

SB

243

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SB 243

Revision Date: Original Dept Affected: Natural Resources
 Title: An Act establishing a requirement of an BRU: Resource Development
annual offer of land for oil and gas leases if the land... Component: Oil & Gas Development
 Sponsor: Senate Resources
 Requestor: Senate Resources Component Serial No. 439

(Thousands of Dollars)

Expenditures/Revenues	FY97	FY98	FY99	FY00	FY01	FY02
OPERATING EXPENDITURES						
PERSONAL SERVICES	559.7	559.7	559.7	559.7	559.7	559.7
TRAVEL	22.0	22.0	22.0	22.0	22.0	22.0
CONTRACTUAL	30.3	30.3	30.3	30.3	30.3	30.3
SUPPLIES	18.0	18.0	18.0	18.0	18.0	18.0
EQUIPMENT	79.0	12.0	12.0	12.0	12.0	12.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	707.0	640.0	640.0	640.0	640.0	640.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

(Thousands of Dollars)

FUND SOURCE	FY97	FY98	FY99	FY00	FY01	FY02
1002 Federal Receipts						
1003 GF Match						
1004 GF	707.0	640.0	640.0	640.0	640.0	640.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	707.0	640.0	640.0	640.0	640.0	640.0

Estimate of any current year (FY96) cost: \$ none

POSITIONS

	FY97	FY98	FY99	FY00	FY01	FY02
FULL-TIME	11	11	11	11	11	11
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Eleven additional positions within DO&G will be require to implement the areawide oil and gas leasing program as proposed in SB 243.

Three new Natural Resources Officer II's, range 16 , to determine land ownership, title conflicts, correct title faults, and prepare detailed land title reports, prepare and issue public notices under AS 38.05.945-946, prepare and organize the annual oil and gas lease sale offerings, and to adjudicate bids and determine successful bidders for lease issuance.

Three new Natural Resources Officer I's, range 14, to perform the land title and status reviews, assist in determining land and ownership boundaries, determine tract acreages, prepare lease sale tract maps and plats.

Prepared by: Ken Boyd, Director Phone: 286-8800
 Division: Oil & Gas Date: 6-Feb-98
 Approved by Commissioner: [Signature] Date: 6-Feb-98
 Agency: Natural Resources

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ANALYSIS SB243 CONT.:

Two new Natural Resources Officer II's, range 16, positions to research, write, and regularly revise areawide best interest findings.

One new Natural Resources Officer I, range 14, to assist with research and minor writing tasks in support of best interest findings and responding to public concerns.

One new Cartographer I, range 12, to assist in the preparation of maps, charts and diagrams for best interest findings, geologic analysis, public notices, and lease sales.

One new Petroleum Geoscientist, exempt range 24, to continuously review and evaluate geologic, well and seismic data, and to maintain information database.

The request for these positions are predicated on the following:

- 1) the need for additional best interest findings for a new oil and gas leasing program that is to be managed simultaneously with the five-year oil and gas leasing and exploration licensing programs. Existing staff is insufficient to research and draft preliminary and final findings for all programs.
- 2) Additional title and land status review, mapping and legal description writing staff will be needed to review ownership and conflicts for the new lease sales and new biennial report to the legislature. Existing staff is insufficient to manage this significant new program in addition to five-year leasing and exploration licensing programs. Title, land status, and description writing for areawide leasing on the onshore portion of the North Slope can be completed after bids are received on tracts thus saving the costs of this type of work on tract that will receive no bids. However, due to the complexity of title, lands status and concerns of adjacent land owners this approach will not be advisable in the Cook Inlet and Beaufort Sea areas. The laborious and time consuming process of reviewing these issues for each tract prior to any lease sale will by necessity be continued. This will require the review of approximately 15-25 million acres of land annually.
- 3) An increase need for maps, notices, graphics and new biennial report to the legislature.
- 4) an annual detailed geological evaluation of 15-25 million acres in order to take into consideration new well and seismic data to aid in determining the best terms of sale for specific areas.

Travel costs include costs for staff to attend public hearings, meetings and workshops in affected areas.

Contractual cost included office space, printing and publishing of public notices and display ads.

supplies costs include misc. costs for paper, pens, floppy disks and other misc. supplies.

equipment costs include phones, desks, computers, printers and other misc. equipment.

** There are uncertainties in the bill which may change the fiscal impact once clarified with the sponsor.

ARCO Alaska, Inc.
 Testimony: SB 243 "area wide BIF, leasing"
 02/14/96

Mr. Chairman, for the record, my name is David Sutter. I am the Land Manager for ARCO Alaska. I have a few general comments about area wide leasing.

For nearly a year, ARCO has been suggesting that the State adopt an "area wide" concept in its lease sales in areas that have had significant past discoveries and are known to be highly prospective for further oil discovery: for example, the onshore North Slope between the Colville and Canning Rivers and north of the Umiat baseline - essentially the area excluded from exploration licensing. The heart of our concept is for the State to make all unleased tracts in an area available for bidding each and every year.

What I would suggest in determining what the legislation should say is as follows:

- The legislature should mandate annual North Slope and Cook Inlet Area wide Lease Sales, provided the necessary Best Interest Finding supports such sales
- North Slope and Cook Inlet Area wide Lease Sale areas should be defined as those upland areas which are excluded from licensing
- The North Slope Area wide Lease Sale should occur no later than 1998 (Sale 87 - March)
- The Cook Inlet Area wide Lease Sale should occur no later than 1999 (Sale 85 - August)
- Area wide BIF's for the NS and CI should commence immediately
- Area wide BIF's should cover an area for at least ten years
- Area wide BIF's should cover all lands within the geographic sale area, regardless of current lease status or ownership
- Comments for new information should be solicited annually for the Area wide BIF's

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- The commissioner of DNR should have discretionary authority to determine if new information requires a change in the BIF prior to the ten year period.
- Area wide Lease Sale ACMP Consistency Determination should automatically be granted if the Commissioner of DNR determines that the call for new information falls to require a new BIF
- Legislation must not require additional regulations (we're concerned that section 1 of your draft bill may contain a requirement to draft such regulations)

While I believe that this legislation will encourage more activity in those areas covered by area wide leasing, the real benefit will ultimately go to the State. Once an area wide leasing program is in place, the State will have more time to develop sales and issue licenses in those areas within the State where oil and gas activity may be less prevalent, but where the potential rewards for finding large fields are substantially greater.

Mr. Chairman, I want to thank you for the opportunity to speak on behalf of ARCO regarding this important legislation. I would be happy to answer any questions you may have.

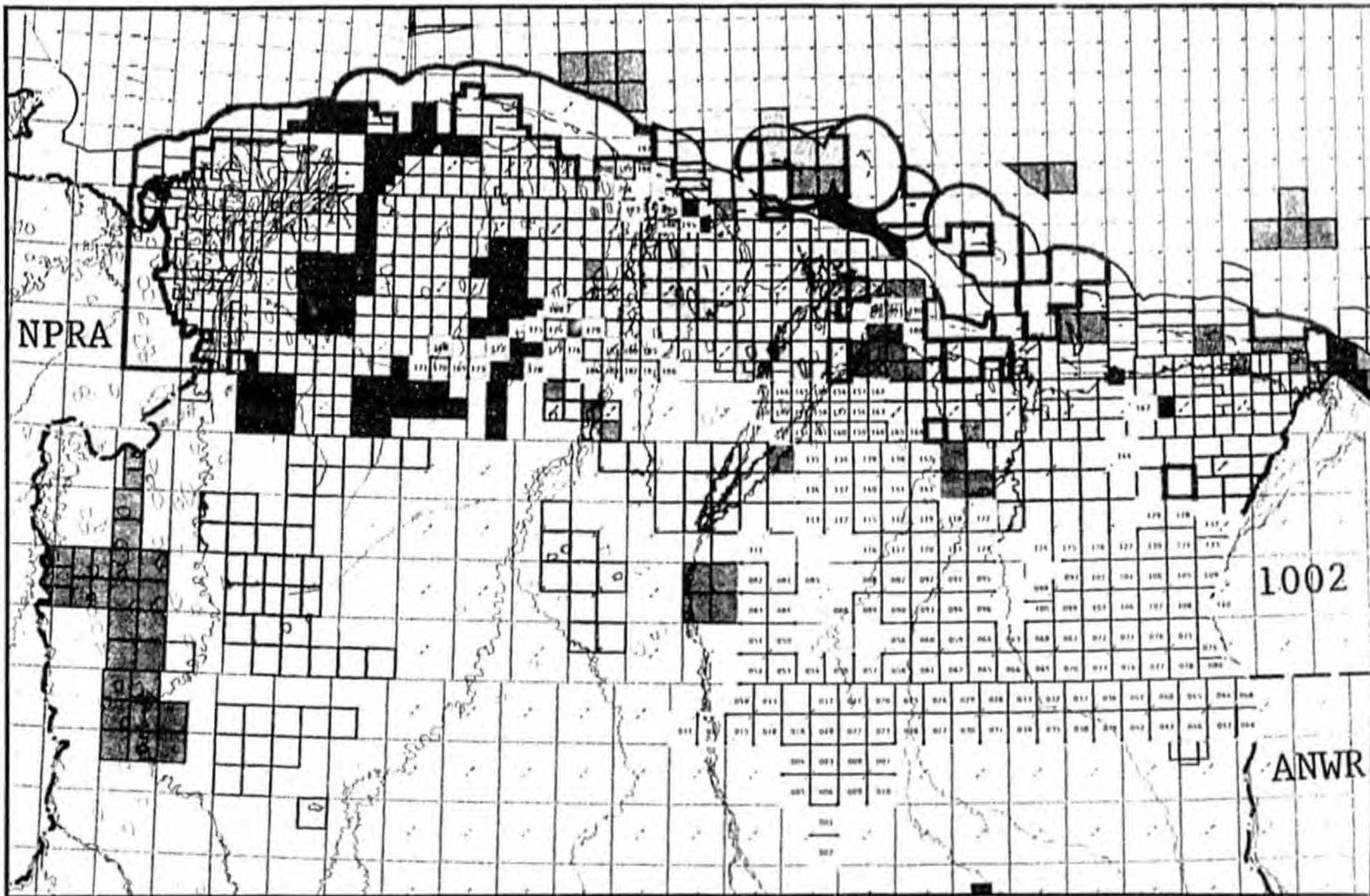
Area-Wide Leasing Bills -- Comparison

	SB 243 -- Senate Resources	SB 245 -- Governor's bill	HB 388 -- Rep. Rokeberg
Geographic Application	Cook Inlet, North Slope	North Slope onshore, north of the Umiat baseline	Area authorized by Legislature
Applicability to 5-Year Sale	Areawide lease sales consist of acreage annually nominated by Commissioner and industry, in addition to 5-year lease sale program	Areawide lease sales done by Commissioner as part of 5-year lease sale program	After authorization by the Legislature -- unclear if annually or as part of 5-year lease sale process
Best Interest Finding Provisions	BIF not required if acreage previously offered in a sale under AS 38.05180 (d) or SF.05.180 (w) or is part of an areawide lease sale; unless in all cases Commissioner determines that new information is available that justifies revision of BF	5-year limitation of life of BIF	Companion piece: HB 389 -- For exempt sales (38.05.180 (d)) or sales under 38.05.180(w), the new information justifying the revision must be along the lines of the fact required under AS 38.05.035(g)(1).
Land Offered for Sale	New BIF not required if acreage previously offered in a sale	New BIF not required if acreage had been subject to BIF in last five years. Not required to have been previously offered for sale.	New BIF not required for areawide lease sale unless subject to new information.

Also, the Governor's bill contains 1 1/2 pages of findings and purposes which do not address the reality of creating new 5-year best interest findings for an area which encompasses leases that don't expire for another 9 years. There is no structu

ALASKA LEASING IDEAS
SENATE RESOURCE COMMITTEE

September 12, 1995



NPRA

1002

ANWR

Sale 80



Sale 86

**ALASKA LEASING IDEAS
OIL AND GAS POLICY COUNCIL**

August 21, 1995

Identify Core Areas within Alaska where it is clearly in the best interest of the State to conduct lease sales.

Alaska Leasing Core Areas

200 Miles



August 21, 1995

PROPOSED CORE LEASING AREAS

- **North Slope**

All State of Alaska uplands lying north of the Umiat Baseline, between the Colville and Canning Rivers.

- **Cook Inlet**

All State of Alaska uplands and submerged lands lying in the area bounded to the north by the northern boundary of T17N S.M. and bounded to the south by the southern boundary of T6S S.M., bounded to the east by the Seward Meridian, and bounded to the west by the western boundary of R19W S.M.

ALASKA LEASING IDEAS
OIL AND GAS POLICY COUNCIL

August 21, 1995

Incorporate MMS Philosophy used in the Gulf of Mexico for State of Alaska lands in designated core areas.

1. Best interest finding in core areas would be updated every five years to account for any changes.
2. Offer the core areas for area-wide leasing on an annual basis with a set time of the year in which the sale will occur.
3. Delete only those areas within the core area that are environmentally sensitive or require further action from DNR, i.e., surface area consent, etc.

ALASKA LEASING IDEAS
OIL AND GAS POLICY COUNCIL

August 21, 1995

By having annual sales, DNR could consider shorter lease terms for core area lease sales.

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Require industry to be more specific in identifying level of interest in non-core areas.

**ALASKA LEASING IDEAS
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August 21, 1995

Drop or eliminate sales in non-core areas where there is little or no industry interest. Supplement those areas with licensing if necessary.

ALASKA LEASING IDEAS
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August 21, 1995

Give DNR more authority to consider different royalty schemes on licensing requests.

**ALASKA LEASING IDEAS
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August 21, 1995

Avoid using lease sales to invoke operational stipulations for areas affected by leasing.

**ALASKA LEASING IDEAS
OIL AND GAS POLICY COUNCIL**

August 21, 1995

CONCLUSION

1. Identify core leasing areas within Alaska.
2. Use an area-wide leasing program for the core areas.
3. Give the DNR flexibility to do their job.
4. Work on comprehensive regulations instead of lease stipulations.

PRELIMINARY REPORT TO
SENATOR LOREN LEMAN, Chairman
Senators: Pearce, Frank, Halford, Taylor, Lincoln and Hoffman
SENATE RESOURCES COMMITTEE
By: Senate Resources Committee Staff

Work Sessions with Oil and Gas Industry on Best Interest Finding and Permitting

At your request, I held a work session with representatives of the oil and gas industry and others (list attached) in Anchorage August 8. Another work session dealing more specifically with permitting and projects in coastal zones is scheduled for September 8. An update to this preliminary report will be finished for your use September 11. This report only reflects my interpretation of the comments of those who attended the work sessions.

Best Interest Finding

- 1) The companies and the state want certainty to the best interest finding process. There are two slightly different viewpoints on "areawide best interest finding":
 - a) do a BIF on a chunk of geography, the BIF applies to lease sales in the next 3-5 years, area broken up by the state into lease tracts; and
 - b) Entire North Slope BIF and allow companies to competitively bid for larger areas (instead of 63 tracts, would be one tract or 10 tracts). I believe DNR and industry view this process slightly differently.

Some commented that the BIF adopted in SB 238 (CH 34, SLA 94) lengthens the permitting process with no positive result - it has become a delaying tactic. All who commented said SB 308 (CH 38, SLA 94) was a good start to addressing the problems of continual lawsuits aimed at delaying or derailing development projects. However, they see no value in having to address tract by tract factors which could be addressed in a uniform best interest finding. They said this uniform or areawide best interest finding should/could be done in areas where the factors affecting development are fairly uniform. The Colville/Canning rivers area was mentioned as one area where from the permittee perspective, the factors affecting a permit to operate are relatively uniform. The permittees said that rather than working with the permittees to mitigate concerns, some regulating agencies' (esp. DEC and F&G) seem to be more focused on thinking up not just reasonably foreseeable measures, but mitigation measures for minute concerns such as "isostatic rebound" in the comments on preliminary findings for the Yakataga Sale (copy attached). Companies state that if they don't "aggressively" track every mitigation measure, a mitigation measure becomes a "permit standard" by default of the company not being aware or believing that it wouldn't be kept in the final permit. This "permit standard" is then applied to succeeding permits.

- 2) The interest in re-evaluating how best interest findings are done seems to reflect the companies experience with downsizing and having to become more efficient at reducing operating costs. In the work session, a DNR/DO&G representative commented about reduced budgets and the need to be more efficient - the reaction was nods from around the room. Most agreed the first areawide BIF would be expensive. Paperwork would be voluminous, but those proposing it believe the resulting benefit is efficiency for DNR to be able to lease more land. Jack Chenoweth, LAA/Legal states "no prohibitions" as far as he can see, providing there is a lease sale of the area for which the BIF is done. His only

concern was in AS 38.05.035 (e)6(g): exempt sale under 180(d) sale within previous 5 years and AS 38.05.035(e)6(h): sale under 180(w) sale within 5 years is subject to BIF.

3) Jim Eason, consultant at the work session, mentioned a bifurcated best interest finding process. This would require rewriting the BIF provisions to allow sale areas where a final BIF has been accepted and upheld without challenge or if challenged and subsequently upheld, no additional findings would be required, unless the commissioner (of DNR) determines in his discretion that additional findings are necessary. Sale areas that have never gone through a BIF could be done under an areawide BIF which would require the entire AS 38.05.035 process.

4) Some of the smaller operators felt the 5-year oil and gas lease sale process is too long, but because a sale can be added so that it's on the lease sale schedule for only three years, this did not seem to be such a problem. State is trying to get companies to be more forthcoming about the areas they want to lease. (Pretense of nonchalance or active bluffing may result in leases being dropped from a sale.) This is where the areawide BIF is attractive to the strategic, secretive nature of the oil industry. If the second option mentioned in item 1 is chosen, a company could place sealed bids for any tract(s) in the area covered by the BIF - the larger the area of the BIF and the sale, the better for the company's strategy.

Permitting

1) The September 8 meeting will reveal more details, but in short there are questions about the ability of government departments to be efficient in permitting matters. There is perceived distrust among agencies. Instead of phoning or faxing for additional information, letters are sent to permittees resulting in additional time delays. The departments don't seem to realize that outside of government most matters are dispatched with a quick (documented) phone call or fax. Even the most important/sensitive answers can be readily attained with a phone confirmation that a fax was received. Problem with getting industry to speak about these problems on the record is the perceived threat of retaliation by the permittor.

2) Concerns and real-world problems are concentrated in several areas:

- a) Lots more days are being tacked onto the permitting process - agencies say they can't meet the 5-day deadlines to issue permits once coastal zone requirements are met;
- b) No comment from agencies until the last day for review.
- c) Air Quality Permitting: Amount of time it is taking for permit evaluations not satisfactory. Consensus that inexperienced staff, plus reorganization at DEC may be hampering this permitting program.

3) Shared Costs. Under this arrangement, a company purchases expedited permits. Agencies say otherwise it's first come first served. This shared cost arrangement expedites permits, but raises eyebrows because:

- a) concern that state employees are under pressure to overlook infractions in order to process the permit which was paid for;
- b) concern about inexperienced employees taking too long to do what private sector counterparts do in less time;
- c) concern about the "message" of industry financing the expedition of permits;
- d) concern about departments blackmailing industry to pay for full time positions "necessary" to expedite permits.

38) Isostatic rebound as a source of geologic instability was not mentioned. To what extent would the slow rising of lands recently covered by glaciers, threaten the integrity of pipelines, wells, or other facilities.

Response: The above comment is not material to the scope of this finding. Although there may be gradual isostatic uplift in this region, about 1 cm/yr. for the past 5,000 yrs. (Combellick, memorandum to Hansen, citing to Plafker 1980, 1994), most of the uplift probably occurs suddenly during great earthquakes. Any hazard to engineered facilities from uplift would not be significant and will likely be overshadowed by other earthquake effects, such as strong shaking, seafloor failures, and tsunamis (Combellick, DGGs, 1994a). Since facilities within the Sale 79 area would be designed to withstand earthquakes, they would be able to withstand gradual isostatic uplift.

Other Response see DGG Report re Yakutat - Sale

**For: Senate Resources Committee
February 14, 1996
SB 243 and SB245: Areawide Leasing/Best Interest Finding bills**

**THE ATTACHED IS AN EXCERPT FROM MINUTES OF THE
AUGUST 21, 1995 MEETING OF THE GOVERNOR'S OIL AND GAS
POLICY COUNCIL**

**THE EXCERPT COVERS THE PORTION OF THE MEETING
DEDICATED TO LEASING AND BEST INTEREST FINDING**

The Council recessed for lunch at noon and reconvened at 1:00 pm.

6. Leasing and Best Interest Finding Presentation, DNR

Ken Boyd said that getting land out for lease to industry is a primary concern for DNR. There are about 1000 leases in the State, about 3.5 billion acres total and the State has been leasing since 1959.

Jim Hansen, from DNR, described the lease sale process noting that it begins with a 5 year lease program. All of the acreage on the North Slope and offshore will have been offered for lease by the end of 1999. The State is counting on the Dinkum Sands lawsuit to be resolved before the offshore sales are offered. The 5 year program is published at the beginning of each Legislative session, every two years. This plan is put together from State information and expressed industry interest in certain lands.

Six months before the book is published there is a public call for comments which is for 60 days. A second call for comments, for a five month period, is made 3 to 3.5 years before the sale. The final call for comments occurs about 22 months before the sale and is a 60 day period. These three calls include public, industry and government comment and input. The preliminary best interest finding is issued about 9 months prior to the sale and contains all of the required information through the exploration phase and it must include transportation. The preliminary finding goes out for a 60 day comment period with local area hearings as well as public comment. Four months prior to sale a notice of intent to issue a final finding is made and the final finding is issued three months before sale. There is a 20 day reconsideration period to the Commissioner of DNR and after that any appeal is to the court. This process spans 5 years with four comment periods and a reconsideration process in a normal sale. Lately very few sales have been normal.

The findings contain all of the mitigation measures for exploration and development. In addition, there is the Alaska Coastal Management Process which melds with the State's sale process.

Asked by Cline about coordination with federal schedules, Hansen replied that it was very difficult to do so as federal schedules are even more erratic than the State's. He continued that SB 308 has lengthened the leasing process by adding more time for public comment but has limited the lawsuit process by mandating that only a person who has participated in the public process may file an appeal or reconsideration.

Larry Ostrovsky from the AG's office reviewed some of the legal issues and litigation background on leases. Of the 71 lease sales since 1959, there have been 8 which resulted in lawsuits and 6 of those have gone to the Alaska Supreme Court. Only one

lease sale has been stayed and that was last year. These things, however, do tend to be in litigation for many years and thus delay sales. The result of the litigation is the "G" list, a list of 11 factors which DNR must consider in its findings.

Asked by Ken Thompson about sales and suits after 1985/86, Ostrovsky replied that there had been 22 sales and 4 lawsuits. Asked by Esther Wunnicke whether any thought had been given to alternate dispute resolution, Ostrovsky replied not that he was aware of.

Drue Pearce left at 2:00 p.m.

Patty Bielawski, special assistant to Commissioner Shively, has been working on the best interest finding process. DNR is looking at litigation history for which issues are brought to court and what can be done in the finding process to minimize litigation and also what alternatives are available to today's process. Areawide findings are being discussed by the Department, but it is only beginning to work on it. Asked how "areawide" would be defined, by Frey, Bielawski said that DNR does not have an answer to that and is interested in listening to ideas.

Brown asked if DNR felt that some of their lease work was not what industry wanted and Boyd replied that was evident with the two no-show sales held. Industry needs to be more specific about their areas of interest, he said. Regarding areawide findings, Boyd felt that it would be both possible and beneficial to everyone involved to conduct areawide findings. Perhaps, he said, they would be good only for a period of two or three years with re-examination at that point.

7. Leasing Issues, Dave Sutter, ARCO

Dave Sutter, Land Manager for ARCO, spoke to identifying core areas within Alaska where it is clearly in the best interest of the State to conduct lease sales. The two core areas which have been identified are the North Slope and Cook Inlet. The North Slope is the least controversial and most important and he would use the legislative definition for licensing of those areas as a starting point for establishing an areawide best interest finding. Using the onshore area between the Canning and Colville Rivers north of the Umiat basin is the heart of oil country.

Once the core area has been established and the common best interest finding in those areas, the next step might be to adopt an areawide lease sale philosophy. MMS, in the Gulf of Mexico, sets up a regular annual lease sale schedule for a date which industry can count on from a budget standpoint for expenditure and availability of prospects for work scheduling. He would propose updating the best interest finding at least every 5 years, perhaps it would need to be moved up, for legal reasons, to annually. But, rather than starting a new finding for each

lease sale, an update would be done.

These areas would be offered at a set time, he would suggest summer for more interest because of budget timing, and those areas of controversy because of environmental reasons or surface or subsurface ownership would be deleted. Establish the larger area first and then delete those in conflict.

Larger lease areas need to occur, he said, as it is very difficult to put a prospect together if the acreage involved is contained in two separate lease sales; sale areas need to be larger.

A consistent lease sale schedule is of utmost importance Sutter said, and also suggested shortening the primary lease terms to three to five years stating that if a member of industry cannot get to it in 3 years on the North Slope then it needs to be in the hands of someone else who can. Industry should be required to be more specific in identifying their level of interest in non-core areas. If there is only one interest expressed at a sale, or none, then DNR should look at licensing the area.

With respect to licensing, DNR should be given more authority to issue licenses with different royalty schemes. Operating stipulations should probably be taken out of leases and put into regulations so that they apply to a whole field rather than individual leases.

In conclusion, Sutter said that DNR does a great job of enforcing the regulations in Alaska, probably better than any other place in the United States, but they need a little more flexibility in doing so.

Ken Thompson asked what the independent reaction to areawide findings were in the Gulf and Sutter replied that there was a huge influx of independents when this was done.

PUBLIC COMMENTS

Jack Roderick stated that in 1978 he drafted the law which became the leasing program. The ideas he has heard this afternoon are good, he said, as independents will come if they can depend on regular lease sales. The areawide finding is an excellent idea and he would like to see the State return to a system which is not completely bonus bidding.

Dave Lappi of Lapp Resources said that he felt independent participation would increase if the system were not completely bonus bid. He also felt that changing the minimum bid on short term leases to \$1 per year per acre would be of great assistance.

Charles McGee posted a 1980 Alaska map and spoke on various aspects of State government.