

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 86/2
11007 HOUSE STATE AFFAIRS

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EXECUTIVE ORDER 107

Moving the Habitat Division of Fish & Game into the Department of Natural Resources

The Alaska State Chamber of Commerce, representing approximately 700 business members and Alaska's local chambers of commerce, supports the Governor's proposal to make the Department of Natural Resources the lead agency for all State permitting and incorporate the permitting function of the Habitat Division of Fish & Game into DNR in order to consolidate permitting authority.

With this move, the Alaska State Chamber believes that the Governor is doing what business people do every day: increasing the level of service, speeding up processes, cutting costs, meeting customer needs and identifying efficient problem-solving methods.

Members of the Chamber believe this move will ensure a high standard of environmental protection, reduce the cost of government and encourage future investment in Alaska.

We support Executive Order 107 and respectfully urge the Legislature to do the same.

Submitted by Pamela La Bolle, ASCC President



MAR 14 2003

Alaskans Working For Alaska!

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The State Affairs Committee, House of Representatives

Hearings on E.O. 107

Testimony of Mike Robbins

On Behalf of ASEA/AFSCME Local 52

In Opposition to the Transfer of Habitat Division to DNR

Rep. Weyhrauch, Members of the Committee, my name is Mike Robbins. I am appearing as a representative ASEA/AFSCME Local 52. I am an attorney and a Union Business Agent. I also have a Master's degree in Ocean & Marine Affairs. The Union is opposed to executive order 107 and urges the members of the State Affairs Committee to vote to rescind this order.

The plan represented by E.O. 107 should be subjected to a full and complete process of legislative review with meaningful hearings before such a drastic measure is implemented by state government. The Order violates the Alaska Constitution, Articles II and III (Separation of Powers Doctrine) and Article XII, Sec. 6 (Merit System) and 7 (Retirement Rights) as it attempts to amend legislation and enact legislation. The Order violates the Collective Bargaining Agreement, articles 12 and 14.

Separation of Powers Doctrine. Executive order 107 attempts to amend statutes which establish a retirement system for these Fish & Game employees. This system will be diminished or impaired if E.O. 107 is implemented. It also violates the merit principle that has been statutorily endorsed by the legislature at AS 23.40.070(3). Since the Order amends legislation, it violates the separation of powers doctrine and is unlawful for that reason as well. This makes it unconstitutional in violation of Articles II, sec. 1 and III, sec. 1.

The legislature is empowered to consider legislation and enact laws. Forty-three years ago, it established the Department of Fish & Game and the Department of Natural Resources, each with a different role designed to balance different public interest objectives. In the 1970's it passed statutes concerning public employees and the retirement system. In 1983, it passed a statute giving fish & game employees a 20-year retirement package. The Executive branch is to carry out and implement the legislature's statutes. This E.O attempts to amend and repeal several of these laws. This is an unconstitutional violation of the separation of powers doctrine.

Merit Principle violation. The Union's immediate fear is the loss of jobs for 60% of the Habitat Biologists as rumored early on in this process. So far 22 employees have been laid off and 18 positions will not be filled. These professionals have been targeted for elimination in a

planned gutting of the habitat protection permitting process. In the State of the State speech, the Governor claimed that "the Habitat division has been the sole agency opposing and delaying legitimate projects important to the state." We already know that only a small percentage (< 1%) of applications is denied and that none had to do with the projects mentioned in that speech. But the intent to punish the Division Employees for alleged faulty performance was clear. This violates Article XII, sec. 6, of the Alas. Const., that states "the merit principle will govern the employment of persons by the State." The Alaska Supreme Court has interpreted the merit principle to require the recruitment, selection, and advancement of public employees under conditions of political neutrality. *APEA v. State*, 831 P.2d 1245 (Alaska 1992). Such statements do not exhibit political neutrality.

At a Governor's press conference on February 3, 2003, remarks appear to target Habitat Biologists for termination because they are alleged to have "dragged their feet" and been "inflexible" and made "protection input on the basis of personal viewpoints." The Union believes E.O. 107 is punitive toward these employees. It is hoped that the legislature will do the right thing and not allow the merit principle to be ignored at the expense of these dedicated public employees.

Remarks at the press conference also claimed that Habitat was "foot-dragging" and "caus[ing] a delay in obtaining needed permits" for the Tok Highway Project. The Resources Committee has heard testimony that the Tok Highway project was changed by the designers and that streams and wetlands impacted by the road were omitted from the original plans. Further, the permits were issued and not acted on by the road developers for more than a year after issuance. Therefore, any "foot-dragging" was the stepchild of the developers, not the Habitat Biologists.

Several other projects were mentioned in the press conference and the State of the State speech which show inaccurate information being provided to the Governor. For instance, the Glenn-Parks Highway interchange permits were all issued timely. The final consistency determination was issued in March, 2002 (not 2001 as claimed in the press conference). And the project began timely in August, which was earlier than scheduled. All ADF&G permits were issued ahead of schedule, with no delays. Much of the other information relied on by the Governor was inaccurate and faulty.

Retirement System Impaired. The union is also concerned about loss of retirement benefits of habitat employees and questions what happens to rights of Fish & Game Employees who are in the 20-year retirement program? The Habitat Employees who are members of the twenty-year retirement program adopted for fish & game employees have a constitutional right to membership in their respective retirement systems. Accrued benefits of these retirement systems shall not be diminished or impaired. Alas. const. Art. XII, sec. 7, states:

Retirement systems. Membership in employee retirement systems of the State or its political subdivisions shall constitute a contractual relationship. Accrued benefits of these systems shall not be diminished or impaired.

In 1983 the Legislature adopted chapter 27, section 4, SL and 1983, which provides

Sec. 4. A person holding a position as a "qualified employee of the Department of Fish and Game" on the effective date of this Act, continues to accrue service credit as a peace officer under AS 39.35 until (1) that person's employment is terminated with the Department of Fish and Game; or (2) that person elects to irrevocably relinquish peace officer status under AS 39.35.527.

Qualified employees such as biologists and other Habitat Division employees employed in the department of fish and game are considered peace officers entitled to participate in the twenty-year retirement system. Once the Fish & Game employees are moved to DNR they will no longer be entitled to participate in this twenty year retirement program as a matter of law because they will no longer be employed by the department of fish and game. A change in the terms of their retirement means that they have to work 10 more years before their full retirement vests. This impairs their retirement system.

Further, the public employer would not be contributing as much each pay period into their retirement accounts. This also impairs their retirement system. For these additional reasons, E.O. 107 is unconstitutional in violation of Alaska Constitution Article XII, sec. 7.

Collective Bargaining Agreement Violations. The Collective Bargaining Agreement between ASEA/AFSCME Local 52 and the State of Alaska provides for progressive discipline. This means if a Member is not performing timely or is otherwise improperly performing their job, then the employer has the right to discipline. Progressive discipline requires notice to the Employee of the bad or improper conduct, right to representation, and an opportunity to be heard. These are basic constitutional rights of representation and due process, recognized as applying to public employees by the U.S. Supreme Court in the *Weingarten* and *Loudermill* decisions. The State's progressive discipline procedure which follows a pattern including: training, letters of instruction, verbal reprimands, written reprimands, suspension and demotion BEFORE termination. None of this occurred in this case. Instead, at a press conference Monday (2/3/03), remarks appear to target Habitat Biologists because they are alleged to have "dragged their feet" and been "inflexible" and made "protection input on the basis of personal viewpoints." These allegations were relied on to support the conclusion that the Division should be transferred to DNR. Since the transfer of duties and positions is based on performance, then the action violates the CBA by imposing excessive discipline in violation of article 14.

The E.O. also violates CBA Article 12 concerning the purpose of reorganization. The State of the State speech and the Governor's press conference both contain statements about poor job performance by these members. Several meetings have occurred attended by such staffers as

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Jim Clarke and others who have advised the Habitat employees that 20 layoffs are likely but that the number could reach 50 of the Division of Habitat employees. When reorganization is structured for the purpose of constructively discharging specific employees, then Article 12 of the CBA is violated. That has occurred in the context of E.O. 107.

Protecting Alaska's Environment in the Public Interest. This Executive Order represents poor policy and essentially repeals legislation. At the February 3, 2003, press conference, the Governor claimed that these Habitat professionals intentionally delay development projects. There is no basis for such allegations. This Division employs more than 80 professionals who have served Alaskans by assessing dangers to our State's salmon streams and other critical habitat, providing permit stipulations necessary to protect these vital resources.

As experts have already testified, Washington and Oregon offer shocking evidence of uncontrolled development as their fishery has declined to only 3% of its historical levels because inadequate measures were taken to protect anadromous fish streams. These states and others are paying the costs now by spending billions in restoration efforts. The experience of these sister states who failed to adequately protect vital fisheries and wildlife habitat should be studied at length before deleting the Habitat enforcement functions of Alaska.

The Union agrees with past Commissioners, such as Frank Rue and Carl Rosier that the Habitat Division remains in the Department of Fish & Game. This department has criminal enforcement authority as well as the statutory mandate to protect all the state's habitat. As pointed out in earlier testimony, the Habitat Division is funded significantly from federal contracts to enforce laws intended to protect fish and game reproductive and spawning sites and foraging areas. Any change in this arrangement could result in loss of millions of dollars of federal funding to the State.

The statutory mission of Fish & Game is to protect these renewable resources. The DNR's mission is to develop resources. Protecting the fish and game resources therefore is incongruous with DNR's statutory scheme and results in an administrative repeal of the law.

The federal Fish and Wildlife Coordination Act, 16 U.S.C. 661-667e, requires the fish and wildlife agencies of the State to research, consult, and comment on licenses issued under any Federal permit or license. Large amounts of funding are made available to the State to accomplish this responsibility through this Act and several other Federal statutes and public trust funds. Since DNR is not the Alaska fish & wildlife agency, who will perform these functions and who will get the millions of dollars available for the research and consultation? Perhaps this will become another state responsibility assumed by the federal government.

ASEA Local 52 urges you to do the right thing: **Disapprove E. O. 107.**

Respectfully submitted,

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Mike Robbins
Business Agent

The Honorable Bruce Weyrauch
House of Representatives
Alaska State Capitol
Juneau, Alaska 99801-1182

MAR 11 2003

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Dear Representative Weyrauch

Our fish and wildlife resources are critical to sport, commercial and subsistence users and supports many businesses based on tourism. Visitors to Alaska arrive with the perception that there will be abundant opportunities to fish and view wildlife. The protection of habitat that supports healthy populations of fish and wildlife is necessary. The Alaska Department of Fish and Game has effectively protected fish and wildlife habitat such as streams that are known salmon spawning and rearing areas. Salmon returns directly affect hundreds of species of wildlife.

In the past people have been confident that the Department of Fish and Game whose mission is to protect fish and wildlife resources would provide the necessary input that would maintain the check and balances during permitting disputes with other agencies and businesses whose mission is resource development. The Governor's executive order that transfers permitting authority and biologists from the Department of Fish and Game to the Department of Natural Resources cripples the effectiveness of the permitting staff by eliminating any Fish and Game input into permitting decisions. All Fish and Game divisions have provided valuable research and input on fish and wildlife issues in the past. This transfer will be costly both in expertise lost from the reduced number of biologists and the loss of shared research. Some sources of funding for the Habitat Division will also be lost because of this move resulting in fewer site inspections and less enforcement.

There is an efficient way of reviewing permits in place within Fish and Game now. An average of 2000 permits are reviewed per year with an average turnaround time of 14-17 days. Only 1% of the permit applications per year are refused with good reasons.

Restoring habitat after it has been destroyed is far more costly and requires much more time than protecting habitat. The move described in the Governor's executive order will result in damaged or lost habitat over the long term.

I would like to know how you will support the process of bringing together a joint session of the House and Senate for discussion of this executive order and alternatives to this plan. Please vote to disapprove this executive order.

Thank you for your time.

Sincerely,

David Albert

MAR 17 2003

My name is Steve Albert. I live in Eagle River, Alaska. I am speaking to you as an independent voter employed by the Alaska Department of Fish & Game.

I fully respect our State Constitution and the ability it affords the Governor to reorganize the Executive Branch. Executive Order 107 is poor public policy and represents a punitive action initiated by a segment of the timber industry and their friends in the administration. However the implications of this reorganization have many far-reaching impacts that extend far beyond just the Habitat & Restoration Division. This order reminds me of DNR's state timber sale program on the Kenai Peninsula in which the cost of bringing a timber sale to bid exceeds the receipts to the General Fund. The costs to governments, public, industry, developers (large and small), and landowners will be huge. Where are the benefits? Who will pay for all the computers, field equipment, extra office space, etc. associated with this reorganization? Presently habitat permits are free and fast. How will development project proponents (small and large) respond to DNR's \$200-500 per permit fees in the future? How will developers respond to absorbing the costs of having to wait even longer for their permits? A little guy putting in a driveway culvert will be paying the same as a timber company for their log stringer bridge permit. Mr. Irwin has often referred to his business approach to managing state government. Any reasonable manager would request completion of a long-term cost/benefit analysis before this reorganization is implemented. Any reasonable manager would identify the standards by which you and the public will measure increased efficiency? Any reasonable manager would compare rates of regulatory enforcement at DNR and ADF&G. The legislature and the public need these elements to make an informed management decision.

Section 45 of EO 107 includes language that states that ADF&G employees with peace officer status delegated before June 23, 1983 will continue to accrue service credit as a peace officer under AS 39.35 after the transfer AS LONG AS employees remain in a position described in this subsection, within the Department of Natural Resources.

Therefore, if I or other colleagues choose to apply for a position within DNR, that presumably could ultimately benefit the State, then I would be forced to endure financial repercussions in terms of my retirement status. The Governor has no right to unilaterally impose financial consequences and force me to stay in one position for the rest of my working life. I cannot apply for another position in DNR nor can I return to Fish and Game in my professional capacity as a biologist without suffering financial consequences. The Executive Order provision of the Constitution was included to allow the Governor to reorganize for more efficient delivery of services but not to punish me, and others like me, for simply doing the job I was asked and expected to do by the public. I would strongly recommend that this committee give serious consideration of this element of the EO.

I want you to know that I have no financial axes to grind as I could have fully retired almost two years ago and don't have to work. I have been a dedicated biologist for the Department of Fish & Game for over 21 years. No matter how bad things were in terms of funding or workload, I got up every morning looking forward to work. I'm just an old beater biologist, along with many others like me, that have risked our lives, radio-tracking and capturing brown bears, or flying a few feet above the waves in the Gulf of Alaska to get to a logging camp to write a field permit for a culvert that failed, or flown through snowstorms to make sure a bridge was installed to protect fish habitat, etc. We, and the public for whom we work, deserve more respect than a death sentence to a position at DNR for the rest of our professional careers.

Last Friday, ADF&G and ADNR held a joint press conference. My Acting Commissioner at ADF&G always likes to say that, "there are two sides to any particular story." Allow me to point out the other side of the story. Throughout this whole transfer exercise, DNR Commissioner Tom Irwin, has heaped tons of praise on how the permitting process for his previous company was handled in the Fairbanks office where Habitat Division was a SEPARATE ENTITY. As an example, he mentioned a water reservoir project for which his company needed an ADF&G permit. He stated that he received his permit in a very timely manner and the environment was protected and even enhanced. As a reminder to this Committee, Habitat Division was a SEPARATE ENTITY and the system worked. The

system as it is right now WORKS!!! It works for the public, to whom we are all responsible, for the fish and wildlife resources they expect to be there for their use and enjoyment, and for all development projects, except for a handful of ill-conceived or incomplete projects, proposed annually.

I am not against development, I live in a house made of wood, I drive a car that requires gasoline, and I heat my house with natural gas. But I appeal to you to recognize that development at any cost over other societal values, without recognizing the concepts of sustainability and multiple use resource management is wrong, is poor public policy, and against the vision of the writers of the Alaska Constitution. I truly believe we can have reasonable development and maintain fish and wildlife values. Balancing the budget and placing public resource values at risk is unacceptable.

I urge you to support the Resolution opposing reorganization or at least have the courage to support a floor vote. Thank you for your time!!!

Steven W. Albert

Honora Amesen
1800 Shore Drive
Anchorage, AK 99515
344-7707

MAR 11 2003

March 10, 2003

The Honorable Bruce Weyhrauch
House of Representatives
Alaska State Capitol
Juneau, Alaska 99801-1182

RE: Executive Order 107

Dear Representative Weyhrauch:

Our fish and wildlife resources are critical to sport, commercial and subsistence uses, businesses based on tourism, and let us not forget transportation projects, one being the South Extension of the Coastal Trail. Visitors to Alaska arrive with the perception that there will be abundant opportunities to fish and view wildlife. The protection of habitat that supports healthy populations of fish and wildlife is necessary. The Alaska Department of Fish and Game has, by history, demonstrated exemplary performance of protecting fish and wildlife habitat and resources such as streams that are known salmon spawning and rearing areas. Salmon returns directly affect hundreds of species of wildlife.

The Alaskan people remain steadfast and confident that the Department of Fish and Game will continue to provide the necessary input to maintain unbiased balance during permitting disputes with other agencies and businesses, i.e. DNR (Department of Natural Resources) whose mission is resource development. The Governor's executive order that transfers permitting authority and biologists from AK F&G (Department of Fish and Game) to the DNR cripples the effectiveness of the permitting staff by eliminating any Fish and Game input into permitting decisions. All Fish and Game divisions have provided valuable research and input on fish and wildlife issues in the past. This transfer will be costly both in expertise lost from the reduced number of biologists and the loss of shared research. Some sources of funding for the Habitat Division will also be lost because of this move resulting in fewer site inspections and less enforcement.

Within the current AK F&G, there already is an efficient way of reviewing permits. Averages of 2000 permits are reviewed per year with an average turnaround time of 14-17 days. Only 1% of the permit applications per year is refused and all for good reasons.

E6107

Executive Order 107 to Rep. Weyhrauch
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Restoring habitat after it has been destroyed is far more costly and requires much more time than protecting habitat. The move described in the Governor's executive order will have disastrous cumulative effects of damaged or lost habitat.

Please do not sit still on this important issue. I would like to know how you will support the process of bringing together a joint session of the House and Senate for discussion of this executive order and alternatives to this plan.

Please vote to denounce this executive order.

Thank you for your attention to my request.

Regards,



Honora Arnesen



EO 107

ASSOCIATED GENERAL CONTRACTORS of ALASKA

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March 12, 2003

Representative Bruce Weyrauch, Chair
State Affairs Committee
House Of Representatives
State of Alaska
Juneau, Alaska 99801-1182

Re: Executive Order 107

Dear Representative Weyrauch:

Given the rhetoric concerning the proposed reorganization of the Department of Fish and Game, one might conclude that there is only one way to structure state government. Despite such contentions, reasonable parties must agree that there are many ways to organize the government of the State of Alaska to deal with the needs of its citizens.

Governor Murkowski has chosen an approach to Fish and Game Management that differs from previous administrations. Only time will tell whether this approach yields a better outcome for Alaskans. Unfortunately, it is obvious to all that problems exist with the current structure. Perhaps the time has come to replace a failed model with a new approach.

The Associated General Contractors of Alaska is the largest contractor trade association in Alaska. We encourage you to support the Governor's efforts in this and other endeavors to reorganize State government. We must learn to do more with less. We cannot afford State government as it is now being delivered. We need to find new methods of dealing with the needs of Alaskans while at the same time recognizing the constraints of our fiscal problems.

Once again, we urge you to support the Governor on this issue.

Sincerely,

Richard Cattanach
Executive Director

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Bruce H. Baker

P.O. Box 211384

Auke Bay, AK 99821-1384

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March 11, 2003

Representatives Bruce Weyhrauch, Jim Holm, Nancy Dahlstrom, Bob Lynn, Paul Seaton, Ethan Berkowitz, Max Gruenberg
House State Affairs Committee, Alaska Legislature
State Capitol (Mail Stop 3100), Juneau, AK 99801

Subject: Testimony on E.O. 107 - ADF&G's Habitat Protection Responsibilities

Honorable Committee Members:

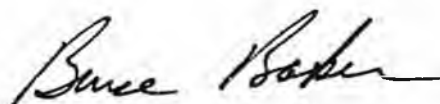
My name is Bruce Baker. I live in Juneau. **I urge you to bring to floor vote a resolution to reject Executive Order 107.** The executive order would eliminate ADF&G's habitat protection responsibilities under the Anadromous Fish Act, Fish Passage Act, and Forest Practices Act. The state needs to maintain the checks and balances between ADF&G and DNR that have benefited Alaska's economy since statehood. ADF&G's fundamental mission is to protect Alaska's fish and wildlife resources, and DNR's fundamental mission is to develop the state's other natural resources. These two missions balance each other in a way that ensures adequate protection of the state's economically important fish and wildlife habitats while allowing legitimate natural resource development to proceed in a timely manner. By eliminating the permitting authority of one agency, the executive order eliminates these essential checks and balances.

The executive order is a solution looking for a problem. The timeliness of ADF&G's permitting is exemplary. Of 1,926 Title 16 applications ADF&G received last year, over 99% of applicants either received permits or were told that they did not need one. The average processing time was only 14 days. If there is an occasional development project that seems to be high centered over a habitat related authorization, there's a process for department commissioners to quickly resolve the issue consistent with the Governor's policies. In contrast, I'm told that DNR has a current backlog of 700 water rights applications, some apparently 20 years old, and 3,000 miscellaneous applications such as water right transfers, that have yet to be processed.

The Acting ADF&G Commissioner reports that he and the Governor are laying off 22 ADF&G Habitat Division staff and transferring 36 others to DNR. What Alaska needs in order to promote its natural resource development without costly permit delays and lawsuits, is to increase rather than eliminate habitat staffing and to leave it in the department that has the bedrock of fish and wildlife expertise upon which to draw.

The Governor has criticized ADF&G for habitat permits for which he was given incorrect information. For the record, I'm providing your committee with two ADF&G memoranda which provide correct and specific information the Governor did not have available to him when he made his public statements.

In closing, Executive Order 107 is not so much about making state government more efficient as it is a thinly veiled effort to lower the habitat protection bar for permit applicants.



4114 Aspen Ave.
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789-2952

11 March 2003

Representative Bruce Weyhrauch
Alaska Legislature
State Capitol, Room 102
Juneau, AK 99801-1182

Dear Bruce,

I am writing you today to ask your support in opposing Governor Murkowski's executive order (EO 107) to the legislature to transfer the Department of Fish and Game's Habitat Division permitting authority to the Department of Natural Resources.

I have listened to the Governor and read most of the local news reports regarding the pros and cons of making this transfer. I have also worked with the Habitat Division under a yearlong Intergovernmental Personnel Act assignment from my regular duties with the U.S. Forest Service and therefore have a "working knowledge" of (and a resulting respect for) the Division's functions. All things considered, I urge you to side with the carefully considered position the five former Commissioners of Fish and Game took in their *My Turn* letter that appeared in the Juneau Empire in early February (copy enclosed). I still support everything they said and appreciate their well-founded concerns. Speaking as a citizen who greatly values our State's still magnificent fish and wildlife resources, I am not at all persuaded that the lawful protection of their vital habitats could be carried out by the Department of Natural Resources (DNR) nearly as well as it has been carried out by the Department of Fish and Game's Habitat Division. And, given the political pressure the proposed DNR permitting staff would be under to perform according to the Governor's expectations, I fear that many poorly designed development projects will be given the green light before they are actually ready for implementation. Where projects have sometimes been delayed under the permitting review process conducted by the Habitat Division, I have no doubt that it was for good reason. Should the permitting authority be transferred to the DNR, the absence of occasional permitting delays would be a sure sign that the review process has been compromised and that our fish and wildlife will have suffered as a result.

Thank you for considering my concerns about this matter. Your opposition to this transfer order would give me some hope that there is room for meaningful debate within the Republican ranks of our Legislature.

Sincerely,

Ray Behnert

June Empire 2/2/03

Ex-commissioners: Avoid a tragic loss for all Alaskans

As former commissioners of the Alaska Department of Fish and Game (ADF&G), with a combined experience spanning 30 years, we urge Gov. Frank Murkowski to keep the responsibility to protect the habitat of Alaska's salmon, trout, and other fish resources within ADF&G and not transfer this authority to the Department of Natural Resources.

We share the belief that the loss of this authority will result in unnecessary and potentially irreversible harm to these resources that are critical to Alaska commercial, sport and subsistence users.

At Alaska's Constitutional Convention, our founding fathers debated whether the new state should have one resource agency or two. They understood the need to develop our oil, mineral and timber resources, and build roads and highways to open up our vast state. They also recognized that development must be balanced with protection for the fish and wildlife upon which so many Alaskans depend and gave that responsibility to ADF&G.

The two-agency approach recognizes the importance of both our renewable and non-renewable resources, and provides appropriate checks and balances in development decisions.

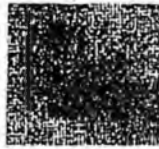
When the first Alaska Legislature passed statutes that define the basic responsibilities of state agencies, it agreed that habitat protection was best served as part of ADF&G's mandate to protect and manage fish and

wildlife. This issue was debated again in 1989 when Alaska revised its Forest Practices Act. Again, the Legislature saw the wisdom in retaining ADF&G's authority to protect fish streams under the Anadromous Fish Act and the Alaska Fishway Act.

We understand the Murkowski administration's goal of streamlining economic development, but feel the problem he is trying to fix is not rooted in ADF&G's implementation of its permitting authority. In fact, of the 2,000 Title 16 permits applied for each year, 99 percent are approved in an average of just 15 days.

This prompt response is due to the professional and experienced staff in the Habitat, Commercial, and Sport Fish divisions who work collaboratively to maintain Alaska's fishery resources and their habitat. We do not think it is possible to replicate this capability within another department and doing anything less will erode Alaska's ability to aid development in ways that avoid or minimize threats to our fishery resources.

We know from experience that some would prefer not to worry about impacts of development on salmon, trout and other fish. Life might be easier without having adequate culverts, bridges, and buffers around spawning streams, but this comes at a cost to those Alaskans who depend on fish for a job or a meal, and for whom the loss of fish habitat will mean an inevitable loss of opportunity.



Alaskans have long prided themselves on doing things differently than in the Lower 48. In fact, Alaska's oil and gas, mining, transportation and timber

industries have done an outstanding job of developing our resources while, with the help of ADF&G, taking the prudent steps needed to protect our unsurpassed resources of salmon and trout.

When regulatory disputes occasionally arise, the commissioner is able to intervene to assure permit decisions are balanced and reasonable.

You only have to look south to see how many salmon and trout runs have been destroyed or endangered by thoughtless development - the kind of careless development that will occur without ADF&G authority for in-stream permitting.

As we all look for new directions to grow our economy, we hope that Alaskans will continue to be able to enjoy the bounty of their fishery resources. We fear that sacrificing competent vigilance by ADF&G over critical fish habitat will lead to an unnecessary and tragic loss for all Alaskans.

Frank Rue, Commissioner ADF&G 1995-2002

Carl Reuler, Commissioner ADF&G 1991-95

Don Coffinworth, Commissioner ADF&G 1983-91

Ron Skoog, Commissioner ADF&G 1977-83

Jim Brooks, Commissioner ADF&G 1972-77

Subject: EO 107

Date: Mon, 10 Mar 2003 13:24:34 -0500

From: Backlagoon@aol.com

To: representative_bruce_weyhrauch@legis.state.ak.us

CC: representative_jim_holm@legis.state.ak.us,
representative_nancy_dahlstrom@legis.state.ak.us,
representative_bob_lynn@legis.state.ak.us, representative_paul_seaton@legis.state.ak.us,
representative_ethan_berkowitz@legis.state.ak.us,
representative_max_gruenberg@legis.state.ak.us

MAR 11 2003

March 10, 2003

Bruce Weyhrauch
Alaska State Capitol
Juneau, AK 99801

Dear Chairman Weyhrauch,

As the wife of a commercial fisherman, I ask you to overturn Executive Order 107, moving the Department of Fish and Game Habitat Division to the Department of Natural Resources. The move could effectively limit protections to our salmon habitat by reducing oversight and easing permitting authority. It would become easier to permit development, such as logging and roadbuilding, which has been proven to have consequential impacts to salmon rearing and spawning habitat.

Commercial fishing is Alaska's largest private sector employer. IF SALMON ARE NOT MANAGED FOR LONG TERM SUSTAINABILITY TO BE DETERMINED BY SCIENTIFIC RESEARCH, OUR STATE WILL LOSE A VITAL RESOURCE AND HERITAGE.

Sincerely,

Anissa Berry
PO Box 8118
Port Alexander, AK 99836

ERIN
Benjamin
907 733 3866
is for the
change

MAR 27 2003



March 26, 2003

The Honorable Bruce Weyhrauch
House State Affairs Committee
State Capitol, Room 102
Juneau, AK 99801-1182

Dear Representative Weyhrauch:

Thank you for this opportunity to comment on an important issue. Please protect Alaska's precious fish and wildlife resources by disapproving EO 107, the order to move habitat permitting authority to the ADNR from the ADF&G.

Our fish and wildlife resources are extremely valuable to both the commercial fishing and recreational/tourist industries. They are sustainable if managed and protected properly, bringing wealth to the state indefinitely.

The habitat division of the ADF&G currently works closely, effectively and efficiently with the rest of the department. Isolating habitat permitting in the ADNR (like separating head from heart) will cause, at least, inefficiency and disfunction in the management and protection of wildlife habitat, but more likely contribute to increased destruction of a significant part of Alaska's economic base and heritage.

Representative Weyhrauch, I urge you to whatever action is in your power to hasten a vote disapproving EO 107.

My sincere thanks for your attention to this crucial matter,

Captain Barbara Bingham
Alaska resident for 26 years

Subject: EO 107: Habitat Transfer

Date: Tue, 11 Mar 2003 14:31:20 -0900

MAR 14 2003

From: "Meagan Boltwood" <boltwood-awc@acsalaska.net>

To: <Anchorage_LIO@legis.state.ak.us>

Good evening,

Thank you for the opportunity to comment on this important issue. My name is Meagan Boltwood, and I work as the Ship Creek Unplugged Director for the Anchorage Waterways Council.

The Anchorage Waterways Council (AWC) is a non-profit organization composed of concerned citizens who believe the waterways and related habitat ecosystems of Anchorage represent a valuable resource that must be preserved, restored, and enhanced for their inherent value as well as the safety, health, and enjoyment of the entire community.

AWC is opposed to EO 107 because it will diminish the protection of valuable fish and wildlife resources and is not in the public's best interest.

AWC frequently works with ADF&G to ensure that Anchorage continues to enjoy clean water and healthy fish runs. In many cases, AWC has worked with the Habitat Division to protect valuable community resources through Title 16 (AS16.05.840-.860 of the Fishways Act and AS16.05.870-900 of the Anadromous Fish Act) and the Alaska Coastal Management Program (ACMP). ADF&G has completed studies of fish passage and culverts on the Kenai Peninsula and worked with organizations and other agencies in Anchorage to increase both fish passage and habitat in our urban streams. The Habitat Division has taken a proactive approach to prevent Alaska from experiencing the same mistakes that have reduced fish populations in the Lower 48.

If the authority to enforce Title 16, the Alaska Coastal Management Plan and the Forest Practices and Resources Act is transferred from ADF&G to DNR, an agency whose mandate is to develop land and water, AWC worries that fish and wildlife will inevitably suffer from an expedited permitting process that fails to fully consider projects' impacts on public resources.

Nowhere in its mission does DNR adequately address fish and wildlife concerns and the protection of the public's use of these resources. The difference between these two agencies is clear: ADF&G supports fish and wildlife, DNR supports development. Both of these agencies serve important roles in the permitting process and both of these agencies should continue to do so. The two-agency approach allows interests to be discussed, debated and resolved in an environment conducive to information gathering and dissemination. This approach is also much more likely to involve the public because the inter-agency technical disputes will have a larger audience and allow for public comments.

AWC does not believe that DNR will be able to carry out the provisions of Title 16 or the Forest Practices Act. According to several agency employees, DNR does not have the capacity to carry out its current mandate. AWC has been urging DNR to adjudicate Ship Creek water rights that were applied for in 1990 with no result. DNR claims that it has neither the staff nor the funding to carry out the tasks written in its mandate. AWC worries that the newly acquired Title 16 permitting functions will fall victim to the same neglect.

The governor argues that the Habitat Division and the public process hold up development projects; but the public has the right to be involved in decisions that affect their resources. If you remove habitat advocates from the permitting process, then fish and wildlife will eventually be removed from Alaska's lands and waters.

The Anchorage Waterways Council urges the legislature to oppose EO No. 107. Your support of public resources will ensure that Alaska remains the shining star of the world's fisheries.

Sincerely,

Pat Wendt
President

Post Office Box 233547
Anchorage, AK 99523-3547
10 March 2003

Honourable Governor Frank Murkowski
Office of the Governor
Capitol Office, Mail Stop 0001
Post Office Box 110001
Juneau, AK 99811-0001

MAR 14 2003

Dear Honourable Governor Murkowski:

First and foremost, commendations are in order for your willingness to take on the daunting task of governing this wonderful home we proudly call Alaska. Fewer positions are as demanding.

However, some events of late have raised some serious questions in my mind. Specifically, the proposed Executive Order 107 and subsequent recommendation to "reorganize" the Habitat and Restoration Division of the Alaska Department of Fish and Game.

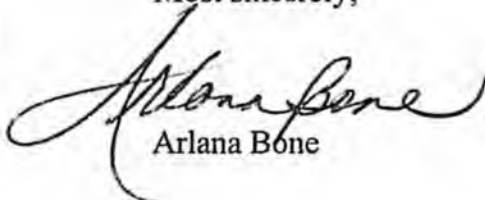
My primary concern is the very real threat to our natural resources. I say this because I've been employed as part of the support staff (database manager) to the Habitat Biologists for over a decade. I've seen first hand how hard their labour tirelessly to protect Alaskan habitat. And I respectfully assert that these very important needs cannot and will not be met per the Executive Order.

If I may use an analogy, performing radical surgery by removing vital "organs" like the heart, liver, kidneys, etc., can only weaken an entity with little or no chance for surviving intact, or surviving, but not being viable.

Another one! Okay, after accusing habitat biologists of sabotaging projects, then putting arrangements in place to rehire/transfer them, but without "teeth" to do their jobs properly, what statement is being made to the general public? Either habitat management is important and we are doing our jobs, or we are not. Any reasonable employer (such as a governor) does not dismiss employees immediately without consultation, with the aim of improving the quality/production, if need be. But jumping from dissatisfaction to dismissal, sans warnings seems awfully drastic and ill-conceived.

Ergo I implore you to seriously reconsider your decision. I'm looking to you in good faith to withdraw your proposal and see more plausible ways to increase and/or generate revenue without sacrificing the quality of our Habitat Protection standards. With commitment, both can, in my opinion, not only co-exist, but work in tandem for the betterment of our beautiful state.

Most sincerely,



Arlana Bone

hab

Subject: Habitat Division Move

Date: Thu, 13 Mar 2003 08:10:19 -0900

From: "Steve-n-Melissa Brockmann" <s-m@worldnet.att.net>

To: <Representative_Bruce_Weyhrauch@legis.state.ak.us>

Mr. Bruce Weyhrauch

State Affairs Committee

<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

Dear Bruce,

Thank you for holding hearings to discuss the Governor's Executive Order eliminating ADF&G's Habitat Division, and transferring permit authority to DNR. I believe that this plan is likely to have many unintended and unfortunate consequences. I hope that as a result of your hearings, you and enough others will vote to stop the move, at least until there can be an objective analysis of the program and how to address any perceived shortcomings. Please share my thoughts with others on your committee, and anyone else you believe is interested in this issue.

Giving the program to DNR is clearly a case of putting the fox in charge of the henhouse. (More on that later.) Permitting of in-stream work, however, is only one of several functions currently handled by Habitat Division. I am also concerned about the fate of Habitat Division's other roles. I hope you will not let them disappear.

Habitat Division provides comments and recommendations on a huge variety of development proposals, many of which never touch a fish-bearing stream. Every federal and state timber sale, every public highway plan, every harbor, every Corps permit in coastal areas, hydropower, transmission lines, airports, and on and on – ADF&G Habitat Division reviews all these under the authority of the Alaska Coastal Management Program, the National Environmental Policy Act, the Federal Power Act, the Fish and Wildlife Coordination Act, and other laws. These reviews are done largely outside the arena of Title 16 permitting. Where project modifications would reduce impacts to fish and wildlife, Habitat Division provides recommendations. Where projects are benign, they are silent. It is not typically controversial or high profile (with occasional exceptions), yet it accomplishes a great deal of conservation – the kind of conservation that keeps habitats productive in spite of ever-expanding human development.

In my experience (on hundreds of development proposals), developers and designers do not want to unnecessarily impact fish or wildlife. They like to point to features they've incorporated into their projects that minimize impacts and improve environmental compatibility. Competent, knowledgeable, local biologists with experience in reviewing development proposals can provide insight on how animals use a given area, and how to minimize impacts. Sometimes this increases costs. On rare occasions a project is found inconsistent with the public interest and Habitat Division recommends against the development. This function serves the public well – development of necessary or otherwise desirable infrastructure proceeds, impacts to the public's wildlife and fish are minimized, and the rare project that is clearly not in the public interest is withdrawn. ADF&G has no authority to stop such projects if there is no fish stream permit required. Theirs is an advisory role.

If DNR is given only the permitting functions, and Habitat is otherwise disbanded, the public will lose a voice of knowledge and experience that makes it possible for large numbers of people, both residents and non-residents to see, harvest, and enjoy fish and wildlife across the State, even where human development has occurred. This critical role in reviewing a broad array of projects and providing non-binding recommendations on ways to minimize impacts must be preserved.

Alaska is a great place to live for several reasons (although weather isn't one of them). Most of us choose to live here because of the fish and wildlife, and the hunting and fishing opportunities that those provide. Nowhere else offers the kind of hunting and fishing that we enjoy. Some apparently take this for granted. I do not. Our fishing is good because many people have struggled to keep it that way.

Protection of spawning and rearing habitat has been a critical feature. I agree with the Alaska Legislature who originally put the agency with the most knowledge and expertise in fish issues in charge of overseeing development with proven potential to destroy the resource. The Governor says that Habitat Division has unnecessarily delayed projects, and assures us that DNR will adequately protect fish habitat if they are given the permitting program. But the transfer does not appear to anyone (who cares about this issue) to be about issuing

permits faster. Fish and Game's record on time to issue permits is clear- 14 day turnaround is average. DNR's record is also clear: a huge backlog, and long delays for water rights, land leases, etc.

From an applicant's standpoint, permitting is currently pretty simple. One application is required, it is submitted to Division of Governmental Coordination, and they get all necessary approvals back from DGC. The coordination with various state agencies is largely invisible to the applicant. If there is a problem, ADF&G may ask for additional information, thru DGC. Where projects have potential to impact productivity of salmon streams or other important habitats, information should as complete as possible.

Almost nobody wants to spend money unnecessarily. Requests for additional information that I have seen from Habitat Division have always been supported by rationale justifying the request. You could easily request examples of such information requests from DGC, ADF&G, or from applicants who have complained. Some developers have apparently objected to such requests, and complained to the governor or his associates. We should not let these few, influential developers with friends in high places take away the public's right to protection of their fish and wildlife.

I have no particular problem with development, unless it is done in a sloppy manner that unnecessarily damages productivity of the land and water. Anyone working in a fish-spawning stream should have their plan reviewed by a competent fish biologist with ready access to adequate information, to make sure that impacts are minimized. I expect that any objective review of all such proposals would identify some that would have significant, though perhaps unintended and unnecessary impacts – impacts that could be avoided by modification of the proposal. Of course there have been a handful of proposals that have raised red flags and have been held up in permitting. Honest consideration may take extra time if the issues of a given case are particularly complex. In most or all cases, it has probably been warranted. I do not believe that the State of Alaska should be ashamed of this.

The Governor has made it clear that what he objects to is ADF&G's *advocacy* for the fish and wildlife resources of this state. He has also made it clear that he expects no fish permitting issues to delay development once DNR is in charge. Given the example he has made of ADF&G, I fear he is right. DNR will comply with the governor's wishes. I know and have worked with many DNR employees. They are consistently fine people, but they are clearly under a mandate to *develop* the state's natural resources. Given the vindictiveness with which Frank has presented and promoted his plan, and the public insults he has thrown at ADF&G along the way, I seriously doubt that anyone at DNR will take much of a stand in defense of fish or wildlife. DNR *promotes* development. That's why Frank wants that particular fox to guard this henhouse.

As more lenient permitting decisions allow greater impacts to fish streams, we can expect to see diminished productivity of those streams. Results are likely to be dramatic only at a very local level as individual streams are impacted to greater and lesser degrees. Regionally, the response is likely to be diluted and gradual. By the time it is detectable and demonstrated, much will be lost, and probably beyond repair (witness the salmon situation on the West Coast of the lesser 48).

The governor claims that legitimate (and he stresses that word *legitimate*) projects have been delayed by ADF&G. I submit that *legitimacy* of an individual project is irrelevant to the permitting process. Legitimate projects should be designed to minimize their impacts to other interests, especially public resources of such high value as fish and wildlife. Should we expect only non-legitimate projects to meet this standard? Who should make the call on which are legitimate and which are otherwise? What criteria should they use? Does the governor really believe that a permitting authority (ADF&G or DNR, or whoever is in charge) should decide on the *legitimacy* of a project before deciding which rules apply? Do you? I believe that the rules should be applied uniformly, and not show the favoritism that the governor's remarks suggest he supports.

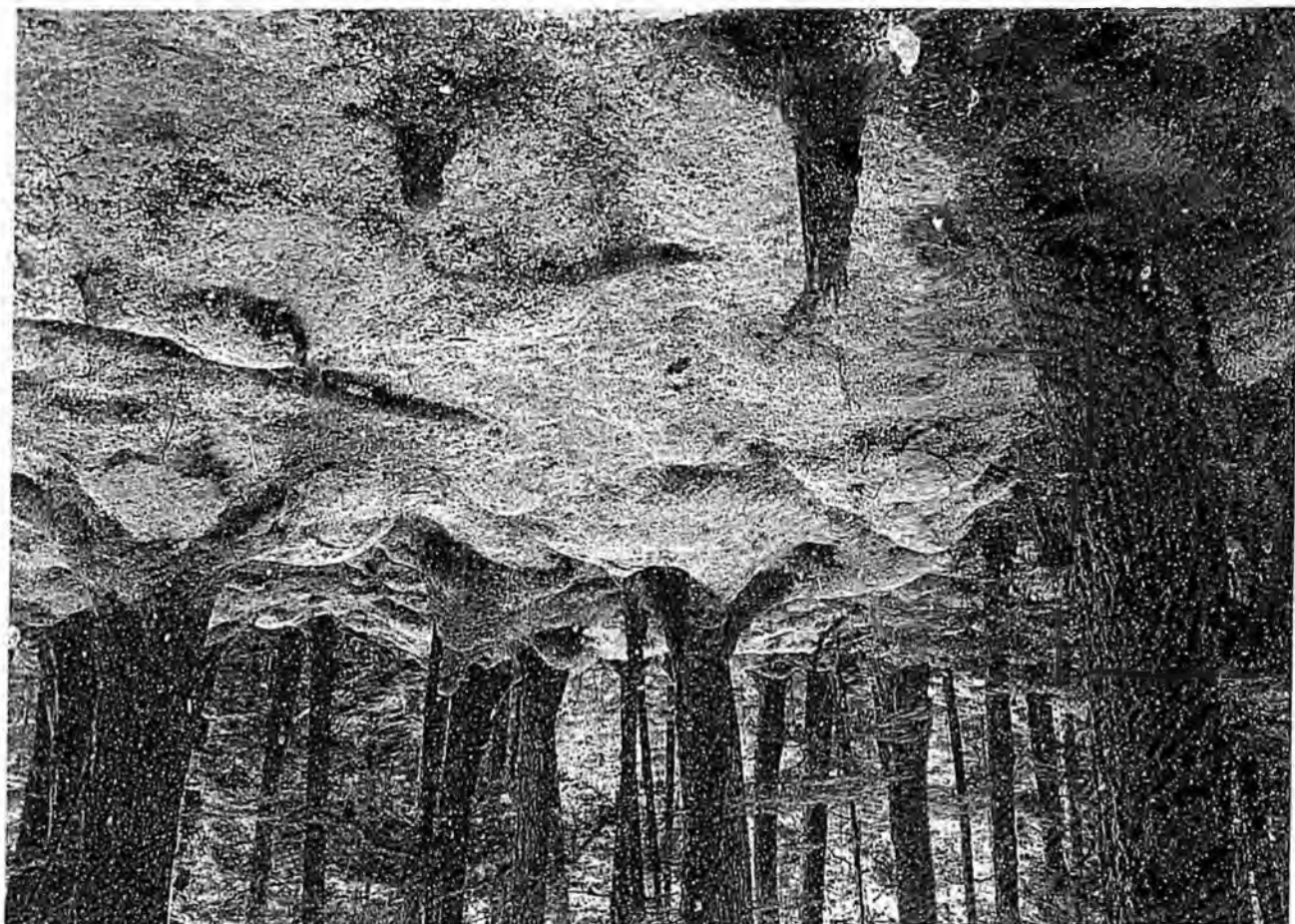
If there truly are chronic problems with permitting delays, an objective review of the program will detect them. A reasoned analysis will suggest solutions. There has been no such analysis. If there really is a problem, perhaps divesting ADF&G of its permitting authority is the best solution. Something less drastic, like mandating through law or regulation that permits must be issued within a given time period, may be more effective. If the governor is confident of his case, he shouldn't object to an impartial analysis.

Please do what you can to inject some reason into this process. It is clearly an attempt to promote development (which is fine) at the expense of environmental quality (which is not fine). The public expects and deserves protection of their unique and irreplaceable fish and wildlife resources. If the Legislature acts promptly, you can protect that interest. If you delay, you will betray our trust.

Sincerely,

Habitat Division Move

• Steve Brockmann, 13960 Glacier Highway, Juneau, Alaska



TONGASS GAME TRAIL

A game trail winds its way through a moss laden floor in the Tongass National Forest located in southeast Alaska. The Tongass includes some of the last expanses of pristine temperate rain forest in North America. Soaking up more than 100 inches of rain per year, old-growth stands of Sitka spruce, western hemlock, and yellow cedar provide critical habitat for wildlife such as brown and black bear, bald eagles, and Sitka black-tailed deer to name a few. Countless streams running through mist-shrouded valleys are the spawning grounds for millions of wild salmon. Half of the prime old-growth forest of the Tongass has already been clearcut. Groups like the Southeast Alaska Conservation Council (SEACC) are devoted to protecting the remaining old-growth through education, grassroots efforts, and working with resource management agencies. SEACC strives to protect valuable Tongass resources while promoting sustainable economic growth. For more information, contact SEACC at 419 Sixth St., Suite 328, Juneau, AK. 99801, (907)586-6942.

Photograph © Gary Crandall



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A portion of the proceeds from sales of this card supports the protection of wildlife and their habitats. Please call or write for information on limited edition prints and posters.

MAR 10 2003

Representative Weyhrauch

March 9, 2003

I am writing to let you know that I am very concerned about E0107 which transfers the ADF & G Habitat Division to the DNR. I am very appreciative that you are having these hearings to allow the public to express their concerns.

Alaska's fish habitat and streams are critical to the continuation of healthy salmon returns. I fear that these resources will be gravely compromised if this permitting authority is transferred.

This transfer of permitting authority, in my opinion, is a major step in the wrong direction. Productive salmon habitats define what will be available for future generations. Productive salmon habitats provide jobs now and into the future.

Please vote to disapprove this executive order and protect our fish and wild-life resources.

Kind regards, Danielle B. Brown



Alaska State Legislature

MAR 17 2003

Please enter into the record my testimony to the House State Affairs
committee name

committee on EO-107, dated March 11, 2003
bill/subject

Signed: GARVAN BUCARIA *Garvan Bucaria*
Testifier

Self
Representing (Optional)

P.O. Box 870298, Wasilla, AK 99687
Address

(907) 373-4974
Phone No.

March 11, 2003 1/2

1. The Governor is responsible for the faithful execution of State Laws. Under the State Constitution Article VIII Natural Resources, Sections 1, Statement of Policy, 2. General Authority, 3. Common Use, 4. Sustained yield, and 16. Protection of Rights, the major theme is perpetuation of productive, healthy stocks of fish and wildlife available to the people.

Before now, the Executive Branch delegated responsibility for Fish & Game and their habitat to the Alaska Department of Fish and Game. Now, the Governor's promulgation of EO-107 eliminates the Commissioner of Fish and Game's authority to protect aquatic habitat by deleting the Habitat and Restoration division. Shifting responsibilities to a DNR, Deputy Commissioner/State Forester raises serious questions as to wildlife and Fisheries Habitat oversight.

I believe Governor Murkowski has erred — it is a mistake to implement Executive Order 107. It would convey an impression of subordination of Fish & Wildlife habitat protection for development concessions.

I urge Legislators to exercise their checks and balances role and reject EO-107 on behalf of the people of Alaska.

2. Regarding any legislative vote on implementation of Executive Order Number 107 — recuse legislators who have conflicts of interest concerning pending court cases involving permitting actions through the Alaska Department of Fish & Game Habitat and Restoration Division.

Laura Bucaria

March 10, 2003
285

1. Reject EO 107 - Don't sacrifice fish & wildlife habitat for short term solutions that may result in long term habitat loss.
2. Don't allow EO 107 to remove Dept of Fish & Game Input from Forest Practices Act involvement. We must retain ADF&G oversight.
3. Don't Accept a substitute position (Deputy Commissioner) with no qualifications or ^{Job} criteria specified for qualified positions and staff already in Fish & Game
4. Don't threaten the use of Fish & Game License money for use in appropriate projects
5. Don't Limit the use of Federal Fish & Game Funds by shifting Fish & Game Habitat protection & enforcement & improvement out of ADF&G Authority
6. Don't negate the intent of the Anadromous Fish Act through Transfer of Fish & Game authority to DNR. Both DEC / DNR have joined to minimize protection of anadromous fish spawning habitat by recommending mixing zones (mixing outflow) in spawning areas. Only ADF&G have been able to assure protection of such habitat.
8. The suggested changes under EO-107 seem to develop a similar independent decision authority under DNR. This ploy is recognized exactly for what it is - a concerted effort to circumvent critical review of resource development plans.
9. On Friday I had the privilege of speaking with the State forester - off the record. He seems like a fine person and believes he can administer the Governor's EO's etc. However he admits that the EO 107 will have a different perception to The General Public. *Laura Buehler*

March 11, 2003

Dear Chairman Weyhrauch, and Members of the House State Affairs Committee:

I urge you to **OPPOSE** Governor Murkowski's Executive Order 107 to transfer fish and wildlife habitat oversight and permitting authority from the Habitat Division of the Alaska Department of Fish and Game to the Department of Natural Resources. Loss of this protection threatens critical habitat across the state, our fish and wildlife populations, and the interests of all Alaskans.

I am proud that Alaska's State Constitution is considered a model for its foresight in addressing myriad unique issues that confront us here in the Last Frontier. The legislature at the time of statehood realized the need to build checks and balances into the system, to ensure the long-term health and sustainability of both our natural environment and resources. For our entire history as a state, The Alaska Department of Fish and Game has been in charge of fish and wildlife habitat protection. It has always been the Department of Natural Resources' mandate to develop Alaska's natural resources. These missions are often at odds; yet since statehood the two agencies have balance these needs sensibly and efficiently. There is no need to overhaul a system that works! Executive Order 107 is not only unnecessary, ill-conceived, and short-sighted; it gravely endangers one of our greatest renewable resources: our pristine environment. This is not merely an aesthetic concern; it is the foundation for the long-term health of a tremendous economic resource and the continuation of a way of life treasured by most Alaskans, but no longer available to most Americans.

Any resulting damage to our wildlife, or to our commercial, sport, and subsistence fisheries, will directly and negatively impact nearly every resident of the state, and wreak devastating effects on our economy. Not only Alaskans rely on strong fisheries; millions of dollars in sport-fishing based tourism could be in jeopardy as well. Please do not allow Mr. Murkowski's tunnel vision toward streamlining resource development threaten the long-term health of our resources themselves. Oppose Executive Order 107!

Sincerely,

Allison Butler

Allison Butler
(Biology Professor, University of Alaska Anchorage)
1026 W. 10th Avenue
Anchorage, Alaska 99501
786-4793

Public Opinion Message

Please contact your local Legislative Information Office (LIO) to send POMs.
A listing of LIOs can be found at <http://www.legis.state.ak.us/legaff/liolist.htm>

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.

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| Mr. / Mrs. / Miss | First name | Mr. | Last name | Mr. / Sr. / II |
| | Jackie | L. | Interbury | |
| Group affiliation (if applicable) | | | | Daytime telephone number |
| Mailing address | | | | Zip code |
| P.O. 3280, Kotcheka OR 2426 Park Ave | | | | 99901 |
| Residence (street) address if different from mailing address | | | | Zip code |
| dimplex HS | | | | |
| Email address | | | Signature | Date |
| | | | Jackie Interbury | 3/11/03 |

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

| Committees | | House members | | | Senate members | | |
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Subject: Fill out the boxes below OR enter a Subject.

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(LIO staff may modify): |
| | 107 | | <input checked="" type="checkbox"/> Oppose | | | |

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

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TO: Ginnay
RE: Executive Order 107
FR: Jackie Canterbury
DA: March 11, 2003

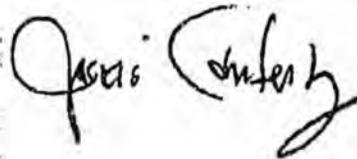
Please vote to disapprove EO 107 to move permitting authority from Fish and Game to Natural Resources.

While the commissioners spoke in about the move to transfer the habitat division, one of the regional supervisors who is also being let go after three decades at Fish and Game said people at the Alaska Department of Fish and Game were "more concerned about the public resources they manage than about losing their jobs." This statement sums up the dedication and commitment of the professionals within the habitat division of the Department of Fish and Game.

The fish and wildlife resources of Alaska are still thriving because ADF&G has consistently demonstrated a strong commitment. They have done so by policy and by the professionalism - in large part because of the habitat division.

The governor's plan WILL sacrifice environmental safeguards. Elimination of the habitat division is NOT in the best interest of the state of Alaska. Transferring the permitting authority of ADF&G and selectively eliminating biologists who enforce those laws is not in anyone's best interest. In fact, it sets a dangerous precedent for a state whose natural resources and innate beauty are its' future.

Thank-you for the opportunity to comment.

A handwritten signature in black ink, appearing to read "Jackie Canterbury". The signature is written in a cursive, flowing style.

MAR 17 2003

Larry Casey and Family
12428 Winter Park Circle
Eagle River, AK 99577

House State Affairs Committee

Dear Committee;

I would like to voice my and my family's objection to the proposal to move the habitat permitting and functions from Fish and Game to Natural Resources.

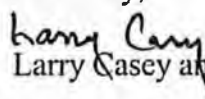
The wildlife resources and abundance of Alaska are the envy of the world. ANY attempt to undermine protections for expediency is foolish not only from a biological perspective but also from future economic perspectives. Permits should be difficult to obtain as economic projects should be well thought out, funded, and environmental considerations SHOULD have been part of the planning of economic projects.

I would as a citizen like to see how many projects that Fish & Game has hindered. I certainly haven't heard convincing evidence of massive economic impacts from the permitting process. My personal feeling is that some poorly planned projects may get approval and fail in any event, leaving not only economic problems but also environmental impacts because of easily obtained "streamlined" permitting.

Protect the wildlife habitat and salmon streams. Make projects adhere to and plan expenditures to mitigate effects on Alaska and keep the habitat division within the Department of Fish & Game.

Thank you for your time and consideration.

Sincerely,


Larry Casey and Family

CASSANDRA ENERGY CORPORATION

P.O. Box 100453
Anchorage, Alaska 99510-0453

Telephone: Anchorage (907) 344-7188 Kenai (907) 283-3567
Fax: Anchorage (907) 344-2262 Kenai (907) 283-7065
E-Mail: casscon@alaska.net with cc to casscon1@acsalaska.net

Bill Stevens (907) 240-7040

03/13/03

Alaska State Legislature

Please enter my testimony to the House State Affairs Committee on EO 107, dated 03/11/03.

Mr. Chairman,

Thank you for the opportunity to testify today.

My name is Bill Stevens and I am President of Cassandra Energy Corporation.

Cassandra Energy Corporation has been attempting to permit an exploration drilling operation for the past 29 months. The State has been involved in the last 12 months of this effort.

I feel that The Habitat Division of Alaska Department of Fish and Game has added approximately 7 months to the permitting ordeal. Specifically, this was done through lack of interest or attention concerning the initial introduction of our project at and following the ADGC Pre-Ap Meeting. Later, the apparent usurping of authority outside of their scope, "turf wars" with other regulating agencies, unreasonable or seemingly baseless demands, and an arrogance demonstrated by their disregard of the rules and regulations that applied to others involved in the DGC process, would help account for or explain the delays.

I am attaching a color coded Timeline to this correspondence to help clarify and qualify my statements.

I find it rather easy to believe that China and Russia are ahead of Alaska on the list of desirable Geo-political areas to invest.

Govenor Murkowski has shown excellent insight and fortitude in EO 107. I urge the committee to help make it law or let it become law.

**William H. (Bill) Stevens
Cassandra Energy Corporation
P.O. Box 100453
Anchorage, Alaska 99510**

907-344-7188

March 22, 2003

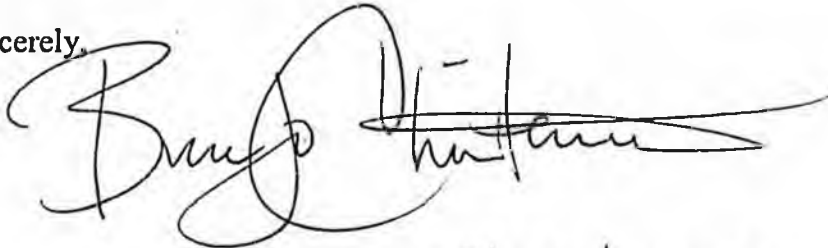
The Honorable _____
House of Representatives
Alaska State Capitol
Juneau, Alaska 99801-1182

Dear Representative Leslie McGuire,

I would like to express my concern about the Governor's Executive Order 107 (EO 107) to transfer permitting authority from the Department of Fish and Game's Habitat Division to the Department of Natural Resources. The missions of these two departments are different and I see a real danger in moving authority for the protection of fish and wildlife habitat to the Department of Natural Resources whose primary mission is the *development* of resources.

I am strongly opposed to EO 107. This EO will take effect April 15, 2003 if it is not disapproved and put our fish resources at risk.

Sincerely,



Billie J. Christensen
2021 Sturbridge Cr.
Anch. Ak 99507

February 9, 2003

To All Alaskans:

A recurring national debate is whether we can afford to preserve the environment if it costs jobs in mining, logging or other related industries. People who make this argument often fail to consider all the facts. While the exact numbers are elusive, in many fisheries circles it is estimated that if northwest salmon had not been destroyed by logging and dams, their current dollar value would be more than all the lumber and cheap electric power that was given a higher priority. Based upon this information, it apparently was a poor business decision to destroy salmon habitat. The Pacific Northwest could have a sustainable and prosperous fishing industry, and also still have healthy forests, rivers and streams.

In this same vein, this debate of jobs versus the environment often fails to take into account the business value of sport fishing. Most states estimate sports fishing income, but the numbers are not well-publicized. The National Survey of fishing, Hunting, and Wildlife viewing estimated that US residents spent \$537 million on fishing trips and equipment in Alaska in 2001.

Why are these numbers not considered? The problem seems to be that in the U.S. today, we often ignore the long-term result, and are only interested in the money to be made today. Jobs created by logging and mining are short-lived. Once the logs and minerals are gone, so are the companies and so are the jobs. The timbermen who cut the Pacific Northwest started out in Michigan and Wisconsin. By contrast, jobs created by sport fishing and from other sustainable fish harvest will be there as long as the fishery resource is protected. So the next time someone wants to talk about the fish-benefit ask them to consider the next 30 years, not just their annual bottom line. Likewise, when decision-makers ignore or belittle sports fishing interests, don't forget to tell them that fishing brings local jobs and local income, and if protected will for years to come.

Robin Collman
Seward, Alaska

Robin Collman
ph 224 3138

STATE OF ALASKA

Cooper Landing Fish & Game Advisory Committee

Frank H Murkowski, Governor

Bill Stockwell, Chair
PO Box 721
Cooper Landing, AK 99572-0721
Phone: 595-1540

March 13, 2003

MAR 14 2003

Honorable Bruce Weyhrauch
Chair, House State Affairs Committee
Alaska House of Representatives
State Capitol
Juneau, AK 99801-1182

SENT BY FAX TOTAL 4 PAGES

SUBJECT: Written Comments on Executive Order 107.

Dear Representative Weyhrauch and Committee Members

We wish to thank you for holding a hearing on this important issue and giving us this opportunity to submit our written comments for the record.

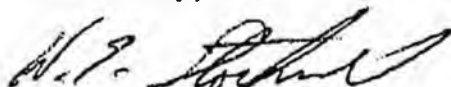
If this transfer as ordered in Executive Order 107 is allowed to go into effect, the Cooper Landing Fish and Game Advisory Committee has grave concerns for the long term future sustainability of our public common use fish and wildlife resources. While this transfer might on the surface seem only to immediately effect fisheries and instream permitting, the long term impacts will effect fish and wildlife and all Alaskans who receive value from these resources.

Because there was no public process, we have not received any information on how this transfer will change and impact our committee duties. We have asked but have been left complete in the dark and thus can not provide much depth to our input.

Rather than state the same issues over, attached and made part of this letter are committee letters of February 15 to Governor Murkowski (2 pages) and February 16 to the Alaska Boards of Fisheries and Game (1 page).

We do not believe that this transfer is in the best interest of our fisheries and is certainly not in the best interest of the residents of Cooper Landing. Our quality of life and economic future depend on the habitat that supports our fish and wildlife. Without the authority to protect habitat, the Boards of Fisheries and Game, the State advisory committees, and ADF&G will not be able to successfully regulate and manage our common use fish and wildlife resources for sustained yield.

Sincerely,



Bill Stockwell, Chair

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

STATE OF ALASKA

Cooper Landing Fish & Game Advisory Committee

Frank H Merkowski, Governor

Bill Stockwell, Chair
PO Box 721
Cooper Landing, AK 99572-0721
Phone: 595-1540

February 15, 2003

Honorable Frank Murkowski
Governor, State of Alaska
P.O. Box 110001
Juneau, AK 99811-0001

SENT BY FAX 2 PAGES AND BY MAIL

SUBJECT: The transfer of habitat authority from ADF&G to DNR

Dear Governor Murkowski,

At our public meeting on February 11, 2003, the Cooper Landing Fish and Game Advisory Committee discussed the transfer of habitat authority from the Department of Fish and Game to the Department of Natural Resources. The only official notice or information that we have received to date is the February 5, 2003 news release from Acting Commissioner Duffy.

As this transfer has potential impact on a very important committee function, being the local forum for fish and wildlife habitat, the committee asked me to express their concerns in this matter to you and to our Legislators, the Boards of Fisheries and Game, the Acting Commissioner of Fish and Game and the Commissioner of Natural Resources. Our concerns can be divided into two major issues, the process that this transfer took and the future protection of the habitat so vital to the sustainability of all Alaskan's common use fish and wildlife resources.

First, the process. We fully understand your constitutional authority to reorganize the executive branch and because you have already signed the executive order, we can no longer oppose the transfer of authority. However, we can ask that an open public process to assess the effects be followed before the culmination of this transfer. Process is the very backbone of public/advisory committee/board system for the management, conservation, protection, and use of fish, game and their habitat. We ask that you allow this process to be heard. The present system of fish and game habitat authority has worked for 50 years and can function successfully for a few more months. Time is not of the essence.

The Cooper Landing Advisory Committee feels that an open public process is always in the best interest of fish and wildlife

PAGE 2 Cooper Landing Advisory Committee February 15, 2003

resources. We ask that the Board of Fisheries and Board of Game be given ample time and we ask the Boards to conduct a full and open comment and testimony period for the general public, effected organizations and advisory committees and that the Boards be allowed to make recommendations to you on the substance of this transfer. We also ask that the Alaska Legislature be given ample time to hear and consider the public's concerns on the issue and we ask our Legislators to conduct hearings for their constituents on this transfer.

Next, our other major concern is the future protection of the habitat so vital to the sustainability of our common use fish and wildlife resources and how the Cooper Landing Advisory Committee will continue to interface in the process. We believe, as do many Alaskans, that the proper management of the public's fish and wildlife resources are a vital part of the Alaska's future and that proper management must start with habitat protection and restoration.

Most issues that effect the Community of Cooper Landing deal with habitat. The residents and the advisory committee have over the years had a close working relationship with ADF&G on fish, wildlife and habitat issues of concern to our Community. This relationship has always included the advice and aid available from the Habitat Division. The Community feels that the loss of this asset could have a future negative impact on our quality of life and our economy. The Cooper Landing Advisory Committee is worried that the necessary coordination with ADF&G to function as the local forum for fish and wildlife habitat matters will be permanently lost and the vital habitat for fish and wildlife in our area will suffer.

Governor Murkowski, we thank you for your time and ask that you give our committee opinion and that of other advisory committees due deference prior to finalizing this transfer.

Sincerely,



Bill Stockwell, Chair

cc: Senator, District R
Representative Seaton, District 35, House Fisheries Comm.
Alaska Board Of Fisheries
Alaska Board of Game
Acting Commissioner Duffy, ADF&G
Commissioner Irwin, Dept. of Natural Resources

STATE OF ALASKA

Cooper Landing Fish & Game Advisory Committee

Frank H Murkowski, Governor

Bill Stockwell, Chair
PO Box 721
Cooper Landing, AK 99572-0721
Phone: 595-1540

February 16, 2003

Ed Dersham, Chair
Alaska Board of Fisheries
Ben Grussendorf, Chair
Alaska Board of Game
ADF&G, Boards Support Section
P.O. Box 25526
Juneau, AK 99802-5526

SENT BY FAX 3 PAGES

SUBJECT: The transfer of habitat authority from ADF&G to DNR

Dear Chairmen and Members of the Boards,

Attached is the Cooper Landing AC 2 page letter to Governor Murkowski the subject. Rather than repeat ourselves, we ask that you consider that letter as part of this.

We understand that the Board of Fisheries will in some manner take up this matter at the February 20 Ketchikan Meeting and we ask the Board of Game to do the same. We hope that through an open public process of Board hearings, advisory committees can find out how Habitat has impacted the Sterling Highway where we live (WHAT, the 30 year ongoing Cooper Landing Bypass??) and other DOT, FERC hydro projects and cherished outdoor recreation so severely that the only solution is elimination.

Our AC is completely in the dark on this issue with only the newspaper and an ADF&G news release for information. Thus we can only guess how this will effect us and our guess is for the worst. How are ACs to function if habitat management is no longer part of ADF&G? Do the Boards stop regulating habitat issues or does DNR habitat now become part of the Board process? How will ACs interact with DNR habitat?

Habitat concerns are always ongoing in Cooper Landing with major projects such as the DOT Sterling Highway Bypass/Rebuild and the FERC Cooper Lake Hydroelectric Re-licensing. Other issues of land and water use that effect the fish and wildlife habitat of our area are continuous. Who will replace the Habitat Division when the Community needs guidance in these issues?

Thanks for the help. We hope there is a solution.



Bill Stockwell, Chair

Serving the Alaska Board of Fisheries and Alaska Board of Game
Boards Support Section, 333 Raspberry Road, Anchorage, Alaska 99518-1599

LEGISLATIVE INFORMATION OFFICE

Email: Ketchikan_LIO@legis.state.ak.us

50 Front St., Suite 203
Ketchikan, Alaska 99901Phone: (907) 225-9675
Fax: (907) 225-8546**WRITTEN TESTIMONY**NAME: Richard L. Coose
ADDRESS: PO BOX 9533
KETCHIKAN ALASKA
PHONE: 907-297-9533BILL# or SUBJECT: EO 107COMMITTEE: House State Affairs

I am representing myself and a non-profit group called Concerned
Alaskans for Resources and Environment. I support the Governor's
proposed EO 107 to transfer the habitat division ADFEG
to DNR.

My experience as a professional forest land resource manager
for 40+ years has shown that by bring all the resource
disciplines together in one place and the working together
as a team is the most efficient and effective way to
provide the best management solutions for the habitat and
resources. This streamlined permitting process will greatly
benefit Alaska's people & business while managing Alaska's
resources for the future. The ADFEG habitat division has seriously
delayed projects in & near Ketchikan. I ~~am~~ believe
DNR will act responsibly to protect & manage our
valuable habitat resources

Please support EO 107Thank you

March 11, 2003

Dear Alaska Legislature,

I am speaking on behalf of the Copper River Watershed Project, a non-profit organization based in Cordova, Alaska that is dedicated to sustaining rural economies and maintaining a healthy fishing industry in the Copper River region. The CRWP opposes Governor Murkowski's Executive Order 107 which would transfer salmon and fish habitat oversight and permitting authority from the ADF&G to the DNR. The executive order represents a substantive policy change, which jeopardizes the checks and balance system upon which Alaska's constitution relies. At statehood, the Alaska Legislature decided to create two separate resource agencies; DNR's mandate is to develop resources and ADF&G's is to manage Alaska's fish and wildlife and protect their habitat. With these distinct roles and responsibilities, Alaskan residents can feel confident balances will be met between the benefits to our economy and the integrity of our natural systems. Transferring the permitting and oversight to DNR eliminates this balance. The executive order will result in further delays because of lack of staff and funding, and a permitting system that lacks the biologic expertise and institutional memory of the ADF&G staff.

We encourage you to oppose Executive Order 107.

Sincerely,



Becky Clausen
Copper River Watershed Project
PO Box 1560
Cordova, Alaska 99574
907-424-3334

To:
HOUSE STATE AFFAIRS
MARCH 11, 2003

P.O. Box 1727
Petersburg, AK 99833
(907) 772-4864
doncorn@mitkof.net

In watching the ongoing debate regarding the effect the ADFG Habitat Division has had on development, one thing is apparent. A lot of people do not understand how the division works. The Habitat Division has become the scapegoat for developers who don't like permitting.

First of all, you need to consider that the reason the Habitat Division was formed was to give ADF&G a voice in reviewing developmental activities which affect fish and wildlife. Without coordinators it was easy for the different divisions to provide conflicting and thus, confusing comments. Professionals who understand the permitting system allowed other fish and wildlife staff to focus on their primary duties while maximizing the quality of the Departments input.

As the division functions today, when habitat biologists receive applications for permits or environmental reviews, they serve as the focal point for input from the entire Department of Fish and Game. Any permit or project is routed around the offices under whose jurisdiction the project falls. Concerns and comments from commercial fisheries, sport fisheries, wildlife conservation and subsistence staff all go into the equation.

Habitat biologists also function as point men for other agencies -- the U.S. Fish and Wildlife Service, National Marine Fisheries Service and EPA -- in responding to Army Corps of Engineers permits and other environmental reviews. This is because of their local knowledge and ready access to input from the other divisions. Some projects that might otherwise be held up by other agencies are cleared without controversy because habitat staff answer and resolve concerns before they become issues. Again this is only because they have local knowledge. Sometimes developers thank ADFG biologists for input because they saved them time and money.

Habitat biologists work under an inflexible time table. If they don't get their permits or comments out in time, then they and the resources are out of luck. Some permit applications needing field review come in the dead of winter when project areas are inaccessible and streams are covered in ice and snow. At such times only knowledge of local conditions

and agreements with industry representatives can be used to minimize impacts to fish habitat. By working out of field offices rather than in centralized locations, Habitat Division permitters develop a rapport with industry and are able to build more flexibility into permits. If habitat (or DNR fish permitting) staff are reduced and centralized, wider generic timing windows and less flexible stipulations will be needed.

Any projects that are held up are delayed for good reasons. They potentially have significant impacts on fish and wildlife resources. Not all proposed development is benign. For every project the Governor claims has been derailed by Habitat Division staff, others should have been held up or even rejected. The political pressure on Habitat Biologists is intense and Alaskans now live with permanent impacts that could have been mitigated or avoided.

While the governor hopes to speed up permitting, moving some functions of the division to DNR and eliminating the rest is likely to have the opposite effect. This action will break the link with ADF&G. No longer will permitters have ready access to biologists from the other divisions. Just communicating with ADF&G will become a logistical barrier.

Other projects requiring Corps of Engineers Permits will be left to Federal agencies to come up with mitigation. State biologists will be left out of the equation. Habitat staff won't be there to "grease the skids" or develop realistic mitigation. This could especially become a problem if there is a regime change in Washington, DC in 2004 and our nations leadership becomes more sensitive to the needs of fish and wildlife.

Portions of US Forest Service Timber sales that significantly impact high-value fish or wildlife habitat will go unreviewed by state biologists.

It seems ironical that in a state with so many commercial, sport and subsistence fishers, hunters and trappers that the very agency that represents their interests will be left out of the development equation.

Alaska has been fortunate to have a dedicated staff of biologists who sacrifice personal time to protect the resources from which all Alaskans benefit. The governor is correct -- they have an agenda. They take their job seriously. With the Governor's current development plans, the Habitat Division should be beefed up, not gutted, in order to assure impacts to fish and wildlife are minimized.

The Legislature needs to recognize this and ensure that the Habitat Division is not made a scapegoat for the entire Department of Fish and Game.

Under separate cover I am also forwarding to you copies of the Habitat Division response to the Governor's charges of an out-of-control government agency -- charges that were unfounded; that the governor refused to allow the accused to defend themselves; and charges that the Governor used as justification for his decision to virtually eliminate the

division. Forgive me if I say it resembles a lynching in the old south, but if you think about it you can see real similarities. Essentially the Governor has chosen to shoot the messenger rather than provide leadership to address the issues

I urge you to overturn the governors executive order to assure that when development projects come up for review, potential impacts to fish and wildlife resources that Alaskans so cherish get full consideration in the decision making process.

Sincerely,

Don Cornelius
Retired ADFG Habitat Biologist

Brian Davis
1135 W. 8th Ave
Anchorage, AK 99501

MAR 17 2003

This is in support of Senate and House Special Concurrent Resolution 1 (SSCR 1 and HSCR 1) disapproving Executive Order 107. Please allow the Alaska Department of Fish and Game, Habitat Division, to keep its responsibility for the research and comment on land use permits in Alaska. Habitat biologists are the professionals who are best able to assess the impact of different developments on our precious fish and game resources. The Division should be allowed to continue on its mission.

Thank you very much,
Brian Davis



[Fwd: Rep. Weyrauch:]

Subject: [Fwd: Rep. Weyrauch:]
Date: Sun, 23 Mar 2003 13:55:19 -0900
From: Bruce Weyhrauch <Representative_Bruce_Weyhrauch@Legis.state.ak.us>
Organization: Alaska State Legislature
To: Terry Harvey <Terry_Harvey@legis.state.ak.us>

terry please put this in the habitat file.

bw

MAR 24 2003

Subject: Rep. Weyrauch:
Date: Fri, 21 Mar 2003 09:56:03 -0500
From: "Clancy DeSmet" <CDESMET@vermontlaw.edu>
To: <Representative_Bruce_Weyhrauch@Legis.state.ak.us>

Rep. Weyrauch:

I STRONGLY OPPOSE moving the Habitat permitting authority from the Alaska Department of Fish and Game to the Department of Natural Resources.

Please work for strengthening, not diminishing fish and wildlife habitat protection and oversight.

Please vote to disapprove the executive order. We must hold our elected officials accountable to protecting our fish and wildlife.

At present, the Department of Fish & Game has permitting responsibility for projects that may affect fish and wildlife habitat while the Department of Natural Resources has responsibility for resource development. This provides a system of checks and balances and an opportunity for fish and wildlife biologists to work with developers through the permitting process. If the permitting function is transferred to DNR, the balance will be tilted away from habitat protection to the long-term detriment of our fish and wildlife resources.

- * Alaska's economy and Alaskans depend on our unique fish and wildlife.
 - o Commercial and sport fisherman, hunters, trappers, hunting and fishing guides, subsistence users, and our tourism industry rely on healthy fish and wildlife.

- * Checks and balances are needed to protect Alaska's fish and wildlife habitat.
 - o The Department of Fish & Game has a mission to protect Alaska's fish and wildlife resources, the Department of Natural Resources mission is to develop the state's resources. These two missions balance each other to manage the state's unique and diverse resources.
 - c By moving the permitting authority one agency is given primacy in the process of checks and balances that have been set up to manage Alaska's fish and wildlife resources and resource development.

- * Governor Murkowski's proposal seems to be a solution in need of a problem.
 - o Of the 1,926 Title 16 permit applications received in 2002, 1,917 or 99.5% of the applications received permits or were told that no permit was required. The average time to process a Title 16 permit application decreased from 17 days in 2001 to 14 day in 2002.
 - o Currently DNR has a backlog of 700 water rights permit applications, 20

years or older, and 3000 miscellaneous applications, such as water rights transfers, that have yet to be processed.

* The Governor is not telling the whole story

o There are 85 current Habitat division employees who work on permitting projects. It is rumored that a significant number of these employees will be laid-off; of those who remain a number will be transferred to DNR.

o With less staff and less balance, it appears that there will be less accountability and project proposals may well lead to litigation and more delays.

o When difficult decisions have to be made that require weighing the protection of fish and wildlife against economic development interests, would you rather have those decisions made through a process that gives equal weight to the opinions of the commissioners of Fish and Game and Natural Resources, or would you rather have the commissioner of the Department of Natural Resources (the department responsible for resource development) have the sole authority to make those decision?

Sincerely,

Clancy DeSmet

Discovery ARTS



P.O. BOX 7814
(907) 225-3188

KEETCHIKAN, ALASKA 99901
FAX (907) 247-3188

Date 3-11-03

To: House State Affairs Committee
Re: Executive order 107

MAR 17 2003

This directive is a very poor idea. It will weaken protection of valuable salmon streams and despoil the aesthetics of valuable wilderness with potentially disastrous economic consequences. I've spent 20 years as a commercial fisherman and 20 years in the tour business. Both industries are very dependent on the biological integrity of S.E. Alaska's ecosystems. Streams in S.E. Alaska are an important element in the ecosystems and essential for the economic well being of both industries.

Protecting our salmon streams is essential for the future economic viability of the salmon industry. We are in a period of relative abundance in the salmon industry.

However, the level of abundance we are experiencing is largely the result of cyclic environmental factor affecting ocean currents, weather and temperature that are not well understood. I remember vividly the low levels of salmon returns in the 60's. I am appalled that some of my fellow fishermen are not alarmed by this action by the governor. However, these mostly younger fishermen do not remember the years of poor harvest which prompted major changes in the salmon industry such as limited entry and the private non-profit hatchery system. Mother nature is fickle, and this cycle of abundance could quickly change and salmon returns could dramatically drop once again, placing salmon runs in danger.

The biological integrity of streams is also important for the tourism industry. Streams in uncut old growth timbered valleys are the heart and soul of our ecosystems in S.E. Alaska. As wilderness on earth diminishes and the population increases, the value of these valleys increases exponentially. The value of timber near streams in S.E. Alaska to tourism and the fishing industry far exceeds its value as timber harvested every 100 years.

The governor's proposal would dramatically weaken protection of areas that are essential for the long term economic vitality of the fishing and tourism industries for the short term gain of the timber industry

Respectfully,



Dale Pihlman



Dixon Entrance Chapter Southern Southeast Alaska

MAR 27 2003

March 17, 2003

To: Alaska State Legislators

Subject: EO 107

The Dixon Entrance Chapter of the Society of American Foresters supports EO 107.

The Chapter members support a more efficient regulatory process, and believe implementation of EO 107 will help accomplish this objective.

Please support EO 107.

Richard L. Coose
Chapter Chair

*Distributed by:
Senator Scott Ogan
Senate District H*

March 11, 2003

Members of the House State Affairs Committee:

Thank you very much for the opportunity to submit these comments in regards to Executive Order 107. I appreciate your time in taking these comments into consideration and I also appreciate the time you dedicate to representing your constituents in the state legislature.

I am a resident of Sitka and I have taken the time to submit testimony because I am strongly opposed to Executive Order 107, which would move the Habitat permitting authority from the Alaska Department of Fish and Game to the Department of Natural Resources.

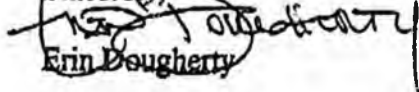
I enjoy fresh water fly fishing, and a good portion of my household's food comes from various hunting and fishing activities in the Tongass forest and surrounding waters. I am deeply concerned with Executive Order 107 as I believe it will dismantle a vital check and balance that has existed and allowed for responsible development and protection of habitat.

I came to Alaska from Newport, Oregon, a small town with the largest fishing fleet on the Oregon coast. I come from a fishing family, and because of the destruction of watersheds up and down the Oregon coast, my family now has to travel hundreds of miles north to fish for salmon in Alaska.

Oregon as a state made little to no concerted effort to protect vital watersheds and salmon streams from development, and now almost all of Oregon's natural salmon runs have vanished. Dozens of fish runs are listed as threatened species and the state spends millions of dollars a year on habitat restoration.

I moved to Alaska in part to live in a community where I could live off of what the land and sea provide. I urge you to work for strengthening, not diminishing fish and wildlife habitat protection and oversight. Please vote in joint session to disapprove of the executive order and do not let the destruction of watersheds that exists in Oregon be replicated in Alaska.

Sincerely,



Erin Dougherty

722 Biorka Street
Sitka, AK 99835
907-747-3498

PO Box 15043
Fritz Creek, AK 99603
(907) 235-7578
March 12, 2003

House State Affairs Committee
Juneau, Alaska

Dear Chairman and Committee Members,

Thank you for holding hearings on EO 107 and considering the impacts this order will have on Alaska's fish and wildlife resources. I had the opportunity to testify via audio link last night, but I wanted to submit written testimony for the record. After waiting at the LIO for three hours and having only two minutes to testify, I felt somewhat rushed. However, I sincerely appreciate the chance to speak, especially since I was denied that right at the Senate Resources Committee during a hearing on March 10.

I hope that your Committee thoroughly deliberates this EO and considers all of the testimony presented to you. This is a genuinely far reaching order that goes well beyond solving the alleged problems with the Habitat Division permitting. By reducing the number of biologists, important information about habitat will be omitted from the permitting process and our fish and wildlife resources will experience gradual, cumulative, long term degradation. If there are problems with efficiency in the Habitat Division or problems with policies carried out by individual biologists, those can be dealt with by the Administration through normal procedural channels.

I believe that this order will precipitate lawsuits from environmental organizations and the permitting process will slow down even more. This order may also increase the oversight by federal agencies and biologists, something we are fighting in the arena of subsistence management. I understand that DNR already has a backlog of permitting and has trouble issuing permits in a timely matter. Adding habitat permitting to their responsibilities will only exacerbate this problem.

Many people will be affected negatively by this order in years down the road. Many people care passionately about this, but are unable to testify before your committee. Scores of people testified last night. For every person who testified, many others showed up wanting to, but had to leave for other commitments and to be with their families and children. For every person who showed up at the LIO at the start of the hearing, scores or hundreds of others know about this and are strongly opposed.

In closing, I urge you to disapprove this order. Changes to Alaska's statutes, especially changes as broad and far reaching as this, need to be carried out by the legislature, through thoughtful deliberation and an open, public process.

Thank you.



Willy Dunhe

Subject: ADF&G Habitat Division

Date: Thu, 13 Mar 2003 17:35:13 -0900

From: "Sandra Baxter Dunn" <sbaxter@ptialaska.net>

To: <Representative_Bruce_Weyhrauch@legis.state.ak.us>

Bruce: You may remember me as the chairman of Juneau Ducks Unlimited. However, in my work world, I am an environmental consultant, specializing in wetland science and permitting and NEPA documentation. I have worked in that field in Juneau and Southeast since 1984, first with ADOT&PF, and since 1991 as a private consultant. During that time I have had numerous encounters with the habitat division, some good, many not so satisfactory. I have been involved with the Totem Creek golf course proposal since the mid 90's, when I supervised the wetland delineation of approximately 250 acres at the proposed course site. Recently, the TCI board hired me to help modify permits and straighten out their permitting mess. Through this experience, and many others like it, I believe I have a unique perspective on the Habitat Division situation. I will try to condense this discourse to what I feel are the crucial facts and problems with that division ...

1. The statutory authority and regulations implementing the "habitat" function of the division are so broadly written as to be unworkable by both the regulators (habitat biologists) and developers. I am sure you have checked them out. Regulators need guidance as to which wildlife and fish are "important", as well as clear policy regarding comment responsibility. As you know, habitat not only issues T 16 fish habitat permits (which regs are fairly well written), but also comments on numerous permit actions by other agencies under the federal "Fish and Wildlife Coordination Act" and the Alaska Coastal Management Program. These comments are what throw a monkey wrench in the works. As far as I have been able to ascertain, the biologists have no guidance or policy regarding these comments. They can, and routinely do, make comments regarding habitats of fish and wildlife species that are entirely out of the realm of either common sense or good science. When you hear about how many fish habitat permits are issued in a reasonable time, or about the lack of elevation of appeals, this is the reason ... the problem lies outside the T -16 realms of regulation. Here is a good example. On the TCI golf course project, after resolution of fish habitat issues, a habitat biologist wrote a 9 page comment letter to ADEC regarding the possible use of pesticides on the proposed golf course. This letter listed numerous stipulations that ADF&G wanted DEC to impose on TCI regarding the use of pesticides. These stipulations were clearly outside the regulatory responsibility of ADF&G, and as it turns out, were also outside the regulatory authority of DEC. However, because this letter exists in the public realm, the City and Borough of Juneau, along with numerous citizens, expect TCI to respond to each of the requested stipulations as if they are valid. What is an applicant to do? I can provide numerous more examples, but will not take your time with them now.

2. ADF&G knows full well that the regulations (AAC 5) are too broadly written, but has purposefully declined to address the issue because they are afraid of losing some power or authority if the regs ever see the light of day in the public or legislature. In addition, if the issue of regulatory authority is ever broached in permit negotiations (as during the TCI debacle) habitat refuses to entertain the issue. During my years with ADOT, habitat would routinely stonewall projects over such issues as purpose and need (this from a sister state agency!), and question reasonable alternatives (an issue to be resolved by registered civil engineers). Inevitably, if the issue was elevated, resolution came immediately. It was obvious that ADF&G habitat would not let the question of their regulatory authority reach the level of elevation that would subject it to scrutiny.

3. ADF&G habitat biologists state that limiting their numbers will slow legitimate permits and produce an effect contrary to the administration goals. It is my contention that if the habitat biologists had clear guidance on what issues were worthy of comment, and which issues were "non" that not only would the legitimate permit process be expedited, but possibly also with less staff, and more cooperation from development.

As you are no doubt aware, most developers are conservationists ... it is the business leaders in our communities who also lead in establishment of hunting and fishing opportunities. When they complain about a permitting problem, in my experience, it is not the regulation they are complaining about, it is the factor of unknown costs and delays that causes them problems. It is in the interest of both the environmental community and the developers to have clear, precise, and predictable regulations regarding fish and wildlife habitat in our state. I hope that this information will help to reach that end, whatever the means.

please call if you want to discuss this issue. thanks, Art Dunn 463-3243 W 586-6455 H

PS We are planning a DU Sponsor snacks and cocktails event for April 23 in the Hangar Ballroom. Your invite

will arrive soon. Our goal is to encourage some of your like-minded-friends in the legislature to join us as DU sponsors.

March 12, 2003

MAR 17 2003

House State Affairs Committee
Alaska State Capital
Juneau, AK 99801-1182

Reference: March 11-12 Hearings on Executive Order 107

Dear Committee Members:

I strongly object to Governor Murkowski's proposal to move habitat permitting authority from Department of Fish and Game to the Department of Natural Resources. This move, I believe, will weaken our habitat protections and cause substantive environmental impacts on Alaska's wildlife.

As a professional biologist in the regulatory field, **I value the work of Dr. Alvin G. Ott, Regional Supervisor, Habitat and Restoration Division in Fairbanks, and his entire staff.** They are very professional, fair, and provide a valuable service to the citizens and industry of Alaska.

The Division's work with Caribou is of great importance as subsistence users depend on research and data collected by this Division to help determine the health of the herds. Also, the Division works with industry to arrive at methods to safeguard the health of the herd and fisheries while maintaining sustainable development. The caribou and fisheries research that this Division performs is recognized nationwide. I have been to numerous conferences where professional biologists and fisheries experts praise the work and forward thinking of the Northern Habitat Division.

I implore you to please leave the Habitat Division intact and under the Department of Fish and Game.

Sincerely,



Joy B. Earp
18622 Kanaga Loop
Eagle River, AK 99577

MARCH 11, 2003

To SRES, HSTA, WILSON

FROM WARD ELDRIDGE
2213 SAWMILL CREEK ROAD
SITKA, AK 99835
TEL 907-747-3702

SUBJECT: EO MOVING THE HABITAT DIV. TO DNR

PLEASE PRESERVE THE EFFECTIVENESS OF ^{HABITAT} DIVISION.
OUR COMMERCIAL FISHERIES DEPEND ON THEM.
VOTE TO KEEP IT IN THE DEPARTMENT OF FISH & GAME.

Ward Eldridge

John Erickson
P.O. Box 251
Ph: 907-945-3274
Hoonah, Alaska 99820
March 8, 2003

MAR 11 2003

Dear Legislator,

I am contacting you about my concern with Governor Murkowski's plan to do away with the Department of Fish and Game Habitat division.

I am a member of the Pioneer's of Alaska, Southeast Alaska's most senior active Master Guide, and a resident of Alaska for over 50 years, so I am well aware of the State habitat value and problems.

Due to the past efforts of the USDA Forest Service and the Native logging, plus the new Forest Service decisions and the attitude of the present State administration, the habitat for Alaska's wildlife is in dire need of all the professional help it can get.

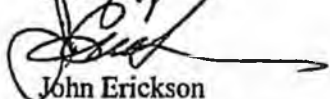
The present Department of Fish and Game Habitat Division should be retained with all their professional experience to oversee any and all matters that affect our State's wildlife.

Will you please strongly oppose moving the Habitat Permitting Authority from Alaska's Department of Fish and Game to the Department of Natural Resources?

Please vote in joint session to disapprove of the executive order on this subject.

Thank you for your help in this matter, and for listening to people who live in Alaska's rural areas and see what is really going on from day to day to the State's wildlife habitat. Let's take care of the things we all love about Alaska.

Sincerely,



John Erickson
State of Alaska Master Guide #37
Hoonah, Alaska

MAR 17 2003

Testimony
EO 107

Dear Legislators,

I am opposed to Executive Order #107 to move habitat permitting authority from the Department of Fish and Game to the Department of Natural Resources.

I can not attend the LIO hearing on Wednesday, March 12th but I can assure you that I have read everything I can find on the Internet and in the ADN. Isn't this a backlash against Habitat for not permitting logging? Isn't this executive order a backlash against preserving fish habitat?

If Governor Murkowski wants to maintain a good relationship with the Legislature, he should use Executive orders and Governor's vetoes only on rare occasions.

Deanna Essert
6262 W. Dimond Blvd.
Anchorage, Ak. 99502

March 9, 2003

Dear Representative Weyhrauch

I am writing to express my concern about Governor Murkowski's Executive Order EO 100.

I feel that giving the Department of Natural Resources permitting responsibility for projects that will affect habitat will greatly compromise standards for development resulting in damage to our forests and streams.

Please vote to disapprove the executive order.

Thank you for holding Public Hearings on the Habitat transfer proposal.

Sincerely

William Farrell

MAR 10 2003

faxed 3-11-03

Page 1 of 3

March 11, 2003

MAR 17 2003

P.O. Box 2994

Homer, AK 99663

House State Affairs Committee

Alaska State Legislature

Juneau, AK 99603

Dear Committee Members:

I urge this committee to support Representative Gara's Resolution to disapprove Executive Order 107. Please send this resolution to the floor for a vote by the entire Legislature.

There are many reasons why E.O. 107 is unwise. Those reasons have been carefully detailed by numerous environmental groups, and I support their reasoning. The present system works well. It was carefully set up more than 40 years ago to protect our fisheries and wildlife through a system of checks and balances. The consequence of E.O. 107 will likely be the slow degradation of our fisheries and wildlife.

In 1996, the Kenai Peninsula Borough Assembly passed Resolution 96-010 that demonstrates support on

The Kenai Peninsula for ADP and G and the oversight they provide on development projects.

See attached Resolution 96-010.

Certainly this resolution demonstrates support for the concept of having independent oversight of projects, particularly a separate agency to oversee logging. This independent check on development will be lost under the DNR plan.

Please, consider this issue carefully. Hopefully your decision will err on the side of protecting the checks and balances and you will override this executive Order.

Sincerely,

Nina Juvet

Introduced by:
Scalzi
Date: 2/06/96
Carried over to: 2/20/96
Action: Adopted as Amended
Vote: Unanimous

**KENAI PENINSULA BOROUGH
RESOLUTION 96-010**

A RESOLUTION URGING THE GOVERNOR OF THE STATE OF ALASKA TO DESIGNATE THE ALASKA DEPARTMENT OF FISH & GAME THE LEAD AGENCY IN THE MONITORING OF LOGGING OPERATIONS AND PROVIDING THE PROPER FUNDING FOR THE HABITAT DIVISION

WHEREAS, the Alaska Department of Fish & Game has primary responsibility for the fish and wildlife resources of the state, and is mandated to conserve and develop them for the benefit of all; and

WHEREAS, the Kenai Peninsula Borough contains some of the most productive fish and wildlife habitat in Alaska; and

WHEREAS, these resources are the mainstay of the livelihood of many residents of the Kenai Peninsula Borough; and

WHEREAS, the cumulative affects of simultaneous logging of private, public, and public trust held lands can lead to the long term losses in production of fish and wildlife habitat; and

WHEREAS, the insufficient oversight of development can contribute to a decline in habitat production of resources in many watersheds of the Borough, including the Kenai River; and

WHEREAS, the sustained yield management of resources is dependent on understanding impacts on habitat at all stages of the life cycle;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That adequate funding should be promptly provided to the Alaska Department of Fish & Game as the lead agency for implementation of a program to assess the impacts and monitor logging for compliance with the law, and recommend ways to better protect the fish and wildlife resources.

SECTION 2. That this is a priority matter and the Kenai Peninsula Borough Assembly respectfully requests the Governor to direct and assist the resource agencies in implementing policy changes to protect fish and wildlife resources.

SECTION 3. That copies of this resolution shall be sent to Governor Knowles, Senators Salo, Torgerson, and Lincoln, Representatives Phillips, Navarre, Davis and Nicholia, Commissioner John Shively, Dept. of Natural Resources, and Commissioner Frank Rue, Dept. of Fish and Game.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20th DAY OF FEBRUARY, 1996.

Andrew P. Scalzi, Assembly President

ATTEST: Gaye J. Vaughan, Borough Clerk

POB 2074
HOMER 99603

To: HSTA
E0107
3-11-03

faxed 3-11-03

My Name is Regina Fiske

MAR 1 2003

I am opposed to the Governor's executive order to move the Habitat ^{MAR 17 2003} permitting authority from the Department of Fish and Game to the Department of Natural Resources.

Moving the permitting authority makes no sense. The missions of the respective Departments are completely different. The mission of the Department of Fish and Game is to protect fish and wildlife resources, while the Department of Natural Resources' mission is to develop natural resources, which may impact fish and wildlife resources. Both Departments need independent checks and balances to foster wise development/protection of resources.

I would be equally opposed to moving the permitting for the Department of Natural Resources to the Department of Fish and Game.

There does not appear to be a problem that needs fixing. It is my understanding that the Department of Fish and Game is very diligent and speedy at processing and approving permit applications. Further, it appears from various statements from the Governor's office that he intends to reduce personnel in the permitting division. It sounds like this would create, rather than solve, a problem in that it would weaken the entire permitting process.

Alaska's fish and wildlife resources are important to almost every Alaskan and the health of these resources is paramount to Alaska's overall economic health.

I believe in the development of Alaska's natural resources.

The current system has worked well. We have had strong economic development in Alaska with the cooperation of commercial and sports fishermen, hunters, trappers, professional guides, subsistence users, and our tourism industry. Why make a change now, especially one that has no upside benefit, but lots of downside risk.

Please vote to over-ride the Governor's executive order. Thank you for the opportunity speak on this issue.

MAR 31 2003

ONLY PAGE

MARCH 30, 2003

TO: BRUCE WEYHRAUCH
STATE AFFAIRS COMMITTEE
FAX: 465-2273

FROM: FRED & DODY FROEHLICH (28-year Alaska residents)
FAX: 345-1125
ADDRESS: 5801 BEVERLY DRIVE
ANCHORAGE, AK 99516 (No Mail)

RE: HOUSE & SENATE CONCURRENT RESOLUTION NUMBER 1

E0107

WE ASK THAT YOU MAKE CERTAIN THAT THIS RESOLUTION PASSES FROM YOUR COMMITTEE.

WE ARE APPALLED AT RECENT ACTIONS BY THIS GOVERNOR! IT IS TIME THAT THE WILL OF THE PEOPLE WAS HONORED, AND ONLY YOU CAN DO THAT.

EVERY THINKING AND CARING INDIVIDUAL KNOWS THAT THE HABITAT PERMITTING AUTHORITY BELONGS WITH FISH & GAME, WHICH IS THE ONLY ENTITY WITH THE BACKGROUND, INTELLIGENCE AND COMPASSION TO DEAL WITH THIS MATTER.

THANK YOU.

Ruby Froehlich Fred Froehlich

Subject: Testimony regarding EO#107

Date: Fri, 14 Mar 2003 05:53:44 -0900

From: "Lon & Litia Garrison" <fvseal@ptialaska.net>

To: <Representative_Bruce_Weyhrauch@legis.state.ak.us>

Dear Sir,

I put forth the written version of the testimony which I provide March 12, 2003 during the State House Affairs Committee hearing on Executive Order #107. I urge your committee to send this EO to the floor for debate and that this EO be prohibited from taking effect. My testimony follows:

Testimony 3/12/03 Regarding EO107

To: Stat House Affairs Committee, Rep. Bruce Weyhrauch, Chair

From: Lon Garrison, 626 Merrill St. Sitka, AK 99835 fvseal@ptialaska.net

To the State House Affairs Committee:

I am testifying to strongly urge the legislature of the state of Alaska to resolve to prohibit Executive Order 107 from taking effect. I have been employed as a fishery biologist for the past 15 years in the private non-profit sector working on salmon enhancement. My work has meant that I have dealt with the Alaska Department of Fish and Game on a regular basis and many of the projects I am involved with require Title 16 permits. In my experience, with well over a dozen permits issued, never have I had difficulty in obtaining the necessary permits in a timely manner or been regulated to a degree that seemed excessive. In fact, the system has worked, and worked very well.

I have also had the opportunity to work with habitat biologists on several projects involving potentially large impacts to anadromous salmonid habitat. Two examples of this are the mitigation work conducted when the Haines Airport was improved and expanded and most recently the realignment of the Haines Highway. Without the support and persistence of the habitat biologists in the Haines area, the extensive mitigation work carried out along the Haines Highway from mile-31 to mile-38 may not have taken place and certainly would not have been successful. We could have lost nearly 8 miles of complex and valuable chum and coho salmon spawning habitat with nothing to show for it except a bunch of gravel pits full of water and of no use to any fish in the area.

While I personally work with salmon enhancement issues and projects, fortunately I don't have to focus on rehabilitation as many of my counterparts in the Pacific Northwest do. This is because of Alaska's jealous protection of its fisheries habitat and associated riparian areas; because the Habitat Division has done its job, and done it well. As many of my peers have said previously, its far cheaper, and far simpler to protect fish habitat through a strong, efficient and conscientious permitting process.

Executive Order 107 is an **obvious** "end-around" play by this governor and his administration designed to forfeit the health of some of Alaska's natural resources for the short term, monetary gain of select few beneficiaries. While I agree we must do more to develop our natural resources for the long-term health of our state's economy, this action is a short sighted maneuver clearly aimed at aiding those who helped finance the governor's election to office. This order, removes a necessary set of checks and balances that the founding legislature saw as an important process to ensure the wise use, and development of our

many natural resources and the protection of our fish and wildlife.

At a time when this governor and his administration should be working to legitimately support, protect, and promote the sustainability of Alaska's salmon fisheries, he is cow towing to special interests at the expense of the people of Alaska and their resources. If we cannot trust this governor to uphold his campaign pledges to fully fund education and not impose new taxes, are we to believe his administration will be any more honest than he? Can we trust the new commissioner of DNR to be fully objective in developing and regulating our natural resources wisely? I have serious doubts!

I strongly urge this committee to recommend to the legislature to prohibit this executive order from proceeding.

Respectfully submitted,

Lon D. Garrison.

MAR 13 2003

Subject: Habitat Move (EO107)

Date: Wed, 12 Mar 2003 17:47:48 -0900

From: Harvey Goodell <hegoodell@hotmail.com>

To: <representative_bruce_veyhrauch@legis.state.ak.us>

House State Affairs Committee
Chair Bruce Weyhrauch and Committee Members

I urge you to disapprove Executive Order 107, during joint session.

As a fisherman of 23 years I feel the move of the Habitat Division to DNR is wrong!

Look at B.C. Canada, Washington and Oregon. Without adequate oversight by a strong Habitat Division within ADF&G. I can see the nightmare of short term economic

development coming out of DNR. Picking up the pieces and making repairs is to late

and usually very expensive. Send Governor Murkowski the right message now!

Harvey Goodell
POBox 3108
Kodiak, AK. 99615

MAR 17 2003

March 12, 2003

It is said that "Alaska is what America was." As a recent addition to Alaska, I can attest to the state's exclusivity in the terms of breadth and diversity of fish and wildlife resources thriving here. And with your wealth of State and National Parks and Preserves, it's obvious Alaskans realize the value of unspoiled habitat in preserving their priceless wildlife. Ultimately, Alaska may succeed in wildlife and fishery conservation efforts where we in the lower 48 have failed. Executive Order 107, however, has the potential to permanently undermine that goal.

There is a fundamental inconsistency in granting habitat permitting authority to The Department of Natural Resources, a department charged with the responsibility to develop resources, not protect them. The Department of Fish and Game has held permit issuing authority since statehood for good reason. They provide an essential system of checks and balances that result in responsible development decisions.

Furthermore, Executive Order 107 is a solution for which Governor Murkowski has failed to identify a legitimate problem. The Department of Fish and Game has proven remarkably efficient at the permitting process in comparison to the Department of Natural Resources. Last year, the average time ADFG took to issue Title 16 permits was only 14 days. The DNR on the other hand, currently has a backlog of 700 water rights applications which are 20 years old or older. Removing permitting authority from the capable hands of The Department of Fish and Game to The Department of Natural Resources is not a viable solution to expedient habitat permits. It's likely to instead to only cause further delays and unforeseeable detriment to critical fish and wildlife habitat.

Executive Order 107 has the potential to make Alaska just another state that rashly sacrificed its priceless natural heritage in rampant efforts to develop. But Alaska's got too much at stake. Heed the precedent set in the lower 48, where we're struggling to reestablish habitat and species we destroyed under irresponsible development policies. I urge you to vote in joint session to disapprove of the executive order switching permitting authority from the Department of Fish and Game to the Department of Natural Resources. Executive Order 107 has the potential to destroy America's last hope for a place that remains as wild as we found it.

Sincerely,

Heather Erin Gott
521 East 10th Street
Anchorage, Alaska 99501

Owen Graham
Executive Director
Alaska Forest Association

I support the Governor's plan to make the DNR the lead agency for all permitting.

I believe that having one agency responsible for insuring we have responsible development will adequately protect the environment and reduce the cost of government.

Also, I want to comment on recent allegations that some 70% of fish culverts on Forest Service land were improperly installed and ^{now} block fish passage.

The truth is most of the culverts in question were properly installed following the standards that were in-place at that time. ^{The FS tells me} The old standard was in conformance with an MOU between the State and the Forest Service.

When the current standard was adopted, the FS estimated that some 70% of their existing culverts might need to be upgraded. The FS is currently spending about \$2mm per year

examining and, when necessary,
upgrading, these older culverts. I think
it is unfair and dishonest to use
misinformation to try to block the
proposed streamlining of state government.
I encourage you to contact the FS
if you want to confirm what I have
told you here.

MAR 27 2003

14710 park Hills Circle
Anchorage, Alaska 99516

March 23, 2003

The Honorable Bruce Weyhrauch
Chairman, House State Affairs Committee
Alaska State Legislature - House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182

Dear Representative Weyhrauch:

The Governor's Executive Order 107 (EO 107) proposes to move the permitting authority for fish and wildlife habitats and other authorities from the Department of Fish and Game to the Department of Natural Resources. EO 107 will effectively eliminate the Habitat and Restoration Division at the Department of Fish and Game.

I have some serious concerns about this proposal and am worried it will have a significant impact on the State's ability to manage and protect fish and wildlife resources. These resources are vital to our State's economy, our people's subsistence and our recreation. The framers of our State Constitution and the legislature that framed our governmental structure, consciously decided to create two separate resource agencies; one for development and one for management of fish and wildlife. This system should not be altered without a significant public debate.

While I don't think EO 107 is an appropriate means to change such an important structure of our state government (as it does not allow a thorough public debate on the issue) you must allow the "House and Senate Concurrent Resolution Number 1" to pass through your committee for a floor vote so that a public debate can decide this issue. Allowing the resolution to remain in your committee, effectively allowing EO 107 to become law, is not an acceptable means of implementing the Governor's proposed changes.

Please do not sit idle on this important issue. I would like to know how you will support the process of bringing together a joint session of the House and Senate for discussion of this executive order and alternatives to this plan. Please share my concerns with other committee members and please vote to prevent this executive order from being implemented.

Thank you.

Sincerely,



Laura Greffenius

To: Representative Bruce Weyhrauch

From: Jack Gustafson
P.O. Box 3280
Ketchikan, Ak. 99901
907-225-5225

Date: March 13, 2003

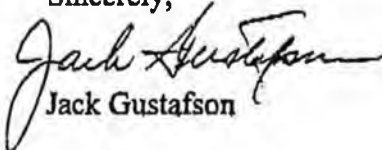
Subject: House State Affairs Committee Hearing of March 12, 2003 regarding EO # 107.

Dear Representative Weyhrauch:

Attached is the information you asked me to transmit to you concerning the direction Habitat Division biologists received regarding press contacts. This can best be summarized by, "We don't answer media questions" and "The Governor's Office will determine how to respond." As I had such a limited time to condense and speak my thoughts last night, I've also attached a more complete copy of the points I intended to address if given more time.

Thank you for the opportunity to speak at your hearing last night.

Sincerely,


Jack Gustafson

Attachments (2)

5 pages

From: Bill Hanson [bill_hanson@fishgame.state.ak.us]
Sent: Friday, December 20, 2002 7:58 AM
To: Ann M Marble (E-mail); Ben Kirkpatrick (E-mail); Brian J Frenette (E-mail); Catherine A Pohl (E-mail); Christine A Schmale; Clayton R Hawkes III (E-mail); David L Barto (E-mail); David P Gregovich (E-mail); Edlth Bundy (E-mail); G Schrader (E-mail); Jack E Gustafson (E-mail); Jeff Nichols (E-mail); Jim Cariello (E-mail); Linda Speerstra (E-mail); Lyn Aldrighette (E-mail); Mark J Minnillo (E-mail); Moira A Ingle (E-mail); Philip W Mooney (E-mail); Ruth A Carter (E-mail)
Subject: RE: Media Requests: All Issues and Projects
Importance: High

Okay -- one more note on this. We don't answer media questions. We pass media who are answering questions on to Kerry and she passes them to the Gov's Office. *

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

From: Bill Hanson [mailto:bill_hanson@fishgame.state.ak.us]
Sent: Thursday, December 19, 2002 4:37 PM
To: Ann M Marble (E-mail); Ben Kirkpatrick (E-mail); Brian J Frenette (E-mail); Catherine A Pohl (E-mail); Christine A Schmale; Clayton R Hawkes III (E-mail); David L Barto (E-mail); David P Gregovich (E-mail); Edlth Bundy (E-mail); G Schrader (E-mail); Jack E Gustafson (E-mail); Jeff Nichols (E-mail); Jim Cariello (E-mail); Linda Speerstra (E-mail); Lyn Aldrighette (E-mail); Mark J Minnillo (E-mail); Moira A Ingle (E-mail); Philip W Mooney (E-mail); Ruth A Carter (E-mail)
Cc: Kerry_Howard (E-mail)
Subject: Media Requests: All Issues and Projects
Importance: High

In Kerry's note yesterday related to 840, she mentioned a new policy requiring that all contacts with the media (radio, newspapers, etc) go thru her and to the Governor's Office. For the time being, you should apply this to ALL media contacts, no matter how routine. I suspect it may be relaxed a bit for very routine things at some point but for now, treat it as universal. The Governor's Office will determine how to respond. *

Procedure to be followed in Region I. We are going to run this through the line of authority so that we don't miss anything:

- 1) When contacted by the media, prepare a short email with the date, name of the person, who they represent, the topic they are asking about (not a list of questions-- just a one or two sentence explanation, assuming they tell you), and their telephone number. Should be about the length of this paragraph total.
- 2) Send the email to me and to Moira (and to your supervisor if this is someone else). No other cc's are needed.
- 3) Please call me to let me know you sent the email (or call Moira if you can't reach me).
- 4) Moira and I will ensure that the message is forwarded quicki to Kerry so she can contact the Governor's Office.

Thanks.

BH

Statement of Jack Gustafson
House State Affairs Committee Hearing
Executive Order # 107
March 12, 2003

Mr. Chairman and members of the committee: Thank you for the opportunity to make a statement today.

My name is Jack Gustafson. I am an employee with the Alaska Dept. of Fish and Game, but I am representing myself as an individual at this hearing. I've also worked in construction, the metal trades, and as a commercial fisherman. I am currently the Area Habitat Biologist in Ketchikan and I am here to testify in opposition to Executive Order # 107.

Fish and wildlife are vitally important to Alaska's economy and the lifestyles of people living here. Dedicated professionals within the Habitat Division of ADF&G currently address a wide variety of habitat concerns and issues, not just permitting. If these functions are eliminated or moved to DNR, I believe that fish and wildlife resources within this state will be seriously jeopardized. Some of the reasons I am opposed to Executive Order # 107 are as follows:

1. **It will not significantly reduce costs.** The Habitat Division is mostly federally funded. Why decrease the staff and eliminate the federal funding that currently makes us efficient?
2. **It will not streamline the process.** Most of the work we do with project reviews requires coordination with other employees within the Dept. of Fish and Game, not DNR. Involving DNR in all we do will complicate the process and compromise efficiency. For example, yesterday evening, I heard the CEO of Koncor Forest Products emphasize that the Habitat Division should be put into DNR because of our coordination in DNR's forestry operations. However, the majority of operable non-Forest Service lands in Southeast Alaska have already been clearcut, especially on village corporation properties. Less than 10% of my time is now spent in the type of coordination Mr. Sturgeon has spoken about. In contrast, the Forest Service is only half-way through cutting their first rotation. DNR does not coordinate with the Forest Service regarding logging on federal lands. It is essential, however, that ADF&G work with the Forest Service concerning impacts to the state's fish and wildlife resources on federal lands. This is one example of an important function that will either be lost or greatly complicated by EO 107.
3. **Valuable fish and wildlife habitats will be needlessly damaged.** The impacts to fish and wildlife as a result of this action will be much greater than the average person might imagine. It could take hours to

discuss this in detail, but suffice it to say that with fewer habitat biologists and DNR in charge, important habitats are at risk.

4. **Politicizing fish and wildlife protections will intensify within DNR, and may backfire.** As the state backs out of resource protection, I believe that the federal government will start playing a more authoritative role. We currently work with the federal agencies, like the US Fish and Wildlife Service, the Corps of Engineers, and the Forest Service; everyone benefits from such a cooperative approach. There could be many unintended consequences of eliminating the Habitat Division, such as are now occurring with the federal take-over of subsistence. For example, if the Governor wants to have credibility in the ANWR issue, dismantling the Habitat Division demonstrates a lack of concern that undermines the state's credibility in developing ANWR with minimal impact.
5. **The EO is being implemented through intimidation and misinformation, rather than through fair and balanced dialogue.** Habitat biologists were placed under a gag order in December. When we received calls from the media, we were supposed to tell the reporter we would get back to them regarding the answers to their questions. Then the reporter's questions were sent on up the chain to the Governor's office for a response. The gag order on political appointees has been lifted, but the gag order on habitat biologists is still in effect.
6. **The public has been misled as to why this action is being taken.** For example, in his state-of-the-state address, the Governor claimed this action was necessary because the Habitat Division delayed or opposed certain developmental projects. He then gave three examples. One of these was Ketchikan's southeast Intertie. This was a review that I handled. The Habitat Division did not delay or oppose the intertie project, and the Governor's characterization broadcast across statewide television was erroneous. The major players in the intertie project were the Alaska Energy Authority (AEA) and the Forest Service. The AEA proposed the project and the Forest Service wrote the EIS. I authored the Habitat Division's comments as the review proceeded, and basically agreed with the approach taken by the AEA and the Forest Service. I provided technical information along the way, such as comments regarding the avoidance of streams, the prevention of bird electrocutions, and the minimization of overall fish and wildlife impacts. In the end, I stated that the EIS did a good job of addressing the concerns we identified. The division did not delay or oppose the project, yet those listening to the state-of-the-state address were lead to believe otherwise. To make matters worse, how were we to set the record straight when a gag order prevented us from speaking?
7. **Habitat biologists do not have veto authority.** Most of our reviews are intended to simply provide information for decision-making by others. As with the review of the intertie project mentioned earlier, comments are

primarily advisory. Any decisions I am allowed to make can be easily elevated by any applicant and then overturned by the regional supervisor, the director, or the resource commissioners. Therefore, I am very careful not to make bad decisions or do anything else that would jeopardize my credibility in an elevation.

8. **The action taken by EO # 107 is punitive.** It is not based on common sense or good policy. State government can and should be conducted differently. The governor can currently dictate any policies he desires through the existing structure. We have no choice but to follow any new policies he issues. He doesn't need this EO to implement new policies or change the way we do business.
9. **This EO needlessly damages the careers of many highly trained and dedicated professionals.** In a few short weeks, a unique accumulation of talent and expertise within ADF&G will begin to vanish through lay-offs and attrition. I predict that the morale of the habitat biologists that are not laid-off, but are instead transferred to DNR, will be low. This could lead to high turnover, the lack of qualified people to fill vacant positions, and even less effective protection of fish and wildlife resource values in the state. Due to the defamatory nature of the attacks on the Habitat Division by high-level government officials, even if the Division is not dismantled, much damage has already been done.
10. **Be careful what you wish for.** As a species, humans are programmed to take and use resources. We do this to survive, but we have always had more places to move on to when resources were depleted. Throughout the ages, we never made that much of a dent. Alaska is big, but it and the world are getting smaller all the time. Our nomadic and rapacious instincts still linger. However, now that our abilities, technologies, and populations can so successfully manipulate entire landscapes, are you really sure you want to kill-off the Habitat Division?

In summary, once again, be careful what you wish for. EO # 107 is the product of erroneous thinking. It is only because the "stars are in alignment", so to speak, that this is former day-dream is now on the verge of becoming a reality. Be careful. EO 107 solves none of the problems mentioned. In the end, it only limits the quality of information this governor and all future governors will have available to use in their final decision-making process regarding complex problems. This is a bad government policy. Ultimately, it will lead to serious and unnecessary damages to the fish and wildlife resources of this state. Please rescind this Executive Order. Thank you for listening.

Jack Gustafson
Ketchikan

Testimony
EO 107

MAR 17 2003

I am a geologist that has been involved with mom and pop mining activities in Alaska for 25 years. I can say with first hand experience that there would be more small scale mining in this state, if there was more venture capital. Investors with the capital, along with prospectors and miners are willing to take a risk or two; just living in the Bush is risky in itself. The worst risk to nervous investors is in the critical early stage of a business venture when there is still time to back out. Investors, scared of losing their capital, will back out of a possible deal at the first sign of trouble. They look around at the other business ventures, especially the high profile business endeavors in Alaska, and see how long they have been tied up by bureaucratic process. The Habitat Division has the reputation for stalling for years such Bush projects like the renewal of Red Dog Mine reclamation plan. The point is, if ADFG's Habitat Division has the power to setback two high profile large corporations like NANA and Cominco; then what chance does mom and pop have?

The would-be Alaskan venture capitalists realize their money would be better invested in a real estate deal in Arizona. The Alaska economy is the real loser when this happens. We don't even have know how many times this has happened and how many folks are not given good jobs. The investors come just so close, then find a more secure deal somewhere else and they are gone.

I support moving permitting authority to DNR. It will send a clear signal to potential investors that Alaska has made some changes to improve the investment climate and to help minimize the risks of trying to make a living in the Alaska Bush.

Jim Halloran
Mining Geologist
halloran@acsalaska.net

My name is Bruce Harding, Mayor of Wrangell, and I would like to say I support Governor Murkowski's Executive Order No. 107.

To me, it makes good sense to have Fish & Game fish habitat, game protection, stream preservation and forest stewardship as part of the Department of Natural Resource, division of forestry.

In the future, having these responsibilities in one department will allow for improved planning, more efficient and effective management of our natural and renewable resources.

In addition, I support Governor Murkowski's willingness to look at the states issues with fresh eye's and to bring new and creative solutions to our current state of affairs. These solutions will help reenergize the economic engine in our state in general and Southeast Alaska in particular.

Wrangell is a resource based community with a very depress resource based economy. I feel there is sufficient opportunity to rebuild our economy using our renewable resources in Southeast Alaska without endangering our environmental habitat.

In conclusion, I would like to leave you with this thought,

A sound environment is impossible without a sound economy.

Public Testimony, House State Affairs Committee, March 11, 2003.

MAR 14 2003

Thank you.

My name is Bill Hauser.

First, I want to say that I am in support of our fishery resources, the unique habitats that are required to support them, and their long-term sustainability. I think that this can best be accomplished by retaining the function of habitat protection within a ^{resource} conservation-based agency.

Second, I must say that I am a retired employee of the Alaska Department of Fish and Game and currently a temporary employee of the Habitat and Restoration Division, but my work status is unaffected by the Executive Order 107 because my tenure will terminate at the end of June even if this order had not been issued.

But, most importantly, I am speaking here as a Fishery Scientist. I hold a BS, a MS in Fish and Wildlife Management and a PhD in Zoology and I have over 30 years of experience in more than six states. I am a past President of the Alaska Chapter of the American Fisheries Society, which includes over 400 fishery scientists in Alaska from academia, private and governmental sectors of our profession. I have been in Alaska for 22 years and my work has included fish and fish habitat enhancement projects in many regions of the state as well as community education about the importance of good quality fish habitat to preserve fisheries.

Fish is the most important natural resource in the State of Alaska and it is important for so many users – recreational, subsistence, commercial and non-consumptive as well. If we care about this resource and if we want a legacy of this resource for future generations, we must protect the production factory for that resource; i.e., good quality fish habitat - habitat that fish need for spawning, rearing, escape, and overwintering; and, open pathways for access and migration among these habitats. In addition, when anadromous fish populations are reduced or destroyed, other resident fish populations, birds, wildlife, and even streambank vegetation is diminished. Historically, the numbers of salmon returning to Alaskan streams have fluctuated greatly in time and space, but they have always rebounded. More specifically, they have only rebounded in areas with healthy, intact habitat. If the habitat is missing, the fish populations cannot recover. Lost habitat sometimes can be repaired. But, the cost of repair is greater than the cost of protection. And, the habitat can never be restored to the original condition. There is always a net loss.

Until now, these important fishery resources have had a measure of protection of equal consideration with development of our other important resources through a system of checks and balances. But, if the function of habitat protection is included within the Department of Natural Resources, whose primary mission is resource development, I can only presume that when decisions must be made, - internally - the system will favor resource development ~~at~~ at the detriment of our aquatic resources. Sometimes, there may be some large-scale losses but small-scale losses will ^{also} accrue with each project and each year for a long-term loss.

My colleagues ^{from} in the State of Washington tell me that the system outlined in EO 107 resembles the approach that has been in place in the State of Washington. There, anadromous fish runs have been depleted to about 3% of historic levels – mostly attributable to habitat loss and degradation – in a matter of a few human generations.

Is this the sort of legacy that we want for our children and our grand children?

Please ^{reject} ~~do not support~~ the transfer of habitat protection to ADNR. Please support the present system of checks and balances for the long-term protection of good quality fish habitat, our most valuable natural resource and other wildlife as well.

Thank you for your consideration, I will be glad to answer questions if you have any.



Dr. William J. Hauser
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907-349-7175
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March 12, 2003

To: Rep. Bruce Weyhrauch
Fax: 465-~~2273~~ 2273

From: Marge Hermans
Fax: 789-1572 (no receiving fax)

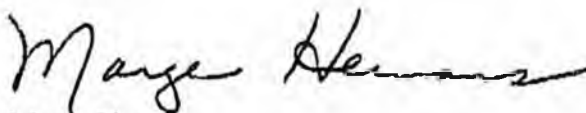
Dear Rep. Weyhrauch,

I urge you and your fellow legislators to reject Governor Murkowski's proposal to transfer responsibilities for Habitat protection from the Department of Fish and Game to the Department of Natural Resources. This is a terrible move that would disrupt the balance called for in our state constitution between development of natural resources and long-term protection of wildlife for all Alaskans.

I believe such a transfer would unduly distance biologists from the scientific findings of their peers in the Department of Fish and Game; weaken balanced review of proposed projects; and favor development of natural resources without the proper oversight and consideration that Alaskans deserve.

Please reject this proposal and demand a more balanced approach to assure wise and thoughtful development of our valuable resources. Thank you.

Sincerely,



Marge Hermans
9630 Moraine Way
Juneau. AK 99801

Re: Fraser Report – Annual Survey of Mining Companies

A Statement In Opposition To Governor Murkowski's Executive Order 107
To: Alaska Senate Resource Committee hearings regarding EO 107 – 3/10/03
To: State Affairs Committee hearings regarding EO 107 – 3/11/03 *DDH*

From: Doug Hill
Anchorage

MAR 17 2003

I am testifying on behalf of myself.

On numerous occasions (3/7/03 - administrative press conference, 3/10/03 - Senate Resource Committee EO 107 hearing, 3/11/03 - House State Affairs Committee EO 107 hearing) I have listened to Tom Irwin (Commissioner of ADNR) along with Kevin Duffy (Acting Commissioner of ADF&G) cite the **Fraser Report** as a justification for moving fish and fish habitat protection authority from ADF&G to ADNR. I do not agree with agree with Commissioner Irwin. The results of the Fraser Institute's "Annual Survey of Mining Companies" do not warrant dismantling Alaska's ability to protect fish, fish habitat, wildlife and humans supported by fish and fish habitat, near shore and inland subsistence, sport, commercial, and personal use fisheries.

What is the Fraser Report? Since 1997 the Fraser Institute (Vancouver, British Columbia, Canada) has been surveying mining companies annually to assess how mineral potential and governmental policy factors such as taxation, environmental regulations, native issues, protected areas, infrastructure, labor relations, and socioeconomic agreements affect exploration and investment decisions. Survey results represent the opinions of exploration managers in mining companies operating around the world. As the notoriety of the survey has grown, the survey has expanded to include more governments/geographical regions. The Fraser Report currently queries 162 companies for their opinions about the investment attractiveness of 45 jurisdictions around the world. The Fraser Report is essentially a report card that rates governments/geographical regions on their investment attractiveness.

The Fraser Report provides three index rating numbers: a Policy Potential Index, a Mineral Potential Index, and an Investment Attractiveness Index. The Investment Attractiveness Index is a combination of the Policy and Mineral Potential Index. The index rating numbers that a government/geographical region receives are a composite index derived from a compilation of the ratings provided by a subset of the companies that responded. **The index numbers do not mean that a particular jurisdiction was rated, say 50 out of 100 jurisdictions. The index numbers are simply scores; the same as a score that one receives on a math test.**

Commissioner Irwin wishes us to believe that according to the Fraser Report, Alaska ranks 50 out of 100 governments/geographical regions in attractiveness to mining exploration and investment. Commissioner Irwin has also stated that according to the Fraser Report Alaska has, for the past number of years, decreased in attractiveness to mining investment. Neither statement is true.

Alaska actually ranked 15th overall out of 47 jurisdictions rated in the 2002/2003 Fraser Report. The number 50, that Commissioner Irwin claims ranks Alaska 50th out of all the countries rated, was the 2002/2003 Policy Potential Index rating and not the overall attractiveness to mining companies. In terms of policy, the 2002/2003 Fraser Report rated Alaska as more attractive for mining investment than China, Ecuador, Kazakhstan, and Russia to name a few. Further, contrary to Commissioner Duffy's statements Alaska has not decreased in mining company investment attractiveness over the past "several" years. In fact, Alaska's attractiveness to mining investment has, according to the Fraser Report's

501 03
Investment Attractiveness Potential Index, increased significantly during the life of the survey. Alaska has decreased a bit in status "only in the past year".

According to the Fraser Report and contrary to what Commissioner Duffy would like the legislature and the public to believe, Alaska's attractiveness to mining company investment is not low.

Throughout the life of the survey, and as the survey expanded its range in terms of the number of governments/geographical regions, Alaska's overall attractiveness to mining company investment has increased.

This increase in attractiveness to mining investment occurred while ADF&G Habitat Division controlled fish and fish habitat protection authority and during the so-called extreme pro-environmental administration of ex-Governor Tony Knowles.

Commissioner Irwin has been involved in the mining industry in Nevada and Alaska for a number of years. I have a hard time believing that he does not understand the content of the Fraser Report. If it is true that he does not understand the report, what faith can I have in a man that spreads doctrine without knowing what it is that he is promoting. However, considering his potentially deliberate misinterpretation of the report's Alaska rating as a means of justification for transferring Title 16 permitting authority to ADNR, I suspect that he may not have the best interest of fish and fish habitat or the public trust in mind as he persists in supporting and promoting an EO which he clearly does fully understand.

On a number of occasions both ADNR Commissioner Irwin and Acting ADF&G Commissioner Duffy had to publicly defer to Chris Kennedy (Assistant Attorney General) for answers about basic policy procedure questions such as, when there is a contentious issue will the debate rise to commissioner or the deputy commissioner? These are the men that may be implementing EO 107. It does not appear that Commissioner Irwin and Acting Commissioner Duffy have done their EO 107 homework, yet they blindly support and promote EO 107. How can we have faith that fish and fish habitat will be protected when these men do not have clear understanding of what it really is that they are promoting?

EO 107 places supervision of fish and fish habitat protection under the Deputy Commissioner and the State Forester. The Governor appoints neither position. In other words, the board recommends neither position and neither position receives legislative scrutiny and approval. Currently Title 16 is under the ultimate supervision of a Commissioner who must be approved publicly by the legislature. What happened to transparency in government that Governor Murkowski spoke of on numerous occasions?

"Mining Watch", a pan-Canadian group whose aim is to ensure that mineral development practices are consistent with the goals of sustainable communities and environmental health and advocates policies to improve the efficiency and reduce the risks of mineral development, released a critique of the Fraser Report. Mining Watch issued the following statement regarding the Fraser Report, ***"It is clear from the report that a vote for mining friendly policy is a vote against fair taxation, against collective bargaining, against environmental protection, against aboriginal land rights, and against protected areas."*** In light of this statement, remember that Commissioner Duffy cited the Fraser Report as justification for transferring fish and fish habitat authority from ADF&G to the state agency (ADNR) that is responsible for mining, oil, and gas development.

Notwithstanding, if Alaskans looked to a social and economic future that included only mining, the obvious course would be to dismantle environmental regulation in an effort to boost Alaska's Policy Potential Index. I don't believe that Alaskans are that foolish and hope that our legislature