factors in mind, the PSPA Board of Directors has followed proposed mineral, oil, and gas development projects in Alaska in recent years. As a matter of principle, for natural resource development projects (including fisheries), PSPA supports robust permitting

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Office C
McLean, VA 22101
Phone (703) 534-2705

www.pspafish.net

processes based on sound science; a full and open public process; careful benefit/risk analysis; and thorough review, oversight, and enforcement by appropriate agencies.

With regard to mineral, oil, and gas projects specifically, it is the position of the PSPA Board of Directors that the permitting process must carefully weigh potential shorter-term benefits from extraction of non-renewable resources against any potential negative impacts on perpetually renewable resources, such as fish and the waters and habitat upon which they depend. This would naturally require the permitting process to assess any potential impacts on the waters and watersheds within the range of the project and the routes to be used to transport the resources extracted by the project. Further, it is the Board's position that only projects that will not damage the market perception of the health benefits, purity, and wholesomeness of Alaska's seafood products should be permitted.

PSPA has applied these standards in reviewing the proposed Pebble Mine project near Lake Illiamna. Due to its location in one of the richest fishery resource areas of the world, applying a strict benefit/risk test for this large-scale hard rock mining project is especially appropriate. While we acknowledge the potential short-term economic benefits of the proposed project, we are deeply concerned about the enormous risk of long-term damage to one of Alaska's perpetual economic engines - renewable seafood. The investments of our Member companies in Bristol Bay, as elsewhere in Alaska, are based upon the preservation of pristine waters critical for the fish species upon which our businesses and the livelihoods of our employees and fishermen rely. If, as we understand the current plans for the Pebble Mine, it would degrade important watersheds feeding the world's most productive sockeye salmon fishery, then the project seems to us to pose an unacceptable risk. Thus, consistent with the principles above, PSPA would oppose the Pebble Mine project unless the developer can ensure that there will be no negative impacts to the region's water quality, nor to Alaska's fishery resources and their marketability.

PSPA recognizes the importance of economic diversification and resource development in Alaska. In assessing proposed mineral, oil, and gas projects, we will apply the standards set forth in this document. We look forward to continuing to work cooperatively with other industries and to supporting projects that can ensure no negative impact on fishery resources or the marketability of Alaska seafood.

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February 11, 2008

Representative Bryce Edgmon
State Capitol
Alaska State Legislature
Juneau, AK 99801

THE TENTH FLOOR
2200 SIXTH AVENUE
SEATTLE, WA 98121-1820
206.728.6000
OPERATION FAX 206.441.9090
SALES FAX 206.728.1855

RE: HB 134 and the Proposed Pebble Mine Project

Dear Representative Edgmon,

Peter Pan Seafoods is a processor of Alaska seafood including Bristol Bay salmon. We operate the oldest continually operating cannery in Bristol Bay at our Dillingham plant with a shore support facility in Naknek as well as charter a floating processor. As a member of the Pacific Seafoods Processors Association, we fully support their position on the Pebble Mine project as stated in their paper entitled "Position on Alaska Mineral, Oil, and Gas Development Projects and the Proposed Pebble Mine Project", which I understand has been provided to you.

While we have not taken a position on the specific provisions of HB 134, we appreciate your efforts to focus public and legislative attention on this issue and the serious concerns so many have with the potential development of a large scale mining operation in the heart of the most productive salmon producing region in the world. Bristol Bay sockeye is probably the most studied salmon stock there is. Yet, we still don't know what causes the cyclic fluctuations in the runs. We don't know why the Kvichak system, formally the largest producer in the region, has crashed over the last decade only to recently begin to recover. We can surmise that these salmon are extremely sensitive to changes in their ecology, but don't seem able to identify all of these factors and how they are interrelated. With this level of uncertainty, it is extremely dangerous to consider any project that would upset the hydrology and pristine nature of these systems.

As the desire for healthful food options has increased, the "Alaska Brand" has become very important to consumers. The perception is of healthy food products that are natural, sustainable and come from a pristine environment. We've experienced what can happen when this perception is disrupted. Twenty years ago with the Exxon Valdez oil spill consumers doubted if the Alaska seafood products they were offered were still pure. They couldn't differentiate products that came from areas not affected by the spill from the soiled waters they saw and read about in news reports. While not as dramatic as an oil spill, the development of a large mining operation in such a sensitive area could be a permanent scar in maintaining the perception of the Alaska Brand as it now stands.

The potential scale of the Pebble Mine project, its mineral wealth and potential job and revenue creation is certainly enticing, especially to a region that is in such need of economic diversification. Weigh the potential economic gains of this against the damage or loss of a precious, continuously renewable resource, the social and cultural costs to the region that is intimately tied to these salmon, and the potential damage to the reputation of Alaska seafood as a whole. The potential cost of extracting this exhaustible mineral deposit is simply too high.

Sincerely

A handwritten signature in dark ink, reading "Barry D. Collier". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Barry D. Collier
President and CEO



4 Nickerson Street Seattle, WA 98109

Representative Bryce Edgmon
Alaska State Legislature
State Capitol
Juneau, Alaska 99801

January 30, 2008

Re: HB 134, Protection of Fish and Waters of Bristol Bay

North Pacific Seafoods owns and operates four (4) shore based seafood processing facilities in Alaska. Two (2) of our plants are located in Bristol Bay. One is Pederson Point Seafoods located in the Naknek area, and the other is Togiak Fisheries on Togiak Bay. We are also located in Sitka, Sitka Sounds Seafoods, and in Kodiak, Alaska Pacific Seafoods. We process fresh and frozen Alaskan seafood and market to the domestic and world markets.

We have invested in these Alaskan seafood processing plants based on the natural, healthful seafood resource and the productivity of the resource from Alaska's waters. The Alaska seafood resource continues to demonstrate it is well managed, and we feel confident in saying the Alaskan seafood resource will be abundant for many years to come.

North Pacific Seafoods and the Alaska seafood industry has invested heavily over the years in marketing the Alaskan seafood products as "natural and healthy" protein and from the "cold pristine" waters of Alaska. Most recently, "sustainable" has been added to the key marketing positives of Alaskan seafood. From this continued marketing campaign over the years, a perception has been built for Alaskan seafood to be known for the natural, healthful, pure, sustainable resource.

Today, our business and the livelihoods of our Alaskan harvesters and our Alaskan employees are based upon preservation of Alaska's pristine waters and the seafood resource being natural, healthful, sustainable protein source. As a result, North Pacific Seafoods is focused on ensuring that any Alaskan resource development does not damage the healthy ecosystems or the Alaskan image of "pristine".

North Pacific Seafoods supports maintaining the Alaskan seafood image and has serious concerns about any development project that may change this public image of Alaskan seafood.

Sincerely,

Robert D Nickinovich
President

Subject: FW: Bristol Bay watershed protections

From: Maureen Knutsen [mailto:maureen.knutsen@gmail.com]

Sent: Monday, October 01, 2007 4:08 PM

To: Rep. Bryce Edgmon; Rep. Paul Seaton; Rep. Gabrielle LeDoux; Rep. Carl Gatto; Rep. Kyle Johansen; Rep. Lindsey Holmes; Rep_Vic_Kohring@legis.state.ak.us; Rep. Bob Roses; Rep. David Guttenberg; Rep. Scott Kawasaki; Rep. Craig Johnson; Rep. Peggy Wilson

Subject: Bristol Bay watershed protections

Thank you, Resources & Fisheries Committee members, for holding public hearings in Bristol Bay on H.B. 134. I testified in Naknek that I am in favor of the greatest level of protection possible for our salmon spawning waters and habitat.

Whether we can achieve that with a reworked version of H.B. 134 or by other means, I feel it is imperative that we do this ASAP. Please give this issue the highest priority.

It may be a better strategy to take measures such as moving the Habitat Division back under the jurisdiction of ADF&G and restoring the regulations requiring no mixing zones in salmon spawning streams.

I am a resident subsistence fisherperson and have been commercial fishing with my husband on our boat since 1978. My husband was born in Bristol Bay and has been fishing and subsisting here his whole life. I speak for both of us when I say that we are depending on our representatives in Juneau to help us protect our amazing renewable salmon resource from reckless and short-sighted development.

Thank you for whatever you can do to help us preserve our way of life.

Maureen Knutsen
P.O. Box 134
Naknek, AK 99633
907-246-6675
maureen.knutsen@gmail.com

Louie Flora

From: Adam Berg
Sent: Monday, February 18, 2008 6:35 AM
To: Louie Flora
Subject: FW: SUPPORT OF HB 134

From: Bobby Andrew [mailto:bandrew@nushtel.com]
Sent: Sunday, February 17, 2008 5:17 PM
To: Rep. Bryce Edgmon
Cc: Adam Berg; Kenneth Nukwak; Sally Gumlickpuk Home; Sharon Clark; Big Brother; Stanley Active, Jr.; Moxie Andrew, Jr.; Sylvia Kazimirowicz; Thomas Tilden; Frank Woods; Robert Wassily; Esther Thompson; Daniel Chythlook
Subject: SUPPORT OF HB 134

Representative Edgmon and Committee Members:

For the future generation I urge you to pass HB 134 which will extend the protection of all drainages on the Nushagak river.

It is becoming more evident we need to protect all the habitat and waters below the head waters of the Koktuli river and Talarik Creek for the Salmon. The salmon as well as other renewable resources need clean water for their survival and they need to be protected for the future generation of subsistence users, anglers, commercial fishermen, and lodge owners and processors of salmon.

The Commercial fishing industry as well as the Lodges over the years provided income for many people in the region. Some of the Commercial fishermen have mortgages on their permits, boats. If contamination should ever occur in these waters the permits will be worthless and the Processors will not be able to market the salmon at the international level. Who would want to buy potentially contaminated salmon?

Cost of living is already high in the rural areas and we as subsistence users need to supplement the high cost of grocery items. The high cost of fuel has increased the cost of transportation and shipping.

I urge you to pass HB 134 which will benefit many.

Bobby Andrew
P.O. Box 98
Dillingham, Alaska 99576
PHONE: 907-842-5983
FAX: 907-842-2057
E-MAIL: bandrew@nushtel.com

Louie Flora

From: Aaron Fetter [Aaron@AlaskaAlpineAdventures.com]
Sent: Thursday, February 14, 2008 1:04 PM
To: Rep. Paul Seaton
Subject: *****SPAM***** Protecting Bristol Bay
Follow Up Flag: Follow up
Flag Status: Yellow

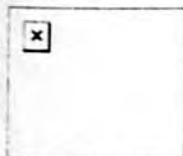
Representative Seaton,

I am writing to you because of my concern for Bristol Bay wild salmon. What renewable resource is more Alaskan than salmon? People from all over the world crave this wild, renewable resource; thousands of jobs depend upon its continued existence. I support HB 134 because I believe in protecting Alaska. I make my living by showing people the majesty of Alaska's wilderness, especially areas not visible from the road. I consider it an honor to be an Alaskan, and to have the ability to share with outsiders my passion for the state.

If we allow our Bristol Bay fisheries to be destroyed, we will not only lose this important resource, but the trickle down effects could be catastrophic. The clients that I take into the wilderness come here to see wildlife, including many species that rely on the salmon for food. If we lose the salmon, we endanger the wildlife, and we endanger my job. I am concerned about the thousands of people like me that rely on this resource; the subsistence, commercial and sport fisheries and the tourism industry.

I ask that you support this bill so that our future is protected.

Thank you,
Aaron Fetter



Aaron Fetter - Manager/Senior Guide
Alaska Alpine Adventures, LLC
Mobile - 907-952-3819
www.AlaskaAlpineAdventures.com

Louie Flora

From: Nina Faust [fausbail@horizonsatellite.com]
Sent: Saturday, February 16, 2008 2:09 PM
To: Rep. Paul Seaton
Subject: HB 134

P.O. Box 2994
Homer, AK 99603

House Special Fisheries Committee
Alaska State House
Juneau, AK

Dear Committee Members:

We strongly support the Committee Substitute for HB134, entitled "The Wild Salmon Protection Act." Alaska's salmon are a sustainable resource for the future. The State should do its utmost to not allow pollution or other activities of sulfide mining operations to degrade the watersheds of Bristol Bay. Maintaining this incredible fishery is the Legislature's responsibility.

Protecting Bristol Bay's salmon is important to us because it is a vital part of Alaska's economy and as a renewable resource can continue to play an important role indefinitely. As fisheries are depleted worldwide, safeguarding our fish resources becomes increasingly important. We cannot afford to compromise this resource by not having the highest standards of water quality and habitat protection possible.

Finally, we do not believe the arguments that some are putting forth that strict regulations like this that protect public resources are a potential takings for mining companies who may be seeking permits to mine in this region. There is no precedent for this but it continues to be a red herring tossed into the discussion to try to dissuade lawmakers from acting in the best interest of protecting clean water, habitat, and fisheries. Please do not fall for this disingenuous argument.

Please pass this new version of HB134 and protect the Bristol Bay fisheries. Thank you.

Sincerely,

Nina Faust Edgar Bailey

Comments on HB 134 at the February 18, 2008 hearing, Juneau Alaska.

Submitted by

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

Good morning and thank you for the opportunity to speak.

I am Dan Dunaway.

I was born and raised in Anchorage, graduated from UAF with a BS in Fisheries in 1977. I worked summers in Bristol Bay from 1973 to 1975. Upon graduating I worked for ADFG in commercial fisheries on the Susitna River, Alaska Peninsula, Aleutians, and Bering Sea then returned to Bristol Bay in 1989 as a sport fisheries biologist. I retired from ADFG in 2002 serving my last 4 years as the Bristol Bay Area Sport Fisheries Biologist. I live in Dillingham and serve as an alternate on the Nushagak Fish and Game Advisory Committee and as a member of the Bristol Bay Rural Advisory Council in the federal subsistence program.

My comments today are strictly my own and do not represent any other group.

I came down from Dillingham today to support HB 134 to protect salmon spawning waters in Bristol Bay.

I am not totally opposed to mine development but I am extremely concerned about the damage sulfide mines could do. If mines are allowed to be developed in the area I want to know the design and operation is *truly* sufficient to protect the waters and fisheries of Bristol Bay. HB 134 is a step in the right direction.

Bristol is Bay special. Along with the world's largest runs of sockeye salmon and significant runs of other salmon species, it is world renowned for rainbow trout, grayling, char and Dolly Varden, and other fish. It is so special that Jay Hammond and others created the Bristol Bay Fisheries Reserve in 1972. For a number of years the waters around Lake Iliamna and down to the Naknek drainage were designated a trophy trout sport fishing area. The trophy designation has been dropped in part to ease pressure on the area. Several federal conservation units have been created to protect some of these lands and waters. Clearly the area in its current and natural state has been very important to a lot of people, most especially the people who first came to the area and still depend on the bounty available.

Why focus on sulfide mines? Because they have tremendous potential to harm the waters and fish where ever they are created. And they HAVE done tremendous damage that is hard or impossible to undo in many places around the world. The ores and tailings of sulfide metal mines, when exposed to air and water generate sulfuric acid that then dissolves toxic heavy

metals which are carried into surface and subsurface waters. Those toxic metals and compounds kill fish and the plants and animals the fish live on. In sufficiently high concentrations those compounds threaten the health of humans and animals.

Take the Flambeau or Ladysmith mine in Wisconsin that industry likes to tout as a successful mine closure. This mine was operated by Kennecott from 1993-1997. Closure work proceeded into 2007 and may be certified as complete. But I have 2 letters here listing numerous problems that still existed in 2006 and 2007. The letters contend that the mine "company grossly underestimated the groundwater pollution that would occur" (Furtman letter) and toxic ground water is getting through fractured rock and into the Flambeau River and the organisms living there. They contend that post mine water quality is far worse than the mine company predicted and far worse than acceptable standards. The company is apparently not conducting the monitoring it is supposed to do etc. (See Furtman and Great Lakes Indian Fish & Wildlife Commission letters.)

The December 4, 2007 CBC News article I provided describes the failure of tailings caps in the Northwest Territories of Canada. The caps installed in 2000 had failed by 2002.

These are examples of the failures of current mine technology. Why should we trust that mines built in Bristol Bay will be any better?

The failure or insufficient post mine monitoring at Flambeau is also an example of the need for stricter state enforcement and very punitive fines. The fines need to be sufficient so these rich companies do not treat them as a cost of doing business. Just like commercial fishing violators in Bristol Bay can lose permits and boats, and big game guides can lose their licenses and airplanes - the penalties for violations must be significant to assure compliance.

For these reasons I urge you to support HB 134.

Thank you.

Toxic waste boils up from covered tailing ponds at N.W.T. mine sites

Last Updated: Tuesday, December 4, 2007 | 2:44 PM CT

CBC News

Mining engineers are baffled by toxic mining waste bubbling through the covers of tailing ponds at some mine sites in the Northwest Territories.

Tailings, which are byproducts of mining, often contain cyanide, mercury and other chemicals. They are often contained in large holding ponds covered with synthetic, clay, or rock covers.

The tailing pond covers, which are supposed to contain the waste permanently, are not working properly at some places in the North, said an engineer with a firm that designs and creates tailing pond covers used at northern mines.

"We go back to these covers and we see some problems emerging. The tailings covers are not performing the way they are supposed to. We can't quite explain the reasons why," Maritz Rykaart, a geoenvironmental engineer with the firm SRK Consulting, told CBC News.

"We got some select sites. We've seen it at Discovery. That's one case where it's been clearly demonstrated."

The former Discovery gold mine, which had 1.1 million tonnes of mercury-rich tailings spread over 32 hectares of lands before it closed in 1969, had its tailings ponds covered with about 60 centimetres of clay in 2000.

But recently, frost heaves have been pushing the chemical waste through the surface of that cover, in the form of small volcano-like structures, Rykaart said.

"We see tailings emerging through the covers in the form of boils. It can't be explained by the normal physical processes of geotechnical engineering," he said.

"There's been various studies by various groups to get to the understanding of that, to try and find the reasons why this is occurring, and that's an ongoing process."

Federal government engineer Octavio Melo, who is involved in Ottawa's cleanup efforts at the Discovery site, said the boils were repaired in 2002 with synthetic liners for the time being.

"At one stage, the covers — at least in my mind — were being looked at as the magic solution," Melo said. "But obviously, we're coming to the realization that tailings covers require

monitoring and long-term maintenance."

Tailing pond covers are a relatively new invention, having only been used regularly since the 1980s. Rykaart said his firm is working to fix the problem of waste "boils" when engineering new covers for different mine sites.

All mineral companies that want to do business in the Northwest Territories currently have to submit a remediation plan in advance, which must include steps for responsibly managing tailings.

GREAT LAKES INDIAN FISH & WILDLIFE COMMISSION

P. O. Box 9 • Odanah, WI 54861 • 715/682-6619 • FAX 715/682-9294

• MEMBER TRIBES •

MICHIGAN

Bay Mills Community
Keweenaw Bay Community
Lac Vieux Desert Band

WISCONSIN

Bad River Band
Lac Courte Oreilles Band
Lac du Flambeau Band
Red Cliff Band
St. Croix Chippewa
Sokaogon Chippewa

MINNESOTA

Fond du Lac Band
Mille Lacs Band



For Immediate Release

April 5, 2006

"Contaminated discharge continues at Kennecott Minerals' Flambeau Mine"

Odanah, WI — Four years after Kennecott Minerals Company notified the State of Wisconsin that it had reclaimed the Flambeau mine site, the company's own reports document an ongoing release of contaminants at the site. These unresolved contamination issues are causing unease among officials at Great Lakes Indian Fish & Wildlife Commission (GLIFWC).

"The Flambeau mine site continues to be a source of contaminants to waters of the state, and efforts by Kennecott to fix the problems have been unsuccessful," said Mic Isham, Vice Chairman of GLIFWC's Voigt Intertribal Task Force. "In addition to the negative environmental impacts at the site, this raises questions about the safety of future sulfide mining projects."

Containing copper, silver and gold ore, the mine located on the Flambeau River just south of Ladysmith, Wis. operated from 1991-1997. The orebody is what is known as a sulfide deposit, meaning that the metals are bonded to sulfur, forming sulfide minerals. When exposed to air and moisture, a chemical reaction generates sulfuric acid that can leach into the surrounding environment and can cause the release of metals such as copper. Previous efforts to control contamination at the site involved removal of the company's rail spur and its gravel base. In spite of these efforts, discharges of contaminated water continue, and copper has been measured in this water at levels several times the state standard for surface waters.

The latest remediation plan involves removal of a gravel parking lot. However, it is unclear whether this will resolve the problem because the extent of the contaminated soil is unknown. GLIFWC has asked the Wisconsin Department of Natural Resources to hold Kennecott accountable for the ongoing problems at the site and to require the company to perform additional investigations into the sources and extent of the contamination.

These problems are fueling additional concerns for GLIFWC's Voigt Intertribal Task Force. Kennecott recently submitted permit applications to Michigan regulators to construct and operate a new sulfide mine on the Yellow Dog Plains, an undeveloped expanse of wild land situated between the Keweenaw Bay Indian Community and the City of Marquette.

GLIFWC is a natural resource management agency representing 11 Ojibwe tribes in Minnesota, Wisconsin and Upper Michigan. The Voigt Intertribal Task Force makes policy recommendations on the management of resources across lands ceded to the United States in the Treaties of 1837 and 1842. Known as the ceded territory, GLIFWC shares management responsibility in the region along with state and federal officials.

For additional information contact:
John Coleman, Environmental Section Leader
Great Lakes Indian Fish & Wildlife Commission (GLIFWC)
(608) 263-2873

Background:

In 2001 Kennecott filed a Notice of Completion for their reclamation of the Flambeau Mine. However, samples since 1999 show an ongoing discharge of contaminated water from the site into a small stream adjacent to the mine. In an attempt to stem the flow of contaminated runoff, in 2003 Kennecott was ordered by the State to remove and haul to a landfill, 7,400 tons of contaminated soil from the rail spur at the site.

In 2004 copper levels were measured at 9,900 ug/L in runoff within the mine site boundaries. In October of 2005 Kennecott Minerals' Flambeau Mining Company (FMC) released a report on 2005 monitoring of runoff within the mine site and discharging from the mine site. This report showed that runoff within the site still contained high levels of metals, with copper levels reaching 100,000 ug/L. One area with particularly high metals concentration in runoff was a gravel parking lot in an area that served as a truck service area during mining. The water discharging from the runoff holding pond at the edge of the mine site is substantially less contaminated but has been measured by the company in 2005 to contain 27 to 61 ug/L of copper. For reference, the acute toxicity water quality standard for copper is 7 ug/L, and the 61 ug/L of copper exceeds the levels that FMC's permit allowed them to discharge the Flambeau River during active mining.

More recent FMC documents (dated November 22, 2005) show that there is contaminated soil at the site with copper concentrations ranging up to 1,500 mg/kg. This is very similar to the level of contamination found at the site rail spur back in 1998 and 2003. These recently discovered contaminated soils are in the area that had showed high concentrations of metals in runoff during sampling in 2004 and 2005. Because of these contaminated soils and the ongoing discharge of contaminated runoff, the Wisconsin DNR has ordered Kennecott to remove the top 4 inches of soil over a 10,500 square yard area and replace the ground surface with geofabric and gravel to prevent upward migration of additional contaminated soil that will remain at the site at greater depth. The 1,200 cubic yards of contaminated soil that is to be removed will be hauled to a landfill licensed for disposal of special waste. The WDNR has also asked that FMC continue to sample surface waters running off from the area found to be contaminated.

According to WDNR staff, the assumption is that the identified contamination came from spillage or tracking of high sulfide material by trucks that traveled between the pit, the ore loading area and the mine operation buildings. There are other areas of the site that experienced similar truck traffic yet have not been tested for contaminated soil.

Documents and data referenced here can be found at:
<https://mywebspace.wisc.edu/jcolema1/flambeau/reports/>

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February 17, 2008

Testimony for House Bill 134

Honorable Chairmen Paul Seaton and Fisheries Committee Members;

I am unable to join you by phone tomorrow, as I normally do, so I have chosen to share my testimony electronically and sincerely appreciate your undivided attention and serious consideration of my views concerning HB 134. I hope that you would include these with the rest of the testimony you receive.

I am Nanci Morris Lyon, owner and operator of Katmai Fishing Adventures LLC, a commercial sport fishing operation for 22 years, vice chair of the Bristol Bay regional subsistence advisory council, board member of the Bristol Bay Chamber of Commerce, board member of Wells Fargo Bank King Salmon branch, board member of the Southwest Alaska Conservation Coalition and most importantly King Salmon resident, subsistence user and concerned citizen. I write today in support of the revised changes for House Bill 134.

As far back as history is recorded, Bristol Bays watershed has been recognized as a resource worth protecting. In 1972 legislation was enacted to insure a heightened level of protection was placed upon the valuable waters of Bristol Bay, acknowledging what elders had shared long ago. The sustainable resources of Bristol Bay are so vast and so rich as to be unquantifiable in monetary value. The fuel for these resources is our water; fresh, clean and pristine. It is time, today, to enhance what was started in 1972, by specifically defining the protection our waters require.

As I stated in earlier testimony, as a resident of Bristol Bay, I am not anti-development, quite to the contrary, I am pro-development. We need economic opportunities for our residents and youth to prosper and to bring our villages back to life. In an effort to address these needs I have been involved in training for adults and youth in the sport fishing industry by promoting participation in classes where students may acquire coast guard licenses and sport fishing knowledge and guide licenses. These classes have now been in place for several years, thanks to a cooperative effort from UAF and the Southwest Alaska Vocational and Educational Center here in King Salmon. Many of the graduates have gone on to participate in our sport fishery, some under my employment. These classes are currently scheduled to be offered again this spring. Because of

efforts like this I believe we will continue to see more Native Corporations and area Villages taking advantage of the local opportunities in sport fishing. We are opening new economic opportunity, locally, but without protection of our resource, this opportunity will have no future.

The sport and commercial fishing industries have worked hard for decades on bringing a message about Bristol Bay. A message that not only states we have the largest abundance of fresh water fish and salmon available on earth, we also have the most pristine, crystal clear, clean water and environment available. Users of our precious resource, all across the globe, give our markets sustainability because of the pure environment we can and do guarantee. I know that this message carries value not for a day, a season or a year, but further into the future then we can see. It is an established message, deserving additional protection that will not eliminate future opportunity.

I have given careful consideration to the revising of this bills language; I had my reservations about the limitations offered by the previous version. I do not want to see opportunity for our communities and citizens, unduly encumbered, but I do want to make sure that long term opportunity is not forsaken for short term gain at the risk of everything that can and would be ours forever.

I do not wish to take up any more of your valuable time then is necessary, so in closing I thank you for your attention to my testimony. I feel the revisions offered to you in HB 134 address previous concerns about restricting too many future business opportunities in southwest Alaska. HB 134 now offers a valuable measure of protection to our unquantifiable resource. I urge you on behalf of my home, my business, my family and protection for my way of life, to pass HB 134.

Sincerely,

Nanci A. Morris Lyon

Katmai Fishing Adventures LLC

P.O. Box 221 – King Salmon, AK 99613 - 907-246-8322 – gofish@bristolbay.com

Louie Flora

From: Diana Oldham [olddiana56@yahoo.com]
Sent: Friday, February 15, 2008 10:29 PM
To: Rep. Paul Seaton
Subject: hb 134

Follow Up Flag: Follow up
Flag Status: Blue

Pls vote in Favor of hb 134

Be a better friend, newshound, and
know-it-all with Yahoo! Mobile. Try it now. [http://mobile.yahoo.com/;](http://mobile.yahoo.com/;_ylt=Ahu06i62sR8HDtDypao8Wcj9tAcJ)
[_ylt=Ahu06i62sR8HDtDypao8Wcj9tAcJ](http://mobile.yahoo.com/;_ylt=Ahu06i62sR8HDtDypao8Wcj9tAcJ)

Louie Flora

From: Steve Weisman [steview@ppsf.com]
Sent: Saturday, February 16, 2008 5:12 PM
To: Rep. Paul Seaton
Subject: I strongly urge you to support HB 134 - The Wild Salmon Protection Act

February 16, 2008
Paul Seaton

Dear Paul Seaton,

Dear Seaton,

Please protect my livelihood. I work in Bristol Bay and on the Alaska Peninsula. I have been working in the Alaska seafood industry since 1976. If we take care of the habitat we will have subsistence fish and local jobs long after the minerals are gone.

Please support this bill.

Sincerely

Steve Weisman
c/o Peter Pan Seafoods
P.O. Box 16
King Cove, AK 99612

Louie Flora

From: Michael L. Herbeck [upstream@gci.net]
Sent: Sunday, February 17, 2008 5:32 PM
To: Rep. Paul Seaton
Subject: I strongly urge you to support HB 134 - The Wild Salmon Protection Act

February 17, 2008
Paul Seaton

Dear Paul Seaton,

Re: HB 134 - Wild Salmon Protection Act

Dear Paul Seaton;

I urge you to support HB 134.

I agree with HB 134's resolution of the grave challenges Alaska faces in preserving wild salmon habitat the way it exists now and in preventing the degradation of water use and quality.

Contact Information:
Michael L. Herbeck
3294 Riverview Drive
Fairbanks, Alaska 99709

Sincerely

Michael L. Herbeck
3294 Riverview Dr
Fairbanks, AK 99709-4740

From: boone@xyz.net
Sent: Friday, February 15, 2008 12:28 PM
To: Louie Flora
Subject: HB 134

I would like Paul Seaton to know that I am a commercial fisherman in Bristol Bay and am in favor of HB 134. The Bristol Bay area is one of the most pristine areas in the world and has the largest red salmon run in the world. We need to be very careful to prevent anything that would damage that environment.

Thank you.

Dave Boone
Box 396
Homer, Ak 99603

2/15/2008



Alaska State Legislature

Please enter into the record my testimony to the (H)FSH
COMMITTEE NAME
committee on HB134 dated 2/18/08
BILL / SUBJECT TODAY'S DATE

My name is Steve Tutt, I live in Homer, AK (28 years), and have been a commercial fisherman for 37 years. I have 3 sons who also fish and represent the third generation of commercial fisherman in our family.

We have a significant interest in the future of our fisheries, in this case, the protection of the Bristol Bay Anadromous watershed. As Bristol Bay fisherman, and as lifelong Alaskans who are also wild sportsman, we support the vigorous protection of all anadromous water conservation and protective measures needed to preserve both our livelihood and the sport fishing and outdoor activities that have been a part of our lives for generations as

Alaskans.
Sulfide mining in any form in any anadromous watershed should be stringently regulated.

Signed:

Respectfully submitted, Steve Tutt

TESTIFIER (SIGN, PRINTED NAME)

self and family

REPRESENTING

PO - Box 1105 Homer, AK. 99603

ADDRESS

907-399-6007

PHONE NO.



Alaska State Legislature

Please enter into the record my testimony to the (H)FSH
committee on HB 134, dated 2/18/08
BILL / SUBJECT COMMITTEE NAME TODAY'S DATE

Sirs,

My Family and I support this
house bill whole heartedly.

Please take this aggressive and
bold move.

The resources in the ground will
be there in future generations and why
it is the salmon runs and B. Bay
culture at this time.

Signed:

Mark Munro

TESTIFIER (Signed, PRINTED NAME)

REPRESENTING

My Family

ADDRESS

Box 1971 Homer

PHONE NO.

235-2485

Louie Flora

From: Tom Robinson [tomr3006@aol.com]
Sent: Monday, February 18, 2008 8:50 AM
To: Rep. Paul Seaton
Subject: Salmon

Dear Paul,

I would like to voice my support for HB 134 "Wild salmon protection act". Alaska has one of the World's last great fisheries as man has decimated most of the others. The Alaska fishery is also very fragile and needs as much protection as possible. HB 134 will go a long way to add another layer of protection for these fish. There is no doubt in my mind that without this type of protection the salmon will eventually be effected and wiped out. It may take some years, but it will happen.

It is incumbent upon this legislature to do something to insure that the salmon will have clean waters to spawn in for all time.

Sincerely,

Thomas V Robinson

More new features than ever. Check out the new AOL Mail ! - <http://webmail.aol.com>

Louie Flora

From: Bill Horn [whorn@dc.bhb.com]
Sent: Tuesday, February 19, 2008 2:57 PM
To: Louie Flora
Cc: Adam Berg
Subject: HB 134 and "Takings" Allegations
Follow Up Flag: Follow up
Flag Status: Blue

Mr. Flora, I understand that new allegations have arisen that HB 134 might create a "taking." Specifically, I was recently provided a Feb. 12, 2008 memorandum that addressed section 3 of the proposed bill which appears to require legislative approval, via a resolution, for oil and gas leasing as well as mining permits in the Bristol Bay drainage. It appears to me that section 3 may create certain separation of powers issues rather than takings concerns per se. The use of legislative resolutions to authorize, or overturn, authorized agency action has been in disfavor for many years. In Alaska, this view is expressed in part by the A.L.I.V.E. Voluntary case cited in the Feb 12 memo. At the federal level, similar quasi-legislative approval requirements (or vetoes) were struck down by the Chadha decision in the early 1980's.

Regarding takings, *Beluga v. DNR* 973 P.2d 570 (Alaska 1999) remains the primary case. In it the Alaska Supreme Court held that although the mining company had "property rights in its [mining] claims" it "had no right to mine" and that its "mining 'rights' were prospective and contingent." *Id.* at 575. Hence, when the claimant could not acquire the authorizations to mine the claims from the State, the State was not liable to the claimant for a "taking."

Should the Legislature act to impose new environmental or public health and safety conditions on prospective mining operations in the Bristol Bay region, and a mining claim holder could not satisfy these new conditions, *Beluga* stands for the proposition that the claim holder could not successfully pursue a takings claim against the State.

In other related cases, the Alaska Supreme Court has been clear that a permit applicant that spends money seeking government approvals or permits has no guarantee that such approvals will be forthcoming. And if such an applicant wanted to "gamble" that it would obtain such permits, but "lost this gamble" (i.e., the permits were denied), the State had no obligation to compensate the applicant for its losses. *Anchorage v. Sandberg* 861 P.2d 554, 560 (Alaska 1993).

These and other related cases are analyzed in detail in a January 9, 2007 legal memorandum provided by me, Mr. Geoff Parker, and Mr. Roger Flynn, on behalf of Trout Unlimited, to the Board of Fisheries. I understand you have a copy of this memo but if not, I would be pleased to send you a copy.

Thank you and please let me know if you have any questions or need additional information.

Bill Horn

William P. Horn, Esq.
Birch, Horton, Bittner & Cherot
1155 Connecticut Avenue, N.W., Suite 1200
Washington, D.C. 20036
Phone: (202) 659-5800
Facsimile: (202) 659-1027

2/19/2008

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2/19/2008

Louie Flora

From: Kelly Burnett
Sent: Monday, February 18, 2008 2:47 PM
To: Louie Flora
Subject: FW: testimony

super slouth that i am, i've garnered another for 9/24/07

From: Lydia Olympic [mailto:lydia_olympic@twos.org]
Sent: Monday, February 18, 2008 2:14 PM
To: Kelly Burnett
Subject: testimony

Hi Kelly

Here is the recap on the testimony I gave in the fall at Newhalen, Alaska.

Thank you, Chairman Seaton and representatives for giving us opportunity to tell you our stories.

I am from Igiugig, Alaska top of the Kvichak. As of June 2006 I've moved to Anchorage, AK.

I didn't realize how precious our sockeye salmon was until I moved away.

I thought everyone in this world had this incredible gift of crystal clear waters and abundant salmon in their rivers and backyard.

The Frazier River fishery in British Columbia is in decline and this year many natives chose not to subsistence fish because of low returns.

I've served on EPA's National Tribal Operations Committee and Regional Tribal Operations committee for six years. I was one of 19 elected nationwide to serve as an advisory council to EPA on Indian country issues.

I saw first hand on how these rules and regulations that are there to protect us, our fisheries, our lands, and our environment can be changed by who is elected and their administration. For example the Bush administration changed the wording from hazardous waste to fill and now industries can dump their fill into a freshwater lake/stream such as the Lower Slater Lake or by changing the air particulate matter 2.5-10 so that the mining industries, agriculture and fugitive dust are exempt in populations less than 100,000.

That is on the federal side now on the state side for example moving the habitat division over to DNR or the mixing zone regulation changed by the Murkowski administration.

We must do all that we can to protect our fisheries, our culture, our fresh water, and our way of life that is why I support this bill and we all appreciate your support and thank you for your time.

I'm pretty sure that is how I said the ending.

Lydia

Lydia Olympic
Tribal Advocate
The Wilderness Society
705 Christensen Drive
Anchorage AK 99501
907-272-9453 ext. 104
907-301-1873 cell



Trout Unlimited Alaska

February 18, 2008

To: Representative Paul Seaton and Members of the House Fisheries Committee
From: Lauren Oakes, Conservation Programs Officer, Trout Unlimited Alaska
Re: HB 134

Thank you for the opportunity to comment on the revised version of House Bill 134, The Wild Salmon Protection Act. My name is Lauren Oakes, and I am testifying on behalf of Trout Unlimited Alaska. TU's work in Alaska focuses on protection of key salmon watersheds, stream restoration, and monitoring international fisheries treaties. A large portion of our program focuses on the Bristol Bay watershed.

With the support of over a thousand Alaskan members and 160,000 nationwide, we are deeply concerned about the future of the world's largest remaining wild sockeye salmon fishery in the face of proposed large-scale metallic sulfide mining in the Bristol Bay watershed. Given the demonstrated track record of this polluting industry, we simply believe the risk is too high to take in this location. The proposed sulfide mining directly threatens our world-renowned renewable fishery resources in this watershed, and we support House Bill 134.

I recently reviewed previous testimony from HB 134, both pro and con, and the testimony from the field hearings this past fall. Last winter, you'll recall, the phones were backlogged with callers from across the state. And the written comment was extensive in favor, in fact roughly 4 to 1 in favor of HB 134. Of the testimony submitted not in support of 134, the majority of opposition came from concern about the former version of this bill blocking all development potential in the area. There were concerns about other energy development, dock development and so on and many of the opponents referred to this bill as a blanket legislation. Yet many of these opponents noted the need for any development to occur without impact to fisheries. These concerns have been addressed by Representative Edgmon, as the bill now specifically addresses sulfide mining operation. A petition with over 3000 signatures of support for higher standards of protection was also submitted to the legislature this fall.

There are already changes being made in the region that are affecting habitat, and I'd like to provide you with an example. DNR has issued temporary water use permits to the former Northern Dynasty Mines, now the Pebble Partnership, to withdraw water for use in exploration. 9 permits approve water withdrawals (most more than 100,000 gallons per day) in roughly 40 different locations at the proposed site and surrounding area to the Koktuli, Upper and Lower Talarik Creeks. There is no current understanding of groundwater connections that would allow us or DNR staff, or any scientist at this time (except perhaps Pebble contractors who do not make their raw

data publicly available), to know the impact these withdrawals could be and are having. The United States Geological Survey will verify this fact of concern. I will note that for the first time in documented history this summer, the Koktuli River, headwaters to the Nushagak and Mulchatna Rivers, dried up in large upstream portions. In Dillingham in 2006, local natives testified before the Board of Fisheries that areas where they used to fish were drying up on the Koktuli. As you all were able to visit the region this past fall, you know firsthand it is blanketed in lakes and rivers, endless miles of water. But Bristol Bay, even in these early stages of massive exploration (where Pebble claims they are "not yet a project"), we are already moving water too fast in an area we do not know, and in a watershed that is among the most productive in the world.

I also want to call to attention the fact that the Pebble Partnership has put forward the assertion that Pebble will not be built if there will be damage to any fisheries, essentially this "no net loss" policy. But I do not see them standing before you today to support this bill and to make that commitment in law. That is your responsibility, and it is indeed in the power of the Fisheries Committee to put fish first in Bristol Bay. All other development can come forward but only if it is compatible with that primary use.

House Bill 134 adds common sense safeguards to legislation championed 35 years ago by Alaska's late Governor Jay Hammond during his time in the Alaska State Senate. This bill makes a critical step in putting into law what companies like Pebble preach when wanting to build a project, but inevitably fail to uphold over the long-term operation. You have the power to put into law simply that the world's largest remaining sockeye salmon fishery should be protected.

I would also like to respond to Mr. Fogels comments on liability made today Monday, Feb 18, arguing that there are laws in place to hold individuals responsible for impacts to fisheries. Last summer, over 40 million salmon returned to this watershed. If these numbers drop, how do you hold a company liable for that? How do you place a value on this renewable resource and all the industry, lives, and world-food sources it supports? Why not simply protect it from the onset, today? Let's just set the bar high to start.

Thank you again for this opportunity to comment.



Alaska State Legislature

Page 1

Please enter into the record my testimony to the House Special Committee on Fisheries
Committee name

Committee on CS For HB #134, dated February 18, 2008
Bill/Subject

I support this Bill #134 version "O" with the following specific additions as underlined:

Section 2. AS 16.10 as amended by adding a new section to read:

Sec. 16.10.015. Protection of salmon streams within certain drainages affecting Bristol Bay. (a) Notwithstanding any other provision of law, a person may not intercept, withdraw, obstruct, divert, inject, enrich, contaminate, cause siltation or sedimentation, pollute, or pump, either temporarily or permanently, any subsurface or surface water, or precipitation within the anadromous fish waters of the Bristol Bay watershed in connection with a sulfide mining operation.

These recommendations are offered with the realization all life stages of anadromous fish species depend upon the quality (and quantity) of that water relative to olfactory receptors that facilitate migration to their natal streams. Extraordinary inorganic and organic "enrichment" may either/or produce biomagnification of toxics in the food web and/or increase susceptibility of the fish to bacterial/viral infections leading to high mortality. We seem to be experiencing the latter problems in the Cottonwood Creek, Wasilla Lake watershed. The permitting process relative to DOT&PF, DEC, DNR Habitat, has favored development (Commercial) over Fish/wildlife/water Quality & Quantity Concerns. Let's not allow this in Bristol Bay!

Signed: GARVAN BUCARIA
Testifier

Self
Representing (Optional)

P.O. BOX 870298, WASILLA, ALASKA 99687
Address

(907) 373-4974
Phone number

Page 2

ACCESSION NO: 2001-0069

ALASKA DEPARTMENT OF FISH AND GAME
DIVISION OF COMMERCIAL FISHERIES - FISH PATHOLOGY SECTION
333 RASPBERRY ROAD, ANCHORAGE, AK 99518-1599 - Phone (907)267-2244/Fax 267-2194

REPORT OF LABORATORY EXAMINATION

LOT (YEAR, STOCK, SPECIES): Cottonwood Creek sockeye salmon, Oncorhynchus nerka

FACILITY: ADFG Palmer, Sport Fish

CONTACT PERSON/ADDRESS: Tom Namtuedt, ADFG Sport Fish, 1800 Glenn Hwy., Suite 4,
Palmer, AK 99645-6736

SAMPLE DATE: 5/30/01

DATE SAMPLE RECEIVED: 5/30/01

SAMPLE TYPE: Whole fish

LIFE STAGE: Smolt

STATE: Live

NUMBER IN SAMPLE: 10

WILD: Yes

HISTORY/SIGNS: Some moribund and dead sockeye salmon smolts were seen at the Cottonwood Creek weir and also up the Creek to Wasilla Lake. Fish were reported to have eroded fins and white patches on their bodies. Biologists estimate up to 5-10% of the outmigrants have been lost. Water temperatures have been 10-17°C in the Creek.

REASON FOR SUBMISSION: Diagnostic.

FINAL REPORT DATE: 6/15/01

CLINICAL FINDINGS

NECROPSY:

MORIBUND: 6/6 with moderate to heavy Apiosoma on skin scrape
6/6 with eroded caudal fin with invasion of Saprolegnia
3/6 with patches of Saprolegnia on body
3/6 with Flexibacteria on gills with gill hyperplasia
1/5 with motile, rod shaped bacteria on spleen squash
2/6 with hemorrhaging at vent
2/6 with hemorrhaging in eye or at base of fins

FAT: 0/5 positive for Aeromonas salmonicida
0/5 positive for Renibacterium salmoninarum

BACTERIOLOGY: 4 kidneys struck on TSA at 18°C for 5 days.

MORIBUND: 2/4 with light growth of an oxidase positive, Gram negative, motile, rod shaped bacteria. Bacterial isolate identified as Aeromonas hydrophilla by biochemical testing.

VIROLOGY: 2/2 pools (2 X 5 fish/pool) positive for presumptive IHNV. Fish tissues processed by quantal assay on EPC cell line at 15°C for 13 days. Minimum level of detection = 50 infectious particles/gm of pooled sample.

Page 3

DIAGNOSIS: Aplosoma, Saprolegnia, Aeromonas hydrophila, bacterial gill disease, IHNV

COMMENTS/RECOMMENDATIONS: It is difficult to determine which condition is actually causing the primary mortality in this case since several entities were found. The most consistent findings were the Aplosoma and the external Saprolegnia that were seen on every fish examined. Aplosoma is a ciliated protozoan that attaches to the fish by means of a disc. They are normally found in freshwater with a high organic content. Although I did not observe the Flexibacteria on the eroded caudal fins, the bacteria were seen on the gills of some fish in large numbers. These bacteria can attach to the gill epithelium, which results in gill hyperplasia and reduced capacity for gas exchange. This condition is often associated with poor water quality conditions. Aeromonas hydrophila is a bacterium that causes septicemia in fish. It is considered an opportunistic pathogen and normally causes disease in stressed fish or fish compromised by other pathogens. These bacteria are ubiquitous in aquatic ecosystems and are commonly abundant when organic content of the water is high. Infectious hematopoietic necrosis virus (IHNV) is a viral disease commonly seen in sockeye salmon populations in Alaska, especially in adult fish in spawning condition. In this case, the virus was present at low titers and is likely not causing significant mortality at the time of sampling. This virus is occasionally found in outmigrating wild sockeye salmon smolt populations.

FISH HEALTH INVESTIGATOR: ¹⁷Burton

TECHNICAL ASSISTANCE: Starkey

COPIES TO: FY2001, Misc., Meyers

BRISTOL BAY NATIVE ASSOCIATION

P.O. Box 310

Dillingham, Alaska 99576

(907) 842-5257

By

FULL BOARD OF DIRECTORS

Resolution 07 - 33

**A RESOLUTION SUPPORTING THE INTENT OF H.B. 134, AN ACT RELATING TO
CONSERVATION AND PROTECTION OF WILD SALMON PRODUCTION IN
DRAINAGES AFFECTING THE BRISTOL BAY FISHERIES RESERVE.**

WHEREAS, the Bristol Bay Native Association is a regional Native non-profit corporation serving 31 tribal communities in the Bristol Bay Region; and;

WHEREAS, the tribal members of BBNA's member tribes depend on clean water and renewable resources such as salmon, fresh water fish, animals and plants that provide subsistence food to our tribal membership, and;

WHEREAS, without protection and conservation of our river drainages we would lose our renewable resources, and;

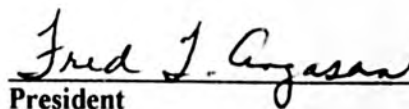
WHEREAS, Bristol Bay is well known for its world's largest wild stock of sockeye salmon, and;

WHEREAS, an overwhelming majority of Bristol Bay residents depend on the return of salmon to provide them with their subsistence needs and fishing employment every year, and;

WHEREAS, the river drainages of Bristol Bay need protection from large scale development that would draw on large quantities of water that harm the environment and stop the return of the annual migration of salmon to the Bristol Bay watershed.

NOW THEREFORE BE IT RESOLVED by the Bristol Bay Native Association that it fully supports the primary intent of H.B. 134 to increase the protection of rivers and streams that support salmon; and

BE IT FUTHER RESOLVED that it urges the Alaska State Legislature to amend the bill to ensure that it would not impede types of development on private lands that do not require large scale use or disruption of water.


President

CERTIFICATION:

I, the undersigned Secretary of the Bristol Bay Native Association, Inc. do hereby certify that the foregoing resolution was passed by the Full Board of Directors of the Bristol Bay Native Association at a duly called and noticed meeting on the 28th day of September, 2007, and that a quorum was present.


Secretary

Louie Flora

From: David Fannon [Duchesse.Dave@hughes.net]

Sent: Tuesday, February 19, 2008 11:37 AM

To: Rep. Paul Seaton

Subject: HB 134

Dear Senator, I strongly urge you to pass this bill protecting the wild salmon of Alaska. Respectfully, David Fannon, Dogue, Virginia

2/19/2008

Louie Flora

From: Dave Lacey [dlacey@mosquitonet.com]
Sent: Friday, February 15, 2008 12:52 PM
To: Rep. Paul Seaton
Cc: Rep. David Guttenberg
Subject: HB 134

Dear Rep. Seaton, I support CS for HB 134. I eat Alaska salmon and want the fishery and my health protected.
Thanks for your efforts. Dave Lacey



February 17, 2008

Representative Paul Seaton
State Capitol, Room 102
Juneau, AK 99801

Re: CS for HB 134

Dear Paul,

I would like to take this opportunity to thank you for taking the time to consider my written testimony. I have a tremendous amount of respect for you and it is clear that you acknowledge the public process contemplating large-scale open pit mining, one the likes Alaska has never seen let alone permitted, is essential. I urge you and the House Fisheries Committee to carefully consider and then support the CR for HB 134.

This timely piece of legislation will assure that the Bristol Bay salmon fishery is forever protected, while allowing for responsible resource development and customary and traditional activities. This updated version of HB134 adds essential safeguards to augment the Bristol Bay Fisheries Reserve. It does so by underscoring the importance of this watershed and its relation to the fisheries in recognizing that the entire system is "hydrologically interrelated and connected." Furthermore, and most importantly, it defines specifically the true threat to the integrity of the watershed and fishery as being "sulfide mining operations." This is an important distinction from the previous version of the bill.

It is absolutely imperative that we take the time now to protect current industries vital to the region - those that are sustainable, responsible, viable, and historic - before we allow one industry, with virtually no track record in the region, the ability to at best manipulate and at worst ruin the headwaters of this incredible resource. I believe that this bill will offer the necessary protections to the watershed and thus to the industries and communities that rely on it.

In closing, allow me to reiterate my respect for you and your colleagues. I beg you to support the CR for HB 134.

Warmest Regards

Dan Oberlatz

Owner - Alaska Alpine Adventures, LLC

Louie Flora

From: Maureen Knutsen [maureen.knutsen@gmail.com]
Sent: Monday, February 18, 2008 7:49 AM
To: Rep. Paul Seaton
Cc: Rep. Bryce Edgmon
Subject: H.B. 134



February 17, 2008

Representative Paul Seaton
 State Capitol, Room 102
 Juneau, Alaska 99801

I am writing to reassert my support for H.B. 134 and to urge quick passage of this essential legislation. I testified in favor of the original bill during hearings in Naknek and am encouraged that revisions have made the bill more acceptable to the majority.

Thank you to Bryce Edgmon and all who have worked on behalf of local residents like me who value our clean water and abundant fish with this bill.

I appreciate your consideration of my views on this issue.

Maureen Knutsen
 P.O. Box 134
 Naknek, AK 99633
 907-246-6675

I would like to take this opportunity to thank you for taking the time to consider my written testimony. I have a tremendous amount of respect for you and it is clear that you acknowledge the public process contemplating large-scale open pit mining, one that has never been let alone permitted, is essential. I urge you and the House Fisheries Committee to carefully consider and then support the CR for HB 134.

This timely piece of legislation will assure that the Bristol Bay salmon fishery is forever protected, while allowing for responsible resource development and customary and traditional activities. This updated version of HB134 adds essential safeguards to augment the Bristol Bay Fisheries Reserve. It does so by underscoring the importance of this watershed and its relation to the fisheries in recognizing that the entire system is "hydrologically interrelated and connected." Furthermore, and most importantly, it defines specifically the true threat to the integrity of the watershed and fishery as being "subsidized mining operations." This is an important distinction from the previous version of the bill.

It is absolutely imperative that we take the time now to protect current industries vital to the region - those that are sustainable, responsible, viable, and historic - before we allow one industry, with virtually no track record in the region, the ability to at best manipulate and at worst ruin the headwaters of this incredible resource. I believe that this bill will offer the necessary protections to the watershed and thus to the industries and communities that rely on it.

In closing, allow me to reiterate my respect for you and your colleagues. I beg you to support the CR for HB 134.

Warmest Regards

Dan Oberatz
 Owner - Alaska Alpine Adventures, LLC

From: Rep. Paul Seaton
Sent: Monday, February 18, 2008 8:18 AM
To: Louie Flora
Subject: FW: H.B. 134

From: Maureen Knutsen [mailto:maureen.knutsen@gmail.com]
Sent: Monday, February 18, 2008 7:49 AM
To: Rep. Paul Seaton
Cc: Rep. Bryce Edgmon
Subject: H.B. 134

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Thank you to Bryce Edgmon and all who have worked on behalf of local residents like me who value our clean water and abundant fish with this bill.

I appreciate your consideration of my views on this issue.

Maureen Knutsen
P.O. Box 134
Naknek, AK 99633
907-246-6675

From: Mary Jane Shows
Sent: Monday, February 18, 2008 1:53 PM
To: Louie Flora
Subject: FW: New Pom:HB 134 Protection Of Salmon Spawning Water

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

From: Shay Wilson
Sent: Monday, February 18, 2008 10:30 AM
To: Mary Jane Shows
Subject: New Pom:HB 134 Protection Of Salmon Spawning Water

Lisa Krebs
Po Box 1971

Homer 99603-1971,
munro@xyz.net

My family and I have fished Bristol Bay for 16 years, and I strongly support the current draft of HB 134. It is vitally important we protect the watershed areas of Bristol Bay that are the spawning ground and nursery for this important fishery. Please protect our wild salmon resource.

From: Mary Jane Shows
Sent: Monday, February 18, 2008 1:53 PM
To: Louie Flora
Subject: FW: New Pom:Environmental Concerns

Follow Up Flag: Follow up
Flag Status: Blue

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

From: Shay Wilson
Sent: Sunday, February 17, 2008 9:22 AM
To: Mary Jane Shows
Subject: New Pom:Environmental Concerns

Jan Odhner
Po Box 176
Mi.34.5 Seward Hwy
Moose Pass 99631-0176,
jjodhner@arctic.net
288-3678
266-3678

Please consider how important our salmon fishery is to the residents of south central Alaska and gaurd it with your life!



Cook Inlet Alliance
P.O. Box 2421
Homer, Alaska 99603

The Cook Inlet Alliance is comprised of citizens dedicated to promoting the responsible use and management of public resources impacted by mining and related industrialization.

February 17, 2008

Rep. Paul Seaton, Chair
House Fisheries Committee
State Capitol, Rm 102
Juneau, AK 99801-1182

Dear Representative Seaton and Committee Members:

The Cook Inlet Alliance, a project of the Kachemak Bay Conservation Society, supports HB 134. We think this action is essential if the State of Alaska is to provide the level of protection to anadromous fish and their habitat that was initially envisioned when the State established the Bristol Bay Fisheries Reserve in 1972.

HB 134 will not prohibit a sulfide mine if the mine does not impact surface or ground waters. We think this kind of unequivocal statement is needed to avoid having permitting decisions made based on some of the double talk that we are now hearing with regards to the Pebble Mine.

To illustrate, Northern Dynasty's web site recently stated:

Can fishing and mining co-exist?

Definitely.... In many cases, mining activity actually enhances fish habitat and fish production. This is the case at the Fort Knox mine near Fairbanks, where mine development has vastly increased natural populations of grayling and burbot.

What is not being said is that the Fort Knox Mine recently built near Fairbanks is in an area that was extensively mined during the early 1900s. Huge dredges turned much of the area into tailing piles, leaving behind little worthwhile habitat for fish or wildlife. While mitigation associated with the Fort Knox Mine may improve matters, it doesn't restore original productivity. It is misleading to imply that large-scale mining might actually enhance pristine salmon habitat such as Bristol Bay.

In contrast, it should be noted that States Sustainable Salmon Fisheries Policy (5 AAC 39.222) says: "The Board of Fisheries and Department of Fish and Game recognize that while, in the aggregate, Alaska's salmon fisheries are healthy and

sustainable largely because of abundant pristine habitat and the application of sound, precautionary, conservation management practices."

The Northern Dynasty web page also says; *Perhaps the best example of the co-existence of mining and fishing is the Fraser River in British Columbia (Canada). The Fraser River is the second largest salmon-producing system in the world, with sockeye runs that rival the world famous Bristol Bay fishery.*

Without knowing the condition of Fraser River salmon, Northern Dynasty's version would give you the impression that these stocks are robust and thriving. However, an article in the December 1, 2007 issue of the Vancouver Sun says quite the opposite.

"Things are going from bad to worse for Pacific salmon.

Just weeks after the close of an exceptionally poor year, a 2008 forecast by the Department of Fisheries and Oceans suggests that opportunities for sport, commercial and aboriginal food fishing will be exceptionally rare in the Fraser River

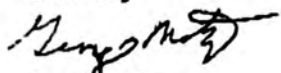
Sockeye in 2008 will be at the low ebb of their four-year cycle of strong and weak runs and the department suggests about two million of the prized red-fleshed salmon could come back to the Fraser this year.

That's no better than the disastrous season just past, in which the Fraser commercial fleet was entirely excluded from the sockeye fishery."

While the demise of the Fraser River salmon is due to a complex variety of impacts that defy pointing the finger at any one cause, it seems clear that it should not be our model for managing Bristol Bay salmon. If anything, the Fraser River situation is what we should avoid.

In summary, the point we want to make is that interpretation of information is already becoming an issue and the Fraser River situation may indeed be the future for Bristol Bay salmon unless we require clear, unequivocal standards that leave little room for creative interpretation. HB 134 meets that standard. We urge your support.

Sincerely



George Matz

From: Rep. Paul Seaton
Sent: Monday, February 18, 2008 2:00 PM
To: Louie Flora
Subject: FW: HB 134
Follow Up Flag: Follow up
Flag Status: Blue

From: Robin Lund [mailto:summersong@alaska.net]
Sent: Thursday, February 14, 2008 3:02 PM
To: Rep. Paul Seaton
Subject: HB 134

Paul—

Please support HB 134. I know that you are making a sincere effort to protect our salmon and water—keep up the good work: I and a lot of other people are rock solid behind you.

Rob Lund
Homer



Alaska State Legislature

Please enter into the record my testimony to the FISHERIES Com.
committee name
committee on HB 134, dated 02-18-08
bill/subject

SUPPORTING DOCUMENTS FOR HB 134.

Signed: [Signature]
Testifier
TROST UNLIMITED
Representing (Optional)
10741 LUBING CIR BNC. AK 99507
Address
907 227-8719
Phone No.

Predicting Water Quality Problems at Hardrock Mines

A FAILURE OF
SCIENCE, OVERSIGHT,
AND GOOD PRACTICE

An EARTHWORKS white paper summarizing and analyzing the
groundbreaking studies by Ann Maest, PhD and Jim Kuipers, PE

*Comparison of Predicted and Actual Water Quality at Hardrock Mines:
The reliability of predictions in Environmental Impact Statements*

and

*Predicting Water Quality at Hardrock Mines:
Methods and Models, Uncertainties, and State of the Art*

By Alan Septoff EARTHWORKS December 2006

Introduction

A failure of science, oversight and good practice

This paper is a summary, written for the layperson, of the findings of a two-year research study on the accuracy of water quality predictions at hardrock mines. The study, conducted by Jim Kuipers and Ann Maest¹, brings to light a decades-long failure by government regulators, industry, and consultants to recognize and correct deficient procedures and methods for predicting contamination of water at hardrock mines.

Kuipers and Maest have discovered that, in practice, there is a failure to compare predictions made before the mines are permitted with the actual results. The predictive modeling results are not adjusted to account for real-life failures—this, despite the fact that at the vast majority of mines, problems were worse than predicted. Establishment of credibility in modeling requires that the predictions be tested, and then the models adjusted based on the results. This process appears broken when it comes to predicting the impact of mines on water quality for mine permits.

To permit mines, federal law² requires regulators to apply scientific approaches to predict the environmental impacts of the mine proposal—including surface water and groundwater quality impacts. The accuracy of these water quality predictions is of significant public concern. Mining's impacts on water quality may affect municipal, agricultural, and rural water supplies; important commercial, subsistence and sports fisheries; wildlife populations; tourism; and recreation. One of the reports from the study, *Comparison of Predicted and Actual Water Quality at Hardrock Mines (Comparison Report)*, asks a basic question that government regulators, industry officials and consultants should have asked long ago:

Do predicted water quality impacts match reality?

The answer, in short, is no. The *Comparison Report* reveals:

- 100 percent of mines predicted compliance with water quality standards before operations began (assuming pre-operations water quality was in compliance).
- 76 percent of mines studied in detail exceeded water quality standards due to mining activity.
- Mitigation³ measures predicted to prevent water quality exceedances⁴ failed at 64 percent of the mines studied in detail.

Along with more analysis of this question, the *Comparison Report* and the companion report on methods and models used to predict water quality (*Methods and Models Report*), also seek to answer the necessary follow-up questions:

- In cases where predicted water quality impacts fail to match reality, why do they fail?

- Do certain types of mines fail more often than others?
- What can be done to address current failures and prevent future failures?

The Kuipers-Maest reports were prepared for a professional audience. The purpose of this paper is to translate and summarize the main findings of their research (for the layperson and the interested public), and to offer common sense recommendations based on those findings with an eye toward protecting natural resources and public health.

The Context

Why this research was necessary

The Environmental and Public Costs of Faulty Predictions

The failure to accurately predict and manage water quality impacts can result in significant negative impacts on clean water and steep taxpayer liabilities for the costs of cleanup. Consider one often-cited example—the Summitville gold mine in Colorado. Water pollution at this mine has cost American taxpayers more than \$200 million in cleanup costs. The majority of that money has been spent mitigating acid drainage and cyanide releases that were not predicted during the permitting process. When pollution spilled from a containment pond, 18 miles of the Alamosa River were effectively killed—impacting not only the aquatic life in the river, but also the adjacent farms and ranches that relied upon the Alamosa for irrigation and livestock watering.

While it may be argued that Summitville is one of the worst-case examples, problems abound. According to the U.S. EPA's Abandoned Mine Land Team, the cost of mine cleanup at sites on the National Priorities List (i.e., Superfund sites, like Summitville) in the United States is \$20 billion—almost 3 times the EPA's FY 2007 budget request. Long term water treatment and management is often the single most significant cost associated with mine cleanup.

In fact, there is an increasing number of mine sites throughout the U.S. that will require water treatment in perpetuity. In the arid west, these types of long-term impacts place a tremendous burden on downstream communities who must deal with the consequences of failed predictions. For example, government regulators have determined that the Zortman Landusky mine, located near the Fort Belknap Reservation in Montana, will continue to generate acid mine drainage for thousands of years. As a result, the Fort Belknap Tribes are faced with a continual threat to important tribal water resources, and the state of Montana will be spending tens of millions in public funds for long-term water treatment.⁵

In order to ensure clean water and protect taxpayers from liability for cleanup costs it is important to understand the frequency and magnitude of failures in predicting water quality impacts. Consider that at most major mines, operators are required to post financial assurances prior to operating. This is the good news. These assurances are supposed to guarantee that, should the mine operator go bankrupt, the mine site will be reclaimed at no cost to the taxpayer. However, the bad news is that these financial assurances are based upon expected reclamation costs and expected reclamation costs are based in large part upon water quality predictions.

Previous research by Jim Kuipers demonstrates that taxpayers are potentially liable for up to \$20.4 billion⁶ in financial assurance shortfalls at existing mine sites (in addition to the \$20 billion for Superfund sites) – due in large part to inaccurate water quality predictions.

A Growing Problem

Without correction, the environmental and financial impacts of faulty predictions could grow. Recent increases in metals prices have triggered an increase in the number of new mines being proposed in the United States. According to the Bureau of Land Management, new mining claims filed in 2006 are on track to more than quadruple since metals prices began their precipitous rise in 2002.

In the United States alone there are approximately 180 large hardrock mines – in nearly all regions of the country – that are in various stages of permitting, development, operation or reclamation and closure. In order to better protect important water resources and reduce future economic liability, improvements must be made in the prediction and prevention of impacts to water quality at these sites. On the positive side, the increase in metals prices has resulted in fewer bankruptcies in the sector—and it is bankruptcies that trigger the use of reclamation bonds for mine site reclamation and water treatment. This may provide regulators and industry officials with a window of opportunity to solve the underlying problems with water quality prediction.

Unprecedented Research: the absence of previous studies and the data gap

When they began their research, the authors expected to incorporate data from some mines where government officials had already completed a comparison of predicted and actual water quality impacts. However, they were unable to find comparisons of water quality predictions and actual water quality impacts of mines.

The authors found that no single repository exists for the Environmental Impact Statements (EISs) currently mandated under federal law. EISs contain the water quality predictions analyzed in the study. In some cases, local

federal offices that processed the studies did not have copies of them. Furthermore, in many cases, the authors were forced to submit Freedom of Information Act requests and pay fees to obtain copies of these studies. Similarly, water quality from mines was inordinately difficult to obtain and in most cases required personal visits to agencies and long hours sorting through paper files.

Taken together, the absence of previously published research and the difficulty in gathering information is evidence of a data gap that surprised the authors and may help explain the previous lack of a comprehensive study of this nature.

It is important to note that the predictions data were available – no matter how difficult to obtain – only because the National Environmental Policy Act (NEPA) requires it. Without NEPA, this study would have been impossible to conduct.

A Tool for Many Audiences

While the research focuses on the underlying scientific and engineering processes that form the basis of water quality predictions, its recommendations are intended for use by many audiences to increase the effectiveness of future mine water quality predictions – directly and indirectly:

- This study should be useful to the scientific and engineering communities for suggesting ways to better characterize risks to water quality and to better apply mitigation methods to minimize or prevent potential impacts.
- The regulatory community can look to these reports, especially *Methods and Models*, for recommendations on how to fundamentally improve the permitting process to ensure a more accurate analysis of potential mining impacts. The inherent uncertainty in water quality predictions and mitigation failures should be conservatively viewed in order to ensure mine permitting decisions that are more protective of human health and the environment. The integrity of the mine permitting process is dependent on the use of accurate methods and models.
- This report can be utilized by the mining industry to improve current practices and more accurately predict consequences and ameliorate potential effects.
- It can be utilized by the insurance and investment industry as a tool to better understand the potential risks and costs associated with mining, and as a basis to reassess risks at current mines.
- And finally, it can be utilized by the interested public to more effectively advocate for water quality protections in the permitting process and to advocate in the public arena for legislative and regulatory changes that better protect water resources.

Do Predicted Water Quality Impacts Match Reality?

As indicated above, the answer is usually no — particularly when high risk mines, such as those with close proximity to water resources, are considered.

Sampled Mines

To arrive at this answer the authors initially reviewed 104 Environmental Impact Statements (EISs) and Environmental Assessments (EAs) for 71 major hardrock mines in the United States.⁷ The mines covered all important mineral sectors (gold, silver, copper, platinum group metals, molybdenum, lead, and zinc) and ten mining states (Alaska, Arizona, California, Idaho, Montana, New Mexico, Nevada, South Dakota, Utah, and Wisconsin).

A representative subset of 25 case study mines was then selected to evaluate the accuracy of the water quality predictions. Environmental impact reports for these mines were evaluated for predictions related to surface water, groundwater, and mine drainage quality during and after mining. These predictions were then compared with actual water quality conditions during and after mining.

Potential & Predicted Water Quality

The authors discovered a two-tiered system for water quality predictions, one-tier of which was based not on sound science, but on unsupported "good faith" projections.

The two tiers of "predictions" made about water quality in environmental assessments are referred to by the authors as "potential" and "predicted" water quality:

- **Potential** water quality is the expected water quality conditions in the absence of mitigation efforts by the operator.
- **Predicted** water quality takes the effect of mitigating measures into account. It is what mine operators forecast actual water quality will be during and after operations.

All the environmental reviews analyzed in the *Comparison Report* predict acceptable water quality after mitigation at mines where water quality standards were met before mining began. If this prediction were not made, the regulatory agency would not be able to approve the mine.

However, inadequate information was provided to demonstrate how the mitigation measures would actually prevent water quality impacts. Therefore, regulators were generally accepting the final water quality predictions on "faith."

Major Findings: Chronic Underestimates of Water Quality Problems

Prediction vs. Reality: Overall Water Quality Impacts to Ground and Surface Water

Of the 25 mines sampled:

- 76% of mines polluted groundwater or surface water severely enough to exceed water quality standards.
- 60% of mines polluted surface water severely enough to exceed water quality standards.
- At least 13 mines (52%) polluted groundwater severely enough to exceed water quality standards.

Predictions vs. Reality: the Failure of Mitigation

In the cases where water quality standards were exceeded, in some cases the mine proponent anticipated the potential for pollution and prepared mitigation strategies (e.g. a mine waste dump lined with plastic to prevent acid drainage leaching into groundwater). Predictions of the efficacy of mitigation were no more reliable than overall predictions of water quality:

- 73% of mines exceeded surface water quality standards despite predicting that mitigation would result in compliance. The other 4 mines didn't predict the need for mitigation.
- 77% of mines that exceeded groundwater quality standards predicted that mitigation would result in compliance. The other 3 mines didn't predict the need for mitigation.

Predictions vs. Reality: Mines near Water with Elevated Acid Drainage or Contaminant Leaching Potential are High Risk

Some mine projects are so high risk that water quality exceedances are a near certainty: those mines that are both near groundwater or surface water resources, and possess an elevated potential for acid drainage or contaminant leaching.

- 85% of the mines near surface water with elevated potential for acid drainage or contaminant leaching exceeded water quality standards
- 93% of the mines near groundwater with elevated potential for acid drainage or contaminant leaching exceeded water quality standards.
- Of the sites that did develop acid drainage, 89% predicted that they would not.

Water Quality Pollutants

Of the 19 mines that exceeded water quality standards, the pollutants that exceeded standards were as follows

- Toxic heavy metals such as lead, mercury, cadmium, copper, nickel or zinc exceeded standards at 63% of mines.

- Arsenic and sulfate exceeded standards at 58% of mines.
- Cyanide exceeded standards at 53% of mines.

Why Do Predictions Fail?

In order to evaluate water quality impacts during the permitting process, government regulators rely on water quality predictions created by hydrologists and geochemists and mining engineers using computer models and other types of field or laboratory studies. Those predictions are only as good as the science upon which the models/tools are based, and the site characterization information supplied to those models. So when water quality predictions fail to predict water quality for mining operations, they fail for two general reasons:

1. the science of mine water quality prediction is imperfect
2. the science of mine water quality prediction is imperfectly applied at mine sites

The Imperfect Science of Mine Water Quality Prediction

The complexity of pollutants' interaction and movement in groundwater and surface water systems at mines is difficult to recreate in a model. This is addressed in detail in the companion report by Maest & Kuipers titled *Predicting Water Quality at Hardrock Mines: Methods and Models, Uncertainties, and State-of-the-Art*.

According to *Methods and Models*, factors that complicate the prediction of water quality at mine sites range in scale from small to large. On a small scale, for example, it is not well known how minerals react in complex systems. On a large scale, geology, climate, methods of mining and mineral processing, and mine waste management approaches vary among and within mine operations. These large scale variations limit the degree to which information from one site can be applied to another.

Also, extrapolation from the laboratory to the mine must address complicating factors such as environmental conditions, water and gas transport, differences in particle size, and how these variables affect drainage quality over periods of decades or centuries. However, there is virtually no available field information describing the effect of these variables over extended periods of time. The lack of this field information introduces significant additional uncertainty into predictions.

Just as weather cannot be accurately predicted beyond a certain point because weather models and their inputs are not perfect, the transport of pollutants through complex geological and hydrological systems over the longer term, which can range from five years to tens of thousands of years is similarly difficult to predict.

One of the study's most significant findings, however, is where the practice of predicting weather and the practice of predicting water quality at mining operations part ways. Weather models are consistently revaluated based on a comparison of predictions with actual weather conditions that occur subsequently.

Not so with the models used for predicting water quality at mining operations. The very fact that the study is unprecedented shows that *professionals who predict mine water quality do not revisit their predictions, and neither do the regulators responsible for ensuring the accuracy of those predictions*. The models used for the predictions cannot be improved if their failures and successes are not evaluated. Where predictions of water quality at mining sites are concerned, the scientific process is broken.

Imperfect Science, Imperfectly Applied

A mine water quality prediction model can only reach its potential at any individual mine site if that site is correctly characterized (in terms of its hydrology and geochemistry) to the extent possible. According to Maest and Kuipers, that potential is not being reached.

There are two types of characterization failures described in the *Comparison Report*: hydrologic (related to water flow at a mine site) and geochemical (the chemistry, geology and mineralogy of the materials/minerals that comprise the mine site).

The *Comparison Report* documents that six of the 25 case study mines were inadequately characterized hydrologically, and that eleven of the case study sites were inadequately characterized geochemically.

Another example of "imperfect science, imperfectly applied" is the bias of mine water quality predictions made by consultants hired by the prospective mine operator. This problem is implied by the number of site characterization failures, and by the failure to check the results of past mine water quality predictions.

Regulatory agencies, both federal and state, allow the mining company to select and directly pay consultants to predict mine water quality impacts, and to review and comment on (or even reject) those predictions, prior to release to the agency. It is an understatement to say that consultants heavily influence mine water quality predictions.

Unfortunately, given the client/customer relationship between prospective mine operators and their consultants, consultants are rewarded for having favorable predictions. On the other hand a prediction of poor water quality will usually delay a permit, which increases the permitting costs. While exceptions exist, consultants that predict poor water quality often are not rehired. This perverse incentive is contrary to the spirit of unbiased science, and contrary to the public interest.

Preventing Future Failures (and Addressing Current Failures)

Recommendations

Both the *Comparisons* and the *Methods and Models Reports* reveal that the prediction of future mine water quality is an uncertain business. And given the difficulty in modeling natural systems, even if the all the recommendations included here and in the Kuipers-Maest research are implemented, mine water quality prediction will always be an uncertain business. However, there is considerable room for improvement.

Just as weather prediction has improved over time, so can mine water quality prediction — if regulators and professionals in the sector learn from past predictions and improve characterization efforts.

With that in mind, the following recommendations are intended to help improve mine water quality predictions today and in the future.

Addressing the Consequences of the Existing Prediction Process

Assess existing mines. If the results of the *Comparison Report* are extrapolated to all operating major mines, water quality standards would be exceeded at roughly 75% of all mines in the United States. Regulators should, in a public process, canvass all permitted mines to:

- determine which mines are exceeding water quality standards,
- evaluate how surrounding communities and the environment are being affected, and what cleanup steps are necessary,
- revisit the original predictions, and
- reassess the adequacy of the financial assurances provided by mine operators to guarantee mine cleanup and long-term water treatment.

Incorporate uncertainty into permitting process. Regulators should take a suitably precautionary approach to the mine permitting process, and require that mine design, mitigation and financial assurance calculations prepare for reasonable worst-case rather than best-case scenarios.

Better screen high-risk mines. Regulators must demonstrate concrete improvement in the accuracy of mine water quality predictions and mitigation efforts. For example, additional regulatory scrutiny should be given to the highest risk proposals such as those mines near water resources and with elevated acid drainage or contaminant leaching potential. In cases where the risks are too high, regulators should not permit mines. It should be noted

that this recommendation is supported by the *Comparison Report* which demonstrates that 93 % of such mines near groundwater, and 85% near surface water, exceeded water quality standards.

Some major mining companies are realizing that the life-cycle costs need to be clearly evaluated, including the costs of *perpetual maintenance and water treatment after mine closure*. While some leaders in the industry are using life-cycle cost estimates, this is still not a uniform industry standard, and regulators ultimately must make the determination for many mine proposals.

Inform the public about the uncertainty of water quality prediction. As part of the mine permitting process, regulators should inform the public of the history of the accuracy of mine water quality predictions so they can better determine the risk involved in a mine proposal.

Improving Future Mine Water Quality Predictions

Ease access to predictions and results. Information regarding pre-mining, mining and post-mining water quality should be publicly available online, along with the associated mine water quality predictions made during the permitting process. This will facilitate a more informed mine permit process for regulators and the public.

Review original predictions as water quality develops during mining. Mine operations should be regularly assessed to determine if they are departing from mine water quality predictions. This will allow regulators and mine operators to take early action when mine water quality begins to depart from the predicted.

Consult past predictions at other mines. When permitting a mine, regulators should be required to seek similar mines, or similar aspects of different mines, and determine what predictions were made and what water quality actually occurred. These mine analogs should be publicly disclosed.

Require improved characterization of mine sites. This recommendation is covered in much greater detail in the *Methods and Models Report*. In summary, regulators should require better information about the mine site — before, during and after operations.

Require more research on the effectiveness of mine water quality mitigation. The *Comparison Report* found that where predictions of good mine water quality were predicated upon the mine operator using mitigation strategies, mine water quality usually exceeded water quality standards. More research is needed to determine how and why these mitigation efforts fail, and how to improve them.

Change the procedure for selecting consultants to avoid the present conflict of interests. Agencies should independently select and pay the consultants to conduct the

studies. This will limit the ability of a mining proponent to influence the outcome of the predictions. The mine proponent can comment on the study, similar to public interest organizations, but they should not be able to exert sufficient influence to bias the outcome.

Increase government expertise. Many state and federal agencies are not sufficiently funded to employ staff with the technical expertise to provide appropriate analysis and oversight of the mine permitting process. Increased funding should be incorporated into agency budgets to ensure that technical expertise is available for permit review.

Endnotes

1. Jim Kuipers, PE, is a mining engineer with Kuipers & Associates in Butte, Montana, and Ann Maest, PhD, is an environmental geochemist with Buka Environmental in Boulder, Colorado.
2. The National Environmental Policy Act requires a science-based review of mine proposals when federally-owned land is affected, or when a federal permit is required (e.g. the Clean Water Act requires a permit when a mine discharges into waters of the United States). Many states have similar laws, based on NEPA, that apply to mine proposals even when federal land is not involved.
3. Mitigation is the effort by a mine operator to prevent or reduce pollution. For example, some mine waste (e.g. tailings impoundments) is underlain by thick plastic to prevent contaminants from moving into nearby water resources.
4. In this paper, an "exceedance" is the presence of a pollutant in concentrations higher than a water quality standard. This is different from a water quality "violation," which is a breach in the terms of a water quality permit. A water quality permit, although based on standards, may allow exceedances under some conditions. A mine operator is legally liable for a water quality violation.
5. Mitchell, Larry D., a staff paper prepared for the Environmental Quality Council, "Zortman and Landusky Mines: HJ 43 Water Quality Impacts, October 2004.
6. Kuipers, J, 2003, Putting a Price on Pollution: Financial Assurance for Mine Reclamation and Closure. This report was funded by Mineral Policy Center.
7. Many mines have multiple EISs or EIAs for different eras of mining.



Trout Unlimited Alaska

DNR's Vague Statutory Standards that Fall Short of Protecting Fish, Game and Uses of These Renewable Resources When Applied to Development of Metallic Sulfide Mines like Pebble

Information Compiled by Trout Unlimited Alaska, 11/15/07

Department of Natural Resources, Statutes & Application	Current Statutory Standard	Problems Current Standards Create When Applied to Development of Metallic Sulfide Mines
AS 27.05.010 – Establishes DNR as “lead agency” on mining. DNR “shall coordinate all regulatory matters” concerning mining.	The statute articulates no standards and only articulates duties.	
AS 38.04.005 – DNR’s overall policy statute. ¹	Establishes DNR’s overall policy of managing for “maximum use of state land consistent with the public interest.”	“Maximum use of state land consistent with the public interest” is a vague and subjective standard, establishing wide discretion for permitting decisions made by DNR. Vague standards, overseen by DNR, militate against conservation of fish, game and uses dependent on them.
AS 38.05.135(e) – Applies to leases and disposals of public land, mineral and water rights, etc.	Lease or disposal depends on DNR’s determination of the “state’s best interest.”	“State’s best interest” standard is vague and subjective.
AS 38.05.255(a) – Applies to leases for millsites, tailings disposal, mine facilities and other surface uses of state land or water within a mining property.	Leases and surface uses within a mining property are limited to those “necessary” for prospecting, extraction, and processing of minerals and shall be “subject to reasonable concurrent uses.”	1. What is “necessary” for prospecting, extraction, processing is vague and subjective with respect to some uses. For example, how DNR decides whether or not housing, sewerage treatment, etc. for 2000 workers is “necessary” on state land when alternatives exist on non-state land is entirely subjective. Yet this type of permitting decision could have serious regional impacts on fish, game, and uses dependent on them. 2. “Subject to reasonable concurrent use” is vague as to whether it includes production of fish and game.
AS 38.05.850 – Applies to permits, rights of way, or easements on state land for roads, ditches, pipelines not subject to AS 38.05, electric transmission and distribution lines, and similar uses or improvements.	DNR’s Director of Division of Mining, Land, and Water “shall give preference to that use of the land that will be of greatest economic benefit to the state and the development of its resources.”	1. The preference for land use that gives “greatest economic benefit to the state and development of its resources” is vague and subjective. Does “the state” refer to the state treasury, the state and its economy, or the citizens of Alaska? 2. Because of the transfer of ADF&G habitat functions to DNR in 2003, this preference now favors development of non-renewable resources, such as minerals, over already developed renewable resources, such as fisheries, even more than the preference did prior to the transfer.

¹ By contrast, AS 16.05.020 is ADF&G’s overall policy statute. It establishes ADF&G’s duty to “manage, protect, maintain, improve, and extend the fish, game and aquatic plant resources of the state in the interest of the economy and general well-being of the state.”

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AS 41.14.840 (Fishways Act) – Applies to permits for activities that could obstruct fish passage, such as dams and culverts.	Fish passage may be required "if the deputy commissioner [of DNR] considers it necessary."	1. "Necessary" is vague, subjective, and interpreted by each DNR Deputy Commissioner. 2. DNR implementation results from Governor Murkowski's transfer, by E.O. 107, of ADF&G habitat functions to DNR. It is contrary to (a) the long history of implementation by ADF&G, and (b) decisions made by legislature at Statehood to establish separate agencies for fish and game (ADF&G) and resource development (DNR).
AS 41.14.870 (Anadromous Fish Act) – Applies to permits for activities in waters known to be anadromous.	Plans, activities and permits shall provide "proper protection" of fish and game when the waters are "specified" through field work to be anadromous and listed in the Catalogue of Anadromous Waters.	1. Under current practices, the statute depends on waters being documented in the field as anadromous. 2. "Proper protection" standard is vague, subjective, open to discretion, and lacks a statutory definition. 3. DNR implementation results from Murkowski's transfer, by E.O. 107, of ADF&G habitat functions to DNR and is contrary to (a) the long history of implementation by ADF&G, and (b) decisions made by legislature at Statehood to establish separate agencies for fish and game (ADF&G) and resource development (DNR).
AS 44.62.330(a)(6) and (30) of the Administrative Procedure Act – Affords judicial appeal to review (1) some decisions by DNR's Division of Mining, Lands and Water under the Alaska Land Act [AS 38.05] "where applicable," and (2) decisions under AS 41.14.870.	Alaska Land Act, AS 38.05.035(i), provides appeal to superior court from DNR decisions that are subject to the requirements of AS 38.05.035(e)(6), which applies to sales, leases and disposals of state land other than oil and gas. However, AS 38.05.035(e)(6)(A)-(H) lists 8 exceptions to the requirements. Exceptions include: revocable permits or authorizations; mineral claims located under AS 38.05.195; mineral leases under AS 38.05.205; surface use leases for utilities, tailings disposal and other mine-related facilities under AS 38.05.255; and a permits, rights-of-way, or easements for roads, ditches, pipelines not subject to AS 38.05, electric transmission and distribution lines, and similar uses or improvements under AS 38.05.850.	A result of the exemptions in AS 38.05.035(e)(6) is that many of DNR's decisions related to mining are NOT subject to appeal to the courts under the Administrative Procedure Act. Under existing law, it is likely that the only DNR permits that will be subject to administrative adjudication and appeal to superior court will be Anadromous Fish Act permits for activities in anadromous waters, which are also under-documented throughout the state.
AS 46.15.080 (Water Use Act) – Applies to authorizations to appropriate state owned waters.	Appropriation must be "in the public interest." In determining that interest, DNR shall "consider" 8 factors: (1) benefit to the applicant, (2) effect of economic activity resulting from the appropriation; (3) effect on	1. The "public interest" standard is vague and subjective. 2. The requirement that DNR "consider" eight factors is merely procedural. It is far short of substantive standard that would require DNR to avoid (or even to minimize or mitigate) the harms or risks that can occur. Moreover, "considering" the effects on fish is far short of a statutory standard that

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	fish, game and public recreation; (4) effect on public health; (cont.) (5) effect of loss of alternate uses of water; (6) harm to other persons; (7) intent and ability of the applicant to complete the appropriation; and (8) effect upon access to navigable or public water.	articulates acceptable or unacceptable harm to fish. (cont.) Similarly, because DNR generally lacks criminal citation authority, it cannot enforce a cease and desist order with criminal authority. ADF&G has general criminal citation authority, but due to the transfer of its permitting authority to DNR, ADF&G no longer has permitting authority to enforce.
AS 46.17 - Applies to permits authorizing construction of dams, such as for tailings impoundments.	Dams must be designed, constructed, operated and maintained "consistent with the protection of life and property."	The standard "consistent with the protection of life and property" ignores fish, game, habitat, and uses of them.
AS 46.40 (Alaska Coastal Management Program, ACMP) - Applies to agency decisions on a proposed project located in the coastal zone, as identified by state or district coastal management plans. ACMP is implemented and coordinated by DNR.	Requires that agency decisions on a proposed project be "consistent" with statewide coastal zone standards adopted under AS 46.40.040 and the enforceable policies in an applicable district coastal management.	1. "Consistency" depends on the quality of statewide ACMP standards for protecting fish, game, and uses of them, and on enforceable policies of district plans. The Murkowski Administration diluted many statewide standards and enforceable policies and reduced the coastal zone boundaries. 2. DNR implementation is the result of Gov. Murkowski's transfer of the Program from the Governor's Office, where ADF&G and DNR were peer agencies, to DNR. Vesting sole responsibility in DNR is contrary to decisions made by legislature at Stetchood to establish separate, peer agencies for fish and game (ADF&G) and resource development (DNR).

Table 1 demonstrates that DNR's 11 applicable statutes contain 10 standards, and all 10 are vague. Most are open to wide interpretation. None articulate clear standards for protection of fish and game, habitats, and uses of them. Moreover, aside from the Fishways Act (AS 41.14.840) and the Anadromous Fish Act (AS 41.14.870) which obviously mention fish, of the remaining eight statutory standards listed in Table 1, *only one* (AS 46.15.080) mentions fish, game, and recreation (but not commercial or subsistence use), and that statute only requires DNR to "consider" fish, game and recreation, rather than to protect them.

The Department of Natural Resources statutes are out-of-date for purposes of protecting Alaska's fisheries in the face of large scale mining. Most were enacted when no one could envision the scale and risks that contemporary open pit and block caving mining, and chemical treatment of massive, low-grade, metallic sulfide ores, pose today to regions like the Bristol Bay watershed. Because of its scale and location at the headwaters of two of the most productive salmon systems in the world, Pebble has brought these risks into public view.

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TESTIMONY ON HB 134 (Version "O")

2-20-08

Mr. Chairman and Members of the Fisheries Committee – thank you for giving me the opportunity to testify on this revised version of HB 134. My name is Gail Phillips. I am a former legislator and Speaker of the House. I am testifying on my own behalf and as the Vice-Chairman of a private non-profit organization called "Truth About Pebble". My testimony will strongly oppose the passage of version "O" or any other version of HB 134.

My prior testimony on this legislation, submitted last February, is already on record and I would like to reconfirm my opposition to the bill as stated in my letter of 2-28-07.

Today, I will focus my remarks on the "takings" attempt by the legislature. As a former member of your Body, I know the legal peril you will place the State of Alaska if you pursue this land withdrawal. You heard testimony last Monday from Matthew Nicolai, the President and CEO of Calista Corporation, regarding the issue of "takings" the right of native corporations to develop their lands and mineral resources on those lands.

I totally agree with Mr. Nicolai's interpretation of this blatant takings attempt and will confirm that, if passed, this legislation opens the State to unending lawsuits. We do not have enough money in the State, including all the assets of our Permanent Fund, to cover the potential amounts of payments that these lawsuits could incur.

As I did, you have a sworn responsibility to protect the State of Alaska from unwarranted lawsuits and unlawful takings of our lands and resources. The Fisheries Committee must be able to clearly show the people of the State and the private land owners in the Bristol Bay region that you are not taking away private property rights before you pass this bill from committee.

I have many other objections to this legislation as I've previously stated, but today I just wanted to focus on the "takings" issue and the risk you put on the financial resources of our State if you pursue this legislation.

Again, Mr. Chairman, I thank you for the opportunity to share my opinion on this legislation.

Gail Phillips
1241 W. 27th, # 736
Anchorage, Alaska 99503
277-4867

In Opposition to House Bill No. 134

February 20, 2008

**The Honorable Paul Seaton
Chairman, Special Committee on Fisheries
Alaska State Legislature
State Capitol
Juneau, Alaska 99811**

Dear Chairman Seaton:

SUBJECT: Testimony on HB 134

Mr. Chairman and Members of the Fisheries Committee – thank you for giving me the opportunity to testify on this legislation. My name is Sharon Anderson. I am the former co-owner and operator of Anderson Tug & Barge Co. and now serve as a business consultant.. I am testifying on my own behalf and as a Board Member of a private non-profit organization called “Truth About Pebble”. I strongly oppose the passage of any version of House Bill 134 particularly since it is slanted more towards bringing to an end the mining industry in Alaska, than one of protection and conservation of our anadromous fish resources. Version O of HB 134 is an attempt to undermine Alaska’s already legally established permitting process requiring specific legislative approval for exploration and development of land specifically designed for just that.

House Bill 134 specifically singles out sulfide mining operations, implying that responsible mining and development of Alaska’s natural resources cannot exist even when industry is closely monitored through Alaska state and federal laws and regulations. Some early mining operations have left an historical legacy of negative environmental impacts that still affect the public’s perception of mining but mining has undergone dramatic changes in recent years, bringing it firmly into the world of 21st century high technology. Today's stringent mining regulations require state-of-the-art engineering design, pollution prevention technology, monitoring, and

financial guarantees to ensure that mines are built, operated, and reclaimed to the highest environmental standards.

There are many environmentally responsible mines operating successfully in scenic and environmentally sensitive settings like Alaska, proving sulfide mining can be done in an environmentally responsible manner. Advances in mining practices and mine design – have enabled modern miners to better predict, plan for, and prevent or control adverse environmental impacts. Modern mining operations have also demonstrated that the long-term environmental impacts of sulfide mining – principally water quality and air quality – can be adequately addressed. The science has evolved to the point where minerals from a sulfide ore body can be analyzed from core samples to determine if the material even has the potential to generate Acid Rock Drainage before it is excavated from the ground.

Alaska needs to diversify its economy and provide resource development throughout the Bristol Bay region and the entire State. Developing our mining resources offers a perishable opportunity for large-scale economic development and new job creation at higher income levels. Commercial development of these projects will revitalize the area and provide enduring employment for decades to come. Related “spin-off” jobs generated by supplier and support businesses will help stabilize declining communities and local school systems while producing significant new streams of tax revenues to support government and public services. HB 134 effectively blocks any of this future economic growth by preventing new industry in the Bristol Bay region; whether it is mining or oil development.

The Constitution of the State of Alaska mandates development of our natural resources for the benefit of all Alaskans, and House Bill 134 directly contradicts this process.

Thank you.

Sharon E. Anderson

**9840 Hillside Drive
Anchorage, AK 99507
907-272-2608**

**Mailing Address: PO Box 200187
Anchorage, AK 99520
907-229-6624 cell**

Rep. Paul Seaton, Chair
House Fisheries Committee
State Capitol
Juneau, AK 99801

February 20, 2008

RE: CSHB 134 version O

Rep. Seaton:

My name is Heath Hilyard and I am the Business Development and External Affairs Manager for Alaska Supply Chain Integrators (ASCI), a supply chain management, procurement, logistics, and asset management company located in South Anchorage.

I would like to testify in opposition to CSHB 134. While I commend the sponsor, and this committee, for the tremendous amount of work done thus far, even the significant changes made in the "O" version are very problematic and require further work and review.

As a member company of Alaska's resource development industries, we are deeply concerned about the impact this bill will have on Alaska's mines and the general business climate. Although there have been several significant improvements made to the bill since introduction, it remains overly burdensome, unnecessarily restrictive and components thereof legally and procedurally questionable.

Specifically, I am concerned that the appropriation of water rights and the resulting constitutional controversy pertaining to Article VIII, Section 13 remain and the legislative approval is without procedural meaning.

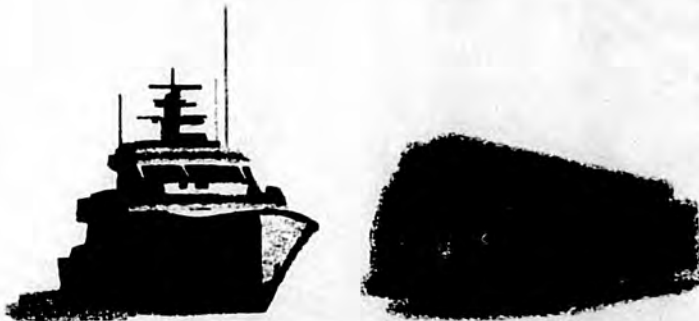
More importantly though this bill does tremendous damage to one of Alaska's significant and growing industries. It is irresponsible to have a conversation on the allocation of or restriction to any one of Alaska's natural resources without considering the long-term impact on economic development and job growth in any one region or statewide. Alaska's mineral resources, whether currently in production or not, are not more important than Alaska's fish and game resources neither are they any less important.

There is a natural tension between the Department of Fish and Game (DF&G) and the Department of Natural Resources (DNR), especially in light of the recent relocation of the Office of Habitat Management and Permitting (OHMP) back to DF&G. I strongly encourage the committee to let these respective departments work through their thoughtful and well designed permitting processes to come to a scientifically evaluated recommendation about how or whether the Pebble mine, or other mining project in the region, should proceed.

I appreciate your time to comment on this legislation.

Sincerely,

Heath E. Hilyard
Business Development and External Affairs Manager
ASCI



**MARINE SAFETY INSTRUCTOR-EMT-VETT INSTRUCTOR- EMT-IVACLS/PALS-
AHA CPR INSTRUCTOR-EMP FIRST AID INSTRUCTOR-ONGUARD FIRE ATTACK
INSTRUCTOR- MEDEVAC ESCORT INSTRUCTOR**

**RON BOWERS
P.O. BOX 6
DILLINGHAM, ALASKA 99576
907-842-4186
Email: ronmarieiris@yahoo.com**

TESTIMONY TO HOUSE FISHERIES COMMITTEE D-HAM LIO 2/20/08

I HAVE SEVERAL ONGOING CONCERNS AGAINST HOUSE BILL #134. ONE IS HOW THIS BILL, IF ENACTED WOULD FAVOR ONE INDUSTRY OVER ANOTHER. I ALSO BELIEVE THIS BILL COULD POTENTIALLY BE USED BY OUTSIDE ENVIRONMENTAL GROUPS AS PRECEDENT IN SHUTTING DOWN DEVELOPMENT THROUGHOUT THE STATE OF ALASKA. FINALLY I BELIEVE HB#134 WILL VIOLATE THE RIGHTS OF PRIVATE PROPERTY OWNERS AND WILL DEPRIVE ALL ALASKAN CITIZENS REVENUES FROM STATE LANDS AND ALL AMERICANS REVENUES FROM FEDERALLY OWNED/MANAGED LANDS IN BRISTOL BAY.

I AM A VERY ACTIVE SUBSISTENCE USER AND A 25 YEAR RESIDENT OF THIS REGION. I WHOLEHEARTEDLY SUPPORT THE PROTECTION OF SUBSISTENCE ACTIVITIES AND COMMERCIAL FISHING. HOWEVER, I DO NOT SUPPORT LEGISLATION THAT WILL DRIVE AWAY ANY INDUSTRY THAT IS WILLING TO WORK WITH AREA RESIDENTS, TO TOTALLY PROTECT OUR FISHERIES RESOURCES, WHILE AT THE SAME TIME OFFERING DESPERATELY NEEDED ECONOMIC OPPORTUNITIES TO HUNDREDS, IF NOT THOUSANDS OF AREA RESIDENTS.

I BELIEVE THAT IF HB#134 BECOMES LAW, OUTSIDE ENVIRONMENTAL GROUPS WILL USE THIS BAD BILL AS A TEMPLATE TO SHUT DOWN VIRTUALLY ANY CONSTRUCTION, MINERAL DEVELOPMENT OR INDUSTRIAL DEVELOPMENT PROJECT THROUGHOUT ALASKA.

FINALLY PRIOR TO BRINGING THIS BILL ALONG, I WOULD RESPECTFULLY ASK THE HOUSE FISHERIES COMMITTEE, TO DEVELOP AN INVENTORY OF ALL PRIVATE LANDOWNERS, INCLUDING NATIVE CORPORATIONS THROUGHOUT THE BRISTOL BAY REGION, THAT WOULD BE AFFECTED BY THE TENETS OF HB#134. I WOULD ALSO ASK THAT A FUNDING SOURCE BE IDENTIFIED AS A MEANS FOR REIMBURSING THOSE PRIVATE LANDOWNERS FOR THEIR ECONOMIC LOSSES,

DERIVED FROM THE LOSS OF THEIR CONSTITUTIONALLY PROTECTED, LAND
USAGE, DUE TO HB#134,

Post-It® Fax Note 7671		Date 2-20-08	# of pages 2 -
To Louie Flores	From Dillingham L10		
Co./Dept Rep. Seaton	Co. Anna May		
Phone # 465-2689	Phone # 842-5319		
Fax # 465-3472	Fax # 842-5105		

TESTIMONY OF CHARLES C. HAWLEY ON HB 134, FEBRUARY 18, 2008

I am Charles C. Hawley a resident of Alaska since 1969 and an economic geologist practicing nationally and internationally since 1952. I oppose the passage of HB 134. The bill would not give much more protection to salmon than required by current law and regulation, but it would cause Alaska irreparable economic harm if it resulted in stopping the Pebble prospect. Other people with direct knowledge of rural Alaska have spoken about the local economic impacts of this legislation. My remarks mostly address a larger picture.

Because of the enormity of the Pebble mineral deposit, loss of the project would impact the balance of trade and cause further dependence on foreign sources for copper and molybdenum. It would also signal to the international investment community that Alaska really is not interested in invested capital for mining projects. That word will trickle down to the small capital markets that fuel most Alaska exploration—drying up risk capital.

The US is already a net metal importer. As the few existing major domestic copper mines, like Bingham Canyon, shut down due to depletion, foreign dependence will increase. Will copper obtained from the Congo, Indonesia, or Mongolia be environmentally cleaner than that from tightly regulated Alaska?

If demand for copper was decreasing, perhaps the problems would not be as severe, but it is not. More copper is needed to build a hybrid car than a traditional one. Huge amounts of copper will be needed to generate power and to connect wind and solar farms. Molybdenum present in billions of pounds at Pebble will be needed for corrosion resistant pipeline steel. Each ton of pipeline steel needs 10-15% molybdenum, and the gas line—when it is built—will require at least a billion pounds of moly. What about gold? Basically gold is back in its traditional role as a hedge against inflation; it has real international significance not addressed by jewelry made by Tiffany or Ben Bridge.

Hawley, p. 2 HB 134

As important as Pebble's economics are, some attention to HB 134 might be justified if there was a significant impact on the fishery. Inspection of maps showing where Pebble is, relative to major drainages, suggests that significant impacts are unlikely. Concern about Pebble's tailings is also misplaced—the tailings will not be a toxic stew, rather they will be like a big sand pile composed of quartz, feldspar, clay, and mica, minerals not noted for toxicity. The copper and other sulfides will have gone into closed mill circuits and slurry lines that will deliver them safely to the ships that will take Pebble ore to far east smelters.

In addition to laws and regulations that protect any Alaska fishery, there will be an immense pool of funds provided for the ultimate closure and reclamation of the mine that will serve all Alaskans as a long term insurance policy.

This bill needs special scrutiny to ensure that its sponsors are truly representing the best interests of their voters. I hope they take a hard look and withdraw this ill-conceived legislation.



ALASKA MINERS ASSOCIATION, INC.

3305 Arctic Blvd., #105, Anchorage, Alaska 99503 • (907) 563-9229 • FAX: (907) 563-9225 • www.alaskaminers.org

Honorable Paul Seaton
Chairman, Special Committee on Fisheries
State Capitol
Juneau, Alaska 99811

February 19, 2008

RE: CS to House Bill 134, Bristol Bay Fisheries Reserve

Dear Chairman Seaton,

Thank you for the opportunity to comment on the Committee Substitute to House Bill 134, Bristol Bay Fisheries Reserve. **This bill is not in the best interest of the State of Alaska and we oppose this bill and urge that it be removed from further consideration.**

During the summer recess field hearings on HB-134 it was stated that this bill would be rewritten to correct the problems with the bill. However, CS HB-134 fails to correct the problems but it does reveal and clarify that the true intent of the bill is to block any mining in the Bristol Bay Drainage and specifically the Pebble project.

This legislation is targeted, blatantly prejudicial and contains numerous problems. Firstly, it is type of unequal treatment of one industry and specifically focused on one project is unequal treatment under the law and is guaranteed to result in legal challenge. CS HB-134 would constitute a taking of rights established under the State Constitution. Much of the area covered by this bill was specifically selected because of its mineral potential. For the Legislature to now change the rules on a company after it has spent millions of dollars to legally explore for minerals in an area known for mineral values is surely a taking of rights.

This bill is poor public policy and it is bad for Alaska. Many Alaska communities are in desperate need of economic development, jobs and opportunities for young people. Mineral development can provide jobs - high-quality, skilled, good paying family wage jobs and such opportunities must not be summarily excluded. It is also poor public policy to change the rules on companies in the way proposed by CS HB-134. This is the type of action one would expect in third world "banana republics", not in modern civilized societies governed by the rule of law.

Alaska has a rigorous permitting system and this system should be given the opportunity to evaluate each project based on its merits. No project in the affected area has yet been proposed and indeed it is not yet clear that any project will be economically viable so it can be proposed.

We urge that CS HB-134 be dropped from further consideration.

Sincerely,

Steven C. Borell, P.E.
Executive Director

From: Robert B Stiles [rbstiles@gci.net]
Sent: Thursday, February 14, 2008 6:52 PM
To: Rep. Paul Seaton
Subject: I strongly oppose HB 134 - The Wild Salmon Protection Act

February 14, 2008
Paul Seaton

Dear Paul Seaton,

The passage of HB 134 would constitute a taking of valid existing mining rights and as such could expose the State to a very significant takings claim by those holding valid existing mining rights.

Denial of a permit does not expose the State to the same takings claim.

Passage of HB 134 would be fiscally irresponsible in the extreme.

Sincerely

Bob Stiles
711 H St
Suite 350
Anchorage, AK 99501-3446

FAX: 907-465-3472
House Fisheries Comm.
TO: Rep. Seaton - Chair

members: Rep. Johansen
Rep. Johnson
Rep. Le Doux
Rep. Wilson
Rep. Edgmon
Rep. Holmes

FROM: Ralph Angasan

RE: testimony against HB 134
as re-written.

thank you for the opportunity
to testify

**Before the House Fisheries Committee
HB 134**

Testimony of Ralph Angasan, Sr., President
Alaska Peninsula Corporation

~~Wednesday, Feb. 20, 2008~~ Feb. 18, 2008

I am Ralph Angasan, Sr., and I am appearing on behalf of and as the President of my village Corporation, Alaska Peninsula Corporation. APC is a consolidated village corporation, following the mergers of Port Heiden, Ugashik, South Naknek, Newhalen and Kokhanok. APC has over 600 shareholders and owns almost 400,000 acres of land along Lake Iliamna and the Alaska Peninsula. Our land holdings include lands near the Pebble deposit.

We opposed HB 134 last February. We opposed the rewritten HB 134 this last fall. And we oppose HB 134 as it is newly rewritten.

First it constitutes a taking:

- HB 134 directly and negatively impacts APC's legitimate expectations in the use of its own property. Today, we have surface exploration agreements. If this bill were to become law, and "sulfide mining" prohibited in Bristol Bay, our expectations would immediately suffer a loss, and we would hold the State accountable.
- HB 134 directly impacts APC shareholders' legitimate expectations in good jobs, in their home villages. If HB 134 becomes law, exploration activities will cease and many of our shareholders will be thrown out of work.
- HB 134 directly impacts APC's newly formed environmental consulting subsidiary. If HB 134 becomes law, our subsidiary will lose millions of dollars in contracts and contract opportunities with mineral exploration companies now engaged in mineral prospecting work in the Iliamna area.
- HB 134 directly impacts the Region's hopes and expectations for improved transportation, communications and utilities that mining activities will bring to the region and this in turn will result in accelerating the talent and brain drain as our young people look for opportunities and affordable living in urban areas.

Second, it is based on unfounded and baseless untruths with absolutely no scientific evidence to support the meager findings :

- That a ban on exploration, development and extraction of mineral wealth is a good thing ,
- That all "sulfide mining" is bad and dangerous ;

- That tourism and sports fishing at multimillion dollar lodges are more important than sustainable economies providing good jobs and opportunities to local residents and businesses;
- That the state legislature may with impunity take the legitimate expectations of its citizens.

Third, HB 134 is the product of special interests :

- Rep. Edgman has a serious and significant conflict of interest in the sponsorship of this bill.
 - He is the Chairman of Choggiung Ltd, the Village Corporation for Dillingham.
 - His corporation controls about 90,000 acres of lands that my village corporation and other Bristol Bay village corporations put into a Land Pool for the specific purpose of development.
 - In sponsoring legislation that will block development, Rep. Edgman is pursuing Choggiung's private interest in tourism and fishing activities in concert with his campaign contributors, many of whom control tourism industries.
 - This legislation would legitimize a breach of trust. That is wrong.
- Rep Ramras has a serious and significant conflict of interest in the sponsorship of this bill
 - His contributors include cruise ship and tourism companies
 - Another Ramras contributor is Mr. Bob Gillam, who has made no secret of his irrational fear of mineral exploration and the Pebble project
- Given these conflicts, it is no wonder that HB 134 violates every principle of good public policy

HB 134 is a bad bill. It was a bad bill last February. It was a failure this fall. And it is worse today.

**FAR WEST, INC.
P.O. BOX 124
HOMER, ALASKA 99603
Telephone/Fax: (907) 235-7981**

February 19, 2007

**Representative Kyle Johanson
State Capital, Room 13
Juneau, Alaska 99801-1182**

**Representative Craig Johnson
State Capital, Room 126
Juneau, Alaska 99801-1182**

**Representative Gabrielle LeDoux
State Capital, Room 1412
Juneau, Alaska 99801-1182**

**Representative Peggy Wilson
State Capital, Room 403
Juneau, Alaska 99801-1182**

**Representative Bryce Edgmon
State Capital, Room 424
Juneau, Alaska 99801-1182**

**Representative Lindsey Holmes
State Capital, Room 405
Juneau, Alaska 99801-1182**

**Chairman Representative Paul Seaton
State Capital, Room 102
Juneau, Alaska 99801-1182**

**House Fisheries Committee
State Capital
Juneau, Alaska 99801-1182**

RE: Opposition to House Bill 134

Dear Chairman Seaton:

Far West, Inc. (FWI), the Alaska Village Corporation for the Native Village of Chignik, opposes House Bill 134. We oppose the bill because it would, for all intents and purposes, prohibit hard rock mining in the Bristol Bay region. The proposed legislation would be counter-productive to economic development in the Bristol Bay region. We also believe that the legislation is prejudicial to FWI's interests as a Village Corporation entitled to receive a revenue stream pursuant to Sec. 7(i) and Sec. 7(j) of the Alaska Native Claims Settlement Act. Shutting down all mining in Bristol Bay will also have an impact on the exploration agreement presently existing between our Regional Corporation and mining interests, as well as between this corporation and mining interests. We also believe that, given the obvious negative impact HB 134 will have on

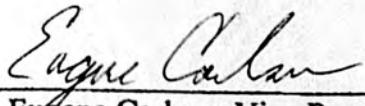
Chairman Paul Seaton
February 20, 2008
Page -2-

mining in the Bristol Bay region, Regional Corporations, at-large shareholders and Village Corporations throughout the State will be adversely impacted for the same reasons. They will be deprived of their fair shares of Sec. 7(i) and Sec. 7(j) revenue share if Bristol Bay Native Corporation is unable to develop its subsurface estate in perhaps some of the most mineral rich lands in the State, and indeed in the world.

Accordingly, we believe that HB 134 is a narrow, special interest bill and contrary to the interests of Alaska Natives, including our shareholders.

Very truly yours,

FAR WEST, INC.

By: 
Eugene Carlson, Vice-President

cc: Board of Directors