

Permitting, Leases & Land Conveyance

*Senate Finance Committee
March 28, 2019*

Presented by:
Brent Goodrum
Deputy Commissioner

Alaska Department of
Natural Resources



ROAD MAP

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- I. Historical Backdrop
 - II. Where We Are Today
 - III. Unified Permit Effort
 - IV. DNR Interagency Coordination
 - V. Municipal Entitlement Land Conveyances

ROAD MAP

I. Historical Backdrop

SW Photography

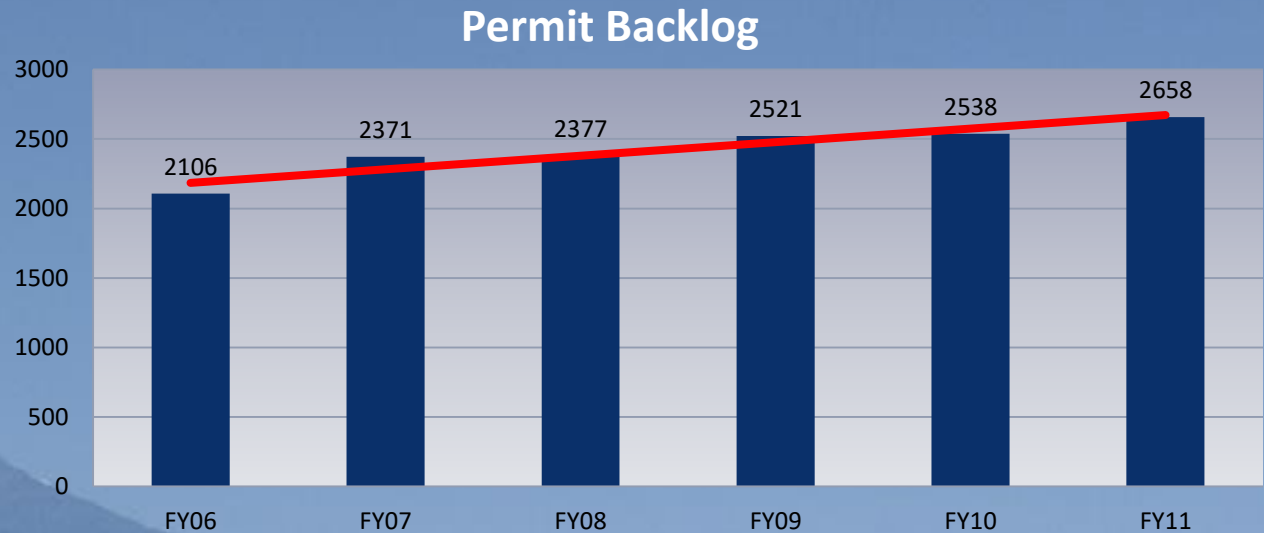
ANATOMY OF A LARGE SCALE DEVELOPMENT PROJECT

- Most often have statewide or strong regional impact with regards to infrastructure, economic growth and opportunities
- Generally require long term **leases** or dedicated legal access such as **easements** in order to obtain project financing
- Often shorter term land use **permits** are necessary for construction



- **Material sales** need to be timely for development roads
- **Water authorizations** are critical for development and long term operation

THE CHALLENGE: ADDRESS PERMITTING DEFICIENCIES



2011 PERMIT BACKLOG PLAN

- Submitted to the House Finance Subcommittee on 22 Feb 2011
- “It is now our highest priority to address this (permit backlog) problem.”
- Goal: “To timely process all incoming land and water use applications, and to eliminate the backlog.”
- Comprehensive, multi-faceted approach to eliminating the backlog and preventing its re-occurrence

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND & WATER

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Memorandum

To: Representative Mia Costello, Co-Chair
House Finance Subcommittee on Natural Resources

From: Wyn Meneff, Acting Director
DNR Division of Mining, Land & Water

Date: 2/22/2011

Re: Permit Backlog Plan

Please accept this written response to your request on February 11, 2011.

The Problem:
There is a substantial backlog of applications and other authorization management duties in the Division of Mining, Land and Water (DMLW). This has a direct adverse impact on many businesses, communities, and individuals seeking to develop and use state land and resources. This in turn negatively affects job creation, contracts, economic stimulus in communities, and further development of Alaska. It is now our highest priority to address this problem.

At the beginning of FY11, there was a backlog of over 2,500 authorizations for the main types of authorizations necessary for development projects. This includes applications for permits (314), leases (297), easements (658), material sales (181), water rights (742), and instream flow reservation applications (346). This does not include the other types of authorizations or the administration workload for the existing authorizations. There is a spreadsheet attached that shows the full backlog per authorization type as requested. We are not yet able to show average and maximum cycle time for each authorization type, but that is being programmed into the reporting system so that we can report on in the future.

The backlog of applications range in complexity from very basic authorizations such as a commercial recreation permit that can be issued within a day, to large projects requiring multiple interrelated authorizations, multi-agency coordination, required studies and review that may take a few years to complete the authorizations. Each specific application may present an assortment of obstacles that can vary the processing times such as land ownership disputes, multiple use conflicts, business transaction delays, unresponsive applicant, encumbrance removal, project revisions, appeals and litigation.

This backlog of applications has been growing in recent years because the division has only been able to process 87% of incoming applications. This is due to a number of reasons:

- Inefficient internal processes and cumbersome regulatory requirements.
- Land ownership patterns have become more complex, thereby increasing the conflicts that have to be resolved.
- Increasing federal and municipal regulation has increased the processing time for applications.

“Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans.”

2011 PERMIT BACKLOG PLAN STRATEGIES

- Increase the number of fully funded positions (in FY 2011 (26) DMLW positions were required to remain vacant due to funding shortages)
- Conduct comprehensive review of the Division's permitting processes. Find and implement changes that increase permitting efficiencies. Evaluate:
 - Organizational changes
 - Statutes, regulations and procedures for improvements
 - Appeals process
 - Regulatory relationship between the state, federal and local governments
 - Contracting with private sector
- Drive and leverage the Unified Permit project effort
- Analyze, categorize and prioritize those authorizations within the backlog (Priority is given to those applications/projects that provide the most benefit to the highest number of Alaskans)

STATEWIDE PERMITTING INITIATIVE

Objective:

Improve the State of Alaska's permitting processes in order to advance the public interest by ensuring projects are permitted in a timely, predictable and efficient manner while safeguarding the environment.

- Improve agencies' internal permitting structure to create a more efficient, timely, and certain process
- Enhance coordination within different state departments and with different entities and stakeholders throughout the state
- Seek input from the public about the permitting process including input from municipalities, industry and non-governmental organizations
- Improve coordination between the state and the federal government—federal permitting issues have a strong influence on state projects
- Anticipate and plan for permitting the next phases of resource development

LEGISLATIVE ASSISTANCE

The Legislature took decisive action to assist in addressing DNR permitting challenges with the long-term goal of reducing permit backlog and preventing backlog from reoccurring:

- 1) People (capacity)
- 2) Legislative packages
- 3) Supporting innovative processes

- HB 361 Omnibus Bill - 2012
 - New material site designation process
 - Priority changes related to leasing and disposal programs
 - Solicitation of interest for leases, if no interest directly to negotiated lease
- HB 274 Land Exchange Bill – 2017
 - 2-year lease extensions

ROAD MAP

II. Where We Are Today

SDN Photography

DMLW ACTIVE CASEFILE OVERVIEW

Active Case Files in DMLW Management

Case File Count
77,534

Active Case Files in DMLW Management - per FTE

~ Case Files Per FTE
401

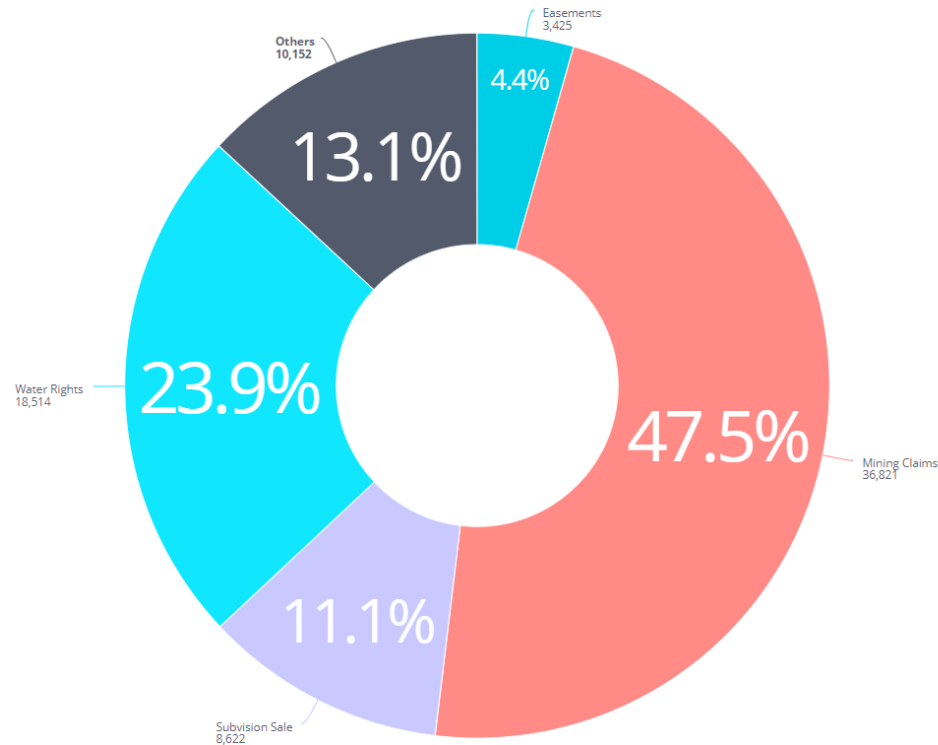
Active Case Files in DMLW Management

Unique DMLW Case Types
104

DMLW Case Files in Appeal Status

Case Files
33

Active Case Files in DMLW Management



Active Case File counts include only authorization-based work, land disposals through sales, unauthorized use, and potentially hazardous site cases and DO NOT include:

- Land Title Work
- Plans/Amendments/Municipal Entitlements
- Survey Reviews
- Appraisals

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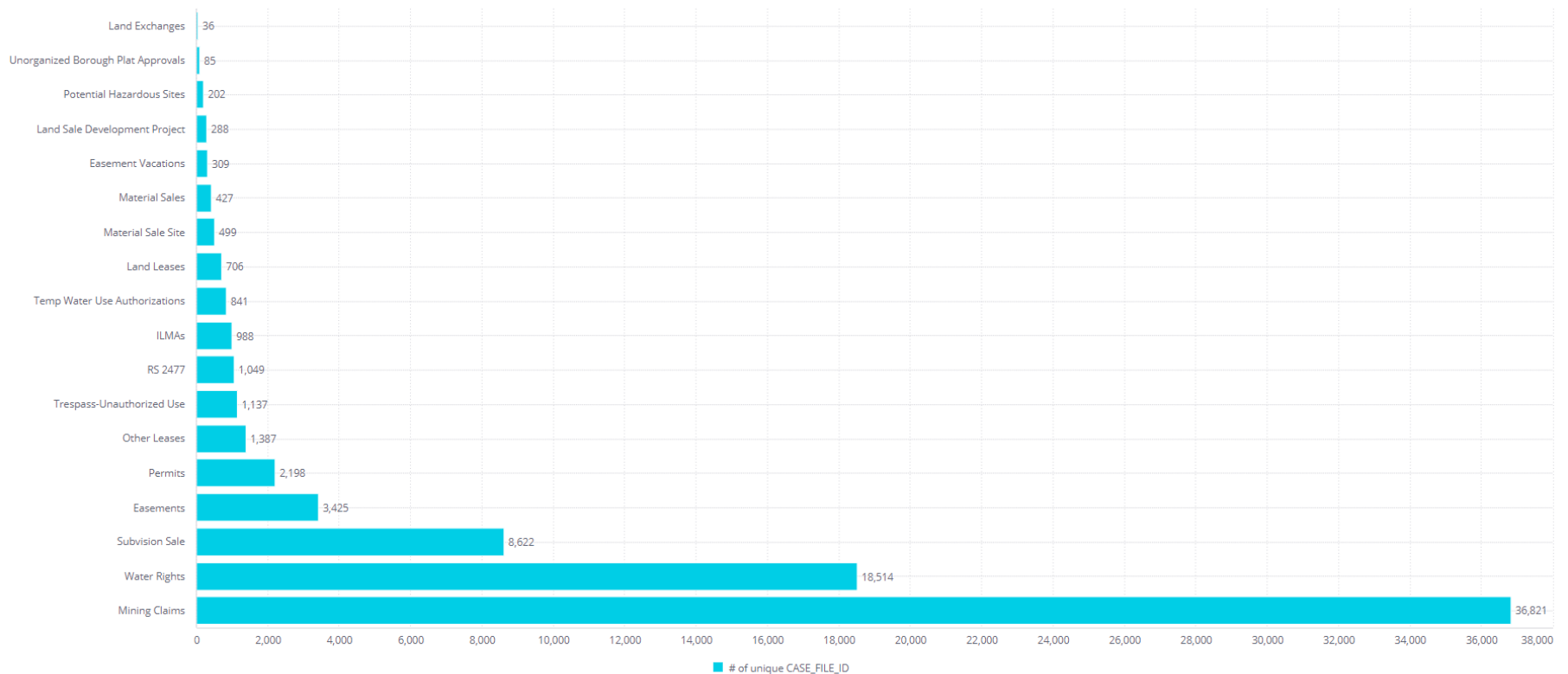
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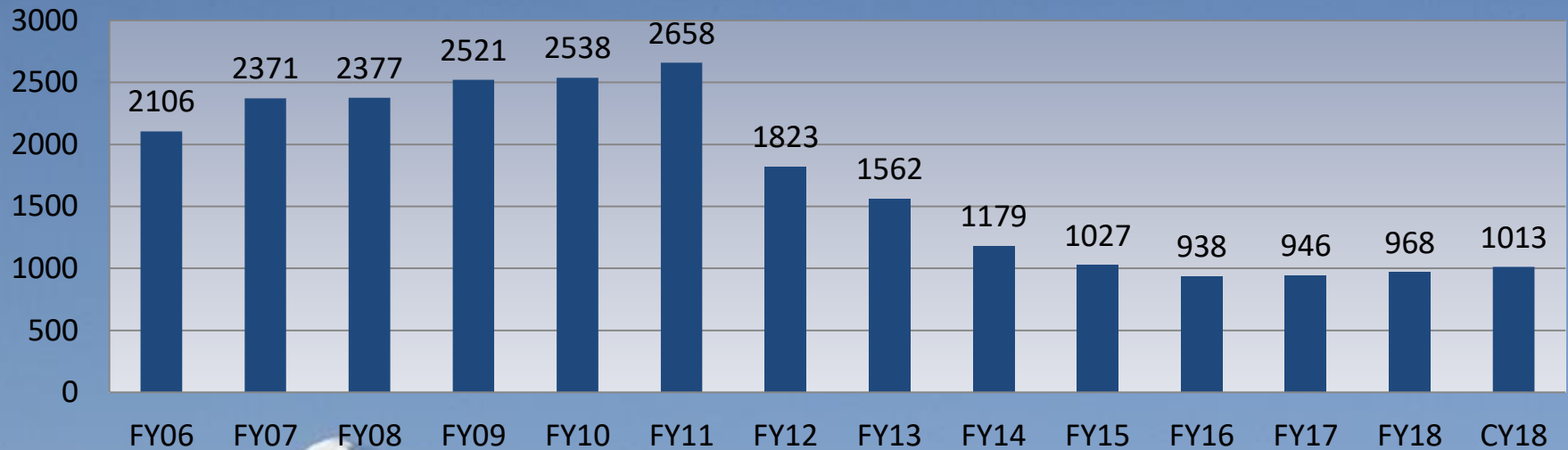
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- Appraisals

CURRENT BACKLOG STATUS



APPLICATIONS AND ISSUANCES

| Applications Received - Permits | | Authorizations Issued - Permits | |
|--|-------|---|-------|
| Year | Count | Year | Count |
| 2011 | 373 | 2011 | 433 |
| 2012 | 394 | 2012 | 400 |
| 2013 | 495 | 2013 | 541 |
| average | 421 | average | 458 |
| 2015 | 510 | 2015 | 434 |
| 2016 | 448 | 2016 | 464 |
| 2017 | 410 | 2017 | 405 |
| 2018 | 514 | 2018 | 478 |
| average | 471 | average | 445 |
| Trend | 12% | Trend | -3% |
| Between years 2011-2013 and 2015-2018, there was a 12% increase in Permits applications received. | | Between years 2011-2013 and 2015-2018, there was a 3% decrease in Permits authorizations issued. | |

| Applications Received - Leases | | Authorizations Issued - Leases | |
|--|-------|---|-------|
| Year | Count | Year | Count |
| 2011 | 94 | 2011 | 126 |
| 2012 | 70 | 2012 | 102 |
| 2013 | 92 | 2013 | 96 |
| average | 85 | average | 108 |
| 2015 | 132 | 2015 | 109 |
| 2016 | 281 | 2016 | 242 |
| 2017 | 276 | 2017 | 254 |
| 2018 | 205 | 2018 | 167 |
| average | 224 | average | 193 |
| Trend | 162% | Trend | 79% |
| Between years 2011-2013 and 2015-2018, there was a 162% increase in Leases applications received. | | Between years 2011-2013 and 2015-2018, there was a 79% increase in Leases authorizations issued. | |

| Applications Received - Easements | | Authorizations Issued - Easements | |
|--|-------|--|-------|
| Year | Count | Year | Count |
| 2011 | 65 | 2011 | 100 |
| 2012 | 69 | 2012 | 96 |
| 2013 | 69 | 2013 | 101 |
| average | 68 | average | 99 |
| 2015 | 125 | 2015 | 126 |
| 2016 | 81 | 2016 | 109 |
| 2017 | 94 | 2017 | 111 |
| 2018 | 71 | 2018 | 82 |
| average | 93 | average | 107 |
| Trend | 37% | Trend | 8% |
| Between years 2011-2013 and 2015-2018, there was a 37% increase in Easements applications received. | | Between years 2011-2013 and 2015-2018, there was an 8% increase in Easements authorizations issued. | |

| Applications Received - Material Sales | | Authorizations Issued - Material Sales | |
|---|-------|--|-------|
| Year | Count | Year | Count |
| 2011 | 62 | 2011 | 42 |
| 2012 | 64 | 2012 | 57 |
| 2013 | 72 | 2013 | 54 |
| average | 66 | average | 51 |
| 2015 | 35 | 2015 | 52 |
| 2016 | 70 | 2016 | 50 |
| 2017 | 64 | 2017 | 55 |
| 2018 | 69 | 2018 | 52 |
| average | 60 | average | 52 |
| Trend | -10% | Trend | 2% |
| Between years 2011-2013 and 2015-2018, there was a 10% decrease in Material Sales applications received. | | Between years 2011-2013 and 2015-2018, there was a 2% increase in Material Sales authorizations issued. | |

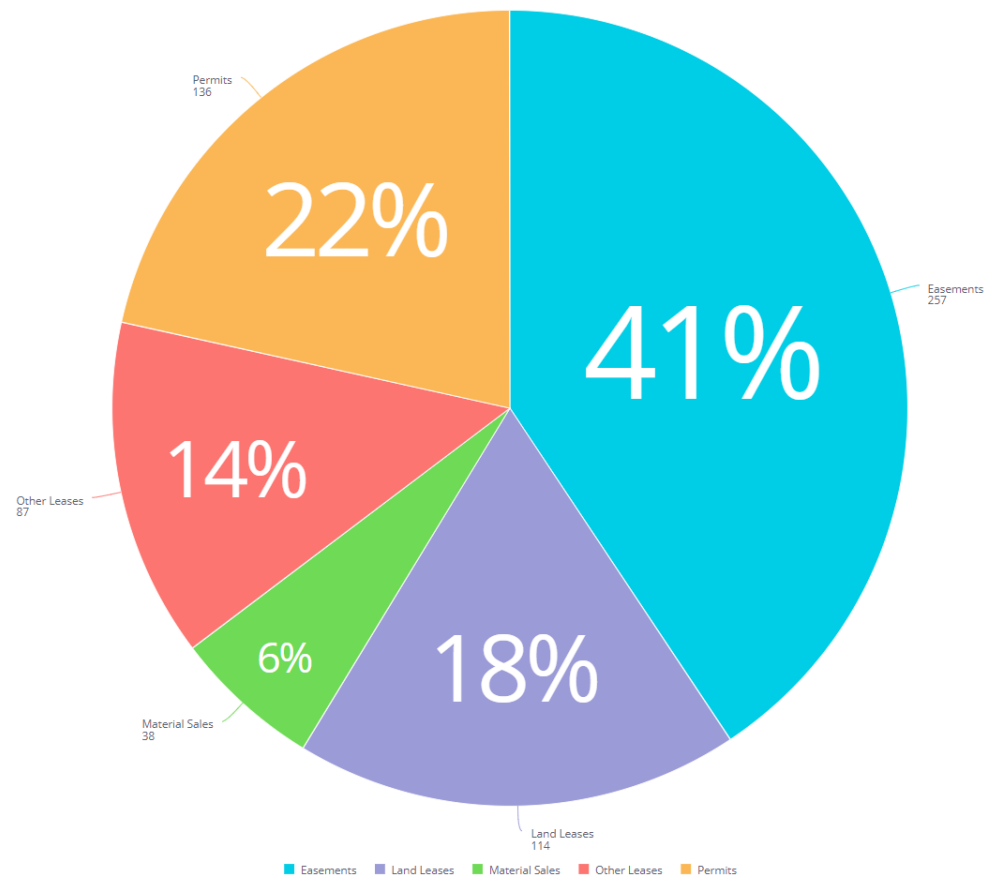
- Since 2015 DMLW has been trying to catch up with increasing application volumes, with highest % increase in lease applications (162%). Over the same time period number of authorizations issued also increased, with highest increase in lease authorizations (79%).
- Material Sales follow construction industry cycles and have seen 10% decline in application volume.

CURRENT LAND APPLICATIONS

How Many Applications Are Waiting for Processing?

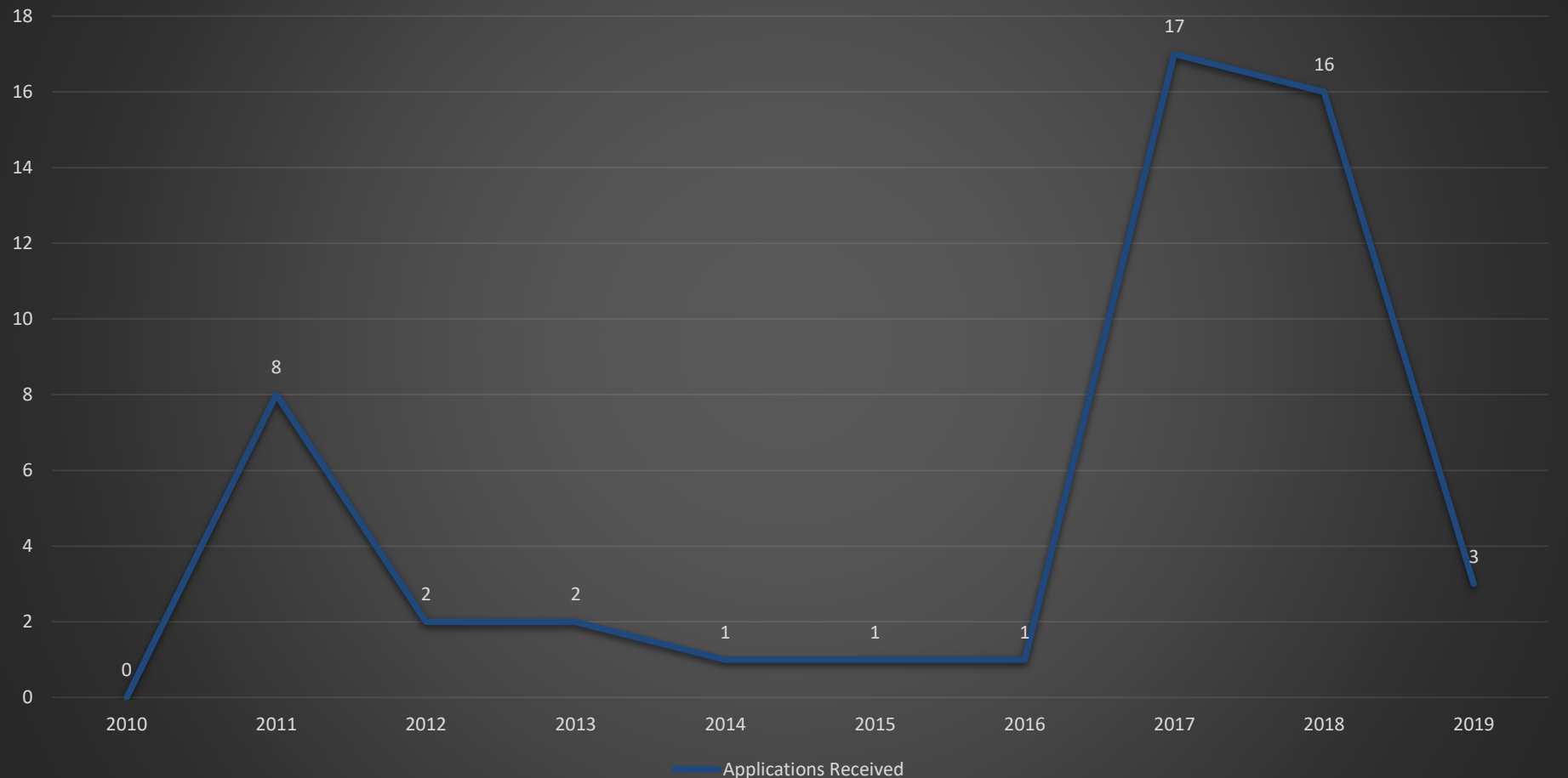
632

How Many Applications Are Waiting for Processing?



AQUATIC FARMING LEASES

**Aquatic Farmsite Lease Applications Received
2010-2019**



AQUATIC FARM LEASING WORKLOAD

- All aquatic farm leases are handled by DMLW's Southcentral Regional Land Office in Anchorage (1 full-time adjudicator manages this program statewide)
- Current Adjudication Process
 - 12 to 24 months to go through the DNR leasing process
 - Application received and jointly reviewed with DF&G for completeness (~90 days)
 - 20-day agency notice and review period
 - Preliminary Decision (PD) is written (~30 days)
 - PD 30-day public notice and review period
 - Final Finding and Decision (FFD) written and issued (~30 days)
 - 20-day appeal period
 - Final administrative order and decision goes into effect 31 days after the FFD is issued
 - Decision and proposed lease sent to applicant for execution and requirement for deliverables from lessee
 - Once deliverables (annual lease fee, bonding, and insurance requirements) are met the lease is issued
- DMLW currently working on streamlining this process so that lease adjudication process is 9 to 12 months

STATUS OF CURRENT AQUATIC FARM LEASE APPLICATIONS

- 36 new applications from 2017 (17), 2018 (16), and 2019 (3) currently in various stages in the adjudication process
 - Average adjudication time is 120 hours, equals 3 work weeks and 2 days per application
 - 2017 Applications Status
 - 8 completed the adjudication process, either issued or lease sent for signature
 - 6 files still in the adjudication process
 - 3 files closed
 - 2018 Application Status
 - 2 files closed per the applicant
 - DNR & DF&G have reviewed the remaining 14 applications for completeness
 - 2019 Application Status
 - Application period open from January 1 – April 30
 - 3 applications received thus far and those applications have been reviewed by DNR & DF&G for completeness
- 23 Renewal applications currently in various stages in the adjudication process
 - Renewals currently follow same processes as new applications
 - Average adjudication time is 80 hours, equals 2 weeks and a day per application

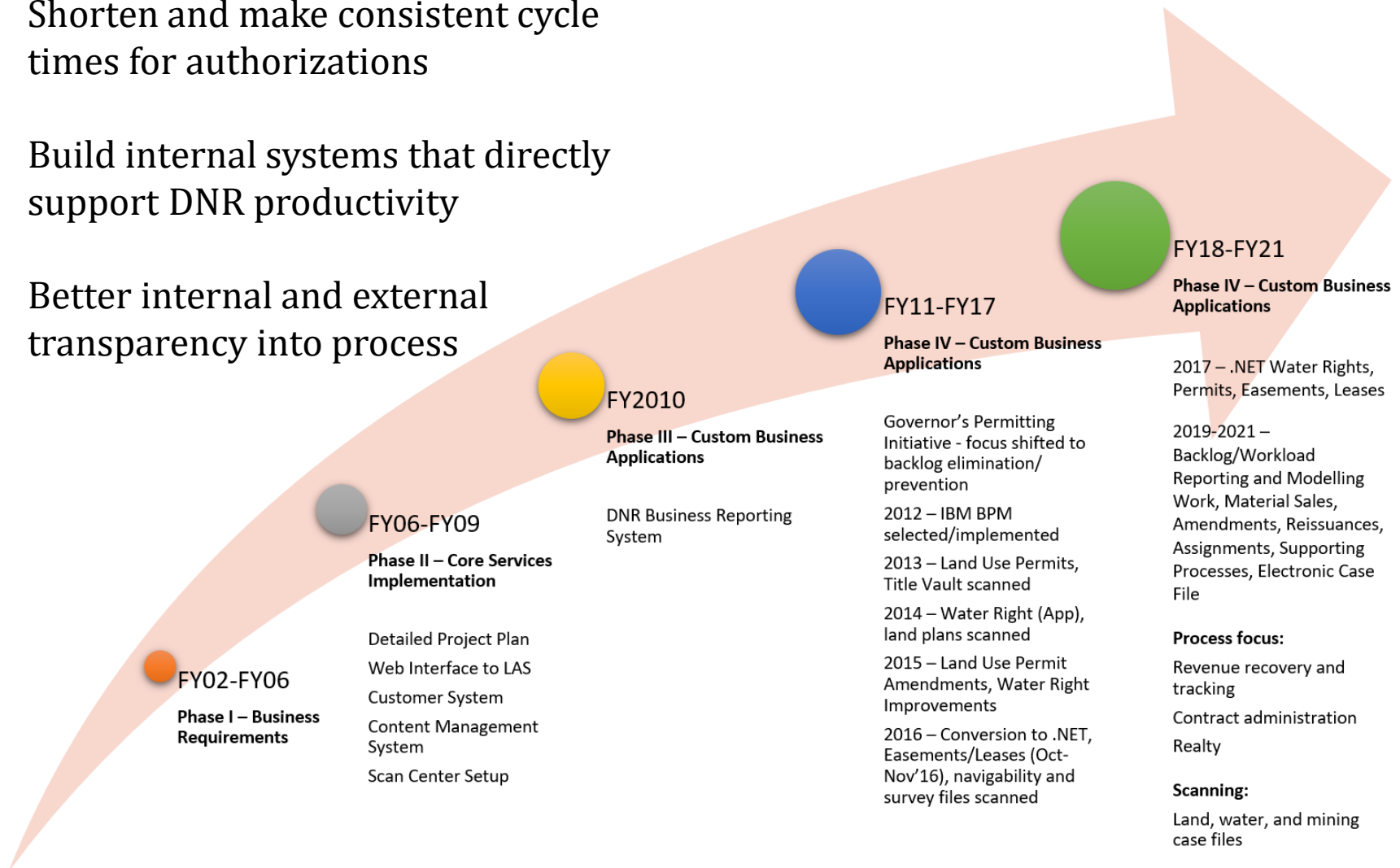
ROAD MAP

III. Unified Permit Effort

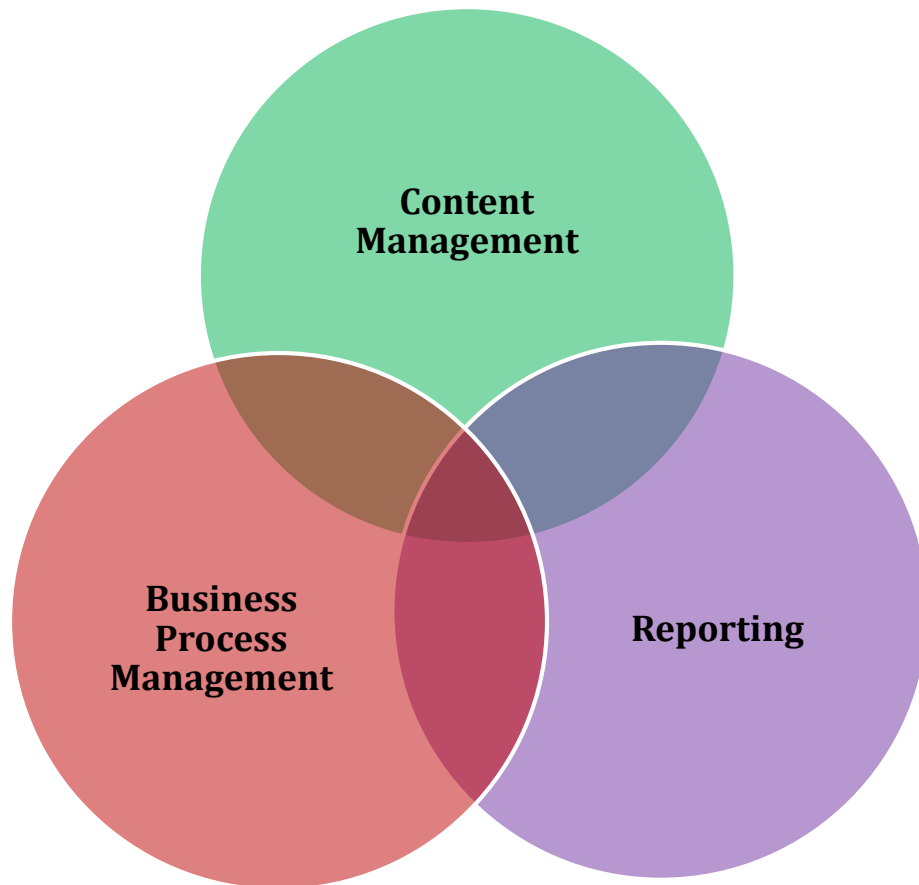
SEN Photography

UNIFIED PERMIT GOALS AND TIMELINE

- Shorten and make consistent cycle times for authorizations
- Build internal systems that directly support DNR productivity
- Better internal and external transparency into process



UNIFIED PERMIT SYSTEMS NEEDED TO MEET GOALS



- Understand that change is hard
- Make work visible
- Rely on good data and research
- Enable business users to fully participate

REALIZED VALUE OF UP PROJECT

Unified
Permit
Project



Less Rework

Less Variation

Improved Visibility

Fewer Errors

Fewer Systems

Smoother Handoffs

ROAD MAP



IV. DNR Interagency coordination

ScN Photography

Office of Project Management & Permitting

Mission: Coordinates multi-agency regulatory reviews and authorizations, while collaboratively engaging federal agencies on land use planning and policy initiatives to maintain and enhance the state's economy, quality of life, and maximize the value of Alaska's vast natural resources.

- The **Office of Project Management & Permitting (OPMP)** supports private industry, regulators, and the general public by implementing one-stop shop, multi-agency permit coordination to secure consistent, defensible, transparent, and timely permit decisions.
- This model is unique to Alaska and offers a level of assurance to companies investing in Alaska that permit reviews are robust and transparent.



AGENCY COORDINATION

- Key coordinated agencies include but not limited to:
 - **State:** Department Environmental Conservation, Department of Fish and Game, Department of Natural Resources, Department of Transportation and Public Facilities, Department of Health and Social Services
 - **Federal:** Bureau of Land Management, Environmental Protection Agency, US Army Corps of Engineers, US Fish and Wildlife Service, Parks Service
- Coordinated federal review, State permitting, and regulatory compliance for major projects including:
 - **Oil & Gas:** Nanushuk Project, Greater Moose's Tooth, Willow Master Development Plan, Liberty, Alaska Stand Alone Pipeline, AKLNG, and Point Thomson
 - **Mining:** Donlin Gold, Pebble, Red Dog, Anarraaq-Aktiguruq, Fort Knox, Greens Creek, Kensington, Pogo, Palmer Project, Nixon Fork, Livengood, and the Ambler Mining District Industrial Access Project

ROAD MAP



V. Municipal Entitlement Land Conveyances

SW Photography

MUNICIPAL ENTITLEMENT LAND CONVEYANCES

- There are two ways for a municipality (city or borough) to receive land entitlement provided in statute:
 - A calculation of eligible state land within the municipal boundary under AS 29.65.030; or
 - Based on an amount established by the Legislature in AS 29.65.010.



MUNICIPAL ENTITLEMENT DETERMINATIONS

- Historically, calculation of entitlement is based on 10% of vacant, unappropriated, unreserved (VUU) general grant state land within the municipal boundary.
- Statute was amended in 1978, when eleven existing boroughs were listed at AS 29.65.010(a), with entitlement acreage amounts that were previously established based on the 10% VUU formula.
- North Slope Borough was added to the list because the entitlement previously granted to the borough was forfeited, so the Legislature reestablished it at AS 29.65.010(a)(12).
- Boroughs subsequently added to the list at AS 29.65.010 are located in Southeast Alaska, where available state land is limited compared to other areas of the state, so these communities sought a legislative remedy to enlarge their entitlements beyond the 10% VUU granted to all other boroughs.
- For newly incorporated municipalities under AS 29.65.030, DMLW has two years and six months from date of incorporation to determine entitlement. Only cities may request expedited determination within six months of incorporation.

QUESTIONS?

