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## **More legacy well drama**

### **Alaska commission convenes public hearing; BLM challenges state jurisdiction**

**Wesley Loy**

*For Petroleum News*

The Alaska Oil and Gas Conservation Commission's tilt with the federal government over so-called legacy wells continued with a pointed hearing Jan. 10.

The commission, led by chair Cathy Foerster, called the hearing to determine who is responsible for five wells located in the National Petroleum Reserve-Alaska.

The commission contends the wells, drilled between 1951 and 1977, were never properly plugged and abandoned or otherwise are out of compliance with state regulations.

The NPR-A landlord, the U.S. Bureau of Land Management, contends at least some of the wells were properly secured.

The question of responsibility was complicated by the fact that four of the wells are now on land conveyed to the Arctic Slope Regional Corp., an Alaska Native corporation.

The four wells are the Gubik No. 1, the Gubik No. 2, the Grandstand No. 1 and the W.T. Foran No. 1.

A fifth well, the Cape Halkett No. 1, also was believed to be on ASRC land, but the BLM said it remains on federal land.

**ASRC: What's the problem?**

The commission, which regulates drilling throughout Alaska, has been pushing the BLM to address dozens of legacy wells that might never have been properly plugged and abandoned, or that might need other remediation.

These wells were drilled over many years by the Navy, the U.S. Geological Survey and their contractors in the Maine-sized NPR-A. President Warren G. Harding created what originally was known as the Naval Petroleum Reserve No. 4 in 1923 after geologists found oil seeps. The idea was to establish an emergency oil supply for the Navy.

Taking a new approach to prodding the BLM to deal with the wells, Foerster on June 28, 2012, sent a letter to ASRC saying commission records indicated five legacy wells were on ASRC-owned land. She gave ASRC 60 days to submit a "plan for bringing these wells into compliance with AOGCC regulations."

That drew an Aug. 15 reply from ASRC chief executive Rex Allen Rock Sr., who wrote: "It is unclear to us why you are raising this issue with ASRC."

Rock said the land conveyances did not transfer liability for the wells. And he said Foerster's letter provided "no information to support your contention that these wells were not properly plugged and abandoned."

After exchanges of further correspondence between the commission, the BLM and ASRC, Foerster finally scheduled the Jan. 10 public hearing, saying neither the agency nor the corporation had responded "in any meaningful way" to the question of responsibility for the wells.

Rock and the BLM's Alaska director, Bud Cribley, said they didn't believe any hearing was necessary. But they or their representatives showed up at the hearing anyway.

### **Legal opinion cited**

In an opening statement, Cribley thanked the three-member commission for the "opportunity" to participate in the hearing, then advised he was there in an informal capacity only, out of respect for the commission and the state.

He then informed the panel that the BLM had obtained a solicitor's office legal opinion saying the commission lacks jurisdiction and authority to order the BLM, or ASRC, to undertake any additional plugging and abandonment work on the legacy wells.

Cribley added that his appearance at the hearing wasn't to be interpreted as "BLM acquiescence" to the commission's regulatory jurisdiction.

As for the wells on ASRC land, Cribley said BLM would take responsibility for any work it determines is necessary. ASRC, in turn, has said it will provide access to the wells, he said.

Further, Cribley said the BLM is developing a long-range plan for assessing and responding to legacy wells in and around the petroleum reserve. And he said the BLM would welcome the commission's help on the effort.

Cribley's remarks drew sharp-edged questioning from the commissioners.

"So it is the BLM's position that the federal government can come into the state of Alaska and conduct oil and gas operations anywhere it chooses on federal lands in any way that it chooses with no regard for the laws of the state of Alaska, is that your position?" asked Foerster, an engineer.

Cribley deferred to his attorney, Mike Gieryic, who explained that the legacy wells were drilled at the behest of Congress, and without any intent for the state to have jurisdiction over the exploration program.

"In fact, the Navy's program was begun before there was a state of Alaska and a commission for that matter," Gieryic said.

Commissioner John Norman, a lawyer, posed a hypothetical situation: What if the commission issued an order to ASRC to deal with a legacy well in an unstable condition, and the BLM told the company to "just throw it in the waste basket." Couldn't all parties end up in federal court under such a scenario?

Gieryic said he would "hope that we never really get to that point."

"We're just having fun" with a hypothetical, Norman assured him.

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