

SCOMM

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STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 212

Revision Date: _____ Department Affected: Natural Resources
Title: Confidentiality of Certain Oil BRU: Petroleum Management
and Gas Information Components: Petroleum Management
Sponsor: Representative Brown
Requestor: Committee on Oil & Gas COMPONENT SERIAL NO. 439

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of Current year impact: None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Ken Boyd Phone: 762-2548
Division: Oil & Gas Date: 5-Apr-91
Approved by Commissioner: Harold Heinze Date: 5-Apr-91
Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Requestor, OMB,
& Impacted Agency(ies).

Sponsor Statement HB 212 — Disclosure of Oil and Gas Well Data

Purpose

The fundamental purpose of House Bill 212 is to promote the exploration and development of oil and gas resources in Alaska. In order to promote the efficient and prompt exploration of our state's hydrocarbon resources, certain reforms in current law are needed to provide for the disclosure of certain data and information concerning the state's subsurface resources.

House Bill 212

House Bill 212 would repeal and re-enact certain provisions in existing law pertaining to the confidentiality of oil and gas well data filed with the Alaska Oil and Gas Conservation Commission (AOGCC). Under present law, as provided by AS 31.05.035, the AOGCC requires the filing of certain reports such as well logs, drilling logs, electric logs, lithographic logs, directional surveys and other subsurface information. As provided by current law at AS 31.05.035(c), this information is held confidential for 24 months unless the owner grants permission to release the data at an earlier date.

Current law also provides the opportunity for a well owner to qualify for "extended confidentiality" at the end of the two-year period. Under present law, if the Commissioner of the Department of Natural Resources (DNR) makes a finding that the reports and information filed with the Commission "contain significant information relating to the valuation of unleased land in the same vicinity, the commissioner shall keep the reports and information confidential for a reasonable time after the disposition of all affected unleased land...."

This extended confidentiality provision is a significant impediment to the timely dissemination of information needed to make informed decisions concerning new exploration and development opportunities. House Bill 212 would remedy this problem, encourage more competition and participation in exploration and development activities, and promote the development of oil and gas resources in Alaska. Specifically, House Bill 212 would 1) more narrowly define the kinds of well data that can qualify for extended confidentiality, and 2) provide for the routine disclosure of most data after two years.

House Bill 212 would still provide for extended confidentiality beyond two years in the case of certain specific types of well data. Section 2 provides that wells drilled solely for geologic information (ie, stratigraphic test wells) can

qualify for extended confidentiality (see page 1, line 12, subsection (g)). House Bill 212 would "grandfather" all well data filed with the AOGCC before the effective date of the act (July 1, 1991) and allow this well data to qualify for extended confidentiality as provided under current law.

Department of Natural Resources Access to Data

Subsection AS 31.05.035(j) is provided to expressly recognize the intent of the legislature regarding the use of confidential well data by DNR.

Prior to the establishment of the AOGCC by the passage of House Bill 830 in 1978 (ch. 158, SLA 1978), the Alaska Oil and Gas Conservation Act was administered by the Division of Oil and Gas Conservation within DNR. As was made clear in an attorney general's opinion on the subject, reports and information filed with the Division of Oil and Gas Conservation and made confidential for 24 months by AS 31.05.035(c) could be shared with and used by other divisions of DNR, such as the Division of Minerals and Energy Management without violating their confidential status. 1978 Inf. Op. Att'y Gen (May 19; Froelich).

There is no reason why the same principle should not also apply to confidential reports and information filed with the Division of Oil and Gas Conservation's successor agency, the AOGCC. However, AOGCC and DNR have apparently administered the confidentiality provisions of AS 31.05.035(c) conservatively so that DNR has not sought nor been given access to well data filed with AOGCC during the initial 24 month period of confidentiality (except where DNR has an independent contractual right to the data in the case of wells drilled on state oil and gas leases). On the other hand, once a well owner has requested extended confidentiality under the 1978 amendment to AS 31.05.035(c) (Sec. 5, ch. 160, SLA 1978) DNR necessarily gains access to the data in order to determine whether they "contain significant information relating to the valuation of unleased land in the same vicinity." DNR is then able to use the data, subject to maintaining its confidentiality, in furtherance of its other statutory duties as well. (A constitutional challenge to DNR's use of confidential well data from a private lease is currently on appeal to the Alaska Supreme Court. State v. Arctic Slope Regional Corporation, No. S-3400.)

In summary, subsection (j) makes it clear that DNR should not be deprived of access to well data during the two-year period of confidentiality. This language is advisable to eliminate any possible doubt cast on DNR's authority in this regard by the cautious administrative practice noted previously or by a sentence in a 1984 Attorney General's opinion that stated that DNR's review of well data under AS 31.05.035(c) "must be for the only purpose of determining whether confidentiality will be extended beyond the initial period." (1984 Inf. Op. Att'n'y Gen. (July 3; 166-523-84).

Sectional Analysis

HB 212 — Disclosure of Oil & Gas Well Data

Section 1

Conforming amendment to properly reflect the changes made in Sections 2 and 4 of the bill (repeal and re-enactment of AS 31.05.035(c)).

Section 2

Adds new subsections to existing law at AS 31.05.035 pertaining to the confidentiality and disclosure of certain kinds of oil and gas well data.

Subsection (f) provides that, except as provided by subsections (g) and (h), well data filed with the Alaska Oil and Gas Conservation Commission shall become public after 2 years.

Subsection (g) provides that an exception to the general rule of 2 years of confidentiality is provided in the case of wells drilled solely for geologic information (ie., stratigraphic test wells).

Subsection (h) "grandfathers" well data filed before July 1, 1991 (the effective date of the act) and allows this data to qualify for "extended confidentiality" under existing law. (Under current law, an owner of a well may apply to have well data kept confidential beyond 2 years. If the Commissioner of Natural Resources finds that the data contains "significant information relating to the valuation of unleased land in the same vicinity," the Alaska Oil and Gas Conservation Commission must keep the data confidential until 90 days after the disposition of all affected unleased land.)

Subsection (i), provides that well location, depth, status and production data and production reports, required to be filed by the Commission under AS 31.05.035(b) become public immediately and may not be classified as confidential. For the purposes of this subsection, "production data" is defined to mean volume, gravity and gas-oil ratio of oil or gas after the well begins regular production. This is a restatement of part of the existing AS 31.05.035(c) and does not change existing law.

Subsection (j) is an express confirmation that the Department of Natural Resources can, for use in carrying out the department's duties, have access to confidential well data held by the Alaska Oil and Gas Conservation Commission.

Subsection (k) is a restatement of existing law that allows the owner of a well to authorize the Alaska Oil and Gas Conservation Commission to publicly release reports and information filed by the owner.

Section 3

Conforming amendment to recognize the repeal and reenactment of provisions presently codified at AS 31.05.035(c).

Section 4

Repeals current statutory language found at AS 31.05.035(c) pertaining to the confidentiality of oil and gas well data.

Section 5

Effective date of July 1, 1991



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

TO: Representative Bill Hudson, Chair
House Oil and Gas Committee

FROM: Representative Kay Brown

DATE: April 8, 1991

SUBJ: Proposed Amendments to House Bill 212/Oil & Gas Well Data

In response to comments on House Bill 212 received from the Alaska Oil and Gas Conservation Commission (AOGCC), please find attached three proposed amendments for consideration by the House Oil and Gas Committee.

Amendment 1: Stratigraphic Test Wells

This amendment would provide a specific definition for "stratigraphic test well" and is intended to further clarify what is meant by the legislation in regard to "wells drilled solely for geologic information."

Amendment 2: Disclosure of Development Well Data

This amendment would provide that development well data (ie, data associated with wells drilled to a defined oil or gas pool) shall be public and may not be classified as confidential.

Amendment 3: Definition of Affected Unleased Land

This amendment would provide specific guidance to the commissioner of natural resources regarding "the valuation of unleased land in the same vicinity" for purposes of determining eligibility for confidentiality. The amendment would provide a specific distance of three miles for purposes of making determinations regarding "affected unleased land."

enclosures

AMENDMENT 1

OFFERED IN THE HOUSE
TO: HB 212

BY REPRESENTATIVE BROWN

Page 1, line 13:

Delete "wells drilled solely for geologic information"

Insert "stratigraphic test wells"

Page 1, line 14, following "land.":

Insert "In this subsection, "stratigraphic test well" means a well that is drilled for the sole purpose of obtaining structural or stratigraphic information, or both, but that is not drilled with the intent of encountering oil or gas."

AMENDMENT # 2

OFFERED IN THE HOUSE
TO: HB 212

BY REPRESENTATIVE BROWN

Page 1, line 9:

Delete "(g) and (h)"

Insert "(g) - (i)"

Page 2, following line 5:

Insert a new subsection to read:

"(i) The reports and information required under (a) of this section for a development well are public information and may not be classified confidential. In this subsection, "development well" means a well drilled to a defined oil or gas pool."

Reletter the following subsections accordingly.

AMENDMENT

#3

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HB 212

Page 1, line 14, following "land":

Insert "within three miles of the well"

Page 2, lines 3 - 4:

Delete "in the same vicinity"

Insert "within three miles of the well"

Page 2, line 5, following "land":

Insert "within three miles of the well"

Memorandum

State of Alaska

Oil and Gas Conservation Commission

To: Representative Kay Brown Date: March 22, 1991

Telephone: 279-1433
Fax number: 276-7542

From: David W. Johnston
Chairman ~~SS~~

Subject: H.B. 212

The Commission understands the purpose of this bill is to apply extended confidentiality provisions only to stratigraphic test wells on unleased acreage. We recommend more specific language in paragraph (g) than currently proposed. The language "wells drilled solely for geologic information" can be interpreted to mean any well that is plugged and abandoned after drilling whether it is a stratigraphic test or an oil and gas exploratory well. We suggest using the term stratigraphic test in the statute, with a definition under AS 31.05.170 (i.e., stratigraphic test means a hole drilled for the sole purpose of gaining structural or stratigraphic information, or both, and not drilled with the intent of encountering oil or gas.)

Also, "...the disposition of all affected unleased land" is entirely too broad. We suggest: "...the disposition of all unleased land within 'x' miles of the wellbore." Actual distance can be worked out in committee hearings.

Paragraph (j) raises constitutionality questions relative to data from private lands. We suggest adopting language consistent with the decision of the Alaska Supreme Court after it rules in the KIC well case.

We would also recommend that the statute be amended to exclude all development wells from the 24 month confidentiality period under paragraph (f). Confidentiality should extend only to exploratory wells, not development wells. A development well can be defined as any well drilled to a defined oil or gas pool.

Finally, we question why AS 31.05.035 is referenced in AS 42.06.440, and suggest deleting the reference. The statutes are unrelated, the former refers to well data, the latter to pipeline information.

We look forward to participating in the committee hearings for this bill.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

400 WILLOUGHBY AVENUE
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April 8, 1991

The Honorable Bill Hudson, Chair
House Special Committee for Oil and Gas
P.O. Box V
Juneau, AK 99811

Dear Representative Hudson:

Subject: HB 212, which limits extended well confidentiality to wells drilled solely for geologic information.

Position: The Department of Natural Resources supports this bill.

Background: Currently, when an oil and gas well is drilled in Alaska, the owner of the well must file certain geologic and oil and gas information related to the well with the Alaska Oil and Gas Conservation Commission. The information required to be filed includes drilling logs, directional surveys, and other subsurface information. The state is required to keep this information confidential for two years. Under some circumstances, however, the state must extend this period of confidentiality if the owner so requests.

This bill would amend existing statutes to limit the circumstances under which the state extends confidentiality of well information for wells drilled on or after July 1, 1991. It would prevent all wells that are wholly or in part drilled for the purpose of finding oil and gas from receiving an extension of confidentiality for well data beyond the standard two year period. The bill would limit extended confidentiality to wells drilled solely for geologic information.

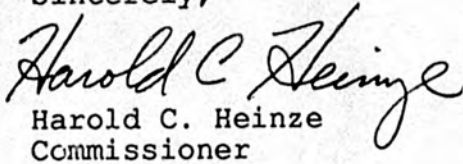
Currently, extended confidentiality must be granted where well data contains significant information relating to the valuation of unleased land in the same vicinity. This is too broad a standard for judging confidentiality extensions. Because almost all wells are near some unleased land (environmentally sensitive areas, federal land, private land, etc.), companies can apply for extended confidentiality in too many cases.

Under both the existing law and this bill, extended confidentiality would continue to terminate after the disposition of all unleased land affected by the well information. In addition, under both the existing law and this bill, confidentiality may be waived by the well owner.

This bill could increase the bonus bids received by the state for oil and gas leases because the availability of information would decrease the risk that companies must bear and would increase competition because more companies would participate in sales.

Please let me know if you need additional information related to this bill.

Sincerely,


Harold C. Heinze
Commissioner

enclosure

cc: Representative Brown
Representative Koponen
Representative Sharp
Bruce Kendall, Legislative Liaison, Office of the Governor
David Johnston, Chair, Oil and Gas Conservation Commission