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March 13, 2012

VIA HAND DELIVERY

Honorable Members of the Senate
Labor and Commerce Committee
Dennis Egan, Chair
Joe Paskvan, Vice-Chair
Bettye Davis
Linda Menard
Cathy Giessel

Re: Senate Bill 28
Our File No. 010-201

Dear Committee Members:

Our firm represents Tesoro Refining and Marketing Company (“Tesoro”). We have been asked to comment briefly on Senate Bill 28 (“SB 28”) that we understand is scheduled for hearing before your committee. While SB 28 was introduced over a year ago, we are unaware of a Sponsor Statement indicating the specific reasons or justifications for the bill. SB 28 would permit the Attorney General for the State of Alaska to initiate legal action to regulate or manage petroleum product prices through legal action before the courts under a vague legal standard. Tesoro would like to assure the Committee Members that petroleum product prices in Alaska are the result of free market forces operating in an increasingly high cost but competitive environment. Legislation such as SB 28 will simply add further legal risk and costs for Alaskan refiners. Accordingly, Tesoro respectfully requests the Committee members not to support SB 28.

Tesoro owns and operates a crude oil refinery located in Nikiski, Alaska. Tesoro’s Nikiski refinery presently employs over 200 Alaskans directly and provides indirect employment for hundreds more. Tesoro markets the refined products produced at the Nikiski refinery through affiliates and third-party wholesalers throughout Alaska and, to a lesser extent, to the Pacific Northwest. We believe having refineries in Alaska is in the public interest of all Alaskans and the Legislature should act to encourage and protect such value-added manufacturers operating in Alaska.

Honorable Members of the Senate
Labor and Commerce Committee
March 13, 2012
Page 2 of 3

In considering SB 28, the Committee Members should be aware that Tesoro's refinery faces several significant economic challenges. Tesoro's refinery is a remote refinery that was designed and built to process high quality Cook Inlet crude oil. As Cook Inlet crude oil production has sharply declined, Chevron's refinery on the Kenai Peninsula (which faced similar economic challenges) has been forced to close and Tesoro's refinery has been forced to rely upon less optimal crude oil from the Alaska North Slope ("ANS") and foreign sources which must be transported to Tesoro's refinery by tanker. Further, the steadily rising prices of ANS and other crude oils continue to put increasing cost pressure on Tesoro and other refiners. As a result of changing crude oil feedstock and increasing government regulation of refiners, Tesoro has also been required to make substantial capital investments in the refinery simply to maintain its existing business. In many respects, Tesoro's refinery is the last man standing in the once significant Nikiski industrial complex where another refinery, a fertilizer plant, a gas to liquids plant, and an LNG plant previously flourished. Unfortunately, with the disappearing industrial core of the Nikiski/Kenai area many of the core synergies which Tesoro relied upon for efficient operations, such as a large trained work force and specialized contractors geared toward meeting Tesoro's needs have also been diminished or lost. Given such an economic environment, there seems no justification for SB 28 and several reasons why its passage would further deteriorate the economic environment necessary for operating a refinery in Alaska.

The Committee Members should also be aware that the petroleum market and the resulting market prices have been subject to thorough review in recent years by the Attorney General for the State of Alaska ("AG"). Over the past decade, at least three government-initiated investigations have been conducted regarding fuel pricing in Alaska. In 1999, the AG spearheaded such an investigation which spanned three years and found no evidence of illegal activity. Again in 2008-2009, the AG investigated Alaska gasoline pricing with the same result. In this instance, the AG attributed the higher prices for Alaska gasoline, as compared to other places in the country, to "unique market conditions in Alaska."¹ The AG further indicated that "the Department of Law reviewed information from retailers, distributors, and refiners and found no evidence that gasoline prices were the result of illegal activity, such as price fixing or collusion," concluding that "[l]ike any other consumer good, the price for gasoline is set by supply and demand conditions in the marketplace."²

¹ State of Alaska Department of Law Press Release, Attorney General Releases Gasoline Pricing Report, February 11, 2009.

² *Id.*

Honorable Members of the Senate
Labor and Commerce Committee
March 13, 2012
Page 3 of 3

During roughly the same period of time as the 2008-09 AG investigation, the Alaska House Judiciary Committee conducted its own Alaska fuel pricing investigation. Like its counterpart, the resulting report found that Alaska has a “unique” gas market.³ Some of the factors recognized by the Judiciary Committee Report as attributing to the uniqueness of Alaska’s market were that (1) Alaska is the smallest gasoline market in the nation, (2) Alaska is served by few refineries which do not manufacture a great deal of gasoline, favoring instead highly demanded jet fuel, (3) Alaska is impacted by seasonal demand, (4) Alaska has limited infrastructure for moving and storage of gasoline, and (5) Alaska is physically isolated from other markets, and includes rural Alaska markets which are further removed from non-rural Alaska markets.⁴ In its concluding remarks the Judiciary Committee Report states that “[o]n balance, the Committee chooses the free market and robust economic drivers,” suggesting that “it is a worthwhile tradeoff for a little more price volatility at the pump in exchange for the most promising value-added industry Alaska has been able to create since the onset of the TAPS era.”⁵

Tesoro remains dedicated to rising to the challenges offered by the unique attributes of the Alaska refining and fuel marketing industry. The Alaska refining industry has acquitted itself well in light of the scrutiny exerted during these previous State investigations, and should not now be subjected to the shadow which would be cast by the unsupported, ill-conceived, and vaguely worded provisions of SB 28.

Very truly yours,

BRENA, BELL & CLARKSON, P.C.

By 
For Robin O. Brena

ROB/ASG/ljk
c: Dan Riley

³ Alaska Gasoline Pricing Report, prepared by The Alaska State House of Representatives Judiciary Committee, at 9-18.

⁴ *Id.*

⁵ *Id.* at 53-54.