

02/26/13 &
03/05/13
SB 59 - Oil
and Gas
Exploration
and
Development
Areas

<TARGET><BILL>SB 59</BILL><SUBJECT>02-26-13 and 03-05-13
SB 59 - Oil and Gas Exploration and Development
Areas</SUBJECT><COMM>STTP28</COMM></TARGET>

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 2/19/13

FURTHER: Resources
Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3/5/13

Senate Special Committee on Trans Alaska Pipeline System Throughput considered SENATE BILL NO. 59

SB 59 OIL & GAS EXPLORATION/DEVELOPMENT AREAS

"An Act relating to approval for oil and gas or gas only exploration and development in a geographical area; and providing for an effective date."

and recommends:

- be replaced with CS _____ (_____) Same Title New Title
- adopt previous CS _____ (_____) Same Title New Title
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

| Dept Abbr. | |
|------------|-----|
| ADM | LWF |
| CED | LAW |
| COR | LEG |
| CRT | MVA |
| EED | DNR |
| DEC | DPS |
| DFG | REV |
| GOV | DOT |
| DHS | UA |

| NEW FISCAL NOTE(S) | | | | |
|--------------------|--------|--------|------|------|
| Dept. | Fiscal | Indet. | Zero | FN # |
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| PREVIOUS FISCAL NOTE(S) | | | | |
|-------------------------|--------|--------|------|------|
| Dept. | Fiscal | Indet. | Zero | FN # |
| DNR | ✓ | | | 1 |
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| | | | | |

APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS: | PRINTED LAST NAME | DO PASS | DO NOT PASS | NO REC | AMEND |
|---------------------------------|-------------------|---------|-------------|--------|-------|
| <i>Beta Gardner</i> | Gardner | ✓ | | | |
| <i>Neil McGuire</i> | McGuire | | | | |
| | | | | | |
| | | | | | |
| CO-CHAIR: <i>A. Micciche</i> | MICCICHE | | | | |
| CO-CHAIR: | | | | | |



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Natural Resources

Office of the Commissioner

550 West 7th Avenue, Suite 1400
Anchorage, Alaska, 99501-3650
Phone: 907.269.8431
Fax: 907.269.8918

February 19, 2013

The Honorable Peter Micciche, Co-Chair
The Honorable Mike Dunleavy, Co-Chair
Senate Special Committee on TAPS Throughput
State Capitol Rooms 125 and 510
Juneau, AK 99801

Dear Senator Micciche and Senator Dunleavy:

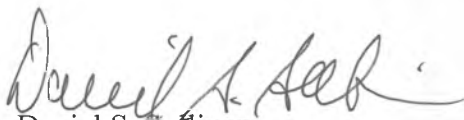
The Department of Natural Resources (DNR) respectfully requests a hearing in the Senate Special Committee on TAPS Throughput on SB 59, "An Act relating to approval for oil and gas or gas only exploration and development in a geographical area; and providing for an effective date."

The purpose of this legislation is to clarify that oil and gas exploration and development approvals can be made for all or part of an oil and gas lease sale area, without regard to lease boundaries. This statutory change will help the Division of Oil and Gas (DO&G) do its business more efficiently and should enable the public to be better served by making the process for approving oil and gas exploration and development more certain and timely.

A copy of Governor Parnell's transmittal letter, the bill, a briefing paper, sectional analysis, and fiscal notes accompany this request.

Your favorable consideration of this request is appreciated. If you need any additional information, please contact Esther Tempel, Legislative Liaison for the Department of Natural Resources at 907-465-4730 or Robert Pawlowski, Legislative & Policy Advisor for the Division of Oil and Gas at 907-269-8802.

Sincerely,


Daniel S. Sullivan
Commissioner

Cc: Heather Brakes, Legislative Director, Office of the Governor
Bill Barron, Director, Division of Oil & Gas

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Juneau, AK 99811-0001
907-465-3500
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Governor Sean Parnell
STATE OF ALASKA

February 18, 2013

The Honorable Charlie Huggins
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Huggins,

Under the authority of Article III, Section 18 of the Alaska Constitution, I am transmitting a bill relating to approval for oil and gas or gas only exploration and development in a geographical area. This bill will reduce the time required to get oil into production and flowing through TAPS, while protecting Alaska's environment.

Under current procedures, the Department of Natural Resources (DNR) grants lease exploration and development approval in conjunction with individual plans of operation for a lease or project. As such, a separate public notice is required for each approval, often resulting in repetitive approvals within the same geographical area. In order to streamline the State's permitting process, this bill allows DNR to comprehensively evaluate oil and gas exploration and development in a geographical area, and define the criteria by which specific projects are evaluated and approved. Approvals made under the provisions of this bill are valid for up to ten years as specified by DNR's Director of the Division of Lands.

Creating economic opportunity in Alaska requires a clear, predictable, and timely permitting process that encourages resource development while protecting the environment. I urge your prompt and favorable action on this measure to create a streamlined permitting process in the interests of increasing oil throughput and growing Alaska's economy.

Sincerely,

A handwritten signature in black ink that reads "Sean Parnell".

Sean Parnell
Governor

Enclosure

SB 59: OIL & GAS EXPLORATION/DEVELOPMENT AREAS

BRIEFING PAPER

FOR THE SENATE SPECIAL COMMITTEE ON TAPS THROUGHPUT • FEBRUARY 19, 2013

SB 59 will consolidate the Department of Natural Resources' exploration and development approvals and streamline its plans of operations approval process, while still protecting the environment and providing for public participation. The right to explore and develop oil and gas is granted through a lease that has been through an extensive public disposal process. A lease is subject to mitigation measures, multiple agency permits, and plans of operations approval. Exploration and development approvals are made in conjunction with individual plans of operations for a lease or project and include a separate public notice for each approval. Many approvals are repetitive, subject to the same mitigation measures, and within the same geographical area.

SB 59 will allow the department to comprehensively evaluate oil and gas exploration and development in a geographical area, without regard to lease boundaries, and define the criteria by which specific projects are evaluated and approved. The initial comprehensive review of a geographical area gives the public, government agencies and industry an opportunity to participate and identify exploration and development considerations for all subsequent projects. Projects may then move forward within the defined parameters and subject to the lease mitigation measures without additional public review following the geographical area approval process.

Approvals covering a broader area would both create efficiencies in the exploration and development review process and provide for the department to look at the overall effects of exploration and development across multiple leases. This bill will still protect the public interest by requiring public notice and an opportunity to comment under AS 38.05.945. Further, it provides certainty to the oil and gas industry that exploration and development projects may proceed within defined parameters.

This bill will:

- Create efficiencies by streamlining oil and gas exploration and development approval processes;
- Protect the public interests by requiring public notice and the opportunity to comment during the approval process for a geographical area;
- Enable a review of the effects of exploration and development across multiple leases;
- Allow project approvals to be consolidated into a comprehensive decision;
- Provide certainty to oil and gas operators, industry and the public when projects receive approval; and,
- Promote the state's interests through implementing effective approval processes.

SB 59: OIL & GAS EXPLORATION/DEVELOPMENT AREAS

SECTIONAL ANALYSIS

FOR THE SENATE SPECIAL COMMITTEE ON TAPS THROUGHPUT • FEBRUARY 19, 2013

Section 1 of SB 59 adds a new subsection (o) to AS 38.05.035 that allows the director to approve exploration or development for all or part of an area previously approved for oil and gas or gas only leasing under best interest findings as required under AS 38.05.035(e).

This section preserves the right for the public to comment by requiring the Department of Natural Resources to provide public notice.

If the approval is granted, exploration and development activities would be valid for a period of up to 10 years as specified by the director and the lessee can begin exploration or development only if it receives other authorizations as required by state or federal law.

This approval process would apply only to lands DNR previously described as areawide lease sales in its five-year program of proposed oil and gas or gas only lease sales.

Section 2 of SB 59 establishes an immediate effective date.

FISCAL NOTE

STATE OF ALASKA
2013 LEGISLATIVE SESSION

Bill Version SB 59
Fiscal Note Number 1
(S) Publish Date 2/19/13

Identifier (file name) LL0970-DNR-DOG-1-14-13 Dept. Affected Natural Resources
Title Oil and Gas Exploration and Development Approval Appropriation Oil and Gas
Allocation Oil and Gas
Sponsor Rules by Request of the Governor
Requester Governor OMB Component Number 439

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| | FY14 Appropriation Requested | Included in Governor's FY14 Request | Out-Year Cost Estimates | | | | |
|-------------------------------|------------------------------------|--|-------------------------|------------|------------|------------|------------|
| | | | FY15 | FY16 | FY17 | FY18 | FY19 |
| OPERATING EXPENDITURES | FY14 | FY14 | | | | | |
| Personal Services | 80.0 | | | | | | |
| Travel | 3.0 | | | | | | |
| Services | 48.8 | | | | | | |
| Commodities | 2.2 | | | | | | |
| Capital Outlay | | | | | | | |
| Grants, Benefits | | | | | | | |
| Miscellaneous | | | | | | | |
| TOTAL OPERATING | 134.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| FUND SOURCE | | (Thousands of Dollars) | | | | | |
|--------------|------------------|------------------------|------------|------------|------------|------------|------------|
| 1002 | Federal Receipts | | | | | | |
| 1003 | GF Match | | | | | | |
| 1004 | GF | 134.0 | | | | | |
| 1005 | GF/Prgm (DGF) | | | | | | |
| 1037 | GF/MH (UGF) | | | | | | |
| 1178 | temp code (UGF) | | | | | | |
| TOTAL | | 134.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| POSITIONS | | | | | | | |
|-----------|---|--|--|--|--|--|--|
| Full-time | | | | | | | |
| Part-time | | | | | | | |
| Temporary | 1 | | | | | | |

| CHANGE IN REVENUES | | | | | | | |
|--------------------|--|--|--|--|--|--|--|
|--------------------|--|--|--|--|--|--|--|

Estimated SUPPLEMENTAL (FY13) operating costs 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY14) costs 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended, or repealed? N/A Discuss details in analysis section.

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial version, not applicable.

Prepared by Bill Barron
Division Oil and Gas
Approved by Daniel S. Sullivan, Commissioner
Department of Natural Resources

Phone 269-8800
Date/Time 1/14/13 5:00 PM
Date 1/14/2013

FISCAL NOTE ANALYSIS #1

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. SB 59

Analysis

This bill will allow the Department of Natural Resources to approve oil and gas exploration and development for a geographic area, without regard to individual lease boundaries.

To implement this bill would require one non-permanent position (NRSIII) to prepare exploration approvals for existing oil and gas lease sale areas, contractual services for legal support, public outreach and notice, and travel for public meetings. On-going exploration and development approvals would be accomplished using existing staff as a result of efficiencies gained through implementing this bill.

SB 59: OIL & GAS EXPLORATION AND DEVELOPMENT APPROVALS BY GEOGRAPHICAL AREA

**Senate Special Committee on TAPS
Throughput**

February 26, 2013

Department of Natural Resources

- Dan Sullivan, Commissioner
- William C. Barron, Director, DO&G
- Wendy Woolf, DO&G



SB 59 – “An Act relating to approval for oil and gas or gas only exploration and development in a geographical area; and providing for an effective date.”

What does SB 59 do?

- It clarifies the Department of Natural Resources can authorize oil and gas exploration and development activities within a geographical area.
- It preserves public notice and review at the beginning of an exploration or development phase.
- It ensures certainty when an approval has been granted for exploration or development activities.

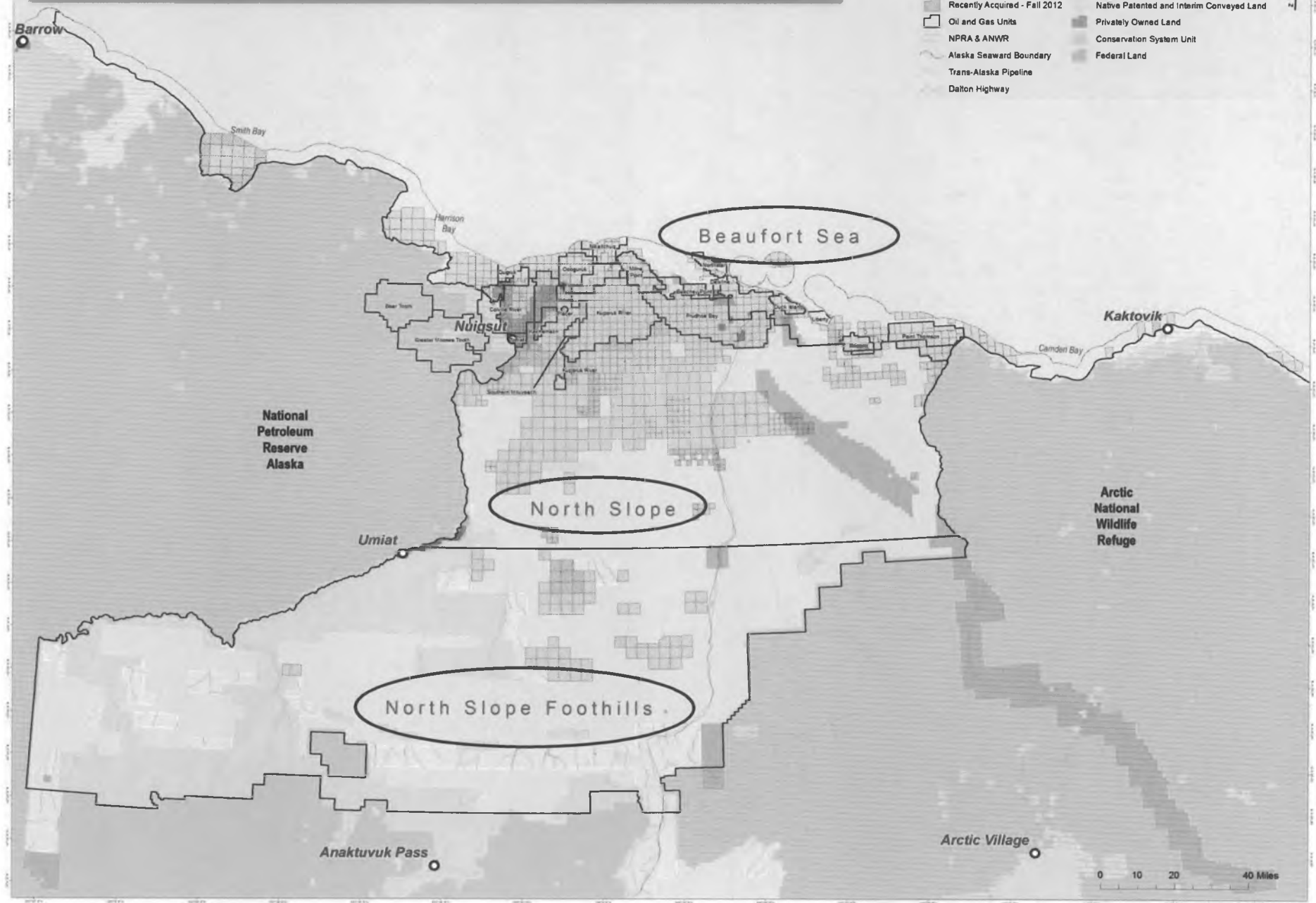
How does this benefit the public?

- It allows the public to comprehensively evaluate oil and gas activities within a geographical area.
- It provides an opportunity for input at the beginning of an exploration or development phase.
- It safeguards environmental concerns through special stipulations and conditions.

How does this benefit industry?

- It allows a project to be planned within approved parameters and conditions.
- It provides certainty that plans of operations meeting those defined criteria can proceed.
- It ensures predictable project approvals for subsequent exploration or development activity.

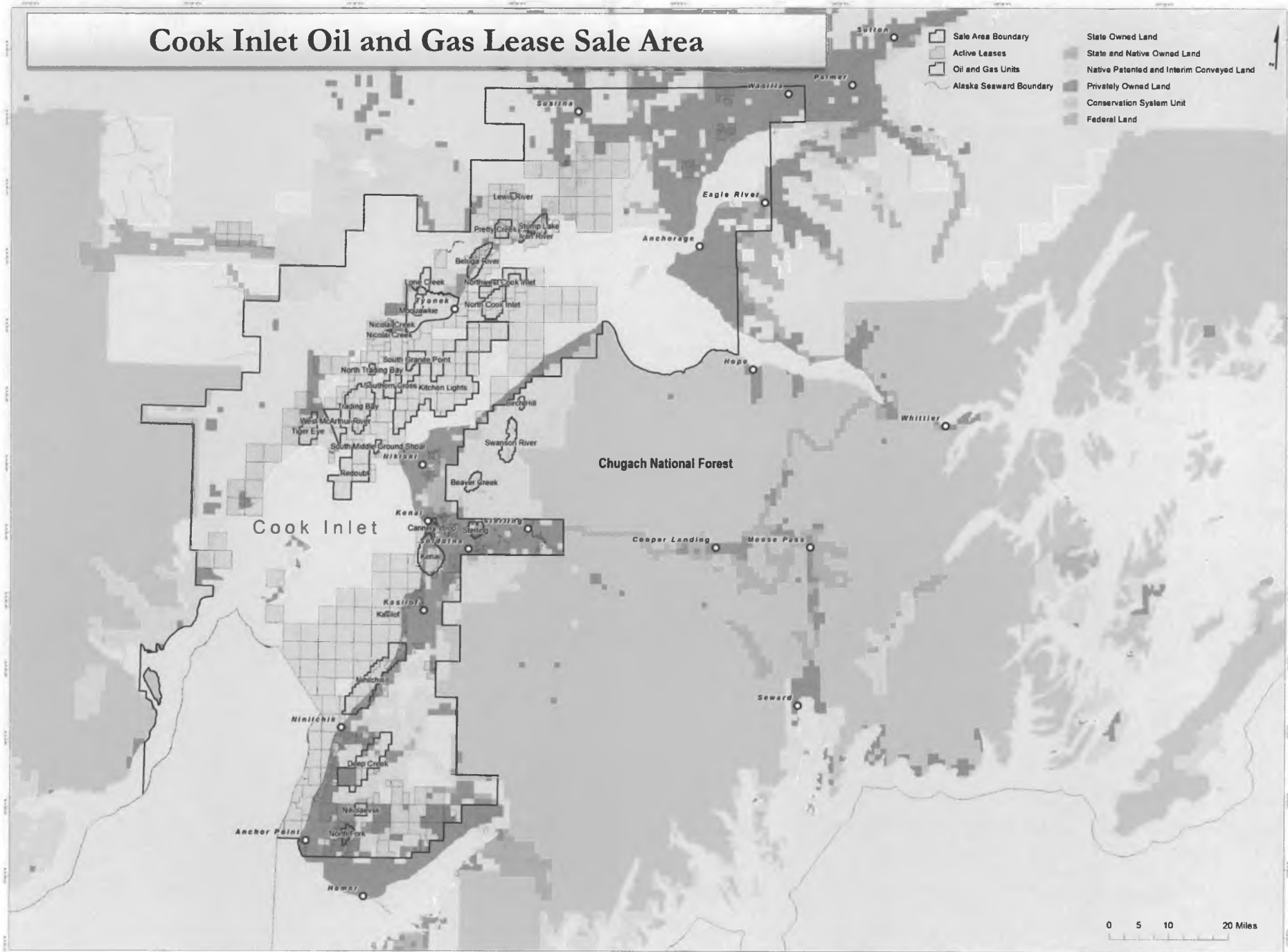
Oil and Gas Lease Sale Areas on the North Slope



- Sale Area Boundary
- Active Leases
- Recently Acquired - Fall 2012
- Oil and Gas Units
- NPRA & ANWR
- Alaska Seaward Boundary
- Trans-Alaska Pipeline
- Dalton Highway
- State Owned Land
- State and Native Owned Land
- Native Patented and Interim Conveyed Land
- Privately Owned Land
- Conservation System Unit
- Federal Land

0 10 20 40 Miles

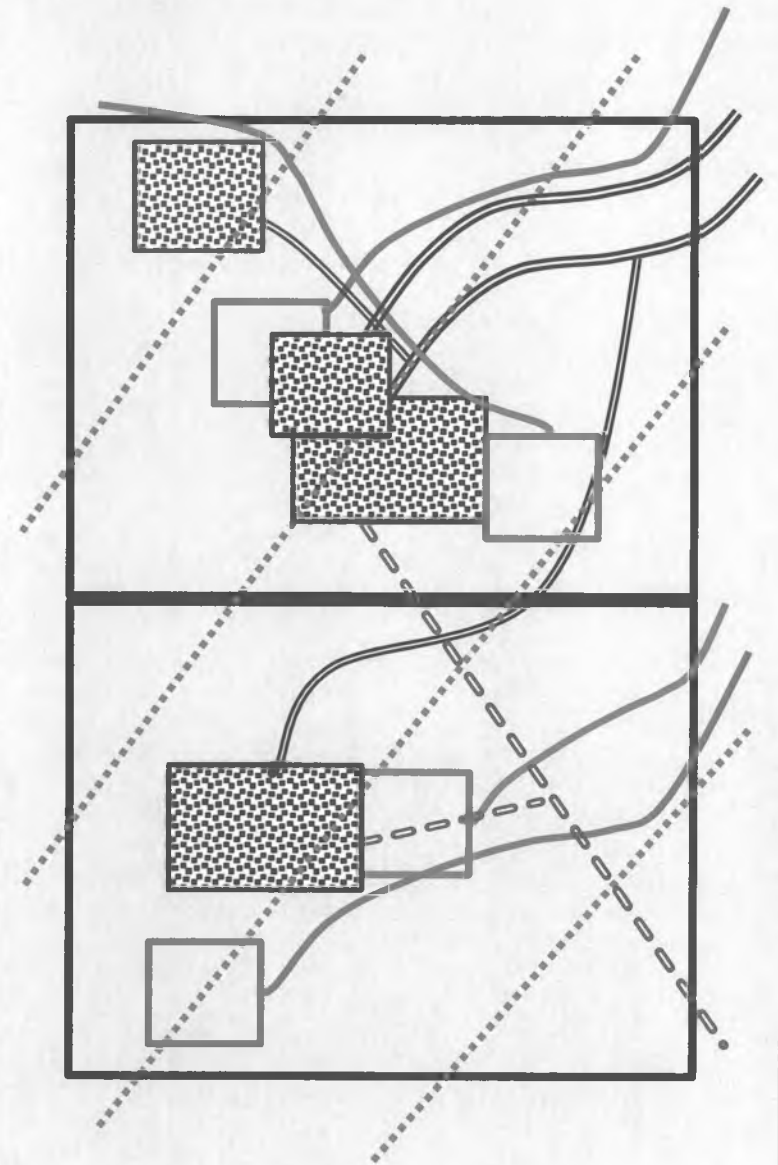
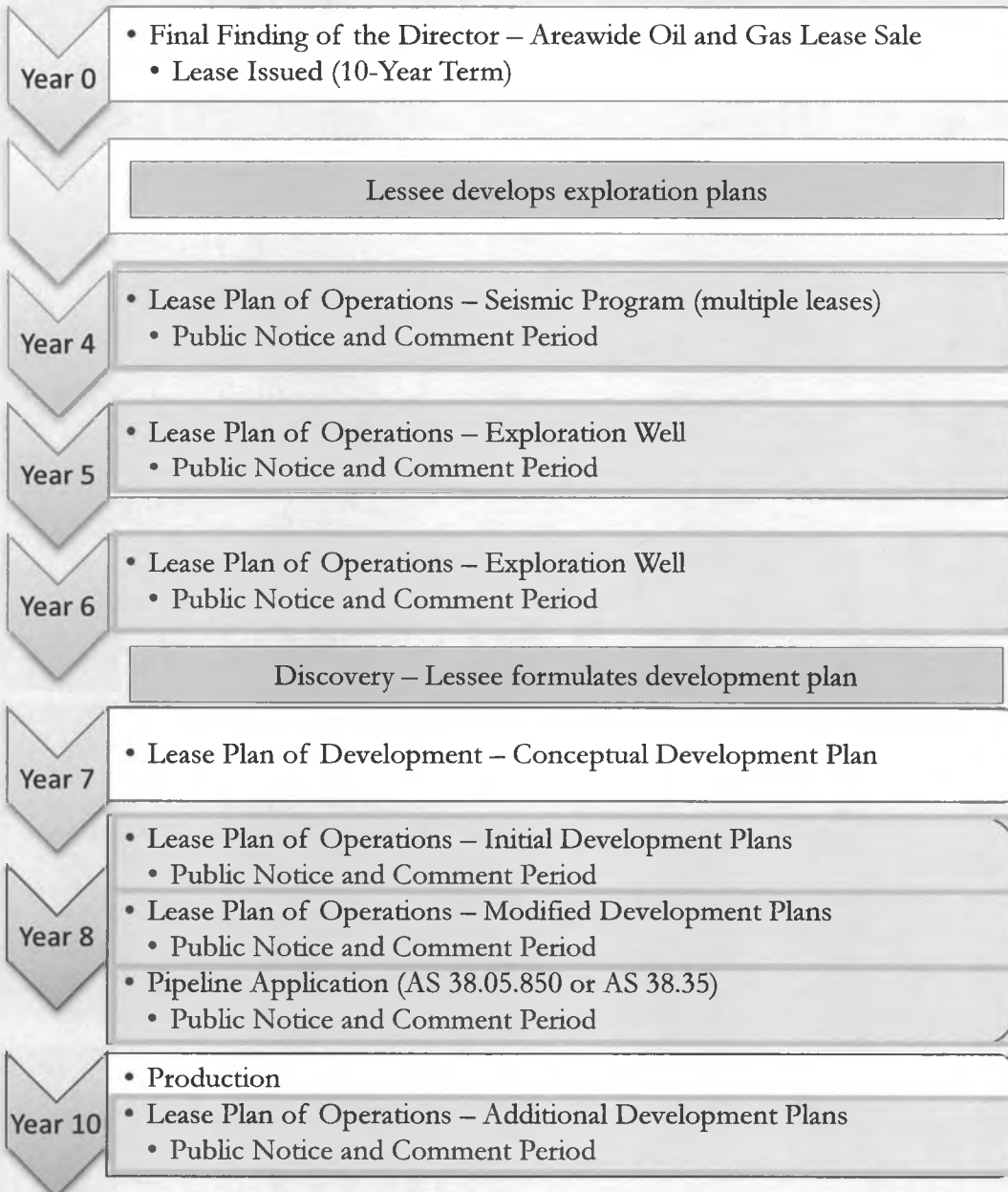
Cook Inlet Oil and Gas Lease Sale Area



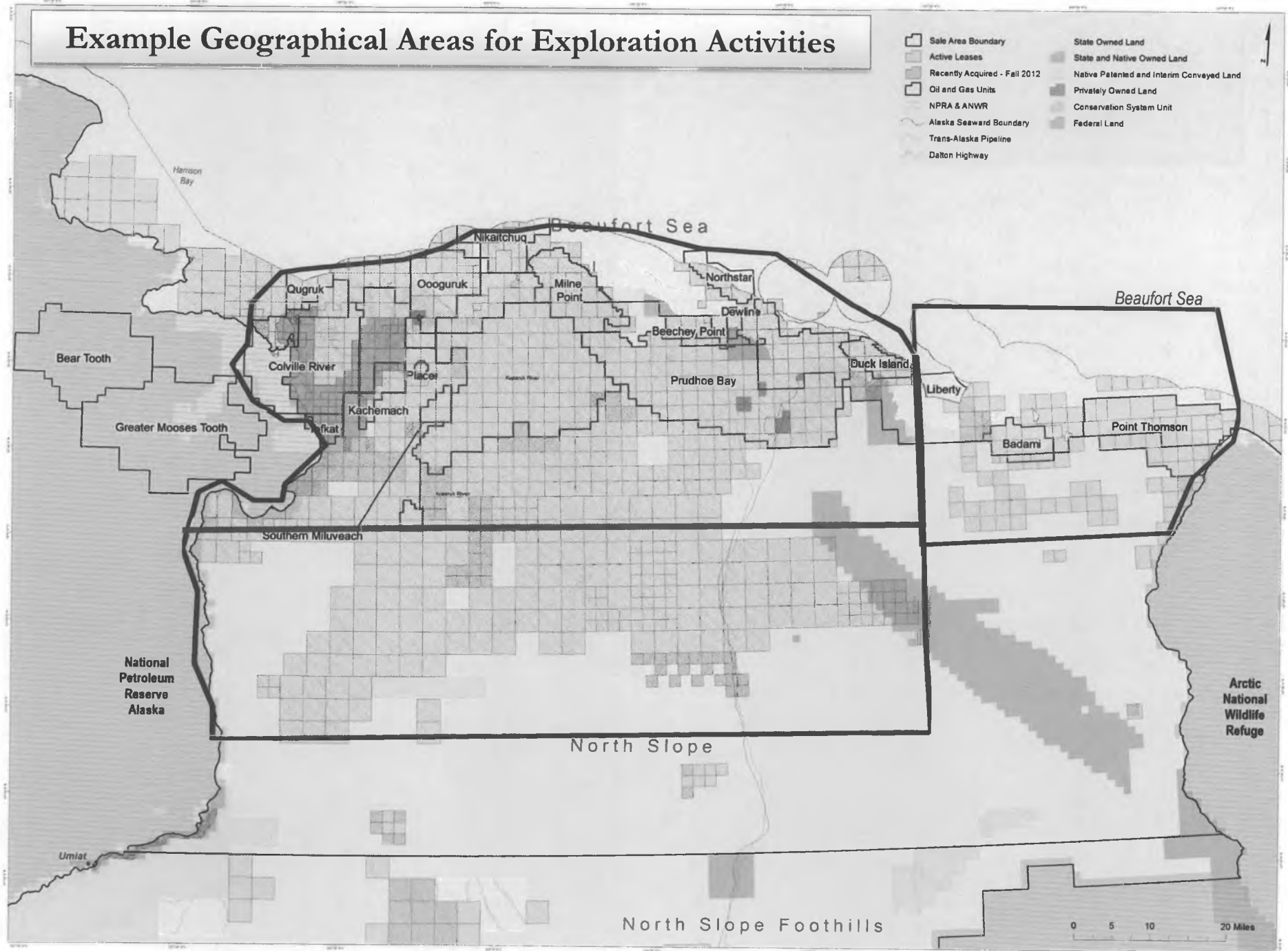
Oil and Gas Lease Sale Process

- **Proposed Areawide Oil and Gas Lease Sale**
 - Public Notice and Opportunity to Comment
 - Evaluate Statutory Criteria
 - Develop Mitigation Measures
- **Final Finding of the Director to Lease Oil and Gas**
 - **Exploration Phase**
 - Public Notice and Opportunity to Comment
 - **Development Phase**
 - Public Notice and Opportunity to Comment
 - **Transportation (Pipelines)**
 - Public Notice and Opportunity to Comment

Life of an Oil and Gas Lease

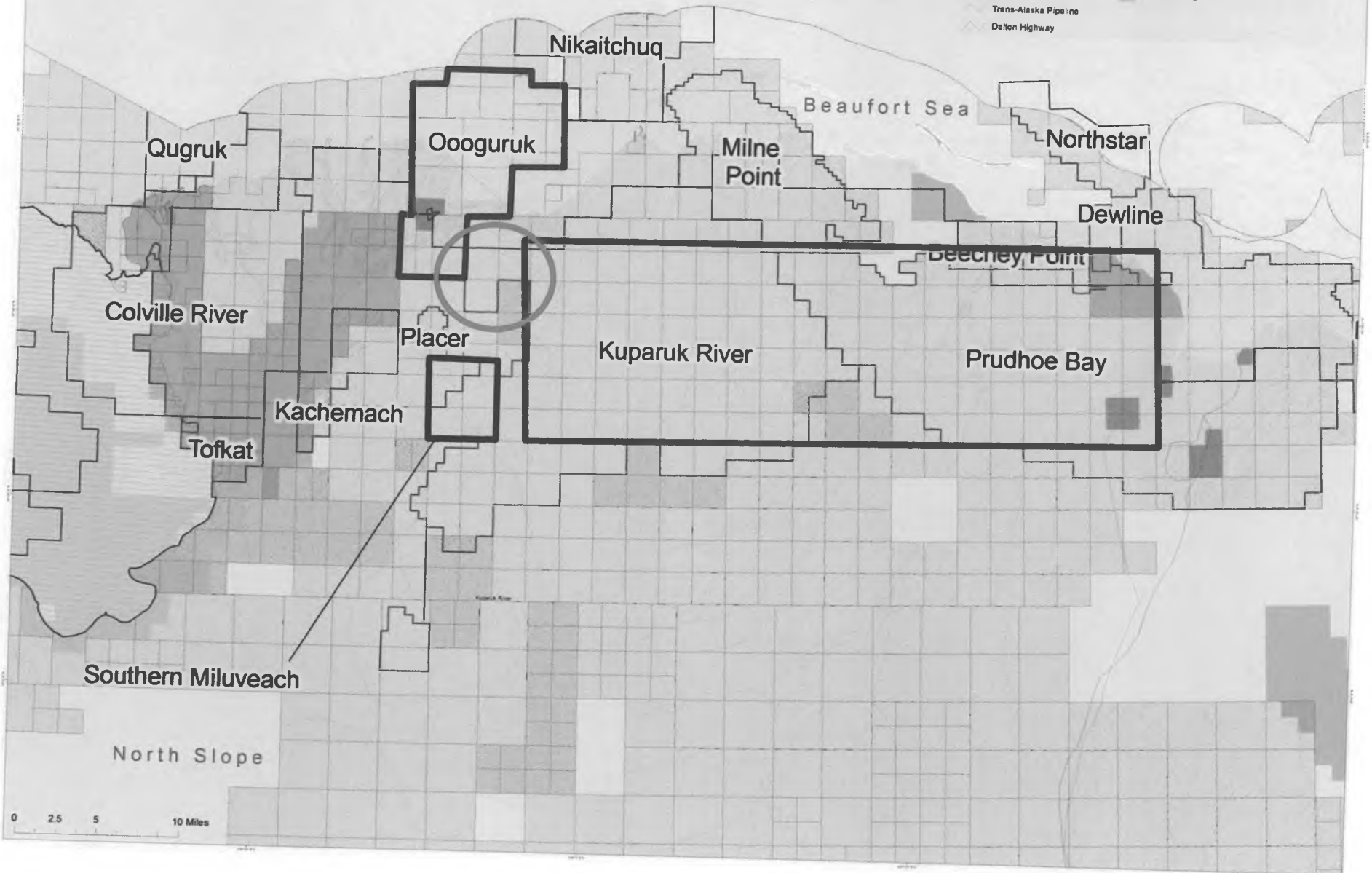


Example Geographical Areas for Exploration Activities

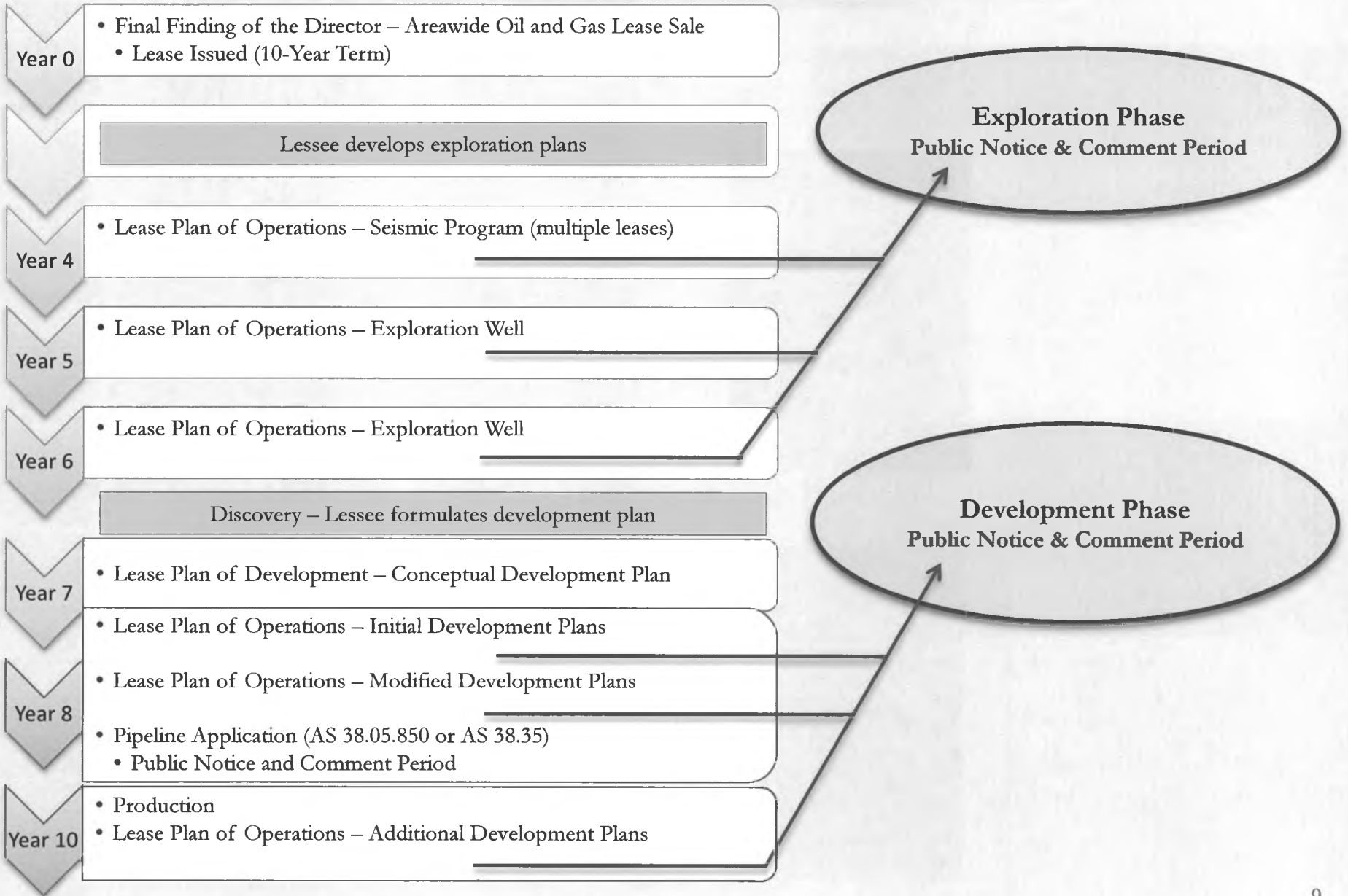


Example Geographical Areas for Development Activities

- | | |
|-------------------------------|---|
| Sale Area Boundary | State Owned Land |
| Active Leases | State and Native Owned Land |
| Recently Acquired - Fall 2012 | Native Patented and Interim Conveyed Land |
| Oil and Gas Units | Privately Owned Land |
| NPRA & ANWR | Conservation System Unit |
| Alaska Seaward Boundary | Federal Land |
| Trans-Alaska Pipeline | |
| Dalton Highway | |

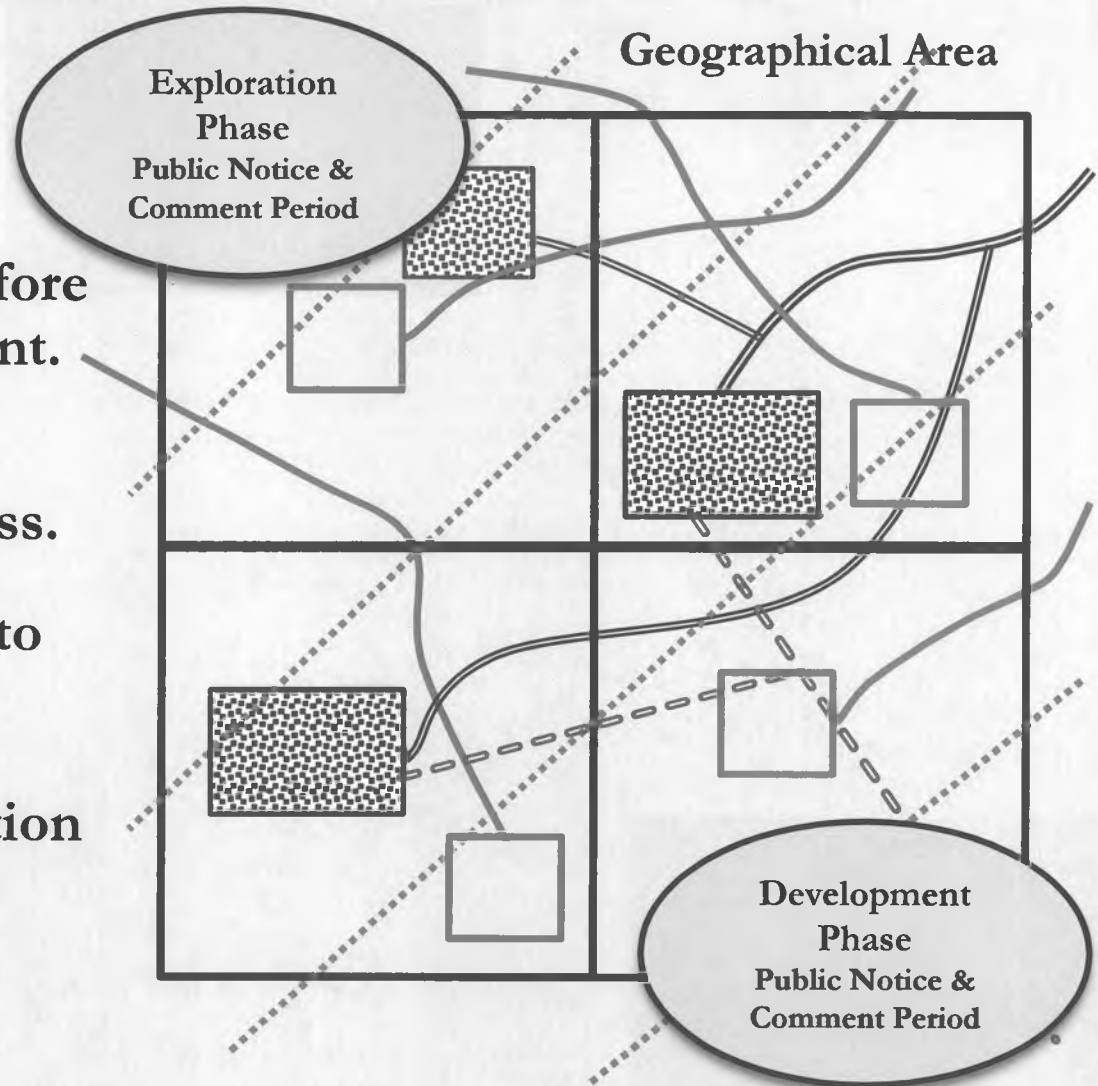


Life of an Oil and Gas Lease



Results

- SB 59 provides for a comprehensive review before exploration or development.
- SB 59 preserves public participation in the process.
- SB 59 allows stipulations to be approved before a company develops site specific plans for exploration or development activities.



Questions?

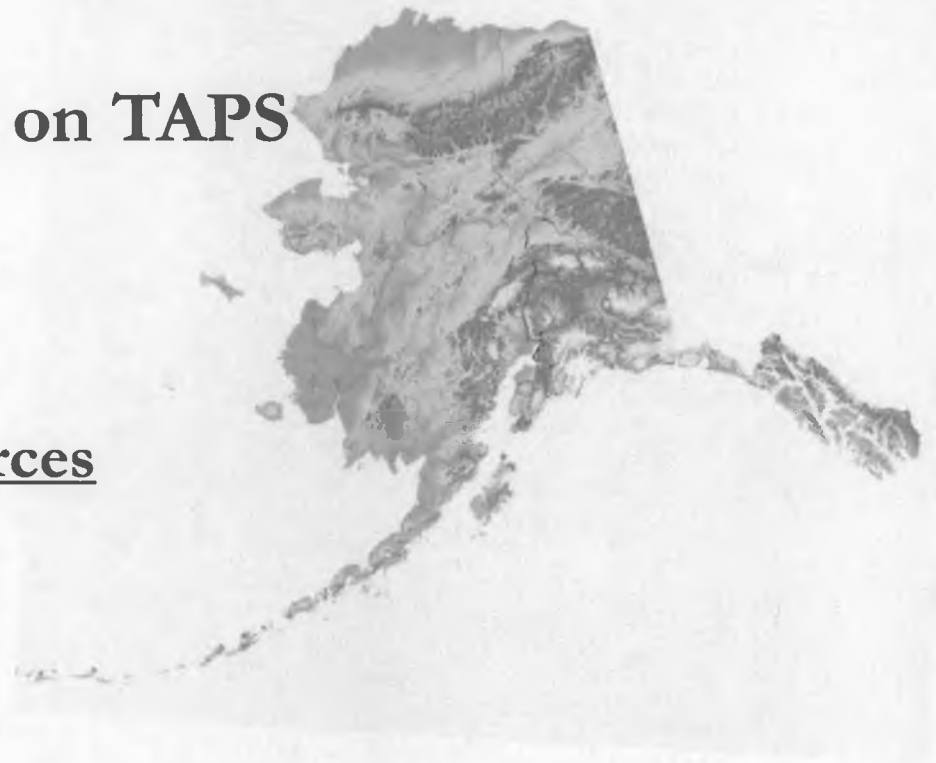
STATEWIDE PERMITTING REFORM

**Senate Special Committee on TAPS
Throughput Committee**

February 26, 2013

Department of Natural Resources

- Dan Sullivan, Commissioner



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 -

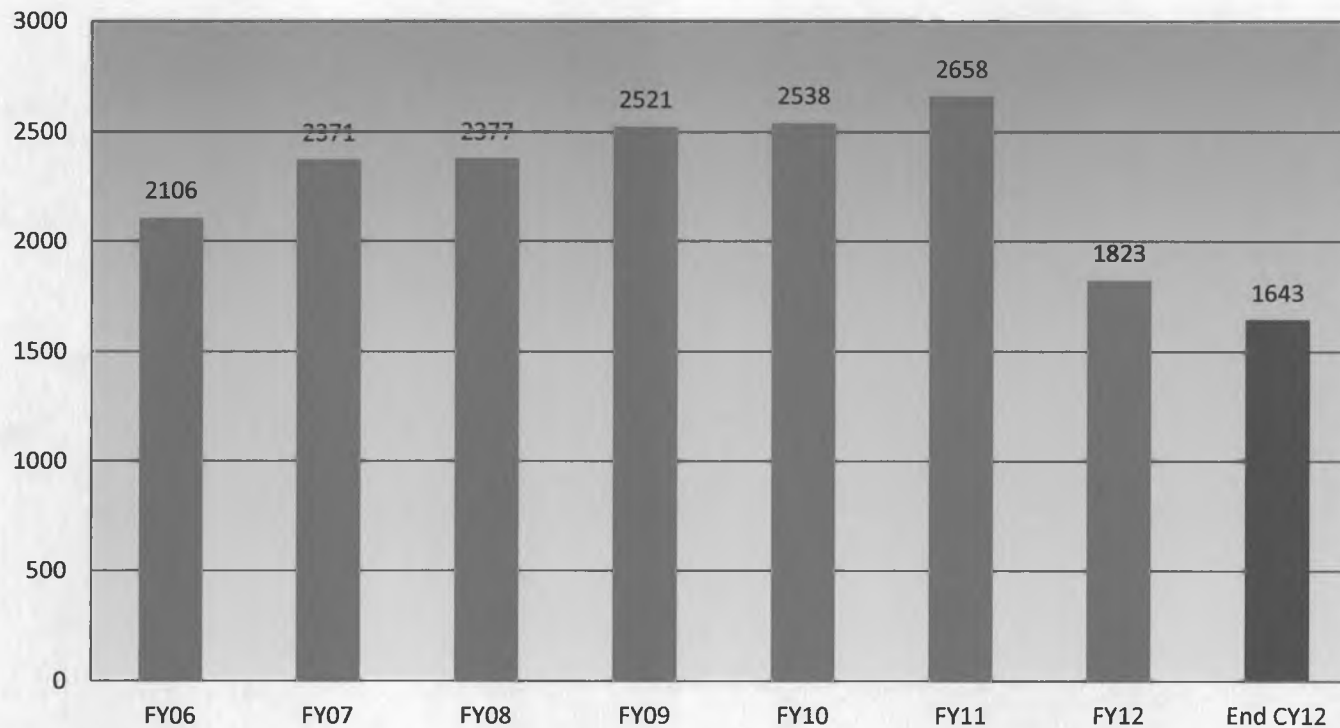
- In FY12, the Legislature provided approximately \$2.7 million in operating funds for the Division of Mining, Land & Water to create efficiency, timeliness and certainty in the permitting process
- We utilized capital funding from FY12 (\$2.5M for the Unified Permit Project and Document Management) 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 – 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

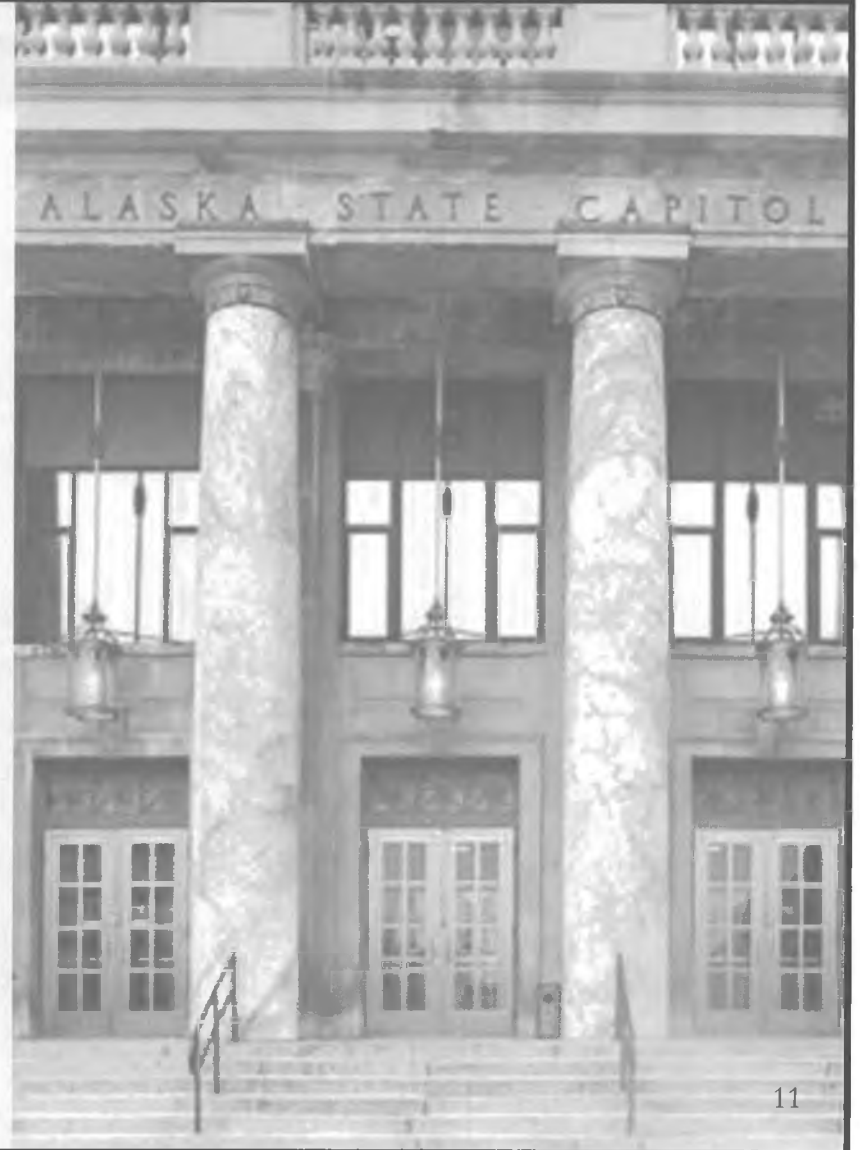


STATEWIDE PERMITTING REFORM

- 2013 LEGISLATURE -

2013 Statutory Changes – 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



STATEWIDE PERMITTING REFORM

- 2013 LEGISLATURE -

2013 Statutory Changes – SB 59

- SB 59 – Oil and Gas Exploration/Development Areas
- SB 59 will
 - Create efficiencies by streamlining oil and gas exploration and development approval processes
 - Protect the public interest by requiring public notice and the opportunity to comment during the approval process for a geographical area
 - Enable a review of the effects of exploration and development across multiple leases
 - Allow project approvals to be consolidated into a comprehensive decision
 - Provide certainty to oil and gas operators, industry and the public when projects receive approval
 - Promote the State's interests through implementing effective approval processes





Brooks Range Petroleum

March 1, 2013

Commissioner Dan Sullivan
Department of Natural Resources
550 W. 7th Ave, Suite 1260
Anchorage, AK 99501-3557

Dear Commissioner Sullivan:

Brooks Range Petroleum Company (BRPC) is a strong supporter of the Parnell Administration's efforts to streamline and improve the permitting process while maintaining high environmental standards. Permitting reform is, after all, critical to turn around the TAPS throughput decline. Indeed, a permitting process with unnecessary layers that do nothing to safeguard the environment only undermines the ability of companies to move projects forward in a timely and cost effective manner.

BRPC believes SB 59 provides a substantial improvement to the DNR permitting process. The current permitting process around Plans of Operation, Exploration, and Development is inefficient and cumbersome. SB 59 will remedy these shortcomings because it will consolidate the Department of Natural Resources' exploration and development approvals and streamline its approval process, while still protecting the environment and providing for public participation. SB 59's changes will reduce the permitting process by months, which is especially critical because exploration companies only have a few short months to operate during the North Slope exploration season.

Thank you again for your leadership on this issue and your efforts to make Alaska more competitive.

Sincerely,

Barton J. Armfield
Chief Operating Officer
Brooks Range Petroleum Corporation

Cc: Joe Balash

SB 59 – Public Testimony – Lisa Weissler
March 1, 2013

Dear Senate TTP Committee Members:

SB 59 undercuts a legal commitment made to Alaskans through legislation passed in 2001 – that they would have the opportunity to review and comment on oil and gas exploration and development project activities in or near their communities before exploration or development could proceed.

The 2001 legislation was passed in response to an Alaska Supreme Court decision that required the Department of Natural Resources (DNR) to prepare a comprehensive best interest finding for each phase of a project. For oil and gas projects, the phases are lease sale disposal, exploration, development and transportation. The legislation amended AS 38.05.035(e) with the stated intent of making it clear that no best interest finding is required after the lease disposal phase but that “public notice and the opportunity to comment shall be provided at each phase of the project.”¹

Under AS 38.05.035(e)(1)(C), a best interest finding may be limited in scope to those facts and issues that pertain solely to the disposal phase of a project. This is known as a “phased review.” At the lease sale disposal phase in a phased review, the potential future effects of oil and gas project activities are discussed in general terms and for the entire disposal area. Project specific effects are addressed later when details of an activity and its location are known.

DNR may do a phased review for an oil and gas disposal when “before the next phase of the project may proceed, public notice and the opportunity to comment are provided under regulations adopted by the department...”²

The best interest findings issued for DNR’s five areawide oil and gas lease sale disposals are done as phased reviews. As stated in a 2011 areawide lease sale best interest finding, “In the case of oil and gas, DO&G cannot determine with any specificity or definition at the lease sale phase if, when, where, how, or what kind of exploration, development or production might ultimately occur as the result of a lease sale.”³

The finding explains that the public notice and comment condition for a phased review of the oil and gas disposal is met because “before the next phase of the project may proceed, ADNR provides public notice and the opportunity to comment on proposed plans of operations in the lease sale area.” [Emphasis added]. The finding further states, “The effects of future exploration, development, and production will be considered at each subsequent phase, when various government agencies and the public review applications for specific proposed activities at specific locations.”

¹ Section 1, Legislative Purpose, CSSB 156(RES) 2001

² AS 38.05.035(e)(1)(C)(ii)

³ North Slope Foothills Areawide Sale Best Interest Finding – excerpt attached.

SB 59 – Public Testimony – Lisa Weissler
March 1, 2013

Under SB 59, Alaskans will no longer have the opportunity to comment on proposed plans of operation for specific project activities that may occur in or near their community. They will be required to comment on oil and gas exploration and development without knowing the “when, where, how, or what kind of exploration, development or production might ultimately occur” in a potentially vast sale area – from 2 million acres in the Beaufort Sea region to 7.6 million acres in the North Slope Foothills.⁴

In addition, SB 59 provides that a general exploration or development approval is good for ten years and an approved lease activity that is initiated during that ten years is authorized for the entire lease term, a term that could extend for decades. Decades without an official means for Alaskans to convey to state regulators the site specific concerns they may have with an oil and gas exploration or development project that affects their community.

People may still be able to comment on site-specific permits issued for an oil and gas activity. However, such permits address only a particular part of a project and are more limited in scope than a plan of operations that provides comprehensive details on the entire project and its effects. It should also be noted that other legislation is being proposed that will limit public involvement for site-specific permits. SB 26/HB 77 authorizes the commissioner to issue general permits for a broad range of activities that may include oil and gas exploration and development project activities. Like the general approvals proposed in SB 59, a general permit has broad application and limits the opportunity for people to comment on concerns specific to their community. They may not even have notice that an activity is about to occur.

For example, in September 2012, Homer residents were surprised to learn about a company’s plans to drill in the midst of their community because the leases had been issued ten years ago. Fortunately, the people of Homer will still have opportunities to provide input about their local concerns as the company applies for various state authorizations, including plans of operation.

Now imagine how surprised, and upset, people will be when drilling rigs show up in their neighborhood and learn that their opportunity to comment on the activity is long gone, that the only time for public involvement was back when a general exploration or development approval was issued, potentially a decade earlier. This is what will happen if SB 59 is enacted – with even more consequences if the administration’s other permitting bill, SB 26/HB 77, passes.

There is a reason for public notice. It is to let people know that there will be activity in their area. There is a reason for public comment. It is so state regulators can learn about issues of concern to an affected community that may be located far from where the regulator is based, and so those concerns are addressed through the authorization process. With Alaska’s vast size, DNR should welcome local involvement, rather than trying to limit public participation in project reviews.

⁴ The other three areawide lease sale areas are: Alaska Peninsula, 5.8 million acres; Cook Inlet, 4.2 million acres; North Slope, 5.1 million acres.

SB 59 – Public Testimony – Lisa Weissler
March 1, 2013

On March 26, 2013, in a Senate TTP committee hearing on SB 59, DNR described industry applicants as “customers.” But Alaska is not a business that serves industry. Alaska is a sovereign state whose government has a duty to regulate industry and represent the public interest. While there may be a need to simplify the permitting process, it should not be done at the expense of public involvement in state government decision-making. Alaskans are the state’s true customers and should be treated as such. Honor the commitment made to Alaskans in 2001. Please say “no” to SB 59.

Thank you for your consideration.

Sincerely,

Lisa Weissler
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Juneau, AK 99801
907-723-5902
lisaweissler@gmail.com
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ATTACHMENT

ATTACHMENT

Excerpt: North Slope Foothills Areawide Final Best Interest Finding, 2011 – pages 2-3 to 2-5:

D. Phased Review

Phased review recognizes that some disposals of oil and gas, or of gas only, may result in future development that cannot be predicted or planned with any certainty or specificity at the initial lease sale phase, and that any future development will be subject to detailed review before it takes place. In the case of oil and gas, DO&G cannot determine with any specificity or definition at the lease sale phase if, when, where, how, or what kind of exploration, development or production might ultimately occur as the result of a lease sale. Although advances in technology, unpredictable market changes, and specific infrastructure requirements for possible production cannot be foreseen, new developments or improvements in any or all of these areas may occur.

Phasing allows the review and finding for a lease sale to focus only on the issues pertaining to the lease sale phase and reasonably foreseeable, significant effects of a lease sale. Additional authorizations are required for exploration, development, production, and other phases. When a project is multi-phased, review of issues that would require speculation about future factors may be deferred until permit authorization is sought at the exploration, development, and production phases. A discussion of governmental and public involvement at these later phases can be found in Chapter Seven.

Under AS 38.05.035(e)(1)(C), the Director may, if the project for which the proposed disposal is sought is a multiphased development, limit the scope of an administrative review and finding for the proposed disposal to the applicable statutes and regulations, facts, and issues identified above that pertain solely to the disposal phase of the project when:

- (i) the only uses to be authorized by the disposal are part of that phase;
- (ii) the disposal is a disposal of oil and gas, or of gas only, and, before the next phase of the project may proceed, public notice and the opportunity to comment are provided** unless the project is subject to a consistency review under AS 46.40 and public notice and the opportunity to comment are provided under AS 46.40.096(c);
- (iii) the department's approval is required before the next phase may proceed; and,
- (iv) the department describes its reasons for a decision to phase. [Emphasis added]

The conditions under which phasing may occur have been met in this best interest finding for the North Slope Foothills areawide oil and gas lease sales. Accordingly, the review of activities in the lease sale area is of a multi-phased development. The Director, in making this finding, has limited the scope of the finding to the applicable statutes and regulations, facts, and issues that pertain solely to the lease sale phase of oil and gas activities and the reasonably foreseeable significant effects of a lease sale.

Condition (i) is met because the only uses authorized are part of the lease sale phase. The lease gives the lessee, subject to the provisions of the lease, the right to conduct geological and geophysical exploration for oil, gas, and associated substances within the leased area and the right to drill for, extract, remove, clean, process, and dispose of any oil, gas, or associated substances that may underlie the lands described by the lease. While the lease gives the lessee the right to conduct these activities, the lease itself does not authorize any exploration or development activities by the lessee on leased tracts.

Condition (ii) is met because the lease sale is of oil and gas or gas only, **and before the next phase of the project may proceed, ADNR provides public notice and the opportunity to comment on proposed plans of operations in the lease sale area.** Additionally, any plan of operations in the lease sale area that is within the coastal zone is subject to consistency with the ACMP standards, including public notice and opportunity to comment under AS 46.40. [Emphasis added]

Condition (iii) is met because ADNR's approval is required before the next phase (in this case exploration) may proceed. See Chapter Six for a discussion of post-leasing phases. Before exploration activities can occur on leased lands, the lessee must secure all applicable authorizations. Additional authorizations must also be secured for any subsequent development or production on the lease.

The plans of operation must identify the specific measures, design criteria, construction methods, and standards that will be employed to meet the provisions of the lease. A plan of operations is subject to extensive technical review by a number of local, state, and federal agencies. Oil and gas exploration, development, or production-related activities will be permitted only if proposed operations comply with all local, state, and federal laws and the provisions of the lease.

Condition (iv) is met because ADNR describes above the reasons for its decision to phase. **The effects of future exploration, development, and production will be considered at each subsequent phase, when various government agencies and the public review applications for specific proposed activities at specific locations.** However, this finding does discuss, in general terms, the potential effects that may occur with oil and gas exploration, development, production, and transportation within the lease area as well as proposed measures to be imposed as terms of the lease, subsequent permits, and plan of operations to mitigate possible adverse effects. [Emphasis added]



4 March 13

ELECTRONIC TRANSMISSION

Commissioner Daniel Sullivan
Alaska Department of Natural Resources
550 West 7th Avenue; Suite 1400
Anchorage, AK 99501-3554

Dear Commissioner Sullivan:

Linc Energy Operations, Inc. (Linc) is actively working to progress its oil and gas development projects in the Cook Inlet and on the North Slope. For this reason, Linc supports the Parnell Administration's efforts to improve the permitting process while at the same time, maintaining the state's high environmental standards. A more efficient permitting process will play a critical role in lowering costs, attracting investment and, ultimately, increasing oil and gas production in the Cook Inlet and on the North Slope.

Currently, projects are often delayed while waiting to receive authorizations from DNR on their Plans of Operations, Exploration or Development. Linc was pleased to see that the Parnell Administration introduced SB 59, which will improve the DNR permitting process by consolidating DNR's exploration and development approvals. Our assessment of the bill is that SB 59's changes will likely reduce the permitting process timeline by months; and, over the life of a project, this could help move projects more quickly from exploration and into development and production. In the end, this type of efficient and well organized approach benefits all Alaskans, as more production will be brought on line without reducing environmental standards or saddling projects with unnecessary and costly delays.

Linc appreciates your willingness to identify ways to improve the permitting process and believes SB 59's changes could have a material impact on Linc's ability to timely develop its Alaska assets.

Sincerely,

A handwritten signature in cursive script that reads "Corri A. Feige".

Corri A. Feige
General Manager – Alaska

Cc:/ Deputy Commissioner Joe Balash, ADNRC

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