

S B

34

3534



Alaska State Legislature

SENATE

APR 3 1989

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

To: Senator Bettye Fahrenkamp
 Senator Resource Committee Chairperson

From: Senator Jack Coghill

Re: SB 34; An Act relating to State land Withdrawn from
 Mineral Location or Mining

Date: March 22, 1989

Intent: The purpose of the bill is to provide the legislature and the governor with a documentation process, for state lands closed to mineral entry. It also provides for a legislative mechanism to disapprove mineral closing orders.

Background: This legislation was originally proposed by the Minerals Commission in 1987. The issue moved through the legislative process as CS for Senate Bill 137 during the 15th Legislature. CSSB 137 died in House Rules.

An issue that has not been previously raised in relation to this bill, but may be of concern to you, is the relationship this legislation may have with Section 6(i) of the Statehood Act. I need not remind you of the directive contained in 6(i), that mineral lands are "subject to lease as the State legislature may direct." The question being, how does the legislature allow for "lease" of mineral lands, if the legislature has no way of assessing administrative closing orders on potential mineral lands?

The following is a tabulation of present land classifications containing minerals:

Coal Land -----	2,560
Coal/Forest/Wildlife Habitat Land -----	89,573
Coal/Oil & Gas/Wildlife Habitat Land -----	52,010
Forest/Oil & Gas/Wildlife Habitat Land -----	37,330
Mineral Land -----	739,279
Mineral/Public Recreation Land -----	8,360
Mineral/Public Recreation/Wildlife Habitat Land ----	2,407,428
Mineral/Transportation/Wildlife Habitat Land -----	153,541
Mineral/Wildlife Habitat -----	905,785
Oil & Gas/Public Recreation/Wildlife Habitat Land --	2,396,537
Oil & Gas/Settlement Land -----	1,520
Oil & Gas/Wildlife Habitat Land -----	<u>226,192</u>
Total	7,020,115

The total number of acres of state land now classified is: 73,814,527

Therefore, only 10% of classified State lands are known to have mineral potential or minerals, at this time. This also means there is about 11,185,473 acres of State land (received title) not classified.

However, how many of the 66,794,412 acres classified for uses other than mineral, contain administrative mineral closing orders or mineral lands?

I think the Alaska Minerals Commission is right, the legislature should have this information.

Attachments:

1. Description of Classification Categories, DNR, 1989.
2. DNR, Position Paper and Fiscal Note, dated March 15, 1989.
3. DNR, Position Paper and Fiscal Note, dated April 13, 1987.
4. Alaska Minerals Commission Recommendations, 1987.
5. Alaska Minerals Commission Recommendations, 1989.
6. Availability of Land for Mineral Exploration and Development in Alaska, U.S. Bureau of Mines, 1986.

Recommendations:

1. Schedule the bill for public hearing as soon as possible.
2. Move the bill out of committee with "do pass" recommendations.

Thank you.

APPENDIX

Description of Classification Categories 11 AAC 55

Agricultural Land. Land classified agricultural is, by reason of climate, physical features, and location, suitable for present or future agricultural cultivation or development and is intended for present or future agricultural use. When agricultural land is disposed of, only an agricultural interest may be conveyed.

Coal Land. Land classified coal is where known coal resources exist and development is occurring or is reasonably likely to occur, or where the coal potential has been determined to be high or moderate under 11 AAC 58.010.

Forest Land. Land classified forest is, or has been, forested and is suited for forest management because of its physical, climatic, and vegetative conditions.

Geothermal Land. Land classified geothermal is where known geothermal resources exist and where development is occurring or is reasonably likely to occur, or where there is reason to believe commercial quantities of geothermal resources exist.

Grazing Land. Land classified grazing is suitable in the cultivated or uncultivated state for supporting domestic livestock or reindeer.

Heritage Resources Land. Land classified heritage resources is where there is active preservation of, or research for, significant historical, prehistorical, paleontological, or other cultural values or where there is reason to believe that these values exist.

Material Land. Land classified material is land suitable for the extraction of common varieties of sand, gravel, stone, peat, clay, and similar materials.

Mineral Land. Land classified mineral is where known mineral resources exist and where development is occurring, or is reasonably likely to occur, or where there is reason to believe that commercial quantities of minerals exist.

Oil and Gas Land. Land classified oil and gas is where known oil and gas resources exist and where development is occurring, or is reasonably likely to occur, or where there is reason to believe that commercial quantities of oil and gas exist.

Public Recreation Land. Land classified public recreation is suitable for recreation uses, waysides, parks, campsites, scenic overlooks, hunting, fishing or boating access sites, trail corridors, or greenbelts along bodies of water or roadways.

Reserved Use Land.

- (1) Land classified reserved use is:
 - (a) reserved for transfer to another governmental or nongovernmental agency that is performing a public service;
 - (b) reserved for transfer through land exchange; or
 - (c) designated for a public facility.

-
- (2) Nothing in this section requires classification of land identified for a future land exchange under AS 38.50.

Resource Management Land. Land classified resource management is presently inaccessible and remote and may have a number of resources but the lack of adequate resource, economic, or other relevant information combined with the unlikelihood of resource development within the next 10 years makes a specific resource allocation decision unnecessary.

Settlement Land. Land classified settlement is, by reason of its physical qualities and location, suitable for year-round or seasonal residential or private recreational use or for commercial or industrial development.

Transportation Corridor Land. Land classified transportation corridor is identified for the location of easements and rights-of-way under AS 38.04.065(f), including transportation, pipeline, or utility corridor purposes, or is under consideration for a right-of-way lease.

Water Resources Land. Land classified water resources encompasses watersheds or portions of watersheds and is suitable for such uses as water supply, watershed protection, or hydropower sites.

Wildlife Habitat Land. Land classified wildlife habitat is primarily valuable for:

- (1) fish and wildlife resource production, whether existing or through habitat manipulation, to supply sufficient numbers or a diversity of species to support commercial, recreational, or traditional uses on an optimum sustained yield basis; or
- (2) a unique or rare assemblage of a single or multiple species of regional, state, or national significance.



ALASKA MINERS ASSOCIATION, INC.

501 W. Northern Lights Blvd., Suite 203, Anchorage, AK 99503 (907) 276-0347

Jan. 27, 1989

FEB 1 1989

Senator Bettye Fahrenkamp
P.O. Box V
Juneau, AK 99811

RE: SB 34

Dear Senator Fahrenkamp:

The Alaska Miners Association has reviewed SB 34 "An Act relating to State land withdrawn from mineral entry". This is the same bill submitted in 1988 and it is an excellent attempt to have DNR track the status of state lands and to know what actions are planned and which are proposed for state lands.

There are two potential problems with the bill which need clarification before the AMA can endorse the bill. 1) In line 28 section 1(f) it is not known why the 5120 acre limit was chosen before a mineral assessment is required. Many mineral deposits, and in fact many very large mineral deposits (ie: Red Dog, and Quarts Hill) can be hidden in 8 square miles, also if mineral assessments are not required until this limit is reached an agency can by withdrawing 5000 acres per year over a period of years can accumulate large acreages, locking up lands using the 5120 acre limit. 2) In section 1(g) and again in section 2 a term of 10 years is required before a re-evaluation of a closure takes place. This period should be no more than 3 years. A 10 year moritium essentially places the land in withdrawn status which becomes final "ex post facto". If land is not needed for a given purpose the legislature should be informed so the land can be returned to multiple use status for the benefit of all users.

The other option is to write sunset clauses into administrative land withdrawals which then would require a full review and reprocessing at the end of their term, prior to renewal.

We support the concepts and general requirements of SB 34 and believe it will protect the multiple use phylosophy as applied to the management of state lands.

Sincerely,

Curtis V. McVee
Executive Director
Alaska Miners Association

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 485-2400

OFFICE OF THE COMMISSIONER

March 15, 1989

The Honorable Bettye Fahrenkamp
Chair, Senate Resources Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Fahrenkamp:


Subject: Senate Bill 34, An act relating to state land withdrawn from mineral location or mining.

Background: This legislation requires the department to submit an annual report to the Legislature regarding areas closed to mineral location during the previous year. It also states that the Legislature may make recommendations to the commissioner on the future management of closed areas, and that every 10 years the department shall submit a report to the Governor and Legislature on land that has been withdrawn from mineral location or mining, or withdrawn from multiple use by the Legislature.

Position: The department generally supports the concept that lands closed to mineral entry should be reviewed periodically, and that such a review would aid the Legislature in its deliberations on legislatively designated areas. However, the department also recognizes that such review has fiscal impact, which is reflected in the attached fiscal note.

Thank you for the opportunity to comment on this legislation. We look forward to working on it with the committee and sponsor.

Sincerely,


Lennie Gorsuch
Commissioner

cc: Senator Coghill

Committee Members

Commissioner Merculieff
Department of Commerce

Commissioner Collinsworth
Department of Fish and Game

Commissioner Kelso
Department of Environmental Conservation

Bob Forbes, Director
Division of Geological and Geophysical Surveys
Department of Natural Resources

Jerry Gallagher, Director
Division of Mining
Department of Natural Resources

Gary Gustafson, Director
Division of Land and Water Management
Department of Natural Resources

Denby Lloyd, Special Staff Assistant
Office of the Governor

Bob Evans, Legislative Liaison
Office of the Governor

FISCAL NOTE

REQUEST:

Revision Date: 10-Mar-89 Agency Affected: Natural Resources
 Title: An Act relating to State Land BRU: Geological Management
withdrawn from mineral location of mining.
 Sponsor: Coghill, Pearce, Frank, et al. Components: Minerals/Materials
 Requestor: Senate Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		35.0	35.0	35.0	35.0	35.0
TRAVEL		5.0	5.0	5.0	5.0	5.0
CONTRACTUAL		25.0	25.0	25.0	25.0	25.0
SUPPLIES		5.0	5.0	5.0	5.0	5.0
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	70.0	70.0	70.0	70.0	70.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		70.0	70.0	70.0	70.0	70.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	70.0	70.0	70.0	70.0	70.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The fiscal consequences of SB 34 are difficult to quantify precisely because the projected offer is related to the amount of land withdrawn from mineral entry in any one calendar year and the amount of resources information readily available for each parcel. Personal services for Geologist III for 8 months. Contract services will include helicopter contracts and petrologic, geochemical and mineralogical analyses.

Prepared by: Bob Forbes, Wyatt Gilbert Phone: 451-2760/762-2356
 Division: DGGS Date: 10-Mar-89

Approved by Commissioner: Lennie Gorsuch Date: 10-Mar-89
 Agency: Department of Natural Resources

Distribution (by preparer) :

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

OFFICE OF THE COMMISSIONER

March 15, 1989

The Honorable Bettye Fahrenkamp
Chair, Senate Resources Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Fahrenkamp:


Subject: Senate Bill 34, An act relating to state land withdrawn from mineral location or mining.

Background: This legislation requires the department to submit an annual report to the Legislature regarding areas closed to mineral location during the previous year. It also states that the Legislature may make recommendations to the commissioner on the future management of closed areas, and that every 10 years the department shall submit a report to the Governor and Legislature on land that has been withdrawn from mineral location or mining, or withdrawn from multiple use by the Legislature.

Position: The department generally supports the concept that lands closed to mineral entry should be reviewed periodically, and that such a review would aid the Legislature in its deliberations on legislatively designated areas. However, the department also recognizes that such review has fiscal impact, which is reflected in the attached fiscal note.

Thank you for the opportunity to comment on this legislation. We look forward to working on it with the committee and sponsor.

Sincerely,


Lennie Gorsuch
Commissioner

- SB 34

ATTACHMENT 2.

cc: Senator Coghill

Committee Members

Commissioner Merculieff
Department of Commerce

Commissioner Collinsworth
Department of Fish and Game

Commissioner Kelso
Department of Environmental Conservation

Bob Forbes, Director
Division of Geological and Geophysical Surveys
Department of Natural Resources

Jerry Gallagher, Director
Division of Mining
Department of Natural Resources

Gary Gustafson, Director
Division of Land and Water Management
Department of Natural Resources

Denby Lloyd, Special Staff Assistant
Office of the Governor

Bob Evans, Legislative Liaison
Office of the Governor

FISCAL NOTE

REQUEST:

Revision Date: 10-Mar-89 Agency Affected: Natural Resources
 Title: An Act relating to State Land BRU: Geological Management
withdrawn from mineral location of mining.
 Sponsor: Coghill, Pearce, Frank, et al. Components: Minerals/Materials
 Requestor: Senate Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		35.0	35.0	35.0	35.0	35.0
TRAVEL		5.0	5.0	5.0	5.0	5.0
CONTRACTUAL		25.0	25.0	25.0	25.0	25.0
SUPPLIES		5.0	5.0	5.0	5.0	5.0
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	70.0	70.0	70.0	70.0	70.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		70.0	70.0	70.0	70.0	70.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	70.0	70.0	70.0	70.0	70.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The fiscal consequences of SB 34 are difficult to quantify precisely because the projected offer is related to the amount of land withdrawn from mineral entry in any one calendar year and the amount of resources information readily available for each parcel. Personal services for Geologist III for 8 months. Contract services will include helicopter contracts and petrologic, geochemical and mineralogical analyses.

Prepared by: Bob Forbes, Wyatt Gilbert Phone: 451-2760/762-2356
 Division: DGGS Date: 10-Mar-89

Approved by Commissioner: Lennie Gorsuch Date: 10-Mar-89
 Agency: Department of Natural Resources

Distribution (by preparer) :

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

100 WILLOUGHBY AVE.
JUNEAU, ALASKA 99 01-1798
PHONE: (907) 465-2400

OFFICE OF THE COMMISSIONER

April 13, 1987

The Honorable Jack Coghill
Chairman, Senate Resources Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Coghill:

Subject: CSSB 137, an act relating to state land withdrawn from mineral location or mining.

Position: The Department of Natural Resources recommends passage of CSSB 137, with modification to Section 1(e), page 1, lines 24-26.

Background: CSSB 137 calls for the Commissioner of Natural Resources to provide a report to the Governor and Legislature detailing state land closed to mineral location and mining during the previous calendar year.

Additionally, the bill states that a section closed to mineral location and mining by the Commissioner shall remain closed until the Commissioner issues an order altering its status, or the Legislature disapproves of the closure.

In Section 1(e), lines 24-26, of CSSB 137, the proposed language states that "[a]n act of the legislature disapproving a closure by the commissioner may direct the commissioner on future management of the area involved." Such language appears to pre-empt the authority of the Commissioner of Natural Resources. In the opinion of the Department, a preferable substitute would be as follows: "[a]n act of the legislature disapproving a closure by the commissioner may make recommendations to the commissioner on future management of the area involved."

Section 1(f) of CSSB 137 calls for a mineral assessment report for each area that exceeds 5,120 acres for which a report to the Legislature is prepared.

SB 34

ATTACHMENT 3.

Senator Coghill

-2-

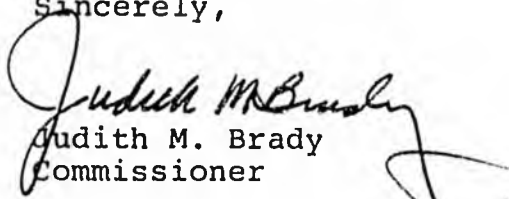
April 13, 1987

Finally, under Section 1(g), the commissioner is required to submit a report, every 10 years, concerning land that is withdrawn from mineral location or mining and may make recommendations regarding existing closures.

Recommendation: With the suggested language change in Section 1(e), the Department of Natural Resources supports CSSB 137 and recommends its passage.

I would be pleased to make my staff available to the committee for additional information or further work with the committee staff.

Sincerely,


Judith M. Brady
Commissioner

cc: Committee Members
Bill Sponsors
George Sullivan
Rod Swope

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: SB 137

Publish Date: _____

Revision Date: 4/13/87

Title: An act relating to state land withdrawn from mineral location, etc.

Agency Affected: Natural Resources

BRU: Geological and Geophysical Surveys

Sponsor: Coghill, Faiks. et al

Requestor: Senate Resources

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	35	35	35	35	35	35
TRAVEL	5	5	5	5	5	5
CONTRACTUAL	25	25	25	25	25	25
SUPPLIES	5	5	5	5	5	5
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	70	70	70	70	70	70
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	70	70	70	70	70	70
FEDERAL FUNDS						
OTHER						
TOTAL	70	70	70	70	70	70

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The fiscal consequences of SB 137 are difficult to quantify precisely because the projected offer is directly related to the amount of land withdrawn from mineral entry in any one calendar year, and the amount of resource information readily available for each parcel.

Prepared by: Wyatt Gilbert
Division: Geological and Geophysical Surveys

Phone: 465-2520
Date: 4/13/87

Approved by Commissioner: [Signature]
Agency: Natural Resources

Date: 4/15/87

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

FISCAL NOTE

REQUEST:

Revision Date: 3/8/88
Title: An act relating to state land withdrawn from mineral location, etc.
Sponsor: Coghill, Faiks, et. al.
Requestor: House Resources

Agency Affected: Natural Resources
BRU: Geological and Geophysical Surveys
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	35	35	35	35	35	35
TRAVEL	5	5	5	5	5	5
CONTRACTUAL	25	25	25	25	25	25
SUPPLIES	5	5	5	5	5	5
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	70	70	70	70	70	70

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	70	70	70	70	70	70
FEDERAL FUNDS						
OTHER						
TOTAL	70	70	70	70	70	70

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) The fiscal consequences of SB 137 are difficult to quantify precisely because the projected offer is directly related to the amount of land withdrawn from mineral entry in any one calendar year and the amount of resource information readily available for each parcel.

Prepared by: Wyatt Gilbert Phone: 465-2520
Division: Geological and Geophysical Surveys Date: 3/8/88

Approved by Commissioner: Jennie Gomb Date: 3-8-88
Agency: Natural Resources

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Senate Bill 137

Bill Analysis

One can give a general estimate needed to track the withdrawals and to carry out a minimum field analysis and sampling program. The projected expenditures for each fiscal year are as follows:

100 - 35.0	6 months' salary and benefits for Geol. IV
200 - 5.0	Travel to withdrawal and field per diem
300 - 25.0	Helicopter expenses (18.0) Geochemical, mineral and petrographic analyses (7.0)
400 - 5.0	Field supplies and equipment (3.0) Office supplies (2.0)

Fiscal Note
3/8/88
page 2 of 2

3. The Legislature redefine, to conform with constitutional intent, the various definitions of "multiple use" in the Alaska Statutes to require the management of state lands for the use of all resources rather than allocating or selectively denying resource use;

4. The Legislature make closures of land to mineral entry only where documented and demonstrated incompatible use is proven and only when preceded by a mineral assessment;

5. The Legislature and Governor periodically review lands closed to mineral entry to assess the need for continued closure and, if there is no longer a compelling need for closure, return the land to multiple-use designation;

6. The Governor require state planning agencies to encourage the use of all resources on its lands rather than designating single or primary uses and require that only when a documented and demonstrated incompatible use is proven should there be any restrictions on the use of any resource;

7. The Governor direct the Commissioner of the Department of Natural Resources to review state lands presently classified other than Resource Management Lands and reclassify most of the state's lands as Resource Management Lands as per 11 AAC 55.200 to be managed for multiple-use;

8. The Governor make clear to the U.S. Congress and Federal Administration that further restrictions or withdrawals of federal land from multiple-use designation are not acceptable and assure that regulations enacted to implement the provisions of the Alaska National Interest Lands Conservation Act protect the "prior existing rights and exemptions" allowed in that act;

9. The Governor establish that mineral development is a priority in the best interest of the state that must be recognized in all state land management actions requiring a "Best Interest Finding".

B. Coastal Zone Management

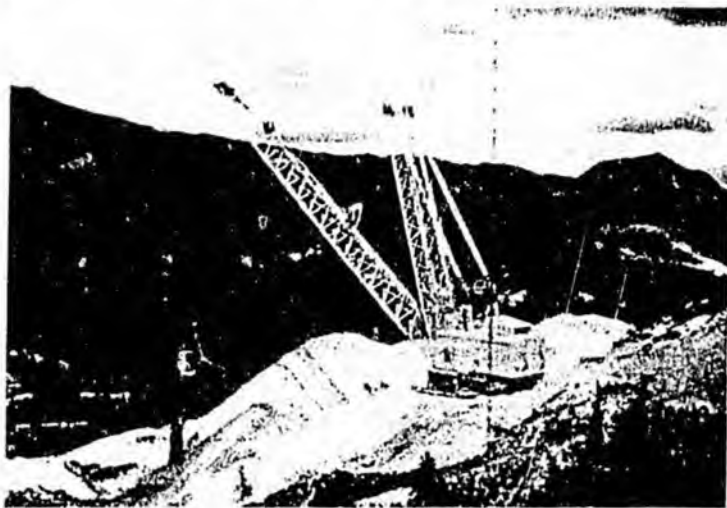
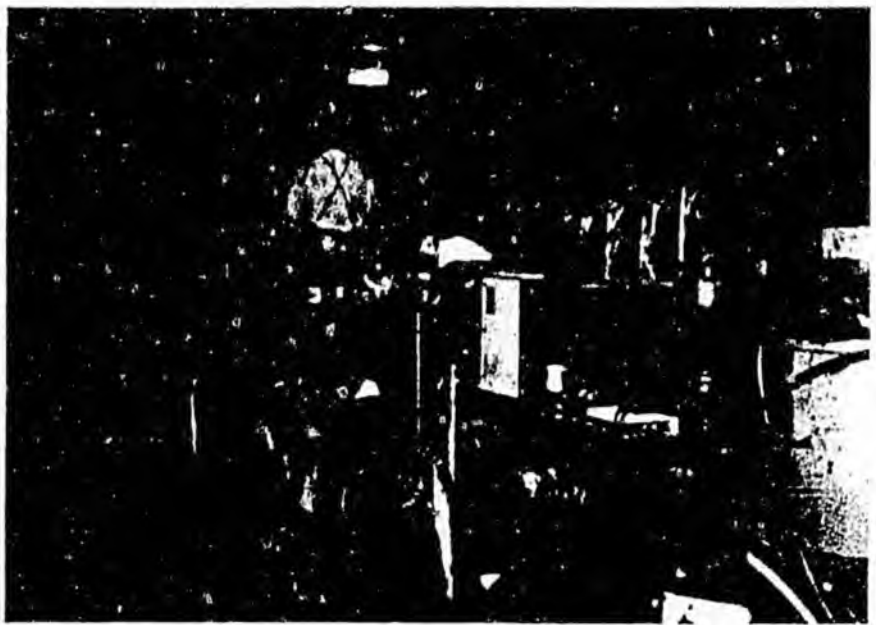
FINDINGS: Coastal Zone Management programs have exceeded the intent of the law and are being challenged by the federal government. The programs include unwarranted extensions of boundaries far beyond a reasonable definition of coastal areas (in some cases hundreds of miles inland); have designated subsistence and fisheries as primary uses, subordinating all other uses even when they are "Uses of State Concern and National Interest"; and have included absolute prohibitions on certain activities. The approval of these programs by the Alaska Coastal Policy Council constitutes the relinquishment by the state of its authority to manage and regulate resource development.

Additionally, the making of "consistency determinations" within the Office of the Governor, Division of Governmental Coordination has added a new layer of government to the permitting process for projects in the coastal zone. Not only has this removed authority from those agencies already vested to manage Alaska's lands, but has increased the likelihood that the permitting process be subject to political pressures rather than solely technical considerations.

THE COMMISSION RECOMMENDS THAT:

10. The Legislature affirm coastal zone boundaries as originally defined by biophysical areas in 1978 by the Alaska Department of Fish and Game and approved by the legislature in 1979;

Report of the
Alaska Minerals Commission



January 1989



SB 34

ATTACHMENT 5.

RECOMMENDATIONS OF THE ALASKA MINERALS COMMISSION

I. LEGISLATIVE PRIORITIES

Implementation of the 6(i) Court Decision

- The highest priority of the Alaska Minerals Commission is the fair and equitable implementation of the Alaska Supreme Court's interpretation of section 6(i) of the Alaska Statehood Act. (For a summary of the 6(i) issues and lawsuit, see Appendix C.)

The Commission supports the positions of both the Alaska Miners Association¹ and Governor Steve Cowper² on the following three critical aspects of any legislation to be enacted.

1. The traditional discovery, location and recordation system recognizes the unique nature of mineral resource development as well as the needs of individuals and companies carrying out mineral exploration and development. The right of self-initiation is guaranteed by the Alaska Constitution and no fundamental changes should be made in the way preferential minerals rights are initiated on state land.
2. Because of the long lead time commonly required between the discovery of a deposit and its initial production, there should be no arbitrary time limits placed upon the tenure of a mining claimant on state lands. This is especially important in Alaska where the need to construct basic infrastructure and to await financial and market "windows" will often result in longer development lead times than in more developed states and countries.
3. The setting of rental and/or royalty fees for mining claims on subject state lands should neither penalize claimants nor create disincentives for individuals or companies doing mineral exploration. In Alaska, exploration, development, capital and operating costs are commonly higher than in more developed states and countries. Alaska's cumulative mineral tax schedule, including existing corporate income taxes, mining license taxes and new rental and/or royalty fees should not unduly burden the small miner nor increase total development costs to the point where diminished economic feasibility precludes mine development or mineral exploration on subject state lands.

A fourth aspect of the implementation of the 6(i) court decision is the definition of lands to which the new legislative provisions will apply. The Commission agrees with Governor Cowper that it is in the interests of both the state and the mining industry that this aspect be resolved in a manner that minimizes the risk of lengthy and expensive litigation. As the Alaska Supreme Court ruled that the 6(i) provisions are applicable only to those state lands "known to be mineral in character at the time of state selection," the Commission also recommends that a clear definition of such lands be developed, and that workable and expeditious procedures be developed to allow timely classification of lands and claims subject to 6(i).

Finally, the Commission strongly recommends that proposed legislation implementing the 6(i) court decision be limited to only those issues specifically required by the court.

¹ *Communication from Richard A. Hughes, President, Alaska Miners Association to Governor Steve Cowper, September 9, 1988.*

² *Communication from Governor Steve Cowper to Richard A. Hughes, President, Alaska Miners Association, October 19, 1988.*

Allowance for Flexible Work Weeks

- The passage of legislation allowing work schedules to be set on the basis of project specific considerations will allow for more efficient use of labor and provide more desirable time-off patterns for employees. This will be particularly significant for mines in remote locations with employees who reside in communities distant from the work site.

Extension of Underground Work Hours

- Legislation is required to amend current statutes limiting shifts at the work face of underground mines from the current maximum of eight hours to a maximum of ten hours. The antiquated statute presently in effect does not recognize the implementation of modern safety programs and penalizes mine efficiency and employee time-off schedules on remote mining projects.

Multiple Use of State Lands

- The Commission would like to reemphasize four recommendations made in the Commission's 1987 report regarding the management of state lands.

1. Alaska Statute 38.05.300 should be amended as follows:

Classification of lands. (a) The commissioner shall, where considered necessary and proper, classify land for surface use. This section does not prevent reclassification of land, where the public interest warrants reclassification, nor does it preclude multiple use of land whenever different uses are compatible. State land, water, or land and water area may not, except by act of the state legislature, be closed to multiple use or to mineral entry if the area involved contains more than 640 acres.

2. The Legislature should redefine, to conform with constitutional intent, the various definitions of "multiple use" in the Alaska Statutes to require the management of state lands for the use of all resources rather than allocating or selectively denying resource use.
3. The Legislature should only make closures of land to mineral entry where documented and demonstrated incompatible use is proven and only when preceded by a mineral assessment.

4. The Legislature and Governor should periodically review lands closed to mineral entry to assess the need for continued closure and, if there is no longer a compelling need for closure, return the land to multiple-use designation.

Amending the Reporting Requirements of the Minerals Policy Act.

- Sec. 44.99.110(2) should be amended to require each department, board, commission, or agency, including the University of Alaska, to fulfill its reporting requirements as set out in this section on an annual basis through 1994 rather than once only in 1989.

Industrial Minerals Inventory

- The Legislature should reintroduce and enact legislation similar to SB 71 (or companion legislation HB 69), Senate Concurrent Resolution 4 and House Concurrent Resolution 5 as introduced during the Second Session of the 15th Legislature. These bills and resolutions address the need for systematic identification, inventory and reserve of sand and gravel resources to meet the present and future needs of transportation systems, populated areas and large-scale developments within the state and Pacific Rim.

SECRETARY of THE SENATE
1/26/86

Initial Report of the
Alaska Minerals Commission



January 1987

II. LAND MANAGEMENT

A. Multiple-Use

FINDINGS: The amount of land in Alaska that will ever be used for mining is very small (less than three-tenths of one percent of the land area of the United States has been disturbed by mining since 1776). Yet the majority of Alaska lands have been withdrawn from mineral entry. In 1968, only 53 million acres (14%) were closed to mineral entry. In 1986, 234 million acres (62%) of Alaska's lands have been closed to mineral entry.

Over 80% of all federal land in Alaska is closed, much of it having been withdrawn by ANILCA and subsequent federal land management plans. In recent years the implementation of regional state land-use plans and the legislative creation of state parks or other special use areas have resulted in the present closure of 8% of state owned lands.

Additionally, complex, overlapping and restrictive land management policies as well as on-going lawsuits cloud the rights of the holders of mining claims or leases, and discourage further investment in the development of Alaska's mineral resources.

On state lands not closed to mining, the principle of multiple-use management has been abrogated to emphasize the primacy of recreational, habitat and aesthetic uses. At present, the legislature has defined "multiple-use" to mean management for more than one use but not necessarily more than two uses. Therefore, the designation of wildlife habitat and scenic values as primary land uses satisfies the state's interpretation of "multiple-use" management though it results in the restriction or prohibition of mining.

This practice subordinates the use of mineral resources and discourages the development and extraction of mineral resources. For example, in the Nelchina Public Use Area (which is designated as a multiple-use area) exploration, development and extraction of subsurface resources is allowed only if found to be compatible with the primary uses of wildlife habitat and recreation. While state lands classified for such uses are technically open for mineral entry, the risk that the development and extraction of minerals will be restricted is sufficient to discourage investment on these lands, further reducing the effective land base in Alaska available for mineral use.

Before the state disposes of its resources, whether through leases or sales, the Department of Natural Resources must make a determination that the action will serve the best interests of the state. The benefits of economic development have not always been adequately addressed in making best interest determinations.

THE COMMISSION RECOMMENDS THAT:

2. The Legislature amend Alaska Statute 38.05.300 as follows:

Classification of lands. (a) The commissioner shall, where considered necessary and proper, classify land for surface use. This section does not prevent reclassification of land, where the public interest warrants reclassification, nor does it preclude multiple use of land whenever different uses are compatible. State land, water, or land and water area may not, except by act of the state legislature, be closed to multiple use or to mineral entry if the area involved contains more than 640 acres.

THIS IS A U.S. BUREAU OF
MINES REPORT

AVAILABILITY OF LAND FOR MINERAL EXPLORATION AND DEVELOPMENT IN ALASKA¹

by
Robert Bottge
Alaska Field Operations Center
Juneau, Alaska

INTRODUCTION

The Bureau of Mines' Alaska Field Operations Center is currently conducting a mineral land inventory of Alaska to determine the availability of federal, state, and private land, for mineral exploration and development through six regional studies. The objective of these studies is to provide government land use planners and the mineral industry with information which,

1. displays land ownership and land availability for mineral exploration and development,
2. shows the location of known metallic mineral deposits, and discusses associated geologic mineral terranes, and
3. compares known metallic mineral deposits and associated geologic terranes, to land ownership and land availability patterns.

Concern over the accessibility of federal lands was expressed as early as 1964, when Public Law 88-606 established the Public Land Law Review Commission "...to study existing laws and procedures related to the administration of the public lands of the United States, and for other purposes." However, it was not until the study, "Is Our Account Overdrawn," in 1976, that real concern for the availability of federal lands for mineral exploration and development became an issue. That study estimated that a large portion of public lands were excluded from the mining and leasing laws (67% and 73%, respectively).

The Bureau showed its interest in this problem in 1977 when it contracted with the Arizona Bureau of Mines to study and make recommendations for an inventory of the public lands in the United States for their availability to

¹Presentation made at the Agency Session, Alaska Miners Convention, in Anchorage, Alaska, October 30, 1986.

mineral exploration and development. The 12-state study presently underway by the Bureau shows its continued efforts to address the availability of mineral resources of federal lands to the United States mineral and materials policy objectives.

The Alaska Field Operations Center is in its third year of investigating the federal, state, and private lands available to mineral exploration and development in Alaska. To date we have addressed the land that is available in eighty four, 1:250,000-scale quadrangles in southeast, southcentral, northcentral and northern Alaska. We have published one report on the southeast region, and the reports on the southcentral, northcentral and the northern regions are in various stages of publication. We have completed perhaps 30% of the work on the 38 quadrangles in western Alaska, leaving the 31 quadrangles in southwestern Alaska. We should complete our assessment of the state in FY 1987.

Each published regional report includes 1:500,000-scale maps showing the land availability patterns for the region. The 1:250,000 scale work maps for the southeast, southcentral and northcentral regions have been put on open file and are available for viewing in our Anchorage, Fairbanks, and Juneau offices

SCOPE AND METHODOLOGY

The inventory of land availability currently being conducted by the Bureau in the other 11 western states addresses only federal land, but because of the complex nature of land ownership in Alaska, we felt we could not adequately explain federal ownership without portraying ownership of all land. Our reports are composed of three parts: (1) an inventory of federal, state, and private lands, (2) a comparison of mineral terranes and land availability categories, and (3) a comparison of mineral deposits and mineral terranes versus land availability categories.

Inventory of Land Ownership

Computer generated 1:250,000-scale maps, showing state and Native selections and conveyances of federal lands, were purchased from the Bureau of Land Management (BLM) Public Office in Anchorage. These maps were plotted from information in the Alaska Automated Land Records System (AALRS). The information was traced onto mylars, labelled, and checked against the Master Title Plats (MTP's) of the BLM and the State of Alaska. We then obtained the land management plans from all the federal and state agencies having land management responsibility in each region.

Land selections allowed under the Statehood Act, ANCSA, and ANILCA were plotted to the nearest whole section; Native allotments and other private parcels were shown as a dot centered on the sections in which they occur. State mineral closing orders were plotted as whole sections whether or not the closing order included the entire section. Maps and plans from towns in the regions were used to determine land where mining would be discouraged.

Because of the continuing selection and conveyance of land from the federal domain to the state and to Native corporations, this information is quickly outdated. The computer data for the southcentral, northcentral and northern study areas are for October, 1984, but the corrections made from the MTP's were from cards updated as recently as June, 1986. While the use of one final date for all data would be preferable, the use of the federal and state MTP's during 1985 and 1986 to check the computerized data received in 1984 made this impractical as the MTP's are constantly updated. This situation exemplifies the very dynamic nature of federal land ownership in Alaska.

LAND STATUS CATEGORIES

Up to 15 land status categories were plotted on 1:250,000 scale quadrangle maps and reduced to 1:500,000 scale for our reports. The 15 sub-categories were part of three major categories: land available for mining, land available

with restrictions, and land unavailable for mining. In our report on Southeast, we showed four major categories and 10 sub-categories. Depicting land ownership is fairly easy when the federal government owns 95 percent of the land.

Land Available for Mining

1986
To date we have examined about 242 million of Alaska's 375 million acres (2/3's of the state) and have found that roughly 75 million acres (31%) are available for mineral exploration and development. The southcentral region has the most available land (31 million of 72 million acres) while the least available acreage is in northern Alaska, 14 million of 90 million acres.

Restricted Land

Approximately 24 million of the 242 million acres examined to date are available with restrictions. This category includes certain federal lands where mineral entry is allowed but under rigid controls, and all land conveyed to the Native regional corporations except the Bristol Bay Native Corporation. Land open to exploration and development with restrictions include parts of the Steese National Conservation Area and the White Mountains National Recreation Area in northcentral Alaska, and the College Fiord and Nellie Juan proposed wilderness areas of the Chugach National Forest in southcentral Alaska. In Southeast, LUD II areas were also put in this category. While mining is considered an authorized use in LUD II areas, the emphasis is on retaining a primitive wildland character. Amenity values are emphasized over commodity values.

Land Unavailable for Mining

Federal Land

Over 59 percent of the land (144 million acres) is presently closed to mineral exploration and development of new claims. Nearly one half of that acreage (68 million acres) is located in northern Alaska. Closed lands con-

sist of federal parks, preserves, wildlife refuges, wild and scenic rivers, wilderness areas, and military land, all of which will remain closed to mineral entry. Additional land has been closed by Public Land Orders (PLO) issued by the Secretary of the Interior. Unconveyed lands will eventually go back to the public domain once the BLM processes the land selection.

State Land

Basically all state land is open to mineral exploration and development unless it is withdrawn through legislative statute, such as for parks, or through Mineral Closing Orders issued by the Commissioner, Department of Natural Resources.

State game refuges are open to mineral exploration and development under administration by the Department of Fish and Game. However, the permit requirements imposed by the Department essentially make mining impractical in a game refuge.

Selected Land

Selected lands consist of tracts that have been selected by the state under the Statehood Act and ANILCA, and by Native corporations under terms of ANCSA or ANILCA. If the selection is denied or relinquished, the land remains closed to mineral entry until the BLM changes the Master Title Plat. This is called the notational rule. Land categories include land selected by Native corporations, land selected by the State, and land selected by both.

ANILCA set aside 104 million acres of federal land for the creation of, and addition to, national parks, preserves, wildlife refuges, conservation areas, and recreation sites. The Act also allowed the state and the Native corporations to select lands within the withdrawn areas. Our maps show lands selected by the Native corporations in federal withdrawals, state selections in federal withdrawals, and selections by both in federal withdrawals.

Private Land

The Federal government has made land available to individual Natives under the Alaska Natives Allotment Act (ANAA), and ANCSA; to Native corporations under ANCSA and ANILCA, and to other individuals for homesteads, homesites, patented mining claims, residential sites, recreational sites, and land acquired in federal disposal sales. Private parcels are designated by a dot centered in the sections wherein they occur. The state has distributed some of its land to individuals through land disposal sales and leases. The total acreage distributed by the state to individuals is not available.

GEOLOGICALLY FAVORABLE AREAS

Mineral Terranes

Maps from the Mineral Terranes of Alaska; 1982, were changed in scale to match the 1:250,000-scale quadrangle maps prepared for this study. The mineral terrane maps were overlaid on the land status maps, and the area in each terrane type was determined by land status category using an electronic planimeter. The compilations for each quadrangle are given in an appendix, while a table in each report summarizes all the quadrangle data.

In the four areas we have examined to date, we have found 90 million acres underlain by mineral terranes. Of these lands, 26% are available for mineral exploration and development, 9% are available with restrictions, and 65% are unavailable. Of the 90 million acres that are underlain by mineral terranes, approximately 65 million acres underlay federal lands, of which 12% are available for mineral exploration and development. About 17 million acres of state land are underlain by mineral terranes of which 92% are available. Nearly 8 million acres of private land are underlain by mineral terranes of which 98% may be available.

MINERAL TERRANES AND MINERAL DEPOSITS

Each quadrangle map in our reports shows the location of metallic mineral deposits in addition to land status. This information was derived from the Bureau of Mines Mineral Industry Location System (MILS) data base. Each of the computer-generated MILS location points, identifies one or more mineral deposit sites within a 3-mile radius. Numbers refer to properties listed in an appendix. The appendix also includes a list of past producers and the commodities produced.

Tabulations comparing the mineral deposits and mineral terranes against land status categories were made by quadrangle. These tabulations are shown in an appendix and summarized in a table in each report text.

In our work to date, we have noted 4,800 mineral deposits and occurrences, of which over half are in lands available for mineral exploration and development and over one third are in land which is unavailable.

CONCLUSIONS

Perhaps the most meaningful statistics to come out of our work to date are as follows:

After examining two thirds of the state, we have found

30% of the land is open to mining

10% is open with restrictions, and

60% is closed

In round numbers

90% of the state land is open.

80% of the federal land is closed

Ten percent of the land examined to date, 24 million of 242 million acres, is underlain by mineral terranes in land that is considered open. In other words, only 10% of the land that is worth looking at is available for mineral exploration and development.

1 IN THE SENATE

BY COGHILL, KELLY, PEARCE
AND FRANK

2

SENATE BILL NO. 35

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to multiple use of state land and
7 water."

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

9 * Section 1. AS 38.04.910(5) is amended to read:

10 (5) "multiple use"

11 (A) means the management of state land and its various
12 resource values so that it is used in the combination that will
13 be to meet the present and future needs of the people of Alaska,
14 making the most judicious use of the land for [SOME OR] all of
15 the [THESE] resources or related services over areas large enough
16 to provide sufficient latitude for periodic adjustments in use to
17 conform to changing needs and conditions;

18 (B) [IT] includes

19 (i) [(A)] the use of the [SOME] land for less
20 than all of the resources but does not exclude compatible
21 competing uses; [,] and

22 (ii) [(B)] a combination of balanced and diverse
23 resource uses that takes into account the short-term and
24 long-term needs of present and future generations for renew-
25 able and nonrenewable resources, including, but not limited
26 to, recreation, range, timber, minerals, watershed, wildlife
27 and fish, and natural scenic, scientific, and historic
28 values;

29 * Sec. 2. AS 38.05.300(a) is amended to read:

1 (a) The commissioner shall, where considered necessary and
2 proper, classify land for surface use [CLASSIFY FOR SURFACE USE LAND
3 IN AREAS CONSIDERED NECESSARY AND PROPER]. This section does not
4 prevent reclassification of land where the public interest warrants
5 reclassification, nor does it preclude multiple [PURPOSE] use of land
6 whenever different uses are compatible. An area of state [STATE]
7 land, water, or land and water [AREA] may not, except by act of the
8 state legislature, be closed to multiple [PURPOSE] use if the area
9 involved contains more than 640 acres.

BY THE RESOURCES COMMITTEE

1 IN THE SENATE

2

SENATE BILL NO. 454

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to closure of state land to multiple
7 purpose use."

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

9 * Section 1. AS 38.05.300(a) is amended to read:

10 (a) The commissioner shall classify for surface use land in
11 areas considered necessary and proper. This section does not prevent
12 reclassification of land where the public interest warrants reclassi-
13 fication, nor does it preclude multiple purpose use of land whenever
14 different uses are compatible. State land, water, or land and water
15 area may not, except by act of the state legislature, be closed to
16 multiple purpose use [IF THE AREA INVOLVED CONTAINS MORE THAN 640
17 ACRES].