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FEDERAL ISSUES OF CONCERN FOR THE ALASKA MINING INDUSTRY

CRITICAL ITEMS:

Permitting Delays for Projects

Ensure that regulatory agencies use the adopted FAST process and adhere to NEPA timelines established in regulation.

Wetlands and Regulation of U.S. Waters

Wetlands are ubiquitous in Alaska, covering some 50% of the State, largely undisturbed, and, with the exception of ANCSA lands, almost exclusively limited to public lands. This greatly expands the regulatory reach of Section 404 of the CWA while severely limiting opportunities for compensatory mitigation. For these and other reasons management of Alaska wetlands requires a unique regulatory approach that maximizes the ability to utilize General Permits and provides for flexibility in compensatory mitigation. AMA encourages USACE to amend NWP 44 to allow mechanical placer mining in tidally influenced waters and to amend POA-2014-00055-M1 to authorize mechanical placer mining in navigable waters. Continue implementation of the Navigable Waters Protection Rule and oppose any attempts to re-expand the definition of Waters of the US. AMA encourages the State of Alaska to pursue State primacy over wetlands programs and permitting.

Eliminate EPA Federal Overreach of CWA 404c Permitting Process

Limit the EPA's Clean Water Act involvement to the Environmental Impact Statement (EIS) process, and provide a mechanism for administrative appeal of any veto. Prohibit preemptive and retroactive vetoes.

Mining Taxation on Federal Lands

Ensure that the tax structure for Federally-owned mineral resources is equitable and stable. Insist that new fiscal policy does not supersede existing environmental law and regulation.

Federal Land Management and Access

Consistent with Federal law, including the Alaska National Interest Lands Conservation Act (ANILCA) and Federal Land Policy and Management Act (FLPMA), ensure access to and across all Federal lands to preserve the right of entry to all lands for multiple use and maintain multiple use as the primary principle of land management. Limit overlapping Federal actions such as land management plans, Areas of Critical Environmental Concern etc, whose cumulative effect violates the spirit and letter of ANILCA by closing Alaska lands to resource development and multiple use.

Permitting Process

- Ensure that federal water quality standards developed by the EPA are scientifically supportable and developed using site-specific criteria.
- Elevate State-based mining related financial assurance programs, where available, over federal programs.
- Only permit ESA listings and critical habitat designations that are founded on rigorous, sound science, and include cost-benefit analyses and significantly limit associated land use restrictions to comport with ANILCA.
- Require technical feasibility and cost-benefit analysis for all new regulations on fossil-fueled power plants.



Land and Mineral Management

- Finalize land conveyances to the State and Alaska Native Corporations and lift all Federal withdrawals and public land orders established by the Secretary of Interior under Alaska Native Claims Settlement Act (ANCSA).
- Reauthorize the Alaska Land Use Council, a body made up of federal, state, and Alaska Native representatives to ensure ANILCA fidelity that balances conservation and public use and access through rigorous deliberation among protected interests and to ensure implementation of the *Sturgeon* decision.
- Require adequately funded, new evaluation of mineral potential in any area subject to Federal land use planning. Require USGS to fulfill its ANILCA mineral reporting and assessment mandates. Ensure that Federal plans are consistent and use identical evaluation criteria across Alaska. Such plans include Resource Management Plans, Research Natural Areas, Areas of Critical Environmental Concern, Wild and Scenic River Designations, and more.
- Defend the 2020 Alaska Roadless Rule from litigation by third parties and from termination by an USDA rollback, Resolution of Disapproval under the Congressional Regulatory Review Act, or other legislation.
- Address transboundary mining issues via cooperation between the State of Alaska and neighboring Canadian provincial governments.
- Oppose designation of World Heritage sites and similar withdrawals of lands or waters within and surrounding Alaska, as they are in conflict with the “no more” clause of ANILCA.

Other Issues

- Facilitate donor disclosure for any foundations or non-profit organizations whose funds are used to influence natural resource policy, programs, permitting, and litigation.
- Require disclosure of settlement terms before approving DOJ or Federal agency settlements of litigation involving Alaska lands or waters.
- Require that the EPA TRI (Toxics Release Inventory) program clearly communicate that reported, permitted releases do not represent risk to human health.

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