



November 30, 2021

**Decision of No Substantial New Information
2022 Alaska Peninsula and Cook Inlet Areawide Lease Sales**

Introduction

Under 38.05.035(e), the director of the Alaska Department of Natural Resources (DNR), Division of Oil and Gas (DO&G) may hold an oil and gas areawide lease sale after a written finding that the interests of the state will be best served. A written best interest finding for areawide lease sales expires ten years after issuance. Under AS 38.05.035(e)(6)(F), a most recent areawide final best interest finding is subject to annual public Calls for New Information (CFNI) to facilitate that year’s lease sale and, if the director determines that substantial new information has become available, the final best interest finding is supplemented with new information. The following table shows the decision history for the Alaska Peninsula and Cook Inlet areawide final best interest findings:

Alaska Peninsula Areawide Oil and Gas Lease Sale Decisions	
<i>Date</i>	<i>Decision</i>
December 1, 2014	Final Finding of the Director
January 15, 2016	Decision of No Substantial New Information
January 26, 2017	Decision of No Substantial New Information
November 30, 2017	Decision of No Substantial New Information
November 28, 2018	Decision of No Substantial New Information
November 19, 2019	Decision of No Substantial New Information
November 19, 2020	Decision of No Substantial New Information

Cook Inlet Areawide Oil and Gas Lease Sale Decision Documents	
<i>Date</i>	<i>Decision Document</i>
November 2, 2018	Final Finding of the Director
December 17, 2019	Decision of Substantial New Information and Supplemental Finding of the Director
November 19, 2020	Decision of No Substantial New Information

On September 16, 2021, DO&G issued a CFNI regarding the 2022 Alaska Peninsula and Cook Inlet areawide oil and gas lease sales. The CFNI requested interested parties to submit to DO&G substantial new information that has become available over the past year to supplement the most recent final findings for the areas. The submission period ended on October 20, 2021.

As stated in the CFNI, DO&G generally considers substantial new information to include published research, studies, or data directly relevant to the matters listed in AS 38.05.035(g) with respect to the lands covered in the final findings and that have become publicly available over the past year. Matters listed in AS 38.05.035(g) include:

- property descriptions and locations;
- petroleum potential of the sale area, in general terms;
- fish and wildlife species and their habitats in the area;
- current and projected uses in the area, including uses and value of fish and wildlife;
- governmental powers to regulate the exploration, development, production, and transportation of oil and gas or of gas only;
- reasonably foreseeable cumulative effects of exploration, development, production, and transportation for oil and gas or for gas only on the sale area, including effects on subsistence uses, fish and wildlife habitat and populations and their uses, and historic and cultural resources;
- lease stipulations and mitigation measures, including any measures to prevent and mitigate releases of oil and hazardous substances, to be included in the leases, and the protections offered by these measures;
- method or methods most likely to be used to transport oil or gas from the lease sale area, and the advantages, disadvantages, and relative risks of each;
- reasonably foreseeable fiscal effects of the lease sale and the subsequent activity on the state and affected municipalities and communities, including the explicit and implicit subsidies associated with the lease sale, if any;
- reasonably foreseeable effects of exploration, development, production, and transportation involving oil and gas or gas only on municipalities and communities within or adjacent to the lease sale area;
- the bidding method or methods adopted by the commissioner under AS 38.05.180.

In response to the CFNI, DO&G received one timely comment. The director has reviewed and considered the comments and documents referenced or included with the comments.

Responses to Timely Public Comments

Comments, including the director's responses, are summarized below.

Cook Inletkeeper (Inletkeeper) and Alaska Public Interest Research Group (AKPIRG)

Comment Summary: Inletkeeper and AKPIRG commented that DO&G should consider and reassess new information on three issues: 1) climate science, including known impacts and systemic financial risk of climate change; 2) the concentration of financial risk and dismantlement, removal and restoration (DR&R) responsibilities in Cook Inlet; and 3) impacts of seismic surveys on marine mammals including Cook Inlet beluga whale populations.

Climate Change: Inletkeeper and AKPIRG contend that the current Best Interest Findings (BIFs) for Cook Inlet and the Alaska Peninsula fail to evaluate the effects of climate change in determining whether annual oil and gas lease sales in these areas are in the state's best interest. Inletkeeper and AKPIRG cite multiple recent reports, public documents, newspaper articles, and studies concerning summaries of documented climate change and effects; impacts of thawing permafrost, coastal erosion, and loss of sea ice on Alaska Native villages and subsistence animals and activities; impacts of the marine warm water blob on Bering Sea fisheries; and the projected financial costs of responding to damages attributable to climate change in Alaska.

Director's Response: DO&G considered and discussed Alaska's changing climate, and hazards associated with climate change, in Chapter Three in both the Cook Inlet and Alaska Peninsula BIFs. The discussions covered specific concerns such as temperature increases, reductions in sea ice, thawing permafrost, and increased coastal erosion. The Cook Inlet BIF discussed the effect of warming ocean temperatures on salmon populations in Chapter Eight. DO&G does not dispute that climate change has and is occurring in Alaska and has provided brief descriptions of conditions in Alaska in recent findings. DO&G described reasonably foreseeable cumulative effects of emissions from oil and gas exploration, development, and production on air quality, including emissions of greenhouse gasses, in Chapter Eight in both BIFs, and describes regulation of emissions under ADEC's air quality regulations in Chapter Seven.

DO&G's function is to manage lands for oil, gas, and geothermal exploration and development to maximize prudent use of these resources for the greatest benefit for all Alaskans. Although renewable resources are being increasingly incorporated into Alaska's energy profile, the demand for and use of oil and gas continues and our cities and villages continue to rely on oil and gas for fuel, heating, and electricity generation. In 2020, 24 percent of Alaska's total unrestricted General Fund income was derived directly from Alaska's oil and gas resources. This percentage is lower than historical values because beginning in 2019 a portion of the Permanent Fund (established with petroleum revenues, with continuing annual funding from oil and gas royalties) was added and accounted for 65 percent of the unrestricted General Fund in 2020 (ADOR 2020). The unrestricted General Fund is used to fund state government, basic services, and capital projects.

Predicting global climate change, estimating effects of the world-wide oil and gas industry on climate change, and estimating the effects of the contribution from combustion of oil and gas products potentially produced from lands made available in these sale areas to climate change are beyond the scope of the requested information in the CFNI as outlined above. Although some of the information provided in the sources provided is new, it is substantially similar to information considered and discussed in Chapter Three and Chapter Eight of the Cook Inlet and Alaska Peninsula BIFs. DO&G will retain these comments and the materials provided by Inletkeeper and AKPIRG for use in the 10-year updates to these BIFs. The contribution of use of fossil fuels to climate change, climate change impacts in Alaska, and costs for responding to damages resulting from climate change are not substantial new information that justify additional mitigation and a supplement to these BIFs.

DR&R Responsibilities in Cook Inlet: Inletkeeper and AKPIRG stated that Upper Cook Inlet oil and gas operations are among the oldest in Alaska, and that ownership of these assets has been consolidated under Hilcorp Alaska, LLC and its Harvest affiliates thereby concentrating financial risks and DR&R responsibilities for this aging infrastructure.

Director's Response: Discussion of DR&R responsibilities for assets in Cook Inlet or other oil and gas producing regions in Alaska is not included in BIFs and is beyond the scope of these decisions. Hilcorp Alaska, LLC acquired most oil and gas assets in Cook Inlet prior to 2021 and this information is not new. Liabilities for repair and maintenance of oil and gas infrastructure and DR&R costs are considered as a part of every assignment of assets and upon any relinquishment or termination of leases. Lease conditions specify that, "Upon the expiration of that period or extension of that period and at the option of the state, any machinery, equipment, tools, and materials that the lessee has not removed from the leased area or portion of the leased area become the property of the state or may be removed by the state at the lessee's expense. At the option of the state, all improvements such as roads, pads, and wells must either be abandoned, and the sites rehabilitated by the lessee to the satisfaction of the state or be left intact and the lessee absolved of all further responsibility as to their maintenance, repair, and eventual abandonment and rehabilitation. Subject to the above conditions, the lessee shall deliver up the leased area or those portions of the leased area in good condition."

Oil and gas lease sales are open to all qualified bidders. Successful bidders will be required to fulfill the DR&R provisions of their leases. Additionally, as discussed in Chapter Seven of both the Cook Inlet and Alaska Peninsula BIFs, a bond must be furnished to DNR in accordance with 11 AAC 83.160 before a lessee can begin operations. The regulation explains that the commissioner will apply discretion to determine a reasonable amount for the bond based on the nature of the surface, the uses and improvements on or in the vicinity of the leased land, and the degree of risk involved in the types of operations proposed or being conducted on the lease.

Seismic Survey Impacts on Marine Mammals: Inletkeeper and AKPIRG state that DO&G must consider new information based on passive acoustic monitoring that reportedly shows displacement of whales and dolphins, including Cook Inlet beluga whales, away from an active seismic survey area.

Director's Response: Observing marine mammals and their response to seismic survey operations is integral to Incidental Harassment Authorization monitoring and mitigation requirements. Firing of seismic airgun arrays must be halted when marine mammals occur close enough to be exposed to harmful sound pressure levels. All marine mammals occurring within a calculated disturbance radii where sound pressure levels could result in non-injurious harassment must also be documented and their reactions observed. A discussion of reasonably foreseeable potential cumulative effects from offshore seismic surveys on marine mammals is in Chapter Eight of the Cook Inlet BIF. Because drilling in offshore tracts in the Alaska Peninsula areawide lease sales is only allowed from onshore locations, it was not anticipated that large areas of offshore habitats would be subject to extensive seismic surveys and discussion of seismic survey impacts on marine mammals is therefore minimal.

DO&G included information regarding Cook Inlet beluga whale critical habitat (*Delphinapterus leucas*; 76 FR 20180) in the December 17, 2019, Cook Inlet Oil and Gas Lease Sale Supplemental Finding. The Supplemental Finding also included a discussion of the National Marine Fisheries Service's (NMFS) and U.S. Fish and Wildlife Service's (USFWS) conclusions that incidental take authorizations for oil and gas exploration, development, production, and transportation activities throughout Cook Inlet over a 5-year period, including seismic surveys, would have negligible impacts on affected marine mammal species or stocks (84 FR 37442 ; 84 FR 37716). Chapter Nine of the Cook Inlet BIF includes specific mitigation measures that provide protection for Cook Inlet beluga whales. Because all marine mammals are protected under the Marine Mammal Protection Act administered by the NMFS and USFWS, and because of the existing protections for Cook Inlet, Bristol Bay, and state submerged lands within both areawide lease sale areas, DO&G does not find that this information justifies additional mitigation and a supplement to the BIFs. Although the information provided in these studies is new, it is substantially similar to information considered and discussed in Chapter Eight of the Cook Inlet BIF.

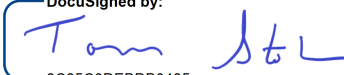
Decision

The director finds that no substantial new information was received in response to the CFNI that would justify a supplement to the 2014 Alaska Peninsula Areawide or the 2018 Cook Inlet Areawide Written Findings. The director has considered the comments submitted in response to the CFNI for the 2022 Alaska Peninsula and Cook Inlet areawide lease sales and finds that the comments provide information on potential cumulative effects from oil and gas activities on climate change impacts, and seismic survey impacts on marine mammals, but, that a supplement to the 2014 Alaska Peninsula Areawide or the 2018 Cook Inlet Areawide Written Findings are not required. The information received will be retained and considered when DO&G begins drafting new 10-year findings for Alaska Peninsula and Cook Inlet areawide lease sales.

Appeals

An eligible person affected by this decision may appeal it, in accordance with 11 AAC 02. Any appeal 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. This decision takes effect immediately. An eligible person must first appeal 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.

Sincerely,

DocuSigned by:

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Tom Stokes

Director, Division of Oil and Gas

76 FR 20180. 2011. Endangered and threatened species: Designation of critical habitat for Cook Inlet beluga whale, Final rule. National Marine Fisheries Service National Oceanic and Atmospheric Administration. pp. 20180-20214.

84 FR 37442. 2019. Takes of marine mammals incidental to specified activities; taking marine mammals incidental to oil and gas activities in Cook Inlet, Alaska, Final rule; issuance of Letters of Authorization (LOA). Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service. pp. 12330-12377.

84 FR 37716. 2019. Marine mammals; incidental take during specified activities: Cook Inlet, Alaska, Final rule. Department of Interior, Fish and Wildlife Service. pp. 37716-37750.

ADOR (Alaska Department of Revenue). 2020. Revenue sources book fall 2020. Tax Division. <http://tax.alaska.gov/programs/documentviewer/viewer.aspx?1626r> (Accessed December 21, 2020).