

HB

333



ALASKA MINERS ASSOCIATION, INC.

501 W. Northern Lights Blvd., Suite 203, Anchorage, Alaska 99503 FAX: (907) 278-7997 Telephone: (907) 276-6347

February 8, 1994

Honorable Pete Kott
Alaska State Representative
State Capitol
Juneau, AK 99801

RE: HB-333, Definition of State Selected Land

Dear Representative Kott,

The Alaska Miners Association wishes to go on record in support of HB-333 and more precisely in support of the draft Committee Substitute of this bill. This is an important piece of legislation that will facilitate and simplify transfer of valuable mineral lands to ownership by the State of Alaska and add a measure of security and certainty for certain mining claim holders.

The need for this bill arises from the fact that some federal lands covered by federal mining claims have State selections over them and the federal claim holder would prefer to have the state as landowner so he/she could have state mining claims rather than federal mining claims. The State wants the land and has selected it because of its mineral potential and the federal claim holder wants the State to have the land, provided he/she can establish a state mining claim on the land.

The federal claim holder, however, needs the certainty that if he/she relinquishes his/her federal claim rights and the land actually becomes state property, he/she will have the state mining claim(s) with the earliest date and the legal rights and obligations associated with that earliest date. Nothing can force the federal claim holder to relinquish the federal mining claims if this is not his/her desire. However, if the claim holder prefers to operate under State law and have State mining claims, this bill will provide an added measure of certainty that will allow him/her to relinquish the claim(s). Under this bill, the person with the earliest rights under federal law will be able to relinquish these rights knowing that he/she will have the earliest rights under State law.

The draft Committee Substitute will also remove any ambiguities where valid ANCSA selections and State selections exist for the same area.

We support the draft Committee Substitute to HB-333 and see this bill as a case where the State of Alaska will be able to obtain title to lands it may otherwise not receive and at the same time add certainty for the claim holder. If there is anything we can do to assist in seeing this bill become law please contact me.

Sincerely,

Steven C. Borell, P.E.
Executive Director

cc: Commissioner Harry Noah

LETTER OF SUPPORT: AMA, Inc.

ALASKA MINERALS COMMISSION
1994 Report to the Governor
and Alaska State Legislature

FINDING: This recommended change to Title 38 will allow AS 38.05.275 to function as it was intended - to preserve some hope for a mineral claimant who makes a discovery on lands which happen to be unavailable under federal law due, in many cases, either wholly or partly to the existence of the state selection itself (because in most if not all cases the filing of a state selection segregates the land from federal location by virtue of either 43 CFR 2627.4(b) or the "notation rule", even if the state selection was invalid when made).

THE COMMISSION RECOMMENDS THAT:

10. The legislature should amend AS 38.05.275/965 as follows:

Section 38.05.965. Definitions.

(21) "state selected land" means land for which the state has filed a selection application with the United States, regardless of the validity or effect of such application.

Sec. 38.05.275. Recognition of locations. Mining locations made on state land, including shoreland, tideland or submerged land, or state selected land, under AS 38.05.185 — 38.05.275 or in the manner described in AS 27.10, acquire for the locator mining rights under AS 38.05.185 — 38.05.275, subject to existing claims and to any denial of or restriction in the tentative approval of state selection or patent of the land to the state. If shoreland, tideland, or submerged land is included in a mining location or within the projected boundaries of a mining location made in accordance with this section, the locator shall record a certificate of location under AS 38.05.195. The certificate of location must identify the position of the mining location in the system of rectangular or protracted surveys. If the mining location is made in the manner described in AS 27.10, the commissioner may require that the locator amend the mining location to conform with AS 38.05.185 — 38.05.275 and thereafter to comply with the requirements of AS 38.05.185 — 38.05.275. (§ 1 art IX ch 169 SLA 1959; am § 1 ch 123 SLA 1961; am § 3 ch 96 SLA 1966; am § 14 ch 93 SLA 1984)

Revisor's notes. — Minor word changes related to the recording of documents were made in this section in 1988 under § 42, ch. 161, SLA 1988.

Opinions of attorney general. — This section was intended to provide a solution to the problem presented by miners staking state claims on top of other miners' federal claims in riverbeds where title to the riverbed as between the state and federal government is unresolved. June 10, 1982. Op. Att'y Gen.

This section protects valid federal mining claims which include a state-owned riverbed from top-staking under state law. June 10, 1982. Op. Att'y Gen.

Federal locators have rights under state

mining law pursuant to this section if they have complied with all federal requirements under AS 27 of the Alaska Statutes. June 10, 1982. Op. Att'y Gen.

Requirement under this section that miners file a copy of the certificate of location if a state-owned riverbed is included in the location is a procedural requirement that should be followed but, if a miner fails to comply with the requirement, he does not forfeit his rights under state law. June 10, 1982. Op. Att'y Gen.

Collateral references. — 54 Am. Jur. 2d, Mines and Minerals, §§ 53 to 56.

58 C.J.S., Mines and Minerals, §§ 49 to 56.

General Background on Need for Amendment of AS 38.05.275

prepared by
Joseph J. Perkins, Jr.
GUESS & RUDD
Anchorage, Alaska

Defining "state selected land" for purposes of AS 38.05.275 in the manner requested will allow AS 38.05.275 to function as it was intended—to preserve some hope for a claimant who makes a discovery on lands which just happen to be unavailable under federal law but which might become available under state law in the future if the state acquires the lands. In many cases, the lands are unavailable under federal law either wholly or partly due to the existence of the state selection itself, because in most if not all cases the filing of a state selection segregates the land from federal location by virtue of either 43 CFR § 26.27.4(b) or the "notation rule", even if the state selection was invalid when made or is simply a top-filing.

Claims located under AS 38.05.275 are commonly referred to as "at-risk locations". If "state selected land" is not defined in the manner requested, then crafty lawyers working for "second-in-time" at-risk locators will be able to argue that their clients should defeat first-in-time at-risk locators because the first-in-time locators initiated their at-risk locations too early (i.e., before the state selection became valid). This potential result conflicts with the underlying policy in the mining law that "first-in-time" should prevail.

Perhaps three examples of the problems at-risk claimants face will illustrate why the proposed definition should be adopted, or none at all.

Example 1:

- 1974—lands closed to federal locations and to state selection
- 1977—invalid federal claims located
- 1978—invalid state selection filed (e.g., those filed on 11/14/78)
- 1978—at-risk state claims located after invalid state-selection
- 1979—lands made available for state selection under Statehood Act § 6(g) period (e.g., 1/79)
- 1979—valid reassertion of state selection filed (e.g., 2/79)

Who should win in a dispute between competing locators—the invalid federal locator or the potentially valid at-risk state locator? Clearly the at-risk state locator should win, and under the proposed definition he clearly will, without having to relocate his claims after the state makes a valid reassertion.

While one might think, at least initially, that the at-risk claimant in the foregoing situation should have to relocate his claims after a valid reassertion in order to be entitled to win, the following two examples show the difficulty with such a position.

Example 2:

- 1968—lands included in federal locations, some of which may have valid "marketability" discoveries and some of which may not (this is the typical situation for virtually

- every large claim block held by any mining company); no one knows which is which, however
- 1978—invalid state selection filed (e.g., those filed on 11/14/78)
- 1979—lands made available for state selection under Statehood Act § 6(g) preference period (e.g., 1/79)
- 1979—reassertion of state selection filed (e.g., 2/79); this reassertion is valid as to those lands that were not included in valid federal claims and is invalid as to those lands that were included in valid federal claims; no one knows which is which, however
- 1980—ANILCA § 906(e) enacted
- 1981—ANILCA § 906(e) top-filing made; as was the case with respect to the 1979 reassertion, however, no one knows which lands are validly selected and which lands are only top-filed
- 1982—federal claimant, in the exercise of caution, locates state mining claims on top of his federal claims, to protect himself in case any of his federal claims are invalid

(NOTE: At-risk state claims usually are not co-extensive with the underlying federal claims, due to the cardinal direction location requirement for state claims. Also, the discovery requirement under state law is the prudent man test, whereas under federal law it is the marketability test. It is thus easier to establish a discovery under state law.)

Does the federal claimant now have valid at-risk claims? If so, as to which lands? Under the proposed definition of state selected lands, he has "valid" at-risk claims as to all lands. Under current law it may be argued that he has "valid" at-risk claims only as to lands within those of his unpatented federal claims that are then invalid. But no one knows which are which! This means that the federal claimant will be forced continually to relocate his at-risk claims in order to protect himself from potentially competing locators. Also, a federal claimant will be forced to relocate all of his at-risk claims upon any formal abandonment of the underlying federal claims, even though some or all of the underlying federal claims already may have been invalid (for lack of discovery or some other unnoticed paperwork deficiency) such that the state selection already may have attached to the land. This is a patently silly result.

With many claimants now considering abandoning their federal claims and relying on their at-risk claims on lands that have been selected by the state, these claimants need to know that their at-risk claims will be recognized without the need for relocation, so long as they located their at-risk claims after the state filed a selection application for the lands.

Example 3:

- 1968—lands included in federal withdrawal
- 1980—ANILCA § 906(e) enacted
- 1981—ANILCA § 906(e) top-filing made
- 1991—owner of valid state claims on adjoining lands makes non-trespassory prudent man discovery on surface of lands in federal withdrawal and locates at-risk state claims;
- 1995—owner negotiates a federal/state/Native/borough/private land exchange to allow state to receive tentative approval to lands included in his at-risk claims

Should the at-risk claimant be placed in the position of not having his at-risk claims recognized because the state selection was a top-filing when he located his at-risk claims? No. Should he have to participate in a staking rush on the day the top-filing ripens into a valid state selection in order to make sure he is the first to locate valid at-risk claims? Of course not. The proposed changes makes clear that he would not need to do this. Under current law, the threat of a staking rush is so great that the claimant probably would not bother putting in the time and effort to bring about a land exchange—to the detriment of everyone.

Alaska State Legislature
House of Representatives

COMMITTEES:
HEALTH, EDUCATION
& SOCIAL SERVICES
JUDICIARY
STATE AFFAIRS

SPECIAL COMMITTEES:
MILITARY & VETERANS AFFAIRS
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STATE CAPITOL
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Representative Pete Kott

SPONSOR STATEMENT

HB 333 - MINING LOCATIONS ON STATE SELECTED LAND

Currently, state law provides that mining locations can be made on state land and on state selected land. The statutory definition of state land is found in AS 38.05.965(20). "State selected land" is not defined, and HB 333 is written to provide that definition. This is necessary to ensure that existing federal claims can be converted to state claims once the land is conveyed to the state.

The period during which the state could make selections under the Statehood Act as amended came to a close on January 3, 1994. Presently there are approximately 21 million acres in selected status. Because the state is allowed a 25% over-selection, only approximately 17 million acres will become state land, and there is no way of knowing with certainty which selected lands will actually become state land. Much of this land is potentially mineralized, and the state has an interest in ensuring there is a mechanism for miners to identify and lay claim to potential deposits.

It should be noted that claims filed on state selected land are "at risk" in the sense that they confer no rights unless and until the land is actually conveyed to the state of Alaska. At the time the state receives Tentative Approval to the land in question, the first person who staked an "at risk" claim while the land was in selected status would become a first-in-time locator and have the rights and privileges thereof under state law.

Alaska's mining industry provides an important part of the state's total employment. Alaska's interest in sound and appropriate development of Alaska resources will be well served by passage of House Bill 333.

SPONSOR STATEMENT



HOUSE COMMITTEE REPORT

(9)

Date Referred: January 10, 1994

FURTHER REFERRALS:

Finance

Date of Committee Action: 2/9/94

The RESOURCES Committee considered:

HB 333

HOUSE BILL NO. 333

MINING LOCATIONS ON STATE SELECTED LAND

"An Act amending the Alaska Land Act to define the term 'state selected land' for the purpose of recognizing mining locations, and giving retrospective effect to the amendment; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 333 (RES)

the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note DNR

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Bill Hudson</i> Hudson	✓	<i>[Signature]</i> Finkelstein		X	
<i>[Signature]</i> Carney	✓				
<i>[Signature]</i> Green	✓				
<i>[Signature]</i> Mulder	✓				
<i>[Signature]</i> Bunde	✓				
<i>W.K. Williams</i> Williams	✓				

W.K. Williams
 CHAIRMAN'S SIGNATURE

CHAMBER = H
SOURCE = HRES
DATE = 940209
YEAR = 94
TIME = 0815
DOCUMENT TEXT

HOUSE RESOURCES STANDING COMMITTEE
FEBRUARY 9, 1994
8:15 A.M.

MEMBERS PRESENT

REPRESENTATIVE BILL WILLIAMS, CHAIRMAN
REPRESENTATIVE BILL HUDSON, VICE CHAIRMAN
REPRESENTATIVE CON BUNDE
REPRESENTATIVE PAT CARNEY
REPRESENTATIVE JOHN DAVIES
REPRESENTATIVE DAVID FINKELSTEIN
REPRESENTATIVE JOE GREEN
REPRESENTATIVE ELDON MULDER

MEMBERS ABSENT

REPRESENTATIVE JEANNETTE JAMES

OTHER LEGISLATORS PRESENT

REPRESENTATIVE CARL MOSES

COMMITTEE CALENDAR

HJR 50 RELATING TO THE NORTH PACIFIC FISHERY
MANAGEMENT COUNCIL COMPREHENSIVE
RATIONALIZATION PLAN.

CSHJR 50(RES) ADOPTED AND PASSED OUT
OF COMMITTEE WITH INDIVIDUAL
RECOMMENDATIONS

*HB 333 "AN ACT AMENDING THE ALASKA LAND ACT TO
DEFINE THE TERM 'STATE SELECTED LAND'
FOR THE PURPOSE OF RECOGNIZING MINING
LOCATIONS, AND GIVING RETROSPECTIVE
EFFECT TO THE AMENDMENT; AND PROVIDING
FOR AN EFFECTIVE DATE."

CSHB 333(RES) ADOPTED AND PASSED OUT
OF COMMITTEE WITH INDIVIDUAL
RECOMMENDATIONS

(* FIRST PUBLIC HEARING)

WITNESS REGISTER

REPRESENTATIVE CARL MOSES
ALASKA STATE LEGISLATURE
STATE CAPITOL, ROOM 204
JUNEAU, ALASKA 99801-1182
PHONE: 465-4451
POSITION STATEMENT: PRIME SPONSOR HJR 50

RICK LAUBER, REPRESENTATIVE
PACIFIC SEAFOOD PROCESSORS ASSOCIATION
CHAIRMAN, NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL
321 HIGHLAND DRIVE
JUNEAU, ALASKA 99801
POSITION STATEMENT: SUPPORTED HJR 50

OLE HARDER
1124 REZANOF DRIVE
KODIAK, ALASKA 99615
PHONE: 486-3448
POSITION STATEMENT: SPOKE ON FISHING INDUSTRY

JACK PHIPPS, AIDE
REPRESENTATIVE PETE KOTT
STATE CAPITOL, ROOM 409
JUNEAU, ALASKA 99801-1182
PHONE: 465-3777
POSITION STATEMENT: GAVE REP. KOTT'S SPONSOR STATEMENT

JERRY GALLAGHER, DIRECTOR
DIVISION OF MINING
DEPARTMENT OF NATURAL RESOURCES
P.O. BOX 107016
ANCHORAGE, ALASKA 99510-7016
PHONE: 762-2165
POSITION STATEMENT: SUPPORTED CSHB 333

BILL: HB 333
SHORT TITLE: MINING LOCATIONS ON STATE SELECTED LAND
SPONSOR(S): REPRESENTATIVE(S) KOTT, BRICE, HUDSON, PHILLIPS,
JAMES, OLBERG, SANDERS, TOOHEY, GREEN

JRN-DATE	JRN-PG	ACTION
01/03/94		(H) PREFILE RELEASED
01/07/94	2014	(H) COSPONSOR(S): BRICE
01/10/94	2014	(H) READ THE FIRST TIME/REFERRAL(S)
01/10/94	2014	(H) RESOURCES, FINANCE
01/13/94	2054	(H) COSPONSOR(S): OLBERG, SANDERS
01/14/94	2084	(H) COSPONSOR(S): TOOHEY
01/19/94	2113	(H) COSPONSOR(S): GREEN
02/09/94		(H) RES AT 09:15 AM CAPITOL 124

HB 333 - MINING LOCATIONS ON STATE SELECTED LAND

CHAIRMAN WILLIAMS ADVISED MEMBERS THERE WAS A DRAFT COMMITTEE SUBSTITUTE FOR HB 333 IN THEIR FOLDERS.

MR. PHELPS, ATDF, REPRESENTATIVE PETE KOTT, EXPLAINED THAT HB 333 IS A SIMPLE MEASURE WHICH INSERTS A DEFINITION INTO TITLE 38 WITH RESPECT TO SELECTED LANDS. THE DEFINITION IS IMPORTANT BECAUSE A LARGE AMOUNT OF THE STATE IS COVERED BY LAND SELECTIONS, MANY WHICH ARE MINERALIZED. HE SAID THERE ARE FEDERAL CLAIMS ON MANY OF THE LANDS. A FEDERAL CLAIM, UNLESS IT HAS BEEN PATENTED, IS OFTEN IN QUESTION AS TO WHETHER IT IS A VALID CLAIM. FEDERAL REQUIREMENTS FOR A VALID CLAIM INCLUDE A MARKETABILITY STANDARD. WHEN THERE IS A STATE SELECTION OVER THE TOP OF A FEDERAL CLAIM, IT IS NOT KNOWN IF THE FEDERAL CLAIM IS VALID. HE STATED IF THE CLAIM IS VALID, IT IS A FEDERAL INHOLDING AND HAS NO CAPABILITY OF BEING CONVEYED TO THE STATE. IF IT IS AN INVALID FEDERAL CLAIM, THERE IS A STATE SELECTION OVER THE TOP OF IT.

MR. PHELPS SAID THE MINERALS COMMISSION REVIEWED THE PROBLEM AND FELT THE WAY TO SOLVE IT WAS TO DEFINE STATE SELECTED LANDS SO THAT A SELECTION IS CONSIDERED A SELECTION FOR MINING CLAIM PURPOSES, REGARDLESS OF THE VALIDITY OR THE EFFECT ON ANY PARTICULAR PIECE OF THE LAND WITHIN THAT SELECTION. FOR THE PURPOSE OF STAKING A CLAIM, THE LAND IS CONSIDERED SELECTED WHETHER IT IS VALIDLY SELECTED OR A TOPFILED.

MR. PHELPS SAID A PERSON WITH A FEDERAL MINE CLAIM MIGHT WANT TO CONVERT IT TO A STATE CLAIM ONCE THE LAND IS PATENTED TO THE STATE. THAT IS IMPORTANT TO THE STATE BECAUSE IT GETS RID OF THE LITTLE POCKETS OF FEDERAL INHOLDINGS THROUGHOUT THE STATE SELECTIONS. HE POINTED OUT THAT THE BENEFITS OF HB 333 ACCRUE NOT ONLY TO THE MINING INDUSTRY BUT ALSO TO THE STATE.

NUMBER 080

MR. PHELPS EXPLAINED THE COMMITTEE SUBSTITUTE WAS INTRODUCED BECAUSE THERE WERE CONCERNS EXPRESSED BY THE DEPARTMENT OF NATURAL RESOURCES (DNR) AND NATIVE CORPORATIONS AS TO HOW HB 333 WILL AFFECT THEIR OPERATIONS. THE NATIVE CORPORATIONS WERE CONCERNED HOW HB 333 WOULD AFFECT THEIR ALASKA NATIVE CLAIMS SETTLEMENT ACT (ANCSA) TOPFILINGS OR SELECTIONS. IN MANY CASES, THERE ARE STATE SELECTIONS AND ANCSA SELECTIONS WHICH OVERLAP.

MR. PHELPS EXPLAINED TO SOLVE THE PROBLEM, SUBSECTION (B)(2) WAS ADDED. IT SAYS IF THERE IS A PENDING SELECTION OF AN ANCSA CORPORATION, IT IS EXEMPTED. THIS RAISED NEW QUESTIONS. WHAT IF A PERSON ALREADY HAS AN AT-RISK CLAIM ON LAND WHICH IS BOTH SELECTED BY THE STATE AND ANCSA? THAT QUESTION LED THE SPONSOR TO ADD SECTION 2 OF THE BILL, WHICH SAYS EVEN THOUGH ANCSA SELECTIONS ARE EXEMPTED FROM THE NEW DEFINITION OF STATE SELECTED LANDS, ANY EXISTING AT-RISK

CLAIMS LYING IN THOSE AREAS ARE NOT AFFECTED. HE SAID IF THE ANCSA SELECTION GOES AWAY, IF THE STATE SELECTION ATTACHES BY CONVEYANCE, ETC. THE PERSON WHO HAS AN AT-RISK CLAIM BECOMES THE FIRST (INDISCERNIBLE).

NUMBER 108

MR. PHELPS CONTINUED THAT SECTION L, SUBSECTION (C), LINES FIVE AND SIX, WERE ADDED BECAUSE OF LEGITIMATE CONCERNS EXPRESSED BY THE DIVISION OF LAND REGARDING THE DIVISION'S ABILITY TO DECIDE WHICH LANDS WILL BE TENTATIVELY APPROVED TO THE STATE.

REPRESENTATIVE JOE GREEN SAID IT WAS HIS UNDERSTANDING THAT IN THE STATEHOOD ACT, LAND CONVEYED TO THE STATE FOR THE PURPOSE OF MAKING THE STATE SOLVENT HAD TO CONVEY LAND IN FEE AND THE STATE HAD TO MAINTAIN THE MINERAL RIGHTS. HE ASKED IF THERE IS AN ATTACHMENT ON THE MINERAL RIGHTS THROUGH A PRIOR FEDERAL CLAIM, CAN LAND SELECTED BE CONVEYED WITH THAT ENCUMBRANCE.

MR. PHELPS RESPONDED THAT LAND WITH A FEDERAL CLAIM IS NOT CONVEYED TO THE STATE AND CONTINUES TO BE A FEDERAL INHOLDING AS LONG AS THE MINER MAINTAINS THE CLAIM.

REPRESENTATIVE GREEN QUESTIONED IF A PERSON HOLDING A FEDERAL MINING CLAIM DOES NOT WANT TO CONVERT IT TO A STATE CLAIM, COULD THERE BE LEGAL RAMIFICATIONS AT A LATER DATE.

MR. PHELPS RESPONDED THAT COULD HAPPEN. HOWEVER, THE CLAIMS BEING DISCUSSED ARE VERY SMALL, 1500 BY 660 FEET. HE SAID REALISTICALLY IT WILL BE A VERY LONG TIME BEFORE THE STATE'S LAND SELECTIONS ARE SETTLED. HE ADDED THAT THE LONGER IT TAKES, THE MORE LIKELY THAT THE MORE VALUABLE MINERALIZATION AREAS WILL BE IDENTIFIED.

REPRESENTATIVE GREEN SAID HE WAS CONCERNED THAT A JUDGE MAY RULE THE LAND CANNOT BE CONVEYED AS LONG AS IT IS FEDERAL AND AT SOME TIME, THE PERSON MIGHT LOSE HIS CLAIM.

MR. PHELPS RESPONDED THAT ONCE A MECHANISM IS PROVIDED FOR A MINER TO CONVERT FROM A FEDERAL TO A STATE CLAIM, THE LIKELIHOOD FOR HIM DOING THAT IS INCREASED.

CHAIRMAN WILLIAMS ASKED MR. PHELPS TO AGAIN SPEAK TO SECTION 2 AND QUESTIONED THE DATE OF APRIL 14, 1966, CONTAINED IN THAT SECTION.

MR. PHELPS SAID SECTION 1, SUBSECTION (B)(2) EXEMPTS ANYTHING WHICH HAS A PENDING ANCSA SELECTION OVER IT. IF HB 333 PASSES, THERE WILL BE NO ABILITY FOR A PERSON TO GO INTO AN ANCSA SELECTED LAND UNTIL THE NATIVE CORPORATION IS SATISFIED. HE NOTED THE DATE APRIL 14, 1966, IS USED BECAUSE THAT IS THE DATE AS 38.05.275 WAS EFFECTIVE. HE STRESSED THAT UNDER CSMB 333(RES), ALL LAND WHICH IS UNDER A PENDING ANCSA SELECTION IS PROTECTED.

NUMBER 220

REPRESENTATIVE CARNEY MADE A MOTION TO ADOPT THE COMMITTEE SUBSTITUTE FOR HB 333.

CHAIRMAN WILLIAMS ASKED FOR OBJECTIONS TO THE MOTION AND HEARING NONE, CSHB 333(RES) WAS ADOPTED.

NUMBER 230

REPRESENTATIVE CARNEY MADE A MOTION TO ADOPT THE PROPOSED AMENDMENTS TO CSHB 333(RES).

CHAIRMAN WILLIAMS READ THE PROPOSED AMENDMENTS:

1. PAGE 1, LINE 7-11, DELETE ALL MATERIAL AND INSERT:

"(1) MEANS LAND FOR WHICH THE STATE HAS FILED A SELECTION APPLICATION WITH THE UNITED STATES UNDER SEC. 6 OF THE ALASKA STATEHOOD ACT, AS AMENDED, REGARDLESS OF THE VALIDITY OR EFFECT OF THE APPLICATION, IF THE SELECTION DESCRIBED IN THE APPLICATION HAS NOT BEEN REJECTED OR RELINQUISHED;"

2. PAGE 1, LINE 14 - PAGE 2, LINE 1, DELETE ALL MATERIAL AND INSERT:

"CORPORATION ORGANIZED UNDER 43 U.S.C. 1607(A), AS AMENDED, A NATIVE GROUP CORPORATION THAT QUALIFIES FOR A LAND CONVEYANCE UNDER 43 U.S.C. 1613(H)(2), AS AMENDED, OR A NATIVE URBAN CORPORATION THAT QUALIFIES FOR A LAND CONVEYANCE UNDER 43 U.S.C. 1613(H)(3), AS AMENDED, HAS"

3. PAGE 2, LINE 11:

DELETE SAS 27.10 OR AS 38.05.195E

INSERT "AS 38.05.185 - 38.05.275 OR IN THE MANNER DESCRIBED IN AS 27.10"

4. PAGE 2, LINE 14:

DELETE SAS 27.10.050 OR AS 38.05.195E

INSERT "AS 38.05.185 - 38.05.275 OR IN THE MANNER DESCRIBED IN AS 27.10"

NUMBER 245

CHAIRMAN WILLIAMS ASKED IF THERE WERE ANY OBJECTIONS TO THE MOTION. HEARING NONE, THE AMENDMENTS WERE ADOPTED.

NUMBER 257

JERRY GALLAGHER, LEGISLATIVE COUNSEL, DEPARTMENT OF NATURAL

RESOURCES, AND DIRECTOR, DIVISION OF MINING. STRESSED HR 333 IS SIMPLE AND STRAIGHTFORWARD. HE EXPRESSED SUPPORT OF CSHB 333. IT ALLOWS A MINER WHO HAS FEDERAL MINING CLAIMS TO CHANGE OVER TO STATE MINING CLAIMS WITHOUT HAVING A GAP OF TIME IN HIS TITLE. HE SAID CURRENTLY IF A PERSON OWNS A FEDERAL MINING CLAIM AND THE STATE HAS TOPTIED IT WITH A LAND SELECTION. THAT LAND SELECTION IS NOT REAL BECAUSE THE STATE CAN ONLY SELECT VACANT, UNAPPROPRIATED LAND. IF A MINER HAS A FEDERAL CLAIM AND WANTS TO CONVERT IT TO A STATE CLAIM, THAT PERSON HAS TO GO TO THE BUREAU OF LAND MANAGEMENT (BLM), AND GIVE THEM A RELINQUISH DOCUMENT. THEN THE PERSON HAS TO GO BACK OUT IN THE FIELD AND STAKE A STATE MINING CLAIM. MR. GALLAGHER EMPHASIZED THAT CSHB 333(RES) ALLOWS A PERSON TO STAKE A STATE MINING CLAIM ON A FEDERAL CLAIM.

NUMBER 308

REPRESENTATIVE HUDSON MADE A MOTION TO MOVE CSHB 333(RES) AS AMENDED WITH INDIVIDUAL RECOMMENDATIONS AND A ZERO FISCAL NOTE. CHAIRMAN WILLIAMS ASKED IF THERE WERE ANY OBJECTIONS TO THE MOTION. HEARING NONE, THE MOTION PASSED.

ANNOUNCEMENTS

CHAIRMAN WILLIAMS ANNOUNCED THE COMMITTEE WILL MEET FRIDAY, FEBRUARY 11 AT 8:15 A.M. TO TAKE UP SB 153.

ADJOURNMENT

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE HOUSE RESOURCES COMMITTEE, CHAIRMAN WILLIAMS ADJOURNED THE MEETING AT 9:25 A.M.

10601 * END OF DOCUMENTS IN LIST. PRESS ENTER OR ENTER ANOTHER COMMAND.

**CSHB 333(RES)
SECTIONAL ANALYSIS**

"An Act amending the Alaska Land Act to define the term 'state selected land' for the purpose of recognizing mining locations, and giving retrospective effect to the amendment; and providing for an effective date."

Section 1.

Amends AS 38.05.275 by adding two new subsections.

Subsection (b) defines the term 'state selected land' as follows:

- (1) land for which the state has filed a selection application with the United States under the Alaska Statehood Act regardless of the validity or effect of the application, so long as the selection has not been rejected or relinquished;
- (2) except land for which a Native corporation organized under ANCSA has filed a selection application so long as the application has not been rejected or relinquished.

Subsection (c) clarifies that the definition supplied in subsection (b) does not limit the authority of the director of lands to select, accept and secure land to the state.

Section 2.

Provides that the exception in AS 38.05.275(b)(2) for lands selected by a Native corporation organized under ANCSA does not invalidate an 'at risk' claim filed on that land on or after April 14, 1966, and before the effective date of this Act.

Section 3.

Provides that the definition supplied in section 1 is retroactive to April 14, 1966, the effective date of the Act that established AS 38.05.275 in its current form.

Section 4.

Provides that the Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB333(RES)

994 LEGISLATIVE SESSION

Revision Date: 14-Feb-94 Dept Affected: Natural Resources
 Title: "An Act amending the Alaska Land Act to define BRU: Resource Development
the term 'state selected land' for the purpose of recognizing mining..." Component: Land Development
 Sponsor: Representative Kott Mining Development
 Requestor: Representative Kott Component Serial No. 431/442

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

JND 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)

There is no anticipated fiscal impact to DNR associated with this bill.

Prepared by: Jerry Gallagher, Legislative Liaison Phone: 465-2400
 Division: Commissioner's Office Date: 14-Feb-94
 Approved by Commissioner: Harry A. Noah Date: 14-Feb-94
 Agency: Natural Resources

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