

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5000 HRES SB 67 - SB 94

52

Sec 604 - ALLOTMENT OF FUNDS

- b) one percent, or \$100,000, for Sec 205(j) and 303(e)
- c) 1. Period of availability for grant award during fiscal year authorized and following year
- 2. Reallocation of unobligated funds
 - A. Administrator (EPA) will reallocate if not obligated at end of second year.
 - B. No funds if State has not obligated within first year.

Sec 605 - CORRECTIVE ACTION

Sec 606 - AUDITS, REPORTS, AND FISCAL CONTROLS

- a) Establish fiscal controls
- b) Annual federal audit
- c) Intended use plan
 - 1. List of projects
 - 2. Long and short-term goals, objectives
 - 3. Information on activities, project categories, discharge requirements under Title III and IV of the Act, terms of financial assistance, and communities served.
 - 4. Assurances and specific proposal for meeting requirements 3, 4, 5, and 6 of Sec 602(b).
 - 5. Criteria and method established for distribution of funds

- d) Annual report
- e) Annual federal oversight review

Sec 607 - AUTHORIZATION OF APPROPRIATIONS

1.	\$1.2 billion	1989 and 1990
2.	2.4 billion	1991
3.	1.8 billion	1992
4.	1.2 billion	1993
5.	0.6 billion	1994

- 1. Can we use 50 percent of construction grant in 1986 and 1987,
and 70 percent in 1988
- 2. Notice Requirement
 - A) In 1987, no later than 90 days after Act is enacted
 - B) Other years, 90 days before fiscal year start

SUMMARY OF REVOLVING LOAN FUND TITLE II REQUIREMENTS

I. ELIGIBILITY RELATED PROVISIONS.

1. 201(b). Must Use Best Practicable Waste Treatment Technology.
2. 201(g)(1). Must be secondary treatment or more stringent or any cost effective alternative for the following categories:
 - new interceptors
 - I/I correction
 - Other categories determined by governor
3. 201(n)(1). Can use funds for combined sewer overflows.
4. 201(o). Encouraged to file a capital financing plan that
 - projects future requirements for ≥ 10 years.
 - projects nature, extent, costs, timing of future expansions.
 - sets forth financing plans for future expansions.
5. 211. No collectors unless
 - replacement/major rehab or existing systems necessary for total system integrity or;
 - new collectors in existing community with sufficient existing or planned capacity for treatment.

II. APPLICATION RELATED PROVISIONS.

1. 201(g)(2). Applicant must:
 - evaluate alternative waste treatment technology.
 - allow for application of later technology to provide for reclaiming/recycling of water.
2. 201(g)(3). Applicant must show that sewer collection system doesn't have excessive infiltration.
3. 201(g)(5). Applicant must study/evaluate
 - innovative/alternative technology.
 - reclamation reuse of water or elimination of discharge.
 - land treatment.
 - low energy usage systems.
4. 201(g)(6). Applicant must analyze open space and recreational opportunities.
5. 204(a)(1). Before approving grants, Administrator shall determine that treatment works are included in any applicable 208 plan.
6. 204(a)(2). Before approving grants, Administrator shall determine that treatment works are included in any applicable 303(e) plan.
7. 204(b)(2). Applicant must:
 - adopt a user charge system
 - demonstrate legal, managerial, & financial capability to construct/operate/maintain the treatment works.
8. 218. The applicant must
 - show the cost effective solution in the facility plan
 - use value engineering for high cost projects.
9. 511(c)(1). Projects are subject to NEPA.

III. CONSTRUCTION RELATED PROVISIONS.

1. 204(d)(2). Grantee must provide one year performance certification.
2. 513. Project is subject to Davis-Bacon wage rates.

STATE OF ALASKA
THE LEGISLATURE

HOUSE OF REPRESENTATIVES
LEGISLATIVE COUNSEL
202 463 1100

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 27, 1987

SUBJECT: Dedication of funds to clean water fund by
SB 167 (Grants for water supply, sewage and
solid waste facilities)

TO: Senator Rick Halford

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have asked whether the Alaska clean water loan fund created by SB 167 violates the constitutional prohibition against the dedication of state funds for a special purpose. You have provided me with a copy of Title VI (State Water Pollution Control Revolving Funds) of P.L. 100-4, amending the Federal Water Pollution Control Act (33 U.S.C. 1251 - 1376), commonly known as the Clean Water Act.

The Alaska Constitution, Article IX, Section 7, permits the state to dedicate funds "when required by the federal government for participation in federal programs." The question then is whether SB 167 creates a dedicated fund in order to participate in a federal program and whether the state program is not more extensive than the federal requirements. In my opinion, the bill complies with the requirements of the exception for a federal program.

The recent amendments to the federal Clean Water Act require that states establish revolving loan funds that meet certain standards in order to be eligible to participate in the capitalization grants. The state must establish a separate fund consisting of federal capitalization grant payments (Sec. 602(b)(1)), the required state matching funds (Sec. 602(b)(2)), loan repayments including interest (Sec. 603(d)(1)(D)), and interest earned on fund accounts (Sec. 603(d)(6)). As long as the state does not deposit more than the required state match in the fund, contributions specified in the bill should be exempt from the prohibition against dedicated funds.

Senator Halford
Page 2
March 27, 1987

The requirements imposed in SB 167 for management of the fund and the projects that are eligible for participation in the program appear to be consistent with the federal legislation. Under AS 46.03.032(d), added by section 4 of SB 167, the state permits the fund to be used for

- (1) buying or refinancing municipal treatment works debt obligations;
- (2) constructing facilities associated with public sewage collection treatment and discharge facilities;
- (3) constructing public water supply, treatment, and distribution systems; and
- (4) guaranteeing or purchasing insurance for public agency obligations related to treatment works construction.

Under sec. 603 (c) of the federal legislation, amounts in the fund are to be used only for financial assistance

- (1) for construction of publicly owned treatment works (as defined in section 212 of this Act), (2) for the implementation of a management program established under section 319 of this Act, and (3) for development and implementation of a conservation and management plan under sec 320 of this Act.

Under Sec. 603(d)(2), the fund may also be used to buy or refinance municipal debt obligations.

"Treatment works" is defined at 33 U.S.C 1292(2)(A) and apparently is not amended in the new federal legislation. The term includes devices and systems used for storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes or necessary to recycle or reuse water. The proposed use of funds in the Alaska clean water revolving loan fund appears consistent with the requirements of federal law and necessary to participate in a federal program. Therefore, the dedication of funds does not violate the Alaska constitution.

If I may be of further assistance please advise.

TBC:mkr
mi0/063

1. INFLATION RATE: 4.6%
2. INTEREST ON INVESTMENTS: 9.2%
3. REVENUE BOND (per AK Bond Box)
= 7.3%
 \therefore INTEREST first 7 yrs on
loans = 4.3% (2/3)
 \therefore INTEREST THEREAFTER = 5.47%
4. 20 yr AMMORTIZATION PERIOD

3-31-87

****SIRF FULL 20 YEAR REPORT****

	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
SOURCES OF FUNDS					
BEGINNING BALANCE		12,499,583	12,884,879	15,098,004	21,837,090
CAPITALIZATION					
Current	\$13,074,480	12,916,320	13,516,320	17,432,540	13,074,460
Cumulative	\$13,074,480	25,390,800	39,507,120	56,339,760	70,014,240
BONDS ISSUED					
Current	\$0	0	0	0	0
Cumulative	\$0	0	0	0	0
OTHER INCOME (INCLUDING PENALTIES)					
Current	\$0	0	0	0	0
Cumulative	\$0	0	0	0	0
LOAN ACTIVITY					
LOAN REPAYMENTS					
Current	\$0	0	977,929	1,902,889	2,872,728
Cumulative	\$0	0	977,929	2,380,818	5,753,545
LOAN DEFAULTS					
Current	\$0	0	0	0	0
Cumulative	\$0	0	0	0	0
NET LOAN REPAYMENTS					
Current	\$0	0	977,929	1,902,889	2,872,728
Cumulative	\$0	0	977,929	2,380,818	5,753,545
INVESTED FUNDS	\$13,074,480	12,341,343	14,462,007	20,917,213	30,351,658
Interest Rate for Invested Funds	3.20%	3.20%	3.20%	3.20%	3.20%
Interest on Invested Funds	\$0	\$1,135,404	\$1,330,505	\$1,924,384	\$1,872,353
TOTAL SOURCES OF FUNDS					
Current	\$13,074,480	25,551,325	29,708,832	36,357,917	39,556,551
Cumulative	\$13,074,480	39,625,706	58,334,538	104,632,455	144,349,126
USES OF FUNDS					
BOND RETIREMENT					
Current	\$0	0	0	0	0
Cumulative	\$0	0	0	0	0
TOTAL BOND INSURANCE FEE	\$0	0	0	0	0
—LOAN ACTIVITY—					
LOANS MADE					
Current	\$0	13,074,480	12,366,320	12,956,320	16,882,640
Cumulative	\$0	13,074,480	25,440,800	38,407,120	55,289,760
GRANTS MADE					
Current	\$0	0	0	0	0
Cumulative	\$0	0	0	0	0
TOTAL LOANS & GRANTS MADE					
Current	\$0	13,074,480	12,366,320	12,956,320	16,882,640
Cumulative	\$0	13,074,480	25,440,800	38,407,120	55,289,760
ADMINISTRATIVE/OPERATIONAL COSTS	\$0	\$0	\$550,000	\$550,000	\$550,000
TOTAL USES OF FUNDS					
Current	\$0	13,074,480	12,916,320	13,516,320	17,432,540
Cumulative	\$0	13,074,480	25,390,800	39,507,120	56,339,760
****FUND BALANCE**** (END OF YEAR)	\$13,074,480	\$13,476,746	\$15,792,512	\$22,841,597	\$22,224,011
INFLATION ANALYSIS OF FUND					
INFLATION RATE	4.60%	4.60%	4.60%	4.60%	4.60%
CONSTANT DOLLARS	\$12,499,583	12,384,879	15,098,004	21,837,090	21,246,564

*****SIRF FULL 20 YEAR REPORT*****

	YEAR 5	YEAR 7	YEAR 9	YEAR 9	YEAR 10
SOURCES OF FUNDS					
BEGINNING BALANCE	21,246,564	21,348,572	20,440,044	15,193,325	10,688,811
CAPITALIZATION					
Current	8,715,320	4,358,160	0	0	0
Cumulative	78,730,550	33,888,720	33,888,720	33,888,720	33,888,720
BONDS ISSUED					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
OTHER INCOME (INCLUDING PENALTIES)					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
LOAN ACTIVITY*					
LOAN REPAYMENTS					
Current	4,135,494	5,072,285	5,313,748	6,344,724	7,775,700
Cumulative	3,389,840	14,361,325	20,375,073	27,719,797	35,495,497
LOAN DEFAULTS					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
NET LOAN REPAYMENTS					
Current	4,135,494	5,072,285	5,313,748	6,344,724	7,775,700
Cumulative	3,389,840	14,361,325	20,375,073	27,719,797	35,495,497
INVESTED FUNDS	21,023,399	19,579,017	14,553,792	10,238,558	6,664,511
Interest Rate for Invested Funds	3.20%	3.20%	3.20%	3.20%	3.20%
Interest on Invested Funds	\$1,334,288	\$1,381,270	\$1,338,349	\$541,347	\$613,135
TOTAL SOURCES OF FUNDS					
Current	36,032,686	33,150,286	27,692,741	22,380,496	13,077,646
Cumulative	180,381,792	213,562,079	241,254,320	254,235,316	293,312,962
USES OF FUNDS					
BOND RETIREMENT					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
TOTAL BOND INSURANCE FEE	0	0	0	0	0
---LOAN ACTIVITY---					
LOANS MADE					
Current	12,524,480	11,250,000	11,250,000	11,250,000	11,250,000
Cumulative	57,314,240	79,264,240	90,314,240	101,554,240	112,314,240
GRANTS MADE					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
TOTAL LOANS & GRANTS MADE					
Current	12,524,480	11,250,000	11,250,000	11,250,000	11,250,000
Cumulative	57,314,240	79,264,240	90,314,240	101,554,240	112,314,240
ADMINISTRATIVE/OPERATIONAL COSTS	\$550,000	\$550,000	\$550,000	\$550,000	\$550,000
TOTAL USES OF FUNDS					
Current	13,074,480	11,800,000	11,800,000	11,800,000	11,800,000
Cumulative	70,314,240	91,314,240	93,614,240	105,414,240	117,314,240
FUND BALANCE (END OF YEAR)	\$22,958,296	\$21,320,286	\$15,892,741	\$11,180,496	\$7,277,646
INFLATION ANALYSIS OF FUND					
INFLATION RATE	4.50%	4.50%	4.50%	4.50%	4.50%
CONSTANT DOLLARS	21,348,572	20,440,044	15,193,325	10,588,311	6,357,597

*****SIRF FULL 20 YEAR REPORT*****

	YEAR 11	YEAR 12	YEAR 13	YEAR 14	YEAR 15
SOURCES OF FUNDS					
BEGINNING BALANCE	6,957,597	4,034,212	1,954,184	754,599	474,178
CAPITALIZATION					
Current	0	0	0	0	0
Cumulative	83,088,720	83,088,720	83,088,720	83,088,720	83,088,720
BONDS ISSUED					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
OTHER INCOME (INCLUDING PENALTIES)					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
LOAN ACTIVITY					
LOAN REPAYMENTS					
Current	8,706,676	9,637,652	10,568,628	11,499,604	12,430,588
Cumulative	44,202,173	53,839,826	64,408,454	75,908,058	88,338,639
LOAN DEFAULTS					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
NET LOAN REPAYMENTS					
Current	8,706,676	9,637,652	10,568,628	11,499,604	12,430,588
Cumulative	44,202,173	53,839,826	64,408,454	75,908,058	88,338,639
INVESTED FUNDS	3,864,273	1,871,805	722,812	454,284	1,184,759
Interest Rate for Invested Funds	9.20%	9.20%	9.20%	9.20%	9.20%
Interest on Invested Funds	\$355,513	\$172,212	\$66,499	\$41,787	\$101,638
TOTAL SOURCES OF FUNDS					
Current	16,019,786	13,844,076	12,589,311	12,295,990	13,006,396
Cumulative	299,332,748	313,176,824	325,766,135	338,062,125	351,068,522
USES OF FUNDS					
BOND RETIREMENT					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
TOTAL BOND INSURANCE FEE	0	0	0	0	0
---LOAN ACTIVITY---					
LOANS MADE					
Current	11,250,000	11,250,000	11,250,000	11,250,000	11,250,000
Cumulative	124,064,240	135,314,240	146,564,240	157,814,240	169,064,240
GRANTS MADE					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
TOTAL LOANS & GRANTS MADE					
Current	11,250,000	11,250,000	11,250,000	11,250,000	11,250,000
Cumulative	124,064,240	135,314,240	146,564,240	157,814,240	169,064,240
ADMINISTRATIVE/OPERATIONAL COSTS	\$550,000	\$550,000	\$550,000	\$550,000	\$550,000
TOTAL USES OF FUNDS					
Current	11,800,000	11,800,000	11,800,000	11,800,000	11,800,000
Cumulative	129,014,240	140,814,240	152,614,240	164,414,240	176,214,240
****FUND BALANCE**** (END OF YEAR)					
	\$4,219,786	\$2,044,076	\$789,311	\$495,990	\$1,206,396
INFLATION ANALYSIS OF FUND					
INFLATION RATE	4.60%	4.60%	4.60%	4.60%	4.60%
CONSTANT DOLLARS	4,034,212	1,954,184	754,599	474,178	1,153,343

*****SIRF FULL 20 YEAR REPORT*****

	YEAR 15	YEAR 17	YEAR 19	YEAR 19	YEAR 20
SOURCES OF FUNDS					
BEGINNING BALANCE	1,153,343	2,334,292	5,561,083	9,379,708	14,338,132
CAPITALIZATION					
Current	0	0	0	0	0
Cumulative	33,088,720	33,088,720	33,088,720	33,088,720	33,088,720
BONDS ISSUED					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
OTHER INCOME (INCLUDING PENALTIES)					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
LOAN ACTIVITY*					
LOAN REPAYMENTS					
Current	13,361,557	14,292,533	15,223,509	16,154,485	17,085,461
Cumulative	101,700,195	115,992,729	131,216,237	147,370,721	164,456,182
LOAN DEFAULTS					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
NET LOAN REPAYMENTS					
Current	13,361,557	14,292,533	15,223,509	16,154,485	17,085,461
Cumulative	101,700,195	115,992,729	131,216,237	147,370,721	164,456,182
INVESTED FUNDS	2,714,399	5,325,825	8,984,592	13,734,132	19,523,642
Interest Rate for Invested Funds	3.20%	3.20%	3.20%	3.20%	3.20%
Interest on Invested Funds	\$245,771	\$470,368	\$825,582	\$1,253,546	\$1,885,375
TOTAL SOURCES OF FUNDS					
Current	14,764,670	17,615,393	21,511,174	26,797,738	33,229,317
Cumulative	265,333,132	383,450,384	485,861,259	631,358,396	865,888,314
USES OF FUNDS					
BOND RETIREMENT					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
TOTAL BOND INSURANCE FEE	0	0	0	0	0
—LOAN ACTIVITY—					
LOANS MADE					
Current	11,250,000	11,250,000	11,250,000	11,250,000	11,250,000
Cumulative	100,314,240	191,554,240	292,314,240	394,064,240	495,314,240
GRANTS MADE					
Current	0	0	0	0	0
Cumulative	0	0	0	0	0
TOTAL LOANS & GRANTS MADE					
Current	11,250,000	11,250,000	11,250,000	11,250,000	11,250,000
Cumulative	100,314,240	191,554,240	292,314,240	394,064,240	495,314,240
ADMINISTRATIVE/OPERATIONAL COSTS	\$550,000	\$550,000	\$550,000	\$550,000	\$550,000
TOTAL USES OF FUNDS					
Current	11,800,000	11,800,000	11,800,000	11,800,000	11,800,000
Cumulative	100,314,240	191,554,240	292,314,240	394,064,240	495,314,240
****FUND BALANCE**** (END OF YEAR)					
	\$2,954,670	\$5,316,393	\$9,311,174	\$14,297,738	\$21,429,317
INFLATION ANALYSIS OF FUND					
INFLATION RATE	4.50%	4.52%	4.50%	4.50%	4.50%
CONSTANT DOLLARS	2,334,292	5,561,083	9,379,708	14,338,132	20,486,532

S B

86

HOUSE COMMITTEE REPORT

3/5

(9)
Date referred: 3/16/87

FURTHER REFERRALS:

Judiciary

DATE: _____

The Resources Committee has considered CSSB 86(Res)

"An Act establishing Alaska Garden Week; and providing for an effective date."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Jan Gert
Adelheid Herrmann
Dick Stantley
Cris Dandora
Heath Jones
Ilona Kozick
Lynn Hoff

SIGNING OTHER RECOMMENDATIONS:

Mike Yvane - no rec

Jan Gert
 Chairman's signature



National Council of State Garden Clubs, Inc.

Providence, Ky.

March 31, 1986

RECEIVED
MAY 23 1986

Dear Legislative Chairman:

Within the past year, commercial interests related to gardening combined their efforts to have National Garden Week established in April rather than June as National Council of State Garden Clubs, Inc. has proposed and promoted.

Through Senator Mark Hatfield of Oregon, -SJR 136 was introduced in the U. S. Senate and was passed on June 18, 1985. Soon after, a corresponding House Joint Resolution (HJR 266) was introduced by Representative Luken of Ohio. This HJR has been referred to the Post Office/Civil Service Committee.

Since the legislation to establish National Garden Week from June 1-8 seems to be in trouble in Washington, National Council wishes to have this legislation introduced and passed in all State Legislatures by April 1987.

Some states have already passed this legislation, and we would like to know the status of this legislation in every state. I know that the Kentucky Legislature enacted this legislation in 1983.

Please investigate the status of your state, and I would appreciate your informing me of your findings as quickly as possible. It is important that this date be set by an act of the legislature rather than by proclamation as a proclamation expires after June 8th. If your legislature is not in session, -however, this date could be set by a Proclamation which would be most helpful this year.

I would also appreciate you sending me a Legislative Report on other legislative activities in your state by April 30th.

Sincerely,

Mrs. J. Murray Blue (Genev.
National Legislative Chair
300 West Main Street
Providence, Ky. 42450



National Council of State Garden Clubs, Inc.

Providence, Ky.

April 16, 1986

Dear Legislative Chairman,

National Council of State Garden Clubs, Inc. would like to have all garden clubs celebrate National Garden Week from June 1-7. This is the time to have flower shows, displays in malls, radio and television programs, talk shows, etc. to proclaim to everyone that we, as gardeners, are showing "Pride In The Land".

I am enclosing an article by our publicity chairman, Mrs. Harold V. Pasley, which will give some ideas on how to accomplish this observance. This would be an excellent time to recruit new gardeners and increase our membership.

A number of our states have enacted in their state legislatures a bill to establish "Garden Week" the first full week in June of each year, while other states have asked Mayors and Governors to issue a proclamation which would proclaim the first week in June as Garden Week.

A proclamation would expire after June 7th, however, legislation would remain from year to year. The real importance is that we let everyone know that this week is the time for a celebration of better gardening and a more beautiful America.

National Council of State Garden Clubs, Inc. does not participate in political activity, and if you desire to seek legislation for setting this date, it must be done on an individual basis.

Please help your president make plans for an exciting observance of this week. Let's show America that we are dedicated to "Gardening With Pride In The Land."

Sincerely,

Geneva Blue

Geneva Blue (Mrs. J. Murray)

NATIONAL GARDEN WEEK

JUNE 1 - 7

With the theme of our National Council President, Mrs. John N. Fehrer "Pride in the Land" in particular focus this year, members of our 10,553 garden clubs will celebrate NATIONAL GARDEN WEEK June 1 - 7, the first full week in June. Although observances will be varied in form, NATIONAL GARDEN WEEK is an event which brings a sense of togetherness among us and a sense of pride in membership in a garden club federated with the National Council of State Garden Clubs, Inc., the largest organization in the world devoted to gardening in its broad context. Community residents will respond favorably to well-planned observances and these provide our organization with visibility in a very positive way--the ideal climate for securing new club members.

Strong, nation-wide effort to project NATIONAL GARDEN WEEK and "PRIDE IN THE LAND" is now in progress under the direction of Mrs. Graem Yates, Fourth Vice-President and Promotion Coordinator, National Council of State Garden Clubs, Inc., who has completed plans with the McDonald Corporation to carry this message:

SHOW PRIDE IN THE LAND
OBSERVE NATIONAL GARDEN WEEK, JUNE 1 - 7
NATIONAL COUNCIL OF STATE GARDEN CLUBS, INC.

on its community service readerboards located in the interior of each restaurant throughout our country.

NATIONAL GARDEN WEEK is our opportunity to tell the story of gardening and its benefits; aesthetic, economic and therapeutic and to tell the story of the importance of garden clubs. Let it be known that the idea of a NATIONAL GARDEN WEEK originated in The National Council of State Garden Clubs.

Whatever may be the form of observance, do relate it to your garden club, your state federation and our National Council of State Garden Clubs, Inc. and to our National Council President's theme "Pride in the Land".

Television and radio stations schedule community service time with advance reservation. It will be an educational experience to participate in a "talk show" not only discussing horticultural practices but also explaining selected National Council programs relating them to your area when applicable, our conservation and environmental concerns and our contributions to the betterment of our country: In a shopping mall, set up a display or a "how to do" exhibit including information about your own club and its projects. Place an artistic design in a location where it can be appreciated. Plan something special for garden therapy.

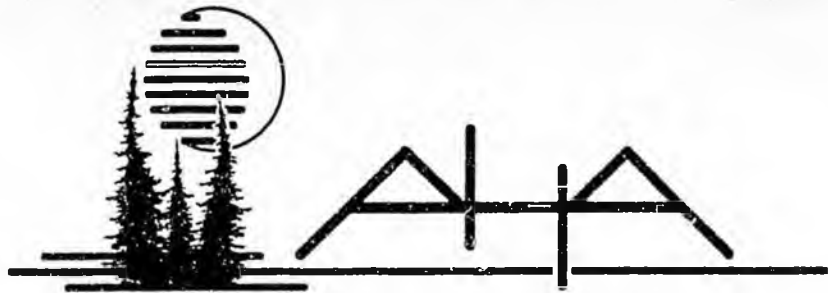
Within the past year, commercial interests related to gardening, combined their efforts and introduced SJR 136 in the U.S. Senate to hold a "National Gardening Week" beginning on April 13, 1986. The Resolution passed in the Senate on June 18, 1985. Soon thereafter, a corresponding Resolution was introduced in the House of Representatives (HJR 266) which is, as of this writing, yet in the Post Office/Civil Service Committee. It is understood that, should this Resolution become a reality, its duration would be for one year.

Be that as it may, together we will continue on to work, without interruption, for our NATIONAL GARDEN WEEK,

So much work has already been done in that direction by so many people in our organization that it seems in order to proceed to accomplish what is evident our members want, a NATIONAL GARDEN WEEK, in perpetuity.

A number of our states have enacted in their state legislatures a Bill to establish a Garden Week the first full week in June of each year. It is the goal that all states will have such legislation by June 1987, the conclusion of the present biennium. We will then have achieved a NATIONAL GARDEN WEEK for always. Mrs. J. Murray Blue, National Council Legislation Chairman, will direct this activity.

Celebrate NATIONAL GARDEN WEEK June 1-'7, with pride in your membership and "Pride in the Land".



Alaska Horticultural Association

March 17, 1987

The Honorable Jim Duncan
Senate
P. O. Box V
Juneau, Ak 99811

Dear Senator Duncan:

During National Agriculture Week, the Alaska Horticultural Association would like to remind you that horticulture plays an important part in agriculture in Alaska. We are very pleased that Senator Jim Duncan has introduced legislation to declare June 1 - 7, Alaska Garden Week.

We would like to thank the Senate for passing Senate Bill 86 which establishes Alaska Garden Week.

Respectfully,

Chuck Lewis
President

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: SB 86
Publish Date: _____

REQUEST _____

Revision Date: _____
Title: Establishing Alaska Garden Week.

Agency Affected: Administration
BRU: _____

Sponsor: Duncan
Requestor: Senate State Affairs

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
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	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	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

This bill does not affect the Department of Administration.

Prepared By: Michael P. McMillen Phone: 465-2200
Division: Commissioner's Office Date: 2/3/87

Approved by Commissioner: Garrey Peska Date: _____
Agency: Department of Administration

Distribution (by preparer):

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

S B

94

1) affects leasing + regulation + education + transportation policies

2) w/ these amendments would not affect fiscal policy

3) ^{US} Supreme Court ~~it~~ could deny cert. for time - enforcement. ~~could be adopted~~
on retro/automatic. This is a ~~new~~ ~~rule~~
not a ~~policy~~ ~~rule~~

Commission has reviewed these - its
plans to ~~not~~ to make ~~to~~ make
recommendations on ~~its~~ ~~regulatory~~ ~~pro~~
The Supreme Court decision ~~is~~ ~~in~~

A M E N D M E N T

Offered in the CONFERENCE COMMITTEE

TO: HCS CSSB 94(Resources) am H

Page 1, line 14, after "state":

Insert "and under adjacent waters to the maximum extent permitted under the Constitution of the United States"

Page 2, line 3, after "nations":

Insert ";

(6) environmentally sound exploration and development of offshore mining be encouraged"

Original sponsors: Coghill, Bennett,
Faiks, et al.

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 HOUSE CS FOR CS FOR SENATE BILL NO. 94 (Resources) am H
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act adopting a mineral policy for the state; and
7 providing for an effective date."

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

9 * Section 1. AS 44.99 is amended by adding a new section to read:

10 Sec. 44.99.110. DECLARATION OF STATE MINERAL POLICY. The legis-
11 lature, acting under art. VIII, sec. 1 of the Constitution of the
12 State of Alaska, in an effort to further the economic development of
13 the state, to maintain a sound economy and stable employment, and to
14 encourage responsible economic development within the state for the
15 benefit of present and future generations through the proper conserva-
16 tion and development of the abundant mineral resources within the
17 state, including metals, industrial minerals, and coal, declares as
18 the mineral policy of the state that

19 (1) mineral exploration and development be given fair and
20 equitable consideration with other resource uses in the multiple use
21 management of state land;

22 (2) mineral development be encouraged through reasonable
23 and consistent nonduplicative regulations and administrative stipu-
24 lations;

25 (3) mineral development and the entry into the market place
26 of mineral products be considered in developing a statewide transpor-
27 tation infrastructure system;

28 (4) mineral development be encouraged through appropriate
29 public information and education, scientific research, technical

1 studies, and University of Alaska program involvement;

2 (5) economic development with respect to the state mineral
3 industry be encouraged with Pacific Rim nations.

4 * Sec. 2. (a) Within 10 months after the effective date of this Act,
5 each department, board, commission, or agency of the state shall review its
6 statutory authority, its administrative regulations, and its procedures
7 applicable to mineral exploration and development to determine whether
8 there are deficiencies or inconsistencies that must be addressed in order
9 to comply with the policy enacted in sec. 1 of this Act. This section does
10 not apply to area plans, site specific plans, coastal zone management
11 plans, local plans, or other plans already adopted by the state.

12 (b) Each department, board, commission, or agency of the state shall
13 forward its comments and recommendations to the commissioner of natural
14 resources. The commissioner of natural resources shall assemble the com-
15 ments and recommendations and forward them unedited to the governor and the
16 legislature within the first 60 days of the First Session of the Sixteenth
17 Alaska State Legislature.

18 (c) If inconsistencies or deficiencies are identified under (a) of
19 this section, a state department, board, commission, or agency should work
20 with mining interests, coastal resource service areas, the public, and
21 other resource users to propose solutions to the inconsistencies or defi-
22 ciencies.

23 * Sec. 3. The enactment of the state mineral policy is not intended to
24 affect the state's consideration of rents and royalties on mineral lands.
25 The commissioner of natural resources, who is currently preparing to re-
26 spond to the supreme court's recent ruling on state mineral rents and
27 royalties, is directed to consider the range of policy options and make
28 suitable mineral rent and royalty recommendations to the Second Session of
29 the Fifteenth Alaska State Legislature.

1 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

Sam

1. Section 1., line 15.

DELETE: proper conservation and

INSERT: purposeful (or orderly)

The objection is the common interpretation of the word "conservation", as meaning or implying, preservation.

Bruce's suggestions
for SB 94 -
I'll make up
a version
to show
you stuff later
we want working
or to tomorrow

Med

file
SB 94

SB 94 Conference Committee Suggested Change

Use House CS For CS For Senate Bill No. 94 (Resources) am H

2. Section 1. line 17

DELETE "coal" and REPLACE with "hydrocarbons".

SB 94 Conference Committee Suggested Change

Use House CS For CS For Senate Bill No. 94 (Resources) am H

3. Section 1. (3), line 25 to 27.

Two Options, A and B.

A. DELETE and REPLACE With:

(3) the development of a statewide transportation infrastructure system should be encouraged for the purpose of facilitating mineral development and the entry into the market place of mineral products;

The word should is the only change from the version that passed the Senate.

B. INSERT at line 26, after "considered":
"for the purpose of" and delete the word "in"

The subsection would then read:

(3) mineral development and the entry into the market place of mineral products be considered for the purpose of developing a statewide transportation infrastructure system;

SB 94 Conference Committee Suggested Change

Use House CS For CS For Senate Bill No. 94 (Resources) am H

4. Section 2. (a) lines 9 to 11.

Two options A and B.

A. DELETE lines 9 through 11.

B. DELETE at line 9, the words "does not apply".

INSERT at line 9 after "section", "applies".

PLUS THE NEXT CHANGE, (no. 5)

SB 94 Conference Committee Suggested Change

Use House CS For CS For Senate Bill No. 94 (Resources) am H

5. Section 2. (c) lines 19 to 22.

DELETE from "section", on line 19: "a state department, board, commission, or agency should work with mining interests, coastal resource service areas, the public, and other resource users to propose solutions to the inconsistencies or deficiencies."

INSERT after "section," on line 19: they shall be resolved within normal review schedules, that includes normal public notice and comment procedures.

The subsection would then read:

(c) If inconsistencies of deficiencies are identified under (a) of this section, they shall be resolved within normal review schedules, that include normal public notice and comment procedures.

Alaska State Legislature

Senate Resources Committee



Sen. John B. (Jack) Coghill, Chairman
Sen. Paul Fischer, Vice-Chairman
Sen. Lloyd Jones
Sen. Arliss Stangulewski
Sen. Jim Duncan
Sen. Fred Zbaroff
Sen. Dick Eliason

Box V
Juneau, Alaska 99811
(907) 465-1907

M E M O R A N D U M

To: Senator Coghill

From: Senate Resource Committee Staff *BRG*

Subj: Analysis of HCS for CS for SB 94 (Resources) am H

Date: March 3, 1988

Some time ago you requested an analysis of identified problem areas within the House version of the Minerals Policy Act. The areas of the bill identified in the Senate floor debate regarding concurrence are contained in Section 1, subsections (3), Section 2., and Section 3. This memorandum will address each in turn.

Section 1. (3).

The word order of this section has been changed. The phraseology of the Senate version placed emphasis on "development of a statewide transportation infrastructure system... for the purpose of facilitating mineral development and entry into the market place of mineral products."

The House version removed "the purpose" of the "statewide transportation infrastructure system". It also changes the "be encouraged" in the Senate version, to "be considered".

As a result, the House version declares as policy that minerals and their development be considered in the development of a statewide transportation system. Whereas the Senate version encouraged the development of a statewide transportation system for mineral development purposes.

Although both recognize the need to address mineral transportation needs, there is an economic consideration clearly implied in the Senate version.

Neither version addresses specific transportation projects, both address a "transportation infrastructure system."

Section 2. (a)

This section requires an inconsistency or deficiency report from each state board, commission, or agency, within ten month from the effective date. This report is an accounting of the statutory authority and administrative regulations and procedures, of each state government entity, in order to comply with this act.

This subsection was amended in the House to include an exemption from the application of this policy act, on all state lands affected by state adopted "area plans, site specific plans, coastal zone management plans, or other plans...".

There are presently 66,800,000 acres of classified state land. All land classifications are based on a land use plan. This amendment will exempt 64 percent of state land from the operation of the policy act. There is no assurance that the 36 percent of state land that remain contain mineral resources that would benefit from this act.

The Senate version on the other hand, makes no mention of adopted plans. A requirement to immediately conform all plans, policies, and regulations is not explicitly contained in either version. Such a requirement would be chaotic and could absorb a disproportionate share of the resource agencies management budgets. A realistic time frame for conformance with the inconsistency or deficiency reports should be set forth in this legislation, or considered by the legislature after the inconsistency reports have been reviewed.

The normal review process for the largest type of state management plan, an area plan, is 5 years for major revisions. Annual reviews are conducted to monitor the effectiveness of these plans however. Staff discussions with DNR indicate that it is reasonable to expect that all adopted plans could be made to conform within five years if not sooner.

Section 2. (b)

Requires that the reports required by (a) of this section, be forwarded to the commissioner of natural resources, to be assembled. The House added that the commissioner shall forward the reports "unedited" to the governor and the legislature.

Section 2. (c)

This subsection was not contained in the Senate version.

The House addition directs the state agencies to work with all interested parties to resolve any inconsistencies or deficiencies identified by the reports of subsection (a) above.

In conversations with legal services and the commissioner of DNR's office, public hearings would have to be noticed and held in order to resolve the inconsistencies or deficiencies under normal operating procedures anyway.

Section 3.

This section was not contained in the Senate version.

Although this House amendment "is not intended to affect the state's consideration of rents and royalties on mineral lands [.]", it may well do that.

First, the "state" is comprised of three branches and section 6(i) of the statehood act clearly gives the authority, for the state to retain an interest in mineral lands, to the legislature. The Alaska Supreme Court ruled a year ago that retained interest means "rents or royalties." The question becomes, does the conjunction and, in the House wording affect the state's consideration of rents or royalties?

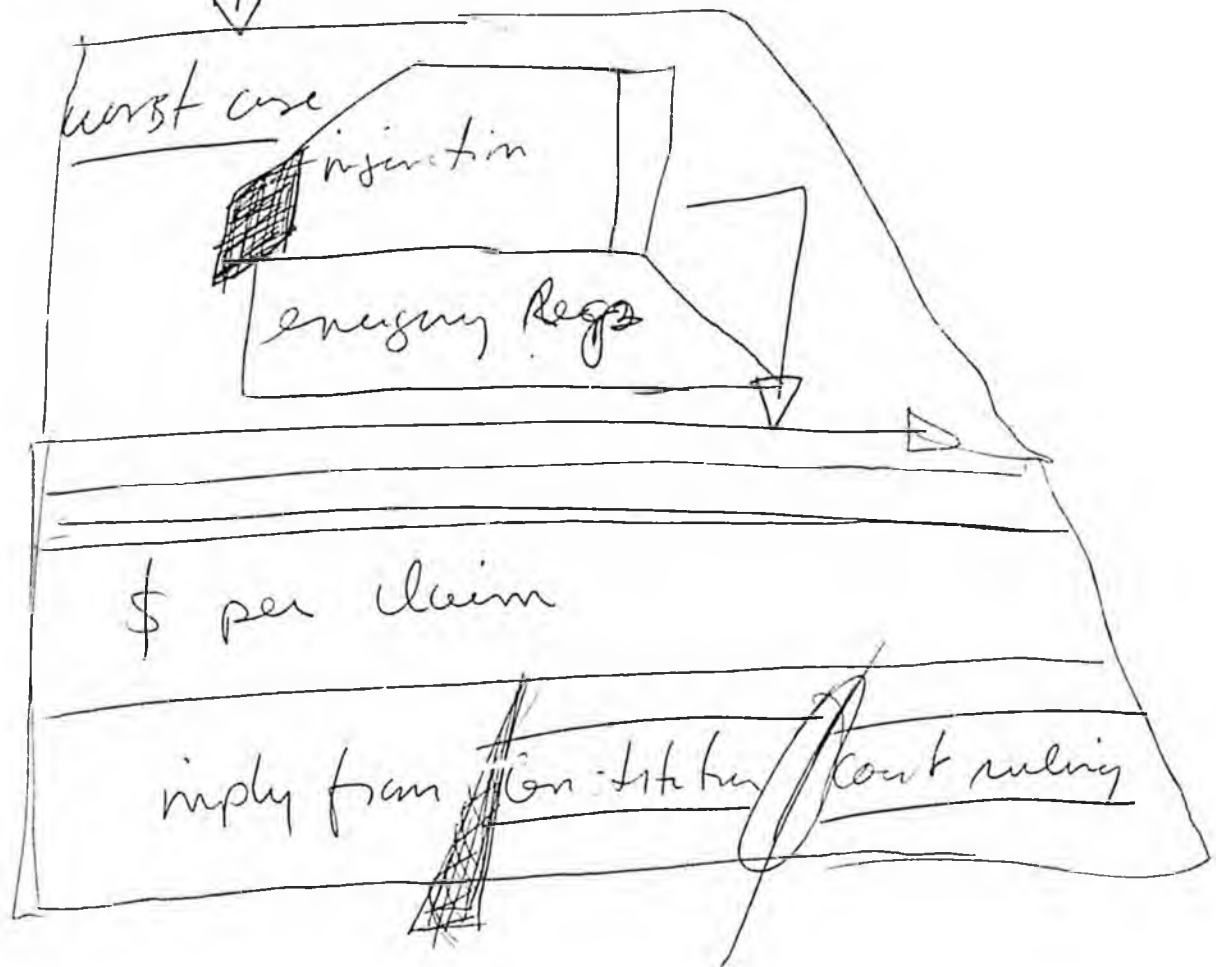
Secondly, there is a question of appropriateness. Since the state administration, through the department of law, has already responded to the state supreme court ruling of May 1987, the request to the commissioner of natural resources "to consider the range of policy options" in law, may be interpreted as an abrogation of legislative authority. The department of law meanwhile, has petitioned the U.S. Supreme Court to review the 6(i) case, and has also continued to participated in state court hearings on this issue.

Staff could also point out that the final request of the section, that the commissioner of natural resources "make suitable mineral rent and royalty recommendations" lacks any guidance as to what "suitable" could be. "Suitable" might best be addresses through the legislative process rather than an in-house agency process.

The third and final point is the time element that was not changed in House floor action. You will recall directing staff to monitor the House floor action on this bill. During the debate the time elements were to be amended to reflect the "First Session of the Sixteenth Alaska State Legislature". The amendment that was moved however, omitted the required change in this section. (The time element in Section 2(b) was changed to reflect the next legislative session, this was the only House floor amendment.)

Staff discussions with legal services indicate that both sections 2 and 3 will appear in the statutes under Temporary and Special Acts only. In other words, only sections with numbers, like section 1 of this act, are entered into the main body of the statutes. There will be a revisors note to section 1 referencing the temporary and special acts however. So here again, the "affect" of this section may cloud the intent of the legislature in enacting this policy act.

Don't moot case, sec. 3 does it do this.





Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

February 18, 1988

MESSAGE TO THE HOUSE


MR. SPEAKER:

The Senate has failed to concur in the House amendment to CS FOR SENATE BILL NO. 94 (RES) am, namely:

HOUSE CS FOR CS FOR SENATE BILL NO.
94 (RES) am H (adopting a mineral
policy for the state; efd)

and respectfully requests the House to recede from its amendments. In the event the House does not recede the President appointed the following members to a conferece committee to meet with a like committe from the House.

Senator Coghill, Chairman
Senator Jones
Senator Fahrenkamp


Nancy Quinto
Secretary of the Senate

P 2270
Passed House (37-0)

No 119

STATE OF ALASKA 1987 LEGISLATIVE SESSION

FISCAL NOTE SENATE

BILL VERSION: CSSB 94 (Res)
PUBLISH DATE: 3/12/87

REQUEST: _____

Revision Date: 3/10/87

Title: Mineral Policy

Agency Affected: Natural Resources

BRU: Minerals Management

Sponsor: Senator Coahill, et. al.

Requestor: Senate Resources

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS :

Activities required by this bill will be performed by existing staff.

Prepared by: Larry Ostrovsky Phone: 465-2400

Division: Commissioner's Office Date: _____

Approved by Commissioner: Lennie Boston Governor Date: 3/10/87

Agency: Natural Resources

Distribution (by preparer):

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

Original sponsors: Coghill, Bennett,
Faiks, et al.

*Wcd - FYI -
(Some of us were
working FRI.)
Te Big O-*

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2

CS FOR SENATE BILL NO. 94 (Resources)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act adopting a mineral policy for the state; and
7 providing for an effective date."

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

9 * Section 1. AS 44.99 is amended by adding a new section to read:

10 Sec. 44.99.110. DECLARATION OF STATE MINERAL POLICY; CIVIL
11 ACTION. The legislature, acting under art. VIII, sec. 1 of the Con-
12 stitution of the State of Alaska, in an effort to further the economic
13 development of the state, to maintain a sound economy and stable
14 employment, and to encourage responsible economic development within
15 the state for the benefit of present and future generations through
16 the purposeful development of the abundant mineral resources within
17 the state, including metals, industrial minerals, and coal, declares
18 as the mineral policy of the state that

19 (1) state land be available and managed for mineral explo-
20 ration and development through multiple use;

21 (2) mineral development be encouraged through reasonable
22 and consistent nonduplicative regulations and administrative stipu-
23 lations;

24 (3) the development of a statewide transportation infra-
25 structure system be encouraged for the purpose of facilitating mineral
26 development and the entry into the market place of mineral products;
27 and

28 (4) the general and public functions of the state that
29 promote mineral development, inform and educate the public, and

1 advance the knowledge and technology of the mineral industry receive
2 the support of the state.

3 * Sec. 2. (a) Within six months from the effective date of this Act,
4 each department, board, commission, or agency of the state shall review its
5 statutory authority, its administrative regulations, and its procedures
6 applicable to mineral exploration and development to determine whether
7 there are deficiencies or inconsistencies that must be addressed in order
8 to comply with the policy enacted in sec. 1 of this Act.

9 (b) Each department, board, commission, or agency of the state shall
10 forward its comments and recommendations to the commissioner of natural
11 resources. The commissioner of natural resources shall assemble the com-
12 ments and recommendations and forward them to the governor and the legisla-
13 ture within the first 10 days of the Second Session of the Fifteenth Alaska
14 State Legislature.

15 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

HOUSE COMMITTEE REPORT

(9)

Date referred: 3/18/87

FURTHER REFERRALS:

5/16
Ruler

DATE: 5/16/87

The Resources Committee has considered CSSB 94 (Res) am

"An Act adopting a mineral policy for the state; and providing for an effective date."

RECOMMENDS:

- replace with HCS CSSB 94 (Res) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published 3/12/87
- zero with analysis

SIGNING DO PASS:

Ben Cotten Cotten
Adelheid Herrmann Herrmann
Heinrich Springer Springer
Dick Shultz Shultz
Walter Pearce Pearce
Lyman Hoff Hoffman
Cliff Davidson Davidson

SIGNING OTHER RECOMMENDATIONS:

Navarre
Mike ... - no rec
... Sund
... no rec

Adelheid Herrmann
Chairman's signature

cc-

Original sponsors: Coghill, Bennett,
Faiks, et al.

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 HOUSE CS FOR CS FOR SENATE BILL NO. 94 (Resources) am H
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION

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15 benefit of present and future generations through the proper conserva-
16 tion and development of the abundant mineral resources within the
17 state, including metals, industrial minerals, and coal, declares as
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20 equitable consideration with other resource uses in the multiple use
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24 lations;

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26 of mineral products be considered in developing a statewide transpor-
27 tation infrastructure system;

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29 public information and education, scientific research, technical

Mark Wooster

1 studies, and University of Alaska program involvement;

2 (5) economic development with respect to the state mineral
3 industry be encouraged with Pacific Rim nations.

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16 legislature within the first 60 days of the First Session of the Sixteenth
17 Alaska State Legislature.

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25 The commissioner of natural resources, who is currently preparing to re-
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29 the Fifteenth Alaska State Legislature.

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Original sponsors: Coghill, Bennett,
Faiks, et al.

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SENATE BILL NO. 94 (Resources) am
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4 FIFTEENTH LEGISLATURE - FIRST SESSION
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19 (1) ~~state~~ ^{where appropriate,} land be ^{generally} available and managed for mineral explo-
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14 State Legislature.

15 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

*Policy statements
are in budget
of land classification
concerning mining.*

*44.67
44.99*



5-0464P ✓
Bradley
5/16/87

Original sponsors: Coghill, Bennett,
Faiks, et al.

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 94 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

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13 the state, to maintain a sound economy and stable employment, and to
14 encourage responsible economic development within the state for the
15 benefit of present and future generations through the proper conserva-
16 tion and development of the abundant mineral resources within the
17 state, including metals, industrial minerals, and coal, declares as
18 the mineral policy of the state that

19 (1) mineral exploration and development be given fair and
20 equitable consideration with other resource uses in the multiple use
21 management of state land;

22 (2) mineral development be [encouraged] through reasonable
23 and consistent nonduplicative regulations and administrative stipu-
24 lations;

25 (3) mineral development and the entry into the market place
26 of mineral products be considered in developing a statewide transpor-
27 tation infrastructure system;

28 (4) mineral development be encouraged through appropriate
29 public information and education, scientific research, technical

1 studies, and University of Alaska program involvement;

2 (5) economic development with respect to the state mineral
3 industry be encouraged with Pacific Rim nations.

4 * Sec. 2. (a) Within 10 months after the effective date of this Act,
5 each department, board, commission, or agency of the state shall review its
6 statutory authority, its administrative regulations, and its procedures
7 applicable to mineral exploration and development to determine whether
8 there are deficiencies or inconsistencies that must be addressed in order
9 to comply with the policy enacted in sec. 1 of this Act. This section does
10 not apply to area plans, site specific plans, coastal zone management
11 plans, local plans, or other plans already adopted by the state.

12 (b) Each department, board, commission, or agency of the state shall
13 forward its comments and recommendations to the commissioner of natural
14 resources. The commissioner of natural resources shall assemble the com-
15 ments and recommendations and forward them unedited to the governor and the
16 legislature within the first 60 days of the Second Session of the Fifteenth
17 Alaska State Legislature.

18 (c) If inconsistencies or deficiencies are identified under (a) of
19 this section, a state department, board, commission, or agency should work
20 with mining interests, coastal resource service areas, the public, and
21 other resource users to propose solutions to the inconsistencies or defi-
22 ciencies.

23 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).
24
25
26
27
28
29

MEMORANDUM

(Brief Communications)

State of Alaska

TO:	Name Ned Farquhar	Dept./Div./Sect.	Mail Stop
FROM:	Name Jerry Gallagher	Dept./Div./Sect. DNR Mining	Phone 762-2165
SUBJ:			Mail Stop
			Date

As requested for the Minerals Policy Act.

cc: Larry O

Section 3: The enactment of the state mineral policy act is not intended to foreclose an appropriate response to any judicial decision concerning whether section 6(i) of the Alaska Statehood Act requires the imposition of rents or royalties upon mining claims under AS 38.05.195 and mining leasehold locations and leases under AS 38.05.205.

Section 4: ~~AS 38.05.195 and 38.05.205~~

~~read:~~

^{CASH}
~~Section 38.05.205 RENTS OR ROYALTIES~~ The commissioner may impose rents or royalties on mining claims under AS 38.05.195 and mining leasehold locations and leases under AS 38.05.205 by regulations, including emergency regulations, notwithstanding any other statute or regulation.

MPW:so

Original sponsors: Coghill, Bennett,
Faiks, et al.

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2

CS FOR SENATE BILL NO. 94 (Resources) am

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act adopting a mineral policy for the state; and

7

providing for an effective date."

8

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

9

* Section 1. AS 44.99 is amended by adding a new section to read:

10

Sec. 44.99.110. DECLARATION OF STATE MINERAL POLICY; CIVIL

11

ACTION. The legislature, acting under art. VIII, sec. 1 of the Con-

12

stitution of the State of Alaska, in an effort to further the economic

13

development of the state, to maintain a sound economy and stable

14

employment, and to encourage responsible economic development within

15

the state for the benefit of present and future generations through

16

the purposeful development of the abundant mineral resources within

17

the state, including metals, industrial minerals, and coal, declares

18

as the mineral policy of the state that

19

(1) state land be available and managed for mineral explo-

20

ration and development through multiple use;

21

(2) mineral development be encouraged through reasonable

22

and consistent nonduplicative regulations and administrative stipu-

23

lations;

24

(3) the development of a statewide transportation infra-

25

structure system be encouraged for the purpose of facilitating mineral

26

development and the entry into the market place of mineral products;

27

and

28

(4) the general and public functions of the state that

29

promote mineral development, inform and educate the public, and

1 advance the knowledge and technology of the mineral industry receive
2 the support of the state.

3 * Sec. 2. (a) Within ten months from the effective date of this Act,
4 each department, board, commission, or agency of the state shall review its
5 statutory authority, its administrative regulations, and its procedures
6 applicable to mineral exploration and development to determine whether
7 there are deficiencies or inconsistencies that must be addressed in order
8 to comply with the policy enacted in sec. 1 of this Act.

9 (b) Each department, board, commission, or agency of the state shall
10 forward its comments and recommendations to the commissioner of natural
11 resources. The commissioner of natural resources shall assemble the com-
12 ments and recommendations and forward them to the governor and the legisla-
13 ture within the first 60 days of the Second Session of the Fifteenth Alaska
14 State Legislature.

15 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

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

March 29, 1988

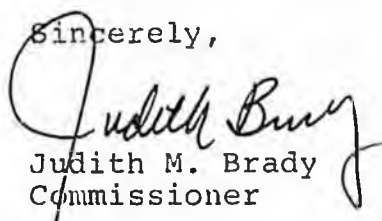
The Honorable Sam Cotten
Co-Chair
House Resources Committee
P.O. Box V
Juneau, Alaska 99811

Dear Representative Cotten:

The Department of Natural Resources has previously expressed support for the Alaska Minerals Policy Act, and we continue to believe that a Minerals Policy Act is an important component in creating a strong, stable mining industry.

We are concerned, however, about the addition of Section 3 in the House Committee Substitute for SB 94. This section weaves into the Minerals Policy Act the very important and very difficult issues raised in the continuing 6(i) litigation. But we believe that the Minerals Policy Act does not impact or restrict the state's ability to fully consider all fiscal options and that the language in Section 3 is unnecessary. As Mr. Worcester from the Department of Law discussed with you, the 6(i) issue has not completed its course through the courts, and we do not believe it is appropriate, in light of the state's legal position, to include this language.

Sincerely,


Judith M. Brady
Commissioner

cc: Senator Jack Coghill
Mark Worcester
Jerry Gallagher

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

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

April 28, 1987

The Honorable Sam Cotten
The Honorable Adelheid Herrmann
Co-Chairs, House Resources Committee
P.O. Box V
Juneau, AK 99811

Dear Representatives Cotten and Herrmann:

Subject: CSSB 94, relating to mineral policy.

Background: Representatives from the resource departments and the Department of Commerce and Economic Development met among themselves and with the Attorney General's office and various members of the minerals industry in fashioning CSSB 94.

Position: The Department of Natural Resources recognizes the need for and supports adoption of a state Mineral Policy Act.

With respect to Section 1, paragraph (1) of CSSB 94, the administration believes that this paragraph reiterates and reinforces the state's commitment to make state land available for mineral exploration and development, within the parameters set out in the Alaska Constitution.

Paragraph (2) of Section 1 of CSSB 94 recognizes the need for a streamlined, consistent, reasonable and non-duplicative permit process which will be designed to encourage, not hinder, investment in mineral development.

Paragraph (3) of Section 1 of CSSB 94 acknowledges that a statewide transportation infrastructure which is comprehensive in nature is a vital component in a policy which supports and encourages mineral exploration and development.

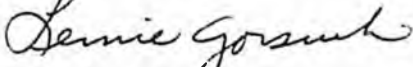
Finally, Section (b) of the proposed bill provides a framework for the administration to review its regulations and internal administrative policies in order to determine their consistency with the act, and to address any inconsistencies. It is intended that affected agencies will prepare reports for submission to the Governor and Legislature.

Representative Sam Cotten -2-
Representative Adelheid Herrmann

April 28, 1987

Recommendation: The administration supports CSSB 94 and believes that it will provide Alaska with a strong and meaningful mineral policy and set a positive tone for mineral exploration and development.

Sincerely,



for Judith M. Brady
Commissioner

cc: Members, House Resources Committee
Bill Sponsors
George Sullivan, Governor's Office
Rod Swope, Governor's Office
Commissioner Collinsworth
Commissioner Kelso
Commissioner Smith

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: SSSB 94
Publish Date: _____

Revision Date: 3/12/87
Title: An Act adopting a mineral policy for the state
Sponsor: Coghill, Bennett, et. al
Requestor: House Resources

Agency Affected: Natural Resources
BRU: Minerals Management
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Activities required by this bill will be performed by existing staff.

Prepared by: Lawrence Z. Ostrovsky
Division: Commissioner's Office

Phone: _____
Date: 4/28/87

Approved by Commissioner: Jemie Gorsch
Agency: Natural Resources

Date: 4/28/87

Distribution (by preparer):

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

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: SB 94
Publish Date: _____

Revision Date: 2/26/87

Agency Affected: Dept. of Natural Resources
BRU: Mineral Management

Title: Mineral Policy Act

Sponsor: Coghill, Bennett et al

Components: _____

Requestor: Senate Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

As far as The Department of Natural Resources can determine,
there would be no additional cost of operation to the Department.

Prepared by: Lawrence Ostrovsky
Division: Commissioner's Office

Phone: 465-2400
Date: 2/26/87

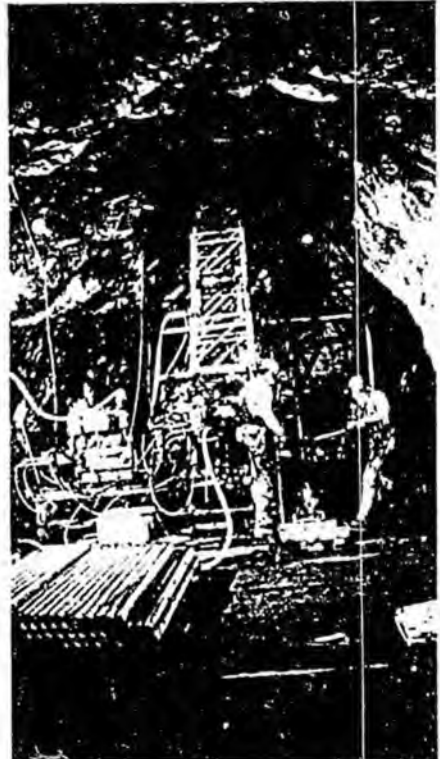
Approved by Commissioner: Norm D Arnold, Deputy
Agency: Natural Resources

Date: 2/26/87

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

BMA

Initial Report of the
Alaska Minerals Commission



January 1987

Initial Report of the
ALASKA MINERALS COMMISSION
to
Governor Steve Cowper
and the
Alaska Legislature

January 1987

FOREWORD

The Alaska Minerals Commission was created by the 14th Legislature through the enactment of Chapter 98 of the 1986 Session Laws of Alaska. The source of the Act was Senate Bill 418 (Appendix B) which was passed by the legislature and signed into law by Governor Bill Sheffield on June 6, 1986.

The enabling legislation instructs the Commission to make recommendations to the governor and legislature on ways to mitigate the constraints, including governmental constraints, on the development of minerals, including coal, in the state.

The Commission is charged with preparing an initial report to be presented to the governor and the legislature at the beginning of the 1987 legislative session and a final report to be presented to the 1989 legislative session, after which the Commission will expire. The Commission will also prepare an interim report for the 1988 legislative session.

Commission members are appointed by the Governor, the President of the Senate and the Speaker of the House. The current members include representatives of the placer, hard rock and coal mining industries and come from diverse areas of the state. Staff support to the Commission is provided by the Division of Minerals and Forest Products, Department of Commerce and Economic Development.

The inaugural meeting of the Commission was held in August 1986 and included the election of Earl Beistline, Chairman and Darrell Spilde, Vice Chairman. A Statement of Purpose was drafted (Appendix A) and committees were organized in the areas of land management, regulations, transportation, administrative policy and education.

Additional meetings were held in September, October, November and December of 1986 to prepare the Commission's initial report. Two meetings were held in Fairbanks and three were held in Anchorage. Meetings were preceded by public notice, and meeting agendas included public testimony. A mailing list of over 100 individuals, organizations and companies with interest in the minerals industry was prepared, and copies of meeting minutes and other business are sent to members on the mailing list.

In December 1986, Darrell Spilde resigned his seat due to work commitments, and Roger Burggraf was appointed by the President of the Senate, Don Bennett to fill the vacancy. Joe Usibelli was elected to succeed Darrell Spilde as Vice Chairman at the December meeting of the Commission.

Committees are chaired by Commission members and participants in committee meetings included representatives from miners' associations, mining companies, native corporations, government agencies, other resource industry associations and interested individuals.

The initial report of the Commission recommends as its priority the adoption of an Alaska Minerals Policy Act. Additional recommendations are proposed in the areas of land management; regulations and administrative policy; transportation and infrastructure; and the promotion of mineral development, education and technology.

One area which the Commission has not addressed in its initial report is the subject of mineral taxation, leasing and royalties. This subject is complex and while the Commission has not had sufficient time to review it, this area will be addressed in future reports.

The Commission will continue its work over the next two years, following up on the results of recommendations presented in this report and making additional recommendations in future reports.

I would like to thank all members of the Commission, the staff, and those members of the public who have provided their comments and worked on committees for their contributions in preparing this report.

Earl Beistline
Chairman

ALASKA MINERALS COMMISSION

Members

Del Ackels, Owner-Operator
GOLDUST MINES
Fairbanks, Alaska

Earl Beistline
Mining Consultant
Fairbanks, Alaska

G. G. (Jerry) Booth, Mgr. Alaska Operations
COMINCO ALASKA, INC.
Anchorage, Alaska

Roger Burggraf, President
ALASKA MINERS ASSOCIATION
Fairbanks, Alaska
(Appointed December 1986)

Joe Davis, Senior Manager
INSPIRATION MINES, INC.
Nome, Alaska

Don Finney, Ketchikan Manager
U. S. BORAX AND CHEMICAL CORP.
Ketchikan, Alaska

Karl Hanneman
Mining Engineer
Fairbanks, Alaska

Jenny Hawley, Vice President
HAWLEY RESOURCE GROUP, INC.
Anchorage, Alaska

Peter Richardson, Mgr. Project Admin.
GREENS CREEK MINING COMPANY
Juneau, Alaska

Darrell Spilde, Vice President
NERCO MINERALS, INC.
Fairbanks, Alaska
(Resigned December 1986)

Joe Usibelli, President
USIBELLI COAL MINE, INC.
Healy, Alaska

Ernest N. Wolff
Mining Consultant
Fairbanks, Alaska

Staff

Thyes Shaub, Director
Div. of Minerals and Forest Products
Department of Commerce and Economic
Development
P. O. Box D
Juneau, Alaska 99811
Phone: (907) 465-2094

Charlie Green
Div. of Minerals and Forest Products
Department of Commerce and Economic
Development
1001 Noble, Suite 420
Fairbanks, Alaska 99701
Phone: (907) 452-7464

INTRODUCTION

Alaska is entering a period of economic change. Those sectors of the economy supported directly by oil production or indirectly by pass-through spending of government revenues will be severely impacted.

Mining is one sector of the economy that is not directly affected by the loss of state revenue or by a decrease in oil related activities as it does not appreciably depend on the level of funding in state capital or operating budgets.

While economic changes have depressed the oil industry in Alaska, there have been several economic changes favorable to the mining industry. Increased metal prices, lower fuel and labor costs, and lower interest rates should be working favorably for the growth of the mining industry in Alaska.

Yet, economic information for 1986 indicates that all is not well. The placer mining industry suffered a 27 percent decrease in the number of mines, a loss of 390 jobs statewide and a 16 percent decrease in gold production. In contrast, placer gold production in the Yukon Territory is expected to set a new record in 1986.

Exploration activities in Alaska remained at their lowest level in some 15 years, down nearly 90 percent from 1981 levels. In contrast, exploration in British Columbia increased some 30 percent in 1986 to a level 10 times greater than in Alaska.

While there are many factors that contribute to the lowered level of mineral activity in Alaska, the comparison with activity in the Yukon Territory and British Columbia—areas which share similar geology, climates and costs—indicates that there are fundamental impediments and constraints to conducting exploration and mining in Alaska.

Comments from individuals in the industry are revealing. Questionnaires are annually mailed to miners for use in preparing an annual mineral industry report jointly published by the Department of Commerce and Economic Development and the Department of Natural Resources. The comments which follow are excerpts from the responses to those questionnaires.

The following two comments are from questionnaires returned by managers of exploration programs.

"I now confine most of my exploration activities to the southwestern U.S. where it is more economic and not as difficult to deal with the environmental regulations. Alaska is a wonderful place to try to develop mines but the economics and constantly more difficult environmental restrictions are almost too enormous to overcome. I hope this changes in the future. Somehow this message needs transmitting to those who can effectuate a change for the better. As I recommended the last four years, the only way to effectuate change for the better is to withdraw investment in exploration in Alaska. As you may realize, that was a very difficult thing for me to do. I hope in the future it will change."

"The problem is the lack of a clearly defined policy by governmental agencies toward mining activities. This uncertain environment makes us hesitate or abandon possible projects."

The following comment is from an Alaska Native Corporation.

"We have an extremely difficult time attracting joint venture partners from the minerals industry to finance development. Alaska has an extremely poor reputation with the minerals industry. Most companies prefer to invest their money elsewhere."

The following two comments are from placer miners.

"(The problems include) water quality regulations which are not practical and too costly to comply with. Lack of understanding of the placer industry by people in the regulatory agencies. There are new people all the time. Because of the uncertainty of getting revised standards for water quality regulations which would be practical and economically attainable, we cannot justify capital expenditures for modernizing our equipment. We are unable to implement long term mining plans."

"Without doubt, the main problem is the clean water regulations which for some operations are impossible to meet. I have not mined on my claims now for two years. I have been waiting for a reason to return if that ever happens."

The 14th Legislature, in the enabling legislation that created the Alaska Minerals Commission, cited many of the problems currently facing the industry.

"... there are major constraints on the continued development of a diverse mineral industry in the state, including the Environmental Protection Agency's effluent guidelines, state water quality standards and improperly classified streams and rivers, restrictions on surface access, complex and numerous permitting requirements, a limited access to minerals through mineral closing orders and restrictions on multiple use through state and federal land use plans."

Prior to World War II, Alaska enjoyed an international reputation for its placer and hard rock mining industries. Mining was primarily responsible for the construction of Alaska's highway and railroad systems, the founding of many of its modern communities including Fairbanks, Nome and Juneau, and the well being of much of Alaska's economy.

While the mining industry will never replace the bonanza revenues generated by oil production, it can provide thousands of new jobs, increase the tax base, reduce pass through payments and other economic benefits which will contribute to the increased diversity and stability of Alaska's economy.

This report sets out the preliminary findings of the Alaska Minerals Commission and proposes recommendations that will allow Alaska's mineral industry to grow and reestablish its economic importance to Alaska.

RECOMMENDATIONS OF THE ALASKA MINERALS COMMISSION

I. ALASKA MINERALS POLICY ACT

FINDINGS: Many of the problems facing the mineral industry stem from the lack of a clear, statutory policy supporting the responsible development of Alaska's mineral resources. The Commission members are unanimous in their belief that the greatest immediate need is the passage of a mineral policy act during the next legislative session which will implement Article VIII, Section 1 of the Constitution of Alaska by encouraging the development of Alaska's resources by making them available for maximum use, by establishing that resource development is consistent with the public interest, and by directing that resource development is an economic priority of the state. Such a policy act will become the foundation for other legislative and administrative actions recommended in this report.

The effectiveness of an act that sets policy depends entirely upon its implementation. To assure that the policies presented here will become active and enforceable policies of the state, a section enumerating the rights of citizens to take legal action has been incorporated. This section is modeled after the rights granted citizens under the federal Clean Water Act.

THE COMMISSION RECOMMENDS THAT:

1. The LEGISLATURE enact an Alaska Mineral Policy Act by amending Title 44, Article 99 of the Alaska Statutes with the addition of the following sections:

Section 44.99.200 DECLARATION OF STATE MINERAL POLICY. In conformance with Article VIII, Section 1 of the Constitution of Alaska, and to further the goals of the state economic development policy to maintain a sound economy, stable employment and to encourage responsible economic development in the state for the benefit of present and future generations through the purposeful development of the state's abundant mineral resources including metals, industrial minerals, and coal; it is the policy of this state:

- (1) that Alaska's lands be available for mineral exploration and development through multiple-use practices that shall not subordinate mineral resource development;
- (2) that mineral development not be encumbered by excessive, unreasonable or uneconomical legislative or administrative actions;
- (3) that a comprehensive system of transportation and infrastructure be developed in Alaska that allows mineral products from the state to enter the market place;
- (4) that the general and public functions of the state which promote mineral development, which inform and educate the people, and which advance the knowledge and technology of the mineral industry be supported.

Section 44.99.205 ENFORCEMENT. (a) Any citizen may commence a civil action on his or her own behalf against any person (including (i) the State of Alaska, (ii) any other governmental instrumentality or agency, and (iii) any government employee or officer acting in his or her official capacity) when there is alleged a failure of such person to carry out any policy under this act.

(b) The court, in issuing any final order in any action brought pursuant to this litigation, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

NOTICE: This opinion is subject to formal correction before publication in the Pacific Reporter. Readers are requested to bring typographical or other formal errors to the attention of the Clerk of the Appellate Courts, 303 K Street, Anchorage, Alaska 99501, in order that corrections may be made prior to permanent publication.

THE SUPREME COURT OF THE STATE OF ALASKA

TRUSTEES FOR ALASKA, NUNAM KITLUTSISTI,)
DINYEY CORPORATION, VILLAGE OF MINTO,)
ALASKA INDEPENDENT FISHERMEN'S)
MARKETING ASSOCIATION, ALASKA CENTER)
FOR THE ENVIRONMENT, SOUTHEAST ALASKA)
CONSERVATION COUNCIL, FRIENDS OF THE)
EARTH,)

Plaintiffs/Appellants,)

File No. S-1142

v.)

STATE OF ALASKA, ALASKA DEPARTMENT OF)
NATURAL RESOURCES, ESTHER WUNNICKE,)
Commissioner, Department of Natural)
Resources,)

O P I N I O N

Defendants/Appellees,)

ALASKA MINERS ASSOCIATION, FAIRBANKS)
NORTH STAR BOROUGH and JOSEPH E. VOGLER,)

[No. 3175 - May 1, 1987]

Defendants-Intervenors/Appellees.)

Appeal from the Superior Court of the State of Alaska, Third Judicial District, Anchorage, Douglas Serdahely, Judge.

Appearances: Eric Smith and Robert W. Adler, Anchorage, for the Appellants. Robert M. Maynard and Mark P. Worcester, Assistant Attorneys General, Anchorage, Harold M. Brown, Attorney General, Juneau, for Appellee State of Alaska, Alaska Department of Natural Resources, and Esther Wunnicke, Commissioner, Department of Natural Resources. James N. Reeves, Bogle & Gates, Anchorage, for Appellee Alaska Miners Association. Ronald A. Zumbrun, Robin L. Rivett, and James S. Burling, Pacific Legal Foundation,

Sacramento, California, and Michael B. Markham, Borough Attorney, Fairbanks, for Appellee Fairbanks North Star Borough. Thomas R. Wickwire, Fairbanks, for Appellee Joseph E. Vogler.

Before: Rabinowitz, Chief Justice, Burke, Matthews, Compton, and Moore, Justices.

MATTHEWS, Justice.

Alaska was granted the right to select 103,350,000 acres of land from the United States under section 6(a) and (b) of the Alaska Statehood Act, Pub. L. No. 85-508, 72 Stat. 339 (1958) (set out in a note preceding 48 U.S.C. § 21 (1982)). Mineral deposits in selected lands were also conveyed, subject to certain restrictions. Section 6(i) of the Act provides:

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

This case presents issues concerning the meaning of the section 6(i) grant and restrictions, and of appellants' standing to bring an action in state court to construe the meaning of the Alaska Statehood Act.

I. PROCEEDINGS BELOW

The appellants are a coalition of environmental, Native, and fishing groups. They filed an action in superior court seeking a declaration that the state's mineral leasing system violates section 6(i) in that the state does not require payment of either rent or royalties in leases of lands subject to section 6(i), and that the state has incorrectly construed the section 6(i) restrictions to apply only to lands known to contain minerals at the time of state selection rather than to all selected lands which contain minerals.¹

All parties moved for summary judgment. The trial court ruled that the appellants did not have standing, that section 6(i) is enforceable only by the Attorney General of the United States, and that the state's mineral management system does not violate section 6(i). The court did not rule on the question whether the section 6(i) restrictions apply to all state-selected lands containing minerals or merely to those known to contain minerals at the time of selection.

We conclude that appellants have standing to maintain this declaratory judgment action, that the state's mineral leasing system violates section 6(i) because it does not require

1. Appellants also contend that section 6(i) has become part of the Constitution of Alaska, and has created public trust duties. Thus, appellants argue, to the extent that section 6(i) has been violated, so has the Alaska Constitution and the public trust.

the payment of rent or royalties on mining leases, and that section 6(i) applies only to those lands known to have been mineral in character at the time of state selection.

II. STANDING TO MAINTAIN DECLARATORY JUDGMENT ACTION

A. Standing

"Standing questions are limited to whether the litigant is a 'proper party to request an adjudication of a particular issue'" Moore v. State, 553 P.2d 8, 24 n.25 (Alaska 1976) (quoting Flast v. Cohen, 392 U.S. 83, 100-01, 20 L. Ed. 2d 947, 961 (1968)). Standing in our state courts is not a constitutional doctrine; rather, it is a rule of judicial self-restraint based on the principle that courts should not resolve abstract questions or issue advisory opinions. Id. The basic requirement for standing in Alaska is adversity. Id.

The concept of standing has been interpreted broadly in Alaska. We have "departed from a restrictive interpretation of the standing requirement," Coghill v. Boucher, 511 P.2d 1297, 1303 (Alaska 1973), adopting instead an approach "favoring increased accessibility to judicial forums." Moore v. State, 553 P.2d at 23; see also State v. Lewis, 559 P.2d 630, 634 n.7 (Alaska) (and cases cited therein), cert. denied, 432 U.S. 901, 53 L. Ed. 2d 1073 (1977). Our cases have discussed two different kinds of standing. One is interest-injury standing; the other is citizen-taxpayer standing.

Under the interest-injury approach, a plaintiff must have an interest adversely affected by the conduct complained of. Such an interest may be economic, Moore, 553 P.2d at 24; Wagstaff v. Superior Court, Family Division, 535 P.2d 1220, 1225 (Alaska 1975), or it may be intangible, such as an aesthetic or environmental interest. Lewis, 559 P.2d at 635. The degree of injury to the interest need not be great; "[t]he basic idea . . . is that an identifiable trifle is enough for standing to fight out a question of principle; the trifle is the basis for standing and the principle supplies the motivation." Wagstaff, 535 P.2d at 1225 & n.7 (quoting Davis, Standing: Taxpayers and Others, 35 U. Chi. L. Rev. 601, 613 (1968)).

In the instant case, the appellants assert that they have standing as citizens or taxpayers, rather than because their interests are injured. In prior cases, we have often permitted taxpayers or citizens to challenge governmental action based on their status as taxpayers or citizens. In many such cases, standing has been assumed and not discussed.² We have, however,

2. E.g., Thomas v. Bailey, 595 P.2d 1 (Alaska 1979) (land grant initiative challenged by citizens and taxpayers); Abrams v. State, 534 P.2d 91 (Alaska 1975) (taxpayer and citizen suit challenging legislative formation of Eagle River-Chugiak Borough); Boucher v. Engstrom, 528 P.2d 456 (Alaska 1974) (citizen suit to enjoin placement of capital move initiative on ballot); Boucher v. Bomhoff, 495 P.2d 77 (Alaska 1972) (citizen challenge to the wording of a referendum question); Jefferson v. Asplund, 458 P.2d 995 (Alaska 1969) (taxpayer suit challenging public professional service contract); Jefferson v. Greater Anchorage Area Borough, 451 P.2d 730 (Alaska 1969) (taxpayer suit

(Footnote Continued)

explicitly addressed taxpayer-citizen standing on other occasions. For example, in Coghill v. Boucher, 511 P.2d 1297 (Alaska 1973), registered voters (one of whom was also a poll watcher) were allowed to challenge certain proposed vote-counting procedures. In finding standing, we stated:

In the case at bar, we conclude that a retreat to restrictive notions of standing, as urged by appellee, would not advance the public's vital interest in maintenance of the integrity of vote-tallying procedures during statewide elections. Denial of standing to appellants in the instant case would have the effect of unduly limiting the possibility of a popular check upon executive control of the election process. If registered voters and poll watchers are foreclosed from seeking judicial review of administrative regulation of this sensitive aspect of our governmental system, then it may well be that any review of executive activity in this area would be completely foreclosed, particularly in the event that candidates or political parties were unwilling to challenge such administrative actions. We decline to restrict the

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challenging a bond issue); Suber v. Alaska State Bond Committee, 414 P.2d 546 (Alaska 1966) (taxpayer suit challenging public mortgage adjustment program); Walters v. Cease, 394 P.2d 670 (Alaska 1964) (citizen suit to enjoin referendum relating to formation of local government units); DeArmond v. Alaska State Development Corporation, 376 P.2d 717 (Alaska 1962) (taxpayer suit challenging the legality of public corporation); Starr v. Hagglund, 374 P.2d 316 (Alaska 1962) (citizen suit to enjoin capital move initiative).

Some of these cases were subsequently recognized as taxpayer standing suits. See K & L Distributors, Inc. v. Murkowski, 486 P.2d 351, 353 n.1 (Alaska 1971) (characterizing Jefferson v. Asplund, 458 P.2d 995, and Greater Anchorage Area Borough v. Porter and Jefferson, 469 P.2d 360 (Alaska 1970), as taxpayer standing actions); Moore 553 P.2d at 24 n.26 (citing Jefferson v. Greater Anchorage Area Borough, 451 P.2d 730, as an example of taxpayer standing).

public's access to Alaska's courts in such a manner.

Id. at 1304.

We also discussed the question of taxpayer standing in Lewis, 559 P.2d 630. At issue was the legality of a three-way land trade between the state, the federal government, and a native regional corporation. Our characterization of the plaintiffs' interest in Lewis applies in this case. "Here, plaintiffs are seeking to protect mineral resources in land originally selected from the federal government under the Statehood Act. Their interest in the state's retention of mineral rights in state lands is no less significant than the aesthetic and environmental values sought to be vindicated in Sierra Club [v. Morton], 405 U.S. 727, 31 L. Ed. 2d 636 (1972) and [United States v.] SCRAP [,412 U.S. 669, 37 L. Ed. 2d 254 (1973)]." 559 P.2d at 635. We declined to decide whether standing should be allowed in all taxpayer or citizen actions, but we allowed taxpayer standing in Lewis. Several factors influenced our conclusion: the land transfer allegedly violated specific constitutional limitations, the transfer was significant in size and in its potential economic impact on the state, and no one seemed to be in a better position than the plaintiffs to complain of the illegality of the transaction. Id.

In Carpenter v. Hammond, 667 P.2d 1204 (Alaska), appeal dismissed, 464 U.S. 801, 78 L. Ed. 2d 67 (1983), we affirmed, in an alternative holding, the standing of a citizen to challenge

the reapportionment of a House District in which she did not reside or vote. We stated:

In the instant case, Carpenter alleges that District 2 violates a specific constitutional limitation and that the disputed transaction (the drawing of election district lines) arguably will have a significant impact on the state. Here the dispute over District 2 has been fully briefed, argued at trial and on appeal, and there is no one in a better position than Carpenter to litigate these issues. In our view, Carpenter also meets the standing criteria of Lewis.

Id. at 1210 (footnote omitted).

Gilman v. Martin, 662 P.2d 120 (Alaska 1983), involved a challenge to a municipal sale of land. We upheld taxpayer standing, stating that "[a]ny resident or taxpayer of a municipality has a sufficient interest in the disposition of a significant number of acres of the municipality's land to seek a declaratory judgment as to the validity of the disposition." Id. at 123.

In Hoblit v. Commissioner of Natural Resources, 678 P.2d 1337 (Alaska 1984), we held that plaintiff did not have standing as a taxpayer to challenge the sale of some twenty acres of state land. We distinguished Gilman on the grounds that the amount of acreage involved in Hoblit was not "significant." 678 P.2d at 1341. Similarly, we distinguished Lewis because the "'magnitude of the transaction and its potential economic impact on the State' which were determinative in Lewis are simply lacking here." Id. We remanded for a determination as to

whether or not the plaintiff had standing because of his status as an adjoining land owner. Id. at 1341-42.

This review of taxpayer-citizen standing in Alaska clearly demonstrates that taxpayer-citizen status is a sufficient basis on which to challenge allegedly illegal government conduct on matters of significant public concern. Taxpayer-citizen standing has never been denied in any decision of this court, except on the basis that the controversy was not of public significance,³ or on the basis that the plaintiff was not a taxpayer.⁴ However, Lewis and Carpenter suggested, without deciding, that taxpayer-citizen standing may be denied even in cases of public significance under certain circumstances.⁵

3. Hoblitt, 678 P.2d 1337.

4. Greater Anchorage Area Borough v. Porter & Jefferson, 469 P.2d 360.

5. The Utah Supreme Court relied in part on Lewis and adopted a discretionary denial approach in Jenkins v. Swan, 675 P.2d 1145, 1150-51 (Utah 1983):

If the plaintiff does not have standing under the first step [that is, interest-injury standing], we will then address the question of whether there is anyone who has a greater interest in the outcome of the case than the plaintiff. If there is no one, and if the issue is unlikely to be raised at all if the plaintiff is denied standing, this Court will grant standing. See, e.g., State v. Lewis, Alaska, 559 P.2d 630, 635 (1977). When standing is predicated on the assertion that the issues involve "great public interest and societal impact," we will retain our practical concern that the parties involved

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In our view, taxpayer-citizen standing cannot be claimed in all cases as a matter of right. Rather, each case must be examined to determine if several criteria have been met. First, the case in question must be one of public significance.⁶ One measure of significance may be that specific constitutional limitations are at issue, as in Carpenter and Lewis. That is not an exclusive measure of significance, however, as statutory and

(Footnote Continued)

have the interest necessary to effectively assist the court in developing and reviewing all relevant legal and factual questions. The Court will deny standing when a plaintiff does not satisfy the first requirement of the analysis and there are potential plaintiffs with a more direct interest in the issues who can more adequately litigate the issues.

The third step in the analysis is to decide if the issues raised by the plaintiff are of sufficient public importance in and of themselves to grant him standing. The absence of a more appropriate plaintiff will not automatically justify granting standing to a particular plaintiff. This Court must still determine, on a case-by-case basis, that the issues are of sufficient weight, see Jenkins v. Finlinson, Utah, 607 P.2d 289 (1980), and that they are not more properly addressed by the other branches of government. Constitutional and practical considerations will necessarily affect our decisions in cases where a plaintiff who lacks standing under step one nevertheless raises important public issues. These are matters to be more fully developed in the context of future cases.

6. See, e.g., Carpenter, 667 P.2d at 1210; Gilman, 662 P.2d at 123; Lewis, 559 P.2d at 635.

common law questions may also be very important.⁷ Second, the plaintiff must be appropriate in several respects. For example, standing may be denied if there is a plaintiff more directly affected by the challenged conduct in question who has or is likely to bring suit. The same is true if there is no true adversity of interest, such as a sham plaintiff whose intent is to lose the lawsuit and thus create judicial precedent upholding the challenged action.⁸ Further, standing may be denied if the plaintiff appears to be incapable, for economic or other reasons, of competently advocating the position it has asserted.⁹

7. See, e.g., *Coghill v. Boucher*, 511 P.2d 1297 (taxpayer's challenge of lieutenant governor's promulgation of regulations under elections statute).

8. See *Flast v. Cohen*, 392 U.S. 83, 100, 20 L. Ed. 2d 947, 962 (1968) ("federal courts will not entertain friendly suits . . . or those which are feigned or collusive").

9. One reason for the adversity requirement is to insure that the issues are well presented. As the Utah Supreme Court said, "When standing is predicated on the assertion that the issues involve 'great public interest and societal impact,' we will retain our practical concern that the parties involved have the interest necessary to effectively assist the court in developing and reviewing all relevant legal and factual questions." *Jenkins*, 675 P.2d at 1150-51.

In the analogous context of class action suits, one important criterion of a party's ability to effectively represent the class is its capacity, for economic and other reasons, to competently advocate its position. See 3B J. Moore and J. Kennedy, *Moore's Federal Practice* § 23.07[1.-1], at 23-215 (1985) (under Fed. R. Civ. P. 23(a)(4), "it has become routine to inquire into the competence, experience and vigor of the representative's counsel").

The instant case is undoubtedly one of public significance. If appellants prevail, the state must change its method of making state land available for mining. Some 50,000 existing mining claims may be affected. Under the current system, according to the appellants, the state is illegally giving up more than \$100,000 annually in royalties. Further, the state is at risk of forfeiting to the United States extensive areas of state lands. The state has correctly acknowledged the significance of this case.

We turn now to consider whether appellants are appropriate parties to bring this suit. They are well represented by competent counsel who have forcefully presented their position. They are not sham plaintiffs; their sincerity in opposing the state's mineral disposition system is unquestioned. On the other hand, the state argues that there is a potential plaintiff with a more direct interest in the validity of the state's system. The state contends that the Attorney General of the United States may bring a forfeiture proceeding under section 6(i) and that this possibility means that appellants lack standing.

In our view, the mere possibility that the Attorney General may sue does not mean that appellants are inappropriate plaintiffs. In Carpenter, a resident and voter of the House District in question would theoretically have been more interested in litigating the question whether the district was malapportioned than was the non-resident plaintiff in that case. However, no such person had filed suit. We noted that the issues

had been fully presented at trial and on appeal by the plaintiff, and held that she had standing. 667 P.2d at 1210. Similarly, in Coghill v. Boucher, we suggested that candidates or political parties might be more interested than registered voters and poll watchers in challenging the vote-counting procedures at issue. However, they had not done so. We noted that if the plaintiffs were not afforded standing, "it may well be that any review of executive activity in this area would be completely foreclosed." 511 P.2d at 1034. Thus, the crucial inquiry is whether the more directly concerned potential plaintiff has sued or seems likely to sue in the foreseeable future. The Attorney General has not sued nor are there any indications that he plans to do so.

Moreover, the appellants' interest in this suit is different than the Attorney General's would be if suit were brought in the United States District Court pursuant to section 6(i). Appellants are interested in preserving to the state the economic value of these lands. The Attorney General, however, would be bringing an action for forfeiture of these lands, contrary to appellants' interest.

For these reasons we conclude that appellants have standing as taxpayer-citizens to maintain this action.

B. A Declaratory Judgment Action Interpreting the Provisions of Section 6(i) May be Maintained.

There has been much litigation concerning the meaning and scope of various statehood act land grants and their

restrictions.¹⁰ There have been frequent questions of ownership of the granted lands as between private or governmental contestants.¹¹ Much of this litigation has occurred in the state courts. The question presented in this case is whether Congress intended to preclude all litigation concerning the meaning of section 6(i) by enacting the proviso which reads:

That any lands or minerals hereafter disposed of contrary to the provisions of this section shall be forfeited to the United States by appropriate proceedings instituted by the Attorney General for that purpose in the United States District Court for the District of Alaska.

In our view, this question must be answered in the negative. It is clear that Congress intended that only the U.S.

10. E.g., *Boyce v. Pima County*, 208 P. 419 (Ariz. 1922); *Jensen v. Dinehart*, 645 P.2d 32 (Utah 1982); cf. *State v. University of Alaska*, 624 P.2d 807 (Alaska 1981).

11. E.g., *Rodgers v. Berger*, 103 P.2d 266 (Ariz. 1940) (appeal from suit by private mining claimant against state and other private claimants to quiet title in mining claim on land granted under statehood act; in trial court, state alleged it was owner because land was a school section; state did not appeal trial court's judgment for plaintiff); *Texas Pacific Coal & Oil Co. v. State*, 234 P.2d 452 (Mont. 1951) (corporation's suit against state to quiet leasehold title to oil and gas deposits under certain school land acquired by state under state enabling act); cf. *Lassen v. Arizona*, 385 U.S. 458, 17 L. Ed. 2d 515 (1967) (appeal from Arizona Supreme Court ruling in case between two state executive agencies to compel compensation to trust created under New Mexico-Arizona Enabling Act); *State v. Walker*, 301 P.2d 317 (N. M. 1956) (suit between State Highway Commission and Commissioner of Public Lands concerning rights of way or easements over state trust lands granted under New Mexico Enabling Act); *Ross v. Trustees of University of Wyoming*, 222 P. 3 (Wyo. 1924) (suit between governor and trustees concerning land granted and confirmed by act of admission for university purposes).

Attorney General could bring forfeiture proceedings and that such proceedings could only be brought in the United States District Court for the District of Alaska. No inference can be drawn, however, from either the context or the history of the Statehood Act that forfeiture proceedings were meant to be the only means by which a judicial interpretation of the meaning of section 6(i) could be obtained.

The sole reference to the land grant forfeiture provision which we have found in the legislative history appears in the Senate Report accompanying a 1954 bill providing for the admission of Alaska into the Union, S. 50, 83d Cong., 2d Sess. (1954):

The Attorney General is authorized to take appropriate proceedings for forfeiture of any of the lands granted to the State which are disposed of contrary to these restrictions. In making the above provision, the committee has followed the practice prevalent in a number of mining States - a practice that has stood the test of time and experience.

S. Rep. No. 1028, 83d Cong., 2d Sess. 32 (1954). This reference is to the forfeiture clause of the Act of January 25, 1927 (commonly called the School Lands Act of 1927) 44 Stat. 1026, codified at 43 U.S.C. § 870(b (1982)), which extended to public land states grants of certain numbered school sections which were mineral in character.¹² This clause has not prevented judicial

12. The proviso in the School Lands Act states:

(Footnote Continued)

interpretation of the School Lands Act in non-forfeiture proceedings.¹³ We hold that the identical language in section 6(i) has a similar, non-preclusive effect. It would be unusual in the extreme if a state court could not construe the meaning of its state's Statehood Act. In the absence of any indication that Congress intended to bar our state courts from interpreting section 6(i), we conclude that appellants' declaratory judgment action seeking an interpretation of section 6(i) may be maintained.

III. THE STATE'S DISPOSITION OF MINERALS VIOLATES SECTION 6(i) OF THE STATEHOOD ACT

Having determined that appellants have standing to bring this declaratory action, we now turn to their arguments on the merits. Their arguments may be summarized as follows. Section 6(i) of the Statehood Act provides that the state must reserve to itself all of the minerals in the mineral lands

(Footnote Continued)

That any lands or minerals hereafter disposed of contrary to the provisions of this section shall be forfeited to the United States by appropriate proceedings instituted by the Attorney General for that purpose in the United States district court for the district in which the property or some part thereof is located.

43 U.S.C. § 870(b) (1932). This proviso is discussed in more detail in part IIIB of this opinion, infra p. 21.

13. E.g., Rodgers, 103 P.2d 266; Jensen, 645 P.2d 32.

granted to the state pursuant to section 6(a) and (b) of the Act. Furthermore, section 6(i) provides that "[m]ineral deposits in such lands shall be subject to lease by the State as the State legislature may direct." Appellants argue that because the state does not require the payment of rent or royalties from those miners whom the state permits to locate and extract hardrock minerals, the state violates section 6(i) of the Act. Appellants also argue that the state has violated section 6(i) by defining "mineral lands" subject to the lease requirement to mean those lands known to be of mineral character at the time of state selection, rather than all lands selected which are ultimately discovered to be of mineral character.

The appellants' arguments raise questions concerning the meaning of section 6(i), and of Congress's intent in granting the state mineral rights on the one hand, but restricting the state in its method of disposing of those minerals on the other. To answer these questions, we look to the plain language of section 6(i), to the legislative history of the Statehood Act, and to cases construing section 6(i). We also look to general principles of mining law to understand the framework within which section 6(i) must be analyzed.

A. General Principles of Mineral Disposition

When Congress passed the Alaska Statehood Act, there were three methods for disposition of minerals located on federal

lands: location, lease, and sale. Only locations and leases are relevant in the instant case.¹⁴

The location system is the oldest method of mineral disposition. It originated on the public domain as a matter of custom and was institutionalized by various statutes, the most important of which was the Mining Law of 1872.¹⁵ Under the location system, the first claimant who discovers a valuable mineral deposit on unappropriated public domain, stakes and files a mining claim, and pursues it, has a legally protected interest. The locator is entitled to produce minerals from the deposit without paying rent or royalties, and has the right to obtain fee simple title by means of a patent issued by the United States government. 1 American Law of Mining § 30.01, at 30-3 (2d ed. 1985) (all references to American Law of Mining are to the 1985 edition unless otherwise noted).

Mineral leasing is the primary alternative to the location system. The Mineral Lands Leasing Act of 1920, 30 U.S.C. §§ 181-263 (1982), is the most important statute governing mineral leases; in many respects it has become the model for other federal mineral leasing acts. 1 American Law of Mining

14. The sale method pertains to certain varieties of sand and gravel and other common materials. 30 U.S.C. § 601 (1982).

15. Act of May 10, 1872, ch. 152, 17 Stat. 91. Portions of the Mining Act appear at 30 U.S.C. §§ 22-24, 26-30, 33-35, 37, 39-42, 47 (1982).

§ 20.01, at 20-6-7. The Mineral Leasing Act was passed to supersede the location system as to the minerals it covers because of Congress's perception that important revenues were being lost under the older system.¹⁶

Under the Mineral Leasing Act, competitive leases are issued on lands known to contain valuable mineral deposits. 30 U.S.C. §§ 262, 272, 283. Bidders buy competitive leases from the government for a premium established at a public sale. 43 C.F.R. §§ 3521.2-2, 3521.2-4, 3521.2-5 (1985). Where valuable mineral deposits are not known to exist, a prospecting permit may be issued to the first qualified applicant. See 43 C.F.R. § 3510.0-3. If the permittee discovers a valuable mineral deposit, the permittee may be rewarded with a preference right lease. 43 C.F.R. § 3520.1-1. No premium is charged the lessee of a preference right lease for the privilege of leasing. However, both competitive and preference right lessees must pay an annual rental fee¹⁷ and a production royalty, which is a specified percentage of the gross value of the leased substance produced. 30 U.S.C. §§ 262, 283.

16. "[R]oyalties and rentals" were required "so that the Government may not be passing to title the natural resources without receiving something in return therefor." H.R. Rep. No. 1059, 65th Cong. 3d Sess., at 20. (1919).

17. The fees usually vary from 25¢ to \$1.00 per acre, depending on the mineral. 1 American Law of Mining § 20.09[5]; see also 30 U.S.C. §§ 262, 283.

Appellants contend that although section 6(i) requires the state to lease mineral lands, and presumably to obtain rents or royalties, the state does not in fact receive any revenues when it grants miners the right to produce hardrock minerals from state lands. Thus, appellants argue that the state's mineral disposition method is for all practical purposes a location system, except that miners may not receive patent to the mineral estate.

The state responds that section 6(i) does not require a revenue-producing rent or royalty; rather, that choice is left to the state legislature's discretion. The state also asserts that it receives as consideration the continued exploration and development of its lands and the benefits that come from an active mining industry.

We shall next consider the language of section 6(i) and its legislative history to glean Congress's intent in its grant and restriction of mineral lands.

B. Origin of Section 6(i)

As we have already explained in part IIB of this opinion, the restrictive language in section 6(i) was derived from the 1927 School Lands Act.¹⁸ In Lewis, we discussed the School Lands Act in another context:

18. Act of January 25, 1927 (An Act Confirming in
(Footnote Continued)

In 1955, the Territory of Alaska, through its legislature, provided for a constitutional convention. Elected delegates adopted a Constitution on February 5, 1956, which was ratified by the people of Alaska on April 24, 1956. This Constitution adopted by the people of Alaska served as the basis for subsequent petitions to Congress for statehood and constituted an offer to accept the privileges and responsibilities of that status in accordance with its terms.

Throughout the process of drafting the Constitution and its adoption, there was considerable public controversy surrounding the issue of federal control over Alaska's power to dispose of its mineral resources. In statehood legislation for other states, Congress had limited land grants to non-mineral lands. Public lands, which were known to be chiefly valuable for commercial

(Footnote Continued)

States and Territories Title to Lands in Aid of Common or Public Schools), ch. 57, 44 Stat. 1026, 43 U.S.C. §§ 870-71 (1982).

43 U.S.C. § 870(b) (1983) provides:

The additional grant made by this section is upon the express condition that all sales, grants, deeds, or patents for any of the mineral lands so granted shall be subject to and contain a reservation to the State of all the coal and other minerals in the lands so sold, granted, deeded, or patented, together with the right to prospect for, mine, and remove the same. Mineral rights in such lands shall be subject to lease by the State as the State legislature may direct, the proceeds and rents and royalties therefrom to be utilized for the support or in aid of the common or public school: Provided, That any lands or minerals hereafter disposed of contrary to the provisions of this section shall be forfeited to the United States by appropriate proceedings instituted by the Attorney General for that purpose in the United States district court for the district in which the property or some part thereof is located.

mineral production at the time of the grants, were retained in federal ownership for management and disposition under a theoretically unified system of federal mineral law. In part to avoid the litigation over titles which had resulted from this policy, Congress passed the School Lands Act of 1927, 43 U.S.C. § 870. This act extended the original statehood land grants to embrace lands mineral in character. These additional grants, however, were made subject to a mineral alienation condition which prohibited state disposal of land without a reservation of minerals and permitted a forfeiture action instituted by the Attorney General on behalf of the United States in the event of such disposal [43 U.S.C. § 870(b)].

Although the constitutions of most states were written after passage by Congress of the relevant enabling acts, Alaska's Constitution was drafted in the absence of a pre-existing act. While the delegates were therefore unsure of the particular restrictive language which might be chosen by Congress, they were aware of the history of federal control over state disposition of mineral lands and the likelihood that the United States would insist on retaining its usual powers. To many of the delegates and the people of the state, these restrictions were unpopular.

559 P.2d at 636 (footnotes omitted). Thus, we see in the School Lands Act language echoed fifty-one years later in section 6(i) of the Alaska Statehood Act: a requirement that grantee states reserve the mineral interest when disposing of granted lands, and a provision allowing grantee states to dispose of minerals only by lease.

Implicit in this quotation from Lewis are several points which must be emphasized. First, prior to the enactment of the School Lands Act, the statehood land grants of many western states did not include certain "school lands" sections