

MEMORANDUM

State of Alaska 83-1375

TO: Richard A. Neve', Commissioner
Department of Environmental
Conservation

DATE: May 18, 1983

FILE NO:

TELEPHONE NO: 465-4100

FROM: Don W. Collinsworth, Commissioner
Department of Fish and Game

SUBJECT: Tolovana River and
Tributaries
Reclassification

This is in response to your May 5, 1983, request for specific fishery values and uses in the referenced drainage area.

On close examination, I find I cannot address your request in the detail you desire. My fishery Divisions have accomplished some work on the Tolovana River but have not assessed the values of the specific tributary streams identified in your request. My staff could provide their opinions as professional biologists, but such would provide you little more than contained in my recent response to the proposed request for reclassification (enclosed).

I mentioned in my discussion of the Tolovana request that the reclassification process must address a clearwater drainage in its entirety. Without such a comprehensive perspective there is little guarantee of compatibility between reclassified areas. Similarly, the specific distribution of fishes and their utilization would be of little value in your consideration of affording protection to the Tolovana River.

If, after review of my recent response to the request to reclassify the Tolovana River, you believe that I can be of further assistance, please advise.

Enclosure

MEMORANDUM

State of Alaska

TO: Richard A. Neve', Commissioner
Department of Environmental
Conservation

DATE: May 20, 1983

FILE NO:

TELEPHONE NO: 465-4100

FROM: Don W. Collinsworth, Commissioner
Department of Fish and Game

SUBJECT: Tolovana/Livengood
Water Quality
Reclassification

The Department of Fish and Game has reviewed your public notice regarding the receipt of a petition pursuant to the Alaska Water Quality Regulations (18 AAC 70) to reclassify the waters of a portion of the Tolovana River, and about 16 clearwater tributary streams. We are opposed to the proposed reclassification to exclude uses of the referenced waters other than "industrial" for the following reasons.

Species Presence

The Tolovana River supports Alaska blackfish, burbot, least cisco, humpback whitefish, broad whitefish, round whitefish, sheefish, Arctic grayling, northern longnose sucker, slimy sculpin, northern pike, king salmon, chum salmon and perhaps other fishes. Test netting conducted on the lower Tolovana River in July 1970 yielded a catch of six king and 19 chum salmon. No current information is available regarding the abundance of salmon or the areas of spawning in the Tolovana River. The Tolovana River discharges to the Minto Flats where many ponds, lakes and sloughs provide productive feeding and rearing habitats for many fishes such as whitefish and northern pike. Pike also spawn in the Minto Flats.

Regarding the tributary streams affected by the proposal, my Sport Fish Division states that given clear water conditions, one could expect to find grayling and other resident fish in the major tributaries such as Livengood Creek, and possibly its tributaries.

The Tolovana River is prime furbearer habitat for otter, beaver and mink. The Minto Flats host muskrat, red fox, coyote, wolves, wolverine and lynx. We share the opinion of the local residents who testified at your May 3, 1983 public hearing, in Fairbanks, that past mining discharges have resulted in the deposition of silt in the Minto Flats which has diminished the abundance of muskrats.

A wide variety of waterfowl utilize the Minto Flats area. Among those are Canada Geese, trumpeter and whistling swans, sandhill cranes, and many species of shorebirds and ducks.

The Tolovana River and Minto Flats area contain prime habitat for moose and black bear. The current population of moose is low, but the potential for a larger population is good. Numbers of black bear are moderate to high.

Use

The Minto Flats area is utilized extensively by sport fishermen. My Sport Fish Division estimated that the annual fishing effort during the period from 1977 through 1981 ranges from 2,045 to 3,866 angler-days, with an average of 3,000 angler-days per year. The subsistence fishery in the vicinity of the New Minto Village, located on the Tolovana River, is extensive.

Minto Flats is mostly utilized by trappers from Minto and Nenana, but the eastern portion is intensively trapped by residents from the Fairbanks area.

The sport and subsistence harvest of waterfowl is extensive. The Minto Flats area is thought to be the most heavily utilized area for this purpose in the Tanana Basin.

Big game hunting is moderate to heavy in this vicinity. My Game Division estimated that approximately 80 moose hunters utilized the area during the 1980-1981 season. Pursuit of black bear is popular in the Flats and surrounding hills during the spring months; both hunters and bears tend to concentrate along the major rivers, such as the Tolovana, during autumn.

Discussion

At your May 3 hearing, testimony was provided regarding occasional use of the water for drinking, swimming and washing. I concur with the petitioner that surface water should not be consumed directly, because of the danger of infection by disease organisms, but submit that such organisms can be killed by boiling or chemical treatment. However, removal of suspended solids or heavy metals, such as arsenic, from mining discharge cannot be readily accomplished by an individual user.

A concept stressed by my representative on the Placer Mining Task Force was that it is not realistic to reclassify a segment of a drainage to a lower quality and then assume that the subsequent downstream impacts would be negligible. Enclosed for your information is a copy of a draft report entitled "The Effects of Sedimentation on Salmonids and Macro-invertebrates." The document was prepared by my Habitat Division and is a summary of the effects of settleable and suspended solids on fishes and the aquatic system. In addition, the effects of suspended particles on prey distribution and the feeding ability of sight-feeding avian and mammalian species must not be overlooked.

The exact ramifications of the reclassification of a waterbody for "industrial use" have never been clearly explained to my staff or, in our opinion, to the public at your Fairbanks hearing. For example, the basis for statements by your staff regarding the continued enforcement of the standard for settleable solids by requiring the installation of a settling basin(s) is not apparent in your regulations. Would such

May 20, 1983

enforcement be delegated to the Environmental Protection Agency? If so, can we realistically anticipate a product?

Many of the criteria in 18 AAC 70.020 to protect the various uses of the water are narratives rather than measurable standards. Measurable effluent standards need to be defined for the industrial and other use classifications.

Recommendations

My recommendations on reclassification pursuant to 18 AAC 70.055 are listed below in order of descending preference.

1. Deny the request, on the basis of the impacts that can be expected to occur in the reclassified area and the area downstream.
2. Hold this and other similar requests in abeyance until the EPA has determined the best practicable control technology (based partially on economic concerns) which will be applied during the summer of 1984, and measurable standards are established throughout the Alaska Water Quality Criteria (18 AAC 70.020).
3. Retain the current classification on the Tolovana River, but reclassify the requested tributaries to the standard affording protection to fish and wildlife values (18 AAC 70.020 I.(C)), or to a use requiring a higher protection as you may determine.

Thank you for the opportunity to provide our views on this critical issue.

cc: Commissioner Wunnicke - ADNR
Keith Schreiner - USFWS, Anchorage
Curt McVee - BLM, Anchorage

MEMORANDUM

purple *WAT 4.1*
State of Alaska *Tolovana*

TO: Richard A. Neve'
Commissioner
Department of Environmental
Conservation

DATE: June 20, 1983

FILE NO:

RECEIVED

JUN 27 1983

TELEPHONE NO:

FROM: Joe Cladouhos *JWC*
Director
Division of Environmental
Quality Management

SUBJECT: ~~Petition to Deny~~ ~~Alaska Dept. of Fish & Game~~
~~of the Tolovana River and Certain~~
~~Tributaries in the Livengood Ar~~
~~for Industrial Use Only~~

Attached for your review is the petition of the Livengood/Tolovana Mining District requesting that you reclassify a portion of the Tolovana River and 16 tributary streams. I recommend that you deny this petition. As you know, these waters are presently classified for the following uses:

- drinking or cooking water
- contact recreation (bathing, swimming)
- non-contact recreation (fishing, hunting, hiking, camping)
- growth and propagation of fish, and other use by wildlife
- aquaculture (fish hatcheries)
- agriculture (including gardening)
- industry (including placer mining)

A public hearing was held on May 31, 1983 from 7:15 to 11:15 PM in the auditorium of the Fairbanks North Star Borough Library. I served as Hearing Officer, and conducted it pursuant to the provisions of 18 AAC 70.055(e). Dan Easton, Environmental Engineer, served as staff during the hearing. Mr. Easton's recommendation on the petition (attached) was made to me on June 2, 1983. I concur with it except for excluding agricultural or aquacultural use because there is no net effect on the water quality standards for turbidity or sediment. Files containing exhibits received during the public hearing and separate files containing written testimony supporting the petition and opposing the petition received after the hearing are available for your perusal. The preponderance of testimony focused on the Tolovana River - specific testimony and information on the tributary streams was deficient, in my opinion.

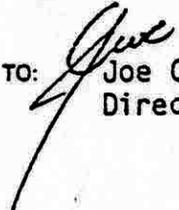
All uses stated above should continue to be protected. The realistic dichotomy of this recommendation is that paper regulations will not protect the streams, and it is impossible for departmental staff to adequately monitor and inspect literally hundreds of placer mining operations.

18 AAC 70.101(c)(4) states that water discharges must be provided with "all known available and feasible methods of treatment" before discharge. It is recommended that future placer mining reclassification petitions include present, available, and feasible treatment methods.

Attachment

MEMORANDUM

State of Alaska

TO:  Joe Cladouhos
Director, EQM

DATE: June 2, 1983

FILE NO: 1.49.001

TELEPHONE NO:

FROM: Dan Easton ^{DE}
Environmental Engineer

SUBJECT: Tolovana/Livengood
Reclassification

Here is my recommendation on the reclassification of the Tolovana River and tributaries near Livengood.

I. GENERAL

A. Substantiality

18 AAC 70.058(h). states that "when presence of use... depends upon substantiality of use, regularity and diversity of use, rather than intensity of use, will be the determining factors." Thus, a use is substantial if diverse persons or groups regularly use the waters during certain periods. It is this definition of "substantial" that is used in the following discussion.

B. Burden of Proof

18 AAC 70.058(i). states that "the burden of proof in establishing the applicability or nonapplicability of the criteria established in this section is upon the person seeking to exclude a protected use..." In other words, the petitioner must prove that uses other than industrial are not made of the waters.

II. DISCUSSION OF WATERS

A. Source of Drinking Water [18 AAC 70.020(a)(1)(A)(i)]

According to the water quality standard regulations, a drinking water use is present if there is substantial domestic use associated with residences, or if the waters are used for drinking by substantial numbers of hunters, fishermen, hikers or other recreational transients.

Testimony indicates a substantial use of the water by temporary residences (river camps) and recreationists. A statement signed by 69 Minto residents says that Minto and Nenana residents use the water for drinking and other domestic purposes while hunting, fishing, trapping, picking berries, or gathering house logs. Recreationists Robert Dunn, John David Ragan and John Jodwallis testified that they have used the waters for drinking. ... Dunn testified that there are others who do the same. Written testimony from the Interior River Users Group states that the water is "used by many river travelers for potable purposes."

The petitioner's testimony centers around the waters being unsuitable for drinking without treatment and the availability of alternative

sources. The petitioner and supporting testimony failed to prove that a substantial use as a source of drinking water is not present.

B. Source of Agriculture Water [18 AAC 70.020(a)(1)(A)(ii)]

In order for an agricultural use to be present, there must be a water use permit appropriating water for this purpose, and the waters must actually be used for agriculture under the permit.

Testimony opposing the petition points to use of the waters for irrigating gardens, but does not refer to water use permits issued for this purpose. The Department of Natural Resources verified by phone that there are no water use permits for agriculture in effect in the area.

C. Source of Aquaculture Water [18 AAC 70.020(a)(1)(A)(iii)]

As with agriculture, a water use permit is necessary to establish a use as a source of aquacultural waters. The petitioner claims that there is no use of the waters for aquaculture. There was no testimony to refute this. The Department of Fish and Game verified by phone that there are no fish hatcheries in the area. The Department of Natural Resources verified that there are no water use permits in effect for aquaculture.

D. Contact Recreation [18 AAC 70.020(a)(1)(B)(i)]

A use for contact recreation is present if there is substantial recreation where there is direct and intimate contact with the water. A statement signed by 69 Minto residents states that the waters are used by some family members at river camps for swimming. Mr. Paul Sherry testified that he swam in the Tolovana.

Although the Tolovana River and its tributaries are not used intensely for contact recreation by Lower 48 standards, they are probably used as much as, or more, than most interior rivers. The fact that the waters are used by residents of river camps from Minto and Nenana as well as recreationists establishes diversity of use.

E. Secondary (Non-contact) Recreation [18 AAC 70.020(a)(1)(B)(ii)]

Secondary recreational use includes fishing, boating, camping, hunting, hiking and vacationing. This use is present if the waters can be seen from a public highway or campground, or if they lie in lands subject to substantial secondary water recreation use.

The Elliot Highway crosses Cleary Creek, Ester Creek, Olive Creek, Livengood Creek, Ready Bullion Creek, and Rosebud Creek. The petitioner states that of these, only a stretch of Livengood Creek is visible from the highway. There was testimony from several persons who hunt, fish, canoe and trap in the area and on the Tolovana River for recreation. Minto residents claimed these same uses for subsistence purposes. Testimony supports the presence of a substantial secondary recreational use in the area by both recreationists and subsistence users.

F. Aquatic Life [18 AAC 70.020(a)(1)(C)]

Use of waters to support fish and other wildlife is present in all waters unless the department, after talking to the Department of Fish and Game, finds that the waters are inconsequential for this purpose.

Testimony from miners, recreationists and Minto residents states that grayling are found in the waters. A questionnaire provided by the petitioner documents that fish occur in the area. The Department of Fish and Game in a memorandum dated May 20, 1983, states that "the Tolovana River supports Alaska blackfish, burbot, least cisco, humpback whitefish, round whitefish, sheefish, Arctic grayling, northern longnose sucker, slimy sculpin, northern pike, king salmon, chum salmon and perhaps other fishes." A subsequent call to Fish and Game verified that this includes the reach of the Tolovana River for which reclassification is sought. The memo goes on to say that "given clear water conditions, one could expect to find grayling and other resident fish in the major tributaries such as Livengood Creek, and possibly its tributaries." Testimony, as well as information provided by the Department of Fish and Game also supports the presence of furbearers, waterfowl, black bear and moose.

III. RECOMMENDED RECLASSIFICATION

The petitioners failed to prove the absence of use as a source of drinking water, for contact recreation, for secondary recreation and to support aquatic life. I recommend that the petition to exclude these uses be denied.

The petitioner, on the other hand, did show that there is no agricultural or aquacultural use made of the waters. The petition to exclude these uses should be approved.

IV. EFFECTS ON WATER QUALITY STANDARDS

Reclassifying the waters according to the above recommendations would have no effect on the water quality standards for turbidity or sediment. The standards for protection of the waters as a source of drinking water, and for contact recreation will continue to limit increases in turbidity to 5 NTUs above background. Sediment would continue to be limited to no increase above natural conditions.

MEMORANDUM

State of Alaska

TO: Joe Cladouhos *JC*
Director, EQM

DATE: June 3, 1983

FILE NO: 1.49.001

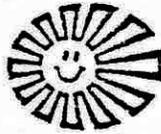
TELEPHONE NO:

FROM: Dan Easton *DE*
Environmental Engineer

SUBJECT: Tolovana/Livengood
Reclassification

Subsequent to my recommendation on the Tolovana/Livengood reclass, Craig Shirley of DNR called to say he had found a certificate of appropriation for 100 gallons per day to water livestock and 1 acre-foot per year to irrigate crops. The point of take is the Tolovana River just south of where the pipeline crosses. The priority date is February 13, 1976. The certificate is issued to Ken and Eugene Wooton, SR 20683, Fairbanks, 99701. I was unable to get a phone number for Mr. Wooton to see if he is making use of the appropriation.

This information does not change my recommendation, but serves to update the discussion on agricultural use. I suggest you attach this memo to the recommendation.



LIVENGOOD/TOLOVANA MINING DISTRICT

P. O. BOX 73069 - FAIRBANKS, ALASKA 99705

PETITION TO RECLASSIFY CERTAIN WATERS OF THE STATE OF ALASKA

TO: Commissioner Richard Neve
Department of Environmental Conservation
Pouch 0
Juneau, Alaska 99811

RECEIVED

JAN 31 1980

DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

FROM: Rose Rybachek, President
Livengood/Tolovana Mining District
P.O. Box 73069
Fairbanks, Alaska 99707
907-488-6453

A. The Livengood/Tolovana Mining District requests the Commissioner of the Department of Environmental Conservation to reclassify particular waters of the state to exclude the following described uses as outlined in 18 AAC 70,020:
1.(A) Water Supply (i) Drinking, culinary and food processing; (A)(ii) agriculture, including irrigation and stock watering; (A)(iii) aquaculture; (B) Water Recreation (i) contact recreation; (B)(ii) secondary recreation; (C) Growth and propagation of fish, shellfish, and other aquatic life, and wildlife including waterfowl and furbearers. The remaining classification would be (A) (iv) Industrial.

1. The following listed names and addresses are owners or users within one mile of the waters in question:

Phillip Anderson, 909 8th Avenue, Fairbanks, Alaska 99701
Thelma Estorff, Box 768, Douglas, Alaska 99824
Heflinger Mining Equip Co., 665 10th Avenue, Apt. 307, Fairbanks, Ak 99701
Livengood Joint Ventures, Dan Howard, Box 467, Fairbanks, Ak 99707
Olive Creek Mines, Box 552, Fairbanks, Ak 99707
Paul Eickerman, Box 10229, Fairbanks, Ak 99707
R.A. DeMoss, 89 Slater Drive #2, Fairbanks, Ak 99701
Jeff Nelson, S.R. Box 10850, Fairbanks, Ak 99701
E.W. Montgomery, P.O. Box 60430, Fairbanks, Ak 99706
Ron Tucker, Box 60334, Fairbanks, Ak 99706
Phil Russell, Box 73348, Fairbanks, Ak 99707
Larry Nelson, 413 Glacier Avenue, Fairbanks, Ak 99701
Bill Toman, Box 10109, Fairbanks, Ak 99701
Ken Dushie, 4579 Woodriver Dr., Fairbanks, Ak 99701
Jeff Knaebel Enterprises, P.O. Box 81467, Fairbanks, Ak 99708
Stan Rybachek, P.O. Box 55698, North Pole, Ak 99705
R.W. Geraghty, 405 Juneau, Fairbanks, Ak 99701
Kathy Coon, Box 60334, Fairbanks, Ak 99706
Michael T. Uzelac, S.R. Box 40287-B, Fairbanks, Ak 99701
Cotro Ent., P.O. Box 74221, Fairbanks, Ak 99707
Don Lundy, 1617 Laurene St., #3, Fairbanks, Ak 99701
Chris Bolinger, P.O. Box 73192, Fairbanks, Ak 99707
Scott Thorngren, 236 Farawell, Fairbanks, Ak 99707

2. The waters of the state proposed for reclassification are in use in conjunction with several mining operations. (See Section B.)

3. The waters of the state proposed for reclassification are as follows:

Name	Latitude and Longitude of stream segment		*USGS Quad
Tolovana River	148 20' 17"W *(B-3) 65 27' 43"N	to 149 2' 18"W *(A5) 65 8' 33"N	
Wilber Creek	Head 148 29' 50"W 65 23' 30"N	Mouth to 148 21' 35"W 65 27' 40"N	(B3)
Cleary Creek	148 20' 10"W 65 29' 55"N	to 148 22' 25"W 65 27' 47"N	(B3)
Steele Creek	148 29' 50"W 65 25' 56"N	to 148 24' 50"W 65 28' 12"N	(B3)
Ester Creek	148 27' 35"W 65 30' 27"N	to 148 29' 55"W 65 28' 30"N	(B3) (C3)
Olive Creek	148 30' 9"W 65 30' 35"N	to 148 30' 55"W 65 28' 20"N	(B4)
Livengood Creek	148 24' 03"N 65 34' 25"N	to 148 34' 01"W 65 28' 30"N	(C3) (B4)
Lillian Creek	148 32' 30"W 65 30' 40"N	to 148 34' 23"W 65 30' 40"N	(C4)
Amy Creek	148 25' 40"W 65 30' 30"N	to 148 26' 55"W 65 32' 30"N	(C3)
Ruth Creek	148 31' 13"W 65 30' 55"N	to 148 32' 30"W 65 31' 26"N	(B3)
Ready Bullion Cr.	148 40' 35"W 65 31' 12"N	to 148 36' 30"W 65 28' 06"N	(C4) (B4)
Gertrude Creek	148 28' 45"W 65 30' 58"N	to 148 30' 05"W 65 32' 05"N	(C3) (C4)
Isabell Creek	148 31' 46"W 65 33' 04"N	to 148 31' 17"W 65 31' 47"N	(C4)
Franklin Creek	148 30' 55"W 65 33' 16"N	to 148 29' 50"W 65 32' 12"N	(C3) (C4)
Lucille Creek	148 27' 10"W 65 31' 53"N	to 148 27' 25"W 65 32' 25"N	(C3)
Heine Creek	148 24' 45"W 65 33' 50"N	to 148 29' 10"W 65 32' 10"N	(C3)

Wonder Creek 148 28' 38"W to 148 26' 33"W (C3)
65 33' 58"W 65 32' 01"N

4.
 - A. Gold was discovered in the Tolovana area in 1918
 - B. Since that time, mining has played a dominant role in the development of the area.
 - C. The Elliott Highway was originally constructed by miners as an access road to the area.
 - D. According to information from Charlie Greene, Office of Mineral Development, and Mary Louise Trent, Livengood Joint Ventures, employment in the mining industry in Livengood dropped approximately 40% from 1981 to 1982.
 - E. The present classification becomes an economic burden to the miners in decreased production and employment and has an adverse spin-off on the mining supply and related industries.

5. Regarding the classifications now in force:
 - A. (A)(i) In Communicable Disease Bulletin Number 20 dated August 29, 1980 you will read, "Obviously the conditions for waterborne Giardia transmission are well met all across Alaska." leading to the observation that the streams in Alaska are unsuitable for drinking water sources. There is a water spring located 1.5 miles from the town of Livengood which is used as a drinking water source for hunters etc. There is also a well located at Sam's Place in Livengood that is used for drinking water for local residents as well as hunters etc.

 - B. (A)(ii) and (A)(iii). There is no significant agriculture or aquaculture projects within one mile of the proposed reclassification according to Dan Nelson, Division of Agriculture, 1512 Cushman, Fairbanks, Ak 99701 452-1570

 - C. (B)(i) There is not a substantial water contact recreation use of these waters, nor is there likely to be one developed, according to Pete Buist, Information Officer, Division of Land and Water Management, Department of Natural Resources, 4420 Airport Way, Fairbanks, Ak 479-2243.

 - D. (B)(ii). There is no significant secondary recreation use of these waters. The waters are not visible from a railroad, public campground, marine tour ship or Alaska state ferry. The waters do not lie within lands which are subject to substantial secondary water recreation use nor is this likely to occur within three years. The waters of Livengood Creek are visible from a public roadway for a distance of approximately one mile. All other waters are not visible from a public roadway. The waters do not lie within public lands which have been classified by Department of Natural Resources for either exclusive or non-exclusive public recreation, nor is there a State Park located nearby. according to Pete Buist, Information Officer, Division of Land and Water Management, DNR, 4420 Airport Way, Fairbanks, Ak 479-2243...and the Petitioners, long time residents of the area.

- E. (C) According to Jerry Hallberg, Fisheries Biologist with the Sport Fishing Division of the Department of Fish and Game, 1300 College Road, 452-1531, "fishing in that area has been pretty insignificant in years past. There is not enough angling present in that area to warrant spending the monies for a creel count. The area is quite inaccessible to the public." The impact on waterfowl would be minimal as most of the nesting, rearing of young and other activities of waterfowl takes place in ponds or bogs adjacent to the waters in question. The impact on furbearers would also be minimal. According to Stan Rybachek, local miner and resident of the area for 21 years, P.O. Box 55698, North Pole, Ak 99705, 488-6453, one group of beaver moved their dam from just above his outlet to just below his outlet at the height of the mining season. Dryland wildlife would not be adversely affected by these changes in water reclassification.
- B. Water Discharge permits were issued to the following miners:
Nugget Estate Mining Co, P.O. Box 60430, Fairbanks, Ak 99706
Livengood Joint Ventures, P.O. Box 467, Fairbanks, Ak 99707
Carl Heflinger, 665 10th Ave, #307, Fairbanks, Ak 99701
Nelson Mining Co, 413 Glacier Ave, Fairbanks, Ak 99701
Stanley Rybachek, P.O. Box 55698, North Pole, Ak 99705
Richard Geraghty, 405 Juneau, Fairbanks Ak 99701
Scott Throngren, Mania Mining, 236 Farewell, Fairbanks, Ak 99701
- C. The waters requested to be reclassified do not lie within areas administered under the National Wilderness Preservation System, National Parks, national preserves and monuments, national recreation areas, national wildlife refuges, wild and scenic rivers, marine sanctuaries or estuarine sanctuaries. This was determined by research with the assistance of Evelyn Monroe, Chief, Public Contact Unit of BLM, P.O. Box 1150, Fairbanks, Ak 99707, 452-1925.
- D. The Lands do not lie within Land Use Designation I or II established by the U.S. Forest Service, according to Glen Juday, Ecological Reserves Officer, Institute of Northern Forestry, 308 Tanana Drive, Fairbanks 99701 479-7443.
- E. The waters do not lie within critical habitat areas established under AS 16.20 according to Al Townsend, Habitat Biologist with the Department of Fish and Game, 1300 College Road, Fairbanks, Ak 479-0883
- F. The waters in question are not significant for harvesting or consumption of raw mollusks or other raw aquatic life according to Jerry Hallberg, ADF&G, 1300 College Road, 452-1531.

The Livengood/Tolovana Mining District requests the Commissioner to schedule the Public Hearing in Livengood.

If we may be of any assistance to you, please contact us.

Rene Rybachek

January 26, 1983



LIVENGOOD/TOLOVANA MINING DISTRICT

P. O. BOX 73069 - FAIRBANKS, ALASKA 99705

PETITION TO RECLASSIFY CERTAIN WATERS OF THE STATE OF ALASKA

TO: Commissioner Richard Neve
Department of Environmental Conservation
Pouch O
Juneau, Alaska 99811

RECEIVED

JAN 31 1983

FROM: Rose Rybachek, President
Livengood/Tolovana Mining District
P.O. Box 73069
Fairbanks, Alaska 99707
907-488-6453

DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

A. The Livengood/Tolovana Mining District requests the Commissioner of the Department of Environmental Conservation to reclassify particular waters of the state to exclude the following described uses as outlined in 18 AAC 70.020:
1.(A) Water Supply (i) Drinking, culinary and food processing; (A)(ii) agriculture, including irrigation and stock watering; (A)(iii) aquaculture; (B) Water Recreation (i) contact recreation; (B)(ii) secondary recreation; (C) Growth and propagation of fish, shellfish, and other aquatic life, and wildlife including waterfowl and furbearers. The remaining classification would be (A) (iv) Industrial.

1. The following listed names and addresses are owners or users within one mile of the waters in question;

Phillip Anderson, 909 8th Avenue, Fairbanks, Alaska 99701
Thelma Estorff, Box 768, Douglas, Alaska 99824
Heflinger Mining Equip Co., 665 10th Avenue, Apt. 307, Fairbanks, Ak 99701
Livengood Joint Ventures, Dan Howard, Box 467, Fairbanks, Ak 99707
Olive Creek Mines, Box 552, Fairbanks, Ak 99707
Paul Eickerman, Box 10229, Fairbanks, Ak 99707
R.A. DeMoss, 89 Slater Drive #2, Fairbanks, Ak 99701
Jeff Nelson, S.R. Box 10850, Fairbanks, Ak 99701
E.W. Montgomery, P.O. Box 60430, Fairbanks, Ak 99706
Ron Tucker, Box 60334, Fairbanks, Ak 99706
Phil Russell, Box 73348, Fairbanks, Ak 99707
Larry Nelson, 413 Glacier Avenue, Fairbanks, Ak 99701
Bill Toman, Box 10109, Fairbanks, Ak 99701
Ken Dushie, 4579 Woodriver Dr., Fairbanks, Ak 99701
Jeff Knaebel Enterprises, P.O. Box 81467, Fairbanks, Ak 99708
Stan Rybachek, P.O. Box 55698, North Pole, Ak 99705
R.W. Geraghty, 405 Juneau, Fairbanks, Ak 99701
Kathy Coon, Box 60334, Fairbanks, Ak 99706
Michael T. Uzelas, S.R. Box 40287-B, Fairbanks, Ak 99701
Catre Ent., P.O. Box 74221, Fairbanks, Ak 99707
Don Lundy, 1617 Laurene St., #3, Fairbanks, Ak 99701
Chris Bolinger, P.O. Box 73182, Fairbanks, Ak 99707
Scott Thorngren, 236 Farewell, Fairbanks, Ak 99707
John Slater, S.R. Box 90324-C, Fairbanks, Ak 99701
Jay Howard, 714 18th Street, Fairbanks, Ak 99701

RECEIVED
MAY 03 1983

Alaska Dept. of Environmental Conservation
Habitat - E.S. 711

2. The waters of the state proposed for reclassification are in use in conjunction with several mining operations. (See Section B.)

3. The waters of the state proposed for reclassification are as follows:

Name	Latitude and Longitude of stream segment		*USGS Quad
Tolovana River	148 20' 17"W 65 27' 43"N	*(B-3) to 149 2' 18"W 65 8' 33"N *(A5)	
Wilber Creek	Head 148 29' 50"W 65 23' 30"N	Mouth to 148 21' 35"W 65 27' 40"N	(B3)
Cleary Creek	148 20' 10"W 65 29' 55"N	to 148 22' 25"W 65 27' 47"N	(B3)
Steele Creek	148 29' 50"W 65 25' 56"N	to 148 24' 50"W 65 28' 12"N	(B3)
Ester Creek	148 27' 35"W 65 30' 27"N	to 148 29' 55"W 65 28' 30"N	(B3) (C3)
Olive Creek	148 30' 9"W 65 30' 35"N	to 148 30' 55"W 65 28' 20"N	(B4)
Livengood Creek	148 24' 03"N 65 34' 25"N	to 148 34' 01"W 65 28' 30"N	(C3) (B4)
Lillian Creek	148 32' 30"W 65 30' 40"N	to 148 34' 23"W 65 30' 40"N	(C4)
Amy Creek	148 25' 40"W 65 30' 30"N	to 148 26' 55"W 65 32' 30"N	(C3)
Ruth Creek	148 31' 13"W 65 30' 55"N	to 148 32' 30"W 65 31' 26"N	(B3)
Ready Bullion Cr.	148 40' 35"W 65 31' 12"N	to 148 36' 30"W 65 28' 06"N	(C4) (B4)
Gertrude Creek	148 28' 45"W 65 30' 58"N	to 148 30' 05"W 65 32' 05"N	(C3) (C4)
Isabell Creek	148 31' 46"W 65 33' 04"N	to 148 31' 17"W 65 31' 47"N	(C4)
Franklin Creek	148 30' 55"W 65 33' 16"N	to 148 29' 50"W 65 32' 12"N	(C3) (C4)
Lucille Creek	148 27' 10"W 65 31' 53"N	to 148 27' 25"W 65 32' 25"N	(C3)
Heine Creek	148 24' 45"W 65 33' 50"N	to 148 28' 10"W 65 34' 45"N	(C3)

Wonder Creek 148 28' 38"W to 148 26' 33"W (C3)
 65 33' 58"W 65 32' 01"N

4.
 - A. Gold was discovered in the Tolovana area in 1918
 - B. Since that time, mining has played a dominant role in the development of the area.
 - C. The Elliott Highway was originally constructed by miners as an access road to the area.
 - D. According to information from Charlie Greene, Office of Mineral Development, and Mary Louise Trent, Livengood Joint Ventures, employment in the mining industry in Livengood dropped approximately 40% from 1981 to 1982.
 - E. The present classification becomes an economic burden to the miners in decreased production and employment and has an adverse spin-off on the mining supply and related industries.

5. Regarding the classifications now in force:
 - A. (A)(i) In Communicable Disease Bulletin Number 20 dated August 29, 1980 you will read, "Obviously the conditions for waterborne Giardia transmission are well met all across Alaska." leading to the observation that the streams in Alaska are unsuitable for drinking water sources. There is a water spring located 1.5 miles from the town of Livengood which is used as a drinking water source for hunters etc: There is also a well located at Sam's Place in Livengood that is used for drinking water for local residents as well as hunters etc.

 - B. (A)(ii) and (A)(iii). There is no significant agriculture or aquaculture projects within one mile of the proposed reclassification according to Dan Nelson, Division of Agriculture, 1512 Cushman, Fairbanks, Ak 99701 452-1570

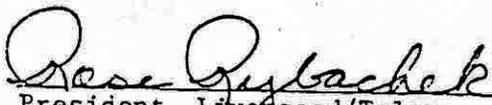
 - C. (B)(i) There is not a substantial water contact recreation use of these waters, nor is there likely to be one developed, according to Pete Buist, Information Officer, Division of Land and Water Management, Department of Natural Resources, 4420 Airport Way, Fairbanks, Ak 479-2243.

 - D. (B)(ii). There is no significant secondary recreation use of these waters. The waters are not visible from a railroad, public campground, marine tour ship or Alaska state ferry. The waters do not lie within lands which are subject to substantial secondary water recreation use nor is this likely to occur within three years. The waters of Livengood Creek are visible from a public roadway for a distance of approximately one mile. All other waters are not visible from a public roadway. The waters do not lie within public lands which have been classified by Department of Natural Resources for either exclusive or non-exclusive public recreation, nor is there a State Park located nearby, according to Pete Buist, Information Officer, Division of Land and Water Management, DNR, 4420 Airport Way, Fairbanks, Ak 479-2243...and the Petitioners, long time residents of the area.

- E. (C) According to Jerry Hallberg, Fisheries Biologist with the Sport Fishing Division of the Department of Fish and Game, 1300 College Road, 452-1531, "fishing in that area has been pretty insignificant in years past. There is not enough angling present in that area to warrant spending the monies for a creel count. The area is quite inaccessible to the public." The impact on waterfowl would be minimal as most of the nesting, rearing of young and other activities of waterfowl takes place in ponds or bogs adjacent to the waters in question. The impact on furbearers would also be minimal. According to Stan Rybachek, local miner and resident of the area for 21 years, P.O. Box 55698, North Pole, Ak 99705, 488-6453, one group of beaver moved their dam from just above his outlet to just below his outlet at the height of the mining season. Dryland wildlife would not be adversely affected by these changes in water reclassification.
- B. Water Discharge permits were issued to the following miners:
Nugget Estate Mining Co, P.O. Box 60430, Fairbanks, Ak 99706
Livengood Joint Ventures, P.O. Box 467, Fairbanks, Ak 99707
Carl Heflinger, 665 10th Ave, #307, Fairbanks, Ak 99701
Nelson Mining Co, 413 Glacier Ave, Fairbanks, Ak 99701
Stanley Rybachek, P.O. Box 55698, North Pole, Ak 99705
Richard Geraghty, 405 Juneau, Fairbanks, Ak 99701
Scott Throngren, Mania Mining, 236 Farewell, Fairbanks, Ak 99701
- C. The waters requested to be reclassified do not lie within areas administered under the National Wilderness Preservation System, National Parks, national preserves and monuments, national recreation areas, national wildlife refuges, wild and scenic rivers, marine sanctuaries or estuarine sanctuaries. This was determined by research with the assistance of Evelyn Monroe, Chief, Public Contact Unit of BLM, P.O. Box 1150, Fairbanks, Ak 99707, 452-1925.
- D. The Lands do not lie within Land Use Designation I or II established by the U.S. Forest Service, according to Glen Juday, Ecological Reserves Officer, Institute of Northern Forestry, 308 Tanana Drive, Fairbanks 99701 479-7443.
- E. The waters do not lie within critical habitat areas established under AS 16.20 according to Al Townsend, Habitat Biologist with the Department of Fish and Game, 1300 College Road, Fairbanks, Ak 479-0883
- F. The waters in question are not significant for harvesting or consumption of raw mollusks or other raw aquatic life according to Jerry Hallberg, ADF&G, 1300 College Road, 452-1531.

The Livengood/Tolovana Mining District requests the Commissioner to schedule the Public Hearing in Livengood.

If we may be of any assistance to you, please contact us.


President, Livengood/Tolovana Mining District

January 26, 1983

Fairbanks

P23 3081016
DATE



LIVENGOOD/TOLOVANA MINING DISTRICT

P. O. BOX 73069 - FAIRBANKS, ALASKA 99705

PLA

July 1, 1983

COMMISSIONER'S OFFICE

RECEIVED
JUL 7 1983

JUL 19 1983

DEPARTMENT OF FISH AND GAME
Alaska Dept. of Fish & Game
Habitat - Region III

Don W. Collinsworth, Commissioner
Alaska Department of Fish and Game
P.O. Box 3-2000
Juneau, Alaska 99802

Dear Commissioner Collinsworth;

On behalf of the Livengood/Tolovana Mining District I would like to thank you very much for your June 14 reply to our letter.

We also thank you for addressing the questions that have been bothering the District for the past year. We look forward to delving into these questions more in depth at a future date. We feel we are on the proper course toward settling our differences.

We shall take the opportunity you offered to meet with your Habitat Division. However, since we are now in the middle of the short, hectic mining season, we will have to postpone this meeting until our mining season ends.

We are pleased at your offer of a meeting with you or Deputy Commissioner Kelso. If we feel it necessary, we shall contact you sometime in the fall. With an exchange of this sort, I am sure that we will find our common interests far exceed our differences.

Sincerely yours

Rose Rybachek

Rose Rybachek, President

To	HABITAT	IN	DATE
	DIRECTOR	<i>B</i>	
	DEPUTY DIR		
	H B III		
	Admin Asst		
	SECRETARY		
	CT III		
FILE	<i>PLA</i>	<i>7/20/83</i>	

DR. SCOTT

June 14, 1983

Ms. Rose Rybachek
President, Livengood/Tolovana
Mining District
P.O. Box 73069
Fairbanks, AK 99707

Dear Ms. Rybachek:

I apologize for my staff not responding in writing to your initial inquiry regarding the Tolovana River. They advise that they were in the process of gathering current information on the Tolovana River system, when you visited my Habitat Division office seeking information regarding the anadromous fish waters catalog in general and, specifically, the status of the Tolovana River. At that time, Alan Townsend and Carl Herming discussed these items with you and they assumed an understanding was reached regarding your questions. Since this was apparently not the case, I will address your specific questions regarding the Tolovana River.

1. When was this designation made? The Tolovana River was first designated in our October 1973 revision of our initial catalog of anadromous waters. Our catalog is revised periodically to reflect the most accurate and current information available. Our present catalog was revised in April 1982, to reflect the known distribution of anadromous fish. Formerly, our catalog identified an entire watershed rather than the specific reaches of a drainage that are important to the spawning, rearing, or migration of anadromous fish. The present method of designation reflects a considerable reduction in the area necessitating a permit from my Department for activities affecting a watercourse.

2. By what means was it determined that the Tolovana River was important to the spawning, rearing or migration of salmon? The following Departmental records indicate that salmon occur in the Tolovana River. Experimental netting conducted in 1970 produced a catch of 6 king and 19 chum salmon in the lower Tolovana River. In 1973, 1 chum salmon was caught in a net set at a point located in T4N, R7W, near section 30. This point corresponds with the upper limit designation in our anadromous catalog.

During the construction of the Trans-Alaska Pipeline, a court decision was reached regarding the application of Alaska Statutes Title 16.05.870 ("Anadromous Fish Act") on the Tolovana River. In testimony presented at the trial, an experienced sportsman stated that he had observed king

June 14, 1983

salmon in the vicinity of the pipeline crossing of the Tolovana River. The court upheld our permit authority on the Tolovana River.

Due to financial and manpower constraints, annual surveys are only conducted on a few major index streams to estimate salmon abundance. This does not mean that other streams that contain anadromous fish are not important for spawning, rearing or migration. In aggregate, drainages which produce small numbers of salmon can constitute a significant portion of a fishery.

3. What are the proper procedures for contesting such an erroneous designation? Based on our information the designation of the Tolovana River as an anadromous fish stream is not erroneous. As you were recently advised by my Fairbanks staff, the anadromous catalog is currently available for public review and comment through June 15. I urge you to review the information in our catalogs which are on display in my Fairbanks Offices at 1300 College Road and 565 University Avenue.

The Department welcomes the opportunity to work with the Tolovana Mining District in maintaining habitat suitable for the perpetuation of anadromous fish in the Tolovana River. If you have further concerns or questions, I suggest you meet with my Habitat Division in the near future. Their office is located at 565 University Avenue in Fairbanks. Following this exchange, if you believe a meeting with me and/or Acting Deputy Commissioner Kelso would be of benefit, please advise and I will schedule a meeting.

Sincerely,

Don W. Collinsworth
Commissioner

bcc: S. Grundy - Habitat, Fairbanks

DWC:BB:CY:rr

MEMORANDUM

State of Alaska

TO: Scott Grundy
Regional Supervisor
Habitat Division
Fairbanks

DATE: 3/7/83

FILE NO:

TELEPHONE NO: 452-1531, ext 240, 232

FROM: Jim Raymond 
Area Biologist, FRED
Fairbanks

SUBJECT: Tolovana River
reclassification

I oppose lowering the water quality standards for the Tolovana River unless it can be shown that a log jam in the lower Tolovana River is a complete barrier to salmon migration. If a natural barrier exists, I would allow a reclassification only for as long as it lasts and then I would impose stricter standards than those presently in effect.

The Tolovana River used to have king and chum salmon according to old timers. No accurate counts were made. The river is capable of supporting salmon again once a passage through the log jam occurs and the sediment load in the river is decreased.

RECEIVED

MAR 7 1983

Alaska Dept. of Fish & Game
Habitat - Region III



MEMORANDUM

State of Alaska

TO: J. Scott Grundy, Reg. Supv.
Habitat Division
Fairbanks

DATE: May 3, 1983

FILE NO: 505

Thru: George L. Van Wyhe, Reg. Supv. TELEPHONE NO: 452-1531

FROM: Jerry Hallberg, Fishery Biologist
Sport Fish Division
Dept. of Fish & Game, Fairbanks

SUBJECT: The use of streams
by resident fish

The waters of the upper Tolovana River, Livengood Creek and its tributaries are at the present time classified for use as sources of drinking water, agricultural water, aquacultural water, industrial water, recreational use and for growth and propagation of aquatic life. Associated with each of these uses are water quality requirements set forth for the protection of that use i.e., Water Quality Standard Regulations (18 AAC 70). To my knowledge, the water quality requirements designed to protect the uses of the waters mentioned above have never been met or enforced.

It goes without saying that the concern to the Sport Fish Division is with those waters used in the growth and propagation of aquatic life, in this case fish, and to the recreational opportunity afforded the sport fishermen to catch these fish. Unfortunately, the quality of the water in this area has deteriorated to the point where fishing with hook and line is impossible. As long as these waters remain in this condition, this situation is not expected to change.

As to the degree at which resident fish utilize these streams, I would say that under clean or clear water conditions, which I assume all of these streams may have been at one time, one could expect to find grayling and other resident fish up to and including Livengood Creek and possibly its tributaries.

RECEIVED
MAY 6 1983

Alaska Dept. of Fish & Game
Habitat - Region III

MEMORANDUM

State of Alaska

TO: Scott Grundy
Regional Supervisor
Habitat Division
Fairbanks

DATE: March 11, 1983

FILE NO:

TELEPHONE NO: 344-0541

FROM: Kim Francisco ^{KF}
D-2 Coordinator
Commercial Fisheries
Anchorage

SUBJECT: Tolovana/Livengood
Mining District
Reclassification
Requests

The Tolovana is an anadromus stream and resident fish stream which would seem to clearly place it in the growth and propagation of aquatic life classification. I'm sure one of the arguments for the industrial classification is that the upstream limit currently listed for salmon is about 18 miles below the Wilbur Creek confluence. The distance is not in anyway sufficient to allow pollutants added by upstream industrial use to be eliminated through natural means. The downstream effects of unregulated discharge of settleable and suspended solids are almost to numerous to name. Hall and McKay said it best "A source at the headquarters of a salmon producing stream has the most potential for long term damage."

I've attached Hall and McKay's draft Projects Review Report, The Effects of Sedimentation on Salmonids and Macro-Invertebrates, it's one of the best summaries I've seen and should be of use to you. It unfortunately has not yet been "signed off" by the Commissioner. Also find attached the Summary of Siltation Effects done by the Habitat Division for ADEC. While it should already be in ADEC's files and yours it is well done and covers the predicted impacts well.

To the best of my knowledge, I'm unaware of a single positive effect that would come from unregulated discharge of settleable and suspended solids. With the possible exception that the dischargers would have a greater profit margin. I'm certain that their gain would be lost in costs that would arise out of their unregulated discharge. There may be a closed pond or lake somewhere in Alaska that might qualify as a water body that could be classified as "industrial". There are no streams that should qualify for any unregulated use due to the potential for downstream impacts.

cc: Regnart
Andersen
Sunberg
McKay
Hall

RECEIVED
MAR 11 1983

State Dept. of Fish & Game
Habitat - Region III

GOLDENROD INSTRUCTIONS

DATE: _____ DOCUMENT NO. 0259

- Region I
- Region II
- Region III
- Region IV
- Data Mgmt.

- Prepare draft comments for Director's signature.
- Prepare draft comments for Commissioner's signature.

Response due in Habitat 12/9

Comments: *CC of Ltr. + Goldenrod
SLIP: AL Ott*

- | | |
|---|--|
| <input type="checkbox"/> Admin. Ass't | <input type="checkbox"/> Contracts |
| <input type="checkbox"/> Research Chief | <input type="checkbox"/> FRED |
| <input type="checkbox"/> Director | <input type="checkbox"/> Chief T & D |
| <input type="checkbox"/> Dep. Director | <input type="checkbox"/> Chief Operation |
| <input type="checkbox"/> Admin. Ass't | <input type="checkbox"/> Admin. Officer |
| <input type="checkbox"/> Research Chief | <input type="checkbox"/> Admin. Ass't |
| | <input type="checkbox"/> PNP Hatcheries |

- PORT FISH
- Director
 - Dep. Director
 - Admin. Ass't
 - Research Chief

11-77 (3/82)

Another area of concern was whether or not ADF&G would change a designation once it were in place after obtaining more fully detailed data. For instance, if a salmon survey were conducted on a river listed as anadromous, and no substantial number of salmon, including juvenile fish, were found, would the anadromous designation be changed?

DEPT. OF FISH & GAME
1 1983
HABITAT
DISTRICT OFFICE

One very positive aspect of our meeting was that Al Ott indicated that he would be willing to take a tour of our Mining District if we are able to arrange it next summer. We feel that we have a lot of common ground, and would like to develop a better understanding between the Mining Industry and ADF&G for the benefit of all Alaskans. If this tour materializes, I would like to invite you to attend also, and anyone else in the Department that you feel could contribute.

As we stated in an earlier letter, we feel that Fish and Game and Mining are very important to the economy and well being of Alaska. We believe we need to work together to resolve our problems.

Sincerely yours
Rose Rybacek
Rose Rybacek, President

CC/ Al Ott

ALASKA MINING DISTRICT

UNIKS, ALASKA 99705

1983
HABITAT
RECEIVED
NOV 20 1983

COMMISSIONER'S OFFICE
RECEIVED
NOV 28 1983

HEADQUARTERS
JUNEAU

DEPARTMENT OF FISH AND GAME

I had the opportunity to meet with [redacted] Present from your Department at the Carl Hemming. I would like to report cooperative.

(see attached) for this meeting that in areas. Several of the questions have With continued cooperation between us, can be solved also.

area of disagreement stems from an "intent" as used in AS 16.05.870 and 5 AAC 95.010. at ADF&G view the water as "important" if it is our opinion that the intent of the river be designated Anadromous if it were to tire river system salmon population and ify just what the Departments official

TO	HABITAT	INT	DATE
	DIRECTOR		
	DEPUTY DIR		
	HABITAT		
	Admin. Ass't		
	PROPERTY		
	OFFICE		



LIVENGOOD/TOLOVANA MINING DISTRICT

P. O. BOX 73069 - FAIRBANKS, ALASKA 99705

November 22, 1983

COMMISSIONER'S OFFICE
RECEIVED
NOV 28 1983

Don W. Collinsworth, Commissioner
Department of Fish & Game
PO Box 3-2000
Juneau, Alaska 99802

DEPARTMENT OF FISH AND GAME

Dear Commissioner Collinsworth;

On Wednesday, November 16, we had the opportunity to meet with your Habitat Personnel in Fairbanks. Present from your Department at the meeting were: Al Ott, Al Townsend and Carl Hemming. I would like to report that your staff were very friendly and cooperative.

We had prepared an agenda (see attached) for this meeting that identified most of our basic problem areas. Several of the questions have been answered to our satisfaction. With continued cooperation between us, I am confident that the remainder can be solved also.

I believe that our major area of disagreement stems from an interpretation of the word "important" as used in AS 16.05.870 and 5 AAC 95.010. I believe, from our discussions, that ADF&G view the water as "important" if one anadromous fish is present. It is our opinion that the intent of the legislature was that a stream would be designated Anadromous if it were important to the integrity of an entire river system salmon population and salmon propagation. Could you clarify just what the Departments official interpretation of this term is?

Another area of concern was whether or not ADF&G would change a designation once it were in place after obtaining more fully detailed data. For instance, if a salmon survey were conducted on a river listed as anadromous, and no substantial number of salmon, including juvenile fish, were found, would the anadromous designation be changed?

One very positive aspect of our meeting was that Al Ott indicated that he would be willing to take a tour of our Mining District if we are able to arrange it next summer. We feel that we have a lot of common ground, and would like to develop a better understanding between the Mining Industry and ADF&G for the benefit of all Alaskans. If this tour materializes, I would like to invite you to attend also, and anyone else in the Department that you feel could contribute.

As we stated in an earlier letter, we feel that Fish and Game and Mining are very important to the economy and well being of Alaska. We believe we need to work together to resolve our problems.

Sincerely yours

Rose Rybáček
Rose Rybáček, President

CC/ Al Ott

DWC 23/ Rybachek

Rose Rybachek, President
Livengood/Tolovana Mining District
P.O. Box 73069
Fairbanks, Alaska 99705

Dear Ms. Rybachek:

Thank you for your recent letter expressing concerns about the designation of anadromous fish under AS 16.05.870 and 5 AAC 95.010.

The Alaska Department of Fish and Game (ADF&G) considers a waterway important for the spawning, rearing or migration of anadromous fish if these fish are documented as being present in the waterway. The presence of anadromous fish in a given waterway indicates that the waterway is accessible to the fish and contains suitable habitat for the purposes for which it is being used, for example, spawning, rearing or migration. Low population levels may indicate that the survey was incomplete, conducted at a time of year when few fish were present in the system or during a year when the fish population was naturally low. Therefore, the Department must consider all waterways which contain anadromous fish as being important to the entire river system population.

The ADF&G will change a designation in the Catalog of Waters Important to the Spawning, Rearing or Migration of Anadromous Fish if there was a mistake

made in including the waterway in the Catalog, if extensive surveys showed no anadromous fish to be present, or if the stream channel has changed in such a way that it is no longer accessible to or can no longer support anadromous fish. An example of the last reason is if a natural phenomenon created a total blockage to fish passage.

In fact, the Department has changed designations to the Catalog. The Atigun River was deleted from the 1983 revision of Volume VI of the Atlas to the Catalog and corrected maps were sent to everyone with copies of that volume.

Hopefully this clarifies the interpretation of the designation of anadromous fish. If you have any further questions, please feel free to contact me or the ADF&G office in Fairbanks.

Sincerely,

Don W. Collinsworth

Commissioner

(907) 465-4100

DWC:PKW:rjj

MEMORANDUM

State of Alaska

34
FW
JR
RB
KF

TO: Don Collinsworth, Commissioner
Department of Fish and Game

DATE: February 22, 1983

FILE NO:

TELEPHONE NO: 465-2600

FROM: Richard A. Neve', Commissioner *RAM*
Department of Environmental
Conservation

SUBJECT: Tolovana/Livengood Mining
District Reclassification
Requests

The State of Alaska, Department of Environmental Conservation has received a petition filed under the water quality standard regulations (18 AAC 70.055) to reclassify the waters cited below to lessen the applicable water quality requirements. Under the water quality standard regulations (18 AAC 70), all water bodies are classified for use as sources of drinking water, agricultural water, aquacultural water, and industrial water; for recreational use (both contact and non-contact); and for growth and propagation of aquatic life. Associated with each of these uses are water quality requirements that must be met to protect the use. The reclassification procedure is a process by which a petitioner may demonstrate that certain of these uses are not made of particular waters and request that the department exclude these uses, and the associated water quality requirements for protection of these uses, from the water quality standard regulations (18 AAC 70). The petition asks the department to exclude all designated uses of the subject waters from protection under the water quality standard regulations (18 AAC 70), except industrial use.

The waters for which reclassification is sought are: the Tolovana River from approximately one mile upstream of Wilber Creek to a point approximately 29 miles downstream (149° 2' 18" W to 65° 8' 33" N, North of Cod Lake); Cleary Creek; Wilber Creek; Livengood Creek; Lillian Creek; Amy Creek; Ruth Creek; Gertrude Creek; Isabell Creek; Franklin Creek; Lucille Creek; Heine Creek; and Wonder Creek. All waters are in the Livengood area. Unnamed forks and minor tributaries to the waters for which reclassification is sought may also be included in the reclassification process.

A public hearing is scheduled for May 3, 1983, at 7:00 p.m. at the Noel Wien Library, 1215 Cowles in Fairbanks, Alaska. Interested persons, persons making use of these waters, or persons having knowledge of use of these waters are invited to offer testimony at the public hearing.

Prior to the hearing, it is important that our staffs meet to evaluate the use of these waters for growth and propagation of aquatic life. I have designated Mr. Dan Easton of my staff as our department contact for this project. Your staff should feel free to contact him, as necessary, at 465-2653.

Please contact me if I can provide further information or should you have questions.

RECEIVED
MAR 5 1983

To	HPS	INIT	DATE
1	Chief		
2	Asst Chief	<i>Aug</i>	
	HDI's		
	AA's		
	CR's		

COMMISSIONER'S OFFICE
RECEIVED
FEB 25 1983

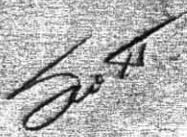
Alaska Dept. of Fish & Game
Habitat - Region III

DEPARTMENT OF FISH AND GAME

cc Grunides Reed

Distribution

March 4, 1983


Scott Grundy
Regional Supervisor
Habitat Division
Department of Fish and Game
Fairbanks

**Tolovana/Livengood Mining
District Reclassification
Requests**

The miners have requested that the waters in the Tolovana Mining District be reclassified as industrial; i.e., no limits on the quality of water discharged from their operations.

I request written inputs regarding values and predicted impacts (positive and negative) from unregulated discharge of settleable and suspended solids to the watershed.

This is an important issue, as I predict it will be the first of many such requests, especially if approved by ADEC.

Please respond by March 18.

Distribution List

George Van Wyhe - Sport Fish, Fairbanks
Fred Andersen - Commercial Fish, Fairbanks
Jim Raymond - F.R.E.D., Fairbanks
Dick Bishop - Game, Fairbanks
Terry Haynes - Subsistence, Fairbanks
Kim Francisco - Commercial Fish, Anchorage

MEMORANDUM

State of Alaska

TO: Scott Grundy, Regional Supervisor
Habitat Division
Fairbanks

DATE: March 9, 1983

FILE NO: 537.01

Thru: George Van Wyhe, Reg. Supv. *GW*

TELEPHONE NO: 452-1531

JH
FROM: Jerry Hallberg, Fishery Biologist
Sport Fish Division
Dept. of Fish & Game, Fairbanks

SUBJECT: Tolovana/Livengood
Mining District
Reclassification Requests

The Sport Fish Division of the Alaska Department of Fish & Game, Fairbanks, is opposed to the reclassification request of the waters within the Tolovana/Livengood Mining District.

A popular sport fishery now exists for northern pike in the Minto area. The Tolovana River is one of the more highly used and accessible rivers in this area. While the reclassification request is for that area above the bulk of the sport fishery, it is expected that if all water quality limits are removed from this area, settleable and suspended solids from placer mining upstream will reach the lower Tolovana and, consequently, jeopardize those fish populations.

At stake is the quality of water utilized by the people of the Village of Minto. Since the village was moved to its new location in the late 60's, the people of Minto have subsistence fished for whitefish and northern pike in this area. Change in water quality may adversely affect the continuation of this activity.

RECEIVED
MAR 11 1983

Alaska Dept. of Fish & Game
Habitat - Region III

**State of Alaska
Department of Environmental Conservation
Notice of Public Hearing**

The State of Alaska, Department of Environmental Conservation has received a petition filed under the water quality standard regulations (18 AAC 70.055) to reclassify the waters cited below to lessen the applicable water quality requirements. Under the water quality standard regulations (18 AAC 70), all water bodies are classified for use as sources of drinking water, agricultural water, aquacultural water, and industrial water; for recreational use (both contact and non-contact); and for growth and propagation of aquatic life. Associated with each of these uses are water quality requirements that must be met to protect the use. The reclassification procedure is a process by which a petitioner may demonstrate that certain of these uses are not made of particular waters and request that the Department exclude these uses, and the associated water quality requirements for protection of these uses, from the water quality standard regulations (18 AAC 70). The petition asks the Department to exclude all designated uses of the subject waters from protection under the water quality standard regulations (18 AAC 70), except industrial use.

The waters for which reclassification is sought are: the Tolovana River from approximately one mile upstream of Wilbur Creek to a point approximately 29 miles downstream (149° 2'18" W to 65° 8'33" N, North of Cod Lake); Cleary Creek; Wilbur Creek; Livengood Creek; Lillian Creek; Amy Creek; Ruth Creek; Gertrude Creek; Isabell Creek; Franklin Creek; Lucille Creek; Heine Creek; and Wander Creek. All waters are in the Livengood area. Unnamed forks and minor tributaries to the waters for which reclassification is sought may also be included in the reclassification process.

A public hearing is scheduled for May 3, 1983, at 7:00 p.m. at the Noel Wien Library, 1215 Cowles in Fairbanks, Alaska. Interested persons, persons making use of these waters, or persons having knowledge of use of these waters are invited to offer testimony at the public hearing.

For more information, or to obtain a copy of the petition, please contact:

State of Alaska
Department of Environmental Conservation
Pouch O
Juneau, Alaska 99811
Attn: Dan Easton

Or call: (907) 465-2653.

Richard A. Neve
Commissioner

AO-18EQM-026

P. Neve
*WAT 4.1 Water
Reclassification
Tolovana
Livengood*

**STATE OF ALASKA
Department of Environmental Conservation
Notice of Mailing List**

Persons interested in being placed on a mailing list for notice of reclassification of State waters are invited to contact the Department of Environmental Conservation at the address below.

Reclassification is the procedure by which the uses of a water body and the associated water quality requirements identified in the State water quality standard regulations (18 AAC 70) may be modified.

Reclassification may result in more or less stringent water quality requirements for the subject water body. As a matter of course, persons in the vicinity of a water body for which reclassification is sought are notified of the petition. Persons on the mailing list, however, will be notified of petitions for reclassification received for any and all waters of the State.

For more information, or to be placed on the mailing list, please contact:

State of Alaska
Department of Environmental Conservation
Pouch O
Juneau, Alaska 99811
Attn: Dan Easton

Or call: (907) 465-2653.

Richard A. Neve
Commissioner

**AL HOUSTON
and DON IRWIN**
The Los Angeles Times

WASHINGTON — President Reagan, sounding an upbeat bipartisan theme, said Thursday he could accept 75 percent of a bill drafted by House Democratic leaders in response to his own \$4.3 billion proposal to create jobs and provide food and shelter to victims of the recession.

Although Reagan called on the Democrats to make some "needed improvements" in their package, White House spokesman Larry Speakes carefully avoided suggesting that there might be a presi-

dential veto if changes were not made.

Reagan said in a statement that he was "encouraged" that the Democratic package was "largely consistent . . . in both size and approach" with the proposal he submitted to House leaders Feb. 10 as a "possible bipartisan compromise."

Reagan's comments were based on a \$4.4 billion package drafted by a jobs task force appointed by House Speaker Thomas O'Neill, D-Mass.

The draft was endorsed Wednesday by the Democratic chairmen of 13 subcommittees

of the House Appropriations Committee. However, it won the approval of House Democratic and Policy Committee Thursday, the bill had nearly \$200 million, in added money for development block.

The House Appropriations Committee will accept a \$4.6 billion proposal. Democratic leaders guarded confidence, could beat back attempts by liberals, hundreds of million before the package before the House floor next week.

"We have come a

convoy of cars
San Diego, Calif.,
the funeral of San
ned in the line of

Galaxies Mergers

may be the original of a potential that never really. Galaxies are composed of millions of

gas cloud is a billion more massive than the and is 300,000 light years a few times larger our entire galaxy, the Way," Terzian said. A year is the distance light in one year, about six million miles.

Gas clouds are common in the Milky Way and other galaxies. A very diffuse cloud of neutral hydrogen was found in inter-galactic space three years ago, and some astronomers have believed it must be common, but the announced Thursday is million times as massive.

State of Alaska Department of Environmental Conservation

Notice of Public Hearing

The State of Alaska, Department of Environmental Conservation has received a petition filed under the water quality standard regulations (18 AAC 70.055) to reclassify the waters cited below to lessen the applicable water quality requirements. Under the water quality standard regulations (18 AAC 70), all water bodies are classified for use as sources of drinking water, agricultural water, aquacultural water, and industrial water; for recreational use (both contact and non-contact); and for growth and propagation of aquatic life. Associated with each of these uses are water quality requirements that must be met to protect the use. The reclassification procedure is a process by which a petitioner may demonstrate that certain of these uses are not made of particular waters and request that the Department exclude these uses, and the associated water quality requirements for protection of these uses, from the water quality standard regulations (18 AAC 70). The petition asks the Department to exclude all designated uses of the subject waters from protection under the water quality standard regulations (18 AAC 70), except industrial use.

The waters for which reclassification is sought are: the Tolovana River from approximately one mile upstream of Wilbur Creek to a point approximately 29 miles downstream (149° 21' W to 65° 8' 33" N, North of Cod Lake); Cleary Creek; Wilber Creek; Livengood Creek; Lillian Creek; Amy Creek; Ruth Creek; Gertrude Creek; Isabell Creek; Franklin Creek; Lucille Creek; Heine Creek; and Wander Creek. All waters are in the Livengood area. Unnamed forks and minor tributaries to the waters for which reclassification is sought may also be included in the reclassification process.

A public hearing is scheduled for May 3, 1983, at 7:00 p.m. at the Noel Wien Library, 1215 Cowles in Fairbanks, Alaska. Interested persons, persons making use of these waters, or persons having knowledge of use of these waters are invited to offer testimony at the public hearing.

For more information, or to obtain a copy of the petition, please contact:

State of Alaska
Department of Environmental Conservation
Pouch O
Juneau, Alaska 99811
Attn: Dan Easton

Or call: (907) 465-2653.

Richard A. Neve
Commissioner

AO-18EQM-026

A MASS

THE

RECEIVED
FEB 28 1983
Archbi
Saturc

front page identified Earl of the new Mobile Home head of the new Mobile

Thursday reported that 53 late last summer stopped in have said that 53 percent of in the summer.



MEMORANDUM

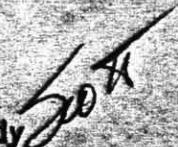
41 WAT. Tolovana
State of Alaska

TO: Region III Supervisors

DATE: March 23, 1983

FILE NO:

TELEPHONE NO:

FROM:  Scott Grundy
Regional Supervisor
Habitat Division
Department of Fish and Game
Fairbanks

SUBJECT: Stream Classification

Dan Easton, ADEC, Juneau, will be conducting a meeting on April 12, 8:30 a.m. at their Fairbanks office. He intends to discuss the stream reclassification process in general and the Livengood/Tolovana request specifically.

His current approach seems to be to review the various criteria and to delete those that are not appropriate. For example, the 5 NTU drinking water standard may be deleted, but the 25 NTU requirement for the growth and propagation of aquatic resources may be retained. You can see from the current tack that ADEC has a problem with the all or nothing approach of their current regulations; exactly as we predicted when we reviewed their proposed regulation changes.

I urge you to attend, but please limit your representation to one person as space is limited.

Thanks.

cc Fred Andersen - Commercial Fish Division
Jim Raymond - F.R.E.D.

MEMORANDUM

State of Alaska

TO: **Scotty Grundy**
Regional Supervisor
Habitat Division
Dept. of Fish and Game
Fairbanks

DATE: **March 18, 1983**

FILE NO:

TELEPHONE NO: **452-1531**

FROM: **Terry Haynes** ~~TH~~
Regional Coordinator--Interior
Dept. of Fish and Game
Subsistence Division
Fairbanks

SUBJECT: **Tolovana/Livengood Mining
District Reclassification
Requests**

Thank you for inviting Division of Subsistence comments on the Tolovana/Livengood Mining District Reclassification Requests. Our preliminary review of the area targeted for impact by unregulated discharge of settleable and suspended solids indicates that such activities would affect contemporary resource use patterns along the Tolovana River. More specifically, residents of Minto have for many years engaged in fishing, hunting, furbearer trapping and other pursuits in the Tolovana River area.

We cannot speculate at this time as to the resulting impacts on water quality in the Tolovana River of mining activity upstream from Minto. However, Chief Peter John of Minto in 1967 described the detrimental effects of mining activities on water bodies in the Minto Flats area-which formerly had been prime muskrat and furbearer habitat. Additionally, a Division report now in preparation has documented the effects of mining activity on water quality in Birch Creek and may merit review before a decision is made in this case.

Finally, the Division strongly recommends that this matter be brought to the attention of Minto residents and other persons who pursue resource harvesting activities on the Tolovana River. Whether or not sufficient public input can result from a single public hearing held in Fairbanks is open to speculation.

We will be watching this water reclassification request very closely because of its potential implications on other water bodies and existing resource use patterns in Interior Alaska.

cc: Linda Ellanna

RECEIVED
MAR 18 1983

Alaska Dept. of Fish & Game
Habitat - Region III