

HJR

35

NPMC

NORTH PACIFIC MINING CORPORATION

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FAXCOM TRANSMITTAL SHEET:

PAGE 1 OF 2

DATE: March 6, 1992

TO:

AK STATE House
NATURAL RESOURCES COMMITTEE

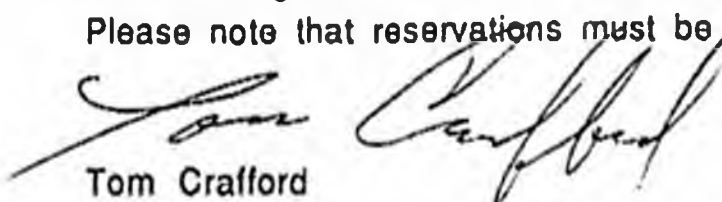
FROM: Tom Crafford

SUBJECT: Alaska Miners Assoc. Nevada Mine Tour

The Alaska Miners Association will be sponsoring a tour on April 26 - May 1, 1992 (see accompanying sheet) of bulk tonnage gold mines in Nevada. This tour will provide a great opportunity for industry professionals; municipal, state and federal officials; and other interested parties to learn more about this type of mining. Additionally, it will provide a forum for those groups to exchange their ideas and concerns.

Included in the tour will be a visit to the famous Sleeper Mine, owned and operated by the same company, AMAX Gold, that is developing the Fort Knox gold prospect outside of Fairbanks.

If interested, please contact the Alaska Miners Association, 501 W. Northern Lights Blvd., Suite 203, Anchorage, AK 99503, Tel. # 907-276-0347. Please note that reservations must be finalized by March 20.


Tom Crafford

President, Alaska Miners Association

IF YOU HAVE ANY QUESTIONS OR DID NOT RECEIVE ALL OF THE PAGES OF THIS COMMUNICATION,
PLEASE CONTACT OUR OFFICE AT (907) 276-6762.

TELECOPY COVER SHEET

Fairbanks Legislative Information Office

Office • (907) 452-4448

Fax • (907) 456-3346

TO: Gene HIO Gene Karaman Gutz FAX: _____ PHONE: _____

FROM: Carl Beithle PHONE: _____

INSTRUCTIONS: Written testimony for TC 82-02-112 -
2/27/92 @ 3:00 p.m. Please forward to Rep.
Davidson's Office - Thanks!

RECEIVED: Date _____ Time _____

SENT: Date 2/28/92 Time _____

DISPOSAL OF ORIGINAL: Discard _____ Hold for Pickup _____

NUMBER OF PAGES: _____ (Not counting cover sheet)

SENT BY: Gene



Alaska State Legislature

Please enter into the record my testimony to the House Resource Committee
committee name

committee on HJR 35 Federal Mining Law, dated held February 27, 1992, 3:00 p.m.
bill/subject

On behalf of the Alaska Minerals Commission I endorse approval of HJR 35, Federal Mining Law in accordance with Findings and Recommendation #26, Mining Law of 1872 on page 8 of the 1992 Report of the Commission. The Report was distributed to all members of the Legislature. Please let me know if you have any questions about the Commission's Recommendation.

Signed: Carl H. Beutler Chairman
Testifier
Alaska Minerals Commission
Representing (Optional)
P.O. Box 80148
Address
Fairbanks, AK 99708
Phone No.



TELECOPY COVER SHEET
New Jersey Legislative Information Office
Office - (907) 443-5555 Fax - (907) 443-2162

TO: Bureau LIO - House Resources Committee

ATTN: _____ FAX: _____ PHONE: _____

FROM: Becker - None PHONE: _____

INSTRUCTIONS: Written for (H) Resources + IC 92-02-112

SENT: Date 2-28 Time 10:20a

NUMBER OF PAGES: 1 (NOT counting cover sheet.)

TRANSMITTED BY: Becker

(Original in the mail.)



Alaska State Legislature

Please enter into the record my testimony to the Resources
 committee name
 committee on HJR No. 35, dated 2-27-92
 bill/subject

We wish to voice our strong support of HJR #35 to retain the current federal mining law. The existing law is not "out of date"- having been amended numerous times. Future needs can be met under this existing law by additional modification as necessary. Bills such as HR918 would be very detrimental to the mining industry and subsequently to the entire country.

Signed: Bruce H. Tweet Bruce H. Tweet
 Testifier
N B. Tweet & Sons
 Representing (Optional)
Box 1107
 Address
Nome, AK 99762 (907)443-5168
 Phone No.

ALASKA MINERALS COMMISSION

April 17, 1991

Honorable Cliff Davidson
House of Representatives
P.O. Box V
Juneau, AK 99811


Dear Representative Davidson:

On behalf of the Alaska Minerals Commission, I urge your timely support for passage of SJR 27 and HJR 35, "relating to support for the existing federal mining law system."

The resolutions echo a recommendation made by the Minerals Commission in its 1991 report to the Governor and Legislature supporting the existing 1872 mining law.

U.S. Congressman Rahall of West Virginia will be holding a hearing in Fairbanks on May 25, 1991, relating to proposed changes in the 1872 Law. It would be of enormous importance to be able to report at these hearings that the Legislature of the State of Alaska supports the existing Mining Law without the onerous and potentially damaging changes.

Sincerely,


Earl Beistline, Chairman
Alaska Minerals Commission
P.O. Box 80148
Fairbanks, AK 99708

EB/lvs5281t
41791b

Alaska State Legislature

P.O. BOX 671104
CHUGIAK, ALASKA 99567
(907) 688-4798



MEMBER
HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

FINANCE SUB COMMITTEE
COMMERCE AND ECONOMIC
DEVELOPMENT

WHITE IN JUNEAU
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-2199/2116
FAX (907) 465-2294

Representative Mary Miller

TO: Representative Cliff Davidson, Chairman
House Resources Committee

DATE: February 25, 1992

FROM: Representative Mary Miller *MM*

RE: HJR 35: Relating to support for the existing federal mining law system.

As our state's largest landowner and largest employer, the federal government exercises an extraordinary amount of influence over the State of Alaska. We Alaskans must therefore exercise an equally extraordinary level of vigilance when Congress ponders measures that threaten to disrupt our resource-driven economy. I have introduced HJR 35 in support of the existing Federal Mining Law System for precisely this reason.

The Federal Mining Law System finds its origins in the General Mining Law of 1872 and has served our country well as it evolved through amendments and case law over the past twelve decades. The enduring value of the General Mining Law rests in its preservation of a social contract between the individual prospector and the government. Now, however, both houses of Congress are considering legislation that would effectively annul that contract by eliminating the ability of miners to profit from their labor. This will be accomplished through a legion of measures that will raise and expand land-use fees to insupportable levels, that will further limit the lands available for mineral exploration and extraction, and that will severely restrict the operational latitude of ongoing extraction enterprises. In short, these proposed measures would have a devastating effect on the U.S. mining industry generally and an even more dramatic impact on the Alaskan mining industry specifically. The moratorium on future mining patents proposed by some Congressional legislators will not need to be imposed by statute, the laws of the marketplace will accomplish this by fiat. Over time, capital depreciation and foreign subsidies will impose a similar sentence on existing operations.

The members of this committee have been provided with supplementary materials

DISTRICT 15

CHUGIAK

EAGLE RIVER

FORT RICHARDSON

MULDOON

that explain the proposed revisions to the Mining Law in greater detail and will soon have the benefit of expert testimony to aid in the evaluation of these difficult issues. I would therefore like to confine my additional comments to a brief refutation of four major arguments typically advanced by opponents of the existing Mining Law.

Opponents of the Mining Law routinely condemn it as the product of a bygone era entirely outmoded by modern realities. Taking aim at this "frontier relic" in a Sunday editorial entitled "1872+119=trouble", one major Alaskan newspaper lamented that "in all those 119 years, one thing hasn't changed: the essential elements of the federal mining law of 1872" (*Anchorage Daily News*, June 2, 1991). The obvious problem with this argument is its invention of a false sensibility. For example, one would hardly complain that "in all those 200 years, one thing hasn't changed: the essential elements of the Bill of Rights." Furthermore, the rather strong implication that the Mining Law has remained in an unnatural stasis for twelve decades is simply false. The Mineral Leasing Act of 1920 and the Materials Act of 1947 each represented enormous changes in the Mining Law, which has continued to evolve through minor amendments and a large body of case law. A second major complaint of those who oppose the existing Federal Mining Law is that the law does not comprehensively address environmental protection issues. This is not a true argument at all, but rather a truistic observation totally unrelated to the merits of the Mining Law itself. The Mining Law is a land tenure law and was never intended to be an environmental law. Thus, while opponents of the Mining Law clearly mean to suggest that defects in that law have allowed the mining industry to escape environmental responsibility, their implication is once more simply false. Like any other industry, the mining industry remains subject to federal environmental protection laws of general applicability, such as the Clean Air Act and the Clean Water Act. In fact, a significant body of federal laws directly or indirectly amends or modifies both the Mining Law and the operations conducted under it.

This brings us to the widespread charge that miners have a unique and unfair ability to purchase federal land at the ridiculously low price of \$2.50 to \$5.00 an acre. In point of fact, this not a purchase fee, but rather the administrative fee to apply for a mineral patent. Once paid, there is no guarantee that such a patent will be granted. But this entire subject merely serves to cloud the true costs associated with gaining a mineral patent. Long before a patent may be applied for, the applicant must have already met both the "Prudent Man Test" and also the extremely rigorous "Marketability Test". It is not my intention to pretend that the Federal Mining Law System is not sometimes abused for the purpose of land speculation. Such abuses are quite rare, however, and it is precisely the rarity of these abuses that makes them noteworthy when they are brought to our attention.

Finally, it has come to my attention that a favorite ploy of anti-Mining Law activists is to suggest that members of Alaska's Congressional delegation employ a double-standard when they argue in favor of preserving the Federal Mining Law System.

These critics point to the fact that our state's own mining law is much more strict than the federal law: it imposes rental and royalties fees, and does not allow a miner to buy clear title to the land. What these critics fail to mention, however, is that these measures were forced upon our legislature in 1987 by the Alaska Supreme Court's decision in *Trustees for Alaska v. State* (736 P. 2d 324) that Alaska's mining laws were in violation of the leasing requirements established in Section 6 (i) of the Statehood Act. Therefore, the origin of Alaska's rent and royalty fees can be directly traced to a federal mandate that threatens the forfeiture of state lands to the federal government if Alaska does not comply.

Let us then briefly examine the impact that Alaska's newly established levies have had on the Alaskan mining industry: in 1989, 6,653 mining claims on state land (app. 18%) were abandoned from among the roughly 37 thousand claims; in 1990, 2,126 claims (app. 7%) were abandoned from a total of 31,059; and in 1991, 3,236 claims (app. 10%) were abandoned from a total of 30,467. This represents a drop of approximately 27% in three years. These dramatic results were achieved by imposing a 10% tax on the net profits of mining enterprises: 7% for mining license, and 3% for royalties. Not to be outdone, Congressional opponents of the Federal Mining Law System intend to surpass Alaska's statutes by requiring a minimum 5% royalty on gross receipts. The imposition of such a royalty would accomplish two things in Alaska. First, it would severely retard, if not terminate, minerals exploration. Second, it will render a significant portion of the 29,267 mining claims located on federal land in Alaska insolvent.

It is our responsibility as legislators to defend the interests of the Alaskan people. Ironically, however, many of Alaska's most important battles are fought a continent away by people who very often lack a basic understanding of the unique gifts and burdens of our way of life. That way of life is being threatened by those who seek to undermine the foundations of the Federal Mining Law System. I therefore urge the members of the Seventeenth Alaska State Legislature to take this opportunity to defend Alaska's manifest interests by issuing a clear statement in support of the existing Federal Mining Law System.

HOUSE JOINT RESOLUTION NO. 35
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES M.A.MILLER, Sharp

Introduced: 4/2/91
Referred: Resources

A RESOLUTION

1 Relating to support for the existing federal mining law system.

2 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 WHEREAS the federal government is and will continue to be the largest landowner in the State
4 of Alaska; and

5 WHEREAS 165,400,000 acres of federal Parks, Preserves, wildlife refuges, wilderness, and other
6 federal land in Alaska are closed to all forms of economic development, including mineral exploration
7 and mining; and

8 WHEREAS 49,600,000 acres of federal land in Alaska are still open to mineral exploration and
9 mining; and

10 WHEREAS a healthy mining industry can provide new jobs in many remote parts of Alaska,
11 jobs that are well-paying, year-round, and skilled; and

12 WHEREAS the existing federal mining law system has served our nation well since it was first
13 enacted in 1872; and

14 WHEREAS the existing federal mining law system has been amended more than 50 times to
15 accommodate changing conditions; and

16 WHEREAS mining must already comply with numerous state and federal laws concerning water

1 and air quality, reclamation, land management, health and safety; and

2 WHEREAS if individuals and companies risk their time and money in search of economic
3 mineral deposits, they must have a reasonable assurance that they will be able to mine the minerals they
4 find;

5 BE IT RESOLVED that the Alaska State Legislature supports the existing federal mining law
6 system; and be it

7 FURTHER RESOLVED that the Alaska State Legislature urges the United States Congress to
8 continue to support the existing federal mining law system.

9 COPIES of this resolution shall be sent to the Honorable George Bush, President of the United
10 States; the Honorable Dan Quayle, Vice-President of the United States and President of the U.S. Senate;
11 the Honorable Thomas S. Foley, Speaker of the U.S. House of Representatives; the Honorable Manuel
12 Lujan, Jr., Secretary of the Interior; the Honorable Edward Madigan, Secretary of Agriculture; the
13 Honorable J. Bennett Johnston, Chair of the United States Senate Committee on Energy and Natural
14 Resources; the Honorable George Miller, Vice-Chair and acting Chair, House Interior and Insular Affairs
15 Committee; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and
16 the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HJR 35

Revision Date: 25-Feb-92 Department Affected: Natural Resources
 Title: Support for Federal Mining Law BRU: Management & Administration
 Components: Commissioner's Office
 Sponsor: Representative M. Miller
 Requestor: House Resources COMPONENT SERIAL NO. 423

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
Funding Source:						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
Funding Source:						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of Current year impact:

ANALYSIS: (Attach a separate page if necessary)

This resolution does not affect DNR or State Land.

Prepared by: Carol Wilson Phone: 465-2400
 Division: Commissioner's Office Date: 25-Feb-92

Approved by Commissioner: Harold C. Heinze Date: 25-Feb-92
 Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

DON YOUNG
CONGRESSMAN FOR ALL ALASKA

WASHINGTON OFFICE
2201 PATRIOT BUILDING
TELEPHONE 202/225-5786

COMMITTEES:
INTERIOR AND INSULAR
AFFAIRS
MERCHANT MARINE AND
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CIVIL SERVICE



Congress of the United States
House of Representatives

Washington, D.C. 20515

February 26, 1992

DISTRICT OFFICES

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KENAI, ALASKA 99611

BOX 177
KODIAK, ALASKA 99615

P.O. BOX 1860
NOME, ALASKA 99762

Dear Legislator:

I am in full support of House Joint Resolution 35, introduced by Representative M.A. Miller urging the Alaska State Legislature to support the present federal "Mining Law of 1872".

The "Mining Law of 1872" has allowed the mining industry to prosper for nearly 120 years. I feel the proposed changes to the "Mining Law of 1872" show a basic lack of understanding of the processes and procedures involved in the mining industry. The history of mining development indicates that it is the small prospector, usually with a new idea, who generally first establishes the existence of a mineral property. Without the incentives of the Mining Law, the U.S. would be more dependent upon foreign sources for our mineral base and therefore not as well off economically.

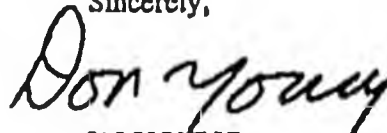
The most important aspect of the "Mining Law of 1872" is its application to lands in Alaska. The small miner is responsible for much of the cash economy in many areas of the Interior. Without mining, many would be unemployed and many small settlements simply would not exist. Those that did survive would be worse off economically without the law.

In essence, the "royalty" from mining in many cases is gainful employment, regional economic stimulation, reduced need for federal transfer payments, etc. Thus, the real benefits of the development of mines such as Greens Creek are an increased tax base, new jobs, and proud, hard-working taxpayers making a contribution to their community.

A recent study by the accounting firm of Coopers and Lybrand maintains that legislation introduced to repeal the "Mining Law of 1872" would threaten as many as 30,000 jobs and cost the federal government as much as \$230 million annually in lost revenues and increased spending.

I agree that environmental concerns need to be taken into account and I am in favor of comprehensive environmental regulations for the industry. Doing away with the present law would do more harm than good to the small miner, of which there are many in Alaska.

Sincerely,

A handwritten signature in cursive script that reads "Don Young". The signature is written in black ink and is positioned above the printed name.

DON YOUNG
Congressman for all Alaska

- All other receipts shared with States and Abandoned Hardrock Mine Reclamation fund

Existing Claims Transition

- Holder of valid mining claim has exclusive right to relocate claim under Act for three years after effective date
- Claims not converted within the three year period are null and void
- No patents issued for existing claims unless application filed and all requirements complied with by date of introduction

Miscellaneous

- Mineral Materials Act of 1947 amended to eliminate the "uncommon varieties" exception

Sen. Bumpers' 'dear colleague' letter states again the intentionally erroneous and misleading arguments he has used since the beginning of his crusade against the Mining Law of 1872. These include the \$2.50 patented land giveaway myth, the old- and unchanged- mining law farce, the true statement that the Mining Law does not regulate reclamation without making recognition of the body of other law regulating every aspect of land use, and the implication that damage under old controls is as bad or worse under new laws.

All corrections of the Senator's false statements and errors have been presented to the Senate in testimony repeated at each year's re-run of hearings. It is obvious that neither fact nor logic will deter the crusade. Only by trading our industry's historic defensive posture for a good offense can we move the game from the field and rules of the opponents, and into our own arena where fact can become the basis for judgement.

We have developed 'our own arena' which we believe all in the minerals industry can support. It is not a NWMA bill, but a proposal for a bill that all can get behind. All NWMA members have been sent a copy of the proposed bill, and all requests for copies by anyone will be immediately honored. The text of the proposed bill will not be repeated here; however, the bill will create a Commission whose purpose is to determine whether minerals policy and law, including the 1872 Mining Law, are serving the purpose of adequate domestic mineral supply. A Commission would be appointed to determine whether changes should be made, and if so, to recommend those changes to congress. The Commission members would be: A majority and a minority member of each house; Six from the public to be appointed by the President, to represent specialists in public lands and minerals, and; the chairman will be the Director of the US Bureau of Mines, Department of Interior. The Commission will have a period of three years or less to commission studies, gather facts, take testimony, and to report to Congress.

The mining community must unite, and must bring in the consumers of the products of the public lands, the suppliers to the producers of products from public lands, and the manufacturers of equipment and supplies used by the producers of our natural resources. We have many challenges to our ability to provide the nation's domestic mineral needs, but none are more critical than the maintaining of the basic tenets of the Mining Law of 1872. The gauntlet is dropped. WE MUST ALL TAKE UP THE CHALLENGE.

Rahall Bill Revisited

The 102nd Congress version of the Rahall bill to replace the Mining Law is now a reality. It is not much different than we saw in past drafts, and contains the same elements we have shown to be impossible. AMC has distributed a summary of the bill's content, and we take the liberty to pass information from that summary on to you.

We must prepare to respond to the bill if and when it comes up for hearings, just as we must for the Bumpers bill in the Senate. We believe the real answer to the Mining Law issue is to present our own solution rather than to continue to work within the framework of the opposition. Our solution is the bill to create a Mineral Policy Review Commission, a copy of which has been sent to all Association members, and which is discussed elsewhere in this issue.

The AMC summary includes the following:

The new bill, H.R.918, was introduced by Rep. Nick Joe Rahall II, (D-WV) with two co-sponsors, Rep. George Miller, (D-CA), acting chairman of the House Interior and Insular Affairs Committee, and Bruce Vento (D-MN), Chairman of the House Public Lands Subcommittee. The bill is similar to Rep. Rahall's H.R.3866 introduced last year, but contains more stringent enforcement and inspections, toughens reclamations requirements. It adds provisions for citizen suits, and creates an abandoned hard rock mined land reclamation fund.

Rep. Rahall's introduction said he premised his bill on five basic tenets:

- Patents must be eliminated.
- A substantial increase in diligent development requirements is necessary.
- A rental fee dedicated to reclamation of abandoned hard rock mines in the western states must be imposed.
- Statutory enforcement mechanisms for reclamation and a greater degree of authority for the Forest Service to manage mining activities on National Forest lands are required.
- Stringent land use planning requirements must be established.

H.R.918 eliminates the discovery concept, the distinction between lode and placer claims, and extralateral rights.

AMC provided a section by section analysis which we will provide for the asking, along with a copy of the new bill. Some of the major changes in the new bill are:

Sec.101 Adds to the definitions. Expands "Mineral Activities" to include activities on non-mining claim lands; adds definition of legal subdivisions; and deletes the definition of public domain.

Sec. 102 Adds description of, lands open to location, and more clearly defines the rights of claim holders.

Sec. 103 Similar to H.R. 3866, but modifies the claim size to allow less than 40-acre claims and describes the method of claim location where no survey exists. The procedure for conflicting claim resolution is re-written to require proof of the senior locator, and that the other claimant failed to meet the diligent development

expenditure

Sec. 104 As in H.R.3866, calls for a rental fee plus either a diligent development expenditure or payment in lieu. Added is an annual right-of-way fee of \$1.50 per acre until a mining plan is approved, and \$5.00 afterward. Diligent development expenditure minima are again \$20 per acre for years 1-5; \$40 per acre years 6-10; \$80 per acre years 11-15; and \$160 per acre each year thereafter. As in last year's bill, payments in lieu of diligent development expenditures may be made after the fifth diligence year, amounting to \$20 per acre years 6-10; \$40 per acre years 11-15; and \$80 per acre thereafter, but a change requires a five-year wait between election and beginning in lieu payments. Deferral of due diligence for hardship reasons is re-written.

Sec. 201 This section has been re-written, dealing with approval of plans, reclamation guarantees, restricted activity areas, reclamation standards and inspections. It authorizes the Secretary of Interior to close operations where violations are not corrected, and increases civil penalties from \$1000 to \$5000 per day. Citizen suits are authorized.

Sec. 203 Provides for land use planning requirements for mining activities, and requires review of all administrative land withdrawals.

Sec. 204 This new provision prevents access to wilderness study lands and wild and scenic river study areas for mineral location until Congress makes a final decision on status.

Sec. 205 Added is a savings clause that this bill does not take away existing restrictions on lands closed to mining location, and states that the bill will not preempt state reclamation or environmental laws.

Sec. 301 Amends the Surface Mining Control and Reclamation Act of 1977 to establish an Abandoned Minerals Mine Reclamation Fund administered by OSM. The fund's purpose is to provide funds to reclaim and restore lands and water resources damaged by past mining, and identifies eligible lands.

Sec.401 Gives the authority to administer this act to the Secretary of Agriculture for mineral activities on Forest Service Lands.

Sec. 402 Provides for assessing fees to pay for administration of the Act.

Sec. 403 Calls for regulations to implement the Act within 180 days after passage.

Sec. 404 Establishes transition rules for existing mining and millsite claims. Claim holder must convert his claim to the new act within three years, or the claim becomes null and void. After conversion, no distinction will exist between placer, lode or tunnel claims. Requirements for conversion of millsite claims are similar. After the effective date, no claim may be challenged on the basis of discovery, except those located on or before the date of enactment that are within National Parks, National Wildlife Refuge System, National Wilderness Withdrawals, Wild and Scenic Rivers System or National Trails System, which may be challenged by the United States. Further, claims for materials of 'distinct and special value' as defined by the Act of July 23, 1955, may be challenged by the United States.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

PO BOX 11
JUNEAU, ALASKA 99811-0800
PHONE (907) 465-2500

February 26, 1992

Honorable Mary Miller
Alaska State House of Representatives
State Capitol
Juneau, AK 99801-1182

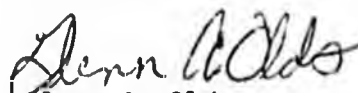
Dear Representative Miller:

Re: House Joint Resolution 35
Senate Joint Resolution 7

The Department of Commerce and Economic Development fully supports the House Joint Resolution 35 and the Senate Joint Resolution 7, relating to support for the existing federal mining law system. I further note that this action is fully consistent with the Alaska Minerals Commission's recommendations to the Governor and the Legislature in its 1992 report, page 8.

As is clearly stated in these Resolutions, future mineral development of the residual open federal lands in Alaska, about 23% of the total federal lands in the state, hinges on the maintenance of the existing federal mining law.

Cordially,


Glenn A. Olds
Commissioner

GAO/mm5878c
022692a

THE MINING LAW OF 1872: ALL YOU EVER WANTED TO KNOW BUT WERE AFRAID TO ASK

by W. Richard Hahman, PG, CPG

This past fall when Tom Jones asked me to write an article for the *Professional Geologist* explaining the intricacies of the Mining Law (actually the General Mining Law of May 10, 1872), I was somewhat nonplussed. As this Act with its 119 years of case law and subsequent mineral acts modification has been carefully explained to the general public by several TV network exposés and has had significant milestone articles of explanation written by obscure authors with most dubious credentials and published this year in such prestigious scientific journals as *The Christian Science Monitor* (March 20, 1991), *Reader's Digest* (April, 1991), *U.S. News & World Report* (October 28, 1991), my comments may well be too factual for general interest. However, a promise is a promise: here is the article and may we all learn something from it.

There are two very basic and fundamental flaws in the current arguments being made against the Mining Law. The first flaw is the issues have been grossly oversimplified and distorted in an attempt to make a case for reform. When an anti-mining law 'thesis' begins with such words as "antiquated", "outdated", "outmoded" and does not acknowl-

edge the subsequent 119 years of case law modification, the objective listener should be immediately aware that the data being recited is less than accurate. In a cogent discussion of the General Mining Law of 1872 the following modifying acts should be mentioned.

The Mineral Leasing Act of February, 25, 1920, established a leasing system, both competitive and non-competitive, for coal, phosphate, oil, oil shale, gas and sodium. The Act of April 17, 1926 placed sulfur located on the public lands in New Mexico and Louisiana into the Mineral Leasing Act of 1920. The Act of February 7, 1927 designated potash, chlorides, sulfates, carbonates, borates and silicates as leasable minerals subject to the Mineral Leasing Act of 1920.

The Materials Act of July 31, 1947 established that sand, stone, gravel and common clay are salable commodities. The Act of July 23, 1955 removed the common varieties of sand, gravel, cinders, pumice and pumicite from locatable minerals and designated them to be salable minerals. Acts governing minerals on the outer continental shelf and geothermal resources and associated byproducts/coproducts have modified the Mining Law of 1872, but are not germane to our discussion.

Currently there are three categories of minerals on federal land: locatable minerals (mining claims); leasable minerals, and salable minerals. All valuable mineral deposits on federal land are open to location under the General Mining Law of 1872 except those minerals specifically designated as leasable or salable commodities. The uncommon varieties of sand, stone, gravel, cinders, pumice and pumicite are, because of their uniqueness, locatable minerals or commodities.

The modifications of 119 years of case law and the above cited specific acts have kept the General Mining Law of 1872 as current as our Constitution and Bill of Rights.

The second major flaw in the arguments of the Mining Law opponents is the issue of environmental protection. Opponents quickly point out the obvious: the Mining Law is not an environmental law. In making this statement, opponents reveal their total lack of comprehension of the purpose of the Mining Law. It is a land tenure law and was never intended as an environmental law. There are 13 major federal laws with accompanying rules and regulations that have directly or indirectly amended or modified the Mining Law to require envir-

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onmental, historic and cultural protection. A total of 37 statutes directly amend the Mining Law or modify/apply to operations conducted under it.

Opponents of the Mining Law argue the law is no longer necessary because its original purpose, settlement of the West, has been fulfilled. This argument is false and totally misstates the Congressional history of mining law dating back to March 3, 1807. Congressional intent of mining law has always been the orderly development of mineral resources. The above cited argument totally ignores the Homestead Act of 1862, passed to promote the settlement of the West, under which Act 288 million acres of federal land was transferred (patented) to the private domain. By comparison only 3 million acres of federal land have been patented under the Mining Law.

The small miner and prospector are the research and development arm of the mining industry. Without these people the mining industry will start to decline. The General Mining Law codified that which the miners had developed into a workable system of laws to bring order to the chaotic situation in the Mother Lode country of California and Nevada. The Mining Law encourages the self-initiation of the prospector or miner by guaranteeing the access to prospect, the exclusive rights to develop a discovery and the security of tenure to hold the discovery. These principals are the core or backbone of the hardrock mining industry.

The principal finders in North America are and always have been the small miners and prospectors, not the mining company geologists. The mining companies rely on the small miner and prospector to submit their mineral properties to the company for evaluation by their geologists. Some few of these prospects make a mine, based on then current prices, supply and demand. However, mineral deposits not economic today may well be economic in the future depending upon the use, the supply and demand. Therefore, it is necessary for the federal lands to remain open for prospecting in order to meet future demands for mineral raw materials.

The right to develop a property and land tenure to hold the discovery are critical to the mining process in that private sector financing is not available without it. I can think of no institution willing to loan money to a miner to develop land he neither owns nor controls. Land where an outside administrator could shut down the mineral development on a personal whim and where citizen suits are encouraged will never be explored for mineral resources. The anti-mining lobby is well aware of this fact.

The anti-mining organizations continually point out in the media that people can pur-

chase/patent federal land for \$2.50 to \$5.00/acre under the Mining Law of 1872. As most people in the United States have no knowledge of the Mining Law of 1872 and the mineral patenting process, the above cited "purchase fees" are cause for their concern. At these quoted prices there should not be any federal or public land left. I, my colleagues and our predecessors should have had it all patented by now! Using these anti-mining environmental preservationist figures, in a 30 year period the acquisition of two square miles of patented land at \$5.00/acre (lode claim) would cost \$6,400.00. The annual expenditure to make the acquisition is \$213.34 or less than the price of one premium beer per day for a year! As hundreds of millions of acres of public lands remain available today, the anti-mining people must be leaving some facts out of their argument.

The following discussion on the mineral patent procedure is what is not being told the public. There are two major problems to be solved when patenting a claim. The first problem to be solved is the "Prudent Man" test which, stated simply, is "Is a prudent man warranted in continuing work on this mining claim with the expectation of making a profit in a mining operation?" The purpose of assessment work on claims is to demonstrate a prudent man is warranted in continuing the exploration. A few years of negative results from assessment work is grounds for the claim to be declared invalid: I have yet to meet a prospector or small miner willing to throw good money after bad. The assessment work and results must be filed yearly with the federal government.

The second test on the way to patent a claim, the "Marketability Test", is a real killer of mineral deposits. The Marketability Test requires considerable time and expenditure of money in order to demonstrate marketability of the mineral property. First the mineral deposit must be proven by demonstration either by detailed drilling and/or underground exploration and development operations, to be of ore grade and to contain enough tons of ore grade mineralization to warrant pursuing a commercial mining operation. A significant number of mineral properties leave the system at this point. The second step in the Marketability Test is a detailed mining plan of the proposed operation, including development and on-line costs of the mine, mill, transportation, smelter and then the product marketability. This phase is essentially cost accounting and the projected rate of return should show a reasonable profit. The report generated by all this work is submitted to the Federal Government along with the administrative fee of \$5.00/acre (lode claim). It is at this point in the process that the Federal Government substantiates and evaluates the property report and cost accounting. If both sides' evaluations are

in reasonable agreement, then, in all probability, a mineral patent will be issued. However, if the Federal Government is unable to substantiate the report and cost accounting, it may most discretely request the quiet withdrawal of the application for patent. Should the miner elect to not heed this most practical advice and instead force an official ruling on the claims and that ruling is negative, the ground is declared officially open again for mineral location. All work and expenses incurred by the miner prior to the ruling are lost and he must start over.

The above description of the mineral patenting procedure indicates considerable expensive work is required to patent a claim. The claim holder must show proof that a mineral deposit can be mined at a profit, (a process usually costing millions of dollars), before earning the right to pay the purely administrative fee of \$2.50 - \$5.00 per acre for patent. A far cry from the \$2.50 - \$5.00 fee reported in the media, the current average cost per acre to patent a mining claim is \$11,000.00 or \$220,000.00/20 acre claim. Definitely not beer money!

The anti-mining environmental preservationists make a big issue stating that hard rock miners on public land pay no rental fees or royalties to the federal government. Statements such as "If someone is mining on your land wouldn't you expect to receive a rental fee and a royalty?" are common in their discussions of the Mining Law. The obvious answer is "Yes!". However, federal and state governments have the power to levy taxes and the private property owner does not.

At this point a comparison of the number of leasable, royalty paying operations versus

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the claimable operations in the United States, including the outer continental shelf is definitely in order. The following figures are current as of 1991.

There are 606,890 domestic oil wells and 257,279 domestic gas wells in production. There are 2,915 domestic coal mines in production. In addition, the above cited commodities generally occur as flat-lying deposits covering a comparatively wide area. Therefore, these commodities do not carry the high risk of discovery and development associated with the hard rock minerals.

At present there are about 70 hardrock mines in production. 58 of these 70 mines produce the "lion's share" of the metal production in the United States. Thirteen copper mines produce 95% of U.S. production. Ten iron mines produce 99% of U.S. production. Nine lead mines produce 100% of U.S. production. 25 gold mines produce 75% of U.S. production. One platinum mine produces 100% of U.S. production.

As can be seen, equating hard rock mining to the rental/royalty commodities which oil, gas and coal represent is a fallacious exercise. The only similarity is that all products come from the earth. Hard rock mineral resources are very, very rare. The hard rock mining companies in the United States control neither the commodity price nor the market place in which they must operate. The foreign competition, often subsidized by its government, is not required to devote as much of the unit price of the produced metal for environ-

mental controls as are the U.S. companies. As an example in the United States 15 cents of the price per pound of copper goes for environmental controls. The foreign competition, not hampered by environmental laws and regulations, have an automatic 15 cents per pound price edge on a commodity which is currently priced at approximately \$1.00/lb. The addition of a royalty and/or rental fee would be added costs that could not be passed on to the consumer as is done in the fuel minerals/commodities.

At this time it should be pointed out that neither the laws of supply and demand, nor costs versus selling price/profits have been repealed by the anti-mining environmental preservationists. These laws still drive the market place. Therefore, the value-added manufacturers or industry will always purchase raw material from the least expensive supplier, not the most environmentally sound supplier. Should the U.S. metal mines demand the same protection environmentalists give American tuna fishing fleets by banning foreign tuna topped with dolphins?

One thing that must be kept in mind is the higher the royalty, the higher the mine ore grade cut-off will have to be to accommodate it. The higher cut-off grade means less low-grade ore is mined resulting in less metal produced, fewer jobs, less taxes received and a decrease in mine life. Less taxes from the metal mining industry means more taxes must be collected from the general public.

The metals mining industry pays many different federal and state taxes including taxes on unmined reserves in the ground. There are the corporate income tax and excise

and severance taxes. In New Mexico in 1989 the hard rock mining industry paid 38 million dollars to the state in excise and severance taxes. Without these taxes the citizens of New Mexico would have to make up the difference.

The dividends paid to stock holders are taxed. Then there are the personal income taxes paid by the corporate officers and employees. Additional taxes, both state and federal, are paid by companies and personnel of the support service industry required to keep the mine, mill and, where applicable, the smelter running in a smooth, cost effective manner.

Fifty years ago this article would not have been necessary. In those days people well understood the origin of their homes, tools, clothes and other material possessions. They knew business and industry paid the lion's share of the taxes supporting schools, roads, fire and police protection. They were well aware of the materials necessary to produce electricity and other fuels. People today have forgotten what their predecessors knew: "If it can't be grown, it has got to be mined!"

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Section 6 (i) The Alaska Statehood Act, 1958

All grants made or confirmed under this Act shall include mineral deposits. The grants of mineral lands to the State of Alaska under subsection (a) and (b) of this section are made upon the express conditions that all sales, grants, deeds, or patents for any of the mineral lands so granted shall be subject to and contain a reservation to the State of all the minerals in the lands so sold, granted, deeded, or patented, together with the right to prospect for, mine, and remove the same. Mineral deposits in such lands shall be subject to lease by the State as the State legislature may direct: *Provided*, That any lands or minerals hereafter disposed of contrary to the provisions of this section shall be forfeited to the United States by appropriate proceeding instituted by the Attorney General for that purpose in the United States District Court for the District of Alaska.



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House Joint Resolution 35

Relating to support of the existing federal mining law system.

For the record, my name is Steven C. Borell, I am the Executive Director of the Alaska Miners Association and this testimony is on behalf of the Association.

Thank you Mr. Chairman for scheduling this bill and for the opportunity to provide testimony at this time. The federal mining law system provides the legal framework defining how private citizens, prospectors, and mining companies are allowed to gain a property right to minerals on the federal public lands. This law is therefore crucial for the future of the mining industry in Alaska and the nation.

At this time, there are three bills in the U.S. Congress that would fundamentally change the federal mining law system. Two of these bills are under serious consideration. These bills have had various hearings, including one held in Fairbanks in May of 1991. One of the bills is H.R. 918 is sponsored by Congressman Nick Joe Rahall of West Virginia, a state with mainly private lands but no lands to which the federal mining law applies. The other bill is S.433 sponsored by Senator Dale Bumpers of Arkansas, a state with only a few thousand acres to which the federal mining law applies.

Both of these bills would destroy the basic principles of the mining law system that has served our country well for over 120 years. During that time the federal mining law has been changed and amended more than 50 times but without destroying the basic principles which are the right of self initiation and the right of secure tenure.

The right of self initiation means that the private citizen does not have to get government permission before he or she goes out and looks for minerals on the public lands. And if a valuable deposit is found, the private citizen can initiate a "claim" to the minerals.

The right of secure tenure means that once the citizen has spent his or her time and money searching for and has found a mineral deposit, and if he follows a detailed set of rules involving staking, diligent work and recordation, a third party cannot take it away. The government can take it by condemnation but a third party cannot.

ALASKA MINERS ASSOCIATION, INC.

Once a valuable mineral deposit has been found, the miner must then obtain many different permits before he can actually begin mining. Some criticize the mining law saying that it does not require reclamation. That is correct. Some criticize the mining law saying that it does not include land planning and that also is correct.

The mining law is a property right law. It defines a very exacting and complex set of requirements that must be met for a private citizen to gain a property right to minerals that he or she finds on federal land. This property right law does not include reclamation. Nor does it include worker safety. Nor does it include water quality requirements nor air quality requirements, nor federal income tax law. These and many more topics are covered by other laws and are not and should not be in the mining law. The miner must comply with each of these laws but placing them in the mining law would merely result in duplication, confusion, and such uncertainty when such requirements have to be meshed with other existing laws covering the same subjects.

As for land planning, most of the federal land in Alaska is already off limits to mining. Almost one half of Alaska or a total of approximately 165.4 million acres of federal land in Alaska is in Congressionally designated Parks, Preserves, Wildlife Refuges, Wilderness and other restrictive categories. This is nearly the size of the entire state of Texas. Another comparison is that the amount of federal land in Alaska now closed to mining is equal to the combined total acreages of the states of: New York, New Jersey, Pennsylvania, West Virginia, Ohio, Indiana, and Illinois.

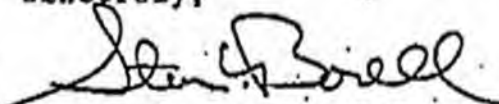
Some of the best mineral ground in the state is in those lands that are now closed. On February 13, 1992 the Alaska Miners Association addressed this House Resources Committee and talked about issues of concern to the industry. We very much appreciated that opportunity. One of the speakers was Mr. Joe Piekenbrock, a geologist with Placer-Dome Alaska, Inc. He described how mining companies typically search for minerals by looking in areas adjacent to major known deposits. He used the examples of Greens Creek, Red Dog, Kennicott and the A-J to show how the most promising lands in the state are already locked up in federal parks, preserves, wildlife refuges, etc. Land planning by the Congress has already had a tremendous adverse impact on Alaska and its economic future. With the passage of ANILCA (Alaska National Interest Lands Conservation Act), Alaskans were promised that there would be "no more" federal set-asides and that the rest of the federal lands would be available for economic development purposes. The changes being proposed by H.R. 918 and S.433 would in large part negate that promise.

These bills will have an adverse affect on the economy of Alaska and the entire United States. A study titled "Economic Impact of Mining Law Reform" has just been completed by the joint efforts of the accounting firm of Coopers & Lybrand and the law firm of Davis, Graham & Stubbs. The study is dated January 28, 1992 and concluded that if S.433 and H.R. 918 were now in place:

- 1) some mines now operating would never been built;
- 2) there would be between 10,000 and 30,000 fewer jobs in the mining industry in the Western U.S.;
- 3) the federal government would have an estimated annual net loss of \$230 million if S.433 was in effect or an estimated annual net loss of \$125 million if H.R. 918 was in effect;
- 4) in the 12 western states, under S.433 about \$3.8 billion worth of economic activity would be lost each year and under H.R. 918 about \$1.5 billion worth of economic activity would be lost each year.

In conclusion, the federal mining law system is important for the economic future of Alaska. In many areas of the state minerals development has the very best chance for producing new jobs and economic opportunity. We urge you to pass this resolution.

Sincerely,



Steven C. Borell, P.E.
Executive Director

ALASKA MINERS ASSOCIATION, INC.

LAND STATUS IN ALASKA
(Millions of Acres)

	<u>Total</u>	<u>Total "Wilderness"</u>	<u>Total Closed to Mining</u>	<u>Total Open to Mining</u>
<u>Federal Lands</u>				
National Park Service	54.7	32.8	54.7	0
U.S. Fish & Wildlife	77.1	18.5	77.1	0
U.S. Forest Service	22.8	5.7	5.7	17.1
Bureau of Land Mgmt.	57.9	2.4(2) 23.0(3)	2.4 23.0	32.5
Department of Defense	2.5	..	2.5	0
Subtotal	<u>215.0(1)</u>	<u>82.4</u>	<u>165.4</u>	<u>49.6</u>
<u>State Lands</u>				
State Parks	3.2	..	3.2	0
Administrative Mineral Closures	5.3	..	5.3	0
Other State Lands	77.9	..	0	77.9
Not Selected/TA'd	18.	..	0	18.
Subtotal	<u>104.4(1)</u>	..	<u>8.5</u>	<u>95.9</u>
<u>Private Lands</u>				
Native Corporations	45.6	..	0	45.6(4)
Other private	0.5	..	0.5	0
Subtotal	<u>46.1</u>	..	<u>0.5</u>	<u>45.6</u>
Total	<u>365.5</u>	<u>82.5</u>	<u>174.4</u>	<u>191.1</u>

- (1) Final acres that will result after all State and Native land transfers.
- (2) Wild and Scenic River Corridors total approximately 2.4 million acres and these are managed the same as Wilderness designated lands.
- (3) National Petroleum Reserve Alaska is effectively managed as Wilderness.
- (4) Open to mining if leased from Native Corporations.

Comments of
Neil MacKinnon
on
H.R. 918
May 25, 1991

Mr. Chairman, members of the Committee, thank you for the opportunity to testify today.

For the record, my name is Neil MacKinnon. My great grandfather came into this land from Nova Scotia to prospect under the Mining Law of 1872, one of the few laws in the then District of Alaska. I am a graduate of the University of Alaska with a degree in mining engineering. Since graduation, I have supported my family and prospecting habit as a businessman in Juneau. I have been involved in numerous prospecting ventures and have negotiated many mining agreements both as lessor and as lessee. I was a member of the City and Borough of Juneau's mayor's committee on the mining lease for the A/J mine and the committee that drafted the local Juneau mining ordinance. Last year in my role as president of the Alaska Miners Association I was part of the working group of miners, environmentalists, and state representatives that drafted Alaska's mining reclamation law. I am speaking today for myself, and my family.

With the example of the failure of the planned economies of Russia and Eastern Europe so vividly before us, it will be ironic if this nation discards a law that has stood us well and moves down the path that led to their failure.

The roots of the Mining Law of 1872 can be traced back to the Middle Ages in Europe and can be said to form the foundation for many of the freedoms we as a people enjoy today. The law of 1872 is a people's law. It makes the individual in the mining business equal to the large corporations of this world. Under the law, anyone can prospect. The mining business is open to all with the initiative and interest to enter it. In that way it has been instrumental in providing us with the standard of living we enjoy today.

Why are we changing this law? Because it is old? So is our constitution and like our constitution the Mining Law of 1872 has been modified many times. Both specifically and by general environmental and land laws that have been the recent trend. (NEPA, FLMMA, Clean Water Act, Clean Air Act, wetlands, and coastal zone to name a few.)

Are we trying to fix the abuses and problems in the law? Then let's fix them. But let's fix the real abuses and problems, not the precieved ones. Let's create a system that will enhance our mineral industry, not drive it to foreign lands. Let's make it possible for this nation to enjoy the economic activity and wealth that mining creates.

To be sure, there are some good points to H.R. 918. The wisdom of charging rent and not a royalty is refreshing. It is fair that the miner pay a reasonable rent for a claim and it is right to reclaim the past with that rent.

It is time that annual labor be increased to promote the development of mineral claims, but not be increased to the point that one cannot afford to pursue a mine because of it.

I also see in H.R. 918 the potential to open lands that are now closed to mining. It is a small potential but the fact that it exists in this bill gives me cause for hope.

But as hope gives way to fear let me say my greatest fear in changing the mining law is that many of those who advocate such change do so not to encourage responsible mining on the public lands, but to eliminate mining from the land altogether. The slogan "mine free by ninety three" comes to mind when I examine H.R. 918, for contained within the provisions of this bill are the tools that will eliminate mining from the land.

How will mining be eliminated? By planning us to death with unending study and the opportunity for "citizen suits" all along the way. By tying mining up in an ever increasing bureaucratic and legal morass. By closing all land to exploration except that which the bureaucracy specifically opens. By increasing the risk that through government fiat the prospector will lose his investment without compensation.

To change the law and still retain a viable industry is possible. But it will take more consideration of the true problems and abuses. More thought about the real consequences of change and more attention to the experience of the failure of the planned economies of the world.

Specific comments:

TITLE I - Title and Rights

Section 101

(a)(1) Diligence Year - the diligence year should follow the present assessment year practice of from September 1 to August 31 of each year. The confusion of dates presented by the proposed system will increase error and make it much more difficult for a person to tell if the requirements of this act have been met. Rent can easily be prorated for the fraction of the year to September 1.

Section 102

(b)Rights - some guarantee of access to a mineral deposit is crucial. Minerals must be developed where they are found. Without reasonable access a mineral deposit will be worthless. Without some guarantee that reasonable access will be available a mineral deposit is not worth searching for.

Section 103

(c)(3) - the historical precedent has been that the ground location always determined conflicts. The ground location has always held precedent because it relates directly to the minerals in the ground and that is what the miner is trying to acquire. If the notice will be determinative as proposed, then why even go through the bother of locating the claim on the ground, erecting monuments, and marking lines.

(g) Conflicting locations - adjudication of mining claims was tried by the State of Alaska Division of Mining. They soon were over two years behind on recording mining claims on their status plats. In every one of the adjudications I was associated with they were wrong and reversed. The cost of adjudicating and staff requirements will outweigh any benefit the nation could receive. I suggest you collect the rent and due diligence from both claimants and let them sort it out between themselves.

Section 104

(a)(1) - a reasonable rent is by far more preferable for all parties concerned than a royalty for several reasons. First, the odds of any given mineral discovery will result in a mine are less than one thousand to one. This fact alone means that there will always be many more claims paying rent than producing mines paying royalty. Secondly, Mr. Rahall is absolutely correct in his assessment of the government's inability to assess and audit any royalty. The treasury will always derive more money from rents than royalties no matter what the rate of taxation.

If one analyzes the wealth created from a mine (for that is what we are doing, creating wealth) through its first layer of distribution you will find that one-third goes to capital, one-third to labor, and one-third to the federal, state, and local governments. So, to me, it seems that the pie is being split as evenly as possible and any increase in the division for any party will come only at the expense of the other two. Adding an additional tax in the form of a royalty creates a disincentive to

produce minerals and diminishes, not increases, the revenue the treasury will receive.

As a point of information, the State of Alaska has recently instituted a rent for state mining claims. The initial assumptions were that 50% of the claims would be relinquished by the imposition of rent of \$.50/Acre. The actual loss in the first year was in the order of 20% of the approximately 40,000 claims existing before rent. This year Alaska expects to receive over six hundred thousand dollars in rent and will expend about one hundred thousand dollars in collection and administration.

(a)(2) - Deferring of diligent development expenditures should also be allowed because of lack of permits to operate from state and local governments.

(c)(2)(B) - any mineral sampling and testing should be allowed. Bulk sampling is but one type or phase of testing.

(C)(2)(f) - other mineral activities should also include filing fees and permitting costs and fees. While tradition has invalidated transportation of personnel as an allowed assessment expense this too should be allowed to encourage housing of exploration personnel in other than a camp on the claim.

(C)(2) - the diligent development expenditures as proposed in the early years are within reason. However, the diligent expenditures proposed for claims after eleven years will be a significant burden for the small prospector unless excess diligent development expenditures from previous years can be carried forward. This section will also cause exploration programs to be designed around meeting the diligent development expenditure and all work will halt for the diligence year once that amount has been reached.

The State of Alaska allows a miner to carry forward excess annual labor four years and the system works fine. I argue for and allow a carry forward provision in all my mining agreements because it makes good sense and serves to develop the minerals. The federal government should adopt it also.

(d) - Payment in lieu of diligent development - this is an admirable concept for enhancing receipts to the treasury but does not serve to develop any mines. On a year-to-year basis the concept has merit but I fail to see the reason or need to lock a claim holder into five years of cash payments in lieu of diligent development expenditures.

(e) - Deferment, waiver or reduction - this is another admirable concept for taking care of the small miner. However, I cannot envision any bureaucrat sticking his neck out to grant relief except in the most unusual of circumstances and even then, he will be open for litigation under section 202 (e), citizen suits. It is worth keeping the concept in the bill, but we are fooling ourselves if we think it will help the small miner except in the most extraordinary situation.

Section 105

(a)(3) - the penalty for failure to comply under section 104(g) is the loss of the claims. Adding an additional penalty of up to \$5,000.00 per day seems to me unusually harsh.

Section 106

Access through and across federal lands should be added to the list of permitted activities that the Secretary can make land available for.

Section 108

The present operation of the patent law and requirements make it impossible to risk going for a patent unless one is actually mining at a profit. At that point, why bother? What is important to the industry is long-term tenure and security for one's investment in the minerals. Patenting just the mineral and not the surface would provide that assurance. The time it takes to put a mine into production makes this a long-term business that requires stability to function efficiently. A patent to the minerals only, would satisfy most of the arguments against patenting and still provide long term protection for the prospectors investment in the minerals.

TITLE II - Environmental Considerations

Section 201

(a) - I agree and let me add that I also think everyone should do the same. The present plethora of environmental laws federal, state and local do just that.

(b)(4) - This section will designate all federal lands off limits to mining until the Secretary opens them. But only after the

Secretary has made provision for a land use plan and that plan has withstood any "citizen" suits would one be able to even prospect any presently open federal land. Mineral exploration, even on existing claims, could be impossible for years. One can look to Alaska's next door neighbor, the Soviet Union, to see the economic and environmental disaster that planning has wrought.

(c) - Reclamation - I was part of the group of miners and environmentalists who worked with the alaska legislature and administration to develop a reclamation law. Reclamation is the law in alaska on all lands, federal, state and private. Requiring reclamation to a capability of supporting the previous condition is reasonable. However I don't believe that requiring reclamation to a higher or better use is fair or reasonable. It is wise to allow for such reclamation but not to require it.

(c)(2) - Standards - I see here the laundry list of requirements some reasonable and necessary and some that will form the basis for more citizen suits by anyone wishing to stop a mining operation, for whatever reason. In Alaska a standard that is appropriate in one part of the state will be impossible to meet in another. The plan of operations is the place to set the requirements. The standard has been set in the preceding section (1). The Congress would be wise to let the specific methods of achieving the standard be set at a level closer to the ground.

Section 202 - inspection and enforcement

(a)(1) - Mandated quarterly inspections could be an extreme hardship and possibly life threatening for the miner and government personnel in Alaska's winter. The frequency of inspection should be a function of the level and timing of the operating plan being inspected. This seems to me to be more of an operating policy and not of the level of the general land law.

(e) - Citizen suits - this paragraph is misnamed for one need not be a citizen to sue the Secretary. We are seeing this concept being proposed more frequently, especially in relation to the environment. This will be one of the main tools used by anti-development forces to stop any project by paralyzing the government which issues the permit. The much acclaimed environmental goal for the public lands of "mine free by ninety three" will be realized through citizen suits.

Section 203 - Land use plans

This section is in conflict with section 102 which says that mining claims may be located on "such lands and interests that were

open to the location of mining claims on the date of enactment of this Act". This section would require the Secretary to perform an environmental impact statement on any lands opened up for mineral location and will effectively close all federal lands to mineral entry under the guise of planning.

To open any lands the Secretary will have to run the gauntlet of citizen suits and study the lands to such an extent that only the most valuable of mineral deposits could withstand the costs and time involved. There are environmental groups and government agencies that routinely oppose any proposal for development. They demand that all possible, not just reasonably foreseeable, effects and consequences be studied and studied and analyzed in order to delay, frustrate, and kill the development proposal.

The Tongass National Forest is in the process of revising its forest plan. They have had a team working for over two years and are working on their second revision of the draft EIS. (Some members on the planning team joke about the perpetual planning process and it might be funny if it weren't so true and costing us all time and money.) The initial planning did not even consider minerals at all. It took intense pressure on the part of the mining community to even get the forest service to consider minerals as a prescription and part of the Tongass plan. Even so, they have only given minerals the most cursory of treatments and only in areas where proven reserves exist. They have ignored the mineral possibilities in the lesser explored areas of the Tongass, which under this proposed law will always remain unexplored.

(f) With rawal review - this is a most welcome concept to see proposed, but I believe it does not go far enough. Several areas in Southeast Alaska that I am personally familiar with are highly mineralized, have had a long mining history and yet were withdrawn as wilderness. The reports detailing the mineral potential of these areas were buried and ignored by the elements propounding their withdrawal. Uncontrolled mining existed in these areas before wilderness and yet they were still suitable for wilderness, ample evidence that mining and wilderness are not mutually exclusive. Modern mining with all of the controls that exist can be done in a manner that will not compromise wilderness in the long term and still provide the metals we need today. Over seventy-five percent of the federal land in alaska is already closed to mining.

It has been argued by Thomas Barrett in his pamphlet on self initiation that one impetus for many of the present withdrawals from mineral entry was to eliminate alienation of the land to citizens through patent. If we are to eliminate the patent then

that threat no longer exists and thus the need to exclude mining from these areas. I think it is not unreasonable that we examine all of our lands especially with the new controls on the industry proposed here.

Section 204 - Lands not open to mineral location

This will close even more land to exploration for minerals. The immediate effects will be the loss of the investment dollars and jobs that exploration spending brings to the economy. The full effects upon the nation will not be felt until even more of the minerals we depend upon are produced from foreign sources.

TITLE III - Abandoned Mine Reclamation

This is a good idea and hopefully will work provided that there is a pool of mining claims paying into the fund. For the fund to be successful the mining law must allow mining in this country. As drafted H.R. 918 will not be successful in this regard. If H.R. 918 is amended so that the mining industry can remain successful, then the fund can work. But what happens after the fund cleans up the past practices and reclaims all abandoned mines? Does this fund become a pot full of money looking for a problem or does the industry get some credit for cleaning up its mess, a mess that the entire nation shares in creating in the form of inexpensive metals.

TITLE IV - Fees and Discovery

Section 402 - User fees

Rent should be considered sufficient. This carte blanche invitation for bureaucracies to grow cannot help solve any problems of the nation.

Section 404(c) - Discovery

Here is another case where H.R. 918 is turning an ancient concept in mineral law completely around. Discovery has been defined by the large body of law around it. The prudent man test and the marketability test further restrict and define discovery in such a way as to limit severely the number of new patents issued. The federal lands, at least in Alaska, are not being converted to condominiums under the guise of the mining laws. The requirements to prove discovery today are such that it is virtually impossible for any but the most valuable of mineral deposits to go to patent. However, that patent helps to protect the huge financial risk that a miner must make to discover, define and develop a mineral

deposit. Discovery and patent to the minerals discovered are vital parts of a healthy mineral industry.

One can solve the problem of holding of mining claims prior to discovery by instituting a prospecting site as Alaska has done. The prospecting site gives the claimant exclusive rights to prospect within the confines of the prospecting site yet does not require discovery. A claim cannot be staked without discovery. On Alaska land a claim without discovery can be challenged by any one not just the state. The doctrine of Pedis possessio will not protect a claim without discovery on Alaska land.

(d) Interim period - this section forces a lot of work and expense upon the industry as well as the government. Relocating claims on the ground will be time consuming and seemingly needlessly as the legal description will control not the ground location. In areas where present claims exist sorting out the legal description and claim rights will be a legal and administrative nightmare.

I also have problems with changing the rules of a game after people have risked money, labor and time in providing minerals for our nation. After closely reviewing this bill I believe that, to change in mining law systems and retain a mining industry, requires much more thought in an atmosphere of trying to solve the problems of mining on the public lands not confrontation.

DANIEL K. ROBYL, HAWAII
ERNEST F. HOLLINGS, SOUTH CAROLINA
J. BENNETT JOHNSON, LOUISIANA
OLENTH N. BURDICK, NORTH DAKOTA
PATRICK J. LEAHY, VERMONT
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JAMES H. HANCOCK, STAFF DIRECTOR
A. KEITH KENNEDY, MINORITY STAFF DIRECTOR

United States Senate
COMMITTEE ON APPROPRIATIONS
WASHINGTON, DC 20510-6028

February 27, 1992

The Honorable Mary Miller
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Mary:

I've reviewed your draft joint resolution on mining law reform and think it's a very good idea. Every year we're facing tougher opposition from those who would like to make wholesale changes to the General Mining Law. It would be helpful to the Alaska delegation and to Congressmen from the Western States if the Alaska State Legislature passed a resolution supporting the current mining law and its philosophy.

For two years now, the U.S. Senate has rejected back door attempts to radically change the law and attempts to remove the ability to patent claims. When we defeated the mining patent moratorium sent to us by the House in the FY 92 Interior Appropriations bill, it was by only a one-vote margin -- there is no question that the debate will continue.

Please send me a final copy of House Joint Resolution No. 35 once it passes. I appreciate your interest in this issue so important to Alaskans.

With best wishes,

Cordially,


TED STEVENS

Bumpers Bill Ready To Go

On February 6, Senator Dale Bumpers sent a 'Dear Colleague' letter to fellow members. It explained his goals for mining law reform, and asked support and co-sponsorship. All will remember the budget debate at the end of the last congress in October, 1990, in which the mining laws were protected from the Bumpers religion only by a concerted effort by a small number of Senators who understood the destructive effect of the Bumpers proposal. The Bumpers proposal was defeated on a point of order. The last word was that Senator Bumpers would return in the next (this) congress with another attempt. He has done so.

Because each point of the proposal is important to understand, the entire summary issued by Senator Bumpers is printed here.

MINING LAW REFORM ACT OF 1991

Summary of Major Provisions

Mineral Claims

-May be located on "mineral lands" (public domain lands open to mineral entry under the 1872 Mining law, excluding the wilderness study areas and areas recommended by agency for wilderness designation)

- Maximum claim size 80 acres
- Claimant files notice of location and \$100 recordation fee with the Secretary
- Claimant has exclusive right of possession of claimed land for mineral activities if claim located, recorded and maintained in accordance with Act
- Claim expires after 20 years if no production in that time period (extension for "bona fide efforts" to produce)

Holding Fee

- Annual payments required to maintain claim
 - \$5/acre, years one through five
 - \$10/acre, years six through ten
 - \$15/acre, years eleven through fifteen
 - \$20/acre, years sixteen through twenty
- Holding fee required ceases when royalty payments for any year exceed the applicable holding fee for that year
- Failure to pay fee nullifies claim

Surface Use Permits

- Replaces millsite claims with permit system
- Annual surface use fee of \$5/acre

Royalty

- Production of minerals from a claim subject to royalty of not less than 5% of gross income from the property
- Definition of gross income keyed to detailed I.R.S. definition of gross income for purposes of depletion allowance calculation

Plans of Operation

- Similar to existing BLM/Forest Service regulations
- No mineral activity causing more than "minimal disturbance to the environment" allowed without approved plan
- Compliance with applicable land use plan, and reclamation and bonding requirement

Land Use Plans

- BLM and Forest Service land use plans must consider mineral activities
- Mineral activities may be prohibited, restricted or conditioned in land use plans subject to guidelines in the Act
- Plans of operations for mining activities must comply with restrictions or conditions imposed on specific areas by land use plan
- Existing land use plans must be amended to conform to requirements in the Act within six years

Reclamation and Bonding

- Secretary shall require reclamation of all surface disturbances "to a condition capable of supporting the same level of productive uses as existed prior to any mineral activities"
- Secretary shall promulgate reclamation standards including standards listed in Act
- Minimum bonds or other financial guarantee of \$10,000/acre

Enforcement

- Inspection of mining operations twice yearly
- Criminal and civil penalties for violations of Act or regulations
- Citizen suit provision

Abandoned Hardrock Mine Reclamation Fund

- Establishes fund for the reclamation of abandoned hardrock mines on federal, state and private lands
- Funded by one third of receipts from royalties, holding fees and surface use fees and receipts from mineral materials sales under the Act of July 31, 1947
- Grants to states with approved programs and to federal agencies

Administration

- Secretary of Agriculture generally has full authority over administration of Act in National Forests, Secretary of Interior for other federal lands
- Implementing regulations required within one year
- Effective date of Act: one year after enactment
- Recordation fees earmarked for administration of Act

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: JIM HANS'N

TITLE:

ADDRESS: PO BOX 246

CITY: NOME

ZIP: 99762

PHONE: 443-5425

BILL NO: HJR 35

SUBJECT: **FEDERAL MINING LAW**

MESSAGE: I AM A LIFELONG "BUSH" RESIDENT OF ALASKA AND FULLY SUPPORT, AS ALL MY FRIENDS DO, YOU EFFORTS TO KEEP MINING ALIVE NOT ONLY FOR ALASKA AND THE NATIONS BEFEFIT, BUT AS A WAY OF LIFE.

POMID: 11061201

DATE: 92/02/27

TIME: 03:12:01

LIONAME: NOME INFORMATION OFFICE

COPIES: REPRESENTATIVES SENATOR

FOSTER

ADAMS

CARNEY

FINKELSTEIN

HUDSON

IVAN

LEMAN

LINCOLN

MOYER

ZAWACKI

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: EARL BEISTLINE
TITLE: ALASKA MINERALS COMMISSION
ADDRESS: P.O. BOX 80148
CITY: FAIRBANKS ZIP: 99708
PHONE: 479-6240
BILL NO: HJR 35
SUBJECT: FEDERAL MINING LAW

MESSAGE: ON BEHALF OF THE ALASKA MINERALS COMMISSION I ENDORSE APPROVAL OF HJR 35 - FEDERAL MINING LAW IN ACCORDANCE WITH FINDINGS AND RECOMMENDATION #26 MINING LAW OF 1872, PAGE 8 OF THE 1992 REPORT OF THE COMMISSION. THE REPORT WAS DISTRIBUTED TO ALL MEMBERS OF THE LEGISLATURE. PLEASE LET ME KNOW IF YOU HAVE ANY QUESTIONS ABOUT THE COMMISSION'S RECOMMENDATION. THANK YOU. EOM/CLS

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March 5, 1992
Common Ground-Alaska
Box 43
Ester, Alaska 99725

Rep. Mark Boyer
House of Representatives
State Capitol
Juneau, AK. 99801-1182

Dear Mark,

I spoke to Kurt by phone yesterday about your support of HJR 35. We at Common Ground-Alaska feel this is misplaced support and not parallel to a vast public opinion that sees the Mining Law of 1872 as failing to address current issues and attitudes.

While the mineral industry is fond of pointing out that the law has been amended over the years it fails to acknowledge that many of the changes left untouched environmental loopholes and tax subsidies the industry has been enjoying for years. For instance, did you know that precious metals is the only extractive, non-renewable industry that pay no royalty to the federal government? Coal, gas, and oil all pay royalties for the right to produce. At a time of huge federal deficits why are precious metals still taking a ride on the taxpayer?

Now, more than ever before the Alaska Legislature needs to consider the economic and environmental advantages the Mining Law of 1872 gives the industry. Many of them are outmoded, archaic, and not responsive to public attitudes. The reform of the 1872 is legitimate and long overdue.

Enclosed please find local and national information that offers other points of view to HJR 35. We urge you to reconsider your support of this resolution.

Sincerely,

Douglas Yates
Staff to the Board of Directors

cc Rep. Koponen
Rep. Moyer
Rep Davidson
Sen. Craft

COMMON GROUND-ALASKA

A JOURNAL OF LAND USE AND CITIZEN ACTION

VOL. 2 # 1

BOX 43 ESTER, ALASKA

SPRING 1991

Spring Greetings!

The snow is off, the rivers are open, and we'd like to announce this expanded issue of Common Ground is the result, in part, of a generous \$2,000 grant from the Alaska Conservation Foundation. ACF recognized our work as watchdog of local miners and the regulatory agencies that provide legal oversight as a vital component of community health and safety. The grant will also help us provide:

Research and Liaison: increased interaction with the Northern Alaska Environmental Center, Sierra Club Legal Defense Fund, and the Mineral Policy Center.

Advocacy Activities with Policymakers: providing input on statewide reclamation regulations and reform of the 1872 Mining Act.

Education: working towards more accurate and in depth reporting of mineral extraction issues in our local media; expanding our newsletter.

Consensus Building: strengthening and expanding our communication with miners.

Membership Development and Advocacy: increasing the numbers and effectiveness of our membership.

In an era when the new administration in Juneau is openly in favor of large commercial development and when oversight agencies like the Department of Environmental Conservation (DEC) remains underfunded and understaffed, an active citizen initiative can help to fill the gap. Common Ground-Alaska intends remain an advocate for community safety, sustainable economic development, and a miner's canary for developments with casual operating methods.

Membership Drive

The publication of this issue of Common Ground marks the start of a membership campaign. In order to serve you better we need to increase active membership. The Alaska Conservation Foundation has agreed to match dollar-for-dollar all funds we raise through increased membership. This matching campaign will double your commitment to Common Ground-Alaska. Monies are used for printing and mailing costs, aerial photography, staff salary, and liaison with Juneau, Anchorage, and Washington, D.C.

Use this special opportunity to strengthen Common Ground-Alaska as never before. In this time of shrinking budgets we cannot expect government agencies to investigate the safety of all development schemes. As citizens we must support each other. Use the membership form in this newsletter to renew your commitment—you'll be doubling your money!

Public policy in natural resources is too important to be left to the so-called experts. Take a special interest, recruit a friend or a neighbor, your perspective and energy can make a difference.

The Citigold Mine on Ester Dome

The saga of this Vancouver, B.C.-controlled cyanide heap leach mine continues. Common Ground-Alaska and other residents downstream from the site were particularly concerned with ground water contamination and the apparent casual attitude exhibited by the operators. Last fall, prompted by continued pressure from Common Ground, DEC launched an investigation and the operators were cited with a Notice of Violation (NOV).

Subsequent investigation, in part prompted by allegations from a previous employee which involved inadequate liner installation for a pad built in 1987, proved the liner was not installed in an environmentally sound manner nor in accordance with the mine's operating proposal.

The operators went to court to remove DEC from oversight of the mine. Judge Savell, to his credit, dismissed their suit as unwarranted. The operators of the mine complained to Governor Hickel and tried to remove members of the local Attorney General's office.

The case was moving toward an adjudicatory hearing when Citigold filed a motion to dismiss last month. The original management personnel have been replaced by a new team called Gateway from Salt Lake City, Utah. A paper shuffle and share buy-out forced out the previous management, but the site is still controlled by Citigold's parent company, La Teko of Vancouver, B.C.

For evading its responsibility to operate in a safe and prudent manner, Citigold must pay court costs and investigation expenses in the amount \$23,982.29.

Heavy winter snow, ice, insufficient engineering and climatic data, and lack of experience at this latitude forced Gateway to apply for emergency permits which gave them permission to make controlled releases of the contents of the mine's holding ponds. Threatened by unseasonable snow melt and the possibility of a "rain on snow event" that could lead to a catastrophic failure of a pond dike, the mine and DEC were ready to release unneutralized cyanide solution downslope.

Cost cutting practices, casual attitudes toward local residents, and inadequate data gathering by the original managers came very close to producing inexcusable destruction of part of the Ester Dome watershed.

Gateway has assured Common Ground-Alaska and DEC that Citigold has learned its lesson and in the future will abide by all prudent recommendations and requirements for the safe operation of the mine. However, DEC and the Attorney General remain interested in the disturbing question of the integrity of the liners and the state of the soils under a number of the heap pads on the site. The aquifer may have been contaminated. The AG's office has asked Gateway to discuss with DEC a cooperative investigation of these concerns. Three new monitoring wells will be drilled to help answer this question.

Reform of the 1872 Mining Law

The heart of the controversial 1872 Mining Law has remained virtually unchanged since the time of President Grant. This 19th century law is still guiding mineral development as we approach the 21st century. It has resulted in aggressive land speculation at the public's expense, lost tax revenue (miners pay NO royalty), and environmental damage that now must be reclaimed at taxpayer expense.

Highlights of this antiquated law:

- Anyone who discovers a "valuable mineral" on most public domain has an automatic right to claim it and mine it, no matter what other values exist on the site.
- Mineral corporations pay no royalty for the ores removed while oil and gas extraction pays the federal government 12.5 per cent of its proceeds.
- The holder of a claim which proves to contain a "valuable mineral" may purchase clear title to the land for \$5.00 per acre or less.
- Yearly assessment work (often nothing more than running a blade through the claim) need only total \$100.00 to keep unpatented land tied up indefinitely.

In a recent interview with staff at the Bureau of Land Management (BLM), Fairbanks, we learned that a miner is only allowed to live on a mining claim if he/she is performing meaningful mining activity or can prove that his/her absence would jeopardize private property.

Residing on the claim, without justification, is considered "unauthorized occupancy". BLM said this is extremely difficult to enforce because only certified mineral examiners can determine whether mining activity is meaningful. There are no mineral examiners in this district and there are only two in Alaska. Due to this lack of personnel, no on-site inspections for unauthorized occupancy have been performed for a number of years.

We learned that BLM defines "valuable mineral" as any profit over the expense of extracting the mineral. In other words, if it is determined that it costs the miner \$1,000 to gross \$1,000.05, then that land has "valuable mineralization" and can be sold to the miner for as little as \$5.00 an acre.

This feature of the 1872 Mining Law has resulted in legendary abuse. The General Accounting Office (GAO), the investigative branch of Congress, has determined that many miners are actually land speculators who have taken undue advantage of this antiquated federal provision. Once they gain title, these speculators resale the claims at great profit to housing contractors, resort developers, shopping malls, or even back to the government for airports.

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COMMON GROUND-ALASKA
BOX 43
ESTER, ALASKA 99725

Reform packages have been introduced in the Senate (S. 433) by Senator Dale Bumpers (D-AR), and in the House (HR 918) by Representative Nick Rahall (D-WV). This legislation deserves wide support. Write a letter to the editor of the Daily News-Miner or contact Alaska's Congressional delegation. But don't expect a lot of support from Ted Stevens. In the last session of Congress Stevens pulled some last minute strings to defeat a reform of the 1872 by a very narrow margin.

For more detailed information of the reform of the 1872 contact the Mineral Policy Center, 1325 Massachusetts Ave. N.W., Room 550, Washington, D.C. 20005

Congressional Hearing in Fairbanks on the 1872 Mining Law

West Virginia Congressman Nick Rahall is travelling to Alaska to collect public testimony on the need for reform of the 1872 Mining Law. His delegation will listen to witnesses on 8 am, Saturday, May 25, at Schiabe Auditorium on the University of Alaska Fairbanks campus.

Individuals unable to testify are encouraged to submit written statements about the abuses of the 1872. Everyone's comments are valuable.

A dissenting group of miners, pleased with the status quo, plan to stage a rally in support of the continued free ride they have enjoyed at the public expense for over 118 years.

Leadership Workshop with President of Mineral Policy Center

Philip Hocker, President of the MPC, will conduct an issues and advocacy workshop on the reform of the 1872 Mining Law. The workshop will run from 5-7 pm on May 24. This is an excellent opportunity to learn first-hand the details and strategy involved in the reform of this outdated and abusive giveaway.

Hocker has extensive knowledge of the need for reform. He has developed a wide network of grass-roots activists and his comments and insights will offer valuable information about how Alaskans can help pass this important legislation. For further information on this workshop call Nancy Murphy, 455-6557.

Board Members, Common Ground-Alaska

Dick Gumm, 479-5004
Nancy Murphy, 455-6557
Dave Musgrave, 455-6557
Mike Musick, 479-5336
Andy Reynolds, 479-5958
Doug Yates, 479-8300

EarthDay-May 19, 1991 11am to 7pm, Tanana Valley Fairgrounds

Although this year's event wasn't the huge international celebration that occurred in April last year, Fairbanks will mark the occasion with a community gathering at the Fairgrounds.

Common Ground-Alaska's booth will present a photo display of the effects of mining development on local watersheds. A special feature will be an opportunity to view details of a cyanide heap leach operation.

Members of the board of directors will staff the booth along with citizen volunteers. Use this opportunity to get acquainted with the people who invest their time and commitment to protecting our land and water values.

A primary purpose of our participation in Earth Day is to enlist new members. The politics of natural resource extraction, protection of the downstream environment, and the maintenance of residential property values (tangible and intangible) concerns each of us.

Consensus Meetings with Mineral Industry

Perhaps the most encouraging news to report is the formalization of a borough commission under the FNSB Planning Department. After eight months of meetings held at the Community Hall in Ester, Common Ground-Alaska convinced the industry delegation of the need for a public forum to raise issues of conflict while searching for areas of resolution.

Facilitated throughout by borough planner Bernardo Hernandez, our final meeting was May 8, 1991. The group will be called the Mining and Residential Mediation Commission. It will consist of four members of the mineral industry and four members of the residential community and will meet at least four times a year.

With an even numbered commission it's immediately apparent that voting on issues of conflict will not solve problems. The structure of this commission demands a new way of approaching old conflicts. Since the mission of the group is to enhance dialogue between areas of interest, a consensus approach has been determined the best available avenue to find solutions to common problems.

Consensus is based on the belief that each person has some part of the truth and no one has all of it, no matter how we would like to believe so, and on a respect for all persons involved in the decision that is being considered.

The Society of Friends (Quakers) have used this process for over 300 years, calling it "seeking unity or gathering a sense of the meeting". Early Native Americans, and many present-day Alaska villages, use this process of consensus to reach community decisions.

Conflicts between miners and residents will continue, but we now have a mechanism to air the problems before a crisis develops. Consensus is not perfect, but it may provide an opportunity to build community rather than divide it.

THE DENVER POST

Voice of the Rocky Mountain Empire

★ Final Edition / 25 cents
35 cents in Designated Areas

Mine's toxic leaks render river lifeless

Despite fines, promises, cyanide flowing into Alamosa River and downstream

By Kit Minciller
Denver Post Staff Writer

Cyanide-laced water from a mine near Wolf Creek Pass has rendered aquatic life in 17 miles of the Alamosa River and the Terrace Reservoir lifeless. It may have seeped downstream to the Rio Grande, say state and federal officials.

The leaks from Summitville Consolidated Mining Co. continue, despite a \$100,000

fine levied against the company this year, agreements to take remedial actions, closure of the once-popular fishing reservoir after a massive fish kill and complaints from downstream users.

"We went up to the mine last month to investigate reports of an environmental disaster and we found an environmental disaster," said Mark Hughes, an attorney with the Sierra Club's Legal Defense Fund.

"I was appalled. There seemed to be substantial leaks and runoff, and the mine operators didn't seem to know where it came from or what might be in it."

The sprawling open-pit mine is 11,700 feet above sea level and about 16 air miles southeast of the summit of Wolf Creek Pass in southern Colorado.

A Colorado Department of Health video of the seepage showed brilliant blue sludge and water — ranging in color from

orange to yellow to molasses — leaking into natural waterways from the mine site last summer.

"This ought to be on the 6 o'clock news," observed the filmmaker on the unedited video.

The company, a wholly owned subsidiary of Galactic Resources Inc. of Canada, is using 40 million to 50 million gallons of

Please see MINE on 7A

Monday, November 11, 1991

Gold mine's leaks deadly for aquatic life

MINE from Page 1A

Cyanide-laced water in the 45-acre leach pad leaching process to extract gold from several million tons of ore, said mine general manager Bill Williams.

"We've got problems, there is no question about that," Williams readily admits, explaining that about 100 gallons of water a minute are leaking from the leach pad.

An elaborate system of ditches and ponds is designed to catch the leaks and either pump the fluids back to the leach pad, or treat them and then spray the treated water on the landscape.

However, under an agreement between the company, state health department and Mined Land Reclamation Board, the company ceased landscaping applications on Oct. 30.

"At this point, there isn't any acid runoff from the heap," Williams said. "We feel we are on the right track, and we are going to clean this place up."

The company expects to continue leaching operations at least another six months, though it finished mining operations this fall.

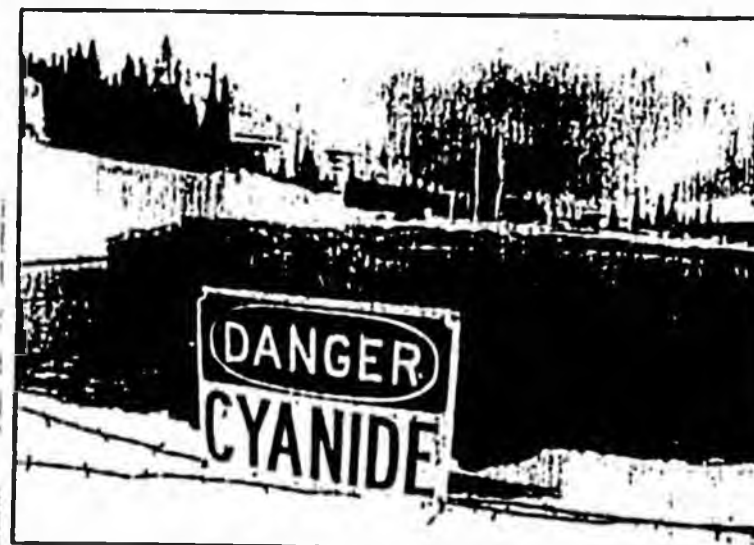
State game officials stopped stocking the Terrace Reservoir with 15,000 trout fingerlings annually after a massive cyanide leak rolled down Whiteman Creek into

all life in 17 miles of the river and in the reservoir, which is south of Del Norte, said Jerry Apker of the division of wildlife.

The fish kill extended 7 or 8 miles below the reservoir, killing fish in at least one private farm pond, and may have reached the Rio Grande.

The first reported fish kill attributed to the mine occurred in 1986, shortly after the operation began. The most recent was six weeks ago, when 500 to 1,000 gallons of the cyanide-laced water spilled into Whiteman Creek.

THE DENVER POST



The Denver Post / Karl Gehlbach
DEADLY WATER: A sign warns of the danger at one of the Summitville Consolidated Mining Co.'s holding ponds.

It's gold, all right, but it's also poison

Cyanide mining has made Elko boom, even as it kills all kinds of wildlife

By James Coates
CHICAGO TRIBUNE

ELKO, Nev. — Even in the bitter cold of winter, the hunt goes on in the high country deserts of northeastern Nevada for what latter-day sourdough miners call "no see 'um gold."

Modern American's latest gold mining technology uses the deadly poison cyanide to leach gold particles from rocks that deposit so small that previous generations were unable to find it.

The resulting boom brings great wealth to Nevada, but it also sparks angry debate. Environmentalists charge that the cyanide leaching process has left an ugly, toxic residue in the soil that will pollute the vast jobs created by the operations are blighting the land.

The new process costs \$2.50 an ounce to operate, compared to the \$100 an ounce cost of the old process. The new process is being used on public lands at a cost of a six-pack of beer.

The leach mining process has created a modern-day gold rush all across the American West, but the biggest strikes in this latter-day bonanza are surfacing in the gold fields surrounding Elko.

The leach mining process has created a modern-day gold rush all across the American West, but the biggest strikes in this latter-day bonanza are surfacing in the gold fields surrounding Elko. The boom here is so intense that one of the biggest new mine operators, Canada-based Echo Bay Mines, has left stacks of its annual stockholders report on the pamphlet racks at Elko's airport, hoping to encourage investors.

This report says that in 1990 Echo Bay extracted 241,500 ounces of gold from its Round Mountain mine at a cost of only \$196 an ounce while the price that year was \$370 an ounce. Similar costs are reported by Echo Bay's competitors.

Many places along the Tuncarens mountains west of Elko have been scraped down to barren hard

rock in the quest that saw U.S. gold production grow tenfold in the last decade.

"We feel pretty good. No, we feel great," said Elko Mayor Jim Polkinhorne. "We figure the mines around here are going to keep running full blast as long as gold prices stay above \$275 an ounce."

While gold prices have fluctuated wildly since the United States removed the \$35-an-ounce ceiling in 1971, they have never dipped below \$325 an ounce. In the early 1980s gold hit highs near \$850 an ounce; the current price is \$356.

Driven by the mining boom, Elko has grown from 8,000 people in 1980 to 23,000 in 1990. The city's Chamber of Commerce estimates that the mines generate 8,000 jobs while agriculture, once the area's predominant industry, provides 600.

"We've only got maybe 100 ranches in the entire county, and we have more than 100 gold mines now," Polkinhorne said. "Mining is changing the face of our cowboy country."

But the boom has a downside. The congressional General Accounting Office released a report last summer praising mine operators' efforts to protect wildlife, but noting that more than 9,000 cyanide-related animal deaths occurred at gold mining operations in Nevada, California and Arizona from 1984 to 1989.

In November, Colorado officials acknowledged that a leak in a holding pond at a cyanide leach mine operated by Summitville Consolidated Mining Co. had killed every fish along a 17-mile stretch of the Alamosa River.

And just as the first of the Elko area's mines opened in 1988, more than 1,000 ducks, geese and other migratory birds died when they mistook a cyanide-laced holding pond at a leach mine for one of the marshes they use on their annual flights.

The leach process uses millions of pounds of cyanide each year. For example, in 1990 the Dow Chemical Co., the largest U.S. supplier, estimated it had sold 180 million pounds of cyanide, and about 80 million pounds to Nevada alone.

Mine operators defend the pollution by saying that the cyanide is used in a closed-loop system that recycles the cyanide and becomes a natural source of ground-water recharge.

Filters, nets and even loud-speaker systems blaring music have been installed to keep wildlife away from the ponds where the poison is at full strength.



LETTERS TO THE EDITOR

Shortsighted view

To the Editor:
Your recent editorial, "Mining deserves support" from Sept. 1991, presented a particularly shortsighted viewpoint regarding the 1872 Mining Act and proposed amendments to it.

Certainly the Bureau of Land Management is misguided in having elimination of patents will make the other faults of the law less vulnerable to an amendment. But your editorial was way off the mark to defend that, or any other part of our anachronistic mining law.

During the 19th century this law very effectively stimulated the development of our mining industry, a crucial part of the process of worldwide industrialization, and also provided means for transfer of public land to private ownership.

In this century, and particularly in the next, with public lands dwindled to a tiny fraction of their former area and with public resources under increasing demand from many diverse and competing interests, privatizing what's left is no longer desirable. Nor is it sensible to provide incentives and the special elevated status to the mining industry which the 1872 law does.



Even the most radical reform supporters are aware of our dependence on minerals and the technologies made possible by them. We are not trying to kill the industry, we're trying to keep the industry from killing us all. Mining has the potential to create large scale and long term degradation of our

land and water, and thus requires careful and detailed oversight and regulation. The goal of reform is to make the industry accountable, responsible, and sustainable.

The fossil fuel industry has operated for years under much more comprehensive guidelines than hardrock mining, without patents or public lands, contributing significantly to the treasury through rents, royalties and taxes, and maintained profitability. The mining industry can and should do the same.

The contention that industrial migration to the Third World will follow the death of our mining industry seems to suggest that since no environmental safeguards exist outside the developed world, we must forego protecting our own home. This is backwards logic.

Common Ground Alaska is a local grass roots group promoting responsible and sustainable develop-

ment of mineral resources. For information write P O Box 43, Ester, AK 99725. Thanks, Andy Reynolds Ester

Private ownership

To the Editor:
Andy Reynolds, from the Peoples Republic of Ester, stated in his letter of Oct. 8, 1991, that "Common Ground is a local grass roots group promoting responsible and sustainable development of mineral resources."

These "environmentally responsible persons" continually make statements that belie the facts.

Common ownership of land is not the ideal upon which America was founded. Common ownership of land is socialism, communism, tri-

balism and many other isms that are not profitable in a family newspaper.

Individual private ownership of land is the main ingredient of freedom. All wealth comes from the land or the sea.

The mining law of 1872 is one of the finest documents ever created by a political body. It ensured that hard work was rewarded, allowed an opportunity for anyone to become wealthy and gave land title to people who were willing to show individual initiative. Perhaps it is the individual effort part of the law that so disturbs the collective consciousness of the Ester residents.

It was stated that "mining has the potential to create large scale and long term degradation of our land and water."

This is the same old clap trap the environmentalists have been peddling for years, suppositions: if, could, perhaps, would, maybe. All I can say to you friend is if my grandmother would have been a man she

would have been my grandfather. Sincerely, Joe Ryan Fairbanks

Not a real choice

To the Editor:
I found Joe Ryan's letter of 10/19/91 which not so subtly equated environmentalism with communism sadly uninformed, if not willfully ignorant. Recently I have heard similar McCarthyesque name-calling from another deep thinker, Don Young.

Like Mr. Ryan, environmental concerns seldom entered the minds of world communist leaders, the Soviet Union having the worst industrial and nuclear pollution on the planet. It is a fact that the very first organized protests in the Soviet Union, the leading edge of glasnost, were people speaking out against poisons in their water, air, and workplace.

If there is a point where communism and the reactionary politics of Mr. Ryan intersect, it is the credo "Production at any cost and to hell with the rest." If democracy—people having a say in the most important elements of their lives, the air they breathe, the water they drink—makes Joe afraid, it may be because he views these people as an "ism," rather than individuals with valid rights, opinions and experiences beyond his own.

The idea that we must somehow choose between private ownership of property and a concern for purity, what we hand to our children, Mr. Ryan's own brand of claptrap. Indeed, American democracy founded on the concept of private ownership, but equally the framers of our Constitution had the strongest sense of stewardship and the common good. Thankfully that good sense remains.

Sincerely,
Joseph Stredny Fairbanks

Drop the labels

To the Editor:
I read in your paper last week where Joe Ryan twice referred to the Ester community as the "Peoples Republic of Ester,"—the first time as a quote in an article on local election results; the second in a letter to the editor.

As an Ester resident of about 20 years, and in reasonably good standing, I find myself both amused and somewhat irritated by Joe's comments. My amusement comes from understanding Joe's politics. Considering the source, Joe could have said worse, and has in the past—much of it unprintable.

On behalf of Ester residents, we are grateful for both your discretion and restraint, Joe.

Considering the label, as well as the act of labeling, I'm a little less than amused. Joe alludes the people of Ester, in his letter to the editor, as being against ownership of private property, and in general, a rabble of nay sayers intent on destroying the edifice of western civilization.

Maybe it's our misguided sense of community spirit, our July 4th parade, Christmas caroling, News Year's party, box socials, cookie exchange, and homemakers club that Joe finds threatening?

With more small business people per capita than probably most communities, I find Joe's suggestion that we are anti capitalist way off the mark. The Golden Eagle Saloon, Mushing Magazine, Judie Gumm Designs, Water Wagon, and Alaska Raw Fur are all Ester-owned small businesses. And we have more than our fair share of independently employed artists, miners, photographers, journalists, carpenters, and others who don't draw salaries unless they produce.

Neither are we uniform in our political opinions. The people of Ester disagree on a number of issues, but one we unanimously agree on is setting those differences aside when we come together to celebrate our community. As in most strong families, we have learned not to discuss politics or religion at the dinner table, or more succinct-

ly, we can put acrimonious debate aside when there is something greater to observe. In this regard, Ester might have a lesson to offer greater Fairbanks, considering the last two years of destructive political infighting and community bad will.

So in the spirit of healing, Joe, drop the labels. They are more fitting to our not so distant past and less so of the aspiring politician. Sincerely, Dick Gumm Ester

World views

To the Editor:
After reading Joe Ryan's letter published Oct. 18 about Andy Reynolds' previous letter I was angry and confused. I wondered why there was such a great discre-

pancy between what is happening in the world and what Mr. Ryan states in his letter. He infers that the name Common Ground refers to communism and I believe that it refers to consensus. He claims the concerns about environmental degradation caused by mining are "clap trap." I am led to conclude that he is such a right wing ideologue that his dogma does not allow him to see to the side or around himself (blinders). Capitalism and free enterprise are the solutions to everything according to such ideologues. We all know even the government could have built the pipeline as efficiently as the oil companies or look what capitalism has done for Brazil. And speaking of Brazil, later on in the same issue of the paper was an article on the massive environmental damage caused by the use of mercury in gold mining in Brazil. In fact, it has been estimated that world wide on an annual basis environmental damage quantified in dollars comes to \$1,700 billion. Demagogy can not keep that damage covered up forever.

Sincerely,
Dave Lacey College

ject to court approval before timber sales could resume.

In a 17-page opinion that accompanied the order, Frye cited a ruling last year by U.S. District Judge William Dwyer that halted old-growth logging on national forest land for the same reason.

The Forest Service is expected to respond to that ruling in March with its plan for preserving the owl's habitat. Observers expect that Dwyer will approve the plan, which is said to be based on government biologist Jack Ward Thomas' now-famous report that first charted the owl's decline.

For more information: Contact Bill Arthur or Rick Johnson in the Sierra Club's Northwest office at (206) 621-1696.

Century-Old Mining Law Under New Scrutiny

A couple of Oregon Democrats have launched a drive in Congress to change some outdated and dangerous mining practices.

Rep. Peter DeFazio introduced legislation last month to completely revamp a 120-year-old law that still governs many mining practices on public lands. And Rep. Les AuCoin followed up last week with a proposal to tax cyanide, used in gold mining, and to put the revenues toward cleaning up the environmental damage caused by mining.

"The 1872 mining law was written in the days when mining was done with pick and shovel. Congress needs to come up with a complete replacement for this antiquated law."

— Kathryn Hohmann, Sierra Club Mining Reform Campaign

DeFazio's Mining Law Reform Act, H.R. 2416, would replace the General Mining Law of 1872, passed during the Grant administration as a means of settling the West. Under the 1872 law, miners can gain title to — or "patent" — public lands for as little as \$2.50 an acre. The law does not provide for reclamation of mined-out areas and allows mining in sensitive natural areas.

DeFazio's bill would also provide for public lands, require mining companies to pay royalties to the federal government on profits from government lands, and give land managers the authority to forbid mining in significant natural resource areas.

"The 1872 mining law was written in the days when mining was done with pick and shovel," said Kathryn Hohmann, lobbyist for the Sierra Club's Mining Reform Campaign. "Mining today is done with explosives, giant earth-movers, and poisonous chemicals. Congress needs to come up with a complete replacement for this antiquated law."

DeFazio's bill would also provide stricter environmental

protections for public lands mining, and would regulate the cleanup of mining wastes and the reclamation of mined land.

AuCoin's Cyanide Mining Impact Relief Act would institute a 50-cent-per-pound tax on cyanide. The deadly poison is often used to separate, or "leach," precious metals from low-grade ores. After leaching, the cyanide can run off into nearby streams and ponds, and may even make its way into groundwater supplies.

Environmentalists say cyanide-laced tailings ponds, found near mining operations throughout the West, are responsible for the deaths of thousands of fish, birds, and other wildlife every year.

"According to mining company records for just three Western states, over 9,000 birds died in toxic ponds in between 1984 and 1990," said David Gardiner, legislative director of the Sierra Club.

For more information: Contact Kathryn Hohmann in the Sierra Club's Washington, D.C. office at (202) 547-1141.

To take action: Ask your representative to support Rep. DeFazio's Mining Law Reform Act, H.R. 2416, and Rep. AuCoin's Cyanide Mining Impact Relief Act.

NNR In Brief

LCV Ranks Presidential Hopefuls

In contrast to the results of the New Hampshire primary, Arkansas Gov. Bill Clinton came in last among Democratic presidential candidates in the League of Conservation Voters' assessment of the politicians on environmental issues.

Former Massachusetts Sen. Paul Tsongas and Iowa Sen. Tom Harkin were at the top of the Democrats' class. President Bush and commentator Pat Buchanan were last among all candidates.

The LCV has compiled detailed individual profiles of each of the presidential candidates' environmental records. It has also released its annual scorecard for the 102nd Congress. The scorecard contains a complete listing of how individual senators and representatives voted on key environmental legislation.

Contact the LCV for a copy of the comprehensive report or its congressional scorecard: LCV, 1707 L St. NW, Suite 550, Washington, D.C. 20036.

Georgia Sierran Wins Transit Seat

Charles McGrady, a former president of the Georgia Chapter of the Sierra Club, was elected last month to a seat on the Georgia State Transportation Board.

The Georgia Department of Transportation, with a yearly budget of approximately \$1 billion in state and federal funds, has long been criticized for caring more about highways than about the lands and neighborhoods the highways affect.

McGrady became involved in transportation issues while lobbying to block a proposed four-lane superhighway. He won the support of environmentalists and Republican legislators in ousting a 16-year veteran of the board.

• *Contd. from page 9*

the Sudan, for example. In South Africa, too, ASI and a church leader working undercover with refugees say a slave trade has grown up near the border with Mozambique. Large numbers of Mozambicans fleeing war and poverty in their homeland have been abducted and sold into slavery.

Untold numbers of children have been sold to moneylenders, traders, and others by their impoverished parents. In September 1991, *Asiaweek* magazine reported the arrest of a Saudi businessman who purchased a 10-year-old Hyderbadi girl from her parents for \$240 and then tried to fly her out of India. The arrest itself was unusual in a region where young girls often are forced to marry older men in exchange for money.

Sexual slavery, another form of chattel, is escalating in many countries. The sale of women and children, especially girls, into prostitution or enforced marriage has been documented throughout Asia, Africa, and the Middle East. Such transactions are most common in the Philippines and in Thailand where "sex tourism" has become a lucrative source of international exchange. Cases of sexual slavery among female Mozambican refugees in South Africa, among women in Bangladesh and Turkey, and among poor women shipped as "mail-order brides" from developing countries to the United States and Europe also have been uncovered by ASI and the Washington, D.C.-based Coalition Against Trafficking in Women.

Contemporary slavery exists despite U.N. conventions forbidding trade in human beings and anti-slavery laws on the books in virtually every country. Swami Agnivesh, an Indian anti-slavery activist, claims his country's laws are among the best in the world "but never get out of the library." Such laws go unenforced where those enslaved—women, children, refugees, the landless, lower classes, and lower castes—are politically disenfranchised, and where government officials benefit economically from such commerce. In some countries, the clandestine nature of these activities keeps the slave trade well-

shielded from the public eye. In others, Agnivesh observes, "slavery is part of the normal social fabric even though it is against the law in principle."

The problem is part of a deeper and equally under-recognized phenomenon—increasing poverty resulting from a combination of social inequity and lack of credit and economic opportunity compounded by population growth. Structural adjustment policies imposed on many countries by the World Bank and International Monetary Fund undercut the social services vital to the poor, particularly poor women. The consequent deterioration in the status of children and women is in part responsible for the rising use of these individuals in the slave trade. These same policies have increased pressures to export large volumes of agricultural and manufactured goods as cheaply as possible, encouraging the exploitation of child labor.

Groups in several countries—India, Pakistan, and Thailand—are working to end slavery. The Delhi-based Bonded Liberation Front (BLF), headed by Agnivesh, frees bonded laborers in agriculture and industry by representing them in court. BLF has pushed for a National Commission on Bonded Labor and in 1990 organized the first National Workshop on Eradication of Child Labor in the Carpet Industry. It also acts as an advocate before international bodies such as the International Labor Organization and the U.N. Economic and Social Council.

Clearly, the atrocities of slavery—the callous humiliation and abuse by people of other people for financial gain—is not a thing of the past. The virulent spread of slavery is one more sign that conventional development strategies have failed to address the poverty now epidemic in much of the world.

FREE-LOADING OFF UNCLE SAM

BY JOHN E. YOUNG

Mining is the quintessential dirty industry. It takes environmental damage on a scale matched by few other human activities to produce the vast amounts of minerals now used by industrial societies. All too often, the legacy of mining is devastated, eroding landscapes, lost homelands and ecosystems, clogged or poisoned rivers, and polluted air. For example, at least 48 of the 1,189 sites on the U.S. Superfund hazardous-waste cleanup list are former mineral operations. One of them is the nation's biggest waste site, a 140-mile ribbon of contamination along Montana's Clark Fork River, for which cleanup costs may top \$1 billion.

Government, in the era of abundant mineral supplies and declining prices, subsidizes the mining industry. Because it offers special federal tax breaks, the industry earned \$4.9 billion in 1981 to 1990 than it would have if treated like other industries, according to the Office of Management and Budget (OMB). In

addition, miners benefit from virtual giveaways of mineral-rich public lands under the archaic General Mining Act of 1872.

Most of the mining industry's annual tax windfall—which the OMB estimates at \$505 million for 1991—comes in the form of exemptions called depletion allowances. These allow mining companies to deduct between 5 and 22 percent of their gross income (depending on the mineral) from their taxes.

In theory, these exemptions are designed to compensate mining firms for the depletion of their ore reserves. In practice, they more than compensate. Unlike the depreciation deductions given to other industries—to allow for the replacement of equipment and facilities as they wear out—depletion allowances are not limited to the extent of the investments made by the company. Instead, mining firms may continue to deduct a given percentage of their income for as long as the mine operates—even after their investments are fully recovered.

Beauty of Rocky Mountain rivers: their beauty belies 'heavy metal' contamination

**rising residues pollute
downstream on both sides of
the Continental Divide**

By Hal Langfur
Editor of The Christian Science Monitor

Carbondale, Colo.

The peaks high above this mountain change color this time of year as immense snowfields vanish in the wake of rising temperatures. Brooks, ponds, and waterfalls appear almost overnight, and the valley's two rivers - the Crystal and the Roaring Fork - swell and pick up speed.

The beauty of the spring thaw, however, belies the quality of the water it releases. High concentrations of lead, copper, and cadmium from abandoned mining sites pollute the Roaring Fork almost from its source; the same "heavy metals," along with zinc and mercury, contaminate the Crystal, which empties into the Roaring Fork and then, 10 miles downstream, into the Colorado River.

On the other side of the Continental Divide, the situation is even worse. Where the Roaring Fork heads west, tributaries



of the Arkansas River head east. By the time they descend the few miles to the mining town of Leadville, the streams have picked up enough iron, zinc, manganese, cadmium, sulfate, and lead to harm aquatic life for more than 100 miles downstream.

Despite the popular image of Colorado's Rocky Mountains as a pristine wilderness, the sullyng of high-country water has proceeded virtually unchecked

for more than a century, since miners first flocked to the region in search of gold, silver, and other ores. The more than 10,000 mines they opened and the mill tailings they left behind are washed continually by melting snow and rain. Particles of exposed metals mix with the water and flow into rivers, subterranean ground water, and pasture lands.

Many officials are expressing increasing concern this spring about the extent

and severity of the pollution.

"The question of water quality and quantity has become one of the hottest political issues in the state," says Sen. Tim Wirth (D) of Colorado, who serves on the Energy and Natural Resources Committee of the United States Senate. "It is no longer possible to exploit and use up this resource."

In compliance with provisions added to the the federal Clean Water Act last year,

the Colorado Department of Health last month released a comprehensive study on surface water quality in the state.

The study identifies heavy-metal pollution as a major concern, especially in the mountain regions.

The primary concern resulting from metals concentrations is the chronic or toxic effect on aquatic organisms. The bioaccumulation of these toxic substances in aquatic organisms may also

affect higher organisms in the food chain," the report states.

Fish and other wildlife have disappeared from numerous mountain streams and rivers. Health officials stress that scientists have established no definitive link between this pollution and public health problems, but they suspect that contaminated water may be the source of potentially toxic levels of lead found in the blood of children living in Leadville and Telluride, a mining community-turned-ski resort.

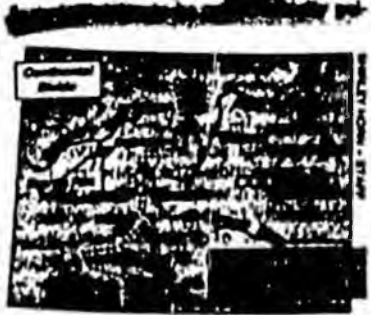
"The types of health problems that we've looked at... entail problems principally from lead, which can cause neurologic system disorders, learning disorders, and, in really excessive levels, other types of disorders including birth defects," says Thomas Looby, assistant director of the Health Department.

Concern has also been galvanized by a new documentary film, "Downwind/Downstream," shown throughout the state last month by its writer and director, Christopher McLeod. The award-winning film, viewed at the health Department, the Colorado legislature, and the regional office of the US Environmental Protection Agency (EPA), discusses

heavy-metal contamination as well as the effects of acid rain and snow.

The film emphasizes the state's unique responsibility to prevent pollution, with more than 10 million people throughout the West depending on water from the Arkansas, Rio Grande, South Platte, and Colorado Rivers, all of which have their headwaters in the Colorado Rockies.

"We've found that there are heavy-metal mines and other sources of pollution at the headwaters of all of the major rivers coming out of the mountains - water that goes as far away as New Orleans and Los Angeles."



contaminated at its source," says Heather Stoddie, executive director of the Rocky Mountain Institute, a nonprofit foundation specializing in resource and security issues.

All major cities in the West have sophisticated water-treatment facilities to remove heavy metals and other toxins from rivers and reservoirs used for drinking water. Hence, health officials are more concerned about subterranean ground water, which can absorb heavy metals and, when tapped by wells, endanger public health. More than three-fourths of the state's public water system and about 150,000 private wells draw on ground water.

Since much of the heavy-metal pollution has existed for decades, the cleanup debate has centered on who should take responsibility for past mistakes. Max Dodson, the EPA's director of water management in the six-state region including Colorado, acknowledges weaknesses in federal legislation on mining wastes.

"We're at the top of the watershed, and whatever we do up here... a lot of impact," he says. "It's now time for EPA, the state, industry, professional groups, and elected officials to really be innovative in solving this problem."



Cenaliulriit

Coastal
Management
District

For the Yukon-Kuskokwim Coastal Resource Service Area
P.O. Box 1169 • Bethel, Alaska 99559 • 907/543-2243

February 27, 1992

Representative Cliff Davidson
Chairman
House Resources Committee
Box V
Juneau, Alaska 99811

Re: House Joint Resolution No. 35

Chairman Davidson:

Cenaliulriit Coastal Management District has reviewed the House Joint Resolution No. 35 requesting to support existing federal mining law of 1872.

Based on experiences and observations in our region on mining, namely the Tuluksak headwaters and Salmon River near Goodnews Bay, we must express to our respected House Resources Committee we have serious concerns with this bill.

Despite the existence of state and federal laws on land, air and water quality standards, there are tons upon tons, miles upon miles of tailings stacked against the mining industry's poor performance, and still occurs to date.

Heavy metals and other trace metals one conceives irrelevant should not be disregarded. The water column and sediment chemistry, food chain and bioaccumulation, and the habitat are permanently altered by years of mining. It is known fact, cumulative impacts continue long after operations have ceased and many years after under this existing law.

It is a well documented issue that despite mitigative measures that are produced on paper to protect the environment, however well intentioned, their implementation critically fails under this ancient dinosaur of a system of 1872 mining law.

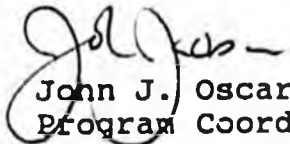
The results of ill-conceived and poorly managed mining development and unreported violations of past and present mining operations, must certainly call for improvements throughout the entire system of planning and operations.

Chairman Representative Cliff Davidson
House Joint Resolution No. 35

Page Two

This bill seems to present this dinosaur in a tux. We strongly urge that you do not take it at face value and ask your opposition to the obvious attempt by the industry to avoid proper environmental responsibilities. Thank you for the opportunity to share our thoughts.

Sincerely,
CENALIULRIIT COASTAL MANAGEMENT DISTRICT
Phillip Guy / Moses Paukan, Sr., Co-chairs


John J. Oscar
Program Coordinator



Alaska State Legislature

Please enter into the record my testimony to the Resources
 committee name
 committee on HJR No. 35, dated 2-27-92
 bill/subject

We wish to voice our strong support of HJR #35 to retain the current federal mining law. The existing law is not "out of date"- having been amended numerous times. Future needs can be met under this existing law by additional modification as necessary. Bills such as HR918 would be very detrimental to the mining industry and subsequently to the entire country.

Signed:

Bruce H. Tweet

Testifier

N. B. Tweet & Sons

Representing (Optional)

Box 1107

Address

Nome, AK 99762

(907)443-5168

Phone No.



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bill/subject

On behalf of the Alaska Minerals Commission I endorse approval of HJR 35, Federal Mining Law in accordance with Findings and Recommendation #26, Mining Law of 1872 on page 8 of the 1992 Report of the Commission. The Report was distributed to all members of the Legislature. Please let me know if you have any questions about the Commission's Recommendation.

Signed: Earl H. Beutler Chairman

Testifier

Alaska Minerals Commission

Representing (Optional)

P.O. Box 80148

Address

Fairbanks, AK 99708

Phone No.

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Signed:

Bruce H. Tweet

Testifier

N. B. Tweet & Sons

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Signed: Earl H. Beith Chairman
 Testifier
 Alaska Minerals Commission
 Representing (Optional)
 P.O. Box 80148
 Address
 Fairbanks, AK 99708
 Phone No.

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Fairbanks Legislative Information Office

Office - (907) 452-4448

Fax - (907) 456-3346

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FROM: Carl Beistler PHONE: _____

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