

Indirect Expenditure Name:

Waived Rent and Royalty for Shale Oil

Relevant Statute:

Sec. 38.05.160. Oil shale.

(a) The commissioner may lease to a qualified person deposits of oil shale belonging to the state and the surface of as much of the land containing these deposits, or land adjacent to it, as may be required for the extraction and reduction of the lease minerals. The lease may not exceed 5,120 acres of land, and the terms of the lease shall be limited to the extraction of minerals from the oil shale so leased. The lease may be for indeterminate periods upon the conditions imposed by the commissioner.

(b) For the privilege of mining, extracting, and disposing of the oil or other minerals covered by the lease, the lessee shall pay to the state the royalties specified in the lease and an annual rental at the rate of 50 cents an acre for the land included in the lease. The rental paid for any one year shall be credited against the royalties accruing for that year. For the purpose of encouraging the production of petroleum products from shales, the commissioner may waive the payment of royalty and rental during the first five years of the lease.

Indirect Expenditure Names:

Royalty Relief for Cook Inlet Platforms

Royalty Relief for Cook Inlet Small Discoveries

Relevant Statute:

Sec. 38.05.180. Oil and gas and gas only leasing.

(f) Except as provided by AS 38.05.131 - 38.05.134, the commissioner may issue oil and gas leases or leases for gas only on state land to the highest responsible qualified bidder as follows:

(1) the commissioner shall issue an oil and gas lease or a gas only lease, as appropriate, to the successful bidder determined by competitive bidding under regulations adopted by the commissioner; bidding may be by sealed bid or according to any other bidding procedure the commissioner determines is in the best interests of the state;

(2) whenever, under any of the leasing methods listed in this subsection, a royalty share is reserved to the state, it shall be delivered in pipeline quality and free of all lease or unit expenses, including but not limited to separation, cleaning, dehydration, gathering, salt water disposal, and preparation for transportation off

the lease or unit area;

(3) following a pre-sale analysis, the commissioner may choose at least one of the following leasing methods:

(A) a cash bonus bid with a fixed royalty share reserved to the state of not less than 12.5 percent in amount or value of the production removed or sold from the lease;

(B) a cash bonus bid with a fixed royalty share reserved to the state of not less than 12.5 percent in amount or value of the production removed or sold from the lease and a fixed share of the net profit derived from the lease of not less than 30 percent reserved to the state;

(C) a fixed cash bonus with a royalty share reserved to the state as the bid variable but no less than 12.5 percent in amount or value of the production removed or sold from the lease;

(D) a fixed cash bonus with the share of the net profit derived from the lease reserved to the state as the bid variable;

(E) a fixed cash bonus with a fixed royalty share reserved to the state of not less than 12.5 percent in amount or value of the production removed or sold from the lease with the share of the net profit derived from the lease reserved to the state as the bid variable;

(F) a cash bonus bid with a fixed royalty share reserved to the state based on a sliding scale according to the volume of production or other factor but in no event less than 12.5 percent in amount or value of the production removed or sold from the lease;

(G) a fixed cash bonus with a royalty share reserved to the state based on a sliding scale according to the volume of production or other factor as the bid variable but not less than 12.5 percent in amount or value of the production removed or sold from the lease;

(4) notwithstanding a requirement in the leasing method chosen of a minimum fixed royalty share, on and after March 3, 1997, the lessee under a lease issued in the Cook Inlet sedimentary basin who is the first to file with the commissioner a nonconfidential sworn statement claiming to be the first to have drilled a well discovering oil or gas in a previously undiscovered oil or gas pool and who is certified by the commissioner within one year of completion of that discovery well to have drilled a well in that pool that is capable of producing in paying quantities shall pay a royalty of five percent on all production of oil or gas from that pool attributable to that lease for a period of 10 years following the date of discovery of that pool, and thereafter the royalty payable on all production of oil or gas from the pool attributable to that lease shall be determined and payable as specified in the lease; for purposes of this paragraph, the reduced royalty authorized by this paragraph is subject to the following:

(A) only one reduction of royalty authorized by this paragraph may be allowed on each lease that qualifies for reduction of

royalty under this paragraph;

(B) if, under this paragraph, application is made for a royalty reduction for a lease that was entered into before March 3, 1997, the commissioner may approve the application only if, on that date, the lease was a nonproducing lease that was not committed to a unit approved by the commissioner under (m) of this section, that is not part of a unit under (p) or (q) of this section, and that has not been made part of a unit under AS 31.05;

(C) if application for a royalty reduction is made under this paragraph for a lease on which a discovery royalty was claimed or may be claimed under the discovery royalty provisions of former AS 38.05.180(a) in effect before May 6, 1969, the commissioner shall disallow the application under this paragraph unless the applicant waives the right to claim the right to a reduced royalty under the discovery royalty provisions of former AS 38.05.180(a) in effect before May 6, 1969; and

(D) the commissioner shall adopt regulations setting out the standards, criteria, and definitions of terms that apply to implement the filing of applications for, and the review and certification of, discovery certifications under this paragraph;

(5) notwithstanding and in lieu of a requirement in the leasing method chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases unitized as described in (p) of this section, leases subject to an agreement described in (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or part of an oil or gas field identified in this section that has been granted approval of a written plan submitted to the Alaska Oil and Gas Conservation Commission under AS 31.05.030(i) shall, subject to (dd) of this section, pay a royalty of five percent on the first 25,000,000 barrels of oil and the first 35,000,000,000 cubic feet of gas produced for sale from that field that occurs in the 10 years following the date on which the production for sale commences; the fields eligible for royalty reduction under this paragraph, all of which are located within the Cook Inlet sedimentary basin, were discovered before January 1, 1988, and have been undeveloped or shut in from at least January 1, 1988, through December 31, 1997, are

- (A) Falls Creek;
- (B) Nicolai Creek;
- (C) North Fork;
- (D) Point Starichkof;
- (E) Redoubt Shoal; and
- (F) West Foreland;

(6) notwithstanding and in lieu of a requirement in the leasing method chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases unitized as described in (p) of this section, leases subject to an agreement described in (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or part of an oil field located offshore in Cook Inlet on which an oil

production platform specified in (A), (C), or (E) of this paragraph operates, or the lessee of all or part of the field located offshore in Cook Inlet and described in (G) of this paragraph,

(A) shall pay a royalty of five percent on oil produced from the platform if oil production that equaled or exceeded a volume of 1,200 barrels a day declines to less than that amount for a period of at least one calendar quarter, as certified by the Alaska Oil and Gas Conservation Commission, for as long as the volume of oil produced from the platform remains less than 1,200 barrels a day; the provisions of this subparagraph apply to

- (i) Dolly;
- (ii) Grayling;
- (iii) King Salmon;
- (iv) Steelhead; and
- (v) Monopod;

(B) shall pay a royalty calculated under this subparagraph if the volume of oil produced from the platform that was certified by the Alaska Oil and Gas Conservation Commission under (A) of this paragraph later increases to 1,200 or more barrels a day and remains at 1,200 or more barrels a day for a period of at least one calendar quarter; until the royalty rate determined under this subparagraph applies, the royalty continues to be calculated under (A) of this paragraph; on and after the first day of the month following the month the increased production exceeds the period specified in this subparagraph, the royalty payable under this subparagraph is

- (i) for production of at least 1,200 barrels a day but not more than 1,300 barrels a day - seven percent;
- (ii) for production of more than 1,300 barrels a day but not more than 1,400 barrels a day - 8.5 percent;
- (iii) for production of more than 1,400 barrels a day but not more than 1,500 barrels a day - 10 percent; and
- (iv) for production of more than 1,500 barrels a day - 12.5 percent;

(C) shall pay a royalty of five percent on oil produced from the platform if oil production that equaled or exceeded a volume of 975 barrels a day declines to less than that amount for a period of at least one calendar quarter, as certified by the Alaska Oil and Gas Conservation Commission, for as long as the volume of oil produced from the platform remains less than 975 barrels a day; the provisions of this subparagraph apply to

- (i) Baker;
- (ii) Dillon;
- (iii) XTO.A; and
- (iv) XTO.C;

(D) shall pay a royalty calculated under this subparagraph if the volume of oil produced from the platform that was certified by the Alaska Oil and Gas Conservation Commission under (C) of this paragraph later increases to 975 or more barrels a day and

remains at 975 or more barrels a day for a period of at least one calendar quarter; until the royalty rate determined under this subparagraph applies, the royalty continues to be calculated under (C) of this paragraph; on and after the first day of the month following the month the increased production exceeds the period specified in this subparagraph, the royalty payable under this subparagraph is

(i) for production of at least 975 barrels a day but not more than 1,100 barrels a day - seven percent;

(ii) for production of more than 1,100 barrels a day but not more than 1,200 barrels a day - 8.5 percent;

(iii) for production of more than 1,200 barrels a day but not more than 1,350 barrels a day - 10 percent; and

(iv) for production of more than 1,350 barrels a day - 12.5 percent;

(E) shall pay a royalty of five percent on oil produced from the platform if oil production that equaled or exceeded a volume of 750 barrels a day declines to less than that amount for a period of at least one calendar quarter, as certified by the Alaska Oil and Gas Conservation Commission, for as long as the volume of oil produced from the platform remains less than 750 barrels a day; the provisions of this subparagraph apply to

(i) Granite Point;

(ii) Anna; and

(iii) Bruce;

(F) shall pay a royalty calculated under this subparagraph if the volume of oil produced from the platform that was certified by the Alaska Oil and Gas Conservation Commission under (E) of this paragraph later increases to 750 or more barrels a day and remains at 750 or more barrels a day for a period of at least one calendar quarter; until the royalty rate determined under this subparagraph applies, the royalty continues to be calculated under (E) of this paragraph; on and after the first day of the month following the month the increased production exceeds the period specified in this subparagraph, the royalty payable under this subparagraph is

(i) for production of at least 750 barrels a day but not more than 850 barrels a day - seven percent;

(ii) for production of more than 850 barrels a day but not more than 1,000 barrels a day - 8.5 percent;

(iii) for production of more than 1,000 barrels a day but not more than 1,200 barrels a day - 10 percent; and

(iv) for production of more than 1,200 barrels a day - 12.5 percent;

(G) shall pay a royalty of five percent on oil produced from the field if oil production that equaled or exceeded a volume of 750 barrels a day declines to less than that amount for a period of at least one calendar quarter, as certified by the Alaska Oil and Gas Conservation Commission, for as long as the volume of oil produced from the field remains less than 750 barrels a day; the provisions of

this subparagraph apply to the West McArthur River field;

(H) shall pay a royalty calculated under this subparagraph if the volume of oil produced from the field that was certified by the Alaska Oil and Gas Conservation Commission under (G) of this paragraph later increases to 750 or more barrels a day and remains at 750 or more barrels a day for a period of at least one calendar quarter; until the royalty rate determined under this subparagraph applies, the royalty continues to be calculated under (G) of this paragraph; on and after the first day of the month following the month the increased production exceeds the period specified in this subparagraph, the royalty payable under this subparagraph is

(i) for production of at least 750 barrels a day but not more than 850 barrels a day - seven percent;

(ii) for production of more than 850 barrels a day but not more than 1,000 barrels a day - 8.5 percent;

(iii) for production of more than 1,000 barrels a day but not more than 1,200 barrels a day - 10 percent; and

(iv) for production of more than 1,200 barrels a day - 12.5 percent; and

(I) may obtain the benefits of the royalty adjustments set out in (A) - (H) of this paragraph only if the commissioner determines that the reduction in production from the platform or the field is

(i) based on the average daily production during the calendar quarter based on reservoir conditions; and

(ii) not the result of short-term production declines due to mechanical or other choke-back factors, temporary shutdowns or decreased production due to environmental or facility constraints, or market conditions.

(dd) A lessee is eligible for the royalty in (f)(5) of this section only if production of oil or gas for sale begins from the eligible field before January 1, 2004. However, if the state or an agency of the state is a party to a suit, other than a suit brought by the lessee or agent of the lessee, and if the suit challenges (f)(5) of this section or AS 31.05.030(i) or an act under (f)(5) of this section or AS 31.05.030(i), the January 1, 2004, deadline is extended by the number of days the state or agency of the state is a party to the suit, including any appeals.

Sec. 31.05.030. Powers and duties of commission.

(a) The commission has jurisdiction and authority over all persons and property, public and private, necessary to carry out the purposes and intent of this chapter.

(b) The commission shall investigate to determine whether or

not waste exists or is imminent, or whether or not other facts exist which justify or require action by it.

(c) The commission shall adopt regulations and orders and take other appropriate action to carry out the purposes of this chapter.

(d) The commission may require

(1) identification of ownership of wells, producing leases, tanks, plants, and drilling structures;

(2) the making and filing of reports, well logs, drilling logs, electric logs, lithologic logs, directional surveys, and all other subsurface information on a well for which a permit to drill has been issued by the commission, subject to the following:

(A) the reports required to be filed by the commission under this paragraph shall be filed within 30 days after the completion, abandonment, or suspension of the well; and

(B) the well logs, drilling logs, electric logs, lithologic logs, directional surveys, and all other information required to be filed by the commission under this paragraph shall be filed within 90 days after the completion, abandonment, or suspension of the well, unless extended by the commission on request;

(3) the drilling, casing, and plugging of wells in a manner that will prevent the escape of oil or gas out of one stratum into another, the intrusion of water into an oil or gas stratum, the pollution of fresh water supplies by oil, gas, or salt water, and prevent blowouts, cavings, seepages, and fires;

(4) the furnishing of a reasonable bond with sufficient surety conditions for the performance of the duty to plug each dry or abandoned well or the repair of wells causing waste;

(5) the operation of wells with efficient gas-oil and water-oil ratios, and may fix these ratios;

(6) the gauging or other measuring of oil and gas to determine the quality and quantity of oil and gas;

(7) every person who produces oil or gas in the state to keep and maintain for a period of five years in the state complete and accurate records of the quantities of oil and gas produced, which shall be available for examination by the commission at all reasonable times;

(8) the measuring and monitoring of oil and gas pool pressures;

(9) the filing and approval of a plan of development and operation for a field or pool to prevent waste, ensure a greater ultimate recovery of oil and gas, and protect the correlative rights of persons owning interests in the tracts of land affected.

(e) The commission may regulate

(1) for conservation purposes and, to the extent not in conflict with regulation by the Department of Labor and Workforce Development or the Department of Environmental Conservation, for public health and safety purposes,

(A) the drilling, producing, and plugging of wells;

(B) the perforating, fracture stimulation, and chemical treatment of wells;

(C) the spacing of wells;

(D) the disposal of salt water, nonpotable water, and oil field wastes;

(E) the contamination or waste of underground water;

(F) the quantity and rate of the production of oil and gas from a well or property; this authority shall also apply to a well or property in a voluntary cooperative or unit plan of development or operation entered into in accordance with AS 38.05.180(p);

(G) the underground injection of gas for purposes of storage;

(2) the disposal of drilling mud, cuttings, and nonhazardous drilling operation wastes in the annular space of a well for which a permit to drill has been issued by the commission; in this paragraph, a "nonhazardous drilling operation waste" means a waste, other than a hazardous waste identified by the Environmental Protection Agency in 40 C.F.R., Part 261, its regulation identifying and listing hazardous wastes, associated with the act of drilling a well for exploratory or production purposes.

(f) The commission may classify a well or a specific portion of a well as an exploratory, development, service, or stratigraphic test well and may classify a development well as an oil or gas well for purposes material to the interpretation or enforcement of this chapter.

(g) When the commission finds sufficient likelihood of an unexpected encounter of oil, gas, or other hazardous substance as a result of well drilling in an area of the state, the commission may, by regulation, designate the area and specify a depth in the area as one in which wells or any boring into the soil in excess of the specified depth but not otherwise subject to this chapter are subject to the regulations and requirements adopted under this section. The designation of an area or specification of a depth under this subsection does not constitute a certification that no hazardous substance will be encountered in another area or at a lesser depth, and the state is not liable for any damages arising from such an unexpected encounter of a hazardous substance.

(h) The commission may take all actions necessary to allow the state to acquire primary enforcement responsibility under 42 U.S.C. 300h-1 and 42 U.S.C. 300h-4 (Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f - 300j-26), for the control of underground injection related to the recovery and production of oil and natural gas and the control of underground injection in Class I wells, as defined in 40 C.F.R. 144.6, as amended.

(i) The commission shall accept written plans submitted by lessees for purposes of AS 38.05.180(f)(5). If a lessee submits a plan, the commission shall hold a public hearing on the plan and, within 45 days after receipt of the plan, grant approval of the plan if the plan contains a voluntary agreement by the lessee to use its best efforts to employ residents of this state, consistent with law, and to contract with firms in this state for work in connection with the development of the field, including the fabrication and installation of required facilities, whenever feasible. The decision of the commission to grant approval may not be appealed.

(j) For exploration and development operations involving nonconventional gas, the commission

(1) may not

(A) issue a permit to drill under this chapter if the well would be used to produce gas from an aquifer that serves as a source of water for human consumption or agricultural purposes unless the commission determines that the well will not adversely affect the aquifer as a source of water for human consumption or agricultural purposes; or

(B) allow injection of produced water except at depths below known sources of water for human consumption or agricultural purposes;

(2) shall

(A) regulate hydraulic fracturing in nonconventional gas wells to ensure protection of drinking water quality;

(B) regulate the disposal of wastes produced from the operations unless the disposal is otherwise subject to regulation by the Department of Environmental Conservation or the United States Environmental Protection Agency;

(C) as a condition of approval of a permit to drill a well for regular production of coal bed methane, require the operator to design and implement a water well testing program to provide baseline data on water quality and quantity; the commission shall make the results of the water well testing program available to the public.

(k) The commission shall certify to the Department of Natural Resources the volume of oil production from a field or platform for the purposes of AS 38.05.180(f)(6)(A), (C), (E), and (G).

(l) For purposes of AS 46.04.050(c) and upon application by the operator, the commission shall evaluate the likelihood that a well at a natural gas exploration facility may penetrate a formation capable of flowing oil to the ground surface and issue a determination based on results of the evaluation. If the commission determines that evidence obtained through the evaluation demonstrates with reasonable certainty that a well will not penetrate a formation capable of flowing oil to the ground surface, it shall report its determination to the Department of Environmental Conservation. In this subsection,

(1) "natural gas exploration facility" has the meaning given in AS 46.04.050(c);

(2) "oil" has the meaning given in AS 46.04.050(c).

(m) The commission has jurisdiction and authority over all persons and property, public and private, necessary to carry out the purposes and intent of AS 41.06, except for provisions in AS 41.06 for which the Department of Natural Resources has jurisdiction.

(n) [Effective January 1, 2017] =ro Upon request of the commissioner of revenue, the commission shall determine the commencement of regular production from a lease or property for purposes of AS 43.55.160(f) and (g).