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MEMORANDUM

State of Alaska

Department of Law

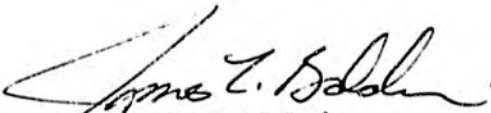
TO: House Special Committee
on Oil and Gas

DATE: February 11, 1993

FILE NO:

TEL. NO: 465-3600

SUBJECT: Department of Law
oil and gas litigation


FROM: James L. Baldwin
Assistant Attorney General
Oil & Gas Section - Juneau

The attached documents are to provide information concerning the status of oil and gas litigation, settlements, and budget requirements. The following exhibits are:

1. Memo re: FY 94 oil and gas special projects
2. Table "Summary of Major Oil and Gas Disputes Involving the State of Alaska"
3. Memo re: oil and gas settlements
4. Memo re: oil and gas litigation funding history
5. Chart showing oil and gas litigation costs vs. revenues

JLB:tg

MEMORANDUM

State of Alaska Department of Law

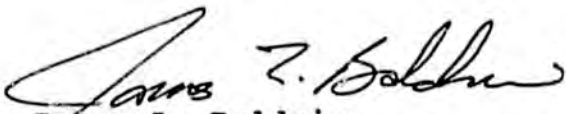
TO: Hon. Joe Green
Chairman
House Special Committee
on Oil and Gas,

DATE: February 11, 1993

FILE NO:

TEL. NO: 465-3600

SUBJECT: FY 94 oil and gas special
projects

FROM: 
James L. Baldwin
Assistant Attorney General

This memorandum describes the Department of Law's proposed FY 94 oil and gas special projects request. Based on current projections, the Department of Law will require an oil and gas appropriation level of \$25 million in FY 94. In conformance with budget directives the department required \$10.3584 million in the FY 94 operating budget.

The amount required reflects the cost of preparing for and engaging in complex litigation. The amount requested for FY 94 will represent a slight increase over the amount requested for FY 93 (if our supplemental request is approved). For your information, set out below is a recap of the appropriations for this BRU over the past few fiscal years:

Fiscal Year	Appropriation Requested by DOL	Appropriation Received	Supplemental Requested	Supplemental Received	Total
FY 91	14,000,000	14,000,000	12,000,000	12,000,000	26,000,000
FY 92	21,000,000	11,000,000	16,200,000	15,500,000	26,500,000
FY 93	14,000,000	10,358,400	8,800,000		

The amounts requested are large but have the potential for returning substantial revenues to the state treasury. Our request is driven by the commitment to resolve major oil and gas tax claims in a timely manner. If it is any consolation, we understand that the expenditures of our opponents for this litigation, far exceed our own.

A brief explanation and status report on the cases requiring these expenditures is set out below:

The North Slope Royalty Case. This case, formerly known as the *Amerada Hess* case, completed its first phase with settlement of the dispute involving the value of royalty oil.

The case now progresses into the second phase involving whether the state was overcharged for the processing of natural gas liquids. All parties will be engaged in the expensive and time consuming task of discovering evidence necessary to prosecute and defend the various claims asserted. Trial is presently set for 1994. Concurrently, the parties are in settlement discussions. A related part of the case involves the amount owed to the state by purchasers of royalty oil taken in kind. This dispute involves whether the purchasers owe additional amounts based on the values determined for the state's royalty oil determined in phase I of the case. This dispute is being actively litigated in the superior court and depending upon procedural rulings may be remanded for arbitration. In which case, substantial amounts will be needed to present the state's case.

United States v. Alaska. This case involves the Beaufort Sea title dispute with the United States in which approximately \$1.2 billion is presently in escrow awaiting the outcome of this dispute. If we are successful in this case, the state will receive a monetary benefit of far more than is currently in escrow. The state will lay claim to taxes and royalty for production taken from submerged lands. Our best estimate is that the master will deliver a report to the United States Supreme Court early in the fiscal year. We are preparing our case even before the report is submitted so that we can respond without undue time pressure.

F.E.R.C. Proceedings. We monitor and actively participate in several proceedings before the Federal Energy Regulatory Commission. These proceedings can substantially affect the well head value oil which directly affects royalty and tax revenues. Presently, these proceedings include quality bank proceedings, negotiation of corrosion issues, pumpability factors, and feeder pipeline tariffs.

Tax Proceedings. The department is actively preparing major oil and gas and income tax cases for litigation in FY 94. Because information pertaining to these cases is confidential by law, the amounts in issue and the taxpayers involved may not be disclosed.

Oil Export Ban. This case tests the validity of federal law preventing the export of oil produced on the North Slope. To prevail in this case, we must combat the virtually unlimited resources of the United States in federal court. If we are successful, it is expected that producers could obtain a higher price for oil and gas and thereby directly benefit the state through a higher royalty and taxes.

In-House operations and Litigation Support. In-house operation expenses provide funds to pay for staff attorneys, paralegals, and other staff to support the cases detailed above. The litigation support effort is intended to create detailed data bases to support and defend the state in the cases mentioned above. These data bases require constant maintenance and development for them to be of use. These costs increase slightly for FY 94 from approximately \$2.9 million to \$3.5 million. This increase reflects our efforts to devote significant resources to the management of outside counsel in an effort to contain their costs.

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SUMMARY OF MAJOR OIL AND GAS DISPUTES INVOLVING THE STATE OF ALASKA

Subject of Dispute	Major Issues	Estimated Revenue At Stake ¹ (Including Interest)	Major Settlements	Status
Land ownership (Dinkum Sands)	Ownership of submerged lands in Beaufort Sea	\$1.2 billion	None	Awaiting report by U.S. Supreme Court master
Pipeline Tariffs	Inclusion of corrosion costs in TAPS tariff	Unknown	1985 TAPS tariff settlement resulted in payments of \$240 million and a lower tariff	Administrative proceeding at FERC Case is stayed; parties are pursuing alternative dispute resolution proceedings
	Kuparuk pipeline tariff	Approximately \$25 million (1984-86)	Endicott pipeline tariff \$14.2 million (1987-2005)	Kuparuk case was settled without cash payment to state Settlement similar to that of Kuparuk possible
	Quality bank adjustment	Unspecified		

Royalties (Amerada Hess litigation)	Underpayment of royalties by producers		1992 \$633 million total with Amerada Hess, ARCO, FMC, Marathon, BP, Phillips, LL&E, Mobil, and Texaco	
	Retroactive adjustment of price from "In-kind" royalty oil purchasers	\$181 million in dispute	1993 RIK Settlements: Petro Star \$2.5 million	In court
	Recovery of excessive charges for processing natural gas liquids	\$155 million	Tesoro \$94 million	Trial set for 1994
	Lost royalty caused by Field gas services option	\$50 million		Trial set for 1994
	Amounts owed for gas sold to utilities	\$45 million		Trial set for 1994
Taxes	Severance tax liabilities and income tax liabilities under "separate accounting" law	\$3.5 billion ²	\$1,259,700,000 in tax settlements	Pending Department of Revenue action
	State alleges under valuing of oil, violation of federal price controls, excessive interest deductions and excessive marine shipping deductions from netback price			

¹ These amounts are claimed by the state and would be received only if the state ultimately prevailed on all issues and did not negotiate settlements.

² This number was supplied by Department of Revenue.

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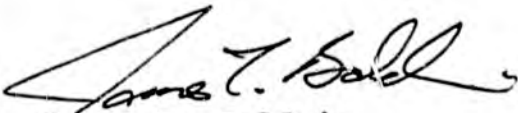
TO: Hon. Joe Green, Chairman
House Special Committee on
Oil and Gas

DATE: February 11, 1993

FILE NO:

TEL NO: 465-3600

SUBJECT: Oil and Gas Settlements


FROM: James L. Baldwin
Assistant Attorney General

The following are estimates of savings or payments to the state as a result of litigation efforts under the oil and gas BRU:

<u>Year</u>	<u>Payment Description</u>	<u>Immediate Payment</u> <u>(nearest thou.)</u>	<u>Future Benefit</u> <u>(nearest thou.)</u>
Gas royalty settlements			
1982	Union Cook Inlet royalty settlement	\$ 848,000	\$
1984	Phillips LNG royalty settlement	36,300,000	
1985	Marathon LNG royalty settlement	4,300,000	
1985	Union and Marathon royalty settlement	4,200,000	
1986	ARCO, Chevron & Shell Cook Inlet gas royalty settlement	1,568,000	
1988	Union royalty settlement	300,000	
Sub Total		\$47,516,000	

Oil royalty settlements

1992	North Slope royalty case (Amerada hess, ARCO Alaska, FMC, Marathon, British Petroleum, Phillips, LL&E, Mobil, Texaco-Getty, Chevron, Exxon)	632,490,938 ¹	
1993	Petro Star	2,500,000	
1993	Tesoro	10,200,000	86,800,000
Sub Total		645,190,938	86,800,000

Tax settlements²

1986-93	Taxpayers	1,259,700,000 ³	
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Federal government revenue sharing

1986	Congressional settlement of	51,000,000	135,000,000
1987	Congressional authorization state to receive its minimum "8(g)" share of Dinkum Sands escrow account	323,000,000	
Sub Total		374,000,000	135,000,000

¹ This amount only includes settlements for the past. It does not include estimate of future revenues to the state that will occur - without litigation - under a future formula agreed to by each of the parties who have settled.

² These cases do not include the state's victory in *Atlantic Richfield Co. v. State*, 705 P.2d 418 (Alaska 1985), in which the state's separate accounting methodology was upheld, thus voiding oil company claims of \$2 billion in tax refunds.

³ Because some of these settlements are confidential by law, the taxpayers and settlement amounts are not separately identified.

Federal Energy Regulatory Commission Proceedings (through 1992)

1984	Kuparuk I settlement		6,000,000
1985	TAPS settlement ⁴	250,460,000	2,649,650,000
1990	Milne Point settlement		2,500,000
1991	Kuparuk II settlement		82,600,000
1993	Endicott Pipeline settlement	10,200,000	3,800,000
Sub Total		<u>260,660,000</u>	<u>2,744,550,000</u>
TOTAL		\$2,587,066,938	\$2,966,350,000
GRAND TOTAL		<u>\$5,553,416,938</u>	

JLB:tg

cc: Charles E. Cole
Attorney General

⁴ In addition, the state received approximately \$33.28 million in costs and attorney's fees paid into the general fund.

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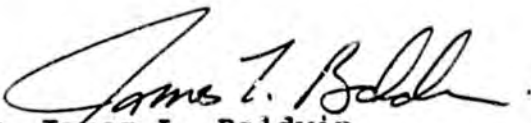
TO: Hon. Joe Green
Chairman
House Special Committee
on Oil and Gas

DATE: February 11, 1993

FILE NO:

TEL. NO: 465-3600

SUBJECT: Oil and gas litigation
funding history

FROM: 
James L. Baldwin
Assistant Attorney General
Oil & Gas Section - Juneau

The following is a listing of appropriations made to the Department of Law for oil and gas litigation. The appropriations began in FY 77 and continue to the current fiscal year, FY 93.

Department of Law

CH 89/SLA 77	\$ 465.0
CH 113/SLA 78/Pg. 55/Ln. 7	2,000.0
CH 7/SLA 78	958.3
CH 80/SLA 79/Pg. 46/Ln. 22	1,500.0
CH 120/SLA 80/Pg. 62/Ln. 16	2,000.0
CH 50/SLA 80/Sec. 257	1,920.0
CH 1/SLA 81 /Secs. 1-2	10,615.0
CH 1/SLA 81/Sec. 5	734.0
CH 101/SLA 82/Sec. 40	815.2
CH 101/SLA 82/Sec. 42	4,433.4
CH 101/SLA 82/Sec. 43	211.7
CH 101/SLA 82/Sec. 44	436.0
CH 107/SLA 82/Sec. 11	11,222.7
CH 2/SLA 83/Secs. 2-3	5,425.2
CH 122/SLA 84/Sec. 11	9,149.6
CH 98/SLA 85/Sec. 12	9,149.6
CH 129/SLA 86/Sec. 12	8,900.0
CH 130/SLA 86/Sec. 4	488.0
CH 95/SLA 87/Sec. 20	9,483.8
CH 9/SLA 87	(1,912.1)

CH 154/SLA 88/Sec. 17	14,474.0
CH 173/SLA 88/Sec. 4	400.0
CH 173/SLA 88/Sec. 5	1,539.0
CH 116/SLA 89/Sec. 25	14,000.0 ¹
CH 17/SLA 90/Sec. 1(p)	747.6
CH 17/SLA 90/Sec. 1(q)	8,274.3
CH 209/SLA 90/Sec. 30(a)	10,500.0
CH 207/SLA 90/Sec. 30(b)	3,500.0 ²
CH 1/SLA 91/Sec. 14	12,000.0 ³
CH 73/SLA 91/Sec. 40	11,000.0 ⁴
CH 8/SLA 92/Sec. 2	15,500.0 ⁵
CH 136/SLA 92/Sec. 44	<u>10,358.4⁶</u>
TOTAL	\$180,288.7

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¹ 3,500.0 of this appropriation is from the Permanent Fund Reserve Account to Law; the remaining 10,500.0 is from the general fund.

² This 3,500.0 appropriation is from the Permanent Fund Reserve Account to the Permanent Fund Board. The Board in turn provided these funds to Law for royalty and title litigation purposes.

³ 2,000.0 of this appropriation is from the Permanent Fund Earnings Reserve Account; the remaining 10,000.0 is from the general fund.

⁴ 1,750.0 of this appropriation is from the Permanent Fund Earnings Reserve Account to Law; the remaining 9,250.0 is from the general fund.

⁵ 2,500.0 of this appropriation is from the Permanent Fund Earnings Reserve Account to Law; the remaining 13,000.0 is from the general fund.

⁶ 2,750.0 of this appropriation is from the Permanent Fund Earnings Reserve Account to Law; the remaining 7,608.4 is from the general fund.

OIL & GAS LITIGATION

COSTS VS. REVENUES (\$ MILLIONS)

