

**ALASKA STATE LEGISLATURE  
SENATE RESOURCES STANDING COMMITTEE**

March 5, 2018

3:30 p.m.

**DRAFT**

**MEMBERS PRESENT**

Senator Cathy Giessel, Chair  
Senator John Coghill, Vice Chair  
Senator Bert Stedman  
Senator Kevin Meyer  
Senator Bill Wielechowski  
Senator Click Bishop

**MEMBERS ABSENT**

Senator Natasha von Imhof

**COMMITTEE CALENDAR**

PRESENTATION: BONDING, IDLE WELLS, AND ORPHAN LIABILITY

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

CATHY FOERSTER, Commissioner  
Alaska Oil and Gas Conservation Commission (AOGCC)  
Anchorage, Alaska

**POSITION STATEMENT:** Provided overview of idle wells and orphan liability.

JIM BECKHAM, Deputy Director  
Division of Oil and Gas (DOG)  
Department of Natural Resources (DNR)  
Anchorage, Alaska

**POSITION STATEMENT:** Provided presentation of state oil and gas bonding policies.

HOLLIS FRENCH, Commissioner  
Alaska Oil and Gas Conservation Commission (AOGCC)

Anchorage, Alaska

**POSITION STATEMENT:** Answered a question on the idle well overview.

**ACTION NARRATIVE**

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**CHAIR CATHY GIESSEL** called the Senate Resources Standing Committee meeting to order at 3:30 p.m. Present at the call to order were Senators Bishop, Meyer, Stedman, Wielechowski, and Chair Giessel. Senator Von Imhof was excused.

**Presentation: Bonding, Idle Wells, and Orphan Liability**

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**CHAIR GIESSEL** announced the presentation on bonding, idle wells, and orphan liability and turned the discussion over to the Alaska Oil and Gas Conservation Commission (Alaska Oil and Gas Conservation Commission (AOGCC)).

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**CATHY FOERSTER**, Commissioner, Alaska Oil and Gas Conservation Commission (AOGCC), Anchorage, Alaska, said she was asked to speak today about AOGCC's concerns with idle wells and well abandonment liability. First, she reminded them about what their responsibilities and activities. She said AOGCC is an independent quasi-judicial body that holds hearings and make rulings on things such as well spacing and other exceptions, pool rules, gas offtake allowables. Every day they grant or deny permits for such things as drilling wells and performing sundry well work. By statute they have three commissioners; one must be a petroleum geologist, Dan Seamount; one must be a petroleum engineer, and that is her; the third must have training and experience relevant to the oil and gas industry, and that seat is held by Hollis French. On staff they have two geologists, six engineers, nine field inspectors, and several IT, data management, and administrative support staff.

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**SENATOR COGHILL** joined the committee.

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**MS. FOERSTER** said the AOGCC is charged with preventing waste and encouraging greater ultimate recovery of hydrocarbon and geothermal resources, protecting fresh groundwater sources, protecting correlative rights, and protecting human safety during drilling well work and well operations. People often

confuse their roll with that of the Department of Natural Resources (DNR), but they are very different. DNR serves as the landowner representative for the state on all state lands and AOGCC's job is to ensure that state's resources are developed for the maximum benefit of the state.

She said the AOGCC regulates the industry everywhere throughout the state not just on state lands. They try to encourage greater ultimate recovery, protect against waste, and protect fresh groundwater. Occasionally, because they are an independent agency, the DNR comes before them as a plaintiff, but the department has no greater standing before them than any other agency. That is why their independence is so important. For example, if the Governor could fire her at will, then every decision would be in favor for the DNR. Once a commissioner is confirmed, the governor has to have cause in order to fire him or her or they are in for the full six-year term. That allows latitude to make decisions based on the statutory requirements they were charged with protecting.

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She reported that drilling and well work activity continued at a fairly steady pace in 2017. BP and ConocoPhillips continued to drill and work over wells in Prudhoe Bay, Kuparuk, and Coleville. Hilcorp continued drilling and fixing broken wells in Cook Inlet, Milne Point, and at the other North Slope fields they acquired from BP in 2015.

In 2018, they expect BP, ConocoPhillips, and Hilcorp development activities to continue at about the same pace. What the others are planning to do is still a little unclear to them.

MS. FOERSTER said ConocoPhillips will drill 6-8 exploratory wells this year all in the Greater Moose's Tooth area. Eni is drilling one well at Spy Island and Glacier has an exploratory well permitted in the Badami area.

The other significant well work is plugging and abandonments (P&A), which she would detail later in the presentation. But several operators are plugging wells with no future utility and/or with mechanical integrity issues, a very good thing.

SENATOR BISHOP asked if Eni is drilling with an extended reach rig on Spy Island.

MS. FOERSTER said she didn't know what rig they are using.

SENATOR BISHOP said they had commissioned a new drill rig.

MS. FOERSTER said they are using the new rig.

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She said \$50 million was originally appropriated from the Healy and Stewardship Act of 2013 to the Bureau of Land Management (BLM) for travesty well clean-up, and BLM tells her that if everything goes well with cleaning up a cluster of five wells at Wolf Creek this winter, a total of 24 wells will have been plugged and abandoned and/or have had surface clean-up completed. As of today, one of those has been successfully completed. Those are less technically complex, and problems are not expected. BLM estimates that 26 more wells need to be addressed at a cost of \$90-100 million. These wells will cost more because they are "one-offs" and not located in clusters where mobilization and demobilization costs can be maximized.

CHAIR GIESSEL asked if these closures can happen only in the winter.

MS. FOERSTER replied that most of them are out in the middle of nowhere and require tundra travel permits or winter work, although a few have been addressed off infrastructure.

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SENATOR MEYER asked for a timeframe for the 26 wells that are left.

MS. FOERSTER replied that they have no money for that work, and added that she hadn't done a reconciliation to see if she agrees that it's only 26 wells.

SENATOR MEYER asked what the future plans are for those wells.

MS. FOERSTER answered she would get to that. The two worst wells, one incapable of flowing oil and the other leaking methane, were supposed to have been covered in the original \$50 million. Unfortunately, BLM and its contractor chose to ignore AOGCC directives and instead used an unacceptable procedure to attempt to "poor boy" the job leaving both wells in such bad shape that fixing them will be very costly, if possible. The Simpson well is still capable of leaking oil. There is no money to clean it up and they have no plans to do it. The other well, the Iko Bay wellhead, nicknamed the "whistling well," has been repaired and no longer leaks methane - for now, she warned. Should its integrity be compromised, it is still capable of

leaking methane. There is no money left to clean up any more legacy wells, which leaves the Department of Interior in the position of finding some.

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SENATOR BISHOP asked if her dad was a pipeliner, because one needs a lot of experience in the industry to use the term "poor boy." Cross-country pipeliners use a lot.

MS. FOERSTER replied that her dad was a metallurgical engineer and she didn't have to go to her dad for experience, because she has 40 years of it in the oil and gas industry.

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MS. FOERSTER said the real reason she wants to talk to them today is they don't want the State of Alaska to become a legacy well collection site. As oil fields in Alaska mature, and new and smaller companies come to the state, the threat of orphan wells increases. In 2016, two new companies went bankrupt. If no one buys their assets, then the landowner - usually the State of Alaska - may be left holding the bag for plugging and abandonment (P&A) liability. For instance, Aurora Gas went bankrupt with 19 wells and does not exist anymore. Aurora Exploration, the company that bought six of those wells, has no legal responsibility to P&A any of them. Ten of those wells are on CIRI land, who fortunately as the landowner made a deal with the prior owner to clean up those wells, and CIRI is enforcing that clause.

She said the State of Alaska will be on the hook for the remaining three wells and she expects the DNR will "get a nasty letter from my agency" telling them to clean them up. This is just a microcosm of what will happen to the 5,300 other wells in the state.

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Also, in 2016, two companies relinquished leases that had wells on them, and by Alaska law, the operator is required to P&A all wells before relinquishing them. But if they don't do that and the landowner doesn't tell them before they are relinquished, the state is chasing them down the road trying to get them to clean up as they disappear into oblivion, which goes back to the story of the landowner being responsible.

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MS. FOERSTER said the rest of her presentation would be on AOGCC concerns relating to idle wells and orphan well liability. A trend has started that she didn't think would turn around soon. The state has about 5,300 wells, about 900 of them idle, and that number increases as our oil and gas infrastructure matures. A lot of new little operators are coming into the state. For instance, BP just sold a lot of their stuff to Hilcorp. New operators have also been enticed to come to Alaska through exploration incentives. Often they don't have huge financial resources, so now there is an increasing number of operator bankruptcies. This results in an increasing number of landowner liabilities - State of Alaska - for the cost of plugging and abandoning the wells.

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MS. FOERSTER said this problem won't go away and multiple approaches will be needed to make sure Alaska doesn't become a legacy well site. Over 4,000 of these wells are on the North Slope, but close to 1,000 of them are in Cook Inlet, which is also "Alaska's playground." Her suggested solutions include:

1. Decrease and manage the number of idle wells in the state. AOGCC has an initiative in which they bring in each operator every year and review their idle well list. They identify wells that all can agree have no future utility and the wells that have mechanical integrity issues that are either a current threat or a future threat and aren't fixable. It seems to be working well, but it's a slow process and doesn't bring additional money into the general fund.
2. Change the way bonding is done. Now regulations say when an operator comes to the state they have to get a bond for no less than \$100,000 for the first well and no less than \$200,000 for the total blanket of operations in the state. This means the state's bonds for the 2,000 abandoned wells on the North Slope is \$200,000 and that can't even pay for the engineering study to do the estimate of what it would cost to plug them all.
3. Establish legal authority to go back on former operators if the new ones default. This would require a change to statutes.

This is a multi-billion-dollar problem. If Kuparuk and Prudhoe Bay get sold to someone who doesn't have the

financial wherewithal to P&A those wells, the state has three choices:

- go back on the old operator
- ask the legislature for money
- just let the problem exist

SENATOR WIELECHOWSKI asked what the existing legal requirements are for companies when they stop using wells.

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MS. FOERSTER answered the law requires an operator to plug and abandon all the wells on a lease before relinquishing it. However, if a company goes bankrupt, like Aurora Gas did, what do you do?

SENATOR WIELECHOWSKI asked if there is bonding legislation currently and if AOGCC has regulatory authority to set it at appropriate levels.

MS. FOERSTER answered the commission can set the bonding higher, but they really don't know the right answer. It would cost BP a couple of pennies on the dollar, but it might cost 50 cents on the dollar for a little independent. Hilcorp can't afford to bond Milne Point, Endicott, and North Star. The more financially secure a company is, the cheaper it is to get a bond but also the less worried the state is about it having one.

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SENATOR WIELECHOWSKI asked as wells become idle on the North Slope what is done now.

MS. FOERSTER answered a variety of things: now, if an operator on the North Slope has a well they know there is no future utility for it, they will plug it, but operators hang on to a lot of wells for future utility. For instance, if the state had required BP to plug all the idle wells at Prudhoe Bay before cold tubing technology evolved, they couldn't have gone back into them for more production.

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She said the practice of going back on former operators isn't unheard of in the oil and gas world. Two states, California and Kansas, have statutes allowing them to do that. California recently did it to ExxonMobil that sold Platform Holly, off Santa Barbara, to a little company that didn't have the financial wherewithal to plug it when they were done. A landowner can write it into their lease, like CIRI does, and DNR

is doing more of that sort of thing. But putting sufficient money to do this into a bank account with the state as a co-signer needs to go along with the language.

If the commission is given this authority, it can be used to go back on operators at the time the legislation is put in place, but she didn't know if they could go back on prior operators before that. Or an idle well fee could be assessed; it would be an annual fee that increases over time and it could go into a fund specifically for orphan well clean-up. For example, every idle well will cost \$100 in the first year; if you have 300 idle wells that comes to \$30,000. But next year, each idle well will cost \$500 for a total of \$150,000. The next year it will cost \$1,000 per well and the next \$5,000. Pretty soon, it will be financially lucrative to get rid of those wells. The only problem with a fund like that is that it can be used for whatever the legislature wants.

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SENATOR STEDMAN said assuming company X leaves the state with an abandoned well, how does that tie in with platforms and roads.

MS. FOERSTER answered that DNR is the landowner and is responsible for the surface clean-up, and sometimes they want the road, the platform, or the infrastructure. The DNR commissioner has worked well with operators in the past to take care of the state's interests. For instance, he has asked an operator to not plug a well because of a potential.

CHAIR GIESSEL thanked her and invited DNR's Jim Beckham forward.

[4:04:00 PM](#)

JIM BECKHAM, Deputy Director, Division of Oil and Gas (DOG), Department of Natural Resources (DNR), Anchorage, Alaska, said the division issues oil and gas leases that have a clause requiring the lessee to return the land in a condition that is satisfactory to the state.

He said the department has several bonding gates:

1. The initial operation's lease level of \$100,000
2. A unit bond, which is a collection of leases, and requires a statewide bond of \$200,000
3. A unit bond can be applied to all leases and that is \$500,000. These monies are earmarked for dismantlement, removal, and restoration activities (DR&R).

4. Finally, when an operator or a lessee wants to assign or sell their interest in the lease, an assignment bond may be required.

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In 2009, Mr. Beckham said, the Pacific Energy Resources Limited bankruptcy identified the significant exposure the state had. Fortunately for the state, other people stepped in and picked up the significant assets and moved forward. Recognizing the state had dodged a bullet coupled with the fact that major companies are now moving to small and mid-sized limited liability companies, the division started to look at the state's increasing liability on the various leases and units. DNR has basically chosen to reach out to the new lessees to talk about their liabilities and their plans for them at the time of assignment in formal DR&R agreements.

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MR. BECKHAM said the department also started coordinating with the Alaska Oil and Gas Conservation Commission (AOGCC) when Ms. Foerster brought their attention to limiting the state's liability during the lease relinquishment process.

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He said there are a number of ways to cover the liability (that is only for the percent of interest a company has in the lease or unit) in a dismantlement, removal, and restoration agreement (DR&R). Publicly traded companies are on the top of the spectrum and are required to list an asset retirement obligation (ARO) in their financial statements. Typically, the department doesn't know the details, but it knows the rolled-up amount and assumes the funds are set aside to address a company's obligations as it relates to its lease in Alaska.

The full faith and credit of the parent company is another vehicle that can be used for the obligations of a limited liability company. The department can also have signatory authority on cash deposited into a bank, known as "sinking funds." A company can also use certificates of deposit issued in the name of the state in an amount for the estimated obligation. Performance bonds can also be issued to guarantee a specific performance on the unit or the lease and those would be sold to pay for the action should that operator or lessee not perform.

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MR. BECKHAM said they are constantly improving their processes to get more coverage for the units, wells, and infrastructure.

DOG is responsible for the surface assets that are constructed to access the mineral estate and they look at everything in their agreements including the well bore. Some comprehensive agreements include plugging and abandoning the well, and he is working with the commissioner to make sure the operator or lessee is not paying twice for the same issues.

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CHAIR GIESSEL asked if the \$100,000 bond is enough to remove infrastructure on the surface of a lease.

MR. BECKHAM responded that the figure seems low, but a lot of times the initial operations on a lease are minimal. It's either building a gravel pad or an ice road for winter activities, and when they pull out, nothing remains. One company has drilled two wells from an existing pad that does not belong to them and posted bonds for both leases the well bore touched. When they left, nothing was there other than the plugged and abandoned wells.

SENATOR WIELECHOWSKI asked if the administration supports any of the AOGCC proposals they have heard today to deal with these bonding issues.

MR. BECKHAM replied that he is not aware of what the administration supports. However, the AOGCC and the DOG are working to ensure that any kind of obligation left on a lease or at a unit site is adequately addressed so the state isn't stuck with the bill.

SENATOR WIELECHOWSKI asked if the federal government could require the state to clean up the wells if they are abandoned in the future.

MR. BECKHAM replied that he didn't know.

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MS. FOERSTER responded that she didn't know if they could, but they never have. Oklahoma, Texas, Kansas, and California have thousands of idle wells and the federal government hasn't required them to be cleaned up.

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SENATOR COGHILL asked how hard it has been to go back to prior lessees for plugging and abandonment.

MS. FOERSTER replied they have never had cause to do that and a bond had been used for P&A only once before. However, Alaska is a young oil and gas state, and it is getting to the point of having to deal with issues it has never had before.

CHAIR GIESSEL asked if DNR had used any bonds.

MR. BECKHAM answered they had not, but they are probably at the doorstep of doing that with recent bankruptcies and unattended wells.

SENATOR COGHILL asked what statutory limitations there are.

MS. FOERSTER replied that Alaska's statutes and regs require an operator to plug and abandoned every well before he relinquishes his lease, but if he has no money, what good is the law?

SENATOR BISHOP remarked the federal government won't clean their own wells up and how could they come here and require Alaska to do it.

SENATOR COGHILL asked how they are keeping track of each lease and well bore. Are they catalogued differently?

MR. BECKHAM replied that they are aggressively pursuing dismantlement, removal, and restoration agreements with companies at the time of assignment. They are also approaching a couple of companies that have multiple holdings throughout the state to work out an agreement that covers everything.

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CHAIR GIESSEL thanked Mr. Beckham for presenting today and said they would reach out to him with their questions. She asked Ms. Foerster to provide the production data update.

MS. FOERSTER displayed a graph of average oil production for the state since 1960 saying it looks pretty much the way it always has and skipped to the next one that detailed the last 18 years. In looking for something positive, she noted that there was no decline this year. Prudhoe Bay was flat and maybe up a tiny bit. Oooguruk, Knight, Nikiatchuq, and Point Thomson production was up a little bit, too. Kuparuk stayed flat, also. Coleville is up a bit and ConocoPhillips is continuing to expand there. This is all good news.

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The next graph depicted exploratory well drilling and she said Alaska has had a whole rainbow of explorers over the years. In 2017, Hilcorp drilled a handful of tiny "postholes" to learn more about the lay of the land for other things they are going to do. They have all been plugged. Accumulate drilled a well and this year ConocoPhillips is going to be drilling; Eni is going to be drilling as well as Cook Inlet.

SENATOR WIELECHOWSKI remarked that 2017 had the lowest exploratory well count since 2003.

MS. FOERSTER said that was right, but 2018 is going to be up, closer to 10.

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MS. FOERSTER said the next picture was development and service drilling of wells and well branches. She added that every branch of a multi-lateral is counted as a separate well. BP's drilling activity was down; ConocoPhillips' was holding strong; Hilcorp has picked up on their drilling, along with a couple other little companies. It's down a little bit from 2016, but not a lot. Whatever they did, even though they did a little less drilling, production was up a little bit.

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The workover activities slide was split into three groups. Dark green is work that is done to enhance production like a frac job or an acid stimulation. That was held constant for the last few years. The repairs group is down a little bit. The other category is for things like converting a well from water injection to gas injection or other sorts of workovers that don't fall easily into the repair or enhancement category. That level of work is down a little but not too bad and it is expected to be similar next year. A lot of these activities came from production wells on the North Slope.

The next biggest chunk of activity was service wells on the North Slope and a bunch of little "strat-test" that Hilcorp did to learn more about the shallow geology. Another slide just compared 2016 to 2017. That concluded her testimony.

CHAIR GIESSEL thanked her.

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SENATOR MEYER said the third bar graph on the right side: is that supposed to be the price of oil?

MS. FOERSTER answered yes.

SENATOR MEYER asked if the price of oil went down to \$30 in 2014; what was he misreading?

4:25:32 PM

HOLLIS FRENCH, Commissioner, Alaska Oil and Gas Conservation Commission (AOGCC), clarified that the price of oil is the graph behind the bar charts and it dips down to \$30 in 2015/16. The dip Senator Meyer was referring to was in 2016.

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CHAIR GIESSEL, finding no further questions, adjourned the Senate Resources Committee meeting at 4:26 p.m.