

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

10963 HOUSE RESOURCES

Activity at the Pogo gold deposit near Delta Junction included surface geotechnical drilling and definition drilling of the lower ore zone. The major focus of this project in 2002 was the permitting process and the development of an Environmental Impact Statement.

Exploration at Donlin Creek has resulted in a dramatic expansion of the size and grade of the gold resource. The project is on the verge of becoming a major mine. This development has the potential to change the face of southwest Alaska, bringing prosperity and promise to a depressed region desperate for alternatives. Transportation infrastructure and energy development are key.

A revised mining plan has been submitted at the Kensington project in southeast Alaska, which may allow the project to proceed to development.

Grass roots exploration programs were limited, and largely reduced in scope from previous years. One bright spot was the area northwest of Iliamna, where several significant copper-gold prospects were discovered. Drill programs for gold and silver were reported near Tok, Northway, Rock Creek north of Nome, and in the Wulik Valley on the north flank of the Brooks Range. In southeast Alaska exploration continued for platinum-group elements at Union Bay and Duke Island, and for polymetallic targets on Woewodski Island. On the south flank of the Alaska Range, exploration for platinum-group elements was curtailed due to continuing uncertain land status. The state must do what it can to finalize land conveyance, so that land tenure in the state is clear to developers.

The State Division of Geological & Geophysical Surveys continued to do outstanding work on a minimal budget. Airborne geophysical surveys were flown at Council near Nome, and the Bureau of Land Management contracted for surveys within the Denali Block and at Sleetmute. Geologic mapping continued in 2002 in the Salcha and Goodpaster River areas that had airborne surveys flown in past years. Alaska continues to lag far behind the remainder of the continent in geological knowledge of its land base. Indeed, many third world countries supercede Alaska in this regard. The importance of baseline data acquisition for the state cannot be overstated.

The mining industry in Alaska has maintained the status quo over past years in the face of challenging conditions. Several development projects, if brought to fruition, will provide outstanding benefits in remote regions, and formulate the critical mass the industry requires to sustain itself over the long term. Given the proper support, the industry has the ability to make a tremendous difference in Alaska.

FINDINGS AND RECOMMENDATIONS

PART A: ISSUES REQUIRING STATE ACTION

1) REGULATORY REFORM

1a) LITIGATION REFORM

FINDING: A critical component to resource development in the State of Alaska is insuring that development projects, once permitted by the appropriate State Agencies, can proceed without delay. Unfortunately, groups opposed to development routinely file litigation with the sole objective of either preventing or delaying permitted development. Often, the basis for the litigation is without merit. Under Alaska's current law, such groups, regardless of financial resources or membership composition, can routinely qualify as "public interest litigants", in which case there is absolutely no financial downside to them if they lose the litigation. The net result is that there is no disincentive to these groups not to pursue litigation. As a consequence, the State of Alaska as well as industry and developers are forced to defend themselves in lengthy and costly litigation with little chance of recovering any costs or attorney fees even when they prevail in the litigation.

The groups that regularly oppose resource development are not simply concerned citizen groups but more often special interest groups supported financially by national and/or international organizations whose stated mission is resource preservation. The result of these systematic and orchestrated lawsuits filed by purported "public interest litigants" is inhibiting development by escalating development costs, both in terms of real dollars spent on litigation and lost dollars due to delays. Modifying Alaska's existing rules and regulations for proposals where public input and administrative appeal was afforded by eliminating "public interest litigant" status in Administrative appeal decisions and awarding fees and costs to the prevailing party in litigation ensures a level playing field. Likewise, requiring disclosure of funding sources by those who seek to qualify as litigants and/or who seek to file an Administrative Appeal allows those defending the litigation to know the identity of those who are actually supporting the litigation; and the amount of that financial support.

Modification of Alaska's existing "public interest litigant" rules and regulations is not aimed at preventing litigants from pursuing administrative appeals, rather the intent is one of fundamental fairness — ensuring that the identity of those who initiate the litigation are known and that the potential negative consequences of such litigation are borne equally by all parties to the litigation. The objective is not to inhibit meritorious litigation, but rather to inhibit frivolous litigation by ensuring that there is a consequence to those who file and support such litigation.

If responsible resource development is to be promoted and achieved, it is imperative that once development projects are permitted they are not delayed, by individuals, or entities that choose to pursue frivolous litigation. Modifying Alaska's existing rules and regulations regarding "public interest litigants" is critical to promoting and achieving responsible resource development in the State of Alaska.

THE COMMISSION RECOMMENDS THAT:

- 1a.1) Public Interest Litigant Status needs to be limited. The Legislature should modify existing State Statutes to specifically provide for any party bringing a civil action seeking judicial review of Administrative Agency decisions, in which they were afforded an opportunity for public input and administrative appeal, not be awarded "public interest litigant" status. Furthermore, the prevailing party in such civil action shall be entitled to an award of attorney fees and costs as in other civil actions.

- 1a.2) Funding Sources need to be disclosed. The Legislature should modify existing State Statutes to require that a condition of obtaining litigant status and/or of filing an Administrative Appeal, under regulations, is the initial and supplemental disclosure of the identity of those who provide funding to the entity who seeks litigant status and/or initiates an Administrative appeal and the amount of such funds during the past two years and during the term of the Administrative Appeal.

1b) PERMIT EFFICIENCY

FINDING: A key element in marketing Alaska as an attractive and competitive place to do business is the ability to process permit applications in a responsible, consistent and expeditious manner.

In the 2001 legislative session, funding was provided for the Alaska Department of Environmental Conservation (ADEC) to reconstitute the qualified core of water quality permitting staff. Equally important to adequate funding, the agencies need the flexible management tools necessary to provide responsive, effective, and efficient management of permitting issues.

Permitting delays negatively impact business in Alaska. Delays are often due to staffing shortages which creates backlogs for industry project permit review.

To help resolve this problem, ADEC has recently utilized the Department of Natural Resources (DNR) authority for third party contracting through the Large Mine Permit process, and has contracted directly with third party contractors to assist with permit review. ADEC is also planning to select one or more individuals/firms that would be available on-call to provide technical assistance to a permitting team regarding risk assessments and monitoring requirements for National Pollutant Discharge Elimination System (NPDES) discharges, and mixing zones for placer miners.

Supplementing permanent staff during permit development is a positive step that will allow agencies to respond more readily to the intermittent demands associated with industry growth. Further, it will support the limited number of permanent staff personnel via access to the varied technical and scientific expertise required for responsible permitting.

In some circumstances, permitting delay has been characterized by industry as "procedural duress." Industry recognizes that permitting review is an iterative process through discussion and supplementing of relative information, public review, comment and response to comment. However, an unreasonable extension of any of these elements can lead to costly and unnecessary delay. At present there are instances where State requests for additional information, and subsequent time extensions, appear to be based on a partial or cursory review. This results in additional time delay through multiple information requests. Further concern is often

raised regarding extension of public review and comment periods. This practice is detrimental to the agency, to the industry, and ultimately to economic development within Alaska, potentially leading to the loss of millions of dollars in revenue, and related monetary losses in taxes and royalties.

Permitting agencies need to ensure that the permitting process is not unnecessarily extended. Initial permit review should result in a single and complete list of information deficiencies. Additional requests for information should be limited to questions arising out of new information.

The Alaskan industries, agencies, Administration, and Legislature can work together to provide responsible and reliable permitting that ensures the protection of the environment and a sound future. For this to happen, we cannot be complacent in trying to improve permitting efficiency through funding alone. All of the recommendations provided must occur in concert for Alaska to fulfill its potential for sustainable and attractive resource development.

THE COMMISSION RECOMMENDS THAT:

- 1b.1) The Administration must continue to aggressively search for and find means to accommodate the use of third-party contractors who will work under the core managers to provide permit development support on an as-needed basis and extend these efforts to all types of environmental and resource permitting. The Legislature needs to encourage and support the Administration in this effort.
- 1b.2) The Legislature should require a periodic permitting status report accounting for agency staff and management.
- 1b.3) Salary scales for public workers must be improved relative to the private sector in order to retain competent staff.

1c) WATER QUALITY STANDARDS

FINDING: When municipal water treatment plants or industrial projects require water discharge permits, the Department of Environmental Conservation must insure that the proposed discharge will meet the State of Alaska water quality standards for various parameters. Due to the rapidly advancing science on both the potential environmental effects of these parameters and the changing technology for detecting the very low concentrations, the most appropriate numerical criteria for these parameters keeps advancing.

In 1999, the U.S. Environmental Protection Agency (EPA) approved a new list of water quality criteria that updated many of the numerical criteria. The EPA also responded to the environmental science that had developed over the years and replaced the old total recoverable values with new dissolved criteria.

In recognition of this advancing science, the Department of Environmental Conservation proposed revisions to the Alaska water quality standards on August 2, 2002. The public comment period on these proposed changes was completed in October, 2002. These revisions need to be adopted by the State immediately, and forwarded to the EPA for review and approval.

THE COMMISSION RECOMMENDS THAT:

The Governor should instruct the Department of Environmental Conservation to adopt the revisions to the Alaska water quality standards as proposed on August 2, 2002.

1d) MIXING ZONES

FINDING: State water quality regulations that became effective in November 1997 contain a prohibition against mixing zones in anadromous or resident fish spawning areas. This language makes it more difficult to consider site specific conditions, such as the productivity of the spawning area compared to the potential benefit of a municipal waste treatment plant or industrial project that might require a mixing zone. Without flexibility in the regulation, many projects that could significantly improve the health and welfare of people throughout Alaska may be precluded due to the widespread presence of spawning fish, including resident fish. Prior to promulgation of the latest mixing zone regulations, the Alaska Department of Environmental Conservation (ADEC) considered language that could have allowed mixing zones, if either the discharge had no adverse effect on spawning or if all reasonably anticipated adverse impacts were mitigated to the satisfaction of the Department of Fish and Game (ADF&G). This type of discretionary flexibility needs to be incorporated in the regulations so future projects that may be beneficial are not automatically prohibited.

THE COMMISSION RECOMMENDS THAT:

The Governor should direct the Alaska Department of Environmental Conservation and the Alaska Department of Fish & Game (ADF&G) to work with user groups to develop mixing zone regulations that will, at the department's discretion, authorize mixing zones in spawning areas if:

- (a) The discharge is not reasonably anticipated to adversely affect the capacity of the area to support present or future spawning activities; or
- (b) The discharge is reasonably anticipated to adversely affect the capacity of the area to support present and future spawning activities and the ADF&G has approved a plan to mitigate all reasonably anticipated adverse impacts.

1e) ALASKA'S CLEAN WATER ACTIONS

FINDING: In 2001 the Alaska Division of Governmental Coordination (ADGC) began an initiative called the Alaska's Clean Water Actions (ACWA). Members of the Commission expressed concern that ACWA was a new state regulatory program without basis in Alaska law. Further, members were concerned that this 'new program' overlapped other agency programs as well as creating new obligations. Industries or other users of water could be seriously and adversely affected if their business-based use of waters, such as placer mining, became restricted via the ADGC listing of water bodies as "polluted" or "at risk".

Through meetings with ADGC, other resource agencies, miners, and recently with the Minerals Commission, it was clarified that the ACWA initiative is a collaboration among the resource agencies. The collaboration is important to prioritize its water based management functions, to better align the priority work of the state agencies, and to use a ranking mechanism to prioritize

external grant or contract funded in-water field projects. In addition, the agencies report that they refined their ranking and decision making process in response to concerns raised by Commission members about how waters get listed or de-listed as "polluted" or "at risk". Although, the Commission remains cautious until the day-to-day practice becomes more evident, it appears ADGC and the other resource agencies have been responsive to concerns that have been raised. If ACWA actually works as the agencies intend - resulting in cohesive prioritization of water related functions among Fish & Game, Natural Resources and Environmental Conservation - the Minerals Commission would applaud this effort as long overdue efficiency building within state government.

THE COMMISSION RECOMMENDS THAT:

The Governor's office conduct a review of the Alaska's Clean Water Action initiative to ascertain if it can deliver on the promises the Alaska Minerals Commission heard from the agencies. Those promises were to improve efficiency and build a common agreement on the water management priorities of the resources agencies and Alaska Division of Governmental Coordination.

2) ACCESS & INFRASTRUCTURE

The lack of infrastructure, including roads, airports, and power transmission networks, increases the costs of exploration, development, and operation of mineral deposits and limits the potential for this industry to grow and help diversify Alaska's economy.

Many regions of Alaska have experienced significant improvements in their economic opportunities and standard of living when infrastructure improvements were completed.

If there is to be no development in the extensive areas of Alaska that have already been set aside as parks and refuges, then the other areas of Alaska that are not designated as wilderness constitute the land base that must support our society. Even though these non-wilderness areas are often beautiful or wild in their own right, they were not the crown jewels that justified prior withdrawal. Infrastructure development in these areas must be supported and projects that have the potential to significantly enhance the viability of local communities should be encouraged first.

2a) ROADS TO RESOURCES

FINDING: Many of the major mineral and coal deposits in Alaska are "stranded" because there is no road access to the major rivers or to tidewater. The last major road built in the state was the 52-mile road from the Red Dog Mine to the DeLong Mountain Transportation System port near Kivalina in 1988.

Notable areas that could benefit from road access include the Ambler mineral belt, the north-west Arctic and Beluga coalfields, the area around and west of Iliamna, the Flat-Iditarod area, and the Goodpaster mining district.

Although Alaska Statutes AS 19.30.020 and 19.30.030 address development access roads, the funding available, even if inflation adjusted, would probably not even cover the costs of permitting.

During the next few years it is possible that significant funding for access improvement might be available through GARVEE (Grant Anticipation Revenue Vehicle) bonds, the Denali Commission, and special federal appropriations similar to those used in Appalachia.

THE COMMISSION RECOMMENDS THAT:

The Governor direct the Department of Transportation & Public Facilities to prepare a prioritized list of potential "Roads to Resources", and investigate mechanisms whereby funds can be made available in a long-term program to link potential resource development to tidewater.

2b) RESTRICTING THE USE OF MINING AIRSTRIPS

FINDING: In many remote mining camps, the only feasible summer access is by use of an airstrip on, or adjacent to, the mining operation. Unauthorized use of these strips, often by commercial operations, can result in potentially unsafe conditions, and the attendant threat of liability, both to the miner and to the State.

THE COMMISSION RECOMMENDS THAT:

The Governor and the Legislature should direct the Division of Mining, Land & Water to amend the mining regulations so that when an airstrip is required for access to a specific mining operation, the Plan of Operations will allow the permit holder to restrict the use of the airstrip.

2c) POWER SUPPLIES

FINDING: Major mines require substantial power supplies, in the order of 20-50 megawatts (Mw). Any additional processing will increase that demand manyfold.

Many remote mines choose to generate their own power using modular diesel generating sets, but as evidenced by Red Dog, the permitting of on-site generation can become a limiting factor.

An alternative would be to use mines as a "base-load" to justify extending interties and/or building new off-site power plants to slowly extend power-by-wire to many of the remote villages that presently rely upon the Power Cost Equalization funds to reduce the high cost of electrical energy.

Activity at Donlin Creek, Shotgun, and Pebble Copper might justify an intertie from the Cook Inlet area to Bethel and the villages of the Yukon-Kuskokwim Delta. Likewise in southeast Alaska planned interties from Tyee to Ketchikan and from Juneau to Hoonah could provide affordable power to mines and communities.

THE COMMISSION RECOMMENDS THAT:

The Governor and Legislature should continue to support the Alaska Industrial Development & Export Authority/Alaska Energy Authority, Alaska Village Electric Cooperative, and the Southeast Intertie in extending electrical grids into areas where mineral development is occurring or anticipated.

3) STATE'S RIGHTS ISSUES

These issues have been separated because although they are also about ownership and access, both of which are fundamentally important in mineral investment decisions, two of them are not exclusively Alaskan issues, and allow for cooperative efforts with other states at the federal level.

RS 2477 trails may offer the only access across lands in Alaska where ownership patterns have changed and become more complex since statehood. Similarly, navigable waterways can provide the cheapest form of transportation for some mineralized areas, and some are inherently important gold placer deposits.

Western States have as much of a vested interest in RS 2477 access as does Alaska, and all states have an interest in ownership of the riverbeds and watercolumns of navigable rivers and lakes.

3a) RS 2477 TRAILS

FINDING: In 1993 the Legislature appropriated funds for a task force to create an RS2477 trail inventory. Since 1993 there has been no funding to pursue Alaska's RS2477 trails through 'quiet title' action. The Alaska Division of Land has researched 1,950 trails proposed as RS2477 rights-of-way. Of these, 620 routes appear to qualify, about 250 need more information, and the remainder may not qualify due to circumstances such as lack of evidence, duplication of existing rights-of-way, or failure to meet the requirements of the RS2477 law.

The State has achieved Quiet Title to the Harrison Creek – Portage Creek Trail (RST 8) in the Circle Mining District. Because the original trail has been moved many times to accommodate active mining since 1976, (the deadline for identification of existing rights-of-way), the State has entered into a consent decree accepting a mutually agreeable 60-foot right-of-way to substitute for abandonment of portions of the existing trail.

This was one of 11 of the 620 "Qualified" trails that was "Certified" as a test case, and was selected for litigation because it had the broadest potential for setting precedent.

The Department of Law and the Division of Mining, Land & Water require funds for this legal effort to file "quiet title" actions in court to determine the validity of the routes.

THE COMMISSION RECOMMENDS THAT:

- 3a.1) The Legislature should fund a multi-year, multi-agency Capital Project of \$300,000 annually for the Division of Mining, Land & Water to work with the Department of Law and other agencies to aggressively pursue precedent-setting "quiet title" actions, and to preserve the State's rights.
- 3a.2) The Governor should aggressively assert "quiet title" to the routes with the best documentation. Furthermore, the State should assert an access route pursuant to Title XI of the Alaska National Interest Lands Conservation Act to test the process and set a precedent.

3b) NAVIGABILITY

FINDING: State ownership of the beds of navigable waters is an inherent attribute of State sovereignty protected by the United States Constitution.

The State of Alaska owns all watercolumns and the land under most navigable waterways in Alaska. The Submerged Lands Act of 1953, the Alaska Statehood Act of 1958, and the Alaska State Constitution establish State ownership of watercolumns (actual water that is in a lake or river) and shorelands (the beds of navigable rivers). The courts have defined navigable waters as those used or susceptible to use for travel, trade, and commerce at the time of statehood." (Emphasis added).

This interpretation would include not only the obviously navigable waterways such as the Yukon, Kuskokwim, Tanana, Fortymile, and Kobuk Rivers, but many smaller rivers used for travel. Some of the rivers that could be considered navigable, such as Birch Creek and the Fortymile River, contain important placer gold deposits.

While title to the beds of navigable waters vested in the state at Statehood, the federal courts have only ruled on the navigability of 13 waterways in Alaska. Alaska faces two types of legal hurdles in establishing its ownership of lands under navigable waters. The first is to determine what rivers and lakes are navigable under federal law. The second is to establish that the United States did not defeat the state's title to navigable waters through pre-statehood federal reservations. The state has used the court action (quiet title) to address both of these hurdles by defining the types of rivers and lakes that are navigable under federal law, and to determine whether or not certain pre-statehood federal reservations defeated the state's title.

In 1980, the State established a comprehensive navigability program within the Department of Natural Resources (DNR). This program was designed to respond to federal land conveyances and land management activities under the Alaska Statehood Act, the Alaska Native Claims Settlement Act, and the Alaska National Interest Lands Conservation Act. The basic purpose of the program was to protect the public rights associated with navigable waters, including the State's title to the submerged lands. The program also included monitoring of federal land conveyance and management programs to identify navigability disputes, seeking cooperative resolution of navigability problems through negotiation and legislation, and preparing for navigability litigation.

Budget cuts have greatly reduced the ability of State agencies to respond to navigability issues, and to pursue assertions of State ownership of navigable waters.

THE COMMISSION RECOMMENDS THAT:

The Legislature should make funding available to reinstate a centralized, systematic navigability program within the Department of Natural Resources. Additionally, funding should continue to be made available to the Department of Law to support any "quiet title" actions necessary to secure ownership of submerged lands. Further, the state and federal governments should establish more efficient methods for determining what waterbodies are navigable and therefore are state owned.

3c) EXPEDITED LAND TRANSFERS

FINDING: Because of the high mineral potential proximal to existing transportation, in 1994 the Commission recommended that the State should seek expedited transfer of State-selected lands along the Denali Highway.

Subsequently, about 3,000 mining claims have been staked in this area during the last five years for the copper, nickel, and platinum-group element potential, and over \$3 million has been spent in exploration, including detailed airborne geophysical surveys and limited drilling. However, because of the uncertain ownership of State-selected land, the companies involved cannot justify further expensive evaluation of the area.

On October 4th, 2000, the Division of Mining, Land & Water (DMLW) recognized the potential of this block, and requested that 235,000 acres of State-selected land between the Richardson Highway and the Maclaren River be added to the Land Conveyance Priority List (CPL). In June 2002 the State received final Tentative Approval (TA) to 6 of the 10 Townships selected, and the TA to the final 4 Townships was received in December, 2002.

Furthermore, on September 9, 2002, a request was made to add an additional 25 Townships to the CPL. These 576,000 acres are predominantly north of the Denali Highway between the Maclaren and Susitna Rivers.

THE COMMISSION RECOMMENDS THAT:

The Governor and the Legislature should direct the Division of Mining, Land & Water to aggressively pursue expedited transfer of State-selected lands along the Denali Highway where there is demonstrated potential for mineral development.

4) DATA ACQUISITION

Many potential investors in Alaska's mineral industry are discouraged by the lack of detailed geologic information, and choose to invest in areas that have more public data to guide grassroots exploration. Those companies that have been successful in exploration, and identified prospects worthy of development, find that they are expected to fully define the baseline data of the whole area surrounding their discovery, because no such database exists.

4a) GEOPHYSICAL AND GEOLOGICAL MAPPING

FINDING: Since 1993, State-funded airborne geophysical surveys have covered approximately 8,500 square miles of the State of Alaska's 162,500 square mile land entitlement, at a total cost of \$ 3.69 million. Additional funding has been invested by the State to complete the geologic mapping on the ground that is necessary to allow interpretation of the airborne surveys.

An additional \$1.57 million has been invested by the Bureau of Land Management (BLM) and other entities to survey about 3,800 square miles of predominantly federal land in the state.

During this same period, the mining industry has invested \$367 million in exploration in the state, and has staked thousands of new claims based on the results of the surveys.

This increased activity was the intent of the surveys and will accelerate discovery of new Alaskan mineral deposits. However, with a land base of 162,500 square miles, much of it chosen for its mineral potential, it will take the State of Alaska another 150 years to survey its land endowment at the present rate of funding.

The costs for the surveys have increased in recent years due to consolidation in the industry, and increased fuel and insurance costs.

THE COMMISSION RECOMMENDS THAT:

The Governor and the Legislature should invest \$5 million per year (approximately 21% of what industry spent on exploration in 2001) for the next decade, preferably through foundation funding, in airborne geophysical surveys and complementary geological and geochemical surveys.

4b) BASELINE DATA

FINDING: Water quality regulation in Alaska is growing increasingly complex. Often, the Alaska Department of Environmental Conservation (ADEC) is required to make decisions about water quality regulations without Alaska-specific data. Many Alaskans recognize the need to develop sound environmental baseline information. This research should extend to development of appropriate aquatic life criteria for acute and chronic toxicity under Alaska conditions.

THE COMMISSION RECOMMENDS THAT:

The Governor should direct the Alaska Department of Environmental Conservation to work with industry to develop priorities for basic research on topics important to Alaska, such as total dissolved solids and pH.

5) REGIONAL ECONOMIC DEVELOPMENT

FINDING: In many regions of Alaska, mineral development is one of the few sectors that might offer the opportunity for a sustainable economy, to provide family wage jobs, and add significantly to the local tax base (e.g. Red Dog in the Northwest Arctic Borough, Usibelli Coal Mine in the Denali Borough, Fort Knox in the Fairbanks North Star Borough, and Greens Creek in the City & Borough of Juneau).

The following is a specific regional project, which is recommended to stimulate mineral development. If successful, such an integrated approach will have application throughout Alaska.

To stimulate investment by the private sector, the mineral potential, land status, infrastructure, and the constraints on development such as archeological sites or essential fish habitat, should be clearly identified in a GIS (Geographic Information System) database. In addition, communities in southeast Alaska which have been severely impacted by the decline in the timber industry have expressed interest in how they might be able to benefit from the minerals industry.

Based upon the economic deterioration in the region, excellent potential for mineral discovery, and a well-developed infrastructure, good candidates would be Prince of Wales Island, the Duncan Canal/Stikine mining districts, and the Haines region.

THE COMMISSION RECOMMENDS THAT:

The Governor and Legislature should appropriate \$250,000 for a two-year Capital Improvement Project. This project, administered by the Department of Community & Economic Development, would make relevant information available regarding mineral development opportunities in the economically depressed areas around the Porcupine district near Haines, the Duncan Canal and Bradfield regions in the Stikine mining district, and Prince of Wales Island, in a marketing format.

6) EDUCATION AND RESEARCH

6a) AMEREF

FINDING: The "Alaska Resource Kit" which is being used in the statewide public school system, is an excellent program for educating Alaska's students in the issues and fundamentals of resource development. The Kit incorporates technical, economic, and environmental aspects into a balanced program that addresses mineral, timber, and energy development. Future kits will be developed to address our fishing resources as well.

The Program is a cooperative and successful effort between the Department of Education, and the Alaska Minerals and Energy Resource Education Fund (AMEREF).

The Department of Education develops the curriculum and is responsible for its implementation into the school system through funding provided for teacher training.

AMEREF is presently supported by the resource industries. AMEREF funds the production and replacement of teaching materials, ensures the technical accuracy of the material, and organizes and distributes the education kits. AMEREF is looking to expand the program by incurring additional funding through various grant programs.

The program provides a broad-based resource education for Alaska's student's which is critical to their future ability to make well reasoned decisions about the use and protection of Alaska's wealth of natural resources.

THE COMMISSION RECOMMENDS THAT:

The Governor and the Legislature should appropriate \$50,000 to the Division of Teaching and Learning Support, Minerals and Energy Education Program, as the State's share of supporting the Alaska Mineral and Energy Resource Education Fund.

6b) SCHOOL OF MINERAL ENGINEERING

FINDING: The University of Alaska Fairbanks' School of Mineral Engineering offers accredited degree programs for educating mining, geological, and petroleum engineers and conducts applied research through the Mineral Industry Research Laboratory and Petroleum Development Laboratory.

These professional degree and research programs are vital to the continued development of the State's mineral and energy industries, to the jobs and incomes of its residents, and to the public revenues used to support education and other public services.

THE COMMISSION RECOMMENDS THAT:

The Governor and Legislature should provide adequate budgetary support to the UAF School of Mineral Engineering.

7) EXTENDING THE LIFE OF THE MINERALS COMMISSION

FINDING. The charge of the Alaska Minerals Commission is to make recommendations to the Governor and Legislature on ways to mitigate the constraints on the development of the minerals industry in Alaska. The 1986 Act creating the Alaska Minerals Commission has been amended twice to extend its life through February 1, 2004.

Since 1986, several pieces of legislation have passed that have helped foster the recent growth of this important industry (see Executive Summary of this report).

Now more than ever, it is important to diversify the Alaskan economy. The Commission serves to focus the ideas of the many industry volunteers who contribute recommendations, and the annual budget of \$10,000 is a good investment for the State.

THE COMMISSION RECOMMENDS THAT:

The Governor and the Legislature should extend the term of the Alaska Minerals Commission and provide funding through February 1, 2014.

PART B. FEDERAL ISSUES OF STATE CONCERN

B1) MARINE TRANSPORTATION TASK FORCE

FINDING: Requirements of the Jones Act continue to impede reasonable resource development opportunities in Alaska. Originally the Merchant Marine Act of 1920, the Jones Act requires that ships operating within the United States be built at U. S. shipyards, and that they be owned and crewed by Americans. Drafted shortly after World War I, this legislation grew out of the belief that a strong U.S. merchant marine was essential to maintaining the security of our country.

Several recent studies have concluded that the Jones Act impedes commerce in the U.S. and hampers the development of an efficient intermodal transportation system. However, overwhelming support by Congress and carrier industry as recently as 2000 to maintain the Act in its present form resulted in a collapse of any organized efforts to change the law.

The one sector that is clearly under-served due to the Jones Act is bulk carriage. Bulk shipping by ocean is a service practically nonexistent in the domestic market, and commodity shippers such as mineral companies in Alaska seeking new markets for their products are especially affected.

THE COMMISSION RECOMMENDS THAT:

The Governor and Alaska Legislature fund a marine transportation task force. The task force will identify and provide recommendations on key coastwise shipping questions related to transporting bulk resources like rock, sand, and gravel, coal, and other Alaska resources to regional and domestic markets. Associated infrastructure issues would include West Coast port facility support; markets (local, national and international); backhaul opportunities, a listing of available vessels in compliance, and potential solutions within the constraints of the Jones Act.

B2 DETAILED GEOLOGICAL MAPPING

FINDING: Although the U. S. Geological Survey (USGS) has produced many regional geological maps at the 1:250,000 scale, there have been very few bedrock and surficial geologic maps, and almost no engineering geologic maps, produced at the 1:63,360 (1 inch = 1 mile) scale for Alaska. Given that the regional maps are compiled from 1:63,360 maps, it would be very useful if the USGS published more detailed maps, and supplemented existing data with more field mapping programs including surficial and engineering geologic maps

THE COMMISSION RECOMMENDS THAT:

The Governor and Legislature should encourage the Congressional delegation to seek funding for the U. S. Geological Survey specifically for detailed mapping, including surficial and engineering, as well as bedrock geological mapping of the State of Alaska. Such funding should include cooperative programs between the University of Alaska, the Alaska Division of Geological & Geophysical Surveys and the U. S. Geological Survey.

B3) RESOLUTION OF OUTDATED SEGREGATIONS

FINDING: Large tracts of land in Alaska that were "temporarily" withdrawn from public entry more than 30 years ago remain unnecessarily closed. These Outdated Segregations preclude mineral development, deny access to other lands and resources, and prohibit transfer of land selections to the State of Alaska and Alaska Native Claims Settlement Act (ANCSA) corporations.

The land segregations were originally set aside for three primary purposes:

1. Selection and conveyance to ANCSA corporations;
2. Possible inclusion within federal conservation units; and
3. Industrial developments such as alternate candidates for a Trans-Alaska Pipeline corridor.

Until recently, the Bureau of Land Management (BLM) was not motivated or funded to create the land management plans that are required before the land withdrawals can be removed by Congressional action.

In its January 2002 report, the Commission recommended that the Legislature urge the Congressional Delegation to expedite the process of removing the Outdated Segregations. House Joint Resolution No. 48 was drafted for this purpose, and it was passed on June 21, 2002. This resolution appears to have accomplished its intended purpose. The BLM has expressed its support for an accelerated program to address this issue. On November 18, 2002, the BLM Resources Advisory Council (RAC) unanimously passed Resolution 03-01. As a result the BLM RAC will form a working group that will prioritize pilot areas for fast-track resolution. The group will prepare findings and recommendations by May of 2003. The Alaska Minerals Commission applauds the Legislature for its action on this issue.

THE COMMISSION RECOMMENDS THAT:

The Governor and Legislature should direct the Department of Natural Resources to participate, monitor, encourage, and assist the BLM, to the extent necessary and possible, as the federal agency goes about the process of creating land management plans, removing outdated segregations, and completing conveyance of lands to the State and ANCSA corporations.

B4) ESSENTIAL FISH HABITAT

FINDING: Protection of "Essential Fish Habitat" (EFH) is a key component of the 1996 Sustainable Fisheries Act (SFA), which amended the 1976 Magnuson-Stevens Fisheries Conservation and Management Act (MSFCMA).

Under the SFA, eight Regional Fisheries Management Councils develop Fisheries Management Plans for important fish species, and provide this information to the National Marine Fisheries Service (NMFS). The NMFS has defined essential fish habitats very broadly, and throughout the western states has included all waters currently accessible to salmon. All federal agencies involved in any kind of development are required to consult NMFS if their actions "may adversely affect EFHs."

This broad mandate will, at best, slow permitting with a complex consultative process, or in the worst case result in project denial or modifications that effectively prohibit resource development. Thus "Essential Fish Habitat" has the potential to be at least as onerous as the Corps of Engineers 404 "Wetlands" permitting.

THE COMMISSION RECOMMENDS THAT:

The Governor and Legislature should work with the Congressional Delegation to limit the authority of the National Marine Fisheries Service to marine waters, and leave management of anadromous fish within state waters to the Alaska Department of Fish & Game.

B5) ANILCA PROVISIONS

FINDING: In order to assure passage of the Alaska National Interest Lands Conservation Act (ANILCA) in 1980, there were several sections included to protect pre-existing rights. Several provisions would allow mineral development on or near otherwise withdrawn land. Title XI addressed access across the Conservation System Units (CSU). Sections 101d and 1326b assured that no more land in Alaska would be considered for new CSU or similar designations. Sections 103b and 1302h provided mechanisms for the Secretary of the Interior to adjust the boundaries of CSU or to exchange lands within them to exclude mineralized areas.

THE COMMISSION RECOMMENDS THAT:

The Governor and Legislature, through the Attorney General's office, the State's Washington D.C. office, and the Congressional Delegation should insist that the federal administration:

- B5a) Provide access across Conservation System Units (CSU) as required by Title XI of the Alaska National Interest Lands Conservation Act (ANILCA);
- B5b) Prohibit the creation of additional CSU lands in Alaska as required by Sections 101d and 1326b of ANILCA; and
- B5c) Exchange mineralized areas from existing CSU under the authority of Sections 103b and 1302h of ANILCA.

APPENDIX A ENABLING LEGISLATION

CHAPTER 98 SESSION LAWS OF ALASKA, 1986 AS AMENDED BY CHAPTER 12 SESSION LAWS OF ALASKA, 1998

AN ACT

Relating to the Alaska Minerals Commission; and providing for an effective date.

Section 1. (a) The legislature finds that the minerals industries, including metallic minerals, industrial minerals, and hydrocarbons, have traditionally and continue to be the major source of wealth and income in the state.

(b) The legislature further finds that 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, restriction on surface access, complex and numerous permitting requirements, and limited access to minerals through mineral closing orders and restrictions on multiple use through state and federal land use plans.

Section 2. ALASKA MINERALS COMMISSION ESTABLISHED. (a) The Alaska Minerals Commission is established in the Department of Commerce and Economic Development.

(b) The Commission is composed of 11 members. The Commission shall be composed of individuals who have at least five years' experience in the various aspects of the minerals industries in the state. The Governor shall appoint five members of the Commission, one of whom must reside in a rural community. The President of the Senate shall appoint three members of the Commission. The Speaker of the House of Representatives shall appoint three members of the Commission. Each member serves at the pleasure of the appointing authority.

(c) The Commission shall make recommendations to the Governor and to the Legislature on ways to mitigate the constraints, including governmental constraints, on development of minerals, including coal, in the State.

(d) The Commission shall report its recommendations each year to the Governor and the Legislature during the first 10 days of the regular session of the Legislature.

Sec. 3. This Act is repealed February 1, 1994.*

Sec. 4. This Act takes effect immediately in accordance with AS 01.10.070(c)

*Note: The Act was amended to extend the life of the Commission to February 1, 2004.

APPENDIX B

ALASKA MINERALS COMMISSION STATEMENT OF PURPOSE

The Alaska Minerals Commission was created by the 14th Legislature in Chapter 38 of the Session Laws of 1986 and was established to make recommendations to the Governor and to the Legislature on ways to mitigate constraints on the development of minerals in the State.

The minerals industry offers the greatest potential of any Alaska industry for expanding and diversifying the State's economic base; for increasing Statewide employment; and for generating new wealth to create businesses and provide revenues for State and local governments.

However, Alaska has a complex pattern of land ownership and management; has overlapping and uncertain regulatory requirements; has unique geographic, geologic and climatic conditions; and has an undeveloped transportation system.

To attract the capital necessary for the exploration and development of new mines; to ensure that mines can be developed feasibly and in a timely fashion; and to ensure that producing mines remain viable—constraints on the industry must be mitigated.

The Alaska Minerals Commission will prepare reports for the First and Second Sessions of the 15th Legislature and the First Session of the 16th Legislature, recommending to the Governor and to the Legislature the adoption of legislation and the implementation of administrative policy that will best accomplish the statement of policy found in Article VIII, of the Constitution of Alaska:

"It is the policy of the State to encourage the settlement of its land and development of its resources by making them available for maximum use consistent with the public interest."

And the statement of policy found in the President's National Materials and Minerals Report to Congress of April 5, 1982:

"It is the policy of this administration to decrease America's mineral vulnerability by taking positive action that will promote our national security, help ensure a healthy and vigorous economy, create American jobs, and protect America's national resources and environment."

The goals and recommendations of the Alaska Minerals Commission are to assure that the Legislature and the State administration endorse and promote development of a viable mining industry in the State.

APPENDIX C

MINERAL POLICY ACT

Sec. 44.99.110. Declaration of state mineral policy. The Legislature, acting under art. VIII, sec. 1 of the Constitution of the State of Alaska, in an effort to further the economic development of the state, to maintain a sound economy and stable employment, and to encourage responsible economic development within the state for the benefit of present and future generations through the proper conservation and development of the abundant mineral resources within the state, including metals, industrial minerals, and coal, declares as the mineral policy of the state that

- (1) mineral exploration and development be given fair and equitable consideration with other resource use in the multiple use management of state land;
- (2) mineral development be encouraged through reasonable and consistent non-duplicative regulations and administrative stipulations;
- (3) mineral development and the entry into the marketplace of mineral products be considered in developing a statewide transportation infrastructure system;
- (4) mineral development be encouraged through appropriate public information and education, scientific research, technical studies, and the University of Alaska program involvement;
- (5) economic development with respect to the state mineral industry be encouraged with Pacific Rim nations (Sec.1 Ch. 138 SLA 1988).

APPENDIX D

RECOMMENDATIONS IMPLEMENTED

During 2002 several of the recommendations from the January 2002 Alaska Minerals Commission report were effected, or substantial progress was made in their implementation.

- Funding was provided for the airborne geophysical surveys and for Alaska Mineral and Energy Education Fund (AMEREF).
- Several changes in the Water Quality Standards were proposed for implementation by the Department of Environmental Conservation.
- Funding was provided to study the effects of the State assuming primacy for the NPDES (National Pollutant Discharge Elimination System) process.
- Parts of the "Denali Block" were tentatively approved for State ownership.

Since the first report in 1987 there have been numerous implemented recommendations of the Alaska Minerals Commission, including:

- Passage of Alaska Mineral Policy Act (1988);
- Funding for the AMEREF program (1987-2002);
- Funding for the Citizen's Advisory Commission on Federal Areas (1991-1998);
- Addition of the Department of Commerce to the Resource Cabinet (1992);
- Exemption of minerals from municipal in-situ taxation (1992);
- Funding for airborne geophysical surveys (1992-2002);
- Creation of a task force for RS2477 trail inventory (1993);
- Restriction of Mineral Closing Orders (1993);
- Protection for claimants on state-selected land (1994);
- Extending terms of permits when legal impediments prevent use (1994);
- Selection of lands with high mineral potential (1994);
- Passage of the Exploration Incentives Act (1995);
- Passage of the Diminutive Discharge Bill (1995);
- Providing more flexible work hours for miners (1996);
- Allowing coal mines access to the state bonding pool (1996);
- Assertion of RS2477 rights-of-way (1997);
- Legislative Resolution 31 was passed opposing International Parks, World Heritage Sites, and Marine Biosphere Reserves in western Alaska, and supporting the federal American Lands Sovereignty Protection Act (1997);
- Resolution of the Mental Health Lands issue (1997);
- Funding was provided to update equipment in the Recorders Offices (1998);
- Establishment of a rational State water quality standard for arsenic (1998);
- The Alaska Minerals Commission was authorized to continue until February 2004 (1998);
- Baseline water quality studies by the U. S. Geological Survey and the Division of Mining, Land and Water continued in the Fortymile and Goodpaster watersheds (1998-2001);

- The Department of Environmental Conservation (DEC) received funds for a core permitting team (2001);
- Some State-selected lands in the Denali Highway area were tentatively approved for State ownership (2002);
- The DEC proposed necessary changes to the State's Water Quality Standards (2002);
- Funds were appropriated to study the desirability of the State assuming primacy for the NPDES (National Pollutant Discharge Elimination Discharge System) process (2002).
- Funding was provided for the airborne geophysical surveys and for Alaska Mineral and Energy Education Fund (AMEREF), and
- Several changes in the Water Quality Standards were proposed for implementation by the Department of Environmental Conservation (2002).

Obviously the Commission cannot take sole credit for the resolution of many of these issues, but it is encouraging to note the success of Commission recommendations, thanks to the efforts of the Legislators and Governors in recent years.



This publication was released by the Department of Community and Economic Development. Its purpose is to report the findings and recommendations of the Alaska Minerals Commission to the Governor and to the Legislature of Alaska. It was produced at a cost of \$1.40 per copy and printed in Juneau, Alaska. This publication is required by Chapter 98, Session Laws of Alaska, as amended by Chapter 4, Session Laws of Alaska, 1993.

Photo Credit: NovaGold

HB

118

Alaska State Legislature

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Fax: 465-3472
Toll Free (800) 665-2689
Representative_Paul_Seaton@legis.state.ak.us



345 W. Sterling Highway
Suite 102B
Homer, AK 99603
Phone: 235-2921
Fax: 235-4008

REPRESENTATIVE Paul Seaton

District 35

Recommended by the Joint Legislative
Salmon Industry Task Force

Sponsor Statement

CS HB 118 (Fish)

“An Act relating to the transportation and sale of certain commercially caught fish by an agent of a commercial fishing permit holder and to the sale of fish; and providing for an effective date.”

In 1988, the value of Alaska's salmon was worth \$800 million. This year salmon fisherman took home significantly less money, totaling \$150 million. Municipal revenues have dwindled, jobs have been lost, and fishermen are going broke. The economic effects of a failing salmon industry on the rest of the state could be detrimental. The Joint Legislative Salmon Industry Task Force has recognized the plight of Alaska's Salmon fisherman by forwarding to the legislature fourteen different bills and resolutions; House Bill 118 is one of those bills. HB 118 is a tool to help the industry by adding an alternative to cut costs for fisherman. It also creates new possibilities for accessing fresh markets.

HB 118 allows commercial fisherman to transport fish caught by associates to market. Under current law, transporting another person's fish is illegal unless you are a licensed processor or act as a contractor for a licensed processor. HB 118 creates an opportunity for fisherman to work together and consolidate their product for shipment. This simple option may cut down on additional fuel costs and give fisherman the ability to get their fish to market when processors no longer provide tender services.

As aforementioned, current laws limit fishermen's marketing flexibility. Currently, processors buy fish at the dock or send tenders out to the fishing fleet in order to bring fish to market. These special arrangements between fisherman and processors can be costly. HB 118 changes the statute by allowing fisherman to hire their own tender or pool their resources on one boat and transport the fish to market. Under the bill, a person transporting fish would need to have a transporter permit in addition to the currently required fish ticket. Only the fish ticket is used for the final sale of the fish. This arrangement would allow for the fisherman to retain ownership of the fish, while authorizing his/her associate or another vessel to transport and sell his or her fish. In some areas of the state, processors are non-existent. In that case, the transporter flexibility created in this bill may be the only avenue to get fish to market.

HB 118 simply provides an additional tool for fishermen to cut costs and increase quality while creating efficient and productive businesses.

While hearing the bill, the Fisheries Committee made one technical amendment at the request of the Dept of Fish & Game. The technical amendment removed two words, which were deemed unnecessary and only reflected wording left in the bill from previous drafts. The bill moved without objection.

E-Mail: Representative_Paul_Seaton@legis.state.ak.us

Alaska State Legislature

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REPRESENTATIVE Paul Seaton

District 35

Recommended by the Joint Legislative
Salmon Industry Task Force

Sectional Analysis

HB 118

“An Act relating to the transportation and sale of certain commercially caught fish by an agent of a commercial fishing permit holder and to the sale of fish; and providing for an effective date.”

***Section 1.**

- (a) Amends Alaska Statute (AS) 16.05 by adding a new section, AS 16.05.671, which allows for the transportation and sale of a fish as an agent of a commercial fisherman. Under this new section, the agent/transporter must be permitted to be a transporter by the commissioner of ADF&G.
- (b) Authorizes the commissioner to officially permit a person to conduct the activity of transporting another fisherman's fish.
- (c) Describes the process in which a transporter must acquire and maintain proper documentation to act as a transporter.
- (d) Describes the process in which a commercial fisherman shall provide a fish ticket to the transporter.
- (e) Allows a commercial fisherman to act as a fish transporter with proper documentation and continue to operate, selling his/her own fish as a commercial fisherman.
- (f) Allows the commissioner to adopt regulations relating to the permitting of transporters and to the act of transporters.

(g) Defines ownership of the fish being transferred to the transporter, which are still the property of the fisherman who caught the fish until sold to a buyer.

(h) Defines the term "fish" as it relates to this bill.

***Section 2.**

Amends AS 16.675(a) by allowing a permitted transporter to deliver fish in the state.

***Section 3.**

Amends AS 16.05.680 by adding a fish transporter to one of the exemptions for unlawful practices with regards to purchasing of fish.

***Section 4.**

Adds the definition of a "fish transporter" by amending AS 16.05.940, fish & game code.

***Section 5.**

Amends AS 16.10.265(a) by including a fish transporter as a person from whom fish can be purchased.

***Section 6.**

Includes a fish transporter under AS 16.10.267(b) as a person required to show identification if asked to do so by a peace officer.

***Section 7.**

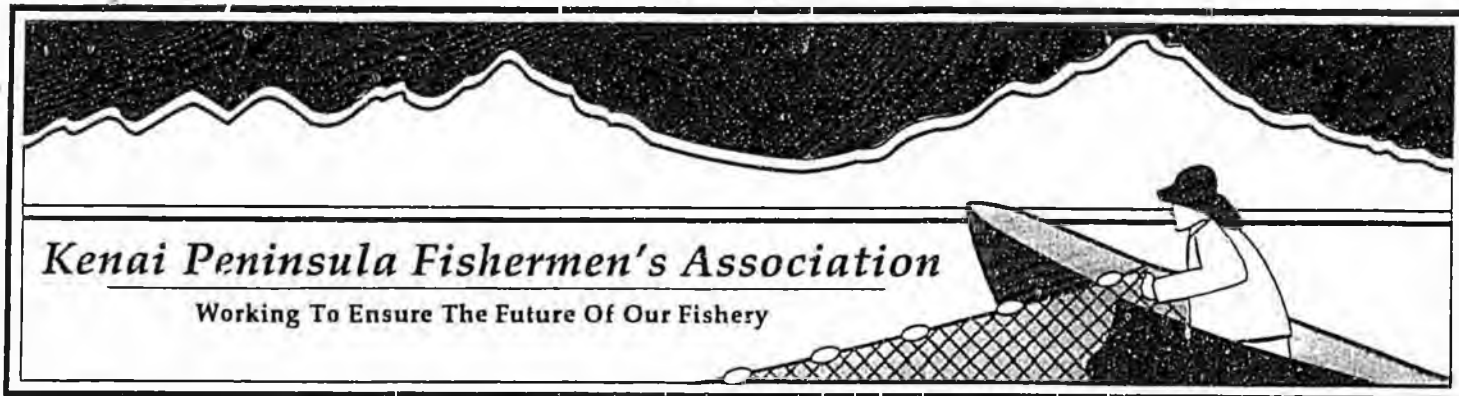
As it relates to examples of identification, a fish transporter is included under AS 16.10.267(c) as referenced in Section 6.

***Section 8.**

Amends AS 16.10.267 by adding a new subsection (e), which requires the fish transporter to carry a transporter permit, a completed fish ticket for the fish being transported, and a personal piece of identification.

***Section 9.**

(The Effective Date) This act takes effect immediately under AS 01.10.070(c).



43961 Kalifornsky Beach Road • Suite E • Soldotna, Alaska • 99669
(907) 262-2492 • Fax: (907) 262-2898 • E Mail: kpfa@alaska.net

Testimony given to the House Special Fisheries Committee on HB 118 (2-28-03)

February 28, 2003

My name is Paul Shadura, I reside on the Kenai Peninsula and represent the Kenai Peninsula Fishermen's Association.

We support the adoption of *hb 118* although we feel that it stops short of addressing the regulatory impediments on the Cook Inlet set-net fishery. We believe that if this bill is to truly allow efficiency and higher productivity, this bill should address other changes in the delivery and reporting requirements.

Currently, commercial set-net fishermen in CI are fined several thousand dollars for doing what they have practiced for several years. We have operated a form of *co-operatives* in Cook Inlet for many years. They are comprised of family and extended family or groups of small businessmen who have pooled their resources to reduce costs and accommodate individual situations.

Currently, a set-net fishermen cannot have his wife or other crewmember of his or her operation deliver their salmon to market. They must stop fishing, stop picking their nets and drive to wherever their market is. Considering that many times that openings for set-net fleet are 24 hrs. or are near 24 hrs, there leaves little time to repair or prepare for the next opening or sleep.

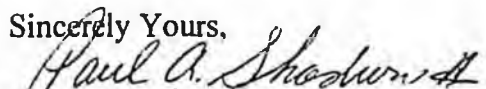
This is counter productive for the quality efforts that we are attempting with our branding program within Cook Inlet.

We strongly object to the CFEC position on the need for individual fish ticket reporting. It is apparent that the operations of set-net fishing in Cook Inlet is not fully understood.

And with this last statement, I will stop here.

Thank You Chairman Seaton and other members of the fisheries committee,

Sincerely Yours,


Paul A. Shadura II
President and Acting Ex. Director
Kenai Peninsula Fishermen's Association

Kenai Pen. Fish. Assoc.

Subject: hb118 comments from NPFA

Date: Thu, 27 Feb 2003 21:21:54 -0900

From: Buck Laukitis <magicfish@xyz.net>

To: "rep.paul.seaton" <rep.paul.seaton@legis.state.ak.us>

February 27, 2003

House Fisheries Sub- Committee

Dear Representative Seaton,

The North Pacific Fisheries Association in Homer met earlier this week to discuss House Bill No. 118. Our group supports this bill. We feel that it will solve a number of problems fishers face in remote locations. This bill will allow fishermen to save costs by consolidating fish to be transported to primary processors. We feel that, if enacted, this bill would have an immediate positive effect for fishermen this summer. We feel that this is a well thought out and well researched bill that has no downside.

Allow me to give you an example of two scenarios where this bill would work. Often times I am fall fishing for coho salmon on the Alaska Peninsula when the local processor will stop sending a tender after a certain date even though the fish are still available. The cost of the tender is too high for the volume of fish being caught or the processor is busy doing pollock. That means that every night 3-8 boats must run to King Cove to deliver if they wish to sell their catch. With current coho prices of \$.15/lb., losing the tender usually means the fishing boats leave the grounds and the resource goes unharvested. Under current regulations each boat must run in to deliver. Sometimes boats that aren't catching much try to hold over their fish for a second day which is detrimental to quality. Under this act I would be allowed to consolidate say three or four of my fishing friends' catch onto my refrigerated seawater boat on the grounds and run them in to the market. Perhaps the next night another boat would provide that service and I could get a night's sleep. The savings in fuel and effort would potentially make the difference between ending the season, versus fishermen and processors continuing to utilize the salmon resources.

Another situation I have faced where this act may help is during the statewater cod fishery on the Alaska Peninsula. Last year the cannery had a three day back-up after the season closed. That means that we had to wait for three days from the closure time to get our fish delivered. A better quality fish could be delivered for a higher price if three 58 foot cod pot boats could consolidate their catch (say 100,000 pounds) and send one boat to Kodiak where the price last year was over 33% higher per pound than the King Cove market.

We hope that this bill will move through the legislative process so that we can utilize these advantages in the upcoming season.

Sincerely,
Buck Laukitis
President, NPFA
Homer, Alaska

Cordova District Fishermen United

Celebrating 65 Years of Service to Commercial Fishermen in Cordova, Alaska
P.O. Box 939 Cordova, Alaska 99574 / phone (907) 424-3447 / fax (907) 424-3430 /
e-mail cdfu@ptialaska.net

February 27, 2003

House Special Committee on Fisheries
c/o Representative Paul Seaton, Chair
State Capitol, MS 3100
Juneau, AK 99801-1182

SENT VIA FACSIMILE TO 907.465.3472

Dear Members,

Cordova District Fishermen United (CDFU) represents the commercial fishing fleets of Area E—Prince William Sound and the Copper River.

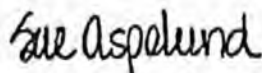
CDFU supports the increased flexibility to respond to change circumstances in our fisheries that HB 118 provides. The seafood industry is rapidly evolving in response to a changing global marketplace; this legislation provides another tool in the box that can be utilized.

Full accountability of resource harvests to ADF&G is very important to CDFU and we understand the imperative of assuring accurate and timely reporting to responsive management of the fisheries. We therefore appreciate that as per subsection (f), ADF&G may not always be able to allow utilization of transporter permits because of existing regulations that have evolved out of special circumstances within specific fisheries. Subsection (f) is very appropriate and we acknowledge its necessity.

We are concerned about enforceability, and look forward to hearing the comments of Fish & Wildlife Protection as to how this legislation might affect their ability to monitor harvests. We are concerned about the potential for harvest abuses that this system may enable.

We look forward to being a part of the discussions as this bill moves through the process and urge your positive consideration of it.

Sincerely,



Sue Aspelund
Executive Director

The Child Support Enforcement Division offers the following observation regarding HB 118, and suggests a minor amendment.

This legislation creates a new occupational permit (fish transporter permit) of the type included in AS 25.27.244(s)(2)(A), which is the statute that lists state permits and licenses subject to action if the holder is delinquent in child support payments.

For clarity, the Child Support Enforcement Division suggests that this legislation be amended to include the following addition to the child support licensing statute AS 25.27.244(s)(2)(A)(xvii): *Fish transporter permit under AS 16.05.671(a)*. This would clarify that the permit envisioned by this legislation is specifically added to the list.

Subject: Support HB 118

Date: Fri, 28 Feb 2003 08:54:14 -0800

From: "Rich and Sonja Corazza" <cor@xyz.net>

To: Paul Seaton <rep.paul.seaton@legis.state.ak.us>

To Whom it may concern,

This letter is in support of HB 118. Transporting Salmon.

My name is Richard Corazza, I am one of ten PWS salmon seiners who made up the fleet for Sea Hawk Seafoods of Valdez. Last year we fished as a cooperative. At times we saved tender costs by putting several boats catches onto to one seine boat and headed for the processing plant. In our roe stripping operations some of our boats caught the fish, some processed the roe and several of the boats hauled the carcasses to town. This made a very efficient operation and cut costs considerably.

We didn't realize that this was illegal.

HB 118 would allow us to operate efficiently and legally.

Thank you, Richard Corazza
Box 1320
Homer, Alaska 99603

Subject: HB 118 SUPPORT

Date: Fri, 28 Feb 2003 16:39:43 -0700

From: "ERIC ENGBRETSSEN" <etengbtsn@worldnet.att.net>

To: <rep.paul.seaton@legis.state.ak.us>

To Whom it may concern,

This letter is in support of HB 118. Transporting Salmon.

My name is Eric Engebretsen, I am one of ten PWS salmon seiners who made up the fleet for Sea Hawk Seafoods of Valdez. Last year we fished as a cooperative. At times we saved tender costs by putting several boats catches onto to one seine boat and headed for the processing plant. In our roe stripping operations some of our boats caught the fish, some processed the roe and several of the boats hauled the carcasses to town. This made a very efficient operation and cut costs considerably.

We didn't realize that this was illegal.

HB 118 would allow us to operate efficiently and legally.

Thank you,

Eric Engebretsen
Box 534
Homer, Ak
99603

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STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

BOARDS SUPPORT SECTION

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 25520
JUNEAU, AK 99802-5520
PHONE: (907) 465-4110
FAX: (907) 465-6094

January 23, 2003

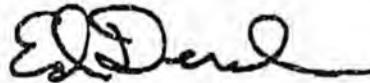
The Honorable Paul Seaton
Alaska House of Representatives
State Capitol, Room 428
Juneau AK, 99811

Dear Representative Seaton:

I would like to express my support for the concepts contained in your draft legislation regarding fish transporter issues.

As you know, we have four new members on the Alaska Board of Fisheries and began a long series of regulation meetings on January 20, immediately after appointment of the new members. As soon as our agenda allows, it is my intent to bring the fish transporter bill to the attention of the full board to ask for a resolution of support. I look forward to the Board of Fisheries, Department of Law, and Department of Fish and Game working with the legislature to find statutory and regulatory solutions to the problems your bill addresses.

Sincerely,



Ed Dersham
Chair, Alaska Board of Fisheries

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 118(FSH)
(H) Publish Date: 3/3/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
Title Relating to the transportation and BRU Commercial Fisheries
sale of commercially caught fish Component Headquarters - Fisheries Management
Sponsor Representative Seaton
Requester House Fisheries Component No. 2171

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

POSITIONS	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Robert D. Mecum, Director
Division: Commercial Fisheries Division
Approved by: Kevin C. Duffy, Acting Commissioner
Agency: Department of Fish and Game

Phone 465-4210
Date/Time 2/26/03 5:52 PM
Date 2/26/2003

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 118(FSH)
(H) Publish Date: 3/3/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title "An Act relating to the transportation and sale BRU Criminal Division
of certain commercially caught fish by an agent of a . . ." Component Criminal Appeals/Special Litigation
Sponsor Representative Seaton by Request
Requester House Fisheries Committee Component No. 2203

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill establishes a fish transporter permit system that authorizes a permittee to transport and sell commercially taken fish as the agent of the commercial fisherman who caught the fish. Permits would be issued by the Department of Fish and Game. Purchasing fish from a person who does not hold the permits specified in AS 16.05.680 or a fish transporter permit is an unlawful act. Under AS 16.05.723, unlawful acts can be misdemeanors.

Whether passage of this legislation will have a fiscal impact on the Criminal Division depends on the number of new prosecutions that result. Without additional experience, however, we have no way of estimating how many new cases there will be, and must state an indeterminate fiscal impact.

Prepared by: Joan M. Kasson Phone (907) 465-5370
Division Attorney General's Office Date/Time 2/26/03 4:36 PM
Approved by: Kathryn Daughhetee for Gregg D. Renkes, Attorney General Date 2/26/2003
Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 118
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title "An Act relating to the transportation a BRU Fish and Wildlife Protection
sale of commercially caught fish . . ." Component Enforcement
 Sponsor Representative Seaton
 Requester House Resources Component No. 490

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Captain Howard Starbard Phone 269-5589
 Division Fish and Wildlife Protection Date/Time 3/10/03 8:24 AM
 Approved by: Commissioner William Tandeske Date 3/10/2003
 Agency Department of Public Safety



UNITED FISHERMEN OF ALASKA

March 10, 2003

211 Fourth Street, Suite 110
Juneau, Alaska 99801-1172
(907) 586-2820
(907) 463-2545 Fax
E-Mail: ufa@ufa-fish.org
www.ufa-fish.org

Representative Hugh Fate
Chair
House Resources Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Dear Representative Fate,


RE: HB 118 Transportation of Commercial Fish

United Fishermen of Alaska supports HB 118.

When this bill is enacted it will help reduce harvesters' operating costs and improve the economic viability of some of our fisheries.

Your consideration of our position is appreciated.

Sincerely,


Thomas M. Gemmell
Executive Director

Copy: Senator Ben Stevens
Senator Gary Stevens
Representative Paul Seaton
Representative Peggy Wilson

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Draggors Association • Alaska Longline Fishermen's Association • Alaska Trollers Association • At-sea Processors Association • Bristol Bay Reserve
Chignik Regional Aquaculture Association • Chignik Seiners Association • Concerned Area "M" Fishermen • Cook Inlet Aquaculture Association • Cordova District Fishermen United
Crab Rationalization and Buyback Group • Douglas Island Pink and Chum • Groundfish Forum • Kenai Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association
Kodiak Seiners Association • North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association • Old Harbor Fishermen's Association
Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association • Seafood Producers Cooperative
Southeast Alaska Regional Dive Fisheries Association • Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association
United Cook Inlet Drift Association • United Salmon Association • United Southeast Alaska Gillnetters • Western Gulf of Alaska Fishermen

Cordova District Fishermen United

Celebrating 65 Years of Service to Commercial Fishermen in Cordova, Alaska
P.O. Box 939 Cordova, Alaska 99574 / phone (907) 424-3447 / fax (907) 424-3430 /
e-mail cdfu@ptialaska.net

March 10, 2003

House Resources Committee
c/o Representative Hugh Fate, Chair
State Capitol, MS 3100
Juneau, AK 99801-1182

SENT VIA FACSIMILE TO 907.465.3883

Dear Members,

Cordova District Fishermen United (CDFU) represents the commercial fishing fleets of Area E—Prince William Sound and the Copper River.

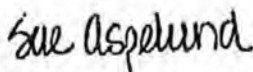
CDFU supports the increased flexibility to respond to change circumstances in our fisheries that HB 118 provides. The seafood industry is rapidly evolving in response to a changing global marketplace; this legislation provides another tool in the box that can be utilized.

Full accountability of resource harvests to ADF&G is very important to CDFU and we understand the imperative of assuring accurate and timely reporting to responsive management of the fisheries. We therefore appreciate that as per subsection (f), ADF&G may not always be able to allow utilization of transporter permits because of existing regulations that have evolved out of special circumstances within specific fisheries. Subsection (f) is very appropriate and we acknowledge its necessity.

We are concerned about enforceability, and look forward to hearing the comments of Fish & Wildlife Protection as to how this legislation might affect their ability to monitor harvests. We are concerned about the potential for harvest abuses that this system may enable.

We look forward to being a part of the discussions as this bill moves through the process and urge your positive consideration of it.

Sincerely,



Sue Aspelund
Executive Director

To the members of the House Resources Committee

To whom it may concern,

I am a salmon set-netter at the south end of Kodiak Island. I don't have to tell you the problems for us salmon fishermen the last decade. Unfortunately for us in our area we are also suffering from weakened runs and hopefully they will have strengthened by the time the markets turn around which I feel they will in time especially with some help from our legislators.

In the meantime I still need to feed my family and branching out into different fisheries looks like the only way I can still maintain the family bush fishing lifestyle and make a living. With the close of the CWF Alitak plant I have probably lost my halibut market as we only have a skiff fishery with my children as my crew running the fish 130 miles to town (Kodiak) is not feasible or safe.

It looked like the Dungeness crab fishery was going to be our savior but unfortunately because of beauracratc red tape the troopers won't allow the dungies to be tendered by aanother boat fishing dungies. With the few pots I can buy it wouldn't be economically feasible to hire a tender for just our crabs but it would work for one of the other larger boats already in the fishery to run the crab to town.

When I spoke with both the Alaska State Troopers (brown shirts) and ADF&G here in Kodiak they both saw no real reason why I shouldn't be allowed to send Dungeness crab to town on another fishing boat except that it was against regulations. When I saw your House Bill 118 it seemed the answer to our prayers.

I know that ours is just one small voice but it would help our family survive these tough times if you could add the Kodiak Dungeness fishery to your transporter bill. House Bill 118

Thank you,

Rick Ellingson

Box 633

KODIAK AK

(907)486-5050

SNUGCOVE@alaska.com

To the members of the House Resources Committee

To whom it may concern,

I am a salmon set-netter at the south end of Kodiak Island. I don't have to tell you the problems for us salmon fishermen the last decade. Unfortunately for us in our area we are also suffering from weakened runs and hopefully they will have strengthened by the time the markets turn around which I feel they will in time especially with some help from our legislators.

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I know that ours is just one small voice but it would help our family survive these tough times if you could add the Kodiak Dungeness fishery to your transporter bill. House Bill 118

Thank you,

Rick Ellingson

Box 633

KODIAK AK

(907)486-5050

SMUGCOVE@alaska.com

HB

139

Representative Mike Hawker

Alaska State Legislature



Session:

State Capitol
Juneau, AK 99801
907 465-4949 direct
800 478-4950 toll free
907 465-4979 fax

Interim:

716 W 4th Avenue
Anchorage, AK 99501
907 269-0244 office
907 269-0248 fax

Member:

House Finance Committee
Legislative Budget
& Audit Committee

House District 32:

Eagle River
Anchorage
Rainbow
Indian
Bird
Girdwood
Portage
Whittier
Sunrise
Hope

House Bill 139 Sponsor Statement

House Bill 139 would approve the interim classification in Mineral Closing Order No. 593, Amendment 3. This closing order was reaffirmed by the Commissioner of the Department of Natural Resources last year to close state land in the upper Glacier Creek and Winner Creek drainages near Girdwood to new mineral entry for another ten years. The proposed closure area is 5,740 acres.

For the closure order to remain effective, the legislature must approve its extension by the ninetieth day of session or April 20, 2003. If it is not approved by the ninetieth day, the order will expire.

The purpose of the closure is to allow development plans to move toward development of additional ski facilities. Previous studies have documented the area's terrain as having some of the finest alpine skiing conditions in North America. During the ten-year closure period, the Heritage Land Bank will be looking for solutions that begin this commercial development.

If development does not begin within the ten-year timeframe, the area will reopen to mineral entry on April 3, 2012. If development does begin before April 3, 2012, the land shall remain closed to mineral entry.

The Department of Natural Resources Geologists have concluded that the area has a low potential for economic development in regards to locatable minerals. The area has been primarily identified for recreational mining activities, which are not prohibited under the mineral closing order.

THE
FOLLOWING
DOCUMENT(S)
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ORIGINAL
COPIES



ALASKA MINERS ASSOCIATION, INC.

3305 Arctic Blvd #202 Anchorage, Alaska 99503 • (907) 563-9229 • FAX: (907) 563-9225 • www.alaskaminers.org

March 11, 2003

Honorable Hugh Fata
Chairman
House Resources Committee
Capitol Building
Juneau, AK 99801

RE: HB-139, Closing Areas of Glacier Creek and Winner Creek near Girdwood

Dear Representative Fata,

I am writing in support of a proposed Committee Substitute to House Bill 139. This Bill will approve a mineral closure on certain lands within the Glacier Creek and Winner Creek drainages near Girdwood. This closure is reasonable and appropriate to support development of an expanded ski area.

The proposed Committee Substitute conforms the bill with the mineral closure that was previously published by the Department of Natural Resources. The mineral closure properly requires that, if the recreational development does not occur within 10 years, the mineral closure goes away automatically. Our concern is that lands not be permanently closed to mineral entry in the case that the ski area is not developed.

We support passage of HB-139 as amended by the Committee Substitute.

Sincerely,

Steven C. Borell, P.E.
Executive Director

cc: Honorable Mike Hawker

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

- 400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1788
PHONE: (907) 485-2400
FAX: (907) 485-3828
- 530 WEST 7TH AVENUE, SUITE 1400
ANCHORAGE, ALASKA 99501-3650
PHONE: (907) 269-6431
FAX: (907) 269-6916

March 3, 2003

The Honorable Mike Hawker
House of Representatives
State Capital
Juneau, Alaska 99801-1182

RE: Glacier/Winner Creek

Dear Representative Hawker:

I wanted to take this opportunity to express the Department of Natural Resources' (DNR) full support for HB 139 which would temporarily close the Glacier-Winner Creek area in Girdwood to mineral entry. This area has long been recognized as prime for the development of a new alpine ski area: a complement or addition to the existing Alyaska Resort. The closure is key to preserving the marketability of the property as a future ski facility.

In the early 1990's, DNR selected the land for this purpose from the United States Forest Service. The Municipality of Anchorage expended \$395,000 purchasing federal mining claims so that the land could be conveyed to DNR which, in turn, reconveyed much of it to the Municipality. In 1992, DNR instituted a 10-year mineral closure for 5,740 acres in question. Of that amount, approximately 1,000 acres belongs to the Municipality (primarily the base area), and the remainder to the state (the upper slopes). The 10-year term was to give the resort a chance to develop but to ensure that if the resort never developed, the mineral values would not be lost. The mineral closing order was to sunset in April 2002.

Though it is true that no proposals or development has occurred within the proposed area since 1992, recently there has been a resurgence of interest in expanding the ski facilities. The Municipality of Anchorage is preparing to re-market the property and has approached DNR to work with it to update the feasibility study, and a Request for Proposals for the ski area itself. The proposed ten year term of the mineral closure is appropriate due to the complex nature of this multi-year development project, the need for certainty by developers and financial institutions in seeking financing, and the time is needed by the Municipality and developers to market and develop a final proposal.

"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."

Rep. Hawker
March 3, 2003

In 1994, the legislature amended AS 38.05.300. The revised statute provides that a mineral closing order greater than 640 acres expires unless approved by the legislature before the 90th day of the session. DNR extended the MCO for another 10 years, until April 2012, pending legislative approval. Passage of your bill would provide that needed approval.

The proposal is also supported by the Municipality of Anchorage, the Girdwood Board of Supervisors, and Alyeska Sid Resort's parent company.

Sincerely,



Thomas E. Irwin
Commissioner

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 6, 2003

SUBJECT: House Bill 139 (Work Order No. 23-0644\H)

TO: Representative Mike Hawker
Attn: Sara Wright

FROM: Kathryn L. Kurtz *KK*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. States that the purpose of the act is to approve the interim classification contained in Mineral Closing Order No. 593, Amendment No. 3, issued by the Commissioner of Natural Resources. Finds that the Glacier Creek and Winner Creek Drainages hold significant potential for development of a new four seasons resort in Girdwood, and that closure of those areas to new mineral entry for a ten year period will reserve the land and provide a timeframe for resort development.

Section 2. Closes approximately 5,740 acres in the Glacier Creek and Winner Creek drainages to new mineral entry.

Section 3. Repeals section two of the Act, effectively reopening the 5,740 acres in the Glacier Creek and Winner Creek drainages to new mineral entry.

Section 4. Provides that the repeal in section three of the closure in section two will take effect unless the commissioner of natural resources certifies on or before April 2, 2012 that development of a resort has begun in the closed area.

Section 5. Gives an effective date of April 3, 2012 for the repeal of the closure, if that repeal takes effect under the condition in section four.

Section 6. Gives an immediate effective date for the rest of the Act.

KLK:med
03-257.med

Sec. 38.05.300. Classification of land.

(a) The commissioner shall classify for surface use land in areas considered necessary and proper. This section does not prevent reclassification of land where the public interest warrants reclassification, nor does it preclude multiple purpose use of land whenever different uses are compatible. If the area involved contains more than 640 contiguous acres, state land, water, or land and water area may not, except by act of the state legislature, (1) be closed to multiple purpose use, or (2) be otherwise classified by the commissioner so that mining, mineral entry or location, mineral prospecting, or mineral leasing is precluded or is designated an incompatible use, except when the classification is necessary for a land disposal or exchange or is for the development of utility or transportation corridors or projects or similar projects or infrastructure, or except as allowed under (c) of this section.

(b) [Repealed, Sec. 35 ch 126 SLA 1994].

(c) Notwithstanding (a)(2) of this section, if the commissioner considers it necessary and proper, the commissioner may provide by order for an interim classification that precludes, or designates as an incompatible use, mining, mineral entry or location, mineral prospecting, or mineral leasing. Within 10 days after the convening of each regular legislative session, the commissioner shall transmit to the legislature for consideration all the interim classification orders issued under this subsection during the preceding calendar year. Unless the legislature approves by law an interim classification contained in an order transmitted under this subsection, that order expires on the 90th day of that legislative session or upon adjournment of that session, whichever occurs first. Approval by the legislature of an interim classification satisfies the requirement of (a) of this section for an act of the state legislature.

23-LS0644V
Kurtz
3/11/03

CS FOR HOUSE BILL NO. 139()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE HAWKER

A BILL

FOR AN ACT ENTITLED

1 **"An Act approving an interim classification by the commissioner of natural resources**
2 **closing certain land within the Glacier Creek and Winner Creek drainages to new**
3 **mineral entry; and providing for an effective date."**

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

5 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 **PURPOSE.** The purpose of this Act is to approve the interim classification contained
8 in Mineral Closing Order No. 593, Amendment No. 3, issued by the commissioner of natural
9 resources to close state land in the upper Glacier Creek and Winner Creek drainages near
10 Girdwood to new mineral entry. The legislature finds that the Glacier Creek and Winner
11 Creek drainages hold significant potential for the development of a new four season resort in
12 Girdwood. The legislature further finds that closure of the state-owned mineral estate of the
13 upper Girdwood Valley to new mineral entry for a 10-year period will reserve this land for the
14 new project and provide a specific timeframe for resort development to begin as provided in

L

1 state and Municipality of Anchorage land use plans. If development does not begin within
2 this 10-year timeframe, the area is to reopen to mineral entry on April 3, 2012, as provided in
3 Mineral Opening Order No. 603, Amendment No. 3. If development begins before April 3,
4 2012, Mineral Opening Order No. 603, Amendment No. 3, shall be terminated, in whole or in
5 part, and the land shall remain closed to mineral entry.

6 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 MINERAL ENTRY CLOSURE. Under AS 38.05.300(c), and subject to existing
9 valid rights, the following described state-owned land in the Glacier Creek and Winner Creek
10 drainages, totaling approximately 5,740 acres, is closed to new mineral entry:

11 Township 10 North, Range 2 East, Seward Meridian

12 Sections 1-3: All

13 Section 4: N1/2NE1/4 east of Crow Creek Road, and those portions of

14 SE1/4NE1/4 and E1/2SE1/4 within the Chugach National Forest

15 Section 9: E1/2NE1/4NE1/4 within the Chugach National Forest

16 Section 10: N1/2N1/2, N1/2NE1/4SE1/4NW1/4, N1/2SW1/4NE1/4,

17 SE1/4SW1/4NE1/4, SE1/4NE1/4, N1/2NE1/4SE1/4,

18 E1/2SW1/4NE1/4SE1/4, SE1/4NE1/4SE1/4, NE1/4SE1/4SE1/4

19 Section 11: All

20 Township 10 North, Range 3 East, Seward Meridian

21 Section 6: N1/2, N1/2SW1/4

22 Township 11 North, Range 2 East, Seward Meridian

23 Section 33: SE1/4SE1/4 All land lying southeast of Crow Creek Road

24 Section 34: SW1/4 All land lying east of Crow Creek Road, SE1/4; excluding

25 mining claim recordations AA 56282 and AA 56283 and U.S. Survey 11872

26 Section 35: All, excluding the N1/2NE1/4, NE1/4NW1/4

27 Section 36: All, excluding the NW1/4NW1/4

28 Township 11 North, Range 3 East, Seward Meridian

29 Section 31: All

30 Section 32: W1/2

31 * **Sec. 3.** Section 2 of this Act is repealed.

1 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 **CONDITIONAL EFFECT.** Section 3 of this Act takes effect unless the commissioner
4 of natural resources certifies to the governor and the revisor of statutes on or before April 2,
5 2012, that development of a resort as described in sec. 1 of this Act and as provided in state
6 and Municipality of Anchorage land use plans has begun in the area closed to mineral entry
7 by sec. 2 of this Act.

8 * **Sec. 5.** If sec. 3 of this Act takes effect under sec. 4 of this Act, it takes effect April 3,
9 2012.

10 * **Sec. 6.** Except as provided in sec. 5 of this Act, this Act takes effect immediately under
11 AS 01.10.070(c).

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF MINING, LAND AND WATER

FRANK H. MURKOWSKI, GOVERNOR

550 W. 7th Ave., Suite 1070
Anchorage, Alaska 99501-3579

PHONE (907) 269-8600
FAX (907) 269-8904

March 10, 2003

The Honorable Mike Hawker
House of Representatives
State Capitol,
Juneau, Alaska 99801-1182

Dear Representative Hawker:

You asked us to describe the potential economic loss of the mineral value due to the mineral closure proposed for Glacier/Winner Creek area in Girdwood as part of HB 139.

Summary

Though the Mineral Closing Order (MCO) addresses all locatable minerals, the only economic mineral known to be present within the subject area is gold. The gold is located in placer deposits within and along the local creek drainages including Crow, Winner and Glacier Creeks. These placer deposits, however, are currently classified as low potential for economic development due to the low amounts of gold present in assay samples, the extensive historical mining that occurred over the last century, and the limited accessibility of most of the area.

History of Mining Activities in the Glacier Valley

Placer gold was discovered in Crow and Winner Creek in 1896, and mining began in about 1898. Though a minor production of placer gold was realized from activities in Winner Creek, the focus of mining activity was centered on the Crow Creek drainage (outside of the current MCO). Historically, a modest 42,500 ounces of placer gold were produced from Crow Creek (using both placer and lode mining methods), while only 400 ounces were recovered from Winner Creek. There was no documented production from Glacier Creek during that time. The original mining claims in Winner and Glacier Creeks were abandoned sometime during the middle of the last century.

The land remained abandoned until most recent mining claims were staked on federal land in 1985 and 1986. Approximately 135 federal claims were staked within the MCO area, though a portion of these claims overlapped each other. In total about 1,800 acres were staked within the area covered by the MCO. Between 1985 and 1991 these claims remained underdeveloped. The federal claims were used as recreational placer sites. There is no documented production, no royalty, and only annual labor assessments were completed and annual record log fees paid. There were no valid state mining claims filed on these lands as the original MCO was issued before the land was acquired by the state.

In the early 1990's, DNR selected the land within the MCO area from the United States Forest Service for the Municipality of Anchorage. The municipality wanted to expand alpine ski facilities

and opportunities in this area. In 1991, the Municipality of Anchorage purchased these federal mining claims within the subject area, including all 135 contained within the MCO. The Municipality purchased the claims so that BLM could convey the land to DNR which, and in turn, reconveyed much of it to the Municipality.

At the time of acquisition in 1992, DNR instituted a 10-year mineral closure for the area in question. Of that amount, approximately 1,000 acres now belongs to the Municipality (primarily the base area), and the remainder to the state (the upper slopes). There are a few remaining federal mining claims located adjacent to the MCO area along Crow Creek. These remaining mining claims have little economic production and continue to complete only minimal annual assessment work and pay annual rentals. DNR's Turnagain Arm Area Plan and the MOA's Girdwood Area Plan currently identify this area as having potential for recreational gold mining.

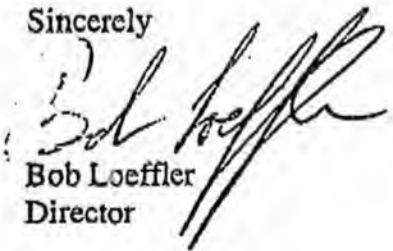
DNR Geologists have determined that the Glacier and Winner Creek area's mineral potential is limited to placer deposits and further have characterized these deposits as low potential or value for mineral development. This is supported by a study completed by United State Bureau of Mines in 1982 citing samples ranging from only 0.0283 oz. of gold per cubic yard at the mouth of Winner Creek to just trace amounts in the creek's upper reaches. In part because of this data, the area was identified as having potential only for recreational mining activities. Recreational mining is not prohibited by the MCO and is in fact has been the principle use of mining claims in this area for decades.

The area encompassed by the MCO includes a total of 5,740 acres. However, any placer gold deposits will be limited to those locations within and along the creeks and rivers beds where the hydrologic forces have concentrated the material. We estimate that valid mining claims could be located on approximately 1,800 acres, similar to the acreage covered by the original claims. State mining claims are typically 40 acre in size and assuming that all the drainages were to be efficiently and completely staked the MCO area would yield approximately 45 potential claims.

Given the limited mineral potential of these creeks, the major effect of closing the area to mineral location is to deprive the state of the annual revenues generated by claim rental. (We do not anticipate that any claim within this area could generate sufficient net profit to yield royalty or tax revenues.) Rent would be \$40 per claim. Thus, the state could potentially lose out on \$400 per claim or \$18,000 over the life of the 10 year term of the MCO.

Please let me know if you need any additional information.

Sincerely

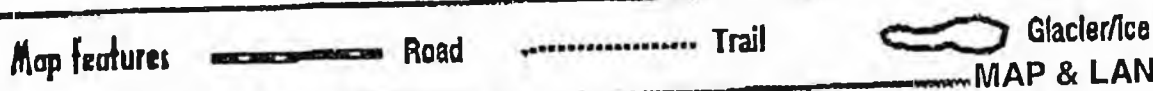
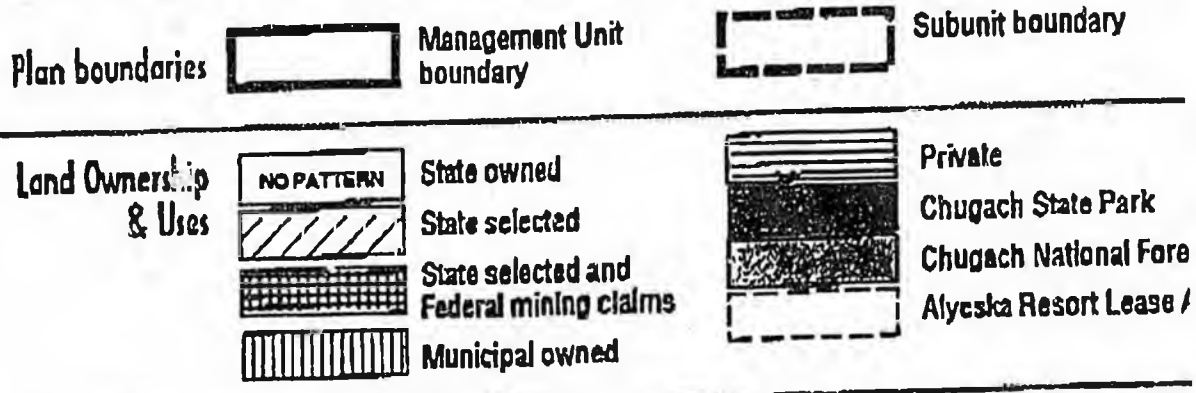
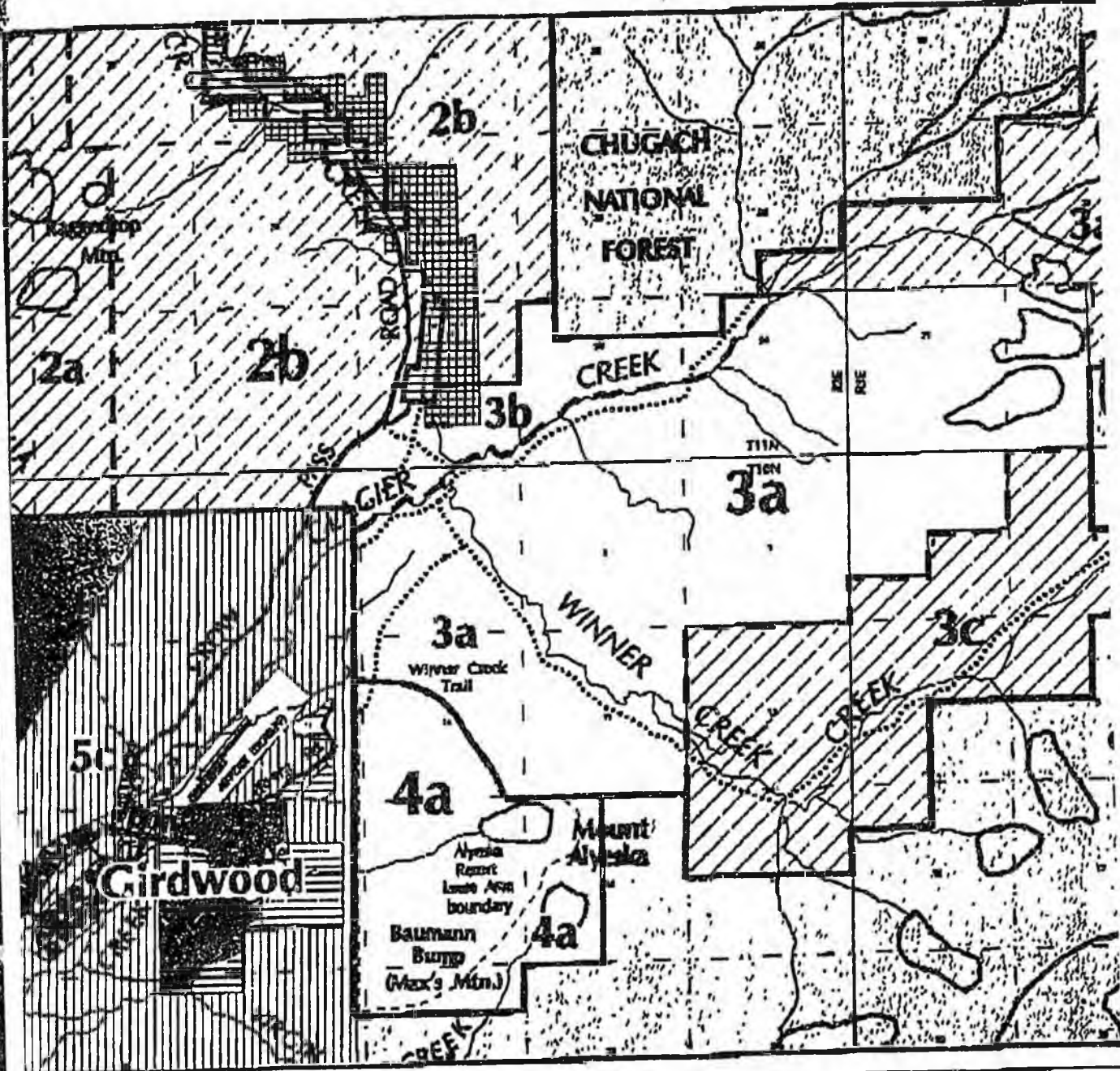


Bob Loeffler
Director

cc: Art Eash, Heritage Land Bank
Janet Burleson-Baxter, DNR Legislative Liaison

Management Unit 3.

Glacier/Winner Cree



1 **LAND USE SUMMARY CHART**
2

3 **Land-Use Designation Summary**
4 **Management Unit 3: Glacier/Winner Creek**

5 Subunit	Surface Land Use Designation	Subsurface	Prohibited Surface Use	Comments
6 3a 7 Glacier/ 8 Winner Creek 9 5,750 acres	Commercial recreation	Closed*	Land disposals	Part of this subunit may be conveyed to the Municipality of Anchorage
10 3b 11 North side of 12 Glacier Creek 13 650 acres	Public recreation	Closed*	Commercial recreation leasing Land disposals	Part of this subunit may be conveyed to the Municipality of Anchorage
14 3c 15 Upper Winner 16 Creek 17 2,300 acres	Public recreation, Wildlife habitat	**	Land disposals	State-selected
18 *Closed to mineral entry for 10 years from date of conveyance of land to state. 19 20 **Management decisions to be made when DNR is ready to take conveyance 21 22				

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB139
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title Closing Certain Land to Mineral Entry BRU Minerals, Land & Water Development
Component Claims, Permits & Leases
Sponsor Rep. Hawker
Requester (H) RES Component No. 2460

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact associated with implementation of this legislation.

Prepared by: Bob Loeffler, Director Phone 269-8625
Division Mining, Land & Water Date/Time 3/7/2003
Approved by: Tom Irwin, Commissioner Date 3/7/2003
Agency Natural Resources



Municipality of Anchorage

Office of the Mayor

George P. Wuerch, Mayor



March 14, 2003

The Honorable Mike Hawker
House of Representatives
State Capitol
Juneau, AK 99801-1182

Re: HB 139 (Mineral closing order for upper Girdwood Valley)

Dear Representative Hawker:

Thank you very much for sponsoring HB 139, which would approve the interim classification in Mineral Closing Order No. 593, Amendment 3. This order was affirmed by the Commissioner of the Department Natural Resources last year to close state land in the upper Glacier Creek and Winner Creek drainages near Girdwood to new mineral entry for another ten years.

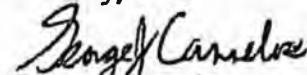
We are very pleased this legislation is supported by the Governor, the Girdwood Board of Supervisors and the Alaska Miners Association. The purpose of the closure is to allow the Municipality of Anchorage and the State of Alaska to pursue development concepts and plans for the Glacier-Winner Creek area as an alpine ski resort complex. Previous studies have documented the area's terrain as having some of the finest alpine skiing conditions in North America. During the ten-year period, the Heritage Land Bank will be looking for solutions that allow for early development of some of this area.

Fortunately, DNR geologists have concluded that the area has a low potential for economic development of minerals. The area has been primarily identified for recreational mining activities, which are not prohibited under the mineral closing order.

We believe the proposed ten-year closure is a reasonable period of time to determine the area's marketability and to get development well underway. During 2003, we intend to update the earlier development concepts and issue a request for proposals for a prime developer.

We know you are aware of the requirement to pass this legislation by April 20, 2003 (the 90th day of the session), or the interim order will expire. We thank you for your support, and offer our assistance in your efforts.

Sincerely,


George J. Cannelos

Executive Director, Heritage Land Bank

MEMORANDUM**State of Alaska****DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING LAND & WATER
SOUTHCENTRAL REGION, LAND SECTION**

TO: Pat Pourchot
Commissioner

DATE: September 10, 2001

THRU: Bob Loeffler *BL*
Director, DMLW

TELEPHONE NO.: x8566

THRU: Rick Thompson *RT*
Regional Manager

FROM: Mike Sullivan *MS*
Natural Resource Manager

SUBJECT: Girdwood Area Mineral
Closing Order Extensions

Attached for your signature is a decision extending an existing mineral closure for certain state lands in the upper Girdwood valley. These properties were originally closed to mineral entry when the Turnagain Arm Management Plan was being prepared in 1992. As detailed in the attached decision this closure was intended to facilitate development of the area as four season resort.

For the reasons detailed in the attached decision, the enclosed mineral orders have been prepared to extend this closure for another ten (10) year period.

Please sign the decision and the attached mineral orders where indicated. Please call me if you have any questions.



**DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND & WATER
SOUTHCENTRAL REGION**

MINERAL CLOSING ORDER 593 Amend. #3

Closing Lands to Mineral Entry Opening Lands to Mineral Entry

- I. **Name: Glacier/Winner Creek Drainage**
- II. This mineral closing order is based upon the attached Finding for Mineral Closing Order No. 593 Amendment # 3 and the written documentation contained in:

Mineral Closing Order No. 593 Amendment # 3 casefile.

- III. **Legal Description:**

Seward Meridian

Township 10 North 2 East

Sections 1-3: All

Section 4: N1/2NE1/4 east of Crow Creek Road, and those portions of SE1/4NE1/4 and E1/2SE1/4 within Chugach National Forest

Section 8: E1/2NE1/4NE1/4 within Chugach National Forest

Section 10: N1/2N1/2, N1/2NE1/4SE1/4NW1/4, N1/2SW1/4NE1/4,

SE1/4SW1/4NE1/4, SE1/4NE1/4, N1/2NE1/4SE1/4,

E1/2SW1/4NE1/4SE1/4, SE1/4NE1/4SE1/4, NE1/4SE1/4SE1/4

Section 11: All

Township 10 North Range 3 East

Section 8: N1/2, N1/2SW1/4

Township 11 North Range 2 East

Section 33: SE1/4SE1/4 All land lying SE of Crow Creek Road

Section 34: SW1/4 All land lying East of Crow Creek Road, SE1/4 excluding mining claim recordations AA 56282 and AA 56283 and FS Special Use Permit granted to Crow Creek Inc.

Section 35: All, excluding the N1/2NE1/4, NE1/4NW1/4

Section 36: All, excluding the NW1/4NW1/4

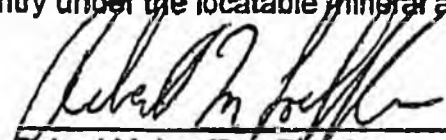
February 4, 2002
MCO 593 Amend. #3
Page 2 of 2

Township 11 North Range 3 East
Section 31: All
Section 32: W1/2

Totaling approximately 5,740 acres

IV. This order is subject to valid existing rights, easements and reservations and is issued under the authority granted by AS 38.05.185-38.05.275 to the Department of Natural Resources. The above described lands are hereby closed to entry under the locatable mineral and mining laws of the State of Alaska.

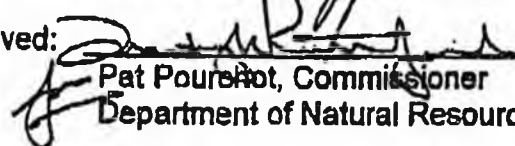
Concur:


Robert M. Loeffler, Director
Division of Mining, Land and Water

Date:

2/4/02

Approved:


Pat Pournot, Commissioner
Department of Natural Resources

Date:

2/6/02



**DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND & WATER
SOUTHCENTRAL REGION**

MINERAL OPENING ORDER 603 Amend.#3

Closing Lands to Mineral Entry Opening Lands to Mineral Entry

I. Name: Glacier/Winner Creek Drainage

- II. This mineral closing order is based upon the attached Finding for Mineral Opening Order No. 603 Amend.#3 and the written documentation contained in:**

Mineral Opening Order No. 603 Amendment #3 casefile.

III. Legal Description:

Seward Meridian

Township 10 North 2 East

Sections 1-3: All

Section 4: N1/2NE1/4 east of Crow Creek Road, and those portions of SE1/4NE1/4 and E1/2SE1/4 within Chugach National Forest

Section 9: E1/2NE1/4NE1/4 within Chugach National Forest

Section 10: N1/2N1/2, N1/2NE1/4SE1/4NW1/4, N1/2SW1/4NE1/4, SE1/4SW1/4NE1/4, SE1/4NE1/4, N1/2NE1/4SE1/4,

E1/2SW1/4NE1/4SE1/4, SE1/4NE1/4SE1/4, NE1/4SE1/4SE1/4

Section 11: All

Township 10 North Range 3 East

Section 6: N1/2, N1/2SW1/4

Township 11 North Range 2 East

Section 33: SE1/4SE1/4 All land lying SE of Crow Creek Road

Section 34: SW1/4 All land lying East of Crow Creek Road, SE1/4 excluding mining claim recordations AA 56282 and AA 56283 and FS Special Use Permit granted to Crow Creek Inc.

Section 35: All, excluding the N1/2NE1/4, NE1/4NW1/4

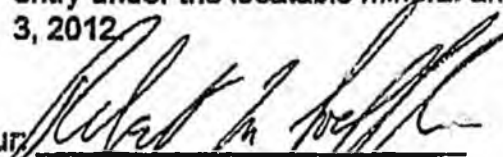
February 4, 2002
MOO 603 Amend. #3
Page 2 of 2


Township 11 North Range 2 East (con't)
Section 36: All, excluding the NW1/4NW1/4

Township 11 North Range 3 East
Section 31: All
Section 32: W1/2

Totaling approximately 5,740 acres

IV. This order is subject to valid existing rights, easements and reservations and is issued under the authority granted by AS 38.05.185-38.05.275 to the Department of Natural Resources. The above described lands will reopen to entry under the locatable mineral and mining laws of the State of Alaska on April 3, 2012.

Concur:  Date: 2/4/02
Robert M. Loeffler
Director, Division of Mining, Land & Water

Approved:  Date: 2/6/02
Pat Pourchot, Commissioner
Department of Natural Resources

Finding Of The Commissioner

Mineral Closing Orders 593, 593 Amendments #1 and 3
Mineral Opening Orders 603 and 603 Amendments #1 and 3

AS 38.05.185(a)

Background: In April and December of 1991 then Commissioner of the Department of Natural Resources, Harold Heinze, authorized the closing to mineral entry of approximately 10,000 acres of state and municipal land in the upper Girdwood valley. This action was taken during the formulation of the Turnagain Arm Management Plan in response to a request from the Anchorage Assembly and to preclude the staking of new mining claims in the area under consideration for the establishment of a new ski resort. Prior to these lands being conveyed to the state from the federal government numerous claims were purchased by the Municipality of Anchorage so these mineral interests would not hinder resort development. Because of the uncertainty that a resort would be developed and the desire of the mining industry to see these potentially valuable mineral properties not be permanently closed, mineral opening orders were also adopted that would reopen the lands ten (10) years from the date the property was transferred to state ownership from the federal government. At that time a ten (10) term was believed adequate to reach a decision on future resort development. This timeframe has since proven to be insufficient. The winter tourism market has not expanded as quickly as hoped and a private developer has yet to step forward to pursue resort development in the upper valley.

The first acreage received by the state subject to these mineral closing orders (MCO's) and mineral opening orders (MOO's) was transferred in April of 1992. Title to other properties subject to these orders was received in April and September of 1993. Therefore some of these lands will reopen to mineral entry in April of 2002 and others in April and September of 2003. There were also several sections of land and portions of land in Townships 11N Ranges 2 and 3 East and one other small piece of land in Township 10N Range 3 East for which title has not yet been transferred. This proposed mineral closure extension will not apply to this acreage and the terms of the original closure orders will remain unchanged, ie the closure will remain in place for 10 years after the date of title transfer as provided in the original closure orders.

Lands not yet conveyed to state ownership and therefore not included in this extension are described as follows:

Seward Meridian

Township 10 North Range 2 East

Section 4: N1/2N1/2 all land lying west of the Crow Creek Road

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Commissioner's Decision Girdwood Valley Mineral Orders
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Township 10 North Range 3 East
Section 5: NW1/4NW1/4
Township 11 North Range 2 East
Section 25 S1/2SE1/4
Section 27 All
Section 33 All land lying north and west of Crow Creek Road
Section 34 N1/2, SW1/4 all land lying west of Crow Creek Road
Township 11 North Range 3 East
Section 20 SE1/4
Section 21 W1/2SW1/4
Section 28 W1/2W1/2
Section 29 All
Section 30 S1/2
Section 32 NE1/4
Section 33 NW1/4NW1/4

As stated in the 1991 finding of the commissioner, if the properties are open to mineral entry and claims are staked, it would interfere with the ability of a private developer to obtain funding for a future resort. There also is concern that mineral development could hinder the construction of lifts and ski runs and impact the aesthetics of the future resort area.

In March of 2001 a notice was distributed to the Municipality of Anchorage, Girdwood Board of Supervisors, Department of Fish and Game, Alaska Miner's Association and local residents requesting comment on a proposed extension of the closure to mineral entry. Reviewers were asked to comment on an extension of the mineral closing order and whether that extension should be for another ten (10) year term or be an indefinite extension until such time as a final decision is reached on future resort development. In response to this request the following comments were received:

- ADFG & ADOT had no comments or objections to a proposed extension of the closure to mineral entry;
- Municipality of Anchorage proposed extending the mineral closure for an additional 10 years;
- Girdwood Board of Supervisors commented that an indefinite closure was preferred to avoid a situation where a deadline was missed and the property reopened to mineral entry.
- Girdwood 2020 organization previously suggested the closure be extended for an additional five (5) years.
- Alaska Miners Association maintains their longstanding position that a sunset date is necessary to ensure due diligence on behalf of the parties who requested the closing order. A sunset date also affirms the agreed upon temporary nature of the closure in the absence of the development the closing orders were created to facilitate. An indefinite extension with an agreement to revisit the issue at some

September 10, 2001
Commissioner's Decision Girdwood Valley Mineral Orders
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future time provides little or no assurance that the lands will be reopened to mineral entry if resort development does not occur. AMA supports a ten (10) year extension.

- Alyeska Resort staff commented that an automatic opening could result in a missed deadline that would reopen the land to mineral entry. The staking of new mining claims would then either bar new surface development or hold that development hostage for an unreasonable amount of money to purchase the claims. The resort would not like to see a repeat of the circumstances that occurred when the land was transferred from federal to state ownership. AMA could request the land be reopened to mineral entry at any time thereby initiating a review process to consider their request.

Concerns were also expressed that a mineral closure not interfere with gravel mining or preclude the establishment of a tourist gold panning business within the area closed to mineral entry. A mineral closure under AS 38.05.185 will not preclude either of these possible future uses.

Recommended Action: The subject mineral closing orders and mineral opening orders and their amendments will be extended for a ten (10) year period to allow additional time to evaluate development options for a ski resort in the upper Glacier Creek valley. As the original closure and opening orders were tied to the date title was received from the federal government and because title to these properties was received on three separate dates (April 3, 1992 and April 1, 1993 and September 8, 1993), it is recommended that all land currently owned by the state reopen to mineral entry on the same date to limit confusion about the exact date of future openings. Therefore it is recommended that all the property subject to this decision reopen to mineral entry on April 3, 2012.

Rationale: There is no disagreement among the affected parties in regards to the most important issue of keeping these lands closed to mineral entry so that the land remains free of third party interests that might preclude future development. Both state and municipal land use plans for the area have identified ski resort development as the preferred use of this property and it is the priority of this department to ensure the management intent of these plans does not change. The only dispute is in regards to the length of this closure. While at least one party has proposed a shorter duration, an additional ten (10) years is compromise that will allow further time to evaluate resort development options and avoid a prolonged debate or appeal process that could extend beyond the existing scheduled mineral opening.

This proposed course of action was presented to all those who commented on this issue via an April 13, 2001 email and no further comments or objections were received. The reviewers never formally considered the suggestion that the opening dates be consolidated but the recommended date provides for a 10 year extension and will be easier to track than the three separate dates that resulted from the original closure/opening

September 10, 2001
Commissioner's Decision Girdwood Valley Mineral Orders
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orders. This is a minor change that does not affect the agreements reached during review of this proposed action.

Formal public notice in accordance with AS 38.05.945 was conducted beginning on June 29, 2001 and ending on July 31, 2001. Advertisements were placed in the Anchorage Daily News and the Turnagain Times. Notices were posted in the Girdwood Post Office and the State of Alaska's public notice web page. Notices were directly mailed to all those who commented earlier in the review process. In response to this formal public notice three (3) additional written comments were received. All three written comments supported an extension of the mineral closure.

Decision: It is my decision that, in accordance with AS 38.05.185(a), that the best interests of the State of Alaska are served by extending for a ten year term the mineral closing/opening orders and amendments referenced above. It is also my finding that the related mineral opening orders and amendments listed above reopen the land to mineral entry on April 3, 2012. This will be accomplished by completing a third amendment to these orders specifying the properties subject to this extension. This third amendment will also exclude the acreages that are not affected by this extension because the land has yet to be conveyed to the state. These properties are described above in paragraph 2 of the background section.

Only state owned lands are affected by this extension, Amendment # 3 of MOO 603 and MCO 593. They are described as follows:

Seward Meridian

Township 10 North 2 East

Sections 1-3: All

Section 4: N1/2NE1/4 east of Crow Creek Road, and those portions of SE1/4NE1/4 and E1/2SE1/4 within Chugach National Forest

Section 9: E1/2NE1/4NE1/4 within Chugach National Forest

Section 10: N1/2N1/2, N1/2NE1/4SE1/4NW1/4,

N1/2SW1/4NE1/4, SE1/4SW1/4NE1/4, SE1/4NE1/4,

N1/2NE1/4SE1/4, E1/2SW1/4NE1/4SE1/4, SE1/4NE1/4SE1/4,

NE1/4SE1/4SE1/4

Section 11: All

Township 10 North Range 3 East

Section 6: N1/2, N1/2SW1/4

Township 11 North Range 2 East

Section 33: SE1/4SE1/4 All land lying SE of Crow Creek Road

Section 34: SW1/4 All land lying East of Crow Creek Road, SE1/4 excluding mining claim recordations AA 56282 and AA 56283 and FS Special Use Permit granted to Crow Creek Inc.

Section 35: All, excluding the N1/2NE1/4, NE1/4NW1/4

Section 36: All, excluding the NW1/4NW1/4

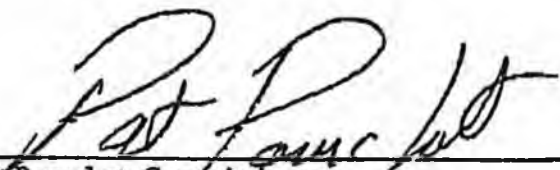
Township 11 North Range 3 East

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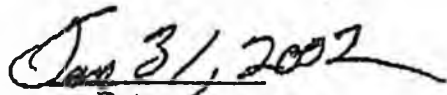
Section 31: All
Section 32: W1/2

Totaling approximately 5,740 acres

Appeal: This is the final administrative order and decision of the department for purposes of an appeal to Superior Court. A person adversely affected by this final order and decision may (1) appeal to Superior Court within 30 days in accordance with the rules of the court, and to the extent permitted by applicable law, or (2) first request reconsideration of this decision, in accordance with AS 44.37.011 and 11 AAC 02.020, to Pat Pourchot, Commissioner, Department of Natural Resources, 550 W 7th Avenue, Suite 1400, Anchorage, Alaska 99501-3561. Any such request for reconsideration must be received at that address, or received by being faxed to 1-907-269-8918, within 20 calendar days after the date of "delivery" of this decision, as defined by 11 AAC 01.040(c) and (d). Failure of the commissioner to act on a request for reconsideration within 30 days after delivery of this decision is a denial of reconsideration and is also a final administrative order and decision for purposes of an appeal to Superior Court. It may then be appealed to Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources. This decision goes into effect 30 days after delivery unless the commissioner first orders reconsideration.



Pat Pourchot, Commissioner
Alaska Department of Natural Resources



Date

HB

160

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB160
P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

March 5, 2003

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Kott:

Under Authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill related to the state's air quality control program.

The State of Alaska has responsibility for management of air quality and recognizes that air permits are necessary to maintain Alaska's excellent air quality. The bill achieves protection of air quality while reforming the permit review process to make permitting predictable, reliable and rational. Specifically, the bill will:

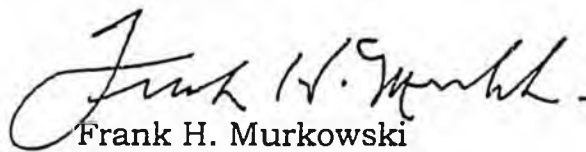
- Allow DEC's program to reflect national precedents, court decisions, and incorporate best practices from other states into our permits.
- Differentiate major source from minor source permits.
- Regulate minor sources based on standardized permit conditions that incorporate best management practices.
- Exempt sources based on standardized permit conditions that incorporate best management practices.
- Exempt sources from permitting to the extent allowed under federal law.
- Achieve efficiency through adopting federal rules by reference.

The Honorable Pete Kott
March 5, 2003
Page 2

In the end, the reform that this bill initiates will result in more efficient review of permits and more "hard-hat time" for field inspectors working to make sure standards are protective and permits are enforced.

I urge your prompt and favorable consideration of this important legislation.

Sincerely,



Frank H. Murkowski
Governor

Section	What it does	Why it does it
1	Adds air permitting to AS 37.05	Authorizes change to flat fees
2	Adds air permitting to AS 37.10	Authorizes change to flat fees
3	Replaces state terminology with federal terminology and updates cross reference to minor source program	
4	Replaces state terminology with federal terminology	
5	Replaces state terminology with federal terminology	
6	Replaces state terminology with federal terminology	
7	Replaces state terminology with federal terminology	
8	Replaces state terminology with federal terminology	
9	Replaces state terminology with federal terminology	
10	Replaces state terminology with federal terminology	
11	Replaces state terminology with federal terminology	
12	Adds the requirement to get a minor permit and adds ability to exempt sources from operating permits to the extent allowed by federal law.	Needed to establish the minor permitting program, and existing law restricts department ability to exempt source if EPA has not explicitly exempted them.
13	Eliminates the requirement to obtain a construction permit or operating permit for minor sources.	Allows a clearer distinction between major and minor source permitting by reserving construction and operating permits for major sources.
14	Uses the categories removed from major source permitting to establish the category of minor permits, and continues the enforceability of existing permits while the minor permits are pending.	Allows a clearer distinction between major and minor source permitting by establishing a separate category of permit for minor sources.
15	Adds phrase to exempt the minor permit program from the itemized list of required regulations.	Allows the department to adopt only those regulations necessary for the minor permit program
16	Replaces state terminology with federal terminology	

Section	What it does	Why it does it
17	Eliminates the operating permit deadline for a facility which needs an operating permit but no construction permit.	Deadline is unnecessary and creates compliance issues without environmental benefit.
18	Replaces state terminology with federal terminology	
19	Adds cross reference for minor source permit program	
20	Add deadline for minor source permit actions	
21	Replaces state terminology with federal terminology	
22	Replaces state terminology with federal terminology	
23	Add phrase which acknowledges that a public comment period may not be required for minor permits.	
24	Replaces state terminology with federal terminology	
25	Establishes the authority and rules for general minor permits.	Current general permit authority is based on Title V requirements and contains restrictions that may not be appropriate for minor sources.
26	Limits the applicability of temporary permits section to operating permits.	Existing section is required for Title V permits. New minor permit program may establish temporary permits which deviate from these title v restrictions.
27	Replaces state terminology with federal terminology	
28	Substitutes permit fees under AS 37.010 for the current hourly fees, while maintaining the small business fee aspect required by Title V	Authorizes change to flat fees
29	Replaces state terminology with federal terminology	
30	Maintains certain permit administration work as free to the individual small business	Required by Title V

Section	What it does	Why it does it
31	Makes fee review every four years instead of every three, and changes assessable emissions to be based on potential to emit rather than emissions authorized by permit.	Review schedule change makes this regulation consistent with AS 37.010. Change to assessable emissions is needed for clarity.
32	Clarifies that sources which have minor or construction permits also must pay emission fees	Existing statute requires emission fees from facilities subject to the operating permits program. The bill proposes to change who needs an operating permit; therefore, this section ensures that regulated source must still pay emission fees.
33	Replaces state terminology with federal terminology	
34	Establishes receipt account for non-Title V fees	Needed to collect non-title V revenue outside of dedicated CAPF
35	Makes the new minor permits subject to the department's termination, modification, and reopening authority.	
36	Replaces state terminology with federal terminology	
37	Replaces state terminology with federal terminology	
38	Replaces state terminology with federal terminology	
39	Replaces state terminology with federal terminology	
40	Replaces state terminology with federal terminology	
41	Replaces state terminology with federal terminology	
42	Replaces state terminology with federal terminology	
43	Replaces state terminology with federal terminology	
44	Replaces state terminology with federal terminology	
45	Replaces state terminology with federal terminology	
46	Replaces state terminology with federal terminology	
47	Replaces state terminology with federal terminology	

Section	What it does	Why it does it
48	Changes definitions	Makes terminology consistent with Federal law
49	Changes definitions	Makes terminology consistent with Federal law
50	Changes definitions	Makes terminology consistent with Federal law
51	Changes definitions	Makes terminology consistent with Federal law
52	Changes definitions	Makes terminology consistent with Federal law
53	Changes definitions	Makes terminology consistent with Federal law
54	Changes definitions	Makes terminology consistent with Federal law
55	Changes definitions	Makes terminology consistent with Federal law
56	Changes definitions	Makes terminology consistent with Federal law
57	Changes definitions	Makes terminology consistent with Federal law
58	Changes definitions	Makes terminology consistent with Federal law
59	Adds new federal definitions	Makes terminology consistent with Federal law
60	Repeals Definitions no longer used	
61	Session law to maintain current permit compliance until new minor permits are issued	Allows time for the department to establish new minor source permit regulations and issue permits while maintaining environmental protection afforded by existing permits.
62	Session law to allow regulations to be adopted but not be effective prior to effective date of statutory sections.	
63	Session law to apply definition changes to currently adopted regulations until those regulations can be changed.	
64	Makes statutory changes, except for those relating to fees, effective immediately.	

Section	What it does	Why it does it
65	Makes statutory changes relating to fees effective January 1, 2005	Allows time for the department to determine budgetary requirements, appropriate flat fees, and to adopt necessary regulations to implement.
66	Establishes effective date for new receipts account consistent with the start of fiscal year 2006	Allows time to develop needed budget documents to implement the separation of construction permit fees from the Title V fees.

Air Permit Reform Bill - 2003

Notes by DEC 3/3/03

What Does the Bill Accomplish?

The bill achieves protection of air quality while reforming the permit review process to make permitting predictable, reliable and rational. Specifically, the bill will:

- Allow DEC's program to reflect national precedents, court case decisions, and permit best practices in review.
- Differentiate major source from minor source permits.
- Regulate minor sources in a simpler way, with reliance on standardized permit conditions that incorporate best management practices.
- Exempt sources from permitting to the extent allowed under federal law.
- Achieve efficiency through adopting federal rules by reference.
- Change the permit fee structure to make costs predictable and reliable for permittees

In the end, the reform that this bill initiates will result in more efficient review of permits and more "hard-hat time" for field inspectors working to make sure standards are protective and permits are enforced.

Who was Involved in Shaping the Bill?

DEC and the Department of Law prepared the bill. It was drafted to fulfill the recommendations of the Air Permit Work Group, a stakeholder group convened by DEC in the fall 2002.

Member entities and representatives on the Work Group were:

- Producers Council of Alaska, Charlotte MacCay (works for Teck Cominco)
- Alaska Oil and Gas Association, Jordan Jacobsen (works for Alyeska Pipeline Co.)
- Alaska Rural Electric Cooperative, Carl Harmon (works for Chugach Electric)
- Cook Inlet Regional Citizens Advisory Council, Mike Munger
- Prince William Sound Regional Citizens Advisory Council, Tom Kuckertz
- U.S. Department of Defense, Kate Siftar (works for the U.S. Army)
- DEC, Tom Chapple and John Kuterbach

Pacific Seafood Processors Assoc., Stephanie Madsen – participated in some of the meetings, but did not in the concluding meetings or drafting the final report.

Facilitator: Brian Rogers of Infoinsights facilitated the Work Group meetings

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 160
 (H) Publish Date: 3/5/03

Revision Date/Time (Note if correction): _____ Dept. Affected: EC
 Title Air Permits Bill BRU Air & Water Quality
 Component Air Quality
 Sponsor Rules Committee
 Requester Governor Component No. 2061

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	507.3	507.3	507.3	507.3	507.3	507.3
Travel	33.7	33.7	33.7	33.7	33.7	33.7
Contractual	311.0	311.0	311.0	311.0	311.0	311.0
Supplies	4.0	4.0	4.0	4.0	4.0	4.0
Equipment	21.7	21.7	21.7	21.7	21.7	21.7
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	877.7	877.7	877.7	877.7	877.7	877.7

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1093 Clean Air Protection Fund	877.7	877.7	877.7	877.7	877.7	877.7
TOTAL	877.7	877.7	877.7	877.7	877.7	877.7

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	7	7	7	7	7	7
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Governor's operating budget contains support of the above reform to the air permit program. This bill achieves protection of air quality while reforming the permit review process to make permitting predictable, reliable and rational. Specifically, the bill will allow:

- DEC's program to reflect national precedents, court case decisions, and permit best practices.
- Differentiate major source from minor source permits.
- Regulate minor sources in a simpler way, with reliance on standardized permit conditions that incorporate best management practices.
- Exempt sources from permitting to the extent allowed under federal law.
- Achieve efficiency through adopting federal rules by reference.
- Change the permit fee structure to make costs predictable and reliable for permittees.

Prepared by: John Kuterbach Phone 465-5103
 Division Air & Water Quality Date/Time 3/3/03 1:53 PM
 Approved by: Kurt Fredriksson - Deputy Commissioner Date 3/3/2003
 Agency Department of Environmental Conservation

Personal Services New Position Detail

Department of Environmental Conservation

Scenario: All Fiscal Notes - DEC FY2004 (3085)

Component: Air Quality (2061)

BRU Name: Air and Water Quality (206)

PCN	Job Class Title	Time Status	Retire Code	Barg Unit	Location	Salary Sched	Range & Steps	Budgeted Months	Split / Annual Count	Annual Salary	COLA	Premium Pay	Annual Benefits	Total Costs
18-#006	Analyst/Programmer III	FT	A	GP	Juneau	2A	18B	12.0		47,316	0	0	16,153	63,469

Justification:

The analyst programmer will provide the support to develop and maintain the database system for the interactive, electronic internet based on-line permit application system for the air permits section. In addition this position will develop new electronic tools to accomplish air permitting more efficiently and faster.

Funding Detail:

1093	Clean Air Protection Fund	100.00%	63,469
Total Funding:		100.00%	63,469

18-#007	Engineering Associate	FT	A	GP	Anchorage	2A	20B	12.0		54,240	0	0	17,394	71,634
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Justification:

The environmental engineer associate position will perform field work to provide technical assistance as well as increase on-site inspections which provide facility operators verification of their compliance. This position will also identify where environmental impacts differ significantly from the original project plans. This will improve permitting by focusing permit conditions on operations which demonstrate problems rather than over-regulating all operations to prevent problems at a few sites.

Funding Detail:

1093	Clean Air Protection Fund	100.00%	71,634
Total Funding:		100.00%	71,634

18-#008	Environmental Spec IV	FT	A	SS	Juneau	2A	20B	12.0		55,164	0	0	17,583	72,747
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Justification:

The environmental specialist will provide additional program development resources to accomplish permit streamlining regulation changes. This position will analyze necessary changes, draft regulation changes and manage the public process of adopting the changes. This position will also develop internal procedures and guidance to improve service delivery.

Funding Detail:

1093	Clean Air Protection Fund	100.00%	72,747
Total Funding:		100.00%	72,747

Note: If a position is split, an asterisk (*) will appear in the Split/Count column. If the split position is also counted in the component, two asterisks (**) will appear in this column.

Personal Services New Position Detail

Department of Environmental Conservation

Scenario: All Fiscal Notes - DEC FY2004 (3085)

Component: Air Quality (2061)

BRU Name: Air and Water Quality (206)

PCN	Job Class Title	Time Status	Retire Code	Barg Unit	Location	Salary Sched	Range & Steps	Budgeted Months	Split / Annual Count	Annual Salary	COLA	Premium Pay	Annual Benefits	Total Costs
18-#009	Environmental Spec IV	FT	A	GP	Anchorage	2A	20B	12.0		54,240	0	0	17,394	71,634

Justification:

The environmental specialist will lead the development of a minor source permit program which will allow DEC to address pollution from minor sources in the most cost effective and responsible manner. Currently many minor sources must go through much of the same permitting process as major sources simply because there is no mechanism to address them. A minor source permit program will direct DEC's efforts to those minor sources that truly have the potential to harm public health and welfare. This position will also work with the analyst programmer on the development of new permitting tools and on the management of contracting tools.

Funding Detail:

1093	Clean Air Protection Fund	100.00%	71,634
Total Funding:		100.00%	71,634

18-#010	Engineering Associate	FT	A	GP	Fairbanks	2B	20B	12.0		56,412	0	0	17,783	74,195
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Justification:

The environmental engineer associate will perform field work to provide technical assistance as well as increase on-site inspections which provide facility operators verification of their compliance. This position will also identify where environmental impacts differ significantly from the original project plans. This will improve permitting by focusing permit conditions on operations which demonstrate problems rather than over-regulating all operations to prevent problems at a few sites.

Funding Detail:

1093	Clean Air Protection Fund	100.00%	74,195
Total Funding:		100.00%	74,195

18-#011	Environmental Spec IV	FT	A	GP	Anchorage	2A	20B	12.0		54,240	0	0	17,394	71,634
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Justification:

The environmental specialist will conduct the internal audits for the air permits quality management system. This will reduce variability and provide useful metrics for judging the progress towards meeting performance measures and provide guidance for continual improvement of the program.

Funding Detail:

1093	Clean Air Protection Fund	100.00%	71,634
Total Funding:		100.00%	71,634

Note: If a position is split, an asterisk (*) will appear in the Split/Count column. If the split position is also counted in the component, two asterisks (**) will appear in this column.

Personal Services New Position Detail

Department of Environmental Conservation

Scenario: All Fiscal Notes - DEC FY2004 (3085)

Component: Air Quality (2061)

BRU Name: Air and Water Quality (206)

PCN	Job Class Title	Time Status	Retire Code	Barg Unit	Location	Salary Sched	Range & Steps	Budgeted Months	Split / Annual Count	Annual Salary	COLA	Premium Pay	Annual Benefits	Total Costs
18-#012	Environ Conserv Mgr II	FT	A	SS	Anchorage	2A	22B	12.0		62,908	0	0	18,985	81,973

Justification:

The environmental conservation manager will lead the design and implementation of **Component Summary** stem to reduce variability in permits. This responsibility will cover both the operation and the construction permits.
Total New Positions: 7

Funding Detail:

1093	Clean Air Protection Fund	100.00%	81,973
Total Funding:		100.00%	81,973

Fund Description	Fund Percent	Fund Amount
1093 Clean Air Protection Fund	100.00%	507,286
Total Funding:	100.00%	507,286

Note: If a position is split, an asterisk (*) will appear in the Split/Count column. If the split position is also counted in the component, two asterisks (**) will appear in this column.