

HB

298

<TARGET><BILL>HB 298</BILL><SUBJECT>HB
298</SUBJECT><COMM>HRES27</COMM></TARGET>

REPRESENTATIVE PAUL SEATON

SESSION ADDRESS
State Capitol Building
Juneau, Alaska 99801-1182
(907) 465-2689
Fax: (907) 465-3472
1-800-665-2689



INTERIM ADDRESS
345 W. Sterling Highway
Homer, Alaska 99603
(907) 235-2921
Fax: (907) 235-4008
1-800-665-2689

ALASKA STATE LEGISLATURE
House District 35

Sponsor Statement

HB 298

HB 298 repeals the requirement that sand and gravel operators pay the mining license tax. This tax costs the state nearly as much to administer as it raises. The Department of Revenue agrees that the mining license tax on sand and gravel operators is burdensome and labels the sand and gravel tax a "nuisance tax." During the last five years, the Department of Revenue collected between \$206,000 and \$320,000 annually in mining license tax revenue on sand and gravel operations and spent nearly \$150,000 each year to administer the tax.

Sand and gravel is processed into multiple products such as concrete, asphalt, concrete block and wide variety of aggregates. Each of the final products have a different expense track associated with them. They are sold at retail, wholesale and at competitive bid prices. Each of these products, their cost of extraction, transportation, various expense tracks from processing and multiple sales prices are part of the many permutations that sand and gravel operators use to calculate their mining license tax. The Department of Revenue ensures compliance through a very detailed audit. The cost of these audits to businesses often exceeds the tax amount paid by the business.

Between 40% and 60% of sand and gravel mined in the state is used in public works projects. The mining license tax payment on these projects is paid by the state and local governments through the increased cost of the projects. This "left pocket/right pocket" payment is a burden to the Department of Revenue auditors does not raise any additional funds for the state.

Repealing the mining license tax requirement for sand and gravel operators will remove a significant burden to Alaska businesses, and will allow the Department of Revenue to direct their auditing capabilities on higher cost mineral mining operations.

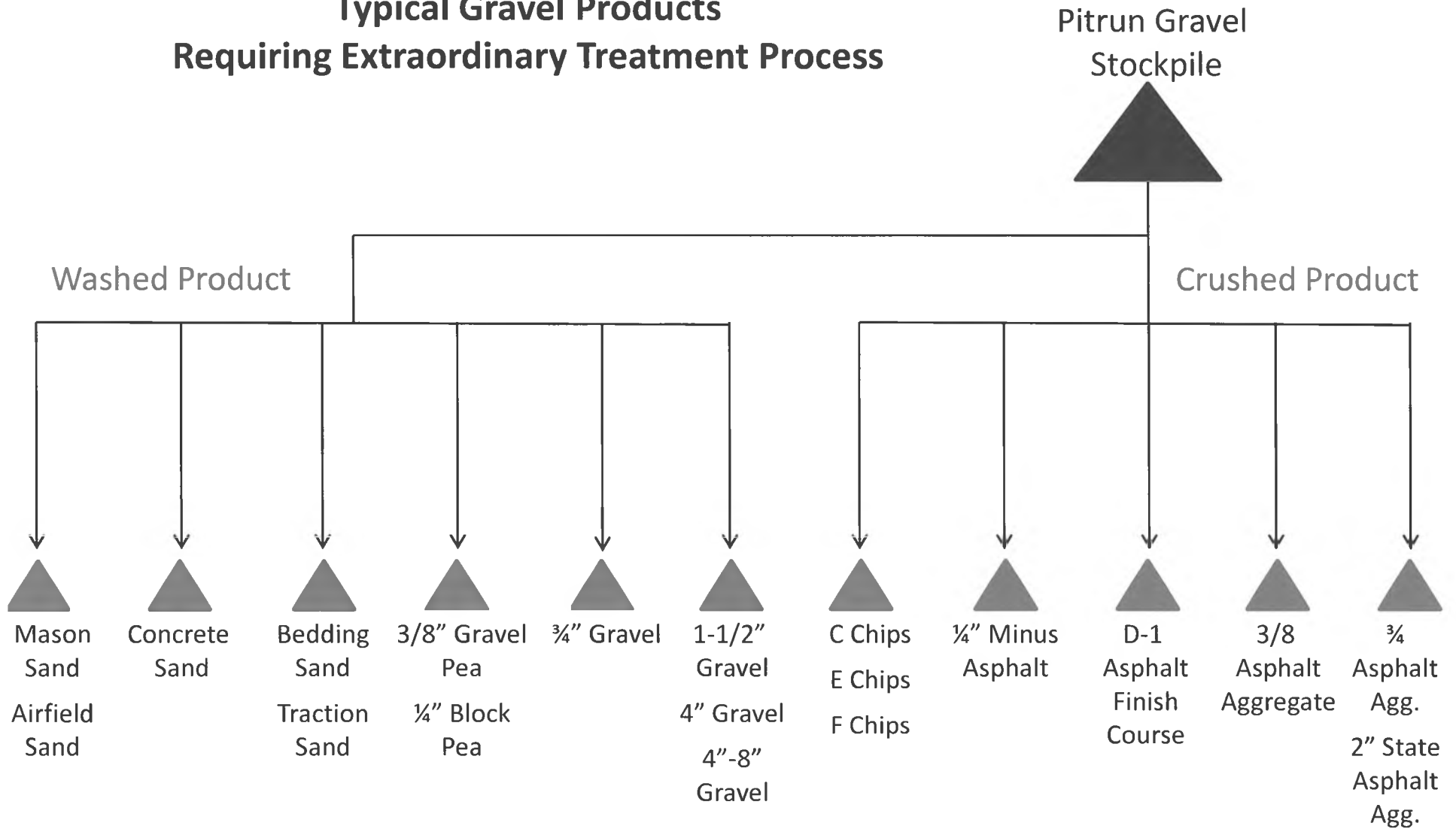
AMENDMENT

OFFERED IN THE HOUSE
TO: HB 298

BY REPRESENTATIVE SEATON

- 1 Page 1, line 1:
- 2 Delete "sand and gravel"
- 3 Insert "quarry rock, sand and gravel,"
- 4
- 5 Page 2, line 3, following "earth,":
- 6 Insert "quarry rock,"

Typical Gravel Products Requiring Extraordinary Treatment Process



FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version HB298
 Fiscal Note Number _____
 () Publish Date _____

Identifier (file name) HB298-DNR-DMLW-1-30-12 Dept. Affected Department of Natural Resources
 Title Exemptions from Mining Tax Appropriation Land & Water Resources
 Allocation Mining Land & Water
 Sponsor Representative Seaton
 Requester House Resources OMB Component Number 3002

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES	FY13	FY13	FY14	FY15	FY16	FY17	FY18
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	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/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							
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Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial version

Prepared by Brent Goodrum
 Division Mining Land & Water
 Approved by Daniel S. Sullivan
Commissioner

Phone (907) 269-8625
 Date/Time 01-30-2012 / 4:00 PM
 Date 1/30/2012

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. HB298

Analysis

Section 1 of HB 298 removes a sentence from AS 43.65 which effectively exempts mining of sand and gravel from the mining license tax.

Section 2 of HB 298 also amends the definition of mining under AS 43.65 to exclude "marketable earth" as a product that is extracted, mined, or taken from the earth. It also excludes marketable earth, sand and gravel from the definition of mining as the ordinary treatment processes applied by mine owners or operators to obtain the commercially marketable product. Therefore, by removing the mining of sand, gravel and marketable earth from this section, the mining of these products are exempt from the mining license tax.

If enacted, this bill takes into effect July 1, 2012. This bill is expected to have zero fiscal impact on the Department of Natural Resources.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version HB 298
Fiscal Note Number _____
() Publish Date _____

Identifier (file name) HB298-DOR-TAX-01-27-12 Dept. Affected Revenue
Title Exemptions From Mining Tax Appropriation Taxation and Treasury
Allocation Tax
Sponsor Representatives Seaton and Kawasaki
Requester (H) RES OMB Component Number 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	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/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS								
Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES		(150.0)	(300.0)	(300.0)	(300.0)	(300.0)	(300.0)
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Estimated SUPPLEMENTAL (FY12) operating costs _____ (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial version.

Prepared by Johanna Bales, Deputy Director
Division Tax
Approved by Jerry Burnett, Director Administrative Services
Department of Revenue

Phone 269-6628
Date/Time 1/27/12 9:30 AM
Date 1/30/2012

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. HB 298

Analysis

Bill Language:

This bill would exempt sand and gravel and marketable earth from the mining license tax. During FY 2011, the Department received 182 mining license tax returns from sand and gravel operators. Included in those tax returns was activity from the extraction of other marketable earth such as peat, top soil, and the like. Only 17 of those 182 taxpayers paid tax. Under the current mining license tax structure, taxpayers do not pay tax if their current year net mining license taxable income is less than \$40,000. Most sand and gravel taxpayers do not have more than \$40,000 in net income annually and, therefore, do not pay tax. They are, however, required to obtain a mining license and file a mining license tax return each year.

Revenues:

During the past five years, the state has received the following amount of mining license tax revenue from sand and gravel operations:

<u>Fiscal Year</u>	<u># of Licensees</u>	<u>Sand & Gravel Tax</u>	<u>Total Mining Tax Revenue</u>	<u>Sand & Gravel Tax (Percent of Total)</u>
2007	11	\$267,592	\$79,141,526	.3%
2008	38	\$285,314	\$54,408,228	.5%
2009	140	\$260,355	\$16,044,139	1.6%
2010	131	\$206,830	\$29,725,100	.7%
2011	189	\$320,360	\$43,338,119	.7%

Based on previous filings, the Department expects that total mining license tax revenues will decrease each year by approximately \$300,000. This bill has an effective date of July 1, 2012, which would result in decreased revenue in FY 2013 of approximately \$150,000 as taxpayers, which file on a calendar year basis, would report and pay tax on 6 months of activity (January 1, 2012 through June 30, 2012).

Sand and gravel operators that currently use their mining license in lieu of a business license will be required to obtain a business license each year. The state could see a small increase in business license revenue as a result of this bill.

Expenditures:

During the past five years, the Department has expended approximately \$150,000 each fiscal year on the examination and audit of sand and gravel tax returns. Staff used to conduct those examinations were diverted from other excise tax programs to focus on sand and gravel taxpayers as the Department was aware that there was a significant number of non-filers in this tax type. As you can see from the above data, compliance efforts by the Department which started in FY 2007 resulted in the number of licensees increasing dramatically from only 11 in FY 2007 to 189 in FY 2011. However, there was not a dramatic increase in revenues as most taxpayers brought into compliance had less than \$40,000 in mining license net income and, therefore, paid no tax. The Department does not expect to reduce staff as a result of this legislation as most resources that currently focus on sand and gravel mining have been re-assigned to compliance activities and audits of other excise taxes.



PO Box 80688
Fairbanks, AK. 99708

Telephone (907) 488-5983
Fax (907) 488-9830

January 30, 2012

To: Representative Eric Feige

Re. HB298 Mining Tax

Representative Feige:

Our companies are engaged in construction of roads, and building sites locally around Fairbanks utilizing our owned gravel sources.

We have been reporting and paying the mining tax.

November 24, 2009 the State of Alaska Department of Revenue requested an audit of our records. A request for extension by the Department of Revenue was received July, 2011. Over 2 years have passed without resolution.

This process is costly and burdensome:

1. The rules are not clearly defined leaving determination of the rules open to interpretation.
2. The audit process is time consuming, burdensome, frustrating and costly for companies to comply. Records are voluminous and have to be transferred by mail. It is as if we are in a legal suit rather than regulation compliance.

Most of H C Contractors work is public work. This will only increase the cost of doing work on those contracts. The extra cost will be added to the contracts so the government dollars will pay the tax back to the government through the increase. This is a futile process.

The mining tax on local gravel sources needs to be repealed. These are not mineral resources. This will save money for all of us.

Thank you.

Sincerely,

William Hoople
President, H C Contractors, Inc.

SAMUEL P. TROTZKE, CPA
664 Feliz St.
North Pole, AK 99705
(907) 488-4967

January 30, 2012

State of Alaska
Honorable Legislators
Juneau, Alaska

Sent via email

RE: House Bill 298

Dear Honorable Legislators:

I would like to express my support for House Bill 298, in the Legislature of the State of Alaska, Twenty-Seventh Legislature – Second Session.

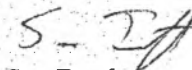
The above referenced House Bill, as introduced on January 25, 2012, would exempt sand and gravel mines from the requirement to calculate and pay the annual mining license tax. I am supportive of removing the requirement that sand and gravel mines be subject to the mining license tax as the law currently reads.

Current statutes and regulations are vague and difficult to understand. I have had many conversations with State of Alaska employees at the Department of Revenue regarding this tax. It is my belief that each person reading the regulations could reasonably draw different conclusions with respect to similar fact patterns making the calculations of the tax difficult and expensive for the mining operations.

Please vote in favor of removing this burdensome tax requirement from sand and gravel operators as the costs of preparing, reviewing and filing the mining tax returns are greater than the benefits derived from the tax for both the operators and the State of Alaska.

Thank you for your kind attention to this matter. Please feel free to contact me should you have further questions.

Respectfully,


Sam Trotzke



ASSOCIATED GENERAL CONTRACTORS of ALASKA

8005 Schoon Street • Anchorage, Alaska 99518
Telephone (907) 561-5354 • Fax (907) 562-6118

3750 Bonita Street • Fairbanks, Alaska 99706
Telephone (907) 452-1809 • Fax (907) 456-8599

January 31, 2012

Representative Eric Feige
State Capitol, Room 126
Juneau, AK 99801-1182

Re: HB 298

Dear Representative Feige: *Eric*

On behalf of the Associated General Contractors of Alaska, a construction trade association of over 650 business members, representing the majority of the construction industry in Alaska, I ask for your support of HB 298.

Working with our affected companies last spring, we realized that the present mining license tax structure was poorly applied to aggregate production in the construction industry.

Last summer we started working with the Department of Revenue on the problems with the present tax as it applies to quarry rock and sand and gravel operations in Alaska and how the present requirements could be improved on a revenue neutral basis. After researching the revenue to the State and the cost of administration, it was recommended that quarry rock and sand and gravel operations should be exempted from the requirements.

This has been a cooperative effort between industry and the administration. We quickly recognized that this was a true nuisance tax. For the State, it produced little revenue. For the construction industry, it is very complicated to calculate and even more complicated to audit, for relatively little revenue to the state and many times more expense to industry. When you consider that the majority of the mined and processed product goes into public works projects, government is paying most of the associated costs and the tax, at the expense of our projects.

I urge you to support HB 298 and this exemption to the mining license tax.

Sincerely,

John MacKinnon
Executive Director
Associated General Contractors of Alaska



ANCHORAGE SAND and GRAVEL CO., INC.

1040 O'Malley Road • Anchorage, AK 99515 • Toll-free: (888) 349-3133 • Phone: (907) 349-3333
Fax: (907) 344-2844 • www.anchsand.com

WRITTEN TESTIMONY IN FAVOR OF HOUSE BILL NO. 298

I am Ben Simmons, Vice President – Controller, of Anchorage Sand and Gravel Co., Inc. I have been employed in this capacity for the past 37 years. I have extensive experience with Chapter 43.65 Mining License Tax, filing required tax returns and responding to audits. Based upon my experience and knowledge of the Mining License Tax statute, the following testimony is respectfully submitted.

- **Ambiguous.** The Mining License Tax Statute as it pertains to sand and gravel is very ambiguous and difficult to apply to sand and gravel operations. All mining operations covered by the statute is basically one item (ie. Gold, silver, coal, etc.), with the exception of sand and gravel which can be between 20-30 products. Therefore, applying the statute to sand and gravel requires analysis of 20-30 different items instead of one. In the past 30 years I have been involved in three audits which included 1-3 years of tax returns each. Each audit was handled differently than the previous and final dispositions were settlement agreements with no real guidance for future return filings. The major points of contention are always “fair market value” and “ordinary treatment process” and value of sand and gravel used internally. The statute contains definitions of each, but each is difficult to apply to sand and gravel operators. For instance, operators in vertically integrated companies (typically suppliers) have very different processes from operators who are general contractors. AS&G is a vertically integrated company (supplier) which sells approximately 70% of its mined product to third parties and uses 30% internally. Mining operators who are general contractors sell approximately 30% of their mined product to third parties and use 70% internally (for asphalt, road beds, building pads, etc.). Suppliers’ internal sales would include aggregates for asphalt, ready mix concrete, concrete block, sacked goods, etc.
- **Inconsistent application of tax and No “market price” for sand and gravel.** The statute requires internal sales to be valued at “fair market value after they have been subjected to ordinary treatment processes”. Unlike gold, silver, lead, zinc, etc., there is no exchange or commodities board one can go to and get the “market or field price” for sand and gravel. So when determining the value to be used for internal use of sand and gravel auditors generally rely on the average sales price by product to third parties. This approach does not take into account bid prices for large quantities, high prices for hard to make specs or simple value added for additional handling. These prices are determined on a product by product basis from one producer to another, so the amount of tax paid by one producer can vary greatly from another



on exactly the same product. Therefore, fair application of the tax is not consistent from one taxpayer to the next.

- **Burdensome.** A great deal of time is required to gather and generate the necessary information for filing a tax return. The current thinking at the Department of Revenue Auditing Division is that "fair market price" should be determined on a product by product basis. AS&G currently makes and inventories between 20-30 aggregate products, so gathering information is very time consuming. In addition, if audited the time requirement and expense grows significantly. Our last audit for tax years 2005-2006 took almost 18 months and costs to AS&G in time and attorney expenses were well over \$50,000.00 just complying with requests for information and meetings.
- **Non-productive tax.** It is my belief that the amount of taxes collected from sand and gravel producers is insignificant compared to the cost to the state. During previous audits through discovery it was determined that the state had collected slightly more than \$200,000 in mining taxes and AS&G accounted for approximately 50% of this. I can only assume that audit costs are greater than revenue.

In summary, ambiguity as it pertains to sand and gravel, inconsistent application of tax, no markets or indexes for sand and gravel, burdensome and time consuming to comply and non-productive tax are reasons why sand and gravel should be exempted from the Mining License Tax statute. Government (local, state and federal) is the end customer for the majority of our products and ultimately pays this tax and our expense. An exemption from this tax for sand and gravel producers should reflect lower costs of materials to construction projects. It will not be readily identifiable due to the competitive nature of the construction industry, but costs of construction materials should be lower.

Respectfully,

Ben D. Simmons
V.P. Controller

From: Rep. Paul Seaton
Subject: FW: Mining License Tax - Bill Number HB298

From: Brian Vreeling [<mailto:BVreeling@COLASKA.com>]
Sent: Monday, January 30, 2012 5:38 PM
To: Rep. Paul Seaton; Rep. Eric Feige; Rep. Peggy Wilson; Rep. Alan Dick; Rep. Neal Foster; Rep. Bob Herron; Rep. Cathy Munoz; Rep. Berta Gardner; Rep. Scott Kawasaki
Cc: John@aacak.org
Subject: RE: Mining License Tax - Bill Number HB298

Colaska, Inc. operates as an integrated construction business that owns and leases multiple sand and gravel pits throughout Alaska. Our activities include extracting sand & gravel and processing these extracts into different marketable products. These products are either sold externally to third-party customers or utilized internally in making redi-mix concrete, asphalt hot mix, or on road construction projects.

The Mining License Tax law as it currently exists places an undue hardship and burden on sand and gravel operations to comply with for several reasons.

Firstly, as an integrated business that has some operations considered 'mining activities' and others that are not, it has proven to be difficult to carve out our mining activities from our integrated activities to file a meaningful mining income tax return on an annual basis. This carving requires us to spend much more time to prepare and create the mining income tax return than it does to prepare our corporate income tax return for the IRS and the State of Alaska.

Secondly, we are currently being audited by the Department of Revenue (DOR) for two years of our mining tax returns. The audit process started more than a year ago and is now just coming towards an end. Because of our integrated operations, it has been difficult for the DOR to apply the mining tax law as it currently exists to our situation. Again having integrated activities, it has proven to be very onerous for the DOR to audit a carved out piece of our entire business. To date we have spent well in excess of a combined 800 hours in our organization complying with the audit and responding to audit requests. This is in addition to the hours and costs expended by the DOR on this audit.

Thirdly, the ultimate consumer of our products is the government. In 2011, 78% of our revenues came from public sources. The cost of the mining tax itself, as well as our internal costs to comply with this tax are being passed on to our customers, which the majority is coming from government funds.

In summary, as the Vice President of Finance of a company that must comply with the Mining License Tax, I whole heartedly support House Bill No. 298 to exempt sand and gravel and marketable earth mining operations. My support comes from direct experience in the cost and efforts to comply with the current law which by far exceed the tax revenue generated from it.

Yours truly,
Brian Vreeling, CPA
Vice President, Finance
Colaska, Inc.
4000 Old Seward Highway, Suite 101
Anchorage, Alaska 99503



January 31, 2012

Dear Representative Seaton:

As President of one of Alaska's large, road construction companies that must comply with the Mining License Tax, I am informing you that House Bill No. 298 has my full support, and I encourage you to vote for its passage.

Colaska, Inc. operates as an integrated construction business that owns and leases multiple sand and gravel pits throughout Alaska. Our activities include extracting sand & gravel and processing these extracts into different marketable products. These products are either sold externally to third-party customers or utilized internally in making redi-mix concrete, asphalt hot mix, or on road construction projects, the majority of which are public works projects.

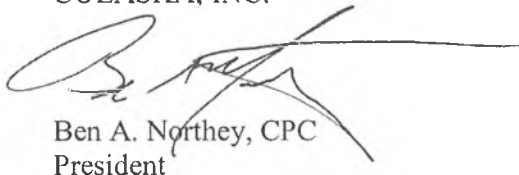
We are currently being audited by the State of Alaska, Department of Revenue (DOR) for two years of our mining tax returns. The audit process started more than a year ago and is now just coming towards an end. It has been difficult for the DOR to apply the mining tax law as it currently exists to a company like ours that performs integrated activities. To date we have spent well in excess of a combined 800 hours in our organization complying with the audit and responding to audit requests. This is in addition to the hours and costs expended by the DOR on this audit with a minimal revenue result.

At a time when we are trying to encourage business and growth in our great State of Alaska, I believe there are much better places to spend our time and energy than trying to resurrect a "make work" program that probably does not cover its own costs.

Please vote for house Bill #298.

Sincerely,

COLASKA, INC.



Ben A. Northey, CPC
President





February 1, 2012

Representative Paul Seaton
Co-Chair of House Resources Committee
State Capitol Room 102
Juneau, Alaska 99801

Reference: House Bill No. 298
"An Act exempting sand and gravel and marketable earth mining operations from the mining license tax; and providing for an effective date."

Dear Representative Seaton:

Great Northwest, Inc. is a privately held civil contractor based in Fairbanks that contracts primarily with the State of Alaska and the federal government to construct roads, airports and building sites. Currently the State of Alaska taxes the revenue we receive from the sale of sand and gravel, and peat moss mined from our material sites in Fairbanks, Delta and Healy and used in these projects. While the mining license tax is paid for by Great Northwest, the money to pay for the tax is generated through the sale of sand and gravel and peat moss to our customers. The State of Alaska and the federal government represent approximately 90% of our sales and, therefore, indirectly pay for 90% of our mining license tax.

Over the past ten years Great Northwest has paid approximately seventy-eight hundred dollars (\$7,800) in sand and gravel, and peat moss mining license taxes. For the past year we have been being audited by the State of Alaska Department of Revenue for calendar years 2008 and 2009. We are hoping that these audits will be concluded by July or August of this year. To date we have expended approximately 200 staff hours working with the State auditors supplying documents as requested and helping to answer questions that arise during the audit. In order to conduct the audit the State of Alaska has flown two auditors to Fairbanks twice and provided them with approximately three days room and board each trip. I am confident that if you look at the money expended by the State of Alaska to conduct the audit of our books you will find that they spent more money auditing two years of our records than they collected from us

in 10 years. Incidentally, while we paid \$7,800 since 2001 in mining license taxes, to date the audit has determined that we over paid our taxes by \$500.

In addition to the cost of an audit, we must cover the cost of preparing the annual mining license tax return. Each year our office staff spends approximately 80 hours preparing the return.

The mining license tax paid for the extraction of sand and gravel, quarry rock, topsoil and peat moss is a nuisance tax. The vast majority of the income used to pay for the tax comes from the construction of local, state and federal projects; therefore, the taxing body is paying the tax. In Great Northwest, Inc.'s case and I suspect in the cases of most miners of sand and gravel, rock, topsoil and peat moss, the State of Alaska spends more money collecting the tax than the revenue generated. I applaud your sponsoring HB 298 and look forward to its passage. If I can be of any help as the bill winds its way through the legislature, please let me know.

Thank you.

Sincerely,
Great Northwest, Inc.



Anton K. Johansen

Copy:

Representative Alan Dick
Representative Eric Feige
Representative Neal Foster
Representative Berta Gardner
Representative Bob Herron
Representative Scott Kawasaki
Representative Cathy Munoz
Representative Peggy Wilson



4000 Old Seward Hwy., Suite 101
Anchorage, Alaska 99503
Tel : (907) 273-1000
Fax: (907) 273-1099
www.colaska.com

January 30, 2012

Reference: Mining License Tax - Bill Number HB298

I believe the Mining License Tax law places an undue hardship and burden on all sand and gravel operations.

Colaska, Inc. owns and leases many sand and gravel pits throughout Alaska. We extract sand & gravel and process these extracts into different marketable products. These products are either sold externally to third-party customers or utilized internally in making redi-mix concrete, asphalt hot mix, or on our road construction projects, the majority of which are public works projects.

We have some operations that are considered 'mining activities' and others that are not. The time we have spent to prepare and create the mining income tax return is more time than we have spent to prepare our corporate income tax return for the IRS and the State of Alaska. The end result is that it will add to the cost of all construction.

As the Vice President of Operations of a company that must comply with the Mining License Tax, I whole heartedly support House Bill No. 298 to exempt sand and gravel and marketable earth mining operations. My support comes from direct experience in the cost and efforts to comply with the current law which by far exceed the tax revenue generated from it.

Yours truly,

COLASKA, INC.

A handwritten signature in cursive script, appearing to read "Jon Fuglestad".

Jon Fuglestad
Vice President, Operations
4000 Old Seward Highway, Suite 101
Anchorage, Alaska 99503

Linda Hay

From: Marc Cottini <marccottini@questengineers.com>
Sent: Wednesday, February 01, 2012 7:15 AM
To: Rep. Paul Seaton
Cc: Rep. Eric Feige; Rep. Peggy Wilson; Rep. Alan Dick; Rep. Neal Foster; Rep. Bob Herron; Rep. Cathy Munoz; Rep. Berta Gardner; Rep. Scott Kawasaki
Subject: House Bill 298: Exempt sand and gravel operations from the State of Alaska mining license tax

Dear Committee Members,

My name is Marc Cottini and I represent many small sand and gravel operators in the Matanuska-Susitna Borough. I represent these individuals, small companies, and trusts as a professional civil engineer and as an owner of a small gravel screening business.

During the past six years, I have also worked for these individuals, small companies, and trusts in order to ensure their compliance with State of Alaska regulations. Part of this compliance work has been filling out forms for the mining license tax and assisting others with these tax forms. To date, these individuals, small companies, and trusts have **never paid a penny** for mining taxes! Simply, because they never earn enough money in these small sand and gravel operations in order to exceed the current exemption of \$40,000.

Instead, we as a small gravel screening businesses spend approximately 8 hours every year filling out mining license tax forms for each pit that we operate in. Plus, we spend an additional two hours helping the individuals, small companies, and trusts (i.e. whom we pay gravel royalties to) fill out their mining license tax forms. Yes, every year I spend the better part of one full week filling out mining license tax forms and assisting others with their mining license tax forms. At the end of this process no money is ever paid to the State of Alaska..... what a waste of time!

In conclusion, the mining license tax is an undue burden and hardship on small sand and gravel businesses. Please exempt sand and gravel operations from the mining license tax.

Sincerely,

Marc Cottini

Linda Hay

From: Jae Won <JWon@COLASKA.com>
Sent: Wednesday, February 01, 2012 9:28 AM
To: Representative_Paul_Seaton@legis.state.ak.us; Representative_Eric_Feige@legis.state.ak.us;
Representative_Peggy_Wilson@legis.state.ak.us; Representative_Alán_Dick@legis.state.ak.us;
Representative_Neal_Foster@legis.state.ak.us; Representative_Bob_Herron@legis.state.ak.us;
Representative_Cathy_Munoz@legis.state.ak.us; Representative_Berta_Gardner@legis.state.ak.us;
Representative_Scott_Kawasaki@legis.state.ak.us
Cc: John@agcak.org
Subject: Mining License Tax - Bill Number HB298

Representatives,

I am writing this letter to support House Bill No. 298.

I am a controller of QAP, a general contracting company. QAP owns and leases over dozen pits throughout Alaska, mainly support our construction activity. Our main construction activity is road construction as well as airport runways throughout rural Alaska.

To comply with current Mining License Tax law, it puts additional burden on the company due to the complexity of the law. Current law requires us to generate a separate income statement for the sand and gravel operation by each location. This requirement in general is proving to be difficult as QAP utilizes sand and gravel pits to support its construction activity. To comply with this law, we are having to have add costs to construction budget, which ultimately increases the construction cost for the government.

Currently QAP is being audited by Department of Revenue for two years of our Sand and Gravel operations. The audit process is becoming a burden on our company as well as DOR staff. It has been over a year since it began, and is still ongoing. It has been difficult for us and DOR staff to comply with current tax law. We have spent over 200 hours gathering data for DOR. I am sure that DOR has spent additional 200 hours if not more to understand the information provided. In summary, this law is adding additional cost for the company as well as DOR.

Again, I would like to express my support for House Bill No. 298.

Sincerely,
Jae Won
Controller
QAP
240 West 68th Avenue
Anchorage, AK 99517
907-522-2211



P.O. Box 32159 Juneau, Alaska 99801 (907) 780-5145 Fax (907) 780-5896

January 27, 2012

Representative Paul Seaton
State Capitol Room 102
Juneau, Alaska, 99801

RE: House Bill No. 298 "An Act exempting sand quarry rock and gravel and marketable earth mining operations from the mining license tax; and providing for an effective date."

Dear Representative Seaton:

Thank you for your support in sponsoring this important piece of legislation. Though this bill is short, it will remove a burdensome tax and benefit the citizens of Alaska.

Secon is an integrated business, and the mining activities we undertake are a very small part of our operations. However, segregating the mining activities to prepare the State of Alaska mining tax return takes almost as much time as it does to prepare our Federal and State income tax returns.

The audit of two years of our mining tax returns by the Department of Revenue (DOR) has been overwhelming to say the least. Secon has spent approximately 200 hours gathering information and preparing schedules, two DOR auditors were on site in our offices in 2011 for five days each – and the audit is still not complete. Our corporate offices in Anchorage have spent considerable more time than this compiling and consolidating the information for the audit.

All of the sand, rock, and gravel that we mine stays here in Alaska. The majority of it is used in government public works projects (roads, bridges, sidewalks, airports, etc.) along with private projects (driveways, home foundations, gravel for icy roads, etc.) The costs of preparing the mining license tax return and complying with DOR audit requests is passed on the end user of products, which is the State of Alaska and the citizens of Alaska.

Thank you for your time and support of this bill and for your service to our wonderful state.

Sincerely,

A handwritten signature in cursive script that reads "Julie Olson".

Julie Olson, CPA
Controller

Cc: Representative Cathy Munoz

Sheep Creek Development, LLC
P.O. Box 71577
Fairbanks, AK 99707

January 31, 2012

Alaska House of Representative and Senate Members
Capitol Building

Re: HB 298 and SB 176

Dear House and Senate Members:

I am writing this letter to request your support for HB 298 and SB 176.

Sheep Creek Development and one of our individual members own substantial parcels of patented mining claims which were purchased with millions of cubic yards of stacked and processed tailings and fines produced as a byproduct of gold dredge and placer mining operations performed by the former owners.

During 2008, the State of Alaska, Department of Revenue attempted to incorrectly impose the MLT and its requirements on our company. We spent significant sums retaining legal and mining tax professionals, and hundreds of uncompensated hours of personal time, to document and assert our position that we were and are not miners. While it appears DOR informally agreed with our position, it is certainly possible that they could revisit the matter at a future date. Passage of this bill would provide certainty for us and the many other companies who purchased old mining claims with tailings on them which DOR has incorrectly asserted or asserts are subject to the MLT.

Unlike other minerals taxed under the MLT which are combusted or shipped out of state, sand and gravel and the tailings and fines we sell are used and still remain in Alaska. Our largest sales are to publicly funded projects for roads, sidings, etc. but we also sell to homeowners trying to build their driveway or a pad for their new home. Passage will lower the cost of infrastructure for all Alaskans, level the playing field between sand and gravel companies and eliminate the type of burdensome defense costs we have experienced.

Please vote to pass this legislation and do not hesitate to email or call me should you have any further questions regarding this matter.

Sincerely,



Jon Cook
Managing Member
Sheep Creek Development, LLC
(907)322-0362 – Cell
joncook@gci.net

Linda Hay

From: Tim Hroza <THroza@COLASKA.com>
Sent: Wednesday, February 01, 2012 9:01 AM
To: Rep. Paul Seaton; Rep. Eric Feige; Rep. Peggy Wilson; Rep. Alan Dick; Rep. Neal Foster; Rep. Bob Herron; Rep. Cathy Munoz; Rep. Berta Gardner; Rep. Scott Kawasaki
Cc: John@agcak.org; Ben Northey; Brian Vreeling; Julie Olson
Subject: RE: Mining License Tax - Bill Number HB298

The Mining License Tax law puts a lot of burden on businesses that extract sand and gravel to build roads and infrastructure in Alaska. The Mining License Tax Return (MLTR) requires us to segregate the mining activities of our business and that has proven to be very difficult for Colaska because of the way we track our sand and gravel activities. We spend an inordinate amount of time preparing this data every year to comply with the MLTR as well as preparing mining license renewals every year for gravel pits that we infrequently use.

Additionally, we have been going through a Dept of Revenue MLTR Audit for the past year and it also has proven to be an very arduous experience. As Corporate Controller and gatherer of the data from our Regional Controllers and staff, we collectively has spent hundreds of hours preparing schedules, pulling invoices and answering a plethora of questions regarding the MLTR and we still haven't come to the end of the audit.

Finally, the ironic part of this whole ordeal is that almost 80% of our sand and gravel production eventually gets sold to the State of Alaska DOT and local governments in the form of new and/or improved roads via the contracts that were awarded to Colaska. The bottom line is that any additional costs acquired to generate the sales of these sand gravel products translate to additional costs to our customers, mainly the State of Alaska and local governments.

In summary, as the Corporate Controller of a company that must comply with the Mining License Tax, I whole heartedly support House Bill No. 298 to exempt sand and gravel and marketable earth mining operations. My support comes from direct experience in the cost and efforts to comply with the current law which by far exceed the tax revenue generated from it.

*Tim Hroza
Colaska Inc.
Corporate Controller
907-273-1013*

From: Rep. Paul Seaton
Subject: FW: House Bill 298

From: Matt Early [<mailto:Matt@twinpeaksconstruction.net>]

Sent: Monday, January 30, 2012 2:46 PM

To: Rep. Paul Seaton

Cc: Rep. Eric Feige; Rep. Alan Dick; Rep. Neal Foster; Rep. Peggy Wilson; Rep. Bob Herron; Rep. Cathy Munoz; Rep. Berta Gardner; Rep. Scott Kawasaki

Subject: House Bill 298

Rep. Seaton –

As the Construction Project Manager for Twin Peaks Construction, I would like to speak on behalf of House Bill 298, for which I understand that a hearing is taking place this Wednesday, Feb. 1, 2012.

Twin Peaks is a relatively small civil construction company providing work on public projects throughout the State for a variety of entities.

We strongly support this bill exempting sand and gravel sales from the State mining tax. As it stands now, as mentioned most of our projects are for public entities, including the state of Alaska. This tax effectively adds to the cost of construction for our company, and thus needs to be accounted for in our bid. Thus this tax currently causes the costs of public construction projects to increase. Furthermore, current law essentially takes the money out of one pocket in the State and puts it in another, as it costs additional monies to contracting entities such as the Department of Transportation, but provides revenue for the Department of Revenue. However, with all bids and projects we do, we add on markup and overhead costs to any actual costs we anticipate, which can run up to 20%. So, in essence, the State is taking money out of one pocket and only getting 80% of that money back, not to mention the administrative costs incurred by the Department of Revenue to review and process these tax returns.

Thanks much for your consideration of this information in your decision.

Take care,
Matt

Matthew Early

Project Manager

Twin Peaks Construction, Inc.

(907) 235-3802 Ext.24 Phone

(907) 235-1042 Fax

(907) 299-9900 Cell

matt@twinpeaksconstruction.net



P.O. Box 60750
Fairbanks, AK 99706

1570 Richardson Highway
North Pole, AK 99705-5943

Phone: (907) 488-8833
Fax #: (907) 488-8999

February 1, 2012

Representative Paul Seaton
Representative Eric Feige
House Resources Committee Co-Chairs
State Capitol
Juneau, AK

Email transmission to: Representative_Paul_Seaton@legis.state.ak.us
 Representative_Eric_Feige@legis.state.ak.us

Re: House Bill 298 "An Act exempting sand and gravel and marketable earth mining operations from the mining license tax; and providing for an effective date."

Dear Representative Seaton and Representative Feige,

Later today you will be receiving testimony on HB 298 regarding the taxation of sand and gravel operations in the State of Alaska. Please consider the following comments as you discuss the numerous merits of this bill.

Sand & Gravel tax return

There is no clear guidance on how to comply with the mining return. While this is manifested in many ways, from a sand & gravel standpoint – and especially for a company engaged in additional processing or use of the aggregate - there are some calculations / allocations that don't make economic sense. These sometimes work in the state's favor and other times in the company's.

Sand & Gravel tax return audits

The state's resources that were spent in auditing our returns (labor, airfare, hotels etc) could have had a much bigger impact auditing different areas. For the years in question there was much less use or sale of aggregates than the current years which in turn would reduce the chance of collecting enough additional revenue to justify the cost of the audit.

The company also suffers financially in complying with the filing of the return and any subsequent audits. We have spent over 150 hours searching for and copying documents, preparing schedules and answering

questions. The cost to the company has included labor, postage, office supplies (paper) and the opportunity cost of the employee's time that would have been better spent elsewhere.

The current taxation system requires a company to report based upon their tax year. Our financial statements are prepared by calendar year and our state and federal taxes are reported with a year end of March 31st. While our current accounting system is configured to accommodate the "routine" filings for state and local corporate taxes, it is not customized to provide the data required by the mining tax return, which must be extracted from our financial statements. This therefore requires that significant additional time be spent reconciling the two financial reporting periods in order to comply with the return requirements. Internally, the best solution would be to keep separate ledgers but this is cost prohibitive with our current set-up.

If the tax for sand & gravel is not abolished it should at the very least be simplified so that compliance is no longer burdensome.

Sand & Gravel tax paid by DOT

While we could focus merely on the fact that administering this tax costs more than it raises, that doesn't address the core issue of who is paying most of the tax – the State of Alaska Department of Transportation. The majority of the aggregates removed from our Interior pits finds its way into a state road or airport project, which means the state is actually taxing itself, and costing itself additional administrative expense in the process.

Our state economy is in a precarious state. It is of utmost importance that we get the most bang for our buck in all areas of state government. The sand and gravel tax system works against that end. Please support HB 298.

Respectfully,

John Godzina, CPA
Controller

CC:	Representative Peggy Wilson:	Representative_Peggy_Wilson@legis.state.ak.us
	Representative Alan Dick:	Representative_Alان_Dick@legis.state.ak.us
	Representative Neal Foster:	Representative_Neal_Foster@legis.state.ak.us
	Representative Bob Herron:	Representative_Bob_Herron@legis.state.ak.us
	Representative Cathy Munoz:	Representative_Cathy_Munoz@legis.state.ak.us
	Representative Berta Gardner:	Representative_Berta_Gardner@legis.state.ak.us
	Representative Scott Kawasaki:	Representative_Scott_Kawasaki@legis.state.ak.us
	John MacKinnon, AGC	

Linda Hay

From: Zac Campbell <ZCampbell@COLASKA.com>
Sent: Wednesday, February 01, 2012 11:52 AM
To: Representative_Paul_Seaton@legis.state.ak.us; Representative_Eric_Feige@legis.state.ak.us;
Representative_Peggy_Wilson@legis.state.ak.us; Representative_Alan_Dick@legis.state.ak.us;
Representative_Neal_Foster@legis.state.ak.us; Representative_Bob_Herron@legis.state.ak.us;
Representative_Cathy_Munoz@legis.state.ak.us; Representative_Berta_Gardner@legis.state.ak.us;
Representative_Scott_Kawasaki@legis.state.ak.us
Subject: Mining License Tax - Bill Number HB298

I work for Colaska, Inc. as an Assistant Controller for its subsidiary QAP in Anchorage. We are a diversified construction company that works mainly on public road and airport construction projects in Anchorage and rural parts of Alaska. Along with asphalt and concrete manufacturing activities, we own several sand and gravel pits that provide materials to our construction projects as unprocessed and finished products.

My experience with Alaska Mining Tax dates back to 2009. I've found the process of filing mining tax returns to be an arduous and lengthy task. The instructions for filing returns are very vague and leave room for interpretation. It is also difficult for companies structured like QAP to isolate "mining activities" because we are operating in several different construction related areas. To accommodate mining tax requirements we've had to modify how we account for our sand and gravel operations. In 2010, QAP was chosen for mining tax audit by Department of Revenue. Two years of QAP's mining tax returns have been under this audit process for more than a year. I would estimate I've spent approximately 80 hours working on the audit alone, not to mention the hours of my staff.

The internal cost of filing mining tax returns and working on audits as well as the actual mining tax itself is ultimately passed on to our customers. Our main customer is Alaska Department of Transportation and approximately 80% of our revenue is generated from AKDOT projects. I question whether or not the revenue generated by the current mining tax law exceeds the cost of compliance which is ultimately passed on to the state. I support House Bill No. 298 for the aforementioned reasons.

Sincerely,

Zac Campbell
Assistant Controller
Colaska Inc. dba QAP



301 Cushman St., Ste 200
P.O. Box 70668
Fairbanks, Alaska 99707
907/452-2512
907/452-5018 (fax)
samrobert@briceinc.com

January 31st, 2012

Ref: House Bill No. 298 "An Act exempting sand quarry rock and gravel and marketable earth mining operations from the mining license tax; and providing for an effective date."

Dear Representative Seaton and House Resource Committee Members:

Thank you for your support of HB298. This bill will remove a burdensome tax to the benefit of the citizens of Alaska.

Brice Companies are based in Fairbanks, AK and include Browns Hill Quarry located on Badger Road between North Pole and Fairbanks. Browns Hill Quarry provides quarry rock and sand and gravel products for sale to the public as well as a majority of the public works projects in the area for roads, driveways, erosion control and landscaping. In the recent past, we have had to comply with an onerous audit of the Mining License Tax by the Department of Revenue (DOR). This audit required us to spend a significant amount of additional time with our staff and the hiring of an outside CPA firm over a two year period to finalize our response. The cost of this audit by the DOR to our company was significant and does not correlate with the amount of tax revenue generated. Our Mining License payments during the 2 year audit would not have covered the costs of the DOR auditors to the State for the hours of effort expended.

All of the quarry rock, sand and gravel products we mine at Browns Hill Quarry stay in Alaska. Costs to prepare and pay the Mining License Tax and audit expenses are passed on to our customers, Alaskans.

Thank you for your time and support of this bill.

Sincerely,

A handwritten signature in black ink that reads "Sam Robert Brice". The signature is written in a cursive, flowing style.

Sam Robert Brice, President
Brice Incorporated



CALISTA CORPORATION

www.calistacorp.com

January 31, 2012

Representative Paul Seaton
Representative Eric Feige
Representative Peggy Wilson
Representative Alan Dick
Representative Neal Foster

Representative Bob Herron
Representative Cathy Munoz
Representative Berta Gardner
Representative Scott Kawasaki

Alaska State Capital Building
Juneau, Alaska, 99801

Re: House Bill 298

Dear Representatives:

On behalf of Calista Corporation, this letter is to inform you that we support House Bill 298 which will exempt sand, quarry rock and gravel mining from the State of Alaska Mining License Tax. The existing law does not fit the industry; is a huge annual paperwork exercise for small operators and land owners; and creates a large burden to Alaska Department of Revenue while generating very little revenue.

HB298 will effectively eliminate a needless workload for industry professionals and the Department of Revenue Auditors. State Mining Tax Law (AS 43.65) assumes a level of technical sophistication that is more typical of the large metal mining industry, and which simply does not exist for sand, quarry rock, and gravel operators'. In Alaska these type operations do not have reserves or even data needed to calculate the type of information that is being requested in any reliable form or manner. For the construction companies and royalty-receiving land owners to collect and provide the information necessary to - calculate reserves, accurately comply with the existing data requirements, and annually file tax returns, would render most operations uneconomical due to the capitalization and operational costs; as well as, preclude adequate funding needed for the already challenged public works projects and programs existing in Alaska.

As an example, several years ago Department of Revenue advised operators and land owners they were out of compliance and must file for the preceding 5 years. It took Calista's Senior Geologist *full time efforts for the equivalent of one year* to compile a database from available but limited records of 50 regional sand and gravel borrow site operations with the result being no state tax revenue. Currently, compliance with existing law requires two professionals two weeks a year to compile data and complete returns for several dozen small operations. Such operations provide critical construction material for needed public works projects and the state negligible revenue if any despite the high expense that is borne by the state and the operators.

Calista strongly supports implementation of HB 298 to provide relief to operators, landowners and Department of Revenue Auditors. Thank you for the opportunity to comment on this important piece of legislation.

Respectfully,

Andrew Guy
President and Chief Executive Officer