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From: Deantha Crockett <Deantha@AlaskaMiners.org>
Sent: Thursday, February 13, 2020 12:06 AM
To: Sen. Peter Micciche
Subject: AMA response to SB155 fiscal note
Attachments: AMA SB155 fiscal note response.pdf

Senator Micciche:

Attached is an overview of AMA's view on the fiscal note appropriateness for SB155. Please let me know if you have any questions.

Thank you!

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Senator Micciche:

The Alaska Miners Association (AMA) would like to thank you for the opportunity to testify in support of SSB 155 at the Senate Resources Committee hearing on February 5, 2000.

As discussed in our testimony, SSB 155 will provide more certain mineral tenure for Alaska's existing miners and help provide a more stable investment climate to help bring new capital to Alaska.

By clarifying several key issues, the statutory improvements in SSB 155 will reduce conflicts between competing miners and reduce conflicts between miners and DNR. In working on this bill, AMA has been very careful to avoid imposing significant additional workload onto DNR. In fact, AMA believes that this bill provides meaningful opportunity for efficiency and clarifications that will reduce the administrative burden on DNR while improving DNR's management of mining claims and mineral interests.

AMA would like to detail several of the ways in which this bill will allow DNR to be more efficient and support the mining industry with less administrative burden and associated costs than it bears today:

First, the bill will reduce the time DNR spends trying to respond to miners panicked that they have lost their claims. In fulfillment of its statutory responsibilities, DNR is already very engaged in management of mineral tenure. The Division of Mining dedicates significant resources to reviewing qualification issues, statements of annual labor, rental payments, and location notices, as well as maintaining mining and land records. In fact, the increased frequency of DNR notices of abandonment of mining claims and decisions that are adverse to miners on these issues is one of the key drivers behind AMA seeking relief through statutory amendments for both the industry and DNR.

When a miner receives a surprise notice that his claims are void, his location notice has been rejected, or his labor affidavit is missing or invalid, his first response is to rush to DNR with questions and objections, probably on several different occasions, elevating the issue through the department in search of administrative relief. There is no doubt that management of mineral tenure under existing statutes and policies requires significant resources. AMA believes that SSB 115 will support more efficient processes and less controversy, reducing the overall workload on DNR.

AMA believes that by reframing its initial notice to a miner as an opportunity to cure rather than an abandonment of claims, the miner will welcome the opportunity to correct an error without further involvement by DNR, freeing the staff from the plethora of phone calls and meetings that are currently demanded in response to a notice that an abandonment or other adverse action has already occurred.

Second, AMA believes that the bill will reduce the overall number of notices issued by DNR. The key provisions of the bill allow a miner to self-cure without any notice from DNR. When a miner becomes aware of a deficiency in his or her paperwork, the miner can simply

file corrected paperwork without worrying that by doing so the miner has conceded a defect that may have caused an automatic abandonment.

Third, the bill does not require DNR to examine a miner's qualifications or statement of annual labor for defects. Existing law identifies what information must be included in a statement of annual labor and provides that if the statement does not accurately set forth this information, the statement is void and of no effect. DNR does not routinely examine every statement of labor to determine whether it satisfies the legal requirements. Instead, DNR sends abandonment notices when it becomes aware of a flaw either because another miner has brought it to DNR's attention or because DNR has discovered the issue in the ordinary course. AMA's contributions to SSB 155 have been carefully crafted to impose no new obligation on DNR to examine the paperwork required to locate or maintain a mining claim. In fact, the proposed language in Section ___ of the bill expressly disclaims any requirement that DNR will examine each statement of annual labor for compliance with the statutory or regulatory requirements.

Fourth, the bill removes the need to address minor issues with paperwork. Under the current law, *any* defect in a statement of annual labor potentially causes a mining claim to be automatically abandoned by operation of law. Thus, when a competing miner brings a very small, insignificant paperwork issue to DNR's attention, it receives the same attention as a significant defect. While the bill allows these defects to be corrected, it does not automatically invalidate mining claims on the basis of insignificant issues with the paperwork. Furthermore, DNR has discretion whether to send notice of the opportunity to cure. DNR may well decide that minor issues with paperwork will no longer be worthy either of DNR's time and attention.

Fifth, the bill will dramatically reduce the number of abandonment notices issued by DNR and the subsequent time and resources spent in follow-up to an abandonment notice. A miner who has filed a statement of annual labor clearly intends to maintain his or her mining claims. When that miner receives a notice of a defect in the statement, the miner will be motivated to correct the defect to maintain and protect their property interest. AMA believes it will be the rare case in which a corrected statement is not filed. When a corrected statement is filed, DNR's job is done. The few abandonment notices that DNR might issue, will not be a significant burden on resources and little, if any, follow-up action is likely to be required since the miner did not avail himself or herself of the opportunity to cure.

Sixth, the bill will decrease administrative appeals and judicial actions. Under the bill, a miner will have the opportunity to cure a deficiency in qualifications and a deficiency in a statement of annual labor, have more transparent requirements for qualification and what is required in a statement of labor, and have less risk of overstaking by a third party. All of these provide greater clarity, less conflicts, and fewer administrative and judicial appeals. AMA has always supported the position that conflicts between miners should be adjudicated by the courts, not DNR. Nonetheless, when a conflict has arisen, most miners go to DNR to see if they can obtain administrative relief from the agency. AMA believes that there will be significantly less conflict under SSB 155 than under the current statutes.

Today, a competing miner has an incentive to review the paperwork filed by other miners and ask DNR to opine on the effectiveness of paperwork containing minor flaws. If DNR determines that the flaw is fatal (and under the law today a small, typographical error can be a fatal flaw), the competing miner asks DNR to invalidate the affected mining claims (and the competing miner locates new claims on top of those alleged to be invalid). SSB 155 changes both the incentive to invalidate claims and the nature of the notice that DNR would send to the miner. The incentive for a potential competing claimant to request that DNR invalidate claims is removed because DNR must first send a notice and provide an opportunity to cure the paperwork defect. Fewer people requesting that DNR opine on the adequacy of paperwork will reduce DNR's workload. Fewer panicked miners contacting DNR with questions and demanding relief from abandonment notices will reduce DNR's workload.

Finally, clarifying the MTRSC system of location will significantly streamline the processing of location notices. Recent decisions by DNR have reversed 20 years of historic DNR practice with respect to MTRSC locations and prohibited the use of the MTRSC system in many circumstances. Since the system was established, MTRSC locations have been accepted to establish rights to all state land within the location boundaries that are open to location, even if portions of the area are not available for location. Recently, DNR has rejected such locations, requiring that the traditional system of location be used which is much less efficient for both the miners and DNR. Traditional claims can be no more than 40 acres in size, while an MTRSC location can encompass 160 acres. Traditional claims also require staking and mapping around all inholdings whereas MTRSC locations can be staked and mapped in a simple grid pattern. One of the primary goals and purposes of the MTRSC system of location was to provide a more efficient means of establishing mining claims that would not unduly burden DNR. SSB 155 will restore these historic efficiencies, and provide clear direction on this issue consistent with historic practice and understanding.

AMA appreciates that SSB 155 will change some existing DNR practices. That change will provide significant benefits to the industry in the form of more secure mineral tenure and encourage investment in the state without imposing significant new burdens or cost on DNR.

Thank you for your time and attention to this matter.