

Confirm.

L. Smith

AO & G

Commission

5-8-91

Resume of Lonnie C. Smith



Education

I graduated from Texas Tech University at Lubbock, Texas; August 1956 with a B.S. degree in Petroleum Engineering.

Experience

Following graduation from college, I was employed by Gulf Oil Corporation, U. S. in Oklahoma and New Mexico for 13 years in various production and engineering positions. I worked as roughneck, roustabout, well tester, engineering trainee, field petroleum engineer production foreman, and senior petroleum engineer doing reservoir and unitization work.

I accepted a petroleum engineering position with the Alaska Division of Oil and Gas (Department of Natural Resources) in September 1969. In January 1977 I gained a temporary promotion to Chief Petroleum Engineer until June 1977 (5 months). From June 1977 until August 1978 I was senior staff petroleum engineer. In August 1978 I was permanently promoted to Chief Petroleum Engineer; and in January 1979 I was appointed to a six year term as one of three Commissioners to the Alaska Oil and Gas Conservation Commission, retaining the same duties and responsibilities as with the Chief's position which was to supervise the Commission's engineering and field inspection staff. In January 1985, I was reappointed to a second six year term as a Commissioner.

I have now worked for the State for over 21 years and have a total of 34 years petroleum industry experience.



State of Alaska
ombudsman

Duncan C. Fowler

November 6, 1990

Lonnie Smith, Commissioner
Dave Johnston, Commissioner
Alaska Oil and Gas Conservation Commission
3001 Porcupine Drive
Anchorage, Alaska 99501

RE: Ombudsman Complaint A90-0317
(Final Findings and Recommendations)

Dear Commissioners Smith and Johnston:

This is the final report of my investigation of the complaint received in February 1990 against the Alaska Oil and Gas Conservation Commission. The report describes the allegations, investigative activities, final findings and recommendations. Because of the interest in this issue, a copy of the report will be sent to the Office of the Governor, members of the Alaska Legislature, interested citizens and members of the press.

For your convenience, the following brief outline states the principle issues investigated as well as my final findings and recommendations.

ALLEGATIONS AND FINDINGS

The complaint consists of two allegations:

(1) The commission has acted unreasonably in progressively reducing the oil and gas well inspection program to a level which compromises the investigative and regulatory function of the commission.

Finding: Partially Justified.

(2) The commission has acted unfairly in its reprimand of the inspection staff supervisor, Michael Minder, for writing an annual report critical of the current level of well inspections.

Finding: Justified.

SUMMARY OF THE INVESTIGATION

Mr. Minder's report, written in memo form, stated the commission had witnessed only 27% of the blowout prevention (BOP) equipment tests during 1989. This was contrasted with an 85% rate when there were five inspectors employed by the commission. The report gave the statistics of other tests witnessed and stated, "A lack of manpower together with budgetary constraints have reduced our exposure both on the North Slope and particularly, in the Cook Inlet fields."

Reply to:

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(800) 478-3257

Mr. Minder was told not to have the report typed and to retrieve rough drafts given to the inspectors. When he failed to comply, he was reprimanded in writing and relieved of all supervisory duty.

THE ALASKA OIL AND GAS CONSERVATION ACT (AS 31.05) describes the commission; its powers and duties, and its ability to set regulations and enforce its orders.

The Alaska Oil and Gas Conservation Commission was established in 1978, as an independent, quasi-judicial body within the Executive Branch to ensure that oil and gas drilling, production, reservoir depletion and metering operations are in compliance with applicable statutes. The Department of Commerce provides administrative and budgetary oversight to the commission but is not involved in commission policy matters.

Each of three commissioners is appointed by the governor and confirmed by the legislature to a six-year term. Terms may be successive without limit. *Re-appointed?*

Authority is given to the commission to regulate the development and production of oil and gas in order to prohibit the physical waste of crude oil and natural gas, protect the correlative rights of owners and provide for the maximum recovery of oil and gas.

The commission presently regulates 1,551 producing oil wells and 133 producing gas wells in the state, and processes approximately 200 drilling permits and 1,000 well repair and other permits per year. Approximately five new wells are expected to be drilled this year.

In January 1986, the commission assumed responsibility from the Environmental Protection Agency (EPA) for the Underground Injection Control (UIC) program. This program is designed to protect underground sources of drinking water. There are presently 569 wells in the program. The EPA requires each well to be inspected prior to injection and again every four years.

The commission's regulations are found at 20 AAC 25 of the Alaska Administrative Code. The regulations describe the types of tests which the operators must do and which tests are subject to witness by the commission. The commission has broad powers to prevent the escape of oil or gas, or the pollution of fresh water supplies, as well as prevent blowouts, cavings, seepages and fires.

The commission's regulations conclude:

The commission will in its discretion, exercise its statutory power to enter and conduct on-site investigations and inspections at reasonable times of facilities, equipment, practices, records, or operations for the purpose of ensuring compliance with the requirements of this chapter.

If it is determined that the requirements of this chapter are not being met, the commission will order remedial work or take other action it considers necessary.

C.V. (Chat) Chatterton, commission chairman since 1982, resigned during the course of this investigation due to illness. Mr. Chatterton died on October 14, 1990. A third commissioner has not yet been appointed.

In Mr. Chatterton's opinion, the oil and gas statute "prohibiting physical waste," was written to address economic, rather than environmental, issues. He stated during the investigative interviews:

AS 31.05, provides the commission with neither the specific authority for; nor does it set forth as a duty, the inspection of blowout prevention equipment installed on drilling rigs in Alaska.

Mr. Chatterton described the statute as providing only "tenuous authority," for the inspection program. He states the level of inspections is a discretionary determination made by the commission and the current staff of three inspectors is adequate.

Following budget cuts in 1986, the inspection staff decreased from five to three and has remained at that level.

Chat Chatterton agreed that the reduced number of inspectors resulted in fewer field tests being witnessed. He did not dispute the figures in Mr. Minder's memo, but states the commission maintains public files and did not want a memo or other document in which the commission "condemns ourselves" available to the press or the public.

Commissioner Lonnie Smith agrees with Mr. Chatterton that Mr. Minder broadened and increased the inspection program beyond the scope of the commission's responsibility and beyond its budget.

Mr. Smith says, "The commission has not been much for putting things in writing." The only written directive is a memo listing eight types of inspections to be done in order. The memo does not define the percentage of tests to be witnessed, the frequency of inspections or the division of the workload. The present investigator level made it impossible to complete all items on the list. The commission responded that it was Mr. Minder's responsibility to determine the methods to increase program effectiveness.

Mr. Smith states the inspection program is welcomed by the oil industry. The high pressure under which Alaskan wells operate and severe climatic conditions make a strong field presence advisable.

Commissioner Dave Johnston, appointed in January 1989, states each commissioner's vote is equal but Mr. Chatterton was "an extremely strong personality," who often resisted abrupt change. Mr. Johnston describes the commission as needing change in many areas including management, staff morale, equipment and office maintenance.

Mr. Johnston states Mr. Chatterton should not be solely blamed for the decline in the inspection program. More important is the 40% reduction in the commission's operating budget over the past nine years.

Mr. Johnston made several suggestions for improving the inspection program: expanding computer capability for gathering data; prioritizing the work load; and hiring enough inspectors to normalize the work hours and field rotation.

Former Commissioner Harry Kugler confirmed that with five inspectors, the commission witnessed approximately 85% of all field tests. He believed Mr. Chatterton must have been misquoted in telling the oil companies to be on their

honor. He stated the commission is a regulatory agency and monitoring the industry is a primary commission function.

Russell Douglass and Blair Wondzell, staff engineers, rely on inspection data to varying degrees. Mr. Douglass stated Mr. Smith was in the best position to decide the number of inspectors needed. Mr. Wondzell described the present number of inspectors as adequate.

Michael Minder states he brought many of the inspector's frustrations to the commissioners' attention, but was not given the authority to effect change. The regulations require the oil companies to notify the commission of critical tests; the companies expect the commission to send an inspector to the field and requested Mr. Minder give them scheduling information. The inspection staff was inadequate to fully comply with even the first item of priority work and Mr. Minder was unable to tell the oil companies when other work could be definitely scheduled.

The inspectors report finding equipment installed incorrectly and safety equipment incapable of functioning. Rig crews rely on the inspectors to order corrections when the operator may have chosen to ignore unsafe conditions. Over the years, the inspectors have learned which companies and operators are safety conscious and which are not. Those who are not require more vigilant observation than is presently possible.

The commission handouts, last revised in 1987, are misleading to the public. They describe various tests and inspections as being both important and regularly performed. Many of these activities have been reduced to a marginal level and some are not being done at all. During this investigation parts of the handout have been updated and the new summary is included with the final report.

Other state departments, including Environmental Conservation, Labor and Natural Resources have various regulatory functions on the oil rigs. All of them rely heavily on the commission. None have the staff, expertise or responsibility for testing or inspecting subsurface equipment. Bill Van Dyke, petroleum manager for the Department of Natural Resources (DNR), Division of Oil and Gas summarizes the position of these agencies:

I certainly think some agency should do the inspections of the oil rigs, and the commission is in a logical position to do so. If specific practices and equipment are important enough to be identified in the commission's regulations, then they should be enforced and inspected.

Representative Kay Brown, director of DNR's Division of Oil and Gas from 1982 to 1986, states the commission could make better use of its personnel and has other budget options than cutting the inspection staff.

Two federal agencies also regulate oil and gas wells in Alaska. The U.S. Bureau of Land Management has oversight for approximately 150 wells on federal land. The U.S. Minerals Management Service oversees off-shore wells in federal waters. These agencies witness 100% of the blowout prevention tests in Alaska. Both agencies agree a high visibility in the field is critical to continued safe operation:

With any less than a 50% inspection rate, you don't stay on top of things and the operators get lax. The Bureau's goal nationally is to witness 85% of the BOP tests and

100% of all well plugging and abandonment operations.
Safety valve tests are a third priority.

Canada's oil and gas industry shares many operational and climatic similarities with Alaska. For this reason inquiry into the function and procedure of the Energy Resources Conservation Board (ERCB), Alberta, is particularly applicable to this investigation.

William G. Remmer, manager of Field Operations reports that 100% of critical, high flow, high pressure or unusually deep wells are inspected and all critical tests witnessed. This criteria also applies to all wells in environmentally sensitive areas. A minimum of two inspections are done on each new well.

The ERCB procedures used in reducing the test failure rate on blowout equipment from a high of 43% to the present 6.4% are fully described by Mr. Remmer and include heavy emphasis on industry awareness of the agencies requirements, involvement of industry representatives in self-regulation and acknowledgement of problem areas.

Enforcement by the agency is strong and a rig may be shut down for noncompliance. Companies and operators continuing to have problems are subjected to increased inspections and even closer scrutiny.

In California, regulatory enforcement has been returned to the state. The Department of Conservation, Division of Oil and Gas maintains six field offices. Inspectors witness 100% of initial BOP tests and well abandonment operations. Quarterly reports by district provide detailed statistical analysis of all tests, inspections and results.

The report also discusses the position the Department of Commerce took in reporting to the news media that it had independently examined the adequacy of the inspection program.

ANALYSIS

If the commission continues in its present form, modern effective management and a team building approach is needed. Rotation of the chairmanship should also be considered.

Any question regarding the "tenuous authority" of the commission to regulate in areas of human safety or environmental integrity must be removed by the governor and the legislature. The commission's position that it has unlimited discretionary latitude in reducing the inspection program is untenable. Public awareness and concern must be reflected in its regulatory agencies. Increased vigilance over industry is needed even as increased self regulation is sought.

Through measurable criteria, including numerical and statistical goals, the commission must become more accountable than it is at present. Reinstating quarterly and annual reports would provide industry, government and the public with measurement tools necessary to evaluate the performance of the commission.

By the regulatory standards established in Canada, California and other states, Alaska falls far short of providing a viable regulatory presence in field safety. It is evident that three inspectors is inadequate. The number of documented hours worked is excessive. The inspectors are unable to cover emergencies and receive inadequate direction in setting priorities. Field reports by the inspectors are, by

necessity, cursory and lacking in critical analysis. There is too little time for training even though the field is rapidly changing.

Those gains in industry compliance and cooperation achieved through a strong field presence are in danger of eroding with declining surveillance. Although budget reductions have been severe, the commission has been lax in requesting new positions or equipment. The commission has not strongly documented either its budgetary needs or the expected results of a larger budget.

Investigation supports the conclusion that the commission has knowingly allowed both the level and kind of inspections to decline over an extended period of time. Mr. Minder's annual report objected to the decline. This memo and others he wrote continually brought the results of this decline to the commission's attention.

Although Mr. Minder should not have distributed a draft of the report to the inspection staff, there is no further evidence of wrongdoing on Mr. Minder's part. Mr. Minder's job description required him to bring this information to the commissioners' attention and he acted within his job description in demanding to have the memo typed and submitted to his supervisor and the other commissioners.

During this investigation the suggestion was raised that the commission's regulatory functions be transferred to another agency. That decision would necessarily consider many functions of the commission not addressed by this investigation. The recommendations will assist the commission in its present form and should assist policy makers considering other options.

RECOMMENDATIONS AND FINDINGS

During the investigation, Mr. Johnston and Mr. Smith began identifying commission programs to be strengthened and began drafting written priorities and expectations for the inspection program. The commissioners were candid and cooperative during this investigation and agreed with many of the recommendations.

The recommendations and the agency response to each follows:

- (1) I recommend that the Alaska Gas and Oil Conservation Commission develop a comprehensive mission statement which defines the role and statutory responsibility of the agency.

Agency Response:

We believe such a mission statement is clearly articulated in the commission's budget submittal for FY'92, as well as set out in the governing statutes and regulations of the commission. That statement follows:

"The Alaska Oil and Gas Conservation Commission is an independent quasi-judicial agency set up by the Legislature to enforce the Alaska Oil and Gas Conservation Act (AS 31.05). The commission oversees oil and gas drilling, development and production, reservoir depletion and metering operations on all lands subject to the state's police powers. The commission acts to prohibit the physical waste of crude oil and natural gas, to protect the correlative rights of mineral interest owners, and to obtain the maximum ultimate

recovery of oil and gas that is prudently possible. The commission levies fines for violations of the statutes, regulations or orders of the commission, and will seek injunctive relief to stop continuing violations.

The commission also is responsible for administering the Underground Injection Control (UIC) program for oil and gas wells in Alaska. The UIC program is authorized by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, as amended. In addition, the commission acts as Alaska's jurisdictional agency to determine well categories for meeting the maximum lawful price for gas under the Natural Gas Policy Act of 1978, and to approve applications as meeting the requirements of the U.S. Treasury for a qualified tertiary recovery project. It also serves an adjudicatory forum for resolving disputes between the oil and gas industry."

- (2) I recommend that the Alaska Gas and Oil Conservation Commission establish measurable goals and objectives to assist the administration and the staff in fulfilling the mission statement and the agency's responsibilities.

Agency Response:

Again, we will turn to our FY'92 budget submittal to provide a basis for meeting this recommendations. The commission included nine objectives and performance measures in its budget. We will examine these standards in light of your report and make appropriate revisions, if necessary. At a minimum, extra detail will be provided to aid the staff in determining how these objectives and performance measures are to be achieved.

- (3) I recommend that the Alaska Gas and Oil Conservation Commission develop accurate internal standards to aid in measuring the performance of individual staff and the agency as a whole.

Agency Response:

Performance standards already exist for all staff. However, we will immediately commence a review of the current standards for each employee, and make changes where needed. This review will be done in consultation with the employee. Each employee will be asked to review his or her standards, and will be encouraged to provide suggestions and comments or to seek clarification as appropriate. Our goal will be to provide each employee with realistic, understandable and achievable standards within six months. These standards will then be used to gauge employee performance for annual evaluation or disciplinary purposes.

- (4) I recommend that the Alaska Gas and Oil Conservation Commission promote personnel policies which encourage all staff to provide constructive criticism and suggestions to improve agency functioning.

Agency Response:

Informally, this is already being done, and positive results are being obtained. For example, as we move closer to computer automation, all staff are being encouraged to consider ways to improve their office functions through computerization; training will be provided where appropriate. Also, the petroleum inspection staff have already made recommendations for ways to improve the program, and they will be further consulted as we progress.

This openness policy will extend to staff meetings, which will be held more frequently to explain commission activities and policy decisions. Staff will also be encouraged to put suggestions in writing and to provide background information along with their analysis of the problem. The commissioners will reply in kind as appropriate. This policy will be formalized at the conclusion of this investigation.

- (5) I recommend that the Alaska Gas and Oil Conservation Commission provide a formalized grievance process in which staff may receive an impartial review of any negative personnel action by an objective third party within the agency.

Agency Response:

This vehicle is already in place for our general government bargaining unit employees. Our exempt staff, on the other hand, are covered by the state's personnel rules.

To the extent that it is possible, however, we will use our existing structure to achieve an objective third party. We will issue an internal written policy that states if an employee has a grievance he or she will be asked to deal directly with the immediate supervisor. If the problem is not resolved at that level, then the employee will be encouraged to bring the problem to the attention of the commissioners. If the immediate supervisor is one of the commissioners, then the other two commissioners will be asked to address the problem.

- (6) I recommend that the Alaska Gas and Oil Conservation Commission revise the FY92 budget request using "Zero Based" budget techniques to determine the agency's actual needs as defined by the mission statement, state law and current regulations. Use that information to finalize the budget submitted for the governor's consideration and discussions with the legislature.

Agency Response:

The commission submitted its FY'92 budget to the Department of Commerce per the department's instructions and policies prior to receiving this report. In that budget, the commission requested two increments. The first increment is for \$242,600. It will allow the commission [to] hire an additional two inspectors, provide another vehicle for their use on the North Slope, and pay for travel, per diem and training costs. The second increment is for \$30,000. It will fund necessary building maintenance, such as provide new paint and carpeting and sewer and heating repair. Money will also be directed toward securing a ground maintenance contract.

Over the course of the coming year, as we examine each program implemented by the commission, we will also examine funding requirements. Revisions to the budget will be requested when and where appropriate.

- (7) I recommend that the Alaska Gas and Oil Conservation Commission re-examine the agency's actions toward Mr. Minder in light of the findings and recommendations of this investigation.

Agency Response:

The commission relies heavily on its supervisory staff to structure as good a program as possible given its limited funding. It is now clear that Mr. Minder should have received additional supervisory training before being given program responsibility. Unfortunately this was not done, and the commission must assume responsibility for this failure. But, returning Mr. Minder to supervisory capacity at this time is not an appropriate remedy to this problem.

Instead the commission will give Mr. Minder expanded responsibility to develop a computer tracking program to use in the petroleum inspection program. In addition, he will be targeted for supervisory training, as well as program development and communication instruction.

Moreover, the entire staff will be set up on a training schedule, which will allow all employees to have some training in those areas where a need exists. The commission will also contact the Energy Resources Conservation Board in Alberta to obtain additional information about their inspection program. We also plan to become more involved with the Interstate Oil Compact Commission (IOCC), and have already attended a recent meeting of the IOCC executive committee.

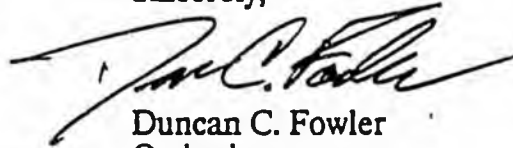
The findings and recommendations cited above will now remain the findings and recommendations of record in this case.

November 6, 1990

You have agreed to implement the recommendations to varying degrees. Additional changes and measurable standards applicable to the inspection program have yet to be fully identified. Further, such changes await additional funding to enable full implementation. Based on the commission's commitment to strengthen the inspection program and improve its personnel management system, I find the disposition of this case to be partially rectified at this time.

I appreciate the candid and cooperative attitude maintained by the commission throughout this investigation. The additional information provided in your written response to the preliminary report was most helpful. Please do not hesitate to contact Assistant Ombudsman Diane Shriner or me if you have questions or comments regarding the final report.

Sincerely,



Duncan C. Fowler
Ombudsman

DMS:pjc
Enclosure



State of Alaska
ombudsman

Duncan C. Fowler

PRESS RELEASE
OFFICE OF THE OMBUDSMAN
November 6, 1990

For more information call: Ombudsman Duncan Fowler
465-4970 (in Juneau)
(800) 478-4970 (toll free)

Subject: Oil and Gas Conservation Commission investigation

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Despite being the top oil-producing state in the country, Alaska's regulation of oil-field safety is lagging far behind that of other states and neighboring Canada, according to an investigation released by the Office of the Ombudsman today.

The 35-page investigation of the Alaska Oil and Gas Conservation Commission found that budget and staff reductions hurt the credibility of the commission's oil and gas well inspection program and compromised the investigative and regulatory function of the commission.

In the report, Ombudsman Duncan Fowler found: "By the regulatory standards established in Canada, California and other states, Alaska falls far short of providing a viable regulatory presence in field safety."

The report also found the commission acted unfairly in its reprimand of the inspection staff supervisor, Michael Minder, who wrote a memo critical of the current level of well inspections.

Minder's memo warned the commission that reducing the number of inspectors from five to three was having a serious effect on some safety programs. Only 27 percent of the blowout prevention equipment tests during 1989 were witnessed by commission inspectors. That compared to an 85 percent rate when there were five inspectors on the job.

"A lack of manpower together with budgetary constraints have reduced our exposure both on the North Slope and particularly in the Cook Inlet fields," Minder said in his memo.

The commission's reaction was to tell Minder not to have the report typed and to retrieve rough drafts given to the inspectors. When he failed to comply, he was reprimanded in writing and relieved of his supervisory duty.

The Alaska Oil and Gas Conservation Commission was established in 1978 to regulate the development and production of oil and gas and to ensure compliance with inspection and safety statutes. It is an independent arm of the Alaska Department of Commerce and Economic Development, which provides

administrative and budgetary oversight, but is not involved in commission policy matters. Members of the commission are appointed by the governor and confirmed by the legislature to six-year terms. Terms may be successive and without limit.

The three-member commission and staff of 18 are responsible for regulating 1,551 producing oil wells and 133 producing gas wells in Alaska. The commission also processes about 200 drilling permits and 1,000 well repair and other permits each year. About five new wells are expected to be drilled this year. The commission also has responsibility for the Underground Injection Control program, designed to protect underground sources of drinking water.

Despite this high degree of responsibility, the commission has suffered a 40 percent reduction in its operating budget in the past nine years. According to the commission, this led to the reduction of staff and the decreased visibility of inspectors.

Commission inspectors reported finding such problems as incorrectly installed equipment and even safety equipment incapable of functioning. Rig crews rely on the inspectors to order corrections in case the operator chose to ignore unsafe conditions. Inspectors were even unable to respond to requests by oil companies for scheduling information on when an inspector could be sent to the field to witness critical tests.

In contrast, the two federal agencies that regulate oil and gas wells on federal land in Alaska, the U.S. Bureau of Land Management and the U.S. Minerals Management Service, have a goal of witnessing 85 percent of blowout prevention tests on its wells and 100 percent of all well plugging and abandonment operations.

In Canada, 100 percent of the critical, high-flow, high-pressure or unusually deep wells are inspected and all critical tests witnessed, according to William Remmer, manager of field operations for the Energy Resources Conservation Board in Alberta.

The ombudsman report also looked at regulatory enforcement in California where the state has six field offices in the Department of Conservation, Division of Oil and Gas. State inspectors in California witness 100 percent of initial blowout prevention tests and well-abandonment operations.

The ombudsman investigation found that gains in industry compliance and cooperation achieved through a strong field presence are in danger of eroding because of declining surveillance. It concluded that the commission has knowingly allowed the level and kind of inspections to decline over an extended period of time.

Although budget reductions have been severe, the commission has been lax in requesting new positions or equipment. The commission has not strongly documented either its budgetary needs or the expected results of a larger budget, the ombudsman report concluded.

But in its response to the ombudsman's preliminary report, the commission defended its actions saying it was merely responding appropriately to budget cutbacks.

According to a letter from commissioners David Johnston and Lonnie Smith, the commission never intentionally wanted to reduce its inspection program and

In Mr. Chatterton's opinion, the oil and gas statute "prohibiting physical waste," was written to address economic, rather than environmental, issues. He stated during the investigative interviews:

AS 31.05, provides the commission with neither the specific authority for; nor does it set forth as a duty, the inspection of blowout prevention equipment installed on drilling rigs in Alaska.

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Mr. Smith says, "The commission has not been much for putting things in writing." The only written directive is a memo listing eight types of inspections to be done in order. The memo does not define the percentage of tests to be witnessed, the frequency of inspections or the division of the workload. The present investigator level made it impossible to complete all items on the list. The commission responded that it was Mr. Minder's responsibility to determine the methods to increase program effectiveness.

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ANALYSIS

If the commission continues in its present form, modern effective management and a team building approach is needed. Rotation of the chairmanship should also be considered.

Any question regarding the "tenuous authority" of the commission to regulate in areas of human safety or environmental integrity must be removed by the governor and the legislature. The commission's position that it has unlimited discretionary latitude in reducing the inspection program is untenable. Public awareness and concern must be reflected in its regulatory agencies. Increased vigilance over industry is needed even as increased self regulation is sought.

Through measurable criteria, including numerical and statistical goals, the commission must become more accountable than it is at present. Reinstating quarterly and annual reports would provide industry, government and the public with measurement tools necessary to evaluate the performance of the commission.

By the regulatory standards established in Canada, California and other states, Alaska falls far short of providing a viable regulatory presence in field safety. It is evident that three inspectors is inadequate. The number of documented hours worked is excessive. The inspectors are unable to cover emergencies and receive inadequate direction in setting priorities. Field reports by the inspectors are, by

necessity, cursory and lacking in critical analysis. There is too little time for training even though the field is rapidly changing.

Those gains in industry compliance and cooperation achieved through a strong field presence are in danger of eroding with declining surveillance. Although budget reductions have been severe, the commission has been lax in requesting new positions or equipment. The commission has not strongly documented either its budgetary needs or the expected results of a larger budget.

Investigation supports the conclusion that the commission has knowingly allowed both the level and kind of inspections to decline over an extended period of time. Mr. Minder's annual report objected to the decline. This memo and others he wrote continually brought the results of this decline to the commission's attention.

Although Mr. Minder should not have distributed a draft of the report to the inspection staff, there is no further evidence of wrongdoing on Mr. Minder's part. Mr. Minder's job description required him to bring this information to the commissioners' attention and he acted within his job description in demanding to have the memo typed and submitted to his supervisor and the other commissioners.

During this investigation the suggestion was raised that the commission's regulatory functions be transferred to another agency. That decision would necessarily consider many functions of the commission not addressed by this investigation. The recommendations will assist the commission in its present form and should assist policy makers considering other options.

RECOMMENDATIONS AND FINDINGS

During the investigation, Mr. Johnston and Mr. Smith began identifying commission programs to be strengthened and began drafting written priorities and expectations for the inspection program. The commissioners were candid and cooperative during this investigation and agreed with many of the recommendations.

The recommendations and the agency response to each follows:

- (1) I recommend that the Alaska Gas and Oil Conservation Commission develop a comprehensive mission statement which defines the role and statutory responsibility of the agency.

Agency Response:

We believe such a mission statement is clearly articulated in the commission's budget submittal for FY'92, as well as set out in the governing statutes and regulations of the commission. That statement follows:

"The Alaska Oil and Gas Conservation Commission is an independent quasi-judicial agency set up by the Legislature to enforce the Alaska Oil and Gas Conservation Act (AS 31.05). The commission oversees oil and gas drilling, development and production, reservoir depletion and metering operations on all lands subject to the state's police powers. The commission acts to prohibit the physical waste of crude oil and natural gas, to protect the correlative rights of mineral interest owners, and to obtain the maximum ultimate

recovery of oil and gas that is prudently possible. The commission levies fines for violations of the statutes, regulations or orders of the commission, and will seek injunctive relief to stop continuing violations.

The commission also is responsible for administering the Underground Injection Control(UIC) program for oil and gas wells in Alaska. The UIC program is authorized by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, as amended. In addition, the commission acts as Alaska's jurisdictional agency to determine well categories for meeting the maximum lawful price for gas under the Natural Gas Policy Act of 1978, and to approve applications as meeting the requirements of the U.S. Treasury for a qualified tertiary recovery project. It also serves an adjudicatory forum for resolving disputes between the oil and gas industry."

- (2) I recommend that the Alaska Gas and Oil Conservation Commission establish measurable goals and objectives to assist the administration and the staff in fulfilling the mission statement and the agency's responsibilities.

Agency Response:

Again, we will turn to our FY'92 budget submittal to provide a basis for meeting this recommendations. The commission included nine objectives and performance measures in its budget. We will examine these standards in light of your report and make appropriate revisions, if necessary. At a minimum, extra detail will be provided to aid the staff in determining how these objectives and performance measures are to be achieved.

- (3) I recommend that the Alaska Gas and Oil Conservation Commission develop accurate internal standards to aid in measuring the performance of individual staff and the agency as a whole.

Agency Response:

Performance standards already exist for all staff. However, we will immediately commence a review of the current standards for each employee, and make changes where needed. This review will be done in consultation with the employee. Each employee will be asked to review his or her standards, and will be encouraged to provide suggestions and comments or to seek clarification as appropriate. Our goal will be to provide each employee with realistic, understandable and achievable standards within six months. These standards will then be used to gauge employee performance for annual evaluation or disciplinary purposes.

- (4) I recommend that the Alaska Gas and Oil Conservation Commission promote personnel policies which encourage all staff to provide constructive criticism and suggestions to improve agency functioning.

Agency Response:

Informally, this is already being done, and positive results are being obtained. For example, as we move closer to computer automation, all staff are being encouraged to consider ways to improve their office functions through computerization; training will be provided where appropriate. Also, the petroleum inspection staff have already made recommendations for ways to improve the program, and they will be further consulted as we progress.

This openness policy will extend to staff meetings, which will be held more frequently to explain commission activities and policy decisions. Staff will also be encouraged to put suggestions in writing and to provide background information along with their analysis of the problem. The commissioners will reply in kind as appropriate. This policy will be formalized at the conclusion of this investigation.

- (5) I recommend that the Alaska Gas and Oil Conservation Commission provide a formalized grievance process in which staff may receive an impartial review of any negative personnel action by an objective third party within the agency.

Agency Response:

This vehicle is already in place for our general government bargaining unit employees. Our exempt staff, on the other hand, are covered by the state's personnel rules.

To the extent that it is possible, however, we will use our existing structure to achieve an objective third party. We will issue an internal written policy that states if an employee has a grievance he or she will be asked to deal directly with the immediate supervisor. If the problem is not resolved at that level, then the employee will be encouraged to bring the problem to the attention of the commissioners. If the immediate supervisor is one of the commissioners, then the other two commissioners will be asked to address the problem.

- (6) I recommend that the Alaska Gas and Oil Conservation Commission revise the FY'92 budget request using "Zero Based" budget techniques to determine the agency's actual needs as defined by the mission statement, state law and current regulations. Use that information to finalize the budget submitted for the governor's consideration and discussions with the legislature.

Agency Response:

The commission submitted its FY'92 budget to the Department of Commerce per the department's instructions and policies prior to receiving this report. In that budget, the commission requested two increments. The first increment is for \$242,600. It will allow the commission [to] hire an additional two inspectors, provide another vehicle for their use on the North Slope, and pay for travel, per diem and training costs. The second increment is for \$30,000. It will fund necessary building maintenance, such as provide new paint and carpeting and sewer and heating repair. Money will also be directed toward securing a ground maintenance contract.

Over the course of the coming year, as we examine each program implemented by the commission, we will also examine funding requirements. Revisions to the budget will be requested when and where appropriate.

- (7) I recommend that the Alaska Gas and Oil Conservation Commission re-examine the agency's actions toward Mr. Minder in light of the findings and recommendations of this investigation.

Agency Response:

The commission relies heavily on its supervisory staff to structure as good a program as possible given its limited funding. It is now clear that Mr. Minder should have received additional supervisory training before being given program responsibility. Unfortunately this was not done, and the commission must assume responsibility for this failure. But, returning Mr. Minder to supervisory capacity at this time is not an appropriate remedy to this problem.

Instead the commission will give Mr. Minder expanded responsibility to develop a computer tracking program to use in the petroleum inspection program. In addition, he will be targeted for supervisory training, as well as program development and communication instruction.

Moreover, the entire staff will be set up on a training schedule, which will allow all employees to have some training in those areas where a need exists. The commission will also contact the Energy Resources Conservation Board in Alberta to obtain additional information about their inspection program. We also plan to become more involved with the Interstate Oil Compact Commission (IOCC), and have already attended a recent meeting of the IOCC executive committee.

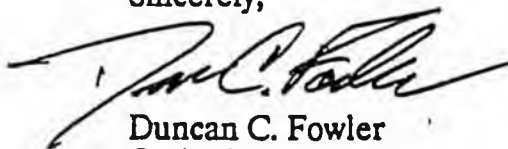
The findings and recommendations cited above will now remain the findings and recommendations of record in this case.

November 6, 1990

You have agreed to implement the recommendations to varying degrees. Additional changes and measurable standards applicable to the inspection program have yet to be fully identified. Further, such changes await additional funding to enable full implementation. Based on the commission's commitment to strengthen the inspection program and improve its personnel management system, I find the disposition of this case to be partially rectified at this time.

I appreciate the candid and cooperative attitude maintained by the commission throughout this investigation. The additional information provided in your written response to the preliminary report was most helpful. Please do not hesitate to contact Assistant Ombudsman Diane Shriner or me if you have questions or comments regarding the final report.

Sincerely,



Duncan C. Fowler
Ombudsman

DMS:pjc
Enclosure

ALASKA OIL AND GAS CONSERVATION COMMISSION

PRESENTATION TO THE WORKING GROUP

FEBRUARY 19, 1991

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ALASKA OIL AND GAS CONSERVATION COMMISSION

Overview of Statutory Responsibilities and Functions

The Alaska Oil & Gas Conservation Commission is an independent, quasi-judicial agency of the State of Alaska. It is established under the Alaska Oil and Gas Conservation Act, Title 31 of the Alaska Statutes; its regulatory authority is outlined in Title 20, Chapter 25 of the Administrative Code.

The Commission acts to prohibit the physical waste of crude oil and natural gas, ensure the maximum ultimate recovery, and protect the correlative rights of persons owning oil and gas interest in lands subject to Alaska's police powers. It also administers the Underground Injection Control (UIC) program for oil and gas wells in Alaska, and oversees metering operations to determine the quality and quantity of oil and gas produced in the state. The Commission holds hearings and/or adjudicates decisions, which require the combined expertise of geology and reservoir and petroleum engineering.

Physical waste can occur at the surface from the failure of surface and subsurface equipment or below ground from inappropriate reservoir management practices. Surface waste is prevented by reviewing each drilling proposal to ensure proper well design (i.e., casing/tubing program, cement program, casing setting depth, etc.), well control equipment (i.e., mud system, diverter, blow out prevention equipment, etc.) hydrogen sulfide detection equipment, well logging program, production practices, plugging and abandonment procedures, and to check for shallow geohazards and over-pressure zones. The Commission's field inspection staff then verify that operations are conducted in accordance with approved procedures and regulations.

Waste below ground has the potential for even greater impact to the state's economy as it directly determines the amount of oil and natural gas that will be recovered. It is prevented by ensuring proper reservoir management practices, and hinges on Commission decisions about well spacing, completion techniques, production rates, injection fluid type and rates, injection well pattern, gas/oil/water ratios, and pressure maintenance efforts. Findings and conclusions of the Commission are rendered in pooling rules and conservation orders.

Maximizing ultimate recovery goes hand-in-hand with preventing waste, but also requires detailed understanding of the physical parameters of the reservoir (i.e., porosity, permeability, stratigraphy, faulting,

reservoir pressure and drive mechanism, etc.), and its production performance over time (i.e., production decline curve analysis).

Protecting correlative rights (or the right of opportunity) is generally accomplished by establishing drilling units and by requiring the unitized operations of pools and plans of development.

UNDERGROUND INJECTION - DISPOSAL

The UIC program requires the Commission to verify the mechanical integrity of injection wells, determine appropriate injection zones and overlying confining strata, determine the presence or absence of freshwater aquifers and ensure their protection, and prepare quarterly reports of both in-house and field monitoring for the U. S. Environmental Protection Agency.

The Commission's metering functions verify the accuracy of crude oil sales meters used for royalty and severance tax determinations. In the field, Commission engineers and inspectors monitor water drawing and calibration of volumetric provers, and witness proving operations. In the office, meter factor calculations and fluid volume calculation are verified to ensure that correct temperature and pressure factors have been used.

In addition, the Commission also acts as Alaska's jurisdictional agency for the Natural Gas Policy Act as administered by the Federal Energy Regulatory Commission (FERC) and for qualifying enhanced recovery operations under the Windfall Profits Tax Act for the U. S. Treasury.

The Commission requires reports, data and material from operators ranging from drilling, testing and completion reports, production and injection volumes, well logs, cuttings, cores, maps, cross-sections, pressure and material balance reports, GOR reports, ownership and unitization agreements and development plans. Certain of these data are held confidential for a minimum of two years.

ALASKA OIL AND GAS CONSERVATION COMMISSION

History

The Alaska Oil and Gas Conservation Act (1955) created the Alaska Oil and Gas Conservation Commission. It was composed of the Governor of the Territory of Alaska, the Territorial Commissioner of Mines, and the Territorial Highway Engineer. Rules and regulations governing Commission activities became effective on October 1, 1958.

Under the State Organization Act of 1959, the Oil and Gas Conservation Commission was abolished, its function and authority transferred to the Department of Natural Resources, Division of Mines and Minerals. A group within the department was designated to hold hearings and issue decisions on oil and gas matters. This group was the Alaska Oil and Gas Conservation Committee which consisted of the Director of the Division of Mines and Minerals (Chairman), the State Petroleum Geologist, the State Petroleum Engineer, and the Deputy Commissioner of the Department of Natural Resources.

In 1968 the Division of Oil and Gas was created within the Department of Natural Resources. The new division arose from the Petroleum Branch of the Division of Mines and Minerals. The Alaska Oil and Gas Conservation Committee was placed within the new division, and consisted of the Director, Chief Petroleum Geologist and Chief Petroleum Engineer.

In 1976 the word "conservation" was added to the division's title, and it became the Division of Oil and Gas Conservation.

With the advent of production from Prudhoe Bay in 1977, the Legislature became concerned that there was the appearance of potential for a conflict of interest with the Department of Natural Resources, an owner of oil and gas rights, also acting as the regulator of other owners of oil and gas rights. To obviate its concern, the Legislature amended AS 31.05 by Chapter 158, SLA 1978 to restore the Commission, effective January 1, 1979, as an independent quasi-judicial agency within the executive branch of the state. Initially, the new Commission was housed within the Department of Natural Resources, but in 1980 it was transferred to the Department of Commerce and Economic Development.

The Commission continues to function as the regulatory agency overseeing the underground operation of the Alaska oil industry on private and public lands and waters. Its responsibilities include

regulation drilling and production of oil and gas to ensure that physical waste does not occur, protecting the correlative rights of mineral interest owners, and managing the Class II Underground Injection Control (UIC) program for oil and gas wells in Alaska as authorized by the U. S. Environmental Protection Agency on June 19, 1986.

The Commission compiles and maintains a data bank of drilling, production and reservoir statistics, including information on oil production, associated gas production, non-associated gas production, and injection volumes on an individual well, pool and field basis. Other data includes drilling permits, well histories, well logs, and public hearings testimony. Recently, the Commission acquired a new computer system which will be used to monitor oil and gas reservoir depletion in Alaska. The reservoir surveillance computer system will also allow the Commission to provide other state agencies with detailed reservoir information, including production decline estimates.

ALASKA OIL AND GAS CONSERVATION COMMISSION

Key Issues and Points of Information

Short Range:

As a preliminary matter, the Commission must stress that its role is regulatory, not policy setting. Issues facing the Commission, for the most part, are in response to events related to the exploration and development of the state's oil and gas resources.

1. New Commission Management: On August 1, 1990, the Commission's chairman since 1982 retired. Commissioner David W. Johnston was appointed the new chairman and Russell A. Douglass, formerly senior petroleum engineer was appointed commissioner on November 26, 1990. Governor Hickel reappointed Lonnie C. Smith to his third term as commissioner on January 23, 1991. The Commission will work closely with the new administration and legislature to ensure the best interests of the state are protected.
2. Field inspection program: Last year the Commission was investigated by the Office of the Ombudsman, who issued a report critical of the state's petroleum inspection program. The report concluded that the Commission had acted unreasonably in progressively reducing the oil and gas well inspection program to a level which compromises the investigative and regulatory functions of the Commission. Based upon our commitment to strengthen the inspection program and improve personnel management, the Ombudsman found the disposition of the case to be partially rectified.

Subsequent to the Ombudsman's investigation, Representative Cliff Davidson requested the Division of Legislative Audit to do a performance audit of the Commission. That audit is currently ongoing.

3. Underground Injection Control (UIC) Program: The Commission is currently involved in discussions with the U.S. Environmental Protection Agency (EPA) concerning the types of fluids that can be injected in a Class II well for either disposal or enhanced oil recovery purposes. Disagreement centers on the need for and extent of fluid sampling requirements, and interpretation of the Safe Drinking Water Act (SDWA) and the Resource Conservation

and Reclamation Act (RCRA). Resolution of the matter is anticipated during 1991.

4. Litigation: Litigation has arisen over Conservation Order #254. The order established a 640-acre drilling unit for the Mike Pelch #1 well (formerly Cannery Loop #2). The owner of the Mike Pelch well objects to CO #254 because it did not force pool the interests of the mineral owners within the drilling unit. The Commission concluded that forced pooling was not yet appropriate because no evidence was presented at the hearing to show that voluntary efforts to reach an equitable agreement had failed. Production from the well may not occur until a voluntary agreement is reached or, if voluntary efforts fail, until the Commission holds a public hearing and issues an order involuntarily integrating the interests of the mineral owners.

Long Range:

1. Surface Commingling of Production: As new, marginal fields on the North Slope are brought closer to development, additional attention will be drawn to issues surrounding the surface commingling of production from separate reservoirs. The advantage of commingling is the sharing and full utilization of production facilities, the downside is the possibility of less certainty for the state in determining if the separate reservoirs are being managed properly. The departments of Revenue and Natural Resources will also be concerned because of royalty and revenue implications. Determining suitable well testing and allocation methods will be a key in resolving commingling issues.
2. Pooling Rules: The Commission will be holding pooling rules for the Walakpa gas accumulation and the Sag Delta North oil accumulation in March. We anticipate establishing pooling rules for Pt. McIntyre, Niakuk, and W. Sak reservoirs during the next two to three years. Revisions to existing pooling orders also will likely occur for certain Cook Inlet fields.
3. Bonding: Currently, the Commission requires a bond (\$100.0/\$200.0) of each operator to offset some of the liability for lack of performance, proper abandonment, or repair of wells causing waste. These bond amounts may no longer be sufficient to cover costs of remedial work.

Bonding problems may also arise from bankruptcy proceeding of several small Alaska operators. The Commission will attempt to protect the bonds (certificates of deposit) from creditor distribution under the proceedings. It is likely that the Commission will be forced to use the bonds, along with additional funds, to plug and abandon wells drilled by these persons.

Legislative Issues:

Aside from confirmation proceedings and the move to DNR, the Commission does not foresee the need for any near term legislative action nor does it anticipate any legislative issues arising during the immediate future that would directly involve it.

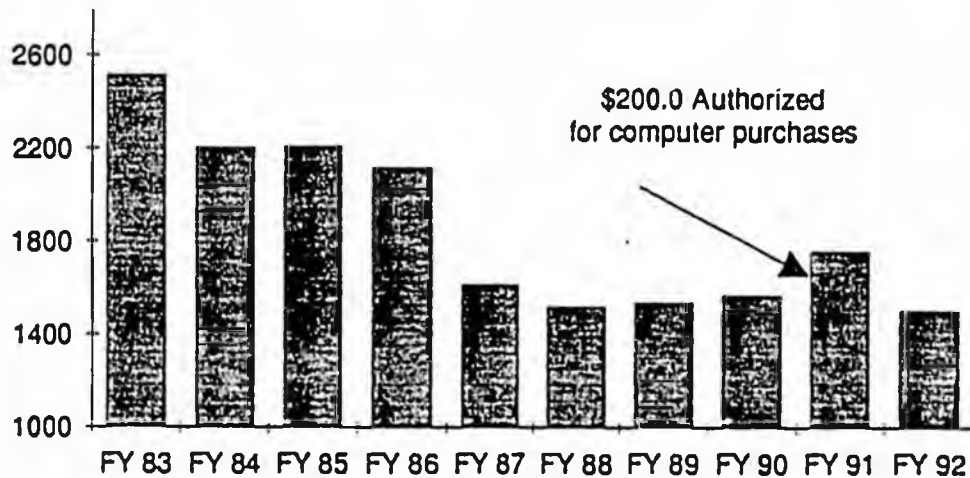
ALASKA OIL AND GAS CONSERVATION COMMISSION

Budget History

The following table and chart summarizes the Commission past budgets, which have been reduced 40 percent since 1983. The increase in equipment money in FY'90 and FY'91 was for the purchase of a reservoir surveillance computer system.

APPROPRIATED MONIES

<u>FY</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>TOTAL</u>	<u>Staff</u>
'83	1518.8	120.2	847.6	23.6	4.0	2514.2	27
'84	1411.6	102.1	665.1	21.7	3.0	2203.5	25
'85	1508.5	194.2	477.7	20.5	6.4	2207.3	26
'86	1548.1	193.0	348.9	21.7	5.4	2117.1	26
'87	1362.4	98.0	135.4	18.1	0.0	1613.9	25
'88	1280.2	98.0	127.4	13.0	0.0	1518.6	23
'89	1307.7	88.0	127.4	13.1	0.0	1536.2	23
'90	1271.3	72.5	161.8	13.1	50.0	1568.7	22
'91	1310.0	72.5	161.8	13.1	200.0	1757.4	21
'92	1314.2	49.6	126.7	13.1	0.0	1503.6	20



ALASKA OIL AND GAS CONSERVATION COMMISSION

Statistics

Application for Sundry Approvals (Form 10-403)

1987	731	approved
1988	991	approved
1989	1,017	approved
1990	907	approved
1991	45	approved

Permits to Drill (Form 10-401)

1987	137	approved
1988	158	approved
1989	133	approved
1990	173	approved
1991	18	approved

Conservation Orders Approved

1987	1	Area Injection Order
1987	5	Disposal Injection Orders
1987	1	Aquifer Exemption Order
1987	13	Conservation Orders
1987	1	Conservation File
1988	4	Conservation Orders
1988	1	Conservation File
1989	1	Disposal Injection Order
1989	1	Aquifer Exemption Order
1989	9	Conservation Orders
1990	16	Conservation Orders
1991	6	Conservation Orders
1991	1	Storage Injection Order

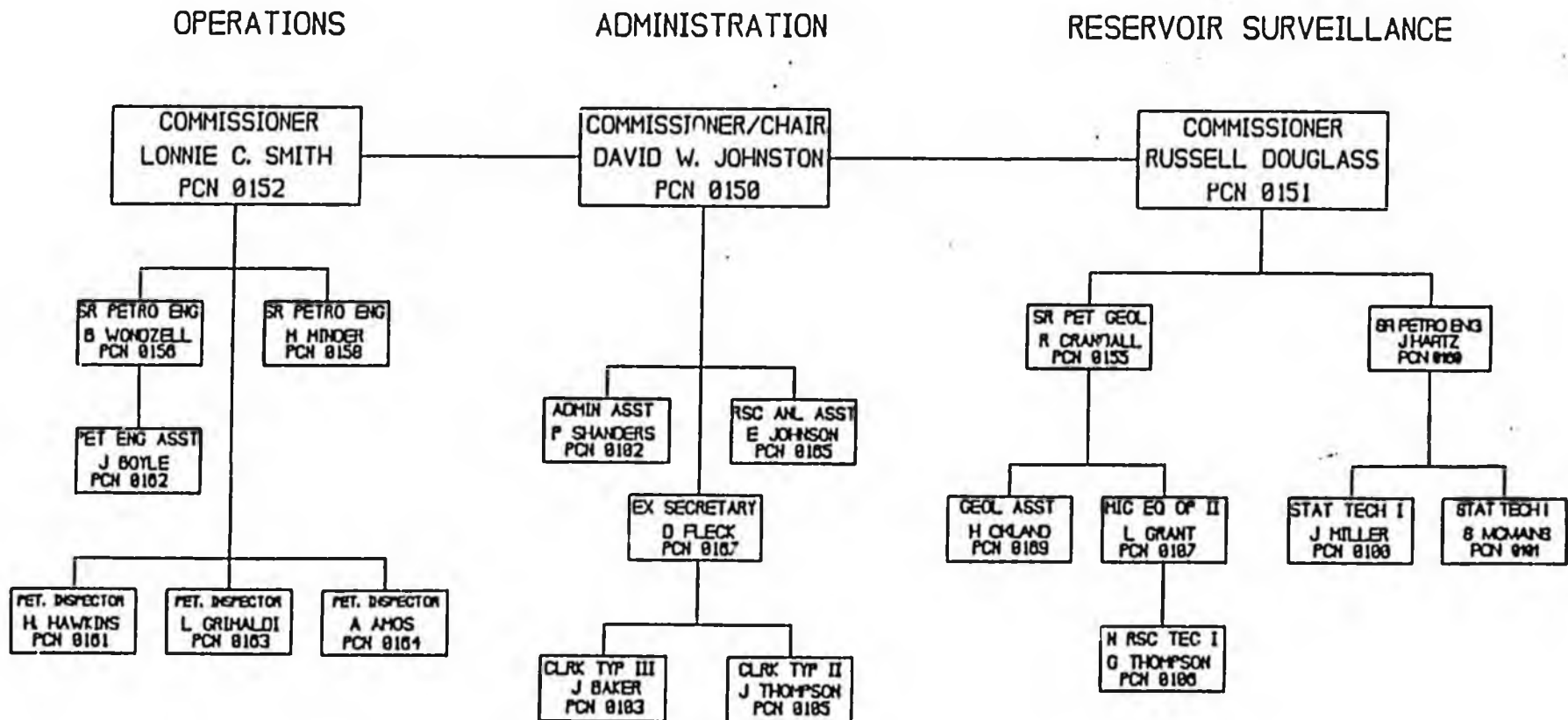
Public Hearings Held

1987	4 plus 1 pre-hearing
1988	0
1989	2
1990	4

ALASKA OIL AND GAS CONSERVATION COMMISSION

ORGANIZATIONAL CHART

FEBRUARY 1991



Alaska lags behind in oil-field safety

Budget cutbacks hurt commission's inspection program

Despite being the top oil-producing state in the country, Alaska's regulation of oil-field safety is lagging far behind that of other states and neighboring Canada, an ombudsman investigation found.

The 35-page investigation of the Alaska Oil and Gas Conservation Commission found that budget and staff reductions hurt the credibility of the commission's oil and gas well inspection program and compromised the investigative and regulatory functions of the commission.

The case also demonstrated how critical examination and cooperation with ombudsman recommendations can help an agency identify areas for improvement. The outcome of the investigation also illustrated the effectiveness of Alaska's new Whistleblower's statute.

When it was over, the ombudsman investigation had helped the agency redefine its mission while protecting the interests of the person who made the complaint.

Established in 1978, the three-member Alaska Oil and Gas Conservation Commission and staff of 18 are responsible for regulating 1,551 producing oil wells and 133 gas wells in Alaska. The commission also processes about 200 drilling permits and 1,000 well repair and other permits each year.

Despite these important responsibilities, the commission had suffered a 40 percent reduction in its operating budget over the past nine years. According to the commission, this led directly to the reduction of staff and the decreased visibility of inspectors.

During this cutback period, inspectors in the field reported finding serious problems such as incorrectly installed equipment and safety equipment that was incapable of functioning. Inspectors were even unable to respond to requests by oil companies for an inspector to be sent to the field to witness critical tests.

The ombudsman investigation contrasted Alaska's inspection program with federal inspection programs as well as those in California and Canada. It found that gains in industry compliance and cooperation achieved through a

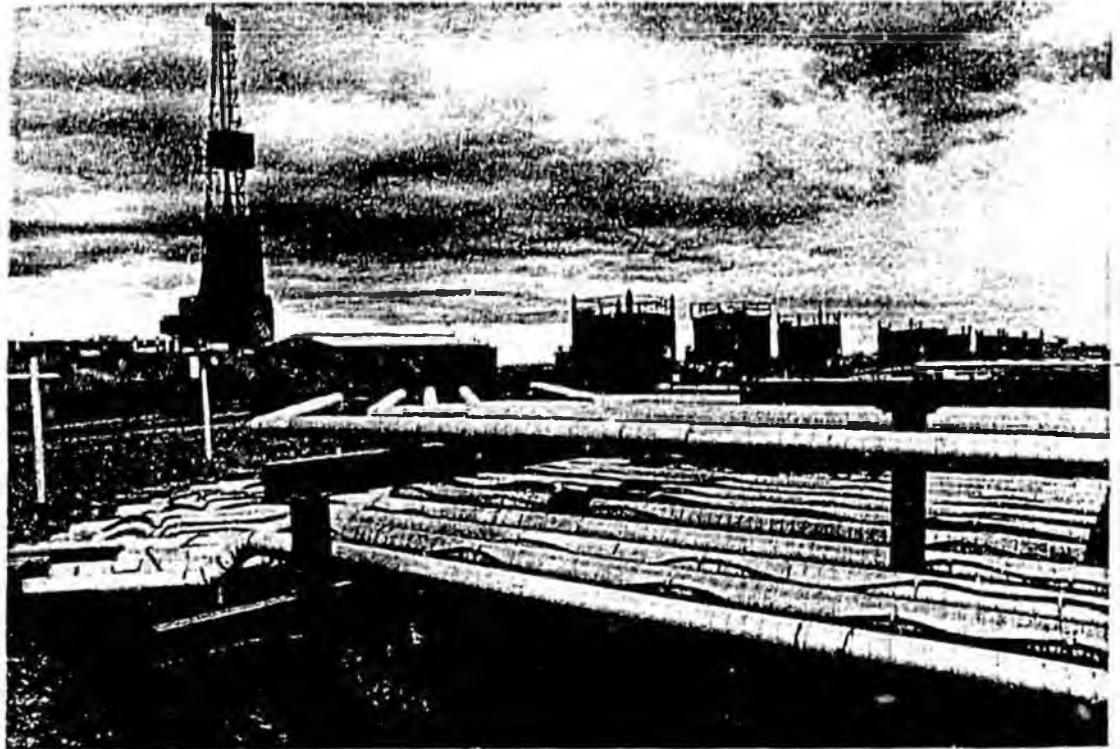


Photo by Mark Kelley/Jones Empire

The Alaska Oil and Gas Commission is responsible for regulating 1,551 producing oil wells and 133 gas wells in the state.

strong field presence are in danger of eroding because of declining surveillance by the state.

Although budget reductions were severe, the commission had been lax in requesting new positions or equipment. The commission did not strongly document either its budgetary needs or the expected results of a larger budget, the report concluded.

After including commission comments and responses in the final report, Ombudsman Duncan Fowler recommended that the commission clarify its regulatory role over oil and gas activity in Alaska, strengthen its inspection program and improve its personnel management system. It also suggested that reinstating quarterly and annual reports would provide the oil industry, government and the public with some measurement tools to evaluate the performance of the commission.

While some of the recommenda-

tions would require additional funding, the commission agreed, in large part, to implement the recommendations in the report.

The report also found the commission acted unfairly in its reprimand of the inspection staff supervisor, Michael Minder, who wrote a memo critical of the current level of well inspections.

Minder's memo warned the commission that its reduction in the number of inspectors was having a serious effect on some oil-field safety programs. The commission's reaction was to tell Minder not to have the report typed and to retrieve rough drafts given to the inspectors. When he failed to comply, he was reprimanded in writing and relieved of his supervisory duties. He then called the ombudsman's office.

While he was in the precarious position of complaining about the actions of his bosses, Minder was protected by AS 39.90.100, the Whistleblower Act.

People who file complaints with the ombudsman's office or who give evidence and information during an investigation are covered. This act states that a public agency may not discharge, threaten, or otherwise discriminate against an employee, a contractor or a citizen because the person participates in an ombudsman investigation.

In a Nov. 8, 1990 story about the ombudsman investigation in the Anchorage Daily News, Minder said he has no regrets:

"I felt I had a responsibility," Minder said of blowing the whistle. "I feel there's certain ethics a person has in a job he assumes, and a stewardship, not just toward the individuals he is working with, but to the organization. I could have kept my mouth shut. I had everything to lose and nothing to gain. And maybe that's why I did win - not win, but get things turned around. Because I had nothing to gain. Now I feel good about it, and I'd do it again."