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RECORD SUCCESSFULLY CHANGED -RECEIPT NE BILLED- RECEIPT NUMBER: 4410106
NRB0100P DEPARTMENT OF NATURAL RESOURCES DATE 09/28/2018
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ACTION CODE: C RECEIPT NUMBER: 4410106

ADL/LOAN NUMBER: _____ RECEIPT DATE: 9 / 28 / 2018
RECEIPT AMOUNT: 200.00 RECEIPT TYPE: AP
CASH AMOUNT: _____ FISCAL PERIOD: C
CHECK NUMBER: _____ CHECK DATE: ____ / ____ / ____
BANKCARD NUMBER: 4676 BRAND: VI
ACH ACCOUNT: _____ FUTURE PMT CODE: ____
PAYMENT METHOD: CREDIT CARD RETURN REASON: ____
CASH DRAWER: 810
PRINT CODE: R
COMMENTS: JL APPEAL _____
AGREEMENT NAME: _____
ADDRESS: _____

REMITTER NAME: TERESA _____ IMM _____
ADDRESS: 3900 C STREET _____
ANCHORAGE _____ AK 99503 _____ ALTERNATE PRINTER: _____

NEXT CODE ____ PF1=HELP PF4=Reset PF8=R&B Main Menu



3900 C Street, Ste. 1000 | Anchorage, Alaska 99503

September 28, 2018

HAND DELIVERED

Mr. Andrew Mack, Commissioner
State of Alaska
Department of Natural Resources
550 W. 7th Avenue, Suite 1400
Anchorage, Alaska 99501

**DEPARTMENT OF
NATURAL RESOURCES**

SEP 28 2018

**COMMISSIONER'S OFFICE
ANCHORAGE**

RE: ASRC Exploration LLC ("AEX") appeal to the Department of Natural Resources Commissioner ("Commissioner") regarding Placer Unit 3rd Plan of Development ("POD") Approval Letter.

Dear Commissioner Mack:

ASRC Exploration LLC (AEX), appeals the DNR Division of Oil and Gas Approval of the 2018 Placer Unit Proposed 3rd Plan of Development (as amended) dated September 7, 2018 issued by the Director of the Division of Oil and Gas ("Division") (copy attached).

Remedy Requested

1. Approve the Second Amended Placer 3rd POD as submitted by AEX on August 17, 2018 for a period of at least 12-months.
2. Direct the Division to cease requiring undefined "on-the-ground" activities as a firm requirement for approval of unit Plans of Development.

Property Affected

The Placer Unit and its unitized leases on the North Slope of Alaska

List of unitized lease ADLs

391023
391024
391027
391028
391910
391911
391912
391913

Name and address for further notification

ASRC Exploration, LLC
Attn: Teresa Imm, President
3900 C Street, Suite 1000
Anchorage, AK 99503
Phone 907.339.6014
Email timmm@asrc.com



Other Agreements Affected

Placer Oil and Gas Unit Agreement and its unitized oil and gas leases.

Reservations

AEX reserves the right to supplement this appeal.

Request for an Oral Hearing

AEX requests an oral hearing to present its facts and argument as described below.

Special Requests

AEX requests that at least 14 days prior to the oral hearing the Division provide the following:

1. Written supporting argument for its interpretation of the unitization regulations regarding the firm requirement for "on-the-ground" activities as a requirement for approval of unit plans of development.
2. A list of all other unit PODs that were approved for a period of less than one year and were issued by the Division within the last 3 years.
3. Copies of correspondence between the Division and other unit operators where "on-the-ground" activities were required as a firm term of unit POD approvals.
4. All communication (email, text, written, phone logs, text messages, fax) that the Division had had with oil and gas lease owners adjacent to the Placer Unit regarding the current or future status of the Placer Unit.

Request for a Stay

AEX does not request a stay of the Director's decision since the unit term is not in peril at the current time. Should this appeal not be decided prior to March 2, 2019 (the date the next POD is currently required by the Director's decision) then AEX will request that the commissioner extend the current Placer Unit POD until this appeal is adjudicated or it will take other steps as necessary to extend the current unit POD and to extend the term of the Placer Unit during the duration of this appeal.

Basis of Appeal

1. The Division without proper justification approved a 9-month Placer Unit POD instead of the 12-month POD that AEX had requested.
2. The Division has misinterpreted its own regulations by requiring "on-the-ground" activity in order for approval of the unit POD and is attempting to impose undocumented "policy" directives in its approval of the Placer Unit POD with an apparent goal to terminate the Placer Unit in 2019 at the end of the approved 9-month POD.

Discussion

1. The less-than-one-year POD approval is a misapplication of the Director's/Division's discretion and clearly unfair and prejudicial to AEX. AEX proposed unit operations for a one-year period going forward (covering September 2018 through August 2019). The Division approved a plan covering approximately 9-months starting in September 2018 and ending in May 2019, and required a new POD commencing in June 2019. This approval of an abbreviated time period for the POD, we believe is unprecedented and reflects an apparent bias by the Division against AEX, as well as, a lack of understanding of the field development time-line, field operations, and logistics at the AEX Placer project site due to current lack of adjacent processing facilities. The Division now believes that "on-



the-ground” activity, with no definition of what those activities may be, is required in order to approve a POD. This inserts ambiguity into any operators proposed POD moving forward; the Division has not provided any supporting regulation or policy for such a requirement and puts at risk AEX spent capital on exploration, appraisal, evaluation and pre-development activities creating economic loss to AEX while providing no direct benefit to the Division through this action.

2. The Division has completely misinterpreted its own regulations and is attempting to force onto AEX “policy” directives that are not regulations and have not been published or subject to public review and comment. The Division mistakenly believes that all unit operations require a unit plan of operations and “on-the-ground” activities without providing any changes in regulation, policy or definition to support this requirement. The Division’s approval letter for the Placer 3rd POD is full of references on AEX’s “lack of operations” and lack of “on-the-ground activity” for 2016 and 2017 POD’s (and as proposed for most of the unit operations described in the 2018 POD) yet AEX has clearly performed unit operations. The Placer Unit POD’s for the 2016 and 2017 plan years must have included unit operations since these activities were approved by the Division (correctly in those cases) as valid unit operations under an approved unit POD, yet the Division is now saying that AEX performed no unit operations in those years. The operations performed by AEX in 2016 and 2017 and as proposed for 2018 all meet the definition of unit operations and are appropriate to include in a Unit Plan. Unit operations are defined in the Placer Unit Agreement (“POA”) under Section 1.22 and a Unit Plan is defined in the POA in Section 1.24 as follow:

1.20 Unit Expense means all costs, expenses or indebtedness incurred by the Unit Operator for Unit Operations, except for Participating Area Expense.

1.21 Unit Operating Agreement means any and all agreements entered into by the Unit Operator and the Working Interest Owners, as described in Article 7 of this Agreement.

1.22 Unit Operations means all operations conducted under this Agreement in accordance with a Unit Plan approved under Article 8 of this Agreement.

1.23 Unit Operator means the party designated by the Working Interest Owners and approved by the Commissioner to conduct Unit Operations.

1.24 Unit Plan means a unit plan of exploration, development, or operation as described in Article 8 of this Agreement.

1.25 Unit Tract means each separate parcel of land that is described in Exhibit A and given a Unit Tract number.

1.26 Unit Tract Participation means the percentage of Unitized Substances allocated to a Unit Tract in a Participating Area.

1.27 Unit Well means a well drilled within the Unit Area after the effective date of this Agreement unless specifically authorized by the Commissioner.

There is no reference or requirement that a “unit operation” require on-the-ground activity or requirement that the activity be covered under or require a unit Plan of Operations (“POO”). The Division unfortunately fails to recognize that most of the work required to bring oil and gas leases into production does not require a POO. While roads, pads and pipelines certainly require a POO; the engineering, geology and geophysics, as well as, permitting, most environmental studies, commercial,



land and financial activities do not require a POO. Most work to bring leases into production is done off-lease and in an office environment.

3. The Division approved the Placer Unit PODs for 2016 and 2017 yet it states that no "operations" were conducted under these plans. This is a contradiction in fact. How can a POD be approved if no unit operations at all (as defined by the Division) were ever included in the POD that was approved? AEX contends the activities it proposed and conducted under the 2016 and 2017 POD's were legitimate "unit operations." These activities were clearly unit operations and qualified to warrant approval of those POD's. The same holds true for the activities proposed in the 3rd Placer POD.
4. In the 2nd Placer POD approval the Division stated "...the Division will nonetheless approved the 2017 POD, but notes that the unit will expire at the end of this POD period unless AEX successfully amends the POD to add production or operation and is actively producing or conducting operations under an approved amended POD." AEX disagreed with this interpretation at the time, it continued to develop its geologic model through seismic acquisition, reprocessing and interpretation, as well as, conducting pre-development engineering and cost estimates. In July 2018, following submittal of AEX's Annual Report with attached Technical Progress Report on the 2nd POD, the Division Director ("Director") requested that AEX provide a supplement to the 2nd POD with associated field activity. Through its pre-development engineering studies, AEX agreed that fieldwork would benefit and better defined its drillsite locations and routing options. On August 1, 2018, AEX submitted to the Division a Supplement 2nd POD with the associated field activities which included, visual inspection of the Placer #1 and #3 wellheads, GPS surveying, and confirmation of wetlands mapping of potential Placer drillsites, overland routing from Placer to the Mustang Pad and to Kuparuk DS-3S for inclusion into AEX's permit analysis, environmental studies, and pre-development cost estimates. The Director verbally agreed to the above list of activities however, the Division never officially responded to AEX's request for approval of the Supplement to the 2nd POD. AEX, nonetheless, completed the supplemental fieldwork as proposed prior to the end of the 2nd POD term.
5. In June, 2018 AEX submitted an initial 3rd POD that did not include any field activity for the plan year. The Director contacted AEX on August 11, 2018 and suggested that some type of on-the-ground be included in the proposed plan. When asked what type of activity the Division was contemplating as an on-the-ground activity the Director suggested that AEX would need to re-enter either the Placer #1 or #3 wells. When asked how reentering either well would progress development of the Placer program the response was that AEX needed to "do something with one of the wells". AEX tried to explain there were no on-the-ground activities that were necessary under its work plan for the upcoming year in order to progress development of the unit area. The Division insisted that such activity was needed in order to 3rd POD approved. AEX then proposed, albeit reluctantly as it tried to determine the necessity of the activity, to reenter the Placer #3 well to acquire bottom-hole pressure measurements to satisfy the Directors directive. In the Division's approval letter for the Placer POD the Division belittles the proposed activity (even though it was proposed by the Director) and calls it minimal in nature.
6. There is no reference anywhere in 11 AAC 83.343 (Unit Plan of Development) that requires that a unit Plan of Development include "on-the-ground" activities. The Division's insistence that a plan of development include "on-the-ground" activities in order to be approved seems to be an arbitrary stretch of the regulations and of the Division's discretion. AEX has invested in excess of \$30 million to date in Placer exploration, appraisal, G&G and pre-development engineering. AEX is moving forward with plans to develop and produce the Placer discovery while the Division is intent on terminating this development.
7. A unit plan of operations under 11 AAC 83.346 is not required for activities that do not require a land use permit. Engineering, geophysical, and geologic studies as well as the permitting, environmental studies, commercial, land and financial activities do not require land use permits and hence do not



require unit plans of operations. Why and for what reason the Division believes that “unit operations” are only those operations that are “on-the-ground” and covered by a unit plan of operations is unclear to AEX and AEX can find no references to this requirement. There is no basis in statute or regulation for the Division’s interpretation of the definition of unit operations as included in the POA and unit plan of development as included in the regulations.

8. The Division argues that the Placer Unit is now beyond its 5-year initial term because the unit is not in production. Regulation 11 AAC 336(a) (1) states that a unit remains in effect beyond 5 years as long as a well has been certified capable of production in paying quantities (which AEX has—the Placer Unit #3 well) and hydrocarbons can be produced in paying quantities and as long as unit operations are conducted under an approved unit plan of development. See 11 AAC 83.336 below at (a)(1).

11 AAC 83.336. Effective date and term of unit agreement

(a) A unit agreement becomes effective upon approval by the commissioner and automatically terminates five years from the effective date unless

(1) a unit well in the unit area has been certified as capable of producing hydrocarbons in paying quantities, in which case the unit agreement will remain in effect for so long as hydrocarbons are produced in paying quantities from the unit area, or for so long as hydrocarbons can be produced in paying quantities and unit operations are being conducted in accordance with an approved unit plan of exploration or development, or, should production cease, for so long after that as diligent operations are in progress to restore production and then so long after that as unitized substances are produced in paying quantities; or

(2) exploration operations have been conducted in accordance with an approved unit plan of exploration, and the commissioner, after issuing written notice under 11 AAC 83.311, issues a written decision extending the unit term in which he states the basis for his decision, considering the provisions of 11 AAC 83.303; no single extension will exceed five years.

(b) If a suspension of unit operations or production on all or part of the unit area has been ordered or approved under federal, state, or local law, or, if the commissioner determines that the unit operator has been prevented, despite good-faith efforts, from complying with any express or implied promise, term, condition, or covenant of the unit agreement, or from conducting exploration, development, production, transportation, or marketing operations on or from the unitized area by reason of force majeure, the unit operator’s obligation to comply with the provision will be held in abeyance, but not voided, and the commissioner will extend the term of the unit agreement for a period of time equal to the time lost under the unit term due to the suspension or prevention by force majeure. If unit operations or production are suspended or prevented under this subsection and the continuation of those operations or production without suspension or prevention would have had the effect of extending the unit agreement, the unit agreement does not terminate during the period in which operations or production are suspended or prevented plus a reasonable time after that, which will not be less than six months, for the unit operator to resume operations or production. Nothing in this subsection holds in abeyance the obligation to pay rentals, royalties, or other production or profit-based payments to the State of Alaska from operations or production in the unitized area which are not suspended or prevented, or from operations or production which are unrelated to any suspension or prevention. For the purposes of this subsection, any seasonal restriction on operations or production or other conditions specifically required or imposed as a term of sale of an original lease, or as a condition required for unit agreement approval, will not be considered a suspension of operations or production ordered under law, or prevention due to force majeure. However, upon application to the commissioner, seasonal restrictions on operations or production imposed subsequent to approval of a unit agreement will be considered a suspension of operations or production ordered under law.

(c) A unit agreement may be terminated at any time with the approval of the commissioner.

(d) Upon termination of a unit, each lease or portion of a lease committed to the unit may be continued in effect only in accordance with the terms and conditions of the lease, statutes and regulations, or as provided in the unit agreement.



9. The regulation on unit plans of development contemplate at least a one year plan. See 11 AAC 83.343 at (a)(3).

11 AAC 83.343. Unit plan of development

(a) A unit plan of development must be filed for approval as an exhibit to the unit agreement if a participating area is proposed for the unit area under 11 AAC 83.351, or when a reservoir has become sufficiently delineated so that a prudent operator would initiate development activities in that reservoir. All development operations must be conducted under an approved plan of development. A unit plan of development must contain sufficient information for the commissioner to determine whether the plan is consistent with the provisions of 11 AAC 83.303. The plan must include a description of the proposed development activities based on data reasonably available at the time the plan is submitted for approval as well as plans for the exploration or delineation of any land in the unit not included in a participating area. The plan must include, to the extent available information exists

(1) long-range proposed development activities for the unit, including plans to delineate all underlying oil or gas reservoirs, bring the reservoirs into production, and maintain and enhance production once established;

(2) plans for the exploration or delineation of any land in the unit not included in a participating area;

(3) details of the proposed operations for at least one year following submission of the plan; and

(4) the surface location of proposed facilities, drill pads, roads, docks, causeways, material sites, base camps, waste disposal sites, water supplies, airstrips, and any other operation or facility necessary for unit operations.

(b) The commissioner will approve the unit plan of development if it complies with the provisions of 11 AAC 83.303. If the proposed unit plan of development is disapproved, the commissioner will, in his discretion, propose modifications which, if accepted by the unit operator, would qualify the plan for approval.

(c) The unit plan of development must be updated and submitted to the commissioner for approval at least 90 days before the expiration date of the previously approved plan, as set out in that plan. The update must describe the extent to which the requirements of the previously approved plan were achieved; if actual operations deviated from or did not comply with the previously approved plan, an explanation of the deviation or noncompliance must be included in the update. The commissioner will approve the updated unit plan of development if it complies with the provisions of 11 AAC 83.303. If the proposed update of a unit plan of development is disapproved, the commissioner will, in his discretion, propose modifications which, if accepted by the unit operator, would qualify the plan for approval. Within 10 days after receipt of an updated unit plan of development, the commissioner will inform the unit operator as to whether the proposed unit plan of development is complete. After the commissioner has determined that an updated unit plan of development is complete as submitted, or as modified by the unit operator following the commissioner's suggestions, the commissioner will have an additional 60 days in which to approve or disapprove the plan; if no action is taken by the commissioner, the update of the unit plan of development is approved.

(d) The unit operator shall submit an annual report to the commissioner describing the operations conducted under the unit plan of development during the preceding year.

(e) The unit operator may, with the approval of the commissioner, amend an approved plan of development.

AEX is not aware of any unit plans of development that have been approved for less than a one-year period. The Director's approval of the Placer Unit 3rd POD for only 9-months is unprecedented and not justified. It appears that the Division has strong bias against AEX. On page 4 of the Division's approval letter in the first full paragraph below the two sets of bullet points the Director states that the regulation noted above requires "on-the-ground" activities to keep the unit from expiring. This interpretation is wrong; a simple reading of the regulation reveals that there is no such requirement.

A unit plan of development must only include proposed activities based on information available at the time. See 11 AAC 343 at (a) above. The Division is trying to rush AEX into proposing "on-the-ground" development activities when all the information needed to conduct these activities is not readily yet available. AEX has proposed activities intended to lead to development and production of the Placer leases in a timely and efficient manner.

10. Attached is the Director's approval letter for the Placer Unit 3rd POD with highlights of the number of times the Division cited the "purported" lack of unit operations. The extent of the highlighted cites alone can imply the Director's intent to terminate the Placer Unit in 2019. AEX has been and is proposing for 2018-2019 to conduct operations sufficient to keep the unit in effect and move towards development. Not all these operations will be "on-the-ground" operations. The Division is incorrect



in its firm requirement for “on-the-ground” activities in order to have an approved POD.. AEX is prudently progressing activities to produce the Placer Unit.

11. The Division’s interpretation of the regulations found in the last paragraph on page 4 of its approval letter and continuing on to the top of page 5 of the letter is incorrect. Unit operations do not necessarily require a unit plan of operations. The Division’s assertion of this claim is not supported by either the unit agreement or regulations. Many unit operations do not require a unit plan of operations.
12. In the second full paragraph on page 5 of the Division’s approval letter, it is inferred that AEX is suggesting that all unit operations require unit plans of operations in which would in and of itself create a huge burden on the Division’s unit and permitting resources. AEX in fact it is stating just the opposite; that not all unit operations require unit plan of operations.
13. On page 4 of the Division’s approval letter in the first full paragraph below the two sets of bullet points the Division states that AEX must be performing “on-the-ground” activities to keep the unit from expiring even though AEX is simultaneously conducting other unit operations. The Division is incorrect in this firm requirement for “on-the-ground” activity.
14. On page 3 of the approval letter, DNR states “...AEX was requested to provide a version of the Progress Report that contains only those portions that are confidential. To date, AEX failed to do so.” AEX submitted an amended POD along with an updated Progress Report on July 3, 2018 responding to the above request, (see attached transmittal). On July 12, 2018 AEX received an email stating that the 3rd POD submittal was deemed complete (see attached email). Since the Amended 3rd POD and the Amended Progress Report were submitted together as part of the POD submittal the email deeming the 3rd POD submittal complete addresses the above and demonstrates that AEX did in fact provide to the Division the information requested.

Summary

The Placer Unit contains a well certified that it is capable of producing in paying quantities under 11 AAC 83.395 and lease paragraphs 4(d) and 34(6). To progress the Placer Unit development, all that is required to continue the term of the Placer Unit is having an approved POD in-place. AEX submitted a well-developed 3rd POD for approval that requested a 12-month term. The Division’s approval of only a 9-month term is not justified given the facts and circumstances in this case and should be reversed. In addition, the Division’s interpretation of its regulations regarding the firm requirement for “on-the-ground” activities appears to be arbitrary and therefore should be reversed.

AEX has a good track record as an explorer and developer on the North Slope and in Interior Alaska. It has kept commitments and has a good operating record. AEX has shown the willingness to spend exploration and development dollars on the North Slope to explore for and develop oil and gas. AEX is a partner of Savant Alaska LLC and has participated in the restart of the Badami field along with drilling exploration and new development opportunities in the Badami Unit. We have spent significant capital on exploration and facility upgrades in the Badami Unit and along with Savant have taken over ownership of the Badami facilities from BPXA. We have also has spent exploration dollars in Interior Alaska.

AEX has employed a focused approach toward building an Alaskan Native Independent E & P company; we have targeted specific leases to try to grow our capacity and capability. We have not over-extended our reach and have in fact relinquished four other leases acquired at the same time as the Placer leases in order to concentrate efforts on development of the Placer accumulation and on our Badami investment.



I would like to request a meeting to discuss the Placer Unit in more detail with you and your staff if amenable. Thank you for your consideration of our appeal. If you have any questions or require additional information I can be reached at (907) 33-6014 or at timmm@asrc.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Teresa Imm".

Teresa Imm
President

Attachments

Attachment 1:	Highlighted copy of the Division's September 7, 2018 Approval Letter
Attachment 2:	Transmittal of the Submittal of the Amended 3 rd POD and Updated Progress Report
Attachment 3:	Email response dated July 12, 2018 deeming the submittal is complete

Attachments

**Attachment 1: Highlighted copy of the Division's September 7,
2018 Approval Letter**

**Attachment 2: Transmittal of the Submittal of the Amended 3rd POD
and Updated Progress Report**

**Attachment 3: Email response dated July 12, 2018 deeming the
submittal is complete**

Attachment 1



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Natural Resources

DIVISION OF OIL & GAS
550 W 7TH AVENUE, SUITE 1400
ANCHORAGE, AK 99501-3560
MAIN: 907.269.8431
FAX: 907.269.8918

RECEIVED
SEP 10 2018

BY: *SMK*

September 7, 2018

CERTIFIED MAIL
RETURN SERVICE REQUESTED

Ms. Teresa Imm
ASRC Exploration, LLC
3900 C Street, Suite 1000
Anchorage, AK 99503

Re: Proposed 2018 Placer Unit 3rd Plan of Development – Approval

Dear Ms. Imm:

On June 11, 2018, the Department of Natural Resources, Division of Oil and Gas (Division), received the proposed 2018 3rd Plan of Development (POD) for the Placer Unit from AEX, ASRC Exploration, LLC (AEX). AEX submitted a supplement to the proposed POD on August 1, 2018. The Division then met with AEX on August 7, 2018, for a presentation regarding the proposed 2018 Placer POD. Subsequently, AEX also submitted an amended Placer Unit proposal for the 3rd POD on August 17, 2018. This decision approves the proposed 2018 3rd POD, as amended and as further conditioned below.

As discussed below, the decision to approve the proposed 2018 3rd POD was a close one. The expiration of the 2nd POD coincides with the term of the unit itself. Thus, in considering the proposed 2018 3rd POD, the Division also considered whether the unit itself will continue in force after September 7, 2018 and for how long. The unit automatically expires after September 7 unless AEX is conducting operations, and **AEX has not conducted operations** for more than two years and initially proposed no operations for next year. AEX has since proposed some minimal, short-term operations for this winter season. The Division views that activity as operations, but that alone will not keep the unit in force indefinitely.

Background

In a decision dated September 8, 2011, the State of Alaska, Department of Natural Resources, Division of Oil and Gas approved the Placer Unit under the terms and conditions of the Placer Unit Agreement. Article 14.2 of the Placer Unit Agreement states that the agreement will automatically terminate five years from the effective date in accordance with 11 AAC 83.336. As 11 AAC 83.336 states, there are two ways to extend a unit past this five-year term: (1) having a unit well certified as capable of producing in paying quantities and either producing or working towards production by conducting operations in the unit; or (2) having conducted exploration operations and seeking a discretionary extension from the Commissioner.

AEX extended the unit once through a discretionary extension. Before the end of the five-year term for Placer, in July 2016, AEX applied to certify the Placer #3 well and for a discretionary unit extension based on the exploration operations it had conducted. In a September 7, 2016 decision, the

Commissioner extended the unit through September 7, 2018. The Division later certified the well on December 22, 2016.

2016 POD

For its 2016 (1st) POD, AEX committed to several analysis and planning activities, but no operations. Specifically, AEX planned to:

- Analyze all geologic and engineering data from drilling and testing three wells;
- Discuss facility access and facility sharing with Brooks Range Petroleum Corporation (BRPC) and ConocoPhillips Alaska, Inc. (CPAI);
- Obtain Tabasco 3D seismic data from CGG Veritas and develop a plan for merging it with other data;
- Develop a high-level cost estimate for infrastructure.

AEX completed an initial design and cost estimate for infrastructure and completed an initial geologic and engineering study of the Placer #3 well data. AEX further completed thin section photography and description of the Side Wall Cores.

AEX also signed a Memorandum of Understanding with Brooks Range Petroleum Corporation to begin discussing the future use of Southern Miluvecch Unit (SMU) production facilities and initiated discussions with CPAI regarding future use of Kuparuk River Unit (KRU) facilities.

2017 POD

For the 2017 POD (2nd POD), AEX again proposed no operations for that POD period. Instead, AEX planned to conduct further analysis and planning activities:

- Begin and complete reprocessing and merging Tabasco data with existing data;
- Map the extent of the Kuparuk C reservoir and generate geologic and dynamic reservoir models;
- Continue to analyze Placer #3 well data;
- Determine the type and locations of facilities and undertake Phase II engineering and cost studies for these facilities;
- Evaluate and continue negotiating facility sharing agreements with BRPC for SMU and CPAI for KRU;
- If appropriate, apply for a Participating Area.

AEX completed most of these activities, or portions and variations of these activities, but performed no operations.

In its approval of AEX's 2017 POD, the Division pointed out that these proposed activities were not operations. The Division emphasized the importance of this distinction because the Placer Unit was set to expire on September 7, 2018 unless AEX conducted operations.

Although the Division observed that unitized development was highly unlikely because production was not occurring and AEX had proposed no operations to extend the unit beyond the September 7,

2018 automatic termination date, the Division approved the 2017 POD because at that time it anticipated that AEX's plans to analyze data and plan for infrastructure were activities that *would* lead to development. The Division, however, stated that the unit would expire at the end of the 2017 POD period unless AEX was actively producing or conducting operations under an approved amended POD.

Proposed 2018 POD

The Division notified AEX by email on June 20, 2018 that the POD submitted by AEX on June 11, 2018 was incomplete because the POD did not describe, as required by 11 AAC 83.343(c), the extent to which the requirements of the previously approved plan were achieved, or if actual operations deviated from or did not comply with the previously approved POD.¹ AEX's July 2, 2018 amended proposed 2018 POD was deemed complete under 11 AAC 83.343(c), and AEX was notified of the same via email on July 12, 2018. AEX then filed a "Request to Supplement 2nd [sic] Plan of Development" on August 1, 2018, and then another amendment to the proposed 2018 POD on August 17, 2018.

When considering a POD, the Division must consider the criteria in 11 AAC 83.303(a) and (b). Accordingly, the Division considered the public interest, conservation of natural resources, prevention of economic and physical waste, protection all interested parties including the state, environmental costs and benefits, geological and engineering characteristics or reservoirs or potential hydrocarbon accumulations, prior exploration activities, plans for exploration or development, economic costs and benefits to the state, and any other relevant factors, including mitigation measures. 11 AAC 83.303(a), (b). The Division previously considered these factors in approving AEX's earlier Placer PODs and incorporates those findings by reference.

Because of the impending unit expiration, the Division's consideration of the proposed POD necessarily included consideration of whether that POD demonstrates that AEX has been and plans to continue conducting operations to keep the unit from expiring. A review of the proposed 2018 POD and amendments submitted shows that AEX has not conducted operations since mid-2016 and originally showed that AEX did not intend to conduct operations in the coming year.

For example, AEX's 2018 POD long-range proposed development activities and "proposed operations" for the 2018 POD period reference the evaluation of and potential for early production:

- Analysis of an early production facility "for potentially [sic] early production in 2019/2020"; and
- Evaluation of early production using an ice road and Southern Miluveach Unit (SMU);

¹ AEX also submitted, concurrent with its proposed 2018 POD, a "Progress Report" supplemental to the 2018 POD and designated as confidential under AS 38.05.035 and 11 AAC 82.810. In that same June 20, 2018 email, the Division notified AEX that some of the information in the Progress Report needs to be included in the POD, which is a public document, and that substantial portions of the Progress Report do not appear to contain confidential information, despite its confidential designation. AEX was requested to provide a version of the Progress Report that contains only those portions that are confidential. To date, AEX has failed to do so.

The proposed 2018 POD further references the creation and evaluation of various modeling:

- evaluation of early production completion of a reservoir description for use in reservoir mapping and seismic analysis for generation of a 3-D geologic *model*;
- construction of an integrated reservoir hydraulic fracture *model* “to access the full vertical potential of Kuparuk C”;
- completion of a full field dynamic reservoir simulation *model* targeting the entire Kuparuk C accumulation and completion of simulations to optimize a development plan; and
- *model* hydraulic fracture simulation.

The proposed 2018 POD purports to “[e]valuate” the use of electric submersible pumps versus gas lifting, and “[p]rogress memorandum of understanding (MOU) with adjacent operators for joint Kuparuk C development and facility access.”²

The proposed 2018 POD also references various studies:

- conduct a development drilling cost *study*; and
- *study* the surface location of proposed facilities, drill pads, roads, docks, causeways, material sites, base camps, waste disposal sites, water supplies, airstrips, and any other operation or facility necessary for Placer Unit operations so that: (a) following completion of initial reservoir mapping and modeling, a well plan will be developed to optimally produce the Kuparuk C in the PLU; and (b) pending favorable results of facility access/sharing negotiations, finalize the review of adjacent facilities access options to determine location of roads and three-phase pipelines to processing facility.

The Division understands and values the importance of models and studies for progressing development. By focusing on planning work like studies and not also conducting on-the-ground operations, however, AEX cannot satisfy the regulatory requirements of 11 AAC 83.336 to keep the unit from automatically expiring.

Well certification alone does not extend a unit. The regulation specifically requires an operator to both have a certified well and either be producing in paying quantities or conducting operations. AEX has the certified unit well. But it is not producing in paying quantities. The only production from the Placer #3 unit well was in March 2016, and this was not sustained production, but rather well-test production. AEX further concedes in its 2018 POD cover letter that the Placer #3 unit well was suspended in 2016. AEX thus is not currently producing and the 2018 POD includes no plans to produce.

Nor has AEX been conducting operations. In the July 2, 2018 Amended POD, AEX contends that “11 AAC 83.343 and the Placer Unit Agreement describe operations to include such activities as, evaluation work, design work, contractor selection, procurement and financing.” This simply is incorrect. The Placer Unit Agreement does not define operations to include these activities. Nor does 11 AAC 83.343, which is the Plan of Development regulation. The Plan of Operations regulation, 11 AAC 83.346, specifies that a Plan of Operations is required for on-the-ground activities that, but

²As stated in its approval of the 2017 POD, the Division is not privy to the MOU or ongoing discussions, but observes that the SMU and KRU working interest owners are not currently authorized by DNR to process oil or gas from outside their respective units.

for an oil and gas lease, would require a Miscellaneous Land Use Permit. 11 AAC 83.346(b). No Plan of Operations is required for “evaluation work, design work, contractor selection, procurement and financing” or any other type of work that does not involve on-the-ground work in the unit. Those activities therefore are not operations.

Indeed, if a Plan of Operations was required for these activities, AEX would be in violation of its unit agreement and leases for conducting such activities without a Plan of Operations, and thus subject to default. AEX has a Plan of Operations for this Unit, but that Plan does not include administrative and commercial activities.

It is not just AEX’s Plan of Operations that does not include administrative and commercial activities. The Division’s longstanding practice is to require Plans of Operations for on-the-ground activities. Other activities are not operations and thus do not require a plan. To consider administrative and commercial activities to be operations would be a sea change in regulatory and contract interpretation for the Division, creating a considerable burden for lessees and operators needing to submit additional Plans of Operations and for the Division in adjudicating them.

Thus, the Division reviewed AEX’s activities for on the ground operations of the type that AEX would have needed a Plan of Operations to perform. AEX’s PODs reveal that it has done some studies and planning work, but no operations for approximately two years.

It is only AEX’s August 17, 2018 amended proposed 2018 POD that describes (albeit on one line, in section 3.c) the operations to which AEX is committed to conduct: “AEX plans to conduct winter operations by re-entering the suspended Placer #3 well.” And, it is only after seeking clarification from AEX that this proposed operation consists of performing bottom-hole pressure response testing of the Placer #3 well. AEX, upon request for clarification about where an activity like this might fit in the bigger picture of possible development, informed the Division that results from this testing “can be used for designing future early production operations with respect to reservoir pressure above bubble point,” and that “[t]his data could be included in our reservoir model for future well plans and design as well as simulation runs in the Kup C reservoir model.” Notwithstanding the seeming non-operations nature of the purpose of this testing in the greater scheme of future unit development, the Division only can speculate that this type of testing can be useful in designing future early production operations and may provide other informational value for AEX. Even so, it represents a minimal effort for purposes of conducting operations, particularly considering the dearth of operations since suspension of the Placer #3 well in 2016.

Nevertheless, because AEX commits to re-entry of the Placer #3 well for purposes of bottom-hole pressure testing, the requirement for conducting operations under 11 AAC 83.343 is satisfied, albeit just barely, and for a limited time. To approve the proposed POD, the Division therefore requires the following clarifications and conditions:

- AEX commits to and must re-enter the Placer #3 well and complete bottom-hole pressure testing by May 31, 2019.
- AEX must submit a detailed, written update to the Division on the progress of the Placer #3 work on or before January 31, 2019. Because AEX has proposed a single operation for the 2018–19 winter season, and because failure to continually conduct operations results in automatic expiration of the unit, this POD is approved for the period September 8, 2018

through May 31, 2019. AEX must submit a POD for the period June 1, 2019 through May 31, 2020 (2019 POD) on or before March 2, 2019.

Should AEX fail to submit a detailed, written update on or before January 31 or fail to complete the bottom-hole pressure testing on Placer #3 well by May 31, 2010, AEX faces the possibility both of being in default and unit expiration under the Unit Agreement and applicable regulation.

AEX further is instructed that its 2019 POD must include detailed substantive operations proposals to which AEX shall be committed and that shall be conducted by AEX during the 2019 through 2020 POD period. These proposed operations must be sufficient to demonstrate that AEX is continually conducting operations until sustained production starts.

The Division looks forward to the completion of AEX's work commitment under the 2018 POD to contribute to future development of and production from the unit. The Division anticipates that production by AEX at the Placer Unit will protect the State's economic interests in developing its natural resources. At the same time, the Division is seriously concerned about AEX's lack of operations over the past two years and minimal proposal for operations through May of next year. The Division thus will closely scrutinize AEX's activities and proposals when reviewing its 2019 POD to determine if the unit qualifies to remain in force past May 31, 2019.

Based upon both the 11 AAC 83.303 criteria and the operations proposed with this POD amendment, the Division approves the Placer Unit 2018 (3rd) POD with the conditions set forth above. As stated previously, the 2019 POD now is due on or before March 2, 2019.

A person affected by this decision may appeal it, in accordance with 11 AAC 02. Any appeal 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 Andrew T. Mack, 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. This decision takes effect immediately. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.

If you have questions regarding this decision, please contact Ken Diemer with the Division at 907-269-8784 or via email at Ken.Diemer@Alaska.gov.

Sincerely,



Chantal Walsh
Director

Attachment 2



Letter of Transmittal

Transmittal: 2018-07-03

Date: 07/03/2018

Project: Placer Unit

Description: n/a

Subject: 3rd POD Application

Attention: Ken Diemer 550 W 7th Ave, Suite 1400

Item	Copies	Description	Revision	Sheet	Comments
1	1	Placer Unit 3 rd POD Application		8	
1	1	Confidential - Placer Unit 2017/2018 Progress Report		25	

Transmitted to you for the following action:

- ☐ For Your Use
- ☐ As Per Your Request
- ☒ Approval
- ☐ Review Comment and Return

Additional Remarks:

Please notify me upon receipt of this document via one of the following:

- E-Mail: timmm@asrc.com
- Fax:

Transmitted by:

Signature: *[Signature]*
Date: 7/3/18

Received By:

Signature: *Mary Kay Ryskman*
Date: 7/3/18

Attachment 3

Imm, Teresa

From: Diemer, Kenneth J (DNR) <ken.diemer@alaska.gov>
Sent: Thursday, July 12, 2018 6:02 PM
To: Imm, Teresa
Cc: Kruse, Rebecca D (DNR)
Subject: Amended Placer Unit Proposal for 3rd Plan of Development

[External Email]

Good Evening Ms. Imm,

This email is notification that the above referenced submittal is deemed complete under 11 AAC 83.343(c). Please feel free to contact me if you've any questions.

Take care and best wishes.

Ken

Ken Diemer
State Petroleum Land Manager
Division of Oil & Gas
Alaska Department of Natural Resources
550 W. 7th Ave. Suite 1100
Anchorage, AK 99501
907-269-8784