



January 17, 2014

**Decision of No Substantial New Information
2014 Cook Inlet and Alaska Peninsula Areawide Lease Sales**

Introduction

Under 38.05.035(e), a written finding that an oil and gas lease sale will best serve the interests of the state is required before the director of the Alaska Department of Natural Resources (DNR), Division of Oil and Gas (DO&G) may hold an oil and gas lease sale. The final written finding for the 2009-2019 Cook Inlet areawide oil and gas lease sales (Cook Inlet Final Finding) was issued on January 20, 2009. The final written finding for the 2005-2015 Alaska Peninsula areawide oil and gas lease sales (Alaska Peninsula Final Finding) was issued on July 25, 2005.

Cook Inlet and Alaska Peninsula areawide oil and gas lease sales have been held annually under these final findings since 2009 and 2005, respectively. Under AS 38.05.035(e)(6)(F), the most recent written final finding would be supplemented if the commissioner determined that substantial new information had become available to justify a supplement. To gather this information, public calls for new information have been issued each year since the final findings were issued. Supplements to the Cook Inlet Final Finding were issued on February 4, 2010, and February 8, 2011. Supplements to the Alaska Peninsula Final Finding were issued on November 21, 2007, February 4, 2010, and February 8, 2011.

On October 9, 2013, DO&G issued a Call for New Information regarding the 2014 Cook Inlet and Alaska Peninsula areawide oil and gas lease sales. The call requested interested parties to submit to DO&G substantial new information to supplement the most recent final findings for the area. The submission period ended on November 29, 2013.

As stated in the Call for New Information, DO&G generally considers "substantial new" information to be published research studies, or data directly relevant to the matters listed in AS 38.05.035(g) and to the lands covered in the final findings that have become publicly available over the past year. Matters listed in AS 38.05.035(g) include:

- property descriptions and locations;
- petroleum potential of the sale area, in general terms;
- fish and wildlife species and their habitats in the area;
- current and projected uses in the area, including uses and value of fish and wildlife;
- governmental powers to regulate the exploration, development, production, and transportation of oil and gas or of gas only;

- reasonably foreseeable cumulative effects of exploration, development, production, and transportation for oil and gas or for gas only on the sale area, including effects on subsistence uses, fish and wildlife habitat and populations and their uses, and historic and cultural resources;
- lease stipulations and mitigation measures, including any measures to prevent and mitigate releases of oil and hazardous substances, to be included in the leases, and the protections offered by these measures;
- method or methods most likely to be used to transport oil or gas from the lease sale area, and the advantages, disadvantages, and relative risks of each;
- reasonably foreseeable fiscal effects of the lease sale and the subsequent activity on the state and affected municipalities and communities, including the explicit and implicit subsidies associated with the lease sale, if any;
- reasonably foreseeable effects of exploration, development, production, and transportation involving oil and gas or gas only on municipalities and communities within or adjacent to the lease sale area; and
- bidding method or methods adopted by the commissioner under AS 38.05.180.

In response to the Call for New Information, DO&G received two timely comments. Both comments referenced documents but did not include them. The commissioner has reviewed and considered all timely public comments and documents referenced with those comments.

Decision

The commissioner finds that no substantial new information was received in response to the Call for New Information, dated October 9, 2013, to justify a supplement to the Cook Inlet Final Finding or the Alaska Peninsula Final Finding.

Responses to Timely Public Comments

Each timely comment is summarized below, along with the commissioner's response to each.

1. Kachemak Bay Conservation Society (Roberta Highland, President)

Kachemak Bay Conservation Society (KBCS) submitted the following four comments on Cook Inlet.

1. ***Comment Summary:*** KBCS comments that Cook Inlet has suffered over 40 years of oil and gas exploitation, especially through the dumping of oil and gas byproducts, resulting in environmental and habitat degradation and the decline of the beluga whale population.

Commissioner's Response: The Cook Inlet Final Finding discussed the effects of oil and gas exploration and development on Cook Inlet and the beluga whale's status. KBCS's comment does not add substantial new information that could be used to update that discussion or that would merit a supplement to the Cook Inlet Final Finding.

- 2. *Comment Summary:*** KBCS comments on historical difficulties the oil and gas industry has faced during production and transportation activities. KBCS comments that there have been oil spills, that platform supply boats have sunk, that tankers have run aground, wells have blown out, that ice conditions and large tides have been difficult to manage, and that the weather is difficult.

Commissioner's Response: The Cook Inlet Final Finding discussed the effects of production and transportation activities. KBCS's comment does not provide substantial new information that justifies a supplement to the Cook Inlet Final Finding.

- 3. *Comment Summary:*** KBCS references one newspaper article and one opinion piece regarding ocean acidification and states that oil and gas development contributes to the problem.

Commissioner's Response: KBCS's comments refer to one newspaper article and one opinion piece from the Kachemak Bay National Estuarine Research Reserve published in the Homer News, but did not include copies of the articles nor any study or paper for the commissioner to review.¹ DO&G attempted to locate and review the articles.

KBCS cites the first article as "CO₂ Speeds Unraveling of Ocean's," by Craig Welch [*sic*] and states that it was published September 15, 2013 on the front page of the Anchorage Daily News (ADN). The article as referenced could not be located through an internet search. The nearest result was an ADN online article dated September 14, 2013 by Craig Welch titled "Ocean acidification threatens to scramble marine life in big way." In that article is a sentence that mentions a "great unraveling."

The ADN article did not cite any professional studies but did include a web link to a Seattle Times four-part special report, SeaChange: The Pacific's Perilous Turn. No studies were cited or readily apparent in the Seattle Times version. Instead, links were embedded in highlighted story text. These studies would not have been available in the ADN newspaper article to which KBCS referred. However, the five linked studies from 2012 and 2013 were retrieved and reviewed by DO&G.

Three of the five studies either do not address Alaska in general or the Cook Inlet or Alaska Peninsula areawide lease sale areas specifically. The fourth study, about ocean acidification, was conducted in a laboratory where crabs were fed to excess on an enhanced gel diet. Results suggested that while red king and tanner crabs

¹ Welsh[sic], Craig. September 15, 2013. CO₂ Speeds Unraveling of Ocean's. *Anchorage Daily News* p.A1.

Lippert, John. October 5, 2013. Alaska is world's laboratory for climate change research. *Anchorage Daily News*.

Lewkowski, Tony. September 5, 2013. The other CO₂ problem: Oceans are becoming more acidic. *Homer News*.

may be affected by CO₂, adaptation is possible. The fifth study reported observations of seasonal variability of the carbon cycle in the Bering Sea. Therefore, these studies do not provide substantial new information that justifies a supplement to the Cook Inlet Final Finding.

The opinion piece KBCS referenced is titled “The other CO₂ problem: Oceans are becoming more acidic,” by Tony Lewkowski and published September 5, 2013. The piece comments on climate change. The commissioner was aware of climate change and global warming when he approved the 2009 Cook Inlet Final Finding. However, he noted on page A-7 that, “Climate change was discussed in the preliminary finding in Chapter 3, Section E. Global warming, the effects of the world-wide oil and gas industry, and the effects of the use of oil and gas products are beyond the scope of review for the Cook Inlet best interest finding.” Likewise, they are beyond the scope of review for the call for new information and therefore do not provide substantial new information that justifies a supplement to the Cook Inlet Final Finding.

4. ***Comment Summary:*** KBCS offers new information on climate change, citing an ADN article from 2013.

Commissioner’s Response: The newspaper article, “Alaska is world’s laboratory for climate change research,” by John Lippert, published October 5, 2013, refers to the University of Washington’s Polar Ice Center. A web search did not find a facility by this name but did find the University of Washington Polar Science Center. A review of the University of Washington Polar Science Center website did not provide the statistical data referenced in the article. The article also refers to an Intergovernmental Panel on Climate Change (IPCC) status report but gives no links or citations. A review of the IPCC webpage produced headline statements from a “Summary for Policymakers” document. This document did not provide links or references containing the data cited in the second article.

The commissioner was aware of climate change and global warming when he approved the 2009 Cook Inlet Final Finding. However, he noted on page A-7 that, “Climate change was discussed in the preliminary finding in Chapter 3, Section E. Global warming, the effects of the world-wide oil and gas industry, and the effects of the use of oil and gas products are beyond the scope of review for the Cook Inlet best interest finding.” Likewise, they are beyond the scope of review for the call for new information and therefore do not provide substantial new information that justifies a supplement to the Cook Inlet Final Finding.

KBCS submitted the following four comments on the Alaska Peninsula.

1. ***Comment Summary:*** KBCS states that the Peninsula is habitat for rich salmon fisheries, and that oil and gas development could jeopardize them.

Commissioner's Response: Salmon habitat and fisheries of the area, and potential effects of oil and gas exploration and development were considered and discussed in the Alaska Peninsula Final Finding. In the event of oil and gas exploration and development, mitigation measures are in place to ensure that these activities are conducted in an environmentally responsible manner. Therefore, the comments do not provide substantial new information that justifies a supplement to the Alaska Peninsula Final Finding.

2. **Comment Summary:** KBCS states the area should remain as pristine as possible.

Commissioner's Response: The fish, wildlife, and habitats of the area, and potential effects of oil and gas exploration and development, were considered and discussed in the Alaska Peninsula Final Finding. Mitigation measures are in place to ensure that these activities are conducted in an environmentally responsible manner. Therefore, the comments do not provide substantial new information that justifies a supplement to the Alaska Peninsula Final Finding.

3. **Comment Summary:** KBCS cites the articles in Comment 3 for the Cook Inlet Final Finding, above, regarding ocean acidification. See previous response.
4. **Comment Summary:** KBCS cites the article in Comment 4 for the Cook Inlet Final Finding, above, regarding climate change. See previous response.

KBCS also submitted the following general comment.

Comment Summary: KBCS requests that the state develop renewable sources of energy and that it consider other possibilities for energy production. In particular, KBCS mentions turning Cook Inlet platforms into tidal, wind and solar energy platforms.

Commissioner's Response: Renewable energy is addressed in the Cook Inlet Final Finding, p. 5-46. The finding discusses the renewable energy resources that hold the most potential in Cook Inlet: geothermal, wind, and hydropower. The state supports and funds renewable and alternative energy programs throughout Alaska. The Cook Inlet Final Finding states on p. A-6, "The Alternative Energy and Energy Efficiency (AEEE) program of the Alaska Energy Authority (AEA) promotes the use of renewable energy resources and local sources of coal and natural gas as alternatives to diesel-based power, heat, and fuel production."

The state legislature created the \$250 million Renewable Energy Fund (RE Fund) in 2008, and by 2012 AEA approved \$202.5 million for 228 renewable energy projects. In 2012, the legislature extended the program to 2023 and its intent to continue annually appropriating \$50 million into the RE Fund (AS 42.45.045). Although the extension of the program occurred after the Cook Inlet Final Finding was issued in 2009, it is not substantial new information that justifies a supplement to the Final Finding.

The commissioner has considered KBCS's submissions in response to the call for new information and further researched the references for ocean acidification and climate change. The effects of the general use of fossil fuels are beyond the scope of this review as defined at AS 38.05.035(e)(1)(A) and AS 38.05.035(g), and have been addressed by the commissioner in the Cook Inlet and Alaska Peninsula Final Findings. Further, the State of Alaska has endowed a renewable energy fund to help develop renewable and alternative energy programs across the state.

Therefore, the comments submitted by KBCS are not substantial new information that justifies supplements to the Cook Inlet and Alaska Peninsula Final Findings.

2. Apache Alaska Corporation (Lisa Parker, Manager, Government Relations)

Apache Alaska Corporation (Apache) submitted the following three comments on Cook Inlet.

1. ***Comment Summary:*** Apache comments that the state should alter its lease adjudication processes so that the state only offers lands that are known to be unencumbered. Apache states alternatively, if a lease is found to be encumbered after a title search, once it becomes unencumbered it should go to the highest qualified bid.

Commissioner's Response: Apache's comments relate to the state's administrative processes for lease sales, not to substantial new information relevant to the matters listed in AS 38.05.035(g). Apache's suggestions have been forwarded to the DO&G director and to the DO&G Leasing section for consideration.

2. ***Comment Summary:*** Apache comments that the state's bidding process should be changed so that, once a bid on a lease is that was not free and clear is free and clear, the tract should be awarded to the highest qualified bidder. Apache also states that the time the state has to verify ownership should be limited because, in some instances that take a year or more, the state retains the cash deposit of a winning bid.

Commissioner's Response: Apache's comments relate to the state's administrative processes for lease sales, not to substantial new information relevant to the matters listed in AS 38.05.035(g). Apache's suggestions have been forwarded to the DO&G director and to the DO&G Leasing section for consideration.

3. ***Comment Summary:*** Apache states that the Alaska Coastal Management Program no longer exists and that future announcements on lease sales should reflect that.

Commissioner's Response: The DO&G recognizes that the Alaska Coastal Management Program (ACMP) no longer exists, however that fact does not justify a supplement to the Cook Inlet and Alaska Peninsula Final Findings. The next Alaska Peninsula and Cook Inlet best interest findings will not include the ACMP.

Therefore, because the comments submitted by Apache address administrative processes for lease sales and not to matters listed in AS 38.05.035(g), the comments are not substantial new information that justifies supplements to the Cook Inlet and Alaska

Conclusion

The commissioner has considered the comments submitted in response to the Call for New Information for the 2014 Cook Inlet and Alaska Peninsula areawide lease sales. The comments do not provide substantial new information that justifies a supplement to the Cook Inlet Final Finding or the Alaska Peninsula Final Finding.

An eligible person affected by this decision may request reconsideration of it, in accordance with 11 AAC 02. Any request for reconsideration must be received within 20 calendar days after the date of "issuance" of this decision, as defined in 11 AAC 02.040(c) and (d), and may be mailed or delivered to Joe Balash, Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918; or sent by electronic mail to: dnr.appeals@alaska.gov.

An eligible person must first request reconsideration of this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. If the commissioner does not act on a request for reconsideration within 30 days after issuance of this decision, the request for reconsideration is considered denied and this decision becomes a final administrative order and decision on the 31st day after issuance for the purposes of an appeal to Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.



Joe Balash, Commissioner

1/17/14

Date

cc: Roberta Highland, Kachemak Bay Conservation Society
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