



# The Myth of Rigorous Permitting:

---

Why Alaska's political, legal and regulatory systems presume development for large projects

Bob Shavelson

Homer City Council

September 8, 2008

# An Inherent Conflict: The Alaska Constitution

- Art. 8, § 1. Statement of Policy: 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.
- Art. 8, § 2. General Authority: 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.
- Art. 8, § 4. Sustained Yield: Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle....

# The Myth Of Rigorous Permitting: What DNR Says...

- 1) Permit process doesn't guarantee a "Yes"
- 2) Many permits required from many agencies
- 3) We have experienced, dedicated regulators
- 4) Interagency monitoring & inspection  
continue through operation and closure

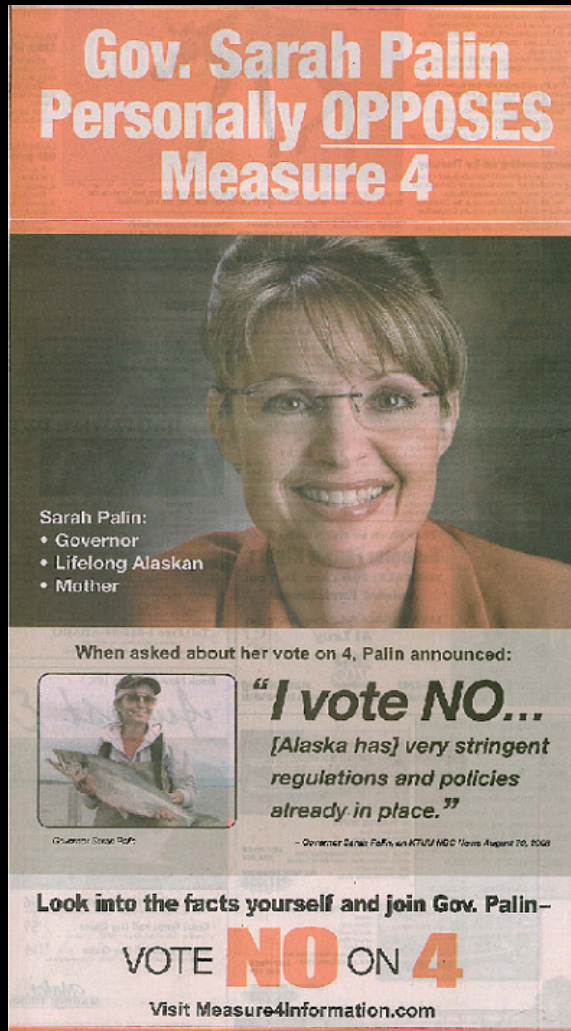
-- Source: ADNR, *The Process and Requirements for Large Mine Permit Applications in Alaska* (available at: [www.dnr.state.ak.us/opmp/mining/documents/LMPT%20ppt.pdf](http://www.dnr.state.ak.us/opmp/mining/documents/LMPT%20ppt.pdf)).

# Recent Legal/Regulatory Rollbacks

- Alaska Coastal Management Program
- Mixing Zones/Fish Habitat
- Permit “Streamlining”
- Public Interest Fee Shifting



# Political Influence



- Full page ad ran just days before Ballot Measure 4 vote
- Official endorsements prohibited by state law
- No opportunity for response prior to election day
- APOC: Illegal DNR Web Site

# Asking the Relevant Question

- HOW will it be developed?

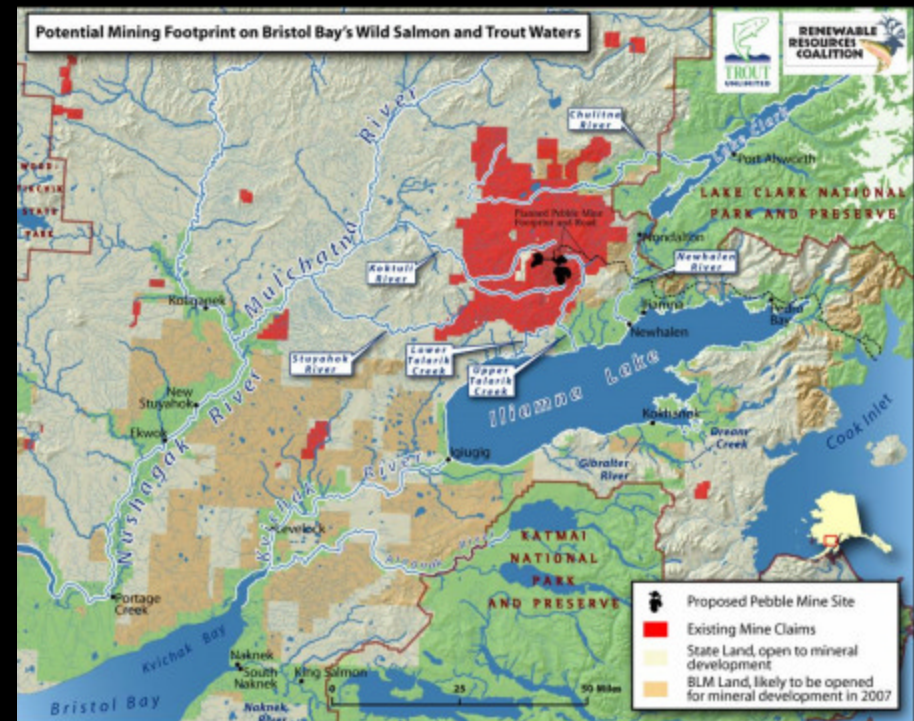
OR

- SHOULD it be developed?



# Example: Pebble Open Pit Mine

- “Wait & See” Doctrine
- Corporate Personhood & Due Process
- Extremely well-funded



# Example: Rock Creek Mine (Nome)



No Environmental Impact Statement: 15,592,411  
cu. yds of fill in 347 acres of wetlands.

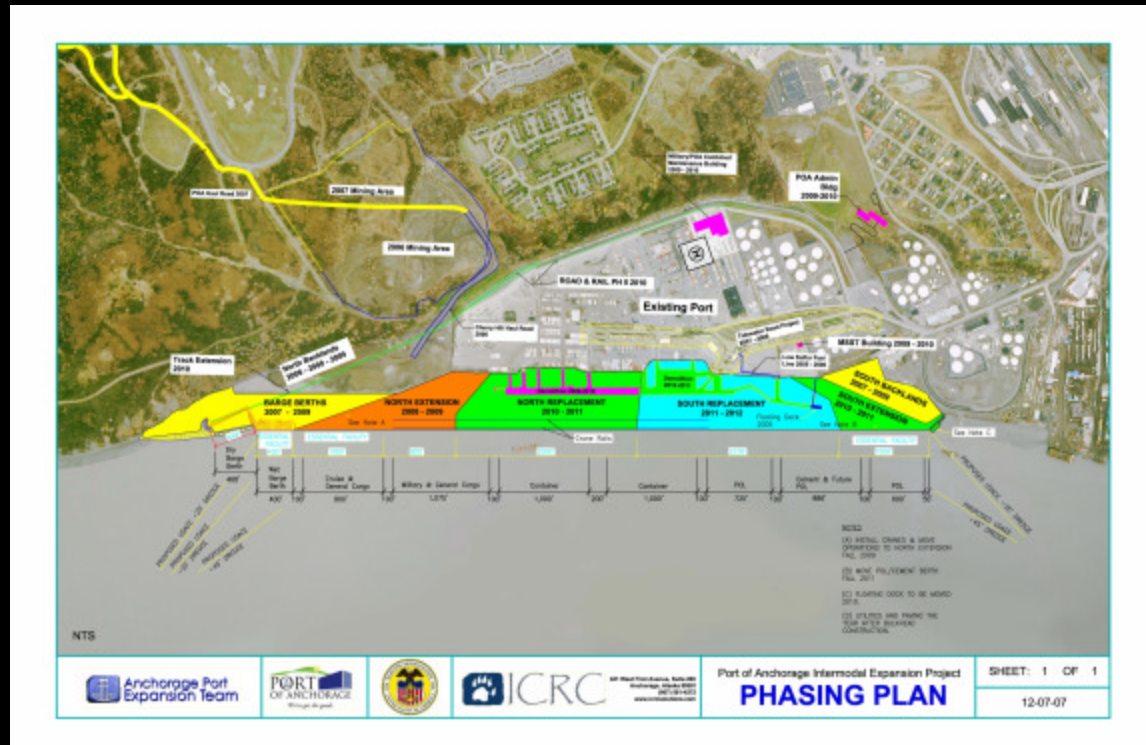


# Example: Kensington Mine (Juneau)

- Federal court injunction: state & federal regulators violated Clean Water Act



# Example: Port of Anchorage



“The port expansion project is large, controversial, and will have substantial environmental impacts that have not received adequate attention in the permitting process.”

-- NMFS Letter to Army Corps, Aug. 10, 2007

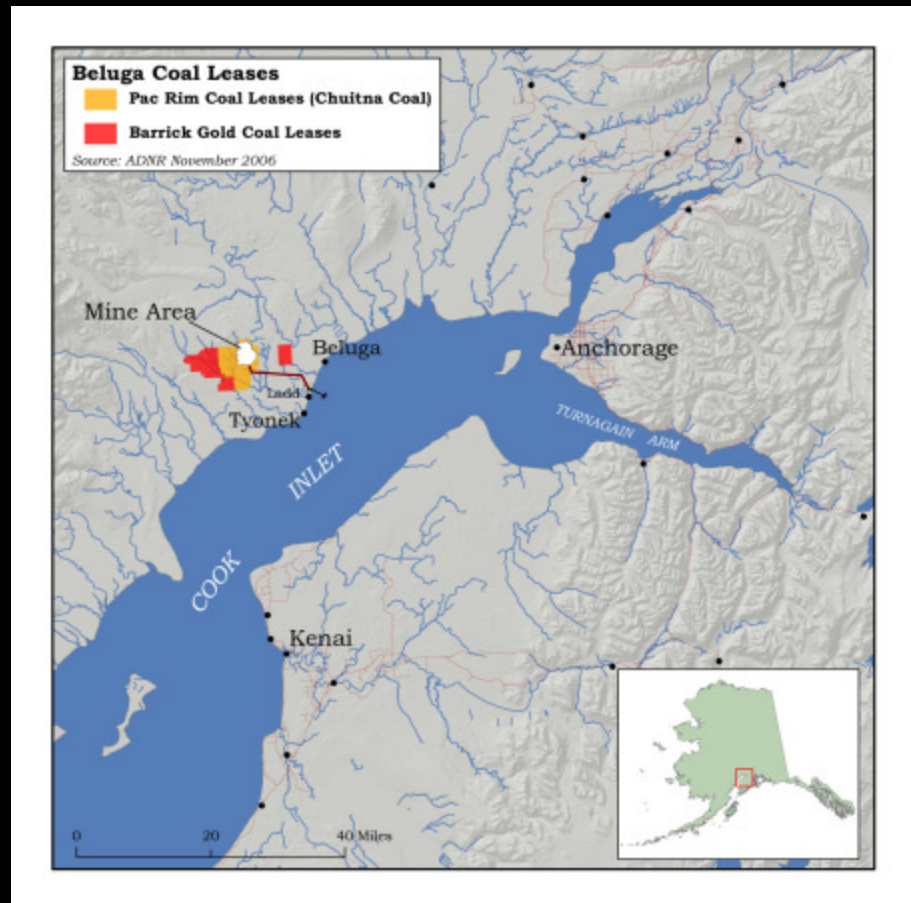
# Example: Cook Inlet Oil & Gas

- Only coastal fishery in nation where toxic dumping permitted
- 2007 Permit re-issuance almost tripled toxic discharges
- EPA Award to staff for Tribal outreach



# Example: Chuitna Coal Strip Mine

- 55 sq. miles if fully developed
- Destroy 11 miles of salmon streams
- Dump avg. 7 million gallons/day into Chuitna River
- Impact private property rights – set net fishing leases



# Conclusion

- Constitutional interpretations and regulators favor development over long term sustainability; no level playing field.
- Corporations receive preferential rights, treatment and access from state and federal regulators.
- Alaskans possess few tools to meaningfully shape permit decisionmaking (“how” not “should”)



# Thank You

Bob Shavelson  
Cook Inletkeeper  
P.O. Box 3269  
Homer, AK 99603  
907.235.4068 x22  
bob@inletkeeper.org  
www.inletkeeper.org

