



WRITTEN TESTIMONY IN FAVOR OF HOUSE BILL NO. 298

I am Ben Simmons, Vice President – Controller, of Anchorage Sand and Gravel Co., Inc. I have been employed in this capacity for the past 37 years. I have extensive experience with Chapter 43.65 Mining License Tax, filing required tax returns and responding to audits. Based upon my experience and knowledge of the Mining License Tax statute, the following testimony is respectfully submitted.

- **Ambiguous.** The Mining License Tax Statute as it pertains to sand and gravel is very ambiguous and difficult to apply to sand and gravel operations. All mining operations covered by the statute is basically one item (ie. Gold, silver, coal, etc.), with the exception of sand and gravel which can be between 20-30 products. Therefore, applying the statute to sand and gravel requires analysis of 20-30 different items instead of one. In the past 30 years I have been involved in three audits which included 1-3 years of tax returns each. Each audit was handled differently than the previous and final dispositions were settlement agreements with no real guidance for future return filings. The major points of contention are always "fair market value" and "ordinary treatment process" and value of sand and gravel used internally. The statute contains definitions of each, but each is difficult to apply to sand and gravel operators. For instance, operators in vertically integrated companies (typically suppliers) have very different processes from operators who are general contractors. AS&G is a vertically integrated company (supplier) which sells approximately 70% of its mined product to third parties and uses 30% internally. Mining operators who are general contractors sell approximately 30% of their mined product to third parties and use 70% internally (for asphalt, road beds, building pads, etc.). Suppliers' internal sales would include aggregates for asphalt, ready mix concrete, concrete block, sacked goods, etc.
- **Inconsistent application of tax and No "market price" for sand and gravel.** The statute requires internal sales to be valued at "fair market value after they have been subjected to ordinary treatment processes". Unlike gold, silver, lead, zinc, etc., there is no exchange or commodities board one can go to and get the "market or field price" for sand and gravel. So when determining the value to be used for internal use of sand and gravel auditors generally rely on the average sales price by product to third parties. This approach does not take into account bid prices for large quantities, high prices for hard to make specs or simple value added for additional handling. These prices are determined on a product by product basis from one producer to another, so the amount of tax paid by one producer can vary greatly from another



on exactly the same product. Therefore, fair application of the tax is not consistent from one taxpayer to the next.

- **Burdensome.** A great deal of time is required to gather and generate the necessary information for filing a tax return. The current thinking at the Department of Revenue Auditing Division is that "fair market price" should be determined on a product by product basis. AS&G currently makes and inventories between 20-30 aggregate products, so gathering information is very time consuming. In addition, if audited the time requirement and expense grows significantly. Our last audit for tax years 2005-2006 took almost 18 months and costs to AS&G in time and attorney expenses were well over \$50,000.00 just complying with requests for information and meetings.
- **Non-productive tax.** It is my belief that the amount of taxes collected from sand and gravel producers is insignificant compared to the cost to the state. During previous audits through discovery it was determined that the state had collected slightly more than \$200,000 in mining taxes and AS&G accounted for approximately 50% of this. I can only assume that audit costs are greater than revenue.

In summary, ambiguity as it pertains to sand and gravel, inconsistent application of tax, no markets or indexes for sand and gravel, burdensome and time consuming to comply and non-productive tax are reasons why sand and gravel should be exempted from the Mining License Tax statute. Government (local, state and federal) is the end customer for the majority of our products and ultimately pays this tax and our expense. An exemption from this tax for sand and gravel producers should reflect lower costs of materials to construction projects. It will not be readily identifiable due to the competitive nature of the construction industry, but costs of construction materials should be lower.

Respectfully,

Ben D. Simmons
V.P. Controller

From: Rep. Paul Seaton
Subject: FW: Mining License Tax - Bill Number HB298

From: Brian Vreeling [<mailto:BVreeling@COLASKA.com>]

Sent: Monday, January 30, 2012 5:38 PM

To: Rep. Paul Seaton; Rep. Eric Feige; Rep. Peggy Wilson; Rep. Alan Dick; Rep. Neal Foster; Rep. Bob Herron; Rep. Cathy Munoz; Rep. Berta Gardner; Rep. Scott Kawasaki

Cc: John@aqcak.org

Subject: RE: Mining License Tax - Bill Number HB298

Colaska, Inc. operates as an integrated construction business that owns and leases multiple sand and gravel pits throughout Alaska. Our activities include extracting sand & gravel and processing these extracts into different marketable products. These products are either sold externally to third-party customers or utilized internally in making redi-mix concrete, asphalt hot mix, or on road construction projects.

The Mining License Tax law as it currently exists places an undue hardship and burden on sand and gravel operations to comply with for several reasons.

Firstly, as an integrated business that has some operations considered 'mining activities' and others that are not, it has proven to be difficult to carve out our mining activities from our integrated activities to file a meaningful mining income tax return on an annual basis. This carving requires us to spend much more time to prepare and create the mining income tax return than it does to prepare our corporate income tax return for the IRS and the State of Alaska.

Secondly, we are currently being audited by the Department of Revenue (DOR) for two years of our mining tax returns. The audit process started more than a year ago and is now just coming towards an end. Because of our integrated operations, it has been difficult for the DOR to apply the mining tax law as it currently exists to our situation. Again having integrated activities, it has proven to be very onerous for the DOR to audit a carved out piece of our entire business. To date we have spent well in excess of a combined 800 hours in our organization complying with the audit and responding to audit requests. This is in addition to the hours and costs expended by the DOR on this audit.

Thirdly, the ultimate consumer of our products is the government. In 2011, 78% of our revenues came from public sources. The cost of the mining tax itself, as well as our internal costs to comply with this tax are being passed on to our customers, which the majority is coming from government funds.

In summary, as the Vice President of Finance of a company that must comply with the Mining License Tax, I whole heartedly support House Bill No. 298 to exempt sand and gravel and marketable earth mining operations. My support comes from direct experience in the cost and efforts to comply with the current law which by far exceed the tax revenue generated from it.

Yours truly,
Brian Vreeling, CPA
Vice President, Finance
Colaska, Inc.
4000 Old Seward Highway, Suite 101
Anchorage, Alaska 99503



January 31, 2012

Dear Representative Seaton:

As President of one of Alaska's large, road construction companies that must comply with the Mining License Tax, I am informing you that House Bill No. 298 has my full support, and I encourage you to vote for its passage.

Colaska, Inc. operates as an integrated construction business that owns and leases multiple sand and gravel pits throughout Alaska. Our activities include extracting sand & gravel and processing these extracts into different marketable products. These products are either sold externally to third-party customers or utilized internally in making redi-mix concrete, asphalt hot mix, or on road construction projects, the majority of which are public works projects.

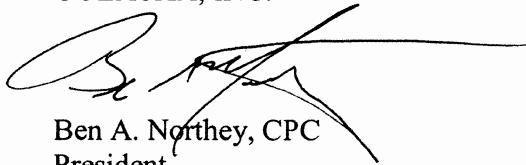
We are currently being audited by the State of Alaska, Department of Revenue (DOR) for two years of our mining tax returns. The audit process started more than a year ago and is now just coming towards an end. It has been difficult for the DOR to apply the mining tax law as it currently exists to a company like ours that performs integrated activities. To date we have spent well in excess of a combined 800 hours in our organization complying with the audit and responding to audit requests. This is in addition to the hours and costs expended by the DOR on this audit with a minimal revenue result.

At a time when we are trying to encourage business and growth in our great State of Alaska, I believe there are much better places to spend our time and energy than trying to resurrect a "make work" program that probably does not cover its own costs.

Please vote for house Bill #298.

Sincerely,

COLASKA, INC.



Ben A. Northey, CPC
President





February 1, 2012

Representative Paul Seaton
Co-Chair of House Resources Committee
State Capitol Room 102
Juneau, Alaska 99801

Reference: House Bill No. 298

"An Act exempting sand and gravel and marketable earth mining operations from the mining license tax; and providing for an effective date."

Dear Representative Seaton:

Great Northwest, Inc. is a privately held civil contractor based in Fairbanks that contracts primarily with the State of Alaska and the federal government to construct roads, airports and building sites. Currently the State of Alaska taxes the revenue we receive from the sale of sand and gravel, and peat moss mined from our material sites in Fairbanks, Delta and Healy and used in these projects. While the mining license tax is paid for by Great Northwest, the money to pay for the tax is generated through the sale of sand and gravel and peat moss to our customers. The State of Alaska and the federal government represent approximately 90% of our sales and, therefore, indirectly pay for 90% of our mining license tax.

Over the past ten years Great Northwest has paid approximately seventy-eight hundred dollars (\$7,800) in sand and gravel, and peat moss mining license taxes. For the past year we have been being audited by the State of Alaska Department of Revenue for calendar years 2008 and 2009. We are hoping that these audits will be concluded by July or August of this year. To date we have expended approximately 200 staff hours working with the State auditors supplying documents as requested and helping to answer questions that arise during the audit. In order to conduct the audit the State of Alaska has flown two auditors to Fairbanks twice and provided them with approximately three days room and board each trip. I am confident that if you look at the money expended by the State of Alaska to conduct the audit of our books you will find that they spent more money auditing two years of our records than they collected from us

in 10 years. Incidentally, while we paid \$7,800 since 2001 in mining license taxes, to date the audit has determined that we over paid our taxes by \$500.

In addition to the cost of an audit, we must cover the cost of preparing the annual mining license tax return. Each year our office staff spends approximately 80 hours preparing the return.

The mining license tax paid for the extraction of sand and gravel, quarry rock, topsoil and peat moss is a nuisance tax. The vast majority of the income used to pay for the tax comes from the construction of local, state and federal projects; therefore, the taxing body is paying the tax. In Great Northwest, Inc.'s case and I suspect in the cases of most miners of sand and gravel, rock, topsoil and peat moss, the State of Alaska spends more money collecting the tax than the revenue generated. I applaud your sponsoring HB 298 and look forward to its passage. If I can be of any help as the bill winds its way through the legislature, please let me know.

Thank you.

Sincerely,
Great Northwest, Inc.



Anton K. Johansen

Copy:

Representative Alan Dick
Representative Eric Feige
Representative Neal Foster
Representative Berta Gardner
Representative Bob Herron
Representative Scott Kawasaki
Representative Cathy Munoz
Representative Peggy Wilson



PO Box 80688
Fairbanks, AK. 99708

Telephone (907) 488-5983
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January 30, 2012

To: Representative Paul Seaton

Re: HB298 Mining Tax

Representative Seaton:

Our companies are engaged in construction of roads, and building sites locally around Fairbanks utilizing our owned gravel sources.

We have been reporting and paying the mining tax.

November 24, 2009 the State of Alaska Department of Revenue requested and audit of our records. A request for extension by the Department of Revenue was received July, 2011. Over 2 years have passed without resolution.

This process is costly and burdensome:

1. The rules are not clearly defined leaving determination of the rules open to interpretation.
2. The audit process is time consuming, burdensome, frustration and costly for companies to comply. Records are voluminous and have to be transferred by mail. It is as if we are in a legal suit rather than regulation compliance.

Most of H C Contractors work is public work. This will only increase the cost of doing work on those contracts. The extra cost will be added to the contracts so the government dollars will pay the tax back to the government through the increase. This is a futile process.

The mining tax on local gravel sources needs to be repealed. These are not mineral resources. This will save money for all of us.

Thank you.

Sincerely,

William Hoople
President, H C Contractors, Inc.



4000 Old Seward Hwy., Suite 101
Anchorage, Alaska 99503
Tel : (907) 273-1000
Fax: (907) 273-1099
www.colaska.com

January 30, 2012

Reference: Mining License Tax - Bill Number HB298

I believe the Mining License Tax law places an undue hardship and burden on all sand and gravel operations.

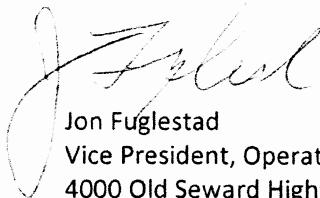
Colaska, Inc. owns and leases many sand and gravel pits throughout Alaska. We extract sand & gravel and process these extracts into different marketable products. These products are either sold externally to third-party customers or utilized internally in making redi-mix concrete, asphalt hot mix, or on our road construction projects, the majority of which are public works projects.

We have some operations that are considered 'mining activities' and others that are not. The time we have spent to prepare and create the mining income tax return is more time than we have spent to prepare our corporate income tax return for the IRS and the State of Alaska. The end result is that it will add to the cost of all construction.

As the Vice President of Operations of a company that must comply with the Mining License Tax, I whole heartedly support House Bill No. 298 to exempt sand and gravel and marketable earth mining operations. My support comes from direct experience in the cost and efforts to comply with the current law which by far exceed the tax revenue generated from it.

Yours truly,

COLASKA, INC.



Jon Fuglestad
Vice President, Operations
4000 Old Seward Highway, Suite 101
Anchorage, Alaska 99503

Namtvedt & Company
— *Certified Public Accountants, Inc.* —

January 31, 2012

Natural Resources Committee
Alaska State Legislature

Re: HB 0298A

Mr. Chair and Committee Members,

I am a Certified Public Accountant working in the Matanuska-Susitna Borough. I have prepared mining tax returns for clients that are involved in the sand and gravel mining business, as well as represented them when a return came under audit by the Department of Revenue.

One client was audited in 2008 for tax year ending June 30, 2005. Cost to the client for a mining tax return and time spent responding to the auditors about \$1,000. The outcome of the audit was no change.

Same client was again selected in May 2009 for tax year ending June 30, 2006. Tax assessed on September 18, 2009 was \$10,560. As I recall, the audit adjustments revolved around depletion calculation changes and allocation of costs related to small asphalt production. The client appealed. We met with the appeals officer on January 5, 2010. Information was provided that proved the audit adjustments were not correct and when applied correctly there was no effect on the tax due, which was zero. We are still waiting to hear from the appeals officer and the final outcome of this audit. Estimated cost for the tax return and time spent allocating costs between a financially immaterial product line and gravel extraction and responding to the auditor, \$7,200.

Ultimately, the cost of producing a mining tax return for this client each year has almost tripled due to the lack of response from the State. It has also cost management additional overhead to track financially immaterial product lines.

Thank you for your time and attention to this area of natural resource extraction.

Regards,



Teri L. Namtvedt
Certified Public Accountant

Linda Hay

From: Jae Won <JWon@COLASKA.com>
Sent: Wednesday, February 01, 2012 9:28 AM
To: Representative_Paul_Seaton@legis.state.ak.us; Representative_Eric_Feige@legis.state.ak.us; Representative_Peggy_Wilson@legis.state.ak.us; Representative_Alan_Dick@legis.state.ak.us; Representative_Neal_Foster@legis.state.ak.us; Representative_Bob_Herron@legis.state.ak.us; Representative_Cathy_Munoz@legis.state.ak.us; Representative_Berta_Gardner@legis.state.ak.us; Representative_Scott_Kawasaki@legis.state.ak.us
Cc: John@agcak.org
Subject: Mining License Tax - Bill Number HB298

Representatives,

I am writing this letter to support House Bill No. 298.

I am a controller of QAP, a general contracting company. QAP owns and leases over dozen pits throughout Alaska, mainly support our construction activity. Our main construction activity is road construction as well as airport runways throughout rural Alaska.

To comply with current Mining License Tax law, it puts additional burden on the company due to the complexity of the law. Current law requires us to generate a separate income statement for the sand and gravel operation by each location. This requirement in general is proving to be difficult as QAP utilizes sand and gravel pits to support its construction activity. To comply with this law, we are having to have add costs to construction budget, which ultimately increases the construction cost for the government.

Currently QAP is being audited by Department of Revenue for two years of our Sand and Gravel operations. The audit process is becoming a burden on our company as well as DOR staff. It has been over a year since it began, and is still ongoing. It has been difficult for us and DOR staff to comply with current tax law. We have spent over 200 hours gathering data for DOR. I am sure that DOR has spent additional 200 hours if not more to understand the information provided. In summary, this law is adding additional cost for the company as well as DOR.

Again, I would like to express my support for House Bill No. 298.

Sincerely,
Jae Won
Controller
QAP
240 West 68th Avenue
Anchorage, AK 99517
907-522-2211

SAMUEL P. TROTZKE, CPA
664 Feliz St.
North Pole, AK 99705
(907) 488-4967

January 30, 2012

State of Alaska
Honorable Legislators
Juneau, Alaska

Sent via email

RE: House Bill 298

Dear Honorable Legislators:

I would like to express my support for House Bill 298, in the Legislature of the State of Alaska, Twenty-Seventh Legislature – Second Session.

The above referenced House Bill, as introduced on January 25, 2012, would exempt sand and gravel mines from the requirement to calculate and pay the annual mining license tax. I am supportive of removing the requirement that sand and gravel mines be subject to the mining license tax as the law currently reads.

Current statutes and regulations are vague and difficult to understand. I have had many conversations with State of Alaska employees at the Department of Revenue regarding this tax. It is my belief that each person reading the regulations could reasonably draw different conclusions with respect to similar fact patterns making the calculations of the tax difficult and expensive for the mining operations.

Please vote in favor of removing this burdensome tax requirement from sand and gravel operators as the costs of preparing, reviewing and filing the mining tax returns are greater than the benefits derived from the tax for both the operators and the State of Alaska.

Thank you for your kind attention to this matter. Please feel free to contact me should you have further questions.

Respectfully,


Sam Trotzke



P.O. Box 32159 Juneau, Alaska 99801 (907) 780-5145 Fax (907) 780-5896

January 27, 2012

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

RE: House Bill No. 298 "An Act exempting sand quarry rock and gravel and marketable earth mining operations from the mining license tax; and providing for an effective date."

Dear Representative Seaton:

Thank you for your support in sponsoring this important piece of legislation. Though this bill is short, it will remove a burdensome tax and benefit the citizens of Alaska.

Secon is an integrated business, and the mining activities we undertake are a very small part of our operations. However, segregating the mining activities to prepare the State of Alaska mining tax return takes almost as much time as it does to prepare our Federal and State income tax returns.

The audit of two years of our mining tax returns by the Department of Revenue (DOR) has been overwhelming to say the least. Secon has spent approximately 200 hours gathering information and preparing schedules, two DOR auditors were on site in our offices in 2011 for five days each – and the audit is still not complete. Our corporate offices in Anchorage have spent considerable more time than this compiling and consolidating the information for the audit.

All of the sand, rock, and gravel that we mine stays here in Alaska. The majority of it is used in government public works projects (roads, bridges, sidewalks, airports, etc.) along with private projects (driveways, home foundations, gravel for icy roads, etc.) The costs of preparing the mining license tax return and complying with DOR audit requests is passed on the end user of products, which is the State of Alaska and the citizens of Alaska.

Thank you for your time and support of this bill and for your service to our wonderful state.

Sincerely,

A handwritten signature in black ink that reads "Julie Olson".

Julie Olson, CPA
Controller

Cc: Representative Cathy Munoz

Sheep Creek Development, LLC
P.O. Box 71577
Fairbanks, AK 99707

January 31, 2012

Alaska House of Representative and Senate Members
Capitol Building

Re: HB 298 and SB 176

Dear House and Senate Members:

I am writing this letter to request your support for HB 298 and SB 176.

Sheep Creek Development and one of our individual members own substantial parcels of patented mining claims which were purchased with millions of cubic yards of stacked and processed tailings and fines produced as a byproduct of gold dredge and placer mining operations performed by the former owners.

During 2008, the State of Alaska, Department of Revenue attempted to incorrectly impose the MLT and its requirements on our company. We spent significant sums retaining legal and mining tax professionals, and hundreds of uncompensated hours of personal time, to document and assert our position that we were and are not miners. While it appears DOR informally agreed with our position, it is certainly possible that they could revisit the matter at a future date. Passage of this bill would provide certainty for us and the many other companies who purchased old mining claims with tailings on them which DOR has incorrectly asserted or asserts are subject to the MLT.

Unlike other minerals taxed under the MLT which are combusted or shipped out of state, sand and gravel and the tailings and fines we sell are used and still remain in Alaska. Our largest sales are to publicly funded projects for roads, sidings, etc. but we also sell to homeowners trying to build their driveway or a pad for their new home. Passage will lower the cost of infrastructure for all Alaskans, level the playing field between sand and gravel companies and eliminate the type of burdensome defense costs we have experienced.

Please vote to pass this legislation and do not hesitate to email or call me should you have any further questions regarding this matter.

Sincerely,



Jon Cook
Managing Member
Sheep Creek Development, LLC
(907)322-0362 – Cell
joncook@gci.net



P.O. Box 60750
Fairbanks, AK 99706

1570 Richardson Highway
North Pole, AK 99705-5943

Phone: (907) 488-8833
Fax #: (907) 488-8999

February 1, 2012

Representative Paul Seaton
Representative Eric Feige
House Resources Committee Co-Chairs
State Capitol
Juneau, AK

Email transmission to: Representative_Paul_Seaton@legis.state.ak.us
Representative_Eric_Feige@legis.state.ak.us

Re: House Bill 298 "An Act exempting sand and gravel and marketable earth mining operations from the mining license tax; and providing for an effective date."

Dear Representative Seaton and Representative Feige,

Later today you will be receiving testimony on HB 298 regarding the taxation of sand and gravel operations in the State of Alaska. Please consider the following comments as you discuss the numerous merits of this bill.

Sand & Gravel tax return

There is no clear guidance on how to comply with the mining return. While this is manifested in many ways, from a sand & gravel standpoint – and especially for a company engaged in additional processing or use of the aggregate - there are some calculations / allocations that don't make economic sense. These sometimes work in the state's favor and other times in the company's.

Sand & Gravel tax return audits

The state's resources that were spent in auditing our returns (labor, airfare, hotels etc) could have had a much bigger impact auditing different areas. For the years in question there was much less use or sale of aggregates than the current years which in turn would reduce the chance of collecting enough additional revenue to justify the cost of the audit.

The company also suffers financially in complying with the filing of the return and any subsequent audits. We have spent over 150 hours searching for and copying documents, preparing schedules and answering

questions. The cost to the company has included labor, postage, office supplies (paper) and the opportunity cost of the employee's time that would have been better spent elsewhere.

The current taxation system requires a company to report based upon their tax year. Our financial statements are prepared by calendar year and our state and federal taxes are reported with a year end of March 31st. While our current accounting system is configured to accommodate the "routine" filings for state and local corporate taxes, it is not customized to provide the data required by the mining tax return, which must be extracted from our financial statements. This therefore requires that significant additional time be spent reconciling the two financial reporting periods in order to comply with the return requirements. Internally, the best solution would be to keep separate ledgers but this is cost prohibitive with our current set-up.

If the tax for sand & gravel is not abolished it should at the very least be simplified so that compliance is no longer burdensome.

Sand & Gravel tax paid by DOT

While we could focus merely on the fact that administering this tax costs more than it raises, that doesn't address the core issue of who is paying most of the tax – the State of Alaska Department of Transportation. The majority of the aggregates removed from our Interior pits finds its way into a state road or airport project, which means the state is actually taxing itself, and costing itself additional administrative expense in the process.

Our state economy is in a precarious state. It is of utmost importance that we get the most bang for our buck in all areas of state government. The sand and gravel tax system works against that end. Please support HB 298.

Respectfully,

John Godzina, CPA
Controller

CC: Representative Peggy Wilson:	Representative_Peggy_Wilson@legis.state.ak.us
Representative Alan Dick:	Representative_Alan_Dick@legis.state.ak.us
Representative Neal Foster:	Representative_Neal_Foster@legis.state.ak.us
Representative Bob Herron:	Representative_Bob_Herron@legis.state.ak.us
Representative Cathy Munoz:	Representative_Cathy_Munoz@legis.state.ak.us
Representative Berta Gardner:	Representative_Berta_Gardner@legis.state.ak.us
Representative Scott Kawasaki:	Representative_Scott_Kawasaki@legis.state.ak.us
John MacKinnon, AGC	



ASSOCIATED GENERAL CONTRACTORS of ALASKA

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January 31, 2012

Representative Paul Seaton
State Capitol, Room 102
Juneau, AK 99801-1182

Re: HB 298

Dear Representative ~~Seaton~~: Paul

On behalf of the Associated General Contractors of Alaska, a construction trade association of over 650 business members, representing the majority of the construction industry in Alaska, I'd like to thank you for sponsoring HB 298.

Working with our affected companies last spring, we realized that the present mining license tax structure was poorly applied to aggregate production in the construction industry.

Last summer we approached the Department of Revenue about the problems with the present tax as it applies to quarry rock and sand and gravel operations in Alaska and how the present requirements could be improved on a revenue neutral basis. After researching the revenue to the State and the cost of administration, it was recommended that quarry rock and sand and gravel operations should be exempted from the requirements.

This has been a cooperative effort between industry and the administration. We quickly recognized that this was a true nuisance tax. For the State, it produced little revenue. For the construction industry, it is very complicated to calculate and even more complicated to audit, for relatively little revenue to the state and many times more expense to industry. When you consider that the majority of the mined and processed product goes into public works projects, government is paying most of the associated costs and the tax, at the expense of our projects.

Thank you again for your sponsorship and support for HB 298 and this exemption to the mining license tax.

Sincerely,

John MacKinnon
Executive Director
Associated General

Executive Director
Associated General Contractors of Alaska