From: Timothy Jones <tim.jones@cookinlet.net>
Sent: Monday, August 19, 2013 11:16 AM
To: dogcomments (DNR sponsored)
Subject: New Public Comment - Proposed Regulations Changes to 11 AAC 83 (Timothy Jones)

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Public Comment: Thank you for the opportunity to comment on the proposed changes to 11 AAC 83.

We applaud the statutory intent behind CSHB-129(FIN) and support the addition of Article 7 - Exploration and Development by Geographical Area. We respectfully request the addition of a provision to this new section that allows for nomination by the public of geographical areas that are consistent with the requirements of 11 AAC 83.665.

However, we are disturbed by the proposed removal of the language currently contained in 11 AAC 83.158(b) that states, ”(b) A plan of operations is not required for (1)activities that would not require a land use permit under this title…”. This language change serves to eliminate the distinction between state-owned and non-state owned surface land, giving DNR the authority to require a Plan of Operations on land that is not owned by the state. DNR, as the administrator/manager of state lands, should not be given the authority to regulate/manage non-state land by requiring a Plan of Operations on non-state owned land. A Plan of Operations issued by DO&G is intended to replace other land use authorizations normally issued on state lands by other Divisions of DNR. Other Divisions of DNR do not authorize activities on non-state land.

Paragraph 22 of the Competitive Oil and Gas Lease Form #DOG 201112, Damages and Indemnification, along with AS 38.05.130 addresses indemnification of non state-owned surface landowners that may be affected by oil and gas activity on state leases underlying those lands. These provisions, through bonding of the lessee, serve to assure that the state’s interests vís-a-vís their liability to the surface landowner are protected. These protections are in place specifically because DNR does not have the authority to manage non state-owned land.

As an alternative to requiring a Plan of Operations regardless of when state surface is not impacted, we respectfully propose the regulations could be revised to require a lessee to notify DNR that activities related to a state oil and gas lease are being planned that will affect non state-owned surface, and inform the DNR whether an agreement has been

reached with the surface landowner and if no agreement has been reached with the surface landowner, request DNR's assistance under the lease provisions in Paragraph 22.

We are also concerned about the addition of a requirement in 11 AAC 83.158(d) to submit a Plan of Operations at least 120 days before the proposed operations are anticipated, and the addition in (e)(6) of requiring well bore trajectories, is problematic. It is not typically possible to provide a final wellbore trajectory 120 days before proposed operations. Operational details are often fluid until 60-90 days before the proposed operation, and sufficient detail cannot be put into an application before the operation has been fully planned. While we understand the need for the Division to manage their workload and not be forced into reviewing applications at the "last minute," we believe 60 days is reasonable based on the time constraints the department has to work under, e.g. the timeframe for external agency review, public notice, and writing of a decision. If companies are required to submit POO applications 120 days in advance, the Division may find itself reviewing POOs for

Additionally, we are uncertain for the reasoning behind changing the word "Commissioner" to "department" in the new proposed language. The word "Commissioner" is used throughout AS 38.05 and 11 AAC, and is a term that has a well-defined meaning in both statute and regulation. Substituting the less-defined term "department" is both unnecessary and inconsistent with the rest of the statutes and regulations that govern the administration of lands in Alaska. This change serves no benefit and should be discarded.

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