

ALASKA STATE LEGISLATURE
SENATE RESOURCES COMMITTEE

April 15, 2002
3:40 p.m.

MEMBERS PRESENT

Senator John Torgerson, Chair
Senator Gary Wilken, Vice Chair
Senator Rick Halford
Senator Ben Stevens
Senator Kim Elton

MEMBERS ABSENT

Senator Robin Taylor
Senator Georgianna Lincoln

COMMITTEE CALENDAR

SENATE BILL NO. 360

"An Act establishing additional requirements for the consideration of applications under the Right-of-Way Leasing Act for an Alaska North Slope natural gas project, authorizing expeditious priority treatment of all applications under that Act and under other relevant state laws for issuance of a right-of-way lease for that project, authorizing the commissioner of natural resources to act to modify the terms of certain state oil and gas leases related to the project and to act, with legislative approval, to waive, reduce, or defer the collection of royalties due the state, and authorizing the commissioner of revenue to act, with legislative approval, to waive, reduce, or defer the levy and collection of taxes by the state and municipalities under the oil and gas exploration, production, and pipeline transportation property tax related to the project, authorizing the Alaska Railroad Corporation to provide financing for the acquisition, construction, improvement, maintenance, equipping, operation, or expansion of the project and related facilities for the transportation of natural gas within and outside the state by others and the corporation's issuance of its bonds to finance the project and facilities, and limiting consideration of judicial challenges to decisions made with respect to that project under this Act; and providing for an effective date."

HEARD AND HELD

PREVIOUS SENATE COMMITTEE ACTION

SB 360 - No previous action to record.

WITNESS REGISTER

Mr. Darwin Peterson
Staff to Senator Torgerson
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Read SB 360 sponsor statement.

Mr. Patrick Coughlin
Staff to Senate Resources Committee
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Commented on SB 360.

Commissioner Pat Pourchot
Department of Natural Resources
400 Willoughby Ave.
Juneau, AK 99801-1724
POSITION STATEMENT: Commented on SB 360.

Ms. Bonnie Robson, Deputy Director
Division of Oil and Gas
Department of Natural Resources
550 W 7th Ave, Ste 800
Anchorage AK 99501-3560
POSITION STATEMENT: Commented on SB 360.

Mr. Larry Persily, Deputy Commissioner
Department of Revenue
POB 110405
Juneau AK 99811-0405
POSITION STATEMENT: Commented on SB 360.

Mr. Neil Slotnick, Deputy Commissioner
Department of Revenue
PO Box 110400
Juneau, AK 99811-0400
POSITION STATEMENT: Commented on Railroad tax-exempt issues in SB 360.

Ms. Pat Gamble, President
Alaska Railroad Corporation (ARRC)
Department of Community and Economic Development
POB 107500
Anchorage AK 99510-7500
POSITION STATEMENT: Commented on SB 360.

Mr. Bill O'Leary, CFO
Vice President, Finance
Alaska Railroad Corporation
Department of Community and Economic Development
POB 107500
Anchorage AK 99510-7500
POSITION STATEMENT: Commented on SB 360.

Ms. Nan Thompson, Chairwoman
Regulatory Commission of Alaska (RCA)
Department of Community and Economic Development
701 W Eighth Ave Ste 300
Anchorage AK 99501
POSITION STATEMENT: Commented on SB 360.

Mr. Alan Sharp, Director
Northern Business Development
Encana Marketing USA, Inc.
POSITION STATEMENT: Commented on SB 360.

Mr. Mark Hanley, Manager
Public Affairs
Anadarako Petroleum Alaska
POSITION STATEMENT: Opposed SB 360.

Mr. Robbie Schilhab
Alaskan Gas Development Manager
Exxon Mobil Production Company
POSITION STATEMENT: Opposed SB 360.

Mr. Ken Konrad, Vice President
Exploration
BP Alaska
POSITION STATEMENT: Opposed SB 360.

Mr. Joe Marushack, Vice President
ANS Gas Commercialization
Phillips Alaska
POSITION STATEMENT: Opposed SB 360.

Mr. Curt Moffatt
Van Ness Feldman
Alaska Northwest Natural Gas Transportation Company
Washington D.C.
POSITION STATEMENT: Opposed SB 360.

ACTION NARRATIVE

TAPE 02-18, SIDE A
Number 001

SB 360-ALASKA NATURAL GAS PROJECT ACT

CHAIRMAN JOHN TORGERSON called the Senate Resources Committee meeting to order at 3:40 p.m. and announced SB 360 to be up for consideration. Senators Wilken, Halford, Stevens, Elton and Chairman Torgerson were present. He said the committee would take testimony by invitation only today and that the bill had some structural problems that needed to be worked on before he brought it up again on Wednesday.

MR. DARWIN PETERSON, staff to Senator Torgerson, read the sponsor statement as follows:

SB 360 seeks to expedite the construction and operation of an Alaska gas line from the North Slope south through Canada to the Lower 48 or to Alaska tidewater for shipment as LNG. It provides fiscal incentives and permitting benefits to those project sponsors who are willing to work with the state of Alaska to insure:

- Opportunities for employment of Alaskans and Alaskan businesses are maximized;
- Potential instate demand for gas from the project can be satisfied;
- Competition and the exploration of development of northern Alaska gas is promoted.

Currently a project sponsor for a pipeline right-of-way lease to construct a pipeline from the North Slope can proceed under the provisions of the Alaska Pipeline Right-of-Way Leasing Act. However, these provisions and other provisions of Alaska law will be modified for a sponsor who agrees to do the following:

- Train and hire Alaskans and use Alaska businesses in the construction and operation of the project to be consistent with constitutional provisions;
- Complete a study on instate demand and submit a plan that must be approved by the RCA to meet that demand;
- Complete a study on natural gas resources in Northern Alaska and submit a plan that must be approved by the RCA to maximize access to the project so that competition in the Alaska oil and gas industry is promoted;

- Update those demand and resource studies 10 years after construction of the project starts;
- Agree to provisions in the right-of-way lease providing for instate use of royalty gas and expansion of the project.

If a project sponsor gets certifications from the appropriate agencies that the sponsor will or has done all of the above, the sponsor gets the following expeditious treatment in obtaining authorizations to construct and operate the project:

- The project may be phased under both the Right-Of-Way Leasing Act and the Coastal Zone Management Act.
- All agencies must give full cooperation to the DNR commissioner on project matters by providing information and by issuing any necessary authorizations at the earliest practical date on an expedited basis and with precedence over any like matter pending before the agency.
- Any authorization may be amended as necessary to further the purposes of the Act.
- If the Governor finds a provision of law that impedes the project, he may propose a waiver of law.
- Any decisions by the commissioner and other agencies shall be subject to limited judicial review only and such claims must be brought within 60 days.
- The Department of Revenue commissioner may waive, reduce or defer all or a portion of the property tax payments relating to the project and the Department of Natural Resources commissioner can do the same for royalty payments. The commissioners can only offer these incentives if: a) the project would not otherwise be economically feasible; b) an agreement is made to begin construction by a certain date; and c) the legislature approves.
- The Alaska Railroad Corporation [ARRC] may provide tax exempt financing for this project. Any project sponsor can proceed to apply for a right-of-way lease under the current Alaska Pipeline Right-Of-Way Leasing Act without obtaining the certificates outlined in this bill. They will not, however, be

eligible for any of the incentives this legislation offers.

MR. PATRICK COUGHLIN, consultant to the Senate Resources Committee, explained that the first three sections of the bill are general provisions. Section 1 sets forth the short title and Section 2 sets forth the findings regarding amendments to the Right-Of-Way Leasing Act. The findings include a discussion of the various pipeline proposals, the benefits to Alaska from instate use of gas, from hiring Alaskans and contracting with Alaska businesses to work on a project, and from the need for competition in the upstream portion of the Alaska gas industry.

Section 3 sets forth the findings regarding the appropriateness of the Alaska Railroad Corporation's issuance of financing to benefit an Alaska Natural Gas project.

Section 4 deals with changes to the Alaska Land Act, specifically changes to be made to the provisions of any royalty lease or royalty obligation. This section provides that if an applicant/lessee obtains the certificates required by new AS 38.35.240, then the commissioner may modify any provision in the oil and gas lease that impedes the project. Additionally, the commissioner may reduce the royalty if certain conditions are met. The commissioner must consider whether other jurisdictions are giving incentives to move the project forward, whether the applicant has provided by clear and convincing evidence that the project would not otherwise be economically feasible, and whether the applicant has agreed to a date certain to begin construction of the project. However, royalty reduction could not take place unless it was approved by the legislature.

Section 5 deals with the Right-Of-Way Leasing Act provisions and adds a new group of sections to the Right-Of-Way Leasing Act.

The first new section sets forth the Act's purposes:

1. To expedite a project consistent with insuring that the people of Alaska get the maximum benefits possible;
2. To insure access to the project by oil and gas companies that do not have an ownership interest in the project and to promote competition in the upstream industry;

3. To insure access to the state's royalty gas for Alaskans and Alaska businesses;

4. To insure employment of Alaskans and the use of Alaskan firms in connection with the project.

MR. COUGHLIN explained the new provision, AS 38.35.240, describes the actions that an applicant must take before the applicant is eligible for the benefits provided by the Act. If the applicant's actions meet certain standards, then the applicable agency will issue a certificate of approval. To expedite the process the agency must conduct a hearing and act within 90 days of receiving a request for a certificate. The required actions are as follows.

1. The applicant must submit a showing of how the applicant will use best efforts to train and employ state residents and whenever feasible will contract with firms in connection with the project.

2. The applicant must study instate demands [indisc.] showing how the plan will maximize the opportunities for access to state royalty gas transported in the project.

3. The applicant must study potential gas resources in northern Alaska and [indisc.] how the applicant's plan and design of the project will maximize the opportunities for access to initial and expansion on the project.

4. The applicant must update the demand and supply studies 10 years after the construction of the project starts.

5. The applicant must agree to lease stipulations providing that the applicant will provide access to the state to ship its royalty gas for use within the state and will use best efforts to get appropriate authorizations to effectuate such shipments, but the applicant must seek expansion of the pipeline from the appropriate federal agency if the Regulatory Commission of Alaska determines that expansion of the pipeline is in the best interests of the state and that other criteria are met.

MR. COUGHLIN said:

There is a new section, AS 38.35.245, that provides if an applicant/lessee obtains the certificates we just talked about, then the DNR commissioner may phase the lease application process.

There is a new section, AS 38.35.250 that provides that if an applicant/lessee obtains their certificates above, all other agencies involved in the permitting of the project must give their full cooperation to the DNR commissioner. They must do this by assembling and furnishing all requested information, issuing necessary authorizations at the earliest practical date, and amending any authorization as necessary.

Section, AS 38.35.255, a new section, provides that the governor may ask the legislature for a waiver of law if any applicable provision of law constitutes an obstacle to the expeditious construction of the project.

AS 38.35.257, also new, provides again that if an applicant/lessee has obtained certificates, judicial review of decisions made or actions taken under the act is limited to claims that can be brought under AS 38.35.200 and such claims must be made within 60 days after the decision or act.

AS 38.35.259 defines various terms used throughout the act.

The next group of amendments makes changes to the law that address Alaska Railroad Corporation provisions, Sections 6 - 9. Section 6 amends the general powers of the Alaska Railroad Corporation to give it authority to provide financing for the project. Section 7 provides that the bonds issued by the Railroad for the project are for an essential public and governmental purpose. Section 8 provides that before issuing bonds for the project, the Railroad must enter into an agreement to insure that the bond's principal and interest will be paid timely, reserves will be sufficient for the required payments and all costs related to the bonds will be paid by an entity other than the corporation. Finally, Section 9 provides, again, that if an applicant/lessee has obtained the required certificates, the Railroad may issue bonds to an applicant to finance the construction of the project and related facilities. The maximum amount of the bonds is set at \$18 billion.

Section 10 deals with oil and gas taxes. This section provides, again, that if an applicant/lessee obtains the required certificates, the DOR commissioner may reduce taxes, defer them, or alter any taxes levied by the state or municipality if the commissioner has consulted with any affected municipality, prepares a

report on the socio-economic effects of the project on any affected municipality, and has considered whether other jurisdictions have granted incentives to make a project happen.

Second, the applicant must demonstrate by clear and convincing evidence that the project would not otherwise be economically feasible without these changes to the tax law and three, the applicant has agreed to a date certain to begin construction of the project. Again, any tax reduction or change to the tax law would only be affected if approved by the legislature.

Section 11 deals with changes to the Alaska Coastal Management Program and provides that if an applicant/lessee obtains the required certificates, the person responsible for the consistency determination for a project may phase purview of that project.

The uncodified provisions are Section 12, which just provides that any constitutional challenge to this act must be brought within 60 days after the act's effective date. Section 13 provides that by passing this act, the legislature is granting approval required by AS 42.40.285 for the Railroad to issue bonds to the project. And finally, Section 14 says the act takes effect immediately.

CHAIRMAN TORGERSON said they are working on four amendments. One will authorize the commissioner to enter into a contract for the line similar to the Shallow Gas Leasing Act. They inadvertently may have stopped some permitting that is going on by Foothills and the pipeline companies, so the second amendment will contain transition language to take care of that. The third amendment pertains to questions raised about confidentiality during negotiations. The Railroad bonding language was too restrictive so that is being corrected in a fourth amendment. He explained ARRC could charge a fee but couldn't spend it.

COMMISSIONER PAT POURCHOT, Department of Natural Resources (DNR), said he also serves as chair of the Governor's Gas Pipeline Cabinet and that the administration in general supports the provisions of SB 360. It very closely tracks the ten principals laid out by the Governor last year to advance the gas line. It includes a number of recommendations from the Governor's Natural Gas Policy Council and adopts an approach that they have always envisioned in the framework of the Stranded Gas Development Act, which SB 17, currently pending in the legislature, expands. It also includes, as staff referenced, provisions of the Governor's

bill, SB 296, which authorizes the Alaska Railroad to issue tax-exempt bonding for the gas line. It includes provisions that are similar or parallel to provisions that the administration has pushed for, which are now included in federal legislation. He stated:

We are specifically supportive of provisions in the bill requiring or advancing the southern route for providing for future access to a gas line through expansion, providing the ability to ship royalty gas for instate use, provisions for Alaska hire and training, provisions fostering instate economic development and providing for RCA involvement.

Specific to the Department of Natural Resources, we are supportive of the requirement in the bill that requires a determination of economic need for any royalty reductions or changes that would be responsible for making the project economically viable. We also are supportive of the phasing provisions that are similar, by the way, that are now included in SB 308, which we are supporting in that bill - and phasing, I might add, that's unique and tied directly to the gas line and appropriate because of the size and complexity and the duration of the planning, permitting and construction process. We also support the linkage granting right-of-ways to certain conditions as spelled out in the act.

Mr. Chair, you mentioned several amendments. Just from DNR's standpoint, we are very supportive of the expansion criteria that are included in the bill which are very similar to those that are now in the draft federal legislation.

There were a couple of items I believe that were on the top of page 8 of the draft that amend Title 38. We would like to submit for your consideration some fairly minor changes that we feel happen closer to the federal provisions, but may provide a little clearer guidance for us and we'd just like to submit those for your consideration - that deal with a couple of the criteria that [indisc.]. I would also like to add that we have submitted a fiscal note. One would probably require some specialized analysis and study to make this economic feasibility determination. We would not intend to do two separate studies. We would merge our efforts there. They would clearly be looking at some of the tax consequences. We would be looking at royalty and how that may or may not affect overall project feasibility. But we would be combining that effort...

CHAIRMAN TORGERSON said that he wanted to hear their ideas on the expansion.

MS. BONNIE ROBSON, Deputy Director, Division of Oil and Gas, DNR, said DNR would like to see a couple of provisions more precisely mirror federal language. On page 8, line 2, she suggested changing the word "will" to "designed to", which accurately captures the intent.

She pointed out the second and third criteria contain a reference to projects and later the definition of projects includes not only pipelines but also a number of other facilities. They understand the rationale for the broader definition, but do not believe it should be so broad for expansion.

SENATOR ELTON said, according to the sectional analysis, they would have the ability to reduce the royalty. He asked for an example of a situation in which they would waive instead of defer.

COMMISSIONER POURCHOT replied that isn't entirely clear:

There may be overlap between waived and reduce to zero...I guess we take those three words all together as a broad range of zero to some number just short of what the royalty would be and possibly it could be over time. Maybe there [are] different years of operation of the project applying...

MR. LARRY PERSILY, Deputy Commissioner, Department of Revenue (DOR), spoke to Section 10 of SB 360, which specifically deals with the department's ability to waive, reduce and defer property tax after insuring that the applicant has met the criteria set out in the statute and said:

The Department of Revenue estimates, assuming a four-year construction period for the pipeline, that you're looking at about \$280 million - \$300 million in property tax that would be assessed at the 20 mil rate in statute on the construction, material and equipment used in that four-year construction process. We would estimate that that would split out at about 70% to the state and 30% to the municipalities. For people who are not familiar with it, the state has a property tax, but only on oil and gas production property, not on other property. That tax would begin to be assessed basically as soon as the pipeline and other material hits the dock. It does not have to be put into working order for us to assess the property tax. So, under the statute as it is written now, a project sponsor - project developer - would have to pay property tax on the

components of a gas line before it's producing revenue. Certainly, once the project is completed and it is producing revenue, then the value of those assets go up, because a steel pipe that has nothing moving through it is worth a lot less than a pipe that has gas in it working its way to market.

Anyway, during the four-year construction, we estimate \$280 million - \$300 million of property tax at the 20 mil rate. Once it begins producing, we would estimate for the first 10 years of the project average property tax revenues against state and municipal share in total would be about \$100 million per year - again spread about 70% to the state; 30% to the municipalities. Some people may look at the \$100 million number and say it is significantly less than we receive off TAPS. One reason for that is with TAPS we're collecting property tax on Valdez facilities and there are no facilities. We're assuming this would be a pipeline that would go to an Alaska port and just keep going. Certainly, as we look at this legislation, one option, if there was a project sponsor that met the criteria, one option that the department project sponsors and the legislature could look at is doing waiver deferral or reduction of just the state's share of property tax. You would not have to do state and municipalities necessarily the same way.

MR. PERSILY said they have no problems with the property tax language in Section 10.

CHAIRMAN TORGERSON asked if the Governor's Gas Pipeline Council did a study on the socio-economic effects.

MR. PERSILY replied that he didn't think so. Commissioner Pourchot indicated that their fiscal note includes funds that they could use for their portion of the studies with Dr. Pedro Van Meurs. They would work with DNR to combine the work funded under the two fiscal notes, so that there would be only one study for the incentive issue.

SENATOR ELTON asked if the commissioner now has the power to waive, reduce or defer the payment of all or any portion of the tax levied by the state or the municipality - for example property taxes on the oil pipeline or other circumstances to waive municipal taxation.

MR. PERSILY replied that he didn't think they had any authority to "just go out there and waive taxes." They need legislative authority. "Given our financial situation, I'm not sure we'd waive anything we're not collecting."

SENATOR ELTON asked if the commissioner could waive or reduce or change in any manner a property tax levied by a municipality now.

MR. PERSILY replied, "No. The only involvement is up to the 20 mil limit, they get first crack; we get what's left. The state assesses the property on the TAPS right now."

CHAIRMAN TORGERSON noted that SB 360 increases the amount of previous legislation from \$17 to \$18 billion. He explained:

I did that mainly to bring recognition to the state financing the expansion of the project. Assuming the explorers do not have a vested interest in the pipe itself, we'd want the line expanded. In testimony in Washington and other places through phone calls, it was pragmatic for government to tell private industry to spend money for an expansion, even though it would have to meet all the economic hurdles that would go with any pipeline. I thought if the Railroad had the authority to build the line, expansion should be part of it. That's the main reason for the increase in money.

4:13 p.m.

MR. NEIL SLOTNICK, Deputy Commissioner, Department of Revenue, said he would speak to the Railroad tax-exempt financing. He remarked:

As you know, of course, tax-exempt financing is always going to be cheaper than taxable financing. The question is: Why the Railroad? As you know, tax-exempt financing is not generally available for what is called private activity, a private entity that is building and benefiting from the project. That's the general rule. Now, there are some exceptions to that rule. For example, there's the private activity cap where the state can, in fact, allow the sale of up to \$225 million of tax-exempt bonds each year for private activity. But that private activity cap is spoken for generally by AHFC with its housing program, by the Alaska Student Loan Corporation, which benefits private individuals and AIDEA, also, sometimes claims some of that cap as well as municipalities, which have a claim to 25% of it. There are other exceptions to the rule that tax-exempt bonds can't be used for private activity. There's a Dobbs-Ward exception, there's a pollution control exception, but those are very limited and obviously couldn't be used for a big project such as this one.

The other exception that's out there is that if you have special congressional authorization to issue tax-exempt bonds, then you can, in fact, do that, but those are rare, but the Railroad has one and the exemption granted to the Railroad is granted in very broad language. It just says that the obligations of the Railroad, our tax-exempt bonds, would not be treated as private activity bonds or actually the language at the time that the Railroad Transfer Act was passed was industrial development bonds. I've included a copy of the Railroad Transfer Act and highlighted the relevant language there in your packet.

If the Railroad were to do such a financing, what would it look like? Who would own the line and what would the terms be? Well, the model that we actually are following most closely here and in the presentation that's in the packet, if you'll turn to page 4, you'll see the Marine Terminal tax-exempt revenue bond offering sheets and that's the model that we are following here. The Valdez Marine Terminal was financed by tax-exempt bonds issued by the City of Valdez, but if you look closely at these offering sheets on page 4, you'll notice that the credit, the responsible party for paying off those bonds, is not the City of Valdez. The responsible party is, in fact, the producers.

In this case, I've got an Exxon offering and an ARCO offering, again, for tax-exempt bonds sold by the City of Valdez as a conduit. The credit that stands behind the bonds is that of the company and that's the model that we envision here. In addition, the owner of the Marine Terminal is the companies, themselves. It's not the City of Valdez. This was done under an exception to the private activity rules, because this was considered a wharf project and under the terms of the tax laws as written then, Valdez did not have to retain ownership of the project. If it was used under that exception today, Valdez would have to retain ownership.

But looking at the Railroad statute, that's again a very broad exception, that takes you back to a time before even the 1977 tax laws when ownership by the municipal entity that was funding the industrial development was not required. So, the model that we look at here is that the credit behind the bonds is not going to be the Railroad. It's going to be the companies and that would probably be done through a shipper-pay contract. So, the producers are going to be the ultimate responsible party for the bonds. An ownership would remain with the developer of the

project and that owner then would be able to take depreciation on the project. If you have a municipal or state or public corporation owner, then there's no advantage of depreciation to private enterprise. Here, with this exception, I think we will be able to avoid that dilemma and allow private parties to own the line even though it's being financed by tax-exempt bonds issued by the Railroad.

What would the financing look like in terms of how much debt? We're told by our financial advisors that the market's going to require some equity participation by the producers or by the entity [indisc.]. You can't do a project like this with 100% debt, because the market's not going to want you to take all of the risk. The market will want to see somebody else ponying up some money that is at risk for the project. And so a good rule of thumb is about 70% debt and 30% equity. We've got some information in this packet about the Alliance Pipeline, which was recently constructed from Calgary to mid-North America for transportation of Natural Gas.

The next question is, if the Railroad does this, how much money would this tax-exempt financing save the producers or the entity that builds the line. That's a difficult question to answer. We have to make a lot of assumptions to come up with an answer. So, what we did is we built some models and the one that's in the packet here assumes first of all a project finance basis so we don't have to figure out the credit value of each individual company that's standing behind the bonds. We just take a blend of credit, call it a project financed project, figure about four years for construction and about \$17 billion total costs, interest rate, if it was a taxable project of about 8.5% interest rate. For tax-exempt bonds it would be about 20% less or about 6.5%.

We've got various other assumptions built into our models about how much capitalized interest and so on. When you run those models and then take a present value figure for how much the savings are, it comes out in today's dollars of about \$1 billion in savings - by using tax-exempt financing.

Now, there's lots of different ways to run these models - lots of different assumptions that you can make, some of which are going to show more savings and some of which would show a little less, but we've been told by the producers, and others as well, that yes, they have

checked it and they find that number is probably a pretty good ballpark number - again, maybe a little conservative depending on what kind of assumptions that you make when you run these models.

That's a pretty quick run through of the kind of work that we've done so far on this project, but that's a start. If there's any questions, I'd be happy to try and take those.

CHAIRMAN TORGERSON asked his opinion on the default provision and questioned, "If something happens to the three producers, who's on the hook next?"

MR. SLOTNICK replied:

The bondholders - the investors. It would be very clear in the offering statement that the Railroad is not pledging its full faith and credit and the State of Alaska is not pledging its full faith and credit or in any other way guaranteeing or backing these bonds....On page 4, again, you need a magnifying glass to see it, but it says, 'These bonds will not constitute general obligation of a city or charge against a general credit or taxing power of the city or the State of Alaska. Payment of the principal of premium, if any, and interest on the bonds is guaranteed by Exxon Corporation.' We would have that type of language throughout the bond offering in bold letters.

MR. PATRICK GAMBLE, President, Alaska Railroad Corporation (ARRC), said he would testify in general support of the railroad provisions in SB 360. He referred the committee to page 12, line 9, and said he would focus on section (d):

(d) The proceeds of the bonds described in this section shall be used only for an Alaska North Slope natural gas project and related facilities that are owned by one or more entities other than the corporation (the Alaska Railroad).

He continued:

We believe that precludes the opportunity to link what we see as probably significant railroad requirements to some sort of an opportunity to collect a fee in order to fund those requirements. If you get to the engineering side of the project, for example, and start looking at the additions to our current level of business on the railroad, one of the assumptions is

that we are going to tell our current customers that we can no longer service them because we have a new project to build the pipeline. In order to robust the rail line, we've got to look at the opportunity to continue what we're currently doing and add this additional business on. That means we've got to look at things like sightings, we've got to look at places for additional double track on the rail line. As you know, it's a single rail line through most of it. We're going to have to look at the yards, especially in Fairbanks, where there's going to be an enormous amount of pipe trans shipped. And, so there are going to be physical requirements. We currently, for example, have a 90 lb. rail in our yards to a large extent, which probably is not sufficient. In fact, I can almost assure you that it's not sufficient to take the gross weights that we're going to apply across the line in addition to what we're already doing. We're in the process of changing out that lighter rail for heavier rail. We're in the process of building additional sightings already. It's in our five-year plan.

We're in the process of looking at our bridge structures. Those bridges were built many, many years ago. To make sure they can handle the current loads for years to come and, of course, we would have to reassess those in light of the additional tonnage that we would see by more trains added on to the line. As you can see, I'm building a case for the fact that we need to robust this rail line in order to take this project on. Now, there are some who have said this project and I have said this is the biggest construction project since the Great Wall of China. Obviously, we don't exactly know how big it is, yet, but we do know there is going to be certain physical requirements that the railroad is going to have to meet that are considerable.

On the other side of the fence, we have heard it said that this is the largest private bond sale in U.S. history and, whether that's the case or not either, it simply goes to show that it's a very large financial deal. This also is going to have a considerable impact on the Railroad. This is not a part time job for the current management structure or for the employees of the Railroad. Given the life of this project where the bond refinancing could go on for 35 - 50 years, we're going to have to make some structural changes in the Railroad to accommodate our responsibilities. I emphasize that word because there's responsibility, there's authority and accountability that the Railroad

is going to have to have financially for some time to come.

What we see when we get back to (d) and with the idea that there be an amendment somewhere in here with the opportunity to link some sort of fee for the services rendered on the financial side with the requirement to fund that robustness that I spoke of before that we see on the operational side of the railroad and also possibly for the additional operating expenses that would be incurred as we support this project after it matures as a construction project and becomes a sustained pipeline project with all the attendant services that we would normally put forth to do that.

CHAIRMAN TORGERSON said he agreed with that and would craft an amendment to that affect.

SENATOR ELTON asked how ARRC financed the infrastructure that may have been needed to support construction of TAPS.

TAPE 02-18, SIDE B

MR. GAMBLE replied there was one, but it was long ago. He said he didn't know if they scaled the projects side-by-side - this one is enormous compared to TAPS - which portion of that ARRC would have to support directly. He said it would add considerably to ARRC's activities. One issue is space and the ability to take as much product and be able to move it and transship it; and the other is the wear and tear on the rail line, bridges, etc. as a direct function of gross ton-miles across the rail line, itself. He could better answer the question when engineers converted that to trains and load. He stated, "In the abstract it's very fair to say that the current level of activity that we share on the Alaska Railroad has already got us looking at some of these things."

MR. GAMBLE explained that over the last three years, especially, they have been playing catch-up for when there wasn't a lot of money put into the line. Adding this on to the catch-up game ARRC is playing will be a considerable task. He elaborated:

What we're suggesting here is then that before we start hauling this tonnage, we have a number of programs that I think it would [be] safe conceptually to say if we accelerated what we already have on the books, we're already doing what I'm asking for. We're not talking about going out and building a whole lot of new things; we're talking about accelerating the robusting that we're already doing on the Railroad right now. For example, the bridges, we have probably just under 300

bridges and most of those were built with wood ties and wooden supports, they were built 45 - 50 years ago and we're out assessing our entire bridge program. We're finding a lot of work that needs to be done in that program. If I go back to my engineers and add on what I estimate to be the additional tonnage that's going to have to go across those bridges for the period of time we're talking about, we're going to accelerate the deterioration of those bridges considerably and so on.

SENATOR ELTON added that there would be infrastructure impacts on a lot of our transportation facilities and the railroad is the only one that is going to be able to recoup some of those impacts through charge backs to the people who are building a pipeline. He said he was very interested in knowing about impacts during the construction of TAPS and how they were paid for.

CHAIRMAN TORGERSON said he agreed with part of what he said, but right now the bill doesn't even let them recoup the fees it will cost them to put out the bonds. He envisions this to be a negotiation between ARRC, the Department of Revenue and the oil companies under ship and pay contracts.

SENATOR ELTON said he didn't have any problem with the administrative impacts on the railroad.

MR. GAMBLE said they would like to align the fees with legitimate requirements - "No more and no less."

CHAIRMAN TORGERSON responded:

Again, I think that would probably be a negotiation aspect between the railroad and the producers since they are paying the bill on both ends, not only transportation of the product, but also for administrative fees that the railroad would be asking for.

MS. NAN THOMPSON, Chairwoman, Regulatory Commission of Alaska (RCA), supported SB 360, which provides a clear statement of the state's goals and interests that should help advance this project. SB 360 also addresses her concerns about the need to insure appropriate access to instate users and provisions for expansion to encourage development.

She said this bill gives the RCA two important responsibilities. First, the RCA is part of the 90-day certification process in Section 240. The RCA is supposed to make sure the applicant adequately considers instate demand and submits the plan that maximizes opportunities for access to the royalty gas after holding a hearing to determine if the applicant has adequately

studied the supply and maximized the opportunity for initial and expansion capacity. She said this process is good and will allow the issues to be fully explored and aired and will allow the RCA to develop a good record for decisions on certification.

The second responsibility relates to the expansion issue. The Act provides for a lease provision that would require the RCA to apply for specific criteria in evaluating applications from any entity that wanted to ship gas on the pipeline to determine if the pipeline expansion was in the best interests of the state. She agreed with Ms. Robson's comment about specific language issues in the current draft and said Ms. Robson's suggestions would make it consistent with pending federal legislation that she would also support.

MS. THOMPSON told committee members that the pending federal legislation contains provisions for expansion and this process would compliment that process rather than supplant it. It would allow the state to develop a record on the same issues that FERC would be interested in. It's a good way for the state's interest to be fully evaluated and to submit the results of the process to FERC.

SENATOR ELTON asked, after construction begins in a 10-year period, if in the eighth year the RCA finds that the applicant did not maximize opportunities for access, they would be able to do something without waiting for a study that comes in on the tenth year.

MS. THOMPSON replied that the Act requires RCA review of a plan and if they were acting consistently with the plan, they would have the opportunity to do something about it. The Act requires a regular update.

MR. ALAN SHARP, Director, Northern Business Development for Encana Marketing USA, Inc., supported SB 360. He explained that Encana is a brand new corporation, a flagship world-class oil and gas company launched on April 8, 2002. It was formed from two great Canadian companies, Alberta Energy Company and Pan Canadian Petroleum Corporation. Some of its growth platforms include Alaska, the MacKenzie Delta, western Canada, the US Rockies, the Gulf of Mexico, off-shore eastern Canada, the North Sea and Ecuador.

He highlighted a few points saying through this merger Encana is now North America's largest independent oil and gas company and North America's largest natural gas explorer and producer and largest gas storage operator. Encana's forecast for 2002 production after royalty for natural gas is 2.4 BCF/D. He said Encana believes this bill is necessary for the following reasons:

The state is in control of what its gas industry will look like and it has at least 50 years ahead of it, based on North Slope potential of 100 BCF. It could be upwards of 75 years. This bill creates competition by insuring third party access to the pipeline, and which also will be drawing in exploration dollars starting today. This bill also reduces through competition the state's reliance on the three producers as kind of the main producers at this point in time as about 75% of the state's income.

The second point that we see as a result of the potential producer pipeline owner shipper conflict of interest for the pipeline and its expansions could be designed to hinder third party access. This bill insures that the pipeline will be designed to meet both the producer and future Alaska gas needs.

The third point is the way they would go about insuring this pipeline design is by gathering information that is required to implement state gas policy and regulation. This goes beyond just having the producers provide their volumes and their design in the pipeline. It will actually establish hydro-carbon conservation and competition rules as well as going into regulating access, expansion and control of upstream facilities that go into the pipeline as well as the pipeline, itself.

The fourth point that we had was the delay in the legislative approval for the royalty-in-kind gas sale. The royalty-in-kind gas sale requires legislative approval so that cannot be obtained until January 2003 or until a special session is called. Basically, where we're coming from in this is, as an explorer, we can only participate in an open season when we have proven gas reserves and the earliest we see that would be 2005 or through a royalty-in-kind sale. So we view this bill as very important.

He showed a slide of proven gas reserves being held by BP, Exxon and Phillips. Of the 30 TCF that's proven right now, there's about 100 TCF of potential gas reserves in the North Slope and Encana believes that around 26 TCF is in Foothills, based on a USGS report. He continued his explanation of the slide. Encana believes the producers are waiting for them to lead the way, because it will significantly lower their costs and risks. He concluded, "So, you can see the magnitude of our land relative to the Foothills area and why we're interested in the bill for access to the pipeline."

He said that only a small area on the North Slope has been explored and mainly for oil. Without access for explorers, the pipeline would be full for 20 years. There would, therefore, be minimal exploration and land sales in that area.

MR. SHARP explained:

An open season from our perspective is a binding obligation for pipeline capacity. Prior to an application to actually build that pipeline, it's usually held significantly before the FERC application to build the pipeline. The open season is used to determine the design and the size of the pipeline. The main issue that we have is if you do not participate in the open season, then the pipeline will be designed without your interests and I'd like to point out that would be from both a state and an explorer point of view. Especially, if you have a very early open season, it can actually create a barrier of entry to the pipeline. So, through the bill, if there are rules on access and expansion, it kind of eliminates that issue. Right now, FERC does not control or regulate an open season. That may change through the federal energy bill, but that has not been approved yet, and the details of how that would be worked out are still outstanding.

There are really three critical important aspects that we see to the bill and to the pipeline. [Slide 6] That's the initial design, expansion and access to the pipeline, itself.

The first item would be initial design, which would determine the fate of future gas exploration and competition in Alaska. Through the initial design, you're really determining what the tolls will be, the initial volumes that flow as well as for the expansion in the future. Depending on how it's designed, you have a toll that could be roll in versus incremental for the expansion. That could be quite important relative to initial shipper versus a future shipper on competition. Initial design also determines the expansion capacity increment sizes. Is it going to be a smaller in number of series of expansions or is it going to be in one large expansion?

The initial design also determines how long an expansion will take to build, because you could actually prebuild certain things into the pipeline so it's easy to expand into future, because you've already put down flanges on the pipeline or areas for

compressors to go in on mid-distances.

The second item that it talked about would be expansion rules. They would determine who would be able to contract for actual capacity on the pipeline. From the explorer's perspective, we require reasonable expansion capacity increments - by that I mean in the 300 million CF/D range, not one large expansion of 1 BCF/D. That's something we had heard from the producer group. The explorers would also like to see reasonable assurance on a timely expansion such as, if you request expansion, it would actually happen in a certain time frame.

The last item under expansion is looking at the tolls themselves to insure that they're competitive and reasonable relative to the initial shippers. In that respect, it's important in the initial design to have a consideration for prebuild of some type.

The last item would be access rules. It would determine where and whose gas can actually enter and leave the pipeline and to give you an example of that, I think a key component for explorers is unbundling of the pipeline tolls relative to other producers' facilities on the North Slope around Prudhoe Bay and Pt. Thompson. As explorers down in the Foothills, it's likely our gas will not require the same type of facilities as the gas up North as well as if we do need facilities we'd put our own in the Foothills area, things like transferability of firm service at receipt points and delivery points. That's important not only for explorers to get on and off the system, but also for instate gas use in order to grow the Alaskan gas consumption. The last one would be the rules to support and encourage new gas entering the pipeline. That kind of highlights both access and expansion as to how you get on.

To sum all this up for SB 360, we believe it provides the framework to regulate these critical areas. It establishes competition and an equal playing field for explorers. What's critical for us is that detail regarding access and expansion rules actually evolve so we have the framework here. It's important for us as to work out the details of how that would actually come about.

4:45 p.m.

MR. MARK HANLEY, Public Affairs Manager, Anadarko Petroleum

Alaska, said they used to be the largest independent oil company in Alaska, but now they are number two. He noted that the two largest independent exploration companies in the world are up here interested in Alaska where there is a lot of gas potential. He said the biggest risk would be getting the gas to market. Having fair access at a reasonable price to any transportation project is crucial. He pointed out, "It's almost impossible for companies to invest the dollars ahead of time if you don't know when you find the gas, you'll be able to actually get that into a project." He said Anadarko is supportive of the access provisions that will encourage exploration companies to continue exploration in Alaska into the future.

MR. ROBBIE SCHILHAB, Alaska Gas Developments Manager, Exxon Mobil Production Company, said:

Alaska's North Slope gas is a very important resource for Exxon Mobil. Exxon Mobil holds over one-third of the gas. It is the largest gas interest holder on the North Slope. We've been working for over 30 years to commercialize this gas since discovery in 1968, spending more than \$150 million on various Alaska gas projects. As you would expect, a pipeline project will always be a marginal project economically due to the distance to markets and competition in North America with other fuel sources. As a result, a pipeline project must be developed at the lowest possible cost to effectively compete with the other available energy sources. Exxon Mobil appreciates the interest of the Alaska Legislature to consider what actions they could take to help a potential pipeline project, especially in the areas of expedited permitting process and expedited judicial review. However, we cannot support SB 360.

I'd like to address a few specifics about the proposed legislation. First, any mandates such as a route, or for that matter, labor or other mandates, will only serve to increase the cost of a project and further hamper the prospects of a project being economic. Also, Exxon Mobil does not seek nor do we support any government subsidies for a project. If a project is determined to be economic in a normal market environment, no subsidy is necessary. If a project is not economic, our preference is to try to improve it through our own actions or wait until market conditions can support the project. Rather than subsidies, we have made it clear that it would be very important to ultimately establish a predictable and stable framework in terms of certainty in the state government fiscal system. The potential for fiscal change creates risk

that jeopardizes the economics of a long payout, capital-intensive project.

Finally, we believe it is inappropriate to legislate any added requirements for expansion or access for royalty in kind gas or new discoveries as these topics are already addressed as part of the federal Natural Gas Act and the Federal Energy Regulatory Commission rules and regulations. Any new requirements will increase the risk to project developers and will be an added burden on a project that is currently not commercially viable. Again, while we appreciate the intent of the legislature and the opportunity to comment on this proposed bill, we cannot support this legislation, nor do we believe it is necessary for the legislature to pass any legislation on this subject during the current session. I appreciate the opportunity to speak on this bill.

CHAIRMAN TORGERSON said they have differing opinions on the federal legislation, but as far as the royalty gas is concerned, it says, "you 'may' ship our royalty gas and that just is not going to cut it." He thanked him for his testimony.

MR. KEN KONRAD, Vice President, BP Exploration Alaska, said BP didn't participate in development of the bill and has only had a few days to review it. He said BP hasn't completed a full analysis on all the potential impacts. He added:

This bill seems to address a number of areas pertaining to a potential Alaska gas pipeline project. These include potential royalty impacts and tax relief, potential use of railroad bonds for lower cost project financing and a modified regulatory framework. I'd like to touch on each of these areas individually.

Railroad Bonds

The proposed bill would authorize the Alaska Railroad Corporation to issue bonds that could potentially provide a project with lower cost federally tax exempt financing. BP has previously testified in the House that we are generally supportive of such an effort [HB 423]. If achieved, tax exempt financing could help lower overall project costs. Ultimately, however, it is likely that bond investors will require further assurance from the federal government that the bonds would indeed be tax exempt before actually investing in such bonds.

It's our understanding that HB 423 is progressing

through the legislative process. If this bill were passed by the legislature, it would achieve the goals outlined in SB 360.

Tax and Royalty Relief

The proposed bill addresses potential mechanisms to provide tax and royalty relief. BP has not requested specific tax or royalty relief for an ANS gas project. However, we have consistently said that establishing clear, simple and predictable rules around the state's royalty and tax regimes is vital to progressing a project. SB 360 does not provide a mechanism for establishing such clarity and predictability. Furthermore, we feel if it is the legislature's intent to provide tax and royalty relief, it is unlikely the current language in the bill will in practice lead to such relief.

BP, with our partner, outlined early last summer a notional process whereby industry investors and state officials would, over a several month period, develop a mutually framework. Ideally that process would have been completed by yearend for consideration by this legislature. Unfortunately, that is not the case, but we are where we are.

BP stands ready to enter into meaningful discussion with the state at any time to work towards creating a viable fiscal framework. We understand it will take some time to thoughtfully address all the details, but we can't finish until we start. Hopefully we can begin this process very soon so a completed product is available in advance of the next legislative session.

We have recently become aware that a new proposal is under consideration elsewhere in the legislature to reactivate HB 393, the old Stranded Gas Act that was first signed into law in 1998. This would be a positive and constructive first step towards creating a viable fiscal framework.

Regulatory Modifications

SB 360 includes provisions that suggest an effort to enable an expedited state regulatory process. A clear and efficient regulatory process is indeed vital to a project of this magnitude. However, the bill as currently crafted would actually add regulatory complexity and hence, risk.

The bill introduces an additional layer of stipulations from state regulators in areas that are either not necessary or are currently addressed in federal law under the jurisdiction of the FERC. Creating overlapping jurisdictions and adding yet more regulatory stipulations is simply a clear step in the wrong direction.

Early last summer BP and our partners proposed enabling federal regulatory legislation. The events of September 11 and other factors caused some delay. However, at this point in time, significant progress has been made. After many months of thoughtful and constructive work, it now appears that there is a reasonably good chance that this vital legislation may progress to law. To re-clutter the regulatory clarity created by the federal legislation after all this effort cannot be in the best interest of the state or industry.

In the event federal legislation does pass, BP would be very supportive of working with the state in a deliberate and constructive manner to develop a clear and predictable state regulatory process that is consistent with and complementary to the federal legislation.

To summarize, BP does not support SB 360 as currently constructed. We have previously endorsed state efforts towards authorizing railroad bonding and believe that could be adequately addressed through HB 423 or the Senate version thereof.

It is absolutely vital to progress clear, simple and predictable fiscal framework in Alaska. However SB 360 does not provide for such a framework. Other proposals modeled after the Stranded Gas Act that are being contemplated by others in this legislature would provide a better mechanism for creating a viable fiscal framework.

The regulatory provisions of SB 360 creates overlapping jurisdiction with the FERC and creates needless and harmful regulatory complexity. If pending federal legislation becomes law, carefully considered state regulatory legislation can be developed that is consistent and complementary to the federal legislation.

I fully appreciate the enormously strong desire from this committee to see an ANS gas project become a reality. It is certainly a desire shared by BP.

Commercialization of the world-class gas resource on the North Slope would be one of the most significant and exciting projects ever undertaken by our company. My personal commitment to trying to make ANS gas a reality is unwavering. However, each step we take towards building a viable government framework needs to be the right steps. I strongly urge this committee to take the right steps. Thanks for the opportunity to address the committee and I would be happy to answer any questions.

CHAIRMAN TORGERSON thanked him for his testimony.

MR. JOE MARUSHACK, Vice President, ANS Gas Commercialization, Phillips Alaska, said:

My first responsibility is the development of Phillips ANS gas resources and Phillips is committed to achieving our goals in a timely and economic fashion. Thank you for allowing me to testify regarding our views on SB 360.

As you know, we have been focusing this year on those areas that we believe are most likely to result in an economically viable gas pipeline project to the Lower 48. We have completed our joint analysis of the work the producers initiated last year and will be setting up a time to brief you on the results of that work. For the past several months however, most of Phillips' gas emphasis has been directed at the federal level to achieve congressional legislative changes to advance the project. These include:

1. Federal legislation that creates permitting certainty. I believe you are well aware of the current federal legislation in the Senate energy bill.

2. A federal tax mechanism that would help mitigate the unacceptable market risk of a project of this magnitude. I understand you are aware of current drafts of this mechanism that provides downside mitigation but also provides for repayment of any credit if used and that is currently assessed by the U.S. Government as having a zero cost. This piece of legislation is in Phillips' view a most critical element in moving our project forward. It shares the benefits the Lower 48 consumer will see from ANS gas coming to market while addressing the risk inherent in such a large and costly project.

Given achievement of the federal legislation (at this

point it is not a certainty), it is important to the economic viability of the project to progress fiscal matters at the state level as Phillips set forth in our letter of March 15, 2002.

Fiscal matters include fiscal certainty and what we really mean is that we need to know with a fair degree of specificity how our taxes and royalties will be calculated and administered. We would also like to address potential opportunities to gain assurance that those taxes and royalties won't change once we've made our investment. We believe that strategic participation by the state in mechanisms to improve the economic viability of a project [is] important. We are generally encouraged by the concept of the railroad bond financing proposal and agree that the state should consider tax modifications that may improve project viability.

SB 360 is, in essence, a process bill. It prescribes no particular tax or royalty relief for a project, but outlines a process by which a project sponsor could initiate discussions to progress a viable fiscal system. What we would like to point out is that a few years ago the legislature engaged in quite a lengthy debate and put in place a similar process.

Existing Alaska statutes in Chapter 82 of Title 43 already outline a process by which fiscal clarity and certainty can be achieved. We encourage the legislature to consider whether the existing framework could be utilized and upgraded to include the improvements to the state's permitting process and railroad bonding that are outlined in SB 360.

This existing statutory framework has certain advantages because it includes a comprehensive process that could provide for some measure of fiscal certainty. It also allows for confidentiality at appropriate points in the discussions while at the same time provides a more structured public process including measures that involve municipalities more directly.

While SB 360 currently before you has some positive aspects, it has several problematic areas that may not progress the project, would add uncertainty and ultimately delays. We must point out that some of the provisions of SB 360 will require significant discussion to fully consider the ramifications. We believe that the state's desire to sell its royalty gas

by either royalty-in-value or royalty-in-kind is an issue that directly affects the project development because viability of the project will require long term transportation and gas sales commitments. We wholeheartedly support access to gas within the state and access to the pipeline for development. Though it must be structured in such away so as to not impair the project's viability. Given the cost of this project, the inherent risk, the relatively difficult current economics and combined with the physical and mechanical issues related to this very unique pipeline, these are extremely complicated issues and must be addressed over a period of time with state officials so that mutually satisfactory solutions can be reached that both enable a pipeline project and meet state needs. We urge the legislature not to implement direct legislative requirements that negatively impact the project.

Since SB 360 is fundamentally a process bill, we would encourage you to consider working within the existing framework and processes already in statute to help us achieve the kind of fiscal and permitting regime that can help move the project forward. I'll be happy to try to answer any questions.

CHAIRMAN TORGERSON said there were no questions and thanked him for his testimony.

5:07 p.m.

MR. CURT MOFFATT, Van Ness Feldman, said he was testifying on behalf of the Alaska Northwest Natural Gas Transportation Company, and that they hold a certificate under the ANNGTA to construct the Alaska Highway project in Alaska. Foothills is one of the partners and holds similar certificates under the Northern Pipeline Act in Canada. He said they currently have a federal right-of-way for a project in Alaska and hold similar authority in the Yukon, Alberta and British Columbia. In 1981 they filed an application with the State of Alaska for a right-of-way lease across state land in Alaska and that application is currently under review by the commissioner of DNR. He continued:

The ANNGTC decided in 1983 to maintain the lease application in good standing so it could be expeditiously obtained once gas markets improved and the project was remobilized. In this regard we completed significant work necessary to progress the right-of-way application including studies of the Yukon River bridge issues, completing a circle of a study of pipeline construction on the Dalton Highway and advancing negotiation and agreements on highway use,

maintenance or repairs. We continue to refine project cost estimating, we have continued reconnaissance of our right-of-way route. We have expended significant dollars on frost heave engineering, technical work and \$30 million developing a base route maps, drawings and surveys, more that \$77 million on the development of geotechnical data and more than \$19 million on environmental related data. They have also maintained their Clean Water Act Section 404 permits and have renewed them twice.

In March of 2001, Foothills Pipe Lines Alaska, on behalf of the ANNGTC, notified the State Pipeline Coordinator that it would like the state to continue processing its right-of-way application. The Department of Natural Resource's Gas Pipeline Office then issued public notice of its intent to do so. As part of that process in early 2001, we identified current existing law relating to the definition of significant or substantial change in the right-of-way application. There was legislation enacted to clarify when changes to right-of-way application would actually constitute a new application process.

Building upon that cooperation, we have accelerated both our efforts and expenditures over the past year toward finalizing the right-of-way lease. In that regard, we have entered into a Memorandum of Understanding to provide [indisc.] in funding to the state Pipeline Office. We have expended in excess of \$1 million 'til June 2001. We are now averaging approximately \$200,000 per month. In this regard we have hired a number of Alaskan engineering and consulting firms as well as local Alaska counsel and advisors. Those companies include Michael Baker, Jr., Inc., Oasis Environmental and Land Field Services.

In discussions with state officials earlier this year we included representatives from the DNR and DGC. We identified two additional detailed statutory changes that upon which we would need clarification to clarify the authority of the commissioner of DNR and DGC to phase various decisions required under the Right-Of-Way Leasing Act because of the Coastal Zone Management Program. To this end we prepared suggested amendments for the legislature's consideration. We believe that they are necessary to add clarity and predictability and that they are in the state's best interest as well. We are encouraged that both of these issues are addressed in legislation passed by the Senate and currently pending in the House, as well as in this

proposed legislation, SB 360.

We are concerned, however, that the resolution of these issues proposed in SB 360 is conditioned in such a manner as to create additional uncertainty and risks for our project, which could delay rather than advance the issuance of our right-of-way lease at the earliest practical date.

As the chairman may recall from the deliberations of the interim joint committee last fall and discussions we had with the Governor's Gas Council, you might want to consider additional legislation to provide clear and investor friendly administrative review with respect to the multitude of state decisions that will need to be made by numerous department and agencies, including, but not limited to, the DNR review and grant of the right-of-way lease across state lands. We suggested that the state look to the statutory language in ANGTA regarding expedition and priority of administrative review, limitation on conditioning authority and limitation on judicial review. Under ANGTA, these statutory provisions have worked well. The federal agencies have particularly in the late 1970's and 1980's, but also recently, respected these specific congressional directions to provide expedition, coordination and regulatory and judicial certainty to permit a project of this size and scope to proceed. The risks of regulatory delay and lack of expeditious decision-making have consistently been recognized as major risks to investment in a project of this scope.

Again, we are pleased that SB 360 recognizes the benefits such legislative action can have on creating a favorable climate in which the private sector will consider making large capital and human investment.

All of us are in this together - the owners of the resources, the state in its multiple capacities, private pipeline companies undertaking to invest in, build and operate the transportation system and the North American energy markets. ANGTA's provision of a more efficient and predictable regulatory and judicial review has proved to be of great benefit to the project. Similar provisions as found in SB 360 would in our view be of major and additional benefit to the development and completion of the transportation system.

We understand the legislature's desire to assure that any fiscal changes that may be requested are necessary

and supported by the record. We also understand the state's desire to promote and maximize the employment of Alaskans, to assure access to a North Slope pipeline to transport the state's royalty gas and to promote further exploration, development and in state use of the state's resources. These are goals we share.

However, we do not believe it is necessary or appropriate particularly with respect to the ANNGTC to condition both the non-fiscal benefits of access to an expedited permit process and a clarification of the authority to phase administrative decisions as proposed under SB 360. The ANNGTC urges the legislature not to further complicate the timely consideration of the right-of-way lease application we have pending before and which is under active consideration by the Department of Natural Resources. Indeed, ANNGTC believes that the goals and policies identified in the bill are to a significant degree already addressed by existing federal law, namely ANGTA or authorizations or other decisions issued under ANGTA.

TAPE 02-19, SIDE A

MR. MOFFATT continued:

To the extent these goals and policies are not already addressed, ANNGTC believes that they can be addressed without further complicating the right-of-way lease application as discussed here.

Generally, as pipeline companies, we benefit from system expansions and from the discovery and development of new resources to grow our business and to prolong the life of the infrastructure we build. More importantly with respect to access to the system for royalty gas or new discoveries, the ANGTS is obligate under existing federal law not to discriminate against any potential shipper. Subsection 13(a) of ANGTA provides:

'There shall be included in the terms of an certificate, permit right-of-way, lease or other authorization issued or granted pursuant to the directions contained in section 719 of this title, a provision that no person seeking to transport natural gas in the Alaska natural gas transportation system shall be prevented for doing so or be discriminated against in the terms and conditions of service on the basis of degree of ownership or lack thereof of the Alaska natural gas transportation system.'

With respect to the shipment of Alaska gas for instate use, subsection 13(b) of ANGTA provides specifically:

'The state of Alaska is authorized to ship its royalty gas on the approved transportation system for use within Alaska and to the extent its contracts for the sale of royalty gas provide to withdraw such gas from the interstate market of use within Alaska; the Federal Power Commission [FERC] shall issue all authorizations necessary to effectuate such shipment and withdrawal subject to review by the Commission only of the justness and reasonableness of the rate charged for such transportation.'

Further, with respect to the goals stated in SB 360, the President's decision and report to Congress on the ANGTS states clearly that, 'Prudhoe Bay gas, including the State of Alaska's royalty gas, will be made available to local Alaskan communities along the route of the Alcan Pipeline System.' It further states: 'Installation of additional pipeline facilities connecting with the Alcan system could provide natural gas to other areas of the state particularly the Cook Inlet region and Southeaster Alaska and thus supply the energy base required for long-term economic development. The Alcan system also will offer a readily accessible transportation service for a number of potential gas reserves located in interior Alaska, Cook Inlet and the Gulf of Alaska.'

This is the report on which the Congress authorized the present recommendation to select the Alcan project over other competing proposals. With respect to the bill's labor and workforce development requirements, we recognize the state's long history of encouraging local hire to the extent permitted under the U.S. and Alaska Constitutions. We are aware that in the past the legislature has imposed certain best efforts requirement similar to those contained in SB 360 as a condition to a lease, not as a precondition to processing the lease.

The ANNGTC recognizes the state's interest in so conditioning its leases. Moreover, as representatives of the ANNGTC have stated before, to the extent available we have found it generally preferable to hire competent and experienced local contractors, consultants and employees. It is as a general matter, usually more efficient and economic.

In recognition of our unique status under ANGTA and our consistent efforts to advance the Alaska Highway Pipeline Project for the benefit of all Alaskans, we ask you to consider an amendment deeming the already authorized ANGTS project to be subject to existing federal law specific to the Alaska project to be consistent with the requirements precedent to receiving the benefits of expedited agency review and action, limited judicial review and phased decision-making contemplated under SB 360. We believe that doing so will reduce project risk and regulatory uncertainty.

Alternatively, we ask that you work with us, and Mr. Chairman, you acknowledged earlier in the opening today that you are considering certain transition rules that might be applicable to our pending lease application. Thank you. I'd be glad to answer any questions.

CHAIRMAN TORGERSON said he would have transition language in the bill, but he thought it was important if the bill passes, that he certify all the things that are in it.

I don't believe it's that onerous, but I can also tell you it's damn important to the State of Alaska and to the residents of the State of Alaska that this stuff happens. We've had handshake deals before that kind of went sideways. So, we'll just put it in statute and there won't be any argument.

MR. MOFFATT responded that the ANGTS is subject to existing federal law and to actions of Congress [indisc.]. "It addressed many of these issues."

CHAIRMAN TORGERSON said he knew that and that other legislation opens it to any applicant under the NGA. He noted that Alaska has no protection under that Act, except what [its delegation] is doing in Congress now.

MR. MOFFATT replied, "It is an alternative permitting route to the ANGTA regime, yes sir."

CHAIRMAN TORGERSON thanked everyone and adjourned the meeting at 5:25 p.m.