

**STATE OF ALASKA**  
**ALASKA OIL AND GAS CONSERVATION COMMISSION**  
**333 W 7th Ave., Suite 100**  
**Anchorage, Alaska 99501**

**Petition of Joseph Akpik, Lydia Sovalik,** )  
**Joeb Woods, and Abraham Woods,** )  
**for Rehearing of Approval of Permit to Drill No. 201-061** )  
**(API No. 50-103-20370-01) (Nigliq 1A)** )

May 17, 2001

**ORDER DENYING REHEARING**

In its Order Granting Rehearing for Limited Purpose and Denying Request for Stay, the Commission stated that it would first consider whether the petitioners have the right to apply for rehearing of the Commission's approval of an application for a permit to drill and would then proceed accordingly. The Commission has reconsidered this approach and instead decides this petition on the merits. For this purpose the Commission assumes without deciding that the petitioners have the right to seek rehearing here under AS 31.05.080(a).

I. Coastal Management Consistency

One of the petitioners' claims is that the Commission failed to comply with the Alaska Coastal Management Program ("ACMP") and with certain policies of the North Slope Borough Coastal Management Program. The Commission rejects this claim. The Division of Governmental Coordination ("DGC") in the Office of Management and Budget coordinated a review of the exploratory well program of which the well challenged here is a part<sup>1</sup> and determined on February 2, 2001, that the project is consistent with the ACMP. See Appendix 1 to this order. A consistency review evaluates a proposed project not only against state coastal management standards but also against the applicable district coastal management program, in this case the North Slope Borough's. See AS 46.40.210(3).

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<sup>1</sup> The project description specifically listed the Nigliq 1 exploration well and noted that it might have two sidetracks. In this context, "sidetrack" is an inexact way of denoting drilling to a different bottom-hole location from the original surface location. The Nigliq 1A well challenged by the petitioners is such a side-track.

Thus, assuming without deciding that the Commission is required under the ACMP to ensure that drilling proposed to be permitted under AS 31.05.090 is consistent with the ACMP, including North Slope Borough Coastal Management Program policies, before a permit to drill is issued, the Commission satisfied that requirement here by not issuing Permit to Drill No. 201-061 until DGC made its final consistency determination on February 2, 2001.

## II. Notice

The petitioners' second claim relates to lack of notice before the Commission issued the permit to drill. As explained in the Order Denying Rehearing in the matter of Permit to Drill No. 200-211, which is incorporated by reference and a copy of which is attached, the Commission believes that the legislature did not intend the issuance of permits to drill under AS 31.05.090 to be subject to advance notice to members of the public. Although unlike the petitioner in Permit to Drill No. 200-211 the present petitioners claim to own property in the vicinity of the drill site and therefore could potentially be affected by drainage of oil or gas from under their property, Phillips did not seek to locate its well closer to its lease boundary than allowed by the applicable well spacing regulations. If Phillips had sought a spacing exception, notice would have been given to nearby property owners. *See* 20 AAC 25.055(d).

Nor could the issuance of the drilling permit deprive the petitioners of any property rights within the protection of the due process clause. Hence, notice of the permit application was not required by due process.

## III. Compliance with Commission Regulations

The petitioners cite numerous regulations under 20 AAC 25 and make conclusory assertions to the effect that the Commission has failed to comply or failed to require Phillips to comply with them. In no case, however, have the petitioners supplied any basis for these assertions, and the Commission is aware of none. Some of the regulations, moreover, do not apply at all to an application for a permit to drill. Pertinent portions of the orders denying rehearing in the matters of Permits to Drill Nos. 200-211, 201-027, and 201-041, copies of which are attached, address in more detail identical or substantially identical assertions made in those cases (corresponding to the petitioners' assertions c through n here) and are incorporated by reference.

## IV. Historic Preservation and Consultation with Tribal Government

Finally, the petitioners complain that the Commission "failed to consult with the tribal government and failed to comply with the National Historic Preservation Act and Alaska Historic Preservation Act requirements." The Commission is aware of no legal

requirement to consult with a tribal government before issuing a permit to drill, and the petitioners have cited none. Nor does it appear to the Commission that any provisions of the federal or state statutes on historic preservation constrain the issuance of a permit to drill.

**NOW THEREFORE IT IS ORDERED:**

The petition for rehearing is **DENIED**.

**DONE** at Anchorage, Alaska, this 17<sup>th</sup> day of May 2001.



*Cammy Taylor*  
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Cammy Taylor, Chair  
Alaska Oil and Gas Conservation Commission

*D. T. Seamount, Jr.*  
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Daniel T. Seamount, Jr., Commissioner  
Alaska Oil and Gas Conservation Commission

*Julie M. Heusser*  
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Julie M. Heusser, Commissioner  
Alaska Oil and Gas Conservation Commission

I certify that on May 17, 2001 a copy of the Above was mailed to each of the following:

Nancy Wainwright  
Dan Rodgers

*Jody Colomb*  
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Jody Colombie  
Executive Secretary