**ALASKA DEPARTMENT OF REVENUE, TAX DIVISION**
**ADVISORY BULLETIN 2008 - 03**

Re: Taxability of waste oil streams

A business in Alaska, hereafter referred to as "the Company" has requested this advisory bulletin to address whether its treatment of certain North Slope waste streams, as described in a proposed scenario, would trigger taxation under the current oil and gas production tax, AS 43.55.

The proposed scenario presented by the Company is as follows:

> The Company will initially treat up to 1,000 barrels per day of Alaska North Slope waste streams such as drilling mud flowback, tank bottoms, and pipeline pigging waste, using a patented technology to recover saleable crude oil. Treated volumes could increase to 5,000 barrels per day through facility expansions. The Company is not, nor will it be, a leaseholder or a party to any operating agreements. The Company will enter into agreements with unaffiliated North Slope producers to secure the waste streams as feedstock for the company's facility sited on the North Slope. The feedstock has up to now been handled as waste by North Slope producers and disposed of by producers or operators at a cost, and against which no production tax has been applied. North Slope producers will not be receiving any consideration from the Company for the transfer of the feedstock to the Company, other than avoidance or reduction in the costs of disposal of their waste. Custody and title will transfer from the producer/operator to the Company at the producer/operator's waste storage or generation site, prior to treatment, and the capital and operating costs of treating the waste feedstock will be borne by the Company. Upon completion of the Company's treatment, the Company will own the recovered saleable crude oil and be responsible for the disposal of any remaining products.

The Company would not owe tax under current production tax law. The production tax is levied on a "producer."[1] "Producer" is defined as "an owner of an operating right, operating interest, or working interest in a mineral interest in oil or gas."[2] Based on the proposed conditions presented above, the Company would not own any operating right, operating interest, or working interest in a mineral interest in oil or gas and therefore would not be a producer.

Further, based on current law, the nature of the transaction, the circumstances described above, and the relationship between the Company and the North Slope producers described above, neither the transfer of title in the waste feedstock to nor the subsequent

[1] AS 43.55.011(e).
[2] AS 43.55.900(21).

recovery and sale of marketable oil from the waste feedstock by the Company would give rise to a tax obligation under Alaska's Oil and Gas Production Tax on the part of the North Slope producers generating and transferring the waste feedstock.

This advisory opinion is strictly limited to the proposed conditions as presented above interpreted in accordance with existing Alaska production tax law. This opinion does not address other possible effects under other tax types or other tax laws.

Jonathan E. Iversen
Director

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