

# STATEWIDE PERMITTING REFORM

## SB 26: LAND DISPOSALS/EXCHANGES; WATER RIGHTS

Senate Finance Committee

*February 26, 2013*

Department of Natural Resources

- Dan Sullivan, Commissioner
- Wyn Menefee, Chief of Field Operations, DMLW



# IMPORTANCE *of* PERMITTING REFORM *for* ALASKA'S COMPETITIVENESS

## Permitting reform has bipartisan, national and local recognition and support

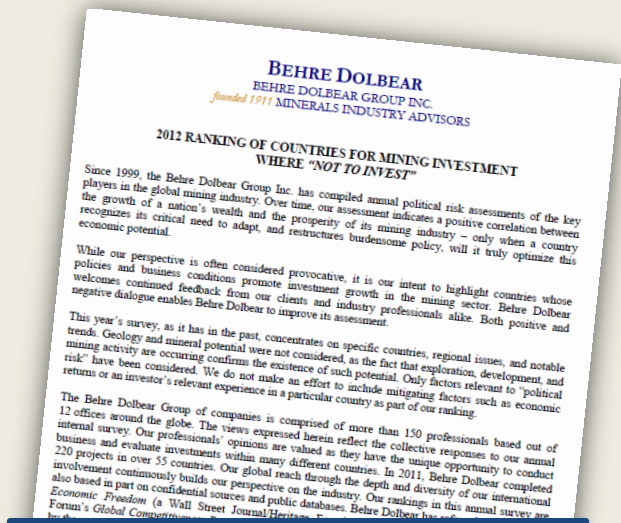
- Permitting reform is a bipartisan effort as policymakers realize the economic benefits of allowing large-scale development projects to proceed in a responsible, timely manner
- States as politically diverse as California, Massachusetts, Indiana, and Kansas are fully engaged in modernizing their permitting processes
- The Federal government also recognizes the issues and has undertaken initiatives to reduce costs, simplify the system, and eliminate redundancy and inconsistency
- Last year (February 2012), *The Economist* ran a cover story called “Over-regulated America” in which it concluded that “America needs a smarter approach to regulation” that will “mitigate a real danger: that regulation may crush the life out of America’s economy”
- In *Newsweek* (June 2011), President Bill Clinton lamented that it can take three years or more to permit major economic development projects. One of his top recommendations to put Americans back to work was to speed up the regulatory approval process and grant state waivers on environmental rules to hasten start times on construction projects



# IMPORTANCE *of* PERMITTING REFORM *for* ALASKA'S COMPETITIVENESS

## Permitting reform is a national issue affecting U.S. competitiveness

- Potential investors sometimes express reluctance to pursue projects in the U.S. and Alaska because of the ever-present risk of permitting delays and litigation
- In 2012, the investment firm Behre Dolbear Group, which undertakes an annual global survey of mineral sector investment, ranked the United States last (tied with Papua New Guinea) out of 25 countries in the category of “permitting delays”
  - “Permitting delays are the most significant risk to mining projects in the United States”
  - States are negatively impacted by federal rules that they are bound to enforce resulting in a 7- to 10-year waiting period before mine development can begin
  - Australia is one of the countries with the fewest permitting delays
- Contrast Alcan Highway construction



*“Permitting delays  
are a global issue.”*

– Behre Dolbear, 2012 Ranking of  
Countries for Mining Investment:  
Where “Not to Invest”

# IMPORTANCE *of* PERMITTING REFORM *for* ALASKA'S COMPETITIVENESS

## **Jobs and the Environment are Undermined by Permitting Delays and Overregulation**

- While an overly burdensome regulatory system can discourage investments and job creation, it can also undermine, not enhance, environmental protection
- When companies forgo investing in places like Alaska and the U.S.—places with very high environmental standards—because of regulatory delays, it can result in passing energy and mineral investment to nations with substandard environmental regulations and little capacity or desire to protect the environment
  - Last year the Associated Press estimated that 5 to 20 million tons of oil leaked a year in Russia. At even the lower end, that would be the equivalent of a Deepwater Horizon blowout about every two months
  - Russia experienced approximately 18,000 oil pipeline ruptures in 2010 – the figure in the U.S. for the same year was 341
- The global environment would be much better off if hydrocarbons and other natural resources were produced in countries with the highest environmental standards rather than some of the lowest



# IMPORTANCE *of* PERMITTING REFORM *for* ALASKA'S COMPETITIVENESS

Timely, predictable, and efficient permitting is critical to other statewide strategies

## Secure Alaska's Future: Oil

- I. Increase production by making Alaska more competitive
- II. Ensure the permitting process is structured and efficient
- III. Facilitate and incentivize the next phase of North Slope development
- IV. Promote Alaska's resources and positive investment climate to world markets

## Secure Alaska's Future: Strategic & Critical Minerals

- I. Undertake a statewide assessment of Alaska's strategic mineral potential—millions budgeted for this project
- II. Provide support for the development of known or highly prospective strategic mineral occurrences throughout Alaska through infrastructure partnerships and incentives
- III. Improve the structure and efficiency of permitting processes in order to expedite mineral development, including strategic minerals
- IV. Deepen partnership and cooperation with the federal government, local governments, Native corporations, and other potential new entrants to encourage domestic exploration, development, and processing of REEs and other strategic minerals
- V. Attract new investment and markets for Alaska's abundant mineral resources



# STATEWIDE PERMITTING REFORM

## - STRATEGY -

### 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.*

DNR has been working with a team from DEC, ADF&G, and LAW to develop and advance strategies that aim to:

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



# STATEWIDE PERMITTING REFORM

## - SIGNIFICANT PROGRESS MADE -

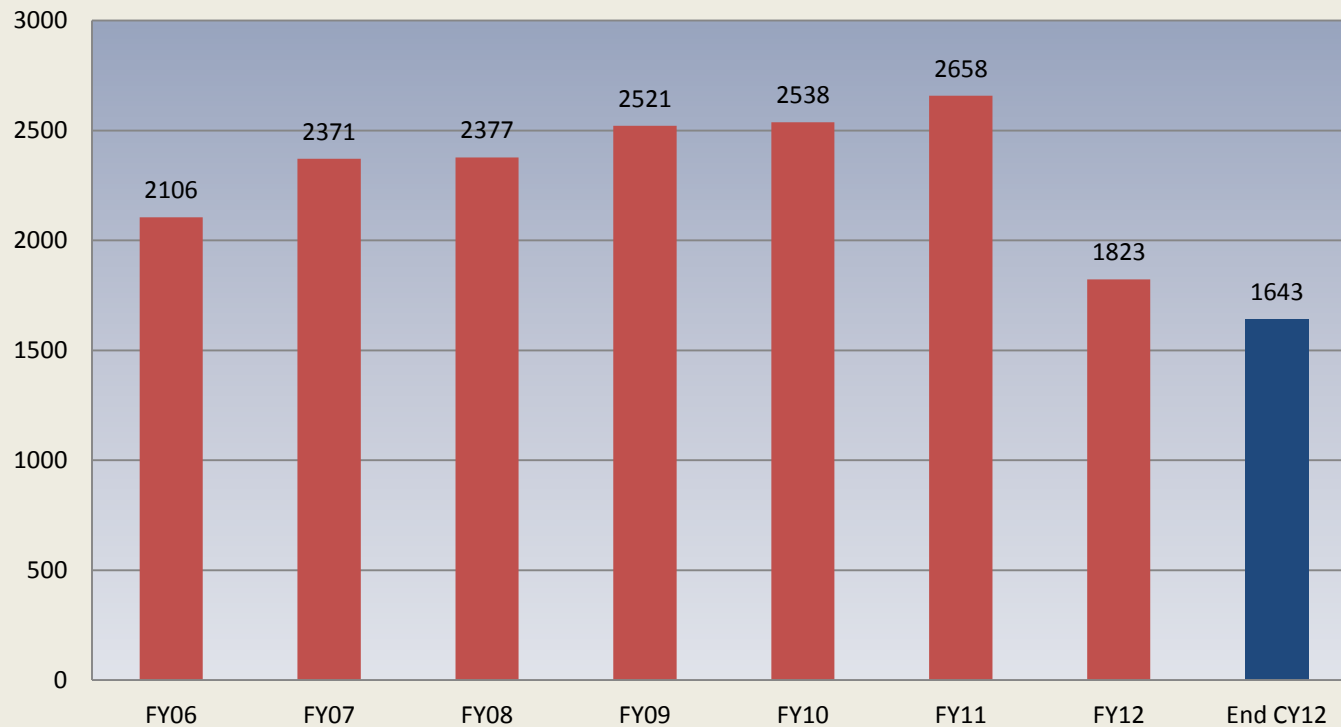
- In FY12, the Legislature provided approximately \$2.7 million in operating funds for the Division of Mining, Land & Water to create efficiency, timeliness and certainty in the permitting process
- We utilized capital funding from FY12 (\$2.5M for the Unified Permit Project and Document Management) to focus on business management software and services
- In FY13, the Legislature approved the continuation of FY12 operating funds as part of the ongoing base for permitting and an additional \$950.0 to cover increased personnel costs and fill vacant positions focused on permitting
  - FY13 capital budget included \$3.3M to continue work on the Unified Permit Project, including the continuation of IT strategies and Business Process Management
- We reclassified and updated over 50 position descriptions
- Since the beginning of FY12, the backlog has been reduced by 38.2% (1,015 authorizations)
- We have conducted public meetings statewide for input on state permitting processes
- We are evaluating internal processes to identify and fix inefficiencies



# STATEWIDE PERMITTING REFORM

## - SIGNIFICANT PROGRESS MADE -

**DMLW Backlog Authorizations**





# STATEWIDE PERMITTING REFORM

## - SIGNIFICANT PROGRESS MADE -

### 2012 Statutory Changes – HB361

- The Division of Mining, Land and Water identified over 30 statutory changes that would help reduce applicant costs, create efficiencies, reduce redundancies, and reduce opportunities for legal challenges
- During the 2012 Legislative session, the Governor introduced HB 361, which included the highest priority changes related to leasing and disposal programs that would help reduce the permitting burden on the applicant and free more time for staff to work on processing applications
- The Legislature passed HB 361 and it has been signed by the Governor



# STATEWIDE PERMITTING REFORM

## - 2013 LEGISLATURE -

### 2013 Statutory Changes – HB77 & SB26

- Building on the success of 2012, the Division of Mining, Land and Water has identified additional statutory changes that would help streamline permitting requirements for the public to use and enjoy Alaska's land and resources
- Governor Parnell has introduced HB 77, which would reform and streamline procedures for obtaining, issuing, and appealing permits, leases, best interest findings, and other DNR authorizations
- It would allow DNR to establish a general permit for an activity on state land unlikely to cause significant and irreparable harm to the State
- It would prevent non-agency entities from being able to apply directly for a reservation of water; this does not affect holders of, or applicants for, standard water rights, temporary water use permits or water removals



# STATEWIDE PERMITTING REFORM

## - 2013 LEGISLATURE -

### 2013 Statutory Changes – HB78 & SB27

- Section 404 of the Clean Water Act (CWA) requires a permit from the Corps of Engineers for discharge of dredged or fill material into waters of the U.S.
- Purpose is to provide the State authority to evaluate and, potentially, assume primacy for permitting of dredge and fill activities in waters and wetlands in the State, as provided for in the CWA
- State primacy would still be subject to federal oversight and must be as stringent as the current federal program, but should help ensure funding and staffing for the program, provide greater state participation and control, enable the State to focus resources where most needed, and better insulate the program from national politics

