



April 7, 2022

Commissioner Corri A. Feige
Alaska Department of Natural Resources
550 West 7th Avenue, Suite 1100
Anchorage, AK 99501

Via Email: dnr.appeals@alaska.gov

**Re: Permittee Response to ConocoPhillips Alaska, Inc. Appeal 22-015 of March 29, 2022
Decision on MLUPNS 22-001 and Associated Requests**

Dear Commissioner Feige:

Please consider this as notice that Oil Search (Alaska), LLC (OSA) intends to participate as an interested party in the ConocoPhillips Alaska, Inc. (CPAI) appeal of MLUPNS 22-001 (MLUP) issued to OSA by the Division of Oil and Gas. Please direct any communications or notices relating to the appeal of the MLUP to:

Tim Jones
Land Manager
Oil Search (Alaska), LLC a subsidiary of Santos Limited
Tim.Jones3@Santos.com

In its April 5, 2022, Appeal and Request for Extension of Time to Submit Additional Written Information under 11 AAC 02.030(b) (Appeal), CPAI requests an extension of time, a hearing, and a stay. Given the thoroughness of the well-reasoned MLUP Decision by the Director, and the many comments filed to date by CPAI, OSA does not believe CPAI has provided a sufficient reason for these requests to be granted. The requests should be considered in light of the overall course of conduct CPAI has engaged in for over two years to disrupt the Pikka Project and delay its permitting. The MLUP is the fourth Pikka Project permit CPAI has targeted in the last two years. During this time, CPAI filed no less than 10 letters objecting to Pikka permit applications, repeatedly advocated for agencies to deny OSA's permit applications, and participated in appeals (and filed "conditional appeals") of three of the four authorizations it targeted.

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This campaign began with OSA’s April 2020 application to the U.S. Army Corps of Engineers (Corps) for a Clean Water Act (CWA) Section 404 permit to construct a seawater treatment plant (STP) at Oliktok Point. CPAI submitted multiple letters and held meetings with Corps staff to argue that OSA should be denied the permit and required to use (and upgrade) the KRU STP, which it argued would be “environmentally preferable [to the planned OSA STP.]”¹ This interference caused delay, but the Corps permit was ultimately issued in October 2020. By that time, CPAI had moved to opposition to the easements required for the STP and associated pipelines. CPAI’s extensive engagement with the Division around these easements resulted in a complex and protracted permitting process that extended over a year and included multiple public comment periods. During this process, CPAI raised the issue of KRU road use multiple times, along with the takings argument it now advances on appeal.²

Given this course of conduct, CPAI’s appeal and requests should be considered with skepticism. In terms of the request for extension of time, CPAI submitted two extensive comment letters on the MLUP to the Division and it has now received the administrative record from the Department. There is no need or basis to grant a 43-day extension of time for CPAI to supplement its Appeal on a position it has been considering and advancing for over a year and repeat an argument that has already been soundly rejected by the Division as detailed in the Division’s Response to CPAI’s Comments in the MLUP decision.

Further, CPAI’s suggestion that an extension is appropriate to give OSA and CPAI “the time needed to engage in good faith negotiations” is disingenuous. OSA will continue to engage in good faith negotiations regardless of the timeframe of the appeal. CPAI seeks an extension not to advance negotiations, but to advance its position and cast doubt on the status of the MLUP. The request for an extension and stay seems intentionally designed to cloud the question of whether OSA will have access across KRU as the Pikka Unit owners advance to Final Investment Decision (FID). Consistent with the authorization by the Division on the MLUP, issuance and effectiveness of the MLUP in no way inhibits, and the parties can engage in, negotiation of a road use agreement with the MLUP in place.

CPAI’s requested stay of the MLUP is not necessary. The only purpose for a stay is to put OSA back in the position it was in prior to the MLUP – dependent on a KRU road use agreement that CPAI has threatened to terminate. A stay would not be in the public interest as it would jeopardize OSA’s access to the Pikka Project and it would serve to benefit only one party--ConocoPhillips—by allowing it to perpetuate its erroneous view that it has exclusive control over access across the KRU.

CPAI’s request for a stay and an extension of time should be denied. These requests are contrary to the public interest in advancing the Pikka Project, and the reasons proffered by CPAI for these requests are

¹ In a July 20, 2020, letter to the Corps of Engineers, CPAI argued that “[a]s currently scoped, we believe potential upgrade to the KRU STP would be environmentally preferable [to the planned OSA STP.]”

² In a December 4, 2020, letter to the Division, CPAI states that “DNR does not have the power to permit use of KRU roads without KRU owner consent” and “Non-consensual appropriation of KRU roads or other facilities would be a taking.”

specious.³ With respect to the request for a hearing, CPAI does not articulate any facts in dispute and its request should be denied on this basis.

Sincerely,



Tim Jones
Land Manager
Oil Search (Alaska), LLC

ECC: Erik Fossum, DNR, Office of the Commissioner (Erik.Fossum@alaska.gov)
Derek Nottingham, DNR, Division of Oil and Gas (Derek.Nottingham@alaska.gov)
Graham Smith, DNR, Division of Oil and Gas (Graham.Smith@alaska.gov)
John Schell, ConocoPhillips Alaska, Inc. (john.schell@conocophillips.com)

³ Nor do they meet the good cause factors in 11 AAC 02.030

