

HB

132



Representative Tom Brice

ALASKA STATE LEGISLATURE

119 N. Cushman, Ste. 205
Fairbanks, AK 99701
907-456-7423
While in Juneau
State Capitol
Juneau, AK 99801-1182
907-465-3466

MEMORANDUM

TO: Senator Mike Miller
Chairman, Senate Resources Committee

FROM: Representative Tom Brice *TB*

DATE: March 7, 1994

SUBJECT: CSHB 132 (FIN)

The natural resource development permits that are most frequently subject to legal proceedings are federal permits. Language directly referencing federal permits needs to be added to this legislation in order to provide relief for state permits when the permittee is unwilling to operate due to a challenge to a federal permit.

Please review the attached blank SCSCSHB 132(), which makes the necessary changes to include challenges to federal permits. This change is within the bounds of the title according to the drafting attorney in consultation with the Revisor of Statutes. Thank you.

Attachment





Charlie Boddy
Vice President Government Relations

- March 23, 1993

Representative Tom Brice
Alaska State Legislature
Juneau, Alaska

HOUSE BILL NO. 132 - An Act Extending the Time Periods of Permits

Dear Representative Brice,

I wish to take this opportunity to thank you and your staff for keeping me apprised of the continuing work on this most important piece of legislation. I offer these comments and observations prior to your hearing schedule starting. For your reference, similar comments were included in a report forwarded to Governor Hickel as part of a task force report on regulatory reform.

The net usable term of a permit or other delivered authorization sometimes is reduced significantly or even eliminated entirely when a person or company is prohibited from using it due to some action by an intervening third party. Any third party may challenge administrative decisions regarding permits and other authorizations for a variety of frivolous reasons. A person or company can then become damaged by the foreshortening of durable time guaranteed by a permit or other authorization.

This legislation will provide for more equal footing by restoring the time guaranteed in the original approval. You have provided in this legislation a remedy to those who suffer monetary or other damage, a mechanism for recovery that has been sorely missing for many years. I am sure that others from the mining community will provide the committees numerous comments and examples of past problems.

If I can be of any assistance during hearing process, please don't hesitate to call. With best regards, I remain,

USIBELLI COAL MINE, INC. • 122 First Avenue - Suite 302 • Fairbanks, Alaska 99701

Telephone 907 462 2696 • Fax 907 462 2697

LETTERS OF SUPPORT

March 26, 1993

To: Representative Tom Brice

C. C. Harley - 515 road
From: Chuck Hawley, Mining Geologist, # 300-941 E Dowling,
Anchorage, Ak 99518

Subject: H B 132, a bill to extend the time period for permits

This brief note is to support H B 132. It would be an important tool to support warranted development in Alaska.

My view is derived from the circumstances surrounding a project that I was involved in at Nyac, Alaska during the early 1980's, and still am involved in trying to clean up.

Briefly, Nyac is an important placer mining camp in Southwest Alaska, about 100 miles east of Bethel. It has been mined nearly continuously by bucket-line dredges and washing plants since 1928. In 1980, I was general partner in Northland Gold Dredging.

Our company leased mining claims at Nyac, and in 1980 rebuilt a dredge at a cost in excess of \$1,000,000. We operated in 1981 and 1982. In 1983, we began to repermit the operation so that we could move the dredge to the lower part of the reserves and begin a systematic "upstream" operation in the broad flood plain of the Tuluksak River. Mining "upstream" in a broad valley with a bucket line dredge, means that you have a bank of tailings below the operation that assists in filtering any effluent of the operation and protects downstream water quality.

We were successful, in a difficult two-year period, of obtaining the necessary permits to mine. The main permits came from Corps of Engineers, BLM, EPA, on the federal side and DEC and DFG on the State side. We also passed Coastal Zone consistency review.

After Northland received its permits, the agencies granting the permits were sued. Critical suits were in Federal Court against the BLM, and in State Court against a favorable Coastal Zone management decision. (Nyac was not in the coastal zone, but it could be construed that the operation might affect the coastal zone).

Although the lawsuits were never fully resolved, and indeed coastal zone was never heard, the ultimate result was that the project finally failed.

It would be inappropriate to say that a bill like H B 132 would have saved the project, because the circumstances were more complex. But at all times, we had difficulty holding our investment base, partly because of the uncertain nature of our permits after the conclusion of the lawsuits.

It appears that H B 132 would not have a negative environmental effect, because if lawsuits against the project were successful, the resolution of litigation should be that a project could be modified so that it accepts necessary and valid corrections.

Finally, I would like to express my appreciation to the committee for considering this legislation. It means that they are aware of the tremendous impediments to development that exist in Alaska. I believe the results at Nyac were not even close to a win-lose situation, let alone a win-win deal. No one won anything. The investors finally lost nearly \$3,000,000; southwest Alaska lost about 25-well paying jobs that would have been in existence for many years. The environmental work done over many years at Nyac shows that mining resulted in gains as well as losses to the biologic productivity of the region, but on balance gains from mining appear to at least equal any losses that could have occurred because of mining—so there was not even an environmental gain from killing the project.



ALASKA MINERS ASSOCIATION, INC.

501 West Northern Lights Boulevard, Suite 202, Anchorage, Alaska 99503 fax: (907) 278-7997 telephone: (907) 278-0347

March 26, 1993

Honorable William Williams
Chairman
House Resources Committee
Alaska State Legislature
Juneau, AK 99801-1182

Re: HB-132, An Act Extending The Time Period of Permits

Dear Representative Williams,

I am writing on behalf of the Alaska Miners Association in support of House Bill 132.

The cost of developing a mine or any other resource project in Alaska is significant and the potential problems are many. In particular, when a company decides to develop minerals in Alaska there are many challenges that are expected. These challenges include the lack of infrastructure, the climate, the difficulty of locating an economic ore deposit, the difficulty of obtaining the financing and finally the difficulty of obtaining all the myriad of permits. These challenges are part of the business.

There are however other impediments to developing a mine that are not based on the merits of the project. One such case is where third party suits are filed. Such suits and opposition are often based on a philosophical viewpoint that there should be no development in Alaska the "big park" or at least "not in my backyard". HB-132 seeks to address one aspect of this issue.

We see two important benefits associated with passage of this bill. The first and most obvious benefit is that although the project owner may be delayed, he will not lose the investment made in obtaining the necessary permits and will not run the risk of being forced to go through the permitting process before he has the opportunity to exercise the permits. If third party litigation against the project delays start-up until the term of the permits has lapsed, or nearly lapsed, the project owner would be forced to go through the permitting process again. This bill would require that the term of the permits be extended for whatever period the project owner was affected by the litigation.

The second benefit is less material but yet it may be even more important for the future of the State. This benefit is the in the message that such a bill will have for the international mining



ALASKA MINERS ASSOCIATION, INC.

industry. That message is that Alaska wants to see mineral development and that the State wants to change the negative image that continues to prevail in the industry.

There are two locations in the bill that should be modified. The first is on page one line 12. We would suggest the phrase be modified to read "...shall be extended by the agencies issuing the permits if the holder of the permits or an agency...". In most instances it is an agency involved in some aspect of issuing a permit that is the sued rather than the company receiving the permit. The suggested change would insure that the permits would be extended if an agency, in addition to the applicant, is sued.

The second modification is on page two line 19 where we would suggest referencing the existing definitions with the words "...all permits relating to resource extraction or removal as defined by 46.35.200(4) that are affected by litigation...". This minor modification will further clarify the applicability of this new Section 1.

Alaska is now in fierce competition for exploration and development funding with countries all around the world. Many countries are changing their laws for mining, investment, ownership of property, repatriation of profits and permitting to encourage minerals investment. We must also do everything practical and possible to improve the business climate or Alaska will not experience the mineral development and associated job creation that is otherwise possible.

Sincerely,

Steven C. Borell, P.E.
Executive Director

cc: Representative Tom Brice

provided by Representative Tom Brice

Sectional Summary of CSHB 132(FIN)

Title change: Names issuing agencies, includes administrative review of permits as a basis for extension, and sets permittee unwillingness to operate due to proceedings as standard, rather than an injunction.

Section 1:

Adds a new section AS 46.35.300

(a) The department will extend the time period of resource extraction or removal permits under certain conditions:

(a)(1) The permittee is unwilling to engage in the resource operation due to a third party administrative or legal challenge.

(a)(2) The permittee is allowed to proceed at resolution of legal proceedings.

(b) The department may not extend a permit:

b)(1)(A) unless the permittee provides a sworn statement of their unwillingness to proceed due to the challenge to the issuing department; and,

(b)(1)(B) upon the conclusion of legal proceedings, the permittee notifies the department of the conclusion and outcome.

(b)(2) No extension for any time that permittee has been operating.

(b)(3) No extension if it would conflict with applicable federal law

(b)(4) No extension if a state law, regulation, or contractual provision would extend permit.

(c) The permit holder would be held to the standards in force at the time the original permit would have been or was issued.

(d) Length of extension shall be from time of sworn statement of unwillingness to proceed to conclusion of legal proceedings.

(e) The named agencies have authority to adopt regulations to implement.

(f)(1) Defines legal proceedings to include administrative challenges.

(f)(2) Broadly defines permit.

Section 2:

(a) Applies to resource extraction or removal permits issued after the effective date of this Act.

(b) Permit has the meaning of AS 46.35.300(f) in Sec. 1 above.



Representative Tom Brice

ALASKA STATE LEGISLATURE

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Sponsor Statement for CSHB 132(FIN)

Many resource development projects in Alaska are delayed by time consuming litigation and administrative proceedings. These delays can not only drive up the costs of a project, they can kill it.

While the developer is tied up in court, the clock is still running on the other state permits for the project. Even if the permit holder wins, the useful time span of state permits will be shortened or may even run out, requiring another round of permit applications and fees.

CSHB 132(FIN) will help to fix this problem. Permits relating to a resource extraction or removal project will be extended when the permit holder or issuing agency is challenged in legal or administrative proceedings over the issuance of a permit and the permit holder or agency wins in court. The state permits will then be extended by the amount of time lost to the lawsuit, not to exceed the original length of the permit. The state would not be able to impose a fee or charge for the extension.

The Alaska Minerals Commission and the Governor's Task Force on Regulatory Reform both recommend extensions for permits foreshortened by court proceedings.



House Bill 182

The Department of Commerce and Economic Development supports passage of House Bill 182.


Resource developers are frequently faced with third-party legal challenges after they have received agency approvals for their projects. Permits are typically issued for a defined period of time. The usable term of a permit may be reduced or eliminated if a permittee is prohibited from operating under the permit by a court as the litigation proceeds. Even if the court rules in favor of the permittee, the permittee is damaged not only by the project delay, but also by the loss of operational time originally allowed under the permit.

This legislation eliminates the loss of operational time allowed a permittee under a permit which is issued by the state and is caused by legal actions initiated by persons other than the state.

House Bill 182 provides those who have successfully met the regulatory requirements of the state an assurance that the state will be aggressive in its support of the operational term of the permit. House Bill 182 also helps limit the utility of third-party use of the courts to impair the development of approved projects.

The effectiveness of this legislation could be improved by:

1. Defining "permit" to mean a permit, lease, authorization, license, or any other determination necessary for completion of a project.
2. Expanding the application beyond resource extraction or removal projects to include any type of development project, including infrastructure developments (ports, schools, etc.).



Paul Fuhs, Commissioner
3-25-93

Date

dgl/172pp.ed

ALASKA MINERALS COMMISSION
1993 Report to the Governor
and Alaska State Legislature

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THE COMMISSION RECOMMENDS THAT:

14. *The Governor should direct the Commissioner of the Department of Natural Resources to take the necessary steps to allow Miscellaneous Land Use Permits to be issued for periods of up to 5 years.*

FINDING: There is currently a requirement that a best interest finding be made before an offshore prospecting permit (OPP) can be issued by the DNR. The process of generating a best interest finding is being used to restrict DNR from normal issuance of OPPs.

THE COMMISSION RECOMMENDS THAT:

15. *The Governor should direct the Commissioner of the Department of Natural Resources to review regulations governing offshore prospecting permits such that they not be required to be subject to best interest findings, being exempted in a manner similar to leases of land for onshore fishery sites, mineral claims or upland mining leases. A.S.38.05.035(e) should be changed by adding "(b) an offshore prospecting permit or lease issued under A.S.38.05.250."*

FINDING: The usable term of a permit may be reduced or eliminated when a permittee is prohibited from operating under their permit due to third party litigation challenging the issuance, validity, completeness or other aspects of the permit. Though the litigation may not be successful, the permittee has still been damaged. Statutory action should be taken to remedy this situation.

THE COMMISSION RECOMMENDS THAT:

16. *The Legislature should enact legislation creating an automatic extension of permits foreshortened by court proceedings.*

CITIZEN'S ADVISORY COMMISSION ON FEDERAL AREAS

FINDING: The Citizens Advisory Commission on Federal Areas was established by the Alaska Legislature in 1981 shortly after the enactment of the Alaska National Interest Lands Conservation Act. The Commission is composed of 16 members, half of whom are appointed by the Governor and half by the Legislature, including four sitting legislators. The Commission analyzes federal legislation, regulations and management decisions, determines the impact of these actions on Alaska's citizens, and makes recommendations to both State and Federal agencies for corrective actions to problems identified.

Development of Federal lands and regulations for access across them is important to the State's economy. The Commission provides a valuable and cost-effective mechanism through which State concerns regarding management of all Federal lands can be expressed.

THE COMMISSION RECOMMENDS THAT:

17. *The Governor and Legislature should provide expanded budgetary and programmatic support to the Citizen's Advisory Commission on Federal Areas.*

COASTAL ZONE MANAGEMENT

FINDING: Alaska Statute, Sec. 46.40.100 (b) does not allow applicants to petition the Coastal Policy Council when relief is sought on decisions made by the coastal resource district or state agency. The State administration is evaluating the role and functions of the Coastal Policy Council in relation to the power it has over decisions

FINAL REPORT
OF THE
GOVERNOR'S TASK FORCE
ON
REGULATORY REFORM

MARCH 19, 1993

GOVERNOR'S TASK FORCE REPORT
ON REGULATORY REFORM 1993

SI 12. Eliminate all reference standards and requirement for turbidity for water. 18 AAC 70.020

The federal EPA maintains and requires no standards or references to water turbidity. This is a State of Alaska requirement. This particular requirement has caused massive costs to mining operations, and in many cases, has resulted in operation closures, for economic inability to meet the standards.

In a "common sense" test, it is illogical to require that miners return water to glacial silt streams of a turbidity quality not achieved by City of Fairbanks tap water.

The Task Force believes that a proposed ADEC regulation that requires users to return water to its source in a condition similar to that which exists upstream from the point of extraction will more than adequately address the real need and intent of the turbidity standard.

SI 13. The natural resource regulations should be amended to require an automatic extension of durable time for permits and other administrative decisions that are foreshortened by administrative appeals and or court actions. 11 AAC 02.new section

The net usable term of a permit or other delivered authorization may be reduced significantly or eliminated entirely when a person receiving authorization is prohibited from using it due to a third party intervention. Any third party may challenge administrative permits or decisions for a variety of reasons, and although litigation or other administrative remedies may not change the prior decision regarding a permit or authorization, a person may become damaged by the foreshortening of time guaranteed by the original approval. The process of intervention in these decisions currently is structured in favor of the challenger, with no equal footing supplied to the permittee even when they prevail in the dispute. Delays presented by these challenges can effectively deny an individual or business the right to provide a living for themselves and others, or even more devastating, cause the possible loss of a business investment.

SI 14. The Alaska Department of Environmental Conservation (ADEC) should amend the water quality regulations to allow the natural levels of contaminants and the physical properties of a receiving water to dictate which water quality criteria should be applied for a designated use category. 18 AAC 70.010 (c)

ADEC regulation 18 AAC 70.010(c) requires that "water with natural characteristics of higher quality than the water quality criteria for the use classes set out in 18 AAC 70.020 must be kept at existing quality...." This approach to water quality is called the ANTI DEGRADATION POLICY which is intended to limit the degree of human influence as a result of their actions. This policy does not, however, address the case of many Alaskan water bodies where the naturally occurring water quality is no where near its protected use class.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 132

Revision Date: _____
Title: Extend Resource Extraction Permit/Lease
Sponsor: Representative Brice
Requestor: House Finance

Department Affected: Environmental Conservation
BRU: Environmental Quality
Component: Various

COMPONENT SERIAL NO.
(Thousands of Dollars)

Expenditures/Revenues:	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
OPERATING EXPENDITURES						
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MITA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	

Estimate of any current year (FY94) cost: \$ _____

POSITIONS:

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: (Attach a separate page if necessary.)

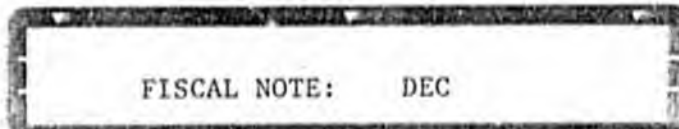
Prepared by: [Signature]
Division: Director T&S

Phone: 465-5010
Date: 2/8/94

Approved by Commissioner: [Signature] For
Agency: Department of Environmental Conservation

Date: 2/8/94

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FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB132 (FIN)

1994 LEGISLATIVE SESSION

Revision Date: 7-Feb-94 Dept Affected: Natural Resources
 Title: "An Act extending the time period of all permits BRU: Resource Development
issued by the state relating to the extraction or..." Component: Various
 Sponsor: Representative Brice
 Requestor: House Finance Committee Component Serial No. Various

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
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 EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY94) cost: \$ None

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)
 The intent of the bill is to acknowledge the impact of delays due to litigation on time limited activity authorization (permits).

Prepared by: Jerry Gallagher, Legislative Liaison Phone: 465-2400
 Division: Commissioner's Office Date: 7-Feb-94
 Approved by Commissioner: Harry A. Noah Date: 7-Feb-94
 Agency: Natural Resources

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FISCAL NOTE: DNR

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 132 (FIN)

Revision Date: _____
Title: An act extending the time period of all permits issued by the state for resource extraction or removal

Dept. Affected: Fish and Game
BRU: Habitat and Restoration

Sponsor: Rep. Bruce Kott, James Foster, MacLean
Requestor: House Finance

Component: Habitat
COMPONENT SERIAL NO. 486

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL EXPENDITURES	0	0	0	0	0	0
CHANGE IN REVENUES ()	0	0	0	0	0	0

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0	0	0	0	0	0

Estimate of any current year (FY 94) cost: \$ 0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: This measure requires a one-time dedication of staff and fiscal resources for adoption of implementing regulations.

Prepared By: Frank Rue *Frank Rue* Phone: 465-4105
 Division: Habitat and Restoration Date: 2/8/04
 Approved by Commissioner: *[Signature]*
 Agency: Alaska Department of Fish and Game Date: 2/8/04

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 132

Revision Date: 2/7/94
Title: Extending resource extraction permits
Sponsor: Representative Brice
Requestor: Representative Brice

Department Affected: Commerce and Economic Development
BRU: Mining
Component: Economic Development
COMPONENT SERIAL NO. _____

Expenditures/Revenues:

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL EXPENDITURES	0	0	0	0	0	0
CHANGE IN REVENUES ()	0	0	0	0	0	0

FUND SOURCE

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 94) cost: \$ 0

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Paul Fuhs, Commissioner
Division: Commissioner's Office

Phone: 465-2500
Date: _____

Approved by Commissioner: Paul Fuhs
Agency: Commerce and Economic Development

Date: _____

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8-LS0527M⁴
Luckhaupt
2/16/94

SENATE CS FOR CS FOR HOUSE BILL NO. 132()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES BRICE, Kott, James, Foster, MacLean

A BILL

FOR AN ACT ENTITLED

1 "An Act extending the time period of permits issued by the Department of
2 Environmental Conservation, the Department of Fish and Game, and the
3 Department of Natural Resources relating to the extraction or removal of
4 resources if the permittee, or an agency issuing a permit to the permittee, is
5 involved in administrative or judicial proceedings concerning the issuance or
6 validity of a permit related to the extraction or removal of resources, and the
7 permittee is unwilling to engage in the resource extraction or removal activity due
8 to the proceedings."

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

10 * Section 1. AS 46.35 is amended by adding a new section to read:

11 ARTICLE 2. EXTENSION OF RESOURCE EXTRACTION
12 OR REMOVAL RELATED PERMITS.

1 Sec. 46.35.300. EXTENSION OF RESOURCE EXTRACTION OR
2 REMOVAL RELATED PERMITS. (a) The department that issued the permit shall
3 extend a resource removal or extraction permit when the permittee

4 (1) is unwilling to engage in the resource removal or extraction activity
5 allowed under the permit due to the actions of another person, other than the state,
6 seeking administrative or judicial review of the issuance or validity of the permit or
7 another permit, or a permit, lease, authorization, or license issued by the federal
8 government, relating to the same resource removal or extraction activity; and

9 (2) at the conclusion of the legal proceedings is allowed to proceed
10 with the resource removal or extraction activity.

11 (b) A department may not extend a permit under (a) of this section

12 (1) unless

13 (A) the permittee notifies the department that issued the permit
14 of the legal proceedings and provides a sworn statement that the permittee is
15 unwilling to engage in the permitted activity due to the proceedings; and

16 (B) upon the conclusion of the legal proceedings, the permittee
17 notifies the department of the conclusion of the proceedings and the outcome
18 of the proceedings;

19 (2) for any period that the permittee has engaged in the resource
20 removal or extraction activity authorized under the permit;

21 (3) if the extension is prohibited by or otherwise inconsistent with
22 federal law applicable to the permitted activity;

23 (4) if another provision of state law, or a regulation, or contractual
24 provision authorizes an extension, or otherwise stays the running, of the permit.

25 (c) A permittee receiving an extension of a permit under this section is subject
26 to the rights, conditions, and liabilities the permittee would have had under the original
27 permit if the permit had not been extended.

28 (d) An extension of a permit under this section may only be for the length of
29 time equivalent to the period from the date the department receives the notice and
30 sworn statement under (b) of this section until the conclusion of the legal proceedings
31 that allow the permittee to engage in the resource removal or extraction activity.

1 (e) The Department of Environmental Conservation, the Department of Fish
2 and Game, and the Department of Natural Resources shall adopt regulations to
3 implement this section.

4 (f) In this section,

5 (1) "legal proceedings" means, as appropriate, administrative
6 proceedings not followed by judicial proceedings, administrative proceedings followed
7 by judicial proceedings, or judicial proceedings not preceded by administrative
8 proceedings;

9 (2) "permit" means a permit, lease, authorization, license, or another
10 determination necessary for or related to resource extraction or removal that is issued
11 by the Department of Environmental Conservation, the Department of Fish and Game,
12 or the Department of Natural Resources.

13 * Sec. 2. APPLICABILITY. (a) Section 1 of this Act applies to permits relating to
14 resource extraction or removal that are issued after the effective date of this Act.

15 (b) In this section, "permit" has the meaning given in AS 46.35.300(f), added by
16 sec. 1 of this Act.