
Chapter One: Director’s Finding and Decisions

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Chapter One: Director's Finding and Decisions

This is the director's decision under AS 38.05.133(f) that, after considering the matters required by AS 38.05.035(e) and (g), disposing of a state interest by issuing the Southwest Cook Inlet Exploration License (exploration license) is in the best interests of the state. All relevant facts and issues within the scope of review that were known or made known to the director were reviewed. The director limited the scope of the finding to the disposal phase and the exploration phase and the reasonably foreseeable significant effects of the disposal and exploration (AS 38.05.035(e)(1)(A)). Conditions for phasing are met under AS 38.05.035(e)(1)(C).

A. Director's Written Finding

In making this finding, the director considered and discussed facts and public comments received during review that address the matters required by AS 38.05.035(g). The discussion of these matters is set out in the accompanying chapters of this written finding. Based on consideration and discussion of the information contained herein, the director finds:

- The Alaska constitution directs the state "to encourage ... the development of its resources by making them available for maximum use consistent with the public interest" (Alaska Constitution, art. VIII §§1, 2).
- The people of Alaska have an interest in developing the state's oil and gas resources and maximizing the economic and physical recovery of those resources...(AS 38.05.180(a)).
- The intent of the oil and gas licensing program (AS 38.05.131 —.134) is to encourage exploration in areas far from existing infrastructure, with relatively low or unknown hydrocarbon potential, and where there is a higher investment risk to the operator.
- On April 30, 2013, DO&G received a timely Exploration License Application.
- On May 30, 2013, DO&G published a notice of intent to evaluate the proposal, request for comments on exploration licenses in the area, and request for competing proposals. Responses were due by July 1, 2013.
- DO&G received one competing proposal on July 26, 2013.
- One comment was received from the public during the comment period. United Utilities Incorporated expressed concern about the safety and integrity of a fiber optic cable that is buried in the seafloor and transects the license area.
- AS 38.05.133(f) requires a written finding addressing all matters set out in AS 38.05.035(e) and (g) after considering proposals and public comment on the proposals.
- AS 38.05.035(e)(1)(A) allows the director to establish the scope of the administrative review and the scope of the written finding supporting that determination.
- AS 38.05.035(e)(1)(B) allows the director to limit the scope to a review of applicable statutes and regulation, facts, and issues material to the determination, and known or available to the director during the administrative review.

- AS 38.05.035(e)(1)(C) allows the director to limit a written finding to the disposal phase, which is the issuance of an exploration license, and oil and gas leases if the license is converted.
- Under AS 38.05.035(e)(1)(C)(ii) and (iii), before the next phase - the exploration phase – of the project may proceed, public notice and the opportunity to comment must be provided. These were provided through the May 30, 2013, public notice.
- AS 38.05.035(h) states the director may not be required to speculate about possible future effects that cannot reasonably be determined until the project or proposed use for which a written finding is required is more specifically defined.
- All oil and gas activities conducted under an exploration license or oil and gas lease are subject to numerous federal, state, and local laws and regulations with which a licensee or lessee must comply.
- Potential effects of activities subsequent to licensing can be both positive and negative.
- Fish and wildlife species in Southwest Cook Inlet that could be affected by the license are salmon, belugas, trumpeter swans, waterfowl, migratory birds, black bear, brown bear, and moose. Seabird nesting sites, resting locations, and pelagic feeding areas are extremely sensitive to oil pollution. Mitigation measures addressing free passage and movement protect fish and wildlife.
- Several important subsistence, sport, personal use, and commercial uses of fish and wildlife could be affected by the license as well. Tyonek residents harvest subsistence resources that are present within, or migrate through the license area. Mitigation measures addressing harvest interference avoidance, public access, road construction, and oil spill prevention can mitigate impacts.
- Discharges of oil, gas, and hazardous substances into the land, water, and air can harm habitats and fish and wildlife populations. Improved design, construction, operating techniques, proper handling, storage, spill prevention measures, and disposal of such substances can mitigate impacts. The fixed locations of marine terminals on the eastern shore of Cook Inlet improve contingency planning and spill response capabilities.
- Increased use of the area for oil and gas activities could affect subsistence uses. However, potential negative effects may be outweighed by potential positive effects such as higher incomes that offset costs of equipment and other subsistence activities. Roads and transportation corridors may also lead to increased access for hunting, fishing, and trapping.
- Communities near the exploration license area such as Tyonek, Homer, Nikiski, and Anchor Point could benefit through economic opportunity and lower fuel prices if oil or gas is discovered in paying quantities.
- Most potentially negative effects of oil and gas activities on fish and wildlife species, habitats, and their uses; on local uses, residents, and property owners; and on local communities, if not adequately addressed by federal or state law, may be mitigated through mitigation measures imposed on the exploration license and subsequent lease activities.
- The director has enough information to decide whether to approve the exploration phase because the applications included specifics about the types of activities that will

likely occur during exploration. DNR possesses a body of knowledge covering nearly 100 years of oil and gas activities in Alaska and around the world which demonstrate the potential cumulative effects that could occur in the license area as a result of subsequent activity.

B. Disposal Phase Decision

After weighing the facts and issues known at this time, considering applicable laws and regulations and public comments, and balancing the potential positive and negative effects given the mitigation measures and other regulatory protections, the director finds the potential benefits of disposing of a state interest through the exploration license outweigh the possible negative effects. The director has determined that issuing an oil and gas exploration license for a term of four years covering approximately 169,000 acres to the winner of the competitive bid process for the license is in the best interests of the state of Alaska. The minimum work commitment bid for this exploration license is \$1,000,000.

The licensee must comply with all applicable state and federal codes, statutes, and regulations; and additional project-specific and site-specific mitigation measures will be applied as appropriate to future authorizations. These laws and mitigation measures will ensure the oil and gas activities can be conducted without jeopardizing habitats and fish and wildlife populations of the area, and current and projected uses of the area.

The state is sufficiently empowered through constitutional, statutory, and regulatory regimes, the exploration license, and plans of operation to ensure that the licensee protects the integrity of the environment and maintains opportunities for existing and anticipated uses.

An eligible person affected by this decision may request reconsideration of it, 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 Joseph Balash, 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 request reconsideration of 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 finding, the request for reconsideration is considered denied and this finding 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 is available from any regional information office of the Alaska Department of Natural Resources.



W. C. Barron, Director

6/20/2014

Date

C. Exploration Phase Decision

To provide clarity to the public and the exploration license applicants, the director is also explicitly stating his decision regarding the exploration phase. The director has weighed the facts and issues known at this time and has set out his findings regarding exploration. After considering applicable laws and regulations and public comments, and balancing the potential positive and negative effects of oil and gas exploration given the mitigation measures and other regulatory protections, the director finds that the potential benefits of approving the exploration phase outweigh the possible negative effects and hereby approves the exploration phase.

The successful licensee must obtain all required approvals before beginning on-the-ground exploration activities and must comply with all applicable local, state, and federal codes, statutes, and regulations; and additional project-specific and site-specific mitigation measures will be applied as appropriate to future authorizations. These laws and mitigation measures will ensure the oil and gas activities can be conducted without jeopardizing habitats and fish and wildlife populations of the area, and current and projected uses of the area.

The state is sufficiently empowered through constitutional, statutory, and regulatory regimes, the exploration license, and plans of operation to ensure that the successful licensee protects the integrity of the environment and maintains opportunities for existing and anticipated uses.

An eligible person affected by this decision may request reconsideration of it, 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.

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W. C. Barron, Director

6/20/2014

Date

D. Invitation to Bid

Competing proposals were received and the commissioner has concluded that it is in the best interest of the state to issue an exploration license for Southwest Cook Inlet. AS 38.05.133(h) states that if competing proposals are submitted and the commissioner's finding under AS 38.05.133(f) concludes that an exploration license should be issued, the commissioner shall issue a request for competitive sealed bids to determine which prospective licensee should be issued the exploration license. The successful bidder is the prospective licensee who submits the highest bid in terms of the minimum work commitment dollar amount. 11 AAC 82.921 states that the commissioner will issue each applicant an invitation to submit a sealed bid form supplied by the department. The invitation to bid will:

- be issued concurrent with this written finding;
- describe the area to be offered for licensing;
- designate the date a sealed bid must be received by the commissioner;
- include the finding under AS 38.05.133(f), the exploration license and lease forms that will be used, and a bid form; and
- disclose additional information and set out additional requirements as the commissioner determines to be necessary.

Submission of a sealed bid to the commissioner on a form supplied by the department constitutes notice of a prospective licensee's intent to participate in the bidding as required by AS 38.05.133(h). The invitation to bid is being sent to the applicants concurrently with the issuing of the Director's written finding including a bid form to complete and return within 20 days of the invitation's receipt.