

# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME

BILL SHEFFIELD, GOVERNOR

1300 COLLEGE ROAD  
FAIRBANKS, ALASKA 99701

43-1386

HABITAT  
**RECEIVED**  
NOV 25 1983

HEADQUARTERS  
JUNEAU

November 21, 1983

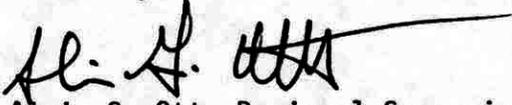
Ms. Rose Rybachek, President  
Livengood/Tolovana Mining District  
Box 73069  
Fairbanks, Alaska 99705

Dear Ms. Rybachek:

RE: Fisheries Survey of Tolovana River.

During our meeting on November 16, 1983, you requested that the Department consider conducting a fisheries survey of the Tolovana River. The purpose of this letter is to indicate that we have discussed your request with the Regional Supervisors (Ron Regnart and George VanWyhe) for the Commercial and Sport Fish Divisions, respectively. We agree that such a survey would provide additional and much needed data on the fisheries resources within the Tolovana River. We will keep you informed as plans are developed for accomplishing this objective. Should you have any further questions please do not hesitate to contact either me or Mr. Al Townsend at 479-3104.

Sincerely,



Alvin G. Ott, Regional Supervisor  
Habitat Division  
Department of Fish and Game

cc: Bruce Baker, Deputy Director, Habitat Division, Juneau  
Ron Regnart, Regional Supervisor, Commercial Fish Division, Anchorage  
George VanWyhe, Regional Supervisor, Sport Fish Division, Fairbanks  
Dick Bishop, Regional Supervisor, Game Division, Fairbanks

To	HABITAT	INT	DATE
	DIRECTOR		
1	DEPUTY DIR		
	H.B. III		
	Admin Asst		
2	SECRETARY		
	C.F. III		
	FILE		

To Card for  
Tolovana River  
file of Award  
Catalog Files.

ALASKA DEPT. OF  
FISH & GAME

NOV 30 1983

HABITAT  
REGIONAL OFFICE



HABITAT DIVISION  
Route Slip/333 Raspberry Rd.

Region II

Carl Yanagawa

Dimitri Bader

Pat Baird

Terry Black

Phil Brna

Steve Burgess

Rich Cannon

Durand Cook

Bill Donaldson

Gary Liepitz

Don McKay

Dan Rosenberg

✓ Phyllis Weber

*file stubs*

\*\*\*\*\*

Ev Huttunen

Marty McGregor

Cheryl Pretzel

Reta New

\*\*\*\*\*

Lance Trasky, Region IV

George Cook, Data Mgt. Unit

Lana Shea, Regional Planning

Carol Roten, Administration

Lauren Barker, Librarian

*June 27, 1983,*

Comments: on Lohengood quad.

FOX R II wrote response. will

send copy to R. II. for files.

*Phyllis*

Due Date: file library

acted Fairbanks Habitat. They responded to Ms. Rybachek. I'll send us copies of the response. In said that the Tolovana may be in litigation. I'll file all information in the library under engood.

*Phyllis 6/27/83*

Comments for Commissioner's signature.

Response due in Habitat 6/23

Comments:  
~~CC: CML M... FOR CATTROB~~  
UPDATE FILE. PLS. CALL SCOTT IF YOU HAVE ANY THOUGHTS ON WHETHER OR NOT TOLONANT IS PUBLISHED CORRECTLY IN CATTROB. *done*

DEPARTMENT OF FISH AND GAME

INTER-OFFICE ROUTE SLIP

Headquarters  Fairbanks-Reg. III

Juneau-Region I  Kodiak-Region IV

Anchorage-Reg. II  Nome-Region V

Other: \_\_\_\_\_

Sport Fish  Game  Habitat  Admin.

Comm Fish  FRED  Comm.Off.  I & E

Attention: C. Yanagawa

For your info  Circulate  
 Comment & return  Action

Remarks:

FROM Habitat Hdqtrs. DATE 6/20  
-47(11/78)

*contacted Fairbanks Habitat. They  
dy responded to Ms. Rybachek.  
will send us copies of the response.  
an said that the Tolovana may  
up in litigation. I'll file all  
mation in the library under  
engood.*

*Phyllis 6/22/83*

Comments  
for Commissioner's signature.

Response due in Habitat 6/23

Comments:  
~~CC: C.M.L. HANSEN~~ FOR CATTROB  
UPDATE FILE. PLS. CALL  
SCOTT IF YOU HAVE ANY  
THOUGHTS ON WHETHER OR  
NOT TOLOVANA IS PURSUED  
CORRECTLY IN CATTROB. *and*

ALASKA DEPT. OF  
FISH & GAME

JUN 21 1983

HABITAT  
REGIONAL OFFICE

Carl -  
I contacted Fairbanks Habitat. They  
already responded to Mr. Rybachek.  
and will send us copies of the response.  
McLean said that the Tolovana may  
end up in litigation. I'll file all  
information in the library under  
Sivengood.

Phyllis 6/22/83

Comments  
for Commissioner's signature.

Response due in Habitat 6/23

Comments:

~~CC: CAROL YAKUBA~~ FOR CATTAG  
UPDATE FILE. PLS. CALL  
SCOTT IF YOU HAVE ANY  
THOUGHTS ON WHETHER OR  
NOT TOLONA IS PUBLISHED  
CORRECTLY IN CATTAG. done

ALASKA DEPT. OF  
FISH & GAME

JUN 21 1983

HABITAT  
REGIONAL OFFICE

FILE: ANS 2.0

GOLDENROD INSTRUCTIONS

%%%

DATE: 6/17/83 DOCUMENT NO. C141

Region I  Region IV

Region II  Data Mgmt.

Region III  \_\_\_\_\_

\_\_\_ Prepare draft comments  
for Director's signature.

Prepare draft comments  
for Commissioner's signature.

Response due in Habitat 6/23

Comments:

~~CC: CML YAKUBA~~ FOR CATHOS  
UPDATE FILE. PLS. CALL  
SCOTT IF YOU HAVE ANY  
THOUGHTS ON WHETHER OR  
NOT TOLOVANA IS PUBLISHED  
CORRECTLY IN CATHOS. done

ALASKA DEPT. OF  
FISH & GAME

JUN 21 1983

HABITAT  
REGIONAL OFFICE

DEPARTMENT OF FISH AND GAME  
HEADQUARTERS



**TOLOVANA MINING DISTRICT**

FAIRBANKS, ALASKA 99705

9, 1983

COMMISSIONER'S OFFICE

**RECEIVED**

JUN 16 1983

DEPARTMENT OF FISH AND GAME

FROM: Commissioners Office DATE 6/16/83

REMARKS Habitat to prepare  
response for DMS  
sign by 6-24-83

Routing	Sign Off	Routing	Sign Off
COMMISSIONER		COMM FISH	
1. Commissioner	<u>AW</u>	___ Director	___
___ Deputy/Resource	___	___ Dep. Director	___
2. Deputy/Program	___	___ Admin. Ass't	___
___ Spec. Projects	___	___ Research	___
___ Planning	___	___ Computer Serv.	___
___ Ext. Affairs	___	___ Ext. Juris.	___
<u>Log</u>	___	.....	.....
___ Library	___	___ CFEC	___
___ Habitat	___	.....	.....
___ Subsistence	___	.....	.....
___ F & G Boards	___	.....	.....
___ Public Comm.	___	ADMINISTRATION	
___ Vessels	___	___ Director	___
.....	.....	___ Dep. Director	___
NAME		___ Fiscal Officer	___
___ Director	___	___ Accounting	___
___ Dep. Director	___	___ Supply	___
___ Admin. Ass't	___	___ Personnel/Pay	___
___ Research Chief	___	___ Contracts	___
.....	.....	.....	.....
.....	.....	FRED	
PORT FISH		___ Director	___
___ Director	___	___ Chief T & D	___
___ Dep. Director	___	___ Chief Operation	___
___ Admin. Ass't	___	___ Admin. Officer	___
___ Research Chief	___	___ Admin. Ass't	___
.....	.....	___ PNP Hatcheries	___
.....	.....	.....	.....

District would like to protest the  
in your anadromous fish catalog.

River is "important" as an anadromous  
The upper portion of the Tolovana, as  
to the bottom during the winter, making  
vive. The lower portion of the river is  
crooked, meandering stream that is contin-  
characteristic of this type stream.  
el bars exist to accomodate spawning  
d fishes do not spawn in the headwaters of  
migrate through the Tolovana, thus the Tolovana  
in anadromous stream. AS: 16 05 870 (a)  
included in the catalog for anadromous fish,  
awning, rearing or migration of anadromous  
Tolovana River could possibly be "important".

ed to obtain from Fish and Game the data  
as first designated anadromous. To date, we  
have received no substantiating documents from ADF&G. Therefore, we are  
forced to believe that such data does not exist.

In light of the above, we respectfully ask you to delete the Tolovana  
River from your anadromous fish catalog.

Sincerely yours,

Rose Rybachek

Rose Rybachek, President



# LIVENGOOD/TOLOVANA MINING DISTRICT

P. O. BOX 73069 - FAIRBANKS, ALASKA 99705

June 9, 1983

COMMISSIONER'S OFFICE

RECEIVED  
JUN 16 1983

Commissioner of Fish & Game  
Box 3-2000  
Juneau, Alaska 99802

DEPARTMENT OF FISH AND GAME

Dear Commissioner:

The Livengood/Tolovana Mining District would like to protest the inclusion of the Tolovana River in your anadromous fish catalog.

We do not believe the Tolovana River is "important" as an anadromous stream for the following reasons: The upper portion of the Tolovana, as well as its tributaries, freezes to the bottom during the winter, making it unsuitable for fish fry to survive. The lower portion of the river is in the Minto Flats. It is a very crooked, meandering stream that is continually cutting and filling, as is characteristic of this type stream. Therefore, very few alluvial gravel bars exist to accommodate spawning anadromous fishes. These reported fishes do not spawn in the headwaters of the Tolovana River, nor do they migrate through the Tolovana, thus the Tolovana River should not be included as an anadromous stream. AS: 16 05 870 (a) states that for a stream to be included in the catalog for anadromous fish, it must be "important for the spawning, rearing or migration of anadromous fish". We do not believe the Tolovana River could possibly be "important".

We have several times attempted to obtain from Fish and Game the data that was used when this stream was first designated anadromous. To date, we have received no substantiating documents from ADF&G. Therefore, we are forced to believe that such data does not exist.

In light of the above, we respectfully ask you to delete the Tolovana River from your anadromous fish catalog.

Sincerely yours,

Rose Rybachek, President

HABITAT DIVISION  
Route Slip/333 Raspberry Rd.

# State of Alaska

## Region II

Carl Yanagawa

REPLY

DATE

Dimitri Bader

Pat Baird

Terry Black

Phil Brna

Steve Burgess

Rich Cannon

Durand Cook

Bill Donaldson

Gary Liepitz

Don McKay

Dan Rosenberg

Phyllis Weber

*address avenues of  
redress under the Admin.  
Procedures Act.*

*Bob McLean*

ALASKA REGIONAL OFFICE  
JUN 27 1983

1. WRITE REPLY. 2. DETACH STUB, KEEP PINK COPY. RETURN WHITE COPY TO SENDER.

Ev Huttunen

Marty McGregor

Cheryl Pretzel

Reta J. New

Lance Trasky, Region IV

George Cook, Data Mgt. Unit

Lana Shea, Regional Planning

Carol Roten, Administration

Lauren Barker, Librarian

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by a sportsman documents king salmon  
AS 16.05.870 authority, based on that  
chose, however, to be more  
tribution of salmon when we revised our  
documentation, the current conservative  
ana drainage will remain unchanged in

Comments: \_\_\_\_\_

Due Date: \_\_\_\_\_

INTER-OFFICE ROUTE SLIP

- Headquarters  Fairbanks-Reg. III
- Juneau-Region I  Kodiak-Region IV
- Anchorage-Reg. II  Nome-Region V
- Other: \_\_\_\_\_

Sport Fish  Game  Habitat  Admin.  
 Comm Fish  FRED  Comm.Off.  I & E

Attention: Phyllis Weber

- For your info  Circulate
- Comment & return  Action

Remarks: Tolovana Mining District

FROM MLeon DATE 6/22/83  
11-47(11/78)

as we may eventually end up in court. Future responses may need to

REPLY

TO \_\_\_\_\_ DATE \_\_\_\_\_

address avenues of redress under the Admin. Procedures Act.

Bob MLean

ALASKA DEPARTMENT OF FISH AND GAME  
JUN 25 1983  
REGIONAL OFFICE

1. KEEP YELLOW COPY. 2. SEND WHITE AND PINK COPIES WITH CARBON INTACT. 1. WRITE REPLY. 2. DETACH STUB, KEEP PINK COPY. RETURN WHITE COPY TO SENDER.

the Tolovana River and our catalogue documents the uppermost reach of that observation. However, another observation by a sportsman documents king salmon even further upstream. Significantly, our AS 16.05.870 authority, based on that observation, was upheld by the court. We chose, however, to be more conservative in our depiction of the distribution of salmon when we revised our catalogue in 1982. On the basis of this documentation, the current conservative listing of anadromous waters in the Tolovana drainage will remain unchanged in our revised catalogue.

# REPLY MEMO

# State of Alaska

MESSAGE

REPLY

TO *Phyllis Weber* DATE *6/22/83*  
*HABITAT - ANCH.*

TO \_\_\_\_\_ DATE \_\_\_\_\_

*ATTACHED ARE COPIES  
OF CORRESPONDENCE  
WITH THE TOLOVANA  
MINING DISTRICT, AS  
PER YOUR REQUEST.*

*address avenues of  
redress under the Admin.  
Procedures Act.*

*Bob McLean*

*The Department's most  
recent response is  
cautious in tone, inasmuch  
as we may eventually  
end up in court. Future  
responses may need to*

ALASKA DEPARTMENT OF  
JUN 25 1983  
HABITAT  
REGIONAL OFFICE

1. KEEP YELLOW COPY. 2. SEND WHITE AND PINK COPIES WITH CARBON INTACT.

1. WRITE REPLY. 2. DETACH STUB, KEEP PINK COPY. RETURN WHITE COPY TO SENDER.

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PREP BY Scott + Mac  
SENT TO Bruce  
DATE 6/22/83 - DHL

**DRAFT**

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

ALASKA DEPT. OF  
FISH & GAME

JUN 23 1983

HABITAT  
REGIONAL OFFICE

Dear Ms. Rybachek:

RE: Your June 9, 1983 Letter.

Thank you for your input suggesting that the Tolovana River be deleted from our anadromous catalogue.

As requested by your similar inquiry of May 17, 1983, the factual basis for my Department's designation of the Tolovana River as an anadromous river pursuant to AS 16.05.870 was communicated to you in my June 14, 1983 response.

Apparently, our letters have crossed paths. In the event you are not in receipt of my June 14th letter, please feel free to contact me.

To reiterate, my staff has documented the presence of king and chum salmon in the Tolovana River and our catalogue documents the uppermost reach of that observation. However, another observation by a sportsman documents king salmon even further upstream. Significantly, our AS 16.05.870 authority, based on that observation, was upheld by the court. We chose, however, to be more conservative in our depiction of the distribution of salmon when we revised our catalogue in 1982. On the basis of this documentation, the current conservative listing of anadromous waters in the Tolovana drainage will remain unchanged in our revised catalogue.

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

DEPARTMENT OF FISH AND GAME

P.O. BOX 3-2000  
JUNEAU, ALASKA 99802  
PHONE: (907) 455-4100

OFFICE OF THE COMMISSIONER

June 14, 1983

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

RECEIVED  
JUN 17 1983

Alaska Dept. of Fish & Game  
Habitat - Region III

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 Hemming 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

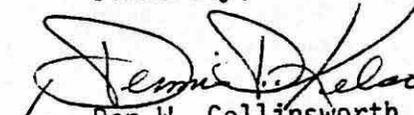
salmon in the vicinity of the pipeline crossing of the Tolovana River. The court upheld our permit authority on the Tolovana River.

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,

  
for Don W. Collinsworth  
Commissioner



# LIVENGOOD/TOLOVANA MINING DISTRICT

P. O. BOX 73069 - FAIRBANKS, ALASKA 99705

June 9, 1983

COMMISSIONER'S OFFICE  
**RECEIVED**  
JUN 16 1983

Commissioner of Fish & Game  
Box 3-2000  
Juneau, Alaska 99802

DEPARTMENT OF FISH AND GAME

Dear Commissioner:

The Livengood/Tolovana Mining District would like to protest the inclusion of the Tolovana River in your anadromous fish catalog.

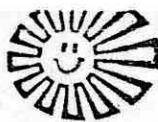
We do not believe the Tolovana River is "important" as an anadromous stream for the following reasons: The upper portion of the Tolovana, as well as its tributaries, freezes to the bottom during the winter, making it unsuitable for fish fry to survive. The lower portion of the river is in the Minto Flats. It is a very crooked, meandering stream that is continually cutting and filling, as is characteristic of this type stream. Therefore, very few alluvial gravel bars exist to accomodate spawning anadromous fishes. These reported fishes do not spawn in the headwaters of the Tolovana River, nor do they migrate through the Tolovana, thus the Tolovana River should not be included as an anadromous stream. AS: 16 05 870 (a) states that for a stream to be included in the catalog for anadromous fish, it must be "important for the spawning, rearing or migration of anadromous fish". We do not believe the Tolovana River could possibly be "important".

We have several times attempted to obtain from Fish and Game the data that was used when this stream was first designated anadromous. To date, we have received no substantiating documents from ADF&G. Therefore, we are forced to believe that such data does not exist.

In light of the above, we respectfully ask you to delete the Tolovana River from your anadromous fish catalog.

Sincerely yours,

Rose Rybachek, President



0123

# LIVENGOOD/TOLOVANA MINING DISTRICT

P. O. BOX 73069 - FAIRBANKS, ALASKA 99705

May 17, 1983

COMMISSIONER'S OFFICE

RECEIVED  
MAY 23 1983

DEPARTMENT OF FISH AND GAME

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

Dear Commissioner;

In 1982 several members of the Livengood/Tolovana Mining District received letters from the Habitat Section of ADF&G stating that the Tolovana River had been designated anadromous. I wrote a letter to Mr. Carl Hemming (See enclosed) requesting some information. I did not receive a reply to that letter.

Again this year ADF&G is sending out letters with virtually the same wording.

It is regrettable that the mining industry does not have a good working relationship with ADF&G as both are vital to Alaska's well being and economy. Miners buy hunting and fishing licenses and support the Department by providing access and habitat into large areas of Alaskan wilderness.

We believe if we discuss what we have in common it would greatly exceed our differences, such as outlined in letters from the habitat biologists.

We feel that there is a lot of common ground, but also a lot of misunderstanding between miners and ADF&G. Therefore, we would like to suggest a small meeting or forum to exchange ideas and information. We suggest this forum be held as soon as possible.

If this forum is agreeable with you, please contact me at your earliest convenience and we can discuss arrangements.

Sincerely yours

Rose Rybachek, President  
907-488-6453

State of Alaska  
Department of Fish & Game  
1300 College Road  
Fairbanks, Ak 99701

ATTN: Carl R. Hemming

Dear Mr. Hemming:

It has come to the attention of the Livengood/Tolovana Mining District that several miners in the District have received letters from you stating that the Tolovana River has been designated by the Commissioner as important for the spawning, rearing or migration of anadromous fish.

In view of the fact that there are not now, and for the past 50 years there have been no salmon in the Tolovana River, we should like to have you answer the following questions:

1. When was this designation made
2. By what means was it determined that the Tolovana River was important to the spawning, rearing or migration of salmon.
3. What are the proper procedures for contesting such an erroneous designation.

Thank you for your speedy attention to this matter. Your continued support for a viable mining industry for the State of Alaska is appreciated.

Sincerely yours,



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