

# STATE OF ALASKA

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### Decision of Substantial New Information Susitna Basin Exploration Licenses

The process for issuing exploration licenses is specified in AS 38.05.131-134, AS 38.05.035(e) and (g), and 11 AAC 82.903-990. Following this process, the Alaska Department of Natural Resources (ADNR), Division of Oil and Gas (DO&G) issued the Susitna Basin Exploration Licenses Final Finding of the Director on September 25, 2003 (Final Finding), finding that issuing exploration licenses in the area was in the best interest of the state. On April 29, 2010, DO&G received a proposal for an exploration license within the Susitna Basin exploration license area.

Under Alaska statutes, a written finding is not required for exploration licenses for acreage subject to a best interest finding issued 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. Therefore, on May 27, 2010, DO&G issued a Call for New Information regarding the proposed license. The purpose of the Call for New Information was to provide an opportunity for interested parties to submit any substantial new information that had become available since issuance of the best interest finding for the license area. The comment period was extended on June 28, 2010, with a new deadline of July 9, 2010 for receipt of comments.

In response to the Call for New Information, DO&G received comments from three entities: the Talkeetna Community Council (TCC), submitted by Cary Birdsall; Alaska Survival, a nonprofit located in Talkeetna, submitted by Becky Long; and the Matanuska-Susitna Borough (MSB), submitted by Debby Broneske and Bruce Paulsen. These comments are summarized below, along with the Commissioner's responses to each.

Based on comments and information received in response to the Call for New Information, the Commissioner of ADNR finds that there is substantial new information that justifies a supplement to the most recent best interest finding for the Susitna Basin exploration licenses. The supplement (Attachment B) provides the currently available information about the Deepwater Horizon incident and the Alaska Risk Assessment Project reports and a new licensee advisory addressing that information.

#### Talkeetna Community Council Comments

##### Comment 1: Draft Susitna Matanuska Area Plan

**Comment Summary:** The TCC stated that the Final Finding should be cross-referenced with the draft Susitna Matanuska Area Plan to ensure consistency and compliance.

**Commissioner's Response:** ADNR area plans determine management intent, land-use designations, and management guidelines that apply to all state lands in the planning area. At this time, the 1985 Susitna Area Plan (ADNR 1995) is in effect. Portions of this plan are being revised by the Southeast Susitna Area Plan, and the Susitna-Matanuska Area Plan which encompasses the license area. A draft of the Susitna Matanuska Area Plan was issued in February 2010 (ADNR 2010), with a public comment period that ended June 4, 2010. A final area plan for the Susitna Matanuska area has not yet been issued and the draft plan is still subject to revision.

**"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."**

The current 1985 Susitna Area Plan provides guidance and management guidelines for state land within the boundaries of the plan area. Two goals of the plan are “to make metallic and non-metallic minerals, coal, oil and gas, and geothermal resources available to contribute to the energy and mineral supplies and independence of the United States of America”, and “contribute to Alaska’s economy by making subsurface resources available for development, which will provide stable job opportunities, stimulate growth of secondary and other primary industries, and establish a stable source of state revenues”.

The plan also states that specific stipulations for oil and gas exploration, development and production activities will be developed and applied on a case-by-case basis for each oil and gas lease sale using the lease sale process. Specifically, the plan states:

Oil and gas leasing is not prohibited anywhere by the Susitna area plan. However, in order to protect recreation, fish and wildlife and other public values, oil and gas exploration and development activities will be sited and/or timed to mitigate impacts on the fish and wildlife habitat and public use values of the five streams proposed for legislative designation. Specific mitigation measures necessary to protect the values for which these river corridors were designated will be developed as part of the lease sale process. Mitigation measures will be developed on a case by case basis considering timing, topography, vegetation and other factors affecting the impact of oil and gas exploration and development activities on fish and wildlife, habitat and public use values.

The purpose of the draft Susitna Matanuska Area Plan is to direct “how the Alaska Department of Natural Resources will manage general state uplands and shorelands within the planning boundary”. Regarding oil and gas, the draft plan states that “...oil and gas development can occur throughout the planning area, although certain stipulations on these types of uses are proscribed in the Susitna Basin Recreation Rivers Management Plan.”

The draft plan also states:

The planning and decision making processes for oil and gas development occur under a separate section of Alaska Statutes (AS 38.05.180) and these processes are not included as part of area plans. For this reason, the area plan does not make any development decisions related to these resources, and defers all decisions regarding licensing or leasing of oil and gas to DNR’s existing licensing and leasing processes. Oil and gas sales are not subject to the regional planning process; instead they follow the planning process identified under AS 38.05.180. The land use designations of the plan are multiple use in character and do not preclude oil and gas development.

Therefore, because the Susitna Matanuska Area Plan has not been finalized and is still subject to revision, and because both the current plan and draft plan do not prohibit oil and gas licensing and defer all decisions regarding licensing or leasing of oil and gas to ADNR’s existing licensing and leasing processes, the draft Susitna Matanuska Area Plan does not constitute substantial new information that justifies a supplement to the Final Finding.

### **Comment 2: Deepwater Horizon Incident and Bonding**

***Comment Summary(a):*** The TCC stated that there is concern about the current situation in the Gulf.

***Comment Summary(b):*** The TCC stated that because of the situation in the Gulf, the State should require funds upfront for mitigation of damages.

***Commissioner’s Response (a):*** This comment is likely alluding to the Deepwater Horizon incident that occurred in the Gulf of Mexico in April 2010.

The Deepwater Horizon was a semi-submersible drilling unit (Transocean 2010a) operating on Mississippi Canyon Block 252 (MC252) (BP 2010a) in federal Outer Continental Shelf (OCS) waters located in the United States Gulf of Mexico, about 41 miles offshore of Louisiana (Transocean 2010c; Transocean 2010b; Transocean 2010e). BP Exploration & Production, Inc. was the lease operator (Transocean 2010e).

According to official reports, on April 20, 2010, approximately 10:00 p.m. Central Time, a fire and explosion were reported on the Deepwater Horizon (Transocean 2010b; Transocean 2010e). The rig sank on April 22, 2010 (Transocean 2010e), coming to rest on the sea floor in about 5,000 feet of water, about 1,500 feet from the well center and away from subsea pipelines (Transocean 2010d). At the time of the incident, 126 crew members were onboard; 115 were evacuated and 11 died (Transocean 2010b; Transocean 2010e).

Before the rig sank, the response team was not able to stop the flow of oil and gas (Transocean 2010e), the blowout preventer failed (BP 2010c), and a large release of hydrocarbons into the water occurred. Various well control efforts were attempted, including drilling of relief wells (BP 2010b). The well was shut-in on July 15, 2010, a relief well successfully intercepted the annulus of the MC252 well on September 15, 2010, and cement was successfully pumped into the annulus on September 17, 2010 (BP 2010a).

The U.S. Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE; formerly Minerals Management Service, or MMS) and the U.S. Coast Guard (USCG) have Congressionally-delegated jurisdiction over the Deepwater Horizon incident, and have a joint, ongoing investigation into the incident (USCG and MMS 2010a). The investigation is tasked with identifying the factors leading to the incident, and developing conclusions and recommendations regarding the incident (USCG and MMS 2010a). So far, the joint investigation has conducted six hearings on the incident (USCG and MMS 2010b).

On May 11-12, 2010, the circumstances surrounding the fire, explosion, pollution and sinking of the Deepwater Horizon were investigated. On May 26-29, 2010, the focus was on gathering information on the rig's materiel condition, crew qualifications, emergency preparedness, and casualty timeline. On July 19-23, 2010, the focus was on the technical verification phase. On August 23-27, 2010, the hearings dealt with the recovery, analysis, and evaluation of the critical drilling equipment. The fifth hearing was held on October 4-8, 2010, and a sixth session of hearings took place December 7-9, 2010 (USCG and MMS 2010b).

Analysis and conclusions are not being presented during the hearings (USCG and BOEMRE 2010b). Evidence, facts, conclusions, and recommendations of the investigation team must be approved by both the USCG and BOEMRE, after which a final investigative report will be made available to the public (USCG and MMS 2010a). A final report is scheduled to be released by March 27, 2011, an extension of the original deadline which was January 27, 2011 (USCG and BOEMRE 2010a).

The National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling (also called the Oil Spill Commission, or OSC) was established by presidential executive order on May 21, 2010. The objective of the OSC is to (DOE 2010):

...examine the relevant facts and circumstances concerning the root causes of the Deepwater Horizon explosion, fire and oil spill and develop options to guard against, and mitigate the impact of, any oil spills associated with offshore drilling in the future. In developing options, the Commission shall take into consideration the environmental, public health, and economic effects of such options, including those options that involve: improvements to Federal laws, regulations, and industry practices applicable to offshore drilling that would ensure effective oversight, monitoring, and response capabilities; protecting public health and safety, occupational health and safety, and the environment and natural resources; addressing affected communities; and organizational or other reforms of Federal agencies or processes necessary to ensure such improvements are implemented and maintained.

Key areas of OSC inquiry include: the Macondo well explosion and drilling safety; the role of offshore oil drilling in domestic energy policy; regulatory oversight of offshore drilling; oil spill response; spill impacts and assessment; and restoration approaches and options (OSC 2010). The OSC released its final report to the president on January 11, 2011 (OSC 2011). The report presents the history of offshore oil and gas development in the United States, discusses current regulatory oversight and corporate culture regarding human safety and risk management, and examines the causes and consequences associated with the Deepwater Horizon incident.

The report includes the following conclusions (OSC 2011):

- The explosive loss of the Macondo well could have been prevented.
- The immediate causes of the Macondo well blowout can be traced to a series of identifiable mistakes made by BP, Halliburton, and Transocean that reveal such systematic failures in risk management that they place in doubt the safety culture of the entire industry.
- Deepwater energy exploration and production, particularly at the frontiers of experience, involve risks for which neither industry nor government has been adequately prepared, but for which they can and must be prepared in the future.
- To assure human safety and environmental protection, regulatory oversight of leasing, energy exploration, and production require reforms even beyond those significant reforms already initiated since the Deepwater Horizon disaster. Fundamental reform will be needed in both the structure of those in charge of regulatory oversight and their internal decisionmaking process to ensure their political autonomy, technical expertise, and their full consideration of environmental protection concerns.
- Because regulatory oversight alone will not be sufficient to ensure adequate safety, the oil and gas industry will need to take its own, unilateral steps to increase dramatically safety throughout the industry, including self-policing mechanisms that supplement governmental enforcement.
- The technology, laws and regulations, and practices for containing, responding to, and cleaning up spills lag behind the real risks associated with deepwater drilling into large, high-pressure reservoirs of oil and gas located far offshore and thousands of feet below the ocean's surface. Government must close the existing gap and industry must support rather than resist that effort.
- Scientific understanding of environmental conditions in sensitive environments in deep Gulf waters, along the region's coastal habitats, and in areas proposed for more drilling, such as the Arctic, is inadequate. The same is true of the human and natural impacts of oil spills.

The report includes 31 specific recommendations divided into the following seven categories (OSC 2011):

- A) Improving the safety of offshore operations;
- B) Safeguarding the environment;
- C) Strengthening oil spill response, planning and capacity;
- D) Advancing well-containment capabilities;
- E) Overcoming the impacts of the Deepwater Horizon spill and restoring the Gulf;
- F) Ensuring financial responsibility; and,
- G) Promoting congressional engagement to ensure responsible offshore drilling.

Most of the report and recommendations are specific to the Deepwater Horizon incident, federal government oversight (namely the former MMS), and Congress. However, many discussions in the report regarding industry and government not keeping pace with the rapid changes in technology and the general structure of the oil and gas industry have some applicability to oil and gas operations in Alaska and State of Alaska oversight.

Another study, specific to Alaska and addressing some similar issues, was also recently published. The Alaska Risk Assessment (ARA) Project of oil and gas infrastructure was initiated in 2007 "to provide a baseline risk assessment of the oil and gas infrastructure in Alaska. The purpose of the ARA Project was to conduct a system-wide risk assessment that evaluates the safety, environmental, and operational risks associated with the system and to assess the reliability of the existing infrastructure to operate for another

generation” (ADEC 2010b). The ARA Project was to be conducted in three phases: Phase 1 would focus on designing a methodology for the risk assessment; Phase 2 would implement the methodology; and Phase 3 would analyze the data and report on the results. The ADEC 2010b report (or Phase 1 Report) documents the initiation, public comment, and review of the original project.

After review of the proposed methodology by the public, state and federal agencies, industry, and the National Academy of Sciences, the scope of the ARA Project was narrowed significantly and reconfigured to the North Slope Spills Analysis (NSSA) (ADEC 2010a). The purpose of the NSSA is to compile and analyze causal information associated with specific North Slope pipelines and provide recommendations on mitigation measures to reduce future spills (ADEC 2010a). Results from this study have been published (NSSA Report), including seven specific recommendations for reducing the risk of future loss-of-integrity spills from North Slope infrastructure (Robertson et al. 2010).

A third report (Oversight Report) was produced as a result of the Alaska Risk Assessment project, with the purpose of providing the State of Alaska with practical recommendations for future oversight activities for oil transportation (Cycla Corporation 2010). The report provides an overview of risk management and oversight systems used by other jurisdictions, and provides recommendations designed to enhance risk management practices of ADEC and to strengthen risk management practice across Alaska oversight agencies (Cycla Corporation 2010). Key findings from this report are that the primary job of regulators is to require practices that reinforce the operators’ responsibility to ensure safe operation of their facilities; the State should not undertake a risk assessment without significant cooperation from the operators; the existing system should be refined rather than implementing radical changes; and operator reporting should be expanded to improve the understanding of the effectiveness of management systems (Cycla Corporation 2010). Specific recommendations were divided into two categories: recommended future Alaska oversight agency risk management activities, and recommended ADEC activities (Cycla Corporation 2010).

The State of Alaska is in the process of reviewing the reports, determining which of the recommendations to implement, and the next steps for implementing them. Not all recommendations in the reports are within the jurisdiction of DO&G, and many of the recommendations are outside the scope of mitigation measures for state oil and gas licenses and leases.

However, although review of the reports is ongoing, some of the recommendations are both within the jurisdiction of DO&G and within the scope of license and lease mitigation measures. For the NSSA Report, although it focuses on pipelines regulated by ADEC on the North Slope, the recommendations from the expert panel have some applicability to all agencies that provide oversight of the oil and gas industry in Alaska. Broadly, the recommendations suggest that the state engage industry more proactively by requiring industry to provide information on how systems integrity is being managed, reviewing that information for understanding and completeness, collecting appropriate data that can be used to determine root cause, and increasing enforcement.

Overall, the Oversight Report suggests that it is the primary responsibility of regulators to encourage industry to act responsibly by establishing appropriate regulation and to knowledgeably oversee the implementation of those regulations. The report suggests that this can be accomplished by requiring more information from industry on their management systems in general and risk management specifically. This information can then be used to provide oversight agencies with information regarding how an operator is maintaining safe operating conditions.

Specific recommendations from the two reports that may be applicable to mitigation measures for state oil and gas licenses and leases are: move to an integrated Integrity Management Program that focuses on leading indicators (Robertson et al. 2010); conduct regular and ongoing proactive risk analyses to maintain systems at a prescribed level of safety, and share information from risk analyses among operators and with regulators (Robertson et al. 2010); strengthen regulatory oversight by evolution not revolution (Cycla Corporation 2010); and require operator strategic management process (Cycla Corporation 2010).

Current drilling requirements in Alaska are an important consideration in deciding whether or not the Deepwater Horizon incident constitutes substantial new information that justifies a supplement to the most recent best interest finding. Drilling a well in Alaska requires a permit from the Alaska Oil and Gas Conservation Commission (AOGCC) under 20 AAC 25.005. The AOGCC has a codified, technically comprehensive well permitting process and a rigorous, interactive well operations inspection program (Seamount et al. 2010). The AOGCC's staff geologists and engineers thoroughly review all technical aspects of the well and rock formations that may be encountered during drilling, and ensure that drilling fluids, well construction, and oil field practices are appropriate and safe. Inspections are performed before rigs are brought into service, after drilling is finished and wells are ready to produce, and regularly thereafter on safety valve systems. Blowout preventers and other safety equipment are tested every 14 days, or every seven days for exploratory wells (Seamount et al. 2010).

Another important consideration is that a license or lease only gives the licensee or lessee the right to conduct activities such as exploration, development, and production, but the license or lease does not authorize these activities. A plan of operations or a unit plan of operations must be approved before any operations may be undertaken on or in the license or lease area. In addition, all oil and gas activities are subject to other numerous federal, state, and local laws, regulations, policies, and ordinances with which the licensee is obligated to comply. An overview of some of these is found in Chapter One, Section C of the Final Finding.

In addition, it is also important to note that all information is not yet available concerning the Deepwater Horizon incident. In fact, the investigation by the federal agencies that have Congressionally-delegated joint jurisdiction over the incident, the USCG and BOEMRE, have not completed their investigation yet, and their final report and recommendations are not scheduled to be released until March 27, 2011.

Further, the State of Alaska has an ongoing inquiry concerning information that is becoming available from the Deepwater Horizon incident. On June 24, 2010, the AOGCC began accepting comments on an inquiry into whether changes or additions are needed to AOGCC regulations governing drilling, rig workover, and well control in offshore and ultra-extended reach wells in areas of Alaska under AOGCC jurisdiction (AOGCC 2010). The AOGCC will review its offshore and ultra-extended reach drilling operations regulations to ensure sufficient safeguards are in place to prevent well control loss or facilitate immediate reestablishment of well control (AOGCC 2010). A date for completion of the inquiry has not been set yet.

***Finding of Substantial New Information:*** Therefore, because of the magnitude of the Deepwater Horizon incident, the Commissioner finds that the Deepwater Horizon incident constitutes substantial new information that justifies a supplement to the most recent best interest finding. Because the ARA reports are specific to the oil and gas industry in Alaska, are specific to oil and gas infrastructure under State of Alaska jurisdiction, and were published in November 2010, the Commissioner finds that those reports also constitute substantial new information that justifies a supplement to the most recent best interest finding. The supplement (Attachment B) provides the currently available information about the Deepwater Horizon incident and the ARA reports.

The Commissioner also finds that because the USCG and BOEMRE investigation and AOGCC inquiry are ongoing, and because many of the ARA recommendations are specific to ADEC, would require additional regulatory authority from the legislature, or are still being reviewed by the State, it is not appropriate to modify, add, or delete mitigation measures from the Final Finding at this time. However, the Commissioner finds that it is very likely that additional mitigation measures or other statutory or regulatory requirements will be implemented within the next year, and therefore, the following licensee advisory will be added to Final Finding through a supplement (Attachment B):

The State of Alaska is in the process of reviewing and evaluating information from the Deepwater Horizon investigations and the Alaska Risk Assessment reports, and is determining which of the information and recommendations are applicable to Alaska, which recommendations to implement, and the next steps for implementing them. As this process develops, new or modified mitigation

measures, lessee advisories, or other statutory or regulatory requirements addressing issues such as safety, environmental safeguards, risk management, and reporting standards may be forthcoming.

**Commissioner's Response (b):** Concerning the suggestion that funds be required upfront for mitigation of damages, several such provisions already exist. These include Section 12(c) of the exploration license, AS 38.05.130, AS 38.05.132(c)(4), AS 38.05.180(gg), AS 46.03.822, AS 46.03.830, and AS 46.04.040.

Therefore, because the license itself and various Alaska statutes address bonding, the suggestion that bonding be required does not constitute substantial new information that justifies a supplement to the most recent best interest finding.

### **Comment 3: Hydraulic Fracturing During Exploration**

**Comment Summary:** The TCC expressed concern regarding the use of hydraulic fracturing and requested that hydraulic fracturing be outlawed. The TCC did not provide specific information about its concerns relating to hydraulic fracturing, and did not explain why it should be prohibited or restricted by related mitigation measures.

**Commissioner's Response:** Hydraulic fracturing is a process used to improve extraction of underground resources such as oil, natural gas, geothermal energy, and water (EPA 2010). Fluids, usually composed of water and chemical additives, are pumped into a geologic formation at high pressure. The process opens or enlarges fractures in the formation, and a propping agent is then pumped into the fractures to keep them from closing (EPA 2010).

Permits are required for drilling using hydraulic fracturing techniques. The requirements for obtaining a permit and drilling a well were discussed in the Final Finding in Chapter 1, Section 5(a)-(d). The AOGCC regulates the use of hydraulic fracturing in nonconventional gas wells to ensure protection of drinking water quality (AS 31.05.030(j)(2)(A)). Any subsurface activities related to placement of drilling fluids or wastes require prior identification of freshwater aquifers (20 AAC 25.080), and prior to drilling for coalbed methane, a water well testing program must be conducted with the results made available to the public (20 AAC 25.030(j)(1)(C)).

The locations where hydraulic fracturing will be used, if at all, and specific information about such activities, have not yet been identified. The appropriate time to evaluate specific hydraulic fracturing details is when a plan of exploration or operations is actually submitted to AOGCC and DO&G for approval. At that time, additional mitigation measures may be required.

Proposals to outlaw hydraulic fracturing are beyond the scope of this Call for New Information and must be addressed by the legislature.

Therefore, because the TCC did not provide specific new information about its concerns related to hydraulic fracturing; because the TCC did not explain why hydraulic fracturing should be prohibited or restricted by mitigation measures; and because outlawing hydraulic fracturing is beyond the scope of this Call for New Information, this comment does not constitute substantial new information that justifies a supplement to the most recent best interest finding.

### **Comment 4: Damage to Wetlands**

**Comment Summary:** The TCC stated that Chapter Five, page 19 of the Final Finding states that damage to wetlands must be minimized to the satisfaction of the Director, in consultation with OHMP<sup>1</sup> and the Alaska Department of Environmental Conservation; and it stated that there should be some written directives that must be followed.

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<sup>1</sup> Effective July 1, 2008, Executive Order 114 transferred the Office of Habitat Management and Permitting (OHMP) of ADNOR to ADF&G where it became the Habitat Division.

**Commissioner's Response:** As discussed in Chapter One of the Final Finding (pages 1-22 through 1-24), wetland permits are regulated by the U.S. Army Corps of Engineers under sections 401 and 404(b)(1) of the federal Clean Water Act. Therefore, written directives have not been developed for the Susitna Basin licenses to address specific wetlands in the license area. When specific project activities are proposed, and a plan of exploration or plan of operations has been submitted to DO&G for approval, mitigation of adverse impacts to wetlands will be considered if necessary.

Therefore, because wetland permits were discussed in the Final Finding, and because wetland permits are regulated by the U.S. Army Corps of Engineers, this comment does not constitute substantial new information that requires a supplement to the most recent best interest finding.

**Comment 5: Effects to Tourism**

**Comment Summary:** The TCC stated that residents and tourists visit the license area because of undeveloped forests and rich rivers and streams. The TCC stated that people use the area, and it stated that oil and gas exploration will have a detrimental effect on the tourism industry.

**Commissioner's Response:** Use of the license area for tourism, recreation, fishing, hunting, and subsistence was discussed in Chapter Four of the Final Finding, and potential effects were discussed in Chapter Five of the Final Finding. Concerns about effects on tourism were also discussed in Appendix A of the Final Finding. As discussed in the Final Finding, the license area is currently characterized by multiple use. The area has established communities and industrial infrastructure. Commercial, agricultural, residential, and recreational land and water uses occur concurrently throughout the area. These uses and the exploration license and subsequent activities are not mutually exclusive. In addition, petroleum revenues support tourism when they fund construction and maintenance of infrastructure such as airports, roads, campgrounds, docks, state parks, recreation areas, and preservation of historic sites.

Therefore, because use of the area for tourism, potential effects on the area, and concerns about effects on tourism were considered and discussed in the Final Finding, this comment does not constitute substantial new information that justifies a supplement to the most recent best interest finding.

**Comment 6: Buffers Around Bald Eagle and Trumpeter Swan Nesting Sites**

**Comment Summary:** The TCC stated that the quarter-mile buffer around bald eagle and trumpeter swan nesting sites is insufficient. The TCC did not provide any specific information about why the buffer is insufficient.

**Commissioner's Response:** Bald eagles are protected under the federal Bald Eagle Protection Act (16 U.S.C. 668-668c) and the Migratory Bird Treaty Act (MBTA). Regardless of mitigation measures in the Final Finding, licensees are responsible for ensuring that their actions do not take bald eagles. The Bald Eagle Protection Act defines "take" to include disturbing birds. The quarter-mile buffer for trumpeter swan nesting sites required by the Final Finding for the Susitna Basin exploration license is consistent with the buffer required by other best interest findings, such as for Cook Inlet Areawide oil and gas lease sales (ADNR 2009).

Therefore, because bald eagles and trumpeter swan nesting sites were addressed in the Final Finding, and because the TCC did not provide any specific new information explaining why quarter-mile buffers are insufficient, this comment does not provide substantial new information that justifies a supplement to the most recent best interest finding.

**Comment 7: Access and Habitat Degradation**

**Comment Summary:** The TCC stated that access to the license area is a major issue; that any overland travel, no matter how carefully done, will invite access by private individuals; and that there are concerns about habitat degradation and other impacts.

**Commissioner's Response:** Potential effects on access were considered and discussed in Chapter Five, Section C(2) of the Final Finding; potential cumulative effects on habitats were considered and discussed in Chapter Five, Section D of the Final Finding; and concerns about access development were considered and discussed in Appendix A. Mitigation measures in Chapter Seven of the Final Finding provide many protections for habitats, and specifically address access in Section III (mitigation measures 16 and 17).

Therefore, because the TCC did not provide any specific new information about access, overland travel, or habitat degradation or other impacts; and because access was considered and discussed in the Final Finding, this comment does not constitute substantial new information that justifies a supplement to the most recent best interest finding.

### **Alaska Survival**

#### **Comment 1: Lack of Information**

**Comment Summary:** Alaska Survival stated that there is not enough information to evaluate whether the exploration license is in the best interest of the state, and that it is opposed to the proposal until further information is made available to the public.

**Commissioner's Response:** Citing to about 90 sources of information related to the exploration license and license area, the Final Finding issued in 2003 considered and discussed the many topics required by AS 38.05.035(g). In the Final Finding, the Director found that issuing licenses in the Susitna exploration license area was in the best interest of the state. Therefore, this comment does not constitute substantial new information that justifies a supplement to the most recent best interest finding.

#### **Comment 2: Hydraulic Fracturing**

**Comment Summary:** Alaska Survival stated that due to new information about the long term impacts on aquifers and the surrounding environment by hydraulic fracturing, a public discussion on the use of this method in the Susitna Basin is needed.

**Commissioner's Response:** See the Commissioner's response to the TCC's Comment 3. In addition, DO&G staff were able to locate two reports about hydraulic fracturing published since 2003. Potential contamination of drinking water by gas production has been studied by the EPA (EPA 2004). In its review of incidents of drinking water well contamination believed to be associated with hydraulic fracturing, EPA found no confirmed cases that were linked to fracturing fluid injection into coalbed methane wells or subsequent underground movement of fracturing fluids. Some Colorado residents have associated well water and health issues with coalbed methane wells. One county level study concluded water quality was naturally poor and natural methane occurred in some wells in high volumes; no direct link between drilling and water quality was found (CFWE 2007).

Therefore, because this comment did not provide specific information about hydraulic fracturing and how its use impacts aquifers and the environment, this comment does not constitute substantial new information that justifies a supplement to the most recent best interest finding.

#### **Comment 3: Draft ADNR Susitna Matanuska Area Plan**

**Comment Summary:** Alaska Survival stated that the draft ADNR Susitna Matanuska Area Plan is new information, and that the Final Finding needs to be evaluated relative to it. Alaska Survival stated specifically that the draft plan proposes to classify acreage in the eastern part of the license area as agricultural land, and that there are important habitat lands in the area.

**Commissioner's Response:** See the Commissioner's response to the TCC's Comment 1 above. Therefore, because the Susitna Matanuska Area Plan has not been finalized and is still subject to revision, and because both the current plan and draft plan do not prohibit oil and gas licensing and defer all decisions regarding licensing or leasing of oil and gas to ADNR's existing licensing and leasing processes, the draft Susitna

Matanuska Area Plan does not constitute substantial new information that justifies a supplement to the most recent best interest finding.

**Comment 4: Trapper Creek Comprehensive Plan**

*Comment Summary:* Alaska Survival stated that part of the license area is in the Trapper Creek Comprehensive Plan boundaries, and requested that exploration in those areas wait until the comprehensive plan is finished.

*Commissioner's Response:* In 2004, the Trapper Creek Community Council began the process of developing a comprehensive plan for the area by requesting assistance from the Matanuska-Susitna Borough (Agnew::Beck 2010). A planning team was appointed to guide the process, and a consulting company was hired to assist. The consultants met with the planning team, visited with area residents, held community workshops, and drafted a plan. In January 2006, the planning team approved a revised draft plan that reflected comments and additional public workshops, and the plan was forwarded to the Community Council for its review and approval. The Community Council did not approve the plan because of concerns regarding a range of community issues (Agnew::Beck 2010). It is unknown when the plan will be finalized and approved (MSB 2010).

Therefore, because a comprehensive plan for Trapper Creek has not been finalized and is still subject to revision, this comment does not constitute substantial new information that justifies a supplement to the most recent best interest finding.

**Comment 5: Trumpeter Swan Habitat**

*Comment Summary:* Alaska Survival stated that there are new data about trumpeter swan habitats in the area, and that the one-quarter mile buffer is inadequate.

*Commissioner's Response:* Alaska Survival did not provide a specific source or citation for new data on trumpeter swan habitat. DO&G found one study on trumpeter swans that included the license area. This study indicates that the summering population of trumpeter swans continues to increase in Alaska (Conant et al. 2007). Although this information is new, it is not substantial information that justifies a supplement to the most recent best interest finding.

**Comment 6: Effects on Tourism and Other Uses Of the License Area**

*Comment Summary:* Alaska Survival stated that the economy of the Susitna Basin area depends on tourism, hunting, fishing, and other recreational uses of the area, which likewise depend on healthy fish and wildlife populations, unpolluted waters, and scenic vistas of undeveloped forests.

Alaska Survival referenced a "2007 Mat Su Borough funded Cole Report" about consumptive and non-consumptive uses of natural resources in the area; a 2009 report about the economic importance of sport fishing to the area; and a series of maps concerning biological values and salmon populations and habitats.

*Commissioner's Response:* See the Commissioner's response to TCC's Comment 5.

DO&G staff could not locate the "Cole Report" referenced by Alaska Survival, and Alaska Survival did not provide a complete reference or copy of the report to DO&G.

DO&G staff did locate a report on the economic importance of sport fishing to the MSB (Colt and Schwoerer 2009). This study found that in 2007, resident and nonresident anglers fished almost 300,000 angler-days in the MSB; that anglers spent from \$63-163 million in the MSB on goods and services primarily used for sport fishing; that this spending generated from 900-1,900 jobs and from \$31-64 million of personal income for people who work in the MSB; and that sport fishing activity in the MSB generated from \$6-15 million in state and local taxes.

As for maps, Alaska Survival was likely referring to *Salmon Watersheds in the Mat-Su Basin: A Map Atlas to Prioritize Conservation* (MSBSHP 2009). The maps were developed by the Matanuska-Susitna Basin

Salmon Habitat Partnership that was formed to address impacts on salmon from human use and development in the Mat-Su Basin. The purpose of the map atlas, published in 2009, is “to help the Mat-Su Salmon Partnership, its partners, and others concerned about salmon conservation to identify priorities for their own efforts” (MSBSHP 2009). The map atlas provides information about watersheds and their biological value to salmon and vulnerability to human activities. Most of the information for the biological factors was derived from the ADF&G publication *Catalog of waters important for spawning, rearing, or migration of anadromous fishes - Southcentral Region* (Johnson and Daigneault 2008). Although updated annually, this publication has been available for many years.

The importance of sport fishing was acknowledged in Chapter Four, Section C(3) of the Final Finding, and potential effects on fish, wildlife, habitats, and scenic resources were considered and discussed in Chapter Five, Sections D(1) and D(4).

Therefore, although the two reports referenced by Alaska Survival (Colt and Schwoerer 2009 and MSBSHP 2009) provide new information, that information is not substantial information that justifies a supplement to the most recent best interest finding.

### **Matanuska-Susitna Borough**

#### **Comment 1: Mat-Su Borough Trails**

**Comment Summary:** The MSB stated that there are numerous recreational trails within the proposed license area and that many are used in the winter. The MSB stated that the Matanuska-Susitna Borough Recreational Trail Plan identifies and documents many of the trails. The MSB requested that trails that are adversely impacted by potential oil and gas exploration be restored to their original condition. The MSB also requested that for safety reasons, the public be made aware of any exploration activities that may place exploration equipment on the same trails used by recreationists.

**Commissioner's Response:** The Matanuska-Susitna Borough Recreational Trail Plan was adopted by the MSB in 2000, and was amended in May 2004, June 2006, and May 2007 (MSB 2000). The plan “evaluates the needs and desires of Borough residents and landowners with regard to recreational trail development” and provides “guidance for trail preservation, acquisition, development and management” (MSB 2000). The plan also includes a series of maps showing established trails, primitive routes, and proposed trails; these may or may not have established, legal rights-of-way.

The mitigation measures in the Final Finding and other state, federal, and local regulatory requirements address restoration of trails and safety concerns. Mitigation Measure 1 of the Final Finding requires that a plan of operations must describe the licensee’s efforts to minimize impacts on residential, commercial, and recreational areas. Mitigation Measure 31 requires that a plan of operations application describe the licensee’s past and prospective efforts to communicate with local communities and interested local community groups. Mitigation Measures 16 and 17 address access. Section C(2)(f) of Chapter One of the Final Finding describes land use permits that may be required by ADNR for exploration, development, and production activities. Minimizing damage and disturbance, and ensuring that lands are returned to an acceptable condition are addressed in that section. In addition, Paragraph 17 of the exploration license addresses rehabilitation of the license area.

Therefore, although the Matanuska-Susitna Borough Recreational Trail Plan has been amended since the Final Finding was issued in 2003, the plan itself is not new. In addition, returning the license area to an acceptable condition and safety are adequately addressed in existing mitigation measures in the Final Finding, and by other regulatory requirements such as plans of operation and land use permits. Therefore, this comment does not constitute substantial new information that justifies a supplement to the most recent best interest finding.

**Comment 2: Updates to the Matanuska-Susitna Borough Code**

*Comment Summary:* The MSB stated that the land use and land development code citations in Appendix B of the best interest finding should be updated by removing outdated code citations, and replacing them with current code citations.

*Commissioner's Response:* Appendix B of the Final Finding provides a list of some of the laws and regulations pertaining to oil and gas exploration, development, production, and transportation. This appendix is not intended to be an exhaustive list of such laws and regulations, but rather is intended to bring to the attention of prospective licensees and the public that there are many additional state, federal, and local regulatory requirements with which licensees are obligated to comply. This was explained in detail in Chapter One, Section C of the Final Finding.

Therefore, although changes to MSB codes may have occurred since the Final Finding was issued in 2003, licensees are required to comply with all applicable state, federal, and local laws and regulations, and therefore, this comment does not constitute substantial new information that justifies a supplement to the most recent best interest finding.

**Summary and Decision**

The Commissioner has considered comments received from the Talkeetna Community Council, Alaska Survival, and the Matanuska-Susitna Borough and finds that information about the Deepwater Horizon incident and the Alaska Risk Assessment reports justify a supplement to the most recent best interest finding for Susitna Basin exploration licenses. The Commissioner finds that the supplement should include currently available information about the Deepwater Horizon incident and information from the Alaska Risk Assessment Project reports.

The Commissioner also finds that the supplement should include a new licensee advisory that notifies licensees that the State of Alaska is in the process of reviewing information from the Deepwater Horizon investigations, the Alaska Risk Assessment Project reports, and other ongoing investigations and inquiries, and that new or modified mitigation measures, licensee advisories, or other statutory or regulatory requirements addressing issues such as safety, environmental safeguards, risk management, and reporting standards may be forthcoming within the next year (Attachment B).

A person affected by this decision who provided timely written comment may request reconsideration, in accordance with 11 AAC 02. Any reconsideration request must be received by February 28, 2011, and may be mailed or delivered to:

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

By fax to 1-907-269-8918

or

By email to [dnr.appeals@alaska.gov](mailto:dnr.appeals@alaska.gov)

If reconsideration is not requested by that date or if the Commissioner does not order reconsideration on his own motion, this decision goes into effect as a final order and decision on March 10, 2011. Failure of the Commissioner to act on a request for reconsideration within 30 days after issuance of this decision is a denial of reconsideration and is a final administrative order and decision for purposes of an appeal to Superior Court. The decision may then be appealed to Superior Court within a further 30 days in accordance with the

rules of the court, and to the extent permitted by applicable law. An eligible person must first request reconsideration of 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.



Daniel S. Sullivan  
Commissioner

ATTACHMENT A: References

ATTACHMENT B: Supplement to the 2003 Susitna Basin Exploration Licenses Final Finding of the Director

cc: Talkeetna Community Council, Inc.  
P.O. Box 608  
Talkeetna, AK 99676  
Attn: Mr. Cary Birdsall

Alaska Survival  
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Talkeetna, AK 99676  
Attn: Ms. Becky Long, Board of  
Directors

Matanuska-Susitna Borough  
350 E. Dahlia Avenue  
Palmer, AK 99645  
Attn: Mr. Bruce Paulsen, Land Management  
Specialist

Matanuska-Susitna Borough  
350 E. Dahlia Avenue  
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Attn: Ms. Debby Broneske, Resource  
Management Specialist

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