

# STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES  
OFFICE OF THE COMMISSIONER

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April 25, 2006

Daniel K. Donkel and  
Monte J. Allen  
968 Willow Run Lane  
Winter Springs, FL 32708

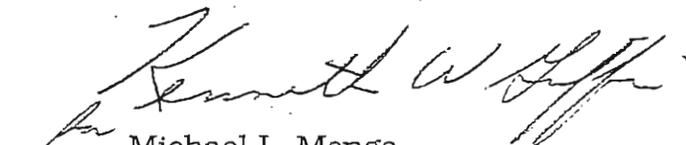
Re: North Middle Ground Shoal Unit  
Oil and Gas Lease ADL 369116  
Final Order and Decision Amended

Dear Mr. Donkel and Mr. Allen,

The April 10, 2006 Final Order and Decision, regarding your appeal of the notice terminating the North Middle Ground Shoal Unit and ADL 369116, contained two typographical errors. The corrected dates are indicated on the attached document with strikethrough of deletions and additions in bold and underlined. I apologize for any confusion this may have caused.

This is the final administrative order and decision of the department for purposes of an appeal to Superior Court. An appellant affected by this final order and decision may appeal to Superior Court within 30 days in accordance with the rules of the court, and to the extent permitted by applicable law.

Sincerely,



Michael L. Menge  
Commissioner

Attachment: Amended Final Order and Decision

cc: William Van Dyke, Acting Director  
Richard Todd, Senior Assistant Attorney General  
Terry Peterson, Lease Administration  
Kevin Tabler, Unocal  
Mark Landt, Renaissance

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

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CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

April ~~10~~ **24**, 2006

Daniel K. Donkel and  
Monte J. Allen  
968 Willow Run Lane  
Winter Springs, FL 32708

## **FINAL ORDER AND DECISION AMENDED**

### I. Introduction

This is the Decision of the Commissioner of the Department of Natural Resources (the DNR) on an appeal from an action by the Director of the Division of Oil and Gas (the Division) terminating the North Middle Ground Shoal Unit (NMGS Unit) and oil and gas lease ADL 369116. Daniel K. Donkel and Monte J. Allen, jointly referred to as Donkel, are the appellants.

The NMGS Unit, located in Cook Inlet, consisted of two oil and gas leases, ADL 17595 and ADL 369116. Union Oil Company of California (Unocal), the designated unit operator, conducted exploration and development operations within the unit area from the Baker Platform located on ADL 17595. ADL 17595 produced for over thirty years, but is currently shut-in. Unocal and Forest Oil Company (Forest) are the current working interest owners of ADL 17595.

ADL 369116 has no wells or other production facilities located on it. It has never been in production. An exploration well that discovered gas within the area was plugged and abandoned long before the Division issued ADL 369116 to Donkel. Renaissance Resources (Alaska), LLC (Renaissance) is currently the working interest owner of ADL 369116. The appellants hold overriding royalty interests in ADL 369116.

There are a number of pending appeals regarding the NMGS Unit and oil and gas lease ADL 369116:

1. Donkel's Termination Notice Appeal. The instant appeal is from the Division's January 17, 2006 notice that the NMGS Unit and ADL 369116 terminated effective December 31, 2005 (the Termination Notice). The Termination Notice was based on a settlement agreement approved by the Superior Court in a previous Donkel appeal. The December 2, 2002 Superior Court Order Approving Settlement and Stipulation for Dismissal with Prejudice (the Settlement Stipulation) (See Attachments 1 and 2) provided that the NMGS Unit and ADL 369116 would terminate if the working interest owners did not drill a well on ADL 369116 by December 31, 2005 (the Drilling Commitment).
2. Donkel's POD Appeal. Donkel also has an appeal pending in Superior Court arising from the DNR's March 31, 2005 approval of Unocal's 2005 Plan of Development (POD) for the NMGS Unit. This POD essentially proposed to mothball Baker Platform on ADL 17595, pending determination of whether the platform would be removed. Although Donkel has no interest in Baker Platform or ADL 17595, he objected to Unocal's plan to mothball the platform, and asserted that Unocal's plan to remove Baker Platform prevented him from fulfilling the Drilling Commitment on ADL 369116. Donkel requested a two-year extension of ADL 369116 and the December 31, 2005 Drilling Commitment deadline. Donkel filed his brief on appeal in the Superior Court last week.
3. Renaissance's Extension Appeal. Renaissance also requested an extension of ADL 369116 and the Drilling Commitment deadline to gain additional time to obtain a drilling rig. Renaissance appealed the Division's denial of its extension request to the DNR Commissioner, where it was affirmed on February 22, 2006. Renaissance did not appeal the DNR's February 22, 2006 ~~1006~~**2006** Decision to the Superior Court.
4. Gottstein's Extension Appeal. However, James B. Gottstein (Gottstein) did appeal DNR's February 22, 2006 Decision denying Renaissance's extension request to the Superior Court. Gottstein is a stranger to the proceedings before DNR who claims to hold an

unperfected overriding royalty interest in ADL 369116. The Division is currently preparing the administrative record on appeal.

## II. Procedural Actions

Donkel requested a stay of the NMGS Unit and ADL 369116 Termination Notice until final decisions were rendered in two of the other pending appeals. Donkel requested a stay of the Termination Notice pending a Superior Court decision in Donkel's POD Appeal. The POD appealed from in that case does not affect ADL 369116 but instead merely maintains the status quo of ADL 17595. The 2005 POD essentially provided that the production platform on ADL 17595 would be mothballed pending removal. The Baker Platform remains in place, and Unocal's intent to remove it at some unspecified future date, did not impact the lessees' ability to drill an exploration well on ADL 369116 to fulfill the December 31, 2005 Drilling Commitment.

Donkel also requested a stay of the NMGS Unit and ADL 369116 Termination Notice pending a decision on Renaissance's ADL 369116 Extension Appeal to the DNR Commissioner. The DNR Commissioner issued the final decision on that appeal on February 22, 2006, and Gottstein's Extension Appeal is pending in Superior Court. Gottstein did not appear before the DNR in the preceding appeals and is not a proper party to the pending appeals. Request for stay pending resolution of the other two pending appeals is denied.

## III. History

The Division issued oil and gas lease ADL 17595 effective February 1, 1962. On June 10, 1962, the Division certified the Middle Ground Shoal #1 well, drilled from the Baker platform located on ADL 17595, as capable of production in paying quantities. Commercial oil production commenced from the Hemlock and Lower Tyonek Formations on April 1, 1966 and commercial gas production commenced from the Shallow Tyonek Formation on February 15, 1982.

The Division issued oil and gas lease ADL 369116 effective September 1, 1986. With a 10-year primary term ADL 369116 was due to expire on August 31, 1996. On September 10, 1996, the Division approved the formation of the NMGS Unit to encompass ADL 17595 and ADL 369116. Commitment to the

NMGS Unit extended ADL 369116 in accordance with AS 38.05.180 (m), Paragraph 4(b) of the lease, and Article 3.2 of the NMGS Unit Agreement.

Unocal and Forest held working interest ownership in the unit area, and Unocal was the designated unit operator. Under the Initial POD, Unocal planned to continue to produce oil and gas from ADL 17595 and drill an exploration well from the Baker Platform to confirm if the Shallow Tyonek Formation extended onto ADL 369116 and whether the acreage within the lease could contribute to production in paying quantities.

On October 16, 1998, Unocal applied to form the Shallow Tyonek Gas Reservoir Participating Area (STGR PA) within the NMGS Unit. On June 24, 1999, the Division approved the STGR PA but for a smaller area than Unocal had proposed. The Division found that ADL 369116 did not contribute to production. The approved STGR PA allocated all gas produced from the Shallow Tyonek Formation to ADL 17595. On July 22, 1999, Unocal appealed the Director's decision approving the smaller STGR PA to the DNR Commissioner, where it was affirmed.

In accordance with the terms of the NMGS Unit Plan of Exploration and the NMGS Unit Agreement, ADL 369116 contracted out of the NMGS Unit effective December 31, 1999 and expired on March 30, 2000. Since the NMGS Unit was comprised of only one lease, the Division approved the unit operator's request to terminate the unit agreement. Unocal continued to produce oil from the Lower Tyonek and Hemlock formations and gas from the Shallow Tyonek Gas Reservoir within ADL 17595 on a lease basis.

The overriding royalty interest holders in ADL 369116 appealed the DNR Commissioner's decision to the Superior Court in Daniel Donkel, George Kasper, Robert Bolt, and John Does 1 through 91 v. State of Alaska, Department of Natural Resources, Case No. 3AN-00-3616 CV. This case was settled. On December 2, 2002, Judge Murphy approved the Settlement Stipulation, which reconstituted the NMGS Unit and reinstated ADL 369116, subject to commitments by the parties and performance deadlines. Under the Settlement Stipulation, development operations would continue on ADL 17595 and exploration activities would be conducted on ADL 369116 in accordance with the NMGS Unit Plan of Development.

Subsequently, Unocal submitted the 2003 POD for the NMGS Unit, which described activities performed during the previous year and Unocal's plans for the next year. There are 28 production wells drilled from the Baker

Platform located on ADL 17595, and average-daily production declined 89% between 1967 and 2002, from 5,200 to 583 barrels of oil per day (bopd). Producing horizons in the NMGS Unit had been depleted and operations on the Baker Platform had reached Unocal's economic limit, citing a break-even oil price of \$57 per barrel. Unocal reported that it had suspended NMGS Unit waterflood operations in October 2002. During the term of the 2003 POD, June 1, 2003 through May 31, 2004, Unocal planned to remove all fluids, decommission the Baker platform, and leave it in a lighthouse status.

The 2003 POD also addressed the Drilling Commitment in the Settlement Stipulation. "The Working Interest Owners continue to analyze and explore the feasibility of mobilizing a drill ship to Cook Inlet to test the exploration potential of the Tyonek and Hemlock formations underlying lease ADL-369116. As prescribed by the Stipulation for Dismissal, the following events for the planned year and beyond must occur for Unit maintenance:

- On or before October 31, 2003, the Working Interest Owners shall submit to the DNR a written commitment to commence drilling operations for a well ("Initial Test Well") with a bottom hole location within the boundaries of ADL-369116, to a depth sufficient to test the Tyonek and Hemlock Formations;
- On or before December 31, 2004, the Working Interest Owners shall commence actual drilling operations for the Initial Test Well; and
- On or before December 31, 2005, the Working Interest Owners shall complete, suspend, or abandon the Initial Test Well."

On October 21, 2003, Unocal notified the Division that it would not commit to drill the Initial Test Well on ADL 369116. In accordance with Provision 8 of the Settlement Stipulation, Unocal and Forest transferred their working interest ownership in ADL 369116 to Robert Bolt, Daniel Donkel, and George Kasper. Effective August 1, 2005, the Division approved subsequent assignment applications transferring 100% working interest ownership in ADL 369116 to Renaissance. Donkel, Bolt, and Kasper retained overriding royalty interests in ADL 369116. Unocal and Forest continued to hold 100% working interest ownership in ADL 17595 and Unocal remained the NMGS Unit operator.

On May 24, 2004, the Division approved the 2004 POD for the NMGGS Unit that included Unocal's plans to plug and abandon the Baker Platform wells located on ADL 17595, over the next three years. The 2004 POD also addressed the exploration Drilling Commitment as follows: "As of this date, the new working interest owners of ADL-369116 have not advised the Operator (Unocal) of any plans to drill the Initial Test Well during this Plan period."

On March 31, 2005, the Division approved Unocal's 2005 POD, which included conceptual plans to remove the Baker Platform and decommission the pipelines. As of yet, Unocal has not proposed a firm date for removal of the Baker Platform.

Donkel appealed the Division's approval of the 2005 POD to the DNR Commissioner, and requested a two-year extension of both ADL 369116 and the December 31, 2005 Drilling Commitment deadline. In a decision dated May 26, 2005, the DNR Commissioner affirmed the Division's 2005 POD approval and denied Donkel's extension request. On June 28, 2005, Donkel filed a notice of appeal in the Superior Court, Case No. 3AN-05-09272 CI. Judge Stowers has granted three extension requests, and Donkel filed his brief on appeal last week.

By letter dated June 26, 2005, Renaissance requested an extension of ADL 369116 and the Drilling Commitment provided for in the Settlement Stipulation. Renaissance wanted additional time to mobilize a drilling rig. In a letter dated August 2, 2005, the Division indicated that it might be willing to grant a lease extension if Renaissance made firm commitments to explore and develop the hydrocarbon resources under ADL 369116. On December 9, 2005, Renaissance renewed its request for an extension of ADL 369116, and Donkel agreed to withdraw his pending Superior Court appeal if the Division granted Renaissance's extension request. However, Renaissance did not make a firm commitment to explore the lease and on December 22, 2005, the Division denied Renaissance's lease extension request.

Renaissance appealed the Division's December 22, 2005 decision denying extension of ADL 369116 to the DNR Commissioner, where it was affirmed in a decision dated February 22, 2006. Renaissance did not appeal the Commissioner's decision to Superior Court. However, on March 14, 2006, James B. Gottstein, a stranger to the proceedings before DNR, and purported holder of an unperfected assignment of an overriding royalty interest in ADL 369116 appealed the DNR Commissioner's February 22, 2006 decision on

Renaissance's Extension Appeal to the Superior Court, Case No. 3AN-06-06003  
CI. Gottstein's Extension Appeal is pending in Superior Court.

The working interest owners of ADL 369116 did not drill a well on the lease by the deadline specified in the Settlement Stipulation. Therefore, per the express terms of the stipulation, the NMGS Unit and ADL 369116 both terminated effective December 31, 2005. On January 17, 2006, the Division issued the Termination Notice that is the subject of this appeal decision.

#### IV. Decision

The Appeal asserts that ADL 369116 can not terminate because it contains a well capable of production in paying quantities. Although the Division contends that there is no well capable of producing in paying quantities on the lease, the status of the well is irrelevant to the termination of ADL 369116. The Settlement Stipulation ordered by the Superior Court provided for termination of ADL 369116 if the lessees failed to drill an exploration well on the lease by December 31, 2005. They did not fulfill the drilling commitment by the deadline stated in the Settlement Stipulation, therefore the lease terminated.

The Appeal also asserts that termination of ADL 369116 and the NMGS Unit is not in the State's best interest because it would cause economic waste at current oil prices. Termination of the NMGS Unit and ADL 369116 do not constitute economic waste because Unocal can continue to develop the hydrocarbons under ADL 17595 on a lease basis. In addition, it is in the State's interest for ADL 369116 to terminate so the Division can re-offer the acreage for lease to a party that might be willing to explore and develop the underlying hydrocarbon resources.

#### V. Conclusion

The NMGS Unit and ADL 369116 terminated for failure to fulfill the Drilling Commitment effective December 31, ~~2006~~**2005**, as expressly provided for in the Settlement Stipulation. After considering all material submitted in support of the Appeal, I find that the Division appropriately enforced the provisions of the Settlement Stipulation. Therefore, the Termination Notice is affirmed.

Termination of the North Middle Ground Shoal Unit and ADL 369116  
DNR Commissioner's Decision on Appeal  
April 10, 2006  
Page 8 of 8

This is the final administrative order and decision of the department for purposes of an appeal to Superior Court. An appellant affected by this final order and decision may appeal to Superior Court within 30 days in accordance with the rules of the court, and to the extent permitted by applicable law.

Sincerely,

Michael L. Menge  
Commissioner

Attachments: Attachment 1, Superior Court Order Approving Settlement  
Attachment 2, Stipulation for Dismissal with Prejudice

cc: William Van Dyke, Acting Director  
Richard Todd, Senior Assistant Attorney General  
Terry Peterson, Lease Administration  
Kevin Tabler, Unocal  
Mark Landt, Renaissance