

State of Alaska FY2002 Governor's Operating Budget

Department of Law
Oil & Gas Litigation
Component

Component: Oil & Gas Litigation

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Component Mission

Mission statement is included at the department summary level.

Component Services Provided

The legislature first identified the Oil and Gas Litigation component of the Oil and Gas Litigation and Legal Services BRU as a separate allocation in FY1999. Prior to that, the services covered by the component were an undifferentiated part of the Oil and Gas Litigation BRU. The component covers services performed by attorneys and staff in the Oil, Gas, and Mining section of the Department of Law, and by contract counsel and expert consultants, that fall within one or more of the following categories:

- A. Cases in court or at the administrative hearing stage (including tax disputes at the informal conference stage).
- B. Advice to agencies in disputes with taxpayers, leaseholders, citizens' groups or other parties, even if the matter has not yet proceeded to court or an administrative hearing.
- C. Assistance to and preparation of agencies in anticipation of possible litigation, including work in anticipation of the filing of a complaint, protest, or appeal.

ANTITRUST CASES

Department attorneys investigate possible antitrust violations resulting from recent mergers by oil and gas companies and either will litigate or, if an agreement is reached, will monitor and enforce compliance by the company. In addition, the state has filed demands for information from a number of gasoline refiners and marketers as part of an antitrust investigation and may pursue action if warranted.

TAX-RELATED SERVICES

The state has resolved many of the outstanding tax cases from earlier years. Taxes are annual obligations, however, and more recent audit cycles have been completed. Tens of millions of dollars in taxes and interest are still owed by the oil and gas producers to the state.

Most of the cases with smaller assessments are handled in-house by section attorneys. Where the assessments are very large, however, or when the issues are particularly complex, the state hires experts and may employ outside counsel to ensure maximum preparation and ultimate recovery for the state.

Until recently, oil and gas property tax cases rarely proceeded beyond the administrative stage. That changed in FY1997. The department anticipates that more and more property cases will be vigorously contested as the major North Slope production facilities and the pipeline continue to age and decrease in value, leaving municipalities along the pipeline corridor with a dwindling property tax base. These cases, like other oil and gas tax cases, are extremely costly to litigate and require the advice and testimony of expert witnesses and considerable attorney time.

ROYALTY-RELATED SERVICES

The department represents the Department of Natural Resources on a number of royalty disputes between the oil and gas producers and the state. This representation includes reviewing audits, and analyzing company responses, preparing for and assisting in, settlement negotiations and, where necessary, proceeding with legal action. Since the settlement of the massive Alaska North Slope (ANS) royalty case, most royalty matters have been handled primarily in-house. Some parties to the ANS settlements have asserted their rights to reopen the settlements. In

those cases, the department relies heavily on contract counsels' past experience with the ANS royalty litigation to renegotiate the settlements.

PIPELINE-RELATED SERVICES

Department attorneys are responsible for monitoring compliance with the 1985 Trans-Alaska Pipeline System (TAPS) settlement and, if necessary, challenging TAPS tariff filings. These cases can be worth millions of dollars to the state annually. A shipper's challenge to the intrastate TAPS tariffs is in the discovery stage, and proceeding toward a hearing before the Regulatory Commission of Alaska. This case challenges the TAPS settlement methodologies, and requires the assistance of outside counsel and experts.

The department attorneys also monitor and protest, when appropriate, tariffs on other common carrier pipelines. The section also provides general legal advice and assistance to the Department of Natural Resources' State Pipeline Coordinator's Office (SPCO) on pipeline-related matters, including renegotiation of the TAPS right-of-way agreement. A new gas pipeline would require issuance of a new right-of-way lease, which would be negotiated by department attorneys and contract counsel.

RESOURCE DEVELOPMENT

Oil, Gas, and Mining funds legal and expert assistance to the departments of Revenue and Natural Resources in their efforts to encourage development of Alaska North Slope natural gas. Department of Law attorneys provide legal advice on a wide-range of gas-related topics, from right-of-way lease requirements to the constitutionality of proposed changes to the state's fiscal regime. Considerable time will continue to be devoted to this project in FY2002 due to its complexity and importance to the state.

Component Goals and Strategies

See BRU Goals and Strategies for FY2002.

Key Component Issues for FY2001 – 2002

See BRU Key Issues for FY2002.

Major Component Accomplishments for FY2000

- Protected the state's revenue, resource development, environmental, and societal interests in antitrust matters involving oil and gas companies in Alaska.
- Defended state's tariff settlement agreements during the period of the agreements to ensure that the state receives the benefits of those agreements.
- Audited producers' royalty payments, and collected additional royalties due the state.
- Pursued legal remedies that will determine the cost of processing the state's royalty share of natural gas liquids.
- Successfully negotiated the final decree in the Dinkum Sands (Beaufort Sea) case and secured court approval of the decree. As a result, Alaska received its share of escrowed funds and Alaska's title to disputed lands was quieted.
- Pursued oil and gas tax assessments made by state tax auditors in both the oil and gas audit and income and excise tax divisions.
- Pursued the state's interests in net profit share oil leases.
- Protected the state's revenue, resource development, environmental, and societal interests in antitrust matters involving oil and gas companies in Alaska.

· Promoted further oil and gas development in the by assisting resource agencies in drafting regulations, defending lease sales, and accomplishing other tasks in aid of development.

Statutory and Regulatory Authority

as 44.23.020

Oil & Gas Litigation
Component Financial Summary

All dollars in thousands

	FY2000 Actuals	FY2001 Authorized	FY2002 Governor
Non-Formula Program:			
Component Expenditures:			
71000 Personal Services	0.1	0.0	0.0
72000 Travel	36.2	0.0	0.0
73000 Contractual	5,344.9	4,686.7	4,436.7
74000 Supplies	4.7	0.0	0.0
75000 Equipment	0.0	0.0	0.0
76000 Land/Buildings	0.0	0.0	0.0
77000 Grants, Claims	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
Expenditure Totals	5,385.9	4,686.7	4,436.7
Funding Sources:			
1004 General Fund Receipts	3,908.9	3,209.7	2,959.7
1105 Alaska Permanent Fund Corporation Receipts	1,477.0	1,477.0	1,477.0
Funding Totals	5,385.9	4,686.7	4,436.7

Estimated Revenue Collections

Description	Master Revenue Account	FY2000 Actuals	FY2001 Authorized	FY2001 Cash Estimate	FY2002 Governor	FY2003 Forecast
Unrestricted Revenues						
Unrestricted Fund	68515	7,569.2	0.0	0.0	0.0	0.0
Unrestricted Total		7,569.2	0.0	0.0	0.0	0.0
Restricted Revenues						
Permanent Fund Earnings Reserve Account	51373	1,477.0	1,477.0	1,477.0	1,477.0	1,477.0
Restricted Total		1,477.0	1,477.0	1,477.0	1,477.0	1,477.0
Total Estimated Revenues		9,046.2	1,477.0	1,477.0	1,477.0	1,477.0

Oil & Gas Litigation**Proposed Changes in Levels of Service for FY2002**

None.

**Summary of Component Budget Changes
From FY2001 Authorized to FY2002 Governor**

All dollars in thousands

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
FY2001 Authorized	3,209.7	0.0	1,477.0	4,686.7
Adjustments which will continue current level of service:				
-Reduce Funding - Oil & Gas Litigation and Legal Services Carryforward	-250.0	0.0	0.0	-250.0
FY2002 Governor	2,959.7	0.0	1,477.0	4,436.7