

HOUSE FINANCE COMMITTEE  
February 17, 2011  
1:34 p.m.

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CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 1:34 p.m.

MEMBERS PRESENT

Representative Bill Stoltze, Co-Chair  
Representative Bill Thomas Jr., Co-Chair  
Representative Anna Fairclough, Vice-Chair  
Representative Mia Costello  
Representative Mike Doogan  
Representative Bryce Edgmon  
Representative Les Gara  
Representative David Guttenberg  
Representative Reggie Joule  
Representative Mark Neuman  
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Edward S. Itta, Mayor, North Slope Borough; Rex A. Rock Sr., President and CEO, Arctic Slope Regional Corporation; Daniel S. Sullivan, Commissioner, Department of Natural Resources; John J. Burns, Attorney General, Department of Law; Senator Donny Olson; Representative Bob Herron.

SUMMARY

^DISCUSSION: FEDERAL REGULATORY ISSUES AFFECTING ECONOMIC DEVELOPMENT IN ALASKA

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EDWARD S. ITTA, MAYOR, NORTH SLOPE BOROUGH, explained to the committee that federal regulatory issues significantly affected his community. He noted that he was an Inupiaq Eskimo born and raised in Barrow and was a lifelong whaler and hunter. He communicated urgency regarding the issue. He recalled people who had gone before.

Mr. Itta gave the following statement (taken in part from "Discussion of Federal Regulatory Issues Affecting Economic Development in Alaska," copy on file):

I'm grateful for the chance to speak with you this afternoon, because the topic of federal regulation is one in which the state's interests and the borough's are almost in complete alignment. I think this fact has been largely overlooked in the noise of occasional moments of real or perceived disagreements we may have.

So I'd like to set the record straight by touching on three issues that are at the top of our list when it comes to development: the National Petroleum Reserve-Alaska (NPR-A), the Endangered Species Act (ESA), and offshore development. I should start by saying that for us, resource development and economic development are one and the same. We don't have commercial fishing or timber or much tourism.

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The economic development in our region and communities is all driven by oil and gas activity, so we are even more dependent on resource development than the state.

At the same time, the North Slope residents understand that the cash economy and the subsistence economy are now interdependent. As a whaling captain, I need a snow machine and oil and gas for fuel. I need a boat to fill my ice cellar with fish and caribou. We need economic development to sustain our subsistence way of life.

These are important realities for me as I think about the future of our communities along the Arctic coast. I worry about the economic future of my people and communities at the same time that I worry about the future of our bowhead whaling tradition. I ask myself,

"Is there a way that the nation's energy needs, the state of Alaska's revenue needs, and our local economy and the ancient whaling practices and subsistence traditions that guide our Inupiaq culture can be accommodated in the Arctic?"

I have decided that the answer is "Yes." Together with the state and with industry, we have already proven that multiple uses can be accommodated onshore. I don't think it's a secret that we've been working successfully with the oil industry with regards to Prudhoe Bay and other nearby developments for well over 30 years. We have protected our land and our animals. Now we share the same frustrations over the roadblocks that stand in the way of the few remaining new onshore prospects. The 1002 area of the Arctic National Wildlife Refuge (ANWR) appears to be a lost cause, because environmental groups have successfully made it a rallying point for saving the polar bear and the caribou, of which there are only about half a million roaming around the North Slope.

You'd think that a petroleum reserve would have a somewhat lower barrier to entry, but what's happening in NPR-A is starting to look like a stealth version of the ANWR experience. The bridge over the river channel to Conoco's CD-5 development is the gateway to expansion to NPR-A from the east. That project went through a very difficult process that finally resulted in an agreement everyone could agree with—the company, the community, and the regional and village corporations that have title to the lands in the area.

Then at the 11th hour, the Corps of Engineers stopped the project in its tracks by denying a final permit, which was disappointing. I met with agency officials in Washington [D.C.] several times, from Secretary Salazar on down, trying to get CD-5 back on track. We didn't immediately achieve our goal, but I do believe that Conoco will ultimately get access across that river channel. I just hope they're going to stick around long enough to do it. I worry about that.

But here is the real challenge: As a diverse group of stakeholders, can we work together closely enough so the CD-5 experience is not repeated? We cannot allow NPR-A to become another 1002 area, since it is the

only remaining untapped North Slope acreage that has not been walled off by a refuge designation. The North Slope Borough can be an effective ally in this effort, but we really need to have more and better communication with and leadership from the State. Attorney General Burns and Commissioner Sullivan, we commend you for taking the immediate steps to come up and work with us; that is a great beginning. We are discussing how we can coordinate the message, but up until now, the State's interest in what we can bring to the table has been really low. Unless there's a relationship through which we can craft an appropriate message together, we are missing out on our best shot at future onshore development.

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One way in which the borough is trying to help is through our involvement as a cooperating agency in the current process for creating a new Integrated Activity Plan for NPR-A with the Bureau of Land Management. This is the context in which we've heard about this new type of designation put out by the Department of Interior called "wild lands." The "wild lands" idea has the fingerprints of environmental non-governmental organizations (NGOs) all over it, and it could lead to large areas of NPR-A being set aside for consideration as wilderness areas. The North Slope Borough has never been afraid to engage in planning and permitting. The kicker with wild lands is that any lands set aside for consideration under the category will be managed as wilderness until a determination is made. That was part of our reason for going to Washington, D.C. We could end up with a lot of de facto wilderness area in NPR-A if that program goes forward.

This is another one where all stakeholders need to have a united approach and a united message, which is only possible as a result of healthy and consistent communication. So it's real clear: our future is tied in to pipeline throughput. By communicating, that's how we will know where the sticking points are for each stakeholder, so that we can work together to accommodate our respective concerns. When we're up against these powerful federal agencies, we have to do a lot more than blame and complain. That is why one of my points has been to always talk and discuss and go

with dialogue, versus filing lawsuits, which do not in the end accomplish much. We've got to play to our strengths by presenting a united front that recognizes the core concerns of industry, the State, the North Slope Borough, tribal governments, and local residents. Another example of that is the effort by the legislature to put together the Northern Waters Task Force. I think a lot of the issues have been noticed by that committee and are in the handout materials that I have given you. I commend the legislature for creating that task force.

We create a united front by capitalizing on our areas of agreement. I think we have a lot more in common than we have differences. I want to move forward with those. There are many, and by working on them side by side, we develop a level of trust that allows us to work through issues where we may not have complete agreement, and that is quite okay.

We've done this on the North Slope with ESA listings. The North Slope Borough and the Arctic Slope Regional Corporation (ASRC) look at the world through different prisms, because our organizational missions are different. But we've recently been talking about the consequences of multiple species being listed in the Arctic.

The ESA scenarios that may confront us are in fact pushing us onto common ground, although we sometimes get there on different paths. When it comes to ESA listings, the borough's mandate for community development makes us very nervous about the potential effects of listings on things like Kaktovik's need to build a new runway. The agency promised us that the critical habitat area for polar bears would not include our villages, but when the maps were released, three of our villages were totally encompassed in the middle of critical habitat.

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ASRC is equally concerned about the likelihood of critical habitat designations stifling development opportunities. So we joined together in announcing our intent to sue the government over the critical habitat designation for the polar bear. The regional tribal

organization, the Inupiat Community of the Arctic Slope (ICAS), joined with us in this case, because we all share a deep concern for the future of our subsistence hunting activities under the thumb of the federal regulators. It came as no surprise to us that, in early discussions of a polar bear recovery plan, the first item favored by most NGOs was to limit the subsistence take of polar bears. The most direct impact was on us. We have been conservationists of the polar bear from time immemorial. We did not cause global warming. And what happens? 188,000 square miles get designated critical habitat, an area the size of the state of California, without even so much as a, "Hey, what do you think about this?" Talk about overreach. This is very real, the effect on us, and this is just the polar bear. There is also the walrus, the ringed seal, the bearded seal. I commend ASRC and President Rock for the efforts that are being made on coming together as a region and recognizing that our problem is common to the state. It comes from different directions, but we all have the underlying concern about something that we value very deeply, and that is our subsistence traditions.

I mention this because I see parallel opportunity for industry, the State, the borough, and others to come together so that Alaskans can benefit from offshore development and have a meaningful voice in federal decisions that affect us all. This situation is an opportunity for all of us to engage so that offshore development can happen, if it's going to happen.

For example, there is nothing preventing oil produced offshore from being tankered to market instead of processed onshore and fed into the pipeline. The North Slope Borough has been an advocate on the federal level to push for pipelines for tankers. I have not heard the State say anything about that. That's an area where we need help, where we want to be engaged. Tankering out of the Beaufort seems unlikely, due to geography, but the Chukchi is a different story. If it leaves by tanker, the State gets no economic benefit, or very little; few jobs are created, and we've got tankers potentially plowing through Arctic ice day in and day out. I think it's a bad deal all around, and that's why I've been promoting a federal requirement

for pipelines to shore on all Outer Continental Shelf (OCS) oil production for the past two years.

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In fact, I have developed a set of eight OCS policy points that I've been shopping around in D.C. since the spring of 2009. They are included in the handouts you should have. I've also been meeting with Pete Slaiby and the folks at Shell quite a bit, trying to sell them on these issues. To Shell's credit, they have engaged with us extensively, and we've now got agreement on a number of these policy points, including discharge into our oceans of the mud and cuttings, drilling fluids, grey water; they have agreed to barge that and inject it. We recently signed a joint science agreement with Shell that will ramp up baseline science in the Arctic, focusing on issues of concern to local residents. This program is a mutual agreement and it does not delay exploration, but in fact supercharges the baseline science effort, which is to everyone's best interest. A copy of that agreement is also in your packet.

Shell has come a long way toward addressing the most critical concerns of our communities, sometimes even above and beyond the federal requirements. In fact Pete Slaiby has told me that he will work with us to reach our goal on most of those eight policy points. So I was disappointed after our meetings with the Environmental Protection Agency (EPA) a few weeks ago, when they did not issue that last permit, which kept Shell out of the water for this summer. I worry that the good relationships and the serious discussions we have had with Shell might stop. It took a lot of effort to get where we are with Shell. I think Shell has earned the right to start their exploration program. I think they have earned the right; they have accommodated a lot of our concerns.

If by chance you ever heard me speak about OCS development during my first term as mayor, then what you're hearing from me today may come as a surprise. You see, Pete Slaiby and I may disagree on plenty of things, but we have decided that we can get closer to our respective goals by engaging and building trust than we can by duking it out in court or going our

separate ways and leaving all the decisions to federal agencies. That is not in our best interest, nor is it in Shell's.

By the same token, the State and the borough may not agree on everything, but I look at that as a reason for more dialogue, not less. When it comes to these big rule-making processes on NPR-A, the ESA, or OCS issues, we all lose if we are not working together.

These next statements are not easy for me, but I believe they need to be said.

Where has the State been in these negotiations and rulemaking tussles that we've been engaged in? Where? For all practical purposes, the State has not been an effective advocate, except to say they support development and oppose anything that slows that process. I do not make this comment to you casually, but after much consideration. I believe it needs to be said. And I am not only referring to the current administration. To use our failed conversations on the Alaska Coastal Management Plan (ACMP) as an example: Is that a reason to not continue discussions? I don't know.

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It is not realistic to talk exclusively about economics in the context of proposed development, nor is it effective. It sends a message that the State is not really interested in engaging. The federal government has an obligation to protect Alaska Natives. My suggestion is that the State broaden its vocabulary so that it is talking about issues like OCS in comprehensive terms that include impacts to coastal communities. This one-track approach is causing the state to bypass opportunities and to miss out on the kinds of new ideas that spring from a collaborative process.

You'll recall how in the late 1960s and early 1970s, the State had an oil field at Prudhoe Bay, but no access for a pipeline. It took a meeting of the minds among diverse interest groups to overcome that extreme challenge. I believe offshore development is similar, while different, but again, today it holds substantial

challenges for a diverse collection of interests. How did they accomplish a pipeline? This is a very similar time.

Will the State of Alaska willingly join together in pursuit of a common goal this time around? I hope so, because that is how we Alaskans will be able to get the best results for our state and our people across the board. We can create scenarios where multiple interest groups win, but they must be founded on mutual trust, which grows out of honest and open and continuous communication.

REX A. ROCK SR., PRESIDENT AND CEO, ARCTIC SLOPE REGIONAL CORPORATION, acknowledged ASRC personnel present. He commended Mr. Itta, and noted that he was also a whaling captain; through that, they had learned to work together with people across the North Slope, and he thought others could learn from their example for the good of the state. (His testimony was taken in part from a February 17, 2011 prepared statement, "Written Testimony of ARCTIC SLOPE REGIONAL CORPORATION," copy on file).

ASRC is Alaska's largest Alaskan-owned company, with approximately 10,000 employees nationwide, of which approximately 4,000 are Alaskan jobs. ASRC represents 11,000 Inupiat shareholders of Alaska's North Slope region, and we have been successful in striking a balance between representing the business interests with the subsistence and cultural needs of our shareholders. ASRC has five major business lines: 1) energy support services, 2) petroleum refining and marketing, 3) government services, 4) construction, and 5) resource development.

Any changes in the regulatory climate will have an impact on our family of companies and the communities within which we do business. Simply put, a bad federal regulatory climate will hurt Alaska's economy.

There are several overreaching federal policies that aim to lock up Alaska's North Slope from oil and gas development, or that have a chilling effect on business investment opportunities in the Arctic.

My written comments include a summary by agency of how this pressure is harming our region, and I ask that

they be accepted for the record. The federal agencies include the U.S. Department of the Interior, the Environmental Protection Agency, and the National Oceanic and Atmospheric Administration. My oral comments will focus on the land- and ocean-based policies affecting our region.

Under the auspices of the "Great Outdoors Initiative," the Obama Administration has put extreme pressure on our communities, region and State.

As you know, the U.S. Department of the Interior, using the Endangered Species Act, recently set aside an area larger than the state of California as critical habitat for polar bears. Further, they are planning to set aside additional areas on the North Slope potentially covering millions of acres both on- and off-shore. In fact, the polar bear critical habitat designation covers 3.6 million acres of onshore area alone. Significant efforts are underway by the Administration to designate vast areas of our homeland as wild lands within NPR-A; there is consideration of National Monument or Wilderness status for places like ANWR. These threaten the responsible resource development that we depend upon for community survival and a safe, sustainable economy.

This concerns ASRC, and should concern all lawmakers. Earlier this week the President released his budget and it included \$15 million for the Bureau of Land Management's National Landscape Conservation System, including special areas, such as designated Wilderness, Wilderness Study Areas, National Monuments, and National Conservation Areas.

Millions of acres on the North Slope are already locked up as Wilderness, National Parks or similarly restrictive status, and these efforts threaten to "paint us into a corner" within our own region. This danger is made worse by the current production decline faced by the Trans Alaska Pipeline System. With most prospective areas on-shore either off-limits or at risk of becoming off-limits, we are unable to offset the dramatic production decline of the existing oilfields. This decline is not just a lingering tail of decreasing production, but will become a "brick

wall" when the pipeline reaches its mechanical limits and is unable to move production.

For North Slope communities, this represents a clear and present danger. We have no other economy in our region. We ask ourselves, how will our grandchildren clear snow from the roads, maintain our schools, and operate the real world infrastructure that makes our villages safe and viable into the future without development opportunities?

Those of us who have served in the North Slope Borough government need no explanation when the news discusses Alaska's dependence on the oil and gas industry. Our villages are at the "tip of the spear" on this issue. Decline in production equates to a decline to our well-being as the people of the North Slope.

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Our analysis suggests that there is no positive benefit to these sweeping designations. In fact, we see the initiatives and federal over-reach as a numbers game; the Administration wants more 'wilderness areas' designated and Alaska has become the easy target for the agencies to meet an unstated goal. Animal species do not recognize boundaries, and the "wildness" of our lands already exists in abundance.

This is not only an issue of the onshore; with proposed 'Marine Spatial Planning' we will see a similar 'carve up' of our oceans. The Oceans Policy Task Force needs to include vital stakeholders from the North Slope into the Coastal and Marine Spatial Planning process. Changes in our coastlines and off-shore areas could negatively impact our traditional subsistence and economic opportunities.

As we step back and take a long-range view, what we really see are efforts that will lead to the extinction of our communities and lifestyles on the North Slope while protecting areas and species that science says do not need protections at this time. We are being attacked by the federal government; and to what purpose? The areas being set aside or proposed to be set aside have no access; chances of large portions

of the American public ever viewing these areas are remote.

Our message that we are delivering as loudly as we can is that we live on lands that we did not spoil, among species whose numbers we did not threaten, backed against an ocean whose resources we can measure but not develop.

We have always been a hard-working and resilient people, taught by our elders to be as self-sufficient as possible, working together. Looking back at testimonies regarding development as far back as several generations, our people have always wanted to be involved and a part of the solution rather than standing on the sidelines and watching.

We have used resource development to better our communities and avoid excessive dependence on federal social programs. Now, in an era when Alaska's Native people are accused of over dependence on federal programs, the same federal government is essentially pulling the rug out from under us and taking away the ability to fulfill the intent of the Alaska Native Claims Settlement Act (ANCSA). Onshore and offshore, designations will take away the tools and ability promised us to improve our quality of life in our region. There is a certain irony that the federal government is scrutinizing Alaska Native Corporations within the federal procurement system while removing the opportunities promised to us through our land and resource entitlement of ANCSA.

Thank you for the opportunity to provide you with this information today. On behalf of ASRC, I look forward to working with you to progress this state into the future.

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DANIEL S. SULLIVAN, COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES, opined that discussing the issues in the panel was symbolic of the way the department wanted to proceed. He referenced his travels and meetings with people all over the state, including Barrow. He agreed that the areas of common interests far outweighed areas of differences, and that a united approach was attainable.

Commissioner Sullivan provided a PowerPoint presentation, "Alaska Department of Natural Resources: Federal Regulatory Issues Affecting Economic Development in Alaska, 2/7/11" (copy on file). He pointed to Alaska's statutory policy embedded in the constitution of maximizing resource development within the public interest (Slide 2):

- Article 8, Section 1 of the Alaska Constitution provides that "it is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest."
- Article 8, Section 2 provides that the "legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people."
- AS 38.05.180(a) provides that "the people of Alaska have an interest in the development of the state's oil and gas resources to maximize the economic and physical recovery of the resources; maximize competition among parties seeking to explore and develop the resources; maximize use of Alaska's human resources in the development of the resources"

Commissioner Sullivan turned to Slide 3 ("Top Priority: Arresting TAPS Decline") with a line graph showing the steady decline of barrels of oil per day produced through the Trans Alaska Pipeline System (TAPS), with further decline projected from 2010 to 2025. He emphasized that the projections did not have to be Alaska's destiny, but that partners were needed ("Importance of Partnership," Slide 4):

- Overcoming challenges hinges on partnership
- Federal Government moving from protecting environment to proactively shutting-down resource development
- Recent federal decisions have delayed or vetoed critical projects

Commissioner Sullivan believed the missing partner was the federal government. He believed the federal government had been moving from a policy of protecting the environment to actively opposing resource development. He referred to remarks by a senior EPA official implying that Alaskan's

frustrations were "just politicians making cheap points." He asserted that the frustrations voiced by many Alaskans were the basis of a long list of very specific resource development projects that the federal government was working to shut down in the state.

Commissioner Sullivan directed attention to a map on Slide 5, "State Lands: Surrounded by Feds") that illustrated how state land was surrounded by federal land, including the NPR-A, ANWR, the 1002 Area, and the OCS. He stated that the area remained a world-class hydrocarbon basin, with 40 billion barrels of recoverable oil and 236 trillion cubic feet of gas (according to the U.S. Geological Survey). He claimed that there had been many delays and vetoes that made addressing the throughput more difficult (Slide 6, "Specific Development Plans Delayed or Vetoed"):

- CD-5
- OCS Exploratory Drilling
- OCS Moratorium
- Point Thomson EIS Delays

Commissioner Sullivan noted that Mayor Itta had addressed the CD-5; he emphasized that there had been different stakeholders working for years at the behest of the U.S. Army Corps of Engineers to come together on agreement. When agreement was finally reached, the corps "pulled the rug out from under us," which he believed was directed by the EPA. He thought it ironic that the approach recommended by the EPA and corps (an underground pipeline under the river, rather than a bridge) was more environmentally risky.

Commissioner Sullivan referred to OCS permitting delays and a moratorium, as well as Point Thomson environmental impact statement (EIS) delays.

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Commissioner Sullivan addressed "Broader Policies Jeopardizing Future Development" (Slide 7):

- NPR-A Wildlands
- ANWR National Monument
- ANWR Wilderness Designation
- ESA - Polar Bear Critical Habitat Designation

Commissioner Sullivan detailed that the policies would have a specific affect on Alaska's ability to develop its resources. He thought the wild lands policy was an "executive approach to an end run around federal statutes" with regard to what could be designated wilderness. He noted that the governor had sent a letter to the President on the importance of not allowing the ANWR National Monument. The U.S. Fish and Wildlife Service was considering an ANWR wilderness designation; comments had been requested for the designation for the 1002 area, but they specifically said that the comments could not include oil and gas development. He referred to a letter sent stating that several federal laws had been violated.

Commissioner Sullivan stated concerns that the polar bear critical habitat designation would open up the possibility of being sued by environmental groups for any activity with a federal nexus, which he believed would cause delays and put off investment decisions.

Commissioner Sullivan emphasized the irony of the federal policies; not only would they hurt Alaska, but the federal government was charged with enhancing and securing national security, energy security, job security, and environmental security. He believed security would be undermined by the anti-development policies.

Commissioner Sullivan spoke to "Solutions" (Slide 8):

- Re-double efforts with Obama Administration
- Act as a cooperating agency
- Educate public about shut-downs and delays
- Encourage congressional action
- Last resort: Litigation

Commissioner Sullivan opined that the key to all solutions related to establishing partnership among Alaskans. He admitted that there were a few examples of helpfulness by the federal government. For example, the EPA had played a "relatively constructive" role when an environmental group had worked to shut down the Red Dog Mine.

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Commissioner Sullivan believed that actions were often taken in the name of protecting the environment. However,

he felt that when Alaska resource development was shut down, overseas resource development was encouraged, resulting in the import of Russian crude oil, increasing the country's trade deficit, compromising national security, and supporting a country with much less stringent environmental standards.

JOHN J. BURNS, ATTORNEY GENERAL, DEPARTMENT OF LAW, provided a PowerPoint presentation, "Alaska Department of Law, Federal Regulatory Issues Affecting Economic Development in Alaska 2/17/11" (copy on file [continuation of the Department of Natural Resources PowerPoint]). He agreed with the importance of Alaskans finding common ground and building relationships to resolve issues.

Attorney General Burns believed there was a misconception that Alaska was anti-federal government. He believed the relationship between the state and the federal government was symbiotic in many areas, including strategic military operations and energy resource availability. He opined that the relationship should be more symbiotic, based on the volume of hydrocarbons available in Alaska. He thought the federal government's policy regarding resource development had an element of uncertainty that jeopardized resource development and the future of the TAPS throughput.

Attorney General Burns felt that recent federal regulatory policies underscored a concerted effort to significantly restrict, if not preclude, future development within Alaska. He emphasized that the regulations being set forth were on federal lands, which comprised roughly 60 percent of the entire state. However, he argued that Alaska had a significant interest, because it shared in a revenue stream from development. He continued that federal regulations were significantly impacting development on state lands; most recently the U.S. Army Corps of Engineers and EPA stopped development of CD-5 and were stopping construction of the Tanana River Bridge crossing in Fairbanks. He argued that additionally, ESA listings and habitat designations were significantly impacting development in Cook Inlet and the OCS.

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Attorney General Burns expressed frustration that the federal government's apparent attitude was that Alaskans were not competent enough to know what was in their

collective best interest or that they did not care enough. He stated that there was a difference between conservation and preservation. He defined conservation the "wise use of a resource" and preservation as "locking it up." He thought Alaska was a resource extraction state. He believed resource development was vitally important to the thriving of all communities, including the North Slope Borough, Juneau, and Anchorage.

Commissioner Burns maintained that Alaska needed a comprehensive strategy. He recalled his visit to the North Slope Borough. The state had just filed a notice of intent to sue related to the polar bear listing. Mayor Itta had said that he shared the attitude, but he asked, "Why didn't you call us and talk to us before you sent it out?" He stated that he would not make the mistake again. He emphasized the importance of communicating first, and then speaking with one voice.

Attorney General Burns directed attention to Slides 14 through 17, related to the ESA:

- Comprehensive Strategy
  - Challenging unwarranted listings
  - Challenging unwarranted critical habitat designations
- Listings and designations can affect
  - Shipping
  - transportation
  - oil and gas development
  - mining
  - commercial, sport and subsistence fishing and hunting
- Listing petitions
  - Polar bears
  - Beluga whales in Cook Inlet
  - Steller sea lions
  - Humpback whales
  - Pacific walrus
  - Seals (ringed and bearded)
  - SE Alaska Pacific herring
- Critical Habitat Designations
  - Polar bear
  - Cook Inlet Beluga whale

- Pending Lawsuits and appeals
  - Polar bears
  - Beluga whales
  - Steller sea lions
  - Humpback whales
  - Ribbon seals
  
- Threatened lawsuits
  - State's notice of intent to sue to challenge 187,000 square miles of critical habitat designation for polar bear

Attorney General Burns emphasized that all the listings, lawsuits, and threatened lawsuits would restrict the ability to develop.

Attorney General Burns directed attention to a pie chart on Slide 18 ("ESA FY11 Budget Expenditures") depicting the nearly \$1.4 million cost of litigation on various issues:

- Wood Bison, \$10,560
- Humpback Whales, \$16,110
- Ribbon Seals, \$43,137
- Ringed and Bearded Seals, \$10,000
- Pacific Walruses, \$20,000
- General ESA Advice, \$17,000
- Western Steller Sea Lions, \$574,305
- Eastern Steller Sea Lions, \$18,500
- Polar Bears, \$241,776

Attorney General Burns noted that communities had also spent a significant amount of money. He stressed that the federal regulations being implemented cost a tremendous lot of money to defend, and that a strategy was needed. He underlined that the objective was not litigation, but to engage early on and to engage together.

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Attorney General Burns referenced the CD-5 project (Slide 19, "Assisting DNR and DEC in requesting prompt federal review of NPR-A challenges"), noting that all stakeholders had been united on the issue:

- Challenges to petroleum exploration in the National Petroleum Reserve-Alaska (NPR-A)
  - Clean Water Act wetlands fill permit for CD-5 project

Attorney General Burns reviewed Slide 20, "Advising DNR on response to BLM Wilderness and 'Wild Lands' designations":

- Interior Secretary Salazar ordered the evaluation of 72 million+ acres of federal land in Alaska for wilderness characteristics, potentially allowing federal government to create de-facto wilderness in Alaska without congressional oversight
  - Affects permitting and right of way determinations
  - Changes the multiple use mandate otherwise applicable to BLM lands

Attorney General Burns turned to Slide 21:

- U.S. Fish and Wildlife Service revised the Arctic National Wildlife Refuge (ANWR) Comprehensive Conservation Plan, evaluating wilderness
  - Dept. of Law provided legal advice to Governor who wrote President Obama urging him to respect ANILCA

Attorney General Burns detailed that the lawsuit had cost Alaska \$36,000. He had received a call from a Texas reporter who asked whether the lawsuit had been a waste of money, since the case was lost. Attorney General Burns had responded that Alaska lost as soon as the case was filed, but the case had to be filed to respond to a statement made by U.S. Interior Secretary Salazar. The Department of Law was unable to correct the confusion and had to file a lawsuit. The federal government was unequivocal that there was no moratorium.

Attorney General Burns moved to "Assisting DEC's request for prompt EPA action on Shell's Clean Air Act permit application" (Slide 23):

- Environmental Appeals Board (EAB) remanded Shell's application for further work
  - EAB questioned EPA's analysis of impacts of nitrogen dioxide emissions from drill ships

- Shell now postponing plans to drill exploratory wells this summer

Attorney General Burns detailed that in the Shell situation, the federal delegation was united in condemning the decision by EPA to delay the project again.

Attorney General Burns addressed "Challenges and Opportunities" (Slide 24):

- Support--as legally appropriate--responsible resource development
  - Develop a comprehensive long term development strategy
    - Endangered Species Act
      - Unwarranted listings
      - Unwarranted designations of critical habitat
    - Outer Continental Shelf exploration
      - Challenges when warranted
    - Clean Air and Water Acts
      - Challenges when warranted

Attorney General Burns stressed the importance of acting in a cooperated approach involving the legislature, the administration, all the agencies, as well as municipalities, boroughs, Native corporations and tribes, industries, and other attorneys general from throughout the country.

Attorney General Burns concluded that the destiny of Alaska was to reverse the course of declining throughput and to take advantage of the opportunities to aggressively pursue responsible resource development.

[2:42:28 PM](#)

Mr. Itta pointed to handouts that had been given to the committee. In particular, he emphasized a handout from a DOL attorney with a summary valuation on the Coastal Zone Management Plan, and the eight policy points. He stated that he would continue to be at the table on behalf of his people for the rest of his life.

Mr. Rock noted that additional materials would be sent to the committee.

Co-Chair Thomas commended the panel and the work done together. He believed coastal zone management should be in the hands of the regions.

Representative Joule hoped there was appreciation for what had been said by the North Slope Borough and ASRC visitors. He acknowledged the difficulty of making some of the statements, with regards to OCS and the position of the North Slope Borough and ASRC related to the people they represent. He emphasized that the statements were the result of years of working together with the industry.

Representative Joule referred to the story of David and Goliath, with Goliath being the federal government and David being the state. He pointed out that David had a weapon that he used effectively; he believed that was the opportunity the state had before it as it moved forward with the discussion of responsible development in Alaska.

Representative Joule emphasized that Native Alaskans could be an asset for the state in working with the federal government. He thought the way forward would be an easier path; he noted that the extended hand had been there. He acknowledged that there were challenges, but argued that there had always been challenges. He stressed that we do not know our potential, and that was the promise: to unlock it with the people that we have, to use all of us as resources and assets in order to move forward to a common destiny.

Representative Joule believed the forum fit in with responsible resource development and bridging the distances in order to get to the goal.

[2:50:25 PM](#)

SENATOR DONNY OLSON thanked the committee for the opportunity to express the views of the northern communities.

Representative Edgmon queried the possibility of a larger role for tribal governments in the partnership effort. Attorney General Burns replied that the communities were gathering to identify the common issues. He stated that the state would engage and figure out opportunities to

emphasize and expand upon in order to presented a united voice.

REPRESENTATIVE BOB HERRON spoke to the acknowledgement of the Northern Waters Task Force and noted four legislators present who were working closely on the issue. He reported that the task force would have a letter to all legislators soon about the issues being addressed. He spoke in support of more direct communication. He referred to a story told by Commissioner Sullivan about interfacing with the EPA on the Pump Station 1 shutdown. He queried the importance of forcing conversation with the federal government. Commissioner Sullivan responded that he believed there were different opportunities; one was for everyone to engage with the federal government and communicate the frustration. He thought there was a desire for partnership both for Alaskans and federal officials. He opined that community members like Mr. Itta and other Native Alaskans engaging with the federal government was good.

[2:55:59 PM](#)

Representative Herron retold the story of the commissioner going face-to-face with the EPA at the pump station. Commissioner Sullivan responded that the EPA had not wanted to grant permission to restart TAPS; he did not think the EPA had the authority to make the call. He believed disagreement had to be expressed forcefully, but he wanted to convince them to cooperate.

Representative Neuman asked when development in Point Thomson would move forward and create jobs. Commissioner Sullivan responded that the department was focused on trying to settle the Point Thomson matter between the working interest owners and the state. He warned the process could take time, but not from lack of effort or focus.

Representative Gara commended the work done by Mayor Itta, particularly in keeping the balance between building alliances and litigating. He reported that he had wanted to write an angry letter when the U.S. Army Corps of Engineers had denied the permit to build the bridge across the Colville River. He queried the status of development plans in NPR-A, especially at Teshekpuk Lake. Mr. Itta replied that initial discussions about the area resulted in an agreement that there was to be a ten-year moratorium on the

northern part of Teshekpuk for biological studies related to fish and calving grounds. He had been satisfied with the agreement. However, the latest attempt was to make a wild lands or other designation; he was opposed to more wilderness designation in the area. He noted that regarding the CD-5 issue, the North Slope Borough assembly had worked for three years to come to agreement about what was acceptable to the people that depend upon the Colville River. He stressed that the decision was not a light one.

[3:01:47 PM](#)

Mr. Itta pointed to the contradictions of the federal government issuing edicts and mandates on one hand, and then changing direction after the community followed the directives. He stated that it was a tough place to be. He wondered whether anyone knew what was really going on. He argued for a strong and united voice. He did not want to be saved. He noted that his father had an allotment at the west end of Teshekpuk Lake and he had an allotment at the east end. His family had the connection from time immemorial. He cared what happened in the area. He referred to the ASRC land lock-up, with a dramatically large area. He thought common sense had been lost somewhere.

Representative Doogan surmised that he had heard that the state of Alaska might be insufficiently involved in some issues that were important to the people of the North Slope and to Alaskans as a whole. He hoped the situation had been remedied and that there would not be a problem in the future.

Co-Chair Thomas announced that the co-chairs had decided to hire a veteran's caucus employee to support the veterans of Alaska. The hired person was a captain who had had two tours to Iraq.

Co-Chair Stoltze acknowledged the contributions of the panel.

[3:06:50 PM](#)

AT EASE

[3:11:38 PM](#)

RECONVENED

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ADJOURNMENT

The meeting was adjourned at 3:11 PM.