

SB

59

<TARGET><BILL>SB 59</BILL><SUBJECT>SB
59</SUBJECT><COMM>SRES28</COMM></TARGET>

SENATE COMMITTEE REPORT

DATE: 3/6/13

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 3/22/13

Resources Committee 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:


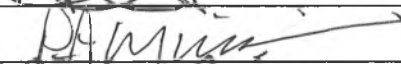
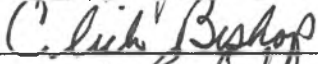
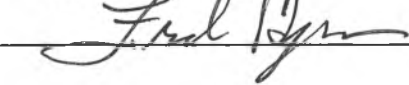
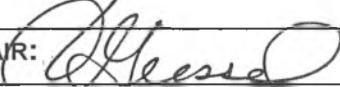
- be replaced with CS _____ (_____) Same Title New Title
- adopt previous CS _____ (_____) Same Title New Title
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

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 #

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

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	NO REC	AMEND
	French			✓	
	MICCICHE	✓			
	Bishop	✓			
	Dyson	✓			
CHAIR: 	Giessel	✓			



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

March 5, 2013

The Honorable Cathy Giessel, Chair
Senate Resources Committee
State Capitol Room 427
Juneau, AK 99801

Dear Senator Giessel:

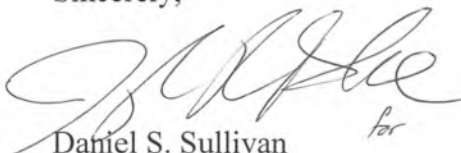
The Department of Natural Resources respectfully requests a hearing in the ^{Senate} House Resources Committee on SB 59, "An Act relating to approval for oil and gas or gas only exploration and development in a geographical area; and providing for an effective date."

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 its business more efficiently and should enable the public to be better served by incorporating their participation earlier in the process for approving oil and gas exploration and development.

A copy of Governor Parnell's transmittal letter, the bill, a briefing paper, sectional analysis, and fiscal note 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

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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 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

SB59: OIL & GAS EXPLORATION/DEVELOPMENT AREAS

BRIEFING PAPER

FOR THE SENATE RESOURCE COMMITTEE • MARCH 5, 2013

SB59 will consolidate the Department of Natural Resources' exploration and development approvals, 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.

SB59 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, saving time and resources for both the state and lessee when approving subsequent plans of operations.

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 the 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 exploration or development approvals to be consolidated into a comprehensive decision at the beginning of the process; and,
- Provide certainty to oil and gas operators, industry and the public when approval is granted.

SB 59: OIL AND GAS EXPLORATION/DEVELOPMENT AREAS

SECTIONAL ANALYSIS

FOR THE SENATE RESOURCES COMMITTEE • MARCH 5, 2013

Section 1 of SB59 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 after it receives other authorizations as required by state or federal law. After exploration or development has begun on a lease, the approval for exploration or development under this subsection remains valid for the term of the lease.

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 SB59 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					
			FY14	FY15	FY16	FY17	FY18	FY19
OPERATING EXPENDITURES								
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	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	0.0

POSITIONS

Full-time							
Part-time							
Temporary	1						

CHANGE IN REVENUES

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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.



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Natural Resources

Division of Oil & Gas
Anchorage Office

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Anchorage, Alaska 99501-3560
Main: 907.269.8800
Fax: 907.269.8939

March 19, 2013

The Honorable Cathy Giessel, Chair
Chair, Senate Resources Committee
State Capitol Room 427
Juneau, AK 99801

Dear Senator Giessel:

I wanted to thank you for inviting Wendy Woolf and me to testify before the Senate Resources Committee on March 15, 2013 on SB-59, Oil and Gas Exploration/Development Areas. This correspondence allows me to reiterate a few of the points from the testimony and answer specific questions raised during the committee meeting.

The Division manages its oil and gas leasing program through areawide lease sales conducted each year. The decision to lease is made in a "Best Interest Finding" issued after an extensive public process and evaluation of criteria under AS 38.05.035(g).

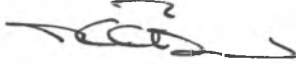
SB-59 will simply allow "geographical areas" to be reviewed holistically through a public process prior to an exploration or development phase as required by AS 38.05.035(e)(1)(C)(ii).

Reviewing exploration or development activities across geographical areas is a discretionary tool that will add efficiency to the process for approving subsequent plans of operations. The process outlined in this bill is optional, not mandatory, pursuant to the bill language. Further, the process outlined in the bill does not change the existing regulatory obligation for the Division to approve lease or unit specific operations for individual projects. After an area has been approved for exploration or development, it provides certainty to the public and industry that future activities will be conducted within those approved parameters.

The bill language contemplates that an area of approval (or "geographical area" as referenced in the bill title) could include all or part of an area previously approved for oil and gas or gas only leasing under (e) of this subsection. The reason that geographical areas are not further defined in this bill is to maintain flexibility as circumstances change. Whether to assess exploration for an area as broad as an areawide sale area or a narrower subset of that area will largely depend on degree of existing development in the area. Because levels of development will change over time, it is important to maintain flexibility to adjust geographical areas for considering exploration. For development, we have stated that the geographical area will likely be much smaller, such as a unit. But to limit the development areas to units would limit our ability to consider joint development across multiple leases that have not unitized. If SB-59 passes, we anticipate adopting regulations to implement this statute. The public would have input into this process.

I want to thank the Committee members for their time and questions. If you require more information, I and my Division are happy to provide it. Again, thank you for the opportunity, and I look forward to future discussions.

Sincerely,



W. C. Barron
Director

Cc: Daniel Sullivan, Commissioner Department of Natural Resources
Joseph Balash, Deputy Commissioner, Department of Natural Resources
Senator Fred Dyson
Senator Peter Micciche
Senator Click Bishop
Senator Lesil McGuire
Senator Anna Fairclough
Senator Hollis French

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

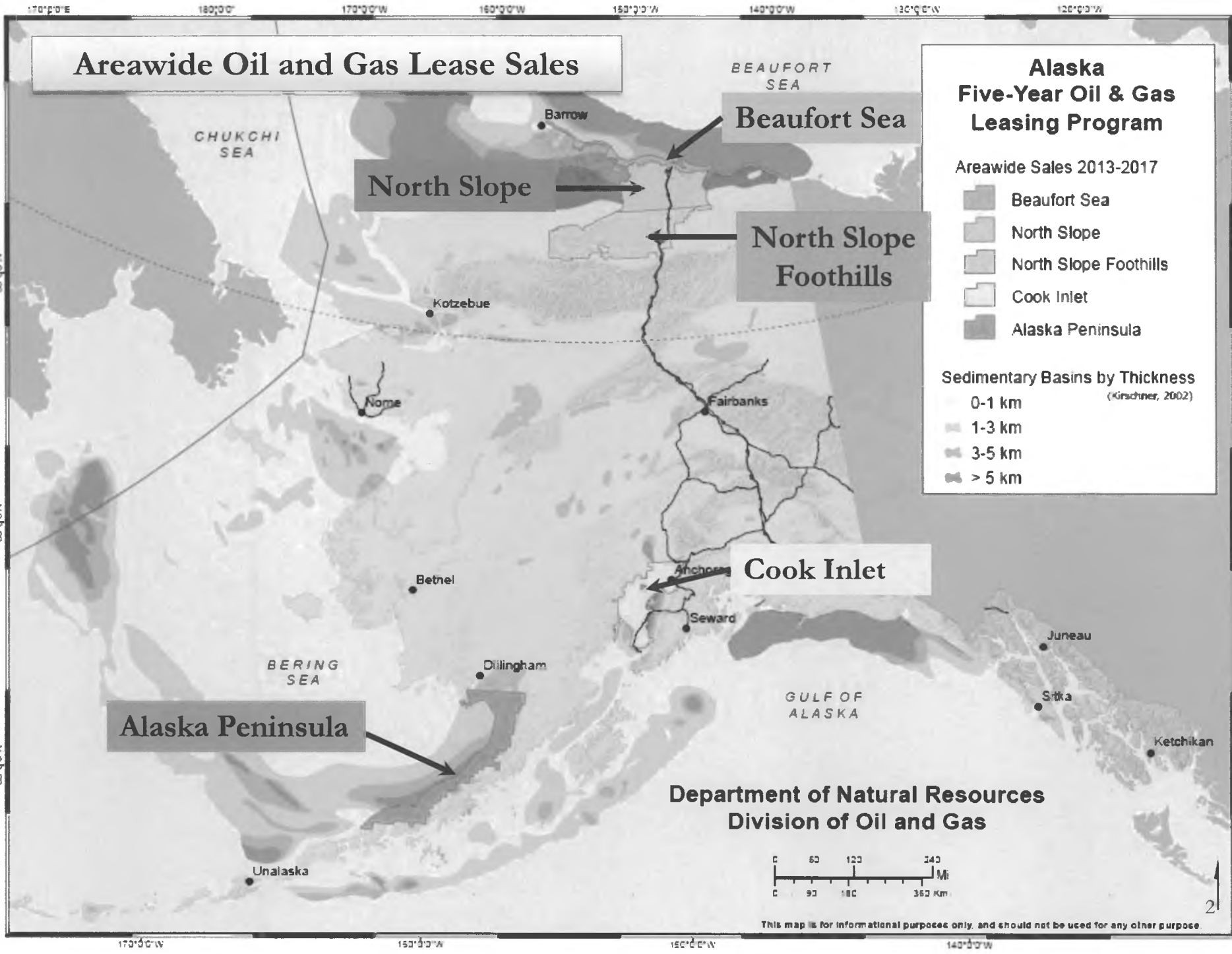
Senate Resources

March 15, 2013

Department of Natural Resources

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





Areawide Oil and Gas Lease Sales

Alaska Five-Year Oil & Gas Leasing Program

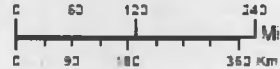
Areawide Sales 2013-2017

- Beaufort Sea
- North Slope
- North Slope Foothills
- Cook Inlet
- Alaska Peninsula

Sedimentary Basins by Thickness
(Kirschner, 2002)

- 0-1 km
- 1-3 km
- 3-5 km
- > 5 km

**Department of Natural Resources
Division of Oil and Gas**



This map is for informational purposes only, and should not be used for any other purpose.

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.

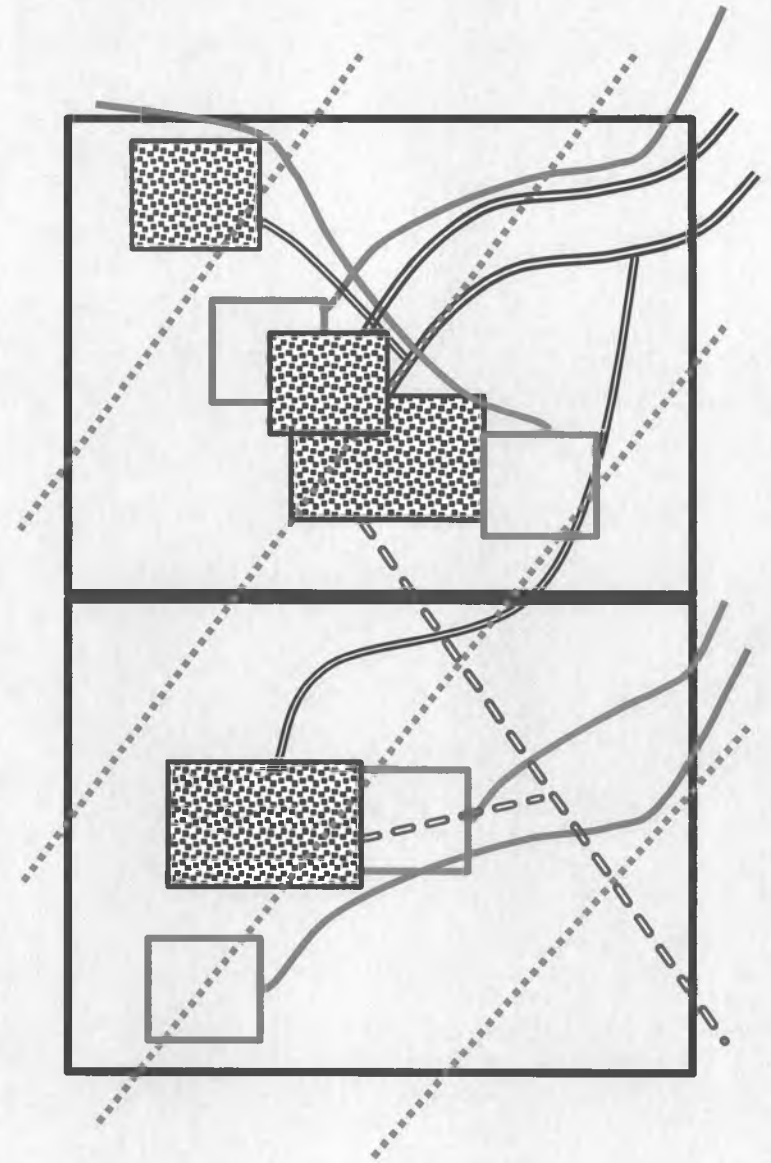
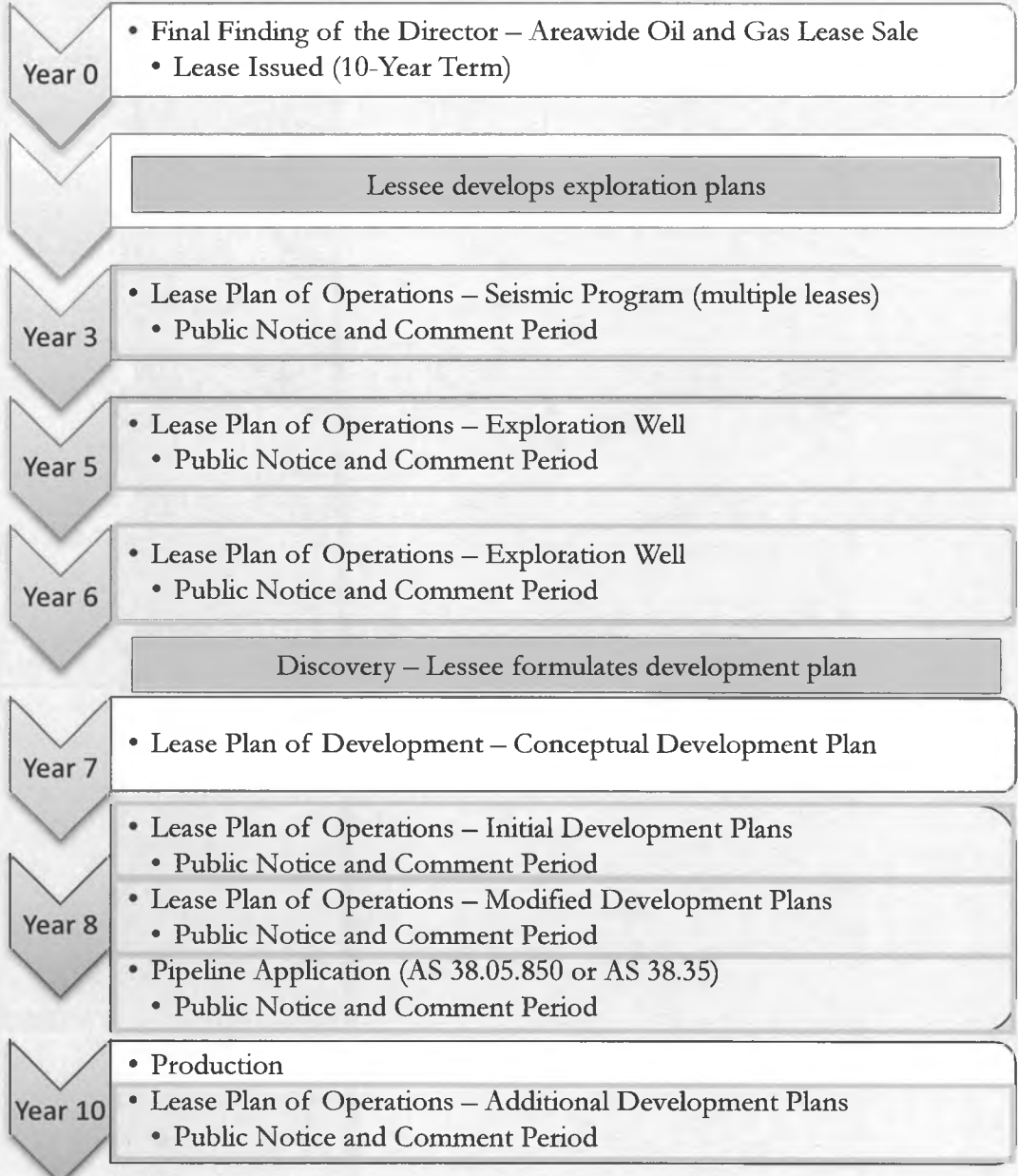
How does this benefit industry?

- 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 Process

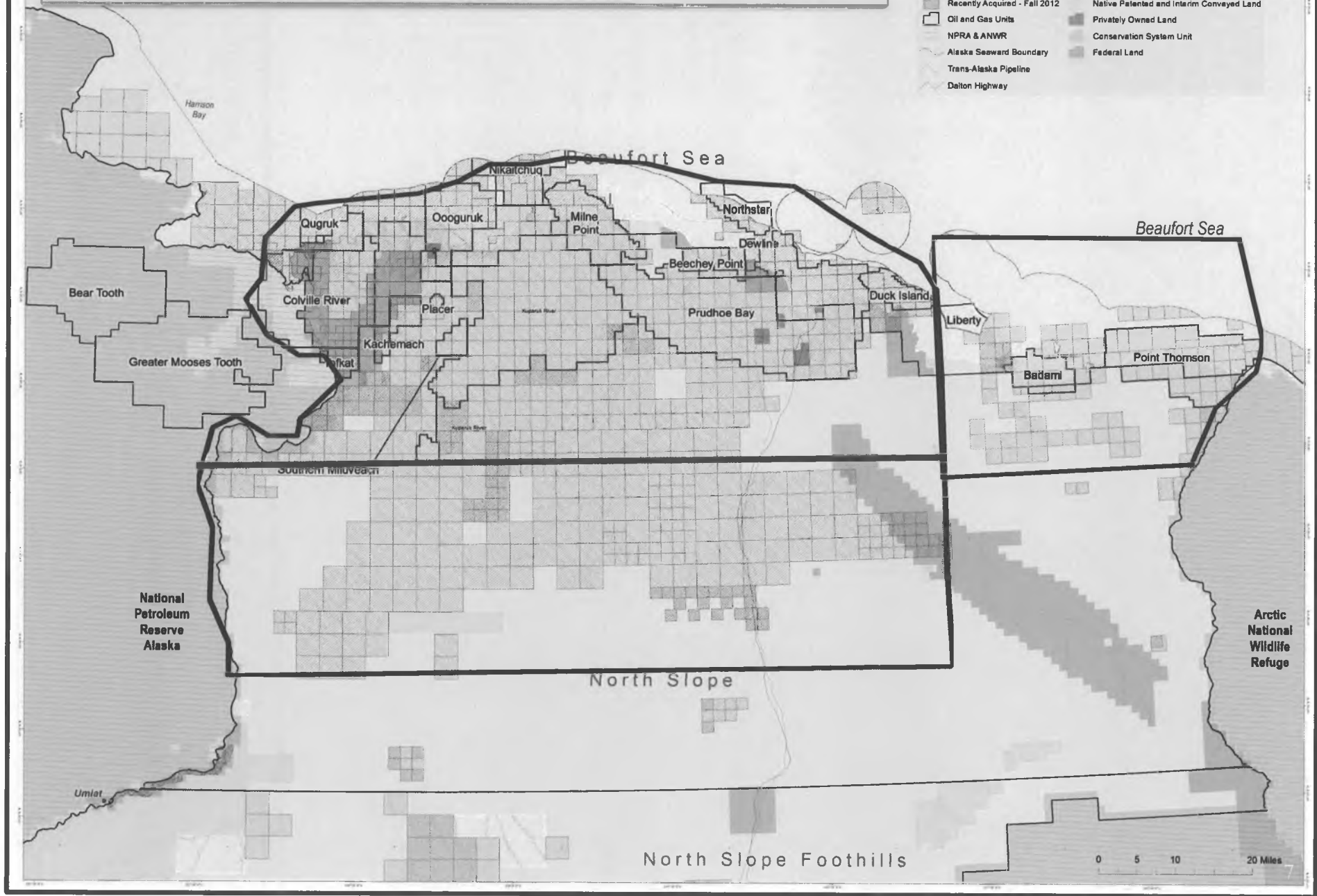
- **Proposed Areawide Oil and Gas Lease Sale**
 - Public Notice and Opportunity to Comment
 - Evaluate Statutory Criteria
 - Develop Mitigation Measures
- **Final Finding of the Director to Lease Oil and Gas**
 - **Exploration Phase**
 - Public Notice and Opportunity to Comment
 - **Development Phase**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

Life of an Oil and Gas Lease

















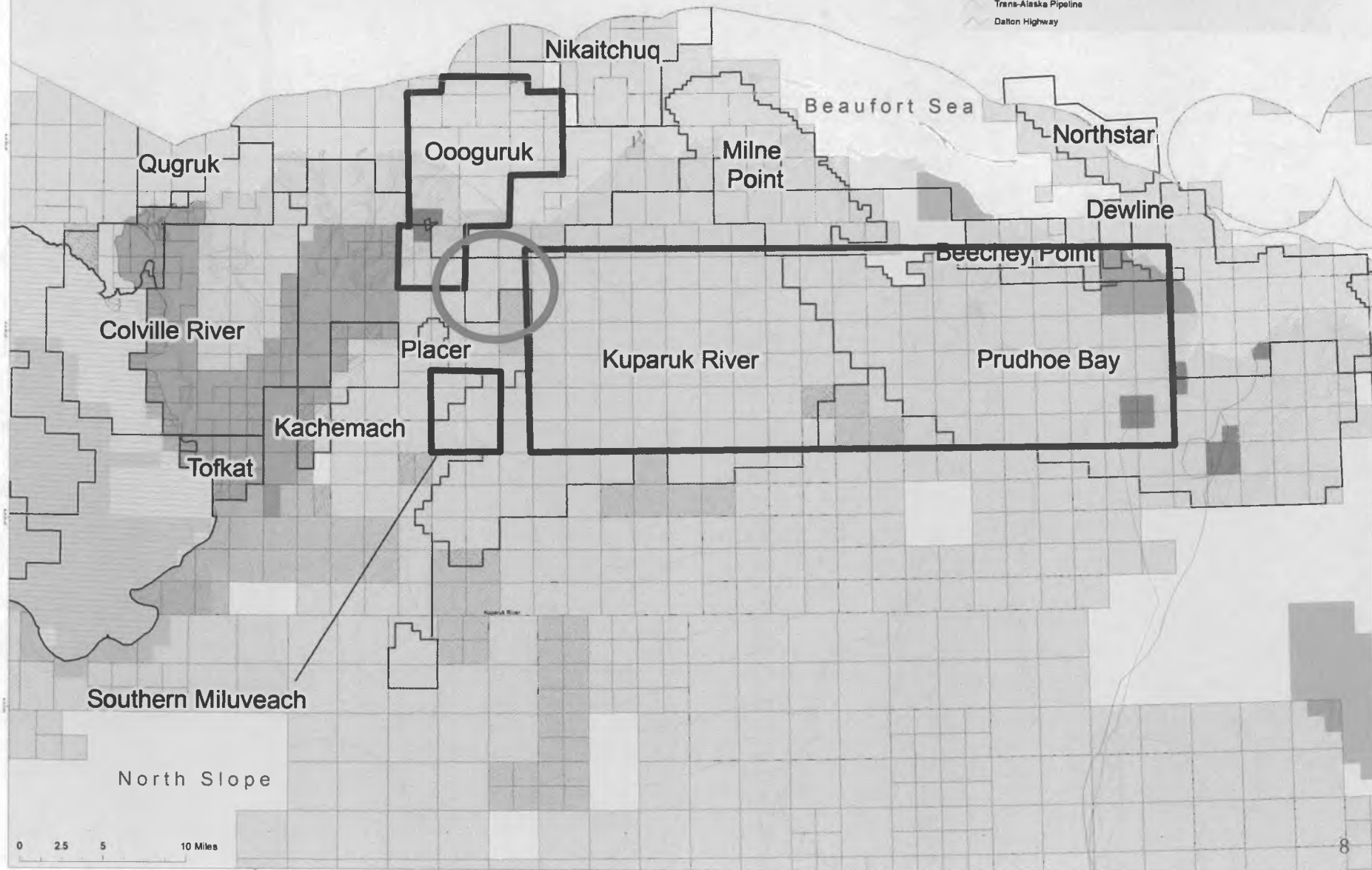
Example Geographical Areas for Exploration Activities

-  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

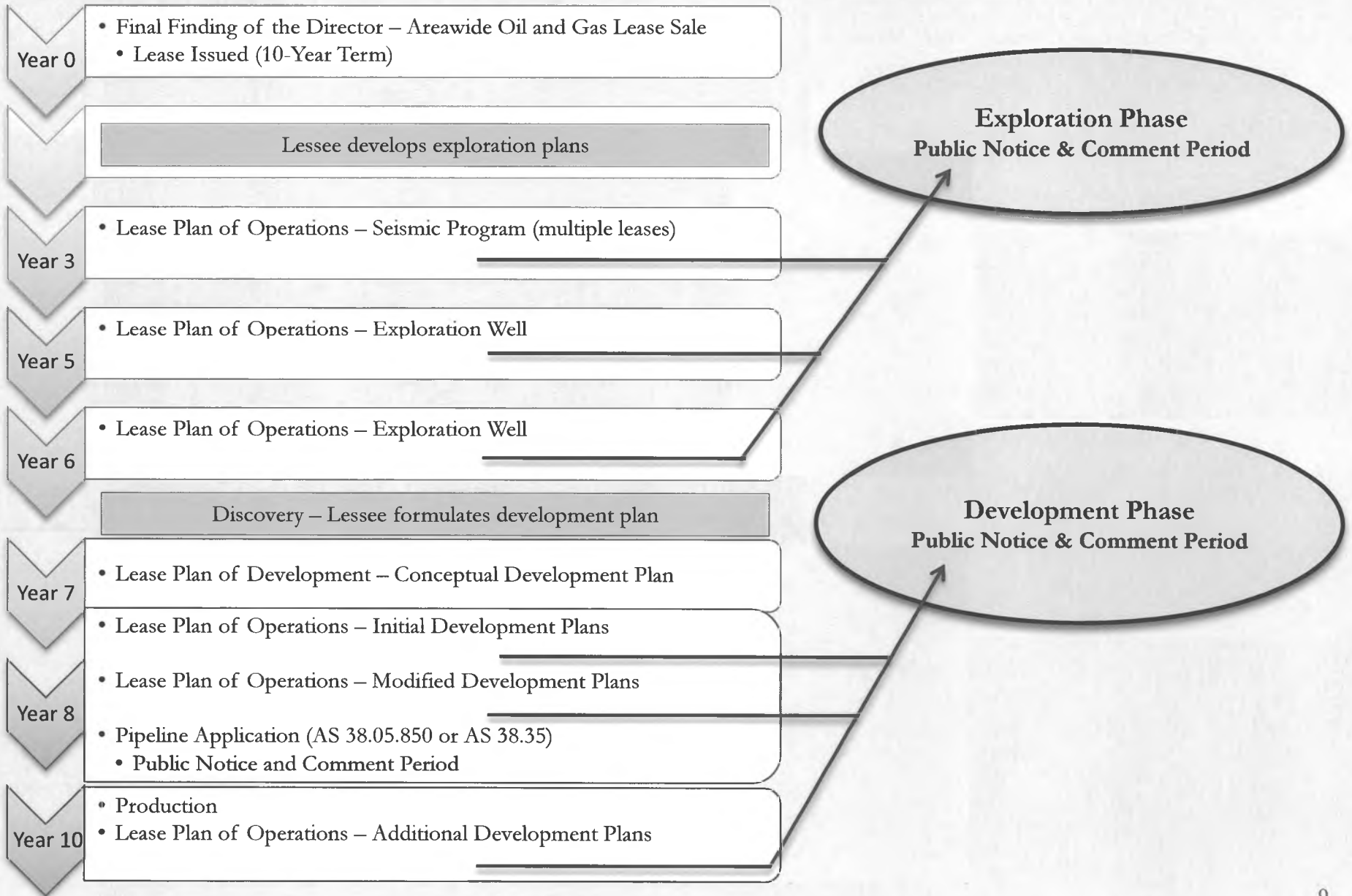


Example Geographical Areas for Development Activities

- | | |
|---|---|
|  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 | |

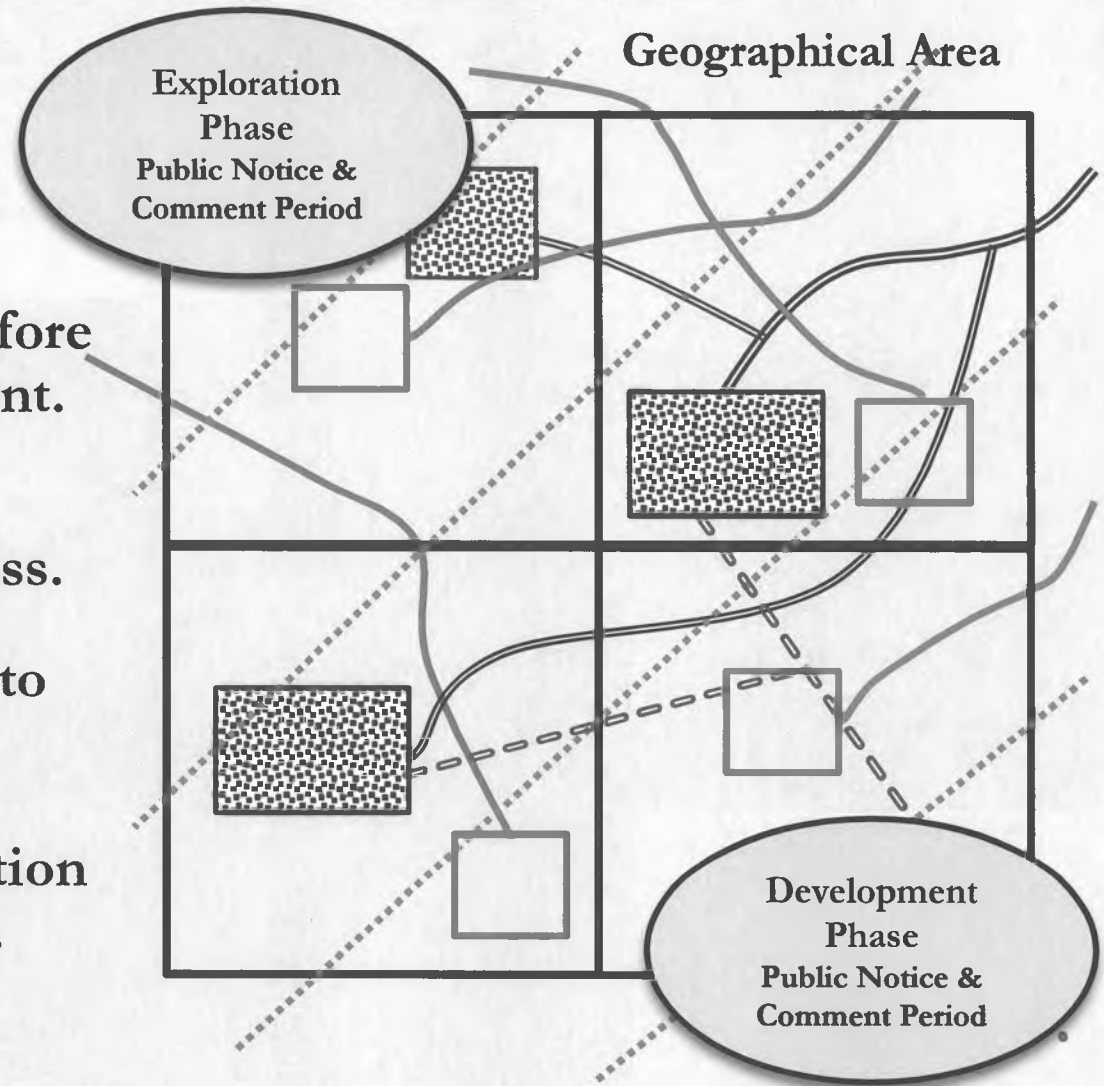


Life of an Oil and Gas Lease under SB 59



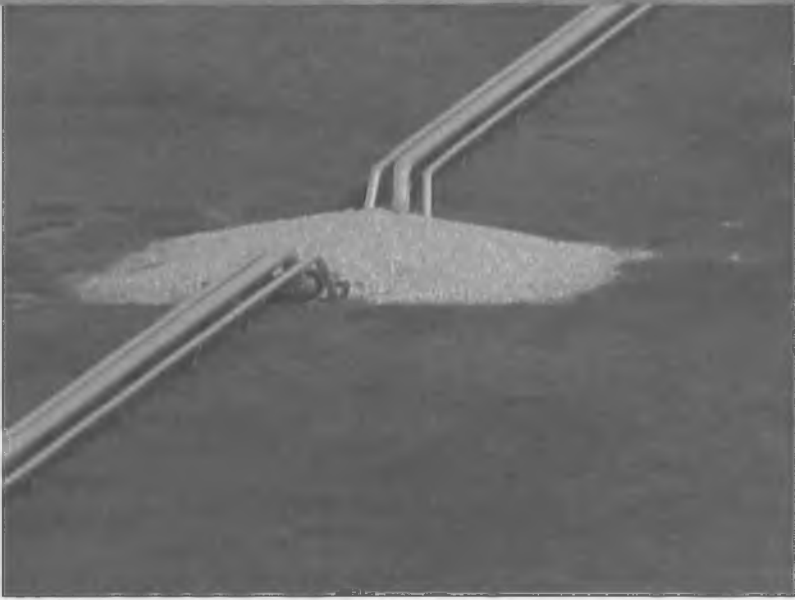
Results

- 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?



North Slope Borough

OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723
Phone: 907 852-2611 or 0200
Fax: 907 852-0337 or 2595
Email: charlotte.brower@north-slope.org



Charlotte E. Brower, Mayor

March 15, 2013

The Honorable Sean Parnell
Governor of Alaska
State Capitol Building
Juneau, Alaska

Subject: Senate Bill 59, Approvals for Oil and Gas Exploration in a Geographic Area

Dear Governor Parnell:

On behalf of the North Slope Borough, thank you for this opportunity to offer some comments in regards to Senate Bill 59, an Act relating to approval for oil and gas or gas only exploration and development in a geographical area.

Since petroleum was first discovered on the North Slope and the formation of the North Slope Borough, there has been an ongoing effort to work with the State of Alaska towards responsible development. Both the State of Alaska and the North Slope Borough have benefited tremendously from this development. And we have both sought to varying degrees to protect the land and subsistence resources from any potential negative impacts resulting from this development.

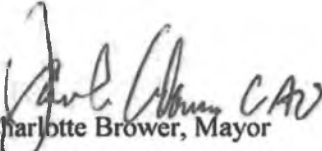
Senate Bill 59 will consolidate the Department of Natural Resources' (DNR) exploration and development approvals. The right to explore and develop oil and gas is granted through a lease that has been through the public disposal process. An initial comprehensive review of a geographical area provides an opportunity for participation by the public, government agencies, and industry.

When DNR authorizes exploration or development phases of oil and gas projects in a geographic area without regard to individual lease boundaries, public notice and the opportunity to comment will be required under AS 38.05.945. There is a question whether DNR approvals for a plan of operations that provide comprehensive details on the entire project and its effects are subject to public notice and comment.

Currently SB59 is being considered in the Legislature, and it is our desire to work cooperatively with your administration toward your goal of creating economic opportunity through a permitting process that helps to continue responsible development. We would respectfully request consideration for moving this

legislation forward in order to achieve its goal, but to also insure that adequate opportunities are left in place for notice and opportunity to comment by communities located near projects that are developed.

Sincerely,


Charlotte Brower, Mayor
North Slope Borough



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, ADNRR

LINC ENERGY OPERATIONS, INC

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www.lincenergy.com



*Conserving and protecting habitats in Interior and Arctic Alaska
for wildlife, culture, environmental health and future generations since 1971.*

March 18, 2013

The Honorable Cathy Giessel
Chair, Senate Resources Committee
State Capitol Room 427
Juneau AK 99801

Dear Senator Giessel:

The Northern Alaska Environmental Center opposes Gov. Parnell's legislation to change the rules for oil and gas, and gas only exploration and development approvals (SB 59 / HB 129). We understand the importance of the oil and gas industry to Alaska's economy, but it is important to find the right balance of public involvement and the time it takes to issue permits. Senate Bill 59 and HB 129 do not strike that balance these sacrifice Alaskan's rights to public participation in the evaluation of impacts and proposed mitigation for exploration and development of the State's natural resources that belong to the public.

The exploration and development approval process currently allows for affected communities to evaluate and comment on the proposed plan of operation. Local residents are able to review site-specific and cumulative impacts to identify and mitigate those impacts to fish, wildlife and other subsistence resources before operations begin. The input of the public and local communities is critical in shaping DNR's decision.

The proposed changes would end review of specific project plans, for both exploration and development. Rather, once a decade DNR would establish general conditions for exploration and development that operators must meet for the next ten years. Without plans of operation to review, the burden would be on local residents to identify all potential impacts to fisheries, wildlife and other subsistence resources before any site specific information on all projects is available. Agency officials and local residents are ill-suited to evaluating impacts without knowing the actual location of projects, the combined effect of exploration and development projects and changes in technology or environmental factors. We are also concerned that notice may not be provided to communities when exploration or development will occur nearby.

Considered in conjunction with HB 77, the DNR permitting rollback bill, the changes to oil and gas approvals pose more significant concerns. HB 77 would allow temporary water use permits to be continually approved, eliminating the need for oil and gas operators to receive a permanent water use certification, which requires significant hydrological data to be provided. The temporary water permits are often issued in a matter of days. Public notice is never issued and comment is never taken. The public would never be involved in water use decisions, and if passed, local residents would need to anticipate all potential impacts once every ten years for oil and gas exploration and development. For these reasons we oppose this legislation. It sacrifices local communities' and public oversight, and disregards concerns regarding fisheries, wildlife, subsistence, and health issues.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Arnold', written in a cursive style.

David L. Arnold, Ph.D.
Executive Director

Dear Senate Resources Committee Members:

Please consider the following comments as you deliberate on SB 59. For additional information, please see my comments submitted to the TTP Committee dated March 1, 2013.

I. SB 59 is premature.

A pending Alaska Supreme Court decision could affect how and when DNR conducts project reviews for the exploration and development phases of oil and gas projects.¹ Consequently, it is premature to make changes to the project review process at this time.

In 2011, in *REDOIL v. State of Alaska, DNR*, an Alaska superior court judge ruled that a statute allowing for just one written best interest finding issued at the lease disposal phase is unconstitutional. The court required DNR to provide a comprehensive written best interest finding at each phase of an oil and gas project, including the exploration and development phases. The Alaska Supreme Court accepted the state's petition of the superior court ruling and, according to the court system website, a draft decision is being circulated.

Since there is the potential that the Court decision could impact whether or how the proposed statute is implemented, it would be wise to wait for the decision before passing SB 59.

II. SB 59 is not ready for prime time.

During committee hearings on SB 59, DNR testified as to how they intend to implement the proposed statute. However, without specific language in statute, there is no guarantee DNR will follow through with the stated intentions described below. In addition, the proposed language may lack the necessary statutory authority for DNR to do some of what they propose.

- A. Though DNR testified they wouldn't necessarily do it, SB 59 specifically allows DNR to develop general approvals for exploration and development that cover an entire areawide sale area, an area that can range from 2 million to 7.6 million acres. The proposed statute contains no size criteria or limitations. Nor does the legislation specify what issues a general approval must address.
- B. DNR testified that they may decide there are sufficient site-specific public interest concerns regarding a particular exploration or development project to warrant providing for public notice and comment on a project plan of operations. There is no provision in the proposed statute to allow for such public notice and comment in areas covered by a

¹ See Daniel S., Sullivan Commissioner, SOA, *DNR vs REDOIL, Gwich'in Steering Committee, et al.* (Court system number: S14216).

general approval and no criteria to define the circumstances under which such notice should occur.

- C. DNR testified that if a plan of operations for a project does not comply with an approval for exploration or development that DNR would provide notice and an opportunity to comment on the project. However, there is no provision for public involvement or allowing a project to proceed if the general approval requirements are not met.
- D. In prior testimony, DNR suggested that they might conduct an annual public review of existing general approvals for exploration and development. Without a statutory requirement for such reviews, there is no way to know whether or how they will occur.

III. Alaskans' appeal rights are uncertain.

DNR testified that if SB 59 passes, Alaskans could still appeal project-specific plans of operation. However, most people do not have the time or expertise to access and understand DNR's permitting websites. Without public notice of an internal DNR decision on a plan of operations, most people will be unaware a decision has been made until the activity is actually taking place. By that time, the time for an appeal will have passed.

In addition, the potential passage of HB 77 would make citizen appeals of DNR decisions far more onerous for the average Alaskan.

IV. Opportunities for Alaskans to comment on oil and gas projects are diminishing.

The way things are going, Alaskans may be forced to rely on federal permitting processes to have their say on oil and gas activities that impact their communities.

With the elimination of public comment on plans of operation as proposed by SB 59, it is possible that no DNR project permit will be subject to public review and comment. Some DNR permitted activities are not subject to public notice and comment under current law and the remaining activities may be authorized through general permits as allowed under HB 77.

In addition, the Department of Environmental Conservation's authority is limited to air and water issues and several of their permits are general permits with limited site-specific public review and comment. And the Department of Fish and Game's authority is generally limited to anadromous fish waters.

Any remaining public review opportunities will be piecemeal and limited in scope. Only the DNR plan of operations provides a comprehensive review of activities and issues associated with oil and gas exploration and development.²

² See 11 AAC 83.158 (lease plan of operations) and 11 AAC 83.346 (unit plan of operations).

V. Consider alternatives to SB 59.

One alternative for speeding up the permitting process without limiting public comment on specific projects is to provide for coordinated project reviews, including joint public notices and comment periods. Rather than applicants and the public having to deal separately with each agency, and even divisions within the agencies, a coordinated review would offer a “one-stop shop,” making it easier for applicants and the public to get their questions answered and issues resolved.

DNR currently conducts coordinated reviews for large projects with most costs paid for by the applicant. With some statutory changes and sufficient funding, the state could provide coordinated reviews for all projects, large and small, benefitting both applicants and the public and making for more efficient and effective permitting.

Conclusion

The Alaska public generally favors development. Thousands of projects have moved forward successfully under existing state laws. A project with significant impacts to other resources and values may be slowed down in order to deal with those impacts and this is as it should be. SB 59 and other legislation that limits public involvement in state resource decisions are solutions in search of a problem. There are other, more effective ways to improve Alaska’s permitting process.

If the legislature is going to accept DNR’s proposal in SB 59, before considering passage of the bill, it would be wise to wait for the Alaska Supreme Court decision regarding best interest findings and phased reviews. Failing that, the bill should be amended to limit DNR’s power and ensure the act is implemented as intended.

Thank you for your consideration.

Sincerely,

Lisa Weissler
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Juneau, AK 99801
907-723-5902
lisaweissler@gmail.com
Business website: <http://changingtides.com>



March 20, 2013

The Honorable Cathy Geissel
Chair, Senate Resources Committee
State Capitol Room 427
Juneau AK 99801

Re: Senate Bill 59

Dear Sen. Geissel:

The Wilderness Society (TWS), a national conservation organization with membership in Alaska and an office in Anchorage, is writing to express its concerns with proposed legislation to change the process for oil and gas, and gas only exploration and development approvals (SB 59). Our primary concern is that an approval of exploration or development plans across a large geographic area for up to ten years would be unable to account for changes in the environment, the economy, and development during that time period. Additionally, we are concerned about the public's ability to provide input on operator-specific exploration or development plans, which can differ greatly. We urge you to oppose SB 59 or amend it to ensure that each phase of drilling (i.e., exploration or development) by each operator retains a public comment period.

Effect of the Bill

The proposed changes would end review of project-specific plans for both exploration and development. Rather, once in a decade, the Department of Natural Resources (DNR) would establish general conditions for exploration and development that operators must meet in a large region (as large as 7.6 million acres in the North Slope Foothills sale). This one-size-fits-all method of review would not account for unique project conditions or parcels of land. Nor would it account for changes that could take place over a decade, including changes in the economy, technological progress, and climate-related changes. Further, the bill lacks any standards under which DNR would make a decision to approve exploration or development on an areawide scale.

As the committee knows, the state develops a five-year program of proposed oil and gas or gas-only lease sales. A primary reason these sales are offered in five year intervals is that things change during that time period. For example, a company's interests in drilling in a particular

area could change, new development could occur, or climate change could affect coastlines and the amount of water in lakes and creeks. By allowing exploration and development plan approvals for periods as long as ten years, SB 59 ignores these types of important changes.

As stated in a 2011 areawide lease sale best interest finding describing the need for phased review, “In the case of oil and gas, [the Division of Oil and Gas] 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.”¹ The same reasoning applies to SB 59—a review of all the exploration and development that could take place in the next decade would completely lack specificity and definition and fail to take into account potential changes.

Value of Public Input

The current exploration and development approval process allows affected communities and individuals to evaluate and comment on proposed exploration and development plans for each operator. This provides input on site-specific and cumulative impacts before each phase of operations begins. It also provides operator-specific input, which is important because operators differ in their proposed plans. This input can help evaluate issues such as the following:

- Will an operator have long or short-distance multi-phase pipelines? i Will DNR add additional requirements to ensure these pipelines do not have releases?
- Will an operator use multiple drilling pads or practice directional drilling from fewer pads?
- Where will an operator obtain gravel for pad construction?
- What are the effects of drilling noise near caribou calving and feeding habitat?

The input of the public and local communities on these issues can be critical in shaping DNR’s approvals.

Senate Bill 59 would reduce public involvement to a degree that would be counterproductive. It would be extremely difficult for local residents to identify and comment upon potential impacts to fisheries and subsistence resources at the beginning of a ten year period without site-specific, operator-specific details. DNR would lose a valuable source of information, including local and traditional knowledge related to subsistence resources and the environment—knowledge that is continually evolving as the climate warms.

¹ North Slope Foothills Areawide Final Best Interest Finding, pp. 2-3—2-4 (2011), available at http://dog.dnr.alaska.gov/Leasing/Documents/BIF/North_Slope_Foothills/North_Slope_Foothills_Final_BIF_20110526.pdf.

Need for Public Involvement

Natural resource development is important to Alaska's economy, and legislation to improve the oil and gas approval process should be considered seriously. At the same time, it is important to consider the overall public interest. These two important values—resource development and public interest—are intertwined in the Alaska Constitution. Article VIII, Section 1 states that “[i]t is the policy of the State to encourage the ... development of its resources by making them available for maximum use *consistent with the public interest.*” Section 2 further provides that “[t]he 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.*” [Emphasis added.]

The Alaska Supreme Court recognized the importance of the public interest in *Kachemak Bay Conservation Soc. v. State, Dept. of Natural Resources*.² The court held that under AS 38.05.035(e)(1)(C), DNR was obliged to issue a best interests finding at each phase of development.³ In response to this case, the Alaska Legislature amended AS 38.05.035(e) to make clear, among other issues, that “public notice and the opportunity to comment shall be provided at each phase of the project.”⁴

To be consistent with the public interest, resource development needs to involve the public through public comment periods. Without plans of operation to review, local residents could only guess what the potential impacts to fisheries, wildlife, and other subsistence resources across millions of acres would be over the next ten years. Likewise, agency officials would be ill-suited to predict impacts without knowing what future operations may occur and how changes in technology or the environment could affect these operations. What's more, local residents would not even know when exploration or development would occur in their area, as they would no longer receive notice of these operations.

While the public could still comment on site-specific permits if SB 59 passed, such permits only address a particular part of a project and are more limited in scope than a comprehensive plan of operations. Also, the public's ability to weigh in on permits could be limited by SB 26/HB 77, which would authorize DNR to issue general permits for a broad range of activities on state lands,⁵ and allow temporary water use permits to be continually approved without public notice.⁶

² 6 P.3d 270, 276 (Alaska 2000) (citing Article VIII, Sections 1-2 of the Alaska Constitution and noting that “In Title 38, Chapter 5 of the Alaska Statutes, the legislature delegated to DNR much of its authority to ensure that such leasing of state land or interests in land is consistent with the public interest.”).

³ *Id.*

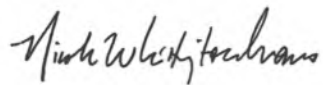
⁴ AK LEGIS 101, §1(f)(3) (2001).

⁵ HB 77 at §1.

⁶ *Id.* at §42.

Because SB 59 would not adequately protect the public interest and obstruct sound decision-making on natural resources, we ask you to vote against the bill or amend it with the language included above. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nicole Whittington-Evans".

Nicole Whittington-Evans
Alaska Regional Director



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