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Governor Michael J. Dunleavy
STATE OF ALASKA

February 26, 2019

Commissioner Hollis French
Alaska Oil and Gas Commission
333 West 7th Avenue, Suite 100
Anchorage, AK 99501

Dear Commissioner French:

Please see the attached decision that finds cause to remove you from your position as a Commissioner on the Alaska Oil & Gas Conservation Commission.

This removal is effective immediately. This is a final decision. You have 30 days to appeal this decision pursuant to Alaska Rules of Appellate Procedure 602(a)(2) by filing a notice of appeal to the Alaska Superior Court.

Sincerely,

A handwritten signature in blue ink, appearing to read "MJD".

Michael J. Dunleavy
Governor



Governor Michael J. Dunleavy
STATE OF ALASKA

STATEMENT OF DECISION
REMOVAL FOR CAUSE OF AOGCC COMMISSIONER HOLLIS FRENCH
February 26, 2019

On January 17, 2019, pursuant to AS 31.05.007(d), Commissioner Hollis French, Chair of the Alaska Oil and Gas Conservation Commission (AOGCC) was provided with notice of charges that constituted grounds for his removal from office for cause. As allowed by statute, Commissioner French could request a hearing on the charges to be held no sooner than ten days.

Commissioner French requested a public hearing on the charges, and the hearing was scheduled for February 6-8, 2019, before a hearing officer, Tim Petumenos. Commissioner French was allowed to continue to actively serve as a commissioner pending the hearing, although that is not required by statute.

The Department of Law investigated the charges and presented my case at the hearing. Kevin Fitzgerald was retained as counsel by Commissioner French and argued for Mr. French at the hearing.

Following the hearing I received the "Findings of Fact" by Mr. Petumenos. Based on that assessment, and behavior at the office after the hearing that made AOGCC staff uncomfortable, Commissioner French was placed on administrative leave with pay pending a review of the transcript and due consideration of the report by Mr. Petumenos.

I have now had an opportunity to review the reports and the hearing.

Based on an investigation/review by the Department of Law, I originally charged Commissioner French with neglect of duty and misconduct, as follows:

- (1) Neglect of duty with chronic, unexcused absenteeism, specifically that he was typically only at work 3.5 to 4 hours a day.
- (2) Misconduct by browbeating fellow Commissioners; specifically by persistently advocating a position regarding the Commission's jurisdiction, even after a Commission decision had been reached in the matter.
- (3) Misconduct by publicly undermining the decisions of the Commission by publicly challenging the Commission's final decision.
- (4) Misconduct by breaching critical Commission security by disclosing confidential information to a reporter and to members of the public.

- (5) Neglect of Duty through failure to perform routine Commission work, leaving other Commissioners and staff to do work properly the responsibility of Commissioner French, and performing non-AOGCC work during business hours.

Based on the information gathered at the subsequent public hearing, I decline to base my decision on charges of misconduct (2), (3) and (4).

I affirm my decision as to charges of neglect of duty, charges (1) and, in part, (5).

As to charges (2) and (3), Mr. Petumenos found that Commissioner French's behavior and strident advocacy, even when considering matters that had previously been decided by the Commission, was nonetheless within the scope of his discretion as a quasi-judicial, independent Commissioner.

I do not rely on charges (2) and (3) as the basis for removal for cause.

As to charges (1) and (5), neglect of duty, Mr. Petumenos found that although there was not sufficient evidence that Commissioner French did non-AOGCC work during business hours "in a material way," there was substantial evidence to show an "overall pattern" of absenteeism and that it was "more norm than...exception." He further concluded that "Commissioner French's absence from the office was markedly different from other past and present Commissioners [and]...had a deleterious effect on morale, showed poor leadership, and created tension within the office."

The Hearing Officer further concluded that the absences of Commissioner French were neither fully accounted for by leave slips nor by Commission work conducted outside the office. The Commissioner was not at work, and he "failed to perform routine work which had to be handled by others."

Commissioner French's own testimony regarding a typical workday demonstrates he neglected his duty to be in the office during regular working hours. A reasonable person would conclude that neglect through frequent absences causes resentment, job dissatisfaction, and low morale.

Testimony from other Commissioners revealed that they believed his chronic absenteeism did indeed set a bad example for staff. Testimony indicated that Commissioner French routinely failed to do work that he had promised to do, passing it off to other Commissioners and AOGCC staff.

My judgment is that Commissioner French neglected his duty to routinely show up for work, to work a full day, and to do his best to perform his obligations as a fulltime, quasi-judicial Commissioner. Although Commissioner French did not devote office time to non-AOGCC work, he consistently failed to perform the work expected of him as a Commissioner.

Charges (1) and, in part, (5) are sustained.

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With respect to charge (4), alleged misconduct related to security; Commissioner French admitted he had shared the location of the safe containing confidential information, and the security measures employed to maintain confidential information. Commissioner French disputed that doing so placed the confidentiality of the information at risk. I decline to base a removal for cause on charge (4).

After considering arguments and evidence presented, it is my judgment that Commissioner French should be removed for neglect of duty.

Pursuant to AS 31.05.007(d), Commissioner Hollis French is removed for cause from the AOGCC, effective immediately, February 26, 2019. All required information will be filed with the Office of the Lieutenant Governor.



Michael J. Dunleavy
Governor

26 Feb 19

Date