

Alaska Economic Report

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Special resources brief: North Slope infrastructure

State loses in North Slope road access lawsuit

A state judge said Friday he will rule against the state Department of Law and for ConocoPhillips, a North Slope oil producer, in a complex and important law case involving access to North Slope oil field roads. The state has indicated that it will appeal the decision to the Alaska Supreme Court. No matter how the state high court rules precedent will be set that will affect not only the petroleum industry but mining and other industries where private roads cross public lands for access to properties.

Here's the issue, in a nutshell

Oil Search (now Santos Ltd.) needed to use oilfield roads built by ConocoPhillips through the Kuparuk River oilfields to reach state leases where Oil Search planned the new Pikka oil field. Typically oil companies allow other firms to use their roads during exploration and pre-development when traffic is light. During construction, when traffic is heavier, arrangements are made to share maintenance and repair costs. What's unusual in this case is that ConocoPhillips and Oil Search were unable to come to agreement for use of the Kuparuk roads during the Pikka construction phase that began a couple years ago and is ongoing. Proposals for cost-sharing were exchanged but the parties could not agree on terms.

Pikka financing brought things to a head

Things came a head when Oil Search was in negotiations with lenders to fund Pikka's multi-billion dollar startup cost for phase one (this was prior to the Oil Search acquisition by Santos). There was still no longer-term agreement for using the roads, and at that point a letter from ConocoPhillips warned it might terminate access to its roads. That spooked Oil Search, which was in the middle of its financing.

– *Continued on page 2*

Some needed good news in seafood: A good Bristol Bay harvest

The seafood industry needs a little good news. Here is some: State biologists expect a healthy Bristol Bay sockeye salmon run in 2025. The run itself is projected at 51.2 million fish, 38% higher than the long-term average of 37.1 million, although it would be 16% lower than the 10-year average. The 2025 harvest is estimated at 36.3 million fish in Bristol Bay.

Inside: Anchorage's sales tax proposal, P. 3; Cook Inlet natural gas solutions, P. 4

Infrastructure:

DNR in a tough spot, with obligation to provide access

– *Continued from top, page 1*

Oil Search went to the Department of Natural Resources to ask for access to the roads through a state land-use Permit. This would be an unprecedented use of this procedure, normally used for small-scale surface land access on state lands. It would essentially become an easement along, or on top, of a private road to allow use by a third party, Oil Search. There was still no agreement on cost-sharing and ConocoPhillips complained that Oil Search (by now Santos) was using the roads for free, with ConocoPhillips picking up \$10 million to \$12 million in annual maintenance costs. Oil Search, however, complained that ConocoPhillips had also asked for a road “access fee” in addition to cost-reimbursement. An access fee is unprecedented on the slope, it said.

DNR in tough spot, with obligation to provide access

The DNR was in a difficult position because state oil and gas leases guarantee the companies’ access to leases across adjacent state lands for exploration and development. It’s unclear whether ConocoPhillips would have carried through on its threat to cut road access, but from the state’s point of view a private road owner denying access to a road for access to nearby state leases was untenable. On the other hand the private road owner has its rights, including not being stuck with maintenance. Oil Search/Santos could have built its own road but having two roads side-by-side seems illogical, if for no other reason than the added environmental impact.

At the time Pikka was in the middle of being financed. Oil Search pressed DNR to issue the road-use permit. Not wanting to jeopardize Pikka’s financing and schedule, DNR agreed, reluctantly we’re told, to issue the permit. ConocoPhillips sued, arguing this amounted to a form of taking of private property rights. State Superior Court judge Andrew Guidi said on Friday he will agree with ConocoPhillips in his final decision.

The case is lose-lose for Alaska no matter how Supreme Court rules

No matter how the Superior court rules on this it would set an unfortunate precedent. The same is true for a Supreme Court decision. If the superior court decision against the state and for ConocoPhillips is upheld in the Supreme Court, it could set a precedent for private land owners to block access to state resources. Absent some solution there might also be a liability for the state if it is unable to guarantee access, as provided for in the state oil and gas lease. If the court sides with the state and against ConocoPhillips it would also signal to new oil investors that their infrastructure, in this case roads, will be open to “free-riders” or those using them free of charge. Either message to investors is bad news. The state always pursue a condemnation procedure but that gets messy and winds up with the state owning the infrastructure.

This case should be settled among the parties before a Supreme Court decision comes. Once the state high court renders a decision it is set, absent some intervention by the state Legislature.

Anchorage's sales tax and new projects

Anchorage's proposal for a 3% sales tax linked to community improvements and property tax relief is hitting some headwinds. A study by a University of Alaska economist showed that, as drafted, the majority of the property tax relief would go to businesses but the majority of the sales tax burden would go to lower income households. Those outcomes are expected because businesses pay a high proportion of Anchorage property tax and a sales tax is by its nature a regressive tax that burdens lower incomes more than higher income taxpayers. Anchorage nonprofits, such as the Childrens' Trust, are already opposing the plan, but changes are now proposed to alleviate some adverse effects such as a "carve out" for people in lower incomes. There are also certain living necessities including fuel and child care, exempt from the tax. However, as more exemptions and carve-outs are added the revenue is lowered. The local assembly as well as Anchorage voters must approve the new tax in municipal elections set for next spring. Estimates are that the tax would generate \$180 million a year with \$50 million of that going to support new community projects.

On the community projects, Anchorage Economic Development Corp., which is the lead proponent of the plan, has solicited ideas for community projects for recreation and cultural improvements. Voters would also approve a list of projects. So far, those include recreation trail improvements in Anchorage, a downtown arts and entertainment redevelopment, new sports complexes, and spaces for downtown indoor vendor markets. The goal is to make living in Anchorage attractive. City leaders are seriously concerned about the continued exodus of younger, working-age families, a problem also being experienced by other communities in the state. *These are good ideas but some say the proposal doesn't address community problems like homelessness and unsafe conditions along Anchorage's existing trail network or the underfunding of local schools which itself appear to be a big driver in the outmigration of families.*

State transportation agency has \$1 million study underway of Knik Arm tunnel

Alaska's Department of Transportation and Public Facilities said it has a \$1 million feasibility study underway of a possible highway tunnel under Knik Arm that could be an alternative to a bridge that has been proposed for years. A tunnel could avoid some of the problems presented by the bridge including impacts on threatened sea mammals in Cook Inlet, the effects of high tidal currents on bridge structures, and some of the effects on neighborhoods in Anchorage. Transportation planners have long argued that an alternative to the existing Parks Highway is needed for commuter traffic from the Matanuska-Susitna Borough to Anchorage.

New access from Anchorage to undeveloped land in the Mat-Su borough would open up more space for housing that would be in easier driving range than the existing commuter corridor on the Parks and Glenn Highways which can be congested.

Energy

There are solutions for the energy problems soon to face Southcentral Alaska

In our last issue we reported the regional utilities' estimates of rate increases needed to pay for imported liquefied natural gas, or LNG. For Enstar Natural Gas that is 30% starting when its gas supply contract with Hilcorp Energy ends in 2033. For Matanuska Electric Association it is 20% to 30% when its Hilcorp contract ends in 2028. For Chugach Electric it is 10%.

Renewable energy can mitigate some of the gas supply problems for the electric utilities

Chugach and MEA are considering new wind and solar in the Mat-Su region, but there is no timeline known for decisions. Homer Electric now has a sizable solar project pending before the Regulatory Commission of Alaska. Golden Valley Electric, in the Interior, is considering a large wind project, which would allow GVEA to reduce its purchases of power from Southcentral Alaska. There's no timeline on this, either. There are no apparent alternatives than natural gas for Enstar, however, for building and home heating in Southcentral. In the longer term heat pumps are now seen as viable in Southcentral, the utility CEOs told the state House Resources Committee last week. These are now in used in Southeast Alaska, and they are now seen as workable in Southcentral's colder temperatures. There is an installation expense related to heat pumps, however, and it is more likely they will be used more in larger commercial or institutional buildings than home residential units at least in the near-term.

State intervention and participation will be needed

As for new natural gas, legislators' conclusions at last week's hearing were that state interventions and participation will be needed. The regional natural gas market is too small and fragmented for the private sector to solve the problem. Modification of state royalty on new gas development was discussed, as it was extensively in the last legislative session, along with state help in financing development most likely through the Alaska Industrial Development and Export Authority. The problem of uncertain demand increments among relatively small utilities (contract openings coming along only so often) was also seen as a major impediment. The solution to this could be establishment of a purchasing cooperative by either the utilities or, more likely, the state, to contract for bulk purchases from producers with the gas being held in underground storage in depleted or underused gas reservoirs. This is now done on a smaller scale to adjust for seasonality in gas demand. A larger plan like this would provide certainty in demand for gas producers and developers, facilitating the investment needed. This will take new state legislation to set the proper statutory framework, and should be a priority for the new Legislature. *Meanwhile, the Alaska Gas Development Authority's proposal for a North Slope gas pipeline built as "phase one" of the larger Alaska LNG Project should be considered. While costly, this would totally meet natural gas needs in Interior and Southcentral, and for the foreseeable future.*