

May 1, 2024

Senator Cathy Giessel, Co-Chair, Senate Resources Committee
Senator Click Bishop, Co-Chair, Senate Resources Committee
State Capitol
Juneau, AK 99801

Re: House Bill 50 Debate & Amendments

Dear Senators Giessel and Bishop,

The Alaska Oil & Gas Association (AOGA) is a professional trade association representing the majority of production, exploration, refining and transportation activities of the oil and gas industry in Alaska. Our mission is to advocate for the long-term viability of the industry.

We support the policy objective of House Bill 50 to encourage investment in Alaska and to reduce carbon dioxide emissions through carbon capture, utilization, and storage (CCUS). For successful CCUS, HB 50 sets forth a framework enabling the Department of Natural Resources, the Alaska Oil & Gas Conservation Commission, and the Department of Environmental Conservation to administer and regulate carbon capture, utilization, and storage similar to the current functions the agencies perform for the oil and gas industry.

From a fiscal perspective, AOGA's understood that HB 50's goal is neutrality. In other words, HB 50 establishes a regulatory framework to fund administrative costs while allowing investment in carbon storage activities without State tax incentives:

- Administrative cost neutrality is accomplished with a fee mechanism in the current version of the bill to cover agency implementation and regulatory costs.
- Unlike the federal government which created income tax credits for carbon storage investment ("45Q Tax Credits"), HB 50 does not provide any tax incentives.
- Since Alaska's Corporate Income Tax incorporates the federal income tax code by reference; HB 50 removed an income taxpayer's ability to apply a portion of its 45Q Tax Credit to its Alaska Corporate Income Tax liability to eliminate tax incentives.

We observed discussions occurring in the Legislature regarding Alaska's oil and gas production tax and its lease expenditures during the hearings on HB 50. If the Senate Resources Committee addresses amendments related to lease expenditures in your May 1, 2024, hearing then our member companies have reviewed the existing lease expenditure language found in AS 43.55.165 and respectfully offer the following analysis for your consideration.

(1) A carbon capture and storage facility that only captures and stores carbon oxides does not explore for, develop, or produce oil or gas deposits and therefore it is not a allowable cost (“lease expenditure”) for production tax under current law.

For a production taxpayer to deduct a lease expenditure, the expenditure must be (1) incurred upstream of the point of production of oil and gas, (2) an ordinary and necessary cost of ***exploring for, developing, or producing an oil and gas deposit***, (3) a direct cost of ***exploring for, developing, or producing, oil or gas deposits***, and (4) not listed as an excluded cost in the statute.¹

The bold, italicized wording above is key. As we understand, for a carbon capture and storage project that only captures and stores carbon without ***exploring for, developing, or producing, oil or gas deposits*** such costs would not, under the current production tax statutes, qualify as an allowable lease expenditure.

(2) Expenditures to construct and operate a carbon capture and storage facility that results in CO₂ used for enhanced oil recovery (EOR) would, under current statutes, be an allowable lease expenditure, ***in part***.

Presently, the production tax statutes and regulations allow lease expenditures for EOR because it is an upstream, ordinary, and necessary and a direct cost for oil production, and it is not an excluded cost. EOR using CO₂ is one of several EOR methods for producing oil, and deductibility is consistent with Alaska’s production tax policy.

Understanding the concern expressed about differentiating between costs for pure carbon capture and storage versus those costs for EOR with CO₂, we reviewed the existing production tax statutes and regulations, and believe the current structure does not require changes for HB 50’s policies.

First, existing statutes allow taxpayers to only deduct certain lease expenditures. The lease expenditure statute at AS 43.55.165(a) begins by stating “[f]or purposes of this chapter, a producer’s lease expenditures for a calendar year are...(1)(A) incurred by the producer...to explore for, develop, or produce oil or gas deposits located within the producer’s leases or properties in the state...” In a carbon project that is both for storage and EOR, current statute requires that the taxpayer only deduct the expenditures for producing oil.

Second, existing statutes at AS 43.55.165(a)(1)(B) allow the Department of Revenue, by regulation, to make specific the eligible activities and lease expenditures for them

¹ See Alaska Statute 43.55.165 (1)(B)(i-iii) & 43.55.165(e)(1)(B)

that are considered “direct” for exploration, development, and production. The Department has done so at 15 AAC 55.250 and .260.

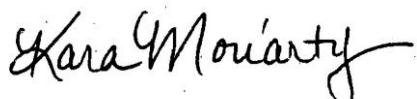
Most helpful in the hybrid circumstance of carbon capture for storage and for EOR is 15 AAC 55.250(d) where the Department’s regulation states that a cost incurred jointly for an activity or purpose that is listed at .250(c) and for an activity or purpose not listed is allocated using a reasonable method to determine which portion of that joint cost is allowable. One of the activities and purposes listed at 15 AAC 55.250(c)(9), is costs “used in oil or gas production operations...for reservoir pressure maintenance, repressuring, or enhanced recovery purposes.” Not listed is carbon capture or storage that is not used for enhanced oil recovery.

Therefore, a taxpayer who is doing both carbon capture for storage and for EOR is required to allocate, reasonably, such costs and the Department of Revenue already has the regulatory structure in place.

If, after reviewing our understanding of HB 50’s policy and the existing production tax statutes and regulations, clarifying language remains a necessary path forward for HB 50, AOGA stands by as an available resource.

Thank you for addressing this important topic in the final weeks of the Legislative session. Companies are evaluating CCUS project options across the country. As such, other states have already adopted the framework necessary, and investments are occurring today. We urge the Legislature to adopt a meaningful CCUS structure this session to allow for this type of investment to occur in Alaska.

Sincerely,



Kara Moriarty
President/CEO

Cc: All members of Senate Resources Committee



May 1, 2024

Dear Members of the Senate Resources Committee:

Native Movement opposes HB 50: Carbon Storage. Native Movement is an Alaska-based organization that is dedicated to building people power, rooted in an Indigenized worldview, toward healthy, sustainable, and just communities for all. We oppose HB 50 because it will prop up fossil fuel industries, burden communities, and cost the state money, all under the guise of fighting climate change. HB 50 is a false solution to climate change that must be rejected.

HB 50 is a bill introduced by Governor Dunleavy that would allow oil and gas companies and coal plants to inject carbon from their operations back into the ground. HB 50 will increase pollution, cost the state money, and distract from real solutions to climate change. Here are some reasons to reject HB 50:

- The vast majority of carbon capture and storage technology is currently used by the oil industry to push more oil out of wells. In other words, the primary use of carbon capture is to increase oil production, not fight climate change.
- Carbon capture does not remove carbon from the atmosphere; at best it prevents some of it from being emitted, likely temporarily.
- There is no proven way to ensure that carbon stays in the ground once injected.
- Carbon capture and storage would allow for the proliferation of harmful oil and gas infrastructure while also creating massive new infrastructure itself. The same environmental justice communities already burdened by fossil fuel industries will bear the brunt of carbon capture's harms. For example, in 2020, a CO2 pipeline in rural Mississippi burst near a predominantly Black community, leading to the evacuation of more than 200 people and the hospitalization of 45 residents.
- Rather than reducing our dependence on fossil fuels, carbon capture prolongs it. We desperately need to transition to clean, renewable energy. The more time and money we waste on techno-fixes, the less time we have to implement real solutions.
- Carbon capture is expensive. Clean, renewable sources of energy are more cost effective.
- HB 50 will likely cost the state money. As originally introduced, HB 50 would have required that companies pay a minimum amount to store carbon. But that minimum payment has been removed from the bill, meaning that the cost of running the program could exceed the fees generated. In that case it would be another fossil fuel subsidy.

Please reject HB 50; it will only worsen the climate crisis.

Sincerely,
Rebecca Noblin, Policy Justice Director

From: [Anne Ritters](#)
To: [Julia O'Connor](#)
Subject: FW: HB50/SB49
Date: Thursday, May 2, 2024 10:30:58 AM

From: Ken Huckeba <kbhuckeba@hotmail.com>
Sent: Wednesday, May 1, 2024 2:18 PM
To: Sen. Donny Olson <Sen.Donny.Olson@akleg.gov>; Sen. Bert Stedman <Sen.Bert.Stedman@akleg.gov>; Sen. Click Bishop <Sen.Click.Bishop@akleg.gov>; Sen. Kelly Merrick <Sen.Kelly.Merrick@akleg.gov>; Sen. Jesse Kiehl <Sen.Jesse.Kiehl@akleg.gov>; Sen. David Wilson <Sen.David.Wilson@akleg.gov>
Subject: HB50/SB49

Dear Senator, as you consider the cost regarding this deeply flawed legislation, I send you an example to refer to as it gets discussed.

The other day in a house bill hearing, Senator Weilechowski also uncovered a serious risk to state revenue of over \$400M annually that this bill could cause.

Thank you for your time. Please stop this bill that funnels vast sums of inflation causing American tax dollars to foreign entities.



[Edmonton's Capital Power cancels \\$2.4 billion carbon capture project at Genesee](#)
[westernstandard.news](#)

Ken Huckeba



From: [Esther Smith](#)
To: [Senate Resources](#)
Subject: Oppose HB 50
Date: Thursday, May 2, 2024 3:36:48 PM

Dear Legislators,

I strongly urge you to oppose House Bill 50, which would allow oil and gas companies and coal plants to inject carbon from their operations back into the ground.

Carbon capture is currently used by the oil industry to push more oil out of wells. In other words, the primary use of carbon capture is to increase oil production, not fight climate change. There is no proven way to ensure that carbon stays in the ground once injected. Rather than reducing our dependence on fossil fuels, carbon capture prolongs it. We desperately need to transition to clean, renewable energy and the more time and resources we waste on techno-fixes, the less time we have to implement real solutions.

HB 50 will likely cost the state money. As originally introduced, HB 50 would have required that companies pay a minimum amount to store carbon. But that minimum payment has been removed from the bill, meaning that the cost of running the program could exceed the fees generated. In that case it would be another fossil fuel subsidy.

Carbon capture and storage would allow for the proliferation of harmful oil and gas infrastructure while also creating massive new infrastructure itself. The same environmental justice communities already burdened by fossil fuel industries will bear the brunt of carbon capture's harm. For example, in 2020, a CO2 pipeline in rural Mississippi burst near a predominantly Black community, leading to the evacuation of more than 200 people and the hospitalization of 45 residents.

HB 50 is a false and dangerous solution to climate change. Please oppose HB 50 now.

Thank you,
Esther Smith

[REDACTED]
Anchorage, AK
[REDACTED]