

HB

118

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House Transportation:

2/25/87

2/27/87

3/13/87

Alaska State Legislature



House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

February 25, 1987

FOR TODAY'S MEETING YOU HAVE:

A FOLDER ON HB 118 THAT INCLUDES:

- * a copy of HB 118
- * a memorandum from Rep. Shultz
- * a fiscal note from the Dept. of Natural Resources
- * a position paper from the Dept. of Natural Resources
- * a current status report on HB 118

Alaska State Legislature

House of Representatives

Committee on Transportation



Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

February 27, 1987

FOR TODAY'S MEETING YOU HAVE:

A FILE ON HB 74 THAT INCLUDES:

- * the committee substitute for HB 74
- * a copy of HB 74
- * a current status report on HB 74
- * the committee minutes from February 16th
- * a summary of HB 74 from Rep. Sund
- * a fiscal note from the Dept. of Public Safety
- * a position paper from the Dept. of Public Safety
- * a House Committee Report from State Affairs
- * an excerpt from the state statutes

A FILE ON HB 94 THAT INCLUDES:

- * a copy of HB 94
- * a current status report on HB 94
- * the committee minutes from February 11th
- * a bill analysis from the Dept of Health & Social Services
- * fatality statistics from the Coast Guard
- * a report on HB 94 from the Coast Guard
- * support information from House Research and the U. S. Coast Guard

A FILE ON HB 118 THAT INCLUDES:

- * a copy of HB 118
- * a current status report on 118
- * a memorandum from Rep. Shultz
- * a fiscal note from the Dept. of Natural Resources
- * a position paper from the Dept. of Natural Resources

Alaska State Legislature



House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

March 13, 1987

FOR TODAY'S MEETING YOU HAVE:

A BINDER ON HB 118 THAT INCLUDES:

- * a copy of HB 118
- * an overview of HB 118 from Rep. Shultz
- * a fiscal note and position paper from the Dept. of Natural Resources
- * the minutes from the two previous House Transportation Committee public hearings on HB 118
- * an excerpt from the state statutes

Representative Dick Shultz

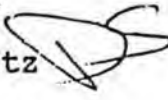
Alaska State House of Representatives
P.O. Box V • Juneau, Alaska 99811 • (907) 465-4940
Home: P.O. Box 487 • Tok, Alaska 99780



Member
House Resources Committee

M E M O R A N D U M

TO: Members of the House
Transportation Committee

FROM: Representative Dick Shultz 

DATE: February 24, 1987

RE: HB 118 "Decisions on ROW Lease Applications"

Presently under AS 38.35.100(B), the Commissioner of DNR must make the determination that the applicant is "fit, willing and able to perform the transportation" prior to issuing a right-of-way lease.

Past interpretation of this standard has meant that any applicant must have the financial capability to go forth with the project which would utilize the right-of-way.

In today's world a right-of-way permit has a value all its own when negotiating financing. To make financing a condition of the ROW lease application hampers a project's chances of becoming a financial reality.

This bill amends the Right-of-Way Lease Act so that the Commissioner can condition a grant of right-of-way so that the applicant can receive the right-of-way but must demonstrate that it is "fit, willing and able" prior to being allowed to start construction on that right-of-way.

The current standard of "fit, willing and able" is not circumvented but the finding is postponed to a later phase in the process.

I believe it is important in these times to allow modifications in our statutes that assist industry in the real world, without lifting our standards.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____
 Revision Date: February 23, 1987
 Title: ROW Lease Applications
 Sponsor: Representative Shultz
 Requestor: House Transportation

Bill Version: HB 118
 Publish Date: _____
 Agency Affected: Natural Resources
 BRU: Land & Water Management
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		- 0 -	- 0 -	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Carol Wilson Phone: 465-2400
 Division: Commissioner's Office Date: 2/23/87

Approved by Commissioner: *Judith M. Burdy* Date: _____
 Agency: Natural Resources

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

February 24, 1987

The Honorable Bette Cato
Chair
House Transportation Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99801

Dear Representative Cato:

Subject: House Bill 118, relating to decisions on right-of-way lease applications.

Position: The Department of Natural Resources supports the amendment to the oil and gas pipeline right-of-way leasing statute (AS 38.35.100(b)) described in this bill.

Background: House Bill 118 would allow the commissioner to issue a conditional pipeline right-of-way lease even if the applicant is not presently "fit, willing and able."

The existing "fit, willing and able" standard requires the applicant to be nearly ready to begin construction before a right-of-way lease can be issued. In other words, financing has to be reasonably assured, gas sale contracts and markets in place, and construction designs substantially completed.

The commissioner currently has only one alternative to finding an applicant "fit, willing and able," and that is to deny the application. This bill would provide the commissioner with an additional alternative; the ability to issue a conditional right-of-way lease, subject to conditions that ensure the applicant will become "fit, willing and able."

This bill would have a positive effect on the economic development of pipeline projects in Alaska and would not reduce the "fit, willing and able" standards an applicant would be required to meet prior to actual construction of a pipeline.

The Honorable Bette Cato

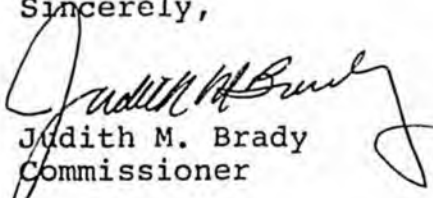
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February 24, 1987

Recommendation: To ensure that the applicant is required to become "fit, willing and able" within a reasonable period of time, add the words "within a prescribed amount of time" to line 15, after the word "able."

Please let me know if you would like additional information.

Sincerely,



Judith M. Brady
Commissioner

cc: Committee Members
Sponsor
Governor's Legislative Liaison

HOUSE TRANSPORTATION COMMITTEE

HB 118

March 13, 1987

Madam Chairman:

My name is Harold Moles, Vice President of Northwest Alaskan Pipeline with offices in Fairbanks, Alaska. Northwest Alaskan Pipeline has reimbursed the State of Alaska over five million dollars on permit activities related to a state ROW lease, and believes AS 38.35.100, as currently written, is a workable statute with definitive criteria for issuing a State ROW lease.

Before amending this statute as proposed in HB 118, leaving the issuance of a ROW lease "subject to conditions established by the Commissioner", the state may want to ask more important questions, such as:

- 1) Does the applicant have the financial and technical capability to construct the project in a responsible manner to protect public lands and the environment along with the residents of Alaska-
- 2) Does the applicant have gas purchases agreements or is gas ^{or} supply even available for the project?
- 3) Is an export license in place?
- 4) Or is the project even economically feasible?

Madam Chairman, thank you for the opportunity today to provide this testimony for the record.

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JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PIPELINE SURVEILLANCE

NWA-82-062

1001 NOBLE STREET, SUITE 450
FAIRBANKS, ALASKA 99701
PHONE: (907) 456-4835

June 21, 1982

Edwin A. Kuhn, Director
Government & Environmental Affairs
Northwest Alaskan Pipeline Company
One Lafayette Centre
1120 20th Street, N. W., Suite S-700
Washington, D. C. 20036

Re: Further Processing of the Right-of-Way Lease(s) Referenced in the Behlke
to Kuhn Letter of June 18, 1982 (NWA-82-038)

Dear Mr. Kuhn:

The following project developments:

- 1) NWA's decision to request a separate right-of-way lease for the conditioning plant;
- 2) Multi-year delay in the project schedule; and
- 3) Cancellation of the reimbursement agreement with the State for pre-right-of-way lease work;

have resulted in substantial changes in the status of the Northwest Alaskan Pipeline Company (NWA) Right-of-Way lease application and of its future processing by the State.

The Department of the Interior (DOI) Right-of-Way Grant as issued to Northwest Alaskan Pipeline Company on December 1, 1980, contained a set of Stipulations that had been developed with significant input from representatives of the State of Alaska. The overall objective, as you are aware, was to have a State Right-of-Way Lease with stipulations similar to the DOI Right-of-Way Grant, an objective the State still maintains. Therefore, in the past several years the majority of NWA project-related documents which received a coordinated State agency review have actually been fulfilling requirements of the DOI Right-of-Way Grant as well as the pending State Lease. For example, when NWA filed its pipeline right-of-way lease with the State, it deferred submission of several items pending ongoing work with State and Federal agencies in the preparation of key "1.6.1 Plans" which it indicated would serve two

purposes; 1) be elements of the right-of-way lease application, and, 2) satisfy subsequent lease stipulations. With an adequate level of State agency review, this was an acceptable process. Indeed completed 1.6.1 Plans would, in general, go farther than required for right-of-way lease applications. However, these plans have not been completed, and, by virtue of NWA's cancellation of its pre-lease, reimbursable services agreement with the State, State participation in further reviews of post-lease related items (i.e., 1.6.1 Plans) is not possible. Those key 1.6.1 Plans which were to have been prepared in conjunction with State and Federal agencies and which were to satisfy both the requirements of the lease application and subsequent lease stipulations include the following 1.6 Plans referenced in the application.

- Blasting
- Camps Plan
- Clearing Plan
- Environmental Briefings Plan
- Fire Control Plan
- Pesticides, Herbicides and Chemicals
- Quality Assurance/Quality Control
- Human-Carnivore Interaction Plan
- Restoration Plan
- Visual Resources Plan
- River Training Structures
- Stream, River and Floodplain Crossings
- Wetland Construction
- Erosion and Sedimentation Control
- Oil and Hazardous Substances Control, Cleanup and Disposal

Additional deficiencies in NWA's Right-of-Way Application are identified, as listed below:

- 1) Schedule - the schedule, as filed, is obviously incorrect in light of recent announcements. NWA should at such time as it is prepared to do so, provide realistic estimates of initiation and completion dates to which it intends to adhere;
- 2) It is not possible to determine from the present application NWA's technical capability to:
 - a) -protect property interests;
 - b) prevent adverse environmental impact;
 - c) undertake necessary restoration and revegetation;
 - d) properly develop material sites or disposal sites; and
 - e) protect the interests of subsistence resource users along the pipeline right-of-way and in the vicinity of related activities.

- 3) The present application does not demonstrate the applicant's financial capability to fulfill the requirements of A.S. 38.35.100. Extensive rhetoric, submitted in support of NWA's financial capability to perform the proposed transportation, related only to government approvals (President's Decision, Federal Right-of-Way Grant, etc.) which do not prove the sponsor's financial capability to perform the proposed transportation of natural gas. Though the items enumerated by NWA, in support of its application, (plus the later waiver package approval) are some of the conditions necessary for the obtaining of financing, events of the past year certainly prove that they do not provide financing. When the NWA financial plan is ready for submission to the FERC, it also should be submitted to the State as part of an extensively amended application for a State Right-of-Way Lease, so that the Commissioner may reasonably determine if NWA is actually financially capable to perform the transportation proposed;
- 4) No agreement has been obtained with Alaska Department of Transportation and Public Facilities (ADOT/PF) covering highway usage, damage, and encroachments (Yukon River Bridge, Atigun Pass, Ice Cut Hill, proximity, thermal workpads, etc.); and
- 5) As indicated before, a conditioning plant lease application should be filed separately.
- 6) AS 38.35.050 also requires that all persons planning to own an interest in a pipeline must join in the application. The application must be amended to reflect changes in interest in ownership.

It appeared last year when NWA filed its lease application that NWA's financial capability would now be established, and, through work and negotiation with the State, NWA would be able, by now, to satisfy the lease application requirements of A.S. 38.35. Unfortunately, those developments, optimistically anticipated by NWA and this office a year ago, have not happened. At this point, the lease application does not meet the requirements of A.S. 38.35.050 to the extent that the analysis required under A.S. 38.35.080 could be properly accomplished and the Commissioner could make the decision required under A.S. 38.35.100.

When the proper amendments have been provided and when the separate conditioning plant lease application has been received by this office, the pipeline lease application and the conditioning plant application processing will again be resumed through the normal State pipeline leasing process. The recently announced delays provide more than adequate time for NWA to provide the State with the amendments for further processing of the lease(s) as well as providing more than adequate time for the State to process the lease prior to the time it will actually be needed. This is, of course, only true if NWA does not allow the preparation of the application amendment and the plant lease application to drag on.

June 21, 1982

Sincerely,



Charles E. Behlke
State Pipeline Coordinator
Office of the Pipeline Coordinator

CEB/de

cc: John Katz, Commissioner, Department of Natural Resources, Juneau
Wilson Condon, Attorney General, Department of Law, Juneau
John Rhett, Federal Inspector, Office of the Federal Inspector,
Washington, D. C.
Robert Loeffler, Counselor, Morrison and Foerster, Washington, D. C.

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PIPELINE SURVEILLANCE

NWA-82-038

1001 NOBLE STREET, SUITE 450
FAIRBANKS, ALASKA 99701
PHONE: (907) 456-4335

June 18, 1982

Edwin A. Kuhn, Director
Government & Environmental Affairs
Northwest Alaskan Pipeline Company
One Lafayette Centre
1120 10th Street, N.W., Suite S-700
Washington, D. C. 20036

Re: Major Issues

Dear Mr. Kuhn:

Reference is made to the Northwest Alaskan Pipeline Company (NWA) letters dated November 5, 1981, (GOA-81-1133), January 3, 1982, (GOA-82-1004), February 16, 1982, (GOA-82-1021), and March 29, 1982, (GOA-82-1024) regarding NWA's application for a right-of-way lease for the gas pipeline and the Alaska Gas Conditioning Facility. In these communications, specifically the February 16, 1982, letter, NWA responded to some of the major issues identified by the State in previous letters.

The purpose of this letter is to address and explain, in further detail, the State's position with respect to the pending NWA application for a lease. I will attempt to respond to each point covered in your recent letters, and I also will identify other outstanding concerns which continue to be important but which NWA has not addressed.

State-Selected and Tentatively Approved Lands

Your assessment of my previous verbal statements regarding Tentatively Approved (TA'd) lands is correct, except that I have never thought the State's control of TA'd lands could be in question and have considered any such question to be frivolous.

At the time land becomes TA'd, the Federal government has no further alternative but to patent the land to the State upon survey. Thus, only the State issues the Right-of-Way (ROW) lease on TA'd land. The only exception to this is that TA'd lands which were withdrawn and properly

selected pursuant to Alaska Native Claims Settlement Act (ANCSA), but not yet conveyed, may be leased with the concurrence of the State, the Native corporation(s), and the Federal government.

The topic of selected lands has not, to the best of my memory, been raised before. Pursuant to Federal regulation, land is segregated at the time it is selected by the State. Prior to Alaska National Interest Lands Conservation Act (ANILCA) no procedure was spelled out in the law for conveyance of any interest in selected lands to a third party. Arguably, prior to ANILCA selected lands could not be conveyed to a third party at all, until becoming TA'd, whereupon the State could convey. However, the standard procedure, which was acceptable to the State, was that, following the State's concurrence, the Federal government could convey interests in selected land to third parties. You will note that this procedure was followed on the IAPS project. However, at no time has the Federal government notified the State that it wished to issue a ROW grant to NWA on selected lands; thus, it did not seek the State's concurrence prior to the issuance of the Federal ROW grant as is required, and which was required even prior to ANILCA, for the conveyance to a third party of interests in selected lands.

Since State concurrence to convey rights to selected land was neither sought nor obtained by Department of Interior (DOI) for the NWA ROW grant, the Federal government did not convey a ROW grant across selected lands, because it lacked the authority, without prior State concurrence, to do so. (Again, where State-selected land was opened for Native selection pursuant to ANCSA and selected by a Native corporation, all parties must concur in any grant or lease to third parties.)

At some point, should the project become an imminent reality, NWA would appear to be well advised to seek a Right-of-Way Grant from the Federal government to cover those lands which (1) were validly State-selected on December 1, 1980, and (2) still remain in that category. (Clearly those lands which were State-selected on December 1, 1980, and which have become TA'd or patented since will be covered by the State Right-of-Way Lease.) Such a grant would have to receive the formal concurrence of the State, prior to its issuance. The State's concurrence would probably be conditioned on the Federal lease's lapsing at the time of TA with the State lease becoming effective simultaneously. The State lease must contain a provision for the inclusion of lands which "hereafter" become TA'd, patented, or otherwise acquired. If a Federal Grant covering selected lands is ultimately obtained by NWA, the TA would, of course, be subject to the Federal grant conditions to the extent that the State recognizes prior authorized activities conducted pursuant to that grant prior to TA.

Any actions by Northwest on TA'd lands which do not comply with the above-outlined procedure could place NWA in a trespass posture and would be dealt with accordingly by the State.

Socioeconomic Matters

I was pleased to receive NWA's proposed socioeconomic planning activities attached to your letter of February 16, 1982. However, as indicated by NWA in the initial, and only, negotiating meeting of July 12, 1981, and corroborated by my letter to Kuhn of August 13, 1981, I have been awaiting NWA's written response to the draft Socioeconomic Stipulations given to NWA on March 18, 1981. Thus far, there has been no response by NWA, except for the NWA socioeconomic planning document of February 16, 1982.

It appears that your proposed socioeconomic planning activities of February 16, 1982, constitute a further elaboration of your letter of December 8, 1980, (COA-80-1139), in which you outlined similar plans. As you noted in your December 8, 1980, letter, "the impact plans are presumably a part of the Stipulations, and a complete assessment requires us to review them in their larger context" (emphases added).

While it appears that you have reassessed the plans outlined in your December 8, 1980, letter in light of the initial draft Socioeconomic Stipulations transmitted to your office on March 18, 1981, we are unable to comment upon their adequacy in the absence of knowing how the proposed planning fits into the larger context of the proposed Stipulations which, as you correctly observed, needs to be done.

The State views NWA's obligation to minimize the cost impact to the potential rate-payers as being parallel to, and not in conflict with, sound social impact management. Minimal disruption of services and infrastructure both inside and outside the corridor upon which the project depends for support can only enhance the smooth progress of project construction. NWA estimates (Center Point Justification, Vol. V, July 1, 1980, page 4-12) that each break in project cadence will cost two million dollars, and, given the close and complex interrelationship between project activities and State and local support systems, the possible points of inadvertent conflict and disruption are many. NWA recognizes this, as you point out in your December 8, 1980, letter.

We believe that planning in these areas is important both to the success of the project and for the avoidance of unnecessary disturbance to Alaskan communities. However, the plans which you have set forth fall far short of the extent of those promised by the April 1978, agreement signed by Mr. McMillian and Governor Hammond. Clearly, NWA still has a great deal of work to do.

NWA has expressed cost concerns for its potential rate-payers; however, the State sees little virtue in the concept of its communities and some of its citizens suffering severe, adverse, unmitigated socioeconomic impacts in order to reduce costs to the rate-payers. NWA has equally as important an obligation to mitigate adverse impacts on Alaska as it does

to attempt to mitigate the cost impact to the potential rate-payers. We see no possible reason for the Alaskan communities and adversely impacted citizens to become, essentially, paying partners in the project while not receiving the benefits which the other equity partners and the rate-payers would receive.

Similarity of Federal and State Right-of-Way Grant/Lease

The State has been working to have the technical and environmental segments of the State Right-of-Way Lease be as consistent with the Federal Right-of-Way Grant as is prudent at the time of offering of the lease. Though I anticipate the similarities to be very considerable, differences are deemed necessary to reflect:

- A) NWA's response, to date, to the Federal stipulations;
- B) Movement of the NWA pipeline ROW location, after development of the Federal stipulations, to close proximity to State highways at locations extending over approximately 270 miles of the right-of-way;
- C) Socioeconomic implications (including plans identified in my letter of March 18, 1981) to citizens of Alaska not addressed by the Federal Right-of-Way Grant;
- D) Additional State concerns for the health, safety, and welfare of State citizens;
- E) Additional Stipulation 1.6.1 Plans to cover the Haul Road and the possible choice by contractors to use snow/ice workpads and roads;
- F) The State Lease Stipulations will not contain a preamble; and
- G) The State Lease will contain additional language dealing with Stop Orders and other matters which, in the Federal Grant, are covered by regulations incorporated by reference.

You have expressed concerns regarding the potential inclusion of a field authorization procedure in the State Right-of-Way lease. It is the State's position that field authorizations to proceed are necessary since Notices to Proceed (NTP's) will be issued, generally, many months prior to the beginning of work and prior to contractors' bidding on the work covered by the NTP. It is not the purpose of the proposed field authorizations to change the stipulations of a Right-of-Way Lease. The principal purpose of the field authorization is to provide a check on field conditions, field staking (where necessary), and compliance of the contractor's work plan, submitted immediately prior to the initiation of work, with the lease stipulations. I certainly agree that the contractor must not be exposed to the possibility of having conditions of the

lease, principally the stipulations, subject to unilateral change by the State during the course of the bidding and contract award processes or during the mobilization and construction processes.

It is also important for a high level of government authority to be located in the field to expedite field changes proposed by the contractors through the project sponsors. The field authorization also will allow this to be achieved, and it should be a positive improvement of the State Right-of-Way Lease over the Federal Right-of-Way Grant.

You have mentioned that the field authorization concept may affect "fixed-price contracting." I think your concerns have been addressed above; however, the State is concerned about possible interpretations of what "fixed-price contracting" actually is. Does NWA mean that it will contract on the basis of a fixed-cost for a completed spread of pipeline or a completed foot of pipeline, or does it mean, on the other hand, that NWA will contract, for example, on a fixed-unit basis per cubic yard of excavation for trench, workpad, haul, etc.? The concept of a fixed-unit price bid for each of the separate components of a completed unit of pipeline is not a fixed-price bid, but is, rather, an open-ended bid. Such unit-cost bidding would not meet the concept of fixed-price bidding required by the President's Decision and would certainly leave the possibilities for cost overruns wide-open. Indeed, it would probably promote cost overruns. The State is curious to know what NWA's precise definition of the term "fixed-price contracting" is.

Highway Matters

You have expressed concern about the State's position that all highway-related matters must be brought to agreement simultaneously.

On January 26, 1981, (NWA-81-70), the SPCO informed NWA of the key issues which require negotiation between NWA and the Alaska Department of Transportation and Public Facilities (ADOT/PF). Included with that letter was an identification of 13 points requiring resolution in addition to Highway Indemnification. It is the intent of this office to include as a binding part of the lease an agreement between ADOT/PF and NWA which addresses the following:

- Highway Indemnification;
- Alignment;
- Construction scheduling (minimize conflicts between NWA and ADOT/PF highway improvement programs);
- Yukon River Bridge (risk analysis);
- Ice Cut Hill;
- Five-Mile Airport;
- Governor's Haul Road Policy;
- Pipe Haul, corresponding permits, methods, and scheduling;
- Regulatory enforcement (weights, measures, public safety);
- Security within the camps and along the Haul Road;

- The use of various State airports and the need for improvement of existing facilities;
- Atigun Pass; and
- Availability of Mineral Materials.

Thus far, NWA has been quite anxious to reach agreements with the State on these critical areas in which NWA desires to obtain special concessions from the State to allow the pipeline to be constructed within the Dalton Highway and, in some cases, beneath the road surface, while exposing the State and the driving public to the attendant risks, hazards, and traffic delays on this most important of the State's industrial highways, not to mention additional risks to the Yukon River Bridge's integrity and to the transportation (and production) of crude oil from the North Slope. For more than two years, the State has repeatedly, (by letter and verbally), indicated that NWA must develop, for the State's review and approval, thermal analyses and appropriate mitigation designs for thaw settlement for the approximately 270 miles of workpad, which would severely impact the short-and long-term stability of the highway, immediately adjacent to the Prudhoe Bay highway. To date, though NWA has developed preliminary proposed designs and construction plans for the Yukon River Bridge, Ice Cut Hill, and Atigun Pass, no such long-term thermal design or thaw settlement mitigation designs have been presented by NWA to the State for review.

NWA's construction plans call for considerable highway-hauling of pipe and gravel in an overload or over-dimension mode. Such loads are hazardous to the driving public and generally destructive to the highways involved. NWA has stated that it wants to be treated in a "non-discriminatory" fashion with regard to highway usage. It interprets the term "non-discriminatory" to allow NWA to inflict highway damages which the State has estimated to potentially be approximately \$170 M (1980 \$'s). Thus, on the one hand, NWA wishes the State to "sign off" now on the very considerable concessions which NWA desires from the State that will clearly discriminate against the traffic rights of other users of the highway and will certainly create massive additional road maintenance problems; while, on the other hand, NWA wishes to delay, until some undesignated future time, resolution of the important matters of thermal design of 270 miles of work pad and of the highway damages which NWA's work plans clearly indicate will occur to the State's highways. In addition, NWA's risk analysis supporting its desire to locate its pipe on the Yukon River Bridge has ignored the potential losses of revenue to the State and the North Slope oil producers which a possible disastrous gas pipeline-generated accident could cause. That risk analysis has also ignored construction activities risks. Thus, the risk analysis, by virtue of its incompleteness, really does not answer the question, "What is the risk to the State and others of the construction and operation of the NWA pipe on the Yukon River Bridge?"

The State declines to accept hundreds of million of dollars of NWA highway and other damages while simultaneously giving NWA hundreds of millions of dollars of concessions for which the State and travelling public would incur indirect expenditures. It also declines to needlessly endanger the continued, timely production of crude oil from Prudhoe Bay. Thus, the State insists that all highway related matters must be resolved simultaneously in a single agreement. The State Department of Transportation and Public Facilities is prepared, as it has been for the past two years, to discuss any or all highway matters with NWA which would lead to a complete, acceptable agreement.

Separate Lease for Pipeline and Conditioning Plant

The State accepts the concept of separate ROW leases for the gas conditioning plant and the pipeline across State lands, when highway related and socioeconomic matters are satisfactorily resolved for inclusion or reference in the two ROW leases and when NWA has satisfied certain other conditions (discussed later).

On April 17, 1981, Commissioner LaRasche waived the requirements for the filing of a separate Form DL10-130 (pursuant to 11 AAC 80.005) for the Conditioning Plant because the Plant was to be included as an addendum to the Pipeline Right-of-Way Lease. Since NWA has recently determined that it desires separate leases for the pipeline and conditioning plant, a Form DL10-130 for the Conditioning Plant lease must be filed.

Certainly, according to the present project schedule, the two leases can be developed and could go to the required public hearings well in advance of initiation of construction unless, of course, NWA continues to ignore the State's important highway and socioeconomic concerns.

Subsistence

Not discussed in your letter of February 16, 1982, is the topic of subsistence, addressed in my letter of May 14, 1981. The impacts of the project on various rural subsistence users (subsistence hunting, fishing, trapping, etc.) may be quite important. In my letter I noted that NWA would have to be prepared to identify and set forth the potential subsistence impacts of the project and commit to appropriate impact mitigation plans. I stated that subsistence use of resources requires the continued presence, during construction, of normally usable resources and the timely accessibility to the resource for the users. NWA studies, to date, address the present existence of some subsistence resources. This and information documenting the present subsistence use of such resources must be related by NWA to the presence and accessibility of the resources to subsistence users during the construction process. If the construction process and scheduling cannot reasonably accommodate normal subsistence resource harvests in the area, proper mitigation

procedures must be set forth by NWA for review and discussion among the people affected so that a suitable set of mitigation procedures, where necessary, may be finalized, approved by the State, and implemented by NWA.

Applicability of AS 38.35 to Temporary Facilities

NWA requested, in the January 8, 1982, and the March 29, 1982, letters, that the State ROW lease (AS 38.35) cover temporary facilities. Whereas I had initially hoped that temporary facilities, including access roads, camps, disposal sites, could be included under AS 38.35, I have now determined that leases issued pursuant to AS 38.35 can cover only the permanent pipeline facilities (for example, if permanent access roads can be identified, NWA should submit a list of these to the State for inclusion under AS 38.35) including the pipeline. All remaining facilities (temporary-use areas, including disposal sites) will be processed under AS 38.05, and the possibility of issuing 38.05 permits for period in excess of one year is being explored. However, I have not requested a formal Attorney General's (AG's) opinion on the applicability of AS 38.35 to temporary facilities. Should NWA wish to pursue this topic further (AG's opinion) please inform Commissioner Katz.

Further Processing of the Right-of-Way Lease

Several deficiencies exist at this time in the NWA Right-of-Way Lease application. The details of the deficiencies are dealt with by a separate letter, however, a summary of the deficiencies are as follows:

- 1) No valid application exists for a separate lease for the conditioning plans (previously discussed, page 7);
- 2) When NWA filed its pipeline Right-of-Way Lease with the State it deferred submission of several items pending then ongoing work with State and Federal agencies in the preparation of key "1.6.1 Plans". These plans have still not been completed, and by virtue of NWA's cancellation of its pre-lease, reimbursable services agreement with the State, State participation in the pre Right-of-Way Lease development of the lease application is no longer possible. Thus, the NWA's statement in several locations of its lease application justifying deferral is no longer valid. Prior to further processing of the Lease, now through normal State operations, these items of the application must be properly completed and submitted for review; and
- 3) In NWA's lease application several very subjective statements are made in support of NWA's financial capability to perform the transportation proposed in its application. It is abundantly clear that though the President's Decision and a Federal Right-of-Way Grant (and later, the "waiver package") are necessary to allow NWA to obtain financial capability to perform the actions outlined in the

Right-of-Way Lease application, they do not provide or guarantee such financial capabilities. Also, a definition of all persons owning or planning to own an interest in the project has not been provided in the application, as is required by statute.

Because of the continuing absence of the items mentioned above, as required by AS 38.35.050 and 11 AAC 80.005, it has not been possible for the State to move to the procedures set forth on AS 38.35.080(a), (b), and (c) which must precede a decision on the application as required by AS 38.35.100.

To summarize: a complete lease application must be filed for the Conditioning Plant, and the lease application for the pipeline Right-of-Way must be amended to properly and completely address the information required by AS 38.35 and 11 AAC 80.005. When the existing lease application have been properly amended, the lease application processing will be carried forth through the normal State processing procedures for such applications. The most recently announced project delays of three years should provide adequate time for processing through the normal channels if NWA provides the necessary information to complete its lease application in a timely manner. However, if NWA continues to ignore important aspects of its Right-of-Way lease application, it will create additional delays which, certainly, the State will have no control over. NWA should be advised that the review of the significant amount of still outstanding information for the lease application will require several months prior to proceeding with the requirements of AS 38.35.080 and AS 38.35.100. Public hearings also require lead time. Thus, processing of a properly amended Right-of-Way Lease application will not be an instantaneous matter. It is thus, extremely important that the numerous remaining deficiencies in the lease application, which I have summarized above and itemize by separate letter, be properly addressed according to a realistic time schedule if NWA is not to create additional, future delays in the issuance of the appropriate leases.

Sincerely,



Charles E. Behlke
State Pipeline Coordinator
Office of the Pipeline Coordinator

CEB/de

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cc: John Katz, Commissioner, Department of Natural Resources, Juneau
Wilson Condon, Attorney General, Department of Law, Juneau
John Rhett, Federal Inspector, Office of the Federal Inspector,
Washington, D. C.
Robert Loeffler, Counselor, Morrison and Foerster, Washington, D. C.

THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

Are the Japanese and South Koreans finally getting ready to buy Alaskan natural gas?

Gas for the lamps of Seoul?

By Lawrence Minard

IF THE JAPANESE, Koreans and Taiwanese are serious about reducing their trade surpluses—\$81 billion, combined, last year—against the U.S., there is a U.S. product to which they could quickly commit: Alaskan natural gas. So much natural gas comes up with the crude oil on the North Slope that the Prudhoe Bay field's owner-operators, Standard Oil and Arco, are reinjecting the gas at the rate of 2.6 billion cubic feet a day (bcf/d).

Over the years, several schemes have been advanced to create a market for the gas. One was the Alaska Natural Gas Transportation System (Angts) proposal, which was approved by the U.S. and Canadian governments in 1977. Under it, a 4,790-mile pipeline would have been built from the North Slope through Canada, piping the gas into mid-western and California markets (see map). Projected cost in 1980: about \$40 billion, which reflected inflation and interest rates at the time.

The Angts proposal remains the only federally approved gas pipeline project. But falling energy prices have postponed the project, perhaps indefinitely: five of the original ten members of the consortium backing Angts have dropped out. Says a leading North Slope oil executive bluntly: "Angts is dead."

What may have more

life in it is a five-year-old competing proposal by Anchorage's Yukon Pacific Corp. to ship liquefied natural gas across the Pacific. Yukon Pacific has substantial backers, including CSX Corp., with a one-third interest, former Alaska Governor Walter J. Hickel and other investors, with another one-third, and Supra Corp., one-third. Supra's owners include former Arco Chairman Robert O. Anderson and shipping magnate Daniel K. Ludwig.

Yukon Pacific's proposed Trans-Alaska Gas System (Tags) would run a pipeline along most of the existing Trans-Alaska oil pipeline's right-of-way 800 miles south to Valdez. There

the gas would be liquefied and shipped to Asia.

In his modest Anchorage offices, Yukon Pacific Chief Executive Howard Griffith says he would like to market all 14 million metric tons of liquefied natural gas a year (the equivalent of around 2 billion cubic feet daily) of North Slope gas available. But Tags, he adds, could be viable on half that volume.

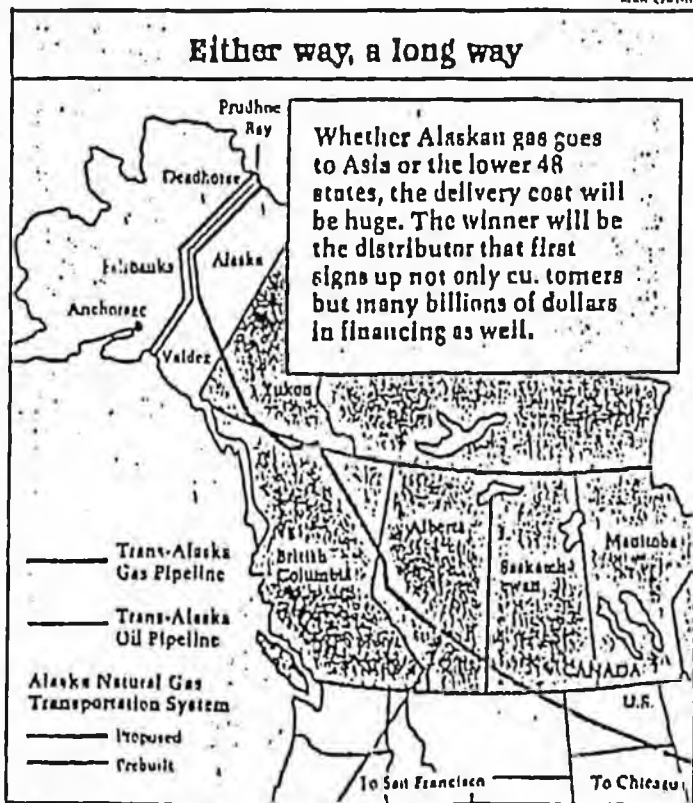
Japan is the most obvious prospect. It currently consumes around 28 million metric tons of gas annually, most of it imported from Indonesia and Brunei. Projecting energy needs is notoriously difficult. But according to the Japan Gas Association's latest forecast, Japanese gas consumption will rise to over 42 million metric tons annually by the year 2000. Yet contracts and commitments have been signed for up to 35 million metric tons. Yukon Pacific wants to supply the additional 7 million or 8 million metric tons.

But so large is Tags' scale, says Yukon Pacific Treasurer Mead Treadwell, that "it's too big for any one country to take on." For Tags to work well, Korea would have to sign on for around 6 million metric tons a year. Or Taiwan would have to.

Why have the Asians so far failed to commit to Alaskan gas? Price, mainly. In 1982 the estimated cost of Tags' pipeline, compressor stations and 15 LNG tankers was \$14 billion (some \$27 billion, factoring in inflation and prevailing interest rates).

That put Alaskan gas at a steep disadvantage against gas from Indonesia and Brunei. Alaskan gas is still at a disadvantage, but somewhat less so. Falling inflation and interest rates, and improved knowledge of arctic and subarctic construction gleaned from the North Slope's 1974-84 building boom, have sharply reduced all North Slope construction cost projections. Says Treadwell: "Once we applied a lot of study to that \$14 billion number, we came up with less than \$10 billion, at least 10% less."

Treadwell expects the U.S.-Japan Energy Working Group, created by President Reagan in 1983 to promote U.S. energy exports to Japan, will conclude this year that Tags is viable. He predicts the



Japanese will sign letters of intent to buy Alaskan gas early next year, with deliveries beginning in 1995 or 1996. Treadwell also notes that the Commerce and State departments have forcefully raised the gas issue in trade talks with the Japanese and Koreans. "Support like that," says Treadwell, "doesn't go unnoticed over there."

If Yukon Pacific can sell gas to the Asians and arrange Tags' financing, it

will still face a fight from its primary competitor, the Alaska Natural Gas Transportation System. Late last month, lawyers for Angas insisted to the Federal Energy Regulatory Commission that Angas has exclusive right to market existing North Slope gas reserves, implying that Yukon Pacific has nothing to sell. On Yukon Pacific's side in this debate is the state of Alaska. It doesn't care who trades

in its gas, so long as someone does.

Standard Oil President Frank Mosler would also like to sell his Prudhoe Bay gas. Mosler doubts that either Angas or Tags will move ahead until oil gets back over \$25 a barrel. But he says: "If someone can make Tags work, we stand ready to make our gas available. We'd feel blessed if something happened to allow us to market our North Slope gas." ■

HOUSE COMMITTEE REPORT

(7)

Date referred: 2/11/87

FURTHER REFERRALS: Resources

DATE: March 13, 1987

The Transportation Committee has considered HB 118

"An Act relating to decisions on right-of-way lease applications."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Mike Miller

Heinrich Spruiell

D. A. Boudin

Bette Cato

SIGNING OTHER RECOMMENDATIONS:

Bill Finken - AD Res

Bette Cato
Chairman's signature



Official Business

COMMITTEE:

House Transportation Committee

DATE: February 27, 1987

SIGN-IN

Subject of meeting:

- HB 74: "An Act relating to motorcycle license plates."
- HB 94: "An Act relating to boat numbering, accidents, and safety; and providing for an effective date."
- HB 118: "An Act relating to decisions on right-of-way lease applications."

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?	
John Manning	Health & Social Services Manager P.O. BOX 11-060 Juneau, 99811	465-3141	EMS / DPH / DHSS	Yes (HB 94)	94*
Elliot Lipson	9001 Long Run Dr. Juneau 99801	989-0989	self	no	
HAROLD MOLES	73KS AK 1001 NOBLE Suite 240 99701	456-876	Pipeline Northwest ALASKAN	HB 118 yes	118 118*
GRETCHEN DEER	Special Assistant to the Commissioner P.O. Box N, Juneau, AK 99811	465-4300	Public Safety	HB 94 yes	94
DM WALSROW	Juneau 612 Willoughby Ave 99801	586-7349	USCG	U HB 94 yes	94*
M.A. CONWAY	P.O. Box 3-5000, Juneau, AK 99802	586-7197	USCG	NO	
G.M. HARTZEN	CCGD 17 (12)	586-7471	USCG	HB 94 IF NEEDED	94
Bill Brown	P.O. Box N	465-4335	DMV	Answers Questions HB 94	94*
Ed Shultz	AK state legislature	465-4940	sponsor of HB 118		

