

**ALASKA STATE LEGISLATURE**  
**SENATE RESOURCES STANDING COMMITTEE**

April 3, 2013

3:32 p.m.

**MEMBERS PRESENT**

Senator Cathy Giessel, Chair  
Senator Fred Dyson, Vice Chair  
Senator Peter Micciche  
Senator Click Bishop  
Senator Lesil McGuire  
Senator Hollis French  
Senator Anna Fairclough

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Representative Chenault

**COMMITTEE CALENDAR**

Discussion: Travesty Wells, Alaska's Options

- HEARD

CS FOR SS FOR HOUSE BILL NO. 4(FIN)

"An Act relating to the Alaska Gasline Development Corporation; establishing the by the Regulatory Commission of Alaska of natural gas transportation contracts; Alaska Gasline Development Corporation as an independent public corporation of the relating to the regulation by the Regulatory Commission of Alaska of an in-state natural state; establishing and relating to the in-state natural gas pipeline fund; making certain gas pipeline project developed by the Alaska Gasline Development Corporation; relating information provided to or by the Alaska Gasline Development Corporation and its to the regulation by the Regulatory Commission of Alaska of an in-state natural gas subsidiaries exempt from inspection as a public record; relating to the Joint In-State pipeline that provides transportation by contract carriage; repealing the statutes Gasline Development Team; relating to the Alaska Housing Finance Corporation; relating to the Alaska Natural Gas Development Authority and making conforming relating to judicial review of a right-of-way

lease or an action or decision related to the changes; exempting property of a project developed by the Alaska Gasline Development development or construction of an oil or gas pipeline on state land; relating to the lease Corporation from property taxes before the commencement of commercial operations; of a right-of-way for a gas pipeline transportation corridor, including a corridor for a and providing for an effective date." natural gas pipeline that is a contract carrier; relating to the cost of natural resources, permits, and leases provided to the Alaska Gasline Development Corporation; relating to procurement by the Alaska Gasline Development Corporation; relating to the review

- HEARD & HELD

#### PREVIOUS COMMITTEE ACTION

BILL: HB 4

SHORT TITLE: IN-STATE GASLINE DEVELOPMENT CORP

SPONSOR(S): REPRESENTATIVE(S) HAWKER, CHENAULT

01/16/13	(H)	PREFILE RELEASED 1/7/13
01/16/13	(H)	READ THE FIRST TIME - REFERRALS
01/16/13	(H)	RES, FIN
01/30/13	(H)	SPONSOR SUBSTITUTE INTRODUCED
01/30/13	(H)	READ THE FIRST TIME - REFERRALS
01/30/13	(H)	RES, FIN
02/04/13	(H)	RES AT 1:00 PM BARNES 124
02/04/13	(H)	Heard & Held
02/04/13	(H)	MINUTE(RES)
02/06/13	(H)	RES AT 1:00 PM BARNES 124
02/06/13	(H)	Heard & Held
02/06/13	(H)	MINUTE(RES)
02/13/13	(H)	RES AT 1:00 PM BARNES 124
02/13/13	(H)	Heard & Held
02/13/13	(H)	MINUTE(RES)
02/15/13	(H)	RES AT 1:00 PM BARNES 124
02/15/13	(H)	Heard & Held
02/15/13	(H)	MINUTE(RES)
03/01/13	(H)	RES AT 1:00 PM BARNES 124
03/01/13	(H)	Heard & Held
03/01/13	(H)	MINUTE(RES)
03/04/13	(H)	RES RPT CS(RES) 6DP 1NR 2AM (CS FORTHCOMING)
03/04/13	(H)	DP: JOHNSON, HAWKER, P.WILSON, SEATON, OLSON, SADDLER
03/04/13	(H)	NR: TUCK

03/04/13 (H) AM: TARR, FEIGE  
03/04/13 (H) RES AT 1:00 PM BARNES 124  
03/04/13 (H) Moved CSSSHB 4(RES) Out of Committee  
03/04/13 (H) MINUTE(RES)  
03/05/13 (H) CS(RES) NT RECEIVED  
03/20/13 (S) RES AT 3:30 PM BUTROVICH 205  
03/20/13 (S) -- MEETING CANCELED --  
03/21/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
03/21/13 (H) Heard & Held  
03/21/13 (H) MINUTE(FIN)  
03/26/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
03/26/13 (H) Heard & Held  
03/26/13 (H) MINUTE(FIN)  
03/27/13 (H) FIN AT 9:00 AM HOUSE FINANCE 519  
03/27/13 (H) Heard & Held  
03/27/13 (H) MINUTE(FIN)  
03/28/13 (H) RLS TO CALENDAR PENDING REPORT  
03/28/13 (H) IN FINANCE  
03/28/13 (H) FIN AT 9:00 AM HOUSE FINANCE 519  
03/28/13 (H) Heard & Held  
03/28/13 (H) MINUTE(FIN)  
03/28/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
03/28/13 (H) Heard & Held  
03/28/13 (H) MINUTE(FIN)  
03/29/13 (H) RLS TO CALENDAR PENDING REPORT  
03/29/13 (H) IN FINANCE  
03/29/13 (H) FIN AT 9:00 AM HOUSE FINANCE 519  
03/29/13 (H) -- MEETING CANCELED --  
03/29/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
03/29/13 (H) Heard & Held  
03/29/13 (H) MINUTE(FIN)  
04/01/13 (H) RLS TO CALENDAR PENDING REPORT  
04/01/13 (H) IN FINANCE  
04/01/13 (H) FIN RPT CS(FIN) NT 7DP 2NR 2AM  
04/01/13 (H) DP: HOLMES, MUNOZ, NEUMAN, THOMPSON,  
T.WILSON, COSTELLO, AUSTERMAN  
04/01/13 (H) NR: EDGMON, STOLTZE  
04/01/13 (H) AM: GARA, KAWASAKI  
04/01/13 (H) TRANSMITTED TO (S)  
04/01/13 (H) VERSION: CSSSHB 4(FIN)  
04/01/13 (H) FIN AT 9:00 AM HOUSE FINANCE 519  
04/01/13 (H) Bill Postponed To 4/1/13 @ 1:30 Meeting  
04/01/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
04/01/13 (H) Moved CSSSHB 4(FIN) Out of Committee  
04/01/13 (H) MINUTE(FIN)  
04/02/13 (S) READ THE FIRST TIME - REFERRALS  
04/02/13 (S) RES, FIN

04/02/13 (S) RES AT 3:30 PM BUTROVICH 205  
04/02/13 (S) Heard & Held  
04/02/13 (S) MINUTE(RES)  
04/03/13 (S) RES AT 3:30 PM BUTROVICH 205

**WITNESS REGISTER**

MIKE GERAGHTY, Attorney General  
Department of Law (DOL)  
Juneau, Alaska

**POSITION STATEMENT:** Commented on the travesty legacy well issue.

RENA DELBRIDGE

Staff to Representative Hawker  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Reviewed details of HB 4 on behalf of the sponsors.

FRANK RICHARDS, Pipeline Engineering Manager  
Alaska Gas Development Corporation (AGDC)  
Anchorage, Alaska

**POSITION STATEMENT:** Discussed AGDC charge and scope.

DAN FAUSKE, President  
Alaska Gas Development Corporation (AGDC)  
Anchorage, Alaska

**POSITION STATEMENT:** Discussed expressions of interest and confidentiality provisions on the ASAP.

STUART GOERING, Assistant Attorney General  
Department of Law (DOL)  
Anchorage, Alaska

**POSITION STATEMENT:** Discussed standards the RCA uses for setting recourse rates relative to HB 4.

DARRYL KLEPPIN, Commercial Manager  
Alaska Gas Development Corporation (AGDC)  
Anchorage, Alaska

**POSITION STATEMENT:** Explained definitions and provisions in HB 4.

TINA GROVIER, legal counsel  
Alaska Gas Development Corporation (AGDC)  
Birch, Horton, Bitner and Cherot  
Anchorage, Alaska

**POSITION STATEMENT:** Explained how Alaskan residents might benefit from rate reductions with the ASAP relative to HB 4.

BILL SHEFFIELD, representing himself  
Anchorage, Alaska

**POSITION STATEMENT:** Supported HB 4.

DAVE DENGEL, representing himself  
Valdez, Alaska

**POSITION STATEMENT:** Opposed HB 4.

JOHN HOZEY, Manager  
City of Valdez  
Valdez, Alaska

**POSITION STATEMENT:** Opposed HB 4.

DAVE COBB, Mayor  
City of Valdez, Alaska

**POSITION STATEMENT:** Opposed HB 4.

CINDY RYMER, representing herself  
Valdez, Alaska

**POSITION STATEMENT:** Opposed HB 4.

MIKE WILLIAMS, representing himself  
Valdez, Alaska

**POSITION STATEMENT:** Opposed HB 4.

LOUIS CLARK, SR., representing himself  
Valdez, Alaska

**POSITION STATEMENT:** Opposed HB 4.

DOROTHY MOORE, representing herself  
Valdez, Alaska

**POSITION STATEMENT:** Opposed HB 4.

LISA VONBARGEN, representing herself  
Valdez, Alaska

**POSITION STATEMENT:** Opposed HB 4.

PAM SHIRRELL, representing herself  
Valdez, Alaska

**POSITION STATEMENT:** Opposed HB 4.

JIM PLAQUET, Membership and Events Coordinator, Alaska Support  
Industry Alliance  
Fairbanks, Alaska

**POSITION STATEMENT:** Supported HB 4.

BOB SHEFCHIK, Chairman  
Fairbanks Chamber of Commerce  
Fairbanks, Alaska

**POSITION STATEMENT:** Supported HB 4.

KEN HALL, representing himself  
Fairbanks, Alaska

**POSITION STATEMENT:** Supported HB 4.

RICK ROGERS, Executive Director  
Resource Development Council (RDC)  
Juneau, Alaska

**POSITION STATEMENT:** Supported HB 4.

TERRY HINMAN, Denali Borough Community Advisory Committee  
Healy, Alaska

**POSITION STATEMENT:** Supported HB 4.

JIM SYKES, representing himself  
Palmer, Alaska

**POSITION STATEMENT:** Opposed HB 4.

MIKE WELLS, representing himself  
Valdez, Alaska

**POSITION STATEMENT:** Opposed HB 4.

DONNA SHANTZ, representing herself  
Valdez, Alaska

**POSITION STATEMENT:** Opposed HB 4.

DEANTHA CROCKETT, Executive Director  
Alaska Miners Association (AMA)  
Anchorage, Alaska

**POSITION STATEMENT:** Supported HB 4.

MICHAEL JESPERSON, representing himself  
Anchorage, Alaska

**POSITION STATEMENT:** Supported HB 4.

ALAN LEMASTER, Director  
Alaska Natural Gas Pipeline Coalition  
Gakona, Alaska

**POSITION STATEMENT:** Opposed HB 4.

MERRICK PIERCE, representing himself

Fairbanks, Alaska

**POSITION STATEMENT:** Opposed HB 4.

BUZZ OTIS, representing himself

Fairbanks, Alaska

**POSITION STATEMENT:** Supported HB 4.

RANDY GRIFFIN, representing himself

Fairbanks, Alaska

**POSITION STATEMENT:** Supported HB 4.

GERALD MILLER, representing himself

Anchorage, Alaska

**POSITION STATEMENT:** Opposed HB 4.

LYNN CRYSTAL, representing himself

Valdez, Alaska

**POSITION STATEMENT:** Opposed HB 4.

SHERI PEIRCE, representing herself

Valdez, Alaska

**POSITION STATEMENT:** Opposed HB 4.

DEAN DAY, representing himself

City of Valdez, Alaska

**POSITION STATEMENT:** Opposed HB 4.

BILL BLIZZARD, representing himself

Fairbanks, Alaska

**POSITION STATEMENT:** Didn't state a position on HB 4.

JEREMY O'NEIL, representing himself

Valdez, Alaska

**POSITION STATEMENT:** Opposed HB 4.

#### **ACTION NARRATIVE**

[3:32:36 PM](#)

**CHAIR CATHY GIESSEL** called the Senate Resources Standing Committee meeting to order at 3:32 p.m. Present at the call to order were Senators French, McGuire, Dyson and Chair Giessel.

[3:33:12 PM](#)

**Discussion: Travesty Wells, Alaska's Options**

CHAIR GIESSEL said the first order of business was Alaska's options for its travesty wells. She said a lot of frustration has been expressed about these wells including HJR 6, which has now passed both houses and is on its way to the Governor and Washington, D.C. She invited Mr. Geraghty to testify.

[3:33:42 PM](#)

MIKE GERAGHTY, Attorney General, Department of Law (DOL), Juneau, Alaska, said he was here in response to a letter from this committee dated April 1, 2013 and quoted from it as a way of introduction:

As you know travesty, aka legacy, wells were drilled in the NPR-A by the federal government over three or four decades. Drilling ceased in 1981 and less than two dozen of the 137 have been correctly plugged and remediated. U.S. Bureau of Land Management (BLM) is the landlord for NPR-A, and is responsible for contaminated wells sites. We believe BLM is not taking the safety and environmental threats posed by these derelict wells seriously enough to create an aggressive mediation plan for the funding to pay for it.

Our committee is frustrated by BLM's legacy well inaction and amended HJR 6 by substituting the term 'travesty' for 'legacy' to express our perception of the true nature of those aging sites.

[3:34:42 PM](#)

SENATOR MICCICHE joined the committee.

MR. GERAGHTY said the letter posed three questions to him:

First: What legal options does the state have to encourage or even force the BLM to take action?

Answer: Of course legal options are generally directed to requiring some action to be taken and so let me start with that first. The state may have a cause of action under the Resource Conservation Recovery Act (RCRA) and possibly state law to require both the cleanup of the solid waste and the closure of the abandoned wells. RCRA has a citizen suit provision, which allows third-party enforcement of federal RCRA requirements. In order to make this claim, the state would have to establish:

- (1) That the conditions at these sites may present an imminent and substantial endangerment;
- (2) That the endangerment stems from the handling, storage, treatment, transportation or disposal of any solid or hazardous waste
- (3) That the responsible party, in this case BLM, has contribute or is contributing to such handling, storage, treatment, transportation or disposal.

The state would assert the BLM has waived sovereign immunity with respect to these claims and, in fact, there is a waiver of sovereign immunity provision contained in RCRA. The waiver applies to the federal agency having jurisdiction over the disposal site or having engaged in activities resulting in the disposal of hazardous waste. In such cases, the federal government shall be subject to and comply with all federal, state, interstate and local requirements, both substantive and procedural, respecting control and abatement of solid waste or hazardous waste disposal and management in the same manner and to the same extent as any person.

3:36:37 PM

Using this waiver of sovereign immunity, the state would assert that the federal government is currently not in compliance with the AOGCC regulations governing the abandonment and plugging of wells, which is a requirement of state law in respecting the control and abatement of hazardous waste. It is also not in compliance Alaska solid waste laws related to prohibitions of litter and polluted runoff which are state regulations concerning control and abatement of solid waste.

I foresee a number of obstacles with any legal action to require the proper abandonment and cleanup of these sites:

- (1) BLM would argue that it has not waived its sovereign immunity. This is a legal defense and I am not going to delve into it anymore except to say that sovereign immunity is a robust defense that is asserted by both the state and the federal governments in the appropriate context. In federal courts, a waiver of sovereign immunity to occur has to be very specific and expressed. Whether it applies in this particular situation, I would not hazard to predict

today. I am confident there would be a defense that would have to be overcome.

(2) There is also a statute of limitations that could bar the state's claim. There is a five-year statute for citizen suits under RCRA, and Congress has enacted a residual statute of six years that applies when no specific limitation is otherwise provided. Of course, these sites have existed for decades. There is an argument that they constitute a continuing violation, and so the state's claims remain timely and valid. Again, I would not hazard a prediction as to how this defense would fare, except to say that I think it would get serious attention from any judge reviewing this matter.

3:38:50 PM

(3) As a practical matter, BLM has conceded that it is responsible for the cleanup of these sites. Typically, we go to court to resolve an issue of who is responsible. In this instance, simply seeking a declaration that BLM is legally responsible may not advance the ball too far.

Remedy: Even if the state could overcome these defenses and sustain a claim under RCRA or some other theory, I question how far a federal judge would go in mandating the BLM either alter its spending priorities or create new spending priorities within the vast realm of BLM's responsibilities. I suspect that is a step the court would be loath to take; they may very well order BLM to conduct the cleanup, but I don't believe a judge can Congress to appropriate monies, and that is very prevalent in Washington, D.C. these days as well all know.

3:39:33 PM

MR. GERAGHTY elaborated that it strikes him that there are a lot of disputed facts about what is exactly out there. He has looked at the BLM's 1984 summary report when it surveyed these sites and a portion of the 2013 update, which hasn't been finalized. He wasn't going to take one side or the other.

It would also be a very expensive endeavor: the well sites are inaccessible and they are scattered all over the NPR-A. He concluded that legal options available to require BLM to do something are not wholly satisfactory, and there is some

uncertainty associated with how far those remedies would go. That brought him to the second question posed:

Second: Is there opportunity for other entities other than the federal government - private or public - to participate in the cleanup?

Answer: This issue is somewhat related to the earlier question in the sense of what options does the state have to "encourage" BLM to take action.

I think there are two options that merit consideration. The first concerns possible ways to use the compensatory mitigation requirement associated with wetland development to possibly provide funds for the cleanup.

A many of you know, development on properly recognized wetlands obligates a permittee in many instances to undertake compensatory mitigation - "actions taken to offset unavoidable adverse impacts to wetlands, streams and other aquatic resources."

There are several methods of mitigation, including restoration, enhancement, and the establishment and preservation of wetlands. There are also several mechanisms for providing mitigation, including mitigation banks and in-lieu fee (ILF) programs.

A mitigation bank is a for-profit business involved in the definition and acquisition of lands for mitigation purposes. It can also provide oversight for mitigation activities and the subsequent sale of mitigation "credits" to permittees.

The ILF program [in-lieu-fee] is similar to a mitigation banks, but it can only be operated by non-profits or government entities. In this program, mitigation is typically achieved after credits have been sold by the ILF to the permittee.

In Alaska, there are relatively few disturbed wetland sites, which are eligible for restoration/enhancement. Moreover, for a site to be eligible for preservation, in order to meet mitigation requirements, it must be at risk of development and Alaska probably has more

wetlands in the state than the rest of the country combined.

Preservation commonly involves the establishment of a perpetual conservation-type easement that limits the use and development of the land. Accordingly, from Alaska's perspective, where we have relatively few disturbed sites and not much land in private hands, setting aside land in perpetuity for mitigation purposes is not a preferred alternative.

Reclamation of the legacy well sites represents a potential win-win opportunity to provide mitigation opportunities for North Slope development projects while addressing a pressing environmental need and assisting BLM with meeting its obligations. The cleanup and proper plugging and abandonment of these wells would be a net benefit to surrounding wetlands and surrounding surface and groundwater quality. An ILF program or mitigation banks would provide a mechanism for developers to purchase mitigation credits and to transfer mitigation liability from the developer to the ILF program or mitigation bank.

I want to emphasize that this idea is in its very early stages and much work remains to be done. I have tried to summarize in a couple of minutes what would be a complex and lengthy process and might possibly require some federal legislation. However, I am informed the initial discussions have been positive, and we hope they continue.

[3:45:46 PM](#)

MR. GERAGHTY said another potential option/factor is the administration's Road to Resources program; one of the roads being discussed is to Umiat. Again, this is in the very early stages and to some extent may depend on the potential for exploration and development of resources in the area. A road to Umiat, if constructed, would substantially reduce the cost of cleaning up the contaminated sites in Umiat and that appears to be where the biggest concentration is located. BLM contends that the environmental risk posed by many of these sites is a de minimus and considering the lack of infrastructure and access, the cost would be prohibitive to address some of these sites now. If there were road access, it could make the cleanup effort considerably less expensive.

3:46:55 PM

SENATOR BISHOP joined the committee.

MR. GERAGHTY went on to the third question.

3:47:46 PM

Third: What sort of hurdles to remediation or future development are created by the National Historic Preservation Act of 1966 (NHPA)? What is the state's roll and authority in that process?

Short Answer: I don't believe the NHPA is a hurdle to remediation or future development. Given the age of some of these sites, it is simply a fact that the NHPA must be considered, because that's the law. However, in order for a site to be designated, it must have some significance. The original Discovery well on the North Slope has been designated under the NHPA. I can appreciate that. However, with respect to the 137 test holes that were drilled around the NHPA, it would be hard for me to comprehend how any particular well you could attach much significance to it or designate it a historic site.

The State of Alaska does participate in the process in the sense that we have a State Historic Preservation Office (SHPO), which coordinates with federal agencies to carry out this responsibility. The SHPO can concur or not with the designation, but ultimately it is a federal decision. Concurrence is often available.

3:50:04 PM

It is also possible for the federal government to propose a programmatic agreement to deal with these sites in a collective fashion, which would avoid a piecemeal decision making process. Thus far that has not been proposed by BLM. The NHPA process is, at least as described to me, reasonably straightforward. It is not to be compared, for example, with drafting and Environmental Impact Statement (EIS), which is time consuming and expensive.

Furthermore, even if a site were designated under NHPA, it would not foreclose the abandonment or cleanup of a well, or the disposal of solid waste. Obviously that would take precedence.

If the shoe was on the other foot, Mr. Geraghty said, it's a fair question to ask: if the state would have shown the forbearance the federal government had shown to itself in the several decades we have been waiting for this to be cleaned up - probably not. But the BLM is coming out with a five year plan this spring.

3:53:06 PM

SENATOR DYSON asked if a Native organization like the North Slope Borough would have leverage with the federal government that the state doesn't have.

MR. GERAGHTY said he didn't know that they would.

SENATOR DYSON said there probably isn't a mechanism for the state to take care of it in exchange for something from the federal government like right-of-ways or pieces of land somewhere.

MR. GERAGHTY replied that he did not know that the discussion had taken place.

SENATOR DYSON asked if there is anywhere the state owes the federal government money on a regular basis.

MR. GERAGHTY said he just didn't know.

SENATOR MICCICHE said a phased clean up would be appropriate, like handling the leeching and permanent marking that is easy to see with properly abandoning the wells at some point in the future. The fact that it is leeching into surface water and obviously moving downstream most likely into navigable water ways is probably the most offensive. He asked if at least stopping new releases had been discussed.

MR. GERAGHTY said he hadn't been privy to any talks like that, but they are still getting to the bottom of the information. AOGCC is still investigating these wells and taking some off the list. The BLM executive summary from 1984 concluded that:

Of 136 wells, 99 posed no risks, 39 of 99 are uncased core holes, which have collapsed and blended into the natural landscape; the other 33 have been conveyed to the North Slope Borough through the Barrow Gas Field Act of 1984 to Arctic Slope Regional Corporation and are not within BLM's jurisdiction. Twenty wells are used by the USGS for global climate and permafrost

studies, all of which are properly plugged above the hydrocarbon bearing zones up the surface casing chute. These wells pose no risk and USGS plans to continue to use the wells in the foreseeable future. The remaining 7 wells have already been plugged.

He said this leaves 37 wells that would have to be evaluated in greater detail, and Mr. Geraghty said he was not privy to any technical discussions and probably wouldn't be. DEC is looking at them very closely and BLM is doing its own assessment; the AOGCC is looking at them and going back. If they are leeching, he agreed that priority should be given to stopping the worst ones.

CHAIR GIESSEL found no further questions and thanked Mr. Geraghty for coming.

#### **HB 4-IN-STATE GASLINE DEVELOPMENT CORP**

[3:57:57 PM](#)

CHAIR GIESSEL announced HB 4 to be up for consideration [CSSSHB 4(FIN) was before the committee]. She invited Rena Delbridge to continue her presentation from yesterday.

[3:58:42 PM](#)

RENA DELBRIDGE, staff to Representative Hawker, co-sponsor of HB 4, Alaska State Legislature, Juneau, Alaska, said she would first follow up on the question by Senator French about whether or not the Alaska Railroad (ARRC) enjoys the ability to exercise the state's power of eminent domain, and the answer is yes, under AS 42.43.85.

[3:59:06 PM](#)

She said she left off yesterday on slide 16 having dealt with the corporate structure and had worked through some of the other ways the state may be able to further support AGDC in developing gas pipelines. She went into the sections that deal more with alleviating regulatory uncertainties, so that an AGDC pipeline or any natural gas pipeline that operates as a contract carrier understands precisely how the state would regulate it and on what kinds of terms and timelines. She had talked briefly about the need for contract carriage for natural gas pipelines and touched on the Right-of-Way (ROW) Leasing Act and the new regulatory chapter interface in order to enable that contract carriage while protecting some values that are very long-standing and important for state policy.

She said both sections require expansions of a pipeline on commercially reasonable terms providing those expansions on a state supported pipeline do not violate the terms of AGIA in any way. Both allow that expansions cannot make an initial shipper pay more than is allowed in his contract and both require that a pipeline offer service without undue discrimination so that there is reasonable and fair access to all comers.

4:00:31 PM

SENATOR DYSON asked how that gets adjudicated and enforced.

MS. DELBRIDGE answered that it's one of the covenants a state lessee has to agree to in order to receive a state right-of-way lease. Another covenant also says that any disagreement about the covenants or terms of the lease will be governed by the applicable laws of the land. The DNR issues that right-of-way lease and, therefore, is also able to enforce it.

She explained that the Regulatory Commission of Alaska (RCA) is tasked with regulating an instate natural gas pipeline contract carrier; they have specific key points both in evaluating the different tariffs that the pipeline puts forth and evaluating how open seasons are conducted to make sure that things are done fairly and without undue discrimination.

SENATOR DYSON asked who decides if it's unfair discrimination.

MS. DELBRIDGE replied if it's alleged as a violation of a contract under the ROW Leasing Act then the state would be able to bring that up, and the applicable laws of the land through the courts would be able to adjudicate that. If it's brought up through the RCA violations, RCA will adjudicate it.

SENATOR DYSON said under the former it will go to court probably.

MS. DELBRIDGE responded that was her understanding.

SENATOR DYSON remarked that the North Sea has set up one of the better arbitration processes.

MS. DELBRIDGE said there is allowance for an arbitration process for disputes between contracting parties - a carrier with a contract with a shipper - within the pipeline contracts. But when it's with the state or another party, the applicable laws stand.

She said the RCA section also includes open season oversight so that they make sure perspective new entrants to the pipeline have opportunity. This section also has capacity availability notification rules, so if at any time the pipeline has excess capacity either available for firm contractual long-term shipments or for short-term interruptible service, they need to have devised a means to routinely notify potential shippers of that availability giving them a chance to get in.

[4:03:42 PM](#)

Section 11 on page 30 of the bill is the key section that introduces special covenants that apply to a contract carrier natural gas pipeline. Sections 6, 8, 9, and 10 are all conforming. These covenants were talked about yesterday and right now any pipeline that goes to get a right-of-way lease from the state needs to agree to a set of 14 covenants. Of those, all but three are still applicable no matter whether you're a common or a contract carrier. For instance, you may not abandon a pipeline that you build on this land lease; you must give the state access to inspect your records and look at what you are doing on this lease.

She said that several covenants specifically require common carriage, because they were crafted in a time of oil pipelines, but a large natural gas transportation pipeline will need to operate as a contract carrier. So, the sponsors of the bill worked with the administration and others to make sure that the nuts and bolts of those covenants remain the same for contract carriage while keeping the principle or the intent behind a common carriage covenants. So, these contract carrier covenants will still require a pipeline for contractual terms to provide connections with pipelines in other facilities, to expand on commercially reasonable terms, and to ship without discrimination.

[4:05:26 PM](#)

SENATOR FRENCH said it seems the bill is opaque about where the right-of-way is, but the backup material for the ASAP is pretty clear that it is down the Parks Highway to Big Lake.

MS. DELBRIDGE responded that the bill addresses the state's ROW Leasing Act without specifying routes. So, it's not trying to be opaque as far as the route goes. AGDC has applied for and has received a state right-of-way lease that does, in fact, extend along that Parks Highway route.

SENATOR FRENCH asked if this pipeline would go to Big Lake.

MS. DELBRIDGE responded that when AGDC was tasked under HB 369 to pull the state's existing work together and find the route that best maximizes the ability to get gas into the hands of Alaskans, then to start permitting, and look towards how to get this project plan together, they identified that. However, it is understood that while they are charged with following through and going to work on the pipeline described in the project plan, they may do so with modifications as appropriate. One of those modifications could be the lack of customers in an open season along the route, in which case they may need very well to go back and reengineer in order to get the gas to wherever the customers want it shipped.

SENATOR FRENCH said that would be post open season, which is set for the end of 2014. So, at least for the purposes of this bill and this timeframe, until the end of 2014 we're pursuing a gas pipeline that is going to go to Big Lake.

MS. DELBRIDGE replied yes.

SENATOR MCGUIRE said, as the group considers who their customers might be, is there room - in the optimization report the line changed its size and compression rate - partly to avoid the expense of the straddle plant in Fairbanks, which the residents of Fairbanks were going to pay for. While she understood that, it also raises concerns with respect to liquid natural gas and propane supplies. So, she asked if the corporation did develop through its discussions parties interested in more propane and more liquids, could it decide to go back to the earlier version that was 24 inches with higher compression.

[4:09:14 PM](#)

MS. DELBRIDGE responded that the legislation empowers AGDC as a corporation to be flexible in responding to those commercial markets. So, if the dynamics with the shippers shift completely during an open season or in advance of, they are able to accommodate that providing they are getting the gas to Alaskans at the lowest possible rate.

The AGDC did an "expression of interest," which is an informal nonbinding solicitation of the market out there to try and determine interest and had good interest from potential shippers on this project. They also did not have the interest that was necessary to maintain a pipeline that was a liquids-based pipeline. This lean gas scenario is still able to ship a stream

of propane with - it is available, providing that in an open season someone is there that wants to purchase it.

As far as LNG goes, that would depend on whether the shipper wants to ship gas and then liquefy it - and they would have that ability to do so.

SENATOR MCGUIRE said she looked forward to hearing that issue elaborated a little more. She knew they wanted to get over the straddle plant hurdle. LNG is such an exciting opportunity, but she also wants to see more emphasis on propane for rural Alaska.

MS. DELBRIDGE responded that AGDC is able to look at all those possibilities as long as they have a signed long term contract with a shipper.

[4:11:27 PM](#)

FRANK RICHARDS, Pipeline Engineering Manager, Alaska Gas Development Corporation (AGDC), Anchorage, Alaska, said as Ms. Delbridge identified, the expression of interest that was held in the 2011 timeframe did have folks come and talk about their desires and the products they would like to ship.

He said that as Mr. Dubler said yesterday, there is 1.5 percent of propane in the gas stream they are currently envisioning and that equates to 3,500 barrels and if there was a commercial entity that wanted to produce that, he would entertain that. Right now that is not in their charge.

[4:12:43 PM](#)

SENATOR MCGUIRE said nothing in HB 4 limits or narrows in scope her mission of considering all the business opportunities that are out there in terms of firm transportation offers. So, as they move forward, she could consider compression changes, diameter changes, and market changes for LNG, if a customer comes forward and wants to go ahead and take up propane as a market.

[4:13:45 PM](#)

MR. RICHARDS explained that as they looked at the project in 2012: the market with natural gas liquids and what was happening in the Lower 48, the cost of having a higher pressure pipe that could transport those natural gas liquids, how that would impact Fairbanks with the straddle plant, and ultimately the south end that would extract those NGLs and found that those costs were not as envisioned originally, and it weren't going to be as beneficial to the project. So, then they looked at what was

going to be the net rate base to the consumers, because their charge is the lowest possible cost to the consumer. That is when they started looking at the pipeline diameter and compression changes; removing the compressor stations and using the ones in route already would reduce the environmental footprint. And going forward to the open season and having meaningful discussions with the shipper would give them the indication of what they would ultimately be able to produce within the limitations for 500 mcf set by AGIA.

SENATOR MCGUIRE remarked that her last point imbedded in the optimization report was the movement in the financing mechanism out to 30 years that created economies of scale and she wanted them to retain that notion in looking at different business models to achieve other results.

4:16:10 PM

SENATOR MICCICHE asked him to clarify what percentages of C2-plus Alaskans are using in Cook Inlet.

MR. RICHARDS replied that the Cook Inlet gas treatment currently is 1,000 btus for the gas that is coming out as opposed to gas on the Cook Inlet which has a higher btu rate. He didn't have the percentage of Cook Inlet gas.

SENATOR MICCICHE said his point was that it has zero C2-plus essentially and a slightly richer stream could be used for the demand.

SENATOR MICCICHE asked if the AGIA compliant line is 500mmcf/day, just delivering it to instate users would leave a lot of gas for other uses. One would assume someone will build other facilities or bring other facilities to life that would be using the remaining gas.

MR. RICAHRDS said the instate use for both Anchorage and Fairbanks is on average about 240 mmcf/day leaving 250/60 mmcf/day available for other uses, including LNG export.

SENATOR MICCICHE said he was trying to point out that they are not defining what happens with the gas; they are building a highway. And what happens on the off ramps is an opportunity for Alaskans to create a lot of other industries and hopefully some export options.

MR. RICHARDS said the expression of interest they held gives an indication that there were buyers of the gas that had intentions to use that proposed amount.

SENATOR FRENCH bluntly stated that it's got to happen or else this line doesn't make economic sense and half the rate case in their feasibility study was based on exporting 240 mmcf/day. He asked him to talk a little more about that export. Did ConocoPhillips express interest?

[4:20:03 PM](#)

MS. DELBRIDGE said from the sponsor's point of view that is not necessarily the plan at all. ExxonMobil, Anadarko, ConocoPhillips or BP could all put gas in. Any other players could put gas into this pipeline. The end users for half of the pipe that Alaskans wouldn't be using can be any kind of anchor tenant - large mines along the route from Fairbanks south, other potential value-added industries, and gas to liquids in the Matsu Valley - for instance. Folks from Agrium are still around wondering what it might take as far as gas prices and supply certainty to enable them to rebuild their business in Alaska.

MR. RICHARDS said AGDC's expression of interest was actually held before he came on board, but he knew Dan Fauske was on line to talk about the outcome.

[4:21:22 PM](#)

DAN FAUSKE, President, Alaska Gas Development Corporation (AGDC), Anchorage, Alaska, said the expression of interest meeting that was held in May 2011 was held in a confidential manner in the sense that those that attended listened to AGDC's presentation (with the express purpose of having 500 mmcf and that Alaskan usage raised 240-260 mmcf/day) and questions were submitted only in writing. They received non-binding expressions of interest in excess of the 500 mmcf/day.

SENATOR FRENCH stated that just two months after that took place, his report included LNG export as being one of the major industrial anchors for this line. So, he assumed there was an expression of interest from ConocoPhillips to buy gas to export.

MR. FAUSKE said he was bound by the agreements he had signed. AGDC did three studies: LNG, NGLs and GTLs; they also laid out in the report that of the three, based on their analysis that LNG presented the most likely opportunity for anchor tenant usage. But you would only know that for sure once you arrived at

an open season where shippers, producers and others would submit their requests.

[4:24:01 PM](#)

MS. DELBRIDGE proceeded back to the Right-of-Way Leasing Act and the included covenants. She had listed the ones that would still apply to both common carrier pipelines and contract carrier natural gas pipelines:

- covenant 3 that the pipeline will keep books, accounts, and records;
- covenant 4 that the pipeline will give the state access to its property and records for inspections;
- covenant 8 says the pipeline needs to take care of the lease hold, promptly repair damages and promptly compensate for any damages; and
- covenant 13 says the pipeline is liable for damages to the state to that right-of-way lease.

[4:25:21 PM](#)

The covenants that change subtly are: covenants A1, 2 and 5 (page 30, section 11 of the bill). The first one deals with transporting gas without undue discrimination. These covenants are very similar so that a pipeline is required to accept and transport and convey gas without discrimination.

The contract carrier covenant removes any references to crude oil, because this is for natural gas pipelines only, and it allows the carrier to provide its service subject to contracts with the shippers instead of as required by the RCA. It further removes the requirement of the RCA to determine the reasonableness of a pipeline's action as a common carrier.

MS. DELBRIDGE said the next covenant deals with interchanges and they are very similar requiring a pipeline to interchange product and provide connections with other pipelines and facilities. The common carrier covenants turn to the regulatory agency for the rates and regulations governing those connections. The contract carrier covenants, instead, turn to the contracts between the shipper and the pipeline for determining those rates and regulations for interchanges.

Finally, the covenant dealing with connections; the common carrier covenant for connections requires both: common carriage by name and expansions; the contract carrier covenants also require expansions but only on commercially reasonable terms.

[4:26:32 PM](#)

SENATOR FRENCH said subsection (c) on page 31, lines 26-30, says the line will be expanded unless it bumps up against AGIA and asked if it was the sponsor's intention to not conflict with AGIA.

MS. DELBRIDGE answered yes. She said this language is in AGDC corporate statutes, the ROW leasing covenants, and twice in the regulatory section.

SENATOR FRENCH said he had legal concerns about the construction of the language and had some language that might tighten it up.

MS. DELBRIDGE thanked him saying they would be happy to look at it. Again, she said, AGDC already has an existing state right-of-way lease providing for the possibility that the state would, in fact, come back and amend the ROW Leasing Act covenants to allow contract carriage.

[4:27:30 PM](#)

Passage of HB 4 would do that, and therefore, section 25 on page 55 expresses the legislative intent that AGDC's existing right-of-way lease is amended with passage of this legislation. So, AGDC is promising to uphold those contract carrier covenants that are contained in the bill. The legislation, itself, does not change the terms of other existing state right-of-way leases.

[4:28:20 PM](#)

MS. DELBRIDGE moved on to the RCA provisions saying that under this legislation the RCA is charged with regulating an instate natural gas pipeline that serves as a contract carrier. The new regulatory section is in section 21 on page 36; section 18 is related; sections 5, 19, and 20 are conforming.

Section 18 that is related: a public utility may contract directly with AGDC for a shipment on this pipeline of gas that the public utility owns. If it does, then the public utility's contracts are subject to the same level of oversight as any other shipper in AS 42.08. There is also the potential that a public utility may not own gas and pay to transport gas, but may receive gas from this pipeline and then send that gas out or store it. So, they might have related contracts that are not direct shipping contracts. So, section 18 of the bill provides the public utilities that assurance that if they do, in fact, have related contracts, that they are able to submit those before they take effect and therefore, the RCA can preapprove

them. So, the utility knows that the contract will be upheld when it goes to recover costs.

SENATOR FRENCH asked if those contracts will be reviewed under the same legal standard as shipping contracts.

[4:30:18 PM](#)

MS. DELBRIDGE answered yes. The sponsors believe that this gives the public utilities a level of assurance that if they receive and then go to use gas off of this pipeline, whether or not they are a shipper, that they will be able to recover those costs in their rates.

She said section 21 is the new regulatory chapter that mandates this base-line package of rates and terms that is cumulatively the recourse tariff. This is the initial offering the pipeline is getting together as it's packaged to lay out to shippers. This legislation requires the RCA, in advance of entering contracts with potential shippers, to approve this recourse tariff. The terms have to be "not unduly discriminatory" and the rates need to be cost-based.

[4:31:28 PM](#)

The state needs a reasonable range on three key levers: the rate of return, the capital structure and the depreciation method. The RCA looks at this proposal and makes sure those things are met in terms of their reasonableness, which is defined as whether or not they are similar to what similar pipelines are being allowed either under the RCA or the FERC.

She explained that the initial recourse tariff, once approved, serves two purposes: first it is a default rate. If someone does not want to or cannot negotiate with a pipeline during an open season, they may simply sign up for service using this recourse rate. It is RCA approved and available to absolutely anyone that wants service.

SENATOR FRENCH asked how the sponsors arrived at the use of "unduly discriminatory" standard as opposed to the gold standard for "just and reasonable."

MS. DELBRIDGE replied that not unduly discriminatory is for the terms and conditions of service. The RCA makes sure that the carrier is able to decide what terms of service they offered their shipment service on and it needs to be fair. It cannot discriminate among different kinds of shippers on the pipeline.

SENATOR FRENCH asked why not just say the terms have to be "just and reasonable."

MS. DELBRIDGE replied that "just and reasonable" tends to mean something different to the RCA than "not unduly discriminatory." It was their guidance that if AGDC didn't want them to use their standard definition of such a term that they make sure another term that reflects the level of review they want.

[4:33:16 PM](#)

SENATOR FRENCH asked the chair or the bill's sponsor if they anticipate hearing from the RCA before the bill passes out of committee.

CHAIR GIESSEL answered that they weren't on the schedule, but the Department of Law was in the room and on line and directed the question to Mr. Goering.

[4:33:41 PM](#)

SENATOR FRENCH asked what the reason was for using unduly discriminatory language versus something more common like just and reasonable.

STUART GOERING, Assistant Attorney General, Department of Law (DOL), Anchorage, Alaska, said he was assigned to represent and advise the RCA, but he was here today on behalf of the DOL. He answered that the standard Senator French was referring to is common to both pipeline carriers and public utilities. The complete standard is "just and reasonable, not unduly discriminatory or preferential." That is the standard commonly applied to tariffs for both public utilities and common carrier pipelines and this legislation is trying to limit the scope of the RCA's review of the recourse tariff in a particular way.

While he couldn't speak for the sponsors or the drafters of the bill, he could say that the "just and reasonable" part of the standard typically has to do with making sure the rates are based on costs and have a reasonable amount of return. Rates also have to be "not unduly discriminatory" or preferential; that concept is not usually applied in pipelines but in utilities where there are multiple classes of service. Rates can be set in a way that shift costs from one rate class to another and that could be discriminatory, as well. So, in the public utility arena the rates could be discriminatory in addition to being "unjust and unreasonable." In the pipeline arena, at least as far as common carriers are concerned, there typically is a single rate, although common carrier pipelines are allowed to

have separate rates for firm service and interruptible service. The discrimination provisions are typically to prevent discrimination between customers. The discrimination in that case would be in the provision of service and not in the rates.

What he thought the sponsors were getting at is that the "not unduly discriminatory" standard is intended to direct the RCA to the relatively narrow discrimination in service that might occur between customers and not look at rates, because the bill as written does not permit the RCA to specify rates or rate design (page 39, line 27). The unduly discriminatory standard is designed to reinforce that.

SENATOR FRENCH condensed his answer to: this bill is designed to limit the scope of review of the recourse tariff by the RCA.

MR. GOERING said that was a fair assessment.

MS. DELBRIDGE remarked that the sponsor's intent is to make sure there is a strong level of regulatory oversight commensurate with the nature of a contract carrier pipeline.

[4:39:45 PM](#)

She explained that the rates undergo a different review within the recourse tariff; it is not the traditional RCA rate making procedures that might be for a public utility or a common carrier pipeline where you have one rate that can keep changing. No one is signing long-term shipping commitments on the common carrier pipeline necessarily that have to serve as the financing for that pipeline and there is no assurance that your gas is always going to be there. The sponsors tried to keep that in mind while accommodating the right level of review. This recourse tariff starts and gives an opportunity for everyone to get in on the pipeline. The rate is cost based and has an approved rate of return that is reasonable based on similar RCA and FERC decisions. The rate has to also incorporate a reasonable capital structure and depreciation method evidenced by its similarity to others.

SENATOR FRENCH asked who would review that, because they just heard from the DOL attorney that RCA is forbidden from requiring rates, rate design or tariff rates or regulations.

MS. DELBRIDGE answered that the RCA is prohibited from setting them itself; the RCA is absolutely charged with reviewing these and deciding whether or not a rate meets the standards within the bill. It is not rate making or setting.

SENATOR FRENCH asked under what standard that review will be conducted.

MS. DELBRIDGE answered the standard they will use to review the initial recourse tariff is whether or not the rates are cost based, have a reasonable rate of return and a reasonable capital structure and a reasonable method of depreciation; and within that tariff if the terms are not unduly discriminatory. There is a different standard of review for the precedent agreements (the signed contracts for shipment), but those also have to come back to the RCA for a review. In that case the RCA is directed to make sure that those contracts are just and reasonable as evidenced by being made at arm's length. If they are between affiliated parties, the RCA embarks on a potentially higher standard of review.

4:42:04 PM

SENATOR MICCICHE asked where the RCA requirement to review was.

MS. DELBRIDGE answered that the general powers and duties of the RCA language started on page 37, line 18 and says:

The commission shall regulate under the provisions of this chapter an instate natural gas pipeline. It shall require permits for construction, extensions and connections....It says on page 38 some things that the RCA may do: they may review and approve recourse tariffs. They must be filed; the RCA may review those and they either need to approve or deny those.

Mr. Goering noted that the RCA needs to comply with language on page 39, line 26, saying that "except as provided in this chapter, the Commission may not require rates, rate design, or tariff rates or regulations." It also may not go beyond what is provided in this chapter and require a certain rate.

SENATOR MICCICHE said he was just looking for information and asked if she invented the contractor carrier terminology or if it exists somewhere else.

MS. DELBRIDGE answered that most of the natural gas pipelines in the Lower 48 are contract carriers; FERC regulates the ones that go beyond state lines. As contract carrier pipelines they have a history and have been working with negotiated rates for quite some time. Something like "not unduly discriminatory" is a very

standard regulatory term; the "just and reasonable" standard is very standard, too, and doesn't have an extraordinarily precise definition in that what is "just" tends to be what is fair.

SENATOR MICCICHE said these seem like very common pipeline terms and maybe Alaskans are just not as experienced with contract carriers.

MS. DELBRIDGE said he was right, Alaska statutes don't provide for contract carrier pipelines, because to date it has seen only oil pipelines that are generally common carriers.

[4:45:21 PM](#)

SENATOR FRENCH asked if most contract carrier pipelines in the Lower 48 are regulated by the FERC.

MS. DELBRIDGE answered yes.

SENATOR FRENCH asked if the same approach is taken in this bill for our contract pipeline that FERC takes in overseeing pipelines in the Lower 48.

MS. DELBRIDGE answered that there are similarities, but they are not identical. FERC allows for negotiated rates; it does not require open seasons for a pipeline and this bill does. That is because despite what someone else might do the sponsors are absolutely making sure that those opportunities are provided for anyone new coming in to have real access to opportunities and fairness and some level of transparency in how they are able to get service.

SENATOR FRENCH asked - although he wasn't requiring an answer now - if anyone had prepared a checklist or side-by-side with respect to how FERC would regulate this project were it a typical Lower 48 contract carrier pipeline and versus the proposal. It's hard to get a grip on what sort of pipeline this is. Is it state run? Is it a free market pipeline? It's clearly going to be a monopoly pipeline and that raises one's regulatory concerns.

MS. DELBRIDGE responded that the sponsors were told firmly that the the legislature decides if something should be regulated; it decides how it should be regulated and it decides who it wants to delegate that task to. They were encouraged to be extraordinarily clear in any direction to the RCA so they are certain of what they are being asked to do, under what standards and with what tools. There was no desire to imitate what FERC

does. There was also an attempt to make sure that things are incorporated that are not required by FERC, but reflect things that the sponsors believe are important policy calls for Alaska, like requiring the open seasons and the mandatory expansions.

[4:48:40 PM](#)

MS. DELBRIDGE said overall there is the mandated baseline for the initial recourse tariff that the RCA needs to approve before the pipeline enters into contracts with potential shippers. Once that tariff is approved, the pipeline can go out and hold its open season. In that open season it can negotiate with different shippers; the outcome of those negotiations are called precedent agreements; they are contracts that are generally conditioned related to a number of things like construction schedule and different permits being acquired. Once those precedent agreements have the conditions met, they become firm transportation service agreements before pipeline operations start. Those precedent agreements can include a negotiated rate. So, while the pipeline offers the initial recourse tariff that is approved by the RCA, the pipeline and its shippers can then negotiate the final rate that goes into their contract. The sponsors know and the AGDC is very clear that you need that ability to have long term shipping contracts on a contract carrier pipeline and negotiated rates provided that those negotiations are done without unlawful activity or duress or unfair market dealing and that they are made between two unaffiliated parties at arm's length.

SENATOR FRENCH said review of the precedent agreements is one of the cornerstone pieces of the bill, and language on page 42/3 says "in the review of the precedent agreements under (a) of this section" that the crucial shipping contracts are going to determine the terms under which gas is moved from the North Slope to Big Lake and then on to an LNG plant or somewhere else. This bill specifically describes as carefully as possible what the RCA shall do; it says the commission "shall" and "must" unless - unless what? Unless the Commission finds unlawful market activity or unfair dealings such as fraud or duress affected the rate? It struck him that this means anything short of criminal activity "must" be approved by the RCA; the language tells them to do it. Now he wanted her opinion and the RCA's opinion.

[4:52:33 PM](#)

MS. DELBRIDGE responded that the sponsors approached this in the sense that if two parties willingly enter into a contract at a

price for a service that both parties agree is fair that that is a reasonable contract and it should stand.

SENATOR FRENCH asked for a monopoly pipeline?

MS. DELBRIDGE responded for a pipeline that is providing a service in which people are free to either contract for service or not. If the pipeline is affiliation with someone shipping on it, then there is a heightened level of scrutiny required by the RCA to really backstop what might be happening in a contract that is not cleanly done by non-affiliated parties.

[4:53:29 PM](#)

CHAIR GIESSEL asked Mr. Goering if he had comments and he didn't.

[4:54:02 PM](#)

DARRYL KLEPPIN, Commercial Manager, Alaska Gasline Development Corporation (AGDC), Anchorage, Alaska, said that the section Senator French highlighted on page 43, line 3, says "arm's length between parties is just and reasonable unless the commission finds et cetera...." One of the key issues here is what "arm's length" means. The definition is further down on page 43. The first criterion is if they are incorporating the approved recourse tariff that the RCA approves in that precedent agreement. If they are, then that's deemed to be arm's length.

If it does not incorporate the recourse tariff, then it falls to these other steps: first of all that the precedent agreement is between two state-owned entities (that is deemed arm's length), and the parties are not affiliated.

SENATOR FRENCH asked if arm's length usually implies one party on one side and the other party on the other side.

MR. KLEPPIN answered that AGDC is being set up as an independent state corporation and the bill also has a provision to set up a separate independent gas marketing entity. If the contract was between those two entities, it would be deemed arm's length. If the parties are affiliated, then is it similar to other precedent agreements? If it's not, it falls into the RCA review.

[4:55:57 PM](#)

SENATOR FRENCH asked where "affiliated" is defined.

MS. DELBRIDGE replied that it is not defined in bill, but language within RCA's existing statute.

MR. GOERING added that there are definitions in both the Public Utilities Act (AS 42.05.990(a)) and the Pipeline Act (AS 42.06.630(1)), which apply only within their chapters. If there was no definition in AS 42.08 in the Contract Carrier Pipeline Act the Commission would likely use the definitions from the other jurisdictional provisions by analogy.

SENATOR FRENCH said he didn't think they were allowed to look outside of these provisions and thought they might need to put a definition in this chapter.

MR. GOERING recommended including the definition in AS 42.08 just to avoid any ambiguity.

[4:59:10 PM](#)

MS. DELBRIDGE said the process for reviewing the recourse tariff requires revisions post construction when 95 percent of the costs are known instead of estimated, so there is an ongoing accurate representation of what the actual costs of service on this pipeline are to be available as the default price if anyone wants to get in on any interruptible short-term capacity that comes up or other space. Those revisions are also required in advance of any open season that the pipeline has so that the newest and most current information is available.

She said this legislation includes a triennial rate review; every three years after operations start the pipeline needs to supply full, current cost data to the RCA. This cost data is a massive quantity of information that supports the different elements that create a rate. The RCA is required to look at it and to make sure that the rate of return is as stated. It's highly unlikely that a rate of return is going to result in a greater return than allowed to a pipeline.

MS. DELBRIDGE explained that a prior committee incorporated a provision to address the potential of excess profits. So, if the pipeline ends up earning more profit than it was allowed to by the RCA, those extra profits need to go into a segregated operating reserve fund. That reserve fund grows until it reaches 20 percent of the annual average operating costs. If still making more profit is being made, then the RCA allows the opportunity to earn and that needs to go towards directly buying down the rates the current shippers, contractual or otherwise, that are paying to ship on your pipeline.

CHAIR GIESSEL asked where specifically in the bill this review can be found.

MS. DELBRIDGE said it is on pages 52-53. She added that the sponsors' intent in requiring these different levels of ongoing review is so that there is current cost information available, double checking, and no opportunity to have those run-away rates of return that theoretically could be possible, and that there be some boundaries. They also supply the RCA with all of the cost data that will help them make sure that the tariffs going into an open season are really representative of new costs and current operations.

[5:02:18 PM](#)

SENATOR MCGUIRE said she wanted to be sure that once the 20 percent threshold was reached and was returned back to shippers to reduce tariffs that it would then be returned to consumers via rate reductions and Ms. Delbridge just answered how that happens. He asked her to more fully describe how consumers benefit.

MS. DELBRIDGE answered that the RCA would require the pipeline to buy back down the rates that the shippers are paying. The shippers may or may not be public utilities and nothing mandates that public utility to pay down the rate that its consumers are paying.

SENATOR DYSON asked how to buy down a rate.

MS. DELBRIDGE explained that the RCA initially determines whether or not the proposed rate of return is reasonable. Every three years after operations, the pipeline needs to provide the RCA with its full cost data and the Commission will then be able to determine whether or not they are earning somehow more than allowed.

SENATOR DYSON asked once it's decided they are making more and it has been put into the segregated account, how do they buy down the rate.

MS. DELBRIDGE replied that they need to return the excess money to the people that paid it to them.

SENATOR DYSON asked how that was done.

MS. DELBRIDGE said that would be up to the carrier to determine.

SENATOR FRENCH asked who the carrier is here; it sounds like AGDC.

MS. DELBRIDGE replied that she was using carrier and pipeline interchangeably; a carrier is a pipeline that has been certificated. So, if you are operational, then you are a carrier, otherwise you are maybe a pipeline company.

SENATOR FRENCH asked who would do that; AGDC?

MS. DELBRIDGE replied that this regulatory chapter would apply to any instate natural gas pipeline contract carrier.

SENATOR FRENCH apologized saying that this bill had been in committee for about two days and he didn't know the details as well as she did. He asked if the bill sponsors have a vision for who would own and operate this pipeline or if that is a blank question with no answer.

MS. DELBRIDGE replied that the bill sponsors have their own thoughts just as many other legislators do; what they have done is equip AGDC to determine that outcome based on what generates the greatest results for Alaskans and gets gas to Alaskans at the lowest possible rates.

SENATOR FRENCH remarked, "So, we don't know." ConocoPhillips could end up owning this line and somehow it would work out great for him as a customer in west Anchorage.

MS. DELBRIDGE responded if the gas is also being provided to Alaskans and everyone else that might want to pay to have gas transported on this line for any purpose and has had the opportunity to do so.

SENATOR FRENCH said this brings into account his concern that at some point there will be \$2-3 billion state dollars put to work on that pipeline and he wanted to make sure those dollars used to buy down the price of this project to make it economically work will rebound to the benefit of consumers like him and his neighbors in west Anchorage or Fairbanks and not to ConocoPhillips and their LNG plant. So, he wanted to know what part of this bill bi-furcates the application of state capital dollars to the tariffs.

[5:06:53 PM](#)

MS. DELBRIDGE replied this bill does not allow for additional state capital dollars without that future decision and

appropriation by another legislature and AGDC does not anticipate needing any additional capital dollars from the state beyond this initial segment.

SENATOR FRENCH stated they differ about the likelihood of that eventuality, but it's still extremely important; he thinks Cook Inlet gas will beat the price of North Slope gas forever, because it's in their backyard and there's lots of it. So, at some point the price of this pipeline will need to be bought down and he wanted the benefits to flow to consumers and not to industrial users, and he was looking for a way to set that mechanism in place. This pipeline is not like most because it needs a huge industrial anchor to make it work economically and he believed that anchor is the LNG plant on the Kenai Peninsula that is in the plan the AGDC put out. It makes sense.

MS. DELBRIDGE said she wasn't clear what the question is.

SENATOR FRENCH said he would write it down and make it more precise.

[5:08:34 PM](#)

CHAIR GIESSEL said she had understood that South Korea and Japan have been in Alaska and are very interested in Alaska's natural gas and they have the wherewithal to actually build this pipeline. What if they came to Alaska and said we'd like to build this pipeline or want to partner with you; how would that fit in with the AGDC legislation and plan?

MS. DELBRIDGE replied that if someone from Asia or ConocoPhillips decided tomorrow that they would like to come in and build an instate natural gas pipeline, nothing is stopping them. This bill wouldn't prevent it. If they wanted to partner with the state, AGDC would be equipped to be that partner. Mr. Kleppin could talk about how that type of arrangement might work.

MR. KLEPPIN added that a potential Asian end user could be interested in building a pipeline. Where AGDC has a constraint in that is that the state can only provide funding within the AGIA criteria. He assumed that an Asian company would want volumes larger than 250 mscf/day and AGDC could not participate in that unless that limitation was moved.

SENATOR DYSON said he assumed if someone wanted to build a pipeline they could buy out the assets or the organization that

gets put together including the rights-of-way and permitting and reimburse the state for its investment.

MS. DELBRIDGE said he was correct and that is possible. AGDC has the duty of getting gas to Alaskans at the lowest possible rates and therefore their ability to sell off or do something otherwise with those assets would be contingent upon those assets in that tradeoff meeting their mission.

SENATOR DYSON said he assumed there would be a time component for that evaluation as well and went back to his question about what happens when the shippers have overpaid over a specific period of time.

MS. DELBRIDGE explained that those funds get dispersed back by reducing the rates that they will be paying over the next little while; specific language is on page 53.

SENATOR DYSON went back to Senator French's interest; if one of those was a utility that was supplying gas to his neighbors, that utility could decide what they were going to do to reimburse for what had become an overpayment.

MS. DELBRIDGE referred that answer to Ms. Grovier, AGDC legal counsel.

[5:12:21 PM](#)

TINA GROVIER, legal counsel, Alaska Gas Development Corporation (AGDC), Birch, Horton, Bitner and Cherot, Anchorage, Alaska, explained that the bill's mechanism requires the carrier to reduce on a volumetric basis the firm transportation service rates for all shippers for the next three years. So, it's not a refund mechanism but a rate reduction for the utility going forward. A utility would presumably have a rate covenant that she thought would be structured such that they are passing through to their customers only the rates that they pay.

SENATOR BISHOP asked if that overpayment trickles down to the homeowner.

MS. DELBRIDGE replied yes; as Ms. Grovier said, if the utility has a covenant that includes that ability to only recover what it costs them.

[5:14:20 PM](#)

SENATOR FRENCH asked if the lower tariff would flow through to an industrial customer.

MS. GROVIER replied yes.

SENATOR FRENCH referenced his earlier concern about state investment in a line and the economic benefits of that not flowing through to an industrial shipper or an industrial anchor tenant and asked if there would be a way to structure the lowering of the rates to flow through to Alaskan consumers and not to an LNG plant.

MS. GROVIER replied that with respect to an appropriation where the state was contributing several billion dollars, it would be within the legislature's purview to structure that appropriation such that it benefited whoever they want.

SENATOR FRENCH said that makes sense and asked if that would be better done in this legislation or at a later date.

MS. GROVIER replied that was a policy call, but she observed that at the time of the appropriation they would know more about the cost of the pipeline and what the structure would look like and basically have more information later.

SENATOR FRENCH stated his concern that their ability to know some of the ongoing economic facts may be shrouded from them due to confidentiality provisions this bill would enact.

[5:16:47 PM](#)

MS. DELBRIDGE clarified that there is no expectation or provision within this legislation for an additional state subsidy of a pipeline, although that could come up at a future point in time.

SENATOR FRENCH asked to take up the capital reserve portions of this bill.

MS. DELBRIDGE replied that the capital reserve fund is contingent upon future legislative action enabling AGDC to go out and actually put the fund together and use it.

[5:17:39 PM](#)

She continued that the beyond the triennial review, the RCA section also requires RCA review of the precedent agreements (signed shipping contracts following an open season). In this case the RCA looks at the contracts and makes sure that those are "just and reasonable" as evidenced by having been made at

arm's length. There is heightened scrutiny for an affiliate relationship.

The legislation allows for confidential filing of those precedent agreements, because those are a contract between a shipper and a pipeline, the terms of which are still being worked out. However, once those become firm transportation service agreements they become public; sensitive commercial information may be redacted. The initial recourse tariff filing is all publically filed, so the state will have a great idea of what it is costing to ship gas on this pipeline.

[5:18:53 PM](#)

The regulatory section requires that an instate natural gas pipeline go to the RCA to get a certificate of public convenience and necessity (CPCN), a building permit. There are few special terms on that for an AGDC pipeline, but essentially reflects the state sanctioned mission that through passage of this legislation creating AGDC as its own standalone entity the legislature will have set it on.

For any other applicant, Ms. Delbridge said the RCA will still need to make its full finding of whether or not the proposed pipeline or service is needed, and if the applicant is fit, willing, and able managerially, technically, and financially to provide this service or the utility that is being requested.

[5:19:17 PM](#)

MS. DELBRIDGE said the certificate discussion was on pages 36-37 and the process for getting a CPCN for an instate natural gas pipeline was on pages 44-45.

An important part of the RCA chapter is their ability to intervene if there is a dispute between the carrier and shippers that threatens the public health and safety. If a public utility doesn't get the gas that it needs in the winter, for instance, then the RCA is fully empowered to absolutely step in and take over and settle things. This legislation allows the contracts between a pipeline and the shippers to include a dispute resolution method, but it has to be uniform among all shippers.

She said that any dispute resolution method must give all shippers notice of the dispute so that they are able to participate and protect their interests that may be affected by the outcome of a dispute with another shipper.

The RCA is also empowered to handle any kind of disputes or complaints about the conduct of an open season or about whether or not an expansion is being done or not on commercially reasonable terms. If there is a dispute on an expansion or a potential open season, the RCA can actually step in and if they decide that the carrier should be holding the open season or should be expanding on these commercially reasonable terms, they may order that expansion.

MS. DELBRIDGE explained that the regulatory section further sets standards for fair and accessible open seasons, and rather than tell the carrier precisely in the statute on what terms it must have an open season, the legislation requires that those terms be set and filed with the RCA and publicized to potential shippers. The RCA is able to field complaints if someone thinks that the carrier didn't properly notice an open season, which denied them an opportunity.

[5:22:17 PM](#)

The legislation further sets timelines that are intended to provide an adequate period of review for the standards that are set without interfering with the commercial timelines like holding open seasons and signing precedent agreements.

MS. DELBRIDGE said the open season provisions are important, because nothing in state law addresses them, because Alaska doesn't have contract carrier pipelines. Open seasons are commonly used in the Lower 48 as a mechanism to let potential shippers know that you have something on the table and that they are able to participate in that for the terms that are set out. They are generally regarded as a way to be very fair in attracting and negotiating pipeline capacity. Language on pages 40-42 require open seasons for initial and new capacity; the procedures are left to the carrier, but they have to be included in the terms and conditions of service.

There are minimum requirements for noticing an open season, but the carrier can go beyond those to attract commercial opportunities. The carrier has to conduct the open season and award capacity without undue discrimination or preference. They need to notice people up front as to how they will decide who gets the space if too many want space, and makes it clear that expansions cannot violate the terms of AGIA.

SENATOR FRENCH asked her for more detail on what interruptible transportation service versus capacity means on page 42, lines 16-17.

MS. DELBRIDGE answered that the sentence means if you have capacity on your pipeline that is not subscribed in firm non-interruptible contracts, that you need to provide that service in an interruptible way short-term, which means you can be curtailed if someone else comes along and wants in on that piece. If there is a small segment that is not contracted, the point is to make that available as equally and fairly as possible and on reasonable terms.

SENATOR FRENCH said provisions on page 36 and 37 basically say AGDC is wonderful, financially fit, and is willing to take action; it goes on to talk about the board of directors and he wanted to know why language was being so assertive; why not let the RCA take its own stance on that?

MS. DELBRIDGE replied that it would be redundant to ask the RCA to make findings that the legislature had already made by creating the corporation and equipping it with a strong governance board of directors and making sure that it has the resources to carry out what it is doing; in particular, creating AGDC to do pipelines that are in the best interests of Alaskans. Therefore, the RCA is not to second-guess what the legislature has done as far as a policy goes.

SENATOR FRENCH asked her to describe the interplay between the subsection (c) on page 44 and those provisions, because it seems like a circle. They are asking the Commission to issue a certificate authorizing whole or in part the operation of this pipeline to a contract carrier if it finds the applicant is fit, willing, and able. Why use that language twice?

MS. DELBRIDGE reiterated that this regulatory framework applies to anyone that comes in and applies under it to provide a contract carrier for in state gas pipeline service not just to AGDC. So, while the legislature has made a determination that the AGDC should go out and do these pipelines and some special findings that are appropriate, it is not making those findings for any pipeline that applies under this section. The RCA in that instance is expected to do as it typically would and make those findings.

SENATOR FRENCH asked if the provisions on page 44 are in the event that AGDC decides to not be the carrier/operator.

MS. DELBRIDGE responded affirmatively saying that this regulation could apply to any number of pipelines that may or

may not be AGDC pipelines, and therefore it is the intent of the sponsors to provide for those contingencies.

[5:27:51 PM](#)

SENATOR FRENCH said that was a good answer, but it implies there may be more than one pipeline and he was pretty sure they were talking about the one in-state pipeline.

MS. DELBRIDGE responded that it was the sponsors' sincere hope that if one pipeline is built there will be other pipelines to follow. There is also the possibility that whether or not AGDC is involved in it there might be fruit from the efforts that the legislature made last year in passing Middle Earth oil and gas exploration credits, and perhaps there might be a pipeline somewhere else.

[5:29:17 PM](#)

Recess from 5:29 until 6:00 p.m.

[6:00:33 PM](#)

CHAIR GIESSEL called the meeting back to order and opened public testimony on HB 4.

[6:01:44 PM](#)

BILL SHEFFIELD, representing himself, Anchorage, Alaska, supported HB 4 saying it is another step in delivering a long-term affordable source of energy to a large part of Alaska's population that will lead to jobs both during construction and ongoing in the production and delivery of the gas afterwards. It also has the possibility of allowing the Agrium plant on the Kenai Peninsula to re-open, reinvigorating the Flint Hills Refinery, and allowing Fairbanks to have good air quality without having to face the equivalent of a mortgage payment in monthly energy costs.

It can also bring important benefits to proposed mining operations in Livengood by the Yukon River and the Donlin gold prospect: three-thousand jobs to build a mine over a four-year period and 1,500 jobs a year from there on. The Alaska Railroad is a good example of only having 20-railcars coming to Anchorage from Flint Hills five days a week instead of 130 railcars daily when Flint Hills was in full production. With cheap gas, Fairbanks wouldn't have to import all their gas and jet fuel for the airport from Asia.

MR. SHEFFIELD said AHFC has moved leaps and bounds forward on this project under the authority given them by creation of the

Alaska Gas Development Corporation. They have brought the EIS and secured most of the right-of-way approvals. He said this is not just a concept; this is a project they can do and passing HB 4 is critical to moving it further along. He summarized that he had been all over the state on his own talking to rotary clubs, chambers of commerce, economic development committees, unions, and so on and everyone is getting excited about this gasline.

6:06:15 PM

DAVE DENGEL, representing himself, Valdez, Alaska, opposed HB 4 saying it takes attention and resources away from the gas pipeline that Alaska truly needs and voters approved more than a decade ago. It focuses on promoting a gas line that is designed to be a low-volume line leaving valuable liquids on the North Slope. This line does not generate significant revenues that can finance its own construction or contribute to the state's future general fund revenue program. Only one multi-billion dollar gasline is going to be built in Alaska in the next 20 years and if ASAP is the chosen project, the state's loses the promise of gasline plans Alaskans approved in 2002. He urged them to keep focused on a large diameter pipeline to tidewater.

6:08:08 PM

JOHN HOZEY, Manager, City of Valdez, Valdez, Alaska, opposed HB 4 saying that sponsors have done an excellent job convincing everyone that this bill will get gas to Alaskans and not the global energy markets. It will ensure that all future state revenue needs will only ever come from oil production and that our natural gas resources will be preserved for instate use. But just having gas isn't good enough; that gas also needs to be affordable; or if you believe that Alaska's gas might belong to all Alaskans not just those in the pipeline corridor, or if you believe that over the next several decades future state expenditures are likely to exceed future state revenues from just oil production, you might consider other options.

He said the sponsors are dead wrong when they say that this is the only real project moving forward. Someone needs to show them years of work that has already been done and the hundreds of millions of dollars that have already been spent under AGIA as well as the February 15 letter from all three major North Slope producers stating that they had finally reached alignment on a large volume gas line project that would give us everything that we'd hoped to get out of this legislation and so much more.

6:10:48 PM

DAVE COBB, Mayor, City of Valdez, Alaska, opposed HB 4. He said only one gasline will be built and they must ensure that it is a project that provides the most benefits to all Alaskans. A large volume line to tidewater will include off-take points along the pipeline to provide natural gas directly to Alaskans. It will also have an export component and the ability to transport natural gas liquids for value-added business opportunities. These critical elements will generate new revenues for the state of Alaska and provide much needed low cost energy for all Alaskans.

MR. COBB said the small volume version proposed by HB 4 will only raise the cost of energy in Southcentral Alaska, do nothing to address energy costs in rural Alaska, and is not capable of generating new revenues to offset declining oil production revenues. In summary, he said HB 4 is a short-sighted pessimistic view of Alaska's long-term future.

[6:11:52 PM](#)

SENATOR FAIRCLOUGH joined the committee.

[6:12:46 PM](#)

CINDY RYMER, representing herself, Valdez, Alaska, opposed HB 4 saying the residents of Alaska voted in 2002 to approve a large volume gasline to tidewater. HB 4 does not help all Alaskans; it does nothing for most of coastal communities outside of the Railbelt leaving thousands of Alaskans with high energy costs.

[6:14:21 PM](#)

MIKE WILLIAMS, representing himself, Valdez, Alaska, opposed HB 4. He said he had lived in Alaska for all 53 years of his life and watched a pipeline being built and had seen them struggle over a gasline and leave natural gas stranded on the North Slope for years, and now to leave the liquids stranded up there and build a low volume pipeline is just crazy. Not exporting natural gas is insane; it would benefit all the people in Alaska.

[6:15:22 PM](#)

LOUIS CLARK, SR., representing himself, Valdez, Alaska, opposed HB 4. He said he has 10 children and didn't need to hear about possibilities or more studies. He needed something real. The permitting is already done and they need to get gas for people who are raising their families here and don't want to leave. Voting for this will be selling the future of their children and grandchildren.

[6:16:25 PM](#)

DOROTHY MOORE, representing herself, Valdez, Alaska, opposed HB 4. She urged them to support building a line that will serve all Alaskans. As a lifelong Alaskan she started school in territorial days in 1951 and managed to graduate from high school under statehood. She eventually retired from being an Alaska history and government teacher. She urged them to support that which will, in a direct way, benefit all Alaskans.

MS. MOORE said she read the original HB 4 and was very concerned with the secrecy and lack of oversight for the common person. She was concerned with the exemption from normal procurement procedures and transparency. It sounds like they could go out and buy anything and she had seen a lot of waste happen when the first pipeline was built. Lack of the export component won't allow Alaskans to take advantage of lower rates and we can't just do it on our own.

She was also very concerned about the exemption of the judicial review and the Superior Court judgment. She remembered when TAPS was built that we were supposed to have cheap gas and heating oil, and see what we have now? Do not rush this bill to do just something; make sure this legislation benefits all Alaskans.

CHAIR GIESSEL said this bill is posted on BASIS and that is where the public can find the changes to it.

[6:18:44 PM](#)

LISA VONBARGEN, representing herself, Valdez, Alaska, opposed HB 4 for a lot of the same reasons others have said. This project is not the short term solution everyone is looking for; it will not carry liquids and another project is moving forward under the AGIA process for which an open season had already been done. For the first time in her life when she looks at Alaska's fiscal future and the possibility of jobs she doesn't see a lot of hope for staying here. Maximizing revenues to the state and getting energy to people at the lowest possible cost through efficiencies that can be brought by a large volume line to tidewater is the only way - and that includes exports. Please think about the future of everyone in the state, she concluded and not just those along the pipeline corridor.

[6:20:55 PM](#)

PAM SHIRRELL, representing herself, Valdez, Alaska, opposed HB 4. She said energy rates were killing our rural communities and that the focus needs to be on an energy solution that will bring affordable energy for the entire state. This line will not.

Develop a large-volume gas line that will bring the state revenues that the TAPS did.

[6:21:53 PM](#)

JIM PLAQUET, Membership and Events Coordinator, Alaska Support Industry Alliance, Fairbanks, Alaska, supported HB 4. He said he was also a 40-year member of the Operating Engineers Local 302 and a 40-year resident of Fairbanks. HB 4 and the Alaska Stand Alone Pipeline will provide the most cost effective and time sensitive schedule for developing a long term affordable energy solution for Fairbanks and Alaska he said; SB 23 is the short term energy solution for Fairbanks and HB 4 is the long one.

He pointed out that HB 4 also asks the AGDC to consider other instate natural gas projects and a larger pipeline to tidewater with an LNG export component like the project advocated by the governor. HB 4 empowers AGDC to act on behalf of Alaskans' interest in providing natural gas to Alaskans; it calls on state and local governments to participate in ways that will reduce the rate Alaskans pay for natural gas. The high cost of energy is crippling the Interior and rural Alaska and it can't continue.

BOB SHEFCHIK, Chairman, Fairbanks Chamber of Commerce, Fairbanks, Alaska, supported HB 4. He said HB 4 is a mid-term priority of the Chamber. He said trucking of liquefied natural gas as the short term solution and it is also accepted that the best way to transport gas over the long term is to transition from trucking to a pipeline. The progress on the ASAP line including preliminary design, environmental permitting and right-of-way work places it far ahead of any other instate pipeline options. The entity created by HB 4 can also serve as a catalyst and a partner for other pipeline solutions.

[6:26:10 PM](#)

KEN HALL, representing himself, Fairbanks, Alaska, supported HB 4, because it has the ability to change energy issues within Alaska and to deliver gas to much of Alaska. With the gas storage bill from last year it has the opportunity to expand beyond just the pipeline corridor that the HB 4 gasline would support. This conversation is banking on the fact that this bill will build a pipeline, but it will only get an open season, and if it is not economic it will not go forward from there.

[6:28:19 PM](#)

RICK ROGERS, Executive Director, Resource Development Council (RDC), Juneau, Alaska, supported HB 4. He said their membership

is diverse: they have producers of energy, both large and small, oil and gas producers on the North Slope and Cook Inlet, Alaska's only producing coal mine at Usibelli, as well as other members with perspective coal projects, developers of renewable energy including hydro, wind and biomass, and utilities - gas and electric - whose job it is to provide reliable and affordable energy to Alaskans. They also have consumers of energy: rural and urban, industrial and commercial, as well as residential, including perspective consumers of mining projects that have significant power demands. With that diversity they had to examine what this bill does for them all, and they really like it because it allows the free market to dictate which project goes forward and whether this project can be a competitive energy supply for Alaskans. HB 4 gives needed help up front that is appropriate to get it to an open season, but then the project has to stand on its own merits; it will have to sink or swim at the invisible hand of the free market.

He said everyone hopes for a larger capacity pipe shipping wet gas to tidewater, but HB 4 doesn't interfere with work on a large diameter pipeline; it just provides an alternative project should that more advantageous project just not pencil out.

6:31:58 PM

TERRY HINMAN, Denali Borough Community Advisory Committee, Healy, Alaska, supported HB 4. He said he was speaking personally as well as a representative of the committee. As a retiree, he is on fixed income and the rapidly increasing cost of energy is having a dramatic effect on his life. He is not the only one in this situation. His electric costs have somewhat stabilized but they are still well above the national average and the cost of heating continues to climb. There is an urgent need for affordable - not cheap - just affordable energy, and a pipeline for Alaskans can provide that.

He understood the confusion about the different projects, but there is only one plan that is more than a concept. Compared to the dollars spent on larger scale ideas with nothing of substance the ASAP has a long list of accomplishments on a very frugal budget. Included in the list of accomplishments are: route, right-of-way, environmental statement, field data, and more.

A few years ago there was a market for gas and gas products, but now prices are down. Spending \$45-65 billion to move product on a large volume line has to have a return worthy of the expenditure. The relatively few Alaskan consumers are not cost

effective for them. The idea of spending \$7-9 billion to provide low-cost gas directly via pipeline and indirectly via river, road, rail, ocean, and through the grid to Alaskan residents for the next 100 years does make sense. With a lean gas plan moving only methane and propane there is no need for expensive gasification or straddle plants along the route. That is not to say that if the world market conditions change in the future a large pipeline with all the gas components or LNG could not be constructed.

MR. HINMAN concluded that the biggest problem facing our state is energy and passage of HB 4 would go a long way to addressing this critical situation.

[6:35:27 PM](#)

JIM SYKES, representing himself, Palmer, Alaska, opposed HB 4 saying he had served several years on the Alaska Energy Authority Railbelt Energy Committee; their purpose was to look at the energy picture for the Railbelt 50 years out and gas is definitely part of the mix. But he is speaking against HB 4, because the proposed gasline is the most expensive option of all, including the pre-build gasline to Fairbanks and Cook Inlet gas and including a spur line from a major gas line and importing LNG. Alaskans could have some of the highest energy costs in the world.

MR. SYKES said it is troubling that the AGDC is exempt from the public records law. As a former consumer advocate, he thought that was a bad way to go. The U.S. Energy Information Agency indicates that since 2008, natural gas imports in the U.S. have declined by half. The price has gone down in that same period from \$4.92 to \$1.82. The dynamics might change so that we could actually import gas cheaper than any of the alternatives being considered.

[6:37:39 PM](#)

MIKE WELLS, representing himself, Valdez, Alaska, opposed HB 4. The ASAP project as proposed in HB 4 is the wrong gasline plan for Alaska, he said. It will take many years to complete and it is too small to have the economies of scale to provide energy as feasibly as a large volume pipeline to tidewater would. Alaska must generate income through the sale of its gas and we need the long term job opportunities and value-added industry valuable gas liquids development can provide. These benefits are crucial to the future of Alaska and vital in offsetting declining oil production. HB 4 promotes a project that fails to provide these key returns to Alaskans and falls short of spreading Alaska's

resource benefits to all, not just those who are geographically advantaged.

Further, Mr. Wells said, HB 4 limits the AGDC from judicial review and public oversight that are critical to protecting consumers. Transparency and the checks and balances that come with it are vital to protecting Alaskans. There is strong statewide support for a large volume pipeline from the North Slope to a deep water port with an LNG export component; this will always be the best choice for our state. A vote for HB 4 may stop this from ever becoming a reality.

[6:40:03 PM](#)

DONNA SHANTZ, representing herself, Valdez, Alaska, opposed HB 4. She said HB 4 appropriates \$400 million for another study that is estimated to cost \$10 billion and take at least 10 years; more immediate solutions are needed. At the end of the day, the North Slope producers will decide when and where a pipeline will be built, especially if SB 21 passes. She encouraged them to come up with some serious incentives to get the producers or their competitors to build a high volume pipeline to tidewater, but building a ASAP would hinder that.

[6:41:27 PM](#)

DEANTHA CROCKETT, Executive Director, Alaska Miners Association (AMA), Anchorage, Alaska, said that the intent for any legislation is obviously to relieve Alaskans of their dire energy situation and for that reason they support HB 4. It would benefit the mining industry, because mining companies looking at developing prospects in Alaska, even if they are great deposits, know they ultimately have to look at how expensive Alaska is and the infrastructure that is in place here. Energy solutions such as this one embodies will encourage mining that will ultimately provide jobs and revenues to governments including the Alaska Native Corporations.

In addition to needing that energy, Ms. Crockett said the mines she represents are actually part of a solution, because when the state looks at massive projects like this, it needs to have a secure consumer base to warrant the supply that something like this would provide. Only four hard rock mines in Alaska are actually connected to power grids and all use some form of diesel and still need about 50 megawatts more of power. Development projects coming on line, like Donlin and Pebble, need anywhere from 150-500 megawatts, and that kind of energy demand really does justify a large project on this level.

Finally, she said these large mining projects on the horizon are all looking at how they are going to power their mines; a few of them are looking at pipelines to bring natural gas into their region, which would help connect the surrounding communities.

[6:44:51 PM](#)

MICHAEL JESPERSON, representing himself, Anchorage, Alaska, supported HB 4. He said his wife and three kids live in Anchorage and that he was not involved in any of the resource industries in the state, but he saw "a lot of funny things going on." Government is telling him gas is running out in Cook Inlet, so gas prices will go up for heating his home. Other government entities are telling him that building a line now is not a good idea, because it will raise his gas prices. He said Alaska has had a "pipe dream" for longer than the 46 years he has been alive and HB 4 will actually help get that line built. It doesn't limit the size and suggests that it come down the Railbelt but it doesn't force it to. If you pass this bill, it's a whole lot easier to build a take-off line now than it would be to build a take-off line from a pipe that might be built in another 40-50 years. The state can't wait that long.

[6:46:38 PM](#)

ALAN LEMASTER, Director, Alaska Natural Gas Pipeline Coalition, Gakona, Alaska, opposed HB 4. He explained that this organization was made up of the communities, organizations, and associations along the Richardson Highway/TAPS corridor. Their decision is about what is best for the generations of all Alaskans.

He said on February 19 this year, Steve Butts, Senior Project manager of the Alaska LNG Concept Selection, a coalition of ExxonMobil, ConocoPhillips, and BP/TransCanada, presented its findings to the House Resources Committee and it noted several issues that will determine the feasibility of building a gas line through Alaska. A few of those items were:

1. The line must be a high pressure line.
2. The line should be at least 42 inches.
3. The line must run from the North Slope to tidewater.
4. The line must be able to carry sufficient loads of natural gas that can be liquefied for sale and transport to the Pacific Rim countries.
5. The port of embarkation to those countries must be from a deep water port.

Unfortunately, Mr. LeMaster said, the ASAP proposed in HB 4 will be a thin-walled, low-volume, low-pressure line carrying dry gas

with no export component and for use only in certain Alaska communities approved by the AGDC, and it may only be a short term solution to a long term problem. If that's the case, that line will be paid for by the people in that region.

To date, two open seasons have taken place with the AGIA, the most recent in 2012 and its results still remain unknown due to confidentiality issues; little is being gained. HB 4 takes the state to another open season, which could take up to two years or more, and no guarantees that the producers will agree to send product through the line.

The ASAP will not carry liquid natural gas that would allow of creation of thousands of value-added legacy jobs. After construction is complete, the fully funded by the state pipeline will be sold to a private company to operate, which will very likely cause energy prices to escalate with limited control by state regulatory agencies.

In conclusion, he asked them to consider spending the \$400 million on an LNG trucking project for Fairbanks to get them relief in the short term, retrofit the Nikiski plant for regasification for about \$80 million for Cook Inlet, and spend the remaining \$70 million on a proven viable large volume project to tidewater with an export component for the interim.

[6:50:42 PM](#)

MERRICK PIERCE, representing himself, Fairbanks, Alaska, opposed HB 4. He said he had served on the board of the Alaska Gasline Port Authority (AGPA) and their mandate is to build the large diameter gasline to Valdez, a project that has considerable interest in the Asian markets. But before spending several hundred million dollars on a study as HB 4 described, he urged them to consider other scenarios. First, consider that HB 4 proposes studying a project that can never be built, because it doesn't have fundamental economics supporting it much like the AGIA scenario where Alaska spent years and hundreds of millions of dollars studying a gasline to the Lower 48, a line that could never be built, because it would never be feasible to transport gas at to a region that already has gas.

The bullet line can only have two markets, instate or export; and because the proposed bullet line has no economy of scale, the best base cost to the gas will be around \$10 and that is two to three times the cost of gas that is available on either the ACHO or the Henry Hub. Who would pay that? Probably no one.

Cook Inlet has a 200-year supply of gas for Alaska according to the experts - one of the richest gas basins in the U.S. His research shows that the bullet line could easily cost \$500-600 million per year. Spreading that cost out over the Railbelt population of 400,000 people comes out to \$1400 per person per year - and cost of the gas is extra; proposed equity returns will go to out-of-state investors and that would be a terrible thing for the Alaska economy.

MR. PIERCE summarized that if the real objective is to ensure that Alaskans, the Interior in particular, have affordable energy, the money that HB 4 proposes to spend on studies costing over \$355 million could be spent on fully funding short term solutions like LNG trucking or building a small bore high pressure gas line from Big Lake to Fairbanks. Either of these solutions is much less expensive, scalable, and faster by years.

[6:54:05 PM](#)

BUZZ OTIS, representing himself, Fairbanks, Alaska, supported HB 4. He had been in business in Fairbanks since 1976 and after waiting for gas for over 40, it's time to accelerate construction. Some people think the bill is too complex, but it's normal for a bill of this nature and significance to be complex. It has been mentioned that it won't benefit consumers outside of the Railbelt, but that is short sighted: Cook Inlet gas is cheaper today, but might not be tomorrow.

He said low cost energy would help Livengood, International Tower Hills or Eielson; they cannot survive in this state paying \$4 a gallon for heating oil and \$.23 a kilowatt hour for electricity (as in urban area of Fairbanks). It's incumbent upon everyone to make sure Alaskans have low cost energy regardless of what project moves forward.

[6:56:32 PM](#)

RANDY GRIFFIN, representing himself, Fairbanks, Alaska, supported HB 4. He said that Valdez is launching a \$1 million ad campaign to try to kill the bullet line. Fairbanks would benefit from a bullet line compared to continue having no gasline at all for an indefinite period, but Valdez would not, and he could understand their point of view. He urged them to not be intimidated by the powerful ad campaign saying he supported any kind of way to get gas to Fairbanks including a big line going to Valdez, if that is found to be economically feasible. He was in favor of looking at all possibilities, but he didn't think it was correct to kill the action of the bullet line just because you want a line to go in your direction. Fairbanks needs to keep

its military presence and a gasline of any sort will do that as well as lower pollution and reduce the cost of living there.

SENATOR FRENCH said it was good to hear his voice.

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GERALD MILLER, representing himself, Anchorage, Alaska, opposed HB 4. He wished they would get the drilling going on in Cook Inlet; it has all the gas that is needed for the long term future and export. He urged them to "get in there and cooperate with the all Alaska large volume people who have done so much work." Spur off at Glennallen if that is needed. He didn't like the secrecy involved with the recent open season and thought they needed some legislation to deal with that.

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LYNN CRYSTAL, representing himself, Valdez, Alaska, opposed HB 4. He said he was a retired grandfather who was very concerned about the future of his grandkids. Alaska's population is simply too small to economically support a bullet line. Every major player in Alaskan business - oil, fishing, tourism, mining, timber and air freight through Anchorage - rely on customers outside of Alaska to make a go of it. If they were honestly looking at the cost of this line, how would this \$10 billion project be paid for without a huge state subsidy? "HB 4 only delays the bright future we have with a large line," he concluded.

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SHERI PEIRCE, representing herself, Valdez, Alaska, opposed HB 4 for many of the already stated reasons. However, her main concern was Article 4(AS 42.08.400) on public records, which states that the commission may by regulation classify records received from an instate natural gas pipeline carrier for an instate natural gas pipeline as privileged records that are not open to the public for inspection; subsection (c) defines a precedent agreement and states further that:

A person may make written objection to public disclosure of information contained in a record filed under this chapter or information obtained by the commission or by the attorney general stating the grounds for objection.

In her opinion, this language restricts the transparency of this project from the public and could serve to protect a legislator, commissioner or a member of the RCA from disclosing a personal

financial interest in this project. A project of this magnitude should have as much public transparency as possible.

7:04:57 PM

DEAN DAY, representing himself, City of Valdez, Alaska, opposed HB 4. He grew up in Fairbanks and as a child remembers that there were no jobs there. Building an ASAP will give some of the people in Alaska cheap energy, but it does nothing to address anything else for the state of Alaska, which is much more critical.

7:06:16 PM

BILL BLIZZARD, representing himself, Fairbanks, Alaska, said he is a self-employed land surveyor in Fairbanks. He worked six years on the TAPS line. In 1981-82 the state spent \$750 million surveying the whole route from Prudhoe Bay to Canada and was planning on building a 54 inch gasline. They core drilled every thousand feet and put in compressor stations. All of that has been done for 550 miles to Delta. The only logical thing would be to build the one line along that one route, period. The existing pipeline has a work pad beside it; it has large overbends for animals, trucks, and equipment to get under it. The only logical thing to do would be to go from Anchorage to Glennallen with a 36 inch line and beef it up to 48 inches if it needs to go to Fairbanks.

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JEREMY O'NEIL, representing himself, Valdez, Alaska, opposed HB 4. He said he is a third generation Alaskan and one of the toughest lessons he has to teach his children is about making short-sighted decisions that ultimately result in disappointment rather than delaying gratification for something that you really want. HB 4 is a short-sighted diversion: thinking that an \$8 billion line shouldered by some citizens of the state will influence the cost of energy or enhance revenues to the state needs to be recalculated using some simple arithmetic. The natural resources of the state should be used for everyone's benefit and if the goal ultimately is to build the large volume pipeline, we shouldn't be making choices that jeopardize that.

7:11:51 PM

CHAIR GIESSEL thanked everyone for their comments and closed public testimony. She adjourned the Senate Resources Committee meeting at 7:12 p.m.