In the Matter Of:

WORKSHOP RE 15 AAC 05 AND WORKSHOP 15 AAC 55

HEARING

August 12, 2016

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BEFORE THE DEPARTMENT OF REVENUE

STATE OF ALASKA

In re:

Notice of Public Scoping and Workshop for Possible Updates and Revisions to DOR Regulations 15 AAC 05: Administration of Revenue Laws; 15 AAC 55: Oil and Gas Production Tax.
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CERTIFIED TRANSCRIPT

TRANSCRIPT OF PROCEEDINGS

Pages 1 - 41, inclusive

Friday, August 12, 2016
9:00 A.M.

Taken at
550 West 7th Avenue, Suite 104
Anchorage, Alaska

A-P-P-E-A-R-A-N-C-E-S

For State of Alaska, Department of Revenue:

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Also Present:

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Molly Brown, Dillon & Findley
Diane Colley, BP
Dan Dickinson, BDO
Jennifer Douglas, Department of Law
Cathy Giessel, Senator
Michael Hurley, ConocoPhillips
Deborah Lewis, BP
Joyce Lofgren, Department of Revenue
Steve Mahoney, Manley & Brautigam
Shannon McKinley, Department of Revenue
Kara Moriarty, AOGA
Olga Persinger, Department of Revenue
Erin Ruebelmann, Department of Revenue
Casey Sullivan, Caelus Energy
Tom Williams, BP

Present via Teleconference:

Mary Gramling, Department of Law
Veronica Keithley, Stoel Rives
Brenda Maxwell, ASRC
Will Nebesky, Chevron

Court Reporter:

Gary Brooking, Registered Professional Reporter
PACIFIC RIM REPORTING
711 M Street, Suite 4
Anchorage, Alaska 99501

ANCHORAGE, ALASKA; FRIDAY, AUGUST 12, 2016
9:12 A.M.
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MR. LARSEN: Good morning. Welcome to today's workshop on regulations related to Alaska's oil and gas production tax.

My name is John Larsen. I'm an Audit Master with the Department of Revenue, and I'll be the moderator today. The purpose of the meeting is to receive input from the public and interested parties regarding possible changes to existing regulations, prior to drafting any regulations to be proposed.

I want to stress this is not a public hearing. An opportunity to provide further comment will be provided once the regulations have been drafted and put out for public comment.

Before we begin, there's just a couple of administrative procedures. In a fire emergency, go out the door to -- either one of the exits here, out to the main street. And our gathering area is over by the tennis courts around 9th and D. We have a sign-in sheet, and that way we can account for everybody to make sure everybody got out of the building safely.

If you need to use the restroom, it's out the main doors here, down to your right and down at the end of the hall.

If you're here in the building and you have a cell phone, please put it on mute or turn it off. And if you're listening in by teleconference, please put your phone on mute while you're listening in and then turn it back on when you want to talk to us.

There's a sign-in sheet at the door with some handouts. If you haven't signed in, please be sure and sign in before you leave.

With that, let's go around the room and introduce -- we'll start here in the room with introductions, and then we'll go to the phone.

Like I say, my name is John Larsen. I'm an Audit Master with the Department of Revenue. And please also give your affiliation as well as your name.

MR. DEES: Hi. My name is Lennie Dees. I'm an Audit Master with the Department of Revenue also.

MR. ALPER: Hi. I'm Ken Alper. I'm the Tax Division Director at the Department of Revenue.

MS. DOUGLAS: Hi. I'm Jenny Douglas. I'm an Assistant Attorney General with the Department of Law.

MS. LEWIS: Deborah Lewis, with BP.

MS. COLLEY: Diane Colley, BP.

MR. WILLIAMS: I'm Tom Williams. I work for

BP.
MR. DICKINSON: Dan Dickinson for BDO, representing various oil and gas clients.
MR. HURLEY: Michael Hurley with ConocoPhillips.
MS. GIESSEL: Cathy Giessel, Alaska Senate.
MS. BROWN: Molly Brown, from Dillon & Findley.
MS. LOFGREN: Joyce Lofgren, economist, Department of Revenue.
MS. MORIARTY: Kara Moriarty, with Alaska Oil and Gas Association.
MR. SULLIVAN: Casey Sullivan, Caelus Energy.
MS. McKINLEY: Shannon McKinley, Department of Revenue, auditor.
MS. RUEBELMANN: Erin Ruebelmann, Tax Division auditor.
MS. PERSINGER: Olga Persinger, Tax Division auditor.
MR. LARSEN: And on the phone lines, please.
MS. MAXWELL: Brenda --
MS. GRAMLING: Mary --
MS. MAXWELL: -- Maxwell with ASRC.
THE REPORTER: Brenda, could you repeat that, please.

MR. NEBESKY: Will Nebesky with Chevron. And, John, I just want to say the audio is -- I can hear you at the table, but am unable to hear the audience. Just FYI. Thank you.

MR. LARSEN: Okay. Thanks, Will.

Anyone else on the phone lines?

MS. KEITHLEY: Veronica Keithley, with Stoel Rives.

MS. GRAMLING: Mary Gramling, Department of Law.

MR. LARSEN: And if that's it, okay.

And during the course of the proceedings today, if people would identify themselves before they speak, that would help our reporter here.

So as I stated previously, the Department is holding this workshop in order to provide opportunity for public comment related to regulations that might need to be amended, implemented or repealed related to Alaska's oil and gas production tax.

Although the focus of the workshop is going to be on HB 247, the Department is also accepting comment on other areas that may need to be addressed to clarify or conform to existing statutes.

So just to give you -- everyone an idea of the timeline here, HB 247 was passed recently this summer here. The Department has been reviewing the regulations as well as the bill itself. But at this point in time, we don't have any regulations that have yet been drafted.

What we would propose is that the written comments, if you can have them to me by the close of business on Tuesday, August 16th, we'll take those under consideration and begin the drafting -- regulations-drafting process.

Our goal is to have a set of proposed regulations ready for public notice by mid-September. And the reason for that is that many of the dates related to HB 247 are effective on January 1, 2017, and so the goal of the Department will be to have the regulations in effect on January 1st.

And as I said before, once those regulations have been publicly noticed, then you'll have further opportunity for public comment.

As many of you are aware, HB 247 made significant changes to Alaska's oil and gas production tax and particularly related to credits. Some of the provisions that we know will be -- need to be addressed are the local hire for tax credits, the calculation of interest, the GVR timing and the interaction with carryforward annual losses and the public status of certain tax credit information.

And as I said, at this point the Department does not have any regulations, and so what I would like to do at this point is open up the floor for comments or suggestions from the public. What I might suggest is if anybody has any prepared statements or written statements that they go ahead and come forward first and go through those, and we'll try and go through it in an orderly fashion here.

So is there anyone that would like to go first? Okay.

MR. WILLIAMS: Good morning. My name is Thomas K. Williams. I'm a tax attorney with BP Exploration Alaska, Inc. I'm also the chair of the tax committee of the Alaska Oil and Gas Association.

At the outset, I'd like to make it clear that these comments are observations rather than comments, because we don't have anything specific to comment on, are more mine than either BP's nor AOGA members.

The subjects have been discussed with both, but there's -- since there's nothing specific to comment about, there's no specific proposal or anything like that about regulations the Department should have got from either AOGA and the tax committee of it, or for BP. So this is as much mine as it is anyone else's.

As you know, once upon a time, almost a thousand years ago it seems, I worked on your side of the table, and my goal and I think the goal of everybody in AOGA, and BP's goal, is we want a system of taxation that is clear, that we can comply with at the time we file and pay our taxes. And I think it's important to restate that as a paramount objective.

And then there are a number of things that -- not in any particular order, that I just simply here have an outline that I talk about.

If I may proceed then.

MR. LARSEN: Yes.

MR. WILLIAMS: Okay. The first one has to do with interest on underpaid and, conversely, overpaid taxes. There is a change to the interest statute. It says that interest compounded quarterly accrues for only the first three years after the tax becomes delinquent.

The issue here is that you -- that is unclear that you should try to address is: How will the first three years, quote, "first three years," work for taxes that became delinquent with respect to compound interest that had accrued before January 1st, 2014? That was when we had the oil compound interest.

What if you have more than three years of compounded interest before 2014? Can any more interest accrue? And if it's less, does interest accrue, and is it capped by the three years total of compounding then?

Second is for interest for -- for taxes that became delinquent after 2013 and before 2017, when the amendment to 225(a)(1)(c) becomes operative, interest is simple. Will that interest be compounded after January 1st of 2017 -- or after December 31st of '16, is the second question.

And then I think it's fairly straightforward, but still it would be good, since you're addressing them, if the regulation also addresses specifically the three years is it for interest, with respect to taxes that have become delinquent after calendar year 2016.

So those are issues that should be addressed. There are different ways to answer them, and that's why I'm not giving -- making comments as such, because we haven't seen your proposal.

MR. LARSEN: Appreciate it.

MR. WILLIAMS: The second one has to do with the tax cap on (o) gas. This is gas produced on the North Slope that is sold for taxable use in state.

Most of the gas on the North Slope is exempt or tax deferred because it's used in production operations, but there are some sales in the state. And AS 43.55.011(o) caps the tax on -- on that gas. And production costs, lease expenditures associated with that gas, don't go into the production tax value of the oil that's produced on the Slope.

So just simply when (o) gas is repealed under AS -- well, let me just read the question. How does the repeal of the December 31st, 2021, expiration date for the tax cap on (o) gas under 011(o) affect or not affect the 13 percent tax on gross value at the point of production under 011(e)(3)(b) for gas produced after 2021, and how does it affect a producer's election under 43.55.014 to pay with physical gas?

As you have right now, 011(o), or zero 11(o), expires at the end of 2021, and that part got repealed. But you're going to have gross value tax also after that, and so you just need to address how what is currently (o) gas will be treated after that. It may be that -- well, I think you'll probably find a regulation that works.

Another one is -- has to do with the five-dollar-per-barrel credit for non-legacy oil. This is in conjunction with a gross value reduction.

For the portion -- I mean, what currently happens now is the five-dollar-per-barrel credit, the law as amended, the credit under 024(i), quote: May not reduce a producer's liability under AS 43.55.011(e) below zero for a particular calendar year.

The question is: Can the unused portion of that five-dollar-a-barrel credit be applied in a subsequent year if doing so will not reduce the later year's tax liability under 011(e) below zero for the producer?

The next question is: In allocating available money in the fund for repurchasing tax credit certificates under 43.55.028, will the allocation be pro rata in proportion to the total amount of tax credits being tendered for purchase? If so, what period? A month, calendar, quarter, a year? What period will be used in making the allocation? Or is it going to be essentially on a first-come/first-pay basis?

The next issue is: For purposes of giving preference between applicants under AS 43.55.028(g)(2), what specific documentation will be required or allowed in order to show the percentage of resident workers in an applicant's or its direct contractor's workforce?

Is preference to be determined -- to be determined under that statute only on the basis of pairs of applicants, taking the language between two applicants literally? That's the statutory language, quote, "between two applicants." Going to take that literally and pair people up, or is it among all applicants? And if it is among the former, it's going to be on the basis of pairs, how will the pairings be made?

With respect to persons' outstanding liability to the State, quote, outstanding liability to the State, unquote, for purposes of AS 43.55.028(j), if interest is still accruing on the underlying tax or royalty liability, as of what date is that interest portion of the, quote, outstanding liability, unquote, determined?

Conversely, if a State demand for payment is abated in whole or in part, as of what date is that abatement recognized for purposes of determining the outstanding liability under that statute?

With respect to AS 43.55.160, subsections (f) and (g), by what process will the AOGCC -- that's the Alaska Oil and Gas Conservation Commission -- by what process will it quote, determine, unquote, the date of the commencement of regular production as defined in AS 43.01 -- I mean as defined in AS 31.05.170, for that oil or gas? What kind of documentation of such a determination by AOGCC will be required by the Department?

That's your department. Not them.

Are AOGCC's existing rules and regulations sufficient and acceptable for DOR, or will new rules or regulations be necessary for this purpose? Again, this is for figuring out when the seven-year clock is punched.

MR. LARSEN: Right.

MR. WILLIAMS: If rules -- if new rules are necessary, will DOR adopt the rules for this or will AOGCC? And if AOGCC, must industry or individual companies petition AOGCC to adopt appropriate or necessary regulations for that purpose, or will DOR ask AOGCC to adopt them? I think there may be different processes.

MR. LARSEN: Okay. Thanks.

MR. WILLIAMS: For purposes of calculating, quote, a separate annual production tax value, unquote, for each lease or property under AS 43.55.160, subsection (h)(4), cap (A) or cap (B), does DOR intend to calculate each such value with published results of its calculations, or will the taxpayer determine them with DOR auditing the calculations? Either way, what evidence will be allowed or required for those calculations?

If DOR is the one calculating them, what will the procedure be for doing so and for providing the results to the working interest owners in each lease or property?

Will DOR use confidential tax information from one taxpayer to calculate these separate values for another taxpayer, the subpoints of that? And what circumstances would or could DOR do so? And will the second -- will the second taxpayer be allowed to see the first taxpayer's information that the Department has used in order to verify the calculation?

And if so, what will the safeguards be to assure the second taxpayer does not illegally disclose the first payer's tax information?

And if the safeguards turn out to be inadequate, the question is: Will DOR itself have violated AS 43.05.230, the confidentiality statute?

And, finally, if DOR's calculating the separate annual production tax value for a lease of property, could DOR use a taxpayer's information for one lease of property in calculating a separate annual production tax value for that taxpayer's production from a different lease or property? And if so, could DOR use that information in calculating separate annual production tax values for other lessees in that other lease or property?

Next is surety bonds that are required under AS 43.70.022. What are the requirements that a surety must meet in order for its surety bond to be acceptable to DOR under this stat- -- under AS 43 -- well, under the statute.

Is licensure to do business as a surety in Alaska sufficient? What proof would be required to show that a taxpayer must show that a surety meets those requirements?

Suppose the seven-year term for the gross value reduction for -- I'll call it new production, just because it's a shorter than a more complicated term, new production as opposed to non-legacy.

Suppose the seven-year term for the new production period occurs mid-month. That's when it expires.

And the stair-step credit for legacy production is greater than the flat five-dollar-per-barrel credit for the new -- when the production is new, which credit will apply for that year?

And if it's less than the flat five-dollar-per-barrel credit, that is, the stair-step credit is less than the five-dollar-per-barrel credit for the production, again, which credit would apply?

So it's two different sizes, the same way. One is higher than the other. In either case, what is the answer?

MR. LARSEN: Okay.

MR. WILLIAMS: And you'll be glad to hear, finally, your favorite word at these hearings, because it was mine, resident-hire priority under AS 43.55.028.

How will the annual, quote, resident worker, unquote, percentage be determined for purposes of the statute? What documentation will be required for a taxpayer? What documentation will be required for a contractor or a subcontractor of the taxpayer?

And if a tax credit certificate is redeemed because of this for less than face value, will the remaining amount be re-certificated for redemption in subsequent years, so that ultimately the credit is used up?

And I will polish this up to be presentable, because I saw some typos as I went through it, and I will e-mail it to you probably Monday or perhaps before close of business today.

MR. LARSEN: Okay.

MR. WILLIAMS: Thank you very much.

MR. LARSEN: Thanks, Tom. Those are some excellent observations, and that's exactly why we're here today, is to get comments like that. Appreciate it.

And before moving on, I just want to make sure: Will, you could hear that comment sufficiently? Will?

MR. NEBESKY: John, I could. I could hear very well. Thank you for making that happen.

MR. LARSEN: Okay. Thanks. Thanks.

Dan, do you want to come up?

MR. DICKINSON: Sure. Dan Dickinson with BDO. And, again, as Tom said, I think what I'm representing here are more comments that I've had in discussion. I have several clients, but I'm not specifically representing any of them.

I'm also a little bit embarrassed because I don't have my notes with me, but I think I can cover some. And Tom actually covered a great many of the points that I had, but here's some additional ones.

I have a concern on Section 17, and the

concern there is simply -- let me back up. Section 17 takes the 023(a) credit, and as this summary indicates, it reduces it for next year and then eliminates it in 2018.

The question I have is the language in producing 023(a) is different than the language producing 023(l). In other words, 023(l) -- this is where I don't have all the references. You know, the transitional times are -- are marked out, are indicated in the transitional regulations, whereas in 023(a) it simply changed the statute, the statutory language.

So if I can give an example. You know, if you go to 023(b), it says before such and such a date, it's this rate. After this date, it's this rate, et cetera, et cetera. 023(a), it simply went in and changed -- you know, replaced the 20 percentage -- the 20 percent with 10 percent.

MR. LARSEN: Okay.

MR. DICKINSON: I mean, I assume that it's going to follow the same pattern as if it had been laid out as an 023(b), but I -- I mean, obviously a classical case where a regulation could establish that.

MR. LARSEN: Okay.

MR. DICKINSON: And furthermore, the transitional language for other credits makes clear that it's for work incurred before that date, as opposed to an application made by that date.

In 023(a), by simply changing the rate in the statute, it's not clear whether the change from 20 to 10 is a consequence of when you apply as opposed to a consequence of when the work is performed.

MR. LARSEN: Okay. Thanks.

MR. DICKINSON: The second point, a very narrow technical one, and there may be statutory interpretation language that makes this clear, but this was something brought up.

If you go to Section 22 -- excuse me -- Section 22 on page 20, where the "middle earth" credit for a well is extended out until 2017, the language says: Except that expenditures to complete an exploration well that was spudded but not completed before July 1st, 2017, are eligible for the credit.

I think the logical interpretation is if you spud the well prior to that date, you're fine, but I want to make sure that you have -- do you have to hold off completion? If you complete it in June of 2017, does that say you don't qualify, or do you actually have to -- well, it says it's only -- it was spudded

but not completed.
MR. LARSEN: Okay. All right.
MR. DICKINSON: So would you have to hold off your completion till after the date?
MR. LARSEN: Okay. No. If that's a clarification you need, that's a good question.
MR. DICKINSON: I don't know if we need it or not, but that was a question that arose, in reading it.
MR. LARSEN: Okay. Fair enough.
MR. DICKINSON: I guess Tom, I think, raised a number of questions about the notion of granting -- sorry.
MR. LARSEN: Sorry. Does somebody have their phone on hold or something? We're getting some feedback here on the phone lines.
Do you have any suggestions?
MR. DEES: Just follow along.
UNIDENTIFIED SPEAKER: You can turn down your volume.
MR. LARSEN: Okay. Sorry, Dan. I didn't mean to interrupt you there.
MR. DICKINSON: Not a problem.
MR. LARSEN: It was a little distracting.
MR. DICKINSON: It wasn't you interrupting

me. It was our technology.

So this is just basically to, I guess, second all of Tom's concerns and then to bring up maybe two more or make them more specific. There's the question of direct contractors are supposed to be included, as to what direct versus indirect is.

And then in particular, if I'm working and I hire Nabors for one day, how does Nabors -- do they have to figure out their percentage? Is that weight averaged in based on how much I employed -- I mean, just a question of how it's going to mechanically work.

MR. LARSEN: Okay.

MR. DICKINSON: And then obviously the -- not obviously. Nothing's obvious about this particular passage. "Grant a preference," is that absolute? It comes beforehand? Somebody has a 62 percent and someone else has 63, do you weight them in as 62, 63 average? So what does "grant a preference" mean?

And then the final question I wanted to bring up. It actually -- maybe it's just arisen, because as -- because we're in sort of a new world here. I don't think it's specifically prohibited, but maybe if the regulations could make clear that it was specifically allowed. If I apply for a credit and that credit is, say, languishing, it hasn't been paid or it's been partially paid, can I withdraw that credit? Can I withdraw that application?

Let's say I find somebody else who can purchase it or some other -- something else I can do with it, make it very explicit that I can withdraw that.

MR. LARSEN: Okay. Great.

MR. DICKINSON: And those are the ones that I remember that Tom didn't check the box off. So thank you for your time.

MR. LARSEN: Thanks, Dan. I appreciate it.

Mike, do you want to go next, or have any comments you would like to add?

MR. HURLEY: Sure.

MR. LARSEN: Okay.

MR. DEES: Could we clarify his last statement? He's saying if he applies for a credit repurchase, right, not apply for a credit?

MR. DICKINSON: Absolutely, correct, yes.

MR. DEES: Yeah, okay.

MR. DICKINSON: I mean, I know credits have been withdrawn prior, so I don't think that was an issue, but this is an issue that's arisen more because of the current -- because of the allocation, the

funding.
MR. LARSEN: Right.
MR. HURLEY: Since I'm going to have to refer to several things --
MR. LARSEN: Okay. You have some handouts for us? Thank you, sir.
MR. HURLEY: I have some handouts. I didn't bring enough for everybody. I wasn't sure there would be this many people here.
MR. LARSEN: I wasn't sure there would be this few.
MR. DICKINSON: If we had known you were speaking, we could have announced it.
MR. HURLEY: Well, you know. Okay. We did have several comments -- this is Michael Hurley with ConocoPhillips -- that we wanted to make regarding the scoping of the regs project.
Couple of comments specifically about 247, which will be somewhat repetitive of what comments were made earlier, and then some suggestions on some other things that we think need to be reviewed in the context of revising the regulations for the production tax.
With respect to 247, as Mr. Williams had mentioned earlier, there are some concerns about how

the AOGCC process is going to work and whether -- as it's written right now, as I understand it, the Department will be asking the AOGCC when regular production started. And that part's clear in the statute. But how exactly that request goes in and how that gets dealt with between the AOGCC and the Department, just got to figure that out and make it clear in the regs.

MR. LARSEN: Okay.

MR. HURLEY: The second area that we think needs to be a little bit better defined is in the surety bond section of the statute, there is a subsection that refers to the surety bond not being necessary or being extinguished if the commissioner finds that the producer is -- I think the words were "in commercial production."

MR. DEES: Is Section 32 -- 43.70.025(c) I think is what you're looking at.

MR. HURLEY: Right. If the commissioner finds that the business is producing oil and gas in commercial quantities. And that's all well and good. Whenever you use the word "finds," "the commissioner finds," then it's a question of is that a letter or is that --

MR. LARSEN: An official process or what's --

MR. HURLEY: -- official process where you got to go through and come up with the "best interests" kind of finding. I mean, one would hope it would be simple, but...

MR. LARSEN: I don't know if DOR does best interest findings. That might be a DNR --

MR. HURLEY: I think so, but some kind of finding.

MR. DICKINSON: Start now.

MR. LARSEN: Okay. Yeah.

MR. HURLEY: However you want --

MR. LARSEN: However we --

MR. HURLEY: -- to define --

MR. LARSEN: -- want to define it.

MR. HURLEY: -- "findings," just go ahead and define it that way.

MR. LARSEN: Okay.

MR. HURLEY: The third item in 247 is with respect to the interest calculation and how that's going to work. I think Mr. Williams articulated that clearly enough. It's one of those things where you just need to define how it's going to work.

Marie and I sat down and looked at it and came up with a couple different ways it could work, but you guys just need to define how you think it

ought to work, and then we'll comment on that once
it's sent out as a draft.
          MR. LARSEN: Yep.
          MR. HURLEY: And then finally, with respect
to 247, the section that modifies 160(f) and (g), the
GVR changes, the statute references an average annual
price per barrel. How that's going to work when
something comes on in the middle of a year or in the
middle of a month, or how that's just going to be
dealt with in the nuts and bolts, is just something we
think needs to be addressed.
          And then recognizing that the gross value
reductions for a new project are going to be
applying -- is it a question of it applying by well or
by PA, or how does it apply? That's one of the
things -- and we'll get to that in a second, going
back to the old GVR regs.
          But the timing consideration that's been
added, the graduation ceremony that we'll have to have
at some point for new oil to old oil, how that clock
is going to work is going to be important. And you
guys just need to propose something in the regulations
about how that will work.
          MR. LARSEN: Okay.
          MR. HURLEY: Moving away from 247, one of the

things that we would like to suggest to you is that we revisit the gross value reduction regulations that were originally promulgated in January of 2014. We've had conversations both with the prior administration and with the current administration at various levels about issues on how those regs were drafted and how they do or don't work in certain kinds of circumstances.

And I'll address a couple of those specifically. One has to do with the timing discrepancy between when a decision is made to proceed with a development and when the Department would be determining whether or not this development satisfies the conditions for a gross value reduction.

If you go to that little schedule that I handed out --

MR. LARSEN: Right.

(Mr. Mahoney joins workshop.)

MR. HURLEY: -- this is kind of a little high-level development timing schedule built somewhat off of the work that we're doing over in NPR-A right now, but the principles apply whether it's a new unit, a new PA, an existing unit or a PA expansion, which are the three categories that qualify under the gross value reduction.

And what I would like to point out: When you look at when somebody makes an FID -- producer makes a final investment decision that we're either going to do this or we're not going to do this -- you're kicking off a development that's going to take several years to get to the point where there's first oil.

As you can see here, in this example that I put together, it's at least three years before you get to first oil for the kinds of developments that we're doing.

Now some of the things that are new PAs in existing fields, if we're working off existing pads and existing infrastructure, can be shorter. But for some of this, depending what kind of development it is, that three-year period makes a difference in -- and just doesn't work the way the regulations are written now, because the way the regulations are written now, you cannot get a determination from the Department on GVRs until the PA has been expanded or granted by the Department, "Department" being DNR in this case.

And as we've talked before with the Department and with you guys, the Department of Natural Resources normally will not grant a PA expansion or new PA until usually 90 days before production starts. So you're talking about a PA granting that's going to occur three years after FID.

If the GVR is designed and meant to influence a company's decision making, we have to know the answer to the question "Will we get a GVR or not back at FID," because that's when we're going to be running our economics. We're going to run our economics -- once we get our permits, once we know what the stipulations are, we decide if we're going to go ahead, and at that point either our economics will or won't include a GVR.

But the way the regs are written right now, I'm not sure, until three years from now, whether I'm going to get it or not, so I can't assume that I'm going to go get it. Therefore, I cannot include it in my economics. Therefore, it's providing no benefit.

That is something that I think, as the Department considers those regulations, it should give some thought to, because it just -- right now the GVRs are going to provide virtually no benefit, because I don't know, at the time that I make the final investment decision, whether I'm going to get it or not, the way the regs are currently written. So I would suggest you look at that.

MR. LARSEN: All right.

MR. HURLEY: A second issue that has come up with respect to GVRs is the prohibition in the regulations on granting -- and this is an expansion of a PA case -- the prohibition on granting a GVR for acreage that had been previously in a PA.

And for that I will refer you to this second really complicated little piece of paper. This happens to be the development map that we're currently looking at for the eastern side of the Kuparuk field for Drill Site 1H.

There was an original West Sak PA that dates back to 1997 when the original PA was granted, and we were doing developments in 1C and 1D, Drill Site 1C, Drill Site 1D at Kuparuk. We were planning on building that out to the north at the time we originally got a PA, so it was a fairly big PA.

But part of the stipulations of that, granting that PA, were that after a certain period of time the PA needed to collapse down to those leases that were contributing production to that development. And what happened is, in 2004, the PA contracted, so the PA shrunk down to basically 1C and 1D.

And if you look at the green outline in that map, you will see the original larger PA.

MR. LARSEN: Okay.

MR. HURLEY: And then you can see, in the brown outline, what it shrunk down to. This was the revision that was done on 12/15 of 2004. The PA shrank way down. Now that was 12 years ago, and it was done at the insistence of the Department as one of the conditions of the original PA.

MR. LARSEN: The DNR?

MR. HURLEY: Yes. DNR insisted those leases be contracted out.

This year, 2016, we're looking at expanding West Sak to the north. And you can see the 1H development circle up there, which is outside of the current PA which has been in place since 2004. But it includes leases that were in part of the original PA from 1997. So under the way the regs are written right now, I cannot get a GVR for Drill Site 1H development.

MR. LARSEN: I see the dilemma.

MR. HURLEY: Yes. Okay. You've got to look at that, because I think it does harm to the idea of what GVRs were supposed to do.

The other comment that we were going to make, and Marie will do this before Tuesday evening, when she gets back, and provides you some more detail comments, but we want to talk a little bit about the continuous metering requirements that are in the existing regs. There are some concerns with those, and she will detail those out more explicitly in the written comments --

MR. LARSEN: Okay.

MR. HURLEY: -- they look at.

MR. LARSEN: That will work. We'll take those.

MR. HURLEY: And then finally, the only other thing that we had on those production tax regs is she wants to write you a nice little letter about the transportation regs. You know that's her favorite topic.

MR. LARSEN: I've heard that.

MR. HURLEY: So she will include something in her written comments about those.

MR. LARSEN: Okay.

MR. HURLEY: And that's basically all we had on the production tax. We appreciate your having this scoping meeting.

MR. LARSEN: All right. Thank you, Mike.

And on the -- the production that comes on in the middle of the year, the middle of the month, do you have any specific ideas or suggestions on something that might work?

MR. HURLEY: Not at the moment.

MR. LARSEN: Okay.

MR. HURLEY: She and I have talked about it, but we haven't figured out exactly how that should work, or suggestions. If she has any ideas before Tuesday evening, I will have her put it in her letter.

MR. LARSEN: Okay. All right. And somewhat along those lines, Mike, I would say that, you know, we want to get the comments in as early as possible so that we can include them in the drafting process.

MR. HURLEY: Right.

MR. LARSEN: But that I would say, up until the regulations go out, that there's still some opportunity for some communication there at that point in time. Like I say, we would like to get it as soon as possible. But if you have some thoughts that come on later, I don't -- I don't want to exclude them because of the timeline for the workshop.

MR. HURLEY: Okay.

MR. LARSEN: Especially if there's some communication that can go on that will help the drafting process, because as you know, once we enter the public notice, we can't have that dialogue.

MR. HURLEY: Right.

MR. LARSEN: And so I don't want to preclude it entirely before that, but the date is to encourage early comment so that we don't have a late onslaught of things coming in just before the regulations' drafting go out.

MR. HURLEY: Right. Understood.

MR. LARSEN: Okay. Thanks.

Okay. Is there anyone else in the room here that would like to make some comment or suggestions? Yeah.

MR. WILLIAMS: May I clarify one point that I --

MR. LARSEN: Please do.

MR. WILLIAMS: I will come back up.

I spoke about the resident-hire preference, and I talked about contractors and subcontractors. And I forgot why -- to explain why I mentioned subcontractors here. The statute says you look at the percentage of resident workers in the applicants' workforce, including workers employed by the applicants' direct contractors.

The reason I mention "subcontractors" is you could have a situation where people create "Contractor is Us" or "Contractors R Us, Inc.," and it's got a zillion employees. We're really being paid under personal service arrangements or something like that by somebody else, but you've created a form where people are counted in the contract who are really residents from a subcontractor or something like that, and you could get -- it's to avoid manipulation of the form of the arrangement --

MR. LARSEN: Right.

MR. WILLIAMS: -- to circumvent the substance. And so I just wanted to make that clarification. It doesn't change the substance of what you want to -- what you want to achieve. It's just that you don't want to leave a back door in, that people can circumvent what you want to do.

MR. LARSEN: Thank you, Tom. I appreciate that.

Okay. Please bear with me just a moment while I make some notes here. All right. Anyone else, once again, in the room that would like to make additional comment?

Okay. Hearing none, anybody on the phone lines?

Will, I will ask -- I guess specifically hearing none, did Chevron have any comments or suggestions they would like to make on the regulations for the workshop here?

MR. NEBESKY: John, yeah. Hi. Will Nebesky.

I have no additional comments -- no comments at this time. I do appreciate the Department putting together this workshop and scoping process. I think it's been very helpful, so thank you.

MR. LARSEN: Okay. Thanks, Will. Anyone else on the phone line that would like to make comments?

MS. GRAMLING: John, this is Mary Gramling, Department of Law. I just wanted to kind of fill out and remind you there that those submitting written comments, that this is part of a public process, so you should not include anything that you would consider taxpayer confidential information in the written comments. Thank you.

MR. LARSEN: Thanks, Mary, for that reminder. If that didn't come clearly to everybody in the back of the room, it's just that all comments are public comments, so be sure to not include any confidential or proprietary information in any of your comments.

Michael, we do appreciate you sharing your maps and timelines there.

Okay. Well, I guess if there's no further comment, I want to thank everyone for your participation this morning and for the comments that I'm sure we'll receive.

Once again, the reminder that the comment period closes on Tuesday, close of business, 4:30, August 16th. You can send them to me, and my e-mail is: John.Larsen -- that's L-a-r-s-e-n -- @Alaska.gov.

Or you can e-mail them to the Alaska Department of Revenue at 550 West Seventh Avenue, Suite 500, Anchorage, Alaska 99501, or fax them to 907/269-6644.

As I stated previously, all comments will be considered prior to drafting of the regulations, and once drafting -- or regulations have been drafted and proposed, further opportunity for public comment will be provided after they have been publicly noticed.

Thank you once again for your participation here today and your interest in the regulations.

MR. WILLIAMS: Process question. Your notice said that interested persons who want to make a comment at this session need to be here by 10:30. Are you planning to remain available?

MR. LARSEN: We'll be here till 10:30, yep --

MR. WILLIAMS: Okay.

MR. LARSEN: -- for any of the late showers. I hadn't looked at the clock yet, Tom, but thanks for that. Yeah.

MR. WILLIAMS: Didn't want you to close it out prematurely.

MR. LARSEN: Yeah. No, we have the room here available. So your time is your time, so, Tom, if you want to wait till 10:30 to see if anybody shows up, you're free to do that.

I'm going to go ahead and put us on mute and see if anybody shows up or not, and then we'll close the proceeding at 10:30. Thanks.

(Off record.)

MR. LARSEN: Anyone on the line still?

MS. MAXWELL: Yes. I'm still here. Brenda Maxwell.

MR. LARSEN: Hey, Brenda. I presume you didn't have any comments you wanted to make, or you would have made them sooner, so I'm going to go ahead and close out the proceeding. And I don't know if you're coming back for property tax this afternoon or not, but thanks for listening in today. I appreciate your time.

MS. MAXWELL: All right. Thanks.

MR. LARSEN: Thanks, Brenda.

Anyone else on the line still?

All right. Well, with that, this is John Larsen. It's 10:33, and we'll close the proceeding until the property tax session workshop this afternoon. Thanks. Good day.

(Proceedings concluded at 10:35 a.m.)

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CERTIFICATE

I, GARY BROOKING, Registered Professional Reporter and Notary Public in and for the State of Alaska, do hereby certify that the foregoing proceedings were taken before me at the time and place herein set forth; that the proceedings were reported stenographically by me and later transcribed by computer transcription; that the foregoing is a true record of the proceedings taken at that time; and that I am not a party to nor have I any interest in the outcome of the action herein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 26th day of August, 2016.

GARY BROOKING, RPR
My Commission Expires 6/28/2020