

# STATE OF ALASKA

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July 29, 2004

**Decision of No New Information  
and  
Partial Lifting of Deferral Areas**

**Beaufort Sea Areawide 2004 Oil and Gas Lease Sale**

On February 25, 2004, the Division of Oil and Gas (DO&G) issued a *Call for New Information* requesting any substantial new information regarding the Alaska Department of Natural Resources (ADNR) proposal to re-offer, in the Beaufort Sea Areawide 2004 Oil and Gas Lease Sale, tracts that were available for lease following the Beaufort Sea Areawide 2003 lease sale.

Under AS 38.05.035(e)(6)(F), a written finding is not required for an oil and gas lease sale of acreage that was subject to a best interest finding within the previous 10 years, unless the commissioner determines that substantial new information has become available that justifies a supplement to the most recent best interest finding. The Beaufort Sea Areawide 2004 re-offer sale is subject to the best interest finding issued July 15, 1999 for the initial Beaufort Sea Areawide sale, which was held November 15, 2000.

Prior to issuing this *Call for New Information*, DO&G issued a *Special Notice* in July 2004 seeking comment on the possibility of including tracts that have previously been deferred in Beaufort Sea Areawide sales. The two deferral areas are from Pt. Barrow to Tangent Pt. (western deferral) and from Barter Island to the Canadian border (eastern deferral). This decision document concerns both the *Call for New Information* and the *Special Notice*.

DO&G received comments in response to the *Call for New Information* and the *Special Notice* from the Office of Habitat Management and Permitting (OHMP), the Gwich'in Steering Committee, Trustees for Alaska (Trustees), the North Slope Borough (NSB), the Alaska Eskimo Whaling Commission (AEWC), the Inupiat Community of the Arctic Slope (ICAS), Sun-West Oil and Gas, Inc., Tom Lakosh, and Jack Roderick.

## **Call For New Information**

Among the commentors, Trustees and the Gwich'in Steering Committee responded to the *Call for New Information*. In their comment, Trustees stated that a supplemental finding is required to respond to significant new information. Trustees cited the following as significant new information:

- The National Research Council (NRC) report, *Cumulative Environmental Effects of Oil and Gas Development on Alaska's North Slope*;
- A 2002 USGS Biological Research Report on cumulative effects;
- The proposal to drill a stratigraphic test well in state waters off ANWR; and.
- Changes in the tundra travel season and limitations on ice road construction.

The Gwich'in Steering Committee also cited the NRC report. ADNR has long recognized that oil and gas exploration, production and development have the potential for cumulative impacts. These were analyzed, at length, in the existing best interest finding. Chapter Five discusses the cumulative effects on fish, birds, caribou, muskoxen, brown bear, furbearers, polar bear, bowhead whales and other marine mammals potentially caused by seismic exploration, drilling, disturbance, habitat loss or alteration, marine

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discharges, and oil spills. The finding also discussed potential effects on subsistence uses. ADNR has imposed mitigation measures to minimize these impacts. Although the NRC and USGS reports were issued after the final best interest finding, they contain no substantial new information.

In addition, ADNR does not consider the proposal to drill a stratigraphic test well offshore ANWR or changes to the tundra travel season and limitations on ice road construction as substantial new information. The stratigraphic test well is within the scope of activities anticipated when the best interest finding was prepared. The changes to the tundra travel season are part of a twenty year trend that is not new information. Further, the tundra travel season and limitations on ice road construction are considerations addressed at the permitting phase of a project, and are not significant factors in the leasing decision. Therefore, ADNR has determined that there is no substantial new information and a supplement to the best interest finding is not justified at this time.

### **Special Notice on Deferral Areas**

The *Special Notice* asked for comments on whether the deferral areas should be kept as part of the 2004 sale. In addition, the notice asked for comments on whether existing mitigation measures adequately protect these areas, and, if the deferral areas are kept, whether they should be changed in size and/or location. All commentors, with the exception of Sun-West Oil, favored keeping the deferral areas. The NSB, AEW, ICAS and OHMP said the deferral areas should remain intact; they should not be reduced in size (the NSB and ICAS favored expanding the areas), and existing mitigation measures are not sufficient to protect subsistence gathering activities and bowhead whale harvesting. Tom Lakosh opposes leasing in the Beaufort Sea. Jack Roderick said the state should defer to the wishes of the people of the North Slope. Sun-West Oil favored eliminating the deferral areas. Trustees opposed lifting the deferrals for the reasons stated in the above section regarding new information.

The 10-year best interest finding for the Beaufort Sea Areawide determined that leasing the entire sale area, including the deferred tracts, is in the state's best interest. However, ADNR decided at the time that due to the low expected interest in the tracts in the frontier areas weighed against the concerns over impacts to subsistence hunting activities, ADNR should defer leasing on those tracts nearest Barrow and from Kaktovik east to the Canadian border. ADNR retained the option of lifting the deferral at any time during the term of the best interest finding. Based upon a re-assessment of the potential interest in the deferred tracts, ADNR has determined that it will retain the western deferral and a portion of the eastern deferral near Kaktovik, but will lift the eastern two-thirds of the eastern deferral area – specifically, tracts 1 through 26. These tracts are adjacent to MMS's Eastern Whaling Deferral, which was recently removed from deferral status and offered for lease by MMS in 2003. This area is far enough from the hunting grounds used by the residents of Kaktovik to reduce concerns associated with industry impacts on subsistence whale hunting. Concerns have also been expressed over impacts to whale feeding patterns in this area. Recent research indicates, however, that while this area is used by the whales for feeding, it is no more important than any other area along their migration route. For these reasons, it is appropriate and timely to partially lift the deferral, and offer for sale tracts 1 through 26.

DO&G has developed a new mitigation measure to ensure that exploration, development and production activities within tracts 1 through 26 are conducted in a manner that prevents unreasonable conflicts between oil and gas activities and subsistence whale hunting. Under new Mitigation Measure 18, the lessee shall consult with the NSB, the AEW, and the community of Kaktovik to discuss how the siting, timing, and methods of proposed operations can be planned and carried out to avoid potential conflicts with subsistence whale hunting. This consultation may include negotiating a conflict avoidance agreement.

A person who is aggrieved by this decision may request the Commissioner to reconsider the decision under AS 38.05.035(i) and (j). To be eligible, an appellant must have meaningfully participated in the process by submitting written comments during the prescribed comment period. A request for reconsideration must be received by the Commissioner, Department of Natural Resources, 550 W 7th Ave,

Suite 1400, Anchorage, Alaska 99501, or received by fax at 1-907-269-8918, or sent by email to [dnr\\_appeals@dnr.state.ak.us](mailto:dnr_appeals@dnr.state.ak.us) by 5:00 p.m. (local time), August 18, 2004. If the Commissioner fails to act on the request for reconsideration by August 30, 2004 the request is considered denied.



Thomas E. Irwin  
Commissioner