

SCOMM

93:9

WALTER J. HICKEL
GOVERNOR



P. O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB200

March 5, 1993

The Honorable Ramona L. Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Barnes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill providing for monetary incentives in the form of certain credits to be applied against taxes and other obligations to the state for oil- and gas-related geophysical and exploratory activities performed by a qualified applicant. This bill should provide a valuable tool for the state to encourage oil and gas exploration in Alaska.

The bill amends AS 41 by adding a new chapter, 09. The bill would permit a qualified applicant to receive certain credits that could be used to offset taxes, royalties, or bonuses due the state, if the applicant performed certain defined exploratory work. The bill does not require that the exploratory work be done exclusively on state land, since development on other land also benefits the state in the form of additional jobs, increased economic activity, and development of infrastructure. The bill, though, allows a credit not to exceed 50 percent of the eligible direct costs of activities performed on state-owned land as opposed to 25 percent of those costs on other land, to encourage development on state land. The applicant would be able to assign the credit to any other entity, including banks and security holders. The commissioner of natural resources is authorized to grant up to a total of \$50 million for all incentive credits to applicants under this program, with no single project receiving more than \$5,000,000 in credits.

COMMITTEE COPY

The Honorable Ramona L. Barnes

March 5, 1993

Page 2

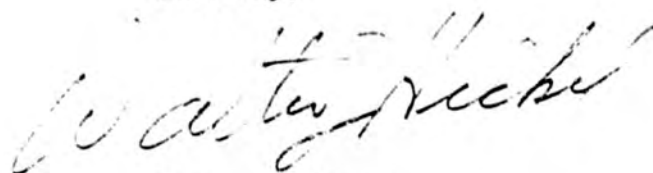
48200

The applicant also must submit to the commissioner copies of all data derived from the exploratory activity.

The commissioner may display, but not distribute or transfer, certain geophysical data to others to generate interest in development of state oil and gas reserves. The bill provides protection for confidential data submitted similar to that already existing in other state laws for oil and gas exploration information submitted to the state.

I urge your prompt and favorable consideration of this bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Walter J. Hickel".

Walter J. Hickel
Governor

Alaska Federation of Natives, Inc.

March 22, 1993

Senator Loren Leman, Chairman
Senate Special Committee
on Oil and Gas
Alaska State Legislature
State Capitol, MS 3100
Juneau, Alaska 99801-1182

Representative Joe Green, Chairman
House Special Committee
on Oil and Gas
Alaska State Legislature
State Capitol, MS 3100
Juneau, Alaska 99801-1182

Dear Senator Leman and Representative Green:

The purpose of this letter is to convey comments on exploration incentive credit bills HB 200 and SB 151. Both bills have been offered by Governor Hickel and are presently before your respective Special Committees on oil and gas.

These comments are offered on behalf of the Alaska Federation of Natives Land Committee. The Committee is composed of land and resource managers from ANCSA regional and village corporations. The Committee advises the full AFN Board of Directors on policy issues affecting the Alaska Native Claims Settlement Act and related land and resource management interests. Formally established eight years ago as a working Committee of the Board, several of the Committee's membership represent ANCSA corporations that have a direct involvement in oil and gas activities.

The Alaska Federation of Natives supports HB 200/SB 151 with the exception of language in Section 1, Subsection (e) which restricts the amount of credits available to certain exploration activities on private land to 25 percent of eligible costs. It is the Federation's position that the maximum amount of an EIC available to exploration activities on private land should be consistent with the 50 percent maximum applied to activities on state land.

We believe that the affects of court cases, in particular United States v. Utah and State of Alaska v. United States, have expanded the state's interest in oil and gas substantially beyond that interest derived from state land selections. Under liberal standards of navigability handed down by the court the state stands to gain ownership in approximately three million acres of submerged lands. A substantial

portion of private and federal lands in unexplored sedimentary basins contain water bodies which will prove to be navigable and thus come under state ownership. It is reasonable to assume that the exploration of a number of private upland tracts in unexplored sedimentary basins will provide substantial benefits to the state. A discovery in such a case could provide the state with a combination of royalty and tax revenues.

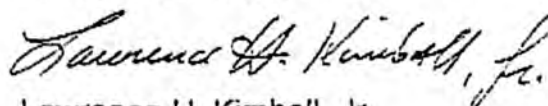
We suggest that the new pattern of state ownership created by submerged lands conveyances increases state interests in remote areas. Since the degree of state interest is likely to vary from tract to tract it seems logical that credit maximums be consistent at 50 percent of eligible costs so as to maximize state options if the Commissioner finds state interest to be substantial. Under the proposed bills the Commissioner will have discretion in assessing state interest and thus the actual applied percentage of allowable credits. Maintaining a 25 percent maximum for activities on private land may prove to be a disincentive for small private developers, thus discouraging exploration activity in an area that could yield high returns to the state. Regardless of the maximum percentage established, the Commissioner has considerable discretion in establishing the percentage allowed. You need simply to review past allocations under the existing program to realize that percentages allocated have been limited in almost all cases.

We disagree with the state's argument that data gathered from adjacent, more remote lands will have less relevance to the interpretation and evaluation of state-owned lands. I also disagree that benefits which flow from exploration on privately-owned lands will accrue primarily to the private landowner. These arguments may be valid if state interest is narrowly viewed as generating from state land selections. However, that is not the case. The map depicting state ownership has changed. Owning submerged lands in every portion of the state that has navigable water makes the state a potential oil and gas owner in every upland discovery.

The AFN Land Committee respectfully urge your Committee to consider amending House Bill 200/Senate Bill 151 to establish an exploration incentive credit maximum of 50 percent for eligible costs relating to activities performed on land not owned by the state.

Thank you.

Sincerely,
AFN LAND COMMITTEE



Lawrence H. Kimball, Jr.
Chairman

Position Paper
Department of Natural Resources
Exploration Incentive Credit Bill
HB 200 & SB 151

The Exploration Incentive Credit Bill extends a program that already exists on State lands to all lands in the State. It provides a means for the State to obtain exploration data to which it would not normally be entitled. It may also encourage exploration on lands that will enhance the exploration of adjacent or nearby State lands.

Exploration Incentive Credits (EICs) are currently offered by the State as a means to encourage exploration on State lands. Under AS 38.05.180(i), the Commissioner of Natural resources may authorize the use of incentive credits to encourage exploration of state leases through either geophysical work or the drilling of a well. Geophysical EICs can be earned if the work is performed during the two seasons immediately preceding an announced lease sale on land included within the sale area, and if the geophysical work is made public following the sale. Drilling EICs are based on the footage drilled and the region in which the well is situated. The decision whether or not to offer credits is sale specific and is determined by evaluating the perceived geologic potential of the sale area as well as the perceived cost of exploration.

Under the current program, credits may not exceed 50 percent of the cost of drilling or geophysical work. Credits may be used during a limited period established by the commissioner and may be assigned during that period. Credits may be applied against oil and gas royalties and lease rentals or taxes payable under AS 43.55. A credit must not exceed 50 percent of the payment toward which it is being applied. Amounts due the Alaska Permanent Fund must be calculated before the application of credits.

Governor Hickel's proposal in HB 200 and SB 151 is to expand the current EIC program to all areas of the state, with certain modifications and restrictions. This new legislation provides an amount of \$50 million that may be used over a period of ten years, with each individual project capped at \$5 million. Credits of up to 50 percent on state-owned land and 25 percent on non state-owned land will be allowed. In contrast, the current EIC program has no time limit and no cap. The new legislation also provides for credits to be applied against income and other taxes in addition to the severance tax. The credits remain transferable under the provisions of this bill and, as with the current plan, amounts due the Permanent Fund must be calculated prior to application of any credits.

All data acquired under the EICs must be submitted to the commissioner. Well data will be held confidential for 24 months after submission, but no extension of this period of confidentiality will be allowed (i.e. all well data will become public 24 months after submission unless the company gives permission to release it sooner). Geophysical data will be allowed to be shown, but not transferred to, any interested party.

The Governor recognizes that activities on lands adjacent to, or nearby, State lands may significantly affect State land. This new legislation allows the commissioner discretion to provide credits to obtain data that the State otherwise would not be able to get. The State, by statute, can now get all seismic data gathered on State land only—but has no mechanism to obtain data on non-state owned land. The data obtained as a result of this legislation will enhance our knowledge of State lands, and the geophysical data may be used as a marketing tool to attract investors to State land.

FISCAL NOTE

STATE OF ALASKA 1993 LEGISLATIVE SESSION

No. 1Bill Version: HB 200(H) Publish Date: 3/5/93

Revision Date:

Title: Oil & Gas Exploration Incentive Credits

Dept. Affected:

Revenue

BRU:

Revenue Operations

Component:

Oil & Gas Audit DivisionSponsor: GovernorRequestor: GovernorCOMPONENT SERIAL NO. 115**Expenditures/Revenues:**

(Thousands of Dollars)

	FY94	FY95	FY96	FY97	FY98	FY99
OPERATING						
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						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:	*	*	*	*	*	*
----------------------	---	---	---	---	---	---

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary)

* Over the 15 year term exploration credits could total between \$0 and \$50 million. It is impossible to predict the actual year of amount.

Prepared by:

Rod R. Maurant

Division:

Commissioner's Office

Approved by Commissioner:

Darrel J. Rexwinkel

Agency:

Revenue

Phone: 465-2300

Date: 3/2/93

Date: 3/2/93

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information call the Governor's Legislative Office



Doyon, Limited

Doyon Building
201 First Avenue
Fairbanks, Alaska 99701
Tel: (907) 452-4755 Fax: (907) 456-6785
Toll Free in Alaska: 1-800-478-4755

March 18, 1993

Senator Loren Leman
Chairman
Senate Special Committee on Oil and Gas
State Capitol
Juneau, Alaska 99801-1182

Representative Joe Green
Chairman
House Special Committee on Oil and Gas
State Capitol
Juneau, Alaska 99801-1182

Dear Senator Leman and Representative Green:

The purpose of this letter is to provide comments on the identical exploration incentive credits bills offered by the Governor and presently being considered by the House and Senate Special Committees on Oil and Gas (HB200/SB151).

These comments are offered on behalf of Doyon, Limited. Doyon is the largest private land owner in Alaska and has over 13,000 shareholders, most of whom are resident in the state. Doyon's major business activities include natural resource development of its own lands and North Slope oil field drilling through its wholly owned subsidiary Doyon Drilling, Inc.

BACKGROUND

Doyon, the State of Alaska and the federal government collectively have extensive land holdings in several sedimentary basins in Interior Alaska with oil and gas development potential. Indeed, Doyon has worked very hard in recent years to attract oil company exploration dollars to its lands, with only limited success. The same can be said for some of the state lands in these basins. It is our real world experience that the financial and geological risks associated with these underexplored and often undrilled basins in Alaska cannot compete with opportunities overseas where governments offer a virtual menu of financial incentives to explore risky areas. The Hickel Administration seemingly agrees with that notion.

Given this common ground, we and other private landowners worked closely last year with Commissioner Heinze and supported exploration incentive legislation similar in purpose to HB200/SB151, i.e., extension of the state's existing exploration incentive credit program (available only for state owned lands under oil and gas leases) to all lands in the state, be they private, federal or unleased state lands. That bill passed the Senate 18-0 and its House counterpart was making its way through that body when the session ended.

We note that several significant and ill advised changes have been made to HB200/SB151, when compared to last year's proposed legislation. As explained more fully in the paragraphs that follow, it is our opinion that these changes will have the effect of making the bill unattractive, at best, with respect to drilling activities on eligible state lands. It will be useless for most federal and private lands. Moreover, the disparate treatment of federal and private lands is a display of arbitrariness based on a less than full understanding of the State's financial and land ownership interests associated with oil and gas development.

CONFIDENTIALITY

In a very significant departure from both the State's current exploration incentive program and last year's proposed legislation, HB200/SB151 would require drilling data be made public after two years. Under the current program, that decision is properly left to the statutorily limited discretion of the Department of Natural Resources through the Alaska Oil and Gas Conservation Commission which may extend the confidentiality period upon certain showings. See, AS 31.05.0359(c). It is noteworthy that the Alaska Supreme Court recently affirmed the principle that during this period of confidentiality state government has full access to the drilling data and may use it internally for all proprietary purposes such as planning. See, *State of Alaska v. Arctic Slope Regional Corporation, et al.*, Opinion No. 3776, November 22, 1991.

As you know, drilling an exploration or stratigraphic test well in a remote, rank wildcat area of Alaska is a very expensive and risky investment. But the returns could be handsome. That is why the State is proposing to "invest" in this kind of drilling on a limited basis by means of tax and royalty credits of up to fifty percent of drilling costs.

Yet for most if not all of the targeted areas, we do not think that the State will be able to find a drilling "partner" if downhole data is automatically made public within two years. One obvious purpose of investing private, risk capital is to gain a competitive advantage. Why would one drill in the first instance if valuable information will be given to the competition before advantage is obtained and utilized? The current exploration incentive program embraces these considerations and strikes the appropriate balance between public and private interests; so should HB200/SB151.

ARBITRARY ALLOCATION OF AMOUNT OF AVAILABLE CREDITS

In working with Commissioner Heinze on last year's exploration credit bill we had the opportunity to explain the full breadth of the State's economic interests in oil and gas production from private and federal lands. Certain facts are often overlooked which can lead to narrow, erroneous conclusions and shortsighted public policy. We believe that our discussions with Commissioner Heinze on these matters played a major role in his decision to include in last year's bill the availability of a fifty percent (maximum) credit to all lands, not just those owned by the State of Alaska as now proposed in HB200/SB 151.

In those discussions, several points were made.

1. The several state production taxes are paid regardless of landownership. On private lands the royalty owner and the producer both pay production taxes (the State as royalty owner does not).
2. The State will receive ninety percent of all oil and gas revenues from federal lands (with the possible exception of ANWR which is not a target of the proposed program).

3. Private lands in certain basins are sometimes adjacent to State uplands. The Nenana and Minchumina Basins are good examples. And, the most prospective acreage in a basin can be a combination of State and private lands. See the enclosed map depicting land ownership and gravity information of the Nenana Basin (enclosure no. 1). The oval feature and the area surrounding it northwest of Nenana is prospective for natural gas and possibly oil. It would be highly unlikely that drilling of a discovery well on private lands would not have a major, positive impact on development of adjacent State lands. The same can probably be said for federal lands adjacent to State lands.
4. The State owns the oil and gas beneath submerged lands covered by waters navigable at time of Statehood. Substantial percentages of federal and private lands in underexplored sedimentary basins are covered by waterbodies which the State claims to be navigable. Enclosed are map examples of several townships in the Yukon Flats Basin near Birch Creek which are representative of larger waterbodies within federal and private lands there (enclosures 2, 3, and 4). It is worthwhile considering that were discoveries made in the Yukon Flats, where there are no State uplands, production could very well come from a combination of private and federal uplands together with State submerged lands. It is not an unreasonable scenario to project that the State could be the big winner in an area such as the Yukon Flats, all without owning any uplands.
5. Private lands in some basins are often adjacent to federal lands (and State submerged lands within those federal lands). The major private landowners, the Native corporations, are well suited to the task of persuading the federal government to open federal lands to oil and gas leasing if discoveries are made on Native lands. Likely production economics would provide the incentive to do so, along with additional job opportunities for shareholders and the obvious fact that State oil and gas revenues however derived are good for all citizens of the State.
6. Developers often prefer to drill on private land because bureaucratic delays and regulatory hurdles are perceived to be less onerous, thereby accelerating exploration and development of an area with any number of State oil and gas ownership and other economic interests.

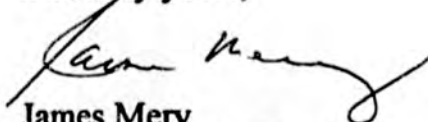
The above considerations clearly illustrate that the State, private and federal interests are often intertwined and the relevance of data gathered from private and federal lands can be just as valuable to the State as data from its own uplands. Yet HB200/SB151 unnecessarily restricts the commissioner's discretion to make those judgements by arbitrarily limiting the amount of tax and royalty credit to a maximum of twenty-five percent of drilling costs on private and federal lands.

Doubtless, there may be occasions where the alignment of interests is such that a credit of greater than twenty-five percent for drilling on private lands will not be warranted. But in other situations, the State's best interests could very well be best served by just such an allocation. The commissioner should be given the discretion to make those determinations.

SUMMARY

We respectfully request that the committees consider making two amendments to HB200/SB151. First, the confidentiality provisions should be made consistent with and not deviate from the current exploration incentive program. Second, the maximum tax and royalty credit of fifty percent of well costs should be made available for projects drilled on any and all lands. Thank you for taking the time to consider our opinions.

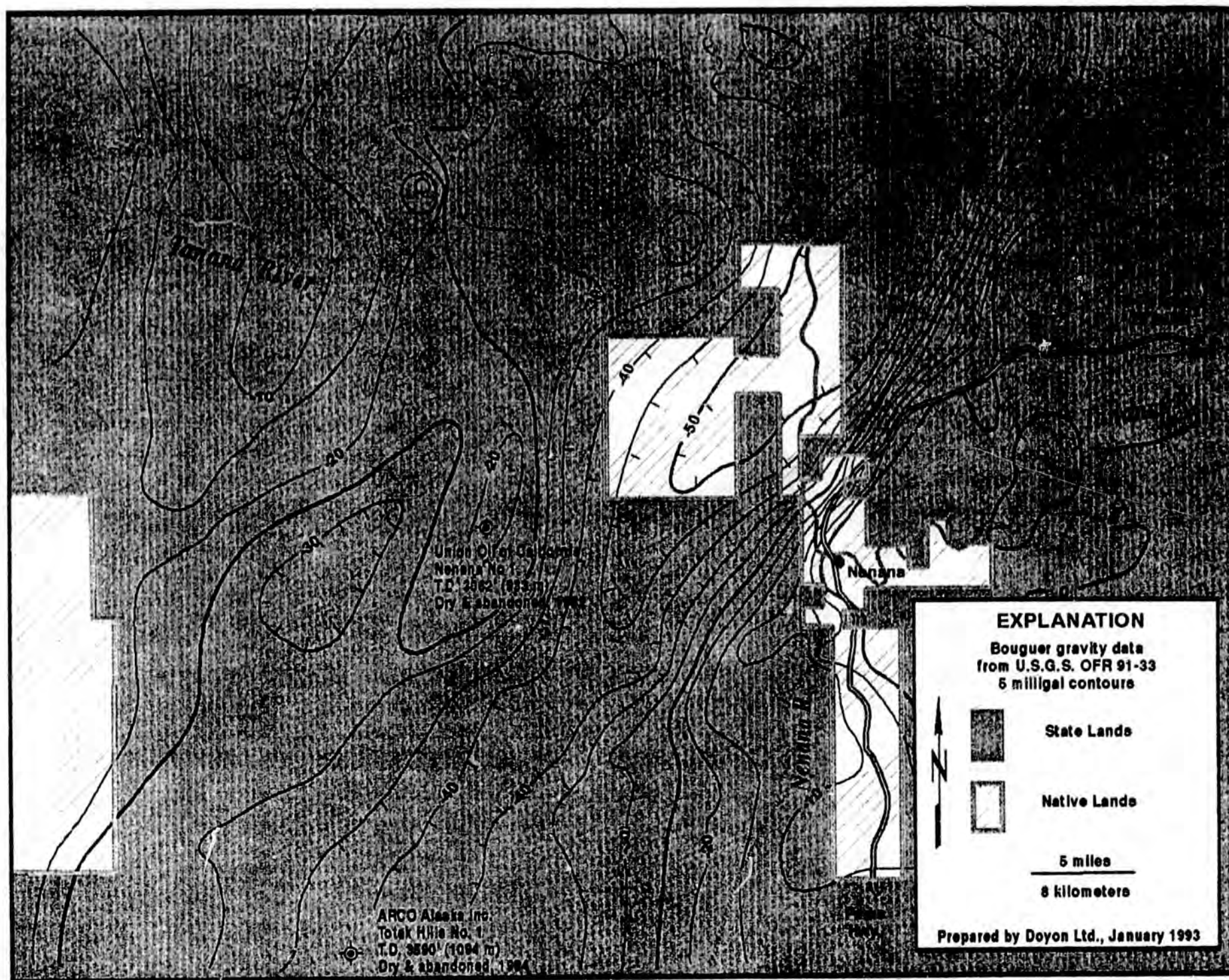
Sincerely yours,



James Mery
Senior Vice President
Lands and Natural Resources

enclosures (4)

xc: Rep. Bill Williams, Chairman, House Resources Committee
Sen. Mike Miller, Chairman, Senate Resources Committee
Sen. Georgianna Lincoln
Sen. Bert Sharpe
Sen. Steve Frank
Rep. Irene Nicholia
Rep. Joe Sitton
Glenn Olds, Commissioner, DNR
Raga Elim, Special Assistant, DNR
Jim Eason, Director, DNR, Div. O&G
Morris Thompson, President, Doyon, Ltd.





BIRCH CREEK BLOCK



Total Area	22,853
Uplands	21,047
Aquatic Lands	1,806

RATIO:	
Upland	92%
Aquatic Land	8%



Township T. 18 N. R. 10 E.



BIRCH CREEK BLOCK



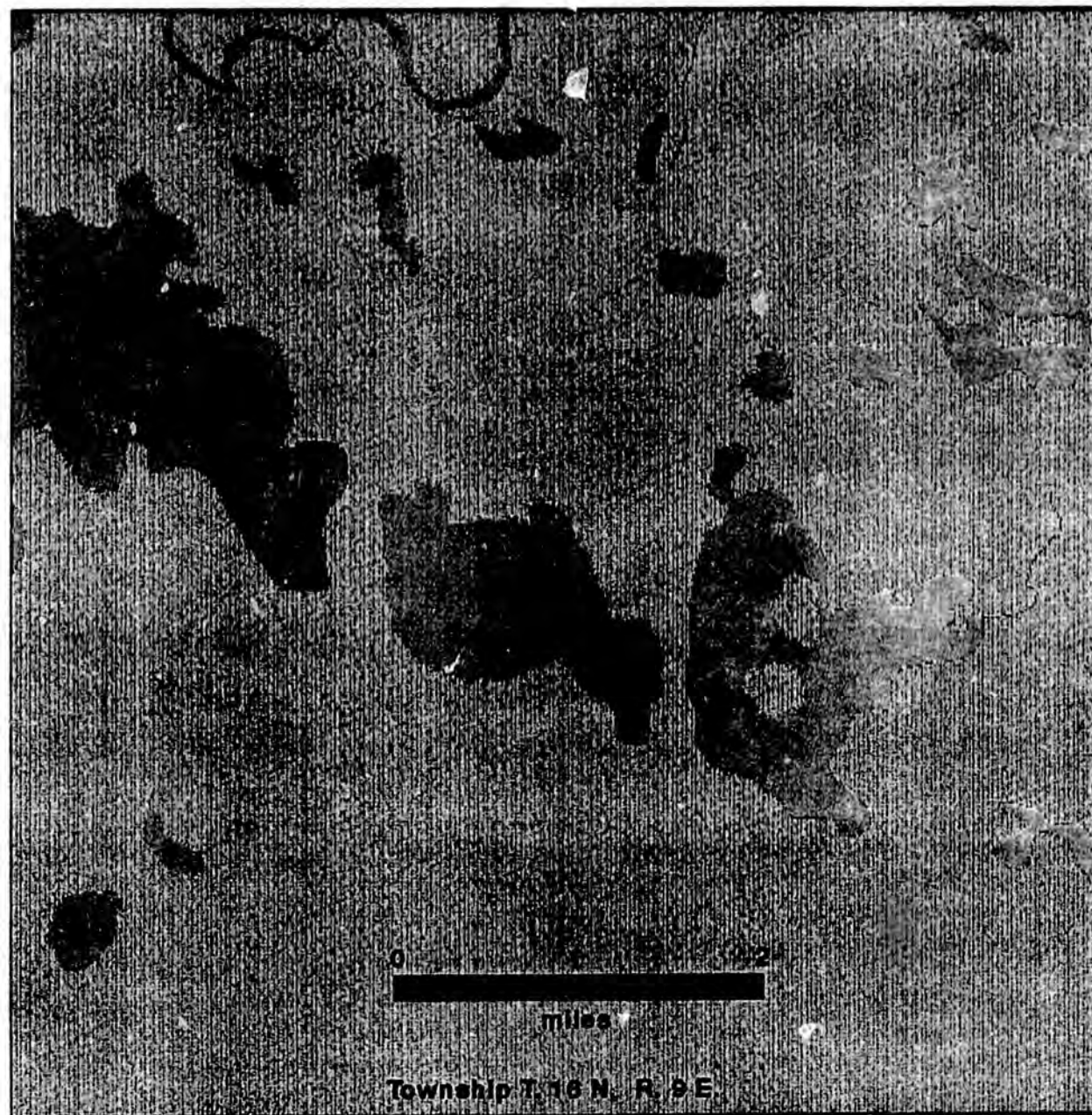
Total Area	22,950
Uplands	19,138
Aquatic Lands	3,812

RATIO:

Upland	83%
Aquatic Land	17%



Township T. 17 N. R. 7 E.



BIRCH CREEK BLOCK



Total Area	22,919
Uplands	19,118
Aquatic Lands	3,801

RATIO:

Upland	83%
Aquatic Land	17%