

# RESOURCE *review*

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August 2012



## Ballot Measure 2 is bad for Alaska

Measure likely to spawn more red tape, litigation, and uncertainty

There is a lot at stake for all Alaskans in the outcome of Ballot Measure 2 (BM2), which will appear on the August 28 primary election ballot. Just ask Kurt Fredriksson, who spent 20 years of his adult life implementing Alaska's coastal management program. Few have more experience in coastal management laws, and he is urging Alaskans to vote no on BM2.

If approved by Alaskan voters, the initiative would establish a coastal zone management program that would develop local standards for reviewing projects in and beyond coastal areas of Alaska. Fredriksson warned, "the requirements in Ballot Measure 2 are a major step backwards in how Alaska manages its coastal resources, will hurt economic activity, and will do little to increase Alaska's influence over federal resource decisions." He said the measure is deceptive and reopens many questions and issues that the previous coastal management laws had resolved.

Fredriksson worked in the Governor's



Primary Election is Tuesday, August 28.

Office of Coastal Management to coordinate the state's permit decisions on a number of projects. He also served as the Alaska Department of Environmental Conservation's (ADEC) representative on the Coastal Policy Council.

"I have read Ballot Measure 2 many times and compared it with Alaska's previous coastal management law – the differences are striking and far-reaching," Fredriksson said. "I am convinced that Ballot Measure 2 does not even come close to restoring Alaska's previous coastal management program." He said BM2 would not simplify government permit procedures, nor facilitate resource development, economic growth, or job creation, as proponents claim.

"The plain and simple truth is that by removing many of the prior coastal management legal requirements, Ballot Measure 2 returns Alaska to a time when there was no agreement on who best represents the interests of state and local communities in resource development decisions, no agreement on the role of local communities in resource development decisions, no agreement on how state permits should be coordinated, no agreement on how long it

should take to make a coastal permit decision, no agreement on how the state should consult and coordinate with the federal government on resource development decisions, and no agreement on the importance of subsistence as a recognized coastal use and resource," Fredriksson said.

Proponents claim the ballot measure is pro-Alaska and pro-development. They say the program the initiative creates would cut red tape and reduce lawsuits. Opponents warn the ballot measure is deceptive and defective. They say it would lead to more government bureaucracy and red tape, result in endless litigation, delay projects, and hurt the economy.

"With no clear rules or legal requirements similar to Alaska's previous coastal management law, Ballot Measure 2 will create uncertainty and disagreement that is sure to invite legal battles that will frustrate the needs of coastal communities and delay or tie up resource development projects in the courts for years," Fredriksson said.

Fredriksson is serving as co-chair of Vote No on 2, a broad-based organization formed to oppose BM2. Other co-chairs include

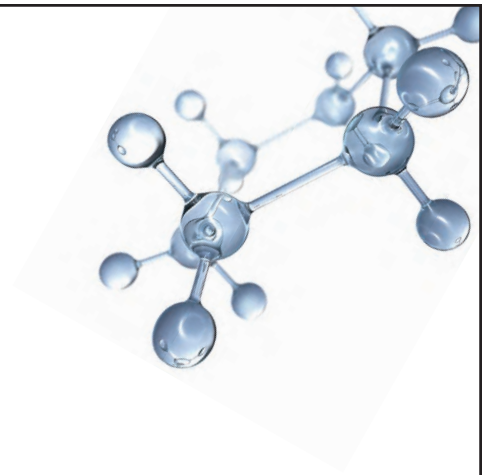
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The Resource Review is the official periodic publication of the Resource Development Council (RDC), Alaska's largest privately funded nonprofit economic development organization working to develop Alaska's natural resources in a responsible manner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

Past issues of the Resource Review (1978-2012) are available at [akrdc.org](http://akrdc.org).



## From the Executive Director

# Alaska Business Report Card holds elected leaders accountable

**“Nearly every candidate for elected office runs on a platform of economic prosperity. After the election, some successful candidates honor their pledges and some do not.”**

By Rick Rogers, Rachel Petro, Rebecca Logan, and Scott Hawkins

Editor’s Note: Rick Rogers, Rachael Petro, Rebecca Logan and Scott Hawkins are the chief executives of the Resource Development Council, the Alaska State Chamber of Commerce, the Alaska Support Industry Alliance, and Prosperity Alaska, respectively. RDC collaborates with like-minded associations to achieve common goals, but does not endorse candidates. We do, however, help our members understand how well candidates are aligned with our priorities.

Holding elected officials accountable is an essential part of our democracy. Indeed, it is something we need more of, not less, in these days of political gridlock.

The Alaska Business Report Card (ABRC) is an effort to do just that. Comprised of the Alaska State Chamber of Commerce, the Resource Development Council, the Alaska Support Industry Alliance and Prosperity Alaska, this group gathers each year to hammer out letter grades on Alaska’s state officials.

Even though this is our third year of working together as a group, we are still relatively new to the grading and ranking process. The Alaska Conservation Alliance, the local chapter of the Sierra Club, the National Rifle Association, the Alaska chapter of the NEA, and many Alaska labor organizations have been grading legislators for a long time and using those grades to educate their members.

This past spring, the ABRC released grades on the individual members of the 27th Alaska Legislature, the Governor, the group grades for the Senate Majority and Minority, and the House Majority and Minority.

The ABRC serves as collective feedback from Alaska’s largest business associations who represent thousands of Alaska businesses and tens of thousands of Alaskan workers. These are the businesses and the workers who are the backbone of Alaska’s economy. More than 60 bills in the 27th legislature were identified by ABRC organizations and considered in the grading process.

Letter grades are computed through an average of each participating organizations’ scoring based on their respective legislative priorities. Considered in the grading process are bill sponsorship, committee votes, floor votes, actions taken in committee (when applicable) and, especially, overall leadership inside and outside of the legislature.

Each organization has its own scoring and weighting processes, using its own mix of key legislation. Interestingly, even with this diversity of scoring criteria and with numerous people involved, we come to remarkably similar conclusions before ever sitting down to

**“The Report Card brings accountability to our elected officials as viewed through the lens of private sector vitality. We realize that not every voter or campaign contributor will consider the business community perspective to be important, but those who are concerned about Alaska’s long-term vitality will.”**

compare notes. As it turns out, lawmakers who are pro-business on some issues tend to be pro-business on others.

To help elected officials know in advance how they will be graded, we share the top priorities of our combined organizations at the start of each legislative session. In fact, as a group we walk together through the halls of the capitol and hand-deliver them to each office. For the past two years our joint priorities have been: fiscal responsibility, oil tax reform, regulatory efficiency, litigation reform, general business climate and strategic transportation infrastructure funding.

In addition to informing our members, the Report Card is intended to stimulate dialogue with legislators. It has been successful in that regard. Several legislators have used the Report Card constructively and strengthened their performance markedly.

Even so, a number of elected officials were disappointed by their grades. We share their disappointment. However, the Report Card is all about accountability. Nearly every candidate for elected office runs on a platform of economic prosperity. After the election, some successful candidates honor their pledges and some do not. Some have a view of prosperity that is defined by private sector growth and vitality, and some view it in terms of short-term public sector growth coupled with opposition to private sector projects. The Report Card brings accountability to our elected officials as viewed through the lens of private sector vitality.

We realize that not every voter or campaign contributor will consider the business community perspective to be important, but those who are concerned about Alaska’s long-term vitality will.

Grades are posted online at [alaskabusinessreportcard.com](http://alaskabusinessreportcard.com)



# Coastal measure is deeply troubling

(Continued from page 1)

Judy Brady, a former commissioner of the Alaska Department of Natural Resources, and Lorna Shaw, President of the Fairbanks Chamber of Commerce and someone who has spent her career in Alaska's mining industry.

"This measure will threaten ongoing and future development projects that drive our economy and it could affect small businesses and even individual property owners with burdensome new regulations," said Rick Rogers, RDC executive director and a co-treasurer of Vote No on 2. "It will be a huge new barrier to investment, and impact all sectors of our economy, including oil and gas, mining, fishing, timber, retail, tourism and the service sector."

Rogers warned BM2 would create an environment for endless lawsuits and permitting delays. "It is vague and poorly drafted and will lead to litigation over current and future development. It creates a wholly new program with few rules, unclear standards and no deadlines for decisions. It is a costly 'big government' solution to coastal management that creates three new government agencies, costing Alaskans \$5.4 million annually. It gives broad, new authority to an un-elected body of decision makers with no technical or scientific background required. Frankly, it is a complicated big mess."

At its most basic level, coastal zone management is a tool for local coastal communities to provide input and guidance to federal and state authorities about how their coastline is developed.

The program is authorized under federal law, and Alaska first implemented its coastal zone program in 1977. There have been numerous reforms since that time, including some revisions in 2003, when it was modified to resolve concerns that it had become a barrier to timely permitting and project development.

It was due to sunset in June 2011, and during that spring legislative session an extension of the program – HB 106 – passed the House of Representatives 40-0, gaining unanimous approval by both Republicans and Democrats. RDC also supported



Ballot Measure 2 will affect all sectors of Alaska's economy – oil, gas, mining, fishing, retail, forestry, construction, tourism, service, and small business. Coastal and marine spatial planning requirements in BM2 will bring more uncertainty to fishing. Alaskans will vote on BM2 on Tuesday, August 28.

extending the program.

When HB106 went to the Senate, it was swallowed up in the political process and modified. It became a political football, and part of a special legislative session in 2011 called by Governor Sean Parnell. There was no agreement and the program essentially expired.

Last winter, the proponents of this ballot initiative gathered the necessary signatures required to put the issue before voters in August.

Proponents claim BM2 would "restore" coastal zone management. But their measure does not "restore" the same law with the same provisions that expired in 2011, said Vote No on 2 Co-chair Lorna Shaw. Nor does it resemble the measure that passed the House of Representatives in a 40-0 vote over a year ago, she noted.

"Their version of coastal zone management is a wholly new, complex, never before tried approach to coastal zone law in Alaska," Shaw said. "This measure will not streamline government, cut red tape, or make permitting projects easier. Don't you think that if this measure cut red tape that the resource development community would be embracing it?"

In a November 2011 letter to Lt. Governor Mead Treadwell, Alaska's Attorney General warned that BM2 is 15 pages long and the devil is in the details. He noted the measure creates an entirely new chapter of Alaska statutes consisting of 18 new statutory provisions governing a complex new program.

Typically the AG summarizes ballot measures for voters in 50 words or less, but he asked permission to write a 703 word

description, 14 times the space to try and explain to voters the massive new law. The measure is the longest ballot question to go before Alaskans since statehood.

In his letter, the attorney general warned that because of inconsistencies, ambiguities, and legal issues in the measure, there are a number of legal, even constitutional issues regarding implementation, definitions, and unclear standards.

Co-Chair Judy Brady warned the measure would politicize coastal zone management and "create the most complicated program Alaska has ever had, with major new bureaucracy and regulations that could kill resource development in our state."

BM2 gives coastal districts broad new authority on what they can regulate. For the first time ever, this could even include visual appearance, for both recreational cabins and docks on private property and commercial projects. This is made possible because "scenic and aesthetic enjoyment" are regulatory standards in the measure.

With no deadlines for implementation and no clear rules, Brady said BM2 could create an environment of legal battles that frustrate Alaskans making use of their private property, stop exploration for oil and gas, and tie up projects in the courts for years.

Brady warned that BM2 could allow coastal districts to be manipulated by environmental activists to stop development projects that are hundreds of miles from their communities. At a recent public hearing in Anchorage, the Wilderness Society testified in support of the measure.

Brady said one of the most troubling aspects of BM2 is that it would subject federal air and water quality permits issued

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# State sues over ECA

By Marleanna Hall

Alaskans already pay more than most other places in the U.S. for goods coming to the state partly due to transportation costs. Prices are set to climb more as the federal government implemented a North American Emission Control Area (ECA) on August 1st.

State of Alaska and private sector officials noted the ECA was applied to Alaska's coastline with little or no consideration for the additional burden it would impose on residents. The State said ECA was implemented without studies and modeling showing how it could benefit Alaskans. They also noted the ECA will likely have little to no added benefit to the environment in Alaska.

The one size fits all program will affect Alaska's heavy reliance on maritime traffic, for goods shipped to and from the state, and for cruise ships whose passengers support local businesses.

The State filed a lawsuit in July seeking to block enforcement of ECA in Alaskan water, from Southeast to just west of Cook Inlet.

Shipping, using the ECA-mandated 1% sulfur-fuel model, is estimated to result in an initial 8% increase in shipping costs. This increase will be felt throughout the Alaska economy by small and large business, and consumers. ECA implementation will also drive up the cost to operate cruise ships, which provide approximately 60% of the visitors to Alaska.

Ultimately, this will make Alaska less competitive as a global cruise destination, risking redeployment of cruise ship assets to other jurisdictions with lower costs and less stringent requirements. This will harm many Alaskan businesses that provide support services and visitor attractions to the cruise industry. It will also drive up the transportation cost of the oil tankers, which affects both royalty valuation, and severance taxes, making a direct impact on the State's revenues.

Alaska will feel a disproportionate impact compared to other jurisdictions because most marine traffic to and from Alaska occurs within the 200 mile zone.



New federal rules on emissions will require marine operators in Alaska waters to use lower sulfur fuels. Fuels costs will rise as much as 25 percent by 2015, causing an increase in freight rates.

Days after the August 1st implementation, Totem Ocean Trailer Express received an EPA waiver to continue operations with higher sulfur fuel while it converts its engines to liquefied natural gas.

In response, Senator Lisa Murkowski cautiously noted, "While this deal helps one company, it does not address who will pay for the additional investments and costs required for TOTE and others to meet the new fuel standards, a total that could run into the hundreds of millions of dollars. My fear is that the total costs of compliance will simply be passed on to Alaskans."

Murkowski added, "Applying the new fuel standards will mean that vessels plying the waters of Southeast and Southcentral Alaska, whether freight ships that deliver nearly all of our goods or cruise ships that are the life-blood of our active tourist economy, will now be required to burn expensive low-sulfur fuel."

Other groups like the Alaska Cruise Association (ACA) have applauded the Parnell administration after it sued the EPA and other federal agencies to block enforcement, or amend the rules.

ACA President John Binkley said cruise companies will likely begin to schedule ships to other countries without overly burdensome regulations like ECA. "Alaska is an expensive destination because there are long distances to travel," Binkley noted. "So fuel becomes a much more important component of the overall cost of the ship."

## BM2 puts resource development, economy at risk

to developers to the coastal zone consistency standards set by the local coastal councils.

In the previous program which sunset last year, these permits were basically exempt from local review by a provision known as the "DEC carve-out" that deemed any water or air permit approved by ADEC as also being consistent with coastal policy standards.

State officials have said previously that retaining the DEC carve-out was essential in any extension or revision of the coastal management program because these federal permits are extremely technical and need

to be reviewed by trained staff at ADEC. Exposing these permits to reviews and revisions by non-professionals at the local level would result in significant delays and potentially derail projects, state officials have warned.

"Ultimately, we think that local districts will have sufficient power to derail projects, to preemptively veto certain types of projects," said Mike Satre, executive director of the Council of Alaska Producers. Speaking at a public hearing in Ketchikan, Satre added, "This puts oil and gas, mining,

timber projects at risk – on and offshore – throughout the state."

"As throughput in the pipeline continues to decline, Alaska can't afford more red tape and another barrier to the responsible resource development and investment that drive our economy," warned Brady.

She said Alaska can have responsible, well-designed coastal zone management. However, she insisted BM2 is far from that. "It is a bad law and we will be working hard to ensure voters know how important it is to Vote No on 2 on August 28."

# Pebble, State of Alaska speak out on Bristol Bay watershed assessment

Calling the Environmental Protection Agency's (EPA) draft Bristol Bay watershed assessment inadequate, rushed and inaccurate, the Pebble Partnership (PLP) submitted comments and technical data last month to the agency charging that the assessment is incomplete and fails on a scientific and regulatory basis.

Materials submitted by PLP, which include opinions and expertise from engineers, mining experts and international technical and environmental consulting firms, underscore the fundamental gaps in the draft assessment and omission of critical practices associated with 21st Century mining.

PLP said perhaps the most glaring issue is the hypothetical mine the EPA created on which to base its assessment – a mine that could not be permitted in the United States according to today's rigorous regulatory standards.

Although the assessment itself does not contain any recommendations as to whether the EPA should exercise its veto authority under Section 404(c) of the Clean Water Act (CWA) to prevent PLP from taking a project into the federal permitting process, EPA has indicated that the study could be the basis for such a determination.

"As a company, we firmly believe that such a determination would need to be based on the same scientific rigor and the same high standards for independent scientific research as the federal agencies would use to grant a mine the various permits required by law," said John Shively, CEO of the Pebble Partnership. "This assessment does not meet those standards or come anywhere close to doing so. If a developer attempted to apply for federal permits using a document as flawed as this assessment, the applications would be promptly and justifiably rejected."

In addition to bypassing many of the agency's own internal guidelines, PLP said the assessment fails to include, consider or evaluate modern extraction technologies, mitigation plans or reclamation. PLP said the assessment also contains an excessively high number of missing peer-reviewed citations, a lack of available data sources, unfounded claims and numerous presumptions by the authors that are not based on factual information or scientific analysis.

Given the lack of scientific rigor, PLP said the assessment is an inadequate basis for a permitting decision for its project, which should be evaluated through the Environmental Impact Statement (EIS) process under the National Environmental Policy Act (NEPA).

"There appears to be a lack of understanding on the part of the EPA as to how modern mines operate, along with a disregard for innovations and technologies being deployed at contemporary facilities," Shively said.

Other significant deficiencies within the draft assessment include false assumptions related to ground and surface water, roads, and mine design; theoretical scenarios related to disturbance of aquatic habitat; and an absence of material examining current mining techniques related to fishery resources currently being deployed along water



Pictured above is the Pebble Project site approximately 120 miles north of Bristol Bay.

systems such as the Fraser River in Canada, and in Alaska at the Red Dog, Fort Knox, and Greens Creek mines.

PLP also noted the assessment contains no review or evaluation of best available mining practices related to modern containment or impoundment structures, nor current proven methods for pollution control, water treatment, monitoring or habitat modification.

Instead, the assessment relies on outdated mining methods and data from mines built in the 1880s that now could not be constructed or operated in the same way. PLP said the assessment ignored modern mitigation measures and management techniques which would limit the mine's footprint and offset impact on fish habitat and wetlands. It also did not consider modern engineering that would prevent the dam failures and other impacts cited in the report.

In its comments on the assessment, the State of Alaska said the EPA did not adequately consider Alaska regulations, standards, or the mitigating aspects of modern mine construction methods, operation, and closure.

"The assessment provides a very basic review from dated mining projects that do not adhere to modern mining methods, regulations, or engineering standards," said Thomas Crafford, Director of the Department of Natural Resources' Office of Project Management and Permitting.

Crafford noted that the State's modern design standards for road culverts would prevent the fish impacts that the assessment predicts.

"The State has communicated to PLP that bridge designs, not culverts, will be the starting point for any consideration of water crossings," Crafford said. "Given the sensitivity of the rivers and streams to the fisheries, the inferior designs described in the draft assessment would not be approved by the State."

Crafford also pointed out that in the assessment, "there is no discussion of the mitigation requirements that could be imposed by

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Exploration efforts have been underway at Pebble for over a decade. The company has conducted its own environmental baseline research of the project area over a period of eight years. The \$120 million effort involved more than 50 consulting firms and 500 independent technicians and scientists, compared to the EPA's year-long report that contained no original research.

summer fishing season in Alaska. The EPA has ignored extension requests from the State of Alaska, Senator Lisa Murkowski and Representative Don Young, Alaska business and trade associations, tribal governments, village corporations, 10 Alaska Native regional corporations, and hundreds of Alaska residents.

"This is noteworthy because the EPA has provided no justification for why it is rushing this process, especially with no permitting package or mine plan to evaluate," Shively said.

According to the U.S. Census, Southwest Alaska is one of the most economically depressed areas in the nation. If approved by regulators, the Pebble project would inject billions of dollars of investment into the local economy, create 2,000 construction jobs and support permanent positions for about 1,000 workers.

Yet the EPA assessment did not consider any potential benefits of mine development to human health, safety, and welfare, including those of individuals who live in the region.

"It presented a limited and biased picture of only adverse impacts of a hypothetical mine, and fails to disclose to the public those benefits to the region and State that might result from large mine development," said Crafford.

PLP's Shively acknowledged that EPA has a legitimate regulatory role in the established process. "There is an appropriate time and place for their input as part of the NEPA process, which is triggered once an actual mining plan is submitted," Shively said. "Remarkably, the EPA appears to be laying the groundwork for a very different outcome, one in which EPA shuts down the process entirely and preemptively prevents Pebble from even seeking a permit under the law."

Unfortunately, there seems to be a flawed process unfolding that disregards the challenges faced in Southwest Alaska of high unemployment, high cost of living, high suicide rates and continuing rural out-migration, Shively added. "Providing new economic opportunities could be part of the solution to many of these problems. Again, one has to wonder, why the rush?"

the U.S. Army Corps of Engineers relative to the placement of roads and stream crossings or mitigation to and avoidance of wetlands."

Essentially a literature review completed in approximately one year, the EPA draft assessment covers a 20,000 square-mile area, roughly the size of the state of West Virginia, in remote Southwest Alaska and contains no new in-the-field scientific research. By comparison, PLP has spent eight years studying the local environment and a dedicated area of approximately 1,500 square miles in and around the proposed mine site.

The EPA draft assessment focused solely on two of nine major river systems in the area, implying these are wholly representative of the entire region.

In January, PLP released its Environmental Baseline Document (EBD) prepared by independent researchers, a five-year comprehensive characterization of the biological, physical and socioeconomic aspects of the region. The EBD, which represents one of the most extensive scientific programs ever conducted for a natural resource project in Alaska, was provided to the EPA in December 2011 as part of the pre-assessment process, but has largely been disregarded. The Pebble Partnership has re-submitted the EBD as part of its EPA draft assessment comments.

The EPA provided a short, 60-day public review window for the draft assessment, which culminated during the height of the

## RDC names new Membership Director/Projects Coordinator

Resource Development Council is proud to announce Kati Capozzi has accepted the position of Membership Director/Projects Coordinator. Capozzi's first day was July 9.

Capozzi was formerly employed with sister organization Alaska State Chamber of Commerce where she served as the Communications and Events Director.

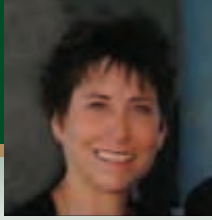
"I look forward to building on the already strong and diverse membership base at RDC and advancing the goal we all collectively share, to grow Alaska through responsible resource development," stated Capozzi.

Executive Director Rick Rogers said "Kati will be a key part of the RDC team to serve the needs of our diverse membership and help coordinate projects and special events."

Capozzi first came to Alaska in 1996 as an 'Air Force brat' and is proud to call Alaska home. She, her husband Dan and their Jack Russell Terrier 'Trouble' enjoy being outdoors and traveling as often as possible.



Photo by Frank Flavin



## Guest Opinion - Holly Propst

Holly Propst is executive director of the Western Business Roundtable, a broad-based coalition of companies doing business in the Western United States, including the State of Alaska.

# Bristol Bay assessment equals regulatory adventurism and economic paralysis

There is much attention being given these days to size/scope of government. Oppressive and unpredictable regulation is judged by industry, local and state governments and the financial markets as a major impediment to solving our nation's fiscal woes and jump-starting a long-stalled economy.

A particular concern: the frequent side-stepping, by the White House and federal agencies, of the formal rulemaking processes set forth under federal statutes in favor of Executive Orders, Secretarial Orders, agency guidance, interim rules, draft policies, reinterpretation policies and legal "consent agreements," etc.

The Environmental Protection Agency (EPA) is the poster child for this kind of regulatory adventurism. The agency is testing the outer boundaries of its authority to dictate the form and substance of huge swaths of the U.S. economy.

Nowhere has EPA been more aggressive than in the Clean Water Act (CWA) arena. Take, for example, the agency's recently released "Bristol Bay Alaska Watershed Assessment." This "scientific study" is rife with process, legal and technical problems:

- **Less a scientific inquiry and more a witch hunt**

The Bristol Bay Assessment is less a scientific inquiry and more a witch hunt against large-scale hard-rock mining. The State of Alaska put it succinctly: "Nothing we have seen dispels the State's concerns that the watershed assessment will prematurely 'determine' impacts based on hypothetical and inapplicable modeling, thereby inappropriately and conclusively determining specific impacts dedicated to other regulatory authorities and reviews, or inappropriately narrowing the reasonable range of alternatives for NEPA review during subsequent permit reviews."

- **EPA's tactic fits into broader push for CWA authority**

The Assessment is part of a larger pattern of actions by EPA to unilaterally expand its authority and influence under the CWA. Two other examples:

- EPA's push to retroactively veto a valid CWA Section 404(c) mining permit: EPA attempted to retroactively veto a duly issued Army Corps Section 404(c) permit for a coal mining operation in West Virginia. That assertion of authority has now been struck down by a U.S. District Court.

- Draft guidance to extend federal authority under the CWA: EPA and the Army Corps of Engineers have sent to the White House "Draft Guidance on Identifying Waters Protected by the Clean Water Act." The guidance, currently pending finalization, would significantly broaden the scope of federal authority under CWA by expanding the definition of "waters of the United States."

- **Failure to follow "Regular Order" violates Executive Orders**

President Obama has issued multiple Executive Orders dictating regulatory transparency, reform and efficiency. The EPA's approach

in issuing the Bristol Bay Assessment violates both the letter and the spirit of the President's reforms.

Large-scale mining is a highly regulated activity in Alaska. Potential projects are already subjected to rigorous review under the National Environmental Policy Act and a well-established, scientifically-based permitting process that includes over 60 major state and federal permits and authorizations. This Assessment does nothing to inform that already robust regulatory regime and may actually frustrate it.

- **Encroaching on State authority**

The CWA explicitly recognizes states' authority to manage water and non-federal lands within their borders. Here, EPA did not consult with the State. The lack of coordination is particularly glaring, given that the impacted lands within the watershed are largely state-owned.

- **Basing decision-making on quantifiable science**

In 2009, President Obama issued a directive to all federal agencies laying out guidance intended to "ensure the objectivity of any scientific and technological information and processes used to support the agency's regulatory actions."

The Bristol Bay Assessment is just the latest example of the EPA's decision-making becoming delinked from such a standard. Among its deficiencies:

- Though cast as a "watershed" study, the Assessment actually cherry-picks portions of the 40,000 square mile watershed to focus on. It ignores the marine area of Bristol Bay itself, and focuses only on the Nushagak and Kvigach hydrologic units.

- Many assumptions regarding impacts cannot be supported by the existing literature.

- The Assessment focuses its impacts analysis on pure hypotheticals. It makes no reference to the environmental performance metrics mines or resource development projects are routinely required to adhere to (i.e. avoidance, minimization or mitigation of impact requirements, etc.).

- The Assessment uses inappropriate modeling/documents that had not been subject to external peer review.

The Bristol Bay Assessment singles out a project area on state land where there has not even been an application submitted for regulatory review. It could cause delay and confusion to projects all over Alaska. Unfortunately, many of these projects have already experienced extensive multi-year permitting delays, administrative appeals, and litigation from third parties, hampering the economy and holding back thousands of job opportunities for Alaskans.

Sadly, the Bristol Bay Assessment is far from an isolated example. This sort of regulatory adventurism is playing out nationwide. In such an environment, is it any wonder the economy is paralyzed?



# ConocoPhillips on track to pay State twice what it will keep in profit from Alaska

ConocoPhillips Alaska, Inc. (CPA), the largest producer of oil in Alaska, earned \$551 million in the 49th state in the second quarter, but paid approximately \$1.25 billion in taxes and royalties on its operations here to the state and federal government.

The company's tax bill included \$983 million paid to the State of Alaska in severance taxes, royalties, property taxes, and state income tax, or \$11 million per day. Since a new oil production tax structure was put in place in 2007, the trend continues in which the company pays approximately twice as much to the State as it earns.

"The very high government take on the North Slope created by Alaska's tax structure negatively impacts the investment climate," said Bob Heinrich, vice president of finance for CPA. "We believe a better balance between government and producer share would stimulate additional investment in legacy fields and increases in production and jobs."

Strong margins for oil along with attractive development opportunities have resulted in ConocoPhillips' capital budget in the Lower 48 increasing from \$1.6 billion in 2010 to \$4.8 billion in 2012. Conversely, the company's capital budget in Alaska has remained essentially flat at approximately \$900 million per year.



ConocoPhillips is Alaska's largest oil producer, operating the Kuparuk and Alpine fields on the North Slope.

CPA had net earnings of \$551 million in the second quarter of 2012. This amount was down from \$620 million in the first quarter primarily due to lower sales volumes and slightly lower crude prices.

Last year CPA paid \$4.1 billion to Alaska in taxes and royalties and nearly \$1 billion to the federal government for a total tax and royalty bill of \$5 billion. Its net earnings came in at \$2 billion for the year.

In the first half of 2012, CPA's estimated taxes and royalties due to Alaska is \$2.2 billion, and that rises to \$2.8 billion when federal income taxes are included. First half earnings are \$1.2 billion.

Anchorage Senator Cathy Giessel warned that the latest revenue report from CPA is showing that oil companies are focusing more and more outside Alaska due to the State's big tax bite. "The money's going south, where companies see the most upside," Giessel said. "Obviously they don't see that in Alaska under this tax regime."

Giessel noted when other taxes and royalties are factored in, CPA's total government take for the past quarter was approximately 70 percent. "During this year, the company is on track to pay the State nearly twice what it will keep in profit from its Alaska business," she added.

## Alaska ranked as one of the least attractive places in North America for investment

Alaska's reputation for oil and gas investment improved slightly over the past year, but it remains one of the least attractive places in North America for capital investment, according to a recent survey of petroleum industry executives.

Alaska ranked 61 out of 147 jurisdictions while the federal Alaska Outer Continental Shelf ranked 52nd, according to the 2012 Global Petroleum Survey by the Fraser Institute.

In 2011, the survey placed Alaska at 83 and the Alaska OCS at 78 among 135 jurisdictions.

The annual survey gauges how decision-makers in the oil and gas sector view the business climate around the world. Respondents measure on 18 factors, including taxation and regulation.

The most attractive areas for investment appear to be North America and northern Europe, with 11 U.S. states and two Canadian provinces making the top 20. The least attractive were Bolivia, Venezuela, Iran, eastern Siberia, and Libya.

In the U.S., only New York ranked lower than Alaska. Unlike 2011, Alaska failed to rank above California or the Pacific OCS. Among North America jurisdictions, Alaska beat out Quebec and New Brunswick, but fell several spots below the Yukon and the Northwest Territories.

The survey ranked Oklahoma, Texas, North Dakota, and Colorado high. Alaska was marked down by respondents for "punitive government regulations, anti-business environment in the press, excessive taxation, and NGO litigation."



# Take action, speak up, and get in the game

Every day, I receive hundreds of emails. If you are anything like me, you will scan your inbox, look for ones that you can simply delete and then focus on what is important. The other day there was an action alert from RDC asking me to get involved in an important resource development issue. I opened it and chose to spend some time that evening writing comments on an issue being reviewed by a federal agency. You would be surprised how many people, including those who make their living in resource industries, simply choose to push delete.

A few days later I was standing in the line at the grocery store and I overheard a conversation on a mining issue in the state. The two people behind me in line were expressing strong opinions, but both were expressing views based on facts that were simply wrong. Instead of speaking up, I chose to keep my mouth shut, buy my groceries and hope that someone else would share the truth with them.

Every day we are confronted with choices about whether to get involved or let opportunities pass us by. When we choose the former, we are saying we want to be part of the solution. When we chose the latter, we are saying that we are expecting someone else will get involved and that somehow we will turn the tide against those who oppose responsible resource development in our state and country. The problem is that too many of us are sitting on the bench instead of getting in the game.

According to a poll done a few years ago by the Opinion Research Corporation, over 58 percent of Americans have no idea what fuel is used to power their electricity. Everyone knows it comes from the plug or switch on the wall, but less than half of us understand the complex network of generation, transmission and distribution facilities that are required to get it to the wall.

The amount of effort and investment required to make electricity is mind-boggling. First you need to extract a fuel source and convert that fuel into electrical power. This can be done through a drill bit, a mine, a dam, a windmill or other process. That electricity then needs to find its way from the power plant to communities and then it needs to be distributed to individual homes and businesses. None of those steps are possible without the development of resources. Fuel extraction, power generation, power transmission and power distribution all require resources like steel, copper, concrete, diamonds, and wood to name only a few. Each of these resources need to be mined, grown, extracted or produced.

It's not just electricity.

The Opinion Research Corporation poll also revealed that only 32 percent of Americans could name the source of their drinking

**"Every day we are confronted with choices about whether to get involved or let opportunities pass us by. When we choose the former, we are saying we want to be part of the solution. The problem is that too many of us are sitting on the bench instead of getting in the game."**

water. I suspect if you were to ask questions about the source of: the gasoline for their cars; the gold for their jewelry; the seafood on their plates; the natural gas or heating oil for their homes; the chemicals and copper for their batteries; and, the wood used to make their homes, you'd get the same type of response.

Our friends and neighbors are becoming increasingly disconnected from the truth about resource development. We love our gadgets and conveniences, but either don't know or take for granted what it takes for us to have them. That's why we should not be surprised when people decide to oppose the responsible development of Alaska's resources. It's easy to stand against something when you don't understand what it means to you.

It is our responsibility to help Alaskans and Americans understand that the lifestyle we all enjoy is because of resource development. Ask the people in the Washington D.C. region about how much their lives revolve around electricity. Until the storms, most people didn't give it a second thought, but a few days in 100 degrees without air conditioning changed all of that. We need to seize opportunities like this to make sure our friends and neighbors understand that it all starts with resource development.

I am a big supporter of Alaska Resource Education and the National Energy Education Development Project because we need the next generation of Americans to make informed decisions about energy and resource development. However, it would be wrong to simply support them and believe our work is done. Let's not write off the current generation. Let's make our voices heard and share what we know to be true.

I have promised myself that the next time someone asks me to get involved or I hear a conversation about resource development at the grocery store, I am going to speak up. Will you do the same?

**"We love our gadgets and conveniences, but either don't know or take for granted what it takes for us to have them. That's why we should not be surprised when people decide to oppose the responsible development of Alaska's resources. It's easy to stand against something when you don't understand what it means to you."**



# RDC Board visits Ketchikan & Prince of Wales Island



RDC would like to thank the sponsors of its 2012 community outreach trip to Ketchikan and Prince of Wales Island, including Alaska Airlines, Alaska Miners Association, Alaska Ship & Drydock, Inc., Aleut Corporation, Alyeska Pipeline Service Company, Anglo American US LLC, CH2M HILL, ExxonMobil, Flint Hills Resources, Heatherdale Resources Ltd (Niblack Project), Holland America Line, Koniag, Inc., Lynden, Sealaska Corporation, Statoil, TEMSCO Helicopters/North Star Terminal, and Usibelli Coal Mine. Pictured above are board members, staff, and guests in a Sealaska riparian buffer zone. In the inset photo, board members are briefed by John Rowan on the totem carving tradition in Southeast Alaska Native cultures. Sealaska donates logs and other support for cultural projects in local communities, including canoes, totems, and house posts.



A group of RDC board members and guests pose at the entrance of the portal at the Niblack mineral prospect.



Workers can salmon at the Trident Seafood plant.



The Alaska Ship & Drydock facility in Ketchikan builds and repairs fishing vessels, ferries, and more.



A logger prepares to fall a large spruce near Klawock. Sealaska is intensively engaged in reforestation practices to ensure productive forest lands for trees, wildlife, biodiversity, and subsistence foods.



Viking Lumber Company is the largest (medium-size) sawmill remaining in the Tongass National Forest.



A group of board members, staff and guests pose on the upper deck of Holland America's Oosterdam. RDC toured the ship's environmental and recycling systems.





# RESOURCE DEVELOPMENT COUNCIL

Growing Alaska Through Responsible Resource Development

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