

AK LEGISLATURE SPECIAL COMMITTEE FILES SCOMM 147 3186

Louie Flora

From: Nina Faust [fausbail@horizonsatellite.com]
Sent: Sunday, February 04 2007 8:21 AM
To: Rep. Paul Seaton
Cc: Rep. John Harris; Rep. Kyle Johansen; Rep. Gabrielle LeDoux; Rep. Peggy Wilson; Rep. Bryce Edgmon; Rep. Lindsey Holmes
Subject: HB 74

P.O. Box 2994
Homer, AK 99603

February 4, 2005

House Fisheries Committee
Alaska State House
Juneau, AK 99811

Dear Committee Members:

We have reread HB 74 and thought some more about section (C) *The prohibition in (a) of this section does not apply to a mixing zone for a suction dredge placer mine or a mechanical placer mine.* Cumulative impacts to a spawning stream from many such activities in the same stream could collectively impact spawning fish. An exemption as broad as this one leaves too much to interpretation and too much dependency on the overseeing agency's ability to monitor these activities and assess impacts. With the current system of reduced oversight and limited funds for enforcement of pollution regulations, this exemption would leave many of our spawning areas vulnerable to degraded water quality.

We urge the committee to strike this exemption.

One other consideration is to make sure that a mechanism is in place to determine whether a water body has salmon or other indigenous fish spawning in its waters since the State's catalog of these water bodies is not complete. Thank you for the opportunity to comment.

Sincerely,

Nina Faust

Edgar Bailey

P.O. Box 2994
Homer, AK 99603

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

From: Sammy Crawford [mailto:scrawfor@alaska.net]

Sent: Sunday, February 04, 2007 10:53 AM

To: Louie Flora

Subject: Mixing Zones

I am in strong of HB 74 concerning MIXING ZONE legislation.

Warren Crawford

36615 Chinulna Dr.

Kenai, Alaska 99611

907-283-9271

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

From: Sammy Crawford [mailto:scrawfor@alaska.net]

Sent: Sunday, February 04, 2007 10:45 AM

To: Louie Flora

Subject: Mixing Zones

My name is Warren Crawford and I have been a resident of the Kenai Peninsula for 31 years. I have been a commercial fisherman, sportfish guide, sportfisherman, and worker on the Kenai River for the Kenai Watershed Forum. I am in strong support of HB 74. I feel it is very important to pass this legislation!!!!

Warren Crawford
36615 Chinulna Dr.
Kenai, AK. 99611
(907-283-9271)

From: Ward Grant [mailto:wards19thhole@yahoo.com]
Sent: Sunday, February 04, 2007 11:04 AM
To: Louie Flora
Subject: HB74 & Chuitna Coal Project

I am writing in support of HB74. I am a commercial fishing with commercial fishing sites located on Three Mile Beach on the west side of Cook Inlet. A geographical reference would be the Beluga Area.

As you may be aware, Beluga area is the area where the Pac Rim Coal Company proposes to locate a massive open pit coal mine, the Chuitna Coal Project. The primary market for this coal is the Asian market. The specifics of this project are spelled out in the Chuitna SEIS Report, www.chuitna.seis.com

If you review the data surrounding this project you realize the huge environmental impact that will take place on drainage areas leading into the Chuitna River and other rivers and lakes. The dewatering of this mining project will certainly damage one of the most important spawning areas for Salmon, especially Chinook salmon, and other sports and commercial fish in the northern Cook Inlet.

The commercial & sports fishermen need all the help they can get from heavily financed outside coal concerns and local government officials, Kenai Borough who seem intent on sacrificing the local community and its commerce for Coal Monies. HB 74 alone will not protect us but it would be a big help in preserving a pristine area and the valuable renewable resource of wild fish in our area.

Ward Grant

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Louie Flora

From: Jim Chumbley [chumbley@gci.net]
Sent: Sunday, February 04, 2007 1:51 PM
To: Rep. Paul Seaton
Subject: HB 74

Hi Representative Seaton,
I support HB 74. For many people Alaska is defined by its affiliation with salmon, so protecting the spawning grounds of the salmon is not just important for the commercial and recreational economics, but also for the very identity of Alaska. I applaud your efforts.
Thanks,
Jim Chumbley

2/5/2007

Louie Flora

From: Duane Howe [duhowe@alaska.net]
Sent: Sunday, February 04, 2007 7:43 PM
To: Rep. Paul Seaton
Subject: HB 74

Dear Representative Seaton:

Thank you for introducing HB 74. Your bill sets out to clarify that we, the people of Alaska, do not want our fishery resource compromised by allowing some of its spawning streams to become even temporarily polluted or mildly polluted by anything that could be viewed as harmful to our fishery product, let alone to the fish themselves. As I and others have already pointed out more than once, it would be short-sighted to allow any development or deliberate discharge into spawning streams that could even have the appearance of compromising the quality of our fish products.

It appears that the mining industry is the only supporter of the mixing zone idea, while a long list of organizations and related industries are opposed. With this kind of support HB 74 should have no trouble passing both houses of the legislature and being signed by the governor. I wish you success.

Duane Howe
41640 Gladys Ct
Homer, AK 99603

February 3, 2005

House Fisheries Committee
Alaska State House
Juneau, AK 99811

Dear Committee Members:

We are writing in support of HB 74, "An Act prohibiting mixing zones in freshwater spawning streams." We wrote last year in support of HB 328 and would very much like to see HB 74 passed to close the loophole that allows discharges into spawning streams most of the year except when actual spawning is occurring.

With proposals for huge new mines and other new industrial development, protecting our salmon and other native fish spawning streams from pollution discharges is essential to maintain Alaska's fisheries. Relaxing this important water quality standard will eventually lead to degraded water quality that will have an effect on fish.

Alaska has always been proud of its pristine waters and healthy, abundant fish. If we start allowing pollution discharges into our fish streams under that mythical guise of mixing zones make it okay, it is only a matter of time before our fisheries like those in the Lower 48 states will also slip away. Please pass HB 74.

Sincerely,

Nina Faust

Edgar Bailey

Louie Flora

From: Dave Lacey [drdixon20022000@yahoo.com]
ant: Saturday, February 03, 2007 11:46 AM
o: Louie Flora
Subject: Mixing Zones

I support the banning of Mixing Zones. I believe we need to err on the conservative side in doing this.

We do not need to endanger our health and fisheries and more by gambling with this. I have seen grayling fishing ruined on the Chatanika River in the late 70's when a miner upstream dumped a bunch of mud in the river. Dave Lacey, PO Box 81765, Fairbanks, AK 99708

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Louie Flora

From: amy bollenbach [amybollenbach@gci.net]
Sent: Saturday, February 03, 2007 9:05 PM
To: Rep. Paul Seaton
Subject: mixing zones

I think you're on this, but HB 74 prohibiting mixing zones in fresh water spawning waters sounds important. Please seriously consider.

2/4/2007

From: Marjorie & Dan Dunaway [mailto:mwdnt@nushtel.com]

Sent: Friday, February 02, 2007 6:22 PM

To: Rep. Paul Seaton

Subject: Re: Mixing Zone legislation hearing

Thank you very much for remembering my concerns and interest in this issue. I hope Palin and the Legislature is more sympathetic to this issue. I'll review and hope to submit my support.

Dan Dunaway

|

Louie Flora

From: John Lyle [kayak@gci.net]
nt: Friday, February 02, 2007 7:07 PM
o: Louie Flora
Subject: Mixing Zone Legislation

Dear Folks, I support the mixing zone legislation. It's about time this subject has been addressed. Great damage has been done from years of neglect in this area, and if this legislation does not pass, I will be extremely upset. Thanks for listening. Sincerely,
John D. Lyle Box 83715 Fairbanks, Alaska 99708

Louie Flora

From: Marion Nelson [mmkn@ptialaska.net]
Sent: Friday, February 02, 2007 10:15 PM
To: Louie Flora
Subject: I support HB74

To all Legislators,

There is no reason to mess up our clean water.
Support HB 74.

Marion Nelson

Marion K. Nelson
P.O. Box 3612
Kenai AK 99611
Phone (907) 283-4632

COMMITTEE: House Special
Committee on Fisheries
February 14, 2007

SUBJECT: HB 74-BAN MIXING ZONES IN
SPAWNING AREAS



PLEASE SIGN IN

PLEASE PRINT:
NAME & TITLE

ADDRESS

PHONE

REPRESENTING
(No acronyms unless for a state agency,
please)

DO YOU
WANT TO
TESTIFY ?

Don Bremner	P.O. Box 20161	463-7124	S. E. Alaska Inter-Tribal Fish & Wildlife Comm.	yes
E-mail address:	dbremner@ci.net			
MARK KAEKE	419 S. 6th Juneau	321-4464	TROUT UNLIMITED	YES (on HB 41 only)
E-mail address:	mkaelke@ta.org			
E-mail address:				
E-mail address:				
E-mail address:				

SITE: CORDOVA

COMMITTEE: HFSH

DATE: 2/12/07

SUBJECT OF MEETING:

BILL # HB74 Ban Mixing
Zones Spawning Areas

UPDATE #: 1

PRINT YOUR NAME

COMMUNITY

REPRESENTING/AFFILIATION

DO YOU WANT
TO TESTIFY?

Y OR N

Kristin Smith	Cordova	Copper River Watershed Project	Y

add of Review "authentic" 20 ppw

SITE: Kenai LIO

COMMITTEE: House Fisheries

DATE: 2-12-07

AGENDA:

HB 74 BAN MIXING ZONES IN SPAWNING AREAS

UPDATE #:

**DO YOU WANT
TO TESTIFY?**

PRINT YOUR NAME

COMMUNITY

REPRESENTING / AFFILIATION

Y or N

✓ Dr. Roland Maw	Kenai	United Cook Inlet Drift Assoc	Y

DATE:

UPDATE #: 1

Testify Yes/No[illegible]

DATE:

UPDATE #:

REPRESENTING/AFFILIATION

Testify Yes/No[illegible]

COMMITTEE: HFSH
Date: 02-07-07

HB74
UPDATE #:

TESTIFY
Y or N

COMMUNITY

REPRESENTING/AFFILIATION

[illegible]

**COMMITTEE: House Special
Committee on Fisheries
February 5, 2007**

**SUBJECT: MIXING ZONES IN
SPAWNING AREAS**



PLEASE SIGN IN

**PLEASE PRINT:
NAME & TITLE**

ADDRESS

PHONE

REPRESENTING

(No acronyms unless for a state agency,
please)

**DO YOU
WANT TO
TESTIFY?**

Linda Behnten ALFA alfafish@pt.alaska.net E-mail address:	903 Lincoln SITKA	7-3400	AK Longline fishermen's ASSOC.	NO
DICK CURRAN	608 Eldin St SITKA	747-6094	S P C	NO
Lindsey Bloom AKlindsey@immanentblam.net E-mail address:		463-3327	Trout Unlimited AK	NO
Lauren Oakes Alaska Program's officer loakes@TV.org E-mail address:	414 Sixth St. Suite 300 Trout Unlimited	321-3725	TU	NO
E-mail address:				
E-mail address:				

COMMITTEE: House Special
Committee on Fisheries
February 7, 2007

SUBJECT: ~~REDACTED~~ ~~SPAWNING AREAS~~



PLEASE SIGN IN

PLEASE PRINT:
NAME & TITLE

ADDRESS

PHONE

REPRESENTING

(No acronyms unless for a state agency,
please)

DO YOU
WANT TO
TESTIFY ?

Lynn Kent	Dir. Dwy Water DEC online.		DEC	Y
E-mail address:				
Tyler Dann	PO Box 211576 ^{Anchorage} 99821	230-3964	Myself	Y
E-mail address:	tylerdann@gmail.com			
E-mail address:				
E-mail address:				
E-mail address:				

SITE: **Juneau**

COMMITTEE: House Fish

DATE: 02-07-07

SUBJECT OF MEETING:

BILL #HB74

UPDATE 8:3

PRINT YOUR NAME

COMMUNITY

REPRESENTING/AFFILIATION

DO YOU WANT

TESTIFY

Y or N

✓ Lynn Kent		DEC	Y
✓ Ken Duckert		USE AK gillnetters	Y
✓ Cameron Leonard		Attn Gen Office	Y
✓ Richard King		Citizen	Y
✓ Izetta Chambers		Citizen <i>Northwest</i>	Y
<i>Tyler</i>			

DATE : 2/7/2006 8:30am

UPDATE: 1

Y or N

HB 74-Y[illegible]

SITE: CORDOVA

COMMITTEE: HFSH

DATE: 02/07/07

DATE: 02/07/07

UPDATE #: 1

DO YOU WANT
TO TESTIFY?
Y OR N

TO TESTIFY?

Y O R N

[illegible]

DATE: 2-7-07

Update #

Y or N

[illegible]

DATE: 02/05/07

UPDATE: Final

[illegible]

COMMITTEE: HFSH
Date: 02-07-07

HB74
UPDATE #: 1

PRINT YOUR NAME

COMMUNITY

REPRESENTING/AFFILIATION

[illegible]

SITE: Tundra

COMMITTEE: House Fish

DATE: 02-07-07

SUBJECT OF MEETING:

BILL #HB74

UPDATES 8:2

PRINT YOUR NAME

COMMUNITY

REPRESENTING/AFFILIATION

DO YOU WANT

TESTIFY

Y or N

✓ Lynn Kent

DEC

Y

✓ Ken Duckett

U S E AK gillnetters

Y

Cameron Leonard ✓

Attn Gen Office

Y

Richard King

Citizen Kluckman

Y

Comparison of Provisions in the old and new Mixing Zone Regulations and in HB 74

Prepared by the office of Rep. Seaton

OLD MIXING ZONE REGULATIONS	NEW MIXING ZONE REGULATIONS	HB 74	COMPARISON
SPAWNING AREA PROHIBITION	SPAWNING AREA PROHIBITION	SPAWNING AREA PROHIBITION	
18 AAC 70.255. Mixing zones: In-zone quality and size specifications	18 AAC 70.240	The department may not authorize a mixing zone for lakes, streams, rivers, or other flowing fresh water in an area of	The language of HB 74 is taken from the old regulatory language. HB 74 also adds "lakes" to the spawning area mixing zone prohibition.
(h) For streams, rivers, or other flowing fresh waters subject to (e)(3) of this section, a mixing zone will not be authorized in an area of	(e) In lakes, streams, rivers, or other flowing fresh waters, a mixing zone will not be authorized in a spawning area or allowed to adversely affect the present and future capability of an area to support spawning, incubation, or rearing of any of the five species of Pacific salmon.	(1) anadromous fish spawning; or	In both the old regulation and HB 74 there is a flat prohibition on mixing zones applying to all anadromous fish spawning areas, and in the egg redds or nests of numerous different freshwater resident species.
(1) anadromous fish spawning; or (2) resident fish spawning redds for Arctic grayling, northern pike, rainbow trout, lake trout, brook trout, cutthroat trout, whitefish, sheefish, Arctic char (Dolly Varden), burbot, and landlocked coho, king, and sockeye salmon.		(2) resident fish redds for (A) Arctic char; (B) Arctic grayling; (C) brook trout; (D) burbot; (E) cutthroat trout; (F) Dolly Varden; (G) lake trout; (H) landlocked coho, king, and sockeye salmon; (I) northern pike; (J) rainbow trout; (K) sheefish; or (L) whitefish.	In contrast, the newly adopted ADEC Mixing Zone regulations contain a prohibition only on mixing zones in the spawning areas of any of the five species of Pacific salmon. Mixing zones may be authorized in a spawning area for resident freshwater and non-salmon anadromous species. Mixing zones may also be authorized in areas that may support spawning, incubation, or rearing of any of the five species of Pacific salmon, as long as the pollutant will not adversely affect the present and future capability of the area to support these activities.

OLD MIXING ZONE REGULATIONS	NEW MIXING ZONE REGULATIONS	HB 74	COMPARISON
SPATIAL AND TEMPORAL SPAWNING AREAS	SPATIAL AND TEMPORAL SPAWNING AREAS	SPATIAL AND TEMPORAL SPAWNING AREAS	
No reference found	(j) For purposes of this section, the department will defer to the Department of Natural Resources, Office of Habitat Management and Permitting or the Department of Fish and Game to determine spawning areas, both spatially and temporally.	(c) In this section (1) "area" means the physical location where spawning occurs	HB 74 specifies that, for the purpose of the bill, a spawning area is strictly a physical location and is not to be interpreted temporally. The old Mixing Zone regulations do not make reference to spatial and temporal spawning areas. Neither of the two previously proposed mixing zone regulations made reference to spawning areas as spatial and temporal entities. The new ADEC Mixing Zone regulations contain this language, implying that mixing zones will be allowed in stream areas used for spawning during some portion of the year. "A mixing zone could be allowed when spawning salmon, eggs, or larvae are not present, state officials said. For example, a placer miner could "operate for a very small window of time" in some salmon spawning streams in Alaska, said Lynn Kent, director of the Environmental Conservation Department's Division of Water."* *<i>"Mixing Zone Change Fuzzy for Fishermen"</i> Elizabeth Bluemink, Juneau Empire, January 15, 2006

OLD MIXING ZONE REGULATIONS	NEW MIXING ZONE REGULATIONS	HB 74	COMPARISON
EXCEPTIONS TO THE SPAWNING AREA PROHIBITION	EXCEPTIONS TO THE SPAWNING AREA PROHIBITION	EXCEPTIONS TO THE SPAWNING AREA PROHIBITION	
No exceptions found	(i) The provisions of (e),(f) and (g) of this section do not apply to the renewal of a mixing zone authorization where spawning was not occurring at the time of the previous authorization, but successful spawning, incubation and rearing has occurred within the mixing zone subsequent to the previous authorization of that mixing zone. (f) In lakes, streams, or other flowing fresh waters, except as provided in (g) of this section, a mixing zone will not be authorized in a spawning area for Arctic Grayling; northern pike; lake trout; brook trout; sheefish; burbot; landlocked coho salmon, king salmon, or sockeye salmon; or anadromous or resident rainbow trout, Arctic char, Dolly Varden, whitefish or cutthroat trout. (g) The Department may authorize a mixing zone in a spawning area of a lake, stream, river or other flowing fresh water for the species listed in subsection (f) if, after consultation with the Department of Natural Resources, Office of	(b) The prohibition in (a) of this section does not apply to the renewal of a municipal or village wastewater facility's mixing zone authorization during the useful life of the wastewater facility for an area where spawning was not ongoing at the time of the initial authorization and the mixing zone became a spawning area after the date of the initial authorization. (c) The prohibition in (a) of this section does not apply to a mixing zone for a suction dredge placer mine or a mechanical placer mine if (1) the turbidity level of the mixing zone has been authorized by the Department of Environmental Conservation; (2) the mixing zone extends not more than 500 feet downstream of the point of discharge; (3) the mixing zone is at least 500 feet away from the closest mixing zone in the same body of water; and	HB 74 allows for mixing zones in man-made ditches and holding ponds by prohibiting reclassification of these areas as freshwater spawning areas if they are subsequently colonized by spawning fish. HB 74 allows municipal and village wastewater discharges to be re-authorized for the useful life of a facility if spawning occurs in the mixing zone after initial authorization. HB 74 allows a placer mine operation to be authorized for a turbidity mixing zone up to 500 feet from the point of discharge during periods when fish are not actively spawning. In comparison, the old mixing zone regulations did not contain any exemptions to the spawning area prohibition. The new ADEC mixing zone regulations allow any mixing zone in flowing fresh water to be re-permitted if spawning, incubation, or rearing occurs within the active

	Habitat Management and Permitting, or the Department of Fish and Game if with a legislatively designated special area under AS 16.20, the department finds the applicant has (1) demonstrated that the discharge does not contain pollutants at concentrations that exceed the criteria for growth and propagation of fish, shellfish, and other aquatic life, and wildlife established in 18 AAC 70.020(b) and that the discharge will not adversely affect the capability of the area to support future spawning, incubation, and rearing activities; (2) submitted a mitigation plan approved by the Department of Fish and Game under 5 AAC 95.900 if within a legislatively designated special area under AS 16.20; or (3) submitted a mitigation plan approved by the Department of Natural Resources, Office of Habitat Management and Permitting, and incorporating as part of the discharge authorization, using the methods established in 11 AAC 195.010.	(4) the Department of Environmental Conservation with the concurrence of the Department of Natural Resources, or, in an area designated under AS 16.20, with the concurrence of the Department of Fish and Game, (A) restricts the discharge to periods when spawning is not occurring; and (B) finds that the mixing zone will not adversely affect the present and future capability of the area for spawning, incubation, or rearing of fish included in (a) of this section. (c) (2) "lakes, streams, rivers, or other flowing fresh water" includes lakes, streams, rivers, or other flowing fresh water that have been altered by remediation or construction activities; the term does not include an artificially constructed facility for water, wastewater, holding, or channeling, unless the artificial facility is constructed for the purpose of facilitating fish spawning.	mixing zone. The new ADEC Mixing Zone regulations allow mixing zones in the spawning areas of Arctic Grayling; northern pike; lake trout; brook trout; sheefish; burbot; landlocked coho salmon, king salmon, or sockeye salmon; or anadromous or resident rainbow trout, Arctic char, Dolly Varden, whitefish or cutthroat trout.
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PREVIOUS REGULATIONS PROHIBITING MIXING
ZONES IN FRESHWATER SPAWNING AREAS.
SPAWNING AREA PROHIBITION AT 70.255(h).

18 AAC 70.255. Mixing zones: In-zone quality and size specifications

(a) The size, location, or other limits of a mixing zone set by or under this chapter will be established in a discharge permit, certification, or order issued by the department under the appropriate chapter in this title.

(b) Water quality criteria must be met at the boundary of the mixing zone. A discharge may not cause or reasonably be expected to cause

(1) lethality to passing organisms in the mixing zone; or

(2) a toxic effect in the water column, sediments, or biota outside the boundaries of the mixing zone.

(c) Human health and chronic aquatic life criteria apply at and beyond the boundaries of the mixing zone.

(d) Acute aquatic life criteria apply at and beyond the boundaries of a smaller initial mixing zone surrounding the outfall. The smaller initial mixing zone for application of acute criteria must be sized to prevent lethality to passing organisms. Methods for calculating the boundaries of the smaller initial mixing zone for application of acute criteria, unless otherwise specified by the department, must follow procedures under Alternatives 2, 3, or 4 in Section 5.1.2 of the United States Environmental Protection Agency's Water Quality Standards Handbook, Second Edition, August 1994, EPA-823-B-94-005a.

(e) Unless the department finds that evidence is sufficient to reasonably demonstrate, in accordance with this section, that the size limitations of a mixing zone can be safely increased, a mixing zone must comply with the following size restrictions:

(1) for estuarine and marine waters, measured at mean lower low water,

(A) the cumulative linear length of all mixing zones intersected on any given cross section of an estuary, inlet, cove, channel, or other marine water may not exceed 10 percent of the total length of that cross section; and

(B) the total horizontal area allocated to mixing zones may not exceed 10 percent of the surface area;

(2) for lakes, the total horizontal area allocated to all mixing zones may not exceed 10 percent of the lake's surface area; and

(3) for streams, rivers, or other flowing fresh waters, subject to (f), (g), and (h) of this section, the length of a mixing zone may not extend downstream beyond the limits described in (A) or (B) of this paragraph, whichever is closer to the point of discharge, as follows:

(A) beyond the computed point where the variation in the concentration of a water quality parameter across a stream, river, or other flowing fresh water is predicted to be less than five percent, as determined using a standard river flow mixing model accepted by the department; or

(B) beyond the location where the department determines that a public health hazard reasonably could

be expected to occur.

(f) For streams, rivers, or other flowing fresh waters subject to (e)(3) of this section, in calculating the maximum pollutant discharge limitations, the volume of flow available for dilution must be determined using

(1) the actual flow as determined by gauging data collected concurrent with the discharge; or

(2) for conventional or nontoxic substances, the default 2-year, 3-day low flow (3Q2) appropriate to the period of discharge; for toxic substances, the 10-year, 7-day low flow (7Q10) as the chronic criteria design flow and the 10-year, 1-day (1Q10) as the acute criteria design flow for protection of aquatic life; for carcinogens, the harmonic mean flow as the design flow for the protection of human health; these low flows must be calculated using methods of Ashton and Carlson, *Determination of Seasonal, Frequency and Durational Aspects of Streamflow with Regard to Fish Passage Through Roadway Drainage Structures*(1984), Carlson, *Seasonal, Frequency and Durational Aspects of Streamflow in Southeast and Coastal Alaska*(1987), or another appropriate regional regression flow model approved by the department; numeric water quality criteria apply at all design flows that are equal to or greater than these critical low flows.

(g) For streams, rivers, or other flowing fresh waters subject to (e)(3) of this section, a mixing zone may not result in

(1) permanent or irreparable displacement of indigenous organisms; or

(2) a reduction in fish or shellfish population levels.

(h) For streams, rivers, or other flowing fresh waters subject to (e)(3) of this section, a mixing zone will not be authorized in an area of

(1) anadromous fish spawning; or

(2) resident fish spawning redds for Arctic grayling, northern pike, rainbow trout, lake trout, brook trout, cutthroat trout, whitefish, sheefish, Arctic char (Dolly Varden), burbot, and landlocked coho, king, and sockeye salmon.

History: Eff. 11/1/97, Register 143

Authority: AS 46.03.020

AS 46.03.030

AS 46.03.070

AS 46.03.080

AS 46.03.100

AS 46.03.110

AS 46.03.710



✦ 18 AAC 70.240. Mixing zones

✦ (a) Upon application, the department may authorize in a discharge permit or certification, a mixing zone or multiple mixing zones in which the water quality criteria and any limit set under this chapter may be exceeded. The applicant shall provide to the department all available evidence reasonably necessary to demonstrate that a mixing zone will comply with this section. The department will approve, approve with conditions, or deny a mixing zone application.

(b) In determining whether to authorize a mixing zone under this section, the department will consider

(1) the characteristics of the receiving water, including biological, chemical, and physical characteristics such as volume, flow rate, and flushing and mixing characteristics;

(2) the characteristics of the effluent, including volume, flow rate, dispersion, and quality after treatment;

(3) the effects, if any, including cumulative effects of multiple discharges and diffuse, nonpoint source inputs, that the discharge will have on the uses of the receiving water;

(4) any additional measures that would mitigate potential adverse effects to the aquatic resources present; and

(5) any other factors the department finds must be considered to determine whether a mixing zone will comply with this section.

(c) The department will approve a mixing zone, as proposed or with conditions, only if the department finds that available evidence reasonably demonstrates that

(1) an effluent or substance will be treated to remove, reduce, and disperse pollutants, using methods that the department finds to be the most effective, technologically and economically feasible, and at a minimum consistent with statutory and regulatory treatment requirements including

(A) any federal technology-based effluent limitation identified in 40 C.F.R. 122.29 and 40 C.F.R. 125.3, as revised as of July 1, 2005 and adopted by reference;

(B) minimum treatment standards in 18 AAC 72.050; and

(C) any treatment requirement imposed under another state statute or regulation that is more stringent than a requirement of this chapter;

(2) designated and existing uses of the waterbody as a whole will be maintained and protected;

(3) the overall biological integrity of the waterbody will not be impaired; and

(4) the mixing zone will not

(A) result in an acute or chronic toxic effect in the water column, sediments, or biota outside the

boundaries of the mixing zone;

(B) create a public health hazard that would preclude or limit existing uses of the waterbody for water supply or contact recreation;

(C) preclude or limit established processing activities or established commercial, sport, personal-use, or subsistence fish and shellfish harvesting;

(D) result in a reduction in fish or shellfish population levels;

(E) result in permanent or irreparable displacement of indigenous organisms;

(F) adversely affect threatened or endangered species except as authorized under 16 U.S.C. 1531 - 1544 (Endangered Species Act); or

(G) form a barrier to migratory species or fish passage.

(d) The department will approve a mixing zone, as proposed or with conditions, only if the department finds that available evidence reasonably demonstrates that within the mixing zone the pollutants discharged will not

(1) bioaccumulate, bioconcentrate, or persist above natural levels in sediments, water, or biota to significantly adverse levels, based on consideration of bioaccumulation and bioconcentration factors, toxicity, and exposure;

(2) present an unacceptable risk to human health from carcinogenic, mutagenic, teratogenic, or other effects as determined using risk assessment methods approved by the department and consistent with 18 AAC 70.025;

(3) settle to form objectionable deposits, except as authorized under 18 AAC 70.210;

(4) produce floating debris, oil, scum and other material in concentrations that form nuisances;

(5) result in undesirable or nuisance aquatic life;

(6) produce objectionable color, taste, or odor in aquatic resources harvested from the area for human consumption;

(7) cause lethality to passing organisms; or

(8) exceed acute aquatic life criteria at and beyond the boundaries of a smaller initial mixing zone surrounding the outfall, the size of which shall be determined using methods approved by the department.

(e) In lakes, streams, rivers, or other flowing fresh waters, a mixing zone will not be

(1) authorized in a spawning area of any of the five species of anadromous Pacific salmon found in the state; or

(2) allowed to adversely affect the present and future capability of an area to support spawning,

incubation, or rearing of any of the five species of anadromous Pacific salmon found in the state.

(f) In lakes, streams, rivers, or other flowing fresh waters, except as provided in (g) of this section, a mixing zone will not be authorized in a spawning area for

- (1) Arctic grayling;
- (2) northern pike;
- (3) lake trout;
- (4) brook trout;
- (5) sheefish
- (6) burbot;
- (7) landlocked coho salmon, chinook salmon, or sockeye salmon; or
- (8) anadromous or resident rainbow trout, Arctic char, Dolly Varden, whitefish, or cutthroat trout.

(g) The department may authorize a mixing zone in a spawning area of a lake, stream, river, or other flowing fresh water for the species listed in (f) of this section if

(1) after consultation with the Department of Natural Resources, or with the Department of Fish and Game if the spawning area is within a special area, the department finds that the applicant has demonstrated that the discharge

(A) does not contain pollutants at concentrations that exceed the criteria for growth and propagation of fish, shellfish, other aquatic life, and wildlife established in 18 AAC 70.020(b) (1) - (12); and

(B) will not adversely affect the capability of the area to support future spawning, incubation, and rearing activities;

(2) the applicant has submitted to the department a mitigation plan approved by the Department of Fish and Game under 5 AAC 95.900 if the spawning area is within a special area;

(3) the applicant has submitted to the department a mitigation plan approved by the Department of Natural Resources under AS 41.14, if the spawning area is within waters included in the *Catalog of Waters Important for Spawning, Rearing or Migration of Anadromous Fishes*, adopted by reference in 11 AAC 195.010; the department will incorporate the mitigation plan as part of the discharge authorization; or

(4) the applicant has submitted to the department a mitigation plan approved by the department, after consultation with the Department of Natural Resources, if the spawning area is not within waters described in (2) or (3) of this subsection; the mitigation plan must use measures described in the *Catalog of Waters Important for Spawning, Rearing or Migration of Anadromous Fishes*, adopted by reference in 11 AAC 195.010; the department will incorporate the mitigation plan as part of the discharge authorization.

(h) In a mixing zone authorization under (g) of this section, the department may require the applicant to monitor effluent, ambient water quality, and biological conditions to determine whether unanticipated adverse effects on spawning, incubation, and rearing of species identified in (f) of this section are occurring.

(i) The provisions of (e), (f), and (g) of this section do not apply to the renewal of a mixing zone authorization where spawning was not occurring at the time of the initial authorization, but successful spawning, incubation, and rearing has occurred within the mixing zone after the initial authorization of that mixing zone.

(j) When determining whether to authorize a mixing zone under (e), (f), or (g) of this section, the department will make that determination

(1) in conformance with the determination of the Department of Fish and Game, acting under AS 16.20, of the location and time of a spawning area within a special area;

(2) in conformance with the determination of the Department of Natural Resources, acting under AS 41.14, of the location and time of a spawning area within waters included in the *Catalog of Waters Important for Spawning, Rearing or Migration of Anadromous Fishes*, adopted by reference in 11 AAC 195.010; or

(3) after consultation with the Department of Natural Resources, as to what the Department of Natural Resources considers the location and time of a spawning area not within waters described in (1) or (2) of this subsection.

(k) The department will approve a mixing zone, as proposed or with conditions, only if it finds that the mixing zone is as small as practicable and will comply with the following size restrictions, unless the department finds that evidence is sufficient to reasonably demonstrate that these size restrictions can be safely increased:

(1) for estuarine and marine waters, measured at mean lower low water,

(A) the cumulative linear length of all mixing zones intersected on any given cross section of an estuary, inlet, cove, channel, or other marine water may not exceed 10 percent of the total length of that cross section; and

(B) the total horizontal area allocated to all mixing zones at any depth may not exceed 10 percent of the surface area;

(2) for lakes, the total horizontal area allocated to all mixing zones at any depth may not exceed 10 percent of the lake's surface area;

(3) for streams, rivers, or other flowing fresh waters, the length of a mixing zone may not extend beyond the computed point of complete mixing, as determined using a standard river flow mixing model or other methods accepted by the department;

(4) for streams, rivers, or other flowing fresh waters, the length of a mixing zone may not extend downstream beyond the location where the department determines that a public health hazard reasonably could be expected to occur.

(l) For streams, rivers, or other flowing fresh waters, in calculating the maximum pollutant discharge limitation, the volume of flow available for dilution must be determined using

(1) the actual flow data collected concurrent with the discharge; or

(2) for conventional and nontoxic substances, the 10-year, 7-day low flow (7Q10) as the criteria design flow; for the protection of aquatic life, the 10-year, 7-day low flow (7Q10) as the chronic criteria design flow and the 10-year, 1-day low flow (1Q10) as the acute criteria design flow; and for the protection of human health, the 5-year, 30-day low flow (30Q5) as the noncarcinogenic criteria design flow and the harmonic mean flow as the carcinogenic criteria design flow; these low flows must be calculated using methods approved by the department.

(m) If the department finds that available evidence reasonably demonstrates that a mixing zone authorized by the department has had or is having a significant unforeseen adverse environmental effect, the department will terminate, modify, or deny renewal of the permit or certification authorizing the mixing zone.

(n) When consulting with an agency under (g) or (j) of this section, the department will give appropriate weight to any information received from the agency, considering the agency's expertise.

(o) For purposes of this section, the five species of anadromous Pacific salmon found in the state are chinook salmon, coho salmon, sockeye salmon, pink salmon, and chum salmon.

(p) In this section, "special area" means a state game refuge, a state game sanctuary, or a state fish and game critical habitat area, established under AS 16.20.

✦ History: Eff. 11/1/97, Register 143; am 3/23/2006, Register 177

✦ Authority: AS 46.03.010

AS 46.03.020

AS 46.03.050

AS 46.03.070

AS 46.03.080

AS 46.03.100

AS 46.03.110

AS 46.03.710

AS 46.03.720



SCOMM

147:26

Alaska State Legislature
REPRESENTATIVE BRYCE EDGMON
House District 37

MEMORANDUM

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
Nikolski
Perryville
Pilot Point
Portage Creek
Port Heiden
St. George
St. Paul
Sand Point
South Naknek
Togiak
Twin Hills
Ugashik
Unalaska

DATE: February 15, 2007

TO: Rep. Paul Seaton, Chairman
House Fisheries Committee

FROM: Rep. Bryce Edgmon *BE*
House District 37

SUBJ: Request for Hearing on HB134 – Protection of Salmon Spawning Water

I respectfully request a committee hearing on HB134, a measure relating to the conservation and protection of wild salmon production in drainages affecting the Bristol Bay Fisheries Reserve.

HB134 proposes new restrictions on water use within the watersheds of the Nushagak, Kvichak, Naknek, Egegik and Ugashik Rivers. Current authorized and future common-sense uses are exempted from the bill.

HB134 also proposes a schedule of fines for people or corporations that break the new, more stringent rules.

I am attaching a copy of the bill and support material. The support material includes some committee notes from the Seventh Alaska State Legislature, who originally designated this area as a reserve.

SPONSOR STATEMENT / SECTIONAL ANALYSIS

HB134 – Protection of Salmon Spawning

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 these protections to the river systems, ground water, aquifer systems, and other hydrologic regimes in the Bristol Bay drainage system.

Specifically, HB134 would make it illegal to withdraw, obstruct, pump, or pollute surface or subsurface water in any Bristol Bay drainages that support salmon. It also lays out a fine schedule for violations of those protections.

The bill establishes exceptions to the law for previously approved uses, drinking water and domestic uses, existing and future municipal uses, and for traditional, cultural, or residential uses.

Bristol Bay is home to the largest red salmon runs in the world. HB134 will ensure that any 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: Subsection (a) assures that a person, in relation to the five major river systems of Bristol Bay, may not withdraw, obstruct, divert, inject, pollute, or pump any subsurface or surface water in drainages supporting salmon. 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 drainages that support salmon.

Subsection (b) lays out exceptions to the above prohibitions. Exceptions are given to current authorized uses, drinking water and domestic uses, ordinary existing and future municipal uses, and traditional, cultural, or residential uses.

Subsection (c) lays out a fine schedule for violations of the prohibitions. Individuals are fined between \$10 - \$5,000 / day; and corporations are fined between \$100,000 and \$1,000,000 / day.

BILL SECTION 3: Sets an immediate effective date.

Alaska State Legislature
REPRESENTATIVE BRYCE EDGMON
House District 37



SPONSOR'S INTENT / SECTIONAL ANALYSIS
HOUSE BILL 134 (WORK DRAFT 25-LS0381M)

Adak

Alutian

Aleknagik

Atka

Chignik

Chignik Lagoon

Chignik Lake

Clark's Point

Cold Bay

Dillingham

Egegik

Elkvik

False Pass

Ivanof Bay

King Cove

King Salmon

Koliganek

Manokotak

Naknek

Nelson Lagoon

New Stuyahok

Nikolski

Perryville

Pilot Point

Portage Creek

Port Heiden

St. George

St. Paul

Sand Point

South Naknek

Togiak

Twin Hills

Ugashik

Unalaska

The Bristol Bay watershed is home to the last great salmon fishery in the world. It also supports a subsistence lifestyle that has supported the people of the region for hundreds of years.

I believe it is our fiduciary duty as stewards of this magnificent resource to do everything possible to ensure that appropriate safeguards are set firmly in place to protect the natural state of the extraordinary Bristol Bay watershed.

Many people including Senator Ted Stevens and Bella Hammond have publicly voiced their concerns about the location of the Pebble Mine and its potential to impose irreparable harm to the headwaters that flow into the salmon rearing Kvichak and Nushagak River systems.

Along with the majority of my constituents I also share these concerns.

For this reason I introduced House Bill 134 to create protective measures in Alaska law that would build upon the Bristol Bay Fisheries Reserve created by Senator Jay Hammond in 1972. The consideration that justified the Hammond legislation over 35 years ago also applies today and warrants additional conservation measures to protect the mighty salmon runs that depend upon the pristine waters that flow through the major drainages in Bristol Bay.

Clearly a public policy measure as broad and as sweeping as contained in House Bill 134 will require extensive public input before it emerges in its final form. In this regard I am pleased to have the opportunity to bring the current version of House Bill 134 to the people of Bristol Bay for their direct input and testimony before the House Committee on Fisheries.

I realize that not everyone in the Bristol Bay region shares the same philosophy or approach regarding large scale development such as the Pebble Mine.

Truly on a broader scale this difference of opinion only reflects the history of conflict that has characterized many resource development projects in Alaska.

But for any differences that might exist on the Pebble mine I do know of one common denominator in Bristol Bay -- FISH COME FIRST.

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

BILL SECTION 2: Subsection (a) assures that a person, in relation to the five major river systems of Bristol Bay, may not withdraw, obstruct, divert, inject, pollute, or pump any subsurface or surface water in drainages supporting salmon. 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 drainages that support salmon.

Subsection (b) lays out exceptions to the above prohibitions. Exceptions are given to current authorized uses, drinking water and domestic uses, ordinary existing and future municipal uses, unincorporated communities, transportation projects, energy projects, seafood processing, or traditional, cultural, or residential uses.

Subsection (c) lays out a fine schedule for violations of the prohibitions. Individuals are fined between \$10 - \$5,000 / day; and corporations are fined between \$100,000 and \$1,000,000 / day.

BILL SECTION 3: Sets an immediate effective date.

25-LS0381\W

Kane

2/22/07

CS FOR HOUSE BILL NO. 134()**IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTY-FIFTH LEGISLATURE - FIRST 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 wild salmon production in drainages
2 affecting the Bristol Bay Fisheries Reserve; and providing for an effective date."

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

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

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

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

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

14 (3) the considerations that justified the 1972 action also warrant extension of

1 similar conservation measures and protections to the river systems, ground water, aquifer
2 systems, and other hydrologic regimes, including any hydrologically interrelated or connected
3 surface and ground water, within the drainage systems that connect to the surface water of
4 Bristol Bay.

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

6 **Sec. 16.10.015. Protection of salmon streams within certain drainages**
7 **affecting the Bristol Bay.** (a) Notwithstanding any other provision of law, within the
8 watersheds of the Nushagak, Kvichak, Naknek, Egegik, and Ugashik Rivers, a person
9 may not

10 (1) withdraw, obstruct, divert, inject, pollute, or pump, either
11 temporarily or permanently, any subsurface or surface water in drainages supporting
12 salmon or any water hydrologically interrelated or connected to those drainages; or

13 (2) alter, destroy, displace, relocate, channel, dam, convert to dry land,
14 or otherwise adversely affect any portion of a river, stream, lake, bog, tributary, or any
15 other water body, including the beds of water bodies, in drainages supporting salmon.

16 (b) The prohibitions listed in (a) of this section do not apply to

17 (1) uses authorized, approved, and permitted before the effective date
18 of this Act;

19 (2) drinking water and domestic uses;

20 (3) ordinary existing and future municipal uses;

21 (4) traditional, cultural, or residential uses;

22 (5) unincorporated communities; or

23 (6) transportation projects, energy projects, or seafood processing.

24 (c) In addition to any other penalties, a person who violates (a) of this section,
25 upon conviction, is punishable by a fine of not less than \$10 a day or more than \$5,000
26 a day, except that a corporation is punishable by a fine of not less than \$100,000 a day
27 or more than \$1,000,000 a day. Each day on which a violation described in (a) of this
28 section occurs constitutes a separate violation of that subsection.

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

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB134-DFG-SF-02-27-07
Bill Version: HB134
() Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: ADFG

Title Protection of Salmon Spawning Water

RDU Sport Fisheries

Component Research & Restoration

Sponsor Representative Edgmon

Requester House Special Committee on Fisheries

Component No. 2854

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	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
Contractual	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
Equipment	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
Grants & Claims	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
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	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
1004 GF	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
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	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

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal: ☐

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill would 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, Administrative Services
Agency: Fish & Game

Phone 267-2150
Date/Time 2/27/07, 4:30 PM
Date 2/27/2007

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB134-DNR-CPL-02-27-07
 Bill Version: HB134
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ 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 No.: 2460

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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						
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CHANGE IN REVENUES (multiple)		INDETERMINATE				
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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						
1155 Timber Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal: ☐

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, Egegik 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, Acting Director Phone: 269-8600
 Division: Mining, Land and Water Date/Time: 2/27/2007
 Approved by: Tom Irwin, Commissioner Date: 2/27/2007
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2007 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
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB134-DEC-W-2-23-07
Bill Version: HB134
() Publish Date:

Revision Date/Time (Note if correction):

Title Conservation and protection of wild salmon

Dept. Affected: Dept of Environmental Conservation

RDU Division of Water

Component Water Quality

Sponsor Edgmon, Ramras, Dahlstrom, Gara, Kertula

Requester House Special Committee on Fisheries

Component No. 2062

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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 ()

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact associated with this legislation.

Prepared by: Lynn J. Tornich Kent

Division: Director

Approved by: Larry Hartig

Agency: Department of Environmental Conservation

Phone 907-269-7599

Date/Time 2/23/07 9:18 AM

Date 2/27/2007





LAWS OF ALASKA

1972

Source

Chapter No.

CSSB 2 am

102

AN ACT

Relating to limitations upon oil and gas leases in certain areas.

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

■ Section 1. AS 38.05.140 is amended by adding a new subsection to read:

(f) The submerged and shorelands lying north of 57°, 30 minutes north latitude and east of 159°, 49 minutes west longitude within the Bristol Bay drainage are designated as the Bristol Bay Fisheries Reserve. Within the Bristol Bay Fisheries Reserve no surface entry permit to develop an oil or gas lease may be issued on state owned or controlled lands until the legislature by appropriate resolution shall specifically find that such entry shall not constitute danger to the fishery.

MEMORANDUM

State of Alaska
DEPARTMENT OF NATURAL RESOURCES

TO: [The Honorable George Hohnan
Chairman
House Finance Committee
Alaska State Legislature

DATE : April 27, 1971

FROM: Dale Wallington
Commissioner

SUBJECT: SB-2

It is impossible for us to prepare a meaningful fiscal note on this bill since no oil discoveries have been made in the Bristol Bay area to date. However, I would like to make the following editorial comments regarding SB-2:

SB-2 would protect the valuable Bristol Bay fishery from danger of oil pollution caused by drilling and production operations on State-owned submerged lands and navigable waters. It would have some effect on the many existing oil and gas leases on uplands adjacent to Bristol Bay in that oil companies appear to be reluctant to develop these leases until such time as the offshore continuations of any oil-bearing structures, discovered on uplands, can be acquired. In this case, the State's interest in conservation is also involved; we do insist that every oil pool be developed in a manner so as to obtain the greatest possible recovery of petroleum--to accomplish this, offshore wells might be required.

The problem is twofold:

1. Can the oil industry operate in Bristol Bay without risk of damage to the fishing industry?
2. If oil and gas operations do pose a risk to the established fishing industry, is the risk worth taking?

To the first of these questions, the answer is clearly in the affirmative. Any development in waters required for fish habitat poses some risk. In the particular case considered in this bill, the amount of risk is not determinable at present; but, with study, the major dangers can be identified.

We know now that State supervision can reduce minor spills of oil to negligible amounts; that blowouts of producing wells can be prevented by close supervision and checking of safety chokes; that drilling risks can be reduced by careful checking of blowout preventers and state requirements for cementing casing. State experience in Cook Inlet is valuable, and we have a competent dedicated organization of professional petroleum men.

The Honorable George Hohman

- 2 -

April 27, 1971

However, we do not have the answers to all problems. What are the storm and ice problems in Bristol Bay, and how do they vary in different parts of the Bay? In what portions of Bristol Bay would oil development most seriously threaten fishing? In what portions would the threat be minimal?

I believe that these and other questions of similar nature can be answered after studies are made. Since they are not answerable today, I have no basis on which to argue against the intent of SB-2. However, there is ample reason to study the risk and balance it against the risk inherent in the statutory closure of Bristol Bay to oil and gas leasing.

In 1969 the value of oil and gas produced in Alaska was \$219,000,000; the value of all fisheries products was \$138,000,000.

More important than the gross value of production is the relative employment between the two major industries. Figures for employment in fishing were not readily available, but it appears that at least seven persons depend wholly or in part on fishing to each person employed by the petroleum industry. This ratio should be modified substantially by the fact that a much larger percentage of nonresidents are employed in fishing and related industries than are employed by the petroleum industry.

In terms of direct revenue to the State, the ratio is reversed. In fiscal 1970, direct production taxes and royalties on oil and gas paid \$26,670,268 to the State; production taxes on fish yielded \$2,536,864. Obviously, statewide services and employment are benefited greatly by oil and gas production, and future State programs are dependent upon an active oil and gas industry, definitely including the finding and development of new oil fields.

The truth is that the State is in the oil business in a big way. We may never again see the huge sum received in a single oil sale such as the one at Prudhoe Bay, but the future of the State is clearly bonded to the anticipation of additional lease bonuses and production income. We cannot afford to close any potentially productive area to oil and gas leasing unless the risk of damage to an existing industry outweighs the risk of closure.

That there is a national need for Alaskan oil has been stated frequently and is underlined by a consideration of the two graphs attached to this memorandum.

Rather than locking Bristol Bay oil and gas in a statutory prohibition against drilling, I would suggest something on the order of a compromise proposed by the Commissioner of Fish and Game, Wallace Noerenberg. The Legislature, by resolution, could request the Governor to close Bristol

Next Page Unavailable.

HOUSE FINANCE COMMITTEE

May 7, 1971

4:30 p.m.

Present: All members except Mr. Haugen. Joe LaRocca was also present.

CSSB 2 am Mr. Hohman moved and asked unanimous consent that the committee consider COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 2 amended (limitations upon oil and gas leases in certain areas).
No objection.

Mr. Fink said that Governor Miller had vetoed this bill last year. Mr. Fink felt that oil companies should be made to drill in a way that does not kill fish.

Mr. Hohman read a memo from Dale Wallington, Deputy Commissioner of Natural Resources, regarding this bill (see bill file).

Mr. Fink suggested an amendment which would delete all the words after "lands" and insert "prior to March 1, 1972".

The committee agreed on this amendment.

The committee agreed to hold this bill until a commitment was received from Free Conference that the bill with the amendment would not be changed.

Mr. LaRocca said that he felt this language would be acceptable. He pointed out that Fish and Game had objected to this bill because they were working on a master plan for classifying what would be off limits. He said they intend to have this study complete in two or three years. Mr. Wright requested that Mr. Hogan be asked to check into this.

Mr. Hohman moved and asked unanimous consent that Committee Substitute for Senate Bill No. 2 amended be passed from committee with individual recommendations but as amended by ...

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5/7/71

Original Language

1 IN THE SENATE

BY HARRISON

2 SENATE BILL NO. 2

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to limitations upon oil and gas
7 leases in certain areas."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 " Section 1. AS 38.05.140 is amended by adding a new subsection to read:

10 (e) The submerged and shore lands lying north of 56°, 23 minutes
11 north latitude and east of 159°, 49 minutes west longitude within the
12 Bristol Bay drainage are designated as the Bristol Bay Fisheries
13 Reserve. Within the Bristol Bay Fisheries Reserve no oil, gas or
14 mineral leases or permits may be issued on state owned or controlled
15 lands.
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Previous Version CS

Original sponsor: Hammond

Offered: 2/2/71

Referred: Rules

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2

CS FOR SENATE BILL NO. 2

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SEVENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to limitations upon oil and gas
7 leases in certain areas."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 38.05.140 is amended by adding a new subsection to read:

10 (f) The submerged and shorelands lying north of 57°, 30 minutes
11 north latitude and east of 159°, 49 minutes west longitude within the
12 Bristol Bay drainage are designated as the Bristol Bay Fisheries
13 Reserve. Within the Bristol Bay Fisheries Reserve no surface entry
14 permit to develop an oil or gas lease may be issued on state owned or
15 controlled lands.

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1972

21.	Pay: Providing for reorganization and establishment of legislative fiscal support services; effective date.	NO ACTION	IN SECOND SESSION,	1972
22.	Pay: Relating to resisting or obstructing a peace officer while in the performance of law enforcement functions.	NO ACTION	IN SECOND SESSION,	1972
23.	Prison: Creating the office of warden; effective date.	128		
24.	Thomas, Josephson: Relating to "senior citizens," the needy disabled, blind persons and children; effective date.	NO ACTION	IN SECOND SESSION,	1972
25.	Patent: Creating a long-range research, rehabilitation and development program; effective date.	NO ACTION	IN SECOND SESSION,	1972
26.	Harmond: Relating to the election of a candidate receiving a majority of all votes cast for an office in a primary election.	NO ACTION	IN SECOND SESSION,	1972
27.	Harmond: Relating to introduction of bills by members of the legislature.	NO ACTION	IN SECOND SESSION,	1972
28.	Pay: Relating to the retention of patient records.	NO ACTION	IN SECOND SESSION,	1972
29.	Josephson: Relating to moderate and low income housing.	NO ACTION	IN SECOND SESSION,	1972
30.	Thomas: Relating to introduction of bills by members of the legislature.	NO ACTION	IN SECOND SESSION,	1972
31.	Patent: Relating to governmental ethics.	NO ACTION	IN SECOND SESSION,	1972

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