

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2998 SCOMM 133: HOUSE SPECIAL COMMITTEE ON OIL & GAS 2003-04

appropriate resolution specifically finds that the entry will not constitute danger to the fishery.

* Sec. 25. AS 38.05.150(f) is amended to read:

(f) A [NOTWITHSTANDING AS 38.05.177, A] lease entered into under this section gives the lessee the right to vent or remove methane and other gas held in association with the coal in the land covered by the lease to ensure safe coal mining operations.

* Sec. 26. AS 38.05.177(a) is amended to read:

(a) The provisions of this section

[(1)] apply to nonconventional gas [, WHETHER METHANE ASSOCIATED WITH AND DERIVED FROM COAL DEPOSITS OR OTHERWISE, FROM A FIELD IF A PART OF THE FIELD IS WITHIN 3,000 FEET OF THE SURFACE; AND

(2) DO NOT APPLY TO AUTHORIZE LEASE OF

(A) LAND

(i) THAT IS SUBJECT TO AN OIL AND GAS EXPLORATION LICENSE OR LEASE ISSUED UNDER AS 38.05.131 - 38.05.134; OR

(ii) THAT IS LEASED UNDER AS 38.05.180;

(B) THE LAND (i) THAT IS PROPOSED TO BE SUBJECT TO AN OIL AND GAS EXPLORATION LICENSE OR LEASE ISSUED UNDER AS 38.05.131 - 38.05.134; OR (ii) THAT IS DESCRIBED IN AND PART OF A PROPOSED OIL AND GAS LEASING PROGRAM PREPARED UNDER AS 38.05.180(b); HOWEVER, THE COMMISSIONER MAY WAIVE THE LIMITATIONS OF THIS SUBPARAGRAPH;

(C) THE LAND THAT IS HELD UNDER A COAL LEASE ENTERED INTO UNDER AS 38.05.150, UNLESS THE APPLICANT FOR A SHALLOW NATURAL GAS LEASE IS ALSO THE LESSEE UNDER AS 38.05.150 OF THAT LAND; OR

(D) THE VALID EXISTING SELECTIONS OF THE ALASKA MENTAL HEALTH TRUST AUTHORITY MADE FOR THE

PURPOSE OF RECONSTITUTING THE MENTAL HEALTH TRUST ESTABLISHED UNDER THE ALASKA MENTAL HEALTH ENABLING ACT, P.L. 84-830, 70 STAT. 709 (1956), THAT BECOME SUBJECT TO MANAGEMENT UNDER AS 38.05.801, OR OF LAND THAT HAS BEEN DESIGNATED BY LAW FOR OR IS SUBJECT TO DESIGNATION FOR CONVEYANCE TO THE ALASKA MENTAL HEALTH TRUST AUTHORITY; HOWEVER, AFTER CONSULTATION WITH THE ALASKA MENTAL HEALTH TRUST AUTHORITY, THE COMMISSIONER MAY WAIVE THE LIMITATIONS OF THIS SUBPARAGRAPH].

* Sec. 27. AS 38.05.177(l) is amended to read:

(l) A lessee holding [OBTAINING] a lease modified under AS 38.05.180(n)(2) [THIS SECTION] may exercise the rights authorized by this section and the lease. The rights granted by the lease must be exercised in a manner that does not unreasonably interfere with eventual development of other mineral deposits on the land leased. However, in a lease entered into under AS 38.05.150 for land that is already subject to a lease covered [LEASED] under this section, coal may not be mined or extracted by the coal lessee from the coal lease without prior agreement with the lessee holding the lease covered [ISSUED] under this section.

* Sec. 28. AS 38.05.180(a) is amended to read:

(a) The legislature finds that

(1) the people of Alaska have an interest in the development of the state's oil and gas resources to

(A) maximize the economic and physical recovery of the resources;

(B) maximize competition among parties seeking to explore and develop the resources;

(C) maximize use of Alaska's human resources in the development of the resources;

(2) it is in the best interests of the state

(A) to encourage an assessment of its oil and gas resources and

1 to allow the maximum flexibility in the methods of issuing leases to

2 (i) recognize the many varied geographical regions of
3 the state and the different costs of exploring for oil and gas in these
4 regions;

5 (ii) minimize the adverse impact of exploration,
6 development, production, and transportation activity; and

7 (B) to offer acreage for oil and gas leases or for gas only
8 leases, specifically including

9 (i) state acreage that has been the subject of a best
10 interest finding at annual areawide lease sales; and

11 (ii) land in areas that, under (d) of this section, may be
12 leased without having been included in the leasing program prepared
13 and submitted under (b) of this section.

14 * Sec. 29. AS 38.05.180(b) is amended to read:

15 (b) The commissioner shall biennially prepare and, between the first and the
16 15th day of the first regular session of each legislature, notify the legislature of the
17 availability of, a five-year proposed oil and gas leasing program consisting of a
18 schedule of proposed lease sales and specifying as precisely as practicable the location
19 of tracts proposed to be offered for oil and gas leasing or for leasing of gas only
20 during the calendar year in which the proposed program is made available to the
21 legislature and the following four calendar years.

22 * Sec. 30. AS 38.05.180(c) is amended to read:

23 (c) Except as provided in (d) and (w) of this section, an oil and gas lease sale
24 or gas only lease sale may not be held unless it was included in the proposed leasing
25 programs submitted to the legislature during the two calendar years preceding the year
26 in which the sale is held. A lease sale, whether for oil and gas or for gas only, may
27 not be held before the date it is scheduled in the proposed oil and gas leasing program.

28 * Sec. 31. AS 38.05.180(d) is amended to read:

29 (d) The commissioner

30 (1) may annually offer leases for oil and gas or leases for gas only
31 [LEASES] of the acreage described in AS 38.05.035(e)(6)(F);

(2) may issue [OIL AND GAS] leases in an area that has not been included in a leasing program prepared, in accordance with (b) of this section, if the land to be leased

(A) was previously subject to a valid state oil and gas lease, a valid state gas lease, or a valid federal oil and gas lease;

(B) is contiguous to land already under state, federal, or private lease and the commissioner makes a written finding, after hearing, that leasing of the land would result in a substantial probability of early evaluation and development of the land to be leased;

(C) is adjacent to land owned or controlled by another party on which a discovery of commercial quantities of oil or gas has been made, and the commissioner finds, after hearing, that there is a reasonable probability that the land to be leased contains oil or gas in communication with the oil or gas discovered on the land of the other party;

(D) is adjacent to land included in the federal five-year Outer Continental Shelf leasing program under 43 U.S.C. 1344, and the commissioner makes a written finding, after hearing, that coordinated or simultaneous leasing with the federal government is in the public interest; or

(E) is the subject of an [OIL AND GAS] exploration license issued under AS 38.05.131 - 38.05.134; however, if the license issued was for exploration for and recovery of gas only, then the lease issued under this subsection shall be limited to exploration for and recovery of gas only.

* Sec. 32. AS 38.05.180(f) is amended to read:

(f) Except as provided by AS 38.05.131 - 38.05.134 [AND 38.05.177], the commissioner may issue oil and gas leases or leases for gas only on state land to the highest responsible qualified bidder as follows:

(1) the commissioner shall issue an oil and gas lease or a gas only lease, as appropriate, to the successful bidder determined by competitive bidding under regulations adopted by the commissioner; bidding may be by sealed bid or according to any other bidding procedure the commissioner determines is in the best interests of the state;

1 (2) whenever, under any of the leasing methods listed in this
2 subsection a royalty share is reserved to the state, it shall be delivered in pipeline
3 quality and free of all lease or unit expenses, including but not limited to separation,
4 cleaning, dehydration, gathering, salt water disposal, and preparation for transportation
5 off the lease or unit area;

6 (3) following a pre-sale analysis, the commissioner may choose at least
7 one of the following leasing methods:

8 (A) a cash bonus bid with a fixed royalty share reserved to the
9 state of not less than 12.5 percent in amount or value of the production
10 removed or sold from the lease;

11 (B) a cash bonus bid with a fixed royalty share reserved to the
12 state of not less than 12.5 percent in amount or value of the production
13 removed or sold from the lease and a fixed share of the net profit derived from
14 the lease of not less than 30 percent reserved to the state;

15 (C) a fixed cash bonus with a royalty share reserved to the state
16 as the bid variable but no less than 12.5 percent in amount or value of the
17 production removed or sold from the lease;

18 (D) a fixed cash bonus with the share of the net profit derived
19 from the lease reserved to the state as the bid variable;

20 (E) a fixed cash bonus with a fixed royalty share reserved to the
21 state of not less than 12.5 percent in amount or value of the production
22 removed or sold from the lease with the share of the net profit derived from the
23 lease reserved to the state as the bid variable;

24 (F) a cash bonus bid with a fixed royalty share reserved to the
25 state based on a sliding scale according to the volume of production or other
26 factor but in no event less than 12.5 percent in amount or value of the
27 production removed or sold from the lease;

28 (G) a fixed cash bonus with a royalty share reserved to the state
29 based on a sliding scale according to the volume of production or other factor
30 as the bid variable but not less than 12.5 percent in amount or value of the
31 production removed or sold from the lease;

1 (H) for nonconventional gas that will not be produced in
2 direct competition with gas on which a royalty at a rate of at least 12.5
3 percent is payable, a royalty share reserved to the state of at least 6.25
4 percent in amount or value of the production removed or sold from the
5 lease;

6 (4) notwithstanding a requirement in the leasing method chosen of a
7 minimum fixed royalty share, on and after March 3, 1997, the lessee under a lease
8 issued in the Cook Inlet sedimentary basin who is the first to file with the
9 commissioner a nonconfidential sworn statement claiming to be the first to have
10 drilled a well discovering oil or gas in a previously undiscovered oil or gas pool and
11 who is certified by the commissioner within one year of completion of that discovery
12 well to have drilled a well in that pool that is capable of producing in paying quantities
13 shall pay a royalty of five percent on all production of oil or gas from that pool
14 attributable to that lease for a period of 10 years following the date of discovery of that
15 pool, and thereafter the royalty payable on all production of oil or gas from the pool
16 attributable to that lease shall be determined and payable as specified in the lease; for
17 purposes of this paragraph, the reduced royalty authorized by this paragraph is subject
18 to the following:

19 (A) only one reduction of royalty authorized by this paragraph
20 may be allowed on each lease that qualifies for reduction of royalty under this
21 paragraph;

22 (B) if, under this paragraph, application is made for a royalty
23 reduction for a lease that was entered into before March 3, 1997, the
24 commissioner may approve the application only if, on that date, the lease was a
25 nonproducing lease that was not committed to a unit approved by the
26 commissioner under (m) of this section, that is not part of a unit under (p) or
27 (q) of this section, and that has not been made part of a unit under AS 31.05;

28 (C) if application for a royalty reduction is made under this
29 paragraph for a lease on which a discovery royalty was claimed or may be
30 claimed under the discovery royalty provisions of former AS 38.05.180(a) in
31 effect before May 6, 1969, the commissioner shall disallow the application

1 under this paragraph unless the applicant waives the right to claim the right to
2 a reduced royalty under the discovery royalty provisions of former
3 AS 38.05.180(a) in effect before May 6, 1969; and

4 (D) the commissioner shall adopt regulations setting out the
5 standards, criteria, and definitions of terms that apply to implement the filing
6 of applications for, and the review and certification of, discovery [OIL AND
7 GAS ROYALTY] certifications under this paragraph;

8 (5) notwithstanding and in lieu of a requirement in the leasing method
9 chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases
10 unitized as described in (p) of this section, leases subject to an agreement described in
11 (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or part of
12 an oil or gas field identified in this section that has been granted approval of a written
13 plan submitted to the Alaska Oil and Gas Conservation Commission under
14 AS 31.05.030(i) shall, subject to (dd) of this section, pay a royalty of five percent on
15 the first 25,000,000 barrels of oil and the first 35,000,000,000 cubic feet of gas
16 produced for sale from that field that occurs in the 10 years following the date on
17 which the production for sale commences; the fields eligible for royalty reduction
18 under this paragraph, all of which are located within the Cook Inlet sedimentary basin,
19 were discovered before January 1, 1988, and have been undeveloped or shut in from at
20 least January 1, 1988, through December 31, 1997, are

21 (A) Falls Creek;

22 (B) Nicolai Creek;

23 (C) North Fork;

24 (D) Point Starichkof;

25 (E) Redoubt Shoal; and

26 (F) West Foreland;

27 (6) notwithstanding and in lieu of a requirement in the leasing method
28 chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases
29 unitized as described in (p) of this section, leases subject to an agreement described in
30 (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or part of
31 an oil field located offshore in Cook Inlet on which an oil production platform

1 specified in (A), (C), or (E) of this paragraph operates, or the lessee of all or part of the
2 field located offshore in Cook Inlet and described in (G) of this paragraph,

3 (A) shall pay a royalty of five percent on oil produced from the
4 platform if oil production that equaled or exceeded a volume of 1,200 barrels a
5 day declines to less than that amount for a period of at least one calendar
6 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for
7 as long as the volume of oil produced from the platform remains less than
8 1,200 barrels a day; the provisions of this subparagraph apply to

9 (i) Dolly;

10 (ii) Grayling;

11 (iii) King Salmon;

12 (iv) Steelhead; and

13 (v) Monopod;

14 (B) shall pay a royalty calculated under this subparagraph if the
15 volume of oil produced from the platform that was certified by the Alaska Oil
16 and Gas Conservation Commission under (A) of this paragraph later increases
17 to 1,200 or more barrels a day and remains at 1,200 or more barrels a day for a
18 period of at least one calendar quarter; until the royalty rate determined under
19 this subparagraph applies, the royalty continues to be calculated under (A) of
20 this paragraph; on and after the first day of the month following the month the
21 increased production exceeds the period specified in this subparagraph, the
22 royalty payable under this subparagraph is

23 (i) for production of at least 1,200 barrels a day but not
24 more than 1,300 barrels a day - seven percent;

25 (ii) for production of more than 1,300 barrels a day but
26 not more than 1,400 barrels a day - 8.5 percent;

27 (iii) for production of more than 1,400 barrels a day but
28 not more than 1,500 barrels a day - 10 percent; and

29 (iv) for production of more than 1,500 barrels a day -
30 12.5 percent;

31 (C) shall pay a royalty of five percent on oil produced from the

1 platform if oil production that equaled or exceeded a volume of 975 barrels a
2 day declines to less than that amount for a period of at least one calendar
3 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for
4 as long as the volume of oil produced from the platform remains less than 975
5 barrels a day; the provisions of this subparagraph apply to

- 6 (i) Baker;
- 7 (ii) Dillon;
- 8 (iii) XTO.A; and
- 9 (iv) XTO.C;

10 (D) shall pay a royalty calculated under this subparagraph if the
11 volume of oil produced from the platform that was certified by the Alaska Oil
12 and Gas Conservation Commission under (C) of this paragraph later increases
13 to 975 or more barrels a day and remains at 975 or more barrels a day for a
14 period of at least one calendar quarter; until the royalty rate determined under
15 this subparagraph applies, the royalty continues to be calculated under (C) of
16 this paragraph; on and after the first day of the month following the month the
17 increased production exceeds the period specified in this subparagraph, the
18 royalty payable under this subparagraph is

- 19 (i) for production of at least 975 barrels a day but not
20 more than 1,100 barrels a day - seven percent;
- 21 (ii) for production of more than 1,100 barrels a day but
22 not more than 1,200 barrels a day - 8.5 percent;
- 23 (iii) for production of more than 1,200 barrels a day but
24 not more than 1,350 barrels a day - 10 percent; and
- 25 (iv) for production of more than 1,350 barrels a day -
26 12.5 percent;

27 (E) shall pay a royalty of five percent on oil produced from the
28 platform if oil production that equaled or exceeded a volume of 750 barrels a
29 day declines to less than that amount for a period of at least one calendar
30 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for
31 as long as the volume of oil produced from the platform remains less than 750

1 barrels a day; the provisions of this subparagraph apply to

2 (i) Granite Point;

3 (ii) Anna; and

4 (iii) Bruce;

5 (F) shall pay a royalty calculated under this subparagraph if the
6 volume of oil produced from the platform that was certified by the Alaska Oil
7 and Gas Conservation Commission under (E) of this paragraph later increases
8 to 750 or more barrels a day and remains at 750 or more barrels a day for a
9 period of at least one calendar quarter; until the royalty rate determined under
10 this subparagraph applies, the royalty continues to be calculated under (E) of
11 this paragraph; on and after the first day of the month following the month the
12 increased production exceeds the period specified in this subparagraph, the
13 royalty payable under this subparagraph is

14 (i) for production of at least 750 barrels a day but not
15 more than 850 barrels a day - seven percent;

16 (ii) for production of more than 850 barrels a day but
17 not more than 1,000 barrels a day - 8.5 percent;

18 (iii) for production of more than 1,000 barrels a day but
19 not more than 1,200 barrels a day - 10 percent; and

20 (iv) for production of more than 1,200 barrels a day -
21 12.5 percent;

22 (G) shall pay a royalty of five percent on oil produced from the
23 field if oil production that equaled or exceeded a volume of 750 barrels a day
24 declines to less than that amount for a period of at least one calendar quarter,
25 as certified by the Alaska Oil and Gas Conservation Commission, for as long
26 as the volume of oil produced from the field remains less than 750 barrels a
27 day; the provisions of this subparagraph apply to the West McArthur River
28 field;

29 (H) shall pay a royalty calculated under this subparagraph if the
30 volume of oil produced from the field that was certified by the Alaska Oil and
31 Gas Conservation Commission under (G) of this paragraph later increases to

1 750 or more barrels a day and remains at 750 or more barrels a day for a period
2 of at least one calendar quarter; until the royalty rate determined under this
3 subparagraph applies, the royalty continues to be calculated under (G) of this
4 paragraph; on and after the first day of the month following the month the
5 increased production exceeds the period specified in this subparagraph, the
6 royalty payable under this subparagraph is

7 (i) for production of at least 750 barrels a day but not
8 more than 850 barrels a day - seven percent;

9 (ii) for production of more than 850 barrels a day but
10 not more than 1,000 barrels a day - 8.5 percent;

11 (iii) for production of more than 1,000 barrels a day but
12 not more than 1,200 barrels a day - 10 percent; and

13 (iv) for production of more than 1,200 barrels a day -
14 12.5 percent; and

15 (I) may obtain the benefits of the royalty adjustments set out in
16 (A) - (H) of this paragraph only if the commissioner determines that the
17 reduction in production from the platform or the field is

18 (i) based on the average daily production during the
19 calendar quarter based on reservoir conditions; and

20 (ii) not the result of short-term production declines due
21 to mechanical or other choke-back factors, temporary shutdowns or
22 decreased production due to environmental or facility constraints, or
23 market conditions.

24 * Sec. 33. AS 38.05.180(h) is amended to read:

25 (h) The commissioner may include terms in any [OIL AND GAS] lease
26 imposing a minimum work commitment on the lessee. These terms shall be made
27 public before the sale, and may include appropriate penalty provisions to take effect in
28 the event the lessee does not fulfill the minimum work commitment. If it is
29 demonstrated that a lease has been proven unproductive by actions of adjacent lease
30 holders, the commissioner may set aside a work commitment. The commissioner may
31 waive for a period not to exceed one two-year period any term of a minimum work

1 commitment if the commissioner makes a written finding either that conditions
2 preventing drilling or exploration were beyond the lessee's reasonable ability to
3 foresee or control or that the lessee has demonstrated through good faith efforts an
4 intent and ability to drill or develop the lease during the term of the waiver.

5 * Sec. 34. AS 38.05.180(i) is amended to read:

6 (i) The commissioner may provide for the establishment of an exploration
7 incentive credit system under which a lessee of state land drilling an exploratory well
8 on that land may earn credits based upon the footage drilled and the region in which
9 the well is situated. The commissioner may also provide for credits to be earned by
10 persons performing geophysical work on state land, if that work is performed during
11 the two seasons immediately preceding an announced lease sale and on land included
12 within the sale area and the geophysical information is made public following the sale.
13 Credits may not exceed 50 percent of the cost of the drilling or geophysical work.
14 Credits may be used during a limited period established by the commissioner and may
15 be assigned during that period. Credits may be applied against (1) [OIL AND GAS]
16 royalty and rental payments for oil and gas or for gas only payable to the state or (2)
17 taxes payable under AS 43.55. A credit may not exceed 50 percent of the payment
18 toward which it is being applied. Amounts due the Alaska permanent fund
19 (AS 37.13.010) shall be calculated before the application of credits under this
20 subsection.

21 * Sec. 35. AS 38.05.180(j) is amended to read:

22 (j) The commissioner

23 (1) may provide for modification of royalty on individual leases, leases
24 unitized as described in (p) of this section, leases subject to an agreement described in
25 (s) or (t) of this section, or interests unitized under AS 31.05

26 (A) to allow for production from an oil or gas field or pool if

27 (i) the oil or gas field or pool has been sufficiently
28 delineated to the satisfaction of the commissioner;

29 (ii) the field or pool has not previously produced oil or
30 gas for sale; and

31 (iii) oil or gas production from the field or pool would

1 not otherwise be economically feasible;

2 (B) to prolong the economic life of an oil or gas field or pool as
3 per barrel or barrel equivalent costs increase or as the price of oil or gas
4 decreases, and the increase or decrease is sufficient to make future production
5 no longer economically feasible; or

6 (C) to reestablish production of shut-in oil or gas that would
7 not otherwise be economically feasible;

8 (2) may not grant a royalty modification unless the lessee or lessees
9 requesting the change make a clear and convincing showing that a modification of
10 royalty meets the requirements of this subsection and is in the best interests of the
11 state;

12 (3) shall provide for an increase or decrease or other modification of
13 the state's royalty share by a sliding scale royalty or other mechanism that shall be
14 based on a change in the price of oil or gas and may also be based on other relevant
15 factors such as a change in production rate, projected ultimate recovery, development
16 costs, and operating costs

17 (4) may not grant a royalty reduction for a field or pool

18 (A) under (1)(A) of this subsection if the royalty modification
19 for the field or pool would establish a royalty rate of less than five percent in
20 amount or value of the production removed or sold from a lease or leases
21 covering the field or pool;

22 (B) under (1)(B) or (1)(C) of this subsection if the royalty
23 modification for the field or pool would establish a royalty rate of less than
24 three percent in amount or value of the production removed or sold from a
25 lease or leases covering the field or pool;

26 (5) may not grant a royalty reduction under this subsection without
27 including an explicit condition that the royalty reduction is not assignable without the
28 prior written approval, which may not be unreasonably withheld, by the
29 commissioner; the commissioner shall, in the preliminary and final findings and
30 determinations, set out the conditions under which the royalty reduction may be
31 assigned;

1 (6) shall require the lessee or lessees to submit, with the application for
2 the royalty reduction, financial and technical data that demonstrate that the
3 requirements of this subsection are met; the commissioner

4 (A) may require disclosure of only the financial and technical
5 data related to development, production, and transportation of oil and gas or
6 gas only from the field or pool that are reasonably available to the applicant;
7 and

8 (B) shall keep the data confidential under AS 38.05.035(a)(9)
9 at the request of the lessee or lessees making application for the royalty
10 reduction; the confidential data may be disclosed by the commissioner to
11 legislators and to the legislative auditor and as directed by the chair or vice-
12 chair of the Legislative Budget and Audit Committee to the director of the
13 division of legislative finance, the permanent employees of their respective
14 divisions who are responsible for evaluating a royalty reduction, and to agents
15 or contractors of the legislative auditor or the legislative finance director who
16 are engaged under contract to evaluate the royalty reduction, if they sign an
17 appropriate confidentiality agreement;

18 (7) may

19 (A) require the lessee or lessees making application for the
20 royalty reduction under (1)(A) of this subsection to pay for the services of an
21 independent contractor, selected by the lessee or lessees from a list of qualified
22 consultants compiled by the commissioner, to evaluate hydrocarbon
23 development, production, transportation, and economics and to assist the
24 commissioner in evaluating the application and financial and technical data; if,
25 under this subparagraph, the commissioner requires payment for the services of
26 an independent contractor, the total cost of the services to be paid for by the
27 lessee or lessees may not exceed \$150,000 for each application, and the
28 commissioner shall determine the relevant scope of the work to be performed
29 by the contractor; selection of an independent contractor under this
30 subparagraph is not subject to AS 36.30;

31 (B) with the mutual consent of the lessee or lessees making

1 application for the royalty reduction under (1)(B) or (1)(C) of this subsection,
2 request payment for the services of an independent contractor, selected from a
3 list of qualified consultants to evaluate hydrocarbon development, production,
4 transportation, and economics by the commissioner to assist the commissioner
5 in evaluating the application and financial and technical data; if, under this
6 subparagraph, the commissioner requires payment for the services of an
7 independent contractor, the total cost of the services that may be paid for by
8 the lessee or lessees may not exceed \$150,000 for each application, and the
9 commissioner shall determine the relevant scope of the work to be performed
10 by the contractor; selection of an independent contractor under this
11 subparagraph is not subject to AS 36.30;

12 (8) shall make and publish a preliminary findings and determination on
13 the royalty reduction application, give reasonable public notice of the preliminary
14 findings and determination, and invite public comment on the preliminary findings
15 and determination during a 30-day period for receipt of public comment;

16 (9) shall offer to appear before the Legislative Budget and Audit
17 Committee, on a day that is not earlier than 10 days and not later than 20 days after
18 giving public notice under (8) of this subsection, to provide the committee a review of
19 the commissioner's preliminary findings and determination on the royalty reduction
20 application and administrative process; if the Legislative Budget and Audit Committee
21 accepts the commissioner's offer, the committee shall give notice of the committee's
22 meeting to all members of the legislature;

23 (10) shall make copies of the preliminary findings and determination
24 available to

25 (A) the presiding officer of each house of the legislature;

26 (B) the chairs of the legislature's standing committees on
27 resources; and

28 (C) the chairs of the legislature's special committees on oil and
29 gas, if any;

30 (11) shall, within 30 days after the close of the public comment period
31 under (8) of this subsection,

1 (A) prepare a summary of the public response to the
2 commissioner's preliminary findings and determination;

3 (B) make a final findings and determination; the
4 commissioner's final findings and determination prepared under this
5 subparagraph regarding a royalty reduction is final and not appealable to the
6 court;

7 (C) transmit a copy of the final findings and determination to
8 the lessee;

9 (D) with the applicant's consent, amend the applicant's lease or
10 unitization agreement consistent with the commissioner's final decision; and

11 (E) make copies of the final findings and determination
12 available to each person who submitted comment under (8) of this subsection
13 and who has filed a request for the copies;

14 (12) is not limited by the provisions of AS 38.05.134(3) or (f) of this
15 section in the commissioner's determination under this subsection.

16 * Sec. 36. AS 38.05.180(l) is amended to read:

17 (l) Subject to the provisions of AS 31.05, the commissioner has discretion to
18 enter into an agreement whereby, with the consent of the lessee, the state's royalty
19 share of [OIL AND GAS] production of oil and gas or gas only may be stored or
20 retained in storage by the lessee, or the commissioner may enter into an agreement
21 with one or more of the affected field lease holders to trade current royalty production
22 from a field for a like amount, kind, and quality of future production, on the condition
23 that the state receives back its stored or traded royalty share during the first half of the
24 estimated field life or no later than 15 years after start of production, whichever is
25 sooner.

26 * Sec. 37. AS 38.05.180(m) is amended to read:

27 (m) An oil and gas lease or a gas only lease must cover a reasonably compact
28 area not exceeding 5,760 acres, and may be for a maximum period of 10 years, except
29 that the commissioner may issue a lease for a period not less than five years upon a
30 finding that it is in the best interests of the state. An oil and gas lease shall be
31 automatically extended if and for so long thereafter as oil or gas is produced in paying

quantities from the lease or if the lease is committed to a unit approved by the commissioner, and a gas only lease shall be automatically extended if and for so long thereafter as gas is produced in paying quantities from the lease or if the lease is committed to a unit approved by the commissioner. A lease issued under this section covering land on which there is a well capable of producing oil or gas in paying quantities does not expire because the lessee fails to produce oil or gas unless the lessee is allowed reasonable time to place the well on a producing status. Upon extension, the commissioner may increase lease rentals so long as the increased rental rate does not exceed 150 percent of the rate for the preceding year. If drilling has commenced on the expiration date of the primary term of the lease and is continued with reasonable diligence, including such operations as redrilling, sidetracking, or other means necessary to reach the originally proposed bottom hole location, the lease continues in effect until 90 days after drilling has ceased and for so long thereafter as oil or gas is produced in paying quantities. An oil and gas lease or a gas only lease issued under this section which is subject to termination by reason of cessation of production does not terminate if, within 60 days after production ceases, reworking or drilling operations are commenced on the land under lease and are thereafter conducted with reasonable diligence during the period of nonproduction.

* Sec. 38. AS 38.05.180(n) is amended to read:

(n) The commissioner may establish by regulation that after a well has been plugged and abandoned, the rental rate which was in effect during the year of abandonment is maintained for the remainder of the term. Rental is payable in advance and continues until income to the state from royalty or net profit share exceeds rental income to the state for that year. Under this subsection,

(1) [OIL AND GAS] leases for oil and gas or for gas only shall provide for payment to the state of rental on the following basis:

(A) [(1)] for the first year, \$1.00 per acre;

(B) [(2)] for the second year, \$1.50 per acre;

(C) [(3)] for the third year, \$2.00 per acre;

(D) [(4)] for the fourth year, \$2.50 per acre;

(E) [(5)] for the fifth and following years, \$3.00 per acre;

1 (2) if the lessee under a gas only lease demonstrates to the
2 commissioner that the potential resources underlying the lease are reasonably
3 estimated to be only nonconventional gas, the rental payment is \$1.00 per acre
4 until the lease expires or paying quantities of conventional oil or gas are
5 discovered underlying the lease.

6 * Sec. 39. AS 38.05.180(p) is amended to read:

7 (p) To conserve the natural resources of all or a part of an oil or gas pool,
8 field, or like area, the lessees and their representatives may unite with each other, or
9 jointly or separately with others, in collectively adopting or operating under a
10 cooperative or a unit plan of development or operation of the pool, field, or like area,
11 or a part of it, when determined and certified by the commissioner to be necessary or
12 advisable in the public interest. The commissioner may, with the consent of the
13 holders of leases involved, establish, change, or revoke drilling, producing, and
14 royalty requirements of the leases and adopt regulations with reference to the leases,
15 with like consent on the part of the lessees, in connection with the institution and
16 operation of a cooperative or unit plan as the commissioner determines necessary or
17 proper to secure the proper protection of the public interest. The commissioner may
18 not reduce royalty on leases in connection with a cooperative or unit plan except as
19 provided in (j) of this section. The commissioner may require a lease [OIL AND
20 GAS LEASES] issued under this section to contain a provision requiring the lessee to
21 operate under a reasonable cooperative or unit plan, and may prescribe a plan under
22 which the lessee must operate. The plan must adequately protect all parties in interest,
23 including the state.

24 * Sec. 40. AS 38.05.180 is amended by adding a new subsection to read:

25 (ff) The provisions of this section that authorize oil and gas leases also apply
26 to authorize the commissioner to issue leases for the production of gas only. In
27 authorizing and managing leases under this subsection, the terms "oil and gas" or "oil
28 or gas" as they are used in this chapter may be read and applied as appropriate as
29 referring to gas only. When a lease is authorized as a gas only lease, the lease does
30 not give the lessee the right to produce oil. If a well drilling for gas under a gas only
31 lease authorized by this subsection penetrates a formation capable of producing oil, the

owner or operator

(1) shall notify the department and the Alaska Oil and Gas Conservation Commission; and

(2) may not conduct further operations in the drilled well until the facility complies with all applicable laws and regulations relating to oil and gas exploration and production; however, this paragraph does not prevent the owner or operator from conducting activities that may be required by the Alaska Oil and Gas Conservation Commission to plug, plug-back, or abandon a well.

* Sec. 41. AS 38.05.860(a) is amended to read:

(a) The commissioner may require an applicant seeking the sale, lease, or other disposal of land or an interest in land, other than under an oil and gas lease, gas only lease, or mineral lease, to deposit an amount covering the estimated cost of an appraisal, survey, and other costs necessary to offer the land or interest in land, including advertising. All deposited funds not expended shall be refunded to the applicant. If the land or interest in land is awarded to a person other than the applicant making the deposit, the person awarded the land shall pay the total actual cost incurred by the department in making the disposal, and the deposit shall be returned to the original applicant. In lieu of requiring the deposit under this subsection, the commissioner may enter into an agreement with an applicant seeking land or an interest in land requiring the applicant to reimburse the department for costs incurred in the disposal if the applicant is awarded the land or interest in land.

* Sec. 42. AS 38.05.860(c) is amended to read:

(c) The commissioner shall require each bidder for the competitive leasing of [OIL AND GAS] land for oil and gas, or for gas only, to submit with each bid a deposit of money equal to 20 percent of the bonus.

* Sec. 43. AS 38.05.945(a) is amended to read:

(a) This section establishes the requirements for notice given by the department for the following actions:

(1) classification or reclassification of state land under AS 38.05.300 and the closing of land to mineral leasing or entry under AS 38.05.185;

(2) zoning of land under applicable law;

1 (3) issuance of a

2 (A) preliminary written finding under AS 38.05.035(e)(5)(A)
3 regarding the sale, lease, or disposal of an interest in state land or resources for
4 oil and gas, or for gas only, subject to AS 38.05.180(b);

5 (B) [REPEALED

6 (C)] written finding for the sale, lease, or disposal of an interest
7 in state land or resources under AS 38.05.035(e)(6), except a [AN OIL OR
8 GAS] lease sale described in AS 38.05.035(e)(6)(F) for which the director
9 must provide opportunity for public comment under the provisions of that
10 subparagraph;

11 (4) a competitive disposal of an interest in state land or resources after
12 final decision under AS 38.05.035(e);

13 (5) a preliminary finding under AS 38.05.035(e) concerning sites for
14 aquatic farms and related hatcheries;

15 (6) a decision under AS 38.05.132 - 38.05.134 regarding the sale,
16 lease, or disposal of an interest in state land or resources.

17 * **Sec. 44.** AS 38.05.965 is amended by adding a new paragraph to read:

18 (25) "nonconventional gas" means coal bed methane, shales containing
19 gas, or gas hydrates.

20 * **Sec. 45.** AS 38.06.080(2) is amended to read:

21 (2) "state lease" means an oil and gas lease or gas only lease on state
22 land.

23 * **Sec. 46.** AS 38.35.020(a) is amended to read:

24 (a) Rights-of-way on state land including rights-of-way over, under, along,
25 across, or upon the right-of-way of a public road or highway or the right-of-way of a
26 railroad or other public utility, or across, upon, over, or under a river or other body of
27 water or land belonging to or administered by the state may be granted by
28 noncompetitive lease by the commissioner for pipeline purposes for the transportation
29 of oil, products, or natural gas under those conditions prescribed by law or by
30 administrative regulation. Except to the extent authorized by an oil and gas lease, a
31 gas only lease, or an oil and gas or gas only unit agreement approved by the state, no

1 person may engage in any construction or operation of any part of an oil, products, or
2 natural gas pipeline, which in whole or in part is or is proposed to be on state land
3 unless that person has obtained from the commissioner a right-of-way lease of the land
4 under this chapter.

5 * Sec. 47. AS 43.20.072(c) is amended to read:

6 (c) A taxpayer's business income shall be apportioned to this state by
7 multiplying the taxpayer's income determined under (b) of this section by the
8 apportionment factor applicable to the taxpayer among the following factors:

9 (1) the apportionment factor of a taxpayer subject to this section but
10 not engaged in the production of oil and gas, or of gas only, as appropriate, from a
11 lease or property in this state during the tax period is a fraction, the numerator of
12 which is the sum of the property factor under AS 43.19 (Multistate Tax Compact) and
13 the sales factor under (d) of this section for the taxpayer for that tax period, and the
14 denominator of which is two;

15 (2) the apportionment factor of a taxpayer subject to this section but
16 not engaged in the pipeline transportation of oil or gas in this state during the tax
17 period is a fraction, the numerator of which is the sum of the property factor under (e)
18 of this section and the extraction factor under (f) of this section for the taxpayer for the
19 tax period, and the denominator of which is two;

20 (3) the apportionment factor of a taxpayer engaged both in the
21 production of oil or gas from a lease or property in this state and in the pipeline
22 transportation of oil or gas in this state during the tax period is a fraction, the
23 numerator of which is the sum of the sales factor under (d) of this section, the property
24 factor under (e) of this section, and the extraction factor under (f) of this section for
25 the taxpayer for the tax period, and the denominator of which is three.

26 * Sec. 48. AS 43.55.025(a) is amended to read:

27 (a) Subject to the terms and conditions of this section, on oil and gas produced
28 from an oil and gas lease, or on gas produced from a gas only lease, on or after
29 July 1, 2004, a credit against the tax due under this chapter is allowed in an amount
30 equal to

31 (1) 20 percent of the total exploration expenditures that qualify under

(b) and (c) of this section, 20 percent of the total exploration expenditures that qualify under (b) and (d) of this section, or both, for a total credit that does not exceed 40 percent of the total exploration expenditures; or

(2) 40 percent of the total exploration expenditures that qualify under (b) and (e) of this section, for a total production tax credit that does not exceed 40 percent of the total qualified exploration expenditures.

* Sec. 49. AS 43.55.900(9) is amended to read:

(9) "lease or property" means any right, title, or interest in or the right to produce or recover oil or gas including:

(A) a mineral interest,

(B) a leasehold interest,

(C) a working interest, royalty interest, overriding royalty interest, production payment, net profit interest or any other interest in a lease, concession, joint venture, or other agreement for [OIL AND GAS] exploration, development, or production of oil and gas or of gas only,

(D) a working interest, royalty interest, overriding royalty interest, production payment, net profit interest or any other interest in an agreement for unitization or pooling under the provisions of 26 U.S.C. 614(b)(3) (Internal Revenue Code) as defined on January 1, 1974;

* Sec. 50. AS 46.03.100(f) is amended to read:

(f) This section does not apply to discharges of solid or liquid waste material or water discharges from the following activities if the discharge is incidental to the activity and the activity does not produce a discharge from a point source, as that term is defined in regulations adopted under this chapter, directly into any surface water of the state:

(1) mineral drilling, trenching, ditching, and similar activities;

(2) landscaping;

(3) water well drilling, geophysical drilling, or nonconventional [COAL BED METHANE DRILLING OR OTHER NATURAL] gas drilling; for purposes of this paragraph, "nonconventional gas" has the meaning given in AS 38.05.965 [TO RECOVER GAS FROM A FIELD IF A PART OF THE FIELD IS

1 WITHIN 3,000 FEET OF THE SURFACE]; or

2 (4) drilling, ditching, trenching, and similar activities associated with
3 facility construction and maintenance or with road or other transportation facility
4 construction and maintenance; however, the exemption provided by this paragraph
5 does not relieve a person from obtaining a permit under this section if

6 (A) the drilling, ditching, trenching, or similar activity will
7 involve the removal of the groundwater, stormwater, or wastewater runoff that
8 has accumulated and is present at an excavation site for facility, road, or other
9 transportation construction or maintenance; and

10 (B) a permit is otherwise required by this section.

11 * Sec. 51. AS 46.04.030(b) is amended to read:

12 (b) A person may not cause or permit the operation of a pipeline or an
13 exploration or production facility in the state unless an oil discharge prevention and
14 contingency plan for the pipeline or facility has been approved by the department and
15 the person is in compliance with the plan. This subsection does not apply to an
16 exploration or production facility used solely to explore for or to develop or produce
17 nonconventional [SHALLOW NATURAL] gas resources, except that this exemption
18 does not apply if the Alaska Oil and Gas Conservation Commission determines under
19 AS 31.05.030(j) that

20 (1) a well drilled for nonconventional [SHALLOW NATURAL] gas
21 may penetrate a formation capable of flowing oil; and

22 (2) the volume of oil encountered will be of such quantities that a
23 contingency plan will be required.

24 * Sec. 52. AS 46.04.040(b) is amended to read:

25 (b) A person may not cause or permit the operation of a pipeline or an
26 exploration or production facility in the state unless the person has furnished to the
27 department, and the department has approved, proof of financial ability to respond in
28 damages. Proof of financial responsibility required for

29 (1) a pipeline or an offshore exploration or production facility is
30 \$50,000,000 per incident;

31 (2) an onshore production facility is

(A) \$20,000,000 per incident if the facility produces over 10,000 barrels per day of oil;

(B) \$10,000,000 per incident if the facility produces over 5,000 barrels per day but not more than 10,000 barrels per day of oil;

(C) \$5,000,000 per incident if the facility produces over 2,500 barrels per day but not more than 5,000 barrels per day of oil;

(D) \$1,000,000 per incident if the facility produces 2,500 barrels per day or less of oil;

(3) an onshore exploration facility is

(A) \$25,000 per incident for a facility used solely to explore for nonconventional [SHALLOW NATURAL] gas by means of drilling a well to explore for the gas [, WHETHER METHANE ASSOCIATED WITH AND DERIVED FROM COAL DEPOSITS OR OTHERWISE, FROM A FIELD IF A PART OF THE FIELD IS WITHIN 3,000 FEET OF THE SURFACE]; and

(B) except as provided by (A) of this paragraph, \$1,000,000 per incident.

* Sec. 53. AS 46.04.900 is amended by adding a new paragraph to read:

(31) "nonconventional gas" has the meaning given in AS 38.05.965.

* Sec. 54. AS 46.40.205 is amended to read:

Sec. 46.40.205. Consistency determinations for certain activities involving nonconventional [SHALLOW NATURAL] gas. (a) When conducted under oversight and regulation of the Alaska Oil and Gas Conservation Commission and the state's resource agencies, projects for the exploration and development of nonconventional [SHALLOW NATURAL] gas are consistent with the program described in this chapter. Persons responsible for activities subject to this section shall obtain all required permits and approvals from municipal, state, and federal agencies as otherwise required by law.

(b) In this section, "nonconventional [SHALLOW NATURAL] gas" has the meaning given in AS 38.05.965 [AS 46.04.900].

* Sec. 55. AS 46.40.210(12) is amended to read:

(12) "uses of state concern" means those land and water uses that

1 would significantly affect the long-term public interest; "uses of state concern" include

2 (A) uses of national interest, including the use of resources for
3 the siting of ports and major facilities that contribute to meeting national
4 energy needs, construction and maintenance of navigational facilities and
5 systems, resource development of federal land, and national defense and
6 related security facilities that are dependent upon coastal locations;

7 (B) uses of more than local concern, including those land and
8 water uses that confer significant environmental, social, cultural, or economic
9 benefits or burdens beyond a single coastal resource district;

10 (C) the siting of major energy facilities, activities pursuant to a
11 state oil and gas lease, a state gas only lease, or a federal oil and gas lease, or
12 large-scale industrial or commercial development activities that are dependent
13 on a coastal location and that, because of their magnitude or the magnitude of
14 their effect on the economy of the state or the surrounding area, are reasonably
15 likely to present issues of more than local significance;

16 (D) facilities serving statewide or interregional transportation
17 and communication needs; and

18 (E) uses in areas established as state parks or recreational areas
19 under AS 41.21 or as state game refuges, game sanctuaries, or critical habitat
20 areas under AS 16.20.

21 * **Sec. 56.** AS 31.05.170(14); AS 38.05.177(b), 38.05.177(c), 38.05.177(d), 38.05.177(e),
22 38.05.177(f), 38.05.177(g), 38.05.177(h), 38.05.177(j), 38.05.177(k), 38.05.177(m),
23 38.05.177(o); and AS 46.04.900(25) are repealed.

24 * **Sec. 57.** The uncoded law of the State of Alaska is amended by adding a new section to
25 read:

26 CERTAIN SHALLOW NATURAL GAS LEASES AND LEASE APPLICATIONS
27 TO BE ADMINISTERED UNDER FORMER LAW. The provisions of AS 38.05.177(a) and
28 (l), amended by secs. 26 and 27 of this Act, as those provisions read on the day before the
29 effective date of amendment of those subsections, and the provisions of AS 38.05.177(b) -
30 (h), (j), (k), (m), and (o), repealed by sec. 56 of this Act, as those provisions read on the day
31 before the effective date of the repeal of those subsections, apply to shallow natural gas

- 1 (1) leases issued under AS 38.05.177 and in effect on December 31, 2003; and
2 (2) lease applications under AS 38.05.177 that were received by the
3 Department of Natural Resources before January 1, 2004.
4 * **Sec. 58.** This Act takes effect immediately under AS 01.10.070(c).

ALASKA STATE HOUSE OF REPRESENTATIVES

Co-Chair

Representative Beverly L. Masek

State Capital, Rm. #403

Juneau, AK. 99801-1182

(907) 465-2679



Co-Chair

Representative Nancy A. Dahlstrom

State Capital, Rm. #126

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HOUSE COMMITTEE ON RESOURCES

SPONSOR STATEMENT

HB 531 – Conventional / Non-Conventional Gas Leases

The intent of original shallow gas leasing legislation in 1995, HB 394, was to expand development of our state's marketable natural gas resources, as well as to promote private-sector employment, generate less expensive energy alternatives for rural Alaskan consumers, and enhance local tax bases for municipalities. Shallow gas legislation was inspired by the need to tailor the particular economies of this resource opportunity to available market opportunities. This type of gas extraction does not conform to the same economies of scale as conventional deep-hole oil and gas drilling.

Original legislation provided for leasing on a first-come, first-served basis so that development of the resource in areas away from the energy grid could take place. With a well-known shortage of natural gas development opportunities in South Central Alaska, prospects of leasing on-shore fields in the Cook Inlet Basin became very attractive. Two unintended consequences of this sudden interest materialized. One, it sparked leasing of the state-owned subsurface mineral estate in uneconomic areas, and two, it encouraged leasing in areas where divergent interests between gas development and established local residential and business activities came into conflict.

Without HB 531, a subsequent gas development entity could immediately lease land relinquished by the original lessee. In addition, land not currently leased remains subject to current over-the-counter standards. This bill initiates a permanent solution to these problems. It has been brought forward in response to strong citizen interest in the Mat-Su Valley and on the Kenai Peninsula, with input from several public meetings held at one time or another by the Alaska Department of Natural Resources (DNR), and the Senate Resources Committee.

Legislation Highlights

- ~ Eliminates over-the-counter, first-come, first-served shallow gas leases and replaces it with area-wide leasing or exploration licensing.
- ~ Requires a best-interest finding before any oil and gas leasing or exploration licensing. This will give DNR control of what land is leased, avoiding unnecessary surface-owner conflicts. Best-interest finds are a time-tested public process.
- ~ Creates a gas-only section of area-wide leasing and exploration licensing identified in a best-interest finding by DNR.

- ~ Differentiates conventional and non-conventional gas resources for the purposes of lease rentals.
- ~ Defines conventional and non-conventional gas development, and treats each distinctly. Recognizes that lease rights should not be determined by a depth criteria only. Enhances production opportunities.
- ~ Encourages exploration licenses with a best-interest finding as the method for non-conventional gas exploration outside of the area-wide leasing in rural Alaska.
- ~ Makes leasing and regulatory criteria fit the appropriate activity.
- ~ Ensures competitive processes, thereby maximizing the state's interests.

HB 531 / House Resources Committee / Rp. Beverly Masek / staff: Eleanor Wolfe / 465-6585

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB531-DNR-O&G-03-12-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title: Conventional & Non-conventional Gas Leasing RDU: Resource Development
Component: Oil and Gas Development
Sponsor: House Resources
Requester: House Oil and Gas Component No. 439

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1004 GF) +	**Indeterminate Positive Amount**
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would eliminate the current over-the-counter shallow natural gas program. HB 531 would create a new gas only option under the competitive leasing and exploration licensing programs.

****Indeterminate positive fiscal note:** Moving from an over-the-counter program to a competitive program will result in increased revenue to the state. The commissioner will be able to set minimum rentals and bonus bid amounts based on technical analysis of the potential resources and economics of the lease or license area. While a best interest finding process will cost more up front, that cost will be more than offset by the gains in going to a competitive process. Also, having a best interest finding process at the leasing stage will facilitate a more efficient progression to exploration and development and provide the state with royalties and other revenues from development sooner.

Prepared by: Mark D. Myers Phone: 269-8800
Division: Oil and Gas Date/Time: 3/11/04
Approved by: Thomas Irwin, Commissioner Date: 3/12/04
Agency: Natural Resources

LEGAL SERVICES

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MEMORANDUM

March 15, 2004

SUBJECT: Draft CSHB 531(), relating to natural gas exploration and development and to nonconventional gas, and amending the section under which shallow natural gas leases may be issued -- sectional analysis (Work Order No. 23-LS1818\D)

TO: Representative Vic Kohring

FROM: Jack Chenoweth
Assistant Revisor of Statutes

The draft committee substitute treats comprehensively with the exploration and development of natural gas. It contains changes that

-- convert references and substantive provisions covering shallow natural gas leasing into a leasing policy covering "nonconventional gas" and provide a definition of that term;

-- authorize the Department of Natural Resources to lease for "gas only" under the conventional oil and gas leasing procedures, with limited reservations governing activity involving nonconventional gas leases;

-- expand the use of exploration licensing and leasing under AS 38.05.131 - 38.05.134 to cover "gas only" licenses and leases; and

-- amend or repeal specific parts of AS 38.05.177, the section of the Alaska Land Act (AS 38.05) that currently authorizes and guides shallow natural gas leasing.

PROVISIONS ESTABLISHING A "NONCONVENTIONAL GAS" LEASING POLICY, SUPPLYING A DEFINITION FOR THAT TERM, AND MAKING CONFORMING CHANGES:

Bill section 44 supplies a definition of "nonconventional gas." The definition is added to the body of definitions that are generally applicable to the Alaska Land Act, AS 38.05. This definition replaces a pair of definitions for "shallow natural gas" and a working reference to shallow natural gas in the language of AS 38.05.177(a)(1), appearing at page 20, lines 10 - 13. Note that the definition of "nonconventional gas" proposed in the measure covers "coalbed methane, shales containing gas, or gas hydrates."

With the substitution of the new term and a definition for it, each of the following makes conforming changes:

-- **bill sections 4 - 6**, amending or adding to provisions in AS 31.05 (Alaska Oil and Gas Conservation Commission);

-- a reference in **bill section 26**, amending AS 38.05.177(a); and

-- **bill sections 50 - 54**, substituting "nonconventional gas" for "shallow natural gas" in various references in title 46; this title of the Alaska Statutes generally deals with environmental matters.

AUTHORIZING THE DEPARTMENT OF NATURAL RESOURCES TO LEASE FOR "GAS ONLY" UNDER THE CONVENTIONAL OIL AND GAS LEASING PROCEDURES, WITH LIMITED RESERVATIONS GOVERNING ACTIVITY INVOLVING NONCONVENTIONAL GAS LEASES, AND MAKING CONFORMING CHANGES:

AS 38.05.180(ff), added by **bill section 40**, explicitly authorizes the Department of Natural Resources to "issue leases for gas only" under the conventional oil and gas leasing program.

Out of an abundance of drafting caution, the following revise or delete existing references to "oil and gas," "oil and gas lease," or substantially similar terms and references to acknowledge the alternative authorization of "gas only" leasing:

-- **bill sections 1, 3, 7 - 9, 10** (except the repeal of AS 38.05.035(e)(6)(G) [page 12, lines 4 - 6]), **11, 13, 28 - 31, 32** (except the addition of AS 38.05.180(f)(3)(H) [page 25, lines 1 - 5]), **33 - 37, 39, 41 - 43, 45 - 49, and 55**.

AUTHORIZING THE DEPARTMENT OF NATURAL RESOURCES TO USE EXPLORATION LICENSING AND LEASING FOR "GAS ONLY" UNDER AS 38.05.131 - 38.05.134, AND MAKING CONFORMING CHANGES:

Bill section 14, amending AS 38.05.131(a), explicitly authorizes the Department of Natural Resources to issue exploration licenses and leases for "gas only." The following provisions make related conforming changes:

-- **bill sections 2, 12, 15 - 21, 22** (except the language of new subparagraph (B) [page 19, lines 2 - 7]), and **24**.

PROVISIONS ALTERING OR REPEALING SPECIFIC PARTS OF AS 38.05.177, ADDRESSING SHALLOW NATURAL GAS LEASING:

These remarks principally address the content added by bill sections 26 and 27 and the repeal of certain subsections of AS 38.05.177, the existing shallow natural gas leasing section.

Certain subsections are amended with the intent that their specific provisions override comparable provisions in the conventional oil and gas leasing section, AS 38.05.180. So,

-- AS 38.05.177(a) (**bill section 26**): The change substitutes reference to "nonconventional gas" and amends to delete the content of the balance of the subsection; and

-- AS 38.05.177(l) (**bill section 27**): The insertion in this subsection amends the existing protections for mineral deposits and coal in situations in which a lessee holds a lease that is a nonconventional gas lease.

As to other parts of AS 38.05.177, **bill section 56** repeals the following:

-- AS 38.05.177(b): This subsection currently sets maximum acreage limitations (paragraph (1)) and levies an application fee (paragraph (2)). If gas only leases are to be issued for unconventional gas under AS 38.05.180, then acreage limits of AS 38.05.180(m) should apply, and maximum holding provisions for oil or gas leases set out in AS 38.05.140(c) should also. In the main, oil and gas leases are offered as competitive leases, so there would not be an application process and, hence, a separate application fee for a noncompetitive lease would not be collected. Consequently, this subsection is to be repealed in its entirety.

-- AS 38.05.177(c): This subsection sets out the notice and public comment provisions. Conventional oil and gas leases have different notice provisions, AS 38.05.945(a)(3), and those should operate in lieu of the expedited notice/public comments of this subsection. Again, this subsection is to be repealed in its entirety.

-- AS 38.05.177(d) and (e): These subsections are the lease extension and lease boundary adjustment provisions. Comparable provisions for conventional oil and gas leases appear in AS 38.05.180(m) and should operate in lieu of sec. 177(d) and (e). These subsections are therefore to be repealed.

-- AS 38.05.177(f): This subsection establishes a flat rent at the rate of one dollar per year. The comparable provision appears in AS 38.05.180(n)(2), so this subsection is to be repealed.

-- AS 38.05.177(g): This subsection describes material relating to the royalty payable on shallow natural gas. The comparable provision is addressed in an amendment to AS 38.05.180(f)(3)(H) (page 24, beginning at line 31), so this subsection is to be repealed.

-- AS 38.05.177(h): This is the lease surrender or relinquishment provision. As leasing would occur under AS 38.05.180, provisions covering these subjects under authority of that section would apply, so this subsection may be repealed.

-- AS 38.05.177(i): This subsection lays out a contingency for oversight by the Alaska Oil and Gas Conservation Commission if a shallow natural gas well penetrates a formation capable of producing oil. The comparable provision appears in the concluding part of AS 38.05.177(ff), added by bill section 40 (page 37, beginning at line 29), so the language in this subsection is to be repealed.

-- AS 38.05.177(k): The current subsection establishes a bonding requirement for shallow natural gas leasing to secure the payment of damages, together with limitations on the bond requirement statewide. The comparable bonding requirement in the Alaska Land Act is the general bonding requirement of AS 38.05.130. For exploration licensing activities, there are special bond requirements in AS 38.05.132(c)(4) and (5) and 38.05.132(e). The bond requirements for shallow natural gas leasing are to be repealed. Also proposed for deletion by the repeal of this subsection is language speaking to standards for regulations applicable to the shallow natural gas leasing program.

-- AS 38.05.177(m): This is the lease extension provision. Again, because leasing would occur under the conventional oil and gas leasing procedures of AS 38.05.180, provisions covering these subjects under authority of that section would apply, so that this subsection is being repealed.

-- AS 38.05.177(o): Repeal of this subsection eliminates the definition of "lease" in the context of a "shallow gas lease."

OTHER BILL SECTIONS THAT ARE NOT ADDRESSED OR CONSIDERED ABOVE:

Bill section 10: The repeal of AS 38.05.035(e)(6)(G), page 12, lines 4 - 6, drops the exemption for shallow natural gas leasing from the written finding requirements of that subsection. Before nonconventional gas leasing may occur, proposed nonconventional leases would be required to be supported by a written best interest finding.¹

Bill sections 22 (page 19, lines 2 - 7) **and 32** (page 25, lines 1 - 5): For purposes of retention of the reduced royalty authorized for certain gas, these two amendments add, as to nonconventional gas exploration licensing and leasing and nonconventional gas leasing under the leasing program of AS 38.05.180, provisions for a reduced royalty for nonconventional gas "not produced in direct competition with gas on which a royalty at a rate of at least 12.5 percent is payable." Similar language in the existing provision, AS 38.05.177(g), is to be repealed.

¹ In the draft, the lead-in to AS 38.05.035(e)(6) setting out the required written best interest finding appears in the text of the bill at page 10, line 29 - page 11, line 6.

Representative Vic Kohring
March 15, 2004
Page 5

Bill sections 23 and 25: Both provisions are concerned with the relationship between coal and coal bed generated methane. The amendments delete references to shallow natural gas (coal bed methane) leasing under AS 38.05.177.

Bill section 38: AS 38.05.180(n) currently spells out the rent payable on oil and gas leases. Those rental rates are to be retained for conventional oil and gas leases, but the subsection is proposed to be amended to carry over from existing AS 38.05.177(f) authority for payment of a fixed rent of \$1.00 per acre per year if the lease is shown to contain only sources that are reasonably estimated to contain only nonconventional gas. The burden of making that demonstration is assigned to the lessee.

Bill section 56: In addition to the repeal of specific subsections of AS 38.05.177 described above, the section would repeal paragraphs setting out definitions of "shallow natural gas" in AS 31.05 and AS 46.04. Each repeal is matched (**bill sections 6 and 53**) with addition of definitions for the substituted term "nonconventional gas."

Bill section 57: This transitional provision directs the Department of Natural Resources to deal with shallow natural gas leases executed and lease applications received by December 31, 2003, under the provisions of AS 38.05.177 as it read before its amendment by this Act.

Bill section 58 gives the measure an immediate effective date.

JBC:med:lmb
04-067.lmb

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ALASKA MINERS ASSOCIATION, INC.

3305 Arctic Blvd., #105, Anchorage, Alaska 99503 • (907) 563-9229 • FAX: (907) 563-9225 • www.alaskaminers.org

March 13, 2004

Honorable Vic Kohring
Alaska State Legislature
Capitol Building
Juneau, AK 99801

RE: House Bill 531, Shallow Gas Leasing

Dear Representative Kohring,

Thank you for the opportunity to comment on this bill. We oppose House Bill 531. We believe there are other ways to address the concerns that have been raised and not "throw the baby out with the bath water".

This bill would effectively eliminate the shallow gas program. It would totally change the way shallow gas leases are obtained and administered. It would eliminate the "right of self initiation" that now exists and effectively lock out the individual prospector or gas developer from participating in this business.

The bill proposes replacing self initiation with an exploration license. Before issuance of the exploration license, an area have to go through a best interest finding. The best interest finding would be completed by the Department of Natural Resources as time and staff may become available. Even if this is begun immediately, the best interest finding is likely to require 18 months or more.

Under HB-531, once the best interest finding is completed, the next step is a competitive bid process for the leases. This will eliminate nearly all incentive for individual entrepreneurs to seek out and explore for shallow gas deposits in new areas around the state. The average citizen simply does not have sufficient financial resources to participate in such an extended process. Furthermore, exploration must move forward when the window of opportunity exists. Such an extended process will almost certainly guarantee that the window will have closed by the time a lease sale is held.

The intent of the shallow gas program has been to provide a simple, cost effective program based on self initiation, that will encourage discovery and development of the gas. It was specifically structured to not require the high costs and long time frames of the normal oil & gas leasing system. This was in part to encourage development of smaller fields that cannot withstand the costs of normal oil & gas leasing. It was also to encourage development of gas that could help reduce the cost of energy in rural communities and help provide for remote projects such as mines.

The approach proposed by HB-531 adds tremendous uncertainty for the prospector. The person wanting the license has no rights, or any priority to obtain rights to the area, until and unless he is the successful bidder.

11-10-84 01:00 PM ALBERTA ENERGY BOARD 001 000 7220 1104

We recommend that the existing leasing system be continued. Two changes that appear to have merit: 1) Limit use of the existing shallow gas leasing system to rural areas; 2) Provide a 10 year term for existing and new shallow gas leases, which should include a work commitment.

Thank you for the opportunity to comment on this bill.

Sincerely,



Steven C. Borell, P.E.
Executive Director

cc: Commissioner Tom Irwin

Exploration Licensing Public Process

- Company submits a proposal consisting of
 - Proposed license area (up to 500,000 acres)
 - Work commitment (\$\$ to be spent on exploration)
 - Term of license (up to 10 years)
- DO&G issues *Notice of Intent to Evaluate a License Proposal* and requests public comment
 - Public comment period must be for at least 30 days
 - Notice is:
 - placed in statewide and local newspapers
 - posted on state and division websites
 - mailed to addressees on division's mailing list
 - posted in local post offices
- DO&G issues *Request for Agency Information*
 - Sent to state and federal agencies, local governments and tribal organizations
 - Minimum of 60 days to submit information
- DO&G issues *Notice of Preliminary Best Interest Finding* and requests public comment; if within the coastal zone, DO&G also issues *ACMP Consistency Analysis*
 - 60-day public comment period
 - Notice is:
 - placed in statewide and local newspapers: 1-time posting
 - posted on state and division websites
 - mailed to addressees on division's mailing list
 - posted in local post offices
 - Display ads placed in statewide and local newspapers; 1 per week for 2 weeks
 - Division conducts public meetings to hear public testimony
- If within the coastal zone, DO&G issues *Proposed ACMP Consistency Determination*
 - 5 days to request elevation to resource commissioners (DNR, DEC, DF&G)
- DO&G issues *Notice of Final Finding, ACMP Consistency Determination*, and awards license
 - Those who participated in the public process have 20 days to request reconsideration by the commissioner

Contents of Best Interest Finding for Exploration Licenses and Areawide Lease Sales

1. Property descriptions and locations;
2. The petroleum potential of the license or sale area, in general terms;
3. Fish and wildlife species and their habitats in the area;
4. Current and projected uses in the area, including uses and value of fish and wildlife;
5. The governmental powers to regulate oil and gas exploration, development, production, and transportation;
6. Reasonably foreseeable cumulative effects of oil and gas exploration, development, production, and transportation on the license or sale area, including effects on subsistence uses, fish and wildlife habitat and populations and their uses, and historic and cultural resources;
7. Stipulations and mitigation measures, including any measures to prevent and mitigate releases of oil and hazardous substances, to be included in the license or leases, and a discussion of the protections offered by these measures;
8. Method or methods most likely to be used to transport oil or gas from the lease sale or license area, and the advantages and disadvantages, and relative risks of each;
9. Reasonably foreseeable fiscal effects of the exploration license or lease sale and the subsequent activity on the state and affected municipalities and communities, including the explicit and implicit subsidies associated with the exploration license or lease sale, if any;
10. Reasonably foreseeable effects of oil and gas exploration, development, production, and transportation on the municipalities and communities within or adjacent to the exploration license or lease sale area; and
11. For lease sales: the bidding method or methods adopted by the commissioner;

For exploration licenses:

- a. describe the limitations, stipulations, conditions or changes from the proposal that are required to make the issuance of the license conform to the best interests of the state; and
- b. if only one proposal was submitted, identify the prospective licensee.

Areawide Leasing Public Process

- Lease sale placed on 5-year leasing schedule
- DO&G issues *Request for Agency Information and Call for Public Comments*
 - Sent to state and federal agencies, local governments and tribal organizations
 - Minimum of 60 days to submit information
 - Notice is:
 - posted on state and division websites
 - mailed to addressees on division's mailing list
- DO&G issues *Notice of Preliminary Best Interest Finding* and requests public comment; if within the coastal zone, DO&G also issues *ACMP Consistency Analysis*
 - 60-day public comment period
 - Notice is:
 - placed in statewide and local newspapers: 1-time posting
 - posted on state and division websites
 - mailed to addressees on division's mailing list
 - posted in local post offices
 - Display ads placed in statewide and local newspapers; 1 per week for 2 weeks
 - Division conducts public meetings to hear public testimony
- If within the coastal zone, DO&G issues *Proposed ACMP Consistency Determination*
 - 5 days to request elevation to resource commissioners (DNR, DEC, DF&G)
- DO&G issues *Notice of Final Finding, ACMP Consistency Determination*, and decision to lease 90 days prior to lease sale
 - Those who participated in the public process have 20 days to request reconsideration by the commissioner

SNG Leasing	Exploration Licensing	Areawide Lease Sales
Non-competitive	Competitive	Competitive
location of leases selected by applicant	location of license proposed by applicant	Sale area determined by commissioner
\$5,000 filing fee	\$1/acre licensing fee	Minimum Bonus \$\$/acre bid set by commissioner
No best interest finding (BIF) required	Best interest finding (BIF) required	Best interest finding (BIF) required
No ACMP Consistency Determination required	ACMP Consistency Determination required if in the coastal zone	ACMP Consistency Determination required if in the coastal zone
Notice of filing posted in newspaper; 60-day public comment period	Notice of license proposal posted in newspapers, in local post offices, and on state and division websites; mailed to division mailing list addressees ; 30-day public comment period	N/A
	Request for Agency Information Call for Public Comments	Request for Agency Information Call for Public Comments
Not Required	Preliminary BIF. Notice posted in newspapers, in local post offices, and on state and division websites; mailed to division mailing list addressees ; 60-day public comment period	Preliminary BIF. Notice posted in newspapers, in local post offices, and on state and division websites; mailed to division mailing list addressees ; 60-day public comment period
	Display ad in newspapers, 1 per week for 2 weeks	Display ad in newspapers, 1 per week for 2 weeks
	Division conducts public meeting(s)	Division conducts public meeting(s)
Not Required	Final BIF. Notice posted in newspapers, in local post offices, and on offices, and on state and division websites; mailed to division mailing list addressees ; 20-day reconsideration period	Final BIF. Notice posted in newspapers, in local post offices, and on offices, and on state and division websites; mailed to division mailing list addressees ; 20-day reconsideration period
		Lease sale conducted
Lease issued	License issued	Leases issued

SCOMM

133:17

ALASKA STATE LEGISLATURE

Rep. Vic Kohring, Chair
Rep. Mike Chenault, Vice-Chair
Rep. Hugh "Bud" Fate
Rep. Lesil McGuire
Rep. Norman Rokeberg
Rep. Harry Crawford
Rep. Beth Kerttula



Alaska State Capitol
Juneau, Alaska 99801-1182
(907) 465-2283
Fax (907) 465-3818
Ben_Grenn@legis.state.ak.us

HOUSE SPECIAL COMMITTEE ON OIL & GAS

SPONSOR STATEMENT

HJR 6

Expanding Alaska's resource-based industries remains imperative if we wish to increase the State's economic base. Although other sectors of the economy may provide jobs, they more than likely would not be able to support the financial infrastructure of state government to the extent that natural resource development does, especially the oil and gas industry.

Most reliable indicators show Alaska's North Slope oil is in decline. Geologists have said that one of the best prospects for new discoveries lies within the 1002 section of the Arctic National Refuge, which has been set aside by Congress for potential exploration and development. It seems that a prudent course of action would be to open this area of the Arctic Coastal Plain so that Alaskans may reap the economic benefits therein.

The idea behind House Joint Resolution 6 is not new. An ANWR Resolution has been introduced on numerous occasions in the past and has always enjoyed overwhelming support of the Governor and Legislature as well as the general public. Alaska's chances of moving ahead on this vital project have been greatly increased now that George W. Bush is President. We need to take advantage of this opportunity and once again send our message to the nation's Capitol.

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FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HJR 6
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Endorsing ANWR Leasing BRU Administration and Support
Component Office of the Commissioner
Sponsor House Oil and Gas Committee
Requester House Oil and Gas Committee Component No. 123

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There is no reliable estimate of future potential state revenues from oil and gas exploration in ANWR if this resolution is successful, other than to say the revenues could be substantial.

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469
Division: Department of Revenue Date/Time 1/29/03 10:32 AM
Approved by: Larry Persily, Deputy Commissioner Date 1/29/2003
Agency: Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HJR5
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title: Endorsing ANWR Leasing BRU: Oil & Gas Development
Component: Oil & Gas Development
Sponsor: (H) Oil & Gas
Requester: (H) Oil & Gas Component No. 439

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

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1002 Federal Receipts						
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Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact anticipated with passage of this resolution.

Prepared by: Mark Myers, Director Phone: 265-8800
Division: Oil & Gas Date/Time: 1/28/03 1:04 PM
Approved by: Tom Irwin, Commissioner Date: 1/28/2003
Agency: Natural Resources

Alaska Reserves and Production

- **36% of total U.S. oil reserves.**
- 8.0 billion barrels of oil
- **17% of total U.S. gas reserves**
- 35 trillion cubic feet of gas
- **20% of total U.S. oil production**
- 1.04 million barrels of oil per day

Sources: Alaska data are from Department of Natural Resources, Division of Oil and Gas, 2001 Annual Report
U.S. data are from U.S. Crude Oil, Natural Gas, and NGL Reserves, 2000 Annual Report, U.S.D.O.E.-E.I.A.

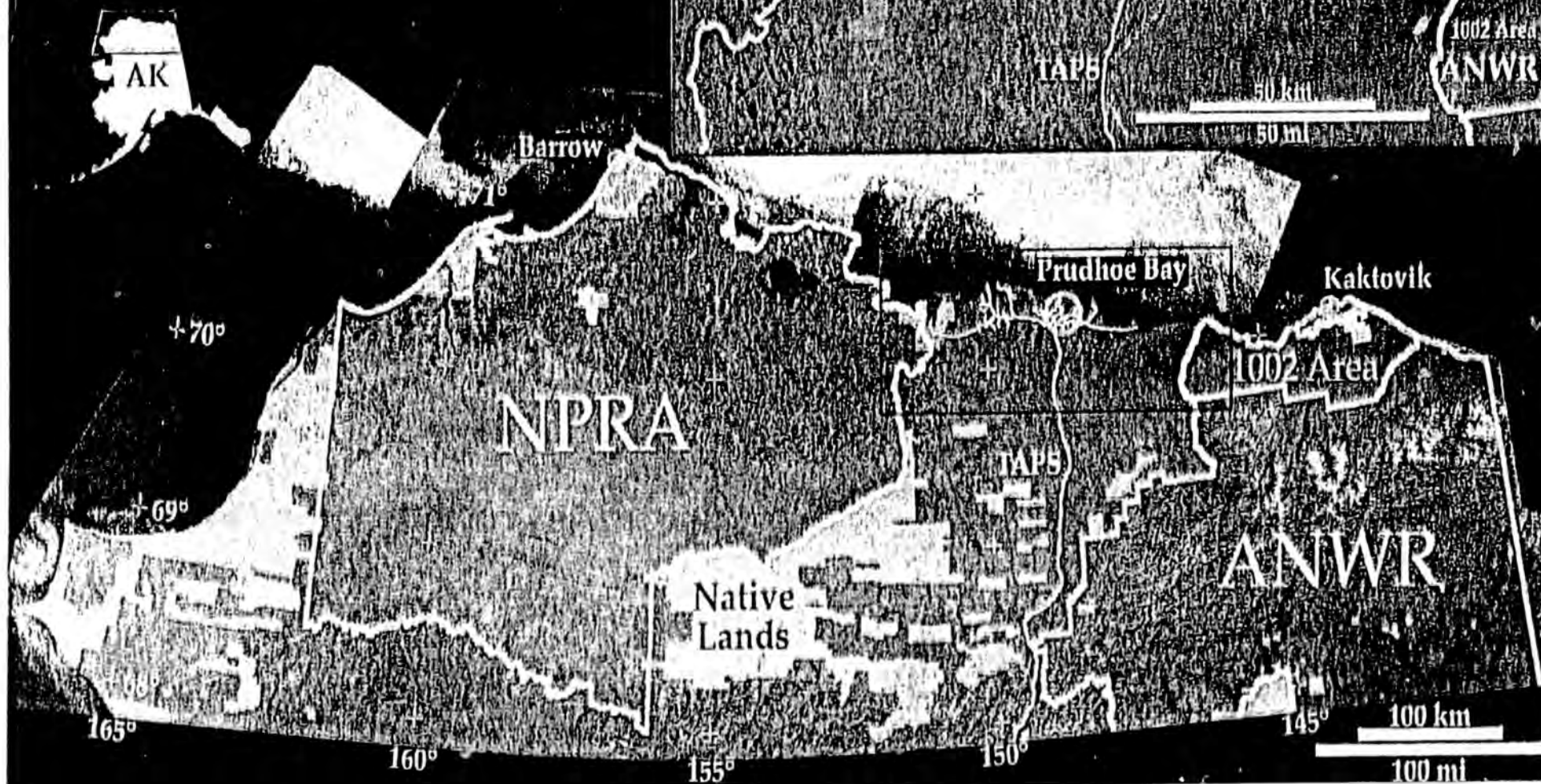
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Sources: Alaska data are from Department of Natural Resources, Division of Oil and Gas, 2001 Annual Report
U.S. data are from U.S. Crude Oil, Natural Gas, and NGL Reserves, 2000 Annual Report, U.S.D.O.E.-E.I.A.



Northern Alaska



Alaska North Slope Oil Fields (Unit Boundaries)





Estimates of Technically Recoverable Oil Federal Lands - Alaska North Slope



NPRA

Oil Volumes (BBO)

<u>F95</u>	<u>Mean</u>	<u>F05</u>
6.7	10.6	15

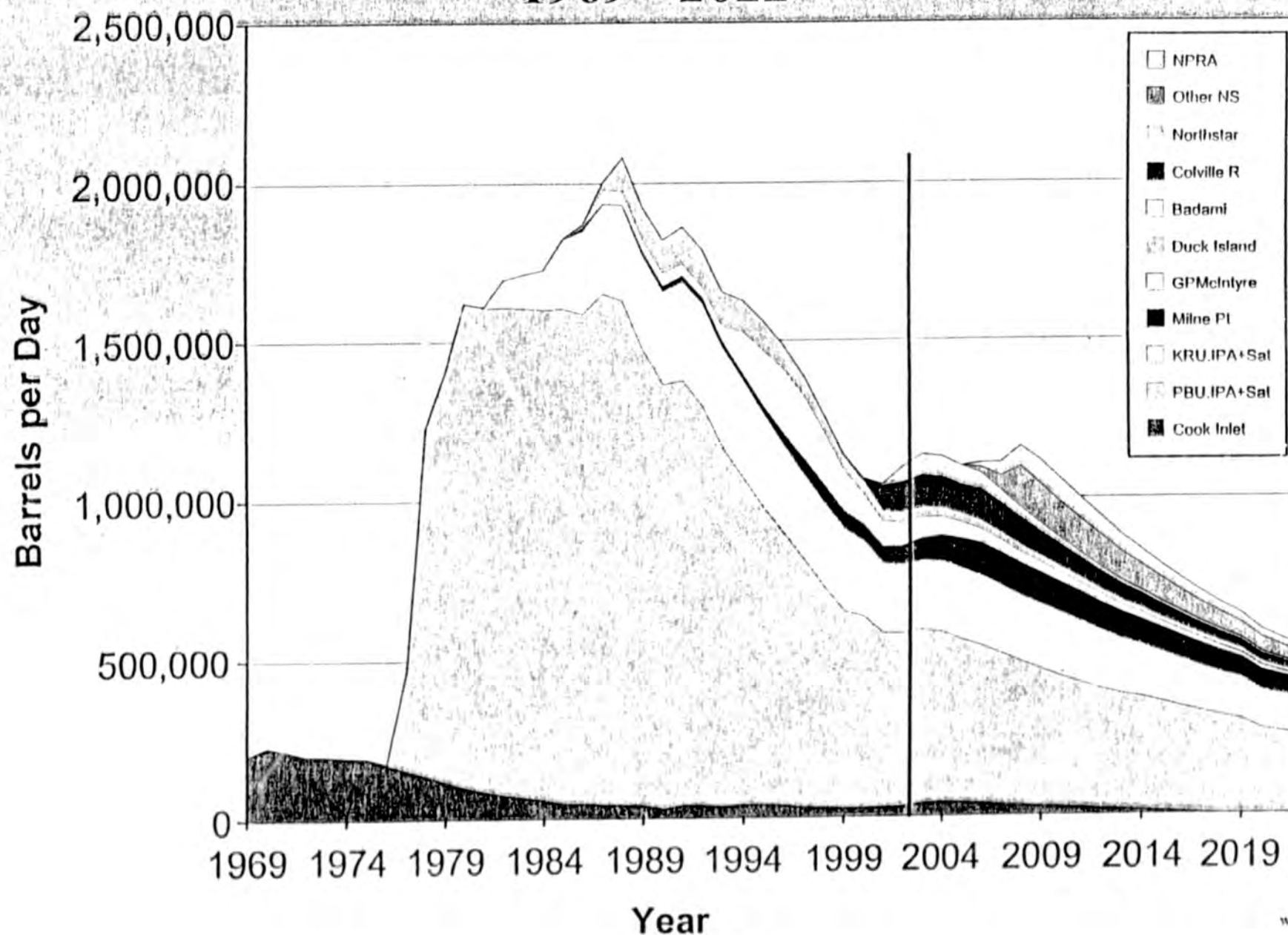
ANWR

Oil Volumes (BBO)

	<u>F95</u>	<u>Mean</u>	<u>F05</u>
1002 Area (Federal Part)	4.2	7.7	11.8
Entire Assessment Area*	5.7	10.4	16.0

*(includes Native Lands & State Waters)

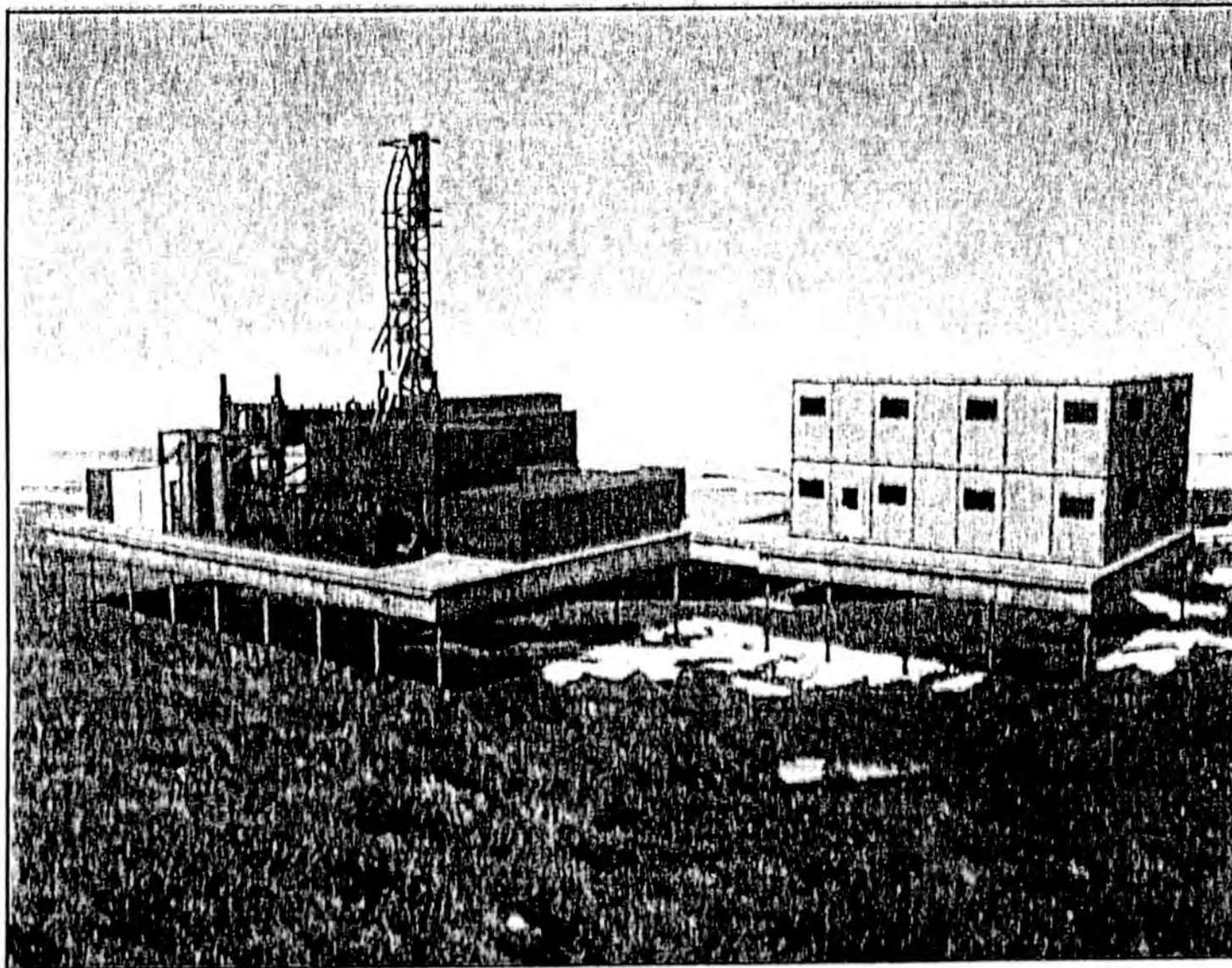
Historic and Projected Oil Production 1969 - 2022



The Future?

Prototype Drilling Facility

Environmentally Sensitive Areas



Courtesy of Anadarko Petroleum Corporation, 2002

ANWR

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TOP 10 REASONS TO SUPPORT DEVELOPMENT IN ANWR

1. Only 8% of ANWR Would Be Considered for Exploration Only the 1.5 million acre or 8% on the northern coast of ANWR is being considered for development. The remaining 17.5 million acres or 92% of ANWR will remain permanently closed to any kind of development. If oil is discovered, less than 2000 acres of the over 1.5 million acres of the Coastal Plain would be affected.

2. Revenues to the State and Federal Treasury Federal revenues would be enhanced by billions of dollars from bonus bids, lease rentals, royalties and taxes. Estimates in 1995 on bonus bids alone were \$2.6 billion.

3. Jobs To Be Created Between 250,000 and 735,000 jobs are estimated to be created by development of the Coastal Plain.

4. Economic Impact Between 1980 and 1994, North Slope oil field development and production activity contributed over \$50 billion to the nations economy, directly impacting each state in the union.

5. America's Best Chance for a Major Discovery The Coastal Plain of ANWR is America's best possibility for the discovery of another giant "Prudhoe Bay-sized" oil and gas discovery in North America. U.S. Department of Interior estimates range from 9 to 16 billion barrels of recoverable oil.

6. North Slope Production in Decline The North Slope oil fields currently provide the U.S. with nearly 25% of it's domestic production and since 1988 this production has been on the decline. Peak production was reached in 1980 of two million barrels a day, but has been declining to a current level of 1.4 million barrels a day.

7. Imported Oil too Costly The U.S. imports over 55% of the nation's needed petroleum. These oil imports cost more than \$55.1 billion a year (this figure does not include the military costs of protecting that imported supply). These figures are rising and could exceed 65% by the year 2005.

8. No Negative Impact on Animals Oil and gas development and wildlife are successfully coexisting in Alaska's arctic. For example, the Central Arctic Caribou Herd (CACH) at Prudhoe Bay has grown from 3,000 to as high as 23,400 during the last 20 years of operation. In 1995, the Central Arctic Caribou Herd size was estimated to be

TOP 10 REASONS TO SUPPORT DEVELOPMENT IN ANWR

Page 2 of 2

18,100 animals.

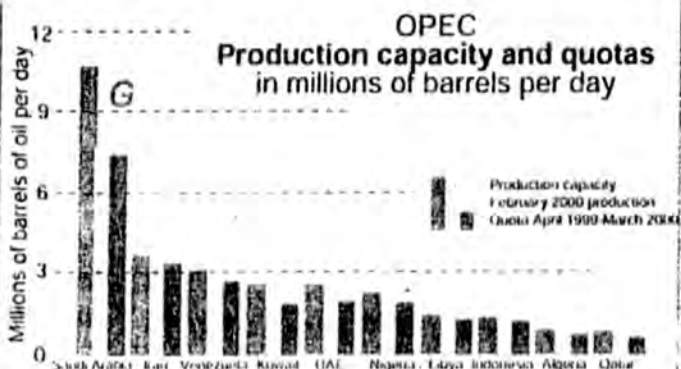
9. Arctic Technology Advanced technology has greatly reduced the "footprint" of arctic oil development. If Prudhoe Bay were built today, the footprint would be 1,526 acres, 64% smaller.

10. Alaskans Support More than 75% of Alaskans favor exploration and production in ANWR. The Inupiat Eskimos who live in and near ANWR support onshore oil development on the Coastal Plain.

[Back to Main Page](#)

Are we running out of oil?

Figure 3



Are we running out of oil? Some geologists say yes; some no. The U.S. Geological Survey has no official position on the subject. In fact, the personal opinions of the agency's geologists differ. In the 2000 report found on pages 8 and 9 of this issue, USGS geologist Les Magoon, based in Menlo Park, Calif., provides information that supports the assumption the world is rapidly running out of new sources of oil to meet a growing demand. Later this month, Petroleum News Alaska will talk to a USGS geologist whose opinion differs with this report.

Colder temperatures, full operation on pipeline kick production up 12%

Alaska North Slope crude oil production averaged 1,033,814 barrels a day in December, up 12.3 percent from a November average of 920,591 bpd. November production took a hit early in the month when the pipeline was shut down for several days to assess and repair damage from the Nov. 3 earthquake. It was also colder in December, which improves production, averaging -1.8 degrees Fahrenheit at Pump Station 1, compared to 11 degrees F for November. Both temperatures were higher than three-year averages of 3 degrees F for November and -7.9 degrees F for December.

Lisburne (including Point McIntyre, Niakuk, West Beach and North Prudhoe Bay) had the largest percentage production increase, averaging 68,835 bpd in December, up 16.32 percent from 59,177 bpd in November.

Endicott (including Sag River, Eider and Badami) averaged 29,751 bpd in December, up 14 percent from a November average

LAND & LEASING

Unlocking ANWR

Law review article: Development of BP-discovered Sourdough field near refuge is key to opening the coastal plain, whether or not feds go after drainage royalties

By Kristen Nelson
PNA Editor-in-Chief

What is the impact of proposed development at Sourdough, just west of the Arctic National Wildlife Refuge, on the congressional prohibition on oil production from the coastal plain of the refuge?

In a December article in the Duke University School of Law's Alaska Law Review, "The Arctic National Wildlife Refuge, Correlative Rights, and Sourdough: Not Just for Bread Anymore," Robert Corbisier asks how, absent of drilling in ANWR, can the federal government protect its royalty rights when production begins from the adjacent Sourdough field at the end of the decade?

Corbisier, formerly a staff assistant and legislative aide to U.S. Senator Frank Murkowski, graduates this year from Vermont Law School. He concludes that, in the absence of a vote by Congress to open ANWR, there are four possibilities to resolve the drainage issue: leasing by the secretary of the Interior; action by Alaska against the United States to force unitization; a suit by the state against the federal government to avoid future liability for royalties; and action by the federal government to receive royalties.

Issue not academic

The impact of ANWR production restrictions on Sourdough is not academic: Sourdough, where a discovery was announced by BP Exploration (Alaska) Inc. in 1997, is part of the Point Thomson unit and as

a condition of recent expansion of the unit the state of Alaska is requiring development of the Sourdough prospect by 2010.

Unit operator ExxonMobil has presented initial plans for development and the Environmental Protection Agency as lead agency is preparing an environmental impact statement. ExxonMobil's



Rob Corbisier

Rob Corbisier, in the Alaska Law Review, concludes that oil beneath state land can be legally developed, "and, under the common law rule of capture, any oil that might migrate from federal land would belong to producers on state leases." The state would receive all of the royalties, including those "from oil that may have originated in ANWR."

Alaska manager, Jack Williams, said in November that if the EIS process and state permitting are completed on schedule, "then the Point Thomson owners will be in a position to make a decision to proceed with development during the first quarter of 2004." Thomson sands production, he said, would start in early 2007.

The state's agreement with the Point Thomson owners also includes production at Sourdough and another prospect, Lynx, by June 15, 2010.

The drainage issue

Corbisier asks how the federal government can determine if drainage is occurring from acreage

see ANWR page

continued from page 1

ANWR

closed to leasing, and once the determination is made, what steps can state and federal governments take to protect their respective rights?

As owners of adjacent land, state and federal governments have correlative rights, Corbisier said, including rights against waste, against spoilage, against malicious depletion and the rights to a fair opportunity to extract and to conduct operations to enhance recovery (such as water flood).

The 1980 Alaska National Interest Lands Conservation Act prohibits production in ANWR and says that there will be no leasing or other development from the refuge until authorized by Congress.

Corbisier asks: "Does the Act's ban on oil production apply to oil drainage from ANWR to adjacent state-owned land? Does ... the Act trump Alaska's sovereign right to develop its land when there is drainage? Does Alaska have any remedy that would allow legal production from ANWR? Does the federal government have any method that would allow it to prove drainage and claim royalties from state-produced oil or gas?"

Congress prohibited not only production but "leasing or other development leading to production of oil and gas" from ANWR, so does that prohibit Alaska from developing land which may drain ANWR? Corbisier asks.

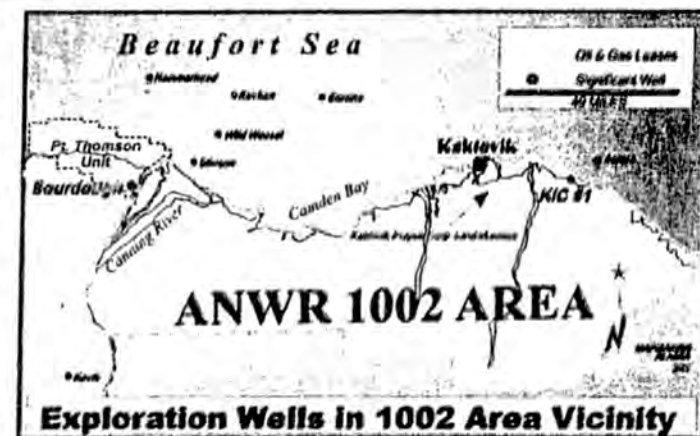
He concludes that since Congress did not designate all of ANWR as wilderness but provided for opportunities for economic and social needs of the state with a focus on preserving the natural values of the surface, that drainage is not prohibited because it does not conflict with the ban on surface development.

Rule of capture

The courts have ruled that oil and gas are subject to the rule of capture: a landowner can drill on his property and has a right to what he produces, even though it may be drained from the adjacent property.

"The owner of the drained land has no legal remedy, but may protect his rights by drilling a well of his own in order to capture the same resource," Corbisier said, subject to "regulations such as well-spacing and boundary setbacks..."

He said courts have ruled subsurface trespass illegal: A well bore cannot reach into adjacent property, including: "the



more modern technologies of directional drilling, extended reach wells, horizontal drilling and designer wells when they cross into another person's land."

Corbisier concludes that oil beneath state land can be legally developed, "and, under the common law rule of capture, any oil that might migrate from federal land would belong to producers on state leases." The state would receive all of the royalties, including those "from oil that may have originated in ANWR."

Preventing waste by unitizing

Alaska could also force unitization.

Both the federal government and the state have legislation to prevent waste of oil and gas resources and require unitization of oil and gas fields. With unitization, Corbisier said, the rule of capture no longer operates because lease owners share in the costs and production of the entire resource, and are able to enhance production through practices such as water flood.

Alaska's statute allows forced unitization if parties cannot reach agreement on their own, he said. There is also a reverse twist in the prohibition against waste.

"Theoretically," Corbisier said, "this policy against waste could be superceded by either state or federal law explicitly sanctioning waste. If oil reserves are proven to exist in the 1002 area, a law sanctioning waste may be necessary to designate the area as wilderness."

Executive authority to lease

The federal Mineral Leasing Act of 1920 allows the Secretary of the Interior to issue leases when federal lands are being drained by adjacent lands, Corbisier said, but that leasing provision does not apply to

lands withdrawn for specific purposes, such as ANWR. He notes that one court has held states have a sovereign right to drain from closed federal lands. "If so, then it would follow that the federal government has a corresponding obligation to lease its lands for mineral development if it suspects that its resources are being drained."

Even if this doesn't apply to ANWR, the state "could force the federal government into a lease sale pursuant to its authority to force unitization," Corbisier said.

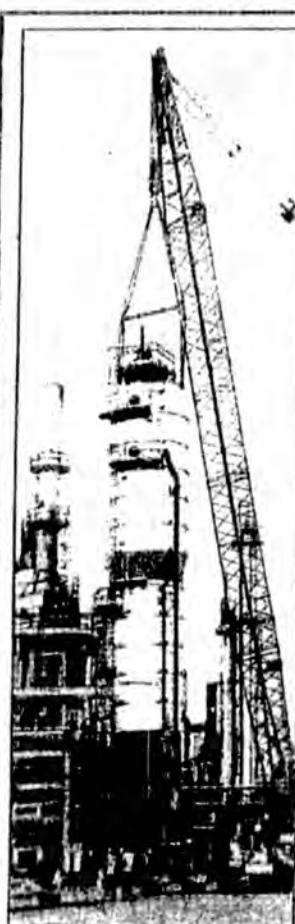
Proving drainage

If production begins from state lands adjacent to ANWR, could the federal government prove drainage?

At least one case uses a regulatory definition of proved reserves, but that is "in the context of contract law as opposed to determining the existence of a reservoir," Corbisier said. Within the regulatory context, he said, "an expert must show that oil exists on the state land, and that based on the geology, that same pool of oil is economically productive on the ANWR side. If the data is sufficient the analysis ends."

But, Corbisier said, it depends on the definition of proved reserves that the court uses: A widely accepted definition from the American Gas Association requires a consideration of "existing operation conditions, which preclude development in ANWR." I.e. with development precluded, there are no proved reserves.

If existing data cannot be used to prove reserves in ANWR, and hence drainage onto Alaska lands, "the federal government will need to use a well to establish that drainable reserves exist in ANWR," Corbisier said.



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may be drained from the adjacent property.

"The owner of the drained land has no legal remedy, but may protect his rights by drilling a well of his own in order to capture the same resource," Corbisier said, subject to "regulations such as well-spacing and boundary setbacks..."

He said courts have ruled subsurface trespass illegal: A well bore cannot reach into adjacent property, including: "the

proven to exist in the 1002 area, a law sanctioning waste may be necessary to designate the area as wilderness."

Executive authority to lease

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If existing data cannot be used to prove reserves in ANWR, and hence drainage onto Alaska lands, "the federal government will need to use a well to establish that drainable reserves exist in ANWR," Corbisier said.

And in that case, if there is no drilling, the federal government may allow royalties from ANWR to slip away to the state.

Alaska, Corbisier said, "cannot afford not to proceed with Sourdough's development if it hopes to open the door to exploring ANWR's coastal plain. Sourdough is the key to this door."

Even if the federal government allows its royalties to slip away: "If Sourdough is developed, Alaska wins." ♦

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Representative Harry Crawford
District 21

HJR 12: NATIONAL ENERGY INDEPENDENCE

The National Energy Policy release by the White House in March of 2001 was a 170-page document, which outlined the President's goal of freedom from dependence on Middle-Eastern oil. Within the document, topics were covered from oil development to alternative fuels to alternative energies such as solar and wind.

Several American presidents have pushed for energy independence, and from Nixon to Carter they all had the same goal, freedom from dependence on middle-eastern oil. For years, there has been a split in how to attain this goal. Some argue for more development while others argue for energy efficiencies and alternative energy sources. This resolution attempts to bring both of those means to the table to attain the same end; that is, North American energy independence.

Alaska is ideally situated to fill the energy needs of the North American continent. With the possibility of North Slope natural gas development, new oil development, vast coal reserves, and the possibility for various alternative energies and fuels, Alaska could potentially fill the gap left by foreign oil.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HJR 12
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title: Supporting Federal Energy Initiatives BRU: Oil and Gas Development
Component: Oil and Gas Development
Sponsor: Rep. Crawford
Requester: House Oil and Gas Component No. 439

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There is no anticipated fiscal impact associated with implementation of this resolution.

Prepared by: Mark D. Myers
Division: Oil and Gas
Approved by: Tom Irwin, Commissioner
Agency: Natural Resources

Phone 269-8800
Date/Time 3/10/2003
Date 3/10/2003

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[Let's Chat](#)**OpEd: Let's Declare Our Energy Independence**

The new symbol of American energy independence? Wind turbines like this are rising all over America as the fastest and safest way to supplement America's energy supply.

By [Bill Moore](#)

September 11, 2001 was America's wake-up call.

September 23, 2001

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Last night's speech before the American Congress was President George W. Bush's finest hour. In a stirring, thoughtful address he clearly defined the challenge confronting America and the World. Evil men have

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perverted the Prophet Mohammed's message of peace and self-control with the justification that "jihad" against the morally-corrupt West is Allah's will. The Taliban government of Afghanistan is the most extreme example of this warped theocratic vision, where music is forbidden and women are cruelly demeaned. These extremists would foist their brutal, totalitarian regimes on others.

They deserve to be brought to justice. They must be brought to justice, or as President Bush put it, justice will find them.

But beyond the rhetoric and the flag waving, America needs a visible symbol of our determination to resist and defeat radical Islamic terrorists. If I were directing the fight, I would start with a declaration of energy independence.

The opening phrases of the United States Constitution says that the very purpose of our Union is to "insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the Blessings of Liberty to ourselves and our Posterity. . ."

It is these very tenets that George W. Bush swore to defend when he took the Oath of Office. What better way to uphold the Constitution than to declare America's energy independence, and mean it this time.

It seems clear to me that the reason we now find ourselves embroiled in this new kind of war has to do, in some large measure, with our national addiction to oil, much of it imported from these troubled parts of the world. It was the US "invasion" of Saudi Arabi in 1991 and its continued "occupation" that set Osama bin Laden on his personal, murderous "jihad." And while bin Laden's subsequent declaration of war stated it would be the West which would burn the oil fields, we cannot assume that he or his kind will continue to let oil flow freely to his sworn enemy.

In that event, the shock would be felt around the world.

Of course, it would be overly simplistic for me to suggest that reducing, much less stopping the importation of oil from the Persian Gulf -- most of which is shipped to China, Japan and the nations of the Pacific Rim -- would prevent further acts of terrorism. In fact, it would probably only further destabilize the region and topple those few governments that remain on good terms

COMMENTS

[Robert Betancourt](#) - 23/Sep/01

[M. Steven Dickerson](#) - 24/Sep/01

[Noel Adams](#) - 24/Sep/01

[Bruce ARKWRIGHT, JR](#) - 25/Sep/01

[John dunlap](#) - 25/Sep/01

[Bill Moore](#) - 26/Sep/01

[Johann Joseph](#) - 26/Sep/01

[Jeff Spear](#) - 28/Sep/01

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On the other hand, it would remove a significant economic weapon from the hands of our enemies. More importantly, it would help insure that we are no longer vulnerable to political arm twisting. It would also mean we could dramatically reduce our military presence in the region, thus removing one of the major irritants enflaming radical fundamentalism in the Middle East. An America that doesn't need Middle Eastern oil is a safer, more secure America, in my view. It also places America in a stronger strategic position to deal with those who would use oil as an economic weapon against us. The countries of the Middle East need to sell their oil. They have little else to offer the rest of the World.

Let me hasten to add at this point, that I believe oil is a valuable resource and that the nations blessed to have it are entitled to extract it at a rate they deem prudent for their long-term economic well being and sell it at a fair market price.

I also believe it is simply too valuable a resource to consume at the profligate rate at which we are doing so. While oil income in the Middle East has raised the standard of living for some people in the region, it often has also fostered excesses and corruption far beyond those found in the West. The lavish lifestyles of Arab princes are legendary and can only have helped sow the seeds of militant discontent among a people whose religion exhorts them to practice abstinence and charity.

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BROOKINGS REVIEW

The Brookings Institution, Washington D.C.

Energy Independence or Interdependence? Integrating the North American Energy Market

by **Pietro S. Nivola**

"Let us set as our national goal," President Richard Nixon proclaimed more than a quarter-century ago, "that by the end of this decade we will have developed the potential to meet our own energy needs without depending on any foreign sources."

Although President George W. Bush's energy plan is a lot less utopian, and indeed has certain merits, one of its suppositions, too, seems to be that Americans will be better off if they reduce "reliance on foreign energy." During the 2000 election campaign, the Bush camp rhapsodized about bygone days when "one of America's greatest strengths was its energy self-sufficiency." The theme has since been reiterated frequently, for the United States now produces at home less than half the oil it uses. In the words of the House majority whip, Tom DeLay, "America faces a serious degradation of our national security unless we move at once to reduce our dependence on foreign sources of energy." (Which "foreign sources of energy"? Presumably, we are not debating inflows from friendly places like Canada and Mexico. But hold on; I will return to that subject shortly.)

Cobbling at Home

For all its persistent political fascination, the self-sufficiency logic is fundamentally flawed. In 1973 the United States imported little more than a third of the petroleum it consumed. Yet the U.S. economy then proved far more, not less, exposed to the shock of rising international oil prices than it was two years ago when those prices soared again while our dependence on foreign oil reached an all-time high. The extent of a nation's vulnerability, in other words, is not a function of how much energy it produces domestically or buys from abroad. Britain, for instance, produces more oil than it needs. But its self-sufficiency scarcely shielded British consumers from the sudden spike in

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gasoline prices in the summer of 2000. The reason is simple. Petroleum prices everywhere are set in a world market--and no country, even a net exporter, can readily repair to an energy policy that says, in effect, "Stop the world. I want to get off."

More consequential for economic stability than the share of fuel supplied by foreign sources is a nation's relative energy-intensity and susceptibility to inflationary pressures. To produce a dollar of GDP, America today requires about 30 percent less energy than it did 30 years ago. So our economy now is less vulnerable to the effects of energy price increases. The economy is also far less inflation prone than it was in the 1970s. Consequently, even the tripling of global crude-oil prices between 1998 and 2000 did little damage.

Although you might not know it from listening to the rhetoric in Washington, this country still produces all but about a quarter of the "energy" it needs. Yes, imports of oil have increased (mostly because Americans choose to drive far more, and use much less efficient motor vehicles, than do consumers in other industrial countries), but imported oil is just one part of the picture. Nearly all of what propels the nation's electric generators--coal, gas, nuclear power, hydropower, and non-hydro renewables--is domestically produced. About 85 percent of our primary heating fuel, natural gas, is made in the U.S.A. (almost all the rest comes from Canada).

The quest for ever-greater energy independence was fanciful in Nixon's time and would be no less quixotic today. The days when the United States was a low-cost producer of oil are history. Squeezing additional supplies from the remaining domestic reserves will require increasingly elaborate operations, many of which may be prohibitively expensive if proper environmental safeguards are factored in and if world prices sag, as they have repeatedly in the past 15 years. In a free market, it is hard to see how such projects can compete with various foreign sources where production costs are lower. Most of the oil extracted by the Organization of Petroleum Exporting Countries (OPEC) costs less than \$5 a barrel to produce.

It is wasteful to insist on making at home those commodities that can usually be supplied more cheaply from somewhere else--just as it makes no sense for me to cobble my own shoes instead of "importing" them from a shoe store. Funneling scarce resources into enterprises in which we no longer have a comparative advantage means leaving less capital and labor available to other industries--ones that could put those resources to better use. Society's living standards are lowered, not secured, by the pursuit of autarky.

Prudent Policy

All this is not to say that no additional reserves of oil are worth recovering within U.S. territory. Wherever feasible, they should be found and used. Adding their output to the world's supply is desirable, just as it is worthwhile to get more from any industry that can competitively make products the world needs.

Nor do I mean to suggest that a disruption of the global oil supply would no longer have an adverse impact on the U.S. economy. Suppose that another crisis in the Middle East were to take a large volume of oil--say, 7 million barrels a day (mbd)--off the market. Suppose, also, that after drawing down perhaps 2.5 mbd from strategic petroleum reserves no other sources were available to make up for the shortage. Brookings economist George L. Perry estimates that the world price of crude could hit \$75 a barrel. An increase that big could add as much as 5 percentage points to inflation and would promptly deepen the recession throughout the industrialized world.

Clearly, building up emergency stockpiles in the industrial countries is the first line of defense against such a disruption. Having access to spare production capacity outside the disrupted fields is also helpful. If the strategic reserves

contribute 2.5 mbd and the extra capacity could add 1 mbd, a potential 7 mbd loss would be reduced by half. Under these circumstances, according to Perry, the price of oil would go to only \$32 a barrel, so that regular gasoline would cost roughly \$1.75 a gallon—a change well within the range of price variation in recent years. But notice: the surge capacity is a global, not a national, imperative. As long as it is available somewhere amid the earth's extensive assortment of reliable producing areas, much of the global shortfall (and the price shock for American consumers) will be offset.

Some of this cushion already exists. The supply side of the international petroleum market today is a lot more diversified than it was in the dark days of 1973, when the Arab oil embargo wrought havoc. The share of oil the United States buys from the Persian Gulf now represents less than a quarter of U.S. oil imports, down from almost 30 percent in 1980. Fully half of the oil we import comes from within the Western hemisphere. A number of large suppliers, outside OPEC as well as within it, are not operating at full capacity. If past is prelude, they would almost certainly put more oil on line amid the high prices of a tight market.

To gain additional insurance in an economically efficient fashion over the longer haul, policymakers should enhance trade relations with the stable suppliers that have abundant energy resources. Conveniently, at least two of them happen to be in the immediate vicinity. President Bush, to his credit, has spoken of the "need to recognize the energy potential of our neighbors, Canada and Mexico."

Opportunities in North America

The United States is the world's second largest producer of oil, Mexico the eighth. But with proved reserves around 23 percent larger than those of the United States, Mexico holds considerable promise for increased production. The same goes for our northern neighbor. No country, not even Saudi Arabia, exports more oil to the United States than does Canada. In the years ahead, Canada is likely to make a larger contribution as much more output from recent discoveries, such as Newfoundland's enormous Hibernia Field, comes on stream. The bulk of Canada's hydrocarbon resource base is still unrecoverable at current prices and with existing technology, but it is potentially immense. Alberta's oil sands, for instance, might contain the equivalent of an estimated 300 billion barrels of oil, more than all of Saudi Arabia's proven reserves. To put matters in perspective, if eventually even just one-quarter of this source were to become available, it would meet all the combined demand of both countries for nearly a decade (at current rates of consumption).

Opportunities for expanded development and trade of natural gas throughout North America ought to be more fully exploited as well. Canada now furnishes around 14 percent of U.S. requirements. New fields are being developed off Canada's east coast between Newfoundland and Nova Scotia. In addition to providing heating fuel for Nova Scotia and New Brunswick, the offshore source could at last bring an end to New England's anomalous dependence on heating oil.

More could be done. Vast quantities of gas, possibly several hundred trillion cubic feet, remain untapped in an area stretching across the Western Canada Sedimentary Basin to Alaska. Known deposits in Alaska and the Yukon alone exceed 70 trillion cubic feet—more than three years of total U.S. consumption at present levels. Official estimates of Mexican proven reserves of natural gas are reportedly half that, but recent estimates by the Gas Technology Institute suggest that as much as 65 trillion cubic feet of gas could turn up in the Burgos Basin of northeastern Mexico.

The importance of bringing more natural gas to the North American market cannot be overstated. Gas can readily displace oil in various ways—as a

heating fuel, as a fuel for electric generators (substituting for the oil-fired ones that comprise about half of Mexico's generating capacity, for example), and to an extent, even as a transportation fuel. More important, this relatively clean-burning fuel is the leading alternative to coal. To meet America's anticipated demand for electricity in the near future, as much as 200,000 additional megawatts of electric power may have to be produced nationwide. Across the continent, power plants will spew fewer air pollutants, particularly greenhouse gas emissions, if they are powered by natural gas instead of coal.

NAFTA's Unfinished Business

The energy markets of the United States, Canada, and Mexico would have realized more of their potential by now if the North American Free Trade Area (NAFTA) had integrated them more completely. But in the energy sector, NAFTA stopped short of achieving a truly open framework for trilateral trade and investment.

The main roadblock remains on the Mexican side, where constitutional provisions, nationalistic sentiment, and raw politics combine to maintain state-owned monopolies that retard growth of that country's oil, gas, and electricity industries. According to the World Bank's estimates, Mexico ought to be financing approximately \$10 billion each year in energy development and infrastructure just to meet its own projected demand, never mind those of its trading partners. Yet, *Petróleos Mexicanos* (Pemex) is required by law to transfer as much as a third of its annual revenues to the Mexican treasury. During 2000, close to \$30 billion in Pemex earnings was turned over, funding 37 percent of the government's general budget but leaving the company unable to plow adequate revenues back into new exploration and production. Not only do Pemex and the public power company, *Comisión Federal de Electricidad* (CFE), perennially underinvest; the system of national enterprises (and, in the case of CFE, underpriced electrical rates) also discourages private investors from underwriting Mexico's essential energy projects.

Most of the liberalization of energy trade has been between Canada and the United States. By the time NAFTA was ratified in 1993, Canada had jettisoned the statist energy regime it had erected some 15 years earlier. The government-run monopoly, *Petro-Canada*, was largely privatized. Gone as well were restrictions on foreign ownership and obstructive price regulations, including the mercantilist practice of imposing supra-market export prices. The result was a rapid rise in Canadian exports after 1983, especially to parts of the American West. By 1991 Canadian natural gas was satisfying approximately 25 percent of California's gas consumption.

Canada, unlike Mexico, did not insist on major exclusivity provisions for energy industries under NAFTA. Thus U.S. and Canadian interests have launched important cooperative ventures in recent years. The Alliance Pipeline—extending over 2,300 miles from western Canada to Chicago—is probably the most striking example. The jointly financed line can carry 1.4 billion cubic feet of gas to the Midwest, and connecting links will eventually deliver a substantial share to locations as far away as Pennsylvania and New York.

But U.S.-Canada energy flows still are not entirely unfettered. Ottawa can negotiate international trade treaties, but jurisdiction over the disposition of natural resources rests with the provinces. Local disputes over key decisions, such as the routing of natural gas lines from the Arctic to the continental United States, continue to cause delays.

All three NAFTA countries could save energy and score big environmental gains if their electric utility grids interfaced seamlessly. Fewer additional generating facilities might be necessary in the future if power could be readily wheeled around the continent to wherever it is needed. But inadequate

transmission capacity, unsynchronized connections, and insufficient deregulation (open access) in various local systems continue to pose obstacles. The deficiencies, moreover, are not limited to links between the United States and Mexico, where cross-border sales of electricity are still negligible. To a degree, problems also persist in and among U.S. regions and some Canadian provinces.

What Next?

The United States is not likely to be well served by any national energy strategy that favors, in effect, a buy-American bias when international trade can meet a sizable share of our energy requirements more affordably. Recent events, if anything, underscore this conclusion.

To succeed without massive subsidies, government policies to encourage homemade energy would have to be supported by a sustained period of steep market prices and also by a long suspension of politics as usual. Neither is likely. The ink was barely dry on the Bush administration's National Energy Policy when market prices shifted unexpectedly. Natural gas, which had run to \$10 per 1,000 cubic feet in early 2001, was closer to \$3 by last summer and headed lower. Crude oil plunged from about \$30 a barrel in early September 2001 to around \$17 a barrel by mid-November. Everywhere, including California (where spot prices of electricity had briefly soared), the energy "crisis"--and thus the urgency of having a "plan"--had faded.

In any case, even the best-laid energy plans are perforce politicized. The Bush initiative is no exception. In the name of furthering "energy independence," a multitude of interest groups make a pitch for their pet projects. Never mind how costly, amid the legislative logrolling any homespun energy scheme--from ethanol farms to synthetic fuels--can make headway. By the time the House of Representatives had finished with the president's proposals, for example, it had authorized more than \$5 billion in subventions to promote an oxymoron: "clean coal." (Power plants using coal treated by so-called fluidized bed technology still emit about 10 times more smog-causing nitrogen oxide than do comparably sized plants fueled by natural gas.)

Instead of futile planning to quarantine "foreign energy providers," U.S. policy should seek deeper integration with some of them, especially the ones next door. In accordance with the aspirations of NAFTA--a genuinely open market for commerce and investment--the three member countries need to be shedding more of their anachronistic energy regulations. In particular, Mexico should be urged to privatize Pemex and the CFE. Before his election President Vicente Fox had intimated that the Mexican government ought to reduce its reliance on Pemex as a cash cow. One way for the United States to encourage reform south of the border might be to swap liberalized immigration rules up here for a firm commitment to restructuring (or, at a bare minimum, much lighter taxation) of the state-controlled energy industries down there.

The United States and Canada, too, can take additional steps congruent with the free-market principles of NAFTA. The installation of new power lines linking U.S. and Canadian utilities, for example, will lag as long as regulators on both sides of the border prevent the utilities from profiting fully from these investments. And negotiating other vital regulatory reforms with our trading partners is complicated by the perpetuation of what they deem to be U.S. trade barriers. Some Canadian provinces complain that "mandated renewable portfolios" in many U.S. states (which allocate substantial market shares of electricity sales to U.S. producers of renewable energy) interfere with exports of electric power from Canada. In 1999, a coalition of independent U.S. oil producers asked the Commerce Department to impose anti-dumping duties on Mexican crude oil.

If politicians in Washington are serious about improving America's energy

security, they would do well to clear away such hindrances, and in Mr. Bush's words, "make it easier for buyers and sellers of energy to do business across our borders."

Pietro S. Nivola is a senior fellow in the Brookings Government Studies program. He is the author of *The Politics of Energy Conservation* (Brookings, 1986) and, with Robert W. Crandall, *The Extra Mile: Rethinking Energy Policy for Automotive Transportation* (Brookings and Twentieth Century Fund, 1995).

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May - June 2002

[te home](#) 
[← Back](#)

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- Engineering Trends: Moving Forward
- Engineering Heritage: Women & Technology
- World Bytes: Internationalize Your Career
- Capitol Shavings: Privatizing Federal Jobs



Capitol Shavings

by Edith T. Carper

Viewpoints

- Reader Feedback

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- TE Career Archives
- IEEE-USA Salary Calculator
- IEEE-USA Consultants Database
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- IEEE Job Site
- IEEE SPECTRUM Careers
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- TE Policy Archives
- IEEE-USA Policy Forum
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On the Road to Energy Independence

by Edith T. Carper

Congress continued its slow pace on energy legislation this spring, taking time out, so to speak, to debate such regional issues as the possibility of drilling for oil in the Arctic National Wildlife Reserve (ANWR). Another issue that consumed considerable time was nuclear power and whether or not its use should be encouraged.

Congress is currently considering a compromise energy bill that would reconcile the House and Senate versions of the *Saving America's Future Energy Act* (H.R. 4). The Senate version has been described as "a modest collection of inducements for greater energy production, conservation and the use of renewable fuels, and insulation." The general Republican attitude is that the United States must find more domestic fuel sources to reduce its dependence on foreign oil. On the other hand, Democrats in general believe we should conserve energy to achieve energy independence. The House version reflects the Administration's energy recommendations — including opening ANWR to oil and gas drilling.

On 7 March, during Senate debate of 2003 funding for the Department of Energy, Sen. Mary Landrieu (D-La.) urged colleagues to pass laws to encourage U.S. energy independence. The declaration, she said, should embrace three principles:

- We must produce energy through cleaner fossil fuel and more nuclear generation
- We must conserve energy
- We must provide federal "coastal impact assistance" to states whose environment and infrastructure are impaired by energy production.

Landrieu's own state of Louisiana has lost more than 1,000 square miles of its coast to the quest for resources in the past 50 years. The United States consumes 26 percent of the world's oil supply, but produces only a fraction of the total. "We are clearly eating without working," she said.

On the Nuclear Energy Front...

Earlier this year, the Administration and Congress launched an effort to promote nuclear energy through tax breaks for nuclear power production and through an Administration initiative to encourage public-private partnerships for new nuclear power plants. In mid-February, the Department of Energy announced a proposal to invest \$38.5 million in FY 2003 for a public-private partnership to explore federal and private sites for locating new nuclear plants and for research in "safe and efficient" nuclear plant technology.

Meanwhile, low-key efforts are being mounted in Congress — with help from the nuclear power industry — to increase the use of nuclear power. Both the House and Senate have approved a measure to extend the *Price Anderson Act*, a 1957 law that limits the liability of nuclear power plant owners in case of an accident. The Senate version also includes provisions that would create a Department of Energy (DOE) unit to probe new ways to recycle nuclear waste. It would also expand a program to develop advanced nuclear reactor technologies between DOE and industry.

Several Senators have urged expanded use of nuclear power in statements made this spring. Sen. Pete Domenici (R-N.M.), ranking Republican on the energy appropriations subcommittee, hopes to add several million dollars for research of nuclear technologies to the FY 2003 spending bill. And Sen. Larry Craig (R-Ind.) wants to increase nuclear power's share of the U.S. energy market from 20 percent to 30 percent. The Energy Department's own predictions say nuclear power's share of the energy market could shrink to 11 percent by 2020, as power plants go out of service and are not replaced.

...and On the Renewables Front...

In late March the Senate heard from advocates of expanding use of renewable energy sources. A document was cited (and inserted in the *Congressional Record*) from DOE's Energy Information Administration to the effect that renewable energy sources can easily provide 20 percent of the electricity we use from wind, solar, geothermal and biomass energy sources. Such a goal could be achieved by 2020 and would cost consumers almost nothing.

The Administration has added its voice to the pleas to Congress to act on energy. At a GOP fundraiser in Connecticut in early April, President Bush commented on a recent decision by Saddam Hussein to cut off oil exports to the west. "The

threat emphasizes the importance of diversifying our supply away from places like Iraq," he said.

[← Back](#)

Edith T. Carper is an IEEE-USA special correspondent.

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Are you driving with Bin Laden?

Energy Independence or Continued Terror? You Decide.

By Tim Neagle

Let's play "what-if" for a moment.

What if, in 1981, Ronald Reagan hadn't dismantled all of President Carter's energy programs? What if Reagan had taken the idea of energy independence seriously? It's not all that hard to imagine. Reagan certainly had his battles (Lebanon, Libya) with the Arab world during his two terms. The idea of being free from the need for Arab oil could have had some appeal for the Gipper.

What if, instead of Star Wars, Reagan had seized on the idea of true energy independence and expanded on Carter's effort, pushed national conservation and poured money into research of alternative sources of energy?

What if the United States had stayed the course Carter envisioned, and spent the last 25 years

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to Help OK, get into the playpen again, we're going to talk California politics here...

Bye Bye Abalone?

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conserving energy and developing alternatives to fossil fuels?

If we had done this, do you think anyone would ever have heard of Osama bin Laden?

One of the main things about us that honks off Osama and his boys is the stationing of American troops in Saudi Arabia. If we had solar cars, does anyone believe those troops would be there?

For much of American history, the United States paid virtually no attention to the Arab world. That changed dramatically in the 1970s, with the OPEC oil embargo. Since then, we have been engaged with the Arab world with a vengeance - literally. It's not because we have any particular interest in Islam as a religion or culture. It's not because we have any particular interest in the internal politics of individual regimes.

Nope. We're involved in the Middle East and Persian Gulf region because they have oil, and we need it.

This simple fact has led to the present morass we find ourselves in, locked in a difficult and brutal war with terrorists. Furthermore, it is a war in which to all appearances, despite what pundits and politicians say, the terrorists have the shouting, fervent support of a good many Arabs, and at least the tacit support of most others.

Now we are confronted with the situation of being loathed by more than 1 billion people in nations spanning a vast portion of the Earth - the portion that has most of the oil reserves in the world.

There is a way out of this. If we didn't need their oil, we could go back to the benign neglect of the Arab world that characterized US policy for centuries. Without oil, there would be no need for a massive American military presence in the Middle East and Persian Gulf, thereby removing the main source of friction with the Arab world.

No oil dependence, no terrorism.

If we were really serious about energy independence, every home and business in the Sunbelt would have a solar water heater right now. The technology is there. The cost, compared to hurling cruise missiles all over the Muslim world, is negligible.

If we were really serious about energy independence, the solar car would be close to reality. It is astonishing how far solar power has come in the last 30 years, despite attitudes in the federal government that range from complete lack of interest to outright hostility. And because of that scandalous record, we are still years, if not decades away, from replacing the internal-combustion engine with solar.

If we were really serious about energy independence, California would be on its way to a hydrogen economy.

If we were really serious about energy independence, the rest of the country would be adopting the conservation policies adopted in California during the energy shortages of the spring. It's largely forgotten now, but consumption of electricity dropped by more than 10 percent in California then. What if all 50 states acted the same way - all the time?

Of course, the federal government is not really serious about energy independence, and for a simple reason: the oil companies don't think they can make any money - or at least not as much money - from solar, or hydrogen, or wind power. And so they give large amounts of money to politicians' campaign funds to make sure that no one ends up in office who might make them try to develop alternative sources of energy. Their profits come first, and no post-World War II administration, Republican or Democrat, has been willing to buck them.

No one is saying these alternative energy sources are going to be available tomorrow, or next month or next year. But they will be ready eventually, and that day could come much

sooner if we were serious about pursuing energy independence. We have already wasted the better part of three decades.

But don't hold your breath waiting for this to happen. We will likely continue on the path we have been treading these past two decades. We frantically pump out the oil, all the while propping up corrupt regimes that fear their own people but will sell us the oil. This policy guarantees that men like Osama bin Laden will continue to exist, even after we catch or kill the current version. It also guarantees that the acts of terror of the past two decades - from the Marine barracks in Beirut to our embassies in Africa to the World Trade Center disaster in New York - will continue to happen.

We will continue paying for oil with blood, as if no other alternative exists. But alternatives do exist. And someday, perhaps our political leaders will disenthral themselves from the spell of Big Oil's money, pursue and attain true energy independence.

Having achieved that, we could bring the ships home from the Persian Gulf, the troops home from the Arabian peninsula, the planes home from the skies over Iraq. We could grant the fundamentalists their fondest wish: complete American withdrawal from the Arab world. We'd enjoy our solar cars and our smog-free skies; the extreme fundamentalists would be free to continue their relentless march into historical irrelevancy. Sounds like a win-win situation.

Tim Neagle, former Executive News Editor at the *San Francisco Chronicle*, is a frequent contributor to *Faultline*.

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townhall.com

Ross Mackenzie ([back to story](#))

January 2, 2003

A new Apollo project for energy independence?

The matter of Saddam ought to be concentrating the American mind on America's need for energy independence.

Fact is, as the world's largest oil-consuming country, the United States is a hostage of those with extensive oil capacity - most notably the unsmiling Saudis, who have amply demonstrated their ability and willingness to manipulate oil prices by arranging shortages and gluts. Currently, we are most beholden to our semi-sensible No. 1 and No. 2 suppliers, Canada and Mexico. The Saudis are No. 3. Wild and wacky Venezuela is No. 4. And No. 5, even in this difficult hour? Iraq.

United Nations mandates allow Iraq to export 1.1 million barrels per day to raise money, supposedly for food to feed its people; 900,000 of those barrels come to the United States - or about the same number of barrels that would come from the Arctic National Wildlife refuge, were Congress to allow drilling there. But Congress prefers to deny access to ANWR's 8 billion estimated barrels, so the oil companies are exploring on Sakhalin Island. If they are successful in finding oil, that will increase the potential flow from always-stable Russia, which soon will surpass Saudi Arabia as the world's No. 1 oil producer.

The United States finds itself a captive in a strange game that enriches regimes malign and bizarre.

Oil prices already have gone up in anticipation of war in Iraq, just as they did prior to the Gulf War 14 years ago. They went up relative to the 1973 Yom Kippur War; deployment of "the oil weapon" derived directly from Arab oil sheiks' dissatisfaction with American/European policies regarding Israel. Our reliance on any regime for our petroleum needs limits our ability to act anywhere in that regime's sphere of influence.

Exhibit A is the Middle East.

Right now, the United States depends on the Middle East for 13 percent of its overall oil consumption. That oil flows not only from Iraq and several emirates, but especially from Saudi Arabia, which (1) hates all things Israeli and (2) has paid money to families of Palestinian suicide bombers, (3) provided the majority of 9/11 hijackers yet (4) hardly cooperated with American authorities in the post-9/11 investigation, (5) still resists giving the United States basing rights for an assault on Saddam, and (6) year after year has deigned to work with the United States seemingly in accordance with phrenological interpretations and the phasings of the Moon.

And this from a regime (the House of Saud) owing its creation to the West and its continued reign to Western - i.e., American - support.

Periodically the cry goes up for energy independence.

Weighty studies fuel furrowed-brow, deep-voiced, earnest-eyed sincerity in urging that the time for the United States to move is long past. Then the crisis (usually war) ends. Then an unforeseen enabler (e.g., an emergent Russia) suddenly allows us to maintain our foreign-oil dependency - and we retreat back into complacency.

Iraq follows 9/11 and the Palestinian terror war against Israel as the latest reminder of the need for the United States to move resolutely toward energy independence.

President Bush should show the way - as JFK did on the Apollo program to land men on the Moon, as FDR did quietly on the Manhattan Project to build an atomic bomb. In addition to rhetorical encouragement, there should be public-private consortiums and, of course, tax credits for such things as....

- Oil exploration and improved extraction technologies.
- Better and more economical technologies to get oil from coal (the U.S. is the Saudi Arabia of coal).
- More efficient gasoline engines for the 17 million vehicles America produces every year.

And all of those might help tide us over until we can develop efficient and affordable engines that run on fuels other than petroleum. On the West Coast, buses are testing hydrogen-fuel-cell engines for the post-petroleum age. Hydrogen may prove to be the answer.

But the United States needs to marshal its resources and know-how. Any country that could do that for the bomb and the moon should be able to do it - with the proper will and leadership - to achieve energy independence. Until then the likes of the unsmiling Saudis will hold us hostage, a gun to our weary head.

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Posted on Fri, Feb. 28, 2003

Star-Telegram

An '80s kind of energy feeling

By Jack Z. Smith

Star-Telegram Staff Writer

It's 2003. But it's starting to look like 1981.

Oil and natural gas prices are going through the roof, just like they did during the prolonged energy boom that produced record crude prices 22 years ago.

In futures trading on the New York Mercantile Exchange, oil for April delivery closed at \$37.20 on Thursday, and natural gas closed at \$7.49 per 1 million Btu. Meanwhile, some spot-market gas prices have been in an astronomical \$15 to \$25 range.

Skyrocketing energy costs affect not only how much you pay to fuel your car and heat your home but also the price tag for an enormous array of consumer products ranging from lawn fertilizer to plastic food containers.

An already shaky economy becomes even more wobbly when energy prices lurch out of control.

Consumer confidence is nose-diving amid corporate corruption, worker layoffs, a deeply depressed stock market, record trade deficits, spiraling federal budget deficits and huge revenue shortfalls in the governments of key states such as Texas and California.

A sustained rise in energy prices would put a damper on consumer spending. It could be the knockout punch that sends the economy to the mat.

Energy prices have gone bananas because of bitterly cold weather that has sent demand for heating oil and natural gas soaring. And a looming war with Iraq could disrupt Persian Gulf oil shipments.

On a broader scale, however, we are continually

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