

RESOURCE DEVELOPMENT COUNCIL

Growing Alaska Through Responsible Resource Development

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 Senator Mark Begich
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 Congressman Don Young
 Governor Sean Parnell

BREAKFAST MEETING

Thursday, May 15, 2014

1. Call to order – Phil Cochrane, President
2. Head Table Introductions
3. Self introductions
4. Staff Report – Rick Rogers, Executive Director
5. Program and Keynote Speaker:

**Cook Inlet – Southcentral Alaska
Commercial Fishing Industry Update**

Arni Thomson
Executive Director
Alaska Salmon Alliance

Upcoming Meeting:

Tuesday, June 24: RDC 39th Annual Meeting Luncheon featuring Ryan Lance, Chairman and CEO, ConocoPhillips, Dena'ina Convention Center, Noon

Please add my name to RDC's contact list:

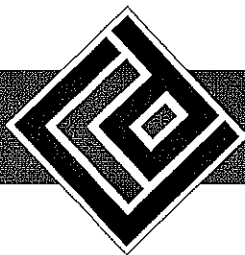
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Senator Lisa Murkowski

Congressman Don Young

Governor Sean Parnell

May 13, 2014

Co-chair Senator Lesil McGuire

Co-chair Representative Bob Herron

Alaska Arctic Policy Commission

Via email

RE: Arctic Policy Commission Preliminary Report

Dear Senator McGuire and Representative Herron:

The Resource Development Council for Alaska (RDC) submits the following comments on the January 30, 2014 preliminary report of the Alaska Arctic Policy Commission (AAPC), to the Alaska Legislature. These comments are intended to supplement my verbal testimony to the AAPC delivered at the Anchorage meeting on May 6.

RDC is a statewide, non-profit, membership-funded organization founded in 1975. The RDC membership is comprised of individuals and companies from Alaska's oil and gas, mining, timber, tourism, and fisheries industries, as well as Alaska Native corporations, local communities, organized labor, and industry support firms. RDC's purpose is to link these diverse interests together to encourage a strong, diversified private sector in Alaska and expand the state's economic base through the responsible development of our natural resources.

Alaska Has Successful Experience Developing Arctic Resources to Benefit Alaskans

The State of Alaska, its residents, and industry have close to four decades of successful experience in developing Arctic resources for the benefit of local communities, the region, the state, and the nation. One needs to look no further than the examples of the Red Dog mine in the Northwest Arctic Borough and North Slope oil development, which commenced with the discovery of oil at Prudhoe Bay and the building of the massive 800-mile Trans-Alaska Pipeline System (TAPS).

Red Dog has contributed over \$2 billion in positive economic impact on the Northwest Arctic region and Alaska since 1990. In 2013, 639 full-time equivalent family-supporting jobs were supported with 56 percent of those being NANA shareholders. The mine has generated over a \$1 billion in payments to NANA and \$609 million in 7(i)

distributions to Alaska Natives across the state. The Northwest Arctic Borough, which arguably might not even exist had the mine not been developed, received \$8.7 million in payments in lieu of taxes in 2013. The borough has financed the construction of five new schools using general obligation bonds made possible by revenues from Red Dog.

On the North Slope, over 17 billion barrels of crude oil have been produced and shipped through TAPS destined for west coast domestic markets to meet the energy needs of U.S. consumers. This industry has invested over \$50 billion in infrastructure, and the state has amassed a \$50 billion Permanent fund that provides annual dividends to Alaskans and a financial legacy recognizing that oil is a nonrenewable resource.

Both Red Dog and the North Slope oil and gas resources have provided tremendous benefits to Alaskans, living both within and outside the Arctic as defined by the AAPC. These developments have occurred with significant attention to protection of the environment and have resulted in multi-generational improvements to lives of Alaskans.

There are no doubt formidable challenges to operating in the Arctic. However, a pre-cautionary approach, which demands that all questions be answered and data gaps be filled before any kind of development moves forward, is unreasonable and would essentially equate to a moratorium on development and commerce while countless studies are conducted. If such an approach was followed in the 1960s and 70s, the vast North Slope oil fields would never have been developed and Alaska's economy today would be half its size.

Serious consideration and accommodations need to be given to traditional uses and subsistence, research efforts must be encouraged and advanced, and key infrastructure developed. All of this can occur as part of the process of advancing responsible resource development, as was done when Americans embarked on the deliberate, but responsible development of the vast energy resources of the remote and challenging North Slope, more than a generation ago. Research and infrastructure expansion occurred simultaneously with exploration and development activities.

The Arctic Holds Immense and Diverse Opportunities

The resource wealth of Alaska as a whole, and the Arctic in particular indicates that Alaska's best days are ahead of us. Developments are already underway at Point Thomson and in the eastern edge of the National Petroleum Reserve Alaska (NPR), and we are entering a promising phase in efforts to monetize North Slope gas. ANWR holds immense potential, and exploration in the Alaska Outer Continental Shelf (OCS), if only allowed by regulators and the courts to move forward, holds great potential for significant new production. Such new production is vital as the TAPS is running at 25 percent of its original design capacity. Such low flow translates into increasing tariffs and significant engineering and operational challenges.

Mineral exploration continues in lands adjacent Red Dog with the promise of decades of additional production there. Mineral exploration at the Ambler mining district, Nome, including offshore, and elsewhere bode well for future mineral developments with benefits comparable to Red Dog.

Without the Development of Alaska's Arctic Resources, Alaska is Exposed to Most of the Risks with Few of the Rewards

Russian exploration and production giant Rosneft recently approved moving forward with exploration and possible development some 50 miles from the Burger prospect under lease in U.S. waters to Shell. Meanwhile, in spite of dozens of wells previously drilled in the Alaska OCS without incident, approval to move forward on Alaska offshore exploration remains elusive.

Reduction of summer sea ice is increasing vessel traffic in the Arctic. Whether or not U.S. shippers expand their traffic in the Arctic, vessel traffic is on the rise.

An industrial presence in the Alaska Arctic resulting from exploration and development of offshore leases brings with it resources for spill response and search and rescue capacity in the region. However, a worst-case scenario for risks vs. benefits arises if there is no new development in the Alaska Arctic while projects in the Russian Arctic and elsewhere move forward.

There is a Great Deal of Uncertainty with Regard to the Future of the Alaska Arctic

For businesses looking to invest in resource development in the Alaska Arctic there is a great deal of uncertainty. Much of this uncertainty is beyond our control. For example, while climate models are good at predicting trends, they cannot predict with certainty the extent of sea ice in coming years and decades. Global commodity demand and how Alaska development projects can compete with other jurisdictions also creates uncertainty that is largely beyond our control. Schedule delays and cost control are particularly challenging in the remote and harsh Arctic environment.

In contrast, regulatory uncertainty is a human caused condition and within our control to address. Recent experience suggests that regulatory uncertainty in the Alaska Arctic is high and is threatening the ability of Alaska to responsibly develop its resources. According to Bureau of Ocean Energy Management (BOEM), 86 exploration wells have been drilled in the Alaska OCS, including 61 in the Arctic. And yet, six years after Lease Sale 193 with billions of dollars invested, no exploratory drilling (other than well cellar preparation work) has occurred.

The AAPC Should Develop a Clear and Concise Policy that Seeks to Reduce Regulatory Uncertainty in Support of Responsible Resource Development

It would be naive to suggest that the AAPC could single handedly eliminate regulatory uncertainty. However the AAPC is well positioned to influence this regulatory uncertainty by

providing a unified Alaska voice that emphasizes the decades of experience and success Alaska has had in responsibly developing its natural resources, and the need for clear consistent and durable policies so development can move forward without undue delay.

This is a critical issue for Alaska. As noted earlier, TAPS throughput is at 25% capacity and reduced flow increases tariffs, creates enormous operational and engineering challenges, and negatively impacts the state's fiscal and economic future. The Alaska LNG project is under serious evaluation and our mining industry is in its infancy given its potential. None of these projects can move forward without federal authorizations, and if the evolving U.S. policy for the Arctic fails to acknowledge the importance of responsible resource development to the people of the Arctic and Alaska, it may serve as one more barrier to improving the lives of Alaskans.

Recommendations to Achieve a More Clear and Concise Arctic Policy Statement

Without attempting a line-by-line detailed document review, RDC offers the following generalized suggestions in helping achieve a more focused and powerful policy statement based on the principles expressed above.

Cross Check all Proposed Policies with Existing Statewide Alaska Policy

The Alaska Arctic is part of the great State of Alaska with its own constitution, statutes, regulations, and management and governance systems, including the administration with its commissioners, departments, boards and commissions – all with legislative oversight. The temptation to reinvent the wheel for the Arctic should be resisted.

As the AAPC is examining policies related to education, workforce development, community engagement, fish and wildlife management, project permitting, and a host of other issues, these should be vetted in light of existing statewide policies with input and participation from the appropriate administrative departments and perhaps boards and commissions.

To develop policies for the Alaska Arctic without such vetting invites a situation where the Arctic policies are inconsistent with established statewide policies. If the policies are in conflict, which one will trump the other, and what justification is there for policies in the Arctic that conflict with statewide policies established over the 55 years since statehood? Perhaps there are limited situations where such divergence is justified, but if so, these differences should be transparently vetted and compared with input from the appropriate department Commissioners and perhaps boards and commissions. Failure to do this now will simply pass that burden to the Alaska Legislature and administration.

Clearly Define Terms

Terms such as “ecosystem management” and integrated management” should be clearly defined. Failure to do so can result in significant ambiguity with differing interpretations.

Check for Inconsistencies

In certain places the draft document contradicts itself. For example, the document presents two very differing views regarding community and stakeholder engagement. On page 41, the document accurately describes how collaboration between local, state, and industry interests “occurs with frequency and success.” The statement at page 21 suggests a lack of collaboration, a need for a new program. The state’s Office of Project Management and Permitting, provides multiagency coordination for development projects and should be consulted to more accurately reflect current policies with regard to permit coordination.

Example from Page 41 lines 1238-1251

Local government, state, and industry collaboration occurs with frequency and success in Alaska. Arctic communities affected by new development have rightly demanded to be heard during all phases of a project’s development. The manner and scope of this community engagement continues to evolve as the state, communities and industry work to meet new concerns and demands.

Example from page 21 lines 598-602

The state of Alaska should develop a program that achieves transparency and community/local inclusion in decision making through state coordination of multiagency permits, state and federal coordination of permits and plans, and meaningful involvement of regional stakeholders in development activities or plans that affect them.

Summary

Alaska has an impressive record of responsibly developing its resources, including the Arctic. This development has been conducted with attention to the impacts on the environment and maximizing the benefits of such development to all Alaskans, both near the projects and statewide. Alaskans from Ketchikan to Borrow benefit from the development of Arctic resources and all have an interest in their responsible development.

In the 55 years since statehood, Alaska has established robust institutions and policies. When crafting Arctic policy, we should be mindful of our existing statewide policies, which have been developed over the decades under our constitutional and statutory framework.

Care should be taken in avoiding conflicting policies that may serve to add to an already uncertain regulatory climate. The AAPC would do well to focus on Alaska’s expertise and success in developing Arctic resources.

May 13, 2014

The AAPC and support staff are to be commended for the hard work that went into producing this document, and we appreciate the opportunity to provide RDC's perspective.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Rogers", with a long horizontal flourish extending to the right.

Rick Rogers
Executive Director
Resource Development Council for Alaska

Cc: AAPC staff



THE ALASKA BUSINESS
REPORT CARD

FOR IMMEDIATE RELEASE

May 9, 2014

Contact Information:

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Alaska Business Report Card Group Releases Grades

Anchorage, AK – The Alaska Business Report Card (ABRC) released grades for members of the 28th Alaska Legislature today. Published annually, the report card provides the collective ABRC membership a clear sense of how each legislator, caucuses, and the Governor are doing to create a healthy economic climate for business in Alaska. On January 17, 2013 the directors of the ABRC participating organizations hand delivered to each legislator and the Governor a letter outlining the seven policy areas for which they would be evaluated.

The policy areas include strategic leadership, fiscal responsibility, oil tax reform, efficient regulation, litigation reform, in-state energy infrastructure and general business climate. In addition to these broad areas of policy, each ABRC organization informed policy makers of specific legislation their organization supported or opposed which would be considered in the grading process.

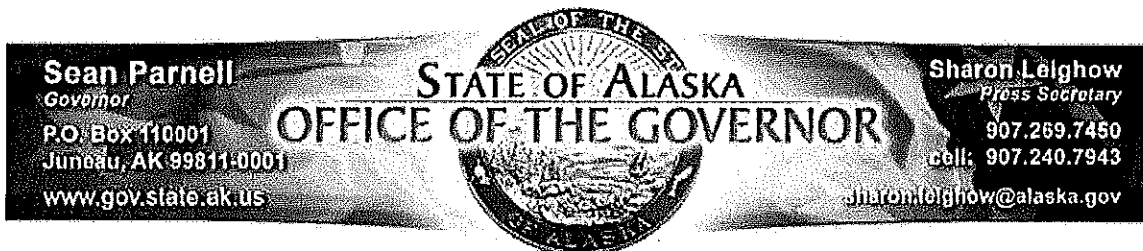
Calculated through an average of each organization's scoring, grades are based on their respective legislative priorities. Grades were compiled based on a broad range of legislation impacting Alaska businesses and the economy. As with the 27th Alaska Legislature, legislator performance was tracked at the committee level, in floor sessions, and in terms of leadership shown both inside and outside of formal legislative settings. In total, more than 6,500 performance events were recorded and factored into the overall performance picture.

Via email this morning, the ABRC notified each individual legislator and the Governor that their grade is now available online. Grades for the House and Senate majority and minority are House Majority, A-, House Minority, F, Senate Majority, B+, Senate Minority, F. Grades of individual legislators and the Governor are available online at alaskabusinesreportcard.com.

About the ABRC

The ABRC was formed in 2010 in an effort to inform the participating organizations' member companies, who employ tens of thousands of Alaskans, on how elected officials are performing to ensure Alaska remains an attractive place for private sector investment, jobs and economic growth. The ABRC is made up of the Alaska Chamber, Alaska Support Industry Alliance, Prosperity Alaska and Resource Development Council for Alaska, Inc. For more information, visit alaskabusinesreportcard.com

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FOR IMMEDIATE RELEASE

No. 14-076

The Alaska LNG Project Begins

Governor Signs Bill to Advance Gasline that Brings Alaska's Gas to Alaskans

May 8, 2014, Fairbanks, Alaska – Joined by hundreds of Alaskans, including pipefitters, skilled workers, apprentices, welders, and legislators, Governor Sean Parnell today moved Alaska one step closer to a gasline by signing Senate Bill 138. Introduced by the governor, SB 138 advances a large-diameter Alaska natural gas pipeline project and empowers Alaska to become an owner in the Alaska LNG Project, and get North Slope gas to Alaskans first using local hire.

"Today, we take a significant step toward getting Alaska's gas to Alaskans," Governor Parnell said. "Alaskans' dream of a natural gas pipeline is now closer to becoming reality. For the first time, we have alignment among the necessary parties, authorization from the Legislature, and the beginning of engineering and design work on a project that will create thousands of Alaska jobs, and fuel Alaska homes and businesses for decades to come."

Senate Bill 138 Specifics

In addition to setting Alaska on a path to become an owner in the Alaska LNG Project, SB 138 empowers the Alaska Gasline Development Corporation (AGDC) to carry the state's interests in the project's infrastructure, mainly the liquefaction and marine facilities.

The legislation also creates a fund for critical infrastructure development and requires the Alaska Energy Authority to provide a plan to deliver more affordable energy to areas of Alaska that are not expected to have direct access to a natural gas pipeline from the North Slope.

SB 138 includes a letter of intent to ensure Alaska residents, contractors and businesses are hired as the Alaska LNG Project progresses. Specifically, the letter supports the "Alaska Hire" language laid out in the Heads of Agreement that was signed in January by the State of Alaska, AGDC, the companies that have Alaska gas under lease, and TransCanada.

Local Communities

Additionally, the bill provides more flexibility to municipalities by removing a current restriction on mill rates for the municipal operating budget for communities with oil and gas properties. In turn, municipalities will be able to use more property tax revenues for critical services for their residents.

In March, Governor Parnell signed Administrative Order 269, establishing the Municipal Advisory Gas Project Review Board. The review board will ensure local participation in an

Alaska gasline by providing a meaningful venue for mayors, communities and the state to work together.

Next steps

In the coming weeks, formal commercial agreements will be finalized by AGDC, the companies and TransCanada, allowing the project to advance into the Pre-Front End Engineering and Design (Pre-FEED) phase.

A summer field season has commenced where millions of private sector dollars will be spent, and hundreds of Alaskans will be put to work on refining the cost and engineering aspects of the project. The Alaska LNG Project will begin pursuing key permits in the coming months.

Work will also continue on assessing where off-takes will be needed to get gas to Alaskans. Additionally, the State of Alaska, as well as the companies, will begin exploring potential markets for North Slope gas, both in state and abroad.

"I commend legislators for working with our administration to advance SB 138 and lay the groundwork for the Alaska LNG Project to get Alaska's gas to Alaskans," Governor Parnell said. "When future generations of Alaskans look back, they will remember 2014 as the year the Alaska LNG Project began."

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Alaska Dispatch

News and voices from the Last Frontier

Published on *Alaska Dispatch* (<http://www.alaskadispatch.com>)

[Home](#) > The economic case for keeping Alaska's oil tax reforms

Tony Knowles

May 5, 2014

Main Image:

[A magnifying glass on top of US money](#) [1]

Main Image Caption:

OPINION: Alaskans and should be concerned that continued declining oil production is an economic disaster in the making. Recent oil tax reforms show the state is attempting to use its most significant tool to encourage further production.

Sen. Patrick Moynihan coined a memorable retort in a Senate debate when he said, "Everyone is entitled to his own opinion but not to his own facts." Thanks to the economic research and analysis by Dr. Scott Goldsmith, professor emeritus of economics at the University of Alaska Anchorage, we can now look at real facts in the ongoing debate of whether Alaskans should support or reject the oil tax reform passed in 2013.

I join many Alaskans who express profound concern that the continuing reduction of oil at 6 percent a year is a pending economic disaster for Alaska. Oil tax revenues provide about 90 percent of our state's unrestricted general fund, which pays for things like education, public safety, health and human services, transportation and other essential services.

The state has one primary tool to increase oil production — the structure of oil taxes. In 2013, the legislature passed SB21. After its passage, the Department of Revenue predicted a \$2 billion reduction in state oil revenues for 2014. Critics of SB21 called it a "\$2 billion giveaway." Signatures were gathered for a referendum to reject the bill and return to the previous tax structure, "ACES." Now Alaskans will vote on Ballot Measure 1 in August.

Many Alaskans have been hoping that an objective and knowledgeable third-party analysis could help shine a light on the facts. Goldsmith has provided us that insight.

A presentation by Goldsmith last week, available at www.iser.uaa.alaska.edu [2], began by showing that the "\$2 billion giveaway doesn't exist." He pointed out that a substantial reduction in state revenues would have occurred regardless of which tax structure was in place because of a decline in royalties and a significant drop in the price and production of oil. Only 4 percent of the decrease could be attributed to SB21.

Goldsmith's analysis demonstrated that in the future more tax revenues could in fact be generated under SB21 than ACES, even if there were no increase in oil production. This depends on the trend of production costs increasing faster than oil prices continuing, which experts agree is the most likely case.

Furthermore, Goldsmith determined that state tax revenues would be greater under SB21 than ACES with an increase in investment and oil production. His conclusion comes from a hypothetical model assuming \$4 billion additional investment creating new production of 50,000 barrels per day.

All of these facts are powerful arguments that Alaska's way forward is not to go back to an oil tax regime that was leading us off the fiscal cliff.

Some argue that ACES collected massive tax revenues, and we should return to that system. It is true that the state treasury experienced a windfall during the early years ACES was in effect. However, it is a mistake to assume that current conditions would allow a return to those days of huge tax revenues. Goldsmith's analysis clearly explains that today's market conditions of rapidly increasing transportation and production costs, a steady steep decline in production, and falling oil prices are far different than six years ago and have significantly changed the tax consequences of ACES.

Others question why the oil companies would embrace SB21 if there is a strong case that, under the same conditions, tax revenues under SB21 would be greater than under ACES. Goldsmith offers a logical rationale by carefully comparing the two tax regimes. In particular, with the extreme progressivity of ACES triggered by high oil prices, there was very little upside value to the oil companies to offset the investment risk they must assume in order to increase production. Required monthly calculation and substantial fluctuation in tax liabilities all contributed to an unstable and unpredictable fiscal environment.

Since passage of SB21 oil companies have committed to new investments of about \$4 billion. Alaska's future would be served best by closely monitoring these promises and their effect on new production and tax revenues. SB21 has been in effect for four months, and we need to give it a chance to work. There will be ample opportunity to make needed changes if the companies' commitments do not generate more production. The referendum is not about the oil companies — it is about Alaska's economic future; and now that we have the facts, I'm voting no on ballot measure 1.

Tony Knowles is a Democrat who served two terms as Alaska's governor. He lives in Anchorage.

Alaska Dispatch encourages a diversity of opinion and community perspectives. The opinions expressed herein are those of the contributor and are not necessarily endorsed or condoned by Alaska Dispatch. To submit a piece for consideration, e-mail [commentary\(at\)alaskadispatch.com](mailto:commentary(at)alaskadispatch.com)

[3].

Source URL: <http://www.alaskadispatch.com/article/20140505/economic-case-keeping-alaskas-oil-tax-reforms>

Links:

[1] <http://www.alaskadispatch.com/image/magnifying-glass-top-us-money>

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[3] <mailto:commentary@alaskadispatch.com>

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Compass: ACES did nothing for Alaska; vote no on oil tax repeal

By RICK ROGERS May 2, 2014

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You may have heard the lawyer's admonition that if you don't have the law, you argue the facts; if you don't have the facts, you argue the law; if you have neither, you argue the Constitution.

Proponents of the old, failed Alaska's Clear and Equitable Share (ACES) oil tax have taken that a step further. Without facts to argue, they want to make up their own. Chancy Crofts' recent column, touting ACES and urging voters to repeal the new tax law, was a case in point. Long on rhetoric, short on facts. You would think a lawyer and former state senator would know better.

Facts, it turns out, do matter and statements in his column were fundamentally untrue, unsupported by any data or public record. Croft says oil production was going up under ACES; in truth, production was dropping like a rock, with throughput in the trans-Alaska oil pipeline drying up at a rate of 6 percent to 8 percent a year. And it gets worse: While production declined here, it increased in all other American oil-producing states.

He says the oil tax reform is a "giveaway," that it is costing the state. As Dr. Scott Goldsmith of the University of Alaska's Institute of Social and Economic Research (ISER) explains in his report released on May 1, there is no giveaway. Let me repeat -- the so-called "giveaway" is a myth. With oil prices and production down, the state faced a revenue shortfall this year; only 4 percent of that shortfall can be attributed to the new tax law. Dr. Goldsmith's independent voice should clarify for voters that current deficits are a result of lower oil prices and higher production costs, not tax reform.

For the upcoming fiscal year starting July 1, the latest revenue projections show the state will take in more revenue under the new tax structure. So the state gets more, not less.

Virtually every single aspect of ACES was a failure despite Croft's assertion that it was sound tax policy. The old tax made Alaska so unattractive that investment dollars went to places such as North Dakota. It was so bad that even those who now want to return to the system say it needs to be overhauled. As recently as a month ago, leading Democrats in the Legislature, including Sens. Hollis French and Bill Wielechowski, and Rep. Les Gara, said ACES needed repair.

Croft goes on to claim Pioneer Natural Resources decided to invest in Alaska because of ACES. That is untrue. He implies that Eni Petroleum decided to come to Alaska because of ACES. That is inaccurate. He mischaracterizes Repsol's recent entry on the North Slope as somehow related to ACES. Again, inaccurate: Repsol has said it came to Alaska only after it became clear the state intended to change the volatile ACES tax structure.

Voting no on the misguided referendum on Aug. 19 is the only chance Alaska has to stay on the right economic track. There is strong evidence -- real evidence, not rhetoric -- that the reform is working. Just a few weeks ago, the state forecast 13,500 additional barrels of oil moving through the pipeline this year because of the new activity on the Slope that has occurred since oil tax reform was enacted. Most important, the number of Alaska jobs has been steadily climbing as the industry responds to the new tax structure and hustles new projects. And the state forecasts the industry will spend at least \$10 billion on new North Slope projects over the next 10

years.

We can't turn back on the progress we've made already under the new system.

This fight is about our shared future. Jobs. Our economy. We need more oil, not less. It pays for 90 percent of state government and increases royalty payments to the Permanent Fund. All of that is good for Alaska.

As for Croft and his supporters, they are entitled to their own opinions. But the facts demonstrate clearly why Alaskans should vote no on Ballot Measure 1.

Rick Rogers is executive director of the Resource Development Council of Alaska, based in Anchorage.

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INSPECTOR GENERAL

May 2, 2014

MEMORANDUM

SUBJECT: Project Notification:
Review of the EPA's Assessment of Potential Mining Impacts in Bristol Bay, Alaska
Project No. OPE-FY14-0039

FROM: Patrick Gilbride, Director /s/
Science, Research, and Management Integrity Evaluations

TO: Nancy K. Stoner, Acting Assistant Administrator
Office of Water

Lek Kadeli, Acting Assistant Administrator
Office of Research and Development

Dennis McLerran, Regional Administrator
Region 10

The Office of Inspector General (OIG) plans to begin preliminary research to determine whether the U.S. Environmental Protection Agency (EPA) adhered to laws, regulations, policies and procedures in developing its assessment of potential mining impacts on ecosystems in Bristol Bay, Alaska. We are initiating this review based on congressional requests and hotline complaints OIG has received on this matter.

During the preliminary research phase we plan to review relevant laws, regulations, policies and procedures and other documentation as necessary. We plan to interview EPA personnel in the Office of Water, Office of Research and Development, Region 10 and the Office of the Administrator. We will update your offices on a regular basis on the status of our review.

We will work with your audit follow-up coordinators to arrange a mutually agreeable time for a kickoff meeting to discuss our review objective, scope, methodology and planned time frames. We will also answer any questions you or your staff may have about the review process, and obtain any input you have on our planned work.

Prior to or at our kickoff meeting, we request that you provide us with the following information:

1. A list of all EPA personnel involved in the concurrence and approval chain for the ecological risk assessment of potential mining impacts on ecosystems in Bristol Bay, Alaska. Please also include the job titles, roles, and approximate dates for each person involved in the process. Please include all personnel involved starting from the time the EPA decided to undertake the

assessment through the release of the final report, *An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska* (EPA910-R-14-001A).

2. A timeline showing the activities the EPA performed to conduct and complete the assessment, starting when the EPA decided to undertake the assessment through the release of the final report.
3. A list of stakeholders the EPA interacted with prior to and during the course of this assessment.
4. An accounting of all costs associated with the development of the report, *An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska* (EPA910-R-14-001A).

If you or your staff has any questions, please contact me at (303) 312-6969 or gilbride.patrick@epa.gov; or Randy Holthaus, Project Manager, at (214) 665-6620 or holthaus.randy@epa.gov.

cc: Michael H. Shapiro, Principal Deputy Assistant Administrator, OW
Dr. Robert Kavlock, Deputy Assistant Administrator for Science, ORD
Ramona Trovato, Acting Principal Deputy Assistant Administrator for Management, ORD
Michelle Pirzadeh, Deputy Regional Administrator, Region 10
Glen Cuscino, Audit Follow-Up Coordinator, AO
Marilyn Ramos, Audit Follow-Up Coordinator, OW
Hyon Kim, Audit Follow-Up Coordinator, ORD
Joanne Brendle, Acting Audit Follow-Up Coordinator, Region 10
Arthur A. Elkins Jr., Inspector General
Charles Sheehan, Deputy Inspector General
Alan Larsen, Counsel to the Inspector General
Aracely Nunez-Mattocks, Chief of Staff, Office of Inspector General
Patricia Hill, Assistant Inspector General for Mission Systems
Patrick Sullivan, Assistant Inspector General for Investigations
Kevin Christensen, Acting Assistant Inspector General for Audit
Carolyn Copper, Assistant Inspector General for Program Evaluation
Christine El-Zoghbi, Deputy Assistant Inspector General for Program Evaluation
Jennifer Kaplan, Deputy Assistant Inspector General for Congressional and Public Affairs
Jeffrey Lagda, Congressional and Media Liaison, Office of Inspector General

Exposing the EPA

Documents reveal a lawless attempt to block an Alaska mine project

May 12, 2014

Wall Street Journal

A basic precept of American democracy is that petitioners before their government receive a full and fair hearing. The Obama Environmental Protection Agency is in urgent need of that remedial civics lesson.

The EPA inspector general's office last week announced it will investigate the agency's February decision to commence a pre-emptive veto of the Pebble Mine project, a jobs-rich proposal to develop America's largest U.S. copper and gold mine in southwest Alaska. EPA Administrator Gina McCarthy says her decision to strike down Pebble *before* it received a hearing shouldn't worry other developers because Pebble is a "unique" threat. She needs to say this because the truth might chill billions of dollars in investment in the U.S.

The IG is looking into internal EPA documents that we've also obtained that show agency officials were maneuvering to kill Pebble more than five years ago, and that EPA's main concern was building a façade of science and procedure to justify it.

This story goes back to the debate over the 1972 Clean Water Act, which gave the Army Corps of Engineers the power to evaluate projects and issue permits. Congress gave EPA only a secondary role of reviewing and potentially vetoing projects (with cause) under Section 404c. EPA has long chafed at this secondary role, which has made it harder to nix projects approved by the Corps.

EPA's decision to initiate a veto process before Pebble had even received an Army Corps review is a disturbing first—and a flouting of the law. The internal documents refute EPA's repeated claims that it began this process only in "response to petitions" from local Native American tribes in May 2010, and that peer-reviewed science drove its veto.

Emails show that EPA biologist Phillip North, based in Alaska and working on Pebble, was in 2008 advocating that his agency bring down the 404c hammer. "The 404 program has a major role" with Pebble, wrote Mr. North to Patricia McGrath, EPA's regional mining coordinator for Alaska, in August 2008. By August 2009, Mr. North was pushing for EPA's annual mining retreat to include a discussion about vetoing the project: "As you know, I feel that [Pebble] merit[s] consideration of a 404C veto." The retreat included that discussion, though Pebble's developer hadn't yet applied for a permit.

By early 2010 EPA staff made a Power Point presentation for former EPA Administrator Lisa Jackson about Pebble that lists a "pre-emptive" veto under "future options." Emails also show that Mr. North was actively engaging outside critics of Pebble. When the Bristol Bay Native Corp. filed a veto request in August 2010, Mr. North responded in an email to the group's lawyer: "Hi Peter, We have been discussing 404c quite a bit internally at all levels of EPA. The letter will certainly stoke the fire."

The EPA veto decision looks to have been made by mid-2010. A Fish and Wildlife briefing paper dated that summer reads: "The [EPA] is seeking [Fish and Wildlife] support as they initiate a formal process to issue a determination that [the wetlands]

within the potential pebble Mine action are unsuitable for the placement of fill material. This action would be conducted under the authority of Section 404(C) of the Clean Water Act."

A September 2010 email from U.S. Fish and Wildlife biologist Phil Brna to colleagues—under the subject heading "Pebble and 404c"—reads: "I spoke with Phil North. . . . He believes EPA leaders have decided to proceed and they are just deciding when." All this happened before the EPA had done any scientific review.

There's also an internal EPA document from September 2010 laying out the "pros" and "cons" of the EPA vetoing in the "traditional" fashion, rather than pre-emptively. Listed under the many "pros" of ignoring the law is that a pre-emptive Pebble veto can serve as a "model of proactive watershed planning." So much for Ms. McCarthy's claim that this veto is a one-timer.

Only after all of this did EPA concoct its sham watershed study that provided the scientific cover for its veto. That study invented a hypothetical Pebble mine, then assumed outdated mining practices to predict environmental harm. The study included contributions from obvious opponents of the mine, including Mr. North. The EPA's own peer-review experts ridiculed the study; one pronounced its key sections "pure hogwash."

These documents depict an agency willing to do anything necessary to gut the permitting process that the Clean Water Act guaranteed for developers. The Pebble veto model sets up EPA as the sole regulator of watersheds across the country, trumping the authority of the Army Corps and state regulators. The EPA's actions on Pebble make clear why Congress was right not to trust it with the power it has now seized.

EPA has been trying to keep this record hidden. Pebble Partnership received some of these documents through a freedom of information request, but CEO Tom Collier confirms to us that the EPA didn't turn over others that we are reporting here. EPA Inspector General Arthur Elkins has clearly decided that there is enough to warrant an investigation, and that's a start. This is merely the latest in the EPA's growing record of dishonesty aimed at denying U.S. companies their rights under the law.

Alaska Dispatch

News and voices from the Last Frontier

Published on *Alaska Dispatch* (<http://www.alaskadispatch.com>)

[Home](#) > EPA's pre-emptive Pebble overreach undermines U.S. environmental permitting system

Tom Collier

May 1, 2014

Main Image:

[EPA enforcement](#) [1]

Main Image Caption:

OPINION: The EPA overstepped its bounds to halt preparations to develop Pebble Prospect, but it can still change course and avoid changing the environmental permitting process for the worse all across the country.

In disregard of the rule of law, established precedent, and long respected public policy, the U.S. Environmental Protection Agency (EPA) has contrived to preemptively block our ability to file a permit to develop the mineral resources at Pebble, located on State of Alaska land in Southwest Alaska, and have them objectively evaluated under the environmental laws of Alaska and the U.S. The basis for their initiative is a scientifically indefensible report called the Bristol Bay Assessment (BBA), designed to negatively influence the public discussion about Pebble and prejudice the process.

On April 29th, we formally responded to this federal overreach outlining the legal, process, and technical problems with EPA's approach. We continue to raise the legal and statutory issues because they are valid and the EPA is acting well outside of the authority established under the Clean Water Act (CWA), specifically Section 404(c) in this case. The CWA clearly identifies the U.S. Army Corps of Engineers as the lead federal agency for 404 actions. The EPA is preemptively blocking our ability to file for a 404 permit and marginalizing the role of the Corps and the state of Alaska. This is a precedent setting step and unveils issues that are far larger than Pebble. For this reason, business and trade associations across Alaska and across the U.S. are engaging on this issue.

I want to be clear about one thing regarding the EPA and its important role under the CWA. It has a duty to review projects in the permitting process. If an issue does not meet the EPA's mandate, the agency has the authority under the CWA to exercise a veto. It does not, or should not, have the ability to veto a project before a permit is sought (pre-emptive) or after a permit has been granted (retroactive).

The EPA appears to be advancing this pre-emptive process against Pebble based upon the BBA, which is a biased document with a pre-determined outcome, as demonstrated by EPA's actions and procedures prior to initiating the Assessment, and during its development. In our letter to the EPA we outline these problems. Our partner, Northern Dynasty Minerals, and the state of Alaska have also both asked the EPA's inspector general to investigate these prejudicial issues thoroughly.

We have already been criticized by some for not presenting "new" information to the EPA via our submittal. I submit, respectfully, that most may not have read our submittal in its entirety, and I summarize a few examples we brought to the EPA's attention.

EPA insists that its decision to proceed under Section 404(c) is based in large part on their BBA. But that document does not provide a legitimate basis for determining that the Pebble Project will cause an unacceptable adverse effect under Section 404(c). We outline in our letter that their projected impacts on downstream water quality, water flows and aquatic habitat are greatly exaggerated. Risks associated with tailings storage and other project features and operations are significantly overstated.

As we have not yet defined a proposed development plan for the Pebble Project, development footprints and footprint impacts associated with the BBA's mine scenarios are speculative, and speculation cannot form the basis for regulatory action under Section 404(c).

While the BBA predicts certain impacts of mineral development on aquatic habitat, it provides no causal link between these effects and "unacceptable adverse effects" on any Bristol Bay fishery. For this reason, EPA has not demonstrated that mineral development will cause unacceptable adverse impacts on fishery areas in the Bristol Bay watershed.

Estimates of potential aquatic habitat impacts associated with stream flow changes resulting from EPA's three mine scenarios provide a good example of why the Assessment represents an insufficient scientific foundation for regulatory decision making. This is the case for a number of reasons:

- EPA has proposed an arbitrary surplus water release strategy for its three mine scenarios that would deny one of the streams surrounding the proposed Pebble Project (Upper Talarik Creek) from receiving any restorative flows to mitigate downstream habitat effects, wrongly and unfairly attributing this arbitrary surplus water release strategy to Northern Dynasty Minerals. This attribution is entirely false.
- EPA has selected improper locations for releasing surplus water from its three mine scenarios, unnecessarily leaving miles of aquatic habitat in another stream surrounding the proposed Pebble Project (South Fork Koktuli) with no restorative flows.
- EPA has underestimated surplus water available for treatment and release by some 80 percent, leading to substantially larger flow-habitat effects than would actually occur.
- EPA has utilized an unsophisticated "rule of thumb" approach to measuring downstream habitat effects associated with stream flow changes, rather than using the sophisticated habitat modeling undertaken by Pebble Limited Partnership, which will provide the basis for a science-based impact assessment under the National Environmental Policy Act (NEPA).

A proper science-based surplus water release strategy, employing more rigorously devised hydrology estimates and sophisticated modeling of stream flow-habitat relationships, would demonstrate how to achieve net spawning and rearing habitat gains for the vast majority of anadromous and resident fish species. This singular example demonstrates the serious

methodological and scientific flaws underlying the BBA, and why EPA must await the submission of a proposed development plan for the Pebble Project and completion of a comprehensive environmental impact statement under NEPA before undertaking any regulatory action under Section 404(c).

We have requested the EPA suspend its Section 404(c) process, to wait for the submission of a proposed development plan for Pebble and to participate fully in the NEPA permitting process. Not only will this result in a more comprehensive, transparent, inclusive and definitive project review, EPA will retain its authority to veto the Pebble Project in the future if it fails to demonstrate it will adequately protect regional fisheries. Our intent is to propose a responsible plan for Pebble that demonstrates we can co-exist with the fishery and no environmental harm will occur in having this fully evaluated via the comprehensive NEPA process.

Pebble Partnership's full 60-page letter, and other related documents [are available online](#) [2].

Tom Collier is chief executive officer of Pebble Partnership.

The views expressed here are the writer's own and are not necessarily endorsed by Alaska Dispatch, which welcomes a broad range of viewpoints. To submit a piece for consideration, e-mail [commentary\(at\)alaskadispatch.com](mailto:commentary@alaskadispatch.com) [3].

Source URL: <http://www.alaskadispatch.com/article/20140501/epa-s-pre-emptive-pebble-overreach-undermines-us-environmental-permitting-system>

Links:

[1] <http://www.alaskadispatch.com/image/epa-enforcement>

[2] <http://corporate.pebblepartnership.com/news-article.php?s=epas-pre-emptive-overreach-on-pebble-is-premature-and-undermines-the-us-environmental-permitting-system>

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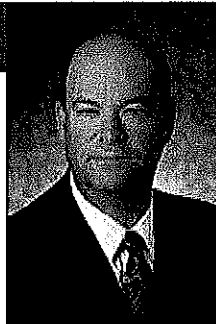
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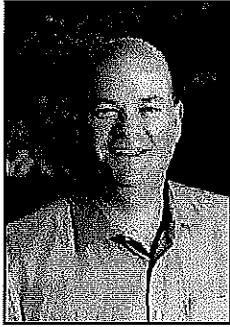
Ryan Lance

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Ryan Lance

Chairman and Chief Executive Officer
ConocoPhillips
Houston, Texas

Ryan Lance is chairman and chief executive officer of ConocoPhillips, the world's largest independent exploration and production company based on production and reserves. He has held this position since mid-2012.

He and his executive leadership team strive to make ConocoPhillips the company of choice for all stakeholders through a commitment to safe and responsible operations, sustainable value creation and a compelling company culture.

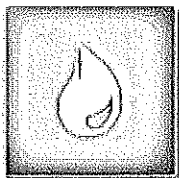
Ryan is a petroleum engineer with 30 years of oil and natural gas industry experience in senior management and technical positions with ConocoPhillips, predecessor Phillips Petroleum, and various divisions of ARCO. His past executive assignments with ConocoPhillips have included responsibility for international exploration and production, regional responsibility at various times for Asia, Africa, the Middle East and North America, and responsibility for technology, major projects, downstream strategy, integration and specialty functions.

Previously Ryan spent 17 years with ARCO, ultimately heading Western North Slope operations in Alaska after serving in management, engineering, and operations positions.

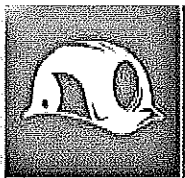
Ryan serves as chairman of the Executive Committee for ConocoPhillips. He is an advocate for charities benefiting youth through his service on the board of Spindletop International. Ryan also serves on the board of directors for the Montana Tech Foundation and on the advisory council of the University of Texas Energy Institute.

He is a member of the Society of Petroleum Engineers, and earned a Bachelor of Science degree in petroleum engineering from Montana Tech in Butte in 1984.

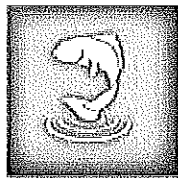
During his Alaska tenure, Ryan was a member of the RDC Board of Directors and served on the organization's Executive Committee.



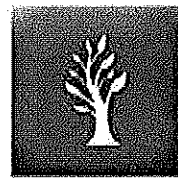
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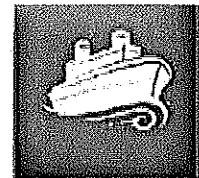
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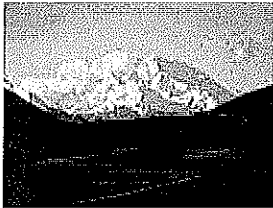
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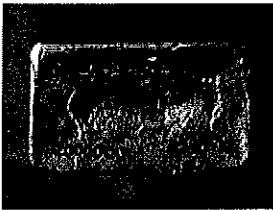
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Deadline for submitting logo and being listed in Annual Meeting Program is Thursday, June 12th.

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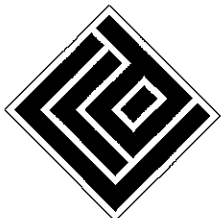
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Phone: 907-276-0700, ext. 2, email: cportman@akrdc.org

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- Draft Environmental Assessment for proposed 3-D Seismic in Cook Inlet
 - Shadura oil and gas project in Kenai National Wildlife Refuge
 - Connectivity of Streams and Wetlands to Downstream Waters
 - Keystone XL Pipeline – National Interest Determination
- Endangered Species Act: Polar bear, beluga whale, Steller sea lion, Ringed & Bearded Seals, Archipelago Wolf
 - Sealaska Lands Bill
 - Health Impact Assessments
 - Multi-sector General Permits
 - Emission Control Area
 - Cruise ship access to Glacier Bay National Park
 - Cruise ship wastewater permit
 - Equitable wastewater discharge regulations for cruise ships
 - Coastal and Marine Spatial Planning
 - National Ocean Council Ocean Policy
 - Western DPS Steller Sea Lion
 - Steller Sea Lion Biological Opinion
 - Donlin Gold Project
 - Pebble project
 - Antidegradation Implementation Regulations Plan
 - Bristol Bay Watershed Assessment
 - Bristol Bay Area Plan
- Central Yukon/Bering Sea - Western Interior/Eastern Interior land management plans
 - Greens Creek Mine tailings permit renewal
- Usibelli coal mining projects: Wishbone Hill, Hoseanna and Emma creeks, Jumbo Dome
 - Chuitna coal project
 - Kensington Mine APDES permit
- Red Dog/DeLong Mountain Transportation System Port permits
 - Critical minerals legislation
 - Susitna-Watana Hydroelectric Project
 - Forest Service National Planning Rule
- Tongass National Forest Land Management Plan Revision
 - Chugach National Forest Land Management Plan
- Lake Clark Park and Preserve Land Management Plan
 - State & federal timber sales
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