

**SCOMM**

**129:10**



Official Business

# ALASKA STATE LEGISLATURE

## JOINT COMMITTEE ON NATURAL GAS PIPELINES

**Senator John Torgerson, Chair**  
Senator Rick Halford  
Senator Pete Kelly  
Senator Johnny Ellis

**Representative Joe Green, Vice-Chair**  
Representative Brian Porter  
Representative Scott Ogan  
Representative John Davies

### MEMORANDUM

**To:** Members of the Joint Committee on Natural Gas Pipelines

**From:** Senator John Torgerson, Chair

**Re:** Hogan and Hartson report on Federal Legislative Developments  
Related to Natural Gas Pipelines

**Date:** March 18, 2002

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#### Senate Energy Debate

During the week of March 11, the Senate continued consideration of S. 517, the energy policy legislation. Vehicle fuel economy, energy trading, and electric utility deregulation (including provisions related to the Public Utility Holding Company Act and the Public Utility Regulatory Policies Act) were the primary topics for amendments last week.

Only one amendment related to natural gas was raised. On March 14, the Senate adopted amendment # 3014, which would establish within the Department of Justice an Office of Consumer Affairs to "represent the interests of energy customers on matters concerning rates or service of public utilities and natural gas companies under the jurisdiction" of FERC at: (1) FERC hearings, (2) judicial proceedings, and (3) at hearings or proceedings of other federal regulatory agencies and commissions. The text of amendment #3014 is reprinted below.

On Senate floor Friday, March 15, Senators Murkowski (R-AK) and Bingaman (D-NM) briefly discussed their ongoing efforts in working together to develop further amendments related to the proposed Alaska natural gas

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pipeline. Senator Murkowski said that language is being developed that "sets procedures in place for allocating initial gas capacity of the pipeline and for any subsequent expansions that might be warranted based on new discoveries or additional needs in the Lower 48 markets." Senator Bingaman added that additional amendments are being developed that are intended to lower the financial risk of the proposed pipeline project and to enhance the ability of the proposed Pipeline Coordinator to streamline the federal and state permitting process.

Early this week, the Senate will set aside the energy bill in order to consider the House passed campaign finance reform bill. It is difficult to say exactly how long the Senate will need to spend on the campaign finance bill, but it is likely to be Wednesday or Thursday of this week before the Senate is able to return to consideration of the energy bill. As a result, the Senate's debate of the energy bill is expected to continue after the upcoming two-week spring recess ends (March 25<sup>th</sup> through April 7<sup>th</sup>).

#### **House Hearing on Pipeline Safety**

The Subcommittee on Energy and Air Quality of the House Energy and Commerce Committee is scheduled to hold a hearing March 19 on reauthorization of the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act.

#### **House Science Committee Bill on Pipeline R&D**

The House Science Committee is scheduled to hold a markup on H.R. 3929, a bill sponsored by Representatives Ralph Hall (D-TX) and Lamar Smith (R-TX) that would authorize \$100 million over five years for pipeline R&D at three agencies: the Department of Transportation; the Department of Energy; and the National Institute of Standards and Technology. The R&D under this bill would focus on pipeline materials, stress and fracture analysis, leak detection technologies, and pipeline surveillance. The Committee conducted a hearing on the bill last week.

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*Senate Amendment approved March 14.*

**SA 3014. Mr. WYDEN (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:**

On page 57, between lines 17 and 18, insert the following:

**SEC. 253. OFFICE OF CONSUMER ADVOCACY.**

(a) **DEFINITIONS.**--In this section:

(1) **COMMISSION.**--The term "Commission" means the Federal Energy Regulatory Commission.

(2) **ENERGY CUSTOMER.**--The term "energy customer" means a residential customer or a small commercial customer that receives products or services from a public utility or natural gas company under the jurisdiction of the Commission.

(3) **NATURAL GAS COMPANY.**--The term "natural gas company" has the meaning given the term in section 2 of the Natural Gas Act (15 U.S.C. 717a), as modified by section 601(a) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431(a)).

(4) **OFFICE.**--The term "Office" means the Office of Consumer Advocacy established by subsection (b)(1).

(5) **PUBLIC UTILITY.**--The term "public utility" has the meaning given the term in section 201(e) of the Federal Power Act (16 U.S.C. 824(e)).

(6) **SMALL COMMERCIAL CUSTOMER.**--The term "small commercial customer" means a commercial customer that has a peak demand of not more than 1,000 kilowatts per hour.

(b) **OFFICE.**--

(1) **ESTABLISHMENT.**--There is established within the Department of Justice the Office of Consumer Advocacy.

(2) **DIRECTOR.**--The Office shall be headed by a Director to be appointed by the President, by and with the advice and consent of the Senate.

(3) **DUTIES.**--The Office may represent the interests of energy customers on matters concerning rates or service of public utilities and natural gas companies under the jurisdiction of the Commission--

(A) at hearings of the Commission;

(B) in judicial proceedings in the courts of the United States;

(C) at hearings or proceedings of other Federal regulatory agencies and commissions;

bp

Senator Halford



*file*

BP Exploration (Alaska) Inc.  
900 East Benson Boulevard  
P.O. Box 196612  
Anchorage, Alaska 99519-6612  
(907) 561-5111

March 13, 2002

The Honorable John Torgerson  
Alaska State Senator  
State Capitol, Room 427  
Juneau, AK 99801-1182

Dear Senator Torgerson:

I am writing in reference to your letter dated February 20. Thank-you for your expressed interest in considering fiscal clarity with respect to an Alaska North Slope gas project.

A simple, clear and predictable fiscal framework in Alaska is indeed a vital element in creating what we term a viable government framework for investment. We have talked before about the essential ingredients necessary to progress a project to the next stage, including:

- Passage of U.S. federal enabling legislation in a form that adequately addresses risks and issues identified by the Alaska North Slope producers.
- Achieving clarity and predictability around the Canadian First Nations and National Energy Board regulatory process.
- Achieving agreement with the State of Alaska around a clear, simple and predictable fiscal framework so that the enormous investment with its associated long payback can be contemplated on the understanding the rules won't change.
- Identifying a commercially viable project where project costs and risks do not outweigh prospective rewards.

There are challenges in all these areas but progress is being made. A U.S. senate energy bill with Alaska gas provisions is now gaining some momentum. We continue to engage with First Nations and Canadian regulators toward an efficient and predictable regulatory process for a project of this magnitude. And we are identifying a number of cost reduction ideas to help make Alaska gas cost competitive in the market. It would certainly be our hope and desire that we might also begin to make progress on fiscal clarity in Alaska as well.

Last summer, BP, with our partners, outlined to the joint committee the importance of fiscal clarity in Alaska to support prospective future investments on gas. We have also met with members of the Administration on the same subject.

**The Honorable John Torgerson  
March 13, 2002  
Page Two**

**BP also independently hosted visits for staff from the state's departments of Natural Resources, Revenue and Labor to our gas marketing office in Calgary. This offered an opportunity to address in more detail how gas is marketed in and out of Alberta. Understanding how gas markets operate is a necessary foundation to agree how gas prices for royalty and production taxes should be determined.**

**BP has discussed with state staff the concepts BP feels would make the fiscal framework around gas clear and simple to avoid unnecessary disputes in the future. Clarity and simplicity are essential. We cannot replay with gas the painful process of costly litigation and after-the-fact settlements that were part of the first twenty years of Alaska North Slope oil production. And, of course, clear and predictable gas taxation cannot come at the expense of changing oil taxes.**

**A process to achieve a mutually agreeable fiscal framework will require time, energy and dedication from the tax and royalty experts within the state and industry. BP is fully prepared to dedicate resources to this effort at any time. However, to date, progressing fiscal clarity has not been a state priority. Some have suggested that industry simply present to the state "what it wants." I do not believe this a viable path to achieving our goals. Rather, we would see a collaborative approach, with tax and royalty professionals from the state and industry jointly addressing the issues.**

**The first step in this process is having state and industry leadership mutually agree that they want to make fiscal predictability a priority so they can direct their respective professionals to achieve that goal. I believe once this occurs, real progress can be made. Ultimately, any solution will clearly require consensus of both the Administration and the Legislature.**

**I would like to be clear: BP has not been requesting fundamental changes to the state tax regime for gas nor have we requested any specific incentives. However, we are requesting simplicity, clarity and predictability that will preclude future increases in state take through tax and royalty administration. Such clarity will be necessary before considering moving this project to the next phase of funding or activity.**

**We are aware some in state government have discussed actions that could enhance overall economics such as reducing tax regressivity or providing ad valorem tax holidays. BP will continue to evaluate project commerciality, as we do all projects around the world, against whatever fiscal policies governments have in place. Clearly, government actions that either reduce costs or risks can assist a gas pipeline project, or any other investment for that matter. However, it is for the state to decide what investment climate it wishes to create for investors. BP is available anytime to discuss and evaluate any changes the state may be considering and how they may impact future investment decisions.**

**The Honorable John Torgerson**  
**March 13, 2002**  
**Page Three**

**As you mentioned in your letter, the joint study team has essentially completed the current phase of work. Contractors have been notified and company staff have been or are being redeployed. This phase of activity, with over 1,000,000 man-hours of work, has provided us a much more in-depth understanding of the project and provides a strong technical underpinning for any future activity.**

**BP will maintain a small core team of company staff to progress activities we view as essential building blocks for a successful project including cost and cost risk reduction studies, progressing regulatory efficiency in the U.S. and Canada, and fiscal predictability in Alaska.**

**We will be communicating results of our work in the near future and I expect these results will be broadly consistent with what we have been communicating for the past several months. When this information is available, it is certainly our plan to review it with you directly.**

**As always, please free to contact me at any time.**

**Sincerely,**



**Ken Konrad**  
**Vice President – Alaska Gas**



Official Business

# ALASKA STATE LEGISLATURE

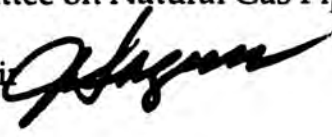
## JOINT COMMITTEE ON NATURAL GAS PIPELINES

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Representative John Davies

### MEMORANDUM

To: Members of the Joint Committee on Natural Gas Pipelines

From: Senator John Torgerson, Chair 

Date: March 20, 2002

Re: Response from the producers on fiscal certainty

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During the many hearings we have held over the last year, we have continuously heard from the producers that state fiscal stability/certainty is a necessity for a commercially viable gas pipeline project. On March 1, 2002, I sent a letter to BP, Phillips and ExxonMobile with regard to fiscal certainty. I have now received a response from all three and I am attaching the letters for your review.

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## JOINT COMMITTEE ON NATURAL GAS PIPELINES

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**Representative Joe Green, Vice-Chair**

Representative Brian Porter

Representative Scott Ogan

Representative John Davies

March 1, 2002

Ken Konrad, Sr.  
Vice President Business Unit Leader Alaska Gas  
BP Exploration Inc.  
P.O. Box 196612  
Anchorage, AK 99519-6612

Dear Mr. Konrad:

Last July, you told the Legislature's Joint Committee on Natural Gas Pipelines that the Producers intended to "initiate a dialogue between the State and Producers regarding fiscal stability/certainty" relating to an Alaskan natural gas pipeline project. You also said "your objective was to have key terms understood prior to the January legislative session." Repeatedly, you told the Committee, the press, and me that fiscal certainty with the State is a "must have." It is now more than six months later and January has come and gone. Yet, to my knowledge, you have not initiated any dialogue with the Legislature about fiscal stability/certainty, much less reached an understanding of key terms.

Given that you said you would have requests for the Legislature to help make the project happen, the Joint Committee readied itself to act. During the interim, we held several hearings giving you the opportunity to express your views. We assembled a team of experts to evaluate any proposals that you might have, including proposals relating to issues other than certainty, like permitting and access.

We have repeatedly asked for information that would enable the Legislature to review requests for fiscal changes, but you have not provided much information. Initially, we expected financial information based upon your statements that you intended to have the results of your study by the end of last year. In December,

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however, Mr. McDowell of your Team was quoted as saying that the Team hoped that sometime early in the New Year it would "be in a position to share study results." Although I have received no formal notice, I now hear that you are disbanding your Team. So I am concerned when, if ever, you intend to share the results of your study with the Legislature and the people of Alaska. Your companies have repeatedly stated that it is important to develop a partnership between industry and the State. Partners, however, share information and concerns. This is not happening.

I realize that you are busy with federal energy legislation. Nevertheless, this merely heightens my concerns. You are making many proposals regarding federal legislation without discussing those proposals with the Legislature. In turn you seem to wonder why we are not more supportive of those proposals.

I encourage you to bring any proposals you have regarding fiscal stability/certainty to the Legislature as soon as possible. As I have repeatedly stated, the Legislature will not lead with incentives. If incentives are needed, you will need to provide the technical and economic data justifying those incentives. In addition, you will need to set forth the incentives that you have requested from other governments that will receive revenues from the project, including the United States government and Canadian federal, provincial, and territorial governments. Alaska will not be the only jurisdiction that provides incentives.

I expect to hear promptly. However, if I have not heard anything by March 15, I will begin to explore other options to get Alaska natural gas developed.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Torgerson".

Senator John Torgerson

**ExxonMobil Production Company**  
P.O. Box 2180  
Houston, Texas 77252-2180

**Robert D. Schilhab**  
Manager, Alaska Gas Development

**ExxonMobil**  
*Production*

March 8, 2002

Senator John Torgerson  
Alaska State Legislature  
Chair, Joint Committee on Natural Gas Pipelines  
State Capitol, #427  
Juneau, AK 99801

Dear Senator Torgerson,

I would like to thank you for your continued interest in progressing the commercialization of Alaska North Slope gas. All the issues you raised in your March 1, 2002 letter are important and I would like to have the opportunity to meet with you to discuss these and other gas pipeline items of interest at the earliest opportunity.

As you are aware, we are in the final stages of completing work on the one-year, \$125 million Alaska gas pipeline study that was initiated in December 2000 by ExxonMobil, BP and Phillips. We expect to be able to share the results of our work by the end of March or early April.

I understand that you are particularly interested in what action ExxonMobil would expect from the Alaska Legislative this session related to a potential Alaska gas pipeline project. At this time, ExxonMobil does not expect to table any proposals on fiscal certainty, permitting or pipeline access this session.

In the meantime, I will work with your staff to set up a meeting as soon as possible.

Sincerely,



RDS/MJM

bp



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March 13, 2002

The Honorable John Torgerson  
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As always, please free to contact me at any time.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ken Konrad', with a stylized, cursive flourish at the end.

Ken Konrad

Vice President - Alaska Gas



**PHILLIPS Alaska, Inc.**  
A Subsidiary of PHILLIPS PETROLEUM COMPANY

P. O. BOX 100360  
ANCHORAGE, ALASKA 99510-0360

Phone (907) 265-6517

**Joseph P. Marushack**  
Vice President, ANS Gas Commercialization

March 15, 2002

The Honorable John Torgerson  
State of Alaska  
Senate  
Juneau, AK 99801

**RE: Phillips' Forward Strategy**

Dear Senator Torgerson:

In response to your letter of March 1, 2002, we appreciate the Legislature's expressed desire to help make a gas pipeline project more commercially viable. I would like to address the topics in your letter in the context of Phillips' strategy.

Phillips is committed to trying to find and realize a commercially viable gas pipeline project to the L-48. Based upon the extensive evaluation conducted to date, we hope that we have been clear that project progress is currently impeded by unacceptable risks in the areas of permit timing, costs and future market prices. Therefore, Phillips is pursuing federal enabling legislation to reduce permit timing risks. We have also been working on federal fiscal legislation to mitigate risks that should be shared with those who will receive benefit from the development of ANS gas. This federal fiscal mechanism can be viewed similarly to an insurance policy: there may be no actual cost to the federal government, but it is critical to moving a project forward.

In these federal matters, we have been working with the State's Washington DC office, and we understand your DC counsel has also been involved. Further, we appreciate the support of our efforts as set forth in the Legislature's letter of February 21, 2002.

We have been focusing our efforts on the federal initiatives, as we believe that without them there is little urgency to progress State issues. However, we are hopeful that we will succeed in these efforts and are now moving towards more fully addressing the State requirements. There is a broad array of Alaskan fiscal modifications that could help improve a project's viability. In your letter, you correctly point out that it is still unclear which modifications are appropriate. That said, we believe that some concepts are beginning to take shape in the three basic state fiscal areas.

The first area is fiscal clarity, by which we mean the prospective establishment of mutually agreeable, clear rules as to how fiscal parameters will be established. For example, it is critical that the basis for determining the gas value upon which taxes and royalty are collected be known before project commitment. To date, we have had several meetings with the State's DOR and DNR concerning tax and royalty matters, respectively. Only with more discussion and analysis by the departments, will it become clear to what extent fiscal clarity requires any changes in statute. We are currently working on finalizing our views so that they can be shared with the State. We trust that the State will also be willing to fully engage in these discussions.

The second area is possible state fiscal incentives. We understand that you do not want the State leading in areas of fiscal initiatives. We would note that Phillips has also initially focused on federal opportunities. Still, we think it is appropriate to initiate dialog. The analysis done by AGPPT, and shared previously with you, suggests that the State will collect, through taxes and royalties, about the same economic rent as the U.S. Federal Government, if the project can be made viable. We believe that possible fiscal initiative(s) by the State would help address that risk and thus help make a project more viable.

At the February 4 meeting in Washington DC, several participants broached the idea of a temporary state and local Ad Valorem tax abatement for the project. Conceptually, this is a step in the right direction because Ad Valorem taxes are economic burdens early in project life, before revenues have been generated and also because they tend to exacerbate capital cost risks. In short, an Ad Valorem abatement would help reduce capital cost exposure and risk. It would also demonstrate to the Federal Government that the State is committed to helping make a project viable. While we believe that some state modifications could assist in developing the project, it will ultimately be a strategic policy decision on whether to enact project enhancing incentives. Ultimately, state fiscal modifications could improve project viability by reducing project risk.

The third area to consider is state fiscal certainty, by which we mean the establishment of a binding fiscal mechanism. We emphasize this because the State of Alaska is currently in a position to unilaterally degrade the project economics, relative to all of the other participants in the market, after the capital has been committed. We recognize there may be several alternatives that should be considered as fiscal certainty mechanisms and Phillips expects that the development of fiscal certainty will take some time before it is ready for legislative action.

Finally, you have asked when we intend to share results of the Joint Team work. I acknowledge and sincerely regret more time has passed than would have been expected, though I trust you will understand our primary focus has had to be on working the Federal issues while activities in Washington command our attention. However we

**Page 3**  
**March 15, 2002**

intend to share the results with you soon. We are finalizing the joint team results and will ask for a meeting to present our findings to you in the next few weeks.

In summary, our strategy is that if the federal legislation discussed above can be achieved, with no onerous mandates, and if meaningful progress can be achieved on state fiscal matters also as outlined above, Phillips remains committed to trying to move forward with the next phase of the project -- permitting the Southern Route.

If you have any questions or concerns, please do not hesitate to contact me directly at (907) 265-6517.

Sincerely,



Joe Marushack  
Vice President, ANS Gas Commercialization  
Phillips Alaska, Inc.

c: Members of the Joint Committee on Natural Gas Pipelines