



January 22, 2013

Decision of No Substantial New Information 2013 Cook Inlet and Alaska Peninsula Areawide Lease Sales

Introduction

Under 38.05.035(e), a written finding that the interests of the state will be best served 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 annually held 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 12, 2012, DO&G issued a Call for New Information regarding the 2013 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 13, 2012.

As stated in the Call for New Information, DO&G generally considers "substantial new" information to include 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 has 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 54 timely comments and requests, including requests to extend the comment period and a public hearing in Homer. Some of the comments referenced or included documents. The commissioner has reviewed and considered all timely public comments and documents referenced or included with those comments.

A few of the comments are directed to the activities of Buccaneer Alaska, LLC (Buccaneer). At the same time the Call for New Information was issued, a comment period was opened regarding Buccaneer's application to form the proposed West Eagle unit, located northeast of Homer near the Caribou Hills area. Although the notices requested comments to be sent to different sections in DO&G, some comments overlapped.

Decision

The commissioner finds that no substantial new information was received in response to the Call for New Information, dated October 12, 2012, to justify a supplement to the Cook Inlet Final Finding or the Alaska Peninsula Final Finding. The commissioner considered each hearing and extension request, but determines that the statutory public comment period provided adequate opportunity for the public to provide the commissioner with substantial new information. Requests for public hearing and to extend the public comment deadline are denied.

Responses to Timely Public Comments

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

1. **Gina Allison, Donna Beran, Susan Butler, Susan Christansen, Louis Dupree, William Easton, Nina Faust, Donna Fenske, Hope Finkelstein, Mairiis Kilcher, PeggyEllen Kleinleder, Michael LeMay, Deborah Limacher, Marjorie Murphy-Ringer, Dr. David Ruskin, Linda Smogor, Terri Spigelmyer, Ellen Vande Visse, Kevin Walker, and Anne Wieland (Commenters)**

Comment Summary: These commenters submitted substantially similar requests. They request extending the comment period; mandating zero overboard discharge from rigs operating in Cook Inlet, and Bristol and Kachemak bays; requiring monthly audits of new oil companies working on leases to ensure operations are in compliance with mandatory standardized safety procedures; appointing an existing Alaskan oil company to mentor new oil companies; and, removing watershed areas that drain into Kachemak Bay, Cook Inlet, and Bristol Bay from lease sales areas.

Commissioner's Response: The commenters did not provide substantial new information as requested in the October 12, 2012, Call for New Information. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

Responses to the commenters' requests:

Mandate zero overboard discharge from rigs operating in Cook Inlet, Bristol Bay, and Kachemak Bay: DNR does not have authority to regulate wastewater discharge. That responsibility belongs to the Alaska Department of Environmental Conservation (DEC). DEC manages discharge through its Alaska Pollutant Discharge Elimination System program.¹ If a lease sale proceeds to exploration and development, DEC's permitting requirements ensure discharges will not violate water quality standards.

¹ <http://dec.alaska.gov/water/npdes/index.htm>. The program began as a requirement under the federal Clean Water Act. The Environmental Protection Agency transferred its program authority to the state of Alaska between 2008 and 2012. The federal program is discussed in the Cook Inlet Final Finding, p. 7-15.

Require monthly audits of new oil companies that have purchased leases in the state to ensure their operations are in compliance with mandatory standardized safety procedures. Appoint an existing Alaskan oil company mentor to each new company to ensure operations are in compliance and defined safety standards of conduct are met: DO&G monitors mitigation measure compliance by all lessees through periodic inspections. The commissioner believes that the state has sufficient authority through the constitution, statutes, and regulations, the lease sale terms, lease contract, and plan of operations permit terms to ensure that lessees safely conduct their work and protect the environment.

Remove watershed areas that drain into Kachemak Bay, Cook Inlet, and Bristol Bay from the lease sales: The commenters did not provide substantial new information to support their request to remove watershed areas that drain into the referenced bays from the lease sale area. Chapter 9 of the Cook Inlet Final Finding and chapter 7 of the Alaska Peninsula Final Finding provide comprehensive mitigation measures developed with the Alaska Department of Fish and Game to protect habitat, fish, and wildlife, and their uses in the lease sales areas, including measures to mitigate potential effects on Kachemak Bay, Cook Inlet, and Bristol Bay waters and the wildlife that depend on those waters. The commissioner determined that the mitigation measures, along with laws imposed by other state, federal, and local agencies will avoid, minimize, and mitigate potential negative effects on the oil and gas lease sales areas.

2. Susan Admundson

Comment Summary: Ms. Admundson states that she opposes state oil and gas development lease sales in 2013 without knowing all pertinent environmental data and information. She states that oil and gas development creates air, noise, and light pollution. She supports continued research of the effects of ocean acidification and global warming, and the investment in clean, renewable, and alternative energy projects. Ms. Admundson opposes approval of Buccaneer's West Eagle unit application.

Commissioner's Response: Both the Cook Inlet and Alaska Peninsula final findings discuss environmental data and information and mitigation measures directed at air, noise, and light pollution. In particular, potential effects from activities such as seismic surveys, construction activities, and similar development, on marine habitats, fish, mammals, birds and other organisms of the Cook Inlet area are discussed in Chapter 8 of the Cook Inlet Final Finding, p. 8-8. Section B2 of this chapter also discusses mitigation measures and other regulatory protections that are designed to avoid, minimize, and mitigate these potential effects. Potential effects from activities such as seismic surveys, construction activities, and similar development, on marine habitats, fish, mammals, birds and other organisms of the Alaska Peninsula area are discussed in Chapter 5 of the Alaska Peninsula Final Finding, p. 5-32. The chapter also discusses mitigation measures and other regulatory protections that are designed to avoid, minimize, and mitigate these potential effects. Ms. Admundson did not provide substantial new information documenting air, noise, and light pollution caused by oil and gas development. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

Regarding oil and gas development, the commissioner believes the state has sufficient authority through the constitution, statutes and regulations, the terms of the lease sale, the lease contract, and plan of operations to ensure that lessees safely conduct their work, protect the environment, and maintain opportunities for other concurrent uses (Cook Inlet Final Finding, p. 11-3; Alaska Peninsula Final Finding, p. 9-7).

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 2011 AEA approved \$176.6 million for 207 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). AEA estimates that by the end of 2013, 44 RE Fund projects will be complete, annually saving more than 10 million gallons of diesel fuel.²

The commissioner was aware of global warming when he approved the 2009 Cook Inlet Final Finding. However, he noted on page A-7 that “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.”

This decision concerns whether there is substantial new information related to selling leases in Cook Inlet and the Alaska Peninsula, not the activities of a single existing lessee. Therefore, Ms. Admundson’s comments opposing Buccaneer’s West Eagle unit application will not be considered here.

3. Robert Archibald, Homer, AK

Comment Summary: Mr. Archibald encourages using alternative energy sources, asserts that generated noise and discharge of drilling fluids is detrimental to marine life, encourages protection of watersheds that empty into Kachemak Bay and, states that climate change is occurring.

Commissioner’s Response: Mr. Archibald did not provide substantial new information as requested in the October 12, 2012, Call for New Information. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information. Mr. Archibald’s comments are similar to those made by Ms. Admundson in Section 2 above. The commissioner’s responses to her comments are incorporated here.

4. Sharon Baur, Homer, AK

Comment Summary: Ms. Baur states that an oil spill in Cook Inlet could affect Kachemak Bay, which is a designated critical habitat. She also requests the state: explain why it is forcing oil and gas development in this region despite Homer’s adoption of a climate action plan; explain why the state is not participating in development and installation of tidal generators as an energy source in the Homer area; extend the comment period and hold a hearing; remove Kachemak Bay watershed and other areas that will be dramatically affected from the lease sale areas; and, move toward zero discharge for all new drilling in Cook Inlet.

Commissioner’s Response: Ms. Baur did not provide substantial new information as requested in the October 12, 2012, Call for New Information. The commissioner considered the impacts of an oil spill and mitigation measures to address potential spills in Chapters 8 and 9 of the 2009 Cook Inlet Final Finding. Ms. Baur has not offered new information or data that would change the commissioner’s consideration of this issue or justify supplementing this Final Finding. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information. Ms. Baur’s comments requesting zero discharge and removing the Kachemak Bay watershed from the lease sale area are similar to those made in Section 1. The commissioner’s responses to those comments are incorporated here. Additionally, the commissioner responds to Ms. Baur as follows:

Explain why the state is forcing oil and gas development in this region despite Homer’s adoption of a climate action plan: The state conducts oil and gas lease sales in areas where there are likely oil and gas resources and interest in the leases, and if the commissioner has determined, after consideration of the potential adverse impacts and weighing of factors, that on balance leasing the oil and gas resources in the area would best serve the state’s interest. The state has annually conducted areawide lease sales in the Cook Inlet area since 1999. Areas around

² Alaska Energy Authority. 2011. Report to Alaskans. <http://www.akenergyauthority.org/>

Homer and Kachemak Bay are excluded from oil and gas lease sales. See AS 38.05.184. The commissioner has considered the 2007 City of Homer Climate Action Plan³, but notes that this plan states its purpose is to “help the City meet greenhouse gas emission reduction targets,” and is not meant to “instruct ordinary citizens, households, or private businesses.” (Climate Action Plan, p. 24).

Explain why the state is not participating in development and installation of tidal generators as an energy source in the Homer area: The Alaska Energy Authority, a state agency, is partnering with the National Oceanic and Atmospheric Ocean and River Hydrokinetic Administration (NOAA) to create a model of Cook Inlet’s tidal energy potential. Results should be available this year. While opportunities exist, environmental and technical challenges remain for commercial deployment of wave, tidal, or in-river devices.⁴ The major issues associated with tidal power are the potential disruptions to marine organisms (both physical and acoustic changes) and the changes in tidal flow that result from the extraction of energy. Very little research has been conducted on these questions in Alaska and the size of these potential impacts is unknown.

5. Cindy Birkhimer, Homer, AK

Comment Summary: Ms. Birkhimer states that fossil fuel development is causing ocean acidification and global warming and that there are substantial professional studies on this issue prepared by the Ocean Acidification Research Center at the University of Alaska Fairbanks. She comments that we need to develop alternative energy sources.

Commissioner’s Response: Ms. Birkhimer refers to professional studies in her comment, but did not include copies of any studies for the commissioner to review. Instead, she generally refers to substantial professional studies from the Ocean Acidification Research Center at the University of Alaska. A review of the Ocean Acidification Research Center’s website⁵ does not provide links or references to any completed studies or papers. The website contains links to a listing of projects currently underway and news articles about the status of the center’s projects. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

The commissioner was aware of global warming when he approved the 2009 Cook Inlet Final Finding. However, he noted on page A-7 that “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.”

A discussion of alternative energy sources is contained in Section 2 above.

6. Amy Christiansen, Homer, AK

Comment Summary: Ms. Christiansen states that ocean acidification, greenhouse gases, and pollution are related to fossil fuel extraction and use. She wants studies done about the effects of fossil fuel extraction in the area. She is concerned about the impact of oil and gas exploration activities impact on Homer’s roads. She requests a public hearing on Buccaneer’s activities in the area and an extension of the comment period.

Commissioner’s Response: Ms. Christiansen did not provide substantial new information as requested in the October 12, 2012, Call for New Information. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

³ City of Homer. 2007. Climate Action Plan. <http://www.cityofhomer-ak.gov/citycouncil/climate-action-plan>

⁴ Alaska Energy Authority. 2011. Renewable Energy Atlas of Alaska. ftp://ftp.aidea.org/AEAPublications/2011_RenewableEnergyAtlasofAlaska.pdf

⁵ <http://www.sfos.uaf.edu/oarc/about.php>

AS 38.05.035(g)(vi) requires DNR to consider and discuss in its findings the reasonably foreseeable cumulative effects of exploration, development, production, and transportation of oil and gas on the sale area. The reasonably foreseeable effects of fossil fuel extraction in Cook Inlet are discussed in the Cook Inlet Final Finding, starting on p. 8-1. Land-use activities and the effects of exploration on community roads are regulated under 11 AAC 83.158 and in the lease. These regulations require the lessee to prepare plans of operation and development that must be approved by DO&G and by any other interest holder, if ownership is shared, before the lessee begins any activities within the leased area.

Except for uses and activities appearing on the list in 11 AAC 96.020, the lessee must prepare a plan of operation and obtain all required approvals and permits for each phase of exploration, development, or production before beginning that activity. Permit applications and plans are available for public review and comment when DO&G reviews plans of operation for exploration and development of specific leases. AS 38.05.035(g)(vi) does not require DNR to consider and discuss the reasonably foreseeable cumulative effects of the *uses* of oil and gas. In this regard, discussion of the potential effects of oil and gas usage is beyond DNR's scope of review.

7. Sue Christiansen, Fritz Creek, AK

Comment Summary: In addition to her comments addressed in Section 1 above, Ms. Christiansen comments on the amount of natural gas that is vented on the North Slope and other oil and gas fields. To support her comments, she refers to a review addressing gas flaring and venting⁶. She also comments that the consequences of underwater seismic blasting are not understood.

Commissioner's Response: The 2010 study to which Ms. Christiansen refers does not address gas flaring in Alaska in general or specifically in the Cook Inlet or Alaska Peninsula areawide lease sales areas. The study does not specifically address gas flaring in Alaska at all, but notes at p. 42 that individual states may have their own regulations for gas flaring and venting. Gas flaring is regulated in Alaska by the Alaska Oil and Gas Commission (AOGCC). The AOGCC's authority is discussed in the Cook Inlet Final Finding, p. 8-12. The general discussion of gas flaring in the study does not justify a supplement to the Cook Inlet Final Finding or the Alaska Peninsula Final Finding. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

The Cook Inlet Final Finding, starting at page 8-8, and the Alaska Peninsula Final Finding, at page 5-41, discuss underwater seismic blasting. The Cook Inlet Final Finding also notes the lack of research on the effects of noise associated with oil and gas development on marine mammals. The lack of conclusive results, particularly at the population level, is frequently highlighted by scientific, industry, and environmental organizations. However, mitigation measures and other regulatory protections are expected to avoid, minimize, and mitigate potential effects. For example, lessees must comply with the requirements of the Marine Mammal Protection Act and the Endangered Species Act. The lack of research on noise did not prohibit the commissioner from concluding in the Cook Inlet Final Finding or the Alaska Peninsula Final Finding that leasing in these areas best serves the state's interests.

8. Jonathan Cook, Brookline, MA

Comment Summary: Mr. Cook states that he opposes oil and gas drilling in Turnagain Arm, Matanuska Susitna River areas, upper Cook Inlet, Bristol Bay, and Nushagak Bay, the North Alaska Peninsula and the Caribou Hills recreation area, and state lands by the Arctic National Wildlife Refuge and Beaufort Sea. He requests an extension of the comment period and a public hearing.

⁶ Birnur Buzcu-Guven, et. al. 2010. Energy Market Consequences of an Emerging U.S. Carbon Management Policy, Gas Flaring and Venting: Extent, Impacts, and Remedies.
<http://www.bakerinstitute.org/publications/CARBONFlaring%20paper%20Birnur%20FINALwith%20cover%20secured.pdf>

Commissioner's Response: Mr. Cook did not provide substantial new information as requested in the October 12, 2012, Call for New Information. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

9. Laurie Daniel, Homer, AK

Comment Summary: Ms. Daniel states that she is a local wildlife biologist who has worked in and observed the marine and coastal ecosystems in the greater Cook Inlet for over 30 years. She states that substantial new scientific information addressing climate change is available. She notes that her community developed and passed a Climate Action Plan that has not been considered in previous best interest findings. She also comments that there is a significant geologic fault in the East End Road area and that drilling and exploration may create negative impacts on local water aquifers and supply.

Ms. Daniel requests extending the comment period and holding a public hearing, removing areas from the lease sale, and requiring zero discharge. In addition, Ms. Daniel requests a requirement to drill blow-out relief wells for all marine well development, and a requirement to have well-capping equipment and a certified backup rig located in the Southcentral region.

Commissioner's Response: Ms. Daniel's requests regarding removing areas from the lease sale and requiring zero discharge are addressed in Section 1 above. Ms. Daniel did not provide substantial new information as requested in the October 12, 2012, Call for New Information. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information. The Climate Action Plan is addressed in Section 4 above.

The Homer Fault at East End Road and other faults, earthquakes, and volcanos in the Cook Inlet area are identified in the Cook Inlet Final Finding, p. 3-24. The commissioner discussed the potential effects of a blowout or spill in the 2009 Cook Inlet Final Finding in Chapter 8, as well as mitigation measures and state and federal agency regulation that avoids, minimizes, and mitigates those potential effects.

10. Brenda Dolma, Homer, AK

Comment Summary: Ms. Dolma states that fossil-fuel development is causing ocean acidification and global warming. She supports developing alternative energy sources, and requests a public meeting to discuss the future of renewables in Alaska.

Commissioner's Response: Ms. Dolma did not provide substantial new information to support her comment that fossil fuel development is causing ocean acidification and global warming. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

Renewable energy sources are discussed in Section 2 above. DO&G focuses on the development of oil and gas as an energy source in Alaska. Discussions regarding renewable energy sources in Alaska are more appropriately had with the Alaska Energy Authority or with Ms. Dolma's legislator.

11. Mary Ellen Doty, Homer, AK

Comment Summary: Ms. Doty requests that oil companies that lease in Kachemak Bay be inspected at least monthly.

Commissioner's Response: Ms. Doty did not provide substantial new information as requested in the October 12, 2012, Call for New Information. Regarding oil and gas activities in Kachemak Bay, the Cook Inlet Final Finding does not authorize the sale of leases in Kachemak Bay. Oil and gas leases in Kachemak Bay have been prohibited by statute since 1976, and there are no existing oil and gas leases in Kachemak Bay. AS 38.05.184 states:

(a) The legislature finds that Kachemak Bay is an area of extraordinary abundance and diversity of marine life that has provided, and will continue to provide in the future, a basis for one of the state's most important commercial fisheries; that recent information discloses that even minute quantities of oil released into the marine environment may be harmful to the larval forms of crabs and other marine life and that the existence of gyral currents within the bay may increase the likelihood of oil coming into contact with these valuable commercial fish and shellfish species; and that therefore oil and gas development in the bay, at this time, presents an undue hazard to this valuable state renewable resource.

(b) No additional oil or gas leases may be issued by the department or any other state agency for the exploration for or the development or production of oil and gas on state-owned land and waters seaward of the mean higher high water line, beginning at Anchor Point; then around the perimeter of Kachemak Bay, to Point Pogibshi; then west to the three mile limit of state land and waters; then north to a point three miles west of Anchor Point; then east to the mean higher high water line of Anchor Point, the point of beginning.

12. Karen East, Homer, AK

Comment Summary: Ms. East states that fossil-fuel use is having a dramatic effect on our oceans. She comments that the way to combat ocean acidification and reduce carbon dioxide emissions is to use renewable energies. She also requests a public hearing, and notes that Homer has adopted a Climate Action Plan. She encourages the use of tidal energy.

Commissioner's Response: Ms. East did not provide substantial new information as requested in the October 12, 2012, Call for New Information. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

Ms. East's comments are similar to those in Sections 2 and 4 above and are addressed there.

13. William Easton, Homer, AK

Comment Summary: In addition to his comments made in Section 1 above, Mr. Easton states that fossil-fuel use is having a dramatic effect on our oceans. He comments that the way to combat ocean acidification and reduce carbon dioxide emissions is to use renewable energies. He notes that Homer has adopted a Climate Action Plan. He encourages the use of tidal energy. Mr. Easton also comments that there is a significant geologic fault in the East End Road area and that drilling and exploration may create negative impacts on local water aquifers and supply.

Commissioner's Response: Mr. Easton did not provide substantial new information as requested in the October 12, 2012, Call for New Information. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

The Homer Fault is in the East End Road area. It and other faults, earthquakes, and volcanos in the Cook Inlet area are identified in the Cook Inlet Final Finding, p. 3-24. In the Cook Inlet Final Finding at page 8-7, the commissioner notes that DNR considers local demand and may require applicants to conduct aquifer yield studies before permitting water use.

Mr. Easton's comments regarding alternative energy sources and Homer's Climate Action Plan are addressed in Sections 2 and 4 above.

14. Nina Faust, Homer, AK

Comment Summary: In addition to her comments made in Section 1 above, Ms. Faust states that fossil-fuel use is having a dramatic effect on our oceans. She comments that the way to combat ocean acidification and reduce

carbon dioxide emissions is to use renewable energies. She notes that Homer has adopted a Climate Action Plan. She encourages the use of tidal energy. Ms. Faust also comments that there is a significant geologic fault in the East End Road area and that drilling and exploration may negatively affect local water aquifers and supply. She includes references to three documents regarding ocean acidification and the City of Homer's Climate Action Plan.⁷

Commissioner's Response: The documents Ms. Faust provided regarding ocean acidification are not relevant to the findings because the use of fossil fuel is beyond the scope of the findings. See Section 6 above. Ms. Faust did not provide substantial new information addressing how drilling may affect local aquifers. The geologic fault and water aquifers are addressed in Section 13 above. Ms. Faust's comments regarding the Climate Action plan and tidal energy are addressed in Section 4 above.

15. Linda Feller, Anchor Point, AK

Comment Summary: Ms. Feller makes several comments regarding the activities of lessee Buccaneer in the Cook Inlet lease sale area.

Commissioner's Response: This decision concerns whether there is substantial new information related to selling leases in Cook Inlet and the Alaska Peninsula, not the activities of a single existing lessee. Ms. Feller's comments are more appropriately directed at Buccaneer's pending West Eagle unit application.

16. Kate Finn

Comment Summary: Ms. Finn comments that fossil fuel use is having a dramatic effect on our oceans. She comments that the way to combat ocean acidification is to use renewable energies. She notes that DNR documents do not address the effects of ocean acidification and global warming caused by oil, gas, and coal development and combustion. Ms. Finn also comments that studies and papers from the Ocean Acidification Research Center at the University of Alaska Fairbanks document natural disasters caused by excessive burning of fossil fuels and ocean acidification.

Commissioner's Response: Ms. Finn refers to studies and papers in her comment, but did not include copies of any study or paper for the commissioner to review. Instead, she generally refers to studies and papers from the Ocean Acidification Research Center at the University of Alaska Fairbanks that document natural disasters caused by excessive burning of fossil fuels and ocean acidification. A review of the Ocean Acidification Research Center's website⁸ does not provide links or references to any completed studies or papers. The website contains links to a listing of projects currently underway and news articles about the status of the center's projects. The

⁷ Foy, R. J., Carls, M., et. al. 2012. Ocean Acidification: Monitoring and Measuring the Physiological and Population Response of Living Marine Resources in Alaska. Alaska Fisheries Science Center Quarterly Report (July August September). <http://www.afsc.noaa.gov/Quarterly/jas2012/JAS12-Feature2.pdf>

Eilperin, J. September 30, 2012. Ocean acidification emerges as new climate threat. Washington Post. http://www.washingtonpost.com/national/health-science/ocean-acidification-emerges-as-new-climate-threat/2012/09/30/8457e6e8-08b8-11e2-aff-d6c7f20a83bf_story.html

University of Alaska Fairbanks. August 14, 2009. Increased Ocean Acidification In Alaska Waters, New Findings Show. *ScienceDaily*. <http://www.sciencedaily.com/releases/2009/08/090813163158.htm>

City of Homer. 2007. Climate Action Plan. <http://www.cityofhomer-ak.gov/citycouncil/climate-action-plan>

⁸ <http://www.sfos.uaf.edu/oarc/about.php>

commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

Ms. Finn's comments regarding renewable energy are addressed in Section 2 above.

17. Sunny Prather Hamilton, Mark Kelly, Pete Lowney, Selah Prather, Valdez, AK (Commenters)

Comment Summary: The commenters submitted substantially similar comments: They oppose oil and gas drilling, and request a public comment deadline extension and a public hearing. They request reconsideration if the commissioner makes a finding of no new substantial information.

Commissioner's Response: The commissioner notes the commenters' opposition. The commenters did not provide substantial new information as requested in the October 12, 2012, Call for New Information. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

The commenters' request for reconsideration is inappropriate at this time. The request for reconsideration must be received by the commissioner within 20 calendar days *after* this decision is issued (11 AAC 02.040(a)). The request must follow several requirements including stating the basis on which the decision is challenged, any material facts in dispute, and the remedy requested (11 AAC 02.030(a)). The commissioner will not consider the existing comments as valid reconsideration requests.

18. Roberta Highland, President, Kachemak Bay Conservation Society, Homer, AK

Comment Summary: Kachemak Bay Conservation Society requests, through Ms. Highland, that offshore lease activities that may allow discharge to enter the three gyres inside and outside Kachemak Bay in lower Cook Inlet and all lease areas in the Kachemak Bay watershed be removed from the lease sale. She comments that climate change and global warming are causing death, destruction, and economic loss. She requests a public hearing. She states that renewable energy should be developed.

Commissioner's Response: Ms. Highland did not provide substantial new information as requested in the October 12, 2012, Call for New Information. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

AS 38.05.184 restricts oil and gas leases in Kachemak Bay. Specifically, the statute says, "the existence of gyral currents within the bay may increase the likelihood of oil coming into contact with these valuable commercial fish and shellfish species; and that therefore oil and gas development in the bay, at this time, presents an undue hazard to this valuable state renewable resource." Gyres and other currents outside Kachemak Bay are discussed in the Cook Inlet Final Finding, p. 3-19.

Comments regarding renewable energy are addressed in Section 2 above.

19. Nina Lisowski, Homer, AK

Comment Summary: Ms. Lisowski opposes the areawide oil and gas lease sales. She states that climate change is affecting our state. She encourages energy sustainability, and requests a public hearing.

Commissioner's Response: Ms. Lisowski did not provide substantial new information as requested in the October 12, 2012, Call for New Information. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

Ms. Lisowski's comments are substantially similar to Ms. Highland's comments and are addressed Section 18 above.

20. Michael McCarthy, Homer, AK

Comment Summary: Mr. McCarthy states that there has been no mention of the Border Ranges fault and comments that re-injected drilling water may lubricate faults in that area. He requests an extension of the comment deadline.

Commissioner's Response: Mr. McCarthy did not provide substantial new information as requested in the October 12, 2012, Call for New Information. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

The Border Ranges fault is described in the Cook Inlet Final Finding, p. 3-25. The Alaska Oil and Gas Conservation Commission (AOGCC) has authority for underground disposal of oil field waste. Its authority is discussed in the Cook Inlet Final Finding, p. 7-13: "Before receiving an approval, an operator must demonstrate that the movement of injected fluids into freshwater sources will not occur. Disposal must be into a well with equipment designed to ensure injected fluids are confined to the intended injection zone." Accordingly, the commissioner considered the Border Ranges fault and the AOGCC's regulation of underground disposal when the commissioner found that leasing oil and gas resources in Cook Inlet best serves the state's interest.

21. Kathryn Mulder

Comment Summary: Ms. Mulder makes several comments regarding the activities of lessee Buccaneer in the Cook Inlet lease sale area.

Commissioner's Response: This decision concerns whether there is substantial new information related to selling leases in Cook Inlet and the Alaska Peninsula, not the activities of a single existing lessee. Ms. Mulder's comments are more appropriately directed at Buccaneer's pending West Eagle unit application.

22. Elizabeth Neumann, Anchor Point, AK

Comment Summary: Ms. Neumann comments that fossil fuel development is causing ocean acidification and global warming. She encourages the AIDEA to invest in clean and renewable energy.

Commissioner's Response: Ms. Neumann did not provide substantial new information, including how fossil fuel development causes ocean acidification and global warming, as requested in the October 12, 2012, Call for New Information. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

Renewable energy is discussed in Section 2 above. DNR does not have authority over AIDEA or its investment decisions.

23. Michael O'Meara, Homer, AK

Comment Summary: Mr. O'Meara comments that potential impacts of oil and gas development on Chinook salmon runs and harvest of other salmon species is not adequately addressed in the Cook Inlet Final Finding. He refers to an article in the Alaska Journal of Commerce discussing low salmon returns and the federal government's designation of the 2012 Cook Inlet Chinook salmon fisheries disaster designation⁹ and to a letter commenting on a draft document entitled "Alaska Chinook Salmon Knowledge Gaps and Needs".¹⁰ He states that

⁹ Dischner, Molly. September 21, 2012. Feds declare disaster for king salmon fisheries. Alaska Journal of Commerce. <http://www.alaskajournal.com/Alaska-Journal-of-Commerce/September-Issue-4-2012/Feds-declare-disaster-for-king-salmon-fisheries/#ixzz2C9aiTrF4>

¹⁰ Mauger, S., Science Director, Cook Inletkeeper, November 9, 2012, personal communication.

the most recent information on Chinook salmon fresh water habitat sensitivity needs to be included in the Cook Inlet Final Finding to strengthen protection of Cook Inlet watersheds, rivers, and streams.

Commissioner's Response: The Alaska Journal of Commerce article states that "the cause of Alaska's low king return is unknown. Fish and Game has said that a variety of biological factors, like survival in prior years and ocean conditions, could be at play. In July 2012, Governor Parnell created a state team of fisheries scientists to study the issue of low king returns throughout the state." In response to the state's fisheries scientists' draft gap analysis, Mr. O'Meara notes that Sue Mauger, science director for the Cook Inletkeeper, states in her letter that "our ability to discern population impacts during the freshwater phase of the salmon life cycle is extremely limited." She notes that water temperature, climate warming trends, and fall floods may impact salmon populations, and that salmon wintering habitat use or availability and migratory corridors are unknown. Ms. Mauger also states in her letter, as Mr. O'Meara points out, that "if we don't know where the Chinook are and when, we can't create watershed planning tools to protect their habitat." The governor proposed a salmon research initiative on November 27, 2012, based on the draft research plan developed by the fisheries scientists during the summer. The research plan includes adult, juvenile, and harvest assessments, as well as genetics, biometrics, and local and traditional knowledge. Projects will be conducted statewide and the research plan will be updated as more data and analyses become available.¹¹

The documents to which Mr. O'Meara refers do not mention a connection between oil and gas development and declining fish populations. The discussed impacts on fish populations are from climate, floods, and other natural occurrences. Accordingly, the commissioner has determined that these documents do not justify supplementing the Cook Inlet Final Finding. The commissioner notes that Chapters 8 and 9 of this finding addresses potential effects on fish populations and habitats and includes mitigation measures to avoid or mitigate such effects.

24. Dr. David Raskin, Homer, AK

Comment Summary: In addition to his comments made in Section 1 above, Dr. Raskin's comments are substantially similar to Ms. Nina Faust's comments in Section 14 above. Additionally, he states that Governor Hammond was elected in part because he pledged to rid Homer and Kachemak Bay of oil development. He includes the same references to three documents regarding ocean acidification and the City of Homer's Climate Action Plan as does Ms. Faust in Section 14 above.

Commissioner's Response: Because Dr. Raskin's comments are nearly identical to Ms. Faust's comments, the responses in Section 14 above are incorporated here.

The commissioner notes that in 1976, Governor Hammond signed into law AS 38.05.184, disallowing new oil and gas leases of state-owned tide and submerged land and water seaward of the mean higher high water line of Kachemak Bay between Anchor Point and Point Pogibshi in Kachemak Bay. The text of the statute is found in Section 11 above. The state reacquired existing leases later that year. In 1999, the state again found it in the best interest of the state to exclude Homer and Kachemak Bay area from areawide oil and gas lease programs, and the Cook Inlet Final Finding, p. 4-12, excludes the area as well.

25. Melissa Reichman, Homer, AK

Comment Summary: Ms. Reichman states that she opposes oil and gas extraction in the area surrounding Kachemak Bay, and supports development of alternative energy sources.

Commissioner's Response: Ms. Reichman did not provide substantial new information as requested in the October 12, 2012, Call for New Information. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

¹¹ Office of the Governor. November 27, 2012. Governor Proposes Salmon Research Initiative. <http://gov.alaska.gov/parnell/press-room/full-press-release.html?pr=6316>

Ms. Reichman's comments regarding alternative energy sources are addressed in Section 2 above. The commissioner notes that lease sales have long been prohibited in Kachemak Bay, and incorporates the discussion of this issue in Section 11 above.

26. Rob Rosenfeld

Comment Summary: Mr. Rosenfeld makes several comments regarding the activities of lessee Buccaneer in the Cook Inlet lease sale area.

Commissioner's Response: This decision concerns whether there is substantial new information related to selling leases in Cook Inlet and the Alaska Peninsula, not the activities of a single existing lessee. Mr. Rosenfeld's comments are more appropriately directed at Buccaneer's pending West Eagle unit application.

27. Lindianne Sarno and Bumpo Bremicker, Homer, AK (Commenters)

Comment Summary: Commenters note that climate-change driven droughts in the Lower 48 make Alaska's food production systems increasingly critical. They also state that wave energy should be added to other forms of alternative energy.

Commissioner's Response: The commenters did not provide substantial new information as requested in the October 12, 2012, Call for New Information. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

AS 38.05.035(g)(vi) requires ADNR to consider and discuss in its findings the reasonably foreseeable cumulative effects of exploration, development, production, and transportation of oil and gas *on the sale area*. In this regard, discussion of the potential effects of climate change on food production is beyond DNR's scope of review.

The commenters' comments regarding wave energy are addressed in Section 4 above. Renewable resources are generally discussed in Section 2 above.

28. Lindianne Sarno, Chair, Homer Economic Development Advisory Commission

Comment Summary: Ms. Sarno states that Alaskan fisheries are not impacted by ocean acidification, and the value of the fisheries increase as other fisheries collapse. She notes that Alaskan agriculture is experiencing steady growth, and that the Homer area does not have enough water to support drilling operations.

Commissioner's Response: Ms. Sarno asserts that there is not enough water in Homer to support drilling operations but did not submit substantial new information to support her claim. Consequently, her comments are not considered substantial new information as requested in the Call for New Information. The commissioner incorporates his discussion of water usage from Section 13, and will consider published reports and studies if they are submitted for consideration during future calls for new information.

29. Tamara Schmidt, Homer, AK

Comment Summary: Ms. Schmidt encourages putting state investment into tidal and wind energy, and requests a public hearing. She included Nina Faust's letter as it captures her view of the issues as well.

Commissioner's Response: Ms. Schmidt did not provide substantial new information as requested in the October 12, 2012, Call for New Information. Instead, she provided comments. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

Tidal and wave energy are discussed in Section 4 above. Please refer to the commissioner's response to Ms. Faust's comments in Section 14 above.

30. Janice Schofield, New Zealand

Comment Summary: Ms. Schofield states she is concerned by oil and gas lease sales within Kachemak Bay critical habitat zone, and requests holding a public hearing and mandating zero discharge from rigs.

Commissioner's Response: Ms. Schofield did not provide substantial new information as requested in the October 12, 2012, Call for New Information. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

The Cook Inlet Final Finding, p. 4-12, states that the Kachemak Bay Critical Habitat Area was established in 1974 and lies outside of the lease sale area. Discussion of zero discharge is addressed in Section 1. The DEC, not DNR, has authority to regulate wastewater discharge.

31. Dr. Hal Smith and Susan McLane (Commenters)

Comment Summary: The commenters state that they oppose the proposed lease sales in Cook Inlet and the Alaska Peninsula. They request a deadline extension for comments and a public hearing.

Commissioner's Response: The commenters did not provide substantial new information as requested in the October 12, 2012, Call for New Information. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

32. Tracy B (commenter)

Comment Summary: The commenter states she is opposed to oil and gas development near Homer.

Commissioner's Response: The commissioner notes the commenter's opposition. The commenter did not provide substantial new information as requested in the October 12, 2012, Call for New Information. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

33. Matt Tucker

Comment Summary: Mr. Tucker requests an extension of the public comment period. He states that many people are still learning about this major event (areawide lease sales).

Commissioner's Response: Mr. Tucker did not provide substantial new information as requested in the October 12, 2012, Call for New Information. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

Areawide lease sales in Cook Inlet have been annually held since 1999. Before each lease sale, DNR mails a Call for New Information to stakeholders (state and federal agencies, media, Native corporations and villages, boroughs, municipalities, industry, special interest groups, and individuals), publishes the Call for New Information in local newspapers, and posts it in local post offices, libraries, schools, and on the state website. Each Call for New Information allows at least 30 days for submission of substantial new information to supplement the most recent final finding.

34. Olga von Ziegesar-Matkin

Comment Summary: Ms. von Ziegesar-Matkin opposes the Buccaneer unit application and makes several comments regarding its proposed activities in the area. She supports developing renewable energy sources, and states that Alaska should not be putting any money or fuel into drilling for oil.

Commissioner's Response: This decision concerns whether there is substantial new information related to selling leases in Cook Inlet and the Alaska Peninsula, not the activities of a single existing lessee. Ms. Ziegesar-Matkin's comments are more appropriately directed at Buccaneer's pending West Eagle unit application. She did not provide substantial new information as requested in the October 12, 2012, Call for New Information. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information.

Renewable energy sources are discussed in Section 2 above.

35. Kevin Walker, Homer, AK

Comment Summary: In addition to his comments addressed under Section 1 above, Mr. Walker states he is opposed to reopening the Drift River Terminal. He refers to documents¹² to support his comment that volcanic activity may affect the Drift River Terminal. He supports alternative energy use, requests a public hearing and comment period extension, and comments that oil and gas use contributes to ocean acidification.

Commissioner's Response: DO&G does not have authority to regulate terminals such as the Drift River Terminal; DEC is vested with that authority. The DEC's Terminals and Tank Farms (TTF) section of the Industry Preparedness Program ensures the large bulk fuel terminals throughout the state are fully prepared to cleanup oil spills and are employing reasonable, prudent measures to prevent spills. The TTF section is responsible for the evaluation, approval and regulatory compliance oversight of Oil Discharge Prevention and Contingency plans (C-plans) submitted to the department for approval under AS 46.03, AS 46.04 and 18 AAC 75. Since DO&G does not regulate terminals, the documents Mr. Walker submitted are beyond the scope of review of the Call for New Information.

Mr. Walker's comments regarding alternative energy are addressed in Section 2 above.

36. Martin Zeller

Comment Summary: Mr. Zeller states that he opposes the Cook Inlet and Alaska Peninsula areawide lease sales. He states that he supports continued research into the effects of ocean acidification and global warming, and investing in renewable energy.

Commissioner's Response: The commissioner notes Mr. Zeller's opposition to the lease sales. Mr. Zeller did not provide substantial new information as requested in the October 12, 2012, Call for New Information. The commissioner will consider published reports and studies if they are submitted for consideration during future calls for new information. Global warming and ocean acidification are addressed in Section 5; investing in renewable energy is addressed in Section 2.

Conclusion

The commissioner has considered the responses to the Call for New Information for the 2013 Cook Inlet and Alaska Peninsula areawide lease sales. The responses do not provide substantial new information to justify a supplement to the Cook Inlet Final Finding or the Alaska Peninsula Final Finding.

¹² Waythomas, C.F., Dorava, J.M., et. al. 1998. Preliminary Volcano-Hazard Assessment for Redoubt Volcano, Alaska. USGS. <http://www.avo.alaska.doe/redoubt.hazards.ofr.pdf>

Ground Truth Trekking. 2012. Preliminary Discussion of the Hazards of Lahar-Induced Oil Spills at the Drift River Marine Terminal, Cook Inlet, Alaska. <http://www.groundtruthtrekking.org/static/uploads/files/Hazards%20of%20Lahar-Induces%20Oil%20Spills%20at%20the%20Drift%20River%20Marine%20Terminal.pdf>

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 Daniel S. Sullivan, 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.



January 22, 2013

Daniel S. Sullivan, Commissioner

Date

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