

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

3119 SCOMM 144: HOUSE SPECIAL COMMITTEE ON OIL & GAS 2005-2006

Powers and Duties of Commission* Related to Major Gas Sales

- Prevent waste
- Ensure greater ultimate total hydrocarbon recovery (BOE's)

By

**Regulating the development of the
hydrocarbon reservoirs and the quantity and
rate of the production of oil and gas**

Ref. AS 31 05.030

Sections (b), (d)(9), (e)(1)(F) and (d)(5)

March 1, 2000

Division of Oil and Gas, Alaska Department of Natural Resources

Applicable Prudhoe Conservation Orders

Conservation Order 341D - Prudhoe Oil Pool

- Rule 9 - Maximum Gas Offtake Rate set at 2.7 billion standard cubic feet per day (BSCFD)
 - Written in 1977
 - Contemplated a 2 BCFD pipeline quality gas rate
 - Decisions and statements contemplated rule 9 changes and that development plans would undergo continual evaluation and be modified based on reservoir performance
- Rule 12 - Prudhoe Bay Miscible Gas Project
 - Pilot approved 1983
 - 1987 Large scale expansion approved
 - 1992 Further expansion approved, GHX-2
 - Maintain reservoir pressure at minimum of 100 psi above minimum miscibility pressure
 - Require studies to mitigate pressure decline
- Rule 17 - Gas Cap Water Injection to mitigate reservoir pressure decline

Approved 12/2001, SJU 6/2002, 650 MGD max rate

March 1, 2005

Division of Oil and Gas, Alaska Department of Natural Resources

Reservoir Studies are complex and complicated.

Since the 1977 Analysis

Prudhoe has nearly 28 years of production history
Over 2170 wells have been drilled in the Prudhoe Pool
The reservoir has multiple depletion mechanisms -

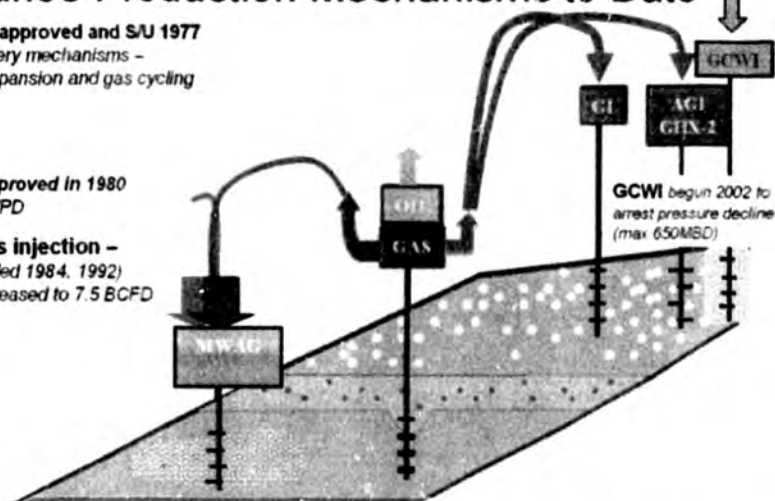
- Primary
 - Solution Gas Drive
 - Gas Cap Expansion
- Secondary (Pressure Maintenance)
 - Water Flood
 - Gas Injection
 - Gas Cap Water Injection
- Enhanced Recovery
 - Miscible Gas Injection

Prudhoe Production Mechanisms to Date

Pool Rules approved and S/U 1977
Major recovery mechanisms -
Gas Cap Expansion and gas cycling

Waterflood approved in 1980
Up to 2MM BWPD

Miscible gas injection -
1982, (expanded 1984, 1992)
GHX-2 GI increased to 7.5 BCFD



GCWI begun 2002 to
arrest pressure decline
(max 650MSD)

All mechanisms depend upon maintenance of reservoir pressure
Early gas withdrawal causes loss in reservoir energy resulting in loss of oil.
Normal practice, delay gas blowdown until end of oil productive life to maximize recovery

AOGCC Prudhoe Gas Sales Review Current Oil Operations

- **Ultimate oil recovery 13+ billion barrels** (black oil, condensate and NGLs)
- **Recovery to date 11.1 Billion Barrels**
(Compared to 1969-1977 estimates of 9 Billion Total Ultimate)
- **Gas cycling is responsible for significant oil recovery**

AOGCC Concerns about the Gas Line Project

- AOGCC has received no applications
- Contemplated Rates higher than approved by Rule 9 in 1977
- Rule 9 must be updated
because
- Commission needs to ensure that unnecessary waste of oil resources does not occur due to early gas withdrawal and high production rates.
 - ✓ Verify impact upon total hydrocarbon recovery (oil and gas)
 - ✓ Rule on depletion plans & mitigation of oil loss measures
- The Commission needs sufficient time for evaluation
 - ✓ Timing dependent upon cooperation by Owners
 - ✓ Cooperation level of Producers may not allow enough time

What are reservoir studies/Models?

- They are mathematical studies that model physical geology (rock properties) and engineering features (underground fluid movement and interactions) of a reservoir.

Models include a level of detail to realistically recreate reservoir oil & gas **performance history**.

When reservoir performance history is matched (calibrated), the model can be used to estimate future performance assuming various depletion plans.

March 1, 2008

Presented by: [illegible] & [illegible]

What is a depletion plan?

Depletion is the act of removing or producing oil and gas from a petroleum reservoir to sell or use for other beneficial purposes.

Depletion plans consist of the recovery methods that are implemented and applied to produce an oil or gas reservoir.

March 1, 2008

Presented by: [illegible] & [illegible]

What is a depletion plan? (cont'd)

Depletion Plans may consist of one or more of the following fluid drive and recovery mechanisms:

- Primary Depletion - Solution Gas Drive, Gas Cap Expansion
- Secondary Recovery - Pressure Maintenance by Immiscible Injection - Water Flood, Gas Injection
- Enhanced Recovery Methods - Miscible Gas Injection, CO2 Injection, Polymer Injection, Others

Recovery Mechanisms may act in combination depending on the reservoir's characteristics. Designing a model's physical parameters, fluid parameters, fluid physics and production history is a massive undertaking.

AOGCC Gas Sales Review

August 2002 – May 2003

- AOGCC & Consultant reviewed results from Prudhoe Owners' large scale, complex reservoir models
- *Results were rough projections for gas line feasibility work done in 2002.*

AOGCC Prudhoe Gas Sales Review

Model Sensitivities

- Sales rate (2.9 to 4.3 BCFD)
- Sales timing (Start dates of 2010-2020)
- Options to mitigate oil loss including
 - Increased water injection,
 - CO2 Injection

AOGCC Prudhoe Gas Sales Review

Gas Sales Observations

- Gas sales will extend field life
- Projected reserves = 3.5 billion Barrels Oil Equivalent (BBOE)*
However...
- Early Gas sales will most likely impact oil recovery
 - ✓ Reservoir energy/pressure will decline
 - ✓ Hydrocarbon liquid loss may be 100's of million of barrels
 - ✓ Greatest liquid lost with earlier sales and higher offtake rates
 - ✓ The lowest recovery of gas may occur with later sales and lower offtake
- Total hydrocarbon recovery (BOE) may be less sensitive to rate & timing if Mitigation measures are implemented and assumptions of end of field life are made

* Barrels of Oil Equivalent; BOE - oil, gas, condensate, NGLs -
evaluated at 2050 assumed end of life

The AOGCC Plan - MGS

Hold hearings – (1st hearing Mar 3, 2005)

- ✓ Revisit Rule 9 of CO 341D – Validate 1977 off take rate

Draft revised Rule 9 & forward work plan

- ✓ Define interim work strategy to develop depletion plans (including mitigation measures)

Develop depletion plan

- ✓ Define long term plans that lead to gas sales, which:
 - Maximizes ultimate recovery
 - Defines initial rates/timing
 - Defines optimization and mitigation requirements

Conclusions

The State needs to base its decisions on updated reservoir studies

The studies will be complex, complicated, costly, will take several years to accomplish and require specialized expertise

The AOGCC must perform its evaluations in a timely manner to avoid impacts to commitments and schedules

- Earlier (1970's) decisions and statements contemplated gas offtake rule changes and that development plans would undergo continual evaluation and be modified based on reservoir performance

Conclusions (cont'd)

AOGCC must approve plans that will achieve maximum optimized recovery of oil and gas that will prevent waste.

There will be State, National and International interests and attention on this project.

It is imperative that 'We' as a State get it right.

As a responsible Agency, AOGCC must provide the Legislature and Administration their best Recommendations on issues of gas offtake and reservoir depletion.

Last Thoughts



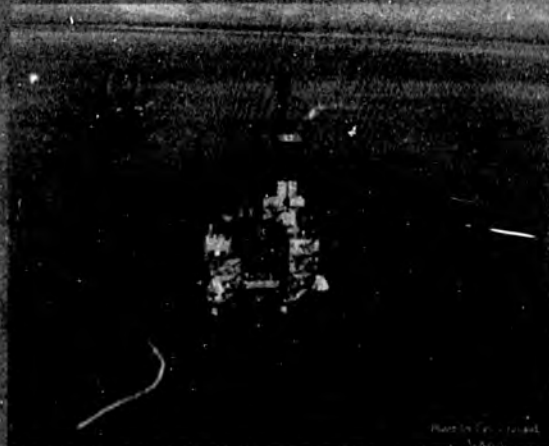
500 MMSTB (risked oil) =

- Less than 5% of total Prudhoe liquids produced so far
- Roughly 25% of the remaining liquids at Prudhoe Bay
- Roughly 100% of Alpine Oil Field reserves

3.5 BBOE (added Prudhoe recovery from MGS) =

- About 25% of total North Slope production to date
- Around 60% of remaining North Slope liquids (proven)
- 113% of total Kuparuk Oil Field reserves

Alaska Oil and Gas Conservation Commission (AOGCC)



Cook Inlet Oil and Gas
Offshore Conservation

Cook Inlet Lighthouse Platform Issues AOGCC Mainly Sub-surface

Prevent physical waste of hydrocarbon resources

- Oversight for underground operations
- Regulate drilling and production for oil & gas

Promote greater ultimate recovery

Protect fresh water

- Manage oil spills & leaks
- Establish and enforce standards

Protect non-hydrocarbon resources

- Identify and protect sensitive areas
- Establish and enforce standards

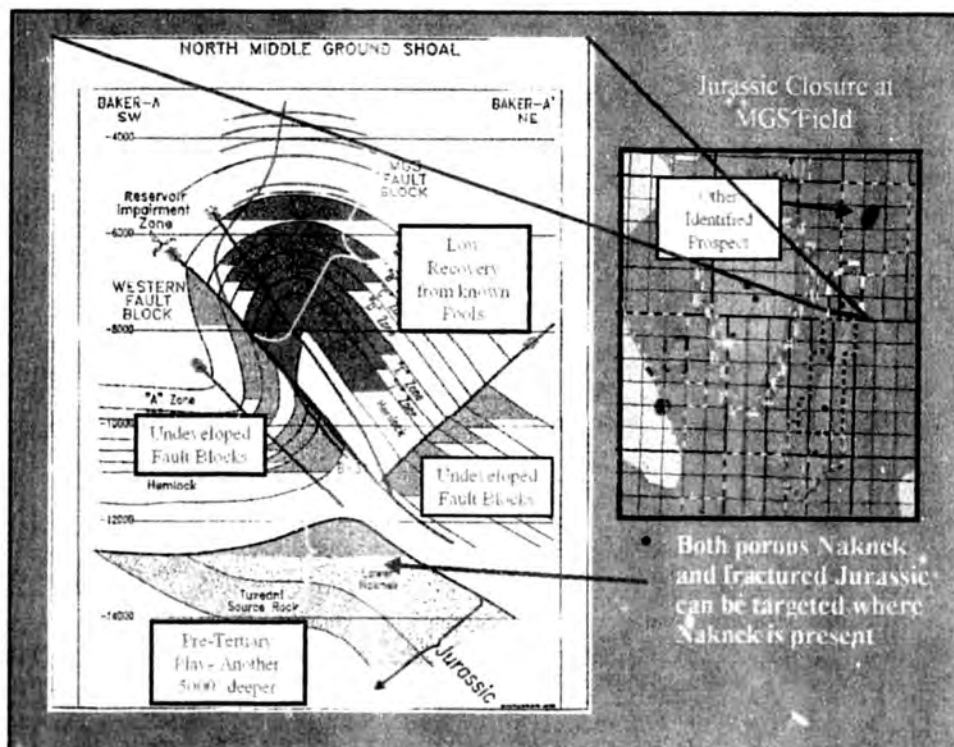
AOGCC and Future Cook Inlet

Remaining Offshore Oil & Gas Resource

- Un-recovered oil in Known Pools- low risk with new technology/oil price
- Undeveloped Fault Blocks- mod risk/mod potential
- Pre-Tertiary- high risk/high potential
- Other Identified Prospects accessible from Platforms- see industry

Source: AOGCC

Adapted from the AOGCC's 1998 Report



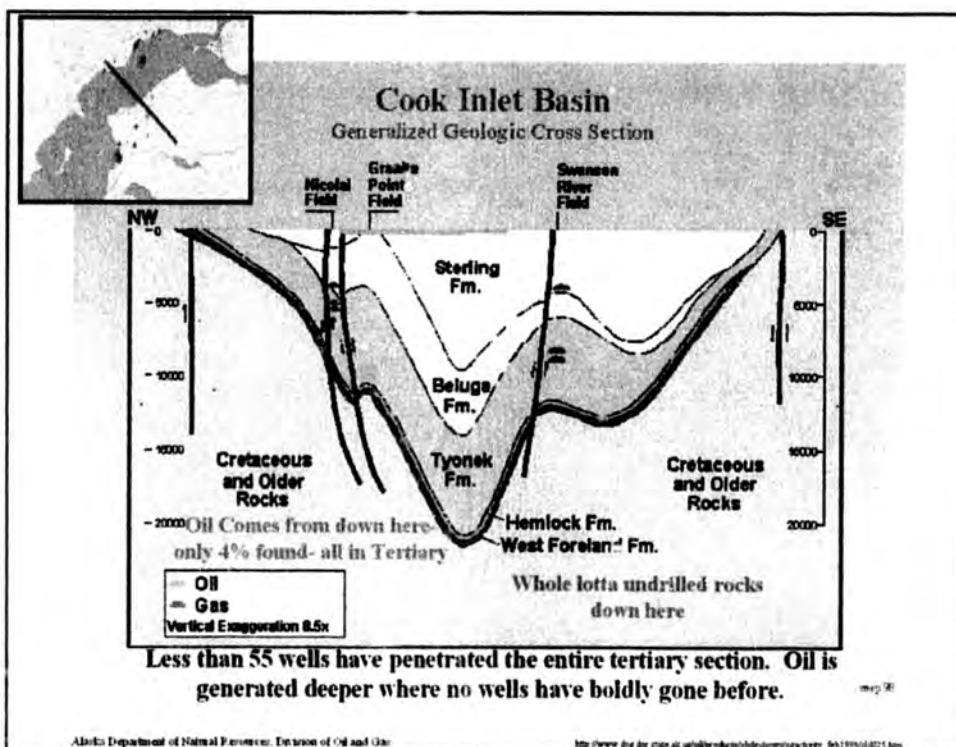
Cook Inlet Exploration

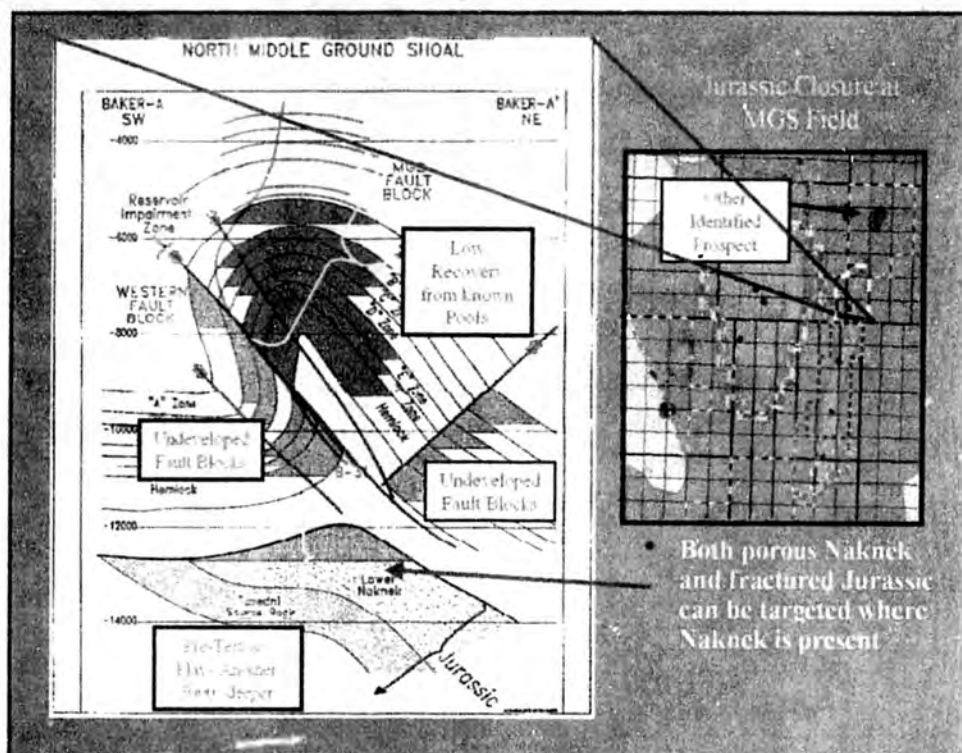


Exploration Immaturity

- Similar in size to
lower 48 Basins
- 14,000 sq mile Area
same as San Juan Basin
- 28,000+ Wells in
San Juan
- vs.
- 385 Exploration
Wells & 1000 Total
Wells

No 80's Drilling Boom





AOGCC Cook Inlet Offshore Wish List

Look at Platforms as Assets/ don't destroy

Recover More Oil from Developed Reservoirs

- Sell to motivated low cost operator?
- Tertiary oil recovery and/or stimulations?

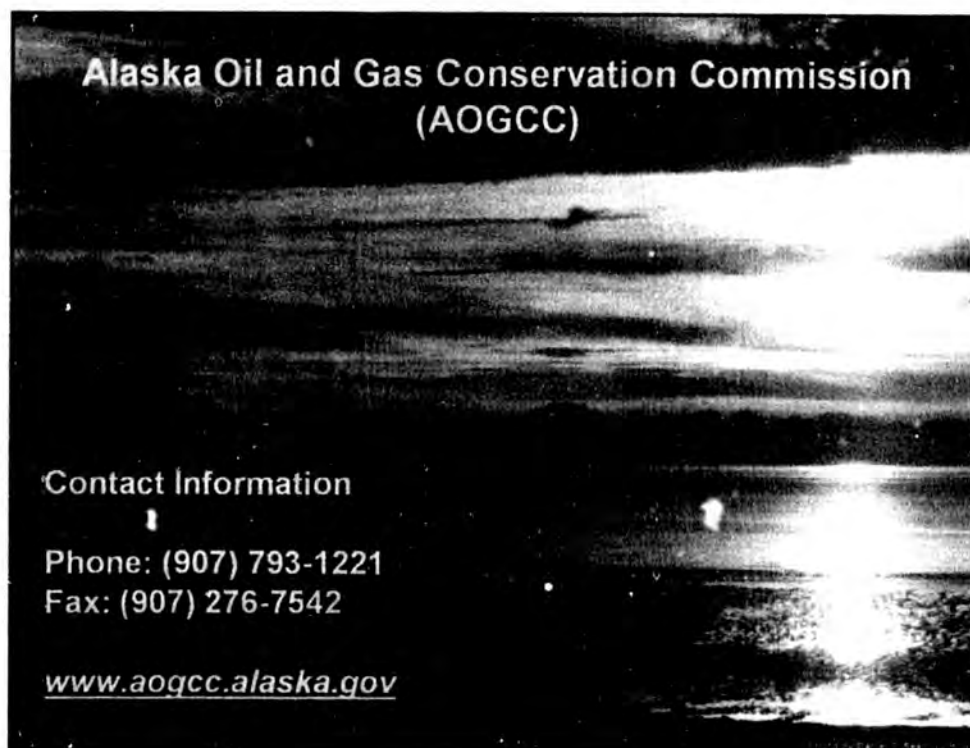




Use Platforms as Exploration Structures

- Re-enter Non-utilized well bores- Drill 5000' below known reservoirs where the Oil is generated
- Explore untested fault blocks
- Drill the other identified prospects within reach

• Incentivise re-development and exploration



**Alaska Oil and Gas Conservation Commission
(AOGCC)**

Contact Information

Phone: (907) 793-1221
Fax: (907) 276-7542

www.aogcc.alaska.gov

SCOMM

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FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 10, 2005

The Honorable John Harris
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the regulation of underground injection under the federal Safe Drinking Water Act. This bill would enable the Alaska Oil and Gas Conservation Commission (AOGCC) to regulate all underground injection wells used in the oil and gas industry, in contrast to the current situation under which the AOGCC regulates most of these wells but the United States Environmental Protection Agency (EPA) regulates others.

Under the federal Safe Drinking Water Act of 1974, 42 U.S.C. 300f - 300j-26, the underground injection of waste or other fluids requires an EPA permit, unless the EPA has approved a state underground injection control program as meeting Safe Drinking Water Act standards. In 1986, the EPA approved Alaska's underground injection program for a subset of underground injection wells, known as Class II wells. Class II wells inject certain fluids related to the recovery and production of oil and natural gas. The AOGCC administers this program. However, the EPA continues to regulate other types of injection wells in Alaska, including Class I wells, which are used in the oil and gas industry to dispose of wastes that do not go into Class II wells. I believe that the time has come for authority over all underground injection relating to oil and gas operations to return to the state.

This action would have several benefits for the state and the industry. First, the AOGCC is generally able to respond more quickly to permit applications than is the EPA. Second, having a single, uniform process for regulating underground injection by the industry will improve efficiency and reduce confusion. Finally, there has been considerable uncertainty over, and considerable agency time and effort devoted to, the question of when a Class II well is appropriate for waste disposal and when a Class I well is required, and

The Honorable John Harris
February 10, 2005
Page 2

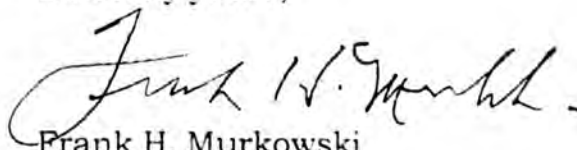
this question will likely become much less important with a single agency exercising authority over both classes of wells.

Under the bill that I am proposing, the AOGCC would have the authority to take all actions necessary to allow the state to acquire primary enforcement responsibility for Class I injection wells, in addition to continuing its current regulation of Class II wells. While the definition of Class I wells covers broad categories of industrial and municipal wastes in certain circumstances, in practice Class I wells in Alaska have been used only in the oil and gas industry, to accommodate wastes not allowed in Class II wells. There are currently 1,144 Class II wells (disposal and enhanced recovery) and seven Class I wells in the state.

This bill also provides for an immediate effective date.

I urge your prompt and favorable action on this measure.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Frank H. Murkowski". The signature is fluid and cursive, with a long horizontal stroke at the end.

Frank H. Murkowski
Governor

Enclosure

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 142
 (H) Publish Date: 2/14/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title Regulation of underground injection under RDU Resource Development
the federal Safe Drinking Water Act Component Commissioner's Office
 Sponsor Rules
 Requester Governor Component No. 423

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 ()						
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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 (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There is no anticipated fiscal impact for DNR associated with implementation of this legislation.

Prepared by: Janet Baxter, Legislative Liaison Phone 907-465-4730
 Division Commissioner's Office Date/Time 2/8/2005
 Approved by: Tom Irwin, Commissioner Date 2/8/2005
 Agency Natural Resources

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: HB 142
(H) Publish Date: 2/14/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Admin
Title: Underground injection under the RDU: Oil & Gas Conservation Commission
Federal safe drinking water Component: Oil & Gas Conservation Commission
Sponsor: Rules Committee
Requester: Governor Component No. 2010

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	25.0	25.0	25.0	25.0	25.0	25.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	25.0	25.0	25.0	25.0	25.0	25.0

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 1162 AOGCC Receipts	25.0	25.0	25.0	25.0	25.0	25.0
TOTAL	25.0	25.0	25.0	25.0	25.0	25.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Will take 10% inspection time (\$9.0) and 10% Petroleum Engineer (\$16.0). The impact will be covered by overtime.

Prepared by: Daniel Seamount, Commissioner Phone 907-793-1221
Division: Alaska Oil & Gas Conservation Commission Date/Time 1/28/05 1:13 PM
Approved by: Michael Tibbles, Deputy Commissioner Date 1/28/2005
Agency: Department of Administration

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110200
JUNEAU, ALASKA 99811-0200
PHONE: (907) 465-2200
FAX: (907) 465-2135

February 24, 2005

The Honorable Vic Kohring
Chairman, House Oil & Gas Committee
State Capitol, Room 24A
Juneau, AK 99801

Dear Representative Kohring:

I am writing to request you schedule House Bill 142, An Act relating to regulation of underground injection under the federal Safe Drinking Water Act; and providing for an effective date at your earliest convenience. House Bill 142 would enable the Alaska Oil and Gas Conservation Commission (AOGCC) to regulate all underground injection wells used in the oil and gas industry.

In 1986, the EPA approved Alaska's underground injection program for a subset of underground injection wells, known as Class II wells. Class II wells inject certain fluids related to the recovery and production of oil and natural gas. The AOGCC administers this program. However, the EPA continues to regulate other types of injection wells in Alaska, including Class I wells, which are used in the oil and gas industry to dispose of wastes that do not go into Class II wells.

Granting the state the authority over all underground injections relating to oil and gas operations would have several benefits for the state and the industry. First, the AOGCC is generally able to respond more quickly to permit applications than is the EPA. Second, having a single, uniform process for regulating underground injection by the industry will improve efficiency and reduce confusion. Finally, there has been considerable uncertainty over, and considerable agency time and effort devoted to, the question of when a Class II well is appropriate for waste disposal and when a Class I well is required. This question will likely become much less important with a single agency exercising authority over both classes of wells.

Thank you for your consideration.

Sincerely,



Michael Tibbles
Deputy Commissioner



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Alaska Oil and Gas Association



121 W. Fireweed Lane, Suite 207
Anchorage, Alaska 99503-2035
Phone: (907)272-1481 Fax: (907)279-8114
Email: crockett@aoga.org
Marilyn Crockett, Deputy Director

March 15, 2005

Testimony to House Special Committee on Oil and Gas
On HB142
By Marilyn Crockett, Deputy Director
Alaska Oil and Gas Association
March 15, 2005

The Alaska Oil and Gas Association (AOGA) is a private, nonprofit trade association whose 18 member companies account for the majority of oil and gas exploration, development, production, transportation, refining and marketing activities in Alaska. We appreciate the opportunity to testify in favor of the Alaska Oil and Gas Conservation Commission (AOGCC) assuming primacy from EPA for the Underground Injection Control (UIC) Class I Program.

The Commission has had responsibility for the Class II program since 1986, and is highly regarded for its management of that program. In 2003, the independent Ground Water Protection Council's Peer Review of the AOGCC's program gave the program high marks, noting that "the commission has a well defined organizational pattern designed to ensure quality coverage in all regulatory areas".

The critical components of decision-making related to Class I well permitting are subsurface evaluations and structural integrity of wells. AOGCC is the state agency with the technical expertise to make these evaluations. In fact, AOGCC routinely provides invaluable technical assistance to EPA on permitting and management of Class I wells in Alaska.

We encourage passage of legislation granting AOGCC with the statutory authority to assume this important program. Thank you.



U.S. Environmental Protection Agency Underground Injection Control Program

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What is the
UIC program?

Critical Initiatives

Classes of
Injection Wells

Class I

Class II

Class III

Class IV

Class V

State UIC Programs

Regulations &
Guidance

Deep Wells (Class I)

- EPA has completed and submitted to Congress a study of Class I wells that describes the current Class I UIC Program, documents past compliance incidents involving Class I wells, and summarizes studies of human health risks associated with Class I injection conducted for past regulatory efforts and policy documentation. Read [Class I Underground Injection Control Program: Study of the Risks Associated with Class I Underground Injection Wells \[PDF file\]](#) (EPA 816-R-01-007 / March 2001).
- Class I injection well facilities dispose of industrial hazardous, industrial nonhazardous and municipal (non-hazardous) waste.
- There are 272 active Class I injection facilities nationwide. Of these, 51 are hazardous and 221 are non-hazardous. These 272 facilities maintain approximately 529 Class I injection wells that are scattered throughout the US in 19 states. The greatest concentration are located in the Gulf Coast, Great Lakes, and the Floridian peninsular geographical regions.
- Class I wells are mainly used in the following industries:
 - o Petroleum Refining,
 - o Metal Production,
 - o Chemical Production,
 - o Pharmaceutical Production,
 - o Commercial Disposal,
 - o Municipal Disposal and
 - o Food Production.
- Class I injection wells are sited such that they inject below the lowermost USDW and a confining zone above an injection zone. Injection zone reservoirs typically range in depth from 1,700 to over 10,000 feet below the surface.

Hazardous Waste Injection Wells

Injection of hazardous waste into deep wells began in the United States in the 1960s. At that time, the chemical industry was looking for a safe, relatively inexpensive method for disposing of high volumes of waste that could be considered toxic. Technology was borrowed from the oil and gas industry to develop this new form of disposal.

- There are 163 Class I hazardous waste injection wells located at 51 facilities. Most are found in Texas (78) and Louisiana (18). Eleven of the facilities are commercial hazardous waste injection facilities. These are the only facilities that can accept hazardous waste generated offsite for injection. Ten of them are located in the Gulf Coast region while one is located in the Great Lakes region.
- Hazardous and Solid Waste Amendments to RCRA made UIC regulations (1988) more stringent for Class I hazardous wells. This resulted in strict no-migration standards and a petition approval process for continued operation of the wells. Of the 51 Class I hazardous waste facilities, 47 have approved no-migration petitions that cover 123 wells. To receive a no-migration petition the facility must be able to

demonstrate that injected waste will not impact the biosphere (ground water or surface water) for 10,000 years.

UIC Class I Deep/High Technology Hazardous Waste Wells



Non-Hazardous Waste Injection Wells

Non-hazardous deep injection wells have to meet all the technical requirements of hazardous waste wells. These wells inject industrial, low radiation and municipal wastes. Some States include some mining wells in this group and require the operators of these wells to meet all the requirements of other deep wells.

- There are 366 Class I non-hazardous injection wells nationwide. While these wells are scattered through 19 states, most of them are found in the states of Florida (112) and Texas (110).
- Florida is the only state with Class I municipal waste disposal wells (104).

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Last updated on Monday, February 14th, 2005
URL: <http://www.epa.gov/safewater/uic/classi.html>



U.S. Environmental Protection Agency Underground Injection Control Program

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What is the
UIC program?

Critical Initiatives

Classes of
Injection Wells
Class I
Class II
Class III
Class IV
Class V

State UIC Programs

Regulations &
Guidance

Oil and Gas Injection Wells (Class II)

The oil and gas production industry accounts for a large proportion of the fluids injected in the subsurface. Typically, when oil and gas are extracted, large amounts of salt water (brine) are also brought to the surface. This salt water can be very damaging if it is discharged in surface water. Instead, all states require that this brine be injected into formations similar to those from which it was extracted. Over 2 billion gallons of brine are injected daily into injection wells in the US.

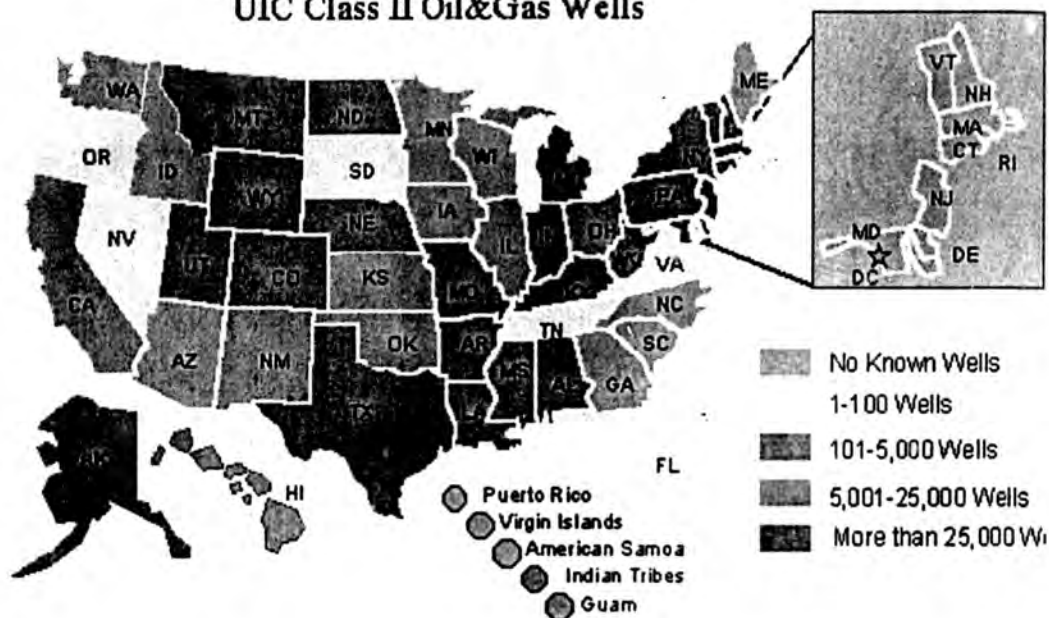
The largest proportion of these brines are injected into formations that contain trace portions of extractable oil and gas. Injection of the brine can have the effect of enhancing production of oil and gas from the formations, thus secondary recovery of oil and gas depends heavily on injection. Furthermore, when States started to implement rules that prevented the disposal of brine to surface water bodies and soils, injection of this waste fluid became the prevalent form of disposal.

Class II wells exist wherever there is production of oil and gas. There are approximately 167,000 oil and gas injection wells in the US, most of which are used for the secondary recovery of oil. In this process water is pumped into the formation that contains some residual hydrocarbons. A portion of the hydrocarbons are recovered, along with the injected water, by extraction or production wells. In a common configuration, one injection well is surrounded by 4 or more extraction wells. The recovered fluid is treated to remove most of the hydrocarbons in a device called a separator. The other type of oil and gas injection well is a disposal well. In this type of well, excess fluids from production and some other activities directly related to the production process are injected solely for the purpose of disposal.

Class II wells have to follow strict construction and conversion standards except when historical practices in the State and geology allow for different standards. A Class II well that follows EPA federal standards is built very much the same as a deep or Class I well. In 1997, Congress added Section 1425 to the Safe Drinking Water Act, that controls underground injection, relieving Class II well programs in the States from having to meet the technical requirements in the UIC regulations. Instead, they can make a demonstration that the State has an "... effective program (including adequate record-keeping and reporting) to prevent underground injection which endangers drinking water sources."

Most of the oil and gas injection wells are located in the Southwest, with Texas having the largest number (53,000) and California, Oklahoma and Kansas following some distance behind with 25,000, 22,000 and 15,000 wells respectively.

UIC Class II Oil&Gas Wells



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Last updated on Monday, February 14th, 2005
URL: <http://www.epa.gov/safewater/uic/classii.html>

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 142
(H) Publish Date: 2/14/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title Regulation of underground injection under RDU Resource Development
the federal Safe Drinking Water Act Component Commissioner's Office
Sponsor Rules
Requester Governor Component No. 423

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There is no anticipated fiscal impact for DNR associated with implementation of this legislation.

Prepared by: Janet Baxter, Legislative Liaison

Division: Commissioner's Office

Approved by: Tom Irwin, Commissioner

Agency: Natural Resources

Phone 907-465-4730

Date/Time 2/8/2005

Date 2/8/2005

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: HB 142
 (H) Publish Date: 2/14/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Admin
 Title Underground injection under the RDU Oil & Gas Conservation Commission
Federal safe drinking water Component Oil & Gas Conservation Commission
 Sponsor Rules Committee
 Requester Governor Component No. 2010

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	25.0	25.0	25.0	25.0	25.0	25.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	25.0	25.0	25.0	25.0	25.0	25.0

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 1162 AOGCC Receipts	25.0	25.0	25.0	25.0	25.0	25.0
TOTAL	25.0	25.0	25.0	25.0	25.0	25.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Will take 10% inspection time (\$9.0) and 10% Petroleum Engineer (\$16.0). The impact will be covered by overtime.

Prepared by: Daniel Seamount, Commissioner Phone 907-793-1221
 Division Alaska Oil & Gas Conservation Commission Date/Time 1/28/05 1:13 PM
 Approved by: Michael Tibbles, Deputy Commissioner Date 1/28/2005
 Agency Department of Administration

Alaska UIC Issues

What we do.

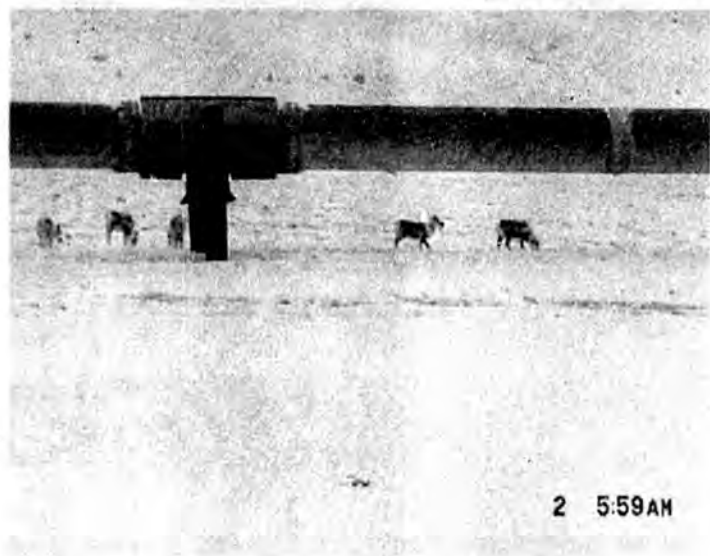
What are the challenges?

What are the options?



AOGCC – EPA UIC Situation

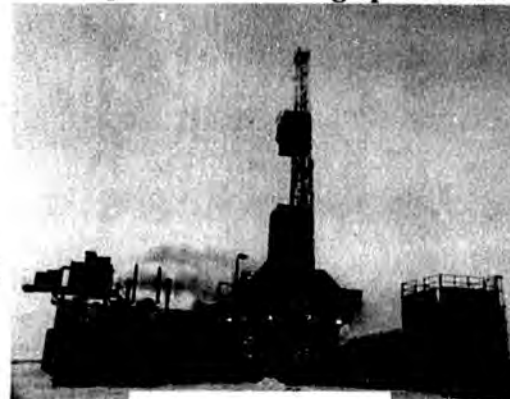
- Introduction
- UIC and other USDW Responsibilities
- House Bill 142
- The Problem to Solve
 - UIC Well Classes
 - Alaska UIC Situation- redundancy, confusion, Time, \$\$\$
- Options/Solutions



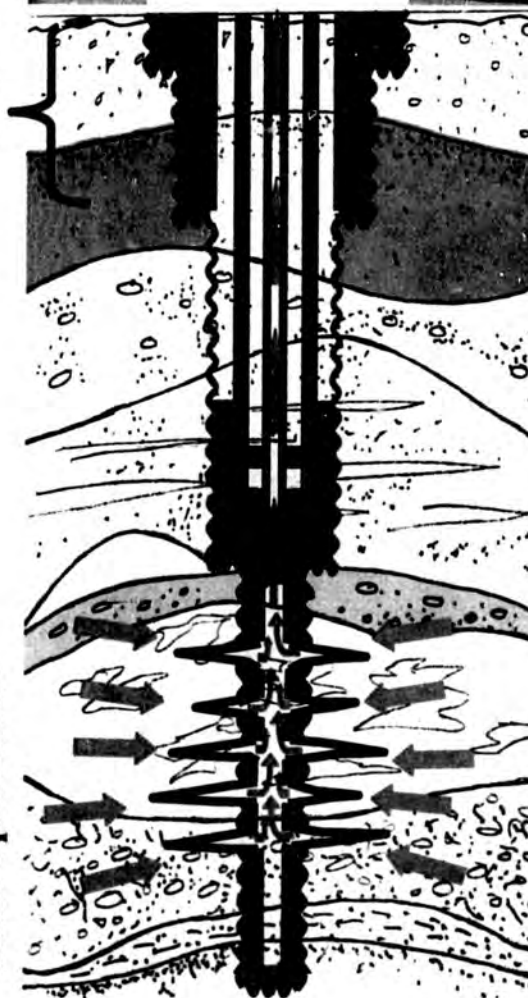
Meter proving on pipelines

AOGCC regulates operations affecting subsurface oil & gas resources, ensures the reliability of oil & gas flow measurements, and ensures that underground sources of drinking water are protected.

Inspection of drilling operations



Protect Fresh Water



Regulate oil & gas fields operations

Regulate wells constructed

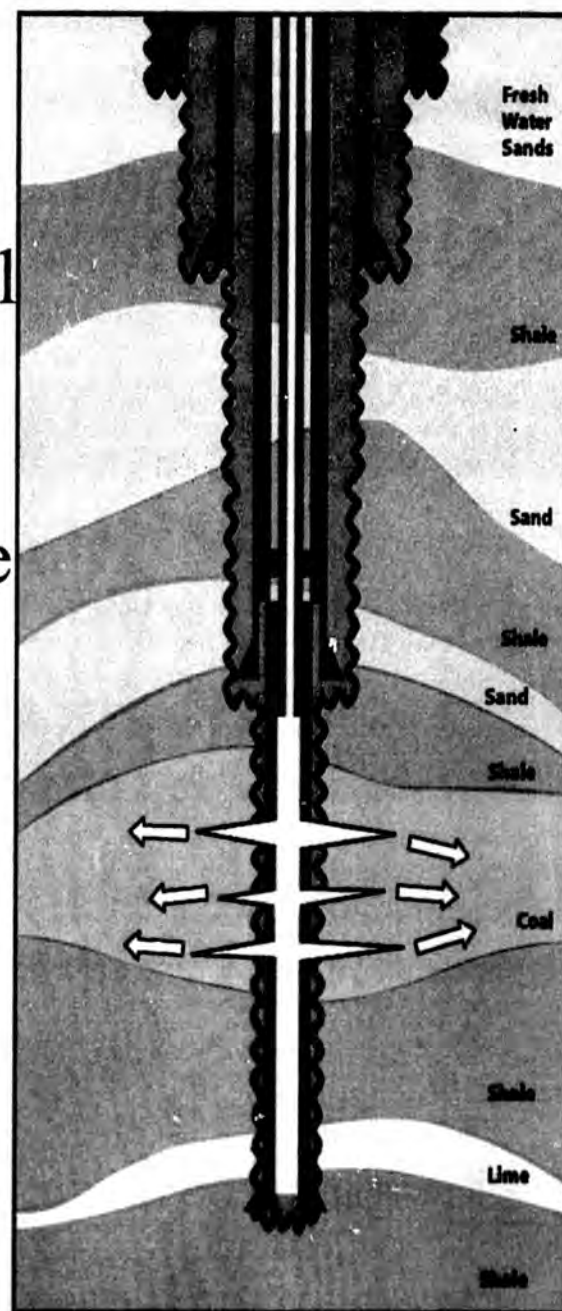
UNDERGROUND INJECTION PROGRAM (Class II)

AOGCC has primacy for implementing the federal Underground Injection Control (UIC) Program relating to regulation of underground injection activities for the purposes of enhanced oil recovery and the most environmentally sound disposal of oil field waste.

The proper underground injection of material to enhance oil recovery has resulted in billions of \$\$\$ in revenue to the State of Alaska

And

The best place to put oilfield waste is deep underground.



Sec. 31.05.030. Powers and duties of commission.

(d) The commission may require

(3) the drilling, casing and plugging of wells in a manner that will prevent the escape of oil or gas out of one stratum into another, the intrusion of water into an oil or gas stratum, the pollution of fresh water supplies by oil, gas or salt water, and prevent blowouts, cavings, seepages and fires;

(e) The commission may regulate

(1) for conservation purposes

(D) the disposal of salt water, nonpotable water, and oil field wastes;

(E) the contamination or waste of underground water;

(h) The commission may take all actions necessary to allow the state to acquire primary enforcement responsibility under 42 U.S.C. 300h-4 (Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f-300j), for the control of underground injection related to the recovery and production of oil and natural gas.

House Bill 142

“An Act relating to regulation of underground injection under the Safe Drinking Water Act and providing for an immediate effective date.”

*** Section 1.** AS 31.05.030(h) is amended to read:

(h) The commission may take all actions necessary to allow the state to acquire primary enforcement responsibility under **42 U.S.C. 300h-1 and 42 U.S.C. 300h-4** (Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f - 300j-**26**), for the control of underground injection related to the recovery and production of oil and natural gas **and the control of underground injection in Class I wells as defined in 40 C.F.R. 144.6, as amended.**

*** Sec. 2.** This Act takes effect immediately under AS 01.10.070(c).

UIC Situation

Two agencies performing same job, one protecting a non-existent resource resulting in onerous and costly requirements on industry and Alaska.

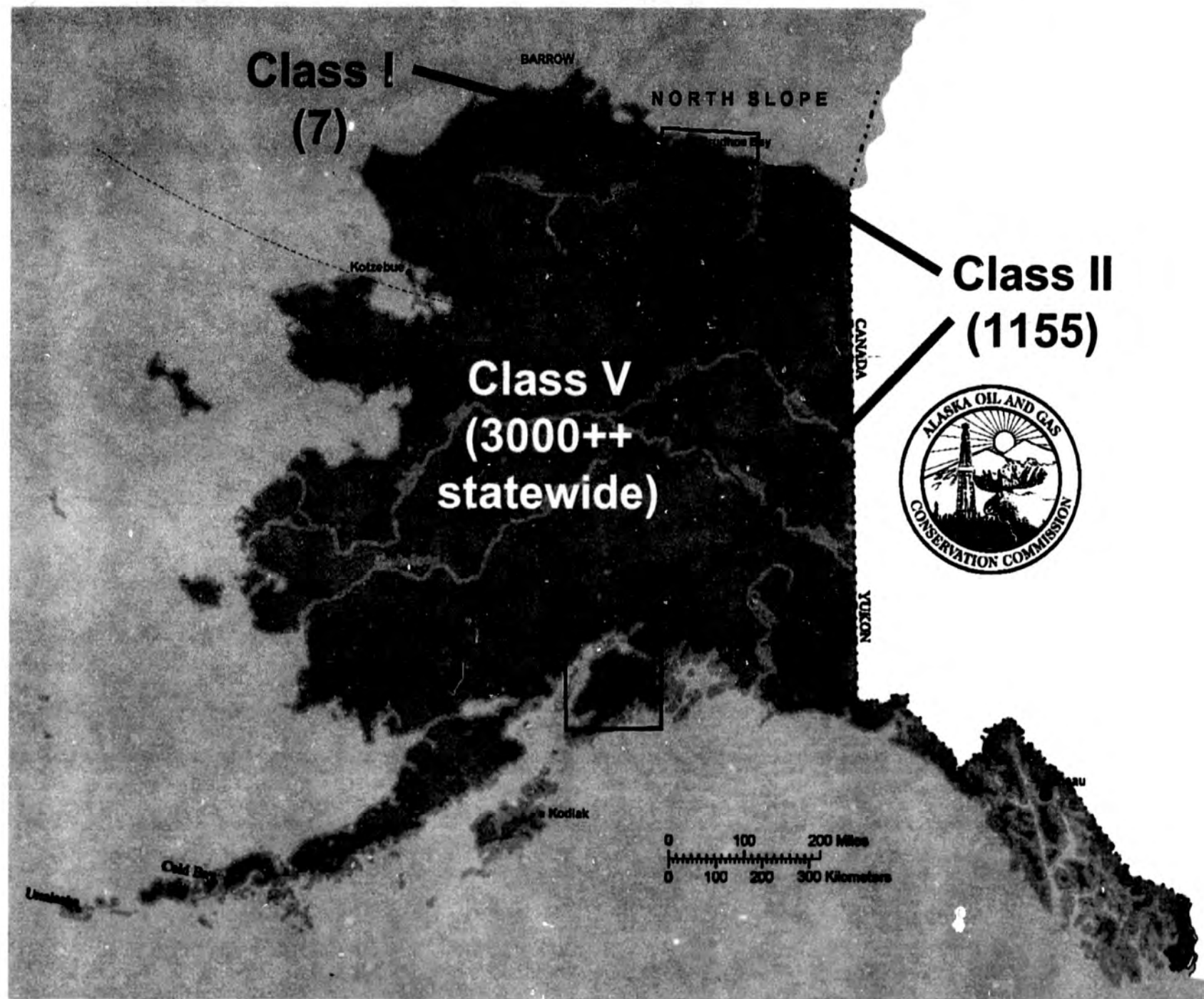
Common Sense Solutions?

AOGCC control through primacy or single disposal class by eliminating redundancy through statute change (new bill) and positive EPA interpretation and ruling (EPA doesn't think this is possible)

Underground Injection Control

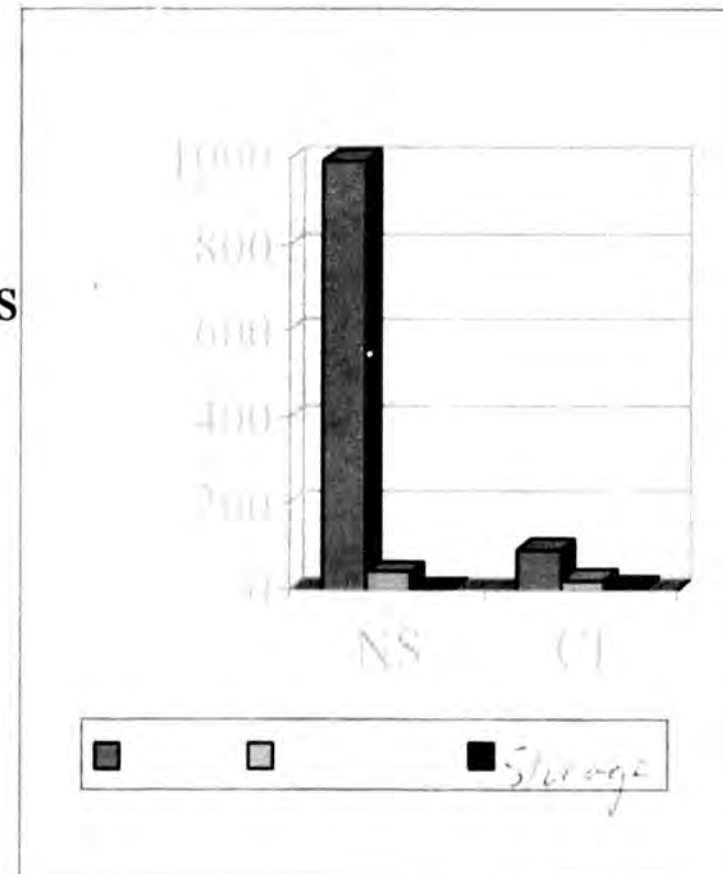


- Program under Safe Drinking Water Act
 - Protect underground drinking water sources
- 5 classes of wells
 - Class I: industrial, hazardous and non-hazardous; municipal waste
 - Class II: oil and gas
 - Class III: mining
 - Class IV: shallow hazardous and radioactive waste injection
 - Class V: whatever doesn't fit in I-IV (into H₂O table->20 people domestic, industrial, ?)



Alaska UIC Statistics - 2004

- 1155 operable UIC wells
 - 90% EOR (Class II-R)
 - Most converted producers
 - 1.1 billion bbls water, 3.2 Tcf gas injected (2004)
- 7 Class I wells
 - All on North Slope
 - 8th Class I well drilling
- 1.87 Billion bbls waste disposed (cumulative)
 - Class I wells: 1.2% of total volume disposed to date



UIC Situation- Waste of Tax Payer and Industry \$\$ & Time

- Confusion by operators over what waste is allowed to be disposed in each Class
 - All wastes on the NS are directly associated with hydrocarbon production- should all be Class II-(not EPA view)
 - Much time & energy expended for waste determination and tracking by industry and government
- Redundancy- North Slope- EPA and AOGCC running virtually identical programs.
 - Often same fluids injected into the same disposal zones
 - Class I- same confinement and well construction or worse (see slide after next)
 - AOGCC performs much work advising EPA on their program

UIC Situation- Waste of Tax Payer and Industry \$\$ & Time (cont.)

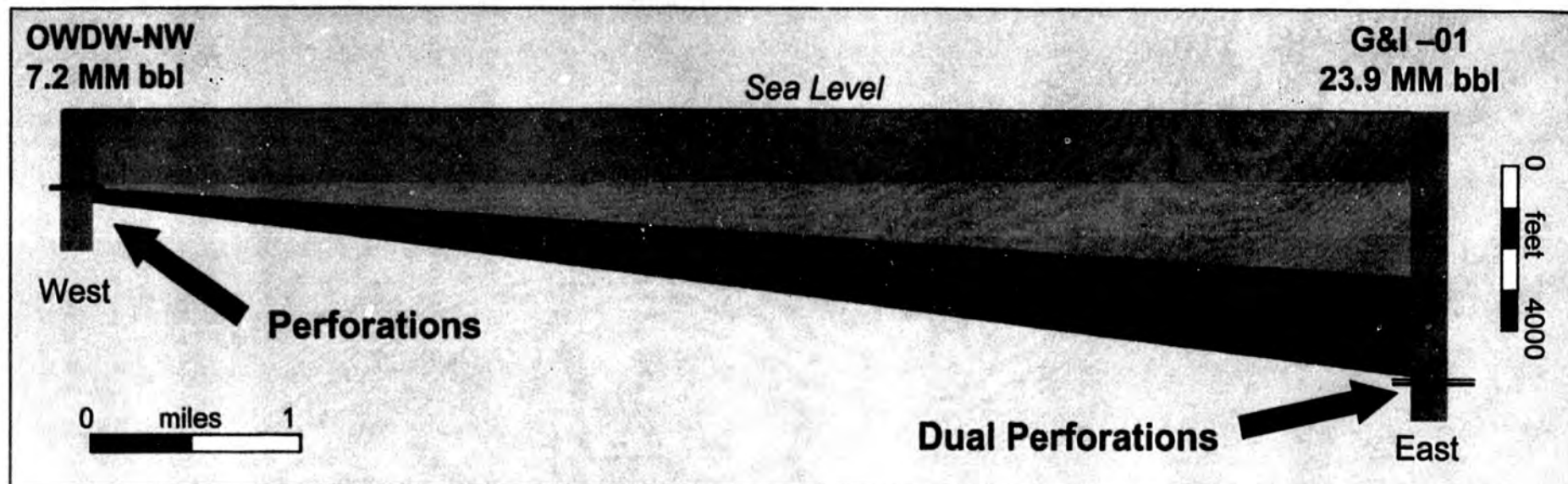
- **EPA Class I program-**
 - **Protects non-existing resource (fresh water)**
 - **Inefficient permit process; EPA approvals generally much slower than AOGCC.**
 - **Onerous & costly stipulations concerning well integrity**
 - **EPA has no permanent onsite field inspectors**
 - **EPA regulates only 7 out of 1162 UIC wells**
 - **Costly and remote for EPA**

**Temptation to transport waste long
distance for surface displacement or
disposal in redundant disposal well**

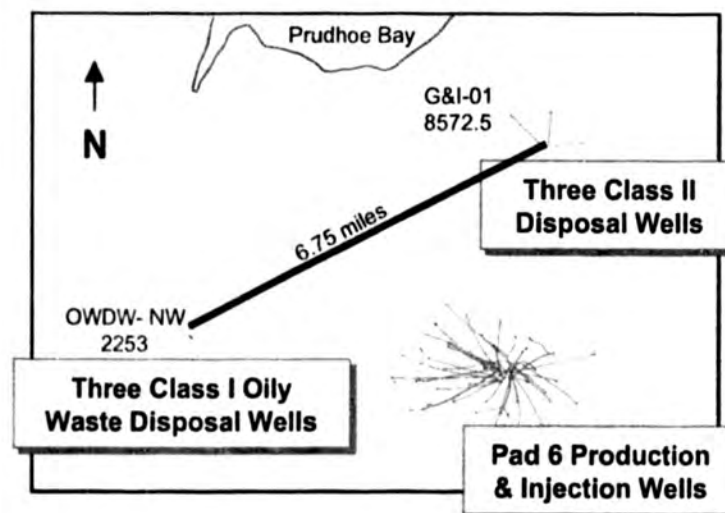


Confinement Analysis in Prudhoe Bay Unit

Class I vs. Class II-D



	OWDW-NW	G&I-01
Permafrost Interval	0-1905'	0-1800'
Confining Interval	1905-1980'	1800-4200'
Injection Interval	1980-2253'	4270-6750'
Perforations	1980-2005'	6415-6422' 6505-6527'



Confusion- Fluids Eligible for Class II

- EPA position
 - fluids that have been down hole
 - generated by contact with oil & gas production stream during removal of produced water or other contaminants
- Wastes “directly associated”; “intrinsically derived from”; “associated with”; “uniquely associated”?
 - Interpretive; contrary to logic
 - Cement rinsate; unused fluids; camp wastes
- Room for exceptions? On what basis?
 - EPA position – no; rules do not provide for exceptions
 - AOGCC – should be
 - uniqueness of NS ops; environmental preference; no USDWs; freshwater protection mandate for AK; SDWA and UIC

Class I and Class II Examples

- Alpine UIC compliance cost (per barrel fluid disposed)
 - Class I: \$2.50
 - \$100k to operate
 - Class II: \$1.50
 - Difference is integrity demonstrations, reporting
- Prudhoe Bay field comparison
 - Grind and Inject Facility – Class II
 - AOGCC
 - Oily Waste Disposal Wells – Class I
 - EPA

Options/Solutions

AOGCC working with EPA Region 10

- Business as Usual
 - No effort expended to change status quo
 - Confusion
 - Costly to tax payer and industry
 - Redundant
 - Inefficient approval process
 - Not Operator preference

Options/Solutions (Cont.)

AOGCC working with EPA Region 10

- AOGCC primacy over EPA oversight- 2 well classes- SB103
 - Less industry confusion
 - Saves industry and tax payer \$\$
- One class of well for all disposal- overseen by AOGCC- need statute & ruling by EPA
 - Less energy used for waste determination and tracking
 - Less industry confusion greatly
 - Saves industry and tax payer \$\$

Wants to
"Someday"
achieve
this.

This Bill
Subject to EPA
approval?

Summary From
Mike Tibbles
(5-2-05)

Senate Bill 103
Regulation of Underground Injections

Bill introduced (by Governor) to give the Alaska Oil and Gas Conservation Commission (AOGCC) the authority to assume the regulation of underground injection wells used in the oil and gas industry. (EPA program approval will still be required)

Currently AOGCC regulates all 1,155 Class II wells in Alaska. Class II wells inject certain fluids related to the recovery and production of oil and natural gas.

However, the Environmental Protection Agency (EPA) continues to regulate other types of injection wells in Alaska, including Class I wells, which are used in the oil and gas industry to dispose of wastes that do not go into Class II wells. (There are only 7 Class I wells in Alaska).

Granting AOGCC the authority over all underground injections relating to oil and gas operations would have several benefits for the state and industry.

- First, the AOGCC is generally able to respond to permit applications more quickly
- Second, having a single, uniform process for regulating underground injections by the industry will improve efficiency and reduce confusion. Since all North Slope activity can be connected to oil and gas activity, considerable agency time and effort is devoted to determining what items are appropriate for a Class II well and what items are required to use Class I wells. A single agency with authority over both classes of wells will help.

Example of confusion (if needed): Cement can be poured into a Class II well to secure the well. However, the rinse material from the cement truck must be injected into a Class I well. The same material from the same cement truck requires two well types and two regulatory agencies.

Note: The other body (Senate) adopted a letter of intent. There was a concern that the bill would give AOGCC the authority to regulate all Class I wells in Alaska even if they are not directly connected to the oil and gas industry. There are no non-oil and gas Class I wells in Alaska and we do not anticipate any. However, the letter of intent requests AOGCC to notify the Legislature immediately if an application is received for a non-oil and gas Class I well so the Legislature can consider the potential role of other regulatory agencies.

Journal Text for SB103 in the 24th Legislature

Full Journal

03-08-2005

Senate Journal

0531

SB 103

The Resources Committee considered SENATE BILL NO. 103 "An Act relating to regulation of underground injection under the federal Safe Drinking Water Act; and providing for an effective date" and recommended the adoption of the following Resources Committee Letter of Intent:

Letter of Intent

It is the intent of the Legislature that state agencies with relevant expertise and experience, contribute appropriately to the regulation of Class I injection wells. The Legislature recognizes that all Class I wells to date in Alaska have been used in the oil and gas industry and that the Alaska Oil and Gas Conservation Commission is clearly the appropriate agency to regulate these and any future Class I wells used in the oil and gas industry. In the event that Class I wells are proposed for ~~other~~ uses, the Legislature should have a timely opportunity to consider the potential role of other regulatory agencies. Therefore, it is the intent of the Legislature that if an application for a Class I well not associated with oil or gas operations is received by the Alaska Oil and Gas Conservation Commission, the Commission shall immediately provide a copy to the Legislature, so as to enable the Legislature to consider appropriate action.

Like what?

Signing do pass: Senator Wagoner, Chair; Senators Ben Stevens, Seekins. Signing no recommendation: Senators Elton, Guess, Dyson, Stedman.

03-08-2005

Senate Journal

0532

The following previously published fiscal information applies:

Fiscal Note No. 1, Department of Administration

Fiscal Note No. 2, zero, Department of Natural Resources

The bill was referred to the Finance Committee.

Bill Root: ☐Display Bill RootNext Bill

SCOMM

1444:7

ALASKA STATE LEGISLATURE

Interim:

500 East Railroad Avenue
Wasilla, Alaska 99654
(907) 373-1842
Fax (907) 373-4729



Session:

State Capitol Building
Juneau, Alaska 99801-1182
(907) 465-2186
Fax (907) 465-3818

REPRESENTATIVE VIC KOHRING DISTRICT 14

House Bill 197 Sponsor statement

House Bill 197 clarifies the Department of Environmental Conservation's (DEC) authority to exempt gas exploration wells and production facilities from *oil discharge prevention and contingency plans* ("C-Plans"). The legislation also removes the industry's burden of financial responsibility required of wells that do not pose an oil spill threat.

HB 197 fixes the unintended consequences of last year's HB 531. That legislation, in part, limited previous exemptions for gas exploration and production facilities for all shallow natural gas facilities to a narrow exemption for "non conventional gas wells." The problem HB 197 seeks to correct relates to the new definition of "non conventional gas," which HB 531 defined as "coal bed methane, gas contained in shales or gas hydrates."

Benefits of HB 197 include permitting DEC to focus its resources on the review of C-Plans and proof of financial responsibility for those gas exploration facilities that could potentially incur an oil spill. It also gives DEC authority to conduct inspections the Legislature directed when it changed the *contingency plan review renewal requirement* from three to five years. In addition, the bill relieves industry from unnecessary financial costs associated with preparing and implementing oil spill contingency plans for gas exploration facilities where no threat of an oil release spill exists. Lastly, HB 197 relieves industry from the costs involving demonstrating proof of financial responsibility in response to oil spills at gas exploration facilities, where no threat of spills exist.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

FRANK H. MURKOVSKI,
GOVERNOR

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5274
FAX: (907) 278-7022

March 22, 2005

Representative Ralph Samuels
House of Representatives
State Capitol
Juneau, AK 99801-1182

Re: HB 197

Dear Co-Chairman Samuels:

You asked that the Attorney General's Office provide a response to a question raised by Representative Seaton in the March 21, 2005, House Resources Committee Hearing on HB 197. Representative Seaton asked a question concerning the definitions of "oil", "crude oil" and "natural gas" in sections 4 and 5 of the bill. Because the legislative teleconference system went offline, I was unable to respond to the Representative Seaton's question. I appreciate this opportunity to explain these provisions of the bill.

The existing provisions in AS 46.04.050 provide two exemptions to the oil discharge prevention and contingency plan (C-plan) (AS 46.04.030) and financial responsibility (AS 46.04.040) requirements. The first exemption is for "oil terminal facilities" with an oil storage capacity of less than 5,000 barrels of crude oil or less than 10,000 barrels of noncrude oil. The second exemption is for natural gas production and terminal facilities. In addition, there is a C-plan exemption for natural gas exploration and production facilities in AS 46.04.030(a) that, prior to HB 531 applied to shallow natural gas facilities, and now, applies to "nonconventional gas" which is defined as "coal bed methane, gas contained in shales or gas hydrates." AS 38.05.965.

Representative Seaton's question involves the exemptions in AS 46.04.050 which provides as follows:

Sec. 46.04.050. Exemptions.

(a) The provisions of AS 46.04.030, 46.04.040, and 46.04.060 do not apply to an oil terminal facility that has an effective storage capacity of less than 5,000 barrels of crude oil or less than 10,000 barrels of noncrude oil.

Co-Chairman Samuels

March 22, 2005

Page 2

(b) The provisions of AS 46.04.030 and 46.04.040 do not apply to a natural gas production facility and a natural gas terminal facility; for purposes of this subsection the terms "natural gas production facility" and "natural gas terminal facility"

(1) mean a platform, facility, or structure that is used solely for the production, compression, storage, or transport of natural gas;

(2) do not include a platform, facility, or structure that produces, stores, or transports natural gas in combination with oil.

Subsection (b) exempts natural gas production and terminal facilities. Subsection (b) defines those facilities as "a platform, facility, or structure that is used solely for the production, compression, storage, or transport of natural gas" but as not including a platform, facility, or structure that produces, stores, or transports natural gas in combination with oil. AS 46.04.050(b)(2) (emphasis added).

Sections 4 and 5 of HB 197 make two clarifications to the exemption. First, section 5 moves the natural gas exploration and production facility exemption in AS 46.04.030(b) to a new subsection (c) in AS 46.04.050. Second, sections 4 and 5 clarify what is meant by the "exclusion" to the exemption for facilities that handle natural gas "in combination with oil." AS 46.04.050(b)(2). It is important to note that oil is defined very broadly in AS 46.04.900(13): as "oil of any kind and in any form, whether crude, refined, or a petroleum by-product, including but not limited to petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oil refuse, oil mixed with other wastes, crude oils, liquified natural gas, propane, butane, or other liquid hydrocarbons regardless of specific gravity."

Sections 4 and 5 attempt to resolve any ambiguity in these provisions by defining "in combination with oil" as a facility that stores, produces, explores for, or transports natural gas in combination with crude oil and that crude oil does not include natural gas. New subparagraph (ii) addresses a natural gas exploration or production facility that stores refined petroleum products by providing that it would only need a C-plan or financial responsibility if it stores refined petroleum products in volumes exceeding those in AS 46.04.050(a) [(10,000 barrels of noncrude oil)]. This reflects the Department of Environmental Conservation's interpretation of those provisions since the exemption in AS 46.04.050 was amended in 1992 to address natural gas facilities.

In sum, the definitions in sections 4 and 5 are attempts to clarify the current application of these requirements in light of the existing statutory definitions in AS 46.04.900. As a result, it is not necessary to amend sections 4 and 5 of the bill.

Co-Chairman Samuels

March 22, 2005

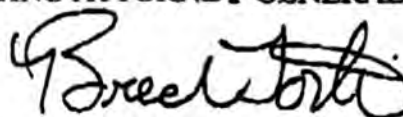
Page 3

It is also worth noting that -- like any other facility in the state -- a facility exempted from the C-plan requirements must still immediately contain and cleanup oil spills as required by AS 46.04.020 and is strictly liable for the costs and damages from a spill under AS 46.03.822.

I hope that this responds to the question raised by Representative Seaton. If I can provide additional assistance, please let me know.

Sincerely,

SCOTT J. NORDSTRAND
ACTING ATTORNEY GENERAL

By: 

Breck C. Tostevin
Assistant Attorney General

BCT/cam

cc: Rep. Kohring
Rep. Ramras
Rep. Seaton
Acting Comm. Fredriksson
Larry Dietrick
Dan Seamont
David Marquez
Deborah Behr
Rob Mintz
Kevin Jardell

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
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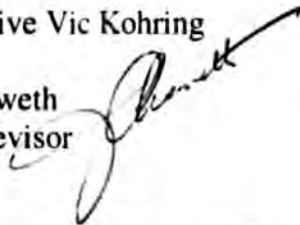
MEMORANDUM

February 24, 2005

SUBJECT: Draft bill exempting certain natural gas exploration and production facilities from oil discharge prevention and contingency plans and proof of financial responsibility, and amending the powers and duties of the Alaska Oil and Gas Conservation Commission with respect to those plans -- notes to accompany the initial draft (Work Order No. 24-LS0664A)

TO: Representative Vic Kohring

FROM: Jack Chenoweth
Assistant Revisor



The accompanying bill draft is offered to implement the eighth entry in your February 12 draft, directing "regulatory relief" from preparation of oil spill response plans for gas wells. My draft borrows from the language of a draft of a governor's bill.

The accompanying bill draft revises various statutes setting parameters for oil discharge prevention and contingency planning and proof of financial responsibility for natural gas exploration and production facilities. It also spells out in greater detail the role assigned in current law to the Alaska Oil and Gas Conservation Commission in determining whether a facility may be exempt from the oil discharge prevention and contingency planning and proof of financial responsibility requirements.

*

OIL DISCHARGE PREVENTION AND CONTINGENCY PLANNING --

Under current AS 46.04.030(b), "[a] person may not cause or permit the operation of a pipeline or an exploration or production facility in the state unless an oil discharge prevention and contingency plan for the pipeline or facility has been approved by the department and the person is in compliance with the plan." The language of the subsection goes on to set out an exemption for a facility that is "used solely to explore for or to develop or produce *nonconventional* natural gas resources," that is, to explore for and develop gas resources from coal bed methane, gas contained in shales, and gas hydrates. However, this nonconventional gas exemption does not apply if the Alaska Oil and Gas Conservation Commission determines that a well drilled for nonconventional gas may penetrate a formation capable of flowing oil and the volume of oil encountered will be of such quantities that a contingency plan will be required.

The amendment made by the draft's **bill section 2** eliminates the exemption and the exception to the exemption that appear in existing AS 46.04.030(b). A revised and expanded exemption covering recovery of natural gas without regard to source is set out in the new language of AS 46.04.050(c), added by **bill section 5**.

*

PROOF OF FINANCIAL RESPONSIBILITY --

Under AS 46.04.040(b), "[a] person may not cause or permit the operation of a pipeline or an exploration or production facility in the state unless the person has furnished to the department, and the department has approved, proof of financial ability to respond in damages." The subsection goes on to set the proof of financial responsibility that must be demonstrated. For onshore facilities concerned with natural gas recovery, AS 46.04.040(b)(3) draws a distinction between *nonconventional* gas exploration -- the proof required is set at \$25,000 per incident -- and gas exploration from *other than nonconventional* gas sources -- the proof required is set at \$1,000,000 per incident.

The amendment proposed by **bill section 3** eliminates the distinction and extends the \$1,000,000 per incident standard to cover onshore facilities concerned with natural gas recovery from nonconventional gas sources. However, under the language added as AS 46.04.050(c) by bill section 5, certain natural gas exploration facilities may be exempt from proof of financial responsibility requirements.

*

REVISION OF THE OIL DISCHARGE PREVENTION AND CONTINGENCY PLANNING AND PROOF OF FINANCIAL RESPONSIBILITY EXEMPTIONS FOR CERTAIN NATURAL GAS PRODUCTION AND TERMINAL FACILITIES --

Current AS 46.04.050 sets out several exemptions from the oil discharge prevention and contingency planning and proof of financial responsibility requirements of AS 46.04.030 and 46.04.040. AS 46.04.050(b) currently exempts "a natural gas production facility and a natural gas terminal facility." The subsection supplies definitions for those terms, limiting them to "a platform, facility, or structure that is used solely for the production, compression, storage, or transport of natural gas," and making the exemption inoperable if "a platform, facility, or structure . . . produces, stores, or transports natural gas in combination with oil."

The amendments proposed in **bill section 4** modify the language of AS 46.04.050(b) that makes the exemption inoperable. The proposed change is twofold.

First, as proposed in the amendment made by this bill section identified as (2)(B)(i), the exemption would not operate as to a [natural gas production or terminal] platform,

facility, or structure that "produces, stores, or transports natural gas in combination with crude oil," with a definition of "crude oil" supplied.

Second, as proposed in the amendment made by this bill section identified as (2)(B)(ii), the exemption would not operate as to a [natural gas production or terminal] platform, facility, or structure that "is an oil terminal facility¹ regulated under AS 46.04.030 [the oil discharge prevention and contingency planning section] and AS 46.04.040 [the proof of financial responsibility requirements provision]" if the facility stores oil "in quantities exceeding those exempted by (a) of this section."² In conjunction with this change, the measure proposes a definition for "oil."

The amendments proposed by **bill section 4** are to limit the operation of the exemptions authorized by AS 46.04.050(b) to gas-only facilities and terminals and to disallow the exemptions if the gas production facility or gas terminal facility operates in any manner with respect to oil.

*

APPLICATION OF THE OIL DISCHARGE PREVENTION AND CONTINGENCY PLANNING AND PROOF OF FINANCIAL RESPONSIBILITY EXEMPTIONS FOR CERTAIN NATURAL GAS EXPLORATION FACILITIES --

Bill section 5 is the bill's key provision. It is included by way of a replacement and expansion of the exemption described earlier in the material deleted by the amendment to

¹ The chapter supplies a definition to the term "oil terminal facility." Under AS 46.04.900(15):

(15) "oil terminal facility" means an onshore or offshore facility of any kind, and related appurtenances, including but not limited to a deepwater port, bulk storage facility, or marina, located in, on, or under the surface of the land or waters of the state, including tide and submerged land, that is used for the purpose of transferring, processing, refining, or storing oil; a vessel, other than a nontank vessel, is considered an oil terminal facility only when it is used to make a ship-to-ship transfer of oil, and when it is traveling between the place of the ship-to-ship transfer of oil and an oil terminal facility;

² This is a reference to AS 46.04.050(a), which reads:

(a) The provisions of AS 46.04.030, 46.04.040, and 46.04.060 do not apply to an oil terminal facility that has an effective storage capacity of less than 5,000 barrels of crude oil or less than 10,000 barrels of noncrude oil.

AS 46.04.030(b) made in bill section 2. The amendment carries forward the idea, now applicable only to natural gas exploration facilities used to explore for nonconventional gas, that these facilities are to be exempt from the oil discharge prevention and contingency planning and proof of financial responsibility requirements of AS 46.04 unless the Alaska Oil and Gas Conservation Commission determines that there is a reasonable probability that the gas well "will not penetrate a formation capable of flowing oil to the ground surface." As the exemption is proposed to be revised and set out in bill section 5, it applies broadly to all gas exploration facilities -- not just those concerned with recovery of natural gas from nonconventional sources -- and supplies a definition for "natural gas exploration facility" that follows distinctions drawn in AS 46.04.050(b) that I discuss in the preceding paragraph of this memo.³

*

RESPONSIBILITIES OF THE ALASKA OIL AND GAS CONSERVATION COMMISSION --

The material added by bill section 5 refers to an obligation of the AOGCC to make a determination as to activities involving operation of a natural gas exploration facility. The AOGCC's duties are more specifically spelled out in the material added by **bill section 1**. The material added appears unexceptional and largely replaces the material proposed to be deleted in the amended language set out in bill section 2 and in the material in AS 31.05.030(j)(2)(C), shown in the repealer.

*

REPEALERS --

The provisions proposed for repeal in **bill section 6** include AS 31.05.030(j)(2)(C). This subparagraph currently addresses the duties of the Alaska Oil and Gas Conservation Commission:

(j) For exploration and development operations involving nonconventional gas, the [Alaska Oil and Gas Conservation] commission

. . .
(2) shall

³ The definition of "natural gas exploration facility" provided in bill section 5 is partially duplicative of the definition of the more generic term "exploration facility" as set out in AS 46.04.900(8):

(8) "exploration facility" means a platform, vessel, or other facility used to explore for hydrocarbons in or on the waters of the state or in or on land in the state; the term does not include platforms or vessels used for stratigraphic drilling or other operations that are not authorized or intended to drill to a producing formation;

Representative Vic Kohring
February 24, 2005
Page 5

(C) for the purposes of AS 46.04.030(b), determine whether a well drilled for nonconventional gas may penetrate a formation capable for flowing oil and, if so, whether the volume of oil encountered will be of such quantities that an oil discharge prevention and contingency plan will be required;

These concepts appear in material added by bill sections 1 and 5, so their retention here is not warranted.

Proposed also for repeal is AS 46.04.900(10), the definition of "nonconventional gas." With the other changes proposed in the measure, the distinction that limits application of certain current provisions to facilities concerned with recovery of gas from "nonconventional" sources is replaced by material that applies to all natural gas recovery. The definition thus becomes obsolete and can be omitted.

JBC:jad
05-120.jad

Enclosure

24-LS0664VA
Chenoweth
2/24/05

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE KOHRING

Introduced:
Referred:

A BILL**FOR AN ACT ENTITLED**

1 "An Act exempting certain natural gas exploration and production facilities from oil
2 discharge prevention and contingency plans and proof of financial responsibility, and
3 amending the powers and duties of the Alaska Oil and Gas Conservation Commission
4 with respect to those plans; and providing for an effective date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 31.05.030 is amended by adding a new subsection to read:

7 (1) For purposes of AS 46.04.050(c) and upon application by the operator, the
8 commission shall evaluate the likelihood that a well at a natural gas exploration
9 facility may penetrate a formation capable of flowing oil to the ground surface and
10 issue a determination based on results of the evaluation. If the commission determines
11 that evidence obtained through the evaluation demonstrates with reasonable certainty
12 that a well will not penetrate a formation capable of flowing oil to the ground surface,
13 it shall report its determination to the Department of Environmental Conservation. In
14 this subsection,

(1) "natural gas exploration facility" has the meaning given in AS 46.04.050(c);

(2) "oil" has the meaning given in AS 46.04.050(c).

* **Sec. 2.** AS 46.04.030(b) is amended to read:

(b) A person may not cause or permit the operation of a pipeline or an exploration or production facility in the state unless an oil discharge prevention and contingency plan for the pipeline or facility has been approved by the department and the person is in compliance with the plan. [THIS SUBSECTION DOES NOT APPLY TO AN EXPLORATION OR PRODUCTION FACILITY USED SOLELY TO EXPLORE FOR OR TO DEVELOP OR PRODUCE NONCONVENTIONAL GAS RESOURCES, EXCEPT THAT THIS EXEMPTION DOES NOT APPLY IF THE ALASKA OIL AND GAS CONSERVATION COMMISSION DETERMINES UNDER AS 31.05.030(j) THAT

(1) A WELL DRILLED FOR NONCONVENTIONAL GAS MAY PENETRATE A FORMATION CAPABLE OF FLOWING OIL; AND

(2) THE VOLUME OF OIL ENCOUNTERED WILL BE OF SUCH QUANTITIES THAT A CONTINGENCY PLAN WILL BE REQUIRED.]

* **Sec. 3.** AS 46.04.040(b) is amended to read:

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

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

(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 GAS BY MEANS OF DRILLING A WELL TO EXPLORE FOR THE GAS; AND

(B) EXCEPT AS PROVIDED BY (A) OF THIS PARAGRAPH,] \$1,000,000 per incident.

* Sec. 4. AS 46.04.050(b) is amended to read:

(b) The provisions of AS 46.04.030 and 46.04.040 do not apply to a natural gas production facility and a natural gas terminal facility; for purposes of this subsection

(1) "crude oil" does not include natural gas or refined petroleum products;

(2) [THE TERMS] "natural gas production facility" and "natural gas terminal facility"

(A) [(1)] mean a platform, facility, or structure that is used solely for the production, compression, storage, or transport of natural gas;

(B) [(2)] do not include a platform, facility, or structure that

(i) produces, stores, or transports natural gas in combination with crude oil; or

(ii) is an oil terminal facility regulated under AS 46.04.030 and 46.04.040 by storing oil in quantities exceeding those exempted by (a) of this section;

(3) "oil" has the meaning given in AS 46.04.900, except that "oil" does not include natural gas.

* Sec. 5. AS 46.04.050 is amended by adding a new subsection to read:

(c) The provisions of AS 46.04.030 and 46.04.040 do not apply to a natural gas exploration facility if the Alaska Oil and Gas Conservation Commission has determined under AS 31.05.030(l) that evidence obtained through evaluation demonstrates with reasonable certainty that all of the wells at a natural gas exploration

1 facility will not penetrate a formation capable of flowing oil the ground surface. If the
2 drilling of a well at an exploration facility exempted under this subsection does
3 penetrate a formation capable of flowing oil to the surface, the owner or operator shall
4 submit an oil discharge prevention and contingency plan and proof of financial
5 responsibility to the department to meet the requirements of AS 46.04.030 and
6 46.04.040. For purposes of this subsection,

7 (1) "crude oil" does not include natural gas or refined petroleum
8 products;

9 (2) "natural gas exploration facility"

10 (A) means a platform, facility, or structure that is used solely
11 for the exploration for natural gas;

12 (B) does not include a platform, facility, or structure that

13 (i) explores for, produces, stores, or transports natural
14 gas in combination with crude oil; or

15 (ii) is an oil terminal facility regulated under
16 AS 46.04.030 and 46.04.040 by storing oil in quantities exceeding
17 those exempted by (a) of this section;

18 (3) "oil" has the meaning given in AS 46.04.900, except that "oil" does
19 not include natural gas.

20 * **Sec. 6.** AS 31.05.030(j)(2)(C) and AS 46.04.900(10) are repealed.

21 * **Sec. 7.** This Act takes effect immediately under AS 01.10.070(c).

24-LS0664\Y
Chenoweth
3/31/05

CS FOR HOUSE BILL NO. 197()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): HOUSE SPECIAL COMMITTEE ON OIL AND GAS

A BILL

FOR AN ACT ENTITLED

1 "An Act exempting certain natural gas exploration and production facilities from oil
2 discharge prevention and contingency plans and proof of financial responsibility, and
3 amending the powers and duties of the Alaska Oil and Gas Conservation Commission
4 with respect to those plans; and providing for an effective date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 31.05.030 is amended by adding a new subsection to read:

7 (1) For purposes of AS 46.04.050(c) and upon application by the operator, the
8 commission shall evaluate the likelihood that a well at a natural gas exploration
9 facility may penetrate a formation capable of flowing oil to the ground surface and
10 issue a determination based on results of the evaluation. If the commission determines
11 that evidence obtained through the evaluation demonstrates with reasonable certainty
12 that a well will not penetrate a formation capable of flowing oil to the ground surface,
13 it shall report its determination to the Department of Environmental Conservation. In
14 this subsection,

(1) "natural gas exploration facility" has the meaning given in AS 46.04.050(c);

(2) "oil" has the meaning given in AS 46.04.050(c).

* Sec. 2. AS 46.04.030(b) is amended to read:

(b) A person may not cause or permit the operation of a pipeline or an exploration or production facility in the state unless an oil discharge prevention and contingency plan for the pipeline or facility has been approved by the department and the person is in compliance with the plan. [THIS SUBSECTION DOES NOT APPLY TO AN EXPLORATION OR PRODUCTION FACILITY USED SOLELY TO EXPLORE FOR OR TO DEVELOP OR PRODUCE NONCONVENTIONAL GAS RESOURCES, EXCEPT THAT THIS EXEMPTION DOES NOT APPLY IF THE ALASKA OIL AND GAS CONSERVATION COMMISSION DETERMINES UNDER AS 31.05.030(j) THAT

(1) A WELL DRILLED FOR NONCONVENTIONAL GAS MAY PENETRATE A FORMATION CAPABLE OF FLOWING OIL; AND

(2) THE VOLUME OF OIL ENCOUNTERED WILL BE OF SUCH QUANTITIES THAT A CONTINGENCY PLAN WILL BE REQUIRED.]

* Sec. 3. AS 46.04.040(b) is amended to read:

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

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

(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 GAS BY MEANS OF DRILLING A WELL TO EXPLORE FOR THE GAS; AND

(B) EXCEPT AS PROVIDED BY (A) OF THIS PARAGRAPH,] \$1,000,000 per incident.

* Sec. 4. AS 46.04.050(b) is amended to read:

(b) The provisions of AS 46.04.030 and 46.04.040 do not apply to a natural gas production facility and a natural gas terminal facility; for purposes of this subsection, [THE TERMS] "natural gas production facility" and "natural gas terminal facility"

[(1)] mean a platform, facility, or structure that, except for storage of refined petroleum products in a quantity that does not exceed 10,000 barrels, is used solely for the production, compression, storage, or transport of natural gas [;

(2) DO NOT INCLUDE A PLATFORM, FACILITY, OR STRUCTURE THAT PRODUCES, STORES, OR TRANSPORTS NATURAL GAS IN COMBINATION WITH OIL].

* Sec. 5. AS 46.04.050 is amended by adding a new subsection to read:

(c) The provisions of AS 46.04.030 and 46.04.040 do not apply to a natural gas exploration facility if the Alaska Oil and Gas Conservation Commission has determined under AS 31.05.030(I) that evidence obtained through evaluation demonstrates with reasonable certainty that all of the wells at a natural gas exploration facility will not penetrate a formation capable of flowing oil to the ground surface. If the drilling of a well at an exploration facility exempted under this subsection does penetrate a formation capable of flowing oil to the surface, the owner or operator shall submit an oil discharge prevention and contingency plan and proof of financial responsibility to the department to meet the requirements of AS 46.04.030 and 46.04.040. For purposes of this subsection, "natural gas exploration facility" means a platform, facility, or structure that, except for storage of refined petroleum products in

1 a quantity that does not exceed 10,000 barrels, is used solely for the exploration for
2 natural gas.

3 * Sec. 6. AS 31.05.030(j)(2)(C) and AS 46.04.900(10) are repealed.

4 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 5, 2005

SUBJECT: Draft CSHB 197 () -- sectional analysis
(Work Order No. 24-LS0664\Y)

TO: Representative Vic Kehringer

FROM: Jack Chenoweth, Assistant Revisor

The bill draft revises various statutes setting parameters for oil discharge prevention and contingency planning and proof of financial responsibility for natural gas exploration and production facilities. It also spells out in greater detail the role assigned in current law to the Alaska Oil and Gas Conservation Commission in determining whether a facility may be exempt from the oil discharge prevention and contingency planning and proof of financial responsibility requirements.

*

OIL DISCHARGE PREVENTION AND CONTINGENCY PLANNING --

Under current AS 46.04.030(b), "[a] person may not cause or permit the operation of a pipeline or an exploration or production facility in the state unless an oil discharge prevention and contingency plan for the pipeline or facility has been approved by the department and the person is in compliance with the plan." The language of the subsection goes on to set out an exemption for a facility that is "used solely to explore for or to develop or produce *nonconventional* natural gas resources," that is, to explore for and develop gas resources from coal bed methane, gas contained in shales, and gas hydrates. However, under current law, this nonconventional gas exemption does not apply if the Alaska Oil and Gas Conservation Commission determines that a well drilled for nonconventional gas may penetrate a formation capable of flowing oil and the volume of oil encountered will be of such quantities that a contingency plan will be required.

The amendment made by the draft's **bill section 2** eliminates the exemption and the exception to the exemption that appear in existing AS 46.04.030(b). A revised and expanded exemption covering recovery of natural gas without regard to source is set out in the new language of AS 46.04.050(c), added by **bill section 5**.

*

PROOF OF FINANCIAL RESPONSIBILITY --

Under AS 46.04.040(b), "[a] person may not cause or permit the operation of a pipeline or an exploration or production facility in the state unless the person has furnished to the department, and the department has approved, proof of financial ability to respond in damages." The subsection goes on to set the proof of financial responsibility that must be demonstrated. For onshore facilities concerned with natural gas recovery, AS 46.04.040(b)(3) draws a distinction between *nonconventional* gas exploration -- the proof required is set at \$25,000 per incident -- and gas exploration from *other than nonconventional* gas sources -- the proof required is set at \$1,000,000 per incident.

The amendment proposed by **bill section 3** eliminates the distinction and extends the \$1,000,000 per incident standard to cover onshore facilities concerned with natural gas recovery from nonconventional gas sources. However, under the language added as AS 46.04.050(c) by bill section 5, certain natural gas exploration facilities may be exempt from proof of financial responsibility requirements.

*

REVISION OF THE OIL DISCHARGE PREVENTION AND CONTINGENCY PLANNING AND PROOF OF FINANCIAL RESPONSIBILITY EXEMPTIONS FOR CERTAIN NATURAL GAS PRODUCTION AND TERMINAL FACILITIES --

Existing AS 46.04.050 sets out several exemptions from the oil discharge prevention and contingency planning and proof of financial responsibility requirements of AS 46.04.030 and 46.04.040. AS 46.04.050(b) currently exempts "a natural gas production facility and a natural gas terminal facility." The subsection supplies definitions for those terms, limiting them to "a platform, facility, or structure that is used solely for the production, compression, storage, or transport of natural gas," and making the exemption inoperable if "a platform, facility, or structure . . . produces, stores, or transports natural gas in combination with oil."

The amendments proposed in **bill section 4** modify the language of AS 46.04.050(b) so that the exemption would operate as to a [natural gas production or terminal] platform, facility, or structure that "is used solely for production, compression, storage, or transport[ation] of natural gas." With the amendment, the facility would be permitted to store a reasonable quantity of refined petroleum products on site without foregoing the exemption.

*

APPLICATION OF THE OIL DISCHARGE PREVENTION AND CONTINGENCY PLANNING AND PROOF OF FINANCIAL RESPONSIBILITY EXEMPTIONS FOR CERTAIN NATURAL GAS EXPLORATION FACILITIES --

Bill section 5 is the bill's key provision. It is included by way of a replacement and expansion of the exemption described earlier in the material deleted by the amendment to AS 46.04.030(b) made in bill section 2. The amendment carries forward the idea, now applicable only to natural gas exploration facilities used to explore for nonconventional gas, that these facilities are to be exempt from the oil discharge prevention and contingency planning and proof of financial responsibility requirements of AS 46.04 unless the Alaska Oil and Gas Conservation Commission determines that there is a reasonable probability that the gas well "will not penetrate a formation capable of flowing oil to the ground surface." As the exemption is proposed to be revised and set out in bill section 5, it applies broadly to all gas exploration facilities -- not just those concerned with recovery of natural gas from nonconventional sources -- and supplies a definition for "natural gas exploration facility" that follows distinctions drawn in AS 46.04.050(b) that I discuss in the preceding paragraph of this memo.

*

RESPONSIBILITIES OF THE ALASKA OIL AND GAS CONSERVATION COMMISSION --

The material added by bill section 5 refers to an obligation of the AOGCC to make a determination as to activities involving operation of a natural gas exploration facility. The AOGCC's duties are more specifically spelled out in the material added by **bill section 1**. The material added appears unexceptional and largely replaces the material proposed to be deleted in the amended language set out in bill section 2 and in the material in AS 31.05.030(j)(2)(C), shown in the repealer.

*

REPEALERS --

The provisions proposed for repeal in **bill section 6** include AS 31.05.030(j)(2)(C). This subparagraph currently addresses the duties of the Alaska Oil and Gas Conservation Commission:

(j) For exploration and development operations involving nonconventional gas, the [Alaska Oil and Gas Conservation] commission

. . .
(2) shall

. . .
(C) for the purposes of . . . 46.04.030(b), determine whether a well drilled for nonconventional gas may penetrate a formation capable for flowing oil and, if so, whether the volume of oil encountered will be of such quantities that an oil discharge prevention and contingency plan will be required; . . .

Representative Vic Kohring
April 5, 2005
Page 4

These concepts appear in material added by bill sections 1 and 5, so their retention here is not warranted.

Proposed also for repeal is AS 46.04.900(10), the definition of "nonconventional gas." With the other changes proposed in the measure, the distinction that limits application of certain current provisions to facilities concerned with recovery of gas from "nonconventional" sources is replaced by material that applies to all natural gas recovery. The definition thus becomes obsolete and can be omitted.

*

Bill section 7 gives the measure an immediate effective date.

JBC:lmb
05-106.lmb

HB 197 - Sectional Analysis

HB 197 clarifies DEC's authority to exempt natural gas exploration wells that do not pose a threat of an oil spill from the contingency plan and proof of financial responsibility requirements. HB 197 corrects an unintended consequence of HB 531, adopted in May 2004, that narrowed one of the exemptions for natural gas exploration and production facilities from a broad exemption for all shallow natural gas facilities to a narrow exemption for nonconventional gas wells. The 2004 legislation defined "nonconventional gas" as only "coal bed methane, gas contained in shales or gas hydrates."

HB 197 repeals the "nonconventional gas" provisions in AS 46.04.030(b) and AS 46.04.040(b)(3)(A) and replaces them with a broader exemption in AS 46.04.050(c). The new exemption would be for all natural gas exploration wells that the Alaska Oil and Gas Conservation Commission (AOGCC) determines that "evidence demonstrates with reasonable certainty . . . will not penetrate a formation capable of flowing oil to the ground surface."

Section 1. Creates a new authorization in AS 31.05.030(l) for the AOGCC to evaluate the likelihood that a well at a natural gas exploration facility may penetrate a formation capable of flowing oil to the ground surface. If the commission determines that evidence demonstrates with reasonable certainty that a well at a natural gas exploration facility will not penetrate a formation capable of flowing oil to the ground surface, it shall report its determination to DEC. Section 6 repeals the 2004 language authorizing AOGCC to make exception determinations for nonconventional gas wells since that authority is replaced by the new authority in section 1 (AS 31.05.030(l)).

Section 2. Repeals the existing c-plan exemption for nonconventional gas wells and replaces it with a broader exemption in section 5 by creating a new subsection (c) in AS 46.04.050 (exemptions).

Section 3. Repeals the \$25,000 financial responsibility requirement for nonconventional gas onshore exploration facilities. Natural gas facilities would only be required to have financial responsibility under AS 46.04.040 if the wells could penetrate a formation capable of flowing oil to the surface. At which point, they would be required to have \$1 million in financial responsibility as an onshore oil exploration facility.

Section 4. Clarifies the existing exemption for "natural gas production facilities" and "natural gas terminal facilities." Makes clear that the exemption is not lost unless the facility produces, stores or transports natural gas in combination with crude oil or the facility would qualify as

an oil terminal facility with storage capacity above 5,000 barrels of crude oil or 10,000 barrels of noncrude oil.

Section 5. A new subsection to the c-plan and financial responsibility exemptions would exempt a natural gas exploration facility if the AOGCC determines under AS 31.05.030(l) that evidence obtained through evaluation demonstrates with reasonable certainty that all of the exploration wells at the facility will not penetrate a formation capable of flowing oil to the ground surface. If the AOGCC cannot make that determination for all of the wells at the exploration facility, the facility would not be exempted. Similarly, if the drilling of a well does penetrate such a formation a c-plan and financial responsibility would be required.

A new subsection (c) is added to define the term "natural gas exploration facility" with similar exceptions to the exemption if the facility explores, produces, stores or transports natural gas in combination with crude oil or if it qualifies as a regulated oil terminal facility.

Section 6. Repeals the AOGCC nonconventional gas finding provision that is replaced by new AS 31.05.030(l) and removes the definition of nonconventional gas from AS 46.04.900 since it is no longer used in Chapter 4 of Title 46.

RULES COMMITTEE CORRECTIONS TO HB 197(RES)
CONCERNING C-PLAN EXEMPTIONS FOR NATURAL GAS
EXPLORATION WELLS

- HB 197 was intended to exempt gas facilities from c-plan requirements if they were natural gas only facilities and were not otherwise required to have an oil spill contingency plan because they also explore for, produce, store or transport natural gas in combination with oil.
- The Amendment in Resources was apparently directed at making sure refineries, bulk fuel facilities, and refined product pipelines are still required to have a c-plan. That concern was already covered by HB 197 which omits "oil terminal facilities" from the natural gas facility exemptions. Refineries, bulk fuel farms, and refined product pipelines attached to those facilities are all "oil terminal facilities." HB 197 does not change c-plan coverage for those facilities.
- In order to simplify the bill and clarify these points, the Rules Committee CS would define a

Natural gas exploration facility as :

"a platform, facility or structure that, except for the storage of refined petroleum products in a quantity not exceeding 10,000 barrels, is used solely for the exploration for natural gas."

Natural gas production or terminal facility as a:

"a platform, facility or structure that, except for the storage of refined petroleum products in a quantity not exceeding 10,000 barrels, is used solely for the production, compression, storage, or transport of natural gas."

- The Rules CS addresses the concerns raised in the Resources Committee by clarifying that natural gas production or terminal facilities that may also explore, produce, store or transport oil are still required to have an oil spill contingency plan if otherwise required by regulation.

OVERVIEW DOCUMENT

Natural Gas Facility Exemption from DEC Contingency Plan Requirements

This bill clarifies DEC's authority to exempt natural gas exploration wells – that do not pose a threat of an oil spill – from contingency plan and proof of financial responsibility requirements. It corrects an unintended consequence of HB 531, which passed the Legislature in May, 2004. That bill, in part, narrowed the scope of an exemption (for natural gas exploration and production facilities) from the preexisting broad exemption for all shallow natural gas facilities, to a narrow exemption for 'nonconventional gas' wells. The problem stems from the HB 531 definition of 'nonconventional gas' as strictly, "coal bed methane, gas contained in shales or gas hydrates."

Benefits of the Legislation.

- Allows DEC to focus its resources on the review of c-plans and proof of financial responsibility for those natural gas exploration facilities that could potentially threaten the environment with oil spills; and
- Ensures that DEC can conduct the additional inspections and drills that the Legislature envisioned would be performed when it changed the contingency plan review renewal requirement from three to five years;
- Relieves industry from the unnecessary financial costs and schedule impacts of preparing and implementing oil spill contingency plans for natural gas exploration facilities where there is not a threat of an oil release from the well; and
- Relieves industry from the unnecessary cost of demonstrating proof of financial responsibility (i.e. insurance, bonds or letters of credit) to respond to oil spills at natural gas exploration facilities where there is not a threat of an oil release from the well.

The "fix" proposed through this bill repeals the "nonconventional gas" provisions in applicable DEC contingency plan and financial responsibility statutes -- AS 46.04.030(b) and .040(b)(3)(A) -- and replaces them with broader exemption language restated in AS 46.04.050(c) for those natural gas exploration wells that the AOGCC determines the evidence "demonstrates with reasonable certainty . . . will not penetrate a formation capable of flowing oil to the ground surface."

DEC has used its existing authority in AS 46.04.050(b) for natural gas *production* wells to exempt natural gas *exploration* wells where there is sufficient geological information to determine that the wells will not penetrate a formation capable of flowing oil to the surface. In consultation with AOGCC, DEC has determined such wells to be natural gas production facilities under .050(b) even if sufficient information is unavailable to quantify their commercial potential as development wells. This bill would clarify DEC's existing exemption authority in AS 46.04.050(b) by exempting all natural gas exploration wells that are not capable of causing an oil spill from the c-plan and financial responsibility requirements. Sec. 5.

STATE OF ALASKA

ALASKA OIL AND GAS
CONSERVATION COMMISSION

FRANK H. MURKOWSKI, GOVERNOR

333 W. 7TH AVENUE, SUITE 100
ANCHORAGE, ALASKA 99501-3830
PHONE (907) 279-1438
FAX (907) 279-7542

March 14, 2005

The Honorable Victor Kohring
Chair, House Special Committee on Oil and Gas
State Capitol
Juneau, Alaska 99801

Re: Letter of Support Concerning House Bill No. 197

Dear Representative Kohring:

The Alaska Oil and Gas Conservation Commission ("Commission") supports House Bill No. 197 ("HB 197"), which amends the laws regarding oil discharge prevention and contingency plans and proof of financial responsibility ("C-plans") to allow better use of geologic information and understanding in determining the need for such plans.

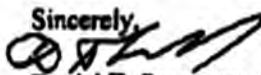
Under current law, a C-plan is required for wells drilled to explore for or produce oil. On the other hand, a C-plan is not required for wells drilled to produce only gas. The treatment of wells drilled to *explore* for gas has a complicated history. Previously, wells drilled for shallow gas were exempted from the C-plan requirement. In 2004, however, HB 531 changed the language from "shallow" gas to "nonconventional" gas. In practical terms, this means that wells drilled to explore for coalbed methane qualify for exemption, but wells drilled to explore for other shallow gas are generally not entitled to exemption. In the Commission's view, there is a mismatch between the current scope of the C-plan exemption and the facts of Alaska's geology.

What the Commission has learned over the years is that drilling in many areas of the state poses essentially no risk of an oil spill. These areas have thick geologic sections containing both conventional and nonconventional gas reservoirs, but have very little potential for the existence of zones capable of flowing liquid hydrocarbons. Requiring a C-plan for wells drilled in these circumstances adds cost and delay to gas exploration without providing increased protection to the environment.

HB 197 corrects the inadequacies in current law by providing for a case-by-case geological evaluation of wells drilled to explore for gas – whether shallow or deep, nonconventional or conventional. Under this bill, a well drilled to explore for gas would qualify for a C-plan exemption if, but only if, the Commission determines that evidence demonstrates with reasonable certainty that the well will not penetrate a formation capable of flowing oil to the ground surface. The approach of HB 197 is to base C-plan exemption decisions on application of the Commission's geologic expertise to the specific facts of a proposed exploration project. The Commission believes this is exactly the right approach.

Thank you for your attention.

Sincerely,


Daniel T. Seamont, Jr.
Commissioner

MAR 18 2005

MAR 16 2005

Unocal Alaska
Union Oil Company of California
909 West 9th Avenue, P.O. Box 196247
Anchorage, Alaska 99519-6247
Telephone (907) 276-7600
Fax (907) 263-7698



Kevin A. Tabler, Manager
Land/Government Affairs

March 11, 2003

Representative Vic Kohring
State of Alaska Legislature
Room 24, State Capitol
Juneau, Alaska 99801-1182

Re: Support for HB197

Representative Kohring:

Union Oil Company of California was delighted to see the introduction of HB 197 to clean up the effect of HB531 (2003 legislation) which created the unintended consequence of elimination of the exemption for oil spill contingency plans for exploration and production facilities used solely to explore, develop or produce shallow natural gas. Our review of the proposed legislation concludes that HB 197 clears up the unintentional change caused by implementation of HB 531 and supports your efforts.

Thank you for taking the initiative to fix this problem.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin A. Tabler", written over the word "Sincerely,".

Kevin A. Tabler

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number:

Bill Version:

HB 197

() Publish Date:

Revision Date/Time (Note if correction):

Dept. Affected:

Environmental Conservation

Title

Related to oil discharge prevention and contingency plans for certain natural gas exploration facilities

RDU

Spill Prevention and Response

Component

Industry Preparedness and

Sponsor

House Oil & Gas Committee

Pipeline Operations

Requester

House Oil & Gas Committee

Component No.

1922

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
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	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type—Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost:

0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill will not have a financial impact on the department. It clarifies DEC's authority to exempt natural gas exploration wells (that do not pose a threat of an oil spill) from contingency plan and proof of financial responsibility requirements. It corrects an unintended consequence of HB531 passed in May, 2004, which, in part, narrowed the scope of that exemption from the pre-existing broad exemption for all shallow natural gas facilities, to a narrower exemption for "nonconventional gas" wells, defined as strictly "coal bed" methane, gas contained in shales or gas hydrates". This bill repeals the "nonconventional gas" definition in applicable DEC contingency plan statutes AS 46.04.030(b) and 040(b)(3)(A) and replaces it with broader exemption language restated in AS 46.04.050(c) "for those natural gas exploration wells the AOGCC determines will not penetrate a formation capable of flowing oil to the ground surface."

Prepared by: Larry Dietrick, Director

Phone 465-5250

Division: Spill Prevention and Response

Date/Time 3/14/05 3:41 PM

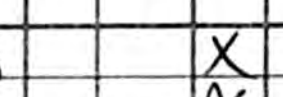
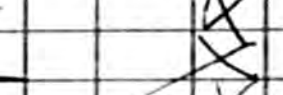
Approved by: Kurt Fredriksson, Acting Commissioner

Date

Agency: Department of Environmental Conservation

SCOMM

144:8

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	SAMUELS			X	
Berta Gardner	Gardner			X	
~~Bernberta~~	~~Kerth~~			X	
~~Willy Lehman~~	~~Orlsten~~			X	
~~Anna Ketchy~~	~~Roksbury~~			X	
Chair: 	Lehman				
Chair: 	Lehman				

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 71
 (H) Publish Date: 1/12/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title Extending Exploration Credit against RDU Resource Development
Production Tax Component Oil & Gas Development
 Sponsor Rules
 Requester Governor Component No. 439

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 ()	***					
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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 (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill extends the sunset date on the oil and gas exploration credit against production tax (SB185, CH59, SLA03) only for the proposed Alaska Peninsula sale area. The proposed Alaska Peninsula sale is tentatively scheduled for fall of 2005. It is anticipated that leases would not be issued until spring 2006. It is likely that exploration expenditures on these leases would occur after the current July 1, 2007 deadline, in which case they would not be credited against future production taxes unless the current statute is amended.

*** An extension of the sunset deadline to the proposed sale area may encourage additional or higher competitive bids, although these additional revenues are impossible to predict or quantify.

Prepared by: Janet Baxter Phone 465-4730
 Division Commissioner's Office Date/Time 12/8/2004
 Approved by: Tom Irwin Date 12/8/2004
 Agency Natural Resources

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: HB 71
(H) Publish Date: 1/12/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Credit for Certain Exploration Expenses RDU Revenue Operations
Against Oil & Gas Properties Production Taxes Component Tax Division
Sponsor Rules Committee
Requester Governor Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 ()	See Analysis					
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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 (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Currently the State plans to hold a Bristol Bay lease sale in October of 2005 assuming a favorable preliminary best interests finding. If bids are received and accepted at this lease sale, leases would be issued in spring 2006, with exploration of this region beginning that summer, FY 2007-FY2008. It is possible that 1 to 2 wells per year will be drilled on average over the period 2007 to 2009. Wells will be drilled from onshore facilities, but given the remoteness of the area and lack of infrastructure, we estimate that the wells could cost roughly \$15 million per well. We assume that on average these wells would qualify for a production tax credit equal to 30% of qualified costs, half qualifying for the 40% credit and half for the 20% credit. (continued on Pg 2)

Prepared by: Tom Boutin Phone: _____
Division: Department of Revenue Date/Time: 1/11/05 2:59 PM
Approved by: Tom Boutin Date: 1/11/2005
Agency: Department of Revenue

ANALYSIS CONTINUATION

As a result the credit would be worth around \$7 million per year to the exploration firms from fiscal year 2008 through fiscal year 2010 (assuming a year lag between exploration expense and claiming of the credit). The adoption of this severance tax credit could yield revenue in two ways. First, the existence of an exploration credit over the period of likely exploration could prompt companies to participate in a lease sale when they otherwise would not. Currently, the State does not include any revenue from the lease sale in its revenue forecast. Such a lease sale could yield around \$10 million if bids were based on the possibility of finding a field containing a minimum economic field size of between 100 and 200 million barrels of oil. Such a field, if discovered and developed, would yield about \$50 million dollars a year in revenue (royalty, severance tax, and corporate income tax) over the first 10 years of production.

Alaska Support Industry

ALLIANCE

360 W. Benson Blvd., Suite 200
Anchorage, AK 99503
Phone: (907) 563-2226
Fax: (907) 561-8870
www.alaskaalliance.com

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THE ALLIANCE

... for responsible development of Alaska's Oil, Gas & Mineral Resources

May 2, 2005

The Honorable Thomas Wagoner
Alaska State Senate
Chair, Senate Resources Committee
State Capitol, Room 427
Juneau, AK 99801-1182

Re: Request to testify in opposition to Amendment #1 to
HB 71, Oil & Gas Exploration Credit and Lease Terms.

Dear Senator Wagoner:

On behalf of the Board of Directors of the Alaska Support Industry Alliance, I would like express our opposition to Amendment #1 to HB 71 as adopted on the House floor Thursday morning, April 28, 2005. While we believe the amendment represents significant legal challenges at both the State and Federal levels, what was most disconcerting was the way the amendment was introduced on the House floor without opportunity for public debate. Therefore, we respectfully appreciate you and your committee for providing such an opportunity to testify.

Our main concern with the amendment is that it raises serious constitutional issues in that it attempts to allow the State to unilaterally change the terms and conditions of both the existing oil and gas leases and unit agreements. The amendment raises the fundamental question as to the ability of any party to rely upon the representations of the State when entering into commercial transactions. This can effectively set Alaska on a future path of litigation for impairment of contracts on all oil and gas leases thereby destroying investor confidence in Alaska.

We look forward to the opportunity to testify in greater detail during today's public hearing.

Sincerely,

Larry Houle
General Manager
907.563.2226

Alaska Oil and Gas Association



121 W. Fireweed Lane, Suite 207
Anchorage, Alaska 99503-2035
Phone: (907) 272-1481 Fax: (907) 279-8114

Testimony of the Alaska Oil and Gas Association Regarding CSHB 71(FIN) am

**Senate Resources Committee
May 2, 2005**

Mr. Chairman, Members of the Committee. For the record my name is Judy Brady, and I am the Executive Director of the Alaska Oil and Gas Association. AOGA is an industry trade association whose 18 members represent the great majority of the petroleum industry in Alaska. I am here today to testify about House Bill 71 on behalf of AOGA's membership, who have approved this testimony.

Until it was amended on the floor of the House last Thursday, HB 71 was a fairly straightforward bill to extend the availability of exploration tax-credits under AS 43.55.025 so they could be earned by exploration activities in the Cook Inlet area and the Bristol Bay area, as well as the North Slope outside of ANWR. AOGA supported HB 71 because it would encourage oil and gas exploration in the state, and exploration is one of four principal strategies available for sustaining oil production at current levels despite the ongoing natural decline of the fields as they are depleted. The three other strategies, as you well know, are (1) ongoing development of existing fields to slow their natural rate of decline, (2) development of satellite fields to use available capacity in existing production infrastructure, and (3) development of the huge resource of viscous oil — well over 20 billion barrels in place — that is already known to exist.

Last Thursday's House floor amendment inserted Bill Sections 1 and 2 into the version of the Bill that is now before you, and changed the title of HB 71 to reflect these two new Bill Sections. Bill Section 2 is the portion of the amendment having true significance and substance, and Section 1 is just a laundry list of factors attempting to justify what Section 2 would do.

Bill Section 2 would amend the state oil and gas leasing statute, AS 38.05.180, by adding a new subsection (hh) to it. This new subsection would purport to mandate how existing state oil and gas leases are to be interpreted and applied, by forging a novel test from a smorgasboard of disparate phrases and concepts from leases, unit agreements and Lower 48 cases. The result is something that is unprecedented, unfair and contrary to commercial realities. This is nothing less than an effort to unilaterally rewrite the lease obligations between lessee and lessor in a material way.

It is difficult to express adequately how deeply troubled AOGA is by the House floor amendment to HB 71 and how strongly we oppose it. Our opposition comes at several levels of analysis.

First, we are troubled by the way in which the entire committee-referral process was circumvented through a floor amendment. The amendment radically altered the Bill by adding important and controversial substance to it that no House committee had had any opportunity to hear and consider, whether in the context of HB 71 or any other Bill this Session. Moreover, Section 7 in Article I of the Alaska Constitution guarantees that "[t]he right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed." Even if the Legislature had the authority to to rewrite the terms of our oil and gas leases, it would not constitute the "fair and just treatment" to do it without notice and opportunity to be heard.

Second, by enacting subsection (hh) to prescribe what the oil and gas leases mean and how they are to be interpreted and applied, the amendment attempts unconstitutionally to usurp the function and authority of the Judicial Branch. Under the "Separation of Powers Doctrine" the Legislative Branch writes the laws, the Executive Branch carries them out, and the Judicial Branch interprets what they mean. The Judiciary's exclusive role of determining the meaning of disputed terminology applies also to the contracts that the State may enter into. It is for the Judicial Branch, not the Legislative Branch, to determine what the leases mean and how they should be applied in a given set of circumstances.

Third, the interpretation prescribed under subsection (hh) for existing oil and gas leases would materially alter the terms and conditions of those leases. Each oil and gas lease is a contract between the State and the lessee or lessees under that lease. The contractual terms and conditions in those leases — and the duties and obligations that the parties owe to one another under the leases, whatever they might be — cannot be altered by either party unilaterally. It requires mutual agreement for any change. When the State attempts to exercise its sovereign powers to alter materially the terms and conditions of a contract — and particularly a contract that it itself has entered into — it is impairing the obligations of that contract in violation of the "Contract Impairments Clause" in Section 15 in Article I of the Alaska Constitution and Section 10 in Article I of the United States Constitution.

Fourth, even if subsection (hh) could constitutionally do what it purports to do, consider the precedent that would be created. If the terms of existing oil and gas lease contracts can be rewritten by prescribing how the key provisions in those leases are to be "clarif[ied] and interpret[ed]," But if this can be done with state oil and gas lease contracts, it can be done for any other kind of state contract as well.

Right now the Murkowski Administration is striving to negotiate a contract under the Alaska Stranded Gas Development Act in order to eliminate a major source of potential risk for a Gas Pipeline Project. This is the risk the State might otherwise change its fiscal "rules of the game" once the Gas Pipeline is built. The industry recalls well that, once pipe was ordered in 1969 to build the trans-Alaska oil pipeline, Alaska changed its tax laws for that pipeline and the Prudhoe Bay field at least a dozen times in the 1970 – 1978 period. Thus, eliminating this risk through a Stranded Gas contract is one of the most important things, if not the most important one, that the State can do to help the Gas Pipeline Project move forward. But now, if the Legis-