

**BEFORE THE STATE ASSESSMENT REVIEW BOARD  
STATE OF ALASKA**

In the Matter of	)	
	)	
VALDEZ SPILL RESPONSE PROPERTY	)	OAH No. 22-0327 TAX
ASSESSMENTS	)	
	)	
Oil & Gas Property Tax (AS 43.56)	)	
2022 Assessment Year	)	
_____	)	

**CERTIFICATE OF DETERMINATION**

Prince William Sound Oil Spill Response Corporation, Alyeska Pipeline Service Company, and Alaska Ventures LLC, and City of Valdez appealed Informal Conference Decisions for tax year 2022 related to oil spill response property that DOR found was located in the Valdez, Whittier, Cordova, and unincorporated municipalities. The property owners are:

Alaska Ventures, LLC  
16021 E. Main Street  
Cut Off, LA 70345-3804

Alyeska Pipeline Service Company  
P.O. Box 196660  
Anchorage, AK 99519-6660

Prince William Sound Oil Spill Response Corporation  
P.O. Box 196660, MS 504  
Anchorage, AK 99519-6660

These consolidated appeals involve property and issues substantially similar to the property and issues that the same parties presented to the State Assessment Review Board for tax years 2017 through 2021 during a hearing on April 4-6, 2022. Considering the similarities and how recently the evidence and arguments were presented, the Board advised the parties that it would incorporate the record from tax years 2017 through 2021 and that the parties should not present duplicative evidence for tax year 2022. The parties then submitted a stipulation for a determination without hearing.

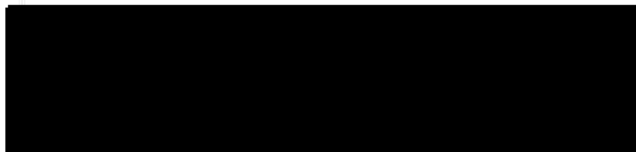
The Board has conferred regarding the stipulation and tax year 2022 appeals. As chair and on behalf of the Board, and in accordance with AS 43.56.130(b), I hereby incorporate the record and Certificate of Determination from the consolidated appeals for tax years 2017 through 2021.

I certify to the Department of Revenue that the Board has determined the value of the Valdez Spill Response Property for tax year 2022 is to be adjusted as follows for the reasons set forth in the Certificate of Determination for tax years 2017 through 2021:

1. The five escort tanks owned by AKV are not taxable.
2. The assessments may not include property already taxed as part of TAPS.
3. The Assessor should ensure the value of any taxable property is valued as pipeline transportation property in accordance with AS 43.56.060(e) and 15 AAC 56.110.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED: April <sup>28<sup>th</sup></sup> 2022



James I. Mosley, Chair  
State Assessment Review Board

I certify that on *May 18*, 2022, this document was served on the following by email:

F. Steven Mahoney  
Colleen Knix  
Janella Kamai  
Manley & Brautigam  
845 K Street  
[REDACTED]

Patrick Sherry  
Zjok Durst  
Dept. of Law, Oil Gas & Mining  
1031 W. 4<sup>th</sup> Ave., Ste. 200  
Anchorage AK 99501  
[REDACTED]

Robin O. Brena  
Jon S. Wakeland  
Kelly M. Moghadam  
BRENA, BELL & Walker, P.C.  
810 N Street, Ste 100  
Anchorage, AK 99501  
[REDACTED]

James H. Greeley, Jr.  
Petroleum Property Tax Assessor  
550 W. 7<sup>th</sup> Ave., Ste. 500  
Anchorage AK 99501  
[REDACTED]

*Patricia Sullivan*  
Patricia Sullivan, Paralegal I  
Office of Administrative Hearings

**BEFORE THE STATE ASSESSMENT REVIEW BOARD**

**STATE OF ALASKA**

In the Matter Of: )  
)  
VALDEZ SPILL RESPONSE PROPERTY ) OAH No. 22-0327-TAX  
ASSESSMENTS )  
)  
Oil & Gas Property Tax (AS 43.56) )  
2022 Assessment Year )  
)

**PARTIES’ STIPULATION TO DETERMINATION  
WITHOUT HEARING FOR 2022 AND PROPOSED ORDER**

The City of Valdez, the Department of Revenue, Alyeska Pipeline Service Company, Prince William Sound Oil Spill Response Corporation, and Alaska Ventures, LLC (collectively “Parties”), by and through their respective counsel, hereby stipulate to waive their rights to a hearing before the State Assessment Review Board (“SARB”) for the 2022 assessment year based on the following:

- (1) SARB shall issue a Certificate of Determination for the 2022 assessment year that incorporates the record and determination for the 2017-2021 assessment years in OAH 19-0386-TAX, and orders the 2022 assessments to be adjusted accordingly for certification; and
- (2) The City of Valdez, Alyeska Pipeline Service Company, Prince William Sound Oil Spill Response Corporation, and Alaska Ventures, LLC shall preserve their rights to appeal to the superior court under AS 43.56.130(i) from SARB’s Certificate of Determination for the 2022 assessment year.

**BRENA, BELL &  
WALKER, P.C.**  
810 N Street, Suite 100  
Anchorage, AK 99501  
Phone: 907.258.2000  
Fax: 907.258.2001  
www.brenalaw.com

DATED this 27<sup>th</sup> day of April, 2022.

BRENA, BELL & WALKER, P.C.  
Attorneys for the City of Valdez

By: //s// Robin O. Brena  
Robin O. Brena, AK Bar #8410089  
Jon S. Wakeland, AK Bar # 0911066  
Kelly M. Moghadam, AK Bar # 1105026

TREG R. TAYLOR  
ATTORNEY GENERAL

By: //s// Patrick F. Sherry  
Patrick F. Sherry, ABA No. 1011092  
Zjok T. Durst, ABA No. 1311080  
Assistant Attorneys General

MANLEY & BRAUTIGAM P.C.  
Attorneys for Taxpayers

By: //s// F. Steven Mahoney  
F. Steven Mahoney  
Alaska Bar No. 9111097  
[steve@mb-lawyers.com](mailto:steve@mb-lawyers.com)  
Janella Kamai  
Alaska Bar No. 0606045  
[janella@mb-lawyers.com](mailto:janella@mb-lawyers.com)

**ORDER**

IT IS SO ORDERED this 28<sup>th</sup> day of APRIL, 2022.

**BRENA, BELL &  
WALKER, P.C.**  
810 N Street, Suite 100  
Anchorage, AK 99501  
Phone: 907.258.2000  
Fax: 907.258.2001  
[www.brenalaw.com](http://www.brenalaw.com)

OARD

  
James I. Mosley, Chair



**CERTIFICATE OF SERVICE**

This is to certify that on this 27<sup>th</sup> day of April, 2022, a true and correct copy of the foregoing was served via electronic mail upon:

State Assessment Review Board  
Office of Administrative Hearings  
550 West 7<sup>th</sup> Avenue, Suite 1940  
Anchorage, Alaska 99501  
E-mail: [doa.oah@alaska.gov](mailto:doa.oah@alaska.gov)  
[REDACTED]

Patrick Sherry, Esq.  
Alaska Department Law  
1031 West 4<sup>th</sup> Avenue, Suite 200  
Anchorage, Alaska 99501  
E- [REDACTED]

Steven Mahoney, Esq.  
Janella Kamai, Esq.  
Manley & Brautigam P.C.  
1127 West 7<sup>th</sup> Avenue  
Anchorage, Alaska 99501  
E-mail: [REDACTED]


By: /s/ Mary G. Hodsdon  
Mary G. Hodsdon

**BRENA, BELL &  
WALKER, P.C.**  
810 N Street, Suite 100  
Anchorage, AK 99501  
Phone: 907.258.2000  
Fax: 907.258.2001  
[www.brenalaw.com](http://www.brenalaw.com)


**Certificate of Service**

I hereby certify that on the 28th day of April, 2022 a true and correct copy of the Certificate of Determination was served on the following by e-mail to the following listed below:


F. Steven Mahoney  
Colleen Knix  
Janella Kamai  
MANLEY & BRAUTIGAM P.C.  
1127 West 7th Avenue  
Anchorage, AK 99501




Patrick Sherry  
Zjok Durst  
Dept. of Law, Oil Gas & Mining  
1031 W. 4<sup>th</sup> Ave., Ste. 200  
Anchorage AK 99501



Robin O. Brena  
Jon S. Wakeland  
Kelly M. Moghadam  
BRENA, BELL & Walker, P.C.  
810 N Street, Ste 100  
Anchorage, AK 99501



James H. Greeley, Jr.  
Petroleum Property Tax Assessor  
550 W. 7<sup>th</sup> Ave., Ste. 500  
Anchorage AK 99501



By: *Patricia Sullivan*  
Patricia Sullivan, Paralegal I  
Office of Administrative Hearings

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**STATE OF ALASKA**

In the Matter of	)	
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VALDEZ SPILL RESPONSE PROPERTY	)	
ASSESSMENTS	)	
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Oil & Gas Property Tax (AS 43.56)	)	OAH No. 19-0386-TAX
1997-2016 Assessment Years	)	
_____	)	

**DECISION ON APPEALS FOR TAX YEARS 1997 THROUGH 2016**

This consolidated matter has, at various times, included appeals of Valdez Spill Response Property Assessments filed by the City of Valdez between 1997 and 2021. Over the years, these appeals have been the subject of numerous administrative and superior court proceedings.<sup>1</sup> In 2013, the superior court remanded appeals for tax years 1997 through 2002 to DOR.<sup>2</sup> Valdez also appealed ICDs for tax years 2003 through 2016 which were stayed at the administrative appeal stage. For tax years 2017 through 2021, DOR and Valdez agreed to stay the matters before DOR. Thus as of December 2021, tax years 1997 through 2002 were pending before DOR, tax years 2003 through 2016 were pending before the State Assessment Review Board (“SARB”), and tax years 2017 through 2021 were pending before DOR.<sup>3</sup>

On December 14, 2021, the Department of Revenue issued a supplement assessment that superseded the assessments for tax years 1997 through 2021. That assessment was appealed to SARB in early February. Shortly thereafter, Superior Court Judge Lamoureux held that DOR could not audit years 1997 through 2016 because of the three-year limitation period for assessing property. SARB therefore proceeded with a hearing on the supplemental assessment for only tax years 2017 through 2021.

SARB asked DOR, Valdez, and the property owners to submit a statement of their position on the status of the 1997 through 2016 appeals. DOR’s position is that under Judge Lamoureux’s decision, Valdez’s appeals should be denied.<sup>4</sup> Valdez’s position is that it cannot

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<sup>1</sup> A summary of many of these proceedings can be found in Judge Morse’s decision in *City of Valdez v. State, Dep’t of Revenue*, consolidated cases 3VA-00-00022 CI, 3VA-10-00084 CI, 3AN-11-07874 CI (Superior Court Nov. 18, 2013).

<sup>2</sup> *Id.*

<sup>3</sup> Some appeals over the years went to OAH under a regulation that limited SARB’s authority to issues of value. The Supreme Court held in 2016 that SARB has authority to address taxability, so any pending property tax appeals from DOR ICDs would be before SARB. *City of Valdez v. State*, 372 P.3d 240, 248-56 (Alaska 2016).

<sup>4</sup> DOR also stated that taxpayers’ appeals should be granted. However, the taxpayers did not appeal the 1997 through 2016 assessments to SARB or OAH.



resolve a matter within the limitation period and SARB cannot resolve Valdez's appeals without "reconsider[ing] its position on the availability of discovery" and therefore SARB should uphold the assessments so Valdez can have a trial de novo in superior court.<sup>5</sup> Owners of the assessed property take the position that Valdez's appeals should be dismissed because the three-year limitation period bars adding previously unassessed property for these years and a six-year limitation period bars levying any additional tax. Alaska Marine Lines submitted a statement that it was unaware of its property being subject to the assessments or related appeals.

DOR had already issued its supplemental assessment at the time Judge Lamoureux held that DOR was time barred from doing so for tax years 1997 through 2016. SARB thus understands Judge Lamoureux's decision as invalidating DOR's supplemental assessment as to tax years 1997 through 2016. Absent that supplemental, assessments for tax years 1997 through 2002 were pending before DOR, not SARB, so SARB does not need to address those tax years. Appeals for tax years 2003 through 2016, absent the supplemental, are pending before SARB. The question is whether there are issues in these appeals for SARB to resolve.

As the taxpayers point out, there are two time limits applicable to tax appeals: three years to assess a tax and six years from the assessment to collect the tax.<sup>6</sup> These period may both be extended by written agreement between DOR and the taxpayers.<sup>7</sup> SARB has not been privy to any such agreements and notes that the parties did not raise the existence of any agreements when asked to address the status of these tax years. SARB thus concludes that there are no agreements.

Under Judge Lamoureux's decision, the three-year limit bars DOR from assessing any additional property for tax years 2003 through 2016. To the extent Valdez's appeals seek to add escaped property, those appeals are thus time barred. To the extent these appeals include any issues regarding the value of the property DOR did assess, DOR issued those assessments more than six years ago. Thus even if SARB determined that DOR undervalued the property, DOR would be time barred from collecting additional tax. This lack of an available remedy effectively moots Valdez's appeals for these years.<sup>8</sup>

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<sup>5</sup> SARB set a one-page limit for these statements. The City of Valdez nonetheless filed a two-page statement without requesting leave to extend the page limit. SARB will accept this filing but admonishes Valdez to comply with procedural orders in the future.

<sup>6</sup> AS 43.05.260; AS 43.05.270.

<sup>7</sup> AS 43.05.260(c)(3); AS 43.05.270(a)(2).

<sup>8</sup> *Fairbanks Fire Fighters Ass'n, Loc. 1324 v. City of Fairbanks*, 48 P.3d 1165, 1167 (Alaska 2002) ("A claim is moot if it is no longer a present, live controversy, and the party bringing the action would not be entitled to relief, even if it prevails.").

DOR urges SARB to deny the appeals as time barred. But the appropriate action when an appeal is time barred or moot is not to deny the appeal, but to dismiss it.

Valdez's position that SARB should simply affirm the assessments to allow an appeal to superior court on the merits is similarly inappropriate. SARB may not ignore Judge Lamoureux's decision or the statutes that impose time limits. Nor should SARB ignore the statutes and regulations that require an expedited procedure for SARB hearings that does not include prehearing discovery. These procedures are not a "position" that SARB can "reconsider," as Valdez contends. If Valdez wants a different procedure for SARB appeals, it should take that up with the legislature.

As chair and on behalf of the State Assessment Review Board, and in accordance with AS 43.56.130(b), I hereby dismiss the City of Valdez appeals of Valdez Spill Response Property Assessments for tax years 2003 through 2016. To the extent any portion of appeals for tax years 1997 through 2002 are pending before SARB, those appeals are dismissed as well.

DATED: May 20, 2022.

  
James I. Mosley, Chair  
State Assessment Review Board

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.



I certify that on May 23, 2022, this document was served on the following by email:

Robin O. Brena, Jon S. Wakeland, Kelly M. Moghadam  
BRENA, BELL & CLARKSON, P.C.  
[REDACTED]

F. Steven Mahoney, Janella Kamai  
Manley & Brautigan  
[REDACTED]

Patrick Sherry  
Alaska Department of Law  
[REDACTED]

James H. Greeley, Jr.  
Petroleum Property Tax Assessor  
[REDACTED]

Alaska Marine Lines  
Everett Billingslea  
P.O. Box 24348  
Seattle, WA 98124-4348

By: Patricia Sullivan  
Patricia Sullivan, Paralegal I  
Office of Administrative Hearings