

RESOURCE *review*

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Why America can't do big things anymore

By David Holt

At a recent campaign event, President Obama said that the United States “became an economic superpower because we knew how to build things.” He went on to list the Hoover Dam and the Golden Gate Bridge as monuments to America’s capacity for greatness.

Yet somewhere along the line, the ability to complete massive public works projects ended. “When did that happen?” the President asked.

It’s impossible to pinpoint exactly when it happened, but we all know why it happened, and it has nothing to do with our capacity for innovation. The culprit is a labyrinth of increasingly complex and confusing federal regulations.

Take, for example, the Gulf of Mexico. Deepwater drilling was considered virtually impossible in the early 1900s, but technological advances and the human spirit of innovation made it a reality. Today the Gulf of Mexico is the largest single source of domestic petroleum in the United States.

Yet despite this operational display of



A complex and exhaustive regulatory regime and incessant litigation have delayed and in some cases derailed major development projects across virtually all resource development industries in America. The Kensington gold mine near Juneau, pictured above, took nearly 20 years to bring into production due to gold prices, changes in project design, permitting delays, and litigation. The project won a U.S. Supreme Court decision allowing it to move forward.

greatness, the administration’s response to the first significant offshore incident in the Gulf in almost 60 years (and more than 55,000 wells drilled) was to shut it down by banning deep-water drilling. Government and industry needed to take a step back to assess the situation and fully ensure safety and environmental protection. But since May 2010, there has been a 37 percent decrease in operating rigs in the Gulf, 11 of which have left for other countries, costing more than 11,000 people their jobs — even though the ban officially ended over a year ago. The Energy Information Administration now projects that the Gulf will produce 360,000 fewer barrels of oil per day than what it was projected to produce prior to the moratorium.

Companies drilling off the Alaska coast are trying to navigate the federal government’s new, ever-changing rules so

they can responsibly develop the massive oil resources in the Chukchi and Beaufort Seas, which could hold more oil than the Gulf of Mexico and would generate more than 50,000 new jobs. Yet the federal agencies have consistently withheld permits for companies like Shell to operate there. Shell has had to spend almost \$5 billion just to keep its plans on hold.

The Keystone XL Pipeline would create thousands of new construction and manufacturing jobs in the middle of the country, significantly reduce our dependence on Middle Eastern oil and generate billions of dollars in new tax revenue. Environmental analyses show that it will be the safest pipeline ever constructed, a significant accomplishment in a country with over 160,000 miles of pipelines transporting oil products.

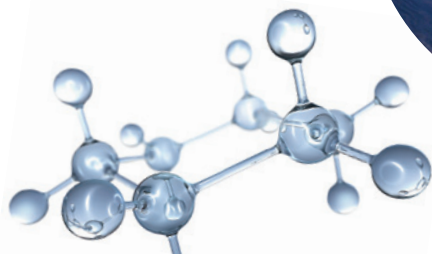
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The Resource Review is the official periodic publication of the Resource Development Council (RDC), Alaska's largest privately funded nonprofit economic development organization working to develop Alaska's natural resources in a responsible manner and to create a broad-based, diversified economy.

Past issues of the Resource Review (1978-2011) are available at akrdc.org.



From the Executive Director - Rick Rogers

Alaska has incredible opportunities, but life blood of state's resource-based economy at risk

I am excited and honored to help lead the Resource Development Council in its critical mission to advocate and educate on matters important to the very foundation of Alaska's economy: responsible resource development. In my 30 years of practicing forestry and natural resource management in Alaska, I've had my share of roadblocks including stalled permits, obstructed access across federal lands, ESA listings, activist litigation, and even some eco-terrorism.

Unfortunately such challenges are all too familiar to Alaska natural resource-based businesses working to create jobs and opportunities. Over the course of my career I've waded deeper into the arena of public resource policy from the ground up, not as a student of public policy or political science, but as someone trying to get a job done.

I was recently asked what I thought was the single most important issue facing Alaska today. Clearly it's the seven percent annual Trans-Alaska Pipeline (TAPS) throughput decline, which is reaching critical levels, creating compounding operational challenges of this critical infrastructure and undermining the future of our oil dependent economy.

This isn't to diminish the importance of the other resource industries or the many other issues facing Alaska. TAPS throughput is the ten thousand pound gorilla, given the size of the oil and gas engine driving our economy. A recent McDowell group economic study concludes there are 44,800 jobs related to Alaska's oil and gas industry and some 60,000 additional jobs are linked to the oil and gas industry. With 89% of state unrestricted revenues coming from oil and gas royalties and taxes, reversing the TAPS decline is critical for Alaska's future.

We only need to look to Southeast Alaska for a preview of the economic havoc and hardship declining resource production can have on the economic fabric of our State and communities. The decline in timber available from the Tongass Nation Forest is a stark example. In 1990, 472 million board feet of timber were harvested from federal lands in Southeast, with the forest product sector providing 3,543 jobs. By 2010, the federal timber harvest had declined to just 28

"I was recently asked what I thought was the single most important issue facing Alaska today. Clearly it's the seven percent annual Trans-Alaska Pipeline (TAPS) throughput decline, which is reaching critical levels, creating compounding operational challenges of this critical infrastructure and undermining the future of our oil dependent economy."

million board feet, and employment was 200. The Department of Labor projects the Prince of Wales Island-Outer Ketchikan area will experience a 33.9% population decline by 2034.

Could the entire State be facing a similar fate? While the reasons behind the TAPS throughput decline and the demise of a robust forest products sector differ, they have a lot in common. The TAPS decline is exceeding seven percent per annum, slightly over half the pace of the 13% Tongass timber harvest decline rate from its peak in 1990. In both cases the declines are not the result of a resource shortage, but a result of failing public policies. The North Slope of Alaska has over five billion barrels of proven reserves and three to six billion barrels of undiscovered potential on state lands, and nearly 40 billion of undiscovered resource potential on federal lands, including the outer continental shelf (OCS). The Tongass National Forest is 16.8 million acres, of which 5.5 million are commercial forestland. Since 1907, less than 0.4 million acres have been harvested, and when properly managed, the harvested areas are ready to harvest again in 60 to 80 years. There is no shortage of timber or oil and yet both industries are experiencing precipitous production declines.

Alaska has incredible opportunities. Our natural resources are the envy of the world. Mineral exploration and development is vibrant, and our renewable fisheries management programs are a model for others to follow. Will we allow the combination of punitive state oil production tax policies, a cumbersome regulatory climate, a plethora of ESA listings, shifting federal priorities, and a judicial system that encourages litigation to strangle the life blood from our resource-based economy?

The challenges to building on our strong resource-based economy in Alaska are many. RDC is a strong, credible and relevant organization focused on addressing the many issues threatening the foundation of Alaska's economy. Our effectiveness is in direct proportion to the willingness of our members to get involved, to answer the calls to action, to reach across industry boundaries to affect positive change. In 1990 there were about 20 times more timber jobs in Alaska than there are today and TAPS throughput was three times the current throughput. Our actions today will directly shape what opportunities we have in another two decades. Please consider that responsibility when that next "RDC Action Alert" lands in your inbox.

32nd Annual Alaska Resources Conference

Presentations, videos, and raffle winners from RDC's 32nd Annual Alaska Resources Conference are now online at:

<http://www.akrdc.org/membership/events/conference/2011/>

RDC thanks the over 170 sponsors, 75 exhibitors, and 1,100 attendees for participating in our Alaska Resources Conference. Coverage of the conference will appear in the December Resource Review.

Please save the date for next year's Conference:
November 14-15, 2012.



Why does production continue to decline? What can we do about it?

The case for oil production tax reform

We all know oil is the lifeblood of Alaska's economy and funds nearly every state service.

We also know our North Slope oil production has declined precipitously to a level that threatens the viability of the Trans-Alaska Pipeline System (TAPS) - and with that, the personal security of every single Alaskan.

I think we all agree: stopping that decline is the most important challenge facing state policy makers today.

So the question becomes, why does production continue to decline and what can we do about it? There are several obvious reasons for production decline: anti-development activists, unreasonable federal mandates and interference, other oil province peers with more competitive economic terms than Alaska, and a maturing basin that requires an increasing level of labor and investment.

But most of all, we have an imbalanced fiscal policy that promotes exploration while penalizing development and production.

Of these factors, the one thing Alaska legislators can, and do, directly control is the tax policies that assure we get a fair share of our oil wealth while being sufficiently competitive. We must be sufficiently competitive to attract the private sector investment necessary to continue developing our resource and increase production.

Alaska's global competitiveness is the critical issue. We must maintain an economic environment that attracts instead of discourages investment. An environment that motivates our industry partners instead of penalizing them.

The very foundation of the necessary economic environment is a tax system that is reasonable, globally competitive, stable, and balanced across the entire continuum of exploration, development, and future production activities.

In recent years the legislature, in a well-intentioned but misguided effort to achieve these goals, has pretty much accomplished the opposite.



“Opponents of tax reform point out Alaska’s producers are making money, and THAT should be good enough. But we have to remember how much more they can make elsewhere. It isn’t enough for Alaska to be profitable; we also have to be competitive.”

We have imposed the highest taxes in North America, at rates that are among the highest of our world-wide peer group. Taxes that are totally out of balance on the exploration/production continuum. Taxes that will remain unpredictable until we adopt reasonable reforms.

Opponents of tax reform point out Alaska's producers are making money, and THAT should be good enough. But we have to remember how much more they can make elsewhere. It isn't enough for Alaska to be profitable; we also have to be competitive.

Those opponents call tax reform a \$2 billion dollar a year give-away.

What give-away? Wasn't ACES supposed to improve our oil field economy, when in fact it has resulted in just the opposite? Why is it that in 2007, before ACES passed, the Department of Revenue projected more than 800,000 barrels a day production this year, and in fact, we are going to be lucky to get 600,000.

Many of us knew ACES was destined to fail when it passed. No government has ever successfully taxed any industry into productivity. We certainly tried with ACES, and it just isn't working. We are collecting huge amounts of money today, but at the cost of our oil industry's long-term viability.

Now here's the amazing thing – if we can just increase production 10%, the Governor's tax reform package is essentially revenue-neutral. That means no loss of state revenue. And if we simply bracket progressivity, it only takes a 4% increase to break even. With just a couple of responsible changes that improve the balance and fairness of our tax system, we can realistically expect to increase state

revenues!

The courts have ruled that TAPS is not threatened by production decline. But, I don't think Tom Barrett at Alyeska is a liar. He and his engineers know a whole lot more about TAPS than a bunch of liberal lawyers and their hired guns. We need to listen to what Mr. Barrett is really saying – it's not that the pipeline will shut down, but rather, that we must be prepared for the extraordinary cost and effort it will take to keep TAPS operating if production continues to decline.

Those opponents say oil field employment is at historic highs, but how do they explain production decline? They are ignoring the testimony of real Alaskans who make their living in oilfield support industries. Those opponents are creating distractions, tying up legislative committee time with irrelevant debates on Alaska versus non-resident hire. We all want jobs for Alaskans, but who does the work has nothing to do with production decline.

Regardless of who is working, the high level of North Slope employment reflects an aging oil field that requires a lot of manpower for basic maintenance and operations. Those employees cost a lot of money, make the economics of our oil fields more difficult, and do not add a single barrel of production.

Those opponents say we are experiencing the biggest drilling season in decades, and all is good . . .

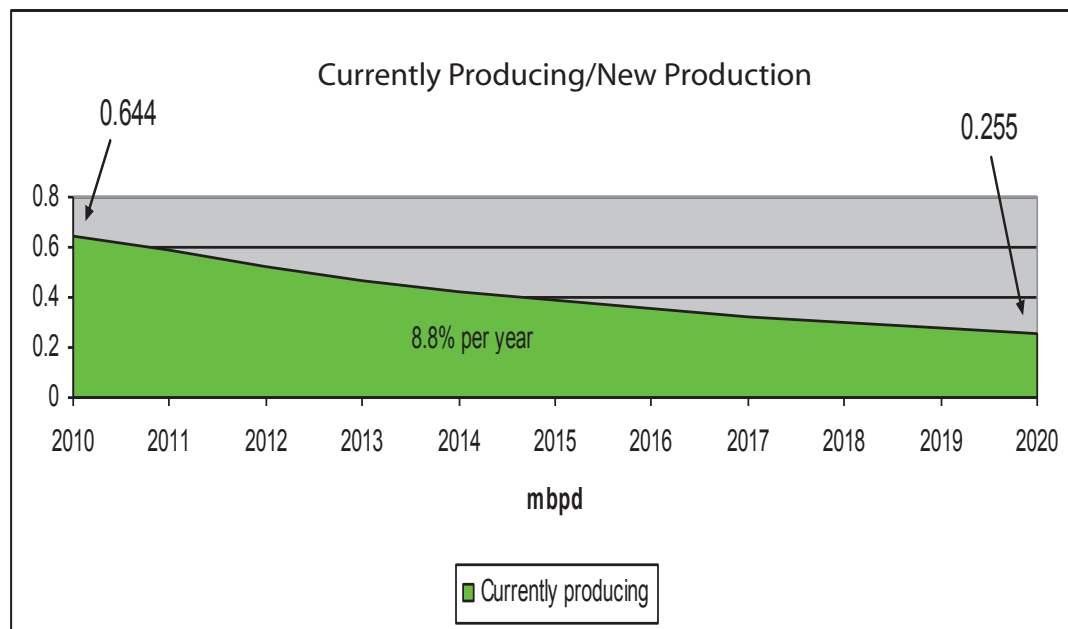
Now here lies the entire problem and the answer to our tax policy question!

We have established an incredibly generous system of tax credits subsidizing exploration drilling and attracting aggressive

(Continued to page 5)

Without major new industry investment to bring on “new oil,” the state is forecasting oil production could fall under 255,000 barrels per day by 2020 – more than a 57 percent decline from today. Despite high oil prices, investment by major North Slope producers remains flat while it has more than doubled in the rest of the U.S. As a result, production has risen in the Lower 48 while it has declined at an accelerating pace in Alaska. Major producers are investing more elsewhere because they can capture more of the upside at high oil prices. Because of the progressivity effect in Alaska’s oil production tax structure, the state gets the lion’s share of the benefits as prices move higher, while industry earnings essentially remain flat.

“Currently Producing” decline



Why balance to tax system must be restored

(Continued from page 4)

venture capital companies, large and small. Some of those have never even drilled a well before.

The problem is – and all these companies have testified to this – they are here because we are paying them to be here, and our confiscatory level of taxes on future production challenges development of any discoveries made.

To be clear, the big legacy producers in Alaska are focused on development and production, not exploration. That is not a secret. It is not news. They’re spending hundreds of millions each year simply to get more oil out of existing fields and into our pipeline – and I, for one, am glad they’re doing it.

This is important. ACES was intended to punish those producers. To make them pay a “fair share.” Well, with the benefit of hindsight, we can now see that if we don’t re-evaluate what we consider a fair share, we will soon have nothing to share at all.

The massive exploration credits – or subsidies, call them what you will – in

our tax system do not, and were not ever intended to, help the companies who actually produce our oil resources. Those credits were intended to draw newcomers to Alaska – smaller companies, venture capitalists. And they are working!

Make no mistake. I want these companies here. They’re the ones with plans, big and small, to drill and look for the future reservoirs that will help take the edge off the natural decline of our mature basins. But let’s not confuse the incentives that motivate these new explorers with a fair and competitive system for taxing the core legacy fields that provide nearly 90% of North Slope production and are the key to stemming decline.

That’s where we’ve gone wrong. ACES penalizes the very companies that produce the lion’s share of our oil, while giving generously to the newcomers who, in all likelihood, will turn to the big producers to help develop any finds they make.

With our current progressive tax structure, the state does get a lot more as prices increase. So much, in fact, that in today’s market we’ve

taken nearly the entire financial upside away from producers deciding whether or not to invest in Alaska.

This is why we must – and yes, it is imperative – restore balance to our tax system, a fair balance of up-front exploration incentives and out-year taxes on development and production. And with this balance, we restore Alaska’s global economic competitiveness.

If the legislature listens and responds to the private sector businesses who know what they are doing and the economic policies we need, we can deliver more oil into TAPS.

Their single, very clear request is reasonable reform of our production taxes. Reform that makes Alaska competitive with our peers by restoring fairness and balance to our tax system. Reform that can realistically produce increased state revenues and long-term security for every adventurous soul who chooses to make the Alaska dream his own.

I will continue working with you to make Alaska a place where investment is not penalized and commerce can thrive again.



To stop North Slope production decline, Alaska must attract new industry investment

There's been much ado recently about how a change in oil taxes might impact the state's credit rating.

The bottom line is these stories (Analyst says state's bond rating could be at risk if oil tax cut, Sept. 29) and accompanying political pronouncements are overly simplistic, disingenuous and ignore reality.

It all started when Senator Bill Wielechowski asked the Legislative Research Services to review what impacts the governor's legislation to change the state's oil production tax might have on Alaska's credit rating. A state analyst wrote that there could be a negative impact if the State of Alaska returned to the days of budget deficits.

I don't think anyone would argue with that. A more important analysis would be to review the fundamentals of Alaska's fiscal policy and how that impacts our future financial stability.

We all know the oil industry pays the bills and represents over one third of our economy. For this, as a state, we are incredibly fortunate. But, that is not a given going forward. There are escalating warning signs that we must respond to if our economy is to remain strong.

The greatest concern is the continuing decline of North Slope oil production. Since ACES passed in 2007, average barrels produced per day have declined about

200,000 to an average per day flow rate in 2011 of 568,500, a decline of 26 percent. A new report indicates it dropped 7.45 percent last year, worse than predicted – and it is expected to decline more than eight percent this year. Never before has the oil flow in the trans-Alaska pipeline been as low and declining at such a rate as it is today. At \$90-barrel oil, this decline means the state is collecting \$3.45 million less a day than it did a year ago. That's a number that should get everyone's attention.

The only way to stem the decline in oil production is to generate new investment. The state is not going to make the investment. Nor can you and I make the investment. It will require the oil companies to more than double their capital investment in the legacy fields to achieve meaningful increases in production.

The good news is we have lots of oil left on the North Slope and lots of capacity in the pipeline to ship it to market. The bad news is Alaska is simply not as attractive a place to invest as other oil provinces. Our cost structure is much higher than most other parts of the world but the primary reason is our oil tax policy, ACES. As international oil consultant Pedro Van Meurs puts it: "the combination of high tax credits and high tax rates, which we have now, is not a sound proposition." Finding a remedy will

be essential for the long-term health of our economy, and I would add, the state's credit rating.

Since ACES went into effect, we've watched oil production slide about 26 percent, while state spending has increased approximately 60 percent. Ever growing spending levels are simply unsustainable, particularly with the impending crisis of declining oil production. That paradigm, among all others, poses the greatest threat to Alaska's credit rating.

The governor's tax reform bill includes critical changes to the current punitive progressivity tax policy. It's one avenue to fixing the production problem. There are others. As a founding member of the Make Alaska Competitive Coalition (MACC), I can tell you that MACC doesn't care what vehicle is used as long as it takes us to a sustainable solution and increased oil production.

Alaskans must come together right now and find an answer to resolve the fundamentally unhealthy position in which we find ourselves. It is imperative, for Alaska's economic future, that we become more competitive, attract new oil industry investment and stop the oil decline.

Marc Langland is the chairman, president and CEO of Northrim Bancorp. He is also co-chairman of the Make Alaska Competitive Coalition. Visit MakeAlaskaCompetitive.com

Alaska's oil pipeline is running on empty

Alaska is running out of time.

The situation is frightening. North Slope oil production – which provides for 89 percent of state revenues – is plummeting in large part because our tax system is repressive and discourages investment.

The trans-Alaska oil pipeline is operating under one-third of its capacity and will soon reach a level where its very future is in jeopardy. We need action NOW to keep the pipeline running for generations to come.

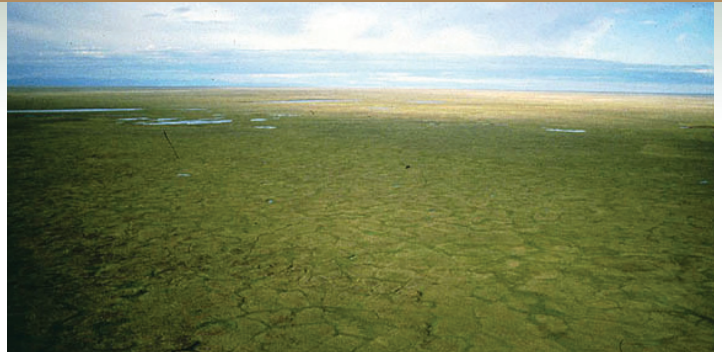
We need to fix ACES (the state's production tax) and make Alaska No. 1 again. Alaska has the resources, the infrastructure and the talent to safely produce oil for generations to come. What it lacks is a tax structure that is equitable for the state and the industry.

Just consider that in 2005, the State of Alaska forecast that the pipeline throughput would average 832,000 barrels per day (bpd) in 2010. Then came ACES in 2007 and production has since been in a steep decline and we are producing an average of 574,000 bpd (Jan-Oct).

Year	Average BPD (in thousands)	Change in production	% Decrease from previous year
2008	716	-18,000	-2.5%
2009	692	-24,000	-3.5%
2010	644	-48,000	-7.5%
2011	574*	-70,000	-11%

*(January through October)

RDC speaks out against ANWR wilderness proposals



The Resource Development Council (RDC) spoke out against new wilderness designations in the Arctic National Wildlife Refuge (ANWR) at a September public hearing in Anchorage.

Alternatives C and E in the Draft Revised Comprehensive Conservation Plan (CCP) for ANWR would designate the 1002 area of the ANWR Coastal Plain as federal Wilderness, an action that would preclude future oil and gas exploration in what is considered America's most promising onshore oil and gas prospect.

RDC emphasized that the Coastal Plain should not only continue to be excluded from Wilderness designation, but that it should be opened to responsible oil and gas exploration and development. RDC noted it strongly opposes any alternative that encumbers future oil and gas development on the coastal plain. RDC specifically requested the Service develop a new alternative that recommends opening the 1002 area to oil and gas exploration and development.

RDC is strongly opposed to new federal Wilderness and wild and scenic river designations in ANWR as the mere implication of such consideration is inconsistent with promises that were made in the Alaska National Interest Lands Conservation Act (ANILCA). RDC and the State of Alaska contend that any such designations are in violation of the "no more" clauses in ANILCA and the intent of the 1002 area, and Alaska statehood.

The 1002 area was excluded from the existing Wilderness

The ANWR Coastal Plain is considered America's most promising onshore prospect with a reserve potential as high as 16 billion barrels of oil. The 1002 area represents approximately 8 percent of the refuge.

designation in a compromise struck under the 1980 ANILCA. In exchange, Congress doubled the size of the refuge and designated eight million acres outside the 1002 area as Wilderness. In recognizing the 1002 area's enormous oil and gas potential, Congress mandated a study of its petroleum resources, as well as its wildlife and environmental values. In 1987, the Department of the Interior concluded oil development would have minimal impact on wildlife and recommended the 1002 area be opened. In 1995, Congress voted to open the area to exploration, but President Clinton vetoed the measure.

Opening the 1002 area to responsible oil and gas development would provide a huge and lasting stimulus to the economy and billions of dollars in new revenues to the federal government – all with virtually no expense to government. Oil development in the 1002 area would provide a safe and secure source of oil for the nation for decades. It would create tens of thousands of jobs throughout the country, lower dependency on foreign oil, reduce the trade deficit, and refill the Trans-Alaska Pipeline, which is currently operating at only one-third of its original capacity.

Federal government, litigation are barriers to big projects

(Continued from page 1)

Yet Keystone XL has remained stalled for three years, with federal bureaucrats constantly thinking twice and requiring new and redundant analyses that always generate the same conclusions.

(Editor's Note: Since the article was prepared, the Obama administration announced it would review the route of the Keystone XL oil pipeline, further delaying any decision about its fate until after the 2012 election. The State Department said in a statement that it was ordering a review of alternate routes to avoid the environmentally sensitive Sand Hills region of Nebraska.)

And now the EPA is signaling that it wants to clamp down on the domestic natural gas industry, which is in the midst of a technological revolution that is making it possible for massive amounts of natural gas

to be extracted from shale. That will have spillover effects on natural gas-dependent sectors like the chemical and steel industries — unless the EPA has its way and stops American ingenuity in its tracks.

One could only imagine trying to build the Hoover Dam or the Golden Gate Bridge today. Each would have to undergo years of mind-numbingly slow bureaucratic analysis and debate. The engineers declaring them safe would be labeled "industry tools" and have their credibility questioned. Special interest groups, funded by ideologues from large cities far away from the construction sites, would pump millions of dollars into advertising alleging that the projects would permanently ruin ecosystems or increase air pollution by some unprecedented amount, regardless of clear evidence to the contrary. And lawsuits would delay construction

indefinitely.

America hasn't lost its willingness to do big things. Keystone XL would be a 1,700-mile pipeline connecting Canadian oil fields to Texas refineries. Responsible energy production in Alaska's offshore waters would dramatically strengthen our energy security. Resuming permitting in the Gulf of Mexico to its pre-spill levels would put thousands back to work in a region where the world's first offshore exploratory well exceeding 10,000 feet was drilled.

But all of this requires that the federal government get out of the way so America can, once again, take advantage of its unrivaled capacity for innovation.

David Holt is the President of Consumer Energy Alliance.



Producing states should drive energy policy, not non-producing, consumptive states

United States reliance on foreign energy continues to be a hot button issue for most Americans, especially here in Alaska, but doesn't seem to bother the folks occupying the White House. Announcements like the U.S. offering to lend billions of dollars to Brazil's state-owned oil company, Petrobras, to finance exploration of offshore discoveries in Brazil, is a policy decision that only adds insult to injury for those states that stand ready to provide responsible American energy if allowed.

While the White House is eager to buy all the oil Brazil can pump out of the ground, its attitude is much different towards responsible American energy exploration and production. At every step in the exploration and development process, road blocks are created to increase costs, slow down and ultimately stop any new responsible American energy production. Shell's Alaska offshore permitting delays are a prime example of the hypocrisy.

In 2009 the State of Wyoming and the University of Wyoming's School of Energy Resources hosted the Western States Energy and Environment Symposium. Alaska and thirteen western states organized in Jackson, Wyoming focusing on themes and issues collectively facing our states concerning energy and the environment.

The first day a pattern of discussion had emerged separating the energy producing states and the non-producing states. Those that were energy producers faced similar problems, roadblocks and government regulations in delivering energy. The non-producing states were more interested in stricter regulations, reduction in hydrocarbons and increased government oversight. A larger challenge to this reality was that the non-producing states had the population and therefore, the votes in Washington D.C. to control and write our national energy policy.

Throughout the symposium the energy producing states legislators compared our similar obstacles. We discussed the frustration that producer states were experiencing dealing with federal policy driven by non-producing states' political muscle. It became glaringly obvious the non-producing states did not make the connection on where or how their energy is produced.

At the closing session of the symposium the Alaska delegation strongly vocalized the producer state position. We pointed out the distinct disconnect from non-producing states and how it was time to change the conversation on a national level by joining as a producer state action group. Each producer state enthusiastically supported the Alaska delegation and as we parted the conference we pledged support to "do something".

After the symposium I sent letters to Legislators of producer states asking them if there was a true interest in our "do something" conversation. I suggested the idea of a "Producer State Compact" to strengthen our national voice through cooperation and strategy. Representative Tom Lubnau of Wyoming, the symposium chair, took the lead and has been tireless in his efforts and continued on the path to organize the group of legislators. He wrote back, emailed, passed



"A larger challenge to this reality was that the non-producing states had the population and therefore, the votes in Washington D.C. to control and write our national energy policy."

legislation in Wyoming and ultimately organized our legislative group. We just had our second meeting of the newly formed Energy Producer State Coalition (EPSC) here in Anchorage. Legislators from North Dakota, Wyoming, Utah, and Texas attended and we all agreed it is the beginning of a coalition that can send America's energy policies in a new and more sensible direction.

The goal of the EPSC is to give a voice to states that are responsible producers of energy and the issues that we face, and to support the exploration, and production of responsible American energy. During our organizational meeting last month legislators from member states drafted a mission statement to guide the group's efforts.

Our mission statement contains two primary goals. First, establish state primacy on energy and environmental matters. The second goal is to support the exploration and production of responsible, affordable American energy resources therefore providing for increased national security.

Legislators from energy producing states are encouraged to participate; responsible American energy production is not a partisan issue. It is staggering the amount of energy produced from just the states that are currently participating in the EPSC, and the potential, if allowed these states could produce. Our energy producing states should be front and center when policies that affect us are being considered, not New York, Massachusetts or Illinois.

Individual states are in the best position to decide how to safely extract oil, coal, and natural gas. State officials and regulators have a knowledge and understanding of the resource that bureaucrats thousands of miles away don't have. The benefits of state primacy over energy production will mean millions of new jobs, tax revenue and a stronger economy. All of us encourage renewable energy production, but the fact is the technology does not yet exist to replace coal, oil, and natural gas.

Strategizing as a coalition on like issues that face our energy producing states will allow for a unified message to Washington D.C. and a voice when legislation, regulation, government oversight and restrictions are being considered.

As we develop and continue to make progress our goal is to add to the number of energy producing states participating, and ensure responsible American energy will be produced for decades to come.

Alaska Strategic and Critical Minerals Summit held in Fairbanks

By Deantha Crockett

Alaska policymakers believe it's time to take a look at developing one of Alaska's untapped resources – rare earth elements.

Rare earth minerals are used in almost every piece of electronic equipment one can think of: flat screen TVs, iPods, and cell phones. But with China controlling the market, Governor Sean Parnell and others believe it's time for Alaska to look at its own potential role.

The governor spoke of rare earth elements during a keynote speech at the Alaska Strategic and Critical Minerals Summit on September 30 in Fairbanks. RDC President Tom Maloney as well as staff member Deantha Crockett participated in the Summit.

"This is another step toward securing our future," Parnell said. "We want to stress that with the right investment and regulatory climate, Alaska has the potential to become a fresh and stable source of rare earth elements."

Earlier this year, Parnell called for collaboration in funding a strategic assessment of rare earth elements so Alaska can learn how it can help meet America's needs. "Advancing rare earth element exploration and production lessens our dependence on foreign supplies and helps diversify Alaska's economy," Parnell said.

This year the state funded a three-year, \$500,000 land-assessment project to better understand where and in what quantities these resources exist in Alaska.

In addition to Parnell, the conference featured a lineup that included Senator Lisa Murkowski, a team of world-class geologists, industry executives, as well as Natural Resources Commissioner Dan Sullivan and Commerce Commissioner Susan Bell.

Of particular importance to Alaska's role in Critical Minerals legislation, Jack Lifton, founding principal of Technology Metals Research, LLC noted that he has attended over 15 similar conferences, and Alaska had by far the largest and most diverse turnout.

Murkowski told conference attendees there is no question that a stable and affordable supply of minerals is critical to America's

competitiveness. However, the Senator warned that America is now 100 percent dependent on foreign suppliers for 18 minerals, including rare earths, and more than 50 percent dependent on foreign sources for some 25 more. She said the nation is also headed in the wrong direction – becoming more dependent on foreign suppliers for mineral commodities.

This isn't happening because the nation lacks mineral resources – it's happening despite its tremendous mineral resource base, Murkowski said. It is the federal regulatory system that has slowed down exploration, permits, and ultimately the number of mines that can successfully operate in the United States, she noted.

Murkowski said the nation has seen renewed domestic interest in rare earth elements and Alaska alone has already identified some 70 sites with rare earth potential. But Murkowski warned that the trends in America's foreign mineral dependence, and the crush of new regulations that threatens to set domestic mining back so significantly, it's hard to argue that everything is fine.

Murkowski has been working on minerals legislation in the Senate. To revitalize the domestic, critical mineral supply chain, she has introduced the "Critical Minerals Policy Act" along with 19 bipartisan co-sponsors. The bill provides direction to help keep the U.S. competitive and will ensure that the federal government's mineral policies – some of which have not been updated since the 1980s – are brought into the 21st century.

The legislation requires a list of minerals critical to the U.S. economy, outlines a comprehensive set of policies that will bolster the production of those critical minerals, expands manufacturing, and promotes recycling and alternatives – all while maintaining strong environmental standards.

RDC updated its Twitter and Facebook feeds, keeping its members abreast of progress made at the Summit. RDC can be followed on Twitter at: [alaskardc](#) and Facebook at: [Resource Development Council](#).

State wins lawsuit challenging mineral exploration permits

Superior Court Judge Eric Aarseth issued a 154-page decision this fall in *Nunamta Aulukestai v. State*, finding that the state did not violate Article VIII of the Alaska Constitution in issuing temporary, revocable land and water use permits for mineral exploration at the Pebble Project.

The plaintiffs, a group of eight Bristol Bay village corporations and several individuals, filed suit in July of 2009, alleging that the Alaska Department of Natural Resources' (DNR) permit issuance amounted to a disposal of interest in state lands that required public notice and preparation of a written best interest finding before the permits could be issued.

The common theme in each of the plaintiffs' five constitutional claims,

according to Judge Aarseth, was that the permits essentially granted Pebble Limited Partnership and its predecessors the exclusive use of an interest in state land and water as part of the authorized mineral exploration activities. The plaintiffs also invoked the "public trust doctrine" in their lawsuit. This doctrine prohibits the exclusive grant of certain public assets to private individuals or organizations. The plaintiffs also claimed that mineral exploration at the project significantly impacted area resources and fish and wildlife habitat.

The case went to trial before Judge Aarseth for two weeks in December of 2010. In this decision, Judge Aarseth rejected all of the plaintiffs' constitutional claims. He found that the state was not required to provide public

notice or a written best interest finding before DNR issued the permits, and the permits could be revoked at any time, for cause or at will. He also found that the evidence at trial did not support the plaintiffs' claims that mineral exploration activities in the Pebble Project area were significantly impacting or causing long-term harm to concurrent uses. Judge Aarseth also held that the permits authorizing the mineral exploration activities did not grant Pebble Limited Partnership an "exclusive use" of state land and water. Just as importantly, the court held that "the public trust doctrine only applies to exclusive grants of natural resources by the state and it does not mandate any procedural requirements in the form of a best interest finding or any other determination."



Alaska's neighbors ready to pounce on Arctic development opportunities

Russia's leaders called an Arctic neighborhood meeting in September to make one thing clear: they see opportunities posed by global demand for Arctic resources, receding sea ice, and the North's strategic location.

They're ready to pounce.

Prime Minister Vladimir Putin, chair of the Russian Geographical Society, summoned a bevy of Arctic hands to Arkhangelsk to tell us this:

- Russia intends to make the Northern Sea Route, which passes Alaska's front door, as important to global shipping and commerce as the Suez Canal. Major tanker loads of oil products, gas condensate and mineral ores have come our way already.

- Russia, heavily dependent on oil and gas exports, intends to sell in Asia as well as Europe. Shipments through the Bering Sea facilitate that. Their new partnership with ExxonMobil to develop Russia's Arctic shelf resources may bring them hundreds of billions of investment dollars.

- Russia wants a greater share of polar air routes. To get cargo flights to stop, they're upgrading airports, weather forecasting, and telecommunications.

Never has a Russian leader been more determined or prepared to actually accomplish these goals. Putin's country is behind him. Major sources of capital, foreign and Russian, were in the room. The ministries of resources, environment, transportation, regional governments, and emergency situations, as well as Russia's Arctic Ambassador, were there to speak to specifics. So were indigenous leaders and Russian governors, including Alaska's closest regional neighbor, Roman Kopin, Governor of Chukotka.

Russia, already kingpin of the world's icebreaker fleet, plans nine new ships by 2020. They will discount tariffs on icebreaker escort so shippers find the Northern Sea Route, with distance savings up to 40 percent, more competitive. And under Law of the Sea, Russia's claim to new extended continental shelf resources could give Russia greater control of Arctic shipping.

Alaska's Arctic agenda also focuses on access, development of resources onshore and off, safety in shipping and drilling, and getting new icebreakers to protect us and our shores. We respect the timeless use of this region by our First Alaskans, and will protect the wildlife resources we all enjoy and many depend on. We're still waiting for

"While the Russians are awake to the opportunities of the Arctic, we're still trying to wake up Washington. And sitting there, listening to Russian leaders, I saw we've got a tougher time than our counterparts in the Russian Arctic, where the nation – and the national government – understands the opportunities and the risks."

Senate approval of Law of the Sea so America can make its own Arctic claim.

While the Russians are awake to the opportunities of the Arctic, we're still trying to wake up Washington. And sitting there, listening to Russian leaders, I saw we've got a tougher time than our counterparts in the Russian Arctic, where the nation – and the national government – understands the opportunities and the risks.

To counter the risks, Alaska officials will push to implement the Arctic Search and Rescue agreement signed by Secretary of State Hillary Clinton at May's Arctic Council Ministerial. Alaska National Guard assets, with helicopters and rescue teams deployed by the North Slope Borough, support the underequipped and undercapitalized Coast Guard in keeping the safety mission we've promised the world in the American Arctic.

And Alaska's top oil spill expert joins October negotiations toward a second binding Arctic Council agreement on oil spill response cooperation.

Governor Sean Parnell continues pushing to keep Alaska competitive. We're asking Washington for legal access to Arctic oil lands. We're committed to improving physical access with roads to resources, an Arctic port study with the Corps of Engineers, and improvements to Alaska's permitting system, and working with our legislature for a tax regime that attracts investors, rather than sends them away.

Finally, we're keeping an eye on the competition, just as they are on us. Before Putin spoke Thursday, Russia's Academy of Sciences Vice President Dr. Nikolai Laverov showed slides detailing Alaska's Prudhoe Bay production decline curve, our struggles to build a pipeline for North Slope natural gas, and our challenges with Washington to move ahead on offshore drilling. Russia lagged behind Alaska previously in Arctic production, he said, but it has no plans to do so in the future.

In our Arctic neighborhood, we compete and we cooperate. After hearing Putin and his team raise the ante, it's clear we have work to do on both.

"In our Arctic neighborhood, we compete and we compete. After hearing Putin and his team raise the ante, it's clear we have work to do on both."

Industry digest

Shell: Huge oil field possible in Chukchi Sea

Shell's primary target in the Chukchi Sea, the Burger prospect, may hold billions of barrels of oil.

It would be a "basin opener" for the region and make energy projects in the National Petroleum Reserve more economically feasible because a pipeline built across the reserve to access offshore oil would make small to medium-sized discoveries onshore more appealing.

However, Shell has been stymied by appeals, lawsuits, and other delays since acquiring its Chukchi leases in early 2008. The company has spent approximately \$5 billion over the past four years on its Arctic offshore energy development plans but has yet to drill a single well.

In October, the Department of the Interior reaffirmed its 2008 Chukchi Sea lease sale, based on a new supplementary environmental impact statement (SEIS) for the sale. However, a number of environmental groups recently filed a lawsuit challenging the SEIS.

Shell, however, remains cautiously optimistic and is more confident than ever in the potential of the Arctic offshore.

Polar bear ruling issued

A federal court recently held that a special rule under the Endangered Species Act (ESA) adequately provides measures for protecting the polar bear.

The District Court of the District of Columbia denied an environmental group's ESA challenge to the special rule issued by the U.S. Fish and Wildlife Service (USFWS). The court's decision confirms there is no need for additional and unnecessary regulatory permitting requirements.

It also supports the agency's conclusion that the ESA is not an appropriate tool to regulate greenhouse gases. The special rule recognized the inapplicability of the ESA as a regulatory tool for greenhouse gas emissions, and the inability to link emissions outside the polar bear's range with any identifiable effects on the polar bear or habitat within its range.

The court also ordered the USFWS to undertake further review under the National Environmental Policy Act (NEPA) regarding the procedure by which the rule was issued.

The State of Alaska and others had intervened in support of the special rule issued by the USFWS because the polar bear is already protected under the Marine Mammal Protection Act (MMPA) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora, as well as treaties and international agreements.

The State is, however, disappointed that the court will be remanding the final rule, issued in December of 2008, for further procedural review under NEPA. While this process continues, the Interim Final Special Rule, issued in May 2008 and effectively equivalent to the final rule, will remain in place.

Attorney General John Burns welcomed the ruling.

"The court's decision confirms that additional protections under the ESA are unnecessary," said Attorney General Burns. "There was no sound reason to roll back those MMPA measures and rely on other untested programs on the North Slope or other areas within the polar bear's range. This means that Alaskans, governments, and businesses can continue to safely manage human-bear interactions in their villages and workplaces."



RDC supports Wishbone Hill project

In comments to the Alaska Department of Natural Resources, RDC urged the state to approve an application submitted by Usibelli Coal Mine to renew permits to mine coal at Wishbone Hill.

The Wishbone Hill project, located on State, Mental Health Trust, and private land five miles west of Sutton, has been permitted every five years since 1992. The mine is projected to produce 500,000 tons of coal each year and provide between 75 to 125 jobs.

"The Wishbone Hill permit application outlines an extensive reclamation plan, including the enhancement of wildlife and recreational habitat as post-mining priorities," noted RDC Projects Coordinator Deantha Crockett. "These environmental-sound practices combined with the economic benefits the mine would provide make for a win-win situation in the Matanuska-Susitna region."

State files lawsuit to defend permitting process

The State of Alaska has filed a constitutional challenge in Anchorage Superior Court against an ordinance recently enacted by ballot initiative in the Lake and Peninsula Borough.

The local ordinance attempts to give the Lake and Peninsula Borough's planning commission authority to nullify state permitting processes and prevent the development of certain large-scale resource extraction activity. The ordinance requires the planning commission's approval of a borough development permit before an applicant may receive a state or federal permit.

The State's lawsuit alleges that the borough ordinance is invalid because it tilts the constitutional balance between state and local interests. The Alaska Constitution gives the Alaska Legislature the authority to determine how to develop resources for maximum use consistent with the public interest. It is therefore the State's duty to evaluate projects to determine whether they can be conducted in a way that serves the public interest, and if so, what safeguards to require. Under the Lake and Peninsula Borough ordinance, the State may never have that opportunity. While boroughs have limited power to regulate some of the activities associated with resource development, a small majority of voters in a local community cannot usurp the more comprehensive state authority and eliminate the entire state permitting process.

"This case is not about state support for or against a Pebble Mine project," Alaska Attorney General John Burns said. "It is about upholding the State's constitutional authority and responsibility to evaluate whether, on balance, development of Alaska's resources is beneficial to all Alaskans. This administration has consistently maintained that the State will not sacrifice one resource for another. In the case of Pebble, we haven't yet even considered the pros and cons of any development that may be proposed. But the Alaska Constitution requires the State – not the borough – to fairly and completely conduct this evaluation."

The initiative passed by a razor-thin margin of 34 votes. Many statewide groups and local village corporations expressed concerns about the precedent this type of restrictive initiative could have on future development activities across Alaska. These groups included the Alaska Support Industry Alliance, the Alaska Miners Association, the Council of Alaska Producers, the Alaska State Chamber of Commerce, the Alaska Oil and Gas Association, and RDC.



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