

# RESOURCE *review*

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## State spending, falling production puts Alaska's economy at risk

While Washington managed to avoid the fiscal cliff last month, Alaska appears to be edging closer to its own precipice in the not-too-distant future.

The non-partisan Legislative Finance Division has warned lawmakers that continuing State spending at the historic rate of growth, or maintaining spending at current levels in an era of steadily declining oil production, could put Alaska's economy at risk. (See side-bar on page 5).

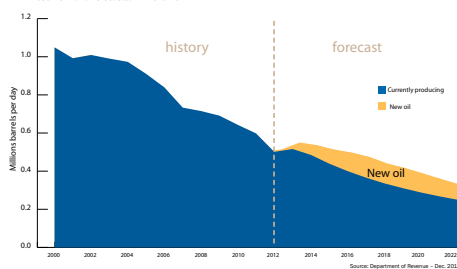
Prominent Alaskan economist Scott Goldsmith also set off alarm bells when he warned Alaska faces a mounting fiscal gap, which could result in an economic crash.

With current tax rates on North Slope oil producers capturing most of the profits otherwise earned by oil companies in a high price environment, there has been a massive re-allocation of investment dollars from Alaska to other more inviting oil and gas jurisdictions. The flight of capital has resulted, in part, in a decline in North Slope oil production of 6-8 percent annually.

This is bad news since oil production accounts for more than 90 percent of Alaska's unrestricted General Fund revenues.

With oil production in steep decline, throughput in the Trans-Alaska Pipeline System (TAPS) has fallen sharply. The

Alaska North Slope Production  
FY 2000-2012 and Forecasted FY 2013-2022



pipeline is now operating at one-quarter the volume it once carried.

However, the State has continued to run budget surpluses as high oil prices have masked the decline. But the trend of increased spending with decreasing production is not sustainable, economists warn.

The Alaska Department of Revenue is forecasting oil production to fall by an average of 5.5 percent annually. Higher forecasted oil prices are expected to offset a large portion of the lost revenues associated with the production decline, but state spending on agency operations have been increasing an average of 6.5 percent a year.

Governor Sean Parnell recently released his budget for the next fiscal year, and it is nearly \$1.1 billion less than the current year's General Fund spending. In its proposal, the administration holds the State's share of the operating budget to less than one percent growth at \$6.49 billion. The new budget leaves approximately \$500 million in surplus revenue for FY14.

While the governor's proposed general fund spending is less than the current year's budget, it is still not sustainable, according to Goldsmith, an economist with the non-partisan Institute of Social and Economic Research (ISER) at the University of Alaska Anchorage.

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## Alaskans support oil tax reform

Alaskans came out in force at the first public hearing of Governor Sean Parnell's bill to reform the production tax on North Slope oil.

Representatives from organized labor, mining, timber, and other sectors urged legislators to make changes to the oil tax structure this session in order to attract new investment and increase North Slope production.

John Sturgeon, President of Koncor Forest Products, pointed out that the timber industry was once Alaska's second largest but it has nearly vanished – largely because of adverse public policies. He urged lawmakers to make sure that doesn't happen to the oil industry.

Aves Thompson, Executive Director of the Alaska Trucking Association, told legislators that while he was not a tax expert, "I know something needs to be fixed."

More production is the key to a stronger economy, said Jeanine St. John, Vice President of Lynden Logistics. "The decline in North Slope production is truly attributed to our tax regime."

If Alaska would offer more competitive tax rates, it would see increased activity and production on the North Slope, similar to what North Dakota has experienced, said Scott Thorson, President of Network Business Systems. He recently expanded his Anchorage-based technology services firm to North Dakota. "We're nervous about Alaska's economy, watching production decline."

Cruz Construction also expanded to North Dakota after its operations experienced a sudden downdraft in North Slope business. Dave Cruz, the company's president, expressed frustration with

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## Oil industry will respond if a change in tax policy gives it a chance

What if I were to tell you that BP is adding drilling rigs on the North Slope?

I'm sure that people who've supported ACES and said high taxes don't matter when it comes to investment would say, "We told you so."

I'm also guessing that most Alaskans would say it's good news: more rigs must mean more production, more jobs, more business activity.

But it's only good news if you take a short-term view of Alaska's future – one that has a 10 or 15-year horizon, not 50 or longer.

These rigs will be deployed in legacy fields like Prudhoe Bay to accelerate production from existing reserves. They won't search for or produce new oil. They'll drain the easiest oil faster in order to offset decline and add cash flow in the near term – they're a short-term solution to a short-term state fiscal policy.

ACES has delivered predictable results: tens of billions of dollars in state government revenues at the expense of long-term production, investments, jobs, and a sustainable base for Alaska's economy.

Since ACES was imposed in 2007, North Slope oil production has fallen by more than 200,000 barrels a day, and production continues to decline an average of 6-8 percent each year.

Today, TAPS operates at less than one-quarter of the volume it once carried. As production declines, operational risks rise as flow rate and temperature continue to drop.

Since ACES was enacted, investment in new production has fallen off. Last year, only \$1 out of every \$4 in our capital expenditures went toward enhancing production in BP-operated fields. The remainder was spent on operations, maintenance and repairs.

Apart from Point Thomson, which has unique circumstances due to the settlement with the state, we haven't sanctioned a single large project on state acreage.

Nonetheless, we've continued to invest in preliminary work to develop challenged resources like heavy and viscous oil and the Sag formation in the hope that fiscal policy would change. But hope is not a successful business strategy.

Historically, we've focused both on producing existing reserves and developing new ones. Since ACES, riskier long-term investments have been out of sync with state policy. We can no longer justify investing in "what if;" our plans must conform to "what is." Our focus now is on accelerating production of existing reserves, not developing new ones.

Some of the changes we're forced to make today paint a bleak picture of Alaska's future: reduced investment in new oil reserves like heavy and viscous oil, which comprise more than half of the known resources in legacy fields...faster depletion of existing reserves...fewer jobs...continued decline...limited application of new technology.

This picture of Alaska's future doesn't have to become a reality.

With the new legislative session, the State over the next several months can implement meaningful change that will benefit everyone.

Alaska is still a great resource state...one that's very important to

**"Alaska can keep the current policy that limits investment or change it to something that attracts investments while securing a long-term future for Alaskans. It's a choice between 'going out of business' and 'open for business.'"**

BP: We haven't given up on our vision of a long-term future here.

Tax reform won't transform potential into projects and new production overnight. But it will enable us to immediately refocus on building a long-term future, finding ways to unlock the potential of billions of barrels of new oil and tens of trillions of cubic feet of natural gas and charting a course to thrive here for the next 50 years rather than shrinking our activities to survive the next 15.

Alaska can keep the current policy that limits investment or change it to something that attracts investments while securing a long-term future for Alaskans. It's a choice between "going out of business" and "open for business."

Just as we're currently forced to adapt our plans to a policy that discourages investment, BP will respond with new investments if a change in policy gives us a chance.

It hasn't been that long since increased drilling on the North Slope was good news for Alaska's future. With a new long-term vision of Alaska's potential, it can be again soon.

Editor's Note: This column is a condensed version of Phil Cochrane's speech at the Alaska Support Industry Alliance annual conference in Anchorage last month. His full presentation is available at [alaskaalliance.com](http://alaskaalliance.com), under events/presentations.

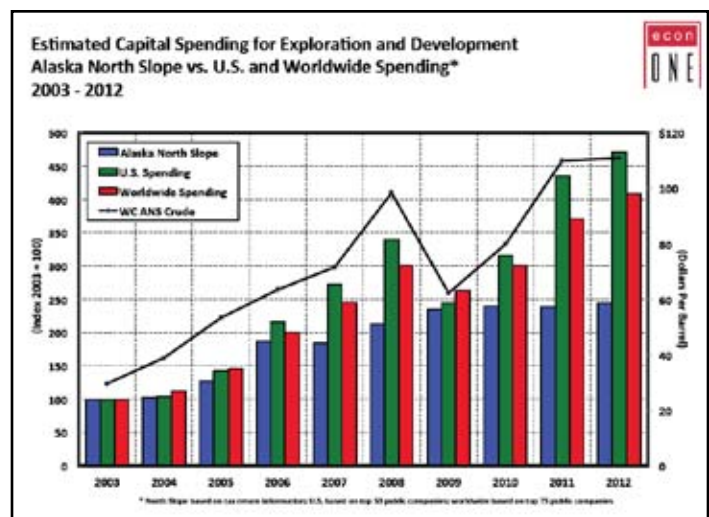


Table shows capital spending in Alaska remains flat while spiking elsewhere.



# Alaska on a fiscal path it cannot sustain

(Continued from page 1)

In FY 14, Alaska's state government can afford to spend about \$5.5 billion, said Goldsmith. That's an estimate of the level of unrestricted General Fund spending the state can sustain over the long run, based on the current petroleum nest egg of about \$149 billion — a combination of state financial assets, including the Permanent Fund and cash reserves, and the value of petroleum still in the ground.

The size of that nest egg fluctuates, depending on the state's forecast of petroleum revenues, earnings on investments, and other factors, Goldsmith said. In an updated fiscal report, Goldsmith presented the latest in a series of estimates of the maximum amount the state can spend and still stay on a sustainable budget path.

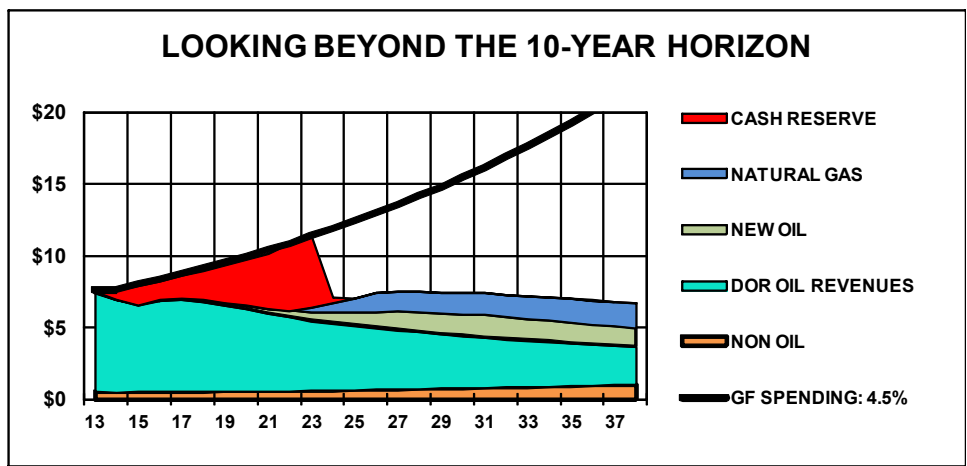
"Right now, the state is on a path it can't sustain," Goldsmith said. "Growing spending and falling revenues are creating a widening fiscal gap." (See chart at right).

In a 10-year fiscal plan, the State Office of Management and Budget (OMB) projects that spending cash reserves might fill this gap until 2023. But what happens after 2023?

"Reasonable assumptions about potential new revenue sources suggest we do not have enough cash in reserves to avoid a severe fiscal crunch soon after 2023, and with that fiscal crisis will come an economic crash," Goldsmith warned.

If spending increases at a rate of 4.5 percent annually, there will be a growing fiscal gap, even assuming new revenues from natural gas production and some additional oil production, Goldsmith noted. To avoid a major fiscal and economic crisis, the State must save more and restrict the rate of spending growth, Goldsmith said. To avert a crisis, all revenues above the sustainable spending level of \$5.5 billion — including Permanent Fund income, except the share that funds the dividend — should be channeled into savings, Goldsmith said. He emphasized that new oil production alone will not solve the fiscal gap.

If Alaska had \$38 billion in cash reserves and \$79 billion in the Permanent Fund by 2023, the State would be on the path to sustainable spending far into the future,



Source: Scott Goldsmith, Institute of Social and Economic Research, UAA, January 2013

Goldsmith said. But that's twice what the State has in financial assets today — \$17 billion in cash and \$43 billion in the Permanent Fund. So the State needs to sharply step up its savings rate, the ISER report noted.

New broad-based income and sales taxes would postpone but not eliminate the fiscal crunch. Even using the entire Permanent Fund would not avoid a crisis as the fund would run out soon after 2038. Alternatively, holding growth of the budget to the rate of inflation would reduce the size of the fiscal gap, but postpone it only five years.

## Maximum sustainable yield

In his report, Goldsmith introduced what he called a maximum sustained yield strategy. He defined it as the amount the State can spend each year from its petroleum endowment, or nest egg, and still sustain the value of that nest egg for future generations. The amount the State can spend each year depends on the size of the nest egg, the return it can achieve through prudent management of the nest egg, and the time it will need the nest egg to sustain public spending.

"If the petroleum nest egg has a value of \$149 billion, if it can be managed to generate a five percent return, and if it is to increase over time to account for population growth, the maximum sustainable yield would be \$5.95 billion," Goldsmith said.

"In contrast to business-as-usual, there is no fiscal cliff associated with the maximum sustainable yield strategy," Goldsmith said. "Enhanced financial

resources, combined with new revenues from long-term petroleum developments, would be sufficient to cover General Fund spending growing with population. Over time, the declining value of oil and gas in the ground would be replaced by the growing value of financial assets. These financial assets would gradually become the most important source of revenues for the General Fund."

## A Ten-year plan

Plotting a course for the next ten years, the State's OMB has updated its ten-year revenue plan. In the plan, OMB said Alaska must continue to make strides to maximize production from existing oil fields and develop other economic opportunities, particularly from its abundant natural resource base.

The ten-year plan examines a range of possible spending and revenue scenarios, taking into account population growth, inflation, and obligations.

"The upward pressure on spending is significant," OMB stated in a summary of the plan. Challenges that must be considered, while providing a reasonable level of State services, include tax credits for oil and gas development, the unfunded public employee and teacher retirement systems, Medicaid spending, addressing the high cost of energy for Alaskans, and maintaining aging State-owned infrastructure.

OMB stressed, "Alaska's future prosperity hinges on the development of its natural

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resources.” It noted that the Alaska Statehood Act was in part based on the development of natural resources to provide for a stable economic base, which would reduce the likelihood that Alaska would be a drain on the federal treasury. To date, the strategy of building Alaska’s economy on natural resources has been successful.

But the declining flow of oil poses a direct threat to the economy, OMB warned. “The best way to grow Alaska’s economy for all and avoid a premature shutdown of the pipeline is to boost the flow oil into TAPS.”

The administration is implementing a four-part strategy to address the decline, including increasing production by making Alaska more competitive for investment, ensure the permitting process is structured and efficient, facilitate the next phase of North Slope development, and promote Alaska’s resources to world markets.

#### Spending scenarios

To illustrate what may lie ahead, the 10-year plan models three spending scenarios and one alternate oil price scenario.

Its first scenario is based on the Fall 2012 oil price and production forecast and assumes flat General Fund spending of \$6.5 billion. Budget deficits develop in 2019 and build steadily from there.

In scenario two, oil prices fall to \$90 a barrel, annual spending is held to \$6.5 billion, the capital budget is set at \$200 million, and the status quo prevails for state obligations. Budget shortfalls would begin in FY 13 with multi-billion dollar deficits beginning in FY 14. Reserve accounts run out by 2020.

Scenario three assumes an FY 14 budget of \$6.5 billion with four percent annual spending growth of the General Fund beginning in FY 15, while assuming the Fall 2012 price and production forecast. A budget surplus in FY 14 turns to a continuous draw on reserves beginning in FY 15. Reserves peak in FY 18 and experience a steady draw.

Scenario four is based on the Fall 2012 oil price and production forecast with four percent agency spending growth, a Capital Budget at \$1 billion, and State assistance payment growth. Under this scenario, a budget surplus in FY 14 turns to continuous draws on reserves in FY 15 and deficits steadily grow.

## Report warns of budget deficits

In a sobering report of Alaska’s fiscal situation, the non-partisan Legislative Finance Division has warned that continuing spending at the historic rate of growth, or maintaining spending at current levels, “could produce multi-billion dollar deficits in the near future.”

Despite leaving a projected FY 13 General Fund surplus of \$490 million at the close of the 2012 legislative session, the legislature now faces a deficit of \$410 million for the fiscal year, the report noted.

For the past eight years, higher-than-projected oil prices more than made up for lower-than-projected oil production, leaving the state with annual surpluses. While some of the surpluses were spent, legislators also saved substantial amounts.

During FY 13, oil production has been below FY 12 levels by more than 8 percent. Reduced production accounted for about \$490 million in lost revenue, which erased the surplus legislators were expecting and intending to use in the next budget cycle. Compounding lower production, oil prices are running \$2.85 a barrel lower than the \$110.45 that was projected. The result is another \$410 million in lost revenue.

The Department of Revenue predicts that FY 14 oil production will decline by 2.7 percent from FY 13, and that oil prices will be about \$1 a barrel more than in FY 13 – averaging \$109.61 a barrel. The result is projected FY 14 unrestricted General Fund revenue is \$510 million below projected FY 13 revenue.

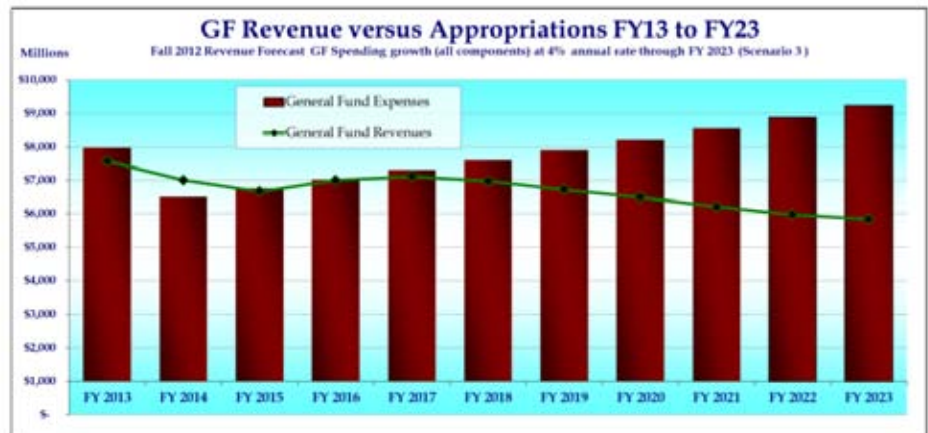
The Department of Revenue expects oil production to fall by an average of 5.5 percent annually over the next several years. The official forecast also shows oil price increases that offset a large portion of the lost revenue associated with declining production.

The Legislative Finance report estimated the price of oil would have to be \$105 a barrel for Governor Parnell’s proposed new budget to balance. As recently as FY 10, the price of oil needed to balance the budget was only \$64 a barrel, rising to \$110 a barrel for the current year.

“The rapid increase in the break-even price of oil...should be cause for concern,” the report states. Spending on agency operations has increased an average of 6.5 percent a year for the past ten years, the report noted.

The report echoes concerns of Parnell’s budget office that falling oil production and increases in state spending are not sustainable. House and Senate leaders also are concerned. Parnell has proposed a tighter budget for FY 14 and has introduced a bill to reform oil production taxes to stimulate investment in new oil production.

Scenario 3: Governor’s FY2014 Budget with 4% Annual GF Expenditure Growth beginning in FY2015



Scenario 3 assumes an FY 14 budget of \$6.5 billion and four percent annual spending growth of the General Fund, while assuming the Fall 2012 price and production forecast. Under this scenario, cash reserves peak in FY 18 and experience a steady draw. (Source: State of Alaska OMB)

# Governor urges oil production tax reform

(Continued from page 1)

roadblocks to exploration and production in Alaska, pointing out that it takes only a few months for a company to begin producing oil in North Dakota after beginning work, whereas it takes much longer in Alaska.

“A healthy oil industry is good for a healthy mining industry,” said Deantha Crockett, Executive Director of the Alaska Miners Association. She said Alaska’s oil production tax structure is discouraging investment here.

Steve Pratt, Executive Director of Consumer Energy Alliance Alaska, urged legislators to support an atmosphere that compels industry to invest in new Alaska production. “What would an additional \$50 million to \$100 million in daily economic activity – 500,000 to 1,000,000 barrels per day – do for the state? For the nation? We need to stop exporting energy dollars and start importing energy jobs,” Pratt said.

Native corporations also supported oil production tax reform. Ethan Schutt, Senior Vice President for Lands and Energy Development, urged lawmakers to focus on restoring Alaska’s competitive position. “Private capital goes to places where it is welcomed and rewarded,” Schutt said.

Speaking about the power of partnerships, Joe Mathis, Vice President of External Affairs at NANA Development Corporation, quoted Winston Churchill, “If we are together, nothing is impossible. If we are divided, all will fail.”

“Without a stable, robust oil and gas industry, our organizations and the benefits we provide to our people will not be sustainable,” warned Tara Sweeney, Senior Vice President of External Affairs for Arctic Slope Regional Corporation. “We support a healthy industry that promotes responsible exploration, and incentives to spur additional investment in legacy fields.”

Grant Johnston, Vice President of MSI Communications, said “the problem is simple, Alaska lost its competitive edge.”

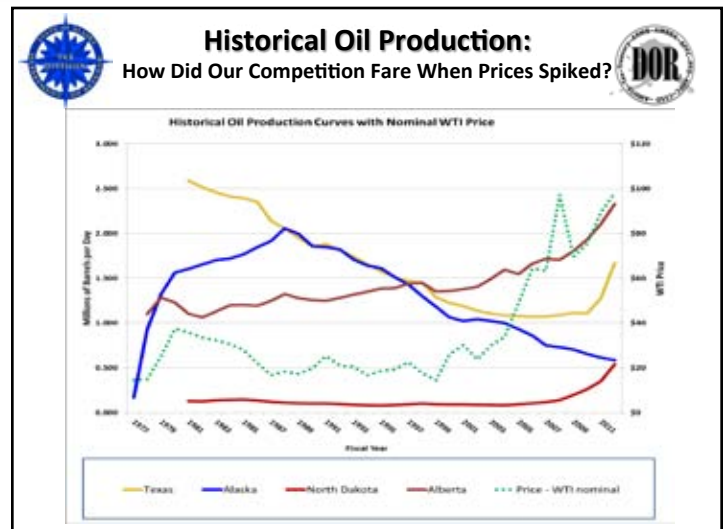
Barbara Huff Tuckness of Teamsters Local 959 said the governor’s bill was a good start.

Compared to current law, Parnell said his new oil production tax legislation better protects Alaskans at lower oil prices, and reduces the risk to the state treasury by restructuring the credit system. He said it simplifies the tax system by eliminating the monthly progressivity tax, restructuring tax credits, and maintaining the flat, base tax rate of 25 percent. It also includes a 20 percent gross revenue exclusion for new oil. Parnell said the legislation encourages new production by focusing incentives on production.

The legislation, SB 21 and HB 72, eliminates the qualified capital expenditure credits for North Slope costs, including maintenance, and reforms remaining credits so that they are taken when there is production. The State’s exploration incentives, which can cover up to 40 percent or more of exploration costs, will remain in place.

“Alaska faces the stark reality of a steady six percent decline, with the flow now standing at less than 560,000 barrels per day,” Parnell pointed out. “The decline is not because Alaska is running out of oil, it is because we are running behind the competition.”

High oil prices have sharply expanded industry investment in oil



Alaska oil production is down 26% from 2007 when ACES was enacted. Production averaged 739,000 bpd in 2007, falling to 548,000 bpd in 2012. Gross value in reduction of revenues from 191,000 bpd is approximately \$7 billion annually.

exploration and production, but not in Alaska, which has dropped behind North Dakota in production and is at risk of falling behind California. Alaska now accounts for eight percent of domestic production, falling from a high of 25 percent in the late 1980s.

The current progressive tax rate structure creates highly variable tax rates, and severely limits the upside for investors at high oil prices, making other areas in the Lower 48 a more attractive place to invest.

This is troublesome since much of the oil forecasted to be flowing through TAPS in 2020 will come from high-cost projects that industry has not yet committed to, projects that are not competitive with more profitable opportunities elsewhere, because of high taxes here.

Because the progressivity formula hikes the tax as oil prices increase, the State captures 80 percent or more of the gains from the higher prices. The total government take on North Slope producers is approximately 72 percent at \$110 oil. In the Lower 48, it’s much less.

In a recent earnings report, ConocoPhillips noted it pays twice as much in taxes in Alaska as it keeps.

The governor emphasized that investors take their money where they get a greater return. “The repeal of the progressive tax rate structure encourages the type of long-term planning and investment needed to promote new investment in new production in Alaska,” Parnell said. “Encouraging new production by lowering tax rates and simplifying the current system will promote growth in the economy and provide a more stable and long-term revenue stream for the State.”

Kara Moriarty, Executive Director of the Alaska Oil and Gas Association (AOGA), was encouraged with the bill’s initial direction and said it represents “a cornerstone for significant and crucial tax reform.” She said the bill “takes some positive steps toward the goal of more production, such as the 20 percent gross revenue exclusion concept for new oil and eliminating progressivity, which has led to Alaska being noncompetitive.”

However, Moriarty said there are some other provisions that need

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# Conference revisits Alaska's critical minerals

By Marleanna Hall

The second annual Strategic Minerals Summit in Fairbanks kicked off in late November with an update on Alaska's critical and strategic minerals by Department of Natural Resources Commissioner Dan Sullivan. The State of Alaska and the University of Alaska Fairbanks hosted the event.

"We take being environmental stewards very seriously," said Sullivan in his opening remarks. Projects in Alaska must meet some of the most stringent permitting regulations in the world.

Sullivan noted Alaska, if it were its own country, would rank in the top ten for coal, copper, lead, gold, zinc, and silver. Alaska's minerals, much like the seafood it exports, are highly valuable, and could be marketable around the world.

Senator Lisa Murkowski said it is important to educate Americans on the importance of minerals, and that the nation's security depends on critical minerals.

Alaska has 2,800 occurrences of strategic and/or critical minerals, and \$7,000,000 was spent on critical mineral exploration in Alaska in 2011, noted Curtis Freeman, with

Avalon Development Corporation.

There are many issues facing exploration and development, including access, energy, the natural environment.

The high cost of energy and the lack of energy sources available is an important challenge facing projects in Alaska. Alaska Senator John Coghill discussed finding new ways to make energy more accessible for more Alaskans, including these projects.

Critical minerals are important for renewable energy as well, providing many of the required elements for wind turbines, solar panels, and high mileage per gallon cars.

Michael Silver, with American Elements, further expressed the need for development of Alaska's minerals as a way to prevent the U.S. consumption of conflict materials imported from other countries.

Silver went on to discuss what the energy future will entail, such as turbines, solar panels, and other green energy sources. He explained the raw materials for wind turbines, and more, are in the ground. "If we're going to build the future, we need mining," he stated.

Mining sector jobs continue to be an engine of the state economy, with an average

wage of \$100,000 per year.

"More than half of the direct jobs in mining are in rural Alaska," said Commissioner Susan Bell of the Department of Commerce, Community and Economic Development (DCCED). "We anticipate a 20 percent growth in mining the next decade." She continued by noting that mineral resource development and building up Alaska's infrastructure are DCCED priorities.

The Summit concluded with Lt. Governor Mead Treadwell highlighting the uniqueness of Alaska. Treadwell described Alaska as a big peninsula, with oceans to the north and south, and of great distance to investment capital for projects. Additionally, Alaskans need access to projects, and should expect exciting things to happen with Roads to Resources.

Treadwell described the last time the U.S. looked into critical minerals, in the 1980s, noting, "It's very important we look again."

For more information on the Summit, and to view a list of all speakers and presentations, visit the State's website at:

[http://dnr.alaska.gov/commis/priorities/2012\\_minerals\\_summit\\_slides.html](http://dnr.alaska.gov/commis/priorities/2012_minerals_summit_slides.html)

## AOGA encouraged with oil tax bill's initial direction

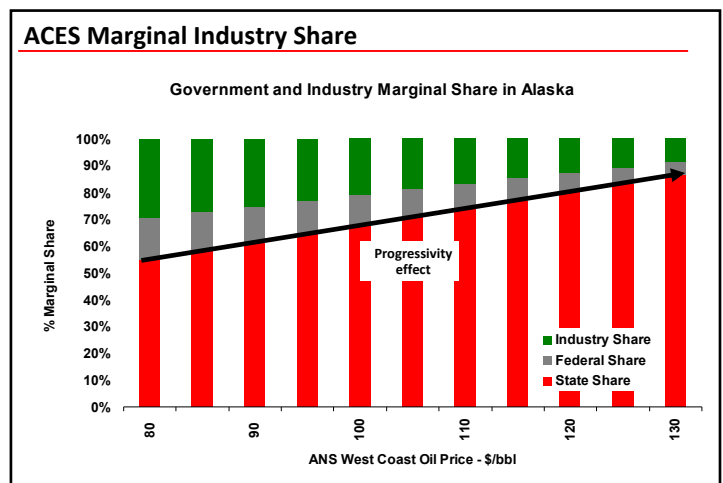
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further consideration in order to fully achieve the goals set out in the legislation. Specifically, she expressed concern with what the bill proposes for tax credits – most importantly the repeal of credits for qualified capital expenditures. She said the gross revenue exclusion and tax credit restructuring proposed in the bill should be expanded and better tailored to fit the majority of projects for "legacy" fields to offset high costs and boost production from them.

"As we continue to evaluate the bill, we are committed to working with the governor and the Legislature in building a long-term policy for Alaska," Moriarty said. "The members of AOGA desire the same outcome that the Governor and the people of Alaska want – more oil in the pipeline providing a solid future for our industry and continued revenues for the benefit of all Alaskans."

Moriarty pointed out that "it will take a monumental effort to replace oil from declining fields with a mixture of new production and new stimulation to legacy fields, and bring the decline to a stop."

At current oil price forecasts, Parnell's legislation would initially reduce State revenue. However, if the measure boosts oil production as intended, revenues would increase over time and private sector business activity, including jobs, would grow, leading to a stronger economy in the long term. Moreover, production would boost



At \$130 a barrel, the marginal tax rate under ACES climbs to 90 percent.

royalty income to the State, of which at a minimum 25 percent is deposited into the Permanent Fund.

RDC is encouraging its members to comment on the need for oil production tax reform this session. Please visit [akrdc.org](http://akrdc.org) for updates on the legislation and upcoming public hearings.

# Report critical of EPA for using fictional projections

If The Environmental Protection Agency (EPA) uses the Bristol Bay Watershed Assessment to bypass normal regulatory procedures to stop the proposed Pebble project in Southwest Alaska, it could have profound implications for domestic mining in the U.S., warned Dr. Bonner Cohen at the National Center for Public Policy Research.

In a new report, “The EPA’s Pebble Mine Assessment Puts Politics Above Sound Science,” Cohen was highly critical of the EPA assessment on the possible impact of Pebble Mine on the Bristol Bay watershed – before the project has even entered the formal and well-established permitting process.

Cohen submitted his report to the House Oversight and Government Reform Committee for use in an investigation of the EPA related to the proposed project.

Using a “Hypothetical Mine Scenario” based on a fictional mine, the EPA created an “ecological risk assessment” Cohen said. “The EPA then drew far-reaching conclusions on the mine’s impact, bypassing and preempting a permitting process that is supposed to review real plans for real mines, not imaginary ones.”

As is customary, the EPA subjected its work to a 12-member Peer Review Panel, many of which were critical of the agency for using a fictional mine.

“Unfortunately, because of the hypothetical nature of the approach employed, the uncertainty associated with the assessment... the utility of the assessment, is questionable,” said William A. Stubblefield, Senior Research Professor, Department of Molecular and Environmental Toxicology, Oregon State University.

Charles Slaughter, a hydrologist at the University of Idaho, called the EPA process “pure hogwash.”

“By circumventing the well-established permitting process, EPA undermines the trust of the entities it regulates and taxpayers who provide the agency’s funding,” Cohen pointed out. “Once the precedent is set that EPA can preemptively shut down any mining project before plans are submitted for permit review, what investor will risk time and capital in a doomed effort to win a regulatory game EPA has rigged?”

The proposed Pebble Mine has the potential to triple America’s strategic reserves of copper and more than double strategic reserves of gold. It could also nearly double America’s reserves of molybdenum, allowing the U.S. to rival China as a global leader in the production of this critical metal used to harden steel for U.S. manufacturing and construction industries.

Cohen’s report details how the EPA uses hypothetical scenarios to determine potential impacts of the project.

In the established permitting process, Pebble must show the mine can coexist with the environment. The company will be required to submit detailed plans on how it proposes to develop the mine, mitigate impacts, and protect fisheries and wildlife. The project must obtain more than 60 major permits from federal and state agencies before it can move forward with the project.

Rep. Paul Broun, Chairman of the House Subcommittee on Investigations and Oversight of the Committee on Science, Space, and Technology, has expressed concerns to the EPA about the assessment. He noted the federal Clean Water Act does not require EPA to do an

## State certifies new Bristol Bay initiative

Lt. Governor Mead Treadwell has certified the “Bristol Bay Forever” citizens initiative that would require legislative approval for large-scale mines in the Bristol Bay Fisheries Reserve.

Petition sponsors will need to gather at least 30,169 signatures from Alaskan voters. Sponsors will have one year from the time of delivery of petition booklets to gather signatures. The measure could appear on the August or November 2014 statewide ballots.

The proposed Pebble project in Southwest Alaska is the target of the initiative.

“We regret that what we believe is an unconstitutional and ill-conceived proposal is moving forward,” said Mike Heatwole of the Pebble Partnership. “Pebble is committed to complying with all applicable laws and believes that the proposal will introduce new, clearly unconstitutional measures. We are hopeful that Alaskans will reject this attempt to inappropriately politicize the already rigorous permitting process. Such politicization would have far reaching implications for other development projects across the state, undermining the authority of the established regulatory process.”

Heatwole said Pebble supports the role the legislative process already plays in public policy decisions by establishing laws and the framework that govern responsible resource development in Alaska for the state agencies to administer. “We oppose introducing an additional layer of bureaucracy that adds cost, uncertainty and risk that will deter potential investors in Alaska who depend on a stable, predictable process when investing hundreds of millions of dollars in our state.”

assessment before the permitting process gets underway.

In a letter to the agency, Broun acknowledged EPA had been asked by Bristol Bay residents to initiate a process where it could stop the project. Instead of stopping the project, the agency chose to do the assessment. But the purpose of the assessment is unclear, Broun said. “I am troubled by EPA’s vagueness in explaining the purpose of the assessment, particularly since it appears as though the agency is positioning itself to use the document in any manner it sees fit in the future,” Broun said.

“I do not understand the reason for spending scarce federal dollars on a document that the agency is unable to rationalize when it could, and should, wait for a real mine application, to pursue the clearly defined state and federal process, which also involves other agencies such as the U.S. Army Corps of Engineers,” Broun added. “It is difficult to view this draft watershed assessment as anything other than an attempt by the EPA to create additional and unnecessary regulatory hurdles.”

The House Committee on Government Reform and Oversight, chaired by Rep. Darrell Issa, is also investigating the assessment.



# Court Rejects Polar Bear Critical Habitat Designation

Industry, Alaska Native groups, and state and local governments scored a significant win when U.S. District Judge Ralph Beistline ruled that the U.S. Fish and Wildlife Service's (USFWS) proposed critical habitat designation for the polar bear did not meet the requirements of the Endangered Species Act (ESA).

The current designation of 187,157 square miles of the Arctic – an area larger than the State of California – as critical habitat “went too far and was too extensive,” the judge wrote in his opinion. The proposed area accounts for much of Alaska's oil production.

“The Fish and Wildlife Service's attempt to classify massive sections of resource-rich North Slope lands as critical habitat is the latest in a long string of examples of the federal government encroaching on our state's rights,” Governor Parnell said. “I am pleased the State of Alaska was able to fight off this concerted effort to kill jobs and economic development in Alaska.”

The State of Alaska and others, including the North Slope Borough, the Alaska Oil and Gas Association, Arctic Slope Regional Corporation, and a broad coalition of representatives of the Alaska Native community, challenged the critical habitat designation under the Endangered Species Act (ESA).

Of particular concern to the District Court were decisions by the USFWS to list extensive areas of land as critical habitat in the absence of evidence demonstrating features essential to polar bears were even present. As stated by the court, “[USFWS cannot] designate a large swath of land in northern Alaska as ‘critical habitat’ based entirely on one essential feature that is located in approximately one percent of the entire area set aside.”

“The court made the right decision in rejecting this unwarranted listing of critical habitat by the Service,” said Attorney General Michael Geraghty. “Protecting polar bears is a priority for us all, but such measures must carefully comply with the requirements of the statute.”

The State of Alaska also challenged the USFWS for failing to follow appropriate legal procedures in dealing with the comments and concerns raised by the State. The District Court agreed, holding that USFWS “failed to follow applicable ESA procedure by not providing the State with adequate justification for the State's comments not incorporated into the Final Rule.”

Judge Beistline noted, “there is no question that the purpose behind the Service's designation is admirable, for it is important to protect the polar bear, but such protection must be done correctly. In its current form, the critical habitat designation presents a disconnect between the twin goals of protecting a cherished resource and allowing for growth and much-needed economic development. The current designation went too far and was too extensive.”

The court vacated and remanded the final rule to correct the substantive and procedural deficiencies.

“We are very encouraged that Judge Beistline looked at the evidence and came to this conclusion,” said Rex A. Rock Sr., President and CEO of Arctic Slope Regional Corporation (ASRC). “Polar bears already had extensive protections under the Marine Mammal Protection Act and the Endangered Species Act. The designation



Biologist Steve Amstrop photographs a partially sedated polar bear in the Alaska arctic. The U.S. District Court ruled that the proposed critical habitat designation for the polar bear “went too far and was too extensive.” (Photo by USGS)

plan, as presented, would have needlessly hurt our region and other communities along the western Alaska coastline down to Hooper Bay without providing any additional conservation benefits.”

ASRC and the North Slope Borough have been leading a coalition of Alaska Native groups from the North Slope, Northwest and Southwest Alaska to fight the massive critical habitat designation in court.

“This decision is good news for the oil and gas industry, for Alaska Natives, and for the State of Alaska,” said Kara Moriarty, Executive Director of the Alaska Oil and Gas Association (AOGA). “The judge agreed that USFWS overstepped its bounds when it designated an area the size of California as polar bear critical habitat, despite abundant polar bear populations. We're heartened to see this kind of overreaching behavior rejected.”

In 2011, AOGA and the American Petroleum Institute (API) jointly filed a lawsuit challenging the designation. The plaintiffs believed that such a large, unnecessary critical habitat designation was unlawful and would stymie oil and gas development in an area that holds immense promise for future resource development.

AOGA and API were represented by the law firm, Stoel Rives LLP, which also successfully represented AOGA in recent polar bear ESA listings and 4(d) Rule litigation.

“AOGA members care as much about protecting Alaska's environment and wildlife as anyone else, but we also recognize the need to responsibly develop our natural resources in order to keep the state's number one economic driver healthy,” said Moriarty. “We are convinced that development can be done safely, and without major impacts to the wildlife that call these areas home.”



## From the Executive Director – Rick Rogers

# Be a champion of Alaska's future

In his address to an early January RDC breakfast meeting, Senate President Charlie Huggins challenged RDC members to get engaged and make their views known to our elected leaders in Juneau. In late January, over 40 RDC board members did just that spending two days discussing RDC priorities and concerns with the legislature, the Governor and key administration officials.

This session RDC's top legislative priorities are all focused on increasing investment to grow our resource-based economy. To continue to attract the investment needed to grow our resource industries, we need: tax policies for oil and gas and all our resource industries that encourage investment; science based regulatory programs that protect public resources without unnecessary burdens and delays; and a legal system that holds all parties accountable for their actions including those that routinely use the courts to frustrate the State's constitutional mandate to use its resource wealth for the benefit of all Alaskans.

The majorities in the 28th legislature along with the Parnell administration are well aligned with RDC's priorities, but Alaskans can't merely sit back and assume our lawmakers will craft the public policy changes needed to keep Alaska vibrant.

RDC members need to stay engaged to help steer the ship of state to ensure our best days are yet to come. In his RDC address, Senate President Huggins stressed that we shouldn't wait to be asked, that we should push information that we have to make the legislature more capable of addressing investment in this great state of Alaska and help elected leaders understand what it takes to bring investment into our State for the benefit of Alaskans.

The RDC board and staff routinely communicate with elected

officials, but our real strength is in the voices of our diverse membership. I'm challenging you all to become champions of Alaska's future. Here's how:

- Become informed. This newsletter, akrdc.org, and our bimonthly breakfast meeting presentations (available online) are all great ways to stay current on important issues facing our state.
- Answer the call of the RDC action alerts. Because we know your time is valuable, we don't pull the trigger on action alerts unless we know your voice is needed to shape an important policy decision. If you don't answer the call, others with a very different vision for Alaska may be speaking for you.
- Know who represents your house and senate district and engage them by phone, email or public opinion message. Encourage longer-term thinking. The legislature by its nature operates within two and four year election cycles, and often a longer view is needed.
- Perhaps most important, communicate with your friends and neighbors on why the health of our resource industries affects us all, regardless of vocation. Too often important issues like oil tax reform are framed as solely an industry issue. Industry will respond to the policies Alaskans establish, it is in every Alaskans interest to ensure we have a policy that supports growth, not one that accepts and manages decline.

Governor Parnell, and the 28th legislature under the skilled leadership of Senate President Huggins and House Speaker Chenault are poised to make some critical course corrections to ensure Alaska's best days are ahead. Be a champion for Alaska's future and get engaged to help them move Alaska forward.



More than 40 board members participated in RDC's Legislative Fly-in to Juneau last month. RDC met with Governor Sean Parnell (left) and Senate President Charlie Huggins (right), as well as other Senate and House leaders. RDC also met with State commissioners on the group's legislative and administrative priorities.

Photos by Judy Patrick



House Speaker Mike Chenault addressed RDC board members at the Sealaska board room.



Senator Cathy Giessel, co-chair of the Senate Resources Committee, addressed RDC's priorities.



RDC board member Sam Mazzeo from Wells Fargo Bank discusses the health of the private sector economy with an Alaskan legislator.

# Alaska *digest*

## Fed decision against road threatens King Cove

Alaska's state and federal leaders expressed deep frustration with the U.S. Fish and Wildlife Service's (USFWS) selection of a "no action" alternative in the final Environmental Impact Statement (EIS) for the King Cove to Cold Bay access project.

"I cannot fathom why the Fish and Wildlife Service prioritized a perceived risk to birds over an existing threat to human life," Governor Parnell said. "After years of good faith efforts by the State of Alaska, the Alaska Legislature, the Aleutians East Borough, the City of King Cove, the King Cove Corporation, regional tribes, and local residents to work with the federal government, the USFWS chose to deny King Cove residents access to basic services, like all-weather medical evacuation."

Senator Lisa Murkowski condemned the decision, pointing out that bad weather frequently closes the King Cove airport and people have died trying to reach hospitals. "The decision is unacceptable and reflects a wanton disregard for the lives of the Aleut people who have called the Aleutians home for thousands of years," she said.

Congressman Don Young called the decision shameful and Senator Mark Begich said it was wrong headed.

More than a dozen deaths have been attributed to the lack of a road, including four people who died in a 1981 plane crash during a medical evacuation.

The road alternatives in the EIS required roughly 200 acres of federal land for a nine-mile road corridor to complete a 25-mile link between King Cove and Cold Bay's all-weather airport. In a land exchange that depends on a road being built, the State and King Cove Corporation offered approximately 56,000 acres to be added to the Izembek and Alaska Peninsula National Wildlife Refuge.

The community of King Cove and the Aleutians East Borough have sought the narrow one-lane gravel road for many years as an alternative to a weather-dependent hovercraft. Operation of the hovercraft has proven expensive and unreliable. A road link is vital when residents of King Cove require immediate medical evacuation. It is estimated the gravel lane, closed to commercial traffic, would carry 10-15 cars daily in a refuge already containing 40 miles of roads.

"The weather in that region is some of the most dangerous in the world," Parnell said. "The residents need and deserve a safe, reliable transportation option. A road will save lives, and is the only workable long-term solution."

Murkowski noted that "if the environmental review process doesn't allow for valuing the health and safety of a community then it is irrevocably broken." She said the Interior Secretary is not bound by the environmental review and that it is imperative the Secretary meets face to face with the people whose lives are at risk before making a final decision.

## EPA revising Bristol Bay watershed assessment

The EPA is revising its controversial Bristol Bay watershed assessment. A draft assessment of how large-scale mining could potentially affect the Bristol Bay watershed was released in May 2012.

The agency conducted an external peer review of the document and is making arrangements for the 12 original peer reviewers to evaluate the revisions the agency has made to the draft assessment. EPA's goal is to determine if these revisions reflect the peer reviewers' feedback. This peer review follow-up will be conducted this spring.

The agency intends to hold a public comment period on the revised assessment concurrent with the peer review evaluation.

## Donlin Gold EIS process begins

The U.S. Army Corps of Engineers has begun the Environmental Impact Statement process for the Donlin Gold project. A series of 13 public scoping meetings are scheduled in the Yukon-Kuskokwim region through March. Written comments are due March 29.

The EIS will identify the impacts of issuing permits for an open pit, hard rock gold mine 10 miles north of the village of Crooked Creek on the Kuskokwim River in Southwest Alaska. Public input during the scoping process can help shape the direction of the EIS analysis.

If built, Donlin Gold would produce gold from a major ore-body, through a subsurface lease with Calista Corporation, and a surface use agreement with the Kuskokwim Corporation. The proposed mine and facilities would have a total foot print of about 16,300 acres. There is currently no road or rail access to the site, nor existing power.

Major components would include a 313-mile, 14-inch diameter, buried natural gas pipeline from the west side of Cook Inlet to the mine site. Transportation infrastructure would include barge facilities, a 30-mile road to the mine site, and a 5,000-foot airstrip.

The project could generate more than 1,000 jobs and provide a strong economic base for the region.

Donlin is located in a region of Alaska that experiences some of the highest unemployment rates and has very few other opportunities.

"Through the exploration stages, Donlin has shown a strong commitment to local hire and for supporting communities and cultures in the region," said Marleanna Hall, RDC's Projects Coordinator. She said the project is a rare opportunity to improve the local economy where few other opportunities exist.

"If developed, RDC believes it will be done in a way that creates opportunity for local employment and economic growth, while protecting the subsistence resources and culture of the region, and protecting the environment," Hall testified at a scoping hearing in Anchorage last month.

She urged the Corps to include the following in the EIS: the social and economic benefits of this project to the region, state, and to the nation; the potential for lower cost energy options to the region; and, job opportunities leading to reduced out-migration, which will help maintain rural schools and culture.

Alaska has seven existing large producing mines that were permitted under NEPA and the scientifically based permitting process that includes over 60 major State and Federal permits.

For additional information and where to send comments, visit [DonlinGoldEIS.com](http://DonlinGoldEIS.com). RDC has also prepared an action alert at [akrdc.org](http://akrdc.org).

## NOAA to list seals on Endangered Species Act

NOAA Fisheries has announced its final decision to list four subspecies of ringed seals and two distinct population segments of bearded seals under the Endangered Species Act.

The State is evaluating a potential challenge to the listing of the ringed and bearded seals. The ringed seal population currently numbers in the millions and there are hundreds of thousands of bearded seals. The State contends no evidence was presented demonstrating either species is experiencing a decline now or will so by mid-century.

The State said NOAA listed the species primarily on climate models predicting sea ice habitat changes nearly 100 years into the future. The State called such models highly speculative.





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