THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Natural Resources

OFFICE OF THE COMMISSIONER

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November 22, 2022

Amanda Lefton, Director
Bureau of Ocean Energy Management
3801 Centerpoint Drive, Suite 500
Anchorage, Alaska 99503
amanda.lefton@boem.gov

Re: Proposed Notice of Sale for Cook Inlet Oil and Gas Lease Sale 258

Dear Ms. Lefton,

The State of Alaska (Alaska) Department of Natural Resources (ADNR), in consultation with the Alaska Departments of Fish and Game (ADFG) and Environmental Conservation (ADEC) and under the direction of the Governor of Alaska, has reviewed the Proposed Notice of Sale (PNOS) for Cook Inlet Oil and Gas Lease Sale 258 (Federal Register, Volume 87, Number 58130, September 23, 2022), and submits these consolidated comments in advance of the bid opening currently scheduled for December 30, 2022.

Natural gas produced in the Cook Inlet is the primary source of both heat and electricity for most of Alaska's population. It is critical that federal resources be made available in a consistent and ongoing manner to help meet this demand.

Through the Outer Continental Shelf Lands Act (OSCLA), Congress has declared that it is the policy of the United States that the "outer Continental Shelf [OCS] is a vital national resource reserve…which should be made available for expeditious and orderly development..." (43 USCS § 1332(3)). The Bureau of Ocean Energy Management (BOEM) is empowered by Congress to implement this and the other mandates of the OSCLA. Pursuant to that charge, BOEM adopted the 2017-2022 OCS Oil and Gas Leasing Program (Leasing Program) in January of 2017 in its Record of Decision (ROD). The Leasing Program proposed only one lease sale in Alaska, Lease Sale 258, in the northern Cook Inlet region and rejected sale opportunities in the Beaufort and Chukchi Seas. Despite the adoption of this Leasing Program, BOEM cancelled Lease Sale 258 leaving the entirety of the Alaska OCS without a single lease sale for the entire five year period.

When, contrary to the Leasing Program and in derogation of the policies mandated by the OSCLA, BOEM cancelled Lease Sale 258, Congress, through the Inflation Reduction Act (IRA),[1] removed discretion from BOEM and mandated that BOEM conduct Lease Sale 258 prior to the end of 2022.

[1] 117 P.L. 169, 2022 Enacted H.R. 5376, 117 Enacted H.R. 5376, 136 Stat. 1818.

To comply with the IRA mandate, BOEM published a PNOS and Final Environmental Impact Statement (FEIS) under the National Environmental Policy Act (NEPA) in September and October 2022, respectively. Under the PNOS, BOEM indicated that not only may it remove 17 blocks from the Sale Area, but it also plans to adopt various lease stipulations which were analyzed and discussed in the FEIS and its precursor documents. The State of Alaska, at many points throughout the NEPA process, provided meaningful input to BOEM regarding the questionable efficacy and needless regulatory redundancy that some of these stipulations impose on industry, the development of the State's economy, and congressional mandate to develop the national resources of the OCS expeditiously and orderly.

Under 30 CFR § 556.305(a) the Governor of Alaska is permitted to comment and make recommendations to BOEM regarding the size, timing and location of the proposed sale and the Secretary of the Interior (Secretary) will then consult and consider whether the comments and recommendations provide a reasonable balance between the national interest and the well-being of the citizens of the State under the requirements of the OCSLA. If so, the Secretary will accept the recommendations (30 CFR § 556.307). To that end, on behalf of the Governor, we have reviewed the PNOS and make the following recommendations:

1. Size

The PNOS states:

> Bidders should be aware that BOEM is considering removing from potential leasing a total of 17 OCS blocks in the northern portion of the Cook Inlet Planning Area: 10 that overlap with beluga whale designated critical habitat areas (blocks 6759, 6760, 6808, 6809, 6810, 6811, 6858, 6859, 6860, and 6861, as identified under OPD NP05-08) and 7 that overlap with northern sea otter designated critical habitat (blocks 6055, 6056, 6057, 6105, 6106, 6155, as identified under OPD NO05-02, and block 6911, as identified under OPD NP05-08).

The State discourages excluding beluga whale and sea otter critical habitat (CH) from leasing. While the area has been designated as CH, there is uncertainty about the regularity and patterns of use by those animals. With Federal consultation and mitigations measures followed by lessees, species impact should be minimal. The removal of these tracts from the Sale Area would largely ignore input provided by the State regarding the inclusion of burdensome lease stipulations. In sum, to implement the requirements of the OCSLA and balance the national interests with those of Alaska, the State recommends that these 17 tracts remain available for leasing and exploration in Lease Sale 258.

In addition to concerns about the possible exclusion of certain tracts from leasing, the State is also concerned that various lease stipulations proposed in the NOS and the FEIS unduly limit operators with no apparent benefit to Cook Inlet beluga whales. The results of multiple proposed stipulations on seismic surveys (Stipulations 6, 7, and 9) for areas adjacent to leases and new developments in state waters between Ninilchik and Anchor Point leave only two time periods when seismic surveys (potentially also including required shallow hazard surveys) would be allowed: April 2 to June 15 (75 days) and October (31 days). This region is not designated

critical habitat for Cook Inlet beluga whales and there are no designated significant anadromous rivers identified as important for Cook Inlet beluga whale feeding on the lower Kenai Peninsula between Ninilchik and Anchor Point. The inclusion of these stipulations is a de facto limitation on the size of Lease Sale 258 and unnecessarily impairs the ability to explore and develop these tracts should they be awarded.

Pursuant to 30 CFR § 556.307, the State of Alaska hereby requests further consultation regarding the size of Lease Sale 258.

Please also refer to the State Technical Comments on the PNOS and FEIS (enclosed), as well as to the State Technical Comments on the Draft Environmental Impact Statement (DEIS) on Lease Sale 258 Matrix, with notes regarding items addressed and not addressed (enclosed).

In closing, pursuant to the BOEM-Alaska Memorandum of Understanding (MOU, enclosed), Alaska and its technical and regulatory experts with significant knowledge in the prudent development and management of Alaska's resources stands ready to collaborate with BOEM regarding environmental stewardship in all areas of the Alaska Outer Continental Shelf (OCS), including Cook Inlet.

Thank you for the opportunity to comment.

Sincerely,

Akis Gialopsos
Acting Commissioner
Alaska Department of Natural Resources

Enc: State Technical Comments on the PNOS
State Technical Comments on the FEIS
State Technical Comments on the DEIS on Lease Sale 258 Matrix, with notes regarding items addressed and not addressed
BOEM-Alaska MOU

cc: The Honorable Doug Vincent-Lang, Commissioner, ADFG
The Honorable Jason W. Brune, Commissioner, ADEC
Mark Storzer, Acting Regional Director, Alaska, BOEM
Joel Immaraj, Regional Supervisor, Alaska, Office of Leasing and Plans, BOEM
Andrew Krueger, Chief, Sales Coordination Branch, Office of Strategic Resources BOEM

State Technical Comments on the Proposed Notice of Sale

Document Reference	Agency	Comment	Suggestion, if applicable
Proposed Notice of Sale for CI Oil and Gas Lease Sale 258 COMBINED	Stipulation 9, page 9	The second sentence reads as if notification is only required during the season. This may not have been the intent. I would suggest the follow addition in blue for clarity.	The Lessee(s), its operators and subcontractors are prohibited from conducting on-lease seismic –surveys during the drift gillnet fishing season as designated each year by the Alaska Department of Fish and Game (ADF&G), approximately mid-June to mid-August. The Lessee(s) is required to notify the United Cook Inlet Drift Association (UCIDA) of any temporary or permanent structures in place or planned during the drift gillnet fishing season, and any permanent structures placed outside drift gillnet fishing season, that may impact future gillnet fishing seasons.

State Technical Comments on the FEIS

Document Reference	Agency	Comment	Suggestion, if applicable
Volume 1, page 164	ADEC	The citation listed as ADNR. 2020a. Spill Information is incorrect. The Spill Prevention and Response Division is located with ADEC, not DNR	Correct the citation to read "ADEC Spill Prevention and Response Division.

Department / Division	Chapter / Section	Page #	Figure / Table	Comment	
DFG / Commercial Fisheries	2.5	8	Addressed	The area of the lease sale is within the Exclusive Economic Zone which is currently closed to commercial salmon fishing. By default, the closure minimizes the direct impact to the Cook Inlet drift gillnet fishery. However, we support the mitigation measures in Alternative 5 and this alternative should be considered as the fishery may re-open in the future and the mitigation measure probiting on-lease seismic surveys during the drift gillnetting season will prevent disturbance to fish migration when the fishery is open in state waters.	
DFG / Commercial Fisheries	2.7	12	Table 2-1	Impacts for alternative 1 on fish and invertebrates is understated (see comments below).	
DEC	Chapter 3 [Global comment]	15		Globally, this sections appears to rely heavily on observations from the Beaufort Sea area operations. The conditions found in Cook Inlet are more diverse, with large tidal exchanges that create powerful currents which limit the types of spill response that is effective in Cook Inlet.	Acknowledging this challenging environment in the draft EIS should be included in the best interest of the reviewing public and decision makers and is equally important in providing transparency. The challenging conditions are very well illustrated by ADEC case 17340093801 - Hilcorp Natural Gas Leak from an 8-inch pipeline. https://dec.alaska.gov/spar/ppr/spill-information/response/2017/04-hilcorp/ . This ADEC case could inform the writers of the Draft EIS on the challenges faced in responding to an underwater pipeline release in this area.
DEC	Chapter 3	15		Section 3.1.1 provides an estimate of the number of spills over the lifetime of the project.	Please provide the source of the data used to determine the number of spills over the lifetime of the project.
DEC	Chapter 3	21		Section 3.2.2.1 mentions the "Port of Anchorage" on this page.	Please note that the name has been changed to "Port of Alaska" and replace any reference to Port of Anchorage in this document.
DFG / Commercial Fisheries	3.3.1	24	No change	This section states that "If biological populations or habitats that may require additional protection are identified by BOEM in the leased area, the Regional Supervisor, Leasing and Plans (RSLP) may require the lessee/operator to conduct biological surveys to determine the extent and composition of such biological populations or habitats." It goes on to state "If populations or habitats of biological significance are discovered during the conduct of any operations on the lease, the lessee/operator must immediately report such findings to the RSLP and make every reasonable effort to preserve the biological resource and protect it from damage." There were no baseline biological studies conducted to support the DEIS so this stipulation is unachievable as proposed. Biological surveys would need to be conducted prior to exploration and development (E&D) so that BOEM will know what biological populations and habitats exist and determine if they need additional protection. The way this stipulation is written, populations or habitats of biological significance would only receive additional protection if they are "discovered" through the normal operations of the company. Therefore, no protection would be afforded to those populations or habitats not discovered through normal operations. If baseline studies had been conducted to support development of the DEIS, the existence of populations or habitats of biological significance would have a high likelihood of being discovered prior to E&D and appropriate mitigation measures could be developed.	
DFG / Subsistence	3.3.1.1	25	addressed	Add "harvest practices" to the statement on the orientation program in paragraph 2: "understanding of personnel to community values, customs, harvest practices, and way of life"	
DFG / Wildlife Conservation	3.3.2.1	26	n/a addressed	Suggest adding: Vessels shall remain a distance of 500 meters offshore when traveling near harbor seal haulouts to reduce disturbances to hauled-out animals (Jansen et al. 2010).*Jansen, J. K., P. L. Boveng, S. P. Dahle, and J. L. Bengtson. 2010. Reaction of harbor seals to cruise ships. Journal of Wildlife Management 74(6):1186-1194. 10.2193/2008-192*	
DEC	Chapter 4	Page 37	Table 4-5	The table quotes N/A for the Alaska LNG Nikiski values for the 3 hour, 24 hour and annual SO2 concentrations.	These concentrations should be recorded as 0 (zero), as in the source spreadsheet. The concentrations are calculated and then rounded down to zero, following the EPA rounding convention for the pollutant.
DEC	Chapter 4	Page 37		Section 4.3.2 notes that emissions from diesel combustion would locally and temporarily increase the concentrations of NOx, CO, and PM2.5 and PM10 (including black carbon).	Combustion of diesel usually generates SO2 emissions, please either include in the list of pollutants or explain why SO2 emissions are not considered here.
DEC	Chapter 4	Page 38	Table 4-6	Paragraph five and Table 4-6 on this page discuss a decrease in GHG emissions when comparing the 2016 Lease Sale 244 with the currently proposed Lease Sale 258.	Please explain the reason for this decrease. Was it due to a decrease in the number of wells, a decrease in the number of years of production or some other factor.
DEC	Chapter 4	Page 39		Paragraph one on this page notes that there is a difference in the exploration and development scenarios between Lease Sale 244 and Lease Sale 258.	Please explain the difference in scenarios or cite to a section elsewhere in the document the explains the differences in greater detail.

DEC	Chapter 4	Page 43		Paragraph four on this page notes that the BOEM MarketSim model, the Offshore Environmental Cost Model and the Greenhouse Gas Lifecycle Model were developed for analysis at a national level and there may be limitations on the scalability of the models to the regional analysis.	The use of these models appears reasonable for crude oil resources, but it is not clear how the national and international energy market substitutions would yield accurate results for natural gas, since all the Cook Inlet natural gas is consumed in the immediate region. Please explain how this special circumstance was factored in or how the national model would yield accurate results.
DEC	Chapter 4	Page 48		The discussion on this page notes that BOEM is attempting to quantify the change in foreign GHG emissions resulting from a lease sale in order to comply with two recent court decisions.	It should be discussed in this section that the court decisions actually provided a two-prong approach. (1) Estimate the change in foreign GHG emissions or (2) determine whether missing information identified by the agency was relevant or essential under 40 CFR Section 1502.22 and determine whether the cost of obtaining the missing information was exorbitant, or the means of doing so unknown. The court found that the agency's failure to comply with the clear instructions of 40 CFR Section 1502.22 was an abuse of discretion. Given the number of qualifiers that BOEM has used in describing their modeling efforts, it would seem reasonable to also discuss the cost the collect the data to make the modeling accurate or whether the means of collection the data is unknown.
DEC	Chapter 4	Page 52		Paragraph three on this page . Discusses lifecycle GHG emissions from crude oil resources, but does not appear to address the GHM emissions from natural gas resources in the Cook Inlet region.	As noted earlier it is not clear how the national and international energy market substitutions would yield accurate results for natural gas, since all the Cook Inlet natural gas is consumed in the immediate region. Please explain how this special circumstance was factored in or how the national model would yield accurate results when natural gas is not considered.
DEC	Chapter 4	Page 52		Paragraph five on this pages note that estimating the full lifecycle emissions of the foreign energy substitutes other than oil is more complex and that the results would not change the conclusions of the analysis here.	Given the questions raised about the natural gas from Cook Inlet wells being consumed in the same region it is not clear how this conclusion was reached. In addition the paragraph supports its conclusions by saying is was "addressed above", but I was not able to find any clear support for this conclusion. Please either explain it in detail or cite to the section of the document that supports this conclusion.
DFG / Commercial Fisheries	Chapter 4	All	not really addressed	A significant issue with Chapter 4 is the lack of context within and among the sections. For example, section 4.6 describes the fish and invertebrates within the affected area. The descriptions are the most basic metric used - occurrence (i.e., this organism occurs within the area). Halibut is high value species to the communities of the Kenai Peninsula yet there is only one sentence in section 4.6.1.1 that mentions halibut and it says only that they occur. Chapter 4 provides little about the importance of these species, the magnitude of the population size, or life history traits which are important to understand because those are important factors for assessing each species vulnerability. Additional information such as population density, abundance, and biomass should be provided. The same comment applies to the recreational and commercial fisheries sections. There is limited mention of the size and importance of these fisheries or references to direct and indirect employment.	
DFG / Commercial Fisheries	4.4.1	54	no change	A baseline study on hydrocarbon concentrations in sediments within the lease sale area is recommended so that post E&D effects can be compared to pre E&D levels. The DEIS cites Boehm (2001) for the statement that "Hydrocarbon concentrations in Cook Inlet sediments are comparable to values reported for background hydrocarbons in Alaska offshore coastal waters; therefore, oil and gas production in upper Cook Inlet does not appear to be a source of petroleum contaminants" but none of the sampling sites in this report were located within the proposed lease sale area. Most of the sampling sites were located in Shelikof Strait in the Gulf of Alaska. Of the few sampling sites that were within Cook lnlet, most were located within Kamishak Bay or Kachemak Bay. Saupe et al (2005) more recently sampled for PAH levels in water and sediment samples in Cook Inlet but it appears none or few of those samples were collected within the proposed lease sale area.	
DFG / Commercial Fisheries	4.4.1	53	no change	Hannam et al. (2009) found compromised immune function and oxidative stress in the scallop *Pecten maximus* even at low exposures to the PAH Phenanthrene which is a major component of crude oil. *M.L. Hannam, S.D. Bamber, J.A. Moody, T.S. Galloway, M.B. Jones. 2009. Immune function in the Arctic Scallop, Chlamys islandica, following dispersed oil exposure. Aquatic Toxicology 92 (3):187-194*	
DFG / Subsistence	4.6.1.1	63	addressed	The third paragraph in this section ends with a statement about the importance of sockeye salmon to commercial, recreational, and subsistence fisheries in the region. All 5 species of pacific salmon are of similar importance to the region and should be included in this statement.	

DFG / Commercial Fisheries	4.6.1.1 and 4.6.1.2	63-65	no change	It appears no baseline studies were conducted for this section. Instead the DEIS relies on published literature, much of which cites generalities about ecology or life history. This section is very cursory and mainly just touches on which species might occur within the area. Even the most economically important species like Pacific halibut are only mentioned in one sentence. This section lacks context in the description of the communities and magnitude of species abundance and biomass. ADF&G provided much information in the scoping period on the densities of important groundfish and shellfish species estimated from many years of trawl surveys in Kachemak Bay and Kamishak Bay. Though not within the lease sale area, results from these surveys provide valuable information on the magnitude of fish and invertebrate populations in areas adjacent to the proposed lease sale area. The NMFS Gulf of Alaska bottom trawl survey has stations within the lease sale area which provide data on the occurrence of fishes and invertebrates but is not adequate for estimating population metrics (e.g., fish density). Without context on these population metrics and knowledge of the magnitude and relative abundance of the fish and invertebrates occupying the proposed lease sale area, it will be difficult or impossible to assess pre and post E&D effects.	
DFG / Commercial Fisheries	4.6.1.1	p 63	no change	This section fails to mention that king salmon are present year round in lower Cook Inlet. Winter king salmon utilize the area in all months including as sub-adults in the summer season. They are important to off-season recreational anglers.	
DFG / Commercial Fisheries	4.6.1.1	64	sort of addressed	There is no mention of herring spawning in Kamishak Bay. Arguably, Pacific herring would be one of the most impacted species should, under the spill risk analysis, a large spill occur since the probability of oiling of beaches where herring spawn is one of the highest. This fishery is currently closed due to low stock abundance but will open again once commercial thresholds are attained. The likelihood that the herring fishery would open during the time period of this lease sale is high given the proposed longevity of the project. The most recent survey in 2021 showed high biomass of herring returning to the area. From late-April through early-June, adult Pacific herring spawn along the coastline throughout Kamishak Bay. Spawning occurs in vegetated areas of kelp and eelgrass. Kamishak Bay is largely comprised of shallow (<10 fa) marine waters with extensive rocky nearshore and offshore reef complexes, many of which contain aquatic plants used as spawning substrate by Pacific herring and other marine fish species. Once the eggs hatch, juvenile herring typically rear in protected nearshore waters for 1–2 years, then move offshore to feed and over-winter before eventually returning to nearshore waters each spring to spawn.	
DFG / Commercial Fisheries	4.6.1.2	65	no change	Not all rockfish use rocky habitats. Rougheye rockfish has the highest abundance and biomass of all rockfish species captured in the ADF&G Kachemak Bay trawl survey. This species occupies predominantly soft substrates like those within the proposed lease sale area. Rougheye rockfish is the most long-lived fish species in the North Pacific attaining a maximum age of 205 year (Monk 2001). *Munk, K. M. 2001. Maximum ages of groundfishes in waters off Alaska and British Columbia and considerations of age determination. Alaska Fishery Research Bulletin 8(1):12–21.*	
DFG / Commercial Fisheries	4.6.2.1	65	no change	Given the size of the lease sale area and longevity of the associated E&D activity, the statement in the last paragraph of this section that states "impacts from noise would generally be localized and short-term" may not be accurate. While seasonal restrictions may provide some mitigation, potential longterm impacts to fish and invertebrates from noise associated with additional seismic surveys could cause mortality, alter biochemistry, and affect behavior of fishes and invertebrates in the lease sale area.	

DFG / Commercial Fisheries	4.6.2.1	p 65	no change	The DEIS states that "Impacts from noise to fish and invertebrate communities may have acute effects on individuals close to the noise source, but overall population impacts are not expected because the noises will be temporary, and individuals will habituate or leave the area". The lethal and sublethal effects of seismic airguns has been most studied on marine mammals, has been somewhat studied for fishes, and has been studied very little for invertebrates. The BOEM Environmental Studies Program held a workshop in March 2012 to identify critical information needs and data gaps on the effects of various man-made sound on fishes, fisheries, and invertebrates resulting from the use of sound-generating devices by the energy industry (Normandeau 2012). Using the results of that workshop, Hawkins et al. (2015) summarized the information gaps in the current understanding of the effects of noise on fish and invertebrates and state "Almost nothing is known about the detection of sound and vibration by aquatic invertebrates...There have been few studies of the potential of sound exposure to cause mortality or sub-lethal injury in marine and coastal invertebrates." Benthic invertebrates, especially bivalves, have a limited ability to leave an area. For example, scallops have been shown to suffer lethal effects from seismic airgun surveys well below the source levels proposed in the E&D Scenarios (Day et al 2017). Given the sessile nature of weathervane scallops, if they suffer similar mortality from airgun surveys the likelihood of a population level effect is increased due to the limited mobility of the species. Benthic macroinvertebrates, including bivalves, are an important food item of Pacific halibut, Pacific cod, many other flatfishes, and other groundfish (Bizzarro et al. 2017; Urban 2012; Yang et al. 2000; Yang et al. 2006; Webster 2014). The effects of seismic surveys on most benthic macroinvertebrates at the individual level are unknown, population level effects could occur and disruptions to the foraging resources for higher trophic levels may also be affected if lethal effects such as those with scallops occur. There are hundreds of benthic macroinvertebrate species occurring within the proposed lease sale area that together have functional ecological importance and provide forage for economically and socially important fish species (Drumm et al. 2017). It is important the DEIS accurately describes the unknown but potential effects of seismic noise on all marine organisms.	
DFG / Commercial Fisheries	4.6.2.1	p 65		*Bizzarro, J.J, M.M. Yoklavich, W.W. Wakefield. 2017. Diet composition and foraging ecology of us pacific coast groundfish. Enviro. biol. Fish. 100:375–393* *Day, R.D., R.D. McCaulen, Q.P. Fitzgibbon, K. Hartmann, and J.M. Semmens. 2017. Exposure to seismic air gun signals causes physiological harm and alters behavior in the scallop Pecten fumatus. Proceedings of the National Academy of Sciences of the US. 114(40), 8537-8546.* *Drumm, D.T., K.P. Maslenikov, R. Syoc, J.W. Orr, R.R. Lauth, D.E. Stevenson, and T.W. Pietsch. 2016. An annotated checklist of the marine macroinvertebrates of Alaska. NOAA Professional Paper NMFS 19, 289 p. doi:10.7755/PP.19* *Hawkins, A.D., Pembroke, A.E. & Popper, A.N. Information gaps in understanding the effects of noise on fishes and invertebrates. Rev Fish Biol Fisheries 25, 39–64 (2015).* *Normandeau Associates (2012) Effects of noise on fish, fisheries, and invertebrates in the US Atlantic and Arctic from energy industry sound-generating activities. US Department of the Interior, Bureau of Ocean Energy Management, Washington, DC* *Webster, S.R. Size-at-age and diet composition of pacific halibut (Hippoglossus stenolepis) in Cook Inlet, AK [thesis]. Anchorage (AK): Alaska Pacific University; 2014.* *Urban, D. 2012. Food habits of Pacific cod and walleye pollock in the northern Gulf of Alaska. Mar Ecol Prog Ser. 469: 215-222.* *Yang, M-S, and M.W. Nelson, 2000. Food habits of the commercially important groundfishes in the Gulf of Alaska in 1990, 1993, and 1996. U. S. Dep. Commer., NOAA Tech. Memo. NMFS-AFSC-112, 174 p.* *Yang M-S, K. Dodd, R. Hibpshman, and A. Whitehouse. 2006. Food habits of groundfishes in the Gulf of Alaska in 1999 and 2001. U.S. Dep. Commer., NOAA Tech. Memo. NMFS-AFSC-164, 199 p.*	These are the references for the row immediately above.

DFG / Commercial Fisheries	4.6.2.1	65	no change	In the Marine Seismic Surveys section on Page 8 of the E&D Scenario, the size of the arrays that may be used for additional seismic surveys if a lease is issued are provided; "Airgun array sizes for 2D/3D deep penetration seismic surveys in Cook Inlet are expected to range from 1,800–5,000 in3 (29.50 to 81.94 liters) but may range up to 6,000 in³ (98.32 liters)". The water depths in Cook Inlet are shallow averaging 65m and averaging 45m in the scallops beds so sound exposure levels would be elevated relative to deeper water bodies. Additionally, horizontal travel distances would be further with the larger source levels. Day et al (2017) found lethal effects to the scallop *Pecten fumatus* from source levels of 3,065 in³ and sublethal effects on scallop biochemistry and behavior. Seismic exposure experiments have not been conducted on weathervane scallops but they may share similar effects. Given the size of the arrays proposed in the E&D Scenario, direct mortality to weathervane scallops and other bivalves might be expected. For patchily distributed species with concentrated population distributions, this may translate into population level effects. *Ryan D. Day, Robert D. McCauley, Quinn P. Fitzgibbon, Klaas Hartmann, Jayson M. Semmens Seismic air guns cause harm to scallops. Proceedings of the National Academy of Sciences Oct 2017, 114 (40) E8537-E8546*	
DFG / Commercial Fisheries	4.6.2.1 Noise	65	no change	Sound exposure experiments from seismic arrays have not been conducted on razor clams so it is unknown what exposure levels would reveal a lethal or sub-lethal response. Razor clams are sessile and are incapable of moving away from harmful noise sources. Additionally, the population is concentrated in narrow bands along intertidal beaches increasing the likelihood of population level effects should short-term or long-term lethal effects occur. Given the source-array sizes in the E&D Scope, population level seismic noise effects on razor clams should be considered.	
DFG / Wildlife Conservation	4.7.1	72-73	Table 4-16 and Figure 4-4	Audubon IBA Areas - list of areas in proposed lease sale area is incomplete. See https://www.audubon.org/important-bird-areas/state/alaska. no change	
DFG / Subsistence	4.8.4	93	addressed	The 2nd paragraph does not mention management for sustainable yield and the emphasis on 1990's beluga overharvest can be misleading.	
DFG / Subsistence	4.8.4	94	unsure...changes in section	The 3rd paragraph on page 94 does not accurately describe the impact of subsistence hunting on marine mammal mortality. Marine mammals in this area are a small part of the subsistence harvest. For example, in Tyonek in study year 2013, residents used 2.5 lb per capita and were used by 14% of households. Recommend reviewing Jones et al. (2015) for more background on subsistence harvest in the project area. *Jones, B., D. Holan and D. S. Koster. 2015. The Harvest and Use of Wild Resources in Tyonek, Alaska 2013. ADF&G Division of Subsistence, Technical Paper No. 404. Anchorage .*	
DFG / Wildlife Conservation	4.9.1.1	96	no change	This section includes several descriptions of important habitat areas for brown bears that could be misleading by suggesting other similar habitats throughout Cook Inlet are not similarly important. The first paragraph references specific examples of important spring grazing and foraging areas including Bruin Bay, Kukak Bay, Redoubt Bay, and Susitna Flats State Game Refuge which is accurate but could lead reviewers to assume that the rest of the intertidal areas in Cook Inlet are not as equally important. Similarly, the second paragraph states that the arrival of spawning salmon draws bears to "fish spawning rivers, particularly the Kustatan River on the west side of Cook inlet, Susitna River at the north end of Cook Inlet, Anchor River on the Kenai Peninsula, and McNeil River in the Katmai region of the Alaska Peninsula". While the rivers listed do represent several important areas for feeding brown bears, the DEIS fails to accurately describe the importance of all salmon-bearing rivers in Cook Inlet for brown bears.	
DFG / Commercial Fisheries	4.10.2.1	104	no change	The DEIS states that "little or no direct effects to the razor clam sport fishery would be expected". As discussed in comments on section 4.6.2.1 , sound exposure experiments from seismic arrays have not been conducted on razor clams, so it is unknown how exposure levels would impact them. Given the source-array sizes in the E&D Scope, population level seismic noise effects on razor clams could occur as a result of the proposed action.	
DFG / Commercial Fisheries	4.10.2.2	104	no change	The distribution of the recreational halibut fishery is mischaracterized. The fleet is widely dispersed throughout the proposed lease sale area and not just concentrated in nearshore areas. Halibut "holes" are areas where halibut are concentrated and the charter and private boats frequent these areas. Should platforms be located at one of these sites, additional user conflicts would likely occur.	
DFG / Commercial Fisheries	4.10.2.2	104 - 105	no change	There is no mention nor quantification of the direct and indirect mortality to razor clams from pipeline installation.	
DFG / Subsistence	4.11.1	107	addressed	The third paragraph in this section states, "to support a rural lifestyle". This should be revised to "supports customary and traditional way of life" because both state and federal management look at customary and traditional uses while the federal system manages with rural preference.	
DFG / Subsistence	4.11.2.1	109	addressed	The last sentence of the second paragraph states "subsistence users would likely be able to fish at other times and places". We recommend changing this to "subsistence users may be able to fish at other times and places".	

DFG / Subsistence	4.11.2.1	109-110	no change	See comments on Section 4.6 relative to potential impacts of E&D activities on fish and other subsistence resources in the project area.	
DFG / Subsistence	4.11.2.1	110 - 111	sort of	The Space-Use Conflicts section does not mention of the Alaska Board of Fisheries and Federal Subsistence Board regulations relative to the timing of activities. This section should include discussion on how lease holders would work around regulatory openings and closings.	
DFG / Subsistence	4.11.2.1	111	addressed	The last paragraph of the Space Use Conflict references "coordination between lessees/operators and Alaska Native communities". The state's definition of subsistence includes a broader population, so we recommend editing this to "coordination between lessees/operators and "communities heavily dependent on subsistence harvest and use".	
DFG / Subsistence	4.11.2.2	111	addressed	This section includes the statement that a large spill could disrupt subsistence activities for "a substantial portion of a subsistence season". While the following statement does state that a large spill could cause "severe impacts to subsistence activities and harvest patterns in Cook Inlet", the impact of a large spill could be longer than one season and neither statement accurate represents this potential long term impact.	
DFG / Subsistence	4.12.2.1	116	no change	Consider adding new information about increase in mixed cash economies on subsistence communities relative to the communities of Port Graham and Nanwalek and oil spill impacts on subsistence based on information in Keating, et al. (2020) *Keating, J. M., D. Koster, and J. M. Van Lanen. 2020. Recovery of a Subsistence Way of Life: Assessments of Resource Harvests in Cordova, Chenega, Tatitlek, Port Graham, and Nanwalek, Alaska since the Exxon Valdez Oil Spill. Alaska Department of Fish and Game Division of Subsistence Technical Paper No. 471, Anchorage.*	
DFG / Commercial Fisheries	4.13		no change	Aquatic plant harvesting in the Anchor Point area occurs for soil amendment and commercial potting soil mix, and this harvest activity could be impacted by spills. Per 5AAC 37.320, aquatic plant harvest over 10 gallons per day require a commissioner's permit and are defined as being commercial. There is currently one commercial permitte authorized by ADF&G and the DEIS should include mention of this industry and potential impacts from the proposed action.	
DFG / Commercial Fisheries	4.13.1	118 - 120	no change	ADF&G provided many scoping comments describing the size and value of lower Cook Inlet commercial fisheries that are not reflected in the DEIS. This section should be updated to reflect the information provided during scoping.	
DFG / Commercial Fisheries	4.13.1.2	119	addressed	The information provided on the commercial razor clam fishery on the west side of Cook Inlet is limited and should be updated to provide additional details on the history, lcoation, and size of this fishery. *Marston, B., and A. Frothingham. 2019. Upper Cook Inlet commercial fisheries annual management report, 2018. Alaska Department of Fish and Game, Fishery Management Report No. 19-25, Anchorage.*	
DFG / Commercial Fisheries	4.13.1.4	119	no change	The importance of the Kamishak Bay herring fishery is not adequately addressed in the DEIS. A commercial sac-roe herring fishery occurred in Kamishak Bay from 1973–1998 (average annual harvest ~2,500 tons). This fishery included both local fishermen and those traveling statewide fishing the spring sac-roe fisheries. It also supported local spotter pilots as well as tenders and fish processors. Although the commercial sac-roe herring fishery is closed due to low abundance, the current habitat in Kamishak Bay can support similar levels of productivity in the future as environmental conditions shift to those experienced during periods of high abundance. As the herring population builds and the threshold for a fishery is attained, commercial herring fishing will likely return to Kamishak Bay. In addition, there is a food/bait commercial fishery in upper Cook Inlet that targets herring using set gillnets.	
DFG / Commercial Fisheries	4.13.1.6	120	addressed	Rename section to "Groundfish and Halibut". Halibut is not considered a groundfish and is managed internationally by IPHC.	
DFG / Commercial Fisheries	4.13.1.6	120	addressed	Revise 4th sentence to read: "Groundfish are harvested with trawl, pot, longline, and jig gear throughout the year." [Remove "small sunken gillnets"]	
DFG / Commercial Fisheries	4.13.1.6	120	sort of adressed	Revise 5th sentence and add new sentence to more accurately reflect information on the Pacific halibut fishery: "Pacific halibut is a major commercial fishery in Alaska, including Cook Inlet, and occurs generally from late winter to late fall; Alaskan commercial harvest in 2019 was recorded to be nearly 17.5 million lb (IPHC, 2019). Pacific halibut harvests in Cook Inlet waters during the recent decade (2011-2020) ranged from approximately 300 to 500 thousand pounds annually."	
DFG / Commercial Fisheries	4.13.1.6	120	addressed	Revise 3rd to last sentence in paragraph to: "Allowable groundfish harvest was reduced in 2018 and 2019 due to a downturn in Pacific cod populations in the Gulf of Alaska, which led to a closure of the federal fishery in 2020; populations may have begun to rebound sooner than expected with the federal fishery reopening in 2021 and preliminary Pacific cod harvest data in Cook Inlet waters at over half of 2019 levels of approximately 1 million pounds"	

DFG / Commercial Fisheries	4.13.2.2	120	no change	The area of the lease sale is within the Exclusive Economic Zone which is currently closed to commercial salmon fishing. However, commercial fishing in this area could occur in the future and the space-use conflicts between the drilling operations and the salmon drift gillnet fleet should be considered. The currents in Cook Inlet are exceeding strong. When nets are set, a drift may occur over many miles.	
DFG / Commercial Fisheries	4.13.2.4	121	no change	Under the large spill assumption, due to the inter/sub-tidal environment where the populations occur, hardshell clam and herring fisheries may be disproportionally impacted. The DEIS describes potential long-term impacts to these environments from large spills. These stocks are currently depressed and a large spill would likely hinder recovery.	
DFG / Subsistence	4.15.2	128	addressed	In the first sentence of this section, there is a list beginning with health, nutrition, social organization, etc. ADF&G suggests adding economic stability to the list, given the mixed cash economy of subsistence. *(Reference Wolfe, R.J. 1984. Subsistence-based socioeconomic systems in Alaska: an introduction. Alaska Department of Fish and Game Division of Subsistence. Special Publication No. SP1984-001, Juneau. Or references cited under Appendices on mixed economy.)*	
DFG / Commercial Fisheries	4.17	130	no change	In both recreational and commercial fisheries, there would also be permanent impacts from space-use conflicts during the life of the project (e.g. avoidance of pipelines and platforms by fishermen).	
DFG / Wildlife Conservation	5.2.3	133	addressed	ADF&G would like to emphasize the importance of consultation with NMFS and the USFWS at the time of leasing relative to all marine mammals and not soley those listed as endangered or threatened. This is especially important as habitat use in Cook Inlet is ice dependent for many species and ice-free months are changing over time. Monitoring and research (e.g., Cook Inlet beluga whale acoustic monitoring) is ongoing, and this information can provide a more accurate picture of habitat use during the time of Endangered Species Act and Marine Mammal Protection Act permitting	
DFG / Commercial Fisheries	A-3.4.2.1	A-23-25	Table A-5; Figures A-3;A-4 no change	The oil spill risk analysis needs to more adequately address the commercial and recreational important fish and invertebrates in Cook Inlet. In the conclusions in Section 4.6, it's stated that "A large oil spill may increase impacts on fish and invertebrates since population structures may change, resulting in long-lasting and/or widespread effects". The probability of large spill occurring over the life of the project is 19% according to the DEIS. The DEIS should put the oiling probabilities in context with what fishery and habitat resources could be affected. Kamishak Bay has one of the highest probabilities for Large Oil Spill Contacting of Lower Trophic Level or Anadromous Fish Resources (>50%). Herring would likely be one of the most impacted species should a large spill occur given that they spawn intertidal/subtidal and that juveniles rear in similar habitats for 1 to 2 years. Though weathervane scallops occur throughout lower Cook Inlet, the commercial beds are located within this high probability area. The Polly Creek razor clam beds are also located within one of the highest probability areas. The eastside razor clam beds are within a lower but still high probability area (6 to 25%).	
DFG / Wildlife Conservation	A-3.8.2.1	A-47	Table A11 no change	This section and table references Tuxedni State Game Refuge. Tuxedni Bay is not a legislatively designated Special Area and is not part of the refuge program.	
DFG / Subsistence	A-3.9.1	A-49	addressed	The last bullet in the list of impacts to sociocultural systems should include mention that disruption of economy and interruption of way of life will depend in part on the perception of impact by subsistence harvesters.	
DFG / Subsistence	A-3.10.1	A-52	addressed	The statement "This impact would be localized, and it is anticipated harvesters could access other locations for targeted resources" does not consider the economic impacts of harvesting other resources. Additionally, harvester perception on the impact of the spill may also impact subsistence in a small spill area.	
DFG / Subsistence	A-3.10.2	A-53	not sure - changes in section	An new resource recently published on impact to subsistence harvest in Prince William Sound following the EVOS should be reviewed to provide additional information relative to the second paragraph on page A-53. *Keating, J. M., D. Koster, and J. M. Van Lanen. 2020. Recovery of a Subsistence Way of Life: Assessments of Resource Harvests in Cordova, Chenega, Tatitlek, Port Graham, and Nanwalek, Alaska since the Exxon Valdez Oil Spill. Alaska Department of Fish and Game Division of Subsistence Technical Paper No. 471, Anchorage.*	

MEMORANDUM OF UNDERSTANDING

between the
BUREAU OF OCEAN ENERGY MANAGEMENT
and the
STATE OF ALASKA
On Coordination and Collaboration Regarding Outer Continental Shelf Energy and Marine Minerals Development and Environmental Stewardship

A. PURPOSE

This Memorandum of Understanding (MOU) documents an understanding between the U.S. Department of the Interior (DOI), Bureau of Ocean Energy Management (BOEM), and the State of Alaska (hereinafter, "Parties") regarding the coordination and collaboration of the Parties concerning the development of energy and marine mineral resources in all areas of the Outer Continental Shelf (OCS) offshore Alaska.

This MOU sets forth the processes and means by which the Parties will cooperate and coordinate the review and consultation of proposed energy and marine mineral resource projects on the OCS such as leasing, exploration, and development and production, by:

1. Describing specific processes to ensure effective and timely communication of agency priorities and upcoming activities; and

2. Sharing of information regarding the marine ecosystems, resources, and coastal communities; and

3. Describing specific collaborative processes related to decision-making on OCS energy and marine mineral leasing, exploration, and development and production activities.

B. AUTHORITIES

The BOEM authorities relevant to this MOU include but are not limited to:

1. Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. §§ 1331 et seq.;

2. Oil Pollution Act of 1990 (OPA), 33 U.S.C. §§ 2701 et seq.;

3. National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 et seq.;

4. Endangered Species Act of 1973, 16 U.S.C. §§ 1531 et seq.;

5. Marine Mammal Protection Act, 16 U.S.C. §§ 1361 et seq.;

6. Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §§ 1801, et seq.;

7. National Historic Preservation Act (NHPA), 54 U.S.C. §§ 300101 et seq.;

8. Fixing America's Surface Transportation (FAST) Act, 42 U.S.C. § 4370m et seq.;

9. Executive Order 13212 (May 18, 2001)--Actions to Expedite Energy-Related Projects;

10. Executive Order 13580 (July 12, 2011), Interagency Working Group on Coordination of Domestic Energy Development and Permitting in Alaska ;

11. Executive Order 13604 (March 22, 2012) -- Improving Performance of Federal Permitting and Review of Infrastructure Projects;

12. Executive Order 13783 (March 28, 2017) – Promoting Energy Independence and Economic Growth;

13. Executive Order 13795 (April 28, 2017) – Implementing an America-First Offshore Energy Strategy; and

14. Executive Order 13807 (August 15, 2017) – Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure

The State of Alaska authorities relevant to this MOU include, but are not limited to:

1. Alaska State Constitution, Article VIII - Natural Resources

2. Title 29 of the Alaska Statutes

3. Title 38 of the Alaska Statutes

C. BACKGROUND

1. BOEM's mission is to manage the development of the nation's offshore energy and mineral resources in an environmentally and economically responsible way.

2. The Alaska State Constitution, Article VIII, Section 1, provides: Statement of Policy. It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.

3. The State of Alaska's Department of Natural Resources' (DNR) mission is to responsibly develop Alaska's resources by making them available for the maximum use and benefit consistent with the public interest.

D. COORDINATION AND COLLABORATION BETWEEN BOEM AND STATE OF ALASKA-- Development of OCS Energy and Marine Mineral Resources

1. **Notification of Proposed OCS Energy and Marine Mineral Resource activities - Alaska.** BOEM will notify the State of Alaska of all individual OCS lease sales

planned by BOEM, and will engage with the State of Alaska early in each OCS lease sale planning process. BOEM will also notify the State of Alaska within a reasonable time of receiving any industry proposal to conduct OCS exploration, development, or production activities, i.e., Geological and Geophysical permit applications, Exploration Plans, and Development and Production Plans.

2. **National Environmental Policy Act (NEPA) Process.** Where BOEM is the lead agency with respect to NEPA analysis (typically when the proposed actions are within BOEM's decision-making authority), BOEM has the primary responsibility for completing Environmental Assessments (EA) and Environmental Impact Statements (EIS). The State of Alaska will participate, to the extent practicable in the NEPA process through coordinated reviews, information exchange, technical assistance, and cooperating agency status, as appropriate, and pursuant to DOI's regulations implementing NEPA at 43 CFR Part 46.

a. BOEM intends to:

   i. Engage the State of Alaska early in the NEPA process.

   ii. Implement this MOU in accordance with the DOI regulations implementing NEPA at 43 CFR Part 46 and the Council on Environmental Quality (CEQ) regulations on cooperating agencies at 40 CFR §§1501.6 and 1508.5.

   iii. Consider the State of Alaska's special expertise (as contemplated under 40 CFR § 1508.5) with regard to environmental impacts on State resources.

   iv. Designate a primary point of contact for the specific NEPA processes.

   v. Determine, after discussion with the State of Alaska, whether a Health Impact Assessment (HIA) will be prepared by the State and, if so, what level of assessment is appropriate and how to integrate HIA conclusions into the NEPA analysis.

   vi. Provide the State of Alaska with a summary of all comments received during the public comment period for an EA or EIS where the State of Alaska is a cooperating agency.

   vii. Endeavor to use the environmental analyses and recommendations of the State of Alaska as they relate to the preparation and finalization of relevant NEPA analyses but recognizing that BOEM has the ultimate responsibility for the content of its NEPA analyses pursuant to 40 CFR §§ 1501.3 and 1501.4.

b. State of Alaska intends to:

   i. Implement this MOU, to the extent practical, pursuant to the guidance provided in the DOI regulations implementing NEPA at 43 CFR Part 46 and CEQ regulations on cooperating agencies at 40 CFR §§ 1501.6 and 1508.5.

   ii. Designate a primary point of contact within the DNR Office of Project Management & Permitting (OPMP) to represent the State of Alaska for the specific NEPA process.

iii. Notify BOEM whenever a State lessee or operator of a State-regulated facility (to include facilities regulated jointly by the State and BOEM) proposes to conduct new or modified activities with the potential to affect OCS resources or Federal oversight of such activities.

iv. If requested by BOEM, prepare a Health Impact Assessment (HIA) to help inform BOEM's NEPA analysis. The State of Alaska will invite BOEM to participate in any public meetings to be held by the State of Alaska regarding such HIA.

v. Participate as appropriate in scoping meetings and public hearings.

vi. Provide BOEM a brief description of the State of Alaska's cooperating role, for inclusion in any EA or EIS where the State of Alaska is a cooperating agency.

vii. Review the EA or EIS and provide comments or recommendations to BOEM within established timelines.

viii. Enter into nondisclosure agreements with BOEM, as appropriate.

3. **National Historic Preservation Act (NHPA) Consultation:** BOEM will engage the State of Alaska in NHPA consultation in the event historic properties on the OCS may be affected by BOEM-authorized activities. Historic properties are properties that are included in the National Register of Historic Places or that meet the criteria for the National Register and may include shipwrecks.

4. **Air Emissions and Air Quality Monitoring.** BOEM has jurisdiction over air emissions from activities it authorizes under OCSLA located on those portions of the OCS adjacent to the North Slope Borough of Alaska (Beaufort Sea, Chukchi Sea, and a portion of the Hope Basin Planning Areas). The State of Alaska has regulatory authority (delegated from the EPA) for permitting certain air emissions from sources located within Alaska, including the area located three miles seaward from the coast. The Parties regulate air emissions to ensure that each of their respective responsibilities for air quality compliance is met in the North Slope region.

   The Parties will endeavor to exchange information on air emissions that could affect the air quality in the subject areas under the jurisdiction of the other Party.

   The Parties agree to organize a workgroup when circumstances or concerns involving air emissions from OCS facilities warrant. The workgroup will meet periodically to discuss air quality concerns and consider developing a process for the exchange of information. BOEM and the State of Alaska agree to cooperate on the development of the workgroup meeting agendas and on hosting meetings, with the objective of discussing and resolving concerns. The workgroup may create subgroups to explore and discuss specific topics. Cooperation may include granting access to, and sharing of, non-confidential data generated by BOEM and the State of Alaska, as well as non-confidential data generated by industry.

5. **Wastewater Discharges from Oil and Gas Activities.** Regulatory authority over certain wastewater discharges from oil and gas activities on state lands and in state waters was delegated from EPA to the State of Alaska in October 2012.

   The Parties agree to cooperatively exchange information regarding the effects of wastewater discharges associated with OCS oil and gas activities.

   The Parties agree to organize a workgroup when warranted to discuss wastewater discharges and water quality concerns of interest to both parties and to develop a process for the exchange of information. BOEM and the State of Alaska agree to cooperate on the development of the meeting agendas and on hosting meetings.

6. **Oil Spill Financial Responsibility (OSFR) for Offshore Facilities.** BOEM is responsible for implementing the provisions of OPA concerning financial responsibility for all offshore waters, including those above state submerged lands offshore Alaska within the three miles of the coastline.

7. **Scientific Research.** The Parties will work collaboratively to support research endeavors addressing issues of mutual concern including, but not limited to, offshore oil, gas, sand and gravel, or mineral resource assessments.

8. **Senior Leadership Meetings.** The Parties agree to hold senior leadership meetings periodically to discuss relevant OCS energy and marine mineral resource development activities and this MOU. The purpose of these meetings will be to, among other things:
   a. Discuss any issues arising under this MOU; and
   b. Discuss emerging issues and facilitate resolution of any issues related to cooperation and coordination between BOEM and the State of Alaska on matters related to OCS development of energy and marine mineral resources; and
   c. Make both BOEM and the State of Alaska aware of relevant upcoming offshore activities on the OCS and in State waters.

9. **Point of Contacts for this MOU.** The Governor of Alaska and the Director of BOEM will designate their respective points of contact for this MOU.

E. GENERAL PROVISIONS

1. All identified procedures in the MOU are subject to the availability of appropriated funds and each Party's budget priorities. Nothing in the MOU obligates the Parties to expend appropriations or enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations. Further, this MOU does not obligate BOEM or the United States to spend funds on any particular project or purpose, even where funds are available.

2. This MOU is not a fiscal document nor does it obligate funds. However, should the Parties contribute funds to or reimburse one another, they will do so in accordance with

applicable laws, regulations and procedures, subject to a separate subsidiary agreement that they will make in writing.

3. This MOU does not create any right or benefit enforceable against BOEM or the State of Alaska, their officers or employees or any other person. This MOU does not apply to any person outside BOEM or the State of Alaska. Nothing in this MOU will be construed to alter the legal rights and remedies that each party would otherwise have.

4. Nothing in this MOU will be construed to extend jurisdiction or decision-making authority to either Party to this MOU, beyond that which exists under current law, regulations, or ordinances.

5. The State of Alaska will obtain BOEM's approval prior to issuing any press releases, advertisements, or other public statements that refer to this MOU or to BOEM, DOI, or any employee of the Department, in connection with this agreement.

6. Unless constrained by other factors, such as the need to protect privileged or confidential material, pre-decisional documents may be shared between the Parties as needed to accomplish cooperation under this MOU. The Parties will not release any pre-decisional document produced by the other Party, unless (1) the other Party consents in writing prior to such release, or (2) the Freedom of Information Act (FOIA) or other applicable law requires such release, and the releasing Party notifies and consults with the other Party prior to making the release. The term "release" as used in this paragraph includes transmitting or providing any other form of access to documents, or copies thereof, to any person or entity outside of the State of Alaska or BOEM. The term "document" as used in this paragraph includes all draft and final versions of meeting notes, note(s) to the file, e-mails, letters, reviews, evaluations, data reports, analyses, briefing materials, drafts, and any other physical or electronic record of communications between the Parties pursuant to the collaborative process established by this MOU. Documents are "pre-decisional" for the purpose of this paragraph if they relate to any ongoing decision-making process conducted by either Party. The duties described in this paragraph will survive termination of this MOU.

7. The State of Alaska agrees that none of the documents or information provided by BOEM pursuant to this MOU will be disclosed or otherwise provided to attorneys representing the State of Alaska or to any persons retained for litigation support against the United States, nor will such materials be otherwise used in litigation or preparation for litigation against the United States. This provision does not otherwise restrict the use of such documents or information if acquired by the State of Alaska not pursuant to the MOU.

8. The provisions in this MOU are subject to the laws of the United States and the regulations of DOI and BOEM.

9. This MOU in no way restricts BOEM from participating in similar activities or arrangements with other public or private agencies, organizations, or individuals.

10. Modification of this MOU will be made only by written agreement, signed and dated by both Parties.

F. RESOLVING DISAGREEMENTS

The Parties agree to resolve disputes through good faith discussions. Issues that cannot be resolved at the initial level of dispute will be referred to each Parties' next level of respective authority.

G. PERIOD OF PERFORMANCE

This MOU will be deemed executed as of the date the last required signature is affixed to this document. This MOU will be in effect for three (3) years from the date it is executed unless the Parties agree in writing to extend it to another date certain. This MOU will be reviewed periodically at the senior leadership meeting. Should both Parties agree to extend this MOU, the extension will be in writing and the period will be as determined by the review at the senior leadership meeting. Either Party may terminate the MOU at any time before the date of expiration, by providing written notice to the other Party of the termination. However, the Parties will endeavor to give a 30-day-written notice to the other Party prior to such termination.

H. CONTACTS

The list of contacts below is designed to identify specifically the respective personnel responsible for implementing the various provisions of this MOU.

Topic	BOEM Alaska Region, unless otherwise noted	State of Alaska
Leadership Meetings	Regional Director Deputy Regional Director Regional Supervisor, Environment Regional Supervisor, Leasing & Plans Regional Supervisor, Resource Evaluation	Commissioner, Department of Natural Resources Commissioner, Department of Environmental Conservation Director, Office of Management & Permitting
National Environmental Policy Act Analyses	Regional Director Chief, Environmental Assessment Division, HQ	Director, Office of Project Management & Permitting, Large Project Coordinator, Office of Project Management & Permitting
Environmental Studies Program – Research and Science	Regional Director Chief, Environmental Sciences Division, HQ	Director, Office of Project Management & Permitting, Large Project Coordinator, Office of Project Management & Permitting ADEC, Office of the Commissioner
Regional Environmental Analysis	Regional Director Regional Deputy Director Regional Supervisor, Environment	Director, Office of Project Management & Permitting, Large Project Coordinator, Office of Project Management & Permitting ADEC, Office of the Commissioner

Topic	BOEM Alaska Region, unless otherwise noted	State of Alaska
Regional OCS Activities – Leasing; Exploration; Development and Production	Regional Director Regional Deputy Director Regional Supervisor, Leasing & Plans Regional Supervisor, Resource Evaluation	Director, Office of Project Management & Permitting, Large Project Coordinator, Office of Project Management & Permitting ADEC, Office of the Commissioner
Air Quality Working Group	Chief, Plans Section Regional Supervisor, Environment	Director, Office of Project Management & Permitting, Large Project Coordinator, Office of Project Management & Permitting DEC, Office of the Commissioner
Water Quality Working Group	Regional Supervisor, Environment Regional Supervisor, Leasing & Plans Chief, Plans Section	Director, Office of Project Management & Permitting, Large Project Coordinator, Office of Project Management & Permitting ADEC, Office of the Commissioner
Announcements	Public Affairs Officer	Governor's Press Secretary

I. Signatures

The parties hereto have executed this agreement:

Michael J. Dunleavy
Governor of Alaska

7/19/19
Date

Walter D. Cruickshank
Acting Director,
Bureau of Ocean Energy Management

AUG 30 2019
Date