

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11291 SENATE RESOURCES

# Senate Resources

## Senate Bill 74

"An Act extending the renewal period for oil discharge prevention and contingency plans"

Testimony of Larry Dietrick

*Alaska Department of Environmental Conservation  
Division of Spill Prevention and Response*

February 24, 2003

This bill supports the Governor's goal of improving regulatory efficiency by reducing the administrative burden while improving spill prevention, preparedness and protection of the environment.

Senate Bill 74 will streamline the states permitting process by lengthening the time for renewal of Oil Discharge Prevention and Contingency Plans from the current three years to five years.

A five year-year renewal period will streamline the contingency review process for industry while maintaining Alaska's strong spill prevention and response standards.

Focusing on the actual testing of oil spill prevention and response preparedness through in-the-field inspections, drills, and exercises is our most effective means of ensuring spill prevention and response readiness and protection of the environment.

Oil Discharge Prevention and Contingency Plans are public noticed, reviewed and approved by the Department of Environmental Conservation.

Oil Discharge Prevention and Contingency Plans are required for operators of oil terminals, refineries, crude oil transmission pipelines, oil exploration and production facilities, oil tank vessels, oil barges, nontank vessels of over 400 gross tons, and railroad tank cars.

There are multiple benefits from the change proposed by the bill.

The bill furthers the goal of permit streamlining with no loss of environmental protection, and complements initiatives currently being undertaken by the Department to shift the emphasis away from the administrative review and approval process to field verification of response capability.

The bill will significantly reduce the administrative burden on the regulated community and will shift the emphasis from paperwork to performance.

The reduction in paperwork will increase the ability of operators and the Department to focus on spill prevention and facility operation.

The change will allow operators more time to make practical enhancements to their spill prevention and response capabilities.

The change will improve environmental protection and preparedness through increased field presence and the ability to work directly with operators to ensure response readiness through on-site facility and vessel inspections, spill drills and exercises.

The change will make the state renewal cycle consistent with the five year renewal cycle for federal oil spill contingency plans required under the Oil Pollution Act of 1990, as well as those of other West Coast states.

# STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

## DEPT. OF ENVIRONMENTAL CONSERVATION OFFICE OF THE COMMISSIONER

410 Willoughby Ave., Ste 303  
Juneau, AK 99801-1795  
PHONE: (907) 465-5065  
FAX: (907) 465-5070  
<http://www.state.ak.us/dec/>

February 20, 2003

The Honorable Scott Ogan  
Alaska State Senate  
State Capitol, Room 103  
Juneau, AK 99801

FEB 24 2003

Dear Senator Ogan:

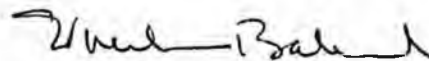
The Department of Environmental Conservation requests a hearing on SB 74 "An Act extending the renewal period for oil discharge prevention and contingency plans." Operators of oil terminals, pipelines, exploration or production facilities, tank vessels, non tank vessels and oil transporting railroad cars are required to have an approved oil discharge prevention and contingency plan. Current law requires that these plans be renewed every three years. This legislation increases the renewal period to five years.

This bill streamlines the permitting process with no loss of environmental protection. I have testified in your committee concerning my commitment to setting clear understandable standards and ensuring compliance through monitoring. This bill will allow industry and the department to focus our limited resources on the actual testing of oil spill prevention and response readiness through in-the-field inspections and drills. Exercises are the most effective means of ensuring spill readiness.

A five-year renewal cycle also provides consistency with the approval cycle for federal and West Coast states' response plans. Plans for multiple jurisdictions can now be on the same cycle.

Larry Dietrick, Director of the Division of Spill Prevention and Response will represent the department on this bill. For additional information, please contact Mr. Dietrick at 465-5255 or Mary Siroky, the department's legislative liaison at 465-5355. Thank you for your consideration.

Sincerely,



Ernesta Ballard  
Commissioner

cc: Mike Tibbles, Legislative Director, Office of the Governor

FRANK H. MURKOWSKI  
GOVERNOR

GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

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

February 18, 2003

The Honorable Gene Therriault  
President of the Senate  
Alaska State Legislature  
State Capitol, Room 107  
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill extending the renewal period for oil discharge prevention and contingency plans under AS 46.04.030 and 46.04.055 from three years to five years.

AS 46.04.030 requires that all operators of oil terminals, pipelines, exploration or production facilities, tank vessels, and oil barges have an approved oil discharge prevention and contingency plan in order to operate. AS 46.04.055 requires that operators of nontank vessels over 400 gross tons and railroad tank cars transporting oil also have an approved oil discharge prevention and contingency plan. Current law requires that these contingency plans be renewed every three years.

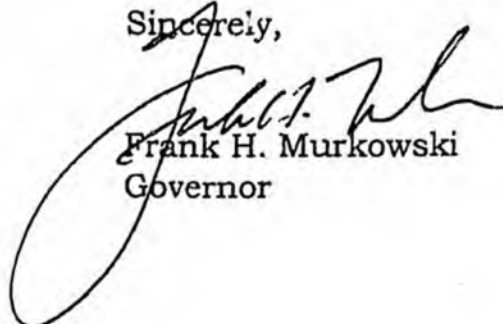
In contrast, federal oil spill response plans are reviewed and renewed every five years. However, there is no requirement that state contingency plans match the federal renewal cycle.

A five-year renewal period will streamline the review for both the state and industry, while maintaining Alaska's strong oil spill prevention and response standards. Focusing on the actual testing of oil spill prevention and response

readiness through in-the-field inspections, drills, and exercises is our most effective means of ensuring spill prevention and response readiness.

I urge your prompt and favorable action on this measure.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Frank H. Murkowski', is written over the typed name and title.

Frank H. Murkowski  
Governor

TESTIMONY OF  
MARILYN CROCKETT  
ALASKA OIL AND GAS ASSOCIATION  
BEFORE  
SENATE RESOURCES COMMITTEE  
RE: SB74  
March 3, 2003

My name is Marilyn Crockett and I am Deputy Director of the Alaska Oil and Gas Association. AOGA is a trade association whose 17 member companies account for the majority of oil and gas exploration, development, production, transportation, refining and marketing activities in Alaska.

Every AOGA member conducting activities in Alaska is required to have an Oil Spill Prevention and Contingency Plan (or C-Plan) approved and in place. Therefore, AOGA has a significant interest in SB74, and we encourage the Committee to pass it.

AOGA spent a considerable amount of time over the past 12 months identifying permitting programs that were in need of updating and streamlining. Early on we adopted a guiding principle to guide us through this process. That principle reads: "accomplish updates and streamlining without compromising environmental protection or safety standards". SB74 fits perfectly within this principle.

The bill would extend the renewal cycle for C Plans from the current period of three years to five years—the cycle required by the federal government, west coast states, and other oil producing states we've studied.

Preparation and processing of a renewal application is expensive endeavor. Renewal costs can average between \$60,000 and \$100,000 for the renewal alone (legal challenges can increase these numbers by an additional \$200,000 to \$500,000).

The renewal process also is very time-intensive. Experience has shown that for some plans, even with submittals 180 days in advance of the expiration date, approvals still can average 360 days, essentially meaning that once a renewal is complete, work must begin on the next renewal.

It's important to recognize what purpose the C Plan serves. It is the "blueprint", if you will, describing how an operator will respond to an event. The proof of the effectiveness of the plan is not how often it is renewed; it's whether the response identified in the Plan can be delivered as promised. Demonstration of this effectiveness is accomplished through drills. It is in this area that we will see the biggest benefit of an extended renewal cycle by shifting the focus away from administrative processing to field performance.

It's also important to recognize that these Plans are evergreen documents. They are not simply placed on a shelf after approval to collect dust until the next renewal period. They are continually reviewed to ensure information is kept up-to-date and to ensure the Plan continues to reflect the current operation and state of readiness. ADEC regulations require that updates and amendments be submitted to the Department.

Finally, we understand the Administration will be proposing an amendment to the transitional provision adopted by the Committee at its February 24, 2003 meeting. This amendment retains the mandatory two-year extension authority included in the amendment previously adopted by the Committee, but also includes language which would allow a plan holder to request a shorter period of time. AOGA supports this amendment.

Thank you for allowing me to testify.



## RESOURCE DEVELOPMENT COUNCIL

Growing Alaska Through Responsible Resource Development

Tadd Owens, Executive Director  
Resource Development Council  
SB74 Testimony  
Senate Resources Committee  
February 24, 2003

Thank you, Mr. Chairman. For the record my name is Tadd Owens, executive director of the Resource Development Council. RDC is a private, non-profit, business association representing individuals and companies from Alaska's oil and gas, mining, timber, tourism and fisheries industries. Our mission is to help grow Alaska's economy through the responsible development of our state's natural resources.

RDC supports Senate Bill 74 and we urge the Senate Resources Committee to move the legislation forward. SB74 makes a simple change to the renewal period for ADEC-required discharge and contingency plans, commonly referred to as C-Plans, from three to five years. C-plans are essential to spill response preparedness, however, the effort associated with the plan renewals is significant for both industry and the state. Based on our members' experiences, a three-year renewal cycle often does not result in meaningful improvements in environmental protection or regulatory compliance. Increasing the time between renewals from three to five years will bring the program's benefits in line with its costs.

A five-year renewal cycle will allow the state to focus its resources on site inspections rather than the office work associated with plan reviews. Currently, ADEC is responsible for more than 125 C-Plans in Alaska. Allowing agency staff additional time in the field will provide them with a more thorough understanding of industry operations. A five-year renewal period will give agency staff a better opportunity to determine the effectiveness of existing plans and to observe plan implementation prior to any incident. By utilizing this information and experience, subsequent plan renewals will have better oversight, incorporate more high-value improvements, and be less vulnerable to legal challenges.

Meanwhile industry will be able to shift its resources away from the largely administrative exercise of three-year renewals to additional prevention-specific activities. Improved networking and communication between industry and ADEC will further enhance the quality of plan renewals. Also, a five-year renewal cycle would mirror the federal requirement, allowing industry to consolidate its review process.

RDC's members believe that increasing the C-Plan renewal cycle from three to five years will result in a more thorough public process, the creation of more realistic and sophisticated plans, and establish a more efficient and predictable regulatory regime. SB74 deserves the committee's support.

Thank you, Mr. Chairman for the opportunity to testify this afternoon.

**Subject:** PWSRCAC Comments on HB113/SB74

**Date:** Mon, 03 Mar 2003 16:09:03 -0900

**From:** Jennifer Fleming <fleming@pwsrcac.org>

**To:** <linda\_hay@legis.state.ak.us>, <mark\_stopha@legis.state.ak.us>, Donna Schantz <schantz@pwsrcac.org>


Linda,

Mark Stopha requested that I forward the attached comments to you. As you will see, these comments were sent to the House Oil and Gas Committee regarding HB113 (SB74) on Wednesday, February 26, 2003. We are looking to draft additional comments based on the recent amendments to the bill, and will forward them to you once complete. If you have any questions, please don't hesitate to call me at the number listed below.

Regards ~ Jennifer

Jennifer Fleming, Executive Assistant  
Prince William Sound Regional Citizens Advisory Council  
PO Box 3089, Valdez, Alaska 99686  
(907) 834-5010 direct  
(907) 835-5957 main  
(907) 835-5926 fax

<http://www.pwsrcac.org/>

 <a href="#">651.105.030226.HOG/HB113.pdf</a>	<p>Name: 651.105.030226.HOG/HB113.pdf Type: Acrobat (application/pdf) Encoding: base64 Download Status: Not downloaded with message</p>
--	---



Regional Citizens' Advisory Council / "Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."

In Anchorage: 3709 Spenard Road / Anchorage, Alaska 99503 / (907) 277-7222 / FAX (907) 277-4523

In Valdez: P.O. Box 3089 / 339 Hazelnet Avenue / Valdez, Alaska 99686 / (907) 835-5957 / FAX (907) 835-5926

February 26, 2003

MEMBERS

Alaska State  
Chamber of  
Commerce

Representative Vic Kohring  
Chair, House Oil and Gas Committee  
State Capitol, Room 24  
Juneau, AK 99801-1182

Alaska Wilderness  
Recreation & Tourism  
Association

Subject: Opposition to House Bill 113 as Currently Drafted

Chugach Alaska  
Corporation

Dear Representative Kohring:

City of Cordova

The Prince William Sound Regional Citizens' Advisory Council (PWSRCAC) is an independent non-profit corporation whose mission is to promote environmentally safe operation of the Valdez Marine Terminal and associated tankers. Our work is guided by the Oil Pollution Act of 1990, and our contract with Alyeska Pipeline Service Company. PWSRCAC's 18 member organizations are communities in the region affected by the 1989 Exxon Valdez oil spill, as well as commercial fishing, aquaculture, Native, recreation, tourism and environmental groups.

City of Homer

City of Kodiak

City of Seldovia

City of Seward

We have reviewed contingency plan (C-Plans) for the Valdez Marine Terminal and the Prince William Sound tanker trade for over a decade and speak from experience on this important issue.

City of Valdez

City of Whittier

We are opposed to House Bill 113 (HB113) as currently drafted. This bill would weaken Alaska's oil spill prevention and response capability by extending the C-Plans renewal cycle from a 3 to a 5-year period. While the stated purpose of HB113 is to align the State's 3-year renewal cycle with the federal 5-year renewal cycle for C-Plans, the actual benefit of this alignment is negligible.

Community of  
Chenega Bay

Community of  
Tatitlek

Cordova District  
Fishermen United

As written, HB113 would weaken Alaska's oil spill prevention and response capability in three ways:

Kenai Peninsula  
Borough

- 1) by extending the timeframe for updating and incorporating into the plan important "lessons learned" from drills and exercises;
- 2) by reducing the frequency of Best Available Technology analyses, which ensure that the best technology, equipment and/or procedures are utilized to prevent and respond to oil spills; and
- 3) by reducing the agency and planholder familiarization with the plan, which could result in complacency.

Kodiak Island  
Borough

Kodiak Village Mayors  
Association

Oil Spill Region  
Environmental  
Coalition

Since many of Alaska's oil spill planning requirements are more stringent than federal planning requirements, federal agencies (USCG, MMS, EPA) generally accept Alaska C-Plans as meeting federal requirements. Two separate plans are not required. Each planholder can submit one joint plan that meets both state and

Prince William Sound  
Aquaculture  
Corporation

federal requirements. There is currently no conflict between state and federal planning cycle requirements.<sup>1</sup> Hence the alignment this bill seeks to achieve has already been accomplished.

The sponsors of this bill may be unaware that HB113 actually introduces a discrepancy between state and federal oil spill programs. HB113 would misalign Alaska's C-Plan renewal cycle with the federal 3-year oil spill drill cycle. The federal National Preparedness for Response Exercise Program (NPREP) is set to a triennial cycle that requires a major oil spill equipment deployment drill once every three years to ensure that C-Plan personnel and equipment are fully tested. Many Alaskan C-Plan holders align their NPREP drills to coincide with Alaska's 3-year renewal cycle, so that improvements recommended from drills and exercises can be incorporated in their plan at renewal. Alignment between the State's C-Planning cycle and the federal drill program is important, since the state has not adopted any regulatory requirements for drills, and relies on the federal drill program to ensure the integrity of Alaska's oil spill response system.

While federal agencies are on a 5-year renewal cycle, they require that an annual review be conducted by the planholder and that the planholder submit amendments to keep the plan current<sup>2</sup>. This annual review requirement forces the planholder to review their plan and make updates and improvements, such as may be identified from drills and exercises. The federal requirement ensures that the key plan elements are improved on a continuous basis and do not languish for a period of 5 years. Annual amendments are submitted for portions of the plan that require revision. The entire plan is submitted for renewal once every 5 years. Additionally, since the plan is maintained on an annual basis, major revisions are not typically required at the 5-year renewal cycle. If an annual update process were in place, there would be no incompatibility between the 3-year NPREP cycle and the 5-year cycle (with annual updates).

If Alaska seeks full alignment with the federal C-Plan review process, that alignment requires that Alaska not only adopt the 5-year renewal cycle, but also adopt the federal annual updating and amendment requirements.

In summary, we oppose the current version of HB113 for the following reasons:

1. HB113 is not consistent with Federal Oil Spill Planning or Drill Requirements  
Retaining the 3-year C-Plan renewal cycle ensures consistency with the national oil spill exercise program, which is an important tool for ensuring that contingency plans are updated to reflect current innovations and lessons learned in a timely manner.
2. HB113 slows the implementation of Best Available Technology  
Regular Best Available Technology (BAT) analyses are the cornerstone of the BAT regulations adopted by ADEC 1997 and agreed upon by citizens, industry

<sup>1</sup> USCG and MMS work collaboratively with the State of Alaska during Alaska's 3-year renewal cycle, and merely issue updated approval letters once every five years; an extensive plan update is not required, due to the stringency of Alaska's planning standards. EPA does not review and approve C-Plans, they only require a plan that meets federal requirements to be located at the facility. Annual plan amendments are also required by the federal agencies.

<sup>2</sup> 33CFR155.1070 United States Coast Guard, Oil or Hazardous Material Pollution Prevention Regulations for Vessels, Procedures for plan review, revision, amendment, and appeal.

and government. Currently a BAT analysis for oil spill prevention and response is required at each plan renewal (every three years). The plan holder must adopt new equipment and/or procedures if the analysis determines that the existing technology utilized by the plan holder does not meet the BAT standards. Lengthening the 3-year renewal cycle without requiring an annual plan holder review, slows the process that ensures that BAT is being utilized to prevent and respond to oil spills.

More frequent BAT updates also provide incentives for Alaskan entrepreneurs and suppliers to develop and sell improved technology to the Alaska oil industry.


3. HB113 could lead to complacency and increased risks

Thirteen years after the Exxon Valdez Oil Spill (EVOS) tragedy we can look back and marvel at all we have accomplished together to improve Alaska's oil spill prevention and response capability. But we must not begin dismantling the very C-Plan laws that have prevented another major oil spill disaster without good reasons.

Retaining the 3-year C-Plan renewal cycle ensures that one of the greatest lessons learned from the EVOS is not repeated, that is, allowing regulators and industry to become complacent<sup>3</sup>.

We strongly oppose HB113 as drafted. Thank you for considering our views. Please contact me if you have any questions or if I can provide additional information on our position regarding HB113.

Sincerely,



John S. Devens, Ph.D.  
Executive Director

Cc: Representative Mike Chenault  
Representative Hugh "Bud" Fate  
Representative Lesil McGuire  
Representative Norman Rokeberg  
Representative Harry Crawford  
Representative Beth Kerttula  
Governor Frank Murkowski  
Lt. Governor Loren Leman  
Commissioner Ernesta Ballard, ADEC  
Richard Ranger, Alyeska Pipeline  
PWS RPG c/o Tom Colby, ATC  
CDR Mark Swanson, US Coast Guard  
Mike Munger, CIRCAC  
PWSRCAC Member Organizations

---

<sup>3</sup> "The Exxon Valdez Oil Spill, Final Report, State of Alaska", Alaska Department of Environmental Conservation, June 1993  
Page 3 of 3

TESTIMONY OF  
MARILYN CROCKETT  
ALASKA OIL AND GAS ASSOCIATION  
BEFORE  
SENATE RESOURCES COMMITTEE  
RE: SB74  
February 24, 2003

My name is Marilyn Crockett and I am Deputy Director of the Alaska Oil and Gas Association. AOGA is a trade association whose 17 member companies account for the majority of oil and gas exploration, development, production, transportation, refining and marketing activities in Alaska.

Every AOGA member conducting activities in Alaska is required to have an Oil Spill Prevention and Contingency Plan (or C-Plan) approved and in place. Therefore, AOGA has a significant interest in SB74, and we encourage the Committee to pass it.

AOGA spent a considerable amount of time over the past 12 months identifying permitting programs that were in need of updating and streamlining. Early on we adopted a guiding principle to guide us through this process. That principle reads: "accomplish updates and streamlining without compromising environmental protection or safety standards". SB74 fits perfectly within this principle.

The bill would extend the renewal cycle for C Plans from the current period of three years to five years—the cycle required by the federal government, west coast states, and other oil producing states we've studied.

Preparation and processing of a renewal application is expensive endeavor. Renewal costs can average between \$60,000 and \$100,000 for the renewal alone (legal challenges can increase these numbers by an additional \$200,000 to \$500,000).

The renewal process also is very time-intensive. Experience has shown that for some plans, even with submittals 180 days in advance of the expiration date, approvals still can average 360 days, essentially meaning that once a renewal is complete, work must begin on the next renewal.

Finally, we understand the Administration will be proposing an amendment to SB74 providing a Transitional provision for existing, approved C Plans, and we would like to speak to that amendment when it is presented.

Thank you for allowing me to testify.

SB

79

## SENATE COMMITTEE REPORT First Committee of Referral

DATE: 2/21/03

FURTHER: Finance

Date of 5-Day Notice: \_\_\_\_\_  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 3/5/03

Resources Committee considered SENATE BILL NO. 79

### SB 79 EXTEND ALASKA MINERALS COMMISSION

"An Act extending the termination date of the Alaska Minerals Commission."

and recommends:

be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

attached amendment(s)

adopt Letter of Intent by \_\_\_\_\_ Committee

further referral to \_\_\_\_\_ Committee

**Senate Bill:**

same title

new title

**House Bill:**

same title

technical title

new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DCED	2/27/03	✓		1

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Ben Stiller</i>	✓			
<i>Ralph Seebins</i>	✓			
<i>Thomas W. ...</i>	✓			
<i>Paul ...</i>	✓			
<i>...</i>	✓			
<i>...</i>	✓			
CHAIR: <i>Scott ...</i>	✓			

## **Senator Ben Stevens**

Senate Majority Leader



## **Sponsor Statement**

---

### **Senate Bill 79, "An Act extending the termination date of the Alaska Minerals Commission."**

The Alaska Minerals Commission is set to expire on February 1, 2004. SB 79 seeks to extend the Commission until the year 2014.

The Alaska Minerals Commission was first created in 1986 and charged with making recommendations to the Governor and Legislature on ways to mitigate constraints on the development of minerals in Alaska. The commission consists of 11 members. Each member must have at least five years experience in the minerals industry. Five members are appointed by the Governor, three by the President of the Senate, and three by the Speaker of the House. At least one member must reside in a rural community.

The Commission must report its recommendation to the Governor during the first ten days of the regular session.

The Alaska Minerals Commission has had numerous recommendations implemented since 1987. Recommendations that were implemented include:

- Passage of Alaska Minerals Policy Act (1988)
- Funding for airborne geophysical surveys (1992-2002)
- Creation of a task force for RS2477 trail inventory (1993)
- 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)
- Extending terms of permits when legal impediments prevent use (1994)

Senator Ben Stevens  
State Capitol  
Juneau, Alaska 99801  
907-465-4993  
Fax: 907-465-3872

**Senator Ben Stevens**  
Senate Majority Leader



## Memorandum

**Date:** 2/21/03

**To:** Senator Scott Ogan, Chairman  
Senate Resources Committee

**From:** Senator Ben Stevens

**Subject:** SB 79 – Extending the Alaska Minerals Commission

---

The Alaska Minerals Commission was created in 1986 with the charge of making recommendations to the governor and legislature on ways to mitigate constraints, including governmental constraints, on the development of minerals in the state.

The Minerals Commission is set to expire on February 1, 2004. Senate Bill 79 seeks to extend the Commission until the year 2014.

As sponsor of SB 79, I respectfully request a hearing in the Senate Resources Committee at your earliest convenience. Please contact my aide, Phelan Straube, or me if I may provide any additional information.

Senator Ben Stevens  
State Capitol  
Juneau, Alaska 99801  
907-465-4993  
Fax: 907-465-3872

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 79  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title Extend Alaska Minerals Commission

Dept. Affected: DCED  
 BRU Community Assist & Econ. Dev. (405)  
 Component Community & Business Development  
 Component No. 2486

Sponsor Senator Stevens  
 Requester Senate Resources

**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	8.0	8.0	8.0	8.0	8.0	8.0
Contractual	1.5	1.5	1.5	1.5	1.5	1.5
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>9.5</b>	<b>9.5</b>	<b>9.5</b>	<b>9.5</b>	<b>9.5</b>	<b>9.5</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	9.5	9.5	9.5	9.5	9.5	9.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>9.5</b>	<b>9.5</b>	<b>9.5</b>	<b>9.5</b>	<b>9.5</b>	<b>9.5</b>

Estimate of any current year (FY2003) cost: 9.5

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)

This legislation would extend the existing Alaska Minerals Commission for an additional 10 years. Costs are expected to continue at current levels, \$9,500 per year. These costs consist of travel by Commission members to attend Commission meetings (\$8,000) and publication of the statutorily required annual Minerals Commission Report (\$1,500).

Prepared by: Gene Kane, Acting Director  
 Division: Community & Business Development  
 Approved by: Edgar Blatchford, Commissioner  
 Agency: Department of Community & Economic Development

Phone 907-269-4580  
 Date/Time 2/27/03 3:12 PM  
 Date 2/27/2003

Frank H. Murkowski, Governor

# Alaska Department of Community and Economic Development

## Office of the Commissioner

P.O. Box 110800, Juneau, AK 99811-0800

Telephone: (907) 465-2500 • Fax: (907) 465-5442 • Text Telephone: (907) 465-5437

Email: [questions@dced.state.ak.us](mailto:questions@dced.state.ak.us) • Website: [www.dced.state.ak.us/](http://www.dced.state.ak.us/)

28 February 2003

The Honorable Ben Stevens  
Alaska State Senate  
State Capitol, Room 119  
Juneau, AK 99801-1182

FEB 28 2003

Dear Senator Stevens:

In 1986, the Legislature established the Alaska Minerals Commission (AMC). The Commission recommends to the Governor and Legislature ways to mitigate constraints, including governmental constraints, on the development of minerals.

The Governor, President of the Senate, and Speaker of the House appoint AMC members. Current membership is representative of placer, hard rock and coal mining industries from diverse areas of the state. Each year since 1987, the Commission has held public meetings in Fairbanks and Anchorage to develop recommendations put forth in an annual report.

Recommendations from the Commission have ranged from those that come from family-owned placer mines, to recommendations impacting international mining operations. A sampling of successful Commission recommendations include:

- Changes in the Water Quality Standards
- Funding of Airborne Geophysical Surveys
- Accelerated Transfer of State Selected Lands
- Exemption of Minerals from In-Place Taxation
- Changes to the Alaska Mineral Policy Act (more flexible work hours for underground miners)
- Changes to the Exploration Incentives Act

Significant constraints remain to be addressed in order for Alaska's mining industry to reach its growth potential. The AMC has demonstrated itself to be an effective body in making positive changes to support on-going mineral development in Alaska. Such actions are consistent with the Murkowski Administration's promise to work toward opening up new areas to mining through providing access to major mining projects, reducing permitting time, lowering development costs, and encouraging value-added processing of minerals.

Thank you for sponsoring legislation to reauthorize the Alaska Minerals Commission. We look forward to continuing our partnership with the Alaska Minerals Commission.

Sincerely,

*Edgar Blatchford*

Edgar Blatchford,

Commissioner

Department of Community & Economic Development

*"Promoting a healthy economy and strong communities"*

REPORT OF THE 2003

# Alaska Minerals Commission



The Alaska Minerals Commission was created by the 14<sup>th</sup> Legislature and signed into law on June 6, 1986. The enabling legislation instructs the Commission to make recommendations to the Governor and Legislature on ways to mitigate constraints, including governmental constraints, on the

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES

# ALASKA MINERALS COMMISSION

## JANUARY 2003

### MEMBERS

Chairman	Irene Anderson	Sitnasuak Native Corporation P.O. Box 905, Nome, Alaska, 99762 Phone (907) 443-4023, Fax (907) 443-3063 E-mail ianderson@snc.org
Vice-chairman	Eric Neil MacKinnon	Hyak Mining Co. 1114 Glacier Avenue, Juneau, Alaska, 99801 Phone (907) 586-1254, Fax (907) 463-3433 E-mail nmackinn@ptialaska.net
	Del Ackels	Goldust Mines P.O. Box 61520, Fairbanks, Alaska, 99706 Phone (907) 474-0971, Fax (907) 474-0966 E-mail golddustmines@gci.net
	Greg Beischer	Bristol Environmental & Engineering 2000 West Int'l Airport Rd., #C1, Anchorage, Alaska 99502-1116 Phone (907) 563-0013, Fax (907) 563-6713. E-mail gbeischer@beesc.com
	Charles B. Green	Usibelli Coal Mine, Inc. P.O.Box 71805, Fairbanks, Alaska, 99707-1805 Phone (907) 479-2489, Fax (907) 451-6543 E-mail cgreen@usibelli.com
	Karl Hanneman	Teck Pogo, Inc. 3520 International Way, Fairbanks, Alaska, 99701 Phone (907) 455-8325, Fax (907) 455-8326 E-mail khanneman@teckalaska.com
	Thomas Irwin	Fairbanks Gold Mining, Inc. P. O. Box 73726, Fairbanks, Alaska, 99707 Phone (907) 490-2201, Fax (907) 490-2290 E-mail tirwin@fairbanksgold.com
	Charlotte MacCay	Teck Cominco American Incorporated 3105 Lakeshore Drive, Bldg. 1-A, Anchorage, Alaska, 99517 Phone (907) 266-4552, Fax (907) 266-4568 E-mail Cmaccay@aol.com
	Leo Mark Anthony	C-D Development Co. 2020 Lake Otis Parkway, Anchorage, Alaska, 99508 Phone (907) 279-4702, Fax (907) 279-4702
	Dr. Lance D. Miller	Juneau Economic Development Council 612 W. Willoughby Ave., Suite A Juneau, Alaska, 99801 Phone (907) 463-3662, Fax (907) 463-3929 E-mail lmiller@jedc.org
	Ron Sheardown	Greatland Exploration, Ltd. 3512 Campbell Airstrip Road, Anchorage, Alaska, 99504 Phone (907) 333-1400, Fax (907) 333-1800 E-mail sheardown@aol.com

### STAFF

Frankie Pillifant	Development Specialist, Mining & Minerals Alaska Division of Community & Business Development P.O. Box 110804, Juneau, Alaska, 99811-0804 Phone (907) 465-5463, Fax (907) 465-3767 E-mail Frankie_Pillifant@dced.state.ak.us
Dr. Dick Swainbank	Development Specialist, Mining & Minerals Alaska Division of Community & Business Development Unit 7, 3677 College Road, Fairbanks, Alaska 99709 Phone (907) 451-3050, Fax (907) 451-3053 E-mail swainbnk@ptialaska.net

## FOREWORD

The Alaska Minerals Commission again wishes to thank the Governor and the Legislature for implementing some of our recommendations during 2002. Highlights include substantial positive proposed changes in the Water Quality Standards, funding to study assumption of water quality primacy, continued funding of geophysical surveys and AMEREF, and accelerated transfer of State-selected lands. Partly as a result of the responsive actions of the Governor and the Legislature over the last few years, mining development opportunities are improving in Alaska as demonstrated by the recent growth in the industry.

However, there are still significant obstacles to overcome for Alaska to reach its growth potential and to gain a reputation as a predictable and favorable place to do business.

The Alaska Minerals Commission was created by the 14th Legislature and signed into law on June 6, 1986. The enabling legislation instructs the Commission to make recommendations to the Governor and Legislature on ways to mitigate constraints, including governmental constraints, on the development of minerals, including coal, in the state.

The Commission has presented reports to the Governor and Legislature annually since January 1987, and is authorized to do so until January 2004. Commission members are appointed by the Governor, the President of the Senate, and the Speaker of the House. The current members are representatives of placer, hard rock, and coal mining industries and come from diverse areas of the state.

During 2002, the Commission held meetings in Fairbanks and Anchorage. The recommendations in this report are the result of input at these meetings. All Commission meetings are open to the public, and members encourage comments from all interested parties at any time.

Following the list of recommendations in the executive summary, this report contains background information, or "findings", on each issue, followed by the related recommendation. These have been separated into Part A, which deals with issues mainly of State concern, and Part B that includes federal issues affecting the State that can be influenced by State participation.

On behalf of the members of the Commission, I would like to express our appreciation to those members of the public, the Alaska Miners Association, the Resource Development Council, and the many government agencies and private organizations that contributed to the preparation of the report. The Commission wishes to thank Commissioner Deborah B. Sedwick of the Department of Community and Economic Development and Dick Swainbank and Frankie Pillifant of the Division of Community & Business Development who have provided excellent administrative and professional support to the Commission.

Irene Anderson, Chair

**ALASKA MINERALS COMMISSION  
2003 REPORT TO THE GOVERNOR  
AND ALASKA STATE LEGISLATURE**

**TABLE OF CONTENTS**

(www.dced.state.ak.us/cbd/minerals/mining.htrn)

<b>EXECUTIVE SUMMARY .....</b>	<b>vii</b>
<b>FINDINGS AND RECOMMENDATIONS .....</b>	<b>1</b>
<b>PART A: ISSUES REQUIRING STATE ACTION .....</b>	<b>1</b>
<b>1) REGULATORY REFORM .....</b>	<b>1</b>
1a Litigation Reform .....	1
1b Permit Efficiency .....	2
1c Water Quality Standards .....	3
1d Mixing Zones .....	4
1e Alaska's Clean Water Actions .....	4
<b>2) ACCESS &amp; INFRASTRUCTURE .....</b>	<b>5</b>
2a Roads to Resources .....	5
2b Restricting Use of Mining Airstrips .....	6
2c Power Supplies .....	6
<b>3) STATE'S RIGHTS ISSUES .....</b>	<b>7</b>
3a RS 2477 .....	7
3b Navigability .....	7
3c Expedited Land Transfers .....	8
<b>4) DATA ACQUISITION .....</b>	<b>8</b>
4a Geophysical & Geological Mapping .....	8
4b Baseline Data .....	9
<b>5) REGIONAL ECONOMIC DEVELOPMENT .....</b>	<b>10</b>
<b>6) EDUCATION AND RESEARCH .....</b>	<b>11</b>
6a AMEREF .....	11
6b School of Mineral Engineering .....	11
<b>7) EXTENDING THE LIFE OF THE COMMISSION .....</b>	<b>12</b>
<b>PART B: FEDERAL ISSUES OF STATE CONCERN .....</b>	<b>12</b>
<b>B1) MARINE TRANSPORTATION TASK FORCE .....</b>	<b>12</b>
<b>B2) DETAILED GEOLOGIC MAPPING .....</b>	<b>13</b>
<b>B3) RESOLUTION OF OUTDATED SEGREGATIONS .....</b>	<b>13</b>
<b>B4) ESSENTIAL FISH HABITAT .....</b>	<b>14</b>
<b>B5) ANILCA PROVISIONS .....</b>	<b>14</b>
<b>APPENDIX A: Act Creating the Minerals Commission .....</b>	<b>16</b>
<b>APPENDIX B: Minerals Commission Statement of Purpose .....</b>	<b>17</b>
<b>APPENDIX C: Mineral Policy Act .....</b>	<b>18</b>
<b>APPENDIX D: Recommendations Implemented .....</b>	<b>19</b>

## EXECUTIVE SUMMARY

### CURRENT RECOMMENDATIONS

The commission encourages the Governor and Legislature to act on the following recommendations in 2003:

- Eliminate frivolous litigation by limiting "public interest litigant" status;
- Increase the efficiency of mine project permitting;
- Update water quality standards;
- Assist in infrastructure development that benefits mining and other industries;
- Resolve land tenure, navigability and right of way access issues;
- Acquire baseline geological and environmental knowledge statewide;
- Promote industry education through support of relevant university programs and the Alaska Minerals & Energy Resource Education Fund.

### INDUSTRY OVERVIEW

The mineral industry is one of three base industries of Alaska to show real growth since 1991. The industry currently has a gross value of approximately \$1 billion dollars, a milestone first reached in 1996. By virtue of several cornerstone operations, the industry has maintained this respectable level despite challenging economic conditions and depressed commodity prices. In the past year, exciting new discoveries have been made, the price of gold and platinum-group elements has risen, and a general feeling of optimism is starting to develop. Unfortunately over the same period the price of copper and zinc has fallen, and taken a toll on the base metal mines in Alaska.

However, while mining has shown growth over the past decade, the industry has been static in recent years. Exploration for new mines has diminished. Smaller hard-rock operations are absent, and placer mining is stagnant. Other countries, states, and provinces continue to surpass Alaska in the global competition for exploration dollars.

Red Dog, Fort Knox, Greens Creek, Usibelli Coal, Illinois Creek, and Anchorage Sand & Gravel are outstanding operations that contribute significantly at the local level. These mines are providing rewarding, long-term, high-paying careers in urban and remote areas alike. These operations have a profound, positive impact on their respective local communities, and serve as shining examples of what could be achieved in other regions of the state.

As the premier producing mine in the state, Red Dog continued to improve its efficiency in 2002 through its Mill Optimization Project, which translated to increased production through superior recovery and product grade. The increased production has been helpful in offsetting some of the financial impact related to decreased zinc prices, however the impact remained significant with a loss of \$10 million in the third quarter of 2002.

Three development projects, Pogo, Donlin Creek, and Kensington are poised to become viable mining operations in the near future.

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 manifold.

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 4<sup>th</sup>, 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. 139 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.

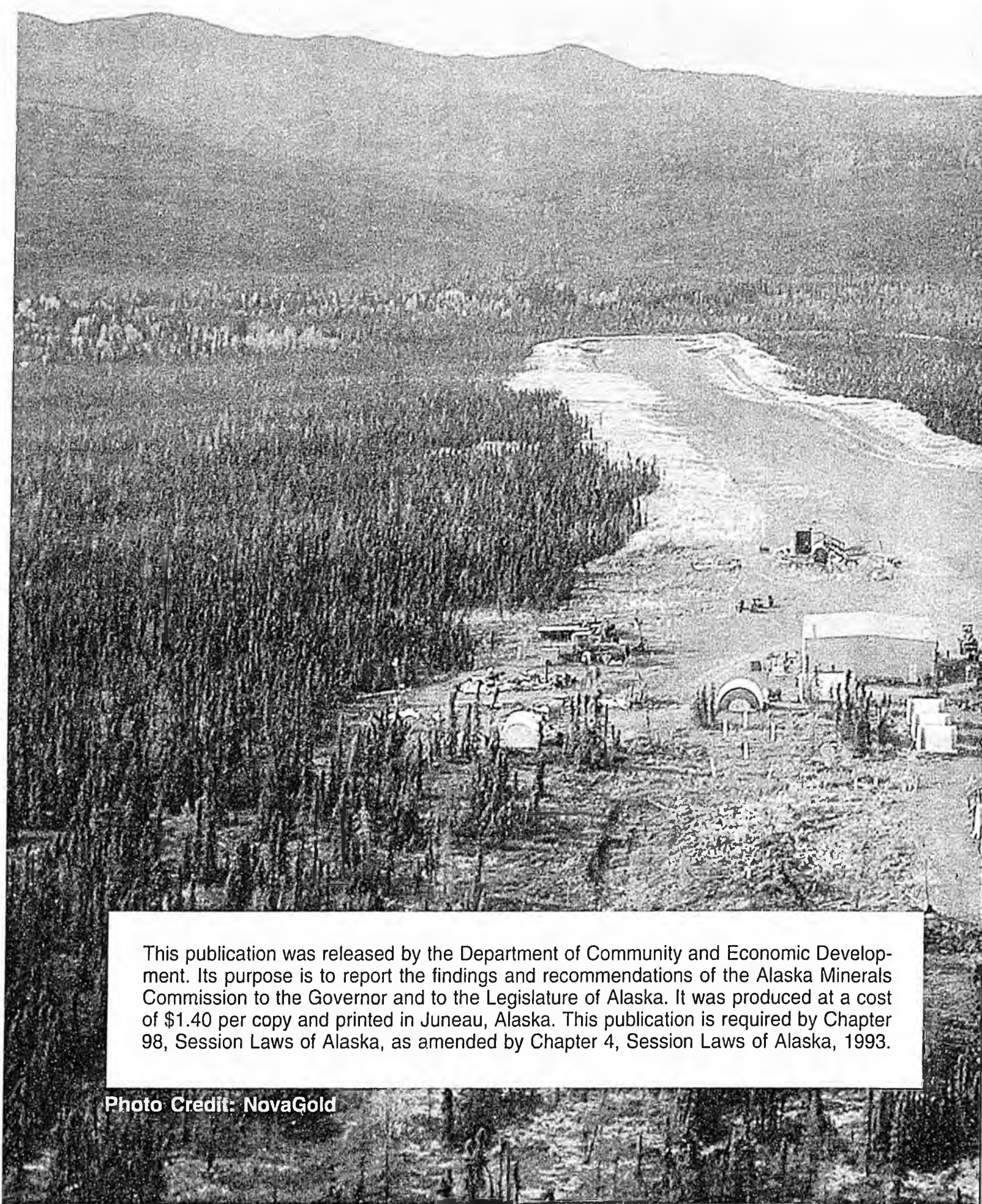
- Funding was provided for the airborne geophysical surveys and for Alaska Mineral and Energy Education Fund (AMEREF).
- Several changes in the Water Quality Standards were proposed for implementation by the Department of Environmental Conservation.
- Funding was provided to study the effects of the 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.

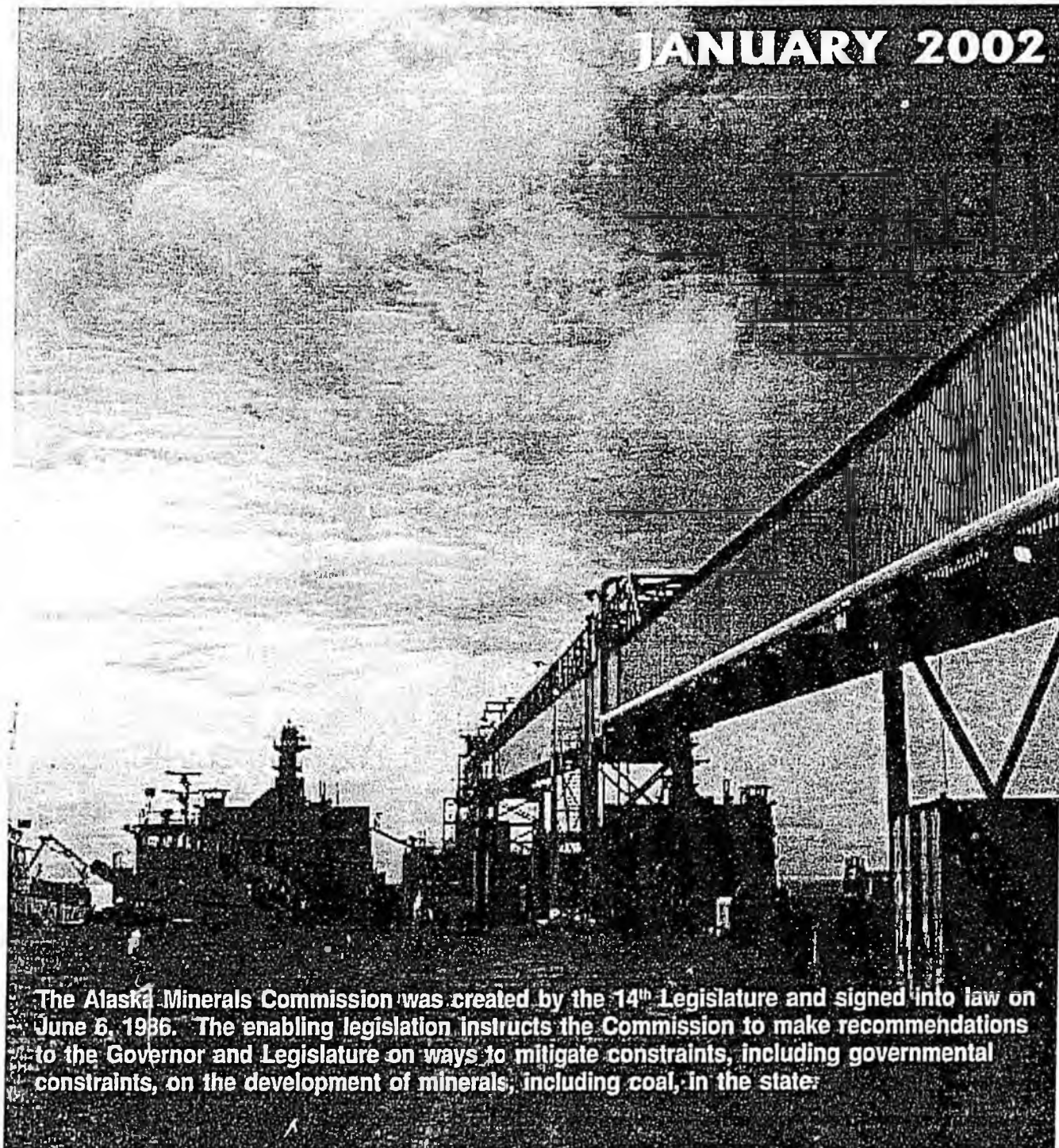


This publication was released by the Department of Community and Economic Development. Its purpose is to report the findings and recommendations of the Alaska Minerals Commission to the Governor and to the Legislature of Alaska. It was produced at a cost of \$1.40 per copy and printed in Juneau, Alaska.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

**Photo Credit: NovaGold**

# REPORT OF THE **Alaska Minerals Commission**

**JANUARY 2002**



The Alaska Minerals Commission was created by the 14<sup>th</sup> Legislature and signed into law on June 6, 1986. The enabling legislation instructs the Commission to make recommendations to the Governor and Legislature on ways to mitigate constraints, including governmental constraints, on the development of minerals, including coal, in the state.

# ALASKA MINERALS COMMISSION

JANUARY 2002

## MEMBERS

Chairman	Irene Anderson	<b>Sitnasuak Native Corporation</b> P.O. Box 905, Nome, Alaska, 99762 Phone (907) 443-4023, Fax (907) 443-3063 E-mail ianderson@snc.org
Vice-chairman	Eric Neil MacKinnon	<b>Hyak Mining Co.</b> 1114 Glacier Avenue, Juneau, Alaska, 99801 Phone (907) 586-1254, Fax (907) 463-3433 E-mail nmackinn@ptialaska.net
	Del Ackels	<b>Goldust Mines</b> P.O. Box 61520, Fairbanks, Alaska, 99706 Phone (907) 474-0971, Fax (907) 474-0966 E-mail golddustmines@gci.net
	Joe Fisher	P.O. Box 92103, Anchorage, Alaska, 99509 Phone (907) 272-8019 E-mail jffisher@ptialaska.net
	Charles B. Green	<b>Usibelli Coal Mine, Inc.</b> 100 Cushman Street, Suite 210, Fairbanks, Alaska, 99701 Phone (907) 452-2625, Fax (907) 451-6543 E-mail cgreen@usibelli.com
	Karl Hanneman	<b>Teck Pogo, Inc.</b> 3520 International Way, Fairbanks, Alaska, 99701 Phone (907) 455-8325, Fax (907) 455-8326 E-mail khanneman@teckalaska.com
	Thomas Irwin	<b>Fairbanks Gold Mining, Inc.</b> P. O. Box 73726, Fairbanks, Alaska, 99707 Phone (907) 490-2201, Fax (907) 490-2290 E-mail tirwin@fairbanksgnld.com
	Charlotte MacCay	<b>Teck Cominco American Incorporated</b> 1133 W. 15 th Ave., Anchorage, Alaska, 99501 Phone (907) 272-2117, Fax (907) 272-2134 E-mail Cmaccay@aol.com
	Leo Mark Anthony	<b>C-D Development Co.</b> 2020 Lake Otis Parkway, Anchorage, Alaska, 99508 Phone (907) 279-4702, Fax (907) 279-4702
	Dr. Lance D. Miller	<b>Juneau Economic Development Council</b> 612 W. Willoughby Ave., Suite A Juneau, Alaska, 99801 Phone (907) 463-3662, Fax (907) 463-3929 E-mail lmiller@jedc.org
	Ron Sheardown	<b>Greatland Exploration, Ltd.</b> 3512 Campbell Airstrip Road, Anchorage, Alaska, 99504 Phone (907) 333-1400, Fax (907) 333-1800 E-mail sheardown@aol.com

## STAFF

Frankie Pillifant	Development Specialist, Mining & Minerals Alaska Division of Community & Business Development P.O. Box 110804, Juneau, Alaska, 99811-0804 Phone (907) 465-5463, Fax (907) 465-3767 E-mail Frankie_Pillifant@dced.state.ak.us
Dr. Dick Swainbank	Development Specialist, Mining & Minerals Alaska Division of Community & Business Development Unit 7, 3677 College Road, Fairbanks, Alaska 99703 Phone (907) 451-3050, Fax (907) 451-3053 E-mail swainbnk@ptialaska.net

## FOREWORD

The Alaska Minerals Commission again wishes to thank the Governor and the Legislature for implementing some of our recommendations during 2001. Highlights include reconstitution of a core permitting team at the Alaska Department of Environmental Conservation, and continued funding for the airborne geophysical surveys. Partly as a result of the responsive actions of the Governor and the Legislature over the last few years, the global mining industry presently considers Alaska a favorable place to do business and is demonstrating its growth potential.

The Commission also wishes to compliment the Alaska Department of Natural Resources for implementing on-line access to records in the Recorder's Office and in the Land Records Information System.

The Alaska Minerals Commission was created by the 14th Legislature and signed into law on June 6, 1986. The enabling legislation instructs the Commission to make recommendations to the Governor and Legislature on ways to mitigate constraints, including governmental constraints, on the development of minerals, including coal, in the state.

The Commission has presented reports to the Governor and Legislature annually since January 1987, and is authorized to do so until January 2004. Commission members are appointed by the Governor, the President of the Senate, and the Speaker of the House. The current members are representatives of placer, hard rock, and coal mining industries and come from diverse areas of the state.

During 2001, the Commission held meetings in Fairbanks and Anchorage. The recommendations in this report are the result of input at these meetings. All Commission meetings are open to the public, and members encourage comments from all interested parties at any time.

Following the list of recommendations in the executive summary, this report contains background information, or "findings", on each issue, followed by the related recommendation. These have been grouped into Part A that deals with issues that are mainly State issues, and Part B that includes federal issues affecting the State that can be influenced by State participation.

On behalf of the members of the Commission, I would like to express our appreciation to those members of the public, the Alaska Miners Association, the Resource Development Council, and the many government agencies and private organizations that contributed to the preparation of the report. The Commission wishes to thank Commissioner Deborah B. Sedwick of the Department of Community and Economic Development and Dick Swainbank and Frankie Pillifant of the Division of Community & Business Development who have provided excellent administrative and professional support to the Commission.

Irene Anderson, Chair

# ALASKA MINERALS COMMISSION

## 2002 REPORT TO THE GOVERNOR AND ALASKA STATE LEGISLATURE

EXECUTIVE SUMMARY .....	vii
<b>FINDINGS AND RECOMMENDATIONS</b>	
<b>PART A: ISSUES REQUIRING STATE ACTION</b> .....	<b>1</b>
<b>1. DEPARTMENT OF ENVIRONMENTAL CONSERVATION</b> .....	<b>1</b>
1.1) PERMIT EFFICIENCY .....	1
1.2) WATER QUALITY STANDARDS .....	2
1.3) NPDES ADMINISTRATION .....	3
1.4) MIXING ZONES .....	3
1.5) BASELINE DATA .....	4
<b>2. DIVISION OF GOVERNMENTAL COORDINATION</b> .....	<b>4</b>
2.1) ALASKA'S CLEAN WATER ACTIONS .....	4
<b>3. DEPARTMENT OF NATURAL RESOURCES</b> .....	<b>5</b>
3.1) RS2477 TRAILS .....	5
3.2) EXPEDITED LAND SELECTIONS .....	6
3.3) NAVIGABILITY .....	6
3.4) GEOPHYSICAL AND GEOLOGICAL MAPPING .....	7
<b>4. OTHER AGENCY PRIORITIES</b> .....	<b>7</b>
4.1) LITIGATION REFORM .....	7
4.2) REGIONAL ECONOMIC DEVELOPMENT .....	8
4.3) EDUCATION AND RESEARCH .....	9
4.4) ACCESS AND INFRASTRUCTURE .....	9
4.5) RESTRICTING THE USE OF MINING AIRSTRIPS .....	10
4.6) SCHOOL OF MINERAL ENGINEERING .....	10
<b>PART B: FEDERAL ISSUES OF STATE CONCERN</b> .....	<b>11</b>
1. DETAILED GEOLOGIC MAPPING .....	11
2. RESOLUTION OF LINGERING WITHDRAWALS .....	11
3. ESSENTIAL FISH HABITAT .....	12
4. ANILCA PROVISIONS .....	13
<b>APPENDIX A: Act Creating the Minerals Commission</b> .....	<b>14</b>
<b>APPENDIX B: Minerals Commission Statement of Purpose</b> .....	<b>15</b>
<b>APPENDIX C: Mineral Policy Act</b> .....	<b>16</b>

# EXECUTIVE SUMMARY

## Recommendations Implemented

During 2001 several of the recommendations from the January 2001 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).
- The Department of Natural Resources is creating an on-line site where all mining claims and prospecting sites statewide can be examined.
- The Department of Environmental Conservation was able to reconstitute a core team of permit professionals for wastewater disposal permits.

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

- Passage of Alaska Mineral Policy Act (1988);
- Funding for the AMEREF program (1987-2001);
- 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 (1992-2001);
- 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); and
- The Department of Environmental Conservation received funds for a core permitting team (2001).

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.

Unfortunately State oversight of federal actions is greatly diminished due to the demise of the Citizen's Advisory Commission on Federal areas (CACFA), and the disbanding of the RS2477 and Navigability task forces within the Division of Mining, Land & Water. These issues were of concern in many of the previous reports, and the demise of these programs will jeopardize Alaska's ability to obtain access to its lands in the future.

## Industry Overview

The total value of Alaska's mining industry in 2001 is expected to remain the same as in 2000, or possibly decline slightly. The Mill Optimization Project at the giant Red Dog Mine has not yet translated to increased production; metal prices have declined substantially, and investment in both exploration and development statewide decreased from the levels in previous years. Production at Red Dog and at Fort Knox is expected to increase in 2002, and a new mining plan at the Kensington Mine may allow the potential of this project to be realized.

Precious metals (gold, silver, and platinum group elements) continue to be the focus of most of the exploration in Alaska in 2001. Highlights include an aggressive drilling project at Donlin Creek to evaluate some of the higher-grade gold zones within the 13-million-ounce resource. Drilling at the True North gold project near Fairbanks in 2001 was designed to evaluate several zones to provide feed for the Fort Knox mill. Field activity at the Pogo gold deposit near Delta Junction was limited to surface exploration, with the major focus at this project on the feasibility study, the permitting process, and the associated Environmental Impact Statement.

Exploration at Red Dog was mainly for shallow shale-bed gas as an alternative fuel source for the mine.

On the south flank of the Alaska Range, exploration for platinum-group elements was curtailed due to the uncertain land status. Drill programs for gold and silver were reported near Tok and Northway.

The State Division of Geological & Geophysical Surveys contracted for airborne geophysical surveys near Cantwell, east of Healy, and southeast of Pogo. Geologic mapping continued in 2001 in the Fortymile and Goodpaster River areas that had airborne surveys in past years.

## **PART A: ISSUES REQUIRING STATE ACTION**

The following recommendations are organized in a modified form from those in years past to focus on the agencies with jurisdiction over the issues brought before the Commission in meetings during the 2001 calendar year.

### **1. DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

#### **1.1) PERMIT EFFICIENCY**

a) 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.

b) The Legislature should require a periodic permitting status report accounting for agency staff and management.

#### **1.2) WATER QUALITY STANDARDS**

In order to encourage industry to incorporate sound science in its development projects, the State of Alaska, through the Department of Environmental Conservation, must itself respond to advancing science by updating the water quality standards through adoption of the dissolved water quality criteria approved by the Environmental Protection Agency in 1999.

#### **1.3) NPDES ADMINISTRATION**

The Governor should direct the Alaska Department of Environmental Conservation (ADEC) to develop a plan for assuming administration of the National Pollutant Discharge Elimination System (NPDES) program, and the Legislature should provide the necessary funding to ADEC to support this effort.

#### **1.4) MIXING ZONES**

The Governor should direct the Department of Environmental Conservation and the Department of Fish & Game 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 Department of Fish and Game has approved a plan to mitigate all reasonably anticipated adverse impacts.

#### **1.5) BASELINE DATA**

The Governor should direct the Alaska Department of Environmental Conservation (ADEC) to work with industry to develop priorities for basic research on topics important to Alaska, such as arsenic toxicity, total dissolved solids and pH, and to develop plans for funding this basic research.

### **2. DIVISION OF GOVERNMENTAL COORDINATION**

#### **2.1) ALASKA'S CLEAN WATER ACTIONS**

The Alaska Division of Governmental Coordination should be required to report to the Legislature any plans to implement programs that are not authorized by statute. The public and industry groups should have the opportunity to comment on new programs that do not follow adopted regulations. Programs such as the Alaska's Clean Water Actions that are not authorized by the Legislature and do not have a criteria-based approach should be curtailed immediately.

### **3. DEPARTMENT OF NATURAL RESOURCES**

#### **3.1) RS2477 TRAILS**

The Legislature should fund a multi-year, multi-agency Capital Project of \$300,000 annually for the Division of Mining, Land & Water (DMLW) 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. 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.

#### **3.2) EXPEDITED LAND SELECTIONS**

The Governor and the Legislature should direct the Division of Mining, Land & Water (DMLW) to aggressively pursue expedited transfer of State-selected lands along the Denali Highway where there is demonstrated potential for mineral development. As identified in the October 4, 2000 DMLW Conveyance Priority List, \$160,000 should be made available for surface management of the 235,000 acres.

#### **3.3) NAVIGABILITY**

The Legislature should make funding available to reinstate a centralized, systematic navigability program within the Department of Natural Resources (DNR). Additionally, funding should be made available to the Department of Law to support any "quiet title" actions necessary to secure ownership of submerged lands.

#### **3.4) GEOPHYSICAL AND GEOLOGICAL MAPPING**

The Governor and the Legislature should invest \$5 million per year (approximately 15% of what industry spent on exploration in 2000) for the next decade, preferably through foundation funding, in airborne geophysical surveys and complementary geological and geochemical surveys.

### **4. OTHER AGENCY PRIORITIES**

#### **4.1) LITIGATION REFORM**

a) **Limiting Public Interest Litigant Status.** The Legislature should modify existing State Statutes to specifically provide that a party bringing a civil action that seeks judicial review of Administrative Agency decisions may not be awarded public interest litigant status and further that the prevailing party in such civil action shall be entitled to an award of attorney fees and costs as in other civil actions.

b) **Disclosure of Funding Sources.** 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 and monetary amount of those who provide funding to the entity who seeks litigant status and/or initiates an Administrative appeal.

#### **4.2) REGIONAL ECONOMIC DEVELOPMENT**

The Governor and Legislature should appropriate \$250,000 for a two-year Capital Improvement Project administered by the Department of Community & Economic Development, making relevant information available in a marketing format 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.

#### **4.3) EDUCATION AND RESEARCH**

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 (AMEREF).

#### **4.4) ACCESS AND INFRASTRUCTURE**

The Governor and Legislature should encourage an efficient process for approval of permits for road, rail and powerline projects that would help develop Alaska's limited infrastructure. The Governor and the Legislature should ensure that after major projects work through a permitting process over an extensive period of time, there must be a rational way to bring closure to the process and issue a permit.

#### **4.5) RESTRICTING THE USE OF MINING AIRSTRIPS**

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.

#### **4.6) SCHOOL OF MINERAL ENGINEERING**

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

## **PART B: FEDERAL ISSUES OF STATE CONCERN**

### **1) DETAILED GEOLOGIC MAPPING**

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.

### **2) RESOLUTION OF LINGERING WITHDRAWALS**

The Governor and the Legislature should urge the Congressional Delegation to request an accounting of Congressional and Administrative withdrawals that no longer have any justification, and seek expedited agency review, transmittal to Congress, and Congressional action. Withdrawals that have the most immediate impact on other activity or commerce should be given priority.

### **3) ESSENTIAL FISH HABITAT**

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.

### **4) ANILCA PROVISIONS**

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

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

# FINDINGS AND RECOMMENDATIONS

## PART A: ISSUES REQUIRING STATE ACTION

**OVERVIEW:** The Fraser Institute, an independent public policy organization, is based in Vancouver, British Columbia, with offices in Calgary and Toronto. Each year it compiles a comparative report of the perceived attractiveness for exploration in various geographical areas based on the responses of dozens of mining company executives.

The 2000/2001 Fraser Institute Annual Survey of Mining Companies included 25 major mining companies and 132 junior companies, and compared 35 jurisdictions, including 12 Canadian provinces, 14 states, and 9 countries. The comparisons were based on a "Mineral Potential Index" and a "Policy Potential Index" to create an overall "Investment Attractiveness Index". Factors such as taxation, environmental regulation, labor regulation, socio-economic agreements, and infrastructure are considered in creation of the policy potential index.

Alaska, with a 91% score, stands fourth behind Ontario (100%), Nevada (97%), and Chile (94%) in the Mineral Potential Index. In terms of the Policy Potential Index, however, Alaska is 16<sup>th</sup> in the field of 35 jurisdictions. This drags Alaska down to 8<sup>th</sup> overall in the Investment Attractiveness Index.

The report examines factors that are perceived to be deterrents to exploration investment, and Alaska ranks 5<sup>th</sup> (of 35) in taxation, 9<sup>th</sup> in uncertainty concerning the administration, interpretation, and enforcement of existing regulations, 13<sup>th</sup> in native land claims uncertainty, 16<sup>th</sup> in environmental regulations and in regulatory duplication and inconsistencies, 17<sup>th</sup> in labor regulation, 19<sup>th</sup> in uncertainty concerning what areas will be protected as wilderness or parks, 21<sup>st</sup> in socio-economic agreements, and 31<sup>st</sup> in infrastructure.

Closer examination of the low score for infrastructure shows Alaska lags behind only Papua New Guinea, Nunavut, Northwest Territories, and Indonesia. Whereas most other states have less than 3% of respondents that perceive infrastructure to be a deterrent, Alaska has 22%.

Although the survey is based on perception, it is often perception that determines exploration investment.

The following recommendations are organized in a modified form from those in years past to focus on the agencies with jurisdiction over the issues brought before the Commission in meetings during the 2001 calendar year.

### 1. DEPARTMENT OF ENVIRONMENTAL CONSERVATION

#### 1.1) 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 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 creating backlogs for industry project permit review. To help resolve this problem, ADEC has most recently utilized the Department of Natural Resources (DNR) authority for third party contracting through the Large Mine Permit process, and is planning to issue a Request for Proposal (RFP) for in-house third party contractor assistance 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 periodically 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, 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:

- a) 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
- b) The Legislature should require a periodic permitting status report accounting for agency staff and management.

## 1.2) 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.

The Alaska water quality standards need to be updated. The current standards are primarily based on 1985 science. Moving responsively in reaction to the new guidance from EPA, DEC first published a draft intent to adopt the new EPA criteria in October 2000. Yet despite generally favorable feedback received by DEC during statewide meetings last October, no further progress has been made on updating the criteria.

If the State of Alaska desires to have a management philosophy based upon sound science, it must increase its responsiveness to the advancing science and update the water quality standards.

**THE COMMISSION RECOMMENDS THAT:**

In order to encourage industry to incorporate sound science in its development projects, the State of Alaska, through the Department of Environmental Conservation, must itself respond to advancing science by updating the water quality standards through adoption of the dissolved water quality criteria approved by the Environmental Protection Agency in 1999.

### 1.3) NPDES ADMINISTRATION

**FINDING:** Both industry and state government desire to make the permitting process for mining operations in Alaska more efficient, accessible, predictable, and accountable. Other states provide a permitting and regulatory structure that is much closer to these goals than the present structure in Alaska. One key element in these other states is that they have administration over the National Pollutant Discharge Elimination System (NPDES) process, as authorized by the Environmental Protection Agency.

Several objectives would be achieved by assuming administration of the NPDES process in Alaska. First, the process would become more efficient by bringing several existing permits under the common control of the State. This should result in time-savings by allowing the major permits to be developed concurrently. Second, State administration would make the process more accessible for all involved, including the industry, the State, and the general public.

The financial burden of assuming administration could be eased by providing for a phased assumption of the NPDES program. While there is an expense to assuming administration, there is presently a high cost of permitting in Alaska, and an opportunity cost to the citizens of Alaska from project delays. The question is not whether Alaska can afford to assume administration, but whether Alaska can afford not to assume control of federally-mandated regulatory programs.

**THE COMMISSION RECOMMENDS THAT:**

The Governor should direct the Alaska Department of Environmental Conservation (ADEC) to develop a plan for assuming administration of the National Pollutant Discharge Elimination System (NPDES) program, and the Legislature should provide the necessary funding to ADEC to support this effort.

### 1.4) 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.

### 1.5) 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, and to develop plans for funding this basic research.

## 2. DIVISION OF GOVERNMENTAL COORDINATION

### 2.1) ALASKA'S CLEAN WATER ACTIONS

**FINDING:** The Alaska Division of Governmental Coordination (ADGC) recently began a program called the Alaska's Clean Water Action that encourages the public to suggest any waterbody in Alaska be listed as "polluted waters" or "at risk" waters. This waterbody program is not authorized by State statute or regulations. Nor are there any scientific research or background studies required for waterbodies to be listed. Once on the list, there is no process to remove a waterbody from the list.

Agencies that have successfully implemented permitting systems may be hindered in permitting activities on or near waterbodies on this new list.

**THE COMMISSION RECOMMENDS THAT:**

The Alaska Division of Governmental Coordination should be required to report to the Legislature any plans to implement programs that are not authorized by statute. The public and industry groups should have the opportunity to comment on new programs that do not follow adopted regulations. Programs such as the Alaska's Clean Water Actions that are not authorized by the Legislature and do not have a criteria-based approach should be curtailed immediately.

**3. DEPARTMENT OF NATURAL RESOURCES**

**3.1) RS 2477 TRAILS**

**FINDING:** Since 1993 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:**

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. 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.

### 3.2) EXPEDITED LAND SELECTIONS

**FINDING:** In 1994 the Commission recommended that the State should seek expedited transfer of State-selected lands along the Denali Highway for the high mineral potential proximal to existing transportation. 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 4, 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). This effort must be pursued.

Furthermore, the State is unable to charge claim rental until the selections are tentatively approved, resulting in an annual loss of approximately \$75,000.

#### 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. As identified in the October 4, 2000 DMLW Conveyance Priority List, \$160,000 should be made available for surface management of the 235,000 acres.

### 3.3) NAVIGABILITY

**FINDING:** State ownership of the beds of navigable waters is an inherent attribute of State sovereignty protected by the United States Constitution. At Statehood in 1959, title to the beds of navigable waters in Alaska was vested in the newly formed State.

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 since 1995 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 be made available to the Department of Law to support any "quiet title" actions necessary to secure ownership of submerged lands.

### 3.4) GEOPHYSICAL AND GEOLOGICAL MAPPING

**FINDING:** Since 1993, State-funded airborne geophysical surveys have covered approximately 8,700 square miles of the State of Alaska's 162,500 square mile land entitlement, at a total cost of \$ 3.32 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.

During this same period, the mining industry has invested \$376 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 15% of what industry spent on exploration in 2000) for the next decade, preferably through foundation funding, in airborne geophysical surveys and complementary geological and geochemical surveys.

## 4. OTHER AGENCY PRIORITIES

### 4.1) 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.

Those groups that regularly oppose resource development are not simply concerned citizen groups but rather special interest groups supported financially by national and/or international organizations whose stated mission is resource preservation. The result of these systematic and orchestrated law suits 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 by eliminating public interest litigant status in appeals of Administrative decisions and by awarding fees and costs to the prevailing party in such litigation ensures a level playing field for all litigants. Likewise, requiring disclosure of funding sources by those who seek to qualify as litigants and/or who seek to file an Administrative Appeal permits 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 development projects, once permitted, are not delayed by individuals or entities who 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:**

- a) Limiting Public Interest Litigant Status. The Legislature should modify existing State Statutes to specifically provide that a party bringing a civil action that seeks judicial review of Administrative Agency decisions may not be awarded public interest litigant status and further that the prevailing party in such civil action shall be entitled to an award of attorney fees and costs as in other civil actions.
- b) Disclosure of Funding Sources. 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.

#### **4.2) 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 to the local tax base.

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 administered by the Department of Community & Economic Development, making relevant information available in a marketing format 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.

#### **4.3) EDUCATION AND RESEARCH**

**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 program is a cooperative effort between the Department of Education, which developed the curriculum and is responsible for its implementation, and the Alaska Mineral and Energy Resource Education Fund (AMEREF). AMEREF is supported by the mineral and energy industries which annually fund the production and replacement of the teaching materials, ensure the technical accuracy of the material, and organize and distribute the educational kit. The Department of Education, for its part, has funded the salary of a Specialist who is responsible for teacher training and for implementing the program into the school system.

This program provides a broad-based resource education for Alaska's students which is critical to their understanding of the resource needs of a modern society, and the importance of mineral and energy resources to the economy of the State of Alaska.

#### **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 (AMEREF).

#### **4.4) ACCESS AND INFRASTRUCTURE**

**FINDING:** When compared to other regions of North America, the mining industry perceives Alaska as lacking available infrastructure to support the industry. (Source: The Fraser Institute Survey of Mining Companies Operating in North America 2000-2001). This 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 would realize significant improvements in their economic opportunities and standard of living if infrastructure improvements were completed. Yet public debate about various road or powerline projects often treats these regions as if they were de facto wilderness, when such is not the case.

Much of Alaska is wilderness, with federal wilderness areas comprising 23% of the State, and a total of about 48% of the State is closed to mining. These areas were withdrawn during the previous decades because they purportedly had special characteristics that justified the wilderness or park designation. This large area of Alaska is unlikely to ever have road or powerline development.

If there is to be no development in the extensive areas of Alaska that have already been set aside, then the other areas of Alaska that are not designated as wilderness constitute the land base that must support our society. Even though these 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.

**THE COMMISSION RECOMMENDS THAT:**

The Governor and Legislature should encourage an efficient process for approval of permits for road, rail and powerline projects that would help develop Alaska's limited infrastructure. The Governor and the Legislature should ensure that after major projects work through a permitting process over an extensive period of time, there must be a rational way to bring closure to the process and issue a permit.

**4.5) 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.

**4.6) 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.

## **PART B. FEDERAL ISSUES OF STATE CONCERN**

### **1) 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 could publish more detailed maps, and supplement 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.

### **2) RESOLUTION OF LINGERING WITHDRAWALS**

**FINDING:** Many hundreds of thousands of acres in Alaska remain closed to mineral entry due to federal land withdrawals, although the original justifications for the withdrawals may have lapsed. According to the Bureau of Land Management (BLM), there are three basic classes of withdrawals, each of which goes into effect as the Public Land Order (PLO) is published in the Federal Register.

- 1) Administrative: Orders signed by the President, Secretary of the Interior, and other members of the Administration. Examples include Executive orders, Presidential Proclamations.
- 2) Congressional: Acts of Congress that created Military Reservations, ANILCA Conservation System Units, Wild and Scenic River designations.
- 3) De Facto: Examples include State or ANCSA selection applications, hydroelectric project licenses or applications, proposed withdrawals, and wilderness study areas.

Most of the withdrawals in Alaska are Administrative or Congressional, and most of the pursuant PLO, have no expiration date. The BLM is the agency most active in the reviews of the various withdrawals through its land use planning process. Because of limited funding for the past two decades, the review process has become backlogged.

Two examples of withdrawals that impact mining are the 1980 Squirrel River Wild and Scenic River withdrawal, and the 1971 withdrawal for the Trans-Alaska Pipeline System (TAPS) between the Yukon River and Atigun Pass.

After two decades of study, the Alaska BLM office judged the Squirrel River unsuitable for Wild and Scenic River designation, and forwarded that decision to the Washington office for review. The decision would then be transmitted to Congress, which would then have three years to ratify the decision before the withdrawal automatically expired without congressional action, which is normally the case.

The so-called "inner corridor" for the Trans-Alaska oil pipeline right-of-way between Atigun Pass and the Yukon River was withdrawn from state selections by Public Land Order (PLO) 5150 in 1971. This

portion of the corridor has an average width of about 5 miles, and includes numerous pre-existing mining claims.

New Bureau of Land Management regulations have placed several of the placer mines in jeopardy, because a "Validity Examination" will be required before the operations can be issued a permit, and such examinations can take decades to complete. The PLO 5150 also adversely affects access to other state lands adjacent to the corridor.

Except for this segment, the pipeline right-of-way has been reduced to as little as 54 feet. Therefore the security of the pipeline is not an issue, and each withdrawal should be addressed on a case-by-case basis.

**THE COMMISSION RECOMMENDS THAT:**

The Governor and the Legislature should urge the Congressional Delegation to request an accounting of Congressional and Administrative withdrawals that no longer have any justification, and seek expedited agency review, transmittal to Congress, and Congressional action. Withdrawals that have the most immediate impact on other activity or commerce should be given priority.

**3) 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.

#### 4) 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:

- a) Provide access across Conservation System Units (CSU) as required by Title XI of the Alaska National Interest Lands Conservation Act (ANILCA);
- b) Prohibit the creation of additional CSU lands in Alaska as required by Sections 101d and 1326b of ANILCA; and
- c) 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)

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 \$1.30 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.

S B

8 8

## SENATE COMMITTEE REPORT First Committee of Referral

DATE: 2/28/03

FURTHER:

Date of 5-Day Notice: \_\_\_\_\_  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 4-28-03

Resources Committee considered      SENATE BILL NO. 88

### SB 88 FOREST RESOURCES & PRACTICES STANDARDS

"An Act relating to standards for forest resources and practices; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DNR	4/22/03		✓	

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
CHAIR: <i>[Signature]</i>	✓			

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB88  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
 Title Forest Resources & Practices Standards BRU Forest Management & Development  
 Component Forest Management & Development  
 Sponsor Sen. Seekins  
 Requester (S) RES Component No. 435

**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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
-----------------------------	------------	------------	------------	------------	------------	------------

<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
-------------------------------	------------	------------	------------	------------	------------	------------

**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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

**ANALYSIS:** (Attach a separate page if necessary)

Based on current levels of harvesting on non-state land, and current funding levels, DNR will not need additional operating funds to implement the changes in this bill. If the amount of harvesting on non-state land increases substantially, or if FRPA funding, including federal Section 319 funding declines significantly, additional funds would be needed for field inspections of riparian buffers. On state land, the revised riparian standards can be incorporated into the existing sale design and sale administration process.

Prepared by: Jeff Jahnke, Director Phone 907-269-8474  
 Division Forestry Date/Time 4/22/2003  
 Approved by: Tom Irwin, Commissioner Date 4/22/2003  
 Agency Natural Resources

# ALASKA STATE SENATE



Session:  
State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-2327  
(907) 465-5241 Fax

Interim:  
119 N. Cushman, Suite 201  
Fairbanks, Alaska 99701  
(907) 456-8161  
Senator\_Ralph\_Seekins@legis.state.ak.us

**Senator Ralph Seekins**  
District D

## Senate Bill 88 Sponsor Statement

This Bill revises the riparian management standards of the Forest Resources Practices Act (FRPA) for Region III by strengthening protection for fish habitat and water quality in a manner that continues to support both the timber and fishing industries.

The current standards for Region III were adopted as an interim measure in the 1990 revision of the Act. Under these standards, harvesting can occur up to the bank of anadromous waters on both public and private land under some conditions. With the proposed Bill, all anadromous and high-value resident fish waters are classified and riparian standards are established for each classification.

The requirements are tailored to the characteristics and fish habitat needs of each stream type. A no-harvest buffer will be required on most anadromous and high-value resident fish waters. However, along glacial rivers where some of the most valuable timber occurs, the standards allow harvest of up to half the large white spruce in the landward half of the buffer. This allows landowners to capture some of the economic value within the riparian areas while keeping enough large trees to provide woody debris.

This bill is not a wholesale revision of the Act. It has substantive changes for riparian management standards applying to Region III only. Other technical revisions include changes to the statewide nomenclature for waterbody classes to prevent confusion between waterbody types in different regions. The bill also moves definitions of regional boundaries from the regulations to the Act and makes a minor change to the regional boundary on the Kenai Peninsula to better match the difference between forest types. Most forestland in the affected area is in federal ownership, so there will be minimal impact on other landowners.

SB 88 helps ensure that the FRPA continues to be certified for compliance with federal Clean Water Act and coastal zone management requirements. This means that the Act continues to provide "one-stop shopping" for the timber industry with respect to state and federal non-point source pollution and coastal management standards.

This bill is founded on the best science available including an extensive review of existing research and recommendations of an interdisciplinary Science & Technical Committee. The committee included experienced field staff from the state resource agencies and private sector as well as University of Alaska and federal scientists.

An Implementation Group that included representatives of the timber and fishing industries, Native corporations and environmental groups drafted language to implement the scientists' recommendations in a practical manner that works in the field. This bill is unanimously endorsed by the Board of Forestry and has support from a broad array of interest groups.

# 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

April 7, 2003

**SUBJECT:** Sectional Summary - SB 88 (Work Order No. 23-LS0393D)

**TO:** Senator Ralph Seekins  
Attn: Brian

**FROM:** Gerald P. Luckhaupt   
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents. This bill is a reintroduction of SCS HB 131(FIN) (22nd Legislature). HB 131 was introduced in the 22nd Legislature as a governor's bill.

Sections 1 - 10 of the bill extensively amend AS 47.17.080 - 47.17.143 and 41.17.950, what are commonly referred to as the forest practices act. New definitions and forest practice standards are established for water bodies on public and private land that are also dependent upon the area of the state where the water body is found. Section 10 supplies the new definitions.

Section 11 of the bill provides that regulations not in conflict with the bill remain in effect and also allows the commissioner of natural resources to begin adopting new regulations prior to the effective date of the bill.

Sections 12 and 13 provide effective dates.

GPL:med  
03-371.med



## Briefing:

### **Region III Forest Practices amendments**

March 2003

**DEPARTMENT OF NATURAL RESOURCES**

**DIVISION OF FORESTRY**

**Overview.** A bill to amend the Alaska Forest Resources and Practices Act (FRPA) for Interior Alaska (Region III) has been introduced this year as SB 88. This legislation was introduced and heard in the 2001-2002 sessions as HB 131. The bill sets standards for forestry activities in riparian areas. The bill ensures that Region III standards

- protect fish habitat and water quality,
- support healthy timber and fishing industries, and
- incorporate the best available science.

The bill is the product of two years of work by a broad array of interests. There is broad support for the consensus in the bill.

**Applicability.** In Region III, the FRPA applies to commercial forestry operations on all land ownerships where the operation borders surface waters or a riparian area, or where the operation is more than 40 acres and the landowner owns more than 160 acres in total.

**Background.** This bill is based on work by an interdisciplinary Science & Technical Committee and an Implementation Group that represented affected interests. The Science & Technical Committee reviewed relevant research and published an annotated bibliography of the results, drafted a stream classification system, and recommended changes to current riparian management standards. Committee members had expertise in fisheries, forestry, hydrology, and soils. Members included scientists and experienced field staff from the resource agencies, the University of Alaska, the U.S. Geological Survey, and the private sector.

The Implementation Group discussed how to implement the recommendations of the Science and Technical Committee in a manner that works on the ground, and drafted language for changes to the FRPA and regulations. The group included representatives from the departments of Natural Resources, Fish and Game, and Environmental Conservation; private forest owners, the timber and fishing industries, and environmental groups.

The Board of Forestry reviewed and concurred with the recommendations from the Implementation Group. The recommendations were incorporated into draft legislation, which the Board endorsed. The legislation was originally introduced as HB 131. In 2001-2002, this bill was heard in the House Special Committee on Fisheries, House Resources Committee, Senate Resources Committee, and Senate Finance Committee, and passed out of all committees without opposition. The House also passed the bill without opposition. The bill was not scheduled for vote on the Senate floor. It was reintroduced as SB 88 in 2003 by Senator Seekins.

**Summary of key provisions.** The bill defines three types of water bodies, and sets riparian standards for each type as follows:

- On large non-glacial waters and glacial backwater sloughs (Type III-A): a no-cut buffer of 66' on private land, and 100' on public land. Harvesting can occur in the landward 33' of the buffer on public land with the concurrence of ADF&G.

- On other glacial waters (Type III-B): a 66' riparian area on private land and a 100' riparian area on public land. The half closest to the waterbody is a no-cut buffer. In the landward half, up to 50% of the large white spruce may be harvested.
- On small non-glacial waters (Type III-C, <3' wide): a 100' special management area in which harvesting may occur, but must be consistent with maintenance of important habitat. ADF&G and DNR will do more research on this stream type to determine the extent of occurrence within commercial forests and to assess needed management measures.

The bill also

- Changes the statewide nomenclature for waterbody classes, to prevent confusion between waterbody types in different regions.
- Moves definitions of regional boundaries from the regulations to the Act.
- Makes a minor change to the regional boundary on the Kenai Peninsula to better match the difference between forest types. Most forest land in the affected area is in federal ownership, so there will be little impact on landowners.

For more information, contact:

Jeff Jahnke  
DNR Division of Forestry  
550 W. 7th Avenue  
Anchorage, AK 99501  
907-269-8474

Chris Maisch  
DNR Division of Forestry  
3700 Airport Way  
Fairbanks, AK 99709-4699  
907-451-2666

**Organizations and Individuals Testifying in Support of HB 131  
During 2001-2002 sessions**

- Yukon River Drainage Fisheries Association (Jill Klein, Bill Fliris, Chris Stark)
- Bering Sea Fishermen's Association (Chris Stark)
- United Fishermen of Alaska (Jerry McCune)
- Northern Alaska Environmental Center (Nancy Fresco)
- Board of Forestry members (Larry Hartig, Bill Jeffress, Rick Smeriglio)
- Larry Smith, individual

**Written support for HB 131 during 2001-2002 sessions**

- Alaska Forest Association (Jack Phelps, executive director)
- Society of American Foresters, Alaska Chapter (John Fox, chair)
- White Spruce Enterprises (Leslie and Jerry Gustafson)
- Tanana Valley State Forest Citizens' Advisory Committee (Trish Wurtz, chair)
- Alaska Conservation Alliance (Danielle Brown)
- Yukon River Drainage Fisheries Association (Jill Klein, executive director)
- Fairbanks Chamber of Commerce (John Burns, chair)
- Individuals
  - Frederick Dean, Fairbanks
  - Tom Paragi, Fairbanks
  - Jim Reynolds, UAA Emeritus Professor of Fisheries, Fairbanks

**Additional support in 2003**

- Tanana Valley State Forest Unit 2 Planning Team

**Tanana Valley State Forest  
Unit 2 Planning Team  
3700 Airport Way  
Fairbanks, AK 99709**

February 10, 2003

Jeff Jahnke, State Forester  
Alaska Division of Forestry  
550 West 7<sup>th</sup> Avenue, Suite 1450  
Anchorage, AK 99501-3566

Dear Mr. Jahnke:

The members of the Unit 2 Tanana Valley State Forest Planning Team are working to determine how to manage the lands and resources in Unit 2. We understand the efforts of the many scientists and natural resource professionals that worked together to revise the riparian standards and stream classification system for Region III (Interior Alaska) of the Forest Resources and Practices Act. During our meeting on December 16<sup>th</sup>, the Planning Team unanimously resolved to support the Region III riparian standards agreement by passing the following:

*The Tanana Valley State Forest Unit 2 Planning Team commends the interdisciplinary Science and Technical Committee and the Implementation Group for their work in developing the Region III riparian standards and stream classification system. These agreements are the result of effective consensus building among diverse user groups and are based on the best available scientific information. The Unit 2 Planning Team recommends prompt passage of legislation containing these agreements as written.*

Our stakeholder planning team has been convened to advise the Division of Forestry on how Unit 2 should be managed. We represent the diverse interests of the people who use the State Forest. We hope that you will endorse our recommendation by forwarding this letter to the various heads of legislative committees who will consider legislation on these agreements.

Sincerely,

Members of the Tanana Valley State Forest Unit 2 Planning Team