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Alaska Industry Under Fire

The Pebble copper-gold prospect in Southwest Alaska is the target of several anti-development initiatives and proposals. Efforts to prevent the project from entering the permitting process could harm other projects in mining and other industries.

Alaska Department of Natural Resources (DNR) Commissioner Tom Irwin spoke out recently against the growing trend of anti-resource development initiatives in Alaska, and defended the state's resource permitting and regulatory system as effective, fair and responsible.

"Anyone willing to connect the dots can see that our resource industry is being targeted by multiple efforts to deprive developers of the tools they need to operate in Alaska," Irwin said.

"Our Constitution mandates responsible resource development for the benefit of the people of Alaska, and I take significant exception to efforts to interfere with that mandate or the corresponding public process," Irwin noted. "While it is clear that we must protect our clean water, healthy fish runs, and subsistence opportunities, we also have an obligation to all residents to provide economic opportunities from state and federal lands and for private lands, including Native regional and village corporation land."

Irwin, whose responsibilities include management and oversight of the state's oil, gas, mineral, forest and agricultural resources for multiple uses, noted a number of anti-development efforts that have recently come to public notice:

- A statewide ballot initiative was submitted to the lieutenant governor's office asking voters to deny any large mines from using state water in Southwestern Alaska. Such an initiative would block development of not only the Pebble copper-gold prospect, but virtually all other future mineral development on millions of acres of state and private land, including Native corporation lands.
- A lawsuit was filed last year to block the Rock Creek gold project on Native corporation and private land near Nome.
- Several municipalities have proposed initiatives which would significantly restrict the sound development of state and private lands. These include a proposed Bethel City Council ordinance banning the transportation of cyanide inside Bethel's borders, and the Denali Borough's proposed prohibition on coal-bed methane exploration.
- A lawsuit recently blocked Southeast Alaska's Kensington gold project, halting progress on that mine despite millions of dollars spent to comply with all environmental guidance provided by regulatory agencies.
- Legislators have introduced several bills which would obstruct or bar mining. One would block mines and most other resource development projects from using any water that runs into Bristol Bay or supports the bay's salmon, and another would create a new 7.7 million acre wildlife refuge with special water quality and discharge standards. Each bill would effectively block development of the Pebble prospect and any other mining development on millions of acres of state land in Southwest Alaska.
- A Homer resident introduced a measure to the state Board of Fish in December 2006 seeking creation of a fish refuge in the drainages near the Pebble deposit.

"What these and other efforts have in common is a goal of subverting the full, fair, public process established in our Constitution and in state law to allow lawful development of our natural resources in a responsible manner," Irwin said. "These efforts to

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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 while protecting and enhancing the environment.

JASON BRUNE

Let's Put A Fiscal Plan In Place For The Future

My wife and I are about to have our second child and we're very excited about welcoming our new bundle of joy to this great state of Alaska. However, her forthcoming arrival has caused us to have a lot of discussions lately about our future.

Things to consider: a new house; additional cost of day-care for a second child; funding college; her wedding; more diapers…I could go on. Before diving into anything, we're planning. We're looking at our income/savings and analyzing our expenses. We're prioritizing what we need, and ultimately making hard choices on what we can afford, what we should save for, and what we just have to say "no" to.

The discussions have not always been easy. Even so, we both realize how important it is to have these talks now rather than wait until we've amassed piles of things we don't need, lists of things we need but don't have money or room for, and all the while accruing large credit card debt.

Has the state of Alaska had a similar conversation with itself? Is our fiscal house in order? Governor Palin's revenue and budget chiefs recently indicated a budget deficit will likely materialize by 2010 under current oil projections. Let's not wait until then to have these hard discussions.

We too need to analyze our income, our savings, and our expenses. RDC has had, as its top priority over the years, asked for our elected officials to develop a fiscal plan.

RDC has advocated for a three-pronged approach to the development of such a plan:

- Spending restraint
- Implement a broad-based tax
- Support establishment of Percent of Market Value (POMV) as a means of distribution from the Permanent Fund. A portion of these funds should be used to help fund state government.

Let's take a look at the last year from an income perspective. We Alaskans will be getting over $1 billion more from the oil industry this year thanks to the new tax recently put in place. Even so, oil production in Alaska is declining by over 6% per year. Fortunately, higher oil prices have saved us while oil has declined from a peak of over 2 million barrels per day in 1989 to under 800,000 barrels today. Will the gasline be next to save us? Who knows.

We have implemented a $50 per person head tax on the cruise industry. Mining receipts to the state are at an all-time high thanks to increased commodity prices. And all the while, individual Alaskans are not paying a penny via a broad-based tax to help fund state government. We are the only state in the union that doesn't have either a state income or state sales tax. It's hard to hold your legislators accountable for what they spend when you are not personally impacted. It's also hard to encourage new companies to invest in Alaska if they very well may be the next ones in line to pay increased taxes. Meanwhile, federal appropriations are declining as more money is dedicated to the war effort. This trend will likely continue.

And then there's the Permanent Fund. Our savings account has just surpassed the $40 billion threshold. The dividends paid from this savings account to all Alaskans have become an entitlement and in fact, the first question people ask of someone running for office is, "Will you touch my Permanent Fund?" It's a sad state of affairs. Despite revisionist historians who would like to tell you otherwise, the Permanent Fund was created as a rainy day account to help fund state government when oil revenues declined. That's not to say I oppose the payment of dividends. I do, however, oppose the payment of huge dividends which are forthcoming given the recent run-up in the fund's value. Perhaps if the state implemented an income tax, capped at the level of the previous year's dividend, we'd have a win-win. Lower-income households would still get the shot in the arm the dividend provides and the rest of us would break even. Pretty hard to complain about that.

Now, how about our expenses? As a state, we definitely spend too much. We should not fund things just because they are existing state programs that need to be maintained. I applaud Governor Palin for exercising fiscal restraint with this year's capital budget. However, I encourage her to take the same red pen to next year's operating budget. With each state service, we need to ask ourselves, is this something we expect government to do? Does it pass the red face test?

Let's put a plan in place this next legislative session. It takes courage to lead. Let's get our house in order now so future generations, like my son and future daughter, don't have to.

Volume In State Timber Sales Reach 10-Year High, Insects And Disease Hits Hardwoods

In 2006, the State of Alaska sold 25 million board feet of timber in 61 sales to Alaskan purchasers for value-added processing, according to the state's annual forestry report. This was the highest volume of state sales since a market peak in 1998.

Meanwhile, only 40 million board feet was logged off the Tongass National Forest last year. The annual harvest ceiling set under the current plan is 267 million board feet.

According to the state report, aerial surveys revealed 33 million acres of forest land in Alaska damaged by insects and disease last year. Hardwood defoliators were the most widespread pests in 2006, affecting birch, aspen, and willow. Although far below epidemic levels of the 1990s, spruce bark beetles were the major factor in mortality on 130,000 acres.

State Defends Permitting Process For Development

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short-circuit the permitting process carry a significant risk by depriving communities of the opportunity to diversify their economies, generate local revenue, and provide high-wage jobs in remote areas."

The risks are especially significant for private landholders, including Native regional and village corporations, many of which look to development of resources on their lands for shareholder jobs, joint-venture opportunities, and revenue, he said.

Tom Irwin

Alaska has a world-class system in place for natural resource use permitting and development, which involves thorough review of proposals to develop the state's rich natural resources, and has demonstrated to the world that development can and is being accomplished with highest concern for the environment.

The state's Large Project Team works with large project applicants and operators, federal resource managers, local governments and the Alaska public to ensure projects are designed, operated and reclaimed consistent with the public interest. The state's laws balance potential economic and social benefits of developing non-renewable mineral resources with the potential risks to the region's renewable resources.

RDC Board Members Express Alarm, Urge Industries To Bond Together And Defend Each Other Against Opposition

Commissioner Tom Irwin of the Alaska Department of Natural Resources isn't the only Alaskan concerned about what appears to be building momentum against development projects and attempts to circumvent the permitting process. RDC board members meeting in June for their annual meeting expressed alarm that Alaska's resource industries appear to be under siege by non-development interests. They noted that virtually every month a new initiative surfaces to challenge development.

The Mat-Su Borough Assembly is considering an ordinance that could potentially block construction of new power plants. Coal-fired utilities in Fairbanks receive coal from the Usibelli mine at Healy.

For example, this month the Mat-Su Borough Assembly is considering an ordinance that would require a local permit to build power plants. Much of what the ordinance requires will duplicate requirements of federal and state regulators and potentially discourage energy infrastructure development.

In addition, the Chuitna coal project faced a challenge by opponents to designate the Beluga coal leases west of Anchorage as unsuitable for coal mining. However, the state has denied a petition seeking the designation.

RDC Board members Judy Patrick, John Sturgeon and others urged Alaska's resource industries to work together through RDC to support each other, or else face the set back similar to what Alaska's forest products industry has experienced over the past decade. That industry is now only a mere shadow of itself.

"How could the forest products industry go from being the second or third largest sector in Alaska ten years ago to being insignificant now?" Sturgeon asked.

"The state must be able to assure the international industries and financial markets that our processes work, that they accommodate Alaskans' concerns, and that the system cannot be ignored because some individuals do not like a potential outcome of the process," Irwin said.

The commissioner expressed particular appreciation for environmental groups that have worked successfully with DNR and within the established permitting system. "We understand that environmental groups have real concerns about issues related to development that are shared by many Alaskans, and appreciate their involvement and input into how to improve the permitting process," he said.

DNR will increase outreach efforts on Alaska's resource development permitting process. A series of workshops on resource permitting and regulation will be held around the state this year. The workshops will be designed to educate participants on Alaska's environmental laws and regulations and the permitting process.

Stevens, Murkowski Endorse Climate Change Legislation

Alaska Senators Ted Stevens and Lisa Murkowski have joined a bipartisan group of senators to introduce major legislation to address global climate change by reducing carbon emissions, encouraging technological innovation, and developing alternative fuels.

The Low Carbon Economy Act of 2007, sponsored by Senators Jeff Bingaman (D-N.M.) and Arlen Specter (R-Pa.), would establish a "cap and trade" program which sets annual targets for carbon emission reduction. Companies could buy, sell and trade credits for the right to release carbon dioxide.

Refineries, natural gas processing plants, LNG facilities, large coal plants and importers of fossil fuels would be regulated by the bill. Businesses would be allowed to buy, sell, and trade credits equal to their emissions to reach their target emission levels. Facilities that capture and store carbon would receive a credit for every ton of CO_2 sequestered.

To ensure these industries are able to meet their targets, the cap and trade program also establishes an allowance system, which would initially grant 76 percent of the credits for free and make all remaining credits available for purchase through auctions.

The cost of buying emission credits should slow the growth of, and ultimately reduce, domestic carbon output. The objective is to cut carbon output by nearly 60 percent below last year's levels by 2050.

"There is little doubt Alaskans are feeling the effects of climate change more than anyone else in our nation," said Senator Stevens. "Regardless of whether these changes are caused solely by human activity, we must take steps to protect people in the Arctic. This bill would help accomplish that goal by taking a balanced and realistic approach which reduces carbon emissions without damaging our economy. It would direct much needed resources to Alaska to deal with the consequences of climate change."

"It is responsible for us to take actions to reduce carbon emissions, as long as we can do it without harming our economy," said Senator Murkowski. "By starting now with a program that funds and spurs technological research and development we can purchase an insurance policy against catastrophic climate effects at relatively little cost."

Oil industry operations, as well as coal plants and mines in Alaska and the Lower 48 would be regulated by the new carbon reduction bill.

The legislation would send clear price signals now that carbon will cost more in the future and would encourage new technology, alternative energy, and consumer purchases that will cut emissions. In contrast to other proposals, Murkowski and Stevens said this legislation would avoid drastic economic repercussions.

Under the plan, by 2020, $35 billion will be provided to encourage coal-fired power plants to retrofit or build new plants that can store carbon underground. That could help spur a new generation of clean coal development in Alaska, which leads the nation in coal reserves.

Funding also will be provided for cellulosic ethanol production, potentially including biomass from wood fiber, and advanced vehicle technology, such as the development and promotion of "plug-in" hybrid electric vehicles.

In addition, $25 billion per year would be available to provide assistance to states to help pay infrastructure damage costs which result from climate change. This adaptation funding is particularly important to Alaska, which has been affected by climate change more than any other state.

Under this proposal, Alaska would receive tens of billions of dollars, with funding starting in 2009, to cover the cost of highway and airport damage, water and sewer line repairs, seawall construction, port and pipeline repairs, and village relocation costs caused by climate-induced erosion or thawing.

The state could get an additional $130 million or more a year to offset rising energy costs in rural areas.

According to a preliminary review by the University of Alaska's Institute of Social and Economic Research (ISER), the bill could help get an Alaska natural gas pipeline project built by increasing the relative value of natural gas.

While the bill would result in allocation of significant federal funds to Alaska for climate change impacts and for new energy technology projects, it would also result in higher energy costs.

Chuck Kleeschulte, Murkowski's Legislative Assistant, said that according to a study by ISER, natural gas prices could increase 12% by 2030 and gasoline pump prices could rise by up to 20 cents a gallon over the next 23 years as a direct result of the program.

There are at least four other carbon reduction bills before Congress. Kleeschulte noted those bills are "front-loaded" and would pose significant impacts to the U.S. economy. He said the Bingaman legislation is "back-loaded" and is designed to provide for a more gradual transition to soften impacts to the economy.

Many Democrats and major environmental groups support a carbon reduction bill sponsored by Senators Bernard Sanders and Barbara Boxer. Kleeschulte said momentum is building in Washington for substantive carbon-reduction legislation, and if Democrats gain more ground in 2008, it could be difficult to stop a hard-line bill.

The Bingaman bill has won the support from a number of large corporations, national unions and Lower 48 utilities. RDC members are currently analyzing the Bingaman legislation.

Marie Greene

Developing Our Resources While Honoring The Past

Editor's Note: The following is a condensed version of the presentation Marie Greene gave as one of three keynote addresses at the RDC Annual Meeting Luncheon in Anchorage June 19. Greene serves as President of NANA Regional Corporation. For the complete text, visit RDC's website at www.akrdc.org.

A recent Wall Street Journal article addressed the high cost of fuel, which this winter was $8.10 per gallon in Shungnak. On a barge somewhere to the south, natural gas drilling equipment is headed for Red Dog. Our partnership, NANA Major Drilling, will hopefully help find lower-cost and cleaner-burning fuel.

At Red Dog Mine, Teck Cominco has started a $30 million project and have mineral exploration underway. They are hoping to find another Red Dog and we hope they do.

There is so much activity going on at Red Dog this summer that the main camp has run out of space. We like this for several reasons as NANA Management Services will be running the camp and there are numerous job opportunities for our shareholders.

Other NANA companies are as busy as ever on the North Slope. Working out of Anchorage, NANA engineering companies and the hotel group are all operating at full speed.

This year, NANA will surpass $1 billion in revenues. We will have employed more than 7,000 people throughout Alaska and other states, and we have operations in Antarctica, Guam, Korea, Spain, and France.

NANA has been involved in resource development from the beginning. It was clear to our leaders that the place in Alaska to develop profitable business with jobs that can sustain families is in the resource industries.

But just like people all over the world who consume resources, it is one thing to buy gasoline at the corner gas station or to use a car that contains zinc in its components, and it is another thing to actually develop those resources in our own back yard.

When NANA made the decision to establish a partnership with a Canadian firm to develop Red Dog, we did it with considerable forethought. People were concerned about environmental issues and the caribou. They talked about the new people who would come and how cultural differences would change our people. They talked about jobs and they were concerned the only opportunities seemed to be far away.

Our leaders believe the best way to improve the lives of our shareholders is through jobs. That is why when we weighed the positives and negatives of developing the Red Dog Mine we were willing to accept the change to our lifestyle that has come with that decision. After ten years, our shareholders voted to pursue Red Dog.

Since opening in 1989, Red Dog has employed more than 1,100 shareholders. Our agreement with Teck Cominco is to develop a workforce that will one day be responsible for full management of the mine. To that end, we have an Employment and Training Committee made up of senior level staff from both Teck Cominco and NANA.

Together with the Northwest Arctic Borough School District, Alaska Technical Center, and the University of Alaska, we work to strengthen and develop the workforce. More than half of the workforce at Red Dog are NANA shareholders.

Environmental oversight and the protection of our subsistence harvest is another critical part of what makes our relationship with Teck Cominco work. There is a regional caribou-monitoring program and shipping is carefully scheduled to minimize effects on whaling and seal hunting seasons.

So, what have we been able to accomplish through Red Dog?

First, our goal for the mine to become 100% NANA shareholder operated is still a dream. We need many more people to receive the education and training required to operate and manage a facility of Red Dog's scope. But we are making progress.

Red Dog is the main source of funds for the Northwest Arctic Borough. The borough receives $8.6 million in annual payments from the mine. Mine revenues are used to fund new schools, renovations, scholarships, and to provide services to NANA shareholders.

Red Dog is the biggest employer in the region with a shareholder payroll of $18.6 million. NANA businesses earn revenues from Red Dog by providing support services.

Something that perhaps is not fully understood or appreciated is the fact that 62% of all royalties received by NANA are distributed to all other Alaska Native corporations. So it is in everyone's best interest to see Red Dog Mine's success.

Five years ago the price of zinc was 35 cents a pound and the mine was not covering its expenses. Today, zinc is in the $ 1.70 per pound range and the value of royalties has increased considerably. But with fluctuating commodity prices this year's bounty cannot be counted on for next year.

What else have we learned?

We have learned that outside environmental groups will take advantage of our people to further their own goals and to raise money for their own organizations. Our villages do not benefit from the actions of these organizations, and unfortunately we expect to be fending off such groups for the duration of our mine.

We have learned it is possible for a Native corporation to respect the land and our traditional culture while involving ourselves in resource development. I am not saying it is not a challenge. But if you ask me if it is worth it, I would have to say yes.

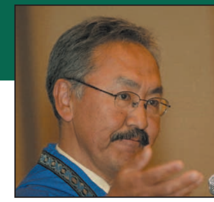
As a shareholder of NANA Regional Corporation, I remember the early discussions about whether we should develop the mine. I was against it because of my concern about whether it could be done in a way that protected the environment and our subsistence way of life.

Trade, commerce and the use of our natural resources to sustain our people and families have always been a part of Inupiaq culture. Today, our lives are balanced between our desire to maintain the traditional skills and values it takes to live off the land, while gaining the expertise required to do business on a global level.

Just as our land and culture have always sustained us, we are building a corporation that will also sustain us forever. We will not be acquired or dissolved.

We will work to ensure that our land can sustain our people now and in the future.

MATTHEW NICOLAI



ALASKA NATIVES RESPECT PAST, EMBRACE NEW IDEAS

Editor's Note: The following is a condensed version of the presentation Matthew Nicolai gave as one of three keynote addresses at the RDC Annual Meeting Luncheon in Anchorage June 19. Nicolai serves as President of Calista Corporation. For the complete text, visit RDC's website at www.akrdc.org.

Alaska Native Cultures respect and honor the past while developing new ideas and goals to ensure the future. For millennia we have paid great attention to the natural resources of our lands to honor and respect the teachings of our Elders.

It is the instruction from our Elders that provided the source of strength that bound and guided our daily lives, to make the right choices for the common good of the people we serve. Managing natural resources in our past was done for the purpose of providing for the future.

In the past we looked upon the cultural value of land for the purpose of preservation of the culture and the resources it depended on. Land ownership in our Native Cultures is a new concept brought to us through the Alaska Native Claims Settlement Act (ANCSA).

Alaska has a distinctive position where Native claims were settled through unique and untested charters by state and federal governments. These charters set up the 12 ANCSA regional corporations and 223 village corporations who own 44 million acres of subsurface and surface properties. To date none of the corporations have closed their doors, which is due to a common bond that ties us together.

During the past 32 years, these unique charters established great opportunities, especially in resource development. Before the charters were set up in 1971, we were stewards of the lands that nurtured and sustained our families. Today we have made great advances by making choices to develop our bountiful resources.

Developing our natural resources has been a long and arduous process, usually made through consensus. The consensus process takes a long time as compared to western society's standards of decision-making. The decision process invigorates the emotional intelligence of our Native people because we are cautious people. In our world, emotional intelligence is usually managed through the trust and leadership of the Elders.

Elders are very much respected in our communities because their wisdom and teachings increase awareness that we must prepare for the future.

Elders in the Yupik culture possess confidence in the future due to their understanding of past challenges and the barriers that prevent successful dialogue. The basic rudimentary rule among Elders is to constantly listen, show confidence in self and humility to those around them. Elders carry the wisdom to translate rules and give admonishments for all our actions.

These traits are relied upon by our leaders when decisions have to be made. In the 1970s and1980s, the leaders of our region were not interested in development of the subsurface lands due to inept rules established under federal and state regulations. Our leadership was listening to the Elders' advice that it was not the right time for development.

Later, new federal and state regulations brought encouraging changes. Native corporations started to develop subsurface agreements one region at a time.

These agreements affect all of us because of the ANCSA 7(i) 7(j) agreement. 7(i) requires natural resource income from regional corporations be shared under a 70/30 formula. As I understand 7(i) revenue sharing, it came from our long-standing traditional values that require us to share with all peoples with whom we have a common heritage.

The wisdom of the Elders who negotiated the sharing formula of 7(i) has been a godsend to the communities we serve. 7(i) is the common bond that ties all Native corporations together.

Nowhere else has such Native American law been implemented to benefit the whole. Funds shared from ANCSA resource income have surpassed $812 million dollars from regions developing their oil, gas, timber, and mineral properties. Village corporations in our region have received $72 million dollars.

The common bond of revenue sharing spurred support for mineral exploration in our region. Over $140 million dollars has been invested on Calista subsurface lands by several companies.

This investment has had a huge impact to the people we serve. Over 2,100 jobs were created from mineral exploration projects at Donlin Creek, Nyac, Goodnews Bay, Kako, and Stuyahok. If Donlin Creek becomes a mine, the economic profile of our region will change.

Our region has one of the highest rates of unemployment in the country. The creation of the Donlin Creek exploration project in the upper Kuskokwim region has changed the demographics and economic profile of the 10 communities there.

A shareholder survey in 1994 showed 36% support of the Donlin Creek project. A new survey last year indicated a complete turnaround, with 76% support.

We want to thank the predecessor of Barrick Gold Corporation, Placer Dome, for placing trust in our Elders and the leadership of Calista to develop a regional communication plan for shareholders of our company to learn and comprehend mining today under new federal and state mining laws. Elders and leaders were invited to visit new mines established under NEPA and the Clean Water Act in Montana and Nevada. These trips provided helpful learning experience to our Elders, regional leaders, and to our hosts.

Historically, mining companies did not listen to local concerns. That changed with the arrival of new federal laws. New reclamation regulations do place a heavy burden on companies to obtain local input.

The mining companies we work with recognize the importance of the leadership and emotional intelligence of our Elders who can guide us while we develop our resources and honor the cultural values of our past.

The State of Alaska has a lot to offer, but Native corporations have a lot more to offer. That is, Native peoples build upon the instructions of our Elders as a source of strength and adopt new ideas that will benefit the future. The Elders in our region have led changes that benefit resource development.

As Native people and Native corporations, we will develop our resources as we have done for many millennia, and we will continue to honor our past.

BOBBI QUINTAVELL

STRATEGIC PLAN BLENDS INUPIAT AND BUSINESS VALUES

Editor's Note: The following text is edited for space. Bobbi Quintavell was one of three keynote speakers at the RDC Annual Meeting Luncheon in Anchorage June 19. She serves as President of Arctic Slope Regional Corporation. For the complete text, visit www.akrdc.org.

At Arctic Slope Regional Corporation (ASRC), our traditional values are what guide us each day. It is important for us to stay grounded in our heritage and where we have come from.

ASRC isn't focused only on its past; it is working toward adapting to the changes we see on the horizon. We are trying to position ourselves to be proactive.

Sir Winston Churchill once stated, "A pessimist sees the difficulty in every opportunity; an optimist sees the opportunity in every difficulty." These are good words to live by, and the Inupiat have always known this to be true. We are eternal optimists, but we are also realists.

These are times when we need to be involved in the processes of change. Not as roadblocks because we are afraid of change, but as contributors to guide change. While we see the benefits from development through revenue, jobs, and improved infrastructure, these benefits do not come without a cost to the Inupiat people.

My perspectives are shaped both by the economic reality of growing a sustainable economy and by the desire to ensure that my children and others after them will have a livable and prosperous natural habitat. The strategic plan of ASRC sets forth the values of our people and the corporation. It states that we "blend Inupiat and business values in order to strengthen both." That is our challenge as we move forward.

Thirty-plus years ago we were told that Natives couldn't be good business people. We have worked very hard over those years to prove that theory wrong. ASRC has become a major Alaskan-owned business with gross revenues in excess of $1 billion.

One of the unique aspects of Alaska Native corporations is our revenue sharing provision — Section 7(i). This provision allows all Alaska Native corporations to benefit from resource revenues received by one region, providing benefit to all Alaskan Natives. Through 2006, ASRC distributed $282,847,998 of 7(i) revenue, 37% of the total revenue shared by all Native corporations. Villages on the North Slope have received $22 million. Over two-thirds of the 7(i) revenue has been derived from two regions — Sealaska and ASRC.

The fundamental result of 7(i) is that the corporation in the region where the resources are developed is in essence the managing partner on resource development for the other regions. This is an important point to understand because when you are negotiating with us for an exploration or development option, we not receiving 100% of the benefit of the final agreement.

In ASRC's view, 7(i) discourages a landowning Native corporation from investing in its own resources. While the expense can be deducted against revenue, a 7(i) revenue source is needed for the deduction. This increases risk and uncertainty. As a result, many corporations are passive on their own lands. They generally enter into traditional lessee/lessor relationship, but will put significant emphasis on other non-revenue bearing provisions of an agreement.

Several key projects are on the drawing board to move natural gas to market. The future and realization of a gas pipeline are based on existing reserves of 35 trillion cubic feet and estimated reserves at more than 100 trillion cubic feet. This is where the excitement lies for the next several decades. The upside of more gas exploration means jobs and a long-term viable economy for Alaska. It could also mean industrial opportunities and expansions made possible by plentiful, reliable and reasonably priced natural gas.

There is substantial coal on the North Slope and on ASRC lands. These deposits may approach billions of tons. Most of the ASRC coal is very high quality and likely would have been developed if it were located in a more advantageous environment.

While our partner, BHP Billiton, is focused on exploring and defining coal reserves and working on conceptual engineering studies, what I am really excited about are the economic opportunities the communities of Pt. Lay and Pt. Hope are starting to realize.

These communities are located far from the Prudhoe Bay infrastructure and have never directly benefited from oil development on the North Slope. Our agreement with BHP Billiton requires them to enter into separate agreements with the two communities. It is our goal for them to build a strong tie to Pt. Lay and Pt. Hope and contribute to local economic sustainability.

For ASRC to finally have a partner to evaluate this enormous resource is a significant step towards realization of new energy development from the North Slope. Important to the success of this effort is the expansion of the Delong Mountain Terminal near Kivalina. ASRC, NANA, Teck Cominco and the governments of the Northwest Arctic and North Slope Boroughs are working together to develop and strengthen economic stability.

Development of this resource is important to our regions, and I include NANA in this statement. It has the capability of supplying many jobs to both regions. It will provide jobs in mining, power generation, administration, and opportunities in many other auxiliary areas. Jobs are the engine to an economy and a local economy is what will keep our communities healthy.

Coal development will bring very slim economic returns to ASRC, but it has the potential to provide a long-term stable economic base to the region. That is my mission and goal. The development that has taken place in the Arctic over the last 30 years has truly enhanced our lives.

The habitat and the environment we rely on for our subsistence resources have been well respected by the industrialists occupying some of that space with us. Not only have they respected the land, but they also respect the people who live there and work with them. Granted there have been some mistakes, but lessons have been learned. Technology and understanding has advanced significantly.

I actively participate with my family in our subsistence ways. When I leave the office and travel out on the tundra and ocean, I take very seriously the future of these resources and the habitat we need to survive on. We are doing a good job of ensuring economic and cultural freedoms for the Inupiat people.

RDC News Digest

Native Corporations Hit $5 Billion Mark

Alaska Native corporations are generating more than $5 billion a year in revenue, according to a report by the Association of ANCSA Presidents and CEOs.

"It is astonishing when I see these figures and realize the impact of what the corporations are doing," said Vicki Otte, the association's executive director.

The Barrow-based Arctic Slope Regional Corporation surpassed the $1 billion mark in annual revenues years ago, but last year Bristol Bay Native Corporation joined the $1 billion club for the first time. Also experiencing strong financial growth were Cook Inlet Region, Inc., NANA Regional Corporation and Chugach Alaska Corporation. Sixteen Native corporations, including 13 regional corporations and three village corporations, reported a combined $5.86 billion in revenue.

Shell And AEWC Agree On Conflict Avoidance

Shell and the Alaska Eskimo Whaling Commission have signed a conflict avoidance agreement for Shell's 2007 drilling program in the Beaufort Sea.

Shell hopes to drill three exploration wells in its Sivulliq prospect, formerly Hammerhead, in western Camden Bay.

Under the agreement, Shell will only move one of its two Beaufort Sea drillships, the Frontier Discoverer, into the Sivulliq area until the fall Cross Island subsistence bowhead whale hunt is over. The Frontier Discover will cease drilling operations on Aug. 25, move out of the Sivulliq area within two days and return with the Kulluk drillship after the end of the hunt.

The conflict avoidance agreement forms a major and critical piece of a complex puzzle of permits and agreements Shell needs to start its drilling program. However, the state has yet to rule on a determination that Shell's program is consistent with the Alaska Coastal Management Plan.

The North Slope Borough and several environmental organizations have appealed the air quality permits for the drilling operations, and the U.S. 9th Circuit Court of Appeals has placed a temporary hold on drilling, until after an Aug. 14 hearing.

Nome's Rock Creek Project Wins Legal Battle

An Anchorage judge ruled in favor of NovaGold Resources after a hearing in Alaska District Court on arguments by a Nome citizens group to halt construction of the Rock Creek gold mine near the Bering Sea town.

The plaintiffs argued that the U.S. Army Corps of Engineers' 404 permit authorizing some of Rock Creek's construction activities was issued in violation of the Clean Water Act. They were seeking an injunction to prevent wetlands from being disturbed.

Judge Ralph Beistline noted Rock Creek is located in "mining country" and that much of the land on which mining is proposed to take place was previously mined. In addition, the wetlands that are the subject of the dispute are surrounded by vast areas of pristine wetland that will not be impacted by the project, the judge said.

The judge found the defendants complied with the law and proceeded in a manner that is sensitive to the environment.

Before starting construction, NovaGold Resources' subsidiary Alaska Gold "went to great lengths to publicize its intentions and to obtain the support of the local community, two Native organizations, as well as state and federal agencies," the judge wrote. "As a result, there is considerable support for this project and a realistic hope for an economic boon to the community."

Kensington Project Benefits Juneau

A new report by the McDowell Group revealed that the Kensington gold mine project in Southeast Alaska has provided family-supporting livelihoods for nearly 400 workers, including $25 million in total annual labor income to Juneau and other residents, and $78 million spent with businesses in Juneau. The study noted a total investment of $238 million by Coeur Alaska will occur to bring the mine into development. The study projects annual tax revenues of $1.5 million to the City and Borough of Juneau from the mine.

While construction at the mine is 85 percent complete, work on the tailings facility has been shut down following a lawsuit by environmental groups. The company is attempting to resolve legal issues and work collaboratively to find a solution to the disposal of tailings so that Kensington may proceed with planned production.

Anti-mining Water Initiative Denied Certification

Lieutenant Governor Sean Parnell has denied certification of an application for an initiative related to water and mining. The initiative would have set out water quality-related prohibitions for any new metallic mining operations over 640 acres in size.

According to Parnell, "The initiative would impermissibly allocate public lands and waters away from mining uses. The people, via Alaska's constitution and statutes, reserved these powers of appropriation to the legislature."

Parnell's decision is currently being appealed.

AMEREF Celebrates 25 Years

The Alaska Mineral & Energy Resource Education Fund (AMEREF) is celebrating 25 years of providing Alaskans students with the knowledge and skills to make informed and objective decisions relating to mineral, energy and forest resources. AMEREF Executive Director Lee Clune has been working to update existing material, and to develop training for educators. Recent fundraising efforts include the Coal Classic Golf Tournament and generous centerpiece sponsorships at the RDC Annual Meeting. Upcoming events, including the Alaska Miners Association raffle and silent auction in Anchorage, will occur in November.

RDC Website Sees More Than 150,000 Visits

The RDC website has been updated with new and returning board members. Visit http://www.akrdc.org/membership/board to view the 2007-2008 board. New and renewing members of RDC are updated at www.akrdc.org/links/memberlinks.html. RDC website visitor hits is expected to exceed 150,000 for a second month. A link to the Petroleum News Alaska Book Club is also available on the RDC site, where you can learn more about the club. Visit http://www.akrdc.org/issues/oilgas/pnaboo kclub.html.

A Message From The President

John Shively

Special Session: A Dangerous Path?

There is a good deal of speculation about whether Governor Palin will call a special session this fall to review the petroleum production tax (PPT) adopted by the legislature only last year. Earlier this year the governor announced her intent to call the session, but since then has said she is waiting for a review of the tax by the Department of Revenue (DOR) to see if there is good reason to call the legislature back.

Several thoughts crossed my mind as I have pondered this situation. The first, "Has the tax worked?" Although I am no expert on taxes, I think it is unfair to judge the "success" of this tax based on a single filing for the first nine months it was in effect. Since this is all the information DOR will have for its analysis, I will make mine on the same basis.

The state received over $900 million dollars in additional revenue from the new tax for nine months in 2006. If one extrapolates from this figure to estimate a full year's tax take, it would seem the state can expect to receive between $1.2 and $1.3 billion dollars each year. This figure will vary based on a variety of factors, including the price of oil, total operating costs, and capital expenditures.

I believe it was appropriate for the legislature to have made some changes in the production tax last year, given the high price of oil. It seems to me that getting more than $1 billion dollars a year in new revenue from the industry that already pays over 80% of our state's expenses is on the high side of reasonable. I see no need for a special session.

However, others see the situation differently. Some want to revisit the painful exercise the legislature went through last year, claiming the vote on PPT was "tainted" because several legislators have been indicted for taking bribes that might have influenced them to vote to reduce revenue collected from PPT.

It is important to keep in mind the oil industry and those who supported it worked for a tax rate of 20% or lower. The final legislation set a base rate of 22.5% and provided for the possibility of an additional tax as high as 47.5%.

Two points seem worthy of note here. First, if the vote was "tainted' it would seem that over half of the legislature would have been bribed, and no one is making that kind of accusation. Second, if anyone was bribed to keep the tax at the lowest rate, they did not do a very good job.

Another reason some people support having a special session is they think the tax is not high enough. They base their argument on the fact DOR was expecting to collect $137 million more than actually was received and on a study they claim shows government take in Alaska is below the worldwide average.

It should come as no surprise that DOR had difficulty estimating the revenue from a complicated tax for which they had no experience. However, the main point to keep in mind here is that the state is already almost a billion dollars richer than it would have been without the tax.

"How many ways can one spell fiscal instability? Some of the newer companies operating on the North Slope have made their investment decisions based on the structure of the new tax."

The studies cited by those who believe we need to take $1.2 billion to $2 billion more from the oil industry have a couple of flaws. The first is that the figures are from 2004 and do not take into account the revenue from PPT. In addition, the studies do not consider the cost of development, and Alaska ranks among the costliest in the world for the industry.

Another argument used to promote a special session is that the state should not have changed to a net tax, but should have just raised the old gross tax. These individuals would use the special session to change the entire tax structure, only a year after the state had made another major change.

How many ways can one spell fiscal instability? Some of the newer companies operating on the North Slope have made their investment decisions based on the structure of the new tax.

Changing the structure of the production tax again, even if some of the new investment credits remain, sends a terrible signal to those who are or may be thinking about investing in Alaska. Worse yet, it sends an unfortunate message not only to the oil industry, but other industries as well.

My advice to Gov. Palin is to tread lightly here. She should wait to see what DOR has to say about the PPT. We need to give the new tax a chance to show what it can do, and any decent analysis of how it is functioning should probably take place over three years or more.

The one thing you can count on is that a special session will not lower the state's current take from a production tax. The tax will only go up.

How much of an increase the industry can sustain may be open to debate. However, policy makers need to recognize that current North Slope production is steadily falling. I am a firm believer higher taxes will not lead to higher production, but will most likely have the opposite effect as Alaska ultimately loses the new investment dollars needed to stem the decline.

A special session which raises the production tax is a dangerous path that could lead us to the edge and over an economic cliff.

ERIC FJELSTAD

COURT NARROWS REACH OF ENDANGERED SPECIES ACT

> "In terms of direct impacts from the decision, Alaska has already benefited insofar as the path to obtaining approval of NPDES permitting primacy has one less hurdle to cross. The...decision should ultimately result in a narrower set of circumstances under which the ESA will impact federal actions."

On June 25, 2007, the United States Supreme Court announced a decision, National Association of Home Builders v. Defenders of Wildlife, that clarified how the Endangered Species Act (ESA) applies to federal actions under other laws.

The Defenders of Wildlife case involved the actions of the Environmental Protection Agency (EPA) in approving Arizona's application for primacy of the federal wastewater permitting program (NPDES permits). Opponents of Arizona primacy attempted to use the ESA to stop EPA's approval of the Arizona program. Although the Ninth Circuit Court of Appeals sided with the challengers, the U.S. Supreme Court found that the Ninth Circuit misread the ESA and, consequently, reversed the appellate court.

The decision is a victory for Alaska, which had a significant stake in the case due to the fact that the state's NPDES primacy application is currently pending with EPA.

For advocates of ESA reform, the Defenders of Wildlife decision is welcome relief. In a 1978 decision, TVA v. Hill, construction of the Tellico Dam was embroiled in litigation concerning the impact of the dam impoundment on the snail darter. By the time the TVA case reached the Supreme Court, the dam was nearly complete. The Court, in one of the strongest environmental opinions in its history, set the stage for future interpretations of the ESA by stating that the ESA "admits of no exceptions" and requires a court to enjoin actions that would jeopardize the continued existence of a species, regardless of economic consequences.

In Defenders of Wildlife, EPA initiated ESA consultation with the U.S. Fish & Wildlife Service (FWS) to determine whether the transfer of primacy to Arizona would result in any adverse impacts on ESA listed species. FWS expressed concerns over the potential direct and indirect impacts to certain upland species from future development in areas that would ultimately be served by Arizona-issued NPDES permits. EPA concluded that it did not have authority to disapprove a transfer based on any considerations other than the nine criteria listed in the Clean Water Act (CWA) governing EPA's approval of primacy applications. EPA concluded that Arizona had met each of the nine CWA criteria, approved the transfer of the permitting program to the state, and concluded the ESA consultation.

The plaintiffs sought review in the Ninth Circuit, arguing that the ESA effectively imposed an additional criterion on the transfer of NPDES permitting program authority, and that the federal duty to avoid jeopardy through consultation must be satisfied before the transfer could be lawfully approved. The Ninth Circuit concluded that the obligation imposed on federal agencies under the ESA to avoid jeopardy and adverse modification of critical habitat "is an obligation in addition to those created by the agencies' own governing statute."

The U.S. Supreme Court was presented with two competing statutory mandates - the duty to avoid jeopardy to listed species and designated critical habitat under the ESA, and the duty of EPA to approve the transfer of the NPDES permitting program under the CWA to a state upon satisfaction of the nine specified criteria. In reconciling the two statutory schemes, the Court considered whether the ESA essentially acts as an independent source of authority irrespective of the non-discretionary mandate imposed on EPA under the CWA. In a 5-4 decision, the Court held that Section 7 of the ESA applies only to discretionary federal actions, and thus does not impose an additional statutory criterion on EPA when it is carrying out mandatory obligations.

As a result of the Court's holding, it is now clear that Section 7 applies only to actions exhibiting the requisite discretionary federal involvement or control. Future litigation will focus on clarifying discretionary federal actions from those that are mandatory.

In terms of direct impacts from the decision, Alaska has already benefited insofar as the path to obtaining approval of NPDES permitting primacy has one less hurdle to cross. Moreover, federal agencies make decisions every day affecting resource development projects in Alaska. The Defenders of Wildlife decision should ultimately result in a narrower set of circumstances under which the ESA will impact federal actions.

Land access (e.g., rights provided by statute or easements), federal water rights, and other actions compelled by statute come to mind as situations where federal agencies may have nondiscretionary obligations that would not be impacted by the requirements of ESA consultation. On other fronts, the case will be cited for the proposition that the ESA does, in fact, have limits.

ESA critical habitat issues are looming for Alaska on a variety of fronts, and it remains to be seen whether the lower courts will find support in Defenders of Wildlife to narrow federal agencies' obligations on critical habitat and other ESA fronts.

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