



January 26, 2017

**Decision of No Substantial New Information
2017 Cook Inlet and Alaska Peninsula Areawide Lease Sales**

Introduction

Under 38.05.035(e), the director of the Alaska Department of Natural Resources (DNR), Division of Oil and Gas (DO&G) may hold an oil and gas areawide lease sale after a written finding that the interests of the state will be best served. A written best interest finding for areawide lease sales expires ten years after issuance. Under AS 30.05.035(e)(6)(F), a most recent areawide final best interest finding is subject to annual public Calls for New Information (CFNI) to facilitate that year's lease sale and, if the director determined that substantial new information had become available, the final best interest finding would be supplemented with new information. The following tables show the decision history for the Alaska Peninsula (AP) and Cook Inlet (CI) areawide final best interest findings:

Alaska Peninsula Areawide Oil and Gas Lease Sale Decisions	
<i>Date</i>	<i>Decision</i>
December 1, 2014	Final Finding of the Director
January 20, 2015	Decision of No Substantial New Information
January 15, 2016	Decision of No Substantial New Information

Cook Inlet Areawide Oil and Gas Lease Sale Decisions	
<i>Date</i>	<i>Decision</i>
January 20, 2009	Final Finding of the Director
February 4, 2010	Decision of Substantial New Information and Supplement to the 2009 Cook Inlet Areawide Areawide Final Finding of the Director
February 8, 2011	Decision of Substantial New Information and Supplement to the 2009 Cook Inlet Areawide Final Finding of the Director
January 6, 2012	Decision of No Substantial New Information
January 22, 2013	Decision of No Substantial New Information
January 17, 2014	Decision of No Substantial New Information
January 20, 2015	Decision of No Substantial New Information
January 15, 2016	Decision of No Substantial New Information

On September 1, 2016, DO&G issued a Call for New Information (CFNI) regarding the 2017 Cook Inlet and Alaska Peninsula areawide oil and gas lease sales. The CFNI requested interested parties to submit to DO&G substantial new information that has become available over the past year to supplement the most recent final findings for the area. The submission period ended on October 31, 2016.

As stated in the CFNI, DO&G generally considers substantial new information to include published research, studies, or data directly relevant to the matters listed in AS 38.05.035(g) and to the lands

covered in the final findings that justify a supplement to the final finding and have become publicly available over the past year. Matters listed in AS 38.05.035(g) include:

- property descriptions and locations;
- petroleum potential of the sale area, in general terms;
- fish and wildlife species and their habitats in the area;
- current and projected uses in the area, including uses and value of fish and wildlife;
- governmental powers to regulate the exploration, development, production, and transportation of oil and gas or of gas only;
- reasonably foreseeable cumulative effects of exploration, development, production, and transportation for oil and gas or for gas only on the sale area, including effects on subsistence uses, fish and wildlife habitat and populations and their uses, and historic and cultural resources;
- lease stipulations and mitigation measures, including any measures to prevent and mitigate releases of oil and hazardous substances, to be included in the leases, and the protections offered by these measures;
- method or methods most likely to be used to transport oil or gas from the lease sale area, and the advantages, disadvantages, and relative risks of each;
- reasonably foreseeable fiscal effects of the lease sale and the subsequent activity on the state and affected municipalities and communities, including the explicit and implicit subsidies associated with the lease sale, if any;
- reasonably foreseeable effects of exploration, development, production, and transportation involving oil and gas or gas only on municipalities and communities within or adjacent to the lease sale area;
- the bidding method or methods adopted by the commissioner under AS 38.05.180.

In response to the CFNI, DO&G received four comments that were all timely. Out of the comments received, three comments referenced and included documents. The director has reviewed and considered all public comments and documents referenced or included with those comments.

Decision

The director finds that no substantial new information was received in response to the CFNI to justify a supplement to the Cook Inlet Areawide Final Best Interest Finding or the Alaska Peninsula Areawide Final Best Interest Finding.

Responses to Timely Public Comments

Each comment, including the director's response, is summarized below.

Alaska Department of Fish and Game (ADF&G)

Comment 1 Summary: ADF&G recommended including more information within Chapter Four Habitat, Fish, and Wildlife, on Steller's eiders and the emperor goose which are listed as Endangered Species. The commenter referred to U.S. Fish and Wildlife Service's *Aerial Survey of Emperor Geese and Other Waterbirds in Southwestern Alaska* from spring 2015; U.S. Geological Survey's *Viability of the Alaskan Breeding Population of Steller's Eiders*; P.D. Martin et al.'s *Distribution and Movements of Alaska Breeding Steller's Eiders in the Nonbreeding Period*; and ADF&G's *Seasonal Movements and Distribution of Pacific Steller's Eiders*.

Director's Response: Although the information provided by ADF&G is new, it is substantially similar to that considered and discussed in Chapter Four Habitat, Fish, and Wildlife of the 2009 Cook Inlet and 2014 Alaska Peninsula Areawide Final Best Interest Findings. Authorities for protection of these species of concern are considered and discussed in Chapter Seven, Governmental Powers to Regulate Oil and Gas of those findings, and this information does not justify a supplement. However, this information will be retained and reviewed when DO&G begins drafting a new best interest finding for the Alaska Peninsula and Cook Inlet Areawides.

Comment 2 Summary: ADF&G recommended updating existing information in Chapter Four Habitat, Fish, and Wildlife on beluga whales with a report from J.J. Citta and L.T. Quakenbush entitled *Movements of Beluga Whales in Bristol Bay*.

Director's Response: Although the information provided by ADF&G is new, it is substantially similar to that considered and discussed in Chapter Four Habitat, Fish, and Wildlife of the 2014 Alaska Peninsula Areawide Final Best Interest Finding, and does not justify a supplement. However, this information will be retained and reviewed when DO&G begins drafting a new best interest finding for the Alaska Peninsula

Comment 3 Summary: ADF&G provided alternative text for a section of Chapter Four Habitat, Fish, and Wildlife regarding the haulout locations for walrus. The suggested text clarifies that walrus repeatedly use the same haulout sites. They suggest citing to A.S. Fishbach et al.'s *Pacific Walrus Coastal Haulout Database* that includes information on walrus haulout locations from 1852-2016.

Director's Response: Walrus were considered and discussed in Chapter Four Habitat, Fish, and Wildlife of the Alaska Peninsula Final Best Interest Finding. Although the information provided by ADF&G is new, it does not justify a supplement to the 2014 Alaska Peninsula Areawide Final Best Interest Finding. However, this information will be retained and reviewed when DO&G begins drafting a new best interest finding for the Alaska Peninsula.

Comment 4 Summary: ADF&G identified an error in references to text regarding Steller sea lion migration noting that the text should reference ADF&G 2012k which contains information on mammals and the text incorrectly references ADF&G 2012i which contains information on fish.

Director's Response: DO&G recognizes the error. However, this information does not justify a supplement to the Alaska Peninsula Areawide Final Best Interest Finding.

United States Department of the Interior, National Park Service (NPS)

Comment 1 Summary: NPS stated it is concerned with the impacts that oil and gas leasing and development may have on four national park units that are in the vicinity of the Alaska Peninsula Areawide Lease sale area including Katmai National Park and Preserve, Alagnak Wild River, Aniakchak National Monument, and Lake Clark National Park and Preserve. NPS stated it is concerned with the salmon fisheries in and around Bristol Bay and declining king salmon populations. NPS recommended that DO&G investigate research performed by the Chinook Salmon Research Initiative for information related to juvenile salmon survival, and studies from the Pebble Mine permitting process for information regarding the natural resources of the lease sale areas.

NPS also identified potential impacts from oil and gas exploration and development including direct and indirect impacts to NPS resources over the short term and long term. NPS stated that it is seeking to protect animal migration corridors, anadromous fish migration and habitat, recreational and subsistence

access, emergency response capability, natural sounds from noise intrusions, night sky darkness from outdoor lighting, and natural view sheds from chemical air pollution, visible haze and odors.

Director's Response: The four national parks units are not within the lease sale area. DO&G recognizes that oil and gas activities subsequent to leasing could potentially affect water and air quality, and discussed these potential effects in Chapter Eight: Reasonably Foreseeable Effects of Leasing and Subsequent Activity. As discussed in Chapter Seven: Governmental Powers to Regulate Oil and Gas, the Alaska Department of Environmental Conservation (ADEC) has primary and statutory responsibility to administer several regulatory programs including the federal Clean Water and Clean Air Acts and the state's water and air quality programs. ADEC monitors air quality and compliance, and has jurisdiction to enforce regulations and permit requirements for the regulation and abatement of all pollution. The Alaska Oil and Gas Conservation Commission (AOGCC) has oversight authority for conservation practices and flaring. There has been no substantive change to these authorities since the 2014 Final Finding. The Final Finding does not duplicate or replace an agency's regulatory authority, and does not limit the ability of any agency to impose additional measures during post-lease sale phases. Therefore, NPS comments are not substantial new information that would justify supplementing the Alaska Peninsula Final Best Interest Finding. However, this information regarding the Chinook Salmon Research Initiative for information related to juvenile salmon survival, and studies from the Pebble Mine permitting process may be reviewed when DO&G begins drafting a new best interest finding for the Alaska Peninsula.

Cook Inletkeeper (Bob Shavelson Inletkeeper and Executive Director)– Kachemak Bay Conservation Society (Jim Stearns, President)

Comment 1 Summary: Cook Inletkeeper and the Kachemak Bay Conservation Society (CIKB) stated that new information regarding climate science became available since the last Best Interest Findings were issued. They stated that scientific consensus about the threats of climate change has led to an international agreement requiring countries to reduce greenhouse gas emissions. Citing the Paris Agreement and Copenhagen Accord, CIKB stated that greenhouse gas emissions must be limited in order to limit the temperature increase to 1.5°C above pre-industrial levels. CIKB stated that the proven reserves of oil and gas, if burned, would contribute more greenhouse gasses than acceptable for the limits afforded by the international agreements, and that providing opportunities to explore new reserves is not compatible with the emissions goals. They stated that DNR should consider the national policy direction when deciding whether leasing oil and gas reserves serves the state's best interests.

CIKB stated that in a 2014 report, the Intergovernmental Panel on Climate Change (IPCC) concluded that it was "extremely likely" that human influence has been the dominant cause of warming since the middle of the 20th century. They stated that EPA's 2016 document entitled *Climate Change Indicators in the United States* identifies Alaska as suffering from global warming, and Alaska is among regions that have experienced greater temperature increases from 1901 to 2015 than any other parts of the United States. Citing Chapin's *Climate Change Impacts in the United States* from the 2014 U.S. National Climate Assessment, CIKB stated that Alaska will likely experience severe consequences of climate change. CIKB stated that because of these potential effects of climate change as a result of greenhouse gas emissions, DNR must reconsider proceeding with the 2017 areawide lease sales.

CIKB stated that DNR is legally obligated to consider climate effects in making and updating its best interest findings. CIKB cited the Alaska Constitution Article VIII, Section 1 and the Alaska Statute 38.05.035 (e) as well as the court case of Kachemak Bay Conservation Society vs. ADNR from 2000 requiring DO&G to utilize the natural resources belonging to the state for the maximum benefit of its people, and that DO&G must base its Best Interest Findings on several specific factors including fish, wildlife, and their habitat, current and projected uses of the area, reasonably foreseeable cumulative

effects of oil and gas exploration, development, production, and transportation. CIKB stated that DNR can estimate the amount of greenhouse gases that could be produced as a result of leasing the land for oil and gas development based on estimated oil and gas resources in the sale areas.

CIKB stated that DNR has considered climate change in past best interest findings and acknowledged other global environmental issues as substantial new information. CIKB cited the 2011 supplement to the Alaska Peninsula and Cook Inlet Best Interest Findings which determined that the 2010 *Deepwater Horizon* blowout was substantial new information that justified a supplement to the Best Interest Findings. CIKB stated that based on this rationale, DO&G should address the new federal policy direction regarding climate change as an environmental crisis.

CIKB stated that recent federal guidance on assessing the impacts of climate change will assist DNR in updating its best interest findings. CIKB cited the August 1, 2016 Council on Environmental Quality's published *Guidance on the Consideration of Greenhouse Gas Emissions and Climate Effects in Environmental Impact Statements Under the National Environmental Policy Act*. CIKB stated that the Council on Environmental Quality recommends using greenhouse gas emissions as a proxy for actual climate impacts. CIKB cited the Alaska Climate Change Strategy Mitigation Advisory Group's recommendations to reduce the state's emissions of greenhouse gases by 11.7 million metric tons by 2025. CIKB also referenced the United States' goal through the *United Nations Framework Convention on Climate Change* of reducing greenhouse gas emissions by 26-28% by 2025. CIKB suggested that DNR compare emissions from producing and combusting oil and gas from Cook Inlet and Alaska Peninsula areas to those targets when considering if leasing land for oil and gas development is in the state's best interest.

Director's Response: Per AS 38.05.035(e)(1)(A) the director has established the scope of review for a disposal of land, resources, or of an interest in them, and limits the scope of the Alaska Peninsula and Cook Inlet Best Interest Findings to the disposal phase. AS 38.05.035(e)(3) states that a written finding is subject to 38.05.035(g) which does not require analysis of climate change. Global climate change, the effects of world-wide oil and gas industry, and the effects of the use of oil and gas products are beyond the scope of review for the Alaska Peninsula and Cook Inlet Best Interest Findings. However, Chapter Three, Description of the Lease Sale Area of the Alaska Peninsula discusses relevant data and some potential effects of climate change on Alaska. In Chapter Eight, Reasonably Foreseeable Effects, air quality and greenhouse gas emissions from oil and gas activities are considered and discussed.

Effects concerning specific future projects are not included because speculation would be required about possible future effects subject to future permitting and other decisions to be made by potential lessees that cannot be reasonably determined until a project or proposed use is more specifically defined (AS 38.05.035). Details that are unknown at this time include numbers, sizes, and types of projects, and technology that may be available that could affect emissions and other uses of petroleum-derived products.

Estimates of greenhouse gas emissions based on reserve estimates would be inherently speculative. First, the reserve estimates are themselves estimates. Second, some reserves may never be developed, even if they are offered for lease. Third, all offered acreage may not ultimately be leased, and even if leased, may not advance to any subsequent phase. Oil and gas markets in the United States and worldwide impact development decisions and analysis of the market trends and the likelihood of a given, available tract actually being leased is beyond the scope of a best interest finding. Further, climate science does not allow one to pinpoint where effects will be felt from particular emissions. Therefore, it is not possible for DO&G to conclude that greenhouse gases from reserves in these lease sale areas would negatively impact Alaska.

Responsible resource development is a constitutional imperative (Art VIII, Secs. 1 and 2). AS 38.05.180 expresses the Alaska legislature's finding that the people of Alaska have an interest in the development of the state's oil and gas resources to maximize the economic and physical recovery of the resources, maximize competition among parties seeking to explore and develop the resources, and maximize use of Alaska's human resources in the development of the resources. AS 38.05.035(g) requires consideration and discussion of the fish and wildlife related matters as well as the requirement that the best interest finding also consider fiscal effects of the lease sale and subsequent activities and the governmental powers to regulate the exploration, development, production, and transportation of oil and gas.

Refinement into products and consumption of the oil and gas resources are not included in AS 38.05.035(g) as matters to be considered and discussed in the best interest findings. There are no state laws or regulations that establish targets for statewide greenhouse gas emissions, much less restrict the oil and gas reserves that can be offered for lease because of greenhouse gas emissions potentially attributable to the eventual development and consumption of such reserves. The Alaska Climate Change Strategy Mitigation Advisory Group did not recommend halting new leasing of state lands for oil and gas projects in order to reduce statewide greenhouse gas emissions.

Additionally, the status of the federal commitment under the Paris Agreement is currently unknown due to the recent 2016 presidential election. The federal regulations CIKB identified in its comments apply to consumptive use of oil and gas which is beyond the scope of these written findings. Further, it would be speculative to attempt to analyze the impacts these regulations may have on resource development for purposes of the best interest findings. DNR is not subject to the National Environmental Policy Act (NEPA) and the CEQ Guidance is inapplicable.

The information provided by CIKB will be retained and reviewed during the drafting of future best interest findings, however, it does not justify a supplement to the Cook Inlet or Alaska Peninsula Best Interest Findings.

Natural Resource Defense Council (NRDC)

Comment 1 Summary: NRDC stated that it is concerned about potential impacts from human activity on beluga whales, killer whales, harbor porpoises, harbor seals, and Steller sea lions. NRDC stated the National Marine Fisheries Service has expressed concern about the lack of recovery of Cook Inlet beluga whales as they are on a list of species most at risk of extinction. NRDC cited the NMFS *Draft Recovery Plan for Cook Inlet Beluga Whales in May 2015* which identifies likely threats including noise, catastrophic events, and synergistic effects of multiple stressors. NRDC recommended that DNR suspend all lease sales in Cook Inlet until Cook Inlet beluga whales begin to recover.

NRDC cited the National Oceanic and Atmospheric Administration's *Ocean Noise Strategy Roadmap* which recommends actions about management of noise impacts.

NRDC cited the *Cook Inlet Beluga Whale Population Consequences of Disturbance Framework Expert Elicitation Workshop Report* prepared by SMRU Consulting from September 2016. The workshop report investigated how specific noise-related stressors might affect Cook Inlet beluga whales. NRDC recommended incorporating the conclusions of the report into DNR's impact analysis.

NRDC cited National Academies of Sciences, Engineering, and Medicine's 2016 document entitled *Approaches to Understanding the Cumulative Effects of Stressors on Marine Mammals* from 2016. The report developed approaches to analyze how stressors affect individuals, populations, and ecosystems to

help guide research on cumulative effects in the future.

NRDC also cited Nowacek and Southhall's 2016 article entitled, *Effective Planning Strategies for Managing Environmental Risk Associated with Geophysical and Other Imaging Surveys*. The article provides guidelines for planning offshore, large-scale geophysical seismic surveys and other forms of environmental imaging.


Director's Response: DO&G recognizes the importance of the Cook Inlet beluga whales' habitat and recovery. Chapter Four Habitat, Fish, and Wildlife discusses beluga whales and other marine mammals. Authorities for protection of these species of concern are considered and discussed in Chapter Seven, Governmental Powers to Regulate Oil and Gas. In Chapter Eight, Reasonably Foreseeable Effects of Leasing and Subsequent Activity, the effects of noise from seismic surveys is considered and discussed. The documents referenced in NRDC's comments provide studies on the effects of noise and survey activities as well as offering strategies for managing the risks associated with these activities, however, they are similar to the information cited in the current Cook Inlet Final Best Interest Finding and do not provide substantial new information that would justify a supplement to the Best Interest Finding. However, this information will be retained and reviewed when DO&G begins drafting a new best interest finding for the Cook Inlet Areawide lease sales in the future.

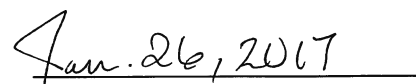
Conclusion

The director has considered the comments submitted in response to the CFNI for the 2017 Cook Inlet and Alaska Peninsula areawide lease sales, and finds that the comments do not provide substantial new information that justifies a supplement to the Cook Inlet Areawide Final Best Interest Finding or the Alaska Peninsula Areawide Final Best Interest Finding. However, information received will be reviewed when DO&G begins drafting new best interest findings for the Cook Inlet and Alaska Peninsula areawide lease sale areas.

An eligible person affected by this decision may appeal in accordance with 11 AAC 02. Any request for reconsideration must be received within 20 calendar days after the date of issuance of this decision, as defined in 11 AAC 02.040(c) and (d), and may be mailed or delivered to Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov.

An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. If the commissioner does not act on a request for reconsideration within 30 days after issuance of this decision, the request for reconsideration is considered denied and this decision becomes a final administrative order and decision on the 31st day after issuance for the purposes of an appeal to Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.


Chantal Walsh
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Date

cc: Jeanette Alas, Habitat Biologist

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