



United States Department of the Interior
BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT
Alaska OCS Region
3801 Centerpoint Drive, Suite 500
Anchorage, Alaska 99503-5823

APR 13 2018

Teresa Imm, President
ASRC Exploration, LLC
3900 C Street, Suite 1000
Anchorage, Alaska 99503

Dear Ms. Imm:

The Bureau of Safety and Environmental Enforcement (BSEE) is in receipt of the Suspension of Operations (SOO) request submitted by ASRC Exploration, LLC (AEX) on February 10, 2017. We have also received the most recent supplement to that request (submitted on March 27, 2018), which provides a revised schedule of work. Prior supplements (received by BSEE on March 22, 2017 and June 30, 2017) to the original request have been superseded by the March 2018 submittal.

Background

In the original request, you asked BSEE to act pursuant to its authority under 30 C.F.R. § 250.168 *et seq.*, to grant a 5-year SOO for the 21 leases held by AEX in the Beaufort Sea (OCS leases Y-1804, Y-1805, Y-1806, Y-1807, Y-1808, Y-1809, Y-1812, Y-1813, Y-1912, Y-1913, Y-1921, Y-1929, Y-1935, Y-1936, Y-1937, Y-1940, Y-1941, Y-1942, Y-1943, Y-1944, and Y-1945). Since that time, BSEE has approved unitization of all of those leases – except Y-1945 – into the Taktuk Unit; your original request assumed formation of the Taktuk Unit with all 21 leases included. Subsequent to formation of the unit with only 20 leases, AEX submitted a parallel application on June 30, 2017 for an SOO on the non-unitized lease Y-1945. This decision letter addresses the SOO requests for all 21 leases, i.e. those included in the 20-lease Taktuk Unit and the single lease Y-1945.

Your original February 10, 2017 SOO request asserted 5 separate reasons why BSEE should approve an SOO, as summarized below. According to AEX:

1. The SOOs are necessary to conduct additional environmental analysis (30 CFR 250.172(d)).
2. The SOO request is in the national interest because it furthers the Outer Continental Shelf Lands Act's (OCSLA's) mandate for expeditious and orderly development of Outer Continental Shelf (OCS) resources (43 U.S.C. § 1334(a)(1) and 1332(3)).
3. The SOO request is in the national interest because it furthers state and local interests related to understanding the potential conflicts associated with Beaufort Sea operations (43 U.S.C. § 1334(a)(1)).
4. The SOO request is in the national interest because further oil and gas development in the Arctic may, in the long term, help address declining usage of the Trans-Alaska Pipeline System (TAPS) (43 U.S.C. § 1334(a)(1)).
5. Granting the SOO request would be in the interest of national security (30 CFR 250.173(b)).

Analysis: Reasons 2 through 5

The decision to grant or deny a suspension request that meets the threshold regulatory requirements rests squarely within BSEE's discretion. After a thorough review of the cited justifications and applicable laws and regulations, BSEE has determined that we are unable to grant an SOO pursuant to reasons 2, 3, and 4, based on the justification of national interest. Section 5 of OCSLA (43 U.S.C. § 1334(a)(1)(A)) calls upon the Secretary to promulgate regulations providing for suspensions, "in the national interest, to facilitate proper development of a lease or to allow for the construction or negotiation for use of transportation facilities." The Secretary has accordingly issued regulations pursuant to which the "national interest" is a necessary, but not sufficient, condition for obtaining a Suspension of Production (SOP). The relevant implementing regulation provides that BSEE *may* grant an SOP where doing so is in the national interest *and* necessary to allow the proper development of the lease for production purposes, securing transportation or sales arrangements for impending production, or avoiding premature abandonment of existing production (*see* 30 CFR 250.174); in other words, after a discovery has been made and lease development is planned or underway. AEX, by contrast, requested an SOO for "pursuing exploration ... to determine ... the resource and economic potential of these leases." The National interest consideration pertains to SOPs designed to support the development of a lease for production following a discovery, not SOOs to support exploration of the type contemplated by AEX. Nor is it sufficient, standing alone, to sustain a suspension.

With regard to reason 5, the statutory authority for the referenced regulation (30 CFR 250.173(b)) is found at 43 U.S.C. § 1341(c) and (d). Pursuant to that statutory authority, the Regional Supervisor (as the Secretary's delegate) can, upon recommendation of the Secretary of Defense, suspend operations or production for national security "during a state of war or national emergency declared by the Congress or the President" (43 U.S.C. § 1341(c)) or within an area designated by the Secretary of Defense as "part of the outer Continental Shelf needed for national defense" and therefore "restricted from exploration and operation" (43 U.S.C. § 1341(d)). Currently, there is not a state of war or national emergency declared by Congress or the President which would give authority to BSEE to direct an SOO for AEX's leases. Nor have the areas covered by the Taktuk Unit or lease Y-1945 been designated by the Secretary of Defense as needed for national defense and thus restricted from exploration and operation. Further, the regulatory provision implementing this authority pertains only to directed, not requested, suspensions. BSEE therefore does not currently possess the authority to act on your request pursuant to 30 CFR 250.173(b).

Analysis: Reason 1

A. *Stated Justification for SOO (30 CFR 250.172(d))*

The foregoing analysis effectively narrows AEX's original request to the single remaining justification provided in reason 1 above. This same justification formed the basis of AEX's SOO request for lease Y-1945. After a thorough review of this justification and the applicable laws and regulations, we determined that we do possess the authority to act on your request pursuant to 30 CFR 250.172(d). In order for BSEE to grant an SOO under this provision, it must be "necessary to carry out the requirements of [the National Environmental Policy Act (NEPA)] or to conduct an environmental analysis." During our meeting with AEX on June 20, 2017, we informed you that for BSEE to be able to grant AEX's SOO request under that regulation, AEX must demonstrate in specific terms that it needs additional time to conduct environmental analysis on the Taktuk Unit and lease Y-1945 in order to return to leaseholding operations. In other words, AEX must show that the time requested would be used to perform proposed environmental analysis necessary to facilitate proceeding with submitting an

exploration plan (and accompanying environmental impact analysis), applications for permits to drill, and other approvals necessary to return to leaseholding operations. The purpose of this regulation is to account for the environmental analyses required by law (*i.e.*, NEPA) prior to the approval of OCS operations. In this instance, NEPA would be triggered by submittal of an exploration plan. AEX responded by submitting a modification (dated June 30, 2017) to its original request for the now 20-lease Taktuk Unit, and by submitting a parallel application on June 30, 2017 for an SOO on the non-unitized lease Y-1945. These requests refocused the justifications from the original application, and provided additional detail and analysis regarding the necessary environmental analyses that AEX intends to undertake prior to resuming leaseholding operations. Subsequently, the most recent March 27, 2018 supplements submitted by AEX further refined the description of proposed environmental analyses, and adjusted the overall schedule of the requested suspensions, but otherwise did not change the cited justification under 30 CFR 250.172(d).

B. Reasonable Schedule of Work (30 CFR 250.171(b))

In addition to the justification cited in Reason 1 above, our regulations require suspension requests to include a reasonable schedule of work to be conducted while any suspension is in effect, leading to the restoration of leaseholding operations (30 CFR 250.171(b)). AEX has supported its SOO requests with a schedule of work outlining the steps AEX intends to follow in the coming years to progress toward leaseholding operations. Though other activities are also mentioned in the schedule, it appropriately focuses on the types of environmental analyses underlying BSEE's authority within 30 CFR 250.172(d).

In recent years, no operator has executed a program of successful exploration in this part of the Beaufort Sea. Most recently, another operator attempted to do so in 2012, but environmental and subsistence-related constraints – apart from the separate regulatory and technical challenges experienced – effectively limited them to drilling only the top portion of a single well. No wells have been successfully drilled in this area for approximately 30 years. BSEE acknowledges the unique challenges to OCS exploration presented by the extreme environmental conditions, sensitive and vibrant ecosystems, lack of existing infrastructure, the presence and migration patterns of protected marine mammals, and cultural and socioeconomic resources present in the Arctic. Encroachment of seasonal sea ice over the area for up to eight or more months a year impacts not only the design and execution of Arctic OCS exploration activities but also on-the-water environmental analysis. BSEE also acknowledges that industry's experience analyzing and addressing these challenges continues to evolve.

There has been a meaningful amount of NEPA analysis performed to sustain OCS activities in the area of AEX's leases. However, AEX has provided reasonable justifications demonstrating that its circumstances warrant the time requested to ensure the adequacy of the environmental analysis it must submit to support its particular proposed operations. In light of the history of public interest in and litigation challenges to Arctic OCS activities, including over NEPA adequacy, AEX's desire to be circumspect and thorough supports a determination that the requested suspension is justified. AEX's schedule provides time to evaluate existing environmental analyses, assess their applicability to the particular operations AEX may pursue, consider any changed operational or environmental circumstances, and potentially supplement available analysis to produce a submission that adequately supports the Department in its decision-making processes against any challenges. The nature by which the unique challenges to Arctic OCS exploration shape the design and execution of operations in this area supports a careful and deliberate approach toward the environmental analysis that must precede leaseholding operations on these leases at this time. AEX's proposed course of work will, in BSEE's

view, add to the overall body of knowledge relevant to mineral exploration and development in the area of the Taktuk Unit and lease Y-1945.

Further, AEX's unique expertise in coordinating native subsistence and environmental concerns as they relate to seasonal drilling restrictions and related issues – as reflected by the undertakings contemplated in its reasonable schedule of work – increases the likelihood that exploration for oil and gas resources will be able to occur in this area in a safe and environmentally and culturally responsible manner. As a result, AEX's efforts will enhance BSEE's ability to fulfill the Congressional policy established under OCSLA to provide for expeditious and orderly development of OCS resources subject to environmental safeguards (43 U.S.C. § 1332(3)).

Based on the foregoing considerations and the geographic and temporal considerations affecting the Taktuk Unit and lease Y-1945, BSEE finds AEX's proposed schedule of work to be reasonable, subject to the conditions attached to this letter.

Decision

Following a detailed review of the information you have submitted, and based on the analysis presented herein, AEX's request for a suspension of operations on the Taktuk Unit and on lease Y-1945 is hereby approved. This approval is subject to the conditions set forth in Enclosure 1. Though the reasonable schedules of work submitted with each request (that associated with the Taktuk Unit and that associated with lease Y-1945) appear to BSEE to be essentially identical, wherever the enclosed conditions refer to a reasonable schedule of work, that term should be interpreted to apply equally to each schedule of work submitted with each separate request.

The effective date of the suspension for lease Y-1945 is July 31, 2017, coinciding with its scheduled expiration date. The Taktuk Unit suspension commences effective October 31, 2017, coinciding with the earliest of the scheduled expiration dates of leases within the Unit. The Unit leases with scheduled expiration dates later in time will join the unit suspension at that point, as individually listed in Table 1 below. The lease Y-1945 SOO will end on July 31, 2022, and the Taktuk Unit SOO will end on October 31, 2022.

TABLE 1: TAKTUK UNIT SOO EFFECTIVE DATES

Lease No.	End of Primary Term	Date Lease Joins Unit SOO
Y-1804	October 31, 2017	October 31, 2017
Y-1805	August 15, 2019	August 15, 2019
Y-1806	October 31, 2017	October 31, 2017
Y-1807	October 31, 2017	October 31, 2017
Y-1808	October 31, 2017	October 31, 2017
Y-1809	October 31, 2017	October 31, 2017
Y-1812	October 31, 2017	October 31, 2017
Y-1813	October 31, 2017	October 31, 2017
Y-1912	October 31, 2017	October 31, 2017
Y-1913	October 31, 2017	October 31, 2017
Y-1921	October 31, 2017	October 31, 2017
Y-1929	October 31, 2017	October 31, 2017
Y-1935	October 31, 2017	October 31, 2017

TABLE 1: TAKTUK UNIT SOO EFFECTIVE DATES

Lease No.	End of Primary Term	Date Lease Joins Unit SOO
Y-1936	October 31, 2017	October 31, 2017
Y-1937	October 31, 2017	October 31, 2017
Y-1940	October 31, 2017	October 31, 2017
Y-1941	July 3, 2019	July 3, 2019
Y-1942	October 31, 2017	October 31, 2017
Y-1943	October 31, 2017	October 31, 2017
Y-1944	October 31, 2017	October 31, 2017

BSEE reserves the right to terminate these SOOs if we determine the circumstances that justified them no longer exist or that other lease conditions warrant termination (30 CFR 250.170(e)), or if AEX fails to satisfy the conditions of approval. This decision should not be viewed as precedential outside of the Arctic-specific circumstances presented.

Closure

If you elect to appeal this decision pursuant to 30 CFR Part 290, a Notice of Appeal must be filed with this office and served on the Associate Solicitor, Division of Mineral Resources, within 60 days of receipt of this letter (see NTL No. 2009-N12). If you have any questions about this decision, please contact me at (907) 334-5300, or via e-mail at kevin.pendergast@bsee.gov.

Sincerely,



Kevin J. Pendergast, PE CPG
Regional Supervisor, Field Operations

Enclosures:

Enclosure 1: Conditions of Approval for SOOs on the Taktuk Unit and lease Y-1945

Cc:

R. Scott Nuzum, Of Counsel, Van Ness Feldman LLP
David Johnston, Regional Supervisor Leasing and Plans, BOEM Alaska Region
Kurt Barton, Minerals Revenue Specialist, Office of Natural Resources Revenue
Honorable Lisa Murkowski, Senator for Alaska
Honorable Dan Sullivan, Senator for Alaska
Honorable Don Young, Congressman for Alaska
Governor Bill Walker, State of Alaska

ENCLOSURE 1

Conditions of Approval for SOOs on the Taktuk Unit and Lease Y-1945

1. Within 15 days of the end of each calendar quarter, AEX shall provide a written quarterly report to BSEE, describing their progress toward addressing each item from the reasonable schedule of work (RSW) that is proposed for that calendar year. The quarterly report will include a recap of what was accomplished in the prior quarter. The first quarterly report is due within 15 days of the end of the calendar quarter in which this approval is issued, unless an extension is requested in writing by AEX and approved by BSEE. The first report must detail progress made on the RSW since the beginning (effective date) of the SOOs.
2. In addition to the quarterly reports required by Condition #1, AEX must provide written documentation, reports, or other evidence (e.g., contracts, correspondence, etc.) to BSEE that clearly demonstrate that AEX is meeting or has met the requirements of the work items set forth in the RSW. BSEE will review these submittals for adequacy, and we will notify AEX whether the submittals are satisfactory evidence of diligence, or if additional information is required.
 - a. "Evidence of diligence" shall be defined as ordinary course of business documents that demonstrate tangible work that has occurred as AEX conducts work on the items set forth in the RSW. BSEE strongly prefers such documentation and will give less weight to written or verbal assertions about work progress. BSEE recognizes, however, that not every step taken by AEX may be reflected in ordinary course of business documents, and that it might be appropriate, at times, to provide written or oral updates on progress. Such updates may be accepted by BSEE on a case by case basis, but will not be allowed as the primary means of demonstrating diligence. If AEX does not provide the above-described evidence of diligence, BSEE may terminate the SOOs.
 - b. The RSW includes widely varying items, which will result in various work products. Therefore, to provide flexibility for AEX as they execute their planned activities, BSEE elects not to predetermine and specify work products that we will accept as evidence in meeting this condition. As a result, each year AEX shall prepare a detailed list of evidence they expect to present as a result of work activities planned for the upcoming period. This list will be due to BSEE by January 31 of each year the SOOs are in effect, and will cover the activities planned for that calendar year; the first such list will be due within 15 days of the end of the calendar quarter in which this approval is issued. The list will be complete with specific planned submittal dates for individual work products. It will be subject to BSEE concurrence.
3. With the exception of events that BSEE agrees are outside of AEX's control, failure to achieve the milestones in the RSW may result in termination of the SOOs. If AEX fails to achieve a milestone as defined in the RSW, as part of its consideration of whether termination is appropriate, BSEE will evaluate the steps AEX undertook to meet the milestone and the reasons why the milestone was not achieved.
4. Any modifications to the RSW – either in substance or timing – must be presented to BSEE for review and approval.

5. Granting of these SOOs does not ensure future suspensions will be granted. BSEE will evaluate future suspension requests pursuant to applicable laws and regulations, based on the justifications presented by AEX and the circumstances presented at the time. However, future suspension decisions will be influenced by the level of success AEX demonstrates in following the terms of these SOOs. In particular, BSEE will evaluate progress toward future (beyond the term of the first SOOs) RSW milestones in deciding whether to grant any subsequent suspensions.
6. In addition to other items and milestones along the RSW, AEX shall demonstrate evidence of diligence specifically toward submitting an Exploration Plan to the Bureau of Ocean Energy Management (BOEM) no later than October 31, 2023.
7. If future rulemakings or other administrative actions tend to – in BSEE’s judgement – materially affect relevant regulatory burdens on AEX for exploration in the eastern Beaufort, BSEE may require AEX to adjust the timing of deliverables in their RSW to reflect the changed regulatory burden, or to present justification for BSEE’s approval that no changes to the RSW are warranted.