

ALASKA LEGISLATURE COMMITTEES, 2009-2010

11580 HOUSE RESOURCES

Adam Bauer
4734 Sabrina Rd
Homer, AK 99603
(907) 235 6994
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abauer@bauerhaus.ws

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

Dear Representative Paul Seaton,

I fully support your bill - HOUSE BILL NO. 328 "An Act
prohibiting mixing zones in freshwater spawning waters."

Thank you for taking action to protect Alaska's Natural Resources
and the quality of our environment for our fisheries and our future.

Adam Bauer

Rep. Paul Seaton

From: alaskakayakschool [info@alaskakayakschool.com]
Sent: Thursday, January 12, 2006 10:20 AM
To: Rep. Paul Seaton
Subject: Mixing Zone Legislation: HB 328

Dear Paul -

I am a Homer resident, owner and operator of the AlaskaKayakSchool.com here in Homer. I was involved in the first mixing zone hearing under the EPA's public participation process of the Clean Water Act, in 1973: Weyerhaeuser's Springfield, Oregon, pulp mill. They had been granted half the river!!! as a mixing zone. We fixed that all right. Times seem not to change.

Honorable Governor Murkowski and his staff are pretty misguided to dismantle mixing zone regulations "IN SALMON SPAWNING AREAS" no less.

Please OPPOSE any effort to reduce protection for salmon streams. I support the efforts of HB 328 to counter the governor and his staff's misguided policy. Lack of protection for Salmon streams from industrial effluent would seem to be in violation of "sustained yield" in the State of Alaska's Constitution.

We should be affording more protection for Salmon and their habitats, not less. As we all know, Salmon eggs and fry are very sensitive to the negative effects of deteriorating water quality, and require clean, cold and well aerated water to spawn, hatch and grow. This is a no-brainer.

I offer my sincere thanks for your efforts to pass HB 328.

Best,

Tom Pogson

--
Alaska Kayak School
P.O. Box 3547
Homer, Alaska 99603
(907) 235-2090
www.alaskakayakschool.com

Rep. Paul Seaton

From: Doug Fine [fine@well.com]
Sent: Thursday, January 12, 2006 10:01 AM
To: Rep. Paul Seaton
Subject: In Support on House Bill #328

Dear Rep. Seaton and all Legislators and the Governor:

I support House Bill # 328, An Act Prohibiting Mixing Zones in Freshwater Spawning Areas. Alaska salmon literally keeps me and many of those I love alive. This is what it's all about in Alaska and what makes Alaska different from other places. We should be treasuring the salmon runs, treating them carefully and managing them for what they are: worth more than gold, literally and in other senses, like nutritionally and culturally. Please support this bill and do not weaken it. Mixing zones are a bad idea and this bill is a good idea.

Thank you.

Best,

Doug Fine

--
"Half the Story Has Never Been Told": Bob Marley

"Not Really An Alaskan Mountain Man": <http://www.dougfine.com>

Recent National Public Radio Work: www.npr.org, search under "Doug Fine Alaska" for Alaska work and "Doug Fine New Mexico" for work elsewhere.

Rep. Paul Seaton

From: Ellen Wolf [ellenmwolf@yahoo.com]
Sent: Thursday, January 12, 2006 9:21 AM
To: Rep. Paul Seaton
Subject: House Bill 326

January 12, 2006

Dear Representative Seaton:

Please share my strong support for House Bill 328, prohibiting mixing zones in freshwater spawning areas, with your colleagues in the legislature.

This kind of legislation is essential to protect the spawning waters of our state's wild salmon population. Alaska's wild salmon are a valuable economic commodity in terms of both commercial and sport fishing. As salmon farms degrade wild salmon populations in Canada and other parts of the U.S., Alaska's wild salmon become even more precious. Furthermore, and perhaps more importantly, salmon and other fish are an essential part of a healthy ecosystem, providing food for bears, eagles, marine mammals and others.

Thank you for sponsoring this forward-thinking bill.

Sincerely,
Ellen Wolf
P.O. Box 371
Talkeetna, AK 99676

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Rep. Paul Seaton

From: Duane Howe [duhowe@alaska.net]
Sent: Thursday, January 12, 2006 9:01 AM
To: Rep. Paul Seaton
Subject: HB 328

Dear Representative Seaton,

I commend you for pre-filing HB 328 to codify current mixing zone regulations for salmon streams into state law. I have written letters twice to DEC opposing their proposals to allow pollution into salmon streams and am in complete support of HB 328 to add the prohibition of polluting these streams into statute. Please add this note into the record in support of your proposal.

Duane Howe
41640 Gladys Ct
Homer, AK 99603
235-9477

1/12/2006

Rep. Paul Seaton

From: clardy [clardy@acsalaska.net]
Sent: Thursday, January 12, 2006 8:32 AM
To: Rep. Paul Seaton
Subject: mixing zones.

I support any effort to stop the increased pollution of our salmon streams.
susan clardy

Rep. Paul Seaton

Subject: FW: Mixing zones

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

From: Will Files [mailto:will@wfiles.us]
Sent: Thursday, January 12, 2006 8:30 AM
To: Rep. Paul Seaton; Katie Shows
Subject: Mixing zones

Hi Paul and Katie,

Happy New Year to all of you there in the Juneau office.

If I recall some of our conversations, Paul is not in favor of

"mixing zones". I would like to lend support to that position.

Let's not take any chances at all on our precious waters and valuable fish resources, particularly when we are playing with such dangerous things as mercury and arsenic and whatever nasty things come from mining, including a lot of sediment which can change the nature of the ecosystem dramatically.

Thanks for your efforts to protect our resources.

We support HB 328.

Will and Martha Ellen
59835 Tern Court
Homer

Rep. Paul Seaton

From: Nina Faust [fausbail@xyz.net]
Sent: Thursday, January 12, 2006 8:07 AM
To: Rep. Paul Seaton
Subject: HB 328

P.O. Box 2994
Homer, AK 99603

January 12, 2006

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

Dear Paul:

We support HOUSE BILL NO. 328, "An Act prohibiting mixing zones in freshwater spawning waters." A legislative fix is needed to prevent looser State regulations that would allow pollution in our streams and rivers. No matter how the state has tried to present its new regulations on mixing zones, it still comes back to the bottom line, which is that the new rules relax water quality standards in Alaska. The state appears to be scrambling to loosen controls on water quality to benefit pending big, new mines and timber operations. Alaska is the only state in the U.S. that can boast about its amazingly clean streams and lakes, but this will not last if the state allows relaxed mixing zone standards. We are adamantly opposed to doing this!

Our fisheries are the envy of the nation and comprise a vital and sustainable part of Alaska's economy. Allowing mixing zones threatens commercial, subsistence, and sport fisheries, all-important components of many Alaskan communities. How can the state promote fresh, wild salmon through a marketing campaign emphasizing the clean, healthy, organic qualities of Alaskan salmon if we relax mixing zone regulations? Mixing zones are just pollution zones that allow higher pollution levels. The state can try to dress it up anyway it wants but it is still an outmoded and discredited method of handling waste and should not be allowed.

Alaskans have been very clear on this topic—they do not support mixing zones! We still oppose mixing zones and urge the State to keep high water quality standards to protect our fisheries and the health of Alaskans. Please pass House Bill 328!

Sincerely,

Nina Faust and Edgar Bailey

Rep. Paul Seaton

Subject: FW: Legislation Prohibiting Mixing Zones in freshwater Spawning Areas

From: John Lyle [mailto:kayak@gci.net]
Sent: Wednesday, January 11, 2006 8:19 PM
To: Louie Flora
Subject: Re: Legislation Prohibiting Mixing Zones in freshwater Spawning Areas

To whom it may concern: Please add my voice to those who support enacting a statute prohibiting the practice of mixing zones, especially in freshwater spawning areas. As I have said in written testimony on the subject over the past several years, this practice is damaging and needs to be made illegal. Thank you. Sincerely, John D. Lyle Box 83715 Fairbanks, Alaska 99708.

Rep. Paul Seaton

From: Alfa Fish [alfafish@ptialaska.net]

Sent: Wednesday, January 11, 2006 2:14 PM

To: Rep. Paul Seaton

Dear Paul-

I recently learned of the legislation on which you are working to place in law the prohibition on mixing zones. Please know that your efforts are supported by our organization.

Sincerely,

Linda Behnken, Director
Alaska Longline Fishermen's Association

1/12/2006

Rep. Paul Seaton

From: David Swingley [swingdad_2000@yahoo.com]
Sent: Wednesday, January 11, 2006 10:56 AM
To: Rep. Paul Seaton
Subject: freshwater mixing zones

I feel the people of Alaska have overwhelmingly spoken out against freshwater mixing zones. The potential to do irreparable harm freshwater spawning areas and downstream habitat is obvious. There is a giveaway to business, mining, and logging interests with deep pockets by the Murkowski administration. Stop the assault on the clean water act and ban ALL freshwater

mixing zones. Thank you. David and
Rachel Swingley Eagle River, Ak.

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Rep. Paul Seaton

From: Richard Hahn [rdhahn@eagle.ptialaska.net]
Sent: Tuesday, January 10, 2006 2:32 PM
To: Rep. Paul Seaton; Rep. Kurt Olson; Sen. Gary Stevens
Subject: Mixing Zones

Dear Msrs. Olson, Seaton, and Stevens, I cannot tell you how appreciative I am, along with a myriad other Alaskan commercial and sports fishers, for your collective initiative to ban pollution mixing zones in salmon spawning streams! I have written many letters to DEC staff, the commissioners of DEC, DNR, and DF&G, and to various Alaska newspapers objecting to DEC's proposal. The "yes sir!" administration of Murkowski simply ignores public comment and do Murky's bidding--pick a subject! I only get one 225 word letter in the Anchorage Daily News each month so, if someone will tell me what the corresponding House Bill number is to Senator Stevens' Bill 255, I will make your action known to as many as read the major Alaska newspapers. This is great news for Alaska streams, habitat, the anadromous fish, and all who fish for salmon in Alaska, as well as the people who consume them.

Having said all that, I must tell you that your bills do not alleviate my concerns for the proposed Pebble Gold Mine, and others like it, which threaten much more than just the fish in the Bristol Bay watershed. No matter what the mine developers may say, it is highly unlikely the cyanide, heavy metal and aqueous sulfuric acid contamination of the environs and ground waters, as a result of such a mining operation, can be contained. If there is an accidental or intentional release of these materials to any aquifer, stream or lake, it cannot be cleaned up--ever! This would not be like an oil spill. I have an eleven(11) page NY Times article, which details horrific incidents from modern gold mining around the world, which I will send you on request. I have personally visited Kellogg, Idaho and Queenstown, Tasmania, both of which look like "moonscapes". Their rivers have been sterile for many years and their surroundings grow no plants. This is just one of the many risks "development at any cost" Murkowski brings to Alaska. He does not require any accountability, bonding, monetary or otherwise, of any developer. They have no responsibility for any mess they may create during the time they operate, and none are self-policing. The profit margin is their only care. Pardon my soapbox.

Thanx again for your action on mixing zones. If you are successful, a next very positive step for Alaska would be to make all developers accountable--up front! Large, depending on the proposed development, liability bonds and precisely worded contracts come to mind. Sincerely,

Richard Hahn
P.O. Box 2754
Soldotna, Alaska, 99669
907-262-8575
rdhahn@eagle.ptialaska.net

Rep. Paul Seaton

Subject: FW: Legislation Prohibiting Mixing Zones in freshwater Spawning Areas

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

From: Alaska Passages [mailto:info@alaskapassages.com]

Sent: Tuesday, January 10, 2006 1:21 PM

To: Louie Flora

Subject: Re: Legislation Prohibiting Mixing Zones in freshwater Spawning Areas

I am writing in support of House Bill 328 which is an act prohibiting mixing zones in freshwater spawning areas. I support this legislation as a way to maintain water quality in Alaska waters. Discharging wastewater and pollutants into spawning habitat is destructive to fish populations and habitat. There is no time of year when fish in these areas would be safe from the discharge of pollutants. Fish spawn in the summer months, but the resulting egg and fry remain in the gravel of the spawning area for the rest of the year.

Alaska has invested time and money protecting its salmon stocks and also promoting "Wild Caught salmon from Pristine Alaska waters". This kind of marketing has helped the salmon industry tremendously. We need to maintain the high water quality standards to protect our reputation for our wild caught salmon.

Thanks to Representatives Seaton, Gatto, LeDoux, and Olson for introducing this legislation and for their efforts to safeguard Alaska's salmon resource and maintain our high water quality standards.

Julie Hursey
Petersburg, Alaska

Rep. Paul Seaton

From: Sally McGuire [chilkootmcguire@yahoo.com]

Sent: Tuesday, January 10, 2006 12:31 PM

To: Rep. Paul Seaton

Subject: freshwater mixing zones

Dear Rep. Seaton,

Thank you very much for introducing the bill to ban mixing zones in freshwater spawning habitat. I live in Haines, Alaska, and care very much about this issue. Also, many members of my family work in the fishing industry and are also affected. Our fisheries need to stay healthy and unpolluted, both for our own sakes as Alaskans, and in order to continue marketing them as fresh, wild, and unpolluted. It has certainly become very clear that this law is very important to prevent the recent attempts to put the wishes of a few industries over the rights of many Alaskans. Thank you very much. Sally McGuire

Rep. Paul Seaton

From: Marc Lamoreaux [Lemarc@pobox.mtaonline.net]
Sent: Tuesday, January 10, 2006 10:57 AM
To: Rep. Paul Seaton
Subject: Support for HB 328

January 9, 2006

Dear Honorable Representative Seaton,

Native Village of Eklutna, a federally recognized Alaska Tribe enthusiastically supports the legislation -

HOUSE BILL NO. 328

introduced by yourself, along with Representative Kurt Olson (R-Kenai), Representative Carl Gatto (R-Palmer) and Representative Gabrielle LeDoux (R-Kodiak) that would place in statute the prohibition on pollution mixing zones in Alaska freshwater spawning waters.

We agree that this bill is needed to protect the habitat of Alaska's world famous salmon and trout and to protect Alaska salmon marketing efforts, and the subsistence people and cultures that rely on them.

Thank You,

Marc Lamoreaux
Land and Environment Director
Native Village of Eklutna

Rep. Paul Seaton

From: Kathy Wartinbee [kbwart@alaska.net]
Sent: Monday, January 09, 2006 8:11 PM
To: Rep. Paul Seaton
Subject: Mixing zone legislation
Follow Up Flag: Follow up
Flag Status: Red

Representative Seaton:

I am writing this letter to indicate my whole-hearted support for your bill that will prohibit mixing zones in waters with anadromous fish spawning in them. I thank you for taking on this important issue in the legislature.

We must do what ever it takes to preserve the pristine streams and waters of all Alaska. Considering that the state's oil and minerals will eventually be depleted, if we protect the aquatic habitats of the state, fishing and tourism will always be here. However, if we allow our streams to be impacted, no one will want to come and look at where we used to have good fishing nor will consumers be interested in buying fish that used to be untainted.

Again, we must protect our water resources and the industries they support. Your bill is a great step in the right direction.

Sincerely,

David C. Wartinbee PhD, JD
Stream Ecologist
Biology Professor
(UAA - Kenai Peninsula College)

P.O. Box 157
Soldotna, Alaska 99669
907 260-1935

Rep. Paul Seaton

From: Charles Michael Herndon [mherndon@pobox.alaska.net]
Sent: Monday, January 09, 2006 7:29 PM
To: Rep. Paul Seaton
Subject: Strong support for House Bill 328
Follow Up Flag: Follow up
Flag Status: Red

I strongly support passage of House Bill 328, "An Act prohibiting mixing zones in freshwater spawning waters". This bill is necessary to prevent the state Department of Environmental Conservation from lifting the prohibition on pollution mixing zones in freshwater spawning areas.

Charles M. Herndon
10421 Lone Tree Dr.
Anchorage, AK 99507

Rep. Paul Seaton

From: Gerald R. Brookman [brookman@alaska.net]
Sent: Monday, January 09, 2006 3:46 PM
To: Rep. Paul Seaton
Subject: HB 328

Dear Representative Seaton:

First, I want to thank you for introducing HB 328. Second, I'd like to state that I strongly support its passage.

I would appreciate it very much if you could keep me informed, via e-mail, of this bill's committee referrals, and amendments that may be made to it as it goes through the legislative process, etc. Thank you

Gerald R. Brookman (Jerry Brookman)
715 Muir Avenue
Kenai, Alaska 99611-8816
e-mail: brookman@alaska.net

Rep. Paul Seaton

From: claire leclair [northsister@acsalaska.net]
Sent: Monday, January 09, 2006 2:29 PM
To: Rep. Paul Seaton
Subject: HB 328 Legislation prohibiting mixing zones in freshwater spawning areas

Representative Seaton-

Thank you for taking the initiative to find co-sponsors for and introduce legislation prohibiting mixing zones in freshwater spawning areas. I hope this legislation passes easily and quickly, thus allowing our state's fisheries resources to continue to sustain our bodies and our economy well into the future.

Sincerely,

Claire Holland LeClair
Anchorage, Alaska

Rep. Paul Seaton

From: Leif K. Mjos [lmjos@care2.com]
Sent: Monday, January 09, 2006 2:29 PM
To: Louie Flora
Subject: Re: Legislation Prohibiting Mixing Zones In freshwater Spawning Areas

Dear Mr. Seaton,

In general, I am in support of this new legislation regarding mixing zones. However, I have one concern after reading an initial press release.

My concern is over the language used in regards to man-made streams/ditches. If this bill is intended to protect the resource and maintain the viability of the fishing industry, I think that fish populations should be treated as populations, regardless of their chosen route of passage to spawning grounds. If there are fish passing through man-made streams on their way to further natural spawning grounds, they are still members of the same population that is fished by commercial fishermen. If this bill is trying to ensure that fishermen can guarantee consumers healthy, clean fish, then it shouldn't matter how the fish are reaching their spawning grounds, because the fishermen won't know the difference between a fish that swam through the natural stream or one that passed through a man-made stream. If you want the fish to be clean and natural, then they should ALL be clean and natural.

If I am misunderstanding the language in this bill, then I stand corrected. Otherwise, this seems like a huge loophole that will be manipulated by industry and municipalities long after this bill is passed. And that does nothing for the fishermen and their livelihoods, to mention nothing of the resource itself.

I look forward to hearing your response.

Leif Mjos
1725 E 24
Anch., AK 99508

So I end the day as I started it, trying to fathom the abundance of living things.
Richard Nelson

Trophy hunters can write off canned hunts and big game safaris at taxpayers' expense - help end this cruelty loophole: <http://go.care2.com/66836>

<http://www.Care2.com> Free e-mail. 100MB storage. Helps nonprofits.

08 streams, rivers, or other flowing fresh water that have been altered by
remediation or
09 construction activities; the term does not include an artificially
constructed facility for
10 water, wastewater, holding, or channeling, unless the artificial facility
is constructed
11 for the purpose of facilitating fish
spawning.
12 (2) "mixing zone" means an area in a water body surrounding
or
13 downstream of a discharge where the effluent plume is diluted by
the
14 receiving water, within which water quality standards specified by
the
15 department under AS 46.03.050 - 46.03.120 may be exceeded.

--
Kathleen M.K. Menke
Crystal Images Photography and Publishing
<http://www.akmk.com>

Rep. Paul Seaton

From: Marjorie & Dan Dunaway [mwdnt@nushtel.com]
Sent: Monday, January 09, 2006 1:32 PM
To: Rep. Paul Seaton
Cc: Sen. Lyman Hoffman; Rep. Carl Moses
Subject: regarding BILL ID: HB 328
Attachments: AFS_Mixing_Zone_Letter_of_Concern.pdf

Dear Representatives Seaton, LeDoux, Gatto, and Olson, and the Alaska House of Representatives as whole:

I am very glad to see the proposal HOUSE BILL NO. 328 "An Act prohibiting mixing zones in freshwater spawning waters." It is tiresome to see the current administration continually attempting to diminish the excellent protections we have for Alaskan waters and the fish that inhabit them. I am VERY pleased that this bill addresses the deficiencies of current law that overlook the critical lake spawning areas used by sockeye salmon and other important species.

One suggestion would be to include some accommodation to situations where fish colonize a previously never used area, such as a man made ditch. I'm not sure exactly what the proper wording should be or how to address it. There should be some language however that doesn't allow a ditch or pond to be created just for the purpose of circumventing this proposed or existing laws.

I also think that the current regulations allowing 10% of a lake surface area to be mixing zone could be much too large in some of the larger lakes. I don't know what an appropriate level should be, but I cannot believe that it would be acceptable to have 10% of the surface area of L. Iliamna, Echarof, Skilak, Tustemena or similar to be a mixing zone. There should be some absolute upper limit.

Would this bill address intertidal spawning areas? Pink and chum salmon are known to spawning in waters that might not be considered completely "flowing fresh water" yet are very important species to subsistence, commercial and sport fisheries. I think it would be worth considering these waters as well.

For additional guidance regarding mixing zone regulations, I encourage you to review in careful detail, the contents of the "Letter of Concern" submitted by the Alaska Chapter of the American Fisheries Society. I have attached it here for your review.

Additionally, I encourage you to consider in this bill or separately, a "Bad Actor" clause for chronic offenders of these laws. Penalties should be very stringent to assure chronic offenses are discouraged and stopped in a timely manner.

Thank you for your consideration and opportunity to comment.

Dan Dunaway
PO Box 1490
Dillingham, Alaska 99576

907-842-2636

Fisheries Biologist
Retired from approx 24 yrs with ADFG
Life long Alaskan

Rep. Paul Seaton

From: Richard E. Kanner [richard.kanner@hsc.utah.edu]
Sent: Monday, January 09, 2006 10:20 AM
To: Rep. Paul Seaton
Subject: Bill to legislate current regulations to prevent pollution in mixing zones.

Dear Re. Seaton:

Thank you for your work in preventing the mining industry from polluting areas where fish spawn in the State of Alaska. Although I am not a resident of Alaska I do visit your state approximately every other or third year and have good friends living there. I strongly support the legislation you have proposed in this matter.

Sincerely,

Richard E. Kanner, M.D.

--
Richard E. Kanner, MD
University of Utah Health Sciences Center
26 North 1900 East
701 Wintrobe Building
Salt Lake City, Utah 84132-4701
Tel: (801)581-7806
Fax: (801)585-3355
Beeper: (801)339-5592
Email: richard.kanner@hsc.utah.edu, kanner@med.utah.edu

Rep. Paul Seaton

From: Demian A. Schane [dschane@gmail.com]
Sent: Monday, January 09, 2006 9:45 AM
To: Rep. Paul Seaton
Subject: Support for legislation prohibiting mixing zones in salmon streams

I write to support Representative Seaton's efforts and legislation to prevent the State from authorizing mixing zones in streams that support salmon and their fry. I cannot understand the reasons the Murkowski Administration has proferred for modifying the existing regulations.

Keep up the good work.

Demian Schane
350 Irwin St. #510
Juneau, AK 99801

Rep. Paul Seaton

From: Linda Johnson [ljohn@ptialaska.net]
Sent: Monday, January 09, 2006 9:37 AM
To: Rep. Paul Seaton
Subject: Mixing zones bill - thank you!

Dear Mr. Seaton:

Thank you so much for introducing the bill to ban the pollution of spawning streams in Alaska.

The changes that DEC made – that pollution could not occur when fish are spawning – does not help, as I am sure you realize. There are numerous streams in the Juneau area that people can easily visit (there is a great trail in the Lemon Creek area, for example) which could be used to show any doubters that fish are in these streams year – round and polluting them at any time would be detrimental.

Thank you again!

Linda Johnson

Juneau, AK

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Version: 7.1.371 / Virus Database: 267.14.16/225 - Release Date: 1/9/2006

Rep. Paul Seaton

From: grenebrid@aol.com
Sent: Monday, January 09, 2006 9:20 AM
To: Rep. Paul Seaton
Subject: *****SPAM***** Mixing Zone Legislation

Dear Representative Seaton,

I fully support the Legislation (HB 328) for prohibiting pollution mixing zones in spawning habitat. Thank you, and to the other supporting Representatives for introducing this bill.

Mrs. Katherine McLaughlin
Chenga Bay, Alaska 99574

Community Rivers Planning Coalition

"Communicating, Collaborating, Cooperating - For Our Future"

PO Box 1375
Anchor Point, AK 99556
(907) 235-2434
CRPC@pobox.xyz.net
www.communityrivers.org

February 2, 2006

House Resources Committee
Alaska State House of Representatives
Juneau, Alaska

Re: Support for HB 328

The idea of allowing mixing zones in our Alaskan anadromous streams is ludicrous. The amount of money and effort that has gone into our fishing and tourism industries being able to market our "pristine" waters of Alaska is reaps great rewards and is producing positive returns to the State's economy and her coastal communities.

It seems unthinkable that the State of Alaska would even entertain a 150 year step back in waste treatment technology.

All one has to do is look to Europe and their loss of salmon resources, the eastern United States and their lost salmon runs, and the ongoing deterioration of the west coast fisheries habitat to see that Alaska is the last place in the world to support such a wealth and abundance of salmon and trout resources, and we should be doing all we can to protect them.

Our organization encourages your full support for HB 328. Our community survey of 2001 had a number of questions regarding our rivers and fish resources: 82% of the respondents favored allowing rivers and creeks to follow their natural course, and 89% favored protecting healthy wild fish populations. Your help in this regard is appreciate.

Sincerely,

Lee Martin, President
COMMUNITY RIVERS PLANNING COALITION

Caroline Crenna
604 O'Cain St.
Sitka, AK 99835
(907) 747-8390

VIA FAX
Representative Paul Seaton
State Capitol, Room 102
Juneau, AK 99835
(907) 465-3472

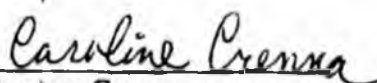
January 13, 2006

Re: HB 328
Dear Sir:

I am a commercial salmon troll permit holder. Thank you for introducing HB 328 to provide an alternative to DEC's proposal to allow mixing zones in fresh water where salmon and other fish spawn. As you may be aware, after several years of weak demand and low prices for Alaska troll-caught salmon, the market has improved dramatically. More and more consumers are starting to recognize the importance of pure food which is untainted by antibiotics, pollutants and other chemicals. Alaska has a big advantage in this environment with its lakes, streams and rivers where fish can grow up healthy, due in large part to the high level of protection afforded by current state regulation.

I think it would be a big mistake to diminish that level of protection by allowing pollution mixing zones in fresh water where salmon and other fish spawn. If the difference between farmed fish and wild fish is perceived as insignificant, the consumer will likely return to the lower priced farmed fish which is readily available year round. I just heard on the radio that DEC has decided to rescind its rule-making proposal to allow such mixing zones. Yeah for us, and congratulations to you, Representative Olson, Representative Gatto, and Representative LeDoux. If things change, please let me know.

Sincerely,


Caroline Crenna

Emily Stancliff

From: Nina Faust [fausball@xyz.net]
Sent: Tuesday, January 31, 2006 9:25 AM
To: Rep. Jay Ramras
Subject: HB 328

P.O. Box 2994
Homer, AK 99603

January 12, 2006

House Resources
State Capitol, Room 102
Juneau, Alaska 99801

Dear Representative Ramras:

We support HOUSE BILL NO. 328, "An Act prohibiting mixing zones in freshwater spawning waters." A legislative fix is needed to prevent looser State regulations that would allow pollution in our streams and rivers. No matter how the State has tried to present its new regulations on mixing zones, it still comes back to the bottom line, which is that the new rules relax water quality standards in Alaska. The State appears to be scrambling to loosen controls on water quality to benefit pending big, new mines and timber operations. Alaska is the only state in the U.S. that can boast about its amazingly clean streams and lakes, but this will not last if the state allows relaxed mixing zone standards. We are adamantly opposed to doing this!

The Department of Environmental Conservation presented testimony to the House Special Committee on Fisheries on January 27, 2006. If the Legislature listens to DEC, Alaska water quality will likely go the way of so many streams, rivers, and lakes of the Lower 48 and elsewhere in the world. They will begin the gradual decline that will destroy our fisheries just as has happened most everywhere else. Already the State has granted roughly 32 questionable permits in salmon or other fish bearing waterbodies. These permits should be upgraded to require effluent to meet current state water quality standards or better.

Mixing Zones in streams supporting anadromous and other freshwater fisheries must be protected. Dumping pollution in Alaskan waters during times when fish are not spawning is not a solution. Over time, pollution accumulates in these waters. Somewhere it settles out, or fish slowly ingest the pollution. Without highly sophisticated testing programs, we will never know where the pollution goes, where it settles, or how it is slowly affecting the plants and animals in the water. Like elsewhere, it is a slow process of poisoning that someday shows up in fish in various ways. Why even allow this? The technology is available to make the effluent at the end of the pipe meet water quality standards. We believe this is what Alaskans want!

Our fisheries are the envy of the nation and comprise a vital and sustainable part of Alaska's economy. Allowing mixing zones threatens commercial, subsistence, and sport fisheries, all-important components of many Alaskan communities. How can the State promote fresh, wild salmon through a marketing campaign emphasizing the clean, healthy, organic qualities of Alaskan salmon if we relax mixing zone regulations? The State can try to dress it up anyway it wants but it is still an outmoded and discredited method of handling waste and should not be allowed.

1/31/2006

The Legislature must act to set high, permanent water quality standards. Leaving these standards open to changes of convenience to accommodate cheaper development of other natural resources is not reasonable. The State would be providing a cheap, convenient way for industry to dispose of its wastes to develop a non-renewable resource at the expense of clean water and rich fisheries, which are diminishing riches in an increasingly polluted world.

Alaskans have been very clear on this topic—they do not support mixing zones! We still oppose mixing zones and urge the State to keep high water quality standards to protect our fisheries and the health of Alaskans. Please pass House Bill 328 without watering it down!

Sincerely,

Nina Faust and Edgar Bailey

IGIUGIG TRIBAL VILLAGE COUNCIL

A.K.A. Igiugig Village Council
P.O. Box 4008
Igiugig, AK 99618

Phone: (907) 633-2211 or Fax: (907) 683-3217 www.igiugig.com e-mail: igiugig@alaska.net

January 30, 2006

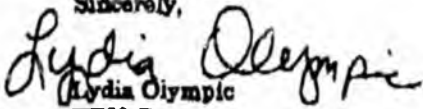
Co-Chairs Resource Committee
Representative Jay Ramras
Fax # 907.465.8004

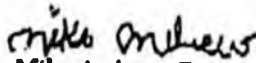
Dear Representative Ramras:

Please be advised that Igiugig Tribal Village Council (ITVC) and Igiugig Native Corporation (INC) strongly support HB328 and SB226 on mixing zones. Our community represented by ITVC and INC believe that the proposed legislation is the only mechanism that will insure the safety and quality of water sources in our region. Legislation will clearly dictate allowable uses of mixing zones and eliminate "interpretations" by managers and manipulation by politicians. Passage of this legislation will also send a clear message to the State and country that Alaska values its pristine water conditions and is taking strong measures to ensure sustainable water quality and renewable resources for future generations.

Igiugig Tribal Village Council (ITVC) and Igiugig Native Corporation (INC) strongly support passage of HB328 and companion bill SB226 on mixing zones. Please contact us for any further information that may be required on this issue.

Sincerely,


Lydia Olympic
ITVC President


Mike Andrew, Sr.
INC Vice President

Community Rivers Planning Coalition

"Communicating, Collaborating, Cooperating - For Our Future"

PO Box 1375
Anchor Point, AK 99556
(907) 235-2434
CRPC@pobox.xyz.net
www.communityrivers.org

February 2, 2006

House Resources Committee
Alaska State House of Representatives
Juneau, Alaska

Re: Support for HB 328

The idea of allowing mixing zones in our Alaskan anadromous streams is ludicrous. The amount of money and effort that has gone into our fishing and tourism industries being able to market our "pristine" waters of Alaska is reaps great rewards and is producing positive returns to the State's economy and her coastal communities.

It seems unthinkable that the State of Alaska would even entertain a 150 year step back in waste treatment technology.

All one has to do is look to Europe and their loss of salmon resources, the eastern United States and their lost salmon runs, and the ongoing deterioration of the west coast fisheries habitat to see that Alaska is the last place in the world to support such a wealth and abundance of salmon and trout resources, and we should be doing all we can to protect them.

Our organization encourages your full support for HB 328. Our community survey of 2001 had a number of questions regarding our rivers and fish resources: 82% of the respondents favored allowing rivers and creeks to follow their natural course, and 89% favored protecting healthy wild fish populations. Your help in this regard is appreciated.

Sincerely,



Lee Martin, President

COMMUNITY RIVERS PLANNING COALITION



"The mission of the Council is to represent the citizens of Cook Inlet in promoting environmentally safe marine transportation and oil facility operations in Cook Inlet."

Members

February 7, 2006

Alaska State Chamber of Commerce

Representative Jay Ramras, Co-Chair
Alaska House Resources Committee
Alaska State Capital, Room 104
Juneau, Alaska 99801-1182

Alaska Native Groups

Re: Support for House Bill 328, "An Act Prohibiting Mixing Zones in Freshwater Spawning Waters"

Environmental Groups

Dear Representative Ramras:

Recreational Groups

Cook Inlet Regional Citizens' Advisory Council (CIRCAC) submits this letter in support of House Bill 328, "An Act Prohibiting Mixing Zones in Freshwater Spawning Waters" (HB 328), which was referred to the House Resources Committee on January 30, 2006.

Aquaculture Associations

CIRCAC is a nonprofit corporation organized exclusively for the oversight, monitoring, assessing and evaluation of oil spill prevention, safety and response plans, terminal and oil tanker operations, and environmental impacts of oil tanker and oil terminal operations in Cook Inlet under the provisions of Section 5002 of the Oil Pollution Act of 1990. Our mission is to represent the citizens of Cook Inlet in promoting environmentally safe marine transportation and oil facility operations in Cook Inlet. CIRCAC consists of 13 member communities as well as Alaska Native groups, commercial fishing and aquaculture, tourism, recreational and environmental interest groups that have a significant stake in the environment and resources at risk from oil production and transportation in the region.

Fishing Organizations

City of Kodiak

City of Kenai

City of Seldovia

City of Homer

Kodiak Island Borough

Kenai Peninsula Borough

Municipality of Anchorage

On behalf of our member entities, CIRCAC participated in the public review and comment period during the Alaska Department of Environmental Conservation (ADEC) rulemaking to revise the state mixing zone regulations at 18 AAC § 70.240. We submitted written comments twice, in September 2004 and again in November 2005. In both sets of comments, we expressed strong opposition to ADEC's proposal to weaken existing state regulations governing mixing zones. The 2004 proposed changes, which would have removed the statewide ban on mixing zones in anadromous or resident fish or shellfish spawning or rearing areas, was in our estimation bad environmental policy. The 2005 proposed regulations contained some improvements, but maintained the loophole to allow mixing zone permits to be granted in anadromous fish spawning habitat. The adopted regulations published by ADEC on January 12, 2006 amount to a

Cook Inlet Regional Citizens Advisory Council * 910 Highland Avenue, Kenai, AK 99611-8033

Phone: (907) 283-7222 * Fax (907) 283-6102

reduction in overall pollution prevention when compared to the previously existing regulations at 18 AAC § 70.240 - 18 AAC § 70.270.

CIRCAC has a long history of working with stakeholder groups, state and federal agencies, spill responders, and oil companies to protect our precious natural resources from industrial pollutants. We have participated in efforts to improve oil spill prevention measures, enhance response capabilities, and develop site-specific Geographic Response Strategies (GRS) to prevent spilled oil from contaminating sensitive coastal environments, especially fish spawning habitat. We are concerned that the newly adopted regulations will undo this good work by allowing the intentional discharge of industrial effluents into streams, lakes, and other water bodies where salmon and other anadromous fish spawn.

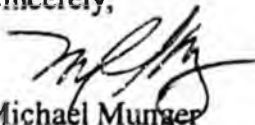
The issue of anadromous fish spawning was CIRCAC's central concern throughout the ADEC mixing zone rulemaking process. The final, adopted regulations did not address CIRCAC's primary recommendation, which was for ADEC to maintain the previously existing ban on mixing zones in anadromous fish spawning areas without exception. HB 328 provides an opportunity to memorialize in Alaska Statute the ban on mixing zones in anadromous fish spawning areas, which would accomplish CIRCAC's primary objective to protect fish spawning habitat from industrial effluent pollution.

CIRCAC has commented on numerous state and federal rulemakings, and we understand that there is always some measure of compromise involved in developing regulations. However, the overwhelmingly negative response to the new regulations indicates that they are out of step with the water quality standards expected by federal regulators and stakeholders alike. CIRCAC's member entities consider the environmental quality of our anadromous fish spawning habitat to be of critical importance. Protecting spawning streams from pollution is an issue that merits statutory consideration. CIRCAC supports HB 328 because it would provide certain protection to anadromous fish spawning in Cook Inlet's freshwater streams, lakes, and rivers.

We hope that the House Resources Committee will expedite the passage of this important legislation to ensure that the highest water quality standards apply to Alaska's anadromous fish freshwater spawning areas.

If you have any questions, please feel free to contact me at (907) 283-7222.

Sincerely,



Michael Munger
Executive Director

cc: Rep. Paul Seaton
Rep. Carl Gatto
Rep. Gabrielle LeDoux
Rep. Beth Kurttula
Rep. Les Gara

*Cook Inlet Regional Citizens Advisory Council * 910 Highland Avenue, Kenai, AK 99611-8033*

*Phone: (907) 283-7222 * Fax (907) 283-6102*

**United Southeast Alaska Gillnetters**

P.O. Box 23378, Ketchikan, AK 99901 Phone & Fax (907) 247-2471 Email: usa_gillnetters@att.net

March 28, 2006

The Honorable Ralph Samuels, Co-Chair
House Resources Committee

Sent Via Fax to: 907 465-3810

The Honorable Jay Ramras, Co-Chair
House resources Committee

Sent Via Fax to 907 465-2070

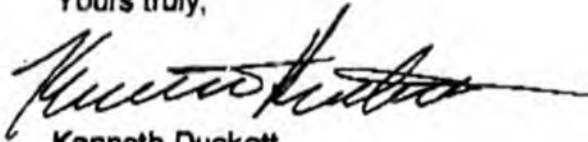
Dear Representatives Samuels and Ramras,

The United Southeast Alaska Gillnetters would like to take this opportunity to reaffirm our support for HB 328 which will place in legislation protection for the habitat on which our salmon resource depends. This is the fifth letter we have written to DEC and members of the Legislature dealing with mixing zones. It does not seem productive to reiterate all of the issues that have been covered by past correspondence. The massive amount of public comment that DEC received on their proposed weakened regulations was nearly 100% opposed to allowing mixing zones of any nature in our salmon streams and most also oppose these zones in the tributary systems feeding into our salmon streams. The message to DEC and the State was clear. Alaskans want clean, healthy streams for their salmon and trout and do not want industry using these fresh water systems for any form of waste disposal.

The opposition to this legislation comes from parties who have no vested interest in the protection of our fresh water aquatic systems which this legislation provides. They have no interest in maintaining the same standard of purity that our fresh water systems currently enjoy. On the contrary, their interest lies in the use of these systems in a way that would reduce the quality of the receiving water and potentially endanger salmon and trout by permitting the disposal of industry waste in Alaska's streams. This should not be permitted and HB 328 will go a long way toward providing the protection our streams and fishery resources need. Let's not fail to learn from the mistakes that many states in the Lower 48 have made by allowing streams and fisheries resources to be compromised for the sake of short-term economic development. Our fisheries have produced jobs and income for Alaska for 100 years and will do so indefinitely if we continue to take care of the environment on which those resources depend.

The final regulations adopted by DEC are far better than the original drafts for which they sought public input. They do not however, provide the protection that the fresh water systems in Alaska have historically enjoyed and do not afford the protection provided by HB 328. We hope the House Resources Committee will support HB 328. Thank you for considering our comments.

Yours truly,

A handwritten signature in black ink, appearing to read "Kenneth Duckett", with a long horizontal flourish extending to the right.

Kenneth Duckett
Executive Director

cc: Representative Elkins Sent Via Fax to: 907 465-3793



ALASKA MINERS ASSOCIATION, INC.

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

January 19, 2006

Honorable Bill Thomas
Honorable Gabrielle LeDoux
House Fisheries Committee
Capitol Building
Juneau, AK 99801

RE: House Bill 328, Prohibiting Mixing Zones in Freshwater Spawning Waters

Dear Representatives Thomas and LeDoux,

The Alaska Miners Association opposes House Bill 328 which would prohibit the use of mixing zones in freshwater spawning waters. Mixing zones are an important tool for the State to use when managing water discharges, be it from municipalities, fish processing plants, or other industrial activities, including mining.

Since passage of the federal Clean Water Act (in about 1972), water quality standards have been extremely restrictive. This fact was recognized and mixing zones were therefore allowed under state law where the scientific evidence would justify use of mixing zones for defined portions of streams, rivers or lakes. The promise to mining and all potential dischargers has been that, yes the standards are very restrictive, but mixing zones would be available.

Alaska has just promulgated new mixing zone regulations. These regulations contain an absolute prohibition which will not allow mixing zones in salmon spawning areas. These regulations also provide numerous controls to ensure that mixing zones will not adversely impact other fisheries and other spawning areas. Not all mining operations will need to utilize these regulations but for some operations they will be absolutely essential. These regulations provide protection for fisheries and only when the science can support use of a mixing zone will one be allowed.

Thank you for the opportunity to comment on this important issue.

Sincerely,

Steven C. Borell, P.E.
Executive Director

cc: Representative Paul Seaton

Opposition

Louie Flora

From: POMS@legis.state.ak.us
Sent: Tuesday, January 31, 2006 12:49 PM
To: Louie Flora
Subject: New Pom:HB 328 Ban Mixing Zones In Spawning Areas

James Fellman
Po Box 2884

Soldotna 99669-2884,

The public process has been ongoing for 10 years and you want to just throw in a bill eliminating mixing zones, despite the fact that F&G does not oppose them. We will have to relocate the Soldotna sewage treatment plant. This bill's sole purpose is to hamper industry.

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF WATER
OFFICE OF THE DIRECTOR

FRANK H. MURKOWSKI, GOVERNOR

555 Cordova Street
Anchorage, AK 99501-2617
PHONE: (907) 269-7599
FAX: (907) 334-2415
<http://www.dec.state.ak.us>

January 26, 2006

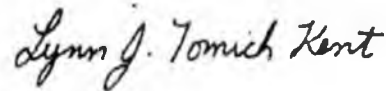
The Honorable Gabrielle LeDoux
Co-Chair, House Fisheries Committee
House of Representatives
Alaska State Capitol, Room 124
Juneau, Alaska 99801-1182

The Honorable William Thomas, Jr.
Co-Chair, House Fisheries Committee
House of Representatives
Alaska State Capitol, Room 124
Juneau, Alaska 99801-1182

Dear Representatives LeDoux and Thomas:

The Department of Environmental Conservation appreciates the opportunity to provide its position and comments on the CS for HB 328. Enclosed is my written testimony for your consideration. Should you have additional questions or prefer further detail, please let me know.

Sincerely,



Lynn J. Tomich Kent
Director

Enclosure: DEC CSHB 328 Testimony

cc: The Honorable Representative Harris
The Honorable Representative Elkins
The Honorable Representative Wilson
The Honorable Representative Kapsner
The Honorable Representative Salmon

**Department of Environmental Conservation
CSHB 328 Testimony
House Special Committee on Fisheries
January 27, 2006**

The Department of Environmental Conservation appreciates the opportunity to provide its position and comments on the CS for HB 328.

The Department is opposed to CSHB 328 for the following reasons:

- 1. CSHB 328 is not necessary to protect anadromous salmon from either a scientific or a perception basis.**

The Department of Environmental Conservation's regulations prohibit mixing zones in anadromous salmon spawning areas. CSHB 328 would put in statute the same protections for the five species of anadromous salmon that have been part of DEC's regulations since 1975.

While these protections are not necessary from a scientific perspective, they go beyond science to address the need to protect salmon marketing and the public perception that Alaska's salmon are clean and healthy.

- 2. There is no justification for extending the mixing zone prohibition to protect the salmon marketing effort to protect "non-salmon" fish species.**

CSHB 328 would prevent DEC from authorizing a mixing zone in a non-salmon fish spawning area (Sec. 46.03.063(b)(2)) even in cases where science can show the mixing zone will have no adverse effect on spawning. There is no justification for extending the mixing zone prohibition which is intended to protect salmon marketing efforts to non-salmon fish species. Alaska needs to encourage and support responsible community growth and development of its natural resources.

DEC's regulations allow exceptions to the prohibition of a mixing zone in "non-salmon" spawning areas when site specific conditions show that the fish species will be protected or any adverse impacts will be mitigated as determined by habitat and fisheries biologists with the Departments of Fish and Game, and Natural Resources.

Alaska's communities and businesses should be allowed to use mixing zones if fish are protected. There is no justification for restricting responsible community growth and resource development that can comply with the state's requirements for the growth and propagation of fish.

3. CSHB 328 would prohibit mixing zones in spawning areas for lampreys and smelts.

DEC would be prevented from authorizing a mixing zone in all anadromous fish spawning areas. Lampreys and smelts are fish species included in the definition of anadromous fish. Unlike the importance of salmon to Alaska's social and economic wellbeing, DEC does not believe non-salmon fish species justify an absolute prohibition on mixing zones that can comply with the scientifically based water quality standards for growth and propagation of fish.

4. CSHB 328 would prohibit mixing zones that have become a fish spawning area unless the discharge was from a municipal wastewater facility.

It is possible for mixing zones to become spawning areas even though spawning was not occurring when the mixing zone was first authorized. DFG has discovered fish spawning in a mixing zone previously authorized for a drinking water utility, and in some cases for domestic wastewater facilities. Successful fish spawning in a mixing zone is evidence that the water quality in the mixing zone is not harmful to fish. Allowing mixing zones in areas that have become successful spawning areas should be allowed for any facility type, not just municipal wastewater facilities. Businesses and communities should not lose their mixing zones just because they are doing such a good job treating their wastewater that fish start spawning in them.

5. CSHB 328 includes a definition of "area" that is counter to both past and current practices by the Departments of Fish and Game and Natural Resources when determining spawning areas on both a spatial and temporal basis.

The relative sensitivity of Alaska's fish resources is seasonal. Impacts from responsible community and resource development can be avoided by limiting uses and activities to times of the year when the fish resources are not there or other seasonal conditions eliminate adverse impacts to the fish resources. Alaska's resource agencies have traditionally employed "seasonal restrictions" to control development impacts to the environment.

There are 32 currently permitted facilities with discharges that do not have an adverse effect on fish, in part due to timing restrictions imposed on their discharge via permit conditions. CSHB 328 would require the Department to cancel those permits and limit future permitting in similar situations without any net environmental benefit to the fish.

6. CSHB 328 relies upon a new undefined term, "useful life" when referring to renewal of a mixing zone authorization for a municipal wastewater facility.

As many facilities age, they are upgraded to varying degrees from minor modifications to almost complete reconstruction. DEC knows of no standard or criteria for determining a facility's "useful life."

The "useful life" of a facility is also irrelevant to the properties and effects of a mixing zone or the methods necessary to protect fish.

7. **CSHB 328 is inconsistent with the current statute for protection of fish and game (AS 41.14.870), interference with salmon spawning streams and waters (AS 16.10.010), or submission of plans and specifications (AS 16.20.060).**

Alaska's legislature has enacted a protective legal framework for all waters important to fish with additional protections for rivers, lakes and streams that are important for salmon spawning, rearing, or migration. State approval must be received from DEC, DNR, or DFG prior to the construction in, or use of waters important to fish spawning, rearing or migration.

CSHB 328 prohibits all mixing zones in all anadromous fish and other specifically listed fish spawning areas. However, CSHB 328 does not amend or repeal the provisions in other state law that permit the use of fish spawning areas if there are no adverse impacts from that use. CSHB 328 conflicts with current legislative policy not specifically amended or repealed by CSHB 328.

8. **DEC is responsible for, and must be accountable for, setting and enforcing standards for environmental protection.**

DEC has a duty under state statute to set and enforce standards for the prevention of pollution and protection of Alaska's environment (AS 44.46.020). The legislature has also directed DEC to "determine what qualities and properties of water indicate a polluted condition actually or potentially deleterious, harmful, detrimental, or injurious to . . . aquatic life or their growth and propagation" (AS 46.03.070).

It is appropriate that the legislature hold DEC accountable for carrying out the duties and responsibilities spelled out in statute. However, we do not believe it is appropriate for the legislature to assume responsibility for carrying out the duties and responsibilities assigned to the executive branch by statute.

Emily Stancliff

From: Henrik Wessel [HWessel@gvea.COM]
Sent: Wednesday, February 01, 2006 12:47 PM
To: Rep. Jay Ramras
Cc: Rep. Mike Kelly; Steve H. Haagenson; Dave R. Hoffman; Kate K. Lamal; rschikora@gvea.net; Tom E. Irwin
Subject: HB 328 will shut down Healy Power Plant

Dear Representative Jay Ramras,

I am writing you in relation to HB 328 which I understand will outlaw thermal mixing zones. If that happens, Golden Valley Electric Association will no longer be able to operate it's Healy Power Plant Unit#1 which was rated #1 in the nation for 2004 for coal fired power plants capacity factor. Healy Unit#1 is our most economical power and helps our electric rates stay reasonable for our interior residents. The thermal mixing zone we have in Healy is monitored closely and we report monthly to EPA. It has no environmental impact to the surrounding area. There is no reason to outlaw this. If you have any questions, please do not hesitate to call me at (907)451-5627. Thank you,

Sincerely,

Henrik Wessel
Environmental Officer
Golden Valley Electric Association
(907)451-5627 (phone)
(907)451-5633 (fax)

Emily Stancliff

From: dvtweet [dvtweet@alaska.com]
Sent: Wednesday, February 01, 2006 1:47 PM
To: Rep. Jay Ramras
Subject: Mixing Zones

Rep Ramrsa

I heard that there is a bill in the resources committee to eliminate mizing zones. As a small placer miner mizing zones are very important to up. They are based of scientific critera and solid practical studies. In our case, there is no heavy or toxic metals released. There is only slightly turbid water and very little of that. There is no harm to the receiving water. I hope this bill does not pass out of your committee.

Thanks You
Dougas Tweet

2/1/2006



RESOURCE DEVELOPMENT COUNCIL

Growing Alaska Through Responsible Resource Development

Founded 1975
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Thaddeus J. Owens
2005-2006 Executive Committee
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Wendy Lindskoog, Vice President
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John L. Sturgeon
Jim Taro
Greg Thies
Eric P. Yould
Ex-Officio Members
Senator Ted Stevens
Senator Lisa Murkowski
Congressman Don Young
Governor Frank Murkowski

January 26, 2006

Representative Bill Thomas and Representative Gabrielle LeDoux
Co-Chairs, House Fisheries Committee
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Re: House Bill 328 — Ban Mixing Zones in Spawning Areas

Dear Representatives Thomas and LeDoux:

On behalf of the Resource Development Council for Alaska, Inc. (RDC), I am writing to express our opposition to House Bill 328.

RDC is a private, non-profit business association comprised of individuals and leading companies from Alaska's oil and gas, mining, forest products, fisheries and tourism industries. The association's membership also includes construction companies, local communities, Native corporations, organized labor and a wide range of industry-support firms. RDC works to grow Alaska's economy through the responsible development of the state's natural resources.

As a matter of policy, RDC favors regulatory flexibility over prohibitions whenever possible. The intent of this position is not to weaken or diminish Alaska's rigorous environmental protection standards, but rather to give communities and industry operators the chance to develop creative solutions to permitting challenges. Going forward, technological advances, seasonal restrictions and other developing best practices may create opportunities for environmentally-sound development to occur in places it may not have in the past.

RDC appreciates the work the Department of Environmental Conservation (DEC) has done to develop the current regulations for mixing zones. DEC's process began in 2004 and the department's original proposal underwent two major redrafts before it was adopted as final earlier this year. DEC has worked diligently with the public, the Department of Fish and Game and the Department of Natural Resources to develop a sound regulatory framework for mixing zones in Alaska.

It is important to note the current regulations in no way undermine the ultimate responsibility Alaska's resource agencies have to protect rivers, lakes and streams important to anadromous and resident fish. In fact, under the current regulations, mixing zones in spawning areas will always be the exception rather than the rule in Alaska. However, the resource agencies are responsible for managing multiple uses of Alaska's water. In

121 West Fireweed, Suite 250, Anchorage, Alaska 99503-2035
Phone: 907/276-0700 Fax: 907/276-3887 Email: Resources@akrdc.org Website:
www.akrdc.org

addition to protecting aquatic life, the agencies must take into account domestic, commercial, industrial and recreational uses.

HB328 takes an overly conservative approach to mixing zones. The bill's prohibition precludes the state resource agencies from working with communities and industrial users to develop creative solutions to permitting challenges. When compared with the current regulations, the potential costs of HB328 outweigh its potential benefits.

Some have tried to characterize this issue as a conflict pitting Alaska's fishing industry against communities and other industries. RDC does not believe this to be the case at all. Too often in Alaska the public and policy makers are encouraged to view the relationship between conservation and development as a zero-sum game — what's good for one stakeholder must be equally detrimental to another.

Given favorable circumstances and proper management and oversight, mixing zones and healthy fish stocks can coexist. Alaska's resource agencies have the regulatory framework, technical expertise and resources in place to make sound determinations on a case-by-case basis. The current regulations will protect Alaska's fisheries without unduly burdening other legitimate uses of the state's water. RDC encourages the House Fisheries Committee not to move HB328 forward.

Thank you for considering RDC's position on this important issue.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL
For Alaska, Inc.



Tadd Owens
Executive Director



Council of Alaska Producers

P.O. Box 22653 Juneau, Alaska 99802

January 27, 2006

Honorable Bill Thomas
Honorable Gabrielle LeDoux
House Fisheries Committee
Capitol Building
Juneau, AK 99801

RE: House Bill 328 Prohibiting Mixing Zones in Freshwater Spawning Areas

Dear Representatives Thomas and LeDoux:

The Council of Alaska Producers (CAP) is a consortium of member mining organizations involved in the responsible development of natural resources in the State of Alaska. We represent a group of companies that are currently operating mines, that are exploring for minerals, or that are associated with the development of mining operations that utilize or intend to utilize chemical extraction of ores as their primary mineral processing method.

The CAP represents its membership in assisting in the development of state and federal legislation and regulation pertaining to responsible mineral development in Alaska. The CAP strives to provide a medium of constructive cooperation among its members, public agencies, and other groups associated with the development of mineral resources in Alaska.

The CAP is opposed to HB 328 which would prohibit mixing zones in freshwater spawning areas. Mixing zones are an important tool for the state to use when managing water discharges whether the discharge is from municipalities, fish processing plants, or other industrial activities, including mining.

HB 328 is not necessary to protect anadromous salmon from either a scientific or a perception basis. Alaska (DEC) has just promulgated new mixing zone regulations. The department's regulations prohibit mixing zones in anadromous salmon spawning areas. HB 328 would put in statute the same protections for the five species of anadromous salmon that have been part of DEC's regulations since 1975.

HB 328 would also prohibit mixing zones that have become a fish spawning area unless the discharge was from a municipal wastewater facility. Mixing zones have become

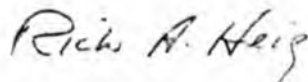
Representatives Thomas and LeDoux
House Fisheries Committee
Capitol Building
Page 2

spawning areas even though spawning was not occurring when the mixing zone was first authorized, which suggests the water quality in the mixing zone is not harmful to fish. Mixing zones in areas that have become successful spawning areas should be allowed for any facility type, not just municipal wastewater facilities. With HB 328, existing businesses and communities could lose their ability to discharge if the mixing zone is not a municipal wastewater facility.

The Alaska Department of Conservation DEC is responsible for setting and enforcing standards for environmental protection. The legislature's responsibility should be to hold the department accountable for their responsibilities under appropriate statute, not assume their responsibilities.

The CAP urges you not to pass HB 328 out of committee. Thank you for the opportunity to comment on this important issue.

Sincerely,



Rich A. Heig
Vice President
Council of Alaska Producers



ALASKA MINERS ASSOCIATION, INC.

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

January 19, 2006

Honorable Bill Thomas
Honorable Gabrielle LeDoux
House Fisheries Committee
Capitol Building
Juneau, AK 99801

RE: House Bill 328, Prohibiting Mixing Zones in Freshwater Spawning Waters

cc: Representatives Thomas and LeDoux,

The Alaska Miners Association opposes House Bill 328 which would prohibit the use of mixing zones in freshwater spawning waters. Mixing zones are an important tool for the State to use when managing water discharges, be it from municipalities, fish processing plants, or other industrial activities, including mining.

Since passage of the federal Clean Water Act (in about 1972), water quality standards have been extremely restrictive. This fact was recognized and mixing zones were therefore allowed under state law where the scientific evidence would justify use of mixing zones for defined portions of streams, rivers or lakes. The promise to mining and all potential dischargers has been that, yes the standards are very restrictive, but mixing zones would be available.

Alaska has just promulgated new mixing zone regulations. These regulations contain an absolute prohibition which will not allow mixing zones in salmon spawning areas. These regulations also provide numerous controls to ensure that mixing zones will not adversely impact other fisheries and other spawning areas. Not all mining operations will need to utilize these regulations but for some operations they will be absolutely essential. These regulations provide protection for fisheries and only when the science can support use of a mixing zone will one be allowed.

Thank you for the opportunity to comment on this important issue.

Sincerely,

Steven C. Borell, PE
Executive Director

cc: Representative Paul Seaton



CITY OF
ALASKA'S CAPITAL CITY

OFFICE OF THE MAYOR

Telephone: (907) 586-5240, Facsimile: (907) 586-5385

Mayor@ci.juneau.ak.us

February 28, 2006

The Honorable Ralph Samuels, Co-Chair
House Resources Committee
State Capitol, Room 126
Juneau, Alaska 99801-1182

The Honorable Jay Ramras, Co-Chair
House Resources Committee
State Capitol, Room 104
Juneau, Alaska 99801-1182

Subject: CS HB 328 (FSH)

Dear Representatives Samuels and Ramras:

In December 2005, the City and Borough of Juneau adopted Resolution 2338 opposing the Department of Environmental Conservation's (DEC) proposed 2005 mixing zone regulations. The Assembly expressed concern that these proposed regulations, which included several exemptions to the prohibition on mixing zones in fish spawning areas, would have resulted in an increase in wastewater discharge pollution in salmon streams. Threats to the health of salmon and other fish are unacceptable to the many Alaskans who depend on the well-being of Alaska's unsurpassed fish populations. DEC's newest regulations (adopted January 12, 2006) contain several provisions that compromise the health of salmon and other fish, most noticeably the authorization for the Department of Natural Resources to "temporarily", as well as spatially, define spawning areas.

HB 328, introduced by Representative Paul Seaton, and as amended in the House Special Committee on Fisheries, offers rational legislation to protect the salmon-based economy of Southeast Alaska. The bill clearly defines a spawning area as a physical area, which closes the "temporal" loophole that allows mixing zones in spawning areas. It also protects the spawning of non-salmon fish (which are also important in Southeast Alaska) from the exemptions in the new regulations. If passed, HB 328 would help provide the protection for fish that Alaskans deserve, as well as preserve the unmatched wild salmon reputation Alaska holds around the world.

Sincerely,

Bruce Botelho
Mayor

cc: Representative Paul Seaton

Louie Flora

From: Busbys/Chicken Gold Camp [chickengold@starband.net]
Sent: Sunday, March 12, 2006 9:59 AM
To: Louie Flora
Cc: sborell@alaska.net
Subject: HB328

Hi Louie,

Please let Rep Seaton know that I oppose the elimination of mixing zones in salmon streams. There seems to be a misconception that salmon only thrive in pristine waters. Science on the other hand, suggests that salmon are the 'rototillers' of fresh water streams, affecting whole ecosystems: <http://uwnews.org/uweek/uweekarticle.asp?articleID=23014>. And science also suggests that mixing zones can provide all of the needed protection to support multiple industries in a watershed.

Thanks.
Mike Busby
Hon er



Alaska Conservation Voters

810 N St, Ste 203, Anchorage Alaska 99501 / Ph. 907.258.6171 / Fax 907.258.6177
PO Box 22151, Juneau Alaska 99802 / Ph. 907.463.3366 / Fax 907.463.3312 / www.acvoters.org

March 29, 2006

The Honorable Jay Ramras
Co-Chair, House Resources Committee
House of Representatives
Alaska State Capitol, Room 124
Juneau, Alaska 99801-1182

The Honorable Ralph Samuels
Co-Chair, House Resources Committee
House of Representatives
Alaska State Capitol, Room 124
Juneau, Alaska 99801-1182

Dear Representatives Ramras and Samuels,

On behalf of the Alaska Conservation Voters, a statewide agency that works to protect Alaska's environment through public education and advocacy, I would like to commend Representatives Seaton, Olson, Gatto, LeDoux, Kerttula and Gara for their efforts to advance HB328 and close the loopholes in current mixing zone regulations.

Between February 7 and 9, a statewide poll of 301 randomly selected registered voters was conducted to determine individuals' stances on mixing zones. The poll was funded by the Alaska Conservation Voters and was conducted by an independent research agency, Hays Research Group. From the results, it was determined that 83.1% of respondents were opposed to allowing mixing zones in salmon spawning areas. The second question in the poll focused on whether or not allowing mixing zones would have an impact on the effectiveness of the Wild Alaska Salmon marketing campaign, with a resulting 64.8% of respondents indicating that they believe there would be an impact. The attached sheet summarizes the results of the poll and provides statistical information on percentage distributions and the margin of error.

The Alaska Conservation Voters would like to thank you for your consideration and support of HB328.

Sincerely,

Kate Troll
Executive Director

cc: The Honorable Representative Elkins
The Honorable Representative Gatto
The Honorable Representative LeDoux
The Honorable Representative Olson
The Honorable Representative Seaton
The Honorable Representative Crawford
The Honorable Representative Kapsner

Alaskans building a better future.



HB 328 [Ban Mixing Zones in Spawning Areas]

• Poll Results •

810 N St, Ste 203, Anchorage Alaska 99501 / Ph. 907.258.6171 / Fax 907.258.6177

PO Box 22151, Juneau Alaska 99802 / Ph. 907.463.3366 / Fax 907.463.3312 / www.acvoters.org

As part of a statewide poll funded by Alaska Conservation Voters and conducted by an independent agency (Hays Research Group) between February 7 and 9, two questions were asked regarding individuals' stances on the issue of mixing zones. Exactly 301 randomly selected registered voters were surveyed statewide. The margin of error for the sample is +/- 6% with a 95% confidence level; in other words, we can be 95% sure that if every resident of Alaska was actually surveyed, the results would vary by no more than 6% in either direction.

Question 1-- Mixing zones are areas in water bodies where toxic waste discharge is allowed to exceed pollution limits when diluted with uncontaminated water. Under current regulations mixing zones are banned in salmon spawning areas, but the Administration would like to relax the regulations - do you oppose or support allowing the use of mixing zones in salmon spawning areas?

	Total Answers (out of 301)	% of Total Answers
Support	39	13.0%
Oppose	250	83.1%
Don't Know/Refused	12	4.0%

Question 2-- Considerable state and federal resources have been spent developing a Wild Alaska Salmon marketing campaign, do you think allowing Mixing Zones in salmon streams and rivers will impact the effect of this marketing campaign?

	Total Answers (out of 301)	% of Total Answers
Yes	195	64.8%
No	67	22.3%
Don't Know/Refused	39	13.0%

Alaska Conservation Voters works to protect Alaska's environment through public education and advocacy. As the political arm of Alaska's conservation movement, ACV works during the legislative session to educate legislators and the public on conservation issues and to organize concerned Alaskans at the grassroots level. Alaska Conservation Voters has been working since 1997 to protect our quality of life by electing conservation candidates, fighting anti-conservation legislation and promoting pro-environment laws.

Alaskans building a better future.



YUKON RIVER DRAINAGE FISHERIES ASSOCIATION

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April 3, 2006

Representative Jay Ramras
State Capitol, Room 104
Juneau, AK 99801

Re: Public Testimony to the House Resources Committee on HB 328

Dear Representative Ramras:

I am writing on behalf of the Yukon River Drainage Fisheries Association (YRDFA) to provide public testimony on HB 328 to the House Resources Committee. YRDFA represents subsistence and commercial fishers on the Yukon River. YRDFA opposed DEC's proposed mixing zone regulations in both 2004 and 2005. We do not feel that DEC's new regulations provide adequate protection to salmon and non-salmon species. We support HB 328 to protect fish from mixing zone pollution.

Mixing zones pose threats to anadromous and freshwater fish populations. Salmon in particular plays an important cultural and economic role for those who live on the Yukon River. For many residents the commercial salmon harvest provides the only means of income for those who live in the remote villages of the Yukon River. Salmon and other freshwater fish provide a primary source of food for residents along the Yukon River, including food for dogs utilized in subsistence activities. Mixing zones, by allowing levels of pollution otherwise prohibited under water quality standards, pose a threat to anadromous and freshwater fish and Yukon River fishers who depend on these fish for income and subsistence.

Mixing zones also threaten commercial salmon markets. Alaska salmon is valuable in the market precisely because of the clean, healthy waters in which our salmon swim. YRDFA and Yukon River fishers have invested significant amounts of time and money in marketing campaigns focused on the wild, healthy status of Alaska's salmon waters. Allowing mixing zones in salmon spawning areas even when salmon are not spawning will severely harm this image, counter these efforts and threaten the marketability of Alaska salmon products.

While the regulations as adopted maintain some degree of protection for salmon, they leave much to be desired. They give DEC far too much discretion in identifying salmon spawning areas - under these new regulations, a mixing zone could be allowed in a salmon spawning area when spawning fish are not present. This loophole ignores the importance of spawning grounds not only for fish spawning, but for fish rearing as well. The regulations also give DEC the ability to defer to Department of Natural Resources Biologists' opinion in determining spawning areas and ignore the Alaska Department of Fish & Game's determinations.

The new regulations continue to place far too much of the responsibility for showing that a mixing zone will not have adverse affects for fish in the hands of the permit applicant. Finally, the proposed regulations offer even less protection for non-salmon species, which many Yukon River subsistence fishers rely on before and after the salmon are running and in years of low salmon returns for sustenance for themselves and their sled dogs. For non-salmon species, under the new regulations DEC can authorize a mixing zone in a spawning area if the applicant simply submits a mitigation plan. The grandfather clause, which allows DEC to renew a mixing zone authorization in a salmon spawning area if salmon were not present at the initial time of permitting, threatens to counter habitat restoration and dam removal efforts throughout the state. Under this rule, if habitat is restored and fish are able to return to their spawning grounds, newly restored fish populations would then have to contend with a mixing zone in their spawning grounds.

HB 328 would once again prohibit mixing zones in spawning areas for salmon and non-salmon species. This would ensure that these species are adequately protected and that Alaskans will not have to continue to spend their valuable time working to maintain these protections.

On behalf of YRDFA and subsistence and commercial fishers on the Yukon River I urge the House Resources Committee to support HB 328.

Sincerely,

Becca Robbins
Policy Coordinator



OCEANA

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April 4, 2006

The Honorable Jay Ramras
Co-Chairman House Resources Committee
State Capitol, Room 104
Juneau, AK 99801-1182

The Honorable Ralph Samuels
Co-Chairman House Resources Committee
State Capitol, Room 126
Juneau, AK 99801-1182

Dear Chairman Ramras and Chairman Samuels,

We support House Bill (HB 328), the Ban Mixing Zones in Spawning Waters bill, that would provide protection for the fish in our rivers, streams, lakes and oceans. We encourage you to take up and pass this bill out of the House Resources Committee. If enacted, it will reinstate the overwhelmingly supported and long-standing prohibition on pollution mixing zones in freshwater spawning areas, protecting the health and reputation of our wild Alaska salmon and freshwater fish. In addition, we suggest making two amendments to the bill that will further protect our fish.

The initial prohibition on mixing zones in freshwater spawning habitat made economic and biological sense. Wild Alaska salmon demand the best prices in part because of their unsurpassed quality that comes from our healthy and clean streams, rivers, and oceans. In return, healthy salmon runs help sustain Alaska's watersheds and maintain our ocean ecosystems. Salmon and other freshwater fish are integral to Alaska's booming tourism sector, bringing recreational anglers from around the world to the state. The initial prohibition on mixing zones helped ensure salmon and other renewable fish resources were protected from undue harm, guaranteeing these important economic, cultural, subsistence, and recreational resources will remain as vibrant in years to come as they are today.

While an improvement from the Administration's 2005 proposal, the new mixing zone regulations put into effect by the Administration in January was still a step in the wrong direction. The new regulations allow pollution mixing zones in freshwater spawning areas. For Pacific salmon spawning areas the mixing zones are limited to times of the year when spawning salmon, eggs, and larvae are not present. For other sport fish the prohibition on pollution mixing zones is ended. The new regulations will hurt Alaska by damaging the biological integrity of our watersheds and oceans, and it will hurt Alaskans by opening the door for pollution to mix with the fish we catch, eat and sell.



The Honorable Jay Ramras
The Honorable Ralph Samuels
April 4, 2006
Page 2

HB 328 is a bipartisan bill that will restore the prohibition of pollution mixing zones in freshwater spawning areas. It also solves municipality and industry concerns by keeping man-made ditches and holding tanks from being classified as freshwater spawning areas if spawning fish start using them. While we are strongly supportive of this legislation, we support and encourage you to make two amendments to the bill:

1. A new provision requiring fences in man made ditches with pollution mixing zones to keep our wild salmon and freshwater fish from entering and spawning in polluted water.
2. Expansion of the prohibition of pollution mixing zones to include juvenile fish nursery areas.

These provisions will further protect Alaskans by greatly limiting the possibility the fish we catch, eat and sell will enter polluted waters. At the same time, the addition of these provisions will have a negligible impact on businesses and municipalities.

It is irresponsible to turn back protections for our salmon and freshwater fish spawning beds that play a crucial role in our productive environment and to our economy. Alaska's families depend on healthy watersheds and ocean ecosystems. Marketing of our salmon and recreational and subsistence fishing opportunities depend on pristine watersheds. Though there may be short-term benefits to some specific entity, person or industry to allow mixing zones, the long-term cost to Alaskans is simply too high. Please help bring this shortsighted policy to an end by passing HB 328 out of the Resources Committee with the two provisions we recommend and a favorable report for passage by the full House.

Sincerely,



Jim Ayers,
Vice President

CC Representative Seaton
Representative Olson
Representative Gatto
Representative Ledoux
Representative Kerttula
Representative Gara

April 3, 2006

The Honorable Representative Ramras
The Honorable Representative Samuels
Members of the House Resources Committee
Alaska State Legislature
Juneau, Alaska

Dear Representative Ramras and Representative Samuels:

I am submitting this testimony in support of House Bill 328 which retains the strict prohibition against mixing zones in salmon and resident fish spawning streams. Since I am unable to attend the April 3 hearing, I have asked Kate Troll to read my testimony into the record.

Since my arrival in Alaska in 1955, my professional life has been devoted to the protection of Alaska's fish and game resources. I spent 30 years working for the Department of Fish and Game (ADF&G) and served as the ADF&G Commissioner during Governor Hickel's administration. I have been an active member of the Territorial Sportsmen and the Outdoor Council and sat on their boards.

After a life time of working to provide our fish with healthy habitat and water quality, it is truly disconcerting to witness the backsliding of our historically strong fisheries management and protective regulations and witness Alaska's world renowned fisheries placed at risk.

At statehood, Alaska "took on" the management of the state's fisheries. At the time, salmon runs were badly abused. Alaska's strong constitutional mandate, the implementation of tight management programs and the essentially intact habitat - all contributed to the return of healthy runs. Some systems took longer than others to recover; some of the last ones to recover were those whose habitat had been compromised.

In those early years of statehood and continuing into future decades, Alaska's fisheries managers clearly understood the critical role that habitat and water quality play in the maintenance of healthy fish runs. **It was clear to them that the answer to pollution was not dilution.** All around us, we were witnessing the coastwide loss of habitat. The Great Lakes are a looming example of how dilution is not the answer to pollution. People couldn't eat the fish, they couldn't swim in the lakes. Rather, the Great Lakes have left a legacy of pollution and a clean-up bill for our generation and probably for several generations to come.

It is disheartening that, in Alaska, we seem hell bent on doing the same thing by creating these mixing zones that place our fisheries resources at risk. True, the demise of this little creek and that little creek is not going to make much difference but, as the state grows, we will see the pollution of these little systems causing a cumulative effect on habitat loss and total production.

Since 1995, state regulations have explicitly prohibited mixing zones in freshwater areas where fish spawn. This regulation was specifically adopted to protect Alaska's fisheries and support Alaska's constitutional mandate to protect and conserve fish and game

resources in a sustainable manner. It has been a hallmark of Alaska's strong commitment to our fisheries resources and it distinguishes Alaska's resource management from those of other states.

Unfortunately, the Department of Environmental Conservation's newly adopted regulations seriously weaken this strict prohibition by permitting the Department of Natural Resources (DNR) and, in some limited cases, the ADF&G to "determine spawning areas both temporally and spatially."

It is baffling to me that Alaska's resource managers should now consider allowing mixing zones in spawning areas when we know the history of what has happened along the entire Pacific Coast with this kind of misuse of water resources. Why get on this slippery slope when we have a system that has worked?

During all my years with the Department of Fish and Game, this would never have been allowed to occur. True, there have been exceptions made under very controlled conditions and that's acceptable; there's nothing wrong with some exceptions along the way. However, mixing zones were to be the **exception and not the rule**.

It is especially short-sighted and dangerous to relax the state restrictions, when the Habitat Division has been moved from ADF&G to DNR. With this move, the habitat authority and permit responsibility no longer reside with the ADF&G. There is no loyalty to fish per se in the DNR. The loyalty to that resource is with Fish and Game; and the fish and those commercial, sports and subsistence users who rely on healthy fisheries resources lost big time when that move occurred.

I have always been a supporter of the regulatory process. I was proud of the strict prohibition on mixing zones in spawning areas which were adopted in regulation during my tenure with the Administration. However, the newly adopted DEC regulations clearly fly in the face of fisheries' and habitat protection and do not reflect Alaska's constitutional mandate. This is why I urge the Alaska legislature to pass House Bill 328.

Thank you for your time and consideration.

Sincerely,



Carl Rosier, ADF&G Commissioner (retired)
8298 Garnet Street
Juneau, Alaska



UNITED FISHERMEN OF ALASKA

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www.ufa-fish.org

March 24, 2006

The Honorable Frank H. Murkowski
Governor, State of Alaska
Post Office Box 110001
Juneau Alaska 99811-0001

Dear Governor Murkowski,

United Fishermen of Alaska has been actively involved in the process to update Mixing Zones regulations in the triennial review of water quality standards, and we appreciate the response from your administration in addressing our concerns. Due to the potential impacts and because there is both a proposed legislative statutory remedy as well as an implemented regulatory structure, the UFA Board of Directors spent significant time at its recent meeting addressing its position on mixing zones.

In comparing the newly adopted regulations with the potential statutory language under CSHB 328, we acknowledge that writing a prohibition of mixing zones into statute brings the desired degree of emphasis on the protection of salmon that we seek. We also recognize that this action carries with it the need for legislative action for any changes or refinement of definition that may be necessary in the future. The triennial review process that all water quality regulations undergo will still be necessary, and can provide a high degree of protection yet still allow for other uses that after review, would be deemed to not cause harm to salmon or salmon habitat.

In the recently implemented regulation there is not the same high standards directly given to resident fish populations; they are only covered conditionally as a by product of the prohibitions for waters with salmon presence, and such other regulatory language as applicable.

Realizing that both CSHB 328 and the newly implemented regulatory language on mixing zones, with the concurrent Memorandum of Understanding between DNR and ADF&G are in many ways parallel and have the same objective as it relates to the health and well being of the salmon stocks of the State of Alaska, it would be unreasonable to oppose either course. However it is necessary to support one of the two as the protections are basic to the long term viability of the resource and our industry.

Considering your strong words of support for the resource and the improved regulatory language change which you facilitate, UFA is comfortable with the current regulatory language. We look forward to continued participation in the water quality standards triennial review process, and will work with ADFG, DEC, DNR, and for the long term sustainability of our industry and the marine resources of the State of Alaska.

Sincerely,

Bruce Wallace
Environmental Chair

Mark Vinsel
Executive Director

STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

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DIVISION OF WATER
DIRECTOR'S OFFICE

April 10, 2006

The Honorable Paul Seaton
House of Representatives
Alaska State Capitol, Room 102
Juneau, AK 99801-1182

RE: Request for mixing zone information

Dear Representative Seaton:

On April 6 Louie Flora of your office requested additional information related to spawning fish and mixing zones. His questions are below and the Department of Environmental Conservation (DEC) has provided answers with assistance from the Departments of Natural Resources (DNR) and Fish and Game (F&G) on those questions dealing with fish, spawning, and habitat.

- 1. The old Mixing Zone regulations at 18 AAC 70.255(h) stated that mixing zones will not be authorized in an area of anadromous fish spawning or resident fish spawning redds. While we understand that the practice has been to authorize mixing zones on a temporal as well as spatial basis, for the purposes of this question we would like to stick just to the spatial. Can you please clarify the DEC, DNR and ADF&G interpretation of what an "area of anadromous fish spawning" and a "resident fish redd" is spatially?**

OHMP (formerly ADF&G-Habitat) considers an area "anadromous fish spawning" if anadromous fish species are known to utilize the stream segment for spawning. Since run strength varies by year and this in turn influences how much of traditional spawning habitat is used from year to year, multiple years of record are considered. Information sources include personal knowledge, ADF&G local area biologist information, other state or federal resource agency information, the anadromous waters catalog, and local knowledge. The working knowledge for anadromous fish spawning areas isn't perfect but most locations and stream reaches are known.

Clean Air, Clean Water

"Resident fish redds" are determined in a similar fashion except that they include both stream segments with actual redds for depositional spawners and known areas used by broadcast spawners. Information sources are similar to those for anadromous species. Agency working knowledge for resident fish spawning areas is less extensive than for anadromous species but it is augmented by best professional judgment based on the known habitat types and areas different species prefer for spawning.

In both instances, if the agencies lack necessary information, a permittee may be required to gather data on spawning. Also, OHMP's determinations are subject to revision should new information indicate that an area supports spawning (see 18 AAC 70.240(m) and DEC determines that an approved mixing zone is causing a significant adverse environmental effect.

2. There has been concern expressed that under the flat prohibition a broadcast spawning species could in effect shut down entire watersheds to the permitting of wastewater discharges. Generally what is the length of a "broadcast" when a broadcast spawner spawns, and do they spawn in a specific type of river habitat?

The length of a "broadcast" is dependent on the water velocity present at the time of spawning. As the name implies, broadcast spawners do not construct a nest or "redd" but rather passively discharge their eggs (which are then mixed with sperm in the water column). The fertilized eggs then drift to the stream bottom where they either adhere to rocks and vegetation or lodge between the gravels. Different species use a variety of habitats. For example, northern pike prefer to spawn in grassy margins of lakeshores, slow moving streams or sloughs. Arctic grayling will utilize a variety of habitats for spawning but tend to prefer slow water margins of streams or rivers and adjacent ponds or wetland complexes that warm up quicker in the spring.

3. Has a river system where grayling or other broadcast spawning species inhabit been placed off limits to discharges and can you provide us with a number of instances when a mixing zone permit was denied in an area because of broadcast spawning?

No river systems have been "placed off limits to discharges" because broadcast spawning species reside in the system. DEC has authorized mixing zones in river systems that are inhabited by broadcast spawners, but has placed timing restrictions on the discharges to avoid times when spawning fish, eggs, and alevins are present, based on a determination made by DNR or F&G (depending upon which agency has jurisdiction over a particular water body).

DEC can not track those potential dischargers that change their project once they learn that they would not be eligible for a mixing zone based on a prohibition on mixing zones due to spawning. Nor has DEC consistently tracked in the past, permits that were denied because the discharge could not avoid spawning (from either a temporal or a spatial basis). However, listed below are a few examples of mixing zone authorizations that were denied.

Nyac Placer Mine	Tuluksak River	Anadromous and Resident	No MZ granted. DNR/Habitat said no time when wastewater can be discharged. Applicant must meet WQS at end of pipe.
Nvac Placer Mine	Bear Creek	Anadromous and Resident	No MZ granted. DNR/Habitat said no time when wastewater can be discharged. Applicant must meet WQS at end of pipe.
Nyac Placer Mine	California Creek	Anadromous and Resident	No MZ granted. DNR/Habitat said no time when wastewater can be discharged. Applicant must meet WQS at end of pipe.
Moose Creek Apartments	Moose Creek	Anadromous and Resident	No MZ granted. Built a septic tank/leach field system and eliminated the wastewater treatment plant.
Golden Heart Utilities Drinking Water facility - filter backwash	Chena River	Resident	Existing continuous discharge to a grayling spawning area. Facility could not comply with discharge timing restrictions to avoid spawning. The discharge has been eliminated at significant initial and ongoing expense.

4. Are all the placer mine discharges currently permitted for seasonal discharges into spawning streams for turbidity alone? In testimony before the House Resources Committee on April 5th a statement was made that "the bill eliminates any opportunity for a mixing zone for any other water quality criteria. Turbidity is one of many constituents that must be addressed before a mixing zone can be issued. Turbidity has been determined to be an indicator or surrogate such that if turbidity limits are met, the criteria for the other constituents will also be met" Is this a correct statement? Does DEC currently measure water quality criteria limits for metals based on the criteria for turbidity? It is our understanding that 5 Nephelometric Turbidity Units above background is the most stringent criteria to be met at the edge of a turbidity mixing zone. In the case of Toxic and Other Deleterious Organic and Inorganic Substances (18 AAC 70.020 (b) (11)) has it been the common practice to assume that 5 NTUs provides an adequate surrogate measurement when issuing a mixing zone permit?


A copy of the current general permit for mechanical placer mining is attached. Placer mines authorized to operate under this general permit have effluent limitations for turbidity, settleable solids (sediment), and arsenic (see page 11). Water quality monitoring requirements under the permit include those three parameters and flow rates. The permit allows for a modified turbidity limit based upon a mixing zone authorized by DEC.

Placer mining is a physical process to extract metals and therefore, the metals are left in a particulate form. The decision to base the mixing zones for placer mine discharges on turbidity was based on a significant body of water quality data associated with the placer mining industry. The data indicate a relationship between turbidity and metals -- the water quality criteria for metals are met at or before the edge of the mixing zone where turbidity criteria are also

met. Water quality criteria for metals might be exceeded in these mixing zones, but the permit does not require monitoring for specific metals (except for arsenic in certain situations). This current permitting approach and mixing zone calculation (for turbidity) includes a requirement to use a more conservative low flow calculation (normally used for toxic substances), rather than the less conservative flow that would be used for conventional or non-toxic substances such as turbidity.

In most other types of discharges (e.g. mining with chemical metals extraction, municipal wastewater treatment), turbidity would not be a good indicator for metals because most of the metals are dissolved in the water and would not show up as turbidity. Most permits for these other dischargers require metals to be measured directly and do not use turbidity.

Sincerely,


Lynn J. Tomich Kent
Director

Enclosure: NPDES General Permit for Mechanical Placer Mining in Alaska

cc: Representative Ramras, Co-Chair, House Resources Committee
Representative Samuels, Co-Chair, House Resources Committee

Alaska State Legislature

Please enter into the record my testimony to the _____ House Resources
Committee _____

on _____ HB328 _____, dated 40506 _____

I am in total support of this bill and sincerely hope the house will pass this and the senate also. Our wild stock Alaskan salmon is one of the world's most precious resources and is being threatened on all sides by oil and gas development, sport fishing interests and now NOAA with their proposal for fish farms outside the 200 mile limit of our shorelines.

This legislature has the opportunity to take a firm stand on guarding our waters and enhancing their protection via legislation like this. All pollution ends up somewhere in the world's waters and wreaks havoc with the very food that will sustain many populations worldwide. I encourage our legislators to pass this very important legislation.

Sincerely,

Darlene Coyle

Box 193

Kasilof, Alaska 99610

P.O. Box 2460
Homer AK 99603
235-8215

~~January 26, 2006~~ - 4/4/06

~~House Fisheries Committee Members~~ -

House Resources

~~Dear~~

I strongly support HB 328. It is time to legislatively protect our waters from regulatory rewrites. Most Alaskans value our state's clean water and fisheries and don't want the regulations watered down.

I support HB 328's definition of "spawning area" as the physical location where spawning occurs. Pollution should not be allowed in spawning streams at any time. In my book, pollution should not be placed in Alaskan waters for any reason.

I do see the merits in the compromise allowing renewal of a municipal wastewater facility's mixing zone authorization during the useful life of the facility if spawning occurs in the mixing zone after it was initially authorized. However, I do have concerns about it and want to be sure that there is adequate oversight of those waivers.

I also want to be sure that this bill protects salmon and other fish in streams that are not in the "Catalog of Waters Important for Spawning, Rearing or Migration of Anadromous Fishes." Please consider including a section that would require an assessment of a water body for anadromous fish as well as other resident fish listed in the bill before a permit is granted. Requiring assessments of uncatalogued water bodies before permitting will assure the protection of important local fisheries.

Please pass HB 328 as soon as possible to protect our fisheries and water resources.

Sincerely,

Roberta Highland

Roberta Highland

*I have reservations re: any amendments
Grandfathering the 3 2 place mines*

faxed ✓

Office of the President

Edward K. Thomas

Central Council Tlingit & Haida Indian Tribes of Alaska

320 W. Willoughby Avenue, Juneau AK 99801

April 3, 2006

Representative Jay Ramras
Alaska State Capitol
Interdepartmental Mail Stop: 3100
Juneau, AK 99801-1182

Re: Letter of Support on HB 328

Dear Representative Jay Ramras:

The Central Council Tlingit and Haida Indian Tribes of Alaska (CCTHITA) is a federally recognized Indian Tribe that serves 20 villages and communities that are spread over 43,000 square miles within the Alaska Panhandle. The Tlingit and Haida membership is among the largest, most isolated, and most geographically dispersed Native or Tribal populations nationwide.

The Central Council Tlingit & Haida Indian Tribes of Alaska supports House Bill number 328 entitled, "An Act prohibiting mixing zones in freshwater spawning waters." Southeast Alaska has been the home to our people from time immemorial and it continues to provide us with our subsistence foods. Subsistence resources such as salmon are of incalculable cultural and economic value to Southeast Alaska's Native people. When mixing zones pollute Alaska's salmon and other fish bearing streams and spawning areas it will directly affect the Tlingit, Haida, and Tsimshian way of life as we have always heavily relied on fish as a main source of food and nourishment. It has always been imbedded in our culture to respect the salmon that we are privileged to have. It has been taught to us by our elders that if we lose this respect we will lose our fish and they won't come back.

CCTHITA feels that HB 328 is a step in the right direction for the protection of our subsistence foods. CCTHITA strongly supports HB 328 as it directly affects our people.

Thank you for the opportunity to comment. If you have any questions, please contact Mitchell Brooks at (907) 463-7185 or mbrooks@ccthita.org.

Sincerely,



Edward K. Thomas
President

**AUTHORIZATION TO DISCHARGE UNDER THE NATIONAL POLLUTANT
DISCHARGE ELIMINATION SYSTEM (NPDES) FOR
MECHANICAL PLACER MINING IN ALASKA**

General Permit No.: AK 83-37-0000

In compliance with the provisions of the Clean Water Act (CWA), 33 U.S.C. 1251 et seq., as amended by the Water Quality Act of 1987, P.L. 100-4, the "Act":

Owners and operators of Mechanical Placer Mines except those sites excluded from coverage in Part I. of this NPDES permit, are authorized to discharge only in accordance with effluent limitations, monitoring requirements, and other provisions set forth herein.

**A COPY OF THIS GENERAL PERMIT MUST BE KEPT AT THE SITE OF THE
PLACER MINE AT ALL TIMES.**

[Facility Name]

[Receiving Water]

This permit will become effective on October 4, 2005.

This permit and the authorization to discharge this permit shall expire at midnight on October 4, 2010.

Signed this 24th day of August, 2005.

/s/ Robert R. Robichaud for _____
Michael F. Gearheard
Director
Office of Water & Watersheds

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I. PERMIT COVERAGE

A. Coverage

1. Authorization to discharge requires written notification from EPA that coverage has been granted and that a specific permit number has been assigned to the operation.
2. Existing Facilities (those mechanical operations facilities having coverage under the 2000 Alaska placer miner general permit): Owners or operators of facilities with coverage under the 2000 General Permit are eligible for coverage under this permit. See Permit Part I.F. for notification requirements.
4. New Facilities: New mechanical operations facilities that are determined to be new sources under the CWA will be required to have an Environmental Assessment (EA) completed pursuant to the National Environmental Policy Act (NEPA). A finding of no significant impact (FNSI) by EPA is necessary prior to receiving coverage under this permit. A FNSI will become effective only after the public has had notice of, and an opportunity to comment on, the FNSI including either the accompanying EA or a summary of it, and the EPA has fully considered all public comments submitted, pursuant to 40 CFR § 6.400(d). If there may be a significant impact, the facility will require an Environmental Impact Statement (EIS). An EIS will be issued only after public notice and an opportunity for public comments on a draft EIS pursuant to 40 CFR § 6.403(a) and § 1503.1(a).
5. Expanding Facilities: Mechanical operations facilities that contemplate expanding shall submit a new NOI that describes the new discharge. The current permit may be terminated and a new permit, reflecting the changes, issued in its place if the facility meets all the necessary requirements of coverage.

B. Authorized Placer Mining Operations

1. Facilities that mine and process gold placer ores using gravity separation methods to recover the gold metal contained in the ore.
2. Open-cut gold placer mines except those open-cut mines that mine less than 1,500 cubic yards of placer ore per mining season.
3. Mechanical dredge gold placer mines except those dredges that remove less than 50,000 cubic yards of placer ore per mining season or dredge in open waters.
4. Hydraulicking facilities that are considered "no discharge" facilities.

C. Additional Requirements

1. Many streams and stream reaches in Alaska have been designated as part of the federal wild and scenic rivers system or as Conservation System Units (CSUs) by the federal government. Permittees should contact the district offices of the federal agencies that administer the designated area for additional restrictions that may apply to operating within the area. See Permit Part I.F.6. for addresses.
2. Many streams in Alaska where placer mining occurs have been designated by the Alaska Department of Natural Resources/Office of Habitat Management and Permitting (OHMP) as anadromous fish streams. Placer mining activities in these streams require an OHMP Fish Habitat Permit that may include additional restrictions. The "Atlas to the Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fish" lists the streams in the State that require prior OHMP authorization. In addition, placer mining activities in resident fish streams require an OHMP Fish Habitat Permit if the proposed activity will block or impede the efficient passage of fish. Permittees operating in anadromous or resident fish streams should contact OHMP to determine permitting requirements and additional restrictions that may apply.

D. Prohibitions

1. Discharges from the following beneficiation processes are not authorized under this permit: mercury amalgamation, cyanidation, froth floatation, heap and vat leaching.
2. Hydraulic mining facilities, as defined in Part VI.I., that discharge on an intermittent or continuous basis are not authorized under this permit.
3. This general permit does not apply to facilities that are proposed to be located in National Park System Units (i.e., Parks and Preserves), National Monuments, National Sanctuaries, National Wildlife Refuges, National Conservation Areas, National Wilderness Areas, National Critical Habitat Areas, or waters adjacent to areas designated as wild under the Wild & Scenic Rivers Act.
4. This permit does not apply to wetlands designated in the 1995 Anchorage Wetlands Management Plan.

E. Requiring an Individual Permit

1. The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:
 - a. The single discharge or the cumulative number of discharges is/are a significant contributor of pollution;

- b. The discharger is not in compliance with the terms and conditions of the general permit;
 - c. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
 - d. Effluent limitations guidelines are subsequently promulgated for the point sources covered by the general permit;
 - e. A Water Quality Management Plan containing requirements applicable to such point sources is approved;
 - f. A Total Maximum Daily Load (TMDL) and corresponding wasteload allocation has been completed for a waterbody or a segment of a waterbody;
 - g. Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary.
2. The Regional Administrator may deny coverage under this permit in the following circumstances:
- a. a land management agency with jurisdiction over affected portions of the receiving water, bed, or uplands submits a request that general permit coverage be denied to EPA within thirty (30) days of the agency's receipt of an NOI; and,
 - b. the land management agency's request includes proposed additional or revised permit terms that the requesting agency believes – based upon evidence attached to or cited in the request – are necessary to protect the natural values of the affected location; and,
 - c. the land management agency's request concerns a person who either;
 - (1) seeks to discharge into U.S. waters located in National Recreation Areas, National Historic or Natural Landmarks, congressionally designated Land Use Designation (LUD) II which are to be managed in a roadless state, or in State Refuges, Sanctuaries, or Critical Habitat Areas; or,
 - (2) is in significant noncompliance with the terms and conditions of the most recent applicable NPDES permit; or,
 - (3) intends to discharge into waters designated as impaired under the

Clean Water Act.

Any person denied coverage under this part must apply for and obtain coverage under either: (1) an individual permit; or (2) another applicable watershed-specific general permit. Upon receipt of any such application, EPA will determine whether the permit terms requested by the land management agency should be included in the applicable permit.

3. The Regional Administrator will notify the operator in writing by certified mail that a permit application is required. If an operator fails to submit an individual NPDES permit application by the date required in the notification, coverage under this general permit is automatically terminated at the end of the day specified for application submittal.
4. Any owner or operator authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. The owner or operator shall submit an individual application (Form 1 and Form 2C or 2D) with reasons supporting the request to the Regional Administrator at the address in paragraph I.F.4.
5. When an individual NPDES permit is issued to an owner or operator otherwise covered by this permit, the applicability of this permit to the facility is automatically terminated on the effective date of the individual permit.
6. When an individual NPDES permit is denied to an owner or operator otherwise covered by this permit, the Permittee is automatically reinstated under this permit on the date of such denial, unless otherwise specified by the Regional Administrator.
7. A source excluded from a general permit solely because it already has an individual permit may request that the individual permit be revoked and that it be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply to the source.

F. Notification Requirements

1. Owners or operators of facilities eligible for this permit shall submit an NOI to be covered by this permit. The information required for a complete NOI is in Appendix A of this permit. Notification must be made:
 - a. by January 1 of the year of discharge to allow time for completion of the NEPA evaluation from a new facility or facility established since 1988 which would be subject to New Source Performance Standards (NSPS) that has not previously been covered by a permit. Notifications received after January 1 will likely not be processed until the next year; or
 - b. 60 days prior to discharge from a new or recommencing facility not subject

to NSPS; or

- c. 60 days prior to the expiration of an existing individual permit.
- 2. Any facility authorized under the 2000 general permit that files an NOI prior to the expiration date will be automatically authorized under this general permit.
- 3. An Annual Placer Mine Application (APMA) will be accepted as an NOI if all the required information is included and the APMA is signed as required in paragraph 4, below.
- 4. The NOI shall be signed by the owner or other signatory authority in accordance with Permit Part V.F. (Signatory Requirements), and a copy shall be retained on site in accordance with Permit Part III.F. (Retention of Records). The address for NOI submission to EPA is:

USEPA - Alaska Operations Office
Placer Mining NOI
222 W. 7th Avenue, Box #19
Anchorage, Alaska 99513

- 5. A copy of the NOI must also be sent to the Alaska Department of Environmental Conservation (ADEC). The address is:

Alaska Department of Environmental Conservation
610 University Avenue
Fairbanks, Alaska 99709

- 6. Permittees who do not use the APMA procedure for filing their NOI with Alaska Department of Natural Resources shall send a copy of the NOI to the Federal, State, or local agency that manages or owns the land in which the mine is located or proposed to be located. The addresses are:

<u>Anchorage Area</u>	<u>Fairbanks Area</u>	<u>Glennallen Area</u>
U.S. Department of Interior BLM 222 West 7th Avenue, #13 Anchorage, AK 99513-7599	U.S. Department of Interior BLM 1150 University Avenue Fairbanks, AK 99709	U.S. Department of Interior BLM P.O. Box 147 Glennallen, AK 99588
U.S. Department of Interior Fish and Wildlife Service 1011 E Tudor Rd. Anchorage, AK 99503	U.S. Department of Interior Fish and Wildlife Service 101 12th Avenue, Box 19 Fairbanks, AK 99701	U.S. Department of Interior National Park Service Wrangell St. Elias P.O. Box 439 Copper Center, AK 99573

Anchorage Area (cont)	Fairbanks Area (cont)	Tok Area
U.S. Department of Interior National Park Service 605 West 4th Avenue, Suite 104 Anchorage, AK 99501	U.S. Department of Interior National Park Service 250 Cushman, Suite 1A Fairbanks, AK 99701	U.S. Department of Interior BLM P.O. Box 309 Tok, AK 99780
Nome Area	Juneau Area	
U.S. Department of Interior Bureau of Land Management P.O. Box 925 Nome, AK 99762	U.S. Department of Interior Fish and Wildlife Service 3000 Vintage Blvd, Suite 201 Juneau, AK 99801	
U.S. Department of Interior National Park Service P.O. Box 220 Nome, AK 99762	U.S. Department of Interior National Park Service P.O. Box 21089 Juneau, AK 99802-1089	

7. A copy of the general permit will be sent to the Permittee when it is determined that the facility can be authorized under this general permit. If it is determined that a facility cannot be authorized to discharge under this permit, the applicant will be informed of this in writing.

G. Permit Expiration

This permit will expire five years from the effective date. For facilities submitting a new NOI 90 days prior to expiration of this general permit, the conditions of the expired permit continue in force until the effective date of a new permit.

II. EFFLUENT LIMITATION AND MONITORING REQUIREMENTS

A. Discharge Limitations and Monitoring Requirements - No Discharge Facilities

1. Beginning with the effective date of this permit, the permittee shall not discharge wastewater to receiving waters except:
 - (a) overflow from facilities designed, constructed and maintained to contain the maximum volume of untreated process wastewater which would be discharged, stored, contained and used or recycled by the beneficiation process into the treatment system during a 4-hour operating period without an increase in volume from precipitation or infiltration, plus
 - (b) the maximum volume of water (drainage waters) which would result from a 5-year, 6-hour precipitation event.

In computing the maximum volume of wastewater which would result from a 5-year, 6-hour precipitation event, the facility must include the volume which

would result from all areas contributing runoff to the individual treatment facility.

2. The facility shall take all reasonable steps to minimize the overflow or excess discharge.
3. If a discharge occurs, the operator shall comply with the notification requirements of Permit Parts III.G. and III.H. If a discharge occurs during dry weather, the facility will be considered a discharging facility covered by the requirements in Permit Part II.B., below.
4. Discharges resulting from a precipitation event when the facility is designed as described above shall be monitored as listed below:

Effluent Characteristic	Monitoring Location	Monitoring Frequency	Sample Type
Settleable Solids, ml/L	effluent	once per day each day of discharge	Grab
Turbidity, NTU	effluent	once per discharge event*	Grab
	upstream	once per discharge event*	Grab
Arsenic, µg/L	effluent	once per discharge event**	Grab
Flow, gpm	effluent	***	Instantaneous
* See Part II.C.2. for details. ** See Part II.C.3. for details. *** See Part II. C.5. for details.			

B. Discharge Limitations and Monitoring Requirements - Discharging Facilities

Beginning with the effective date of this permit, the permittee shall not discharge wastewater to receiving waters except in compliance with the following effluent limitations:

1. Effluent discharges are prohibited during periods when new water is allowed to enter the plant site. Additionally, there shall be no discharge as a result of the intake of new water.
2. The volume of wastewater which may be discharged shall not exceed the volume of infiltration, drainage and mine drainage waters which is in excess of the make-up water required for operation of the beneficiation process.