

**ALASKA STATE LEGISLATURE  
JOINT MEETING  
SENATE RESOURCES STANDING COMMITTEE  
HOUSE RESOURCES STANDING COMMITTEE**

February 8, 2006

3:54 p.m.

**MEMBERS PRESENT**

SENATE RESOURCES

Senator Thomas Wagoner, Chair  
Senator Ralph Seekins, Vice Chair  
Senator Fred Dyson  
Senator Kim Elton  
Senator Albert Kookesh

HOUSE RESOURCES

Representative Jay Ramras, Co-Chair  
Representative Jim Elkins  
Representative Kurt Olson

**MEMBERS ABSENT**

SENATE RESOURCES

Senator Ben Stevens  
Senator Bert Stedman

HOUSE RESOURCES

Representative Ralph Samuels, Co-Chair  
Representative Carl Gatto  
Representative Gabrielle LeDoux  
Representative Paul Seaton  
Representative Harry Crawford  
Representative Mary Kapsner

**COMMITTEE CALENDAR**

OVERVIEW - ALASKA MINERALS INDUSTRY: ALASKA MINERALS COMMISSION  
REPORT & RECOMMENDATIONS; DIVISION OF MINING, LAND AND WATER  
PRESENTATION

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

IRENE ANDERSON, Chair  
Alaska Minerals Commission;  
Bering Straits Native Corporation  
Nome, Alaska

POSITION STATEMENT: Introduced the members of the Commission and began the discussion.

KARL HANNEMAN

Alaska Mineral Commission;  
Manager, Public and Environmental Affairs, Teck Pogo, Inc.  
Fairbanks, Alaska

POSITION STATEMENT: Discussed what the Commission considers to be the most important recommendations.

CHARLOTTE MACCAY

Alaska Minerals Commission;  
Bristol Environmental & Engineering Services Corporation  
Anchorage, Alaska

POSITION STATEMENT: Answered questions.

**ACTION NARRATIVE**

**CHAIR THOMAS WAGONER** called the joint meeting of the Senate and House Resources Standing Committees to order at 3:54:27 PM. Representatives Ramras and Senator Wagoner and Kookesh were present at the call to order.' Representative Elkins and Senators Elton and Dyson arrived as the meeting was in progress.

OVERVIEW - ALASKA MINERALS INDUSTRY: ALASKA MINERALS COMMISSION REPORT & RECOMMENDATIONS; DIVISION OF MINING, LAND AND WATER PRESENTATION

CHAIR WAGONER announced that the only order of business would be an overview of the Alaska minerals industry.

IRENE ANDERSON, Chair, Alaska Minerals Commission; Bering Straits Native Corporation, reminded the committees that the commission was formed in 1986 by the legislature to which it has provided its findings and recommendations. In fact, a number of the findings and recommendations have been acted upon. The commissioners introduced themselves from the audience.

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KARL HANNEMAN, Alaska Mineral Commission ("Commission"); Manager, Public and Environmental Affairs, Teck Pogo, Inc., began by informing the committees that there are four operating mines: Usibelli Coal Mine, Inc., Red Dog Mine, Fort Knox Mine, and Greens Creek Mine. The Pogo Mine is nearing completion of construction. He further informed the committees that there are a number of advance projects, such as Rock Creek, Nixon Fork, Donlin Creek, and Pebble Copper. Mr. Hanneman then turned to the Commission's recommendations with regard to the taxation regime as it applies to mining. There is a mining license tax, which was first enacted in 1913 and required 7 percent of net profits [tax] for major operations payable from all operations in the state regardless of land status. The industry also pays mining rents and royalties, which was a major part of the Statehood Act. In 1981, the attorney general's office questioned the state policy and asked the legislature to review the income to the state from mineral development. The aforementioned lead the legislature to pass a modified law that went through several years of litigation. Ultimately, in 1987 the Alaska Supreme Court ruled that rents or royalties needed to be charged to mining operations. In 1989, the legislature passed legislation to satisfy the aforementioned and thus there is now a process by which rent is charged per acre per year as well as 3 percent on the net profits. Mr. Hanneman highlighted that all of the aforementioned occurred prior to any major hard rock mining in the state. Therefore, [the Commission] views this as a good model for how tax policy should be imposed such that it's imposed prior to major industry expansion so that the industry understands the terms of its investment.

MR. HANNEMAN explained that the taxes in Alaska aren't applied to the exploration or development expenditure components of the industry but rather taxation [is applied] to the value of the mineral production. In the mid 1980s there was stable production from the Usibelli Coal Mine and a significant increase in 1989 when the Red Dog and Greens Creek Mines came on line. The [production] remained relatively stable until the entrance of Fort Knox in 1996-1997. In 2004-2005 there was an increase in the value of mineral production primarily because of world markets improving product prices. In fact, during the early years of production from Red Dog and Greens Creek Mines, which are primarily zinc mines, the zinc price during the feasibility and construction was at \$.60-\$.70 range. However, over the years the price decreased and thus pressured the projects, the profitability of the projects, and the ability to

pay the net profits tax. Recently, prices have rebounded and the projects are significantly more profitable. The same occurred for Fort Knox Mine. The aforementioned is reflected in the payments that ultimately come to the state and the municipalities from the mining industry. He provided the committee with a chart illustrating the payments to municipal governments through payments in lieu of taxes (PILT) or property taxes, the rents and royalties component, and the mining license and income tax. The mining license and income tax, he noted, is highly variable based on the profitability of the operations in 2004 and 2005.

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MR. HANNEMAN then turned the committees' attention to the Commission's six primary recommendations. With regard to the National Pollutant Discharge Elimination System (NPDES), Alaska is one of the few states that doesn't have primacy. He explained that primacy is when Alaska's Department of Environmental Conservation has the primary role for reviewing and issuing NPDES permits, which are the primary water discharge permits of mining operations. Currently, the Environmental Protection Agency (EPA) Region 10 issues and processes those permits in Alaska. Mr. Hanneman opined that with primacy there could be much improved efficiency coordination amongst the technical members of the group. The legislature recognized that last year and requested that the Department of Environmental Conservation (DEC) file an application for primacy by July 2006. Therefore, the Commission recommends following up with the aforementioned and supporting DEC as it pursues primacy. Furthermore, the Commission recommends that the legislature ensure appropriate funding for the aforementioned.

MR. HANNEMAN moved on to the Commission's recommendation with regard to permit efficiency. He highlighted that the Department of Natural Resources (DNR) has a large permitting team that has greatly improved state coordination. Furthermore, DEC has added staff and reduced its application backlog. Still, there must be improvement with [state] coordination with federal agencies. Additional processes to the current permitting process aren't necessary, he stated. He mentioned that there are organizational challenges that are a result of some of the reorganization in DNR. As a result, there is some strain on the availability of human resources in the permitting agencies. Therefore, the Commission recommends the continued use of high quality third-party staff. The outstanding vacancies need to be filled and senior-level vacancies need to be filled with

experienced and qualified people. Furthermore, the state recruiting mechanisms need to be able to react to market conditions in order to attract qualified people. Moreover, the state needs to assume its federal responsibilities in order to improve accountability. Mr. Hanneman emphasized the need for the state to request from the agencies a periodic status report on permitting.

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MR. HANNEMAN turned to mixing zones and explained that existing regulations prohibit mixing zones in anadromous and resident fish spawning areas. The current mixing zone regulations don't provide flexibility in looking ahead such that mining operations are permitted to minimize impacts. The DEC had proposed mixing zone language that allowed there to be a mitigation approach, evaluation of the potential impacts, and allowed science to guide some flexibility in the regulations. The Commission supported the promulgation of regulations that included such flexibility and mitigation.

REPRESENTATIVE ELKINS asked if [the Commission] is satisfied with the governor's proposed regulations or the proposed legislation.

MR. HANNEMAN clarified that the Commission does not support the legislation, which he characterized as a significant step backward in terms of flexibility and recognizing science to evaluate impacts. The governor's proposed regulations also fall short in terms of incorporating science and flexibility into the permitting process.

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MR. HANNEMAN addressed tax considerations. He then highlighted a map, which illustrates that mineral development can provide private sector employment in all areas of the state. However, a substantial portion of this development lays within the unincorporated areas of the state. The Commission is concerned that the formation of boroughs creates uncertainty with regard to the tax regime in these areas of potential mineral development. Mr. Hanneman opined that the mining industry is willing to pay its share of broad-based taxes, such as property taxes. The Commission believes, he related, that industry specific taxes such as a severance tax is the wrong approach and can serve as a significant disincentive to development. In fact, it could be used as a tool to halt or preclude

development. The aforementioned would make investment decisions very difficult. Therefore, the Commission recommends that the state establish a tax policy that provides stability and equity in areas [of potential mineral development]. Perhaps the aforementioned may include the payment in lieu of taxes concept. "We need to improve the tax certainty in those areas to allow those projects to proceed," he said.

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MR. HANNEMAN turned attention to the issue of geophysical and geological mapping. Although the state has done much to improve the mapping, the state remains one of the poorest mapped areas in the world, he related. Furthermore, the state doesn't have a good database to show mining companies that may be interested in investing to Alaska. Since 1993 expenditures on the mapping program has averaged \$400,000 annually, but only 6 percent of the state land entitlement has been accomplished. He noted that the governor has a fiscal note for geological/geophysical mapping this year that includes the \$350,000 increment for surficial mapping along the potential pipeline corridor. The Commission recommends increasing the rate of funding for geological/geophysical mapping as well as providing an increment of \$150,000 over the governor's request to complete the bedrock mapping.

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MR. HANNEMAN opined that power supplies is an area in which the state could provide significant leadership, which could lead to support of the mineral industry over time. Major mines require substantial power supplies and remote mines have to generate their own power. Working on the grid could help projects such as Pebble and Donlin Creek Mines, but the cost of base load generation is of significant concern for all power users. Coal-fired generation offers the ability to create stable, long-term power. The Commission, he related, recommends improving the base load coal generation on the grid system. Mr. Hanneman concluded by stating that he has discussed the most important issues that the Commission wanted to highlight, but the report includes many more recommendations. In response to Senator Elton, Mr. Hanneman specified that AMEREF is the Alaska Minerals and Energy Resource Education Fund, which is a partnership between the state and the industry to offer Alaska specific resource-based education in Alaska's schools.

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SENATOR ELTON recalled the recommendation that the department provide a status report of permits, which seems to be bureaucratic make-work. He opined that he would rather have department staff working on a permit than a report about permitting.

MR. HANNEMAN said that Senator Elton's concern is valid. He noted that the issue was discussed at length by the Commission.

CHARLOTTE MACCAY, Alaska Minerals Commission; Bristol Environmental & Engineering Services Corporation, explained that the report is intended to be a succinct summary regarding whether permits are being awarded, the number of applicants, and the stage at which the permits are. Ms. MacCay mentioned the potential of retaliation from the permit writer if an applicant brings forth complaints. Therefore, there is the desire to review the progress of permits and review and discuss controversial actions of permit writers. The aforementioned is desired so that permit writers aren't establishing policy, which is for the commissioners to establish.

SENATOR DYSON recalled Mr. Hanneman's earlier comment regarding the need for there to be no industry specific taxes. He related his understanding that most of the companies investing in mining in Alaska are Canadian firms. He asked if there is an industry specific tax in Canada.

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MR. HANNEMAN said that he does not know.

SENATOR DYSON related that he is delighted about all the mining activities in the state. However, he inquired as to how the state can recoup the funds expended on infrastructure necessary to mining, such as mapping. He opined that it should be at least revenue neutral for the state.

MR. HANNEMAN clarified that there are industry specific taxes, including the 7 percent net profits tax, the 3 percent net profits tax on state land, and the corporate income tax. He explained that the Commission's recommendation is in the context of local municipal governments being able to apply an industry specific tax that unduly burdens the project or is used as a lever to preclude the project. In further explanation, Mr. Hanneman specified that the recommendation is specific to the

unorganized areas of Alaska that don't have a local municipal tax regime, which creates uncertainty.

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CHAIR WAGONER asked if the Commission has reviewed SB 203, which creates one-stop shopping for permitting.

MR. HANNEMAN answered that it is under review by the Alaska Miners Association. He pointed out that the large mine permitting team has done much to coordinate and work together as a team in that direction. He noted that the Commission's report includes a recommendation for one-stop shopping for small remote exploration camps. The mine permitting process, he commented, is technical and detailed and thus the legislation would need to be reviewed.

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#### **ADJOURNMENT**

There being no further business before the committees, the joint meeting of the House and Senate Resources Standing Committees was adjourned at [4:26:09 PM](#).