

COMMITTEE REPORT
HOUSE

FURTHER:

(11)

3/13/65

Date: 3-13-65

The Committee on FINANCE has had CSSA 152 (Res)

"An Act relating to extension and renewal of certain sales of state royalty oil; and providing for an effective date."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Robert B. Baker

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

[Signature]

Robert B. Baker

CHAIRMAN

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No. CS SB 152 (RES)
Title: Royalty Bill, GVEA

Sponsor: Coghill
Requestor: _____
Date of Request: _____

FISCAL DETAIL

Agency Affected: Natural Resources
Program Category Affected: NEVEC
BRU, Program or Subprogram(s) Affected: Minerals and Energy Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

No fiscal impact.

Prepared By: Ned Farquhar Phone: 465-2400
Division: Commissioner's Office Date: 15 February 1985

Approved by Commissioner: Edward P. Wunniche Date: 18 February 1985
Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

STATE OF ALASKA



POUCH V
JUNEAU, ALASKA 99811
(907) 485-4941

HOUSE SPECIAL COMMITTEE ON OIL AND GAS

CS FOR SENATE BILL NO. 152 (Resources)

Letter of Intent

Passage of this legislation is in no way to be construed as tacit approval or endorsement having been given to the proposed ten-year royalty oil contract with GVEA. The ten-year contract shall be reviewed exclusively on its own merits at such time as this contract is presented to the Legislature.

A handwritten signature in cursive script, reading "Dick Shultz", written over a horizontal line.

Dick Shultz, Co-Chairman
House Resources Committee

Offered: 2/21/85
Referred: Finance

Original sponsors: Coghill, Bennett
and Fahrenkamp

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SENATE BILL NO. 152 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to extension and renewal of certain
7 sales of state royalty oil; and providing for an
8 effective date."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. The following provisions of law do not apply to an exten-
11 sion or renewal of not more than three months of a sale of oil that is
12 subject to approval by the legislature under AS 38.06.055(c):
13 (1) AS 38.05.035(e);
14 (2) AS 38.05.183(a), (c), and (e); and
15 (3) AS 38.06.050.
16 * Sec. 2. A three month extension of the "Agreement for the Sale and
17 Purchase of Royalty Oil between the State of Alaska and Golden Valley
18 Electric Association, Inc.," dated May 9, 1984, is hereby approved and
19 ratified.
20 * Sec. 3. Section 1 of this Act is repealed October 1, 1985.
21 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
22 10.070(c).

AGREEMENT FOR THE SALE AND
PURCHASE OF ROYALTY OIL

THIS AGREEMENT, entered into as of May 9 1984 by and between THE STATE OF ALASKA ("Seller") and GOLDEN VALLEY ELECTRIC ASSOCIATION, an Alaskan Non-Profit Corporation, hereinafter referred to as "Buyer".

ARTICLE I
DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings:

1.1 "Commissioner" means the Commissioner of the Alaska Department of Natural Resources.

1.2 "Day" means a period of twenty-four (24) consecutive hours, beginning at 12:01 a.m., Yukon Time.

1.3 "Leases" means the oil and gas leases which are subject to the terms of the Unit Agreement.

1.4 "Lessee" means any person owning a working interest in any of the Leases.

1.5 "Month" means the period beginning at 12:01 a.m., Yukon Time, on the first day of the calendar month and ending at the same time on the first day of the next succeeding calendar month.

1.6 "Oil" or "crude oil" shall have the same meaning as the word "oil" under the Unit Agreement.

1.7 "Point of Delivery" shall have the meaning set out in Article 2.4.

1.8 "Royalty Oil" means the oil which the Seller may take in-kind (amount) as its royalty under the Leases whether or not Seller has elected to take or is taking that royalty in-kind.

1.9 "Daily Royalty Oil" means the quantity of Royalty Oil produced by the Lessees each day.

1.10 "Unit Agreement" means the Prudhoe Bay Unit Agreement effective April 1, 1977, by and between Seller and the Lessees, as it may be amended from time to time.

ARTICLE II
SALE OF ROYALTY OIL

2.1 Quantity. Seller agrees to sell to Purchaser and Purchaser agrees to buy from Seller that amount of oil equal to 2.667% of the Daily Royalty Oil ("Maximum Quantity"). Upon at least nine (9) months written notice to Seller, Purchaser may increase or decrease the amount of oil to be tendered by Seller at the Point of Delivery, but the amount tendered by Seller under this Agreement shall not exceed the Maximum Quantity. Purchaser recognizes that Seller must normally give six (6) months notice under the Unit Agreement (or ninety (90) days if the amount increased or decreased is less than ten (10) percent of the current nominations) to increase or decrease the amount of Daily Royalty Oil to be taken in-kind. It is understood and agreed that the volume of Daily Royalty Oil available to Seller will vary and may be interrupted from time to time, and depends upon a variety of factors, including the rate of production from the Leases. Seller disclaims and Purchaser waives any representation, covenant or warranty, express or implied, as to the specific quantity or the total or daily, monthly, average, or aggregate volume of Royalty Oil to be sold or tendered under this Agreement. Seller warrants that it has good title to the oil tendered under this

Agreement. Seller shall hold the Purchaser harmless from all liens, encumbrances and valid adverse claims that may affect the Royalty Oil at the time the Royalty Oil is tendered to the Purchaser.

If Seller underlifts or stores Royalty Oil at Prudhoe Bay, or if Seller recovers underlifted or stored Royalty Oil, the quantity of Royalty Oil tendered under this Agreement shall be calculated as if no Royalty Oil was underlifted or stored or recovered.

2.2 Quality. The Royalty Oil sold shall be the same quality as the oil delivered by the Lessees to the Seller at the Point of Delivery. It is understood and agreed that the quality of the Royalty Oil sold may vary from time to time. Seller disclaims, and Purchaser waives, any guarantee, representation, or warranty, either expressed or implied, of the merchantability, fitness for use, or suitability for any particular use or purpose, or otherwise, of any of the oil delivered under this Agreement or as to any specific, average or overall quality or characteristic of Royalty Oil to be sold or tendered under this Agreement.

2.3 Price of the Royalty Oil. The price for the oil tendered under this Agreement shall be equal to the amount that Seller would have received from its Lessees for the Royalty Oil tendered if that royalty had been payable in money (taken in value) rather than taken in kind plus a premium of \$0.30 per barrel plus the Field Cost Allowance incurred by that oil as determined under the Prudhoe Bay Royalty Settlement Agreement (dated April 1, 1980 for reference purposes only), which was entered as part of a final judgment dated August 13, 1980 in State of Alaska, et al v. Amerada Hess Corp., et al., (Superior Court for the State of Alaska, First Judicial District at Juneau) ("Amerada Hess") ("Settlement Agreement") ("Purchase Price"). The Purchase Price shall be determined by Seller based upon the reports submitted by the Lessees for royalty purposes or, when those reports are unavailable, incomplete, or inaccurate, upon information submitted by the Lessees for production tax or other tax purposes, as may be adjusted from time to time as provided in this Agreement. Buyer will only be entitled to review or request

material or information which is not confidential under state law or regulation.

The method, basis and amount of royalty due Seller when it takes its royalty in value from the Leases is presently the subject of litigation in Amerada Hess. One of the issues involved is the proper method to be used by the Lessees in calculating the state's royalty when the royalty is payable in money (in value). Until there is a resolution of that dispute through judicial resolution or settlement, the Purchase Price will be based upon the calculation of an amount per barrel equal to the per barrel volume weighted average of the in-value prices reported by the Lessees to Seller for royalty purposes or, when the royalty reports are unavailable, incomplete, or inaccurate, upon information submitted by the Lessees for production tax or other tax purposes, plus \$0.30 per barrel plus the Field Cost Allowance as determined under the Settlement Agreement. Upon resolution of each of the various issues that are or will be involved in Amerada Hess, adjustments will be made to previous payments in accordance with each resolution.

If additional amounts are owed by Purchaser to Seller, interest on those amounts will be paid at a variable interest rate which is the higher of: (1) the prime rate as may be announced from time to time by The Bank of America, San Francisco, California, plus three percent (3%); or (2) the rate of return as is realized from time to time in the investment of the State of Alaska's general fund. Amounts owed from Seller to Purchaser shall be repaid at the rate set out in Article 5.6. Buyer will not voluntarily intervene or otherwise participate in Amerada Hess unless Seller expressly consents to that participation in writing. A settlement of Amerada Hess will be binding upon Buyer whether or not Buyer agrees with or consents to the terms of that settlement.

If any applicable law of the United States of America or any rule or regulation promulgated by a federal agency will, in the judgment of Seller, operate to prohibit or prevent Seller from receiving the full amount due under the above provision, Buyer's obligation to pay the amount of the Purchase

Price in excess of the amount permitted will be suspended or adjusted to the minimum extent required for Seller to comply with that law, rule or regulation.

2.4 Point and Time of Delivery. Simultaneous with receipt of its Royalty Oil from its Lessees, Seller shall tender the oil to Purchaser at the point at which Seller receives the Royalty Oil from its Lessees. That point as presently agreed to by Seller and its Lessees in Article 2.3 of the Settlement Agreement is the custody transfer meters into the Trans Alaska Pipeline System at Prudhoe Bay.

2.5 Passage of Title and Risk of Loss. Title and risk of loss to the Royalty Oil sold under this Agreement shall pass from Seller to Purchaser for all purposes when Seller tenders the oil at the Point of Delivery.

2.6 Purchaser's Responsibility. Purchaser shall be responsible for the oil after passage of title. Purchaser will indemnify and hold Seller harmless from and against any and all claims, costs, damages (including reasonably foreseeable consequential damages), expenses or causes of action as a result of any loss, injury, or damage incurred by any party as a result of any transaction or event which relates to the crude oil after title has passed to Purchaser.

2.7 Transportation Arrangements. Purchaser shall make all necessary arrangements for transporting the oil sold under this Agreement from the Point of Delivery, including satisfaction of line fill obligations and storage tank bottom requirements of the Trans Alaska Pipeline System, if any. If and as requested by the Seller, and at the time or times requested by Seller, Purchaser shall submit specific information concerning the arrangement it has made for transportation of the Royalty Oil sold under this Agreement through and away from the Trans Alaska Pipeline System and for the resale or other disposal of the Royalty Oil. Such information may include the specific tenders of oil made to the Trans Alaska Pipeline System and identification of tankers which will transport the Royalty Oil. In addition, Purchaser will provide Seller, if and as requested by Seller, with satisfactory evidence or

reasonable assurance of the existence and continuing validity of adequate arrangements for the transportation or disposal of the Royalty Oil subject to this Agreement. Failure to provide information, evidence or assurances requested will, at Seller's election by notice to Purchaser, be a material default under this Agreement.

2.8 Absolute Obligations. The obligations of Purchaser to accept, pay for, and arrange for the transportation of the Royalty Oil tendered or sold under this Agreement are absolute and will not be excused or discharged by the operation of any disability of Purchaser, event of force majeure, impracticability of performance, change in conditions, or any other reason or cause.

2.9 Date of First Delivery. Seller will initiate tender of Maximum Quantity of Royalty Oil to Purchaser at the Point of Delivery to commence July 1, 1984.

2.10 Performance Guaranty and Reservation Fee. If Purchaser does not take the Maximum Quantity on the Date of First Delivery, Purchaser shall pay to Seller, in addition to the Purchase Price, an amount equal to 1.25% of the Purchase Price per barrel per day on the difference between the Maximum Quantity and the actual quantity tendered to and accepted by Purchaser ("Actual Quantity") for each day Purchaser does not take the Maximum Quantity on and after the Date of First Delivery. The payment of this fee shall end on the day that Purchaser accepts delivery of the Maximum Quantity. When Purchaser accepts the Maximum Quantity, all of the amounts paid under this Article 2.10 will be allowed to be credited against future payments for oil tendered under this Agreement except for an amount to be retained by Seller equal to .75% of the Purchase Price per barrel per day on the difference between the Maximum Quantity and the Actual Quantity for each day Purchaser did not take the Maximum Quantity on and after the Date of First Delivery. If Purchaser should thereafter decrease the amount of Royalty Oil to be tendered under this Agreement, Purchaser shall pay to Seller, in addition to the Purchase Price, an amount equal to .75% of the Purchase Price per barrel per

day after the date that the decrease in the amount of Royalty Oil to be tendered by Seller takes effect on the difference between the Maximum Quantity and the Actual Quantity.

2.11 In-State Processing. Purchaser agrees that all oil purchased under the terms of this agreement shall be used in the State of Alaska. As used in this Agreement "used in the State of Alaska" means the following described uses or a use substantially similar to that described.

Purchaser has assigned its royalty oil to North Pole Refining (MAPCO) for processing crude into a usable fuel for its generating station. Purchaser is guaranteed a lower refining charge under this arrangement which is passed directly through to consumers in the form of reduced electric rates. If MAPCO cannot process purchaser's crude, purchaser has a commitment from the Rural Electrification Administration that mortgage funds would be available to convert its generating units to accept crude as fuel.

Purchaser's obligation to use Royalty Oil in-state may only be suspended or excused under the provisions of Articles VIII and XI.

Seller may, at its option, waive the in-state use requirement in whole or in part, if Seller is satisfied that the waiver would not be contrary to the underlying intent of the other provisions of this Agreement.

2.12. Best Efforts. Purchaser agrees to use its "best efforts" to process oil under the arrangements in Article 2.11 to reduce consumer prices in the Electrical Coop. A determination of "best efforts" under this Article shall include consideration of Purchaser's capabilities and the surrounding business circumstances. Purchaser's obligation to use its best efforts include reasonable, diligent, and good faith efforts, but shall not require Purchaser to market in Alaska at a loss. "Best efforts" would, however, require Purchaser to market in Alaska even though Purchaser could make a greater profit by another disposition of the Royalty Oil or the products refined from that oil.

ARTICLE III
REPRESENTATION AND OBLIGATIONS OF PURCHASER

Purchaser warrants, represents, and agrees:

3.1 Good Standing and Due Authorization. Purchaser is, and at all times during the operation of this Agreement shall remain, a corporation qualified to do business in, and in good standing with, the State of Alaska. Purchaser has all necessary corporate power to enter into this Agreement and to perform its covenants and obligations under this Agreement. All necessary corporate action has been taken to authorize Purchaser's entering into this Agreement and performing its covenants and obligations under this Agreement.

3.2 Financial Condition. The financial information submitted to Seller is complete and correct and fairly presents Purchaser's financial condition at the time the information was submitted to Seller. The financial information was prepared in accordance with generally accepted accounting principles consistently applied. Since the date the information was submitted, the condition, business and properties of Purchaser have not been materially adversely affected in any way. Purchaser agrees to inform Seller immediately if during the term of this Agreement there is any material adverse change in the condition, business, or properties of Purchaser which would have an appreciable adverse effect on Purchaser's performance under this Agreement. Purchaser, in addition, will immediately inform Seller of any significant change in ownership of either the Purchaser or any of its affiliates or parent company, and of any change in Purchaser's operations or agreements, which would appreciably affect Purchaser's performance under this Agreement.

3.3 Financial Statements. As soon as possible after the end of each fiscal year of Purchaser, and in any event within one hundred twenty (120) days thereafter, Purchaser will furnish to Seller, at Purchaser's sole cost and expense, a report or a complete copy of a report in a form to be

prescribed from time to time by Seller which will include Purchaser's balance sheet as of the close of the fiscal year and the income statement for that year prepared in each case in accordance with generally accepted accounting principles consistently applied by certified public accountants of recognized standing. For purposes of complying with this Article, Purchaser may submit, and Seller will accept, the annual report of the Golden Valley Electric Association, Inc.

ARTICLE IV
MEASUREMENTS AND TESTS

4.1 Measurement Standards and Procedures. The quantity and quality of the crude oil sold under this Agreement shall be determined at the Point of Delivery. Procedures and methods for measuring metering the oil sold under this Agreement shall be in accordance with the practices then in effect at Prudhoe Bay, Alaska.

ARTICLE V
PAYMENTS AND ACCOUNTING

5.1 Billing. Seller will send to Purchaser, on or before the 10th (tenth) business day of each month after delivery of Royalty Oil, an invoice statement of account of all Royalty Oil estimated to have been measured at the custody transfer meter into the Trans Alaska Pipeline System and tendered to Purchaser under this Agreement during the immediately preceding month according to the best information available to Seller, the estimated price or prices applicable to those deliveries, and the total amount due ("initial billing"). The estimates will be made by Seller according to the best information reasonably available to Seller. Seller may render its initial billing to Purchaser based in part upon information reported by the Lessees to Seller and information published by the U.S. Government. Seller shall thereafter adjust its initial billing under this Article as soon as more

accurate information concerning the quantity and price or prices of Royalty Oil delivered each month is available. Seller, however, shall not be required to adjust the initial billing prior to the sending of the next month's invoice statement of account.

5.2 Initial Adjustment. After the monthly invoice under Article 5.1, the subsequent monthly invoice will also state Seller's initial adjustments to be made, if any, to the invoice rendered in the immediately preceding calendar month, in accordance with any additional or more accurate information which may have become available to Seller. Whether or not initial adjustments are made, however, subsequent adjustments may be made under Article 5.5.

5.3 Payment. Purchaser will make payment of that amount billed under this Article within ten (10) days after receipt of the invoice statement of account. Payment shall be made without any deduction, set off, or withholding in immediately available funds to Seller at the following address:

Bank of America, NT & SA
San Francisco, California
Securities Department 3298
Credit to: State of Alaska Investment Account

Payment may be made in such other manner or to such other address as Seller may specify in the invoice statement of account or by other written notice. All other payments to be made under this Agreement shall be paid in the same manner. If payment is due on a Saturday, Sunday, or legal holiday of the place where payment is to be received, payment shall be made on the next following business day. It is recognized that Seller may bill, and that Purchaser will pay, amounts that are based upon confidential information held or received by Seller. If confidential information is used as the basis for a billing, then upon request Seller will furnish Purchaser with the certified statement of the Commissioner that the amounts billed are correct based upon the best information available to Seller. Except for obvious clerical mistakes, if a dispute concerning a bill arises, it is agreed that Purchaser will pay the full amount billed by Seller pending final resolution of the dispute. Upon final resolution, the amount paid will be refunded to the Purchaser with interest, if such a refund is appropriate.

5.4 Payment to Lessee. Purchaser, at the request of Seller in the invoice statement of account or otherwise in writing, shall pay all or any portion designated by Seller of that payment required to be made to one or more of the Lessees at an address or addresses and in the manner designated by Seller. The payment will be made within the time limit specified in Article 5.3. Seller may authorize and designate a third party to make the request and designate the amount, manner and place of payment under this provision. Unless otherwise specified, the balance of the payment due, if any, and payment for subsequent months, shall be made in accordance with Article 5.3.

5.5 Subsequent Adjustments. Purchaser acknowledges that more accurate information concerning the quantity of or Purchase Price for Royalty Oil tendered may subsequently become available to Seller. In the event that any such information should subsequently become available to Seller, Seller shall promptly furnish a corrected invoice statement of account to Purchaser and the parties will adjust the amount billed and pay or refund the amount of those adjustments.

In the event that Seller should render a corrected invoice to Purchaser, the parties will adjust the amount previously billed accordingly. Any amount to be refunded from Seller to Purchaser or paid from Purchaser to Seller will be paid within fifteen (15) days after the date of the corrected invoice. The time for paying an adjustment will be different, however, when the adjustment concerns an amount last invoiced more than sixty (60) days before the corrected invoice, in which case the amount will be paid by Purchaser or refunded by Seller, as the case may be, in equal monthly installments over the same period of time as that over which the adjustment accrued or six (6) months, whichever is the shorter period. No adjustment will be made more than twelve (12) months after the date of the last original invoice to which the adjustment relates, except for adjustments resulting from: (i) regulatory or court proceedings (including appeals) commenced or pending during that twelve (12) month period, whether or not Seller or Purchaser is a party to the proceeding, or (ii) bona fide audits by Seller of any Lessee(s) commencing at

any time during the period six (6) years after the date of the last invoice to which such adjustment relates, or any resolution of disputes arising out of those audits. Adjustments due to audits or regulatory proceedings or court proceedings may be made at any time. The provisions of this Article 5.5 will survive any termination of this Agreement.

5.6 Interest. Except for adjustments made upon resolution of Amerada Hess under Article 2.3, the amount of all sums which are not paid when due under this Agreement or which are subsequently determined to be due under an adjustment under Article 5.5, or refunds, shall bear interest from the date accrued until paid in full at a variable rate per annum equal to the prime rate as announced from time to time by the Bank of America, San Francisco, California, plus one and one-quarter percent (1.25%) per annum.

5.7 Late Payment Penalty. Except for unintentional failures to pay, including clerical mistakes or occurrences not within the reasonable control of Purchaser, or insignificant underpayments, if Purchaser fails to make payment within one (1) day of the date that payment is due, then in addition to the amount due plus interest from the date that payment was due until the date of payment, Purchaser will pay an amount equal to one percent (1%) of the amount owed.

5.8 Payment to Third Parties. Seller may direct that Purchaser pay any amount due or which may become due directly to a third party in the manner and time as may be directed by Seller in written notice to the Purchaser if, in the Seller's sole discretion, the payment to the third party will assist Seller in monitoring or enforcing this Agreement.

ARTICLE VI

TERM

6.1 Term. This Agreement shall become effective upon execution by the parties. Subject to the other provisions contained in this Agreement, Seller's obligation to sell and Purchaser's obligation to buy Royalty Oil shall begin July 1, 1984 and end June 30, 1985.

ARTICLE VII

DEFAULT OR TERMINATION

7.1 Default. If any one or more of the following events ("Events of Default") occur, then at Seller's option, Seller may terminate or suspend its obligation to tender and sell Royalty Oil and proceed to exercise any one or more of the rights and remedies provided in this Agreement:

- (i) Except for obvious clerical errors, Purchaser does not pay in full any sum owed under this Agreement at the time when payment is due; or
- (ii) Purchaser fails to observe or perform any of its other covenants and obligations under Article II; or
- (iii) Purchaser does not perform any act required or contemplated under this Agreement and either: (a) the nonperformance continues for more than thirty (30) days after Seller has notified the Purchaser of Purchaser's nonperformance; or (b) Purchaser had failed to perform the same or any other act required or contemplated under this Agreement during the immediately preceding twelve (12) month period; or

- (iv) there is a material adverse change in Purchaser's condition, business or property which appreciably affects the ability of the Purchaser to perform any of its obligations under this Agreement, and Purchaser is unable to give Seller adequate assurance of continued performance either within fourteen (14) days of a request for such an assurance or within such other shorter time period as Seller may reasonably request under the circumstances; or
- (v) any representation or warranty made by Purchaser in this Agreement proves to have been false or incorrect in any material respect at the time that the representation or warranty was made.

7.2 Failure to Pay Debts. If at any time Purchaser becomes unable to pay any of its debts when those debts are due, or should otherwise become insolvent (without regard to how that insolvency may be evidenced), Purchaser will immediately give notice of that fact to Seller. Whether or not that notice is given, if Purchaser becomes unable to pay any of its debts when those debts are due or should otherwise become insolvent, Seller's obligation to tender and sell Royalty Oil under this Agreement will automatically and immediately terminate without any requirement of notice or other action by Seller; however, Purchaser will nevertheless be and remain liable for payment and performance of all of its obligations and covenants under this Agreement with respect to Royalty Oil actually tendered by Seller to and after any such termination. Within thirty (30) days after receipt of Purchaser's notice or, if no notice is given, after Seller otherwise becomes aware (as determined in Seller's sole discretion) of Purchaser's insolvency, Seller will have the right, upon written notice to Purchaser, to reinstate all of Seller's and Purchaser's obligations under this Agreement retroactively to the date of termination.

7.3 Seller's Remedies. Upon the occurrence of any Event of Default or if Seller's obligation to tender and sell Royalty Oil under this Agreement is terminated or suspended under Articles 7.1 and 7.2, all obligations of Purchaser accrued but not otherwise due and payable under this Agreement will

immediately be due and payable in full. In addition, Purchaser will indemnify and hold Seller harmless from and against all other liability, damages (including reasonably foreseeable consequential damages), costs, losses and expenses (including reasonable attorneys' fees and disbursements) incurred by Seller and arising out of the Event of Default, termination, or suspension. Seller shall have the right cumulatively to exercise any and all other rights and remedies and to obtain all other relief available under applicable law or at equity, including mandatory injunction and specific performance. The Seller, upon occurrence of any Event of Default, in its sole discretion, may arrange for any disposition to third parties of Royalty Oil to be tendered and sold under this Agreement. Upon the occurrence of any Event of Default, the Purchaser is released from the obligations set forth in Articles 2.11 (In-State Processing) and 2.12 (Best Efforts) until the Event of Default no longer exists or the obligation of the Purchaser to take Royalty Oil under this Agreement expires. If upon occurrence of any Event of Default the Seller makes arrangement for disposition to third parties of Royalty Oil or if the Purchaser is released from Articles 2.11 and 2.12, whether or not this Agreement is terminated, Purchaser will nevertheless be and remain liable to Seller for the full amount of the Purchase Price for that Royalty Oil in excess of the Purchase Price over any amount or amounts received by Seller on account of that disposition, net of the expenses of that disposition and for all other costs, expenses (including reasonable attorneys' fees and disbursements), damages (including reasonably foreseeable consequential damages) and losses incurred by Seller and arising out of the Event of Default or disposition.

7.4 Purchaser's Exclusive Remedies. Upon any breach of, or default in, the due and timely observance or performance of any of Seller's covenants or obligations under this Agreement, Purchaser acknowledges and agrees that Purchaser's remedies will not include a temporary restraining order or preliminary injunction preventing Seller from taking any action with regard to the Royalty Oil sold under the Agreement.

ARTICLE VIII
DISPOSITION OF OIL

8.1 Disposition of Oil Upon Default or Termination. Purchaser acknowledges and agrees that under the Unit Agreement and Leases Seller's election to take Royalty Oil in-kind can be revoked or reversed only upon the satisfaction of various conditions, including the giving of six (6) months' notice to return all or more than ten percent (10%) of Seller's then current nominations. Purchaser acknowledges and agrees that Seller's election to invoke its rights to return to taking its Royalty Oil in value on less than six (6) months' notice, or to attempt to secure a waiver of any condition or requirements, is at Seller's sole and complete discretion. Notwithstanding termination of this Agreement for default or for any other reason, including expiration or termination under any provision contained in this Agreement, Purchaser shall continue to take and purchase Seller's Royalty Oil in the amount and for the price set forth in this Agreement for up to seven (7) months following termination of this Agreement if Seller, in its discretion, so requires.

8.2 Inability to Receive Oil. If for any reason Purchaser is unable or refuses to accept or receive any Royalty Oil tendered under this Agreement, Purchaser shall nevertheless be and remain responsible for the disposal of that Royalty Oil and for paying the Seller for the oil as though it has been received and accepted by Purchaser unless Seller, in its sole discretion, elects to waive this requirement.

8.3 No Right to Storage or Underlift. Purchaser waives and disclaims any interest or right that it may assert to storage of Royalty Oil, including by underlift or other means, to which Seller is or may come to be entitled under the Leases or any other agreement.

ARTICLE IX

WAIVER

9.1 Waiver. The failure of either party to insist upon strict performance of any provision of this Agreement shall not constitute a waiver of, or estoppel against, asserting the right to require that performance in the future. A waiver or estoppel in any one instance shall not constitute a waiver or estoppel with respect to a later breach of a similar nature or otherwise. A course of performance established by a party shall also not estop the other party from complaining of a later breach similar in nature.

ARTICLE X

VALIDITY

10.1 Validity. If any provision or clause of this Agreement or application of this Agreement to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this Agreement which can be given effect without the invalid provision or application. If, however, an invalidity should operate to impair any material right or remedy of a party to this Agreement, that party may terminate this Agreement by notice to the other.

ARTICLE XI

FORCE MAJEURE AND CHANGE IN CONDITION

11.1 Effect of Force Majeure. Except for Purchaser's obligations to make payment of money for Royalty Oil tendered under this Agreement and except for Purchaser's obligations to accept and dispose of Royalty Oil, neither party shall be liable for any failure to perform the terms of this Agreement when the failure is due in whole or in substantial part to force majeure. The term "force majeure" as applied to this Agreement shall mean Acts of God, strikes, lockouts and industrial disputes or disturbances, civil disturbances,

arrests and restraints from rulers or people, interruptions by government or court orders or by present or future orders of any regulatory body having or asserting jurisdiction, acts of the public enemy, wars, riots, blockades, insurrections, inability to secure materials by reasons of allocations promulgated by authorized governmental agencies, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, explosions, breakage or accident to machinery or lines of pipe, freezing of wells or pipelines, or any other event or condition, whether of the kind herein enumerated or otherwise, not within the reasonable control of the party claiming the benefit of this excuse. If, however, any material obligation of Purchaser is excused or suspended because of a claim of force majeure for a period of three hundred sixty-five (365) successive days or more, Seller will have the right to terminate this Agreement. Prior to the Seller exercising its right to terminate this Agreement the Seller and Purchaser shall enter into good faith negotiations to restore, to the fullest extent possible, the Seller and Purchaser to the benefits and obligations that existed under this Agreement before the occurrence of the force majeure condition.

11.2 Responsibility. Upon the occurrence and discovery of an event providing the basis for a claim of force majeure, the party making a claim shall notify the other party to this Agreement of its claim of force majeure. Upon the occurrence of an event constituting force majeure that event shall, so far as possible, be remedied with all reasonable diligence and dispatch. Except for Purchaser's obligations to make payment of money for Royalty Oil tendered under this Agreement and except for Purchaser's obligation to dispose of Royalty Oil, the obligations of the disabled party to perform under this Agreement, insofar as they are affected by that force majeure, shall be suspended from the time that force majeure occurs and for so long as the disability caused should have continued had the party claiming the existence of the force majeure remedied the event providing the basis of the claim of force majeure with reasonable diligence and dispatch, and for no longer. The settlement of strikes or lockouts or industrial disputes or disturbances will be entirely within the discretion of the party having the difficulty, and the above requirement that any force majeure shall be remedied with diligence and

dispatch shall not require the settlement of strikes, lockouts, or industrial disturbances by acceding to the demands of any opposing party therein when such course is inadvisable in the sole discretion of the disabled party.

ARTICLE XII
NOTICES

12.1 Method. All notices, requests, demands or statements shall be in writing, and may be delivered personally to the party to be notified or may be sent by registered or certified United States mail, postage prepaid, with a return receipt requested to such party. Notice deposited in the mail in this manner shall be effective upon the expiration seven (7) days after it is so deposited. Notice given in any other manner shall be effective only if and when received by the addressee. For the purposes of notice, the addresses of the parties to this Agreement shall be as follows:

If to Seller: State of Alaska
Commissioner of Natural Resources
Pouch "M"
Juneau, Alaska 99811

and

Commissioner of Revenue
Pouch "S"
Juneau, Alaska 99811

and

Director, Division of Oil and Gas
Pouch 7-034
Anchorage, Alaska 99510

If to Purchaser:

GOLDEN VALLEY ELECTRIC ASSOCIATION
P.O. Box 1249
Fairbanks, Alaska 99707

12.2 Change of Address. Each party may change its address for notice by giving notice of the change.

ARTICLE XIII
RULES AND REGULATIONS

13.1 Rules and Regulations. This Agreement is subject to all present and future valid laws, orders, rules and regulations of the United States, the State of Alaska, and any duly constituted agency thereof.

ARTICLE XIV
SOVEREIGN POWER OF THE STATE

14.1 Sovereign Power of the State. This Agreement and its covenants shall not be interpreted as a limit on the exercise by the State of Alaska of any of its sovereign or regulatory powers, whether conferred on the State by constitution, statute or regulation, including but not limited to, its regulatory power over the Leases. The exercise by the State of Alaska of any sovereign or regulatory power will not operate or be deemed to enlarge any rights of Purchaser or to limit or impair any obligations or liability of Purchaser under this Agreement except for state statutes enacted after the effective date of this Agreement which have a direct and significant adverse effect on the ability of Purchaser to perform an obligation under this Agreement other than the obligations to accept, dispose, and pay for Royalty Oil tendered under this Agreement.

ARTICLE XV
SECURITY

15.1 Letter of Credit. At least sixty (60) days before the Date of First Delivery, unless waived by Seller, Purchaser shall cause to be furnished to Seller an irrevocable stand-by letter of credit for the benefit of Seller, issued by a state or national banking institution of the United States which

is a member of the Federal Deposit Insurance Corporation and has an aggregate capital and surplus of not less than One Hundred Million Dollars (\$100,000,000), or other banking institution acceptable to Seller in its sole discretion. The principal face amount of the letter of credit shall initially be Five Million, Four Hundred Thousand Dollars, (\$5,400,000). The letter of credit shall be substantially in a form satisfactory to the Commissioner, but in any event shall not require any documents to be submitted in support of drafts drawn against this letter of credit other than the certified statement of the Commissioner or her designee and the Attorney General of the State of Alaska or his designee that Purchaser is liable to Seller for a sum equal to the amount of such draft, and that that sum is due and payable in full and has not been timely paid. In the event that Seller should have reasonable grounds for asserting any claims against Purchaser under this Agreement and does assert those claims in an aggregate amount in excess of the aggregate principal face amount of the letter of credit then in effect, Purchaser shall upon Seller's request (whether or not Purchaser may deny, reject or otherwise resist such claims) cause the principal face amount of the letter of credit to be increased by an amount equal to the excess. The principal face amount of the letter of credit shall also be automatically increased by Purchaser without request from Seller whenever the face amount is less than the expected Purchase Price of sixty (60) days of Royalty Oil tenders under this Agreement, to an amount equal to the expected Purchase Price of sixty (60) days of Royalty Oil tenders. The principal face amount of the letter of credit may be decreased by Purchaser upon approval of Seller if the face amount is more than the expected Purchase Price of sixty (60) days of Royalty Oil tenders under this Agreement, to an amount equal to the expected Purchase Price of sixty (60) days of Royalty Oil tenders. The Commissioner may accept such other or additional security as she, in her sole discretion, considers adequate to protect Seller.

ARTICLE XVI
PREFERENTIAL HIRING AND NON-DISCRIMINATION

16.1 Preferential Hiring. Purchaser agrees to hire and employ Alaska residents and Alaska companies to the extent they are available, willing and qualified for all work performed in Alaska that is performed under or in connection with this agreement. As used in this agreement "Alaska resident" means an individual who has resided in the State for one year at the time of hiring or employment and "Alaska companies" means those companies who are incorporated in the State of Alaska or whose principal place of business is in Alaska.

If this provision is determined to be unconstitutional by a court of competent jurisdiction, then Purchaser agrees to hire and employ Alaska residents and Alaska companies to the extent such preferential hiring is determined to be constitutional.

ARTICLE XVII
APPLICABLE LAW

17.1 Alaska Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Alaska, excluding any conflict-of-law rule or principle which might refer such construction to the laws of another state or country.

17.2 Submission to Jurisdiction. Any legal action or proceeding arising out of or relating to this Agreement or for the enforcement of the covenants or obligation of either party must be instituted in a State court of general jurisdiction sitting in the State of Alaska, and Purchaser hereby irrevocably submits to the jurisdiction of that court in any such action or proceeding.

ARTICLE XVIII
WARRANTIES

18.1 No Warranties. The purchase and sale of Royalty Oil under this Agreement is subject only to the warranties of Seller expressly set forth in this Agreement and Seller disclaims and Purchaser waives all other warranties, express or implied in law, whatsoever.

ARTICLE XIX
AMENDMENT

19.1 Amendment. This Agreement may be supplemented, amended or modified at any time, but only by written instrument duly executed by the parties to this Agreement.

ARTICLE XX
SUCCESSORS AND ASSIGNS

20.1 General Prohibition. No assignment, pledge or encumbrance of this Agreement shall be made by either party without first obtaining the written consent of the other party. The Commissioner may grant such consent on behalf of the Seller. The Commissioner shall have sole and complete discretion in granting or denying a proposed assignment, pledge or encumbrance. Subject to the above requirements in this Article, this Agreement will be binding upon and inure to the benefit of each of the parties and its successors and permitted assigns. In addition, if Purchaser gains or acquires a controlling interest in an entity which has an agreement with Seller for the sale of Royalty Oil ("Other Agreement"), then Seller, at its option and on one year's notice, may require Purchaser to terminate either this Agreement or the Other Agreement. The choice of which Agreement to terminate will be Purchaser's. Purchaser may request that Seller waive this option in advance of Purchaser gaining a controlling interest in an entity which has an agreement with Seller

for the sale of Royalty Oil. The Commissioner has sole and complete discretion in granting or denying the requested waiver.

ARTICLE XXI

HEADINGS

21.1 Headings. Headings used in this Agreement are for convenience only and shall not affect the construction of this Agreement.

ARTICLE XXII

RECORDS

22.1 Preservation of Records. Purchaser will preserve and maintain all books, accounts, and records relating to or arising out of the performance of this Agreement, including but not limited to the purchase or sale of Royalty Oil and its refined products, for a period of six (6) years. Purchaser will also maintain and preserve all similar books, accounts, and records of which it has possession belonging to those third parties with whom it contracts for the performance of various parts of this Agreement. Neither Purchaser nor Seller shall be required to retain any records for more than six (6) years unless retention of such records is specifically required by applicable law or regulation. Purchaser shall either maintain its records within the State of Alaska or make such records available to Seller at Purchaser's principal office in the State of Alaska within thirty (30) days after written request by Seller.

22.2 Inspection of Records of Parties. Purchaser and Seller will accord to each other and to their authorized agents, attorneys, and auditors during reasonable business hours access to any and all property, records, books, documents, and indexes directly relating to the Purchaser's or Seller's performance of this Agreement and which are under the control of the party from which access is desired so that the other party may inspect, photograph

and make copies of that property, records, books, documents and indexes. In no event, however, shall Seller be required to disclose any information, data, or records which are required to be held confidential by state law or regulation. If the information obtained by Seller may be held confidential under state or federal law or regulation, Purchaser may request that that information be held confidential by Seller.

ARTICLE XXIII
INTERPRETATION OF TERMS AND CONDITIONS

23.1 Commissioner Finding and Review. In the event that there is a disagreement about the meaning or application of a word, term, or condition in this Agreement, Purchaser will present the arguments supporting its view in writing to the Commissioner for her consideration. The Commissioner will subsequently, within a reasonable time, issue a finding on the meaning or application of the disputed word, term, or condition, setting forth the basis for her conclusions. Purchaser agrees to accept findings by the Commissioner under this Article as long as there is substantial evidence supporting the Commissioner's findings.

DATED this 9TH day of May 1984.

SELLER: THE STATE OF ALASKA

Evelyn C. Winnicke
Commissioner,
Department of Natural Resources

PURCHASER: GOLDEN VALLEY ELECTRIC ASSOCIATION

By *Michael P. Kelly*
Michael P. Kelly
General Manager

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH STATE AGENCY
BUREAU ALASKA 708
207 10-18-85

MEMORANDUM

February 18, 1985

SUBJECT: Sectional Analysis for CS for ~~DB~~ 152
(Resources)

TO: Senator Arliss Sturgulewski
Chairman, Senate Resources Committee

FROM: Randall J. Moen
Legislative Counsel

Section 1 The following need not occur if a sale of state royalty oil subject to legislative approval is extended or renewed for not more than three months and the extension or renewal relates to a one year or less prior sale of oil with the same party to relieve market or storage conditions:

1. A written finding to the public by the director of the division of lands for the Department of Natural Resources that a sale of oil will serve the best interests of the state. (AS 38.05.035(e))
2. Competitive bidding by the commissioner of natural resources or prior written notice to the Alaska Royalty Oil and Gas Development Advisory Board of reasons for waiver of competitive bidding. (AS 38.05.183(a))
3. Prior written notice to the public and the Alaska Royalty Oil and Gas Development Advisory Board of the reasons why the commissioner of natural resources intends to sell royalty oil other than by competitive bid. (AS 38.05.183(c))
4. A requirement of the commissioner of natural resources to sell royalty oil to a prospective buyer whose proposal offers maximum benefits to the state. (AS 38.05.183(e))

Senator Arliss Sturgulewski
February 18, 1985
page 2

5. Review and written recommendation to the legislature by the Alaska Royalty Oil and Gas Development Advisory Board. (AS 38.06.050(a))

6. Prior written notice to the Alaska Royalty Oil and Gas Development Advisory Board by the Commissioner of natural resources of rejection of a bid or application for the purchase of royalty oil. (AS 38.06.060(b))

7. Prior written notice to the Alaska Royalty Oil and Gas Development Advisory Board by the commissioner of natural resources before the waiver of competitive bidding. (AS 38.06.050(c))

Section 2 The legislature approves and ratifies a three month extension of a royalty oil contract between the State of Alaska and Golden Valley Electric Association, Inc.

Section 3 On October 1, 1985 the provisions of law noted in section 1 will apply to an extension or renewal of not more than three months of sale of oil that is subject to approval by the legislature under AS 38.96.055(c).

Section 4 Immediate effective date.

RJM:csh
c3/004

STATE OF ALASKA



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4941

HOUSE SPECIAL COMMITTEE ON OIL AND GAS

To: Representative Mike Davis, Chairman
From: Jonathar. Sperber, Committee Aide
Date: March 17, 1985
Re: CSSB 152

The present and proposed GVEA royalty oil contracts are both predicated on GVEA assigning its crude oil to MAPCO, in exchange for which MAPCO then sells a share of #4 turbine fuel to GVEA at a discounted price. Of the 5,000 b/d of crude oil presently being assigned to MAPCO, 625 b/d of #4 turbine fuel is in return sold to GVEA. This represents approximately one-third of GVEA's turbine fuel needs, and one-sixth of the utility's total energy needs.

The turbine fuel is sold to GVEA at a discount from MAPCO's standard price, and this \$550,000 annual discount is passed through to GVEA's members as a 1.57% savings on their electrical costs. This consumer benefit satisfies the best-interest requirements set forth in AS 38, and thus serves as the basis and justification for the state to sell royalty oil to GVEA.

The product breakdown of the 5,000 b/d of crude oil that MAPCO presently receives from GVEA is as follows:

625 b/d	#4 turbine fuel sold to GVEA at discount
1758 b/d	other refined products
<u>2617</u> b/d	residual oil
5000 b/d	total

The residual oil is returned to the Trans-Alaska Pipeline at Fairbanks, and is then reclaimed by MAPCO as whole crude oil at Valdez. MAPCO may then exchange this oil for crude oil from the North Slope, thereby repeating the process of receiving, refining, returning, and exchanging oil. As a penalty for returning lower-quality oil into the pipeline, MAPCO pays a quality bank differential of 10¢ per API degree loss. At a 7 degree quality loss, MAPCO would pay a penalty of 70¢ per barrel.

Each barrel of crude oil refined by MAPCO produces approximately 5.25 gallons of turbine fuel and 11.18 gallons of jet fuel and diesel/heating oil. The remaining oil is reinjected into the pipeline as resid. MAPCO marks-up turbine fuel at about 9¢/gal. (from assignment agreement with MAPCO) and jet and diesel/heating oil at about 26¢/gal. (from Alaska Petroleum Product Pricing). This implies an annual gross profit of about \$2,170,000 based on 1758 b/d at a mark-up of \$3.38 per barrel. Operating and depreciation expenses would be deducted from this figure to arrive at MAPCO's annual net profit.

Alaska State Legislature

ARLISS STURGULEWSKI, Chairman
BETTYE FAHRENKAMP, Vice Chairman
JACK COGHILL
DICK ELIASON
VIC FISCHER
RICK HALFORD
FRED ZHAROFF



POUCH V
JUNEAU, ALASKA, 99811
(907) 465-4907

Senate

Committee on Resources

MEMORANDUM

February 19, 1985

TO: All Members
Senate Resources Committee

FROM: Staff *MSM*
Senate Resources Committee

RE: SB 152 "An Act relating to extension and renewal of certain sales of state royalty oil; and providing for an effective date."

SB 152 is designed to cover a time lapse between the expiration of the state's royalty oil contract with GVEA (Golden Valley Electric Association) and the effective date of a new contract. The current contract is due to expire June 30, 1985. This bill would extend that date to September 30, 1985.

A bill approving a new royalty oil contract with GVEA is scheduled to be introduced at the request of the Governor on March 8, 1985. Royalty oil contracts become effective four months after they are signed which means that the new contract could not become effective before the original expiration date.

When the state is taking its royalty oil in kind rather than in value, State regulations require 90 days written notice when the amount of oil taken is going to change. (See attached copy of 11 AAC 82.700[2]) If the contract lapsed, the state would have to give 90 days notice that it was decreasing the amount of oil taken in kind and then, when the contract was signed, would have to give another 90 days notice that the amount was going to go back up. These notice requirements, together with the actual lapse in the contract would cause a substantial interruption in the supply of oil to GVEA.

The Department of Natural Resources has issued findings that the GVEA contract is in the best interest of the state. It appears that the issue of whether the GVEA contracts are a good or bad deal for the state is an issue that would more properly be addressed when the new contract is before this body. Nothing in this bill would commit the state in any way to the new contract.

In this packet is a sectional analysis of the committee substitute proposed by Sen. Coghill's office; a memo from Sen. Coghill's office on this issue; a copy of the relevant regulations; a chart showing the current distribution of the state's royalty oil; and a copy of GVEA's current contract.

STATE OF ALASKA



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4941

HOUSE SPECIAL COMMITTEE ON OIL AND GAS

HB 233/CSSB 152

Passage of either HB 233 or its companion bill, CSSB 152, would provide for an emergency three-month extension of the present GVEA royalty oil contract. The best-interest finding of this bill is based on the royalty oil being assigned to MAPCO, and MAPCO in turn selling turbine fuel to GVEA at a discounted price. This discount results in a 1.57% savings to consumers on their electrical costs.

Because this legislation would bypass several procedures relating to the disposition of royalty oil, it is worthwhile to review the events that led to the introduction of this legislation.

- 1976 Negotiations take place between the Department of Natural Resources and GVEA
- 1977 GVEA contract is signed
- 1978 GVEA is eligible to begin receiving royalty oil; contract expires six years from date of first receipt
- 1981 GVEA elects to begin receiving royalty oil, at a rate of 5,000 b/d
- 1982 GVEA request 10-year extension of contract
- 1983 Negotiations take place between the Department of Natural Resources and GVEA; Royalty Board reviews the proposed contract
- 1984 The six-year contract expires, and an emergency one-year contract is signed
- 1985 HB 233 and CSSB 152 would provide for an emergency three-month extension

From
GVEA
2/19/85

GVEA ROYALTY OIL CONTRACT

FACT SHEET

TITLE: Agreement for Sale and Purchase of Royalty Oil

TERM: 3 months

MAJOR FACTS/BENEFITS:

- a. This is a renewal or continuation of GVEA's 1977 royalty oil contract which was the first royalty contract. GVEA is presently receiving oil and has been receiving continuously since 1981.
- b. The contract has specific "In State Processing Requirement".
- c. Guaranteed Benefits:
 - (1) Directly benefits more than 50,000 Interior residents who are consumers of GVEA by providing GVEA a lower price for turbine generator fuel.
 - (2) GVEA's fuel derived from the royalty oil agreement costs 9.7% less than next best competitive alternative.
 - (3) GVEA saves in excess of \$550,000 a year which is passed on directly to the consumer via GVEA's "Cost of Power Adjustment (CPAC)" tariff and has been a credit adjustment on the last 33 monthly electric billings.
- d. Fairbanks area electric consumers are the only major group in Alaska who do not presently benefit from hydro development, power cost assistance, or availability of economical natural gas fuels.
- e. Although approval now seems within our grasp, there have been several delays in the approval of GVEA's contract. We are in a position at this late date where even if the proposed contract is approved immediately, we will lose our oil supply because of the crude oil denomination and re-nomination requirements associated with the lapse of our current contract and implementation of the new contract. When DNR granted our present one year contract, they pledged their best efforts to insure that GVEA would suffer no crude flow interruption. Passage of S.B. 152 will insure that the commitment is kept.
- f. The 3 month lapse would result in \$125,000 to \$135,000 higher electric bills to the GVEA consumer via GVEA's CPAC.

Prepared by:

Senator Coghill's
Office 2/19/85

Golden Valley Electric Assn.

Contract Extension

SB 152

Golden Valley and the State of Alaska negotiated an agreement in 1976 to sell 5,000 barrels per day of royalty oil. Golden Valley requested royalty oil so that crude oil might be used as turbine fuel for power generation if market conditions made the cost prohibitive.

Golden Valley did not exercise its option to purchase until 1981. It assigned its contract rights to Mapco in exchange for a price discount on the turbine fuel.

This price discount, over \$500,000 a year, is passed on to its 50,000 electric customers. The Department of Natural Resources has indicated that continued royalty oil sales to GVEA is in the best interest of the state because it offers maximum benefits to the citizens of the State.

The new Golden Valley contract with the State is a long-term noncompetitive bid contract for 10 years. It is still awaiting final approval. This contract will require legislative approval and will not be ready for that approval until March. It then must be signed by the governor. It becomes effective four months after signing.

The expiration date of the existing contract is June 30, 1985.

As part of the Prudhoe Bay Unit Agreement of April 1, 1971, 90 days notice must be given to the producers to switch from in kind taking to in value for a small volume. This is the nomination/denomination process.

Notice must be given to the producers by March 31, 1985 under the existing contract-- if it expires June 30--in order for the State to return to in value taking.

Essentially with no extension the royalty oil will stop coming to Golden Valley. There will be a gap between the old and new contract. There is a four month waiting period before the new contract takes effect so that the State may notify the producers of its desire to take in kind. In addition to these problems are the procedural requirements found in the bill relating to public notice. Each notice step takes a certain amount of time.

This bill will allow the Golden Valley contract to extend for three months, enough time for the new contract to take effect and keep the prices of turbine fuel down to help lower fuel costs to its customers. The legislation is temporary and expires October 1, a time fixed to coincide with the new contract start-up.

It is not practical at this time to treat the proposed extension as a new disposal due to numerous requirements which would be waived by the proposed CS for SB 152.



MAPCO PETROLEUM INC.
A SUBSIDIARY OF MARCO INC.

480 NORTH BELT
SUITE 111
HOUSTON TEXAS 77060
(713) 931-7860
TELEX 794655

February 15, 1985

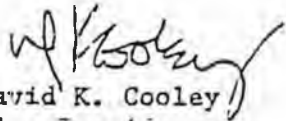
Senator John B. (Jack) Coghill
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Coghill:

Mapco would support legislation introduced by yourself and co-sponsored by Senators Bennett and Fahrenkamp, that would extend for three months the term of the royalty oil sale contract between the State of Alaska and Golden Valley Electric Association, Inc. This extension would ensure a steady supply of oil available for processing for Golden Valley's account until the new long term contract is in place.

We appreciate the efforts of the Alaska legislature in this regard.

Very truly yours,


David K. Cooley
Vice President

DKC:jr

jr

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

POUCH M
JUNEAU, ALASKA 99811
PHONE:

February 18, 1985

Senator Arliss Sturgulewski, Chairman
Senate Resources Committee
Alaska State Senate
Pouch V
Juneau, Ak 99811

Dear Senator Sturgulewski:

The attached Extension Amendment has been drafted to accommodate a proposed extension of the current royalty oil contract between the State and Golden Valley Association, Inc., as contemplated by the proposed Committee Substitute for Senate Bill 152. Upon enactment of the legislation (including approval by the Governor), I am prepared to execute the amendment.

Sincerely yours,



Esther C. Wunnicke
Commissioner
Department of Natural Resources

Attachment as stated

cc: Mike Kelly, Golden Valley Electric Assoc., Inc.

1574K

Extension Amendment

The following language amends the agreement for the sale and purchase of royalty oil dated May 9, 1984 between the State of Alaska and Golden Valley Electric Association, Inc.:

ARTICLE VI

TERM

6.1 Term. This Agreement shall become effective upon execution by the parties. Subject to the other provisions contained in this Agreement, Seller's obligation to sell and Purchaser's obligation to buy Royalty Oil shall begin July 1, 1984 and end June 30, 1985.

6.2 Extension of Term. Upon enactment on or before March 28, 1985 or legislation approving and ratifying a three-month extension of this Agreement, Seller's obligation to sell and Purchaser's obligation to buy Royalty Oil shall not end until September 30, 1985, or until the date of first delivery under the agreement for the sale and purchase of Royalty Oil conditionally entered into by Seller and Purchaser on February 8, 1985, whichever comes first. As used in this article, "enactment of legislation" is as defined in AS 01.10.070(f)(4).

6.3 Security for Extension of Term. Seller shall not be obligated to deliver Royalty Oil to Purchaser under any extension of the term of this Agreement if Purchaser fails by March 28, 1985 to deliver to Seller evidence that Seller may issue drafts against Purchaser's Article XV Security instrument up to and including November 30, 1985.

Date: _____

Commissioner
Department of Natural Resources

Date: _____

Golden Valley Electric
Association, Inc.

JUL 14, 1985

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL AND GAS

ESTIMATED PRODUCTION FOR PRUDHOE BAY AND KUPARUK RIVER UNITS

YEAR	ESTIMATED TOTAL PRODUCTION (BARRELS PER DAY)			ESTIMATED ROYALTY (BARRELS PER DAY)			ESTIMATED SALES OF ROYALTY OIL (BARRELS PER DAY)							
	TOTAL PRUDHOE	(1) TOTAL KUPARUK	TOTAL	PRUDHOE ROYALTY	KUPARUK ROYALTY	TOTAL ROYALTY	MARCO	(2) SVER (OLD)	(3) SVER (PROPOSED)	(4) TESORO (OLD)	(5) TESORO (NEW)	(6) CHEVRON	(7) COMPETITIVE SALE	ROYALTY IN '84
1984	1,522,000	120,000	1,622,000	187,500	15,000	202,500	25,000	5,200		23,765		18,000		184
1985	1,522,000	120,000	1,622,000	187,500	22,500	212,000	25,000		5,200	45,999	25,201	18,000	65,000	15
1986	1,530,000	160,000	1,682,000	187,500	22,500	212,000	25,000		5,000	45,999	25,201	18,000		30
1987	1,472,000	160,000	1,622,000	184,375	22,500	206,875	25,000		4,217	45,223	25,557	17,700		72
1988	1,322,000	200,000	1,522,000	165,625	25,000	190,625	25,000		4,417	40,633	22,557	15,000		71
1989	1,172,000	200,000	1,372,000	146,375	25,000	171,375	25,000		3,917	36,323	22,557	14,100		62
1990	1,250,000	200,000	1,450,000	131,250	25,000	156,250	25,000		3,500	32,300	19,200	12,500		54
1991	950,000	200,000	1,150,000	112,750	25,000	137,750	25,000		3,167	29,133	16,467	11,400		43
1992	850,000	200,000	1,050,000	105,250	25,000	131,250	25,000		2,823	25,066	14,734	10,200		42
1993	722,000	200,000	922,000	93,750	25,000	118,750	25,000		2,520	23,200	13,200	9,200		36
1994	522,000	170,000	692,000	81,250	21,250	102,500	25,000		2,157	19,933	11,257	7,500		26
1995	572,000	145,000	722,000	71,375	18,125	90,000	25,000							19
1996	510,000	120,000	630,000	63,750	15,000	78,750	25,000							15
1997	460,000	100,000	560,000	57,500	12,500	72,000	25,000							14
1998	420,000	80,000	500,000	52,500	10,000	62,500	24,000							27
1999	380,000	70,000	450,000	47,500	9,375	56,875	24,000							21
2000	340,000	65,000	405,000	42,500	8,125	50,625	24,000							18
2001	290,000	55,000	345,000	37,500	6,375	44,375	25,000							17
2002	270,000	50,000	320,000	33,750	5,250	40,000	24,000							16
2003	240,000	40,000	280,000	30,000	4,000	34,000	25,000							15
2004	210,000	35,000	245,000	26,250	3,375	30,625	25,000							14
2005	190,000	30,000	220,000	22,500	3,125	25,625	25,000							13
2006	160,000	25,000	185,000	19,000	2,125	21,125	25,000							12
2007	140,000	20,000	160,000	17,500	2,500	20,000	25,000							11
2008	110,000	20,000	130,000	13,750	2,500	16,250	25,000							10
2009	80,000	18,000	98,000	10,000	1,250	11,250	25,000							9
2010	50,000	10,000	60,000	6,250	1,250	7,500	25,000							8

- NOTES:
- (1) OUR ESTIMATE OF FIELD PERFORMANCE, OCTOBER 1984.
 - (2) MOST OF THIS VOLUME (ABOUT 25,000 BPD), WHICH IS CURRENTLY BEING TAKEN "IN VALUE," WAS SOLD COMPETITIVELY FOR DELIVERY APRIL 1, 1985 THRU SEPT. 31, 1985. ON OCTOBER 1, 1985 IT IS ANTICIPATED THAT TESORO WILL COMMENCE DELIVERIES UNDER ITS 12/9/83 PRUDHOE CONTRACT, WHICH HAS A MAXIMUM QUANTITY OF 13.36% OF DAILY PRUDHOE ROYALTY OIL AND EXPIRES JAN. 1, 1992.
 - (3) CHEVRON'S CONTRACT CALLS FOR A MAXIMUM QUANTITY OF 3.6% OF DAILY PRUDHOE ROYALTY OIL. THE CONTRACT EXPIRES JANUARY 1, 1992.
 - (4) TESORO'S CURRENT CONTRACT CALLS FOR A MAXIMUM QUANTITY OF 24.50% OF DAILY PRUDHOE ROYALTY OIL LESS COOK INLET ROYALTY PRODUCTION. THE QUANTITY IS 21.20% IN 1984, AND WILL BE 21.25% STARTING JAN. 1, 1985. THIS CONTRACT WILL BE INCREASED TO ITS MAXIMUM QUANTITY ON OCTOBER 1, 1985 DUE TO CANCELLATION OF THE COOK INLET CONTRACT ON THAT DATE. THE CONTRACT EXPIRES JANUARY 1995.
 - (5) DELIVERIES WILL COMMENCE APRIL 1, 1985 FOR 50,000 BPD OF PRUDHOE BAY UNIT ROYALTY OIL AND 15,000 BPD OF KUPARUK RIVER UNIT ROYALTY OIL, AND WILL CONTINUE FOR ONE-YEAR, AND SIX-MONTH PERIODS, RESPECTIVELY, AS A RESULT OF THE FEB. 11, 1984 COMPETITIVE SALE. PRIOR TO THAT TIME THIS OIL REMAINS "IN VALUE."

(2) state location and status of all past and present activities on the lease;

(3) include a detailed report of all production during the six months preceding the filing of the application;

(4) contain a detailed statement covering the entire life of the lease showing all expenses and costs of operating the lease including all royalties and overriding royalties and all income from all produced minerals from the lease; and

(5) include an agreement by the applicant to defray the cost of publishing a notice as provided in (b) of this section.

(b) Upon receipt of an application complying with (a) of this section, the commissioner will cause to be published a notice of public hearing if required on the application. The notice must

(1) state the time and place of hearing;

(2) describe the lands involved; and

(3) state the name of the applicant and the nature of the relief applied for.

(c) The notice must be published at least once a week for at least two consecutive weeks in advance of the hearing date, which must be at least 15 days after the last date of publication, in at least one newspaper of general circulation in the vicinity of the principal office of the department, and must be posted at that office for the same period.

(d) At the time and place specified in the published notice, the commissioner will hear evidence offered by the applicant and any other interested party.

(f) The commissioner must give notice of the findings and determination to the lessee and to any other person who has filed a written request for it. The action taken is effective on the date specified in the notice. (Eff. 9/5/74, Reg. 51; am 7/22/79, Reg. 71)

Authority: AS 38.05.020
AS 38.05.140
AS 38.05.145(a)

11 AAC 82.670. SUSPENSION OF

PRODUCTION OR OPERATIONS. (a) Applications for suspension of production or operations under AS 38.05.140 must comply with 11 AAC 38.105 and must contain complete information showing the necessity or justification for the suspension.

(b) Whenever the commissioner takes an action under AS 38.05.140, he will give notice to the lessee, specifying the action taken, the effective date of it, and the duration of any suspension, and note the action in the status record.

(c) No lease expires because operations or production or both are suspended under any order or with the assent of the commissioner. (Eff. 9/5/74, Reg. 51; am 7/22/79, Reg. 71)

Authority: AS 38.05.020
AS 38.05.140
AS 38.05.145(a)

11 AAC 82.675. EFFECTIVE DATE OF LEASES AND PERMITS. The effective date of a lease or permit is the first day of the month following the date on which the lease or permit was signed on behalf of the state or upon prior written request on the first day of the month in which it was signed on behalf of Alaska. (Eff. 9/5/74, Reg. 51)

Authority: AS 38.05.020
AS 38.05.145(a)

ARTICLE 7.
ROYALTY PRODUCTS

- Section
- 700. Taking royalty in kind
 - 705. Bidding method
 - 710. Notice of sale
 - 715. Qualifications

11 AAC 82.700. TAKING ROYALTY IN KIND. Royalty products taken in kind as provided by AS 38.05.182 must be taken pursuant to the provisions of the lease which reserves the royalty to the state. If no provision is made in the lease or in the regulations dealing with the products to be taken, all or any portion of the state's share may, at the option of the commissioner, be taken in kind in accordance with the following:

(1) 90 days' written notice will be given to

each lessee of the state's election to take the royalty products in kind; however, if the proportion of the state's share to be taken in kind exceeds 50 percent of the state's share, 180 days' notice will be given;

(2) after taking has actually commenced, the amount to be taken in kind may be increased or decreased from time to time by not more than 10 percent upon 30 days' written notice to each lessee of record, from 10 percent to 50 percent upon 90 days' written notice, and over 50 percent upon 180 days' written notice;

(3) the products must be delivered to the state or its designated purchaser free of charge at the point provided in the lease for determination of the value of the royalty product if the production to be taken were paid in money rather than taken in kind; the condition of the product must be the same as the non-royalty share at the point of taking; the lessee shall, if necessary, furnish safe storage for the royalty share free of charge for the same duration and in the same manner as storage is provided for the non-royalty share; when all or part of the royalty product to be taken consists of gas, the commissioner will take into consideration the effect this taking may have on the long-term gas supply contracts that the lessee has entered into. (Eff. 9/5/74, Reg. 51; am 7/22/79, Reg. 71)

Authority: AS 38.05.020
AS 38.05.145(a)
AS 38.05.182

11 AAC 82.705. BIDDING METHOD. Royalty products which the commissioner determines are to be sold by competitive bid will be offered for sale by sealed bid or at public auction. (Eff. 9/5/74, Reg. 51; am 7/22/79, Reg. 71)

Authority: AS 38.05.020
AS 38.05.145(a)
AS 38.05.183

11 AAC 82.710. NOTICE OF SALE. If the commissioner determines that royalty products will be offered for competitive sale, notice of the sale will be given as provided by AS 38.05.345. The notice must specify all the terms and conditions of the sale, including the royalty products to be sold, bidding method, bond requirements, sale place and time, minimum bid, if prescribed, and any other term or condition which the commissioner determines necessary

to carry out the purposes of AS 38.05.183. (Eff. 9/5/74, Reg. 51; am 7/22/79, Reg. 71; am 3/18/83, Reg. 85; am 3/30/83, Reg. 85)

Authority: AS 38.05.020(b) AS 38.05.145
AS 38.05.135(b) AS 38.05.180

11 AAC 82.715. QUALIFICATIONS. A purchaser of the state royalty products must comply with the qualification requirements of 11 AAC 82.200 and must supply the showing of qualification required of mineral permittees and lessees by 11 AAC 82.205. (Eff. 9/5/74, Reg. 51; am 7/22/79, Reg. 71)

Authority: AS 38.05.020
AS 38.05.145(a)

ARTICLE 3. RECORDS AND REPORTS

Section

- 800. Production records
- 805. Test results
- 810. Confidentiality of data
- 815. Cross-referencing

11 AAC 82.800. PRODUCTION RECORDS. (a) Mineral lessees of state land shall keep in their possession accurate books and records showing the production and disposition of all minerals produced from the leased land and shall permit the commissioner or his agents at all reasonable hours to examine them.

(b) The commissioner will, in his discretion, require copies of sales contracts and other agreements with the first bona fide purchaser affecting produced minerals which are subject to royalties. (Eff. 9/5/74, Reg. 51; am 7/22/79, Reg. 71)

Authority: AS 38.05.020(b)(1)
AS 38.05.145(a)

11 AAC 82.805. TEST RESULTS. The lessee of a state-issued mineral lease shall furnish, upon request of the commissioner, a copy of all geological, geophysical, engineering, and other factual data obtained from the lease, including all pertinent tests, records, surveys, and analyses conducted on or pertaining to the leased land or products from it, but not including interpretations of these items or proprietary research data

§ 38.06.050

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Effect of amendments. — The 1980 amendment, in subsection (a), substituted "If legislative approval is required by AS 38.06.055, a" for "No" at the beginning of the subsection, inserted "not" preceding "be made by" near the middle of the first sentence, deleted "the" following "AS 38.05.183 without" near the middle of the first sentence, substituted "review of the proposed sale, exchange, encumbrance or other disposition by" for "written approval of" in the first sentence, and added the second sentence; in subsection (b), deleted "not" following "oil or gas may," substituted "if" for "without the" preceding

"prior written," and substituted "notice of the proposed disapproval is given to" for "approval of"; in subsection (c), substituted "unless" for "without the" preceding "prior written," and substituted "notice of proposed waiver is given to" for "approval of"; and deleted former subsection (d), which read: "The board may require conditions relating to the sale, delivery, transportation, or refining or processing within the state to be included by the commissioner of natural resources in the offer of and sale by competitive bidding of oil or gas obtained by the state as royalty under AS 38.05.182."

NOTES TO DECISIONS

Stated in McKinnon v. Alpetco Co.,
Sup. Ct. Op. No. 2413 (File No. 5543), 633
P.2d 281 (1981).

Sec. 38.06.055. Legislative approval. (a) In addition to the recommendation by the board required under AS 38.06.050, the commissioner of natural resources may not enter into a sale, exchange, or other disposition of oil or gas or of the rights or waiver of the rights to receive future production of royalty oil or gas under AS 38.05.183 without the prior approval of the legislature. The legislature may approve a sale, exchange, or other disposition of oil or gas or of the rights or of a waiver of the rights to receive future production of royalty oil or gas only by enacting legislation.

(b) The provisions of (a) of this section do not apply to

(1) the sale, exchange, or other disposition of oil or gas for one year or less if the sale, exchange, or other disposition is entered into to relieve storage or market conditions;

(2) contracts for the sale of state-owned royalty gas or oil that specify the sale and delivery of not more than

(A) 400 barrels of crude oil per day;

(B) 460 barrels of natural gas liquids per day; and

(C) 2,400 Mcf of natural gas per day.

(c) A sale, exchange, or other disposition of oil or gas made under (b)(1) of this section may not be continued after the end of one year or renewed with the same party to provide relief for market or storage conditions without the prior approval of the legislature under (a) of this section. (§ 2 ch 9 SSSLA 1974; am § 2 ch 146 SLA 1977; am § 1 ch 12 SLA 1978; am § 6 ch 112 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote the section.

Opinions of attorney general. — The legislature may not conditionally approve a contract since such conditional accep-

tance is in law a rejection of the offer and the contract would have to be returned for renegotiation. February 23, 1977. Op. Att'y Gen.

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(5) when the director determines it is in the best interest of the state and will avoid injustice to a person or the heirs or devisees of a person, dispose of land, by direct negotiation to that person who presently uses and who used and made improvements to that land before January 3, 1959 or to the heirs or devisees of the person; the amount paid for the land shall be its fair market value on the date that the person first entered the land, as determined by the director; a parcel of land disposed of under this paragraph shall be of a size consistent with the person's prior use, but may not exceed five acres;

(6) dispose of an interest in land limited to use for agricultural purposes by lottery;

(7) convey to an adjoining landowner for its fair market value a remnant of land that the director considers unmanageable or a parcel of land created by a highway right-of-way alignment or realignment, or a parcel created by the vacation of a state-owned right-of-way if

(A) the director determines that it is in the best interests of the state;

(B) the parcel does not exceed the minimum lot size under an applicable zoning code; and

(C) the director and the platting authority having land use planning jurisdiction agree that conveyance of the parcel to the adjoining landowner will result in boundaries that are convenient for the use of the land by the landowner and compatible with municipal land use plans;

(8) for good cause extend for up to 90 days the time for rental or installment payments by a lessee or purchaser of state land under this chapter if reasonable penalties and interest set by the director are paid;

(9) quitclaim land or an interest in land to the federal government on a determination that the land or the interest in land was wrongfully or erroneously conveyed by the federal government to the state.

(c) A parcel of land may be conveyed under (b) of this section without classification or reclassification under AS 38.05.300.

(d) A parcel of land described in (b) (7) of this section must be sold at its fair market value as determined by the director on the basis of an appraisal completed as provided in AS 38.05.840. Nothing in this subsection prevents the sale of land under AS 38.05.055 or 38.05.057 to a person not qualifying as an adjoining landowner if the adjoining landowner declines to purchase the land.

(e) Upon a written finding that the interests of the state will be best served the director may, with the consent of the commissioner, approve contracts for the sale, lease, or other disposal of available land, resources, property or interests in them, and, in addition to the conditions and limitations imposed by law, may impose additional conditions or limitations in the contracts as the director determines, with the consent of the commissioner, will best serve the interests of the state. A contract for the sale, lease, or other disposal of available land or an interest in land is not legally binding on the state until the

commissioner approves the contract but if the appraised value is not greater than \$50,000 in the case of the sale of land or an interest in land, or \$5,000 in the case of the annual rental of land or interest in land, the director may execute the contract without the approval of the commissioner. Before a public hearing, if held, or in any case no less than 21 days before the sale, lease, or other disposal of available land, property, resources, or interests in them, the director shall make available to the public a written finding that sets out the facts and applicable law upon which the determination that the sale, lease, or other disposal will best serve the interests of the state was based. A written finding is not required before the approval of

- (1) a contract for a negotiated sale authorized under AS 38.05.115;
- (2) a lease of land for a shore fishery site under AS 38.05.082;
- (3) a permit or other authorization revocable by the commissioner;
- (4) a mineral claim located under AS 38.05.195;
- (5) a mineral lease issued under AS 38.05.205; or
- (6) a production license issued under AS 38.05.207.

(f) The director shall grant a preference right to the purchase or lease without competitive bid of up to five acres of state land to an individual who has erected a building on the land and used the land for bona fide business purposes for five or more years under a federal permit or without the need for a permit and, after selection by the state, under a state use permit or lease, if the business produced no less than 25 percent of the total income of the applicant for the five years preceding the application to purchase or lease the land. The director shall sell or lease the land at a price determined by the director to represent the current fair market value of the unimproved land but in no event less than the cost of administration including survey if required. If the director determines in a written finding that the purchase or lease of the land would interfere with public use by residents of the area, the director may condition the purchase or lease to mitigate the adverse effects on the public use or may reject the application for the preference right. A lease granted under this subsection may not be for a period in excess of 50 years. In this subsection, "business purposes" means a purpose permitted under the classification of the land at the time the land was entered. (§ 5 art II ch 169 SLA 1959; am § 1 ch 57 SLA 1960; am §§ 2 — 4 ch 61 SLA 1960; am § 1 ch 55 SLA 1962; am § 1 ch 56 SLA 1964; am § 1 ch 98 SLA 1964; am § 1 ch 5 SLA 1965; am § 1 ch 58 SLA 1965; am § 1 ch 194 SLA 1968; am § 1 ch 164 SLA 1972; am §§ 2, 3 ch 257 SLA 1976; am §§ 1, 2 ch 176 SLA 1978; am § 15 ch 181 SLA 1978; am § 20 ch 182 SLA 1978; am § 1 ch 61 SLA 1980; am §§ 9 — 13 ch 113 SLA 1981; am §§ 19, 20, 88 ch 152 SLA 1984)

Revisor's notes. -- In 1981, in subsection (b) (7), the word "convey" was substituted for "dispose" at the beginning of the

paragraph and in subsection (d), the words "of land" were added following "parcel" under AS 01.05.031.

Effect of amendment AS 38.05.035 graph (a)(9) The 1981 "50,000" for case of the "5,000" for case of the an tuted semico "the written "before a publ finding is not of" following added subpar subsection (a) amendment a date of origin price was not s "a price deter subsection (b) tuted "on the entered the li preceding "as c The amendmer and (8) of subs tions (c) and (e

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Overriding royalty as affected by
surrender, forfeiture, abandonment, or
loss of lease, 135 ALR 557.

What constitutes "royalty" on oil or gas
production within language of conveyance,
exception or reservation, 4 ALR2d 492.

Construction and effect of provision in
mineral lease excusing payment of mini-
mum rent or royalty, 28 ALR2d 1013.

Solid mineral royalty as real or personal
property, 68 ALR2d 723.

Solid mineral royalty under mining
lease as real or personal property for
purpose of payment of damages in con-
demnation proceedings, 68 ALR2d 735.

Expenses and taxes deductible by lessee
in computing lessor's oil and gas royalty or
other return, 73 ALR2d 1056.

Payment of stipulated minimum
royalties or annual rental under solid min-
eral lease as precluding lessor's claim of
forfeiture or abandonment, 87 ALR2d
1076.

"Shut-in royalty" payment provisions in
oil and gas leases, 96 ALR2d 345.

Rights of parties to oil and gas lease or
royalty deed after expiration of fixed term
where production temporarily ceases, 100
ALR2d 885.

Sec. 38.05.183. Sale of royalty. (a) The sale, exchange or other
disposal of a mineral obtained by the state as a royalty under AS
38.05.182, or the sale, exchange or other disposal in whole or in part
of a right to receive future mineral production under a state lease
under this chapter, shall be by competitive bid and the sale, exchange
or other disposal made to the highest responsible bidder, except that
competitive bidding is not required when the commissioner, after prior
written notice to the Alaska Royalty Oil and Gas Development
Advisory Board under AS 38.06.050, determines that the best interest
of the state does not require it or that no competition exists.

(b) When competitive bids are required, the commissioner, after
prior written notice to the Alaska Royalty Oil and Gas Development
Advisory Board, may reject all bids on a determination that because of
the amount of the bids, the lack of responsibility on the part of the
bidders, or for reasons consistent with the criteria set out in AS
38.06.070, the acceptance of the bids would not be in the best interest
of the state.

(c) If the commissioner determines that a sale, exchange or other
disposal of a mineral obtained by the state as a royalty under AS
38.05.182 or of a right to receive future mineral production under a
state lease under this chapter shall be made otherwise than by competi-
tive bid, and the Alaska Royalty Oil and Gas Development Advisory
Board has been notified in writing of that determination, the commis-
sioner shall make public in writing the specific findings and conclu-
sions upon which that determination is based.

(d) Oil or gas taken in kind by the state as its royalty share may not
be sold or otherwise disposed of for export from the state until the
commissioner determines that the royalty-in-kind oil or gas is surplus
to the present and projected intrastate domestic and industrial needs.
The commissioner shall make public, in writing, the specific findings
and reasons on which the determination is based and shall, within 10
days of the convening of a regular session of the legislature, submit a
report showing the immediate and long-range domestic and industrial
needs of the state for oil and gas and an analysis of how these needs are
to be met.

(e) When a sale, exchange or other disposal of oil or gas taken in kind by the state as its royalty share, or a sale, exchange or other disposal in whole or in part of a right to receive future royalty oil or gas, under a state lease under this chapter is made other than by competitive bid, the sale, exchange or other disposal shall be awarded by the commissioner to the prospective buyer whose proposal offers the maximum benefits to citizens of the state. The commissioner shall consider

- (1) the cash value offered;
- (2) the projected effects of the sale, exchange or other disposal on the economy of the state;
- (3) the projected benefits of refining or processing the oil or gas in the state;
- (4) the ability of the prospective buyer to provide refined products or by-products for distribution and sale in the state with price or supply benefits to the citizens of the state; and
- (5) the criteria listed in AS 38.06.070(a).

(f) The commissioner may not enter into a contract for the sale of royalty oil unless the contract provides that any material amendment to the contract that appreciably reduces the consideration received by the state requires prior approval of the legislature. (§ 1 ch 56 SLA 1970; am § 3 ch 9 SSSLA 1974; am §§ 9, 10 ch 112 SLA 1980; am § 2 ch 68 SLA 1984; am § 2 ch 105 SLA 1984)

Revisor's notes. — Enacted as AS 38.05.363. Renumbered in 1970.

Effect of amendments. — The 1980 amendment, in subsection (a), substituted "after prior written notice to" for "with the prior written approval of" and "under AS 38.06.050" for "where applicable," near the end of the subsection; in subsection (b), substituted "after prior written notice to" for "with the prior written approval of"; in

subsection (c), substituted "has been notified in writing of" for "where applicable has approved"; in subsection (d), deleted "with the approval of the Alaska Royalty Oil and Gas Development Advisory Board" following "until the commissioner"; and added subsection (e).

The 1984 amendments added an identical subsection (f).

NOTES TO DECISIONS

Waiver of competitive bidding. — An initial waiver of competitive bidding and a second waiver at the time of amendment removed any obligation to open the

contract to competitive bidding. *McKinnon v. Alpetco Co.*, Sup. Ct. Op. No. 2413 (File No. 5546), 633 P.2d 281 (1981).

Sec. 38.05.184. Limitation on oil and gas leases in certain areas, and reacquisition of leases. (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 current into contact and that this presents a

(b) No action or any other production mean higher the perimeter three miles west of line of Anchorage

(c) The cost purchase in oil or gas lease which were

(d) In lieu of interest, the plus interest seller to be permit fees, new production and gas development reimburse in lessee to the for expenses

(e) For a period of the first period is longer state oil and gas shall suspend oil and gas exploration and Game and the living resource drilling activities to negotiate for The lease period shall be extended moratorium.

(f) In the event satisfactory production the commissioner development of leases through

(B) the rights to receive future oil or gas production under state leases; and

(4) recommend to the commissioner of natural resources the conditions relating to the sale, delivery, transportation, refining or processing of oil or gas which the commissioner may include in the offer and sale of oil or gas obtained by the state as royalty under AS 38.05.182.

(b) The board may

(1) direct the commissioner of natural resources to solicit development plans or bids consistent with the criteria set out in AS 38.06.070 for

(A) the sale, exchange or other disposal of oil or gas obtained by the state as royalty under AS 38.05.182; or

(B) the sale, exchange or other disposal of all or a portion of the rights to receive future oil or gas production under a state lease;

(2) employ an executive director, and contract for the services of professionals, persons with knowledge of economics and other disciplines, and persons with technical skills who may be necessary to assist the board in the exercise of its powers and duties; and

(3) adopt regulations under the Administrative Procedure Act (AS 44.62) that are necessary for the exercise of its powers and duties. (§ 2 ch 9 SSSLA 1974; am § 4 ch 112 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote the section.

Sec. 38.06.050. Board review and recommendation required.

(a) If legislative approval is required by AS 38.06.055, a sale, exchange, encumbrance, or other disposition of oil or gas or of the rights or waiver of the rights to receive future production of royalty oil or gas may not be made by the commissioner of natural resources under AS 38.05.183 without prior review of the proposed sale, exchange, encumbrance or other disposition by the board. A written recommendation of the board on the proposed sale, exchange, encumbrance or other disposition of oil or gas or of the rights or waiver of the rights to receive future production of royalty oil or gas shall be submitted to the legislature at the time a resolution approving the proposed sale, exchange, encumbrance or other disposition is introduced in the legislature.

(b) Bids or applications for the purchase of royalty oil or gas may be rejected by the commissioner of natural resources if prior written notice of the proposed disapproval is given to the board.

(c) Competitive bidding in a sale, exchange or other disposition described in (a) of this section may not be waived by the commissioner of natural resources under AS 38.05.183 unless prior written notice of proposed waiver is given to the board.

(d) [Repealed.] (§ 2 ch 9 SSSLA 1974; am § 5 ch 112 SLA 1980)

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LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 4, 1985

SUBJECT: Constitutionality of HB 233
TO: House Special Committee on Oil and Gas
FROM: Randall J. Moen *RJM*
 Legislative Counsel

You have asked whether section 1 of HB 233 violates Article II, section 19 of the Alaska Constitution. In my opinion it does not.

Section 1 of HB 233 temporarily waives certain provisions of law relating to a particular type of sales of state royalty oil. It states:

The following provisions of law do not apply to an extension or renewal of not more than three months of a sale of oil subject to approval by the legislature under AS 38.06.055(c): (1) AS 38.05.035(e); (2) AS 38.05.183(a), (c), and (e); and (3) AS 38.06.050.

Article II, section 19 of the Alaska Constitution reads in part, "The legislature shall pass no local or special act if a general act can be made applicable." Two questions emerge: Is the language of section 1 of HB 233 of a special or local nature, and if so, can a general act be made applicable? I will only address the first question.

The two leading Alaska cases regarding Article II, section 19 of the Alaska Constitution are State v. Abrams, 534 P.2d 91 (1975) and State v. Lewis, 559 P.2d 630 (1977). Abrams, supra, dealt with a law giving Eagle River special incorporation privileges. In Lewis, supra, the court was faced with a law waiving other laws for a particular three way land exchange agreement. Both cases are similar in that they dealt with acts which on their face were applicable to only one entity or party or locale. This can be distinguished from section 1 of HB 233 which may apply to anyone or anywhere in general. It is not limited to any one entity or

Representative Mike Davis
March 4, 1985
Page 2

party or locale. Therefore, section 1 is not a "special or local" act under Article II, section 19 of the Alaska Constitution.

RJM:ojb
J12/051

Offered: 2/21/85
Referred: Finance

Original sponsors: Coghill, Bennett
and Fahrenkamp

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 152 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to extension and renewal of certain
7 sales of state royalty oil; and providing for an
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. The following provisions of law do not apply to an exten-
11 sion or renewal of not more than three months of a sale of oil that is
12 subject to approval by the legislature under AS 38.06.055(c):

13 (1) AS 38.05.035(e);

14 (2) AS 38.05.183(a), (c), and (e); and

15 (3) AS 38.06.050.

16 * Sec. 2. A three-month extension of the "Agreement for the Sale and
17 Purchase of Royalty Oil between the State of Alaska and Golden Valley
18 Electric Association, Inc.," dated May 9, 1984, is hereby approved and
19 ratified.

20 * Sec. 3. Section 1 of this Act is repealed October 1, 1985.

21 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
22 10.070(c).

Introduced: 2/12/85
Referred: Resources

1 IN THE SENATE

BY COGHILL

2

SENATE BILL NO. 152

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to extension and renewal of certain
7 sales of state royalty oil; and providing for an
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 38.06.050 is amended by adding a new subsection to
11 read:

12 (e) Review and recommendation by the board is not required for
13 an extension or renewal of not more than three months of a sale of oil
14 that is subject to approval by the legislature under AS 38.06.055(c).

15 * Sec. 2. A three-month extension of the "Agreement for the Sale and
16 Purchase of Royalty Oil between the State of Alaska and Golden Valley
17 Electric Association, Inc.," dated May 9, 1984, is hereby approved and
18 ratified.

19 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
20 10.070(c).