



Comments on SB155 Mineral Tenure

Council of
Alaska Producers

February 5, 2020

Senator Peter Micciche, Chair
Senate Resources Committee
Alaska State Legislature
State Capitol
Juneau, AK 99801

Dear Chair Micciche,

The Council of Alaska Producers (CAP) is writing to support Senate Bill 155, "An Act relating to exploration and mining rights; relating to annual labor requirements with respect to mining claims and related leases; relating to statements of annual labor; defining 'labor'; and providing for an effective date."

Formed in 1992, CAP is a non-profit trade association that represents the interests of Alaska's five large metal mines and several advanced projects. CAP informs members on legislative and regulatory issues, supports and advances the mining industry, educates members, the media, and the general public on mining related issues, and promotes economic opportunity and environmentally sound mining practices.

Under the current system, Alaska miners—ranging from small placer miners to large commercial operators—have encountered significant problems, including loss of land tenure, from minor mistakes and clerical errors relating to affidavits of labor and qualifications requirements. Some miners have spent thousands of dollars to resolve issues with competing claimants that arise due to vague laws and regulations that do not clearly define what is required to maintain mining claims. Alaska cannot attract the investments needed to explore and develop its mineral resources with this risk to land tenure in place.

SB155 is needed to resolve these issues and prevent the senseless loss of mining claims from minor, correctable errors.

Thank you hearing this bill. We encourage the Resources Committee to pass it from committee quickly.

Sincerely,

Karen Matthias
Executive Director

cc: Members of the Senate Resources Committee



ALASKA MINERS ASSOCIATION

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Testimony of Deantha Crockett, Executive Director, Alaska Miners Association SB155 – An Act Relating to Exploration and Mining Rights Wednesday, February 5, 2020

The mining industry is requesting your support to improve the mineral and land tenure in Alaska.

Both small placer miners and large commercial operators have encountered significant problems arising from unclear statutory language regarding affidavits of labor and locator qualification requirements. These problems, some arising only from minor mistakes and clerical errors, include loss of their state mining claims resulting from a notice of abandonment issued by DNR due to confusion or different interpretations of the law. Some miners have spent thousands of dollars attempting to resolve issues with DNR or competing claimants that arise due to vague laws and regulations about what is required to maintain mining claims.

Alaska can improve its ability to attract the investments needed to explore and develop its mineral resources by reducing these existing risks to land tenure.

This is truly an industry-wide issue which SB155 aims to fix and is a top priority for Alaska's miners.

AMA has worked with DNR for almost five years on these issues. This bill is a product of hours and hours of collaboration and deliberation between industry and agency. AMA has worked hard to develop a solution that will streamline administrative processes, reduce conflicts between miners and reduce conflicts between miners and DNR.

1. The existing statute has the following problems:

- a. LLCs, trusts, and similar entities legally qualified to do business in Alaska are not expressly identified as qualified to hold a mining claim, making our system outdated to investors. There is also no recognized mechanism to cure a defect in qualification, resulting in potential clouds on title.
- b. The original intent of the MTRSC location system has recently been misinterpreted by DNR and needs to be clarified in statute.
- c. Unclear language in existing statute regarding affidavits of labor has resulted in conflict, some arising from minor mistakes and clerical errors. Problems include loss of state mining claims and significant investment spent to resolve issues rather than explore for minerals. There is also no mechanism to cure correctable errors.

- d. Guidance for information required to be in affidavits of labor is now included in regulation and subject to DNR discretion to void the claims. The description of work performed by claim owner to advance the property needs to be updated to reflect current activities.
- e. In many areas of Alaska, existing federal mining claim located land that has been selected by the State prevent the land from being conveyed to the State. It is often considered to be in the best interest of both the miner and the State to convert these federal claims to state claims. However, the federal claims must be relinquished before conveyance can occur. If a third party – not the federal claimant – has state claims that would take effect upon conveyance, the federal claimant will not relinquish the federal claims, resulting in a stalemate.

2. Solutions in SB155 correct the existing statutory problems by:

- a. Qualifications: updates types of entities that can hold claims and provide curative mechanism for qualification defects
- b. Mining Claims: clarifies that a MTRSC location establishes mineral rights to all land open and available within the location. This is the interpretation that has worked effectively for both industry and the state for 20 years.
- c. Annual Labor:
 - i. Puts labor affidavit requirements clearly in statute
 - ii. Requires DNR to first send a notice of an opportunity to cure clerical errors prior to sending a notice of abandonment. This includes notification to claim holder provision and 90 days in which claim holder can correct any errors
 - iii. Updates list of examples for qualifying work and provides that cash payment can be made for no more than five years
- d. Federal/State claim overlap: provides more certainty to improve opportunity to convert to state claims.

3. General Comments

It is imperative to resolve these issues to stop the senseless loss of claims, and loss of years of investment to claim holders.

AMA has worked hard to develop a solution that provides needed clarity into DNR processes, so that their workload is not increased by this bill, but rather potentially decreased.

These statute changes will allow DNR to more efficiently support the mining industry.

Alaska can improve its ability to attract the investments needed to explore and develop its mineral resources by reducing these existing risks to land tenure.

AMA requests passage of SB155.



Legislative Testimony

Senate Bill 155 Exploration/Mining Rights

February 14, 2020

Chairman Micciche & Members of the Senate Resources Committee,

Policies that promote greater economic freedom, reduce burdens in meeting legal and regulatory requirements, and those that allow a greater number of individuals to engage in economic activity are highly favored by the Alaska Policy Forum.

Testimony has been offered regarding the difficulty miners, both small and large, have had meeting requirements for reporting activity on their mining claims. I personally saw the confusion these rules can cause while assisting a former employer file his own reports. Even after multiple readings of the requirements and lengthy discussion, we were still not fully confident that the documents we filed were correct. Thankfully they were accepted. This is not an ideal way to regulate industry.

Laws and regulations need periodic review to determine whether they continue to fulfill their intended purpose or whether they have resulted in unintended consequences. The state clearly has an interest in ensuring that mining leases are actively being worked. The labor reporting requirement likewise imposes a responsibility upon miners to track and report the work performed. Loss of a mining claim due to inactivity allows transfer of valuable resources to those who are more able to utilize the resource which is also an important purpose.

Loss of a claim due to technical violations or clerical errors, however, seems in excess of the intentions of the labor reporting requirements. The ability to cure and correct technical errors as put forward in the legislation aligns the state's need for information and interest in claims being actively worked, and protects miners' interests in their labor without unduly penalizing them for otherwise minor technical deficiencies.

The fiscal note associated with the changes indicates no additional cost to the state nor additional duties to state employees; likewise, the changes also require no additional work from miners. From a policy standpoint, the changes put forward are the best of all worlds: they review and update existing law to meet the needs of the state and those directly affected by the legislation, make compliance less burdensome, and protect the economic interests of miners both large and small.

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February 28, 2020

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The Honorable Click Bishop
State Capitol Building
Room 121
Juneau, Alaska 99801-1182

RE: Committee Substitute for Sponsor Substitute for Senate Bill 155 (RES)

Dear Senator Bishop:

The First Things First Alaska Foundation (FTFAF) supports CSSSSB 155(RES), "An Act relating to exploration and mining rights; relating to annual labor requirements with respect to mining claims and related leases; relating to statements of annual labor; defining 'labor'; and providing for an effective date."

CSSSSB 155(RES) promotes needed clarity to current statutes for the mining industry, for both the small and large mine operators. The bill is the result of input from the mining industry and the Department of Natural Resources and resolves issues such as the issuance of a notice of abandonment due to seemingly minor mistakes or reporting errors.

The State of Alaska and organizations like FTFAF are working hard to provide for a growing economy and remain "Open for Business." Your bill, SB 115, is a needed piece to the growth puzzle and important that it passes this session.

Thank you for your work on this issue.

Sincerely yours,

A handwritten signature in blue ink that reads "Joseph E. Kahklen". The signature is written in a cursive style.

Joseph Kahklen
President

First Things First Alaska Foundation (FTFAF) is dedicated to preserving the economic viability and future of Alaska through education. There is a clear need to educate the public on the benefits of responsible economic development and natural resource management.