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SENATE RESOURCES COMMITTEE
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: *SB 371*

BILL NAME: *Minor amendments to Title 58*

SPONSOR(S): *Fabian*

RELATED BILLS PENDING:

DATE INTRODUCED: *1-24-84*

REFERRALS: *Finance*

INITIAL RESEARCH:

BILL SUMMARY COMPLETED:

SUMMARY BY LEGAL DIVISION:

SPONSOR CONTACTED FOR
BACKUP MATERIALS:

DEPT. OF LAW SUMMARY:

FISCAL NOTE:

AGENCY RESPONSE:

OTHER INTERESTED SENATORS OR
REPS. NOTIFIED:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS/GROUPS:

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET:

STAFF MEMO TO COMMITTEE:

TELECONFERENCE:

BACKGROUND MATERIAL DISTRIBUTED:

PSA/PRESS RELEASE:

LIST OF WITNESSES:

SUGGESTED AMENDMENTS/COMMITTEE
SUBSTITUTES DRAFTED:

Rose; Stan Rybacker 198-6453 ✓
Roger Burgoyne 479-2169; 2596 ✓
Del Ackels 452-4971 ✓
Don Steen 452-7642; 452-5395 ✓
Phil Holdsworth - James Turner 586-1383

ONR - call Ned

Environ. Lobby

February 10, 1984

EXPRESS MAIL B-53272257

The Honorable Bettye Fahrenkamp
Pouch B
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

First of all, thank you for your support of the mining industry. We greatly appreciate your efforts.

With regard to Senate Bill 371, your attention to the following items concerning TIDAL AND SUBMERGED LANDS would be greatly appreciated:

OPP Term: The term of an OPP should be for ten years rather than seven. Searching for offshore deposits in hostile environments is expensive, time-consuming and weather (and season) sensitive. We need adequate time to carry a program through. Often we must resort to remote sensing exploration techniques followed by difficult drilling and sampling procedures.

Rental: The initial rental of \$3/acre should be due on the second anniversary of issuance of the permit and not on the first anniversary. Once a permit is issued, the following is necessary: (1) adequate time to prepare, process and approve exploration budgets, (2) weather factors will determine when exploration can be done, and (3) exploration permits must be obtained from the Corps of Engineers and other state and federal agencies. Therefore, rentals should commence on the second anniversary.

Prospecting Acreage Limitation: Exploration for offshore mineral deposits usually requires the examination of large areas. In order to encourage exploration, the State should allow any one person or firm to hold up to 300,000 acres under prospecting permit, not 100,000 as suggested. The rental of \$3/acre after two years, or equivalent expenditures, should adequately provide relinquishment of land by explorationists.

Lease Acreage Limitation: Again, the suggested amount of 46,080 acres is not adequate for many operations and should be increased to 100,000 acres. Many of the offshore deposits are likely to be thin, lenticular bodies. An acreage limitation which is too small is a serious detriment

Aspen Exploration Corporation

Suite 350 3525 South Tamarac Street Denver, Colorado 80237 (303) 741-5366



REC 2-14-84

Page Two

Hon. Bettye Fahrenkamp

to anyone attempting financing for offshore production equipment and facilities. Let's encourage exploration and mining in Alaska.

Lease Term: The primary term for a mining lease should be 20 years and so long thereafter as minerals are produced. Again, it is very difficult to obtain financing from banking institutions for equipment to be used in operations on a relatively short-termed lease. A twenty-year term is not unreasonable when dredges for offshore mining may cost \$20 to \$40 million dollars.

If the above suggested changes can be incorporated into Senate Bill 371, all of us engaged in offshore exploration and mining will be very pleased and able to carry out our work in Alaska under better regulations.

My thanks to Sandra Schubert, who has been very good at handling communications while you have been involved in meetings and hearings.

A copy of our latest annual report is enclosed. Most of our field activities last year were in offshore Alaska projects.

Best regards,

ASPEN EXPLORATION CORPORATION

A handwritten signature in dark ink, appearing to read "R. V. Bailey", with a long horizontal flourish extending to the right.

R. V. Bailey, President

RVB:qk

Enclosure

MEMORANDUM

TO: House Resources Committee

FROM: Ronald C. Sheardown, President
Greatland Exploration, Ltd.

DATE: April 10, 1984

SUBJECT: Additional Amendments to CSSB 371 (Resources)

On behalf of Greatland Exploration, Ltd. and other mining companies interested in exploring and developing the offshore mineral deposits of Alaska, I urge you to make the below-described two additional revisions to CSSB 371 (Resources):

1. The rental payment for the first two-year period of an offshore prospecting permit should be changed from \$6.00 to \$3.00. Prior to the amendments to the offshore mining statute in 1982, the rental payment for the first two-year period of an offshore prospecting permit was \$1.00 per acre. AS 38.05.250(a) was amended in 1982 to change the rental payment to \$3.00 per acre commencing with the first year, which amounted to a 600% increase from the prior statute. As you are aware, once an offshore prospecting permit is issued there are a great number of environmental permits which must be obtained before any operations may be undertaken. In all likelihood, this will prevent the permittee from conducting any substantial operations during the first year of the permit. It is therefore unreasonable to require the permittee to try to make a \$3.00 per acre expenditure during the first year, or in the alternative to require him to make a \$6.00 per acre expenditure during the second year. The purpose of the offshore mining statute is to encourage the exploration and development of offshore minerals. The setting of an arbitrarily high rental payment during the initial two years of an offshore prospecting permit will have the opposite effect and discourage such exploration and development.

2. The initial lease term of an offshore mining lease should be changed from 10 years to 20 years. Prior to the 1982 amendments to the offshore mining statute, an offshore mining lease could be issued for a term of up to 55 years. In 1982 this term was reduced to 10 years. The capital expenditures required to engage in offshore mining operations are quite large, and therefore substantial financing must be arranged in order to undertake such operations. The rule of

thumb in the mining industry is that a major project must have at least 20 years of ore reserves and land tenure before financing will be available. The short 10 year term now provided for in AS 38.05.250(c) will preclude the financing of most offshore mining projects which have the potential to add to the employment base and diversify the resource economy of Alaska. This problem can be solved by changing the lease term to 20 years.

ASPEN EXPLORATION CORPORATION
Suite 350
3525 South Tamarac Street
Denver, Colorado 80237

February 21, 1984

HAND DELIVERED

The Honorable
Senator Bettye Fahrenkamp
Chairperson
Senate Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

So there are no misunderstandings concerning Senate Bill 371 and Aspen's request concerning implementation of certain amendments thereto, on behalf of Aspen, I request that any OPP's issued in 1984 contain the terms of the new amendments. We estimate receiving from DNR OPP's for between 50,000 and 100,000 acres in the coming months, and the new terms will be very beneficial in finding high-risk explorations dollars for the project.

Also, it is my understanding that the January 1, 1985, date for acreage limitations to take effect was selected by DNR to allow orderly progression to the new statutes.

Hope you enjoy the book.

Sincerely,

ASPEN EXPLORATION CORPORATION

R. V. Bailey
R. V. Bailey by Patricia Manwirth
President

RVB/pm

MEB 21 1984

for Kingstad on floor

HCS CSSB 371 (Rules) AN ACT RELATING TO MINING

Effective January 1, 1985, Section 9 increases the acreage that may be held under an offshore prospecting permit from 100,000 to 300,000 acres, and under a lease from 46,080 to 100,000 acres.

Prior to 1981, there was no statutory limit for the number of acres that could be staked under an offshore prospecting permit, or the acreage that could be held under lease. In 1981, acreage limitations were established at 100,000 acres under permit and 46,080 under lease. The permits currently being issued are the first to be done under these reduced acreage limitations.

The miners requested the revised acreage limitations. Exploration for offshore mineral deposits requires examination of large areas. The capital expenditures required to engage in offshore prospecting operations are quite large; having a larger acreage to explore increases the opportunity of finding a workable deposit.

Note that AS 38.05.250(b) limits the lease to the amount of acreage shown to the satisfaction of the director to contain workable mineral deposits. The acreages in statute are maximums.

-Amendment proposed by James Saxon (Hesper Corp.)

-DMEM, DNR opposed:

Program was "tightened" in 1982 to require higher level of diligence on part of permit holder. Prior to '82, 8000 permits were issued (no rental charge for 1st year) - only 8 or 9 went to lease. Are currently no successful working offshore mines. 100,000 acres is enough for any 1 company to handle. Can apply for new acreage after 7-yr. term. Rental on upland lease is \$5/yr.

1 THE 90 DAY PERIOD]. The locator of a prospecting site has the exclu-
2 sive right to stake mining claims or leasehold lo tions within the
3 boundaries of the [HIS] site.

4 * Sec. 7. AS 38.05.245(c) is amended to read:

5 (c) A [NO] person may not hold [LOCATE] more than eight [SIX]
6 prospecting sites in one township at one time [CALENDAR YEAR IN ONE
7 RECORDING DISTRICT]. A prospecting site remains in effect for one
8 year after the notice of location is posted and may, at the discretion
9 of the director, be extended for one year periods. During each year,
10 work of a type compatible with the purpose of this section and accept-
11 able to the director shall be done. The minimum expenditure for the
12 work shall be established by the commissioner uniformly for all pros-
13 pecting sites. Where adjacent prospecting sites are held in common
14 the expenditure may be made on any one or more locations. If a pros-
15 pecting site expires, neither the locator nor a [HIS] successor in
16 interest of the locator may again hold [LOCATE] the same prospecting
17 site or any portion of it, as a prospecting site, for a period of one
18 year [TWO YEARS] following the date of expiration or abandonment; nor
19 may the locator [HE], during the year [TWO YEARS], either directly or
20 indirectly, obtain a beneficial interest in the same prospecting site
21 or a portion of it.

22 * Sec. 8. AS 38.05.250(a) is amended to read:

OFFSHORE PROSPECTING-
PERMITS

23 (a) The exclusive right to prospect for deposits of minerals
24 subject to AS 38.05.185 - 38.05.275 in or on tide and submerged state
25 land [LANDS] may be granted by a permit issued by the director. Per-
26 mits shall be granted to the first qualified applicant. No permit may
27 include an area larger than 2,560 acres, subject to the rule of ap-
28 proximation. Land [LANDS] subject to a prospecting permit shall be as
29 compact in form as possible taking into consideration the area

1 involved. The term of the permit shall be [seven] years. Prospecting
 2 permits shall be conditioned upon payment of rental against which
 3 credit shall be given for useful expenditures on land covered by the
 4 permit or group of contiguous permits under common ownership or assign-
 5 ment. Excess expenditures may be applied against rentals due for the
 6 following two years. The rental shall be \$3 per acre for each year,
 7 payable annually on the anniversary date of the permit [AT THE END OF
 8 ~~EACH YEAR]~~ except that no rental will be charged for the first year the permit is held.
 9 No minerals from land [LANDS] under a prospecting permit
 10 may be mined and marketed or used, except for limited amounts neces-
 11 sary for sampling or testing. No person may take or hold prospecting
 12 permits for minerals on state land under this section exceeding in the
 13 aggregate [100,000] acres. No person may take or hold leases for miner-
 14 als on state land under this section exceeding in the aggregate [46,080]
 15 acres.

* Sec. . AS 38.05.250(C) is amended to read:

(c) Leases for submerged lands shall be conditioned upon
 payment of an annual rental of \$3 an acre. Expenditures on or
 for the benefit of the leasehold may be credited against the

rental. Rent shall be paid or a statement of annual labor shall
 be filed within 90 days after each anniversary date of the lease.

²⁰ All submerged land mining leases shall be for a period of up to
[10] years, and for so long as there is production in paying
 quantities from the leased area. The commissioner may make
 reasonable adjustments of the rental rate at the end of each 10
 year period, based upon changed conditions in production costs
 and market.

Provide Ned w/ amendments in context

11

AS 38.05.275

This amendment allows mining locations to be made on state land or selected land on shorelands, tidelands, or submerged lands. There was some confusion on this amendment earlier, as an early draft of SB 371 did modify long accepted practice. This section returns the statute to nearly its original and acceptable form.

Substantial changes were suggested for sections dealing with offshore prospecting rights:

8

AS 38.05.250(a)

1. Suggest change in term of permit from 7-10 years, as in old statute. Dept. OK

NOTE:

"old" statute means prior to 1981. Current statute is

- 1) 7 years
- 2) \$3/acre per year
- 3) [300,000] 100,000 OPP
[100,000] 46,080 lease

Committee Staff

2. Suggest delay on first payment. Language: "The rental shall be \$3/acre for the first 2-year period of the permit, payable at the end of the first 2-year period, and \$3/acre for each year thereafter, payable at the end of each year." Comment: Old language except \$1/acre raised to \$3. Dept. OK. encourages diligence.

3. Change acreage limitation on PP to 300,000 and for leases to 100,000. Comment: Old statute had no limit. Phil: 'cause major investment need to find minerals. End up w/ much reduced acreage.

The Committee also proposes to suggest a modification for AS 38.05.250(c) to change term of lease from 10-20 years; also, period of lease adjustment from 10-20 years. Comment: Old lease term was 55 years. Dept. O.K. that actually convert to lease.

Phil: effects financing

Check Hawley Report by Subcommittee
C. C. Hawley

Dept: up to 20 years

Want to Negotiate term.

Hedderly-Smith - ^{with provide language} - to allow language miner to hold lease w/out developing each yr. Shouldn't terminate lease if don't see work deposit 1 yr. because of drop in gold price, etc.

OFFSHORE PROSPECTING

OFFSHORE PROSPECTING

Proposed by Miners Association

Status

Change term of prospecting permit from 7 to 10 years.

Adopted in CS

Change rental from \$3/year from issuance to \$3 for the first two years then \$3 per year thereafter.

Deferred first year's payment till end of second year, so \$6 due at end of second year and \$3/year thereafter.

Increase acreage limitations for permits from 100,000 to 300,000 acres.

Adopted in CS

Increase acreage limitations under lease from 46,080 to 100,000 acres.

Adopted in CS

+ Increase term of lease from 10 to 20 years.

NOT ADOPTED

⊖ Change rent adjustment period from 10 to 20 years.

NOT ADOPTED

Change carry-forward of expenditures against rentals from 2 years to 4 years.

Adopted in CS

FEEL THE COMMITTEE SUBSTITUTE IS A FAIR COMPROMISE BETWEEN THE MINERS' DESIRE FOR LONG-TERM EXPLORATION RIGHTS OVER LARGE ACREAGES AND THE DEPARTMENT'S INTEREST IN ENCOURAGING DILIGENT DEVELOPMENT OF THE STATE'S MINERAL RESOURCES.

AMA TITLE 38 COMMITTEE MEETING

February 8, 1984

The Ad Hoc Title 38 Committee met at 4:00 p.m. on February 8, 1984 to consider Senate Bill No. 371 introduced by Senator Fahrenkamp on January 28, 1984 and make further recommendations as needed.

In attendance were Roy McMichael, Chuck Hutchens, Ron Sheardown, Jenny Hawley, and Chuck Hawley. Committee member Jay Hammitt was excused absent. During the meeting, the Committee consulted by telephone on one item with attorney Harris Saxon. The procedure adopted was to consider each of 12 main sections in order and accept or suggest modifications of each section as drafted.

The following sections were agreed by Committee to be O.K. as drafted:

Section No.	Statute	Content
1	AS 38.05.150(c)	Amends coal prospecting permit procedures for lands not known to have commercial quantities of coal. Extends initial permit to a 3-year term with possible three 2-year extensions.
2	AS 38.05.190(a)	Amends qualifications for acquiring mining rights lowering the age from 19 to 18 years.
5	AS 38.05.240	Amends geological, geophysical and geo-chemical surveys done for assessment work to exclude the need for basic survey finds to be submitted.
6	AS 38.05.245(a)	Amends filing of prospect site certificate of location to eliminate duplicate filing with both the state recording office and DMEM. Filing need only be made at the recording office.
7	AS 38.05.245(c)	Amends prospecting sites raising the allowable number held at one time from six in each recording district per year to eight in one township at one time. Some arguments can be made to expand; some to decrease this amount. Fair compromise as proposed.
9	AS 38.05.250(b)	Sets out that a non-competitive lease will be granted to the holder of a state OPP, but that the state can lease competitively known offshore mineral lands. Some debate, but OK'd.

This amendment allows mining locations to be made on state land or selected land on shorelands, tidelands, or submerged lands. There was some confusion on this amendment earlier, as an early draft of SB 371 did modify long accepted practice. This section returns the statute to nearly its original and acceptable form.

Substantial changes were suggested for sections dealing with offshore prospecting rights:

8

AS 38.05.250(a)

1. Suggest change in term of permit from 7-10 years, as in old statute.

NOTE:

"old" statute means prior to 1981.

Current statute is

1) 7 years

2) \$3/acre per year

3) $\frac{[300,000]}{[100,000]} = \frac{100,000}{46,080}$

$\frac{100,000}{46,080}$

Committee staff

2. Suggest delay on first payment. Language: "The rental shall be \$3/acre for the first 2-year period of the permit, payable at the end of the first 2-year period, and \$3/acre for each year thereafter, payable at the end of each year." Comment: Old language except \$1/acre raised to \$3.

3. Change acreage limitation on PP to 300,000 and for leases to 100,000. Comment: Old statute had no limit.

The Committee also proposes to suggest a modification for AS 38.05.250(c) to change term of lease from 10-20 years; also, period of lease adjustment from 10-20 years. Comment: Old lease term was 55 years.

Chuck Hawley, Republic Submitter
C. C. Hawley

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

April 18, 1984

SUMMARY OF MAJOR PROVISIONS OF ECS CSSB 371 (FINAL VERSION)

CURRENT STATUTE

SB 371

Coal Prospecting Permits

AS 38.05.150(c) establishes the term of a coal prospecting permit as 2 years with one 2-year extension. (An extension is granted if the Commissioner determines that diligent exploration activities have been conducted. Prior to expiration of a permit, a lease will be granted if the permittee shows that the land contains coal in commercial quantities and submits a mining plan.)

Section 1 would extend the coal prospecting permit term to 3 years with three 2-year extensions.

Statements of Annual Labor

AS 38.05.210-.240 governs the performance of annual labor on mining claims on State land. A report of labor performed must be filed annually with DNR.

Section 4 would allow affidavits of annual labor to be corrected by amendment.

Survey Finds

Under AS 38.05.240, to satisfy annual labor requirements, geological, geochemical, geophysical, and airborne surveys conducted on mining claims are reported to DNR. Basic survey finds must also be filed with DNR, and are kept confidential and released only if the claim lapses.

Section 5 would delete the provision that basic survey finds be filed with DNR.

Prospecting Sites

Under AS 38.05.245, the locator of a prospecting site has the exclusive right to stake mining claims of leasehold locations within the boundaries of his site. No person may locate more than 6 prospecting sites in one calendar year in one recording district.

Section 7 amends the number of prospecting sites allowed to 8 held in one township at one time.

AS 38.05.265 establishes the waiting period for relocation of mining locations and prospecting sites following abandonment as one year for mining locations and two years for prospecting sites. (Abandonment is defined as failure to pay rental; to file a certificate of location, a statement of annual labor, or a prospecting site certificate; or to keep boundaries marked.)

Section 10 would shorten the waiting period following abandonment of a prospecting site from 2 years to 1 year.

Offshore Prospecting

The exclusive right to prospect for minerals in or on tide and submerged lands may be granted under AS 38.05.250. .250(a) governs offshore prospecting permits. The permit term is set at 7 years; the annual rental is set at \$3/acre, with expenditures applying against rentals for the following 2 years. The acreage limitation is established at 100,000 acres.

Upon discovery, a non-competitive lease may be acquired under AS 38.05.250(b). The lease term is set at 10 years; the acreage limitation is established at 46,080 acres.

AS 38.05.250(c) specifies that a submerged land mining lease is valid only as long as there is production in paying quantities from the leased area.

Section 8 increases the permit term to ten years, delays rental payments for the first year, and allows expenditures to be applied against the following 4 years. The acreage limitation is increased to 300,000 acres.

Section 11 increases the lease term to 20 years; Section 8 increases the acreage limitation to 100,000 acres.

Section 11 authorizes the commissioner to assent to suspension of operations and production without affecting the validity of the lease if certain conditions are present.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGUIEWSKI



POUCH V
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JUNEAU, ALASKA 99811
(907) 465-3834
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Senate

Committee on Resources

April 18, 1984

AN ACT RELATING TO MINING HCS CSSB 371 (FINAL VERSION)

Sec. 1 Because of the lengthy time involved for coal exploration, extends the coal prospecting permit term from 2 years with one 2-year extension to 3 years with three 2-year extensions.

Sec. 2 Lowers the minimum age of eligibility for acquiring exploratory and mining rights from 19 to 18 to be consistent with the current age of majority for most activities in Alaska.

Sec. 3 Amends the requirement that mining claims be staked in the four cardinal directions to not apply to fractional claims or where the commissioner determines such staking is impractical.

Sec. 4 Allows affidavits of annual labor to be corrected by amendment, thus providing a legal mechanism for correcting errors.

Sec. 5 Deletes the provision that basic survey finds be filed with DNR as it can result in the "leaking" of proprietary information, and the information is often of mixed quality.

Sec. 6 Deletes the requirement to file a certificate of mining location with DNR. This is duplicative language, as the certificate must be filed with the District Recorder's Office, which is within DNR.

Sec. 7 Increases the number of prospecting sites allowed from "six located in one calendar year in one recording district" to "eight held in one township at one time". This will encourage the use of prospecting sites where discovery hasn't been made, and address a loophole whereby employees of large companies locate sites and quitclaim deed them to the company.

Sec. 8 Increases the term of an offshore prospecting permit from 7 to 10 years. Eliminates the acreage rental for the first year to allow time to become operational. Increases the time during which excess expenditures may be applied against rentals from 2 to 4 years. Clarifies that the rental year for a prospecting permit on tide or submerged lands expires on the anniversary of issuance, not the end of the calendar year.

Sec. 9 Effective 1/1/85, increases the acreage that may be held under an offshore prospecting permit from 100,000 to 300,000 acres, and under a lease from 46,080 to 100,000 acres.

Sec. 10 Clarifies that a prospecting permit is required before a noncompetitive lease can be issued for mineral extraction on submerged lands.

Sec. 11 Extends the term of a submerged lands lease from 10 to 20 years.

Sec. 12 Authorizes the Commissioner to assent to the suspension of operations and production on submerged lands without affecting the integrity of the lease if certain conditions are present.

Sec. 13 Changes the length of time following the abandonment of a prospecting site that the former owner must wait before acquiring any beneficial interest in the site from 2 years to 1. This is consistent with the waiting period for claims that have been staked or located.

Sec. 14 Deletes the requirement to file a certificate of mining location on shorelands, tidelands, or submerged lands with the DNR, as this is duplicative language (see Sec. 6). Clarifies that claims on state land must be staked according to state, not federal methods.

Sec. 15 The state maintains only one assay lab (on the U.A.F. campus). Deletes the requirement that a public assay office be located in each of the 4 judicial districts, to reflect the reality of the situation.

Sec. 16 Repeals the mineral prospecting equipment loan program. DNR no longer conducts such a program. Repeals the requirement that "grubstaking" contracts be in writing. This is the only provision in Title 27 dealing specifically with mining on state-owned lands, and is not necessary as most people realize that contracts should be in writing.

Sec. 17 Effective dates are intended to lessen disruption of field operations and DNR's ongoing offshore prospecting permitting process.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
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(907) 465-3834
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Senate

Committee on Resources

MEMORANDUM

TO: Representative Ringstad
House Resources Committee

FROM: Senator Fahrenkamp, Chairman 
Senate Resources Committee

RE: SB 371, An Act relating to mining

DATE: May 15, 1984

Both Sections 8 and 9 of SB 371, An Act relating to mining, amend 38.05.250(a), which deals with offshore prospecting. Sec. 8 extends the term of a permit and revises acreage rental fees under permit. Sec. 9 revises the amount of acreage which may be staked.

The general amendments to the offshore prospecting program take effect at the end of this fiscal year. However, to facilitate the permitting process underway this spring, the Department of Natural Resources requested that the revised acreage limitations not take effect until January 1, 1985.

To technically accommodate two effective dates in one subsection of the statute, the bill drafter placed the subsection extending the permit term and revising the acreage rental fees into the bill as Sec. 8, effective July 1, 1984. Effective January 1, 1985, Section 8 will be "replaced" with Section 9 which incorporates the revised fees per Section 8 and revises the acreage limitations.

1 A COPY OF THE CERTIFICATE SHALL ALSO BE MAILED TO THE DIRECTOR WITHIN
2 THE 90 DAY PERIOD]. The locator of a prospecting site has the exclu-
3 sive right to stake mining claims or leasehold locations within the
4 boundaries of the [HIS] site.

5 * Sec. 7. AS 38.05.245(c) is amended to read:

6 (c) A [NO] person may not hold [LOCATE] more than eight [SIX]
7 prospecting sites in one township at one time [CALENDAR YEAR IN ONE
8 RECORDING DISTRICT]. A prospecting site remains in effect for one
9 year after the notice of location is posted and may, at the discretion
10 of the director, be extended for one year periods. During each year,
11 work of a type compatible with the purpose of this section and accept-
12 able to the director shall be done. The minimum expenditure for the
13 work shall be established by the commissioner uniformly for all pros-
14 pecting sites. Where adjacent prospecting sites are held in common
15 the expenditure may be made on any one or more locations. If a pros-
16 pecting site expires, neither the locator nor a [HIS] successor in
17 interest of the locator may again hold [LOCATE] the same prospecting
18 site or any portion of it, as a prospecting site, for a period of one
19 year [TWO YEARS] following the date of expiration or abandonment; nor
20 may the locator or a successor in interest of the locator [HE], during
21 the year [TWO YEARS], either directly or indirectly, obtain a benefi-
22 cial interest in the same prospecting site or a portion of it.

23 * Sec. 8. AS 38.05.250(a) is amended to read:

24 (a) The exclusive right to prospect for deposits of minerals
25 subject to AS 38.05.185 - 38.05.275 in or on tide and submerged state
26 land [LANDS] may be granted by a permit issued by the director. Per-
27 mits shall be granted to the first qualified applicant. No permit may
28 include an area larger than 2,560 acres, subject to the rule of ap-
proximation. Land [LANDS] subject to a prospecting permit shall be as

Effective
7/1/84:

- lengthen permit term
- revise acreage rental fee
- extend "carry-forward" period

1 compact in form as possible taking into consideration the area in-
2 volved. The term of the permit shall be 10 [SEVEN] years. Prospect-
3 ing permits shall be conditioned upon payment of rental against which
4 credit shall be given for useful expenditures on land covered by the
5 permit or group of contiguous permits under common ownership or
6 assignment. Excess expenditures may be applied against rentals due
7 for the following four [TWO] years. The rental shall be \$3 per acre
8 for the first two-year period of the permit, payable on the second
9 anniversary of the permit and \$3 per acre for each following year,
10 payable annually on the anniversary date of the permit [AT THE END OF
11 EACH YEAR]. No minerals from land [LANDS] under a prospecting permit
12 may be mined and marketed or used, except for limited amounts neces-
13 sary for sampling or testing. No person may take or hold prospecting
14 permits for minerals on state land under this section exceeding in the
15 aggregate 100,000 acres. No person may take or hold leases for miner-
16 als on state land under this section exceeding in the aggregate 46,080
17 acres.

18 * Sec. 9. AS 38.05.250(a) is amended to read:

19 (a) The exclusive right to prospect for deposits of minerals
20 subject to AS 38.05.185 - 38.05.275 in or on tide and submerged state
land may be granted by a permit issued by the director. Permits shall
be granted to the first qualified applicant. No permit may include an
area larger than 2,560 acres, subject to the rule of approximation.
Lands subject to a prospecting permit shall be as compact in form as
possible taking into consideration the area involved. The term of the
permit shall be 10 years. Prospecting permits shall be conditioned
upon payment of rental against which credit shall be given for useful
expenditures on land covered by the permit or group of contiguous
permits under common ownership or assignment. Excess expenditures may

Effective
1/1/85:
incorporates
those changes
that became
effective
7/1/84 per
section 8.
-revises
acreage
limitations

became effective 7-1-84

became effective
7/1/84

1 be applied against rentals due for the following four years. The
2 rental shall be \$3 per acre for the first two-year period of the
3 permit, payable on the second anniversary of the permit and \$3 per
4 acre for each following year, payable annually on the anniversary date
5 of the permit. No minerals from land under a prospecting permit may
6 be mined and marketed or used, except for limited amounts necessary
7 for sampling or testing. No person may take or hold prospecting
8 permits for minerals on state land under this section exceeding in the
9 aggregate 300,000 [100,000] acres. No person may take or hold leases
10 for minerals on state land under this section exceeding in the aggre-
11 gate 100,000 [46,080] acres.

12 * Sec. 10. AS 38.05.250(b) is amended to read:

13 (b) [UPON DISCOVERY, THE RIGHT TO POSSESS AND EXTRACT THE MINER-
14 ALS MAY BE ACQUIRED BY NONCOMPETITIVE LEASE.] A noncompetitive lease
15 shall be granted to a holder of a prospecting permit for so much of
16 the land subject to the permit as is shown to the satisfaction of the
17 director to contain workable mineral deposits. Submerged land [LANDS]
18 containing known deposits of minerals subject to AS 38.05.185 - 38.-
19 05.275 may, in the discretion of the director, be offered by com-
20 petitive bid. The land [THESE LANDS] shall be leased to the [RESPONS-
21 IBLE] qualified person offering the highest amount of cash bonus.

22 * Sec. 11. AS 38.05.250(c) is amended to read:

23 (c) Leases for submerged land [LANDS] shall be conditioned upon
24 payment of an annual rental of \$3 an acre. Expenditures on or for the
25 benefit of the leasehold may be credited against the rental. Rent
26 shall be paid or a statement of annual labor shall be filed within 90
27 days after each anniversary date of the lease. All submerged land
28 mining leases shall be for a period of up to 20 [10] years, and for so
29 long as there is production in paying quantities from the leased area.

1 The commissioner may make reasonable adjustments of the rental rate at
2 the end of each 10-year period, based upon changed conditions in
3 production costs and market.

4 * Sec. 12. AS 38.05.250 is amended by adding a new subsection to read:

5 (d) The commissioner may, on the request of the lessee, assent
6 to the suspension of operation and production under a lease whenever
7 in the judgment of the commissioner the suspension is necessary to
8 promote development of the lease or the lease cannot be successfully
9 operated under its terms. The payment of acreage rental may be sus-
10 pended during the period of suspension of operation and production.
11 The suspension of the lease shall extend the term of the lease by
12 adding the period of suspension to the lease. The commissioner may
13 extend the term of a nonproducing lease on an application by the
14 lessee accompanied by a showing that the lessee is reasonably close to
15 attaining production and that, despite diligent good faith efforts by
16 the lessee, the lessee is not able to produce due to force majeure,
17 depressed market conditions, or other situations beyond the reasonable
18 control of the lessee.

19 * Sec. 13. AS 38.05.265 is amended to read:

20 Sec. 38.05.265. ABANDONMENT. Failure to (1) properly file for
21 record a certificate of location or a statement of annual labor, or
22 (2) file with the director within the time prescribed a lease applica-
23 tion [OR A COPY OF A PROSPECTING SITE LOCATION CERTIFICATE], or (3)
24 pay rental or receive credit for rental, or (4) keep location bound-
25 aries clearly marked, all as required by AS 38.05.185 - 38.05.280 and
26 by regulations adopted under these sections, constitutes abandonment
27 of all rights acquired under the mining lease, location, or site in-
28 volved, and it is subject to relocation by others. If a location is
29 not relocated by another person within [WITH] one year after the

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
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VIC FISCHER
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Senate

Committee on Resources

April 18, 1984

AN ACT RELATING TO MINING HCS CSSB 371 (Rules)

Sec. 1 Because of the lengthy time involved for coal exploration, extends the coal prospecting permit term from 2 years with one 2-year extension to 3 years with three 2-year extensions.

Sec. 2 Lowers the minimum age of eligibility for acquiring exploratory and mining rights from 19 to 18 to be consistent with the current age of majority for most activities in Alaska.

Sec. 3 Amends the requirement that mining claims be staked in the four cardinal directions to not apply to fractional claims or where the commissioner determines such staking is impractical.

Sec. 4 Allows affidavits of annual labor to be corrected by amendment, thus providing a legal mechanism for correcting errors.

Sec. 5 Deletes the provision that basic survey finds be filed with DNR as it can result in the "leaking" of proprietary information, and the information is often of mixed quality.

Sec. 6 Deletes the requirement to file a certificate of mining location with DNF. This is duplicative language, as the certificate must be filed with the District Recorder's Office, which is within DNR.

Sec. 7 Increases the number of prospecting sites allowed from "six located in one calendar year in one recording district" to "eight held in one township at one time". This will encourage the use of prospecting sites where discovery hasn't been made, and address a loophole whereby employees of large companies locate sites and quitclaim deed them to the company.

Sec. 8 Increases the term of an offshore prospecting permit from 7 to 10 years. Eliminates the acreage rental for the first year to allow time to become operational. Increases the time during which excess expenditures may be applied against rentals from 2 to 4 years. Clarifies that the rental year for a prospecting permit on tide or submerged lands expires on the anniversary of issuance, not the end of the calendar year.

Sec. 9 Effective 1/1/85, increases the acreage that may be held under an offshore prospecting permit from 100,000 to 300,000 acres, and under a lease from 46,080 to 100,000 acres.

Sec. 10 Clarifies that a prospecting permit is required before a noncompetitive lease can be issued for mineral extraction on submerged lands.

Sec. 11 Extends the term of a submerged lands lease from 10 to 20 years.

Sec. 12 Authorizes the Commissioner to assent to the suspension of operations and production on submerged lands without affecting the integrity of the lease if certain conditions are present.

Sec. 13 Changes the length of time following the abandonment of a prospecting site that the former owner must wait before acquiring any beneficial interest in the site from 2 years to 1. This is consistent with the waiting period for claims that have been staked or located.

Sec. 14 Deletes the requirement to file a certificate of mining location on shorelands, tidelands, or submerged lands with the DNR, as this is duplicative language (see Sec. 6). Clarifies that claims on state land must be staked according to state, not federal methods.

Sec. 15 The state maintains only one assay lab (on the U.A.F. campus). Deletes the requirement that a public assay office be located in each of the 4 judicial districts, to reflect the reality of the situation.

Sec. 16 Repeals the mineral prospecting equipment loan program. DNR no longer conducts such a program. Repeals the requirement that "grubstaking" contracts be in writing. This is the only provision in Title 27 dealing specifically with mining on state-owned lands, and is not necessary as most people realize that contracts should be in writing.

Sec. 17 Effective dates are intended to lessen disruption of field operations and DNR's ongoing offshore prospecting permitting process.

MESSAGES FROM THE HOUSE

SB 371

Message of May 17 was read, stating the House passed and returned for consideration CS FOR SENATE BILL NO. 371 (RES) with the following amendments:

HOUSE CS FOR CS FOR SENATE BILL
NO. 371 (RLS) am H
 (mining; efd)

Senator Ray moved that the Senate concur in the House amendments.

The question being: "Shall the Senate concur in the House amendments to CS FOR SENATE BILL NO. 371 (RES)?" The roll was taken with the following result:

HCSCSSB 371 (RLS) AM H CONCUR

Yeas: 15 Bennett, Eliason, Fahrenkamp,
 Falks, Fischer Vic, Gilman, Halford,
 Josephson, Kerntula, Moss, Mulcahy,
 Pettyjohn, Ray, Sackett, Ziegler

Nays: 0

Excused: 4 Ferguson, Fischer Paul, Kelly,
 Sturgulewski

Absent: 1 Rodey

and so, HOUSE CS FOR CS FOR SENATE BILL NO. 371 (RLS) am H
 (mining; efd) passed the Senate.

Senator Ray moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective dates in Section 17. Without objection, it was so ordered.

HOUSE CS FOR CS FOR SENATE BILL NO. 371 (RLS) am H was referred to the Secretary for enrollment.

SR 10 cont'd

SENATE RESOLUTION NO. 10

Expressing support for S. 1300, relating to the rural electrification administration

Senate Resolve No. 5

HCR 52

Message of May 18 was read, stating the Governor read the following resolution and transmitted the engrossed and enrolled copies to the Lieutenant Governor's Office for permanent filing:

SENATE CS FOR HOUSE CONCURRENT
RESOLUTION NO. 52 (L&C)

Relating to the poor economic condition of Alaska coastal communities

Legislative Resolve No. 46

HJR 19

Message of May 18 was read, stating the Governor signed the following resolution and transmitted the engrossed and enrolled copies to the Lieutenant Governor's Office for permanent filing:

CS FOR HOUSE JOINT RESOLUTION NO. 19 (FISH)

Relating to United States observers on foreign fishing vessels

Legislative Resolve No. 54

HCR 53

Message of May 18 was read, stating the Governor read the following resolution and transmitted the engrossed and enrolled copies to the Lieutenant Governor's Office for permanent filing:

SPONSOR SUBSTITUTE FOR HOUSE CONCURRENT
RESOLUTION NO. 53

Requesting the State Geographic Board to name an unnamed lake near Ketchikan as "Ed Toig Lake"

Legislative Resolve No. 57

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
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ARLISS STURGULEWSKI



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Senate

Committee on Resources

MINUTES

February 10, 1984
3:12 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chairman
Senator Ziegler, Vice Chair
Senator Eliason
Senator P. Fischer
Senator V. Fischer
Senator Mulcahy
Senator Sturgulewski

CALENDAR

SB 371, An Act relating to mining; and providing for an effective date.

Sandra Schubert, Administrative Assistant, Senate Resources Committee, explained that the Committee had undertaken a major review of Title 38, the state's land statutes. Two bills, SB 375, relating to land management and disposal, and SB 371, relating to mining, were the result of that study. SB 371 recommends changes that clarify and provide for more efficient implementation of existing law without making any major policy changes.

Senator Mulcahy moved the Committee Substitute. There was no objection.

Ned Farquhar, Special Assistant to the Commissioner of Natural Resources, testified that the department has worked closely with the development of the bill and strongly supports it.

David Hedderly-Smith, Deputy Director, Division of Mining, Department of Natural Resources, recommended several minor changes to the bill and answered questions of the Committee.

Phil Holdsworth, Alaska Miners Association, spoke in support of the bill. He discussed the changes recommended by the Alaska Miners Association Ad Hoc Title 38 Committee, and answered questions.

Ron Sheardown, Greatland Exploration, Ltd., testified in support of the bill and the amendments proposed by the Alaska Miners Association.

The meeting adjourned at 3:53 pm.

Alaska State Legislature

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Senate

Committee on Resources

MINUTES

February 20, 1984
3:12 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chairman
Senator Ziegler, Vice Chair
Senator Eliason
Senator Mulcahy

CALENDAR

SB 371, An Act relating to mining; and providing for an effective date.

SB 375, An Act relating to land disposal and management; and providing for an effective date.

SB 371

Esther Wunnicke, Commissioner, Department of Natural Resources, testified in support of the proposed Committee Substitute, and proposed a delayed effective date for the section dealing with increased acreage for offshore prospecting permits.

R.V. Bailey, Aspen Exploration Corporation, spoke in support of the proposed Committee Substitute.

SB 375

Esther Wunnicke, Commissioner, Department of Natural Resources, testified that the Department strongly supports the bill and recommended that the legislature abolish the annual land demand assessment, allow the Commissioner to waive survey requirements for some homestead offerings, and recognize in statute the planning process the Department follows in offering lands. She supported an amendment proposed by Senator Eliason as SB 344, concerning quitclaiming title to land, and one proposed by Representative Shultz as HB 542, concerning refuse sites.

Jay Nelson, Executive Director, Alaska Environmental Lobby, spoke in support of the bill and discussed several proposed amendments. He recommended encouraging more public involvement in the land disposal program by using common terms in public notices and setting up citizens' advisory boards. He also suggested the implementation of a remote cabin system similar to the one operated by the U.S. Forest Service.

Robert W. Loescher, Vice President, Resource Management, Sealaska Corporation, proposed amendments dealing with tidelands leasing procedures, and the State's land exchange and condemnation procedures.

Dennis Harms, Alaska Master Guide, spoke in support of amendments that would increase the term of negotiated leases from 5 to 20 years.

Kelly Vrem, Alaska Professional Hunters Association, concurred with the testimony of Dennis Harms.

Richard Rainery, Rural Research Agency, spoke in support of Senator Ferguson's amendments to SB 375. These amendments would establish that traditional land uses constitute substantial economic uses, the preservation of which should be considered to be in the public interest.

Scott Burgess, Executive Director, Alaska Municipal League, testified in support of the bill, and specifically those sections that require the State to comply with local subdivision ordinances and regulations governing land disposal.

John Clark, Director, Habitat Division, Alaska Department of Fish and Game, testified in support of SB 375, and recommended that the remote cabin permit program be modified to meet specific needs.

Senator Eliason testified in support of his amendment that would allow the state to quitclaim title to lands back to the federal government.

Esther Wunnicke, Commissioner, Department of Natural Resources, spoke in support of Senator Eliason's amendments.

Dennis Harms, Alaska Master Guide, testified in support of Representative Hurlbert's amendment relating to preference rights.

The meeting adjourned at 4:32 pm.

Alaska State Legislature

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Senate

Committee on Resources

April 18, 1984

AN ACT RELATING TO MINING HCS CSSB 371 (Res)

Sec. 1 Because of the lengthy time involved for coal exploration, extends the coal prospecting permit term from 2 years with one 2-year extension to 3 years with three 2-year extensions.

Sec. 2 Lowers the minimum age of eligibility for acquiring exploratory and mining rights from 19 to 18 to be consistent with the current age of majority for most activities in Alaska.

Sec. 3 Amends the requirement that mining claims be staked in the four cardinal directions to not apply to fractional claims or where the commissioner determines such staking is impractical.

Sec. 4 Allows affidavits of annual labor to be corrected by amendment, thus providing a legal mechanism for correcting errors.

Sec. 5 Deletes the provision that basic survey finds be filed with DNR as it can result in the "leaking" of proprietary information, and the information is often of mixed quality.

Sec. 6 Deletes the requirement to file a certificate of mining location with DNR. This is duplicative language, as the certificate must be filed with the District Recorder's Office, which is with DNR.

Sec. 7 Increases the number of prospecting sites allowed from "six located in one calendar year in one recording district" to "eight held in one township at one time". This will encourage the use of prospecting sites where discovery hasn't been made, and address a loophole whereby employees of large companies locate sites and quitclaim deed them to the company.

Sec. 8 Increases the term of an offshore prospecting permit from 7 to 10 years. Eliminates the acreage rental for the first year to allow time to become operational. Increases the time during which excess expenditures may be applied against rentals from 2 to 4 years. Clarifies that the rental year for a prospecting permit on tide or submerged lands expires on the anniversary of issuance, not the end of the calendar year.

Sec. 9 Effective 1/1/85, increases the acreage that may be held under an offshore prospecting permit from 100,000 to 300,000 acres, and under a lease from 46,080 to 100,000 acres.

Sec. 10 Clarifies that a prospecting permit is required before a noncompetitive lease can be issued for mineral extraction on submerged lands.

Sec. 11 Extends the term of a submerged lands lease from 10 to 20 years.

Sec. 12 Authorizes the Commissioner to assent to the suspension of operations and production on submerged lands without affecting the integrity of the lease if certain conditions are present.

Sec. 13 Changes the length of time following the abandonment of a prospecting site that the former owner must wait before acquiring any beneficial interest in the site from 2 years to 1. This is consistent with the waiting period for claims that have been staked or located.

Sec. 14 Deletes the requirement to file a certificate of mining location on shorelands, tidelands, or submerged lands with the DNR, as this is duplicative language (see Sec. 6). Clarifies that claims on state land must be staked according to state, not federal methods.

Sec. 15 The state maintains only one assay lab (on the U.A.F. campus). Deletes the requirement that a public assay office be located in each of the 4 judicial districts, to reflect the reality of the situation.

Sec. 16 Repeals the mineral prospecting equipment loan program. DNR no longer conducts such a program. Repeals the requirement that "grubstaking" contracts be in writing. This is the only provision in Title 27 dealing specifically with mining on state-owned lands, and is not necessary as most people realize that contracts should be in writing.

Sec. 17 Effective dates are intended to lessen disruption of field operations and DNR's ongoing offshore prospecting permitting process.

Alaska State Legislature

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Senate

Committee on Resources

April 18, 1984

SUMMARY OF MAJOR PROVISIONS OF HCS CSSB 371 (Res)

CURRENT STATUTE

SB 371

Coal Prospecting Permits

AS 38.05.150(c) establishes the term of a coal prospecting permit as 2 years with one 2-year extension.

(An extension is granted if the Commissioner determines that diligent exploration activities have been conducted. Prior to expiration of a permit, a lease will be granted if the permittee shows that the land contains coal in commercial quantities and submits a mining plan.)

Section 1 would extend the coal prospecting permit term to 3 years with three 2-year extensions.

Statements of Annual Labor

AS 38.05.210-.240 governs the performance of annual labor on mining claims on State land. A report of labor performed must be filed annually with DNR.

Section 4 would allow affidavits of annual labor to be corrected by amendment.

Survey Finds

Under AS 38.05.240, to satisfy annual labor requirements, geological, geochemical, geophysical, and airborne surveys conducted on mining claims are reported to DNR. Basic survey finds must also be filed with DNR, and are kept confidential and released only if the claim lapses.

Section 5 would delete the provision that basic survey finds be filed with DNR.

Prospecting Sites

Under AS 38.05.245, the locator of a prospecting site has the exclusive right to stake mining claims of leasehold locations within the boundaries of his site. No person may locate more than 6 prospecting sites in one calendar year in one recording district.

Section 7 amends the number of prospecting sites allowed to 8 held in one township at one time.

AS 38.05.265 establishes the waiting period for relocation of mining locations and prospecting sites following abandonment as one year for mining locations and two years for prospecting sites.

(Abandonment is defined as failure to pay rental; to file a certificate of location, a statement of annual labor, or a prospecting site certificate; or to keep boundaries marked.)

Section 10 would shorten the waiting period following abandonment of a prospecting site from 2 years to 1 year.

Offshore Prospecting

The exclusive right to prospect for minerals in or on tide and submerged lands may be granted under AS 38.05.250. .250(a) governs offshore prospecting permits. The permit term is set at 7 years; the annual rental is set at \$3/acre, with expenditures applying against rentals for the following 2 years. The acreage limitation is established at 100,000 acres.

Upon discovery, a non-competitive lease may be acquired under AS 38.05.250(b). The lease term is set at 10 years; the acreage limitation is established at 46,080 acres.

AS 38.05.250(c) specifies that a submerged land mining lease is valid only as long as there is production in paying quantities from the leased area.

Section 8 increases the permit term to ten years, delays rental payments for the first year, and allows expenditures to be applied against the following 4 years. The acreage limitation is increased to 300,000 acres.

Section 11 increases the lease term to 20 years; Section 8 increases the acreage limitation to 100,000 acres.

Section 11 authorizes the commissioner to assent to suspension of operations and production without affecting the validity of the lease if certain conditions are present.

JOINT VENTURES

The provision in the Committee Substitute was a drafting change intended to clarify those persons and associations eligible to acquire mining rights. By clarifying, an ambiguity in the law was removed, and we inadvertently precluded partnerships or joint ventures from acquiring mining rights. WE THEREFORE SUPPORT THE AMENDMENT.

1 FOR ALL OR PART OF THE LAND IN HIS PERMIT. A COAL PROSPECTING PERMIT
2 MAY BE EXTENDED BY THE COMMISSIONER FOR A PERIOD OF TWO YEARS, IF HE
3 FINDS THAT THE PERMITTEE HAS BEEN UNABLE, WITH THE EXERCISE OF REASON-
4 ABLE DILIGENCE, TO DETERMINE THE EXISTENCE OR WORKABILITY OF COAL
5 DEPOSITS IN THE AREA COVERED BY THE PERMIT AND DESIRES TO PROSECUTE
6 FURTHER PROSPECTING OR EXPLORATION, OR FOR OTHER REASONS IN THE OPIN-
7 ION OF THE COMMISSIONER WARRANTING EXTENSION.]



8 * Sec. 2. AS 38.05.190(a) is amended to read:

9 (a) The right to acquire exploration and mining rights under
10 AS 38.05.185 - 38.05.280 may be acquired or held only by

11 (1) citizens of the United States at least 18 [19] years of
12 age;

13 (2) legal guardians or trustees of citizens of the United
14 States under 18 [19] years of age on behalf of the [SUCH] citizens;

15 (3) persons at least 18 [19] years of age who have declared
16 their intention to become citizens of the United States;

17 (4) aliens at least 18 [19] years of age if the laws of
18 their country grant like privileges to citizens of the United States;

19 ~~6~~ (4) associations of [SUCH] persons described in (1) - (4)
20 of this subsection;

removing ambiguity - precluding joint ventures

21 ~~5~~ (4) corporations organized under the laws of the United
22 States or of any state or territory of the United States and qualified
23 to do business in this state, except that if more than 50 percent of
24 the stock of a corporation is owned or controlled by aliens who are
25 not qualified, the corporation is not qualified to acquire or hold the
26 [SUCH] rights.

27 * Sec. 3. AS 38.05.195 is amended to read:

28 Sec. 38.05.195. MINING CLAIMS. Rights to deposits of minerals
29 subject to AS 38.05.185 - 38.05.280 in or on state land that is [LANDS

as passed out of

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
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Senate

Committee on Resources

March 1, 1984

SUMMARY OF MAJOR PROVISIONS OF SB 371

CURRENT STATUTE

SB 371

Coal Prospecting Permits

AS 38.05.150(c), establishes the term of a coal prospecting permit as 2 years with one 2-year extension. (An extension is granted if the Commissioner determines that diligent exploration activities have been conducted. Prior to expiration of a permit, a lease will be granted if the permittee shows that the land contains coal in commercial quantities and submits a mining plan.)

Section 1 would extend the coal prospecting permit term to 3 years with three 2-year extensions.

Statements of Annual Labor

AS 38.05.210-.240 governs the performance of annual labor on mining claims on State land. A report of labor performed must be filed annually with DNR.

Section 4 would allow affidavits of annual labor to be corrected by amendment.

Survey Finds

Under AS 38.05.240, to satisfy annual labor requirements, geological, geochemical, geophysical, and airborne surveys conducted on mining claims are reported to DNR. Basic survey finds must also be filed with DNR, and are kept confidential and released only if the claim lapses.

Section 5 would delete the provision that basic survey finds be filed with DNR.

Prospecting Sites

Under AS 38.05.245, the locator of a prospecting site has the exclusive right to stake mining claims of leasehold locations within the boundaries of his site. No person may locate more than 6 prospecting sites in one calendar year in one recording district.

Section 7 amends the number of prospecting sites allowed to 8 held in one township at one time.

AS 38.05.255 establishes the waiting period for relocation of mining locations and prospecting sites following abandonment as one year for mining locations and two years for prospecting sites. (Abandonment is defined as failure to pay rental; to file a certificate of location, a statement of annual labor, or a prospecting site certificate; or to keep boundaries marked.)

Section 10 would shorten the waiting period following abandonment of a prospecting site from 2 years to 1 year.

Offshore Prospecting

The exclusive right to prospect for minerals in or on tide and submerged lands may be granted under AS 38.05.250. .250(a) governs offshore prospecting permits. The permit term is set at 7 years; the annual rental is set at \$3/acre, with expenditures applying against rentals for the following 2 years. The acreage limitation is established at 100,000 acres.

Upon discovery, a non-competitive lease may be acquired under AS 38.05.250(b). The acreage limitation under lease is established at 46,080 acres.

AS 38.05.250(c) specifies that a submerged land mining lease is valid only as long as there is production in paying quantities from the leased area.

Section 8 increases the permit term to ten years, delays rental payments for the first year, and allows expenditures to be applied against the following 4 years. The acreage limitation is increased to 300,000 acres.

Section 8 increases the acreage limitation to 100,000 acres.

Section 11 authorizes the commissioner to assent to suspension of operations and production without affecting the validity of the lease if certain conditions are present.

This needs to be done
to conform with
amendments we've made.

1 involved. The term of the permit shall be seven years. Prospecting
2 permits shall be conditioned upon payment of rental against which
3 credit shall be given for useful expenditures on land covered by the
4 permit or group of contiguous permits under common ownership or assign-
5 ment. Excess expenditures may be applied against rentals due for the
6 following two years. The rental shall be \$3 per acre for each year,
7 payable annually on the anniversary date of the permit [AT THE END OF
8 EACH YEAR]. No minerals from land [LANDS] under a prospecting permit
9 may be mined and marketed or used, except for limited amounts neces-
10 sary for sampling or testing. No person may take or hold prospecting
11 permits for minerals on state land under this section exceeding in the
12 aggregate 100,000 acres. No person may take or hold leases for miner-
13 als on state land under this section exceeding in the aggregate 46,080
14 acres.

15 * Sec. 9. AS 38.05.250(b) is amended to read:

16 (b) [UPON DISCOVERY, THE RIGHT TO POSSESS AND EXTRACT THE MINER-
17 ALS MAY BE ACQUIRED BY NONCOMPETITIVE LEASE.] A noncompetitive lease
18 shall be granted to a holder of a prospecting permit for so much of
19 the land subject to the permit as is shown to the satisfaction of the
20 director to contain workable mineral deposits. Submerged land [LANDS]
21 containing known deposits of minerals subject to AS 38.05.185 - 38.-
22 05.275 may, in the discretion of the director, be offered by com-
23 petitive bid. The land [THESE LANDS] shall be leased to the responsi-
24 ble qualified person offering the highest amount of cash bonus.

25 * Sec. 10. AS 38.05.265 is amended to read:

26 Sec. 38.05.265. ABANDONMENT. Failure to (1) properly file for
27 record a certificate of location or a statement of annual labor, or
28 (2) file with the director within the time prescribed a lease applica-
29 tion ~~_____~~, or (3) pay

DNR

Alaska State Legislature

BETTYE FAHRENKA, 1P, Chairman
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(907) 465-3835

Senate

Committee on Resources

MEMORANDUM

TO: Senate Resources Committee Members

FROM: Senate Resources Committee Staff

RE: Committee Meeting, February 10

DATE: February 8, 1984

On Friday, February 10 at 3:00 pm in the Beltz Room, the Senate Resources Committee will hear SB 371, an Act relating to mining.

Over the last several months, the Senate Resources Committee has undertaken a substantial review of Title 38, the State's land statutes. This review has resulted in two bills, one dealing with amendments to the land management and disposal sections of Title 38, and SB 371, which deals with mining sections of the Title.

A Resources Committee Substitute and clarifying amendments proposed by the Department of Natural Resources are attached. A summary of the major provisions of SB 371 and a sectional summary are also attached.

Introduced: 1/24/84
Referred: Resources and
Finance

Resources Committee
BY [FAHRENKAMP]

1 IN THE SENATE

2

CS SENATE BILL NO. 371

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to mining; and providing for an
7 effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 38.05.150(c) is amended to read:

#1
10 (c) Where prospecting or exploration work is necessary to deter-
11 mine the existence or workability of coal deposits in an unclaimed and
12 undeveloped area, the commissioner may issue to qualified applicants
13 prospecting permits for a term of three [TWO] years, covering not more
14 than [EXCEEDING] 5,120 acres with each permit. The commissioner shall
15 grant a two-year extension of the initial three-year term of the per-
16 mit if the permittee has conducted reasonably diligent ^{prospecting or} exploration
17 activities in the area covered by the permit, has not ^{been able to} determined [] the
18 existence and workability of coal deposits in the area, and wishes to
19 continue prospecting or exploring in the area. The commissioner may
20 grant up to three two-year extensions of the initial three-year term
21 of the permit. The permittee is entitled to a lease for all or part
22 of the land in the permit if, at any time during the effective period
23 of the permit which may not exceed nine years, the permittee shows to
24 the commissioner that the land contains coal in commercial quantities
25 and the permittee submits a satisfactory mining plan for the recovery
26 of the coal. The commissioner may lease additional land determined
27 necessary for a mining reclamation or processing operation. [IF WITH-
28 IN THE PERIOD OF TWO YEARS THE PERMITTEE SHOWS TO THE COMMISSIONER
29 THAT THE LAND CONTAINS COAL IN COMMERCIAL QUANTITIES AND SUBMITS A

1 SATISFACTORY MINING PLAN FOR THE COAL'S RECOVERY, THE PERMITTEE SHALL
2 BE ENTITLED TO A LEASE FOR ALL OR PART OF THE LAND IN HIS PERMIT. A
3 COAL PROSPECTING PERMIT MAY BE EXTENDED BY THE COMMISSIONER FOR A
4 PERIOD OF TWO YEARS, IF HE FINDS THAT THE PERMITTEE HAS BEEN UNABLE,
5 WITH THE EXERCISE OF REASONABLE DILIGENCE, TO DETERMINE THE EXISTENCE
6 OR WORKABILITY OF COAL DEPOSITS IN THE AREA COVERED BY THE PERMIT AND
7 DESIRES TO PROSECUTE FURTHER PROSPECTING OR EXPLORATION, OR FOR OTHER
8 REASONS IN THE OPINION OF THE COMMISSIONER WARRANTING EXTENSION.]

9 * Sec. 2. AS 38.05.190(a) is amended to read:

10 (a) The right to acquire exploration and mining rights under
11 AS 38.05.185 - 38.05.280 may be acquired or held only by

12 (1) citizens of the United States at least 18 [19] years of
13 age;

14 (2) legal guardians or trustees of citizens of the United
15 States under 18 [19] years of age on behalf of the [SUCH] citizens;

16 (3) persons at least 18 [19] years of age who have declared
17 their intention to become citizens of the United States;

18 (4) aliens at least 18 [19] years of age if the laws of
19 their country grant like privileges to citizens of the United States;

20 (5) associations of the [SUCH] persons;

21 (6) corporations organized under the laws of the United
22 States or of any state or territory of the United States and qualified
23 to do business in this state, except that if more than 50 percent of
24 the stock of a corporation is owned or controlled by aliens who are
25 not qualified, the corporation is not qualified to acquire or hold the
26 [SUCH] rights.

27 * Sec. 3. AS 38.05.195 is amended to read:

28 Sec. 38.05.195. MINING CLAIMS. Rights to deposits of minerals
29 subject to AS 38.05.185 - 38.05.280 in or on state land that is [LANDS

1 WHICH ARE] open to claim staking may be acquired by discovery, loca-
2 tion and filing as prescribed in AS 38.05.185 - 38.05.280. The loca-
3 tor has the exclusive right of possession and extraction of the [ALL
4 SUB] minerals subject to AS 38.05.185 - 38.05.280 lying within the
5 boundaries of the [HIS] claim. A location may not exceed 1,320 feet
6 in its longest dimension, and ^{the} ~~[its]~~ boundaries ^{of any claim located after the effective date of} shall run in the four ^{this} cardinal directions ^{section} unless the claim is a fractional claim or the
7 commissioner determines that staking in compliance with this section
8 is impractical because of local topography or because of the location
9 of other claims. A location shall be distinctly marked on the ground
10 in the manner prescribed by the commissioner and a notice of location
11 shall be posted on the claim in the manner and containing the
12 information required by the commissioner. Within 90 days after the
13 date of posting the notice of location on the claim, the locator shall
14 file for record in the recording district where the claim is located a
15 certificate of location. The certificate of location shall contain
16 the information required by the commissioner. Locations may be
17 amended in the manner and with the effect prescribed in AS 38.05.200.
18 Annual labor shall be performed and statements of annual labor
19 recorded as prescribed in AS 38.05.210 - 38.05.235.

21 * Sec. 4. AS 38.05.210 is amended by adding a new subsection to read:

22 (b) The statement of annual labor required in (a) of this sec-
23 tion may be amended within two years of the date by which the annual
24 labor statement was required to be filed. An amended statement shall
25 be filed for record in the same manner as the original statement.
26 Additional labor claimed in an amended statement may not be applied
27 against labor required to be done during a subsequent year.

28 * Sec. 5. AS 38.05.240 is amended to read:

29 Sec. 38.05.240. LABOR DEFINED FOR AS 38.05.210 - 38.05.235. In

*Hugulewski -
with needed?
7 H.S.:
amending
allowed
administratively.
240*

1 AS 38.05.210 - 38.05.235, "labor" includes [THE TERM "LABOR" WHERE
2 USED IN SECS. 210 - 235 OF THIS CHAPTER INCLUDES, WITHOUT BEING LIMIT-
3 ED TO,] geological, geochemical, geophysical, and airborne surveys
4 conducted by qualified experts and verified by a detailed report filed
5 in the recording district office in which the claim is located which
6 sets out fully (1) the location of the work performed in relation to
7 the point of discovery and boundaries of the claim, (2) the nature,
8 extent, and cost of it [THEREOF], and (3) the name, address, and
9 professional background of the person [OR PERSONS] conducting the
10 work. [BASIC SURVEY FINDS SHALL BE FILED IN THE CENTRAL RECORDING
11 OFFICE OF THE DEPARTMENT OF NATURAL RESOURCES, BUT KEPT CONFIDENTIAL
12 AND RELEASED ONLY IF THE CLAIM OR PROSPECTING SITE LAPSES.] The
13 commissioner, by regulation, shall define the nature of acceptable
14 survey work and the qualifications of a person competent to perform
15 this work. The airborne surveys, however, may not be applied as labor
16 for more than two consecutive years or for more than a total of five
17 years on any one mining claim, and each of those surveys shall be
18 nonrepetitive of any previous survey on the same claim.

19 * Sec. 6. AS 38.05.245(a) is amended to read:

20 (a) Before the discovery of valuable minerals, an exclusive
21 right to prospect by geophysical, geochemical and similar methods may
22 be acquired by marking boundaries and posting a notice of location of
23 a prospecting site in a manner and containing the [SUCH] information
24 [AS] the commissioner requires. A prospecting site may not exceed
25 2,640 feet in its longest dimension and its boundaries shall run in
26 the four cardinal directions. A certificate of location shall be
27 filed for record in the recording district where the prospecting site
28 is located within 90 days after posting the notice of location [, AND
29 A COPY OF THE CERTIFICATE SHALL ALSO BE MAILED TO THE DIRECTOR WITHIN

1 THE 90 DAY PERIOD]. The locator of a prospecting site has the exclu-
2 sive right to stake mining claims or leasehold locations within the
3 boundaries of the [HIS] site.

4 * Sec. 7. AS 38.05.245(c) is amended to read:

5 (c) A [NO] person may not hold [LOCATE] more than eight [SIX]
6 prospecting sites in one township at one time [CALENDAR YEAR IN ONE
7 RECORDING DISTRICT]. A prospecting site remains in effect for one
8 year after the notice of location is posted and may, at the discretion
9 of the director, be extended for one year periods. During each year,
10 work of a type compatible with the purpose of this section and accept-
11 able to the director shall be done. The minimum expenditure for the
12 work shall be established by the commissioner uniformly for all pros-
13 pecting sites. Where adjacent prospecting sites are held in common
14 the expenditure may be made on any one or more locations. If a pros-
15 pecting site expires, neither the locator nor a [HIS] successor in
16 interest of the locator may again hold [LOCATE] the same prospecting
17 site or any portion of it, as a prospecting site, for a period of one
18 year [TWO YEARS] following the date of expiration or abandonment; ~~nor~~
19 ~~may the locator~~ ^{nor a successor in interest of the locator} [HE], during the year [TWO YEARS], either directly or
20 indirectly, obtain a beneficial interest in the same prospecting site
21 or a portion of it.

22 * Sec. 8. AS 38.05.250(a) is amended to read:

23 (a) The exclusive right to prospect for deposits of minerals
24 subject to AS 38.05.185 - 38.05.275 in or on tide and submerged state
25 land [LANDS] may be granted by a permit issued by the director. Per-
26 mits shall be granted to the first qualified applicant. No permit may
27 include an area larger than 2,560 acres, subject to the rule of ap-
28 proximation. Land [LANDS] subject to a prospecting permit shall be as
29 compact in form as possible taking into consideration the area

1 involved. The term of the permit shall be seven years. Prospecting
2 permits shall be conditioned upon payment of rental against which
3 credit shall be given for useful expenditures on land covered by the
4 permit or group of contiguous permits under common ownership or assign-
5 ment. Excess expenditures may be applied against rentals due for the
6 following two years. The rental shall be \$3 per acre for each year,
7 payable annually on the anniversary date of the permit [AT THE END OF
8 EACH YEAR]. No minerals from land [LANDS] under a prospecting permit
9 may be mined and marketed or used, except for limited amounts neces-
10 sary for sampling or testing. No person may take or hold prospecting
11 permits for minerals on state land under this section exceeding in the
12 aggregate 100,000 acres. No person may take or hold leases for miner-
13 als on state land under this section exceeding in the aggregate 46,080
14 acres.

15 * Sec. 9. AS 38.05.250(b) is amended to read:

16 (b) [UPON DISCOVERY, THE RIGHT TO POSSESS AND EXTRACT THE MINER-
17 ALS MAY BE ACQUIRED BY NONCOMPETITIVE LEASE.] A noncompetitive lease
18 shall be granted to a holder of a prospecting permit for so much of
19 the land subject to the permit as is shown to the satisfaction of the
20 director to contain workable mineral deposits. Submerged land [LANDS]
21 containing known deposits of minerals subject to AS 38.05.185 - 38.-
22 05.275 may, in the discretion of the director, be offered by com-
23 petitive bid. The land [THESE LANDS] shall be leased to the [responsi-
24 ble] qualified person offering the highest amount of cash bonus.

25 * Sec. 10. AS 38.05.265 is amended to read:

26 Sec. 38.05.265. ABANDONMENT. Failure to (1) properly file for
27 record a certificate of location or a statement of annual labor, or
28 (2) file ~~in the recording district where the prospecting site is located~~
with the director within the time prescribed a lease applica-
29 tion ~~or a copy of a prospecting site location certificate~~ (3) pay

1 rental or receive credit for rental, or (4) keep location boundaries
2 clearly marked, all as required by AS 38.05.185 - 38.05.280 and by
3 regulations adopted under these sections, constitutes abandonment of
4 all rights acquired under the mining lease, location, or site in-
5 volved, and it is subject to relocation by others. If a location is
6 not relocated by another person within [WITH] one year after the
7 [SUCH] failure, [OR, IN THE CASE OF A PROSPECTING SITE, TWO YEARS,]
8 the locator or claimant of the abandoned location, or a [HIS] succes-
9 sor in interest, may return to relocate it as though it had never been
10 located. A statement of annual labor which does not accurately set
11 out the essential facts is void and of no effect.

12 * Sec. 11. AS 38.05.275 is amended to read:

13 Sec. 38.05.275. RECOGNITION OF LOCATIONS. Mining locations
14 made on state land [LANDS], including shorelands, tidelands or sub-
15 merged land [LANDS,] or state selected land [LANDS], under AS 38.05.-
16 185 - 38.05.280 (or in the manner described in AS 27.10) acquire for the
17 locator mining rights under AS 38.05.185 - 38.05.280, subject to
18 existing claims and to any denial of or restriction in the tentative
19 approval of state selection of the patent of the land [LANDS] to the
20 state. If shorelands, tidelands or submerged land is [LANDS ARE]
21 included in a mining location or within the projected boundaries of a
22 mining location made in accordance with this section, the locator
23 shall [IS REQUIRED TO] file a certificate of location under [WITH THE
24 DIVISION OF LANDS WITHIN 90 DAYS FOLLOWING THE DATE OF POSTING THE
25 NOTICE OF LOCATION, IN ADDITION TO FILING A CERTIFICATE OF LOCATION AS
26 REQUIRED BY] AS 38.05.195. The certificate of location must identify
27 the position of the mining location in the system of rectangular or
28 protracted surveys.

29 * Sec. 12. AS 27.05.080 is amended to read:

DNR #2
state vs.
federal
system

1 Sec. 27.05.080. PUBLIC ASSAY OFFICES. The department shall, for
2 the purpose of aiding bona fide miners and prospectors and stimulating
3 mineral discoveries, establish a [AT LEAST ONE] public assay office
4 [IN EACH OF THE FOUR JUDICIAL DISTRICTS]. The department may adopt
5 regulations and establish procedures considered necessary and expedi-
6 ent to carry out this section and AS 27.05.090.

7 * Sec. 13. AS 27.05.180 - 27.05.210 and AS 27.15.010 are repealed.

8 * Sec. 14. [This Act takes effect July 1, 1984.] Sections 1, 2, 4, 5,
7-10, 12, 13 of this Act take effect July 1, 1984.

* Sec 15. Section 3 of this Act takes effect January 1, 1985.

* Sec 16. Sections 6 and 11 of this Act takes effect
September 1, 1984.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STARGULEWSKI



POUCH V
STATE CAPITAL
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Senate

Committee on Resources

SUMMARY OF MAJOR PROVISIONS OF SB 371

CURRENT STATUTE

Coal Prospecting Permits

AS 38.05.150(c) establishes the term of a coal prospecting permit as 2 years with one 2-year extension. (An extension is granted if the Commissioner determines that diligent exploration activities have been conducted. Following expiration of a permit, a lease will be granted if the permittee shows that the land contains coal in commercial quantities and submits a mining plan.)

Statements of Annual Labor

AS 38.05.210-.240 governs the performance of annual labor on mining claims on State land. A report of labor performed must be filed annually with DNR.

Survey Finds

Under AS 38.05.240, to satisfy annual labor requirements, geological, geochemical, geophysical, and airborne surveys conducted on mining claims are reported to DNR. Basic survey finds must also be filed with DNR, and are kept confidential and released only if the claim lapses.

none have ever been released, no mechanism for doing so

Miners will still be required to file affidavit of annual labor.

SB 371

. 1 would extend the coal prospecting permit term to 3 years with three 2-year extensions.

*- substantial start-up time needed for projects in AK
- relative inaccessibility of areas being explored
- relatively high risk involved in AK development*

Sec. 4 would allow affidavits of annual labor to be corrected by amendment.

Currently no mechanism for correction.

Sec. 5 would delete the provision that basic survey finds be filed with DNR.

11 AAC 26.221(c) info. that can be readily used by the state or public such as maps, reports, & analyses prepared by qualified experts

Statutes & reg. do not provide clear understanding of acceptable basic survey finds

Fed. law - practice is to give general narrative description without quantitative results.

Miners resistant to submit confidential technical data under such poorly defined guidelines. ^{jeopardize miner's investment} Even after liability paid ^{burden to prepare}

CURRENT STATUTE
Prospecting Sites

SB 371

Under AS 38.05.245, the locator of a prospecting site has the exclusive right to stake mining claims or leasehold locations within the boundaries of his site. No person may locate more than 6 prospecting sites in one calendar year in one recording district

Sec. 7 amends the number of prospecting sites allowed to 8 held in one township at one time.

intent encourage use

AS 38.05.265 establishes the waiting period for relocation of mining locations and prospecting sites following abandonment as 1 year for mining locations and 2 years for prospecting sites. (Abandonment is defined as failure to pay rental; to file a certificate of location, a statement of annual labor, or a prospecting site certificate; or to keep boundaries marked.)

Sec. 10 would shorten the waiting period following abandonment of a prospecting site from 2 years to 1 year.

AN ACT RELATING TO MINING

SB 371

Sec. 1 Because of the lengthy time involved for coal exploration, extends the coal prospecting permit term from 2 years with one 2-year extension to 3 years with three 2-year extensions.

Sec. 2 Lowers the minimum age of eligibility for acquiring exploratory and mining rights from 19 to 18 to be consistent with the current age of majority for most activities in Alaska.

Sec. 3 Amends the requirement that mining claims be staked in the four cardinal directions to not apply to fractional claims or where the commissioner determines such staking is impractical.

Sec. 4 Allows affidavits of annual labor to be corrected by amendment, thus providing a legal mechanism for correcting errors.

Sec. 5 Deletes the provision that basic survey finds be filed with DNR as it can result in the "leaking" of proprietary information, and the information is often of mixed quality.

Sec. 6 Deletes the requirement to file a certificate of mining location with DNR. This is duplicative language, as the certificate must be filed with the District Recorders' Office, which is within DNR.

Sec. 7 Increases the number of prospecting sites allowed from "six located in one calendar year in one recording district" to "eight held in one township at one time". This will encourage the use of prospecting sites where discovery hasn't been made, and address a loophole whereby employees of large companies locate sites and quitclaim deed them to the company.

Sec. 8 Clarifies that the rental year for a prospecting permit on tide or submerged lands expires on the anniversary of issuance, not the end of the calendar year. This is compatible with the rental year for offshore leases.

Sec. 9 Clarifies that a prospecting permit is required before a noncompetitive lease can be issued for mineral extraction on submerged lands.

Sec. 10 Changes the length of time following the abandonment of a prospecting site that the former owner must wait before acquiring any beneficial interest in the site from 2 years to 1. This is consistent with the waiting period for claims that have been staked or located.

Sec. 11 Deletes the requirement to file a certificate of mining location on shorelands, tidelands, or submerged lands with the DNR. This is duplicative language (see Sec. 6).

Sec. 12 The state maintains only one assay lab (on the U.A.F. campus). Deletes the requirement that a public assay office be located in each of the 4 judicial districts, to reflect the reality of the situation.

Sec. 13 Repeals the mineral prospecting equipment loan program. DNR no longer conducts such a program.

Repeals the requirement that "grubstaking" contracts be in writing. This is the only provision in Title 27 dealing specifically with mining on state-owned lands, and is probably not necessary as most people realize that contracts should be in writing.

DEPARTMENT OF NATURAL RESOURCES

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-465-2400

OFFICE OF THE COMMISSIONER

February 8, 1984

The Honorable Bettye Fahrenkamp
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Fahrenkamp:

I appreciate the sincere interest that you have shown in revising and improving the statutes affecting the Department of Natural Resources. At this time I offer comments on the bill affecting mining (SB 371). Generally the Department is supportive of the proposed legislation, but we recommend amendments as shown below.

Sec. 1:

We recommend substituting the following wording for clarity: Intent is not changed.

(c) Where prospecting or exploration work is necessary to determine the existence or workability of coal deposits in an unclaimed and undeveloped area, the commissioner may issue to qualified applicants prospecting permits for a term of three [TWO] years, covering not more than [EXCEEDING] 5,120 acres with each permit. The commissioner shall grant a two-year extension of the initial three-year term of the permit if the permittee has conducted reasonably diligent prospecting or exploration activities in the area covered by the permit, has not been able to determine the existence and workability of coal deposits in the area, and wishes to continue prospecting or exploring in the area. The commissioner may grant up to three two-year extensions of the initial three-year term of the permit. At any time during the effective period of the permit, the permittee is entitled to a lease, after submitting a satisfactory mining plan, for that portion of the land in the permit as is shown, to the commissioner's satisfaction, to contain coal in commercial quantities or to be needed for mining, reclamation, or processing that coal, (after submitting a satisfactory mining plan for the coal's recovery). [IF WITHIN THE PERIOD OF TWO YEARS...WARRANTING EXTENSION,]

Am. #1

Sec. 3:

1. The effective date of this section should be Jan. 1, 1985, to prevent confusion. is in C.S.

February 8, 1984

2. We recommend replacing "its boundaries" on p. 3, line 6, with "the [ITS] boundaries of any claim located after the effective date of this amendment..." in C.S.

Sec. 6:

The effective date of this section should be Sept. 1, 1984. in S.

Sec. 7:

At p. 5, line 19 after "locator", we recommend adding "or a successor in interest" in C.S.

Sec. 9:

Remove "responsible" at p.6, lines 23-24. in C.S.

Sec. 11:

1. The effective date of this section should be Sept. 1, 1984 in C.S.

2. We recommend removing "or in the manner described in AS 27.10" at p.7, line 16. The wording as it exists encourages two methods of claimstaking (federal and state) even on lands that are state-owned. Our procedure will be to protect claimants who mistakenly believe that a claim has been located on federal lands which in actuality belong to the State by allowing restaking according to state standards.

Ann. #2

3. The final sentence of the section, at lines 26-28 on p.7, should be removed as filing requirements are already handled administratively under AS 38.05.185, AS 38.05.205, and AS 38.05.245.

Section 11 does not call for a separate filing.

Sec. 14:

If you believe that the variety of effective dates recommended above will be confusing, we suggest that the bill's effective date be changed to Sept. 1, 1984.

The staff of the Department are available for discussion of these suggested changes and any other mining issues in our statutes. I look forward to further cooperation on your general bill affecting Title 38 (SB 375).

Sincerely,

EC
BV Arnold, Deputy
Esther C. Wunnicke
Commissioner

Alaska State Legislature

W. H. ZIEGLER, SR., Vice Chairman
A. ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
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Senate

Committee on Resources

TO: Senate Resources Committee Members
FROM: Senate Resources Committee Staff
RE: Redraft of SB 371, An Act relating to mining.
DATE: February 13, 1984

Please find attached a revised Committee Substitute for SB 371 based on amendments proposed at our February 10 hearing. The following changes have been incorporated:

1. Restructures Sec. 1 on coal permits for clarity.
2. Extends the term of an offshore prospecting permit from 7 to 10 years.
3. Extends the length of time during which excess expenditures on a claim may be applied against rentals from 2 to 4 years.
4. Delays payment for the first year of the \$3/acre rental fee.
5. Increases the acreage limitation of an offshore prospecting permit from 100,000 to 300,000 acres, effective January 1, 1985.
6. Increases the acreage limitation for offshore leases from 46,080 acres to 190,000 acres, effective January 1, 1985.
7. Allows the Commissioner to allow reasonable shutdowns in production without terminating the lease.
8. Amends the language regarding abandonment to conform with the requirement that a certificate of location be filed only with the recording district and not with the director.
9. Current statute encourages two methods of staking (federal and state) even on lands that are State-owned. Amends the statute to require State staking methods on State land.

Action will be taken on this bill today at 3:00 just prior to our APA briefing by the APA.

no acreage rental
1st year

from Ron Sheardown
4-5-84

~~Ø~~

* Sec. 8. AS 38.05.250(a) is amended to read:

(a) The exclusive right to prospect for deposits of minerals subject to AS 38.05.185 - 38.05.275 in or on tide and submerged state land [LANDS] may be granted by a permit issued by the director. Permits shall be granted to the first qualified applicant. No permit may include an area larger than 2,560 acres, subject to the rule of approximation. Land [LANDS] subject to a prospecting permit shall be as compact in form as possible taking into consideration the area involved. The term of the permit shall be 10 [SEVEN] years. Prospecting permits shall be conditioned upon payment of rental against which credit shall be given for useful expenditures on land covered by the permit or group of contiguous permits under common ownership or assignment. Excess expenditures may be applied against rentals due for the following four [TWO] years. The rental shall be \$3 per acre for the first two-year period of the permit, payable on the second anniversary of the permit and \$3 per acre for each following year, payable annually on the anniversary date of the permit [AT THE END OF EACH YEAR]. No minerals from land [LANDS] under a prospecting permit may be mined and marketed or used, except for limited amounts necessary for sampling or testing. No person may take or hold prospecting permits for minerals on state land under this section exceeding the aggregate 100,000 acres. No person may take or hold leases for minerals on state land under this section exceeding in the aggregate 46,080 acres.



* Sec. 9. AS 38.05.250(a) is amended to read:

(a) The exclusive right to prospect for deposits of minerals subject to AS 38.05.185 - 38.05.275 in or on tide and submerged state land may be granted by a permit issued by the director. Permits shall be granted to the first qualified applicant. No permit may include an area larger than 2,560 acres, subject to the rule of approximation. Lands subject to a prospecting permit shall be as compact in form as possible taking into consideration the area involved. The term of the permit shall be 10 years. Prospecting permits shall be conditioned upon payment of rental against which credit shall be given for useful expenditure on land covered by the permit or group of contiguous permits under common ownership or assignment. Excess expenditures may be applied against rentals due for the following four years. The rental shall be \$3 per acre for the first two-year period of the permit, payable on the second anniversary of the permit and \$3 per acre for each following year, payable annually on the anniversary date of the permit. No minerals from land under a prospecting permit may be mined and marketed or used, except for limited amounts necessary for sampling or testing. No person may take or hold prospecting permits for minerals on state land under this section exceeding in the aggregate 300,000 [100,000] acres. No person may take or hold leases for minerals on state land under this section exceeding in the aggregate 100,000 [46,080] acres.

lease term 20 years +

Proposed new Section 11, renumber following sections accordingly:

* Sec. 11. AS 38.05.250(c) is amended to read:

(c) Leases for submerged lands shall be conditioned upon payment of an annual rental of \$3 an acre. Expenditures on or for the benefit of the leasehold may be credited against the rental. Rent shall be paid or a statement of annual labor shall be filed within 90 days after each anniversary date of the lease.

All submerged land mining leases shall be for a period of up to 20 [10] years, and for so long as there is production in paying quantities from the leased area. The commissioner may make reasonable adjustments of the rental rate at the end of each 10 year period, based upon changed conditions in production costs and market.

Introduced: 1/24/84
Referred: Resources and
Finance

Resources Committee
BY [FAHRENKAMP]

1 IN THE SENATE

2 CS SENATE BILL NO. 371

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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13 prospecting permits for a term of three [TWO] years, covering not more
14 than [EXCEEDING] 5,120 acres with each permit. The commissioner shall

15 grant a two-year extension of the initial three-year term of the per-
16 mit if the permittee has conducted reasonably diligent ^{prospecting or} exploration
17 activities in the area covered by the permit, ^{been able to} has not ~~determined~~ the
18 existence and workability of coal deposits in the area, and wishes to
19 continue prospecting or exploring in the area. The commissioner may

20 grant up to three two-year extensions of the initial three-year term
21 of the permit. ^{At any time during the effective period of the permit} The permittee is entitled to a lease ~~for all~~ or part
22 ^{that portion of} of the land in the permit ^{after submitting a satisfactory mining plan} [if, at any time during the effective period

23 of the permit which may not exceed nine years, the permittee shows ~~to~~
24 ^{as is shown, to the commissioner's satisfaction, to} the commissioner that the land ~~contains~~ coal in commercial quantities

25 [and the permittee submits a satisfactory mining plan for the recovery
26 of the coal. The commissioner may lease additional land determined
27 ^{or to be needed for} necessary ~~for a~~ mining, reclamation or processing ^{that coal} [operation]. [IF WITH-

28 IN THE PERIOD OF TWO YEARS THE PERMITTEE SHOWS TO THE COMMISSIONER
29 THAT THE LAND CONTAINS COAL IN COMMERCIAL QUANTITIES AND SUBMITS A

1 SATISFACTORY MINING PLAN FOR THE COAL'S RECOVERY, THE PERMITTEE SHALL
2 BE ENTITLED TO A LEASE FOR ALL OR PART OF THE LAND IN HIS PERMIT. A
3 COAL PROSPECTING PERMIT MAY BE EXTENDED BY THE COMMISSIONER FOR A
4 PERIOD OF TWO YEARS, IF HE FINDS THAT THE PERMITTEE HAS BEEN UNABLE,
5 WITH THE EXERCISE OF REASONABLE DILIGENCE, TO DETERMINE THE EXISTENCE
6 OR WORKABILITY OF COAL DEPOSITS IN THE AREA COVERED BY THE PERMIT AND
7 DESIRES TO PROSECUTE FURTHER PROSPECTING OR EXPLORATION, OR FOR OTHER
8 REASONS IN THE OPINION OF THE COMMISSIONER WARRANTING EXTENSION.]

9 * Sec. 2. AS 38.05.190(a) is amended to read:

10 (a) The right to acquire exploration and mining rights under
11 AS 38.05.185 - 38.05.280 may be acquired or held only by

12 (1) citizens of the United States at least 18 [19] years of
13 age;

14 (2) legal guardians or trustees of citizens of the United
15 States under 18 [19] years of age on behalf of the [SUCH] citizens;

16 (3) persons at least 18 [19] years of age who have declared
17 their intention to become citizens of the United States;

18 (4) aliens at least 18 [19] years of age if the laws of
19 their country grant like privileges to citizens of the United States;

20 (5) associations of the [SUCH] persons;

21 (6) corporations organized under the laws of the United
22 States or of any state or territory of the United States and qualified
23 to do business in this state, except that if more than 50 percent of
24 the stock of a corporation is owned or controlled by aliens who are
25 not qualified, the corporation is not qualified to acquire or hold the
26 [SUCH] rights.

27 * Sec. 3: AS 38.05.195 is amended to read:

28 Sec. 38.05.195. MINING CLAIMS. Rights to deposits of minerals
29 subject to AS 38.05.185 - 38.05.280 in or on state land that is [LANDS

1 WHICH ARE] open to claim staking may be acquired by discovery, loca-
2 tion and filing as prescribed in AS 38.05.185 - 38.05.280. The loca-
3 tor has the exclusive right of possession and extraction of the [ALL
4 SUCH] minerals subject to AS 38.05.185 - 38.05.280 lying within the
5 boundaries of the [HIS] claim. A location may not exceed 1,320 feet
6 in its longest dimension, and ^{the} [its] boundaries ^{of any claim located after the effective date of} shall run in the four ^{this} ^{section} cardinal directions unless the claim is a fractional claim or the
7 commissioner determines that staking in compliance with this section
8 is impractical because of local topography or because of the location
9 of other claims. A location shall be distinctly marked on the ground
10 in the manner prescribed by the commissioner and a notice of location
11 shall be posted on the claim in the manner and containing the
12 information required by the commissioner. Within 90 days after the
13 date of posting the notice of location on the claim, the locator shall
14 file for record in the recording district where the claim is located a
15 certificate of location. The certificate of location shall contain
16 the information required by the commissioner. Locations may be
17 amended in the manner and with the effect prescribed in AS 38.05.200.
18 Annual labor shall be performed and statements of annual labor
19 recorded as prescribed in AS 38.05.210 - 38.05.235.

21 * Sec. 4. AS 38.05.210 is amended by adding a new subsection to read:

22 (b) The statement of annual labor required in (a) of this sec-
23 tion may be amended within two years of the date by which the annual
24 labor statement was required to be filed. An amended statement shall
25 be filed for record in the same manner as the original statement.
26 Additional labor claimed in an amended statement may not be applied
27 against labor required to be done during a subsequent year.

28 * Sec. 5. AS 38.05.240 is amended to read:

29 Sec. 38.05.240. LABOR DEFINED FOR AS 38.05.210 - 38.05.235. In

1 AS 38.05.210 - 38.05.235. "labor" includes [THE TERM "LABOR" WHERE
2 USED IN SECS. 210 - 235 OF THIS CHAPTER INCLUDES. WITHOUT BEING LIMIT-
3 ED TO,] geological, geochemical, geophysical, and airborne surveys
4 conducted by qualified experts and verified by a detailed report filed
5 in the recording district office in which the claim is located which
6 sets out fully (1) the location of the work performed in relation to
7 the point of discovery and boundaries of the claim, (2) the nature,
8 extent, and cost of it [THEREOF], and (3) the name, address, and
9 professional background of the person [OR PERSONS] conducting the
10 work. [BASIC SURVEY FINDS SHALL BE FILED IN THE CENTRAL RECORDING
11 OFFICE OF THE DEPARTMENT OF NATURAL RESOURCES, BUT KEPT CONFIDENTIAL
12 AND RELEASED ONLY IF THE CLAIM OR PROSPECTING SITE LAPSES.] The
13 commissioner, by regulation, shall define the nature of acceptable
14 survey work and the qualifications of a person competent to perform
15 this work. The airborne surveys, however, may not be applied as labor
16 for more than two consecutive years or for more than a total of five
17 years on any one mining claim, and each of those surveys shall be
18 nonrepetitive of any previous survey on the same claim.

19 * Sec. 6. AS 38.05.245(a) is amended to read:

20 (a) Before the discovery of valuable minerals, an exclusive
21 right to prospect by geophysical, geochemical and similar methods may
22 be acquired by marking boundaries and posting a notice of location of
23 a prospecting site in a manner and containing the [SUCH] information
24 [AS] the commissioner requires. A prospecting site may not exceed
25 2,640 feet in its longest dimension and its boundaries shall run in
26 the four cardinal directions. A certificate of location shall be
27 filed for record in the recording district where the prospecting site
28 is located within 90 days after posting the notice of location [, AND
29 A COPY OF THE CERTIFICATE SHALL ALSO BE MAILED TO THE DIRECTOR WITHIN

1 THE 90 DAY PERIOD]. The locator of a prospecting site has the exclu-
2 sive right to stake mining claims or leasehold locations within the
3 boundaries of the [HIS] site.

4 * Sec. 7. AS 38.05.245(c) is amended to read:

5 (c) A [NO] person may not hold [LOCATE] more than eight [SIX]
6 prospecting sites in one township at one time [CALENDAR YEAR IN ONE
7 RECORDING DISTRICT]. A prospecting site remains in effect for one
8 year after the notice of location is posted and may, at the discretion
9 of the director, be extended for one year periods. During each year,
10 work of a type compatible with the purpose of this section and accept-
11 able to the director shall be done. The minimum expenditure for the
12 work shall be established by the commissioner uniformly for all pros-
13 pecting sites. Where adjacent prospecting sites are held in common
14 the expenditure may be made on any one or more locations. If a pros-
15 pecting site expires, neither the locator nor a [HIS] successor in
16 interest of the locator may again hold [LOCATE] the same prospecting
17 site or any portion of it, as a prospecting site, for a period of one
18 year [TWO YEARS] following the date of expiration or abandonment; ^{nor a successor in interest of the locator}
19 may the locator [HE], during the year [TWO YEARS], either directly or
20 indirectly, obtain a beneficial interest in the same prospecting site
21 or a portion of it.

22 * Sec. 8. AS 38.05.250(a) is amended to read:

23 (a) The exclusive right to prospect for deposits of minerals
24 subject to AS 38.05.185 - 38.05.275 in or on tide and submerged state
25 land [LANDS] may be granted by a permit issued by the director. Per-
26 mits shall be granted to the first qualified applicant. No permit may
27 include an area larger than 2,560 acres, subject to the rule of ap-
28 proximation. Land [LANDS] subject to a prospecting permit shall be as
29 compact in form as possible taking into consideration the area

② 1 involved. The term of the permit shall be ^{ten} ~~seven~~ years. Prospecting
2 permits shall be conditioned upon payment of rental against which
3 credit shall be given for useful expenditures on land covered by the
4 permit or group of contiguous permits under common ownership or assign
5 ment. Excess expenditures may be applied against rentals due for the

③ 6 following ^{four} ~~two~~ years. The rental shall be \$3 per acre for ^{the first 2-year period of the permit, payable on the 2nd anniversary} each year ^{of the permit}
④ 7 ^{hereafter} ~~payable~~ annually on the anniversary date of the permit [AT THE END OF and \$3 per acre
for

8 EACH YEAR]. No minerals from land [LANDS] under a prospecting permit
9 may be mined and marketed or used, except for limited amounts neces-
10 sary for sampling or testing. No person may take or hold prospecting
11 permits for minerals on state land under this section exceeding in the
12 aggregate 100,000 acres. No person may take or hold leases for miner-
13 als on state land under this section exceeding in the aggregate 46,080
14 acres. ^{Effective January 1, 1985, prospecting permits aggregate 300,000 acres..}
^{leases aggregate 100,000 acres.}

① is on following sheet
15 * Sec. 9. AS 38.05.250(b) is amended to read:

(b) [UPON DISCOVERY, THE RIGHT TO POSSESS AND EXTRACT THE MINER-
ALS MAY BE ACQUIRED BY NONCOMPETITIVE LEASE.] A noncompetitive lease
18 shall be granted to a holder of a prospecting permit for so much of
19 the land subject to the permit as is shown to the satisfaction of the
20 director to contain workable mineral deposits. Submerged land [LANDS]
21 containing known deposits of minerals subject to AS 38.05.185 - 38.-
22 05.275 may, in the discretion of the director, be offered by com-
23 petitive bid. The land [THESE LANDS] shall be leased to the [responsi-
24 ble] qualified person offering the highest amount of cash bonus.

25 * Sec. 10. AS 38.05.265 is amended to read:

26 Sec. 38.05.265. ABANDONMENT. Failure to (1) properly file for
27 record a certificate of location or a statement of annual labor, or
28 (2) file with the director within the time prescribed a lease applica-
29 tion [or a copy of a prospecting site location certificate] or (3) pay

1 rental or receive credit for rental, or (4) keep location boundaries
2 clearly marked, all as required by AS 38.05.185 - 38.05.280 and by
3 regulations adopted under these sections, constitutes abandonment of
4 all rights acquired under the mining lease, location, or site in-
5 volved, and it is subject to relocation by others. If a location is
6 not relocated by another person within [WITH] one year after the
7 [SUCH] failure, [OR, IN THE CASE OF A PROSPECTING SITE, TWO YEARS,]
8 the locator or claimant of the abandoned location, or a [HIS] succes-
9 sor in interest, may return to relocate it as though it had never been
10 located. A statement of annual labor which does not accurately set
11 out the essential facts is void and of no effect.

12 * Sec. 11. AS 38.05.275 is amended to read:

13 Sec. 38.05.275. RECOGNITION OF LOCATIONS. Mining locations
14 made on state land [LANDS], including shorelands, tidelands or sub-
15 merged land [LANDS,] or state selected land [LANDS], under AS 38.05.-
16 185 - 38.05.280 [or in the manner described in AS 27.10] acquire for the
17 locator mining rights under AS 38.05.185 - 38.05.280, subject to
18 existing claims and to any denial of or restriction in the tentative
19 approval of state selection of the patent of the land [LANDS] to the
20 state. If shorelands, tidelands or submerged land is [LANDS ARE]
21 included in a mining location or within the projected boundaries of a
22 mining location made in accordance with this section, the locator
23 shall [IS REQUIRED TO] file a certificate of location under [WITH THE
24 DIVISION OF LANDS WITHIN 90 DAYS FOLLOWING THE DATE OF POSTING THE
25 NOTICE OF LOCATION, IN ADDITION TO FILING A CERTIFICATE OF LOCATION AS
26 REQUIRED BY] AS 38.05.195. The certificate of location must identify
27 the position of the mining location in the system of rectangular or
28 protracted surveys.

29 * Sec. 12. AS 27.05.080 is amended to read:

1 Sec. 27.05.080. PUBLIC ASSAY OFFICES. The department shall, for
2 the purpose of aiding bona fide miners and prospectors and stimulating
3 mineral discoveries, establish a [AT LEAST ONE] public assay office
4 [IN EACH OF THE FOUR JUDICIAL DISTRICTS]. The department may adopt
5 regulations and establish procedures considered necessary and expedi-
6 ent to carry out this section and AS 27.05.090.

7 * Sec. 13. AS 27.05.180 - 27.05.210 and AS 27.15.010 are repealed.

8 * Sec. 14. [This Act takes effect July 1, 1984.] Sections 1, 2, 4, 5,
7-10, 12, 13 of this Act take effect July 1, 1984.

* Sec 15. Section 3 of this Act take effect January 1, 1985.

* Sec 16. Sections 6 and 11 of this Act takes effect
September 1, 1984.

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Senate approves bill to ease mining rules

JUNEAU (AP)—A bill designed to ease the administrative burden on Alaska's miners and boost mineral development by extending the life of prospecting permits and changing the way claims are filed has been shipped to the House.

The measure (CSSB 371), introduced by Sen. Bettye Fahrenkamp, D-Fairbanks and head of the Senate Resources Committee, passed the Senate 19-0 Thursday without debate.

"It would affect at least 1,000 operations in the state—hard rock and any kind of mining," Fahrenkamp said today. "Mining is Alaska's third largest industry. This bill is aimed at making regulations smoother, cleaning up the glitches."

Because of the lengthy time involved in coal exploration, the measure would extend the term of a prospecting permit from two years with one two-year extension to three years with three two-year extensions.

The bill also would scrap a provision in current law requiring that basic survey finds be filed with the state Department of Natural Resources. Miners have resisted submitting confidential technical data because of what they contend have been poorly defined guidelines, according to a memo supporting the legislation.

It also increases the number of prospecting sites allowed from "six located in one calendar year in one recording district" to eight held in one township at one time.

That is an effort to encourage the use of prospecting sites where discovery hasn't been made, and close a loophole where employees of large companies locate sites and quitclaim deed them to the company, the memo said.

Also under the measure, acreage held under an offshore prospecting permit would go from 100,000 to



BETTYE
FAHRENKAMP

300,000 acres, and under a lease from 46,000 to 100,000 acres.

"We've done as extensive research on this as any bill we've written," Fahrenkamp said. "I hope it will pass intact in the House."

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
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Senate

Committee on Resources

April 5, 1984

Representative John Ringstad, Co-Chairman
Representative Dick Shultz, Co-Chairman
House Resources Committee
Pouch V
Juneau, Alaska 99802

Dear John and Dick:

As a follow-up to yesterday's hearing on CSSB 371(Res), I would like to offer the following comments on the proposed amendments.

Phil Holdsworth, Alaska Miners Association, proposed amending Section 2 to make "associations" applicable not only to persons but to corporations as well. The language in the Committee Substitute was intended to clarify which persons and associations are eligible to acquire mining rights. However, the clarification removed an ambiguity in the law, thereby inadvertently precluding partnerships and joint ventures from acquiring mining rights. I support Mr. Holdsworth's amendment.

Ron Sheardown proposed amending Section 8 to lengthen the term of an offshore prospecting lease, and to eliminate the per acreage rental for the first year of operation. In 1982, the Legislature tightened the terms of the offshore prospecting program to stress diligence and discourage speculation. Recognizing, however, that exploration for offshore mineral deposits requires examination of large areas and is expensive, time-consuming, and weather sensitive, the Committee Substitute increases the term of a prospecting permit, increases the acreage limitations under permit and lease, extends the carry-forward of expenditures against rentals from two to four years, and defers the first year's rental payment to the end of the second year. I feel this is a fair compromise between the miners' desire for long term exploration rights over large acreages and the Department's interest in encouraging diligent development of the State's mineral resources.

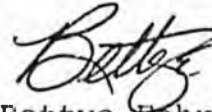
Representative Ringstad
Representative Shultz
April 5, 1984
Page 2

Ned Farquhar, Special Assistant to the Commissioner of the Department of Natural Resources, proposed amending Section 11 to further specify under what conditions a lease may be suspended. This section, which was added by the Senate Resources Committee, authorizes the Commissioner to assent to suspension of operation and production if necessary to promote development of a lease, or when a lease cannot be successfully operated under its terms. Further, the lessee must be reasonably close to attaining production and, despite diligent good faith efforts, be unable to produce because of situations beyond the lessee's reasonable control. The proposed amendment, while providing further direction to the Department, would remove some of the Commissioner's discretion in making the decision to suspend.

Mr. Holdsworth proposed amending Section 13, which governs recognition of mining locations. The change in the Committee Substitute was intended to clarify that mining claims on state land must be staked according to state methods. However, there is concern that if a miner inadvertently stakes with the federal method on state land because of an inability to determine land status, the claim would not be recognized by the Department. I support the amendment clarifying that if a claim is staked with the federal method it will be recognized, but that the Commissioner may require that the locator amend the mining location to conform with state methods.

Thank you again for your consideration of SB 371. I would be happy to work with you and your staff regarding the above amendments.

Sincerely,



Betty Fahrenkamp
Chairman

cc: House Resources Committee members
Commissioner Wunnicke, Department of Natural Resources
Phil Holdsworth, Alaska Miners Association
Ron Sheardown

BF:SS

STATEMENT OF ESTHER C. WUNNICKE,
COMMISSIONER OF THE DEPARTMENT OF NATURAL RESOURCES
REGARDING SB 371, RELATING TO MINING
BEFORE THE SENATE COMMITTEE ON RESOURCES
FEBRUARY 10, 1984

Senator Fahrenkamp, members of the Committee, I appreciate this opportunity to offer comments on the proposed legislation affecting our mining statutes. This Administration, under Governor Sheffield, has made a special new effort to improve our administration of Alaska's mineral estate.

The bill's major effect will be to ease the administrative burden on miners and the Department. Paperwork and conditions for filing and keeping up a mining claim will be reduced. I do not believe that any of the changes will cause harm to any other interest.

Earlier this week I recommended some changes to the bill, which my staff are available to comment on. These changes were largely to clarify wording rather than to change the intent of the legislation.

Thank you for your attention to the issues of mining. I commend the Committee for its important effort in improving the situation of mining in Alaska today. I look forward to working with you on SB 375 as well, affecting Title 38.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
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Senate

Committee on Resources

MINUTES

February 22, 1984
3:08 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chairman
Senator Ziegler, Vice Chair
Senator Vic Fischer
Senator Mulcahy
Senator Sturgulewski

CALENDAR

SB 335, An Act amending the Alaska Grain Reserve Program; and providing for an effective date.

SB 337, An Act relating to the Delta Junction bison range; and providing for an effective date.

SB 338, An Act making special appropriations for the development of the Delta Junction bison range and construction of a bison herd drift barrier; and providing for an effective date.

SB 371, An Act relating to mining; and providing for an effective date.

SB 378, An Act relating to agricultural and industrial fairs.

SB 335

Dean Brown, Deputy Director, Division of Agriculture, Department of Natural Resources, testified in support of the Bill and discussed DNR's proposed amendments that would convert the Alaska grain reserve loan fund to a revolving fund.

Senator Mulcahy moved to amend SB 335 to include DNR's amendments. There was no objection.

SB 337

SB 338

Dave Johnson, Area Game Biologist, Alaska Department of Fish and Game, testified in support of the bill that would continue a program of providing forage for bison, expand tourist facilities, create a Bison Range Advisory Committee, and construct a drift barrier to help resolve conflicts between farmers and bison.

Senator Bettye Fahrenkamp discussed a proposed amendment by Senator Pappy Moss that would change the location of the drift barrier.

Senator Sturgulewski moved to include Senator Moss's amendment in SB 337. There was no objection.

Senator Bettye Fahrenkamp recommended that the committee staff prepare an amendment clarifying the increased fee for bison hunting permits.

SB 378

Dean Brown, Deputy Director, Division of Agriculture, Department of Natural Resources, testified in support of the bill stating it would give the Department needed guidelines for defining agricultural and industrial fairs.

Senator Mulcahy moved to adopt SB 378 and move it from committee with individual recommendations. There was no objection.

SB 371

Pedro Denton, Director, Division of Mining, Department of Natural Resources, testified in support of the Committee Substitute and recommended an amendment that would establish the rental fee for the first two years of an offshore prospecting permit at \$6/acre.

Senator Ziegler moved adoption of the amendment. There was no objection.

Senator Mulcahy moved the bill from committee with individual recommendations. There was no objection.

The meeting was adjourned at 3:32 pm.

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KIRSTEN TINGLUM
ROBERT A. BASSETT

March 28, 1984

OF COUNSEL:
ROBERT C. ELY
JOSEPH A. McLEAN

VIA EXPRESS MAIL

Representative Rick Uehling
House Resources Committee
Alaska State Legislature
Pouch "V"
Juneau, Alaska 99811

Re: CSSB 371 (Res)

Gentlemen:

On behalf of the Executive Committee of the Natural Resources section of the Alaska Bar Association, I hereby submit the following comments on the Committee Substitute for Senate Bill No. 371 (Resources).

Section 2 (amending AS 38.05.190(a)).

The proposed amendment to AS 38.05.190(a)(5) would effectively prohibit corporations otherwise qualified to own state mining claims from forming associations such as partnerships or joint ventures for the purpose of owning and operating state mining claims. In order to correct this problem, we recommend that (1) current AS 38.05.190(a)(6) be renumbered to be AS 38.05.190(a)(5) and (2) current AS 38.05.190(a)(5) be renumbered to be AS 38.05.190(a)(6) and amended to read as follows: "(6) associations of persons described in (1) - (5) of this subsection."

removed an ambiguity in the law, & inadvertently precluded partnerships or joint ventures from acquiring mining rights

Section 3 (amending AS 38.05.195).

We propose that this section be amended by deleting from lines 8 and 9 on page 3 of CSSB 371 (Res) the language which requires the Commissioner to determine when staking in compliance with AS 38.05.195 is impractical. Both the federal

Representative Rick Uehling
March 28, 1984
Page #

mining law and the state mining law have always been designed to allow a claimant as much freedom as possible in choosing when and where to stake. Involving the Commissioner prior to the location of a claim would run contrary to this long established policy.

Section 4 (adding a new subsection to AS 38.05.210).

We believe that the addition of this proposed subsection authorizing amendments to affidavits of assessment work will cause much uncertainty and therefore will not be of benefit to the mining community. Current AS 38.05.265 expressly states that (1) failure to properly file for record a statement of annual labor constitutes abandonment of all rights acquired under the mining claim and (2) a statement of annual labor which does not accurately set out the essential facts is void and of no effect. We believe the mining community in general has been well served by the certainty afforded by AS 38.05.265 and that there is no need for proposed AS 38.05.210(b). More specifically, we do not believe that a claimant should be able to amend an affidavit (after the time for filing has expired) to include additional claims therein or to "accurately set out essential facts" omitted from the original affidavit. We therefore believe that this section should be deleted.

Section 5 (amending AS 38.05.240).

We believe that the words "without being limited to" should not be deleted from this section. Keeping these words in the section makes it clear that labor is not limited to survey work. Although language such as "without being limited to" may be duplicative in many situations, it provides much useful clarification in this section and should therefore be retained.

Section 7 (amending AS 38.05.245(c)).

In order to make it clear that the locator or owner of an expired or abandoned prospecting site may locate the lands formerly included in such site as a state mining claim or leasehold location, we recommend that (1) the period at the end of AS 38.05.245(c) be stricken, (2) a semicolon be added in place of the period, and (3) the following additional language be added at the end of said section: "provided, however, that the locator or a successor in interest of the locator of an expired or abandoned prospecting site may stake mining claims

Representative Rick Uehling
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Page #

or leasehold locations within the former boundaries of the site at any time."

Section 13 (amending AS 38.05.275).

Perhaps the most ill-advised amendment to the state mining laws proposed by CSSB 371 (Res) is the proposal to delete from current AS 38.05.275 the language "or in the manner described in AS 27.10." Deleting such language would destroy one of the principal purposes of the section, namely, to require the State to recognize mining claims inadvertently located under federal procedures on state lands. With so many past and present land status changes in Alaska, current AS 38.05.275 is an important source of protection for miners who do not have the time or the money to analyze complex land status situations every time they wish to locate a mining claim. We therefore recommend that such language be retained in AS 38.05.275.

intended to clarify that mining claims on state land must be staked according to state statute. Concern that if miner inadvertently stakes w/ federal method on state land, cause inability to determine land status, claim would not be recognized. Support amendment that clarifies this.

Also in connection with AS 38.05.275, we believe that the Legislature should take this opportunity to remove a clerical error from AS 38.05.275 by striking the word "of" the second time it appears in line 2 of page 9 of CSSB 371 (Res) and substituting therefor the word "or".

We thank you for the opportunity to make these comments, and we hope that you will make the changes we have recommended. If you have any questions concerning the foregoing, or if you need any additional information or assistance, please contact me.

Very truly yours,



Joseph J. Perkins, Jr.
Member, Executive Committee
Natural Resources Section of
the Alaska Bar Association

JJP/mkm

cc: Commissioner Esther Wunnicke
Mr. Pedro Denton
Carl J. D. Bauman, Esq.
Jeffrey B. Lowenfels, Esq.
Thomas E. Meacham, Esq.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
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POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
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Senate

Committee on Resources

TO: All Members of the Senate

FROM: Senator Fahrenkamp

RE: SB 371, An Act relating to mining.

DATE: May 19, 1984

The House has passed an amended version of SB 371, and returned it for consideration. A sectional summary of the Senate-passed version is attached. The following changes were made in the House:

page 2, line 19. Amend to read "persons described in (1)-~~(6)~~ (4)"

The Senate version of the bill contained a drafting change intended to clarify which persons and associations are eligible to acquire mining rights. By clarifying, an ambiguity in the law was removed, and partnerships and joint ventures were inadvertently precluded from acquiring mining rights. The House version clarifies that joint ventures and partnerships may acquire mining rights.

page 6, line 7. Amend to read "rental shall be \$3 ~~(\$6)~~ per acre"

Under current statute, the per acreage rental under an offshore prospecting permit is \$3 annually. The Senate version allowed a one year grace period, with \$6 due at the end of the first two years and \$3 due annually thereafter. The House version provides that no rental will be paid the first year under permit, recognizing that this first year is generally spent in obtaining environmental permits, and that no substantial operations are likely to occur the first year.

page 7, line 28. Amend to read "for a period of up to 20 ~~(10)~~ years"

Current statute, which was maintained in the Senate version, established a maximum 10 year term for a submerged land mining lease. The House version extends the term to 20 years, recognizing that a major project must generally have 20 years of ore reserves and land tenure before financing will be available. The capital expenditures required to engage in offshore mining operations are quite large, and therefore substantial financing must be arranged in order to undertake such operations.

Memo to All Senators

SB 371

Page 2

page 8, line 17. Add, "A suspension or extension granted under this subsection may not exceed two years."

The Senate version of SB 371 authorized the Department of Natural Resources to suspend or extend a lease under certain conditions. The House version limits any such extension to two years.

page 9, line 11. Add "or in the manner described in AS 27.10"

page 9, line 23. Add, "If the mining location is made in the manner described in AS 27.10, the commissioner may require that the locator amend the mining location to conform with AS 38.05.185-38.05.280 and thereafter to comply with the requirements of AS 38.05.185-38.05.280."

The Senate version was intended to clarify that mining claims on state land must be staked according to state statute. The House version is in response to a concern that the claim of a miner who inadvertently stakes with the federal method on state land because of an inability to determine land status would not be recognized. It clarifies that if a claim on state land is staked with the federal method, the commissioner may require that the locator amend the mining location to conform with state methods.

Alaska State Legislature

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Senate

Committee on Resources

March 1, 1984

AN ACT RELATING TO MINING CSSB 371 (Res)

Sec. 1 Because of the lengthy time involved for coal exploration, extends the coal prospecting permit term from 2 years with one 2-year extension to 3 years with three 2-year extensions.

Sec. 2 Lowers the minimum age of eligibility for acquiring exploratory and mining rights from 19 to 18 to be consistent with the current age of majority for most activities in Alaska.

Sec. 3 Amends the requirement that mining claims be staked in the four cardinal directions to not apply to fractional claims or where the commissioner determines such staking is impractical.

Sec. 4 Allows affidavits of annual labor to be corrected by amendment, thus providing a legal mechanism for correcting errors.

Sec. 5 Deletes the provision that basic survey finds be filed with DNR as it can result in the "leaking" of proprietary information, and the information is often of mixed quality.

Sec. 6 Deletes the requirement to file a certificate of mining location with DNR. This is duplicative language, as the certificate must be filed with the District Recorder's Office, which is within DNR.

Sec. 7 Increases the number of prospecting sites allowed from "six located in one calendar year in one recording district" to "eight held in one township at one time". This will encourage the use of prospecting sites where discovery hasn't been made, and address a loophole whereby employees of large companies locate sites and quitclaim deed them to the company.

C.S. Sec. 8 Provides for a delay in acreage rental payments for the 1st year to allow time to become operational; the 1st 2 years rental is due at the end of the 2nd year. Increases the time during which excess expenditures may be applied against rentals from 2 to 4 years. Clarifies that the rental year for a prospecting permit on tide or submerged lands expires on the anniversary of issuance, not the end of the calendar year.

C.S. Sec. 9 Effective 1/1/85, increases the acreage that may be held under an offshore prospecting permit from 100,000 to 300,000 acres, and under a lease from 46,080 to 100,000 acres.

Sec. 10 Clarifies that a prospecting permit is required before a noncompetitive lease can be issued for mineral extraction on submerged lands.

C.S. Sec. 11 Authorizes the Commissioner to assent to the suspension of operations and production on submerged lands without affecting the integrity of the lease if certain conditions are present.

Sec. 12 Changes the length of time following the abandonment of a prospecting site that the former owner must wait before acquiring any beneficial interest in the site from 2 years to 1. This is consistent with the waiting period for claims that have been staked or located.

Sec. 13 Deletes the requirement to file a certificate of mining location on shorelands, tidelands, or submerged lands with the DNR. This is duplicative language (see Sec. 6).

Sec. 14 The state maintains only one assay lab (on the U.A.F. campus). Deletes the requirement that a public assay office be located in each of the 4 judicial districts, to reflect the reality of the situation.

Sec. 15 Repeals the mineral prospecting equipment loan program. DNR no longer conducts such a program. Repeals the requirement that "grubstaking" contracts be in writing. This is the only provision in Title 27 dealing specifically with mining on state-owned lands, and is not necessary as most people realize that contracts should be in writing.

C.S. Sec. 16 Effective dates are intended to lessen disruption of field operations and DNR's ongoing offshore prospecting permitting process.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-465-2400

April 2, 1984

The Honorable Bettye Fahrenkamp
Alaska State Senate
Pouch V
Juneau, AK 99801

Dear Senator Fahrenkamp:

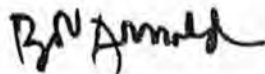
Per the discussions of our staffs, I am submitting a proposal for amendment to CSS 371 (Res), the mining bill sponsored by you that is now before the House Committee on Resources. In the drafting stages of the bill, as it passed from your Committee, language that had been agreed to was dropped from Section 11 (p.7, line 23).

The wording that we propose adding is significant in that it would establish standard, similar to those elsewhere in existing statutes affecting leasing and suspension of leases (see AS 38.05.140(d)), for the Commissioner's consideration of lease suspension. Without these standards, I believe that the Commissioner of the Department will lack a framework for consideration of applications for lease suspensions.

I understand that you hope to see the bill proceed without substantive amendment, so I am offering this language for your consideration before taking it to the House Resources Committee. It is my belief that our proposal would not significantly alter the bill but that it simply embodies the substance of our understanding with you and the Alaska Miners Association.

Thank you for your interest in this bill. Please contact me if any further information would be helpful.

Sincerely,



Robert D. Arnold
Deputy Commissioner

Attachment

cc: The Honorable John Ringstad, Chairman,
House Committee on Resources

"The Commissioner, for the purpose of encouraging the greatest ultimate recovery of minerals under this section and in the interest of conservation, may, on the request of the lessee, assent to the suspension of operation and production under a lease whenever in the judgement of the commissioner the suspension is necessary to promote development of the lease or the lease cannot be successfully operated under its terms. The payment of acreage rental may be suspended during the period of suspension of operation and production. The suspension of the lease shall extend the term of the lease by adding the period of suspension to the lease. The Commissioner may extend the term of a nonproducing lease on an application by the lessee accompanied by a showing that the lessee is reasonably close to attaining production and that, despite diligent good faith efforts by the lessee, the lessee is not able to produce due to force majeure, depressed market conditions, or other situations beyond the reasonable control of the lessee.

MEMORANDUM

State of Alaska

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINERALS AND ENERGY MANAGEMENT

TO: Esther C. Wunnicke
Commissioner

DATE: October 25, 1983

Thru: Kay Brown
Director, DMEM

FILE NO:

TELEPHONE NO: 276-2653

FROM: David Hedderly-Smith, DMEM
Deputy Director, Minerals

SUBJECT: Decision Memorandum
No. 53.
Basic Survey Finds

STATEMENT OF THE ISSUE

Should the submittal of "basic survey finds" as part of the annual labor requirement to maintain a state mining claim in good standing be continued as is, modified, or no longer required?

BACKGROUND

Alaska Statutes require that two documents be submitted to substantiate the \$200 annual labor requirement to maintain a state mining claim in good standing: 1) an Affidavit of Annual Labor (accompanied by a "detailed report" if geological, geochemical or geophysical "survey work" is claimed for annual labor) and 2) basic survey findings when such "survey work" is claimed as annual labor. The Affidavit of Annual Labor is filed for record in the appropriate district recording office and must include the name of the claim, the name of the owner, the number of days work performed, the value and character of the work, and the names of the persons who conducted the work. If "survey work" is claimed for annual labor, the accompanying "detailed report" must set out the nature and location of the work performed and the professional background of whomever performed it. The "basic survey finds" are submitted to DMEM and are defined by 11 AAC 86.220(e) as information "that can be readily used by the state or the public such as maps, reports, and analyses prepared by qualified experts". Basic survey finds are kept confidential and released only if the claim lapses. (AS.38.05.240). However, no basic survey finds have ever been released nor is there a mechanism in place for such a release.

The statutes and regulations do not provide a clear understanding of acceptable basic survey finds. Information "that can be used by the public and state such as maps, reports and analyses" implies that detailed data is to be submitted, but is subject to interpretation and causes confusion among those submitting basic survey finds and those adjudicating them. The difference between state and federal mining law adds to this confusion. Federal law requires the basic findings of the survey work to be included in the Affidavit of Annual Labor (as in the "detailed report"), and it is the practice (with federal claims) to give a very general narrative description without quantitative results. While such a narrative may be acceptable as the "detailed report" to accompany the Affidavit of Annual Labor for a state mining claim, it is not sufficient to meet state requirements for basic survey finds.

The unclear language has led to several problems in dealing with basic survey finds during the annual labor adjudication process, as outlined below:

- 1) Acceptance of annual labor can be delayed for months while additional data is requested and reviewed.
- 2) Miners are often resistant to submit confidential technical data under such poorly defined guidelines. This creates conflict and ill feelings between the miners and DNR.
- 3) The quality of data is inconsistent. Because of the difficulties of requiring specific data under the current regulations, sub-standard data is sometimes accepted.
- 4) All of the above obviously increases the administrative burden in the adjudication of annual labor affidavits.

Basic survey findings, if properly collected and released after the claim has lapsed, could benefit both the state and the mining community. The positive aspects of this program would include:

- 1) The data could be utilized by the state for land management, planning, and resource appraisal.
- 2) Release of the data to the mining community would encourage exploration and mining on state lands. The data may be interpreted in a different manner leading to renewed interest in the area and perhaps the eventual development of a mineral deposit.
- 3) Exploration dollars could be spent more efficiently. Basic survey find data would form a data base for mineral prospects throughout the state. Miners could build upon this data base rather than spend money duplicating data already in DMEM files.
- 4) Compliance with AS 38.05.240 would be assured with the collection and, upon abandonment of a mining claim, release of basic survey finds.

ISSUES

The issues to consider prior to deciding whether to continue the program as is, modify the program, or no longer require basic survey finds are:

- 1) Does the department wish to release basic survey findings data for use by the state and the public?
- 2) Does the release of this data jeopardize an investment a miner has made even after the claim has lapsed? Firms occasionally sell such proprietary data to others years after a claim has lapsed.
- 3) Does requiring basic survey finds put an unnecessary burden of time and expense on the miner to prepare the information?
- 4) Does the department have the resources to implement the program effectively so that existing and future data is catalogued and released when claims lapse? If so, does the department wish to dedicate such resources to this program?
- 5) Do the administrative burdens and voiced opposition from the mining community outweigh potential benefits of the program?

OPTIONS-

- 1) Maintain the Present System. Choosing this option would require no changes.
- 2) Modify the Regulations to Better Define Basic Survey Finds. Choosing this option would require promulgating new regulations to define in detail the requirements of basic survey finds submittals. This option would lessen the administrative burden and allow significantly less variation in the quality of data. This option will be effective only if a mechanism is established to make basic survey finds data from lapsed mining claims available to interested parties. This could be accomplished by a DGGs review and cataloging of data from lapsed mining claims and the establishment of a simple procedure to make this data available to the public. Once the procedure is established, the data can be released on an annual basis with relatively minor administrative overhead.
- 3) Not Require Basic Survey Finds. This option will require amendment to regulation and will probably also require statutory amendment. The miner would still file the affidavit of annual labor and the "detailed report". Adjudication of affidavits of annual labor would continue; however, technical data to support the work claimed on the affidavit would not be required. The sworn statement of the miner would be accepted as prima facie evidence of performance of the survey work. Administrative overhead in the mining section would be lessened, and the annual labor adjudication process could be completed in a more timely manner.

RECOMMENDED ACTION

cc: Ross Schaff
Tom Hawkins

Recommended concurrence:

Robert D. Arnold, Deputy Commissioner

James K. Barnett, Deputy Commissioner

I concur with the recommended action

Esther C. Wunnicke, Commissioner

Sec. 38.05.240. Labor defined for §§ 210 - 235 of this chapter. The term "labor" where used in §§ 210 - 235 of this chapter includes, without being limited to, geological, geochemical, geophysical, and airborne surveys conducted by qualified experts and verified by a detailed report filed in the recording office in which claim is located which sets out fully (1) the location of the work performed in relation to the point of discovery and boundaries of the claim, (2) the nature, extent, and cost thereof, and (3) the name, address, and professional background of the person or persons conducting the work. [BASIC SURVEY FINDS SHALL BE FILED IN THE CENTRAL RECORDING OFFICE OF THE DEPARTMENT OF NATURAL RESOURCES, BUT KEPT CONFIDENTIAL AND RELEASED ONLY IF THE CLAIM OR PROSPECTING SITE LAPSES. THE COMMISSIONER, BY REGULATION, SHALL DEFINE THE NATURE OF ACCEPTABLE SURVEY WORK AND THE QUALIFICATIONS OF A PERSON COMPETENT TO PERFORM THIS WORK.] The airborne surveys, however, may not be applied as labor for more than two consecutive years or for more than a total of five years on any one mining claim, and each of those surveys shall be nonrepetitive of any previous survey on the same claim. (§ 47-3-61 ACLA 1949; added by § 1 ch 67 SLA 1960; am § 2 ch 88 SLA 1970)

Cross reference - See 1962 revisor's note to AS 38.05.215.

JG/cw/0819M

MEMORANDUM

State of Alaska

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINERALS AND ENERGY MANAGEMENT

TO: Esther C. Wunnicke
Commissioner

DATE: October 21, 1983

FILE NO:

TELEPHONE NO: 276-2653

FROM: Kay Brown
Director

SUBJECT: Additional AS 38
Changes

As we discussed in my meeting with you yesterday, my staff has found two additional items that need to be included in DNR's package of proposed changes to AS 38. After our meeting I talked to Pat Pourchot about these amendments and he is willing to add them to Senator Fahrenkamp's package of possible changes.

AS 38.05.205. Amend by deleting the two-weeks-or-less notice that must be published before the lease application can be sent to the leasehold locator. AS 38.05.345(e) should probably be deleted at the same time. The combined effect will be to treat mining leases like other noncompetitive surface and mineral leases: notice is published only when the AS 38.05.035(a)(14) finding is ready, and no subsequent notice of lease issuance is given.

AS 38.05.240. Delete the sentence referring to basic survey finds. The mining industry objects to this requirement because it considers the information proprietary, regardless of whether the location has been abandoned. Because of its very mixed quality, the data submitted serves no particular public benefit and poses an administrative burden on the department.

cc: Pat Pourchot

1-11-84

Kay Brown

Mary Kay Hession

Laura Murphy

1973 Kachemak Bay lease - went to court.
One finding was that no best interest
finding had been done. Number of
ONR programs were put on hold
(offshore prospecting permit, coal
leasing, oil ^{none 174-179} & gas sales). Decided that
whenever state alienate interest in
land, admin. must rationalize in
writing why.

So now best interest findings are generally
extensive. Sketchy ones (like an outline)
done on smaller projects have not been
tested in court.

RE Permits

Coastal Mgt. Act more than adequately
covers anything that takes place ^{we want to} within the
coastal zone. If ~~do~~ require best interest
for permits, do just for those outside boundary
of coastal zone.

Do .035 finding for things called permits
that are actually ~~to be~~ disposals of land or interest.

PROPOSED RESOURCES COMMITTEE SUBSTITUTE:

- CLARIFYING CHANGES RECOMMENDED BY DNR

PROPOSED AMENDMENTS:

#1 [The permittee is entitled to a lease for all or part
of the land in the permit if, at any time during
BY DNR the effective period of the permit which may not exceed
p. 1 9 years, the permittee shows to the commissioner that the
lines 21-27 land contains coal in commercial quantities and the
permittee submits a satisfactory mining plan for the
recovery of the coal. The commissioner may lease additional
land determined necessary for a mining reclamation or
processing operation.]

At any time during the effective period of the permit,
the permittee is entitled to a lease, after submitting
a satisfactory mining plan, for that portion of the land
in the permit as is shown, to the commissioner's
satisfaction, to contain coal in commercial quantities
or to be needed for mining, reclamation, or processing
that coal.

COMMENT: Intent appears to be unchanged. We should
get a comment from the miners (Holdsworth) on this one.

#2 Mining locations made on state land, including shorelands,
p. 7 tidelands or submerged land, or state selected land,
lines 13-20 under AS 38.05.185-280 [or in the manner described
in AS 27.10] acquire for the locator mining rights
under AS 38.05.185-.280, subject to existing claims
and to any denial of or restriction in the tentative
approval of state selection of the patent of the land
to the state.

COMMENT: The wording as it exists encourages two
methods of claimstaking (federal and state) even on
lands that are state-owned.

QUESTION: How do the 2 staking methods differ? Is
the federal method commonly used on state lands?

Alaska State Legislature

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Senate

Committee on Resources

TO: Senate Resources Committee Members
FROM: Senate Resources Committee Staff
RE: Redraft of SB 371, An Act relating to mining.
DATE: February 13, 1984

Please find attached a revised Committee Substitute for SB 371 based on amendments proposed at our February 10 hearing. The following changes have been incorporated:

1. Restructures Sec. 1 on coal permits for clarity.
2. Extends the term of an offshore prospecting permit from 7 to 10 years.
3. Extends the length of time during which excess expenditures on a claim may be applied against rentals from 2 to 4 years.
4. Delays payment for the first year of the \$3/acre rental fee.
5. Increases the acreage limitation of an offshore prospecting permit from 100,000 to 300,000 acres, effective January 1, 1985.
6. Increases the acreage limitation for offshore leases from 16,080 acres to 100,000 acres, effective January 1, 1985.
7. Allows the Commissioner to allow reasonable shutdowns in production without terminating the lease.
8. Amends the language regarding abandonment to conform with the requirement that a certificate of location be filed only with the recording district and not with the director.
9. Current statute encourages two methods of staking (federal and state) even on lands that are State-owned. Amends the statute to require State staking methods on State land.

Action will be taken on this bill today at 3:00 just prior to our APA briefing by the APA.

Introduced: 1/24/84
Referred: Resources and
Finance

Resources Committee
BY [FAHRENKAMP]

1 IN THE SENATE

2

CS SENATE BILL NO. 371

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to mining; and providing for an
7 effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 38.05.150(c) is amended to read:

10 (c) Where prospecting or exploration work is necessary to deter-
 11 mine the existence or workability of coal deposits in an unclaimed and
 12 undeveloped area, the commissioner may issue to qualified applicants
 13 prospecting permits for a term of three [TWO] years, covering not more
 14 than [EXCEEDING] 5,120 acres with each permit. The commissioner shall
 15 grant a two-year extension of the initial three-year term of the per-
 16 mit if the permittee has conducted reasonably diligent ^{prospecting or} exploration
 17 activities in the area covered by the permit, has ^{been able to} not ^{determined} the
 18 existence and workability of coal deposits in the area, and wishes to
 19 continue prospecting or exploring in the area. The commissioner may
 20 grant up to three two-year extensions of the initial three-year term
 21 of the permit. ^{At any time during the effective period of the permit,} The permittee is entitled to a lease ^{for all or part}
 22 of ^{that portion of} the land in the permit [if, at any time during the effective period
 23 of the permit which may not exceed nine years, the permittee shows -- to
 24 as is shown, to the commissioner's satisfaction, to
 25 the commissioner that the land ^{contains} coal in commercial quantities
 26 [and the permittee submits a satisfactory mining plan for the recovery
 27 of the coal. The commissioner may lease additional land determined
 28 ^{or to be needed for} necessary for a ^{that coal} mining, reclamation or processing ^{operation}.] [IF WITH-
 29 IN THE PERIOD OF TWO YEARS THE PERMITTEE SHOWS TO THE COMMISSIONER
THAT THE LAND CONTAINS COAL IN COMMERCIAL QUANTITIES AND SUBMITS A

①

1 SATISFACTORY MINING PLAN FOR THE COAL'S RECOVERY, THE PERMITTEE SHALL
2 BE ENTITLED TO A LEASE FOR ALL OR PART OF THE LAND IN HIS PERMIT. A
3 COAL PROSPECTING PERMIT MAY BE EXTENDED BY THE COMMISSIONER FOR A
4 PERIOD OF TWO YEARS, IF HE FINDS THAT THE PERMITTEE HAS BEEN UNABLE,
5 WITH THE EXERCISE OF REASONABLE DILIGENCE, TO DETERMINE THE EXISTENCE
6 OR WORKABILITY OF COAL DEPOSITS IN THE AREA COVERED BY THE PERMIT AND
7 DESIRES TO PROSECUTE FURTHER PROSPECTING OR EXPLORATION, OR FOR OTHER
8 REASONS IN THE OPINION OF THE COMMISSIONER WARRANTING EXTENSION.]

9 * Sec. 2. AS 38.05.190(a) is amended to read:

10 (a) The right to acquire exploration and mining rights under
11 AS 38.05.185 - 38.05.280 may be acquired or held only by

12 (1) citizens of the United States at least 18 [19] years of
13 age;

14 (2) legal guardians or trustees of citizens of the United
15 States under 18 [19] years of age on behalf of the [SUCH] citizens;

16 (3) persons at least 18 [19] years of age who have declared
17 their intention to become citizens of the United States;

18 (4) aliens at least 18 [19] years of age if the laws of
19 their country grant like privileges to citizens of the United States;

20 (5) associations of the [SUCH] persons;

21 (6) corporations organized under the laws of the United
22 States or of any state or territory of the United States and qualified
23 to do business in this state, except that if more than 50 percent of
24 the stock of a corporation is owned or controlled by aliens who are
25 not qualified, the corporation is not qualified to acquire or hold the
26 [SUCH] rights.

27 * Sec. 3. AS 38.05.195 is amended to read:

28 Sec. 38.05.195. MINING CLAIMS. Rights to deposits of minerals
29 subject to AS 38.05.185 - 38.05.280 in or on state land that is [LANDS

1 WHICH ARE] open to claim staking may be acquired by discovery, loca-
2 tion and filing as prescribed in AS 38.05.185 - 38.05.280. The loca-
3 tor has the exclusive right of possession and extraction of the [ALL
4 SUCH] minerals subject to AS 38.05.185 - 38.05.280 lying within the
5 boundaries of the [HIS] claim. A location may not exceed 1,320 feet
6 in its longest dimension, and ^{the} ~~[its]~~ boundaries ^{of any claim located after the effective date of} shall run in the four ^{this} cardinal directions ^{section} unless the claim is a fractional claim or the
7 commissioner determines that staking in compliance with this section
8 is impractical because of local topography or because of the location
9 of other claims. A location shall be distinctly marked on the ground
10 in the manner prescribed by the commissioner and a notice of location
11 shall be posted on the claim in the manner and containing the
12 information required by the commissioner. Within 90 days after the
13 date of posting the notice of location on the claim, the locator shall
14 file for record in the recording district where the claim is located a
15 certificate of location. The certificate of location shall contain
16 the information required by the commissioner. Locations may be
17 amended in the manner and with the effect prescribed in AS 38.05.200.
18 Annual labor shall be performed and statements of annual labor
19 recorded as prescribed in AS 38.05.210 - 38.05.235.

21 * Sec. 4. AS 38.05.210 is amended by adding a new subsection to read:

22 (b) The statement of annual labor required in (a) of this sec-
23 tion may be amended within two years of the date by which the annual
24 labor statement was required to be filed. An amended statement shall
25 be filed for record in the same manner as the original statement.
26 Additional labor claimed in an amended statement may not be applied
27 against labor required to be done during a subsequent year.

28 * Sec. 5. AS 38.05.240 is amended to read:

29 Sec. 38.05.240. LABOR DEFINED FOR AS 38.05.210 - 38.05.235. 10

1 AS 38.05.210 - 38.05.235, "labor" includes [THE TERM "LABOR" WHERE
2 USED IN SECS. 210 - 235 OF THIS CHAPTER INCLUDES, WITHOUT BEING LIMIT-
3 ED TO,] geological, geochemical, geophysical, and airborne surveys
4 conducted by qualified experts and verified by a detailed report filed
5 in the recording district office in which the claim is located which
6 sets out fully (1) the location of the work performed in relation to
7 the point of discovery and boundaries of the claim, (2) the nature,
8 extent, and cost of it [THEREOF], and (3) the name, address, and
9 professional background of the person [OR PERSONS] conducting the
10 work. [BASIC SURVEY FINDS SHALL BE FILED IN THE CENTRAL RECORDING
11 OFFICE OF THE DEPARTMENT OF NATURAL RESOURCES, BUT KEPT CONFIDENTIAL
12 AND RELEASED ONLY IF THE CLAIM OR PROSPECTING SITE LAPSES.] The
13 commissioner, by regulation, shall define the nature of acceptable
14 survey work and the qualifications of a person competent to perform
15 this work. The airborne surveys, however, may not be applied as labor
16 for more than two consecutive years or for more than a total of five
17 years on any one mining claim, and each of those surveys shall be
18 nonrepetitive of any previous survey on the same claim.

19 * Sec. 6. AS 38.05.245(a) is amended to read:

20 (a) Before the discovery of valuable minerals, an exclusive
21 right to prospect by geophysical, geochemical and similar methods may
22 be acquired by marking boundaries and posting a notice of location of
23 a prospecting site in a manner and containing the [SUCH] information
24 [AS] the commissioner requires. A prospecting site may not exceed
25 2,640 feet in its longest dimension and its boundaries shall run in
26 the four cardinal directions. A certificate of location shall be
27 filed for record in the recording district where the prospecting site
28 is located within 90 days after posting the notice of location [, AND
29 A COPY OF THE CERTIFICATE SHALL ALSO BE MAILED TO THE DIRECTOR WITHIN

1 THE 90 DAY PERIOD]. The locator of a prospecting site has the exclu-
2 sive right to stake mining claims or leasehold locations within the
3 boundaries of the [HIS] site.

4 * Sec. 7. AS 38.05.245(c) is amended to read:

5 (c) A [NO] person may not hold [LOCATE] more than eight [SIX]
6 prospecting sites in one township at one time [CALENDAR YEAR IN ONE
7 RECORDING DISTRICT]. A prospecting site remains in effect for one
8 year after the notice of location is posted and may, at the discretion
9 of the director, be extended for one year periods. During each year,
10 work of a type compatible with the purpose of this section and accept-
11 able to the director shall be done. The minimum expenditure for the
12 work shall be established by the commissioner uniformly for all pros-
13 pecting sites. Where adjacent prospecting sites are held in common
14 the expenditure may be made on any one or more locations. If a pros-
15 pecting site expires, neither the locator nor a [HIS] successor in
16 interest of the locator may again hold [LOCATE] the same prospecting
17 site or any portion of it, as a prospecting site, for a period of one
18 year [TWO YEARS] following the date of expiration or abandonment; nor
19 may the locator ^{nor a successor in interest of the locator} [HE], during the year [TWO YEARS], either directly or
20 indirectly, obtain a beneficial interest in the same prospecting site
21 or a portion of it.

22 * Sec. 8. AS 38.05.250(a) is amended to read:

23 (a) The exclusiv right to prospect for deposits of minerals
24 subject to AS 38.05.185 - 38.05.275 in or on tide and submerged state
25 land [LANDS] may be granted by a permit issued by the director. Per-
26 mits shall be granted to the first qualified applicant. No permit may
27 include an area larger than 2,560 acres, subject to the rule of ap-
28 proximation. Land [LANDS] subject to a prospecting permit shall be as
29 compact in form as possible taking into consideration the area

② 1 involved. The term of the permit shall be ^{ten} ~~seven~~ years. Prospecting
2 permits shall be conditioned upon payment of rental against which
3 credit shall be given for useful expenditures on land covered by the
4 permit or group of contiguous permits under common ownership or assign-
5 ment. Excess expenditures may be applied against rentals due for the
6 following ^{four} ~~two~~ years. The rental shall be \$3 per acre for ~~each year~~
7 ^{thereafter} ~~payable annually on the anniversary date of the permit~~ [AT THE END OF
8 EACH YEAR]. No minerals from land [LANDS] under a prospecting permit
9 may be mined and marketed or used, except for limited amounts neces-
10 sary for sampling or testing. No person may take or hold prospecting
11 permits for minerals on state land under this section exceeding in the
12 aggregate 100,000 acres. No person may take or hold leases for miner-
13 als on state land under this section exceeding in the aggregate 46,080
14 acres.

the first 2-year period of the permit, payable on the 2nd anniversary of the permit, and \$3 per acre for

Effective January 1, 1985, prospecting permits ... aggregate 300,000 acres... leases ... aggregate 100,000 acres.

* Sec. 9. AS 38.05.250(b) is amended to read:

(b) [UPON DISCOVERY, THE RIGHT TO POSSESS AND EXTRACT THE MINERALS MAY BE ACQUIRED BY NONCOMPETITIVE LEASE.] A noncompetitive lease shall be granted to a holder of a prospecting permit for so much of the land subject to the permit as is shown to the satisfaction of the director to contain workable mineral deposits. Submerged land [LANDS] containing known deposits of minerals subject to AS 38.05.185 - 38.05.275 may, in the discretion of the director, be offered by competitive bid. The land [THESE LANDS] shall be leased to the responsible qualified person offering the highest amount of cash bonus.

* Sec. 10. AS 38.05.265 is amended to read:

Sec. 38.05.265. ABANDONMENT. Failure to (1) properly file for record a certificate of location or a statement of annual labor, or (2) file with the director within the time prescribed a lease application [or a copy of a prospecting site location certificate] or (3) pay

① is on following sheet

③

7) for inclusion in CSSB 371(Res)

New section 8.05.250(d)

The Commissioner, [for the purpose of encouraging the greatest ultimate recovery of minerals under this section, and in the interest of conservation,] may, upon the lessee's request, assent to the suspension of operation and production under a lease whenever in the Commissioner's judgement it is necessary in order to promote development or the lease cannot be successfully operated under its terms. The payment of acreage rental may be suspended during the period of suspension of operation and production. The term of the lease shall be extended by adding the period of suspension to the lease. The Commissioner may extend the term of a non-producing lease upon an application by the lessee accompanied by a showing that the lessee is reasonably close to attaining production and that, despite diligent good faith efforts by the lessee, the lease is not producing due to force majeure, depressed market conditions, [equipment availability,] or other situations beyond the lessee's reasonable control.

reason -
extraneous
to action

doesn't really
add anything
H Res

1 rental or receive credit for rental, or (4) keep location boundaries
2 clearly marked, all as required by AS 38.05.185 - 38.05.280 and by
3 regulations adopted under these sections, constitutes abandonment of
4 all rights acquired under the mining lease, location, or site in-
5 volved, and it is subject to relocation by others. If a location is
6 not relocated by another person within [WITH] one year after the
7 [SUCH] failure, [OR, IN THE CASE OF A PROSPECTING SITE, TWO YEARS,]
8 the locator or claimant of the abandoned location, or a [HIS] succes-
9 sor in interest, may return to relocate it as though it had never been
10 located. A statement of annual labor which does not accurately set
11 out the essential facts is void and of no effect.

12 * Sec. 11. AS 38.05.275 is amended to read:

13 Sec. 38.05.275. RECOGNITION OF LOCATIONS. Mining locations
14 made on state land [LANDS], including shorelands, tidelands or sub-
15 merged land [LANDS,] or state selected land [LANDS], under AS 38.05.-
16 185 - 38.05.280 [or in the manner described in AS 27.10] acquire for the
17 locator mining rights under AS 38.05.185 - 38.05.280, subject to
18 existing claims and to any denial of or restriction in the tentative
19 approval of state selection of the patent of the land [LANDS] to the
20 state. If shorelands, tidelands or submerged land is [LANDS ARE]
21 included in a mining location or within the projected boundaries of a
22 mining location made in accordance with this section, the locator
23 shall [IS REQUIRED TO] file a certificate of location under [WITH THE
24 DIVISION OF LANDS WITHIN 90 DAYS FOLLOWING THE DATE OF POSTING THE
25 NOTICE OF LOCATION, IN ADDITION TO FILING A CERTIFICATE OF LOCATION AS
26 REQUIRED BY] AS 38.05.195. The certificate of location must identify
27 the position of the mining location in the system of rectangular or
28 protracted surveys.

29 * Sec. 12. AS 27.05.080 is amended to read:

1 Sec. 27.05.080. PUBLIC ASSAY OFFICES. The department shall, for
2 the purpose of aiding bona fide miners and prospectors and stimulating
3 mineral discoveries, establish a [AT LEAST ONE] public assay office
4 [IN EACH OF THE FOUR JUDICIAL DISTRICTS]. The department may adopt
5 regulations and establish procedures considered necessary and expedi-
6 ent to carry out this section and AS 27.05.090.

7 * Sec. 13. AS 27.05.180 - 27.05.210 and AS 27.15.010 are repealed.

8 * Sec. 14. [This Act takes effect July 1, 1984.] Sections 1, 2, 4, 5,
7-10, 12, 13 of this Act take effect July 1, 1984.

* Sec 15. Section 3 of this Act take effect January 1, 1985.

* Sec. 16. Sections 6 and 11 of this Act takes effect
September 1, 1984.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-485-2400

February 17, 1984

The Honorable Bettye Fahrenkamp
Chairperson
Senate Resources Committee
Pouch V
Juneau, AK 99811

Dear Senator Fahrenkamp:

The Department of Natural Resources appreciates the opportunity to comment on the amendments to SB 371 that were proposed on behalf of the Alaska Miners Association last week. The proposed amendments would substantially weaken statutory requirements imposed by the Legislature only two years ago, at the request of the Department of Natural Resources. The 1982 amendments struck a fair balance between offshore prospecting permit applicants' desires for exclusive, long-term exploration rights over large acreages, and the department's mandate for diligent development of the State's mineral resources.

Perhaps the following background information on the offshore mining program will be useful to your committee's deliberations. There have been two previous revisions to AS 38.05.250. The 1961 version was quite restrictive: Prospecting permits were issued for only two years with a possible two-year extension, and the amount of land each person could hold was limited to 5,120 acres. In 1966 the statute was greatly liberalized, with the term of a prospecting permit increased to ten years, the acreage limit dropped entirely, and no rental due until two years after the prospecting permit's issuance. Approximately 8,000 offshore prospecting permits were issued in all, but only eight were converted to lease after discoveries of workable mineral deposits, and only one ever went into commercial production. Although diligent exploration took place on some of the prospecting permits, up to 80% of them were relinquished at the end of their second year when the first rental payment fell due. The generous terms of the 1966 statute may have drawn many people into the program who were not ready to undertake mineral exploration.

When the disposal and public notice laws were rewritten after the Supreme Court decision on the Kachemak Bay oil and gas lease sale, the program had to be suspended. In preparation for reopening under the new, much more expensive and time-consuming disposal procedures, the department asked the Legislature to consider tightening the terms of AS 38.05.250 somewhat to stress diligence and ensure that permits would not be issued only to result in large acreages being held for speculation. It responded in 1982 by reducing the duration of prospecting permits to

seven years, setting the primary term of the lease at ten years (with extension upon production), requiring rent to be paid at the end of each year (with the permittee's or lessee's expenses credited against the rental), and limiting permittees to 100,000 acres each and lessees to 46,080 acres. The department considered these statutory revisions to be a workable compromise between the two previous extremes and promptly amended its regulations to implement them. A large disposal under these new procedures is currently underway in Cook Inlet.

Making further substantive amendments at this time could seriously disrupt the Cook Inlet disposal. If you decide to proceed with such amendments, we would ask that the effective date be deferred until the first of January, 1985. As an example of the difficulties that would arise if the statute were amended in the midst of the disposal, prospecting permit forms must be drafted and printed within the next several weeks (permit issuance is to begin May 15, with another round beginning in early fall). Permit duration must be known with certainty before the forms are printed. And well before May 15, applicants must fill out qualification statements, including an official statement of conformance with acreage limitations. Thus, the acreage limits must also remain stable throughout the Cook Inlet disposal to avoid confusion. In addition, if the statute is amended we would need time to amend our regulations accordingly.

Increasing the prospecting permit acreage limit to 300,000 acres is of particular concern. If that change took place without a delayed effective date, by November of this year it would result in 120 tracts in Cook Inlet - representing three-fourths of all prospecting permits statewide - being held by an outside corporation. There could be public concern about concentrating exclusive exploration rights under one company's control.

Other specific concerns are outlined below:

Proposed amendment 1
(Change term of prospecting permit from 7 to 10 years).

In our view, seven years is a sufficiently long time for a diligent applicant to discover workable deposits on an offshore tract.

Proposed amendment 2
(Change rental from \$3 per year from issuance to \$3 for the first 2 years, then \$3 per year thereafter).

Concern that delays in obtaining necessary federal permits might effectively prohibit performance of labor in lieu of the payment of the \$3 per acre annual rental in the first year of a permit's term is valid. However, the diligence requirement for an offshore prospecting permit should not be lessened during the initial years. We suggest a compromise of \$6 per acre for the first two years, payable at the end of the second year, and then \$3 per acre per year thereafter.

February 17, 1984

Proposed amendment 3
(Change acreage
limitation for OPPs
from 100,000 acres to
300,000 acres and for
leases from 46,080 to
100,000).

We are not aware of an actual need for
this amendment. See also above.

Proposed amendment 4
(Change term of lease
from 10 to 20 years).

The term of an offshore mining lease in
the present statute is "for a period of up
to 10 years, and for so long as there is
production in paying quantities from the
leased area." This language obligates a
lessee to initiate production within 10
years of issuance of his lease. Our view
is that 20-year lease terms without any
diligence requirements beyond a nominal \$3
per acre rental (against which expenditures
on the lease can be credited) are exces-
sive. As mentioned by Dave Hedderly-Smith
at your hearing last week, we believe there
should be authority to extend the lease of
a diligent lessee who, despite good faith
efforts, is very close to production at the
end of ten years (although not quite there)
or who has failed to reach production or
has needed to suspend production in the
tenth year due to force majeure causes or
adverse market conditions. If the com-
mittee would like us to propose wording to
achieve this authority, we would be happy
to oblige.

Proposed amendment 5
(Change rent adjust-
ment period from 10
to 20 years).

Adjustment of the rental at 10-year periods
is reasonable and appropriate, while
adjustment at 20-year periods is excessive.

Proposed amendment 6
(Change "carry-for-
ward" of expenditures
against rentals from
2 years to 4 years).

With a 2-year carry-forward, the holder of
an OPP is required to perform labor on his
OPP at least once every three years (or pay
rental). We believe this is reasonable,
and that this term should not be extended.

Sincerely,

Bo Arnold, Deputy

E Esther C. Wunnicke
Commissioner

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-465-2400

OFFICE OF THE COMMISSIONER

April 23, 1984

The Honorable Al Adams
Chairman
House Committee on Finance
Pouch V
Juneau, AK 99811

Dear Representative Adams:

I am writing about HCS CSSB 371 (Res), the Title 38 mining bill that has recently been passed out by the House Committee on Resources. Although we have worked closely with legislative staff in the drafting of this bill and generally support it, the Department has two concerns with the bill in its present form.

The bill was drafted to clean up the mining statutes, but amendments along the way have had a more substantive character. I urge the consideration of two amendments that would restore the bill's original character.

Our first concern is with Section 12 of the House CS. The Senate Resources Committee added this section to allow the Commissioner to suspend mining leases under some conditions. However, some critical wording that had been agreed to by the Department and the Alaska Miners Association was left out of the amendment. This wording shown in the proposed amendment to Section 12 on the attached page, would set certain guidelines for the Commissioner's consideration of an application for a mining lease suspension. Similar language is found in our other leasing statutes and should be incorporated here. I have been assured that this wording is not controversial.

Our second concern is that the Resources Committee eliminated the first year's rental on offshore prospecting permits. At this time, expenses are chargeable against the annual rental anyway, and it is my belief that removal of the first year's rental will do nothing to encourage diligence on the part of the prospector. The fiscal impact on the state will be practically nil because prospectors almost uniformly either prospect their permits and charge their costs against the rental or drop the permit prior to the second anniversary date, when rental for the first two years would fall due under this bill. We are not sure what rental charge would be most equitable to the prospector and the

APR 24 1984

The Honorable Al Adams

-2-

April 23, 1984

resource, but we are convinced that the already existing rental charge of \$6/acre in the first two years is much more likely to encourage diligence than the new \$3/acre rental adopted in the House Resources Committee Substitute. Our proposed amendment to Section 8 is also attached.

Please contact me if you have any questions about the Department's position on this bill.

Sincerely,

Esther C. Wunnicke
Esther C. Wunnicke
Commissioner

cc: Senator Bettye Fahrenkamp
Representative John Ringstad

DNR. AMENDMENT 1:

1 compact in form as possible taking into consideration the area in-
2 volved. The term of the permit shall be 10 [SEVEN] years. Prospect-
3 ing permits shall be conditioned upon payment of rental against which
4 credit shall be given for useful expenditures on land covered by the
5 permit or group of contiguous permits under common ownership or
6 assignment. Excess expenditures may be applied against rentals due
7 for the following four [TWO] years. The rental shall be [\$3] per acre ^{#6}
8 for the first two-year period of the permit, payable on the second
9 anniversary of the permit and \$3 per acre for each following year,
10 payable annually on the anniversary date of the permit [AT THE END OF
11 EACH YEAR]. No minerals from land [LANDS] under a prospecting permit
12 may be mined and marketed or used, except for limited amounts neces-
13 sary for sampling or testing. No person may take or hold prospecting
14 permits for minerals on state land under this section exceeding in the
15 aggregate 100,000 acres. No person may take or hold leases for miner-
16 als on state land under this section exceeding in the aggregate 46,080
17 acres.

18 * Sec. 9. AS 38.05.250(a) is amended to read:

19 (a) The exclusive right to prospect for deposits of minerals
20 subject to AS 38.05.185 - 38.05.275 in or on tide and submerged state
21 land may be granted by a permit issued by the director. Permits shall
22 be granted to the first qualified applicant. No permit may include an
23 area larger than 2,560 acres, subject to the rule of approximation.
24 Lands subject to a prospecting permit shall be as compact in form as
25 possible taking into consideration the area involved. The term of the
26 permit shall be 10 years. Prospecting permits shall be conditioned
27 upon payment of rental against which credit shall be given for useful
28 expenditures on land covered by the permit or group of contiguous
29 permits under common ownership or assignment. Excess expenditures may

DNR AMENDMENT 2:

1 The commissioner may make reasonable adjustments of the rental rate at
2 the end of each 10-year period, based upon changed conditions in
3 production costs and market.

4 * Sec. 12. AS 38.05.250 is amended by adding a new subsection to read:

5 (d) The commissioner may,

✓ { for the purpose of encouraging the
greatest ultimate recovery of minerals under this section and in the
interest of conservation,

6 on the request of the lessee, assent
7 to the suspension of operation and production under a lease whenever
8 in the judgment of the commissioner the suspension is necessary to
9 promote development of the lease or the lease cannot be successfully
10 operated under its terms. The payment of acreage rental may be sus-
11 pended during the period of suspension of operation and production.
12 The suspension of the lease shall extend the term of the lease by
13 adding the period of suspension to the lease. The commissioner may
14 extend the term of a nonproducing lease on an application by the
15 lessee accompanied by a showing that the lessee is reasonably close to
16 attaining production and that, despite diligent good faith efforts by
17 the lessee, the lessee is not able to produce due to force majeure,
18 depressed market conditions, or other situations beyond the reasonable
control of the lessee.

AN ACT RELATING TO MINING

SB 371

Sec. 1 Because of the lengthy time involved for coal exploration, extends the coal prospecting permit term from 2 years with one 2-year extension to 3 years with three 2-year extensions.

Sec. 2 Lowers the minimum age of eligibility for acquiring exploratory and mining rights from 19 to 18 to be consistent with the current age of majority for most activities in Alaska.

Sec. 3 Amends the requirement that mining claims be staked in the four cardinal directions to not apply to fractional claims or where the commissioner determines such staking is impractical.

Sec. 4 Allows affidavits of annual labor to be corrected by amendment, thus providing a legal mechanism for correcting errors.

Sec. 5 Deletes the provision that basic survey finds be filed with DNR as it can result in the "leaking" of proprietary information, and the information is often of mixed quality.

Sec. 6 Deletes the requirement to file a certificate of mining location with DNR. This is duplicative language, as the certificate must be filed with the District Recorders' Office, which is within DNR.

Sec. 7 Increases the number of prospecting sites allowed from "six located in one calendar year in one recording district" to "eight held in one township at one time". This will encourage the use of prospecting sites where discovery hasn't been made, and address a loophole whereby employees of large companies locate sites and quitclaim deed them to the company.

Sec. 8 Clarifies that the rental year for a prospecting permit on tide or submerged lands expires on the anniversary of issuance, not the end of the calendar year. This is compatible with the rental year for offshore leases.

Sec. 9 Clarifies that a prospecting permit is required before a noncompetitive lease can be issued for mineral extraction on submerged lands.

Sec. 10 Changes the length of time following the abandonment of a prospecting site that the former owner must wait before acquiring any beneficial interest in the site from 2 years to 1. This is consistent with the waiting period for claims that have been staked or located.

Sec. 11 Deletes the requirement to file a certificate of mining location on shorelands, tidelands, or submerged lands with the DNR. This is duplicative language (see Sec. 6).

Sec. 12 The state maintains only one assay lab (on the U.A.F. campus). Deletes the requirement that a public assay office be located in each of the 4 judicial districts, to reflect the reality of the situation.

Sec. 13 Repeals the mineral prospecting equipment loan program. DNR no longer conducts such a program.

Repeals the requirement that "grubstaking" contracts be in writing. This is the only provision in Title 27 dealing specifically with mining on state-owned lands, and is probably not necessary as most people realize that contracts should be in writing.

Federal Staking

20 the locator or claimant of the abandoned location, or a [HIS] succes-
21 sive interest, may relocate it as though it had never been
22 located. A statement of annual labor which does not accurately set
23 out the essential facts is void and of no effect.

24 * Sec. 13. AS 38.05.275 is amended to read:

25 Sec. 38.05.275. RECOGNITION OF LOCATIONS. Mining locations
26 made on state land [LANDS], including shorelands, tidelands or sub-
27 merged land [LANDS,] or state selected land [LANDS], under AS 38.05.-
28 185 - 38.05.280 ~~FOR IN THE MANNER DESCRIBED IN AS 27.10~~ acquire for
29 the locator mining rights under AS 38.05.185 - 38.05.280, subject to

X

1 existing claims and to any denial of or restriction in the tentative
2 approval of state selection^{or} of the patent of the land [LANDS] to the
3 state. If shorelands, tidelands or submerged land is [LANDS ARE]
4 included in a mining location or within the projected boundaries of a
5 mining location made in accordance with this section, the locator
6 shall [IS REQUIRED TO] file a certificate of location under [WITH THE
7 DIVISION OF LANDS WITHIN 90 DAYS FOLLOWING THE DATE OF POSTING THE
8 NOTICE OF LOCATION, IN ADDITION TO FILING A CERTIFICATE OF LOCATION AS
9 REQUIRED BY] AS 38.05.195. The certificate of location must identify
10 the position of the mining location in the system of rectangular or
11 protracted surveys. If the mining location is made in the manner
12 described in AS 27.10, the Commissioner may require that the locator
13 amend the mining location to conform with AS 38.05.185 - 38.05.280.
14 and thereafter comply with the requirements of AS 38.05.185 -
15 38.05.280.


The change in the Committee Substitute was intended to clarify that mining claims on state land must be staked according to state statute. However, there is concern that if a miner inadvertently stakes with the federal method on state land because of an inability to determine land status, the claim would not be recognized. WE SUPPORT THE AMENDMENT CLARIFYING THAT IF A CLAIM ON STATE LAND IS INADVERTENTLY STAKED WITH THE FEDERAL METHOD, THE COMMISSIONER MAY REQUIRE THAT THE LOCATOR AMEND THE MINING LOCATION TO CONFORM WITH STATE METHODS.

Section 11, which was added by the Resources Committee, authorizes the Commissioner to assent to suspension of operations and production under an offshore prospecting lease. The provision specifies that the suspension must be necessary to promote development of the lease, or when the lease cannot be successfully operated under its terms. Further, the terms of a non-producing lease may be extended if the lessee is reasonably close to attaining production and despite diligent good faith efforts is unable to produce because of situations beyond the reasonable control of the lessee.

I feel the language in the Committee Substitute provides direction to the Commissioner. The proposed amendment, though providing further direction, would remove some of the Commissioner's discretion in making the decision to suspend.

Section 11 Amend AS 38.05.250(d):

"The Commissioner, for the purpose of encouraging the greatest ultimate recovery of minerals under this section and in the interest of conservation, may, on the request of the lessee, assent to the suspension of operation and production under a lease whenever in the judgement of the commissioner the suspension is necessary to promote development of the lease or the lease cannot be successfully operated under its terms. The payment of acreage rental may be suspended during the period of suspension of operation and production. The suspension of the lease shall extend the term of the lease by adding the period of suspension to the lease. The Commissioner may extend the term of a nonproducing lease on an application by the lessee accompanied by a showing that the lessee is reasonably close to attaining production and that, despite diligent good faith efforts by the lessee, the lessee is not able to produce due to force majeure, depressed market conditions, or other situations beyond the reasonable control of the lessee.



Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



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STATE CAPITAL
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Senate

Committee on Resources

March 1, 1984

SUMMARY OF MAJOR PROVISIONS OF SB 371

CURRENT STATUTE

SB 371

Coal Prospecting Permits

AS 38.05.150(c) establishes the term of a coal prospecting permit as 2 years with one 2-year extension. (An extension is granted if the Commissioner determines that diligent exploration activities have been conducted. Prior to expiration of a permit, a lease will be granted if the permittee shows that the land contains coal in commercial quantities and submits a mining plan.)

Section 1 would extend the coal prospecting permit term to 3 years with three 2-year extensions.

- substantial start-up time needed for projects in Alaska
- relative inaccessibility of areas being explored
- relatively high risk involved in Alaska development

Statements of Annual Labor

AS 38.05.210-.240 governs the performance of annual labor on mining claims on State land. A report of labor performed must be filed annually with DNR.

Section 4 would allow affidavits of annual labor to be corrected by amendment.

- currently no mechanism for correction.

Survey Finds

Under AS 38.05.240, to satisfy annual labor requirements, geological, geochemical, geophysical, and airborne surveys conducted on mining claims are reported to DNR. Basic survey finds must also be filed with DNR, and are kept confidential and released only if the claim lapses.

- none have ever been released + no mechanism to do so

Prospecting Sites

Under AS 38.05.245, the locator of a prospecting site has the exclusive right to stake mining claims of leasehold locations within the boundaries of his site. No person may locate more than 6 prospecting sites in one calendar year in one recording district.

AS 38.05.265 establishes the waiting period for relocation of mining locations and prospecting sites following abandonment as one year for mining locations and two years for prospecting sites. (Abandonment is defined as failure to pay rental; to file a certificate of location, a statement of annual labor, or a prospecting site certificate; or to keep boundaries marked.)

Section 5 would delete the provision that basic survey finds be filed with DNR.

- statute + regs. do not provide clear understanding of acceptable basic survey finds.

- miners resistant to submit confidential technical data under such poorly defined guidelines.

Section 7 amends the number of prospecting sites allowed to 8 held in one township at one time.

- Intended to encourage use

Section 10 would shorten the waiting period following abandonment of a prospecting site from 2 years to 1 year.

Offshore Prospecting

The exclusive right to prospect for minerals in or on tide and submerged lands may be granted under AS 38.05.250.250(a) governs offshore prospecting permits. The permit term is set at 7 years; the annual rental is set at \$3/acre, with expenditures applying against rentals for the following 2 years. The acreage limitation is established at 100,000 acres.

Upon discovery, a non-competitive lease may be acquired under AS 38.05.250(b). The acreage limitation under lease is established at 46,080 acres.

AS 38.05.250(c) specifies that a submerged land mining lease is valid only as long as there is production in paying quantities from the leased area.

Section 8 increases the permit term to ten years, delays rental payments for the first year, and allows expenditures to be applied against the following 4 years. The acreage limitation is increased to 300,000 acres.

- searching for offshore deposits in hostile environments is expensive, time-consuming, & weather sensitive. Need adequate time to carry a program through.

Section 8 increases the acreage limitation to 100,000 acres.

- exploration for offshore mineral deposits requires examination of large areas

Section 11 authorizes the commissioner to assent to suspension of operations and production without affecting the validity of the lease if certain conditions are present.

- must be reasonably close to attaining production*
- must be good faith effort*
- but force majeure; depressed market*