

1-21-88

AMERADA
HESS

BRIEFING (JOINT
with SENATE JUD)



Alaska State Legislature

SENATE SPECIAL COMMITTEE ON OIL AND GAS

SENATOR BETTYE FAHRENKAMP
CHAIRMAN
SENATOR JACK COGHILL
SENATOR PAUL FISCHER

P.O. BOX V
JUNEAU, AK 99811
(907) 465-3834

MEMORANDUM

TO: Members, Senate Special Committee on Oil and Gas
Senate Judiciary Committee

FROM: Committee staff
Senate Special Committee on Oil and Gas

RE: Committee hearing, January 21, 1988

DATE: January 20, 1988

On Thursday, January 21 at 1:30 in the Butrovich Room, the Senate Special Committee on Oil and Gas will hold a joint hearing with the Senate Judiciary Committee for a briefing on the Amerada Hess royalty litigation by Wil Condon, the state's lead counsel.

The Amerada Hess case is the state's largest royalty oil case, with potential recovery estimated to be between \$300 million and \$2 billion. At issue is the value of Alaska North Slope oil at the wellhead.

In the summer of 1977, when the Trans Alaska Pipeline System commenced operations, there was no consensus among the oil producers and the state as to how to implement the lease form provisions that give the state its 12.5% royalty share. The governor applied to the Alaska Superior Court for a judgement on the proper way to determine wellhead value. Some portions of the case (field costs) were settled in 1980. In November, 1987, a scheduling order was issued setting a trial date for October 2, 1989. Also in November, three producers, Standard Alaska, Exxon, and Chevron, filed suit in U.S. District Court against the state, contending that they could not get a fair trial in any court in Alaska because every resident had a pecuniary interest in the outcome. The state is moving to dismiss the case.

Wil Condon will make a detailed presentation using a sample month of oil production to illustrate the state's approach to the case. This could take up to four hours. The case involves some highly sensitive information, much of which is confidential by law, and whose disclosure could adversely affect the business interests of various parties. In order to protect the confidentiality of this information, the court has entered a protective order. This allows only certain classes of individuals to have access to this information and prevents them from sharing it with others who do not have the right to see it. For purposes of this briefing, we must comply with the court's protective order. Legislators may have access under Paragraph 5(i) of the order. A copy is attached for your review. Certain information in the case has been classified "Confidential" and "Highly Confidential". Only "Confidential" information will be disclosed at the briefing. However, the briefing will be conducted in Executive Session and legislators will be required to sign a statement agreeing to comply with the order.

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OF COUNSEL
JOHN C. HUGHES
RICHARD O. GANTZ

ANCHORAGE

VIA DHL

January 12, 1988

Senator Bettye Fahrenkamp
Senate Special Committee on Oil and Gas
P.O. Box V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

Your letter of December 17, 1987, to Mr. Rozell and me as Alaska counsel for the energy company defendants in the Amerada Hess royalty case was referred to the appropriate representatives of each of our respective clients. To be effective for your purposes each of the defendants would have to waive the "confidentiality agreement," which is in the form of a protective order. This letter is intended to explain why the defendants politely and respectfully decline your request.

A protective order was initially proposed by the defendants to facilitate compliance with discovery requests in Amerada Hess. The protective order eventually entered by Judge Carpeneti in Amerada Hess reflected extensive briefing and compromise by both sides. It was designed to protect the confidentiality of both business and governmental records. It provides for two tiers of confidentiality, with carefully constructed limits as to who can see each tier within the individual defendant companies as well as within the State. That Order also provides in paragraph 9 that:

The provisions of this Protective Order shall not apply (a) if the party asserting confidentiality specifically waives in writing the protective

Senator Bettye Fahrenkamp
January 12, 1988
Page 2

conditions set forth in this Order with respect to the use of any information, whether generally or for a specified purpose

Therefore, if a defendant were to waive the confidentiality protections as you have requested, that waiver would eliminate the protective provisions of the Protective Order for all purposes as to that information.

Unfortunately, the scope of your request is not limited to the July 1984 transactional data. Having heard Wil Condon's presentation, we believe that authorizing a similar presentation to your committee would entail waiving the Protective Order as to much more commercially sensitive and confidential information than just the various prices at which oil was transacted in July 1984. The State's presentation included discussion of individual company marketing and valuation methodologies, some of which reflected information on documents designated Highly Confidential under the Protective Order. Thus, the scope of any waiver would be difficult to delineate and the protections of the Protective Order would be jeopardized as to many of the Confidential and Highly Confidential documents produced by individual defendants beyond those dealing solely with July 1984 transactional data.

Given the spirit of such Sunshine laws as AS 09.25.110 and AS 09.25.120 and Uniform Rule 22(a) of the Alaska State Legislature, and given ¶ 9 of the Protective Order, it would be difficult to confine any Confidential or Highly Confidential information to the legislators on your committee and their staff. Even if the Protective Order were amended to confine the effect of the waiver you request just to your committee, and even if the Sunshine laws would not compel disclosure of that information, the Alaska Legislature has involved itself directly in the marketing of Alaska's royalty oil by retaining authority to review and approve amendments of royalty-in-kind oil sales contracts, such as in AS 38.05.183(f). Accordingly, it would be inappropriate for the details of commercially sensitive marketing strategy information to be made available to the Legislature, when the Legislature effectively functions as a competitor for marketing oil.

Finally, our evaluation of the State's chances of success in Amerada Hess is markedly different from that reflected in Wil Condon's presentation, both as to whether the State is entitled to any additional royalty payments from any defendant, and,

HUGHES THORSNESS GANTZ POWELL & BRUNDIN

ATTORNEYS AT LAW

Senator Bettye Fahrenkamp
January 12, 1988
Page 3

whether the State's latest theory of lease interpretation is valid. It is not our intention to denigrate the State's counsel or consultants in any way with respect to their handling, evaluation, or attempts to develop a theory of the case. Our point is simply that there are many disputed legal and factual issues in the case, some of which are complex, and that our views of the case differ substantially from those advanced by the State.

For these reasons, the defendants respectfully decline to waive the protections of Judge Carpeneti's Protective Order.

HUGHES, THORSNESS, GANTZ,
POWELL & BRUNDIN
Attorneys for defendants other
than ARCO Alaska Inc. and
Atlantic Richfield Company

By: Carl J. D. Bauman

Carl J. D. Bauman

cc: Wilson L. Condon, Esq.
Amerada Hess Royalty Litigation Committee

LAW OFFICES OF
FAULKNER, BANFIELD, DOOGAN & HOLMES
A PROFESSIONAL CORPORATION

JAN 19 1988

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OF COUNSEL

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LAWRENCE T. FEENEY
LEE S. GLASS, M.D.**

HERBERT L. FAULKNER (1882 - 1972)
FRANK M. DOOGAN (1923 - 1977)

January 15, 1988

**ADMITTED IN WASHINGTON & ALASKA
OTHERS NOT ADMITTED IN WASHINGTON

Senator Bettye Fahrenkamp
Alaska State Legislature
P.O. Box V, Mail Stop 3100
Juneau, AK 99811

RE: State v. Amerada Hess
6-1547

Dear Senator Fahrenkamp:

As I have explained to Daniel Consenstein by telephone and in a meeting at your office, ARCO is unable to provide you with the waiver of the court order requested in your letter of December 17, 1987. Our reasons are similar in most respects to those outlined by Carl Bauman in his letter to you of January 12. As I indicated to Mr. Consenstein, I am also available to talk with you further about questions you may have on this subject if you think it would be helpful to do so.

Very truly yours,

Barth Royell

William B. Rozell

WBR:pb/1309q

cc: Wilson Condon
Royalty Litigation Committee



Alaska State Legislature

SENATE SPECIAL COMMITTEE ON OIL AND GAS

SENATOR BETTYE FAHRENKAMP
CHAIRMAN
SENATOR JACK COGHILL
SENATOR PAUL FISCHER

P.O. BOX V
JUNEAU, AK 99811
(907) 465-3834

December 17, 1987

Carl J.D. Bauman, Esq.
Hughes, Thorness, Gantz,
Powell and Brundin
509 West Third Avenue
Anchorage, AK 99501

William B. Rozell, Esq.
Faulkner, Banfield, Doogan and Holmes
302 Gold Street
Juneau, AK 99801

Dear Messrs. Bauman and Rozell:

The Senate Special Committee on Oil and Gas and the Senate Judiciary Committee are preparing hearing schedules for the first part of the 1988 Legislative Session. Of particular interest to both committees is the Amerada Hess royalty case.

We have requested that attorneys for the state brief the legislature on their theory of the case and the manner in which they expect to establish liability. They have informed me that they recently made such a presentation to the defendants, using a sample month, July, 1984, to illustrate their approach to the case. They noted, however, that confidentiality agreements prevent them from sharing this presentation with the legislature unless a specific waiver is granted by all defendants.

I would appreciate your efforts in securing from your respective clients a waiver in order that the legislature and its staff, in one or more meetings, could be provided a briefing using the July, 1984 illustration.

I look forward to receiving your positive response at your earliest convenience. Please contact my committee staff, Danny Consenstein at 465-3834, for additional information.

Sincerely,

Bettye
Bettye Fahrenkamp
Chairman

BF:dc/og
cc: Senator J. Kerttula, Chairman
Senate Judiciary Committee

January 21, 1988

Joint Meeting of Senate Special Committee on Oil and Gas and
Senate Judiciary Meeting

Briefing by Wil Condon on the Amerada Hess Royalty Litigation
TO TESTIFY:

BRUCE BOTHELO or BOB MAYNARD, Attorney General's office

Will review the progress of the interagency working group.

WIL CONDON, Lead Counsel for the state.

Make sure Wil explains in detail the implications of signing
the confidentiality waiver. Can you take notes?

QUESTIONS:

1) On November 2, 1987, three producers, Standard Alaska, Exxon,
and Chevron, filed suit in U.S. District Court in Anchorage
against the state, contending that they could not get a fair
trial in any court in Alaska because every resident of the state
had a pecuniary interest in the outcome.

How has this affected the state's position or strategy?

Were you prepared for this development?

2) The exchange transactions that some producers, mostly
Standard, negotiated resulted in substantial profits to the
producer. Is the state entitled to share in those profits?

3) Is there any indication that ARCO manipulated tanker charges?
That high priced tankers were put on runs designed to reduce
royalty liability?

4) Have the individual producers maintained consistency in
presenting their pricing methodology? If not, was the state
informed when a change in methodology occurred?

5) Some have suggested that even if these issues are resolved in
court, wellhead pricing is inherently complex to administer and
prone to abuses. Shouldn't the state be looking for alternative
pricing methodologies to avoid future disputes over value on both
the royalty and the tax side?

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

☐ 1031 W 4th AVENUE
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ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550

☐ 1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701-4679

January 21, 1988

☒ P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600

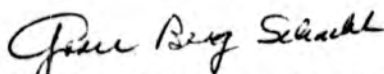
TO WHOM IT MAY CONCERN:

Re: Section 5(i) of the Protective
Order in State v. Amerada
Hess, et al.

I hereby determine that the disclosure to certain members of the Legislature of certain confidential information contained in a proposed presentation by Mr. Wilson Condon is necessary pursuant to Section 5(i) of the Protective Order in State v. Amerada Hess, et al.

I have had the opportunity to review this material when it was presented to me last July. Given the Legislature's expressed desire to exercise its oversight responsibility with respect to the conduct of this executive branch activity, I believe it is necessary to make a presentation such as this to give them the understanding I believe they need to effectively exercise that responsibility. The only way we can inform the Legislature about any of the precise details of this litigation is by resort to information which has been classified by the defendants as confidential pursuant to the Protective Order. I believe the Legislature needs to develop an appreciation for some of these precise details to effectively fulfill its role with respect to this litigation.

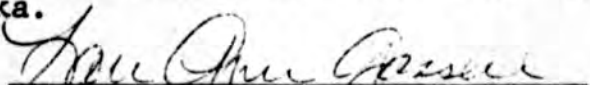
Sincerely,



Grace Berg Schaible
Attorney General

GBS:jf

SUBSCRIBED AND SWORN TO before me this 21st day of
January, 1988 at Juneau, Alaska.


Notary Public, State of Alaska

My commission expires: 1-19-90

January 21, 1988

Joint Meeting of Senate Special Committee on Oil and Gas and
Senate Judiciary Meeting

Briefing by Wil Condon on the Amerada Hess Royalty Litigation

TO TESTIFY:

BRUCE BOTHELO or BOB MAYNARD, Attorney General's office

Will review the progress of the interagency working group.

WIL CONDON, Lead Counsel for the state.

QUESTIONS:

1) On November 2, 1987, three producers, Standard Alaska, Exxon, and Chevron, filed suit in U.S. District Court in Anchorage against the state, contending that they could not get a fair trial in any court in Alaska because every resident of the state had a pecuniary interest in the outcome.

How has this affected the state's position or strategy?

Were you prepared for this development?

2) The exchange transactions that some producers, mostly Standard, negotiated resulted in substantial profits to the producer. Is the state entitled to share in those profits?

3) Is there any indication that ARCO manipulated tanker charges? That high priced tankers were put on runs designed to reduce royalty liability?

4) Have the individual producers maintained consistency in presenting their pricing methodology? If not, was the state informed when a change in methodology occurred?

5) Some have suggested that even if these issues are resolved in court, wellhead pricing is inherently complex to administer and prone to abuses. Shouldn't the state be looking for alternative pricing methodologies to avoid future disputes over value on both the royalty and the tax side?

EXHIBIT A
AGREEMENT TO BE BOUND BY
PROTECTIVE ORDER

I, _____ (print or type
name), am employed by _____.

I hereby acknowledge that I have received and read a copy of the Protective Order entered in the action pending in the Superior Court for the State of Alaska, First Judicial District of Juneau, entitled STATE OF ALASKA, et al. v. AMERADA HESS CORPORATION, et al. (No. 1 JU 77-847 Civil), and understand the limitations it imposes on the use and disclosure of information designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL." I agree to be bound by all of the terms of such Protective order.

DATED: _____

9/20/88
 FILED _____
 CLERK _____
 ON DATE _____
 INDEX No. _____

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
 FIRST JUDICIAL DISTRICT AT JUNEAU

STATE OF ALASKA,

Plaintiff,

COMMISSIONERS OF NATURAL
 RESOURCES, STATE OF ALASKA, and
 DIRECTOR OF THE DIVISION OF
 LANDS, STATE OF ALASKA

Involuntary Plaintiffs,

vs.

AMERADA HESS CORPORATION;
 ATLANTIC RICHFIELD COMPANY;
 BP ALASKA INC.; BP ALASKA
 EXPLORATION, INC.; EXXON
 CORPORATION; GETTY OIL COMPANY;
 HUNT INDUSTRIES; CAROLINE HUNT
 TRUST ESTATE; LAMAR HUNT TRUST
 ESTATE; WILLIAM HERBERT HUNT
 TRUST ESTATE; N.B. HUNT; THE
 LOUISIANA LAND AND EXPLORATION
 COMPANY; MARATHON OIL COMPANY;
 MOBIL OIL CORPORATION; OHIO
 PETROLEUM COMPANY; CHEVRON
 U.S.A., INC.; PLACID OIL COMPANY;
 and PHILLIPS PETROLEUM COMPANY,
 PARTNERSHIP PROPERTIES, CO., a
 Colorado general partnership;
 PETRO-LEWIS CORPORATION, and
 AHOCO PRODUCTION COMPANY,

Defendants.

Hallen, Partner, & Gordon

SEP 14 1988

RECEIVED

FILED IN THE TRIAL COURTS
 STATE OF ALASKA, FIRST DISTRICT
 AT JUNEAU

SEP 11 1984

Clerk of Court

By PB Deputy

No. 1JU-77-847 Civil

PROTECTIVE ORDER

In order to facilitate expeditious discovery while protecting the confidentiality of business and governmental records, the following Protective Order is entered:

1. (a) Any party may designate as "CONFIDENTIAL" any information produced, filed, or otherwise disclosed by it in this action. The designation shall be based on a good faith belief that the designated information consists of proprietary business information or sensitive governmental information not normally available to the public or to persons or entities outside the party and its affiliates (or nonparty source as defined in

paragraph 2). Information so designated may be disclosed only to the extent set forth below. A party may at any time serve a written notice of objection to the designation of information as "CONFIDENTIAL". The notice shall identify specifically the information from which the objecting party wishes to have the designation removed and specify the reasons for wishing to do so. Within 30 days of actual receipt of such notice, the designating party or nonparty source shall notify the objecting party in writing whether the designating party or nonparty source will agree to remove the designation as requested. Absent such agreement, the objecting party may move for an Order declassifying the specified information.

(b) Any party may designate as "HIGHLY CONFIDENTIAL" information produced or disclosed which the party determines in good faith is of such a high level of sensitivity that its disclosure to current employees of one or more parties could result in material competitive prejudice to the party or nonparty source disclosing such information; provided, however, that any such information more than one year old shall not be designated "HIGHLY CONFIDENTIAL" in the absence of an accompanying statement of the reasons therefor. Any party may, within 30 days after receipt of such "HIGHLY CONFIDENTIAL" information more than one year old and accompanying statement of reasons, object to the designation, in which event the party so designating the information shall be required, within 30 days after receipt of any such objection, to move for an order of the court confirming said designation. The information shall be treated as "HIGHLY CONFIDENTIAL" unless and until the designation is modified by court order, or the designating party has failed to move as required hereinabove. If information is properly designated as "HIGHLY CONFIDENTIAL" at the time of its production, the fact that it becomes more than one year old shall

not affect its designation.

(c) Except as expressly provided herein, no person or entity who is not presently a party to this action shall be afforded access to any information designated as "CONFIDENTIAL" or as "HIGHLY CONFIDENTIAL" without further order of the court.

2. The provisions of this Protective Order apply equally to any person or entity not a party ("nonparty source") who provides information in the form of documents, testimony, or otherwise in this action.

3. (a) The designation of information as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" shall be made by placing or affixing on it a legend reading as follows:

CONFIDENTIAL MATERIAL [or HIGHLY
CONFIDENTIAL]. Not to be used, copied, or
disclosed except in accordance with Protective
order, State of Alaska, et al., v. Amerada
Hess Corporation, et al., Superior Court for
the State of Alaska, No. 1JU-77-847 Civil.

(h) A party to this action or nonparty source may designate any part of deposition testimony in which its own information is disclosed, directly or indirectly, as "CONFIDENTIAL" or as "HIGHLY CONFIDENTIAL" by advising the reporter at the time of the deposition or within ten days of receiving a copy of any transcript ordered on an expedited basis. The reporter shall annotate the transcript accordingly and, if such transcript is required to be filed with the court, shall file the transcript under seal with the clerk. If information in the transcript is not designated as "CONFIDENTIAL" or as "HIGHLY CONFIDENTIAL" until after the reporter has disseminated copies thereof, the reporter shall notify each

recipient of the designation, and such recipient shall apply the legend required by subparagraph 3(a).

(c) During the period between the date of the deposition testimony and the tenth day after receipt of the transcript thereof, all deposition transcripts and exhibits marked therein shall be treated as "CONFIDENTIAL," except that any portions designated as "HIGHLY CONFIDENTIAL" shall be treated as provided in paragraph 7.

4. Information designated "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" under this Protective Order shall be used solely for matters relating to royalties or taxes pursuant to AS 43.21 or AS 43.55 claimed to be due to the State of Alaska, and shall not be used or disclosed for any other governmental, business, competitive, or other purpose whatsoever, unless the party or nonparty source furnishing such information consents in writing to such other uses. Such information shall be kept in secure, limited-access facilities and may be disclosed only as set forth below. Until further order of the court, counsel for each party shall retain the originals of each Agreement in the form attached hereto as Exhibit A. With respect to information designated "HIGHLY CONFIDENTIAL," counsel for each party shall also maintain until further order of the court a list of any persons given access to such information by that counsel, and a description of the information disclosed.

5. Counsel for a party who obtains from any source information designated as "CONFIDENTIAL" under this Protective Order may disclose or permit disclosure of such information only to the following:

(a) Outside counsel for any party working on matters relating to royalties or taxes pursuant to AS 43.21 or AS 43.55 claimed to be due to the State of Alaska, and paralegal and clerical employees of law firms which serve as outside counsel;

(b) Corporate attorneys, regularly employed by a corporate party or its parent or subsidiaries, working on matters relating to royalties or taxes pursuant to AS 43.21 or AS 43.55 claimed to be due to the State of Alaska, and paralegal and clerical employees assisting them;

(c) The Attorney General, the Department of Law attorneys working on matters relating to royalties or taxes pursuant to AS 43.21 or as 43.55 claimed to be due to the State of Alaska, and paralegal and clerical employees assisting them;

(d) Personnel of the Alaska Court System;

(e) Court reporters in any jurisdiction, who are engaged in proceedings relating to royalties or taxes pursuant to AS 43.21 or AS 43.55 claimed to be due to the State of Alaska, and who, prior to disclosure, have agreed to be bound by this Protective Order by executing an Agreement in the form attached hereto as Exhibit A;

(f) Outside consultants or experts, and their employees and assistants, retained to assist counsel with respect to matters relating to royalties or taxes pursuant to AS 43.21 or AS 43.55 claimed to be due to the State of Alaska, and who, prior to disclosure, have agreed to be bound by the terms of this Protective Order by executing an Agreement in the form attached hereto as Exhibit A. The term "outside", as used in this subparagraph and elsewhere in this Protective Order, refers to a person who is not an officer or employee of a party to this action;

(g) Employees of the Departments of Natural Resources or Revenue assisting counsel for the State of Alaska on matters relating to royalties or taxes pursuant to AS 43.21 or AS 43.55 claimed to be due to the State of Alaska, and who, prior to disclosure, have agreed to be bound by the terms of this Protective Order by executing an Agreement in the form attached

hereto as Exhibit A;

(h) Any witness, who, prior to disclosure, has agreed to be bound by the terms of this Protective Order by executing an Agreement in the form attached hereto as Exhibit A. In connection with issuance of process to compel attendance of a witness at a deposition or other proceeding the parties agree that such process may include a notice specifying that information disclosed at such deposition or other proceeding shall be disclosed and is protected pursuant to the terms of this Protective Order, in which event the witness, who shall be served with a copy of this Protective Order, shall not be required to sign the Agreement in the form attached hereto as Exhibit A. Any witness to whom such information is disclosed may not retain such information, or any notes, compilations, or other materials derived from such information, after the conclusion of his or her testimony, unless such witness is a person to whom counsel is otherwise entitled to disclose such information under subparagraphs (a) through (g) hereinabove or such witness is itself the source of such information; and

(i) Any present or former officer, director, or employee of a party whose participation is determined to be necessary by counsel of record for that party and who, prior to disclosure, has agreed to be bound by the terms of this Protective Order by executing an Agreement in the form attached hereto as Exhibit A.

6. Information produced under this Protective Order disclosed to employees of the Department of Revenue shall be deemed to be data obtained from a taxpayer in a report or return made under AS 43.21 or AS 43.55 and shall, in addition to the protection afforded by this Protective Order, have the confidentiality provided by AS 43.05.230 and applicable regulations thereunder; provided, however, that transactional

data more than one year old consisting of sales price, volume, gravity (API°), date of shipment, transportation costs, delivery point, and date of delivery in the sale, exchange, or other disposition of Alaska North Slope Crude Oil or gas which is provided to the Department of Revenue for use in a tax proceeding, shall be kept confidential as provided by AS 43.05.230 and the applicable Department of Revenue Regulations, and the Department of Revenue shall not be subject to the other provisions of this protective order with respect to such data which is more than one year old.

7. (a) Disclosure of information designated as "HIGHLY CONFIDENTIAL" shall be limited to those persons described in subparagraphs 5(a) through 5(h).

(h) Persons described in subparagraph 5(f) and 5(h), who are officers or employees of any company or entity, or affiliate or subsidiary thereof, engaged in the exploration, production, trading, transportation, refining or marketing of oil or gas:

(i) shall not be provided with any "HIGHLY CONFIDENTIAL" information except upon actual notice to the party or nonparty source furnishing such information five business days in advance of disclosure; provided that if such notice is given no party or person acting on behalf of or at the instance of a party, other than the party providing such notice shall contact the expert, consultant, or witness nor subject such person to discovery to inquire into matters arising within such person's consultation with the notifying party, except as provided in Rule 26(b)(4); and

(ii) shall not disclose any information subject to this Protective Order to his employer or any representative thereof or utilize this information as the basis for gaining any competitive advantage over any party or nonparty

source.

(c) Persons described in subparagraph 5(g) shall not be permitted to use any information subject to this Protective Order as the basis for gaining any competitive advantage over any party or nonparty source furnishing information in connection with the disposition by the State of Alaska of royalty oil and gas.

(d) Information designated as "HIGHLY CONFIDENTIAL" may be disclosed to persons described in subparagraph 5(h), provided that (unless such witness is a person to whom counsel is otherwise entitled to disclose such information under subparagraphs 5(a) through 5(g) hereinabove) no such person is permitted to retain such information, or any notes, compilations or other materials derived from such information;

8. Except with the written consent of the party or nonparty source who furnished such information, counsel for any party or any other person who obtains access to information designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" under this Protective Order shall not use or make copies, duplicates, extracts, summaries, or descriptions of the information or any portion thereof except as may be reasonably necessary in connection with preparation for and trial or hearing of matters relating to royalties or taxes pursuant to AS 43.21 or AS 43.55 claimed to be due to the State of Alaska, and any appeals therefrom. Any such copies, duplicates, extracts, summaries, or descriptions shall be marked with the appropriate legend as set forth in subparagraph 3(a) and accordingly be treated as "CONFIDENTIAL" or as "HIGHLY CONFIDENTIAL", under this Protective Order.

9. The provisions of this Protective Order shall not apply (a) if the party asserting confidentiality specifically

waives in writing the protective conditions set forth in this Order with respect to the use of any information, whether generally or for a specified purpose, or (b) if information is lawfully acquired by a party or its counsel, without use of or reliance upon any information designated by the other party or any nonparty source as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL." Under either circumstance the information may be disclosed by the State or any defendant without regard to the provisions of this Protective Order.

10. All depositions in this action shall be held in the presence only of the deponent, officers of the court (including the reporter), and persons described in paragraph 5. Persons not permitted, pursuant to paragraph 7, to have access to information designated as "HIGHLY CONFIDENTIAL" may be excluded from any depositions during such times as information designated as "HIGHLY CONFIDENTIAL" is being disclosed.

11. (a) To the extent that a document to be filed with the court may reveal information designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL", any portion of the document containing designated information shall be marked as set forth in subparagraph 3(a) and filed in a sealed envelope. The service copies shall also be so marked. All copies shall be withheld from public disclosure as provided herein, except upon order of the court.

(b) The use of any information designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" in any court proceeding shall not cause it to lose its designated status, and the parties shall take all steps reasonably required to protect its confidentiality during such use. The parties should cooperate in advance of trial or hearing to minimize the need for continuing the protected status of such information.

12. (a) The provisions of this Protective Order shall

survive after termination of this action. All parties and persons subject to this Protective Order shall take reasonable precautions to maintain the information in accordance with the terms of this Protective Order.

(b) The clerk shall maintain under seal all papers filed under seal with the court as to which a claim of confidentiality was made.

13. The court may modify this Protective Order at any time for good cause shown and upon notice to the affected parties.

14. Nothing in this Protective Order limits in any way the authority of the Department of Revenue to conduct tax audits or investigations or to independently obtain or use information in the conduct of such tax audits or investigations.

IT IS SO ORDERED this 11th day of September, 1984.

Walter L. Carpeneti
WALTER L. CARPENETI
SUPERIOR COURT JUDGE

CERTIFICATION

The undersigned certifies that on the 12 day of September, 1984, a true copy of this document was served on the following persons:
Robert Maynard, Wilson Condon, Carl Bauman,
David Nelson, Wm. Rosell, John Norman, Arden Page;
CLERK OF COURT (Juryau).

17 *P.R. Loe*

1/21/88

BE	Sturg	Menard	Amerada Hess Briefing
Coghill	Joe	Miller	
Fischer	Kerstula	Pierce	
	Halford	Martin	
		Huley	

Bob Maynard

Leg needs to know info.

- 1) large amounts \$ - conspiracy 300 - 2 billion
- 2) Policy decisions on how OAG should be valued
- 3) cannot make decision w/o
- 4) Leg must appropriate \$ for litigation

Protective order - can be if "need to know"
AG

2 levels -

- 1) confidential
- 2) highly confidential

AG memo - is rec pursuant to 5(i) of protective
effectively exercise oversight responsibility

Originally asked for waiver -
Now "highly confidential" is deleted.

Joe what is prejudice?

Protective order doesn't include legislatures

Kirk Congress knows, AG knows
but leg doesn't.

Maynard

Tapes on list marked as "confidential"

Administration — working group —

valuation of state's royalty ~~for~~ share 1977-86

clearing costs resolved in 1980-1

Internal working group —

meet regular basis —

DNR, Rev, OMB, AG scheduled, Maynard, B. DeLo
Eason DNR, Fleishinger DOR.

Policies + goals.

BBF

"void" — legislature missing.

Condon Value of oil at PS# 1

Kuparuk + PB — on state land.

Selected in 1963 — Statehood Act.

Same submerged land at Statehood.

1st lease sale Dec. 1964 — (most of Kuparuk)

Offered in ^{July} 1965 — (most of PB)

in 1967 — offshore — gas cap discovered

Reoffered Sept 1969 = 900 million

Lease form — drafted by Territorial.

Royalty provisions

several of's together.

State & producers disagree on some parts -

Can take in value or in kind -

Since 1979 - $\frac{1}{2}$ in kind, $\frac{1}{2}$ in value.

Tied most sales to 4th outcome.

Some not - (2 competitive sales)

ALPETCO

Lease For -

41 11 12.5% amount or value

41 14 Royalty in kind

41 15 Value 41

"The field market value at the well"

41 16 Price 41

shall not be less than the highest of:

2) Posted

3) prevailing price rec'd by after producers

Establish minimum -

might be higher than price rec'd.
mechanically tied to specific transaction

Agree - min - is set -
could be more

Lessee's agree —
no sale at well —
none else either

State —

No transactions at Christmas free —
Should count if sale to 3rd party —
wherever they occur, with back to well.
if #1, Valdez, Ant. use sales at those points

3) Look at other's deals.

Hal

Other interpretation

Cond

Companies — done the best job marketing —
Then — don't apply other's deals

Burden on state to prove other's are higher —
Some companies don't sell —

Aug

Different approaches —

Cond

12

Facts

is part of case determining what of original
lease differs?

Con

yes — Defendants not together.

Cord

In 1964 - used standard form -
no deliberations on how should apply to ANS.

Statehood approaching.

Everett Brown. from BLM
collected lease forms from the states OK, Texas, LA.
West O & G A

hired BILL DYER

Dept of Int.

Draft at pub hearing in Dec.

During 1st session Land Act revised.
from Brandt & Connors to Fred

4/15

DNR Connors

Phil Holdworth - used special
approval

hired consultant - draft new

WOBs - comments on draft. - hired

WANNIK - depositions taken.

Martin

why does it take so long.

Cord

Co's different #'s - not all right.

State look at it all.

need to look at market facts -

trial 10/89 appeal 1 1/2 years 1992
can't decide in a vacuum.

Martin

change lease form?

Cord

Endicott - 1/2 ^{build} new 1979 form
39. Knapik 1982 form - different

Myrdal body of expertise to find new solutions.

Joe Range of \$ - ?

Con have claimed refunds

Joe interpret against drafter (State)

May Court did not apply against state.

Joe ~~State court~~ - Suit in Federal Court.

Fisher stop spending \$

May costs drop after trial -

Now - experts - acct's
\$ 6 million

Cond

Need, accurate, reliable data -
crude production to disposition -
complicated -

Oil delivered in April at Gulf
Royalty obligations are monthly -
Some co's kept good records -
Exxon good. - others from tankers but not tied
Million pages of documents - most expensive
25,000 tanker loads
100,000 deliveries 5 billion barrels.

May Side benefits - database useful for tax analysis

2) Require reporting in future.

Fitz

Jo ~~Establish~~ Continuing expenditures?

Mon Costs but not as much

RF look at statutory changes to require reporting.

Condn. Average Mktl.

can't use prices rec'd

Disposition Breakdown -

None sold - ALL EXCHANGED →

per value on Exchanges.