

January 30, 2008

Members of the Board,

My name is Drew Sparlin and I have been a Kenai resident and commercial fisherman for over 40 years. I am currently the president of UCIDA and the Treasurer of CIAA. I believe you should consider your legacy when you deliberate and decide the important issues presented.

Your legacy and the legacy of the Department in our current situation is sobering

- One of Alaska's most pristine salmon rivers is polluted because of how the fishery is managed
- Habitat damage is ignored and production of rearing salmon is threatened across the expanse of UCI
- Allocation based on political power is prioritized over understanding increased threats from pike, beaver dams and damaging boat traffic on young salmon

But what concerns me the most: the Board and Department are settling for political compromise instead of what is best for the fish:

- No habitat report or recommendations
- No over escapement impact and loss yield reports
- Relying on experts from advocacy groups instead of seasoned department professionals
- Using a process that allows the record to be manipulated to support deals already made by insiders

Unless the Board and Department makes the commitment to manage for optimum sustained yield, you will be poised to refuse to make the tough choices that will provide fish for all users in the future.

Your legacy, I'm afraid, has already been seen in the West Coast salmon fisheries – unfortunately it will fall uniquely on our commercial fishing community. I hope you keep that in mind as you deliberate.

The management policies in place substantially and adversely impact the river and fish habitats of our local systems. I respectfully request, if not demand, that future Board of Fisheries meetings concerning UCI be held in the Kenai/Soldotna area, where the impact of those policies is prominently felt.

Sincerely,

Drew Sparlin
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Kenai, AK 99611
907-283-4095

1/30/08

Welcome members of the BOF,

My name is Gary Hollier. I am vice-president of Kenai Peninsula Fishermans Association. This presentation are my thoughts only. I am a set-netter on North Kalifonsky Beach. My sites are just south of the Kenai River. I have fished North K-Beach for 37 years. I have submitted RC #46 to the BOF. My ideas on important proposals I have addressed in RC 46.

I have a few general issues that I want to address. The first one is habitat. Essential fish habitat is first and foremost in making sure that the fishery resource is going to be healthy until the end of time. In 5 AAC 21.360(d) of the Kenai River Late-Run Sockeye Salmon Management Plan, it states the department WILL, to the extent practicable , conduct habitat assessments on a schedule that conforms to the BOF triennial meeting cycle. Why is not there a habitat report for the Kenai River at this 2008 BOF meeting. ADF&G staff in correspondence to me has stated there is no new information, hence no 2008 report. What are the impacts on shore anglers on essential fish habitat? Does any agency care?

Under the Federal Clean Water Act the Kenai River has been listed a category 5. The result of high hydro-carbon levels has to have an impact on essential fish habitat. At the 2002 BOF meeting, in a habitat report by ADF&G, it stated a another finding was that as shore angler use (foot traffic) in a riverbank location increase so did the bank loss. Results also showed a decline in native flora along the riverbank in areas associated with higher levels of shore angler use. This resulted in a transition to plant species that provided less stability to soils, hence reducing bank integrity and increasing the likelihood of erosion. Escapements of sockeye in the Kenai River for 2005 and 2006 resulted in average 537,572 sockeye's going over the optimum preseason projection for those years. What was the impact to riparian habitat due to these huge over-escapements? I would think that it would be paramount for the BOF to have an assessment of habitat and hydro-carbons in the Kenai River at this meeting.

Another issue is the need for adaptive management. The BOF sets in-river escapement goals. It then ties ADF&G's hands with windows and lack of emergency order authority. The results are the in-river goals are annually exceeded. This too is crazy. The single most important issue, at this meeting, is that the BOF should set in-river goals and then give ADF&G authority to mänge to the goals period.

Three tiered abundance based management is NOT working. Since its

Three tiered abundance based management is NOT working. Since its inception in 1999, in only one year has the pre-season projection matched the end of the season total run. Two tiered abundance based management will have the same confusing effect where the in-river goals will routinely be exceeded. The BOF should set one in-river goal to the Kenai River, and direct ADF&G to manage to the goal. It is critical to have adaptive management so area managers can make decisions for conservation.

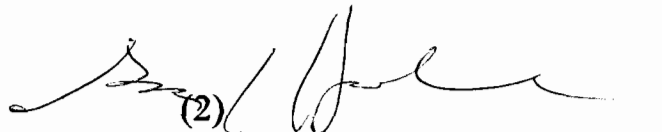
In the sustainable fisheries policy 5 AAC 39.222 (2) it states, ... formulating fishery management plans designed to achieve maximum or optimum salmon production.... Continued high over-escapements into the Kenai and Kasilof Rivers do not lead to optimum sustained yield, they lead to loss yield. Over-escapements have substantially and adversely impacted my commercial salmon harvesting potential. Care of the in-river habitat and adaptive management for area managers will help in-sure optimum sustained yield. Optimum sustained yield leads to optimum economic yield.

Optimum sustained yield helps to protect commercial fishing communities. I am part of a large commercial fishing community. I am a salmon harvester. I run a salmon set-net buying station, I am part of the salmon processor industry. I pay into the local tax base. I pay property taxes, sales tax, an aquaculture tax, and a marketing tax on my fishing business. I hire crew members. In 2007 I hired 31 crew members. The majority live in our commercial fishing community. Set-net operations are small businesses that are an important part of commercial fishing communities.

Past BOF decisions have substantially and adversely impacted my ability to achieve optimum economic yield. Without adaptive management, past BOF regulations have lead to repeated over-escapements into the Kenai and Kasilof Rivers. The result has been a great economic loss in the parent year. Economic losses (ex-vessel) due to over escapements in Upper Cook Inlet rivers is estimated from ADF&G reports to be close to \$48,000,000. With possible low yield in future returns, what will the economical loss be in the future?

I have been attending the BOF process for 25 years. I will be attending the entire BOF in Anchorage and will be available for the committee process. I ask the BOF to take no action that results in regulations that have substantial and adverse impacts on my small business.

Thank you,
Gary Hollier
Soldotna, Ak.



(2)

ALASKA BOARD OF FISHERIES MEETING TESTIMONY

February 1 – 12, 2008

Mister Chairman and Board Members,

RC 40

Thank you for considering the testimony I am providing you today. I expect most of the testimony you will hear at this meeting will be lobbying for or opposing various user proposals in the proposal book. My proposals are numbers 289 and 291. I presume you will consider those with the other 391 proposals before you.

However, rather than lobby for my proposals, per se, I would ask this Board to consider formally adopting something that might seem obvious to you and to most participants at this meeting. It is a simple concept, which I believe to be vital to all of Alaska's anadromous fisheries.

For all anadromous fisheries in Alaska, I suggest this Board consider publicly adopting, as its highest priority, the preservation and protection of habitats of all spawning streams, their tributaries, connecting lakes and maturing saltwater. By habitats, I mean water and sediments, and contiguous wetlands, sloughs, floodways and flood plains within 50 feet of the streams, tributaries and lakes.

Many of these habitats are becoming degraded by irresponsible users, property owners and developers, with the tacit approval of those state agencies, municipalities, and other entities, which are responsible for habitat protection. Such habitat degradation will eventually impact the long term sustainability of these fisheries.

If my suggestion becomes the public policy of this Board, then many of your future decisions will be reflected in this policy,

and those decisions will be more widely accepted. A case in point is the impaired status of the Kenai River, caused by hydrocarbon (HC) pollution. It is also known the Lower Kenai River exceeds State turbidity standards. Neither of these conditions is conducive to sustain the River's fisheries over the long term. It isn't enough for this Board to suggest this is some other entity's responsibility. Depending on how you count, there are some 18 to 20 entities, which have some say in managing the Kenai River. Unless and until these entities agree on what are the highest priorities for sustainable anadromous fisheries, we collectively have a potentially serious problem.

Thank you for your time.



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Habitat Committee/Bristol Bay Habitat Committee
January 31, 2008
DNR - Attwood Bldg - Anchorage

Attendance: Board of Fish members Bonnie Williams (chair), Howard Delo, Vince Webster.....John Jensen reported to have airline problems

Staff attendance: Tom Crawford, DNR Mining Coordinator, Scott McClean, DNR, Tom Brookover, F&G; Bridget Easley, Div. Subsistence; Jim Marcotte, Board Support; Doug Vincentlong, F&G (initiatives, bills)

Public members: Jeff Parker (Trout Unlimited, Nondalton Tribe), Brian Kraft (Trout Unlimited), Lauren Oakes (TV), Garven Bucaria, Heidi Franklin (Pebble Partnership)

Meeting was called to order at 1 PM. Introductions were made around the room, and subsequently, as latecomers arrived.

Tom Crawford, DNR, made an excellent power point presentation, truncated, of the overall permitting process, encompassing all of the involved State agencies (departments and divisions within departments), and federal agencies. Scott McClain and Tom Brookover made presentations within their respective areas of expertise, DNR's Habitat and F&G Permitting.

There followed a brief review of pending legislation involving habitat, and initiatives involving habitat.

Public testimony was provided by Brian kraft, Lauren Oakes, Jeff Parker, and Garven Bucaria.

The committee then considered next steps. Rather than set forth any actions, it was the preference of committee members to take the time to thoroughly review all written materials, and then to attempt to meet during the February 2008 BOF meeting. Should that not prove possible, the Committee will meet the day before the start of the March meeting of BOF.

The Chair was directed to talk with John Jensen, and then Chairman Mel Morris, on the issue of 2/1 committees, and composition. It was felt that 1 committee was preferable and all that was necessary, and that a membership of 4 would violate quorum.

Submitted by: Bonnie Williams, Chair

Attachments: original charge; March 2007 recommendations; pertinent legislation; pertinent initiatives; powerpoint on permitting; permitting document



Charge statement for board committee on reviewing Bristol Bay habitat protections

The purpose is to:

1. Review the current protections for fish and habitat in order to judge whether additional protections are necessary for Bristol Bay fisheries.
2. If additional protections seem warranted, identify appropriate options including consideration of state refuge status. For this step, the committee may rely on information brought forward by stakeholders which specifically identifies the advantages of refuge status.
3. If refuge status is determined to be warranted, consider expanding the area to include all waters of the Nushagak and Kvichak river drainages.
4. Make recommendations to the board about what additional actions should be taken. The committee will keep the board informed of its progress and will report back at the March 9-13, 2007 board meeting.
5. Additionally, the committee should monitor any pending legislation and make recommendations back to the full board.

Committee to be made of three board members.



RECOMMENDATIONS:**The Committee recommends to the Board of Fisheries:****Recommendation #1 – consensus**

That the Commissioner of ADF&G order a periodic audit, undertaken by an independent reviewing entity, to examine how the permitting process is operating, and to examine and review current status of granted permits and permitted operations, to ensure that fish and fish habitats are adequately protected. This would be similar to an external audit of finances, noting flaws, lapses, and possible areas for improvement, and would be intended to result in improved operations.

Recommendation #2 – consensus

That the Board of Fisheries reiterates its earlier resolution in support of greater funding for research in fisheries and in the habitat of the fishes. Improved scientific knowledge can lead to more timely and better decisions in all aspects affecting fisheries.

Recommendation #3 - no consensus

The Board of Fisheries finds that current protections for fish and fish habitat are sufficient and no additional protections are necessary for Bristol Bay fisheries.

- One committee member felt that current protections were not sufficient because of the move of Habitat; the loss of senior staff; and changes to mixing zone law
- Two committee members felt that current protections were sufficient, rendering the remainder moot, but preferring the additional protection of an annual or biannual audit of permitting

From:

Committee on Habitat

Chair Robert Heyano

Member Art Nelson

Member Bonnie Williams



SENATE BILL NO. 67

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY SENATORS STEVENS, Ellis

Introduced: 1/26/07

Referred: Resources

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Jay Hammond State Game Refuge; and providing for an
2 effective date."

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

4 * **Section 1.** AS 16.20 is amended by adding a new section to read:

5 **Sec. 16.20.045. Jay Hammond State Game Refuge.** (a) All state-owned
6 surface and subsurface land and water, and all land acquired in the future by the state,
7 within the hydrographic boundaries of the Kvichak and Nushagak-Mulchatna River
8 drainages, excluding Wood-Tikchik State Park, is designated as the Jay Hammond
9 State Game Refuge and shall be managed as a state refuge for the protection of
10 salmon, trout, caribou, brown bear, and other fish and wildlife species and their habitat
11 and for the use and enjoyment of the people of the state.

12 (b) The Jay Hammond State Game Refuge is established to protect the

13 (1) fish and wildlife habitat and populations, including the salmon and
14 trout spawning and rearing habitat, and critical caribou, moose, and brown bear



1 habitat;

2 (2) public use of fish and wildlife and their habitat, particularly
3 subsistence, commercial, and recreational fishing, hunting, trapping, viewing, and
4 general public recreation in a high quality environment; and

5 (3) use and disposition of other resources when the activities are not
6 incompatible with (1) and (2) of this subsection.

7 (c) The land and water of the Jay Hammond State Game Refuge are closed to
8 mineral entry under AS 38.05.185 - 38.05.275. State land and water within the refuge
9 may not be sold or exchanged without legislative approval.

10 (d) The storage and disposal of industrial waste and the discharge of water that
11 does not meet water quality standards for the growth and propagation of fish is
12 prohibited within the boundaries of the Jay Hammond State Game Refuge.

13 (e) Except as provided in (a) - (d) of this section, the Department of Fish and
14 Game and the Department of Natural Resources shall exercise their respective
15 authorities over the Jay Hammond State Game Refuge consistent with a management
16 plan prepared by the Department of Fish and Game in consultation with the
17 Department of Natural Resources.

18 (f) The state may not acquire private land that is located within the boundaries
19 of the Jay Hammond State Game Refuge by eminent domain. The state may acquire
20 private and other public land within the refuge by purchase, exchange, or otherwise
21 from willing owners for inclusion in the refuge.

22 (g) The establishment of the Jay Hammond State Game Refuge under this
23 section does not impair or alter valid allotment applications filed before the effective
24 date of this Act or access to and from private real property located within the refuge.
25 Access to and from private property shall be permitted through access corridors
26 established by agreement between the landowner and the Department of Fish and
27 Game and the Department of Natural Resources.

28 (h) The Department of Fish and Game shall allow subsistence, recreational,
29 and commercial fishing, hunting, and trapping within the Jay Hammond State Game
30 Refuge under state and federal regulations. The Department of Fish and Game shall
31 also permit support activities associated with hunting, fishing, and trapping when



1 necessary and consistent with (a) - (d) of this section, including aircraft support, off-
2 road vehicle use, and landing strips.

3 (i) Municipally owned land located within the boundaries of the Jay
4 Hammond State Game Refuge may be included in the refuge by mutual agreement of
5 the landowner and the Department of Fish and Game.

6 (j) The Department of Fish and Game shall establish a citizens' advisory
7 committee to work with the department regarding the management of the refuge.
8 Appointments to the citizens' advisory committee shall be recommended by the
9 department and the Lake and Peninsula Borough and include subsistence users and
10 state designees from state, municipal, and tribal entities and representatives from the
11 following interests:

- 12 (1) tourism and recreation;
- 13 (2) mining and industry; and
- 14 (3) sport and commercial fishing.

15 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 INITIAL MANAGEMENT PLAN. The Department of Fish and Game shall complete
18 the initial management plan for the Jay Hammond State Game Refuge to be prepared under
19 AS 16.20.045(e) within two years after the effective date of this Act.

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



HOUSE BILL NO. 41

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES GARA, Crawford, Kerttula, LeDoux, Buch

Introduced: 1/16/07

Referred: House Special Committee on Fisheries, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act returning certain duties regarding habitat management from the Department**
2 **of Natural Resources to the Department of Fish and Game; and providing for an**
3 **effective date."**

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

5 *** Section 1.** AS 16.05 is amended by adding new sections to read:

6 **Sec. 16.05.871. Fishway required.** If the commissioner considers it necessary,
7 every dam or other obstruction built by any person across a stream frequented by
8 salmon or other fish shall be provided by that person with a durable and efficient
9 fishway and a device for efficient passage for downstream migrants. The fishway or
10 device or both shall be maintained in a practical and effective manner in the place,
11 form, and capacity the commissioner approves, for which plans and specifications
12 shall be approved by the department on application. The fishway or device shall be
13 kept open, unobstructed, and supplied with a sufficient quantity of water to admit
14 freely the passage of fish through it.



1 **Sec. 16.05.873. Hatchery required.** If a fishway over a dam or obstruction is
2 considered impracticable by the commissioner because of cost, the owner of the dam
3 or obstruction, to compensate for the loss resulting from the dam or obstruction shall,
4 at the owner's option

5 (1) pay a lump sum acceptable to the commissioner to the state fish
6 and game fund;

7 (2) convey to the state a site of a size satisfactory to the commissioner
8 at a place mutually satisfactory to both parties, and erect on it a fish hatchery, rearing
9 ponds, necessary buildings, and other facilities according to plans and specifications
10 furnished by the commissioner, and give a good and sufficient bond to furnish water,
11 lights, and necessary money to operate and maintain the hatchery and rearing ponds;
12 or

13 (3) enter into an agreement with the commissioner, secured by good
14 and sufficient bond, to pay to the fish and game fund the initial amount of money and
15 annual payments thereafter that the commissioner considers necessary to expand,
16 maintain, and operate additional facilities at existing hatcheries within a reasonable
17 distance of the dam or obstruction.

18 **Sec. 16.05.875. Penalty for violating fishway and hatchery requirements.**

19 (a) The owner of a dam or obstruction who fails to comply with AS 16.05.871 or
20 16.05.873 or a regulation adopted under AS 16.05.871 or 16.05.873 within a
21 reasonable time specified by written notice from the commissioner is guilty of a
22 misdemeanor, and is punishable by a fine of not more than \$1,000. Each day the
23 owner fails to comply constitutes a separate offense.

24 (b) In addition to the fine, the dam or other obstruction managed, controlled,
25 or owned by a person violating AS 16.05.871 or 16.05.873 or a regulation adopted
26 under AS 16.05.871 or 16.05.873 is a public nuisance and is subject to abatement.

27 **Sec. 16.05.877. Protection of fish and game.** (a) The commissioner shall, in
28 accordance with AS 44.62 (Administrative Procedure Act), specify the various rivers,
29 lakes, and streams or parts of them that are important for the spawning, rearing, or
30 migration of anadromous fish.

31 (b) If a person or governmental agency desires to construct a hydraulic



1 project, or use, divert, obstruct, pollute, or change the natural flow or bed of a
2 specified river, lake, or stream, or to use wheeled, tracked, or excavating equipment or
3 log-dragging equipment in the bed of a specified river, lake, or stream, the person or
4 governmental agency shall notify the commissioner of this intention before the
5 beginning of the construction or use.

6 (c) The commissioner shall acknowledge receiving the notice by return first
7 class mail. If the commissioner determines that the following information is required,
8 the letter of acknowledgment shall require the person or governmental agency to
9 submit to the commissioner

10 (1) full plans and specifications of the proposed construction or work;

11 (2) complete plans and specifications for the proper protection of fish
12 and game in connection with the construction or work, or in connection with the use;
13 and

14 (3) the approximate date the construction, work, or use will begin.

15 (d) The commissioner shall approve the proposed construction, work, or use in
16 writing unless the commissioner finds the plans and specifications insufficient for the
17 proper protection of fish and game. On a finding that the plans and specifications are
18 insufficient for the proper protection of fish and game, the commissioner shall notify
19 the person or governmental agency that submitted the plans and specifications of that
20 finding by first class mail. The person or governmental agency may, within 90 days
21 after receiving the notice, initiate a hearing under AS 44.62.370. The hearing is subject
22 to AS 44.62.330 - 44.62.630.

23 **Sec. 16.05.879. Construction without approval prohibited.** If a person or
24 governmental agency begins construction on a use, work, or project for which notice is
25 required by AS 16.05.877 without first providing plans and specifications subject to
26 the approval of the commissioner for the proper protection of fish and game, and
27 without first having obtained written approval of the commissioner as to the adequacy
28 of the plans and specifications submitted for the protection of fish and game, the
29 person or agency is guilty of a misdemeanor. If a person or governmental agency is
30 convicted of violating AS 16.05.871 - 16.05.883 or continues a use, work, or project
31 without fully complying with AS 16.05.871 - 16.05.883, the use, work, or project is a



1 public nuisance and is subject to abatement. The cost of restoring a specified river,
2 lake, or stream to its original condition shall be borne by the violator and shall be in
3 addition to the penalty imposed by the court.

4 * **Sec. 2.** AS 16.05 is amended by adding new sections to read:

5 **Sec. 16.05.881. Exemption for emergency situations.** In an emergency
6 arising from weather or stream flow conditions, the commissioner, through authorized
7 representatives, shall issue oral permits to a riparian owner for removing obstructions
8 or for repairing existing structures without the necessity of submitting prepared plans
9 and specifications as required by AS 16.05.877.

10 **Sec. 16.05.883. Penalty for causing material damage.** If a person or
11 governmental agency fails to notify the commissioner of any construction or use that
12 causes material damage to the spawning beds or prevents or interferes with the
13 migration of anadromous fish, or by neglect or noncompliance with plans and
14 specifications required and approved by the commissioner causes material damage to
15 the spawning beds or prevents or interferes with the migration of anadromous fish, the
16 person or governmental agency is guilty of a misdemeanor.

17 **Sec. 16.05.885. Penalty for violations of AS 16.05.871 - 16.05.883.** (a) A
18 person who violates AS 16.05.871 - 16.05.883 is guilty of a class A misdemeanor.

19 (b) The court shall transmit the proceeds of all fines to the proper state officer
20 for deposit in the general fund of the state.

21 * **Sec. 3.** AS 16.05.920(a) is amended to read:

22 (a) Unless permitted by AS 16.05 - AS 16.40 [, BY AS 41.14,] or by
23 regulation adopted under AS 16.05 - AS 16.40 [OR AS 41.14], a person may not take,
24 possess, transport, sell, offer to sell, purchase, or offer to purchase fish, game, or
25 marine aquatic plants, or any part of fish, game, or aquatic plants, or a nest or egg of
26 fish or game.

27 * **Sec. 4.** AS 16.05.925(a) is amended to read:

28 (a) Except as provided in AS 16.05.430, 16.05.665, 16.05.722, 16.05.723,
29 16.05.783, 16.05.831, 16.05.875, and 16.05.905, [AND AS 41.14.860,] a person who
30 violates AS 16.05.920 or 16.05.921, or a regulation adopted under this chapter or
31 AS 16.20, is guilty of a class A misdemeanor.



1 * **Sec. 5.** AS 16.20.070 is amended to read:

2 **Sec. 16.20.070. Relationship to other laws.** AS 16.20.050 and 16.20.060 do
3 not affect AS 16.05.877 - 16.05.881 [AS 41.14.870 - 41.14.890].

4 * **Sec. 6.** AS 41.17.010 is amended to read:

5 **Sec. 41.17.010. Declaration of intent.** The legislature declares that

6 (1) the forest resources of Alaska are among the most valuable natural
7 resources of the state, and furnish timber and wood products, fish and wildlife,
8 tourism, outdoor recreation, water, soil, air, minerals, and general health and welfare;

9 (2) economic enterprises and other activities and pursuits derived from
10 forest resources warrant the continuing recognition and support of the state;

11 (3) the state has a fundamental obligation to ensure that management
12 of forest resources guarantees perpetual supplies of renewable resources, provides
13 nonrenewable resources in a manner consistent with that obligation, and serves the
14 needs of all Alaska for the many products, benefits, and services obtained from them;

15 (4) government administration of forest resources should combine
16 professional management services, regulatory measures, and economic incentives in a
17 complementary fashion, and should draw upon the expertise of professional foresters
18 in conjunction with other disciplines;

19 (5) under the leadership of the Department of Environmental
20 Conservation as lead agency, the state should exercise its full responsibility and
21 authority for control of nonpoint source pollution with respect to the Federal Water
22 Pollution Control Act, as amended;

23 (6) subject to AS 41.17.098(c), the provisions of this chapter, and
24 regulations adopted under this chapter, with the approval of the Department of
25 Environmental Conservation, establish the nonpoint source pollution requirements
26 under state law and sec. 319 of the Clean Water Act for activities subject to this
27 chapter;

28 (7) except for activities subject to AS 16.05.871 or 16.05.877
29 [AS 41.14.840 OR 41.14.870] and regulations authorized by those sections, this
30 chapter and regulations adopted under this chapter establish the fish habitat protection
31 standards, policies, and review processes under state law.



1 * **Sec. 7.** AS 41.17.041(e) is amended to read:

2 (e) The division shall serve as staff to the board. The department, **Department**
3 **of Fish and Game** [THE DEPUTY COMMISSIONER], and the Department of
4 Environmental Conservation shall provide technical staffing and information as
5 needed by the board.

6 * **Sec. 8.** AS 41.17.047(c) is amended to read:

7 (c) The board, working with the **department** [DIVISION], the Department of
8 Environmental Conservation, the **Department of Fish and Game** [DEPUTY
9 COMMISSIONER], other affected agencies and parties, and the forest-dependent
10 industries, shall conduct an annual survey of research needs related to forest practices.
11 The board shall review research proposals and shall make recommendations to
12 promote research projects that would address these needs to the governor and the
13 legislature.

14 * **Sec. 9.** AS 41.17.047(d) is amended to read:

15 (d) The board shall coordinate the monitoring of the implementation and
16 effectiveness of this chapter, the regulations, and best management practices adopted
17 under this chapter in meeting state water quality standards, fish and wildlife habitat
18 requirements, and other forestry objectives. The board shall report annually to the
19 governor on the effectiveness of this chapter and regulations adopted under it, with its
20 recommendations for changes and for needed research and monitoring. The board
21 shall notify the legislature that the annual report is available. The state forester, the
22 **Department of Fish and Game** [DEPUTY COMMISSIONER], and the Department
23 of Environmental Conservation shall each present an annual report, independently, to
24 the board on the effectiveness of this chapter, the regulations, and best management
25 practices adopted under this chapter that protect the resources for which they have
26 statutory responsibility, and shall make recommendations for changes to correct
27 procedural or substantive problems. The board shall include the reports as part of its
28 annual report. The board shall hold hearings at least once annually in southeast,
29 southcentral, and interior Alaska for purposes of taking public testimony on the
30 subjects.

31 * **Sec. 10.** AS 41.17.090(e) is amended to read:



1 (e) Within 30 days after receipt of a detailed plan of operations, the state
 2 forester shall review the plan to determine if the operations are consistent with this
 3 chapter and regulations adopted under this chapter. Operations may begin under the
 4 plan upon the expiration of the 30-day period or upon notice from the state forester
 5 that the review has been completed, whichever occurs first, unless the division has
 6 issued a stop work order for a particular portion of the plan or has notified the operator
 7 that a one-time, 10-day extension is necessary for agency review under
 8 AS 41.17.098(f). The operator may proceed with operations not covered by the stop
 9 work order, notice of field inspection, or the agency review. During the review of a
 10 detailed plan of operations, if a question arises concerning the proper classification of
 11 water body type for purposes of the standards in AS 41.17.116(a), the **Department of**
 12 **Fish and Game** [DEPUTY COMMISSIONER] may resolve the question.

13 * **Sec. 11.** AS 41.17.098(a) is amended to read:

14 (a) In administering this chapter, the state forester shall coordinate with **the**
 15 **Department of Fish and Game**, other agencies, [THE DEPUTY COMMISSIONER,]
 16 and affected coastal districts that have jurisdiction over activities subject to regulation
 17 under this chapter.

18 * **Sec. 12.** AS 41.17.098(b) is amended to read:

19 (b) In a review or implementation of a detailed plan of operations under
 20 AS 41.17.090 and in a decision on a proposed variation from requirements under
 21 AS 41.17.087, the state forester shall consider the comments of [THE DEPUTY
 22 COMMISSIONER,] each affected state agency and, where applicable, coastal
 23 districts.

24 * **Sec. 13.** AS 41.17.098(d) is amended to read:

25 (d) The state forester shall recognize the expertise of the **Department of Fish**
 26 **and Game** [DEPUTY COMMISSIONER] with regard to fish and wildlife habitat. On
 27 private land, the state forester shall give due deference to the **Department of Fish and**
 28 **Game** [DEPUTY COMMISSIONER] regarding effects on fish habitat from timber
 29 operations including variations to riparian standards, designation of alternative site-
 30 specific riparian protection plans, and road location decisions within riparian areas. On
 31 public land, the state forester shall give due deference to the **Department of Fish and**



1 **Game** [DEPUTY COMMISSIONER] regarding effects on fish and wildlife habitat
2 from timber operations including timber harvest in riparian areas, variations to riparian
3 standards, and road location decisions within riparian areas. In making decisions under
4 AS 41.17.087, the state forester shall recognize fish habitat as the primary value in
5 riparian areas.

6 * **Sec. 14.** AS 41.17.118(c) is amended to read:

7 (c) In the absence of a site-specific determination by the **Department of Fish**
8 **and Game** [DEPUTY COMMISSIONER], the state forester shall presume for
9 planning purposes that a stream is anadromous if it is connected to anadromous waters
10 that are without **Department of Fish and Game** [DEPARTMENT] documentation of
11 a physical blockage and has a stream gradient of **eight** [8] percent or less.

12 * **Sec. 15.** AS 41.17.910(a) is amended to read:

13 (a) The **Department of Fish and Game** [DEPUTY COMMISSIONER] and
14 the state forester shall work cooperatively with private forest landowners and timber
15 owners to protect, maintain, and enhance wildlife habitat to the maximum extent
16 practicable, consistent with the interests of the owners in the use of their timber
17 resources.

18 * **Sec. 16.** AS 41.17.910(b) is amended to read:

19 (b) The **Department of Fish and Game** [DEPUTY COMMISSIONER] shall
20 provide educational and technical assistance and extension services to owners of
21 private forest land or timber to assist in identifying important wildlife habitat and to
22 assist in designing voluntary management techniques that minimize adverse effects on
23 wildlife habitat.

24 * **Sec. 17.** AS 41.17.910(c) is amended to read:

25 (c) The **Department of Fish and Game** [DEPUTY COMMISSIONER] and
26 the landowner shall cooperate in identifying areas of important wildlife habitat on
27 private forest land and in developing methods for their protection. Methods of
28 protection for wildlife habitat may include, with the agreement of the landowner, the
29 purchase of fee title, purchase of conservation easements, and land exchanges.

30 * **Sec. 18.** AS 41.17.950(1) is amended to read:

31 (1) "anadromous water body" means the portion of a fresh water body



1 or estuarine area that

2 (A) is cataloged under AS 16.05.877 [AS 41.14.870] as
3 important for anadromous fish; or

4 (B) is not cataloged under AS 16.05.877 [AS 41.14.870] as
5 important for anadromous fish but has been determined by the Department of
6 Fish and Game [DEPUTY COMMISSIONER] to contain or exhibit evidence
7 of anadromous fish in which event the anadromous portion of the stream or
8 waterway extends up to the first point of physical blockage;

9 * **Sec. 19.** AS 44.37.060 is repealed and reenacted to read:

10 **Sec. 44.37.060. Certain powers and duties of the deputy commissioner.** The
11 duties of the deputy commissioner of natural resources appointed under AS 44.37.055
12 include those assigned under AS 41.17.

13 * **Sec. 20.** AS 44.62.330(a)(30) is amended to read:

14 (30) the Department of Fish and Game [NATURAL RESOURCES]
15 as to functions relating to the protection of fish and game under AS 16.05.877
16 [AS 41.14.870];

17 * **Sec. 21.** AS 46.15.020(b) is amended to read:

18 (b) The commissioner shall

19 (1) adopt procedural and substantive regulations to carry out the
20 provisions of this chapter, taking into consideration the responsibilities of the
21 Department of Environmental Conservation under AS 46.03 and the Department of
22 Fish and Game under AS 16;

23 (2) develop and maintain a standardized procedure for processing
24 applications and the issuance of authorizations, permits, and certifications under this
25 chapter; shall keep a public record of all applications for permits and certificates and
26 other documents filed in the commissioner's office; shall record all permits and
27 certificates and amendments and orders affecting them and shall index them in
28 accordance with the source of the water and the name of the applicant or appropriator;
29 shall require that temporary water use authorizations are valid only to the extent that
30 the water withdrawal and use complies with applicable requirements of AS 16.05.877
31 [AS 41.14.870]; and shall make the record of applications, including temporary water



1 use applications under AS 46.15.155 that have been accepted as complete,
2 authorizations, permits, certificates, amendments, and orders affecting them available
3 to the public on the Internet;

4 (3) cooperate with, assist, advise, and coordinate plans with the
5 federal, state, and local agencies, including local soil and water conservation districts,
6 in matters relating to the appropriation, use, conservation, quality, disposal, or control
7 of waters and activities related thereto;

8 (4) prescribe fees or service charges for any public service rendered
9 consistent with AS 37.10.050 - 37.10.058, except that the department may charge
10 under regulations adopted by the department an annual \$50 administrative service fee
11 to maintain the water management program and a water conservation fee under
12 AS 46.15.035;

13 (5) before February 1 of each year, prepare a report describing the
14 activities of the commissioner under AS 46.15.035 and 46.15.037; the commissioner
15 shall notify the legislature that the report is available; the report must include

16 (A) information on the number of applications and
17 appropriations for the removal of water from one hydrological unit to another
18 that were requested and that were granted and on the amounts of water
19 involved;

20 (B) information on the number and location of sales of water
21 conducted by the commissioner and on the volume of water sold;

22 (C) recommendations of the commissioner for changes in state
23 water law; and

24 (D) a description of state revenue and expenses related to
25 activities under AS 46.15.035 and 46.15.037.

26 * **Sec. 22.** AS 41.14.150, 41.14.160, 41.14.165, 41.14.170, 41.14.180, 41.14.190, 41.14.195,
27 41.14.200, 41.14.840, 41.14.850, 41.14.860, 41.14.870, 41.14.880, 41.14.890, 41.14.895,
28 41.14.900, and 41.14.990 are repealed.

29 * **Sec. 23.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 **TRANSITION.** Litigation, hearings, investigations, and other proceedings pending



1 under a law repealed by this Act, or in connection with functions transferred by this Act,
2 continue in effect and may be continued and completed notwithstanding a transfer or
3 amendment or repeal provided for in this Act. Certificates, orders, and regulations issued or
4 adopted under authority of a law amended or repealed by this Act remain in effect for the term
5 issued, or until revoked, vacated, or otherwise modified under this Act. Contracts, rights,
6 liabilities, and obligations created by or under a law amended or repealed by this Act, and in
7 effect on the effective date of this Act, remain in effect notwithstanding this Act's taking
8 effect. Records, equipment, appropriations, and other property of agencies of the state whose
9 functions are transferred under this Act shall be transferred to implement the provisions of
10 this Act.

11 * **Sec. 24.** This Act takes effect July 1, 2007.



CS FOR HOUSE BILL NO. 74(FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered: 2/14/07

Referred: Resources

Sponsor(s): REPRESENTATIVES SEATON, GARA AND LEDOUX, Wilson, Doll

A BILL

FOR AN ACT ENTITLED

1 **"An Act prohibiting mixing zones in freshwater spawning waters."**

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

3 *** Section 1.** AS 46.03 is amended by adding a new section to read:

4 **Sec. 46.03.065. Prohibition of mixing zones in spawning waters.** (a) Except
5 as provided in (b) and (c) of this section, the department may not authorize a mixing
6 zone for lakes, streams, rivers, or other flowing fresh water at any time in an area
7 where

8 (1) anadromous fish spawn; or

9 (2) resident fish redds are located for

10 (A) Arctic char;

11 (B) Arctic grayling;

12 (C) brook trout;

13 (D) burbot;

14 (E) cutthroat trout;

15 (F) Dolly Varden;



- 1 (G) lake trout;
2 (H) landlocked coho, king, and sockeye salmon;
3 (I) northern pike;
4 (J) rainbow trout;
5 (K) sheefish; or
6 (L) whitefish.

7 (b) The prohibition in (a) of this section does not apply to the renewal of a
8 municipal or village wastewater facility's mixing zone authorization during the useful
9 life of the wastewater facility for an area where spawning was not ongoing at the time
10 of the initial authorization and the mixing zone became a spawning area after the date
11 of the initial authorization.

12 (c) The prohibition in (a) of this section does not apply to a turbidity mixing
13 zone for a suction dredge placer mine or a mechanical placer mine if

14 (1) the turbidity level of the mixing zone has been authorized by the
15 Department of Environmental Conservation;

16 (2) the mixing zone extends not more than 500 feet downstream of the
17 point of discharge;

18 (3) the mixing zone is at least 500 feet away from the closest mixing
19 zone in the same body of water; and

20 (4) the Department of Environmental Conservation with the
21 concurrence of the Department of Natural Resources, or, in an area designated under
22 AS 16.20, with the concurrence of the Department of Fish and Game,

23 (A) restricts the discharge to periods when spawning is not
24 occurring; and

25 (B) finds that the mixing zone will not adversely affect the
26 present and future capability of the area for spawning, incubation, or rearing of
27 fish included in (a) of this section.

28 (d) In this section,

29 (1) "area" means the physical location where spawning occurs;

30 (2) "lakes, streams, rivers, or other flowing fresh water" includes lakes,
31 streams, rivers, or other flowing fresh water that have been altered by remediation or



1 construction activities; the term does not include an artificially constructed facility for
2 water, wastewater, holding, or channeling, unless the artificial facility is constructed
3 for the purpose of facilitating fish spawning;

4 (3) "mixing zone" means an area in a water body surrounding or
5 downstream of a discharge where the effluent plume is diluted by the receiving water,
6 within which water quality standards specified by the department under AS 46.03.050
7 - 46.03.120 may be exceeded;

8 (4) "village" has the meaning given in AS 46.07.080.

9 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 **APPLICABILITY.** AS 46.03.065, enacted in sec. 1 of this Act, does not apply to a
12 suction dredge placer mine or a mechanical placer mine with a permit in effect on the
13 effective date of this Act until the operator applies for a reauthorization of that permit.



HOUSE BILL NO. 134

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES EDGMON, Ramras, Dahlstrom, Gara, Kerttula

Introduced: 2/14/07

Referred: House Special Committee on Fisheries, Resources

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to conservation and protection of wild salmon production in drainages**
2 **affecting the Bristol Bay Fisheries Reserve; and providing for an effective date."**

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

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

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

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

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

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



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

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

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

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

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

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

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

19 (2) drinking water and domestic uses;

20 (3) ordinary existing and future municipal uses; or

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

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

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



CS FOR HOUSE BILL NO. 175(JUD) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Amended: 4/27/07

Offered: 3/27/07

Sponsor(s): REPRESENTATIVES JOHNSON, Kelly, Hawker, Foster, Buch, Kawasaki, Gardner, Gara, LeDoux, Lynn

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the prohibition of the exercise of the power of eminent domain
2 against a recreational structure for the purposes of developing a recreational facility or
3 project; and relating to access to fishing waterways."

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

5 * Section 1. AS 09.55.240(e) is amended to read:

6 (e) The power of eminent domain may not be exercised for the purpose of
7 developing a recreational facility or project if the property to be acquired includes an
8 individual landowner's personal residence or recreational structure or that portion of
9 an individual's property attached to and within 250 linear feet of an individual
10 landowner's personal residence or recreational structure unless the landowner
11 consents either before or after a condemnation proceeding has been filed.

12 * Sec. 2. AS 09.55.240(h)(3) is amended to read:

13 (3) "personal residence" means a structure that is the dwelling place of
14 an individual that



1 (A) must be used by the owner or beneficiary of a trust holding
2 legal title to the structure as a dwelling unit, as opposed to a rental, storage, or
3 other commercial space;

4 (B) must be inhabited by the owner, prior owner, or beneficiary
5 of a trust holding legal title to the structure for at least 90 days during the 12-
6 month period immediately before the date an action for the exercise of the
7 power of eminent domain is filed;

8 (C) must constitute an ordinary home for general living
9 purposes [, AS OPPOSED TO A DWELLING USED ONLY FOR
10 SEASONAL RECREATIONAL OR TEMPORARY PURPOSES]; and

11 (D) may not have been constructed, placed, or occupied for the
12 purpose of avoiding eminent domain proceedings;

13 * **Sec. 3.** AS 09.55.240(h) is amended by adding a new paragraph to read:

14 (6) "recreational structure" means a permanent structure that is used by
15 the owner of or beneficiary of a trust holding legal title to the structure as a dwelling
16 for seasonal recreational purposes.

17 * **Sec. 4.** AS 38.50 is amended by adding a new section to read:

18 **Sec. 38.50.015. Access along fishing waterways.** (a) The commissioner and
19 the commissioner of fish and game jointly shall prepare and maintain a list that
20 identifies land to or along fishing waterways where public access is or may in the
21 future be impeded by private land ownership. The list must include at least two and
22 not more than five meander miles along fishing waterways, and may identify land to
23 be used for public access for fishing, hunting, or other recreational purposes. The list
24 shall be prepared before December 1 of each year, except that the commissioner and
25 the commissioner of fish and game are not required to prepare a new list if the existing
26 list contains at least two meander miles of private land along fishing waterways.

27 (b) Before February 1 of each odd-numbered year, the commissioner, with the
28 concurrence of the commissioner of fish and game, shall submit to the legislature a
29 plan to acquire by easement, fee, or other interest, public access to or along fishing
30 waterways through trade with or purchase from a willing landowner or landowners.

31 (c) An agreement for an easement that provides public access to a fishing



1 waterway under this section may allow the owner of the land granting the easement to
2 develop the land subject to the rights granted by the easement.

3 (d) The commissioner may close or restrict public access acquired under this
4 section if necessary to protect habitat along a fishing waterway.

5 (e) The commissioner and the commissioner of fish and game shall consider
6 land providing public access along Montana Creek upstream of the Parks Highway,
7 and along Anchor River and Deep Creek on the Kenai Peninsula for inclusion in the
8 plan under (b) of this section.

9 (f) The commissioner may not obtain a property interest in land under this
10 section unless the commissioner has made not less than an equivalent acreage of state
11 land available for disposal for private use under AS 38.05.050 in the same calendar
12 year.

13 (g) In this section,

14 (1) "fishing waterway" means a waterway that contains wild sport fish
15 or fish of a species, physical size, and abundance that may support a sport,
16 commercial, personal use, or subsistence fishery;

17 (2) "meander mile" means a distance of one mile measured following
18 the course of a waterway.



SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 188
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE WILSON

Introduced: 4/27/07

Referred: House Special Committee on Fisheries, Resources, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the authority of the Board of Fisheries to allocate within fisheries;**
2 **and providing for an effective date."**

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

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

6 **PURPOSE AND INTENT.** (a) The purpose of the amendment to AS 16.05.251(e) by
7 sec. 2 of this Act and the enactment of AS 16.05.251(j) by sec. 3 of this Act is to validate and
8 reaffirm the longstanding authority of the Board of Fisheries to allocate fishery resources
9 within a fishery and to ensure the validity of all existing administrative regulations adopted
10 under the authority of that statute.

11 (b) It is the intent of the legislature to expressly overrule those portions of the
12 decisions of the Alaska Supreme Court in *Grunert v. State*, 109 P.3d 924, 930-32 (Alaska
13 2005) and *State, Alaska Board of Fisheries v. Grunert*, 139 P.3d 1226, 1235-39 (Alaska 2006)
14 holding that the Board of Fisheries may not allocate within a fishery, thereby affirming the



1 validity of regulations, other than cooperative regulations, that may have been called into
2 question by the rationale used by the Alaska Supreme Court in those cases.

3 (c) The purpose of AS 16.05.251(j), added by sec. 3 of this Act, is to preserve those
4 portions of the decisions of the Alaska Supreme Court in *Grunert v. State*, 109 P.3d 924
5 (Alaska 2005) and *State, Alaska Board of Fisheries v. Grunert*, 139 P.3d 1226 (Alaska 2006)
6 holding that the Board of Fisheries may not authorize cooperative salmon fisheries without
7 express legislative authorization and clarify that nothing in this Act or the board's allocation
8 criteria authorizes the board to allocate to an individual fisherman based on a fisherman's
9 individual catch history.

10 * **Sec. 2.** AS 16.05.251(e) is amended to read:

11 (e) The Board of Fisheries may allocate fishery resources among and within
12 personal use, sport, guided sport, and commercial fisheries. The board shall adopt
13 criteria for the allocation of fishery resources and shall use the criteria as appropriate
14 to particular allocation decisions. The criteria may include factors such as

15 (1) the history of each personal use, sport, guided sport, and
16 commercial fishery;

17 (2) the number of residents and nonresidents who have participated in
18 each fishery in the past and the number of residents and nonresidents who can
19 reasonably be expected to participate in the future;

20 (3) the importance of each fishery for providing residents the
21 opportunity to obtain fish for personal and family consumption;

22 (4) the availability of alternative fisheries resources;

23 (5) the importance of each fishery to the economy of the state;

24 (6) the importance of each fishery to the economy of the region and
25 local area in which the fishery is located;

26 (7) the importance of each fishery in providing recreational
27 opportunities for residents and nonresidents.

28 * **Sec. 3.** AS 16.05.251 is amended by adding a new subsection to read:

29 (j) Nothing in (e) of this section authorizes the Board of Fisheries, without
30 separate express statutory authorization, to allocate to

31 (1) a cooperative fishery; or

1 (2) an individual fisherman based on individual catch history.

2 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 RETROACTIVITY. Sections 2 and 3 of this Act are retroactive to March 17, 2005.

5 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).



OFFICE OF THE
APR 25 2007
LIEUTENANT GOVERNOR

#07WATR

**THE ALASKA CLEAN WATER INITIATIVE
FOR AN ACT ENTITLED**

“An Act to protect Alaska’s clean water.”

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

Section 1. Purpose. The purpose of this Act is to protect the statewide public interest in water quality by ensuring that Alaska’s waterways, streams, rivers and lakes are not adversely impacted by new large scale metallic mineral mining operations and to ensure that prospective large scale metallic mineral mining operations are compatible with the state’s interest in having clean waters.

Section 2. Protections and prohibitions affecting streams and waters. Notwithstanding any other provision of law, a person or entity may not, for large scale metallic mineral mining purposes, engage in any activity that directly or indirectly:

(a) releases any toxic pollutant into, or causes or contributes to any toxic pollution of, any surface or subsurface water, or tributary thereto that is utilized by humans for drinking water or by salmon in the spawning, rearing, migration, or propagation of the species; or that

(b) uses, releases or otherwise generates, within any watershed utilized by humans for drinking water or by salmon in the spawning, rearing, migration, or propagation of the species:



- (1) cyanide, or
- (2) sulfuric acid, or
- (3) compounds of cyanide or sulfuric acid, or
- (4) other toxic agents that may be harmful directly, indirectly

or cumulatively to human health or to the spawning, rearing, migration, or propagation of salmon;

(c) stores or disposes of metallic mineral mining wastes, including overburden, waste rock, and tailings that may generate sulfuric acid, dissolved metals, chemicals or compounds thereof.

(d) stores or disposes of metallic mineral mining wastes, including overburden, waste rock, or tailings in, or within 1000 feet of any river, stream, lake, or tributary thereto, that is utilized by humans for drinking water or by salmon in the spawning, rearing, migration, or propagation of the species.

(e) causes acid mine drainage, heavy metals or dissolved metals to enter directly into, or indirectly by subsurface water into, any river, stream, lake, or tributary thereto, that is utilized by humans for drinking water or by salmon in the spawning, rearing, migration, or propagation of the species.

Section 3. Scope. Section 2 of this Act does not apply to existing large scale metallic mineral mining operations that have received all required federal, state, and local permits, authorizations, licenses, and approvals on or before the effective date of this Act.

Section 4. Savings Clause. It is the intention of the people of Alaska that each of the provisions of this Act or any portion thereof shall be independent of

each of the others, so that the invalidity of any provision or portion thereof shall not affect the validity of the remaining provisions or portions thereof, and that all valid provisions and portions thereof shall be effective irrespective of the invalidity of any other provision or portion thereof. Upon enactment, the state shall take all actions necessary to ensure the maximum enforceability of this act.

Section 5 Definitions.

a) "large scale metallic mineral mining operation" means a mining operation that extracts metallic minerals or deposits and utilizes or disturbs in excess of 640 acres of lands or waters, either alone or in combination with adjoining, related or concurrent mining activities or operations. This term includes all components of a mining project, including but not limited to:

(i) mining, processing, the treatment of ore in preparation for extraction of minerals, and waste or overburden storage or disposal;

(ii) any construction or operation of facilities, roads, transmission lines, pipelines, separation facilities, and other support and ancillary facilities;

(iii) any mining or treatment plant or equipment connected with the project, underground or on the surface, that contributes or may contribute to the extraction or treatment of metallic minerals or other mineral product; and

(iv) any site of tunneling, shaft-sinking, quarrying, or excavation of rock for other purposes, including the construction of water or



roadway tunnels, drains or underground sites for the housing of industrial plants or other facilities.

(b) "toxic pollutants" means those substances or substance combinations, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into a human, fish or wildlife organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available, cause death, disease, malignancy, behavioral abnormalities, abnormalities, or malfunctions in growth, development, behavior, or reproduction, cancer, genetic mutations, physiological malfunctions or physical or physiological abnormalities or deformations in such organisms or their offspring; "toxic pollutants" includes the following substances, and any other substance identified as a toxic pollutant under 33 U.S.C. 1317(a):

2-chlorophenol; 2,4-dichlorophenol; 2,4-dimethylphenol; acenaphthene; acrolein; acrylonitrile; Aldrin/Dieldrin; ammonia; antimony; arsenic; asbestos; benzene; benzidine; beryllium; cadmium; carbon tetrachloride; Chlordane; chlorinated benzenes; chlorinated naphthalene; chlorinated ethanes; chlorine; chloroalkyl ethers; chloroform; chlorophenols; chlorophenoxy herbicides; chromium; copper; cyanide; DDT; Demeton; dichlorobenzenes; dichlorobenzidine; dichloroethylenes; dichloropropane; dichloropropene; dinitrotoluene; diphenylhydrazine; Endosulfan; Endrin; ethylbenzene; fluoranthene; Guthion; haloethers; halomethanes; Heptachlor; hexachlorobutadiene; hexachlorocyclohexane; hexachlorocyclopentadiene; isophorone; lead; Lindane; Malathion; mercury; methoxychlor; Mirex; naphthalene; nickel; nitrobenzene; nitrophenols; nitrosamines; p-dioxin; Parathion; PCBs; pentachlorophenol; phenol; phthalate esters; polynuclear aromatic hydrocarbons; selenium; silver; sulfuric acid, tetrachloroethylene; thallium; toluene; Toxaphene; trichloroethylene; vinyl chloride; and zinc; "

Section 6. Effective Date. This Act takes effect 90 days after enactment.



07WTR3

THE ALASKA CLEAN WATER INITIATIVE (III)

FOR AN ACT ENTITLED

"An Act to protect Alaska's clean water."

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

Section 1. Purpose. The purpose of this Act is to protect the statewide public interest in water quality by limiting the discharge or release of certain toxic pollutants on the land and waters of the state, and by establishing management standards and other regulatory prescriptions to ensure that Alaska's waterways, streams, rivers and lakes, an important public asset, are not adversely impacted by new large scale metallic mineral mining operations and that such prospective operations are appropriately regulated to assure no adverse effects on the state's clean waters.

Section 2. Regulatory standards affecting streams and waters.

(a) Notwithstanding any other provision of law, approvals, authorizations, licenses and permits for a prospective large scale metallic operation may not be granted or issued to a person or entity to allow activity that directly or indirectly:

(1) releases or discharges a toxic pollutant or pollutants, in a measurable amount that will effect human health or welfare or any stage of the

life cycle of salmon, into, any surface or subsurface water, or tributary there to;
or that

(2) stores or disposes of metallic mineral mining wastes, including overburden, waste rock, and tailings in a way that could result in the release or discharge of sulfuric acid, other acids, dissolved metals, toxic pollutants or other compounds thereof that will effect, directly or indirectly, surface or subsurface water or tributaries thereto used for human consumption or salmon spawning, rearing, migration or propagation.;

(b) This measure is intended to regulate the operations described herein to prevent the release or discharge of toxic pollutants and other chemicals into the waters of the state. This measure shall not result in the appropriation of lands or waters of the state in any fashion associated with new large scale mining operations. Use of the surface and subsurface waters and the land of the state for a prospective large scale metallic mining operation is not prohibited but is subject to regulation to ensure protection of human health, and welfare and conservation of other state resources which also rely on the waters and land of the state.

Section 3. Scope. Section 2 of this Act does not apply to existing large scale metallic mineral mining operations that have received all required federal, state, and local permits, authorizations, licenses, and approvals on or before the effective date of this Act or to future operations of existing facilities at those sites.

Section 4. Savings Clause. It is the intention of the people of Alaska that each of the provisions of this Act or any portion thereof shall be independent of

each of the others, so that the invalidity of any provision or portion thereof shall not affect the validity of the remaining provisions or portions thereof, and that all valid provisions and portions thereof shall be effective irrespective of the invalidity of any other provision or portion thereof. Upon enactment, the state shall take all actions necessary to ensure the maximum enforceability of this act.

Section 5 Definitions.

(a) "large scale metallic mineral mining operation" means a mining operation that extracts metallic minerals or deposits and utilizes or disturbs in excess of 640 acres of lands or waters, either alone or in combination with adjoining, related or concurrent mining activities or operations. This term includes all components of a mining project, including but not limited to:

(1) mining, processing, the treatment of ore in preparation for extraction of minerals, and waste or overburden storage or disposal;

(2) any construction or operation of facilities, roads, transmission lines, pipelines, separation facilities, and other support and ancillary facilities;

(3) any mining or treatment plant or equipment connected with the project, underground or on the surface, that contributes or may contribute to the extraction or treatment of metallic minerals or other mineral product; and

(4) any site of tunneling, shaft-sinking, quarrying, or excavation of rock for other purposes, including the construction of water or roadway tunnels, drains or underground sites for the housing of industrial plants or other facilities.

(b) "toxic pollutants" means those substances or substance combinations, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into a human, fish or wildlife organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available, cause death, disease, malignancy, behavioral abnormalities, abnormalities, or malfunctions in growth, development, behavior, or reproduction, cancer, genetic mutations, physiological malfunctions or physical or physiological abnormalities or deformations in such organisms or their offspring; "toxic pollutants" includes the following substances, and any other substance identified as a toxic pollutant under 33 U.S.C. 1317(a):

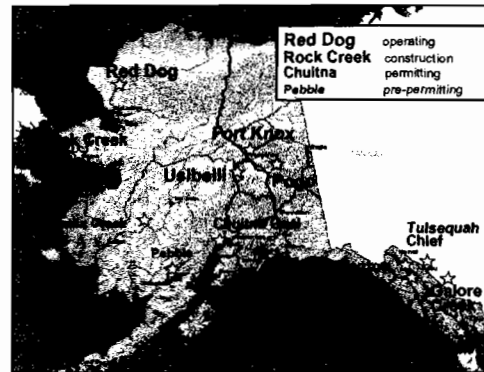
2-chlorophenol; 2,4-dichlorophenol; 2,4-dimethylphenol; acenaphthene; acrolein; acrylonitrile; Aldrin/Dieldrin; ammonia; antimony; arsenic; asbestos; benzene; benzidine; beryllium; cadmium; carbon tetrachloride; Chlordane; chlorinated benzenes; chlorinated naphthalene; chlorinated ethanes; chlorine; chloroalkyl ethers; chloroform; chlorophenols; chlorophenoxy herbicides; chromium; copper; cyanide; DDT; Demeton; dichlorobenzenes; dichlorobenzidine; dichloroethylenes; dichloropropane; dichloropropene; dinitrotoluene; diphenylhydrazine; Endosulfan; Endrin; ethylbenzene; fluoranthene; Guthion; haloethers; halomethanes; Heptachlor; hexachlorobutadiene; hexachlorocyclohexane; hexachlorocyclopentadiene; isophorone; lead; Lindane; Malathion; mercury; methoxychlor; Mirex; naphthalene; nickel; nitrobenzene; nitrophenols; nitrosamines; p-dioxin; Parathion; PCBs; pentachlorophenol; phenol; phthalate esters; polynuclear aromatic hydrocarbons; selenium; silver; sulfuric acid; tetrachloroethylene; thallium; toluene; Toxaphene; trichloroethylene; vinyl chloride; and zinc; "

Alaska Islands and Ocean Visitor Center, Homer
January 15, 2008 ♦ 6:30 to 9:30pm

**The Process and Requirements for
Large Mine Permit Applications in Alaska**

State of Alaska Large Mine Team
US Army Corps of Engineers
US Environmental Protection Agency

Large mining projects in Alaska



Presentation Outline

- What is the process?
- Mining 101
- The Permits
- The Agencies
- Q&A – How can we improve?

KEY CONCEPTS

- 1) Process doesn't guarantee a "Yes"
- 2) Mining 101 – rock chemistry drives water quality and mine design
- 3) Many permits from many agencies are required
- 4) Financial assurance (\$) is required
- 5) We have experienced, dedicated regulators
- 6) Interagency monitoring & inspection continue through operation and closure

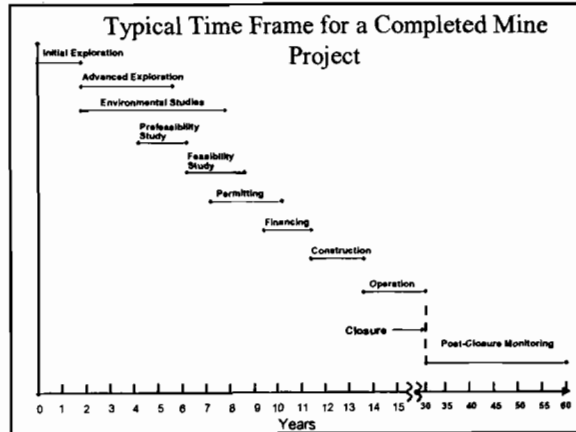
1. The Process!

Mineral Rights on State Land

- Most state land is open to mining
- Rights established for most minerals by discovery and appropriation (staking claims) under Alaska Constitution, Article VIII, section 11)
- State and Federal (BLM and most Forest Service) Land – established through staking claims (hard rock minerals)
- ANCSA and Private Land – through agreements between landowner and mining companies
- State land use plans determine allowable land uses, and if land is open or closed to staking (legislative approval needed for more than 640 acres)
- If there is no land use plan, default is usually open to staking.

Major Steps in Mineral Development Process

- Prospecting - Geological data and map reviews, non-invasive exploration
- Staking - Establish Mineral Rights
- Exploration (includes drilling, geophysics, bulk sampling)
- Detailed Resource Delineation and Economic Feasibility
- **Development Plan and permitting process (focus of this presentation)**
- Mine Development (Construction)
- Mine Operation
- Shutdown and Reclamation
- Long term monitoring



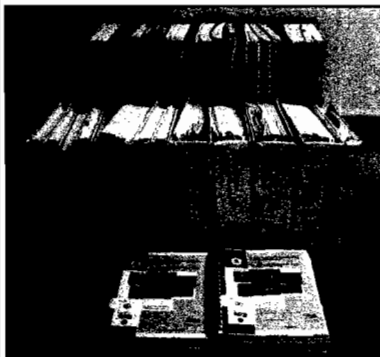
No Single Permit to Mine: there are many permits & authorizations

- | STATE | FEDERAL |
|--|---|
| ■ Plan of Operations (DNR) | ■ US EPA Section 402 NPDES Water Discharge Permit |
| ■ Reclamation and Bonding (DNR) | ■ US EPA Air Quality Permit review |
| ■ Waste Management Permits and Bonding (ADEC) | ■ US EPA Safe Drinking Water Act (LIC Permit) |
| ■ Certification of NPDES and ACOE Permits (ADEC) | ■ US ACOE Section 404 Dredge and Fill Permit |
| ■ Sewage Treatment System Approval (ADEC) | ■ US ACOE Section 10 Rivers and Harbors Act |
| ■ Air Quality Permits (ADEC) | ■ US ACOE Section 106 Historical and Cultural Resources Protection Act Consultation |
| ■ Fish Habitat and Fishway Permits (DNR) | ■ NMFS Threatened and Endangered Species Act Consultation |
| ■ Water Rights (DNR) | ■ NMFS Marine Mammal Protection Act |
| ■ Right of Way/Access (DNR/DOI) | ■ NMFS Essential Fish Habitat |
| ■ Tidelands Leases (DNR) | ■ NMFS Fish and Wildlife Coordination Act |
| ■ Dam Safety Certification (DNR) | ■ USFWS Threatened and Endangered Species Act Consultation |
| ■ Cultural Resource Protection (DNR) | ■ USFWS Bald Eagle Protection Act Clearance |
| ■ Monitoring Plan (Surface/Groundwater/Wildlife) (DNR/DEC) | ■ USFWS Migratory Bird Protection |
| ■ Coastal Zone Consistency Determination (DNR) | ■ USFWS Fish and Wildlife Coordination Act |

(These are only some of the authorizations required)

And many agencies.

- Department of Natural Resources
- Department of Environmental Conservation
- Department of Fish and Game
- Department of Transportation & Public Facilities
- Department of Commerce, Community and Economic Development
- Department of Law
- US Environmental Protection Agency
- US Army Corps of Engineers
- US Fish and Wildlife Service
- National Marine Fisheries Service
- Bureau of Land Management
- U. S. Forest Service
- National Park Service



The permit application package is comprehensive.

Example:
Pogo Gold Mine
Permitting Documents
and Environmental
Impact Statement

National Environmental Policy Act (NEPA) Process

EPA Presentation

What is NEPA?

- National Environmental Policy Act
- Major federal actions trigger NEPA (EPA, Corps, BLM, USFS)
- Requires an Environmental Assessment (EA)
- Could require an Environmental Impact Statement (EIS)

EIS discusses impacts to:

- Hydrology
- Air & Water Quality
- Noise
- Wetlands
- Fish & Aquatic Habitat
- Wildlife
- Threatened & Endangered Species

EIS (cont.)

- Socioeconomics
- Land Use
- Subsistence
- Cultural Resources
- Visual Resources
- Recreation, Safety & Feasibility
- Cumulative Impacts

An EIS is

- A disclosure document prepared so agencies making decisions on a project are fully informed.
- NOT a decision document

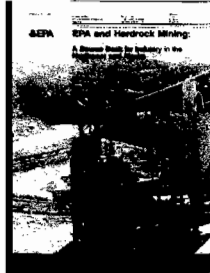
NEPA Process

- Application
- Scoping/Scoping Responsiveness
 - Inquire about Tribal Consultation
 - T & E under Endangered Species Act
 - Essential Fish Habitat (EFH)
- Draft
- Comments
- Final
- Comments
- ROD

Record of Decision

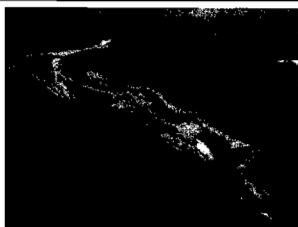
- An agency's permitting/project decision based on the information presented in the EIS.

Necessary NEPA Information



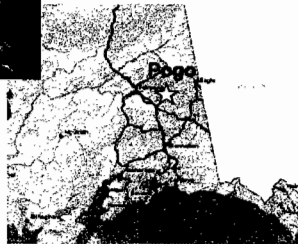
For more information on NEPA:

- Hanh Shaw
NEPA Compliance Coordinator
1200 Sixth Avenue OWW-130
Seattle, WA 98101
(206) 553-0171/(800)424-4372
shaw.hanh@epa.gov



Example: Pogo Mine

Underground Gold Mine
near Delta Junction



Pogo Process

- Agency Discussions and Baseline Studies Initiated in 1997
- EIS Initiated in August 2000
- Public input on Scoping 2000/2001
- Public Review of Draft EIS and Public Meetings, Spring 2003
- Final EIS Completed in October 2003
- State Permits Issued in December 2003

Baseline Studies

- Surface Water Quality & Quantity
- Groundwater Quality & Quantity
- Subsistence
- Aquatic Life
- Wildlife
- Wetlands
- Socioeconomics
- Cultural Resources
- Meteorology
- Traditional Ecological Knowledge (TEK)
- Visual Resources
- Noise
- Air Quality

Coordinated State/Federal Process

- Draft State Permits included in Draft EIS for Public Review
- Public involvements (meetings, notices, etc) are synchronized
- Processes are synchronized, not "streamlined"
- Public still comments on all State authorizations

Pogo Public Participation

- Pre-Application meetings and outreach (community groups, Native groups, NGOs)
- Environmental Impact Statement Process
 - Scoping (meetings, public notice)
 - Draft EIS (meetings, public notice)
 - Final EIS (public notice)
- Tribal Consultation with 12 Tribes (Government to Government)
- Public comments accepted on all State authorizations
- Open Communication (website, meetings, newsletters, etc)

Do we ever say "No" ?

ANSWER: We say NO many times

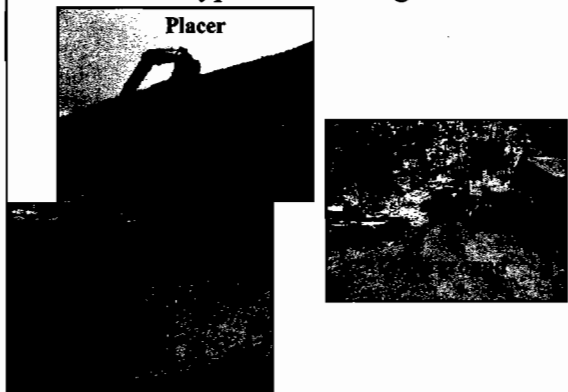
- There are numerous permits, each requiring YES/NO decisions
- A NO typically results in design changes to the project
- The final approved permit never looks like what was initially submitted – agencies require numerous changes to get to YES
- Sometimes applicants abandon a project before they get rejected (because they don't want to do what the permitters require)
- Sometimes applicants abandon project before they even submit development permits – economics or permit requirements make project infeasible or unattractive to company

Example

- In 1986 Echo Bay Mines began an evaluation of reopening the Alaska-Juneau Gold Mine that operated from 1911 to 1944.
- Agencies did not approve the company's proposed uplands tailings storage facility.
- Submarine tailings disposal (used historically) was not an option because of limitations of the federal Clean Water Act.
- Echo Bay Mines abandoned and closed the project in 1997 after expenditures in excess of \$100 million.

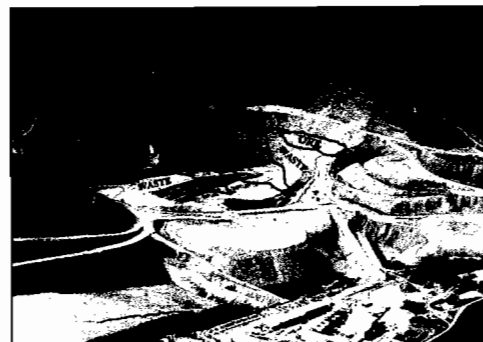
Mining 101

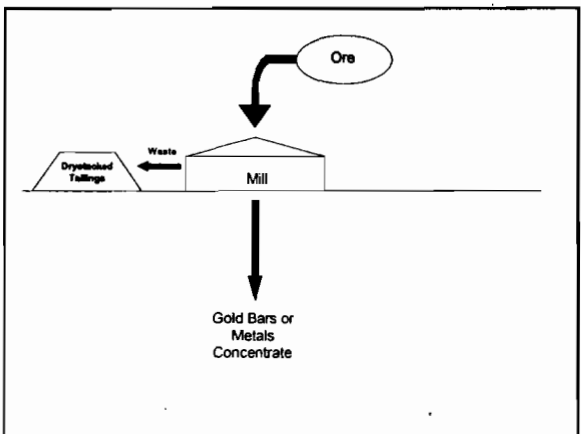
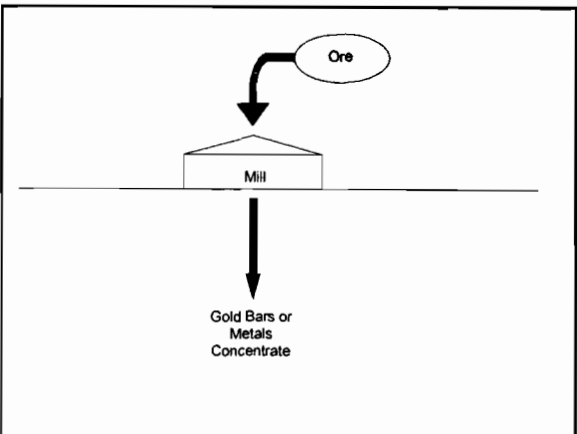
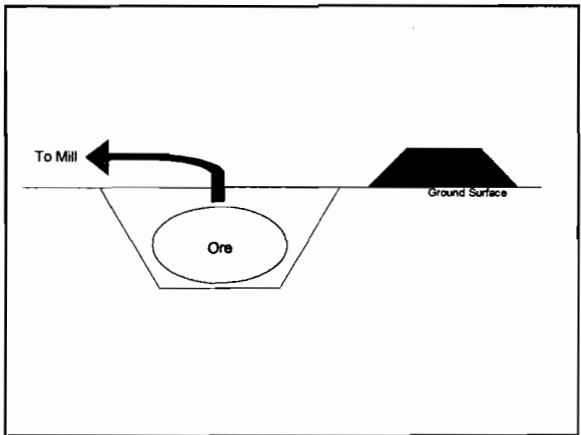
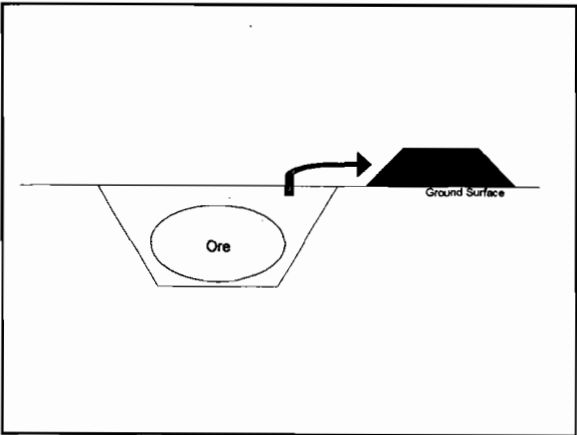
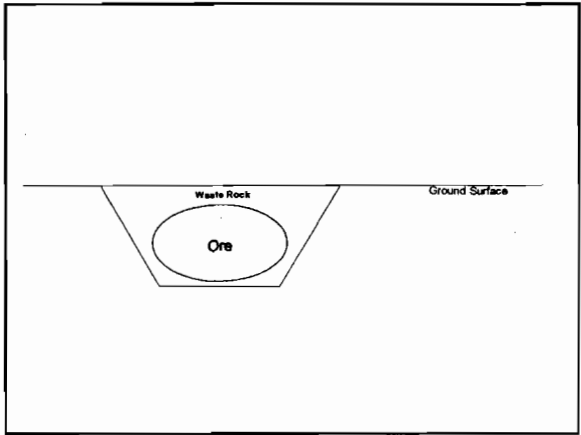
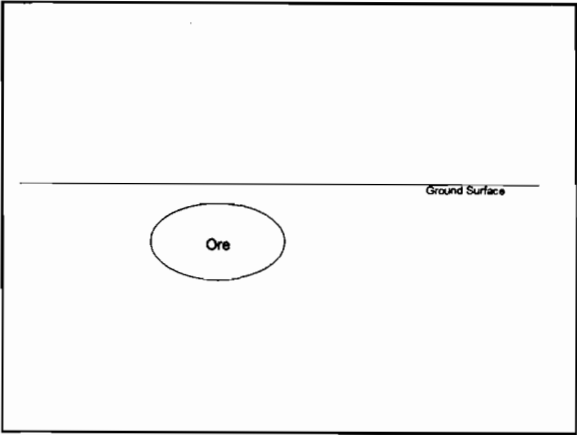
Types of Mining

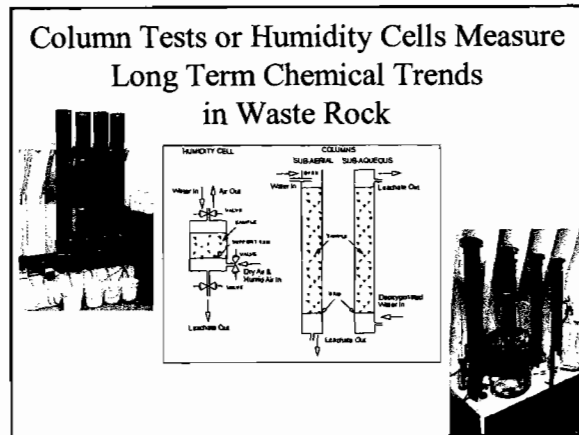
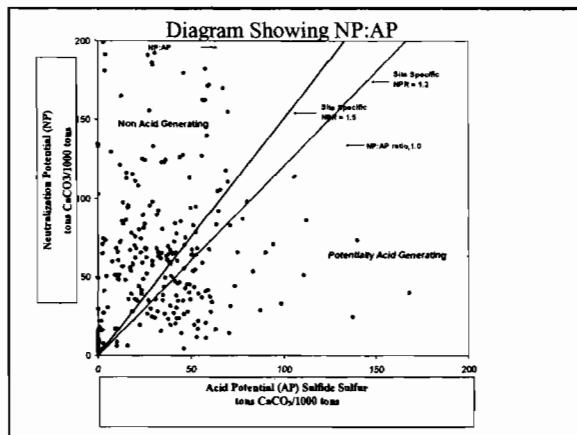
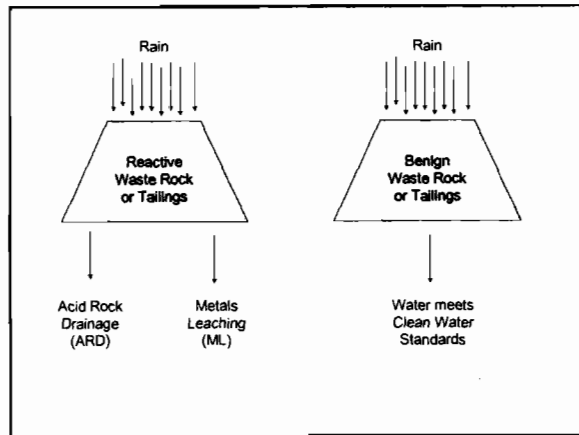
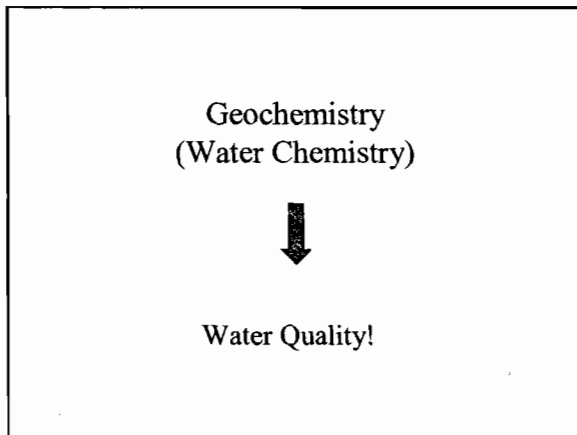
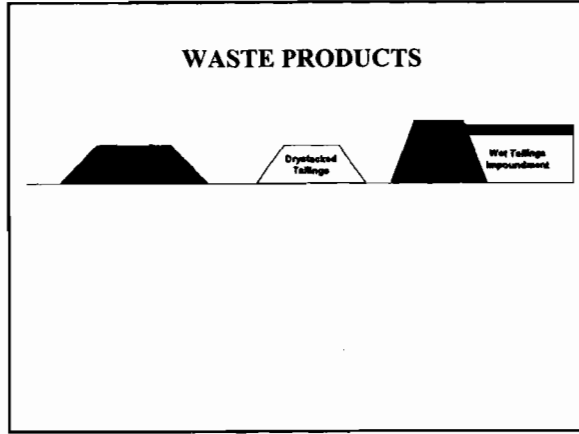
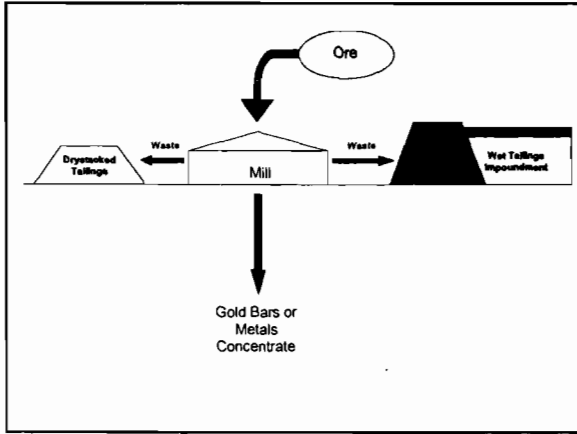


Ore and Waste

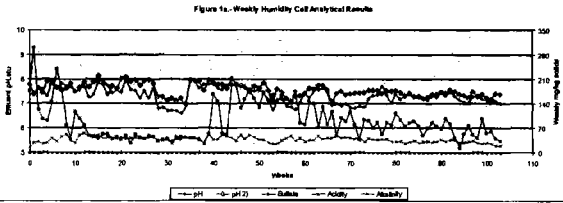
A generalized example, based on Fort Knox







Humidity Cell Tests

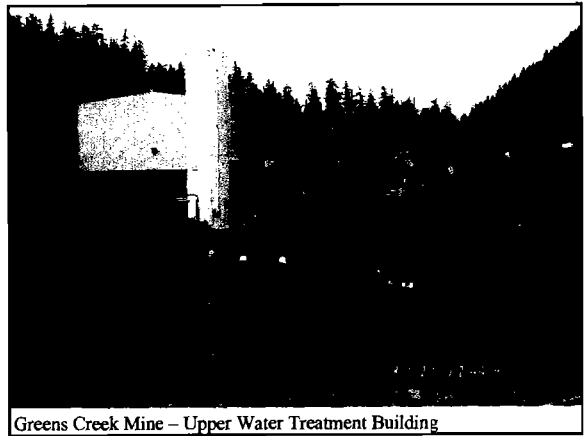
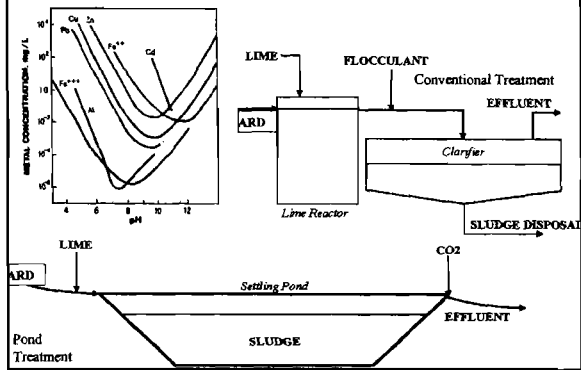


This test lasted for 103 weeks before being terminated.

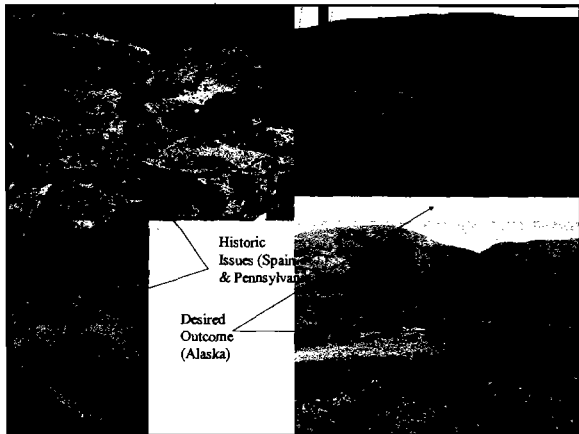
Understanding the chemistry is essential to designing the mine (including waste storage, closure options)

Example: Red Dog drainage from waste rock piles must be captured and treated prior to discharge

Water Treatment



Greens Creek Mine - Upper Water Treatment Building



The Permits

State of Alaska Regulatory Requirements

- **Waste Disposal Permits and Bonding** - (ADEC)
- Coastal Zone Consistency Determination - (DNR)
- **Fish Habitat Permits** (DNR/OHMP)
- Certification of NPDES and ACOE permits - (ADEC)
- Sewage Treatment System Approval - (ADEC)
- **Air Quality Permits** - (ADEC)
- Water Rights - (DNR)
- **Monitoring Plan Approval** - (DNR/ADEC/ADF&G)
- Right of Way/Access - (DNR/DOT)
- **Reclamation Plan Approval** - (ADNR)
- Cultural Resource Protection - (DNR)
- **Dam Safety certification** - (DNR)
- Plan of Operations Approval - (DNR)
- **Surface Coal Mining Control and Reclamation Permit** (DNR)

Integrated Waste Management Permit

DEC Presentation

Overview of ADEC Integrated Waste Management Permit

- Integrated Waste Management Permit
 - 18 AAC 60 - Solid Waste Management
 - 18 AAC 70 - Water Quality Standards
 - 18 AAC 72 - Wastewater Disposal
- Typical Wastes Managed
 - Tailings
 - Waste Rock
- Potential Contaminants Controlled
 - Acid Rock Drainage
 - Metals Leaching
 - Process Chemicals
- Primary Focus of Protection
 - Surface Water
 - Groundwater

Integrated Waste Management Permit

- DEC Solid Waste Program
 - **TAILINGS, WASTE ROCK disposal**
garbage, sewage sludge disposal
- Wastewater Discharge Program
 - Wastewater from disposal and processing operations

Integrated Waste Management Permit

- Reviews applications
 - Plan of Operations
 - Monitoring Plan
 - Baseline Data Collection Plan
 - Closure Plan
 - Financial Assurance (bonding)
 - Wastewater Plan Reviews
 - Storm Water Pollution Prevention Plan (SWPPP)
 - Waste Characterization Plan
 - Design and Construction Documents
 - Hydrology, Geochemistry Analysis, Mass Load Modeling, etc.

A Solid Waste Disposal Permit is required when:

- The waste material poses a threat to public health, safety, or welfare or to the environment;
- The waste material is being managed in a manner that causes a nuisance;
- The tailings from hard rock or placer mining have been amalgamated or chemically treated, or is not otherwise exempt from the regulations;
- There is an environmental problem associated with the management of the waste or materials
 - Waste rock or tailings that may cause acid rock drainage (ARD) or metals leaching are examples of mining wastes that would require a permit. Typically these wastes would need to be disposed at a facility that meets the requirements of an industrial waste.
- Exemptions:
 - Mining waste is regulated by the Federal Surface Mining Control Act of 1977 and by the Alaska Surface Coal Mining Control and Reclamation Act (AS 27.21)
 - Storage of small quantities
 - Other exemptions that normally don't apply to large mine permitting.

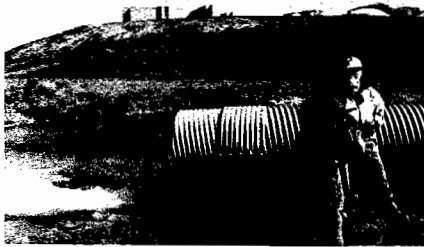
Other ADEC Permits

- NPDES Permit Certifications.
- Army Corp of Engineer Permit Certifications
- Storm water Discharge Certifications
- Air Quality Permits
 - mine construction
 - mine operation
- Other permits & approvals
 - drinking water system, domestic wastewater system, food service permits, fuel storage plan,

State vs. Federal Discharge Permits

- Facilities that discharge to surface water - Federal
 - Designed to discharge to the environment
 - Usually incorporates treatment prior to discharge
 - Direct hydraulic connection to surface water
 - Mixing zone in receiving water typically necessary
 - Federal NPDES permit typically required by EPA
 - State certifies that the NPDES permit meets State WQS
 - Example: Red Dog Mine
- Facilities with zero discharge to surface water - State
 - Designed to contain all water
 - No discharge to environment
 - No direct hydraulic connection to surface water
 - Example: Fort Knox Mine

Discharge at Red Dog Mine



Mixing Zones

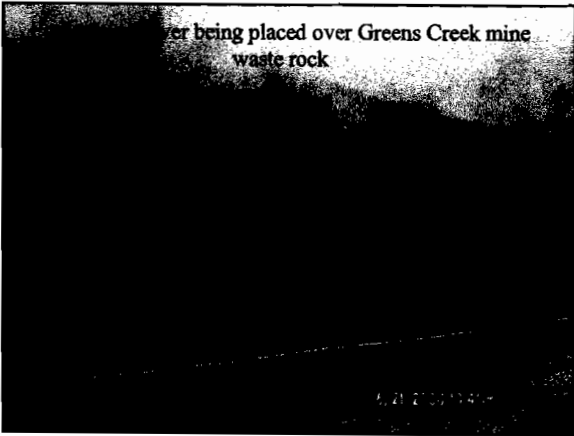
- Defined in Alaska Regulations 18 AAC 70.990(38).
- Are part of most permitted discharges to surface water.
- Required to be as "small as Practicable" 70.240(k)
- Can apply to both domestic and industrial discharges.
- Size is designated by the state (DEC)
-

Mixing Zones

- MZ Definition 18 AAC 70.990(38) Means an area in a water body surrounding, or downstream of, a discharge where the effluent plume is diluted by the receiving water within which specified water quality criteria may be exceeded.
- Part of state NPDES Certification Process.
- The Mixing Zone's regulations approved by the state on March 23, 2006 apply **ONLY** to state permits **NOT NPDES permits** and other federal authorizations until the EPA approves them. DEC is currently working with EPA for federal approval.

Example Water Monitoring Required in ADEC Large Mine Permit

- At Zero-discharge facilities:
 - Groundwater and surface water monitoring to ensure that facility is operating as no-discharge (chemical and physical)
 - Process water monitoring
 - Tailings solids monitoring
 - Waste rock monitoring
 - Biological monitoring
 - Example: Ft. Knox Mine
- At Discharging Facilities:
 - All of the above monitoring
 - Upstream and downstream water monitoring
 - Examples: Red Dog Mine and Pogo Mine

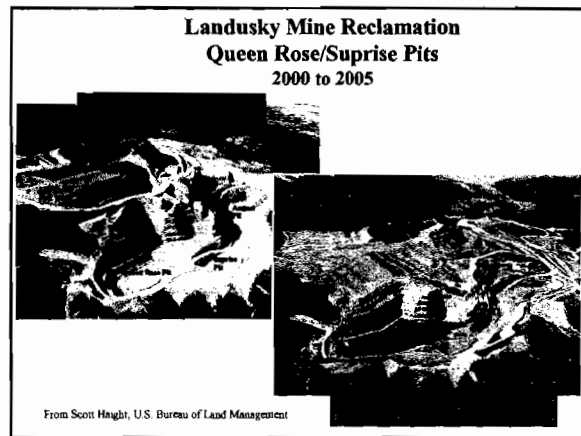
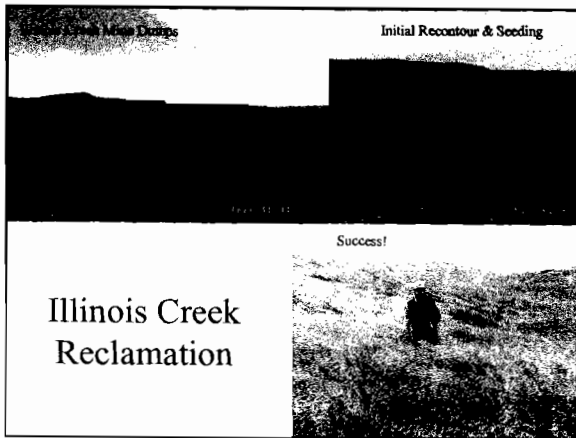


RECLAMATION PLAN APPROVAL

Issued by DNR

Division of Mining, Land and Water/Mining Section

- Minesite must be returned to a stable condition, compatible with the post-mining land use (AS 27.19.020)
- Financial Assurance must ensure State can do reclamation even if company cannot.



Financial Assurance is based on a detailed engineering analysis

Table 1. Financial Assurance Requirements

Item	Amount	Source	Notes
Initial Reclamation	\$1,000,000	Company	
Operating Reclamation	\$2,500,000	Company	
Final Reclamation	\$1,500,000	Company	
Total	\$5,000,000	Company	

Table 2. Financial Assurance Requirements

Item	Amount	Source	Notes
Initial Reclamation	\$1,000,000	Company	
Operating Reclamation	\$2,500,000	Company	
Final Reclamation	\$1,500,000	Company	
Total	\$5,000,000	Company	

Financial Assurance

- What Mechanism? (Bond, Letter of Credit, Cash, Collateral)
Most are Letters of Credit
- Trust Fund to be used for long-term obligations
- Applies equally to US and non-US corporations

Financial Assurance

- Amounts vary, mostly due to long-term obligations (water treatment, monitoring)
- Amount is reviewed every 5 years during Environmental Audit

Financial Assurances for Alaska Mines

Not static, audited & recalculated every 5 years
or when significant changes occur

Operation	Total Bond (\$ Millions)
Greens Creek Mine	\$29.2
Red Dog Mine	\$154.9
Fort Knox (& True North) Mine	\$37.6
Usibelli Coal Mine & Exploration	\$11.3
Kensington Project	\$7.4
Rock Creek Mine	\$6.8
Pogo Mine	\$27.6
Nixon Fork Mine	\$3.5
TOTAL	\$278.3

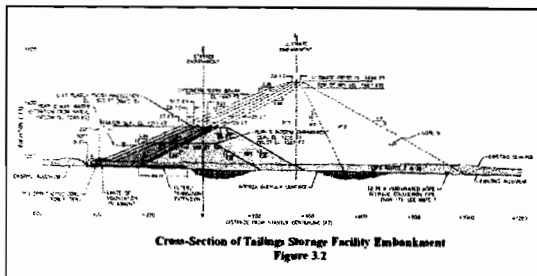
Fort Knox Mine
Fairbanks



DAM SAFETY CERTIFICATION

Issued by DNR
Division Of Mining, Land And Water/Dam Safety Unit

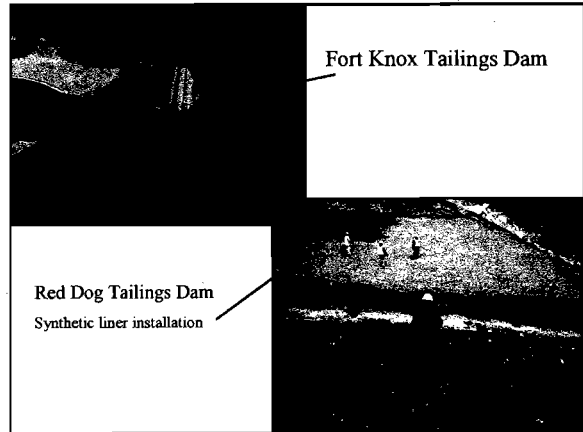
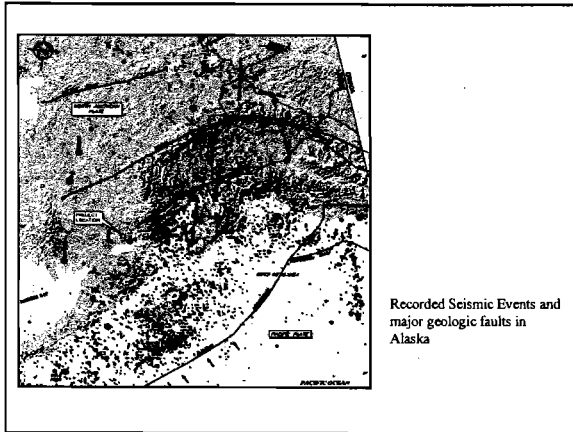
- All dams (tailings and water storage) must be designed to State standards.
- Includes seismic standards
- Financial assurance for long term care and maintenance



Technical Issues for Dams

- Site location and hazard potential
- Geology and seismicity
- Hydrology and hydraulics
- Structural integrity and slope stability
- * Seepage control
- Operations and maintenance
- Emergency contingency planning

* all dams seep - often design
in to improve control of seep 12



SURFACE COAL MINING CONTROL AND RECLAMATION PERMIT

Issued by DNR
Division Of Mining, Land and Water/Mining Section

- State primacy program with Federal oversight
- Prescribed engineering and design standards
- Financial assurance required
- Federal Applicant Violator System
- Mandatory monthly inspections
 - Inspectors have enforcement authority

OTHER DNR AUTHORIZATIONS

- Millsite Lease — Division Of Mining, Land and Water
- Plan of Operations Approval — Division Of Mining, Land and Water
- Material Sales — Division Of Mining, Land and Water
- Rights-of-Way (access, powerlines) — Division Of Mining, Land and Water
- Leases (off-site facilities, docks) — Division Of Mining, Land and Water
- Coastal Consistency Review — Division of Coastal and Oceans Management
- Cultural Clearances — State Historic Preservation Office
- Water Rights — Division Of Mining, Land and Water

Fish Habitat & Fishway Permits

[OHMP/ADF&G Presentation](#)

OFFICE OF HABITAT MANAGEMENT & PERMITTING

OHMP Mission Statement

To protect Alaska's valuable fish & wildlife resources and their habitats as Alaska's population and economy continue to expand.

<http://www.dnr.state.ak.us/habitat/>

Title 41 Permits

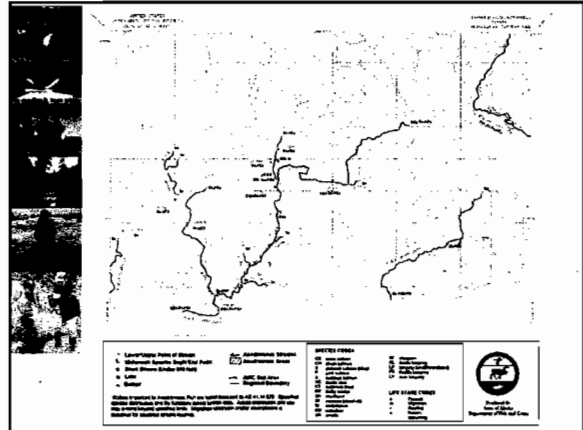
AS 41.14.840: Fishway Act

For activities within or across a stream used by fish that could represent an impediment to the efficient passage of fish, e.g., culverts, water withdrawals, stream realignments or diversions, dams, low-water crossings; and construction, placement, deposition, or removal of any material or structure below ordinary high water.



AS 41.14.870: Anadromous Fish Act

All activities within or across a specified anadromous waterbody and all in-stream activities affecting a specified anadromous waterbody require approval from the OHMP, including construction; road crossings; gravel removal; mining; water withdrawals; the use of vehicles or equipment in the waterway; stream realignment or diversion; bank stabilization; blasting; and the placement, excavation, deposition, or removal of any material.



Culverts and bridges designed and installed to ensure fish passage

- Temporary water use
- In-water construction
- Bank restoration/stabilization

Bons Pond-Red Dog Mine

- Arctic grayling (*Thymallus arcticus*) transplanted into Bons Pond in 1994 and 1995 have established a self-sustaining population
- Arctic grayling population exceeds 5,000 fish greater than 200 mm long (about 8 inches)
- Arctic grayling have left Bons Pond and returned as a component of the spring spawning migration into North Fork Red Dog Creek which provides the only area of documented significant spawning habitat in the Ikalukrok Creek drainage

Constructed wetlands at Fort Knox

Pond-stream-channel system created from mine tailings

Habitat for waterfowl and wildlife

Review Responsibilities

delineated in the MOU between ADFG & OHMP

- **Other State Actions**
 - Hazing permits, fish and game resource permits, land mgt plans, instream flow reservations, oil spill contingency
- **Federal Actions**
 - FERC licenses, land mgt plans
- **Municipal Actions**
 - Land use plans, muni planning and zoning, disposals
- **Access Actions**
 - Federal land conveyances, state and muni easement creation or vacation

Review Responsibilities

under the Large Mine Permitting Team

- **Most project reviews associated with mining are coordinated through OHMP**
 - Large mine project reviews coordinated centrally with Region 5
 - Other mine project reviews coordinated directly with area and other DFG staff
 - ADF&G not directly involved at the LMPT level – input coordinated through OHMP
- **ADFG direct involvement with LMPT**
 - Large mining activities within a Special Area
 - Pebble mine

Monitoring Plan Approval (ADEC/DNR/ADF&G)

- Air Q
- Water Q
 - Surface
 - Groundwater
- Fish & Wildlife Studies

Baseline

↓

**Operation
(Compliance)**

↓

**Post-Closure
(Compliance)**

Environmental Audits

- Environmental Audits on 5 year schedule tied to reissuance of permits
- All environmental systems audited
- Audits evaluate Agencies as well as operations
- Audits by 3rd party experts
- Financial Assurances revisited and recalculated based on Audit results

The Agencies

State Agencies

LARGE MINE PERMITTING TEAM

- Department of Natural Resources
(Lead State agency for coordination)
- Department of Environmental Conservation
- Department of Fish and Game
- Department of Transportation & Public Facilities
- Department of Commerce, Community and Economic Development
- Department of Law
- Department of Health & Social Services

State Agencies
LARGE MINE PERMITTING TEAM

- **Department of Natural Resources**
 - Division of Mining, Land and Water
 - Office of Habitat Management and Permitting
 - Office of Project Management and Permitting
 - Division of Coastal and Oceans Management

State Agencies
LARGE MINE PERMITTING TEAM

- **Department of Environmental Conservation**
 - Division of Water
 - Division of Air Quality
 - Division of Environmental Health

State Agencies
LARGE MINE PERMITTING TEAM

- **Department of Fish and Game**
 - Division of Wildlife Conservation
 - Division of Subsistence
 - Sport Fish Division
 - Division of Commercial Fisheries

Large Mine Permitting Team (LMPT)

DNR Coordinates the permitting of large mine projects in the state in accordance with AS27.05.010(b):

The department is the lead agency for all matters relating to the exploration, development, and management of mining, and, in its capacity as lead agency, shall coordinate all regulatory matters concerning mineral resource exploration, development, mining, and associated activities. Before a state agency takes action that may directly or indirectly affect the exploration, development, or management of mineral resources, the agency shall consult with and draw upon the mining expertise of the department.

THE LARGE MINE PERMITTING TEAM:

- Coordinates review of applications and numerous State permit requirements
- Reviews, analyzes, and evaluates complex technical documents for adequacy and soundness
- Benefits from multi-disciplinary expertise of team members (geologists, engineers, hydrologists, biologists, environmental scientists)

THE LARGE MINE PERMITTING TEAM:

- If the Team does not have the expertise, we can hire additional experts.
- At operating mines the team members conduct mine inspections and evaluates permit updates during operations.
- The Team is involved from pre-permitting to post-closure.
- State costs are billed back to the applicant/operator

Federal Agencies

- US Environmental Protection Agency
- US Army Corps of Engineers
- US Fish and Wildlife Service
- National Marine Fisheries Service
- Bureau of Land Management
- U. S. Forest Service
- National Park Service

MAJOR FEDERAL REGULATORY REQUIREMENTS

- US EPA Section 402 NPDES Water Discharge Permit
- US ACOE Section 404 Dredge and Fill Permit
- US ACOE Section 106 Historical and Cultural Resources Protection
- NMFS Threatened and Endangered Species Act Consultation
- NMFS Essential Fish Habitat
- USFWS Threatened and Endangered Species Act Consultation
- USFWS Bald Eagle Protection Act Clearance
- USFWS Migratory Bird Protection

NPDES Permitting

[EPA Presentation here](#)

NPDES

- National Pollutant Discharge Elimination System
- Controls the discharge of pollutants from point sources into waters of the United States
- Has to be consistent with the Coastal Zone Management Act
- Has to be certified by the State
CWA §401

Makes a discharge legal:

Section 301(a) of the Clean Water Act states:

Except as in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act, the discharge of any pollutant by any person shall be unlawful.

Section 402 is NPDES Program

Section 402 of the CWA

- EPA currently:
 - Drafts permits with technology or water quality based limits (the more stringent of either)
 - Issues permits to discharges
 - Conducts compliance inspections
 - Tracks permit compliance
 - Takes enforcement actions when necessary

EPA

- CWA § 402 (NPDES)
 - NPDES wastewater discharge permit
 - Storm Water Construction
 - Storm Water Operation
- CWA § 404 Permit Review
- Spill Prevention, Control, Countermeasure (SPCC) Plan
- Underground Injection Control (UIC) permit

What else does NPDES do?

- For discharges with New Source Performance Standards, filing a federal NPDES application triggers NEPA.

For more information on NPDES:

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Wetlands permitting

[ACOE presentation here](#)



Section 10 Geographic Area Jurisdiction

Navigable waters of the United States are those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce (see 33 CFR Part 329).



Section 10 Activities Jurisdiction

- Structures and/or work in or affecting navigable waters of the United States.
- Structures and/or work outside the limits of navigable waters, **IF** these structures or work could affect the course, location, or condition of the waterbody so as to impact its navigable capacity.
- Artificial islands, installations, or other devices on the outer continental shelf.



CWA Section 404 Geographic Area

- (1) Navigable waters of the United States.
- (2) Interstate waters & interstate wetlands.
- (3) Other waters such as intrastate lakes, rivers, streams, mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce.



Section 404 Activities Jurisdiction

- Discharge of dredged material.
- Discharge of fill material.
- Applies on private, public, and Native land.



Definition of Fill Material

- Definition of fill is now consistent with US EPA.
- New definition outlined in FR Vol. 69 No. 90 > May 9, 2002 Pages 31129-31143.
- Material placed in waters of the U.S. that has the effect of either replacing any portion of a water of the U.S. with dry land or changing the bottom elevation of any portion of a water.
- The primary purpose test has been eliminated.

*Discharge.
Fill -
to fill me*



Activities Typically Regulated At Large Projects when Located in Waters

- Fill for roads, storage areas, building pads, dikes, diversion berms, drill pads, pipelines, power lines, airstrips, piers, breakwaters.
- Fill for dams or liners, valley fills.
- Overburden stockpiles / storage.
- Waste rock stockpiles / storage.
- Mechanized land clearing.



DA Public Notices the Proposed DA Application

- The Corps does not issue draft permits or place draft permits in an DEIS or FEIS.
- Goal is to have the EIS contain the data to select the Least Environmentally Damaging Practicable Alternative.
- Proposals change from the DEIS, to FEIS, to permit issuance, or permit denial.
- Corps must issue a Record of Decision on the proposed action. The Corps does not request comments on a draft ROD.
- We are not paid by the applicant. The salary of Federal employees paid by the tax payer.



EPA 404 (b)(1) Guidelines

The analysis of alternatives required for NEPA environmental documents will in most cases provide the information for the evaluation of alternatives under these Guidelines. It may be necessary to supplement the NEPA documents with additional information.



EPA 404 (b)(1) Guidelines

- Guidelines are not the same as NEPA. NEPA is a disclosure document.
- DA can pay for internal Corps review of documents, ERDC, H&H.
- When fill is placed into special aquatic sites the Corps must select the Least Environmentally Damaging Practicable Alternative (LEDPA) considering costs, logistics and available technology. The LEDPA may not be the same as the preferred alternative in FEIS.



EPA 404 (b)(1) Guidelines

An alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.



EPA 404 (b)(1) Guidelines

No discharge of dredged or fill material shall be permitted if it:

1. Violates any applicable State water quality standard;
2. Violates any applicable toxic effluent standard or prohibition under section 307 of the Act;
3. Jeopardizes the continued existence of species listed as endangered or threatened under the Endangered Species Act of 1973;
4. Violates any requirement imposed by the Secretary of Commerce to protect any marine sanctuary designated under Title III of the Marine Protection, Research, and Sanctuaries Act of 1972.



EPA 404 (b)(1) Guidelines

5. Contributes to significant degradation of the waters of the United States.
6. Has significant adverse effects on life stages of aquatic life and other wildlife dependent on aquatic ecosystems:
7. Has significant adverse effect on the aquatic ecosystem diversity, productivity, and stability.
8. Has significant adverse effect on the on recreational, aesthetic, and economic values.



404 (b)(1) Guidelines

No discharge of dredged or fill material shall be permitted unless appropriate and practicable steps have been taken which will minimize potential adverse impacts of the discharge on the aquatic ecosystem.



For Alaska, 404 Permit Requires

A 401 Certificate of Reasonable Assurance from the Alaska Department of Environmental Conservation.

A conclusive Coastal Zone Consistency Determination



Corps Contacts

- In state phone: 800-478-2712.
- Out of state: 907-753-2712.
 - Fax number: 907-753-5567.
-
- Corps of Engineers, Alaska District
 - P.O. Box 6898
 - Elmendorf AFB, Alaska 99506-6898

SUMMARY

- Synchronize public notice, hearings, public comments
- Technical review of operations plan and environmental data
- "DESIGN FOR CLOSURE"
- Ensure appropriate monitoring (air, water, reclamation success, etc)
- Determination & maintenance of appropriate financial assurances
- Environmental Audits required every 5 years

How Can We Improve?

- Public involvement
- Information dissemination
- Education
- Others?

CHECK US OUT AT:

<http://www.dnr.state.ak.us/opmp/>
or
<http://www.dnr.state.ak.us/mlw/mining/largemine.htm>

Tom Crafford, Mining Coordinator
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(907) 269-8629



ALASKA DEPARTMENT OF NATURAL RESOURCES

OFFICE OF PROJECT MANAGEMENT AND PERMITTING

PERMITTING LARGE MINE PROJECTS IN ALASKA

Numerous state, federal, and local government permits and approvals are required before construction and operation of a large hardrock mine in Alaska can begin. Each project presents unique challenges, therefore the specific permits and approvals required can vary from project to project. The State of Alaska has developed a process to coordinate all State agency permitting for such projects. This process, which also integrates with federal and local government permitting, has significantly streamlined mine permitting for the benefit of both the industry and the public.

The Department of Natural Resources (DNR), Office of Project Management and Permitting (OPMP) coordinates the permitting of large mine projects in the state. OPMP assigns a project manager to serve as the primary contact for a large mine project. The project manager coordinates the permitting activities of the state team assigned to work on the project. The large mine project team (LMPT) is an interagency group, coordinated by DNR, that works cooperatively with large mine applicants and operators, federal resource agencies, and the Alaskan public to ensure that projects are designed, operated and reclaimed in a manner consistent with the public interest. The project manager's primary responsibility is to ensure a coordinated process with minimum duplication. This often involves tailoring the process to fit specific project needs.

For coal mine projects in Alaska, the coordinating role is held by the Coal Regulatory Program, within DNR's Division of Mining, Land and Water/Mining Section.

Some of the permits/approvals that may be required include, but are not limited to, the following:

DEPARTMENT OF NATURAL RESOURCES (DNR)

Plans of Operation Approval. This approval authorizes the plan of operations for non-coal mines, and is required for all mining projects on state land. DNR's Division of Mining, Land and Water/Mining Section issues this approval.

Reclamation Plan and Bond Approval. This approval authorizes the reclamation plan and bond cost estimate for non-coal mines on all lands in Alaska. DNR's Division of Mining, Land and Water/Mining Section issues this approval.

Surface Coal Mine Permit. For coal mines, Alaska's Coal Regulatory Program issues surface coal mining permits in accordance with the Alaska Surface Coal Mining and Reclamation Act. This permit approves the mine's plan of operations, reclamation plan, and financial assurance. DNR's Division of Mining, Land and Water/Mining Section issues this permit.

Right-of-Way for Access and Utilities. For projects on state land, a right-of-way is required for infrastructure such as roads, pipelines, and powerlines. Other access authorizations may be

required for non-State lands as well. DNR's Division of Mining, Land and Water/Lands Section issues this approval.

Millsite Lease. A Millsite Lease is required for mine project facilities on State land. This lease gives the proponent a surface property right for the facilities. DNR's Division of Mining, Land and Water/Mining Section issues this lease.

Title 41 Permit. This permit, regardless of land ownership, is required for any activity conducted within fish-bearing waters, such as bridges, culverts, fords (winter or summer), material sites, tailings facilities, and water-withdrawal structures. DNR's Office of Habitat Management and Permitting (OHMP) issues this permit.

Permit to Appropriate Water. Appropriation of a significant amount of water on other than a temporary basis requires authorization by a Water Rights Permit. A Water Right is a property right for the use of public surface and subsurface waters. Temporary uses of a significant volume of water, for up to 5 years, require a Temporary Water Use Permit. DNR's Division of Mining, Land and Water issues this permit.

Dam Safety Certification. A Certificate of Approval to Construct and a Certificate of Approval to Operate must be obtained for any significant dam in the State. These certificates involve a detailed engineering review of the dam's design and operation. The certificates are issued by DNR's Division of Mining, Land and Water/Dam Safety Unit.

Upland or Tideland Leases. A project may require a property interest in lands not adjacent to the minesite itself. For use of state-owned tidelands, a tideland lease is issued for marine facilities such as docks. Likewise, for use of state-owned uplands, a lease is required for facilities such as transportation and staging facilities. DNR's Division of Mining, Land and Water/Lands Section issues these leases.

Material Sale. If materials such as sand, gravel, or rock, are needed from state lands off the millsite lease, then a separate material sale must be issued. DNR's Division of Mining, Land and Water/Lands Section issues this sale.

Winter Travel Permits. Cross-country travel on snow or ice roads is commonly used to stage equipment and supplies for a project. A permit from Division of Mining, Land and Water/Lands Section must be obtained before constructing such roads on state land, or conducting overland travel. Crossings of fish-bearing water bodies by snow or ice roads will require authorization by OHMP prior to construction.

Cultural Resource Protection. Clearance must be obtained from the State to ensure that a project will not significantly impact cultural and archaeological resources. If significant disturbance cannot be avoided, then a compensation strategy is developed. Cultural resource clearances are obtained from DNR's State Historic Preservation Office.

ACMP Consistency Review. If a project is within Alaska's Coastal Zone, it is reviewed for consistency with the Alaska Coastal Management Program's enforceable policies, including coastal district policies. The review is a coordinated review of federal and state authorizations, all of which require a positive consistency determination before issuance. Coastal Consistency Review's are conducted by DNR's Office of Project Management and Permitting (OPMP).

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION (ADEC)

Waste Management Permit. If tailings or waste rock from a mine project has the potential for impacting state waters, then a Waste Management Permit must be obtained. This permit usually

requires pre-operational, operational and post closure monitoring. The permit also requires financial assurance both during and after operations, and to cover short and long-term treatment if necessary, closure costs, monitoring, and maintenance needs.

Domestic and Non-Domestic Wastewater Disposal Permits. ADEC must authorize the discharge of wastewater into or upon all waters and land surfaces of the state. A separate state permit is not required if the department certifies an NPDES permit. If injection wells are part of the wastewater disposal plan, then the requirements for EPA's Underground Injection Control (UIC) Class V wells must be met in addition to any requirements in a state wastewater permit.

Certificate of Reasonable Assurance for 402 and 404 Permits. Activities involving discharge of wastewater or fill material into waters of the United States are governed by the terms and conditions of a Clean Water Act (CWA) Section 402 NPDES Permit from the Environmental Protection Agency (EPA) and a CWA Section 404 Permit from the COE. CWA Section 401 also requires the applicant to obtain state certification that any discharge under CWA Sections 402 or 404 will comply with applicable state water quality standards.

Storm Water Discharge Pollution Prevention Plan. ADEC certifies the NPDES Storm Water General Permits for both construction activities and during operational phases of the facilities. ADEC approves Storm Water Pollution Prevention Plans under its CWA Section 401 certification authority. The facility may have separate NPDES permits to cover waste water and storm water discharges, or the requirements may be combined into one permit.

Air Quality Permits. The construction, modification, and operation of mining facilities that produce air contaminant emissions require a state Air Quality Control Permit to Construct, and a separate Air Quality Control Permit to Operate. The determination to require a permit is based on the source location, total emissions, and changes in emissions for sources specified in 18 AAC 50.300(a). Generally, air quality must be maintained at the lowest practical concentrations of contaminants specified in the Ambient Air Quality Standards of 18 AAC 50.020(a).

Approval to Construct and Operate a Public Water Supply System. Prior to start of construction, ADEC must approve, in writing, detailed engineering reports, plans, and specifications for the construction, alteration, or modification of a public water system. Once construction has been completed, ADEC must approve operation of a public water system.

Plan Review for Non-Domestic Wastewater Treatment System. Plans for disposal of wastewater from milling operations and other non-domestic wastewater sources are to be submitted to the state for approval for either a state Wastewater Disposal Permit or an NPDES Permit. ADEC reviews plans for the NPDES application under CWA Section 401.

Plan Review and Construction Approval for Domestic Sewage System. The construction and operation of facilities that collect, treat, and dispose of wastewater is governed by a plan review to ensure that minimum standards are applied. Detailed engineering reports, plans, and specifications must be certified by a registered Professional Engineer.

Oil Discharge Prevention and Contingency Plan. Approval of an oil discharge contingency plan is required prior to commencement of operation of vessels and oil barges on state waters, or for oil terminal facilities capable of storing more than 1,320 gallons above ground or more than 42,000 gallons underground. These contingency plans are reviewed every 3 years.

ALASKA DEPARTMENT OF FISH AND GAME (ADF&G)

If a project is within a state refuge, sanctuary, or critical habitat, any activity within the special area will require a Special Areas Permit from ADF&G.

A permit from ADF&G, called a Scientific Collection Permit, is required for any sampling of fish or wildlife resources.

FEDERAL AGENCIES

The involvement of federal agencies may vary for each project, but most projects at least require authorizations from the US Environmental Protection Agency and the US Army Corps of Engineers. DNR's Office of Project Management and Permitting also coordinates with the pertinent federal agencies, as required:

U.S. Environmental Protection Agency Section 402 NPDES Permit. Sections 301 and 306 of the CWA require that EPA develop wastewater effluent standards for specific industries, including mines. These standards are established both for existing sources and new sources. For new mines with new waste discharges, New Source Performance Standards (NSPS) are applicable (40 CFR 440.104). Section 402 of the CWA requires the mine to obtain an NPDES permit for its proposed discharge. The NPDES permit would be required to meet the NSPS or the water quality standards, whichever provides the more stringent limitation.

In accordance with Section 511(c)(1) of the CWA, NPDES permit actions for new sources are subject to NEPA (40 CFR Part 6, Subpart F). Therefore, EPA would issue a Record of Decision in conjunction with the final permit action.

EPA is the NPDES permitting authority in Alaska. ADEC, pursuant to Section 401 of the CWA, must provide certification to EPA that the discharge would comply with any applicable state water quality standards. Mixing zones for the dilution of effluent pollutants may be allowed under ADEC certification, and the mixing zone requirements would be incorporated into the EPA NPDES permit.

EPA could use its CWA authority to review the Spill Prevention, Control, and Countermeasure Plan required for storage of large quantities of oil.

Other EPA permits include:

- Review of COE CWA Section 404 Permit
- Stormwater Construction and Operation Permit
- Class V Underground Injection Control (UIC) Permit

U.S. Army Corps Of Engineers Section 404 and Section 10 permits. A discharge of dredged or fill material, including mine tailings, into waters or wetlands of the United States is prohibited unless authorized by the Corps of Engineers (COE) under Section 404 of the CWA. To the degree that activities have an effect on "waters of the United States," these activities undertaken in connection with mining operations might require a Section 404 Permit (including road or bridge construction, construction of dams for tailings storage, water storage dams, and stream diversion structures).

The COE is responsible for determining consistency of the proposed action with the Section 404 (b)(1) guidelines. Under Section 404 (c), EPA has review authority over the COE 404 Permit decisions.

Under Section 10 of the Rivers and Harbors Act of 1899, the COE also must issue a permit for any structure or work that could obstruct traditionally navigable waters.

Appropriate Federal "Landowner." " If a project is on Federal lands, then authorizations must be obtained from the appropriate managing agency, such as the U.S. Forest Service or Bureau of Land Management.

US Fish and Wildlife Service. Federal agencies must conduct a Section 7 consultation with the U.S. Fish and Wildlife Service (USFWS) regarding any threatened or endangered species that may be affected by the proposed project. The level of required informal or formal consultation depends on whether listed species occur in the project area, and, if so, whether they are likely to be affected by the proposed project. If listed species occur in the area and they may be affected, then agencies and the USFWS would undergo the formal consultation process. This is typically an involved process that results in measures designed to minimize the impact of the project on listed species.

The USFWS implements provisions of the Bald Eagle Protection Act and the Migratory Bird Act. The USFWS also provides technical expertise and provides comments and recommendations to federal agencies via the Fish and Wildlife Coordination Act (16 USC 661 et. Seq.).

National Marine Fisheries Service. Federal agencies must conduct a Section 7 consultation with the National Marine Fisheries Service (NMFS) in accordance with the Endangered Species Act (ESA). If any impacts are predicted for any threatened or endangered marine species, specific design measures to protect the affected species must be developed.

In a similar manner, Federal agencies must consult with NMFS concerning any action that might adversely affect essential fish habitat (EFH). EFH includes habitats necessary to a species for spawning, breeding, feeding, or growth to maturity. EPA will provide NMFS with an EFH assessment.

THE PROCESS

The goal of the state's Large Mine Project Team is to coordinate the timing and completion of the numerous permits. The team reviews all the complex technical documents generated during the process and provides coordinated comments. The team also coordinates stakeholder involvement and provides a single point of contact for the public. The team provides the public, agencies and the applicant the opportunity to view the project as a whole.

The requirement for the federal authorizations usually triggers the requirement for an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). The State usually participates as a cooperating agency in the EIS process, and the team endeavors to dovetail the state's permitting process with the EIS process. For example, during the Pogo Mine process, the public Draft EIS included drafts of all the major state permits. This gave the public the opportunity to see how the state's management decisions could be implemented on the ground, and enabled them to comment on the project as a whole.

The Large Mine Project Team also coordinates, to the extent possible, with local governments. For example, the team has been working closely with the City and Borough of Juneau throughout the permitting and EIS process for the Kensington Mine. The City's Conditional Use Permits are critical authorizations for the mine, and may place additional stipulations on the project.

The following is a summary of the general process used by the team:

Pre-Scoping/Schedule. The first task for the Large Mine Project Team is to work with the potential applicant to ensure that they understand the process and regulatory requirements and sideboards, that they are collecting the appropriate baseline data, that they understand what information the State needs in an application, and that a realistic schedule is developed.

Permit Application. The applicant submits an application package, and the team reviews this to make sure all the necessary information is included.

Scoping/Issues Identification. The team works with the applicant, public, agencies, and other stakeholders to identify the issues that will need to be addressed during the process.

Review and Analysis. The team reviews the baseline data and the application package, and identifies the potential impacts from the project.

Issues Resolution. The team works with the applicant to resolve the issues, usually resulting in modifications to the permit application package.

Project Authorization. The team drafts the authorizations, gathers public input, and finalizes the authorizations.

Post Permit issuance. Once the permits are issued and construction and operation begins, the team is active in permit maintenance, inspection, and compliance monitoring.

Reclamation and Final Closure. The team is responsible for ensuring that reclamation and closure objectives are met, and that financial assurances are released.

A Memorandum of Agreement (MOA) is typically required by the state to reimburse the cost of permitting for large mine projects. An MOA provides the means for the state to dedicate experienced staff to the permitting efforts. This assures that key personnel from the various agencies are devoted to specific projects. These agreements are renewed annually. "Not-to-exceed" limitations can be applied to help control costs. In its coordinating role, DNR acts as the centralized accounting function for the MOA. The issuance of permits is not guaranteed by an MOA.

STAFF

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<http://www.dnr.state.ak.us/opmp/>
<http://www.dnr.state.ak.us/mlw/mining/largemine/>

RC42

To Board of Fisheries Members,

I am a life long Alaskan I was born in the Palmer Alaska in the year that Alaska became a State 1959. I have lived in the Matanuska Valley for 48 years and have fished all over Alaska but most in the Matanuska Valley.

Over the last 18 to 20 years I have seen a steady decline in the amount of salmon in the local rivers even though we have more sport fish and personal use regulations that limit the chances to catch fish also time restrictions and location restrictions. I do not want to have drive to the Kenai Peninsula to go salmon fishing and I know that if the Upper Cook Inlet fisheries were managed properly I and all the sport and personal use fishermen would have plenty of fish. The Northern district fishermen have been ignored and escapements have been missed year after year and no changes have been made to increase the amount of fish in the rivers. Instead the Department of Fish continues to say that they don't have enough data to know what is causing the decline in the amount of salmon in the river. I know and everyone else seems to know that when the Kenai River is projected to have a high return they will let the Cook Inlet Commercial Fisheries take more fish and we will get a low return to the Upper Cook Inlet Steams. On the other hand in the summer of 2006 the Kenai River seemed to be having a low return and so the Cook Inlet Commercial Fishing was restricted and we had a good return in the Upper Cook Inlet streams.

I know that they say that they are worried about the Kenai and Kasilof River having an over escapement of fish that will not have consistent runs but this has not been proven to be true. There are other ways to control the amount of fish getting up steam such as open up more opportunity for subsistence personal use and sports fisherman. I hope that as a Board of Fisheries Member you will consider the fair share of all Alaskans including the Upper Cook Inlet Fisherman when voting on proposals that will affect the amount of fish that we can harvest. Which will affect our economy and our way of life in the Upper Cook Inlet? The resources of the State of Alaska are supposed to be managed to the greatest benefit of all Alaskans and I am one of those that feel I have not been getting My Fare Share.

Jeff Fox at a recent meeting held in Palmer told us that he has no control over how many fish we get in the Upper Cook Inlet he said that he is only following exactly what the Board of Fish has told him to do. I know that he does have control over how many fish we get he may be forgetting his use of the Emergency Commercial openings every time he puts the nets out we are getting a low return of fish in the Upper Cook Inlet. There are plenty of fish for everyone in Alaska but I know that we are not managing this resource properly. There should never be an Emergency Commercial opening when we have not met our escapements in the Yentna River, Deshka River and many other Upper Cook Inlet streams most of these escapements don't even put enough fish in the rivers for Sport Fishing or Personal Use and barely meet the low side of our minimum escapement goal.

The last time that proposals were reviewed for The Upper Cook Inlet there were a lot of proposals that were passed that negatively affected the Sport and Personal use fishing in the Upper Cook Inlet there is a lot of responsibility on the members of The Board of Fish to make the right decision this time around

When I was a young boy growing up in Wasilla I could ride my bicycle to many near by streams and catch salmon for our family now most of those streams have less salmon in them and a lot of them are closed. We need to increase the escapements in the Upper Cook Inlet streams to make fish available to the Alaskans who live in this area not to mention the effect that it could have on tourism in the Matanuska Valley. We are always looking for ways to increase tourism in Alaska. Our fishing is a big draw for people from all over the world. If we look at how much one fish caught by a local or visiting sports fisherman contributes to local and state wide economy in comparison to the same fish caught in a Commercial net, the fish caught by the sports fisherman will generate a lot higher revenue and a lot more people will make money off of that one fish caught by the sports fishermen. More of the money made from sports fishing will stay in the State of Alaska. Also if there is less fish caught commercially there would be a greater price paid per pound we know that is true by looking at the recent increase in the price of halibut it is all about supply and demand.

I want to thank you for your help and the time that you have taken to serve on The Board of Fisheries.

Thank You
Howard Riley

RC43

Date: 1/29/08
To: The Board of Fish
From: Pat Donelson
Re: Upper Cook Inlet Salmon Management Plan

To The Board of Fisheries Members,

I am writing to you with deep concerns about declining salmon returns to upper Cook Inlet streams and with great hopes that the Board of Fish will act quickly to adopt new policy to allow more salmon to make it back to upper Cook Inlet river systems.

I have lived and fished in Alaska for nearly 20 years and the largest portion of my time in the outdoors has been spent somewhere in the Mat-Su valley. I own and operate a local fishing guide service and I am a registered assistant hunting guide in Alaska. I am privileged to be able to spend up to 160 days per year on the rivers or in the woods of Alaska.

I moved to Alaska from Oregon at a time when salmon fishing crashed and sport fishing for salmon was all but shut down. I witnessed how the failed salmon management plans or the lack thereof caused a catastrophic depletion of fish stocks, which led to statewide closures. While I did nothing to speak up back then, I feel must speak up now. I fear that I am witnessing the beginning of a similar decline in my own back yard.

As you are fully aware, the salmon returns in Alaska are world renown drawing millions who want to fulfill a lifelong dream to fish them. Anchorage and Mat-Su Valley communities have the privilege of hosting hundreds of thousands of these visitors as they pass through along the Parks Highway corridor. Many of these visitors stop here in large part to experience the salmon fishing available in this area. The economic benefits that the salmon resource and sport fishing opportunities provides to this area are vital to everyone who lives here.

The resource is salmon. It belongs to every Alaskan. The rivers that flow into the upper Cook Inlet provide the closest access to this resource for the largest population in the state as well as it's tourists and visitors. Over half the population of Alaska is within a 90-minute drive of this resource, not to mention that is also one of the closest sources of salmon resource for the Fairbanks area population base. The Mat-Su valley has been the fastest growing part of Alaska for well over a decade with no signs of stopping. These facts are compelling reasons to give priority attention to this resource and yet I was shocked to discover that there is no clear salmon management plan in place for these rivers and this resource. It is time to act to and to properly manage this resource for the maximum benefit if All Alaskans.

Valley residents learned in recent meetings with Department of Fish and Game officials and the Mat-Su Advisory Committee that there is no clear salmon

management plan in place for the upper Cook Inlet. We were all shocked to learn that for the last 17 years the management plan for this areas salmon resource has been dictated completely by Kenai River sockeye returns and not by in river data collected from the streams in the upper Cook Inlet which are directly effected. This must change. It must change this year in the upcoming Board of Fish meetings in Anchorage. This is what we know.

1. The Valley used to have a thriving personal use sockeye fishery. Now it is non-existent.
2. Sockeye fishing has been closed in the Yenta and Susitna river systems for the last three years consecutively.
3. Minimum escapement goals for sockeye on the Yenta have not been met in several years.
4. Coho fishing was closed by emergency order on the Little Susitna River last season.
5. Wasilla creek, Cottonwood creek, Fish creek, and other valley streams used to have significant salmon returns that provided good sport fishing and personal use opportunities, which are non-existent or nearly non-existent today.
6. Chum salmon returns to upper Cook Inlet streams have been on a sharp decline with 2007 being alarmingly low.
7. King salmon and silver salmon returns are declining dramatically and 2008 forecasts are dismal.
8. Recent Department of Fish and Game forecasts for record low returns of king salmon to the Deshka River were recently published on the front page of the Anchorage Daily News.
9. Anecdotal evidence from long time valley residents and guides suggests a steady decline in salmon returns river for decades.

One of the most disturbing elements to this scenario is that all of is happening while the Cook Inlet commercial fisherman touted record salmon catches in 2007. This is a terrible and unfortunate inequity in resource allocation and management. Why should the commercial fleet be allowed to catch more fish on more days and have more emergency openers at the expense of other rivers and hundreds of thousands of other users?

It is clear that overfishing by Cook Inlet commercial fisheries is having a dramatic effect on the salmon return to upper Cook Inlet streams. In recent meetings with Department of Fish and Game officials we were told that there is no proof of the correlation between Cook Inlet commercial fisheries and our lack of fish in the upper Cook Inlet.

In one recent meeting with department officials over 60 valley residents came to testify to the fact that there is something drastic happening to our fishery and to ask the department to act. Jeff Fox, who is in charge of commercial fishing in the Cook Inlet was present and he stated that the data we have from Yenta and Susitna river fish weirs and counters is flawed and he believes "there are way more fish getting

up the rivers than the data shows.” He told us that there is **NOTHING** they can do about declining returns and that it might be pike or beaver dams. When asked about the fact that there is no longer a personal use dip net fishery in the valley, he characterized valley residents who complained about needing to drive all the way to the Kenai to subsistence fish for sockeye as “whiners”. He told us that he has managed this now for 17 years and that they have tried everything and nothing has worked. He said the problem cannot be fixed and that the management they have in place now is working fine. He told us that he would not do anything to change what was happening and that he is doing exactly what the Board of Fish has told him to do in managing Cook Inlet fisheries. He told us that if we want something done we should complain to you, the Board of Fish. Well, here I am... I say it is time for new management and a new plan.

You cannot know how frustrating it is for us to hear this kind of rhetoric from Department officials who are hired to manage **OUR** resource. It is even more unnerving to know that they know full well that there is a clear correlation between Cook Inlet commercial catch and Yenta and Susitna returns. One glaring proof is in the current policy that says when Kenai River escapement is forecast to be over 4 million fish; the department lowers the escapement goals for sockeye on the Yenta system from 90,000 to 75,000. When the Kenai forecast is low, the department raised the goals back to 90,000.

Why do they do this? Because when the Kenai forecast is high they know the commercial fleet will be out on more days, on more openers, with more nets and they will intercept more fish bound for upper Cook Inlet systems. They know that the returns to river systems upstream in the inlet from the Kenai will suffer as a “byproduct” of keeping the Kenai escapement in check. This is **WRONG**.

It is not rocket science to us, when the nets are out we get less fish, period. Those of us who spend everyday of our summer on the river don’t need a weir or sonar to tell us when the commercial nets are out. We see a dramatic difference. Our 2006 Coho season was a classic example. The Kenai sockeye return was in trouble and the department thought they were not coming so they pulled back the commercial fishery in hopes of getting their escapement up the Kenai. As a result we had a phenomenal coho season. We caught our first coho on June 28th just below the weir on the Deshka and they never stopped. I realize this data is purely anecdotal but this is how it goes year after year for us who fish upstream of the Kenai River.

So what needs to be done?

1. The Board of Fish must consider this problem as critical and adopt policy this year to better manage this resource by the constitutional mandate “for the maximum benefit of all Alaskans.”
2. The board should also refuse the adoption of any proposals before them at this up-coming session, which would result in fewer fish being allowed to pass to upper Cook Inlet streams. Many of the proposals you will consider this session are designed to give the commercial fleet more areas, more

openers, more nets, bigger nets, and ultimately more fish. In light of present upper Cook Inlet conditions and forecasts the adoption of such proposals would be shortsighted and wrong.

3. Mid range Yenta River sockeye escapement goals should be met before any additional fishing days, areas, or emergency openers are granted for the Cook Inlet commercial fleet, especially the central section drift net fleet.
4. Personal use, sport fishing, and spawning escapement goals for Yenta and Susitna River systems should be met before more openers and emergency openers are granted.
5. If Kenai over escapement is a concern, then an "in river" problem should be resolved by an "in river" solution. For example, personal use and sport fishing daily bag limits could be increased and commercial or set netting could occur in mouth or lower river to limit over escapement. This would manage Kenai escapement and correct unintended intercept of upper Cook Inlet stocks.

I feel that managing upper Cook Inlet stocks solely upon Kenai River needs is wrong and is mismanagement of one of Alaska's most valuable resources. The Susitna drainage is capable of producing one of the top 10 salmon runs in the world with proper management. Since this particular management issue directly affects over half the states population living in the Anchorage and Mat-Su valley area, it has monumental ramifications for Alaskan's and their economy.

Sport fish catches amount to only 4% of the total catch each year but it contributes directly to the second largest yield to the state economy. Protecting and properly managing this resource will benefit every Alaskan and should be high priority for the Board of Fish. If changes need to be made, why should the personal use and sport fishing users take the hit when 96% of the catch is going to a very limited and mostly out of state owned user group. In addition, as management plans go, the success of one river system should not result in the destruction of many others. Please consider the adoption of policies that will properly and effectively manage upper Cook Inlet salmon resources for the benefit of all Alaskan's.

Thank you so much for investing your time and energy in these very important matters. The decisions you make on the Board of Fish will impact us for generations. I appreciate the opportunity to give input and for your willingness to hear me. If you have any questions please feel free to contact me. If you would like me to testify at any of the up coming Board of Fish meetings I am more that happy to do it.

Sincerely,



Pat Donelson
1399 Ridgeview Dr.
Wasilla, Alaska 99654
907-357-0131



MEDIA RELEASE

Alaska Department of Natural Resources

RC 44

Tom Irwin, Commissioner
400 Willoughby Ave., 5th Floor
Juneau, Alaska 99801
907-465-2400

Public Information Center
550 West 7th Ave., Suite 1260
Anchorage, Alaska 99501
907-269-8400

DIVISION OF Parks and Outdoor Recreation

CONTACT: Chris Degernes

RELEASE DATE: Feb. 1, 2008

PHONE: (907) 269-8702

SUBJECT: Kenai River Motor Regulations Finalized

DNR Commissioner Tom Irwin has announced that on January 31, Lt. Governor Parnell approved the regulations that implement changes for boats and motors on the Kenai River. The new regulations that will be effective on March 1, 2008 will permit the use of 50 horsepower motors, as long as any motor that is larger than 35 horsepower is one of the cleaner burning four-stroke or Direct Fuel Injected (DFI) two-stroke motors. Additionally, all motors used within the Kenai River Special Management Area during the month of July must also be either four-stroke or DFI two-stroke motors. The proposed full phase out of all older two-stroke engines that was to go into effect in 2010 has been removed from the approved regulations.

In recognition that most of the hydrocarbon pollution problems have been concentrated in July, and that a good many Alaskans do not have the immediate resources to transition to the new cleaner burning motors right away, the decision was made to remove the date by which all older two-stroke motors would be banned.

DNR plans to re-propose the year-round ban on older two-stroke motors with a 2013 effective date to give river users a longer period to complete this transition.

In addition to the changes on motors, the approved regulations also limit overall boat size to no more than 21 feet long and 106 inches wide, with a limited provision to allow owners of larger boats to be permitted to use their boats until 2010.

Commissioner Irwin stated: "The Kenai River is a tremendously important resource. It is critical to the personal enjoyment of residents and visitors, to the commercial and sport fishing industries, and to the economic health of the Kenai Peninsula. Any threat to the Kenai River requires our serious attention."

Water samples collected over the last several years from the Kenai River show high levels of petroleum hydrocarbons during peak fishing periods. The levels of hydrocarbons have sometimes exceeded safe levels for fish, as established by state water quality regulations. Most of the hydrocarbons appear to be coming from unburned gasoline released from older, two-stroke boat motors, which are heavily used during the month of July's peak sport fishery.

According to Division of Parks and Outdoor Recreation Director James King, "It is important to note that these new regulations will only apply within the Kenai River Special Management Area that includes Kenai and Skilak Lakes and all of the Kenai River except for the lower four miles. Those lower four miles are also critical to the health of the Kenai River's fishery resources. We encourage the Alaska Board of Fish to take appropriate action in their current meeting to adopt similar protection for water quality in that lower four mile stretch of the River."

Those state agencies with primary responsibilities for the health of the Kenai River will continue to monitor the river to see that the transition to the cleaner-burning motors is having the result we all want – a clean, healthy river environment.

END #

**NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF
THE DEPARTMENT OF NATURAL RESOURCES**

The Department of Natural Resources proposes to adopt regulation changes in Title 11 of the Alaska Administrative Code, dealing with boat motor use and restrictions in the Kenai River Special Management Area (KRSMA), including the following:

11 AAC 20.860. Boat motor use is proposed to be changed as follows:

To set January 1, 2013 as the date when outboard motors with ratings of 35 horsepower or less are, regardless of the time of year, no longer exempt from the requirement that motors used in the KRSMA be either four-stroke or direct fuel injection two-stroke motors and that an outboard motor used displays a decal issued by the Department of Natural Resources that certifies the motor complies with the requirement.

If in response to the department's November 21, 2006 NOTICE OF PROPOSED CHANGES regarding boat and motor use in the KRSMA, you submitted comments regarding the expiration date addressed in today's notice, you will not need to resubmit comments under this notice, as those comments will be considered by the department before its adoption of regulation changes. However, the department welcomes additional written comments that you might have about the date proposed to be set in this notice.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Chris Degernes, Chief, Field Operations, Division of Parks and Outdoor Recreation, 550 W. 7th Avenue, Suite 1380, Anchorage, AK 99501-3561; or via fax: (907) 269-8907; or via e-mail at dnr.parkregs@alaska.gov. The comments must be received no later than 4:00 p.m. on Friday, March 7, 2008.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Chris Degernes at (907) 269-8702 no later than Feb. 22, 2008 to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact the Department of Natural Resources Public Information Center at 550 W. 7th Avenue, Suite 1260, Anchorage, AK, Chris Degernes at (907) 269-8702 or at the mailing or e-mail address above, or go to www.dnr.state.ak.us/parks.

After the public comment period ends, the Department of Natural Resources will either adopt these or other provisions dealing with the same subject, without further notice, or decide to take no action on them. The language of the final regulations may be different from that of the proposed regulations. **YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.**

Statutory Authority: AS 41.21.020; AS 41.21.506

Statutes Being Implemented, Interpreted, or Made Specific: AS 41.21.020; AS 41.21.506

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: 2/1/08

/s/ Chris Degernes
for James King, Director
Div. of Parks and Outdoor Recreation
Department of Natural Resources

Register __, __ 2008

NATURAL RESOURCES

The lead-in language of 11 AAC 20.860(e) is amended to read:

(e) On or after January 1, 2008, **but before January 1, 2013**, a person may not operate a boat in the Kenai River Special Management Area by the use of a motor as follows:

...

11 AAC 20.860 is amended by adding a new subsection to read:

(g) On or after January 1, 2013, a person may not operate a boat in the Kenai River Special Management Area by the use of a motor as follows:

(1) unless the motor is a four-stroke motor or a direct fuel injection two-stroke motor, as described in Attachment A of the Department of Natural Resources, Division of Parks and Outdoor Recreation, Director's Decision on Reduction of Hydrocarbon Pollution from Motorized Boats on the Kenai River, signed November 16, 2006, and adopted by reference;

(2) without displaying on the motor cowling a decal issued by the department that certifies that the motor complies with the requirements of this subsection. (Eff. 5/11/85, Register 94; am 4/25/86, Register 98; am 7/1/89, Register 110; am 7/1/98, Register 146; am 3/1/2008, Register 185; am __/__/__, Register __)

Authority: AS 41.21.020 AS 41.21.506

Submitted by
Bruce Knowles

RC 4.5

Talking Points in Defense of Northern Cook Inlet Salmon Stocks

1. Northern Cook Inlet (NCI) sockeye and chum stocks are on the verge of a crisis.

- A. Susitna R. sockeye escapements (esc) have fallen below the minimum esc threshold in:
 - * 3 of the past 4 years
 - * 5 of the past 7 years
- B. The 2005 esc of 36,900 was a record low
- C. Susitna sockeye have failed to consistently meet the minimum esc target despite lowering of the threshold.

2. Fish Creek sockeye returns now consist largely of hatchery fish (50 to 80 %)

- A. Escapements have fallen below the minimum esc goal in:
 - * 2 of the past 4 years
 - * 8 of the past 10 years
- B. The current minimum esc goal was established on the historical performance of *only* wild salmon.
- C. ADFG currently combines *both* hatchery and wild fish to measure their success or failure to achieve the minimum esc threshold.

3. The commercial harvest of chum salmon plummeted from levels that at times exceeded 1 million to record lows of fewer than 100,000 annually.

- A. During the period 1977-1986 commercial harvests averaged 880,000 chums annually (exceeding 1 million 4 times).
- B. Since that time commercial harvests have fallen to:
 - * less than 80,000 chums during each of the past 3 years

- * the 2006 harvest of 64,000 was the lowest ever.
- * the most recent 10 year harvest averaged just 120,000 annually

C Sharply reduced chum abundance is also reflected in the NCI sport harvest.

- *sport harvests that once topped 17,000 chums and averaged more than 7,000 fish annually (1977-1986) have dropped significantly.
- *Sport harvests were 3,500 and, 2200 chums during 2005 and 2006
- *Reduced sport harvests have occurred despite more sport fishing participation thorough the years.

4. Esc thresholds for Susitna and Fish Creek sockeye were lowered in 2002.

A. After 21 years at 100,000 the esc threshold for Susitna was dropped to 90,000 sockeye.
 . * the 100,000 target had not been achieved 3 of 6 years prior to the change.

years of
 B. The BOF further(2005) reduced the esc threshold to 75,000 fish during strong Kenai R. sockeye runs.

C. The esc for Fish Creek sockeye (after 20 years at 50,000) was dropped to just 20,000 fish.
 *the 50,000 goal had only been met 1 out of 6 years prior to the change.

D. Conversely, minimum esc goals for Kenai Peninsula sockeye which are almost always satisfied or exceeded have been increased over the years.

- * Kenai R. once a 150,000 target is now 500,000 sockeye.
- * Kasilof R. once a 75,000 target is now 150,000 sockeye.

5. No esc. goals (either in- season or post season) exist for NCI chums

- A. Commercial harvest practices for sockeye largely determine esc levels for NCI chums.
- B. Passively managed and coincidentally harvested salmon stocks such as Susitna chums are subject to over harvest in mixed stock fisheries that target more robust species.
- C. Lower Cook Inlet (Homer Area) is managed with 12 chum esc targets.

6. Sport fisheries of NCI have been severely impacted by weak returns of sockeye and chums.

- A. Susitna sockeye fisheries have been closed by Emergency Orders during the past three years.
- B. Fish Creek sockeye formerly supported NCI's only PU fishery. This popular source of salmon (20,000-40,000 harvested annually) for consumptive use has been closed entirely or nearly so for a decade.
- A. More king, coho, chum and pink salmon are produced from NCI waters than from the remainder of Cook Inlet(C.I.)
- B. Over 60% of the state's human population reside within NIC; many of which are consumptive users of sport and PU salmon.
- C. NCI supports the second largest recreational fisheries in Alaska (300,000 to 400,000 angler days and 130,000 to 180,000 salmon harvested annually).
- D. NCI salmon contribute significantly to the Cook Inlet mixed-stock commercial fishery which harvested about 3.7 million salmon annually during the past decade(or about 3% of the statewide total)

8. Management of NCI salmon has not received appropriate attention from the State of Alaska .

- A. Identifying escapement targets and achieving minimum thresholds are fundamental principles of salmon management yet:
 - * no escapement goals exist for NCI chums
 - * no escapement goals exist for NCI pinks
 - * escapement goals for sockeye are not being achieved.
- B. There are some within the commercial industry (perhaps ADFG as well) that oppose development of escapement targets for chum and pinks because such goals might conflict with the maximum harvest of the economically more important sockeye. Ignorance is bliss in the eyes of some!
- C. Lowering the NCI escapement thresholds for sockeye has taken precedent over the development strategies to achieve historical goals

NCI

D. The commercial harvest of CI salmon cannot be assigned accurately to drainage of origin. **We do not know with certainty where and when salmon are harvested in the commercial fishery.**

E. ADFG deploys 1 sonar counter in NCI whereas 5 such units are used in the central district of Cook Inlet(Kenai P.) plus an experimental "photo" salmon counter.

9. Many NCI salmon stocks have born the brunt of commercial management

that attempts to maximize economic benefits from robust Kenai and Kasilof sockeye.

A. Some within ADFG support the concept that over-escapement poses a serious risk to future CI sockeye production.

B. Stock collapse because over esc of Kenai P. sockeye has proven to be an overblown myth for 20 years.

* we have not yet seen consistent levels of esc that reduce yields.

C. Lowering the Susitna sockeye esc threshold to 75,000 during years of large Kenai returns illustrates current management priorities.

D. ADFG's desire for greater commercial management flexibility elevates the department into the role of "**Chief**" allocator (which ,infact, is the job of the BOF).

E. A management regime that may be appropriate for productive sockeye is not necessarily responsive to concerns for other stocks ,species or **all** fishery users.

F. Current knowledge does not permit management of the C.I. mixed stock commercial fishery for maximum sustained yields for all stocks/species

* a precautionary management approach (**if you don't know, act cautiously**) is appropriate until better science become available.

* the gauntlet nature of the Inlet's commercial fisheries creates management challenges that demand substantial research. Harvest often occurs a considerable distance from the home stream where

enumeration takes place.

*there is a wide diversity of stakeholders (subsistence, commercial, sport, guided sport and P.U) whose interests in and demands on C.I. salmon differ sharply.

*allocation disputes among stakeholders complicate management.

10. **We respectfully request that your administration aggressively strives to achieve optimum sustained human benefits from ALL Cook Inlet salmon**

by:

A. Assuring adequate funding for research and in season management.

*genetic stock identification of the harvest both in-season and post season.

*development of accurate pre and in-season run forecasts.

*verifying accuracy of C.I. sonar esc estimates.

*adoption of and achievement of esc goals for NCI sockeye, chum and pink salmon

B. Supporting those human activities that provide for the protection of (or enhancement of) salmon spawning, rearing and migration

habitats.

*retuning the Habitat Div. to ADFG

C. Appointment of knowledgeable Alaskans having diverse fishery backgrounds to the BOF.

Hello, my name is Cliff Heckathorn
Wasilla, Alaska

PC 46

I am here to ask the board to consider the long term problems that could happen if some of the proposals that are before the board are approved.

I am from the MatSu Valley and I, as well as many other folks, are deeply concerned about the salmon that are not making it up our way.

There are several proposals that request additional opening for the drift fleet and gillnet set sites. Any additional opening will have a probable negative effect on the amount of fish that we get into our rivers. I also believe that the additional length or depth of nets as requested in proposal 105, 106, 108 and others, are very detrimental. In proposal 106 under other solutions considered (A consideration was given to making gear longer, However, this would increase harvest significantly and would upset the historical harvest patterns in the inlet.)

Proposal 95, requests to change the weekly fishing periods from Monday and Thursday to Monday and Friday. This is a bad idea as I have been told that it takes 3 tides before fish are in the Kenai River. Friday needs to be left as a closed period for commercial fishing so weekend sport fishers have a chance to catch their fish.

Proposal 96 and 97, looks to increase the fishing periods by one third, from two to three twelve (12) hour periods per week. I think this would be very bad for the northern rivers and streams.

Proposal 119 requests Susitna and Fish Creek stocks be allowed free egress thru the central corridor as these fisheries are deeply depressed. Many other streams in the valley have the same story unfolding, not enough fish making it home. There are several proposals about different salmon management plans but I feel we need to combine several and come up with a plan that gets the fish into the rivers to allow runs to sustain and provide maximum yield to both commercial and sports fishing groups.

Proposal 335 would allow 24 hour fishing on the Susitna River Drainage. I agree with this. Alaska Department of Fish and Game (ADFG) could reduce this by Emergency Order if needed. Other proposals for the valley rivers would raise the coho limit to three fish again, this could be accomplished by better management of commercial fisheries to allow more fish in the rivers.

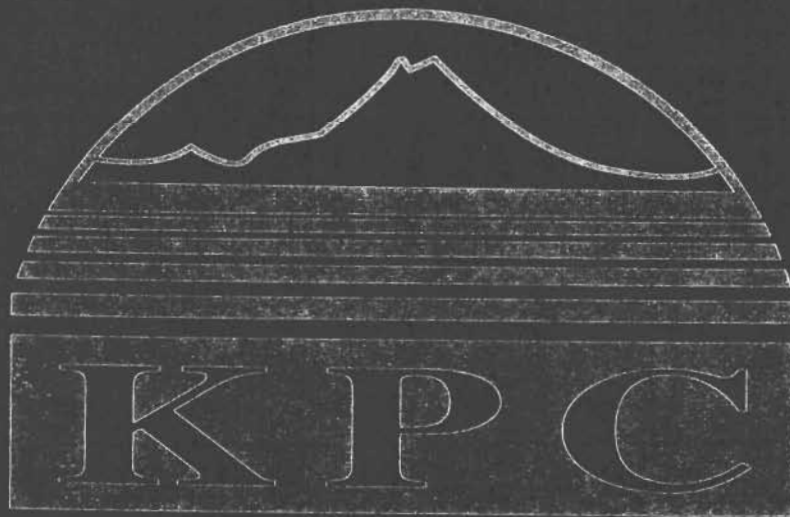
Proposal 345 and 346 have to do with allowing the use of bait on the Little Susitna River, I think the use of bait should be allowed.

Proposal 352 by ADFG, I strongly agree that all Northern Pike lakes should go to five lines.

I do not agree that we should have a second drift day on the Kenai River. The only recommendation I would have would be to start the guides at 7am not 6am (7am to 7pm). The personal use limits should stay the same as they are now. Many Alaskans, such as myself, depend on and enjoy eating one of Alaska's finest products.

Thank You For Your Time
Cliff Heckathorn

RC 47



**“Kenai River Guide Academy”
Certification Program**

**University of Alaska
Kenai Peninsula College**

Kenai River Guide Academy®
Certification Program
January 14-18, 2008 Class Curriculum

Monday 8:00 - 8:30 a.m.

Welcome by Mike Fenton, president, Kenai River Professional Guide Association; and, Gary Turner, Director, Kenai Peninsula College and board chairman, Kenai River Guide Academy®.

- Why this course was created – “Why are you here?” – presented by KRPGA president.
- Course requirements, permission to release contact information, testing, course evaluations (handout), and campus safety by Gary Turner.
- Public perceptions of the guide industry, your role as ambassadors for sportfishing and Alaska by Gary Turner.
- Student introductions: how many years of guiding experience, how many years on the Kenai, and who do you work for.

8:30 - 11:00 a.m.

Kenai River Park Use Permits.

- Insurance and licensing requirements, 2006 Park Use Permit stipulations, use of State Park facilities
- Taught by Pam Russell, Guide Permitting Specialist, AK State Parks.

11:00 a.m. - 3:00 p.m.

Introduction to the Kenai River Special Management Area.

- River locations, popular holes and common names; river dangers in these sections and existing ownership.
- Traditional methods of fishing; back trolling, drift, etc., as they relate to river and client safety.
 - Explanation of specific Kenai River Regulations (non-fishing).
 - Taught by Jacques Kosto, Kenai River District Head Ranger, AK State Parks
- Lunch provided by Kenai River Sportfishing Association and eaten during seminar.

3:00 – 3:15 p.m.

Class Photo

3:15 – 5:00 p.m.

Alaska Wildlife Habits: Moose and Bear Safety.

- Taught by Larry Lewis, Wildlife Technician, ADF&G

Tuesday

8:00 - 10:00 a.m.

Overview of Kenai River fishing regulations.

- Taught by Trooper Todd Mountain, Alaska State Troopers

10:00 - 11:30 a.m.

How Kenai River fisheries management plans impact the movement of fish into the river, and the interface of various user groups (sport fishing, commercial fishing, personal use, subsistence, non-fishing on-the-water users).

- Presented by Robert Begich, Area Management Sport Fish Biologist, Upper Kenai Peninsula Area, ADF&G

11:30 a.m. - 12:30 p.m.

Visible management tools guides and clients will see on the river: sonar, in-river Chinook netting, Coho wheels and creel surveys.

- Presented by Tim McKinley, Area Research Biologist, ADF&G
- Lunch provided by Kenai River Sportfishing Association and eaten during seminar.

12:30 - 1:30 p.m.

Alaska fishing guide licensing and proper logbook documentation.

- Presented by Dora Sigurdsson, Sport Fish Guide Licensing and Logbook Program Coordinator, ADF&G

1:30 - 2:15 p.m.

Middle, Upper Kenai River and Kasilof River issues.

- Taught by Kyle Kolodziejcki, KRGGA board member and Upper Kenai River guide.

2:15 - 5:15 p.m.

The Ethical Guide and Angler.

Angling and guide ethics observed on the Kenai River.

- Presented by Jacques Kosto.

Wednesday 8:00 - 11:00 a.m.

History, culture, and geology of the Kenai River.

- Taught by Dr. Alan Boraas, KPC Professor of Anthropology.

11:00 - 11:30 p.m.

Borough sales tax registration and requirements.

- Presented by DeRay Jones, Kenai Peninsula Borough auditor.

11:30 - 12:15 p.m.

Boating safety, cold-water survival, dealing with weather and water conditions, onboard required safety items.

- Taught by Chief Warrant Officer Mike Watson/Lt. Michael Franklin, USCG Marine Safety Detachment, Kenai and Coast Guard Auxiliary.
- Lunch provided by Kenai River Sportfishing Association and eaten during seminar.

12:15 - 1:15 p.m.

US Coast Guard requirements, license renewal, drug testing programs.

- Presented by Stephen Murphy, Drug & Alcohol Compliance, U.S. Coast Guard.

1:15 – 2:45 p.m.

Board of Fisheries (BOF), local advisory committees and public process.

- Partnering with local organizations such as Kenai River Special Management Area board, ADF&G Advisory Committees, KRPGA and Kenai River Sportfishing Association.
- Taught by Joe Connors, KRPGA master guide and KRGA board member.

2:45 – 4:00 pm

Catch & Release Issues: handling, measuring and releasing “trophy” fish.

- Presented by Greg Brush, KRGA board member Kenai River master guide.

4:00 – 4:45 p.m.

Caring for Your Catch.

- Taught by Dave Atcheson, Kenai Fishing Academy Coordinator and KRGA board member and Mark Glassmaker, KRPGA master guide and KRGA board member.

Thursday

8:00 - 9:30 a.m.

What every guide should know...or questions almost every client will ask.

- Presented by Steve McClure, KRGA board member and master guide.

9:30 - 11:00 a.m.

The “goods and bads” of guiding and the guide industry.

- Facilitated by Joe Hanes, KRPGA master guide and KRGA board member.

11:00 - 11:45 a.m.

Economics and value of participation in sport fishing industry, Kenai River watershed research and habitat/conservation projects.

- Presented by Ricky Gease, Executive Director, Kenai River Sportfishing Association.
- Lunch provided by Kenai River Sportfishing Association and eaten during seminar.

11:45 a.m. - 1:15 p.m.

Panel discussion on current fisheries issues. Panel comprised of:

- Robert Begich-Guide limits and limited entry
- Robin West-Subsistence on the Kenai and Kasilof
- Mike Fenton-Top three complaints about guides and limited entry
- Robert Ruffner, Director, Kenai Watershed Forum-hydrocarbons and boat wake studies

1:15 - 4:15 p.m.

Stream ecology and fish biology. Salmon life cycles, characteristics, and river hydrology.

- Taught by Dr. David Wartinbee, KPC Professor of Biology.

4:15 - 4:30 p.m.

Course Evaluations

4:30 – 5:00 p.m.

Test Review and study suggestions by Gary Turner.

5:00 – 6:00 p.m. (optional)

Study/discussion groups.

Friday

8:00 - 8:10 a.m.

Test Rules, confidentiality.

8:10 - 10:30 a.m.

Written certification test.

- 100 question multiple choice tests will be graded upon completion. Those that don't pass will be scheduled to retake the written exam.

9:30 a.m. – 2:00 p.m.

Individual 20-minute oral examinations conducted by KPGA board members and agency personnel. Those who don't pass the written exam will still participate in the oral exams. You are not to take the oral exam until you have received your written test score. Lunch on your own.

1:00 - 2:30 p.m.

Written exam retakes if necessary.

2:30 – 3:00 p.m.

Certificates of Completion and *KPGA-Certified* boat stickers distributed to those who passed the written and oral exams.

- Getting involved in the industry through the Kenai River Professional Guide Association presented by Mike Fenton.

If you experience a disability and would like information about KPC support services, contact Disability Support Services, Kenai River Campus, Room 131, 262-0328. If you believe you need these services, you need to set up your service on the first day of this class.

(Revised: 1/8/08, 5:00 pm)

For a complete list of KPC Campus Services, visit our web site at www.kpc.alaska.edu

“Kenai River Guide Academy”

State-Required Guide Certification Program

University of Alaska
Kenai Peninsula College

Presentation to Alaska Board of
Fisheries
Feb. 1, 2006

Background

- KRPGA proposed “guide training program” to KRSMA in Jan. 2002
- BOF spoke of need for certification program at 2002 UCI meeting
- Other professions that deal with the public in Alaska have certification/licensing requirements
- Collaborative effort of KPC, KRPGA, State Parks, KNWR
 - Curriculum work began Jan. 2004 with bi-weekly meetings through May, then monthly mtgs through 2006
- Signed into regulation by Lt. Gov. Leman on March 14, 2006.

AK Occupational Licensing Examples

- Barbers
- Esthetician (skin care)
- Hairdresser
- Shop Owner (barber, hairdresser, esthetician, manicure)
- Manicurists
- Permanent Cosmetic Coloring
- Hunting Guides and assistants

Purpose of KRGA

- Educate and train Kenai River fishing guides
 - Regulatory
 - Safety
 - Guide ethics and etiquette
 - Habitat and conservation: respect for the resource
 - River ecology and fish biology
 - River history and culture
 - Raise professionalism standards and increase camaraderie within the industry

KRGA Board of Directors

*Meet 1-2 weeks prior to each class to review curriculum;
dynamic evolving course*

- Composition: 6 Agency, 9 Kenai fishing guides, 2 KPC, 1 public
- Gary Turner-KPC Director, KRSMA Kenai River Guide Advisory Cmte. KRSMA River Use Cmte. KRGA chair
- Jack Sinclair-AK State Parks Area Superintendent
- Robin West-Kenai National Wildlife Refuge Manager
- Robert Begich-ADFG Sport Fish Area Management Biologist
- Jacques Kosto-AK State Parks Head Ranger
- Pam Russell-AK State Parks Permitting Specialist
- Chief Mike Watson-USCG Kenai Detachment
- Dave Atcheson-KPC Kenai Fishing Academy coordinator, Soldotna/Kenai AC, author, “Fishing Alaska’s Kenai Peninsula”

KRGA Board of Directors

- Mike Fenton-KRPGA president, KRPGA master guide, KRGA board co-chair
- Steve McClure-Past KRPGA president, KRPGA master guide
- Joe Connors-KRSMA board member, KRGAB chair, KRPGA master guide
- Reuben Hanke-KRPGA master guide
- Joe Hanes- KRPGA master guide
- Greg Brush-KRPGA master guide
- Mark Glassmaker-KRPGA master guide
- Andy Szczesny-Upper Kenai River guide
- Kyle Kolodziejski-Upper Kenai River guide
- Mike Frost-First National Bank of Alaska Vice President—public member

Implementation Timeline

- **First year-2006**—Course not required.
 - Three classes held (March, April, Dec)
 - First class taken by KPGA board members including agency personnel & master guides
 - 59 guides completed the course

Implementation Timeline

- **May 2007**-required for all new guides who did not possess a DPOR permit in a prior year
- **May 2008**-required for all guides with less than 6 years experience on the Kenai & new guides
- **May 2009**- required of all guides with 6 years, but less than 11 years experience, on the Kenai & new guides
- **May 2011**-required for all guides with 11 years OR MORE experience on the Kenai & new guides
 - Cutoff date used to determine experience/holding a DPOR permit is Dec. 31, 2005

Curriculum

- **Intensive week-long program (Monday-Friday) with 37 hours of instruction**
 - Kenai River fishing regulations.
 - Kenai River history, geology, anthropology, cultural sensitivities, implications of fishing, traditional uses.
 - Guide ethics, river etiquette and respect for other users.
 - River locations and dangers.
 - Alaska wildlife safety.
 - DPOR permit stipulations.
 - Habitat issues, boat wakes, anchoring.
 - River hydrology, biology, salmon life cycle and characteristics.
 - BOF, local advisory committees and public process.
 - Boat safety and cold-water survival.
 - Value of participation in the sport fishing industry, habitat conservation projects & current issues

Testing

- All participants are tested and graded
 - 100-question multiple choice test (80% to pass)
 - Can retake twice; fail 3 times, must retake the course the following year & cannot guide until successfully pass
- Oral Examinations (30-40 minutes)
 - Various questions including "what if" scenarios that gauge guides' understanding of key guiding issues relating to regulatory, ethics and river etiquette.
- Must pass written and oral tests to successfully complete course and receive DPOR permit

Instructors and University of Alaska Standards

- Meets university academic rigor and quality standards
 - Will be offered for credit starting Fall 2008 (retroactive for past students)
- KPC faculty teach subjects as part of their teaching workload
- State employees teach as part of normal work duties
- Guides teach on a voluntary basis.
- 24 instructors teach the week-long course
- Truly a voluntary grassroots effort

Cost of the Course

- Cost of the 5-day program is \$206
 - Covers all instruction, course materials, lunch each day and beverages
 - Lunches donated by Kenai River Sportfishing Association

Course Statistics March 06-Jan. 08

- 10 courses offered since March 06
- Total graduates-222
- New guides-71 (32%)
- Experienced Kenai River guides-152 (68%)
- Nonresidents-48 (22%)
- Residents-175 (78%)
- Written test average-89% (80% to pass)
- 12 students have failed the test once; three have failed it twice, none have failed three times
- One student failed oral exam—failed the course, but can retake oral.

Projections through May 2008

- Two more classes to be offered, March & April
- Additional 50 guides=272 graduates (12 total classes since March 2006)
- 202 total residents, 70 total nonresidents
 - 74% residents, 26% nonresidents
 - On the river 2007—73% resident guides, 27% NR
- 88 new guides, 184 experienced Kenai guides
 - 32% new guides, 68% experienced Kenai guides
- 11% of 2007 guides on the river were new
 - 139 guides took the course since Oct 07
 - 37 new (27%), 102 experienced (73%)
- At least six people have taken the course and don't plan to guide

Future Expectations

- Oct. 2009—decrease # of classes offered from six to four per year due to less guides needing training
- Oct. 2011—decrease # of classes from four to three since only new guides will need training
 - Presently avg 40-50 new guides/yr
- Interest from private anglers who want more info about the Kenai will likely increase
 - Some take it "just in case" they decide to be a guide, others because they heard it is a great course.

RC 48



Deliberation Materials
For Northern Cook Inlet Sport Fish
and Personal Use Fisheries

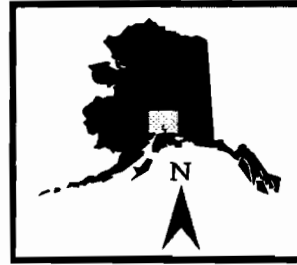
Committee G

UCI BOF 2008

Alaska Department of Fish and Game
Sport Fish Division Palmer

Figure 27. Proposed change to fishery area at the Eklutna Tailrace.....	24
Figure 28. Number of angler days expended at the Eklutna Tailrace, 1984-2007.	25
Figure 29. Eklutna Tailrace and Big Lake.	26
Figure 30. Big Lake.	27
Figure 31. Number of angler days expended on Big Lake, 1977-2006.....	28
Figure 32. Sport harvest and catch of Arctic Char from Big Lake, 1977-2006.....	28
Figure 33. Sport harvest and catch of burbot from Big Lake, 1977-2006.....	28
Figure 34. Sport harvest and catch of rainbow trout from Big Lake, 1977-2006.....	28
Figure 35. Lakes selected for liberalizations to methods and means when fishing through the ice for northern pike.....	29
Figure 36. List of all confirmed northern pike waters.	30
Figure 37. Proposed northern pike liberalizations to methods and means in all non mainstem flowing and non flowing waters of the Susitna Drainage.	31
Figure 38. Norther Cook Inlet Management Area- northern pike deliberation map.	32
Figure 40. Proposed Beluga personal use fishery area.	33
Figure 41. Ship Creek salmon escapement estimates, 1990-2006.....	34
Figure 42. Campbell Creek salmon escapement estimates, 1990-2006.....	34
Figure 43. Bird Creek drainage escapement estimates, 1990-2006.....	34
Figure 44. Knik Arm drainage coho and sockeye escapement estimates, 1990-2007.....	34
Figure 45. West Cook Inlet king salmon escapement, 1980-2007.	35

Proposal 330 - 334



Alexander Lake

Sucker Lake

Alexander Creek

Sucker Creek

Wolverine Creek

Trail Cr.

Granite Cr.

Susitna River

330 - Weekend Only
331 - 334 - Close to King Salmon
fishing

Proposal 330 - 334

King Salmon Escapement Into Alexander Creek, 1979-2007

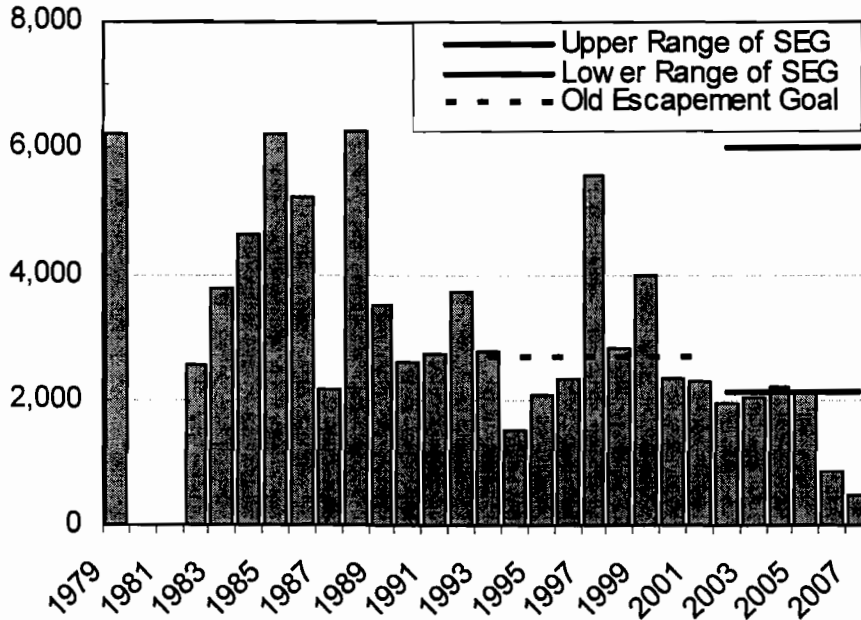
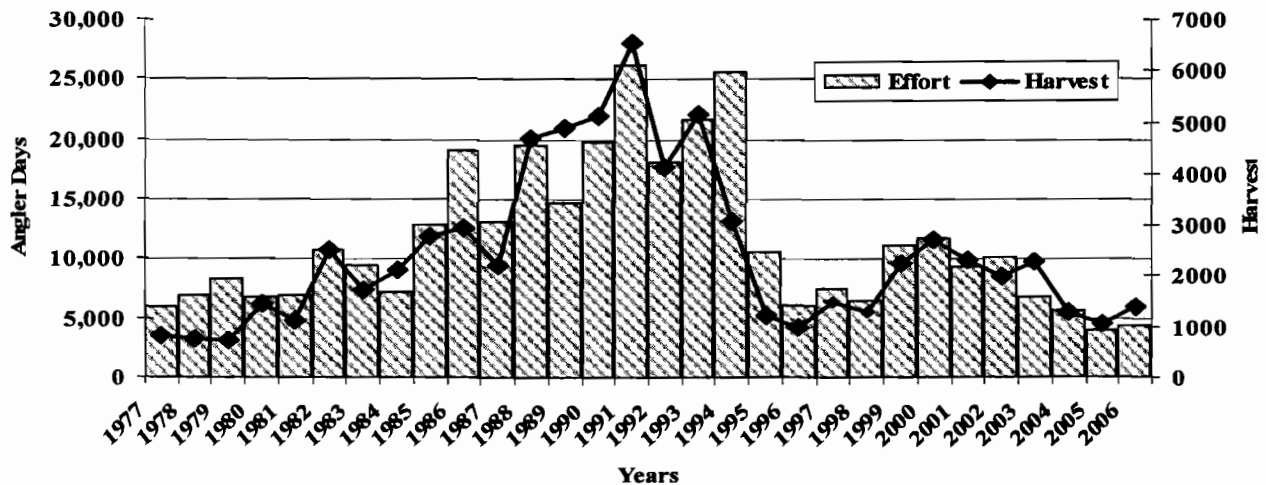
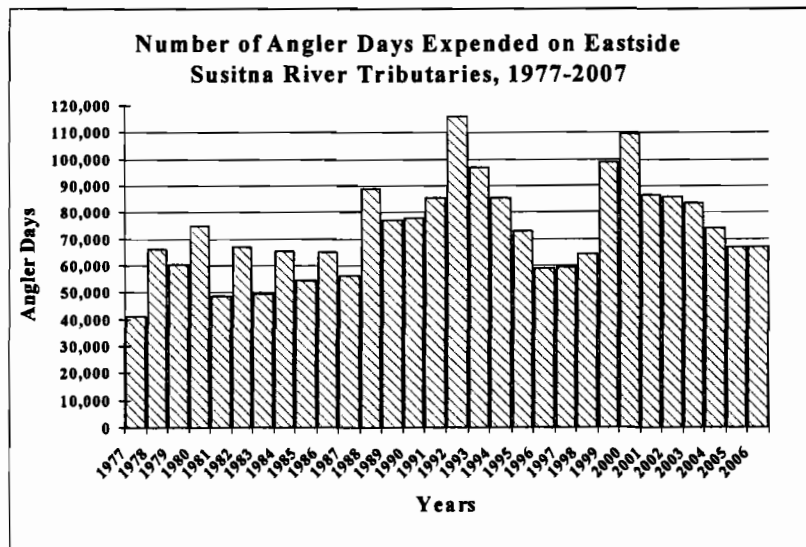


Figure 4. Angler Effort and Sport Harvest of King Salmon from Alexander Creek, 1977-2007



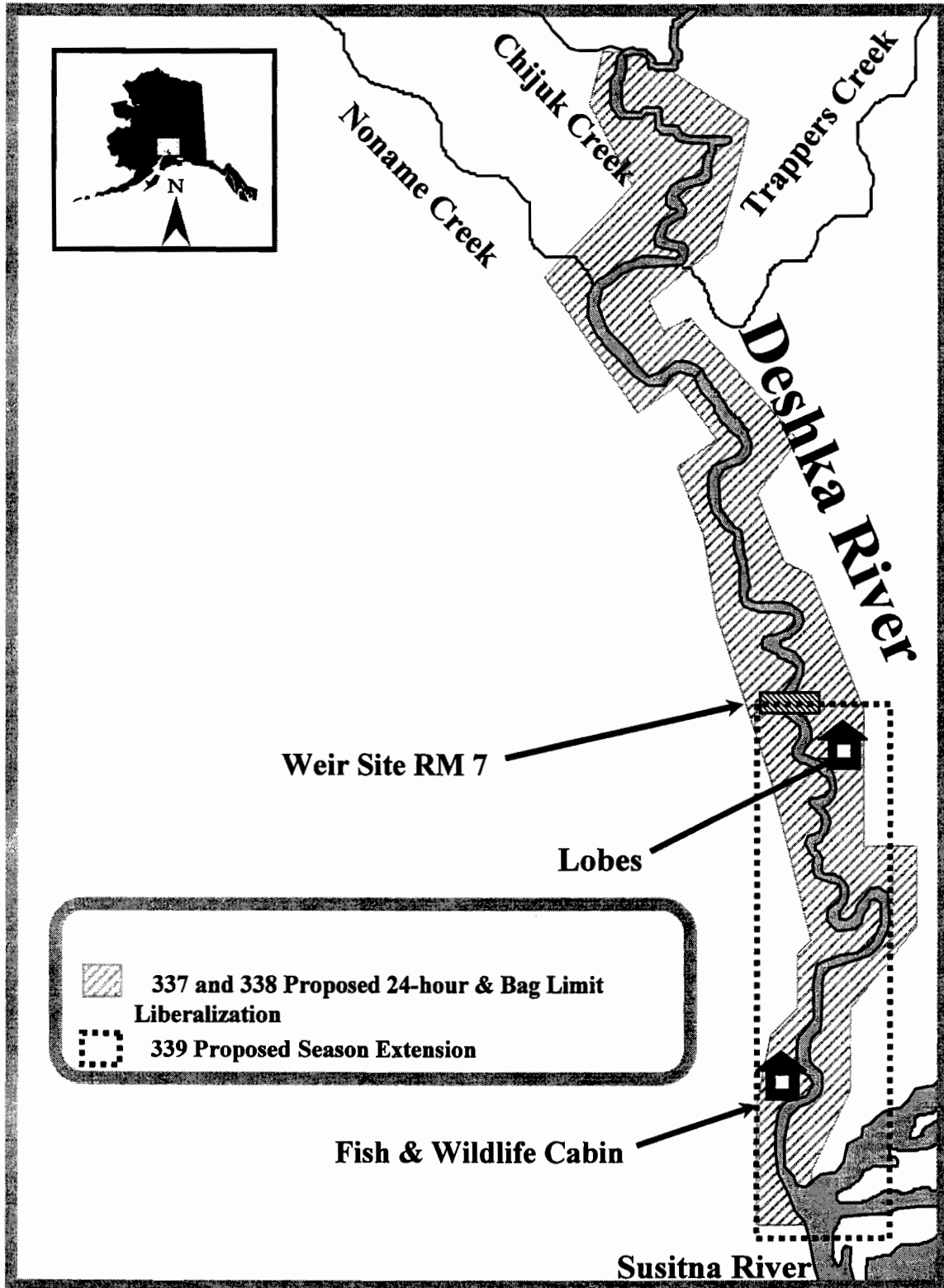
Proposal 335, 336



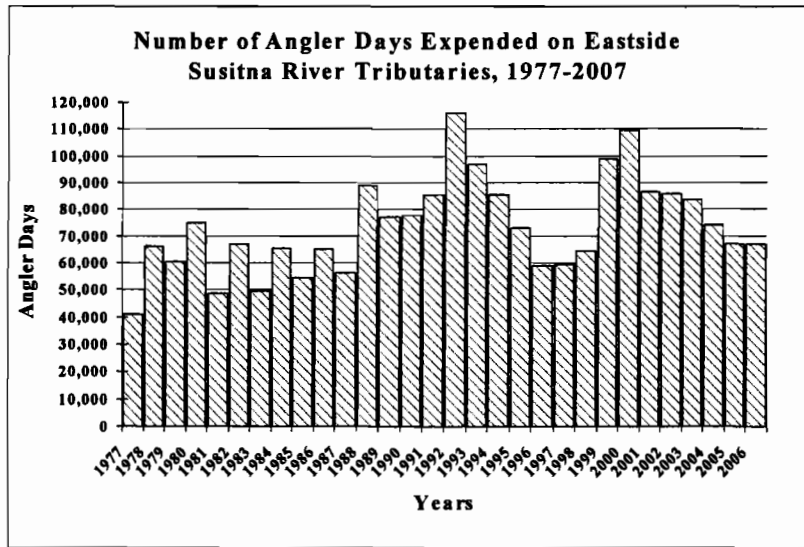
Proposal 335,336 340-342. Angler-days of sport fishing effort for the eastside Susitna River drainage by fishery, 1977-2006.

Year	Willow Creek	Little Willow	Kashwitna River	Caswell Creek	Sheep Creek	Goose Creek	Montana Creek	Birch Creek	Sunshine Creek	Total
1977	14,024	4,583			8,112		14,268			40,987
1978	22,682	5,687			11,869		25,762			66,000
1979	18,911	5,171		3,710	6,728		22,621		3,317	60,458
1980	29,011	8,190		4,963	8,014		19,287		5,208	74,673
1981	14,060	3,845		3,860	6,936		16,657		3,062	48,420
1982	19,704	5,579		5,101	9,093		23,645		3,787	66,909
1983	13,405	2,791	1,344	5,048	6,237		17,109		3,429	49,363
1984	21,649	5,872	2,995	4,952	6,106	1,305	19,239		3,229	65,347
1985	16,282	5,705		5,289	2,844		20,028		4,144	54,292
1986	10,733	4,490	2,908	4,362	10,091	1,993	20,268	2,010	8,124	64,979
1987	13,583	5,850	2,717	3,332	9,019	1,865	13,745	2,046	3,912	56,069
1988	27,758	10,768	1,454	4,529	18,699	2,947	16,498	2,074	4,129	88,856
1989	23,811	5,285	6,320	4,029	13,010	3,058	16,179	767	4,592	77,051
1990	32,200	6,505	2,313	6,103	11,392	3,714	11,284		4,485	77,996
1991	32,520	7,792	1,981	7,816	14,872	2,811	10,745	1,056	5,788	85,381
1992	50,958	9,240	2,177	6,391	17,509	4,908	18,437	1,366	4,833	115,819
1993	41,218	6,422	1,600	5,033	12,636	3,423	21,615	655	4,094	96,696
1994	34,362	6,744	1,957	5,842	11,526	3,300	16,220	1,092	4,265	85,308
1995	29,392	6,386	1,460	3,912	9,758	1,993	16,303	826	2,756	72,786
1996	23,508	5,890	1,140	1,473	8,112	1,796	13,485	506	3,028	58,938
1997	21,511	5,829	1,916	1,317	9,172	3,151	14,111	525	1,585	59,117
1998	23,920	4,987	1,663	2,983	9,716	2,510	14,952	1,063	2,374	64,168
1999	37,384	8,596	2,004	2,764	17,188	3,561	22,382	1,226	3,805	98,910
2000	44,648	9,028	2,331	4,385	12,660	3,266	26,070	1,426	5,487	109,301
2001	34,979	7,059	2,320	2,637	11,742	2,339	22,454	1,065	1,955	86,550
2002	31,997	7,189	2,648	2,562	12,853	2,845	22,008	446	3,192	85,740
2003	29,668	4,815	5,028	3,018	12,878	2,965	20,794	666	3,616	83,448
2004	26,722	5,031	1,906	902	10,310	2,645	22,860	881	2,820	74,077
2005	24,181	6,566	1,626	2,395	8,521	2,039	16,083	1,356	4,089	66,856
Mean	26,372	6,272	2,355	4,026	10,607	2,783	18,452	1,108	3,893	75,868
01-05										
Mean	29,509	6,132	2,706	2,303	11,261	2,567	20,840	883	3,134	79,334
2006	21,927	4,536	2,489	1,767	9,437	2,593	19,657	779	3,732	66,917

Proposal # 337, 338, and 339



Proposal 340 - 342



Proposal 335,336 340-342. Angler-days of sport fishing effort for the eastside Susitna River drainage by fishery, 1977-2006.

Year	Willow Creek	Little Willow	Kashwitna River	Caswell Creek	Sheep Creek	Goose Creek	Montana Creek	Birch Creek	Sunshine Creek	Total
1977	14,024	4,583			8,112		14,268			40,987
1978	22,682	5,687			11,869		25,762			66,000
1979	18,911	5,171		3,710	6,728		22,621	3,317		60,458
1980	29,011	8,190		4,963	8,014		19,287	5,208		74,673
1981	14,060	3,845		3,860	6,936		16,657	3,062		48,420
1982	19,704	5,579		5,101	9,093		23,645	3,787		66,909
1983	13,405	2,791	1,344	5,048	6,237		17,109	3,429		49,363
1984	21,649	5,872	2,995	4,952	6,106	1,305	19,239		3,229	65,347
1985	16,282	5,705		5,289	2,844		20,028		4,144	54,292
1986	10,733	4,490	2,908	4,362	10,091	1,993	20,268	2,010	8,124	64,979
1987	13,583	5,850	2,717	3,332	9,019	1,865	13,745	2,046	3,912	56,069
1988	27,758	10,768	1,454	4,529	18,699	2,947	16,498	2,074	4,129	88,856
1989	23,811	5,285	6,320	4,029	13,010	3,058	16,179	767	4,592	77,051
1990	32,200	6,505	2,313	6,103	11,392	3,714	11,284		4,485	77,996
1991	32,520	7,792	1,981	7,816	14,872	2,811	10,745	1,056	5,788	85,381
1992	50,958	9,240	2,177	6,391	17,509	4,908	18,437	1,366	4,833	115,819
1993	41,218	6,422	1,600	5,033	12,636	3,423	21,615	655	4,094	96,696
1994	34,362	6,744	1,957	5,842	11,526	3,300	16,220	1,092	4,265	85,308
1995	29,392	6,386	1,460	3,912	9,758	1,993	16,303	826	2,756	72,786
1996	23,508	5,890	1,140	1,473	8,112	1,796	13,485	506	3,028	58,938
1997	21,511	5,829	1,916	1,317	9,172	3,151	14,111	525	1,585	59,117
1998	23,920	4,987	1,663	2,983	9,716	2,510	14,952	1,063	2,374	64,168
1999	37,384	8,596	2,004	2,764	17,188	3,561	22,382	1,226	3,805	98,910
2000	44,648	9,028	2,331	4,385	12,660	3,266	26,070	1,426	5,487	109,301
2001	34,979	7,059	2,320	2,637	11,742	2,339	22,454	1,065	1,955	86,550
2002	31,997	7,189	2,648	2,562	12,853	2,845	22,008	446	3,192	85,740
2003	29,668	4,815	5,028	3,018	12,878	2,965	20,794	666	3,616	83,448
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2005	24,181	6,566	1,626	2,395	8,521	2,039	16,083	1,356	4,089	66,856
Mean	26,372	6,272	2,355	4,026	10,607	2,783	18,452	1,108	3,893	75,868
01-05 Mean	29,509	6,132	2,706	2,303	11,261	2,567	20,840	883	3,134	79,334
2006	21,927	4,536	2,489	1,767	9,437	2,593	19,657	779	3,732	66,917

Proposal 342

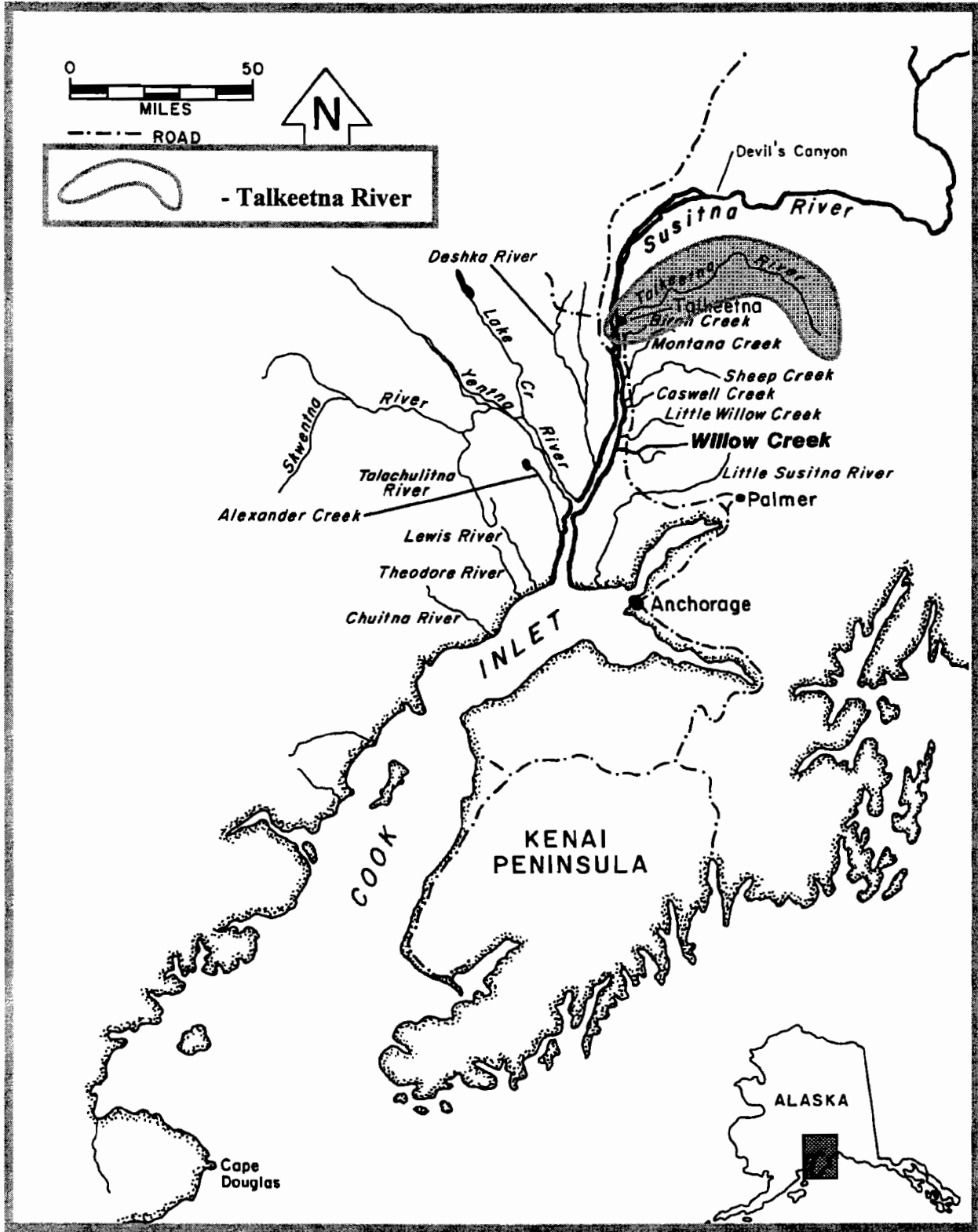
Table 1. Eastside Susitna River drainage coho salmon harvest by fishery, 1977-2006

Year	Willow Creek	Lt. Willow Creek	Kashwitna River	Caswell Creek	Sheep Creek	Goose Creek	Montana Creek	Birch Creek	Sunshine Creek	Talkeetna River ^a	Other ^b	Total
1977	679	225			438		1,415			1,070	1,882	5,709
1978	905	151			478		2,451			2,200	2,388	8,573
1979	462	262		624	462		1,735		774	1,248	1,997	7,564
1980	1,207	494		1,124	430		2,684		1,534	661	2,234	10,368
1981	747	29		901	326		2,261		968	422	939	6,593
1982	1,069	398		776	367		3,060		1,719	996	1,782	10,167
1983	576	52	52	408	596		1,402		722	836	532	5,176
1984	1,846	1,147	162	1,247	661	449	4,502		1,733	1,509	660	13,916
1985	1,026	528		608	478		1,972		1,205	747	478	7,042
1986	944	363	871	472	1,343	363	1,488	980	4,029	3,376	1,961	16,190
1987	2,898	561	36	453	1,068	145	1,394	163	1,612	2,608	90	11,028
1988	4,875	1,237	327	1,455	3,165	291	2,219	691	2,146	2,929	183	19,518
1989	4,218	1,388	336	834	2,231	190	2,295	281	2,159	2,775	371	17,078
1990	2,711	639	197	2,596	991	180	778		704	2,539	408	11,743
1991	4,154	1,308	167	3,819	1,544	657	1,612	322	1,761	3,435	700	19,479
1992	8,591	1,830	713	5,393	4,049	502	3,595	858	2,259	5,531	469	33,790
1993	5,743	1,213	554	2,385	2,413	428	3,496	535	2,922	5,830	544	26,063
1994	4,504	1,452	328	1,569	1,586	478	2,619	281	1,906	5,476	671	20,870
1995	3,498	992	472	1,687	1,092	152	2,385	198	1,385	6,672	632	19,165
1996	5,176	1,892	360	668	1,896	430	3,118	258	2,612	7,325	439	24,174
1997	2,401	661	202	294	1,198	166	1,692	177	443	2,815	248	10,297
1998	5,908	1,185	670	564	3,417	382	2,720	920	1,589	5,340	382	23,086
1999	5,019	871	260	1,198	3,045	440	3,382	622	1,709	5,814	932	23,292
2000	8,679	2,885	994	1,702	3,348	1,181	5,454	1,160	3,274	7,703	1,368	37,748
2001	6,835	1,936	728	1,408	2,588	683	5,023	146	1,072	5,195	1,003	26,617
2002	6,040	1,513	494	797	2,995	204	4,644	288	3,238	5,640	1,330	27,183
2003	2,918	635	1,090	938	1,908	220	3,361	421	2,508	3,984	602	18,585
2004	2,981	1,290	251	189	2,636	248	4,866	223	2,070	4,454	1,276	20,484
2005	4,255	1,103	369	340	2,337	267	2,592	288	2,493	3,359	68	17,471
2001-2005												
Mean	4,606	1,295	586	734	2,493	324	4,097	273	2,276	4,526	856	22,068
2006	5031	1511	1202	780	3602	906	2622	281	3460	3224	100	22,719

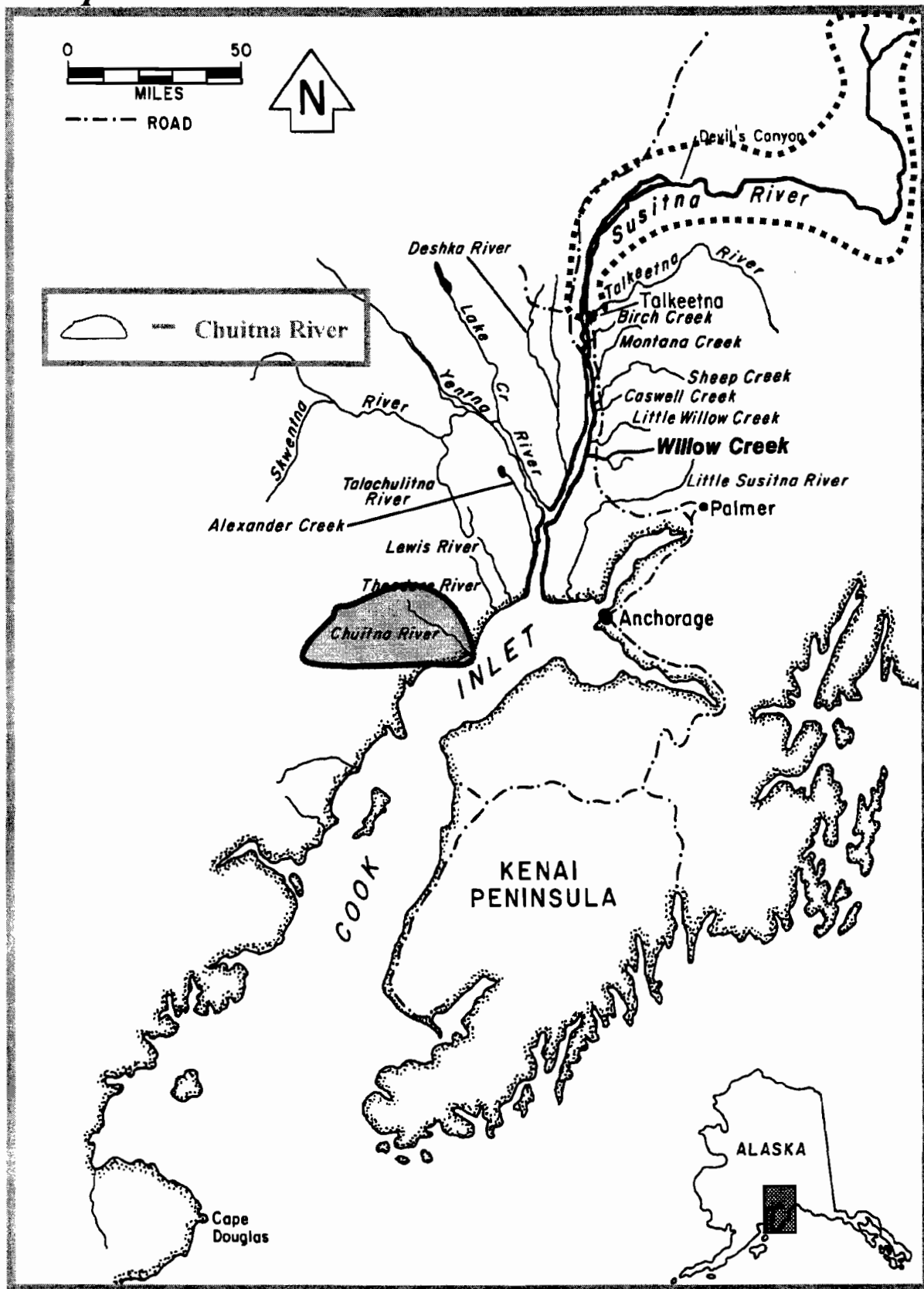
^a Talkeetna River and tributaries including Clear Creek.

^b Includes lakes and streams.

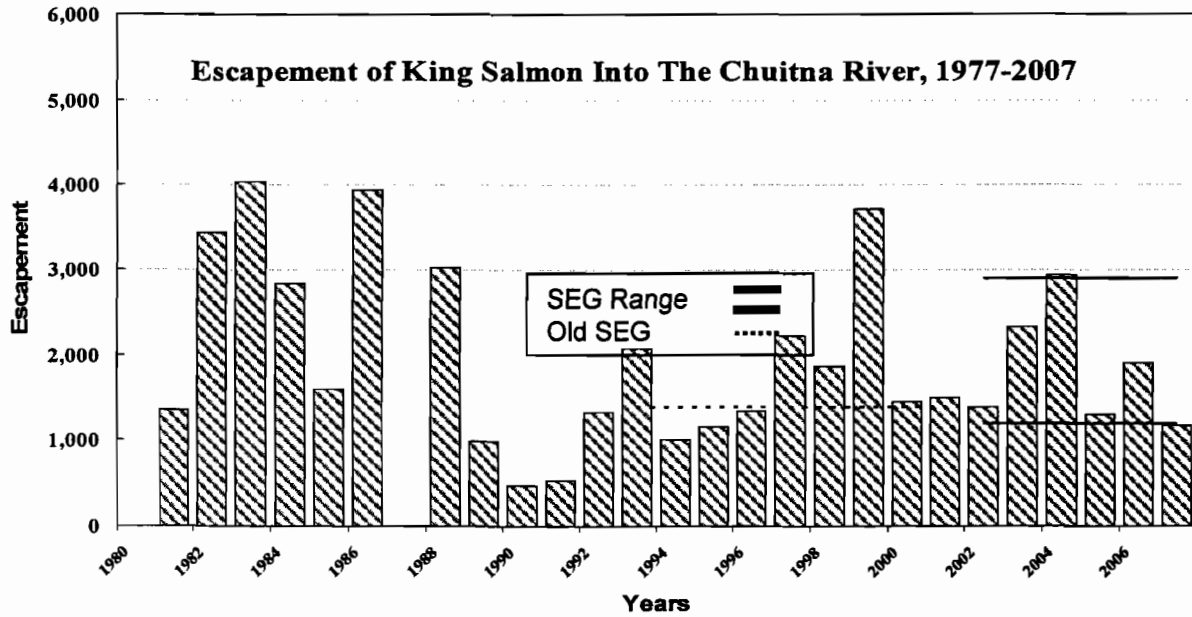
Proposal # 343



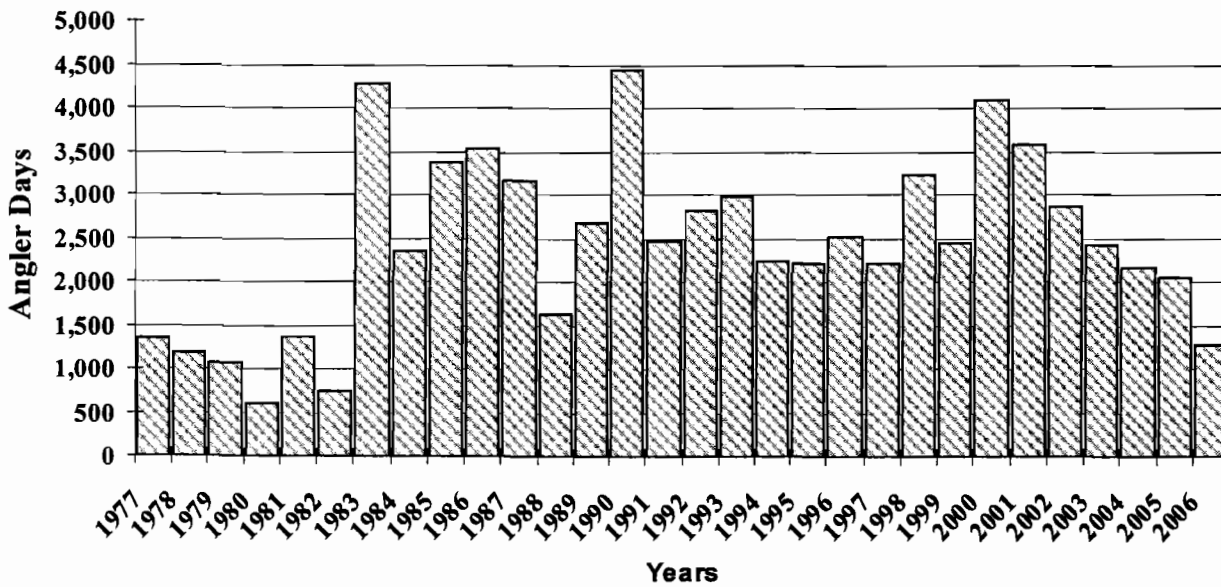
Proposals# 344



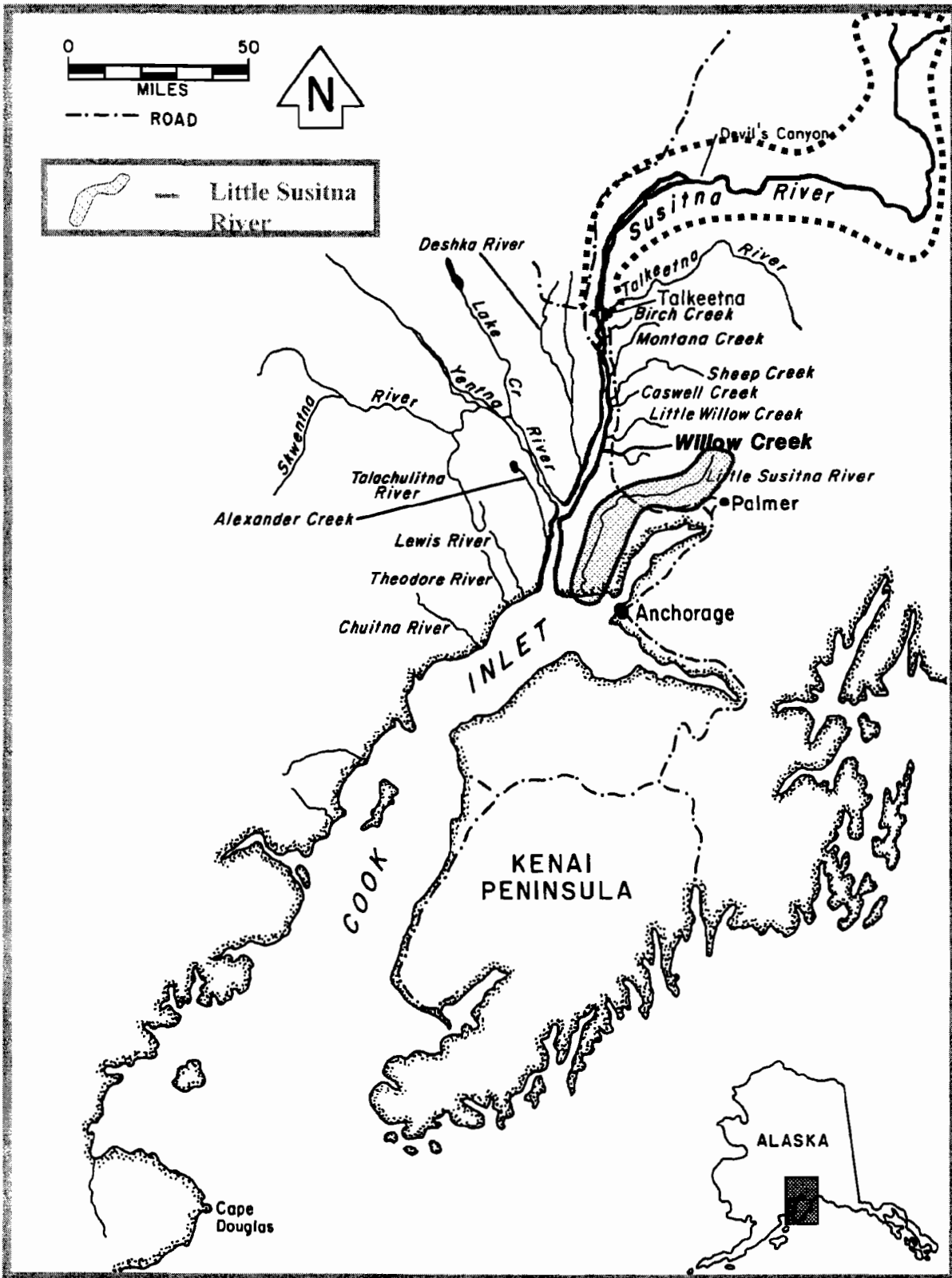
Proposal 344



Number of Angler Days Expended on The Chuitna River, 1977-2007

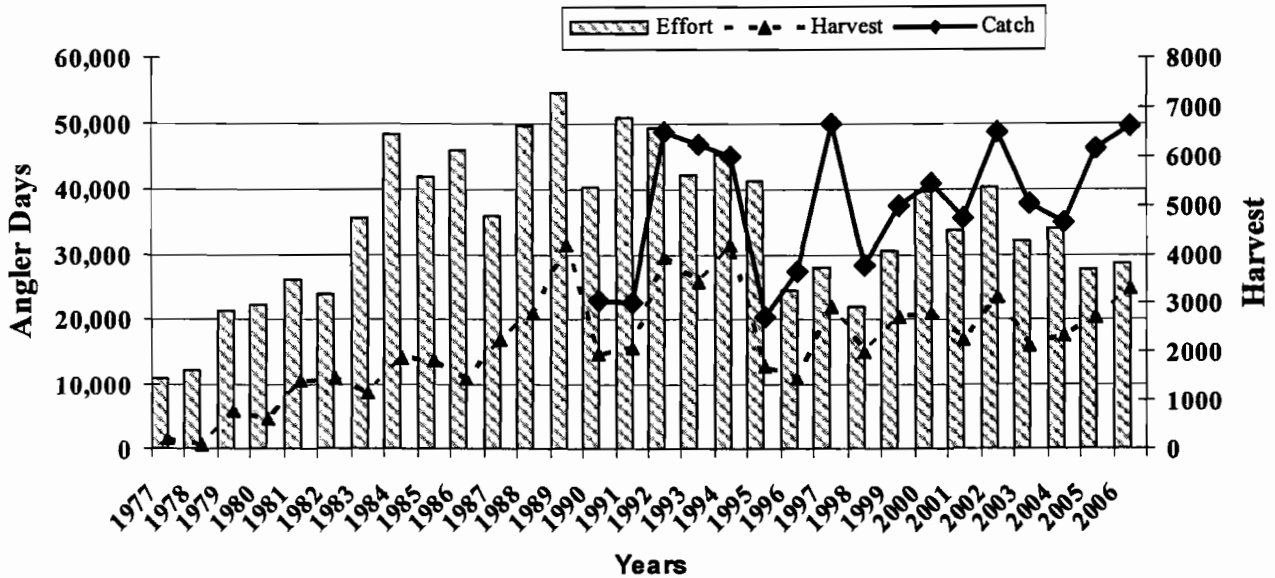


Proposal # 345 ,346 & 347

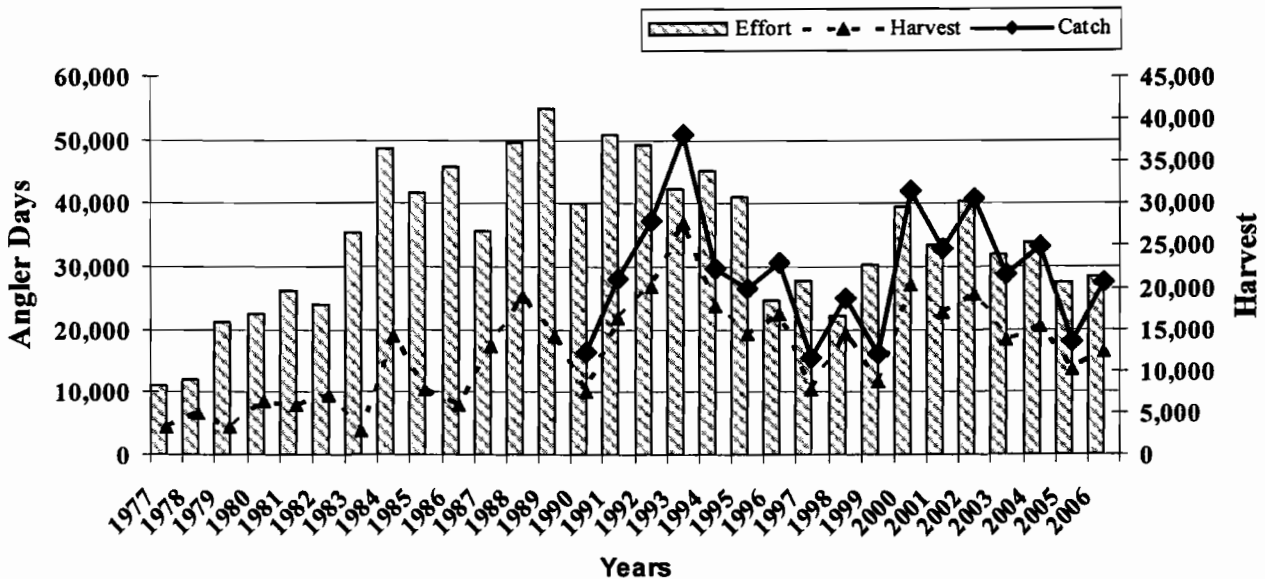


Proposal 345 - 347

Angler Effort and Sport Harvest and Catch of King Salmon from the Little Susitna River, 1977-2007

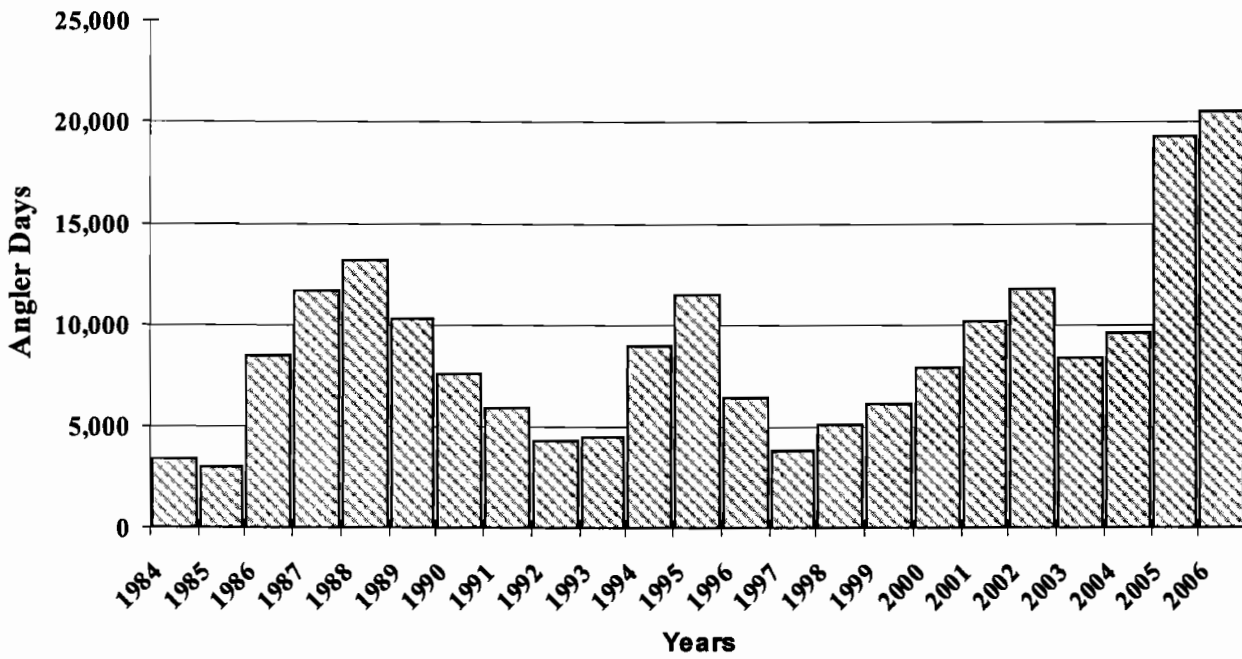


Angler Effort and Sport Harvest and Catch of Coho Salmon from the Little Susitna River, 1977-2007

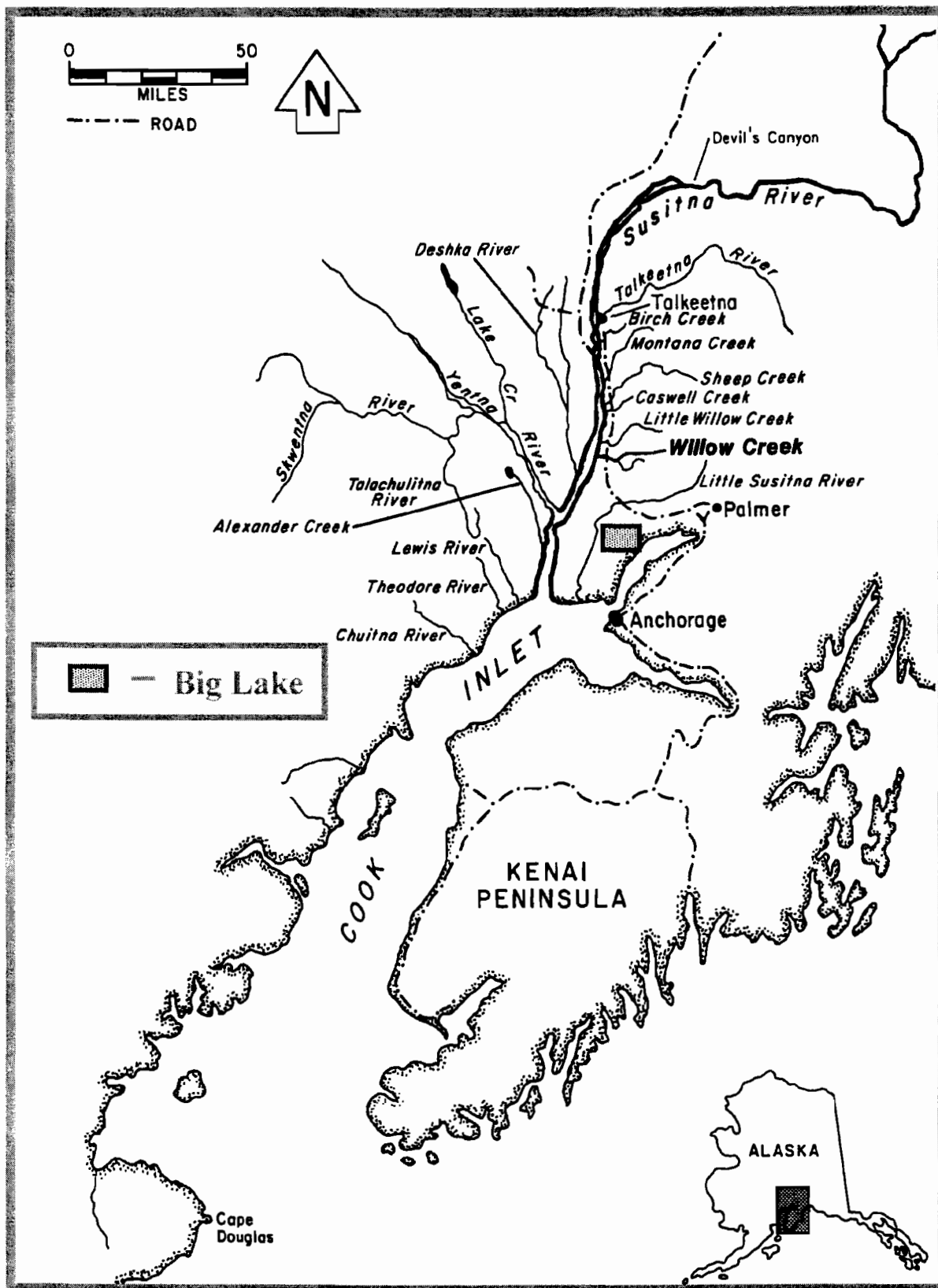


Proposal 348

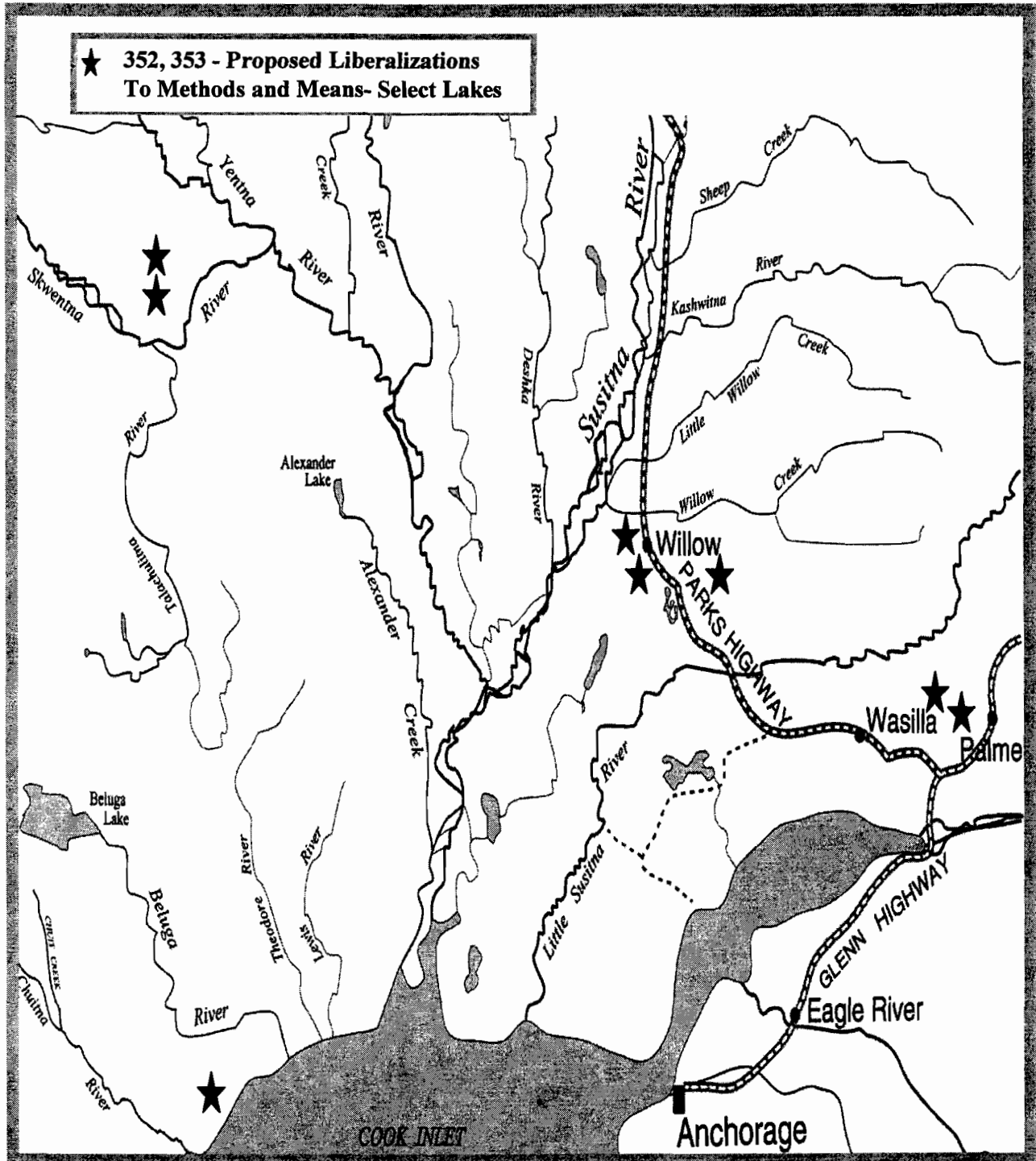
Number of Angler Days Expended at The Eklutna Tailrace, 1984-2007



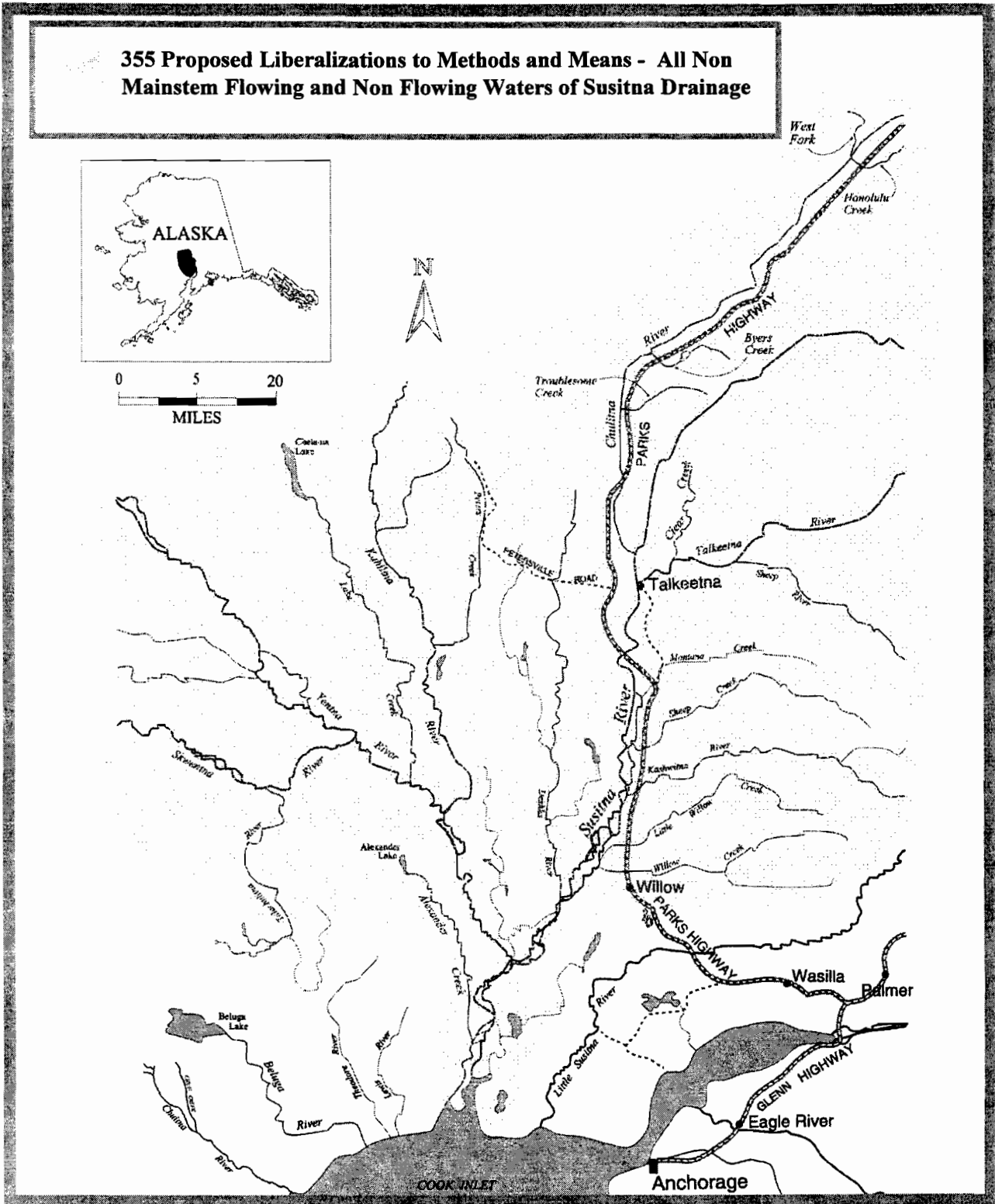
Proposal # 349, 350 & 351



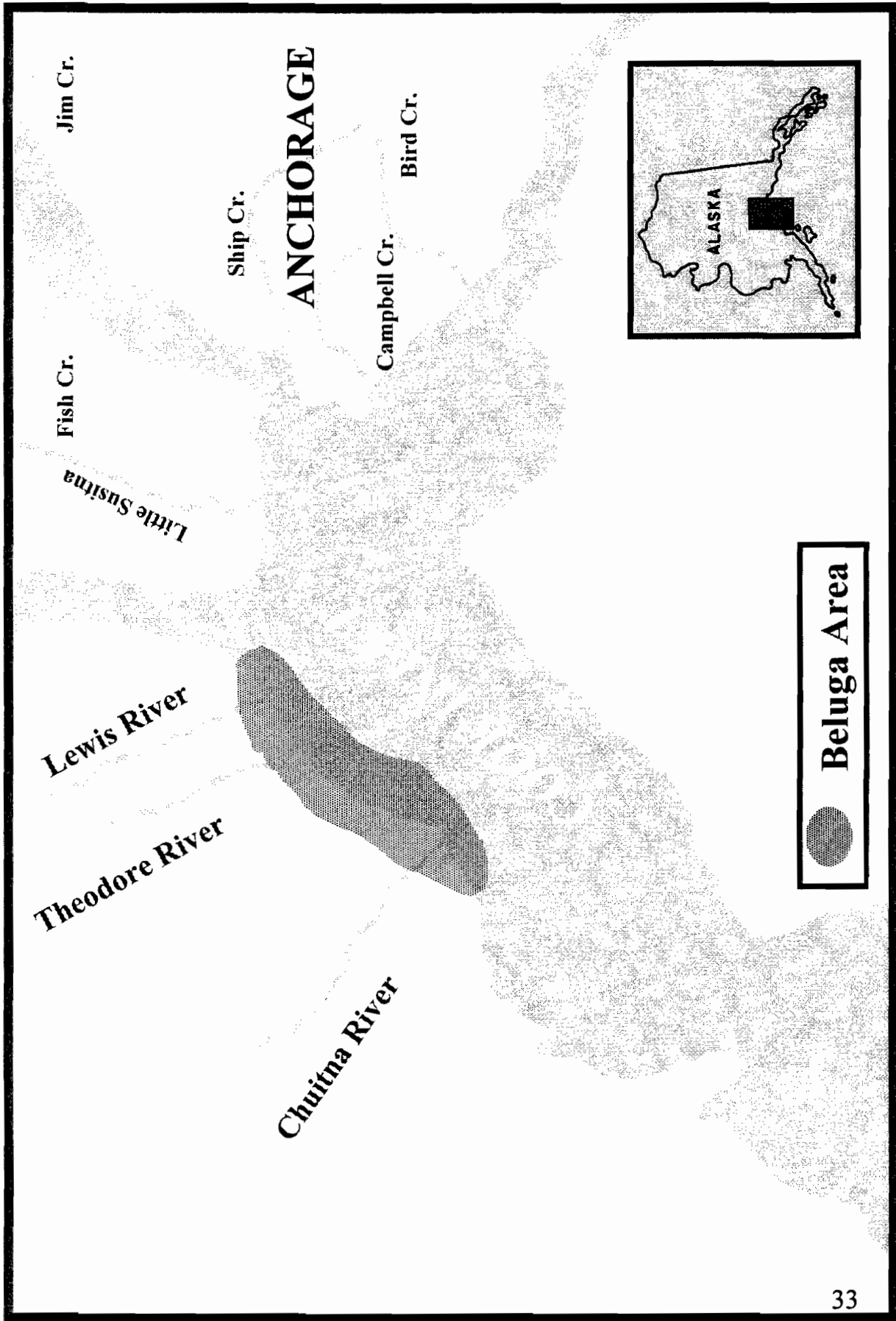
Proposal # 352 and 353



Proposal # 354 and 355



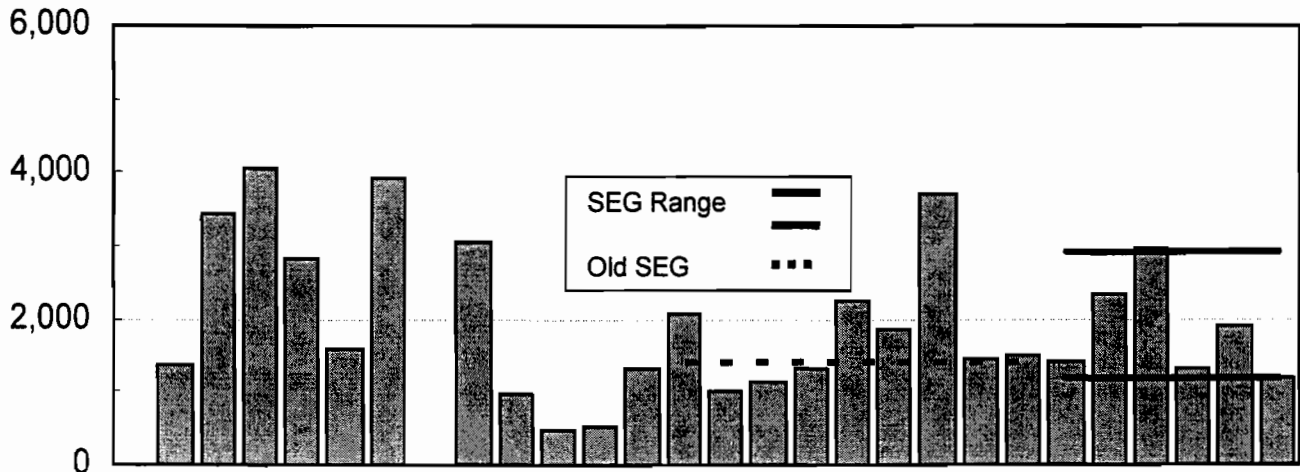
Proposal # 356 - 358



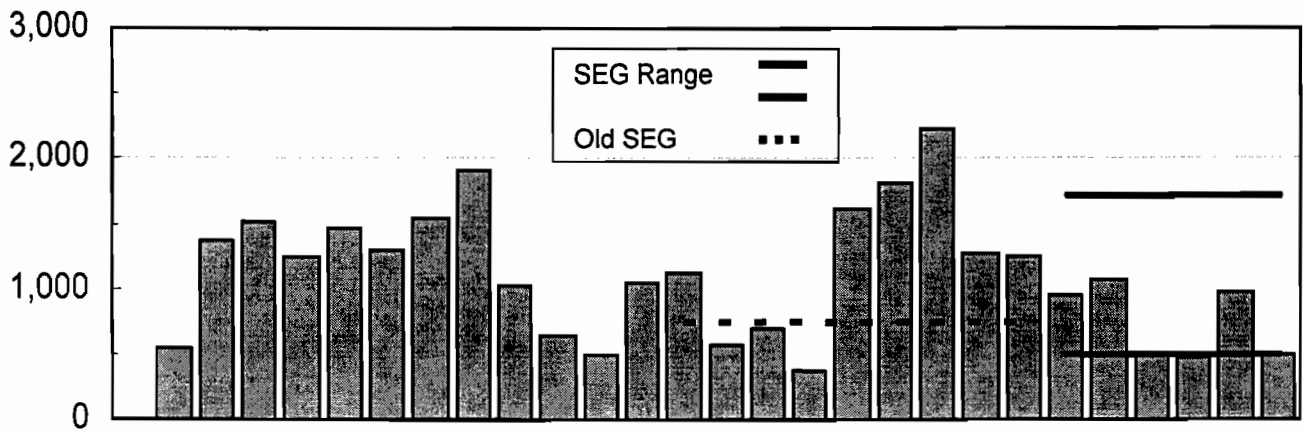
Proposal 358

West Cook Inlet King Salmon Escapement, 1979-2007

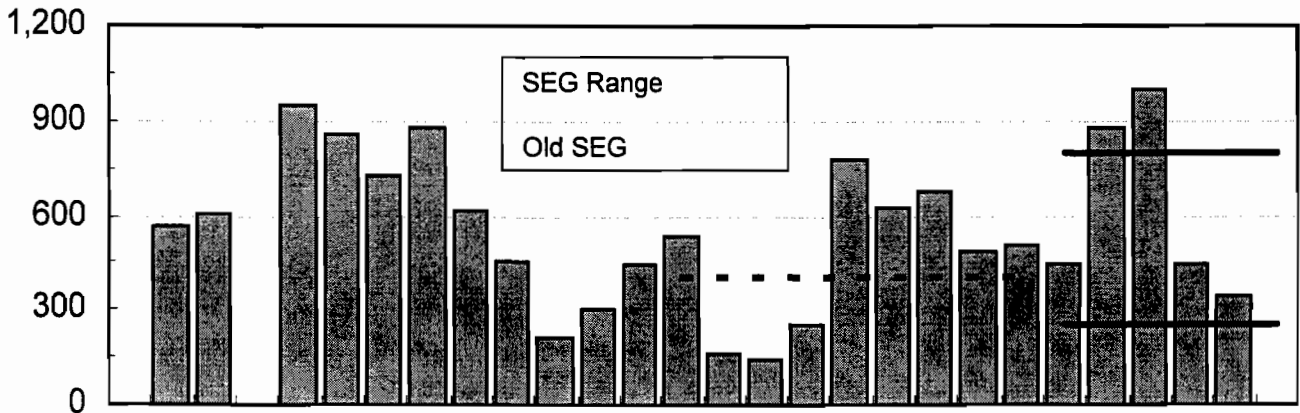
Chuitna River



Theodore River



Lewis River



1980 1982 1984 1986 1988 1990 1992 1994 1996 1998 2000 2002 2004 2006

Year

RC49

February 1, 2008

To; Board of Fish

From: Colin Towse
Mile 2 Box ACR
Alexander Creek, AK 99695

Ref: Alexander Creek Proposals 330, 331, 332, 333, 334, 335

Dear Folks,

Thanks for taking the time to read this. I will make it brief. I own a fishing lodge on Alexander Creek. (Dinglishna Lodge) We are open for 2 to 3 weeks per year in June for King Salmon fishing. All my clients are from France. Most of them have been here every year for the past sixteen years. The number varies between 13 and 25 clients per season. Last year (2007) we had 15 clients as a single group for 12 days. That is the total of my season. This year (2008) would be exactly the same if the regulations allow them to participate in this fishery. During those 12 days they caught 38 Kings, all of them from the mouth of Alexander Creek. I would estimate that they spent about \$3500 per person, most of this staying in Alaska. That totals \$42000. In other words they spent more than \$1000 per salmon. These clients have caught more fish in the past years, but enjoyed themselves to the extent that they want to return in 2008.

I personally know of four lodges that were open for business during the 2007 season that are now closed for the 2008 season in anticipation of more restrictive regulations. I cannot say as I blame them. I am most likely to be next when I return the deposits for 2008. This also means that we will have to sell our lodge, most likely at a loss, since it cannot produce the income to make the loan payments. So it goes. 38 fish. I was born here 65 years ago, lived my life here and am not about to leave. We will find some other way of providing for ourselves but it all seems so arbitrary.

I know most of you will feel a sense of accomplishment in shutting down this fishery but please believe me that you would be of much more help if you would allow more fish into the Susitna and open up the regulations for Pike fishing in Alexander Lake to bring these regulations in line with the surrounding lakes. 38 fish – good grief. We will never see these folks again once they are lost. My family and I will be unable to live the lifestyle we have embraced. It hurts a lot of people – 38 fish.

I would suggest that you allow king fishing for up to one half mile from the mouth of Alexander Creek. If there is no stability, you can always order a closure, but I am sure the fishermen will be away ahead of you and have gone home by then. This way you could avoid driving the stake into what little lifestyle we have left. Good grief- 38 fish.

I realize the commercial fishers and the pike have a lot more teeth than this writer, but I cannot just lie down and say nothing even if it is futile.

Thank you for your time.



THE CHUITNA COAL STRIP MINE:

RC 50

A MAJOR THREAT TO UPPER COOK INLET FISHERIES

BACKGROUND

PacRim Coal LLC, a Delaware Corporation owned by wealthy Texans, is submitting permit applications to state and federal agencies with plans to develop the Chuitna Coal mine on the west side of Cook Inlet, 45 miles from Anchorage, near the Communities of Beluga and Tyonek. If fully developed, this coal mine will strip a billion tons of coal and destroy 22 square miles of fish and game habitat. Among other impacts, this massive coal strip mine will have major impacts on the Chuitna River, which supports Rainbow trout, Dolly Varden and all 5 species of wild Pacific salmon.



COAL MINING THREATS TO FISHERIES

- The Chuitna River, near Tyonek/Beluga, is one of northern Cook Inlet's most productive habitats, supporting all five species of wild Pacific salmon.
- PacRim Coal will directly strip mine 11 miles of salmon bearing tributaries of the Chuitna River.
- According to its Clean Water Act permit application, PacRim will dump an AVERAGE of 7 million gallons a day of mine waste and run-off into the Chuitna River and its tributaries.
- Coal strip mining is an inherently destructive land use that will destroy salmon, moose and bear habitat, and negatively impacts commercial, subsistence, sport and personal use fishing economies.
- There has never been a successful coal strip mine reclamation effort in a watershed as wet, cold and productive as the Chuitna River watershed.

COAL COMBUSTION THREATS TO FISHERIES

- On October 15th, 2007, the State of Alaska announced – for the first time ever – fish consumption restrictions on larger, older fish due to mercury contamination.¹ Burning coal creates unsafe mercury emissions that fall-out into our fisheries; these toxics “bioaccumulate” in our fish, making Alaska fish less safe to eat and more difficult to market.
- The proposed markets for Chuitna coal are Asian power plants that are notorious for their lack of pollution controls. Through oceanic drift and atmospheric deposition, the mercury pollution will return to Alaska to poison our fish and threaten the health and marketability of ‘Wild Alaskan Seafood.’ In January of 2007, Governor Palin acknowledged that the leading source of methylmercury in Alaska was thought to be the “deposition of mercury from distant sources.”²
- Coal-burning power plants are the largest human-caused source of mercury emissions to the air in the United States, accounting for over 40 percent of all domestic human-caused mercury emissions.³

¹ See http://www.epi.hss.state.ak.us/bulletins/docs/rr2007_04.pdf

² See <http://gov.state.ak.us/archive.php?id=99&type=1>

³ See <http://www.epa.gov/mercury/about.htm>

Prop 344

- Destroying fish habitat in Alaska - and increasing mercury contamination in Alaskan fisheries - does not fulfill the mandates of Article 8 of the Alaska Constitution: "The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the *maximum benefit of its people.*" (emphasis added).
- Coal combustion is the largest source of the greenhouse gases responsible for global warming. Alaska's average air temperature has increased 4 degrees F over the past 50 years, winter temperatures have soared 7-10 degrees and the summer in-stream temperatures now routinely exceed state standards established to protect spawning and passing salmon. Rising in-stream temperatures induce stress in salmon, making them more vulnerable to pollution, predation and disease.

INFRASTRUCTURE THREATS TO FISHERIES

A 12 mile long partially-enclosed conveyor belt from the mine site will transport coal to a coal storage and export facility coal just off the beach at Ladd landing on the west side of Cook Inlet, where up to 500,000 metric tons of coal will be stockpiled. Blowing coal dust will create particulate pollution and health hazards in the immediate vicinity on land and water, as well as all the way to Anchorage, Mat Su and elsewhere. To load the coal onto massive Cape-Class vessels, PacRim plans to construct a 2 mile-long trestle with an accompanying gravel island extending into Cook Inlet.



- The 2 mile long trestle and accompanying gravel island at Ladd Landing will be built directly on top of an existing salmon set net lease site, fundamentally destroying this site, directly impacting adjacent commercial set net fisheries and altering salmon migration patterns in the Upper Inlet.
- The State has never used eminent domain to condemn a private property right by taking an existing fish lease issued by the State of Alaska; however, when questioned about the possibility of condemning a fish lease to make way for the coal export facility, DNR officials would not rule out the use of eminent domain proceedings to take an existing fish lease to allow for the development of this mining project. *This conflict – between long term, sustainable fishing uses – and short term, boom & bust coal development – will set a critical precedent across the state.*
- The development of this mine will turn Ladd Landing into a major industrial port in the middle of salmon migration routes for all of Northern Cook Inlet and the Mat Su Valley.
- PacRim Coal has proposed to bring in 120 ships per year, year-round, even in the Inlet's icy winter conditions, to load at the Ladd Landing facility, creating heightened risks of oil spills and other maritime casualties.

For more information:

www.inletkeeper.org/energy/chuinacoalproject.htm

Or contact Dennis Gann, Alaska Coal Working Group, at 907.929.9371

Submitted by *Larry Heilman*

Kenny Rodgers

7333 Basel St.

Anchorage, Alaska 99507

Ph. 907-336-1812

RC 51

Re: 2008 Upper Cook Inlet Proposals

Members of the Board of Fish

My family and I have been fishing in the Cook Inlet since the mid 1960's. I have held a Cook Inlet Set Net permit since 1979. I have fished in both the Central and the Northern District. Since 2000 I have been fishing in the Northern District as a permit holder. I have also fished there as a crew member from about 1984. My kids are 4th generation fisher people here in Cook Inlet.

I strongly support proposals: 137, 141-150,163. In the Northern district with our early king season we have never exceeded our king harvest cap of 12,500 kings. We normal harvest about 25% to 30% of our cap. The past few years, the salmon runs have been coming in the inlet later and later. By going to 2 periods a week or by giving four Mondays it will allow us to harvest the allowed quota of kings. The department will always have the authority to close us down if the harvest exceeds the allowed limit. This is basically our revenue period, as we do not get to fish the red season here in the northern district. As we are closed more often than not, due to the low escapements returns into the Yentna and the Susitna drainages. All we have left is to fish for is the kings and silvers. So like the commercial sport guides on the rivers. We, in the northern district are facing economical hardships and lost yield as well. We are still part of the commercial fishing community that puts in our share of revenue (food, fuel, boat parts, trucks/truck parts, shore fishery leases, permits, employ crew hands, taxes, land and other misc. supplies) from May to September.

I also support proposals 74-75. This will lessen the heavy targeting of smaller schools of salmon and help improve the likely hood of more Susitna fish pass by the central district. They don't need the help of airplanes to spot for salmon. From 1999 to 2004, six years of no spotters, there was an average red escapement of 107,723 ¹into the Yentna. The last three years (2005-2007) an average of 69,906². The drifters are way too effective. with the new and improved technology, the boat that they have now are faster, bigger and have the top of the line electronics, they are definitely too efficient. they have come a long way from sail and oar power. The drifters are able to move up and down and all around the inlet

¹ From the department of fish and game records

² From the department of fish and game records

and follow the runs. Whereas, we have to sit and wait for the fish and hope they come by our little section of the beach.

I also support proposal 76. The area, known as the Karluk reef, is where the salmon school up and are mixed stock. This will also help decrease the interception of northern bound stock when there are corridor restrictions.

I would also like to say, that there needs to be essential fish habitat protection on the Susitna drainage systems. On the Kenai river system, the upper half and outlying streams are more less protected by national and federal lands with next to no population on it. Only the lower half of the river is allowed motorized boats. In the month of July it's been a concern of the amount of hydrocarbons that's being released in the river. Enough that they have list it as a category 5. On the Susitna River, you have from May to September, boat usage for fishing, hunting, transportation, and water sport use (jet skis, airplanes, etc.). You have larger populations of people living along the river, with that you get sewer, oil, gas, soap, sewer and habitat destruction. Looks what's happened down in Washington and Oregon! Not to mention the increase of pike in the Susitna water ways. With the runs of salmon in jeopardy, the state is also looking at putting dams on the Susitna River; just look what it did to the Columbia River! Please Look at an "Alaska fishery research bulletin Vol.3 No.1, Summer 1996" by Ken Tarbox and Terry Bendock. "A biologist's perspective", "Can Alaska Balance Economic Growth with Fish Habitat Protection?"³.

There needs to be more funding for the department of fish and game for their fish counting survey. I.e. weirs on different lakes and streams for a more accurate count of fish stocks!!!!

The drifters say that there are no problems with the Susitna stock! Then where are the fish?????? It's no problem when they intercept them and have them, in their fish holds then??????

I would like to be placed in the following committees please! : Committee A, B, G and F.

Thank you



Kenny Rodgers

³ Can Alaska Balance Economic growth with Fish Habitat Protection?
A Biologist's Prospective
By Ken Tarbox and Terry Bendock
Reprinted from the Alaska Fishery Research Bulletin Vol.3 No.1, summer1996

Proposals 74 and 75 that bans the use of aircraft, during the time that fishing is occurring, should be strongly supported. It could help in allowing more fish escapement into the Yentna. The reasoning is that the spotters make the drifters too efficient. If spotters are removed during fishing hours, there is a certain percentage of the fleet will do well, but not all. This will lead to not so much heavy targeting on smaller schools of salmon and a higher likelihood that more Susitna fish will pass by the central district.

The following figures reflect this:

Six years of no spotters:	1999	99,029	
	2000	133,094	
	2001	83,532	
	2002	78,591	
	2003	180,813	
	2004	71,281	

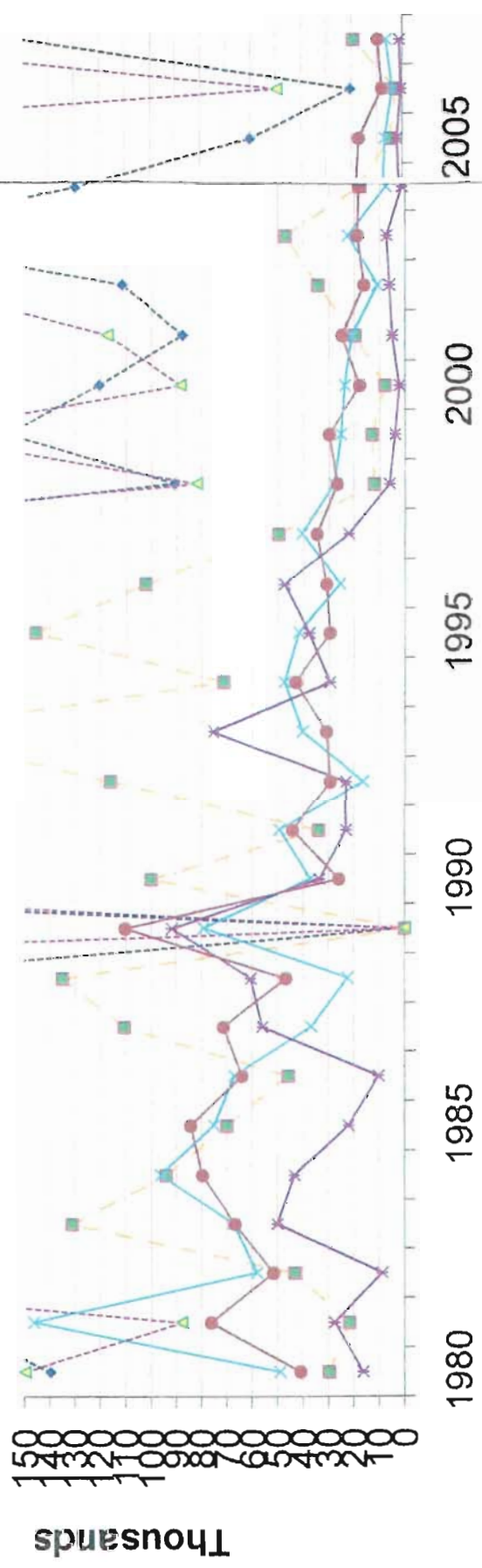
		107,723	average red escapement into Yentna

The last Three Years with spotters:

	2005	36,921	
	2006	92,896	
	2007	79,901	

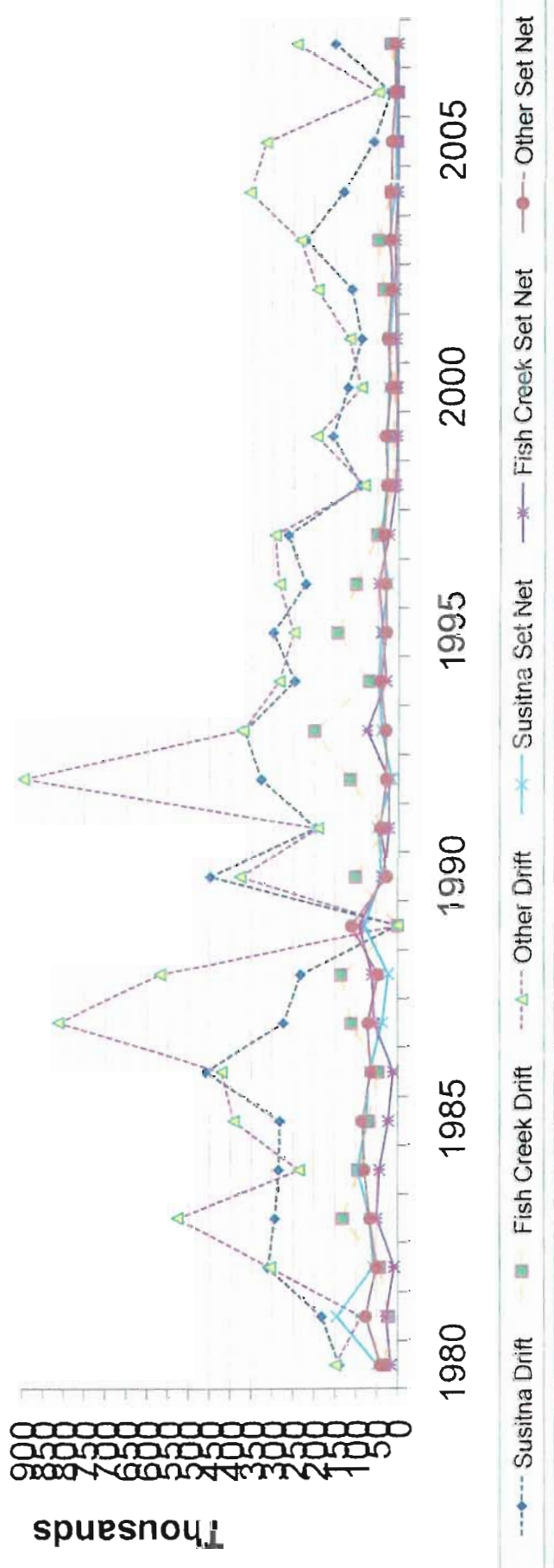
		69,906	average red escapement into Yentna

Harvest Comparison: Central Drift vs. Northern District Setnet



---◆--- Susitna Drift ■ Fish Creek Drift ---▲--- Other Drift ● Fish Creek Set Net * Susitna Set Net × Susitna Set Net * Fish Creek Set Net ● Other Set Net

Harvest Comparison: Central Drift vs. Northern District Setnet



	2004	2005	2006*	2007*		
Total	599,202	1,413,995	656,427	846,257	1,367,251	1,593,638
Susitna	130,480	60,207	20,526	151,786	5%	8%
Kenai	1,655,147	1,813,684	247,117	1,091,980	73%	61%
Kasilof	370,226	304,273	115,338	290,225	12%	16%
Fish Creek	17,823	4,761	2,617	19,293	0%	1%
Other	354,662	318,082	49,698	243,865	13%	14%
Total	2,528,338	2,501,008	435,297	1,797,149		

*preliminary

