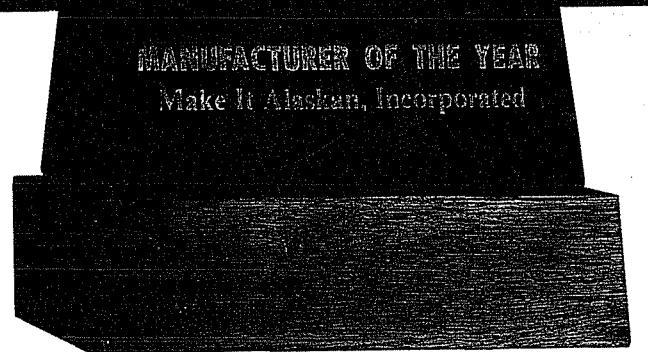




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June 1991

Resource Review

1872 Mining Law

Hearing provokes strong testimony

More than 150 people packed into a small University of Alaska Fairbanks lecture hall May 26 to testify in a tense congressional hearing on hotly contested legislation that would reform the 1872 Mining Law.

H.R. 918, the Mineral Exploration and Development Act of 1991, was introduced in the House last February by Rep. Nick Rahall (D-WV), chairman of the House Interior Subcommittee on Mining and Natural Resources. The legislation would replace the 119 year-old law and establish a new system for acquiring rights to explore for and develop currently locatable minerals on public lands. Miners warn the legislation would cripple the industry.

The bill would impose new fees that would render many operations uneconomical. By declaring that only a "claim holder" can prospect, it denies the right to prospect for valuable minerals to those who have not already staked a mining claim. It would eliminate mineral patents and allow federal land management agencies to veto mining projects on public lands. And it would encourage any person for just about any reason to continuously saddle mining operations with lawsuits.

"The Minerals Exploration and Development Act is a radical and devastating approach to public lands management," said RDC President Bill Schneider in comments delivered to

the hearing. Schneider warned that H.R. 918 would greatly hinder exploration and mining on federal lands and would be counterproductive to insuring the availability of a minerals supply for the nation's growing economy and national security needs.

Schneider explained that while H.R. 918 may not immediately affect the output of existing mining operations, it will shut down the pipeline of existing and future exploration projects and force the mining industry to seek replacement reserves from foreign sources.

"The sponsors of H.R. 918 are effectively legislating the United States into the status of a "have-not nation" and a "government-controlled econ-

(Continued to page 4)



Rep. Nick Rahall's bill would establish a federal rental system with an annual surface fee which escalates yearly. Many fear the bill would drive small miners out of business.

Miners put heat on Rahall from Santa Fe to Fairbanks

It isn't easy going in the West with legislation that would cripple the mining industry, as Rep. Nick Rahall has learned from his recent hearings in Nevada, New Mexico, Colorado and Alaska.

Rahall and fellow U.S. House Mining and Natural Resources Subcommittee members have been met by a "welcoming" committee of miners and other public land users who

have exhibited a spirited and united stand for multiple uses on the public lands. At each hearing, Rahall has found a cool reception to his bill, H.R. 918.

In Denver, Rahall was met by a rally of over 600 mining supporters who turned out in a spring blizzard to prove that their will to survive was stronger than a Rocky Mountain

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Congress holds key to West Coast oil dependency

As Alaska production declines, Pacific states risk becoming totally dependent on foreign oil

A new study released last month warns that seven western states will become dangerously dependent on foreign oil as Alaskan crude production declines over the next decade.

The regional "oil Import Dependence Study" documents the Pacific states' shift, beginning in 1976, from a dependence on Persian Gulf oil to petroleum produced on Alaska's North Slope. The study projects that, without a major new oil discovery in Alaska, the Pacific Coast again risks becoming almost totally dependent on foreign oil between the years 1996 and 2010.

As a result of this decline, the report projects that Hawaii, which currently receives 38 percent of its oil from Alaska, will become totally dependent on foreign oil by 1996.

The study also concludes that shipments of Alaskan oil to California, the region's largest consumer of petroleum prod-



Because of major advances in oil field technology and design, less than 1% of ANWR would be impacted by oil development.

ucts, will begin to decline by 1996 and end by 2006. Currently, 49 percent of California's oil comes from Alaska with six percent imported. The study forecasts that by 2006, Alaska oil shipments will end and 70 percent of California's petroleum could be imported (most of it from the Persian Gulf).

Before North Slope oil production began in 1977, Washington was 100 percent dependent on imported oil. In 1990, 92 percent of the oil refined in Washington came from Alaska. The report projects that by 2006, Alaska shipments will decline. By 2010 Washington's dependence on foreign oil could rise to 57 percent. The Department of Energy in a recent study projected that the Trans-Alaska Pipeline could be permanently closed for economic reasons around 2010. This would again leave Washington 100 percent dependent on foreign oil.

The BLM estimates that there is nearly a 50 percent chance of finding major quantities of oil on the Coastal Plain of the Arctic National Wildlife Refuge in northeast Alaska. The U.S. Geological Survey estimates that the Coastal Plain may contain up to 10 billion barrels of recoverable oil. If Congress permits oil exploration on the Coastal Plain and such a discovery is found, ANWR could be the source of 25 percent of America's future domestic oil production, extending the life of the Alaska pipeline by decades.

Fairbanks rally draws several hundred mining supporters

(Continued from page 1)

weather system. Likewise, the Reno hearing was overshadowed by more of the same — over 1,000 multiple use advocates. And in Santa Fe, another 1,000 supporters of mining rallied.

Rahall's last scheduled western field hearing occurred on May 25 in Fairbanks where several hundred rallied in support of the mining industry.

The Lower 48 rallies were organized by People for the

The Resource Development Council (RDC) is Alaska's largest privately funded nonprofit economic development organization working to develop Alaska's natural resources in an orderly manner and to create a broad-based, diversified economy while protecting and enhancing the environment.

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Carl Portman

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Capitol Concerns
by
Debbie Reinwand
Deputy Director

RDC toasts success, 1991 legislative session concludes

Winning in the legislative arena can mean successfully stopping or fixing "bad" legislation as often as it means overseeing the passage of "good" bills. At the conclusion of the 1991 legislative session, however, RDC was pleased to look down the win-loss column and see far more successes in the legislation that passed both houses this year.

As this organization approached the 17th Alaska Legislature and the new administration, it was the goal of RDC to promote positive bills and work to correct problems with unsavory measures. In most cases, that philosophy held true.

When the Legislature was gavelled to a close on May 21st, RDC was one of the pro-economic development organizations present in Juneau that proposed a toast to numerous successes.

Foremost on RDC's legislative agenda was funding for a state pro-ANWR education and advocacy campaign, and with the tireless work of Rep. Ramona Barnes, that goal was fulfilled. The governor's office had originally proposed a \$5

Bycatch . . . (Continued from page 6)

trawlers could accomplish that goal, he said.

"All fishermen are not dirty fishermen," Flagg said. "We need to set a rate that would define clean or dirty."

Kodiak Mayor Jerome Selby prefers incentives to encourage rockfish harvesters to catch fish cleanly as opposed to an outright closure. "We need to fish smarter, not just close fisheries," said Selby, an RDC board member.

Denby Lloyd, Director of Commercial Fisheries for the Alaska Department of Fish and Game, notes that several stocks of chinook salmon in Alaska are at low levels.

"The North Pacific Council is moving fairly quickly on this issue," Lloyd said, "but mostly within the context of potential impacts to the groundfish fleet. What they must understand, however, is that our king salmon stocks are fully-utilized by existing commercial, sport and subsistence fisheries — there is no room for the level of waste that some trawlers are displaying."

million effort, but members of the House Finance Committee were concerned about aspects of the campaign. With support from Rep. Mike Navarre, Rep. Randy Phillips and others, a \$3 million appropriation passed out of that committee in the reappropriations bill. Rep. Barnes, Malcolm Roberts of the governor's office, and RDC staff met with Senate members and the \$3 million appropriation remained in the bill when it was approved by the Senate on adjournment day.

Another bill supported by RDC that moved through the legislature just days before adjournment was HB 196, the so-called "Good Samaritan" bill that corrects problems in oil spill legislation passed in 1990. The measure allows oil spill contractors and others to respond to a hazardous waste spill without fear of being sued unless they are grossly negligent. A one-year sunset clause on the bill means RDC and others will be back in 1992, lobbying for a longer-term form of the bill.

In addition, the unitary tax bill, HB 12, introduced by Rep. Tom Moyer, D-Fairbanks, passed the House and Senate. The bill institutes the "water's edge" tax accounting system and is designed to encourage new investment in Alaska. Alaska is the last state in the nation to alter or replace the unitary tax system.

As the session wound to a close, compromises were struck and legislation moved forward in an abnormally-expeditious manner. The Alaska Miners Association is to be commended for helping RDC cover the resource bases with the Department of Natural Resources and the Senate Resources Committee to correct problems in the McNeil River Bear Refuge bill, allowing it to proceed at the behest of the House Speaker and Senate President.

Overall, RDC was pleased with the positive and receptive nature of the legislature when reviewing pro-business and pro-economic development bills and wants to extend a public thanks to its members, as well as the Alliance, the Alaska Forest Association, the AMA, AEDC, the Juneau Chamber of Commerce, the State Chamber of Commerce and other development-oriented groups that banded together to impact public policy decisions in Juneau.

Meanwhile, a special session of the International Pacific Halibut Commission will meet this month to establish targets to reduce the halibut bycatch.

"The current and future productivity of the halibut resource is seriously threatened by excessively high levels of bycatches in the groundfish fisheries in U.S. waters off Alaska," said Dr. Victor Rabinovitch, Assistant Deputy Minister of Fisheries and Oceans.

In 1990, over 17.4 million pounds, or 32 percent of 1991's allotted 55 million-pound harvest, were caught by groundfish vessels. This was more than double the ceiling set in the mid-1980s when foreign vessels dominated the groundfish fisheries.

To ensure that the future of the resource is not jeopardized by the bycatch, the Halibut Commission takes into account all of the previous year's withdrawals from the resource, including bycatch, when it sets annual halibut quotas. This means that the higher the bycatch, the lower the next year's quota for halibut fishermen.

ANWR may be decided by single vote

After passing the Senate Energy and Natural Resources Committee by a 17-3 vote in late May, Senator Bennett Johnston's comprehensive national energy bill is expected to hit the full Senate floor this summer or fall where its fate may be decided by a single vote.

Minutes before the proposed energy policy passed, the Senate committee voted 11-8 to permit oil exploration on the Coastal Plain of the Arctic National Wildlife Refuge (ANWR). Oil drilling in ANWR is one of the most politically sensitive components of the energy bill, which also includes provisions for nuclear energy, coal, hydroelectric production, electricity, natural gas, alternative fuels and conservation.

The bill as now written would split revenues from ANWR production evenly between the state and the federal government. Federal revenues would be deposited into a fund for energy conservation programs and other projects designed to enhance the nation's energy security and reduce reliance on imported oil.

Although the bill could come before the full Senate this month, consideration is likely to be delayed to give proponents of the broad-based energy package more time to amend the bill to provide for stricter automobile fuel efficiency standards. Such an amendment would enhance the bill's chances for Senate passage.

Senator Frank Murkowski, a member of the energy committee, said he believes new automobile efficiency standards will be added to the bill during floor sessions. But they will be based on results of a National Science Foundation

study on the industrial and human safety costs of such standards, he said.

According to Murkowski, about 38 senators support the national energy bill and 37 oppose it, leaving 25 undecided. The state's recently funded \$3 million lobbying effort should not only be directed at convincing the undecided to vote for the package, but solicit the support of organized labor, which would pull in some crucial Senate votes, Murkowski said.

On the House side, the Merchant Marine and Fisheries Committee will hold three hearings this summer on a bill that would open ANWR to oil drilling and create a new wildlife refuge on the North Slope west of Prudhoe Bay. The third hearing will be held August 7 in Anchorage.

The House Energy and Commerce Committee also has jurisdiction over the ANWR issue and will be considering legislation. Chairman John Dingell (D-Michigan), a strong proponent of wildlife refuges, favors designating the 23 million-acre National Petroleum Reserve (NPRA) near Barrow as a wildlife refuge in exchange for opening the 1.5 million-acre Coastal Plain of ANWR to oil drilling. North Slope Eskimos and the Arctic Slope Regional Corporation oppose such a designation because of NPRA's rich mineral potential and the vast land it would remove from a variety of multiple uses.

House floor action on ANWR could come before the end of the year or early in 1992. If the Senate and House bills pass, they would head into a Senate-House conference committee where members would attempt to hammer out a single package acceptable to both houses.

First steps are taken to curtail growing bycatch

(Continued from page 3)

The Seattle-based trawlers caught over 70,000 king salmon in the Bering Sea and Gulf of Alaska between January and May, twice the catch reported for all of 1990. As many as 22,000 were taken by boats fishing the central gulf for perch this spring.

Alaska waters have no limit on king salmon bycatch by trawlers, which drag huge nets along the bottom of the ocean. The nets also pull out huge amounts of immature halibut, herring and crab, threatening those fisheries as well.

"We made several first steps toward regulating trawlers," said Clem Tillion, special fisheries assistant to Governor Hickel and a member of the Council. Tillion complained that when rockfish trawlers get into schools of salmon, the results are devastating.

Tillion prefers the use of longlining or other methods for catching rockfish that do not incidentally catch salmon. "Why should we sacrifice one species for another if there is a way around it?" he asked.

The Council's April vote is an emergency advisory measure which must still be approved by the regional

director of the National Marine Fisheries Service. If approved, the closure would be in effect for as many as 180 days.

The six Alaska members of the Council voted as a block against the five others from the Pacific Northwest who represent the Seattle-based trawler fleet.

During the last session of Congress, Senator Ted Stevens conducted a year-long filibuster in committee in order to block a move by the Washington state congressional delegation to add seats to the Council from Washington and Oregon. Stevens prevailed and ensured that last year's reauthorization of the Magnuson Act did not alter Alaska's voting advantage on the fishery management council.

Loren Flagg, Executive Director of the Kenai Peninsula Fishermen's Association, urged the Council to consider the creation of a regulatory system that would create bycatch limits for individual boats. He said the present system punishes the entire industry for a few dirty fishermen.

A cap on the total salmon bycatch or a limitation on the number of salmon per metric ton of rockfish taken by

(Continued to page 7)

Looking back over the past 12 months



Thoughts from the President

by William E. Schneider

This is my last column as RDC President. Looking back over the past twelve months, we were able to advance many of RDC's policies and priorities. Committed officers, executive committee members and board of directors worked on our key issues. A dynamic, professional staff kept the RDC organization on track with the policymakers and press.

Specifically, I want to recognize RDC's officers, Vice Presidents Curtis Foster and John Rense, Secretary Rex Bishopp and Treasurer Larry Laughman who worked tirelessly throughout the year to accomplish RDC's goals. I thank them and the entire executive committee.

I also want to express my gratitude to Becky Gay. As a former executive director, I recognize the skills necessary to keep a large organization on course. Becky has those skills. She is dedicated to RDC and what we stand for. Additionally, she possesses the energy to keep plugging on those issues that span the years. Debbie Reinwand, Carl Portman, Kim Duke and Michelle Hendrickson were a pleasure to work with this past year and they have my sincere appreciation and respect.

To summarize this year, I reflect on the following:

ANWR - The U.S. Senate Energy Committee recently approved legislation allowing drilling in ANWR. RDC's efforts in opening ANWR have been pragmatic and effective. The legislature has approved \$3 million to finance an ANWR awareness campaign.

Wetlands - I had the opportunity to testify before the White House Domestic Policy Council on behalf of RDC and the Alaska Wetlands Coalition. Rep. Don Young has recently

Fishery Council moves to curtail salmon bycatch

Halibut Commission to meet this month

sponsored legislation that promises to resolve many of the debilitating impacts of current wetland policy. RDC took congressional staff on an eye-opening tour of Alaska wetlands, from Bethel and Kwethluk to Anchorage and the North Slope.

Legislative Influence - RDC members and staff were successful in achieving many of RDC's legislative priorities, including the ANWR funding, Mental Health Land Trust settlement and others. A wrap-up breakfast presentation by a member from each House and the Deputy Chief of Staff ended RDC's morning forums until fall.

Community Outreach - Our trip to Kodiak was most beneficial. Discussions with Kodiak community leaders focused on fishing and wetland issues. We were treated like royalty by Borough Mayor Jerome Selby and Kodiak resident Scott Thompson.

Morning Debates - Over the past two months, RDC breakfast meetings have had a little extra pizzazz. The forums featured two or more speakers presenting different viewpoints on subjects such as Prince William Sound Recreation Area, the onshore versus offshore processing and bycatch issues, mining on federal lands and the Municipality of Anchorage labor contracts. The feedback on these meetings were very positive and we will continue to present more debates in the future.

Administration - With RDC offices and library established at our new location, we are ready to address the new issues that will surely come our way. A five-year lease was successfully negotiated with our landlord. RDC continues to provide the Pacific Legal Foundation with office space and support.

Future Leadership - The future of RDC is in good hands. New officers and directors are of the highest caliber. I look forward to giving them a hand as I serve as Past President on the Executive Committee this upcoming year.

In closing, thank you for the opportunity to serve. I have enjoyed it. RDC is a great organization with a great past and a bright future.

The North Pacific Fishery Management Council has stepped forward to curtail the incidental killing of king salmon by trawlers fishing for groundfish in Alaska waters.

The 11-member Council, an advisory group charged by Congress to shape fishing policy in the North Pacific, voted 6-5 at its April meeting in Kodiak to recommend closure of the Gulf of Alaska to rockfish trawling, a move that affects a small harvest of valuable Pacific perch.

The Council's recommendation is the first step in developing a set of regulations that will control the large bycatch of king salmon by ocean trawlers. Bycatch is the fish taken accidentally by fishing vessels directing their efforts to catching other species. The Bycatch is wasteful because it is returned to the water and most of the catch dies.

(Continued to page 6)

RDC, State defends Mining Law, blasts Rahall bill

Rahall bill looms as dark shadow over mining industry

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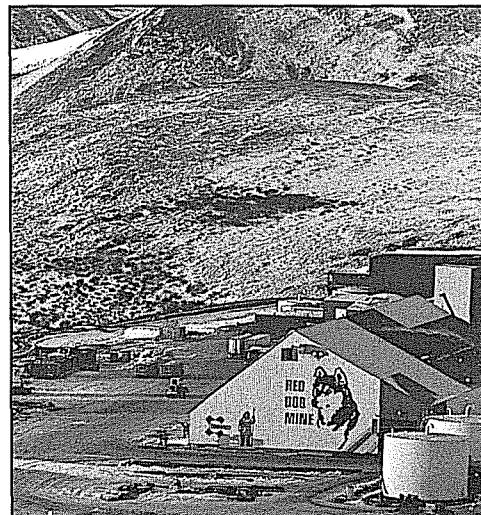
omy," Schneider said. He labeled H.R. 918 as a "Minerals Exploration and Development Closure Act."

Paul Glavinovich, Director of RDC's Minerals Division, defended the 1872 Mining Law, noting that a series of changes have kept it up to date in meeting the needs of a changing world.

"Like the U.S. Constitution, the Mining Law of 1872 has served America well," Glavinovich said. He complained the new federal legislation ignores the critical role the 1872 Mining Law has played in the development of the American mining industry.

"With total disregard to any scientific or economic rationale, the goal is to repeal a demonstrably working law and replace it with a system rift with such financial and regulatory burden that it will eliminate all but a very few major mineral interests," Glavinovich added.

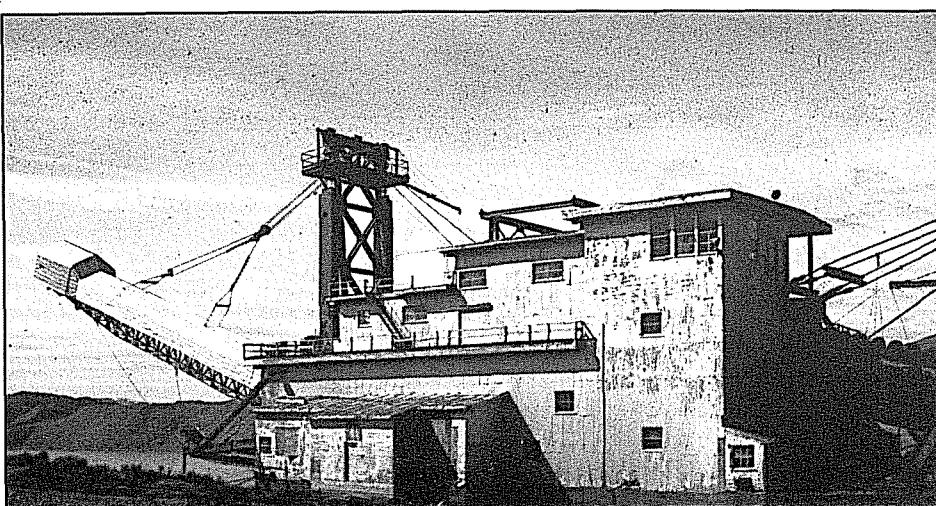
Glavinovich noted that his analy-



Significant deposits are still being found across Alaska, and most minerals yet to be discovered will be found on federal lands. The Mining Law is still the most effective tool needed for discovery.

sis of H.R. 918 shows that the bill has been poorly researched, lacks financial analysis and will be very disruptive to America's minerals industry.

He emphasized that the 1872 Mining



The prospectors of long ago would be surprised to learn that there were more minerals in the hills than they ever dreamed. Today, modern miners have created a renaissance industry to discover and retrieve the minerals old timers left behind. However, repeal of the Mining Law could cripple the industry, leaving scores of mineral deposits in the ground.

Law is a mining law, not an environmental, reclamation, clean water or clean air act.

"We fail to grasp the rationale for attempting to write legislation that is redundant to existing federal law under such acts as the National Environmental Protection Act, the Federal Land Management Planning Act, the Clean Air Act and the Clean Water Act," Glavinovich continued. "Under these and other measures, scores of provisions exist today at both the federal and state levels to protect our water, wildlife, air and land."

There are some 37 federal laws, primarily environmental in nature, which either amend the original mining law or apply directly to mining operations to protect the environment. Most states have at least a dozen such laws of their own.

Appearing on behalf of Governor Hickel, state Natural Resources Commissioner Harold Heinze said that if Alaska was given a choice, it would retain the status quo.

"In part this is because the laws have provided for access to public lands for both individuals and companies that is initially non-exclusive, but following discovery can be developed into an exclusive right." Heinze said this right of self initiation and reward is essential to the economic wellbeing of Alaska and the mining industry.

Heinze pointed out that the mining law has been clarified over the years through a well documented case law record. "Virtually every aspect of the existing mining law has been interpreted by the courts, providing unambiguous guidance on interpretation of the law," said Heinze.

"Quite simply, the mining law is a property rights law which defines how a miner finds, develops, gains ownership



From the exploration to the production phase, mining is a risky business. Some prospects require huge investments to define the deposit. In Alaska, most deposits are located in remote areas, requiring the use of helicopters to shuttle crews and equipment.

of mineral resources, and, under certain conditions, gains fee simple ownership of the land. Additionally, these property rights have been modified by other federal legislation dealing with air, land, water, land use and environmental concerns."

The DNR commissioner told Rahall that Alaska has some of the most progressive reclamation legislation of any state, guaranteeing restoration to State standards on all lands.

"All of these regulations and laws, whether state or federal, have resulted in a highly regulated industry that cannot be judged by actions common only 20 years ago," Heinze added. "We must look at the industry today and move forward from that point, rather than from what was and is no more."

Heinze conceded that the existing laws are not perfect and have flaws or opportunities for abuse. However, strong regulatory authority already exists to take care of the few abuses that do occur, Heinze noted. "The fine tuning of the mining laws developed over the past century should not be lost merely to fix a few inequities in the system."

Congressman Don Young said substantial changes in favor of mining interests would infiltrate Rahall's bill before it reaches the House floor for a vote. A vote is expected before the end of the congressional session in October.

takes up to 15 years to bring a mine into production.

"If the law passes, I'll have to pay \$160,000 a year on my 2,000-acre claim," he said. Hannenman has had the claim for 10 years, but the price of gold is not yet high enough to justify development of the claim.

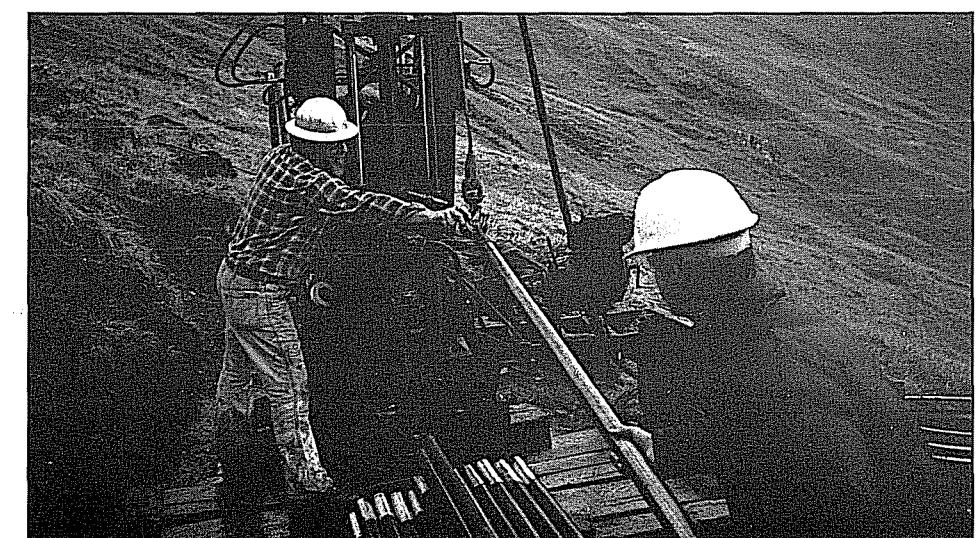
Rahall's bill would require a miner to initially pay \$20 per acre to retain his newly filed claim. In five years, the miner's cost jumps to \$40 per acre before climbing to \$80 per acre after ten years and \$160 per acre after 15 years.

"If it passes, I'm dead in the water," said miner Roger Burggraf. He has spent 18 years readying a claim for patent.

Patenting a claim would not be allowed in Rahall's bill. The process is long and filled with obstacles, but enables a miner to have surface as well as subsurface rights to the land.

"H.R. 918, rather than rewarding the individual for effort, as the 1872 Mining Law does, reflects a trend toward a redistribution of wealth that supposedly favors the public interest, but really would eliminate the prospector and small miner from mining; destroying the very roots of the industry itself," said DNR Commissioner Heinze.

"It would create another bureaucracy to monitor a process which is already struggling with overzealous regulation based on ill conceived perceptions of the industry. The end result will not be a healthy prosperous mining industry but an exodus of expertise from Alaska and the U.S. to countries with a more rational and stable minerals policy."



The 1872 Mining Law protects the investments of money and hard work needed to find minerals, especially for small miners, who do most of the prospecting and discover most of the vital minerals.